



September 22, 2020

MR. JOHN GREENEWALD JR.
SUITE 1203
27305 WEST LIVE OAK ROAD
CASTAIC, CA 91384-4520

FOIPA Request No.: 1474774-000
Subject: FELT, WILLIAM MARK, SR.

Dear Mr. Greenewald:

The enclosed 2,093 pages of records were determined to be responsive to your subject and were previously processed and released pursuant to the Freedom of Information Act (FOIA). Please see the selected paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

- In an effort to provide you with responsive records as expeditiously as possible, we are releasing documents from previous requests regarding your subject. We consider your request fulfilled. Since we relied on previous results, additional records potentially responsive to your subject may exist. If this release of previously processed material does not satisfy your request, you may request an additional search for records. Submit your request by mail or fax to – Work Process Unit, 170 Marcel Drive, Winchester, VA 22602, fax number (540) 868-4997. Please cite the FOIPA Request Number in your correspondence.
- Please be advised that additional records responsive to your subject exist. If this release of previously processed material does not satisfy your request, you must advise us that you want the additional records processed. Please submit your response within thirty (30) days by mail or fax to—Work Processing Unit, 170 Marcel Drive, Winchester, VA 22602, fax number (540) 868-4997. Please cite the FOIPA Request Number in your correspondence. **If we do not receive your decision within thirty (30) days of the date of this notification, your request will be closed.**
- One or more of the enclosed records were transferred to the National Archives and Records Administration (NARA). Although we retained a version of the records previously processed pursuant to the FOIA, the original records are no longer in our possession.

If this release of the previously processed material does not satisfy your request, you may file a FOIPA request with NARA at the following address:

National Archives and Records Administration
Special Access and FOIA
8601 Adelphi Road, Room 5500
College Park, MD 20740-6001

- Records potentially responsive to your request were transferred to the National Archives and Records Administration (NARA), and they were not previously processed pursuant to the FOIA. You may file a request with NARA using the address above.

- One or more of the enclosed records were destroyed. Although we retained a version of the records previously processed pursuant to the FOIA, the original records are no longer in our possession. Record retention and disposal is carried out under supervision of the National Archives and Records Administration (NARA) , Title 44, United States Code, Section 3301 as implemented by Title 36, Code of Federal Regulations, Part 1228; Title 44, United States Code, Section 3310 as implemented by Title 36, Code of Federal Regulations, Part 1229.10.
- Records potentially responsive to your request were destroyed. Since this material could not be reviewed, it is not known if it was responsive to your request. Record retention and disposal is carried out under supervision of the National Archives and Records Administration (NARA) according to Title 44 United States Code Section 3301, Title 36 Code of Federal Regulations (CFR) Chapter 12 Sub-chapter B Part 1228, and 36 CFR 1229.10.
- Documents or information referred to other Government agencies were not included in this release.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **“Part 1”** of the Addendum includes standard responses that apply to all requests. **“Part 2”** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **“Part 3”** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under “Contact Us.” The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation’s determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP’s FOIA STAR portal by creating an account following the instructions on OIP’s website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Alternatively, you may contact the FBI’s FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state “Dispute Resolution Services.” Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

Enclosure(s)

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Records for Incarcerated Individuals.** The FBI can neither confirm nor deny the existence of records which could reasonably be expected to endanger the life or physical safety of any incarcerated individual pursuant to FOIA exemptions (b)(7)(E), (b)(7)(F), and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (b)(7)(F), and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems or locations where responsive records would reasonably be found. A standard search normally consists of a search for main files in the Central Records System (CRS), an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. Unless specifically requested, a standard search does not include references, administrative records of previous FOIPA requests, or civil litigation files. For additional information about our record searches, visit www.fbi.gov/services/information-management/foipa/requesting-fbi-records.
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.
- (iv) **National Name Check Program (NNCP).** The mission of NNCP is to analyze and report information in response to name check requests received from federal agencies, for the purpose of protecting the United States from foreign and domestic threats to national security. Please be advised that this is a service provided to other federal agencies. Private Citizens cannot request a name check.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

This document is made available through the declassification efforts
and research of John Greenewald, Jr., creator of:

The Black Vault



The Black Vault is the largest online Freedom of Information Act (FOIA)
document clearinghouse in the world. The research efforts here are
responsible for the declassification of hundreds of thousands of pages
released by the U.S. Government & Military.

Discover the Truth at: <http://www.theblackvault.com>

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 6
Page 16 ~ b6; b7C; b7D;
Page 17 ~ b6; b7C; b7D;
Page 18 ~ b6; b7C; b7D;
Page 24 ~ b6; b7C; b7D;
Page 25 ~ b6; b7C; b7D;
Page 26 ~ b6; b7C; b7D;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 6
Page 16 ~ b6; b7C; b7D;
Page 17 ~ b6; b7C; b7D;
Page 18 ~ b6; b7C; b7D;
Page 24 ~ b6; b7C; b7D;
Page 25 ~ b6; b7C; b7D;
Page 26 ~ b6; b7C; b7D;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TRANSMIT VIA: Airtel

PRECEDENCE: _____

CLASSIFICATION: _____

DATE: 11/5/79

To: SAC, Newark PERSONAL ATTENTION

From: Director, FBI

~~REDACTED~~
94-0-575

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

Title

Reference is made to telephone conversation 11/2/79 between SA [REDACTED] at FBIHQ and Newark Office.

Newark file 88-8767 captioned [REDACTED] aka, - Fugitive, (WEATHFUG), UFAP - FORGERY, presently located at FBIHQ. Enclosed for Newark are Xerox copies of NKtel 8/11/72 (serial 11), NKairtel 10/18/72 (serial 23), NKairtel 11/2/72 (serial 28), NKtel 1/12/73 (serial 64), and NKrep of SA [REDACTED] 2/9/73 (serial 90).

This line for LEFT MARGIN.

Above serials reflect information set forth in varying detail which was received through an officer of the Newark Police Department from a highly placed and reliable, but unidentified, source. This information is of potential use to the defendants in the above-captioned case as supplying part of the basis for entry of premises occupied by [REDACTED] parents. It is believed that the court will want to permit the defense to use these documents at trial.

The Newark Police Department should therefore be contacted for permission to release the information to the defendants so that they may make use of it in open court. If necessary, Police Department should be requested to contact the original source of this information to obtain the source's permission.

If the Police Department is willing to release some, but not all, of the information furnished, copies should be returned with the material to be excised before use at trial

Enclosures - 5

(Do not type below this line.)

*Open
Approved
me*

62-4106-1
SEARCHED *mb* INDEXED *mb*
SERIALIZED *mb* FILED *mb*
NOV 7 1979

[REDACTED]

Do not type BEYOND THIS MARGIN.

b6
b7c

Airtel to Newark

RE: U.S. VS. W. MARK FELT, ET AL.

DISCOVERY PROCEEDINGS - TRIAL PREPARATION

clearly indicated by brackets.

Serials may be exhibited to the Police Department if believed to be helpful in reaching a decision, at Newark's discretion.

SAC should handle contact with Police Department personally. If SAC believes his personal handling is inappropriate, contact FBIHQ.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE NEWARK	OFFICE OF ORIGIN MILWAUKEE	DATE 2/9/73	INVESTIGATIVE PERIOD 7/17/72 - 1/29/73
TITLE OF CASE aka - FUGITIVE (WEATHFUG)		REPORT MADE BY SA [redacted]	TYPED BY MJK
		CHARACTER OF CASE UFAP-FORGERY	

mlk

ADMINISTRATIVE

This report is being submitted due to the volume of investigative work done in the Newark Division and is intended to be a chronological summary of the investigation at Newark conducted in an effort to locate and apprehend subject.

Newark indices negative re [redacted]

INFORMANTS

Identity of Source:

Location

NK T-1 is a knowledgeable source at Newark, NJ, PD

88-8767-28

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED _____ SPECIAL AGENT IN CHARGE

COPIES MADE: _____

- 2-Bureau (88-56609)
- 2-Milwaukee (88-5363)
- 2-Newark (88-8767)

DO NOT WRITE IN SPACES BELOW

~~88-8767-90~~ - 62-4106-2

SEARCHED _____ INDEXED _____

SERIALIZED *mlk* FILED *sm*

[redacted]

Dissemination Record of Attached Report

Agency	SEARCHED	INDEXED
Request Recd.	SERIALIZED	FILED
Date Fwd.	NOV 7 1973	
How Fwd.	FBI-NEWARK	
By		

Note

Serial contains information concerning identity of source. Do not destroy without specific Bureau authority

NK 88-8767

Identity of Source

Location

NK T-2 is [redacted]
NK T-3 is [redacted]

88-8767-40

88-8767-64

b6
b7C
b7D

LEADS

NEWARK

AT IRVINGTON, N.J.: Will conduct discreet investigation at [redacted] Irvington, NJ, to determine if any connection exists between [redacted] and subject.

AT NEW BRUNSWICK, N.J.: Will conduct education check at Douglass College, Rutgers University to verify and obtain additional information concerning subject's attendance at that school prior to her enrollment at the University of Wisconsin in 1964. Background including residences, activities and associates will be developed.

[redacted]
I highly
covering this
lead

AT UNION, N.J.: Will re-interview subject's parents Mr. and Mrs. [redacted]

AT NEWARK, N.J.: Will develop background information concerning Newark Legal Services, City of Newark, New Jersey, where subject's mother is employed.

2. Will re-interview [redacted] for any information he may be able to furnish regarding subject's whereabouts.

AT PASSAIC, N.J.: 1. Will interview [redacted] and determine relationship to [redacted] and whether he has any knowledge of subject's whereabouts.

2. Will contact [redacted] and determine relationship to [redacted] and whether he has any knowledge of subject's whereabouts.

ME 88-8767

AT KEARNY, N.J. Will interview [redacted]
[redacted] and determine whether he is knowledgeable
of the [redacted] and possibly of the whereabouts of the subject.

b6
b7c

C*

COVER PAGE

NK 88-8767

NONSYMBOL SOURCE ADMINISTRATIVE PAGE

NK T-1 is a highly placed and reliable source

[redacted] Newark,
New Jersey, Police Department. In view of the source
and type of information furnished, it is deemed advisable
that [redacted] identity be kept confidential.

b6
b7C
b7D

NONSYMBOL SOURCE ADMINISTRATIVE PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

SA [REDACTED]

Office: Newark, New Jersey

Date:

2/9/73

b6
b7c

Field Office File #:

88-8767

Bureau File #:

88-56609

Title:

[REDACTED]

Character:

UNLAWFUL FLIGHT TO AVOID PROSECUTION-FORGERY

Synopsis:

Subject's parents [REDACTED]

reside at [REDACTED] Union, NJ, and they have not been in the company of subject as of 7/72. Intensive investigation instituted by Newark surrounding subject's parents; however, information developed is negative concerning whereabouts of subject. Details of investigation at Newark set forth.
ARMED AND DANGEROUS - EXTREMIST.

(P)

DETAILSCHRONOLOGICAL SUMMARY OF INVESTIGATION

Subject's parents, Mr. and Mrs. [REDACTED] [REDACTED] Newark, New Jersey, interviewed July 18, 1972, following extensive neighborhood investigation which disclosed the fact that subject was observed by neighbors at the [REDACTED] address on July 17, 1972.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/72

Mr. [redacted] was interviewed and submitted the following information:

b6
b7C

Following proper display of credentials by interviewing agents [redacted] acknowledged that [redacted] had been to their home on [redacted] July 17, 1972 but he stated he did not know how she arrived, whether she came by herself or was driven by someone nor how she departed. He stated to his knowledge she did not have a car and was only there for approximately four to six hours and he indicated that he did not know her current whereabouts. [redacted] advised [redacted] rarely comes home and had not been home for approximately two years but that occasionally she wrote or called but never made known her whereabouts. [redacted] stated that even if he knew her whereabouts he would be hesitant to disclose the information to the FBI [redacted]

[redacted] was advised by interviewing agents that [redacted] is a Federal fugitive wanted for Unlawful Flight to Avoid Prosecution from the State of Wisconsin for outstanding forgery charges and also that a warrant had been issued on May 9, 1972 in Wisconsin for violation of Title 18, United States Code, Section 922 (a) (6) for purchasing firearms with false identification. [redacted] was advised of the Federal Harboring Statute and acknowledged that he understood same; however, steadfastly refused to admit he knew whereabouts of subject.

Interviewed on 7/18/72 at Newark, New Jersey File # Newark 88-5767
by SA [redacted] SA [redacted] SA [redacted] dictated 7/24/72

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/72

Mrs. [redacted] was interviewed and furnished the following information:

b6
b7c

Following proper display of credentials by interviewing agents, Mrs. [redacted] stated that [redacted] had been at the residence at [redacted] on July 17, 1972 for approximately half a day but could not say how subject arrived at the residence nor how she departed. Mrs. [redacted] stated she did not know current whereabouts of subject and indicated subject does not come home nor contact she and Mr. [redacted] often. Mrs. [redacted] stated that she did not know [redacted] was in any trouble and indicated that [redacted] did not mention that she was wanted for any violations.

Mrs. [redacted] was advised that [redacted] was a Federal fugitive and that two warrants were outstanding in the State of Wisconsin, one for violation of Unlawful Flight to Avoid Prosecution for the State offense there of forgery and the other for illegally purchasing firearms by using false identification at the time of purchase. Mrs. [redacted] advised she did not know [redacted] was involved in these matters and that [redacted] had not indicated this at the time she was home; however, Mrs. [redacted] denied that she knew the whereabouts of [redacted] nor would she furnish any information as to whether [redacted] indicated where she was going when she left the residence on July 17, 1972.

Mrs. [redacted] was advised of the Federal Harboring Statute which she stated she understood upon explanation; however, she continued to maintain that she did not know of her, [redacted] current whereabouts.

Interviewed on 7/18/72 at Newark, New Jersey File # Newark 88-8767
by SA [redacted] SA [redacted] SA [redacted] dictated 7/24/72

NK 88-8767

On July 19, 1972, investigation at the Board of Education, Newark, New Jersey, disclosed that [redacted] [redacted] is employed by the Board of Education as a glazer.

b6
b7C
b7D

On July 19, 1972, [redacted] President, Glazers and Glass Workers Union, Local 1095, 15 Ferrand Avenue, Bloomfield, New Jersey, advised that he has been a friend of the [redacted] family for many years and he stated he has not seen subject for approximately 10 years. However, he indicated that through discussions with [redacted] subject has spend a great deal of time in New York City and that [redacted] is a professor [redacted] at Pittsburgh University, Pittsburgh, Pennsylvania.

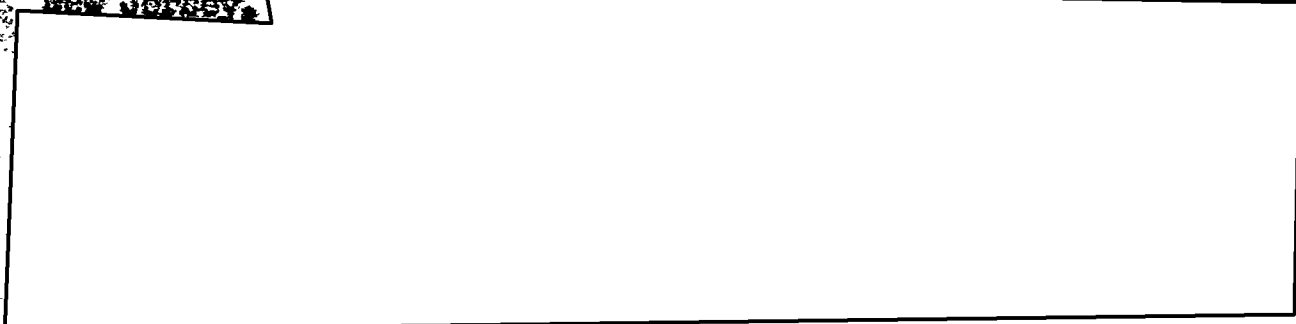
On August 4, 1972, a subpoena duces tecum was issued by a Federal Grand Jury at Newark, New Jersey, [redacted]
[redacted]

On August 4, 1972, investigation disclosed Mrs. [redacted] is employed as a clerk for the Newark Legal Services, City of Newark, New Jersey.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/10/72

In response to a subpoena duces tecum issued on August 4, 1972, by a Federal Grand Jury sitting at Newark, New Jersey.



b6
b7C
b7D

Interviewed on 8/4/72 at Newark, New Jersey File # Newark 88-8767

by [Redacted] Date dictated 8/10/72

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

NK 88-8767

On August 11, 1972, NK T-1, who has provided reliable information in the past, advised that a person alleged to be subject was reportedly negotiating through a Newark attorney to surrender herself. NK T-1 advised that a female individual who was identifying herself as the mother of one [redacted] was attempting to negotiate through this legal counsel for her daughter to turn herself in to the authorities as she was wanted on Federal charges of "forgery and gun charges". Because of the recent contact made by Bureau Agents with subject's parents on July 18, 1972, during which they were advised of the charges pending against subject, it was deemed likely that the person attempting these legal negotiations may in fact be subject's mother or a concerned party calling on behalf of subject.

b6
b7C

On August 11, 1972, a 24 hour surveillance was instituted on the residence of subject's parents at [redacted] and was continued through August 15, 1972; however, was unproductive.

On September 18, 1972, investigation disclosed subject's parents moved from [redacted] Newark, New Jersey to [redacted] Union, New Jersey.

On October 6, 1972, NK T-1 was recontacted and advised that the person identifying herself as [redacted] mother has made no effort to recontact or negotiate to turn her daughter in.

On October 6, 1972, the Union, New Jersey, Police Department, Detective Bureau, was provided copies of appropriate WEATHERMAN fugitive (WEATHFUG) fliers containing subject's photograph and advised of the facts surrounding this case. They advised they will be alert for subject's possible future appearance in the Union, New Jersey, area.

NK 88-8767

WEATHERMAN, formerly a faction of STUDENTS FOR A DEMOCRATIC SOCIETY (SDS) controlled the SDS National Office from June 1969, until its closing in February, 1970. WEATHERMAN then entered an underground status and adopted a tactic of "strategic sabotage", with police and military installations designated as primary targets.

STUDENTS FOR A DEMOCRATIC SOCIETY (SDS) was founded during June, 1962, at Port Huron, Michigan, and in the 1960s functioned as the leading New Left campus-based student organization in the United States. From an initial posture of "participatory democracy", SDS moved to a radical-revolutionary position, with debate centering on how best to create a revolutionary youth movement. Internal factionalism produced a split during the SDS National Convention in June, 1969, which resulted in the following three factions: WEATHERMAN; WORKER STUDENT ALLIANCE (WSA); and REVOLUTIONARY YOUTH MOVEMENT (RYM). The WEATHERMAN and RYM are no longer affiliated with SDS. The WSA continued to use the name SDS and maintains its national headquarters in Chicago, Illinois.

WSA, a faction of SDS, was expelled from SDS in June, 1969, by the then dominant WEATHERMAN faction, but continued to use the name SDS and opened an office in Cambridge, Massachusetts. WSA aligned ideologically with the PROGRESSIVE LABOR PARTY (PLP) and, in February, 1971, moved to Chicago, Illinois, where it opened the SDS National Office at 1225 South Wabash Street.

A characterization of the RYM is attached to the appendix.

NK 88-8767

The PROGRESSIVE LABOR PARTY (PLP) was founded in 1962 by individuals expelled from the COMMUNIST PARTY, USA for following the Chinese communist line. Its objective is the establishment of a militant working-class movement based on Marxism-Leninism and MAO Tse-tung thought.

Records of the Department of Motor Vehicles, Trenton, New Jersey, were reviewed on October 6, 1972, with the assistance of [redacted] Supervisor, regarding subject and known aliases including [redacted] for records of driver's license or motor vehicle registration, with negative results.

b6
b7c

NK 88-8767

On October 6, 1972, the American Express Company, Newark, New Jersey, was telephonically contacted to determine if records were kept in Newark on American Express Traveller's Checks purchased in New Jersey; however, it was learned that these records are kept by their New York office.

On October 18, 1972, subject's true name and known aliases, including [redacted] were checked through the Newark, New Jersey, Police Department, Fraud Squad, with the assistance of Detective [redacted] with negative results regarding any worthless check passing activity. Newark Police Department Identification records were also negative.

b6
b7C
b7D

On October 31, 1972, NK T-1 advised of learning during the week of October 23-27, 1972, that [redacted] had a contact in Chicago, Illinois, identified as [redacted] and that two telephone numbers were reportedly associated with [redacted] and known by [redacted]. The significance of these numbers was not known by NK T-1. These telephone numbers are 312 [redacted] and 312 [redacted]. It is noted that area code 312 covers the Chicago area. The significance of this connection between subject and [redacted] was not known by NK T-1 nor did the source know how current the alleged connection was.

Records of the Newark, New Jersey, Police Department, were reviewed on October 31, 1972, with the assistance of [redacted] concerning [redacted] and records disclosed that the name [redacted] appeared in an address book of one [redacted] who was arrested by Newark in 1969. [redacted] was a Black Student Union member in Newark at the time of his arrest and was a student at Rutgers University, Newark, New Jersey. This address book listed [redacted] as being a student at Antioch College in Ohio and listed his address at that time as [redacted] Boston, Massachusetts.

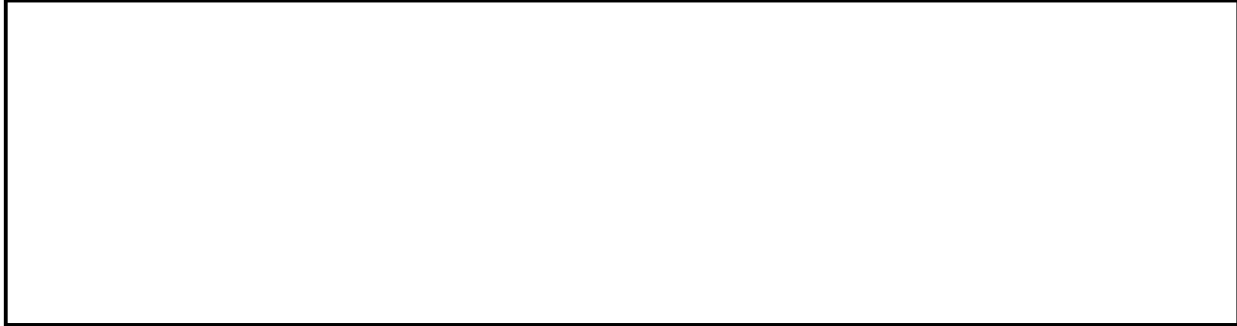
On November 14, 1972, a subpoena duces tecum was issued by a Federal Grand Jury at Newark, New Jersey, [redacted]

[redacted]

FEDERAL BUREAU OF INVESTIGATION

Date of transcription November 30, 1972

In response to a subpoena duces tecum issued
November 14, 1972, by a Federal Grand Jury sitting at Newark,
New Jersey, [redacted]



b6
b7C
b7D

Interviewed on 11/21/72 at NEWARK, NJ File # NEWARK 88-8767
by SA [redacted] lma Date dictated 11/28/72

NY 88-8767

b6
b7C
b7D



**[redacted] in above subpoenaed records of
September 7, 1972. [redacted]**



NK 88-8767

On December 12, 1972, NK T-2, a source who has furnished reliable information in the past advised that a handwritten letter had been sent through the mail, addressed to [redacted] Union, New Jersey, with attention drawn on the letter to [redacted]. This letter was postmarked Clifton and dated December 6, 1972 with a return address handwritten as Thrift Pak, Inc., Verdi Street, South Farmingdale, New York. Investigation at New York determined that [redacted] was employed by Thrift Pak, Inc., 1410 Main Avenue, Clifton, New Jersey.

b6
b7c

On December 14, 1972, Mr. [redacted] Manager, Thrift Pak, Inc., Clifton, New Jersey, was discreetly contacted and he acknowledged that [redacted] was recently employed by Thrift Pak, Inc. He also observed a photograph of subject and advised that [redacted] and subject were not identical. [redacted] advised [redacted] resides at [redacted] Passaic, New Jersey, which was verified through contact with postal carrier in the vicinity of residence and through physical surveillance instituted on the same day. [redacted] was observed by Bureau Agents and determined not to be identical to subject. She is described as follows:

Race	White
Sex	Female
Age	[redacted]
Date of Birth	[redacted]
Place of Birth	Burlington, Vermont
Height	5' 6"
Weight	110-120
Hair	Black

Records of the Passaic, New Jersey, Police Department, disclosed a complaint made on January 24, 1971 by [redacted] sister of [redacted] reporting that her mother, [redacted] nee [redacted] was using LSD and was in possession of a firearm. Mrs. [redacted] was arrested and the weapon was confiscated.

In an effort to determine whether any connection exists between subject and [redacted] such as a courier situation for a mail drop, Bureau Agents interviewed [redacted] estranged husband of [redacted] Passaic, New Jersey on December 15, 1972. [redacted] advised,

during suitable pretext interview, that he is the step-father of [redacted]. He was unable to furnish any information regarding current activities of [redacted] or [redacted] inasmuch as he has been away from their residence for 18 months. He stated [redacted] father, (First Name Unknown) [redacted] lives somewhere near Burlington, Vermont, where the [redacted] Family originated. He indicated that the girls were not close to their father and not likely to visit him in Vermont. He did not know whether the girls had any other contact in Vermont. [redacted] was displayed a photograph of subject with negative results. Local postal carrier was displayed photograph of subject and other WEATHERFUGs on the same date and advised he could not identify any of them.

b6
b7C

Physical surveillance at [redacted] Passaic New Jersey on December 15, 1972, resulted in the observation of a 1968 Ford Station Wagon, bearing New Jersey license [redacted] which stopped in front of [redacted] residence and dropped off two unknown females who entered the house. This vehicle was determined to be registered to [redacted] [redacted] Clifton, New Jersey, date of birth [redacted] at Paterson, New Jersey. Newark indices reflect on [redacted] father of [redacted] a WEATHERMAN support subject of the New York Office. This [redacted] was determined to be no relation to [redacted], the WEATHERMAN support subject.

On December 18, 1972, [redacted] Manager, Thrifty Pak, Inc., Clifton, New Jersey, advised his files reflect no record of [redacted] having contacted the [redacted] through her job as a telephone solicitor. However, he indicated that initial telephone solicitations which met with negative results were discarded and it is possible [redacted] could have contacted the [redacted] in view of the fact they had recently changed addresses. [redacted] advised his firm obtains listings of changes of address through public utility companies.

[redacted] was subsequently interviewed by Bureau Agents and she advised she was not familiar with subject or Mr. and Mrs. [redacted]. She stated that through the requirements of her job as a telephone solicitor at Thrift Pak, Inc., she may have contacted the [redacted] and followed up the contact with correspondence directing attention back to her in future communications. She indicated he had no records of past calls such as this. [redacted] was shown a photograph of subject with negative results.

NK 88-9767

On December 26, 1972, NK T-2 advised that [redacted] had received a letter from one [redacted] Newark, New Jersey, postmarked December 20, 1972 which was delivered on December 23, 1972. Investigation in the neighborhood on December 27, 1972, determined current residents at address of [redacted] and that no [redacted] had resided at that address. Neighborhood sources were displayed photograph of subject and none could identify her or associate her with [redacted]

b6
b7C
b7D

On January 10, 1973, NK T-3, a highly sensitive source who is in a position to furnish information concerning [redacted] advised that the following names, addresses and telephone numbers were recently in the possession of [redacted]

The Newark Office is familiar with [redacted] also known as [redacted] as a Newark attorney associated with Ball, Broege, Fogel, Exerell and Livingston Law Office, Newark, a firm which is noted for its support of liberal and radical defendants and who formerly has as another associate, [redacted]

NK 88-8767

On January 29, 1973, NK T-2 advised that two recent letters were received by the [redacted] on January 22, 1973 and January 27, 1973. On January 22, 1973, a letter postmarked January 15, 1973 was received by the [redacted] from [redacted] Tavernier, Florida. It is noted this letter was sent to the [redacted] at [redacted] Newark, New Jersey, the former "address" of the [redacted] while residing at [redacted] Newark.

b6
b7c

A letter postmarked January 27, 1973 had return address of [redacted] [redacted] Irvington, New Jersey.

APPENDIX

1

REVOLUTIONARY YOUTH MOVEMENT

A source advised the the Revolutionary Youth Movement II (RYMII) faction of Students for a Democratic Society (SDS) held a national conference at Atlanta, Georgia, from November 26 to 30, 1969. At this conference it was decided to form a new organization to be known as Revolutionary Youth Movement (RYM) characterized as a mass anti-imperialist youth organization, said organization being proposed as separate and distinct in form and content from SDS. The "Principles of Unity" adopted by the conference included a struggle against white supremacy and male supremacy; fights against imperialism, anticommunism, fascism and oppression of youth; and support of the right of self-determination of all "oppressed nations," also support of the right of all "oppressed and exploited" peoples "to armed self-defense." It was agreed that RYM would not be a Marxist-Leninist organization; however, source said this was decided in order to indicate an organization broad enough in form to be acceptable to everyone. A temporary National Steering Committee (NSC) made up of eight females and two males was elected to govern RYM until national officers could be elected during the Spring of 1970.

RYM publications have listed the RYM National Office (NO) at Post Office Box 5421 and Post Office Box 77012 C, both Atlanta, Georgia, and a second source has advised that the NO has no office space but would probably be considered as located at Apartment 27, 1067 Alta Avenue, Northeast, Atlanta.

Second source advised that women dominated the founding conference and have continued to dominate NSC meetings to the point that "women's liberation" has apparently become the RYM's principal issue - also that RYM's poor financial condition has resulted in its failure to publish a paper. During early 1970, RYM has decided to cater to the working class rather than youth, since the potential for social revolution lies in workers.

A third source has stated that it was decided at the March, 1970, NSC meeting that RYM women had decided the organization will be molded into a "working class, Marxist-Leninist, revolutionary, anti-imperialist, problack nationalist, people's women's liberation organization."

FBI

Date: 1/12/73

004

Transmit the following in _____

CODE

(Type in plaintext or code)

Via TELETYPE

URGENT

(Priority)

TO ACTING DIRECTOR (88-56609) AND ALBANY (88-5874)

BOSTON

BALTIMORE (88-11100)

CHICAGO (88-15375)

MILWAUKEE (88-5362)

NEW YORK (88-12847)

PITTSBURGH (88-7618)

FROM NEWARK (88-8767) (P)

DOMESTIC INTELLIGENCE DIVISION
MBT

AKA MRS. [REDACTED]

- FUGITIVE (WEATHFUG); UFAP -

FORGERY (OO: MILWAUKEE).

RE NEWARK AIRTEL TO BUREAU 11/2/72, CHICAGO AIRTEL TO BUREAU 11/13/72, AND NEWARK TEL TO BUREAU 12/19/72.

FOR INFORMATION OF ALBANY AND BALTIMORE, ON 8/11/72 A "HIGHLY CONFIDENTIAL SOURCE" ADVISED SUBJECT WAS REPORTEDLY NEGOTIATING THROUGH AN ATTORNEY TO TURN HERSELF IN ALLEGEDLY THROUGH EFFORTS ON THE PART OF HER PARENTS. SOURCE ADVISED THAT AN INDIVIDUAL WHO WAS IDENTIFYING HERSELF AS THE MOTHER

SEARCHED INDEXED

1 - S-2 Desk

JHW: aas

(2)

SERIALIZED FILED

SEARCHED INDEXED
SERIALIZED FILED

NOV 1973

Approved: [Signature]

Special Agent in Charge

FBI-NEWARK

M Per [Signature]

88-8767-64

b6
b7c

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

PAGE 2

NK 88-8767

OF ONE [REDACTED] WAS ATTEMPTING TO ARRANGE THROUGH LEGAL COUNSEL FOR HER DAUGHTER TO TURN HERSELF IN TO AUTHORITIES AS SHE WAS WANTED FOR FEDERAL VIOLATIONS OF "FORGERY AND GUN CHARGES." IT IS LIKELY THAT THE PERSON ATTEMPTING THE LEGAL NEGOTIATIONS MENTIONED ABOVE IS THE SUBJECT'S MOTHER OR A CONCERNED PARTY CALLING ON BEHALF OF THE SUBJECT.

SUBJECT'S ALIAS OF [REDACTED] SHOULD BE USED WITH CAUTION AND DISCRETION IN FUTURE INVESTIGATION AS ITS USE MAY POSSIBLY DISCLOSE IDENTITY OF THE SOURCE, AS WELL AS POSSIBLY CAUSE SUBJECT TO DROP ALIAS.

ON 10/31/72 THIS SAME SOURCE STATED THAT [REDACTED] HAS A CONTACT IN CHICAGO, ILL., IDENTIFIED AS [REDACTED] AND THAT TWO TELEPHONE NUMBERS WERE ASSOCIATED WITH THIS CONTACT:

[REDACTED] AND [REDACTED]

REFERENCED CHICAGO AIRTEL ADVISED [REDACTED] IS WELL KNOWN TO AGENTS OF THE CHICAGO OFFICE AS AN ATTORNEY WHO HAS ASSOCIATED HIMSELF WITH VARIOUS RADICAL CAUSES AND WHO HAS

b6
b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FBI

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

PAGE 3

NK 88-8767

DEFENDED VARIOUS RADICAL INDIVIDUALS. DURING THE PROSECUTIONS RESULTING FROM THE WEATHERMAN NATIONAL ACTION IN CHICAGO IN OCTOBER, 1969, [REDACTED] REPRESENTED MANY OF THE WOMEN ARRESTED AT THAT ACTION.

b6
b7C

REFERENCED NEWARK TEL ADVISED THAT A HANDWRITTEN LETTER WAS RECEIVED BY SUBJECT'S FATHER, [REDACTED] DATED 12/6/72 WITH "ATTENTION [REDACTED] INCLUDED ON THE ENVELOPE.

INVESTIGATION DETERMINED THAT [REDACTED] PASSAIC, N.J., NOT IDENTICAL TO [REDACTED]

ON 1/10/73 [REDACTED] WAS INTERVIEWED BY BUAGENTS, AND SHE ADVISED SHE WAS NOT FAMILIAR WITH SUBJECT OR MR. AND MRS.

[REDACTED] SUBJECT'S PARENTS. SHE STATED THAT THROUGH THE REQUIREMENTS OF HER JOB AS A TELEPHONE SOLICITOR AT THRIFT-PAK, INC., 1410 MAIN AVE., CLIFTON, N.J., SHE MAY HAVE CONTACTED THE [REDACTED] AND FOLLOWED UP THIS CONTACT WITH CORRESPONDENCE DIRECTING ATTENTION BACK TO HER IN FUTURE COMMUNICATIONS. SHE HAD NO RECORDS OF PAST CALLS, AS SHE

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FBI

Date:

Transmit the following in _____

(Type in plaintext or code)

Via _____

(Priority)

PAGE 4

NK 88-8767

NO LONGER WORKS AT THRIFT-PAK. [REDACTED] WAS SHOWN PHOTOGRAPH OF SUBJECT WITH NEGATIVE RESULTS.

b6
b7C
b7D

ON 1/10/73 [REDACTED] A HIGHLY SENSITIVE SOURCE WHO IS IN A POSITION TO FURNISH INFORMATION CONCERNING [REDACTED] [REDACTED] ADVISED THAT THE FOLLOWING NAMES, ADDRESSES, AND TELEPHONE NUMBERS WERE RECENTLY IN THE POSSESSION OF [REDACTED]

[REDACTED]

NEWARK OFFICE IS FAMILIAR WITH [REDACTED] AKA [REDACTED] [REDACTED] AS A NEWARK ATTORNEY ASSOCIATED WITH BALL, BROEGE, FOGEL, EXERELL, AND LIVINGSTON LAW OFFICES IN NEWARK, A FIRM WHICH IS NOTED FOR ITS SUPPORT OF LIBERAL OR RADICAL DEFENDANTS AND WHO FORMERLY HAD AS ANOTHER ASSOCIATE [REDACTED]

Approved: _____

Special Agent in Charge

Sent _____

M Per _____

Date:

FBI

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

PAGE 5

NK 88-8767

LEADS:

ALL RECEIVING OFFICES ARE REQUESTED TO CONDUCT MOTOR VEHICLE REGISTRATION AND DRIVERS LICENSE CHECKS ON THE NAME [REDACTED] UTILIZING SUBJECT'S DOB [REDACTED] LOCAL PD FORGERY SQUADS SHOULD BE CONTACTED. ADDITIONALLY, WELFARE RECORDS AND BIRTH/DEATH RECORDS SHOULD BE CHECKED, KEEPING IN MIND REPORTED METHODS UTILIZED BY WEATHERMAN FUGITIVES IN OBTAINING FALSE IDENTIFICATIONS. ANY ADDITIONAL BACKGROUND-TYPE INVESTIGATION DEEMED APPROPRIATE SHOULD BE CONDUCTED RE [REDACTED] AND SOURCES FAMILIAR WITH REVOLUTIONARY ACTIVITY SHOULD BE CONTACTED.

b6
b7c

BALTIMORE AT BALTIMORE, MD., WILL CONTACT SOURCE 4 FOR ANY RECORD RELATING TO EMPLOYMENT HELD BY [REDACTED] NOTING SUBJECT HAS OWN SSAN AS [REDACTED]

CHICAGO AT CHICAGO, ILL.: I. INASMUCH AS INFORMANT INFORMATION RECEIVED BY NEWARK CONCERNING THE REPORTED CONTACT BETWEEN [REDACTED] AND [REDACTED] WAS RECEIVED

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

PAGE 6

NK 88-8767

BETWEEN 10/23-27/72 AS REPORTED IN REFERENCED NEWARK AIRTEL,
CHICAGO WILL MAKE TOLL RECORD CHECKS ON [] BUSINESS
TELEPHONE NUMBER, [] DURING OCTOBER, NOVEMBER,
AND DECEMBER, 1972.

b6
b7C
b7D

2. WILL DETERMINE WHETHER JENNER AND BLOCK IS A LAW
FIRM IN CHICAGO OR WHAT CONNECTION THESE NAMES HAVE WITH
ATTORNEY []

3. WILL ATTEMPT TO IDENTIFY []
NEW YORK WILL CHECK INDICES IN ATTEMPT TO IDENTIFY

[]
[] WILL

ALSO CONTACT NEW LEFT SOURCES TO DETERMINE IF [] AND
[] KNOWN TO THEM.

NEWARK AT UNION, N.J., WILL REINTERVIEW SUBJECT'S PARENTS
AT [] IN EFFORT TO DETERMINE WHEREABOUTS OF
SUBJECT.

ARMED AND DANGEROUS.

Hold in abeyance

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

Date: 10/18/72

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIRMAIL
(Priority)

TO: ACTING DIRECTOR, FBI (88-56609)

FROM: SAC, NEWARK (88-8767) (P)

SUBJECT: [redacted] aka - FUGITIVE (WEATHFUG)
UFAP - FORGERY
OO: MILWAUKEE

b6
b7c

Re Newark teletype to Bureau and Milwaukee, 8/11/72; Milwaukee airtel to Bureau, 9/27/72; Bureau airtel to Newark, 10/12/72.

For the information of the Bureau and Milwaukee, highly confidential source mentioned in referenced teletype advised that person contacting local attorney allegedly attempting to arrange for subject to turn herself in identified herself as the mother of one [redacted] whose daughter was wanted for "forgery and gun charges". As it was determined through surveillances instituted at subject's parents' residence following receipt of this information from confidential source and subsequent investigation, no effort was made by subject's parents to contact subject. It is not certain at this time [redacted] is an alias of subject, however, the possibility exists. It is requested that this possible alias of subject be used cautiously in future investigation by other divisions so as not to disclose identity of source.

- 2 - Bureau
- 2 - Chicago
- 2 - Milwaukee (88-5362)
- 2 - Pittsburgh (88-7618)
- 2 - San Francisco (88-14770)
- 2 - New York (1 - 88-12847)
- (1 - 146-403A)(47)

2 - Newark
JHW:sjs
(14)

[Handwritten signature]

~~88-8767-23~~

SEARCHED _____ INDEXED _____
SERIALIZED *mlk/mlk* FILED _____

[redacted]

SEARCHED _____ INDEXED _____
SERIALIZED _____ FILED _____

NOV 7 1979 Sent

62-4106-4

Approved: _____
Special Agent in Charge NEWARK

M Per _____

NK 88-8767

Recontact with same confidential source on 10/6/72, disclosed person identifying herself as [redacted] mother has made no effort to recontact or negotiate to turn her daughter in.

b6
b7c

Investigation on 9/18/72, disclosed subject's parents. Mr. and Mrs. [redacted] had moved from [redacted] Newark, New Jersey, to [redacted] Union, New Jersey.

A source who has provided reliable information in the past advised on 10/6/72, that they would be willing to be alert to subject possibly visiting parents at new address and report same to the FBI.

On 10/6/72, Union, New Jersey, PD, Detective Bureau was provided copies of appropriate wanted fliers re subject and advised of the facts surrounding case. They will be alert to subject's possible future appearance in the Union, New Jersey, area.

Records at Division of Motor Vehicles, Trenton, New Jersey, were reviewed on 10/2/72, regarding subject and known aliases including [redacted] for records of driver's license or motor vehicle registration, however, results were negative.

Bureau is requested to arrange for "mail cover" coverage concerning return addresses only of mail sent to subject's parents' residence through cooperation with U.S. Postal Service Headquarters, Washington, D.C.

LEADS

PITTSBURGH

AT PITTSBURGH, PENNSYLVANIA:

Request expeditious coverage concerning interview of subject's [redacted] [redacted]

NEWARK

NK 88-8767

AT UNION, NEW JERSEY:

1. Will continue efforts to develop additional reliable neighborhood sources who are in a position to provide information concerning subject's possible visits in the future with parents.

2. Will contact County Welfare Board and determine if subject is currently collecting welfare under true name and known aliases, including [redacted]

3. Will consider reinterview of subject's parents based on information provided by Milwaukee and New York in response to referenced Bureau airtel.

b6

b7c

AT NEWARK, NEW JERSEY:

Maintain contact with confidential source in order to be alert to possibility subject's parents may still negotiate to arrange to turn subject into authorities.

ARMED & DANGEROUS

FBI

Date: 11/2/72

Transmit the following in _____
(Type in plaintext or code)

AIRTEL

Via _____
(Priority)

TO: ACTING DIRECTOR, FBI (88-56609)

FROM: SAC, NEWARK (88-8767) (P)

SUBJECT:



**FUGITIVE (WEATHFUG)
UFAP-FORGERY
(OO: MILWAUKEE)**

b6
b7C

Re: Newark nitel to New York, Pittsburgh and Milwaukee, 7/19/72.

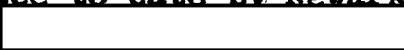
New York nitel to Newark, Pittsburgh and Milwaukee, 7/22/72.

Newark teletype to Bureau, 8/11/72.

Newark nitel to Bureau, 8/15/72.

Newark letter to New York, 8/18/72.

Newark airtel to Bureau, 10/18/72.

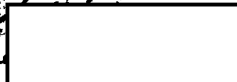
The following is a concise summary of investigative activity taken place to date by Newark since 7/72, concerning efforts to locate 

SEARCHED _____	INDEXED _____
SERIALIZED _____	FILED _____
NOV 7 1972	
FBI-NEWARK	

- 2-Bureau
- 2-Boston
- 2-Chicago
- 2-Cincinnati
- 2-Milwaukee (88-5363) (Info)
- 2-Miami
- 3-New York (88-12847)
- (1-176-403A) (47)
- 2-Pittsburgh (88-7618)
- 2-Newark

Serial contains information concerning identity of source. Do not destroy without specific Bureau authority.

SEARCHED _____	INDEXED _____
SERIALIZED _____	FILED _____



(17)

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

NK 88-8767

b6
b7C

Subject's parents, [redacted] Union, N.J., were interviewed on 7/18/72, at their former address, [redacted] Newark, N.J., following extensive neighborhood investigation, which disclosed neighbors in the vicinity of [redacted] who reported to have observed subject at same address on 7/17/72.

During interview, [redacted] refused to disclose whereabouts of subject or to acknowledge he knew of whereabouts of the subject, however, he did acknowledge subject had visited their home on 7/17/72. [redacted] was advised of outstanding warrants against subject and of harboring statute, however, he steadfastly refused to admit he knew where to locate subject.

On 7/19/72, [redacted] President, Glaziers and Glass Workers Union, Local 1095, 15 Ferrand Ave., Bloomfield, N.J., was interviewed. [redacted] advised [redacted] had been a member of the union for many years and was an associate of his [redacted] for a number of years. [redacted] stated that he has not seen subject for approximately 10 years, however, through discussions with [redacted] in the past, it was disclosed subject has spent a great deal of time in the New York area (exact location unknown) and Wisconsin, where she attended school. [redacted] added that subject's brother, [redacted] is a professor [redacted] at Pittsburgh University, Pittsburgh, Pa. [redacted] could offer no additional information regarding subject but stated [redacted] is never very open when discussing his family, particularly concerning subject, and did not confide in him concerning subject's current activities. [redacted] advised [redacted] has never taken loans through the union but always seems to be upset about being in need of money. [redacted] stated [redacted] shows much concern about his daughter's activities but keeps to himself.

NYO has been requested to review its files regarding subject and re-interview former acquaintances of

NK 88-8767

subject including [redacted]
NYC, with whom subject stayed in 6/71.

b6
b7c

Pittsburgh was requested to interview [redacted]
[redacted] for information concerning subject's whereabouts.

NYO advised [redacted] re-interviewed by
Bureau Agents on 7/21/72, and he advised he had not
seen subject since 6/71, and has not received any
information concerning her activities and knows of no
NYC area associates. [redacted] was cooperative and
agreed to notify NYO of any information regarding sub-
ject.

On 8/11/72, Newark reported in referenced
teletype to Bureau that a "highly confidential source"
advised subject was reportedly negotiating through an
attorney to turn herself in allegedly through efforts
made on the part of her parents. This source, described
as a "highly confidential source", is actually a highly
placed and reliable but unidentified source [redacted]
[redacted] Newark Police Department, who has furnished re-
liable information in the past and whose identity should
not be disclosed. This source of the Newark PD advised
[redacted] Newark PD that an individual who was
identifying herself as the mother of [redacted] was
attempting to arrange through legal counsel for her
daughter to turn herself into authorities, as she was
wanted for Federal violations of "forgery and gun charges."
The Newark police officer contacted the Newark Office to
determine whether or not the Bureau was aware of anyone
in such a fugitive status. Because of the recent contacts
made by Bureau Agents with subject's parents on 7/18/72,
during which they were advised of charges pending against
subject, the likelihood existed that the person attempting
the legal negotiations, mentioned above, may possibly have
been the subject's mother or a concerned party calling on
behalf of subject.

NK 88-8767

It should be pointed out that the possible alias of [redacted] should be used with caution and discretion in future investigations regarding subject as its use may possibly disclose identity of the Newark PD source.

b6
b7c

On 8/11/72, a 24 hour surveillance was instituted on subject's parents house, [redacted], Newark, and was continued through 8/15/72, but was unproductive.

On 8/4/72, [redacted] provided telephone toll records for calls made from subject's parents telephone number [redacted] at the [redacted] address.

The NYO identified one subscriber as [redacted] Jamaica, N.Y. Investigation being conducted to locate and interview [redacted]

Recontact with above-described "highly confidential source" on 10/6/72, disclosed person identifying herself as [redacted] mother has made no effort to recontact or negotiate to turn her daughter in.

Investigation on 9/18/72, disclosed subject's parents had moved from [redacted], Newark, to [redacted] Union, N.J.

On 10/6/72, Union, NJPD, Detective Bureau, was provided copies of appropriate wanted flyers regarding subject and advised of the facts surrounding this case. They will be alert for subject's possible future appearance in the Union, NJ, area.

Records of the DMV, Trenton, N.J., were reviewed on 10/2/72, regarding subject and known aliases including [redacted] for records of driver's license or motor vehicle registration; however, results were negative.

NK 88-8767

b6
b7C
b7D

A neighborhood source, who is knowledgeable [redacted] and some activities at residence, [redacted] Union, N.J., advised on 10/2/72, they would be willing to be alert to subject's possibly visiting residence and would report same to the Newark Office.

On 10/18/72, subject's true name and known aliases including [redacted] were checked through the Newark, NJPD, Fraud Squad, with the assistance of Det. [redacted] with negative results in regard to any worthless check passing activity.

On 10/31/72, the Newark, NJPD, police officer was recontacted and he advised his source, described above as a "highly placed and reliable source," had contacted him during the week of 10/23-27/72, and stated that [redacted] has a contact in Chicago, Illinois, identified as [redacted] and that two telephone numbers were reported by this latter source, who could not identify the significance of these numbers as they relate to [redacted] or subject. These telephone numbers are [redacted] and [redacted] It is noted area code 312 covers Chicago.

The significance of this connection between subject and [redacted] is not known by sources nor is it known how current this alleged connection is, however, because of source's position, it is felt by Newark these numbers are of consequence only since 8/72.

Newark indices negative regarding [redacted] however, records at the Newark, NJPD, were reviewed on 10/31/72, with the assistance of [redacted] and disclosed that the name [redacted] (possibly identical), appeared in an address book of one [redacted] who was arrested in Newark in 1969. [redacted] was a BLACK STUDENTS UNION member in Newark at the time of his arrest and was a student at Rutgers University, Newark, N.J. This address book lists [redacted] as being a student at Antioch College in Ohio, and listed address at the time as [redacted] Boston, Mass. No further information is available to identify [redacted]

LEADS

NK 88-8767

BOSTON

AT BOSTON, MASSACHUSETTS: Will conduct investigation at [redacted], to fully identify [redacted]

b6
b7c

2. Will conduct criminal and informant checks regarding [redacted] and check postal authorities for any forwarding address possibly left by [redacted]

CINCINNATI

AT ANTIOCH COLLEGE, OHIO: Will secure full background information regarding [redacted] including photograph if available, and any additional information concerning [redacted] current address.

CHICAGO

AT CHICAGO, ILLINOIS: Will review indices and attempt to identify [redacted] and his possible association with subject utilizing and developing results of information obtained by identifying subscribers to two Chicago telephone numbers listed above. Chicago should be alert to the possibility [redacted] may be a Chicago attorney with whom subject may be negotiating to surrender herself.

MIAMI

AT HOLLYWOOD, FLORIDA: Will expedite handling of lead set forth in referenced Newark letter to New York and Miami, 8/18/72, concerning telephone number [redacted] called from subject's parents house in Newark.

NEW YORK

AT NEW YORK CITY, NEW YORK: Will maintain close contact with sources familiar with Weathermen/Revolutionary activity who may have information concerning subject's whereabouts.

NK 88-8767

AT JAMAICA, NEW YORK: Will continue efforts to locate and interview JACK LANG.

PITTSBURGH

AT PITTSBURGH, PENNSYLVANIA: Will expedite coverage of leads previously set forth concerning interview of [redacted] and also identity of subscriber to telephone number [redacted] as set forth in referenced Newark letter to New York and Pittsburgh, 8/18/72.

2. Additionally, will acquire telephone toll records from telephone at residence of [redacted] and set forth leads accordingly.

NEWARK

AT UNION, NEW JERSEY: Will continue efforts to develop additional reliable neighborhood sources, who are in a position to provide information concerning subject's possible visits in the future with parents.

2. Will contact County Welfare Board and determine if subject is currently collecting welfare under true name and known aliases, including [redacted]

3. Will consider re-interview of subject's parents based on information resulting from leads set forth herein.

4. Will obtain toll records from telephone subscribed to by subject's parents for June through the present.

EXTREME CAUTION SHOULD BE USED DURING FUTURE INVESTIGATION WITH REGARD TO THE USE OF THE NEWARK POLICE DEPARTMENT AND THEIR SOURCES AS IT MAY PROVE DAMAGING TO BOTH.

ARMED AND DANGEROUS.

b6
b7c

-----BLUE COPY-----

NR 008 NK CODE

PM URGENT 8-11-72 JWC

O ACTING DIRECTOR, FBI (88-56609) 8:03 P.M. FwB

SAC, MILWAUKEE (88-5363) 9:41 P.M. Ljw

FROM SAC, NEWARK (88-8767) 1P

AKA - FUGITIVE; UFAP -

b6
b7c

FORGERY; OO: MILWAUKEE.

RE NK TELEPHONE CALL TO BUREAU TODAY.

TODAY THE NEWARK OFFICE DETERMINED THROUGH A HIGHLY CONFIDENTIAL SOURCE THAT CAPTIONED SUBJECT IS REPORTEDLY NEGOTIATING THROUGH AN ATTORNEY TO TURN HERSELF IN. THESE NEGOTIATIONS ARE SUPPOSEDLY BEING CARRIED ON BY THE SUBJECTS PARENTS, WHOSE IDENTITIES ARE KNOWN TO THE BUREAU AND MILWAUKEE.

NEWARK IS IMMEDIATELY INITIATING A TWENTY-FOUR HOUR SURVEILLANCE OF THE SUBJECTS PARENTS, SINCE THE POSSIBILITY EXISTS THAT THE SUBJECT MAY BE IN CONTACT WITH HER PARENTS. THE SURVEILLANCE IS SCHEDULED TO CONTINUE THROUGH AUGUST FIFTEEN, NEXT AT WHICH TIME AN ASSESSMENT WILL BE MADE OF THE EXISTING FACTS.

THE BUREAU AND MILWAUKEE WILL BE KEPT ADVISED OF PERTINENT DEVELOPMENTS.

END

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 7 1979	
FBI - NEWARK	

SEARCHED INDEXED

SERIALIZED FILED

88-8767-11
67-4106-6
New

11/9/79

Airtel

To: Director, FBI
From: SAC, Newark

U. S. Vs. W. MARK FELT; ET AL
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

ReBuairtel to Newark dated 11/5/79; Butelcall of EAD
[redacted] to SAC, Newark, 11/8/79, and telcalls to and from
ASAC [redacted] Alexandria Office, 11/8/79.

b6
b7c

Enclosed for the Bureau are copies of a letter and
enclosure forwarded to [redacted], and a copy of a
cover letter forwarding these items to HUBERT WILLIAMS, Director
of Police, Newark, New Jersey Police Department.

ReBuairtel requested SAC, Newark, to contact the Newark,
New Jersey Police Department for permission to release information
that had been received by the Bureau from an officer in the Newark,
N. J. Police Department. This information from a highly placed
and reliable, but unidentified source of the officer's, is of
potential use to the defendants in the above captioned case and it
is believed that the court will want to permit the defense to use
this information at trial.

In line with Bureau instructions, on 11/8/79, HUBERT
WILLIAMS, Director of Police, Newark, N. J. Police Department, was
contacted by SAC ROBERT J. MC CARTHY and SA [redacted]
concerning the Bureau's request. Mr. WILLIAMS advised that the
officer involved in this matter had retired about six years ago
and that he did not know where the officer is presently residing.
He requested that the FBI direct a letter, making its request
known, and that he would forward such a request to the officer,
if he could locate him. He stated that sources of police officers

3 - Bureau (Enclosures - 8)
1 - Newark
RJM:PMS

62-4106-7

in the Newark Police Department are personal to each officer and that there is no departmental ruling that any such information obtained from sources be placed into writing. He said there is also no departmental ruling that any such information not be placed in writing.

This information was telephonically provided on 11/8/79 to ASAC [redacted] of the Alexandria Division who then dictated a letter (copy enclosed for Bureau) to be forwarded to [redacted] [redacted] through Director WILLIAMS of the Newark, N. J. Police Department. This letter was provided to Director WILLIAMS on 11/9/79.

b6
b7c

Bureau will be advised of [redacted] reply.

On August 11, 1972, NK T-1, who has provided reliable information in the past, advised that a person alleged to be subject was reportedly negotiating through a Newark attorney to surrender herself. NK T-1 advised that a female individual who was identifying herself as the mother of one [redacted] was attempting to negotiate through this legal counsel for her daughter to turn herself in to the authorities as she was wanted on Federal charges of "forgery and gun charges". Because of the recent contact made by Bureau Agents with subject's parents on July 18, 1972, during which they were advised of the charges pending against subject, it was deemed likely that the person attempting these legal negotiations may in fact be subject's mother or a concerned party calling on behalf of subject.

b6
b7c

On October 6, 1972, NK T-1 was recontacted and advised that the person identifying herself as [redacted] [redacted] mother has made no effort to recontact or negotiate to turn her daughter in.

John
62-4106-8

On October 31, 1972, NK T-1 advised of learning during the week of October 23-27, 1972, that [redacted] had a contact in Chicago, Illinois, identified as [redacted] and that two telephone numbers were reportedly associated with [redacted] and known by [redacted]. The significance of these numbers was not known by NK T-1. These telephone numbers are 312 [redacted] and 312 [redacted]. It is noted that area code 312 covers the Chicago area. The significance of this connection between subject and [redacted] was not known by NK T-1 nor did the source know how current the alleged connection was.

b6
b7C

Julia

62-4106-9

Post Office Box 1158
Newark, New Jersey 07101

November 9, 1979

[Redacted]
Retired
Newark, New Jersey Police Department

b6
b7c

Dear [Redacted]

As you may be aware, the United States Government is currently preparing for trial in a criminal matter arising out of a surreptitious entry investigation. This case is styled United States Versus W. Mark Felt; Et Al. In connection with this trial the defense, pursuant to discovery, is being furnished material contained in FBI files relevant to their defense. In that connection, an FBI report contains information which originated with you. This information you obtained from an informant or source. I am enclosing a xerox copy of that portion of the report containing the information in question. The information is attributed as coming from Newark T-1.

The Department of Justice deems it essential that the defense be given access to this information and ultimately be permitted to use it at trial in the interests of mounting an adequate defense.

We would appreciate your review of this information and a determination as to whether the information may be discovered in this case and ultimately disclosed at trial. If that is not possible, we ask you consider whether portions of it may be so used.

Sincerely,

Robert J. McCarthy
Special Agent in Charge

Enclosures - 2

- 1 - addressee
- 1 - Hubert Williams, Director of Police
Newark, NJ Police Department

2 - Bureau
① - Newark

RJM:PMS

(5)

mlm
mc
62-4106-10

Post Office Box 1158
Newark, New Jersey 07101

November 9, 1979

Mr. Hubert Williams
Director
Newark Police Department
22 Franklin Street
Newark, New Jersey

Dear Director Williams:

Enclosed are a letter and a xerox portion of a report to be forwarded to [redacted] retired member of the Newark, New Jersey Police Department. Also enclosed are copies of the same material for your records. This is in accordance with your request yesterday, November 8, 1979, that a letter to [redacted] be prepared and forwarded to you setting forth a request for permission to release certain information to the defendants in a criminal matter being prepared for trial by the United States Government. This case is styled United States Versus W. Mark Felt; Et Al.

b6
b7c

As I discussed with you yesterday, this relates to information received by the Federal Bureau of Investigation through the Newark, New Jersey Police Department from a highly placed and reliable, but unidentified source, and the necessity of receiving permission to release this information to the defense so that they may make use of it in open court. I am certain that, if necessary, the original source of this information would be contacted to obtain the source's permission.

Please forward this request to [redacted] and advise him that a response in this matter would be appreciated as soon as possible.

Sincerely,

Robert J. McCarthy
Special Agent in Charge

Enclosures - 6

- 1 - addressee
 - 2 - Bureau
 - 1 - Newark
- RJM:PMS
(4)

Handwritten notes and signatures:
11/9/79
Hubert Williams
[redacted]
[redacted]
[redacted]

Handwritten signature: mlb

62-4106-11

NK0001 3191710

OO HI

DE NK

O 151710Z NOV 79

FM NEWARK

TO DIRECTOR (IMMEDIATE)

BT

UNCLAS

U.S. VERSUS W. MARK FELT; ET AL; DISCOVERY PROCEEDINGS - TRIAL
PREPARATION

ATTENTION: [REDACTED] RECORDS MANAGEMENT DIVISION

b6
b7c

RE BUREAU AIRTEL TO NEWARK, NOVEMBER 5, 1979, AND NEWARK
AIRTEL TO BUREAU, NOVEMBER 9, 1979.

IN REFERENCED NEWARK AIRTEL BUREAU WAS ADVISED THAT HUBERT WILLIAMS,
DIRECTOR OF POLICE, NEWARK, NEW JERSEY POLICE DEPARTMENT, WAS
CONTACTED BY SAC ROBERT J. MC CARTHY ON NOVEMBER 8, 1979, AT
WHICH TIME IT WAS DETERMINED THE OFFICER IN QUESTION HAS BEEN
RETIRED FOR MORE THAN SIX YEARS. A LETTER, WHICH ENCLOSED THE
INFORMATION IN QUESTION, WAS DIRECTED TO RETIRED [REDACTED]
[REDACTED] THROUGH THE NEWARK POLICE DEPARTMENT AND WAS RECEIVED
BY [REDACTED] ON NOVEMBER 14, 1979.

mbr

62-4106-12

PAGE TWO, NEWARK , UNCLAS

IN THE ABSENCE OF THE SAC, [REDACTED] WAS CONTACTED AT HIS RESIDENCE, [REDACTED] CHATHAM, NJ, BY ASAC [REDACTED]

b6
b7C
b7D

[REDACTED] AND SA [REDACTED] STATED THAT HE HAD READ THE LETTER SEVERAL TIMES SINCE RECEIVING IT AND UNDERSTOOD ITS CONTENTS. [REDACTED] ADVISED THAT HE WAS IN CHARGE OF THE INTELLIGENCE DIVISION OF THE NEWARK POLICE DEPARTMENT PRIOR TO HIS RETIREMENT. AMONG HIS DUTIES, HE WAS PERSONALLY INVOLVED IN HANDLING GREAT VOLUMES OF INTELLIGENCE INFORMATION, SOME OF WHICH WAS DISSEMINATED TO THE FBI. HE STATED THAT TO THE BEST OF HIS KNOWLEDGE THE INFORMATION OF INTEREST WOULD NOT BE DOCUMENTED IN NEWARK POLICE DEPARTMENT FILES SINCE INFORMANT INFORMATION WAS NOT NORMALLY MADE A PART OF DEPARTMENT RECORDS.

[REDACTED] ADVISED THAT BASED ON THE TYPE OF INFORMATION ENCLOSED WITH THE LETTER, HE BELIEVES HE KNOWS THE IDENTITY OF THE SOURCE WHO PROVIDED THE INFORMATION TO HIM. HE STATED THAT HE HAS NOT MAINTAINED CONTACT WITH THE SOURCE AND HAS NOT SEEN THAT PERSON FOR OVER FIVE YEARS. SINCE THE INFORMATION MAY TEND TO IDENTIFY THE SOURCE AND BECAUSE OF HIS

PAGE THREE, NEWARK , UNCLAS

CONTINUED CONCERN THAT IF IDENTIFIED THE SOURCE MAY BE ENDANGERED,
HE REQUESTED THAT THE INFORMATION RECEIVE CONTINUED PROTECTION FROM
DISCLOSURE AND THAT HIS PRIOR REQUEST FOR CONFIDENTIALITY BE
HONORED.

BT

memorandum

DATE: 4/24/80

REPLY TO
ATTN OF: SA [redacted]

b6
b7C

SUBJECT: U.S. V. W. MARK FELT, ET AL.,
DISCOVERY MATTERS

TO: SAC, NEWARK (62-4106)

On 4/23/80 [redacted]
Chatham, N.J., tel. no. [redacted] advised that
he does not wish to speak personally with Assistant
[redacted] concerning this matter. In addition,
[redacted] said that he will not waive any of his
rights with respect to remaining silent concerning
any informant material he may have had access to
in the past.

When asked for the name of his attorney, [redacted]
declined to furnish it, stating that he would consult
with his attorney and advise of his decision in a
day or two.

On 4/24/80 [redacted] advised that his attorney
is [redacted] Mountainside,
New Jersey, tel. no. [redacted]. He added that
any further contact by the U.S. DEPT. of Justice
should be through Mr. [redacted].

*Request to locate [redacted]
was made by USA [redacted] on 4/22/80
and result of contact on 4/24/80 - telephonically.
FPA HQ was advised of request on 4/23/80*

62-4106-13

SEARCHED	INDEXED
SERIALIZED	FILED
APR 24 1980	
FBI-NEW	



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

VZ CZ CHGO 059

RR CG NK NY SF

DE HQ 0059 1142215

ZNY EEEEE

R 23 145 IZ APR 80

FM DIRECTOR, FBI

TO FBI NEW YORK ROUTINE

FBI CHICAGO ROUTINE

FBI NEWARK ROUTINE

FBI SAN FRANCISCO ROUTINE

BT

UNCLAS E F T O

U. S. VS. W. MARK FELT, ET AL.

DISCOVERY PROCEEDINGS

*62-4106**

THIS CONFIRMS TELEPHONE CALLS APRIL 22 TO ASACS [REDACTED] AND [REDACTED] SUPERVISORS [REDACTED] AND [REDACTED] FROM SA [REDACTED] RECORDS MANAGEMENT DIVISION, FBIHQ.

b6
b7c

RECIPIENT OFFICES SEND ORIGINAL FIELD OFFICE FILES FOR LEIBEL BERGMAN TO FBIHQ, ROOM 4859, TELEPHONE NUMBER 224 TO ARRIVE NEXT FRIDAY, APRIL 25, IF POSSIBLE. COPY OF FILE SHOULD BE RETAINED BY EACH OFFICE. ORIGINAL FILE MUST COVER ONLY TIME PERIOD 3/1/69 THROUGH 10/31/73, BUT

62-4106-14

[REDACTED]

ICE det pins

SEARCHED	INDEXED
SERIALIZED	FILED
APR 23 1980	
FBI - NEWARK	

for

PAGE TWO DE HQ 0059 UNCL E F T O

MUST INCLUDE ALL SUB FILES INCLUDING SURVEILLANCE LOGS,
ANY ELSUR RELATED MATERIALS LOCATED, AND BULKY ENCLOSURES.

RESOLVE ANY QUESTIONS BY TELEPHONE CALL TO FBIHQ,
EXTENSION 4763.

TRIAL NOW REMAINS SCHEDULED FOR MAY 12. THIS ADDITIONAL
DISCOVERY ORDERED BY COURT MONDAY, APRIL 21. TO BE ACCOMPLISHED
IMMEDIATELY.

BT

0059

NNNN

FBI

TRANSMIT VIA:

Teletype
 Facsimile
 ~~AIRTEL~~

PRECEDENCE:

Immediate
 Priority
 Routine

CLASSIFICATION:

TOP SECRET
 SECRET
 CONFIDENTIAL
 UNCLAS E F T O
 UNCLAS

Date 4/24/80

TO: DIRECTOR, FBI
 (ATTN: SA RM 4859,
 JEH; TEL LIPT 224)

FROM: SAC, NEWARK (62-4106)

SUBJECT: U.S. vs. W. MARK FELT,
 ET AL
 DISCOVERY PROCEEDINGS

RE: Bureau teletype dated 4/23/80

Enclosed for the Bureau are the following original Newark main files, subject of which is LEIBEL BERGMAN:

1.) Serials 29 - 477 of 105-23027, covering pertinent period of 3/1/69 thru 10/31/69. (Serials 60 and 61 are excluded, as they are dated 3/26/68 and 6/21/68 respectively) of subject's main file. (xeroxed copies retained Newark)

2.) Complete volume 105-23027 Sub 1. (xerox copy maintained Newark)

3.) Complete volume 105-23027 Sub 2 and Sub 2, Vol. 2. (duplicate copy maintained in Newark as 105-23027 Sub 3 Vol. 1 and 2)

3- Bureau (Enc. 7)
 (1- package copy)
 2- Newark (1- 105-23027)
 DSS/pab
 (5)

Approved: *R. G. ...*Transmitted 62-4106-15

(Number)

(Time)

Per *...*

4.) Complete volume 105-23027 Sub 4. (xerox copy maintained Newark)

5.) Complete volume 105-23027 Sub 5. (duplicate copy maintained in Newark as 105-23027 Sub 6)

6.) Complete 105-23027 - 1A - 36. (xerox copies maintained in Newark)

7.) Sub 1A, Exhibits 3 - 41 (exhibit 19 is missing). (xerox copy maintained in Newark)

For information of the Bureau, pen register tapes, magnetic tapes and index not forwarded to the Bureau per telephone call with ASAC [redacted] Newark Division.

b6
b7c

Also for information of the Bureau, Newark maintains a main file on [redacted] Newark file 105-37220.



UNION COUNTY BOARD OF ELECTIONS

53 RAHWAY AVENUE

ELIZABETH, NEW JERSEY 07207

TELEPHONE: 527-4123

September 11, 1980

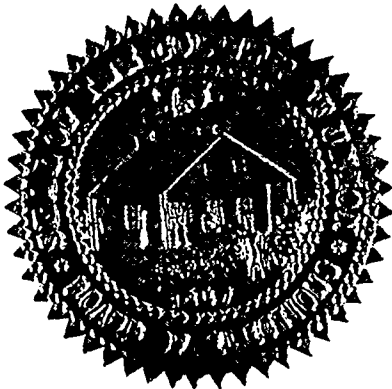
TO WHOM IT MAY CONCERN:

This is to CERTIFY that BENJAMIN COHEN registered to vote from 1856 Manor Drive, Union, New Jersey, on September 28, 1972.

At the time of his registration, Mr. Cohen affirmed that he was 68 (sixty-eight) years of age and a native born citizen, and, that he had previously been registered from 194 Hausbury Avenue, Newark, Essex County, New Jersey.

In June of 1978 Mr. Cohen's voter registration records were transferred to 1872 Manor Drive, Union, New Jersey. In August of 1980, his records were transferred to 1493 Westminister Drive, Union, New Jersey, and remain active at this address.

All of the above information was taken from the Permanent Registration No. 820171 for BENJAMIN COHEN.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the OFFICIAL SEAL of Union County, State of New Jersey, this Eleventh day of September, A.D., 1980.

ARTHUR H. WENDLAND, Chief Clerk

Post Office Box 1158
Newark, New Jersey 07101

September 11, 1980

Bureau of Vital Statistics
City Hall
Newark, New Jersey

Attention: [redacted]

b6
b7c

Dear [redacted]:

In connection with a trial scheduled to begin
September 15, 1980, in Washington, D. C., you are requested
to furnish a certified copy of a birth certificate for
[redacted] born on [redacted]
and [redacted]

Very truly yours,

Robert J. McCarthy
Special Agent in Charge

By: [redacted]
Supervisory Special Agent

1-Addressee
① Newark
JWM/dam
(2) *dam*

Russ
62-4106-17
JM

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 9/11/80

TO: DIRECTOR, FBI
 (ATTN: RM 4859, TELELIFT 225)

FROM: SAC, NEWARK (62-4106) (RUC)

SUBJECT: US Vs. W. MARK FELT, et al
 DISCOVERY PROCEEDINGS - TRIAL PREPARATION

RE: Butelcall 9/11/80.

Enclosed for the Bureau are the following items:

- 1.) A certified copy of Birth Certificate.
- 2.) A letter from the Union County Board of Elections re Voter Registration Information for

2- Bureau (Enc. 2)

1- Newark

JWM/pab

(3)

[Handwritten signature]

[Handwritten initials]
 62-4106-18
[Handwritten signature]

b6
b7c

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

TRANSMIT VIA: Airtel

PRECEDENCE: _____

CLASSIFICATION: ~~CONFIDENTIAL~~ (U)

DATE: 9/19/80

To: All SACs
All LEGATS

PERSONAL ATTENTION

From: Director, FBI *uw*

U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER
TRIAL - SOURCE PROTECTION (U)

BACKGROUND - GENERAL

The trial of former Acting Associate Director Felt and former Assistant to the Director Miller commenced Monday, 9/15/80 in the U.S. District Court for the District of Columbia, Chief Judge William B. Bryant presiding. The charges against former Acting Director Gray remain outstanding, but his trial has been severed and he may be tried after the trial of Messrs. Felt and Miller is completed. The prosecution case is predicted to take two weeks or more, and the defense case four weeks, beginning approximately 9/29/80. (U)

Because the trial is likely to attract media reporting and commentary, this communication addresses source protection issues and related problems which may result. (U)

Trial issues of Weatherman violence, foreign involvement, past FBI practices, prior knowledge by the Department of Justice and the President have presented problems for the FBI and the intelligence community, particularly NSA and CIA. Solutions have been jointly negotiated by the interested agency, prosecutors and defense counsel, and, at times, with the assistance or based on decisions of the trial judge. Documents to be used at trial have been excised, partially rewritten, or made the subject of stipulations which replace documents. Oral testimony will follow the general outlines or philosophy

~~CONFIDENTIAL~~

Classified and Extended by 8060
Reason for Extension FCIM II, 1-2.4.2 (1)(2)
Date of Review for Declassification 9/19/2000

(Do not type below this line.)

(This line for LEFT MARGIN.)

(Do not type BEYOND THIS MARGIN.)

*rec destroyed
2/2/81*

*Done
9/30/80
cc to all sign, S&S, and
for report.*

*Went to
Lynch for*



62-4106-19

SEARCHED	INDEXED
SERIALIZED	FILED
1 SEP 24 1980	
NEWARK	

b6
b7c

FBI/DOJ

~~CONFIDENTIAL~~ (U)

Airtel to All SACs and All LEGATS
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

of documents to which the testimony relates, with the trial judge deciding new areas arising during trial. Solutions reached reflect a concern shared by all to balance the competing interests of the national security (primarily in protecting sources) with the Constitutional rights of the defendants to a fair trial. (U)

LEGATS - FRIENDLY FOREIGN SERVICES, SOURCES

Legats are being advised by cable they may assure any source or foreign service that information furnished by them in the past to the FBI has not been cleared for use at trial by either prosecution or defense. All such information has been excised from trial documents. When stipulations have been drafted to replace documents containing information received from foreign sources or governments, the stipulation includes only information received from domestic FBI sources. For instance, information from Legat sources about Venceremos Brigade travel to Cuba has only been included in stipulations to the extent domestic sources confirmed what the foreign sources reported, which in most cases was in the same or greater detail. (X) (U)

A foreign service or source is in a position, therefore, to assert that a U.S. Government representative or the FBI has furnished assurances information relating to his country being disclosed at this trial was obtained by the FBI from sources within the United States. This assertion is possible, even though the foreign service or source may have furnished the same or similar information, since no information was released for trial which was not from a domestic source. In several instances the source is being described in a stipulation as an FBI wiretap in the U.S. or a domestic FBI informant in an attempt to anticipate obvious questions, since the information sometimes appears on its face to have emanated from a foreign country. (X) (U)

FIELD OFFICES - INFORMANTS, ASSETS, CASUAL SOURCES

The actual identities of all informants and assets, and most casual sources, have been excised from documents, and the trial judge has indicated he will not allow witnesses to add such detail during oral testimony. However, because of

~~CONFIDENTIAL~~ (U)

~~CONFIDENTIAL~~ (U)

Airtel to All SACs and All LEGATS
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

the likely publicity we can anticipate past and present sources contacting the FBI to inquire if facts disclosed at trial are based on information furnished by them, to express concern that facts disclosed at trial have identified them as the source, or to report being confronted with suspicions or accusations by persons about whom they furnished information to the FBI. (U)

FBIHQ personnel handling the production of documents are not aware of any informants or assets whose identities will be revealed by disclosures during this trial except for one situation which is being handled by separate communication. Nevertheless, it is possible that some sources will feel threatened, if not actually be identified, in view of the detail to be revealed at trial, and the wide media coverage anticipated. (U)

Parents and close relatives of Weatherman fugitives who cooperated fully or partially with the FBI will be specifically identified in documents. This decision was made since the surreptitious entries being prosecuted were generally made against such relatives who did not cooperate in the fugitive investigation. Organizations who cooperated with the fugitive investigation, including banks, telephone companies, bus and airline companies, insurance companies, and hospitals, will sometimes be identified. The name and title of the individual employee contacted will be excised, however. (U)

Field offices contacted by a concerned present or former source should do everything possible to assuage source's concerns. If necessary to assist a source in handling accusations or constructing a safe cover story, you are encouraged to contact FBIHQ which may be able to locate copies of documents introduced in evidence causing possible jeopardy to the source. (U)

Substantive criminal violations arising out of accusations, such as threats, should be opened for investigation or referred to local authorities, as appropriate, and FBIHQ advised promptly. (U)

~~CONFIDENTIAL~~ (U)

~~CONFIDENTIAL~~ (U)

Airtel to All SACs and All LEGATs
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

For the duration of the trial, which is expected to last at least six weeks, contact should be made with SA [redacted] (FBIHQ Ext. 4763) or ASAC [redacted] (Alexandria Field Office). After the trial, contact should be made with the FBIHQ section handling the substantive matters on which the source reported. (U)

b6
b7c

Contents of this communication should be brought to the attention of all investigative and complaint duty personnel. Copies may be reproduced if necessary. (U)

All personnel should refrain from public comment on the trial. Press inquiries should be referred to the Press Office at FBIHQ or the Department of Justice. (U)

~~CONFIDENTIAL~~ (U)

(Indicate page, name of newspaper, city and state.)

THE DAILY JOURNAL ✓

ELIZABETH, NJ PG. 2

Date: 11/26/80

Edition:

(Mount Clipping in Space Below)

Charges to be dropped against ex-FBI leader?

WASHINGTON (UPI) — Sources say it is certain government prosecutors will drop conspiracy charges against former acting FBI Director L. Patrick Gray III and end an unprecedented criminal case against high-level FBI officials. Prosecutors are preparing to ask

Chief U.S. District Judge William Bryant in Washington, probably before Christmas, to dismiss the 2½-year-old indictment accusing Gray of approving illegal break-ins, Justice Department sources said Thursday.

Gray's former top lieutenants, retired FBI No. 2 man W. Mark Felt and ex-bureau intelligence chief Edward S. Miller, were convicted by a federal jury Nov. 6 on the same charge — that they conspired in the early 1970s to violate private citizens' civil rights.

The two, scheduled for sentencing Dec. 15, face maximum penalties of up to 10 years in prison.

The sources said neither Assistant Attorney General Phillip Heymann nor Attorney General Benjamin Civiletti have yet made the formal top-level decision on the case against Gray. But highly reliable sources said it is certain the case will be dropped and the only remaining issue is what grounds will be cited — the need to avoid disclosing national security information at the trial, the weak evidence against Gray or both.

Title:

Character:

or

Classification: 62-4106

Submitting Office: NEWARK SAC

- SAC _____
- ASAC (C) _____
- ASAC (A) _____
- C-1 _____
- C-2 _____
- C-3 _____
- C-4 _____
- C-5 _____
- C-6 _____
- C-7 _____
- C-8 _____
- C-9 _____
- C-10 _____
- FCI-1 _____
- FCI-2 _____
- Night Super. _____
- SA _____

62-4106-20

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 2 - 1980	
FBI DOJ	

THE STAR-LEDGER
NEWARK, N.J.

Date: 11/28/80
Edition:

(Mount Clipping in Space Below)

Title:

Character:

62-4106

or

Classification:

Submitting Office:

NEWARK

U.S. likely to drop case against ex-FBI chief

WASHINGTON (UPI) — U.S. prosecutors are preparing to drop 2½-year-old conspiracy charges accusing former acting FBI Director L. Patrick Gray 3d of approving illegal break-ins, Justice Department sources said yesterday.

Prosecutors are expected to ask chief U.S. District Judge William Bryant in Washington sometime before Christmas to dismiss Gray's indictment and end an unprecedented criminal case against high FBI officials, the sources said.

Gray's former top lieutenants, retired FBI No. 2 man W. Mark Felt and ex-bureau intelligence chief Edward S. Miller, were convicted by a federal jury Nov. 6 on the same charge — that they conspired in the early 1970s to violate private citizens' civil rights.

The sources said neither Assistant Attorney General Philip Heymann nor Attorney General Benjamin Civiletti has yet made the formal top-level decision on the case against Gray. But highly reliable sources said the only

remaining issues are whether to drop the case on national security grounds or because the evidence is weak — a concession the government already has made in court papers. Both grounds could be cited.

Sources said Gray's Baltimore lawyer, Alan I. Baron, has warned prosecutors that if they cite national security as the sole reason for dropping the case, he would demand it go to trial. However, the judge would have the final say, and presumably would not force the government to prosecute.

One government source said regardless of the strength of the case, the Justice Department "can't go to trial" against Gray because of the need to protect national security information, which Baron says is vital for defense. The source also said new evidence produced by Gray's lawyer has so weakened the case that the government may choose to admit it was mistaken in seeking his indictment.

A further indication that the government will drop

SAC _____

ASAC (C) _____

ASAC (A) _____

C-1 _____

C-2 _____

C-3 _____

C-4 _____

C-5 _____

C-6 _____

C-7 _____

C-8 _____

C-9 _____

C-10 _____

FCI-1 _____

FCI-2 _____

Night Super. _____

SA _____

the charges against Gray is that chief prosecutor John W. Nields Jr., hired as a special counsel in the case, has returned to private practice. Nields declined comment.

Justice Department spokesman Robert Smith declined comment.

In their trial defense, Felt and Miller asserted they were acting on Gray's OK in approving, without court warrants, searches at private homes in a hunt for fugitive members of the militant Weather Underground in 1972-73.

Felt, in trial testimony, said he never had "specific approval" from Gray for the so-called "black bag jobs." He said, although Gray did not learn details of break-ins until years later, Gray had given "general approval" for bag jobs to combat terrorism.

Gray, 63, who now practices law in Groton, Conn., contends he neither knew about the break-ins nor authorized them.

62-4106 21

SEARCHED _____

SERIALIZED _____

NOV 28 1980

FBI - NEWARK

November 19, 1980

Director, FBI

U. S. vs. FELT, ET AL.

SAC, Newark

Enclosed are Volumes 1-3 of NK 88-8767 as returned by the Department of Justice to FBIHQ on 6/28/78. They had been obtained in 1976.

When returned by the Department, [redacted] was included in Volume 3 of NK 88-8767. Missing from [redacted] were the file back and cover, and serials 1 through 7. The [redacted] serials were removed from the 88 file during the trial and were entered into evidence. They cannot be returned until after all appeals have been exhausted, which will take at least one year.

b7E

[redacted] and to one of the surreptitious entries involved in captioned prosecution.

The [redacted] serials will be forwarded when received.

Enclosures (3)

original
in 88-8767

lcc - ~~62~~-62-4106

62-4106-22

①

10/21/80

JAL

Indicate page, name of newspaper, city and state.)
THE STAR*LEDGER
NEWARK, N. J.
Date: **12/11/80**
Edition:

(Mount Clipping in Space Below)

Ex-FBI chief free of charge

WASHINGTON (UPI) — The Justice Department has formally decided to drop conspiracy charges against L. Patrick Gray, ending eight years of inquiries into his actions as acting FBI director in 1972-73, sources said yesterday.

Justice Department sources said prosecutors would ask a federal judge at a hearing today to dismiss Gray's indictment because there was insufficient evidence to support 2½ year-old charges he approved illegal break-ins.

* * *

Sources said the 63-year-old Gray had flown from his home in Connecticut to Washington and would appear with members of his family before Chief U.S. District Judge William Bryant.

The sources said the final decision was made by Philip Heymann, chief of the Justice Department's criminal division.

Gray's two former top lieutenants, W. Mark Felt and Edward S. Miller, face sentencing Monday for their convictions on the same civil rights conspiracy charge as Gray — alleging they approved break-ins without court warrants in a hunt for fugitive members of the radical Weather Underground.

Title:

Character: **62-4106**

or

Classification:

Submitting Office:

- SAC
- ASAC (B)
- ASAC (A)
- C-1
- C-2
- C-3
- C-4
- C-5
- C-6
- C-7
- C-8
- C-9
- C-10
- FCI-1
- FCI-2
- Night Super.
- SA

62-4106-23

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 11 1980	
FBI-NEWARK	
FBI DOJ	

(Indicate page, name of newspaper, city and state.)

THE DAILY NEWS
NEW YORK, N.Y.

Date: 12/16/80

Edition:

(Mount Clipping in Space Below)

Title: U.S. vs Mark Felt
ET AL

Character: 62-

or

Classification:

Submitting Office:

- SAC *[initials]*
- ASAC (C)
- ASAC (A)
- 3-1
- 3-2
- 3-3
- 3-4
- 3-5
- 3-6
- 3-7
- 3-8
- 3-9
- C-10
- FCI-1
- FCI-2
- Night Super.
- SA



Edward S. Miller



W. Mark Felt

Fines totaling \$8,500 are levied against them

2 former FBI officials are fined for break-ins

Washington (UPI)—A federal judge yesterday spared former FBI officials W. Mark Felt and Edward S. Miller jail sentences and fined them \$8,500 for approving break-ins at private homes in the New York area during 1972 and 1973.

Chief U.S. District Judge William Bryant imposed the fines just four days after the government dropped for lack of evidence identical charges against former acting FBI Director L. Patrick Gray, who was indicted with Felt and Miller 2½ years ago.

Before the sentencing, Felt's lawyer, Brian Gettings Jr., who apparently thought the judge would impose a jail term in the unprecedented case, said that Felt had a distinguished law enforcement career and was "a candidate for probation."

Arguing for a light sentence, he added, "Whatever debt to society needs to be extracted already has been extracted from Mr. Felt."

But Bryant did not mention jail or probation in levying fines of \$5,000 against Felt and \$3,500 against Miller.

In bypassing a jail sentence, Bryant apparently took into consideration the four years the two men were under investigation and prosecution, and that neither profited from the break-ins.

Felt, 67, the bureau's former No. 2 man, and Miller, 57, its retired intelligence chief, could have received 10 years in prison and a \$10,000 fine for the civil rights conspiracy conviction.

Both said they would appeal their convictions to expunge what Felt called "a very serious blemish on my career."

*Orig to Bar
12-16-80
vab*

62-4106-24

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 16 1980	
FBI-NEW YORK	

[Signature]

Indicate page, name of paper, city and state.
THE STAR*LEDGER
NEWARK, N. J.
Date: **12/16/80**
Edition:

(Mount Clipping in Space Below)

Title: **U.S. vs W.Mark Felt ET AL**

Character: **62 -**
or
Classification:
Submitting Office:

Two former FBI officials fined but prison terms are avoided

WASHINGTON (AP) — A federal judge ordered fines — but no jail sentences — yesterday for two former FBI officials who approved illegal break-ins against private residences during the hunt in the early 1970s for radical opponents of the Vietnam War.

W. Mark Felt, once J. Edgar Hoover's principal deputy, and Edward S. Miller, former head of the FBI's intelligence division, were fined \$5,000 and \$3,500 respectively by U.S. District Judge William Bryant.

They were convicted of violating the civil rights of friends and relatives of the Weather Underground, a leftist, occasionally violent offshoot of the anti-Vietnam War movement of the 1960s.

Last Thursday, identical charges were dropped against L. Patrick Gray, the acting FBI director when the break-ins took place in 1972 and 1973. With yesterday's sentencing, the criminal case against the top FBI officials was concluded.

Felt and Miller could have been sent to prison for up to 10 years and fined \$10,000 each on the single conspiracy charge.

Outside the courthouse, both men said they would appeal their convictions even though neither was sent to prison.

"I don't regard this as a relatively light sentence," Felt said. "I am a convicted felon. I regard it as a very serious blemish on my career."

He said his wife was suffering from pneumonia, an illness he said resulted from the strain during the 29 months since he and Miller were indicted by a federal grand jury.

In the courtroom, Felt, 67, and Miller, 51, were called separately to stand before Bryant who presided over their eight-week trial.

Neither man made a personal appeal for leniency, but lawyers argued that no purpose would be served by sending them to jail.

Brian Gettings, representing the silver-haired Felt, alluded to the dismissal of charges against Gray, who was appointed by former President Nixon to temporarily succeed Hoover.

Gettings said only because there was "some sort of fumbled handoff," Felt failed to get a formal authorization for the burglaries from Gray or other top Justice Department officials.

Felt, Gettings said, "is a man. He is a gentleman. He didn't let other people take the blame for things he knew he had a hand in."

Similarly, Miller's lawyer, Thomas Kennelly, said the break-ins were part of a long-established practice both under Hoover and by local police agencies.

"These actions were not unprecedented," he said.

Under currently existing guidelines, Kennelly said, such tactics would be possible with the approval of the FBI director or attorney general.

Both Felt and Miller admitted approving the break-ins. Kennelly said if Miller did anything wrong, it was his failure to obtain clear-cut approval from Gray or the attorney general.

When the charges against Gray were dropped, Justice Department lawyers said testimony in Felt and Miller's trial failed to turn up evidence that he OK'd the break-ins.

Many of the spectator seats in the courtroom were occupied by former FBI agents.

Felt said he and his wife would personally pay his fine, but lawyers indicated that the Society of Former FBI Agents were helping with legal bills, now totaling more than \$750,000.

- SAC _____
- ASAC (C) _____
- ASAC (A) _____
- C-1 _____
- C-2 _____
- C-3 _____
- C-4 _____
- C-5 _____
- C-6 _____
- C-7 _____
- C-8 _____
- C-9 _____
- C-10 _____
- FCI-1 _____
- FCI-2 _____
- Night Super. _____
- SA _____

*Orig to Bear.
12-16-80
VZB*

62-4106-25

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 16 1980	
FBI - NEWARK	

(Mount Clipping in Space Below)

Cleared ex-FBI chief may sue over 'ordeal'

WASHINGTON (UPI) — A federal judge, told the evidence was "unconvincing," yesterday exonerated former acting FBI Director L. Patrick Gray of the same 32-month-old conspiracy charge on which two top aides were convicted last month.

Gray, 63, appearing in court with his wife and four sons, said the action marked his "complete vindication." He told reporters he may sue the government for gross negligence in indicting him and failing to act sooner to drop the charge he approved illegal break-ins in 1972-73.

"I have every reason to believe that this prosecution was malicious," he said.

Chief U.S. District Judge William Bryant dismissed the long-pending indictments at a brief hearing requested by prosecutors.

Gray told reporters, "As a result of this conduct on the part of the federal prosecutors, I have suffered grievously over two years and eight months.

"It has been a long, ongoing ordeal. The sleepless hours and the depth of the agony can be known only to

those who have experienced a grievous miscarriage of justice that is now being rectified today."

Bryant's ruling freed Gray for the first time in eight years of various inquiries, beginning with the Watergate probe, into his 11 months as head of the bureau.

Chief prosecutor John W. Niels Jr. told the judge the government was dropping the case because of recent disclosures weakening the evidence that Gray authorized break-ins in a hunt for fugitive members of the radical Weather Underground.

W. Mark Felt and Edward S. Miller, the bureau's No. 2 and No. 3 men during Gray's term, face sentencing Monday for their convictions Nov. 6 on the same civil rights conspiracy charge. Each could be sentenced to up to 10 years in prison and a \$10,000 fine.

Prosecutors had said from the start it would be difficult to prosecute Gray because of the need to protect national security information.

In their motion for dismissal, prosecutors said there was insufficient evidence Felt and Miller had approval

from Gray for the nine break-ins, known in the bureau as "black bag jobs."

Prosecutors also said there was insufficient proof Gray actually joined in a conspiracy to use the break-ins. They noted Felt testified he believed Gray did not learn of the break-ins for years, and that Miller conceded in 1976 grand jury testimony that in approving break-ins at 1972 FBI conferences, Gray may only have been referring to efforts against Soviet spies.

Gray, who now practices law in Groton, Conn., said he had spent about \$500,000 defending himself and got another \$70,000 from a society of former FBI agents.

Gray's lawyer, Alan I. Baron, told the judge the action marked the "end of his (Gray's) twisting in the wind in this courtroom." It was a clear reference to former Nixon aide John Ehrlichman's 1973 remark, when Gray's confirmation as FBI director was stalled by Watergate revelations, that Gray should be left "twisting, twisting slowly in the wind."

Indicate page, name of newspaper, city and state.)
THE STAR LEDGER
NEWARK, NJ PG 16
Date: 12/12/80
Edition:

Title: **US VS. MARK FELT, ET AL**

Character:
or
Classification: 62
Submitting Office: **NEWARK**

- SAC _____
- ASAC (C) _____
- ASAC (A) _____
- C-1 _____
- C-2 _____
- C-3 _____
- C-4 _____
- C-5 _____
- C-6 _____
- C-7 _____
- C-8 _____
- C-9 _____
- C-10 _____
- FOI-1 _____
- FOI-2 _____
- Night Super. _____
- SA _____

original to Bureau 11/15/80

62-4106-26
SEARCHED INDEXED
SERIALIZED FILED
DEC 15 1980
FBI - NEWARK

VZ CZ CHQ0144

PP AFO

DE HQ 0144 1060010

ZNR UUUUU

P 152209Z APR 81

FM DIRECTOR, FBI

TO ALL FBI FIELD OFFICES PRIORITY

BT

UNCLAS

BUREAUWIDE INFORMATION PROGRAM (81-12)

PRESIDENTIAL PARDON OF W. MARK FELT AND EDWARD S. MILLER

ON APRIL 15, 1981, PRESIDENT RONALD W. REAGAN ISSUED THE FOLLOWING STATEMENT:

"PURSUANT TO THE GRANT OF AUTHORITY IN ARTICLE II, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES, I HAVE GRANTED FULL AND UNCONDITIONAL PARDONS TO W. MARK FELT AND EDWARD S. MILLER.

DURING THEIR LONG CAREERS, MARK FELT AND EDWARD MILLER SERVED THE FEDERAL BUREAU OF INVESTIGATION AND OUR NATION WITH GREAT DISTINCTION. NO PUNISH THEM FURTHER--AFTER THREE YEARS OF CRIMINAL PROSECUTION PROCEEDINGS--WOULD NOT SERVE THE ENDS OF JUSTICE.



SEARCHED	INDEXED
SERIALIZED	FILED
APR 18 1981	
FBI-NEWARK	
SHE	

62-4106-27

PAGE TWO DE HQ 0144 UNCLAS

THEIR CONVICTIONS IN THE U.S. DISTRICT COURT, ON APPEAL AT THE TIME I SIGNED THE PARDONS, GREW OUT OF THEIR GOOD FAITH BELIEF THAT THEIR ACTIONS WERE NECESSARY TO PRESERVE THE SECURITY INTERESTS OF OUR COUNTRY. THE RECORD DEMONSTRATES THAT THEY ACTED NOT WITH CRIMINAL INTENT, BUT IN THE BELIEF THAT THEY HAD GRANTS OF AUTHORITY REACHING TO THE HIGHEST LEVELS OF GOVERNMENT.

AMERICA WAS AT WAR IN 1972, AND MESSRS. FELT AND MILLER FOLLOWED PROCEDURES THEY BELIEVED ESSENTIAL TO KEEP THE DIRECTOR OF THE FBI, THE ATTORNEY GENERAL, AND THE PRESIDENT OF THE UNITED STATES ADVISED OF THE ACTIVITIES OF HOSTILE FOREIGN POWERS AND THEIR COLLABORATORS IN THIS COUNTRY. THEY HAVE NEVER DENIED THEIR ACTIONS, BUT, IN FACT, CAME FORWARD TO ACKNOWLEDGE THEM PUBLICLY IN ORDER TO RELIEVE THEIR SUBORDINATE AGENTS FROM CRIMINAL ACTIONS.

FOUR YEARS AGO THOUSANDS OF DRAFT EVADERS AND OTHERS WHO VIOLATED THE SELECTIVE SERVICE LAWS WERE UNCONDITIONALLY PARDONED BY MY PREDECESSOR. AMERICA WAS GENEROUS TO THOSE WHO REFUSED TO SERVE THEIR COUNTRY IN THE VIETNAM WAR. WE CAN BE

PAGE THREE DE HQ 014 UNCLAS

NO LESS GENEROUS TO TWO MEN WHO ACTED ON HIGH PRINCIPLE TO
BRING AN END TO THE TERRORISM THAT WAS THREATENING OUR NATION."

BT

0144

NNNN

(Indicate page, name of newspaper, city and state.)

THE DAILY NEWS

NY NY

Date:

Edition: APRIL 16, 1981

Title:

Character: 62-4106

or

SAC

Classification: NEWARK

Submitting Office:

(Mount Clipping in Space Below)

Reagan pardons 2 ex-FBI officials

By JOSEPH VOLZ

Washington (News Bureau) — President Reagan issued unconditional pardons yesterday to W. Mark Felt and Edward S. Miller, two former FBI officials convicted of ordering illegal break-ins at the homes of friends and relatives of Weather Underground radicals in the early 1970s.

Reagan, issuing his first pardons since taking office, said the two men had served the FBI "with great distinction. To punish them further after three years of criminal prosecution proceedings would not serve the ends of justice."

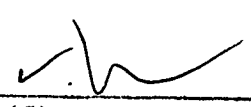
Noting that "thousands of draft evaders" were pardoned four years ago, the President said he would be "no less generous" to Felt and Miller.

Last December, Federal Judge William B. Bryant fined Felt, once the No. 2 man at the bureau, \$5,000; Miller, former head of the bureau's Intelligence Division, was fined \$3,500. The fines, which were left unpaid during appeals, were wiped off the record by the pardons.

White House spokesman Larry Speakes said the case was "something that the President was aware of and wanted to exercise his pardon authority on. He felt that the two men should not have to go through a lengthy, expensive appeals process."

THE COMPLICATED case revolved around whether, at the time, Felt and Miller believed they had authorization from President Richard M. Nixon to break into the homes without search warrants. The two officials made a vain effort to hunt down the tightly knit terrorist group, which had taken credit

See PARDON Page 12

- 340 ✓ 
- ACAC (C)
- ACAC (A)
- C-1
- C-2
- C-3
- C-4
- C-5
- C-6
- C-7
- C-8
- C-9
- C-10
- FBI-1
- FBI-2
- Night Super.
- SA

62-4106-28

APR 16 1981



W. Mark Felt (l.) and Edward S. Miller speak at news conference in Washington yesterday after learning of presidential pardon.

PARDON FROM PAGE TWO

for a series of bombings. They admitted ordering the break-ins.

Reagan noted that they "never denied their actions but, in fact, came forward and acknowledged them publicly in order to relieve their subordinate agents from criminal actions."

Dozens of New York City and Newark, N.J., FBI agents were investigated, but only one, John Kearney, was indicted. That charge was dropped when Felt, Miller and former acting FBI Director L. Patrick Gray were indicted. The case against Gray was thrown out before trial when the Justice Department conceded it did not have an airtight case.

Reagan said: "America was at war in 1972, and Messrs. Felt and Miller fol-

lowed procedures they believed essential to keep the director of the FBI, the attorney general and the President of the United States advised of the activities of foreign powers and their collaborators in this country.

"THE RECORD demonstrates that they acted not with criminal intent, but in the belief that they had grants of authority reaching to the highest levels of government." During the trial, Nixon testified that he felt the two men had authorization to order such break-ins, but that he had not specifically granted it to them.

Felt responded to the pardon by saying, "I am extremely grateful, just more grateful than I can possibly say." Miller's attorney, Thomas Kennelly, said: "It's total vindication."

Under the pardon, Felt and Miller will be allowed to vote and hold public office.

(Indicate page, name of newspaper, city and state.)
 THE STAR LEDGER
 NEWARK NJ
 Date: APRIL 16, 1981
 Edition:

(Mount Clipping in Space Below)

President pardons 2 ex-FBI officials guilty of break-ins

WASHINGTON (UPI) — President Reagan yesterday pardoned W. Mark Felt and Edward Miller, two top former FBI officials convicted of approving break-ins during a 1970s hunt for radical antiwar fugitives.

It was the first use of Reagan's pardon power, and the President apparently granted the pardon without a formal request. Both men said they would do what they did again under the same circumstances.

Felt, 67, the FBI's No. 2 man, and Miller, 57, the chief of its intelligence unit, were fined a total of \$8,500 on the charges, which could have carried a maximum sentence of up to 10 years in jail.

The two, Reagan said in a statement, served the FBI and the nation "with great distinction" during their careers. "To punish them further," the statement continued, "would not serve the ends of justice."

"It's just like having a heavy burden lifted off our shoulders," Felt said at a news conference.

Both men said, as they did after their convictions, they believed they were following established procedures and would, to this day, follow whatever procedures are in effect regarding secret break-ins.

Chief Justice Department spokesman Tom Decair said the pardon was initiated by the White House, and there was no pardon application, which is normally submitted to the Justice Department for review and recommendation to the President.

The pardon was officially signed by Reagan on March 26, four days before he was shot, Miller's lawyer said.

Acting White House press secretary Larry Speakes said Reagan "saw no rea-

son for these men to go through the lengthy and expensive appeals process."

In his statement, Reagan recalled that 1972 was wartime for the United States, and Felt and Miller "followed procedures they believed essential" to keep the government abreast of the activities of "hostile foreign powers and their collaborators in this country."

Reagan said the two had never denied their actions, but had stepped forward to relieve subordinates from prosecution.

"Four years ago, thousands of draft evaders and others who violated the Selective Service laws were unconditionally pardoned by my predecessor," Reagan said. "America was generous to those who refused to serve their country in the Vietnam war."

"We can be no less generous to the

(Please turn to Page 5)

Title:

Character: U.S. v.s. MACK FELT
 or
 Classification: 62-
 Submitting Office: NEWARK

- SAC _____
- ASAC (C) _____
- ASAC (A) _____
- C-1 _____
- C-2 _____
- C-3 _____
- C-4 _____
- C-5 _____
- C-6 _____
- C-7 _____
- C-8 _____
- C-9 _____
- C-10 _____
- FCI-1 _____
- FCI-2 _____
- Night Super. _____
- (SA) _____

*orig to Bureau
 4/16/81
 JS*

62-4106-29

SEARCHED	INDEXED
SERIALIZED	FILED
APR 16 1981	

(Continued from Page One)

men who acted on high principle to bring an end to the terrorism that was threatening our nation.

Felt and Miller were convicted of conspiring to violate the constitutional rights of American citizens by authorizing government agents to break into homes secretly. The break-ins were conducted during a search for fugitive members of the radical Weather Underground.

The November verdict in the U.S. District Court in Washington was the first conviction of high FBI officials. Felt was fined \$5,000 and Miller \$3,500.

The two men were indicted along with former acting FBI Director L. Patrick Gray in 1978 on charges they approved the break-ins, known as "black bag" jobs.

In December, a federal judge dismissed charges against Gray after the government said the evidence was unconvincing.

During the trial, Felt testified that shortly after Gray succeeded J. Edgar Hoover as acting director in May 1972, Gray gave his top aides "general approval" to resume secret searches to combat terrorism.

Miller did not testify at the trial, which heard evidence from five former attorneys general and Richard Nixon.



W. Mark Felt, left, and Edward S. Miller, the former FBI officials pardoned by President Reagan, are shown leaving District Court in Washington, D.C., last December.

Associated Press

HUDSON/BERGEN COUNTIES
Date: APRIL 17, 1981
Edition:

Title:
Character: 62-4106 SAC
or
Classification:
Submitting Office: NEWARK

(Mount Clipping in Space Below)

Reagan pardons 2 convicted ex-FBI agents

WASHINGTON (AP)—President Reagan pardoned two former FBI officials because he felt a jury acted incorrectly when it convicted them of conspiring to violate civil rights in a series of illegal break-ins, his spokesman said yesterday. But the spokesman later backed away from the statement.

"I want to correct the impression that the president was making a judgment on the outcome of the trial," deputy White House press secretary Larry Speakes told reporters

after talking with Fred Fielding, Reagan's White House lawyer.

"The president is not passing judgment on the jury — the rightness or wrongness of the jury decision," Speakes said. "It (the pardoning) is certainly a step the president takes because he feels an act of punishment is not necessary."

Earlier yesterday, at a news briefing one day after the pardons were made public, Speakes had said Reagan believes the two

former FBI officials, W. Mark Felt and Edward S. Miller, acted properly in authorizing the searches without warrants.

"He clearly felt the decision of the jury and the decision of the court was not correct," Speakes said at the briefing.

Speakes said Reagan believed that Felt and Miller "acted on what he stated were the orders from the highest authority in government."

- SAC _____
- ASAC (C) _____
- ASAC (A) _____
- C-1 _____
- C-2 _____
- C-3 _____
- C-4 _____
- C-5 _____
- C-6 _____
- C-7 _____
- C-8 _____
- C-9 _____
- C-10 _____
- FOI-1 _____
- FOI-2 _____
- Night Super. _____

62-4106-30
SEARCHED _____
SERIALIZED _____
APR 2 1981

Indicate page, name of newspaper, city and state.)

THE DAILY NEWS

NY NY

Date: APRIL 18, 1981

Edition:

(Mount Clipping in Space Below)

Title:

Character: 62-4106 SAC

or

Classification:

Submitting Office: NEWARK

Club to hail pardoned FBI men

As soon as President Reagan granted full pardons to former FBI agents Mark Felt and Ed Miller on Wednesday, the East Side Conservative Club booked the 7th Regiment Armory for a testimonial dinner and reception for them.

The event will be held Friday when special awards will be presented to them. Both are expected to make speeches now that they're free and clear, said Chairman Tom Bolan.

- SAC
- ASAC (C) _____
- ASAC (A) _____
- G-1 _____
- G-2 _____
- G-3 _____
- G-4 _____
- G-5 _____
- G-6 _____
- G-7 _____
- G-8 _____
- G-9 _____
- G-10 _____
- TOP-1 _____
- TOP-2 _____
- Night Super. _____
- TA _____

62-4106-31

APR 21 1981

NEWARK

2

Post Office Box 1158
Newark, New Jersey 07101

May 11, 1981

Honorable Ronald Reagan
President
United States of America
White House
Washington, D.C.


Dear Mr. President:

On behalf of all of the Special Agents of the Newark Office of the Federal Bureau of Investigation (FBI), I would like to express our sincere gratitude for granting full pardon to W. Mark Felt and Edward S. Miller.

We, in the FBI, are proud of our long record of service to the people of the United States and feel that Felt and Miller were guided by a sincere sense of duty and a concern for the safety of all Americans during one of this country's more troublesome times.

Again, thank you for your courage in taking this action. Our best wishes are with you for a full and speedy recovery.

Sincerely,


Robert J. McCarthy
Special Agent in Charge

1-Addressee
① Newark (62-4106)
JVD/ms
(2) *ms*

62-4106-32

Indicate page, name of newspaper, city and state.
THE DISPATCH
 HUDSON / BERGEN COUNTIES NJ
 Date: **MAY 5, 1981**
 Edition:

(Mount Clipping in Space Below)

FBI pardons unpardonable

By GARRY WILLS

Recently, eight peace protesters (including the Berrigan brothers) were convicted of breaking into a plant and destroying parts of a nuclear weapon. Some jurors wept when they had to convict people whose intentions were so obviously sincere, people who meant to save this country and the world from nuclear destruction.

But the peaceful demonstrators had agreed to abide by the consequences of their act. They broke the law, but they do not defy it.

When three of these demonstrators appeared on the Donahue Show, certain questioners admired their idealism but said no one can take the law into his or her own hands. The protesters expected that response from many people they could not persuade, and they do not resist when such people send them to jail.

Luckily, our good new president admires people with "good-faith belief that their actions were necessary to preserve the security interests of our country," people who have "acted on high principle." He just said so in a pardon for men who broke the law with good consciences. So he will pardon the Berrigans, right?

Wrong. He has pardoned two FBI men who also broke and entered, searched and seized, illegally. Some people take the simple-minded view that the FBI cannot break the law because it is the law. Our Constitution gives such people no support, as the two agents found in a fair trial that convicted them. Indeed, the law

enforcer should be especially law-abiding, should follow proper procedure just because he has been granted certain powers, the exercise of which tends to be high-handed or tyrannical. The law is the source of authority for those who can arrest you or me. If the law officer does not obey the law, we are without protection from our own delegated defenders.

Law enforcers are sworn to keep the law. This obligation is added to that of an ordinary citizen, something special and explicit. Law enforcers are trained to know the law, and greater knowledge, according to moral theory, brings greater obligation. When the sheriff is free to do whatever he likes, we have lynch law, vigilantism. And that is what President Reagan, is supporting in practice.

The test here is not high intention — the Berrigans have that. The test is partisan — whose side are you on? The FBI is on the side of Mr. Reagan's political friends. That is the simple reason he pardoned them, rather than the Berrigans. For him, FBI agents are the good guys, no matter what they do; the Berrigans are the bad guys, no matter what their intentions.

The defense of Mr. Reagan's pardon is inconsistent.

Some say the threat of SDS members plotting to bring down our society was so great that we cannot judge the FBI's actions apart from the "mood of the times." But the president speaks of prop-

Title:
 Character: **62-4106**
 or
 Classification: **NEWS**
 Submitting Office:

- SAC *[Signature]*
- ASAC (1)
- ASAC (1)
- C-1
- C-2
- C-3
- C-4
- C-5
- C-6
- C-7
- C-8
- C-9
- C-10
- FCI-1
- FCI-2
- Night SA

b6
b7c

[Handwritten] 62-4106-33

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 6 1981	
<i>[Handwritten]</i> 17	

er intention, which can exist even in times less parlous. And Mark Felt, one of the pardoned criminals, said, "This is going to be the biggest shot in the arm for the intelligence community for a long time." Edward Miller, the other criminal, said it will help agents "do their job 100 percent."

Why should the pardon affect FBI conduct now if it is aimed simply at a crisis that has passed? Because, obviously, the president is saying to the FBI that it need not obey the law. For Mr. Miller, a "100 percent" job is the kind he was trained to do under J. Edgar Hoover, one of the all-time record-holders for defying the Constitution and committing multiple crimes. Ronald Reagan, the law-and-order man, is permissive just where he should be especially strict.

The cops are more dangerous than the crooks when they are told, implicitly, that the laws they administer do not apply to them.

The Berrigans acted openly, the agents secretly. The Berrigans tried to address and correct state power, the agents extended and abused it. The Berrigans have no special oath as law enforcers, the agents did. The Berrigans exercised private rights of conscience, the agents perverted public powers given them within prescribed limits. On every count, the least pardonable crime has been pardoned. It is very hard to respect the law in a country where the president himself shows so little respect for it.

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 98

Page 41 ~ Referral/Direct;
Page 42 ~ Referral/Direct;
Page 43 ~ Referral/Direct;
Page 44 ~ Referral/Direct;
Page 45 ~ Referral/Direct;
Page 46 ~ Referral/Direct;
Page 47 ~ Referral/Direct;
Page 48 ~ Referral/Direct;
Page 50 ~ Referral/Direct;
Page 52 ~ Referral/Direct;
Page 53 ~ Referral/Direct;
Page 57 ~ Referral/Direct;
Page 58 ~ Referral/Direct;
Page 59 ~ Referral/Direct;
Page 60 ~ Referral/Direct;
Page 61 ~ Referral/Direct;
Page 62 ~ Referral/Direct;
Page 63 ~ Referral/Direct;
Page 64 ~ Referral/Direct;
Page 65 ~ Referral/Direct;
Page 66 ~ Referral/Direct;
Page 69 ~ Referral/Direct;
Page 70 ~ Referral/Direct;
Page 71 ~ Referral/Direct;
Page 72 ~ Referral/Direct;
Page 73 ~ Referral/Direct;
Page 74 ~ Referral/Direct;
Page 75 ~ Referral/Direct;
Page 76 ~ Referral/Direct;
Page 77 ~ Referral/Direct;
Page 78 ~ Referral/Direct;
Page 86 ~ Referral/Direct;
Page 87 ~ Referral/Direct;
Page 107 ~ Referral/Direct;
Page 108 ~ Referral/Direct;
Page 109 ~ Referral/Direct;
Page 110 ~ Referral/Direct;
Page 111 ~ Referral/Direct;
Page 112 ~ Referral/Direct;
Page 113 ~ Referral/Direct;
Page 114 ~ Referral/Direct;
Page 115 ~ Referral/Direct;
Page 116 ~ Referral/Direct;
Page 143 ~ Duplicate;
Page 144 ~ Duplicate;
Page 152 ~ Referral/Direct;
Page 153 ~ Referral/Direct;
Page 171 ~ Referral/Direct;

Page 176 ~ Referral/Direct;
Page 177 ~ Referral/Direct;
Page 178 ~ Referral/Direct;
Page 179 ~ Referral/Direct;
Page 180 ~ Referral/Direct;
Page 181 ~ Referral/Direct;
Page 182 ~ Referral/Direct;
Page 183 ~ Referral/Direct;
Page 184 ~ Duplicate;
Page 185 ~ Duplicate;
Page 186 ~ Duplicate;
Page 187 ~ Duplicate;
Page 191 ~ Referral/Direct;
Page 192 ~ Referral/Direct;
Page 193 ~ Referral/Direct;
Page 194 ~ Referral/Direct;
Page 195 ~ Referral/Direct;
Page 196 ~ Referral/Direct;
Page 197 ~ Referral/Direct;
Page 198 ~ Referral/Direct;
Page 199 ~ Referral/Direct;
Page 200 ~ Referral/Direct;
Page 201 ~ Referral/Direct;
Page 202 ~ Referral/Direct;
Page 207 ~ Referral/Direct;
Page 223 ~ Referral/Direct;
Page 224 ~ Referral/Direct;
Page 225 ~ Referral/Direct;
Page 226 ~ Referral/Direct;
Page 268 ~ Referral/Consult;
Page 270 ~ Referral/Consult;
Page 271 ~ Referral/Consult;
Page 272 ~ Referral/Consult;
Page 273 ~ Referral/Consult;
Page 274 ~ Referral/Consult;
Page 276 ~ Referral/Direct;
Page 277 ~ Referral/Direct;
Page 278 ~ Referral/Direct;
Page 279 ~ Referral/Direct;
Page 280 ~ Referral/Direct;
Page 388 ~ Duplicate;
Page 389 ~ Duplicate;
Page 390 ~ Duplicate;
Page 391 ~ Duplicate;
Page 392 ~ Duplicate;
Page 393 ~ Duplicate;
Page 394 ~ Duplicate;
Page 395 ~ Duplicate;
Page 396 ~ Duplicate;
Page 401 ~ Referral/Direct;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X

X No Duplication Fee X

X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 98

- Page 41 ~ Referral/Direct;
- Page 42 ~ Referral/Direct;
- Page 43 ~ Referral/Direct;
- Page 44 ~ Referral/Direct;
- Page 45 ~ Referral/Direct;
- Page 46 ~ Referral/Direct;
- Page 47 ~ Referral/Direct;
- Page 48 ~ Referral/Direct;
- Page 50 ~ Referral/Direct;
- Page 52 ~ Referral/Direct;
- Page 53 ~ Referral/Direct;
- Page 57 ~ Referral/Direct;
- Page 58 ~ Referral/Direct;
- Page 59 ~ Referral/Direct;
- Page 60 ~ Referral/Direct;
- Page 61 ~ Referral/Direct;
- Page 62 ~ Referral/Direct;
- Page 63 ~ Referral/Direct;
- Page 64 ~ Referral/Direct;
- Page 65 ~ Referral/Direct;
- Page 66 ~ Referral/Direct;
- Page 69 ~ Referral/Direct;
- Page 70 ~ Referral/Direct;
- Page 71 ~ Referral/Direct;
- Page 72 ~ Referral/Direct;
- Page 73 ~ Referral/Direct;
- Page 74 ~ Referral/Direct;
- Page 75 ~ Referral/Direct;
- Page 76 ~ Referral/Direct;
- Page 77 ~ Referral/Direct;
- Page 78 ~ Referral/Direct;
- Page 86 ~ Referral/Direct;
- Page 87 ~ Referral/Direct;
- Page 107 ~ Referral/Direct;
- Page 108 ~ Referral/Direct;
- Page 109 ~ Referral/Direct;
- Page 110 ~ Referral/Direct;
- Page 111 ~ Referral/Direct;
- Page 112 ~ Referral/Direct;
- Page 113 ~ Referral/Direct;
- Page 114 ~ Referral/Direct;
- Page 115 ~ Referral/Direct;
- Page 116 ~ Referral/Direct;
- Page 143 ~ Duplicate;
- Page 144 ~ Duplicate;
- Page 152 ~ Referral/Direct;
- Page 153 ~ Referral/Direct;
- Page 171 ~ Referral/Direct;

Page 176 ~ Referral/Direct;
Page 177 ~ Referral/Direct;
Page 178 ~ Referral/Direct;
Page 179 ~ Referral/Direct;
Page 180 ~ Referral/Direct;
Page 181 ~ Referral/Direct;
Page 182 ~ Referral/Direct;
Page 183 ~ Referral/Direct;
Page 184 ~ Duplicate;
Page 185 ~ Duplicate;
Page 186 ~ Duplicate;
Page 187 ~ Duplicate;
Page 191 ~ Referral/Direct;
Page 192 ~ Referral/Direct;
Page 193 ~ Referral/Direct;
Page 194 ~ Referral/Direct;
Page 195 ~ Referral/Direct;
Page 196 ~ Referral/Direct;
Page 197 ~ Referral/Direct;
Page 198 ~ Referral/Direct;
Page 199 ~ Referral/Direct;
Page 200 ~ Referral/Direct;
Page 201 ~ Referral/Direct;
Page 202 ~ Referral/Direct;
Page 207 ~ Referral/Direct;
Page 223 ~ Referral/Direct;
Page 224 ~ Referral/Direct;
Page 225 ~ Referral/Direct;
Page 226 ~ Referral/Direct;
Page 268 ~ Referral/Consult;
Page 270 ~ Referral/Consult;
Page 271 ~ Referral/Consult;
Page 272 ~ Referral/Consult;
Page 273 ~ Referral/Consult;
Page 274 ~ Referral/Consult;
Page 276 ~ Referral/Direct;
Page 277 ~ Referral/Direct;
Page 278 ~ Referral/Direct;
Page 279 ~ Referral/Direct;
Page 280 ~ Referral/Direct;
Page 388 ~ Duplicate;
Page 389 ~ Duplicate;
Page 390 ~ Duplicate;
Page 391 ~ Duplicate;
Page 392 ~ Duplicate;
Page 393 ~ Duplicate;
Page 394 ~ Duplicate;
Page 395 ~ Duplicate;
Page 396 ~ Duplicate;
Page 401 ~ Referral/Direct;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X

X No Duplication Fee X

X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. District Court
FILED
MAY 17 1979
S. D. OF N. Y.

WIDITH CLARK, et al.,

Plaintiffs,

- against -

UNITED STATES OF AMERICA, et al.,

Defendants.

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to protect the discovery process and to further the interests of justice, and the Court having duly considered the matter, it is ORDERED that:

1. No document identifiable with any plaintiff in the possession, custody or control of the individual defendants or Government agency defendants shall be destroyed or obliterated in any manner pending a final determination of this action, including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected by this order shall be placed and maintained under supervisory control of the Court in the physical custody of any person or agency now in possession of such records who shall be responsible for the physical integrity of the documents. Any defendant which has in its possession any of the documents shall be bound by its terms.

3(a). A copy of this order shall be circulated to each field office and legal attaches of the Federal Bureau of Investigation ("FBI") as well as any organizational unit within the headquarters of the FBI. Additionally, copies of the order will be circulated to appropriate officials of the Postal Service and Department of Justice having custody of documents identifiable to any plaintiff.

D. Not Remove
RETAIN AS TOP SERIAL
SEC. 3

62-118405

NOT RECORDED

JUN 11 1979

Greenberg/Gray-2424

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ^{for each party} plaintiffs' attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant^s ~~and~~ ^{MSZ} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{The attorneys for the other parties} ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~
May 16, 1979

Monmouth College
United States District Judge

ADIC, New York

7-3-78

Director, FBI

U. S. vs. L. PATRICK GRAY III, ET AL
DISCOVERY PROCEEDINGS

Per instructions of Departmental Attorney Francis J. Martin, the original New York copies, including all subs and June files on the following individuals, were to be transferred to FBI Headquarters' custody and retained there for the duration of the prosecution:

CAPBOM
PEMBOM
[Redacted]

[Redacted]

b6
b7C

Xerox copies of the original files were made at FBI Headquarters and the copies were returned to New York.

A copy of this communication should be placed as an unserialized cover at the top of each volume of the copies returned to New York to explain the present location of the originals of these records.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Handwritten notes:
JLT: dmc
(4)
HNS/LEA
MAIL ROOM

REC-110

62-118045-46

14 AUG 31 1978

[Redacted]

b6
b7C

Greenberg/Gray-2427

FBI/DOJ

4 SEP 14 1978

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. McDermott

DATE: 7-7-78

FROM : Mr. Bassett *HNTB*



b6
b7C

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

4-1
Wen

PURPOSE: To advise of date set for pretrial discovery motions.

DETAILS: On July 6, 1978, Francis J. Martin, Department of Justice, advised Special Agent the pretrial motions would be heard in the United States District Judge Bryant's court room at 9:30 a.m. on Wednesday, July 12, 1978. Mr. Martin assumes the hearing will be open and will be crowded. He specifically requested Mr. Mintz be advised on behalf of the Director and Mr. Boynton because of media interest.

b6
b7C

RECOMMENDATION: None, for information.

(gp)

POD/EST

Sir. adv.
gm

pm

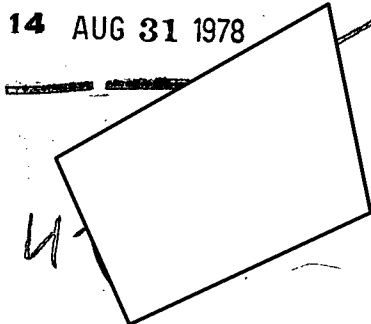
APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. <i>gm</i>	Ident. _____	Rec. Mgnt. <i>HNS</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

REC-110

62-118045-47

14 AUG 31 1978



b6
b7C

- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - Mr. Mintz
- 1 - Mr. Boynton

Greenberg/Gray-2428



8 SEP 14 1978
JLT:dmd
(5)

dmd

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5/28

AD

TO : [redacted] b6
FROM : [redacted] b7C

DATE: 7-10-78

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL b2
NEWARK FILE [redacted] b7D

4-1
Sweet

Enclosed is a copy of captioned file furnished to me by Francis Martin. It includes serials one through seven, including serial A-1 and the pink sheet.

The original of this file was furnished to us a short time ago by Martin. It was not in a separate file back and both serials one and serial A-1 were missing.

In the attached copy, serials one and A-1 are marked "GOV'T EX." Martin indicated he had retained the originals since the Government might introduce them into evidence.

Martin has stated he does not know whether his office received the [redacted] file in a file back, disassembled and added it to the [redacted] file, or whether it was already a part of Section 1 in the [redacted] file when he received it. b2 b6 b7C

The attached copies should be added to the [redacted] file and processed at the same time, since it includes two missing serials. A-1 is a duplicate copy of a serial in the [redacted] file. (gp) b6 b7C

Enclosure

1 - [redacted] (Enclosure)

JLT:dmd
(2)

Orig attached to this
copy - [redacted] will hold

A copy

b6
b7C

9- ENCLOSURE

copy - [redacted]

REC-110

[redacted]

62-118045-48

14 AUG 31 1978

Greenberg/Gray-2429

8 4 SEP 14 1978



62-118045-48

ENCLOSURE

Date 1/12/73

Mark opposite each item the number of the serial or serials in which the information appears. Although these items are regarded as nonvariable, changes may be noted by adding the new serial number and crossing out the old. When form is complete as to all applicable items, the Agent and Field Supervisor should initial the form at the end.

Symbol Number

b2
b7D

Office File

b2
b7D

Type of Informant: SI PSI CS

Bureau File _____
Serial No. _____

1. Name _____

2. Aliases _____

3. Code Name _____

4. Bureau advised of Symbol _____

5. Date and Place of Birth _____

6. Description _____

7. Photograph _____

8. Background Investigation:

(A) File references checked _____

(B) Local Criminal Check _____

(C) Bureau Identification Record _____

(D) Selective Service Check _____

(E) Check of Armed Services Record _____

(F) Informants Canvassed _____

(G) Reliability Check _____

(H) Patriotism _____

(I) Reputation _____

9. Informant Advised Of:

(A) Not Bureau employee _____

(B) Activities Voluntary _____

(C) Relationship Confidential _____

(D) Bureau Labor Policy _____

(E) Not to Retain Copies of Notes - Reports _____

(F) Report to be submitted under Code Number and in Third Person _____

(G) Payments are Income _____

(H) Use Public Telephones _____

(I) No Office Contact Personally _____

10. Statement of Cooperation _____

11. Post Office Box Number Assigned _____

12. Informant Indices Card Made _____

13. Agent Who Handles Information _____

14. Alternate Agent _____

15. Concealment and Characterization Guide _____

Greenberg/Gray-2431

16. Flash Notice Placed _____ or Removed _____

17. Coverage _____

No Serial Number: _____ Initials _____ Agent _____

Keep on Top of Other Serials in File. _____ Supervisor _____

b6
b7C



Govt Ex

F B I

Date: 1/11/73

007

Transmit the following in

CODED

(Type in plaintext or code)

TELETYPE

URGENT

Via

(Priority)

TO ACTING DIRECTOR, (88-56609)
ATTN: DOMESTIC INTELLIGENCE DIVISION

MBT

FROM NEWARK

[Redacted]

(P)

b2
b7D

[Redacted]

ON 1/10/73, A CONFIDENTIAL SOURCE WAS DEVELOPED AT

[Redacted]

[Redacted]

(BUFILE 88-56609). THIS CONFIDENTIAL SOURCE IS IN A POSITION
TO FURNISH INFORMATION REGARDING SUBJECT'S PARENTS WHICH MAY
POSSIBLY LEAD TO INFORMATION DISCLOSING WHEREABOUTS OF SUBJECT.
THIS CONFIDENTIAL SOURCE ^{IS} ~~WAS THEN~~ ASSIGNED SYMBOL NUMBER

[Redacted]

b2
b6
b7C
b7D

[Handwritten signature]

SEARCHED INDEXED
SERIALIZED FILED

1-S-2 DESK

JHW/mjk
(2)

[Redacted]

[Redacted]

b2
b7D

b6
b7C

D/D [Handwritten initials]

Greenberg/Gray-2432

Approved: *[Signature]*
Special Agent in Charge

Sent _____ M Per _____

UNITED STATES GOVERNMENT
MEMORANDUM

TO: SAC, NEWARK [redacted]

b2
b7D

DATE: 1/12/73

FROM: SA [redacted]

b6
b7C

SUBJECT: [redacted]

b2
b7D

- as *mail cover*
- PCI
- PSI
- RI-Prob.

This form is being utilized to facilitate the preparation of an index card for the Criminal Informant Index, Security Informant Index, or Racial Informant Index on captioned PCI, PSI, or RI-Prob., as may be appropriate. The spaces should be filled in detail and this form returned to me as soon as all items are completed. When this form is serialized into the file, you may use the serial number of this form to fill in appropriate items in Form FD-237, FD-238, or FD-377.

PLEASE PRINT OR TYPE:

FULL NAME: _____

Residence Address: _____

Residence Phone: _____

b6
b7C
b7D

Place Where Contacted: _____

Alternate Contacting Agent: _____

Area of Coverage (by County): _____

Type of Coverage (by Classification): _____

[redacted]

SERIALIZED INDEXED
 FILED
 JAN 15 1973
 FBI

b2
b7D

[redacted]

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

TO : SAC NEWARK ([redacted]) P b2
b7D

DATE: 1/30/73

FROM : SA [redacted] b6
b7C

SUBJECT: [redacted]
Union, New Jersey

b2
b6
b7C
b7D

Due to case agents interoffice squad transfer, it is recommended this case be reassigned.

Greenberg/Gray-2434

reassign
[Signature]

JHN/

[redacted]

- 3

b2
b7D

SEARCHED [] INDEXED []
SERIALIZED [] FILED []

[redacted]

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, NEWARK [redacted] (P) b2 b7D

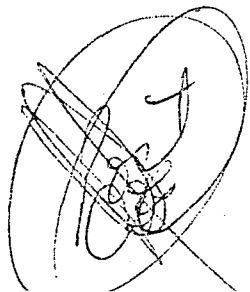
DATE: 2/28/73

FROM : SA [redacted] b6 b7C

SUBJECT: [redacted] b2 b6 b7C b7D
Union, N.J.


On 2/28/73 [redacted] advised that no additional in- b2
formation has been developed since [redacted] attempted b6
to contact [redacted] parents' previous b7C
address earlier this month. b7D

Greenberg/Gray-2435



[redacted] b2 b7D
SEARCHED INDEXED
SERIALIZED FILED
FEB 28 1973
FBI - NEWARK

KFS/kfs
(1)



UNITED STATES GOVERNMENT

Memorandum

TO : SAC, [redacted] b2
b7D

DATE: 4/30/73

FROM : SA [redacted] b6
b7C

SUBJECT: [redacted] b2
b7D

Dates of Contact

4/26/73

File #s on which contacted (Use Titles if File #s not available or when CI provides positive information)

88-8767

Purpose and results of contact

- NEGATIVE
- POSITIVE
- STATISTIC

All information has been appropriately disseminated.

POSITIVE ASSIGNMENT GIVEN (Ghetto only)

Has informant shown any indication of emotional instability, unreliability or furnishing false information?

Informant certified that he has furnished all information obtained by him since last contact, including information concerning narcotics.

Coverage

PERSONAL DATA

[redacted]

SEARCHED INDEXED
SERIALIZED FILED
MAY 30 1973
FBI - NEW YORK

b2
b7D

Govt Ex

4/27/73

AIRTEL

Greenberg/Gray-2437

TO: ACTING DIRECTOR, FBI (88-56609)

FROM: SAC, NEWARK (88-8767) (P)

SUBJECT: [REDACTED] b6
b7C

POSITIVE
(IDENTIFIED)
UNAP - FORCHRY,
OO: MILWAUKEE

Re letters from Acting Director, FBI to Assistant Postmaster General Inspection Service, U.S. Postal Service, Washington, D.C. 11/16/72 and 2/12/73.

Newark letter to Bureau, dated 1/30/73.

Investigation is currently attempting to determine if [REDACTED] might not be [REDACTED] of same apartment building. There is no record of an [REDACTED] ever having lived at Apt. [REDACTED]

b6
b7C

The only information obtained through the mail cover since referenced communications, occurred when on 2/2/73, it was reported that subject's parents had received a letter addressed to [REDACTED] Newark, NJ. This letter had been forwarded to postal authorities to the [REDACTED] Union, NJ.

b6
b7C

It was determined that this letter was from [REDACTED] and was postmarked 1/30/73. The envelope contained a card which the title described as [REDACTED] and [REDACTED]

b6
b7C

2- [REDACTED]
[REDACTED] (88-8767)
KPS:mc
(7)

MX

[REDACTED]

A-1

b2
b7D

WK 68-8767

time together, or rather not together". No dates or specific times were mentioned.

Milwaukee subsequently identified [redacted] as a female former college associate of subject and made a pretext phone call to the [redacted] residence, posing as [redacted]. Nothing further has developed.

b6
b7C

Periodic contact with Postal Inspector, [redacted] Newark, NJ, has determined that no other correspondence besides various household bills is received by the [redacted].

b6
b7C

In spite of the negligible amount of mail received by the [redacted] and the lapse of time since it was initially reported that subject was considering surrendering to Federal authorities, it is felt that there is sufficient justification to continue the mail cover. Other former associates such as [redacted] may try to contact [redacted] through her parents and thereby provide leads as to past habits or modes of travel and living. The subject may also yet be planning to turn herself in and some indication may be obtained through this source.

b6
b7C

Newark requests an additional 90 day extension.

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, [redacted] b2 b7D DATE: 6/29/73

FROM : SA [redacted] b6 b7C

SUBJECT: [redacted] b2 b7D

No additional information has been obtained since source obtained photographs of a card sent from [redacted] [redacted] to [redacted] address, [redacted] This information is contained in serial 88-8767-144, an airtel from Newark to the Acting Director, dated 5/25/73.

b6
b7C

Greenberg/Gray-2439

[redacted] -6

SEARCHED <input checked="" type="checkbox"/>	INDEXED <input checked="" type="checkbox"/>
SERIALIZED <input checked="" type="checkbox"/>	FILED <input checked="" type="checkbox"/>
JUN 29 1973	

[redacted]

b2
b7D
b6
b7C

KFS/kf's
(1)



UNITED STATES GOVERNMENT

Memorandum

TO : SAC, NEWARK [redacted] (c) b2
b7D

FROM : SA [redacted] b6
b7C

SUBJECT: [redacted] b2
b7D

DATE: 8/31/73

Due to a lack of activity in this matter and no prospect of an increase thereof in the immediate future, this case is being placed in a closed status.

Greenberg/Gray-2440

Close

[redacted]

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 1 1973	
NEWARK	

[redacted]

b2
b7D

b6
b7C

FILED 9/14/73

kfs
(1)



7-12-78



b6
b7C

U. S. vs. L. PATRICK GRAY III, ET AL
DISCOVERY PROCEEDINGS

*4-1
Wen*

PURPOSE: To record alteration and clarification of previous written instructions from the Department on the scope of discovery.

SYNOPSIS: Inventory of August 19, 1976, search and seizure to be processed, but decision re 191 folders retrieved October 22, 1976, and June 1978 held in abeyance pending discussion with defense. Serials indicating known Weatherman Bag Jobs not charged in the indictment to be isolated and processed. A summary comparable to what would be prepared in response to inquiry from a Congressional Committee proposed by Department to answer questions on incentive awards for Bag Jobs, and all Bag Jobs since 1960. Proposal will be considered; to be decided after additional discussion. Department desires to be alerted promptly if criminal discovery in this prosecution impedes civil discovery in Price vs. Kearney. No conflict now foreseen.

gp

RECOMMENDATION: None. For information and record purposes.

me

62-118045-419

REC-110

DETAILS: On July 7, 1978, Special Agent [redacted] met with Francis J. Martin and discussed, in greater detail, discovery questions previously discussed by Martin by telephone with Special Agent [redacted]. This memorandum covers decisions reached during both contacts.

b6
b7C

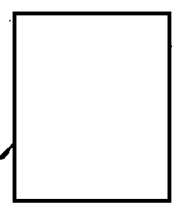
b6
b7C

1. The inventory materials furnished in the letter ¹⁴ AUG 31 1978 from Mr. McDermott to Mr. Skolnik dated July 7, 1978, and captioned as above, will be processed including the cover letter, enclosures one through six (except the Departmental memorandum), and the 22 reviews forwarded by Mr. Long to Mr. Gardner in 1976. Enclosure 7 is not to be processed at all.

handling

Greenberg/Gray-2441

(CONTINUED - OVER)



b6
b7C

8 4 SEP 14 1978

[redacted] to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al
Discovery Proceedings

b6
b7C

Enclosure 3, a 50-page handwritten list of folders by their present location, will be processed as it stands. Martin had been interested in having us prepare a separate list of all folders listed in enclosure 3, but not listed in enclosure 2 (the original inventory). This was abandoned when it was determined a reinventory or approximately one week's work would result.

2. Martin initially desired all 191 folders retrieved in October 1976 processed. He was advised we would like a final decision rather than a tentative decision, since seven full cabinets of material are involved and the processing could take as much as one month's time. He agreed and will consult with Mr. Skolnik and defense counsel before reaching a final decision. We will process no seized material until further notice.

[redacted] note
for future
b6
b7C

3. Martin would like us to locate and process only those serials which indicate a Bag Job was used and a summary memorandum explaining what the investigation was about in the CAPBOM, PENBOM, ITT, [redacted] and [redacted] files. When it was pointed out to him these instructions are consistent with our original instructions for the four individual subjects but that the three bombing investigations were already processed and his request meant additional work, he conceded that the processing of the three bombing investigations may have been unnecessary but that he believed defendant Miller will want to review them. He was advised some of this processing cannot be done until after the July 15, 1978, deadline.

[redacted] note
re current
work
b6
b7C

4. Martin states that, although he has made no specific commitment to the defense, he would like us to prepare a report or a briefing statement with sample documents attached, such as the FBI might prepare if answering a question posed by a Congressional Committee. He was advised we would look into the matter and recontact him with regard to the following two topics in which he is interested. He indicated the prosecution is moving toward forcing on the defense a stipulation on these two questions.

b6
b7C

[redacted]
explains after
current
assignment

A. Bureau policy on incentive awards for Bag Jobs and statistics on how many awards were given.

B. All Bag Jobs since 1960.

Greenberg/Gray-2442

[redacted] to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al
Discovery Proceedings

b6
b7C

Martin notes that the Department objects to furnishing this information to Felt and Miller on the issue of whether or not Bag Jobs are legal, but would consent to producing it to all three defendants pursuant to the request of Gray who seeks support for his position that Bag Jobs could occur without the Director knowing about them.

Martin wants only a reasonable effort to compile the report or briefing statements on the above two topics. He is flexible on the content and on whether or not they can be done at all, since he has made no commitments.

5. Martin states he had recently discussed the civil litigation captioned Price vs. Kearney with an AUSA in New York. Discovery proceedings had been stayed in the civil case during the prosecution. Martin advised the AUSA the civil discovery did not need to be stayed any longer. He wanted to be sure the criminal discovery did not conflict with civil discovery, since the Nickerman, Cole, and Blackburn files are needed. He wanted to be advised immediately if any conflict appeared possible. I have discussed Martin's concern with Special Agent [redacted] who has the civil litigation assigned to him in the Legal Counsel Division. Although the civil discovery has not been resolved or completed, no conflicts now exist.

*No action
necessary.
note*

b6
b7C

Greenberg/Gray-2443

4
21

FEDERAL GOVERNMENT

Barnet D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division
John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY

7-7-78

4-1
Juc

In compliance with instructions in a May 25, 1978, letter from Francis J. Martin, of your office, to Special Agent [redacted] (Part II, paragraph 1), we have conducted a current inventory of all extant materials which were the subject of seizures on August 19, 1976, under the direction of former Assistant Attorney General J. Stanley Pottinger and Mr. William L. Gardner of the Civil Rights Division.

b6
b7C

Enclosed are the following:

1. A copy of a one-page listing of the 22 cabinets seized, showing the person from whose possession it was seized or whose materials it contained, the date on which a summary and the inventory of its folders was furnished to your office, and the date the cabinet or its contents was returned to the original holder.

2. A copy of the original August 1976 inventory of folder and divider captions with annotations reflecting information compiled during our June 1978 inventory.

a. "Desired 1976" - Those folders specifically designated by the Civil Rights Division in October 1976 for retrieval after they were seized and returned. There were 232 folders then specified.

b. "Obtained 1976" - The 185 folders, of which 232 specified, which were located and retrieved on or about October 22, 1976.

c. "Available 1978" - All folders which are available, whether or not they were specified for retrieval

Personally delivered to Francis J. Martin DOV 7/7/78

Handwritten initials in a circle

REC-79 62-118045-42X

10-13
14 AUG 21 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

ENCLOSURE "ENCLOSURE IN BULKY ROOM"

- APPROVED: _____
- Director _____
- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____

CONFIDENTIAL MATERIAL

ENCLOSED

[redacted]

b6
b7C

9 OCT 17 1978

FBI/DOJ

Handwritten initials EBF

Barnet S. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division

In October 1976, they include six folders identified during the June 1978 inventory, which brings the total located to 181 folders out of 232 sought.

d. "Account" - The number of documents in each folder as counted during the June 1978 inventory. The count was taken in an attempt to freeze the content of the folders. No detailed listing was made, since there is nothing to compare it with from August or October 1976. Items counted ranged from slips of paper with notes on them, to printed material, to large reports and rough draft documents.

3. New inventory listing by present location prepared in support of Item 2, above, in June 1978.

4. A copy of the FD-302 of Mr. Shackelford on June 21, 1978, reflecting the return of those folders and materials he had retained. He later retained a copy of his loose-leaf notebook, returning the original to him, per the instructions of Mr. Martin.

5. Copies of the following materials, prepared at the time of the seizure, return, and retrieval in 1976.

a. List of cabinets showing room number from which seized, number of folders specified for retrieval in October 1976, and the number of folders retrieved at that time.

b. Form for each cabinet showing labels on drawers, date and room from which seized, date of review and identity of reviewer, date and room to which returned, and date review was sent to your office.

6. Copies of a letter dated May 28, 1976, to former Director Kelley from former Assistant Attorney General Bettinger and a teletype to all domestic and foreign FBI offices from the Director dated June 1, 1976, captioned "Surreptitious Entry Investigation" and "Surreptitious Entry," respectively.

Greenberg/Gray-2445

Earnest D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division

7. Copies of "...regulations that relate to the routine destruction of such materials:"

a. Cover page, index page, and relevant textual pages concerning retention of ticklers from the "Manual for Bureau Supervisors." This manual was in effect in 1976.

b. Copies of memoranda dated February 27, 1976; April 12, 1976; March 30, 1977; and March 31, 1977, outlining a trial period of one year, during which retention/destruction of ticklers was optional. The trial period was in effect during the pertinent time frame of August through October 1976. The 60-day destruction policy had been in effect for a considerable period of time as indicated by the March 10, 1977, memorandum.

The following materials, previously furnished, should be reviewed to evaluate the seizure and the statements which can be made with certainty regarding the relevance and the extent of loss of these materials:

1. The report of interview on October 22, 1976, of Robert L. Shackelford which was forwarded by letter from J. P. Schultz to Mr. William L. Gardner on October 26, 1976.

2. Individual reviews of the contents of the 22 cabinets to which were attached the folder inventory of the cabinet and copies of documents considered at that time to be of possible prosecutive interest. See enclosure number 1 for a list of the dates of the 22 letters by which these documents were forwarded to you between August 25, 1976, and September 3, 1976.

Greenberg/Gray-2446

Barnet S. Sholin
Special Counsel to the
Assistant Attorney General
Criminal Division

Chronology of Events:

August 19, 1976	Search and Seizure.
August 25, 1976 through September 3, 1976	Reviews forwarded to Department with inventories and copies of some documents.
August 27, 1976 through September 3, 1976	Cabinets returned to offices.
October 22, 1976	Attempted retrieval of 332 folders, 191 retrieved.
October 26, 1976	Written notice of acknowledged destruction forwarded to Depart- ment.
October 25, 1976	Inventory of all available seized material ordered.
June 18, 1978	Inventory completed, documents in each folder counted; six additional folders of 282 counted on October 22, 1976, newly located.

The August 19, 1976, search and seizure was under the direction of Messrs. Fottinger and Gardner of the Department. Mr. Richard B. Long served as Investigation Coordinator of the FBI's Special Agents assigned to work for the Department.

The return of the seized material between August 27, 1976, and September 3, 1976, was at the direction of Mr. Gardner. When the return was ordered, Mr. Gardner was advised by FBI personnel assigned that, once returned, the materials might not be retrievable, and would never again be accountable. No indication at that time the Department had all the material it wanted.

The copies of documents forwarded with the reviews and inventories between August 25, 1976, and September 3, 1976, are the only documents we can state with confidence are exactly

Barnet S. Sholnik
Special Counsel to the
Assistant Attorney General
Criminal Division

as they were when seized. (The documents had been selected as being of possible prosecutive interest.) The documents retrieved on October 22, 1976, had been accessible for almost two months. The balance of the documents not retrieved have been accessible for more than 22 months.

Destruction was acknowledged on October 22, 1976. Additional loss and destruction has occurred since then, which we have not attempted to trace. Folders have been completely destroyed, culled for nonessential material, and rearranged--all in the normal course of business. It is impossible to determine the quantity of materials lost.

As pointed out in the "Note" to the June 1, 1976, teletype (enclosure 6), Mr. Gardner exempted "Tichlers for information only at FBI Headquarters..." from the destruction moratorium.

The folders seized were predominately "tichler folders," although there were some files, manuals, and nondocumentary materials in the cabinets. The "tichler folders" contained not only "tichler copies" (informative copies of memoranda and correspondence, the originals of which are on record), they also contain "Do Not File" memoranda, rough drafts, and hand-written notes (including boxes on "tichler copies") and hand-written routing slips, scraps of paper, etc.

The inventory of materials, currently on hand, (enclosure 3) contains folders we suspect were part of the original seizure, but are unable to so conclude with certainty. If seized, they are likely to have been included in such places as cabinet 22, the inventory of which is nonspecific, (see enclosure 2).

Per instructions of Mr. Martin, we are commencing processing for disclosure only the reviews and documents forwarded to you between August 25, 1976, and September 3, 1976. We have noted the inventories include some material classified "CONFIDENTIAL" and the documents forwarded include

Greenberg/Gray-2448

Barnet D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division

some classified "TOP SECRET" - COMINT. Since we have corresponded on this problem before, I assume you are regarding as sensitive and possibly classified all material accumulated by your office over the past two years.

Enclosures - 7

PVD/BBT

Greenberg/Gray-2449

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION


Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt.
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett

DATE: 7-13-78

FROM :  b6
b7C



b6
b7C



SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
FBI DOCUMENTS HELD BY THE DEPARTMENT

PURPOSE: To record informal action taken to resolve discrepancy between the Director's letter to the Attorney General dated May 9, 1978, and the response of the Deputy Attorney General to the Director on May 31, 1978.

DETAILS: By letter dated May 9, 1978, the Director expressed concern over the large volume of material in the possession of the Department which has not received a classification review. The return of materials not essential to the current prosecution was specifically requested.


The May 31, 1978, response by the Deputy Attorney General to our inquiry outlined safeguards instituted to preclude any further release of FBI materials to defense attorneys without prior review by FBI personnel. The Director's May 9, 1978, letter, however, did not raise this issue. We were satisfied with the new procedures for reviewing FBI materials prior to release to the defense. The Director's letter did address the continued maintenance of sensitive FBI materials by the Department which, though classifiable, contained no markings to indicate such classification.

The response includes one incorrect statement and one statement which is misleading. Documents compiled by the "Long Task Force" which are not of potential use to the prosecution team are not stored exclusively in FBI space. Two copies exist of this collection of documents. One copy is in Room 1427D of this building and is Mr. Long's record of documents furnished by him in letters to the Department. The second copy exists in the office space of the Department's Task Force. They are no longer arranged in the order sent, the packages have been disassembled and placed in folders to suit the purposes of the Departmental attorneys.

- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - 
- 1 - 

b6
b7C

REC-110

 1180 45-58

(CONTINUED - OVER)

14 AUG 31 1978

b6
b7C

ENCLOSURE

JLT:dmd

(5)



[redacted] to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al
FBI Documents Held by the Department

b6
b7C

Based upon our limited knowledge of the Department's arrangement of these documents, it is doubtful that FBI personnel could retrieve these copies, reassembling them into their original packages to insure accountability, without a considerable amount of assistance from Departmental attorneys familiar with their system. Indeed, we should consider it the responsibility of the Department to reassemble the copies. It is unlikely the Department would be willing to participate in such an effort until after the trial, unless there is some substantial delay before trial commences.

The statement that documents held by the Department are being reviewed by FBI personnel is technically misleading since we have actually reviewed only the 17 documents inadvertently released. Such review is, however, now being substantially accomplished since the Department is releasing only materials in packages processed by the FBI.

In compliance with Mr. Adams' suggestion to resolve the discrepancy informally with the Department, with which the Director concurred, I contacted Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel on June 22, 1978.

Ms. Lawton advised she had drafted the letter for the Deputy Attorney General. The situation, as outlined above, was discussed with her and she stated she was unaware that the 81 volumes worth of material remained in Mr. Skolnik's office. She understood the material had been returned to the FBI.

I advised Ms. Lawton our principal concern was that there be no misunderstanding on the part of the Department that unmarked copies of FBI documents remain in Mr. Skolnik's office in large volume. Ms. Lawton stated she would contact Francis J. Martin of Mr. Skolnik's office and would insure the existence of these documents was not overlooked, nor the need for their ultimate return forgotten. I advised Ms. Lawton we could understand the Department's inability to comply immediately with our request for their return, but that we would have grave concern as long as they remained in Mr. Skolnik's office in an unmarked fashion.

Greenberg/Gray-2451

[redacted] to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al
FBI Documents Held by the Department

Still unresolved is the related issue of classifiable information in the transcripts of the several Grand Juries which heard testimony during the investigation. The transcripts undoubtedly contain unmarked classified information. During the June 1, 1978, meeting with Mr. Skolnik, his staff, and Deputy Assistant Attorneys General Lawton and Keuch, which you and Mr. McDermott attended, the Grand Jury transcript problem was discussed. Mr. Skolnik agreed to notify defense attorneys of the problem of classified materials in the transcript and to seek a court order allowing review of the transcript by FBI, CIA, and NSA personnel for the purpose of identifying highly sensitive information and alerting holders of the transcript to its sensitivity.

We have received no word on the resolution of the transcript problem, but will pursue the matter.

RECOMMENDATIONS: 1. We should accept the written reassurance of the Deputy Attorney General, as drafted by Ms. Lawton, that he is satisfied adequate measures have been taken to protect these materials, now that the complete facts are in Ms. Lawton's hands. Return of the materials will be sought at the earliest opportunity and not later than the conclusion of the trial.

SA

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. <i>HO</i>
Dep. AD Adm. <i>pm</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. <i>pm</i>	Laboratory _____	Training _____
		Public Affs. Off. _____

2. We should raise the issue of classifiable information in the Grand Jury transcripts after the July 12, 1978, oral argument of pretrial motions to determine if Mr. Skolnik's office has taken any steps to resolve the issue.

SA

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. <i>pm</i>	Ident. _____	Rec Mgnt. <i>HO</i>
Dep. AD Adm. <i>pm</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Rest 2
7/13/78 Francis V. Martini
advised transcript review
not get solved, but court order
is not necessary. He is pursuing

Greenberg/Gray-2452

DO-7



FROM

OFFICE OF DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

TO

OFFICIAL INDICATED BELOW

- MR. ADAMS _____ ()
- MR. MCDERMOTT _____ ()
- MR. BASSETT _____ ()
- MR. COCHRAN _____ ()
- MR. COLWELL _____ ()
- MR. CREGAR _____ ()
- MR. JOSEPH _____ ()
- MR. KELLEHER _____ ()
- MR. KENT _____ ()
- MR. LONG _____ ()
- MR. MINTZ _____ ()
- MR. MOORE _____ ()
- MR. BOYNTON _____ ()
- MR. BRUEMMER _____ ()
- MR. HOTIS _____ ()
- TELE. ROOM _____ ()
- MISS DEVINE _____ ()
- _____ ()
- _____ ()
- _____ ()

Handwritten initials and arrow pointing to the list.
phone do

- SEE ME _____ ()
- NOTE AND RETURN _____ ()
- PREPARE REPLY _____ ()
- SEND MEMO TO ATTORNEY GENERAL _____ ()
- FOR YOUR RECOMMENDATION _____ ()
- WHAT ARE THE FACTS? _____ ()
- HOLD _____ ()

REMARKS: _____

FBI/DOJ

Greenberg/Gray-2453

62 - 118045 - 58

ENCLOSURE

Federal Bureau of Investigation
Office of Associate Director

6/15, 1978

- | | |
|--|------------------------|
| <input checked="" type="checkbox"/> Director | _____ Mr. Bruemmer |
| _____ Associate Director | _____ Miss Devine |
| _____ Asst. to the Dir. - Adm | _____ Telephone Room |
| _____ Asst. to the Dir. - Inv | |
| _____ Ident. Div. | _____ Reading Room |
| _____ Training Div. | _____ Mail Room |
| _____ Adm. Serv. Div. | _____ Teletype |
| _____ Records Mgt. Div. | _____ Pr. & Sp. Mgt. |
| _____ Intell. Div. | |
| _____ Criminal Inves. Div. | _____ For Approp. |
| _____ Laboratory Div. | _____ Action |
| _____ Tech. Serv. Div. | _____ Initial & Return |
| _____ Legal Counsel Div. | _____ Please Call Me |
| _____ Plan. & Insp. Div. | _____ For Information |
| | _____ Per Conversation |
| _____ Public Affairs Office | _____ Please See Me |

- _____ Mr. Mack
_____ Mr. Feeney

- _____ Mr. Dinan
_____ Mr. Sonnichsen

- _____ Mrs. Mutter
_____ Mrs. Haines
_____ Miss A. Southers

M _____ Rm. _____

Remarks _____

*we can handle this
informally with
the dept.*

JBA

J. B. Adams
Room 7142, Ext. 3515

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs. _____
 Training _____
 Public Affs. Off. b6
 Telephone Rm. _____
 Director's Sec'y b7C

TO : Mr. Bassett *ANB/R*

DATE: 7/13/78

FROM : D. Ryan *DR*

- 1 - Mr. H. N. Bassett
- 1 - [Redacted]
- 1 - Mr. J. W. Gerblick
- 1 - Mr. D. Ryan

SUBJECT: UNITED STATES V. L. PATRICK GRAY,
ET AL.

[Redacted] 543
 #245 *4-1*
W

PURPOSE: To set forth current information relating to clearances granted by the Department of Justice to attorneys and researchers representing L. Patrick Gray, W. Mark Felt and Edward S. Miller, defendants in captioned matter.

DETAILS: On 7/10/78, [Redacted] of the Personnel Security Unit, U. S. Department of Justice, advised me the following attorneys have been afforded clearance for access for up to "Top Secret" by the Department of Justice: Steven H. Sachs, representing Gray; George Leibmann, representing Gray; Brian P. Gettings, representing Felt; Thomas A. Kennelly, representing Miller; Howard S. Epstein, representing Miller; Mark D. Cummings, representing ?; William L. Stauffer, representing Felt.

b6
b7C

(Handwritten initials)

[Redacted] advised Alan I. Baron had technically not been afforded "Top Secret" as of this time, although he would be afforded this clearance imminently.

b6
b7C

Additionally, attorneys FNU Cohen and FNU Levin are under consideration for clearance, but as of this time the Department had not received the paper containing the official request, so processing has not been initiated.

REC-110

62-118045-51

Defendants Gray, Felt and Miller have also been cleared by the Department for access to "Top Secret."

AUG 31 1978

[Redacted] advised additionally the 14 researchers (former Special Agents) had all been afforded clearance for up to "Top Secret" by the Department.

b6
b7C

[Redacted] of the Personnel Security Unit advised 7/10/78 that Sachs, Leibmann, Baron, Gettings, Kennelly, Epstein, Cummings and Stauffer all would be afforded clearance for access to "SI" in the compartmented area, but to date this

b6
b7C

CONTINUED - OVER

4-DR

DR:lfjlfj
(5)



SEP 14 1978

Memorandum to Mr. Bassett
Re: United States v. L. Patrick Gray,
et al.

clearance had not been effected because they had not been provided the required briefing. Also, Gray, Felt and Miller would be furnished clearance for access to "SI" and it would be necessary for them to resign the required loyalty oath for this access. [redacted] added that to date he has not received a request for compartmented clearance for any of the 14 former Agent researchers, but he anticipated this would be requested for some of the 14 in the near future.

RECOMMENDATION: For referral to the Special Task Force processing material in connection with discovery in this matter.

<i>WCB</i>	APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
	Director _____	Crim. Inv. _____	Plan. & Insp. _____
	Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u>AWD</u>
	Dep. AD Adm. <u>ms</u>	Intell. _____	Tech. Servs. _____
	Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____	

TO : [redacted] b6
FROM : [redacted] b7C
SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

DATE: 7-14-78

#1
W

U
sf

On July 13, 1978, Francis J. Martin, Department of Justice, advised during a meeting, held for an unrelated purpose, that defendant Edward S. Miller had placed 12 documents on record with the court during the argument of pre-trial motions on Wednesday, July 12, 1978. The documents were marked in evidence as "DM-1" through "DM-12."

DM-11 contains excerpts from [redacted] testimony before the Grand Jury. DM-12 contains excerpts from the [redacted] testimony.

b3
b6
b7C

The first ten documents are taken from the package of 31 documents delivered to the Department for disclosure to the defense on May 16, 1978, relating to the "Ruckelshaus" questions. Our record copy of this disclosure has been annotated with the ten documents which are as follows:

DM-1: 1
July 20, 1973, letter from William D. Ruckelshaus to the Director, "Substantive Issues Regarding the Future of the FBI." (U)

GR

DM-2: 3
Memorandum dated July 30, 1973, from Director Kelley to Messrs. Callahan et al, "Re: Meeting With Attorney General July 30, 1973." (U)

DM-3: 30
Informal memorandum dated August 2, 1973, from Edward S. Miller to Branch and Section Chiefs, "Re: Investigations of Irregularities..." (U)

DM-4: 4
Memorandum dated August 14, 1973, R. J. Baker to Mr. Callahan, "Re: Issues Raised by Mr. William D. Ruckelshaus..." (U)

REC-110

42-118045-52

DM-5: 31
Unsigned, undated letter answer "For the Director's information only" to the question "Seven. Does the FBI ever employ the technique of surreptitious entry?" (Top Secret-Code Word)

4-PVD

14 AUG 31 1978

(CONTINUED - OVER)

[redacted] Memo

Re: U. S. vs. L. Patrick Gray III, et al

DM-6: 15

Letter dated December 15, 1973, from Robert H. Bork, Acting Attorney General to the Director, "Study of FBI Programs and Policies." (U)

DM-7: 19

Memorandum dated May 2, 1974, from Director Kelley for Messrs. Callahan, Jenkins, Miller, Adams, and Mintz. "Re: Deputy Attorney General Laurence H. Silberman; Associate Deputy Attorney General James Wilderotter." (U)

DM-8: 20

Informal note dated May 21, 1974, with addendum dated May 24, 1974, both by J. B. Adams, "Re: Substantive Issues Regarding Future of FBI Raised by Ruckelshaus." (U)

DM-9: 21

Memorandum dated July 5, 1974, from O. T. Jacobson to Mr. Callahan, "Substantive Issues Regarding the Future of the FBI..." [pages 1, 2, 9, and 10 only from 20-page memorandum] (U)

DM-10: 24

Handwritten note dated May 30, _____, beginning, "Miller talked with Kelley and later to Wilderotter..." It is one piece from a package of four notes and routing slips. (U)

DM-5 is ^{marked} regarded Top Secret-Code Word. With the excisions; however, the document would be classified Secret. The document was furnished in excised form to the Department. The Department was advised in writing, at the time, the classification level with excisions was at the Secret level, although the stamp was not changed.

The above information is being recorded for our assistance in retrieving these documents following the conclusion of the case. Mr. Skolnik requested the documents be sealed and characterized them as sensitive during the hearing. Mr. Martin will contact the Judge's clerk to request that limited access be granted and that appropriate storage facilities be used.

Greenberg/Gray-2458

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett HNRJ/-

DATE: 7-19-78

FROM : [Redacted] b6
b7C

[Redacted] b6
b7C

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR
DISCOVERY IN U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To report the release of one employee to his former unit.

DETAILS: As of July 17, 1978, Special Agent [Redacted] returned to his former unit.

RECOMMENDATION: None, for information.

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec Mgnt. <u>HND</u>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

62-118045

EX-138
REC-47 62-118045-52X
~~62-117958-30~~

Greenberg/Gray-2459

6 SEP 6 1978

- 1 - Finance and Personnel
- 1 - Mr. Bassett
- 1 - Mr. Cochran

JET: dmd dmd
(5)

THREE
015



PERS. REC. UNIT

4
10

Director
 Visa Office
 Department of State
 Attention: Chief, Coordination Division
 [Redacted] Federal Bureau of Investigation
 Defense Discovery Special
 Room 6888, JEM
 U. S. vs. L. PATRICK GRAY III, ET AL
 DEFENSE DISCOVERY/CLASSIFIED MATERIAL

7-25-78

FEDERAL GOVERNMENT

BY LIAISON

b6
b7C

4-1
WCR

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

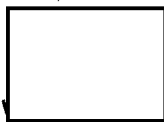
We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

gp

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec. _____

You may make and retain or return all copies of this correspondence, the referral form, and the documents at your option.

- 1 - Mr. Ryan
- 1 - Mr. Nicholas



(SEE NOTE PAGE 42) AUG 31 1978

b6
b7C

42-118045-53

8 4 SEP 4 1978

3-ENCLOSURE

Greenberg/Gray-2460

Director
Visa Office
Department of State
Attention: Chief, Coordination Division

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

pra

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Greenberg/Gray-2461

Barnet D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division

7-25-78

4
90
[Redacted]
Federal Bureau of Investigation
Room 6888, JEH

b6
b7C

U. S. vs. L. PATRICK GRAY III, ET AL FEDERAL GOVERNMENT

me
Reference is made to a letter to you dated July 7, 1978, and captioned as above from John J. McDermott, Deputy Associate Director of the FBI.

An incorrect figure was inadvertently included in the "Chronology of Events" on page 4 of referenced letter. The listing of dates in that section of the letter for October 22, 1976, indicates "Attempted retrieval of 232 folders, 191 retrieved." Please correct the figure "191" by replacing it with the correct figure of 185. The figure of 191 would apply to the total folders available after six additional folders were found during the inventory completed on June 28, 1978.

Enclosures 2 and 3 contain information which is classified "CONFIDENTIAL" overall. Enclosure 2, the annotated copy of the original 1976 inventory, has a folder listed which should be noted as classified "CONFIDENTIAL" by placing the usual notation (C) after the entry. The entry is contained on the first page of the inventory for drawer number 2, cabinet number 13. The entry is the third line from the end of the first page, immediately following "Weathfug-Mail Service Agencies" and immediately preceding the entry "Weathfug-Medical Support."

The same listing is contained on page 9 of enclosure 3, the handwritten inventory of the present location for these folders. Page 9 is the second page of a three-page inventory for drawer number 2 in cabinet B. The identical entry appears on the fifth line from the top of this page, immediately following "Weathfug-Food Stamp Fraud" and immediately preceding "Weathfug-Mail Service Agencies."

Classification of the above two entries was not noted during the initial classification review. Subsequent copies, including those furnished for disclosure to the defense, have been corrected.

NOTE: Instant letter necessitated by incorrect number in relet and subsequent classification action.

JLT:dmd
(3)

[Redacted] b6 b7C

REC-110
118045-54
8/31
JUL 28 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAIL ROOM

Greenberg/Gray-2470

FBI/DOJ

8 4 SEP 14 1978

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

Memorandum

TO : Mr. Bassett *response*

DATE: 7-31-78

FROM : [redacted] b6
b7C

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR
DISCOVERY IN U. S. vs. L. PATRICK GRAY III, ET AL *4-1*
Wen

PURPOSE: To report the release of one employee to her former unit and the gain of one employee for temporary assignment.

DETAILS: As of July 31, 1978, [redacted] will return to her former unit and [redacted] [redacted] will report for temporary assignment.

b6
b7C

RECOMMENDATION: None, for information.

(Handwritten initials)

Greenberg/Gray-2472

[redacted]

b6
b7C

REC-110

62-118045-56

14 AUG 31 1978

- 1 - Finance and Personnel
- 1 - Mr. Bassett
- 1 - [redacted]

JLT:dmd *qmq*



8 14 (1978)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Memorandum

TO : Mr. Bassett *HNR/2*

DATE: 8/7/78

FROM : b6
b7C

b6
b7C
4-1

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To report the release of one employee to his former unit and the gain of one employee for temporary assignment.

DETAILS: As of August 7, 1978, will return to his former unit and will report for temporary assignment.

RECOMMENDATION: None, for information.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. <i>HW</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

REC-110 *62-118045-58*

14 AUG 31 1978

b6
b7C

- 1 - Finance and Personnel
- 1 - Mr. Bassett

SJLT:bjr
(4) wj

Greenberg/Gray-2475



8 4 SEP 14 1978

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.
 Dep. AD Adm.
 Dep. AD Inv.
 Asst. Dir.:
 Adm. Servs.
 Crim. Inv.
 Ident.
 Intell.
 Laboratory
 Legal Coun.
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs.
 Training
 Public Affs. Off.
 Telephone Rm.
 Director's Sec'y

TO : Mr. Bassett

DATE: 8/9/78

FROM

[Redacted]

b6
b7C

[Redacted]

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL.
DISCOVERY-INADVERTANT DISCLOSURE OF CIA
AND NSA INFORMATION

PURPOSE: To report notification by the Department to NSA and CIA of inadvertant disclosure by the Department of NSA and CIA classified information to Federal Grand Juries and to defense counsel in captioned case.

DETAILS: By letters dated 8/2/78 to the Directors of NSA and CIA, the Department has revealed inadvertant disclosure of classified information from those agencies to Federal Grand Juries in New York and Washington, D. C., and to defense counsel for Messrs. Gray, Felt, and Miller. Copies attached.

By letters dated 8/2/78 to the General Counsel of NSA and CIA the Department forwards copies of the transcripts of Grand Jury testimony by Messrs. Gray, Felt, and Miller, and by the late Assistant to the Director William C. Sullivan. Transcripts are to be reviewed by NSA and CIA to identify sensitive and classifiable information so that appropriate safeguards may now be taken to protect it. Copies of the letters, but not the enclosures, are attached.

The Department has indicated the transcripts will also be furnished to this office for review to identify sensitive FBI information. Copies for FBI review not yet furnished.

Arrangements have ~~been~~ made to deliver this correspondence by FBI Liaison Officers 8/8/78 as a courtesy, to evidence FBI concern over the matter, and because of the sensitivity of the information.

Notification resulted from persistent suggestions by the FBI. Documents involved in the inadvertant disclosure

14 AUG 31 1978

Enclosures

- 1 - Mr. Adams - Enclosures (4)
 - 1 - Mr. McDermott - Enclosures (4)
 - 1 - Mr. Long - Enclosures (4)
 - 2 - Mr. Bassett - Enclosures (4)
 - 1 - Mr. Ryan - Enclosures (4)
 - 3 - Mr. Cregar - Enclosures (4)
 - 1 - Mr. Kearns - Enclosures (4)
 - 1 - Mr. Whalen - Enclosures (4)
- (CONTINUED - OVER)

JLT:bjr/dcd(10)



[redacted] to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al.
Discovery-Inadvertant Disclosure of CIA and
NSA Information

asures are needed by the prosecution for its case in chief, and are sought by the defense during discovery, presumably for use at trial. Although we have already taken care of NSA and CIA review of these documents during routine discovery, we are aware that the transcripts contain similar and identical sensitive information without markings, and are in the hands of all three defense counsel. Resolution of the matter is unavoidable.

The initial version of the notification gave the failure to mark classification on internal FBI documents as the sole cause of the inadvertant disclosures. At the insistence of the FBI, the cause given was modified to include the inexperience of both Departmental personnel and FBI Agents assigned to the investigation in the field of intelligence. Agents with little or no security backgrounds were selected on the specific instructions of the Department, which then overruled the FBI's plan to brief them on classification matters.

RECOMMENDATION: None. For the information of FBIHQ officials and for record purposes.

APPROVED: <i>W</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>HNB</i>
Dep. AD <i>per</i> _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-2477

Top Secret Control Number HQ-78-1524

Originator of Material FBI-HQ
(FBI field division, FBIHQ or outside agency)

Letter Airtel

Date of Mail 8-11-78

LHM Memo

Report Other

Teletype

Captioned:

L. Patrick Gray III

This serial is under the control of the Top Secret Control Officer located in the Document Classification Office.

Authority - 62-116065

File number 62-118045-60

Greenberg/Gray-2488

PERMANENT SERIAL CHARGE-OUT

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett

DATE: 8/17/78

FROM : D. Ryan *DR*

- 1 - Mr. H. N. Bassett
- 1 - [redacted] b6
- 1 - Mr. D. Ryan b7C

SUBJECT: UNITED STATES V.

GRAY, ET AL.

H. Patrick III

WCB

On this date, Charles Alliman of the Security and Administrative Programs Staff, Department of Justice (the Department's Security Office), advised me former Special Agent [redacted] had been cleared effective 8/17/78 for access to "Top Secret." It is noted [redacted] is one of the former Special Agents whom attorneys for defendants have requested be afforded clearance in order to review FBI material relating to discovery in this matter.

b6
b7C

RECOMMENDATION: None. For information.

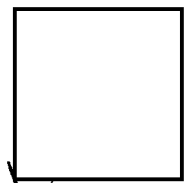
APPROVED:

Director _____	Assoc. Dir. _____	Dep. AD Adm. <i>DR</i>	Dep. AD Inv. _____	Adm. Serv. _____	Crim. Inv. _____	Ident. _____	Intell. _____	Laboratory _____	Legal Coun. _____	Plan. & Insp. _____	Rec. Mgnt. <i>WCB/WCB</i>	Tech. Servs. _____	Training _____	Public Affs. Off. _____
----------------	-------------------	------------------------	--------------------	------------------	------------------	--------------	---------------	------------------	-------------------	---------------------	---------------------------	--------------------	----------------	-------------------------

(Signature)

DR:lfj
(4)

REC-110



b6
b7C

62-118045-61

14 AUG 31 1978

Greenberg/Gray-2489



UNITED STATES GOVERNMENT

Memorandum

TO : The Director
Federal Bureau of Investigation

FROM : Robert L. Keuch
Deputy Assistant Attorney General
Criminal Division

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

DATE: AUG 1

Assoc. Dir.	<input checked="" type="checkbox"/>
Dep. AD Adm.	<input checked="" type="checkbox"/>
Dep. AD Inv.	<input type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input type="checkbox"/>
Rec. Mgnt.	<input checked="" type="checkbox"/>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

~~FEDERAL GOVERNMENT~~

b6
b7C

Reference is made to the memorandum of June 19, 1978 from John J. McDermott, Deputy Associate Director.

We will proceed in accordance with the information set forth in that memorandum. However, prior to any formal claim of privilege being submitted to the court for its determination, additional materials are required, specifically, a statement by the Secretary of Defense that he concurs in the position taken by the National Security Agency in response to your inquiry.

Under the applicable statute and case law, and consistent with the policies of the Department of Justice, when a claim of privilege for national security or national defense information is made, the claim must be made by the head of the department having the ultimate responsibility for classification of information. For example, when claims of privilege regarding national security electronic surveillances are made to the courts, the claim is signed by the Attorney General personally. Any claim for the NSA information referred to in the June 19 memorandum will similarly have to be made by the Secretary of Defense.

A request should therefore be made to the National Security Agency that they obtain the specific concurrence of the Secretary of Defense regarding the position they have taken as to the materials under discussion and the Secretary's agreement to execute a formal claim of privilege for submission to the court when, and if, such a submission becomes necessary.

EXPIRES 31-AUG-3-1978

62-118045-63

REC-110

14 AUG 31 1978

4-PVD

ack. 8/17/78
P.V.D. d



~~FEDERAL GOVERNMENT~~

4
28

DATE: August 17, 1978
TO: Director, National Security Agency
Attention: General Counsel
FROM: John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
DISCOVERY PROCEEDINGS

4-1
Wen

Reference is made to your letter of May 23, 1978. In accordance with our discussion, a copy of your letter was made available to the Department of Justice.

(gp)

By memorandum dated August 1, 1978, Mr. Robert L. Keuch, Deputy Assistant Attorney General, Criminal Division, furnished the attached response.

Since the discovery at this point is under the informal system, the attached response is for your information. We do anticipate a court ordered discovery in the near future, and you will be advised accordingly.

Enclosure

- 1 - Mr. Bassett
- 1 - [redacted]

} SENT DIRECT

b6
b7C

62-118045-64
REC-110
14 AUG 31 1978
TO NSA VIA COURIER
OWER-22-78
FBI/DOJ

mfs

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

NOTE: Copy of Departmental memorandum being furnished to NSA pursuant to approval of Robert L. Keuch on 8/4/78 as furnished to SA [redacted]

b6
b7C

APPROVED: _____
Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

PVD:dd
(5)
MAIL ROOM

Greenberg/Gray-2501

FBI/DOJ

8 4 SEP 14 1978

UNITED STATES GOVERNMENT

Memorandum

~~FEDERAL GOVERNMENT~~

TO :
Federal Bureau of Investigation

b6 Per FBI DATE: August 4, 1978
b7C

FROM : Francis J. Martin
Criminal Division

FJM
III

SUBJECT: United States v. Gray et al

L. Patrick

4-1
we

W

The government may wish to interview and/or subpoena for trial the various individuals whose homes were the subject of the surreptitious entries alleged in the indictment. Please provide current address information, to the extent available in Bureau files, on each of these individuals. Should your files also reflect that any of these individuals are represented by counsel please provide the counsel's name and address. These individuals are:

(initials)

REC-110

62-118045-65

14 AUG 31 1978

4-5

8 4 P 14 1978

Greenberg/Gray-2502



Mr. Francis J. Martin
Criminal Division

8-29-78

[redacted] b6
Federal Bureau of Investigation b7C

U.S. vs. L. PATRICK GRAY III, ET AL
DISCOVERY PROCEEDINGS

FEDERAL GOVERNMENT

In response to your letter of August 4, 1978, concerning current addresses and legal counsel of individuals who were targets of surreptitious entries which were the basis of prosecution in captioned case, the following information is furnished:

[redacted] has an address of [redacted] New York, New York 10009. She has been represented by [redacted] of the firm of Cohn, Glickstein, Lurie, Ostrin and Lubell, 1370 Avenue of the Americas, New York, New York 10019. She is also being represented in a cause of action against the United States and other defendants by [redacted] New York, New York 10025. This litigation, in which [redacted] is also a plaintiff, has Number 78 CIV 2244 in the Southern District of New York and is being handled by AUSA William Hibscher (FTS 662-9173).

b6
b7C

[redacted] is most recently known to be residing at [redacted] Brooklyn, New York. As mentioned above, she also is represented by [redacted] in current litigation.

b6
b7C

[redacted] was most recently known to be residing at [redacted] New York, New York. Our records disclose no representation by legal counsel.

b6
b7C

[redacted] was most recently known to be residing at [redacted] Berkeley, California 94707. She has been represented by [redacted]

b6
b7C

ACLU Foundation of Northern California, Suite 301, 814 Mission Street, San Francisco, California 94103

MAILED 6
AUG 29 1978
FBI

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Gene. Rm. _____

1 - Mr. Mintz (Attn: [redacted])

b6
b7C

JLT:dd
(6)

SEE NOTE PAGE TWO.

REC-110

62-118045-666
prel

34 AUG 31 1978

[redacted]

b6
b7C

B1/DOJ

4 SEP 14 1978 MAIL ROOM

[redacted] were most recently known to be residing at [redacted] Union, New Jersey, and are not known to be represented by legal counsel.

b6
b7C

[redacted] was most recently known to be residing at [redacted] Burlington, Vermont. He is not known to be represented by legal counsel.

b6
b7C

[redacted] was most recently known to be residing at [redacted] Marina Del Rey, California 90291. [redacted] may be represented by, or associated with, [redacted] Esquire, of Morrison, Paul, Stillman and Bailey, 110 East 59th Street, New York, New York 10022.

b6
b7C

The only pending litigation between the above individuals and the United States is that mentioned for [redacted] and [redacted] in which the three defendants in instant prosecution and [redacted] are also civil defendants.

b6
b7C

NOTE: Civil litigation being handled by SA [redacted] of Legal Counsel Division.

Information contained in outgoing obtained from the following files:

[redacted] 190-5002; 197-583
197-583
no 190 or 197 file
190-5086
88-56609-316
163-35350; NY 100-166899
190-1936

b6
b7C

Greenberg/Gray-2504

b6
b7C

FEDERAL GOVERNMENT

Mr. Robert Gates, Special Assistant ~~to the Director~~ 8-25-78
National Security Council
The White House

Federal Bureau of Investigation BY LIAISON
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4-1
JG
9/25/78

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

REC-3362-118045-67

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

2 AUG 23 1978

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. Ryan
- 1 - Mr. Palmer

DELIVERED BY LIAISON
DATE 8/25/78 (SEE NOTE PAGE TWO)

~~SECRET~~
Material Attached

JLT:ed (6)

MAIL ROOM

Greenberg/Gray-2505

FBI/DOJ

SEP 9 1978

Mr. Robert Gates, Special Assistant

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HNTB*

DATE: 8/29/78

FROM : b6
b7C

b6
b7C

SUBJECT: U.S. vs. L. PATRICK GRAY III,
W. MARK FELT, AND
EDWARD S. MILLER

PURPOSE: The purpose of this memorandum is to advise of the court ordered discovery in captioned matter and problems presented by the same. (Copy of order attached.)

DETAILS: By way of background, the FBI has been providing materials to defense attorneys in captioned matter pursuant to an informal discovery agreement between the Government and the defense.

ST-130 **REC-79** 62-118045-69

On August 17, 1978, Judge William B. Bryant, United States District Court, District of Columbia, issued an order for discovery in those areas where the defendants sought information and the Government objected to its release. On August 25, 1978, SAs

met with Departmental Attorney Frank Martin to discuss Judge Bryant's order. The two areas of prime concern were the release to the Court of highly sensitive material concerning the Communist Party, USA (CPUSA) investigation and the release of information concerning the Weatherman Underground furnished by cooperative foreign intelligence services. We have, in the past, claimed privilege protecting such information. While Martin was not familiar with the CPUSA information, he stated the sensitivity of it had been brought to his attention by Deputy Assistant Attorney General Mary Lawton. Martin advised the Department was considering the filing of an affidavit in connection with this since production was ordered to the Court and not to the defense. He indicated Mary Lawton would be in contact with the Bureau on this. Since the nature of the information is not known to Martin, this matter was not further discussed with him and will be resolved with Ms. Lawton.

b6
b7C

Enclosure

ENCLOSURE

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Bassett
- 1 -

b6
b7C

(CONTINUED) - (OVER)

b6
b7C

62-118045



PVD:ddv(7)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

79 OCT 17 1978

to Bassett Memo
Re: U. S. vs. L. Patrick Gray III,
W. Mark Felt, and
Edward S. Miller

The material furnished the Bureau by cooperative foreign intelligence has traditionally been protected from release pursuant to court ordered discovery. This problem was recognized by the Department in submitting its response to the defense motions for discovery. They stated "Accordingly, were the Court to order discovery to the defendants of certain intelligence information originating from agencies, domestic or foreign, external to the FBI, the Department of Justice might ultimately be required to move to dismiss this prosecution."

Martin explored the possibility of the FBI preparing a summary of the information in a fashion that would not disclose the source of the information. It would appear doubtful that such a summary could be prepared to the satisfaction of interested foreign intelligence services and the Court. Martin intends to discuss this matter with Prosecutor Barnet Skolnik to determine his views. We will await written instructions from the Department concerning this matter.

We have also, pursuant to the request of Deputy Assistant General Robert Keuch, advised the National Security Agency that in connection with the materials, the National Security Agency has refused to release to the defendants that they should make preparation for a claim of privilege. We additionally expect the Central Intelligence Agency to withhold material, and, of course, a similar claim may be necessary from them. The Central Intelligence Agency has not completed its review of material called for in this discovery.

RECOMMENDATION: For information.

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. _____
Director <i>[Signature]</i>	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. <i>[Signature]</i>	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
Dep. AD Adm. <i>[Signature]</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-2510

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Criminal No. 78-000179

L. PATRICK GRAY, III
W. MARK FELT
and
EDWARD S. MILLER.

FILED

AUG 17 1978

JAMES F. DAVEY, Clerk

MEMORANDUM AND ORDER

Three former high officials of the Federal Bureau of Investigation are charged with conspiring to violate the Fourth Amendment rights of citizens by making illegal surreptitious entries into the homes of the families and friends of the Weatherman fugitives. 18 U.S.C. § 241. The government contends that Acting Director Patrick Gray orally gave "generic authorization" to certain F.B.I. officials to conduct surreptitious entries and searches (oftentimes called "black bag jobs") in their search for something which might reveal the location of the fugitives. W. Mark Felt was, during this period, Acting Associate Director of the F.B.I., and Edward S. Miller was Assistant Director, head of the Domestic Intelligence Division which supervised the F.B.I.'s Weatherman investigation. They are alleged to have authorized or concurred in the authorization of a number of the so-called black bag jobs.

In various motions the defendants seek dismissal of the indictment on several grounds, severance of their trials and broad discovery. Except for some of the requests for discovery, the government submitted its opposition thereto, and subsequent oral representations of all counsel were extensive.

62-118045-69

ENCLOSURE

1. DISMISSAL

(a) Prejudicial Pre-trial Publicity

The established procedure in the District of Columbia Circuit is to determine at voir dire whether the publicity generated before trial has so influenced prospective jurors that one accused of a criminal offense cannot be guaranteed "a fair trial by a panel of impartial, 'indifferent' jurors." Irvin v. Dowd, 366 U.S. 717, 722 (1961); Jones v. Gasch, 404 F.2d 1231 (D.C. Cir. 1967), cert. denied, 390 U.S. 1029 (1968). The Court finds the volume, content, tenor and timing of the publicity given these defendants are not so striking as to lead it to believe the defendants have been gravely prejudiced. United States v. Haldeman, 559 F.2d 31, 60 (D.C. Cir. 1976); United States v. Ehrlichman, 546 F.2d 910, 916-17 n.8 (D.C. Cir. 1976). The fact that the Justice Department has been the source of some of the publicity in this case is not determinative. The general level of public concern focused on these defendants does not appear to be great. See United States v. Coast of Maine Lobster Co., 538 F.2d 899 (1st Cir. 1976).

(b) Selective Prosecution

The Court agrees with the government that the defendants have failed to demonstrate invidious discrimination or bad faith in this prosecution. Oyler v. Boles, 368 U.S. 448 (1962). Defendants have cited cases in which prosecutions have been instituted to punish individuals for the exercise of their First Amendment rights of political expression. United States v. Falk, 479 F.2d 616 (7th Cir. 1973); United States v. Crowthers, 456 F.2d 1074 (4th Cir. 1972). These cases are not relevant since no such infringement of First Amendment rights or bad faith have been alleged by defendants.

(c) Pre-indictment Delay

The alleged pre-indictment delay in this case does not justify dismissal of the indictment. In United States v. Lovasco, 431 U. S. 783 (1977), the Supreme Court held that a court must examine two factors in determining whether pre-indictment delay so violates the due process rights of the accused that the indictment must be dismissed against him. First, the court should examine if prejudice has resulted to the defendant(s) and secondly what reasons the government had for not indicting the defendant(s) for a considerable period of time after the investigation began. The Court accepts the government's explanation that the complexities of this case -- legal and policy ones -- necessitated a delay between the start of the investigation and the indictment; and it does not appear that defendants will be greatly prejudiced by the death of one possibly important witness, William C. Sullivan, and several minor ones. In these circumstances prosecution of these defendants would not violate their rights in such fashion as to offend "the community's sense of fair play and decency." Rochin v. California, 342 U.S. 165, 173 (1952), cited in United States v. Lovasco, 431 U.S. at 790

(d) Prosecutorial Misconduct/
Improper Use of Successive Grand Juries/
Absence of Appropriate Signature on Indictment/
Improper Means of Obtaining Evidence

The claims of prosecutorial misconduct and other irregularities during the grand jury and indictment stages of these proceedings do not warrant dismissal of the indictment. The Special Attorney who heads this prosecution, and all other attorneys who appeared before the indicting grand jury, were Department of Justice attorneys properly appointed and directed to act for the United States,

pursuant to 28 U.S.C. § 515(a). Special Attorney Skolnik was therefore authorized to sign the indictment. Rule 7(c)(1) F.R. Crim. P. He and his associates have been "specifically directed" to pursue this prosecution by Assistant Attorney General Benjamin Civiletti, formerly head of the Criminal Division, pursuant to 28 U.S.C. § 515(a), and are attorneys for the government within the meaning of Rule 54(c), F.R. Crim. P.

The Court agrees with defendant Gray that no apparent reason exists for prosecutors to have discussions with jurors off-the-record during grand jury proceedings. Since the transcripts of such proceedings are under seal and the proceedings themselves are conducted in strict secrecy, the Court can conceive of no justification for the government holding off-the-record conversations with grand jurors. Also, defense counsel's objection to the prosecutor's rewording of jurors' questions before propounding them to the witness is understandable. Although the prosecutors may act in complete good faith, they may alter subtly the direction of the jurors' questions. The Court is unable to find any authority, however, for defendant Gray's assertion that such prosecutorial actions constitute misconduct so as to taint the indictment and require its dismissal.

The Court finds the government has not acted improperly in passing on documents and testimony from one grand jury to a successive grand jury investigating the same alleged illegalities.

Court approval is not required to use the minutes of one grand jury before a second grand jury in the same district. United States v. Garcia, 420 F.2d 309 (2d Cir. 1970). The Court is not persuaded by the court's reasoning in In Re Grand Jury Investigation of Banana Industry, 214 F. Supp. 856

(D. Md. 1963) that a different rule should be fashioned if prosecutors attempt to introduce evidence gathered before one grand jury before another grand jury sitting in another jurisdiction which is investigating the same alleged criminal offenses. The new rule 6(e) does allow disclosure of grand jury materials to a government attorney for use in the performance of his duty. United States District Court R. Crim. P. 6(e)(A)(i)(1977). Nor does Gray have, as he claims, a statutory right under Rule 6(g), F.R. Crim. P. to indictment within eighteen months of the commencement of a grand jury investigation. ^{1/}

(e) Failure to Charge Proper Offense

In a challenge to the right of the government to prosecute them on the felony charge under 18 U.S.C. § 241 ^{2/} the defendants contend that inasmuch as they were law-enforcement officers (executive officials of the F.B.I.) during all relevant times of the alleged conspiracy, the government is restricted on its ability to charge them with criminal conduct in this case by the provisions of 18 U.S.C. § 2236, ^{3/} which punishes as a misdemeanor warrantless searches of private dwellings by federal law enforcement officers.

^{1/} The Court also finds the government neither abused the grand jury procedure nor harrassed defendant Gray in violation of his Fifth Amendment or statutory rights, Rule 6(g), F.R. Crim. P. by carrying on successive grand jury investigations and investigations in different jurisdictions.

^{2/} Section 241 in pertinent part provides:

If two or more persons conspire to injure, oppress, threaten or injure any citizen in the free exercise of enjoyment or any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same . . . they shall be fined not more than \$10,000 or imprisoned not more than ten years, or both . . . "

^{3/} Section 2236 provides in relevant part:

Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search . . . shall be fined for a first offense not more than \$1,000; and for a subsequent offense, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Defendants argue that under general principles of statutory construction the government must prosecute allegedly criminal conduct under the more specific statute rather than under one which is more general. Also, they urge that since penal statutes are always construed against the government, they can only be prosecuted for their actions under the statute which prescribed the milder penalty.

The most appealing argument of the defendants is that Section 2236 was enacted precisely to immunize to some extent federal law enforcement officers who overstep their legal authority in the pursuit of crime. They urge that the entries alleged in the indictment are exactly the kind of overzealous police behavior Section 2236 was meant to reach and immunize from prosecution as felonies.

The Court is not persuaded to this view. The statute speaks of the federal law enforcement officer who "searches any private dwelling used and occupied as such dwelling without a warrant directing such search . . ." The surreptitious entries alleged in the indictment do not appear to be the warrantless searches to which § 2236 speaks. The warrant procedure assumes that an individual will know when and under what authority a government officer has the right to enter and search his house, and exactly what he does while there. It is an open process in which the individual whose home is searched is presented with a copy of the warrant. And even if no one is on the premises at the time of the search a copy of the process and a receipt for any property taken is left on the premises, Rule 41(d) F.R. Crim. P.; usually tacked onto the door or in some other conspicuous place. If no seizure is in fact made, the copy of the warrant indicates as much.

The type of search described in this indictment depends for its efficacy on secrecy. It is most closely compared to wiretapping, which to be effective must be seizure of conversations of a person who does not know he is being monitored. There is no indication that Congress contemplated such covert activity in connection with Section 2236. In fact, the words of Section 2236 appear not to apply to the conduct alleged in this indictment since it speaks of a search conducted "without a warrant directing such search." No warrant could be issued for a surreptitious search. Thus it appears that the police conduct which the statute relegates to misdemeanor status is not the same as alleged in the indictment.

At any rate, 18 U.S.C. § 241 which makes punishable as felonies conspiracies to violate the civil rights of citizens does not carry the limitation present in the general conspiracy statute, 18 U.S.C. § 371, which restricts certain conduct to the misdemeanor category. It appears that, regardless of the means employed, the type of conspiracy proscribed by 18 U.S.C. § 241 is a felony.

(f) Legal Insufficiency and Failure to State an Offense

The indictment sets forth the elements of the offense and the facts which the government contends constitute defendants' criminal action. The defendants have been, in other words, informed of the charges against them so that they can prepare an adequate defense, and be able to plead double jeopardy if the government attempts to bring a second prosecution against them after they have been once acquitted.

For the foregoing reasons all motions to dismiss are denied.

(g) Severance

Defendants Miller and Felt move for severance from defendant Gray, and Gray requests that his trial be severed from that of his two co-defendants. Relative to these requests the prosecution has made a proffer of the general nature of its evidence against all defendants.

Gray argues that Miller's and Felt's defenses will, in all likelihood, be that Gray as Acting Director of the F.B.I. directed them to carry out "black bag jobs" relating to the Weatherman Underground investigation. Gray flatly denies that he did. Gray disputes his co-defendants' account of the talk he gave at a SAC conference and Miller's account of a private conversation between Miller and Felt will say led them to believe Gray had authorized them to approve "black bag jobs" by F.B.I. agents.

In Rhone v. United States, 365 F.2d 980 (D.C. Cir. 1966), the court stated the test for severance for this Circuit: "where the defendants present conflicting and irreconcilable defenses and there is a danger that the jury will unjustifiably infer that this conflict alone demonstrates that both are guilty."

To the extent that conflict of defenses exists in this case it does not appear to be of such a nature that it will lead the jury to believe that all defendants are guilty.

In United States v. Gambrill, 449 F.2d 1148 (D.C. Cir. 1971), one defendant wishes to disassociate himself from what he judged was an incredible alibi of his co-defendant. The weakness of one defendant's alibi infected the credibility of his co-defendant's defense. Here one defendant is attempting merely to shift the blame from himself to the other defendants. The type of conflict present in this case

occurs frequently in criminal trials, but this circumstance does not require severance. ^{4/}

Defendant Gray's contention that the evidence against his co-defendants is so much greater in weight and amount than that against him that the trials must be severed is unpersuasive. The type of evidence which the government proffers that it will offer against Miller and Felt will be different from that which is offered against Gray. Yet the weight of the evidence against the two groupings of defendants does not seem so disparate as to prejudice any one in his defense. Apparently Bruton problems do not exist at this stage. Bruton v. United States, 391 U.S. 123 (1968). All three defendants seem ready to testify at trial, and the scope of each defendant's cross-examination of his co-defendants will not be unduly restricted. This is not a case where any defendant will secure exculpatory testimony from a co-defendant at a severed trial which he cannot secure at a joint trial. See United States v. Gleason, 259 F. Supp. 282 (D.C.N.Y. 1966). At least no defendant has made a sufficient showing to that effect.

The Court rejects defendant Miller's contention that he may be convicted primarily on inculpatory evidence introduced against him by his co-defendants, rather than by the evidence the prosecutors present. The government in putting on its case-in-chief must present enough substantial evidence against each defendant to survive motions for acquittal.

It appears to the Court that the motions to sever should be, and they are denied.

4/ To the extent that discussion relative to the issue in United States v. Erhlichman, 546 F.2 910, at 929 (D.C. Cir. 1976) may suggest the contrary, I do not regard it as a mandate for severance in the circumstances of this case. My assessment of the likelihood of a fair trial for all the defendants in a joint proceeding is predicated upon the proffer of government counsel and the corresponding failure of the defendants to demonstrate the inevitability of unfairness.

2. DISCOVERY

The defendants' discovery motions seek information and materials which might support their positions on the several motions to dismiss the indictment, and also bolster their theories of defense to the charges. Inasmuch as the Court has denied the various motions to dismiss, all discovery requests in aid of such motions are denied. ^{5/}

Many of the requests which might relate to a theory of defense have been settled by the parties. Those remaining have been submitted for determination by the Court.

Defendant Gray's Requests

1. Defendant Gray seeks discovery to prove that any activity alleged to be illegal was undertaken without his knowledge or authorization. He seeks any information about warrantless surveillance techniques which took place from 1960 to the present to demonstrate that even after Hoover had ordered the end to "black bag jobs", agents in the field continued to carry them out.

The Court grants defendant Gray's discovery request 13 but narrows it to:

- (1) the period from 1966 (the date Hoover officially cut off "black bag jobs") to the present;
- (2) only those surreptitious entries and searches of the type alleged in the indictment; and
- (3) only those searches not authorized by the Attorney General or President.

5/ Prejudicial pre-trial publicity - Gray requests 51, 52, 53, 54, 55, 56 and 57; Felt requests E4 and E6.

Prejudicial pre-indictment delay - Gray requests 48; Felt requests E1, E2, E3, and E5; Miller requests 19 and 21.

Selective prosecution - Gray requests 19, 20, 21, 22, 23, 24 and 25; Felt requests D1 - D6; Miller requests 22, 23, 24, 25, and 26

Prosecutorial misconduct - Gray requests 44, 45, 46 and 47.

It is reasonable for the Department of Justice to delete the names of participants and targets only if the general nature of the investigation or target can be described to the defendants.

The government should comply with Gray's discovery request 15 with respect to the "June" and "Do Not File" files with the same limitations as listed for Request 13. Request #16 is granted, but only with respect to reports and worksheets from any office out of which street agents would operate to carry out the surreptitious entries alleged in this indictment. The government need provide documents from only those inspections for the time period of the conspiracy alleged in the indictment.

Request #17 is denied because defendant Gray has failed to show the materiality of these investigations to his defense. So much of request #18 is granted as relates to the Weatherman Organization or to terrorists who might be understood to include the Weatherman Underground.

2. Gray seeks discovery which might reveal that these surreptitious entries were authorized by the President or the Attorney General, and would, therefore, have been legal. The Court agrees with the government that information about authorization for surreptitious entries in investigations other than that of the Weatherman fugitives is immaterial. Gray's requests 28 and 29 are denied. Insofar as the documents discuss the Weatherman fugitives or terrorist groups which could be reasonably understood to include the Weatherman fugitives, request #30 is granted. Similarly with respect to requests 31 and 32 the government must provide documents (F.B.I. files or communications between and among the White house, Department of Justice and F.B.I.) which speak of methods of dealing with the Weatherman fugitives and with terrorist groups which could be understood to include the Weatherman fugitives.

Requests 38 and 39 are denied.

3. Gray also suggests he can defend against the charges in the indictment on the grounds that the surreptitious entries were "conducted in response to a threat to the national security which justified the use of surreptitious entries without warrants." The law is clear in the area of wiretaps (to which surreptitious entries have been analogized) that only the Attorney General or President can authorize warrantless wiretaps in the name of national security; and they must do so in particular cases. Katz v. United States, 389 U.S. 347, 364 (1967); (White, J., concurring); Giordano v. United States, 394 U.S. 310, 314-315 (1969); United States v. United States District Court (Keith), 407 U.S. 297, 321-322 (1972); United States v. Ehrlichman, 546 F.2d 910, 925-928 (D.C. Cir. 1976).

In this Circuit the question has been left open whether or not a warrantless surreptitious entry is like a wiretap. Id. at 925. But here, as in Ehrlichman the Court must deny Gray's discovery on the grounds he has made no proffer that the President or Attorney General authorized this search. Thus, it could in no way have been legal. Requests 40, 41, 42, and 43 are denied.

Defendant Felt's Requests

The Court agrees with the government that Mr. Felt's discovery requests 1, 2, 3 and 4 should be denied on the grounds he has failed to make a proper showing of materiality [or reasonableness] as required by Rule 16. United States v. Haldeman, 559 F.2d 31, 75 n.88 (D.C. Cir. 1976), cert. denied sub nom Mitchell v. United States, 431 U.S. 933 (1977).

Felt asks in requests 10 and 12 for F.B.I. and Justice Department documents concerning the Weatherman fugitives, their friends and their relatives, which the agencies received or

maintained in their ordinary course of business, and in request 14 asks for those communications the President might have had with executive department employees or Congress about terrorist activities in the last 14 years. Requests 10 and 12 are denied since the defendant has failed to show their materiality. However, so much of request 14 as relates to Presidential conversations with executive department employees concerning the Weatherman Organization or terrorist activities which could be understood to include the Weatherman fugitives, during the period of the conspiracy alleged in the indictment, is granted.

Felt also requests statements of co-conspirators, trial witnesses and persons questioned during the investigation whom the government will not call at trial. He asks, too, for information about inducements or threats offered to witnesses. This Court agrees with government's objections to these requests, and they are denied. (Felt's requests B1-B5)

Requests C1 and C2 for the time period of the alleged conspiracy are granted; but C3 (beyond those materials the government has agreed to turn over), is denied on the grounds the defendant has not made a showing of materiality. C4 and part of C8 are granted, as possibly relevant to Felt's defense of reasonable reliance on the authority of his superior. United States v. Barker, 546 F.2d 940, 947-954 (D.C. Cir. 1976). However responses to C8 are narrowed to all documentary materials of the Executive Branch from 1968 to 1976 which classified, designated, or categorized the Weatherman Organization as a threat to the national security, a foreign dominated organization, or a group which collaborated with foreign agents.

Since the pivotal decision of Screws v. United States, 325 U.S. 91 (1945) the "specific intent" requirement under sections 241 and 242 has been interpreted to force the government to prove that (1) the constitutional right allegedly violated is clearly defined and plainly applicable to the facts of the case, and (2) the defendant acted with the purpose of denying the victim that right and not for any personal reason. See also United States v. Ehrlichman, supra at 921. The first is a legal question for the judge to decide. The second is a factual determination for the jury. It is clear that the Fourth Amendment rights claimed to be violated are clearly delineated and in fact similar if not identical to those rights involved in the conspiracy prosecution in Ehrlichman. Therefore it is not open to Felt to argue that he did not know his actions were illegal or for Miller to assert he was not put on notice of the illegality of his actions. Because the Court judges that this defense is not open to Felt, and because it has denied defendants' motions for dismissal on the grounds of selective prosecution, it will deny discovery requests D1-D6.

In response to Felt's F2 and F4 the Court orders that it be furnished documentary materials relating to the President's Foreign Intelligence Advisory Board which discuss terrorist groups which reasonably could be understood to include the Weatherman fugitives; and documentary materials since June, 1972 which reveal the redesignation of previously designated domestic intelligence subjects to foreign intelligence subjects.

The Court denied Mr. Felt's other discovery requests primarily on the ground he has failed to show their materiality to any defense he may have.

Defendant Miller's Requests

For the same reasons stated relative to defendant Felt's defense of specific intent, defendant Miller's requests 1-3 and 6 are denied.

Requests 4, 5 and 9 are granted without limitations.

The remaining requests are granted in part, as follows:

No. 8, limited to documents issued by the President, Attorney General, Department of Justice or F.B.I.;

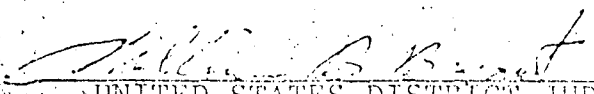
No. 10, insofar as it involves documents Mr. Miller might have seen during his tenure with the F.B.I.; and

No. 11, only as to F.B.I. or Justice Department documents, and only as to those with which Mr. Miller might have come into contact during his term at the F.B.I. The Court grants discovery with respect to the following subsections of No. 11, with the same restrictions as noted above: (b), (c), (d), (e), (i), and (j). The Court also grants (f), (g), and (h), but limits them to documents which refer to or involve the Weatherman fugitives.

Requests 12, 13, 14, 15, 16, and 17 insofar as they reach F.B.I., White House or Department of Justice documents which involve surreptitious entries in the Weatherman Underground investigation or refer to terrorist groups which can be reasonably understood to refer to the Weatherman fugitives.

SO ORDERED.

Aug 17, 1978


UNITED STATES DISTRICT JUDGE

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. McDermott *and*

DATE: 8-30-78

FROM : H. N. Bassett *HNB*




b6
b7C

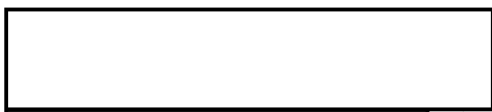



SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
DISCOVERY PROCEEDINGS
RELEASE OF PERSONNEL

SO
cu

PURPOSE: To record release of personnel.

DETAILS: The following personnel, except as indicated, will be released to return to their permanent assignments effective close of business Monday, 8-28-78:

SA  (cob 9-8-78)
 SA 
 SA 


 (cob 8-30-78)
 (cob 9-1-78)


b6
b7C

ST-130

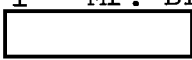
REC-79

62-118045-70

Sufficient manpower is being retained to handle processing of discovery materials mandated by recent court order of 8-17-78. In the event additional manpower is required, experienced personnel will be selected from those released in the interest of speed and efficiency, since time will then be of the essence.

2 OCT 13 1978
[Handwritten signature]

- 1 - Mr. Bassett
- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Mr. Joseph
- 2 - Mr. Long
- 1 - Mr. Groover
- 1 - Mr. Moore
- 1 - Mr. Herndon

- 5 - Mr. Bailey
- 1 - Mr. Awe
- 1 - Mr. Ramey
- 1 - Mr. Ryan
- 1 - Mr. Zolbe
- 2 - Mr. McCreight
- 1 - Mr. Bresson
- 1 - 

62-118045 b6
b7C

(CONTINUED - OVER)

PVD:ddf *[Handwritten initials]*



(17)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

79 OCT 17 1978

Bassett to McDermott Memo
Re: U. S. vs. L. Patrick Gray III, et al
Discovery Proceedings
Release of Personnel

It is anticipated that [redacted] in particular, will be recalled to handle new or follow-up classification actions during the balance of the discovery or during the trial in the event SA [redacted] is not available. The services of SAs [redacted] may also be needed for areas in which they are familiar for short periods of time. [redacted] may also be required for work in the MISUR/TESUR authorization record area for a period which is not expected to exceed one work week.

b6
b7C

The support of all FBIHQ Divisions who have furnished personnel for extended periods, in many cases from among their most competent employees, is deeply appreciated. We have been able to give this uniquely important project our best attention, as it obviously demanded and deserved.

Upon completion of the above changes, manning of the special will be as follows:

SA [redacted]
SA [redacted]
SA [redacted]
SA [redacted]
[redacted]

b6
b7C

Separate memoranda for individual evaluation are being submitted for departing personnel and to cover the status of Consultant [redacted] (retired SA).

b6
b7C

RECOMMENDATION: None. For record and information purposes only.

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Per. Ment. _____
Dep. AD Adm. <i>cm</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE:

L. PATRICK GRAY, III

Petitioner

No. _____

* * * * *

PETITION FOR A WRIT OF MANDAMUS TO
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
AND FOR OTHER RELIEF

est

OF COUNSEL:

Lionel E. Paskhoff, Esq.
Danzansky, Dickey, Tydings,
Quint & Gordon
Tenth Floor
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036
202-857-4000

Alan I. Baron
George W. Liebmann
Robert B. Levin

1300 Mercantile Bank & Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201
301-547-0500

62-118045-

Counsel for Petitioner

NOT RECORDED

2 OCT 13 1978

1- ENCLOSURE

September 13, 1978

File - 4



Greenberg/Gray-2538

79 OCT 17 1978

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. _____

In Re: L. Patrick Gray, III,
Petitioner

PETITION FOR A WRIT OF MANDAMUS
TO THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLUMBIA
AND FOR OTHER RELIEF

STATEMENT OF FACTS

Petitioner, L. Patrick Gray, III, seeks a writ of mandamus to the Honorable William B. Bryant, Chief Judge, United States District Court for the District of Columbia, directing him to enter an order dismissing the indictment as to the defendant, L. Patrick Gray, III, or in the alternative, granting defendant Gray the discovery, severance and change of venue sought in the motions referred to below, and for such other and further relief as may appear proper.

Briefly stated, the events giving rise to this Petition are as follows:

62-118045-

ENCLOSURE

Mr. Gray was the Acting Director of the Federal Bureau of Investigation for a period of eleven months, from May, 1972 to April, 1973. On April 10, 1978, an indictment against Gray (R. 1) was purportedly returned by a grand jury in the United States District Court for the District of Columbia. Two other defendants were named in the indictment: W. Mark Felt, Acting Associate Director of the FBI, and Edward S. Miller, Assistant Director, head of the Domestic Intelligence Division, which supervised the FBI's Weatherman investigation. Both Miller and Felt were career officials of the FBI and between them had a combined experience of 52 years with the Bureau. The indictment purported to charge that Gray, Miller and Felt conspired to violate the rights of citizens by utilizing the technique of "surreptitious entries" into premises occupied by friends and relatives of Weatherman fugitives in search of information which might lead to the whereabouts of such fugitives in violation of 18 U.S.C. Section 241.

On May 22, 1978, defendant Gray filed certain motions which will be discussed below.

1. Gray's Motion for Severance.

Defendant Gray moved for a severance of his trial from that of the other defendants (R. 397)¹, urging that his defense to the charges against him was fundamentally and irrevocably in

¹The designation "(R. _____)" refers to the two volumes of exhibits filed herewith, which comprise relevant portions of the record in the trial court.

conflict with the defense tendered by defendant Miller (R. 398), that the weight of the evidence against defendants Miller and Felt was far greater than the weight of the evidence against him (R. 398), and that the grand jury statements by defendants Miller (R. 656-57, 702-05) and Felt (R. 749, 793-94) containing incriminating statements as to Gray, inadmissible as to Gray, required a severance under the principle of Bruton v. United States, 391 U.S. 123 (1968).

Gray's motion for severance was accompanied by a substantial memorandum (R. 400-09) and supported by a substantial reply memorandum and exhibits (R. 426-38). The essence of Gray's position, more fully set out in these memoranda, was that Miller and Gray are "on a collision course" because Miller claims Gray authorized so-called "bag jobs" in domestic cases and Gray bitterly denies any such authorization. If Gray is forced to go to trial with Miller, he will be caught in the hostile cross-fire of the prosecution and his co-defendant. Under such circumstances, a severance is required. See Rhone v. United States, 365 F. 2d 980, 981 (D.C. Cir. 1966); United States v. Robinson, 432 F. 2d 1348, 1351 (D.C. Cir. 1970); United States v. Bolden, 514 F. 2d 1301, 1310 (D.C. Cir. 1975); United States v. Gambrill, 440 F. 2d 1148, 1162-63 (D.C. Cir. 1971) and the discussion in the memoranda in support of Gray's motion for severance relative to the implications of United States v. Ehrlichman, 546 F. 2d 910, 929 (D.C. Cir. 1976) (R. 405-06).

Greenberg/Gray-2541

Moreover, it is now clear that there is a gross disparity in the weight of the evidence against Gray, as contrasted with the evidence against the defendants Miller and Felt. It is undisputed that Gray knew absolutely nothing about the surreptitious entries alleged in the indictment. He was never consulted about them either before or after they occurred. Gray never saw any of the memoranda generated in connection with these entries. He was never apprised of the results of such entries. In short, Gray knew nothing about the particular entries which form the basis for overt acts 6 - 32 of the indictment (R. 3-6). In fact, overt acts 30 - 32 occurred after Gray was no longer associated in any way with the FBI.

Perhaps the most graphic illustration of Gray's lack of knowledge is found in the Government's Responses to Gray's Request for a Bill of Particulars. Because the request and response are separate documents (R. 230-37, 257-59), the pertinent requests followed by the responses thereto are set out below:

"12. As to Overt Act No. 1, specify the date, time, place and substance of the conversation alleged therein.

A. The request impermissibly seeks as particulars what is in fact evidentiary details much of which has been supplied as discovery and/or will be supplied 30 days before trial as Jencks and Brady material, (if any) . . .

13. As to Overt Act No. 2, identify by name and last known address the 'group of F.B.I. officials' referred to therein and state the substance of the remarks allegedly made by Mr. Gray on the occasion described.

A. See 12 above.

14. As to Overt Act No. 4, identify by name and last known address the 'group of F.B.I. officials' referred to therein, and state the substance of the remarks allegedly made by Mr. Gray on the occasion described.

A. See 12 above.

15. As to Overt Act No. 5, identify by name and last known address the "F.B.I. agents" referred to therein and the person or persons who gave the 'lecture' referred to.

A. See 12 above.

16. As to Overt Act No. 5, state the substance of the lecture allegedly given as referred to therein.

A. See 12 above.

17. As to Overt Act No. 6, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the memorandum referred to therein during his tenure as acting director of the F.B.I.

A. No.

18. As to Overt Act No. 7, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I.

A. No.

19. As to Overt Act No. 8, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the memorandum described therein during his tenure as acting director of the F.B.I.

A. No.

20. As to Overt Act No. 9, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication described therein during his tenure as acting director of the F.B.I.

A. No.

21. As to Overt Act No. 10, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to either the memorandum or the conversation referred to therein during his tenure as acting director of the F.B.I., and identify the person with whom defendant Miller is alleged to have spoken, and the time and place of such conversation.

A. No, see 12 above.

22. As to Overt Act No. 12, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I.

A. No.

23. As to Overt Act No. 12, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the memorandum described therein during his tenure as acting director of the F.B.I.

A. No.

24. As to Overt Act No. 13, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication referred to therein during his tenure as acting director of the F.B.I.

A. No.

25. As to Overt Act No. 14, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to either the memorandum or the conversation referred to therein during his tenure as acting director of the F.B.I., and identify the person with whom defendant Miller is alleged to have spoken, and the time, place and substance of such conversation.

A. No, see 12 above.

26. As to Overt Act No. 15, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify by name and last known address the 'agents' referred to therein.

A. No, see 12 above.

27. As to Overt Act No. 16, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication referred to therein during his tenure as acting director of the F.B.I.

A. No.

28. As to Overt Act No. 17, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify by name and last known address the 'agents' referred to therein.

A. No, see 12 above.

29. As to Overt Act No. 18, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication described therein during his tenure as acting director of the F.B.I.

A. No.

30. As to Overt Act No. 19, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify by name and last known address the 'FBI agents' referred to therein.

A. No, see 12 above.

31. As to Overt Act No. 20, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication described therein during his tenure as acting director of the F.B.I.

A. No.

32. As to Overt Act No. 21, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify by name and last known address the 'FBI agents' referred to therein.

A. No, see 12 above.

33. As to Overt Act No. 22, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication described therein during his tenure as acting director of the F.B.I.

A. No.

34. As to Overt Act No. 23, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to either the memorandum or the conversation referred to therein during his tenure as acting director of the F.B.I., and identify the person with whom defendant Miller is alleged to have spoken and the time, place and substance of such conversation.

A. No, see 12 above.

35. As to Overt Act No. 24, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I.

A. No.

36. As to Overt Act No. 25, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the memorandum referred to therein during his tenure as acting director of the F.B.I.

A. No.

37. As to Overt Act No. 26, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I.

A. No.

38. As to Overt Act No. 27, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to either the memorandum or the conversation referred to therein during his tenure as acting director of the F.B.I., and identify the person with whom defendant Miller is alleged to have spoken, and the time, place and substance of such conversation.

A. No, see 12 above.

39. As to Overt Act No. 28, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify by name and last known address the 'agents of the FBI' referred to therein.

A. No, see 12 above.

40. As to Overt Act No. 29, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the memorandum referred to therein during his tenure as acting director of the F.B.I.

A. No.

41. As to Overt Act No. 30, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication referred to therein during his tenure as acting director of the F.B.I.

A. No.

42. As to Overt Act No. 31, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the surreptitious entry described therein during his tenure as acting director of the F.B.I., and identify the 'agents of the FBI' by name and last known address referred to therein.

A. No, see 12 above.

43. As to Overt Act No. 32, state whether or not the Government contends that the defendant Gray was ever made aware of or consulted with regard to the communication referred to therein during his tenure as acting director of the F.B.I.

A. No."

In sharp contrast, Miller and Felt have acknowledged that in varying roles, one or the other of them reviewed requests to make entries received from field agents, determined whether or not to authorize the entry, received the results of the entries, and made memoranda in that regard -- all without advising Gray. Under these circumstances, Gray contends that a severance should be granted, lest he be engulfed in the tidal wave of evidence against Miller and Felt. See United States v. Kelly, 349 F. 2d 720 (2d Cir. 1965); United States v. Gambrill, supra at 1159; United States v. Leonard, 494 F. 2d 955, 966 (D.C. Cir. 1974); McHale v. United States, 398 F. 2d 757, 758 (D.C. Cir. 1968) and the discussion in the memoranda filed on Gray's behalf (R. 406-09, 426-32).

The allegations as to conflicting defenses contained in the motion were confirmed by the Government's memorandum in support of its response to requests for discovery (R. 851-52).

The allegations as to disparity in the weight of the evidence were confirmed by the Government's Bill of Particulars (R. 230-37, 257-59), as well as the aforesaid memorandum (R. 851-52).

The allegations as to Bruton statements were confirmed by the aforesaid grand jury transcripts delivered to the court (R. 656-57, 702-05, 749, 793-94). Notwithstanding the provision of F.R.Cr.P. Rule 14 that "for ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection in camera any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial", cited to the court by Gray (R. 400 n.1), the court imposed no such requirement before ruling on the motion and upheld the government's refusal (R. 839) to produce the Rule 14 materials called for by Gray's Discovery Request No. 10 until 30 days before trial.

In its ruling on severance, the Court expressly declined to follow the standard for severance clearly enunciated by this Court in United States v. Ehrlichman, 576 F. 2d 910, 929 (D.C. Cir. 1976) (R. 390 n.4). Contrary to even the Government's analysis, the court minimized the disparity in the weight of the evidence against Miller and Felt, who concededly participated in the overt acts alleged as acts 6, 10, 14, 23 and 27 of the indictment (R. 3-6) as compared with that against Gray, who concededly did not participate

and was not even aware that such acts occurred (R. 230-37, 257-59). The court minimized the fact acknowledged by it at the opening of its opinion that the case against Gray rests on an allegation that he "orally gave 'generic authorization'" (R. 382) and the fact that the Government has conceded that as to the occasions of these oral statements "some attendees do not recall such remarks" (R. 839) as well as the fact that the agendas to which overt acts 3 and 4 made reference were before the court (R. 433-38) and were innocuous in character.

2. Gray's Motion to Dismiss for Abuse of Grand Jury Process.

On May 22, 1978, Gray moved to dismiss the indictment on the basis of various irregularities in the grand jury process which denied Gray the rights accorded him by the Sixth Amendment as a felony defendant to indictment by a properly functioning grand jury. These irregularities included the action of Government counsel in totally precluding questioning by grand jurors of Mr. Gray during or after his testimony (R. 449-50, 456, 462, 620-21), the action of Government counsel in advising the grand jurors that the decision whether to indict Gray was one not for the grand jury but for the grand jury and no less than ten "honorable men and women" (R. 450), Government counsel who flooded the grand jury room during and after Gray's testimony, and the action of Government counsel in placing off the record all comments or questions by grand jurors or by prosecutors to grand jurors, all the subject of Gray's motion to dismiss the indictment for prosecutorial misconduct

before the grand jury (R. 54, 58-63, 335-38). The Government tendered no explanation for the unparalleled misconduct of Government counsel before the grand jury (R. 294 n.4). The Court, notwithstanding its findings that "no apparent reason exists for prosecutors to have discussions with jurors off the record during grand jury proceedings" and that "defense counsel's objection to the prosecutor's rewording of jurors' questions before propounding them to the witness is understandable," denied relief on the curious ground that no precedent existed for dismissal of the indictment for such misconduct (R. 385), there being no other previously reported cases of such misconduct.

3. Gray's Motion to Dismiss for Prejudicial Pretrial Publicity.

On May 22, 1978, Gray also moved to dismiss the indictment on the basis of other unparalleled irregularities in the grand jury process (R. 94-166, 313-26), denying him his constitutional right to a properly returned indictment. These derived from a large number of press statements made by the initial team of prosecutors investigating Gray (R. 97-99, 128-50) ascribed by the press to Department of Justice sources, derived also from two public statements by the Attorney General of the United States following indictment, declaring that subordinate officials having nothing to do with the acts alleged in the indictment were not prosecuted because "I thought they were told to do it" and further suggesting that the instant indictment was of limited concern because the

indicted officials "would not have much done to them in the end" (R. 151-54, 100, 156-61, 321-22), and derived also from volunteered testimony of the original prosecution team before a Congressional committee after return of the indictment (R. 100-01, 160, 871 ff.). The Government, in its response, failed to tender or proffer any affidavits from the original team of Government lawyers which in any way would answer or dispel the inference from press accounts that they made repeated extrajudicial press statements in violation of court rules, the Code of Professional Responsibility, and the Department of Justice's own published guidelines for the conduct of Government attorneys, or which shed any light, favorable or otherwise, on the circumstances surrounding their volunteered appearance before a Congressional committee. The Government's response effectively concedes the impropriety of the Attorney General's remarks (R. 280-81).

The action of Government counsel in prohibiting on-the-record questions or comments by grand jurors or statements or questions by grand jurors while witnesses were present rendered it difficult to determine from examination of the grand jury transcript that the massive amount of Government-generated publicity was non-prejudicial. Under these circumstances, inquiry into the exact nature of that publicity was clearly appropriate. Notwithstanding this, the Court denied (R. 391 n.5) defendant Gray's motions for discovery as to questions by grand jurors and Government-generated publicity (R. 208-10), refrained from requesting any affidavits or

internal investigation from the Justice Department, refrained from any form of criticism or censure of the outrageous conduct of Government counsel, including the Chief of the Criminal Section of the Civil Rights Division, and disposed of defendant Gray's motion in two sentences (R. 383).

4. Gray's Motion for Change of Venue.

On May 22, 1978, defendant Gray filed a motion for change of venue (R. 184) pointing out the unfairness of requiring Gray to defend himself nearly 400 miles from his home, particularly where medical testimony indicated that this would be a highly aggravating factor relative to Gray's medical condition (R. 192). The court, in its ruling, totally failed to discuss or expressly rule on this motion, but instead established an October 23, 1978 trial date in the District of Columbia.

5. Gray's Motion to Dismiss the Indictment on Grounds of Duplicity.

On May 22, 1978, Gray filed a motion to dismiss the indictment on grounds of duplicity (R. 177) and filed memoranda in support thereof (R. 179-182, 332-335). It is Mr. Gray's position that the indictment on its face alleges two conspiracies, based essentially on the fact that certain entries charged as overt acts pursuant to a conspiracy took place after Gray was no longer acting director of the FBI and therefore, could not possibly have occurred with his participation or pursuant to his authority. The court, in its ruling of August 17, 1978, declared "all motions to dismiss are denied" (R. 388) and utterly failed to discuss or

in any manner consider the motion to dismiss on grounds of duplicity.

6. Gray's Motion to Dismiss for Failure to Indict Under the Appropriate Specific Statute.

Defendant Gray moved to dismiss the indictment on the grounds that the specific statute, Title 18, Section 2236, rather than the general statute, Section 241, was the statute under which the Government was required to proceed. (See the discussion at R. 368-378). The court, though obviously troubled by the Government's indictment under a highly general felony statute rather than a more specific misdemeanor statute (R. 386-88), failed to come to grips with many important considerations bearing on this question raised by defendants Felt and Gray, including the Government's prior construction in practice of Section 241 (R. 19), the legislative history of Section 2236 (R. 304), the view taken of the scope of the two statutes in recent revision proposals (R. 373-74), and the disregard of the limiting language in Section 241 limiting prosecutions under that section for trespassing on premises to persons who "go in disguise." (R. 373).

7. Gray's Motion to Dismiss the Indictment on Grounds of Legal Insufficiency.

On May 22, 1978, defendant Gray filed a motion to dismiss the indictment on grounds of legal insufficiency (R. 35, 341-358). In this motion, Gray urged two grounds for dismissal: 1) that the indictment omitted words of criminality, an objection raised by all defendants and, 2) that as to Gray alone the indictment read with the bill of particulars proceeded on a theory of "generic authori-

zation" or vicarious liability inconsistent with the nature of 18 U.S.C., Section 241, which defines an offense of specific intent. Although in its opinion the court discussed briefly the first ground of insufficiency (R. 388) and although its opinion elsewhere recognized the continuing applicability of the principle of Screws v. United States, 325 U.S. 91 (1945), accurately described as a "pivotal decision," (R. 395), the opinion totally failed to discuss Gray's challenge to the Government's theory of generic authorization or vicarious liability. Moreover, the Court failed utterly to deal with the serious contention that a charge alleging a conspiracy to use the "technique of surreptitious entry" does not state a crime. Given the fact that "surreptitious entries" as such are not criminal acts, in the absence of a positive charge by the grand jury that the entries in question were warrantless or unauthorized, the indictment fails to allege an offense. See the discussion at R. 35-50. The court failed utterly to deal with the issues raised by said motion to dismiss for insufficiency.

8. Gray's Motions to Dismiss the Indictment for Absence of an Authorizing Signature, Improper Use of Successive Grand Juries, and for Selective Prosecution.

On May 22, 1978, defendant Gray filed a motion to dismiss the indictment for absence of a sufficient authorizing signature (R. 54, 358), for improper use of successive grand juries (R. 64, 335) and for selective prosecution (R. 167, 327), all grounds going to whether a prosecution was properly initiated, not whether the indictment was legally sufficient. The court, in its opinion on

on the first of these issues, improperly equated authority to appear before the grand jury to authority to sign an indictment (R. 385). In its opinion on the second issue, the court expressly declined to follow directly pertinent authority bearing on its determination (R. 386). In its opinion on the issue of selective prosecution, the court overlooked and failed to decide Gray's contention that the prosecution against him was invidiously motivated by the desire to proceed against a political appointee rather than more culpable career officials and failed to discuss the support given this contention by Congressional committee testimony of prosecutors themselves (R. 329, 871 ff.).

The court also totally failed to discuss Gray's contention, like most of the other motions, peculiar to him only, that the totality of the Government's misconduct rendered appropriate dismissal of the indictment as to him (R. 362-66).

9. Gray's Motion to Dismiss for Prejudicial Pre-Indictment Delay.

The court, in ruling on Gray's motion to dismiss on grounds of pre-indictment delay "accepted the government's explanation that the complexities of this case -- legal and policy ones -- necessitated a delay between the start of the investigation and the indictment." (R. 384), but failed even to discuss sworn contrary testimony as to the reasonableness of the delay by some of the prosecutors themselves (R. 871 ff.).

STATEMENT OF ISSUES PRESENTED

1. Whether the District Court abused its discretion in denying Gray's motion for severance.

2. Whether the District Court abused its discretion in permitting an indictment to go forward returned by a grand jury impaired in the exercise of its own constitutional functions as to Gray by improper directions by Government counsel, restrictions on questioning of witnesses by grand jurors, presence of excessive numbers of Government counsel in the grand jury room, and massive Government-generated pre-trial publicity.

3. Whether the District Court abused its discretion in denying Gray discovery as to Government-generated pre-trial publicity, notwithstanding the absence of any factual response or representation by the Government as to the apparent flagrant violations of applicable rules, regulations and canons by its officers.

4. Whether the District Court abused its discretion in permitting an improperly instituted prosecution to go forward by overruling the motions relating to absence of an authorizing signature, improper use of successive grand juries, selective prosecution and pre-indictment delay.

5. Whether the District Court denied Gray the benefit of the ordinary course of law by failing totally to rule on his motion for change of venue.

6. Whether the District Court denied Gray the benefit of the ordinary course of law by failing totally to rule on his

motions to dismiss founded on duplicity, on legal insufficiency of the Government's theory of "generic authorization" and vicarious liability, and on the totality of the Government's conduct of the prosecution as to him.

7. Whether the District Court abused its discretion in failing, in its ruling on the motion to dismiss upon the ground that the indictment was returned under Section 241 rather than Section 2236, to consider the prior construction of Section 241, the legislative history of Section 2236, and the limiting language as to trespasses on premises in Section 241.

STATEMENT OF REASONS WHY THE
WRIT SHOULD ISSUE

1. This Court has jurisdiction to issue the extraordinary writs prayed for by virtue of the All Writs Statute, 28 U.S.C. Section 1651.

2. As to the question of severance raised as Issue 1 above, the appropriateness of review by mandamus is recognized in numerous cases. See United States v. Garber, 413 F. 2d 284 (2d Cir. 1969); Application of Gottesman, 332 F. 2d 975 (2d Cir. 1964); Application of Edwards, 375 F. 2d 108 (2d Cir. 1967).

3. As to the question of proper institution of the prosecution raised as Issues 2 and 4 above, the appropriateness of review by mandamus is recognized in such cases in this circuit as Brown v. Fauntleroy, 442 F. 2d 838, 842 (D.C. Cir. 1971); Blue v.

United States, 342 F. 2d 894, 900 (D.C. Cir. 1964); United States v. King, 482 F. 2d 768 (D.C. Cir. 1973); Ross v. Sirica, 380 F. 2d 557 (D.C. Cir. 1967). As to the appropriateness of dismissal, see also United States v. Wells, 163 F. 313 (C.C. Ida. 1908); United States v. Caesar, 368 F. Supp. 328, 332 (E.D. Wisc. 1973); United States v. Houghton, 554 F. 2d 1219, 1224 (1st Cir. 1977); United States v. Sweig, 316 F. Supp. 1148, 1153-55 (S.D.N.Y. 1970); United States v. Grassia, 354 F. 2d 27, 29 (2d Cir. 1965); United States v. Heffner, 420 F. 2d 809 (4th Cir. 1970).

4. As to the discovery question raised as Issue 3 above, the appropriateness of review by mandamus is recognized in In Re Ellsberg, 446 F. 2d 954 (1st Cir. 1971); United States v. Hughes, 413 F. 2d 1244 (5th Cir. 1969); Madison-Lewis, Inc. v. McMahon, 299 F. 2d 256 (2d Cir. 1962).

5. As to the questions involving failure to give rulings raised as Issues 5, 6 and 7 above, the appropriateness of review by mandamus is recognized in such cases as United States v. Kysar, 459 F. 2d 422 (10th Cir. 1972). "The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943).

6. As to the questions involving change of venue raised as Issue 5 above, the appropriateness of review by mandamus is recognized in Jones v. Gasch, 404 F. 2d 1231 (D.C. Cir. 1967); Tasby v. United States, 451 F. 2d 394 (8th Cir. 1971); and see Platt v. Minnesota Mining & Mfg. Co., 376 U.S. 240.

7. On mandamus in criminal cases generally, see Comment, Supervisory and Advisory Mandamus Under the All Writs Act, 86 Harv. L. Rev. 595 (1973); United States v. United States District Court, 444 F. 2d 65 (6th Cir. 1971), aff'd. 407 U.S. 297, 307 n.3 (1971); United States v. Hughes, 413 F. 2d 1244 (5th Cir. 1969). It cannot be gainsaid that the present case is, in the language of the first case cited "in all respects an extraordinary case." Nor can it be denied that the second, third, fourth, sixth and seventh questions above listed are unsettled and of great general importance apart from this case, or that review by mandamus is appropriate as to questions of severance of change of venue.

In view of the fact that the lengthy memoranda which were previously filed in this case in support of various pre-trial motions have been reproduced for purposes of this Petition, and in order to avoid unnecessary delay in the preparation and filing of this Petition, the Petitioner respectfully invites the Court's attention to the following specific memoranda contained in the volumes of exhibits filed herewith:

1. Memorandum in Support of Defendant Gray's Motion to Dismiss Indictment for Legal Insufficiency	R. 35
2. Memorandum in Support of Defendant Gray's Motion to Dismiss the Indictment on the Basis of Absence of a Proper Authorizing Signature and Prosecutorial Misconduct before the Grand Jury	R. 54
3. Memorandum in Support of Defendant Gray's Motion to Dismiss Indictment on Grounds of Use of Successive Grand Juries and on Grounds of Misuse of the Grand Jury Process and Excessive Pre-Indictment Delay	R. 67
4. Memorandum in Support of Defendant Gray's Motion to Dismiss on Grounds of Prejudicial Pretrial Publicity	R. 94
5. Memorandum in Support of Defendant Gray's Motion to Dismiss Indictment on Grounds of Improper Selective Prosecution	R. 170
6. Memorandum in Support of Defendant Gray's Motion to Dismiss on Grounds of Duplicity	R. 179
7. Memorandum in Support of Defendant Gray's Motion for Transfer of Venue	R. 186
8. Reply Memorandum of L. Patrick Gray, III in Support of Motions to Dismiss Indictment	R. 311
9. Supplemental Memorandum of L. Patrick Gray, III, in Support of Motion to Dismiss on Grounds that 18 U.S.C. Section 2236 Renders 18 U.S.C. 241 Inapplicable to the Facts Alleged in this Indictment	R. 368
10. Memorandum in Support of Motion for Severance on Behalf of Defendant Gray	R. 400
11. Defendant Gray's Response to Opposition of the United States to Defendant's Motion for Severance and Relief from Prejudicial Joinder	R. 426

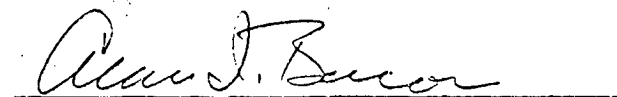
RELIEF REQUESTED

Petitioner prays that a Writ of Mandamus issue to the Honorable William B. Bryant, Chief Judge, United States District Court for the District of Columbia, directing him to enter an order dismissing the indictment as to L. Patrick Gray, III, or in the alternative, granting defendant Gray the discovery, severance and change of venue sought in the motions referred to above; and that Petitioner be granted such other and further relief as may appear proper.

OF COUNSEL:

Lionel E. Paskhoff, Esq.
Danzansky, Dickey, Tydings,
Quint & Gordon
Tenth Floor
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036
202-857-4000


George W. Liebmann


Alan I. Baron

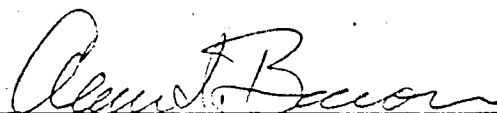

Robert B. Levin

Frank, Bernstein, Conaway &
Goldman
1300 Mercantile Bank & Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201
301-547-0500

Counsel for Petitioner,
L. Patrick Gray, III

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition for a Writ of Mandamus to the United States District Court for the District of Columbia and for Other Relief was mailed, this day of September, 1978, to The Honorable William B. Bryant, Chief Judge, United States District Court for the District of Columbia, United States Courthouse, Washington, D.C.; to Barnet D. Skolnik, Esquire, U. S. Attorney's Office, U. S. Courthouse, Baltimore, Maryland 21201; to Frank D. Martin, Esquire, Department of Justice, Washington, D.C.; Brian Gettings, Esquire, 1400 N. Uhle Street, Arlington, Virginia; and to Thomas Kennelly, Esquire, 1000 Connecticut Avenue, N.W., Washington, D.C.


Alan I. Baron

Greenberg/Gray-2563

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *WB*

DATE: 9-19-78

FROM : [Redacted] *b6 b7C*

SUBJECT: U. S. vs. L. PATRICK GRAY, ET AL

[Redacted]

b6 b7C

PURPOSE: The purpose of this memorandum is to advise of Department's request that we make camera available for forthcoming trial in captioned matter.

DETAILS: By memorandum dated 9-12-78 (copy attached), the Department has requested we make available at least two weeks before trial a document camera similar to the one used by the New York Office during the period 1972 to 1973. Trial Attorney Frank Martin, the author of the memorandum requesting the camera, was contacted by SA [Redacted] to determine if he knew what type of camera he had in mind. Martin was unable to further describe the camera in question, except that he was under the impression it was placed in an attache case. The trial in this matter is scheduled for 10-23-78.

b6 b7C

RECOMMENDATION: The Laboratory arrange, if possible, to comply with the Department's request by furnishing the document camera to SA [Redacted]

b6 b7C

ST-113

REC-39

62-118045-73X

- 1 - Laboratory Division
- 1 - Mr. Bassett
- 1 - [Redacted]

b6 b7C

22 DEC 6 1978

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec Mgnt. <i>HND</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

62-118045

SPECIAL SEC.

*ENCLOSURE
per letter 9/26/78
PVD
AS*

PVD:ddf
(4)

Greenberg/Gray-2566



Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HNY/fo*

DATE: 9-20-78

FROM : *NJB* b6
b7C

b6
b7C

SUBJECT: U. S. vs. EDWARD S. MILLER,
W. MARK FELT AND
L. PATRICK GRAY III

PURPOSE: To recommend attached teletype be sent to selected Field Offices to obtain information requested by the Department concerning reports given the Bureau by cooperative foreign intelligence services relating to the Weatherman.

DETAILS: By my memorandum 8-29-78, you were advised that in the court ordered discovery in captioned matter, Judge William Bryant ordered inter alia the release of all reports furnished by cooperative foreign intelligence services which Mr. Miller might have come in contact with while employed by the FBI as they relate to Weatherman fugitives. The Department is concerned with this aspect of the Judge's order, realizing that the interested cooperative foreign intelligence services would not agree to a release of such material should the Government furnish such material absent such approval.

In an effort to satisfy the court and yet protect the cooperative foreign intelligence services, Barnet Skolnik, Chief Prosecutor in this matter, met with Mary Lawton, Deputy Assistant Attorney General of the Legal Counsel, Deputy Assistant Attorney General Robert Keuch of the Criminal Division, and Francis J. Martin, a trial attorney assigned to this case, to discuss ways of accommodating the court and the defense. The Bureau was not represented at this meeting. On 9-18-78, SA met with Mary Lawton, Francis J. Martin, and Breck Willcox of the Department at which time they explained that while they had no intention of furnishing the information received by the FBI

REC-79 62-118045-74

Enclosure

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Mintz b6
- 1 - Mr. Moore b7C
- 1 - Mr. Bassett
- 1 -

(CONTINUED - OVER)

Greenberg/Gray-2567

PVD: jlf

[redacted] to Bassett Memo
Re: U. S. vs. Edward S. Miller,
W. Mark Felt, and
L. Patrick Gray III

b6
b7C

from cooperative foreign intelligence services, they did wish to be able to summarize for the court in some fashion the volume and nature of the information in question. As a result of that meeting, by memorandum dated 9-19-78, we were requested to obtain certain information covering both cooperative foreign intelligence services as well as certain third agencies. As The third agencies material relates to Central Intelligence Agency and National Security Agency information which, while relevant because of objections of those agencies, has not been furnished to the defense. The memorandum is erroneous in that it states we have segregated all the cooperative foreign intelligence service material called for by the court ordered discovery and that to gather the information sought in the memorandum would not be difficult. This was brought to the attention of both Frank Martin and Mary Lawton by SA [redacted]. Nonetheless, the Department desires the information to be gathered as expeditiously as possible, hopefully early in the week of October 2, 1978.

b6
b7C

In an effort to gather the material necessary, the attached teletype is directed to the border offices that would have direct dealings with the [redacted] and to those offices which were origin in certain Weatherman investigations, the FBI Headquarters files of which have been processed for release to defense counsel. It is necessary to canvass these offices to insure insofar as possible that all such reports from cooperative foreign intelligence services are identified, and it is felt that this is the best way to achieve that end. The material, of course, will not be furnished to the court or the defense in the absence of discussions with the appropriate third agencies or foreign intelligence services. We are not requesting the Field to review their files concerning third agency material from the Central Intelligence Agency or the National Security Agency since that material has already been segregated at FBI Headquarters.

b7D

RECOMMENDATION: That attached teletype be approved and sent.

pd

[redacted]

pm 5588

b6
b7C

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. *[initials]*
Dep. AD Inv. *[initials]*

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. *[initials]*
Tech. Servs. _____
Training _____
Public Affs. Off. _____

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

145

PAGE 1 OF 4

DATE: SEPTEMBER 20, 1978
CLASSIFICATION: UNCLAS ~~CONFIDENTIAL~~
PRECEDENCE: PRIORITY

~~#E145TPP AL BA BS BU BT CG CV DE MI NY PG SF SE WF DE HQ 18145~~

400PAP202054Z SEP 78

FM DIRECTOR

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 02-28-2009

TO TO FBI NEW YORK PRIORITY

FBI ALBANY PRIORITY

14 FBI BALTIMORE PRIORITY

FBI BOSTON PRIORITY

12 FBI BUFFALO PRIORITY Greenberg/Gray-2569

FBI BUTTE PRIORITY

10 FBI CHICAGO PRIORITY

FBI CLEVELAND PRIORITY

8 FBI DETROIT PRIORITY

FBI MILWAUKEE PRIORITY

6 FBI PITTSBURGH PRIORITY

FBI SAN FRANCISCO PRIORITY

4 FBI SEATTLE PRIORITY

ST-130

REC-79

62-118045-75

FBI WASHINGTON FIELD PRIORITY

2 BT

CLASS. BY SP2 TA/Plach
DATE OF REVIEW OADR

2 OCT 13 1978

UNCLAS

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY: [Signature] DRAFTER BY: PVD/DDF [Signature] DATE: 9-20-78 ROOM: 6888 - 4 TELE EXT.: 3542

- 1 - MR. ADAMS
- 1 - MR. MC DERMOTT
- 1 - MR. CREGAR
- 1 - MR. MINTZ
- 1 - MR. MOORE
- 1 - MR. BASSETT
- 1 - [Redacted]

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

SEP 21 1978
0344ZM
TELETYPE

Responses to attached retained. mat. material rec'd. Per [Redacted]

b6
b7C

DO NOT TYPE PAST THIS LINE

79 OCT 17 1978

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

~~CONTINUATION SHEET~~
~~CONFIDENTIAL~~

PAGE TWO RE DE HQ 0145 UNCLAS

U. S. VS. EDWARD S. MILLER, W. MARK FELT, AND L. PATRICK

GRAY III, BUDED SEPTEMBER 29, 1978.

(U) 18 THE BUREAU IN ACCORDANCE WITH COURT ORDERED DISCOVERY IN
 16 CAPTIONED MATTER HAS BEEN PROVIDING MATERIALS TO CAPTIONED
 14 INDIVIDUAL'S ATTORNEYS. IN THAT CONNECTION, THE COURT ORDERED
 12 INFORMATION FURNISHED BY COOPERATIVE FOREIGN INTELLIGENCE
 10 SERVICES BE FURNISHED TO THE DEFENSE. THE INTERESTED FOREIGN
 8 INTELLIGENCE SERVICES HAVE NOT AGREED TO SUCH A RELEASE, AND THE
 6 DEPARTMENT OF JUSTICE HAS PROTECTED THAT MATERIAL. BECAUSE OF
 4 THE NATURE OF THIS CASE, THE DEPARTMENT HAS ASKED THE BUREAU TO
 2 COLLECT CERTAIN INFORMATION SO THAT THEY MAY BE APPRISED OF THE
 AMOUNT OF MATERIAL COVERED BY THE COURT ORDER AS WELL AS THE
 NATURE OF THAT INFORMATION. WHILE MUCH OF THE MATERIAL IS IN
 HEADQUARTERS {HQ} FILES WHICH HAVE BEEN PROCESSED, IT IS
 NECESSARY IN VIEW OF THE IMPORTANCE OF THIS MATTER THAT WE
 INSURE INSOFAR AS POSSIBLE ALL SUCH MATERIAL IS LOCATED. TO
 THAT END, RECEIVING OFFICES ARE TO REVIEW THEIR WEATHERMAN ORGAN-
IZATION FILES AND FURNISH FBIHQ COPIES OF ALL COMMUNICATIONS
 EMANATING FROM COOPERATIVE FOREIGN INTELLIGENCE SERVICES.

~~ADDITIONALLY, THOSE OFFICES WHICH WERE ORIGIN IN THE FOLLOWING~~

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-2570

2

~~CONFIDENTIAL~~

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

b6
b7C

PAGE 3

~~CONTINUATION SHEET~~
~~CONFIDENTIAL~~

PAGE THREE DE HQ 0145 UNCLAS

INVESTIGATIONS SHOULD REVIEW THOSE INDIVIDUAL FILES AND DO
LIKEWISE. WE RECOGNIZE THAT THERE MAY BE SOME DUPLICATION BY
OFFICES RECEIVING THE SAME COMMUNICATION. SUCH DUPLICATION WILL
BE CORRECTED THROUGH A REVIEW AT FBIHQ. ~~(C)~~

[redacted] - SE100-459398; CG176-1711;

[redacted] - DE100-446593; CG176-1585; CG176-1588;

CG176-2007; [redacted] - NY100-455596; WF0176-1991; [redacted]

[redacted] - CG176-1641; NY100-438168; CG176-38; [redacted]

NY100-455389; CG176-2107; CG88-50192; [redacted] -

CG100-450008; CG88-50195; CG176-1637; CG176-264; DE176-2167

[redacted] - SF100-454261; [redacted] -

NY100-455977; NY100-455754; CG176-1765; [redacted] -

MI100-474880; MI100-452959; MI88-56609; [redacted] -

CG88-50450; MI100-446019; CV100-474867; CG176-1909; [redacted]

[redacted] - NY100-454116; [redacted] - BS25-523645;

NY88-51600; NY100-447736; [redacted] - CG105-175019;

CG176-1636; NY14-2995; [redacted] - CG100-457945;

BA25-622150; CG88-50397; CG176-1926; [redacted] -

NY100-474530; [redacted] - BS100-467329; [redacted]

[redacted] - BS100-477710; [redacted] - CG176-2004;

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-2571

~~CONFIDENTIAL~~

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 4

CONTINUATION SHEET

~~CONFIDENTIAL~~

PAGE FOUR DE HQ 0145 UNCLAS

[redacted] - SF174-2184; NY100-452121; CG176-1918;

20 [redacted] - DE105-177356; CG176-1674; [redacted] -

18 CG88-50403; NY100-451373; CG176-1984; [redacted] - NY100-477464;

[redacted] - NY25-584550; NY105-178669; WF0176-1340;

16 CG176-1700; MI44-43673; PG175-264; [redacted] -

DE100-461979; [redacted] - SF100-465959; [redacted]

14 [redacted] - WF0100-447957; CG176-254; CG176-1965;

NY100-452792; [redacted] - CG88-49004; DE100-451670;

12 CG176-1958; [redacted] - CG105-167915; PG176-1623;

CG176-229; CG176-2015; [redacted] - 100-457986;

10 [redacted] - NY100-449983; WF0176-2029; [redacted] -

NY100-451802.

DO NOT TYPE PAST THIS LINE

b6
b7C

(U) 8 IN ADDITION, RECEIVING OFFICES ARE REQUESTED TO SUTEL THE
 6 NUMBER OF COOPERATIVE FOREIGN INTELLIGENCE SERVICE REPORTS BY
 CLOSE OF BUSINESS SEPTEMBER 28, 1978, AND TO FURNISH COPIES OF
 4 THOSE MATERIALS TO REACH FBIHQ BY SEPTEMBER 29, 1978. FORWARD
 MATERIALS TO FBIHQ, ATTENTION: SA [redacted], ROOM 6888,
 JEH BUILDING. (C)

b6
b7C

BT

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-2572

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HMT*

DATE: 9-22-78

FROM : [Redacted] b6
b7C

[Redacted] b6
b7C

SUBJECT: U. S. vs. EDWARD S. MILLER,
W. MARK FELT, AND
L. PATRICK GRAY III

*Stuck ✓
AES*

PURPOSE: To advise of receipt from the Department of certain Grand Jury transcripts concerning captioned matter.

DETAILS: By memorandum dated September 20, 1978 (copy attached), *detached & from separate* Barnett Skolnik forwarded to SA [Redacted] copies of the Grand Jury testimony of [Redacted]

[Redacted] These transcripts have been reviewed by the National Security Agency (NSA) and are currently being reviewed by the Central Intelligence Agency for classification purposes. The material in the transcripts has been classified up to TOP SECRET - COMINT by NSA. We are currently reviewing them for classification purposes. It should be noted that copies of these transcripts are in the possession of the defense counsel at this time and that a cursory review shows that the material contained therein emanating from NSA is, in many instances, the very same material that NSA is anticipating claiming privilege on in connection with the court ordered discovery in this matter.

The transcripts will be expeditiously reviewed for classification considerations by FBI personnel. Access to these transcripts will be restricted to personnel having a need to review same for that purpose. At the conclusion of this review, we will correspond with the Department, advising them of the classification level of the transcripts. Additionally, if warranted, we will advise them of any action we feel they should take concerning the defense counsel's possession of this material.

SP-138
REC-79 62-118045-177
2 OCT 13 1978

RECOMMENDATION: None. For information.

Enclosure

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Colwell
- 1 - Mr. Cregar b6
- 1 - Mr. Mintz b7C
- 1 - Mr. Bassett
- 1 - [Redacted]

APPROVED: *[Signature]*
 Director
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *H*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____



79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 9/25/78

TO: DIRECTOR, FBI

FROM: *[Signature]* SAC, SAN FRANCISCO (100-65526) (#14) (P)

SUBJECT: U.S. vs. EDWARD S. MILLER,
W. MARK FELT, AND L. PATRICK
GRAY, III.
BUDED: 9/29/78

RE FBIHQ teletype to San Francisco dated 9/20/78.
SF teletype to FBIHQ dated 9/26/78.

In accordance with instructions furnished in referenced teletype, requested file search has been conducted in the San Francisco Division.

Attached is one copy of seven (7) serials which are communications emanating from Foreign Intelligence Services.

Be advised that referenced San Francisco teletype stated eight (8) serials would be forwarded. This number was erroneous.

157-130

REC-79

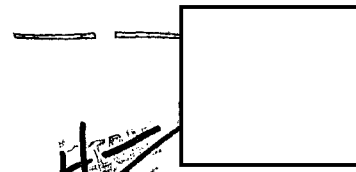
62-118045-78

10-13
28 SEP 28 1978

*100 destroyed
encls retained
per 688
MWM*

ENCLOSURE

2 - Bureau (Enc. 7)
1 - San Francisco
MWM/mwm
(3)



Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 9/27/78

TO: DIRECTOR, FBI
 (ATTN: SA ROOM 6888, JEH BUILDING)

FROM: SAC, BUFFALO (62-2765) (RUC)

b6
b7C

U.S. VERSUS
 EDWARD S. MILLER,
 W. MARK FELT AND
 L. PATRICK GRAY III
 BUDED 9/29/78

Re Bureau teletype to Buffalo, 9/20/78, and Buffalo teletype to Bureau, 9/27/78.

Enclosed for the Bureau are 36 serials which contain information received from cooperative foreign intelligence services.

In accordance with the request contained in referenced Bureau teletype, Buffalo reviewed the following Weatherman and Weatherman related files:

- 88-4426 WEATHFUG
- 100-22328 WEATHERMAN UNDERGROUND ORGANIZATION (WUO)
- 100-22328 Sub I WEATHERMAN UNDERGROUND ORGANIZATION (LEGAL SUPPORT)

- ② - Bureau (Encs. - 36 (RM))
- 1 - Buffalo

CPA:rrk
(3)

ST-130 ENCLOSURE REC-79
*100 destroyed
 encls retained
 Rm 6888
 jmk*

62-118045-79

5 SEP 29 1978

b6
b7C

[Signature]
 SEARCHED INDEXED

Greenberg/Gray-2577

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

79 OCT 17 1978

BU 62-2765

100-22802

POSSIBLE WEATHERMAN COMMUNE
1831 San Andres
Santa Barbara, California

100-21803

SUSPECTED WEATHERMAN COMMUNE
3441-43 20th Street
San Francisco, California

For the information of the Bureau, in the Buffalo review of the above files, Buffalo did not conduct a page by page review of the various lengthy reports submitted by Chicago, which is Office of Origin on the Weatherman Underground Organization. All other serials in the above files were carefully reviewed for any information received from any foreign intelligence service. All of the serials being submitted by Buffalo were contained in the WEATHFUG file (88-4426).

Greenberg/Gray-2578

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 9/27/78

e sf
 TO: DIRECTOR, FBI
 (ATTN: ROOM 6888, b6
 JEH BUILDING) b7C

FROM: SAC, CLEVELAND (197-14) (RUC)

884
 RE: U.S. V. EDWARD S. MILLER,
 W. MARK FELT AND
 L. PATRICK GRAY, III
 BUDED 9/29/78

Re Bureau teletype, 9/20/78.

Enclosed for the Bureau are two copies of a teletype from Acting Director, FBI to SAC, Cincinnati, 7/23/72; two copies of Bureau routing slip dated 8/11/67, and attached material from Legat, Ottawa and Bureau routing slip dated 9/10/68 with enclosures from Legat, Bonn and two copies of Bureau routing slip dated 7/6/72, with enclosures from Legat, Ottawa

A review of Cleveland file 100-27031 reveals the above-mentioned enclosures as the only reports from cooperative foreign intelligence services contained in that file.

A review of Cleveland file 4-16, which is the main file concerning Bureau file 100-474867, reveals no information contained therein from cooperative foreign intelligence services

- 3 - Bureau (Enc. 8) (RM)
- 1 - Cleveland

EMK:pla
(4)

*2cc destroyed
 encls retained
 rem. 6884
 junk*

ENCLOSURE

REC-79

62-118045-80

13
9 OCT 2 1978

b6
b7C

Greenberg/Gray-2579

Approved: _____ Transmitted _____ Per _____
 (Number) (Time)

79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 9/27/78

TO: DIRECTOR, FBI
 Attention: SA [redacted] Room 6888, JEH Building

b6
b7C

FROM: SAC, BUTTE (197-11) (RUC)

SUBJECT: U. S. Vs. EDWARD S. MILLER,
 W. MARK FELT and
 L. PATRICK GRAY, III
 Buded: 9/29/78

Re Bureau teletype to New York, 9/20/78; and Butte teletype to Bureau, 9/27/78.

Enclosed for the Bureau are four foreign intelligence reports which were located in Butte file #100-8861 Bufile #100-454662, in case captioned [redacted]

b6
b7C

Above reports were forwarded to Butte by FBIHQ and were furnished by Legat, Ottawa.

The above are all foreign intelligence reports in Butte Weatherman Organization files and files of individuals set forth in Bureau teletype to New York, 9/20/78.

ST-130

REC-79

62-118045-81

OCT 13 1978

*ICC destroyed
encl retained
in 62-118045-81*
ENCLOSURE

- 2 - Bureau (Encs. 4) (AM)
- 1 - Butte
- LDW/ddp
- (3)

[redacted]

b6
b7C

~~NO RELEASE PERMITTED~~

Approved: LEB/LW Transmitted _____ (Number) _____ (Time) Per _____ (Name)

79 OCT 17 1978

F B I

Date: 9/28/78

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Precedence)

TO: DIRECTOR, FBI
FROM: SAC, DETROIT (44-2008) RUC
SUBJECT: US VS. EDWARD S. MILLER,
W. MARK FELT, AND L.
PATRICK GRAY, III.
BUDED 9/29/78

Re Bureau tel, 9/20/78.

Enclosed are 47 pages of documents containing information furnished by cooperative Foreign Intelligence Services.

Project review of Detroit files concerning Weatherman,

[Redacted]

[Redacted] located enclosed documents which represent all data contained therein furnished by cooperative Foreign Intelligence Services.

b6
b7C

ENCLOSURE
② - Bureau (Enc.-47) (RM) ST-130 REC-79
1 - Detroit
JHB/db
(3)

*1cc destroyed
encls. retained
Rm 6884
JHB*

62-118045-82

13
9 OCT 1978

[Redacted]
Rm 6888

b6
b7C

Greenberg/Gray-2581

SECRET MATERIAL ATTACHED

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 9/28/78

TO: DIRECTOR, FBI
 (ATTN: [redacted] ROOM 6888, b6
 JEH BUILDING) b7C

FROM: SAC, CHICAGO (197-25) (SQUAD 15)

SUBJECT: U.S. vs. EDWARD S. MILLER, ⁰
 W. MARK FELT AND L. PATRICK GRAY, III,
 BUDED 9/29/78

Re Bureau teletype dated 9/20/78.

Per instructions in referenced teletype are enclosed 1,020 serials which reflect information emanating from cooperative foreign intelligence services during the course of the overall investigation of the Weather Underground Organization (WUO) and during investigations on specific individuals as outlined in referenced teletype.

Chicago's survey included reviews of the following overall WUO related files:

Chicago file 176-1677, entitled "WEATHFUG" and subfiles "A" - "L".

Chicago file 100-40903, entitled "WEATHER UNDERGROUND ORGANIZATION", and subfiles "A" - "Q".

Chicago file 176-1312, entitled [redacted] ET AL, ANTI-RIOT", (the forerunner to Chicago file 176-1677) and subfiles "A" - "G".

b6
b7C

NO ENCL. RECEIVED
 ST-130 REC-79
 62-118045-83

- ③ - Bureau (Encs. 1,020 serials contained in one cardboard box)
- 1 - Package Copy
- 1 - Chicago
- WED/mtd
- (4)

*2cc's destroyed
 encls. retained
 Rm 6888
 full*

3
 9 OCT 2 1978

Approved: JEO/MA

Transmitted _____ (Number) _____ (Time)

[redacted]

b6
b7C

79 OCT 17 1978

CG 197-25

Chicago file 100-55510, entitled "PRAIRIE FIRE ORGANIZING COMMITTEE."

Chicago's survey also included reviews of the following files on individuals mentioned in referenced Bureau teletype:

- [redacted] Chicago files 88-15375, 100-48482, 176-1398.
- [redacted], Chicago file 100-51125.
- [redacted] Chicago files 100-49015 and 88-16166.
- [redacted] Chicago files 100-47756, 88-13505, 176-1627, 174-557.
- [redacted] Chicago file 100-55993.
- [redacted] Chicago file 100-55468.
- [redacted] Chicago files 190-13, 147-552, 100-48182, 176-1443 and 174-625.
- [redacted] Chicago files 105-26447 and 176-1358.
- [redacted] Chicago files 100-42603, 176-1642, 176-104, 174-567.
- [redacted] Chicago files 100-44426, 4-42, 4-41, 88-13518, 176-1694, 174-562.
- [redacted] Chicago file 100-48104.
- [redacted] Chicago files 174-555, 100-46813, 176-1386.
- [redacted] Chicago files 88-13508, 174-778, and 174-550.

CG 197-25

[redacted] Chicago files 176-1300,
100-46445, 174-547.

[redacted] Chicago file 100-53119.

[redacted] Chicago files 176-1665
and 100-46371.

[redacted] Chicago file 100-51235.

[redacted], Chicago files
100-48211 and 176-1658.

[redacted] Chicago files 100-50202
and 176-1429.

[redacted] Chicago files 100-50265
and 176-1462.

[redacted] Chicago files 176-8 and 100-47977.

[redacted] Chicago files 176-1103
and 100-45568.

[redacted] Chicago files 176-1317 and
100-45686.

[redacted] Chicago files 176-1031
and 100-44398.

[redacted] Chicago files 176-1085,
100-44240 and 174-545.

[redacted] Chicago files 100-47582,
176-1664, and 174-565.

Of the aforementioned individuals, Chicago was
at one time or another "Office of Origin" in one or more
of the abovementioned files except on [redacted]

b6
b7C

CG 197-25

Chicago was unable to locate any files on

[redacted]
[redacted] The only file on [redacted] was
Chicago file 62-7540 which concerned a law suit.

b6
b7C

Chicago file 100-47014 on [redacted]
was not reviewed as it was sent to FBIHQ in connection
with a law suit by the American Civil Liberties Union
(ACLU) on 6/27/78.

b6
b7C

Chicago wishes to advise the Bureau that there
are many other WUO related files which would logically
show foreign influence. Examples would include inves-
tigative files on Weatherman fugitive [redacted]
[redacted] and former Weatherman fugitive [redacted]
Chicago did not review these per Bureau instructions.

b6
b7C

Chicago is aware that in cases such as the
captioned matter, governmental cost is sometimes an
issue in courtroom pleadings. In view of this, Chicago
which afforded the aforementioned survey priority attention,
utilized approximately 500 Special Agent man hours to the
removing of serials from the appropriate files and utilized
approximately 100 clerical hours to support this project.
Chicago estimates that over 300 additional clerical hours
will be necessary to replace the serials in these files
and to return these files to the appropriate locations
in the office.

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

AIR MAIL

Date 9/28/78

TO: DIRECTOR, FBI
 ATTN: SA [redacted]
 ROOM 6888, JEH BUILDING

b6
b7C

FROM: SAC, MILWAUKEE (197-10) (RUC)

SUBJECT: U.S. VS.
 EDWARD S. MILLER, W. MARK FELT,
 AND L. PATRICK GRAY, III
 BUDED: 9/29/78

Re Bureau teletype to Milwaukee dated 9/20/78; Milwaukee teletype to Bureau dated 9/28/78.

Enclosed for the Bureau are two copies each of two separate communications originating from [redacted] dated 7/28/70 and 8/26/71.

b7D

The document dated 7/28/70 was obtained from MI 100-16651-149 and the document dated 8/26/71 was obtained from MI 176-92-186. Both files pertain to the Weatherman investigation.

As previously reported in re Milwaukee teletype, no Foreign Intelligence Service communications were located for the following three individuals as requested in re Bureau teletype: [redacted]

b6
b7C

No further action is being continued re this matter, UACB.

*2cc destroyed
 encls retained
 from 6/29/78*
 3 - Bureau (Enc. 4) (RM)
 1 - Milwaukee

REC-79 62-118045-84
 SECRET MATERIAL ATTACHED

23 OCT 1978

GAP/djz
(4)

b6
b7C

[redacted]

Approved: _____

Transmitted _____ (Number)

(Time)

Per _____

FBI/DOJ

79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 9/28/78

TO : DIRECTOR, FBI
 FROM: *JOP/22* (ATTN: SA [redacted] RM. 6888, JEH BLDG) b6
 ACTING SAC, SEATTLE (62-3122)(RUC) b7C
 SUBJECT: U.S. Vs EDWARD MILLER,
 W. MARK FELT AND
 L. PATRICK GRAY, III
 BUDED 9/29/78

Re Seattle teletype to the Bureau dated 9/28/78.

Enclosed for the Bureau is one packet containing 20 communications that have emanated from [redacted] b7D

Above communications were located at Seattle through review of Weatherman (SEE 100-31946); WEATHFUG (SE 176-35); WEATHAPS (SE 100-29604); and [redacted] (SE 100-30197) files.

No communications from any cooperative foreign intelligence services other than [redacted] were located in SE files. No additional investigation remains at Seattle. b7D

② - Bureau (Encl 20 ENCLOSURE)
 1 - Seattle
 TRM:arm
 (3)
*1 cc destroyed
 encls retained
 rm 6888
 [signature]*

REC-79

62-118045-85

9 OCT 13 1978

[redacted]

Greenberg/Gray-2587

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date September 29, 1978

TO: DIRECTOR, FBI *MD*
 (ATTN: SA ROOM 6888)

b6
b7C

FROM: SAC, ALBANY (197-17)

SUBJECT: UNITED STATES VS. EDWARD S. MILLER, W. MARK FELT,
 AND L. PATRICK GRAY, III
 BUDED SEPTEMBER 29, 1978.

Re Bureau teletype to Albany, 9/20/78; and Albany teletype to Bureau, 9/28/78.

Enclosed for the Bureau are two copies each of five reports emanating from cooperative Foreign Intelligence Services listed as follows:

- (1) Letter dated 9/3/70 from Ottawa, Canada.
- (2) dated 8/19/71.
- (3) dated 10/18/71.
- (4) Letter dated 9/13/72 from Ottawa, Canada, with attached appendices A-F.
- (5) Letter dated 5/25/70 from Ottawa, Canada.

b7D

(Handwritten initials in a circle)

Bulky
ENCLOSURE

3-Bureau (Enclosures)
 1-Albany
 MWO:jvd
 (4)

*2cc destroyed
 encls. retained
 in 6888
 jvd*

ST-130
 REC-79

62-118045-86

16 OCT 13 1978

Greenberg/Gray-2588

b6
 b7C

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____ FBI/DOJ

79 OCT 17 1978

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 10/6/78

TO: DIRECTOR, FBI
 ATTN: SA [redacted] b6
 RM 6888, JEH BLDG b7C

FROM ^{IDA} SAC, SEATTLE (62-3122)(RUC)

SUBJECT: U. S. vs EDWARD MILLER,
 W. MARK FELT AND
 L. PATRICK GRAY, III

Re Seattle TT to Director, 10/6/78.

Enclosed for the Bureau is one packet containing 189 communications reflecting information received from cooperative foreign intelligence services.

Above communications were located at Seattle through review of WEATHERMAN (SE 100-31946); WEATHFUG (SE 176-35); WEATHAPS (SE 100-29604); and [redacted] (SE 100-30197) files.

b6
b7C

No investigation remains at Seattle.

- ② - Bureau (Enc 1)
- 1 - Seattle
- TRM:kn
- (3)

ST-130
1cc destroyed
encl retained
RM 6888
jak

REC-79 62-118045-87

2 OCT 13 1978

[redacted] *PUD*
 -4

b6
b7C

Greenberg/Gray-2589

79 OCT 17 1978

Mr. Francis J. Martin
Criminal Division

10-10-78

FEDERAL GOVERNMENT

[Redacted]

b6
b7C

Federal Bureau of Investigation

U. S. vs. L. PATRICK GRAY III, ET AL

Pursuant to your request, the Grand Jury transcripts

[Redacted]

were reviewed by the FBI for classification purposes. At the request of [Redacted] these transcripts were furnished to his office on October 6, 1978, and appropriate receipts were obtained.

b3
b6
b7C

The portions of the transcripts classifiable by the FBI are marked in red pencil. No attempt was made to indicate areas where information should be redacted to protect sources, etc.

SAs [Redacted] reviewed the material for purposes of classification. No other Bureau personnel has had access to these transcripts.

gp

b6
b7C

1 - Mr. Bassett

1 - [Redacted]

b6
b7C

MAILED 7
OCT 11 1978
FBI

ST-139 REC-47 62-1180415-88

20 OCT 12 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. _____
- Telephone Rm. _____
- Director's Sec'y _____

PVD:ddf
(5)

Greenberg/Gray-2590

66 OCT 24 1978

MAIL ROOM

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 10/11/78

TO: DIRECTOR, FBI

FROM: SAC, SAN ANTONIO (1-348)

U.S. vs. L. PATRICK GRAY, III;
 ET AL
 U.S. DISTRICT COURT ACTION 78-000179
 DISTRICT OF COLUMBIA



b6
b7C

For the information of the Bureau, Former SAC CLARK D. ANDERSON, San Antonio, Texas, advised on 10/11/78, that he had received a subpoena from Assistant U. S. Attorneys (AUSA's) FRANCIS J. MARTIN and BRACKENRIDGE WILLCOX, Room 606, 315th Ninth Street, N.W., Washington, D. C., for his appearance for trial on 10/23/78. He stated that there was an attachment to the subpoena containing instructions that the trial was to commence 10/23/78, but that his testimony would not be needed on that date, but he was to consider the subpoena as "continuing." He was requested to telephonically contact the abovementioned AUSA's as to his whereabouts so that he might be immediately available.

Former SAC ANDERSON further advised that he had been previously interviewed by Mr. WILLCOX regarding meetings of the SAC's with then Director GRAY and Mr. MARK FELT soon after Mr. GRAY had been designated Acting Director of the FBI. Mr. ANDERSON stated that he did not deem any information which he might have as pertinent to the charges in the instant prosecution; however, he wished to make this notification of subpoena a matter of record with FBIHQ.

This communication is furnished for information.

- ② - Bureau
- 1 - San Antonio
- ALL:al
- (3)

ST-130

REC-9

62-118045-89

OCT 14 1978

Approved:

Transmitted _____

(Number)

(Time)

Per

58 OCT 24 1978

Mr. Breckinridge L. Willcox
Criminal Division

10-11-78

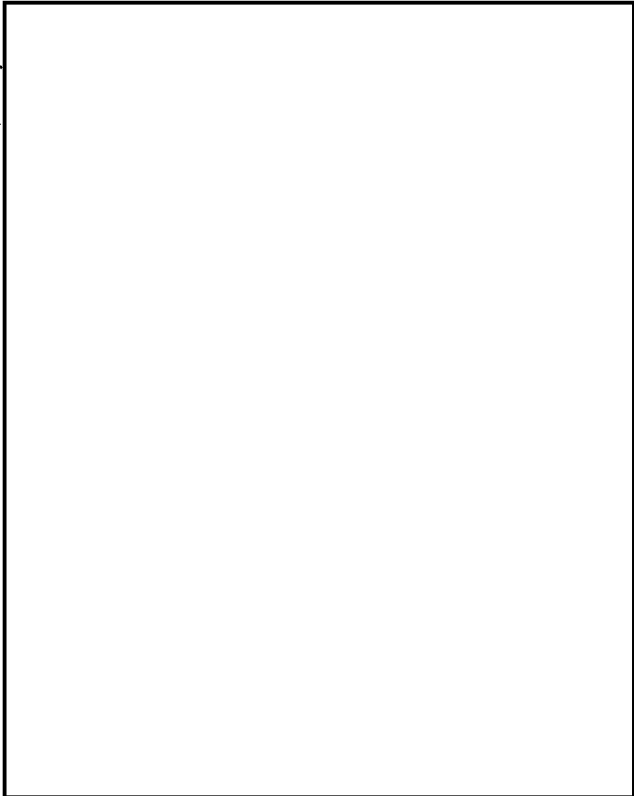
FEDERAL GOVERNMENT

[Redacted]
Federal Bureau of Investigation

b6
b7C

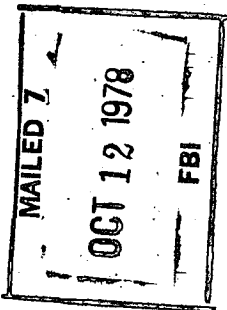
U. S. vs. L. PATRICK GRAY III, ET AL

Reference is made to your letter of October 4, 1978. The following is a list of current addresses of former agents as reflected in Bureau files:



gpc

b6
b7C



Mohr, Paul J.
2770 North Placita Tuxpan
Tucson, Arizona 85715

REC-80

62-118045-91

23 OCT 16 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____ 1
- Intell. _____ 1
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Mr. Bassett - detached



b6
b7C

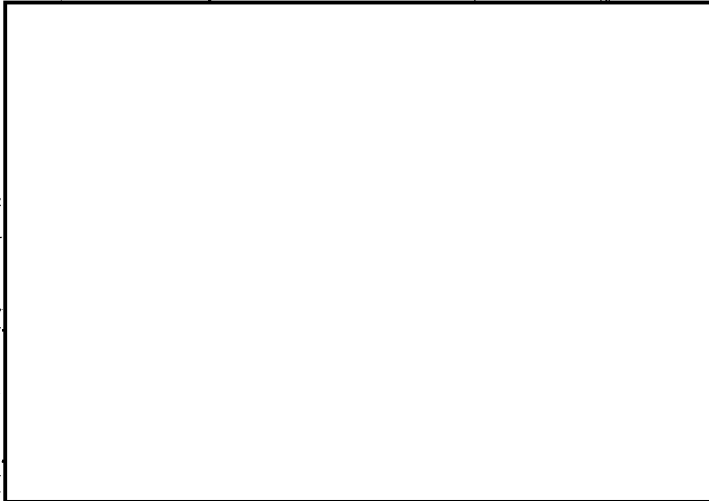
PVD:ddf
(5)

Greenberg/Gray-2593

NOV 17 1978
MAIL ROOM

~~REC~~ UNIT FBI/DOJ

Mr. Breckinridge L. Willcox



b6
b7C

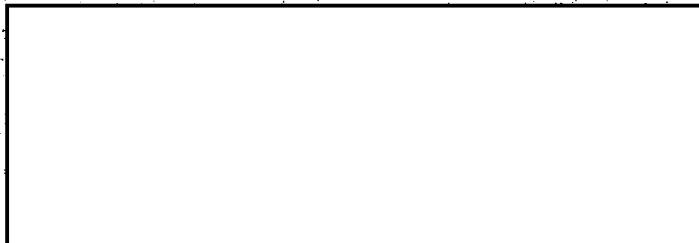
Santoiana, J. F., Jr.
11009 Carrollwood Drive
Tampa, Florida 33618

Shanklin, J. Gordon
6023 Del Norte
Dallas, Texas 75225
or

%Johnson, Guthrie, Billings, Nash and Shanklin
1410 Republic National Bank Building
Dallas, Texas 75201

Sullivan, William A.
19243 Castlebay Lane
Northridge, California 91324

Walters, Leonard M.
1303 MacBeth Street
McLean, Virginia 22101



b6
b7C

Young, Paul C.
7765 Palmyra Drive
Fair Oaks, California 95628

Ms. Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel

October 5, 1978

FEDERAL GOVERNMENT

Director, FBI

U.S. vs L. PATRICK GRAY III, ET AL

The FBI has consistently expressed concern regarding the handling of National security information in this matter, as well as in the investigation which lead to the issuance of indictments of L. Patrick Gray III and other former Bureau officials. As early as July 26, 1976, by my memorandum to the Assistant Attorney General, Civil Rights Division, this concern was expressed.

It is realized that during the Department's investigation into the surreptitious entry matter, documents were furnished, generally, without markings for classification. As a result, Departmental personnel were in possession of extremely sensitive material without being placed on notice as to its sensitivity. The first opportunity by the FBI for review of the material for classification purposes occurred in connection with the FBI's compliance with court ordered discovery in the U.S. vs Kearney case. At that time, we advised the Special Counsel in charge of prosecution of this matter, Barnett D. Skolnick, by our memorandum dated February 10, 1978, that he was in possession of a large volume of highly sensitive material which had not been reviewed and marked where necessary for classification purposes and the material should be handled accordingly. Subsequently, in complying with an order of the court under Rule 16, Federal Rules of Criminal Procedure, arising out of captioned case, defense counsel were furnished highly sensitive material classifiable up to a Top Secret-Communications Intelligence level. This material was furnished to defense counsel without benefit of prior review and classification markings by the Bureau. It was necessary, at that time, for the sensitive materials in the possession of defense counsel to be retrieved. Representatives of the Bureau met with you and other representatives of the Department in April

1

REC-70 62-118045-92

SI-126

24 OCT 24 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

NOTE: Based on conference with Director 10/5/78. In attendance at conference were Mary Lawton, Assistant Directors' Bassett and Mintz, Deputy Associate Director McDermott, SA [redacted] and Special Assistant to the Director Adrian Steel.

b6
b7C

- 1 - Mr. Steel
- 1 - Mr. McDermott

- 1 - Mr. Bassett
- 1 - [redacted]

b6
b7C

PVD:jamjam (8)
9 OCT 27 1978
62-118045

Delivered to Mary Lawton by [redacted] Director 10-5-78 [redacted]

(CONTINUED - OVER)

Ms. Mary C. Lawton

of 1978 in connection with this matter and raised a question as to whether the grand jury transcripts containing the results of grand jury appearances by current and former Bureau personnel might present similar problems. At that time, the Bureau requested that these transcripts be subject to Bureau review as well as review by the National Security Agency (NSA) and the Central Intelligence Agency (CIA). We were furnished these transcripts on September 20, 1978, for our review. It was immediately obvious that highly sensitive material was contained in these transcripts which are now in the possession of defense counsel. In fact, NSA, which had already reviewed these transcripts, marked a significant portion Top Secret-COMINT. This concern was communicated to Department Trial Attorney Frank Martin as well as yourself on that date. We have now completed our review of this material and are greatly concerned at the potential for possible compromise and the effect it could have on the security interests of this country. Since some of the material is classified Top Secret-COMINT, a review is necessary to determine the applicability of Title 18, U.S. Code, Section 793. This statute prohibits the release of communications intelligence to unauthorized recipient as well as possession by an unauthorized individual. It is our understanding that corrective action has not been taken to date. Since there appears to be improper release of classified material, the provisions of Title 28, Code of Federal Regulations, Section 17.55, relating to the loss or compromise of classified information, must be complied with. Also, consideration must be given concerning the notification requirements of Executive Order 12036. This memorandum is intended to notify you of the aforementioned problems and suggest that this matter be reviewed for action necessary for compliance with the aforementioned statute, Code of Federal Regulations Provisions, and Executive Order.

We also note that it is essential that both CIA and NSA be advised that the grand jury transcripts have been furnished to and continue to be in the possession of defense counsel. It is our understanding that not all defense counsel in this matter are cleared for possession of this material nor do they have the facilities necessary for the storage of such material. While the primary thrust of this memorandum concerns compartmented information, we are very concerned at the defense counsel's having possession of materials which could lead to the identification of FBI sources as well as disclosure of similarly sensitive FBI operations.

1 - Mr. Robert Keuch
Deputy Assistant Attorney General
Criminal Division

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

dm

Assoc. Dir. _____
 Dep. AD Adm. 1
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. 1
 Rec. Mgnt. 1
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *H MBH*

DATE: 10/16/78

FROM : b6
b7C

b6
b7C

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: The purpose of this memorandum is to set forth the results of our conferences with the Department concerning the possible mishandling of classified material by Departmental attorneys in this matter.

DETAILS: On 10-5-78, the Director, accompanied by Special Assistant to the Director Adrian Steel, Jr., and SA met with Deputy Attorney General Benjamin Civiletti, his assistants, Charles Ruff and Paul Michel, and Deputy Assistant Attorney General Mary C. Lawton to discuss the contents of the Director's memorandum to Ms. Lawton dated 10-5-78. This memorandum notified the Department that defense counsel were in possession of highly sensitive material classifiable up to the TOP SECRET - COMINT level and that to our knowledge they were furnished this material without having proper clearances. It was pointed out that we had previously expressed concern as to the handling of this material by the Department. This meeting was concluded with Mr. Civiletti suggesting that a second meeting be held on 10-6-78 to discuss means of correcting the situation and to allow the Department to take the necessary steps required by Title 28, Code of Federal Regulations (CFR), Section 17.55, which relates to the loss in compromise of classified information and, additionally, to consider the applicability of Title 18, United States Code (USC), Section 793, which prohibits the release of communications intelligence to unauthorized recipients as well as possession by an unauthorized individual.

b6
b7C

(Handwritten initials)

Enclosures

*ENCLOSURE
enclosure
attached as
separate serial
93x*

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Steel
- 1 - Mr. Bassett
- 1 - Mr. Ryan
- 1 -

b6
b7C

REC-126

62-118045
62-118045-93x1

b6
b7C

DEC 13 1978

(CONTINUED - OVER)

PVD:ddf



(Handwritten signatures and stamps)
DOC. FBI/DOJ
REV. 6/78

Daly to Bassett Memo

Re: U. S. vs. L. Patrick Gray III, et al

On 10-6-78, SAs [redacted] and Special Assistant to the Director Adrian Steel, Jr., met with Charles Ruff, Mary C. Lawton, Paul Michel, Deputy Assistant Attorney General Robert Keuch, [redacted] [redacted] of the Department's security office, and trial attorneys in captioned matter, Barnet Skolnik and Frank Martin. At this meeting it was decided that the Department's security officer would take the necessary action under Title 28, CFR, Section 17.55 which would include an assessment as to damage resulting from the improper handling of the material as well as a submission of a report to the Department Review Committee for action it may deem necessary. Additionally, it was decided the Department would notify the Central Intelligence Agency and the National Security Agency of the compromise of its material by the Department. Additionally, steps would be taken by the Department to obtain the return of the Grand Jury transcripts which contain the sensitive material in question. This attempt was to be accomplished through contacting defense attorneys who had possession of these transcripts and arranging for a meeting to be held on 10-10-78. Additionally, it was decided that the Civil Rights Division of the Department would review the actions of Departmental attorneys to determine whether a violation of Title 18, USC, Section 793, occurred.

The meeting with the defense attorneys was held on 10-10-78 as scheduled. The defense attorneys have thus far refused to return the transcripts. They have not submitted to the necessary procedures to obtain proper clearance for possession of such material. We were advised by Frank Martin, trial attorney, on 10-12-78, that the Department has written letters to the defense counsel concerning this matter; and as yet, the matter has not been resolved. The material continues to be in the possession of the defense counsel and, of course, is not stored in accordance with Governmental regulations. This particular aspect is being pursued by the Bureau's security officer, Section Chief David Ryan, through his counterpart in the Department. We have also been furnished by the Department a memorandum dated 10-6-78 from Mary C. Lawton (copy attached) to the Director, enclosing her notification to the Departmental security officers to take the necessary steps to comply with Title 28, CFR, Section 17.55. Ms. Lawton additionally questions the need for notification to the Intelligence Oversight Board pursuant to the provisions of Executive Order 12036 concerning

to Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al

the mishandling of these materials on the basis that the Department is not an agency of the intelligence community as identified by the Order and also raised the question as to whether the mishandling of classified material is the kind of activity covered by the Order. This particular opinion will be the subject of a separate memorandum since there are provisions in the Executive Order addressing the mishandling of classified material and the fact that the FBI is covered by the Order, raising a question as to whether the FBI might not be obligated to report this to the Intelligence Oversight Board.

On 10-12-78, Chief Judge, United States District Court, Washington, D. C., William Bryant held a hearing to determine whether a requested postponement of the trial date in this matter from 10-23-78 should be granted. A new trial date has been set by Judge Bryant for 1-23-79. Additionally, Judge Bryant discussed problems encountered by the defense in gaining access to sensitive foreign intelligence information. The Government attorneys represented that this problem could be worked out without court involvement. The defense attorneys were not optimistic at arriving at a solution. Judge Bryant asked that he be kept advised on a timely basis on this problem so that, if necessary, the court would become involved in seeking a solution.

RECOMMENDATION: None. For information.

<p>AS WFB</p> <p>APPROVED: <i>[Signature]</i></p> <p>Director _____</p> <p>Assoc. Dir. _____</p> <p>Dep. AD Adm. _____</p> <p>Dep. AD Inv. _____</p>	<p>Adm. Serv. _____</p> <p>Crim. Inv. _____</p> <p>Ident. _____</p> <p>Insp. _____</p> <p>Intell. _____</p> <p>Lab. _____</p> <p>Legal Coun. _____</p> <p>Plan. & Insp. _____</p> <p>Rec. Mgnt. _____</p> <p>Tech. Servs. _____</p> <p>Training _____</p> <p>Public Affs. Off. _____</p>
--	--

Greenberg/Gray-2611

UNITED STATES GOVERNMENT

Memorandum

TO : ^{AD} b6 Per FBI
 Federal Bureau of Investigation b7C DATE: September 27, 1978

FROM : Francis J. Martin *FJM*
 Criminal Division

SUBJECT: United States v. Gray, et al - Classification Review of Jencks Material

L. Patrick

As noted in Mr. Skolnik's memorandum to you of September 20, 1978, it will be necessary for the Bureau to conduct a classification review of grand jury transcripts that will be made available to defense counsel as Jencks material in the Gray case. This review is to be conducted in accordance with the provisions of Rule 6(e), Federal Rules of Criminal Procedure, as outlined in Mr. Skolnik's memorandum. Also, precaution should be taken to insure that these grand jury materials are not inadvertently made available to those personnel handling the pending administrative proceedings. Finally, these transcripts are not being forwarded to the CIA or NSA at this time. Accordingly, the Bureau should note any passages that require referral to these agencies for classification. As to any such passages that may require S.I. classification the Bureau should provide a copy of the page(s) in question appropriately redacted such that the redacted page(s) would not require S.I. classification.

(Handwritten initials)

The grand jury transcripts transmitted herewith are as follows:

EX-125

EC 20

(2 transcripts)

(3 transcripts)

(2 transcripts)

Red

b6 Per FBI
b7C
b3

b6 Per FBI
b7C

*Debra 12/27/78
Bannon*

11 MAR 13 1979



16 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

[Redacted]

(2 transcripts)

[Redacted]

r.

[Redacted]

(5 transcripts)

[Redacted]

[Redacted]

(2 transcripts)

b3 Per FBI

b6

b7C

Mr. Harry Fair, Director of Security
Office of Management and Finance
Department of Justice

October 13, 1978

David Ryan
Security Officer, FBI

- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - [redacted]
- 1 - Mr. Gerblich
- 1 - Mr. Ryan

b6
b7C

**SAFEGUARDING OF NATIONAL SECURITY
INFORMATION AND MATERIAL**

Reference is made to the memorandum of Deputy Attorney General Mary C. Lawton, Office of Legal Counsel, dated October 6, 1978, captioned "Unauthorized Disclosure of Classified Information," to the security officers of the Criminal Division and the Civil Rights Division. A copy of this memorandum and its attachments were furnished to the Department's Security Office and the Department Review Committee as required by Title 28, Code of Federal Regulations, Part 17.55.

This is to confirm my telephone conversation with [redacted] Security Specialist in the Department Security Office, on October 13, 1978, relating to the unauthorized disclosure and procedures for safeguarding the classified and sensitive compartmented material which has been furnished to the defense counsel in the matter of U.S. v. L. Patrick Gray, Et Al. In brief, I would appreciate your insuring that the information provided to the defense counsel in violation of regulations is promptly returned to the Department's custody, and that other classified information provided to defense counsel is afforded the proper safeguarding requirements while in the custody of the defense counsel. I would also appreciate your keeping me advised.

b6
b7C

I appreciate the prompt attention you have afforded this matter and you may be assured of my cooperation.

62-118045-

- 1 - Mr. Leon Uiman, Chairman
Department Review Committee
Department of Justice

NOT RECORDED
191 OCT 25 1978

DR:jml (10)

1 - 62-116065

1 - U.S. v Gray, ET AL.

Patrick L III

~~DUPLICATE YELLOW~~

NOTE: [redacted] advised the Department is seeking to recover from defense counsel compartmented and "Top Secret" classified material which was disseminated by the Criminal Division Task Force to defense attorneys in the matter U.S. v. Gray, Et Al. He said when this material is retrieved, it will be sanitized and returned to the attorneys in excised form. The attorneys will also be briefed for access to compartmented information according to [redacted] but this is creating some difficulty as several of the attorneys have indicated refusal to abide by regulations regarding the handling of compartmented material. [redacted] stated that the Department has already initiated procedures to insure the defense attorneys have proper storage facilities for the material classified up to "Top Secret." Material in the compartmented area will necessarily be maintained in the approved Department facility.

b6
b7C

61 NOV 6 1978

ORIGINAL FILED IN 62

Mr. Francis J. Martin
Criminal Division

10-19-78

FEDERAL GOVERNMENT

[Redacted]
Federal Bureau of Investigation

b6
b7C

U. S. vs. L. PATRICK GRAY III, ET AL

In accordance with your memorandum of September 25, 1978, materials seized from the various FBI Offices in August 1976 and FBI Headquarters have been made available for review by representatives of the defense attorneys. This review has been completed. Of the requested 337 folders, 103 were made available for review. An additional 88 folders had previously been furnished them in connection with other aspects of this discovery. The reason for the discrepancy between the requested amount and the amount made available was prompted by the fact certain folders were unavailable for review because their location was unknown and because, in some instances, the contents of the folders were outside the scope of discovery or they contained highly sensitive material which could not be made available. They did not ask for and, therefore, were not furnished copies of documents contained in these folders.



1 - Mr. Bassett
1 - [Redacted]

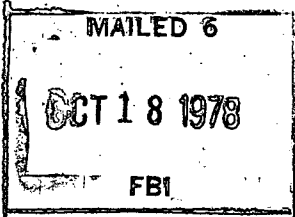
b6
b7C

REC-126

62-118045-94

one

6 OCT 31 1978



- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____

PVD:ddf
(5)

Greenberg/Gray-2627

84 OCT 31 1978 MAIL ROOM

62-118045-95

ENCLOSURE

Specific Recommendations from 9/10-11/70
Conference

Airtel 10/1/70 advised field to use term "Extremist" rather than "Weatherman" for terrorists. Field suggested this clarifies matter for administrative purposes, dissemination, etc. (attached)

Airtel 10/5/70 to Baltimore, LA, and SD. Informants who go to Cuba to be instructed to advise fellow V.B. members of attempted interview by FBI. (attached)

Memo and SAC letter 9/30/70 authorized Special Agents in Charge to discuss New Left Extremism at closed conferences with police officials. (attached)

R/S 9/21/70 to all field offices to allow field to reproduce copies of Bureau airtel re Student Agitation for Resident Agencies. (attached)

Memo 9/30/70 approved rental of old foreign & domestic autos by field for handling New Left investigations in "hippie" areas by CG, DE, LA, MI, NY, SF, and SE.

In addition following handled on individual basis and are being emphasized.

1. Movement lawyers - Stang in Chicago - Law Commune in New York.

2. New Left newspapers which print Weatherman statements - "Quicksilver Times", WFO "Argus", Detroit "Berkeley Tribe", SF.

3. Concentration on antiwar movement activists Davis, Dellinger, etc., and all Key Activists.

4. Counterintelligence suggestions are being encouraged from the field no matter how far out.

CONFERENCE, 9/10-11/70,
MOVEMENT

be reconsidered inasmuch as
e-prone New Left

as targets for
lose relationship with

especially those oriented
forded intensive investi-
communications center.
"Rat," the "Kaleidoscope"
New York and Madison,
as the "Berkeley
Washington, D. C. "Quick
continue to publicize

Cuba with the Venceremos
by Bureau Agents since
viewed upon their return

the Alcohol and Tobacco
it appears to have some
turnees for violations
Denver Office should
concerning investigations
arrests are protected.

au-approved speakers in
Police Schools and to
lent militants.

rganizations contain
be forwarded to Resident
otter's recent airtel
concerning student

ider the use, on an
chniques which include

SPECIFIC RECOMMENDATIONS FROM CONFERENCE, 9/10-11/70,
CONCERNING NEW LEFT MOVEMENT

10/11/70
Wash
That the use of the term "Weatherman" be reconsidered inasmuch as it is not applicable to all violence-prone New Left militants.

10/11/70
Wash
That "movement" attorneys be considered as targets for intensive investigation due to their close relationship with New Left militants.

10/11/70
Wash
That New Left underground newspapers, especially those oriented towards Weatherman philosophy, be afforded intensive investigation due to their apparent role as a communications center. For example, the New York publication, "Rat," the "Kaleidoscope" were involved with major bombings in New York and Madison, Wisconsin. In addition, such newspapers as the "Berkeley Tribe," the Detroit "Argus" and the Washington, D. C. "Quick Silver Times," have in the past and continue to publicize Weatherman threats. *OS, presented to Department*

10/11/70
Wash
Insure that all informants who go to Cuba with the Venceremos Brigade be afforded a phony interview by Bureau Agents since all members of the VB are to be interviewed upon their return to this country. *to selected agents w/ informants there*

10/11/70
Wash
Denver Agent Boyd Adsit reported that the Alcohol and Tobacco Tax Division of the Treasury Department appears to have some sort of an interview program of VB returnees for violations of the Federal Firearms statutes. The Denver Office should be instructed to obtain information concerning investigations by the ATTD to insure that Bureau interests are protected.

10/11/70
Wash
It was recommended that there be Bureau-approved speakers in the field on the New Left Movement for Police Schools and to include information concerning nonstudent militants.

10/11/70
Wash
That instructive airtels concerning organizations contain Bureau permission to Xerox copies to be forwarded to Resident Agents who handle New Left matters (Cotter's recent airtel concerning submission of information concerning student agitation, etc.).

10/11/70
Wash
It was suggested that the Bureau consider the use, on an individual basis, of investigative techniques which include

the use of old automobiles, Volkswagens, and motor scooters in New Left Hippie-type residential areas.

That the field be directed to develop sources who would be able to advise of the unusual purchase of such materials as explosives, fuse material, and ammonium nitrate (from fertilizer plants).

That the field be instructed to obtain more specific details on New Left individuals, especially where there is an indication of violence, and that these investigations must be exhaustive.

It was recommended that some provision be made for the use of informants on a full-time basis to enter violence-oriented communes as regular members.

It was recommended by attendees that Agents investigating New Left militants insure they establish tight liaison with local and Federal law enforcement agencies who are also investigating New Left militants.

It was recommended by attendees that the use of counter-intelligence measures should be emphasized in individual or organizational cases.

It was recommended that additional emphasis be placed on anti-war movement activists who are moving towards violence and civil disobedience, such as Rennie Davis.

It was recommended that the field be alert in following selective service cases involving individuals who are affiliated with such groups as the "East Coast Conspiracy," and the like.

It was recommended that the Bureau consider a photographic manual with first-rate physical description be prepared for field offices. The manual would contain background and photographs of individuals connected with violence-oriented groups and who travel and organize widely.

A G E N D A

NEW LEFT MOVEMENT CONFERENCE
ROOM 733, OLD POST OFFICE BUILDING
SEPTEMBER 10-11, 1970

Agenda for September 10, 1970

Introductory Comments

9 A.M. - 9:14 A.M.

Comments made by Assistant to the Director, Mr. W. C. Sullivan

9:15 A.M. - 9:45 A.M.

Comments of Assistant Director, Mr. C. D. Brennan

9:45 A.M. - 10 A.M.

Comments of Section Chief, Mr. R. L. Shackelford who will act as moderator for the following topics of discussion

Seminars on the Following Topics:

10 A.M. - 12 Noon

Nature of the New Left, its subversive intent and its threat to the internal security of the nation. Basis for our investigation of the New Left Movement...presidential directives, statutes, and executive orders. Selected attendees should give description of New Left activities in their respective areas.

12 Noon - 1 P.M.

Objectives of our investigations such as neutralization of the New Left Movement, curtailment of its activities. Investigative responsibilities concerning individuals and organizations.

1 P.M. - 2 P.M.

Lunch

b6
b7C

2 P.M. - 3 P.M.

Investigative responsibilities as to funds and publications.

3 P.M. - 4 P.M.

Foreign influence in New Left antiwar groups (New Mobe, etc.)

4 P.M. - 5 P.M.

Investigative techniques - informants

5 P.M. - 6 P.M.

Counterintelligence - unusual investigative techniques

6 -

Agenda for September 11, 1970

Seminars on the Following Topics:

9 A.M. - 11 A.M.

Violence-oriented groups which include Weatherman faction, White Panther Party, Yippies. Attendees should be able to discuss aspects of such groups which include communal life style and use of underground press as communication center.

b6
b7C

11 A.M. - 1 P.M.

Prosecutive action against the New Left which includes sabotage, anti-riot laws and bombing matters.

1 P.M. - 2 P.M.

Lunch

2 P.M. - 2:30 P.M.

Venceremos Brigade

2:30 P.M. - 3 P.M.

Pro-Chicom organizations

3 P.M. - 4 P.M.

New Left fugitives. Handling of fugitive cases such as Weatherman, etc.

4 P.M. - 5 P.M.

New Left student groups such as SDS, Worker Student Alliance, SDS revolutionary Youth Movement, SDS unaffiliated and other New Left student groups.

5 P.M. - 7 P.M.

Open discussion on items covered above. Attendees should make concrete suggestions on new approaches to the New Left Movement, streamlining procedures administrative details, improved techniques on such items as informants and counterintelligence recommendation should be received concerning steps and curtailing New Left militants.

Seat of Government Personnel at Conference 9/10-11/70

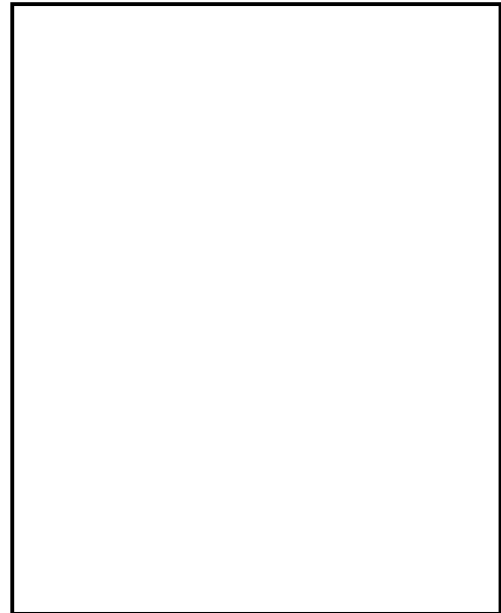
Assistant to the Director:	William C. Sullivan
Assistant Director:	Charles D. Brennan
Inspector- Number One Man:	J. A. Sizoo
Chief, New Left Section:	Robert L. Shackelford
Number One Man, New Left Section:	Conrad W. Thompson

Special Agents:

[Redacted]	Domestic Intelligence	Division)
"	"	"
"	"	"
"	"	"
"	"	"
"	"	"
"	"	"
[Redacted]	(General Investigative Division)	
[Redacted]	"	"
[Redacted]	(Special Investigative Division	
[Redacted]	(Training Division, Monitor)	
E. P. Grigalus	(Inspection Division)	

ATTENDEES

1. Albany
2. Baltimore
3. Boston
4. Buffalo
5. Chicago
6. Cincinnati
7. Cleveland
8. Denver
9. Detroit
10. Los Angeles
11. New Haven
12. New Orleans
13. New York
14. Philadelphia
15. San Francisco
16. Seattle
17. WFO



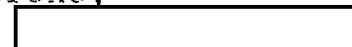
William John Nolan



ASAC Gerald D. Coakley



Thomas J. Croke,



W. B. Anderson



INDIVIDUALS

INTERNAL MATTERS

violence.

arms and explosives

pending threat of political

ATHERMAN

*Attached are suggested
topics submitted by
the field for your review*

Coordination

- 9 -

Obviously, there must exist a line of communication between the above-mentioned groups which enables them to coordinate their mutual objectives in destroying the government and the existing order in the United States. Racial differences as such are meaningless to the black militant and the New Leftist inasmuch as their common denominator is the annihilation of the existing order. Again, what counterintelligence measures can be utilized in alienating the New Leftist from the black militant and vice versa. (Cincinnati)

Verification of the whereabouts of active SDS and/or radical SDS or New Left Types.

Verification of the whereabouts of active New Left persons should be stepped up, and those who are missing should be circularized among the various Field Divisions. This would be particularly true of persons who have gone to Cuba with the Venceremos Brigade (VB) and whose whereabouts are currently unknown. Some form of circularization should exist between Field Divisions. (Los Angeles)

Reporting standard should be established, as investigations in the New Left are a daily occurrence and

- 11 -

VIOLENCE ORIENTED ORGANIZATIONS AND INDIVIDUALS

REVIEW OF RECENT DEVELOPMENTS IN NEW LEFT MATTERS

Advocacy and perpetration of violence.

Acquisition and use of firearms and explosives

Urban guerrilla warfare including threat of political kidnappings in U.S. (Chicago)

ANALYSIS OF CURRENT INVESTIGATION OF WEATHERMAN

Fugitive investigations

Intelligence investigations

Coordination

- 9 -

The nexus between the new Left and black militants.

Obviously, there must exist a line of communication between the above-mentioned groups which enables them to coordinate their mutual objectives in destroying the government and the existing order in the United States. Racial differences as such are meaningless to the black militant and the New Leftist inasmuch as their common denominator is the annihilation of the existing order. Again, what counterintelligence measures can be utilized in alienating the New Leftist from the black militant and vice versa. (Cincinnati)

Verification of the whereabouts of active SDS and/or radical SDS or New Left Types.

Verification of the whereabouts of active New Left persons should be stepped up, and those who are missing should be circularized among the various Field Divisions. This would be particularly true of persons who have gone to Cuba with the Venceremos Brigade (VB) and whose whereabouts are currently unknown. Some form of circularization should exist between Field Divisions. (Los Angeles)

Reporting standard should be established, as investigations in the New Left are a daily occurrence and

- 11 -

Procurement of weapons, explosives and other material for black groups.

Ideology which portrays blacks as vanguard of revolution. (Boston)

New Left on the offensive.

It is apparent that the New Left will settle for nothing less than the complete destruction of The Establishment and the annihilation of its adherents as witnessed by the intimidation of law enforcement generally throughout the country. Uniformed and plainclothes police officers have been killed and injured by New Leftists and other militants. Federal and police buildings have been bombed and police vehicles and property have been destroyed. What measures have been taken to preserve the safety of FBI personnel, space and property? (Cincinnati)

The nexus between the New Left and black militants.

Obviously, there must exist a line of communication between the above-mentioned groups which enables them to coordinate their mutual objectives in destroying the government and the existing order in the United States. Racial differences as such are meaningless to the black militant and the New Leftist inasmuch as their common denominator is the annihilation of the existing order. Again, what counterintelligence measures can be utilized in alienating the New Leftist from the black militant and vice versa. (Cincinnati)

Verification of the whereabouts of active SDS and/or radical SDS or New Left Types.

Verification of the whereabouts of active New Left persons should be stepped up, and those who are missing should be circularized among the various Field Divisions. This would be particularly true of persons who have gone to Cuba with the Venceremos Brigade (VB) and whose whereabouts are currently unknown. Some form of circularization should exist between Field Divisions. (Los Angeles)

Reporting standard should be established, as investigations in the New Left are a daily occurrence and

Chicago believes it would be most helpful if SOG representatives from Domestic Intelligence, General Investigative and Special Investigative Divisions supervising Weatherman intelligence, Antiriot Law and fugitive cases would be present during discussion of the above. (Chicago)

Use of your Agents in campus and non-campus militant groups. (Denver)

Coordinating explosive theft information through all Bureau Offices. (Denver)

Any guidelines which could be utilized by field in determining feasibility of placing extremely violence prone but young New Left subjects on Security Index. (WFO)

Explore the possibility of setting up a Weatherman-Anarchist "Top 10" separate and distinct from the Bureau's original list. This could be justified in view of the violent crimes being committed by such subjects who bomb government buildings, military installations, police departments. (WFO)

Investigative techniques for communes. (Philadelphia)

Photo albums including all activists. (Philadelphia)

Methods of penetrating underground operations.
(Buffalo)

Utilization of Special Agents in undercover capacity.

Utilization of specialized surveillance vehicles, such as Volkswagens, motorcycles, vehicles with psychedelic paint jobs.

Seminar on types of concealed recording equipment available and successful methods devised for use of such devices to record speeches of New Left Activists. Feasibility of informants or sources using devices. (Boston)

New Left influence over and liaison with black extremist groups in fields of:

Fund raising.

cannot be readily left for annual verifications after an individual is placed on the Security Index. (Los Angeles)

Verification of Priority I Weatherman as to residence and employment every 45 days.

The use of the character SM - ANA (WEATHERMAN) which is used for New Left - Violence prone types and the possibility of confusion caused when this type of character is used in a communication for dissemination when we are not reporting on strictly Weatherman types. Consider the possibility of utilizing some other character such as SM - ANA (VIOLENCE PRONE) when disseminating. (San Francisco)

Analysis of modus operandi (Weatherman types).

Recruitment methods.

Communications.

Sources of money.

Source of weapons and explosives.

Counterintelligence operations against Weatherman.

Seminars for young Agents working in the field to be brought up to date as to terminology and the ideology of New Left - Violent types and approaches to be used in interviews. (San Francisco)

Mr. Francis J. Martin
Criminal Division

10-31-78

FEDERAL GOVERNMENT

Handwritten initials

Federal Bureau of Investigation

U. S. vs. L. PATRICK GRAY III, ET AL

Reference is made to your memorandum of 10-25-78.

For your information, the various documents that were found among the files of the United States Attorney's Office in New York relating to a September 1970 supervisor's conference concerning the Weatherman have already been disclosed in one form or another to the defense in this matter.

Furthermore, FBIHQ file 100-446997 entitled "New Left" has been reviewed and serials pertinent to Discovery were included in a supplemental response to Discovery questions Gray 4, 54, 59h and Miller 27 and 33h. This response was previously furnished to you for release to the defense.

Handwritten circled number 1

Handwritten initials

REC-126

62-112045-96

6 OCT 31 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

sent to dept 10/30/78 PVD/fmk

PVD:ddf (4)

Greenberg/Gray-2646

8 OCT 31 1978 MAIL ROOM

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 11-1-78

FROM : Legal Counsel *JAM*

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL
CRIM. NO. 78-000179, DISTRICT OF COLUMBIA

Attached is a letter addressed to me dated October 27, 1978, which I received today and which enclosed a memorandum from Breckinridge Willcox Criminal Division, addressed to "Witnesses for the Trial" dated October 27, 1978.

The letter and its enclosure address the list of potential witnesses for United States v. L. Patrick Gray, et al. The list of current FBI personnel who may be called does not indicate their current offices of assignment, but it appears that they are located at FBI Headquarters and throughout the field. The request is for these employees to be made available for purposes of the trial during a four-week period commencing January 22, 1979. The letter and memorandum are self-explanatory as to the arrangements. We are requested to forward this information to the listed employees.

COPY RETAINED IN PERSONNEL RECORDS UNIT

RECOMMENDATIONS:

1. That the listed employees be made available for testimony, if called.

REC-80 62-118045-96X

39 XEROX
FEB 1 1979

APPROVED: *WTV*
 Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Servs. *Re/30*
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *JAM*
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

- Enclosure *detailed & hordled separately*
- 1 - Mr. Adams
 - 1 - Mr. McDermott
 - 1 - Mr. Long
 - 1 - Mr. Colwell
 - 1 - Mr. Mintz

Memo Long to Adams 12/1/78, CAPT AS ABOVE JLV:am

Airtel to SAC ALBANY 16 JAN 5 1979

12/4/78 JLV:am



JAM:bpr
(6)

CONTINUED - OVER

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ
PERSONNEL RECORDS UNIT

79 FEB 05 1979

Memo Legal Counsel to the Director
Re: United States v. L. Patrick Gray, et al

RECOMMENDATIONS: (Continued)

2. That the Administrative Services Division identify the current offices of assignment of each and furnish to each listed employee a copy of the October 27, 1978, memorandum from Mr. Willcox to me and a copy of the October 27, 1978, memorandum from Mr. Willcox to "Witnesses for the Trial."

APPROVED:	<i>W</i>	Adm. Serv. <i>Rec/2/78</i>	Legal Coun. <i>JAM</i>
Director	_____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir.	<i>JAM</i>	Ident. _____	Rec Mgnt. _____
Dep. AD Adm.	_____	Intell. _____	Tech. Servs. _____
Dep. AD Inv.	_____	Laboratory _____	Training _____
			Public Affs. Off. _____

3. That in connection with recommendation #2 above, the Administrative Services Division verify the availability of each listed employee for the four-week period beginning January 22, 1979, and appropriately advise the Criminal Division.

APPROVED:	<i>W</i>	Adm. Serv. <i>Rec/2/78</i>	Legal Coun. <i>JAM</i>
Director	_____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir.	<i>JAM</i>	Ident. _____	Rec Mgnt. _____
Dep. AD Adm.	_____	Intell. _____	Tech. Servs. _____
Dep. AD Inv.	_____	Laboratory _____	Training _____
			Public Affs. Off. _____

Greenberg/Gray-2648

Mr. Francis J. Martin
Criminal Division

11-6-78

RD [Redacted] Federal Bureau of Investigation

U. S. vs. L. PATRICK GRAY III, ET AL

C

The following was undertaken pursuant to your instructions emanating from your recent conversations with the Central Intelligence Agency (CIA) concerning material referred to that agency by the FBI in connection with the court ordered Discovery in this case.

On October 30, 1978, Defense Attorneys Thomas A. Kennelly and Howard S. Epstein reviewed the CIA referrals in question for content and pertinence. Upon completion of this review, they made an oral request for many of the documents in which the referred material was contained.

rd

In accordance with their request, four copies of the documents in redacted form, along with an inventory, are enclosed for your release to the defense. The documents are listed on the inventory by CIA's referral number followed by a brief description as it appears in FBI files to facilitate any future retrieval.

It should be noted that material contained in the enclosure is classified to the level of "SECRET."

Enclosures

REC-39
ST-113 *rd* 62-118045-97
22 DEC 6 1978

62-118045

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Hand carried to Dept 11/6/78 RD/bmk

DMC:ddf (4)

Greenberg/Gray-2649

MAIL ROOM

79 DEC 15 1978

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *ml*

DATE: 11-7-78

FROM : *PAC* b6
b7C

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

H b6
b7C

PURPOSE: To advise evidentiary hearing tentatively scheduled for November 16, 1978, in support of defendant Miller's motion to dismiss indictment because of loss and/or destruction of Bureau documents.

DETAILS: On October 27, 1978, the attorneys for former Assistant to the Director Edward S. Miller submitted a motion to the court to dismiss the indictment of Mr. Miller "because of the loss and/or destruction of documents within the possession, custody and control of the government which are material to the preparation of his defense or in mitigation of punishment, in violation of his rights under Rule 16, Federal Rules of Criminal Procedure, Brady v. Maryland, 373 U.S. 83 (1963), and his Constitutional right of due process." A copy of the motion is attached. By way of background, certain materials seized by the Department in August 1976 in connection with the surreptitious entry inquiry from file cabinets in Bureau space were reviewed by the Department and returned to the Bureau employees who had custody at the time of the seizure. Subsequently, the Department made efforts to retrieve some of the returned material at which time it was discovered some of the material had been destroyed and other material could not be located. It is this material on which the defense is basing its motion.

In the motion, the defense attorneys requested the Judge have an evidentiary hearing; and according to Departmental Trial Attorney Francis J. Martin, such a hearing has been scheduled tentatively for November 16, 1978. Martin stated that while a list of government witnesses has not been finalized

Enclosure *ENCLOSURE*

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Long
- 1 - Mr. Bassett
- 1 - Mr. Mintz
- 1 - Mr. Boynton
- 1 -

REC-65
ST-118

62-115045 97X
MAR 18 1980

H-WB

b6
b7C

(CONTINUED - OVER)



[Redacted]

to Bassett Memo

b6

Re: U. S. vs. L. Patrick Gray III, et al

b7C

for purposes of this hearing, he anticipates the following will be witnesses: [Redacted] (former), Robert L. Shackelford (former), [Redacted] ASAC Joseph P. Schulte, Jr., and Assistant Director Richard E. Long. Martin stated that after the hearing plans become finalized, he will be in contact with Bureau representatives to discuss plans for this hearing.

b6
b7C

RECOMMENDATION: None. For information.

APPROVED: <i>WAB</i>	Adm. Serv. _____	Legal Coun. _____
<i>WAB</i> Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>Hub</i>
Dep. AD Inv. _____	Intell. _____	Tech. Serv. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

62-118045-97X

ENCLOSURE

Greenberg/Gray-2652

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Crim. No. 78-000179

L. PATRICK GRAY, III :

W. MARK FELT and :

EDWARD S. MILLER :

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION TO DISMISS INDICTMENT
BECAUSE OF LOSS AND DESTRUCTION OF DOCUMENTS

Factual Background

In defendant Miller's Motion to Dismiss the Indictment because of Pre-Indictment Delay, filed on May 22, 1978, we requested leave of the Court to submit a supplemental memorandum following completion of discovery. We stated at page 6 of our memorandum supporting that motion, that there were indications from the government that certain discovery materials requested by the defendants, and which the government agreed to provide, may have been lost or destroyed. Defendants have now been formally advised that a great number of these documents have indeed been lost and/or destroyed. See letter of Francis J. Martin to all counsel dated August 17, 1968 attached hereto as Exhibit "A" (without enclosures).

The situation, as we understand the letter, is as follows: In early August 1976, the prosecutors assigned to the investigation which ultimately led to this indictment decided to review certain FBI files. These included all files kept in the offices of FBI officials in New York. FBI Headquarters who had responsibility for the Weatherman investigation. On August 19, 1976 some 22 file cabinets were removed from Internal

ENCLOSURE

62-118045-97X

Greenberg/Gray-2654

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Crim. No. 78-000179

L. PATRICK GRAY, III :
W. MARK FELT and :
EDWARD S. MILLER :

DEFENDANT MILLER'S MOTION TO DISMISS
INDICTMENT BECAUSE OF LOSS AND DESTRUCTION
OF DOCUMENTS

Defendant Edward S. Miller moves the Court to dismiss the indictment because of loss and destruction of documents within the possession, custody and control of the government which are material to the preparation of his defense or in mitigation of punishment, in violation of his rights under Rule 16, Federal Rules of Criminal Procedure, Brady v. Maryland, 373 U.S. 83 (1963), and his Constitutional right of due process.

Attached hereto is a Memorandum of Points and Authorities in Support of Said Motion.

Respectfully submitted,

Thomas A. Kennelly
Thomas A. Kennelly

Howard S. Epstein (By Mr.)
Howard S. Epstein
DIUGUID SIEGEL & KENNELLY
1000 Connecticut Avenue, N. W.
Suite 1112
Washington, D. C. 20036
(202) 872-0700
Attorneys for Defendant Miller

DIUGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

Security Section number two (IS-2). This section was also known variously as the "New Left Section" and the "Revolutionary Activities Section." The section had primary responsibility for the Weatherman investigations, and it was part of the Domestic Intelligence Division, which was headed by Mr. Miller in 1971-73.

The 22 file cabinets were reviewed by FBI agents working with the prosecutors. The agents made a list of all file folder titles, and turned over some documents to the prosecutors. The files were then returned to the IS-2 Section, at the direction of the prosecutors.

Two months later, in October 1976, the prosecutors requested that 232 file folders be retrieved from IS-2 for further review. It was then discovered that in the interim some 47 of these folders and their contents had been destroyed - apparently by one or more Bureau personnel.

It also appears that other documents, in addition to those above, have been lost or destroyed. Mr. Martin's letter states (at page 3): "In the nearly two years since the initial review and return of the files, some files have been rearranged, moved, and possibly destroyed in the normal course of business."

The government has provided us with a written inventory of all lost and destroyed file folders. Below is a partial list of the missing folders. [Those marked with an asterisk (*) were designated by the prosecutors for retrieval and review in October 1976]:

Field Supervision - Newark

Field Supervision - New York

Internal Security Section

* FBI supervisors' Orientation Course

WID, SIEGEL & KENNEL
ATTORNEYS AT LAW
500 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

- * Files Maintained in IS-2 Sec.
- * In-Service Schedule
- * Inspection Matters - Field
- * Inspector's Aides
- * Inspection - 1971
- * Inspection August, 1971
- * Inspection August, 1972
- * Inspection - October, 1973

Lecture Records

Memo - Bu. Officials and Supvsrs. 1973

SAC Memorandum 1973

SAC Letters 1972

Fugitive List - All Extremist

Intelligence Evaluation Comm. (IEC)

Key Activist Program - Policy

Policy - Inv. of New Left

RA - Violence Spector Program Policy

NY 13532 - PSI RE Machtinger Case NY

Weathfug Legats Folders

Weathfug - Bureau Memos and Instructions Vol. (?)

Weathfug - Bureau Memos and Instructions Vol. (?)

Weathfug - Bureau Memos and Instructions Vol. (?)

Weathfug - Bureau Memos and Instructions Vol. (?)

Five copies of Sup material from New York Office and Attorney General, volumes 44 through 47 and 49 through 65 and true copies. (Material charged out to Mendenhall, Rm. 4427)

Travel to Communist China

Travel of U.S. Citizens to N. Korea

Travel to N. Vietnam

Chinese Communist Influence on the Domestic

ED. SIGEL & RENNELL
ATTORNEYS AT LAW
50 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

Subversive Movement

U.S. Citizens in China

- * Weatherfug Outgoing Comm. 9/13/72 - 1/23/73
- * Weatherfug Outgoing Comm. 6/28/73 - 8/28/73
- * Weatherfug Outgoing Comm. 8/29/73 - 11/9/73
- * Weatherfug Outgoing Comm. 5/7/73 - 6/27/73
- * Weatherfug Outgoing Comm. 3/23/73 - 5/7/73
- * Weatherfug Outgoing Comm. 1/24/73 - 3/22/73
- * Weatherfug Outgoing Comm. 11/10/73 -
- * Monthly Weatherfug Memos on Individuals
- * Memos for Miller Re New Left Fugitives
- * Policy - Manual Revisions
- * Policy Jurisdiction
- * FBI Jurisdiction
- * Memorandum to Miller from Schackleford
- * Unlabeled file containing letter

Policy - Dept. Investigative Guidelines

FBI Guidelines

- * Weatherfug - Policy
- * Weatherfug - Policy (FBIHQ)
- * Weatherfug - Bu instructions & memos to 9/7/72
- * Field Inspections
- * Graylet

Intelligence Oversight Board

- * Investigative Guidelines

Jurisdiction

- * NSA Requests

Investigative Priorities

- * Special Projects

EDMUND J. RENNELL
ATTORNEYS AT LAW
100 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

Eight reports either Confidential or Secret

One Report Domestic Subversive Activities

- * "Surreptitious Entries", one folder
- * "Permanent Policy Ticklers" (through 1974)

An Analysis of FBI Domestic Intel Investigations Authority etc., 10/28/75

Memo, 1/22/73, Legal Counsel to Adams

As we understand it, all of the above documents were in the custody or control of the prosecutors in August 1976. All came directly from the Intelligence Division, which Mr. Miller headed during the period in question. None are presently available.

Applicable Law

The leading case in this Circuit (and cited in many other jurisdictions) on the duty of the government to preserve evidence is U.S. v. Bryant (Bryant I), 439 F.2d 642 (D.C. Cir. 1971), wherein taped conversations between defendant and government witnesses were unaccountably "lost". The Court of Appeals enunciated the following rule:

Accordingly, we hold that sanctions for non-disclosure based on loss of evidence will be invoked in the future unless the Government can show that it has promulgated, enforced and attempted in good faith to follow rigorous and systematic procedures designed to preserve all discoverable evidence gathered in the course of a criminal investigation. (This in original; fn. omitted.)

W.D. SIEGEL & FENNELLY
ATTORNEYS AT LAW
100 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

Ibid. at 652.

The Bryant court initially pointed out that access by defense counsel to certain evidence gathered by the government is protected by both constitutional and statutory safeguards and that "it is the law in this circuit that the due process requirement applies to all evidence which 'might have led the jury to entertain a reasonable doubt about [defendants'] guilt' and that this test is to be applied generously to the accused when there is 'substantial room for doubt' as to what effect disclosure might have had." (Fn. omitted.) Ibid. at 647-48. See also U.S. v. Butler, 499 F.2d 1006, 1007 (D.C. Cir. 1974); U.S. v. Harrison, 524 F.2d 421, 433 (D.C. Cir. 1975); U.S. v. Harris, 543 F.2d 1247, 1251, (9th Cir. 1976).

The burden is on the government to show promulgation and enforcement of vigorous and systematic procedures designed to ensure preservation of all discoverable evidence; and the duty of preservation exists from the earliest stages of the investigation. Bryant I, supra at 652; U.S. v. Perry, 471 F.2d 1057 (D.C. Cir. 1972); U.S. v. Butler, supra at 1008.

Further, negligent failure to comply with the required procedures will provide no excuse. Byrant I, supra at 652, 653. Obviously a showing of bad faith would violate the duty to preserve, but a showing of bad faith is not required. The court in Bryant I remanded for a hearing to determine the circumstances which led to non-preservation. On the second appeal, U.S. v. Bryant (Bryant II), 448 F.2d 1182 (D.C. Cir. 971), the court took pains to point out that

JO. SIEGEL & KENNEDY
ATTORNEYS AT LAW
300 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

The District Court in its findings of fact and conclusions of law, seemed to assume that only showings of bad faith by the Government were relevant on demand. However, we made very clear in our original opinion remanding the cases that negligent failure to preserve discoverable evidence was highly relevant on remand and would result in imposition of full sanctions in the future.

Ibid. at 1184, fn. 2.

On remand it was determined that the agent custodian of the tape recording made no effort whatever to preserve it under the customary procedures. The Bryant II court viewed this failure as follows: "The fact that he acted in direct violation of a Bureau rule makes his conduct extremely negligent and, in the future, would surely result in imposition of full sanctions." (Fn. omitted.) Ibid. at 1184.

Since its decisions in the Bryant cases, the Court of Appeals has consistently held that non-preservation of evidence will not be excused just because it is attributable to mere negligence. U.S. v. Quiovers, 539 F.2d 744, 747 (D.C. Cir. 1976); U.S. v. Perry, 471 F.2d 1057, 1063 (D.C. Cir. 1972) ("the Government does not necessarily exonerate itself from the penalty of the [Jencks] statute by pleading 'good faith'." In fact, in Perry the court suggested, and we urge here, that where due process considerations are involved, a negligent loss may be ground for imposition of sanctions if the trial court finds that

DR. SIGGEL & KENNEDY
ATTORNEYS AT LAW
300 CORN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20006
(202) 872-0700

the unavailability of the material seriously prejudices the defense. Ibid. at 1065-66. See also U.S. v. Maynard, 476 F.2d 1170, 1177 (D.C. Cir. 1973).

With regard to negligence or bad faith in the case at bar, it is noted in Mr. Martin's letter (at page 2) that there may be administrative action taken against the former head of the IS-2 section who allegedly destroyed some of the files. This suggests that the government considers the non-preservation as at least negligent if not in bad faith.

Nor is the government excused because the documents may have been in the hands of its agents rather than its prosecutors at the time of loss. In the instant case, apparently some of the loss or destruction occurred after the prosecutors relinquished control to the FBI. The duty of disclosure affects not only the prosecutor, but the government as a whole, including its investigative agencies. Bryant I, 439 F.2d at 650. See also U.S. v. Perry, 471 F.2d at 1068; U.S. v. Quiovers, 539 F.2d at 746; Barbee v. Warden, 331 F.2d 842, 846 (4th Cir. 1964); Boone v. Paderick, 541 F.2d 447, 450-51 (4th Cir. 1976).

There is guidance for this case, perhaps even a mandate, from the D.C. Circuit in Bryant II. The court, after remand, noted that the loss was the result of direct violation of a Bureau of Narcotics and Dangerous Drugs rule by a Bureau agent. The court warned: "The fact that he acted in direct violation of a Bureau rule makes his conduct extremely negligent and, in the future, would surely result in imposition of full sanctions." 448 F.2d at 1184.

Nor is there any exception to the administrative determination that certain evidence need not be preserved. U.S. v.

MR. SEGEL & FENNELLO
ATTORNEYS AT LAW
25 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

Harrison, supra, 524 F.2d at 434, citing Bryant I. Mr. Martin's letter, at page 2 (footnote) states: "Headquarters ticker [sic] copies, i.e., extra copies of documents in regular Bureau files, were exempt from the non-destruction order because they were routinely destroyed (every 30 to 60 days) and the originals, of which they are copies, are permanently maintained in regular FBI files. It is possible that 'Do Not File' memoranda were kept in tickler files; they should not, but may have been destroyed."

Such administrative decisions were specifically condemned in Bryant II, supra, 448 F.2d at 1184: "In the future, of course, investigative agencies will not be allowed to excuse non-preservation of evidence by claiming that it contained nothing of interest to defendants." And in a footnote on the same page, the court added: "It is the defendant's right to discover such evidence and decide for himself such usefulness."

The same point had been made in Bryant I, 439 F.2d at 652, fn. 21: "Although there is an exception for good faith loss of evidence, there is no exception for good faith administrative decision that certain evidence is not discoverable and thus need not be preserved." The point was reiterated in U.S. v. Butler, supra, 499 F.2d at 1008. See also, the Ninth Circuit decision in U.S. v. Harris, 543 F.2d, 1247, 1252 (1976), citing with approval Bryant I: "The [Bryant I] court further hammered home the point that the courts, not the investigators or the prosecutors, make the decision as to whether evidence is discoverable, and that this decision cannot be made if the evidence has been destroyed."

Materiality and Prejudice in this Case

The Supreme Court in Brady v. Maryland stated: "We now hold that the suppression by the prosecution of evidence

D. SIEGEL & KENNEDY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." 373 U.S. 83, 87 (1963). Rule 16 gives a defendant the right to inspect all documents which are material to the preparation of his defense.

The accused's dilemma, of course, is in convincing the court of materiality and prejudice when he cannot precisely describe what is in the missing documents. As the D. C. Circuit put it in U.S. v. Quiovers: "We recognize the logical force of the contention that it is impossible to determine with certainty whether a defendant was prejudiced without knowing precisely what is contained on the missing tape recording." 539 F.2d at 746 (D.C. Cir. 1976).

Fortunately in this case we are not completely in the dark. We know that, as to the 47 missing file folders at least, all of them came directly from the IS-2 Section, which had the primary responsibility for conducting the Weatherman investigations. Mr. Miller, as head of the Domestic Intelligence Division, was directly responsible for the operations of the IS-2 Section. On this basis alone it would seem that all the files of IS-2 pertaining to the Weatherman investigation during the period of the indictment are material to this case.

The government seems to agree, for it stated in its "Response Of The United States To Defendants' Motions For Discovery And Inspection", at page 2: "[T]he government has undertaken to make available to defense counsel all FBI files relating to the Weatherman Organization, to its members and supporters, as well as to the 'relatives and acquaintances' of Weatherman

GREENBERG & FENNEL
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

fugitives who are referred to in para. 6 and Overt Acts 6 through 32 of the Indictment. These Weatherman files contain all known information concerning the FBI's Weatherman investigation, including information relating to the use of warrantless surreptitious entries and searches, wiretaps, microphone installations, mail covers, mail openings, informants and undercover agents." Now the government admits that it cannot do what it told the court earlier this year it was doing.

This court also agreed that such documents are material when it granted in part Mr. Miller's Discovery Requests 12, 13, 14, 15, 16 and 17 insofar as they reach FBI, White House or Department of Justice documents which involve surreptitious entries in the Weatherman Underground Organization or refer to terrorists groups which can be reasonably understood to refer to the Weatherman fugitives. Similar requests by Gray and Felt were granted by the court.^{1/}

Further, the titles of the missing file folders provide strong evidence of their materiality. It would be difficult indeed to conclude that documents contained under the following titles are not material to this case, or that Mr. Miller is not prejudiced by the loss of opportunity to examine them:

Policy - Inv. of New Left

Weathfug - Bureau Memos and Instructions

Chinese Communist Influence on the Domestic

^{1/} It is worth noting that the Court specifically granted Gray's request for "Do Not File" status in its Opinion and Order, August 17, 1978, p. 11. Mr. Martin stated that "Do Not File" documents may have been destroyed with the tickler files that were exempt from the non-destruction order. Martin letter, Exhibit "A" hereto, p. 2, fn.

Subversive Movement

- * Weatherfug Outgoing Com. 9/13/72 - 11/10/73
- * Memos for Miller re New Left Fugitives
- * Memorandum to Miller from Shackelford
- Policy - Dept. Investigative Guidelines
- * Weatherfug - Policy
- * Investigative Guidelines
- * "Surreptitious Entries", one folder

Finally, the prosecutors themselves in October 1976 must have thought the documents were material, because those designated with an (*) were among the documents specifically designated by the prosecutors for retrieval during the investigation.

Sanctions

The rule enunciated in Bryant I and II, supra, does not require automatic dismissal of the indictment. Nevertheless, the D. C. Circuit has clearly warned that "full sanctions" will be imposed in appropriate circumstances. See, e.g., Bryant II, 448 F.2d at 1184; Harrison, 524 F.2d at 434. In 1976, at about the same time the investigation in this case was initiated, the D. C. Circuit warned again in U.S. v. Quiovers that the sanction of dismissal "may appropriately be invoked in some cases - such as where the loss of evidence is deliberate or results from an agency's failure to prescribe adequate systematic procedures, or where there is a substantial likelihood of serious prejudice to the defendant." 539 F.2d at 746.

Mr. Martin's letter seems to describe circumstances which call for the imposition of full sanctions in this case.

DR. SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

In 1958, long before Bryant, the Ninth Circuit approved dismissal of an indictment under circumstances similar to those at bar. In U.S. v. Heath, 260 F.2d 623 (1958), the IRS had obtained records from the defendant. He asked for their production under Rule 16. They could not be located. The trial court concluded that the defendant could not present his defense without the records, and dismissed the indictment. Although the question before the Ninth Circuit was the right of the government to appeal the dismissal, the court stated: "If the question was before this Court, which it is not, we should have no difficulty in sustaining the trial judge in the findings and in requiring the government to produce the documents as a condition precedent to trial, since these were, without question, vital to the defense." Ibid. at 626.

Heath is analagous to the instant case. Although the documents were not taken directly from Mr. Mller, they were taken from the office which was responsible for the Weatherman investigation, and over which he had supervision. Conceptually then, they were taken from him and with the same effect of prejudicing his ability to prepare his defense.

Request for Evidentiary Hearing

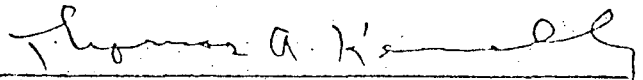
The rule enunciated in Bryant I, supra requires that the District Court conduct a hearing to determine the degree of bad faith, negligence or inadvertence, and the risk of prejudice. U.S. v. Perry, 471 F.2d at 1060 (D.C. Cir. 1972); U.S. v. Maynard, 476 F.2d at 1177 (D.C. Cir. 1973). The court is under the necessity of ascertaining the circumstances leading to the non-preservation. U.S. v. Butler, 499 F.2d at 1008 (D.C. Cir. 1974).


REGULATORY AFFAIRS
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

The burden is on the government to show that it has promulgated, enforced and attempted in good faith to follow rigorous and systematic procedures designed to preserve all discoverable evidence. Bryant I, supra, at 652.

Accordingly, defendant Miller requests that this court order an evidentiary hearing, and that the government be directed to produce for examination at said hearing Mr. William J. Gardner, Department of Justice attorney who was in charge of the investigation in 1976, and Mr. Robert Shackelford, former IS-2 section chief.

Respectfully submitted,


Thomas A. Kennelly


Howard S. Epstein
DIUGUID, SIEGEL & KENNELLY
1000 Connecticut Avenue, N. W.
Suite 1112
Washington, D. C. 20036
(202) 872-0700
Attorneys for Defendant Miller

DIUGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

62-118045-97X
ENCLOSURE

Greenberg/Gray-2669

August 17, 1978

Address Reply to the
Division Indicated
and Refer to Initials and Number

FJM:ams

Alan I. Baron, Esquire
Brian Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al.

Dear Sirs:

As previously stated, during both informal and formal discovery proceedings, the government has agreed to provide, to the extent still available, the "fruits" of a "search" conducted on August 19, 1976. As initially indicated, not all of the documents are still in existence. In order that the defense may be fully informed with regard to the matter, there is set out below a summary of the relevant facts.

The investigation that led to the indictment in this case commenced in the late spring-early summer of 1976, after it was discovered that bag jobs in the Weatherman investigation had occurred in New York during 1972-73. In order to determine the full extent of illegal activity in the FBI's Weatherman investigation, a team of FBI agents was assigned to review all major Weatherman files at FBI headquarters and in over two dozen field offices. The agents were instructed to look for and to copy any documents that might refer, in any fashion, to a bag job, an illegal wiretap, a mail opening, or the authorization for, or policy with respect to, any of those techniques. The agents working with the prosecutors did not "seize" such files; rather, the files, as would be the normal course, were "checked out" and reviewed. Copies of relevant documents were made, and the files were then returned.

EXHIBIT "A"

Greenberg/Gray-2670

In early August 1976, the prosecutors decided that, in addition to the regular Weatherman files, any files kept in the offices of officials in New York or at headquarters who had responsibility for the Weatherman investigation should also be reviewed. (See inventory item 180) This was done on August 19, 1976. In order to facilitate this review, the files of the Internal Security Section number two (IS-2), which were voluminous, were removed to a separate area for review over a number of days. These files were reviewed by FBI Agents working with the prosecutors and were then returned to the IS-2 Section. That review disclosed approximately sixty-four relevant documents, which were provided to the prosecutors. Enclosed are the various reports from Richard Long, then investigative coordinator for the surreptitious entry investigation. These reports contain inventories of the various filing cabinets and enclosed documents selected as relevant to the investigation. (See inventory, items 154 to 177)

The inventories prepared by these agents consisted essentially of a list of file folder titles and did not detail any of the specific documents within a folder. In October 1976, the prosecutors requested that certain of these file folders be retrieved for further review. (See inventory item 183) At that time it was learned that some files that had been returned to IS-2 had since been destroyed by former IS-2 section chief Robert Shackelford. Copies of Mr. Shackelford's statements concerning this destruction are enclosed. (See inventory items 181 and 182) There is pending a referral to the FBI by the Department of Justice for possible administrative action against Mr. Shackelford based, among other matters, upon his destruction of those files.*

*/This destruction by Mr. Shackelford contravened specific instructions from Assistant Attorney General Pottinger and from Director Kelley. A copy of Mr. Pottinger's May 28, 1976 memorandum and Director Kelley's June 1, 1976 teletype are enclosed. (See inventory items 178 & 179) Headquarters ticker copies, i.e., extra copies of documents in regular Bureau files, were exempt from the non-destruction order because they are routinely destroyed (every 30 to 60 days) and the originals, of which they are copies, are permanently maintained in regular FBI files. It is possible that "Do Not File" memoranda were kept in tickler files; they should not, but may have been, destroyed.

The present state of the files which were reviewed beginning on August 19, 1976 is as follows: certain of the material has clearly been destroyed, almost exclusively by Mr. Shackelford. Mr. Shackelford is of course available to be interviewed concerning these files and should be contacted through his attorney, Mr. Joseph Morrissey of Washington, D.C. In the nearly two years since the initial review and return of the files, some files have been rearranged, moved, and possibly destroyed in the normal course of business. In order for the government to be able to make all of those files available to the defense as discovery, they have again been gathered together and re-inventoried. Enclosed you will find a detailed inventory of the files which were reviewed in August 1976. (See inventory item 185) This inventory was prepared in August 1976 and lists all file folders which were reviewed at that time. The inventory has been updated to show, in addition to the file folders available in August 1976, which file folders were designated by the prosecutors for additional review in October 1976 (232 folders); which of these additional file folders were located at that time (185 folders); which file folders are presently available (approximately 7 four-drawer filing cabinets); and the number of documents presently in each folder. Finally, noted above, there are enclosed herewith copies of those documents which were selected as relevant by the reviewing agents and forwarded to the prosecutors in 1976. (See inventory items 154-177)

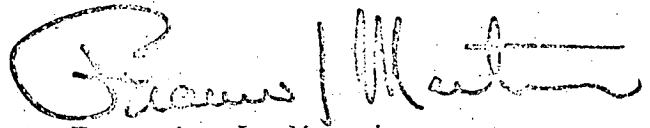
23
- 18
4

You may, of course, examine any of the files listed in the enclosed inventory, these files are quite voluminous. In order to expedite the discovery process you should, as soon as possible, designate those files that you wish to examine. Once thus designated, such files will be reviewed for purposes of redaction and will then be made available to you. It may be beneficial to the overall efficiency of this process for you to meet with Special Agents Paul Daly and Joseph Tierney, who are familiar with the files and may be able to give you some helpful guidance. They are also available to review some of the files for you if you can designate for them specific matters of interest to

Greenberg/Gray-2672

you. This latter procedure would greatly expedite matters by avoiding the necessity for a redaction review of entire files. Should you desire their assistance, they may as you know be contacted at 324-3542.

Sincerely,

A handwritten signature in cursive script, appearing to read "Francis J. Martin". The signature is written in dark ink and is positioned above the typed name.

Francis J. Martin
Trial Attorney
Criminal Division

Greenberg/Gray-2673

USURE

62-118045-97X

Greenberg/Gray-2674

CERTIFICATE OF SERVICE

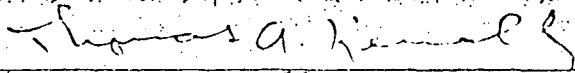
I hereby certify that a copy of the foregoing Motion to Dismiss, Memorandum of Points and Authorities and proposed Order were mailed, postage prepaid, this 27th day October, 1978 to:

Barnet D. Skolnik, Esquire
Assistant U. S. Attorney
United States Court House
101 West Lombard Street
Baltimore, Maryland 21201

Francis J. Martin, Esquire
Department of Justice
Federal Triangle Building
Room 600
Washington, D. C. 20530

Alan I. Baron, Esquire
1300 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Maryland 21201

Brian P. Gettings, Esquire
1400 N. Uhle Street
Arlington, Virginia 22201


Thomas A. Kennelly

Greenberg/Gray-2675

ENCLOSURE

62-118045-97X

Greenberg/Gray-2676

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Crim. No. 78-000179

L. PATRICK GRAY, III :
W. MARK FELT and :
EDWARD S. MILLER :

ORDER

Defendant Miller, having requested an evidentiary hearing on the issue of loss and/or destruction of discoverable documents, pursuant to his motion to dismiss the indictment, and good cause appearing therefor, it is hereby

ORDERED, that an evidentiary hearing be held before this Court on _____ 1978, at _____ M. in Courtroom No. 1 and it is

FURTHER ORDERED, that the Government will produce for examination at said hearing Mr. William J. Gardner and Mr. Robert Shackelford.

Dated: _____, 1978

CHIEF JUDGE

Greenberg/Gray-2677



b6
b7C

Mr. Benjamin R. Civiletti
Deputy Attorney General

11-13-78

FEDERAL GOVERNMENT

b6
b7C

[Redacted] Federal Bureau of Investigation

U. S. vs. L. PATRICK GRAY III, ET AL

The subpoena of current and former FBI personnel in connection with the forthcoming trial of former Bureau officials presents problems which I believe must be addressed as soon as possible. As you are aware, defense attorneys and their staff have been given access to documents pursuant to informal and court ordered discovery. Where necessary, information was redacted to protect sources, ongoing investigations, and the privacy of unrelated third parties.

Similar restraints must be imposed on the kind of information given to the defense through its interviews as well as testimony during the actual trial. These restraints must be expanded in the interview or testimony context to include protection of third agency information since it will not be possible to secure that agency's approval prior to release as is being done with documents. Title 28, Code of Federal Regulations, Section 16.21, et seq., sets forth the requirement that current and former personnel seek approval prior to releasing information pursuant to subpoena or demand. In view of these provisions, you are requested to have appropriate instructions issued concerning this matter so that current and former Bureau personnel interviewed or testifying in this matter will have guidelines as to what information may or may not be disclosed.

Handwritten initials

REC-39 62-118045-98

- 1 - Mary C. Lewton, Deputy Assistant Attorney General
Legal Counsel
- 1 - Robert Keuch, Deputy Assistant Attorney General
Criminal Division
- 1 - Barnett D. Skolnik

ST-118

DEC 6 1978

MAILED 15
NOV 13 1978
FBI

62-118045

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Plan. & Insp. _____
- Tech. Serv. _____
- Training _____
- Off. Aff. _____

PVD:ddf
(11)

SEE NOTE PAGE TWO.

b6
b7C

9 DEC 13 1978

NOTE: Current and former employees have been subpoenaed in connection with the above-described trial. The Department is required by the cited CFR provisions to furnish instructions and/or guidelines as to what information might be disclosed. We have been informed that the defense attorneys in this matter are currently planning interviews of witnesses, and it is essential that the Department furnish guidance prior to these interviews being conducted.

[Handwritten signature]

APPROVED: _____

wls

Director _____

Assoc. Dir. _____

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. HND

Tech. Servs. _____

Training _____

Public Affs. Off. _____


Greenberg/Gray-2679

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *MB*

DATE: 11-17-78

FROM :  b6
b7C



b6
b7C

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To furnish background information relating to an article appearing in the November 16, 1978, issue of The Washington Post alledging that former President Nixon approved FBI break-ins (copy attached).

DETAILS: The Washington Post news article states that material furnished to the defense attorneys in this matter includes an August 1970 letter to President Nixon enclosing a copy of a strongly worded letter to Special Agents in Charge of FBI Field Offices concerning the Weatherman fugitives. Brian Gettings, who is the attorney for former Acting Associate Director W. Mark Felt, stated that the "overwhelming evidence" contained in these documents indicated that President Nixon authorized the initiation of certain aspects of the Huston Plan which included surreptitious entries.

res

ST-113


REC-39

62-118045-99

The Huston Plan, actually titled "Special Report of the Interagency Committee on Intelligence," removed restraints on the use of certain investigative techniques, among which it provides for the use of surreptitious entries against domestic targets. Mr. Hoover rejected the plan after its approval by the President. The rejection was contained in a memorandum to the Attorney General, dated July 27, 1970. Apparently, the defense attorneys in captioned matter believe that the plan was secretly implemented in part. This is based on a conversation President Nixon had with former Director Hoover sometime around August 17, 1970. The conversation is recorded in Bureau files in the form of a letter to the President, dated August 17, 1970, which enclosed a copy of a letter to all Special Agents in Charge. The content of the letter to the President indicates the

DEC 6 1978

Enclosures

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - 

b6
b7C

62-118045

DOC. *PT* *REV*

(CONTINUED - OVER)

Greenberg/Gray-2680



PVD:ddf

9 DEC 5 1978

[] to Bassett Memo

b6

Re: U. S. vs. L. Patrick Gray III, et al

b7C

President's discussion with the Director concerned the intensification of investigative efforts concerning the Black Panther Party, Students for a Democratic Society, and Weatherman (copy attached).

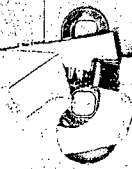
There is no reference to surreptitious entries or the Huston Plan in the letter. Apparently, the defense is basing their position that Nixon approved these matters on material not referred to in the news article. Two separate memoranda were prepared in The White House, dated August 5 and August 7, respectively, recommending the President contact Mr. Hoover and advise Mr. Hoover of his wishes that the plan be implemented. The defense apparently believes the phone call referred to in the August 17, 1970, letter was prompted by these memoranda and, in effect, represented a lift of the restraints and partial implementation of the Huston Plan. Copies of The White House memoranda in question are attached. We have not located any material in Bureau files indicating the Huston Plan was initiated.

RECOMMENDATION: None. For information.

WCB APPROVED: *WCB*

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD _____	Ident. _____	Rec Mgnt. <i>HNC</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-2682



62-118045-99

ENCLOSURE

Nixon Approved Break-Ins, Ex-FBI Aide Tells Court

By Ronald J. Ostrow
Los Angeles Times

The FBI secretly implemented part of the illegal Huston plan for break-ins, wiretaps and mail openings to hunt down fugitive Weatherman terrorists in 1970, a federal court was told yesterday.

Then-President Nixon has said he killed the plan—named after White House aide Tom Charles Huston—in July 1970, only five days after approving it, because of strong objections to the plan from then-FBI Director J. Edgar Hoover.

But a lawyer for W. Mark Felt, former No. 2 man in the FBI, said in a court motion yesterday that "certain

recommendations" of the plan were put into action after a mid-August 1970 conversation between Nixon and Hoover.

Until now, it had been believed that authority for the break-ins that the FBI conducted in its search for Weatherman terrorists came from no higher than FBI headquarters in Washington.

If Felt's claim of presidential approval, which attorney Brian Gettings said would be demonstrated by "overwhelming evidence at trial," stands up, Felt and two other indicted former bureau officials may be able to claim that authorization of the tactics used against the terrorists was legal.

Felt and former acting FBI director L. Patrick Gray III and Edward S. Miller, former assistant director for domestic intelligence, are scheduled to go on trial here in January on charges of conspiring to violate the rights of friends and relatives of the terrorists by approving the illegal tactics.

Gettings said in an interview that the "overwhelming evidence" supporting Felt's contention was gleaned from material that prosecutors supplied in response to defense requests.

The Nixon-Hoover conversation was held over the telephone when both men were in California in August 1970, Gettings said. He refused to say

how he knew what was said during the conversation.

Following the phone call, according to Gettings, Hoover wrote Nixon, enclosing a copy of a strongly worded letter he had written special agents in charge of the nation's 59 FBI field offices and all FBI legal attaches based in foreign lands.

That letter relayed Nixon's instructions to intensify efforts to track down the Weatherman fugitives. Hoover also told the agents he was "going to hold you personally responsible" for the outcome of the fugitive hunt.

An FBI spokesman declined to com-

See FBI, A6, Col. 2

ber 16, 1978 THE WASHINGTON POST

Nixon Approved Break-Ins, Court Told

FBI, From A1

ment on the assertion that the bureau had put into action the Huston plan's package of illegal tactics.

But a source familiar with the FBI said Hoover's warning to the special agents that he would hold them personally responsible was "vintage but-reause"—the kind of word Hoover frequently employed to fire up subordinates.

R. Stan Mortenson, one of Nixon's Washington lawyers, said Nixon and Hoover had frequent telephone conversations, but added that "a lot of things could have been said without saying implement" illegal tactics.

Mortenson said he had not interviewed Nixon on the Huston plan implementation, adding that the former president had not been contacted about testifying as a witness at the upcoming trial.

A hearing set for today on destruction of evidence in the break-in case by a former FBI official, Robert Shackelford, was postponed because

of the illness of chief U.S. District Court Judge William B. Bryant, an aide to the judge said.

FBI Would Concede Suit, Won't Yield Informant Data

NEW YORK (AP)—The federal government, still insisting that it must not release FBI files containing information about informants, said yesterday that it is willing to concede a \$40 million damage suit filed by the Socialist Workers Party.

"We would rather lose the case than turn over the files of these informants," U.S. Attorney Robert Fiske Jr. told a three-judge panel of the 2nd U.S. Circuit Court of Appeals, which is reviewing a lower court's contempt citation against Attorney General Griffin B. Bell.

The nation's chief legal officer was cited last July by U.S. District Court Judge Thomas Griesa after Bell defied Griesa's order that he turn over 18 FBI informant files to the Socialist Workers. Griesa denied a motion by the Socialist Workers to have Bell jailed before the appeal and suspended sentencing pending appeal.

Fiske said the government also had offered to concede the suit before Griesa. He said the judge should have granted Bell the alternative of defaulting on the suit rather than surrendering the FBI files, said to contain the names of about 100 informants.

The government's willingness to concede the case means it would submit to a partial judgment if the plaintiffs show they lost revenue or suffered other damages because of the government's activities.

Arguing against the government's offer, Leonard Boudin, lawyer for the Socialist Workers, said he still needed the files because "we do not know the details of the wrongdoings and the quantity of the wrongdoings."

The suit charged the FBI with break-ins and other illegal acts in the course of its surveillance of the party from its founding in 1938 until 1976, and Boudin contends the files are needed to determine whether damages exceeded the tentative \$40 million estimate.

The appellate court took the appeal under advisement and continued a temporary stay of the contempt order against Bell.

UNITED STATES GOVERNMENT

Memorandum

- Tolson _____
- Sullivan _____
- Mohr _____
- Bishop _____
- Brennan, C.D. _____
- Callahan _____
- Casper _____
- Conrad _____
- Felt _____
- Gale _____
- Rosen _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

TO : Mr. C. D. Brennan

DATE : 8/13/70

FROM : Mr. G. C. Moore

SUBJECT: **EXTREMIST ACTIVITIES
IN THE UNITED STATES**

Handwritten: RIDWALING TO BUREAU
AGAINST U.S. GOVERNMENT
OFFICIALS AND FOREIGN
OFFICIALS

Pursuant to Director's instructions, an SAC Letter is attached instructing the field to intensify investigation of the extremist organizations which might engage in kidnaping and holding as hostages of high ranking Government officials, diplomats, and foreign officials, as well as members of their families.

Recent activities in Latin America and United States by extremist elements indicate that kidnapings of foreign and public officials and members of their families may become more prevalent. For example, the Black Panther Party in its propaganda has condoned the recent action of criminals in San Rafael, California, where the judge and members of the jury were taken as hostages and which resulted in the killing of the judge as well as three others involved in the abduction. It is reasonable to assume that extremist elements, as the Panthers, the Students for a Democratic Society, including the Weatherman faction, and similar violence-prone organizations may utilize this tactic with greater frequency in the future. Accordingly, we are alerting all offices and instructing that the SAC assure that the investigations of such extremist organizations is intensified and that informant coverage is developed to the point whereby we receive advance notice of such plans.

ACTION: Attached for your approval is a letter to all SACs in accordance with the above.

Handwritten: ENCLOSURE
EX-110
ENCL. Detached AS ENCL. TO 66-04-3754X

- 1 - Mr. Sullivan *2/15/77*
- 1 - Mr. Mohr
- 1 - Mr. C. D. Brennan
- 1 - Mr. Casper
- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Shackelford
- 1 - Mr. R. D. Cotter
- 1 - Mr. Wannall
- 1 - Mr. G. C. Moore

GCM:bjr (11)

59 SEP 2 1970

Handwritten: REC-81 62-112-119
WEL
JMS

SENT DIRECTOR FOR APPROVAL
8-17-70



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 17, 1970

Letter to All Special Agents in Charge:

RE: INVESTIGATION OF
EXTREMIST ORGANIZATIONS

Dear Sir:

Recent activities in Latin America as well as in California on the part of revolutionary extremists in the kidnaping of public officials and diplomats for hostage purposes dictate the need for intensification of investigation of such extremist organizations as the Black Panther Party, the Students for a Democratic Society including the Weatherman faction, and similar violence-prone organizations, both national and local in scope.

I consider this to be a matter of greatest importance and am holding you personally responsible for the development of informant coverage in these organizations whereby the Bureau is in a position to ascertain the plans of such extremist elements which might call for the abduction or kidnaping of high-ranking Government officials (local and Federal), members of the diplomatic corps, and United Nations officials as well as members of any of their families for hostage purposes.

Your efforts in this regard will be the subject of close scrutiny during future inspections.

Very truly yours,

J. Edgar Hoover

John Edgar Hoover
Director

Best Copy Available.

August 17, 1970

Mr. Mohr	_____
Mr. Bishop	_____
Mr. Brennan, C.D.	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Felt	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

BY LIAISON

The President
The White House
Washington, D. C.

1 - Mr. Mohr
1 - Mr. Casper
1 - Mr. C. I.
1 - Mr. Conrad
1 - Mr. G.

Dear Mr. President:

In line with our conversation the other evening, I have had instructions issued to every one of our field offices and to our Legal Attaches abroad to intensify investigation of such extremist organizations as the Black Panther Party and the Students for a Democratic Society, including the Weatherman faction, whose members may make an effort to kidnap high-ranking Government officials, members of the diplomatic corps and members of their families.

You will find enclosed a copy of these instructions for your information.

I am advising the Attorney General in this regard.

Sincerely yours,

J. Edgar Hoover

Enclosure

CCM:bjr/lrs
(7)

NOTE: In addition to an OAC Letter being issued, each Legat has separately been instructed by cablegram.

REC-11
AUG 18 11 10 AM '70

SENT DIRECT
8-18-70

Best Copy Available.

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *[Handwritten initials]*

FROM : *[Handwritten initials]* b6
 b7C

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

DATE: 11-20-78

b6
b7C

On October 17, 1978, Francis J. Martin, Departmental Attorney, advised that the evidentiary hearing in captioned matter has been rescheduled for November 29, 1978, at 9:30 a. m., in the court room of Judge William B. Bryant, U. S. District Court, District of Columbia. The results of this hearing will be promptly furnished.

RECOMMENDATION: None. For information.

[Handwritten signature]

APPROVED: *[Handwritten initials]*

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec. Mgnt. <input checked="" type="checkbox"/>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - Mr. Colwell
- 1 -

b6
b7C

ST-113

REC-39

62-118045-11000

DEC 6 1978

Greenberg/Gray-2693

62-118045

DOC. CLASS. REV. *[Handwritten initials]*

[Handwritten signature]
 DMC:ddf
 (6)



UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

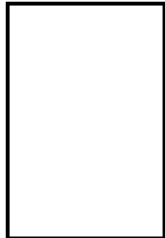
Asso. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. *HP*
 Rec. Mgnt. *HP*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : MR. McDERMOTT

DATE: 11-21-78

FROM : H. N. BASSETT *HNB*

SUBJECT: *est* UNITED STATES V. GRAY, et al -
UPCOMING HEARING



b6
b7C

PURPOSE:

The purpose of this memo is to advise of receipt of a memo from Francis J. Martin, Criminal Division, Department of Justice (DOJ), requesting extensive investigation by the Bureau relative to missing file folders. Further, to advise of countermanding instructions from Mary Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, DOJ, to the effect we should do nothing concerning this request until it has been cleared with Mr. Paul Michel of the Department who, according to Ms. Lawton, is coordinating this matter for the Department. *Go*

DETAILS:

As a matter of background, a conference was held with the Director on Friday, 11-17-78, at which time it was explained that a communication such as the attached might be forthcoming in the immediate future and the ramifications involved if such were received. At this meeting, the Director indicated that we should cooperate fully and if there were any inherent problems on receipt of such a document that interested parties of the Department and the FBI should get together to work them out. *REC-114 62-118045-100 #2*

JUN 12 1979

b6
b7C

At approximately 10:30 A.M., 11-21-78, the original of the attached copy was hand delivered to the Task Force in the FBI handling Discovery requests. Contrary to our prior belief that such a document might be forthcoming from the Deputy Attorney General, as noted this is a memo from Francis J. Martin to

Also, it is noted the requested investigation is extremely extensive in nature which would require a considerable commitment of resources in an extremely short period of time, it being noted that the upcoming hearing is scheduled for Wednesday, 11-29-78. In any event, after discussing this communication with a representative

Enc. detached + handle separate.

- 1-Mr. Adams
- 1-Mr. McDermott
- 1-Mr. Mintz
- 1-Mr. Colwell

HNB:jmr

CONTINUED - OVER



b6
b7C

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ



53 JUN 13 1979

Memo to Mr. McDermott from H. N. Bassett
Re: United States v. Gray, et al - Upcoming Hearing

of the Task Force, I instructed that Ms. Lawton be contacted to determine if a meeting could be held immediately and, further, to express our concern over the closing statement which indicates the Department did not believe it would be necessary to use the Miranda or any other administrative warning to those employees being interviewed. This was completely contrary to the concerns expressed by Ms. Lawton when she visited Bureau Headquarters on Friday, 11-17-78.

SA [] of the Task Force telephonically contacted Ms. Lawton at approximately 11:40 A.M. today. She expressed considerable surprise over our receipt of this communication and instructed that the original be returned as soon as possible to Paul Michel since, as indicated previously, he was coordinating this matter and to Ms. Lawton's knowledge was unaware that it had been delivered to the FBI.

b6
b7C

b6
b7C

In view of the above conflict, SA [] also telephonically contacted Frank Martin and he advised that his letter had been cleared with Paul Michel and, in fact, expressed the opinion that a short cover letter from Michel to the Director with a copy of his letter attached should be in the Director's Office at this time. Our concern regarding an appropriate warning to our employees was expressed to Martin and his general attitude was one of not believing there was a problem, indicating at this point that Shackelford would be the most seriously affected and the Department had no intention of indicting him for the destruction of material. He did note, however, that he would be willing to meet with Bureau representatives to further clarify this particular issue. It is our belief that this should be explored further with Martin with a representative of our Legal Counsel Division present. We also believe that we should obtain from Martin further clarification concerning his comment appearing as the last sentence on page 2 as it applies to the burden of interviewing all individuals who had custody of these files. Appropriate contact will be made with Martin this date to clarify these two issues.

As noted previously, this inquiry is going to require extensive manpower and time is not on our side. Moreover, another part of Martin's letter is somewhat unclear where he indicates that those Agents who worked on the Task Force headed by Assistant Director Long should be provided with an inventory and then instructed to contact Martin. This would appear to preclude an interview of these 24 Agents by Bureau personnel. In any event, this will be worked out. Following discussion with Martin and a review of other background material, we will have a better idea as to our manpower needs. This figure should be forthcoming

Greenberg/Gray-2700

Memo to Mr. McDermott from H. N. Bassett
Re: United States v. Gray, et al - Upcoming Hearing

no later than the morning of 11-22-78; however, upon approval of this memo it is anticipated that we will have to draw manpower, Agent and support, from all of the Headquarters Divisions on a prorated basis. This may, of necessity, include some of the Agents which were borrowed from other divisions previously to work on this Task Force.

RECOMMENDATION:

The foregoing is for information. You will be kept advised of developments.

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director <i>HNB</i>	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. <i>HNB</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-2701

Francis J. Martin
Criminal Division

11-28-78

FEDERAL GOVERNMENT

b6
b7C

Federal Bureau of Investigation

U. S. vs. L. PATRICK GRAY III, ET AL

My memorandum of November 20, 1978, advised you that we were attempting to interview the preparer of the October 23, 1975, memorandum captioned "'Do Not File' Memoranda, Testimony Concerning" in an effort to determine what inquiry that individual made prior to preparing the memorandum in question. SA [redacted] prepared the memorandum and advised on November 27, 1978, that the memorandum was prepared after consultation with the former Assistant Director of the Intelligence Division, W. R. Wannall. He did not recall contacting the various Section Chiefs in the Intelligence Division in connection with this memorandum. Since he did not make a general inquiry, there appears to be no basis for suspecting that former Section Chief Robert Shackelford or anyone else in the IS-2 Section made any misrepresentations concerning this matter. Part A (2) of your memorandum of November 20, 1978, requested that we ascertain what dissemination was made of the June 1, 1976, teletype concerning the destruction of files and to obtain, if possible, an Assistant Director's tickler copy of the teletype. [redacted] and SA [redacted] of the Intelligence Division were unable to locate a copy of the teletype in the Intelligence Division, nor could they find any indication what action was taken with regard to the directives in the teletype precluding records destruction.

rls

b6
b7C

2-118045-101

DEC 6 1978

SA [redacted] located a copy of the teletype in the tickler folder of SA [redacted] which ticklers were maintained in the Planning and Inspection Division. I am enclosing a copy of that teletype, and it would appear that this may have been the copy of the teletype designated for the Intelligence Division. This observation is based on the fact that SA [redacted] was assigned to that Division at the time in question and was handling liaison with William L. Gardner in connection with the surreptitious entry inquiry.

b6
b7C

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

ENCLOSURE *rls*

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett

b6
b7C

*Delivered to F. Martin
11/28/78. JCB*

6888 JCB

62-118045

PVD:ddf
MAIL ROOM
79 DEC 15 1978

Francis J. Martin

It would appear the teletype was sent to [redacted] for information and that no further action was taken on the teletype. It should also be noted that the informative note on the teletype contains no reference to the destruction of tickler copies of communications.

b6
b7C

Former Assistant Director Thomas L. Leavitt of the Intelligence Division, whose initials appear on the file copy of this teletype, was contacted by our Atlanta Office and had no recollection of the teletype.

SA [redacted] was telephonically contacted by me on November 25, 1978, at which time he advised he recalled the teletype of June 1, 1976. He could not recall having taken any action on the teletype, nor could he recall having seen the teletype circulated through the Intelligence Division. [redacted] did state that he had seen other copies of the teletype in the possession of other employees but did not recall the circumstances under which the other employees had possession of the teletype. There appears to be no other individuals that could logically be contacted in connection with this aspect of your requested investigation. Unless a further request is received, I will consider the requested investigation Part A, Sections 1, 2, and 3, of your November 20, 1978, memorandum as having been completed.

b6
b7C

APPROVED:

Director

Assoc. Dir.

Dep. AD Adm.

Dep. AD Inv.

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

Greenberg/Gray-2703

PLAINTEXT

TELETYPE

b6
b7C

URGENT 4843

JUNE 1, 1978

TO ALL SACS AND LEGATS

FROM DIRECTOR FBI

SURREPTITIOUS ENTRY*

1 - Mr. Callahan
1 - Mr. Jenkins
1 - Mr. Adams
1 - Each Assistant
Director

EFFECTIVE IMMEDIATELY, ALL EMPLOYEES ARE HEREBY
INSTRUCTED NOT TO DESTROY ANY DOCUMENTS, WHETHER IN
OFFICIAL FILES, PERSONAL POSSESSION, OR OTHERWISE,
RELATING TO SURREPTITIOUS ENTRY OR ANY OTHER SECURITY
OR INTELLIGENCE FILES, MEMORANDA, DATA, INFORMATION OR
PAPERS. THIS INSTRUCTION APPLIES TO ALL COPIES AS WELL
AS ORIGINAL MATERIAL AND TO INDEX CARDS, ABSTRACTS, AND
SUMMARIES WHEREVER THEY MAY BE LOCATED.

ADVISE ALL EMPLOYEES OF THIS INSTRUCTION.

NOTE: Mr. Adams requested this communication be prepared in
response to item #4 in a memorandum from Assistant Attorney General,
Civil Rights Division, to the Director dated May 28, 1976, captioned
"Surreptitious Entry Investigation."

JAM:mfd

Greenberg/Gray-2704

62-118045-101
ENCLOSURE

MLH
11/24/78

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO :

b6
b7C

DATE: 11/24/78

FROM : M. L. Hanigan *MLH*

L. Patrick O

SUBJECT: United States v. Gray, et al. -
Upcoming Hearing

sd
CW

On 11/24/78, Planning and Inspection Division, made available six tickler folders of former Headquarter's supervisor who was during 1976, serving as the coordinator for Division V of an investigation being conducted under the direction of J. Stanley Pottinger, Assistant Attorney General.

b6
b7C

I examined three of six folders on 11/24/78 in an attempt to locate any Division V tickler copy of a teletype to all SAC's and Legats from the Director, FBI, dated June 1, 1976, entitled, "Surreptitious Entry." In a folder designated as "#6 surreptitious entry" I located such a tickler.

res

That tickler copy was removed by me, initialed and dated on the front and back. The front portion of this tickler copy bears in blue ink the name (illegible) and in pencil the number "4843." On the reverse side of the tickler was a date and time stamp of June 1, 1976, 12:13 pm, received Intelligence Division.

b6
b7C

The note appearing on this tickler copy did not include the sentence, "Ticklers for information only at FBIHQ need not be retained per instructions of Wm. J. Gardner, 6/1/76."

ST 118
REC-39 62-118045-102

22 DEC 6 1978

The tickler copy is being delivered personally to you by the writer.

Greenberg/Gray-2705

b6
b7C

4-
62-118045

MLH:bac (3)
bac



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

79 DEC 15 1978

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett

November 27, 1978

Francis J. Martin
 Trial Attorney
 United States Department of Justice



FEDERAL GOVERNMENT

L. Patrick

UNITED STATES V GRAY, AND OTHERS

The following information is being furnished in partial response to your memorandum of November 20, 1978.

Part A (1) of your memorandum sought a determination of whether the destruction of tickler copies of communications (for information only) was consistent with Bureau policy and other non-destruction directives in effect at the time the June 1, 1976, teletype described in your memorandum was sent. The FBI placed restrictions on the National Archives and Records Service approved destruction of records plan at the request of Senators Hugh Scott and Mike Mansfield. The request was contained in their letter of January 27, 1975. I am enclosing a copy of this letter as well as the FBI teletype to all offices and Legal Attaches dated January 29, 1975, advising Bureau personnel that all record destruction should be terminated. With the approval of certain Committees of Congress and the Attorney General, the restrictions were lifted in a series of separate decisions. The lifting of the restrictions are contained in Bureau airtels to all offices dated March 3, 1976, April 27, 1976, and October 7, 1976, captioned "Destruction of Field Files and Records." Copies of these documents are enclosed for your review. These restraints on file destruction are directed to materials in our files and not tickler copies. The policy for retention of tickler copy correspondence was set forth in the Manual for Bureau Supervisors. The policy in effect during the appropriate time *gr 112* for the retention of ticklers at the discretion of the employee. I am enclosing a copy of the provision of the section of the Supervisor's Manual pertaining to tickler copies. In summation, *the 118045-103* destruction of tickler copies for information only was not in contravention of the policy at the time. **REC-30** *DEC 6 1978*

- Assoc. Dir.
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

ENCLOSURE

Part A (3) of your memorandum pointed out that the Bureau had informed "Congresswoman Abzug's Committee" that there was no current "Do Not File" system in the Bureau and requested in part we determine whether an inquiry was made prior to making this representation to that Committee. I am enclosing copies of the following materials which respond to

Enclosures

PVD:ddf

(7) SEE NOTE, PAGE TWO.

MAIL ROOM []

delivered to F. Martin
11/27/78 JCB
62-118045

Francis J. Martin
Trial Attorney
United States Department of Justice

that request; memoranda dated October 22, 1975, and October 23, 1975, captioned, "Do Not File Memoranda Testimony Concerning," J. J. McDermott to Mr. Jenkins and E. J. Cassidy to Mr. W. R. Wannall, respectively. Also enclosed is a copy of the printed record of pertinent portions of hearing on December 1, 1975, before the Subcommittee on Government Information and Individual Rights of the House Government Operations Committee.

To date, we have not been able to determine whether former Section Chief of IS-2 Robert Shackelford or anyone else in that Section made misrepresentations concerning the existence of "Do Not File" memoranda. We are attempting to interview the preparer of the Intelligence Division response as contained in October 23, 1975, memorandum in an effort to determine if he inquired of that Section.

NOTE: This is a partial response to Martin's memorandum. Martin requested on November 24, 1978, that he be advised periodically of the results of our inquiry to determine the answers to questions raised in his memorandum of November 20, 1978.

APPROVED:	Adm. Serv.	Legal Coun.
Director	Crim. Inv.	Plan. & Insp.
Assoc. Dir.	Ident.	Rec. Mgnt. <i>HMS</i>
Dep. AD Adm.	Intell.	Tech. Servs.
Dep. AD Inv. <i>am</i>	Laboratory	Training
		Public Affs. Off.

Airtel

10/7/75

To: SAC, Albany

PERSONAL ATTENTION

From: Director, FBI

DESTRUCTION OF FIELD
FILES AND RECORDS

By Bureau Airtel, April 27, 1976, captioned as above, you were advised that the moratorium on file destruction had been lifted and that you should resume the destruction program. However, specifically excluded from destruction at that time were documents relating to matters involved in litigation and matters relating to domestic intelligence; extremist; racial; and foreign counterintelligence, including duplicate copies of this material.

The Attorney General has approved resuming the destruction of duplicate material heretofore excluded and described as follows: Copies of documents preserved only for convenience of reference. Such material is not considered record material according to the definition of records set forth in Title 44, Chapter 33, Section 3301 of the United States Code. However, should any material of this nature contain pertinent action statements placed on a particular copy that is not also on the original copy, the copy should be retained.

The moratorium on destruction of original file copy material in matters involved in litigation and matters relating to domestic intelligence, extremist, racial, and foreign counter-intelligence is still in force. Great care should be taken to insure that the original file copy of such material is not destroyed.

- 1 - Each Field Office
- 1 - Mr. Held
- 1 - Mr. McDermott
- 1 - Mr. Adams
- 1 - Each Assistant Director

TBD:evp (23)

SEE NOTE PAGE 2

62-118045-103
ENCLOSURE

Airtel to SAC, Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

Upon receipt of this communication you should resume the destruction of duplicate material as described above.

This communication may be duplicated as necessary in order to advise appropriate personnel.

NOTE: Based on letter from Director, FBI to the Attorney General 7/28/76 captioned "Senate Select Committee on Intelligence" which set forth the definition of duplicate material, and memorandum from Legal Counsel to the Associate Director, FBI 9/29/76 aforementioned captioned advising of the Attorney General's approval that duplicate material be destroyed.

FBI

Transmit in _____

Via _____

Airtel

(Type in plaintext or code)

(Precedence)

To: SAC, Albany

4/27/76

PERSONAL ATTENTION

From: Director, FBI (66-3786)

DESTRUCTION OF FIELD
FILES AND RECORDS

Re Butel to all offices 1/29/75 captioned as above which imposed a moratorium on destruction of all field office files and records.

This is to advise that the moratorium has been lifted and all offices should resume the destruction program according to criteria set forth in Bulet to Albany and all offices 3/3/76, same caption. Re Bulet stipulates that all "Auxiliary Office Files" and index cards relating thereto may be destroyed six months after a case is last referred upon completion (RUC) to office of origin with the exceptions of those cases wherein FBIHQ is office of origin or cases are believed to have continuing value for evidentiary, intelligence, historical, or for other reference purposes.

The Attorney General, by letter dated 4/7/76, specifically excluded from destruction at this time those matters relating to domestic intelligence, extremist, racial, and foreign counterintelligence with instructions that great care be taken to insure that no documents involved in litigation are destroyed and that the destruction program leaves intelligence and security files intact. In view of these instructions from the Attorney General material in security classifications identified in the Manual of Rules and Regulations, Part II, Section 3, Page 25, is not to be destroyed. This also includes duplicate copies of this material. You will be advised if and when destruction of material in these security classifications can be resumed.

- 1 - Each Field Office
- 1 - Each Legal Attache

(Do not type below this line.)

Greenberg/Gray-2710

FBI/COJ

ENCLOSURE

62-118045-103

(This line for LEFT MARGIN.)

(Do not type BEYOND THIS MARGIN.)

Airtel to SAC Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

There are two basic destruction rules, (1) ten years and (2) six months, which apply to field office investigative files. These rules are being stated herein and supersede previous instructions applicable to the destruction of field office investigative files:

- 1) Files and records to be destroyed when ten years old:
 - a) Field office investigative files in all classifications, in office of origin provided the files are of no continuing value for evidence, intelligence, historical or other reference purposes.
 - b) Investigative files in auxiliary offices in cases in which the Bureau is office of origin
 - c) Destroy all field office index cards at time related field office file is destroyed.
- 2) Files and records to be destroyed when six-months old if following conditions are met:
 - a) Investigative files in all classifications in auxiliary offices provided files are of no continuing value for evidentiary, intelligence, historical or other reference purposes, or if the case is one in which FBIHQ is office of origin.
- 3) Exceptions to the ten-year and six-month destruction rules include the following field office files and material which are to be retained five years and then destroyed:
 - a) Dead files and index cards related thereto in all classifications if of no continuing value.

Airtel to SAC, Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

- b) Zero files and index cards related thereto in all classifications if of no continuing value.
- c) FBI Law Enforcement Bulletins - (retain index cards)
- d) Record of Information furnished other agencies, FD-159 (control file copy only) to be destroyed after five years. Copy of FD-159 contained in the substantive file and index cards related thereto to be destroyed when substantive field office file is destroyed.

If there is any doubt concerning destruction of the above material by an auxiliary office, that office should consult the office of origin. If there is any doubt about the destruction of a file in an office of origin, that office should consult the Bureau.

In order to establish uniform procedures to be followed in implementing instructions for the destruction of field office files the following guidelines are being set forth:

1. Original FD-302s, Laboratory reports, latent fingerprint reports, and 1A exhibits being retained as the only item(s) in a file due to a previous purge/destruction rule should be forwarded to OO if subject and/or OO file number is available otherwise this material should be retained by auxiliary office and destroyed when 10 years old. If less than 10 years old and office of origin (OO) subject and/or file number is available these items are to be furnished to OO by routing slip or other appropriate transmittal communication. Otherwise, auxiliary office should retain these items until 10 years old and then destroy them.
2. Original FD-302s, Laboratory reports, latent fingerprint reports and 1A exhibits being removed from files which already satisfy the destruction criteria and are not 10 years old are to be forwarded to OO by routing slip and/or other appropriate communication reflecting OO subject and/or file number. Recipient office will assign each FD-302, Laboratory report and latent fingerprint report OO file number and next sequential serial number and place in OO file. Transmittal communication may be filed if appropriate. 1A exhibits are to be filed according to previously established filing procedures.

Airtel to SAC, Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

3. Effective immediately, original FD-302s prepared, and 1A exhibits acquired as a result of current and ongoing investigations are to be forwarded to the OO by appropriate communication with the exception of those 1A exhibits which are to be returned to the contributor in the jurisdiction wherein they were obtained. You may retain these excepted exhibits until they have served their purpose or until the auxiliary office file has satisfied the destruction criteria at which time these exhibits should have served their purpose and should be returned to contributor. However, if additional retention is required, the exhibit should be made a bulky exhibit and two copies of green sheet (FD-192) furnished to OO in accordance with instructions relating to bulky exhibits set forth in paragraph number 5 below.

It is recognized that some concern exists over the delay of original FD-302s reaching OO due to remotely located Resident Agencies. However, it is believed that if this situation does exist, it can be overcome by auxiliary office continuing to follow the present procedure of furnishing copies of the FD-302 to OO by appropriate communication. The original can be forwarded to OO by routing slip once it has been initialed by the Resident Agent and returned to field office headquarters. This procedure is considered highly desirable since the submission of original FD-302 to OO at time case is RUC'd or destroyed would result in these communications being months or even years out of logical sequence in OO file. In order to further streamline and minimize the handling of original Laboratory reports and latent fingerprint reports, auxiliary office will request FBIHQ to furnish these items, and if appropriate, the evidence to office of origin upon completion of Laboratory examinations.

In all current and ongoing investigations where auxiliary office furnished FD-302s, Laboratory reports, latent fingerprint reports, and/or 1A exhibits to OO, a copy of the transmittal as well as a copy of the FD-302 should be retained in auxiliary office file until file is destroyed.

4). In those cases where OO is changed, both the new OO and new auxiliary office will apply the 10 year destruction rule to files in this category. It will be the responsibility of the new OO to advise the original OO when case is closed. This will facilitate the retention of original material that is contained in the files of both offices and will insure that original documents and/or evidence is not prematurely destroyed. At such time the OO is changed it will not be necessary for new auxiliary office to forward existing original FD-302s, Laboratory reports, latent fingerprint reports, and/or 1A exhibits to OO.

Airtel to SAC, Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

Only these items prepared and/or acquired subsequent to changing OO will be furnished to new OO in accordance with aforementioned procedure, unless advised to the contrary by OO. This will be particularly helpful in cases comprised of many volumes and subsections.

5. In the case of bulky exhibits, the auxiliary office should furnish two copies of FD-192 to OO. One copy will be filed in OO case file according to established filing procedures and the other copy will be filed in the bulky exhibit index (numerical sequence of form FD-192 by classification and file number). Auxiliary office will retain original FD-192 in case file, place copy in bulky index, and copy with exhibit. This procedure will facilitate conduct of the semi-annual inventory of bulky exhibits which will be the responsibility of the OO. Semi-annually, when OO reviews bulky exhibits and notes on FD-192 action to be taken, a Xerox copy of this form should be furnished to auxiliary office holding exhibits(s). The most recent FD-192 will supersede the one previously furnished and being retained in the bulky index.

In accordance with the Manual of Rules and Regulations, Part II, Section 3, Page 13a, the Supervisory Special Agent and/or case Agent has the option of retaining and/or authorizing for destruction investigative files after criteria for destruction has been satisfied. The case Agent will either note the appropriate destruction rule on the file copy of the communication closing the case or referring it on completion (RUC), or else note that it should be retained plus appropriate justification for such retention, and designate projected destruction date. Form FD-479, Files and Records Destruction Order, may be used for this purpose.

In all cases, with the exception of FBI Law Enforcement Bulletins, all index cards are to be destroyed at time related file material is destroyed.

Appropriate manual changes are forthcoming.

SAC, ALBANY

3/3/76

32
Director, FBI (66-3756)

DESTRUCTION OF FIELD
FILES AND RECORDS

Recently a survey was conducted in several field offices for purpose of determining the feasibility of destroying certain "Auxiliary Office Files" when six-months old. As a result of this survey, all field offices will destroy auxiliary office files consistent with guidelines and instructions set forth below once the existing moratorium on records disposal contained in Bureau teletype dated 1/29/75 captioned as above is lifted. Files eligible for destruction under these new guidelines may be handled in accordance with instructions contained in Bureau routing slip dated 4/29/75 above caption which states in part that files eligible for destruction may be removed from regular file location and stored in cartons in readiness for immediate destruction upon instructions from FBIHQ.

1) All "Auxiliary Office Files" and index cards relating thereto may be destroyed six-months after a case is last referred upon completion (RUC) to office of origin with the exception of those cases where FBIHQ is office of origin or cases are believed to have continuing value for evidentiary, intelligence, historical or other reference purposes.

2) Commensurate with available man-power, auxiliary office files which currently meet the new destruction criteria should be reviewed and original FD-302s and LA exhibits of an evidentiary nature removed and forwarded to office of origin. Also, in those cases containing bulky exhibits, a copy of the green sheet(s) (FD-192) should be forwarded to office of origin by routing slip indicating auxiliary file destroyed and requesting instructions for
1 - Each Field Office

1 - Mr. Adams
1 - Mr. Jenkins
1 - Mr. Callahan
1 - Each Assistant Director
TBD:evp (70)

Greenberg/Gray-2715

62-118045-103

Letter to SAC, Albany
DESTRUCTION OF FIELD
FILES AND RECORDS

disposition and/or justification for retention of bulky exhibit. Auxiliary office should retain original green sheet(s) (FD-192) in case file cover until advised by office of origin of action to be taken.

3) Henceforth, original FD-302s and 1A exhibits of evidentiary nature are to be forwarded to the office of origin when prepared and/or acquired. Insofar as bulky exhibits are concerned, auxiliary office is to retain bulky exhibits; however, a copy of the "green sheet" (FD-192) is to be forwarded to the office of origin at the time evidence is obtained. Office of origin will utilize this copy as a tickler in order to immediately notify auxiliary office when and what disposition is to be made of bulky exhibit.

To facilitate the implementation of the six-month destruction program and to insure the "Court of Claims" cases, classification number 83, are not prematurely destroyed, henceforth, the original office of origin will remain origin until case is closed. When the office of origin submits a letter to FBIHQ with a copy to the Washington Field Office (WFO) instructing that WFO follow Court of Claims docket, the office of origin file will be placed in a "pending inactive" status and WFO, acting as auxiliary office, will advise office of origin and FBIHQ when a decision is rendered by the court.

It should be noted that as a result of the new destruction rule, it becomes even more essential that office of origin furnish auxiliary office(s) sufficient data necessary to conduct required investigation.

Existing regulations providing for the use of the master assignment card as a tickler for file destruction purposes are applicable to the foregoing.

It is anticipated that the existing moratorium on records disposal will be lifted in the very near future. Therefore, these new guidelines and instructions are being brought to your attention at this time so that you can become familiar with the changes affecting the records destruction program. However, all records destruction is to be held in abeyance until you are advised by FBIHQ that the moratorium has been removed.

United States Senate
Office of the Majority Leader
Washington, D.C. 20510
January 27, 1975

Honorable Clarence M. Kelley
Director, Federal Bureau of Investigation
Washington, D. C. 20535

Dear Mr. Director:

Senstudy-73

As you may be aware, the Senate is to conduct an investigation and study of government operations with respect to intelligence activities. The scope of the investigation is set out in S. Res. 21, a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in section 2 of S. Res. 21.

Sincerely yours,

Hugh Scott

HUGH SCOTT, REPUBLICAN LEADER

Mike Mansfield

MIKE MANSFIELD, MAJORITY LEADER

Enclosure

106-3286
RECORDED COPY FILED

D

*WML
memo by Carl to Adams 2/13/75
letter to Adams do with Senators Scott & Mansfield dated 2/19/75
JSH/mk*

ENCLOSURE

EX-105
REC-11

62-116395-24

*Read to LaPrade by phone 6¹¹ 1/28/75
and requested no destruction of any Bufiles until further notice. Jm*

MAR 4 1975

MAR 7 1975

*File-RTD
REC-11*



REC 11

ENCLOSURE
ENCLOSURE

62-118045-103

CODE

TELETYPE

IMMEDIATE

1-29-75

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

TO ALL SACS AND ALL LEGATS

FROM DIRECTOR FBI

Sen Study '75

JAN 29 1975

DESTRUCTION OF FIELD FILES AND RECORDS.

TELETYPE

IN ACCORDANCE WITH PROPOSED INVESTIGATION AND

STUDY OF GOVERNMENT OPERATIONS WITH RESPECT TO INTELLI-

GENCE ACTIVITIES, CONGRESSIONAL LEADERS HAVE REQUESTED

THE BUREAU NOT TO DESTROY, REMOVE FROM OUR POSSESSION

OR CONTROL, OR OTHERWISE DISPOSE OR PERMIT DISPOSAL OF

ANY RECORDS OR DOCUMENTS WHICH MIGHT HAVE A BEARING ON

SUBJECTS UNDER INVESTIGATION. ACCORDINGLY, UPON RECEIPT

OF THIS COMMUNICATION, RECIPIENTS ARE INSTRUCTED TO HOLD

IN ABEYANCE ANY RECORDS DESTRUCTION PROGRAM PREVIOUSLY

APPROVED BY STATUTE OR REGULATIONS. FURTHER INSTRUCTIONS

IN THIS MATTER WILL BE ISSUED UPON RECEIPT. FEB 28 1975

- 1 - Foreign Liaison Unit (sent direct)
- 1 - Mr. Callahan (sent direct)
- 1 - Mr. Jenkins (sent direct)
- 1 - Mr. Adams (sent direct)
- 1 - Each Assistant Director (sent direct)

PFS:bpr
(19)

NOTE: Reference letter to the Director dated 1-27-75 from Hugh Scott, Republican Leader, and Mike Mansfield, Majority Leader, United States Senate.

FILE PROCESSED FOR RELEASE
IN CIVIL DISCOVERY
DATE 1/21/78
SEE BU 62-117955

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

RECEIVED
INITIALED
DIRECTOR'S OFFICE
MAY 5 1975
MAIL ROOM TELETYPE UNIT

REG-22 62-116395-26

TELETYPE RECEIVED

Handwritten signature

Handwritten signatures and initials

424381

1 - Mr. J. J. McDermott
1 - Mr. W. R. Wannall
1 - Mr. F. J. Cassidy

Mr. W. R. Wannall

10/23/75

F. J. Cassidy

1 - Mr. A. F. Watters

**"DO NOT FILE" MEMORANDA
TESTIMONY CONCERNING**

Reference memorandum Mr. J. J. McDermott to Mr. Jenkins dated 10/22/75, captioned as above, concerning inquiry from Congresswoman Bella S. Abzug pertaining to files labeled "Do Not File" maintained by the FBI. The following material pertinent to the Congresswoman's inquiry has been maintained in the past in connection with matters administered by Intelligence Division (INTD):

1. One bound volume entitled "Technical Surveillances - 'Y', Log File," consisting of material dated from 3/25/42-4/18/46. This file contains results from three electronic surveillances, together with relevant administrative memoranda concerning investigation of individuals who were the subjects of a national security investigation during World War II, based upon information indicating that they may have been involved in a contemplated overthrow of the United States Government by right wing interests.

2. One bound volume, untitled, consisting of material dated from 5/10/41-8/26/44 relating to the security and trustworthiness of an individual who was then acting as a confidential source of reports relating to U. S. defense and foreign policy.

3. Two bound volumes entitled, respectively, "Blue Memoranda, 7/6/40 to 7/31/43" and "Blue and Pink Memoranda, 8/1/43 to 4/19/46." The two volumes contain miscellaneous informative and summary-type memoranda concerning war-related developments, including a briefing on the progress of the war, cooperation with the military and other U. S. agencies, important investigative developments, and internal administrative problems.

AFW:lfj
(5)

CONTINUED - OVER

Greenberg/Gray-2719

Memorandum to Mr. W. R. Wannall
Re: "Do Not File" Memoranda
Testimony Concerning

The material described above is maintained in the Special File Room of the Files and Communications Division at FBI Headquarters. Access to material maintained in the Special File Room is controlled by the Special Agent supervisor in charge of this facility and granted on a need-to-know basis to appropriate FBIHQ Special Agent supervisory personnel. In the past these materials were maintained in the offices of the Assistant Director of the Division now designated as the INTD who controlled access.

We are unable to identify all individuals who may have had access to or distribution from these records over the years, since we have not utilized an audit mechanism suitable for the preparation of such a list.

ACTION:

None. For the information of the Files and Communications Division.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Jenkins

DATE: 10-22-75

FROM : J. J. McDermott

SUBJECT: "DO NOT FILE" MEMORANDA
TESTIMONY CONCERNING

Pink memoranda

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

As you are aware, I am scheduled to testify before the House Subcommittee on Government Information and Individual Rights of the House Committee on Government Operations on 10-28-75 at 10 a. m. In her letter to Director Kelley of 10-17-75, Chairwoman Bella S. Abzug made specific and detailed inquiry concerning the "Do Not File" system of memoranda preparation.

As best can now be determined, the "Do Not File" memoranda system originated in 1941 or earlier with the full approval of Director Hoover and the Executives Conference as a means of preventing official files being cluttered up with documents of only temporary value. Originally, a color-code system was used whereby pink or blue paper was used so that this type of document would be more readily identified. This practice continued until 1950 when instructions concerning the preparation of "Do Not File" memoranda were removed from the Bureau Supervisors Manual. Since that time, to a greater or lesser degree, personal notes or informal memoranda have been transmitted among Bureau officials which were never intended by the author for permanent retention in our filing system. These occasionally also were labeled "Do Not File."

In light of the foregoing, the following request of Chairwoman Abzug has been received:

"Please set forth the past and present physical location of each such "Do Not File" file, whether or not presently in the possession of the FBI, a description of the past and present contents of each, a list of all individuals who have had or controlled access to and distribution from these files."

- 1 - Mr. Jenkins
- 1 - Mr. Adams
- 1 - Mr. Callahan
- 1 - Each Assistant Director

JJMCD:bpr
(18)

CH 38

OCT-24

116758-1

REC-114

5 OCT 30 1975

57 OCT 31 1975

CONTINUED - OVER

Greenberg/Gray-2721

3-
 7
 1-10-17-1975
 4-30-75

Memo McDermott to Jenkins
Re: "Do Not File" Memoranda
Testimony Concerning

ACTION:

To permit preparation of testimony, each division head or that official acting for him should furnish to me by close of business Thursday, 10-23-75, a memorandum responsive to that inquiry. If the response is to be negative, a memorandum stating that there is not known to be maintained in that division any volume(s) of material labeled "Do Not File." This request is not to be confused with tickler retention practices.

TJ
Amc

Retain entire file
in Sp. File Rm.
per Ms. McDermott
(see serial 2 also) 10/31/75
43

K

INQUIRY INTO THE DESTRUCTION OF FORMER FBI
DIRECTOR J. EDGAR HOOVER'S FILES AND
FBI RECORDKEEPING

Atwe!
Rev -
56-44

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS
FIRST SESSION

DECEMBER 1, 1975

Printed for the use of the Committee on Government Operations



Greenberg/Gray-2723

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

04-021 O

matter completely. This is a matter of efficient recordkeeping, and we like to keep correspondence relating to the same correspondent in the same file. It's just efficient records management.

Mr. JACOBS. Does the nature of the file affect the disposition of the freedom of information request?

Mr. McDERMOTT. Would you restate that?

Mr. JACOBS. Does the nature of the file on the person making the freedom of information request affect the FBI's disposition of his request?

Mr. McDERMOTT. Absolutely not. We are governed by the terms of the act.

Mr. JACOBS. I would like to point out for the record that in a deposition of Richard C. Dennis, Jr., who is a special agent with the freedom of information unit, taken in the case of Weinstein against Saxbe, Mr. Dennis testified that the file check is made and that the nature of the file on the individual does affect the disposition of the freedom of information request.

Mr. Chairman, I will reserve any further questions for written request.

Mr. McDERMOTT. I would like to have the record cleared on that last point. I have Mr. Dennis here, and I would like to consult with him briefly.

I've consulted with Mr. Dennis, who is the affiant in that matter. He tells me that if he did in fact say in this long deposition that the contents of our file references would influence in any manner the manner in which we would respond to the FOIA request, that would have been a misstatement and a mistake on his part. He has supported the position that I have just given you that in no manner would the prior references maintained in Bureau files influence the nature of the substantive data that would be furnished to a requester under either the Privacy or the Freedom of Information Act.

I don't think I can make that more clear.

Mr. MAGUIRE. Thank you.

Let me ask one additional question.

Is there anywhere in the FBI Building a file that contains master copies or one file copy, or what have you, of the "No File Systems Communications"?

Mr. McDERMOTT. No. We did a search of that matter. We could find no instructions of any relevance beyond the ones which I alluded to in my prepared statement. Am I being responsive?

Mr. MAGUIRE. There is no such file in the extra-secure room?

Mr. McDERMOTT. We do have one now. It's not a file containing the instructions on the "Do not file" procedure; but anticipating the question of the committee, I did cause an inquiry to be made of all of our headquarter's divisions, and I did find that there were four volumes maintained in the Intelligence Division which had been labeled "Do not file." They referred to substantive matters which, of course, I'm not at liberty to discuss here, but only spanning the period of 1942 to 1946.

Why they were maintained in the Intelligence Division and at whose original instructions, I have no idea.

But, the Division has been headed up by a number of Assistant Directors since 1946 and apparently string saving is the only possible explanation. It was just maintained.

Greenberg/Gray-2724

Mr. MAGUIRE. What's the volume?

Mr. McDERMOTT. The volume is approximately 1 inch in thickness.

Mr. MAGUIRE. Were there no such discoveries relating to the period 1946 to 1972?

Mr. McDERMOTT. No.

Mr. MAGUIRE. Does that—

Mr. McDERMOTT. I have canvassed the Assistant Directors of all of the divisions, and I have memorandums to support their position that a current search of their front offices and wherever else any such material would be maintained, revealed no such material with the exception of the material I just described.

Mr. MAGUIRE. Does this include the special-secure room that was alluded to?

Mr. McDERMOTT. We call that our special file room. It's part of the Record Section in the Files and Communications Division of which I am the Assistant Director.

Mr. MAGUIRE. That does not contain "Do not file" material?

Mr. McDERMOTT. It is possible that certain of the official and confidential material, which moved from Mr. Felt's office over to the special file room, contained such memorandums.

But no special files labeled "Do not file" are there.

Mr. MAGUIRE. So, there was no master file maintained of the "Do not file" communications that were transmitted under the blue slip or pink slip procedure during all of those years that this procedure was in force?

Mr. McDERMOTT. No.

We actively looked for such a file, being unfamiliar and not on the scene at the time, and we could find none.

Mr. MAGUIRE. Is it conceivable that such a file could have been kept in Mr. Hoover's offices?

Mr. McDERMOTT. I am not privy to what files were in Mr. Hoover's office. Any answer I would give you would be purely speculative.

Mr. MAGUIRE. It would seem logical that there would be some master file somewhere.

Mr. McDERMOTT. I don't know why it would serve any purpose.

Mr. MAGUIRE. Are there any other questions?

Mr. STEIGER. No further questions.

Mr. JACOBS. Let me ask one further question.

The act provides that records maintained by Federal agencies must be "accurate, timely, and relevant."

What procedures have you instituted to insure that your files conform to these requirements?

Mr. McDERMOTT. The accuracy requirement is accommodated at the time of the creation of the record. I can assure you that the FBI diligently works at making and creating accurate records.

Mr. JACOBS. How about timely and relevant?

Mr. McDERMOTT. As far as the timeliness of records is concerned, we are subject to the rules of the National Archives and Records Service which has proposed a records control schedule.

We are in compliance with the records control schedule and the rules promulgated by the National Archives and Records Service.

Mr. JACOBS. Isn't it a fact that you exempted FBI records from the Privacy Act's requirements that you "maintain all records which are used by an agency in making any determination about any individual

with such accuracy, relevant reasonably necessary to asst. mination"? The FBI has c that not correct?

Mr. McDERMOTT. You ar itself of that exemption, for

One of the reasons for it would be required to go bac lion files, to determine what

Even then we would not entire records control sche modified by the National A

Mr. JACOBS. But that pro eral Government. Every c does not view its responsibi

Mr. McDERMOTT. Are yo that availed ourselves of th

Mr. STEIGER. Is that ex

Mr. McDERMOTT. Yes.

Mr. STEIGER. The statute

Mr. JACOBS. My question exemption?

Mr. McDERMOTT. I woul

Mr. JACOBS. It is not requ

Mr. McDERMOTT. It is pe

Mr. JACOBS. My question

Mr. McDERMOTT. Obvic

trative monstrosity to wh employees to attempt comp

Mr. JACOBS. Of course, standard every time a file files every day.

Other agencies have in adhere to that standard.

Mr. McDERMOTT. Right Attorney General's Guide ance, Retention, Dissemin Justice Records. Of cours

The Attorney General of the Subcommittee on with that committee whic concluding acceptable, w tion, maintenance, dissem

It is currently under ec be made I cannot say.

Mr. FINK. From readi I note virtually all docum

Mr. McDERMOTT. This

Mr. FINK. We have a President Kennedy. that

Instead, it says in the "Route by envelope." W

Mr. McDERMOTT. The

Mr. FINK. This is han

(11) Notations on yellow

When appropriate, file copy of outgoing correspondence should include notation indicating either that there is no record in Bureau files relating to correspondent or summarizing available data.

(12) Special tags on outgoing mail

Special tags should be used only on mail of urgent nature. When an employee places a special tag on outgoing communication, he should initial and date tag.

(13) Rewrites

When a letter has been rewritten by someone other than original dictator, copy of rewritten letter should be designated for person who prepared original correspondence.

(14) Ticklers on correspondence

Supervisors should retain tickler copies of correspondence for 60 days, so that they can be readily located when called for. To maintain tickler for more than 60 days, approval of appropriate Assistant Director must be obtained. Periodically each Division will review its practices re preparation of ticklers, checking with recipients and eliminating those where there is no demonstrable need.

(15) Correspondence from publishers, editors, etc.

When correspondence is received from publishers, editors, journalists, or anyone in the writing field, the correspondence shall be discussed with the appropriate officials of the External Affairs Division before a reply is prepared.

(16) Correspondence dealing with public relations

Correspondence dealing with public relations and any correspondence which does not easily fall within a particular investigative classification will be prepared in the Correspondence and Tours Section. Such letters should be sent by routing slip to the chief of the Correspondence and Tours Section.

(17) Letters of commendation

Letters of commendation to Special Agents should be prepared in the [Finance and Personnel] Division. Letters of commendation to law enforcement officers and others outside the FBI should be prepared in the Correspondence and Tours Section. FBI National Academy mail is prepared in the Training Division.

REVISION 225

8/23/76

Greenberg/Gray-2726

(g) Letters to State Department must be in duplicate except as follows:

1. When letter is prepared for personal signature of Director, only original is required.
2. Letters requesting investigation shall include sufficient copies to cover various localities in which inquiry is desired.
3. Letters to Passport Office requesting issuance of passports to FBI employees should be transmitted in quadruplicate.

(h) Copies of original material prepared at FBIHQ.

1. Number of copies prepared, including original, should be shown underneath initials of dictator.
2. If additional copies are made following first run, notation shall be made on either original or file copy so indicating.

(i) Copies of letters addressed to Department of Justice officials should not be disseminated to other Government agencies.

(j) Copies of correspondence dealing with proposed or pending measures in Congress, Members of Congress, Congressional staff personnel, Congressional committees or any Congressional activity should be designated for Office of Congressional Affairs. Copies of any pertinent incoming communications should be attached.

Memoranda recommending action by Office of Congressional Affairs and outgoing communications concerning our dealings with Congress or affecting legislation in which FBI has interest, should be routed through Office of Congressional Affairs.

In replying to Department's request for FBI views on a legislative item, note which division of Department is designated as "Reporting Division." Direct reply to that division, original and one copy. Add one yellow copy, unblocked, designated at bottom for "Department files" and one white copy designated at bottom for "Legislative Section, Office of Deputy Attorney General." No initials, stamp, or other Bureau marking should appear on any of these documents. Original and all copies for Department should be stapled together.

(k) If copy of communication addressed to another Government agency is to be sent to Department, carbon copy notation for Department is to be listed, along with other dissemination, on the original and all copies unless, in opinion of dictator, such listing is not appropriate.

(l) When advising field that files at Bureau are being consolidated, designate tickler copy of communication for Consolidation Unit, Records[Branch.]

Greenberg/Gray-2727

AT0007 3311830

PP HQ

DE AT

P 271816Z NOV 78

FM ATLANTA

TO DIRECTOR (PRIORITY)

BT

UNCLAS

ATTENTION: SUPERVISOR [redacted] ROOM 6888. b6 b7C

SURREPTITIOUS ENTRY.

REFERENCE BUREAU TELETYPE TO ALL SACS, JANUARY 1, 1976, AND TELEPHONE CALL TO SAC, ATLANTA, FROM SUPERVISOR [redacted] NOVEMBER 24, 1978. b6 b7C

FORMER ASSISTANT DIRECTOR THOMAS W. LEAVITT, NOW EMPLOYED AS CORPORATE SECURITY REPRESENTATIVE, DELTA AIR LINES, INC., ATLANTA, GEORGIA, INTERVIEWED NOVEMBER 27, 1978, BY SA

[redacted] COPY OF RETEL DISPLAYED TO MR. LEAVITT.

HE ADVISED HE HAS NO CURRENT RECOLLECTION OF THIS TELETYPE.

HE STATED THAT IF HE HAD SEEN IT, THAT IF ADMINISTRATIVELY

ALL EMPLOYEES WERE TO BE ADVISED OF THE CONTENTS OF THE 11 JUN 12 1979

TELETYPE, HE WOULD HAVE ROUTED HIS TICKLER TO THE SECTION

CHIEFS IN DIVISION FIVE WITH INSTRUCTIONS TO ADVISE ALL

EMPLOYEES.

N

53 JUN 13 1979

27 NOV 78 18 35z

RECEIVED FEDERAL BUREAU OF INVESTIGATION COMMUNICATIONS SECTION

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

[redacted] b6 b7C

Km 6888

[Handwritten signature]

REC-114

62-118045-103X

62-118045

4- [redacted] b6 b7C

PAGE TWO AT 66-2205 UNCLAS

HE DOES NOT BELIEVE THAT THE TELETYPE WOULD HAVE BEEN PREPARED IN DIVISION FIVE. SINCE HE HAS NO CURRENT RECOLLECTION OF THE TELETYPE, HE CANNOT STATE WHETHER OR NOT HE ROUTED IT TO SUPERVISOR [REDACTED] HE STATED THAT IF HE FELT [REDACTED] NEEDED TO SEE THE TELETYPE OR TAKE SOME ACTION ON IT, HE WOULD HAVE ROUTED THE TELETYPE TO [REDACTED] SECTION CHIEF IN ORDER THAT THIS INDIVIDUAL COULD BE APPRISED OF WHAT HIS PEOPLE MIGHT BE DOING. LEAVITT STATED HE HAS NO RECOLLECTION OF EVER SUGGESTING TO ASSISTANT DIRECTOR JJOHN A. MINTZ THAT THE YELLOW COPY OF THE TELETYPE CONTAIN THE NOTATION "TICKLERS FOR INFOORMATION ONLY CAN BE DESTROYED." LATTER QUESTION REGARDING NOTATION ON YELLOW COPY OF RETEL ASKED OF MR. LEAVITT BY SAC JAMES J. DUNN, JR.

BT

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

hpr TO : The Director

DATE: 11-29-78

FROM : Legal Counsel *JAM*

SUBJECT: UNITED STATES v. GRAY, et als

O L. PATRICK III 78
79
WASH. DC 1 9

COPY RETAINED IN
PERSONNEL RECORDS UNIT

At 2:10 p. m. on November 28, [redacted] retired, formerly an inspector in the Intelligence Division, called me and said that he has been requested to appear as a witness in captioned criminal prosecution on Wednesday, November 29, at 9:30 a. m. [redacted] said that he will appear as requested but he first wanted to notify the Bureau for such action as may be necessary or appropriate.

I told [redacted] that he would still be bound by his employment agreement even though he is now retired but that he could consider the conditions of the employment agreement waived for the limited purpose of his testimony in captioned case. I told him that I would prepare a memorandum for Bureau files recording the fact of his limited release from the employment agreement.

RECOMMENDATION:

For information.

V-34

APPROVED: *WMA*

Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

ST-113

DE-78

REC-89

62-11A045-104

- 1 - [redacted]
- 1 - Mr. Mintz
- 1 - Personnel file of [redacted] (out-of-service)

b6
b7C

9 DEC 5 1978

JAM:bpr
(4)

XEROX
JAN 8 1979



b6
b7C



PERS. REC. UNIT

0006 332 0139

RR HQ

DE CO

R 270139Z NOV 78

FM COLUMBIA (62-NEW)

28 Nov 78 0141z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	_____
Adm. Serv.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO DIRECTOR (62-118045) ROUTINE

ATTENTION [REDACTED] ROOM 6888, JEH

b6
b7C

BT

UNCLAS

[REDACTED]

b6
b7C

U.S. VS L. PATRICK GRAY, III; ET AL

RE YOUR TELEPHONE CALL NOVEMBER 27, 1978.

FORMER SPECIAL AGENT OF THE FBI [REDACTED]

[REDACTED] COLUMBIA, S.C., ADVISED THAT HE WAS UNIT CHIEF OF THE UNIT RESPONSIBLE FOR THE INVESTIGATION OF VIETNAM VETERANS AGAINST THE WAR. DURING 1976, CERTAIN TICKLER COPIES CONCERNING THIS ORGANIZATION WERE SEIZED BY THE DEPARTMENT OF JUSTICE. THEY WERE SUBSEQUENTLY RETURNED TO THE FBI, BUT BEFORE THAT TIME, THE INVESTIGATION HAD BEEN ASSIGNED TO ANOTHER UNIT WHICH [REDACTED] COULD NOT SPECIFICALLY RECALL. TO HIS KNOWLEDGE, THESE WERE TRUE TICKLER COPIES; THAT IS, THERE WERE ORIGINALS IN THE FILE ITSELF. [REDACTED]

b6
b7C

WJD

REC-126

62-118045-105

23 DEC 13 1978

79 DEC 21 1978

Greenberg/Gray-2731

CO 62-NEW PAGE TWO ROUTINE

SAID THAT PERHAPS SA [REDACTED] AT FBIHQ, COULD RECALL THE UNIT IN QUESTION. AS TO TICKLER COPIES OF CAPBOM MATERIAL, THEY WERE NEVER MAINTAINED IN HIS UNIT TO THE BEST OF HIS RECOLLECTION AND HE FELT THAT FORMER SPECIAL AGENTS [REDACTED] MIGHT BE ABLE TO SHED SOME LIGHT ON THE DISPOSITION OF THESE TICKLERS.

BT

#

Francis J. Martin
Criminal Division

FEDERAL GOVERNMENT

11-28-78

[redacted]
Federal Bureau of Investigation

b6
b7C

U. S. vs. L. PATRICK GRAY III, ET AL

In response to your memorandum of November 20, 1978, and in particular, Part C captioned "Content of Files," I am enclosing FD-302, concerning the interviews of [redacted]

b6
b7C

On November 27, 1978, you asked that [redacted] Secretary to the Assistant Director of the Intelligence Division, be interviewed in an effort to determine the contents of one of the missing folders captioned "Surreptitious Entry." [redacted] was contacted by me on November 27, 1978, and she advised she was unable to furnish any details concerning the contents of that folder. She checked her records and advised that this particular folder was initially taken by FBI Agents under the direction of the Department in August 1976 and then returned. It was taken a second time on October 21, 1976. This time it was taken by SA [redacted] [redacted] furnished a receipt signed by SA [redacted] showing that [redacted] had picked up this particular folder on October 21, 1976. Enclosed is a copy of that receipt.

b6
b7C

Also enclosed per your request of November 27, 1978, is a typed copy of an inventory of material furnished to SA [redacted] of FBI Headquarters on January 22, 1978 by former Section Chief Robert L. Shackelford.

b6
b7C

As requested by you on November 27, 1978, former SA [redacted] was interviewed by SA [redacted] in Columbia, South Carolina, and was unable to describe the contents of the tickler folders captioned "Vietnam Veterans Against the War" or "CAPBOM." [redacted] recalled the "Vietnam Veterans Against the War" folders being returned to another Unit after their seizure by the Department but could

b6
b7C

- c. Dir. _____
- AD Adm. _____
- AD Inv. _____
- Dir. _____
- Servs. _____
- Inv. _____

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - [redacted]

ENCLOSURE
ENCLOSURE ATTACHED

DEC 13 1978

PVD:ddf

MAIL ROOM

79 DEC 20 1978

b6
b7C

62-118045

Francis J. Martin

not recall to which Unit they were returned. Insofar as the content of these folders to Schroeder's knowledge, they contain copies of correspondence which was already in file. As to the content of the "CAPBOM" folders, he could furnish no information and had no recollection of having possession of these folders in his Unit.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u>AMB</u>
Dep. AD Adm. <u>AMS</u>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

copies of FD-302's

Hand delivered

to. Dept. 11/28/78 PD

Greenberg/Gray-2734

FEDERAL BUREAU OF INVESTIGATION

11-28-78

Date of transcription

[redacted] GS-9, assigned to the Technical Services Division, FBI Headquarters, was advised of the official identities of Special Agents [redacted] and the nature of the inquiry which was being conducted to ascertain the details surrounding the custody and control of the contents of cabinets that were seized in FBI Headquarters space during August, 1976, in connection with the Surreptitious Entry Inquiry. b6 b7C

[redacted] advised as follows: b6 b7C

He was assigned to the Surreptitious Entry Inquiry task force from June, 1976, to January, 1977, as the clerical coordinator. Other clerks assigned to the task force were: [redacted] who has resigned, [redacted] [redacted] who has also resigned. b6 b7C

Agents assigned to the task force who often supervised the activities of the clerks were Special Agents [redacted] and [redacted] with Special Agent [redacted] being the primary supervisor, although there were no clear lines of supervision to the best of his recollection since he often had to obtain administrative decisions from whomever was present. b6 b7C

He accompanied seizure teams on August 19, 1976, when the first seizure of pertinent cabinets was made. He was present in Special Agent [redacted] office and in the Division Front Office when cabinets were seized there. He recalls that the general contents of seized cabinet drawers were inventoried on the spot, in the presence of those occupying the same office space as the cabinets, although no receipts were exchanged at that time. The cabinets were then removed to the task force office space on the seventh floor of FBI Headquarters where they remained until the contents were reviewed by Agent personnel. b6 b7C

Upon arrival in the task force office space, the pertinent cabinets, total number not recalled, were identified by affixing a pressure-sensitive label approximately 1 1/4 inches by 3 1/2 inches with a 1/8-inch colored stripe at the top and upon this label was written a numeral, such as "1." While in the task force office space and prior to being returned to the spaces from which they were obtained, the contents of each cabinet were inventoried by copying the title of each folder in each drawer. No document-by-document inventory was made.

Investigation on 11-27-78 at Washington, D. C. File #
by SAs [redacted] DJC:jml Date dictated b6 b7C 11-28-78

The cabinets, with contents, were returned to the original custodians when one of the above-named Special Agents or some other Agent indicated that the review had been completed. This was done as quickly as possible since persons were requesting information contained in the folders on a continuing basis. Although he did not accompany any of the cabinets when returned, he does not recall that a receipt was obtained from the original custodian. He recalls hearing of no questions being asked by original custodians with regard to the future disposition of the material being returned. He recalled no log being maintained which indicated the exact room or person to whom the cabinets were returned.

He recalled that all material from the seized cabinets was reviewed by Agents who identified that material thought to be substantively responsive to the U.S. Department of Justice needs and that material so identified was copied for dissemination to the U.S. Department of Justice.

He could furnish no information which might explain why or how some folders, originally inventoried, might now be unavailable.

FEDERAL BUREAU OF INVESTIGATION

11-28-78

Date of transcription

[redacted] GS-6, assigned to the Records Management Division, FBI Headquarters, was advised of the official identities of Special Agents [redacted] and the nature of the inquiry which was being conducted to ascertain the details surrounding the custody and control of the contents of cabinets that were seized in FBI Headquarters space during August, 1976, in connection with the Surreptitious Entry Inquiry. b6 b7C

[redacted] advised as follows: b6 b7C

He was assigned to the Surreptitious Entry Inquiry task force during the latter part of June, 1976, until January, 1977, and from June, 1977, until approximately May, 1978, where he served in a clerical capacity under the general direction of [redacted] was assigned. Other clerks assigned to the task force were [redacted]. b6 b7C

~~Although he did not accompany the teams that accomplished the initial seizure of cabinets during August, 1976, he was present in the task force office space when the cabinets were inventoried by [redacted] and himself immediately upon their arrival in that space. The inventory was accomplished by copying the titles of each folder in each drawer. No document-by-document inventory was made. The cabinets were identified by placing a 3-inch-by-5-inch card on each and by writing a numeral such as "1" on the card. The inventory was directed by [redacted] who received instructions from one of the Agents present. The seized cabinets were maintained in the center of the task force office space.~~ b6 b7C

After approximately two weeks movers came to the task force office and removed the seized cabinets, presumably to return them to the original custodians, although he recalled no specific instructions in that regard or any second inventory conducted just prior to the removal of the cabinets. He did not accompany the cabinets being returned and recalled no specific person who directed that operation.

The Agents most likely to have been involved in the removal and return of the cabinets were Special Agents [redacted] and possibly Special Agent [redacted] although he recalled no specific instructions being issued with regard to the final disposition of the seized cabinets. He assumed the cabinets were being returned since the Agents had completed a review of the drawer contents and had received approval for their return from the U.S. Department of Justice. He believed that all the cabinets b6 b7C

11-27-78

Washington, D. C.

Investigation on

at

File #

by

SAs [redacted]

DJC:jml

Date dictated

11-28-78

b6

b7C

were returned at about the same time since the empty space in the middle of the office became very obvious.

He recalled a second task force seizure of material during October, 1976, when he, [redacted] accompanied Special Agent [redacted] and attempted to retrieve specific folders from material originally seized during August, 1976, and subsequently returned by the task force to the original custodians. He believes he may have been able to find only about fifty percent of the specific folders being sought at that time.

He could furnish no information which might explain why or how some folders originally inventoried during August, 1976, might now be unavailable.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/28/78

[redacted] Unit Chief, Substantive and Civil Disorders Unit, Terrorist Section, Criminal Investigative Division, Room 4084, J. Edgar Hoover Building, was interviewed concerning tickler folders seized in August 1976 in connection with the "surreptitious entries" inquiry being conducted at that time by the U. S. Department of Justice. [redacted] advised as follows:

b6
b7C

In approximately November 1976 during a reorganization of the Terrorist Section within the Criminal Investigative Division, the "Weathermen and Related Matters" were reassigned to his unit under the supervision of [redacted] indicated that [redacted] had been the prior Unit Chief in charge of the Weathermen and that in the reorganization [redacted] was reassigned to the Bombing Unit of the Terrorist Section. [redacted] noted that [redacted] was assigned this area of supervision until February 1978 when he was moved to his current assignment in the Document Classification Unit, Records Management Division, and succeeded by [redacted]

b6
b7C

[redacted] noted that because of changes in investigative guidelines, the prime concern with the Weathermen, at the time they were transferred to his unit, was with informants and undercover Agent activities. [redacted] said files in this specific area of concern were maintained in one of the eight to ten cabinets which were forwarded from the Weathermen Unit. He noted these cabinets are currently stored in Room 4051 and that they contained tickler folders on Weathermen. [redacted] stated that when these cabinets were initially received in November 1976, they were placed in Room 4077 but because of subsequent reorganizations, they were moved to Rooms 4047 and 4049 prior to their final move to Room 4051.

b6
b7C

[redacted] stated that many of the tickler folders from the old Weathermen Unit were of little value because of changes in the Bureau's investigative guidelines. He sought to get rid of those ticklers of no use or value through a review by his supervisory personnel. As of this time, he does not feel any of the tickler folders were destroyed but that only outdated duplicate copies of Weathermen newspapers were thrown out.

b6
b7C

Investigation on 11/27/78 at Washington, D. C. File # _____
by [redacted] b6
b7C Date dictated 11/28/78

2

[redacted] noted that he had never made a document-by-document inventory of cabinets at the time they were transferred to his unit, but had made a rough outline of the contents which he cannot now locate. [redacted] could furnish no information which might explain why or how some folders inventoried during August 1976 might now be unavailable.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/28/78

[redacted] Unit Chief, Projects Unit, Document Classification and Review Section, Records Management Division, Room 3565, J. Edgar Hoover Building, was interviewed concerning tickler folders seized in August 1976 in connection with the "surreptitious entries" inquiry being conducted at that time by the U. S. Department of Justice. [redacted] advised as follows:

b6
b7C

On approximately August 23, 1976, [redacted] indicated he replaced [redacted] as Unit Chief of the Weathermen Unit, maintaining his office in Room 4427. [redacted] noted that this was approximately one week after the seizure in question. [redacted] said he held this position until approximately November 1976 when he was reassigned to the Bombing Unit in the Criminal Investigative Division and the Weathermen matters were transferred to [redacted] [redacted] Unit Chief of the Substantive and Civil Disorders Unit.

b6
b7C

[redacted] recalled that after he took over from [redacted] many of the seized cabinets were returned to the Unit. He cannot state that all of the original material was returned as he possessed no inventory of that material taken. Sometime after taking over the Unit from [redacted] recalled being given an inventory of the material that was seized and when he would need one of the tickler folders, he would refer to this list and then request the desired folder from the Department of Justice Task Force. He could not recall where this inventory might be located, but believed it had been filed in one of the cabinets from his office which was forwarded on when the Weathermen matters were reassigned.

b6
b7C

[redacted] could not furnish any information which might explain why or how some folders inventoried during August 1976 might now be unavailable.

b6
b7CInvestigation on 11/28/78 at Washington, D. C.

File # _____

by [redacted]

b6
b7CDate dictated 11/28/78

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/28/78

[redacted] Unit Chief, Review Unit, Document Classification and Review Section, Records Management Division, Room 5431, J. Edgar Hoover Building, was interviewed concerning tickler folders seized in August 1976 in connection with the "surreptitious entries" inquiry being conducted at that time by the U. S. Department of Justice. [redacted] advised as follows:

In November 1976 during a reorganization of the Terrorist Section within the Criminal Investigative Division, he was reassigned the "Weathermen and Related Matters" with [redacted] the Unit Chief in the Substantive and Civil Disorders Unit. [redacted] indicated that [redacted] had been the prior Unit Chief in charge of the Weathermen and that [redacted] was then reassigned to the Bombing Unit. [redacted] was assigned this area of supervision until approximately February 1978 when he was moved to his current assignment and was succeeded by [redacted]. During the period he handled the Weathermen, [redacted] noted his primary concerns were undercover Agent activities and informants. He maintained the files on these activities in one of the cabinets obtained from the Weathermen Unit which were stored in Rooms 4047 and 4049. [redacted] said this cabinet was one of approximately ten cabinets stored in these rooms which had been forwarded from the old Weathermen Unit. He indicated that the majority of these cabinets contained tickler folders on Weathermen matters but were of no value at the time because of the new investigative guidelines.

[redacted] noted that during the time that he supervised the Weathermen activities, he had never inventoried the cabinets or reviewed the tickler folders for their full content or value. [redacted] stated that on one occasion he did throw out old copies of the Weathermen paper "Osowatomie," which had filled approximately one cabinet drawer. He indicated that he had thrown this material out as it had no apparent value and many were duplicate copies.

[redacted] stated that he did not destroy any individual tickler folders or their contents stored in Rooms 4047 and 4049.

Investigation on 11/28/78 at Washington, D. C. File # _____

by [redacted] Date dictated 11/28/78

2

[redacted] stated that during the time the Weathermen cabinets were in his unit, there was constant access by Bureau employees to this material, as someone was always seeking to review the material for one inquiry or another.

He could furnish no information which explained why or how some folders inventoried during August 1976 might now be unavailable.

FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Date of transcription 11/27/78

[redacted] was advised of the identities of the interviewing Agents and of the nature of the inquiry. She stated that she is presently the secretary for Thomas Bresson, Section Chief, Disclosure Section, Freedom of Information/Privacy Act Branch and has been in this position since September, 1976. Prior to that, she was the secretary for Robert L. Shackelford, Section Chief, Internal Security (IS) Squad 2.

b6
b7C

[redacted] advised that, on 8/19/76, various documents or cabinets were removed from Rooms 4437, 4439, and 4439a by members of a "special" headed by Richard E. Long. She stated that the items removed from Room 4437 were removed from the cabinet in the room occupied by Robert L. Shackelford. Items removed from Room 4439 were in the room occupied by herself and [redacted] the secretary for the Assistant Section Chief and leave clerk. Items removed from the cabinet in Room 4439a were taken from the room occupied by [redacted] was shown a list of items taken from drawer 2 of cabinet 1. After viewing this list, she identified the items listed as items contained in the cabinet in Room 4439, occupied by herself and [redacted]. She identified the items on this list marked with the letter "D" as those that were personally destroyed by herself. She identified the other items on the list as having been transferred to other offices within Bureau Headquarters. [redacted] stated these files were destroyed or transferred to other areas due to the fact that her section, IS-2, was in the process of being dissolved at that time. She advised that all the files destroyed by her were files of an administrative nature used for information only by Mr. Shackelford and contained items of information which he thought would be necessary for the administration of his duties. She advised that she did not feel that any of the items that she destroyed should have been retained since the section was in the process of being abolished. She stated that any items which she felt would be of value were transferred to the various offices as noted on the forms shown to her.

b6
b7CInvestigation on 11/27/78 at Washington, D. C. File # _____by SA [redacted] Date dictated 11/27/78b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

ENCLOSURE

62-118045-106

[redacted] was shown a list of items noted in Department of Justice (DOJ) File 14 taken from Drawers 1 and 2 of File Cabinet 10. She stated that to the best of her recollection these items were located in Shackelford's cabinet in Room 4437. She stated that she is certain she destroyed the six items marked "destroy" on this form (items marked from Extremist - East Unit through Security Informant Unit). She advised that with the exception of the six items she personally destroyed, she believes that Shackelford went through the remaining files listed on these pages. She stated that Shackelford told her to get the boys and have them put these files in a bag for destruction. She stated she had clerks [redacted] and [redacted] come and do this. She advised that [redacted] has since resigned and moved to the State of Indiana. She also advised that she had no idea as to the specific contents in these files.

b6
b7C

[redacted] was also shown a list of items from DOJ File 17 taken from Drawers 1 and 2 of Cabinet 15. After viewing the items listed, she stated she believed most of the items belonged to the cabinet of [redacted] in Room 4439a; however, some of the items might possibly have been in the possession of Shackelford. She stated that to the best of her recollection she was not responsible for the destruction of any items noted in the above pages. She advised that she had no idea as to the specific contents in these files.

b6
b7C

[redacted] was shown two pages of field supervision files taken from cabinet 1, drawer 1. She stated that these files were kept regarding all field offices. They were kept in the event a field office was not following specific Bureau procedures during an investigation, the Bureau supervisor handling the investigation would place a memorandum in the file. She stated that the original was sent to the field office, the yellow copy was retained in the case file and a true tickler copy was placed in these folders. [redacted] advised that other than this general description with which she was familiar, she knows nothing of the specific contents of these files regarding specific field offices. She stated that these files would either have been destroyed or transferred to the Extremist Section headed by Joseph Deegan.

b6
b7C

[redacted] was shown a list of items taken from Cabinet 1, Drawer 5 from Shackelford's office. She advised that these contained Bureau memoranda and SAC memoranda which she destroyed due to the abolition of IS-2. She stated that each Front Office had a set of these and therefore since her section was being dissolved, she saw no need to maintain these.

b6
b7C

[redacted] was then shown items contained on pages which she stated were the property of [redacted] and that she therefore would have no knowledge of them.

b6
b7C

[redacted] advised that she could furnish no ~~additional information which might be of assistance to this~~ investigation.

b6
b7C

4439

MISCELLANEOUS

<u>DOJ</u> <u>file #</u>	<u>Div. 5</u> <u>file #</u>	<u>Drawer</u>	<u>Contents in Drawer</u>
14	10	1	Policy - Manual Revisions Proposed Revision, Title 18, U. S. Code Testimony Before HCIS - 6/4/74 Policy Jurisdiction Intelligence Division Position Paper on Jurisdiction Position Paper Domestic Intelligence Div Scope of FBI Authority, Jurisdiction & Responsibility in Domestic Intelligence Investigations FBI Jurisdiction Folder (Blank Paper)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

INVESTIGATIONS

DOJ file #	Div. 5 file #	Drawer	Contents in Drawer
14	10	2	<p>ECCSL File</p> <p>[redacted] File</p> <p>[redacted] File</p> <p>Letter file with News Clippings</p> <p>Memorandum to Miller from Schackelford</p> <p>SWP Law Suit</p> <p>Attorney General Guidelines</p> <p>Section Manpower - 1973</p> <p>Section Manpower, Vol. 1</p> <p>Unlabelled file containing letter</p> <p>Extremist - East Unit</p> <p>Trotskyist Unit</p> <p>Extremist - Midwest Unit</p> <p>Extremist - West Unit</p> <p>Communist Party Unit</p> <p>Security Informant Unit</p> <p>Top Ten</p> <p>New Left Fugitives II</p> <p>[redacted] Etal (NET)</p> <p>Movement Research Project</p> <p>VVAW Trial Summary</p> <p>Cointelpro - CPUSA</p> <p>Cointelpro - SWP</p> <p>Cointelpro - NF (Suit)</p> <p>Penal Symposium</p> <p>V. B. Special</p> <p>Report Writing - Change</p> <p>New Left Leader</p> <p>President's Commission on Campus Unrest</p> <p>Cointelpro</p> <p>Executive Management Symposuims</p> <p>Director's Testimony</p> <p>Domestic Councils Committee on Privacy</p> <p>Committee Re Gathering and Retention</p> <p>Intelligence Community Task Force</p> <p>Project 10, Vol 1</p> <p>Project 10, Vol 2</p> <p>DDCI Computer School</p> <p>Policy - Dept. Investigative Guidelines</p>

destroyed

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Drawers Contents in Drawer

#1

#2

- D Administrative 1973
- D Administrative 1974
- D Administrative 1975
- D Administrative 1976
- D (AUG) Administratively Uncontrollable Over
- D Agent's Dictation Ability; also Anniversar
- D Asian Flu Program
- D Censure Matters *TT*
- D Clerical Escort Duty
- D Commendation Matters

sent to [redacted]
[redacted]

b6
b7C

- [redacted] b2
- D Contacts by Supervision
- D Correspondence Instructions
- D Sample Correspondence File
- Internal Security Section
- Correspondence Classification Statistics
- Correspondence Matters
- Departmental Order #300-63
- Dissemination of Security Information
- D FBI Training School Schedule *lecture schedule*
- D FBIHQ Supervisors' Orientation Course
- Files Maintained in IS-2 Sec.

Leads
deaths

James T...
[redacted]

b6
b7C

- Firearms
- D Flower and Gift Fund - ISS
- D Indoctrination Program - Agents and Clerks
- D In-Service Schedule
- D Inspection Matters - Field
- D Inspector's Aides
- D Inventory - New Left Section
- Itineraries
- D Mass Media
- Overtime Records

2 current list
[redacted]

b6
b7C

see [redacted] in office
[redacted]

b6
b7C

- D Performance Ratings - Clerks (Guide)
- Personnel - Agent 1973
- Personnel - Clerical 1973
- Personnel - Agent 1974
- Personnel - Clerical 1974
- Personnel - Agent 1975
- Personnel - Clerical 1975
- Personnel - Clerical 1976
- Personnel - Agent 1976
- Personnel Count

see [redacted] in office
[redacted]

b6
b7C

Subject

Drawer

Contents in Drawer

#1

#2

b6
b7C

- Promotional Availability List
- Recreation Committee
- Responsibilities of SICs
- Retirement Receptions
- Routing of Mail
- Savings Bonds Transmittal Slips
- Security Indoctrination of Employees
- Secure Phone Directory
- Extra Duty Supervisors Instructions
- Semi-Annual Clerical Conferences
- Steno's Weekend, Holiday, Late Duty Sch.
- Stenographer's Reports
- Suggestions - Streamlining
- Tour Leaders

[Redacted]

[Redacted]

b6
b7C

Inspection Material

- 1967 - Inspection, 2/20 - 3/10/67
- 1968 - Inspection, 2/12 - 2/28/68
- 1969 - Inspection, 5/1/69 - 5/14/69
- Inspection - 1971
- Inspection - August, 1971
- Inspection - August, 1972
- Inspection - October, 1973
- Inspection - IS-2 Section 1975

[Redacted]

b6
b7C

think I returned to communications

returned to

Room 9439

POLICY

<u>DOJ</u> <u>file #</u>	<u>Div. 5</u> <u>file #</u>	<u>Drawer</u>	<u>Contents in Drawer</u>
17	15	1	Accomplishments "Adex" 1972 Fiscal Year Annual Report 1973 Annual Report 1974 Annual Report 1975 Annual Report 'Annual Report 1976' AG Briefing Material Attacks on FBI Bank Matters Briefing Book Characterizations Cointelpro--CPUSA Cointelpro--New Left Cointelpro--SWP Civil Disorders Classification Congressional Inquiries Constitutional Oath Support Act Cox Committee Cox Requests Demonstration Policy Department Opinions Dissemination East Con Eisurs EO 10450 Equal Employment Opportunity False ID Field Inspections Freedom of Information Act 5-Year Projected Equipment Needs Fugitives Graylet HCIS Hearings Indexing Informant Payments Informants - Policy Intelligence Oversight Board Investigative Guidelines IRS Investigation of New Left

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

CONTINUED -- OVER

Greenberg/Gray-2751

Drawer #1 Contd
RE: Policy

- Jurisdiction
- ✓Kelley Requests
- ✓SSC Draft Report Material
- ✓Sensitivity Tickler
- ✓HSC Outgoing Responses

POLICY

<u>DOJ File #</u>	<u>Div. 5 File #</u>	<u>Drawer</u>	<u>Contents in Drawer</u>
17	15	2	<ul style="list-style-type: none"> ✓ Law Suits Lecture Outlines Legislative Proposals Logan Act Mail Count Mail Cover Management by Objective Main Power Info MIDEM-MIREP Miscellaneous Projects Name Check-HCIS NATO-Write-Ups Personnel Physical Fitness Policy Predications Investigative Priorities "SACB-E011605" Section Organization ✓ Special Projects Speeches "Training" Unit Working Guides Use of Personnel ✓ Weatherfug Year Press Release

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Desired 1976

Obtained 1977

Available 1974

Account

SHACKELFORD

~~CONFIDENTIAL~~

Cabinet #1

Drawer #1

Contents in Drawer

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 02-28-2009

Not FOIA exemptions

- Field Supervision
- Field Supervision - Albany
- Field Supervision - Albuquerque
- Field Supervision - Alexandria
- Field Supervision - AN
- Field Supervision - Atlanta
- Field Supervision - Baltimore
- Field Supervision - Birmingham
- Field Supervision - Boston
- Field Supervision - Buffalo
- Field Supervision - Butte
- Field Supervision - Charlotte
- Field Supervision - Chicago
- Field Supervision - Cincinnati
- Field Supervision - Cleveland
- Columbia
- Field Supervision - Dallas
- Field Supervision - Denver
- Field Supervision - Detroit
- Field Supervision - El Paso
- Field Supervision - [REDACTED]
- Field Supervision - Honolulu
- Field Supervision - Houston
- Field Supervision - Indianapolis
- Field Supervision - Jackson
- Field Supervision - Jacksonville
- Field Supervision - Kansas City
- Field Supervision - Knoxville
- Field Supervision - Little Rock
- Legats - Supervision
- Field Supervision - [REDACTED]
- Administrative Checks - [REDACTED]
- Field Supervision - Las Vegas
- Field Supervision - Los Angeles
- Field Supervision - Louisville
- Field Supervision - Memphis
- Field Supervision - Miami
- Field Supervision - Milwaukee

CLASSIFIED BY 14828
EXEMPT FROM GDS CATEGORY 1, 2, 3
DATE OF DECLASSIFICATION INDEFINITE

This is considered a source document.
Overall classification is ~~Confidential~~ as
it contains information from documents
so classified. Paragraphs are
marked individually.

Greenberg/Gray-2754

~~CONFIDENTIAL~~

DESIRED
Cabinet #1

OBTAINED
Drawer #1

Amount
Contents in Drawer

Field Supervision - Minneapolis
Field Supervision - Mobile
Field Supervision - N. Haven
Field Supervision - New Orleans
Field Supervision - Newark
Field Supervision - New York
Field Supervision - Norfolk
Field Supervision - Oklahoma City
Field Supervision - Omaha
Administrative Checks - [REDACTED]
Administrative Checks - [REDACTED]
Field Supervision - Philadelphia
Field Supervision - Phoenix
Field Supervision - Pittsburgh
Field Supervision - Portland
Field Supervision - Richmond
Administrative Checks - Legat. [REDACTED]
Field Supervision - Sacramento
Field Supervision - Salt Lake City
Field Supervision - San Antonio
Field Supervision - Washington Field
Field Supervision - Tampa
Field Supervision - St. Louis
Field Supervision - Springfield
Field Supervision - Seattle
Field Supervision - Savannah
Field Supervision - San Juan
Field Supervision - San Francisco
Field Supervision - San Diego

Located in back of drawer

Manual of Rules and Regulations
Manual No. 8
Manual of Instructions, Vol. I
Manual No. 7596
Manual of Instructions, Vol. IV
Manual No. 7596
Manual of Instructions, Vol. II
Manual No. 7596
Manual of Instructions, Vol III
Manual No. 7596

Not FOIA exemptions

- 2Greenberg/Gray-2755

DESIRED 1976
OBTAINED 1976
AVAILABLE 1976
AMOUNT

SHACKELFORD

Cabinet	Drawer	Contents in Drawer
#1	#2	Administrative 1973 Administrative 1974 Administrative 1975 Administrative 1976 (AUC) Administratively Uncontrollable Overtime Agent's Dictation Ability; also Anniversaries Asian Flu Program Censure Matters ✓ Clerical Escort Duty Commendation Matters ✓ [Redacted] Contacts by Supervision ✓ Correspondence Instructions ✓ Sample Correspondence File ✓ Internal Security Section Correspondence Classification Statistics Correspondence Matters ✓ Departmental Order #300-63 Dissemination of Security Information ✓ FBI Training School Schedule ✓ FBIHQ Supervisors' Orientation Course ✓ ✓ Files Maintained in IS-2 Sec.
		Firearms Flower and Gift Fund - ISS Indoctrination Program - Agents and Clerks
		✓ In-Service Schedule ✓ ✓ Inspection Matters - Field ✓ Inspector's Aides ✓
		Inventory - New Left Section Itineraries Mass Media Overtime Records Performance Ratings - Clerks (Guide) Personnel - Agent 1973 ✓ Personnel - Clerical 1973 ✓ Personnel - Agent 1974 Personnel - Clerical 1974 Personnel - Agent 1975 Personnel - Clerical 1975 Personnel - Clerical 1976 Personnel - Agent 1976 Personnel Count

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-2756

DESIRED
DATA
AVAILABLE

Cabinet	Drawer	Contents in Drawer
#1	#2	Promotional Availability List Recreation Committee Responsibilities of SICs ✓ Retirement Receptions Routing of Mail ✓ Savings Bonds Transmittal Slips Security Indoctrination of Employees Secure Phone Directory Extra Duty Supervisors Instructions Semi-Annual Clerical Conferences Steno's Weekend, Holiday, Late Duty Sch. Stenographer's Reports Suggestions - Streamlining Tour Leaders <u>Inspection Material</u> 1967 - Inspection, 2/20 - 3/10/67 1968 - Inspection, 2/12 - 2/28/68 1969 - Inspection, 5/1/69 - 5/14/69 ✓ Inspection - 1971 ✓ Inspection - August, 1971 ✓ Inspection - August, 1972 ✓ Inspection - October, 1973 ✓ Inspection - IS-2 Section 1975

Area
Area
Area
Area

□ Rm 4042
SN/65370

Desired 1971
Obtained 1971
Available 1971
Amount 0

SHACKELFORD

Cabinet #1

Drawer #5

Contents in Drawer

- ✓ Memo. Bu. Officials and Super. - 1972
- ✓ Memo - Bu. Officials and Supvsrs. 1972
- ✓ Memo - Bu. Officials and Supvsrs. 1972
- ✓ Memo - Bu. Officials and Supvsrs. 1972
- ✓ Memo - Bu. Officials and Supvsrs. 1972
- ✓ Memorandum to All Employees 1972
- ✓ SAC Memorandum 1976
- ✓ SAC Memorandum 1975
- ✓ SAC Memorandum 1974
- ✓ SAC Memorandum 1973
- ✓ SAC Letters 1972
- Delinquency Report Material
- Delinquency 1976
- Delinquency 1975
- Delinquency 1974
- Delinquency 1973

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 02-28-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-2758

~~SECRET~~

1976
DQJ Cabinet 3
#4425-27 b6
b7C

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 02-28-2009

Drawer #8 Cont'd

[redacted] -PSI
 (Spectar)
 PSI (CG)
 PSI (CG)
 PSI (Spectar) SM-Weatherman
 PSI (Spectar) [redacted] -PSI (Spectar)
 PSI (Spectar) SM:WTHM
 PSI (Spectar) SM:WTHM
 (Spectar)
 PSI
 PSI
 -PSI RE Macbtinger Case NY
 PSI (Spectar)
 (Spectar)
 -PSI (Spectar)
 (Spectar) SM-PFOC
 (Spectar) SM-PFOC
 -PSI (Spectar)
 SM-Weatherman OO:SF
 (Spectar) SM-WTHMAN OO:SF
 (Spectar)

b1
b2
b7D

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

*SPECTAR CLOSED

[redacted] SM:RU
 [redacted] Spectar
 (Spectar)
 -PSI (Spectar)
 [redacted]
 -PSI SMWTHM OO:CG
 -PSI (Spectar)
 -PSI (Spectar)
 PSI (Spectar)
 (Spectar)
 -PSI (UD) OO:LA
 -PSI LA (EIS,V)
 -PSI (Spectar)
 -PSI (Spectar)
 -PSI (Spectar)
 -PSI (Spectar)
 Former [redacted] (Spectar) BS
 Spectar [redacted]

b2
b7D

Greenberg/Gray-2759

~~SECRET~~

DESIRED 1975
OBTAINED 1/16
AVAILABLE
Amount

BUSSSE RW. 4427

DOJ files #	Div. 5 files #	Drawer	Contents in Drawer
5	4425-8	2	BOSTON
		✓ 20	Boston Weather/Spectar
		✓ 21	John Jackson-S Melville Bombings Mass.
		✓ 22	Prairie Fire Organizaing Comm. OO:BS
		✓ 23	PEOC National Convention, 7/11-13/75
		✓ 24	PEOC Outgoing Communications RE
			Nat. Conv.
			Red Dragon Print Collective 1s (BS)
			VVAL OO:BS
			[redacted] OO:BS
		✓ [redacted]	[redacted] (BS)
			[redacted] Vol. II (BS)
		✓ [redacted] (BS)	[redacted] (BS)
			[redacted] (BS)
			[redacted] (BS)
			[redacted] (BS)
			[redacted] OO:BS
		✓ [redacted] (BS)	[redacted] (BS)
			[redacted] SM-W (BS) Vol. 2
			[redacted] (BS)
			[redacted] (BS)
			[redacted] (BS)
			[redacted] (BS)
		✓ [redacted]	[redacted] (BS)
			[redacted] OO:BS
		✓ [redacted]	[redacted] (BS)
		✓ [redacted]	[redacted] (BS)
		✓ [redacted]	[redacted] (BS)
			[redacted] SMW (BS)
			BUFFALO
		✓ [redacted]	Buffalo Weather/Spectar
		✓ [redacted]	Buffalo-PEOC
		✓ [redacted]	[redacted] D. SM-W(E) (Key Act) (
			Vol. 2
			Vol. 1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

6

DESIRED 1972
OBTAINED 1976
AVAILABLE 1977
Amount

PHOUSSE, ROOM 4427

DOJ
file #

Div. 5
file #

Drawer

Contents in Drawer

6

4425-2

1

Weather Legats Folders
Weatherfug, [REDACTED], [REDACTED], [REDACTED]
Weatherman Album (Black Binder)

↑
Photo

Not FOIA exemptions

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-2761

6

[Redacted]

RM. 4427

b6
b7C

DOJ file #	Div. 5 file #	Drawer	Contents in Drawer
8	4425-2	3	MIREP, Vol. I MIREP, Vol. II DENNOV MIDEA BANK BOMB [Redacted] -PP MATTER--REPORTS AND LHM GILROB WISHON FENBOM, 5/19/72, Vol. 2 [Redacted] EXP. CACHE, 9/16/71

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/abs

DESIRED 1/26
OBTAINED 1/27/68
Avail. Amount 1998

PERMISSOR, RM. 4427

DOJ file #	Div. 5 file #	Drawer	Contents in Drawer
7	4425-5	5	five copies of Sup material from New York Office and Attorney General, volumes 44 through 47 and 49 through 65 and true copies. (Material charged out to Rm. 4427)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 02-28-2009 BY 65179 dmh/baw/sbs

Date of transcription November 27, 1978

[redacted] was advised of the identities of the interviewing Agents and of the nature of the inquiry. [redacted] stated that he is presently assigned to the Personal Property Crimes Section and is working as a Research/Analyst in the Transportation Crimes Unit. His immediate Supervisor is [redacted] currently resides at [redacted] Annandale, Virginia, telephone number [redacted]

b6
b7C

[redacted] was exhibited a list of items taken from the following locations:

b6
b7C

Drawer 2 of Cabinet 1,
Department of Justice (DOJ) File 14,
Drawers 1 and 2 of File Cabinet 10
DOJ File 17, Drawer 1 and 2 of File
Cabinet 15
Cabinet 1, Drawer 1 of R. L. Shackelford's
office
Cabinet 1, Drawer 2, of R. L. Shackelford's
office
Cabinet 1, Drawer 5, of R. L. shackelford's
office
Drawer 3 of [redacted] office
DOJ File 5, Drawer 2, of [redacted]
office.
DOJ File 6, Drawer 1, of [redacted]
office
DOJ File 6, Drawer 3, of [redacted]
office
DOJ File 7, Drawer 5, of [redacted]
office.

b6
b7C

[redacted] stated he had no idea what was contained in these files as he would not have had occasion to look at them.

b6
b7C

[redacted] advised that in August, 1976, [redacted] who was then secretary for Section IS-2, told him to destroy certain ticklers. These

b6
b7CInterviewed on November 27, 1978 at Washington, D. C.

File # _____

b6

b7C

by [redacted] Date dictated November 27, 1978

FEDERAL BUREAU OF INVESTIGATION

Date of transcription November 27, 1978

ticklers were located in two two-drawer safes in Section Chief R. L. Shackelford's office. [redacted] did not read any of the ticklers but merely pulled them out and placed them in confidential trash bags. He stated he then left the trash bags in the Front Office where they would subsequently have been picked up. [redacted] said this was the normal procedure at the time since the chutes now utilized were not yet operational at that time. [redacted] stated he was assisted by another clerk, [redacted]

b6
b7C

[redacted] advised he could offer no additional information which would assist in this investigation.

b6
b7C

Interviewed on November 27, 1978 at Washington, D. C. b6 File # _____

b7C

by [redacted] Date dictated November 27, 1978

FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Date of transcription November 27, 1978

[redacted] was advised of the identities of the interviewing Agents and of the nature of the inquiry. She stated that she is presently the secretary for [redacted] Voucher Payroll Section and that she has been in that position approximately one year. Prior to that she worked in the Research Section of the Public Affairs Office and prior to that she was the secretary for the Assistant Section Chief and Leave Clerk for Internal Security Section (IS-2). [redacted] currently resides at [redacted] Falls Church, Virginia, telephone number [redacted]

b6
b7C

[redacted] was exhibited a list of items taken from the following locations:

b6
b7C

Drawer 2 of Cabinet 1
Department of Justice (DOJ) File 14,
Drawers 1 and 2 of File Cabinet 10
DOJ File 17, Drawer 1 and 2 of File
Cabinet 15
Cabinet 1, Drawer 2, of R. L. Shackelford's
office
Cabinet 1, Drawer 2, of R. L. Shackelford's
office
Cabinet 1, Drawer 5, of R. L. Shackelford's
office
Drawer 3 of [redacted] office
DOJ File 5, Drawer 2, of [redacted]
office
DOJ File 6, Drawer 1, of [redacted]
office
DOJ File 6, Drawer 3, of [redacted]
office
DOJ File 7, Drawer 5, of [redacted]
office

b6
b7C

[redacted] advised that she was not familiar with any of these files, either specifically or generally. She stated she had no occasion to look at these files. She stated that she never destroyed or transferred any of these files nor did she ever receive orders to, or give orders to, destroy or transfer any of these files.

b6
b7C

Interviewed November 27, 1978 at Washington, D.C. File # _____

b6
b7C

by [redacted] Date dictated November 27, 1978

FEDERAL BUREAU OF INVESTIGATION

Date of transcription November 27, 1978

[redacted] advised that she never saw these files destroyed or transferred by anyone.

b6
b7C

[redacted] advised she had no additional information to assist the interviewing Agents.

b6
b7C

Investigation on _____ at _____ File # _____

by _____ Date dictated _____

This is a Xerox copy of tickler files removed from the Front Office of the Intelligence Division by the Task Force and later returned. The files were again removed on 10/21/76 as indicated below.

INGRAM FRONT OFFICE, ROOM 4026
DOJ FILE #19

Safe Type Combination/Lock

✓ Drawer Title: Special Cases and Misc. Briefs

✓ Elsur Policy Folders, Vols. 1, 2, 3 X

✓ ~~GAO Review of FBI Vols. 1, 2, 3~~

✓ "Surreptitious Entries", one folder X

✓ Drawer Title: "Defense Plans"

*to all Sect
11/11/76*

One folder each: ~~"Director's Testimony re. Elsur"~~

✓ ~~"Review Domestic Int Investigations"~~

✓ "GAO Review of FBI" X

*Received all spent lined out items
above from [redacted] 10/21/76*

[redacted]

[redacted] SA, MA

[redacted]

b2
b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

#1

Greenberg/Gray-2768

*hand
LAP
11/27/78*

INVENTORY

Ingram F/O Rm 4026

Safe Type Comb/Lock

Drawer Title: Special Cases
& Misc. Briefs

~~Elsur Policy Folders vols 1, 2, 3~~

~~GAO Review of FBI vols 1, 2, 3~~

~~"Surreptitious Entries" one folder~~

Drawer Title: "Defense Plans"

One folder each: "Director's Testimony re: Elsur"

"Review Domestic Int Investigations"

"GAO Review of FBI"

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs



b2
b6
b7C

and
KAD
11/27/78

Received 1/22/78 from Robert L. Shackelford:

should be 6/62/78 (TS) b(28)79

- (S) 1. Looseleaf binder - [redacted] 10 loose documents b1
- (S) 2. Looseleaf binder - [redacted] 9 loose documents (S) b1
- (S) 3. [redacted] (TS) b1
- 4. Certification of [redacted] (U) b6 b7C
- (S) 5. [redacted] (TS) b1
- (S) 6. Memo Putman to Miller 10/16/73 [redacted] etc (U) b6 b7C
- 7. [redacted] (TS) b1
- (S) 8. [redacted] b1
- (S) 9. [redacted] (TS) b1
- 10. Director FBI to AG 11/28/75 w/encl (U)
Director FBI to AG 11/25/75 w/encl (U)
Director FBI to AG 11/25/75 w/encl (U)
Director FBI to AG 11/7/75 w/encl. (U)
- 11. Copy of Deposition of Robert Shackelford 4/28/76 with corrections (U)
- 12. Gray to AD's 4/27/73
TT. FBI officials to Nixon 4/30/73
Gray RS 2/5/?
Smith to Miller 2/2/73 FBI Intelligence Letter etc.
- 13. Rubber banded package: 16 loose documents, 1 pkg notes, notes and clippings on review of Senstudy Report
- 14. Folder "Techniques: 5 loose documents (U)
6/10/75 Legal Justification
undated (re Techniques)
9/10/72 Smith to Miller - Expansion
12/15/72 Shackelford to Miller - Jaroslav etc.
4/21/76 Pottinger to Director - SE
- (S) 15. Folder [redacted] 32 loose documents
(all except 6 under clip [redacted]) b1
- 16. Folder - "Undercover Volunteers" 61 loose documents
(only 1 under clip) (bio sketches and policy)(U)
- (S) 17. Folder [redacted] 59 loose documents
3 packages: [redacted] b1
- (S) 18. Folder - [redacted] 51 documents, all clipped - some
have notes stapled to each [redacted] b1

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 02-28-2009

~~SECRET~~

Loos

1 volume small loose leaf binder re conference notes retained by Mr. Shackelford.

Greenberg/Gray-2780

~~SECRET~~

Original FD-302
Enclosed. Do not
mark. rwe/bhh

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

ENCLOSURE



ENCLOSURE

62-118045-106

ENCLOSURE

Empty

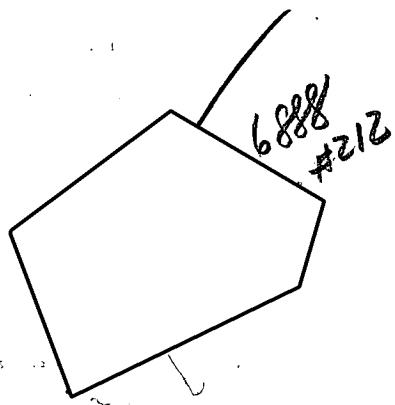
Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

b6
b7C

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

4/5/79



UP-046

D W

(FBI)

WASHINGTON (UPI) - A FEDERAL JUDGE MUST DECIDE WHETHER FORMER TOP-RANKING FBI OFFICIALS, ACCUSED OF APPROVING ILLEGAL BREAK-INS, HAVE BEEN UNJUSTLY DENIED ACCESS TO CLASSIFIED DOCUMENTS.

IF U.S. DISTRICT JUDGE WILLIAM BRYANT AGREES THOSE DOCUMENTS ARE VITAL TO THE DEFENSE IN THE UNPRECEDENTED CONSPIRACY CASE, HE IS EXPECTED TO GO ALONG WITH A FORMAL MOTION FILED WEDNESDAY AND DISMISS THE CHARGES.

A LAWYER FOR FORMER FBI INTELLIGENCE CHIEF EDWARD S. MILLER, ONE OF THREE OFFICIALS CHARGED WITH AUTHORIZING THE ILLEGAL SURVEILLANCE, FILED THE MOTION FOR DISMISSAL ON GROUNDS PROSECUTORS HAVE REFUSED TO TURN OVER VITAL MATERIAL.

SPECIFICALLY, ATTORNEY THOMAS KENNELLY ARGUED THE PROSECUTION IS BOUND BY AN ORDER FROM THE JUDGE TO PROVIDE DOCUMENTS DETAILING CONTACTS BETWEEN THE RADICAL WEATHER UNDERGROUND AND FOREIGN GOVERNMENTS DURING THE EARLY 1970S.

MILLER IS CHARGED WITH FORMER ACTING FBI DIRECTOR L. PATRICK GRAY AND W. MARK FELT, THE BUREAU'S FORMER NO. 3 MAN, WITH APPROVING THE SURVEILLANCE IN A HUNT FOR FUGITIVE MEMBERS OF THE TERRORIST GROUP.

MILLER AND FELT, WHO FACE TRIAL FIRST, CONTEND THEY APPROVED THE BREAK-INS AS A LEGAL FOREIGN COUNTER-INTELLIGENCE MEASURE BECAUSE THE WEATHERMAN GROUP HAD CONTACTS WITH HOSTILE FOREIGN GOVERNMENTS.

UPI 04-05 11:53 AES

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 15

- Page 11 ~ b5;
- Page 12 ~ b5;
- Page 13 ~ b5;
- Page 14 ~ b5;
- Page 15 ~ b5;
- Page 16 ~ b5;
- Page 17 ~ b5;
- Page 18 ~ b5;
- Page 19 ~ b5;
- Page 20 ~ b5;
- Page 21 ~ b5;
- Page 22 ~ b5;
- Page 23 ~ b5;
- Page 24 ~ b5;
- Page 25 ~ b5;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 15

- Page 11 ~ b5;
- Page 12 ~ b5;
- Page 13 ~ b5;
- Page 14 ~ b5;
- Page 15 ~ b5;
- Page 16 ~ b5;
- Page 17 ~ b5;
- Page 18 ~ b5;
- Page 19 ~ b5;
- Page 20 ~ b5;
- Page 21 ~ b5;
- Page 22 ~ b5;
- Page 23 ~ b5;
- Page 24 ~ b5;
- Page 25 ~ b5;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

L. PATRICK GRAY, III
W. MARK FELT and
EDWARD S. MILLER

Criminal No. 78-000179

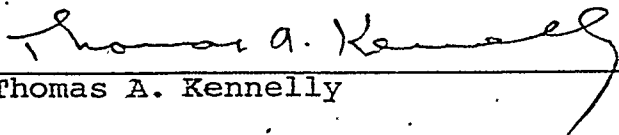
MOTION BY DEFENDANT MILLER
TO DISMISS INDICTMENT

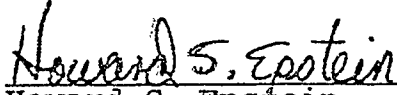
Defendant Edward S. Miller, by his undersigned counsel, moves the Court to dismiss the indictment against him on the ground that the Government has failed to comply with the discovery order issued by the Court on August 17, 1978, as supplemented by the Court's oral instructions to the Government in open court on March 15, 1979.

A Memorandum of Points and Authorities in support of this Motion is attached hereto.

Respectfully submitted,

DIUGUID, SIEGEL & KENNELLY


Thomas A. Kennelly


Howard S. Epstein
1000 Connecticut Avenue, N. W.
Suite 1112
Washington, D. C. 20036
(202) 872-0700
Attorneys for Edward S. Miller

DIUGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

Greenberg/Gray-2785

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

L. PATRICK GRAY, III
W. MARK FELT and
EDWARD S. MILLER :

Criminal No. 78-000179

Defendants :

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION BY DEFENDANT
MILLER TO DISCUSS INDICTMENT

As the Court is well aware, there has been a continuing controversy between the government and defendants Miller and Felt over the government's failure to produce certain discovery documents ordered by the Court. Primarily the controversy involves documents in the files of the Intelligence Division of the Federal Bureau of Investigation, which contain information received from foreign intelligence sources and from the National Security Agency, showing that members of the Weatherman Underground Organization had connections with foreign countries, traveled to and from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Mr. Miller had access to these documents while he was Director of the Intelligence Division during the period of this indictment.

The Court initially ordered discovery of these documents to defendants Miller and Felt in its Memorandum and Order filed herein on August 17, 1978.

The government's failure to produce said FBI documents received from foreign intelligence sources and from NSA was brought to the Court's attention by Miller's "Motion to Compel

FRANK J. SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

Greenberg/Gray-2786

Discovery re Foreign Connections of Weatherman" filed on December 13, 1978; by "Miller's Status Report re Unfinished Pre-Trial Matters", filed on January 8, 1979; and by "Miller's Statement re Unresolved Pre-Trial Discovery Matters" filed on January 16, 1979.

On February 22, 1979, at a hearing among all counsel in chambers, the Court again ordered the government to produce the said documents. The government failed to do so.

Finally, on March 15, 1979, at a hearing in open court, the government was ordered to produce said documents and to complete all discovery by March 30, 1979.

With specific reference to the foreign contacts of the Weatherman Underground Organization, government counsel Mr. Martin demonstrated that he was aware of his obligations:

But I believe it's defense counsel's contention, and to a great degree I concur with it, that we should try to finish the discovery process. That is, make sure they have all of the information about the Weathermen's foreign contacts that they could have had available to them in 1972-73 when they were making the decisions that are the subject matter of this indictment (3/15/79 hearing transcript, p. 17).

Government counsel, Mr. Skolnik concurred in this understanding of his obligation:

MR. SKOLNIK: * * *. All that we can with precision determine is what information was in the files of the FBI in 1972 and '73 and, therefore, by definition, accessible to the defendants.

THE COURT: That's easy to determine, isn't it?

MR. SKOLNIK: Yes, sir. That's easy.

THE COURT: Well, just turn it over to them. (Tr., p.18)

The Court made clear in the hearing that all discovery must be complied with by March 30th:

THE COURT: You say a little more time. I will tell you, I would like to have some certification from you by the end of the month, Friday the 30th, that you've complied with all of the discovery.

MR. SKOLNIK: That's satisfactory, your Honor.

THE COURT: And, Mr. Martin, however many people you're dealing with, if they have any interest in this prosecution -- if that certification isn't forthcoming on that date, I'll entertain a motion from the defense counsel. (Tr., p. 23-24).

The government's obligations were further clarified in the following colloquy:

MR. MARTIN: Your Honor, all I wanted to make was a very simple point. We will hopefully be able to certify that we have complied with discovery as far as we're concerned. I believe defense counsel will dispute that.

THE COURT: Wait a minute. What do you mean by "as far as we're concerned"?

MR. MARTIN: That is, hopefully by the 30th, we will be able to disclose everything we can to the defense counsel.

THE COURT: Not everything you can. Everything they've asked for. Everything you're obligated to disclose to them. (Tr., pp. 25-26).

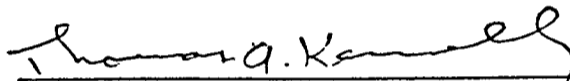
Undersigned counsel for Mr. Miller have now examined all documents turned over to them by the government since March 15, 1979. By the affidavit of Thomas A. Kennelly, attached hereto as Exhibit "A", counsel for Mr. Miller state that the

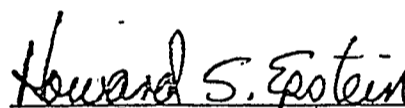
government has not provided them with any documents from the National Security Agency nor any documents from foreign intelligence sources concerning foreign connections or foreign collaboration by members of the Weatherman Organization. Counsel for defendant Miller have previously been advised by government counsel that upwards of 500 such documents do exist and are located in the files of the FBI.

For the reasons set forth herein, the motion to dismiss the indictment should be granted.

Respectfully submitted,

DIUGUID, SIEGEL & KENNELLY


Thomas A. Kennelly


Howard S. Epstein
1000 Connecticut Avenue, N. W.
Suite 1112
Washington, D. C. 20036
(202) 872-0700
Attorneys for Edward S. Miller

DIUGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : Criminal No. 78-000179
 :
 L. PATRICK GRAY, III :
 W. MARK FELT and :
 EDWARD S. MILLER :

AFFIDAVIT

THOMAS A. KENNELLY, having been sworn, states as follows:

1. I am counsel for Mr. Edward S. Miller, defendant in this case. Assisting me is Howard S. Epstein, Esquire of this law firm.

2. Mr. Epstein and I have examined the documents which the government has turned over to us for inspection since the hearing in open court on March 15, 1979. These consist of:

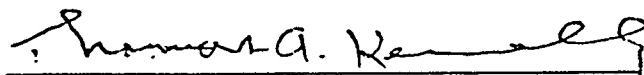
- Approximately 37 FBI documents containing information from the CIA
- Approximately 12 FBI documents containing Sensitive Compartmented Information
- Approximately 25 documents from the White House (National Security Council and the President's Foreign Intelligence Advisory Board)
- Approximately 150 FBI documents containing information from the Bureau's own sources

3. To the best of my knowledge and belief, the government has not permitted us to inspect any documents from the

Greenberg/Gray-2790

National Security Agency nor any documents from foreign intelligence sources concerning foreign connections or foreign collaboration by members of the Weatherman organization.

4. It is my understanding that there are upwards of 500 documents containing such information from the NSA and from foreign intelligence sources in the files of the Intelligence Division of the Federal Bureau of Investigation, and that said documents were also in said FBI files at the time Mr. Miller was in charge of the Intelligence Division during the period of this indictment. This information was given to me by government counsel Mr. Martin at the conclusion of an in-chambers hearing on January 31, 1979.


Thomas A. Kennelly

District of Columbia: ss:

Subscribed and sworn to before me this 4th day of April, 1979.


NOTARY PUBLIC

My Commission Expires:
February 14, 1980

DIUGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

L. PATRICK GRAY, III
W. MARK FELT and
EDWARD S. MILLER

:
:
:
:
:
:
:

Criminal No. 78-000179

ORDER

Defendant Miller, having moved to dismiss the indictment on grounds of failure of the government to comply with the Court's discovery orders, and good cause appearing therefor, it is hereby

ORDERED, that the indictment is hereby DISMISSED as to Defendant Edward S. Miller.

Date: _____

United States District Judge

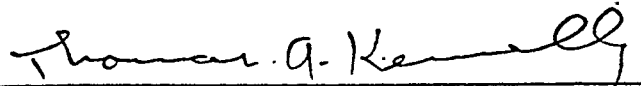
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum of Points and Authorities in Support of Motion by Defendant Miller to Discuss Indictment, Motion by Defendant Miller to Dismiss Indictment, and the proposed Order, was mailed, postage prepaid on this 4th day of April, 1979 to the following:

Francis J. Martin, Esquire
Department of Justice
Federal Triangle Building
Room 600
Washington, D.C. 20530

Alan I. Baron, Esquire
1300 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Brian P. Gettings, Esquire
1400 N. Uhle Street
Arlington, Virginia 22201


Thomas A. Kennelly

UGUID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
1000 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 872-0700

Greenberg/Gray-2793

CONFERENCE
SPECIAL AGENTS IN CHARGE
WASHINGTON, D.C.
September 25 - 26, 1972

Greenberg/Gray-3339

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WOH/AB

POSITION PAPER
DOMESTIC INTELLIGENCE DIVISION

INVESTIGATIONS OF SUBVERSION

May 19, 1972

OVERVIEW

This paper deals with the conduct by the FBI of intelligence-type investigations supervised by the Domestic Intelligence Division. Authority for these investigations is documented and outlined, including situations where there is no direct violation of law. Criteria and controls and dissemination policies implementing this authority are detailed. Recommendations are made for studies in several areas where security operations may benefit.

Greenberg/Gray-3340

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 9/10/79 BY 6076 WCAH/AB

TABLE OF CONTENTS

INTELLIGENCE COLLECTION	1
AUTHORITY	10
Congressional Enactments	10
Presidential Directives	11
Policy Instructions of Attorney General	12
National Security Council Directives	13
Interagency Agreements	13
IMPLEMENTATION OF AUTHORITY	14
Administrative Index	15
Revolutionary Groups	17
Extremist Groups	19
Subversive, Revolutionary and Extremist Individuals	19
Unaffiliated Individuals	21
Espionage and Foreign Intelligence Investigations	21
Restrictions on Investigations	23
Information Storage and Retrieval	25
Dissemination	27
RECOMMENDATIONS	28
Authority for Intelligence Investigations	28
Dissemination of Intelligence Information	29
Criteria and Limitations Governing Individual Intelligence Investigations	29
Legislative Proposals	29
Executive Authority Proposal	30
Effect of Executive Order 11652	30
Retention of Security Files	30
Establishment of "Watcher Service"	31
"Chilling" Effect of Investigations	31
Administrative Index	32

9/20/72

PERSONNEL CHANGES

INSPECTION DIVISION

1st Choice - X Leonard M. Walters *u*
2nd Choice - Karl L. Brouse
3rd Choice - Robert E. Gebhardt

IDENTIFICATION DIVISION

1st Choice - Karl L. Brouse *u*
2nd Choice - X Robert E. Gebhardt
3rd Choice - Wason G. Campbell

NEW YORK

1st Choice - X Andrew J. Decker (#4) *u*
2nd Choice - [Redacted] (#5)
3rd Choice - Charles D. Brennan (#4) X

b6
b7C

EL PASO

1st Choice - [Redacted] *u*
2nd Choice - [Redacted]
3rd Choice - [Redacted]

b6
b7C

WASHINGTON FIELD OFFICE

1st Choice - X John J. McDermott *u*
2nd Choice - Donald E. Moore (DID)
3rd Choice - Joseph D. Purvis

ALEXANDRIA

1st Choice - X Charles D. Brennan [Redacted] *Monday*
2nd Choice - X Jay Cochran, Jr.
3rd Choice - Marlin H. Moore

ST. LOUIS

1st Choice - X Robert G. Kunkel
2nd Choice - Jay Cochran, Jr. *b6*
3rd Choice - [Redacted] *b7C*

ORGANIZED CRIME SECTION

1st Choice - X [Redacted]
2nd Choice - [Redacted]
3rd Choice - [Redacted] *b6*
b7C

SAN FRANCISCO

Revised made 9/20/72
4 in to STOP

Greenberg/Gray-3342

240811-22

3-45 (Rev. 10-24-72)

Admin. Changes file

FEDERAL BUREAU OF INVESTIGATION /

, 1972

- | | |
|---|--|
| <input type="checkbox"/> Director's Office | <input type="checkbox"/> Mr. D.J. Brennan, Jr. B-110 |
| <input type="checkbox"/> Mr. Felt, 5744 | <input type="checkbox"/> Mr. Gregory, B-110 |
| <input type="checkbox"/> Mr. Baker, 5734 | <input type="checkbox"/> Mr. Feeney, 4519 |
| <input type="checkbox"/> Mr. Bishop, 5634 | <input type="checkbox"/> Mr. J. Cox, 3230 IB |
| <input type="checkbox"/> Mr. Callahan, 5525 | <input type="checkbox"/> Mr. Roderick, 3117 IB |
| <input type="checkbox"/> Mr. Cleveland, 1742 | <input type="checkbox"/> Mr. Day, 912 9&D |
| <input type="checkbox"/> Mr. Conrad, 7621 | <input type="checkbox"/> Mr. Dunphy, 331 OPO |
| <input type="checkbox"/> Mr. Dalbey, 5642 | <input type="checkbox"/> Mr. Fisher, 7541 |
| <input type="checkbox"/> Mr. Gebhardt, 5706 | <input type="checkbox"/> Mr. Healy, 4704 |
| <input type="checkbox"/> Mr. Jenkins, 5234 | <input type="checkbox"/> Mr. Jackson, 5509 |
| <input type="checkbox"/> Mr. Marshall, 7746 | <input type="checkbox"/> Mr. Price, 2264 |
| <input type="checkbox"/> Mr. Miller, 1026 9&D | <input type="checkbox"/> Mr. McDonough, 2260 |
| <input type="checkbox"/> Mr. Purvis, 4130 IB | <input type="checkbox"/> Mr. McMichael, 5266 |
| <input type="checkbox"/> Mr. Soyars, 3114 IB | <input type="checkbox"/> Mr. Perritte, 808 OPO |
| <input type="checkbox"/> Mr. Walters, 5256 | <input type="checkbox"/> Mr. Quinn, 4258 |
| <input type="checkbox"/> Mr. Walsh, 5525 | <input type="checkbox"/> Mr. Row, 6221 IB |
| <input type="checkbox"/> Mr. Donahoe, 5734 | <input type="checkbox"/> Mr. Suttler, 4248 |
| <input type="checkbox"/> Mr. O'Connell, 5519 | <input type="checkbox"/> Mr. Tullai, Quantico |
| <input type="checkbox"/> Mr. Kuntz, 5633 | <input type="checkbox"/> Mr. Beckner, 1521 |
| <input type="checkbox"/> Mrs. Neenan, 5633 | <input type="checkbox"/> Mrs. A. Smith, 5302 |
| <input type="checkbox"/> Miss Smith, 5744 | <input type="checkbox"/> Mr. Haisten, 4732 |
| <input type="checkbox"/> Conveyer Sta., 1213 IB | <input type="checkbox"/> Mrs. Lockhart, 5263 |
| <input type="checkbox"/> Mail Room, 5531 | <input type="checkbox"/> Mrs. Sisk, 3137 IB |
| <input type="checkbox"/> Messenger Room, 7529 | <input type="checkbox"/> Mrs. Smith, 914 9&D |
| <input type="checkbox"/> Call Me, Please | <input type="checkbox"/> Mr. Marsden |
| <input type="checkbox"/> See Me, Please | <input type="checkbox"/> Mr. Atwell |
| | <input type="checkbox"/> Mr. Codi |
| | <input type="checkbox"/> Mr. Schweitzer |

M _____ Room _____

*"Re-establishment of Liaison Section
as a channel for discussion of operational
& policy problems arising with other
Federal agencies"*

MECHANICAL SECTION

Greenberg/Gray-3343

Central Material Attached

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAA/AB



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 22, 1972

- Mr. Felt _____
- Mr. Baker _____
- 19-72 Mr. Bishop _____
- Mr. Callahan _____
- Mr. Cleveland _____
- Mr. Conrad _____
- Mr. Deibey _____
- Mr. Gebhardt _____
- Mr. Jenkins _____
- Mr. Marshall _____
- Mr. Miller, E.S. _____
- Mr. Purvis _____
- Mr. Sevens _____
- Mr. Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Ms. Herwig _____
- Ms. Neenan _____

MEMORANDUM TO ALL BUREAU OFFICIALS AND SUPERVISORS

(A) LIAISON SECTION -- The Liaison Section has been reconstituted effective November 13, 1972, with its front office in Room 1010 9&D in the Domestic Intelligence Division. It is intended that the section service all divisions of the Bureau and provide a channel for the discussion of operational or policy problems which may arise with major agencies of the Executive Branch of Government.

The section is being initially staffed by five domestic Liaison Supervisors who, while continuing liaison with The White House, will reestablish contacts at all levels within the Departments of Defense, State, Transportation and Treasury and with the Atomic Energy Commission, the Central Intelligence Agency, the National Security Agency and the Bureau of Narcotics and Dangerous Drugs. Problems which arise with these agencies may be referred to the Liaison Section for handling and resolution. In addition, should problems arise with agencies not listed, the section will, on request, endeavor to make whatever contact is necessary.

Reestablishment of the Liaison Section is not intended to interfere in any way with present liaison arrangements being handled elsewhere. For example, the Criminal Section has established effective operational contact with the Federal Aviation Agency in connection with hijackings and with the Secret Service in connection with threats against the President. Similarly, the Fugitive Section has established effective contact with the Headquarters of the Selective Service System. Such contacts should continue; however, in order that the new section may be aware of existing arrangements, notification of any continuing contact with other Executive Branch agencies should be promptly furnished by routing slip or informal memorandum to the Liaison Section.

11-22-72
MEMORANDUM 19-72

Greenberg/Gray-3344

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAA/20B

~~CONFIDENTIAL~~

Memorandum to Mr. E. S. Miller
Re: Contingency Plans for
Handling Terrorist Attacks

It is not the object of this memorandum to find fault nor to point a finger of criticism or accusation of short sightedness at anyone. Under normal conditions the Chicago Office undoubtedly would have been able to handle a situation requiring body armor, mobile radios, shotguns and the like, usually involving a limited number of Agents and subjects. However, these are not normal times. We are in an age of terrorism. A potential attack of the sort which occurred at Lod Airport or which occurred at the time of the Munich massacre could happen in the U.S. The tactic of the urban guerrilla, often used in Latin America, Algeria, the Middle East and elsewhere in the world, was introduced into the U.S. about five years ago and we have seen ample evidence of it in the form of ambushed police officers and terrorist bombings which have included the U.S. Capitol and the Pentagon. We now accept the existence of urban guerrilla terrorism and the fact that the urban guerrilla's philosophy of terrorism has made it necessary for law enforcement to adopt new standards and adapt to the constant threat of terrorist attack. We recognize that FBI personnel have been targeted for assault or assassination. (u)

The President, in setting up the Cabinet Committee to Combat Terrorism, took note of the fact that political terrorism, which has spread to all parts of the globe, could spread to the U.S. Terrorist acts have occurred in Latin America and in Canada, and only a fortunate combination of excellent work by the FBI and circumstances has kept major terrorist attacks from occurring here the past few months. In reviewing the facts we must realize that with our open borders and ease of entry into the U.S. terrorists can strike without our advance knowledge. (u)

The FBI has been designated by the Cabinet Committee to Combat Terrorism to assume jurisdiction and responsibility in the event of a terrorist attack in the U.S. The FBI has developed contingency plans at Headquarters and in every field office for the

CONTINUED - OVER

-2-

Greenberg/Gray-3345

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum to Mr. E. S. Miller
Re: Contingency Plans for
Handling Terrorist Attacks

purpose of instant response in the event of a terrorist attack. And while the FBI will not launch a military-type offensive or action against an entrenched terrorist seizure, the FBI will be in complete charge of operations involving confrontations with armed terrorists. There may be time for consultation with local police or even the military services but, as in the case at Chicago, time may not permit or other circumstances may dictate that only the FBI should respond initially. In any event by desire of the President and by legislative enactment, the FBI has the primary responsibility and, therefore, should assure that it is fully prepared to carry out such responsibilities. (u)

It is true that arrangements have been perfected to secure certain types of equipment from the Defense Department in case of a terrorist attack. However, such procedures are time-consuming and under the best possible conditions it would be a matter of hours before military equipment could be delivered to us. Some equipment in hands of local law enforcement might conceivably be available on a loan basis. But in translating need and availability into time, there will be delay between point of need and actual availability to our Agents. (u)

What we are thinking of now in terms of equipment are the items referred to by Chicago such as body armor; mobile (personal size) radio equipment; shotguns; gas equipment, including modern gas masks; binoculars; bullhorns; and perhaps some miscellaneous other small items. Chicago's recommended use of self-contained squad cars does not appear to be practical and the recommended use of helmets, identifying vests and arm bands may have only limited value. However, equipment which may be needed on a minute's notice should be available in a field office vault for immediate use. (u)

CONTINUED - OVER

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum to Mr. E. S. Miller
Re: Contingency Plans for
Handling Terrorist Attacks

Chicago has recommended acquisition of additional equipment specifically for use in responding to terrorist-type attacks or situations. Undoubtedly, similar needs exist in many other field offices. This is the purpose of the attached airtel to all offices. The Chicago critique may serve to graphically illustrate the implementation of a contingency plan, only to find that critical equipment is not available. (U)

In setting up the Cabinet Committee to Combat Terrorism, the President issued instructions that additional costs necessary in the setting up of antiterrorist plans should be brought before the Office of Management and Budget. It would appear that equipment needs of the FBI to prepare to meet the terrorist thrust would fall within the framework of the foregoing Presidential instructions. It is believed, however, based on preliminary contacts with the military, that numerous items of equipment, including many of those mentioned herein, may be stockpiled in military arsenals and available for transfer without cost to the FBI. This is particularly true with respect to items which were stockpiled for the war in Indochina and which may now be considered surplus. At any rate, before consideration is given to submission of a supplemental budget request, we should exhaust all possibilities of a transfer of equipment without cost to the FBI from the military. (U)

A recent study with regard to up-to-date equipment, such as the latest kind of body armor, revealed that a radically new body armor is now being tested by the Army but will not be available until at least April, 1973, and would probably not be available except by purchase. However, other types of body armor may be available in stockpiles. (U)

We recommend that the attached airtel to all field offices be sent for the purpose of canvassing the field for equipment needs.

CONTINUED - OVER

-4-

Greenberg/Gray-3347

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum to Mr. E. S. Miller
Re: Contingency Plans for
Handling Terrorist Attacks

Once we get a reply it is our thought that General Investigative Division and Domestic Intelligence Division meet with representatives of the Laboratory Division and Training Division to arrive at an intelligent overall estimate of our needs. Thereafter, we can approach the Defense Department about transferring a specific amount of equipment to the FBI without cost. If this proves to be unsuccessful, then we should submit a supplemental budget as instructed by the President in his charge to the Cabinet Committee to Combat Terrorism. (u)(4)

RECOMMENDATIONS:

1) That the attached airtel to all offices be approved and sent. (u)

2) That upon receipt of canvass of the field, representatives of General Investigative, Laboratory, Training, and Domestic Intelligence Divisions meet to decide what equipment is essential to our needs. (u)

3) After determining equipment needs, approach the Defense Department for possible transfer of needed equipment to FBI. (u)

Handwritten notes and signatures:
- A large diagonal line through the top left.
- "Agree with survey to determine extent of any additional stockpiling considered warranted" written diagonally.
- "Use" written below the main note.
- "BAC" and "APK" written in the bottom right area.
- "WRC" written in the bottom right area.

1 34081-50
~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

0-9 (Rev. 5-18-71)

FBI

Transmit in _____ Via Airtel _____ (Priority)

To: All SACs

Date 1/9/73

From: Acting Director, FBI

CONTINGENCY PLANS FOR
HANDLING TERRORIST ATTACKS

BUDED: 1/22/73

(U) As result of information furnished by a source indicating that Arab terrorists residing in the Chicago area were planning a terrorist action similar to the massacre which occurred at Lod Airport, Israel, 5/30/72, Chicago instituted an emergency plan on 11/24/72 which was a modification of their sky-jacking plan designed to cope with a terrorist attack. The information was such to suggest that one or other of the two major airports in Chicago could be the possible target for terrorist action. (U)

No attack took place; however, implementation of plan by Chicago provided an excellent field test for evaluating our emergency procedures for dealing with threatened terrorist attacks. Simultaneously, areas of specific need were highlighted, particularly with regard to equipment. (U)

A copy of a critique prepared by the Chicago Office shortly after the exercise is attached for the benefit of each office. Problems experienced by Chicago could well be experienced by any of the field offices under similar conditions. (U)

The stress placed on equipment needs in this critique is in line with preliminary studies underway at the Bureau to determine the type and quality of equipment required to cope with terrorist-type situations. In connection with these studies, a fieldwide estimate of requirements is necessary. Therefore, each office should carefully study attached critique and, based on the applicability

Enclosure

(Do not type below this line.)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

~~6076 ZUWA/AB~~
CLASS. & EXT. BY ~~9/10/79~~
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 1/9/93

Greenberg/Gray-3349

~~CONFIDENTIAL~~

(This line for LEFT MARGIN.)

~~CONFIDENTIAL~~

Airtel to All SACs
Re: Contingency Plans for
Handling Terrorist Attacks
Buded: 1/22/73

in each instance, submit to the Bureau an estimate of the type and quantity of equipment it would need to respond to a possible terrorist attack. These estimates should be carefully considered and reasonable and should be fully justifiable in terms of the conditions peculiar to each office. The planned use for additional equipment recommended should be set out in detail. (u)

Suairtel to reach Bureau, Attention: Research Section, Domestic Intelligence Division, by close of business 1/22/73. (u)

INFORMATION CONCERNING THE ACTION IN CHICAGO IS NOT TO BE DISSEMINATED OUTSIDE THE BUREAU. (u)

~~CONFIDENTIAL~~

T. J. Jenkins to Mr. Felt Memo

Re: Summary of Accomplishments, Training Division, Calendar Year 1972

New Management Seminars for FBI Personnel

An innovative program devised to provide advanced managerial training to FBI personnel in leadership positions was developed. Under this training program, three highly advanced seminars were held at FBIHQ on 8/28/72, 9/11/72, and 9/25/72 for a total of 63 Special Agents in Charge. The first executive development seminar was held 12/4/72 at the new FBI Academy and was attended by 20 Assistant Special Agents in Charge. Another management seminar designed for field and FBI HQ Supervisors was held 11/27/72 with 38 supervisors in attendance. (u)

Language and Stenographic Training

During the period covered by this report, 47 Special Agents graduated from Language School and were made available to the field. As 1973 began, 38 Agents were undergoing this training, most of which is provided by the Defense Language Institute and at no cost to the Bureau. Employees afforded training in stenographic procedures numbered 131 and a total of 79 were provided shorthand instruction. (u)

FBI Law Enforcement Training Advisory Committee

In 1972, a newly formed 12-member FBI Law Enforcement Training Advisory Committee convened on two occasions (August and December) to evaluate law enforcement education and training offered at the Academy, as well as field police training activities, to insure that these programs were responsive to the current needs of the law enforcement community. The Committee, composed of five prominent law enforcement officials, four leading educators, and three top businessmen, considered a number of matters bearing on our role and future directions in police training and education. At their final December meeting, the Committee submitted a preliminary draft of their findings and recommendations to Acting Associate Director Felt with a final report to be submitted in the near future. (u)

National Bomb Data Center

In June, 1972, at the request of the Law Enforcement Assistance Administration, operations of the National Bomb Data Center were transferred from the International Association of Chiefs of Police to the Bureau. Since the transfer, the Center's mailing list has been refined and extensive informational and training data regarding bombing matters have been disseminated. (u)

Suggestion Program; Commendations and Incentive Awards

During 1972, Bureau employees submitted a total of 1,017 suggestions, an increase of 93 over the previous year. Of these, 312 were adopted with 29 still awaiting resolution. A total of 18 incentive awards, involving 19 employees, were made for a total of \$5,235. Through the Suggestion Program, an estimated first-year saving of \$191,833.01 was attained. During the year, personnel in the Training Division received 15 incentive awards and 31 letters of commendation. (u)

RECOMMENDATION:

9:45 P None. For information. 3 -

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WEA/PEB

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

ADDRESS OF THE HON. L. PATRICK GRAY, III,
ACTING DIRECTOR OF THE FEDERAL BUREAU OF
INVESTIGATION, BEFORE THE NATIONAL SYMPO-
SIUM ON TERRORISM, FBI ACADEMY, QUANTICO,
VIRGINIA, JANUARY 16, 1973

I just had a little joke this morning with one of my Assistant Directors. At least I thought it was a joke, maybe he doesn't. But I said to him, "Those remarks that were prepared for me to deliver this morning (to you gentlemen) caused me a little excitement last night when I began to read them because they were sheer Pablum and if I had uttered any words like that, the FBI and I would be hooted out of the law enforcement profession."

I want to take a little bit of time with you this morning. I think the first thing I want to say to you is that long before I became a member of the Federal Bureau of Investigation and perhaps because of the era in which I grew up, I had a profound respect for the police officer and his position in the community. It seemed to me that most of us growing up in that particular era had a similar respect. Today, high among my concerns, very high among my concerns, second only to assaults on Special Agents of the Federal Bureau of Investigation, are assaults upon the

Greenberg/Gray-3352

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAA/AB

police officers of the United States. Each and every police killing in the United States comes across my desk in detail because I have asked for it. And I am intimately concerned that we in the law enforcement profession don't seem to be able to cope with this for one reason or another. True, only 126 police officers were killed in 1971, and only 112 were killed in 1972, but that's too many. One is too many.

Maybe I'm unrealistic; maybe I'm idealistic. But I am analyzing each and every one of these situations that come across my desk in detail, and I think the police departments in the United States are making some mistakes, grievous mistakes.

And who am I, a novice, to stand up here and talk to you in this vein? Well, maybe a fresh look is needed. Maybe the detailed look that I am taking is needed. But I find that officers are not using NCIC. I find that in some departments there are not instructions to utilize NCIC. I find state highway patrolmen going up on automobiles-- on lonely roads, against four people--without calling for help. The officer being shot from a range of 18 inches. Two shots in his chest.

What's so damned important about stopping an automobile with four unknown thugs in it before you call in some people to help you check? One fine state highway

patrolman dead. I could go on. Police officers in cities-- I read these things--walking into banks after bank alarms have been triggered, alone, weapon not unholstered, and they're shot standing up from 18 to 24 inches. Two, three shots right in their chests--dead.

I think we've got some work to do in the law enforcement profession. I think that NCIC can be a big help. I find in certain cases that instructions have been issued in a department for an officer to utilize NCIC but he doesn't do it. And he lies dead as a result. This has happened. In today's clime I think it's really imperative and mandatory that those exercising leadership and command in police departments, in state police organizations, highway patrol organizations, get tough and be tough with our own to help them save their own lives while doing their duty.

The recent situation in New Orleans just happened to be the recent situation. More have preceded it, as you all know. But I sat down and with almost tears in my eyes wrote a personal, handwritten note to the superintendent because I grieved so at the loss of those valiant officers. And I'm going to say here and now within the family that I don't think that they needed to die had we been prepared to meet this kind of an attack.

7-18043-20

What are the real factors in this so-called new thing terrorism?--and it's not a new thing at all. I think the first factor that I would like to touch upon with you and hope that you carry back with you to your community is society at large, our fellow citizens. Educate them. It's not easy--but educate them!

The terrorist scene is not a Roman Colosseum; and my advice to the community is "Stay at home my fellow citizens! The terrorist is an outlaw, a wild animal, a jungle animal, a jungle killer! Stay at home, my fellow citizens. How that terrorist got that way is not important. We're not interested in the psychological, philosophical, sociological factors on the terrorist scene. How he got that way is not important to us. At least it's not important to us at the time he's doing his thing on the terrorist scene. Stopping him is very important to you, my fellow citizen; very important to you, my fellow citizen; or he will kill you, and many other innocents, as he did in New Orleans, and as he will do again.

"Stay at home, my fellow citizens. Insist, my fellow citizen, that the media not glorify the terrorist and ridicule those of us who are laying our lives on the line and trying to keep the terrorist from killing you. We may make our

mistakes, but we are there in the caldron alone where the lead and the bombs are flying. And we are there because it is our duty to you to keep the terrorist from killing you. No one else holds that duty to you, my fellow citizen, only we, your police, have that duty. Not the critics, not the columnists, not the television commentators, not the handwringers, just us---your police. We have that duty to you."

So, I say to you law enforcement officers that a part of this total pattern involves police-community relations and it involves the ability of the police department to educate our fellow citizens. You can say this cannot be done, and perhaps there are some who would agree with you in today's clime. I will not agree with you because I think you've got to fight, crawl and scratch all the way up against any adversity to educate that fellow citizen. I can tell you how they hamper us in hijackings when they crowd the airport. Those who recently encountered terrorism in New Orleans among our profession can tell you perhaps how our fellow citizens hampered them.

The second factor I want to talk to you about is police intelligence before and after the fact. Certainly you may have already heard enough of this, but as I size up the picture and as I look at the contingency planning

it seems to me that it is imperative that we get it before the fact if we can and be ready. Get it during the terrorist action if you can and use it to your advantage. Get it after the fact if you can and use it for training.

Another factor tied in with the intelligence, of course, is police training in the assault. We normally are not trained for this sort of thing. But we have seen the developing events and we have not seen anyone else step into the breach. It's still us, so therefore we have to be trained in the assault.

The first thing that comes to mind there certainly, at least it does to me, is the physical condition of the officer. You simply cannot take on some of these young punks today, nor can you engage in assault situations unless the police officer is in good physical condition. I have recently taken steps in the FBI to insure that our Agents begin to work themselves into good physical condition, at least those who are not. That we know our weapons; that we know how to utilize them under all kinds of conditions; that we think in terms of what armor we may need, what equipment we may need: searchlights, axes, maybe even a CO₂ fire extinguisher.

Let your mind roam as you try to think in terms of your contingency plans. Tactics. How are we going to

do this? Who is going to do it? How are we going to be identified? How many are needed? What kind of weapons will be utilized? What preparations will be made before the final assault is made?

Terrain. What do we need to know about the terrain? It's almost, you know, as though you were back in the military thinking maybe about a pillbox on Peleliu or on Iwo. I see nobody else stepping in to do the job and its still us, we have to do it.

The key, really, gentlemen, is intelligence before, during and after, and then these other factors that I've just mentioned come into play. On the one hand I think you realize that the terrorist, the pure terrorist--and I'm thinking now about the politically-motivated terrorist--he invites either negotiation or the immediate assault. It all depends on the developing events. The sniper, on the other hand, you have to dig out and kill; it's that simple.

The terrorist with hostages poses different problems. The immediate assault may result in immediate death to the hostages, all of them, and to some of the terrorists and to some of the police. Is this a situation in which you jawbone instead of assault immediately. I think so. But once again the awesome responsibility rests on the commander

on the spot who has to make that terrible decision. The sniper, no. I think you prepare him and then I think you assault him and I think you kill him.

Is the terrorist, the sniper, a job for the Armed Forces, the Army, or the Marines, or is this really a police responsibility? Who in our society has addressed this question? If the latter, the police responsibility as it now appears to be, we have a lot of work to do just to get in the proper physical condition to meet this threat; then training in weaponry, specialized training in weaponry, in all kinds of weaponry. Maybe it's even mortars, who knows? I don't know what the next one is going to produce; you don't know, unless your intelligence is a lot better than ours and we think ours is pretty good. In demolition, how many men do you have trained in demolition? In psychological warfare-- there may even be time for that depending upon the situation. And then finally in the assault itself.

I think we've got a lot of restudying to do with regard to this specialized role which has been thrust upon us. I know that we in the FBI because of the recent enactment of legislation have been doing plenty of studying, plenty of contingency planning, and I have just ordered within the last two days further action to be taken on the creation of hypothetical situations and those situations to be war

gamed and practiced out under the most realistic conditions in order to save lives of Special Agents:

I don't care about the terrorists, I don't care about the snipers. They are lawless, wild animals, jungle killers, and I'm not interested in their psychology, their philosophy, their sociology or the causes that made them become a sniper. Our job is different. When they are doing their thing our job is to stop them and to protect the lives of our fellow citizens because this is our duty. For the foreseeable future we are on the streets, not the Army or the Marines. We have the responsibility.

As I said to Assistant Director Miller this morning when he told me that this symposium was going well I said, "how do you know it's going well?" I have been extremely interested in each and everyone of these symposiums that we have held here at the FBI National Academy because basically the suggestion for these came in part from my meetings early last summer with the Chiefs of Police that I met with over a period of time: them asking us to use our facilities, our forum, to bring together police leaders, police executives in various types of forums, and we have tried to do this and in connection with each one of those we have given a great deal of time and personal attention to it to make sure that they are meaningful.

If we are delivering up to you Pablum in any way, have the courtesy and the brotherhood, because we're in the same profession, to tell us because we want to make these symposiums meaningful to you and meaningful to us.

We see it from one side but I ask in the interests of the law enforcement profession as a whole that you not hold back your criticism and that you be constructive in your criticism. It's very easy to be destructive you know. "The New York Times" jumped all over the New Orleans Police Department yesterday, but what would "The New York Times" have done had they been on the scene? What command position would they have taken? What orders would they have issued?

Thank you very much for being with us.

10/26/72 5:42 P TCF [redacted]
to 5:52 P

1. On Terrorism
2. I talked to ESM
3. [redacted] & Tom Smith want direct liaison with Troop Cdr so that we can have it in writing. b6
b7C
4. [redacted] - This we cannot do. b6
b7C
 - the Pres. has to order it.
 - Agreement with DoD?
5. LP6 - we have to work out procedures for this.
6. Told him my views - Not a Platoon or a Bn., but spec. troops with spec. capability
7. What job do U envision these spec. troops?
8. Told him we had to be ready to go on an instant's notice & not wait 24 or 48 hrs to get assault troops if needed. We must provide for this contingency - Pres. will want this.

Greenberg/Gray-3362

b6
b7C

2/8/73

CW



10³⁰ to 11¹⁰ A

1. Full board mtg. on Thurs. & Fri. of last wk.
2. Prob. now is mechanical one.
3. Sensitivity of material is at issue.

1. Our charge was to look at human intelligence.

Greenberg/Gray-3363

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAK/DB

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-09-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

9/25/72 Conf. with Wm. Sullivan
10:30 to 11:15A

1. I'd like to save as much \$'s as Dept. has in mind. (U)
2. We can use D of computers & save \$ 30 to 40 thousand. (U)
3. LKGT - pointed out 1st instance (U)
4. We will need some of the 5th floor. (U)
5. Another way to save \$'s is on Security. (U)
6. I have 4 rooms in Fed. Bldg. to swap for 4 rooms in D of (U)
7. I'm concerned about the \$'s says Wm. S. (U)

May I shift to another subject.

(U) (a) Indications b4 I left were that FBI was penetrated by Soviets. (S)

(U) (b) [redacted] when he worked in said KGB had news of our operations; I've never known if he is bona fide. (S) b1 b6 b7C

(C) (c) [redacted] is also involved; I've dismissed it with [redacted] (S)

(d) [redacted] is in Chicago; very experienced in our espionage (U) b6 b7C

(U) (e) I tried hard to check them out & I just don't know. I tried a face to face test on [redacted] after he said we were giving [redacted] low quality info, he always complained - yet we were giving [redacted] good stuff. We don't have solid ev. on [redacted] at all. (S) b6 b7C

(U) (f) Asked [redacted] to suggest ways to check if FBI is penetrated; he said let me give it some thought I'll make suggestions. (S)

(g) It might be helpful if U talk this over to [redacted] we have (U)

6076 ZWAH/DB

CLASS. & EXT. BY 9/10/79
REASON-FCIM II, 1-2.4.2, 2, 3
DATE OF REVIEW 9/25/92

440215-50
~~SECRET~~

~~SECRET~~

(U) (h) We were told Soviets had our surveillance codes - (U)

(a) LPG raised subject of opening Legat in Brussels -
discussed. (U)

(a) [redacted] - Detroit F.O. [Oswald case] (U)
b6
b7C

(a) [redacted] - Oregon - Cassidy, Yungblut. (U)
b6
b7C

On walking out told him he would not appoint Brennan
as A/D. - SAC WFO perhaps - (U)

Greenberg/Gray-3365

~~SECRET~~

*Accordion File
"Statutes + Exec. Orders"*

② Mr. Baker

Mr. E. S. Miller

3/22/73

T. J. Smith

- 1 - Mr. Mintz
- 1 - Mr. E. S. Miller
- 1 - Mr. T. J. Smith

Mr. Felt	_____
Mr. Baker	_____
Mr. Callahan	_____
Mr. Cleveland	_____
Mr. Conrad	_____
Mr. DeLoach	_____
Mr. Jenkins	_____
Mr. Marshall	_____
Mr. Miller, E.S.	_____
Mr. Soyars	_____
Mr. Thompson	_____
Mr. Walters	_____
Tele. Room	_____
Mr. Fink	_____
Mr. Gandy	_____
Mr. Harrison	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Trotter	_____
Mr. Tele. Room	_____
Mr. Holmes	_____
Mr. Gandy	_____

CONFIRMATION TESTIMONY
RESPONSE TO JOHN T. ELLIFF
TESTIMONY REGARDING FBI
INVESTIGATIVE AUTHORITY

Mr. Tavel

During testimony of Professor John T. Elliff before the Senate Judiciary Committee on 3/6/73, he implied that the FBI lacks legislative authority to conduct intelligence-type investigations.

We have previously conducted exhaustive research into the question of FBI authority to conduct intelligence-type investigations relating to the national security. Based on the prior research, a write-up has been prepared for the Acting Director's possible use in responding to a question relating to Professor Elliff's premise. This write-up is attached.

In view of the legal technicalities involved in this question, however, it is believed this write-up should be reviewed by Office of Legal Counsel before the Acting Director takes an official stand, based on this write-up.

ACTION:

Write-up attached for possible use of the Acting Director in replying to questions concerning testimony of Professor John T. Elliff.

Enclosure

TJS:glw
(6)

Greenberg/Gray-3366

APR 5 1973

103

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAH/DOB

STATEMENT OF DR. JOHN T. ELLIFF BEFORE THE
SENATE JUDICIARY COMMITTEE 3/6/73

ISSUE: The FBI is in large part an arm of the Presidency. The primary foundation for the Bureau's domestic intelligence role is inherent executive power. Should the President direct an agency to conduct investigations and secure intelligence without explicit legislative authority?

POSITION-REBUTTAL: The FBI is the investigative arm of the Department of Justice and the Department of Justice is a part of the Executive Branch. It follows, then, that the FBI is one of the investigative arms of the Presidency, but not the sole one. For instance, the Secret Service is an investigative arm of the Treasury Department and the Postal Inspection Service is the investigating arm of the Postal Service. Other branches of the Executive Department likewise have investigative services and all would be considered an investigative arm of the Presidency.

What troubles Dr. Elliff is the fact that the FBI, alone among the investigative services of the Executive Branch, has an intelligence role which bears on the President's responsibility to protect the national security. Dr. Elliff feels that this FBI role is based on inherent executive power; that the FBI secures intelligence without explicit legislative authority. He obviously questions the extent of the President's inherent executive power. The courts have carefully sidestepped the issue of just what the inherent executive power is and to what extent it can be used.

Overlooked by Dr. Elliff, however, is the fact that the FBI has been designated to handle legislative enactments having to do with the national security. Whether the statute is espionage, sabotage, insurrection or rebellion, seditious conspiracy, or advocacy of overthrow of the Government, the FBI not only has the statutory responsibility to investigate violations of the statutes, it also has the responsibility to identify individuals likely to engage in attempts or conspiracies to violate these statutes. Statutes designed to protect the national security; to deter persons from engaging in activity which would result in the unlawful overthrow of the government must surely be also designed to enable the government to take defensive action; to engage in investigative activity to discover plots; to secure intelligence data which will neutralize unlawful efforts.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3367

8-18082

The Supreme Court dealt with this concept in its ruling in 1951 relating to the validity of the Smith Act. Justice Vinson, in discussing the issue of whether a violation may be sustained only when the speech or publication created a 'clear and present danger' of attempting or accomplishing the prohibited crime (advocacy of overthrow of the government), wrote, "Obviously, these words cannot mean that before the Government may act, it must wait until the putsch is about to be executed, the plans have been laid, and the signal is waited--we must, therefore, reject the contention that success or probability of success is the criterion."

With specific reference to Dr. Elliff's views which would narrow the inherent executive powers of the President, an analogy can be drawn in a fear expressed by Justice Jackson in connection with three court decisions finding against the Executive authority, that: "There is danger that if the courts do not temper their doctrinaire logic with a little practical wisdom they will convert our constitutional Bill of Rights into a suicide pact."

We find no fault with Dr. Elliff's contention that the Congress should consider legislative enactments which would clearly provide the FBI with specific statutory responsibility to collect essential national security intelligence information. However, we believe that consistent with provisions of the constitution, particularly with respect to the first, fourth and fifth amendments, the FBI has a lawful basis for its national security intelligence investigations, and that the President's requirement for national security intelligence can be met by the FBI without abridging the rights of any citizen.

MR. GRAY'S RESPONSE: While we believe that in the interest of clarity the FBI's investigative jurisdiction with respect to investigations relating to national security should be specifically described and enumerated in a specific legislative enactment we also believe that investigations currently being conducted concerning national security are firmly based in existing Federal law.

(u) [redacted] 2/21/73 (U)

1. Mail Project To & From ~~Soviet Bloc~~ Countries (U) OR (C) To ~~Soviet Union~~ Only.

2. ~~Guy~~ in NYC on our pay is no longer doing it. (U)

3. Issue is whether to cancel or turn over to FBI (U)

4. We have a signal that an audio job of ~~Indonesian~~ Embassy may be required when new ~~amb.~~ arrives - (S)

We are going to have to do more in Intell. with less \$'s requiring greater cooperation. (U)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

6076 WASH/AB
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2/3
DATE OF REVIEW 2/21/93

Mr. E. S. Miller

3/12/73

T. J. Smith

TESTIMONY OF JOHN T. ELLIFF
SENATE JUDICIARY COMMITTEE
MARCH 8, 1973
CONFIRMATION HEARINGS

With respect to Professor John T. Elliff's testimony on 3/8/73 before the Senate Judiciary Committee, Mr. Gray has raised three points: 1) He has instructed that Division V come up fast with a paper on changes in operations since 5/3/73; 2) He inquired as to what indexes we still maintain in Division V; 3) He inquired if (Walter) Pincus is right; if we did furnish information as described by Pincus and related by Elliff to the effect the FBI disseminated information concerning a connection between McGovern and the Vietnam Veterans Against the War (VVAW).

We have prepared three separate writeups in response to the three points raised by Mr. Gray. These writeups are attached and answer the questions asked by Mr. Gray.

With specific reference to ^{the} intelligence referred to by Pincus, this data was part of the information being furnished on a regular basis to the White House and Department of Justice regarding potential for violence and disruption during both political conventions. At no time was any purely political information disseminated by the FBI.

ACTION:

In response to the request of the Acting Director.

Enclosures

TJS:bjr
(6)

- 2 - Mr. Baker
- 1 - Mr. Miller
- 1 - Mr. Shackelford
- 1 - Mr. T. J. Smith

John Baker
T. J. Smith

~~CONFIDENTIAL~~
~~TOP SECRET~~

~~CONFIDENTIAL~~

March 12, 1973

CHANGES IN OPERATIONS OF
INTELLIGENCE DIVISION
SINCE MAY 3, 1972

The Liaison Section, which had been abolished by Mr. Hoover, was reestablished in the Intelligence Division effective November 13, 1972. The Section is now staffed by five Special Agent Supervisors who have reestablished contacts at all levels within the principal departments or agencies of the U. S. Government, while continuing to maintain liaison with The White House. This Section also maintains liaison with foreign government agencies in the United States which are FBI counterparts and directs activities of FBI Legal Attaches abroad who maintain liaison contact with FBI counterparts in countries outside of the communist bloc. (U)

(OFF THE RECORD) The Acting Director has authorized Special Agents being utilized under suitable pretext or cover to engage in attempts to penetrate the Weatherman underground. Ultimate purpose is to locate and apprehend Weatherman fugitives, while simultaneously developing any data indicating potential acts of violence directed against the U. S. Government, such as the bombing of the U. S. Capitol and bombing of the Pentagon. (U)

(OFF THE RECORD) The Acting Director has removed the quota system for use of electronic surveillances which was the practice followed by Mr. Hoover. The test is necessity in protection of the national security and not whether any specific number are currently being used. All, of course, must meet the facts and circumstances test of the Keith decision. (U)

The Acting Director has broadened the responsibility of Special Agents in Charge by permitting the SAC to authorize certain operational procedures which formerly required Headquarters approval. Included are such things as:

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

Greenberg/Gray-3371

6076264H/08
CLASS. & EXT. BY 9/10/79
REASON-FCIM, II, 1-2.4.2
DATE OF REVIEW 3/12/93

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

1. Authorization of interviews of persons in contact with ~~Soviet or Soviet-bloc~~ establishments in most cases. (U) (S)
2. Relaxation on use of rental automotive equipment for use on physical surveillances. SAC also can now authorize their use. (U)
3. Authorization of interviews of most subjects of subversive-type and revolutionary activity-type investigations. (U)

The Acting Director has also approved an overhaul of reporting procedures which resulted in streamlined reporting and elimination of unnecessary reporting. (U)

Also approved was revision of a Key Black Extremist Program, which is a program designed to provide intensified investigation of key black extremists, to include key Klan and white-hate extremists. It is now known as the Key Extremist Program. (U)

Also revised is our Extremist Informant Program, which resulted in elimination of the ghetto informant "listening post" concept. (U)

Approved was drastic revision of the Administrative Index (ADEX). ADEX, which was established in November, 1971, following abolishment of the Security Index, originally contained about 13,000 names of individuals who, under procedures outlined in the Emergency Detention Act of 1950 (repealed in September, 1971), would have been considered for emergency apprehension during time of national emergency resulting from enemy attack. (U)

With abolishment of the Security Index, there was no isolated list of individuals believed to represent a threat to the national security. ADEX was created to fill this need. After study of the listings contained

~~CONFIDENTIAL~~

ROSTER OF PARTICIPANTS

SAC Anderson, Clark D.	San Juan
SAC Fehl, Frederick C.	New York (SAC- Criminal)
SAC Gebhardt, Robert E.	San Francisco
SAC Handley, James L.	Boston
SAC Held, Richard G.	Minneapolis
SAC Huelkamp, Bernard L.	Salt Lake City
SAC Kunkel, Robert G.	Washington Field
SAC Larson, Arnold C.	Oklahoma City
SAC Mattson, Julius Lee	Portland
SAC Milnes, James E.	Seattle
SAC Moreland, James T.	Springfield
SAC Reed, John M.	Sacramento
SAC Santoiana, J. F., Jr.	Tampa
SAC Sheridan, Philip R.	Norfolk
SAC Startzell, James	New York (SAC- Espionage)
SAC Sullivan, William A.	Philadelphia
SAC Thompson, Fletcher D.	Omaha
SAC Weeks, Charles E.	New Haven
SAC Jamieson, Joe David	Los Angeles
SAC Linberg, Elmer F.	Jackson

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 drh/baw/sbs

Greenberg/Gray-3374

62-118045-212x)

FIRST DAY

Management Seminar

Seminar Leader -

[Redacted]

b6
b7C

Management Instructors

[Redacted]

b6
b7C

Seminar Objectives

(1) To increase the participants' awareness of the primary management functions and processes;

(2) To increase the participants' understanding of how techniques, procedures and methods embodied in the sound practice of management functions and processes can be realistically applied in the Bureau;

(3) To develop the participants' ability to use these techniques and methods in his daily functions, and

(4) To provide those in attendance with texts and printed material which can be used for reference and self-study after the seminar is completed.

Program

9:00 a.m. - 11:00 a.m. Nature and Importance of Management

This seminar is designed to indoctrinate those in attendance with the background of modern management, patterns of management analysis, the functions and authority of the manager, the manager and his environment as well as comparative management. It is intended to produce in-depth discussions of such areas as the organizational man, philosophy of management, and management by objectives.

[Redacted]

b6
b7C

11:00 a.m. - 1:00 p.m. Motivational Research in Management

This portion of the seminar will demonstrate the factors important in human relations, recent findings in

Greenberg/Gray-3376

62-118045 2/2x/

motivational research, communication, and leadership styles. It will stress human behavior in organizations with emphasis on the individual, group, intergroup and other human behavior and development; application of social science research to administration. Practical applications will be emphasized.



Texts:

(1) Principles of Management: An Analysis of Managerial Functions. Doontz and O'Donnell, 5th Edition, McGraw Hill: New York;

(2) Management of Organizational Behavior. Paul Hersey and Kenneth H. Blanchard Prentice-Hall Inc., 1972.

1:00 - 2:00	Lunch	
2:00 - 3:00	Seminar--General Crimes	Mr. Bates and Staff
3:00 - 4:00	Open Forum General Crimes	
4:00 - 5:30	Seminar--Investigative Problems	Mr. E. S. Miller and Staff
	Domestic Intelligence	

SECOND DAY

9:00 - 10:00	Open Forum--Domestic Intelligence Division	
10:00 - 11:30	Seminar--Investigative Problems--Organized Crime, Fugitives and Special Inquiry	Mr. Cleveland and Staff
11:30 - 2:00	Lunch	
2:00 - 3:00	Open Forum--Special Investigative Division	
3:00 - 4:00 ^{4:00}	Discussion with selected Assistant Directors at Offices	Messrs. Bates, Baker, Bishop, Callahan, Cleveland, Conrad, Dalbey, Jenkins, Marshall, E. S. Miller, Ponder, Soyars*, Walters* Mr. Felt, Mr. Gray
4:00 - 5:00		

*Space for Messrs Soyars and Walters will be provided in the Training Division, across from Room 5231, in the Justice Building.

GA0811-20

Greenberg/Gray-3378

62-118045 2124

FEDERAL BUREAU OF INVESTIGATION

9/2, 1972

- | | | |
|---|-------------------------------------|---|
| <input checked="" type="checkbox"/> Acting Director | <input type="checkbox"/> Mooney | <input type="checkbox"/> Adams |
| <input type="checkbox"/> Mr. Felt | <input type="checkbox"/> Holis | <input type="checkbox"/> Binning |
| <input type="checkbox"/> Mr. Bates | <input type="checkbox"/> Brownfield | <input type="checkbox"/> Duhr |
| <input type="checkbox"/> Mr. Bishop | <input type="checkbox"/> Carter | <input type="checkbox"/> Dunaway |
| <input type="checkbox"/> Mr. Callahan | <input type="checkbox"/> Hardin | |
| <input type="checkbox"/> Mr. Cleveland | <input type="checkbox"/> McGinley | <input type="checkbox"/> Mr. Felt |
| <input type="checkbox"/> Mr. Conrad | <input type="checkbox"/> Montefior | <input type="checkbox"/> Mr. Baker |
| <input type="checkbox"/> Mr. Dalbey | <input type="checkbox"/> Reilly, J. | <input type="checkbox"/> Mr. Bates |
| <input type="checkbox"/> Mr. Jenkins | <input type="checkbox"/> Stewart | <input type="checkbox"/> Mr. Bishop |
| <input type="checkbox"/> Mr. Marshall | <input type="checkbox"/> Brewster | <input type="checkbox"/> Mr. Callahan |
| <input type="checkbox"/> Mr. Miller, E. S. | <input type="checkbox"/> Cotter | <input type="checkbox"/> Mr. Cleveland |
| <input type="checkbox"/> Mr. Ponder | <input type="checkbox"/> Gump | <input type="checkbox"/> Mr. Conrad |
| <input type="checkbox"/> Mr. Soyars | <input type="checkbox"/> Hyland | <input type="checkbox"/> Mr. Dalbey |
| <input type="checkbox"/> Mr. Walters | <input type="checkbox"/> Kirsch | <input type="checkbox"/> Mr. Jenkins |
| <input type="checkbox"/> Mr. Campbell | <input type="checkbox"/> Shanahan | <input type="checkbox"/> Mr. Marshall |
| <input type="checkbox"/> Mrs. Neenan | <input type="checkbox"/> Stack | <input type="checkbox"/> Mr. Miller, E.S. |
| <input type="checkbox"/> Mr. Kinley | <input type="checkbox"/> Tullai | <input type="checkbox"/> Mr. Ponder |
| <input type="checkbox"/> Mr. Armstrong | | <input type="checkbox"/> Mr. Soyars |
| <input type="checkbox"/> Ms. Herwig | | <input type="checkbox"/> Mr. Walters |
| <input type="checkbox"/> Mr. Davidson, 4529 | | <input type="checkbox"/> Tele. Room |
| <input type="checkbox"/> Mr. Bassett, 4519 | | <input type="checkbox"/> Mr. Kinley |
| <input type="checkbox"/> Mr. Jones, 4264 | | <input type="checkbox"/> Mr. Armstrong |
| <input type="checkbox"/> Mr. Malmfeldt, 4718 | | <input type="checkbox"/> Ms. Herwig |
| <input type="checkbox"/> Mr. Row #221 IB | <input type="checkbox"/> Mr. _____ | <input type="checkbox"/> Mrs. Neenan |
| <input type="checkbox"/> Exhibits, 331 OPO | | |
| <input type="checkbox"/> Info. Desk, 5545 | <input type="checkbox"/> Room _____ | |
| <input type="checkbox"/> Mail Room, 5531 | | |
| <input type="checkbox"/> Teletype Room 5646 | | |
| <input type="checkbox"/> Mechanical Sec B-110 | | |
| <input type="checkbox"/> Personnel Files, 6644 | | |
| <input type="checkbox"/> Reading Room, 5533 | | |
| <input type="checkbox"/> Records Branch | | |

- See Me, Please
- Phone Me, Please
- For Approp Action
- Note & Return
- Please Handle
- Record & Return
- Per Call
- For Approval

TRAINING DIVISION

Room _____ Ext. _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 9/10/99 BY 7602/BA/ST/DA

Greenberg/Gray-3380

GR-118045-210x1

9/26/72

CW SAC's.

9⁰⁰ for 9¹⁵ A

George Moore DWI

1. Rpt. Writing SAC Memo 21-72

Memo 21-72

If you rec. a person for ADEX
submit a Summary, particularly
a terrorist.

Proper Utilization

Exceptions:

(a)

(b) Empirical case - you have option to rpt.

Field has spread the germ.

2. Ghetto informant program: We have Tom +

(a) If informant is good at all, he is furnishing cr. activity
info and also marker info.

(b) It has been rec. that we have the Tom to get
the best.

R.C.G. (c) Why should we limit the big numbers?

Let the SAC judge.

F.T.

(d) We check too long in numbers.

Jim

(e) You are not really setting a limit are you?

No

Let the SAC decide what
he needs.

E. Melner

(f) You better tell Insp. about this.

ESM

(g)

B

Will Sullivan (R)

Is the ghetto program worthwhile; why not cut
it + beef up the Extremist program?

Paperwork in the field is too much to handle

DDJ

(c) Set a quality standard b4 we cut down
on the numbers.

Joe Santorini
Ernie Larson

(j) We need their ⁶⁰ testimony posts -

Bob Kunkel

(k)

Q. Does the FBI make its own decisions as to what to investigate and what not to investigate? Is that a responsibility or duty that you have as Director or as Acting Director? Can you clarify this for the Committee?

A. Investigative jurisdiction of the FBI is specifically conferred by statute, directives of the President, and orders of the Attorney General. Therefore, neither the FBI nor I as its Acting Director make the decision as to what to investigate and what not to investigate.

Upon assignment of a specific Federal law to the FBI for investigative responsibility, a policy for investigation under this law is established through consultation with the Department of Justice. This policy establishes uniformity in the investigation of complaints or allegations of violations of the particular statute.

Investigation is conducted when information is received indicating that there has occurred a violation of a Federal law over which the FBI has been given investigative jurisdiction. Results of our investigations are furnished the United States Attorney or the Department of Justice for determination of the course of any prosecutive action.

Requests for FBI investigations in selected civil matters in which the United States is or may be a party in interest are received from the United States Attorneys and/or the Department of Justice. These are handled in strict conformity with guidelines furnished by the Department as are also investigations of violations of the civil rights, antiriot, election laws, and antitrust laws. Further, where there is uncertainty whether investigation would be consistent with Department policy, the issue is resolved by referral to the Attorney General for decision.

The practical implementation of investigative policy within the perimeters of our investigative jurisdiction is done by supervisory control in each field office and at FBI Headquarters.

A-29

Greenberg/Gray-3383

240811
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WGA/108

(6-20-72)

FEDERAL BUREAU OF INVESTIGATION
LEGAL COUNSEL

7/6, 1972

TO:

- | | |
|--|--|
| <input checked="" type="checkbox"/> The Director | <input type="checkbox"/> Mr. Mintz |
| <input type="checkbox"/> Mr. Felt | <input type="checkbox"/> Mr. Boutwell |
| <input type="checkbox"/> Mr. Bates | <input type="checkbox"/> Mr. Burke |
| <input type="checkbox"/> Mr. Bishop | <input type="checkbox"/> Mr. Donelan |
| <input type="checkbox"/> Mr. Callahan | <input type="checkbox"/> Mr. Hotis |
| <input type="checkbox"/> Mr. Campbell | <input type="checkbox"/> Mr. McLaughlin |
| <input type="checkbox"/> Mr. Cleveland | <input type="checkbox"/> Mr. Miller |
| <input type="checkbox"/> Mr. Conrad | <input type="checkbox"/> Mr. Williamson |
| <input type="checkbox"/> Mr. Dalbey | <input type="checkbox"/> |
| <input type="checkbox"/> Mr. Marshall | <input type="checkbox"/> |
| <input type="checkbox"/> Mr. E. S. Miller | <input type="checkbox"/> Miss Devine |
| <input type="checkbox"/> Mr. Ponder | <input type="checkbox"/> Miss Hardy |
| <input type="checkbox"/> Mr. Soyars | <input type="checkbox"/> |
| <input type="checkbox"/> Mr. Walters | <input type="checkbox"/> |
| <input type="checkbox"/> Mr. Kinley | <input type="checkbox"/> See Me, Please |
| <input type="checkbox"/> Mr. Armstrong | <input type="checkbox"/> Call Me, Please |
| <input type="checkbox"/> Ms. Herwig | <input type="checkbox"/> |
| <input type="checkbox"/> Mrs. Neenan | <input type="checkbox"/> Note & Return |
| | <input type="checkbox"/> For appropriate |
| | <input type="checkbox"/> action |

Supervisor of Hospital
referred to report
J. D. Gray

Legal Counsel
Room 5642

Greenberg/Gray-3384

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WCA/ALB

7/6/72

TRAINING DIVISION

CAUTION: The new location of the Academy substantially interferes with what was a prime attraction for law enforcement officers-an opportunity to see the sights in the Capital. Most of the classes formerly were held here, at Quantico, and the officers spent a part of their weekends as tourists. This will not now be possible except by special arrangements for transportation. We might be wise to arrange some system by which the students can charter buses to the Capital on weekend days.

ATTENDANCE: Some think that we will have difficulty in filling the 500 man quota for each session of the FBI National Academy, at least if we adhere to our present quality standards. They reason to this conclusion from three factors, as follows:

1. Present Academy graduates, who occupy many responsible positions in law enforcement, are not anxious to send many of the men under them. A graduate always has enjoyed high status locally, which would be substantially diluted by numbers.
2. Most law enforcement agencies are perennially shorthanded and are reluctant to send more than one man now and then.
3. Many officers and their departments are now "degree conscious" and can meet this need through local colleges and community colleges. Many officers are paid higher salaries for college credit obtained. They can ~~xxxxx~~ reach this objective without having to spend 12 weeks here.

we fail to achieve and maintain the 500 man quota we may be faced with

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-10-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3385

65-18042

another request, or even a demand, to allow the Academy to be used to train Agents from Secret Service and other federal agencies. Mr. Hoover previously had such requests from some Congressmen and from the Office of Management and Budget. He rejected them on the ground that the Academy would be filled to capacity with policemen. The result was that a separate academy for other federal law enforcement agencies was scheduled to be built in Prince Georges County, Maryland. I understand, however, that construction is stalled for some reason. Perhaps those who want us to assist in training for other agencies will have another try at their proposal. Moreover, it is possible that some might propose a "spinoff" in which the Academy becomes some sort of National Training Center for Law Enforcement, separated from FBI management.

CURRICULUM: I suggest that a close look should be taken at the curriculum for the FBI National Academy. We are the Federal Bureau of Investigation and, presumably, the ablest criminal investigators in the nation. But we teach very little "investigation" in the Academy. We teach firearms, defensive tactics, law, forensic science, fingerprint matters, police management, sociology, psychology, etc., but nothing of consequence in homicide investigation, robbery investigation, and so on. It seems to me that training in these latter subjects would be of prime interest to the officer and his community.

Past defects in the curriculum, if any, had little or no effect on the popularity of the FBI National Academy. Many officers have told me that what they learned here was quite secondary to the fact that upon graduation they were ushered into an elite status of great potential benefit to their careers. If

the value to the officer of this elite status is substantially reduced by a large volume of graduates, as ~~many~~ many present graduates frankly fear, we may find it wise to tailor a curriculum of maximum practical value to the officer in his daily work. Otherwise, what special attraction has our Academy offer over and beyond what the officer can find in his local college? The better institutions can teach, and do teach, a number of courses similar to their own.

Perhaps it would be wise to start polling the students by official questionnaires on possible changes in the curriculum. What do we offer too much of, or too little of? What courses might be discarded, and what new courses added? I think we have not been quite so openminded with the students in the past, but perhaps the time has come for a change. Now that we will be selling less status and more product we had best make sure that the "customer" is as satisfied with the product as we can make him, as sure as we can that our product is sufficiently unique in its practical value that it is much better than anything to be had elsewhere.

INSTRUCTORS: The following points concerning the instructor staff may need to be inquired into at some time:

1. Expertise. The present FBI National Academy class is the first, to my knowledge, in which the Bureau violations are taught to the class by instructors who are essentially "academics," not responsible for supervision of those violations. We long have had lectures to the Academy on Bank Robbery, Interstate Transportation of Stolen Motor Vehicles, and other violations on which we ~~get~~ get a lot of help from the police. The object was to increase the help and cooperation that we get from them. The lectures were given by a supervisor assigned to the desk handling that violation. That no longer is true; the violations will be taught by members of the instruction staff at Quantico.

I suppose that I am in the minority in saying this, but it seems obvious to me that a subject is best taught by an instructor who "lives" that violation in his daily work. He is the most knowledgeable about it, and is the most interested in encouraging police cooperation in that field. He will show the most enthusiasm, a quality that is infectious. He will be listened to more carefully, having been introduced as the real "expert" in the area. In short, I submit, he will do a better job for everyone.

The change was made because of problems created for the General Investigative Division and others in sending their supervisors to Quantico rather than simply down the hall when the classes were

05-118042

held in this building. I am not entirely satisfied, however, that these problems could not be resolved by scheduling and by assigning a few extra supervisors to the division concerned so that the instruction continues being given by the "real experts."

2. Salary. We have instructors at Quantico drawing salaries as high as department heads in some large universities ^{AND HIGHER.} With this I have no quarrel, but it is a possible ~~source~~ ^{area} of criticism. I think the reputation of the FBI is such that Congress and the Executive will continue to go along with unusually high pay for ^{those} FBI Agents who pursue major criminals and who supervise such work. I doubt, however, that the Congress and the Executive would stand still for salaries like those described above being paid to Agents who are teachers only. If I am correct in this, the answer may be in "Tenure," below.

3. Tenure. If a full time teaching assignment at Quantico is held to a limited term, such as 2 or 3 years, the Agent so assigned would be regarded as a regular Special Agent for all purposes who is only temporarily assigned to teaching. The Armed Services apparently handle such matters in this way. An officer is given a "tour of duty" (2 years, I have heard) at West Point, Annapolis, or Colorado Springs and is for that period at teacher. At the end of the period, however, he returns to regular duties. This may be the answer to the pay problem described above. As to the instructors from Office of Legal Counsel, I would hope that their tour of duty as instructors would be a

ong step toward administrative advancement for them.

4. Titles. I suggest the thought that titles such as "Dean" of this and "Dean" of that, which I hear are being considered, may be a bit pretentious for an institution that is essentially a training school rather than a college, and in which the longest class lasts only ¹⁴~~12~~ weeks. Also, it would be more consistent with the tenure theory mentioned above if the Quantico hierarchy used only the standard Bureau titles.

SIGNMENT OF DUTIES: I suggest that there should be the sharpest ~~line~~^{line} of demarcation drawn between administrative duties and academic duties, so that neither Inspector will have any reason or justification for crossing over to the area of the other. It is sound business practice, as you know, to grant an employee full authority in a carefully delineated area and to then hold him completely responsible for that area. This is the way, I understand, that colleges are run. The business manager has no direct control over faculty and curriculum and whoever controls the latter has no control over physical operations and finances.

IAL AND RELIGIOUS: There seems some potential for trouble here, though I am unable to estimate how much.

1. Race. To my knowledge, there is not a single black man on the staff at Quantico. This is unfortunate. If we school 2,000 officers per year you can be reasonably sure that there will be quite a few blacks

among them. The absence of a black on the faculty will stand out like a sore thumb. Bear in mind, also, that we investigate police departments for civil rights violations, and that we are required to not participate in any training school which practices racial discrimination. Under all these circumstances, the absence of a black on the faculty does not make us look very good.

2. Religious. This is a sensitive subject and I hesitated before writing about it, but I am going to tell you frankly what I think-members of the Roman Catholic faith are so completely in control of the Training Division that it could prove embarrassing. For example, when Mr. Casper was still here, the following were of that faith: Assistant Director; No. 1 Man; SAC at Quantico; and at least four of the six Unit Chiefs. The situation is still about the same. It is my guess that some police officers pick this fact up while here, and that it is not good advertising for the FBI. Our society is supposed to be committed to a little better balance than that.

I am sensitive to such matters, and so are many others, and I practice what I preach. Before the transfer of Hotis, we were 9 in this small division. Of those 9, there were 3 Roman Catholics, one Greek Orthodox, and 5 Protestants, which I think a pretty fair mix. I will not turn down a capable Catholic to hire a Protestant, nor vice versa, but I admit to having juggled a bit to keep a decent balance. In such matters I think we must be like Caesar's wife.

Nor do my observations spring, I contend, from bias. I graduated

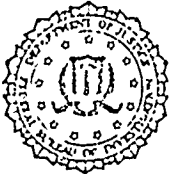
Greenberg/Gray-3391

85-118042

from DePaul University College of Law, a Jesuit school, and in no place have I ever been better treated. I contribute to the school as an alumnus. Moreover, I recognize that the reverse of the Training Division may be true in other places. An Agent whom I consider an astute observer, and fair-minded, has told me that a Roman Catholic has a hard time making his way in the Laboratory. If true, this is equally bad.

I have heard it said on the outside that the FBI is predominantly a Roman Catholic organization. I have denied it and would deny it again. My own personal experience does not lend any credence to a theory that my career has been hampered because I am a Protestant. Yet this whole subject, on both sides, is a delicate matter on which it behooves us to maintain a proper appearance.

GENERAL: I suggest that at this time you need a tighter rein and closer control on the Training Division than on any other. The others are continuing their usual ways and you can get to them in time. But the Training Division, because of the large expansion incident to the new program, is in an "empire building" phase and might need close supervision until it settles down.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

April 24, 1973

PERSONAL ATTENTION

MEMORANDUM 18-73

Mr. Felt	_____
Mr. Lober	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. DeLoach	_____
Mr. Conrad	_____
Mr. Gebhardt	_____
Mr. Jenkins	_____
Mr. Marshall	_____
Mr. Miller, E.S.	_____
Mr. Soyars	_____
Mr. Thompson	_____
Mr. Walters	_____
Tele. Room	_____
Mr. Kinlev	_____
Mr. Armstrong	_____
Mr. Evans	_____
Mr. Gandy	_____
Mr. Harrison	_____
Mr. Sizoo	_____
Mr. Tavel	_____
Mr. Trotter	_____
Miss Gandy	_____

MEMORANDUM TO ALL SPECIAL AGENTS IN CHARGE:

(A) EQUAL EMPLOYMENT OPPORTUNITY - PLAN OF ACTION FOR 1973 -- Reference is made to SAC Letter 72-18 (B) dated, March 28, 1972, which enclosed a copy of the Bureau's Plan of Action for 1972. There is enclosed a copy of the Bureau's Plan of Action for 1973, which replaces that for 1972. You should carefully review the Plan and insure it is applied. You will be furnished additional copies of the Plan separately and copies should be made available to employees and the public upon request.

Your attention is directed to Objective Number 73-2, Item A, which specifically states that the Office of Equal Employment Opportunity Affairs will maintain statistical data on the accomplishments of field offices with respect to the number of minority individuals recruited for all positions and women for the position of Special Agent, as well as the number of minority employees and female Special Agents working in each office. While it is recognized that assignments of Special Agents are decided at FBIHQ, Special Agents in Charge will be expected to insure that representative numbers of minority group employees are included on the clerical staffs of their offices. Additionally, although not specifically mentioned in this year's Plan, Special Agents in Charge will be expected to continue to utilize minority Special Agents in recruitment activity. Also where practicable, continue to give consideration to utilizing minority clerical employees in connection with radio and television broadcasts. This is fully consistent with the Bureau's positive Equal Employment Opportunity Program which is set out in detail in Part I, Section 10, of the Manual of Rules and Regulations.

I want to make it completely clear that although we have no numerical goals as such for the recruitment of minorities, the Bureau does have a continuing basic goal to sustain a steady and substantial increase of employees representing all minorities in all assignments throughout the service. As an organization representing all Americans, the Bureau should be as representative of the American public as possible.

(Security page attached)

4-24-73
MEMORANDUM 18-73

Greenberg/Gray-3393

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WJA/AB

(B) ARAB TERRORIST ACTIVITIES - INTERNAL SECURITY - MIDDLE EAST -- You were advised by teletype dated March 19, 1973, of information received indicating possible targeting of FBI personnel by members or sympathizers of Al Fatah for violent measures such as letter bombs.

In view of this information, immediate steps should be taken to strengthen security regarding publication of home addresses and home telephone numbers of our personnel and the identification of our employees as members of the FBI. All investigative personnel should be encouraged to obtain unlisted telephone numbers. All Agents assigned to investigations involving Al Fatah members or sympathizers should be furnished full details, including descriptive material, concerning letter bombs so that they may properly caution other members of their families who might receive mail at their residences. All personnel, particularly those in switchboard and information-type assignments, should have reiterated to them the proper procedures for answering inquiries concerning employees. It should be made clear to all employees that residence addresses or other personal data should not be divulged and any inquiries for same should be routed through supervisory personnel for appropriate evaluation.

L. Patrick Gray, III
Acting Director

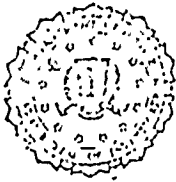
Enclosure for (A)

4-24-73
MEMORANDUM 18-73

- 2 -

Greenberg/Gray-3394

18072-02



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

PERSONAL ATTENTION
MEMORANDUM 4-72

In Reply, Please Refer to
File No.

WASHINGTON, D.C. 20535

June 7, 1972

Memorandum to All Special Agents in Charge:

(A) WEIGHT STANDARDS -- Present weight standards have been revised. New weight standards for Special Agents and Special Agent applicants, male and female, are incorporated into the enclosed revised FD-300, the attachment to SF-88, Report of Medical Examination. Special Agents are weighed on the occasion of their Government physical examinations. Henceforth no other regular weighing of Special Agents is necessary. However, Division Heads, Special Agents in Charge, Inspectors, and other Officials may, of course, weigh Special Agents anytime circumstances indicate such action is called for. The existing requirement that male clerical employees and applicants comply with the weight standards as shown on FD-300 is being rescinded.

The revised weight standards continue to be related to an individual's height and frame. The Bureau recognizes that in some few cases individuals may have larger frames and bone structure than would be evaluated as Large. This is likely applicable primarily to some young people today who have larger frames and bone structure than in the past because of better nutrition and diet during formative years. The Bureau recognizes that in certain rare cases there may be those whose frames definitely exceed Large. Accordingly, exceptions to the weight standards set forth in revised FD-300 will be granted only where a Government medical examiner specifies that the frame of a given individual exceeds Large and specifies a maximum weight for that individual which exceeds the maximum on the chart. Each Special Agent in Charge should make it completely clear to the Government medical examiners at the facilities affording examinations of FBI Special Agents and Special Agent applicants that exceptions should be granted only where medically proper in the evaluation of the examiner. I do not expect exceptions because an individual with no more than a Large frame does not wish to keep weight within the proper limit.

6/7/72
MEMORANDUM 4-72

Greenberg/Gray-3395

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WSAH/AB

These changes are being effected only after very careful consideration and should not be construed as a diminishing of the Bureau's concern over the maintenance of desirable weight by all employees. To the contrary, it is the Bureau's aim to apply weight standards which are reasonable for our Special Agent staff to maintain good health, an excellent business-like personal appearance, and capacity to properly perform the work involved.

Even though the revised weight standards are directly applicable to Special Agents and Special Agent applicants, there is no lessening of emphasis on maintenance of proper weight by all clerical employees. In this regard reliance will be placed on the evaluation of the interviewer concerning personal appearance of applicants and on the evaluation of the rating official as to personal appearance on performance rating reports of employees.

I wish to make it clear that the minimum height for Special Agent applicants is 5'7" for both males and females. The weight standards on the revised FD-300 begin with a height of 5'4" for men and 5' for women as heretofore so that the standards will be useful as a reference guide for clerical applicants and employees, particularly with respect to pre-employment physicals. A supply of the revised FD-300 is being sent separately and manual and form revisions are also being prepared.

6/7/72

MEMORANDUM 4-72

(B) EQUAL EMPLOYMENT OPPORTUNITY -- Enclosed for your information is a copy of a press release announcing the establishment of the Office of Equal Employment Opportunity Affairs. Representatives of the Office will visit field offices, meet with community leaders and other prime sources of recruitment, and assess and stimulate field programs. One objective of the establishment of the office is to provide visual and tangible evidence of the sincerity of the Bureau's program and these visits to field offices will be a part of this theme. It should be completely clear, however, that I am vesting in each Special Agent in Charge the responsibility for application of a forward looking Equal Employment Opportunity program in his office with attendant partici-

6/7/72

MEMORANDUM 4-72

- 2 -

ation by representatives of each office. In this regard, I expect that the Bureau's Plan of Action for 1972 as transmitted by SAC Letter 72-18 of 3/28/72 will be vigorously implemented. Circulation of opportunities in the FBI for minority group members and attraction of those interested and qualified remain the responsibility of field offices. Accomplishments will be measured. It is expected that individual field office programs will be regarded as effective and positive on the occasion of assessment by the Inspection staff or representatives of the new Office.

6/7/72

MEMORANDUM 4-72

(C) GROOMING AND PERSONAL APPEARANCE STANDARDS -- We recognize that the manner and style of one's clothing or in which a person wears his or her hair is a matter of personal taste and judgment, as well as a matter of individual pride and self-respect.

All members of the FBI should be advised that the standards for acceptable clothing at work and in the performance of their duties will continue to be that clothing be neat, clean and not extreme. "Extreme" means beyond the usual and customary standard of attire which is contemporary and typical of that worn in the business and professional community.

They should be informed also of the following standards governing hair grooming: (1) Employees of both sexes are expected to maintain a neat appearance and to keep their hair clean and well-groomed at all times. The hair on male employees should be combed back along the sides so that it does not cover any portion of the ear and should be kept at such a length that, if combed straight down, would not extend below the middle of the ear. The hair should be of moderate length in the front and combed so that it does not cover the eyebrow. Hair at the back of the neck shall be cut or groomed so that it does not extend over the top of the shirt collar. (2) The maximum length for sideburns shall be to the bottom of the ear lobe and the hair shall not extend forward in the fashion of "mutton chops." (3) Mustaches may be worn if they are

6/7/72

MEMORANDUM 4-72

- 3 -

320811-20

Greenberg/Gray-3397

of moderate length, are neatly trimmed, and do not extend downward around the corners of the mouth. (4) The rest of the male face must be clean-shaven. Beards are not allowed except in cases of skin ailments medically certified as such that shaving would be impracticable. The "medical" exception will apply throughout the standards but will require that the medical certification be submitted to Bureau Headquarters for concurrence.

Over the years, the dedicated men and women of the Federal Bureau of Investigation have compiled a magnificent record of public service in behalf of the American people. Men and women of the FBI are held in high esteem by our fellow Americans.

The American people trust us and are confident that we will continue to perform our duties in their behalf in an exemplary manner. That degree of trust and confidence was achieved by our outstanding performance of our duties and by the neat, well-groomed appearance we have presented to the American people.

Although performance can never be estimated or judged by appearance alone, the standards of neatness and grooming adhered to by the men and women of the FBI have created in the minds of the American people an image of faithful and professional performance of duty.

Accordingly our appearance has, and will, contribute to the efficiency of our service in behalf of the American people. Therefore, extremes in clothing and in hair length or style are to be avoided.

Sketches will be sent to you separately showing examples of acceptable male hair grooming. They are not to be reproduced and are set out merely for your guidance. It is not intended that anyone should pattern his appearance after any of these illustrations. I believe that all employees will understand the need for such regulations and will give us their fullest cooperation in this matter. Further, I am relying upon you to provide the brand of leadership which may be required within your Division to ensure that these modifications in policy are explained and implemented in a manner in keeping with the finest traditions of the Federal Bureau of Investigation.

Enc. for (A) & (B)

6/7/72

MEMORANDUM 4-72

L. Patrick Gray, III
Acting Director

- 4 -

FEDERAL BUREAU OF INVESTIGATION

1972

- | | |
|------------------------|------------------------------|
| Director's Office | Mr. D. J. Brennan, Jr. B-110 |
| Mr. Felt, 5744 | Mr. Gregory, B-110 |
| | Mr. Feeney, 4519 |
| Mr. Baker, 5734 | Mr. J. Cox, 3230 IB |
| Mr. Bates, 5706 | Mr. Roderick, 3117 IB |
| Mr. Bishop, 5634 | Mr. Day, 912 9&D |
| Mr. Callahan, 5525 | Mr. Dunphy, 331 OPO |
| Mr. Cleveland, 1742 | Mr. Fisher, 7541 |
| Mr. Conrad, 7621 | Mr. Healy, 4704 |
| Mr. Dalbey, 5642 | Mr. Jackson, 5509 |
| Mr. Jenkins, 5234 | Mr. Price, 2264 |
| Mr. Marshall, 7746 | Mr. McDonough, 2260 |
| Mr. Miller, 1026 9&D | Mr. McMichael, 5266 |
| Mr. Ponder, 5256 | Mr. Perritte, 7110 |
| Mr. Soyars, 3114 IB | Mr. Quinn, 4258 |
| Mr. Walters, 4130 IB | Mr. Row, 6221 IB |
| Mr. Donahoe, 5734 | Mr. Suttler, 4248 |
| Mr. O'Connell, 5519 | Mr. Tullai, Quantico |
| | Mr. Walsh, 5525 |
| Mr. Kinley, 5633 | |
| Mrs. Metcalf, 5633 | Mr. Beckner, 1521 |
| Mrs. Neenan, 5633 | Mrs. A. Smith, 5302 |
| Miss Smith, 5744 | Mr. Haisten, 4732 |
| | Mrs. Lockhart, 5263 |
| Conveyer Sta., 1213 IB | Mr. W. L. Marshall, 5244 |
| Mail Room, 5531 | Mrs. Sisk, 3137 IB |
| Messenger Room., 7529 | Mrs. Smith, 914 9&D |
| Call Me, Please | Mr. Marsden |
| See Me, Please | Mr. Atwell |
| | Mr. Codi |
| | Mr. Schweitzer |

M _____ Room _____

MECHANICAL SECTION

Greenberg/Gray-3399

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WCAH/LSB



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

October 3, 1972

PERS()AL ATTENTION
MEMORANDUM 24-72

Mr. Felt	_____
Mr. Baker	_____
Mr. Bates	_____
Mr. Bishop	_____
Mr. Callahan	_____
Mr. Cleveland	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Jenkins	_____
Mr. Marshall	_____
Mr. Miller, L.S.	_____
Mr. Ponder	_____
Mr. Soyars	_____
Mr. Walters	_____
Tele. Room	_____
Mr. Kinley	_____
Mr. Armstrong	_____
Ms. Herwig	_____
Ms. Neenan	_____

Memorandum to All Special Agents in Charge:

(A) FEDERAL RULES OF CRIMINAL PROCEDURE - 1972 AMENDMENTS -- The Supreme Court has approved 18 amendments to the Federal Rules of Criminal Procedure and has ordered that they are to go into effect on October 1, 1972.

The amendments vary in importance from those of a mere editorial nature to those clarifying aspects of procedural law which have been uncertain. Your attention is particularly directed to the following amendments:

Rule 1 on "Scope" is amended to make clear that the rules are applicable to courts of the United States and, where a rule so provides, to proceedings before United States Magistrates and state or local judicial officers. State and local judicial officers are governed by the rules only when a rule specifically so provides, as in Rules 3, 4, 5, and 41.

In the past the Initial Appearance before the magistrate and the Preliminary Examination were dealt with together in old Rule 5 on "Proceedings Before the Commissioner." As a result of amendment, however, they are now separated into two rules in order to prevent confusion as to whether they constitute a single or two separate proceedings. Rule 5 is now entitled "Initial Appearance Before the Magistrate," and new Rule 5.1 is entitled "Preliminary Examination."

Rule 5 has been drafted on the assumption that the Initial Appearance is before United States Magistrates as they are deemed to be reasonably available for that purpose; but if experience indicates that frequent appearances must be made before state or local judicial officers, an additional rule must be drafted detailing the procedure before the latter. Rule 5 makes clear that a defendant is not entitled to a Preliminary Examination if he has been indicted by a grand jury

10/3/72
MEMORANDUM 24-72

Greenberg/Gray-3400

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WJA/RS

prior to the date set for the Preliminary Examination, or in appropriate cases, if an information is filed in district court prior to that date. Rule 5 also contains time limits within which the Preliminary Examination must be held.

Under new Rule 5.1, the Preliminary Examination must be conducted before a Federal judge or a United States Magistrate. Authority to conduct a Preliminary Examination was not given state or local judicial authorities. Rule 5.1 makes clear that a finding of probable cause may be based on hearsay evidence, in whole or in part, and provides that the Preliminary Examination is not the proper place to raise the issue of illegally obtained evidence.

Rule 40 on "Commitment to Another District; Removal" makes clear that an arrested person is to be brought before a United States Magistrate or Federal judge rather than a state or local judicial officer, and that he shall be so taken without unnecessary delay. It also provides that the defendant shall be informed of the fact that he may avail himself of the provisions of Rule 20 on "Transfer from the District for Plea and Sentence," if applicable in the particular case.

Rule 41 on "Search and Seizure" provides that a search warrant may be obtained or issued upon the request of a Federal law enforcement officer or attorney for the Government. The title of its subdivision (b) is changed from "Grounds for Issuance" to "Property Which May be Seized With a Warrant" to make it conform more accurately to the content of the subdivision. It is also changed to modernize the language used to describe the property which may be seized with a search warrant and to take account of the holding in Warden v. Hayden, 387 U.S. 294 (1967), and recent congressional action (18 U.S.C. 3103a) which authorize the issuance of a search warrant to search for items of solely evidential value.

The provision in subdivision (c) that the magistrate may examine the affiant or witnesses under oath is intended to assure him an opportunity to make a careful decision as to whether there is probable cause. It seems desirable to do this as an incident to the issuance of the warrant rather than having the issue raised only later on a motion to suppress the evidence. If testimony is taken it must be recorded,

10/3/72

MEMORANDUM 44-72

- 2 -

transcribed, and made part of the affidavit or affidavits. This is to insure an adequate basis for determining the sufficiency of the evidentiary grounds for the issuance of the search warrant if that question should later arise. The requirement that the warrant itself state the grounds for its issuance and the names of any affiants is eliminated as unnecessary paper work. There is no comparable requirement for an arrest warrant in Rule 4. A person who wishes to challenge the validity of a search warrant has access to the affidavits upon which the warrant is issued.

The former requirement that the warrant require that the search be conducted "forthwith" is changed to read "within a specified period of time not to exceed 10 days." The former rule contained an inconsistency between subdivision (c) requiring that the search be conducted "forthwith" and subdivision (d) requiring execution "within 10 days after its date." The amendment resolves this ambiguity and confers discretion upon the issuing magistrate to specify the time within which the search may be conducted to meet the needs of the particular case.

The rule is also changed to allow the magistrate to authorize a search at a time other than "daytime," where there is "reasonable" cause shown for doing so. To make clear what "daytime" means, the term is defined in subdivision (h) to mean the hours from 6:00 a.m. to 10:00 p.m. according to local time.

Copies of the new Federal Rules of Criminal Procedure will be furnished as soon as available.

Manual changes follow.

10/3/72
MEMORANDUM 24-72

- 3 -

(B) THEFT OF MILITARY ARMS AND AMMUNITION - THEFT OF GOVERNMENT PROPERTY MATTERS -- Thefts of military weapons and armament throughout the United States are a matter of growing concern. Of particular interest are those instances involving burglaries of national and state guard armories which, when successful, usually result in the theft of numerous weapons including machine guns and semi-automatic weapons. It is recognized that these armories are generally in rural or remote areas with little or no physical security given them. In an effort to provide additional security to these armories, the U. S. Department of Justice is considering requesting that U. S. Attorneys solicit the cooperation of local law enforcement agencies to include these areas in their regular security patrols.

Our investigation of these offenses must be prompt, thorough, and afford no area for which criticism can be directed at the FBI. Upon receipt of a complaint, vigorous investigative and supervisory attention should be afforded each violation looking toward the identification and prosecution of the individuals responsible as well as the prompt recovery of the weapons stolen. This will help prevent these weapons from falling into the hands of individuals or organizations who can use them against law enforcement personnel, for assassinations, stockpiling purposes, and to commit other crimes of violence.

As you are aware, the Bureau of Alcohol, Tobacco, and Firearms has increased responsibilities in firearms and explosives matters. Frequently, their investigations will "overlap" or fall within our investigative activity under Theft of Government Property, particularly when Government weapons or armament are involved. While the primary investigative jurisdiction over the enforcement of the National Firearms Act rests with the Bureau of Alcohol, Tobacco, and Firearms, you are reminded that the FBI has investigative jurisdiction over firearms violations stemming from our investigations in matters in which we have primary jurisdiction. All offices should insure that thefts of military weapons or armament are promptly and thoroughly investigated as Theft of Government Property cases. Any encroachment upon FBI jurisdiction is to be challenged and resolved without delay.

(Security pages attached)

10/3/72

MEMORANDUM 24-72

- 4 -

240811-23

Greenberg/Gray-3403

(C) NEED FOR PRIORITY ATTENTION TO SUBVERSIVE ACTIVITIES, ORGANIZED CRIME AND DRUG ABUSE -- I have in the past publicly expressed concern over three basic problem areas in our society which must receive priority consideration as to the resources available to the Government. Certainly, drug abuse, organized crime and foreign-directed intelligence and domestic subversive elements within our Nation pose immediate, clear and present dangers to our society and Government. Of course it should be clearly recognized that we also have other vast responsibilities in addition to the ones mentioned above.

Although enforcement of Federal narcotics statutes is not within the ambit of this Bureau's primary responsibilities, as you are aware a national coordinator has been designated at FBIHQ with a local coordinator designated in each field office. Our liaison with all narcotics enforcement agencies has been stepped up and we are aggressively using our informant structure in a logical, productive way to contribute to our Nation's efforts against drug abuse.

Our efforts against organized crime must continue to receive priority attention due to the magnitude of that problem necessitating strong FBI action and superior performance.

The recent tragedy during the Olympic games, literally before the eyes of the world, amply demonstrates the terrorists' lack of concern for life as well as their willingness and capabilities to commit heinous crimes disguised as political acts. Within our society are elements who glorify guerrilla warfare and terrorism. Weatherman and related New Left terrorists and black extremists are of particular concern because they boldly proclaim an affinity for the third world communist revolutionary movement and, significantly, support such guerrilla movements. Their incongruous logic, obsession with revolution and known ability to engage in symbolic acts of destruction make them particularly dangerous to our free society when they continue to operate from a highly sophisticated underground apparatus.

Subversive elements in our society engage in a broad range of activity including deprivation of the rights of others by violent demonstrations and civil disobedience which frequently are also intended to force foreign policy decisions into a direction compatible with the overall

10/3/72

MEMORANDUM 24-72

- 5 -

objectives of the international communist revolutionary movement. They also engage in harassment of law enforcement and killing police officers because they represent the most visible evidence of the Government structure, and even outright terrorism by bombing is becoming common practice.

While the three problem areas mentioned above must receive priority attention, this in no way relieves you of your responsibilities with regard to other criminal violations, as well as in the field of civil rights. I recognize that no additional manpower will likely be available to handle our vast responsibilities. However, by careful streamlining of our operations, use of innovative and imaginative procedures, and careful utilization of the resources available, plus the esprit de corps that has so long been the FBI's trademark, we will accomplish this entire job that must be done.

L. Patrick Gray, III
Acting Director

10/3/72
MEMORANDUM 24-72

- 6 -

File on Administrative Changes

*"Review by all field offices of
equipment needs to combat
terrorist attacks"*

Greenberg/Gray-3406

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAK/AB

~~Gray/Gray
Malcolm
7/22/79~~

~~CONFIDENTIAL~~

Memorandum to Mr. E. S. Miller
Re: Vietnam Veterans Against the War (VVAW)
100-448092

ACTION:

Attached for approval are letters to Honorable
H. R. Haldeman at The White House and Acting Attorney General,
with copies to the Deputy Attorney General and Acting Assistant
Attorney General, Internal Security Division, containing above
information. (u)

- 2 -

Greenberg/Gray-3407

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

1 - Mr. A. Rosen
1 - Mr. T. E. Bishop
1 - Mr. D. W. Bowers

May 31, 1972

BY LIAISON

1 - Mr. E. S. Miller
1 - Mr. T. J. Smith
1 - Mr. R. L. Shackelford
① - Mr. R. L. Pence

Honorable H. R.aldeman
Assistant to the President
The White House
Washington, D. C.

Dear Mr. Baldeman:

(U) A confidential source, who has furnished reliable information in the past, advised that an unidentified representative from the McGovern for President Committee was present at a regular meeting of the Vietnam Veterans Against the War (VVAW) in Los Angeles, California, on May 25, 1972. (S)

(U) VVAW is a nationally known antiwar organization which, in recent months, has adopted an ever-increasing militant posture in conducting demonstrations. VVAW members have advocated civil disobedience and engaged in several seizures and blockades of important buildings and national monuments in the United States. For example, during December, 1971, VVAW members seized the Statue of Liberty, New York City; The Betsy Ross House, Philadelphia, Pennsylvania; attempted to blockade the Lyndon B. Johnson Library, Austin, Texas; and, the Lincoln Memorial, Washington, D. C. VVAW members have indicated the intention to engage in civil disobedience during the forthcoming political conventions in Florida. (S)

~~CONFIDENTIAL~~

Group 1
Excluded from automatic
downgrading and
declassification

RLP:djr
(9)

SEE NOTE PAGE TWO

6076 ZLW/AB
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/31/92

~~CONFIDENTIAL~~

Honorable H. R. Maldeman

At the VVAW meeting in Los Angeles, the unidentified McGovern representative stated a station wagon would be leased by the McGovern Committee and furnished to the VVAW for the purpose of "barnstorming" college campuses between Los Angeles, California, and San Francisco, California, during the period from May 30 through June 2, 1972, to voice opposition to the Vietnam war. The source identified three members of the VVAW in Los Angeles who were to participate in the trip as

b6
b7C

[redacted] In addition, one unidentified VVAW member from San Diego, California, was to accompany the above individuals. (u)

This information is also being furnished to the Acting Attorney General. (u)

Sincerely yours,

L. Patrick Gray, III
Acting Director

b2
b7D

NOTE:

(u) Classified "~~Confidential~~" since unauthorized disclosure could be detrimental to national defense interests by compromising a source of continuing value. Los Angeles source is [redacted] (u)

See memorandum R. L. Shackelford to Mr. E. S. Miller, captioned "Vietnam Veterans Against the War (VVAW), IS - Revolutionary Activities," prepared by RLP:tlp, dated 5/31/72. (u)

~~CONFIDENTIAL~~

- 2 -

240811-23

Greenberg/Gray-3409

~~CONFIDENTIAL~~

- 1 - Mr. A. Rosen
- 1 - Mr. T. E. Bishop

The Acting Attorney General

May 31, 1972

Acting Director, FBI

- 1 - Mr. D. W. Bowers
- 1 - Mr. E. S. Miller
- 1 - Mr. T. J. Smith
- 1 - Mr. R. L. Shackelford
- TO 1 - Mr. R. L. Pence

Vietnam Veterans Against
The War (VVAW)
INTERNAL SECURITY - REVOLUTIONARY ACTIVITIES

(U) A confidential source, who has furnished reliable information in the past, advised that an unidentified representative from the Mothers for President Committee was present at a regular meeting of the Vietnam Veterans Against the War (VVAW) in Los Angeles, California, on May 29, 1972. (S)

(U) VVAW is a nationally known national organization which, in recent months, has adopted an ever-increasing militant posture in conducting demonstrations. VVAW members have attempted civil disobedience and engaged in several seizures and blockades of important buildings and national monuments in the United States. For example, during December, 1971, VVAW members seized the Statue of Liberty, New York City; The Betsy Ross House, Philadelphia, Pennsylvania; attempted to blockade the Lyndon B. Johnson Library, Austin, Texas; and, the Lincoln Memorial, Washington, D. C. VVAW members have indicated the intention to engage in civil disobedience during the forthcoming political conventions in Florida. (S)

100-448032

RLP:djr
(12)

~~CONFIDENTIAL~~

SEE NOTE PAGE TWO

~~Group 1
Excluded from automatic
downgrading and
declassification~~

6076 WPA/10B
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/31/92

~~CONFIDENTIAL~~

The Acting Attorney General

At the VVAW meeting in Los Angeles, the unidentified McGovern representative stated a station wagon would be leased by the McGovern Committee and furnished to the VVAW for the purpose of "transporting" college campuses between Los Angeles, California, and San Francisco, California, during the period from May 20 through June 2, 1972, to voice opposition to the Vietnam war. The source identified three members of the VVAW in Los Angeles who were to participate in the trip as

b6
b7C

[redacted] In addition, one unidentifiable VVAW member from San Diego, California, was to accompany the above individuals. (S)

This information is also being furnished to the Honorable H. R. Haldeman, Assistant to the President, at the White House. (U)

1 - The Deputy Attorney General

1 - Acting Assistant Attorney General
Internal Security Division

NOTE:

Classified "~~Confidential~~" since unauthorized disclosure could be detrimental to national defense interests by compromising a source of continuing value. Los Angeles source is [redacted] (S)

b2
b7D

See memorandum R. L. Shackelford to Mr. E. S. Miller, dated 5/31/72, captioned as above, prepared by RLP:tlp. (U)

~~CONFIDENTIAL~~

- 2 -

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

MAY 27 1972

TELETYPE

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

NR 028 LA ENCODE

958 PM NITEL 5-26-72 VLB

TO ACTING DIRECTOR (100-448092)

SACRAMENTO

SAN DIEGO

SAN FRANCISCO

FROM LOS ANGELES (100-77703) (P) 2P

UVAW
LA
Shaw
Hugh

VIETNAM VETERANS AGAINST THE WAR (VVAW), IS - REVOLUTIONARY
ACTIVITIES.

(U) INSTANT DATE SOURCE WHO HAS FURNISHED RELIABLE INFO IN PAST
ADVISED AN UNIDENTIFIED REPRESENTATIVE FROM MC GOVERN FOR PRESIDENT
COMMITTEE WAS PRESENT AT A REGULAR MEETING OF VVAW MAY TWENTY FIVE
LAST. (S)

VVAW IS AN ANTIWAR ORGANIZATION ORGANIZED IN SIXTY SEVEN
WITH HEADQUARTERS IN NEW YORK CITY. ITS PUBLISHED OBJECTIVE
IS "TO DEMAND IMMEDIATE SECESSION OF FIGHTING AND THE
WITHDRAWAL OF ALL AMERICAN TROOPS FROM INDO CHINA." (U)

(U) AT THIS MEETING, MC GOVERN REPRESENTATIVE STATED A STATION WASC
WOULD BE LEASED BY MC GOVERN COMMITTEE AND FURNISHED TO VVAW FOR
PURPOSE OF BARNSTORMING COLLEGE CAMPUSES BETWEEN LOS ANGELES AND
SAN FRANCISCO DURING PERIOD OF MAY THIRTY THRU JUNE TWO NEXT. THE
PURPOSE OF SPEECHES IS TO VOICE OPPOSITION TO WAR IN VIETNAM. (S)

END PAGE ONE

REC'D
Adm. data

Greenberg/Gray-3412

CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

6076 WWH/AB
9/10/79
5/27/92

240811-00
~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

PAGE TWO

LA 198-77733

THREE MEMBERS OF VVAW FROM LOS ANGELES TENTATIVELY SELECTED TO PARTICIPATE IN THIS TRIP ARE: [REDACTED] PREVIOUSLY ARRESTED IN DEMO AT WASHINGTON, D. C., SPONSORED BY VVAW; [REDACTED] [REDACTED] ONLY KNOWN ACTIVITY OF [REDACTED] AND [REDACTED] IS THAT OF VVAW. (S)

b6
b7C

SOURCE FURTHER ADVISED ONE UNIDENTIFIED VVAW MEMBER FROM SAN DIEGO TO BE ACCOMPANYING ABOVE LISTED INDIVIDUALS. (S)

ADMINISTRATIVE:

LOS ANGELES WILL ADVISE BUREAU OF ALL PERTINENT DEVELOPMENTS. (S)

SOURCE FURNISHING INFO MAY TWENTY SIX INSTANT WAS [REDACTED] [REDACTED] (S)

b2
b7D

END

Greenberg/Gray-3413

cc - [Handwritten signature]

~~CONFIDENTIAL~~

To insure the most effective use of the limited number of personnel available for liaison assignment, every effort should be made to avoid designation of mail for delivery "By Liaison" where such handling is not absolutely necessary. Mail will continue to be delivered to The White House "By Liaison" and mail for the Central Intelligence Agency and National Security Agency should be similarly marked as this is picked up by courier from these agencies who visit the Liaison Section daily. Mail for other agencies should normally be designated for delivery by courier as the Bureau's efficient Courier Service makes visits twice daily to other U. S. agencies in the Washington area. Normally, mail should not be designated for delivery "By Liaison" unless some discussion with the addressee is necessary and requested.

In addition to domestic liaison matters, the new Liaison Section will coordinate the supervision of our offices abroad and will directly supervise Foreign Police Cooperation matters.

For the Acting Director
W. Mark Felt
Acting Associate Director

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-10-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3414

11-22-72
MEMORANDUM 19-72

- 2 -

DO-6 OFFICE OF ACTING DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

MR. FELT
MR. BAKER _____
MR. BATES _____
MR. BISHOP _____
MR. CALLAHAN _____
MR. CLEVELAND _____
MR. CONRAD _____
MR. DALBEY _____
MR. JENKINS _____
MR. MARSHALL _____
MR. MILLER, E.S. _____
MR. PONDER _____
MR. SOYARS _____
MR. WALTERS _____
TELE. ROOM _____
MR. KINLEY _____
MR. ARMSTRONG _____
MS. HERWIG _____
MRS. NEENAN _____

Re: Liaison Section

1. Approved.
2. Section will not supervise officers overseas and in foreign countries.
3. Endeavor to assign to the section SAs with previous liaison section experience. I will approve them, therefore let me have your recommendations.
4. I assume selections will be made from Division V personnel; in any event, if SA's are selected from staff at FBIHQ, no replacements are to be ordered in from the Field Divisions.
5. Agree with your addendum of 7-19-72.

Jim 9/3
8:32 P

Greenberg/Gray-3415

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

- Felt _____
- Bates _____
- Bishop _____
- Callahan _____
- Campbell _____
- Cleveland _____
- Conrad _____
- Dalbey _____
- Jenkins _____
- Marshall _____
- Miller, E.S. _____
- Ponder _____
- Soyars _____
- Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Ms. Herwig _____
- Mrs. Neenan _____

TO : Mr. Felt

DATE: 7/14/72

FROM : E. S. Miller

- 1-Mr. Felt
- 1-Mr. Donahoe
- 1-Mr. Miller
- 1-Mr. Decker

SUBJECT: LIAISON SECTION

This memorandum is in response to Mr. Gray's comments concerning your memorandum to Mr. Kinley 6/30/72. Mr. Gray asked for a review of current and past liaison procedures.

The supervision of our foreign liaison representatives was not affected by the conversion in 7/70 of the Liaison Section to the Special Coordination Unit. That responsibility continues to be handled in the Special Coordination Unit in the same manner as it was handled in the former Liaison Section. This memorandum, therefore, is addressed to the question of the Bureau's domestic liaison operations.

Former Liaison Section

The objective of the Liaison Section was, through the development of high-level contacts in appropriate U. S. agencies, to insure that the Bureau's business with those agencies was accomplished promptly, effectively, economically, and with a minimum of jurisdictional or policy problems. By the establishment of effective liaison contacts, we sought to recognize and solve minor problems before they became major problems requiring protracted and expensive negotiations between the Bureau and other agencies.

Procedures under Liaison Section

The objectives cited above were achieved by placing seasoned Bureau representatives of broad experience in contact with officials at the highest levels of other agencies where the Bureau either needed help or had concurrent interests. In the former Liaison Section, ten Agents maintained liaison with approximately 81 U. S. agencies including major intelligence agencies, the military, other major departments, bureaus and commissions and many lesser agencies. They frequently visited the major agencies, developed a broad knowledge of

ESM:hc
(5) *hc*

SEE ADDENDUM PAGE 7.

CONTINUED - OVER

Greenberg/Gray-3416

6076 UG A/103
~~9/10/79~~
 CLASS. & EXT. BY
 REASON-FCIM II, 1-2.4.2
 DATE OF REVIEW 7/14/92
 para marked others U

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

E. S. Miller to Mr. Felt
Re: LIAISON SECTION

their operations and established a close personal rapport with high-level officials in those agencies. For example, in matters of major importance the liaison Agent could make immediate personal contact with Cabinet officers, directors of bureaus and many other officials of the highest level. When our investigations required interviews of persons of this caliber, the interviews would be handled by the liaison Agents in order that the interviews could be accomplished without delay and with a minimum of inconvenience to the official involved. Many of these high-level contacts were the result of years of development by the Bureau liaison representatives and through them we were able to obtain assistance which might otherwise have been difficult or impossible to obtain. Some examples of this type of support are the following:

National Security Agency-One of the Bureau's secure telephone systems was provided and installed by this Agency at no cost to the Bureau, a savings of approximately \$150,000. Through high-level contacts in this Agency, we have also been able to secure the results of its technical research which might have been difficult or expensive to obtain through other sources.

Post Office-Our close association with the Chief Postal Inspector and his top officials has resulted in that agency providing support in some of our most delicate intelligence operations looking to the identification of illegal hostile intelligence activities in this country.

State Department-In addition to providing at no cost to the Bureau another secure telephone network and making available to the Bureau worldwide cable facilities of the State Department, our high-level contacts in this Department have on many occasions assisted in the speedy resolution of complicated investigative problems both in the criminal and security fields. An excellent example would be the support provided by the Passport Office of the State Department in identifying James Earl Ray as the assassin of Martin Luther King.

- 2 -

CONTINUED - OVER

Greenberg/Gray-3417

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum E. S. Miller to Mr. Felt
Re: LIAISON SECTION

Military Agencies-The military intelligence agencies have consistently provided excellent support to the Bureau in both the security and criminal fields. Much of this is due to the high-level liaison contacts developed over the years with these agencies. In the Yablonsky murder case, the military provided, on very short notice at no cost to the Bureau, an expert diving team which was able to locate one of the weapons involved which was an essential piece of evidence in this crime. Likewise, the military has been able to provide a wealth of ~~deceptive~~ information to be used in our ~~double agent~~ operations directed against Soviet-bloc intelligence agencies. (S)

Immigration and Naturalization Service-

Through high-level contacts with this Service, we have been able to arrange with a minimum of complicated paper work the speedy deportation of persons entering the United States who are considered to be threats to the internal security, such as Arab terrorists sent to the United States on assassination missions.

In many other instances, through close established liaison, we were able to avoid the development of situations in other agencies which could have resulted in operational problems for the Bureau. Our liaison, for example, with the President's Commission on the Causes and Prevention of Violence and the Commission on Civil Rights provided advance information concerning possible publications or statements by those commissions which could have reflected adversely on the Bureau.

Under these procedures, the Bureau liaison representative would be visiting the agencies assigned to him on a frequent basis so that officials of those agencies would be able to discuss potential policy problems with him before making them a matter of formal correspondence with the Bureau. In many of these situations, the Bureau liaison representative, being fully conversant with Bureau policies and procedures, would immediately resolve the question to the satisfaction of both the Bureau and the official of the other agency without the necessity of getting into expensive, drawn out, formal written negotiations between both agencies.

- 3 - CONTINUED - OVER

~~CONFIDENTIAL~~ Greenberg/Gray-3418

~~CONFIDENTIAL~~

Memorandum E. S. Miller to Mr. Felt
Re: LIAISON SECTION

Special Coordination Unit

Objectives of the Special Coordination Unit, while similar to those previously stated for the former Liaison Section, are necessarily less broad and are directed more towards facilitating the resolution of problems raised by other agencies than producing effective action by other agencies on behalf of the FBI.

Procedures under Special Coordination Unit

Under the current setup, two Agents assigned to the Special Coordination Unit are handling our domestic liaison work. One of these is assigned to liaison with The White House, the Vice President, and the National Security Council. He is backed up by the other Agent who also attends meetings of various intelligence committees and assists the Unit Chief in handling inquiries from other agencies doing business with the Bureau.

We have been able in our current system to carry on an effective liaison operation primarily because of the quality and number of high-level contacts which had been developed under the previous Liaison Section system. Although effective, this has really been a holding operation largely dependent upon the existing reservoir of well developed contacts. Due to transfers and retirements in the most important agencies with which we do business, our established contacts have been deteriorating so that we are approaching the point of diminishing returns. This situation could be reversed if we had sufficient man power to visit the more important agencies, renew old contacts and establish new ones.

Currently, with the exception of our liaison with The White House, the Vice President and the National Security Council, our liaison with other agencies is primarily dependent upon those agencies contacting the Special Coordination Unit either telephonically or in person.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum E. S. Miller to Mr. Felt
Re: LIAISON SECTION

Costs

In measuring the cost of a domestic liaison operation, the only measurable cost is the total salary for personnel involved. Liaison Agents are normally selected from among Supervisors of GS-15 caliber (\$25,583-\$33,260); that is, men who have the ability and experience required to handle a Unit Chief's job or a job of similar responsibility. Based on current median salaries, there is set out below a comparison of the annual salary cost of the former Liaison Section and the current Special Coordination Unit. In considering these figures, it should be recognized that the Section Chief and Number One Man in the former Liaison Section, and the Unit Chief in the present Special Coordination Unit devoted only part of their time to domestic liaison, and also supervised the coordination of our offices abroad and the investigation of the many "Foreign Police Cooperation" cases handled in the United States in reciprocity for the work done for us abroad. The former Liaison Section also handled other matters, now absorbed elsewhere, such as emergency planning and the Bureau's participation in the NATO Special Committee.

Former Liaison Section

1 - GS-16 Section Chief	- \$33,634
1 - GS-15 Number One Man	- 28,995
10 - GS-15 Liaison Agent positions	289,950
Total:	<u>\$352,579</u>

Special Coordination Unit

1 - GS-15 Unit Chief position	\$28,995
1 - GS-15 Liaison Agent	28,995
1 - GS-14 Supervisor	24,888
	<u>\$82,878</u>

If, as suggested, the current Special Coordination Unit were to be expanded to a liaison operation, the increased salary costs should be estimated at \$28,995 annually per additional Liaison Agent. Therefore, the proposed addition of three qualified Liaison Agents to the Unit would result in an increased annual expenditure of \$86,985.

We have previously cited examples of tangible monetary savings effected through liaison. In addition, there are considerable intangible savings which are difficult to measure

- 5 - CONTINUED - OVER

Greenberg/Gray-3420

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum E. S. Miller to Mr. Felt
Re: LIAISON SECTION

such as savings in reduced paper work, savings in man hours of consultation, savings in the elimination of unnecessary or duplicative investigative effort and, of overriding importance, the increasing of our operational effectiveness through the establishment of good will with other agencies. These savings offset to a considerable degree the increased salary expenditure.

Conclusion

Although we enjoy a strong operational relationship with other agencies, including the intelligence agencies, wherein in many instances we have face-to-face meetings at the desk level with counterparts in other agencies, we believe that from the overall standpoint the Bureau can profit from the assignment of three additional Liaison Agents to this work. We are not recommending that we enter into liaison functions as broadly as we were engaged in the past as we believe such an expenditure would not be justified. What we are recommending is the assignment of one-half the personnel which had previously been assigned to direct liaison functions at less than one-half the previous cost.

ACTION:

For information.

LFS
AJ

DEM

WVC

EM

mal
aw

(OVER...)

- 6 -

Greenberg/Gray-3421

~~CONFIDENTIAL~~

C

C

ADDENDUM OF W. M. FELT 7-19-72 WMF:crj

JW

I recommend re-establishment of a Liaison Section on the restricted basis outlined above. The Liaison Section should maintain smooth and continuing contact with top officials in the intelligence community and related departments. We would not change in any way very effective liaison maintained by other divisions with Congress, Budget Bureau, Civil Service Commission, Department of Transportation in connection with hijackings and security matters, etc. This action would eliminate any remnants of criticism concerning our liaison. We would set up strict guidelines and carefully select our personnel to insure that we would get the type of liaison outlined above. We would guard against it becoming a mail courier operation.

I recommend the re-establishment of the Liaison Section and the adding of three additional agents to implement this.

~~7~~

Agree.
Jth 9-3
8:22P

You will recall this originated with a series of suggestions by SAC Kunkel.

JK

Yes, it did; however this matter I had under consideration at the inception. I was well aware of the disestablishment of the Liaison Section & the reasons therefore and had this matter on my list.

FBIHQ DIVISION VISITS

<u>DIVISION</u>	<u>DATE(S)</u>
5 - Domestic Intelligence	May 17, July 12, July 28, August 3, August 10, August 17, 1972; Jan. 30, 1973
8 - Crime Records	May 18, and October 4, 1972
3 - Administrative	June 27, 1972 and Feb. 14, 1973
6 - General Investigative	July 7, 1972
4 - Files and Communications	July 12, August 9, and Nov. 6, 1972
9 - Special Investigative	July 27, 1972
1 - Identification	October 3, 1972
2 - Training	July 13, Aug. 5; Aug. 10, Aug. 24, Oct. 3, Oct. 19, 1972; Jan. 16, Jan. 22, Jan. 30, Feb. 13, 1973
7 - Laboratory	October 27, 1972
11 - Legal Counsel	November 1, 1972
12 - Computer Systems	November 2, 1972
10 - Inspection	November 16, 1972
13 - Office of Planning and Evaluation	February 1, 1973

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAN/AB

(21) a

SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3 AR. 7:35 AM DEP. 6:45 PM	4 AR. 8:00 AM DEP. 7:15 PM	5 AR. 8:00 AM DEP. 6:00 PM POA TO CONN.	6 CONN.
7 CONN.	8 POA TO NEW HAVEN NEW HAVEN FIELD OFFICE VISIT POA TO WDC	9 AR. 8:00 AM DEP. 5:45 PM	10 AR. 7:55 AM DEP. 6:40 PM	11 AR. 7:30 AM DEP. 5:45 PM DRUG PROGRAM GREAT HALL, DoJ	12 8:45 AM PRESS INTERVIEW AT HOME AR. 9:30 AM 10:30 AM POA TO NYC 3:00 PM NEW YORK F.O. VISIT POA TO CONN.	13 CONN.
14 CONN.	15 POA TO BOSTON BOSTON F.O. VISIT POA TO WASHINGTON,	16 AR. 8:00 AM DEP. 6:45 PM	17 AR. 7:35 AM DEP. 6:35 PM	18 AR. 7:37 AM 4:15 PM POA TO NORFOLK RON	19 NORFOLK, VA. AM DOLPHIN SCHOLARSHIP FOUNDATION BOARD MEETING 2:00 PM LV. FOR CONN. VIA POA 12 MIDNIGHT AR. CONN.	20 CONN.
21 CONN. POA TO WASHINGTON, D.C.	22 AR. 7:55 AM DEP. 6:30 PM	23 7:30 AM BREAKFAST MTG. AR. 8:20 AM 10:30 AM LV. FOR QUANTICO RON QUANTICO	24 QUANTICO 3:00 PM LV. FOR WDC 4:00 PM AR. OFFICE DEP. 6:40 PM	25 12 NOON MAC TO MOBILE 2 PM MOBILE F.O. VISIT 7 PM SPEECH - CRIME CONTROL CONF. BILOXI RON BILOXI	26 8 AM LV. FOR NEW ORLEANS 9:30 AM NEW ORLEANS F.O. VISIT 12:25 PM LV. NEW ORLEANS VIA NA 2 PM HOUSTON F.O. VISIT RON HOUSTON	27 12:30 PM LUNCHEON MEETING RON HOUSTON
28 9:50 AM MAC TO WDC 1:30 PM AR. ANDREWS	29 HOLIDAY	30 AR. 7:30 AM DEP. 5:30 PM	31 AR. 7:30 AM DEP. 6:30 PM	Greenberg/Gray-3424		

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WDH/RS

1972

JUNE

1972

SUN	MON	TUE	WED	THU	FRI	SAT
				1 AR. 7:33 AM DEP. 6:30 PM	2 7:45 AM DENTIST 9:00 AM AR. OFFICE DEP. 5:15 PM 6:15 PM AL TO CONN.	3 CONN. 1:00 PM PARADE. INTERVIEW
4 CONN.	5 7:45 AM LV. RES. 8:30 AM MAC TO NEWARK 9:35 AM NEWARK F.O. VISIT 12 NOON MAC TO PHILA. 1:20 PM PHILA. F.O. VISIT 4:30 PM MAC TO WDC 5:15 PM AR. ANDREWS 6:30 PM RECPT. - FBI ACADEMY MAYFLOWER	6 AR. 7:33 AM DEP. 6:30 PM	7 7:45 AM DENTIST 8:45 AM AR. OFFICE DEP 6:30 PM	8 AR. 8:05 AM DEP. 5:55 PM 7 PM BOYS CLUB DINNER SPEECH 11 PM LV. FOR RES.	9 AR. 7:35 AM DEP. 5:30 PM 6 PM RECPT. FOR [REDACTED] 6:45 PM RECPT. WH POLICE	10 7:10 AM AL TO CONN. b6 b7C
11 CONN.	12 7:30 AM LV. RES. 8:30 AM MAC TO DETROIT 10 AM DETROIT F.O. VISIT 12:15 PM MAC TO CHICAGO 1:30 PM CHICAGO F.O. VISIT 4:30 PM MAC TO WDC 7 PM AR. ANDREWS	13 AR. 7:35 AM DEP 6:35 PM	14 AR. 7:35 AM DEP 6:40 PM	15 AR. 7:25 AM DEP 6:40 PM	16 8:45 AM LV. RES. 9:30 AM MAC TO L/A 2:30 PM L/A FIELD OFFICE VISIT 7 PM SPEECH - "GREAT ISSUES" RON LOS ANGELES	17 11 AM SPEECH - PEPPERDINE RON NEWPORT BEACH, CALIF.
18 TO PALM SPRINGS RON PALM SPRINGS	19 10 AM SPEECH 11:50 AM W/A TO S. F. 2 PM SAN FRANCISCO F.O. VISIT RON SAN FRANCISCO	20 9 AM MAC TO SACRAMENTO 10 AM SACRAMENTO F.O. VISIT 12 NOON MAC TO WDC 8 PM AR. ANDREWS	21 AR. 7:35 AM DEP. 6:30 PM	22 AR. 7:35 AM DEP. 7:10 PM	23 AR. 7:40 AM DEP. 4:15 PM	24 AR. 10:30 A.M. DEP. 12:45 PM
25 WASHINGTON, D.C.	26 8:15 AM LV. RES. 9 AM MAC TO CLEVELAND 10:45 AM CLEVELAND F.O. VISIT 1 PM MAC TO CINCINNATI 2:30 PM CINCINNATI F.O. VISIT 4:30 PM MAC TO WDC 5:30 PM AR. ANDREWS	27 AR. 7:33 AM DEP. 6:40 PM	28 AR. 7:37 AM DEP. 6:20 PM FOR WH APPT. @ 6:30 PM	29 8:30 AM LV. RES. 9:45 AM UA TO SAN DIEGO 12:30 PM SAN DIEGO F.O. VISIT 3 PM PARADE INTERVIEW 5:30 PM RECPT. RON SAN DIEGO	30 11 AM PRESS 12 NOON SPEECH - EXCHANGE CLUB 2:15 PM USN TO PHOENIX 4 PM PHOENIX F.O. VISIT RON PHOENIX	

1972

JULY

1972

SUN	MON	TUE	WED	THU	FRI	SAT
						1 10 AM LV. PHOENIX VIA MAC 6:15 PM AR. ANDREWS
2 WASHINGTON, D.C.	3 AR. 7:55 AM DEP. 6:00 PM	4 7:45 AM LV. RES. 8:15 AM MAC TO PHILA. 9:30 AM JULY 4th SPEECH 12:15 PM LUNCHEON 2:40 PM MAC TO WDC 3:10 PM AR. ANDREWS	5 AR. 7:45 AM DEP. 6:40 PM	6 AR. 7:31 AM DEP. 5:40 PM 7 PM DINNER MEETING WITH READER'S DIGEST. 9:30 PM AR. RES.	7 AR. 7:35 AM DEP. 5:00 PM 6:15 PM AL TO CONN.	8 CONN.
9 CONN.	10 CONN.	11 8 AM LV. RES., CONN. 9:03 AM MAC TO IND. 10:30 AM INDIANAPOLIS F.O. VISIT 12:30 PM MAC TO MILWAUKEE 2 PM MILWAUKEE F.O. VISIT 7 PM SPEECH - NA RETRAINING SESSION 8:45 PM MAC TO WDC 11:20 PM AR. ANDREWS	12 AR. 8:50 AM DEP. 7:02 PM	13 AR. 7:32 AM DEP. 6:45 PM	14 AR. 7:33 AM DEP. 2:00 PM POA TO CONN.	15 CONN. POA. TO LOVELL, MASS. 7 PM SPEECH - LOWELL, MASS., RAFA POA TO STONINGTON
16 CONN.	17 CONN.	18 8 AM LV. RES., CONN. 9 AM MAC TO DENVER 12:15 PM DENVER F.O. VISIT 2:30 PM MAC TO LAS VEGAS 3:15 PM LAS VEGAS F.O. VISIT 7:30 PM SPEECH - ICPA RON LAS VEGAS	19 9 AM MAC TO OMAHA 2 PM OMAHA F.O. VISIT 4:45 PM MAC TO WDC 8:00 PM AR. ANDREWS	20 AR. 7:40 AM DEP. 6:45 PM	21 AR. 7:32 AM DEP. 5:20 PM 6:15 PM AL TO CONN.	22 CONN.
23/30 CONN.	24/31 24th 10 AM LV. RES. VIA POA 4:30 PM AR. WDC 31st CONN.	25 8:15 AM LV. RES. 9 AM MAC TO KNOXVILLE 10:45 AM KNOXVILLE F.O. VISIT 1:40 PM MAC TO ATLANTA 2:50 PM ATLANTA F.O. VISIT 5:00 PM MAC TO WDC 6:30 PM AR. ANDREWS	26 AR. 7:40 AM DEP. 6:55 PM	27 AR. 7:45 AM DEP. 6:40 PM	28 AR. 7:32 AM DEP. 5:15 PM 6:15 PM AL TO CONN.	29 CONN.

1972

AUGUST

1972

SUN	MON	TUE	WED	THU	FRI	SAT
		1 7 AM LV. RES. CONN. 8 AM MAC TO ALBANY 9 AM ALBANY F.O. VISIT 11AM MAC TO PITTSBURGH 1 PM LUNCHEON 3 PM PITTSBURGH F.O. VISIT 5 PM MAC TO SCRANTON; WDC 7 PM AR. ANDREWS	2 AR. 7:40 AM DEP. 6:40 PM	3 8 AM LV. RES. 9 AM QUANTICO BRFG. 11:45 AM AR. OFFICE . DEP. 6:40 PM	4 AR. 7:35 AM DEP. 5:15 PM 6:15 PM AL TO CONN. RON	5 CONN.
6 CONN.	7 CONN.	8 8 AM LV. RES. CONN 8:30 AM MAC TO LOUISVILLE 11 AM LOUISVILLE F.O. VISIT 2 PM MAC TO CHARLOTTE 3:20 PM CHARLOTTE F.O. VISIT 5:30 PM MAC TO WDC 6:30 PM AR. ANDREWS	9 AR. 7:33 AM DEP. 6:40 PM.	10 8 AM LV. RES. 9 AM QUANTICO BRFG. 11:30 AM AR. OFFICE DEP. 6:45 PM	11 AR. 7:33 AM 10 AM LV. OFFICE 10:45 AM MAC TO CLEVELAND NOON SPEECH - CITY CLUB 2 PM MAC TO N/L 3:15 PM AR. NEW LONDON RON	12 CONN.
13 CONN.	14 CONN.	15 7:45 AM LV. RES. CONN. 8:30 AM MAC TO COLUMBIA, S.C. 11 AM COLUMBIA F.O. VISIT 1:45 PM MAC TO SAVANNAH 2:30 PM SAVANNAH F.O. VISIT 4:30 PM MAC TO WDC 6 PM AR. ANDREWS	16 AR. 7:43 AM DEP 6:40 PM	17 AR. 7:35 AM DEP 6:40 PM	18 AR. 7:35 AM DEP. 5:15 PM 6:15 PM AL TO CONN. RON	19 CONN.
20 CONN.	21 CONN.	22 NOON LV. RES. 12:30 PM MAC TO SPRINGFIELD 1:45 PM SPRINGFIELD F.O. VISIT 3:30 PM MAC TO MINNEAPOLIS RON	23 11 AM VFW SPEECH NOON LUNCHEON 1:45 PM MINNEAPOLIS F.O. VISIT 3:30 PM MAC TO WDC 6:30 PM AR. ANDREWS	24 8 AM LV. RES. 9 AM QUANTICO BRFG. 11:55 AM AR. OFFICE DEP. 6:35 PM	25 AR. 7:35 AM DEP. 5:15 PM 6:15 PM AL TO CONN. RON	26 CONN.
27 CONN.	28 7:45 AM LV. RES. 8:30 AM MAC TO LITTLE ROCK 10:55 AM LITTLE ROCK F.O. VISIT 4:20 PM MAC TO JACKSON 5:20 PM JACKSON F.O. VISIT 7:30 PM MAC TO WDC 9:20 PM AR. ANDREWS	29 AR. 7:40 AM DEP. 6:40 PM	30 8 AM DENTIST AR. 8:55 AM DEP. 6:45 PM	31 AR. 7:35 AM DEP. 6:45 PM		

1972

SEPTEMBER

1972

SUN	MON	TUE	WED	THU	FRI	SAT
					1 AR. 7:37 AM 12:55 PM LV. OFFICE 1:25 PM MAC TO BUFFALO 2:50 PM BUFFALO F.O. VISIT 5:10 PM MAC TO N/L 6:15 PM AR. NEW LONDON RON	2 CONN.
3 CONN.	4 CONN.	5 8 AM LV. RES. CONN. 9 AM MAC TO ANCHORAGE 4:15 PM ANCHORAGE F.O. VISIT RON ANCHORAGE	6 8:30 AM LV. HOTEL 9:05 AM MAC TO SEATTLE 2:45 PM SEATTLE F.O. VISIT 5 PM MAC TO PORTLAND 5:40 PM AR. PORTLAND RON	7 8:15 AM PORTLAND F.O. VISIT 10:50 AM MAC TO SPOKANE NOON SPEECH - WASH. STATE BAR 2:45 PM MAC TO BUTTE 7:30 PM SPEECH - ROTARY CLUB, BUTTE RON	8 9 AM BUTTE F/O VISIT 11:15 AM MAC TO N/L 6:00 PM AR. NEW LONDON RON	9 CONN.
10 CONN.	11 CONN. 5:55 PM AL TO WDC	12 AR. 8:00 AM DEP 6:15 PM	13 AR. 7:40 AM DEP. 6:45 PM	14 7:45 AM DENTIST 8:50 AM AR. OFFICE DEP. 6:40 PM	15 AR. 7:34 AM DEP. 5:15 PM 6:15 PM AL TO CONN. RON	16 CONN.
17 CONN.	18 AL TO WDC 9:55 AM AR. OFFICE 4:30 PM LV. FOR QUANTICO 6:00 PM SPEECH - POLICE COMM. RELATIONS 9:30 PM AR. RES.	19 8:30 AM LV. RES. 9:00 AM MAC TO K,C. 10:25 AM KANSAS CITY F.O. VISIT 1:30 PM MAC TO MEMPHIS 3 PM MEMPHIS F.O. VISIT 5:30 PM MAC TO WDC 8:15 PM AR. ANDREWS	20 AR. 7:34 AM DEP. 6:50 PM	21 AR. 7:34 AM 4 PM LV. OFFICE 5 PM RECPT. & SPEECH CHESTERTOWN, MD. 11 PM AR. RES.	22 AR. 7:30 AM 11:30 AM LV. OFFICE 12 NOON MAC TO DETROIT 12:30 PM LUNCHEON 7 PM SPEECH - MICH. STATE BAR 11:26 PM MAC TO PROV. 1:00 AM AR. PROV. 2 AM AR. RES. & RON	23 CONN.
24 CONN.	25 AL TO WDC 10 AM AR. OFFICE DEP. 7:00 PM	26 AR. 7:38 AM DEP. 6:45 PM	27 7:30 AM LV. RES. 8 AM MAC TO COLO. SPRINGS 10 AM NORAD 12:15 PM SPEECH - COLO. CORRECTIONAL ASSN. 2 PM MAC TO ALBUQUERQUE 3:15 PM ALBUQUERQUE F.O. VISIT RON	28 7:15 AM LV. HOTEL 7:40 AM MAC TO EL PASO 8:35 AM EL PASO F.O. VISIT 10 AM MAC TO SAN ANTONIO 1:45 PM SAN ANTONIO F.O. VISIT 4:40 PM MAC TO WDC 8:00 PM AR. ANDREWS	29 AR. 7:36 AM DEP. 5:16 PM 6:15 PM AL FLIGHT- CANCELLED	30 WASHINGTON, D.C.

1972

OCTOBER

1972

SUN	MON	TUE	WED	THU	FRI	SAT
1 WASHINGTON, D.C.	2 AR. 7:39 AM DEP. 6:45 PM	3 8 AM LV. RES. 9 AM QUANTICO 1:45 PM AR. OFFICE DEP. 6:10 PM	4 AR. 7:29 AM 3 PM LV. FOR QUANTICO 4-6 PM RECP. FOR MILITARY	5 AR. 7:33 AM DEP. 5:15 PM 6:15 PM AL TO CONN. RON	6 CONN.	7 CONN.
8 CONN.	9 CONN. NOON SPEECH - UNITED FUND RON	10 7:30 AM LV. RES. CONN. 8:40 AM MAC TO OKLA. CITY NOON SPEECH - ROTARY CLUB 2 PM OKLA. CITY F.O. VISIT 4:30 PM MAC TO DALLAS 5:15 PM AR. DALLAS RON	11 9 AM DALLAS F.O. VISIT 11:55 AM MAC TO BIRMINGHAM 1:30 PM BIRMINGHAM F.O. VISIT 4:05 PM MAC TO WDC 6:40 PM AR. ANDREWS	12 7:45 AM DENTIST 9:15 AM AR. OFFICE DEP. 5:58 PM 8 PM DINNER	13 AR. 7:38 AM 10 AM LV. OFFICE 10:40 AM MAC TO CHICAGO 11:30 AM SPEECH - EXECUTIVES CLUB 2:20 PM MAC TO WDC 4:40 PM AR. ANDREWS 6:15 PM AL TO CONN. RON	14 CONN.
15 CONN.	16 8:30 AM LV RES. 9:40 AM MAC TO SALT LAKE CITY 2:30 PM SALT LAKE CITY F.O. VISIT RON	17 9 AM MTG. WITH MORMON LEADERS 11 AM SPEECH, IACP 11:54 AM MAC TO WDC 5:20 PM AR. ANDREWS	18 AR. 7:40 AM DEP. 6:00 PM	19 8 AM LV. RES. 9 AM QUANTICO BRFG. 11:42 AM AR. OFFICE DEP. 6:55 PM	20 7:45 AM DENTIST 9:08 AM AR. OFFICE 4:00 PM LV. OFFICE 4:30 PM MAC TO HOT SPRINGS, VA. 7 PM SPEECH - BUSINESS COUNCIL RON	21 9:15 AM MAC TO WDC 10:15 AM AR. ANDREWS 11:50 AM LV. RES. 12:40 PM A - TO N/L RON CONN
22 CONN.	23 CONN.	24 8 AM LV. RES. 9:15 AM MAC TO TAMPA 1:45 PM TAMPA F.O. VISIT 4 PM MAC TO MIAMI RON	25 10:30 AM MIAMI F.O. VISIT 1 PM MAC TO JACKSONVILLE 2:30 PM JACKSONVILLE F.O. VISIT 4:50 PM MAC TO WDC 6:35 PM AR. ANDREWS	26 AR. 7:35 AM 9:20 AM LV. OFFICE 9:50 AM MAC TO NYC 11:45 AM SPEECH - ROTARY CLUB 3 PM MAC TO WDC 4:15 PM AR. ANDREWS DEP. 6:40 PM	27 AR. 7:31 AM DEP. 6:40 PM	28 WASHINGTON, D.C.
29 10:30 AM SPEECH - FBI COMMUNION BREAKFAST	30 7:30 AM LV. RES. 8 AM MAC TO RICHMOND 9 AM RICHMOND F.O. VISIT 11:30 AM MAC TO BALTIMORE 12:25 PM BALTIMORE F.O. VISIT 3 PM MAC TO SAN JUAN, 7:20 PM AR. SAN JUAN, P.R. RON	31 1:30 PM SAN JUAN F.O. VISIT 4 PM MAC TO WDC 7:10 PM AR. ANDREWS				

1972

NOVEMBER

1972

SUN	MON	TUE	WED	THU	FRI	SAT
			1 AR. 8:00 AM DEP. 6:40 PM	2 AR. 8:00 AM DEP. 6:40 PM	3 AR. 8:00 AM 10:15 AM LV. OFFICE 10:45 AM MAC TO NYC 12:30 PM LUNCHEON-MTG. 3:10 PM LV. NYC VIA TRAIN 5:53 PM AR. N/L RON	4 CONN.
5 CONN. 4:56 PM AL TO WDC	6 AR. 7:55 AM DEP. 6:40 PM	7 AR. 7:32 AM DEP. 6:40 PM	8 7:45 AM DENTIST 9:05 AM AR. OFFICE 3:15 PM LV. OFFICE 3:50 PM MAC TO NEW ORLEANS 8 PM DINNER & RECPT. RON	9 8:30 AM SPEECH - EX-AGENTS SOCIETY 10:59 AM MAC TO HARTFORD 5:30 PM PRESS CONF. 6:00 PM RECPT. & SPEECH - 100 CLUB 10 PM POA TO RES. RON	10 CONN.	11 CONN.
12 CONN.	13 CONN. 8:50 PM AL TO WDC	14 7:45 AM DENTIST 9:05 AM AR. OFFICE 11:50 AM LV. OFFICE 12:20 PM MAC TO ST. LOUIS 1:40 PM ST. LOUIS F.O. VISIT 6 PM RECPT. & SPEECH - BACKSTOPPERS 10:43 PM MAC TO WDC 1:20 AM AR. ANDREWS	15 8:45 AM LV. RES. 10 AM SPEECH, QUANTICO DEP. 6:40 PM	16 AR. 7:33 AM DEP. 6:55 PM	17 AR. 7:45 AM DEP. 5:50 PM 6:30 PM RECPT. & SPEECH - GWU	18 AM POA TO CONN. RON
19 CONN. 3:30 PM HOSPITALIZED AT LAWRENCE & MEMORIAL HOSPITALS	20 HOSPITALIZED	21 HOSPITALIZED	22 HOSPITALIZED	23 HOSPITALIZED	24 HOSPITALIZED	25 HOSPITALIZED
26 SURGERY	27 HOSPITALIZED	28 HOSPITALIZED	29 HOSPITALIZED	30 HOSPITALIZED		

1972

DECEMBER

1972

SUN	MON	TUE	WED	THU	FRI	SAT
					1 HOSPITALIZED	2 HOSPITALIZED
3 RELEASED FROM HOSPITAL	4 RESIDENCE - STONINGTON, CONN.	5 RESIDENCE - STONINGTON, CONN.	6 RESIDENCE - STONINGTON, CONN.	7 RESIDENCE - STONINGTON, CONN.	8 RESIDENCE - STONINGTON, CONN.	9 CONN.
10 CONN.	11 4:56 PM AL TO WDC	12 KEY BISCAVNE, FLORIDA	13 KEY BISCAVNE, FLORIDA	14 KEY BISCAVNE, FLORIDA	15 KEY BISCAVNE, FLORIDA	16 FLORIDA
17 FLORIDA	18 KEY BISCAVNE, FLORIDA	19 KEY BISCAVNE, FLORIDA	20 KEY BISCAVNE, FLORIDA	21 KEY BISCAVNE, FLORIDA	22 POA TO CONN.	23 CONN.
24/31 CONN.	25 RESIDENCE - STONINGTON, CONN.	26 RESIDENCE - STONINGTON, CONN.	27 RESIDENCE - STONINGTON, CONN.	28 RESIDENCE - STONINGTON, CONN.	29 RESIDENCE - STONINGTON, CONN.	30 CONN.

1973

JANUARY

1973

SUN	MON	TUE	WED	THU	FRI	SAT
	1 11:30 AM LV. CONN. VIA POA 5:50 PM AR. WDC	2 AR. 7:55 AM DEP. 6:40 PM	3 AR. 7:55 AM DEP. 6:35 PM	4 AR. 7:55 AM DEP. 6:35 PM	5 AR. 7:55 AM DEP. 5:45 PM 7:45 PM DINNER CLARKSVILLE, MD.	6 WASHINGTON, D.C.
7 WASHINGTON, D.C.	8 AR. 7:40 AM NOON SAINTS & SINNERS LUNCHEON DEP. 6:25 PM	9 AR. 8:00 AM DEP. 5:15 PM 7:30 PM WASHINGTON PRESS CLUB DINNER	10 AR. 7:55 AM DEP. 6:30 PM	11 AR. 8:00 AM DEP. 6:15 PM	12 AR. 8:00 AM DEP. 5:45 PM 7:15 PM AL TO CONN.	13 CONN.
14 CONN.	15 AL TO WDC 1:00 PM AR. OFFICE DEP. 6:00 PM	16 8:00 AM LV. RES. 9:00 AM QUANTICO BRFG. 2:05 PM AR. OFFICE DEP. 6:25 PM	17 AR. 7:55 AM DEP. 6:25 PM	18 AR. 7:55 AM DEP. 6:15 PM	19 AR. 8:00 AM DEP. 5:20 PM	20 AR. 9:10 AM DEP. 5:15 PM
21 WASHINGTON, D.C.	22 8:00 AM LV. RES. 9:00 AM QUANTICO BRFG. 11:30 AM AR. OFFICE DEP. 6:00 PM	23 AR. 8:00 AM DEP. 6:10 PM	24 AR. 7:55 AM 12:45 PM SPEECH - NAVAL SHIP COMMAND DEP. 6:48 PM	25 HOLIDAY 10:15 AM SPEECH - CONF. ON CRIMINAL JUSTICE 3:00 PM OMB	26 AR. 7:35 AM 10:05 AM MAC TO BANGOR NOON MAINE BAR ASSN. SPEECH 3:30 PM MAC TO N/L RON	27 CONN.
28 CONN.	29 AL TO WDC 2:15 PM AR. OFFICE DEP. 6:15 PM	30 8:00 AM LV. RES. 9:00 AM QUANTICO BRFG. 11:00 AM AR. OFFICE DEP. 6:05 PM 9:00 PM-12:30 AM ON STREETS W/WFO	31 AR. 7:32 AM DEP. 6:00 PM			

1973

FEBRUARY

1973

SUN	MON	TUE	WED	THU	FRI	SAT
				1 5:50 AM LV. RES. 6:45 AM USNA SPEECH ANNAPOLIS 8:35 AM AR. OFFICE DEP. 6:30 PM	2 AR. 7:40 AM DEP. 2:02 PM 3:00 PM AL TO PROV. RON CONN.	3 CONN.
4 CONN.	5 AL TO WDC 1:00 PM AR. OFFICE DEP. 6:10 PM	6 AR. 8:00 AM 12:30 PM HELMS LUNCHEON 2:30 PM SENATE YOUTH PRGM. DELEGATES DEP. 6:00 PM	7 AR. 8:00 AM DEP. 6:20 PM 7:00 PM CONG. NIGHT DINNER, SOCIETY OF FORMER AGENTS	8 AR. 7:28 AM DEP. 6:15 PM	9 AR. 8:00 AM DEP. 2:15 PM 3:00 PM AL TO PROV. RON CONN.	10 CONN.
11 CONN.	12 AL TO WDC 1:00 PM AR. OFFICE DEP. 6:15 PM	13 8:00 AM LV. RES. 9:00 AM QUANTICO BRFG. NOON AR. OFFICE DEP. 6:15 PM	14 AR. 7:30 AM 12:15 PM SPEECH - WAR COLLEGE WOMEN'S CLUB DEP. 6:15 PM	15 9 AM LV. RES. 9:30 AM MAC TO COLLEGE STATION TEXAS NOON SPEECH - TEXAS A & M 2:45 PM MAC TO WDC 6:15 PM AR. ANDREWS	16 AR. 7:30 AM 10:30 AM MAC TO MILWAUKEE NOON SPEECH - WISCONSIN STATE BAR 3:20 PM MAC TO WDC 5:50 PM AR. ANDREWS	17 9:00 AM AL TO CONN.
18 CONN.	19 HOLIDAY CONN. 4:56 PM AL TO WDC	20 AR. 8:00 AM DEP. 6:40 PM	21 AR. 8:00 AM DEP. 6:44 PM	22 8:45 AM LV. RES. 9:15 AM MAC TO BOSTON 1:05 PM MAC TO WDC 2:05 PM AR. ANDREWS 2:35 PM AR. OFFICE DEP. 6:00 PM	23 AR. 7:15 AM DEP. 12:20 PM 12:59 PM EA TO MIAMI	24 FLORIDA
25 FLORIDA	26 12 NOON LV. MIAMI VIA NA 2:55 PM AR. OFFICE	27	28			

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 03-10-2009

Greenberg/Gray-3434

File

7/6/77 B. H. Sullivan
11-12:15 PM thru to lunch.

I. Hijackers - present

II. Rebuild the organization

(a) Select your most talented young men.
Problem is to identify them.

Age 35 to 45.

(b) Major weaknesses are here at FBI Hq -
Need stronger persons.

COMPUTERIZE PERSONNEL QUALIFICATIONS, possible or not, so
as to identify eligibles

III. Selections are based on power groups & cliques -

IV. Selection Board should representation from Field.

V. SAC's can contribute heavily

VI. Discipline - a sore, sore issue in this org. for years.
Disciplinary Board?

(a) Firm, national discipline - not that which
has been in effect in the FBI.

(b) Agents would welcome it; it is the discipline
of the workers - not that of management - it
is that of the Peer Group.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

6076 WAH/AB
CLASS. & EXT. BY 9/10/79
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 7/6/93
para marked others u

~~SECRET~~

~~SECRET~~

(C) This is not a review board.

(d) Final decision is in the hands of the Director -

VII Agree with my position on no disciplinary transfers.

VIII I think you are well on the way to doing a great job.

IX There is very good talent to do ~~the black box job~~

(S) Recurrent [redacted] b1

[redacted] b6 (U)
b7C

Supervisor at WFO
Put him in charge.

X Lab. I'd look for a new head of the Lab.
Lacks imagination, vision & leadership
Too cautious -
Mr. Bill Baker of FIAB ^{superior} far behind the times.
There are able men in the Lab
But they are technicians
U need some new, young scientists
This is what we need.
We really need scientists

XI Lab is reluctant to work with CIA - we must pool our best lab brains in interest of nation.

XII Thanks to Gen Haig I have a grant \$ 4.5 M to do

(S)

[Redacted]

b1

(a) Do not divert any of these funds.

(b) Also they have the real technical know how to know how to do this?

WHO IS WORKING ON THIS?

(c) Are they working on this with CIA.

XIII Programs in D I I. Illegal Operations

what are our accomplishments

What are our failures? The illegal field

Our record in field of counterespionage is not good.

Each of those we have captured or have done by accident.

XIV There is serious evidence that our WFO is penetrated.

(U)

[Redacted]

is a doubtful fellow. He just walked in & made an offer to help us & told us we had been infiltrated. (S)

b6
b7C

XV

(S)

[Redacted]

(S)

[Redacted]

men concerned [Redacted] is planted.

b1

(S)

[Redacted]

are concerned " " " (S)

b6
b7C

XVI I have talked to [Redacted] - [Redacted] complaints that we are not giving [Redacted] quality info & was giving our agents fits. - (S)

(U)

b6
b7C

~~SECRET~~

XVII Cover a certain phone booth at 7. & you will find a man who is giving ~~Soviet~~ info. He was [redacted] an Agent in WFO. We quizzed him heavily & he denied everything. A few yrs. later we learned an Agent from WFO went to ~~Soviet~~ & offered to sell military secrets (S)

b6
b7C

XVIII We struck off an Agent & had him offer himself to ~~Soviet~~; we ran him against the ~~Soviet~~ - ~~Soviet~~ finally got from him his real name - that killed the operation. (S)

XIX Do you think NYFO is too big and should be broken up? It should be studied.
Break it up? Criminal Branch
Security Branch.

XX I rec. Swidung (I) into two Divisions
Intelligence - Espionage
Security Division
Break up into: Security Division.
Intelligence Division.
[redacted] is a very talented guy.

b6
b7C

XXI Legat Offices - where should they be? In Admin. Div. or in (I)?

~~SECRET~~

~~SECRET~~

XXII

I believe many of these offices are a waste of time.

Mex. London Canada Paris Hong Kong
Tokyo

They are too many, far too many. Set up because
WH putting on pressure for quality intelligence.

Director Hoover sold to President Nixon this concept.

HOW VALUABLE IS THE INTELLIGENCE WE HAVE BEEN GATHERING
GOSSIP - OPINION - PLANTED INFO - OCCASIONALLY
A TINY BIT OF SOME VALUE.

HAVE WE COORDINATED WITH CIA?

Greenberg/Gray-3438

~~SECRET~~

~~SECRET~~

UNITED STATES GOVERNMENT

Memorandum

TO : L. Patrick Gray III
Acting Director

FROM : *DMA* Daniel M. Armstrong III

SUBJECT:

DATE: June 2, 1972

Felt _____
Mohr _____
Rosen _____
Bates _____
Bishop _____
Callahan _____
Campbell _____
Casper _____
Cleveland _____
Conrad _____
Dalbey _____
Miller, W.S. _____
Ponder _____
Soyars _____
Wakart _____
Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ms. Herwig _____
Mrs. Neenan _____

This memorandum discusses those papers presented at the Princeton Conference which pertain to the domestic intelligence activities of the Bureau. The recommendations of the Conference on this subject are set forth at the end.

Although I have referred to some statements of Mr. Rehnquist in connection with the hearings before Senator Ervin's subcommittee which are responsive to fundamental questions concerning the constitutional authority of governmental intelligence collection practices, which would include the Bureau's domestic intelligence program, this memorandum focuses on what was said at Princeton.

I am advised that Mr. Miller has sent over to you a book on the files which were the subject of Jack Anderson's recent columns. The justification reportedly set forth in those materials for investigating the individuals mentioned by Jack Anderson should also be helpful in responding to the Princeton discussions. I have asked to see this book when you have completed your use of it in connection with your earlier request to me to consider the statutory authority for the internal security investigation and file maintenance programs.

The impending Supreme Court decisions in the national security wiretapping cases, and possibly in the case involving Army spying on civilians, will hopefully resolve some of the troublesome questions on the issues of the government's authority to protect internal security and permissible means for carrying out that responsibility.

Enclosure

DMA:nm
nm

Greenberg/Gray-3439

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAA/AB

~~CONFIDENTIAL~~

In ADEX, however, it became apparent that we should list in ADEX only those individuals whose actions and conduct show that they represent an immediate threat to the national security, as opposed to those who represent merely a potential threat to the national security. (U)

Approval of this concept by the Acting Director resulted in ADEX listings to be reduced from 13,000 to slightly more than 3,000 names. Thus, ADEX today represents a hard core of individuals who are dedicated to the overthrow or destruction of the U. S. Government. (U)

- 3 -

Greenberg/Gray-3440

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

March 12, 1973

INDEXES MAINTAINED IN
INTELLIGENCE DIVISION

The following is a list of indexes maintained in the Intelligence Division in connection with the operations and work of that Division:

1. Administrative Index - This is a listing of slightly more than 3,000 names of individuals who represent a hard core threat to the national security and who by their actions and conduct exhibited that they are dedicated to the overthrow or destruction of the U. S. Government. (U)

2. Security Index - While abolished as an active index, Division V stores the old index cards and uses them for reference purposes only. Security Index was an integral part of the Emergency Detention Program and was abolished when the Emergency Detention Act of 1950 was repealed in September, 1971. (U)

3. Electronic Surveillance Index - This is an index of past and present electronic surveillances for national security purposes. The index includes both telephone and microphone surveillances. It dates back to the early 1940's. It is filed alphabetically by field offices. Each card (or set of cards) is a complete record of requests, authorizations, reauthorizations, installation, and discontinuance of electronic surveillances in national security cases. (U)

4. Index of active and discontinued mail covers. (U)

5. Index of Extremist Informants. (U)

6. Index of National Security Informants (besides Extremist Informants). (U)

7. Automatic Data Processing (ADP) listing of all Al Fatah and suspected Al Fatah members in the United States, [redacted]

b1

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 03-10-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

6076 ZDAH/AB
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2 2, 3
DATE OF REVIEW 3/12/93

Greenberg/Gray-3441

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

b1

(C) 8. Special Indices on [redacted] Universities and Graduate Schools - This lists identity of ethnic [redacted] who have attended school on the mainland of [redacted] (C)

(U) 9. ADP listing of all communist bloc officials stationed in the United States. The index includes the ~~Soviet, Soviet-bloc, and Cuba;~~ and ~~Chinese~~ are now being programmed in. The data includes basic background and specifics if the individual is a known or suspected intelligence officer and breaks down as to ~~KGB, GRU,~~ etc. (C)

240811-92

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

March 12, 1973

DISSEMINATION OF INFORMATION
TO THE WHITE HOUSE REGARDING
VETERANS AGAINST THE WAR IN
VIETNAM (VVAW), MAY, 1972

In the testimony of Professor John T. Elliff before the Senate Judiciary Committee on March 8, 1973, Elliff testified beginning on page 627 that Robert Lee Houston (according to an article by Walter Pincus in the New Republic, February 24, 1973) stated that he got information from the Federal Bureau (of Investigation) among other police forces. Elliff said that his (Houston's ?) attorney submitted for trial records (Watergate trial ?) several (memos ?) dated in May, 1972, shortly after Mr. Gray took over the FBI. He described a confidential memo dated May 30, 1972, on the Vietnam Veterans Against the War which began in the traditional form. (U)

Elliff said that the specific memorandum (dated May 30, 1972 ?) had apparently no relationship to the security of the Nixon campaign. It discussed instead the tie of the McGovern campaign to the JAW (VVAW ?) and had no relationship to any specific danger to the Nixon campaign. (U)

Mr. Gray has referred to Elliff's testimony and inquired "Is Pincus right? Did we furnish the info? Could this have been intelligence re the convention that is being mentioned?" (U)

1) Pincus is probably at least partly right with respect to the memo described as a May 30, 1972, memo regarding the VVAW and McGovern's tie to the VVAW. (U)

By teletype (copy attached) the Los Angeles Office advised May 26, 1972, that a confidential source had advised that an unidentified representative from McGovern for President Committee was present at a regular meeting of VVAW, May 25, 1972. At this meeting the McGovern representative stated a station wagon would be leased by the McGovern Committee and furnished to VVAW for purpose of barnstorming college campuses between Los Angeles and San Francisco between May 30, 1972, and June 2, 1972. (U)

6076 ZUD A/DB
9/10/72
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 3/12/93

Greenberg/Gray-3443

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(U) On receipt of this information, a memo was prepared (copy attached) with a letter to Mr. Haldeman at the White House and the Acting Attorney General (copy attached) setting forth the information along with an appropriate characterization of the VVAW having engaged in acts of civil disobedience and stating intent to engage in civil disobedience during the coming political conventions in Florida. (U)

Our records reveal that a copy of the incoming teletype was disseminated to the Internal Security Division of the Department of Justice. (U)

Pincus's article (copy attached) correctly quoted from the letter to Haldeman and the Acting Attorney General. It was dated May 31, 1972, however, not May 30, 1972. (U)

The information was furnished to Haldeman as a part of the intelligence being furnished to the White House and Department concerning both political conventions in Miami. In this connection VVAW was involved in plots to engage in violence during the convention and prosecutive action was taken in this regard. (U)

With specific reference to dissemination of intelligence and security data to the White House, Mr. Dalbey, at Mr. Gray's request, prepared an informal memo dated July 24, 1972 (copy attached), which justifies dissemination of intelligence and security information to the White House, as opposed to criminal data. It would appear that based on Mr. Dalbey's memo, the May 31, 1972, memo was clearly the type of information which should be disseminated to the White House. (U)

Enclosures

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

b6
b7C

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

- 1 - Mr. A. Rosen
- 1 - Mr. T. E. Bishop
- 1 - Mr. D. W. Bowers

Mr. E. S. Miller

5/31/72

105

R. L. Shackelford

- 1 - Mr. E. S. Miller
- 1 - Mr. T. J. Smith
- 1 - Mr. R. L. Shackelford
- 1 - Mr. R. L. Pence

VIETNAM VETERANS AGAINST THE WAR (VVAW)
INTERNAL SECURITY - REVOLUTIONARY ACTIVITIES

WVAW
LA
11:35

PURPOSE:

To recommend attached letters be sent to Honorable H. R. Haldeman at The White House and Acting Attorney General advising that McGovern for President Committee is in contact with militant Vietnam Veterans Against the War (VVAW) and furnishing vehicle to VVAW for antiwar campaigning in California. (U)

BACKGROUND:

VVAW is major antiwar organization in U. S. today and has adopted ever-increasing militant approach to demonstrations. VVAW has recently advocated civil disobedience and has engaged in seizures and blockades of major buildings and national monuments, including Statue of Liberty, New York City; Eatsy Ross House, Philadelphia; Lincoln Memorial, Washington, D. C.; and Lyndon B. Johnson Library, Austin. VVAW members have expressed definite intention to engage in disruption during forthcoming political conventions. (U)

Los Angeles informant has advised that an unidentified representative from McGovern for President Committee, which supports the campaign of Senator George McGovern (D, South Dakota) for President in 1972 election, attended a regular meeting of VVAW in Los Angeles on 5/25/72. At this meeting the McGovern representative stated that a station wagon would be leased by the McGovern Committee and furnished to VVAW for the purpose of "barnstorming" college campuses between Los Angeles and San Francisco during period 5/30 - 6/3/72 to voice opposition to Vietnam war. Informant identified three VVAW members from Los Angeles who will participate as [redacted] in addition, an unidentified VVAW member from San Diego to accompany these individuals. (U)

Enclosures

100-448092

CONTINUED - OVER

RLP:tlp
(8)

6076 WVAH/DB
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/31/92

Greenberg/Gray-3445

2A0811-20
~~CONFIDENTIAL~~

5. Grave Admin. problems in taking it over
Would have to 1st clean out the dead-
wood.

6. Nat'l. Police Force would be a charge levelled.

7. (BND) is too small in size to do the job.
They spend a lot of money.
Very close with B's

8. Code words - A to indicate we not sole source
B " classification.

9. I don't want FBI to publish & claim sole
source.

10. Many reasons for submitting reports;
isolate at the field level.

11. We have investigated (BND) users

12. (BND) Agent em. Chi. misused \$10,000

13. (BND) org. is just at a diff. level.

9:48 am Frank Waikeat

CR - SEC FILES - APPLICANT

SECRET FILES

POLITICAL DOSSIERS

Greenberg/Gray-3446

08118081-08

Who decides what is to go in file?

The Agent receives info & sends in to FBI.

The Supervisor reviews & he is not going to exclude.

Access to Files

Files requested INO Supervision
Cover Service.

Name checks are a big reason
for file.

WE file a good many clippings & reports
generated by SA's on case. Pertinent to
a case.

DWIGHT DALBY

Imposes, for any law enforcement
Agency to enforce all laws.

Discretion - does this appear to
be pertinent to FBI juris.

Investigative Files

77 File	General File
91 File	Bank Robbery
76 File	Auto Theft

Main File

Cross Reference

WE have a Correlative Unit to prepare
a Summary

2077

Abstract on everything I write
under cover names as an
official of FBI.

Ed Miller

Anderson's activities in Dr. Jackson's

quote.



BPP

Opened case on [redacted]

b6 at request of Dept to
b7C defen. of her speeches
were in viol. of sedition
statute

Bill Cleveland - We are required to search
newspaper clippings for Judge's
(originated by lawsuit cases)

Ed Miller -

WMA Rock Hudson File
We don't have a main case file on him
Info comes via news
Gratuitous or Solicited
If a man is a homo, he is a potential
security risk.

Cal Rosen - WH entertains a # of people & they
had an opinion which dictates a name check.

Dissemination of Info - Rumor or Gossip
are not disseminated

Warren Commission forced us to disseminate.

85-118042

Ed Miller

Al Rosen - One other theory in judging
"to use" in high places is that they are
subject to operations

Dissemination & Distribution

T&B - Anderson's info based on info that
is not investigative report.

We disseminate to W.H.
S.S.
Depts.

ACR - Very low security at present

JAM - Reports getting into court cases.
Janek's Net

Recommend that a hard line be
taken on

JAM - Most potent thing you could do
is to get an Official Secrets Act.

Ed M. - Theft of Govt. prop - case. b6
b7C

- 9:53 AM - CIR Rao at present time.

Bill Soyars - dissemination occurs in field too.

10:21 AM - Begin

M

How Cut JOKES
WITHOUT HARMING FBI

MAC ARMSTRONG

Envi Oer.

62-118042

Greenberg/Gray-3451

Jurisdiction Dwight Dalbey

One of Western man's great problems is to protect himself with a police force yet not develop a force impacting adversely on his liberties:

Keep FBI as small as possible. Its major job of - land emp.

Every advantage in being small & hard hitting:

Then as we began to do a good job we began to get more jurisdiction.

I want to get rid of the jurisdiction that is not producing a profit for the Nation.

FDI does not produce a profit, but this is a function we have to keep

Keep what we must keep in the national interest & cut down on it's jurisdiction.

Need views of operating divisions in preparation of legislation & in commenting

Collato's 1. Do we want to give up jurisdiction
2. Effect: to get change in Congr. is too much & not worth the candle.

3. We have been ^{the} being a gambler have no investigative staff

Buckwalter

Al Loren Many of small items can be given

P.L.

Here is an organization
trying to cut back on
Juris.

C.P.A.s General Public doesn't
understand our Juris

Judges & et & Reports

JPM You would eliminate too many people
on the Hill & would eliminate those
whom we serve,

Statistic Producing Offices - We are
said to be too interested in them.

(DD) The more you proliferate the more
you invite criticism

Your ideal position is to be small
& hard hitting.

JPM - CAC

Joe P - Oppose entry into Nonester -

Willie C - Atomic Energy cases cut back
drastically

Manhours - on Civil Rights & Org. Crime cases

(DD) - FBI TV program has become
the most popular - No case
have on regulatory bodies -

AM
PAR
ASSN
CTEC

You might call together a group
to look into companies -

JT CONGR. CTEC ON ATOMIC ENERGY

Book Writers

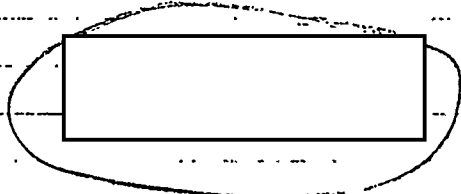
↳ Can you give this Cite. all the info.

Why not separate out the ones you want of U give to Ben at all.

(DD) Is the C. Law friends of FBI overextended

(DD) WE have to gamble

- A. Either by Action
- B. " by Inaction



Call him

Ed. Mella - Comm. Stress. is inevitable

DDK - Say U are in a Fact Finding Period.

Ed M. - Mr. Hoover's death did not bring this on.

7 AM Don't go anywhere
for guidance

11^{AM} National Police Force (Cops
London)

Supervisor in charge

GNO gave us a very good rpt.
They send out their inspections

Work Folder in ex. Dir at NIPF
7 in the field.

11^{30 AM} Gen. Carpan Police Training

How many police officers are
restricted now

Quantum... IACP

12:47P Nick Callahan

We have filed
guides for our
elements on our
field of

Surplus in
SRs not to
be cleared

Soke steps for all training

Merging recruitment with EEO program

↳ To mesh closely with Ofc of EEO Affairs

3200
applications
for SR position

We do have violations; contact with leaders

STANDARDS

PUNISHMENT

PUBLICATION

CFB - meet with Negro police officers

Black police groups in major metropolitan areas.

1/2 day major cities

3 or 4 negro assents. Com. St. L. P. D.

Nat'l. Bar Assn.

Every member of Exec. Conf. would like to see more blacks. (Black Walters)

We need Chinese candidates.

Ed M. - Can we tell him that if you recruit him

We contact all returning services.

Walt - Prospects are real there.

1st P Discipline Neck Callahan

No chewing out. "Exact standards"

J.P. - No disciplinary action w/o chance to explain matter. Ev. Emp. made best effort report but going into file.

Disciplinary fines - Doffense, unless it is in a situation.

Test B - Tuff discipline,
Public expects it.

Joe Lopez - I talk to clerks & agents re.
Standard of Perfection

Ed M - Descy. Tris for

Wick C - Descy. Bd.
Uniformity

J. An - Are you opposed to polygraph
Personally, No!

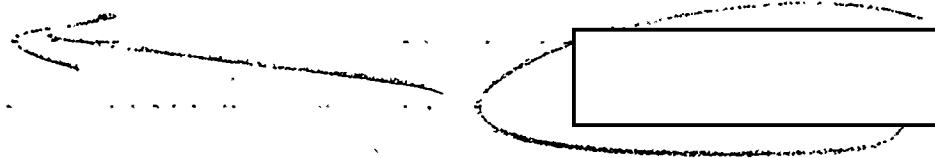
ACR - I think the polygraph could be
constructed as Spress.
Material to be shipped to North Africa
Not up to spec.
Used dictaphone in a prison &
He was told it was a poly.
He admitted he was lying.

(DD) 75% accurate

1:48 PM Grooming & Personal Appearance
Standards

Mon CW WMF; Deck B; Joe P; Buck W.
10/2/72
4:12 PM to 5:32 PM

① WFO or IDENT



② #1 + #2 Ident
↳ Personal
Training
Orientation

IDENT
Personal

③ Ofc of Equal Employment Opportunity

④

Red WFO = instructions to #1110
on 10/2/72 to let
the out to be out

Greenberg/Gray-3460

The scope and basis of FBI domestic intelligence data collection was the subject of a paper presented at the Princeton Conference by John T. Elliff, an Assistant Professor of Politics at Brandeis University.

Mr. Hoover's account of the origins of a domestic intelligence program in the late 1930's posed two questions for Dr. Elliff. First, how was the scope of the FBI assignment initially understood? Second, what was considered the legal basis for the mission?

His answer to the first question is that President Roosevelt's concept of "subversion" focused primarily on the activity of foreign agents whereas Mr. Hoover's concept included the purely domestic advocacy of revolutionary doctrine. Dr. Elliff suggests that the fact that the Fifth Column, which was an initial subject of the continuing intelligence operation requested by the President, was perceived as including not only foreign agents but also American citizens whose political beliefs might lead them to serve the interests of opposing nations, facilitated Mr. Hoover's construction of President Roosevelt's orders as giving the FBI greater authority than actually intended by the President.

As to the legal basis for the open-ended intelligence work, Dr. Elliff finds little doubt that this mission of the FBI is based mainly on Executive authorization rather than any explicit Congressional mandate, with the possible exception of intelligence for protecting the President, which seems to be authorized by 28 U.S.C. §533(2). This conclusion is fortified by the

fact that President Roosevelt in a statement on September 6, 1939, authorized FBI intelligence on "subversive activities" which, according to Dr. Elliff, encompassed matters outside the sphere of specific criminal statutes within FBI jurisdiction. He finds it unfortunate that the public statement of September 6, 1939, was later magnified into a definitive order by the FBI in view of the failure, at the time the statement was issued, to alert the White House to the fact that the activity authorized by the statement could only be justified on a theory of inherent executive power which had not been formally articulated.

Dr. Elliff divides the intelligence gathering of the Bureau, described by him as by far its most important function, into parts -- (1) security intelligence and (2) racial intelligence.

He traces the security intelligence mission from its development in the mid-1930's, covering foreign agents and domestic Communist and Fascist movements whose revolutionary ideologies and potential allegiance to powerful foreign governments made them appear threats to national security, until the present when its responsibilities, according to the author, include monitoring the entire range of groups who express their dissatisfaction through protest demonstrations.

He discusses various analytical tools such as the wartime "danger cards," the Attorney General's list, the Security Index and the computer printouts of the Justice Department's Interdivisional Intelligence Unit, which

the Bureau has either compiled itself or aided the Justice Department in putting together. He finds that the intelligence reports have justified these analytical methods and vice-versa and points to a constant danger in intelligence work that information overload may create so much "noise" that truly vital data is not perceived.

The Bureau's racial intelligence program is described as having started in the 1940's and as focusing at first on racist and anti-civil rights groups committed to preventing persons from exercising their civil rights. The urban riots, black militancy, civil unrest and new forms of violent protest of the 1960's have extended this program to include not only racist and anti-civil rights groups but also militant extremists who may resort to violence and the general climate of racial tension in specific cities. It was this later dimension which led to the inauguration of the "racial informant (ghetto)" program in early 1968, which is described in detail in the Media documents. Dr. Elliff concludes that racial intelligence coverage now rivals the security mission in the demands placed on FBI resources.

Although he intimates that state and local governments may be better equipped than a federal agency to do the job, Dr. Elliff says that some form of domestic intelligence will be needed as long as there are those who believe their ends justify any means including violence.

He suggests that a select Senate Committee should inquire into the FBI's activities not so much to discover illegality, but rather to evaluate for

the first time the Bureau's overall mandate against the norms of the Constitution. If fault is to be found, he would place it in those who gave responsibility to the FBI but failed to give it direction and control. Dr. Elliff questions whether Mr. Hoover's successor can, without outside scrutiny, maintain the highly objective and politically neutral system for efficiently processing, filing and retrieving data gathered by the Bureau, which system he regards as one of Mr. Hoover's greatest achievements.

He also recommends that legislation should be enacted so as to make it unnecessary for domestic intelligence to be based upon assertions of inherent Executive Power.

Other recommendations are for serious consideration to be given to (1) the possibility of separating foreign counter-espionage duties from domestic intelligence; (2) the need for a regulation to be issued by the Attorney General that would specify the circumstances under which the Domestic Intelligence Division could prepare and distribute Letterhead Memoranda; (3) the creation of a permanent domestic intelligence advisory council; (4) the utility and effectiveness of the domestic intelligence analysis sections in the Justice Department's Internal Security Division which may duplicate tasks already performed by the FBI and other law enforcement agencies; (5) authorizing the FBI to make recommendations and draw conclusions instead of merely finding facts; (6) more frequent contact by the Bureau with interested scholars and community leaders and (7) the proper scope of domestic intelligence.

In regard to this last item, the author wonders whether (a) federal employee security requires continuing intelligence about subversive or extremist groups, beyond individual background investigations; (b) the Executive needs to know to what extent outside political pressures for or against government policy are inspired or influenced by subversives or extremists and (c) federal intelligence significantly improves the capability of state and local law enforcement to handle demonstrations, civil disorders and other forms of political violence.

A second paper at the Princeton Conference on the FBI and the Bill of Rights, presented by Yale Law School Professor Thomas I. Emerson, dealt at length with the domestic intelligence aspects of the Bureau.

Professor Emerson's thesis is that the operations of the FBI in the name of internal security have had an adverse chilling effect on the openness of American Society, particularly on the system for the free expression of ideas protected by the First Amendment.

These operations are described as consisting of the collection of intelligence on all matters that could conceivably be relevant to the Bureau's expansive concept of "national security" which collection is unrelated to investigations of specific violations of statutes within its jurisdiction.

When the Bureau does concern itself with enforcement of these statutes, it is said to collect information relevant not only to violations that have occurred or are about to occur but also to violations which might occur

in the future. (Mr. Rehnquist's testimony before Senator Ervin's Subcommittee in March, 1971, does not make it clear that the Administration conceives its constitutional responsibility for the execution of the law to extend not merely to the prosecution of crime but to the prevention of it. In a separate speech which was made part of the record of the hearings of the Ervin Subcommittee, Mr. Rehnquist did indicate that "preventive" investigation should not extend beyond... investigative activity "reasonably related to the prevention of crime.") Professor Emerson concludes that the preventive approach to law enforcement leads to unlimited expansion of data collection.

Although he does not expressly call for limiting Bureau investigations tied to specific criminal statutes to investigations of violations that have occurred or are about to occur, Professor Emerson does urge that the FBI's general intelligence gathering, which is not tied to specific laws over which it has been given jurisdiction, should be stopped. He says, without documentation, the present excursions beyond the area of strict law enforcement were undertaken as a result of the Bureau's seizing upon oral statements of the President and stretching its statutory authority beyond recognition and by sheer usurpation.

Professor Emerson adds that this proposal, if accepted, would still give the Bureau room for activity that threatens individual rights because the present statutes in the area of national security and the loyalty programs of

the federal government are couched in sweeping language and embrace broad areas of conduct, including areas where political activity is taking place. He refers to the laws concerning espionage, sabotage, sedition (Smith Act), the Internal Security Act of 1950, alien deportation, crossing state lines with intent to blow up buildings, participate in or encourage a riot, etc.

Under the main loyalty-security program, established by executive orders, no person may obtain or hold a federal job unless his employment is "clearly consistent with the interests of national security," and the Attorney General maintains a list of organizations that are "totalitarian, Fascist, Communist, or subversive." Another speaker at Princeton, Professor Countryman of Harvard, whose topic was "history of the FBI," stated that the loyalty program has been expanded to cover the private employees of government contractors.

Professor Emerson's concern over the effect of intelligence activities on individual rights is accentuated by his findings as to the size of the Bureau (he refers to an estimate by the ACLU that 2000 agents are investigating political activities); its methods of investigation; its public relations campaigns; its political power; its influence on state and local police; its concentration of power in Mr. Hoover without external or internal checks; its ideology; its unrestricted scope of inquiry covering what is described as an extraordinarily broad spectrum with no criteria of relevancy; and its capacity for encouraging, or at least failing to prevent, leaks from its files.

He looks to the courts, in disposing of an increasing number of lawsuits brought by private citizens, to rely upon the First Amendment and developing doctrines of privacy to preclude the FBI (and presumably other intelligence gathering bodies) from

(1) Photographing peaceful demonstrators, recording license numbers of persons attending a meeting, ostentatious surveillance of a public gathering, or similar blanket collection of data on persons not engaged in criminal activities.

(2) Compiling dossiers of political intelligence upon persons who are not charged with or reasonably suspected of a specific violation of Federal law, or who are not candidates for Federal office.

(3) Making investigations or maintaining political surveillance of organizations or groups in the absence of a charge of, or reason to suspect, a violation of Federal law, or carrying such investigation beyond that necessary to dispose of the violation issue.

(4) Disclosing material from any dossier or otherwise except for specific law enforcement purposes.

(5) Conducting investigations or other activities in such a way as to constitute political harassment of the subject, not related to strict law enforcement functions.

(6) Engaging in political action or expression not directly related to the strict performance of its law enforcement functions.

With respect to possible limits on the use of informants, Professor Emerson, while professing uncertainty as to how the courts will respond to arguments based upon a right of privacy and rights under the First and Fourth Amendments, finds it reasonable to conclude that the Bureau will be permitted to use informers only in connection with specific violations of federal laws and not for the collection of general intelligence data or for information relevant only to the prevention of events that have not yet taken place.

Even where informants are permitted, Professor Emerson envisions that the day will come when a warrant will generally be required before the government can employ an informant and the government will be required to make a showing of "probably cause" and to describe particularly the area of the informer's operations and the kind of information he is to obtain.

In addition to calling for greater control over the Bureau by the President, the Attorney General and the Congress, Professor Emerson advocates the creation of a Board of Overseers who will have access to all Bureau records and activities and an Ombudsman who will have authority to receive and investigate citizen complaints, access to materials, power to obtain information necessary to his inquiries and authority to recommend remedial action.

(Senator Ervin appears to agree with Professor Emerson at least to the extent his attack upon the domestic intelligence program alleges a violation

of First Amendment rights. Mr. Rehnquist, on the other hand, argued before Senator Ervin's subcommittee that information gathering even where unauthorized, which is accompanied by no threat of compulsion and when no use has been made of the information in order to seek imposition of any legal sanction on a person, does not violate the First Amendment. He predicted the Supreme Court would not broaden previous interpretations of the First Amendment to include a prohibition or circumscription of the mere collection of information unaccompanied by either an attempt to compel disclosure or to impose criminal or other sanctions on the basis of the information obtained.)

The practices of the FBI with respect to the use of informants for political intelligence gathering, which practices were the subject of some of Professor Emerson's concerns and recommendations, were discussed in more detail by another participant at the Princeton Conference, Frank J. Donner.

Mr. Donner stated that the use of informers is by far the most intensive and wide-spread technique for collecting political information. He alleged that "a network of FBI political informers girdles the entire country." Bureau policy and practice with regard to these informers is said to be completely autonomous, which autonomy gives the Bureau and Mr. Hoover "such unique repressive powers."

Mr. Donner contends that the mission of American political intelligence is to perpetuate the "red menace" myth that the country is under a permanent threat of internal subversion, and he spends much of his time at Princeton in a bitter personal attack against Mr. Hoover.

His argument is that a surveillance system operates as a serious restraint on the freedom of an individual who suspects that his political activities are under surveillance, and he believes that this restraint is exactly what the Bureau hopes to achieve by engaging in its intelligence activities which are overwhelmingly directed against the political left.

He discusses in detail the procedures whereby informants are recruited by FBI agents with special attention being devoted to the utilization of students on college campuses to spy on their fellow students.

Quoting a Biblical verse that "the talebearer shall defile his own soul, and be hated by all," Mr. Donner goes on to say that it would be a psychological miracle if a reasonably normal person became an informer without suffering profound guilt feelings, which cause him to distort and fantasize the target's conduct. He suggests that only money could cause a person to degrade himself by becoming an informer.

He cites the example of David R. Sannes in Seattle, whose charges appeared in the Washington Post and New York Times on June 1, 1972, as an illustration of how the informer system invites abuse. Sannes has charged

that the FBI, with the complicity of the United States Attorney, instructed him to allow a bombing to occur and to see to it that the man who set the bomb died in a booby-trapped explosion.

Mr. Donner's final thought is that if the country continues to corrupt and bribe its youth, blacks, professors, students and others to betray friends and associates, it will become the kind of Judas society made familiar by totalitarianism.

Although each speaker was free to make individual recommendations, the proposals of the Princeton Conference are contained in the final chapter of the book Investigating The FBI to be published in the winter of 1972. The recommendations directly relevant to domestic intelligence are as follows:

(1) Counter-espionage and intelligence functions should be separated from routine criminal law enforcement duties since each requires widely different backgrounds and training.

(2) There should be further study of the FBI's activities in the loyalty-security area. What are the FBI's responsibilities here, what definitions and standards does it work under? How has the Bureau's activities contributed to a national paranoia about a growing Communist menace, on the one hand, and about a growing secret police, on the other?

(3) The following suggestions were intended to make the Bureau more responsive to democratic control: (a) Establish a Board of Overseers, composed of public and private persons, to review Bureau policy-making, guard

against threats to civil liberties, and keep the public informed; (b) appoint a Bureau Ombudsman to respond to claims of abuse or denial of rights by individual citizens; (c) limit the term of the Director of the FBI.

(4) The FBI's intelligence gathering powers should be defined in terms of the enforcement of the criminal law and investigation of its violation. This limitation should apply to accumulation of dossiers, infiltration of organizations by undercover agents, and electronic surveillance. In each case, the test should be constitutional standards under the Fourth Amendment.

(5) Generally, citizens should have a right to see and challenge all information collected about them, and there should be rational guidelines for purging outdated or misleading information in FBI files.

(6) Invasions of privacy accompanied by the use of undercover agents or electronic equipment should require court warrants based on affidavits showing probable cause that a crime has been or will be committed.

(7) Either the Bureau Director should be prohibited from propagating a political ideology in books and articles or, if this type of restraint is undesirable, the President should appoint, and the Senate confirm, a Director only if he is sensitive to the problems raised by such propagation.

(8) There should be established a blue-ribbon citizens' commission to examine thoroughly Bureau policy and activity, especially domestic and foreign intelligence. It should have access to all Bureau information and responsibility to develop recommendations for reform.

5/10/94

CW M.F. & E.M.

S
F

P
D.

① Gallagher - newspapers

G.F.

② Anderson columns re 5cc elec.

③ Mil. & Travel - legislation? - Cost?

④ Personnel involving key changes - WMT handled for JEN.

[Redacted]

in Butte: down in 3 out of 4 of his categories.

EXEC. CONF.

→ Statistical Categories

EXEC. CONF.

→ Weight Standards

b6
b7C

⑤ Mail -

⑥ Inspection of Field O's. + Inspection of SOG Div.

9:35
9-AM

Briefing by Mr. Muller

D. Conv. July 10-14

Will draw further power & info.

R. Conv. Aug 21-24

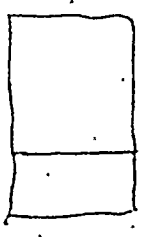
5/6 - Flu Peace Ac. Coalition met. Decided being hits will be rep. on platform etc, only 10,000 will appear, but have 50,000 at Reg Conv. (this their plan).

Miami is better positioned in all respects to handle convention - LEAA dollars in amt of 400,000 have been purged in.

Cubans end act as a deterrent. EMK is trying to woo Cubans. They are right wingers. We have excell. coverage in Cuban conv. Impress. at this point to measure rather convention in its degree of potential change.

L. [Redacted] has splintered off from R.P.P. & is forming two new groups. Activists must put this together in May or June

b6
b7C



Last Sept, we began pointing toward Rep. Comm.
We had 22 top informants in or designated to go to S.D.
(in Hq. of S.D.) Comm. Ctr.)

This Comm. Ctr. is to go to Miami.
We can't send 8% to Miami.
For D. Comm. we have lined up 47%.
We will have excell. live informant
coverage at the Comm.

WE have over 200
informants in the
Security field; 5
these 8% are top
on the Rep. Comm.

WE HAVE A LOT OF WORK TO DO IN THE FIELD TO GET TO

INFORMANT COVERAGE

WE HAVE MOVED OUR LAW ENFORCEMENT CONFERENCES
UP TO APRIL & MAY. THE NAME OF THE GAME IS REVOLUTION.
VN VETS ARE VERY ANTI GOVT AND TERRORISTIC
OUTWARDLY POLITICAL GROUPS SHELTERING TERRORISTS
& REVOLUTIONARIES.

1. S/S; AT & Aero Tot; INS; Customs; State.

2. Local Authority is Intell. Coordinator for the Comm. area.
(Dom. Intell. Div. furnishes input.) 95% of load is ours -
Intell. Eval. Ctr. of D.I. is under ISI
Two of our men assigned on loan.

3. Quickest way to tell this story is say I need 65 more.

①



Pres. of AA

Extortion Problem

Can we get news media not to respond.

He threatens to blow 6 a/c, 5 of ours + 1 of
another carrier.

~~CONFIDENTIAL~~

~~SECRET~~

5/11/72
9 to 10A

(W) WMF + E Miller

Greenberg/Gray-3477

WMF 1. Edne Holmes - Ofc mgr. - returning

WMF 2. SAC Moran

WMF 3 Budget.

WMF 4 Women

EM

5. ~~Esp~~ Espionage - have developed best source we have ever had.

(S) Discussed delivery of info to [redacted] b1

Decision is FBI's

(U)

(C)

(S) [redacted] meets LFG 5/17 at 10 AM b1

(S) [redacted] " [redacted] 5/16.

No dec. w/o approval of LFG; Thorough brief.

6. Convention coverage - we have it under control

Extremist demonstrations (JWD, TCT WMF)

We are flooding Dave Wilson with our info.

UPI machine installed in our ofc.

We give them info that is believable - The Facts

What is read in newspapers is not always believable.

We have squads in every city. ("Moss" - The Beard)

We were not sensitive to their problem; and as to their

need for news. Immed. after speech we sent out a teletype to SAC. Hold this in abeyance.

Miami Beach represents a prob to demonstrators; must cross causeways; have no logistic facilities in M.B.; ident. cards given to persons who enter MB; (Ed; check it out.)

LEAA gave MB grant of \$400,000. State run organization has been meeting regularly.

6076 WAH/LLB
9/10/72
CLASS. & EXT. BY 1-2-2/2-3
REASON-FCIM II, 1-2.4.2/2-3
DATE OF REVIEW 5/11/92
Para marked others U

~~SECRET~~

~~CONFIDENTIAL~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 03-10-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~CONFIDENTIAL~~

~~SECRET~~

7. N + S causeway into DXB.

WMT 8. Would it help to loosen up on payments to informants?
Informants are hard to int. work.
Tech. approaches " " "

CPG 9. I just believe we have young birds out there who would help.

WMT 10. Points out risks -

EM 11. Relying on live informants
Tech. cov. d.H. to come by due to today's world.
What does this mean?

We would have considerably more wiretaps, microphones,
mail covers. 29 wiretaps on now, 8 are in down
field

I could use	65	wiretaps	} in down field
	33	microphones	
	70	mail covers	

All could possibly be covention oriented

Greenberg/Gray-3478

~~SECRET~~

~~CONFIDENTIAL~~

WJG

Frankfort, Ky. June 15

The proposed amendment to the U.S. Const. guaranteeing equal rights to both sexes reached the halfway point in its progress toward ratification today when Ky. became the 19th state to approve it. A total of 38 states must ratify the amendment before it becomes part of the Constitution. Two states have rejected ratification.

Mon
6-19-72

6:36 AM TCT WMF from Palm Springs.

FBI Op connected me with WFD; turned. Finally told him to have WMF call me direct. He called just shortly after I left to go to Mass.

Mon
6-19-72

7:32 AM TCF RGK

Sometime today or possibly tomorrow R has going to want to talk to me... ~~is~~ Is there anyone there who can come to see me today this PM? Yes WMF.

Mon
6-19-72

7:35 AM TCT



b6
b7C

10:00 AM

9:00 AM Opening Ceremony

9:30 AM AG Younger

9:50 AM 10:00 AM LPG III

Break

b6
b7C

Mon
6-19-72

8:00 AM TCF WMF

We do not have too much this AM

I have a memo. to HRH & to AG.

Reads memo

LF
Why?

Approx. 12:30 AM 6/17/72. 5 arrested in office

320811

Had in their possession. Burglary tools, & car stopping, etc.

Opened panels.

All charged w/ burglary...

4 Held in lieu of \$50,000 bail.

Michael " " 30,000

Matters on them

Background:

Chk of E. Howard Hunt #6³⁰

Hunt employed by CIA to 4/70.

We conducted an invs. for W.H. in 1971

for a sensitive post some 9 mos. ago.

[redacted] advised FBI he rec'd a

Call at 3 AM from a person he refuses to

Identify. Chap 119, 18 USC 2511, 2512

Interception of Communications

FBI Invs. of

stat. is continuing

No. He not send.

What do you think of our conducting a sweep of

Demo Hqs for other services. Not yet; can hold for 24 or 48 hrs but it is a normal investigative technique.

On the front page here this AM.

A collateral piece on page 7 "Experts Keep Search on Bungled Capers at Demo Nat'l. Hqs."

Our Lab says this is sophisticated equipment

Recovered bullet from [redacted]; can make no positive ident. on this bullet - probably from

Viol y) C

Code

Interception and Disclosure

HE MAY BE A CONSULTANT AT W.H.

b6 b7C

WE IN SOLIDLY? ES II

Were interception & intercept of oral communications

b6 b7C

~~CONFIDENTIAL~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-10-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

EX-218

Ponder?

14:30 Wed 9/6/72

1. In 1966 missing any glasses? They will be at Portland
2. NITA mtg - training for crews
Bass - Inters. of Pres. to threat regarding
3. Los Angeles - inspectors are at Sacramento.
- send 1 to Los Angeles
- confront Gross with allegations
- take sworn statement from him
- no question that installation was prohibited by Burke
- tapes are Govt. prop.

4. Black September incident in Munich - we have a follow up on this

b1 (C) [redacted] said they had wife Al Fatah would try an attack on E. airport in 1975

b6 (U) [redacted] DI) wants to apply for tech. on working with terror

b7C [redacted]

(U) [redacted] We have this also from [redacted] [redacted] [redacted]

5. Pres. is appy. a Comm'n to look into State betters. & Off. Track Betting -
WH sent note to you to submit names of recently retired top FBI Officers & former agents who have experience in this field

Greenberg/Gray-3482

6076 WGH/DB
CLASS. & EXT. BY 9/10/79
REASON-FCIM II, 1-2.4.2, 2
DATE OF REVIEW 9/6/92
para marked others u

~~CONFIDENTIAL~~

6. Portland Oregonian article re U.R.

7. Jean Westwood told press some new wire in last wk. Trying to buy down 1/2 - she said she gave box to Edie. Present Wms - Edmo Genesis it; says he knows nothing of it.

8. We have 1 female applicant in next session of NA; a Capt. from N&C P1; have another from a police officer female - Detroit; a Sergeant from Detroit P1 - 1 PG - go from 1st tier - hold 2d until next class.

9. I have the brief of - no need to return

~~CONFIDENTIAL~~

35
O-A Portland Thursday 9-7-72 TCF: Henry Peterson

1. I've just been talking to RGK
2. USA says crime committed by terrorists. 5 to 7 people in Army uniforms. - 8 killed & 7 wounded
3. Hiding out in a bush stronghold in St Croix
4. CG has made available a helicopter & USMS has made available bullet proof vests
5. USA will rpt in to us daily. Gov. Evans has a very difficult problem.
6. Very dangerous
7. LPG - Any that given to us by troops, US Marines.
8. We think Local Constabulary guided by us people can do the job.
9. Our juris. auth. is pretty clear. Deprivation of rights.

People in a pluck resort on St. Croix (Rafael or Peter) who's killed.

Greenberg/Gray-3484

APR 11 - 72

~~CONFIDENTIAL~~

Spillover from the Watergate Misusing the FBI

by Walter Pincus

The Federal Bureau of Investigation passed along confidential information on antiwar groups and activities to the Committee to Re-elect the President during the past campaign, according to sworn testimony and exhibits presented at the recently completed trial of the five men caught bugging Democratic Party headquarters in the Watergate office building in Washington. A former assistant FBI director, who served under J. Edgar Hoover, termed the giving of bureau information directly to a political organization "improper" and something "unheard of" during the years that he was at the agency. Though it is possible the passing of information began before Hoover died last May, another former top Hoover aide, now retired, denies that it did. He added that proof of such a distribution of FBI material would be another sign of partisan politicizing of the bureau since the appointment of J. Patrick Gray III as acting director.

Gray's office spokesman, when specifically asked about giving information to the Nixon reelection committee, said "no comment." Three days earlier, when the question was first put, the spokesman—before checking—said he was almost certain no such activity had taken place.

The passing of information to the President's reelection organization is one more item to be looked into by the Senate Judiciary Committee if Gray—or any other political figure—is named to permanently succeed Hoover as FBI director. For the partisan political tilt of the FBI over the past nine months became predictable when the supposedly nonpartisan national police apparatus was turned over during a campaign year to an individual whose main claim to the job was his political links to the President. Those links became critical little more than a month later when the President's own staff and campaign organization were connected to the Watergate bugging and, later, to sabotage directed against Democratic candidates.

Gray's permanent appointment to be Hoover's successor, which once was promised for the day after Nixon's reelection, has yet to take place. The White House is not acknowledging any second thoughts, but the list of difficult questions that would be raised by a Gray appointment grows longer.

Giving information to the President's reelection committee. During the Watergate trial Robert Odle, who served as administration director for the reelection group, testified he hired James McCord, Jr., (one of

those convicted at the trial) to serve as the organization's security chief. McCord, who had worked for the FBI and CIA, was a part-time committee consultant in late 1971 and became full-time in January 1972. In describing McCord's function in preparing security measures for the committee's offices and speakers, Odle said McCord was "plugged in" to the FBI as well as the Secret Service. The "plugged in" to the bureau aspect was developed during McCord's brief defense. One of his former assistants on the Nixon committee, Robert Lee Houston, was asked to describe his duties under McCord's supervision. "Part of my instructions were to receive and record information from outside police sources," Houston testified. What sources he was asked? "The information I got came from the Federal Bureau, the Internal Security Division [of the Justice Department]" and various police forces. McCord's attorney then submitted for the trial record a handful of reports McCord filed with his superiors, including several dated in May 1972, shortly after Gray took over the FBI. The reports selected, apparently, from a hundred or more McCord wrote, focused on the potential for violence against Nixon headquarters facilities. But a "confidential" memo dated 30 May 1972 on the Vietnam Veterans Against the War began in traditional FBI summary form: "A confidential source of known reliability has advised this date that an unidentified representative of the McGovern for President Committee attended a meeting of VVAW recently and advised that the McGovern Committee is leasing a station wagon for the VVAW" to use for campaigning purposes. The memo also carried a short summary of the background of the VVAW—again the type of material found in an FBI summary. Houston, who still works for the reelection committee, would not comment further on his testimony. Another reelection committee official, who was in direct contact with the security operation during the campaign, confirmed that McCord regularly dealt with an FBI agent who gave the committee information on groups or individuals who at some point might pose a problem to the Nixon campaign organization.

It is not difficult to rationalize the reelection committee's relationship with the Secret Service—the McCord memos show that discussions took place on setting up identification systems for the Republican convention. As for Justice's Internal Security Division, it has acknowledged that information relating to the

Greenberg/Gray-3485

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WQH/RSB

convention, and the possibilities for violence there, was given to the Republicans and the Democrats as well. But there is no such reason or known precedent for the bureau to provide the Nixon committee with any confidential information.

The conduct of the Watergate investigation by the FBI. It has never been made clear exactly who ordered the FBI into the Watergate case and when. It was supposedly done at least two days after the Watergate break-in, when E. Howard Hunt's ties were disclosed publicly—ties to the White House (where he had an office and had been paid as a consultant) and to the Watergate wiretappers (Hunt's name and White House telephone were listed in two of their address books). But court testimony by one DC police officer identified FBI agents on the Watergate scene by 2 pm on June 17, the afternoon of the break-in, some 14 hours after police first captured the five burglars. According to a deposition (in another court action) of White House aide Charles Colson (who hired Hunt for the White House and was a personal friend), the President's top domestic adviser John Ehrlichman was looking for Hunt in connection with the Watergate episode "late in the afternoon" of June 17. Watergate trial testimony showed the FBI was looking for Hunt at his office June 19.

Despite this apparent fast start in getting into the inquiry there are signs the bureau's effort then slowed down considerably in some areas. G. Gordon Liddy (another of the convicted wiretappers) was not approached by the bureau until June 28. Hugh Sloan, Jr., treasurer of the President's reelection finance committee, was not interviewed until July 17, three days after he resigned his treasurer's position. Finally Tom Gregory, the college student recruited by Hunt to spy on Muskie and McGovern headquarters was not interviewed by the FBI until December 21 (three months after the Watergate indictments), at which time, according to Gregory, "I felt he [the FBI agent] didn't know very much of what he was asking about."

Gray kept the White House informed of Watergate case developments as they occurred. Gray's spokesman, however, has refused to disclose how this was handled. (Gray had precedent. When, during the Johnson administration, the FBI investigated Johnson's former Senate aide Robert G. Baker, a weekly summary was prepared for the White House by Herbert Miller, then assistant attorney general in charge of the criminal division. In turn the FBI gave daily summaries of its reports on Baker to Miller.)

There are indications that not only the White House but Gray himself was displeased with the amount of information that has leaked to the press from the FBI Watergate investigation. Four key FBI officials associated with the direction of the inquiry have since been transferred, either out of Washington or, in the case of one, to another agency entirely. There has been more than one press article, such as one in *Newsweek*, which

speculated that "Gray knows too much (or too little) about the Watergate investigation and the President is not about to let him face a bank of curious Democratic senators at a confirmation hearing until the Watergate scandal has been laid to rest permanently—and perhaps not even then."

Gray's political activities. The acting director has yet to be questioned publicly about his speechmaking two or three times a week during the presidential campaign. Though he sought to justify his appearances as routine travels to various local FBI headquarters, the surrogate campaigning that he in fact did suggests the political character of the man. One former FBI official has alleged that in at least two instances Gray was encouraged by memo to accept already outstanding invitations that fit into the pattern of surrogate speeches established by the White House. A Gray appointment would raise the question of another political use of the bureau—a request by White House aide Ehrlichman that was sent out to 14 FBI field offices for information to be used in presidential campaign speeches. Almost two months after the request was filled its existence became public. Gray, in a background interview with *The Washington Post*, placed the blame on Assistant Director Thomas Bishop, now retired. Bishop is said to have been given the White House request by Gray's personal aide David Kinley (Gray was in Butte, Montana giving a speech) and to have cleared it with W. Mark Felt, Gray's top operating official. No one other than Bishop seems to have been rebuked.

Gray's public relations. From the outset of his selection for the bureau job, Gray has built his political fences by adroit use of public relations. A flurry of well-advertised moves—women agents, approving modification of the strict Hoover dress code, setting up an equal employment section—got him headlines. His backgrounding of newsmen on transfers of agents and FBI officials, however, backfired within the bureau. And the flattering articles (which placed Hoover in a lesser light) that have appeared in *Parade* magazine, a 14 million-circulation Sunday supplement, went down badly with bureau old-timers who knew that the father of Gray's young aide David D. Kinley was the president of the company publishing *Parade*.

The delay in naming any permanent successor to Hoover is having a disturbing effect on the bureau. Anti-Gray elements within the FBI talk more openly about his failings. Reporters for example are encouraged to look into the costs of Gray's campaign-time travels by private air force jet, accompanied by his wife. "They run almost \$500,000," one FBI official suggested recently, tying it to an economy cutback being applied to in-service bureau training. In short a closely run, necessary, investigative organization is beginning to fall apart while waiting for the President to make up his mind on his friend Gray or someone else.

July 24, 1972

In answer to your attached note, dissemination of intelligence and security data to the White House is another practice which simply grew like Topsey without any particular reference, so far as I am aware, to the legal basis for it. The practice seems largely an outgrowth of the confidence which successive Presidents laid in Mr. Hoover and in the resulting frequent conversations which he had with those Presidents on such matters.

This is not to say that there is not a legal basis for such dissemination. I think the contrary is true and that a strong case could be built for it. I understand that the Inspection Division now has a "Yellow Tag" on this matter of dissemination so I will go into the matter only briefly.

True

If I had to officially justify the dissemination of intelligence and security information to the White House I would take up at least the following points:

- (1) The President's directive of December 6, 1939, in which President Roosevelt directed the FBI to coordinate Western Hemisphere intelligence matters. The clear inference is that the President is to be kept advised and I think that is exactly what happened.
- (2) Since the issuance of the above directive we have tried to keep all branches of the military informed of any security information which comes to our attention from either domestic or foreign sources which might bear on their activities. The President as commander-in-chief of the armed forces would seem to be entitled to the same information.
- (3) The National Security Act of 1947 (61 Stat. 495) and subsequent amendments created the National Security Council, presided over by the President or his designee. The function of that Council is "the integration of domestic, foreign and military policies relating to the national security...." People on the White House staff are on the National Security Council and the FBI is a member of the

NOT RECORDED

6 AUG 25 1972

[Handwritten signature]
LEGAL COUNSEL

18 SEP 1972

UNCLASSIFIED

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY G076 WAH/PAV

United States Intelligence Board which serves as advisor to the National Security Council. Here again it seems to be a clear inference that we should keep the White House informed on intelligence and security matters.

(4) The President of the United States is and always has been responsible for keeping the civil peace within the United States. He has had to act, by calling out the armed forces or otherwise, in a surprisingly large number of cases beginning with the Whiskey Rebellion which President George Washington put down by calling out the militia. If my memory serves me correctly, the great majority of Presidents have had to act on something of this kind and a study once showed something like 200 such incidents. Here again is ample reason for keeping the President informed of domestic security matters.

(5) The President also is responsible for foreign policy and again it would seem that any intelligence we obtain which bears on that subject should be sent to the White House.

All of the above are matters which the President necessarily acts more directly on his own initiative than is the case with the criminal law. I suppose the President may act on criminal law himself through the Attorney General, but his action is generally so well hidden that the whole subject of criminal law enforcement is really left to the Attorney General and to him alone. Thus there seems quite a reasonable distinction between a constant flow of advice to the White House on matters of criminal law on the one hand and on matters of domestic and foreign intelligence on the other.

D. J. Dalbey

*8/2
9:57P*

- 2 -

Greenberg/Gray-3488

740811-23

[Redacted]

Jan & Feb of '70 b6
b7C

I studied European
Common Market

Metg with [Redacted]
Thurs 9-12-72 b6
b7C
11 to 11:33 AM

Our US Govt is
5 to 10 yrs. out of
date as far as
Europe is concerned

WE need a Legat at Brussels who speaks
Fr. & Ger.

London - Paris - Rome.

Brussels is a City state. It is capital
of Com. Mkt. - In Brussels we have
bush league Diplomacy.

Yet here in Brussels we are going to
see the making of Economic & mon-
etary union.

One of most dangerous men in Europe is
[Redacted] and he is in Belgium. b6
He is [Redacted] of the 4th Trotskyite Inter. b7C
Nat'l. - resp. for kidnapping of [Redacted]

Greenberg/Gray-3489

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAK/AB

Fr., Swiss, & W. Ger. Govts. have
not barred

Essential to have a top, brilliant man
in Brussels.

No American eye understands the
dynamic changes which have occurred
in Brussels.

I've NATO since its beginning -
we can't have a bestink USA in
the mediterr. countries - the SIXTH FLEET
was the model for the USA. What
we have done is a mistake. USA is
losing TENUE (FR.) = appearance & depart-
ment. I see this thru the foreign
family life.

The mediterr. is becoming a red hake &
they have TENUE -

[Redacted]

[Redacted]

of NYC

[Redacted]

of NYC

[Redacted]

of NYC. There are many
best friends.

4/24/73 Exec's Conference.
5:00 to 4:35P

1. Terrorism. International or Domestic
Defn.

Ltr. of 9/25/71 - Presidential Directive
re international terrorism.

State report of 11/7/72 - politically inspired
international terrorism.

2. What was power of the Cabinet Committee
(a) Directive from President to Cabinet Ctee.
(b) Comply with policies, standards, and
procedures and guidelines prescribed by Cabinet Ctee

3. ~~State Report~~ When we asked for assistance from DJ -
DJ wrote "pursuant to Presidential Directive", "The
Cabinet Ctee. has decided FBI will have primary jurisdiction
& overall resp. for direction of ops. when and if
such acts occur."

DJ
5/17
memorandum
1/10/77
copy of
understanding

In State rpt of 11/7/72 Rogers said Ctee agreed,
whenever Federal jurisdiction exists FBI will be resp. for
responding promptly to acts of international terrorism.
Should troops be nec. Presidential auth. will be ~~obtained~~
required.

EN

Greenberg/Gray-3492

Bucky Walters - general acts of terrorism
92-539 - Stat. has been passed conferring jurisdiction
- similar to Anti-Riot Laws
- I'm referring to acts of terrorism not falling
under 92-539.

President's Cabinet Ctee to Combat Terrorism / OK

But there are other acts.

Wed CW [redacted]
9-13-72 WMF [redacted]

1. Piro was starting from zero, he had nothing specific in mind.

2. State has picked up the ball both foreign & domestic.

3. We have interest in the domestic side & with the visiting Israelis.

4. What is our Federal response?

(a) Do we extend Fed. protection?

(b) Do we cooperate with local police?

(c)

(A) E. = ACTIO

5. Official guests to recv. foreign protection

Greenberg/Gray-3494

Offense Guards / Diplomatics



SS

CP's

Vol. of Fed laws to
kill offense guards

Domestic violence

Domestic terrorism

Protective Investigator



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

March 6, 1973

PERSONAL ATTENTION
MEMORANDUM 10-73

- Mr. Felt _____
- Mr. Ecker _____
- Mr. Callahan _____
- Mr. Cleveland _____
- Mr. Conrad _____
- Mr. Gebhardt _____
- Mr. Jenkins _____
- Mr. Marshall _____
- Mr. Miller, E.S. _____
- Mr. Soyars _____
- Mr. Thompson _____
- Mr. Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Mr. Bowers _____
- Mr. Herington _____
- Mr. Herwig _____
- Mr. Mintz _____
- Mr. Neenan _____

MEMORANDUM TO ALL SPECIAL AGENTS IN CHARGE

(A) CONTACTS WITH CONFIDENTIAL INFORMANTS -- In view of the expanding utilization of Title III installations against subjects involved in organized crime by other Federal agencies as well as state, county and local police departments, it is necessary to be most circumspect in contacting your informants. Telephonic contact with them at their homes or at their places of employment should in each instance be guarded to insure no disclosure is made of the informant's status and to avoid conversation that might be misinterpreted. This reminder should be brought to the attention of all Special Agent personnel immediately.

3/6/73

MEMORANDUM 10-73

(B) VOUCHER MATTER - USE OF CASH TO PROCURE DOMESTIC PASSENGER TRANSPORTATION SERVICES -- Effective March 1, 1973, all employees performing official travel will be required to use cash to procure transportation services, including excess baggage charges costing less than \$15.00 unless special circumstances exist which preclude the use of cash. Government Transportation Requests (GTRs) are to be used for transportation charges costing \$15.00 or more. Employees are to claim reimbursement of cash expenditures for transportation services on SF-1012 Travel Voucher. Receipts will not be required inasmuch as individual expenditures will be less than \$15.00. All employees who have occasion to perform official travel should be advised.

Appropriate manual changes will be forthcoming.

Greenberg/Gray-3496

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WCH/AB

(C) FBI NATIONAL ACADEMY MATTERS -- In order to preclude any misunderstandings regarding applicants for the FBI National Academy, when notification is received from the head of an agency that he wishes to withdraw the application of a candidate for the National Academy, you should acknowledge this withdrawal in writing.

3/6/73

MEMORANDUM 10-73

(D) SPECIAL AGENT RECRUITMENT PROGRAM -- You are advised the recent freeze on hiring has now been lifted and Special Agent appointments will now be offered for Classes convening after April 1, 1973. The Classes for the remainder of Fiscal Year 1973 have been rescheduled as follows.

<u>Class Dates</u>	<u>Number in Class</u>
April 9, 1973	33
April 16	33
April 30	34
May 7	33
May 14	33
May 21	34
June 18	25

Continue to place emphasis on law applicants, accounting applicants, female applicants, members of minority groups and other applicants who appear to have outstanding qualifications. I would like to stress, however, the absolute necessity for recommending only those applicants for the Special Agent position who meet the high standards of personal appearance, personality and maturity. Investigations must continue to be penetrative and exhaustive and should establish the applicant's leadership ability, physical fitness, aggressiveness and ability to meet the public.

3/6/73

MEMORANDUM 10-73

- 2 -

(E) COPYRIGHT MATTER -- SAC Letter 72-22, (B), dated 4/25/72, brought attention to the fact that as a result of the passage of Public Law 92-140, signed by the President 10-15-71, and providing for creation of a limited copyright for sound recordings (records or tapes), the Copyright Office, Arlington, Virginia, had advised the Alexandria Office that a time lag of 2 to 6 months existed at that time between receipt of a copyright application or a letter containing either notice of use or intention to use copyright material, and the actual preparation and indexing of a file card advising that same has been received.

The above time lag has become a source of difficulty in adequately handling on a timely basis the requests received by the Alexandria Office from other field offices. In addition, because of this time lag factor, many Agent man-hours are lost in handling repeat searches of the same titles.

In an attempt to overcome this situation which exists at the Copyright Office and to prevent unnecessary expenditure of Agent man-hours in making repeat searches of records, the following instructions are being instituted:

In the investigation of a Copyright Matter, the field office receiving the complaint should attempt to determine the actual producer of the bona fide version of the tape or recording involved and then set out a lead for the office covering the home office of that company to determine the copyright status of the sound recording. If a copyright is, in fact, held by that company, the company should be able to supply the copyright date and number from its company records. It should be noted that copyrights granted sound recordings are prefixed by the letter "N." Subsequently, verification could be made at the U. S. Copyright Office, Arlington, Virginia, by setting out a lead for the Alexandria Office. Additionally, since Public Law 92-140 provides as criteria for violation of the sound recordings section that "only those sound recordings fixed and published on or after 2-15-72, are eligible for registration," verification of the exact date the recording in question was fixed could be established from the home office of that company. A sound recording is "fixed" when the complete series of sounds constituting the work is first produced on a final master recording that is later reproduced in published copies.

3/6/73

MEMORANDUM 10-73

- 3 -

Greenberg/Gray-3498

240811-26

Henceforth, it will be incumbent upon the office of origin in Copyright Matter cases to contact a reputable tape and record dealer in an effort to determine whether the allegedly illegal duplications are in fact duplications of recordings fixed after 2-15-72. Most record dealers have access to catalogs which provide basic information of this nature. Astute selection of recordings with prosecutive merit should be made to preclude investigative expenditure of Agent man-hours in the handling of leads.

Manual changes will follow.

3/6/73

MEMORANDUM 10-73

(F) DISPOSAL OF SURPLUS FURNITURE -- Bureau documents recently came into the possession of unauthorized persons apparently as a result of inadequate security in disposing of surplus furniture. In the future, when desks or other furniture that have held Bureau documents are declared surplus, the items should be thoroughly searched by both Agent and clerical personnel. Desks and other equipment should be first searched by an Agent when their use is discontinued. At the time property is declared surplus and transferred to another agency it should be searched by the property clerk, even though it has been locked and/or otherwise sealed in the interim between original search and disposal.

(Security page attached)

3/6/73

MEMORANDUM 10-73

- 4 -

(G) USE OF CHARACTERS ON BUREAU COMMUNICATIONS -- With increasing frequency, FBIHQ is receiving communications bearing improper or misleading characters. The Internal Security, Revolutionary Activity, Civil Unrest, and Extremist Matter characters are being used on communications reporting the activity of individuals and organizations that should not be classified as revolutionary, subversive or extremist. This particularly occurs in communications containing information on demonstrations or other types of protest activity sponsored by groups which do not have revolutionary or subversive backgrounds. Information relating to protests by legitimate organizations in pursuance of their constitutional rights should not carry an Internal Security, Revolutionary Activity or other character implying that the FBI considers the groups to be a threat to the internal security or of a revolutionary nature. Bearing in mind that the FBI has no interest in individuals and organizations involved in legitimate dissent, where it is deemed necessary to report on activities of such groups, communications should bear the character "Miscellaneous - Information Concerning" followed by the parenthetical insertion of the interested Bureau division or section (see Manual of Rules and Regulations, Part II, Section 4, Item 14, page 3).

The above instructions are not intended to relieve you of the obligation of being aware of activity scheduled to take place in your territory where the possibility of civil disorder may occur as a result of disruptive elements. This type of activity should be followed through public and established sources to develop any possible violations of Title 18, U. S. Code, Sections 231, 2101, 2383 or 2384 or any other statutes over which the Bureau has investigative responsibility. In the event a potential for violence develops, the Bureau should be promptly advised. Any violation of Federal statutes should, of course, be submitted under appropriate caption.

This should be brought to the attention of supervisory and investigative personnel handling these matters to assure that current Bureau instructions are being followed.

L. Patrick Gray, III
Acting Director

3/6/73

MEMORANDUM 10-73

- 5 -

505 TCF

9-29-72

1. Cab. Ctee. on Terrorism chaired by Sec. State.
2. Articulate D of FBI interest in countering domestic terrorist activity.
3. Not be hesitant about claiming full Pres. support.

Greenberg/Gray-3501

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Cleveland *W*

DATE: 2-22-73

FROM : Mr. Engelstad

SUBJECT: "TEN MOST WANTED FUGITIVES" PROGRAM
ASSOCIATED PRESS ARTICLE APPEARING IN
"HARTFORD COURANT" ON FEBRUARY 18, 1973

- Mr. Felt _____
- Mr. Baker _____
- Mr. Callahan _____
- Mr. Cleveland _____
- Mr. Conrad _____
- Mr. Gebhardt _____
- Mr. Jenkins _____
- Mr. Marshall _____
- Mr. Miller, E.S. _____
- Mr. Purvis _____
- Mr. Soyars _____
- Mr. Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Mr. Bowers _____
- Mr. Herington _____
- Ms. Herwig _____
- Mr. Mintz _____
- Mrs. Neenan _____

An Associated Press article appearing in the "Hartford Courant" on Sunday, February 18, 1973, (attached) reported that more than half of the individuals on the "Top Ten" list are political revolutionaries and refer to them as "political fugitives." It pointed out that the list reached a high of 16 people in 1970, nine of them sought for such crimes as sabotage and terrorist acts. Mr. Gray noted "But what are the charges?; There are no political fugitives!; Specific crimes?; and Charged with?" Mr. Kinley in a note to Mr. Felt noted "Shouldn't Fug. Pub. Unit set them straight?"

This article was apparently prepared by Thomas Seppy, a reporter for Associated Press who covers the Justice Building and discussed the Bureau's "Top Ten" program with Inspector Jack E. Herington and SA [redacted] of the Special Investigative Division on February 14, 1973. At that time it was most emphatically pointed out to Seppy that the Bureau has no "political fugitives" and that all of the individuals in the "Top Ten" program have been charged with serious crimes. Additionally, he was furnished write-ups concerning each of the individuals on the "Top Ten," which write-ups include specific charges and prior criminal convictions.

The individuals which Seppy is apparently classifying as "political fugitives" are as follows: Leo Frederick Burt, David Sylvan Fine, and Dwight Alan Armstrong, all of whom have been charged with sabotage, destruction of Government property, and conspiracy in connection with the bombing of a University of Wisconsin building. Additionally, all three have been charged by a State Grand Jury with six felony counts, including first-degree murder. Also, Susan Edith Saxe and Katherine Ann Power who are charged in the murder of a Boston police officer following a bank robbery and theft of Government property from a National Guard Armory. They have also been charged with participating in another bank robbery in Philadelphia during which one of the robbers attempted to ignite a "Molotov cocktail." Also, Bernardine Rae Dohrn who has been charged

Enclosure

- 1 - Mr. Kinley - Enclosure
- 1 - Mr. Cleveland - Enclosure
- 1 - Mr. Herington - Enclosure

- 1 - Mr. Miller - Enclosure
- 1 - Mr. Engelstad - Enclosure

TBC:dmc (8)

CONTINUED - OVER

Greenberg/Gray-3502

Mr. Engelstad to Mr. Cleveland Memo
RE: "TEN MOST WANTED FUGITIVES" PROGRAM

with Interstate Flight - mob action; antiriot law, bombing matter and unlawful possession or receipt of firearms. These charges include, among other things, conspiring to transport explosives in interstate commerce with intention to injure persons or destroy or damage buildings, including various police and military installations and lastly Cameron David Bishop, who was previously convicted of assault and battery and is presently being sought in connection with the dynamiting of power transmission towers in Colorado. Specifically, Bishop is charged with destruction of war utilities.

With reference to the nine individuals referred to as being sought for such crimes as sabotage and terrorist acts in 1970, it would appear that this nine is made up of the aforementioned seven, plus Angela Davis and Hubert Geroid "Rap" Brown, both of whom have been apprehended. Davis, of course, was being sought on murder and kidnaping charges in connection with the shoot-out at the Marin County Court House during which a Superior Court Judge was killed. Brown was being sought for arson, inciting to riot, and failure to appear, which charges resulted from events which occurred in Cambridge, Maryland, in July, 1967. Brown had also been charged with assaulting an FBI Agent and violating the Federal Firearms Act. It is noted that Brown has a criminal record dating back to 1963 and has since been charged with attempted homicide.

Thomas Seppy, who apparently prepared this article, covers the Justice Building and is in frequent contact with representatives of the Press Services Office. In view of the fact that Seppy has previously been advised that the Bureau has no "political fugitives," it is believed that it would ^{not} be desirable to pointedly take up this matter with him and engage him in an argument concerning it but it is believed that the most appropriate course of action would be for a representative of the Press Services Office to bring the erroneous references to "political fugitives" to Seppy's attention during one of his visits to the office. As a further example of the erroneous reporting, the article states that Karleton Lewis Armstrong was arrested in Canada on February 17, 1973, when in fact, Armstrong was arrested on February 16, 1972.

RECOMMENDATION:

That Seppy be advised in line with the above.

JH - WNC
WNC
WNC
TBC
JBR
7
WNC

b6
b7C

TBC:dmc 2-22-73

Engelstand to Cleveland "TEN MOST WANTED
FUGITIVES" PROGRAM

AP artcl aprng in "Hartford Courant" on 2-18 reportd more than half of indivls on "Top Ten" "political fugitvs." LPG notd "What are charges, are no political fugtvs, specific crms & Charged with?" Artcl prepar'd by Thomas Seppy reportd for AP who cors Justc Building & discusd program with Inspectr Herington & SA [redacted]. That time emphaticly pointd out Seppy that Bu hs no "politicl fugtvs" & al indivdls on "Top Ten" hv bn chargd with sers crimes. Belvd most aproprt course actn re artcl hv reprstv set Seppy straight. REC: Seppy b advsd lin above.

FD-247
(REV. 3-27-55)

U.S. GOVERNMENT PRINTING OFFICE 1971-443-709

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WAH/AB

Greenberg/Gray-3504

DO-6 OFFICE OF ACTING DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

- MR. FELT
- MR. BAKER _____
- MR. CALLAHAN
- MR. CLEVELAND
- MR. CONRAD _____
- MR. GEBHARDT _____
- MR. JENKINS _____
- MR. MARSHALL _____
- MR. MILLER, E. S.
- MR. PURVIS _____
- MR. SOYARS _____
- MR. WALTERS _____
- TELE. ROOM _____
- MR. KINLEY _____
- MR. ARMSTRONG _____
- MR. BOWERS _____
- MR. HERINGTON _____
- MS. HERWIG _____
- MR. MINTZ _____
- MRS. NEENAN _____

WMT:

*Shouldn't fug. Pub.
Don't set them straight?
BCK
7/21 3:25p.*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WCAH/10B

Greenberg/Gray-3505

440011-20

AP (AP) Content
Sunday, February 18 1973 5:02.7

FBI List Of Wanted Now at 10

WASHINGTON (AP) — The FBI's list of most wanted fugitives has leveled off at 10, with more than half of them political revolutionaries, and there is no indication it will be expanded in the near future.

But there is no reason why it couldn't, should the need arrive.

"We're not wedded to the number ten," said Jack E. Herington, the FBI spokesman. "We would like to keep it at 10. If it's necessary, we'll add names to the list."

The 23-year-old Ten Most Wanted Fugitives program first went over 10 in 1961 when hatchet-killer Richard Marquette was put on the list. He was arrested the following day.

In late 1970, however, the FBI list reached a record high with 16 people, nine of them sought for such crimes as sabotage and terrorist acts.

The current list, which was reduced to 10 last summer, contains the names of seven so-called political revolutionaries.

Herington said that the political fugitives have caused the investigative agency some problems because they may have fled the country to a sanctuary where the U.S. has no jurisdiction, such as Algeria.

Another problem, he said, is that the political fugitive doesn't travel in the same circles as the traditional bank robber or murderer whose apprehension built the reputation of accomplishment for the FBI.

"They move in a different culture," he said. "The political fugitive does not move in the normal underground system. It makes it more difficult for us"

Indefinite time frame charges?
These are the political fugitives!

On Feb. 17, 1973, Karleton W.S. Armstrong, one of four men wanted in connection with a fatal bombing on the University of Wisconsin campus, was captured by Canadian police in Toronto.

Wanted?

Only one other person on the then-list of 12 was apprehended during the year—Byron J. Rice who had been charged with the murder of an armored car guard. He surrendered to FBI agents in Chicago last Aug. 1.

There have been 317 persons put on the most wanted fugitive list since its inception in 1950 and 295 have been apprehended. Twelve others, including two last year, were taken off because they either were believed dead or the charges were dropped against them.

The "process dismissed" action is the only way a person's name can be removed from the list once it is put on.

Acting FBI director L. Patrick Gray III, and J. Edgar Hoover before him, decides what fugitives are placed on the Top Ten list after receiving recommendations from the field.

Hoover personally ordered the list to be expanded in 1961 and 1970 because he thought it was of utmost importance that the fugitives be caught.

Asked about the criticism that the FBI puts the name of fugitives they are about to capture on the list, Herington replied that the charge was ridiculous.

"There hasn't been a single case like that," he said. "We don't get any extra points for a top 10 fugitive. If we can catch a fugitive, we'll catch him."

He said there have been quick arrests because the program works.

"The method has been effective because we have apprehended fugitives after he has been on the list for only 24 or 48 hours," he said. "But somebody may see his picture in the paper or on television and spot him on the street. That person will call the FBI and we are then able to move rapidly."

The newest addition to the Top Ten list is Mace Brown, a convicted hired assassin who participated in an escape from the District of Columbia jail last fall. He was put on last Oct. 20.

Charles Lee Herron, one of five men allegedly involved in the slaying of one police officer and the critical wounding of another in Nashville, Tenn., on Jan. 16, 1968, was placed on the list on Feb. 9, 1968, and has been on the longest.

The others are Benjamin H. Paddock, who escaped from a federal prison in Texas while serving a 20-year sentence; Cameron D. Bishop, charged with sabotage in the dynamiting of Colorado power transmission towers;

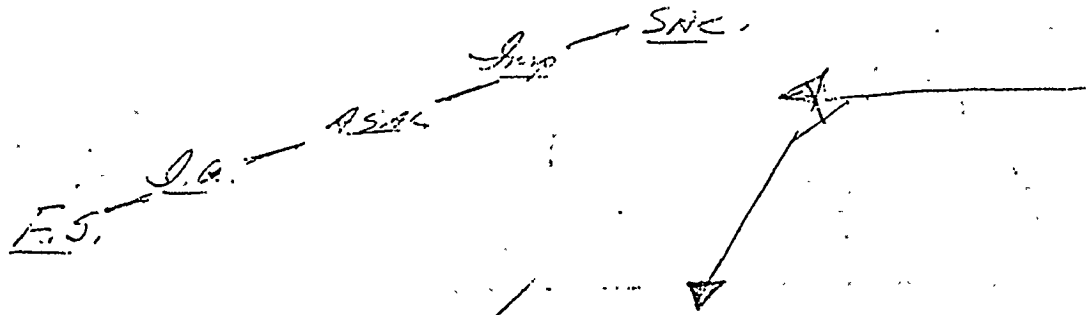
Also, Dwight A. Armstrong, Leo Burt and David Fine, all wanted in the University of Wisconsin bombing; Bernardine Dohrn, a self-described revolutionary Communist and leader of the Weatherman; and Susan E. Saxe and Katherine Ann Power, reputed members of a radical, revolutionary group dedicated to attacking the United States military system and undermining police powers.

Wanted?

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

24-08 DATE 9/10/79 BY 6076 WAA/AB

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-10-2009 BY 65179 dmh/baw/abs



1. WFO - McCormack ✓

2. INDENT - H.L.T. ✓
Purvis ✓

3. If H.L.T. & Purvis request retirement, then
for ASAC Asst. Dir.

4. Alexandria - Brennan ?? OK

5. Atlanta (ASAC) - O'Keefe ✓ OK

6. DI-1 - Wheeler replacement - a top flight ASAC.
L Cregar ✓

7. AT Louisville (ASAC)

8. Vacancy on Inspection -

~~CONFIDENTIAL~~

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller

- 1 - Mr. Callahan.
- 1 - Mr. Conrad
- 1 - Mr. Dalbey

DATE: 1/2/73

- Felt _____
- Baker _____
- Callahan _____
- Cleveland _____
- Conrad _____
- Dalbey _____
- Gebhardt _____
- Jenkins _____
- Marshall _____
- Miller, E.S. _____
- Purvis _____
- Soyars _____
- Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Ms. Herwig _____
- Mrs. Neenan _____

FROM : T. J. Smith *TJS/ELZ*

- 1 - Mr. Jenkins
- 1 - Mr. Gebhardt
- 1 - Mr. Baker
- 1 - Mr. E. S. Miller
- 1 - Mr. Cregar
- 1 - Mr. T. J. Smith

SUBJECT: CONTINGENCY PLANS FOR HANDLING TERRORIST ATTACKS
BUDED: 1/22/73

(U) On 11/24/72 the Chicago Office instituted an emergency plan to neutralize what was reported to be a possible terrorist attack similar to the Lod Airport, Israel, massacre in May, 1972. This was based on information from a source that such an attack by Arab terrorists might occur. One of the two major Chicago airports was considered a logical target. The attack did not occur; however, Chicago responded in a very efficient manner and at our request a critique was prepared and furnished to the Bureau. It is attached herewith. ~~(S)~~

(U) The critique showed excellent planning and execution. One hundred nineteen Agents were strategically deployed at O'Hare International Airport in about 50 minutes. An additional 20 Agents assembled at Midway Airport. And while the Agents and supervisors executed their assignments in an excellent fashion, the critique disclosed a very important weakness factor which, had the planned attack occurred, could have seriously affected the outcome to the extent that Agents' lives might have been lost. That weakness was the shortage of various items of equipment ranging from handie-talkie radios to body armor. For example, Chicago, according to the attached critique, has only nine suits of body armor which, in view of the use of 119 Agents to possibly face a band of determined terrorist assassins, should be viewed with alarm. There were insufficient personal radios to permit adequate communication between the numerous Agents stationed throughout the airport facility. Shotguns and gas grenades were in short supply. There were insufficient bullhorns and binoculars. In other words, the Chicago Office could not equip the large, fast-moving force of Agents required to respond to a major terrorist threat. ~~(S)~~

Enclosures

CONTINUED - OVER

TJS:bjr *bjr*
(10)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

6076 ZLW/AB
~~CLASS. & EXT. BY 9/10/79~~
~~REASON-FCIM II, 1-2.4.2 2,8~~
~~DATE OF REVIEW 1/2/93~~

240811-20

~~CONFIDENTIAL~~

Greenberg/Gray-3508

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-10-2009

ENV. VI

Tues.
10-3-72 CW WMAF + ESM

5⁰⁰P to 6⁰⁰P

1. Am. Jewish Ctr. — LPG: do not think we should meet
with DJ + APC. Let DJ
do alone, unless ordered to
the contrary. b6
b7C

2. WE have room in our quota to put a man into Brussels.

3. Brussels:

4. Livris:

5. OI) Executive Order: Carbon — Check Terrorist papers —

6. Scientists: NYFO + WFO. Agents have been used to do this
sort of thing b4.

7. one of the very top physicists in the world. He's
working with President's scientific advisor. Do not drop in
AG's lap. Go see Gen. King b4.

Greenberg/Gray-3509

~~6076 WAN/AB
9/10/79
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 10/3/92~~

~~CONFIDENTIAL~~

Greenberg/Gray-3510

62 - 118045 - 1021

8. ~~Customs~~ - pre examination of shipments.
[redacted] ltr.

(U) ~~Customs~~ permission. Meet with ~~Qureshi~~

Go with ~~Arabs~~

Gear up for the other & be prepared to do it.

(X)

9. Dissemination, but no duplication.

Greenberg/Gray-3511

Bill Soyars 1:19 PM

Director's Staff Group Paper

1. Asst. Dir. does primarily resp. for long range planning

2. Exec. Conf. approves the st

3. Have we done long range planning in the past

4. We need a Director's Staff Grp.
Should not see person to whom it report
Place it in Inspection Division

Tom Siche

Don't agree

Don't want a profess. job.

Wasted time

Asst. Dir. has this responsibility.

John Mcke

FBI has a suggestion program.

Training Division

Waste of manpower.

Joe Casper

I have a Planning & Research program in Tra Div.

Bill Soyars

D.S.G. can help D.I.D. on problems.

Joe London

Would it confuse lines of auth.

Greenberg/Gray-3512

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WGH/ROB

Frank Winhart

Analyses in a given area
can be done by Insp. Staff on a survey basis

Joe Cooper

Conferences ought to be set up
with SAC's; they can aid us - Consider as
an alternative

Joe Ponder

We do it but on selected
subjects

J.P.M.

Refer it for the time being -

B.H. Soyars

Select very intell., reasonable,
young men.

Exec. Dir. + 5 addit. people.
Highly competent & the authority of
this group.

J.P.M. -

Nothing was done from this. Scheduling.

Ed Miller -

Not really this complicated.

In DID, I have been doing the
short & long range planning of the Div.

We in DID must have a mtg
involving to discuss.

I like the idea; don't like form.
Set up groups on each Div. to do
this. Get its own plan exp - Then subject
it to study across the bureau.

02-118043

Then present to the Executive Conf.

H.C. Rosen

We must recall that what we decide may seem to be most practical. SAC's should be consulted:

(1) Plug Gyp within the Division
+ SAC's input.

Bill Sizars

You just can't devote a man full time in the Div to plug.

A.C. Rosen

Joe Border

Argues for Gyp within Res' own Div.

J.P.M.

I get the impression we were not doing a thing for the past few years. We have made magnificent strides. If we have a problem, let's get with it.

Dwight Dally

It's a known fact that we get chawed to ideas; an insider can be in a position to ask the tough questions. No one else can do this job now. Divisions are bound to old concepts & they ought to be subject to a penetrating inquiry from a group that is tough enough to ask the tough questions.

WMT Suggestion program deals with mechanics

Buck Walters

Policy

Planning

Evaluation

Nick Callahan

How many functions are subject to policy, planning, evaluation

JPM

Prog. Planning & Budget

Frank Waiter

We have the gaps in each division to do the work.

Suggestion Committee

Streamlining Committee

a cut out Ctee.

RE Rosen

There are areas of agreement are:

1. Administration.

2. Personnel.

3. Investigative.

4. Long Range.

5. Inspection.

JPM

Conrad

There are many solutions
I disagree that policy & planning
have been neglected
There is merit to Miller's mediation
Easy to suggest, hard to implement

Charles Parks

I'd like to see better direction
to the Steering Committee in the field. I
think Field could improve with guidance

13P Nick Callahan - Off of Minority
Affairs

Each Division has an E.g. Emp. Opportunity
Off.

Applicant recruitment helps with this.

Agents and clerks are not to be placed
in the same office space

JPM I believe we should have two E.g. Emp.
Offs.

Walton I know of no problems we have
with blacks

Dalbey FBI must create visible
 tangible symbol of black concern.

JPM - minorities complain they have no
place to go; they have been
kicked back.

TEB It would be a gesture.
We need to recruit agents.

JPM I see every colored
applicant.

Dalbey We are not trying hard
enough to recruit.

Bonder We have blacks out!

2:55 PM UNANIMOUS VOTE!

2:40 PM Buckwalter Director's Advisory Com.
Director's Consultant/Grp.

EXEL. → GRP
CONF

JPM - I don't feel we have to persuade
the other 15% who are against FBI.

- That's true if left

640811-90

Greenberg/Gray-3517

TEB If you don't put on the Ch
the left's, you will be stacked.

C. Bates You will be criticized no
matter how you make it up.

Wick C Premature to consider
it; you are the Retiring Director.
Wemo Party is getting ready to set
up a Ch: to inves. the FBI

JP If we could do it - I'd be
for it. But I do think it would
back Why do it in this partisan
election year?

No we want to draw FBI
into partisan politics.

TEB I favor individual consultation
as a next with them.

GET ME LIST OF
COMMITTEES.

I CONGR. CTEE

II PRIVATE CTEE (I) (L)

III PRESIDENTIAL CTEE (PRES.)

DALREY

What's wrong with this
because a climate in this country,
people who have something to say
are going to say it about the FBI

Ed Miller - Rather than setting up a

Chc, I'm coming to the point that it is
better for us to meet this head-on

DDK Tossing the ball to Congress
would be disastrous -

Joe Casper - Rec. LFG meet with certain
people.

CPG why don't I see Jordan, Lockhart,
Mandel

JPM - why not use IACP Chcs -

Al Korn -

JPM - WE SHOULD NOT BE INVESTIGATING
THESE BLACK GROUPS -

328P Reas

CONRAD - As a tax supported Agency to
serve the people the most we can do is to
please the majority. Our critics are
uninformed - destroyers - to serve ourselves!

640811-00

Propose to consider whether we alternate
our suspects by seeing these people.
Win over is not the objective.

3:32 PM Organized Crime. Bill Cleveland

Gov. will tell you org. crime is anything
which can be used to sell G to give \$'s -

1700 Agents on Org Crime matters - highest
in FBI history.

Things not in the paper:

We have suggestions from

NYFO -

Open us up; let us loose

All kinds of suggestions which are
administrative in nature.

We should release org. cr. S.A.'s
from the Admin. Shackles

JPM I believe we have been too restrictive on
the Org. Cr. Operation -

SAC & ASAC's approving certain items
in the field

LP - put in writing the facts & I'll
go over it.

Basic criticism is that we don't
operate under the attys.

JAM - Was there the top centralized

Joe Capron - Liaison with police in my job. I hear them talk. They always mumble about FBI lack of cooperation.

I feel we could do more as members of LETA & more in State Org. activities.

Somebody ought to represent FBI and IACP. One on Org. Crime.

JAM - Agree. We ought to participate with IACP. W.C. ought to represent us.

Bill Cleveland - We represent every group of LETA -

Joe Casper - We ought to participate.

Bill C. - Joe C. does a fine job on IACP. I'd like to see specifics on

Bill C. - There are more things we can be doing. There is intell. to be obtained. An indiv. case basis.

TEB - Why do we have so many investigations completed & so few prosecuted.

65-118042

4:15 P. Ed
Muller - Domestic Intell. Div

One of our major problems

Ellis's paper is on point

What is FBI authority to do what it is doing?

Report is defensive & negative

Close the gaps

Eliminate the restrictions

Our report does not present the national security picture

We should concede that our criminal and security fields are close questions

We should admit a major weakness

Failure of DOJ & FBI to work out policy

Guidelines

FBI's responsibility

Clear as to defensive

Too many overlapping

statements

We cannot prevent!

Ours is to investigate!

Neither Inter-Agency Agreements, or Executive Orders give us authority:

What is the Constitutional power of the President in the Internal Security field? What is it?

Art. II, Sec 1, Sec 2.

Pres. directs all. Deal with FBI coordinators

Subversive crimes

We have just assumed authority to
conduct Internal Security investigations.

Cr. Intell. does not have this power. They
have their investigations on crime's.

We do not use two statutes as authority
to get Domestic intell.; we use the Esp. & Cyber.

We have ignored the Logan Act:

Dozens of persons (Prevents interviews & communications
have violated with for. govt.)
this stat.

What is going to happen at the Convention?

7: USC 533

Fifth Ave Peace Council Act
(Law Suit)

WE NEED AN OFFICIAL SECRETS ACT IN THIS
COUNTRY

WE SAY WE HAVE BROAD STATUTORY BASES
THAT WE ARE NOT USING TO SUPPORT OUR
INVS. RATHER THAN CONSTITUTIONAL BASES.

Joe Casper - I've been involved in all these
investigations since 1941 under
various Acts & we have Statutory
authority.

DDK

From an operational standpoint would
you be doing anything different?

88-118032

BLH Erwin Clee
on getting at FBI files -

Greenberg/Gray-3525

Buck Walters ... Laying aside these considerations, has the FBI gone farther than it should

Ed Miller: AD EX

Dwight Palley } Mardian } Where are
 } Rahnquist } the guidelines used
by the FBI to differ between the less than &
the dangerous individuals.

RL Rorson

Can you make one criticism of
one specific case exemplary.

JD Agree with Ed M & with JPM.

5:15 PM

Absence of clearly
delimited jurisdiction
Overzealous attitude

8:25 AM

Bill Cleveland

Doug Albrow

1. Joint Paper by all Divs + Laboratory
& Tra Div.

2. Our role is just about right.

3. We have enough w/o taking on more.

4. OMB is considering transfer of BND to
FBI (as of 3 wks. ago)

Memorandum



~~SECRET~~

To : Mr. E. J. O'Malley

Date 11/17/83

From : J. L. Tierney

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Subject : SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI)

PURPOSE:

L. PATRICK GRAY, III

To recommend approval of proposed disclosure of FBI documents to SSCI and House Permanent Select Committee on Intelligence (HPSCI) by the Office of Intelligence Policy and Review (OIPR) no later than 11/18/83. (U)

RECOMMENDATION:

That the FBI concur with furnishing the enclosed collection of FBI records and the accompanying Department of Justice (DOJ) summary to both HPSCI and SSCI. (U)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE: 25X(1)
DATE 06-08-2009
FBI INFORMATION ONLY

DETAILS:

Following a joint appearance by Judge Webster and Mary Lawton before the SSCI, Senator Leahy wrote to the Attorney General inquiring about the legal basis for the President's authority on warrantless searches. He also asked for a review of the history of the use of this technique. (U)

William Brown, an attorney on Ms. Lawton's staff, has been in contact with me through Mr. Sturgis' office on the topic of the history of that technique. I have given him access to the materials used during the Grey-Felt-Miller discovery proceedings, specifically the collection which shows notice to DOJ and The White House of current or past use of the technique. The collection includes entries proposed or executed on behalf of the National Security Agency (NSA). (U)

Enclosures: 3

- 1-Mr. J. A. Mintz
- 1-Mr. C. P. Monroe
- 1-Mr. R. S. Young
- 1-Mr. E. J. O'Malley

- 1-Mr. W. D. Gore
 - 1-Mr. J. M. Sturgis
 - 1-Mr. C. W. Dixon
 - ①-62-118045
- NOT RECORDED

62-118045

JLT:mbk

(9)

~~SECRET~~

Classified by: 05
Declassify on: OADR

136 MAR 22 1984

6

JUN 28 1984

~~TOP SECRET MATERIAL ATTACHED~~

CONTINUED OVER

Greenberg/Gray-5748

468
10/11/83
10/11/83

COPIES
5 APR 1981

~~SECRET~~

Memorandum to Mr. E. J. O'Malley from J. L. Tierney
Re: SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI)

Ms. Lawton's office proposes to answer the Senator's inquiry in writing. Attached is a copy of Part 2 of her draft response which covers the history of the FBI's use of warrantless searches before 1966. The opening portion of Ms. Lawton's letter is a recitation of the law on the topic and is not relevant to the purpose of this memo. The second part of the memorandum contains a summary of the FBI documents. Part 2 of the memorandum, and a redacted set of FBI documents are attached, as is a second set of the documents without redactions. The redacted versions of the documents will be furnished to the committees, but will be returned to OIPR within 30 days. Only one copy of the OIPR memorandum will be furnished to each committee and this copy will be maintained by the Chief Counsel of each committee. (U)

(S) Mr. Brown has obtained the concurrence of NSA General Counsel and will check with State. Mr. Brown, [redacted] on his own initiative, has made further redactions to protect FBI interests as well. I am very familiar with these documents and I agree that redaction sufficiently protect our interests. (S) b1

Ms. Lawton anticipates furnishing the requested memorandum of law with a summary of enclosures and the redacted enclosures by 11/18/83. (U)

The enclosures are attached to the original and additional file copy (62-118045) only. (U)

*Enclosures located in Special Yale Room
under file #62-117121 memo dated 11/17/83,
captioned "Senate Select Committee on Intelligence
(SSCI)."*

~~SECRET~~

- 2 -

Greenberg/Gray-5749

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

-----x
WIDITH CLARK, et al., :
Plaintiffs, :
- against - :
UNITED STATES OF AMERICA, et al., :
Defendants. :
-----x

AMENDED
PROTECTIVE ORDER
78 Civ. 2244 (NEL)

Plaintiffs having moved this Court for an order to protect the discovery process and to further the interests of justice, and the Court having duly considered the matter, it is ORDERED that:

1. No document identifiable with any plaintiff in the possession, custody or control of the individual defendants or Government agency defendants shall be destroyed or obliterated in any manner pending a final determination of this action, including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected by this order shall be placed and maintained under supervisory control of the Court in the physical custody of any person or agency now in possession of such records who shall be responsible for the physical integrity of the documents. Any defendant which has in its possession any of the documents shall be bound by its terms.

3(a). A copy of this order shall be circulated to each field office and legal attaches of the Federal Bureau of Investigation ("FBI") as well as any organizational unit within the headquarters of the FBI. Additionally, copies of the order will be circulated to appropriate officials of the Postal Service and Department of Justice having custody of documents identifiable to any plaintiff.

**Do Not Remove
Retain as Top Serial**

970 JUN 11 1979

62-118045

NOT RECORDED

JUN 11 1979

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to plaintiffs' attorneys ^{for each party} and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant^s ~~plaintiffs~~ ^{MSL} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{The attorneys for the other parties} and ~~such parties~~ ^{plaintiffs} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~ , 1979

May 16

Mountford
United States District Judge

- Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum ~~SECRET~~

1 - Mr. J.B. Adams

DATE 12/21/78

TO : Mr. D. W. Moore, Jr.

FROM : S. S. Mignosa *SSM*

- 1 - Mr. H.N. Bassett
(Attn: P.V. Daly)
- 1 - Mr. J.A. Mintz
- 1 - Mr. D.W. Moore, Jr.
- 1 - [Redacted]
- 1 - [Redacted]

SUBJECT: U. S. vs. GRAY, et al.

L. Patrick

This memorandum is unclassified except where otherwise noted.

PURPOSE:

To provide excised versions of certain documents deemed essential by the Department in captioned matter.

RECOMMENDATION:

That the Department be provided with excised versions of attached documents deemed suitable for release to the defense, as well as excised versions deemed suitable for use at trial.

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 06-08-2009

APPROVED: _____

WEB Director _____

Assoc. Dir. _____

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

DETAILS:

Francis Martin, trial attorney for the Department of Justice in captioned matter, has requested the Bureau review certain documents deemed by the Department as essential to the trial in captioned matter. This review is for the purpose of determining what defense counsel may have access to and in addition, what may ultimately be used in trial.

Enclosures **(ENCLOSURE)**

62-118045-127

REC-504 ST. 109

~~SECRET~~

5 JAN 24 1979

Classified and Extended by 6693

Reason for Extension FCIM, II, 1-2.4.2 (2)

Date of Review for Declassification December 21, 1998

AJD:ksw
(7)



Greenberg/Gray 5753

6 FEB 5 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

~~SECRET~~

b6
b7C

~~SECRET~~

Memorandum to Mr. D. W. Moore, Jr.
Re: U. S. vs. Gray, et al.

DETAILS CONTINUED:

The Department has previously been furnished excised versions of the attached documents, however, the Department has indicated it wants additional information released.

Since some of the material originated from CIA and NSA, those agencies are separately processing that particular information.

To date, we have been permitted to make the necessary excisions to protect sources and methods, as well as material which would compromise ongoing investigations.

Concerning the attached documents, the Department requests we release as much as possible to the defense and ultimately at trial.

Attached are three Xerox copies each of the following documents:

I. Mr. E. S. Miller memorandum to Mr. W. M. Felt, 9/7/72, captioned "Al-Fatah; Internal Security - Middle East."

Copy 1 is the original version of this memorandum.

Copy 2 is the excised version of this memorandum deemed releasable to the defense.

Excisions in this version on pages 1 and 2 concerning contact between Fatah and [redacted] of the [redacted] are deemed necessary to protect a source, [redacted] (PROB) [redacted]

(S)

[redacted] (S)

b1
b2
b7D

Copy 3 deemed usable in trial.

The excisions made in this copy are essential to protect sources and methods.

II. Teletype from Acting Director to SACs Alexandria, et al., 9/7/72, captioned "Al-Fatah, Internal Security - Middle East."

~~SECRET~~

~~SECRET~~

Memorandum to Mr. D. W. Moore, Jr.
Re: U. S. vs. Gray, et al.

DETAILS CONTINUED:

Copy 1 is original version of this teletype.

Copy 2 is the excised version deemed releasable to the defense.

Excisions in this copy essential to protect the possible identity of a sensitive live CIA informant.

Copy 3 is the excised version deemed usable at trial.

The excisions in this copy are essential to protect sources and methods.

III. E. S. Miller memorandum to Mr. W. M. Felt, 9/21/72, captioned "Al-Fatah, Internal Security - Middle East."

Copy 1 is the original version of this memorandum.

Copy 2 is the version deemed releasable to the defense (it is noted that there are no excisions in this copy).

Copy 3 deemed usable at trial.

The excisions in this copy are essential to protect sources and methods.

This matter coordinated with SA Paul V. Daly.

~~SECRET~~

- 3 -

Greenberg/Gray-5755

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-08-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-5756

62-118045-127

ENCLOSURE

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 7
Page 66 ~ Referral/Direct;
Page 71 ~ b3; b6; b7C;
Page 72 ~ b6; b7C;
Page 73 ~ b3; b6; b7C;
Page 74 ~ b3; b6; b7C;
Page 75 ~ b6; b7C;
Page 76 ~ b3; b6; b7C;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 7
Page 66 ~ Referral/Direct;
Page 71 ~ b3; b6; b7C;
Page 72 ~ b6; b7C;
Page 73 ~ b3; b6; b7C;
Page 74 ~ b3; b6; b7C;
Page 75 ~ b6; b7C;
Page 76 ~ b3; b6; b7C;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U. S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

-----x
JUDITH CLARK, et al., :
Plaintiffs, :
- against - :
UNITED STATES OF AMERICA, et al., :
Defendants. :
-----x

AMENDED
PROTECTIVE ORDER
78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to protect the discovery process and to further the interests of justice, and the Court having duly considered the matter, it is ORDERED that:

1. No document identifiable with any plaintiff in the possession, custody or control of the individual defendants or Government agency defendants shall be destroyed or obliterated in any manner pending a final determination of this action, including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected by this order shall be placed and maintained under supervisory control of the Court in the physical custody of any person or agency now in possession of such records who shall be responsible for the physical integrity of the documents. Any defendant which has in its possession any of the documents shall be bound by its terms.

3(a). A copy of this order shall be circulated to each field office and legal attaches of the Federal Bureau of Investigation ("FBI") as well as any organizational unit within the headquarters of the FBI. Additionally, copies of the order will be circulated to appropriate officials of the Postal Service and Department of Justice having custody of documents identifiable to any plaintiff.

Do Not Remove
RETAIN AS TOP SERIAL

62-178045

NOT RECORDED

JUN 11 1979

SEC. 2

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ~~plaintiffs'~~ ^{for each party} attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant ~~and~~ ^{MSX} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~the attorneys for the other parties~~ ^{plaintiffs and plaintiffs' attorneys} for examination and ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~, 1979
May 16

Monroe L. Coble
United States District Judge

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HNB*

DATE: 6-20-78

FROM : *P. V. Daly*

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN U. S. v. L. PATRICK GRAY III, ET AL *Wend 4-1*

PURPOSE: To acknowledge that the following Research Analysts, all permanently assigned in Records Management Division, reported on temporary assignment on June 12, 1978:



b6
b7C

gp

RECOMMENDATION: None, for information.

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec Mgnt. <i>HNB</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

REC-110

Greenberg/Gray-2264

- 1 - Finance and Personnel
- 1 - Mr. Bassett
- 1 - Mr. Daly

JLT:dmd *dmd*
(4)

62-118045-37
P. V. Daly

174 AUG 31 1978





OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

Assoc. Dir.	<i>[initials]</i>
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

31 MAY 1978

TO: The Director
Federal Bureau of Investigation

FROM: Benjamin R. Civiletti *BRE*
Deputy Attorney General

SUBJECT: Safeguarding National Security Information
(Surreptitious Entry Investigation).

N. Petros & Gray III

In response to your memorandum of May 9, 1978, I am advised that the prosecution team of the Criminal Division and the discovery team established by the FBI have now worked out a satisfactory system for reviewing documents related to the Gray, Felt, Miller prosecution to ensure that memos are properly classified prior to any release outside the Department. Documents compiled by the Long Task Force which are not of potential use to the prosecution team are stored in the JEH Building and any review prior to release in discovery will be made by Bureau personnel. Documents retained in the Criminal Division are also being reviewed by Special Agent of the discovery team prior to any release.

I understand that there was some confusion at the outset of discovery and that four documents were inadvertently released without review for classification. The Department's security staff arranged for the retrieval of these documents from defense attorneys and is securing inadvertent release forms from the defense attorneys. These documents have been turned over to the discovery team for classification review.

I am satisfied that adequate measures have now been taken to protect sensitive materials related to this prosecution and attendant discovery. If you have additional concerns regarding the security of these materials, I will be happy to discuss them with you.

REC-110

62-118045-38

14 AUG 31 1978

gp
ENCLOSURE

Encl. to informal
note to Mr. Adams
from H.N. Bassett

4-PVD

8 4 SEP 14 1978
6-15-78

Greenberg/Gray-2265

EX-110
8761-2-1188
1978

gp b6
b7C

DO-7



OFFICE OF DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
TO
OFFICIAL INDICATED BELOW

- MR. ADAMS _____ (✓)
- MR. MCDERMOTT _____ ()
- MR. BASSETT _____ ()
- MR. COCHRAN _____ ()
- MR. COLWELL _____ ()
- MR. CREGAR _____ ()
- MR. JOSEPH _____ ()
- MR. KELLEHER _____ ()
- MR. KENT _____ ()
- MR. LONG _____ ()
- MR. MINTZ _____ ()
- MR. MOORE _____ ()
- MR. BOYNTON _____ ()
- MR. COLEMAN _____ ()
- MR. BRUEMMER _____ ()
- TELE. ROOM _____ ()
- MISS DEVINE _____ ()
- _____ ()
- _____ ()
- _____ ()

- SEE ME _____ (✓)
- NOTE AND RETURN _____ ()
- PREPARE REPLY _____ ()
- SEND MEMO TO ATTORNEY GENERAL _____ ()
- FOR YOUR RECOMMENDATION _____ ()
- WHAT ARE THE FACTS? _____ ()
- HOLD _____ ()

REMARKS:

*How does this tie to
letter to Ad?*



*Informal note to Mr. Adams
from H.N. Bassett 6-15-78*

HNB/jmr

FBI/DOJ

62-118045-38
ENCLOSURE
Greenberg/Gray-2266

FEDERAL GOVERNMENT

Sealed

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

*

v.

*

Crim. No. 78-000179

L. PATRICK GRAY, III
W. MARK FELT
and EDWARD S. MILLER

*

*

* * * * *

view 4-1
7-1

MOTION FOR DISCOVERY AND INSPECTION
ON BEHALF OF THE DEFENDANT GRAY

PREFATORY STATEMENT

Counsel for the Government and for Mr. Gray have engaged in substantial informal negotiations to resolve discovery issues in advance of filing motions. Numerous issues have been resolved in this manner and are, therefore, not raised by way of formal motion. The discovery requests which are contained herein represent requests which either in whole or in part the parties have been unable to resolve informally to date. Further negotiations are contemplated in a continuing effort to resolve any dispute. Counsel will advise the Court immediately if any additional discovery issues are resolved informally.

62-118045-

NOT RECORDED

14 AUG 31 1978

L. Patrick Gray, III, by his attorneys, respectfully moves this Court to enter an Order:

I. Documents and Other Information Discoverable as Brady Material

1. Requiring the Government prosecutor at this time to advise counsel for the defendant Gray of any and all information, from whatever source acquired, tending to exculpate the defendant of the offense charged in the indictment.

2. Requiring the Government prosecutor at this time to state whether any person whom the Government intends to call as a

file

4-Blair

8 4 SEP 14 1978

Greenberg/Gray-2267

witness was or is under investigation or indictment, or was or is subject to disciplinary action by an agency of the United States for any offense against the United States or of any state, or for violation of any rule or regulation of an agency of the United States. If the answer is in the affirmative, to disclose (a) the name and address of each such witness; (b) the details and circumstances of each investigation and/or indictment and/or disciplinary action; (c) as to any such investigation, indictment or disciplinary action, the details and circumstances of all promises or representations made by either the prosecutors or investigators in this case to each such witness or person acting on behalf of such witness.

4. Requiring the Government prosecutor to disclose at this time the names and addresses of each person questioned by the Government who will not be called as a witness, together with any statements by such persons in the Government's possession, custody or control.

5. Requiring the Government prosecutor at this time to disclose the nature and substance of all promises, inducements or rewards given by the Government to any person whom it intends to call as a witness.

6. Requiring the Government prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control reflecting efforts taken during Mr. Gray's tenure to ensure that the F.B.I. operated within the confines of the Keith decision.

II. Documents and Other Information Discoverable as Jencks Material

7. Requiring the Government prosecutor at this time to disclose the names and last known addresses of all witnesses whom

the Government intends to call to testify at the trial of this case, together with any statements by such witnesses in the Government's possession, custody or control.

8. Requiring the Government prosecutor at this time to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control which reveal the content of the conversation alleged to have taken place in August, 1972, between Mr. Gray and Mr. Miller, as set forth in the first overt act of the indictment.

9. Requiring the Government prosecutor at this time to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control which reveal the content of the statement allegedly made by Mr. Gray on September 12, 1972, as set forth in the second overt act in the indictment.

10. Requiring the Government prosecutor at this time to make available to defendant's counsel all written statements and the substance of all oral statements in the Government's possession, custody or control made by any other co-conspirators during the course of the conspiracy which the Government intends to offer in evidence at trial against this defendant.

11. Requiring the Government prosecutor at this time to make available to defendant's counsel all written statements and the substance of all oral statements in the Government's possession, custody or control made prior to or after the conspiracy by co-defendants which the Government intends to offer in evidence at trial.

III. Documents and Other Information Material to Defendant's Preparation of His Defense That the Allegedly Wrongful Activity Was Undertaken Without His Knowledge or Authority

12. Requiring the Government prosecutor at this time to make available to defendant's counsel all documents, books, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect that F.B.I. agents engaged in warrantless surveillance techniques from the period January 1, 1960 to the present.

13. Requiring the Government prosecutor at this time to make available to defendant's counsel all documents, books, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that the defendant Gray was consulted, made aware of, gave specific approval to, or was advised of any of the "surreptitious entries" set forth as overt acts in the indictment by defendants, Felt, Miller, or any F.B.I. personnel during Mr. Gray's tenure as Acting Director of the F.B.I.

14. Requiring the Government prosecutor at this time to make available to defendant's counsel all documents, books, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that defendant Gray was advised of or made aware of any of the memoranda, communications, or conversations described in overt acts 6 through 32 of the indictment by defendants, Felt, Miller, or any F.B.I. personnel during Mr. Gray's tenure as Acting Director of the F.B.I.

15. Requiring the Government prosecutor to make available to defendant's counsel all F.B.I. documents in the Government's possession, custody or control marked either "June" and/or "Do Not File" from the period January 1, 1960 to the present.

16. Requiring the Government prosecutor to make available to defendant's counsel all F.B.I. Headquarters Inspection Division reports and inspector's worksheets of inspections conducted by the F.B.I. Headquarters Inspection Division of the New York Field Office, the Washington Field Office, and any other field office in the Government's possession, custody or control in which the Weatherman Organization, or any member thereof, was the subject of an investigation, or in which efforts of any kind were made by special agents of the F.B.I. to locate and apprehend fugitive members of the Weatherman Organization.

17. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, notes, documents, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that the House and Senate Intelligence Committees and the General Accounting Office were misled by representatives of any government agency concerning the nature and extent of surreptitious entries by agents of the Federal Bureau of Investigation.

18. Requiring the Government prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control which reflect contact between the President's Foreign Intelligence Advisory Board, or members of the Board staff, and the F.B.I., particularly the Domestic Intelligence Division of the F.B.I. during Mr. Gray's tenure in office.

IV. Documents and Other Information Material to Defendant's Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Selective Prosecution by the Government

19. Requiring the Government prosecutor to make available to defendant's counsel all communications in the Government's possession, custody or control from F.B.I. headquarters to the Department of Justice or other Government agencies prepared from 1960 through 1974 which reveal, either directly or by interpretation of F.B.I. code symbols or other nomenclature, that special agents of the F.B.I. conducted surreptitious entries without a warrant.

20. Requiring the Government prosecutor to make available to defendant's counsel all books, documents, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control, which reflect that any person or persons in the Department of Justice, other than members of the F.B.I., were aware of the use of warrantless surveillance techniques by the F.B.I. from the period January 1, 1960 to the present.

21. Requiring the Government prosecutor to make available to defendant's counsel all prosecutive reports from F.B.I. agents to federal prosecutors prepared during the period January 1, 1960 to the present which reflect that F.B.I. agents engaged in warrantless surveillance techniques.

22. Requiring the Government prosecutor to make available to defendant's counsel a list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers came to the attention of the Department of Justice.

23. Requiring the Government prosecutor to make available to defendant's counsel a list of all investigations conducted by the F.B.I. from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers.

24. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, requiring the Government prosecutor to make available to defendant's counsel all documents showing the basis for such determination.

25. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, documents, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that any government agency other than the Federal Bureau of Investigation engaged in undercover penetration and/or surreptitious entries of premises frequented or believed to be frequented by members of the Weatherman Organization and/or friends or sympathizers of that organization, including, but not limited to, all such documents relating to the so-called "Chaos" program conducted by the Central Intelligence Agency from January 1, 1960 to the present.

V. Documents and Other Information Material to Defendant's Preparation of His Possible Defense That the Allegedly Wrongful Activity was Authorized by Higher Authority

26. If, during the period January, 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their agents authorized (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; or (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, requiring the Government prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control which reflect such authorization:

27. If, during the period January, 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their agents ever withdrew authority for (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, requiring the Government prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs or other tangible objects in the Government's possession, custody or control which reflect withdrawal of such authorization.

28. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their agents ever authorized the F.B.I. to use surreptitious entries without a warrant to install and/or retrieve microphones without a warrant; to install wiretaps without a warrant; or to open mail without a warrant, as investigative techniques, requiring the Government's prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs, or other tangible objects in the Government's possession, custody or control which reflect the authorization to use such investigative techniques.

29. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their agents ever withdrew authority from the F.B.I. to use surreptitious entries without a warrant; to install and/or retrieve microphones without a warrant; to install wiretaps without a warrant; or to open mail without a warrant, as investigative techniques, requiring

the Government prosecutor to make available to defendant's counsel all books, records, recordings, notes, documents, papers, photographs, or other tangible objects in the Government's possession, custody or control which reflect withdrawal of the authorization to use such investigative techniques.

30. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, notes, documents, photographs or other tangible objects in the possession, custody or control of the Government, which pertain to the creation and function of the Cabinet Committee on Terrorism and any contact between that Committee and any representative of the F.B.I., including but not limited to the defendant, Gray.

31. Requiring the Government prosecutor to make available to defendant's counsel all documents and memoranda in the Government's possession, custody or control, prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the F.B.I. concerning plans to deal with the Weatherman Underground Organization and other terrorist groups from 1969 through 1974, including but not limited to, the so-called "Huston Report" in 1970 or 1971.

32. Requiring the Government prosecutor to make available to defendant's counsel all documents in the Government's possession, custody or control, showing communication between the White House and the Department of Justice, and the White House and the F.B.I., concerning plans and investigative methods to deal with the Weatherman Organization and other terrorist groups from 1969 through 1974, including but not limited to: a memorandum prepared in the early 1970s by Mr. Robert Haynes, F.B.I. liaison to the White House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the F.B.I. to use all means possible to stop terrorist activities.

33. Requiring the Government prosecutor to make available to defendant's counsel those portions of all tapes and transcripts of White House conversations in the Government's possession, custody or control in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.

34. Requiring the Government prosecutor to make available to defendant's counsel all documents, including reports and statements of persons interviewed, in the Government's possession, custody or control, which indicate that there was an absence of approval by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

35. Requiring the Government prosecutor to make available to defendant's counsel all documents in the Government's possession, custody or control showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September, 1972.

36. Requiring the Government prosecutor at this time to make available to defendant's counsel any and all documents, books, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that the President of the United States and/or the Attorney General of the United States and/or their representative were advised that the F.B.I. investigation of the Weatherman Underground would include surreptitious entries.

37. Requiring the Government prosecutor at this time to make available to defendant's counsel any and all documents, books, papers, records, recordings, notes, photographs or other tangible objects in the Government's possession, custody or control which reflect in any way that Congressional Committees investigating the

Weatherman Underground's bombing of the U.S. Capitol were told that surreptitious entries had occurred or would take place in the future.

38. Requiring the Government prosecutor to make available to defendant's counsel all orders, directives, policy statements, or guidelines issued to or by the F.B.I., in the Government's possession, custody or control, effective from 1950 to the present, regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.

39. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, notes, documents, photographs or other tangible objects in the Government's possession, custody or control which reflect that F.B.I. agents received incentive awards for conducting surreptitious entries from January 1, 1960 to the present.

VI. Documents and Other Information Material to Defendant's Preparation of His Defense that the Allegedly Unlawful Activity was Conducted in Response to a Threat to the National Security Which Justified the Use of Surreptitious Entries Without Warrants

40. Requiring the Government prosecutor to make available to defendant's counsel all documents prepared by a joint Department of Justice/F.B.I. committee known as the "Department Review Committee" in the Government's possession, custody or control, which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.

41. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, documents, notes, photographs or other tangible objects in the possession, custody or control of the Government which directly or indirectly reflect involvement or collaboration by the Weatherman

Organization or its members with any foreign power, or with any agent of a foreign power.

42. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, documents, notes, photographs or other tangible objects in the possession, custody or control of the Government which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.

43. Requiring the Government prosecutor to make available to defendant's counsel all books, papers, records, recordings, documents, notes, photographs or other tangible objects in the possession of the Department of Justice, the F.B.I., the DID, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:

a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the F.B.I. detailing the relationship of members of the Weatherman Organization and foreign governments or agents.

b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one William Ayres, a Weatherman member, which indicates contact with the government of North Vietnam.

c. Internal documents of the Weatherman Organization including all copies in the possession of the Government of the publication "Osawatomie," the Weatherman periodical.

d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to the Royal Canadian Mounted Police.

e. Documents in F.B.I. files showing communications between the Weatherman Organization, SDS, the "Venceremos Brigade", and the Cuban Mission to the United Nations.

f. Pertinent documents from F.B.I. files designated as "109-12" (foreign political matters) and all subfiles thereunder.

g. Pertinent documents from F.B.I. files designated as "66-1686" (the "June" file).

h. Pertinent documents from F.B.I. files described as "Foreign Influence in the New Left" and all subfiles thereunder.

i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.

VII. Documents and Other Information Material to Defendant's Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Conduct by the Government in Connection With the Grand Jury Proceedings

44. Requiring the Government prosecutor to disclose to defendant's counsel the date of convening of each grand jury considering proceedings against the defendants in this case, or any of them, in the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia or elsewhere; the date of the first issuance of a subpoena ducēs tecum by each such grand jury; the date of the first issuance of a subpoena for testimony by each such grand jury; the date of the first receipt of documents by each such grand jury; the date of dissolution of each such grand jury; and identical

information relating to the grand jury returning the indictment in this matter.

45. Requiring the Government prosecutor to make available to defendant's counsel all petitions, motions and orders of court relating to the convening and/or discharge of any of the aforesaid grand juries.

46. Requiring the Government prosecutor to make available to defendant's counsel a listing of all materials subpoenaed by each such grand jury and all witness testimony taken by each such grand jury and a statement as to which of these documents and what of this testimony was submitted to each subsequent grand jury, including each reference by any prosecutor to any such document(s) or testimony.

47. Requiring the Government prosecutor to produce all documents reflecting authorization for Mr. Skolnik to sign the indictment returned in this case.

VII. Documents and Other Information Material to Defendant's Preparation of His Defense That the Indictment is Subject To Dismissal Due to Prejudicial Pre-Indictment Delay

48. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries. . . ." Requiring the Government prosecutor to disclose to defendant's counsel the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.

49. Requiring the Government prosecutor to make available to defendant's counsel a list of all records, documents, files, statements and other relevant evidentiary materials which the Government knows or has reason to know have been destroyed or lost since the time the Government first became aware of the alleged facts resulting in this indictment.

50. Requiring the Government prosecutor to make available to defendant's counsel a list of all persons having information relevant and material to the charges herein who have either died or whose whereabouts are no longer known to the Government, since the Government became aware of the facts resulting in this indictment.

IX. Documents and Other Information Material to Defendant's Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Pre-Trial Publicity Emanating From Officials of the Department of Justice

51. Requiring the Government prosecutor to make available to defendant's counsel all press releases, speeches, interviews, public statements, or transcripts or recordings of public statements, formal or informal by the Attorney General of the United States, the Chief of the Criminal Section of the Civil Rights Division or other representatives of the Department of Justice in the Government's possession, custody or control, relating in any way to the investigation or indictment of the defendant.

52. Requiring the Government prosecutor to make available to defendant's counsel all records and notations of meetings or personal or telephone conversations with media representatives by the Attorney General of the United States or personnel of the Department of Justice in the Government's possession, custody or control, relating in any way to the investigation or indictment of the defendant.

53. Requiring the Government prosecutor to make available to defendant's counsel all press releases, public statements and

communications to Congressional Committees issued at any time by the United States Attorneys for the District of Columbia or the Southern District of New York, or the Department of Justice, in the Government's possession, custody or control, relating in any way to investigations of illegal break-ins by the Federal Bureau of Investigation generated since January 1, 1973.


54. Requiring the Government prosecutor to identify to defendant's counsel the time, place, participants, nature, occasion, and substance of each statement to or in the presence of any press, radio, or television representative concerning the investigation or indictment of the defendant, by the Attorney General of the United States, by any representative of the United States Attorney's Office in New York or Washington, the Department of Justice or any employee thereof, to the extent that this information is not disclosed by documents produced pursuant to paragraph 53 above.

55. Requiring the Government prosecutor to make available to defendant's counsel all Justice Department memoranda in the Government's possession, custody or control, relating in any way to pre-trial publicity in connection with the investigation or indictment of defendant and identification of the time, place, participants nature, reason and substance of each verbal communication or instruction within the Justice Department relating to pre-trial publicity in connection with this investigation and indictment, including all communications between the Department and present and former counsel associated with the investigation, including William L. Gardner, Stephen Horn, and Richard F. Johnston, relating to volunteered public statements concerning the investigation and indictments.

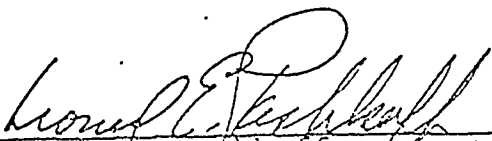
56. Requiring the Government prosecutor to make available to defendant's counsel those portions of the grand jury minutes reflecting questioning of witnesses by grand jurors or comments by grand jurors.

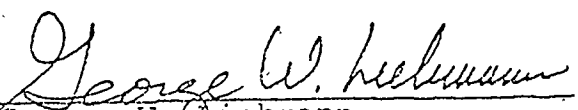
57. Requiring the Government prosecutor to make available to defendant's counsel all press clippings relating to the investigation and indictment of defendant systematically maintained by or in the possession of the Department of Justice.

Respectfully submitted,


Alan I. Baron

OF COUNSEL:


Lionel E. Pashkoff
Danzansky, Dickey, Tydings,
Quint & Gordon
1120 Connecticut Ave., N.W.
Tenth Floor
Washington, D.C. 20036
202-857-4000


George W. Liebmann



Robert B. Levin

1300 Mercantile Bank & Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201
301-547-0500

Attorneys for Defendant,
L. Patrick Gray, III

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for Discovery and Inspection on Behalf of the Defendant Gray and Memorandum in Support thereof was hand-delivered this 22nd day of May, 1978 to Barnet D. Skolnik, Esquire; Department of Justice, Washington, D.C.; and to Brian Gettings, Esquire, 1700 Pennsylvania Avenue, N.W., Washington, D.C.; and to Thomas A. Kennelly, Esquire, 1000 Connecticut Avenue, N.W., Washington, D.C.


Alan I. Baron

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)

v.)

~~FEDERAL GOVERNMENT~~)

CRIMINAL NO. 78-00179

L. PATRICK GRAY, III,)

W. MARK FELT)

and)

EDWARD S. MILLER)

Rec'd 4-1
7-1

MOTION FOR DISCOVERY AND INSPECTION
ON BEHALF OF DEFENDANT W. MARK FELT

COMES NOW the defendant, W. MARK FELT, by counsel, and moves this Honorable Court for an Order, pursuant to Rule 16, Federal Rules of Criminal Procedure, permitting him to inspect and copy specific records and other documentary materials which are designated hereinafter.

Where used, the term "documentary materials" means all books, papers, documents, records, letters, memoranda, photographs, criminal records, tape recordings, or other tangible objects in the possession, custody or control of any government agency, including but not limited to the White House, G.S.A., the Justice Department, the F.B.I., the C.I.A., the State Department, the Treasury Department, the Secret Service, the Defense Department and the N.S.A.

The grounds for and points and authorities in support of this Motion are set forth in an attached memorandum which, where appropriate, also sets forth the relevance and materiality of the materials sought and our entitlement to them.

62-118045-

NOT RECORDED

14 AUG 31 1978

A. General

1. Any relevant^{1/} written or recorded statements made by the defendant W. Mark Felt, including documentary material

^{1/} The word "relevant" as used herein means relating to the following subjects: intelligence programs, domestic and foreign; terrorist activities, domestic and foreign; the Weatherman Organization; the use of any investigative techniques in intelligence programs, or investigations into terrorist activities and the Weatherman Organization, and; the use of any investigative technique in any other investigations and programs involving, for example, fugitives or organized crime

file 4-11-78

LEONARD COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201
(703) 525-2260

authorized by or for him between 1942 and 1973 and made and maintained by the Justice Department and the F.B.I. in the ordinary course of business..

2. Any relevant written or recorded statements made by alleged co-conspirators, L. Patrick Gray and Edward S. Miller, including documentary material authorized by or for them between 1942 and 1973 and made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business.

3. Any relevant written or recorded statements made by any other alleged co-conspirator, including documentary material authorized by or for them between 1942 and 1973 and made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business.

4. Any relevant written or recorded statements made by any other person between 1942 and 1973 and made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business which was seen by, routed to, disseminated to or the contents or existence of which would normally have been known to the defendant W. Mark Felt.

5. The substance of any oral statement which the government intends to offer in evidence at the trial made by defendant W. Mark Felt in response to interrogation by any person then known to Mr. Felt to be a government agent.

6. Documentary materials which are intended for use by the government as evidence in chief at trial or which were obtained from or belong to defendant W. Mark Felt.

7. The results or reports of any scientific tests or experiments conducted during the investigation which led to this indictment and prosecution.

8. Documentary materials or the substance of any oral statement relating to any electronic surveillance^{2/} employed by the

^{2/} Within the meaning of 18 U.S.C. 2510, et. seq.

government during the investigation which led to this indictment and prosecution.

9. The fruits of any searches and seizures conducted by the government during the investigation which led to this indictment and prosecution, together with all warrants and affidavits in support thereof, including but not limited to items seized from F.B.I. offices in Washington, D. C., and New York, N. Y., on August 19, 1976.

10. Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business concerning all Weatherman fugitives referred to in paragraph 5 of the indictment including arrest warrants and supporting affidavits thereof.

11. Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business relating to overt acts 1 through 5 of the indictment.

12. Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business relating to Jennifer Dohrn, Judith Clark, Susan Roth, Frances Shreiberg, Mr. and Mrs. Benjamin Cohen, Mortimer Bookchin and Leonard Machtinger, named in paragraph 6 of the indictment as citizens of the United States, relatives and acquaintances of Weatherman fugitives and also named, variously, in overt acts 6 through 32 of the indictment.

13. Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business which reflect the names, last known address and dates of service in the position of all persons serving as Assistant Directors and above within the F.B.I. from 1942 to the present.

14. Documentary materials reflecting conversations among the President of the United States and any member of his staff or between the President of the United States or any member of his staff and any member of the Executive or Legislative Branch of

LEONARD. COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
RINGTON, VA. 22201
(703) 525-2260

the Government relating to terrorist activities in general and the Weatherman Organization in particular between 1964 and the present.

B. Witnesses

1. The names and addresses of all "others to the grand jury known" with whom the defendant W. Mark Felt is alleged to have conspired, together with any statements by such persons in the government's possession, custody or control.

2. The names and addresses of all persons whom the government intends to call as witnesses, together with any statements by such witnesses in the government's possession, custody or control.

3. The names and addresses of all persons interviewed or questioned by the government during the investigation which led to this indictment and prosecution and whom the government, at this time, does not intend to call as witnesses, together with any statements by such persons in the government's possession, custody or control.

4. Documentary materials relating to or the substance of any oral statements containing promises, inducements or rewards given by the government to any persons whom it intends to call as a witness or who was interviewed or questioned by the government during the investigation which led to this indictment and prosecution.

5. Documentary materials relating to or the substance of any oral statements containing advice or threats of indictment or the institution of disciplinary action made by the government to any person during the investigation which led to this indictment and prosecution.

C. The Weatherman Organization

Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business which reflect:

LEONARD, COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201

(703) 525-2260

1. the name, last known address and dates of service in the position of all persons in the chain-of-command between the Director of the F.B.I. and "street-agent" in all F.B.I. field offices, inclusive, from 1968 to the present, whose assignment and responsibility it was to investigate the activities of the Weatherman Organization and to locate and apprehend Weatherman fugitives;

2. the name, last known address and alleged criminal activities of each known or suspected member of the Weatherman Organization from 1968 to the present;

3. F.B.I. efforts and the efforts of other law enforcement and intelligence agencies, federal, state, local and foreign, to investigate the activities of the Weatherman Organization and to locate and apprehend Weatherman fugitives, including but not limited to the establishment of special units or squads within the F.B.I.;

4. involvement or collaboration by the Weatherman Organization or its members with any foreign power or any agent of a foreign power including any known foreign travel by its members from 1968 to the present;

5. the authorization, withdrawal of authorization, or prohibition both specific and general by the President of the United States or any member of his staff, the Attorney General Deputy Attorney General, Assistant Attorneys General, Criminal Division, Internal Security Division and Office of Legal Counsel, and the Director or any Assistant Director of the F.B.I. of the use in the conduct of investigations by the F.B.I. of the Weatherman Organization of electronic surveillance pursuant to 18 U.S.C. 2516 et seq., of warrantless electronic surveillance, the warrantless installation and retrieval of microphones, warrantless entries of any premises and searches and seizures thereof mail covers, mail openings and the use of informants and undercover agents;

LEONARD, COHEN
& GETTINGS
SUITE 500
800 N. UHLE STREET
BLINGTON, VA. 22201

(703) 525-2260

6. any special training between 1968 and the present given to or proposed for agents whose assignment and responsibility it was to investigate the activities of the Weatherman Organization and to locate and apprehend Weatherman fugitives;

7. public statements including press releases or testimony before Congress whether public or in executive session by any member of the Executive or Legislative Branches of the Government from 1968 to the present concerning the Weatherman Organization;

8. the classification, designation, or characterization by any member of the Executive or Legislative Branches of the Government from 1968 to the present of the Weatherman Organization as a terrorist organization, a subversive organization, a threat to national or internal security, a foreign dominated organization, a purely domestic organization or any other characterization of similar import.

D. The Defense of Selective Prosecution and Lack of Specific Criminal Intent

Documentary materials made and maintained or received by the Justice Department and the F.B.I. in the ordinary course of business from 1939 to the present which reflect:

1. the authority, responsibility and jurisdiction of the F.B.I. to conduct investigations in the fields of domestic and foreign intelligence, sabotage and espionage, subversive activities and terrorism;

2. the delegation within the F.B.I. of the authority, responsibility and jurisdiction to conduct the investigations enumerated in paragraph D1, supra;

3. the authorization, withdrawal of authorization, or prohibition, both specific and general, by the President of the United States or any member of his staff, the Attorney General, Deputy Attorney General, Assistant Attorneys General, Criminal Division, Internal Security Division and office of Legal Counsel and the Director or any Assistant Director of the F.B.I., of

LEONARD, COHEN
& GETTINGS
SUITE 500
600 N. UHLE STREET
RICHMOND, VA. 22201
(703) 525-2260

the use in the conduct of any investigation by the F.B.I. or any other government agency of electronic surveillance pursuant to 18 U.S.C. 2516 et seq., of warrantless electronic surveillance, the warrantless installation and retrieval of microphones, warrantless entries of any premises and searches and seizures therein, mail covers, mail openings and the use of informants and undercover agents, except documentary materials related to specific uses of electronic surveillance pursuant to 18 U.S.C. 2516 et seq.

4. that the President of the United States or any member of his staff or any employee of the Justice Department except the F.B.I. had knowledge either generally or in specific situations, of the use in the conduct of any investigation by the F.B.I. or any other government agency of warrantless electronic surveillance, the warrantless installation and retrieval of microphones, warrantless entries of any premises and searches and seizures therein, mail covers and mail openings;

5. knowledge on the part of any employee of the Justice Department, except the F.B.I., that any law enforcement officer in the United States, federal, state and local, had utilized, in the conduct of a lawful and official investigation, any investigative technique or committed any act which, on its face, violated any person's rights under the Fourth Amendment to the Constitution of the United States;

6. knowledge on the part of any employee of the Justice Department, except the F.B.I., that any law enforcement officer in the United States, federal, state or local, had utilized, in the conduct of a lawful and official investigation, any investigative technique or committed any act which, on its face, violated any person's rights under the First, Fifth, Sixth or Fourteenth Amendments to the Constitution of the United States.

LEONARD, COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201

(703) 525-2260

E. Prejudicial Pre-Indictment Delay and Prejudicial Public Statements by Justice Department Officials

Documentary materials made and maintained by the Justice Department, except the F.B.I., in the ordinary course of business which reflect:

1. the first date on which any employee of the Justice Department, except the F.B.I., became aware that warrantless entries of premises and searches and seizures therein had been utilized in the F.B.I. investigation of the Weatherman Organization;
2. the first date on which any attorney of the Justice Department concluded that sufficient evidence had been developed to present an indictment to any grand jury naming W. Mark Felt as a defendant arising out of warrantless entries of premises and searches and seizures therein during the F.B.I. investigation of the Weatherman Organization;
3. the reasons for delay between the date established in paragraph E2, supra, April 10, 1978, in presenting the indictment herein to any grand jury;
4. the reasons for the selection of the District of Columbia as the jurisdiction within which to institute these proceedings;
5. the role of William C. Sullivan in the matters which are the subject of this indictment, including but not limited to any testimony he may have given before any federal grand jury in connection with the investigation which led to the indictment and prosecution, any and all relevant written or recorded statements made by or for him between 1942 and 1973, made and maintained by the Justice Department and the F.B.I. in the ordinary course of business, and Mr. Sullivan's personnel file as employee of the F.B.I.;
6. the content or substance of any public statement by any employee of the Justice Department from 1971 and the content or substance of any private statement

LEONARD, COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201

(703) 525-2260

have been made or reasonably believed to have been made by any known or unknown employee of the Justice Department, to any person representing the news media from 1975 to the present, concerning the investigation which has led to this indictment or its subject matter.

F. Specific Documents the Existence of which is Known to Defendant W. Mark Felt

1. The memorandum and all other documentary materials supporting and relating to it, issued by then F.B.I. Director J. Edgar Hoover in 1966-67; ordering a halt in the use of surreptitious entries.

2. Documentary materials relating to the Cabinet Committee on Terrorism, the President's Foreign Intelligence Advisory Board and the so called "Houston Report".

3. Documentary materials relating to the redesignation in or about February 1973 of the "Domestic Intelligence Division" as the "Intelligence Division" of the F.B.I.

4. Documentary materials relating to the decision of the United States Supreme Court in June, 1972, formally known as United States v. United States District Court, and informally known as the "Keith" decision, including, but not limited to, opinion memoranda by Justice Department attorneys concerning its applicability and documents showing the redesignation of previously designated domestic intelligence subjects as foreign intelligence or intelligence subjects.

5. The memorandum entitled "Position Paper on Jurisdiction" dated February 13, 1975, from the Intelligence Division of the F.B.I., and all other documentary materials supporting and relating to it.

6. The memorandum entitled "An Analysis of F.B.I. Domestic Security Intelligence Investigations: Authority, Official Attitudes and Activities in Historical Perspective", dated October 28, 1975, and all other documentary materials supporting and relating to it.

LEONARD. COHEN
& GETTINGS
SUITE 500
400 N. UHLE STREET
ARLINGTON, VA. 22201

(703) 525-2260

7. The memorandum from Robert Haynes, F.B.I. liaison to the White House, which related to his conversation with Egil Krogh in which then President Nixon's views were stated on F.B.I. efforts to halt terrorist acts.

8. The report compiled by the Chicago field office of the F.B.I. in 1966-67 showing the relationship of the Weatherman Organization to foreign governments or their agents.

9. All written or recorded statements of Charles Brennan, including Grand Jury testimony, and his complete personnel file and any documentary materials authorized by him relevant to intelligence and terrorist investigations.

10. The memorandum from William Ruckleshaus, then Deputy Attorney General of the United States, to Clarence M. Kelley, then Director of the F.B.I., dated approximately July, 1973, relating to, among other things, surreptitious entries.

11. A transcript of the testimony of Attorney General Griffin Bell in the United States District Court for the Eastern District of Virginia, Alexandria Division, in March, 1978, in the case of United States v. Humphrey and Hung, Cr. 78-25-A.

12. A transcript of the testimony of Attorney General Griffin Bell and F.B.I. Director William Webster before a Senate Committee in April, 1978, relating to legislation on the subject of F.B.I. investigative jurisdiction and all documentary materials supporting and relating to it.

13. Memoranda between then Deputy Attorney General Byron R. White during 1961-62 and the F.B.I. relating to investigative techniques utilized by the F.B.I. in domestic and foreign intelligence programs and organized crime investigations.

14. Documentary materials relating to the after-the-fact authorization of then Attorney General Nicholas deB. Katzenbach of wiretaps and microphone surveillances of domestic and foreign intelligence subjects and in organized crime investigations during the time Mr. Katzenbach was Attorney General.

LEONARD. COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201
(703) 525-2260

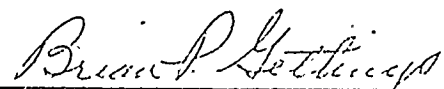
15. Documentary materials relating to the use of warrantless wiretaps, microphone surveillance, surreptitious entries and mail openings in:

- a) investigations by the F.B.I. and the Internal Revenue Service between 1957 and 1966 into organized crime matters;
- b) the so-called "Kissinger wiretaps";
- c) the so-called "Cointelpro" program; and
- d) investigations of the Communist and Socialist Workers Parties;

including, but not limited to, the files of the Civil Division of the Justice Department and all pleadings on behalf of the United States in civil actions filed against the United States arising out of these matters.

Defense counsel has sought the materials designated here from the Justice Department attorneys assigned to handle this case. We have already been provided with and have been assured future access to a large part of what has been designated here. Much, however, has also been denied us and, as to many requests, we do not know as yet what will be provided and what will not. Therefore, for the record at this time we feel compelled to make a complete discovery demand with the belief, though, that many of the disputes which still remain can be worked out prior to June 12, 1978, and without the necessity of having to litigate them. In a word, the government has not been "all bad" thus far.

Respectfully submitted,



Brian P. Gettings, Esquire
Counsel for Defendant W. Mark
Felt

LEONARD, COHEN, GETTINGS & SHER
1700 Pennsylvania Ave., N.W.
Washington, D. C. 20006

LEONARD, COHEN
& GETTINGS
SUITE 500
100 N. UHLE STREET
ARLINGTON, VA. 22201
(703) 525-2260

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed, postage prepaid, to Thomas A. Kennelly, Diuguid, Siegel & Kennelly, 1000 Connecticut Avenue, N.W., Washington, D. C. 20036; Alan I. Baron, Esquire, Frank, Bernstein, Conaway & Goldman, 1300 Mercantile Bank & Trust Building, 2 Hopkins Plaza Baltimore, Maryland 21201; Francis J. Martin, Esquire, United States Department of Justice, Criminal Division, Washington, D. C. 20530; and Barnett Skolnik, Esquire, Office of U. S. Attorney, 101 East Lombard Street, Baltimore, Maryland, this 22nd day of May, 1978.

Brian P. Gettings

Brian P. Gettings, Esquire

LEONARD, COHEN
& GETTINGS
SUITE 500
800 N. UHLE STREET
LINGTON, VA. 22201
(703) 525-2260

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

~~FEDERAL GOVERNMENT~~

UNITED STATES OF AMERICA

: Crim. No. 78-00179

v.

: (Violation of Title 18,
United States Code

L. PATRICK GRAY, III,
W. MARK FELT, and
EDWARD S. MILLER

: Section 241: Conspiracy
: Against Rights of Citizens)

4
28

view 4-1
7-1

DEFENDANT MILLER'S MOTION FOR DISCOVERY

On May 1, 1978, defendant Miller, through his counsel, submitted to Government counsel 45 written requests for discovery materials. On May 11, 1978, undersigned counsel received written responses to said requests. The Government has acceded to some of the requests. Of these, some of the documents have already been provided, others are promised in the near future, and others -- characterized by the Government as Jerry and Brady materials -- are promised 30 days before trial.

In all, the Government has acceded to 20 requests in the manner described above.

However, the Government has denied 14 requests in total and nine requests in part, and to two requests has stated that no such documents are known to Government counsel. **NOT RECORDED** 14 AUG 31 1978

62-118045-

All of the documents requested and denied are material to the preparation of Miller's defense, for reasons set forth in the attached Memorandum. Accordingly, defendant Miller pursuant to Rule 16(a)(1)(C) of the F.R.Cr.P. and Rule 2-5(a) of the Rules of this Court, moves the Court for an order granting discovery of the documents set forth in the attached Memorandum of Points and Authorities which are within the possession

ENCLOSURE

file 4-1
R.D.
Gray

WID, SIEGEL & KENNELLY
ATTORNEYS AT LAW
300 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20006
(202) 872-0700

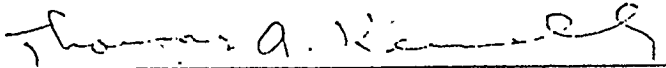
8 4 SEP 14 1978

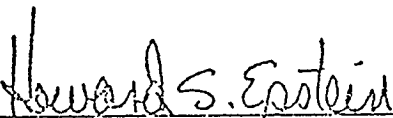
Greenberg/Gray-2296

custody or control of the Government, and which are material to the preparation of defendant Miller's defense.

Respectfully submitted,

DIUGUID, SIEGEL & KENNELLY


Thomas A. Kennelly


Howard S. Epstein

1000 Connecticut Avenue, N.W.
Suite 1112
Washington, D.C. 20036
(202) 872-0700
Attorneys for Edward S. Miller

TABLE OF AUTHORITIES

<u>Burkhart v. Saxbe</u> , 3/21/78, 23 Cr.L. 2104 (U.S.D.C. E.Pa.)	10
<u>United States v. Agrusa</u> , 541 F.2d 690 (8th Cir. 1976)	2
<u>United States v. Barker</u> , 178 U.S. App. D.C. 174, 546 F.2d 940 (1976)	1
<u>United States v. Ehrlichman</u> , 178 U.S. App. D.C. 144 (1976)	9
<u>United States v. Ford</u> , 180 U.S. App. D.C. 1 (1977) ..	2
<u>United States v. U.S. District Court</u> , 407 U.S. 297 (1972)	11, 12
<u>Zweibon v. Mitchell</u> , D.C.D.C. 2/21/78, 46 L.W. 2449	1
<u>Zweibon v. Mitchell</u> , 363 F.Supp. 936 (D.D.C. 1973)	10

ALFRED SIEGEL & KENNELLY
ATTORNEYS AT LAW
1500 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA : Crim. No. 78-00179
v. : (Violation of Title 18,
United States Code
L. PATRICK GRAY, III, : Section 241: Conspiracy
W. MARK FELT, and : Against Rights of Citizens)
EDWARD S. MILLER

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF DEFENDANT MILLER'S
MOTION FOR DISCOVERY

Introduction:

Generally speaking, Government counsel have agreed to turn over for inspection all FBI files relating to the Weatherman investigation. However -- again generally speaking -- they have denied discovery aimed at (1) determining whether this defendant's conduct was "consistent with the then prevailing statutory or constitutional norms and with long-standing historical precedent" (Zweibon v. Mitchell, D.C.D.C. 2/21/78, 46 L.W. 2449); (2) establishing the defense of lack of criminal intent; (3) establishing the defense of approval of higher authority as an exception to the mistake of law doctrine [U.S. v. Barker, 178 U.S. App. D.C. 174, 546 F.2d 940 (1976)]; (4) determining whether there are grounds for dismissal for pre-indictment delay; and (5) determining whether there are grounds for dismissal because of selective prosecution.

Discovery Needed to Determine Whether an
Offense was Committed and Whether Defendant
Had the Requisite Criminal Intent

This is an unusual indictment. The offense alleged is that the defendants conspired to "utilize the technique of surreptitious entry" in the Weatherman investigation in 1972-73.

SIEGEL & KENNELLY
ATTORNEYS AT LAW
1100 CONN. AVE., N. W.
SUITE 1112
WASHINGTON, D. C. 20036
(202) 672-0700

We have found no statute which prohibits the technique of surreptitious entry. On the contrary, as we pointed out in our motion to dismiss for failure to state an offense, the Government has contended in many cases that surreptitious entries are not inherently unlawful, even in cases not related to national security.^{1/}

In the absence of a statute, we must look elsewhere to determine standards of conduct. What we are first trying to determine through discovery is:

a. What were the policies and procedures concerning surreptitious entries? Were they clear? Did they distinguish between different types of investigations and different types of intrusions?

b. What were the manifestations of the policies and procedures on a case-by-case basis? Did the practices clarify or confuse the rules? Since we are dealing here with the utilization of a technique, only an examination of the other instances in which the technique was applied will enable us to determine if there was illegality as applied in this case.

c. Did this defendant have knowledge of the rules and the applicability so as to demonstrate a knowing violation sufficient here to prove criminal intent?

Toward this end, defendant Miller seeks the following documents:

1. A document entitled "POSITION PAPER ON JURISDICTION, 2/13/75, FBI Intelligence Division," together with all supporting papers.
2. A document entitled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historical Perspective, 10/28/75," together with all supporting papers.

1/

See, e.g., U.S. v. Ford, 180 U.S. App. D.C. 1 (1977); U.S. v. Agrusa, 541 F.2d 690 (8th Cir. 1976).

3. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define, describe, or explain the term "surreptitious entry."

The Government has denied requests numbered 1-3.

4. All orders, directives, policy statements, or guidelines, issued to or by the FBI regarding the "technique of surreptitious entry," effective 1950 to the present, including but not limited to:
 - a. Such documents which describe under what circumstances surreptitious entries are legal and under what circumstances they are illegal.
 - b. Such documents which describe what prior approval is required for utilization of the technique of surreptitious entry.
 - c. The so-called "Hoover memos" of 1966 and 1967.
5. All documents showing dissemination of any or all of the documents called for in paragraph 4 above to the following offices of the FBI in which Mr. Miller served during the periods indicated below.

Los Angeles, 1950-51
San Francisco, 1951-62
FBI Headquarters, 1962-66, 1969-74
Mobile, 1966
Honolulu, 1966-69
Chicago, 1969.

The Government has agreed to provide the documents requested in number 4 and number 5, but only as to "any such orders, directives, etc. issued prior to June 30, 1974 and concerning domestic matters."

We believe that directives issued since Mr. Miller retired in 1974 will demonstrate an admission by the Government that clarification of the rules was sorely needed, and that in 1972-73 this whole area was what many have termed a "legal no-man's land". We make the following proffer: On April 20, 1973, the very day of the arraignment in this case, Attorney General

Bell testified before the Senate Judiciary Committee concerning a proposed FBI Statutory Charter. The following colloquy occurred between Senator Kennedy and Attorney General Bell.

Senator Kennedy: If we had more clearly-defined procedures which would outline permissible techniques in terms of investigation, as well as those which were prohibited, do you think we would be avoiding the situation that we are confronted with now about indicting the top echelon people and the disciplining agents?

General Bell: Definitely. That has worried me from the very first day I became Attorney General. I have often wondered about this. If our system that we had in place at the time was so inadequate that the error could be committed, I wonder about it. Negligence could be committed, as distinguished from acting with criminal intent. I have wondered about that.

Further, the Government's attempt to limit discovery to "domestic matters" is an oversimplification of the issues in this case. Government counsel should not be allowed to determine what is a "domestic matter". It is material to Miller's defense to demonstrate that the line between "domestic security matters" and "foreign security matters" in 1972-73 was very murky indeed; that investigative rules applicable to both were unclear and were unevenly applied; and that the Weatherman investigation had at least as many "foreign national security" aspects as many other cases in which the Government has attempted to justify warrantless surreptitious entries. This will be discussed further under discovery requests numbered 8-14 below.

6. All FBI records and all records in the possession of the Government, showing that special agents of the FBI conducted surreptitious entries from 1950 through 1974, including documentation showing whether or not such surreptitious entries

were approved by the President of the United States, the Attorney General, the Director of the FBI, other Government official, or a court order.

The Government denied this request, except to provide only Weatherman files.

This request includes all records relating to the use of surreptitious entries during the period of Miller's employment. This request goes to the question: What were the manifestations of the policies and procedures? The issue of the legality of surreptitious entries and specifically of Miller's criminal intent cannot possibly be determined in a vacuum. This is particularly so in the absence of a statutory standard. Miller's activities in this case can only be measured in terms of long-standing historical precedent, of which he was a part. The Government will not deny that the technique of surreptitious entry has been utilized by Government agents before Miller became an FBI employee and after he left. What were the practices in effect during his employment? Who actually approved surreptitious entries? In comparison with other surreptitious entries, by what standard are those alleged in this indictment now deemed unlawful? Answers to these questions are material to Miller's defense, and can only be obtained by the discovery requested.

In support of this request, we proffer the following: The Government has furnished, in informal discovery, notes of an interview by Government counsel with Mr. William S. Sullivan, former Deputy Director of the FBI, on May 17, 1977. Mr. Sullivan states therein:

- a. During the 1950's and early 1960's he (Sullivan) from time to time authorized surreptitious entries on his own.

- b. During the 1955-65 period, surreptitious entries were used in organized crime cases and in the cases of some "Top Ten" fugitives.
- c. Mr. Hoover did, on rare occasions, make exceptions to his own rules against surreptitious entries and other methods. One such occasion was in 1969, when Hoover ordered Sullivan to cause Joseph Kraft to be wiretapped in Paris. Sullivan heard that the authorization for this action came from Ehrlichman, and through him from the President.
- d. In the 1970-71 period, Sullivan did approve some surreptitious entries himself, orally. He said this was not often done, "but it was not excluded either, if the case was important enough."
- e. He believed the Bureau used surreptitious entries around 1968, in the case of a rich heiress who was kidnapped and buried alive in Florida.
- f. He recalled three instances in 1970-71 in which Mr. Hoover approved surreptitious entries.

As further grounds for this request, we submit the following: In pre-indictment conferences between Government counsel and counsel for Mr. Miller, the Government contended that the "paucity of paperwork" concerning the surreptitious entries in question, as compared to other instances, is an indicia of guilt. The only way we can test the Government's proof on this issue is to examine and compare the other instances.

- 7. Those portions of all Department of Justice directives, guidelines, policy statements, orders, memoranda, or manuals effective from 1950 to the present which set forth the conditions for prosecution of FBI employees who utilize the technique of surreptitious entry.

The documents requested in number 7 go to the issue of whether there were standards of illegality, and whether Miller had notice of same.

8. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define or distinguish between the following terms:
 - a. "National security", "domestic security", and "internal security".
 - b. "Foreign intelligence" and "domestic intelligence".
9. Documents prepared by a joint Department of Justice/FBI committee known as the "Department Review Committee" which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.
10. All other documents which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.
11. All documents in the possession of the Department of Justice, the FBI, DOD, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:
 - a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the FBI detailing the relationship of members of the Weatherman organization and foreign governments or agents.
 - b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one William Ayres, a Weatherman member, which indicates contact with the government of North Vietnam.
 - c. Internal documents of the Weatherman organization including all copies in the possession of the government of the publication "Osawatomic", the Weatherman periodical.

- d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to the Royal Canadian Mounted Police.
 - e. Documents in FBI files showing communications between the Weatherman organization, SDS, the "Venceremos Brigade", and the Cuban Mission of the United Nations.
 - f. Pertinent documents from FBI files designated as "109-12" (foreign political matters) and all subfiles thereunder.
 - g. Pertinent documents from FBI files designated as "66-1686" (the "June file").
 - h. Pertinent documents from FBI files described as "Foreign Influence in the New Left" and all subfiles thereunder.
 - i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.
 - j. The so-called "Cathy Boudin letters from Moscow", believed to be about 100 letters written by Boudin, a known Weatherman fugitive, from Moscow in the early 1970's, and obtained by the CIA.
12. All orders, directives, policy statements, or guidelines issued to or by the FBI, effective from 1950 to the present regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.
13. All documents showing dissemination of any or all of the documents called for in paragraph 12 above to the following offices of the FBI in which Mr. Miller served during the periods indicated:
- Los Angeles, 1950-51
 - San Francisco, 1951-62
 - FBI Headquarters, 1962-66, 1969-74
 - Mobile, 1966
 - Honolulu, 1966-69
 - Chicago, 1969
14. All documents showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September 1972.

Discovery requests numbered 8-14 seek (1) to clarify, through Government documents, the distinctions, if any really existed, between "domestic national security" and "foreign national security" and similar terms, (2) pertinent investigative guidelines, (3) to establish that the Weatherman investigation had "foreign national security" aspects in that it involved "foreign agents or collaboration with foreign powers" (U.S. v. Ehrlichman, infra).

Mr. Miller contends that the surreptitious entries in question were authorized by his superiors. The defense of an absence of a mens rea based upon a good faith and reasonable reliance on apparent authority is available to him under U.S. v. Barker, supra. The reasonableness of his reliance is based in part on his assertion that the Weatherman investigation was a national security investigation with foreign overtones and therefore warrantless surveillance was legal.^{2/} Discovery requested in requests numbered 9 and 10 will show that in 1966 the Weatherman investigation was indeed classified as a national security matter, based on information gathered since 1969. Discovery requested in number 11, which is as specific as possible and is based on Miller's own experience and information available to him, will demonstrate that the Weatherman organization involved "foreign agents or collaboration with foreign powers", the test set forth in Ehrlichman, supra.

2/

The terms "surveillance" and "surreptitious entry" are used interchangeably here in view of the Department of Justice position that in foreign intelligence matters there is no constitutional difference between searches conducted by wiretapping and those involving physical entries into private premises. See U.S. v. Ehrlichman, 178 U.S. App. D.C. 144 at 169 (1976).

In informal conferences, Government counsel have taken the position that the Weatherman investigation was "domestic" only, and therefore any discovery aimed at establishing foreign involvement is irrelevant. This begs the question. Further, this position is difficult to reconcile with the Government's position in other cases in which it has attempted to justify warrantless electronic surveillance on grounds of foreign national security. In Zweibon v. Mitchell, 363 F.Supp. 936 (D.D.C. 1973), the Government argued that warrantless electronic surveillance of the offices of the Jewish Defense League conducted by FBI personnel was in pursuance of a national security investigation with foreign overtones and therefore was legal. In Burkhart v. Saxbe, 3/21/78, 23 Cr.L. 2104 (U.S.D.C. E.Pa.) the Government defended the following wiretaps obtained without warrant or prior judicial approval: (1) a wiretap of a person suspected of being an active member of the East Coast Conspiracy to Save Lives, an anti-war group; (2) a tap of a phone registered to the Philadelphia Chapter of the Black Panther Party. In (1) above, the Government relied on an alleged plot to kidnap Henry Kissinger and destroy heating systems in the District of Columbia. In (2), the Government relied on information that the Black Panther party leaders had visited hostile countries, had met with representatives of North Vietnam and Cuba, were receiving funds from those powers for their revolutionary activities, and had enough followers to be a threat to the national security.

In each of those cases the Government argued that the investigation involved foreign national security. By what

CONNELLY
AW
H. W.
20036

standard does the Government now attempt to preclude us from even raising the same question in discovery here?

The Government has also contended in informal conferences in this case that U.S. v. U.S. District Court (Keith) 407 U.S. 297 (1972), decided shortly before the first surreptitious entry alleged in this indictment, prohibited warrantless entries in domestic security cases, and therefore the defendant should have known that the surreptitious entries alleged here were illegal. Again this begs the question. In Keith the Supreme Court attempted to define the term "domestic organization" (at page 310, fn. 8):

Although we attempt no precise definition, we use the term "domestic organization" in this opinion to mean a group or organization (whether formally or informally constituted) composed of citizens of the United States and which has no significant connection with a foreign power, its agents or agencies. No doubt there are cases where it will be difficult to distinguish between "domestic" and "foreign" unlawful activities directed against the Government of the United States where there is collaboration in varying degrees between domestic groups or organizations and agents or agencies of foreign powers. But this is not such a case.

Government counsel further contended that a warrantless surveillance based on national security requires approval of the President or the Attorney General, that none was obtained in this case, and therefore all discovery related to national security is irrelevant. Our discovery requests numbered 14-18 seek to determine whether there was in fact such approval, and further, whether there were other surreptitious entries approved solely by Mr. Miller's superiors in the FBI. We have referred to one such instance in our request number 14 and in our motion for severance, and Mr. Miller is informed and believed there were others, even after Keith.

Thus, the discovery requested herein is material to show that Mr. Miller's good faith reliance on apparent higher authority was reasonable because (a) of the foreign national security aspects of the investigation, and (b) it was based on precedent, even after Keith.

Additional Discovery Needed to Establish
Defense of Approval of Higher Authority

For the reasons previously stated, the documents requested in numbers 15, 16, 17 and 18 below are needed in preparation of Miller's defense of approval of higher authority.

15. All documents and memoranda prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the FBI concerning plans to deal with the Weatherman Underground Organization and other terrorist groups from 1969 through 1974, including but not limited to the so-called "Huston Report" in 1970 or 1971.

The Government has agreed to provide the "Huston Report" but has otherwise denied this request as overbroad. Miller is informed and believes that plans and methods for dealing with the Weatherman Underground Organization and other terrorist groups during the period in question were formulated not merely in the Department of Justice, but at the highest levels of Government, through a "Cabinet Committee on Terrorism" composed of representatives from the above-named agencies. Plans, guidelines, and methods emanating therefrom are material to his defense.

16. All documents showing communication between the White House and the Department of Justice, and the White House and the FBI, concerning plans and investigative methods to deal with the Weatherman Underground Organization and other terrorist groups from 1969 through 1974, including but not limited to:

- a. a memorandum prepared in the early 1970's by Mr. Robert Haynes, FBI liaison to the White House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the FBI to use all means possible to stop terrorist activities.

The Government has agreed to provide the Haynes memo, which we included as a proffer to show the existence of at least one such document. The Government has declined to produce such documents concerning "other terrorist groups". We submit that plans and investigative methods to deal with terrorist groups in general would be material to Miller's defense, and no magic words should be required. The Government has declined to produce the pertinent White House documents, which amounts to half a search, not a whole search.

As a further proffer, we refer the Government to Mr. Sullivan's Grand Jury testimony in which he described phone calls and visits by White House personnel to the FBI concerning ways of "solving the bombing cases, such as the Capitol bombing"; a visit by Mr. Hoover to the White House wherein he met with the President on the same subject; and later conversations between the President and Mr. Hoover on the matter.

17. Those portions of all tapes and transcripts of White House conversations in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.

The Government stated in response to our informal requests: "This request is denied as overbroad. However, any known White House tape recordings of any defendant in this case will be made available."

This offer to provide any "known" tapes of any defendant in this case is non-responsive. In the first place, it was not Mr. Miller's custom to speak with White House

personnel. In the second place, we are interested in not only what Mr. Nixon said directly to Mr. Gray^{3/} but what instructions were given from the Oval Office to White House staffers to be transmitted to the Bureau.

It is common knowledge from the Watergate hearings, and we can offer testimony to establish, that the White House was unhappy with Mr. Hoover's "obstructionism" in the matter of surreptitious entries and similar investigative techniques,^{4/} and that it was thought that Mr. Gray would be more "responsive". Any directions from the White House would go directly to Mr. Miller's defense of approval of higher authority. The White House tapes are the primary source of such evidence.

18. All documents, including reports and statements of persons interviewed, which indicate that there was an absence of approval by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

At his press conference on the day of the indictment, Attorney General Bell asserted that the investigation disclosed no evidence of any approval by authorities higher than these defendants of the surreptitious entries alleged. We should have an opportunity to test the accuracy and completeness of that assertion in advance of trial, through the documents requested.

3/

Mr. Gray refers in his Grand Jury testimony to a phone conversation with Mr. Nixon on this subject on July 6, 1972.

4/

As demonstrated, e.g., by Hoover's opposition to the "Huston Plan".

Discovery Needed to Establish Prejudicial
Pre-Indictment Delay

In connection with our Motion to Dismiss Because of Pre-Indictment Delay the following discovery is requested, for the reasons set forth in that Motion.

19. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries...." Disclose the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.

This request has been denied by the Government.

20. All other documents reflecting the personal wishes of FBI Director Hoover with regard to the means to be utilized to catch Weatherman fugitives.

The Government has stated that "No such documentation is known to Government counsel."

21. All evidence showing that any Attorney General of the United States or President of the United States, while in office, learned of the utilization of the technique of surreptitious entry by FBI agents or officials, but declined to order an investigation or rejected an investigation or declined to prosecute any employees or former employees of the FBI.

The Government has stated that it will provide "any such materials relating to surreptitious entries of the nature alleged in the indictment." This response is unclear and too restrictive because, as we point out in our Motion to Dismiss for Failure to State an Offense, the indictment alleges a conspiracy to "utilize the technique of surreptitious entry" without any distinctions. What we seek here in connection with

our pre-indictment delay motion is knowledge of "utilization of the technique of surreptitious entry" in the language of the indictment, and decisions not to investigate or prosecute.

Discovery Needed to Establish Discriminatory Prosecution

In connection with our Motion to Dismiss Due to Discriminatory Prosecution, the following discovery is requested for the reasons set forth in that Motion.

22. A list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers through utilization of the technique of surreptitious entry came to the attention of the Department of Justice.
23. A list of all investigations conducted by the FBI from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers through utilization of the technique of surreptitious entry.
24. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, all documents showing the basis for such determination.

All of the above requests have been denied by the Government. The above documents are necessary to establish a pattern and a policy, during Mr. Miller's entire career with the FBI, not to prosecute law enforcement officers for utilizing the technique of surreptitious entry.

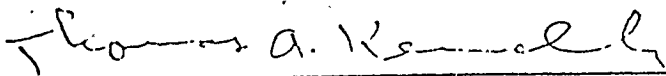
25. All prosecutive reports from FBI special agents to federal prosecutors prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature that special agents of the FBI conducted surreptitious entries.
26. All communications from FBI Headquarters to the Department of Justice or other Government agencies prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature, that special agents of the FBI conducted surreptitious entries.

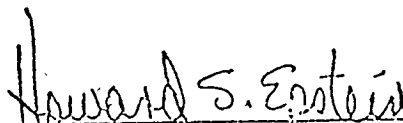
The Government has denied these requests, except to provide all FBI files on the Weatherman investigation. This discovery is needed for the reasons set forth following numbers 22, 23 and 24 above.

Finally, the Government has offered to provide all Jencks and Brady materials 30 days before trial. We respectfully suggest that the Court urge the Government to do so not later than 60 days before trial in view of the massive amounts of evidence to be analyzed and the large number of witnesses to be interviewed. For example, the Government has named 30 unindicted co-conspirators. There is no reason in this case to protect witnesses or hide evidence. A 60 day period will permit orderly preparation for trial and hopefully will avoid last minute requests for continuances.

Respectfully submitted,

DIUGUID, SIEGEL & KENNELLY


Thomas A. Kennelly


Howard S. Epstein

1000 Connecticut Avenue, N.W.
Suite 1112
Washington, D.C. 20036
(202) 872-0700
Attorneys for Edward S. Miller

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA : Crim. No. 78-00179
v. : (Violation of Title 18,
L. PATRICK GRAY, III, : United States Code
W. MARK FELT, and : Section 241: Conspiracy
EDWARD S. MILLER : Against Rights of Citizens)

ORDER

Upon consideration of the motion of defendant Edward S. Miller for an order permitting discovery of certain documents, the Memorandum of Points and Authorities in support thereof, and the Government's response thereto, and it appearing to the Court, being fully advised, that defendant Miller is entitled to such discovery,

IT IS HEREBY ORDERED that the motion is granted and that the Government shall permit the discovery of all documents set forth in the defendant's Memorandum of Points and Authorities which are in the possession, custody or control of the Government.

Date _____, 1978

JUDGE, UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)

v.)

L. PATRICK GRAY, III,)
W. MARK FELT,)
and)
EDWARD S. MILLER)

Criminal No. 78-00179

CERTIFICATE OF SERVICE

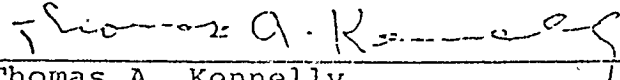
I certify that I have this 22nd day of May 1978
mailed a copy of the within Motion and accompanying papers to
the following:

Barnet D. Skolnik, Esquire
Assistant U. S. Attorney
United States Court House
101 West Lombard Street
Baltimore, Maryland 21201

Francis J. Martin, Esquire
Department of Justice
Main Justice Building
Room 2244
10th & Pennsylvania Avenue, N. W.
Washington, D. C. 20530

Alan S. Baron, Esquire
1300 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Maryland 21201
Counsel for L. Patrick Gray, III

Brian P. Gettings, Esquire
1400 N. Uhle Street
Arlington, Virginia 22201
Counsel for W. Mark Felt


Thomas A. Kennelly

Director, Internal Revenue Service

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

Handwritten initials/signature

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

Handwritten initials in a circle

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain ^{REC-97} return all copies of this correspondence, the referral form, and the documents, at your option.

62-118045-38X
14 AUG 31 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 [Redacted]
1 Mr. Nicholas

Handwritten initials/signature

(SEE NOTE PAGE 2)

ENCLOSURE
JIT and QMD
(4)

DELIVERED BY LIAISON
DATE 6/9/78

8 4 SEP 14 1978

Greenberg/Gray-2318

Director, Internal Revenue Service

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when ~~TOP SECRET~~ or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Greenberg/Gray-2319

R



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: BRENNAN

Telephone:

b2

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other IRS

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
<i>Weatherman</i>	<i>100-439048</i>	<i>3751</i>	<i>12/31/74</i>
	<i>Sec 69.</i>		

*Enclosure 6-8-78
Direct, Internal Revenue
Service*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-38X

ENCLOSURE Greenberg/Gray-2320

June 15, 1978

MR. ADAMS:

58

L Patrick Gray

In accordance with your instructions, the purpose of this note is to respond to the Director's question on the attached routing slip. The background is as follows:

By letter from the Director to the Attorney General 5-9-78 (copy attached) the Bureau, in essence, expressed its concern over the large volume of material in the possession of the Department which has not received an appropriate classification review. Among other things, the Bureau specifically requested the return of the at least 81 volumes of material in the custody of the Department which are not essential to the current prosecution.

b6
b7C

The 5-31-78 communication from the Department to the Director (attached) is in response to our communication of 5-9-78. The Director raised the following question relative to this latter communication: "How does this tie to [redacted] letter to AG?"

b6
b7C

Assuming the Director is referring to the personal letter which Section Chief [redacted] sent to the Attorney General under date of 5-31-78 (copy attached), the answer to the Director's question is that it does not tie in to [redacted] letter. While [redacted] covered a multitude of matters in his communication, the thrust of his letter was a request of the Department to pay his \$2100 attorney fees because he felt he required the services of an attorney due to alleged abusive attempts by the Department to intimidate him.

REC-110
REC-110

62-118045-39

While not pertinent to the Director's inquiry, I, nevertheless, feel that comments are appropriate relative to the Department's letter of 5-31-78. Specifically, there are two statements in this letter that are quite misleading. Sentence 2, paragraph 1, states that "Documents compiled by the Long Task Force which are not of potential use to the prosecution team are stored in the JEH Building" It is true that there are copies of a great deal of material which the Long Task Force made available to the Department reposing in the JEH Building, but the 81 volumes of material referred to above are still in the custody of the Department. Moreover, the last sentence in paragraph 1 indicates that documents retained in the Criminal Division of the Department are being reviewed by an Agent of our Discovery Team prior to any release. The only documents which the Department has made available for classification review were the 17 documents which they initially furnished to the defendants under Rule 16. As you may recall, this review by us was an "after-the-fact" situation and it was necessary for the Department to retrieve 4 of these 17 documents because they involved third agency material and were highly classified. In all, it is not felt that this communication from the Department is responsive to the Director's letter of 5-9-78 and, unless advised to the contrary, the 2 Agents heading up the Discovery Team intend to pursue the Bureau's request for return of the 81 volumes of material still in the possession of the Department and which, in many instances, contain highly sensitive and classifiable material.

14 AUG 31 1978

ENCLOSURE

Encs. 4 (5/78)

8 4 HNB:jmr (5)

Jim 4-PVD

HND H. N. BASSETT

UNITED STATES GOVERNMENT

Memorandum

TO : The Attorney General

1978 DATE: May 9, 1978

FROM: *WJW* Director, FBI

SUBJECT: SAFEGUARDING OF NATIONAL SECURITY
INFORMATION AND MATERIAL
(SURREPTITIOUS ENTRY INVESTIGATION)

In connection with the Civil Rights Division investigation of surreptitious entries, in June, 1976, a special task force under the supervision of Assistant Director Richard E. Long of this Bureau was appointed to assist under the direct supervision of then Assistant Attorney General J. Stanley Pottinger. Members of the FBI task force were selected to a large degree based on the fact they had limited intelligence or security backgrounds.

In recent weeks, we have determined 81 volumes of documents from the files of FBI Headquarters and its field offices were provided by the Long task force to the Civil Rights Division and more recently to the Criminal Division task force which has assumed responsibility for the investigation. Many of these documents are of a sensitive nature and relate to intelligence sources and methods and ongoing operations. The majority were prepared for internal FBI use and, as such, those classifiable documents produced prior to the spring of 1974 were not marked to indicate their levels and characters of classification.

We are concerned regarding these documents as many of the Department Attorneys responsible for their custody and who will be working with them in connection with prosecution in the matter of United States v. L. Patrick Gray, et al., and discovery pertinent thereto, are inexperienced as relates to the clearances, accountability, transmission and storage of classified national security information and material. The FBI Document Classification/Security Officer has been in contact with the Department Security Officer to express his concerns, and it is my understanding the Department Security Office is currently looking into this matter in cooperation with Criminal Division Attorneys.

62-116065



Encl. to informal note 62-118045-39
to Mr. Adams from
H.N. Bassett 6-15-78
ENCLOSURE
HNB:lm Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

The Attorney General

In accordance with Title 28, Code of Federal Regulations, Part 17.81, the FBI Document Classification/ Security Officer is conducting internal inquiries at FBI Headquarters in an effort to determine the full circumstances by which these classifiable documents were referred to the Department in unmarked and unexcised form. He is available to assist and collaborate with the Department Security Office in any manner which will further protect these sensitive documents which are in the custody of the Criminal Division. I would appreciate being advised of the results of any inquiry conducted by the Department Security Office regarding the safekeeping, accessibility, accountability and storage currently being afforded to these documents.

Because of the overall sensitivity of the material in the 81 volumes in the custody of the Department special task force, I request all of these documents which are not essential to the current prosecution and discovery responsibilities of the Department be promptly returned to the FBI so appropriate classification action, accountability and storage may be ensured.

- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Robert L. Dennis, Director
Administrative Programs Management Staff
Office of Management and Finance
- 1 - Mr. Benjamin R. Civiletti
Assistant Attorney General
Criminal Division

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HNB/IR*

DATE: 5/31/78

FROM :

[Redacted]

b3
b6
b7C

- 1 - Mr. J. J. McDermott
- 1 - Mr. H. N. Bassett
- 1 - [Redacted]

SUBJECT: SPECIAL AGENT
PERSONAL MATTER

[Redacted]

b3
b6
b7C

b6
b7C

[Redacted]

b6
b7C

Attached is a copy of a letter I sent today to the Attorney General, with a copy for the Counsel, Office of Professional Responsibility, requesting I be reimbursed for attorney fees in connection with my subpoenaed appearance before the Federal grand jury at Washington, D. C., on March 31, 1978.

RECOMMENDATION: None. For information.

Handwritten initials: jmd, jna, WAM

Enclosure

DR:lfj/jf
(4)

ENCLOSURE

*File in [Redacted] Personal File
SA [Redacted] 6/3/78
4-WRB*

b6
b7C

encl. to informal
note to Mr. Adams
from H. N. Bassett
6-15-78
HNB:jmr

REC-144

67- [Redacted]
SEARCHED
6 JUN 17 1978
Greenberg/Gray-2325

62-118045-39



3 JUN 9 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

JACK B. SOLERWITZ
ATTORNEY AND COUNSELOR AT LAW
170 OLD COUNTRY ROAD
MINEOLA, L. I., N. Y. 11501

(516) 742-4300

WASHINGTON, D. C. OFFICE

1101 15TH STREET, N. W.
WASHINGTON, D. C. 20005
SUITE 204

(202) 466-3800

JACK B. SOLERWITZ

ALVATORE A. LECCI

JEFFREY S. BURNS

JOSEPH P. ABBENDA

JAN E. WOLIN

LEONARD B. ISAACS

EROLD D. WOLIN

May 10, 1978



b3
b6
b7C

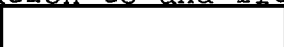
FOR PROFESSIONAL SERVICES RENDERED:

Justice Department
Civil Rights Division Inquiry

(20 hours at \$100 per hour) \$ 2,000.00
*Expenses 100.00

TOTAL \$ 2,100.00

* Computation of Expenses

This represents \$80 incurred by my office as a result of transportation to and from Washington, D.C. on March 31, 1978, to represent  in addition to other miscellaneous expenses such as telephone calls, taxi fees, etc.

b3
b6
b7C

Greenberg/Gray-2332

ENCLOSURE - 118045 - 39
ENCLOSURE

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bassett *HMB/*

DATE: 6-22-78

FROM : P/SV. Daly *LD*

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To record receipt of Government response, and memorandum in support thereof, to defense motions for discovery.

DETAILS: Memorandum captioned as above and dated May 26, 1978, records receipt of a letter dated May 25, 1978, from Francis J. Martin of the Department of Justice's Task Force. That memorandum outlined additional records to be reviewed in the event the court ruled against the prosecution, or if a negotiated settlement in disputed areas was achieved. Martin was contacted on June 20, 1978, by SA [redacted] for clarification of several issues.

Although we have not been given complete copies of the defense motion papers, because they include references to Grand Jury testimony, the Department's arguments contain several potential changes from past positions:

1. The Department agrees to furnish all files relating to Weatherman. In the past, a list of general files and individual files on subjects directly related to the entries charged had been agreed upon. Martin now states he intends this to be open-ended: The defense may request additional files to be processed. The Department will resist unreasonable or excessive demands in court, if necessary. The Department intends the term "Weatherman files" to include all related files, ticklers, and "Do Not File" memoranda known to exist.

2. The Department agrees to extend the cut-off date from June 30, 1974, up to December 31, 1975. Mr. Martin has advised he is certain defendant Gray seeks to establish that entries occurred under Director Kelley in order to show entries could also have occurred under Gray without his knowledge. It had been suggested to Martin that he offer to the defense the documents reflecting such entries, rather than

Enclosures *JP*

1 - Mr. Bassett (Enclosures - 2)
1 - Mr. Daly (Enclosures - 2)

14 SEP 1 1978

(CONTINUED - OVER)



P. V. Daly to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al

the entire files, to reduce the processing burden on both sides. Martin now says to hold this in abeyance pending his further contact with defense.

3. The Department agrees to furnish information for all "Bag Jobs after the 1966 Hoover cut-off," presumably through December 31, 1975. Martin now says to furnish all documents of which we are aware (including SNCC and CPUSA in New York), but not to institute an exhaustive search.

4. The Department agrees to furnish records on the President's Foreign Intelligence Advisory Board and the Cabinet Committee to Combat Terrorism as they relate to Weatherman only, not in their entirety as we had been instructed to process. Martin now says to process any materials showing personal contact by any defendant, but only that material relevant to Weatherman, if contact was by a subordinate rather than the defendants. We should not widen the scope of this topic if severe "third agency" referral problems result.

5. The Department agrees to furnish evidence of notice concerning use of surreptitious entries to the President or the Attorney General from 1950 on, although they continue to argue against the defense of selective prosecution. Martin comments the material is relevant to a defense of implied authority by tacit approval, but not to selective prosecution.

6. The Department agrees to furnish records concerning any special training for personnel working on Weatherman, an increase from the previous instruction. Martin restricts this to Weatherman-related files (such as SPECTAR) and does not limit it to the August and October 1972 In-Services.

Martin also stated the Department will determine the names for the list of deceased potential witnesses. He would now include William C. Sullivan, Hugh Mallett, and Sterling Donahoe, but may ask us to determine the status of members of the "SAC Conference" (presumably the Executive Conference) and the old IS-2 Section.

Martin expects oral argument on the issues of foreign influence and change of venue to be set some time between late next week and three weeks in the future. The judge may rule on pre-indictment delay and selective prosecution from the bench.

Greenberg/Gray-2334

P. V. Daly to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al

Martin will return the original Philadelphia and Newark Field Office files to us within the next few days in order that we might process them under discovery. A copy of the Government's response and memorandum is attached.

RECOMMENDATION: None, for information.

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. <u>HND</u>
Dep. AD Adm. <u>MD</u>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-2335

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
)
 v.) CRIMINAL NO. 78-000179
)
 L. PATRICK GRAY, III)
 W. MARK FELT)
 and)
 EDWARD S. MILLER)

RESPONSE OF THE UNITED STATES
TO DEFENDANTS' MOTIONS FOR
DISCOVERY AND INSPECTION

NOW COMES the United States of America by its attorneys and in response to the captioned motions states as follows:

I.

Defendants seek to have this Court order the government to produce various materials requested in their discovery motions. The discovery process in this case has progressed expeditiously. At arraignment on April 20, 1978, Judge Richey ordered the government to produce for the defense all Rule 16 materials by April 25, 1978. Defense counsel were provided on that date with the seventy-seven (77) documents that the government believes are producible as Rule 16 discovery. Thereafter, government and defense counsel entered into an exchange of correspondence in an effort to resolve as many discovery issues as possible through informal negotiation.^{1/} The result of these informal negotiations has been as follows: of one hundred and fifty-three (153) discovery requests^{2/} calling for production of materials, the government has agreed to comply in full with twenty-nine (29) discovery

^{1/} Some discovery requests are counted more than once because the same request is made by two, or all three, defendants. The total number of separate discovery requests is therefore somewhat below one hundred and fifty-three (153).

^{2/} The process of informal negotiation is continuing. Government and defense counsel will inform the Court prior to the hearing on the discovery motions, of any additional discovery disputes that have by that time been resolved.

requests and in part with fifty-one (51) other discovery requests. Twenty-five (25) additional requests will be complied with not as discovery but as Jencks and Brady disclosures. Thus, the government has totally declined to produce the materials sought in only forty-eight (48) of the hundred and fifty-three (153) discovery requests, variously on the grounds that such requests are overbroad, not material to any defense or unclear.

The government has already provided defense counsel with statements of the defendants, including grand jury testimony, as well as all documents which the government intends to introduce at trial, in accordance with Rule 16, F.R. Crim. P. In addition to agreeing to the various specific discovery requests, the government has undertaken to make available to defense counsel all FBI files relating to the Weatherman Organization, to its members and supporters, as well as to the "relatives and acquaintances" of Weatherman fugitives who are referred to in paragraph 6 and Overt Acts 6 through 32 of the Indictment. These Weatherman files 3/ contain all known information concerning the FBI's Weatherman investigation, including information relating to the use of warrantless surreptitious entries and searches, wiretaps, microphone installations, mail covers, mail openings, informants and undercover agents. The government has already made available, initially, approximately four hundred and fifty (450) volumes (roughly ninety thousand [90,000] pages) of Weatherman files, including all such files relating to the "relatives and acquaintances of Weatherman fugitives" named in the Indictment. It is respectfully suggested that the massive scope of the government's voluntary undertaking, opening up to defense counsel all of the FBI's vast files on the Weatherman, should be considered by

3/ The government has agreed to make available all Weatherman files for the period up to June 30, 1974, the date the last of these defendants, Mr. Miller, retired from the FBI. Counsel for Mr. Gray has objected to this cut-off date, noting that it is material to Gray's defense to show that warrantless surreptitious entries in the Weatherman investigation continued until at least November 1974. Because such evidence might be material to Gray's defense, the government will agree to add an additional eighteen (18) months to this cut-off date, i.e., to provide Weatherman files up to December 31, 1975. Government counsel, in good faith, proffer that the government's investigation of the FBI's use of various investigative techniques in the Weatherman investigation did not disclose the occurrence of any warrantless surreptitious entries after December 31, 1975.

this Court in its assessment of the validity of defendants' need for the materials demanded by many of their other discovery requests.

II.

The government will respond below seriatim to each discovery request by defendants Gray, Felt and Miller. Many of these requests are facially overbroad and should be denied in reliance on United States v. Haldeman, 559 F.2d 31, 75 (D.C. Cir. 1976) and United States v. Ross, 511 F.2d 757 (5th Cir. 1975). Other requests should be denied in reliance on the specific authorities cited herein.

The vast majority of defendants' discovery requests present several common issues of law which are addressed fully in our accompanying Memorandum in Support of the Response of the United States to Defendants' Motions for Discovery and Inspection (hereinafter "Memorandum"). Part I of our Memorandum discusses discovery relating to: (A) the timing of the government's obligation to produce materials under the Jencks Act and Brady v. Maryland, 373 U.S. 83 (1963); (B) the showing of an invidious discrimination which is necessary in order to establish a claim of selective prosecution, United States v. Ojala, 544 F.2d 940 (8th Cir. 1976); (C) the showing of actual prejudice which is necessary in order to establish a claim of pre-indictment delay, United States v. Lovasco, 431 U.S. 783 (1977); (D) the showing that a fair trial must be presumed to be impossible in order to establish a right to pre-voir dire relief from prejudicial pretrial publicity, United States v. Haldeman, supra, at 63-64; and, (E) the special circumstances attendant upon any discovery of White House files. United States v. Nixon, 418 U.S. 683 (1974); Nixon v. Administrator of General Services, 433 U.S. 425 (1977).

Part II of our Memorandum addresses the crucial issue of whether there is available to defendants Felt and Miller in this case, as a matter of law, any defense based on justification for, or a mistaken belief as to the legality of, the warrantless searches alleged in the Indictment and consequently whether any discovery in support of such defenses should be ordered. United States v. Shellman, 546 F.2d 910 (D.C. Cir. 1976); United States v. [redacted], 546 F.2d 919 (D.C. Cir. 1976).

III.

DEFENDANT GRAY'S DISCOVERY REQUESTS

"I. Documents and other Information Discoverable as Brady Material"

1) This request, for "all information. . .tending to exculpate the defendant", seeks Brady material which the government has agreed to make available thirty (30) days before trial. See Memorandum, Part I(A).

2) This request, for a statement as to whether any government trial witness is "under investigation or indictment, or was or is subject to disciplinary action", seeks Brady material which the government has agreed to make available thirty (30) days before trial. See Memorandum, Part I(A).

4) 4/ This request, for the identity and statements of "each person questioned by the government who will not be called as a witness", although not barred by the Jencks Act, should not be ordered without a showing of materiality by the defense. United States v. Kearney, 436 F. Supp, 1108, 1112 (S.D.N.Y. 1977); United States v. Marshak, 364 F. Supp. 1005, 1007-08 (S.D.N.Y. 1973); 8 J. Moore, Federal Practice, ¶ 16.05[4] (2d. ed. 1977).

5) This request, for disclosure of "all promises, inducements or rewards" given to any government trial witness, seeks Brady material which the government has agreed to make available thirty (30) days before trial. See Memorandum, Part I(A).

6) The government will make available the requested documents 5/ i.e., documents "reflecting efforts taken during Mr. Gray's tenure to ensure that the FBI operated within the confines of the Keith decision."

"II. Documents and Other Information Discoverable as Jencks Material"

7) Rule 16, as amended, intentionally excludes the disclosure of the requested witness lists. H.R. Conf. Rept. No. 94-414, 94th Cong. 1st Sess. (1975). Witness statements are Jencks material

4/ Defendant Gray's discovery motion does not list any request #3.

5/ As used herein the term "documents" is meant to be coextensive with the listing of all things, e.g., books, records, recordings, in the particular defense discovery request to which the government is responding.

which the government has agreed to provide thirty (30) days before trial. See Memorandum, Part I(A).

8) Witness statements as to the conversation alleged in Overt Act 1 will be provided as Jencks material thirty (30) days before trial. See Memorandum, Part I(A).

9) All documents known to government counsel revealing the content of statements made by Mr. Gray as alleged in Overt Act 2 have already been provided to the defense as Rule 16 material. Witness statements concerning Overt Act 2 will be provided as Brady and Jencks material thirty (30) days before trial. See Memorandum, Part I(A).

10) This request, for statements of co-conspirators which the government intends to offer in evidence at trial, seeks Jencks material that the government has agreed to provide thirty (30) days before trial. See Memorandum, Part I(A).

11) This request seeks written and oral statements of co-defendants, before or after the conspiracy, which the government intends to introduce in evidence at trial. Discoverable material called for by this request, to the extent it is presently identifiable by government counsel, has already been provided to defense counsel pursuant to Rule 16; any such material so identified by government counsel hereafter will be provided at that time. Jencks material will be provided thirty (30) days before trial.

"III. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense That the Allegedly Wrongful Activity Was Undertaken Without His Knowledge or Authority"

12) This request, for all documents which "reflect that FBI agents engaged in warrantless surveillance techniques from the period January 1, 1960 to the present", is facially overbroad. All "warrantless surveillance techniques" would include every national security wiretap or microphone surveillance properly authorized by the Attorney General during the last eighteen (18) years, including those presently in operation. The government should not be required to

comply with such a facially overbroad discovery request. 6/ United States v. Haldeman, supra; United States v. Ross, supra, at 763.

13) There are no documents known to government counsel that reflect that Gray was made aware of the surreptitious entries alleged as Overt Acts in the Indictment.

14) There are no documents known to government counsel that reflect that Gray was made aware of the memoranda, communications, or conversations set forth in Overt Acts 6 through 32 of the Indictment.

15) As with Gray discovery request #12, this request, for all files "marked either 'June' and/or 'Do Not File' from the period January 1, 1960 to the present", is facially overbroad. "June" is an FBI designation placed on any document relating to electronic surveillance, or in some instances to mail covers and surreptitious entries. Production of this material would require disclosure of every lawful electronic surveillance conducted by the FBI in the last eighteen (18) years. As to "Do Not File" documents, such documents are generated on an ad hoc basis and do not of necessity relate in any way to the subject matter of this case. Any "June" and/or "Do Not File" documents relating to the Weatherman investigation are already available to the defense for inspection as part of the government's undertaking to make available all Weatherman files. Beyond this, the defense should not be allowed to embark on such an overbroad fishing expedition. United States v. Haldeman, supra; United States v. Ross, supra.

16) This request seeks all reports by the FBI's Inspection Division concerning its routine yearly inspection of any FBI field office, if that field office had some part in the FBI Weatherman investigation. This discovery is sought to establish the proposition that "FBI inspectors routinely destroyed papers in field offices relating to black bag jobs." (Gray Memorandum, p. 4).

6/ The government would not oppose a discovery request, more narrowly drawn and clearly material, intended to aid defendant Gray in establishing that surreptitious entries of the nature alleged in the Indictment were in fact approved at FBI headquarters, without authorization of the Attorney General, after the 1966 Hoover cut-off. Such discovery would be limited to documents dealing with the authorization process and thus would not disclose the identities of participants in targets of, such entries. Such discovery would also be limited to entries occurring prior to the commencement of the Justice Department investigation of surreptitious entries.

Defendant Gray's proffer is accurate as to procedures used prior to Director Hoover's 1966 ban on black bag jobs. However, government counsel are unaware of any support for the proposition that such routine destruction continued as a matter of policy thereafter. Indeed, the existence of the so-called "SAC memos" listed in the Indictment (Overt Acts 8, 12, 25 and 29) and similar "SAC memos" already provided to the defense is evidence to the contrary. Absent a more meaningful proffer as to actual destruction of documents, as well as some clearer showing of materiality, the government should not be required to produce inspection reports, averaging 200 to 800 pages each, for dozens of FBI field offices over the last ten (10) years. United States v. Haldeman, supra; United States v. Ross, supra.

17) This request, for documents showing that "House and Senate Intelligence Committees and the General Accounting Office were misled" concerning the extent of FBI bag jobs, is not material to Gray's defense. These Congressional investigations took place long after Mr. Gray and his co-defendants had left the FBI. Absent a more meaningful proffer of materiality this request should be denied. United States v. Haldeman, supra; United States v. Ross, supra.

18) The government will provide any documents reflecting contact during Mr. Gray's tenure between the President's Foreign Intelligence Advisory Board and the FBI with regard to the Weatherman Organization. Discovery as to any such contacts regarding matters other than the Weatherman Organization, however, should be denied as not material to Gray's defense. United States v. Haldeman, supra; United States v. Ross, supra; see also Memorandum, Part II.

"IV. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Selective Prosecution by the Government"

19) This request seeks documents which reflect communications from FBI headquarters to the Department of Justice which reveal, directly or indirectly, that FBI agents conducted warrantless

surreptitious entries. Discovery should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

20) This request seeks documents which reflect that the Department of Justice was aware of the FBI's use of warrantless surveillance techniques. Discovery should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

21) This request seeks all prosecutive reports from FBI agents to federal prosecutors in the last eighteen (18) years that reflect that FBI agents engaged in warrantless surveillance techniques. Discovery should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

22, 23 and 24) These requests seek lists of all matters over the last twenty-eight (28) years in which allegations of Fourth Amendment violation, through the use of surreptitious entry by law enforcement officials, have come to the attention of the Department of Justice (Request #22), or were investigated by the FBI (Request #23); and all documents relating to decisions to decline prosecution with regard to such matters (Request #24). Discovery should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

25) This request seeks documents concerning investigations of the Weatherman Organization by government agencies other than the FBI. Discovery should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

"V. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Possible Defense That the Allegedly Wrongful Activity was Authorized by Higher Authority"

26 and 27) These requests seek documents showing that the President, Attorney General, Director of the FBI, or their agents

authorized (Request #26) or withdrew authority for (Request #27), warrantless wiretapping, microphone surveillances, or surreptitious entries directed at members of the Weatherman Organization or their supporters. All such information may be found in the Weatherman files, which the government has already made available to defense counsel.

28 and 29) These requests seek the same types of information as Requests #26 and 27, but seek this information as to all FBI investigations other than Weatherman. These requests are not limited in time and presumably include the entire history of the FBI. Defendant Gray has made no showing of materiality as to the requested material, United States v. Haldeman, supra. The defense of higher authority (if any) must relate to higher authorization for Weatherman warrantless searches as alleged in the Indictment. See Memorandum, Part II.

30) The government will provide any documents concerning the creation and function of, or contacts with the FBI during Gray's tenure by, the Cabinet Committee to Combat Terrorism, to the extent that such documents relate to the Weatherman Organization. Discovery as to any such contacts regarding matters other than the Weatherman Organization should be denied as not material to Gray's defense. United States v. Haldeman, supra; United States v. Ross, supra; see also Memorandum, Part II.

31) This request seeks all documents from six government agencies, 7/ in addition to the FBI, which concern plans to deal with the Weatherman Organization or other terrorist groups during the period 1969-1974. The government has agreed to make available the specifically requested "Huston Report" (which deals, in part, with the use of surreptitious entries in the Weatherman investigation), as well as all FBI Weatherman files. Plans by other government agencies to deal with the Weatherman, as well as any government plans

7/ One of the six government agencies listed in this request is the White House. The special circumstances attendant upon discovery of White House files and tapes are discussed in the accompanying Memorandum, Part I (E).

to deal with "other terrorist groups", are not material to any available defense. See Memorandum, Part II.

32) This request seeks all documents reflecting communications between the White House and the Department of Justice or the FBI concerning plans and investigative methods to deal with the Weatherman Organization or "other terrorist groups" during the period 1969-1974. The government has agreed to make available the specifically requested "Haynes Memorandum", and any other similar FBI documents, as part of its undertaking to make available all Weatherman files. The government has also agreed to institute an appropriate search of Department of Justice files for any such documents relating to the Weatherman. Discovery concerning "other terrorist groups" should be denied as not material to any available defense. See Memorandum, Part II. The government does not oppose an appropriate search of White House files. See Memorandum, Part I(E).

33) This request seeks all tapes and transcripts of White House conversations in which the Weatherman Organization and/or "other terrorist groups" were discussed, during the period January 20, 1969 through May 31, 1973. Discovery of such tapes and transcripts concerning "other terrorist groups" should be denied as not material to any available defense. See Memorandum, Part II. The government does not oppose an appropriate search of White House tapes and transcripts. See Memorandum, Part I(E). The government will produce any such tapes and transcripts, including all known conversations of any defendant, that are in the possession of government counsel.

34) This request seeks documents, including "statements of persons interviewed", which indicate that the surreptitious entries alleged in the Indictment were not authorized by officials in a position of authority higher than the defendants. The existence of such higher authorization would be a possible defense, and any evidence indicating that such authority existed would be Brady

material. See Memorandum, Part II. Evidence that there was no such authorization is thus potentially part of the government's rebuttal case and is therefore not discoverable, other than in accordance with the Jencks Act. See Memorandum, Part I(A).

35) The government will make available the requested documents reflecting whether the President or Attorney General authorized any "Al Fatah" surreptitious entry or entries in September 1972.

36) This request seeks all documents reflecting that the President, Attorney General, or their representatives were advised that the FBI investigation of the Weatherman would include surreptitious entries. Government counsel are unaware of any such documents, other than the "Huston Report". Should any such documents be discovered they will be made available to all defense counsel.

37) This request seeks all documents reflecting that Congressional committees investigating the Weatherman bombing of the Capitol were advised that the FBI's investigation would include, or had included, surreptitious entries. Government counsel are unaware of any such documents, but will institute an appropriate search of FBI files.

38) This request seeks all FBI guidelines during the last twenty-eight (28) years regarding investigative procedures to be followed in national security matters, including electronic surveillance and surreptitious entry. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

39) This request seeks documents disclosing that "FBI agents received incentive awards for conducting surreptitious entries" during the last twenty-eight (28) years. The defendant has failed to make any proffer of the materiality of any such documents. United States v. Haldeman, supra.

3/ The government's investigation of this case sought to locate any such documents, with negative results. Should defense counsel bring to the government's attention any relevant specific files, as to which a search would be appropriate, such a search, if not previously conducted, will be made.

"VI. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense that the Allegedly Unlawful Activity was Conducted in Response to a Threat to the National Security which Justified the Use of Surreptitious Entries Without Warrants"

40) This request seeks documents relating to two official designations of the Weatherman investigation as a national security matter in 1976, three years after the conspiracy charged in the Indictment ended and two years after the last defendant, Mr. Miller, retired from the FBI. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

41) This request seeks all documents reflecting involvement or collaboration by the Weatherman Organization with any foreign power. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

42) This request seeks all documents reflecting any official classification of the Weatherman Organization as a national security threat. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

43) This request seeks all documents from seven government agencies reflecting that the Weatherman Organization had contacts with, traveled to, communicated with or received finances from any foreign country. This request also seeks nine specific documents or categories of documents relating to the foreign involvement of the Weatherman. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

"VII. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Conduct by the Government in Connection With the Grand Jury Proceedings"

44, 45 and 46) These requests seek to discover, as to each of the three grand juries that investigated some aspect of this case, the date each was sworn in, the date each subpoena (for testimony or documents) was issued by that grand jury, a list of every witness that testified before that grand jury, and a list of all testimony or documents transferred from one grand jury to another, together with the authorization for such transfers. The government has agreed to provide the dates that each grand jury was sworn in, first heard

testimony in this investigation and last met with regard to this investigation. The government has also agreed to provide the requested information concerning the transfer of documents or testimony from one grand jury to another. The requested discovery, beyond that agreed to by the government, is no more than a fishing expedition and should be denied. United States v. Haldeman, supra; United States v. Ross, supra.

47) The government's response to the issue of Mr. Skolnik's authority to sign the Indictment is contained in a memorandum on that subject which was filed earlier this week.

"VIII. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense That the Indictment is Subject to Dismissal Due to Prejudicial PreIndictment Delay"

48) This request seeks documents, including witness statements, concerning the failure of FBI personnel, and one or more Department of Justice attorneys, to make full disclosure, in appropriate forums, of their knowledge of surreptitious entries. (See, Attorney General's press release, April 10, 1978.) This matter is presently the subject of ongoing internal inquiries by the FBI and Department of Justice. The government states, in good faith, that neither the matter referred to in the Attorney General's press release, nor any other evidence known to government counsel, indicates that any Department of Justice attorney was aware of surreptitious entries and searches conducted as part of the FBI Weatherman investigation prior to disclosure of that fact to the Civil Rights Division in the spring of 1976. Moreover, the requested discovery should be denied because the defendant has failed to allege actual prejudice brought about by any such alleged pre-indictment delay. See Memorandum, Part I(C).

49) The requested accounting of all ~~relevant documents lost~~ or destroyed since the time the Government became aware of the alleged facts resulting in this Indictment will be provided.

50) The government will provide the requested list of all persons who were witnesses or potential witnesses and have died since

the time the government first learned of the facts resulting in this Indictment. Government counsel know of no witnesses whose whereabouts are no longer known.

"IX. Documents and Other Information Material to Defendant's [Gray's] Preparation of His Defense That the Indictment is Subject to Dismissal for Improper Pre-Trial Publicity Emanating From Officials of the Department of Justice"

51, 52, 53, 54, 55, and 57) These requests all seek either public reports contained in the media concerning the investigation that resulted in this Indictment, or internal documents concerning dealings with media representatives which were not reported in the public media. The requests also seek internal documents concerning Justice Department communications relating to pretrial publicity. The only documents relevant to the issue of pretrial publicity are public media reports that are equally available to defense counsel. In any event, the pretrial publicity in this case has been insufficiently prejudicial to require any further inquiry beyond such public media reports. See Memorandum, Part I(D).

56) This request seeks "grand jury minutes reflecting questioning of witnesses by grand jurors or comments by grand jurors". The defense has failed to allege sufficient prejudicial pretrial publicity to warrant such a fishing expedition into the grand jury record. See Memorandum, Part I(D).

DEFENDANT FELT'S DISCOVERY REQUESTS"A. General"

1-4) These four requests seek any "relevant" written or recorded statements in Justice Department or FBI files made during the 31 year period from 1942 to 1973 by Mr. Felt (Request #1), by co-defendants Miller and Gray (Request #2), by any co-conspirator ^{9/} (Request #3), and by "any other person" if the statement did or would have come to Mr. Felt's attention in the normal course of business (Request #4). "Relevant" is defined as relating to any foreign or domestic intelligence programs, any foreign or domestic terrorist activities, the Weatherman Organization, or the use of investigative techniques (not otherwise defined) in any of the previously listed investigations or "in any other investigations and programs involving, for example, fugitives or organized crime" (emphasis supplied).

The scope of this request quite literally boggles the mind. Mr. Felt is apparently seeking to discover every document relating to the three FBI divisions that have "investigative" responsibility and therefore utilize "any investigative technique." Specifically, in seeking any documents relating to foreign and domestic intelligence programs or terrorist activities, Mr. Felt is seeking to discover virtually every document generated by the FBI's Domestic Intelligence Division. The volume of such material is staggering. During the last three years of his tenure, virtually every document generated by the Domestic Intelligence Division or the two other investigative divisions would have been "routed to, disseminated to, or [its] contents or existence ... would normally have been known" to Mr. Felt. The government should not be required to produce such a massive amount of material, especially where there has been not even the slightest proffer of materiality. United States v. Haldeman, supra; United States v. Ross, supra. Of course, the government has agreed to make available all Weatherman files, and to that extent will voluntarily comply with these requests.

^{9/} The government has named thirty (30) co-conspirators in the FBI of D. Haldeman.

5) The government has already provided to his counsel a copy of defendant Felt's grand jury testimony as Rule 16 discovery. There are no other statements made by Mr. Felt to government investigators which the government intends to offer in its case-in-chief at trial.

6) The requested documents intended for use in the government's case-in-chief at trial have already been provided to defense counsel as Rule 16 discovery.

7) The requested scientific reports have already been provided to defense counsel as Rule 16 discovery.

8) The government did not employ electronic surveillance of any kind during the investigation which led to this Indictment.

9) The government has agreed to provide the requested materials concerning the fruits of all "searches and seizures" conducted during the investigation. No warrants were required for these seizures of FBI documents by FBI agents.

10 and 12) These requests seek all documents in FBI or Department of Justice files relating to all Weatherman fugitives referred to in paragraph 5 of the Indictment (Request #10), and to all relatives and acquaintances of Weatherman fugitives referred to in paragraph 6 and Overt Acts 6 through 32 of the Indictment. The government has agreed to make available all FBI Weatherman files. Absent a particularized request and proffer of materiality the government should not be required to search the files of the Department of Justice for documents that would not have been seen by Mr. Felt in the normal course of business. United States v. Haldeman, supra; United States v. Ross, supra; United States v. Conder, 423 F.2d 904 (6th Cir. 1970).

11) The government has already provided to defense counsel as Rule 16 discovery, the requested documents relating to Overt Acts 1 through 5 of the Indictment.

13) This request seeks to obtain the last known address and dates of service of every person serving as an Assistant Director of the FBI for the last 38 years. There has been no proffer of materiality for this request; and it is doubtful that such information concerning officials serving in the FBI twenty or thirty years ago could be material to the defense. United States v. Haldeman, supra; United States v. Ross, supra.

14) This request seeks documents, including tape recordings, reflecting all conversations of the President, and/or his staff, with Executive Department employees or Congress, concerning "terrorist activities in general and the Weatherman Organization in particular" during the last fourteen (14) years. This request should be denied as facially overbroad. United States v. Haldeman, supra; United States v. Ross, supra. Moreover, discovery as to "terrorist activities in general," unrelated to Weatherman, should be denied as not material to any available defense. See Memorandum, Part II. The government does not oppose an appropriate search of White House files. See Memorandum, Part I(E).

"B. Witnesses"

1) This request seeks the identities of co-conspirators, as well as any statements by co-conspirators. The identities of co-conspirators have been provided in the Bill of Particulars. Statements of co-conspirators are not per se discoverable. United States v. Pereevault, 490 F.2d 126 (2nd Cir. 1974). Any such statements that could be considered exculpatory will be provided as Brady material thirty (30) days before trial. See Memorandum, Part I(A).

2) Rule 16, as amended, intentionally excludes the disclosure of the requested witness lists. H.R. Conf. Rept. No. 94-414, 94th Cong. 1st Sess. 12 (1975). Witness statements are Jencks material which the government has agreed to provide thirty (30) days before trial. See Memorandum, Part I(A).

3) This request seeks the identities of, and any statements by, persons questioned during the investigation whom the government does not intend to call as witnesses at trial. Although not barred by the Jencks Act, such disclosure should not be ordered without a showing of materiality by the defense. United States v. Kearney, supra; United States v. Marshak, supra; 8 J. Moore, Federal Practice, ¶16.05[4] (2d ed. 1977).

4 and 5) These requests seek to discover any inducements (Request #4) or threats (Request #5) by the government to any trial witness or witness questioned during the investigation. As to trial witnesses, such inducements or threats are Brady material which the government has agreed to provide thirty (30) days before trial. See Memorandum, Part I(A). Such discovery as to witnesses not intended to be called at trial should not be ordered. United States v. Kearney, supra; United States v. Marshak, supra.

"C. The Weatherman Organization"

1) This request seeks the identities of all FBI officials in the chain-of-command relating to the Weatherman investigation, between "street agents" and the Director, for the last ten (10) years. Absent some showing of materiality this request should be denied. United States v. Haldeman, supra; United States v. Ross, supra. It should be noted that Mr. Felt was at the penultimate level of this chain-of-command during the period of the conspiracy.

2) The government has agreed to provide the requested materials concerning names, last known addresses, and criminal acts of all members of the Weatherman Organization, as part of its undertaking to make available all FBI Weatherman files. The government should not be required to search the files of the Department of Justice for documents that would not have been seen by Mr. Felt in the normal course of business. United States v. Ross, supra; United States v. Conder, supra.

3) The government has agreed to provide the requested materials concerning FBI efforts to investigate the Weatherman Organization and to locate and apprehend Weatherman fugitives, as part of its undertaking to make available all Weatherman files. Discovery of documents relating to efforts to locate Weatherman fugitives by "other law enforcement and intelligence agencies, federal, state, local and foreign" should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II. The government should not be required to search the files of the Department of Justice for documents that would not have been seen by Mr. Felt in the normal course of business. United States v. Ross, supra; United States v. Conder, supra.

4) This request seeks all documents reflecting involvement or collaboration by the Weatherman Organization with a foreign power. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

5) The government has agreed to provide the requested materials concerning any authorization, withdrawal of authorization or prohibition, by the President, Attorney General or any official of the Department of Justice, of the use in the Weatherman investigation of court-ordered electronic surveillance, warrantless electronic surveillance (including the placing and retrieving of microphones), warrantless entries and searches, mail covers, mail openings, informants and undercover agents, as part of its undertaking to make available all Weatherman files. An appropriate search will be made of Department of Justice files.

6) The government has agreed to provide the requested materials concerning any special training for FBI agents assigned to the Weatherman investigation, as part of its undertaking to make available all Weatherman files.

7) This request seeks public statements and testimony before Congressional committees during the last ten (10) years concerning the Weatherman Organization and efforts to locate and apprehend Weatherman fugitives. Public statements and Congressional testimony are equally available to defense counsel. Moreover, this discovery request should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II.

8) This request for any governmental designation during the last ten (10) years of the Weatherman Organization as a terrorist organization, national security threat, etc., should be denied as not material to any available defense. See Memorandum, Part II.

"D. The Defense of Selective Prosecution and Lack of Specific Criminal Intent"

1 and 2) These requests seek documents over the last 39 years relating to the FBI's "authority, responsibility and jurisdiction . . . in the fields of domestic and foreign intelligence, sabotage and espionage, subversive activities and terrorism" (Request #1); and to any delegation of the same within the FBI (Request #2). This request should be denied as overbroad. United States v. Haldeman, supra. Discovery as to selective prosecution should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B). The requested discovery as to specific criminal intent should be denied as not material to any available defense. See Memorandum, Part II.

3) This request seeks documents relating to "authorization, withdrawal of authorization, . . . by the President, . . . or . . . Attorney General . . . of the use in the conduct of any investigation by the FBI or any other government agency of electronic surveillance . . . , microphones . . . , entries . . . , mail covers . . . , mail openings . . . , informants and undercover agents" during the last 39 years. Any such documents relating to the Weatherman investigation will be provided as part of the government's undertaking to

make available all Weatherman files. To the extent that the request seeks documents relating to "any investigation" other than the Weatherman investigation, it should be denied as overbroad.

United States v. Haldeman, supra. Discovery as to non-Weatherman investigations with regard to the issue of selective prosecution should be denied because the defendant has failed to allege that his prosecution was based upon an invidious discrimination. See Memorandum, Part I(B). The requested discovery as to non-Weatherman investigations with regard to the issue of specific criminal intent should be denied as not material to any available defense. See Memorandum, Part II.

4) This request is for documents showing that the "President, ...his staff or any employee of the Justice Department...had knowledge either generally or in specific instances of...FBI or other government agency...[use] of warrantless electronic surveillance...^{10/} microphones...entries...mail covers and mail openings" during the last thirty-nine (39) years. Any such documents reflecting such knowledge of the use of any of the listed techniques in the Weatherman investigation will be provided, as part of the government's undertaking to make available all Weatherman files. Discovery as to knowledge of the use of such techniques in non-Weatherman investigations should be denied as overbroad, United States v. Haldeman, supra, as not material to the issue of selective prosecution because the defendant has failed to allege that his prosecution was based upon an invidious discrimination, see Memorandum, Part I(B), and as not material to any available defense. See Memorandum, Part II.

^{10/} The Court may wish to note that over the last forty (40) years the Attorney General has regularly authorized electronic surveillance (including microphones since 1966) in national security cases. Cf. memoranda reproduced in Zweibon v. Mitchell, 516 F.2d 594, 673-675 (D.C. Cir. 1975) (en banc). Defendant's discovery request literally calls for the production of documents pertaining to every lawful authorization of electronic surveillance by the Attorney General in the last thirty-nine (39) years.

5 and 6) These requests seek documents showing that the Department of Justice learned that "any law enforcement officer in the United States" during the course of an official investigation used "any investigative technique or committed any act which, on its face, violated any person's rights" under the Fourth Amendment (Request #5) or the First, Fifth, Sixth or Fourteenth Amendments (Request #6) during the last 39 years. The overbreadth of this request alone requires that it be denied. United States v. Haldeman, supra. The requested discovery should also be denied as not material to the issue of selective prosecution because the defendant has failed to allege that his prosecution was based upon an invidious discrimination, see Memorandum, Part I(B), and as not material to any available defense. See Memorandum, Part II.

"E. Prejudicial Pre-Indictment Delay and Prejudicial Public Statements by Justice Department Officials"

1, 2, and 3) These requests seek documents showing when it was that anyone in the Department of Justice first learned of the use of warrantless entries in the FBI's Weatherman investigation (Request #1), and first concluded that sufficient evidence existed to recommend an indictment of Mr. Felt (Request #2), as well as documents showing the reason for the "delay" between the latter date and April 10, 1978, the date of the indictment of Mr. Felt. These requests should be denied because the defendant has failed to demonstrate any actual prejudice brought about by any such alleged pre-indictment delay. See Memorandum, Part I(C).

4) This request seeks documents reflecting the "reasons" for the placement of venue in the District of Columbia. This request should be denied because the "reasons" for the placement of venue are not material to the issue of pre-indictment delay as the defendant has failed to demonstrate any actual prejudice brought about by any such alleged pre-indictment delay, see Memorandum, Part I(C), and are not material to the issue of pretrial publicity because the publicity in this case has not been sufficiently prejudicial to warrant a factual inquiry. In any event, venue

is placed in the District of Columbia because the crime occurred in the District of Columbia. See Memorandum, Part I(D).

5) The government has already provided to defense counsel the requested testimony of, interview of, and letters from Mr. William C. Sullivan (now deceased). The additional requests for "relevant" li/ statements between 1942 and 1973 by Mr. Sullivan, who retired from the FBI in October 1971; and for Mr. Sullivan's personnel file, should be denied as overbroad. United States v. Haldeman, supra. Moreover, the requested additional discovery should be denied as not material to the issue of pre-indictment delay because the defendant has failed to allege any actual prejudice brought about by any such alleged pre-indictment delay. See Memorandum, Part I(C).

6) This request seeks documents reflecting any statements by Department of Justice employees to media representatives, from 1975 to the present, concerning the investigation leading to this Indictment. All public media reports are equally available to defense counsel; statements not reported in the public media are not material to the issue of pretrial publicity. See Memorandum, Part I(D).

"F. Specific Documents The Existence of Which is Known to Defendant W. Mark Felt"

1) The government has already provided to defense counsel the requested "Hoover memos" ordering a halt in 1966-67 to the use of surreptitious entries.

2) The government has agreed to provide the requested "Huston Report." The government has also agreed to provide any documents reflecting contacts with the FBI regarding the Weatherman Organization by the President's Foreign Intelligence Advisory Board and/or the Cabinet Committee to Combat Terrorism. Additional discovery concerning any such contacts regarding matters other than the Weatherman investigation should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II.

Any other statements by Mr. Sullivan in the above captioned

3) The government has agreed to provide the requested documents relating to the February 1973 redesignation of the "Domestic Intelligence Division" as the "Intelligence Division" of the FBI.

4) The government has agreed to provide the requested FBI documents relating to the Keith decision. The additional requested discovery of memoranda by Department of Justice attorneys, as well as the redesignation of domestic intelligence subjects as foreign intelligence subjects, should be denied as not material to any available defense. See Memorandum, Part II.

5 and 6) These requests seek two 1975 studies of FBI jurisdiction (Request #5) and authority (Request #6) in intelligence investigations. Discovery of these documents which were generated in the year after the last of these defendants, Mr. Miller, retired from the FBI, should be denied as not material to any available defense. See Memorandum, Part II.

7) The government has agreed to provide the requested "Haynes memo" to defense counsel.

8) This request seeks the "Chicago Report" concerning the foreign involvement of the Weatherman, which was prepared in 1976-77, three years after the end of the conspiracy alleged in the Indictment, and two years after the last of these defendants, Mr. Miller, retired from the FBI. This request should be denied as not material to any available defense. See Memorandum, Part II.

9) This request seeks all statements by former Assistant Director for the Domestic Intelligence Division (July 1970 through September 1971) Charles D. Brennan, including his grand jury testimony, personnel file and any documents authorized by him relevant to intelligence and terrorist investigations. This request should be denied as overbroad. United States v. Haldeman, supra. Jencks material and Brady material (if any) concerning Mr. Brennan will be made available thirty (30) days before trial. See Memorandum, Part I(A).

10) The government has already provided the requested "Ruckelshaus memorandum" to defense counsel.

11 and 12) The requested transcripts of the testimony of Attorney General Bell in United States v. Humphrey (Request #11), and of Attorney General Bell and Director Webster before the Senate in April 1978 concerning FBI jurisdiction (Request #12), are public documents equally available to defense counsel. The additional request, for documents supporting the Bell and Webster Senate testimony, should be denied as not material to any available defense. See Memorandum, Part II.

13 and 14) These requests seek documents concerning domestic and foreign intelligence programs and organized crime investigations, including 1961-62 memoranda between Deputy Attorney General White and the FBI relating to investigative techniques (Request #13) and documents reflecting after-the-fact authorization of wiretaps and microphone surveillances by Attorney General Katzenbach (Request #14). These discovery requests should be denied as not material to any available defense. See Memorandum, Part II.

15) This request seeks documents reflecting the use of warrantless wiretaps, microphones, surreptitious entries and mail openings in (a) FBI and IRS investigations of organized crime from 1957 to 1966, (b) the so-called "Kissinger wiretaps", (c) the so-called "Cointelpro" programs, and (d) investigations of the Communist and Socialist Workers Parties (without time limit). This request should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II.

DEFENDANT MILLER'S DISCOVERY REQUESTS

"Discovery Needed to Determine Whether
an Offense was Committed and Whether
Defendant Had the Requisite Criminal
Intent"

1 and 2) These requests seek two 1975 studies of FBI jurisdiction (Request #1) and authority (Request #2) in intelligence investigations. Discovery of these documents, which were generated in the year after Mr. Miller retired from the FBI, should be denied as not material to any available defense. See Memorandum, Part II.

3) This request seeks all documents issued by the President or any government agency in the last 28 years which define, describe, or explain the term "surreptitious entry". This request should be denied as not material to any available defense. See Memorandum, Part II.

4 and 5) The government has already provided, or agreed to provide, the requested orders, directives, etc., concerning the "techniques of surreptitious entry". The defense protests two limits placed by the government on its undertaking to provide these documents. The first limits the discovery to the period when Mr. Miller was in the FBI. This limit should be enforced because it is only documents that Mr. Miller saw, or could have been aware of at the time, that could have influenced his intent. See Memorandum, Part II. The second limits the discovery to domestic cases. While the defense may argue that the Weatherman was, in fact, a foreign dominated group (a proposition which, in any event, the government contends is not material), it is clear that prior to and during the conspiracy the Weatherman organization was investigated by the FBI under a domestic heading (as opposed to those headings dealing with activities of hostile foreign intelligence services) and that the only directives applicable to the investigation were therefore those relating to domestic cases.

6) This request seeks documents showing all FBI surreptitious entries from 1950 to 1974, including documentation of any authorization by the President, Attorney General, Director of the FBI, other government official or court order. This request, which literally construed would call for the production of documentation of scores of trespassory microphones lawfully authorized by the Attorney General or by federal judges (18 U.S.C. §2516), should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II.

7) This request seeks "Department of Justice ... guidelines ... which set forth conditions for prosecution of FBI employees who utilize the technique of surreptitious entry." Government counsel are unaware of the existence of any such guidelines.

8, 9, and 10) These requests seek all documents in the last 28 years, from any government agency, which define terms such as "national security," "foreign intelligence," etc. (Request #8); which reflect the designation, approximately two years after Mr. Miller retirement, of the Weatherman investigation as "a national security matter" (Request #9); and which reflect any other designation of the Weatherman as a "national security threat" (Request #10). These requests for such governmental definitions, designations, or other labelings should be denied as not material to any available defense. See Memorandum, Part II.

11) This request seeks all documents from several government agencies reflecting that the Weatherman Organization had contacts with, traveled to, communicated with or received finances from any foreign country. This request also seeks ten specific documents or categories of documents relating to the foreign involvement of the Weatherman. This discovery request should be denied as not material to any available defense. See Memorandum, Part II.

12 and 13) These requests seek all orders, directives, etc., to or by the FBI in the last 25 years regarding investigative procedures in matters involving the national security, including electronic surveillance and entries into homes (Request #12), as well as any dissemination of such orders, directives, etc., to the FBI office that Mr. Miller was serving in at the time (Request #13). These requests should be denied as overbroad, United States v. Haldeman, supra, and as not material to any available defense. See Memorandum, Part II.

14) The government will make available the requested documents (if any) reflecting whether the President or Attorney General authorized any "Al Fatah" surreptitious entry or entries in September 1972.

"Additional Discovery Needed to Establish
Defense of Approval of Higher Authority"

15) This request seeks all documents from six government agencies, in addition to the FBI, which concern plans to deal with the Weatherman Organization or other terrorist groups during the period 1969-1974. The government has agreed to make available the specifically requested "Huston Report," which deals, in part, with the use of surreptitious entries in the Weatherman investigation, as well as all FBI Weatherman files. Plans by other government agencies to deal with the Weatherman, as well as any governmental plans to deal with "other terrorist groups", are not material to any available defense. See Memorandum, Part II.

16) This request seeks documents showing communication between the White House and the Justice Department or FBI concerning plans to deal with the Weatherman or "other terrorist groups" from 1969 to 1974. The government has agreed to provide any such Department of Justice or FBI documents relating to the Weatherman investigation,

including the specifically requested "Haynes memorandum." To the extent that the request seeks documents relating to "other terrorist groups" it is both overbroad, United States v. Haldeman, supra, and not material to any available defense. See Memorandum, Part II. The Government does not oppose an appropriate search of White House files. See Memorandum, Part I(E).

17) This request seeks all tapes and transcripts of White House conversations in which the Weatherman Organization and/or "other terrorist groups" were discussed during the period January 20, 1969 through May 31, 1973. Discovery of such tapes and transcripts concerning "other terrorist groups" should be denied as not material to any available defense. See Memorandum, Part II. The government does not oppose an appropriate search of White House tapes and transcripts. See Memorandum, Part I(E). The government will produce any such tapes and transcripts, including all known conversations of any defendant, that are in the possession of government counsel.

18) This request seeks documents, including "statements of persons interviewed," which indicate that the surreptitious entries alleged in the Indictment were not authorized by officials in a position of authority higher than that of the defendants. The existence of such authorization would be a possible defense, and any evidence indicating that such authority existed would be Brady material. See Memorandum, Part II. Evidence that there was no such authorization is thus potentially part of the government's rebuttal case and is therefore not discoverable, other than in accordance with the Jencks Act. See Memorandum, Part I(A).

"Discovery Needed to Establish Prejudicial
Pre-Indictment Delay"

19) This request seeks documents, including witness statements, concerning the failure of FBI personnel, and one or more Department of Justice attorneys, to make full disclosure, in appropriate forums, of their knowledge of surreptitious entries. (See, Attorney General's press release, April 10, 1978.) This matter is presently the subject of ongoing internal inquiries by the FBI and Department of Justice. The government states, in good faith, that neither the matter referred to in the Attorney General's press release, nor any other evidence known to government counsel, indicates that any Department of Justice attorney was aware of surreptitious entries and searches conducted as part of the FBI Weatherman investigation prior to disclosure of that fact to the Civil Rights Division in the spring of 1976. Moreover, the requested discovery should be denied because the defendant has failed to allege actual prejudice brought about by any such alleged pre-indictment delay. See Memorandum, Part I(C).

20) The government is willing to provide any such requested documents reflecting Director Hoover's personal wishes with regard to the means to be utilized to catch Weatherman fugitives. Government counsel assigned to this case, and knowledgeable FBI personnel working with government counsel, have been unable to locate any such documents. If any such documents are found, they will be provided to all defense counsel.

21) The government has agreed to provide the requested materials reflecting that the President or Attorney General, during the period 1950 through 1975,^{12/} became aware of FBI surreptitious entries of the

^{12/} The investigation that uncovered the surreptitious entries alleged in the Indictment and other similar surreptitious entries was ordered by the Attorney General in August 1975.

nature alleged in the Indictment (i.e., surreptitious entries accompanied by a search), but declined to order an investigation, rejected an investigation, or declined to prosecute any current or former FBI employees. Defense counsel's objection that discovery should include types of surreptitious entries other than of the nature alleged in the Indictment (e.g., court-ordered and Attorney General authorized entries to install a microphone) is without merit. See Opposition of the United States to Defendant Miller's Motion to Dismiss for Failure to State an Offense. See also Memorandum, Part II.

"Discovery Needed to Establish Discriminatory Prosecution"

22, 23 and 24) These requests seek lists of all matters over the last 28 years in which allegations of Fourth Amendment violation, through the use of surreptitious entry by law enforcement officials, have come to the attention of the Department of Justice (Request #22), or were investigated by the FBI (Request #23); and all documents relating to any decisions to decline prosecution with regard to such matters (Request #24). These requests should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

25 and 26) These requests seek all documents from 1950 to 1974 which show, either directly or indirectly, that FBI agents conducted surreptitious entries, and which were sent either from FBI agents to government prosecutors (Request #25), or from FBI headquarters to the Department of Justice or other government agencies (Request #26). These requests should be denied because the defendant has failed to allege that his prosecution is based upon an invidious discrimination. See Memorandum, Part I(B).

CONCLUSION

For the reasons cited herein and set forth in more detail in the accompanying Memorandum, as well as for any additional reasons that may be advanced at the hearing on this matter, the government respectfully requests that the defendants' discovery requests, beyond those which have been agreed to by the government, be denied.

Respectfully submitted,

Barnet D. Skolnik

Barnet D. Skolnik
Special Counsel
U.S. Department of Justice

Of Counsel:

Ira C. Pollack

Ira C. Pollack
Attorney
U.S. Department of Justice

Francis J. Martin

Francis J. Martin
Attorney
U.S. Department of Justice

Daniel S. Friedman

Daniel S. Friedman
Attorney
U.S. Department of Justice

Breckinridge L. Willcox

Breckinridge L. Willcox
Attorney
U.S. Department of Justice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing RESPONSE was hand-delivered, this 15th day of June, 1978, to Alan I Baron, Esquire, Frank, Bernstein, Conaway & Goldman, 1300 Mercantile Bank & Trust Building, 2 Hopkins Plaza, Baltimore, Maryland, defense counsel for Gray; Brian Gettings, Esquire, 1400 N. Uhle Street, Courthouse Square, Arlington, Virginia, defense counsel for Felt; and Thomas A. Kennelly, Esquire, Diuguid, Siegel & Kennelly, 1000 Connecticut Avenue, N.W., Washington, D.C., defense counsel for Miller.


FRANCIS J. MARTIN

Greenberg/Gray-2368

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)

V.)

CRIMINAL NO. 78-000179

L. PATRICK GRAY, III)
W. MARK FELT)
and)
EDWARD S. MILLER)

MEMORANDUM IN SUPPORT OF THE RESPONSE
OF THE UNITED STATES TO DEFENDANTS'
MOTIONS FOR DISCOVERY AND INSPECTION

INTRODUCTION

Defendants Gray, Felt and Miller have filed discovery motions seeking all evidence material to their respective defenses, Rule 16(a)(1)(C), F.R. Crim. P., all evidence favorable to the defendants, Brady v. Maryland, 373 U.S. 83 (1963), and all witness statements discoverable pursuant to the Jencks Act, 18 U.S.C. §3500. The government has agreed to make all Jencks material and Brady material, if any, available 30 days before trial. (See discussion infra, Part I(A).) The government has already provided to the defendants their grand jury testimony, results of scientific tests, documents intended for use by the government as evidence in its case-in-chief, and documents understood by government counsel, in good faith, to be material to their defenses. Rule 16(a)(1)(A), (a)(1)(C) and (a)(1)(D). The government has also made available, or agreed to make available, extensive discovery of documents arguably material to the defendants' defenses, although such discovery is not clearly mandated by Rule 16.

The government's principal -- and mammoth -- undertaking in this regard has been to make available all FBI files relating to the Weatherman Organization and its members or supporters. On May 25, 1978, all defense counsel were advised that, initially, approximately four hundred and fifty (450) Weatherman files, consisting of approximately ninety thousand (90,000) pages, were available for immediate inspection. Included in these materials are all FBI files relating to the "relatives and acquaintances of Weatherman fugitives" referred to in the Indictment. In addition, the government has voluntarily agreed, in informal negotiations, to comply, in whole or in part, with eighty (80) of defendants' one hundred and fifty three (153) informal discovery requests (communicated to government counsel in early May by letters from each defense counsel), and has agreed in our accompanying Response^{1/} to their formal discovery motions (filed on or about May 22) to comply, in whole or in part, with thirty five (35) of defendants' one hundred and twenty eight (128) formal discovery requests.

Government counsel are thus desirous that the Court understand that the government has demonstrated and manifested a willingness to provide discovery in this case which is absolutely extraordinary in its scope and size. Such discovery is in fact already well underway and will proceed with all deliberate speed to a conclusion at the earliest possible date. It is in that context, we respectfully submit, that the discovery requests now at issue before the Court -- which constitute only those which government counsel in good faith believe to be truly unreasonable and which we therefore oppose -- should be viewed.

^{1/} Formally, "Response of the United States to Defendants' Motions for Discovery and Inspection," hereinafter "Response".

The discovery requests now at issue involve the question of whether, as to a particular asserted legal claim or line of defense, the defendants have demonstrated a "colorable entitlement" such that discovery should be ordered. United States v. Murdock, 548 F.2d 599 (5th Cir. 1977). As discussed herein, infra, Parts I(B), I(C) and I(D) (and more fully in the government's oppositions -- filed June 12 -- to the defendants' motions to dismiss the Indictment for selective prosecution, pre-indictment delay and prejudicial pretrial publicity), the defendants have failed to demonstrate a "colorable entitlement" to discovery relating to those legal claims. As discussed fully herein, infra, Part II, the defendants have failed to demonstrate a "colorable entitlement" to discovery relating to any national security or mistake of law/mistake of fact defenses. In addition, the defendants have requested extensive discovery from the White House files of the Nixon administration, including tape recordings of presidential conversations. The government does not oppose an appropriate search of White House files, but has brought to the Court's attention (infra, Part I(E)) the unique circumstances surrounding any such discovery. Finally, a number of defendants' discovery requests are facially overbroad or seek materials that are simply not discoverable. The government's objections to such discovery requests are fully set out in our accompanying Response to defendants' discovery motions.

Greenberg/Gray-2371

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION -----	i
I.-----	1
A. Production of Jencks and Brady Material-----	1
B. Selective Prosecution-----	3
C. Pre-Indictment Delay-----	4
D. Pretrial Publicity-----	6
E. White House Files-----	9
II.-----	14
A. <u>Screws v. United States</u> -----	15
B. Notice of "Standards of Illegality"-----	16
C. Legality of Searches-----	17
D. The Defendants' Asserted Mistaken Belief as to the Legality of the Searches	21
E. Limitations on the Scope of the Government's Voluntary Discovery Undertakings	29

TABLE OF AUTHORITIES

<u>Cases.</u>	<u>Page</u>
* <u>Abel v. United States</u> , 362 U.S. 217 (1960)-----	20
<u>Agnello v. United States</u> , 269 U.S. 20(1925)-----	18
<u>Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics</u> , 456 F.2d 1339 (2d Cir. 1972)-----	23
* <u>Boyd v. United States</u> , 116 U.S. 616 (1886)-----	26
* <u>Brady v. Maryland</u> , 373 U.S. 83 (1963)-----	i, 1, 2
<u>Burkart v. Saxbe</u> , 21 Cr. L.R. 2104 (3/21/78 E.D. Pa.)-----	18
<u>Calley v. Callaway</u> , 519 F.2d 184 (5th Cir. 1975), cert. denied 1/ sub nom <u>Calley v. Hoffman</u> , 425 U.S. 911 (1976)-----	7
<u>Coolidge v. New Hampshire</u> , 389 U.S. 347 (1967)-----	18
<u>Cox v. Louisiana</u> , 379 U.S. 559 (1965)-----	28
<u>Dennis v. United States</u> , 121 F.2d 986 (D.C. Cir. 1948), aff'd. 339 U.S. 162 (1950)-----	26
<u>Johnson v. United States</u> , 333 U.S. 10 (1948)-----	18
<u>Katz v. United States</u> , 389 U.S. 347 (1967)-----	18, 24
<u>Myers v. United States</u> , 272 U.S. 52 (1926)-----	25
<u>Nixon v. Administrator of General Services</u> , 433 U.S. 425 (1977)-----	10, 11
<u>Nixon v. Sampson</u> , 389 F. Supp. 107 (D.D.C. 1975)-----	9

* Principal cases, relied upon.
 1/Denials of certiorari are not noted in the text but are provided in the Table of Authorities for the Court's convenience.

<u>Nixon v. Sampson</u> , 437 F. Supp. 654 (D.D.C. 1977)-----	9
<u>Nixon v. Solomon</u> , C.A. No. 77 1395 (D.D.C.)-----	10
* <u>Olmstead v. United States</u> , 277 U.S. 438 (1928)-----	26
<u>People v. Ferguson</u> , 134 Cal. 41, 24 P.2d 965 (1953)-----	28
<u>Pierson v. Ray</u> , 386 U.S. 547 (1967)-----	28
<u>Raley v. Ohio</u> , 360 U.S. 423 (1959)-----	28
* <u>Screws v. United States</u> , 325 U.S. 91 (1945)-----	14, 15, 17
<u>State v. Davis</u> , 63 Wisc. 2d 75, 216 N.W.2d 31 (1974)-----	28
* <u>United States v. Agurs</u> , 427 U.S. 97 (1976), rev'g. 510 F.2d 1249 (D.C. Cir. 1975)-----	2
* <u>United States v. Barker</u> , 546 F.2d 940 (D.C. Cir. 1976)-----	passim
<u>United States v. Berrios</u> , 501 F.2d 1207 (2d Cir. 1974)-----	4
<u>United States v. Chapin</u> , 515 F.2d 1274, (D.C. Cir.), cert. denied 423 U.S. 1015 (1975)-----	7
<u>United States v. Chavez</u> , 416 U.S. 562 (1974)-----	25
* <u>United States v. Coplon</u> , 185 F.2d 629 (2d Cir. 1950); cert. denied 342 U.S. 920 (1952)-----	20
<u>United States v. Ehrlichman</u> , 376 F. Supp. 29 (D.D.C. 1974)-----	19, 29
* <u>United States v. Ehrlichman</u> , 546 F.2d 910, 928 (D.C. Cir. 1976), cert. denied 415 U.S. 989 (1977)-----	passim
* <u>United States v. Giordano</u> , 416 U.S. 505 (1974)-----	25
* <u>United States v. Guest</u> , 383 U.S. 745 (1966)-----	15, 17
* <u>United States v. Haldeman</u> , 559 F.2d 31 (D.C. Cir. 1976), cert. denied sub nom <u>Mitchell v. United States</u> , 431 U.S. 933 (1977)-----	passim

<u>United States v. Harpel</u> , 493 F.2d 346 (10th Cir. 1974) -----	3
<u>United States v. International Minerals & Chemical Corp.</u> , 402 U.S. 558 (1971) -----	26
<u>United States v. Kearney</u> , 436 F. Supp. 1108 (S.D.N.Y. 1977) -----	22
<u>United States v. Kelly</u> , 556 F.2d 257 (5th Cir. 1977) cert. denied ____ U.S. ____ (1978) -----	3
<u>United States v. Konovsky</u> , 202 F.2d 721 (7th Cir. 1953) -----	28
* <u>United States v. Lovasco</u> , 431 U.S. 783 (1977) -----	5, 6
<u>United States v. Mancusco</u> , 139 F.2d 90 (3d Cir. 1943) -----	28
<u>United States v. McClean</u> , 528 F.2d 1250 (2d Cir. 1976) -----	3
* <u>United States v. Murdock</u> , 548 F.2d 599 (5th Cir. 1977) -----	iii, 4
<u>United States v. Nixon</u> , 418 U.S. 683 (1974) -----	11, 12
<u>United States v. Oaks</u> , 508 F.2d 1403 (9th Cir. 1974) aff'd following remand, 527 F.2d 937 (9th Cir. 1975), cert. denied 426 U.S. 952 (1976) -----	4
* <u>United States v. Ojala</u> , 544 F.2d 940 (8th Cir. 1976) -----	3
<u>United States v. Price</u> , 387 U.S. 787 (1966) -----	15
* <u>United States v. Ross</u> , 511 F.2d 757 (5th Cir. 1975) -----	11
<u>United States v. Schilleci</u> , 545 F.2d 519 (5th Cir. 1977) -----	3
* <u>United States v. United States District Court</u> , 407 U.S. 297 (1972) (cited as "Keith") -----	7, 18, 23, 2
<u>Watkins v. United States</u> , 354 U.S. 178 (1957) -----	26
* <u>Wood v. Strickland</u> , 420 U.S. 308 (1975) -----	17

<u>Yellin v. United States</u> , 374 U.S. 109 (1963)-----	26
<u>Zweibon v. Mitchell</u> , 363 F. Supp. 936 (D.D.C. 1973)-----	18

Constitutional Provisions and Statutes

U.S. Constitution, Amendment 4 -----	passim
18 U.S.C. §241-----	15, 17
18 U.S.C. §242-----	15
18 U.S.C. §3500-----	i, 1, 2
44 U.S.C. §2107 (Supp. 1977)-----	9, 10
Federal Rules Criminal Procedure, Rule 16-----	i, 2

Regulations

41 C.F.R. §105-63.101ff (1977)-----	10
41 C.F.R. §105-63.303 (1977)-----	10
41 C.F.R. §105-63.401ff (1977)-----	10

Other Authorities

<u>Lasson, The History and Development of the Fourth Amendment to the United States Constitution</u> -----	26
--	----

Greenberg/Gray-2376

I.

A. Production of Jencks and Brady Materials

Pursuant to informal negotiations with defense counsel, the government has agreed to provide to the defendants all Jencks material and Brady material, if any, thirty (30) days before trial. Defendants, in various requests, ^{2/} have sought either immediate production of such materials or production sixty (60), as opposed to thirty (30), days before trial.^{3/}

With respect to the Jencks material, the government respectfully submits that its offer to produce Jencks material thirty days in advance of trial is eminently reasonable. As the Court is aware, the Jencks Act, 18 U.S.C. §3500, states:

(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) to an agent of the Government shall be the subject of subpoena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

(Emphasis supplied)

Despite the absence of a requirement for the pretrial production of such material, the government has, in the interest of facilitating the task of defense counsel and of expediting the conduct of the trial itself, agreed to furnish such material a full month prior to trial.

^{2/} Gray requests 1 through 11 and 34, Felt requests B-1 through B-5, and F-9 and Miller request 18.

^{3/} Miller memorandum, p. 17.

This case is not a particularly lengthy or complex one. The government anticipates calling no more than thirty witnesses, and the Jencks material will not be overly voluminous. Furthermore, although not required to provide a witness list as such, the government has in fact identified virtually all its witnesses in the Rule 16 documentary material already furnished to the defense and in the Bill of Particulars. Most, if not all, of the witnesses are fully available to the defense; in fact, unlike the typical criminal case, most government witnesses (almost all of whom are present or former FBI officials) will doubtlessly be willing to submit-- in many cases with enthusiasm -- to pretrial interviews by defense counsel. In sum, the instant case is not one in which the interests of justice require Jencks disclosure more than thirty days before trial.

With respect to material encompassed by Brady v. Maryland, supra, we note at the outset that we are unaware of the existence of any affirmatively exculpatory material. But we intend to furnish to defense counsel documentary manifestations of the potential testimony of any individual whose recollection of events could conceivably be argued to be capable of affecting the judgment of the jury.^{4/} For example, as to meetings where defendant Gray allegedly made inculpatory remarks (See Overt Acts #2 and 4), some attendees do not recall such remarks. Information regarding such attendees will be provided to defense counsel thirty (30) days before trial. Similarly, any information which reflects negatively on the credibility of government witnesses will be provided

^{4/} Under the recently established standard of United States v. Agurs, 427 U.S. 97, 108 (1976), rev'g 510 F.2d 1249 (D.C. Cir. 1975) the government's obligation to disclose arises only when the matter is sufficiently material to have affected the outcome of the trial.

thirty (30) days before trial. In light of the nature and volume of the material in question, thirty (30) days will constitute more than sufficient time for defense counsel to make full and meaningful use of the material. Nothing more is required.

B. Selective Prosecution

Defendants, in various requests, 5/ seek discovery of materials related to their claim of alleged selective or discriminatory prosecution. In order to raise an issue of selective prosecution, the defendants must show, at least prima facie: (1) that they have been singled out for prosecution while others similarly situated have not been prosecuted, and (2) that such selection was invidious -- i.e., based on such impermissible considerations as race, religion, or the desire to prevent the exercise of a constitutional right. United States v. Ojala, 544 F.2d 940, 943 (8th Cir. 1976).

The defendants have failed to meet either test. They have not alleged, much less made a prima facie showing, that there is either a policy or a practice of the federal government not to prosecute instances of the deliberate utilization by law enforcement authorities of illegal investigative techniques.6/ Even more clearly, the defendants have made no colorable claim that their prosecution is motivated by bias against them or bad faith. There is no

5/ Gray requests 19 through 25, Felt requests D-1 through D-6, Miller requests 22 through 26.

6/ Such prosecutions are, in fact, quite common. See e.g., United States v. Kelly, 556 F.2d 257 (5th Cir. 1977); United States v. Schilleci, 545 F.2d 519 (5th Cir. 1977); United States v. McClean, 528 F.2d 1250 (2d Cir. 1976); United States v. Harpel, 493 F.2d 346 (10th Cir. 1974).

showing, indeed there is no proffer, of an invidious basis for the prosecution.

It is also clear that defendants are not entitled to discovery to bolster their claim. In order to be allowed such discovery, a defendant must prove a "colorable entitlement." United States v. Murdock, supra; United States v. Oaks, 508 F.2d 1403 (9th Cir. 1974), aff'd following remand, 527 F.2d 937, (9th Cir. 1975), cert. denied, 426 U.S. 952 (1976); United States v. Berrios, 501 F.2d 1207 (2d Cir. 1974). No such showing of a "colorable entitlement" has here been made. Defendants' requests for discovery with respect to this issue should therefore be denied.^{7/}

C. Pre-Indictment Delay

Defendants, in various requests,^{8/} seek discovery of materials related to their claim of alleged pre-indictment delay. The government has already furnished, or agreed to furnish, materials that are related to the issue of prejudice due to pre-indictment "delay" -- i.e., an accounting of all documents destroyed; a list of any witnesses or potential witnesses who may have died; all relevant recorded statements and correspondence from the late William C. Sullivan; and any materials reflecting that the President or Attorney General became aware of surreptitious entries of the nature alleged in the Indictment. Other requested materials have been denied on the ground that they are not relevant to the issue of prejudice.

^{7/} A fuller exposition of the law on this subject is to be found in the "Opposition of the United States to (1) Defendant Gray's 'Motion to Dismiss Indictment on Grounds of Selective Prosecution' and (2) Defendant Miller's 'Motion to Dismiss the Indictment Due to Discriminatory Prosecution'", filed on June 12.

^{8/} Gray request 48, Felt requests E-1 through E-5 and Miller request 19.

The leading case in this area is United States v. Lovasco, 431 U.S. 783 (1977), which involved an 18-month pre-indictment delay during which two potentially material witnesses for the defendant had died. In determining that the defendant's due process rights had not been violated, the Court rejected the contention that due process bars prosecution whenever a defendant suffers prejudice as a result of pre-indictment delay. The Court held instead that proof of actual prejudice makes a due process claim ripe for adjudication, but not automatically valid. 431 U.S. at 789. Furthermore, the inquiry must consider the reasons for the delay as well as the prejudice to the accused; the action complained of must, to justify dismissal of the prosecution, violate "those 'fundamental conceptions of justice which lie at the base of our civil and political institutions' . . . and which define 'the community's sense of fair play and decency'" 431 U.S. at 790.

Investigation of the activities that are the subject of this Indictment commenced in the summer of 1976 and continued until return of the Indictment on April 10, 1978. A substantial volume of activities other than those ultimately indicted was concurrently investigated by the prosecutors and grand jurors, and hundreds of witnesses were brought before three separate grand juries. Once the evidence had been accumulated and assimilated, the strength of the case was carefully assessed, up to and including the highest levels of the Department of Justice.

Defendants fail to show how they have been prejudiced by such "delay." When measured by the Lovasco standard, it is clear that the deliberate pace of the investigation which led to the Indictment in this case not only did not violate,

but in fact adhered to, "those fundamental conceptions of justice which . . . define the community's sense of fair play and decency." Lovasco, supra, 431 U.S. at 790.

Moreover, much of the requested discovery would impinge upon currently ongoing FBI and Department of Justice internal inquiries. With respect to those inquiries -- concerning allegations of FBI failure to disclose the fact of illegal surreptitious entries to inquiring agencies and of knowledge of such entries by one or more employees of the Department of Justice (other than FBI) -- government counsel, in good faith, wish to advise this Court that there is to our knowledge no evidence to indicate that any employee of the Department of Justice (other than FBI) had knowledge, prior to April 1976, of the utilization of illegal investigative techniques in the FBI's investigation of the Weatherman.

Because the defendants have failed to allege any predicate that would warrant a factual inquiry, the government respectfully submits that the requested discovery on this issue should be denied.^{9/}

D. Pretrial Publicity

Defendants, in various requests,^{10/} seek discovery of materials related to their claim of alleged prejudicial pretrial publicity, including certain media reports, press releases, transcripts of public statements, internal governmental memoranda on the subject of pretrial publicity, and grand jury minutes reflecting comments of the grand jurors.

^{9/} A fuller exposition of this issue is to be found in the "Opposition of the United States to Defendants' Motion to Dismiss the Indictment on Grounds of Pre-Indictment Delay", filed on June 12.

^{10/} Gray requests 51 through 57 and Felt requests E-4 and E-6.

The only documents relevant to the question of pretrial publicity are press and media reports, which are equally available to defense counsel. Indeed, defendant Gray's Motion to Dismiss Indictment on Grounds of Prejudicial Pretrial Publicity contains twenty-nine (29) exhibits of newspaper articles concerning the investigation, indictment and arraignment. Any internal Department of Justice memoranda, "notations of meetings or personal or telephone conversations with media representatives by the Attorney General of the United States or personnel of the Department of Justice" (Gray request # 52), and the "substance of each statement to or in the presence of any press, radio[sic] or television representative" (Gray request # 54) are irrelevant to the issue of prejudicial pretrial publicity, unless such statement or conversation was reported in the public media. In that latter event, the public media reports are obviously available to defense counsel.

The publicity generated by this investigation is insufficient to require any further inquiry on this issue at this time. It is settled law in this Circuit that the proper method for determining whether or not an impartial jury can be selected is voir dire examination. United States v. Ehrlichman, 546 F.2d 910, 916 & n. 8 (D.C. Cir. 1976); United States v. Haldeman, 559 F.2d 31, 63-71 (D.C. Cir. 1976); United States v. Chapin, 515 F.2d 1274, 1286 & n. 7 (D.C. Cir. 1975). The pretrial publicity in this case has been far less severe in quantity and in quality than that in several recent cases in which pre-voir dire relief has been rejected, e.g., United States v. Haldeman, supra; Calley v. Callaway, 519 F.2d 184, 209 (5th Cir. 1975).

Greenberg/Gray-2383

Furthermore, unlike many previous cases subjected to pretrial publicity, the publicity in this case has been almost entirely factual and straightforward. It is important to note that United States v. Haldeman, supra, involved Watergate conspiracy publicity that was not only "extraordinarily extensive", 559 F.2d at 61, n. 34, but also, in part, "hostile in tone and accusatory in nature", 559 F.2d at 61. The Court, in its factual analysis of the publicity concerning the uniquely prominent episode there at issue, made a point of stating that:

The overwhelming bulk of the material submitted. . . consists of straightforward, unemotional factual accounts of events and of the progress of official and unofficial investigations. Id. at 61.

A significant number of the articles submitted to this Court by defendant Gray are in fact not at all hostile, but rather favorable to him.

Finally, more than two-thirds of the articles submitted by Gray are already more than eight months old, having appeared in, or long before, October 1977. Even the articles generated at the time of indictment and arraignment will be stale by the time of trial.

In short, the publicity with respect to this case does not begin to approach the level that would warrant any further inquiry at this time. Because the defendants have failed to make even a colorable claim of the kind of prejudicial pretrial publicity that would justify pre-voir dire relief, their requests for discovery concerning pretrial publicity should be denied.^{11/}

^{11/} A fuller exposition of the law on this subject is contained in the "Opposition of the United States to Defendant Gray's (1) 'Motion to Dismiss Indictment on Grounds of Prejudicial Pretrial Publicity' and (2) 'Motion for Change of Venue Pursuant to Rule 21 of the Federal Rules of Criminal Procedure'", filed on June 12.

E. White House Files

The defendants, in various requests^{12/} seek to obtain discovery of materials contained in the White House files of the administration of former President Nixon.^{13/} These requests seek documents from the files of former President Nixon and his staff, as well as tapes and transcripts of presidential conversations. Where the government in this case opposes discovery requests which seek documents from various sources, including the White House, such opposition is based upon considerations of relevance and materiality and not upon the fact that it is White House documents that are being sought. Indeed, with respect to the possible existence of higher authorization for the searches alleged in the Indictment, an appropriate search of White House files may well be reasonable. But questions of logistics arise.

After the resignation of former President Nixon, the files of his administration were placed in the Archives, a branch of the General Services Administration (GSA). Control of these files was the subject of extensive litigation. See Nixon v. Sampson, 389 F. Supp. 107 (D.D.C. 1975) and 437 F. Supp. 654 (D.D.C. 1977). Thereafter Congress enacted the Presidential Recordings and Materials Preservation Act (the Act), 44 U.S.C. §2107 (Supp. 1977), which mandated that materials of the Nixon presidency be taken

^{12/}Gray requests 31, 32 and 33; Felt requests A-14 and F-2; and Miller requests 15, 16 and 17 or portions thereof.

^{13/}In his request A-14 defendant Felt seeks access to records of presidential conversations over the last fourteen (14) years. The availability of non-Nixon administration files need not be addressed because it is clear that, to the extent this request seeks such files, it is facially overbroad. United States v. Haldeman, supra.

into the complete possession and control of the Administrator of General Services (the Administrator). The facial constitutionality of the Act was upheld in Nixon v. Administrator of General Services, 433 U.S. 425 (1977). The Act directs that the Administrator process the Nixon materials, provide special and public access to the materials and return purely private materials to Mr. Nixon. (§§ 102, 104 and 104(a)(7)). The Administrator has issued special access^{14/} and public access^{15/} regulations, which are both under constitutional attack by Mr. Nixon, Nixon v. Solomon, C.A. No. 77-1395 (D.D.C.) Pending a final determination in Nixon v. Solomon, the special access provisions permit, subject to limitations, access by Mr. Nixon, by the executive branch of government^{16/}, and by others "for use in any judicial proceeding" or pursuant to "court subpoena or other legal process". §102(b), and see 41 C.F.R. §105-63.303.

It is clear that Nixon administration materials may be reached by an order of this Court. However, there are at least two major limitations on access to these materials. The first is a legal limitation; the second, a practical one.

First, whenever special access under the regulations is requested, the Archivist is required to give notice to former President Nixon, who may consent or object. If his objection is overruled, Mr. Nixon is then given a brief time in which to seek an injunction or to intervene in the litigation that has given rise to the request. In addition,

^{14/} 41 C.F.R. §105-63.101ff (issued August 12, 1977 and supplemented October 11, 1977)

^{15/} 41 C.F.R. §105-63.401ff (issued December 16, 1977)

^{16/} Provision for executive branch access is necessary because GSA alone has custody of the materials.

the government (i.e., not the GSA) has the same right to object, to seek to enjoin production, or to intervene in the underlying litigation.^{17/} In a criminal litigation, the party seeking discovery, when faced with any such objection, must make a showing of particularized need for specific materials in order to overcome the presumptively privileged nature of presidential files. United States v. Nixon, 418 U.S. 683 (1974); United States v. Haldeman, 559 F.2d 31, 76 (D.C. Cir. 1976). Under the high standards of need and particularization mandated by these cases, it is clear that the defendants' instant requests for discovery of White House files are facially overbroad and should therefore be denied. United States v. Haldeman, supra, 559 F.2d at 75; United States v. Ross, 511 F.2d 757 (5th Cir. 1975).

The second limitation on discovery of White House files is the practical difficulty encountered in seeking to access some forty-two (42) million pages of documents and eight hundred and eighty (880) tape recordings, portions of only a handful of which have been transcribed or even indexed. See Nixon v. Administrator of General Services, supra, 433 U.S. at 430. For example, complying with Miller discovery request number 17 (for all portions of taped conversations in which the Weatherman Organization or other terrorist groups^{18/} were discussed between 1969 and 1974^{19/}) would require

^{17/} The government does not contemplate invoking, with regard to discovery in this case, the privileged nature of presidential communications. However, it is clear that "military, diplomatic or sensitive national security secrets" are also subject to privilege; it is possible that the government would, if necessary in this case, invoke that privilege. United States v. Nixon, 418 U.S. 683, 706 (1974).

^{18/} For reasons discussed in Part II of this Memorandum, the government opposes any search with regard to "other terrorist groups." However, eliminating "other terrorist groups" from this request would not lessen the burden in searching the White House tapes.

^{19/} The White House taping system was in operation from approximately May 1971 through July 1973.

a search by the Archivist that would take at least one year. There would be a similar burden in complying with many of the defendants' other requests for White House documents as well. The government strongly opposes the substantial delay of this case which would inevitably follow from the granting of such discovery requests, especially since most of those requests are so obviously overbroad.

The government does not, however, oppose discovery per se of White House tapes and documents. Government counsel familiar with the process of gaining access to such materials in the context of a criminal investigation wish to advise the Court that, in the absence of objection from Mr. Nixon,^{20/} a reasonable discovery procedure as to White House files is possible.^{21/} However, any such procedure must be bottomed on a good faith effort by the defendants to limit and particularize their requests. While it may not be necessary in that context for the defendants to meet the heavy burden imposed by United States v. Nixon, supra, it is respectfully submitted that the Court should, as a matter of due process in dealing with presidential files, require a strong showing of materiality and particularization.

^{20/}Mr. Nixon has indicated a willingness to be of assistance to the defendants in this case, and therefore would presumably not object to a reasonable search. However, the present discovery requests are overbroad and unreasonable; objection by Mr. Nixon would be warranted. If such objection were interposed, the defendants would be required to meet the standards of United States v. Nixon, supra, which the present discovery requests do not even approach.

^{21/} A reasonable search of White House tapes and documents may proceed by first examining available inventories of files, then selecting clearly pertinent files for review by the Archivist. Once those files have been reviewed and relevant documents have been extracted, the defendants, on the basis of the extracted documents, may seek to have some additional files reviewed. If any of the documents were to indicate that there was a clearly material and plainly identifiable conversation with the President, then the conversation (if taped) could be reviewed and, if relevant, made available to the defendants.

The government therefore requests that, preliminarily, there be no discovery ordered by the Court with regard to White House tapes and documents. The government will request all defense counsel to meet as soon as possible with government counsel and with representatives of GSA, as well as, at an appropriate time, with counsel for Mr. Nixon, to discuss the practicalities of access to White House tapes and documents. Should a satisfactory resolution not be reached, the government would file with the Court an affidavit by the Archivist setting forth the practical difficulties in complying with the specific defense discovery requests, as well as the amount of time that would be needed to comply with those requests. Further proceedings would then be at the Court's behest. Government counsel hope that such further involvement of the Court in the matter will not prove necessary, but we of course cannot control the degree to which the defendants may or may not be willing to narrow their requests.

Greenberg/Gray-2389

II.

Defendants Felt and Miller seek certain discovery as bearing on the issue of "criminal intent" (Miller Memorandum, p.1) or "specific criminal intent" (Felt Motion, p.6). Defendant Gray does not seek documents under that heading but does seek some of the same documents under headings relating to the possibility of higher authorization and to possible justification for warrantless searches (Gray Motion, p.7-13). Although both Felt and Miller refer generally to the issue of intent, it would appear that three separate issues are involved with respect to the requirement in a Section 241 prosecution that the government prove "specific intent". Screws v. United States, 325 U.S. 91 (1945).

The first issue is raised by Miller's contention^{22/} that the "standards of illegality" concerning surreptitious entries were so vague that he was operating in a "legal no-mans land" and that he should be afforded discovery as to various items concerning FBI policy on surreptitious entry, in order to enable him to determine whether or not he "had notice" of the "standards of illegality."^{23/} The second and third issues are interrelated. The second issue is raised by Miller's "assertion that the Weatherman investigation was a national security investigation

^{22/}The discovery motions of defendants Gray and Felt do not set out any analysis of the facts and law with regard to discovery relating to specific intent. Defendant Miller does set forth at least some such analysis; accordingly, the government will use that analysis to structure its response herein. Many of the items requested as discovery on specific intent by Miller are also requested by Gray and Felt and, for the reasons cited herein, should also be denied.

^{23/}Miller Memorandum p. 3 and 7.

with foreign overtones and therefore warrantless surveillance was legal."^{24/}; this in turn relates to the third issue, which is raised by the assertion that a defense of "good faith and reasonable reliance on apparent authority" is available to Miller and that discovery, therefore, tending to show the "foreign overtones" that would (according to Miller's argument) make warrantless surveillance legal should be afforded to him so as to buttress his proof regarding the reasonableness of his reliance.^{25/}

The law as to Section 241's requirement of "specific intent", and its applicability to each of these three issues, is set out below.

A. Screws v. United States

The seminal case concerning the requirement of proof of "specific intent" in a prosecution for violation of Constitutional rights is Screws v. United States, supra. In that case the Supreme Court faced a challenge to a civil rights prosecution on the basis that the statute's prohibition against the deprivation of any right protected by the Constitution or laws of the United States was void for vagueness.^{26/} The Court held that the statute's requirement of a "willfull" deprivation of rights engrafts onto the statute a "specific intent" requirement that serves to eliminate any problem of vagueness, as well as to exclude prosecution of offenses of purely local concern. 325 U.S. at 105. Thus, under Screws the government is required to prove (1) that the Constitutional right at issue is clearly delineated and plainly applicable under the circumstances of the case and (2) that the defendant

^{24/}Id. p.9

^{25/}Id. p.9

^{26/}In Screws the prosecution was under Section 242, the substantive counterpart to the Section 241 conspiracy charged in this case. The Screws specific intent doctrine is equally applicable to a Section 241 prosecution. United States v. Ehrlichman, 546 F.2d 910, 921 (D.C. Cir. 1976); United States v. Price, 383 U.S. 787, 806 (1966); United States v. Guest, 383 U.S. 745, 753-754 (1966).

acted with the particular purpose of depriving the victim of that right rather than for purely personal reasons. This latter requirement is clearly met in the present case, since there is no dispute about the fact that the surreptitious entries and searches alleged in the Indictment were conducted by the FBI for a governmental purpose, rather than for purely personal gain. See United States v. Ehrlichman, 546 F.2d 910, 928 (D.C. Cir. 1976).

B. Notice of the "Standards of Illegality"

On the question of intent, defendant Miller states that:

We have found no statute which prohibits the technique of surreptitious entry...In the absence of a statute, we must look elsewhere to determine standards of conduct.^{27/}

Defendant Miller then proceeds to make various discovery requests (Miller Requests 1-7) which seek FBI position papers; definitions and policy statements concerning surreptitious entries; records of all FBI surreptitious entries for twenty-four (24) years; and guidelines concerning the prosecution of FBI agents who conduct surreptitious entries.^{28/} These materials are requested, argues Miller, in order to enable him to determine whether or not he had "notice" of the "standards of illegality" in what he characterizes as a "legal no-man's land".

Miller's argument misapprehends the law as to specific intent. In essence, he purports to wish to show through the discovered materials that the law as to surreptitious entry and/or his awareness (notice) of that law was so unclear that he could not form the requisite criminal (specific) intent. But this is not a factual issue. The question of whether the right at issue, (that is, the right allegedly violated by the indicted conduct) was a clearly delineated and plainly applicable Constitutional right is "a purely legal determination!" Ehrlichman, supra,

^{27/}Id. p.2

^{28/}These requests are duplicative of, or similar in nature to, Felt requests #C-7, C-8, D-1, D-2, F-5, F-6, F-11, F-12, F-13, F-14 and F-15, or portions thereof.

546 F.2d at 921. In no way could discovery of the requested factual material bear on the "purely legal determination" of whether or not it was^a clearly delineated and plainly applicable Constitutional right which was violated by the conduct alleged in the Indictment. Moreover, Miller's contention that he should be permitted the requested discovery in order to enable him to show his lack of awareness (notice) of the alleged "standards of illegality" is in error, since it is clear that "[T]here is no requirement under Section 241 that a defendant recognize the unlawfulness of his acts." Id. at 922. It has long been clear that to violate Section 241 the defendant need not have been thinking in Constitutional terms. Screws v. United States, supra, 325 U.S. at 106; United States v. Guest, 383 U.S. 745, 753-754 (1966); see also Wood v. Strickland, 420 U.S. 308 (1975). Accordingly, Miller discovery requests 1 through 7, and the similar requests of defendants Gray and Felt^{29/} should be denied.

C. The Legality of the Searches

Defendants Gray and Miller both seek discovery for the stated purpose of trying to establish that, in the Weatherman investigation surreptitious entries without warrant were "justified" (Gray Motion, p.11) or "legal" (Miller Memorandum, p.9) or if not legal, that the defendants' mistaken belief in their legality was reasonable (Miller Memorandum, p. 9).^{30/}

The searches alleged in the Indictment were clearly illegal. The Supreme Court has stated that "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." United States v. United States District Court, 407

^{29/}See footnote 28, supra.

^{30/}Defendant Felt seeks some of the same documents, although not under these headings. The availability to the defendants in this case of a defense based upon an asserted reasonable belief in the legality of the indicted conduct is discussed infra at Parts II(D) and II(C).

U.S. 297, 313 (1972) [hereinafter "Keith"].^{31/} Defendant Miller, arguing in support of his requests for discovery of various materials in the area of national security, cites a series of wire-tapping cases in which the government has defended the legality of warrantless electronic surveillance in matters of national security.^{32/} Miller goes on to state that "the Weatherman organization involved 'foreign agents or collaborators with foreign powers'; the test set forth in Ehrlichman" for justifying a warrantless search.^{33/} The dispositive flaw in the analogy which Miller thus attempts to draw is that whereas specific case-by-case authorization by the President or Attorney General is an essential prerequisite to invocation of any exception to the warrant requirement for national security searches, there was no such authorization in the instant case -- absolutely none. Each case cited by Miller^{34/} involved warrantless electronic surveillance conducted with the prior written approval of the Attorney General, who "considered the requirements of national security and authorized electronic surveillance as reasonable". Katz v. United States, 389 U.S. 347, 364 (1967) (White, J., concurring). Moreover, Ehrlichman itself stands squarely for the proposition that a national security justification for a warrantless search (such as an allegation of unlawful collaboration with a foreign power), no matter how clear, does not validate the search unless there is

^{31/}The warrantless search of a home, with certain well defined and historic exceptions, is *per se* unreasonable and plainly violates the Fourth Amendment. Coolidge v. New Hampshire, 403 U.S. 443, 449-78 (1971); Katz v. United States, 389 U.S. 347, 357, (1967); Johnson v. United States, 333 U.S. 10, 14 (1948); Agnello v. United States, 269 U.S. 20, 33 (1925).

^{32/}For purposes of the present analysis, no distinction need be drawn between warrantless physical searches and warrantless electronic surveillance. Barker-Martinez, *infra*, 546 F.2d at 950. But see, Ehrlichman, *supra*, 546 F.2d at 933-940 (Leventhal, J., concurring).

^{33/}Miller Memorandum, p. 9.

^{34/}Zweibon v. Mitchell, 363 F. Supp. 936 (D.D.C. 1973) and Burkart v. Saxbe, 23 Cr. L.R. 2104 (3/21/78, E.D. Pa).

"specific approval by the President or Attorney General", Id. at 923. Such approval constitutes a so-called "Chief Executive warrant", which in matters relating to national security may be used as a substitute for judicial warrant. Id. at 927. In the present case (as in Ehrlichman) there is and will be no dispute regarding the fact that none of the nine surreptitious entries and searches alleged in the Indictment^{35/} was conducted pursuant to any "specific approval by the President or Attorney General". The total absence of that clear prerequisite to legality renders unqualifiedly illegal the searches involved in this case.

The documents which Miller requests relate to definitions of terms such as "national security" and "foreign intelligence", official designations of the Weatherman as a "national security matter" (including two such specific designations made four years after the conspiracy terminated and two years after Miller retired) evidence (including ten specific documents) showing the relationship of the Weatherman with foreign powers and policy statements concerning procedures in national security investigations. These discovery requests are similar to ones made by Ehrlichman which were denied by Judge Gesell,^{36/} a ruling later affirmed by the Court of Appeals.^{37/} As in Ehrlichman, where the discovery requests were for materials showing that the Ellsberg investigation was a national security matter in which warrantless searches might be legal, the requests here are intended to aid the defendants in their effort to establish a sufficient national security predicate for the argument that warrantless searches were legal in the Weatherman investigation. After the general proposition would

^{35/}See Overt Acts 7, 11, 15, 17, 19, 21, 24, 29, and 31.

^{36/}United States v. Ehrlichman, 376 F. Supp. 29 (D.D.C. 1974).

^{37/}Ehrlichman, supra, 546 F.2d at 925.

come the effort to establish that there may have been, in traditional terminology, probable cause (referred to in this context as "national security justification") for each search.

But the entire effort is beside the point: just as it is clear in the general setting that the existence of probable cause does not excuse the failure to obtain a judicial warrant, it is equally clear in the national security setting that the existence of "national security justification" does not excuse the failure to obtain Presidential or Attorney General authorization.^{38/} Ehrlichman, supra; United States v. Coplon, 185 F.2d 629 (2nd Cir. 1950); Abel v. United States, 362 U.S. 217 (1960).

As it is undisputed that there was never any specific Presidential or Attorney General authorization for the searches charged in the present Indictment, any discovery intended to help the defense establish that a national security predicate existed such that Attorney General authorization could have been, -- but was not -- sought, is of no potential relevance to proper litigation of this case and should therefore be denied. Accordingly Miller discovery requests 8 through 13, Gray discovery requests 28, 40, 41, 42 and 43 and Felt discovery requests C-4 and F-8 should be denied.

^{38/}That is true even where the national security predicate is abundantly clear, as would not be the case here even if the defense effort to establish the Weatherman's "foreign connections" were given the benefit of every doubt.

D. The Defendants' Asserted Mistaken Belief as to the Legality of the Searches

The discovery requested by Miller (as well as by Gray and Felt) which seeks to establish a national security predicate for the searches alleged in the Indictment is sought not only in an effort to establish alleged legality, but also in an effort to establish evidentiary support for Miller's asserted reasonable reliance on higher authority. Miller contends that discovery tending to show that a sufficient national security predicate existed, such that Attorney General authorization for the individual Weatherman searches could have been obtained, would also support the reasonableness of his asserted reliance upon what he now asserts he understood to be the assurances of those in higher authority (presumably Gray) that legally effective authorization had been obtained. Using the probable cause analogy, the contention is comparable to that of a police officer who seeks to show that his asserted reliance on the assurances of those in higher authority that a warrant for a given search had been obtained was reasonable because he, in fact, knew that probable cause existed sufficient for the procurement of a valid warrant. (Such asserted reliance would of course be unreasonable if he, in fact, knew that there existed no such probable cause and that a valid warrant therefore could not be obtained.) That argument appears facially to support Miller's requests for discovery seeking to establish a national security predicate.

But again there is a dispositive flaw: Miller in fact knew that no specific Presidential or Attorney General authorization -- absolutely none -- was sought, much less obtained, for any of the searches (relevant to this case) which he authorized.^{39/}

^{39/}The same is true of Felt, who can be expected to rely upon the same argument already advanced by Miller.

The facts as to the authorization by defendants Felt and Miller of the individual searches involved in this case are not in dispute. Indeed, the vast bulk of the government's factual allegations in this case are not disputed. Accordingly, the Court, in its analysis of the defendants' various discovery requests, may find helpful the following factual summary^{40/}

In May 1972, defendant Gray, immediately after the death of Director J. Edgar Hoover, was appointed Acting Director of the FBI. He remained in that position until his resignation in late April 1973. Throughout that period, defendant Felt was Acting Associate Director, the number two position in the FBI, and defendant Miller was the Assistant Director for (that is, in charge of) the Domestic Intelligence Division, which had overall supervision of (among other things) the FBI's Weatherman investigation. According to Felt and Miller, Gray in the summer of 1972 gave them generic authorization to use surreptitious entries and searches in the conduct of the Weatherman investigation. Gray flatly denies having given anyone such authorization. Regardless of which factual assertion is accurate on that point, it is not disputed that, beginning in the late fall or early winter of 1972 Miller began authorizing, in each instance with the explicit concurrence of Felt, individual surreptitious entries in the FBI's investigation of the Weatherman.^{41/} It is undisputed that these authorizations were given by Miller and Felt alone, with no effort

^{40/}This factual summary is set forth, in good faith, as in intended aid to the Court's consideration of defendants' motions for discovery. It is not intended as a formal particularization of the Indictment and should not be construed as a government commitment in limitation of its proof.

^{41/}These Weatherman surreptitious entries and searches were carried out by "street agents" assigned to the FBI's New York and Newark field offices. It is these street agents, acting pursuant to oral authorization coming down to them through the chain-of-command, who are the "foot soldiers" acting in reliance upon apparent higher authority. See United States v. Barker, 546 F.2d 940 (D.C. Cir. 1976). It was partially in recognition of that reliance, and of the great "gap" in the FBI between the authority of a street agent and that of an Assistant Director, that the Department of Justice decided to decline prosecution of those "foot soldiers". Similarly, it was the gap between field supervisor, the next level above street agent, and Assistant Director that governed the finding, for discovery purposes, of the potential availability to a field supervisor of the defense of reliance upon apparent authority, United States v. Kearney, 436 F. Supp. 1108 (S.D.N.Y. 1977), and eventually led to the government's decision to dismiss the Kearney case.

whatever to seek specific authorization from the President or the Attorney General,^{42/} or from Gray or anyone else who might in turn have sought authorization from the President or the Attorney General -- in short, the authorizations for individual surreptitious entries and searches were given by defendants Felt and Miller with no effort of any kind on their parts to seek the specific authorization of anyone. One who knows that no such authorization has been sought, knows that no such authorization has been obtained. Thus, it can be unqualifiedly stated, as the inevitable logical consequence of facts which are undisputed, that defendants Felt and Miller knew that no specific Presidential or Attorney General authorization had been obtained for any of the searches relevant to this case.

In light of the above, it becomes necessary to inquire as to how it is that Felt and Miller purport to continue to assert the defense of good faith reliance upon apparent authority. Reading between the lines, it appears that the gloss which they would apply to that defense, in their effort to have it reach the facts and circumstances of this case, runs as follows: the Weatherman Organization was in some way in collaboration with a foreign power,^{43/} and therefore warrantless searches in the FBI's Weatherman investigation could be authorized; Gray gave generic authorization to conduct such

^{42/}Then Attorney General Kleindienst had discontinued two Weatherman electronic surveillances as a direct result of the Supreme Court's June 1972 decision in Keith. Whether the Attorney General would have authorized any of the warrantless searches alleged in the present Indictment cannot of course be definitively known, because he was never consulted about any of them. His actions at the time of Keith, however, can surely be said to have at least put the defendants on notice of what can fairly be characterized as a strong presumption on the part of the Attorney General against any future authorization of warrantless surveillance, of any kind, in the Weatherman investigation.

^{43/}It is axiomatic that in any defense based upon an asserted good faith belief that the alleged wrongful conduct was lawful, the defendant must have subjectively believed the facts to have been such that, if true, would have rendered his conduct lawful. Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics, 456 F.2d 1339, 1348 (2nd Cir. 1972). In this regard, the Court may wish to take note of the following statement, made by Mr. Miller in August (footnote continued on next page)

searches in the Weatherman investigation; the power to authorize individual searches was delegated to Felt and Miller, and they then proceeded to authorize individual searches without consulting Gray, the Attorney General or anyone outside the FBI. Based on these facts, and as shown below, it is clear that Felt's and Miller asserted "mistake" as to the legality of the searches charged in the Indictment is a pure mistake of law. The purported defense thus falls; "Such a mistake of law can be no defense". Ehrlichman, supra, 546 F.2d at 923.

If, as in Ehrlichman and Barker (hereafter "Barker-Martinez")⁴³, this case involved a single warrantless search authorized by Felt and Miller pursuant to the specific authorization of Gray, it might be argued that Felt and Miller had reasonably relied on Gray's apparent authority, in the belief that he had obtained the necessary prerequisite to the legalization of such a search: the personal authorization of the President or Attorney General (a Chief Executive warrant). In such a situation it would be possible that the President or Attorney General had "considered the requirements of national security and authorized [a physical search of a home] as reasonable". Katz v. United States, 389 U.S. 347, 364 (1967) (White, J., concurring). In this case, however, the situation is quite different. Felt and Miller do not allege that the President, the Attorney General, or even Gray ever gave specific authorization for any of the searches which they (Felt and Miller) admittedly authorized. The

⁴³(footnote continued from last page)
1976 to a Time magazine reporter, concerning the alleged foreign involvement of the Weatherman:

I wish I could tell you that the foreign ties of the Weathermen were a factor, but I can't. We looked into those connections and didn't find enough to justify the suspicion of espionage. My motivation in approving the break-ins was the bombings, the terrorism and my own desire to solve those cases.

Quoted in Time, May 1, 1978, p. 18

⁴⁴/United States v. Barker, 546 F.2d 940 (D.C., Cir. 1976).

most that can be alleged is an asserted belief on the part of Felt and Miller that the President or Attorney General had delegated to Gray, who in turn had delegated to Felt and Miller, the Chief Executive's power to authorize warrantless searches in national security contexts. Felt's and Miller's argument, therefore, is that by virtue of such perceived delegation, they believed that they possessed legal power to authorize warrantless searches in the Weatherman investigation. Such an argument flies in the face of over two hundred years of law relating to the enactment, interpretation, and enforcement of the Fourth Amendment.

It is abundantly clear that the Chief Executive's power to authorize a warrantless search in national security contexts rests solely with the President and with his alter ego for such matters, the Attorney General.^{45/} The Court of Appeals for the District of Columbia has made clear in Ehrlichman, supra, 546 F.2d at 927, that this power may not be delegated.^{46/}

No court, Justice of the Supreme Court, or Presidential administration has ever suggested a power [to search without a warrant] which could be generally delegated, for example, even to regular intelligence agencies, like the FBI and CIA, let alone to the extrastatutory group involved in the instant case. Even though the employees and administrators of the regular agencies might have the background, training and departmental discipline to make responsible, expert decisions, the risk of their myopic abuse of such a powerful prerogative is simply too great to permit its delegation.

The longstanding prohibition against such delegation (either by the President or Attorney General of the power to determine the reasonableness of a national security search or by a court of the power to determine probable cause) is firmly rooted in the history

^{45/}Myers v. United States, 272 U.S. 52, 133 (1926).

^{46/}Indeed, even the far less awesome power to authorize the application to a court for a judicial warrant for electronic surveillance may not be delegated. United States v. Giordano, 416 U.S. 505 (1974); United States v. Chavez, 416 U.S. 562 (1974).

of the Fourth Amendment. That history makes abundantly clear that it was precisely such delegations of the right to search and seize, in the form of general warrants (in England) and writs of assistance (in the colonies), that provided the historical background of governmental abuse of power that the framers of the Fourth Amendment sought to preclude from our form of government.^{47/} Government counsel intend no disrespect to the defendants in this case in asserting, as we do, that to countenance any legal theory that would permit the delegation to law enforcement officers like themselves of the awesome power to authorize the search of, and seizure from, the homes of private citizens would indeed to be place "the liberty of every man in the hands of every petty officer".^{48/}

It is thus clear that Felt's and Miller's argument that they in fact had delegated to them legally effective power to authorize warrantless searches is without merit. What then of their assertion that they at least believed that such a delegation had occurred? The claim is equally unavailing: even if such a delegation had purportedly been made, their grossly mistaken belief in its legal validity would have been a pure mistake of law -- and "[s]uch a mistake of law can be no defense". Ehrlichman, supra, 546 F.2d at 923. See also Barker-Martinez, supra, 546 F.2d at 946; United States v. International Minerals & Chemical Corp., 402 U.S. 558, 563 (1971); Dennis v. United States, 171 F.2d 986, 990 (D.C. Cir. 1948), aff'd. 339 U.S. 162 (1950); Yellin v. United States, 374 U.S. 109, 123 (1963); Watkins v. United States, 354 U.S. 178, 208 (1957).

^{47/}See generally, Lasson, The History and Development of the Fourth Amendment to the United States Constitution, 253-260. This history is also discussed in Keith, 407 U.S. 297, 316 (1972); Olmstead v. United States, 277 U.S. 438, 474 (1928) (Brandeis, J., dissenting); and Boyd v. United States, 116 U.S. 616, 625-630 (1886).

^{48/}James Otis' argument in Lechmere's Case, quoted in Boyd v. United States, 116 U.S. 616, 625 (1886).

But Miller asserts^{49/} that a defense of the absence of mens rea, based upon an asserted good faith and reasonable reliance on apparent authority, is available to him under Barker-Martinez, supra. He is wrong, on several grounds. First, as has been demonstrated above, Miller's (and Felt's) asserted mistaken belief as to the legality of their actions is a pure mistake of law, which constitutes no defense (rather than a rare conjunction of mistake of fact with mistake of law, as was present and dispositive in Barker-Martinez, 546 F.2d at 946 and 954). Secondly, comparison of the facts of the two cases, as well as analysis of the policy considerations that led to reversal in Barker-Martinez, distinguished the latter from the present case and demonstrates the unavailability to Felt and Miller here of any defense grounded upon Barker-Martinez. Whereas Felt and Miller, to derive solace from that case, would analogize themselves to the "foot soldiers" (Id. at 943) therein, the truer analogy is between themselves and Ehrlichman, who sought to rely upon generic authorization from President Nixon (Ehrlichman, supra, 546 F.2d at 925-927), just as defendants Felt and Miller now seek to rely upon generic authorization from defendant Gray. Such reliance should be no more available to Felt and Miller as a defense than it was to Ehrlichman.^{50/} Furthermore, the defense of "reasonable reliance on [Gray's] apparent authority" cannot be said, on the basis of Barker-Martinez, to be available to Felt and Miller, because they were hardly "citizen[s], . . .

^{49/}Miller Memorandum, p. 9

^{50/}It is interesting to note that the documentation of the fateful authorizations in the two cases are strikingly similar: Ehrlichman authorized the Fielding break-in with explicit warning that it not be "traceable back to the White House"; Felt and Miller authorized the various surreptitious entries involved here with explicit notation that "full security" had been assured -- the FBI euphemism for the assurance that the entry and search would be neither detected nor traced back to the FBI. What is more, the documentation in each of the two cases described the warrantless searches in euphemistic terms: as "a covert operation" (Ehrlichman) and as the "contact [of] an anonymous source" (Felt and Miller).

innocently drawn into illegal action at the behest, and on the authority, of a government official". Id. at 948, n. 24. The gap between the ability of Felt and Miller, on the one hand, and that of Gray, on the other hand, to judge the legality of warrantless searches, can hardly be analogized to "the [great] gap (both real and perceived) between a private citizen and a government official with regard to their ability and authority to judge the lawfulness of a particular governmental activity". Id. at 948-49 (Wilkey, J.). Indeed, if there was a "gap" at all, one must presume that Felt and Miller were the most capable assessors of the legality of a particular law enforcement technique^{51/} Finally, any "mistake" assertedly made by Felt and Miller was not brought about by reliance upon a "conclusion or statement of law, . . . issued by an official [in contradistinction to the private citizen who relies] charged with interpretation, administration, and/or enforcement responsibilities in the relevant legal field." Id. at 955 (Merhige, J.). Almost all cases that have recognized an exception to the doctrine that mistake of law is no defense have done so on the basis of reliance by a private citizen on an (erroneous) statement of law by an "official" source^{52/}

Thus, the narrow Barker-Martinez exception to the general doctrine that mistake of law is no defense is of no aid to the defendants in the present case. We return then to the clear and pertinent holding of Ehrlichman, supra, 546 F.2d at 923, that a mistake of law such as that now asserted by Felt and Miller "can be no defense." Consequently, any request for discovery which

^{51/}As of late 1972, Felt and Miller had a combined total of some fifty-two years in the FBI; Gray had some eight months.

^{52/}See Pierson v. Ray, 386 U.S. 547 (1967) (statute later held unconstitutional); Cox v. Louisiana, 379 U.S. 559 (1965) (advice of Chief of Police to picketers); Raley v. Ohio, 360 U.S. 423 (1959) (advice of legislative Committee chairman to witness); United States v. Mancusco, 139 F.2d 90 (3d Cir. 1943) (judicial decision later overruled); People v. Ferguson, 134 Cal. 41, 24 F.2d 965 (1953) (erroneous advice of state corporation counsel); and State v. Davis, 63 Wisc. 2d 75, 216 N.W. 2d 31 (1974) (erroneous advice of county corporation counsel and assistant district attorney). Compare, United States v. Konovsky, 202 F.2d 721, 730 (7th Cir. 1953) (responsibilities of police officer with regard to superior orders).

seeks to support the reasonableness of such a mistake should be denied as irrelevant and immaterial to full and proper resolution of the case. See United States v. Ehrlichman, 376 F. Supp. 29, 35-36 (D.D.C. 1974) (Gesell, J.), aff'd, 546 F.2d 910 (D.C. Cir. 1976), rev'd on other grounds sub nom. United States v. Barker, 546 F.2d 940 (D.C. Cir. 1976). Accordingly, Gray discovery requests 38, 40, 41, 42 and 43, Felt request C-4 and F-8, and Miller requests 8 through 13 should be denied.

E. Limitations on the Scope of the Government's Voluntary Discovery Undertakings

There remains a problem of scope with respect to certain areas of the government's voluntary discovery undertakings. The defendants requested, during the early discovery discussions in this case, access to documentation of the possible existence of actual Presidential or Attorney General authorizations for the specific warrantless searches charged in the Indictment. If in fact such authorizations (i.e., valid Chief Executive warrants) existed, that might well constitute a defense to the charges in this case. Accordingly, the government agreed to provide discovery within the standard bounds materiality, relevant to the question of whether or not there was in fact any higher authorization for the warrantless searches here at issue.

In seeking discovery regarding this issue, beyond that which the government has voluntarily agreed to provide, defendants go too far. Defendant Miller's requests 15 and 16,^{53/} for example, seek documentation not only of governmental plans to deal with the Weatherman Organization but also of plans to deal with "other terrorist groups"; Miller also seeks documentation of any communications (concerning any such plans) between the White House and

^{53/}These requests are duplicative of, or closely analogous to, Gray requests 18, 28, 29, 30, 31, 32 and Felt requests C-5, D-3 through D-6.

the Department of Justice or the FBI. Governmental plans to deal with the Weatherman, and White House communications regarding same, could of course be material to the defense; thus, the government has voluntarily agreed to provide to the defense any FBI or Department of Justice documents manifesting plans to deal with the Weatherman, as well as any White House communications on that subject which are contained in FBI or Department of Justice files.^{54/}

The government, however, opposes the production of such documentation with regard to "other terrorist groups". It is submitted that in order for a plan to be material in any way to the issue of authorization for warrantless searches in the FBI's Weatherman investigation, it would necessarily have to relate, directly or indirectly, to the Weatherman.^{55/} The request for "plans to deal with...other terrorist groups" is a fishing expedition of no litigative relevance to this case, and should accordingly be denied.

Furthermore, defendant Miller seeks (request 15) any documentation of such plans prepared not only by the White House, the Department of Justice, or the FBI, but also by the Department of Defense, Central Intelligence Agency, Department of Treasury, Department of State, and the National Security Agency. Apart from any other objections, that aspect of the request is facially overbroad and should be denied on that ground alone. United States v. Haldeman, supra. The preparation of any such plans by such other agencies could not have affected the state of mind of

^{54/}White House files, it should be noted, are not in the "custody and control" of the government. See discussion supra, Part I(E).

^{55/}In opposing such discovery concerning "other terrorist groups", the government does not oppose discovery of, and will in fact voluntarily produce, documentation regarding any plans which deal with terrorist groups (or with groups otherwise described, e.g., "radical" groups) if the designation or contents can be fairly read as intended to be inclusive of the Weatherman.

the defendants unless they were transmitted to the FBI; the government has voluntarily agreed, as part of its undertaking to make available all FBI Weatherman files, to provide to the defense any such documentation transmitted to the FBI concerning the Weatherman. But discovery of documents prepared by those other agencies and not transmitted to the FBI should be denied.

Similarly, a number of the discovery requests explicitly or implicitly call for the production of information from law enforcement and intelligence agencies (domestic or foreign) other than the FBI. Such information is provided to the FBI (and other law enforcement and intelligence agencies) pursuant to an understanding, referred to as the "third agency rule", that is well known throughout the FBI (and therefore to the defendants). The "rule" provides that when an agency, such as the FBI, receives intelligence information from any outside agency, domestic or foreign, it cannot disclose that information to anyone external to itself without the consent of the originating agency. Under the "rule", therefore, the Department of Justice (which of course includes the FBI) cannot disclose to the defendants any intelligence information originally obtained from another intelligence or law enforcement agency, domestic or foreign, without the prior consent of that agency. Should any particular discovery ruling by this Court require that such a consent be obtained, government counsel would do everything in their power to do so. However, the Court should be aware that such consent is rarely forthcoming from domestic agencies and even more rarely available from foreign agencies. Accordingly, were the Court to order discovery to the defendants of certain intelligence information originating from agencies, domestic or foreign, external to the FBI, the Department of Justice might ultimately be required to move to dismiss this prosecution. It is respectfully requested that that

fact be considered by the Court in assessing the bona fides of those discovery requests which call, explicitly or implicitly, for access to such information.

CONCLUSION

For the reasons cited herein and in the accompanying Response to defendants' discovery motions, as well as for any additional reasons that may be advanced at the hearing on this matter, the government respectfully submits that the defendants' discovery requests, beyond the many to which the government has voluntarily agreed, should be denied.

Respectfully submitted,

The United States of America

By: Barnet D. Skolnik
Barnet D. Skolnik
Special Counsel
United States Department of
Justice

Francis J. Martin
Francis J. Martin
Attorney
United States Department of
Justice

Of Counsel:

Daniel S. Friedman
Daniel S. Friedman
Attorney
United States Department of
Justice

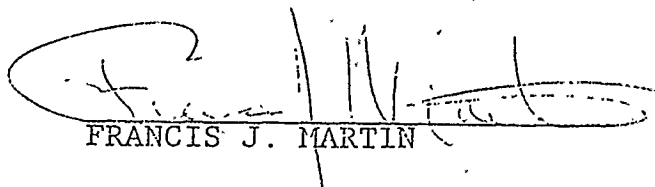
Ira C. Pollack
Ira C. Pollack
Attorney
United States Department of
Justice

Breckinridge L. Wilcox
Breckinridge L. Wilcox
Attorney
United States Department of
Justice

Greenberg/Gray-2408

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MEMORANDUM was hand-delivered, this 15th day of June, 1978, to Alan I. Baron, Esquire, Frank Berstein, Conaway and Goldman, 1300 Mercantile Bank & Trust Building, 2 Hopkins Plaza, Baltimore, Maryland, defense counsel for Gray; Brian Gettings, Esquire, 1400 N. Uhle Street, Courthouse Square, Arlington, Virginia, defense counsel for Felt; and Thomas a Kennelly, Esquire, Diuguid, Siegel & Kennelly, 1000 Connecticut Avenue, N.W., Washington, D.C., defense counsel for Miller.


FRANCIS J. MARTIN

Greenberg/Gray-2409

UNITED STATES GOVERNMENT

Memorandum

TO : John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation

FROM : Francis J. Martin *FJM*
Trial Attorney
Criminal Division

SUBJECT: United States v. Gray, et al

DATE: June

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

h
28
L. Patrick

FEDERAL GOVERNMENT

In your memorandum of June 5, 1978 you stated the various reasons it appeared that an August 23, 1971 memo by Egil Krogh might be material to the defense in United States v. Gray, et al, and accordingly should be reviewed for possible disclosure as part of the government's informal discovery undertakings. Your memorandum indicated that this Krogh memorandum had been forwarded to then Associate Deputy Attorney General James A. Wilderotter. You also forwarded an April 15, 1974 airtel which reflected the delivery of Krogh's files to Wilderotter and also showed an inventory which listed the Krogh memorandum. At or about the time of your memorandum I discussed this matter with either S.A. [redacted] or S.A. [redacted] and informed him that the Krogh memorandum, in all likelihood, was now in the Archives as part of the files of my former office, the Watergate Special Prosecution Force, and that I would obtain the memorandum as soon as the government's response to discovery motions had been completed and filed. Enclosed is a copy of the Krogh memorandum which I obtained yesterday from the Archives.

gp

b6
b7C

REC-110

62-118045-41

Also enclosed is a copy of Mr. Miller's reply memorandum on the issue of pre-indictment delay filed June 20, 1978. In that memorandum (p.2-4) counsel for Miller states that he was informally advised by FBI agents handling discovery that "20% to 40%" of the materials seized on August 19, 1976 had been destroyed and that the Krogh memorandum had "disappeared." I have discussed this matter with S.A. [redacted] who assures me that no one working on discovery made any such direct statement, although obviously some inadvertent statements along these lines must have been made. It is almost inevitable that in any undertaking as complex as the present discovery process some mistakes will be made. However, it must always be kept in mind that any inaccurate or premature representations as to the state or existence of files or documents and/or the contents of the files can have a severe impact on a most important commodity in this case, i.e., the government's

b6
b7C

AUG 31 1978

ENCLOSURE

14 1978

WFO
4

[redacted]

b6
b7C

8 4



5010-110

credibility and good faith in the eyes of the Court.

I will also discuss this matter with counsel for Mr. Miller in order that he fully understand that it is only S.A. [redacted] or S.A. [redacted] who can make any representations as to the files and that, other than as to strictly routine matters, those representations can only be made, in any official sense, after consultation with government counsel.

THE WHITE HOUSE

WASHINGTON

August 23, 1971

MEMORANDUM FOR THE PRESIDENT'S FILE

SUBJECT: Presidential Meeting with the Attorney
General, Director Hoover, and Messrs.
Ehrlichman & Krogh, May 26, 1971

The President met with Attorney General Mitchell, Director Hoover, John Ehrlichman, and Bud Krogh on Wednesday, May 26, 1971, at 4 p.m. in the President's office in the Executive Office Building.

The President said the meeting was occasioned by the recent rash of police slayings and asked Director Hoover to report on the current situation. The Director reviewed the number of police slayings so far this year, concentrating especially on the most recent ones in the District of Columbia and New York City. He reported that to the best of his knowledge this was not indicative of a national conspiracy (although there was a lot of talk by Black Panthers and other militant groups to kill police, they didn't plot out individual killings in a conspiratorial fashion). The Director also detailed the extent of FBI help already offered to the Police Departments affected.

There followed a discussion of the plausibility of making police killing a Federal offense. Bud Krogh reported on the pending legislation before Congress which would make this a Federal offense and pointed out that several policemen's benevolent organizations were also calling for it. Director Hoover indicated that he was opposed to Federalizing police killing in that it would make the FBI into a national police force -- something he has opposed since taking office. The Director also pointed out that 94.6% of police killings are solved by local police within thirty days of the offense. The Attorney General added that there was a great deal of personalized response at the local level which was not only intent on catching police killers, but also might resent FBI control of a case. He also pointed out that under the Presidential Directive dated November 1, 1970, the FBI stands ready to put some of its investigative resources at the disposal of the police if requested.

62-118045-41
ENCLOSURE

Greenberg/Gray-2412

The President said he would rather not have legislation which Federalized police killing, but wanted to do something for the police departments if possible, and especially to do something for the widows and children of slain policemen.

Director Hoover suggested the FBI could conduct a two-day course or seminar on police killings. It could examine the modus operandi, and compare notes on what were the best responses in these situations. Director Hoover said he could invite approximately 100 people from across the country and get a good cross section here for the seminar. The President said he would like to address the class if it could be worked out.

The President also asked the Director if there was any further assistance the FBI could render in cases of police killing. The Director responded that he could put his investigative field personnel at the disposal of state or local police in cases of police killings if requested by the state or local police department. The Attorney General agreed that this would be a good idea if the President would expand his previous Directive to include field personnel. The President agreed to do this.

The President said he felt it important for the Federal Government to pay the widow and children of slain policemen some direct payment which would tide them over during the hardship period. There was some discussion as to what other ideas had previously been submitted in this area -- especially the question of life insurance for policemen. There was also some discussion as how to properly limit it to just policemen rather than to other organizational groups. The President directed Bud Krogh to draft legislation which would provide for a direct payment to the widow and children of any policemen slain in the line of duty.

The President inquired as to the best way to indicate his concern and to properly develop these Federal aids to policemen. The Attorney General indicated that the International Association of Chiefs of Police had been trying to see the President for some time and that the National Sheriffs Association was another excellent organization. The President decided to meet with representatives of these two groups as well as a scattering

of big-city Chiefs of Police (Jerry Wilson of the District of Columbia was specifically included at the request of the President). The President asked that a meeting be set up with himself, the Attorney General, and Director Hoover as soon as possible. He asked Director Hoover to handle the invitations, and to meet with the group beforehand to explain some of the Presidential initiatives and ask them to oppose the Federalizing of police killing.

The meeting adjourned at approximately 5:30 p.m.

A handwritten signature in dark ink, appearing to be 'BK' with a flourish underneath.

Bud Krogh

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HNT/2*

DATE: 6-26-78

FROM : *PVD/BAK*
P.V. Daly

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR
DISCOVERY IN U. S. vs. L. PARTICK GRAY III, ET AL

h
rs PURPOSE: To report the release of three employees to their former units and the gain of one employee for temporary assignment.

DETAILS: As of June 26, 1978, the following people will return to their former units:

[Redacted]

b6
b7C

The following employee is a replacement for

[Redacted]

[Redacted]

gp b6
b7C
b6
b7C

RECOMMENDATION: None, for information

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. <i>HW</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

REC-110

62-118045-42

14 AUG 31 1978

Greenberg/Gray-2415

- 1 - Finance and Personnel
- 1 - Mr. Bassett
- 1 - Mr. Daly

ULT:dmd *Qmq*

8 SEP 14 1978



Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett

DATE: 6-21-78

FROM : *J.L. Tierney*

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
ARTICLE IN "THE WASHINGTON POST"
DESTRUCTION OF SEIZED MATERIALS

PURPOSE: To set forth background and current status of destruction of materials reported in today's edition of "The Washington Post."

DETAILS: 1. BACKGROUND: During August 1976, 22 cabinets of materials were seized at FBIHQ by personnel assigned to Mr. Long under the direction of the Department of Justice's Task Force. According to personnel who handled these files for Mr. Long, the cabinets were inventoried, noting the caption of each folder in the cabinet but not outlining the content of the folders. Approximately three weeks after the seizure, instructions were received from the Department to return most of the materials to the locations from which they had been seized, primarily in the IS-2 Section of the Intelligence Division. The cabinets which were not returned cannot be identified now with finality. Mr. Gardner was warned by Mr. Long's personnel when he ordered the return of most of the cabinets that once returned, it would be difficult to retrieve and impossible to account for the material. Approximately one month later, instructions were received from the Department to retrieve 232 of the returned folders. The folders to be retrieved were specified by the Department by making notations on a copy of the original topical inventory. At that time, 185 of the folders were retrieved. Some folders could not be located. Other folders were acknowledged to have been destroyed. Mr. Robert L. Shackelford, former Section Chief of IS-2, acknowledged he had destroyed the folders which the Department desired to retrieve from the materials originally seized from and returned to him.

2. DISCOVERY: During informal discovery, defendant W. Mark Felt requested "...all items seized from the offices of the FBI in Washington, D. C. and New York City on or about

Enclosure

2 ENCLOSURE

- 1 - Mr. McDermott
- 1 - Mr. Long
- 1 - Mr. Boynton
- 1 - Mr. Bassett
- 1 - Mr. Daly
- 1 - Mr. Tierney

ENCLOSURE

REC-110

62-118045-43

AUG 31 1978

(CONTINUED - OVER)

JLT:dmd

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

8 4 SEP 14 1978

FBI/DOJ

J. F. Tierney to Mr. Bassett Memo
Re: U. S. vs. L. Patrick Gray III, et al
Article in the "Washington Post"
Destruction of Seized Materials

August 19, 1976." The Department responded, "This material, to the extent it is relevant to the Weatherman investigation and is still available, will be provided."

By memorandum dated May 25, 1978, the Department's prosecution team noted it had agreed to make the above documents available and instructed they be processed. The Department commented as follows: "Also, as you know, after its initial seizure, certain materials were returned to IS-2, where they were later destroyed. An effort should be made, based on inventories or any other available data source, to determine, as well as possible, what materials were destroyed."

In the prosecution response to the defense's formal motions for discovery inspection, served June 15, 1978, the Department states, "The requested accounting of all retrieved documents lost or destroyed since the time the Government became aware of the alleged facts resulting in this indictment will be provided."

The inventory of the seized material, both that retrieved and that still in the hands of FBIHQ offices to which it was returned, has been in progress for over one week. It is being accomplished by the support employee who originally maintained these records for Mr. Long. The inventory has located approximately one-half dozen additional folders which could not be retrieved in 1976. The inventory will not be complete until at least Friday, June 23, 1978. We cannot now estimate how many folders are missing and will never know how much of the content of existing folders may be missing.

3. NEWS ARTICLE: A copy of the article, quoting the "Los Angeles Times," in "The Washington Post" is attached. It is apparently based on a review of defendant Miller's recently filed reply to the Government's response. It quotes Miller's attorney as stating he was "informally advised" that 40 percent of the seized material has been destroyed. The fact that some materials had been destroyed was discussed with Thomas B. Kennelly, attorney for Mr. Miller. No figure was given for the extent of the destruction since no figure was known. I contacted SA [redacted] by telephone this morning; and he concurs with my recollection that, although destruction was discussed, no figures were given.

RECOMMENDATION: None, for information.

APPROVED:	Asst. Dir. _____	Lab. Inv. _____
Director _____	Crim. Inv. _____	Ident. _____
Asso. Dir. _____	Ident. _____	Intell. _____
Dep. AD Adm. _____	Laboratory _____	_____
Dep. AD Inv. _____	_____	_____

Some Break-In Case Evidence Reportedly Destroyed by FBI

By Ronald J. Ostrow
Los Angeles Times

Potentially crucial evidence in the FBI break-in case was destroyed by the FBI after it had been turned over to the agency by Justice Department prosecutors, court records disclosed yesterday.

The lawyer for former assistant director Edward S. Miller, one of three ex-FBI officials indicted in the case, said that up to 40 percent of the material originally seized by investigators at FBI offices in Washington and New York had been destroyed.

Miller's attorney, Thomas B. Kennelly, said he had been "informally advised" of the evidence destruction by FBI agents, but had been given no explanation as yet for the action.

He cited the destruction of the evidence in arguing that the case against Miller should be dismissed.

Miller made the disclosure in papers filed with the U.S. District Court here.

Other sources familiar with the case said the destroyed records were "ticklers" — in FBI parlance, copies of documents—that bore handwritten notations that could have been read

to indicate that break-ins had been committed. The existence of such evidence would help the defense in its efforts to show that break-ins were a relatively commonplace tactic well-known throughout the FBI.

It could not be learned why the Justice Department prosecutors returned such potential evidence to the FBI before it was used in court.

The material was destroyed under FBI rules that require the destruction of "ticklers" after periods ranging from 30 days to six months, according to the knowledgeable sources.

An FBI spokesman would not comment on the disclosure and Terrence B. Adamson, the Justice Department's director of public information, said: "We'll have to answer that in court."

Miller, former acting FBI director L. Patrick Gray III and W. Mark Felt, No. 2 man under Gray, were indicted April 10 on charges of ordering the FBI break-ins to try to track down fugitive members of the Weatherman terrorist organization. Kennelly said he could not specify the nature of the destroyed records other than to note that they "related directly to the matters alleged" in the indictment.

Greenberg/Gray-2418

62-119045-43

ENCLOSURE

DO-7

FROM

OFFICE OF DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

TO

OFFICIAL INDICATED BELOW

- MR. ADAMS _____ ()
- MR. MCDERMOTT _____ ()
- MR. BASSETT _____ ()
- MR. COCHRAN _____ ()
- MR. COLWELL _____ ()
- MR. CREGAR _____ ()
- MR. JOSEPH _____ ()
- MR. KELLEHER _____ ()
- MR. KENT _____ ()
- MR. LONG _____ ()
- MR. MINTZ _____ ()
- MR. MOORE _____ ()
- MR. BOYNTON _____ ()
- MR. BRUEMMER _____ ()
- MR. HOTIS _____ ()
- TELE. ROOM _____ ()
- MISS DEVINE _____ ()
- _____ ()
- _____ ()
- _____ ()

- SEE ME _____ ()
- NOTE AND RETURN _____ ()
- PREPARE REPLY _____ ()
- SEND MEMO TO ATTORNEY GENERAL _____ ()
- FOR YOUR RECOMMENDATION _____ ()
- WHAT ARE THE FACTS? _____ ()
- HOLD _____ ()

REMARKS:

*Please confirm that
 FBI is not communicating - informally
 with defense counsel & that #3
 refers to A.F. communication.*

FBI/DOJ

Greenberg/Gray-2419

62 - 118045 - 43

ENCLOSURE

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

J. Edgar Hoover
 Dir. _____
 Dep. Dir. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : MR. MCDERMOTT

DATE: 6/28/78

FROM : H. N. Bassett *HNB*

SUBJECT: U.S. vs. L. PATRICK GRAY III, ET AL
MATERIALS SEIZED IN 1976
MISQUOTES BY DEFENSE COUNSEL

*File
FBI*

*4-1
W*

PURPOSE:

By memorandum from SA [redacted] to me of 6/21/78 (attached), information was set forth concerning defense claims that they were "informally advised" that 40 percent of the records seized during the inquiry by the Department of surreptitious entries had been destroyed. Concerning the memorandum, the Director asked, "Please confirm that FBI is not communicating 'injudiciously' with defense counsel and that Paragraph 3 refers to D.J. communication." Purpose of this memorandum is to answer the Director's questions and to furnish additional information relative to captioned matter.

b6
b7C

DETAILS:

As you may recall, captioned matter was discussed at some length during the Executives' Conference of 6/22/78 and it is believed that some of the Director's concerns concerning this situation were answered at that time.

Nevertheless, I have discussed the situation with SAs [redacted] and [redacted] (the latter returning from annual leave on Monday, 6/26/78) who are in charge of the discovery as it applies to the Bureau's responsibilities. They assured me that they have been completely judicious in their dealings with Mr. Miller's attorneys Kennelly and Epstein. They have advised that their comments have been restricted to issues arising out of records being reviewed such as the existence of related documents in FBI files or the files of other Government agencies. In fact, they have pointed out that the Department, by letter dated 5/25/78

b6
b7C

Enclosure

- ENCLOSURE *handled as separate serial*
- 1 - Mr. McDermott
- 1 - [redacted]

REC-110

62-11804-44

(CONTINUED-OVER)

HNB:jam *jam*
(4)

b6
b7C



AUG 31 1978

8 4 SEP 14 1978

H. N. Bassett to Mr. McDermott Memorandum
Re: U.S. vs. L. Patrick Gray III, Et Al
Materials Seized in 1976
Misquotes by Defense Counsel

to all three defense counsel, advised the counsel to arrange for review of disclosure materials at FBI Headquarters by contacting SAs [] and [] who "...will be available to assist you should you have any questions concerning these files." As a matter of information, Kennelly and Epstein are the only two attorneys who have come into Bureau space for the purpose of reviewing and discussing pertinent documents. There is a room set aside for them as was the case when we were handling discovery proceedings for [] and attorneys working for Edward Bennett Williams utilized this same room. They have no authority to wander about our space and are restricted to this room.

b6
b7C

Assuming the second part of the Director's question relates to the news article that Miller's attorney had been informally advised that 40 percent of the seized material had been destroyed, we do not know exactly how Miller's attorney came to that conclusion. However, the actual motion filed by the attorney indicates that he obtained this information from the FBI Agents handling discovery proceedings. In the actual motion, the figure of 20 to 40 percent was used as opposed to the news article which indicated that 40 percent had been destroyed. Both SAs [] and [] have advised me that at no time did they tell Miller's attorney that 20 to 40 percent of the questioned documents had been destroyed. (As noted in referenced memorandum, the Department had notified defense counsel some documents had been destroyed.) As a matter of fact, as referenced memorandum would indicate, there is no way we could ever determine what was destroyed since only the folders seized by the Department were inventoried, but the contents of the individual folders were not. It is SA [] recollection that at the time of Kennelly's inquiry, he may well have told him that 20 to 40 percent of the folders were unaccounted for, which at the time was an accurate statement but never did he advise that this amount of material had been destroyed.

b6
b7C

Departmental Attorney Francis J. Martin, who has handled most of the contacts with the Bureau and with defense counsel on discovery material, on behalf of Departmental Prosecutor Barnet D. Skolnik, telephonically contacted SA [] following the news item and was initially upset in what appeared to be uncoordinated and uncontrolled disclosures to the defense during the discovery. However, as the facts

b6
b7C

H. N. Bassett to Mr. McDermott Memorandum
Re: U.S. vs. L. Patrick Gray III, Et Al
Materials Seized in 1976
Misquotes by Defense Counsel

were related to Martin, he appeared satisfied that we had not exceeded our authority in dealing with defense counsel and considered Kennelly's actions to be within the bounds permitted an aggressive defense counsel seeking support for his position in a pre-trial discovery motion. When it was pointed out to Martin that this whole problem developed because of the persistence of William L. Gardner, Chief of the Criminal Section, Civil Rights Division, in returning the seized files which caused the loss of accountability Martin commented, "Everybody makes mistakes."

Both SAs [] and [] have initialed this memorandum attesting to the accuracy of the information contained herein.

RECOMMENDATION:

For information.

*Prod
SST*

APPROVED: <i>WAB</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>had</i>
Dep. AD Adm. <i>WAB</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett, *HNB*

DATE: 6-29-78

FROM : *AP* P. V. Daly

Daly #212

SUBJECT: RESPONSE TO DEFENSE REQUEST FOR DISCOVERY IN U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To report the release of one employee to his former unit and the gain of one employee for temporary assignment.

f-1
W

DETAILS: As of June 29, 1978, [redacted] will return to his former unit and [redacted] will report for temporary assignment.

b6
b7C

RECOMMENDATION: None, for information.

(JP)

APPROVED: _____

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec Mgnt. <i>H</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

REC-110

62-118045-75

94 AUG 31 1978

98 DALY

- 1 - Finance and Personnel
- 2 - Mr. Bassett
- 1 - Mr. Bresson
- 1 - Mr. Ramey
- 1 - [redacted]

b6
b7C

JLT:dmd *dmd*
(5)

Greenberg/Gray-2423

8 SEP 14 1978

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 133

- Page 50 ~ OTHER;
- Page 51 ~ OTHER;
- Page 52 ~ OTHER;
- Page 53 ~ OTHER;
- Page 54 ~ OTHER;
- Page 55 ~ OTHER;
- Page 56 ~ OTHER;
- Page 66 ~ b1;
- Page 83 ~ b1;
- Page 84 ~ b1;
- Page 117 ~ Referral/Direct;
- Page 118 ~ Referral/Direct;
- Page 119 ~ Referral/Direct;
- Page 120 ~ Referral/Direct;
- Page 121 ~ Referral/Direct;
- Page 122 ~ Referral/Direct;
- Page 123 ~ Referral/Direct;
- Page 142 ~ OTHER;
- Page 143 ~ OTHER;
- Page 144 ~ OTHER;
- Page 145 ~ OTHER;
- Page 146 ~ OTHER;
- Page 147 ~ OTHER;
- Page 148 ~ OTHER;
- Page 149 ~ OTHER;
- Page 150 ~ OTHER;
- Page 151 ~ OTHER;
- Page 152 ~ OTHER;
- Page 153 ~ OTHER;
- Page 154 ~ OTHER;
- Page 155 ~ OTHER;
- Page 156 ~ OTHER;
- Page 157 ~ OTHER;
- Page 158 ~ OTHER;
- Page 159 ~ OTHER;
- Page 160 ~ OTHER;
- Page 161 ~ OTHER;
- Page 162 ~ OTHER;
- Page 163 ~ OTHER;
- Page 164 ~ OTHER;
- Page 165 ~ OTHER;
- Page 166 ~ OTHER;
- Page 167 ~ OTHER;
- Page 168 ~ OTHER;
- Page 169 ~ OTHER;
- Page 170 ~ OTHER;
- Page 171 ~ OTHER;
- Page 172 ~ OTHER;

Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 178 ~ OTHER;
Page 179 ~ OTHER;
Page 180 ~ OTHER;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 187 ~ OTHER;
Page 188 ~ OTHER;
Page 189 ~ OTHER;
Page 190 ~ OTHER;
Page 191 ~ OTHER;
Page 192 ~ OTHER;
Page 193 ~ OTHER;
Page 194 ~ OTHER;
Page 195 ~ OTHER;
Page 196 ~ OTHER;
Page 197 ~ OTHER;
Page 198 ~ OTHER;
Page 199 ~ OTHER;
Page 200 ~ OTHER;
Page 201 ~ OTHER;
Page 202 ~ OTHER;
Page 203 ~ OTHER;
Page 204 ~ OTHER;
Page 205 ~ OTHER;
Page 206 ~ OTHER;
Page 207 ~ OTHER;
Page 208 ~ OTHER;
Page 209 ~ OTHER;
Page 210 ~ OTHER;
Page 211 ~ OTHER;
Page 212 ~ OTHER;
Page 213 ~ OTHER;
Page 214 ~ OTHER;
Page 215 ~ OTHER;
Page 227 ~ OTHER;
Page 228 ~ OTHER;
Page 229 ~ OTHER;
Page 230 ~ OTHER;
Page 231 ~ OTHER;
Page 232 ~ OTHER;
Page 233 ~ OTHER;
Page 234 ~ OTHER;
Page 235 ~ OTHER;
Page 236 ~ OTHER;
Page 237 ~ OTHER;
Page 238 ~ OTHER;
Page 239 ~ OTHER;

Page 240 ~ OTHER;
Page 241 ~ OTHER;
Page 242 ~ OTHER;
Page 243 ~ OTHER;
Page 244 ~ OTHER;
Page 245 ~ OTHER;
Page 246 ~ OTHER;
Page 247 ~ OTHER;
Page 248 ~ OTHER;
Page 249 ~ OTHER;
Page 250 ~ OTHER;
Page 251 ~ OTHER;
Page 252 ~ OTHER;
Page 253 ~ OTHER;
Page 254 ~ OTHER;
Page 255 ~ OTHER;
Page 256 ~ OTHER;
Page 257 ~ OTHER;
Page 258 ~ OTHER;
Page 259 ~ OTHER;
Page 260 ~ OTHER;
Page 261 ~ OTHER;
Page 262 ~ OTHER;
Page 263 ~ OTHER;
Page 264 ~ OTHER;
Page 265 ~ OTHER;
Page 266 ~ OTHER;
Page 267 ~ OTHER;
Page 268 ~ OTHER;
Page 269 ~ OTHER;
Page 270 ~ OTHER;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 133

- Page 50 ~ OTHER;
- Page 51 ~ OTHER;
- Page 52 ~ OTHER;
- Page 53 ~ OTHER;
- Page 54 ~ OTHER;
- Page 55 ~ OTHER;
- Page 56 ~ OTHER;
- Page 66 ~ b1;
- Page 83 ~ b1;
- Page 84 ~ b1;
- Page 117 ~ Referral/Direct;
- Page 118 ~ Referral/Direct;
- Page 119 ~ Referral/Direct;
- Page 120 ~ Referral/Direct;
- Page 121 ~ Referral/Direct;
- Page 122 ~ Referral/Direct;
- Page 123 ~ Referral/Direct;
- Page 142 ~ OTHER;
- Page 143 ~ OTHER;
- Page 144 ~ OTHER;
- Page 145 ~ OTHER;
- Page 146 ~ OTHER;
- Page 147 ~ OTHER;
- Page 148 ~ OTHER;
- Page 149 ~ OTHER;
- Page 150 ~ OTHER;
- Page 151 ~ OTHER;
- Page 152 ~ OTHER;
- Page 153 ~ OTHER;
- Page 154 ~ OTHER;
- Page 155 ~ OTHER;
- Page 156 ~ OTHER;
- Page 157 ~ OTHER;
- Page 158 ~ OTHER;
- Page 159 ~ OTHER;
- Page 160 ~ OTHER;
- Page 161 ~ OTHER;
- Page 162 ~ OTHER;
- Page 163 ~ OTHER;
- Page 164 ~ OTHER;
- Page 165 ~ OTHER;
- Page 166 ~ OTHER;
- Page 167 ~ OTHER;
- Page 168 ~ OTHER;
- Page 169 ~ OTHER;
- Page 170 ~ OTHER;
- Page 171 ~ OTHER;
- Page 172 ~ OTHER;

Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 178 ~ OTHER;
Page 179 ~ OTHER;
Page 180 ~ OTHER;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 187 ~ OTHER;
Page 188 ~ OTHER;
Page 189 ~ OTHER;
Page 190 ~ OTHER;
Page 191 ~ OTHER;
Page 192 ~ OTHER;
Page 193 ~ OTHER;
Page 194 ~ OTHER;
Page 195 ~ OTHER;
Page 196 ~ OTHER;
Page 197 ~ OTHER;
Page 198 ~ OTHER;
Page 199 ~ OTHER;
Page 200 ~ OTHER;
Page 201 ~ OTHER;
Page 202 ~ OTHER;
Page 203 ~ OTHER;
Page 204 ~ OTHER;
Page 205 ~ OTHER;
Page 206 ~ OTHER;
Page 207 ~ OTHER;
Page 208 ~ OTHER;
Page 209 ~ OTHER;
Page 210 ~ OTHER;
Page 211 ~ OTHER;
Page 212 ~ OTHER;
Page 213 ~ OTHER;
Page 214 ~ OTHER;
Page 215 ~ OTHER;
Page 227 ~ OTHER;
Page 228 ~ OTHER;
Page 229 ~ OTHER;
Page 230 ~ OTHER;
Page 231 ~ OTHER;
Page 232 ~ OTHER;
Page 233 ~ OTHER;
Page 234 ~ OTHER;
Page 235 ~ OTHER;
Page 236 ~ OTHER;
Page 237 ~ OTHER;
Page 238 ~ OTHER;
Page 239 ~ OTHER;

Page 240 ~ OTHER;
Page 241 ~ OTHER;
Page 242 ~ OTHER;
Page 243 ~ OTHER;
Page 244 ~ OTHER;
Page 245 ~ OTHER;
Page 246 ~ OTHER;
Page 247 ~ OTHER;
Page 248 ~ OTHER;
Page 249 ~ OTHER;
Page 250 ~ OTHER;
Page 251 ~ OTHER;
Page 252 ~ OTHER;
Page 253 ~ OTHER;
Page 254 ~ OTHER;
Page 255 ~ OTHER;
Page 256 ~ OTHER;
Page 257 ~ OTHER;
Page 258 ~ OTHER;
Page 259 ~ OTHER;
Page 260 ~ OTHER;
Page 261 ~ OTHER;
Page 262 ~ OTHER;
Page 263 ~ OTHER;
Page 264 ~ OTHER;
Page 265 ~ OTHER;
Page 266 ~ OTHER;
Page 267 ~ OTHER;
Page 268 ~ OTHER;
Page 269 ~ OTHER;
Page 270 ~ OTHER;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x
WIDITH CLARK, et al.,
Plaintiffs,
- against -
UNITED STATES OF AMERICA, et al.,
Defendants.
-----x

U.S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

AMENDED
PROTECTIVE ORDER
78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

Do Not Remove
RETAIN AS TOP SERIAL
C

62-118045
NOT RECORDED

JUN 11 1979

SEC. 5

Greenberg/Gray-5953

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to plaintiffs' attorneys ^{for each party} and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant¹ ~~plaintiff~~ ^{MSL} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{The attorneys for the other parties} ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~, 1979
May 16

Monica Lopez
United States District Judge

~~CONFIDENTIAL~~

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. 1/10
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett *mpf*

DATE: 1/30/79

*PVD
Daly*

FROM : P. V. Daly *PVD*

SUBJECT: U. S. vs GRAY ET AL

L. Patricia

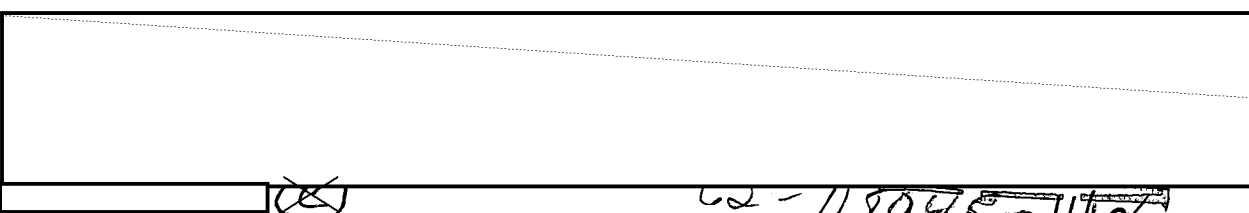
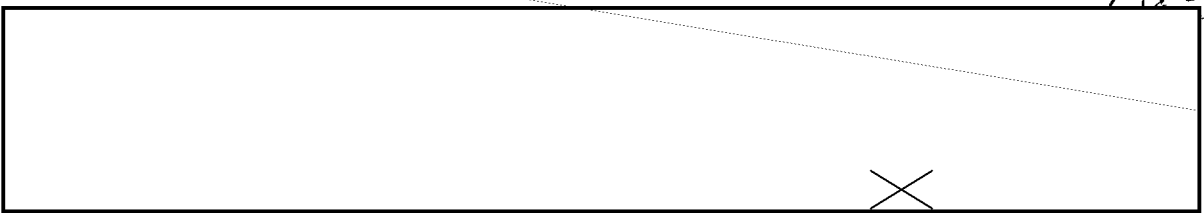
~~CLASS. & EXT BY 6096 UGH/KOB
REASON-FCIM II, 1-2.4.2 1/30/79
DATE OF REVIEW 1/30/99~~

PURPOSE:

To advise that Government has submitted motions in limine. (u)

DETAILS:

As you are aware, the Government, in the prosecution of this matter, is faced with a substantial risk of disclosing sensitive material in the course of the trial. This is occasioned by the nature of the charges and the knowledge of the defendants and potential witnesses of highly sensitive information. In order to prevent the unnecessary disclosure of sensitive information, the Government has submitted to the court motions in limine (copies attached). The motions admit that certain sensitive information is relevant evidence to defenses of the defendants. (u)



Enclosures

7-ENCLOSURE
ENCL-BEHIND FILE
REC-126

62-119095-748
5 FEB 12 1979

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Mintz

1 - Mr. Moore

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 02-27-2009

. Bassett
. Daly
NUED-OVER)

b6
b7C

PVD:jam *jam* (9)

14 FEB 14 '79

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

P. V. Daly to Mr. Bassett Memorandum
Re: U. S. vs Gray Et Al

Should this stipulation not be acceptable to the court, the Department intends to seek the approval of the State Department and Department of Defense to make greater public disclosure of the Program. (ZL)

(C) [redacted] While this is not the intention of the Department, it becomes likely because of material furnished to the defense in connection with Discovery in this matter. (ZL)

(C) For example, Edward S. Miller, one of the defendants in this case, [redacted]

(C) [redacted] His personnel file, which is being furnished in connection with the Discovery, has very detailed communications in it describing [redacted] as well as rewarding him for same. George W. Calhoun, the Assistant Section Chief in the Criminal Division, as well as Robert Keuch, Deputy Assistant Attorney General of that Division, have been apprised of this particular problem since they are the Departmental representatives who will seek the approval of State and Defense if necessary for greater disclosure. [redacted]

(C) The motions also are directed toward preventing the defense from introducing evidence of foreign involvement. The court ordered the production of material furnished to the FBI by cooperative foreign intelligence services. In these motions the Government is arguing it is irrelevant and seeks the court's concurrence in denying the defense the documents as well as eliminating any testimony in that area. The Department petitions the court to instruct there be no disclosure of classified material in the absence of court permission which is to be granted in camera. (ZL)

RECOMMENDATION:

For information. (ZL)

APPROVED: [initials]

Director
Assoc. Dir.
Dep. AD
Dep. AD

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. HWS
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~CONFIDENTIAL~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs



00-118045-

ENCLOSURE

1 Q Why?

2 A You will have to ask Mr. Miller that.

3 Q When Mr. Hoover was there, you would not have
4 approved a matter of this kind without checking with Mr.
5 Hoover --

6 A You're trying to tell me that I approved one in
7 1968 --

8 Q Let me finish.

9 A All right.

10 Q You would not have approved a matter of this kind
11 without checking with Mr. Hoover, isn't that correct

12 A Right.

13 Q Why did you change your style of operating when
14 Mr. Gray came in?

15 A Because Gray specifically told me that he wanted
16 me to run the Bureau.

17 Q Go ahead and explain that to me further. What
18 did he say about your running the Bureau?

19 A He told me that I was his chief of staff and he
20 wanted me to run all the day-to-day operations and this
21 made sense, because he visited every field office but one.
22 He made numerous speeches, as you know and he was away almost
23 all the time.

24 Q Did you make operational decisions of a magnitude
25 similar to this one, without consulting Mr. Gray in other

Exhibit "A"

1 fields?

2 A I don't have any specific recollection, but I'm
3 sure that I did.

4 Q You're sure that you did?

5 A Yes.

6 Q And then you advised him of your actions later
7 in some fashion?

8 A Sometimes, but not always. Mr. Gray complained
9 very bitterly about the volume of material that I was
10 forwarding to him. It would depend a little bit upon what
11 it was. On the Weathermen, I didn't see any reason to tell
12 him about that.

13 Q When did Mr. Gray tell you that he expected you
14 to run the Bureau in an operational sense, to have the
15 latitude that you are now talking about?

16 A I can't specifically say when. We had a number
17 of very hasty conversations during those first few days
18 that he was director.

19 Q Would it have occurred during that period?

20 A Yes.

21 Q In any event, it's clear in your mind that there
22 was a distinctive change of style in that regards?

23 A Oh, very definitely.

24 Q Between Mr. Hoover and Mr. Gray?

25 A Very definitely.

1 Q You did have a great deal of latitude, including
2 the latitude in your mind, to approve the surreptitious
3 entry?

4 A Yes.

5 Q Did you say you told Mr. Gray after the Weather
6 Underground entry in New York that you had approved it?

7 A No, I didn't say that.

8 Q Did you in fact, tell him after you had approved
9 it?

10 A No, I don't think so.

11 Q Do you know whether he ever found out that you had
12 approved it?

13 A I don't know.

14 Q Do you know whether he ever got a report about
15 the results?

16 A I don't know that for sure, either.

17 Q Do you know whether Mr. Miller had ever talked
18 to him about it?

19 A I don't know.

20 Q Did Mr. Gray ever ask you about it?

21 A No.

22 Q As far as you know, Mr. Gray, to this day, does
23 not know about your approval?

24 A I think when Mr. Gray says that he didn't know
25 anything about the Weathermen Underground, he is telling the

1 truth.

2 Q Did you ever have contact with the Attorney
3 General of the United States while you were at the FBI?

4 A Yes.

5 Q In what respect?

6 A I don't specifically recall now, but when Gray
7 was out of town and matters arose, I might have occasionally
8 called him, but not very often. Sometimes he might have
9 had occasion to call me.

10 Q Did you ever advise the Attorney General of any
11 break-in?

12 A No.

13 Q Did you ever advise him of a wire tap?

14 A Did I ever advise him of a wire tap?

15 Q Right.

16 A The Attorney General was advised of every wire
17 tap. His approval was obtained in advance.

18 Q Did you ever advise him of a wire tap on which
19 the Attorney General had not given prior authorization?

20 A No.

21 Q Did you ever advise the Attorney General that
22 surreptitious entries, wire taps, microphones or other means
23 of surveillance for which the authorization of the Attorney
24 General was not sought, were in fact being employed by the
25 FBI?

1 A No.

2 Q Do you know whether the Attorney General ever had
3 knowledge that such was the same, such was in existence?

4 A I don't have any personal knowledge that he did.

5 Q Do you have any hearsay knowledge?

6 A The only knowledge I have is sheer speculation.

7 Q Would you speculate, please?

8 A I don't know whether I want to get pinned down
9 on thoughts that are floating around in my mind, but
10 not facts. But, there is a whole scenario here of a man
11 by the name of Sullivan, trying to take over the directorship
12 and I see him in this picture very frequently. I can't
13 document any of it. I'm gradually beginning to get it
14 together. I'm going to have a chapter in my book about it,
15 as a matter of fact.

16 Q What specifically do you suspect happened in
17 that regard, with regard to relationships between Sullivan
18 and the Attorney General?

19 A What I think is that Sullivan probably told the
20 Attorney General what was going on and that the Attorney
21 General told Gray and that Gray told the SAC's that they better
22 damn well be sure if they did any surreptitious entries or
23 black bag jobs, that they get prior approval, first.

24 Q I understand what you're saying and --

25 A This is just speculation.

1 Q I understand that it's speculation, in your
2 view, it's speculation. I understand you said that, but I
3 want to explore it for a moment, anyway.

4 When do you speculate that that conversation or
5 set of conversations took place; that is, when the
6 Attorney General was advised that this was possible and the
7 Attorney General in turn advised Gray to be careful and to
8 have approvals?

9 A I think that's what happened, yes, but I'm not
10 sure.

11 Q When do you believe that happened?

12 A I have no idea. It just happened before the
13 SAC conference.

14 Q Shortly before?

15 A I have no way of knowing.

16 Q A year before?

17 A It couldn't have been a year before, because
18 Gray was not there a year. This conference we're talking
19 about took place in either August or September of 1972 and
20 Gray just came in in May of '72.

21 Q Would you speculate as to how you believe the
22 Attorney General was advised of this opinion by Mr. Sullivan?

23 A I have no way of knowing.

24 Q What makes you think that this happened?

25 A My good judgement tells me this is what happened,

PART II

8. T 18, USC, § 2236, makes it a violation to search without a warrant either a private dwelling or to maliciously and without reasonable cause search any other building or property. This section does not apply to a person making a lawful arrest or conducting a consent search.

D. Methods of conducting lawful searches and seizures
1. Search by search warrant (See rule 41, Federal Rules of Criminal Procedure and T 18, USC, § 3103a.)

In making a lawful search under a search warrant, the officer may also seize the known instrumentalities, fruits, contraband, or other evidence of any other crime which he incidentally discovers while making the search for which the search warrant was issued. (See Bureau monographs on this subject which have been sent to all offices.)

[However, mere private possession of obscene matter cannot constitutionally be made a crime. Stanley v. Georgia, 394 U.S. 557 (1969). Therefore, material observed in plain view while an Agent is lawfully on the premises, as during the lawful execution of a search warrant, should never be seized merely because it appears obscene, no matter how offensive the material appears to be. Multiple copies of obscene items indicate commercial rather than private use. Where multiple copies are observed, immediately contact United States Attorney and consider advisability of obtaining search warrant.]

2. Search incident to a lawful arrest
At the time a lawful arrest is made, either with or without a warrant, Agents are authorized to search the subject's person and only that area within his reach for weapons and evidence (includes fruits and instrumentalities) of the offense. Contraband and evidence of other crimes may also be seized. Chimel v. California, 392 U.S. 175 (1969).

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

Exhibit "B"

14d
8-16-71

PART II

3. Search by consent

- a. The person of whom consent is asked must first be clearly informed of his constitutional right to refuse a search without a search warrant and he must waive that right. The Government must be able to show convincing evidence that consent was given freely and voluntarily. Mere submission to the desires of the officer is not consent. Fraud, subterfuge, misrepresentation, or duress, whether express or implied, voids the consent.
- b. Consent is preferably obtained in writing, using form FD-26. When the person gives consent but refuses to sign the form, it should be completed except for his signature. [Endorse on its face the fact that he read the form or that it was read to him, whichever was the case. Further, record on the form the exact language used to express consent.] If the required warning is given and oral consent is obtained without reference to the form or other writing, the fact of such warning

PART II

and consent should be clearly reported. Where the person giving consent limits it in any manner, such as restricting the search to specific objects or to only a part of the premises, FD-26 should be amended by hand to show any such limitations.]

[c.] Valid consent can be given only by one having the right to possess the premises at the moment. The right of possession to rented premises is in the tenant or hotel guest, not the owner. If the one entitled to possession has left the premises in care of a superintendent, plant manager, or other general agent, the latter may give a consent valid against the possessor. An employee without managerial or agency powers cannot give a consent valid against his employer. In corporate or business situations, consent should be obtained from the highest ranking official on the premises to be searched. For a search of company records, consent of the office manager, under whose control and supervision those records are kept, is sufficient. An employer's consent to search of the business premises is valid against an employee, except as to that part of the employee's desk, locker, etc., reserved exclusively for keeping the employee's personal possessions. In marital situations, either spouse may give a consent valid against the other to a search of their common dwelling, except for a suitcase, desk, or other thing or place therein exclusively owned or controlled by the other spouse. Validity of the consent is also doubtful where the spouse against whom the search is directed has previously refused consent to search. One spouse cannot give consent valid against the other to search of business premises under the control of the other, even though located under the same roof with the dwelling, unless the consenting spouse has been given agency authority by the controlling spouse. Such agency cannot be implied from the marital relationship alone. A partner in a business enterprise may give a consent valid against the other partners, probably subject to the same exceptions shown for a spouse. A householder may give a consent valid against a temporary, nonpaying guest residing in the dwelling at the moment. In the absence of authority to the contrary, such as an opinion of the USA, it should be assumed that a minor child (or other dependent) has no

PART II

possessory right in the premises other than that derived from the parents and cannot give consent to search valid against the parents.

- 4. [Deleted]
- 5. [Search of motor vehicles
 - a. Agents may search a mobile vehicle, without a warrant, when there is probable cause to believe that the vehicle contains evidence of a Federal violation. *Brinegar v. U. S.*, 338 U. S. 160 (1949); *Carroll v. U. S.*, 267 U. S. 132 (1925).]
 - b. A legal search may be made of an automobile or other vehicle and evidence therein contained seized by search warrant, as incidental to lawful arrest (must be contemporaneous - *Preston v. U. S.*, 376 U. S. 364 (1964)), or by consent.
- 6. Immunity of representatives of foreign governments and their property from arrest, search, and seizure
 - a. Diplomatic representatives of foreign governments in the U. S. are exempt from arrest by all officers, Federal and state.
 - b. Federal or state officers may not enter the office or dwelling of these diplomatic representatives for the purpose of making an arrest, search, or seizure.
- 7. Inventory and receipt for property obtained through search and seizure
 - a. During the course of a search incident to a lawful arrest, or by consent with a waiver, if money, property, documents, or anything of value is seized from the person or premises, an itemized list in duplicate (triplicate if by search warrant) of the property seized shall be made. The description of the property must be adequate and accurate.

The following certification must be set out at the end of the itemized list and

PART II

shall be witnessed by two Agents or one Agent and another person. If the person from whom the property was seized refuses to sign this certification, a notation should be made indicating the reason for refusal.

This is to certify that on _____ at _____, Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, at the time of conducting a search of my person and/or the premises at _____ obtained the above-listed items. I further certify that the above represents all that was obtained by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

One copy of the itemized list is to be furnished the subject or person from whose premises the property was obtained as a receipt. The original shall be maintained in the exhibit envelope of the proper case file.

- [b. Where a search[of premises] is conducted under a search warrant, the itemized list and certificate shall be prepared in triplicate[since the law requires that the original thereof shall be returned to the Federal magistrate]issuing the search warrant. One copy of this itemized list [as an inventory, together with a copy of the search warrant, shall be turned over to]the subject as provided for in Rule 41 of the Federal Rules of Criminal Procedure.
- c. Whenever a search is conducted in any manner, no property or anything of value is seized, the following certificate shall be obtained:

14h
3-19-73

PART II

This is to certify that on _____ at _____
Special Agents of the Federal Bureau of
Investigation, U. S. Department of Justice,
conducted a search of the premises at _____
occupied by me. I certify that nothing
was removed from my custody by Special
Agents of the Federal Bureau of Investiga-
tion, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

8. Counting recovered money
Whenever money or other property consisting
of numerous items requiring counting is
obtained in connection with Bureau investiga-
tions, the money or property should be inde-
pendently counted by two Agents and their
results compared for the purpose of verifying
the accuracy of the count and detecting any
errors.
- E. Policy
1. Search warrants should be obtained in all
cases wherever possible. Efforts to have
search warrant issued, whether successful
or not, should be reported. A copy of
every affidavit filed by an Agent is to
be obtained and filed as a serial in the
case file.
 2. USA's authority is necessary before applying
for a search warrant.
 3. Deleted
 4. Searches and seizures must be planned and
conducted in as short a period of time as
possible.
 5. There must be no exploratory searches.
- F. Searches and seizures by state, local, or
foreign officers
Relevant evidence seized independently by state,
local, or foreign officers must be called to

PART II

the attention of the USA promptly and described in the next investigative report so that attention will be directed early to the circumstances of its seizure. All evidence seized illegally by state or local law enforcement officers is inadmissible in court, regardless of the jurisdiction of the officer by whom it was seized or the court in which it is presented. *Mapp v. Ohio*, 367 U. S. 643 (1961). Legality is to be tested by the Federal standard, however, with the result that a Federal court may uphold a seizure previously held illegal by a state court. Relevant evidence seized by foreign law enforcement officers in their own country and acting on their own initiative may be admissible in a U. S. court even though the evidence was not obtained in conformance with fourth amendment standards. *Brulay v. U. S.*, 383 F. (2d) 345 (1967).

G. Searches and seizures by U. S. Customs Service

The Bureau will not request or conduct an examination or search of baggage or other material under the control of diplomatic personnel or similar official personnel of foreign governments without first obtaining the permission of the State Department. When information is received that such a person is carrying material of importance to the national security, the permission of the State Department is requested to have the search effectuated. Requests should be made to the local office of the U. S. Customs Service to effect a search of material in the possession of individuals who do not have any official status when in the opinion of the field it is believed that something of value will be ascertained (see part I, sec. 25H, of this handbook re placing of stops with INS). Bureau Agents may be present at such an examination in the capacity of an observer only.

- [H. [Upon request of a defendant, the Government shall
[permit the defendant to inspect and copy or photo-
[graph: written or recorded statements made by the
[defendant, the substance of any oral statement which
[the Government intends to offer in evidence at the
[trial made by the defendant whether before or after
[arrest in response to interrogation by any per-
[son then known to the defendant to be a Govern-
[ment agent, results or reports of physical or
[mental examinations, scientific tests, or ex-
[periments. If the defendant demands disclosure,
[he must upon request by the Government permit
[the Government to inspect and copy similar items
[in his possession. Upon request of the defendant
[the Government shall furnish to him a copy of
[his prior criminal records if any. Upon a
[sufficient showing the court may order the dis-
[covery or inspection be denied, restricted, or
[deferred, or make such other order as appropriate.
[(Rule 16.)]

UNITED STATES GOVERNMENT ROUTE IN ENVELOPE

Memorandum

~~CONFIDENTIAL~~

Tolson	
DeLoach	/
Mohr	/
Bishop	/
Casper	/
Callahan	/
Conrad	/
Felt	/
Gale	/
Rosen	/
Sullivan	/
Tavel	/
Trotter	/
Tele. Room	/
Holmes	/
Gandy	/

Mr. C. D. DeLoach

DATE: July 19, 1966

W. C. Sullivan

DO NOT FILE

"BLACK BAG" JOBS

~~DeLoach~~
~~Sullivan~~

The following is set forth in regard to your request concerning what authority we have for "black bag" jobs and for the background of our policy and procedures in such matters.

We do not obtain authorization for "black bag" jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, "black bag" jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation.

The present procedure followed in the use of this technique calls for the Special Agent in Charge of a field office to make his request for the use of the technique to the appropriate Assistant Director. The Special Agent in Charge must completely justify the need for the use of the technique and at the same time assure that it can be safely used without any danger or embarrassment to the Bureau. The facts are incorporated in a memorandum which, in accordance with the Director's instructions, is sent to Mr. Tolson or to the Director for approval. Subsequently this memorandum is filed in the Assistant Director's office under a "Do Not File" procedure.

In the field the Special Agent in Charge prepares an informal memorandum showing that he obtained Bureau authority and this memorandum is filed in his safe until the next inspection by Bureau Inspectors, at which time it is destroyed.

Our most comprehensive use of this technique and a measure of the outstanding success we have achieved with it involves its use in the [redacted] Program. This involves our efforts to [redacted]

FJB/pcc
(3)

Exhibit "C"

CONTINUED

Greenberg/Gray-5972

~~CONFIDENTIAL~~

Memorandum to Mr. C. D. DeLoach
Re: "BLACK BAG" JOBS

in this country to [redacted], but also of value to us through the intelligence information obtained. We have been operating this program for twelve years and to date the information obtained [redacted]

[redacted] In addition, the intelligence value of the information received has been beyond calculation.

We have used this technique on a highly selective basis, but with wide-range effectiveness, in our operations. We have several cases in the espionage field, for example, where through "black bag" jobs we determined that suspected illegal agents actually had concealed on their premises the equipment through which they carried out their clandestine operations.

Also through the use of this technique we have on numerous occasions been able to obtain material held highly secret and closely guarded by subversive groups and organizations which consisted of membership lists and mailing lists of these organizations.

This applies even to our investigation of the Ku Klux Klan. You may recall that recently through a "black bag" job we obtained the records in the possession of three high-ranking officials of a klan organization in [redacted]. These records gave us the complete membership and financial information concerning the klan's operation which we have been using most effectively to disrupt the organization and, in fact, to bring about its near disintegration.

It was through information obtained through our "black bag" operations that we obtained the basic information used to [redacted]

Through the same technique we have recently been receiving extremely valuable information concerning political developments [redacted], and we also have been able to use it most effectively in a number of instances.

✓ ✓
CONTINUED -- OVER

Greenberg/Gray-5973

~~CONFIDENTIAL~~

Memorandum to Mr. C. D. DeLoach
: "BLACK BAG" JOBS

cently through which we have obtained information concerning
owing [redacted] intelligence activities directed
this country.

In short, it is a very valuable weapon which we have
ed to combat the highly clandestine efforts of subversive
elements seeking to undermine our Nation.

RECOMMENDATION:

For your information.

Handwritten:
A
✓
The more such techniques
- must be used
of

THE WHITE HOUSE
WASHINGTON

~~CONFIDENTIAL~~

May 21, 1940

MEMORANDUM FOR THE ATTOR-
NEY GENERAL

I have agreed with the broad purpose of the Supreme Court decision relating to wire-tapping in investigations. The Court is undoubtedly sound both in regard to the use of evidence secured over tapped wires in the prosecution of citizens in criminal cases; and is also right in its opinion that under ordinary and normal circumstances wire-tapping by Government agents should not be carried on for the excellent reason that it is almost bound to lead to abuse of civil rights.

However, I am convinced that the Supreme Court never intended any dictum in the particular case which it decided to apply to grave matters involving the defense of the nation.

It is, of course, well known that certain other nations have been engaged in the organization of propaganda of so-called "fifth columns" in other countries and in preparation for sabotage, as well as in actual sabotage.

Keith and the case *sub judice*: no such belief could be defended as reasonable. See also note 67 *supra*.

Exhibit "D"

It is too late to do anything about it after sabotage, assassinations and "fifth column" activities are completed.

You are, therefore, authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigation agents that they are at liberty to secure information by listening devices direct[ed] to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies. You are requested furthermore to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens.

/s/ F. D. R.

ORDER, 2d SERIES

It seems to me that in the present troubled period in international affairs, accompanied as it is by an increase in subversive activity here at home, it is as necessary as it was in 1940 to take the investigative measures referred to in President Roosevelt's memorandum. At the same time, the country is threatened by a very substantial increase in crime. While I am reluctant to suggest any use whatever of these special investigative measures in domestic cases, it seems to me imperative to use them in cases vitally affecting the domestic security, or where human life is in jeopardy.

As so modified, I believe the outstanding directive should be continued in force. If you concur in this policy, I should appreciate it if you would so indicate at the foot of this letter.

In my opinion, the measures proposed are within the authority of law, and I have in the files of the Department materials indicating to me that my two most recent predecessors as Attorney General would concur in this view.

Respectfully yours,

/s/ TOM C. CLARK
Attorney General

July 17, 1947 [sic]

I concur.

/s/ HARRY S. TRUMAN

OFFICE OF THE ATTORNEY
GENERAL
WASHINGTON, D. C.

July 17, 1946.

The President,
The White House.

My dear Mr. President:—

Under date of May 21, 1940, President Franklin D. Roosevelt, in a memorandum addressed to Attorney General Jackson, stated:

"You are therefore authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigating agents that they are at liberty to secure information by listening devices directed to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies."

This directive was followed by Attorneys General Jackson and Biddle, and is being followed currently in this Department. I consider it appropriate, however, to bring the subject to your attention at this time.

Exhibit "E"

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 02-27-2003

ADMINISTRATIVELY
~~CONFIDENTIAL~~

THE WHITE HOUSE
WASHINGTON

June 30, 1965

MEMORANDUM FOR THE HEADS
OF EXECUTIVE DEPARTMENTS
AND AGENCIES

I am strongly opposed to the interception of telephone conversations as a general investigative technique. I recognize



Exhibit "F"

Greenberg/Gray-5978

that mechanical and electronic devices may sometimes be essential in protecting our national security. Nevertheless, it is clear that indiscriminate use of these investigative devices to overhear telephone conversations, without the knowledge or consent of any of the persons involved, could result in serious abuses and invasions of privacy. In my view, the invasion of privacy of communications is a highly offensive practice which should be engaged in only where the national security is at stake. To avoid any misunderstanding on this subject in the Federal Government, I am establishing the following basic guidelines to be followed by all government agencies:

shall contain a list of any interceptions currently authorized and the reasons for them.

/s/ LYNDON B. JOHNSON

(1) No federal personnel is to intercept telephone conversations within the United States by any mechanical or electronic device, without the consent of one of the parties involved (except in connection with investigations related to the national security).

(2) No interception shall be undertaken or continued without first obtaining the approval of the Attorney General.

(3) All federal agencies shall immediately conform their practices and procedures to the provisions of this order.

Utilization of mechanical or electronic devices to overhear non-telephone conversations is an even more difficult problem, which raises substantial and unresolved questions of Constitutional interpretation. I desire that each agency conducting such investigations consult with the Attorney General to ascertain whether the agency's practices are fully in accord with the law and with a decent regard for the rights of others.

Every agency head shall submit to the Attorney General within 30 days a complete inventory of all mechanical and electronic equipment and devices used for or capable of intercepting telephone conversations. In addition, such reports

1. See 18 U.S.C.

ent
rs,
in
as
the
in
At
ned
me.
use
tive
s to
ital-
or

and-
! in
y, I
ndi-

osed
nd I
ma-
two
rney

rs,

1965

EDS
ENTS

tercep-
a gen-
ognize

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

FOR DEPARTMENT OF JUSTICE

PROGRAM The Today Show STATION WRC TV
NBC Network

DATE April 11, 1978 7:00 AM CITY Washington, D. C.

SUBJECT An interview with Mark Felt

TOM BROKAW: ...And in our Washington studio at this hour, Mark Felt, the former Associate Director of the FBI. Yesterday he was indicted for conspiracy to violate the civil rights of the Weathermen, a radical group which was active in the '60s and early '70s. Indicted also was former FBI Director L. Patrick Gray and another associate. Now here is NBC's Carl Stern to talk with Mark Felt and his wife Audrey, who also feels very strongly that these indictments were a disgrace.

Carl, good morning.

CARL STERN: Thank you, Tom. Good morning.

Obviously we can't litigate this case on national television, but we can define some of the issues a little bit. First, Attorney General Bell yesterday said -- this has nothing to do with the indictments, per se -- that he was satisfied that whatever these plans were, and of course he regards them as illegal, that they did not originate outside the FBI, that it was solely an FBI matter.

Is that true?

MARK FELT: Of course I can't say what conversations Gray may have had with his superiors. But to the best of my knowledge, I think what the Attorney General said was correct, so far as I know personally.

STERN: And these plans, alleged plans: did these start in 1972, as the indictment alleges? The Kearney matter was dismissed because the Attorney General said that there was at least some question as to whether or not Mr. Hoover and one

thought that the Bureau was such a highly centralized--

MR. FELT: I know--

OSTROW: --responsible, almost military organization.

MR. FELT: I know, I know. And thats why--that's why it's so hard for me to realize that some of these things were going on while I was there that I didn't know about. But this is the case.

OSTROW: Well, there does seem to be a difference emerging between what you and former Assistant Director Miller recall about whether Mr. Gray--L. Patrick Gray--had a role in authorizing the '72-'73 break-ins. Mr. Miller seems to have a clear recollection that Mr. Gray said, we're going to resume the practice.

MR. FELT: Yes.

OSTROW: And you don't have any such recollection. Yet you were Mr. Gray's number two man, his principal aide. How can that be?

MR. FELT: Well, it is. I really have no strong, clear recollection of conversation with Gray where he specifically said yes, this is all right. My conversations were with Miller, and Miller told me of his conversations with Gray. However, you'd have to understand what was happening in the FBI at that time. Believe me, you were lucky to get Mr. Gray's ear for five minutes, because he was extremely busy. He was traveling all over the country. So perhaps one Assistant Director would talk to him for a few minutes today, another tomorrow, and much of what I got was second-hand.

(MORE)

Exhibit "H"

1 into the situation.

2 Q Did you inquire of Mr. Shackelford just who it
3 was they were bagging prior to the time you got the go ahead?

4 A No. I didn't.

5 Q Why not?

6 A (Pausing.) Well, I--I--well, I just didn't. I
7 felt that the fact that we had the authorizations were the
8 important thing and I didn't open up into that--into that--

9 Q You didn't think it was important that one of
10 your subordinates was doing something that was specifically
11 unauthorized by the Director of the F.B.I.?

12 A Well, I'm not saying that I didn't think it
13 important. I just didn't--my reaction was--didn't--was not
14 in the area of--of fixing responsibility or looking any
15 further into it.

16 My reaction was that here we had the program,
17 and here it was instituted again, and we'd go from here. I
18 don't--I don't have--perhaps I should have, but--particularly
19 in light of today's circumstances, but I didn't.

20 Q Do you have any information as to whether the
21 Attorney General of the United States was ever consulted
22 about Mr. Gray's decision to reinstitute black bag jobs?

23 A I have no idea.

24 Q Who else, to your knowledge, in the Bureau was
25 aware that Mr. Gray had authorized these black bag jobs

Exhibit "I"

1 the memoranda. These memoranda that, if there is a question
2 about whether or not they ever existed, if they can't be
3 found, there are two of the girls in the Bureau, it would
4 be Felt Secretary who I'm sure handled the filing of them
5 because one day I went over and she just happened to--on a
6 different matter altogether--she just happened to say that
7 something like, "I got one of your billy-dos here."

8 So, now, my secretary was the one, Mrs. Litzky,
9 who typed these.

10 BY MR. GARDNER:

11 Q Who made the remark about the "billy-dos?"

12 A Carol Tschude, Felt's secretary.

13 So, those two girls--I don't know whether they
14 knew what they were all about, but at least they knew that
15 this was something sneaky and sort of had an air of mystery
16 about it.

17 A JUROR: But you did not--there was no reason
18 in authorizing or going through the discussion of whether or
19 not one of these things were to be authorized or not.
20 There was no--in no instance did you go directly into Gray's
21 office and touched base with him?

22 THE WITNESS: No. This whole thing was--this
23 whole thing was set up on a very need-to-know type basis.
24 That was my point of view. And that kind of a situation is
25 like when you have a family secret and everybody knows

1 what the secret is, but the son or daughter talks to the
2 mother, and only the mother talks to the father, and the
3 father never talks to the kids about it. It was one of those
4 kinds of situations.

5 MR. GARDNER: Okay. Thank you very much, Mr.
6 Miller, and I'll let you know about Friday.

7 (Whereupon, the witness was excused.)

8
9 + + + +
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2/6/79

Paul V. Daly

U. S. VS. GRAY, ET AL.

J. Patrick

Francis J. Martin
Criminal Division

SE
CJ

Enclosed are four copies of documents in partial response to discovery requests by attorneys Brian Gettings and Frank W. Dunham, Jr. Circles around the request number in the request letters indicate the document was located. If the document was located and was determined to be not discoverable, the reason is set forth next to the number.

Enclosures (4)

PVD: *[initials]* (5)

NOTE: Documents furnished correspond with numbers 1 through 3 contained in the attorneys letter of 1/23/79.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

9

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

*Hand delivered with encls.
2/5/79*

ST 114

REC-9 62-118045-149

FEB 13 1979

Greenberg/Gray-5985

FEB 13 1979

Date of Mail 1/24/79

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret (ENCL. ONLY)
- SCI

Mail Category

- Letter _____
- LHM _____
- Report _____
- Teletype _____
- Airtel _____
- Memo _____
- Other _____

Subject GRAY, L. PATRICK

Originator of Material FBI HQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

File Number 62-118045-150

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5986

- 1 - Mr. J. B. Adams
- 1 - Mr. J. J. McDermott
- 1 - Mr. W. O. Cregar
- 1 - Mr. H. N. Bassett

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

February 27, 1979

Director, FBI

- 1 - Mr. P. V. Daly
- 1 - [Redacted]
- 1 - [Redacted]

b6
b7C

**UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)**

Reference is made to your memorandum dated January 12, 1979, requesting the FBI conduct the necessary damage assessment of the unauthorized disclosure to a Federal grand jury and defense attorneys in connection with the surreptitious entry investigation and that this Bureau request the Central Intelligence Agency (CIA) and the National Security Agency (NSA) to do the same with regard to their information. You requested the conclusions of all then be provided to Mr. Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility.

By letters dated January 30, 1979, CIA and NSA have been requested to prepare damage assessments.

A damage assessment relating to the sensitive program jointly conducted by this Bureau and the NSA which was disclosed to the Federal grand jury and defense attorneys has been prepared by the FBI Security Officer. This damage assessment, dated February 27, 1979, is extremely sensitive and is classified "Top Secret, Handle via COMINT Channels." In the interests of security and to avoid unnecessary further proliferation of the sensitive information, I am forwarding the assessment by courier to the Department Security Officer with a copy of this memorandum.

I request the Department Security Officer take whatever steps are appropriate to ensure control and accountability of the damage assessment. In addition to providing it to the Office of Professional Responsibility, I believe it should be furnished to the Security Officers of both the Civil Rights Division and the Criminal Division, and also to the Department Review Committee in accordance

62-117792

① - 62-118045 (U.S. v. Gray, et al.)

62-118045

DR:lfj

DUPLICATE YELLOW

**NOT RECORDED
MAR 5 1979**

56 MAR 8 1979

Greenberg/Gray 5987

ORIGINAL FILED IN 62-117792-52

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

with Title 28, Code of Federal Regulations, Part 17. The damage assessment contains some recommendations that the Department Review Committee may desire to consider in connection with its preparation of recommendations for the Attorney General.

- 1 - Assistant Attorney General
Office of Legal Counsel
- 1 - Assistant Attorney General
Civil Rights Division
- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr.
Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino (Enclosure) BY COURIER
Security Officer
Department of Justice

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 02-27-2009 BY 65179 dmh/baw/sbs

4- P. H. [Signature]

UP-060

R. W.

(FBI TRIAL)

(BY ED ROGERS)

WASHINGTON (UPI) - AN ATTORNEY CHARGED TODAY THAT THE GOVERNMENT PLANS TO DROP CHARGES AGAINST FORMER ACTING FBI DIRECTOR PATRICK GRAY AND MAKE "SCAPEGOATS" OF TWO OTHER FORMER TOP OFFICIALS CHARGED WITH ILLEGAL FBI BREAK-INS.

U.S. DISTRICT JUDGE WILLIAM BRYANT HAS CALLED A HEARING TODAY ON A GOVERNMENT MOTION TO DELAY A TRIAL THAT HAD BEEN SCHEDULED TO BEGIN MONDAY AND PERHAPS REQUEST SEPARATING GRAY'S TRIAL FROM THE OTHERS.

MARK FELT, GRAY'S TOP LIEUTENANT, AND EDWARD MILLER, DOMESTIC INTELLIGENCE DIRECTOR, CLAIM GRAY AUTHORIZED THEM TO CONDUCT ILLEGAL BREAK-INS IN SEARCHING FOR WEATHER UNDERGROUND FUGITIVES IN 1972-73. GRAY DENIES IT.

"I THINK THE MOTION FOR SEVERANCE IS A PRELIMINARY STEP TO THE ULTIMATE EVENT THAT PAT GRAY WILL NEVER BE TRIED AND MR. FELT AND MR. MILLER WILL BE THE SCAPEGOATS FOR THE WHOLE THING," SAID BRIAN GETTINGS, FELT'S ATTORNEY, IN AN INTERVIEW.

ASKED WHY HE REACHED THAT CONCLUSION, GETTINGS SAID, "COMMON SENSE."

GRAY'S ATTORNEY, ALAN BARON OF BALTIMORE, SAID HE HAD TALKED WITH PROSECUTORS WHO HAVE FINALLY DECIDED IT WOULD BE UNFAIR TO PLACE GRAY ON TRIAL WITH THE OTHER TWO.

62-118045-A
NOT RECORDED
167 MAR 13 1979

UPI 03-02 12:47 PES

79 MAR 14 1979

WASHINGTON CAPITAL NEWS SERVICE

File

Greenberg/Gray-5989

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. 1/2
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 02-27-2009 BY 65179 dmh/baw/sbs

Handwritten signature/initials

H070

D

FBI

WASHINGTON (AP) -- THE JUSTICE DEPARTMENT ASKED A FEDERAL JUDGE TODAY TO DELAY THE TRIAL OF THREE FORMER HIGH FBI OFFICIALS SO THE GOVERNMENT CAN DECIDE HOW TO PREVENT DISCLOSURE OF CLASSIFIED MATERIAL.

PROSECUTOR BARNET D. SKOLNIK ASKED U.S. CHIEF DISTRICT JUDGE WILLIAM B. BRYANT TO SET AN APRIL 16 TRIAL DATE FOR W. MARK FELT, FORMER NO. 2 OFFICIAL AT THE FBI, AND EDWARD S. MILLER, FORMER HEAD OF THE BUREAU'S INTELLIGENCE DIVISION.

SKOLNIK ALSO INDICATED THE DEPARTMENT WANTS A SEPARATE TRIAL FOR FORMER ACTING FBI DIRECTOR L. PATRICK GRAY III, WHO ORIGINALLY WAS TO BE TRIED WITH MILLER AND FELT.

ALL THREE ARE CHARGED WITH CONSPIRING TO VIOLATE CIVIL RIGHTS OF ENDS AND RELATIVES OF THE RADICAL WEATHER UNDERGROUND BY APPROVING ILLEGAL BREAK-INS AT THEIR HOMES IN THE EARLY 1970S.

BRYANT ASKED FOR TODAY'S HEARING AFTER SKOLNIK SENT HIM A LETTER WEDNESDAY SEEKING THE POSTPONEMENT. THE GOVERNMENT'S ACTION REPORTEDLY WAS PROMPTED BY BRYANT'S SECRET RULING LAST WEEK THAT PROSECUTORS HAD TO TURN NATIONAL SECURITY INFORMATION OVER TO DEFENSE ATTORNEYS.

SKOLNIK, IN HIS LETTER TO BRYANT, SAID 167 MAR 13 1979 "RAISES A NUMBER OF DIFFICULT PROBLEMS FOR THE GOVERNMENT REGARDING ... ULTIMATE PUBLIC DISCLOSURE OF CLASSIFIED DATA AT TRIAL."

NOT RECORDED

79 MAR 14 1979

WASHINGTON CAPITAL NEWS SERVICE

Greenberg/Gray-5990

FBI/DOJ

"IN SEEKING ACCEPTABLE RESOLUTIONS OF THOSE PROBLEMS, GOVERNMENT COUNSEL WILL NEED TO CONSULT WITH A NUMBER OF GOVERNMENT OFFICIALS AND TO NEGOTIATE WITH THEM THE VARIOUS AVAILABLE OPTIONS," SKOLNIK WROTE.

SKOLNIK'S LETTER ASKED THE COURT TO PROCEED ON THE ASSUMPTION THAT GRAY WILL BE TRIED AFTER FELT AND MILLER. WHILE THE LETTER DID NOT EXPAND ON THE REASONS FOR A SEPARATE TRIAL, ATTORNEYS FOR GRAY AND MILLER ALREADY HAVE ASKED FOR SEPARATE TRIALS BECAUSE THEY SAY THEIR CLIENTS WOULD END UP ACCUSING EACH OTHER.

AP-WX-0302 1323EDT

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

~~SECRET~~

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett *HAB*
 FROM : P. V. Daly *PVD*
 L. Patrick
 SUBJECT: U.S. VS GRAY ET AL.

DATE: 2/6/79

PVD
Daly 2/2

PURPOSE: To advise of the results of in camera hearing in captioned matter.

DETAILS: On 1/31/78, an in camera proceeding was held in chambers of Chief Judge William Bryant. In addition to the attorneys and myself, representatives of CIA and NSA were present. The purpose of the hearing was to present arguments concerning discovery and the various motions in limine filed by the Government in this matter.

(9)

The Government sought to have the court deny defendants Miller and Felt the mistake of fact mistake of law defense and thereby obviate the problems of production of highly sensitive material pursuant to court ordered discovery.

EX-125 REC 20 62-178045-151

During the course of the hearing I responded to questions concerning departmental knowledge of the Bureau's use of surreptitious entries. The reasons for certain categories of redactions and the reason for withholding in toto all cooperative foreign intelligence service reports which the court had ordered produced.

Judge Bryant indicated concern at the withholding of what may be relevant evidence from the defendants especially the material that they would have had access to and may have been the basis for their decision to conduct surreptitious entries. While he did not question the withholding of the information he did state he would insure the defense got all relevant evidence

MAR 13 1979

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 -
- 1 - Mr. Bassett
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Moore
- 1 - Mr. Daly

b6
b7C

~~SECRET~~

Daly PVD

pvd:pfb (9)

(CONTINUED-OVER)

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1)
 DATE 02-27-2009



79 MAR 16 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray 5993

P. V. Daly to Mr. Bassett memorandum
Re: U.S. vs Gray et al

regardless of its origin or sensitivity. Al Baron, counsel for L. Patrick Gray, raised questions concerning redactions of the documents surrounding [redacted] surreptitious entry. These redactions were made to protect two highly sensitive sources.

(S)

[redacted] explained the necessity for the redactions to Judge Bryant. The Government has also filed a motion in limine to protect against disclosure of this information during trial.

b1
b6
b7C

Judge Bryant stated he would rule on the various motions by February 9, 1979.

RECOMMENDATIONS:

For information.

APPROVED: *[Signature]*

Director *[Signature]*
Assoc. Dir. *[Signature]*
Dep. AD Adm. *[Signature]*
Dep. AD Inv. *[Signature]*

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec Mgnt. *[Signature]*
Tech. Servs. _____
Training _____
Public Affs. Off. _____

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.

OF COUNSEL
GERRY LEVENBERG

FEDERAL GOVERNMENT

February 27, 1979

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-01-2009

Honorable Griffin Bell
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Judge Bell:

L. Patrick
This letter is an appeal to you on behalf of Mark Felt, one of the three defendants in the so-called "FBI Case", styled United States v. Gray et al. currently pending in the United States District Court for the District of Columbia. We appeal to you because of your dual role--one as the nation's chief law enforcement officer and the other as one of the nation's chief intelligence officers. It is our view that you are in a unique position to assess the merits of proceeding with this prosecution for reasons that will become apparent herein.

We recognize that you made your decision some time ago--when you authorized the indictment. But there have been several significant developments since then which, had they been known at the time, might have caused you to view the matter differently. While we recognize that it is not our function to inform the Attorney General, since you are presumably aware of everything that is done in your name, as a practical matter we know this is seldom true. We write this letter because of our belief that considerations which we believe are important may have been overlooked by the prosecutors. The prosecutors are not responsible for, and thus cannot fully appreciate, the impact of these considerations on the intelligence community and how the needs of the intelligence community may be affected by continuing with this case.

*file
4- Daley-PVD*

Greenberg/Gray-5995

9 MAR 16 1979

Honorable Griffin Bell
February 27, 1979
Page Two

We emphasize your dual role because much of what happened in 1972 in the Weatherman investigation can be best understood by a person with a full appreciation of the FBI's intelligence function as opposed to its law enforcement function. Through discovery, we have learned that the Weatherman investigation itself was, and still is, classified as a national security matter. In 1972, the Weatherman investigation was transferred from the Division in the FBI which normally handles fugitive matters to the Division which handles intelligence and national security matters. Thus the Bureau agents, who were charged with the responsibility for capturing the Weatherman fugitives, were trained intelligence agents who quite frankly had, by training, practice, and habit become accustomed to the use of certain techniques in investigative matters which a fugitive squad would not even consider utilizing.

Thus it was that the initial impetus to use intelligence gathering investigative techniques arose quite naturally among intelligence agents in the field, who then sought headquarters approval to use these time-tested intelligence techniques in a matter they viewed as important to the national security. The only technique resulting from the field "impetus" complained of in the instant indictment was the so-called warrantless "bag job", or surreptitious entry, unaccompanied by electronic surveillance. Use of this technique in national security matters solely on the authority of the Director had an historical precedent of over 30 years behind it when it was implemented in this case. Although in 1972, the practice of obtaining specific Attorney General approval for national security break-ins to install telephone surveillances (TESURS) and microphone surveillances (MISURS) was well established, no such procedure for Attorney General approval had been established for the less intrusive national security break-in without an electronic surveillance purpose.

(U) Because the Weatherman investigation was and is a national security matter involving agents of and/or collaborators with foreign powers, the question arises as to whether the warrantless entries in question were constitutionally permissible on national security grounds. While it may have been clear, post-Keith (6/19/72),^{1/} that certain intelligence techniques could not be utilized by the executive branch without a judicial warrant, Keith was limited in application to investigations involving purely domestic threats to national security. Keith did not in any way affect the Executive's authority in matters involving foreign agents or collaborators with foreign agents. Since the FBI knew, through NSA wire and cable intercepts, materials from the "watch list", and other documents, which the District Court has now ruled we are entitled to receive, that the Weathermen were in "cahoots", so to speak, with foreign governments, the teachings of Keith appear to be without impact to the facts of this case. Moreover, Keith was limited solely to electronic surveillance. ~~TS~~ - UMBK

1/ United States v. United States District Court, 407 U.S. 297.

Honorable Griffin Bell
February 27, 1979
Page Three

The prosecutors tell us that, assuming the existence of the national security predicate, the entries were still illegal even though a warrant may not have been required because the Attorney General had not personally approved each entry. Thus, the focus of this case has turned from the failure to obtain a warrant to the failure to get specific Attorney General approval. In so shifting the focus, the prosecutors have told the Court in camera, and intend to argue publicly, that all warrantless entries unrelated to electronic surveillance over the past thirty (30) years were illegal, i.e., criminal, because none had specific Attorney General approval. This will certainly come as a shock to both present and retired intelligence agents when they read that acts which were committed by them in the interest of national security and for which they were officially commended are crimes and, but for the statute of limitations, only prosecutive discretion prevents their federal indictment.

At the relevant times in 1972 our client was aware of the history of the utilization by the FBI of the technique of surreptitious entry in national security matters, and that such entries, when unaccompanied by electronics, were approved by the Director and not by the Attorney General. Mr. Felt relied on a belief in the legality of this prior conduct in concluding that such entries, when authorized by the Director, were not unconstitutional.

(U) The prosecutors cannot concede the practices of the past to be non-criminal without according our client, who relied on that past practice as precedent, the benefit of that same concession. The prosecutors are thus proceeding on a legal and factual theory that does not seek to distinguish between surreptitious entries against the Communists in the 50's, embassies in the 60's, or terrorists such as the Weathermen in the 70's -- all, according to the prosecution are equally criminal because each entry was not approved in advance by the Attorney General. ~~XS~~

It does not seem to matter to the prosecutors that the Attorneys General of the past, while not specifically approving the entries, knew of the FBI's utilization of such techniques upon the Director's specific approval, were glad to receive the fruits thereof, and never objected; it does not seem to matter that the Director, L. Patrick Gray III, who authorized the use of the techniques involved in this case, will not be prosecuted. Instead, only officials who relied upon Mr. Gray's authorization will be the subject of prosecution, since it now appears that the case as to L. Patrick Gray III cannot proceed, not because the prosecutors believe he is innocent, but because of the need to protect specific national security information which has been held relevant to his defense. (The prosecutors may attempt to put off for now the final decision on Mr. Gray by severing his case and scheduling it for trial after the trial of Mr. Felt and Mr. Miller. But this is only avoiding what they now know to be inevitable, i.e. that Mr. Gray will never be prosecuted.)

Honorable Griffin Bell
February 27, 1979
Page Four

The indictment is evidence that the Department of Justice believes, as our client contends, that Gray authorized or approved the conduct complained of in the indictment. It would surely be an anomalous result if our client were required to stand trial for carrying out the directions of his superior while the superior is excused such an ordeal. The unfairness of such anomaly becomes even more apparent when it is considered that the prosecutors possess no evidence that the grand jury testimony of Mr. Felt is false in any material respect, whereas the prosecutors have never believed the story Mr. Gray told to the grand jury and apparently have evidence to support this belief.


It should be remembered that there may have been no case against Mr. Felt had he not waived his prerogative under the Fifth Amendment (he was retired at the time) and voluntarily accepted responsibility for certain conduct of agents in the field by acknowledging the grant of authority from headquarters. When this case is viewed in the context of other similar cases, i.e., the declination on Helms because he believed he had the authority to authorize national security break-ins and the dismissal of Kearny, because it was believed that responsibility should be at a higher level, the complete lack of equity and justice in a dismissal of the case against Gray unaccompanied by concomitant dismissal of the case as to Mr. Felt and Mr. Miller is apparent.

We submit that our client did no more than guess wrong as to the legality of his conduct under the Fourth Amendment in a national security matter. We respectfully submit that you need only consider the Humphrey-Truong matter to appreciate the unfair hazard to public officials charged with protecting the national security of making criminal an erroneous but good-faith guess as to what conduct is permissible under the Fourth Amendment in a national security matter. When that "guess" and subsequent conduct is the product of instructions received from a superior such as Mr. Gray, it is patently wrong to excuse Mr. Gray for any reason and yet proceed against one who relied on Mr. Gray.

Very truly yours,


Jerris Leonard


Brian P. Gettings


Frank W. Dunham, Jr.

FWD:evb

cc: Francis J. Martin, Esq.
Barnet Skolnik, Esq.
Judge Webster
D. N. Siemer

Greenberg/Gray-5998



- 1 - Mr. J. B. Adams
- 1 - Mr. J. J. McDermott
- 1 - Mr. W. O. Cregar

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

February 27, 1979

Director, FBI

- 1 - Mr. H. N. Bassett b6
- 1 - Mr. P. V. Daly b7C
- 1 - [Redacted]
- 1 - [Redacted]

UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)

CS

Reference is made to your memorandum dated January 12, 1979, requesting the FBI conduct the necessary damage assessment of the unauthorized disclosure to a Federal grand jury and defense attorneys in connection with the surreptitious entry investigation and that this Bureau request the Central Intelligence Agency (CIA) and National Security Agency (NSA) to do the same with regard to their information. You requested the conclusions of all then be provided to Mr. Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility.

By memorandum dated February 27, 1979, to you and other recipients of this memorandum, I advised a copy of the damage assessment prepared by the FBI Security Officer was being furnished to Mr. D. Jerry Rubino, Security Officer, Department of Justice, for appropriate circulation within the Department. In the interests of security and to avoid unnecessary further proliferation of the sensitive information, only one copy of the assessment was forwarded to the Department.

By a copy of this memorandum directed to Mr. Rubino, I am furnishing a damage assessment provided by Mr. Daniel B. Silver, General Counsel, NSA, dated February 22, 1979 (NSA serial GC/50/79). I request that this also be furnished to appropriate Department officials for their review in accordance with Title 28, Code of Federal Regulations, Part 17.

- 1 - Assistant Attorney General
Office of Legal Counsel
- 1 - Assistant Attorney General
Civil Rights Division
- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr., Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino, Security Officer
Department of Justice

DUPLICATE YELLOW

62-118045

NOT RECORDED
167 MAR 5 1979
(Enclosure)
BY COURIER

57 MAR 14 1979
62-117792
62-118045

~~SECRET~~

- Assoc. Dir. _____
- Dep. AD Adm. 1
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. 1
- Rec. Mgnt. 1
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett *HMB/*

FROM : *pd* Mr. Daly L. Patrick

SUBJECT: U. S. VS. GRAY, ET AL.

DATE: 3/1/79

4-P. Daly

PURPOSE:

To respond to Director's question as to whether a promise of confidentiality was given to the Los Angeles source [redacted]

b2
b7D

(C)

DETAILS:

The source in question furnished the information which allegedly is the primary basis for former Acting Director Gray authorizing a surreptitious entry in Dallas at the residence of [redacted]. The information furnished by this source has been deemed material and relevant to the defense of Mr. Gray in this matter by the Court.

b1

In response to the Director's question, Los Angeles teletype 10-1-71 states clearly his cooperation with the FBI was predicated on our express promise of confidentiality. A copy of that teletype is attached.

RECOMMENDATION:

EX-125

None. For information.

REC 20 62-118045-153

11 MAR 13 1979

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - [redacted] b6
- 1 - Mr. Mintz b7C
- 1 - Mr. Moore
- 1 - Mr. Bassett

PVD:vdp (9)

1- ENCLOSURE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-05-2009

APPROVED: *Wan*

Director _____

Assoc. Dir. _____

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec Mgnt. 1

Tech. Servs. _____

Training _____

Public Affs. Off. _____

~~SECRET~~



NR017 LA CODE

10:32 PM NITEL 10/1/71 DAB

TO DIRECTOR (157-14621)

FROM LOS ANGELES (157-3846) (P) 2P

Handwritten signature/initials

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

CONF. INFT.

b2
b6
b7C
b7D
b7F

[REDACTED] AKA, EM DASH BPP [REDACTED]
[REDACTED]

Handwritten notes and signatures

[REDACTED] INTERVIEWED SEPTEMBER TWENTYTWO, TWENTYFOUR AND THIRTY, LAST, AND AGREED TO PROVIDE INFORMATION TO BUREAU ON CONFIDENTIAL BASIS WITH PROVISION RELATIONSHIP MAINTAINED IN STRICTEST CONFIDENCE. HE STATED EXTREMISTS WITH WHOM HE IS ASSOCIATED ARE DANGEROUS, WILLING TO COMMIT MURDER AND COMMITTED TO REVOLUTIONARY MOVEMENT IN UNITED STATES, AND IF HIS RELATIONSHIP WITH FBI REVEALED, HIS LIFE AND THAT OF FAMILY WOULD BE IN JEOPARDY.

b6
b7C
b7D
b7F

ON [REDACTED] ARRESTED BY LOS ANGELES PD ON MISDEMEANOR [REDACTED] AND CURRENTLY INCARCERATED IN [REDACTED]

[REDACTED] CONTACT MEMBERS OF BLACK PANTHER PARTY (BPP), AND SUBJECTS OF [REDACTED] INVESTIGATION. [REDACTED] AND

b6
b7C
b7D
b7F

END PAGE ONE

Handwritten: MCT

[REDACTED]

NOT RECORDED

b2
b7D

NOV 14 1973

ENCLOSURE

62-118045-153
Gibenberg/Gray-6008

Handwritten: C

LA 157-3846

PAGE TWO

WHILE INCARCERATED IS IN POSITION TO DEVELOP INFORMATION REGARDING THEIR PLANS, INVOLVEMENT IN [REDACTED] AND DIRECTION OF PRISON MOVEMENT. IT IS NOTED [REDACTED] HAS ASSOCIATED WITH [REDACTED] AND HAS BEEN ACCEPTED BY BPP ACTIVISTS THROUGHOUT THE COUNTRY AND HAS POTENTIAL TO PROVIDE INVALUABLE INFORMATION REGARDING EXTREMIST MOVEMENT.

b6
b7C
b7D
b7F

IDENTIFYING DATA REGARDING [REDACTED] ASSIGNED PRIORITY II ON SECURITY INDEX, CONTAINED IN RESPECTIVE ONE FIVE SEVEN FILES. LOS ANGELES WILL NOT REMOVE [REDACTED] FROM SECURITY INDEX UNTIL POTENTIAL AS SOURCE FULLY EVALUATED. BUREAU AUTHORITY REQUESTED TO OPERATE [REDACTED] AS INFORMANT, HENCEFORTH

b2
b6
b7C
b7D
b7F

IDENTIFIED AS [REDACTED]

CONF. INFT.
END.

[REDACTED]

FORM 712-A 9&D

b6
b7C

~~CONFIDENTIAL~~

- Assoc. Dir.
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett HMB

DATE: 3/1/79

FROM : PVD P. V. Daly L. Patrick

P. V. Daly

SUBJECT: U.S. vs GRAY, ET AL

PURPOSE: To advise of Departmental letter requesting postponement of trial to 4/16/79 and of the current status of discovery in this matter.

RECOMMENDATION: For information.

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-05-2009

APPROVED:
 Director
 Assoc. Dir.
 Dep. AD Adm.
 Dep. AD Inv.

Adm. Serv.
 Crim. Inv.
 Ident.
 Intell.
 Laboratory

Legal Coun.
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs.
 Training
 Public Affs. Off.

DETAILS: On 2/28/79, Francis J. Martin of the Department furnished me a copy of a letter dated 2/28/79 submitted to Chief Judge William Bryant. (copy attached). The letter informs Judge Bryant of the difficulty being encountered by the Government in complying with discovery and preparing for trial in view of his rulings on various in limine motions and the trial protective order on 2-22-79. The focal point of the concern is the sensitive material which has now been ordered produced to the defense.

Also, the letter notifies the court that a final decision to sever Gray from defendants Miller and Felt has not been made. However, the letter suggests the court and defense proceed with trial preparations for this trial on the basis that severance will be sought. Martin stated the determination not to seek severance of Gray from the

Enclosure ENCLOSURE

EX-125 REC 2062-118045-154
MAR 13 1979

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Moore

- 1 - Mr. Mintz
- 1 - Mr. Bassett
- 1 -
- 1 - Mr. Daly

b6
b7C

PVD:lge
(9)

(CONTINUED - OVER)

~~CONFIDENTIAL~~



Daly to Bassett Memo
Re: U.S. vs Gray, et al

other defendants in this trial was made by the Deputy Attorney General (DAG).

Barnet D. Skolnik, who is designated a special employee of the Department to try this case, advised me on 2/27/79 that he was notifying the DAG on that date that he was going to leave the Department and return to his law firm. He cited the pressures of the amount of work that has backed up in that law firm as being the reason for this decision. Skolnik stated he was also telling the Deputy he would, of course, return and try the case when and if it did come to trial and that in his absence Frank Martin would be handling all aspects of the case.

Representatives of the Bureau from the Intelligence Division and Criminal Investigative Division have met with Martin concerning the two key problem areas concerning the FBI, as viewed by the Department; the two areas being information furnished by cooperative foreign governments and the informant problem concerning surreptitious entry. In connection with the cooperative foreign government material, we are endeavoring to gather information to answer certain questions Martin proposed. The informant problem will be the subject of a letter from the Department requesting certain action by the Bureau. This particular aspect is being directed by the DAG's office and the exact nature of the action is not known at this time. However, tentatively, it has been decided that a review will be conducted of this problem by the Bureau and the Department, separately, and separate recommendations made as to the necessity of the protection of the informant involved.

b6
b7c



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

February 28, 1979

BDS:ams

Honorable William B. Bryant
Chief Judge
U.S. District Court
for the District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Dear Judge Bryant:

As a consequence of the Court's rulings of February 2 regarding the government's motions in limine, government counsel have tentatively concluded that severance of defendant Gray may well be required. We will know for sure within a short time, following completion of some lines of inquiry which are now being actively pursued, and we will communicate further with the Court and all counsel at that time. Accordingly, we suggest that the Court and all counsel proceed now upon the assumption that such a severance will be required, and make plans for a trial of defendants Felt and Miller to occur as soon as possible (see below), with trial of defendant Gray to follow thereafter.

As to defendants Felt and Miller, the Court's February 22 ruling with respect to the trial availability of a Barker-Martinez defense raises a number of difficult problems for the government regarding both discovery and ultimate public disclosure of classified data at trial. In seeking acceptable resolutions of those problems, government counsel will need to consult with a number of government officials and to negotiate with them the various available options. The process will take time--one month is a conservative estimate. We accordingly request leave to pursue those matters with the general understanding that a government submission of position papers or other report to the Court

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs


Greenberg/Gray-6012

62-118045-154

will be expected in late March or early April.

As to a trial date, we suggest that trial of defendant Felt and Miller be rescheduled from March 5 to April 16, subject of course to the calendars of the Court and defense counsel.

Very truly yours,


BARNET D. SKOLNIK
Special Assistant U.S. Attorney
for the District of Columbia

cc: Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Mr. Francis J. Martin
Criminal Division
FBI Task Force

February 27, 1979

FEDERAL GOVERNMENT

FJD

Special Agent Paul V. Daly

L. Patrick

UNITED STATES v. GRAY, ET AL

Pursuant to your oral request of February 26, 1979, I have received the following answers to your questions from the Los Angeles Office.

The Los Angeles Office stated that [redacted] individuals, [redacted] were privy to information concerning the planned activities by [redacted]

b7D

They also stated that to their knowledge the information concerning this matter has never been publicly released. In response to your request that we ascertain the current whereabouts of [redacted] and the source, Los Angeles has advised that the current whereabouts are unknown.

b6
b7C

(Handwritten initials)

In accordance with your instructions, no overt investigation was conducted to determine their whereabouts. As you were previously informed, we did determine that the source was [redacted]

b7D

[redacted] California. A current identification record check at FBI Headquarters disclosed no further information helpful in locating the source.

EX-125 REC 206 2-118045-155

Should you desire, we will, of course, conduct an active investigation to determine the whereabouts of the source and of [redacted]

b6
b7C

MAR 13 1979

NOTE: Los Angeles teletypes captioned [redacted] dated 1/16/79 and 2/27/79, contain the background information relating to the material contained in this memorandum.

b2
b7D

- Dir. _____
- AD Adm. _____
- AD Inv. _____
- Dir.: 1 - Mr. Adams
- Servs.: 1 - Mr. McDermott
- Inv.: 1 - Mr. Mintz
- _____
- _____

- 1 - Mr. Moore
- 1 - [redacted]
- 1 - Mr. Bassett
- 1 - Mr. Daly

b6
b7C

Delivered to Martin 2-27-79 by [initials]

FVD:jam
(10)

- atory. _____
- al Coun. _____
- & Insp. _____
- . Mgnt. _____
- . Servs. _____
- ining _____
- c Affs. Off. _____
- hone Rm. _____
- tor's Sec'y _____

APPROVED: *[Signature]*

- Director _____
- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____

- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____

- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____

MAR 16 1070 MAIL ROOM

Greenberg/Gray-6014

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Assistant Director
Administrative Services Division

DATE: 2-6-79

FROM : Legal Counsel *JAM*

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL.
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

*John Baron
FAA*

At 2 p.m., on February 6, 1979, Alan Baron, counsel for L. Patrick Gray in captioned prosecution, called and requested assistance in arranging for interviews to be scheduled on Tuesday, February 13, 1979, commencing at 9:30 a.m. in a conference room in the FBI Headquarters Building. He requested that the following persons be scheduled for such interviews with approximately one hour allocated for each interview to the extent that they are available in the Washington, D.C., area:

[Redacted] b2
✓ Robert T. Kelly b7
[Redacted] b6
[Redacted] b6
[Redacted] b5

[Redacted] Returned 11-30-78
[Redacted] Memphis
[Redacted] Ret 7-30-76
[Redacted] WFO

b6
b7C
(9)

The Administrative Services Division is requested to determine the current locations of the persons included in Mr. Baron's list and request them to appear for interview by Mr. Baron in Room 7426 on February 13, 1979. The Administrative Services Division is also requested to determine the availability of these persons and list an appropriate time schedule of interviews.

RECOMMENDATION:

EX-114 REC-80 62-118045-156
5 MAR 5 1979

That the Administrative Service Division advise Alan Baron, telephone number 301-547-0500, of the names and times of persons who will be available for interview by Mr. Baron on February 13.

- 1 - Mr. Mintz
- 1 - Personnel files of [Redacted]
Robert T. Kelly, [Redacted]
[Redacted]

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. *JAM*
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. *JAM*
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

b6
b7C
Greenberg/Gray-6015

*Re ASD 5X8, attached
h 9-1-79*



JAM:bpr
(12) *JAM*

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

53 JUN 13 1979

PERS. REC. UNIT

FD-654
Revised
03-15-2005

FEDERAL BUREAU OF INVESTIGATION PERMANENT SERIAL CHARGE-OUT

Date 1-17-08

Document Classification:

- Confidential
- Secret
- Top Secret

Document Type:

- Letter
- LHM
- Report
- Teletype
- EC
- Airtel
- Memo
- Facsimile
- Misc.
- Email

Enclosure _____

Attachment _____

SCI TYPE:

- SI*
- TK*
- GAMMA*
- BYE*
- HCS*
- SSRP*
- COSMIC(NATO)*
- Other Comint Channels (specify)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

FD-501 Number _____

Date of Mail 2-22-79

Originating Office or agency DOJ / DAG

This serial has been removed and placed in:

- Special File Room, FBIHQ
- FBIHQ, Room _____
- _____

Field Office-Room # Container # or Other Location Where Material Is Stored

62-118045-156x (Sec. 5)

File # and Serial

*requires special handling

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-6017


On 2/7/79, Alan Baron, counsel for L. Patrick Gray, was advised that the following interview schedule had been arranged for him on 2/13/79 at FBIHQ:


b6 9:30 AM
b7C 10:30 AM
11:30 AM
1:30 PM
2:30 PM



Robert T. Kelly


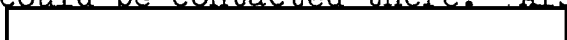
no - interview cancelled

Mr. Baron was advised that 

 preferred that

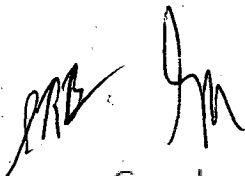
b6 Mr. Baron contact him at his office
b7C in Alexandria.

Mr. Baron was also informed that

 were assigned to our Springfield and Memphis offices and could be contacted there. Also, that  had

retired, and that if he wished to contact them we would attempt to notify them if his desires so they could contact him directly, on their own. Mr. Baron did not request that this be done at this time.

Recommendation: None, for information.



Greenberg/Gray-6018

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-27-2009 BY 65179 dmh/baw/sbs

62-118045-156X1
CHANGED TO
62-117792-56X1

JUL 25 1979

NBH/psf

Greenberg/Gray-6019

Mr. Francis J. Martin
FBI Task Force
Department of Justice

FEDERAL GOVERNMENT

March 12, 1979

Special Agent Paul V. Daly

L. Patrick

UNITED STATES v. GRAY, ET AL

Reference is made to my memorandum of February 27, 1979.

In accordance with our discussion of March 9, 1979, I have arranged to have Special Agent [redacted] available in Washington on March 12, 1979, to discuss his contemplated contact with [redacted] Special Agent [redacted] was one of the handling Agents of this source and was the recipient of the information concerning the proposed activity by the Al. Patch.

b2
b6
b7C
b7D

For your information the Los Angeles Office advised they have located [redacted] place of employment.

b6
b7C

(Handwritten initials)

MAILED 6
MAR 12 1979
FBI

EX-114

REC-124

62-118045-157 *pd*

b2
b6
b7C
b7D

MAR 13 1979

NOTE: Martin, on 3/9/79, requested [redacted] discuss his contact with the Los Angeles source with him prior to contact. Martin was offered the opportunity to talk with the source should the source agree to such contact. At this time, Martin is noncommittal about contacting source. Los Angeles teletype, 3/9/79, captioned [redacted] advised they have located that source.

Legal Coun.
Plan. & Insp.
Rec. Mgnt.
Tech. Servs.
Training
Public Affs. Off.

Adm. Serv.
Crim. Inv.
Ident.
Intell.
Laboratory

APPROVED:
Director
Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.

b6
b7C

Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.
Asst. Dir.:
Adm. Servs.
Crim. Inv.
Ident.
Intell.
Laboratory
Legal Coun.
Plan. & Insp.
Rec. Mgnt.
Tech. Servs.
Telephone Rm.
Director's Sec'y

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Mintz
- 1 - Mr. Moore

- 1 - [redacted]
- 1 - Mr. McBurnin
- 1 - Mr. Bassett
- 1 - Mr. Daly

MAR 13 1979

PVD:jam

MAIL ROOM

MAR 29 1979

Greenberg/Gray-6020

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

067
PAGE 1 OF 3

DATE 3/22/79 CLASSIFICATION ~~SECRET~~ PRECEDENCE IMMEDIATE

START HERE

FM DIRECTOR FBI

TO LEGAL ATTACHE PARIS IMMEDIATE I

BT

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 02-27-2009

~~SECRET~~

UNITED STATES VERSUS L. PATRICK GRAY III, ET AL.;
DISCOVERY PROCEEDINGS.

ON MARCH ONE FIVE, LAST, U. S. DISTRICT COURT JUDGE
ORDERED GOVERNMENT TO COMPLETE DISCOVERY PROCEEDINGS BY
MARCH THREE ZERO, NEXT. PROSECUTION IS PREPARING TO PRESENT
TO COURT PAREN EXPARTE AND IN CAMERA PAREN AT THAT TIME ALL
MATERIALS ORDERED PRODUCED IN DISCOVERY WHICH HAVE NOT YET
BEEN FURNISHED THE DEFENSE, ALONG WITH A CLAIM OF EXECUTIVE
PRIVILEGE BY ATTORNEY GENERAL AS TO THESE DOCUMENTS AND
INFORMATION. SOME OF THESE MATERIALS ORIGINATED WITH SIX
DIFFERENT FOREIGN GOVERNMENTS AND RELATE TO SDS AND/OR
WEATHERMAN INVESTIGATIVE RESULTS. LEGAT, PARIS, INFORMATION

DO NOT TYPE PAST THIS LINE

b1
b6
b7C

CONSISTS OF [REDACTED]

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY *woc/am* DRAFTED BY JLT/BAM {7} DATE 3/22/79 ROOM 4634/5 TELE EXT. 469L

EX-112 REC-2 62-118045-158

- 1 - MR. J. B. ADAMS
- 1 - MR. J. J. MC DERMOTT
- 1 - MR. J. A. MINTZ
- 1 - MR. H. N. BASSETT
{ATTN: PAUL DALY}
- 1 - MR. W. O. CREGAR
- 1 - [REDACTED]

~~SECRET~~
b6
b7C
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
1546
MAR 22 1979

16 MAR 23 1979

SEE NOTE PAGE 4...

79 APR 1 1979

DO NOT FILE WITHOUT COMMUNICATIONS Greenberg/Gray-6021

FBI/DOJ

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

~~SECRET~~

PAGE 2

CONTINUATION SHEET

~~START HERE~~
~~PAGE TWO DE HQ 0067 U*S E C R E T~~

(S)

20

18

~~(S)~~

(U)

16

IN CONNECTION WITH THE CLAIM OF PRIVILEGE, DEPARTMENT HAS REQUESTED FBI DETERMINE WHETHER THE FOREIGN GOVERNMENTS OBJECT TO THE RELEASE OF THEIR MATERIAL. ~~(S)~~

14

(U)

12

FOR YOUR INFORMATION DEFENSE COUNSEL AND DEFENDANTS HAVE CLEARANCE FOR MATERIAL UP TO AND INCLUDING SCI. ~~(S)~~

(U)

10

YOUR SOURCES SHOULD BE ADVISED THAT THE ITEMS FURNISHED BY THEM WILL BE SPECIFICALLY IDENTIFIED IF THEY DESIRE TO REVIEW SAME FOR POSSIBLE DISCLOSURE TO THE DEFENSE. ~~(S)~~

(U)

8

APPROVAL BEING SOUGHT IS TO USE SECURITY INFORMATION, AND TO IDENTIFY THE FOREIGN GOVERNMENT SOURCE IN A CRIMINAL PROSECUTION AT DISCOVERY STATE ONLY. DISCLOSURE WOULD BE TO APPROPRIATELY CLEARED DEFENSE COUNSEL AND DEFENDANTS. ~~(S)~~

6

4

HANDLE PROMPTLY. SUTEL BY A.M. OF MARCH 26, 1979.

2

CONTACT WITH AUTHORITATIVE SPOKESMAN IS DESIRED, BUT CONTACT SHOULD NOT BE DELAYED TO ACHIEVE IDEAL HIGH-LEVEL CONTACT. (U)

~~C & E 1979, REASON 2, DRD MARCH 22, 1979.~~

DO NOT TYPE MESSAGE BELOW THIS LINE

b1

DO NOT TYPE PAST THIS LINE

~~SECRET~~

~~SECRET~~

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

CONTINUATION SHEET

▶ START HERE

BT

20
18
16
14
12
10
8
6
4
2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

~~SECRET~~

~~SECRET~~

~~CONFIDENTIAL~~

PAGE FOUR

NOTE: COORDINATED WITH SA PAUL V. DALY, DEFENSE
DISCOVERY SPECIAL, RECORDS MANAGEMENT DIVISION.
RESTATEMENTS REQUESTED MARCH 19, LAST, BY FRANK MARTIN,
TRIAL ATTORNEY, AFTER CONFERRING WITH ROBERT KEUCH,
DEPUTY ASSISTANT ATTORNEY GENERAL. RELEVANT INFORMATION
FROM [REDACTED] SURFACED 3/22/79. ~~(S)~~

b1

*RTG
RM*

mid

*woc
RM*

~~CONFIDENTIAL~~

~~SECRET~~

Greenberg/Gray-6024

[Handwritten signature]

~~SECRET~~

18/79

Paul V. Daly
Federal Bureau of Investigation

FEDERAL GOVERNMENT

UNITED STATES VS. L. PATRICK GRAY, ET AL.

Francis J. Martin
United States Department of Justice

b2
b7D

(U) This is in response to your request for written communication concerning our interview of [redacted]

(U) In accordance with our discussions on 3/12/79, SA [redacted] of the Boston Field Office met with you and discussed the anticipated interview of the Los Angeles source. Subsequent to these discussions, SA [redacted] and ASAC Joseph V. Corless of the Los Angeles Office interviewed [redacted] on 3/13/79.

b2
b6
b7C
b7D

(U) By way of background, this source furnished information on [redacted]

[redacted]

b2
b6
b7C
b7D

[redacted] The documents containing the aforescribed information have been determined to be discoverable.

ST 112 REC-109 62-118045-15

(U) By teletype dated 3/14/79, the Los Angeles Office advised of the results of the interview of the source. A copy of that teletype and other related documents were furnished you. In addition, on 3/16/79, you discussed the results of the contact with the source with SA [redacted].

b6
b7C

APR 24 1979

Hand delivered 4/19/79 62-118045

- 1 - Mr. Adams
 - 1 - Mr. McDermott
 - 1 - [redacted] b6
 - 1 - Mr. O'Brien b7C
 - 1 - Mr. Daly
 - 1 - Mr. Tierney
- cc. Dir. _____
 sp. AD Adm. _____
 sp. AD Inv. _____
 t. Dir. _____
 Im. Servs. _____
 im. Inv. _____
 ent. _____
 tell. _____
 Laboratory _____
 Legal Coun. _____
 an. & Insp. _____
 ec. Mgnt. _____
 sch. Servs. _____
 Training _____
 Lic Affs. Off. _____
 Phone Rm. _____
 Director's Sec'y _____
- PVD
 JLT:bas
 (8) [unclear]
 MAY 9 1979
 Greenberg/Gray-6025

~~SECRET~~

4-18-79
CLASS. & EXT. BY 6370
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 4-18-99
all para are marked

4-Tierney

~~SECRET~~

Memorandum to Mr. Martin from Mr. Daly
Re: United States vs. L. Patrick Gray, et al.

(U) In summary you were advised by SA [redacted] that the source did not know how many people knew of the contemplated terrorist act. The source stated to his knowledge [redacted] did not discuss this contemplated activity with anyone but the source and others who were to be directly involved. It was the source's understanding, based on his conversations with [redacted] had told an individual or individuals outside the plan the details. This prompted [redacted] decision to abort this activity. Source did not know who [redacted] had told or whether it was one or more than one person. You were advised by me that our files disclose that up to seven people, all with terrorist backgrounds, were aware of the plan. (S)

b6
b7C
b7D

(U) The source stated [redacted] and that public disclosure of the information he furnished would place both him and his family in jeopardy. Source believed disclosure of the information would surface his identity and that [redacted] and others would not hesitate to kill him. (S)

b6
b7C
b7D

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director <i>W. K. W.</i>	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>FW</i>
Dep. AD Adm. <i>DM</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

~~SECRET~~

4/12/79

Paul V. Daly
Federal Bureau of Investigation

FEDERAL GOVERNMENT

U. S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Francis J. Martin
Department of Justice

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

In response to your request, this memorandum will outline our interpretation and handling of item F-4 of Defendant Felt's Motion for Discovery and Inspection; and the court's granting of this portion of the motion in its 8/17/78 order. This has been our mutual interpretation since the issue was discussed with you shortly after the order was signed.

To our knowledge, only one organization was "designated" or approved by the Attorney General under his FCI Guidelines, which had previously been designated or approved under his Domestic Guidelines. From the outset, a response by Departmental personnel to this portion of the court-ordered discovery has been contemplated, since the question could be answered by a review of the Department's records. In accordance with this interpretation, an affidavit was prepared by the Department in late 1978 covering this single redesignated organization.

We rejected any notion that the order included as a "designation" any administrative assignment of supervisory responsibility within FBI Headquarters for any given organization. Such assignments and reassignments have been made over the years for management purposes, without being seen as having any legal significance, until 1976 when the Attorney General's FCI and Domestic Guidelines went into effect.

NOTE: On Friday, 4/6/79 the Department raised the issue of whether Venceremos Brigade (VB) should be included as a designation under the order. Although highly visible because of its relationship to Weatherman, this relationship is not the issue at hand. As a redesignation, VB is indistinguishable from the organizations, large and small, the supervisory responsibility for which has been shifted within FBIHQ for administrative

REC-109 62-118045-166

APR 24 1979

- Assoc. Dir. _____
- Dep. AD Adm. 1 - Mr. McDermott
- Dep. AD Inv. 1 - Mr. O'Brien
- Asst. Dir.:
- Adm. Servs. 1 - Mr. Daly
- Crim. Inv. 1 - Mr. Tierney
- Ident. _____
- Intell. _____
- Laboratory JLT:bas
- Legal Coun. (7)
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Hand Delivered
4/16/79 Pto

62-118045

53 JUN 15 1979

Greenberg/Gray-6027

Handwritten signature and initials

Memorandum from Mr. Daly to Mr. Martin
Re: U. S. VS. W. Mark Felt, Et Al.
Discovery Proceedings

purposes before and after the 1972 Keith decision.

VB investigations were ordered handled as "contact" or "travel" cases under Section 105, Manual of Instructions by airtel to all SACs 12/2/74 captioned "VENCEREMOS BRIGADE (VB), INTERNAL SECURITY - CUBA - VB." They were thus handled as the 1974 equivalent of FCI cases for at least one year following the travel, after which they could be handled under the reporting rules set forth in Bureau airtel to all SACs 8/16/74 captioned "Subversive and Extremist Investigations of Individuals; Streamlined Reporting."

The AG subsequently approved investigating VB under the FCI Guidelines on the basis of the Bureau's Investigative Summary prepared 10/7/76. This was the first designation by the AG of the VB, and its prior administrative assignment as a domestic matter was not at issue at the time.

The 8/17/78 court order covers "...documentary materials since June, 1972 which reveal the redesignation of previously designated domestic intelligence subjects to foreign intelligence subjects."

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Svcs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. 1 AB
- Tech. Svcs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. O'Brien *OB*

DATE: 4/13/79

FROM : *LT* J. L. Tierney

SUBJECT: U. S. VS. JOHN J. KEARNEY
U. S. VS. L. PATRICK GRAY III, ET AL.
U. S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

J. Tierney #314
Room 6786

PURPOSE: To advise of relocation of records and status of Defense Discovery Special.

DETAILS: The Defense Discovery Special mounted for the above-captioned prosecutions and located in Records Management Division (RMD), Room 6888 since 1/24/78 has moved.

The trial of Mr. Gray has been severed and is being held in abeyance. The prosecution contemplates trying Messrs. Felt and Miller first. The prosecution contends discovery was completed by 3/30/79, the court-ordered deadline. Completion is contested by the defense. Motions to dismiss for failure to comply with discovery as ordered by the court are pending before the court. The prosecution opposes dismissal and has asked for an in camera, ex parte hearing to justify its position. The Attorney General is claiming Executive Privilege for material from foreign sources and a very sensitive FBI source situation. The prosecution argues substantial compliance and characterizes the noncompliance as de minimis, of insufficient substance to warrant dismissal, and seeks to reopen the question of applicability of Barker-Martinez defense. The prosecution may appeal any dismissal to the Circuit Court.

PP

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - [Redacted]
- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Mr. Long
- 1 - Mr. Mintz
- 1 - Mr. Moore
- 1 - Mr. O'Brien
- 1 - [Redacted]
- 1 - [Redacted]

REC-69 62-118045-161
9 APR 25 1979

ST 112

[Redacted Box] *8634*

b6
b7C

(CONTINUED-OVER)

62-118045

JL Tierney

MAY 10 1979
1 - Mr. Tierney

KB
MAY 9 1979
XEROX

JLT:bas
Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-6029



53 JUN 13 1979

ORIGINAL FILED IN 62-117958

Memorandum from Mr. Tierney to Mr. O'Brien
 Re: U. S. VS. John J. Kearney, U. S. VS.
 L. Patrick Gray III, et al., U. S. VS.
 W. Mark Felt, et al., Discovery
 Proceedings

Although regular, discovery-related demands on our time are expected to continue, the need for full-time services of the remaining personnel has ended. Subject to temporary recall as the need arises, and long-term reassignment if the prosecution is preparing documentary evidence for trial, their locations are as follows:

ASAC Paul V. Daly	AX	683-2680	
Joseph L. Tierney	FOIPA Rm. 6786	Ext. 4802	
	RMD Rm. 5634	Ext. 4844	b6
James Brennan	RMD, CRU	Ext. 3575	b7C

Records maintained in Room 6888 are in three categories and have been disposed of as follows:

1. Records directly related to discovery, including working copies of files and originals of some New York Field Office Files, consist of approximately 20 cabinets and are located in RMD space in room 4859. They may be obtained for the time being by contacting or Mr. Brennan. b6
b7C
2. Records created during SENSTUDY and HOUSESTUDY are being assimilated into Bureau files, as they were intended to be, and may be obtained through normal file procedures. They consist of 10 cabinets.
3. Records compiled during the investigative phase under Assistant Director Richard E. Long are stored separately in room 1427D, still under limited access. Four cabinets of these records which have recently been located in Room 6888 have been moved to Room 1427D. They may be obtained for the time being through or Mr. Brennan. These records will be assimilated into Bureau files as soon as they are no longer needed for this prosecution. The details of this assimilation have not yet been worked out, as the retrieval of copies of Bureau records now in the possession of the Department is not yet worked out, but they will presumably be maintained intact in the Special File Room of RMD. b6
b7C

RECOMMENDATION: None. For information.

APPROVED: *WMB* *WMB*
 Director _____
 Assoc. Dir. _____
 Dep. AD Inv. _____
 Dep. AD Inv. _____
 Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

UNITED STATES GOVERNMENT

Memorandum

TO : See Addressees Below

DATE: April 25, 1979

FROM : Francis J. Martin
Criminal Division

FJM L. Patrick Gray III

SUBJECT: Hearing Before Chief Judge Bryant - United States v. Felt, et al.

For your information, due to problems that arose with respect to the schedules of defense counsel and the Court, Judge Bryant has rescheduled the chambers hearing in United States v. Felt from April 30 to Wednesday May 16, at 10:00 a.m. The subject matter will be the various unresolved discovery disputes and the defense motions to dismiss the indictment.

Addressees:

Philip B. Heymann
Assistant Attorney General

[Redacted] National Security Agency

Paul Michel
Associate Deputy Attorney General

[Redacted] Central Intelligence Agency

Robert L. Keuch
Deputy Assistant Attorney General

REC-104

b6
b7C

Mary C. Lawton
Office of Legal Counsel

62-118045-162

Peter F. Rient
Office of Improvements in the Administration of Justice

Ronald A. Stern
Criminal Division

20 MAY 2 1979

Lubomyer M. Jachnycky
Criminal Division

Paul V. Daly Joe Tierney
Federal Bureau of Investigation

62-118045

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

4-28

Greenberg/Gray-6031

53 JUN 13 1979



394

MAY 1 1979

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. ✓
- Rec. Mgnt. ✓
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *Hub*

DATE: 3/27/79

FROM : Mr. Daly *Pat*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SUBJECT: U. S. VS ⁶ GRAY ET AL

(S)

[Redacted]

b1

DETAILS:

(S)

[Redacted]

b1

RECOMMENDATION:

Attached letterhead memorandum be made available for defense review.

Enclosure

ENCLOSURE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 02-28-2009

APPROVED:

Director _____
 Assoc. Dir. _____
 Dep. AD Adm. AD
 Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. HJD
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

REC-112

62-118045-163

MAY 16 1979

1 - Mr. Bassett
 1 - Mr. Daly
 PVD:rfw (3)

Greenberg/Gray-6032

~~SECRET~~



58 MAY 16 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

~~SECRET~~

1 - Mr. P. V. Daly
1 - [redacted]

b6
b7C

Date: April 2, 1979

BY LIAISON

To: [redacted]

b1

From: [redacted] Security Officer

b6
b7C

Subject: UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)

This is in reference to my memorandum dated January 30, 1979, advising the Assistant Attorney General, Criminal Division, Department of Justice, had requested damage assessments be conducted relating to disclosures of pertinent information in connection with the Department of Justice's surreptitious entry investigation. Damage assessments have been prepared by the FBI and National Security Agency in accordance with the Criminal Division's request and furnished to the Department by memorandum dated February 27, 1979.

It would be appreciated if you would expedite preparation of the Central Intelligence Agency's damage assessment in this matter.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~62-117792-~~

1 - 62-118045 (U.S. v. Gray, et al.)

O Patrick

62-118045-

DR:lfj
(6)

NOT RECORDED
191 APR 25 1979

38

DUPLICATE YELLOW

62 MAY 1 1979

~~SECRET~~

Greenberg/Gray-6035

ORIGINAL FILED IN 62-117792-

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

Memorandum

TO : *Ex 10/5*
Mr. O'Brien

DATE: 4/3/79

FROM : *TLT*
Mr. Tierney

SUBJECT: U.S. vs L. Patrick Gray III, et al.;
U.S. vs W. Mark Felt, et al
Discovery Proceedings

PURPOSE: To record changed title

DETAILS: Prosecution of Messrs. Gray, Felt and Miller was instituted by the Department with a joint trial contemplated and discovery proceedings commenced on that basis.

The prosecution of Mr. Gray has been severed and delayed, to be held after the trial of Messrs. Felt and Miller.

Correspondence previously captioned U.S. vs Gray, et al., will for a time be captioned U.S. vs Felt, et al., as set forth above. No new file need be opened.

RECOMMENDATION: None. For information and indexing.

Q

- 1 - Mr. O'Brien
- 1 - Mr. Tierney

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 02-28-2009 BY 65179 dmh/baw/sbs

(3)
TLT:fmk

4 - *Tierney*
 REC-112
 62-118045-164
 MAY 16 1979

Greenberg/Gray-6036



O 030700Z MAR 79

FM TOKYO (62-71) (RUC)

3 APR 79 08 19z

TO DIRECTOR IMMEDIATE 088-02 RECEIVED
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

BT

~~CONFIDENTIAL~~

UNITED STATES VERSUS L. PATRICK GRAY, III; ET AL; DISCOVERY
PROCEEDINGS.

RETOXCAB MARCH 22, 1979.

ON MARCH 30, 1979, THE DOCUMENTS IN QUESTION FORWARDED TO
LEGAT TOKYO BY BUREAU ROUTING SLIP WERE MADE AVAILABLE TO

[REDACTED]

b7D

[REDACTED]

ON APRIL 3, 1979,

[REDACTED] ADVISED HE HAD BEEN ASKED BY [REDACTED] TO RESPOND TO

PREVIOUS REQUEST. AT THIS TIME [REDACTED] ADVISED THAT [REDACTED]

DOES NOT WANT DOCUMENTS IN QUESTION RELEASED UNDER ANY CIRCUM-

STANCES AS TO DO SO WOULD PRODUCE NEGATIVE EFFECTS IN OUR LONG

ESTABLISHED RELATIONS. [REDACTED] POINTED OUT THAT NO CHANGE

IN THIS STANCE IS ANTICIPATED AND THAT THEY DESIRE THE
RELATIONSHIPS BETWEEN THE FBI AND [REDACTED] TO REMAIN ON A

CONFIDENTIAL BASIS AS IN THE PAST. IN VIEW OF THE ABOVE NO
DISCLOSURE SHOULD BE MADE TO ANYONE OUTSIDE THE FBI.

~~C AND E 1013; REASON 2, DRD MARCH 30, 1999.~~

BT
DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 02-28-2009

Assoc. Dir.	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

Legal Counsel
Referred to
Records Management
4/3/79

b7D

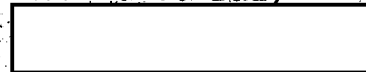
62-118045-165
Greenberg/Gray-6037

58 MAY 16 1979

MAY 16 1979

1 - Mr. P. V. Daly

1 -
1 -



b6
b7C

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

April 9, 1979

Director, FBI

**UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK GRAY, III, ET AL.)**

By memorandum to Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, dated October 5, 1978, I advised of unauthorized disclosures of sensitive national security material in connection with the surreptitious entry investigation, requested corrective action be taken, that the matter be reviewed as a possible violation of Title 18, U. S. Code, Section 793 (18 USC 793), and that the provisions of Title 28, Code of Federal Regulations, Part 17.55 (28 CFR 17.55), be effected. Your memorandum of January 12, 1979, and a memorandum to Ms. Lawton of the same date advised you had concluded the information provided did not indicate a violation of 18 USC 793. You requested the FBI, Central Intelligence Agency and National Security Agency conduct damage assessments and furnish the latter to the Department's Office of Professional Responsibility.

My memorandum to you dated February 14, 1979, enclosed a 13-page chronological summary regarding notice provided Department attorneys relating to the safeguarding of classified national security information in the surreptitious entry investigation. In that memorandum, I again requested you review this matter to determine if action is warranted under the regulations of 28 CFR 17. Specifically, I requested Part 17.55 and Part 17.38 of the Code be complied with, that responsibility for the unauthorized disclosure be determined, and that this matter be considered by the Department Review Committee (DRC) at the earliest possible date so that recommendations could be provided to the Attorney General. I also requested I be provided reports of the appropriate Security Officers, as well as the Security Officer of the Department and of the DRC.

DUPLICATE YELLOW

62-117792

① - 62-118045 (U.S. v. Patrick Gray, et al.)

SEE NOTE PAGE 2

62-118045

DR:lfj
(12)

318

NOT RECORDED
191 APR 25 1979

02 MAY 1 1979

Greenberg/Gray-6038

ORIGINAL FILED IN 62-117792-88

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

By memoranda dated February 27, 1979 (two), copies of damage assessments in this matter prepared by the FBI and National Security Agency were furnished to the Department Security Officer. I understand these were made available for your review.

I would appreciate being advised of the status of this inquiry.

- 1 - Assistant Attorney General
Office of Legal Counsel
- 1 - Assistant Attorney General
Criminal Division
- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr.
Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino
Security Officer
Department of Justice

NOTE: Although unauthorized disclosures in this matter were first furnished to the Department six months ago, no information has been received that inquiries have been initiated within the Department as is required by 28 CFR 17. No answer has been received to the Director's inquiry of 2/14/79. At the meeting of the DRC on 3/20/79, this matter was brought up by the FBI Security Officer, and the Chairman of the DRC disclaimed any responsibility for the inquiry, indicating the Director's request for the inquiry had been directed to the Criminal Division.

Mr. Bassett

[Redacted] b6
[Redacted] b7C

UNAUTHORIZED DISCLOSURES OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)

- 1 - Mr. J. B. Adams
 - 1 - Mr. J. J. McDermott
 - 1 - Mr. W. O. Cregar
- 2/13/79

- 1 - Mr. J. A. Mintz
- 1 - Mr. D. W. Moore, Jr.
- 1 - Mr. H. N. Bassett
- 1 - Mr. P. V. Daly
- 1 - [Redacted] b6
- 1 - [Redacted] b7C

PURPOSE: To set forth information indicating this Bureau was precluded by the Department of Justice in placing classification markings on documents and that Department attorneys were furnished extensive information regarding the need for classification and safeguarding of sensitive material in connection with the Civil Rights Division's, and later the Criminal Division's, surreptitious entry investigation, and to recommend a summary relating to such notice be provided to the Assistant Attorney General, Criminal Division, and other appropriate Department officials.

SYNOPSIS: On 10/5/78, the Director delivered a memorandum to Deputy Assistant Attorney General, Office of Legal Counsel, expressing concern regarding the handling of national security information in connection with this matter. He requested the Department conduct a review to determine if there was violation of Title 18, United States Code, Section 793, which prohibits the release of communications intelligence to unauthorized recipients, as well as of the Code of Federal Regulations. Assistant Attorney General, Criminal Division, responded 1/12/79 stating prosecution was inappropriate because the Bureau did not follow Executive Order and Department regulations, attorneys received insufficient notice and used information in good faith, and there was lack of criminal intent. Also, he advised the disclosure of classified Sensitive Compartmented Information could not be shown as negligence on the part of attorneys. Attached chronological summary sets forth extensive information indicating notice relating to need for classification provided to the Department as early as 6/29/76. The summary indicates continuing efforts were made to ensure the classification and safeguarding of Bureau material in the custody of Department and all such requests failed to prevent disclosures. FBI is conducting damage assessment at request of Department and will

Enclosures
62-117792

L. Patrick

62-118045 -

CONTINUED - OVER

62-118045 (U.S. v. Gray, et al.)

DR:lfj
(11)

NOT RECORDED

44 MAR 15 1979
Greenberg/Gray-6040

53 JUN 13 1979

62-117792-564
62-118045-157
Original

Memorandum [redacted] to Mr. Bassett
Re: Unauthorized Disclosures of Classified Information
(United States v. L. Patrick Gray, III, et al.)
62-117792

b6
b7C

advise National Security Agency and Central Intelligence Agency to also do so. There is no information indicating an inquiry has been conducted by the Department to affix responsibility and report not furnished as required to the Security Officer of the Department or Department Review Committee.

RECOMMENDATION: That the attached memorandum enclosing a copy of the summary outlining notice provided to the Department relating to the safeguarding of classified information in the surreptitious entry investigation be sent to the Assistant Attorney General, Criminal Division, with copies to other Department divisions and officials involved, suggesting this matter be reconsidered and handled in accordance with the requirements of the Code of Federal Regulations.

DETAILS: On 10/5/78, the Director personally delivered a memorandum to Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, expressing his concern regarding the handling of national security information in connection with the matter of United States v. L. Patrick Gray, III, et al. In his memorandum, it was indicated that as early as 7/26/76 the Assistant Attorney General had been advised of the FBI's concern. The memorandum of 10/5/78 requested the Department conduct a review regarding what appeared to be a violation of Title 18, United States Code, Section 793 (18 USC 793), which prohibits the release of communications intelligence to unauthorized recipients, as well as possession by an unauthorized individual. He also requested the provisions of Title 28, Code of Federal Regulations, Part 17.55 (28 CFR 17.55), relating to the loss or possible compromise of classified information, be complied with, as well as consideration be given concerning the notification requirement of Executive Order 12036.

CONTINUED - OVER

Memorandum [redacted] to Mr. Bassett
Re: Unauthorized Disclosures of Classified Information b6
(United States v. L. Patrick Gray, III, et al.) b7C
62-117792.

By memorandum dated 1/12/79, Philip B. Heymann, Assistant Attorney General, Criminal Division, responded to the Director's memorandum to Ms. Lawton by attaching, as an enclosure, a copy of a memorandum of the same date informing her of his conclusion that the information provided by the Director did not indicate a possible violation of 18 USC 793. Additionally, Mr. Heymann, in his memorandum, expressed the view that the required damage assessment should be conducted by the originating agencies, i.e., the FBI, Central Intelligence Agency (CIA), and National Security Agency (NSA), that the latter two agencies furnish their conclusions to the Bureau, and that the results then be referred to Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility, Department of Justice.

In his memorandum to Ms. Lawton, Mr. Heymann stated criminal prosecution under Title 18 would be inappropriate because (1) Bureau Headquarters did not follow the procedures set forth in the Executive Order and Departmental regulations which require that each document bear a classification marking; (2) the attorneys received insufficient notice and used the information in good faith; and (3) there is a complete lack of criminal intent. Also, he advised the Criminal Division concluded the disclosure of classified Sensitive Compartmented Information to the grand jury and the defendants' attorneys in the course of the investigation could not be shown to be "negligence in violation of statute and to do so would require proving the attorneys acted in wanton and reckless disregard for the security of the documents and that they knew or should have known that such conduct threatened the security."

Ms. Lawton, by memorandum to Mr. Heymann, with a copy for the Director, FBI, dated 1/23/79, indicated she concurred with the Criminal Division but considered it important to correct some misunderstandings. She noted she had advised the Criminal Division the disclosure, which primarily raised the question of an espionage law violation, involved a document which indicated on its face (which was read before the grand jury) that it contained communications intelligence information. Secondly, she indicated the Department should have been on notice that the documents contained classified

CONTINUED - OVER

Memorandum [redacted] to Mr. Bassett
Re: Unauthorized Disclosures of Classified Information
(United States v. L. Patrick Gray, III, et al.)
62-117792

b6
b7c

information as a copy of a memorandum prepared by the Bureau's Security Officer dated 10/20/78 noted the question of reviewing documents for proper classification markings had been raised at the onset of the investigation and the FBI was refused the opportunity to review and mark classified information. Citing additional evidence that the FBI had put the Government attorneys on notice, she indicated, however, she did not disagree with the conclusion that prosecution is inappropriate.

We have reviewed records relating to notice provided to the Department since 1976 in connection with the surreptitious entry investigation. The attached chronological summary sets forth extensive information indicating notice relating to the need for classification and protection of the material was furnished to the Attorney General, the Deputy Attorney General, the Assistant Attorney General of the Civil Rights Division, and the Director, Security and Administrative Services Staff (Department Security Officer), as early as 6/29/76. A memorandum of that date pointed out in considerable detail requirements relating to protecting Sensitive Compartmented Information, including operations in the foreign intelligence area where the FBI had cooperated with CIA or NSA. It was indicated the information involved in the investigation may necessitate special clearances and coordination with other components of the Intelligence Community and that attorneys associated with defense counsel may require clearance. Also, possible problems relating to the storage of and access to classified material, as well as defense counsels' preclusion from its further dissemination without Department authority, were clearly set forth.

The attached summary also outlines that after this Bureau's Security Officer attempted to effect classifications and to instruct Agents that their counsel might need clearance, the Assistant Attorney General, by memorandum dated 7/9/76, instructed he be removed and insulated from matters relating to the investigation. Later, when the FBI advised the Department that FBI personnel assigned to assist the Civil Rights Division were selected by design because they had little or no experience in matters involving classified information and requested an opportunity to brief

Memorandum [redacted] to Mr. Bassett
Re: Unauthorized Disclosures of Classified Information
(United States v. L. Patrick Gray, III, et al.)
62-117792

b6
b7C

them, the Assistant Attorney General, Civil Rights Division, by memorandum dated 8/10/76, indicated such action was unnecessary as he was completely familiar with the Executive Order, had taken necessary steps to ensure attorneys involved in the investigation were complying fully with all regulations, and had personally reviewed the FBI task force operation and was satisfied it was handling classified information in accordance with proper procedures. (Assistant Director Long has advised that although he questioned the policy of furnishing all information, including classified information, personally to the Civil Rights Division, it was made clear to him that he and members of the task force were under the direct supervision of the Civil Rights Division and the Assistant Attorney General of that division advised him the FBI was part of the Justice Department and, as such, whatever information was released to the Civil Rights Division would remain within the Department.)

The chronological summary attached indicates continuing efforts, which can be documented through copies of memoranda furnished to Department officials, were made to ensure the classification and safeguarding of Bureau material in the custody of the Civil Rights Division and later the Criminal Division, and all such requests failed to prevent the resulting disclosures. The information documented would appear to be probative that the Department attorneys may have acted in a wanton or reckless disregard for the security of documents that they knew or should have known were of a sensitive classifiable nature requiring protection. Considerable additional information is available to document other violations by Department attorneys of Executive Order and Department regulations regarding procedures for safeguarding national security information.

The recommendation of the Assistant Attorney General, Criminal Division, that the FBI conduct a damage assessment and refer the results to the Department's Office of Professional Responsibility, is contrary to the Director's request in his memorandum to Ms. Lawton dated 10/5/78 and not in accordance with the Code of Federal Regulations.

CONTINUED - OVER

Memorandum [redacted] to Mr. Bassett
Re: Unauthorized Disclosures of Classified Information b6
(United States v. L. Patrick Gray, III, et al.) b7C
62-117792

Title 28, Part 17.55, of the Code requires the officer or employee of the Department who has knowledge of the possible loss or compromise of classified national security information to promptly report and confirm in writing the circumstances to the Security Officer of his division. The latter is required to furnish notice to the originating office and any interested agency, prepare an assessment of the damage, and conduct an inquiry to determine corrective measures and to recommend appropriate administrative action. While Ms. Lawton referred the matter to the appropriate Security Officers of the divisions involved, there is no information any inquiry was conducted to affix responsibility, notice of the compromise to appropriate agencies was delayed, and a report was not furnished as is required to the Security Officer of the Department and the Department Review Committee, it being noted the latter is required to make recommendations to the Attorney General.

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

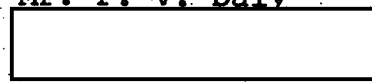
Director, FBI

UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)

- 1 - Mr. J. B. Adams
- 1 - Mr. J. J. McDermott
- 1 - Mr. W. O. Cregar
- 1 - Mr. J. A. Mintz

February 14, 1979

- 1 - Mr. D. W. Moore, Jr.
- 1 - Mr. H. N. Bassett
- 1 - Mr. P. V. Daly



b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Reference is made to your memorandum to me dated January 12, 1979, and your memorandum to Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, of the same date, both captioned "Unauthorized Disclosure of Classified Information," which respond to my memorandum dated October 5, 1978, requesting a review be conducted to determine if the unauthorized disclosures in the Department's surreptitious entry investigation are in violation of statute, the Code of Federal Regulations, and Executive Order. Your memorandum to Ms. Lawton advised prosecution under Title 18, United States Code, Section 793, would be inappropriate as the Bureau did not follow classification marking procedures set forth in Executive Order and Departmental regulations, the Department attorneys involved received insufficient notice and used the information in good faith, and there is a complete lack of criminal intent. Your memorandum also pointed out that in your opinion, "gross negligence" could not be shown, indicating it would be necessary to prove the attorneys acted in wanton or reckless disregard for the security of the documents entrusted to them.

Ms. Lawton, by memorandum to you dated January 23, 1979, provided information indicating the attorneys had sufficient notice of the classification of material in their possession but concurred with your conclusion that prosecution was inappropriate.

Enclosed is a copy of a chronological summary regarding notice provided to Department attorneys relating to the safeguarding of classified national security information in the surreptitious entry investigation conducted by

62-117792

L. Patrick 62-118045

1 - 62-118045 (U. S. v. Gray, et al.)

6 - DR-183-11079
(18)

DUPLICATE YELLOW

53 JUN 13 1979

NOT RECORDED
44 MAR 15 1979
Greenberg/Gray-6046

ORIGINAL FILED IN 62-117792-59

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

the Civil Rights Division and later by the Criminal Division. I believe the information in this summary will indicate the Department attorneys from the onset of this investigation in 1976 received extensive notice relating to the need to classify and safeguard the information provided to them. Also, it is important to note the procedure established at the request of the Assistant Attorney General, Civil Rights Division, which caused unmarked classifiable documents to be provided to the Department, was accomplished through an official of this Bureau who, in effect, was temporarily assigned to the Department and under the direct supervision of the Department as relates to this matter. In spite of continuing notice provided even after the Criminal Division assumed responsibility for the investigation, and also after being provided considerable notice regarding the sensitivity of the classifiable information, unauthorized disclosures continued.

I again request you review this matter to determine if action is warranted under the requirements of Title 28, Code of Federal Regulations, Part 17. Specifically, I request the provisions of Part 17.55 of the Code be complied with and that responsibility for the unauthorized disclosures be determined. I would appreciate reports of the appropriate Security Officers be provided to me, as well as to the Security Officer of the Department and the Department Review Committee as is required.

I also request that, in accordance with Part 17.38 of the Code, this matter be considered by the Department Review Committee at the earliest feasible date and that recommendations be provided to the Attorney General.

In accordance with your request in your memorandum dated January 12, 1979, I have requested Central Intelligence Agency and National Security Agency to prepare damage assessments relating to the unauthorized disclosure by the Department of information which originated within these agencies. This Bureau's Security Officer is preparing a similar assessment and all will be provided in accordance

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

with the Code of Federal Regulations to appropriate Department officials, as well as to the Office of Professional Responsibility as you requested.

Enclosure

- 1 - Assistant Attorney General (Enclosure)
Office of Legal Counsel
- 1 - Assistant Attorney General (Enclosure)
Civil Rights Division
- 1 - Mr. Leon Ulman, Chairman (Enclosure)
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr. (Enclosure)
Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino (Enclosure)
Security Officer
Department of Justice

- 1 - Mr. J. B. Adams
- 1 - Mr. J. J. McDermott
- 1 - Mr. W.O.Cregar
- 1 - Mr. J. A. Mintz
- 1 - Mr. D. W. Moore Jr.
- 1 - Mr. H. N. Bassett
- 1 - Mr. P. V. Daly
- 1 - [REDACTED] b6
- 1 - [REDACTED] b7C

February 14, 1979

SURREPTITIOUS ENTRY INVESTIGATION

**Chronological Summary Regarding Notice Provided
to Department of Justice Relating to the
Safeguarding of Classified National
Security Information**

By memorandum captioned "Unauthorized Disclosure of Classified Information," dated January 12, 1979, Philip B. Heymann, Assistant Attorney General, Criminal Division, advised Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, prosecution under various criminal statutes in connection with unauthorized disclosures in this matter was inappropriate because (1) Bureau Headquarters did not follow the procedures set forth in the Executive Order and Department regulations which require that every document bear a classification marking; (2) the (Department) attorneys received insufficient notice and used the information in good faith; and (3) there is a complete lack of criminal intent. Additionally, this memorandum stated the disclosure of classified information to a grand jury and to the defendants' attorneys in the course of the investigation could not be shown to be "gross negligence" in violation of statute.

Set forth below is a summary of information setting forth the basis upon which unmarked documents were furnished to the Department, notice was afforded Department attorneys regarding classification and the need to protect the classified information and other sensitive information indicating insufficient attention was afforded Department regulations by Department attorneys which might be construed as negligence.

1. The Director of the FBI, by memorandum dated June 22, 1976, to the Assistant Attorney General, Civil Rights Division, with copies for the Assistant Attorney General for Administration; Assistant Attorney General, Criminal Division; and Assistant Attorney General, Office of Legal Counsel, brought to the attention of the Department a communication from FBI Headquarters to the FBI's New York Office requesting certain documents

62-117792

62-118045 -
① - 62-118045 (U.S. v. Gray, et al.)

DR:lfj (17)

ORIGINAL TO ASSISTANT ATTORNEY GENERAL,
CRIMINAL DIVISION, DOJ

ENCLOSURE Greenberg/Gray-6049

Surreptitious Entry Investigation

in this investigation which were not marked for classification be so marked and requesting the Civil Rights Division ensure copies in its custody were correctly marked. This memorandum also pointed out that the matter of obtaining clearance for attorneys representing Special Agents involved in the investigation had been referred by the FBI Security Officer to the Department Review Committee on June 17, 1976. The Department Review Committee had indicated that counsel retained by Special Agents who were subjects of the investigation could request and receive from the Attorney General access to information classified up to "Top Secret."

By memorandum to the Director, FBI, dated June 25, 1976, the Assistant Attorney General, Civil Rights Division, requested the FBI to take whatever steps necessary regarding clearances to enable an attorney representing FBI Agents to confer with them relating to classified information. The Assistant Attorney General made reference to the June 22, 1976, memorandum which had requested the Civil Rights Division and the FBI field offices to classify material which had been referred to the Civil Rights Division, commenting he failed to see why such a communication was sent as it could serve only to frustrate and impede Agents' efforts to cooperate. The Assistant Attorney General indicated he did not desire similar communications to be sent to any field office or through FBI Headquarters pertaining to the substance of this investigation without having been referred to him for review beforehand.

2. Memorandum from the Director, FBI, to the Attorney General, dated June 29, 1976, with copies to the Deputy Attorney General; the Assistant Attorney General of the Civil Rights Division; and the Director, Security and Administrative Services Staff (Security Officer), referred to the June 25, 1976, memorandum of the Assistant Attorney General, Civil Rights Division, and outlined in detail clearance procedures necessary for the Department to effect in connection with counsel retained by defendants in this matter. This memorandum also indicated the instructions relating to classification of documents furnished by FBI Headquarters to field offices were sent in support of the Code of Federal Regulations.

The June 29, 1976, memorandum also pointed out it was very possible Agents who were subjects of the Department's inquiry may have knowledge of Sensitive Compartmented Information.

Surreptitious Entry Investigation

including operations in the foreign intelligence area where this Bureau has cooperated with the Central Intelligence Agency or the National Security Agency. It was indicated this may necessitate special clearances and coordination with other components of the Intelligence Community. It was also pointed out attorneys associated with defense counsel or administrative members of the staff of the latter may require clearances. Also, possible problems relating to the storage of and access to classified material, as well as defense counsels' preclusion from its further dissemination without Department authority, were indicated.

3. The Director, by memorandum dated June 30, 1976, to the Assistant Attorney General, Civil Rights Division, relayed the concern of Special Agents of our New York FBI Office regarding unauthorized disclosures to the media relating to this investigation, which could be a violation of Federal regulations and statutes, and requested advice as to whether an investigation should be undertaken. This memorandum of June 30, 1976, advised Civil Rights Division attorneys had reviewed a number of FBI files and documents in the New York Office and requested any notes taken concerning classified information in the documents during this review be appropriately classified.

By memorandum dated July 9, 1976, the Assistant Attorney General, Civil Rights Division, advised the Director of the FBI he felt any investigation into any disclosure to the media was not warranted and should not be undertaken.

4. In another memorandum dated July 9, 1976, the Assistant Attorney General, Civil Rights Division, advised Director Kelley of his specific request that no one in the Bureau communicate or discuss with any Agent who is the subject of this investigation any matter concerning the investigation unless a written communication to them has been approved beforehand by him. This memorandum was critical of conversations the FBI Security Officer had been having with a Special Agent involved in the investigation relating to the latter's need to secure clearance for his counsel. (The FBI Security Officer was acting based on instructions from members of the Department Review Committee and other officials of the Department.) Further, this memorandum specifically requested the Bureau's Security Officer "be removed immediately from any dealings or relations whatsoever with any manner or aspect of this investigation. His insulation from this

Surreptitious Entry Investigation

case should include not only any contacts with Agents under investigation, but any classification of documents or materials pertaining to matters under investigation."

5. By memorandum to the Assistant Attorney General, Civil Rights Division, dated July 26, 1976, the Director, FBI, expressed his concern regarding the protection of classified national security information and requested concurrence to brief the FBI personnel assigned to the task force assisting the Department. The Director's memorandum pointed out personnel assigned to the task force were selected by design because they had little or no experience in matters involving classified national security information and the briefing would be in compliance with Executive Order 11652. By memorandum to the Director, FBI, dated August 10, 1976, the Assistant Attorney General, Civil Rights Division, advised he was familiar with the provisions of the Executive Order and at the onset of the investigation he had taken necessary steps to ensure attorneys involved in the investigation were complying fully with all Departmental regulations governing the handling of classified information. The Assistant Attorney General stated he had personally reviewed task force leader Dick Long's operation, and was satisfied that the manner in which the task force is handling classified information is in accordance with proper procedures.

It should be noted Assistant Director Long was interviewed on June 22, 1978, and he advised he had questioned the policy of furnishing all available information, including classified material, directly to the Civil Rights Division. He stated he was instructed to do so by both former Director Kelley and the Assistant Attorney General of the Civil Rights Division, and that he had been advised the FBI was part of the Justice Department and, as such, whatever information was released to the Civil Rights Division would be remaining within the Department of Justice. Assistant Director Long stated he was advised by the Assistant Attorney General that appropriate steps had been taken to ensure that all Departmental attorneys working on the surreptitious entry investigation fully complied with the Department's regulations governing the handling of classified information. Long stated when he was designated in charge of the task force assigned to assist the Department of Justice, it was made clear to him that he and members of the task force would be under the direct supervision of the Civil Rights Division.

The above instructions, in effect, caused classifiable national security information originating within the FBI, as well as that originating within other agencies, to be furnished to the

Surreptitious Entry Investigation

Department by the Long task force in unclassified form. It is noted the FBI, as a matter of policy, prior to the spring of 1974 did not mark for classification those documents of an internal character which were classifiable. The basis for this policy has been upheld by the Department Review Committee and the courts.

6. By memorandum to the Attorney General dated September 3, 1976, the Director, FBI, requested he be advised if the Federal grand jury impaneled in connection with this investigation had been cleared to receive classified information. By memorandum dated September 7, 1976, the Assistant Attorney General, Civil Rights Division, furnished to the FBI a copy of a memorandum from the Attorney General to him dated September 7, 1976, authorizing the dissemination of classified information or material to the Federal grand jury convened to hear evidence in this investigation. The authorization limited dissemination of such information to only the members of the grand jury, its court reporter, and the typist for any transcript of the jury proceedings, and was conditioned upon the Assistant Attorney General's making appropriate arrangements to ensure the proper protection of such information.

While it is unclear whether Attorney General Levi's authorization in this instance related to the grand jury convened in New York City or to the grand jury subsequently convened in Washington, D. C., in any instance the clearance was granted months after the jury had been convened and did not provide for the determination of trustworthiness which is required in the instance of individuals afforded access to national security information. No information has been developed indicating any formal investigation was conducted looking towards clearance of grand jury members, reporter or typist. The matter of clearance for the grand jury convened at Washington, D. C., was again raised by this Bureau's Security Officer in March, 1978. At that time the Department Security Office advised neither the court reporter, court stenographer, nor members of the Federal grand jury at Washington, D. C., had been afforded clearances for national security information. Subsequently the FBI Legal Counsel Division alerted the Department concerning the Security Officer's concern regarding this clearance requirement. By memorandum dated March 23, 1978, the Attorney General authorized the Assistant Attorney General, Criminal Division, to disseminate classified information to members of the grand jury, its court reporter, and the typist for any transcript. Again, it is not known that any determination was made of trustworthiness of these individuals, as is required by the Code of Federal Regulations.

Surreptitious Entry Investigation

7. A protective order filed by the Department of Justice on December 26, 1978, indicated, in an attachment, Sensitive Compartmented Information was discussed before the Federal grand jury in connection with the testimony of [redacted] on August 26, 1976, September 1, 1976, October 6, 1976, July 15, 1977, March 15, 1978, March 20, 1978, and March 22, 1978. This Federal grand jury was not cleared to receive Sensitive Compartmented Information, which requires special Intelligence Community controls under the supervision of the Director of Central Intelligence. The Attorney General is not authorized to permit the dissemination of compartmented material from other Intelligence Community agencies to the Federal grand jury. In one known instance, a document clearly classified and marked as Sensitive Compartmented Information was read to the Federal grand jury by a Department attorney.

By letters dated August 2, 1978, to the Director of the National Security Agency and the Director of the Central Intelligence Agency, Barnet D. Skolnik, Special Counsel, Department of Justice, advised it had been brought to his attention that Department attorneys had inadvertently disclosed classified National Security Agency and Central Intelligence Agency information before the grand jury. He indicated he had endeavored to find out how this breach of security regulations occurred, stating that early in the Civil Rights Division investigation the prosecutors had worked out an arrangement with the FBI whereby a group of specially-selected FBI Agents were to work with the prosecutors and supply them with FBI files. In order to ensure the integrity of the investigation, these Agents bypassed the normal chain of command in the Bureau and delivered files directly to the prosecutors. Mr. Skolnik continued by stating that none of the documents delivered to the prosecutors showed any classification by the FBI or any indication that portions thereof might contain information classified by Central Intelligence Agency or National Security Agency. He indicated apparently no one at the time thought about the fact that a few such documents might contain classified information originally obtained from National Security Agency or Central Intelligence Agency. (Prior notice set forth above plus the fact that a correctly marked document was read before the Federal grand jury would appear to indicate that Mr. Skolnik did not have possession of the complete facts when he alerted the National Security Agency and Central Intelligence Agency.)

Surreptitious Entry Investigation

8. On March 31, 1978, [redacted] appeared under subpoena before the Federal grand jury convened at Washington, D. C. During his appearance, he was advised by Department attorney Francis J. Martin that this grand jury knew

9. By memorandum to Barnet D. Skolnik, Criminal Division, dated February 10, 1978, the Deputy Associate Director, FBI, advised the initial review by the FBI of records furnished by Assistant Director Long to the Civil Rights Division determined they contained a large amount of classifiable material, primarily at the "Confidential" and "Secret" levels, although numerous items classifiable "Top Secret" had been reviewed. This memorandum set forth the review did not result in the marking as classified all information potentially classifiable, as the Department had indicated such would constitute a hindrance to the prosecution operations. The memorandum stated that although normal procedure as relates to classification was impractical, the only solution was for the Department to regard the entire package of material furnished by Mr. Long as classified under Executive Order 11652. It was indicated the ultimate solution to the problem could be postponed but would involve either the posting of classification warnings, destruction of the material (where only copies were involved), or the returning of the material to the FBI's control for appropriate disposition.

Surreptitious Entry Investigation

10. On April 21, 1978, Department attorney Francis J. Martin, Criminal Division, contacted Special Agent Paul V. Daly of the FBI and requested no classification be placed on documents needed to comply with discovery in connection with the arraignment of defendants on April 20, 1978, in the matter of L. Patrick Gray, III, et al. Mr. Martin was advised classifications would have to be done on these materials and they would also have to be reviewed for excisions necessary to protect sources. Mr. Martin indicated he had discussed this matter with Mr. Skolnik and both were in agreement that the Bureau should not classify these materials.

11. By memorandum dated April 24, 1978, the Deputy Associate Director of the FBI advised Benjamin R. Civiletti, Acting Deputy Attorney General, as relates to documents falling within the purview of discovery in the matter of United States v. L. Patrick Gray, III, et al., that by agreement the FBI would not excise classified material from these documents. However, the memorandum indicated unredacted copies containing classified information should not be furnished to the defense without further consultation with the FBI.

12. During late April, 1978, representatives of this Bureau in contact with the prosecuting team of the Criminal Division of the Department of Justice determined that on April 25, 1978, copies of FBI-classifiable material were furnished by Criminal Division attorneys to defense counsel. No effort had been made by Department attorneys to afford the FBI a chance to review these documents for classification purposes, nor was any effort made to mark the documents as classified. On April 27, 1978, the FBI Security Officer notified the Department of Justice Security Officer of this violation of classification regulations. The Department Security Officer advised copies of some of these documents had been made and distributed to various personnel in the Department for review. Personnel in Mr. Skolnik's office who originally held the copies and the individuals to whom the copies were distributed in the Department did not have the required compartmented clearances. Additionally, the Department Security Officer determined six additional copies of one of the sensitive documents had been made and had been given to the defense attorneys who also did not have compartmented clearance. It should be noted one of the documents furnished to defense counsel on April 25, 1978, was classifiable "Top Secret - Code Word" and contained information originated within another Intelligence

Surreptitious Entry Investigation

Community organization. A second document, copies of which were also furnished to defense counsel, made reference to the cryptonym and information which might compromise an asset of the Central Intelligence Agency and thus its dissemination should have been afforded prior clearance by that agency. Subsequently, Special Agents Joseph L. Tierney, Sammy J. Miller and Paul V. Daly met with Department attorneys Breckinridge L. Willcox and Paul R. Boucher to express their concern regarding the providing of these sensitive documents to defense counsel. Mr. Boucher advised he was aware of the agreement that no materials would go to the defense without prior review by the FBI and he thought this agreement had been honored. He said he was not aware that documents had been furnished to the defense on April 25, 1978, which had not been subjected to review by the FBI for the purpose of making classification determinations and excisions of material exempt from discovery. Mr. Willcox stated he was not aware of the agreement which he assumed had been made prior to the Criminal Division's assuming the responsibilities for the investigation from the Civil Rights Division in December, 1977.

13. By memorandum dated May 5, 1978, to the Director, Administrative Programs Management Staff, Office of Management and Finance (Department Security Officer), the FBI Security Officer advised that beginning in 1976 a large volume of records of the FBI was furnished by Assistant Director Long to the Civil Rights Division of the Department. The memorandum advised a partial review of the material had determined much of it is classifiable, but contained no classification markings. The FBI Security Officer indicated he would appreciate it if the Security Officer of the Department was able to make inquiries in connection with the safeguarding of the material.

14. Memorandum from the Director, FBI, to the Attorney General dated May 9, 1978, with copies furnished to the Chairman of the Department Review Committee, the Director of the Administrative Programs Management Staff, and to the Assistant Attorney General of the Criminal Division, set forth it had been determined that 81 volumes of documents from the files of the FBI were provided by the task force headed by Assistant Director Long to the Civil Rights Division and more recently to the Criminal Division. It was indicated many of these documents were of a sensitive nature and related to intelligence sources and methods and ongoing

Surreptitious Entry Investigation

operations. Further, it was indicated these documents were prepared for internal FBI use and, thus, in accordance with procedure, many were not marked to indicate their levels and characters of classification. The memorandum pointed out the concern of the FBI regarding these documents as many of the Department attorneys responsible for their custody and who would be working with them are inexperienced as relates to the clearances, accountability, transmission, and storage of classified national security information and material. The memorandum requested, because of the overall sensitivity of the material in the 81 volumes, that all documents not essential to the current prosecution and discovery responsibilities of the Department be promptly returned to the FBI so appropriate classification action, accountability, and storage may be ensured.

15. By memorandum dated May 19, 1978, the Deputy Associate Director, FBI, advised the Deputy Assistant Attorney General, Criminal Division, that there was an undetermined number of copies in the custody of the Department of a Sensitive Compartmented Information FBI document (dated May 31, 1972) which had been made available to Mr. Skolnik's office and, thereafter, reproduced. The memorandum indicated there was also in Department custody an undetermined number of similar FBI documents which have not been reviewed by the FBI, but which contain similar material of presumably identical classification levels requiring restricted access. The Deputy Attorney General was referred to the Deputy Associate Director's memorandum to Mr. Skolnik dated February 6, 1978.

16. By memorandum dated October 5, 1978, to the Deputy Assistant Attorney General, Office of Legal Counsel, the Director advised grand jury transcripts containing compartmented information had been furnished in unmarked form to defense counsel in the matter of United States v. L. Patrick Gray, III, et al. (The problem of unmarked classified information appearing in grand jury testimony was discussed during a June 1, 1978, meeting with Mr. Skolnik, his staff, Ms. Lawton and Deputy Assistant Attorney General Robert Keuch of the Criminal Division. Participating in this meeting were Mr. John J. McDermott, Deputy Associate Director, FBI, and Assistant Director Harold H. Bassett, FBI. Mr. Skolnik agreed to notify defense attorneys of the problem of classified materials in the transcripts and to seek a

Surreptitious Entry Investigation

court order allowing review of the transcripts by FBI, Central Intelligence Agency and National Security Agency for the purpose of identifying highly sensitive information and alerting holders of the transcripts to their sensitivity. The FBI did not receive copies of the transcripts for review until September 20, 1978.) The Director requested a review be conducted to determine whether there was a violation of Federal statutes. He also advised that since there appeared to be an improper release of classified material, the provisions of the Code of Federal Regulations must be complied with, as well as notification to originators. The Director suggested that both Central Intelligence Agency and National Security Agency be advised that the grand jury transcripts containing the sensitive material were furnished to and continued to be in the possession of defense counsel, and that the latter, according to our understanding, did not have the necessary clearance. (This memorandum was personally delivered to and discussed with the Deputy Assistant Attorney General, Office of Legal Counsel, and the Deputy Attorney General, by the Director on October 5, 1978.)

By memorandum dated October 6, 1978, the Deputy Assistant Attorney General, Office of Legal Counsel, advised the Director, FBI, that on the basis of his notification of October 5, 1978, concerning possible compromise of national security information, she was alerting the Security Officers of the Criminal and Civil Rights Divisions of their responsibilities to undertake a damage assessment as required by the Code of Federal Regulations and to make inquiry to determine whether corrective measures and appropriate administrative, disciplinary or legal action should be taken. The Deputy Assistant Attorney General furnished copies of this notification to the Department Security Officer and the Department Review Committee.

The Deputy Assistant Attorney General advised she did not believe it appropriate for the Department to notify the Intelligence Oversight Board under Executive Order 12036 regarding this compromise as the Department was not, itself, an agency of the Intelligence Community. It was indicated the Department would keep the Director advised of action taken in response to his notice of the unauthorized disclosure.

17. By memorandum dated October 20, 1978, the FBI Security Officer advised the Chairman of the Department Review Committee, with copies to the Deputy Assistant Attorney General, Office of Legal Counsel, to the Assistant Attorney General,

Surreptitious Entry Investigation

Criminal Division, and to the Acting Director, Administrative Programs Management Staff, of concerns for the safeguarding of national security material which had previously been expressed in the Director's memorandum to the Attorney General dated May 9, 1978. The Security Officer set forth a summary of the background relating to the above unauthorized disclosures, including information regarding the notice that had been given to the Department relating to the classifiability of FBI documents provided to the Department in connection with the surreptitious entry investigation. The Security Officer respectfully requested this matter be reviewed for action necessary to ensure compliance with pertinent Executive Branch regulations and that the Department ascertain responsibility for the unauthorized disclosure. It was further requested the Department retrieve all documents relating to the surreptitious entry investigation which have not been reviewed by the FBI in order that these documents may be reviewed for appropriate classification action.

18. By memorandum to the Director dated January 12, 1979, the Assistant Attorney General, Criminal Division, provided a copy of a memorandum of the same date to the Deputy Assistant Attorney General, Office of Legal Counsel. The former memorandum requested the FBI conduct the necessary damage assessment of the unauthorized disclosure of classified information originated within the Bureau and that the FBI request National Security Agency and Central Intelligence Agency to do the same with regard to their originated information. The enclosed latter memorandum informed the Deputy Assistant Attorney General, Office of Legal Counsel, that the Criminal Division had concluded that information provided to that division does not indicate a violation of Federal statutes.

19. By memorandum dated January 23, 1979, the Deputy Assistant Attorney General, Office of Legal Counsel, with a copy to the Director, FBI, stated that while she concurred in the conclusion of the Criminal Division that prosecution was not warranted, she desired to correct some misunderstandings contained in the Criminal Division's memorandum. She advised that the disclosure, which primarily raised the question of an espionage law violation, involved a document which indicated on its face that it contained communications intelligence information and which was read, in part, to the grand jury. She further advised attorneys for the Government should have been on notice that the

Surreptitious Entry Investigation

Documents involved contained classified information based on a memorandum dated October 20, 1978, from the FBI Security Officer. Further, she advised on February 10, 1978, the FBI had notified the new prosecution team that documents in their possession did, in fact, contain classified information. Thus, the Deputy Assistant Attorney General, Office of Legal Counsel, questioned the conclusion the attorneys had insufficient notice of the classification of the material in their possession.

APPROVED: *WJK*

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. *JM* _____
Plan. & Insp. *HW* _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

UNITED STATES GOVERNMENT
Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. O'Brien *fb*

DATE: 4/13/79

FROM : *U.L.* U. L. Tierney

SUBJECT: UNITED STATES vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

Tierney

PURPOSE: To record second motion to dismiss indictment and government motion in opposition, and to comment on portions of both.

DETAILS: We have received from the Department complete sets of the Gettings (Felt) motion to dismiss and the government opposition to dismissal which is in form of motion to modify the discovery order. We have previously been furnished the preliminary letter from Gettings on the same topic, and a package of a letter and a motion to dismiss by Kennelly (Miller).

(Handwritten circle)

The documents which Gettings states we could not locate are a sampling from a list of 989 items Gettings requested following the review by the retired FBI Agents ("investigators"). His letters describe what he wants based on the notes of the investigators and the descriptions were inadequate or inaccurate. His office was asked to give us access to the original notes of the investigators since we can better interpret their document descriptions, but they did not do so. Kennelly encountered the same problem, but gave us the notes.

Of the 989 items requested by Gettings, he did not receive 107. (65 could not be located based on his description, 31 were foreign source material, eight had been listed erroneously on an inventory and were outside the scope of discovery, one was outside the time frame ordered by the court, one was withheld for source protection, and one was NSA information.)

REC-112

62-118045-166
MAY 16 1979

- 1 - Mr. Adams
- 1 - Mr. McDermott, Encl. (2) b6
- 1 - [Redacted] Encl. (2) b7C
- 1 - Mr. O'Brien
- 1 - Mr. Daly

(CONTINUED-OVER)

JLT:mmb
(8) mmb

(Handwritten signature)
4-JLT



58 MAY 16 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-6062

Memorandum from Mr. Tierney to Mr. O'Brien
Re: W. MARK FELT

The government motion contends "substantial compliance" and restates its position that the documents are not material to any issue. The argued immateriality in the motion is made clearer in the Memorandum of Law which asks the court to reconsider the applicability of the Barker-Martinez defense.

We are exploring two statements in the government memorandum:

1. No more than tacit approval in the past (p 12.). The Brownell memorandum, effective from 1954 until recinded by Katzenbach, is the clearest contradiction.
2. No past practice of warrantless searches in fugitive cases (pp 16-17). There were four techs authorized by Kennedy to apprehend

[redacted]
and we believe we may be able to document bag jobs and/or mikes used on the "CP Underground" which was a fugitive investigation.

b6
b7C

We advised Frank Martin of both of the above on 4/12/79, and will confirm in writing if appropriate.

RECOMMENDATION: None. For information.

JK
Letter 5/18/79
Paul V. Daly to
Francis J. Martin
same caption

JK
APPROVED: *W. M. Tierney*
Director _____
Assoc. Dir. _____
Dep. AD Adm. *AMS* _____
Dep. AD Inv. _____
Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. *FELT* _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~CONFIDENTIAL~~

4/25/79

~~CONFIDENTIAL MATERIAL ATTACHED~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-02-2009

Paul V. Daly
Federal Bureau of Investigation
U. S. vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

FEDERAL GOVERNMENT

Francis J. Martin
Department of Justice

Per your request, we have attempted to locate the five documents described as originating with the Department and listed on page 20 of the MEMORANDUM IN SUPPORT OF MOTION TO DISMISS INDICTMENT FOR FAILURE TO COMPLY WITH COURT ORDERED DISCOVERY filed on behalf of Mr. Felt.

1. Letter from Assistant Attorney General (AAG), Criminal Division (CD) to the Acting Director, 6/1/73 is attached. This document, and the documents sought in #3 and #4, below, were related to a disclosure package prepared by us in which selected documents, rather than entire files, were processed.

2. The referenced letter in document 106 is erroneously assumed to have been a letter from the Department. The identity of the agency which originated the reference was redacted before document 106 was turned over to the defense.

3. [Redacted]

4. Letter from AAG, ISD, 1/18/72, is attached.

5. Letter from AAG, CD, 5/3/73 was included in our package #66 (your number 228 (N) 6). A copy of the document as it was disclosed to the defense is attached.

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - [Redacted] b6
- 1 - Mr. Bailey b7C
- 1 - Mr. Daly
- 1 - Mr. Tierney

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

JLT:bas (9)

ENCLOSURE
ENCLOSURE ATTACHED

~~CONFIDENTIAL MATERIAL ATTACHED~~

~~CONFIDENTIAL~~

Greenberg/Gray-6064

50
Frank Martin was advised this document was included in the material reviewed 8/11/78 by defense (#1)

CA

b1

REC-112

62-118045-167

Hand delivered 4/26/79

FBI
MAY 16 1979

RECEIVED

(SEE NOTE PAGE TWO)

58 MAY 1 6 1979

Memorandum from Mr. Daly to Mr. Martin
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

Mr. Gettings requested 989 listed items after materials were reviewed by the retired Agents. His descriptions of documents were based on the retired Agents' handwritten notes and were inadequate or inaccurate. We were in regular telephonic contact with his office in our efforts to secure better information to locate the requested documents. His office was asked to give us access to the original notes of the retired Agents, since we can better interpret their document descriptions, but they did not do so. Mr. Kennelly encountered the same problem, but gave us the notes.

Of the 989 items requested, Mr. Gettings did not receive 107 (65 could not be located based on his descriptions, 31 were foreign source material, eight had been listed erroneously on an inventory and were outside the scope of discovery, two were dated 1965 and 1975 and were outside the time frame ordered by the court, and one was withheld for source protection).

In reviewing again those documents withheld as foreign source material, we have located one out of the 31 requested documents which was inadvertently withheld in its entirety. The majority of the document is releasable and a copy is attached. It is a teletype from SAC, Los Angeles to FBI Headquarters, 6/8/72, and was #651 on Mr. Gettings' list. The document was processed on 2/8/78 during the first week of work on discovery in U.S. vs. John J. Kearney. We are confident this was an isolated instance. The remaining 30 out of the 31 requested documents must be withheld in their entirety.

Enclosures (5)

NOTE: Mr. Martin requested 4/19/79 that we attempt to locate the five documents sought by the defense. He wanted to verify the decision not to conduct further searching and to get a feel for the material to which the defense has not had access.

We cannot, nor have we been requested to recheck our efforts to locate all documents sought. The original effort involved literally weeks of concentrated effort. The one document now identified which should have been furnished to the retired Agents is being forwarded for disclosure by the Department.

Greenberg/Gray-6065

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director <i>WAW/AD</i>	Crim. Inv. _____	Plan. & Insp. _____
Asst. Dir. _____	Ident. _____	Rec. Mgnt. <i>WAW/AD</i> 2
Asst. AD Adm. <i>om</i>	Intell. _____	Tech. Servs. _____
Asst. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs
(Envelope only)

Greenberg/Gray-6066

62-118615-167

651

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

~~Confidential~~

TELETYPE

NR 029 LA CODE

8:10 PM URGENT 6-8-72 PEN

ACTING DIRECTOR

ATTN: DOMESTIC INTELLIGENCE DIVISION

CHICAGO

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 02-28-2009

CLEVELAND

SEATTLE

FROM LOS ANGELES (176-189B) 3P

JUNE

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP(S) OF Classification
DATE 11/7/77

Mr. Felt	
Mr. Mohr	
Mr. Rosen	
Mr. Bates	
Mr. Bishop	
Mr. Callahan	
Mr. Campbell	
Mr. Casper	
Mr. Cleveland	
Mr. Conrad	
Mr. Dalbey	
Mr. Marshall	
Mr. Miller, E.S.	
Mr. Ponder	
Mr. Soyars	
Mr. Walters	
Tele. Room	
Mr. Kinley	
Mr. Armstrong	
Ms. Herwig	
Mrs. Neenan	

OFFICE OF ORIGIN

WEATHFUG, OO: CHICAGO, LOS ANGELES FILE ONE SEVEN SIX

DASH ONE EIGHT NINE B; [REDACTED], ALSO KNOWN AS

SECURITY MATTER
DASH SM DASH REVOLUTIONARY ACTIVITIES (EXTREMIST), OO:

b6
b7C

LOS ANGELES, LOS ANGELES FILE ONE ZERO ZERO DASH SEVEN EIGHT

NINE ONE FIVE.

Classified by 2909
Exempt from GDS, Category 2
Date of Declassification Indefinite

RE BUREAU AIRTEL DASH MAY TWENTY THREE LAST AND SEATTLE

TELETYPE DATED JUNE SEVEN LAST ENTITLED, "WEATHFUG: [REDACTED]"

b6
b7C

[REDACTED] ALSO KNOWN AS DASH FUGITIVE; [REDACTED]

[REDACTED] ALSO KNOWN AS DASH FUGITIVE, ETC".

REFERENCED TELETYPE INDICATED

[REDACTED] IN CONTACT

[REDACTED] JUNE SIX LAST. [REDACTED] INDICATED WEATHERMAN 17 JUN 14 1972

ORGANIZATION PLANNING CONFERENCE IN U.S. SOON AND INDICATED

[REDACTED] SHOULD CONTINUE STUDIES TO QUALIFY FOR WEATHERMAN

ORGANIZATION THROUGH SUBJECT. [REDACTED] ALSO STATED HE HAS

END PAGE ONE XEROX

6 JUN 30 1972

~~Confidential~~

UNRECORDED COPY FILED IN 116-1594

2663

new file

5-7-72

June 176-1594

221

PAGE TWO

LA 176-189 B

(U) BEEN IN TELEPHONIC CONTACT WITH SUBJECT RECENTLY AND INDICATED HE WOULD CONTINUE CONTACTS WITH [REDACTED] IN FUTURE AND WOULD FOLLOW SOURCE'S DEVELOPMENT [REDACTED]

b6
b7C

REFER

[REDACTED]

AS PREVIOUSLY POINTED OUT, SUBJECT RESIDES IN AREA ALMOST COMPLETELY INACCESSIBLE TO FISURS DUE TO FACT RESIDENCE ON DEAD END STREET, COMPLETELY SURROUNDED BY SYMPATHETIC COMMUNES, SOME MEMBERS OF WHICH KNOWN TO BE IN FREQUENT CONTACT WITH SUBJECT. PAST ATTEMPTS AT FISURS IN THIS AREA FROM STRATEGIC LOCATIONS SOME DISTANCE FROM RESIDNECE TOTALLY INEFFECTIVE, DUE TO VOLUMINOUS ACTIVITY OF THIS AREA.

ATTEMPTS TO LOCATE PLANT UNSUCCESSFUL EVEN THOUGH REALTOR SOURCE MAKING CONSTANT DISCREET INQUIRIES THIS AREA. EFFORTS CONTINUING REGARDING PLANT.

CONFIDENTIAL [REDACTED] SOURCE HAS FURNISHED VERY LITTLE INFORMATION OF VALUE TO DATE REGARDING SUBJECT'S DAILY ACTIVITIES.

END PAGE TWO

~~CONFIDENTIAL~~

PAGE THREE

LA 176-189 B

ABOVE LOS ANGELES SOURCES HAVE FURNISHED ALMOST ALL AVAILABLE INFORMATION REGARDING SUBJECT TO DATE, HOWEVER, LITTLE OF THIS INFORMATION RELATES TO SUBJECT'S DAILY ACTIVITIES. THESE SOURCES NOT PRESENTLY AVAILABLE FOR COVERAGE OF SUBJECT.

[REDACTED]

DUPLICATE

[REDACTED], SANTA BARBARA, ADVISED THAT SUBJECT STILL SUBSCRIBES TO TELEPHONE NUMBER [REDACTED] UNDER NAME [REDACTED] NO INDICATION OF ANY CHANGE REGARDING THIS TELEPHONE SERVICE.

b6
b7C

LOS ANGELES STRONGLY RECOMMENDS BUREAU AUTHORIZE IMMEDIATE INSTALLATION TESUR AS IT IS FELT INFORMATION OBTAINED COULD LOGICALLY LEAD TO LOCATION OF WEATHFUG SUBJECTS AND ACTIVITIES IN U.S. [REDACTED] ALSO, IT COULD LOGICALLY LEAD TO SPECIFIC LOCATION OF WEATHERMAN CONFERENCE PLANNED THIS SUMMER IN U.S. AS REPORTED BY LOS ANGELES SOURCES [REDACTED]

CONFIDENTIAL

ETREMIST DASH ARMED AND DANGEROUS.

END.

EJF FBI WASH DC

~~CONFIDENTIAL~~

CC-ME. WELFR

UNITED STATES GOVERNMENT

Memorandum

TO : Joseph Tierney ^{JLT}
Federal Bureau of Investigation

FROM : Francis J. Martin ^{FJM}
Criminal Division

SUBJECT: United States v. Felt
W. MARK

DATE: April 23, 1979
FJM:ams

FEDERAL GOVERNMENT

pha

Please process the attached request from Frank Dunham.

@

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

REC-112

62-118045-168

22 MAY 8 1979

2- **ENCLOSURE**
ENCLOSURE ATTACHED

not in FOIA
4-JLT

b6
b7c



58 MAY 16 1979

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6078



62-118045-168

ENCLOSURE

DAILY LOG
DIRECTOR'S OFFICE
FEDERAL BUREAU OF INVESTIGATION

FILE 1072
DATE MAY 10, 1965

Time	Caller	VIA	Action	Initials
9 ³⁹	SA [REDACTED]	PERS	SAW DIRECTOR	ORW
	BUREAU PHOTOGRAPHER			
9 ⁴⁹	[REDACTED]	PERS	SAW DIRECTOR	ORW
	his parents			
	[REDACTED]			
	BUREAU PHOTOGRAPHER			
9 ⁵⁴	SA [REDACTED]	PERS	SAW DIRECTOR	ORW
	[REDACTED]			
	INSP. PETER SZOWSKI			
	BUREAU PHOTOGRAPHER			
10 ³⁰	MR. DELOACH	TELE	SPOKE TO DIRECTOR	ORW
10 ⁴⁰	Asst. LEGAT. [REDACTED]	PERS	SAW DIRECTOR	ORW
10 ⁴²	[REDACTED]	TELE	SPOKE TO DIRECTOR	ORW
3 ³⁰	(HOLLYWOOD, CALIFORNIA)	TELE	DIRECTOR OUT-RPD TO INSP. WICK	ORW
4 ¹²	SAC J.F. SANTOIANA, JR.	PERS	SAW DIRECTOR	ORW
4 ³³	(SCARSDALE, NEW YORK)	TELE	DIRECTOR OUT- REF TO SA [REDACTED]	ORW
X 5 ⁰⁸	ASAC J.F. MORLEY	PERS	SAW DIRECTOR	ORW
2 ⁰⁵	[REDACTED]	TELE	LEFT MESSAGE	ORW

(CONTINUED ON NEXT PAGE)

DIRECTOR:	IN - 8 ⁵⁵	IN - 1 ²⁸	IN -	IN -	IN -
	OUT - 12 ²⁵	OUT - 6 ⁰²	OUT -	OUT -	OUT -

b6
b7c

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*

SUITE 550
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

April 16, 1979

*MEMBER VIRGINIA BAR ONLY

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

Dear Frank:

Enclosed please find a xerox copy of a set of notes we found while going through the discovery material you have furnished us. We would appreciate it if you could tell us the discovery number assigned to these notes as well as the author of the notes.

Thank you for your assistance.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER



Frank W. Dunham, Jr.

FWD:kw
Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

<u>Name</u>	<u>Ext.</u>	<u>Room</u>	<u>Day</u>	<u>Time</u>
Director +	444	5633	5/10	5:10
Tolson ++	666	5744	5/11	11:15
Belmont	353	5736	5/11	3:30
Mohr	333	5525	5/11	4:30
Callahan	315	5515	5/11	4:30
Casper +++	494	5234	5/13	9:15
Conrad	777	7621	5/10	3:00
DeLoach	691	5640	5/11	10:10
Evans	2061	1742		
Gale	484	5256	5/11	2:30
Rosen	571	5706		
Sullivan ++	2121	807 RB	5/11	11:15
Tavel	2331	7746	5/10	3:30
Trotter +	2233	4130 IB		
WELT			5/11	11:00

I am about I am present.

++ = Joe Ladd & Gregory Turner.

+ = Hot anniversary.

++ = Level ok?

*+++ = consider IS period to replace
 address set-up of tunnel?*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 02-28-2009 BY 65179 dmh/baw/sbs

5/10
Shred.
10³⁰

57-70 = N.P. of Ben and others.

Burgess
10³⁰

Discussion is current of picture.

Beard
11¹⁰

Primary Source.
N.P.P.R.
F.A.G. - C. J. J. J.
Racial Intelligence
Racial Matters.

Brown
11⁴⁵

Depart from
Dome see Lesson
J. J. J. J.

F.P.C. matters.

Bronxian
11-15

1. Print - conduct de sub
general

Sizos
11-15

6. clean all papers & books.
use for improved reference or
learned life in general

7. no books or mail cases.

Guerrero
11-15

89- no you
Get prevention by use!

5/14
900
2pp

on 1/2 annual let.
1) make PL over 1 yr
continuation of the rules
& not separate write-up
on each.

Show when accepted to
resume 7.5% or just
of keeping as PL.

2) on all write-up
#6 of annual summary.
Just show every 5
years = work show
all of the info to
gone. This is 1/2 annual rule.

Monthly letters.

- 1) make sure figures
are accurate
- 2) every 5th state.

All in ADP now.

Let's are not paid
out to some base.

5/11/14
Eddy
9/15

Goodman
10/10

Look for assets
when other people
dispute or Ben info

Frank

UFAP

Aug 11/15

Bureau
2/10

Expenses = clerk



= blown cover

where = avoided

b6
b7C

171 ✓
Belmont
3 30

Special Insect Techniques.

1. Cull traps = many species
eaten.
more retained than others.
2. Mail covers = O.O. retaining
them.
3. Trap covers = off road
only 1 on = phone
4. Bag jars = fine OK.
5. Microphone = fine on
red A.G. opposite.
Must be secure. If
on after found (Looney's)
may be off.
6. Low traps = same as before
when all continue trees
fine A.G.

Most give A.G. 6 no discontinuation
trees when no effect.
re # 5 + # 6

Improvements are better
than those.

Don't be dependent

Business ended my views
of the 12. stat view
& I had him.

May be continued in
July.

4/27/79

FEDERAL GOVERNMENT

Paul V. Daly
Federal Bureau of Investigation
U.S. vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-28-2009 BY 65179 dmh/baw/sbs

Francis J. Martin
Department of Justice

Reference is made to your letter of 4/23/79 forwarding a letter to you from Frank W. Dunham, Jr. and its enclosures.

We do not recognize the material sent to you by Mr. Dunham as material processed by this office during discovery. From its format and content, the material appears to be a schedule of appointments and notes kept by an FBI official who was visiting the Director and his staff over a four day period. From the Assistant Directors listed, the year was probably 1965.

(Handwritten initials)

The visitor is shown as having an appointment with the Director at 5:10 p.m. on May 10th.

The daily log for the Director's office on May 10, 1965 shows ASAC J. F. Morley visited the Director at 5:08 p.m.

Mr. Dunham's letter and its enclosures are returned herewith.

REC-112 62-118045-169

If Mr. Dunham's enclosures are to be viewed as government documents, there are two sensitive items mentioned in them. The notes after the entry "Sullivan 2:00" appear to mention the name (which we cannot read) of a person who may have been an FBI informant or source. The author of the notes would be able to identify the name. The identity of the person mentioned should be protected accordingly by the defense. In addition, the notes after "Branigan 11:15" are sensitive only because of the mention of a specific foreign country.

MAY 8 1979

Although we have concluded it is inappropriate to classify or to redact information in Mr. Dunham's enclosures, please relay our concerns to him.

62-118045

Enclosure

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - [Redacted]
- 1 - Mr. Bailey
- 1 - Mr. Ryan
- 1 - Mr. Daly
- 1 - Mr. Tierney

APPROVED:

Director
Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.

Adm. Serv.
Crim. Inv.
Ident.
Intell.
Laboratory

Legal Coun.
Plan. & Insp.
Rec. Mgnt.
Tech. Servs.
Training
Public Affs. Off.

Hand delivered 5/1/79

(SEE NOTE PAGE TWO)

Greenberg/Gray-6090

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

58 MAY 21 1979 JLF:bas (10)

Memorandum to Mr. Martin from Mr. Daly
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

NOTE: Martin forwarded the original of Dunham's letter and its enclosures to us and we are returning both to him.

The contents of the notes shed no new light on the prosecution. The notes on "Special Invest Techniques" recite the situation in 1965 as we understand it.

John F. Morley was ASAC Denver from December, 1963 to July, 1973, was later an SAC in New York, and is now retired. Because of his assignment to New York, he is a logical interviewee of defense counsel. It is therefore likely that Dunham obtained this material from Morley and not from the Bureau or the Department.

Indices reviewed for [redacted] and variations [redacted] and no [redacted] references were located.

b6
b7C
b2

SA

5/8/79

Paul V. Daly
Federal Bureau of Investigation

FEDERAL GOVERNMENT

U.S. vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

Francis J. Martin
Department of Justice

Per your request of April 12, 1979 the following comments are submitted. They pertain to factual assertions in the MEMORANDUM OF LAW IN SUPPORT OF THE GOVERNMENT'S MOTION TO MODIFY THIS COURT'S DISCOVERY ORDER. Both assertions are in that portion of the memorandum dealing with

[Redacted]

The first assertion is to the effect that [Redacted]

[Redacted]

[Redacted]

OTHER Filed under seal

In the following paragraph [Redacted]

The second assertion is to the effect that [Redacted]

[Redacted]

REC-112 62-118643-110

MAY 16 1979

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Attached is an inventory of documents we believe will illustrate the questionable validity of the above two assertions. Copies of each document mentioned are either also attached, or are already in your possession (in which

- | | |
|-------------------|-----------------|
| 1 - Mr. Adams | 1 - Mr. O'Brien |
| 1 - Mr. McDermott | 1 - Mr. Daly |
| 1 - [Redacted] | 1 - Mr. Tierney |

Revised by Director
Hand delivered 5/8/79

MD b6
b7C

SEE NOTE PAGE TWO

58 MAY 15 1979

CONFIDENTIAL MATERIAL ATTACHED
(stamped on original)

Memorandum from Mr. Daly to Mr. Martin
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

case a reference to our disclosure package number is given). Included in the inventory is a brief parenthetical comment on the significance of each document.

We have conducted little or no additional research. We have included only those documents known to us as apparently contradictory of the two assertions when we received a copy of your MEMORANDUM OF LAW, mentioned above. We advised you in general terms of the nature of the contradictory documents at that time.

Although records of past warrantless searches are uniquely incomplete, we know of no reason not to assume that further research would uncover similar, additional documentation.

Not all of the contradictory documents furnished during discovery are listed and we refer you to our discovery packages on the issues of notice to the Department and to the White House for additional details.

Please note the documents enclosed herewith are solely for your office's use, and have not been redacted for discovery purposes. Note also that documents which originated with the Department have not been reviewed by us for possible classification since only the Department has authority to do so.

Enclosures 53

NOTE: Memorandum 4/13/79 J. L. Tierney to Mr. O'Brien under the above caption outlined the two questionable assertions. It noted we had advised Mr. Martin of this and would confirm in writing if appropriate, to which the Director appended "yes." Mr. Martin had asked for the contradictory documentation on 4/12/79. The material is, therefore, being furnished by instant memorandum.

Documents 1 to 20 were taken from the Exhibits to the memorandum dated 7/12/66 from R. W. Smith to Mr. W. C. Sullivan captioned MICROPHONES; POLICY BRIEF.

Documents 21 to 33 were taken from "SAC FOLDER (A)" which is part of those materials seized in 1976 from the office of ADIC, New York in the early stages of the Department's investigation.

Greenberg/Gray-6165

Memorandum from Mr. Daly to Mr. Martin
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

Documents 34 to 42 were taken from the June file of 100-36670, serials 62-64, 67-71, and 73.

Documents 43 to 46 were taken from the June file of 88-19435, serial 100 (original, not yellow), 304, 325 and 330.

Documents listed as 47 to 52 are selected samples from materials already furnished to the Department for the defense during discovery.

Except possibly [redacted] materials, all of this documentation has been reviewed by the Department before, including 88-19435 which was specifically exhibited to Mr. Martin while he was drafting this memorandum of law.

b6
b7C

AVD
SA

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. <i>MD</i> _____	Ident. _____	Rec. Mgnt. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

~~CONFIDENTIAL~~

INVENTORY OF DOCUMENTS

1. Memorandum from A. H. Belmont to D. M. Ladd, 10/3/51, captioned, "CP, USA - BRIEF; PROSECUTION OF ADDITIONAL COMMUNIST FUNCTIONARIES UNDER THE SMITH ACT, INTERNAL SECURITY - C, SMITH ACT OF 1940" (concern expressed over warrantless searches, action to be taken, policy development, and values considered). (U)
2. Letter from the Director to the Attorney General (AG), 10/6/51, captioned, "TECHNICAL COVERAGE" and the AG's response 2/26/52, captioned, "Wiretapping Surveillances" (Departmental guidance and FBI reaction). (U)
3. Memorandum from L. V. Boardman to the Director, 4/1/54, captioned, "MICROPHONE SURVEILLANCES" (concerning a conference with Deputy Attorney General (DAG) William P. Rogers and a proposed memorandum from the AG to the Director). (U)
4. Memorandum from L. B. Nichols to Mr. Tolson captioned, "TECHNICAL SURVEILLANCE" (rationale of the DAG on the contemplated memorandum and the reactions of Messrs. Tolson and Hoover). (U)
5. Letter from the AG to the Director, 5/20/54, captioned, "MICROPHONE SURVEILLANCE" (often referred to as "The Brownell Memorandum", particularly the phraseology "...internal security and the national safety..."). (U)
6. Letter from the Director to DAG Byron R. White, 5/4/61, captioned, "TECHNICAL AND MICROPHONE SURVEILLANCES" (discussion of the FBI's use of the Brownell Memorandum in the internal security and criminal fields). (U)
7. Memorandum from C. A. Evans to Mr. Belmont, 7/7/61, captioned, "ORGANIZED CRIME AND RACKETEERING SECTION OF THE DEPARTMENT" (FBI's response to the AG's observations on the use of "electronic devices"). (U)
8. Memorandum from C. A. Evans to Mr. Belmont, 8/17/61, captioned, "MICROPHONE SURVEILLANCES" and the attached document signed by the AG (authorization to use leased telephone lines for microphones in security and major criminal cases). (U)
9. Memoranda from C. A. Evans to Mr. Belmont, 8/2/61 and 3/13/62, captioned, "ALLEGED SOURCE IN THE DEPARTMENT OF JAMES HOFFA, TEAMSTER UNION PRESIDENT" (and a substantially similar caption) (use of a microphone in a criminal/administrative inquiry at the AG's request). (U)

Greenberg/Gray-6167

ENCLOSURE

CLASS. & EXT. BY 9803 RDD/DB
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW - 5/4/99

~~CONFIDENTIAL~~

62-118045-170

~~CONFIDENTIAL~~

10. Affidavit of SAC Marlin W. Johnson, 6/23/66 (comments of the AG on 3/19/63 on the legality of the warrantless microphones in general and his desire not to know the details of the installation of a particular microphone). (U)

11. Affidavit of ADIC John F. Malone in June, 1966 (comments of the AG on 11/4/63 concerning the adequacy of microphone equipment). (U)

12. Memorandum from C. A. Evans to Mr. Parsons, 5/24/61, captioned, "WIRETAPPING LEGISLATION" with a copy of a letter, 5/25/61, from Assistant Attorney General (AAG) Herbert J. Miller, Jr., to Senator Sam J. Ervin, Jr. (advising him of the number of microphones then in use in internal security and organized crime intelligence investigations). (U)

(U) 13. Letter from Andrew F. Oehmann to the Director, 5/7/62, captioned, "Communist Party, USA; Internal Security Act of 1950" (AG's approval of the resumption of wiretapping and microphone surveillances in that case). (X)

14. Memorandum from the Director to Mr. Tolson, et. al., 7/16/64, uncaptioned (Director advising the President of the use of a microphone against the Klan during the investigation of a racially motivated murder). (U)

(C) 15. Memoranda, 5/17/65, from the Director to Mr. Tolson, et. al., uncaptioned, and from C. D. DeLoach to Mr. Mohr, captioned. [redacted] b1 (X)

16. MEMORANDUM FOR THE ATTORNEY GENERAL, 3/30/65, from the Director (procedure for AG approval of microphone installation, in effect, rescinds the Brownell Memorandum). (U)

17. Memorandum from A. H. Belmont to Mr. Tolson, 5/11/65, captioned, "TECHNICAL AND MICROPHONE SURVEILLANCES" (a discussion between the Director and the AG of the considerations of microphone surveillances, both security and criminal). (U)

18. Memorandum from the Director to Mr. Tolson, et. al., 7/14/65, uncaptioned (discontinuance but not removal of microphones as ordered by the AG while the AG testified before Senator Long's Committee). (U)

19. Letter from the AG to the Director, 9/27/65, captioned, "Special Investigative Techniques" (statement of policy on wire-taps and microphones, including possible future use in criminal investigations). (U)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- (U) 20. Memorandum from J. H. Gale to Mr. Belmont, 10/29/65, captioned, "UNITED STATES SENATE COMMITTEE..." (summary of authority and policy in electronic surveillances). (U)
- (U) 21. Memorandum to SAC from SA [redacted] 7/19/51, captioned, "DR. JAMES EDWARD JACKSON, JR., was; FUGITIVE - I.O. 2437, IS-C, ISA of 1950" (survey of fugitive's apartment). (S)
- (U) 22. Memorandum to SAC from SA [redacted] 7/19/51, captioned, "ROBERT GEORGE THOMPSON, was. - Fug. I.O. 2432, IS-C" (survey of fugitive's apartment). (S)
- (U) 23. Letter from SAC, Albany, to the Director, 1/4/52, captioned, "COMMUNIST PARTY USA (CPUSA), COMMUNIST FUGITIVES (COMFUG), IS-C" (film submitted for development, possibly related to [redacted] below). b6 b7C (S)
- (U) 24. Letter from SAC, Albany, to the Director, 1/5/62, captioned, "CPUSA, COMFUG, IS-C (anonymous source, related to [redacted] below). (S)
- (U) 25. Letter from SAC, New York, to the Director, 1/15/52, captioned, "CPUSA, COMFUG, IS-C" (anonymous source, related to [redacted] below). (S)
- (U) 26. Report of FBI Laboratory, 1/29/52, captioned, "CPUSA, COMFUG, IS-C" (handwriting comparison re [redacted] below, requested by SAC, New York, on 1/15/52, above). (S)
- (U) 27. Informal memorandum (to SAC) from SA [redacted] [redacted] 1/28/52 (search of luggage and hotel room re [redacted] below). (S)
- (U) 28. Informal memorandum (to SAC) from SA(A) [redacted] [redacted] 3/11/52, captioned, [redacted] was. IS-C" (leads from highly confidential and reliable source). (S)
- (U) 29. Memorandum from SA [redacted] to SAC, 7/22/53, captioned, [redacted] WAS, Harboring - Conspiracy, IS-C" (materials from highly confidential and reliable source). (S)
- (U) 30. Memorandum from SA [redacted] to SAC, 11/27/53, captioned, "FRED MORRIS FINE, was., FUGITIVE - I.O. 2439, IS-C" (material from highly confidential source having access to an apartment). (S)
- (U) 31. Memorandum from SA [redacted] to SAC, 12/7/53, captioned, [redacted] was., SM-C, HARBORING; CONSPIRACY" (privilege of accessible premises). (S)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

b6
b7C

- (U) 32. Letter from Director to SAC, Newark, 8/30/54, captioned, "[redacted] was, IS-C, Smith Act of 1940" (consideration of anonymous source is directed to, among other things, locate fugitive). (S)
- (U) 33. Letter from SAC, Newark, to Director, 9/20/54, captioned under [redacted] caption, as above (material from anonymous sources, contemplated new sources). (S)
- (U) 34. New York radiogram to the Director, 11/15/54, captioned, "JUNE. [redacted] WA., IS-C" (citing information from bag jobs indicating contact by [redacted] with CPUSA Underground by telephone, and requesting authority for survey of feasibility to wiretap telephone of landlord, used by [redacted]). (S)
- (U) 35. Headquarters teletype to New York, 11/16/54, captioned, [redacted] (authority for survey, Note on Yellow clarifies bag jobs). (S)
- (U) 36. Headquarters airtel to New York, 12/2/54, captioned, [redacted] (follow-up on survey authorization, proposed wiretap would assist continuing bag jobs). (S)
- (U) 37. New York letter to the Director, 12/3/54, under [redacted] caption (form FD-142, justification for wiretap). (S)
38. Memorandum L. V. Boardman to the Director, 12/9/54, under [redacted] caption (approval by Director). (U)
39. MEMORANDUM FOR THE ATTORNEY GENERAL, 12/10/54, under [redacted] caption with initials of AG, 12/13/54. (U)
- (U) 40. New York airtel to the Director, 12/23/54, under [redacted] caption (wiretap installed 12/23/54). (S)
- (U) 41. New York airtel to the Director, 12/27/54, under [redacted] caption (corrected symbol number). (S)
- (U) 42. New York airtel to the Director, 3/7/55, under [redacted] caption (wiretap discontinued). (S)
43. MEMORANDUM FOR THE ATTORNEY GENERAL, 9/7/61, captioned, "[redacted] bearing the AG's signature on the same date (authorization for warrantless wiretaps in connection with fugitive investigation). (U)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

b6
b7C

44. Memorandum from [redacted] to Mr. Evans, 10/16/61, under dual caption, "ROBERT FRANKLIN WILLIAMS, aka - FUG., I.O. 3506, W.F. 290, UFAP - KIDNAPPING and WILLIE MAE MALLORY, aka - FUG., I.O. 3511, UFAP - KIDNAPPING" (reporting apprehension of Mallory as a result of wiretap and discontinuance of that wiretap).

(U)

45. New York airtel to the Director, 10/30/61, under the [redacted] caption (recommends discontinuance, informal note 10/31/61 by Special Investigative Division (SID) agrees).

(U)

46. Charlotte airtel to the Director, 10/31/61, under the [redacted] caption (recommends discontinuance of last wiretap, SID note 11/1/61 agrees).

(U)

47. Documents furnished in discovery from the case captioned "[redacted]" (45 documents in package #15, anonymous source and similar problems analyzed with Department only for tainting of evidence).

(U)

~~(C)~~

48. Memorandum from AAG James M. McInerney to the Director, 8/16/51, captioned, "[redacted] was., IS-R" (inquiry by Department for existence of inadmissible evidence because of use of warrantless techniques, document #4 in package #12 delivered 6/15/78; documents 1 through 9 illustrate full disclosure to Department).

(U)

~~(C)~~

49. New York airtels to the Director, 8/9/57, captioned, "[redacted] wa, ESP-R" and 8/13/57, captioned, "UNSUB, was., [redacted] ET AL, ESP-R" ("informal look" by FBI at the direction of AAG Tompkins in the ABEL case; documents 11 and 12 in package #12, above).

(U)

~~(C)~~

50. Director letter to AG, 11/28/66, uncaptioned (objecting to unwillingness by Department as perceived by Mr. Hoover to share responsibility, unwillingness attributed to personnel turnover in Department; document 17, package #12, above).

(U)

51. MEMORANDUM FOR THE ATTORNEY GENERAL, 2/27/68, captioned "LEIBEL BERGMAN, aka Henry Cohen, IS-CH" (for AG approval 3/7/68 and comment re potential prosecution, document 30, package #12, above).

(U)

~~(C)~~

52. Memorandum from William D. Ruckelshaus to Clarence M. Kelley, 7/20/73, captioned, "Substantive Issues Regarding the Future of the FBI" (suggests issues to be examined by the new Director, including "investigative techniques...from clearly legal to clearly illegal...;" furnished in package delivered 5/16/78).

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. (U) _____
Rec. Mgnt. *WCB/BB* _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~CONFIDENTIAL~~

OPTIONAL
MAY 1962
GSA GEN.

Routing Slip
0-7 (Rev. 5-13-77)

(Copies to Office: Checked)

UNIT

M

Dir

Lea

STU

BLA

MIC

SM

TO: SAC:

- Albany
- Albuquerque
- Alexandria
- Anchorage
- Atlanta
- Baltimore
- Birmingham
- Boston
- Buffalo
- Butte
- Charlotte
- Chicago
- Cincinnati
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit
- El Paso
- Honolulu
- Houston
- Indianapolis
- Jackson
- Jacksonville
- Kansas City
- Knoxville
- Las Vegas
- Little Rock
- Los Angeles
- Louisville
- Memphis
- Miami
- Milwaukee
- Minneapolis
- Mobile
- Newark
- New Haven
- New Orleans
- New York City
- Norfolk
- Oklahoma City
- Omaha
- Philadelphia
- Phoenix
- Pittsburgh
- Portland
- St. Louis
- Salt Lake City
- San Antonio
- San Diego
- San Francisco
- San Juan
- Savannah
- Seattle
- Springfield
- Tampa
- Washington Field
- Quantico

TO LEGAT:

- Bern
- Bonn
- Buenos Aires
- Caracas
- Hong Kong
- London
- Madrid
- Manila
- Mexico City
- Ottawa
- Paris
- Rome
- Tokyo

2629 3/22/77
2.4.2 1.3
10/22/99

~~CONFIDENTIAL~~

105-765706-20

below, be
Descripti

SAC, New Rochelle (MRA) ASAC, Rapid City (*Mini*) 3/23/79 (Date)

RE: Legat, Tokyo cable 3/22/77
"U.S. vs. L. PATRICK GRAY III, ET AL."
DISCOVERY PROCEEDINGS

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-02-2009

- For information optional For appropriate action Surep, by _____
- The enclosed is for your information. If used in a future report, conceal all sources, paraphrase contents.
- Enclosed are corrected pages from report of SA _____ dated _____

Remarks:

Enclosed document for "full study"

[Redacted Box]

by [Redacted Box] as suggested in your cable. 62-118045-
We assume court deadline of 3/30/79 will have passed when you receive this.
No new deadline being set by ~~FOTHR~~ handle with dispatch.
You may contact SA's Paul V. Daly or Joseph L. Tierney by telephone to discuss unclassified aspects if you desire.
Note p. 3 missing from FBIHQ copy.

Left-Foreign
) Influence
(er)

b6
b7C

to Tokyo
enc(6)
trans
K. Jim
-69
retained
with sub.
INITIAL

JUN 12 1979

NOT RECORDED
3 OCT 23 1979
2-15-78
3-15-78
3-15-78
2-Seattle(4)
2-trans, 2-relts

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE

Communic

Remarks:

- Let to T
- w/enclo
- WKK CP
- 12-8-69
- FLM REL
- 2-Seattle
- 2-Bonny (1)
- Enc 5 (1)
- (2 trans) (1)
- 2-SF-Encs (1)
- (2) (trans) (1)
- 3 - Tokyo
- RVP:lw
- (11)

WKK
11-26-69
1029-69
State: P-2 - 601-enc(2) (trans) (2) (trans)

Bureau - Enc. ()

53 JUN 13 1979

CLASSIFIED BY 1482 SJM/Jan
EXEMPT FROM GDS CATEGORY SEVEN
DATE OF DECLASSIFICATION INDEFINITE
OTHERWISE
SECRET
RACIAL INT. S

~~SECRET~~

1 - Mr. J. L. Tierney
1 - [redacted]

b6
b7c

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

May 3, 1979

Director, FBI

DECLASSIFIED BY 65179 drh/baw/sbs
ON 03-02-2009

**UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)**

Reference is made to your memorandum dated January 12, 1979, requesting the FBI conduct a damage assessment of the unauthorized disclosure to a Federal grand jury and defense attorneys in connection with this matter and requesting this Bureau obtain a similar damage assessment from Central Intelligence Agency (CIA) and National Security Agency (NSA). You requested the conclusions of all then be provided to Mr. Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility.

By memoranda (two) dated February 27, 1979, to you and other recipients of this memorandum, I advised copies of damage assessments prepared by NSA and the FBI were being furnished to Mr. D. Jerry Rubino, Security Officer, Department of Justice, for appropriate circulation within the Department. In the interests of security and to avoid unnecessary further proliferation of the sensitive information, only one copy of each damage assessment was forwarded to the Department.

By copy of this memorandum directed to Mr. Rubino, I am furnishing a damage assessment provided by CIA by memorandum dated April 18, 1979. Enclosed with the CIA memorandum is a copy of a letter directed to Mr. Barnet D. Skolnik, Special Counsel, Department of Justice, from the General Counsel, CIA, dated December 6, 1978, and a copy of an undated damage assessment prepared by that agency relating

ORIGINAL FILED IN 62-117792-119

62-118045

62-117792

Upon removal of classified enclosures, NOT RECORDED
this memorandum becomes unclassified 167 JUN 7 1979

DUPLICATE YELLOW

1 - 62-118045
(US v. Gray, et al.)

~~SECRET~~

~~SECRET MATERIAL ATTACHED~~

Derivative Classification by 010249
Review for Declassification on April 16, 1999
Derived from D9c.4

57 JUN 4 1979

Greenberg/Gray-6173

~~SECRET~~

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

to specific portions of grand jury testimony in this matter. I am forwarding this material to Mr. Rubino to be consistent with the manner in which the previous two damage assessments were handled and so he may furnish to appropriate Department officials the material for their review in accordance with Title 28, Code of Federal Regulations, Part 17.

- 1 - Assistant Attorney General
Office of Legal Counsel
- 1 - Assistant Attorney General
Civil Rights Division
- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr., Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino (Enclosures - 3) BY COURIER
Security Officer
Department of Justice

~~SECRET~~

~~TOP SECRET~~
Greenberg/Gray-6174

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

SUIE/
156
157
158
160
161
162

JUN 11 1979
ag
6/11/79
FN

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 98

- Page 8 ~ b1;
- Page 14 ~ OTHER;
- Page 15 ~ OTHER;
- Page 16 ~ OTHER;
- Page 18 ~ OTHER;
- Page 19 ~ OTHER;
- Page 21 ~ OTHER;
- Page 22 ~ OTHER;
- Page 24 ~ OTHER;
- Page 25 ~ OTHER;
- Page 26 ~ OTHER;
- Page 27 ~ OTHER;
- Page 28 ~ OTHER;
- Page 29 ~ OTHER;
- Page 30 ~ OTHER;
- Page 31 ~ OTHER;
- Page 32 ~ OTHER;
- Page 33 ~ OTHER;
- Page 34 ~ OTHER;
- Page 35 ~ OTHER;
- Page 36 ~ OTHER;
- Page 37 ~ OTHER;
- Page 38 ~ OTHER;
- Page 39 ~ OTHER;
- Page 40 ~ OTHER;
- Page 41 ~ OTHER;
- Page 42 ~ OTHER;
- Page 43 ~ OTHER;
- Page 44 ~ OTHER;
- Page 45 ~ OTHER;
- Page 52 ~ OTHER;
- Page 53 ~ OTHER;
- Page 54 ~ OTHER;
- Page 55 ~ OTHER;
- Page 56 ~ OTHER;
- Page 58 ~ OTHER;
- Page 59 ~ OTHER;
- Page 61 ~ OTHER;
- Page 62 ~ OTHER;
- Page 64 ~ OTHER;
- Page 65 ~ OTHER;
- Page 66 ~ OTHER;
- Page 67 ~ OTHER;
- Page 68 ~ OTHER;
- Page 69 ~ OTHER;
- Page 70 ~ OTHER;
- Page 71 ~ OTHER;
- Page 72 ~ OTHER;

Page 73 ~ OTHER;
Page 74 ~ OTHER;
Page 75 ~ OTHER;
Page 76 ~ OTHER;
Page 77 ~ OTHER;
Page 78 ~ OTHER;
Page 79 ~ OTHER;
Page 80 ~ OTHER;
Page 81 ~ OTHER;
Page 82 ~ OTHER;
Page 83 ~ OTHER;
Page 84 ~ OTHER;
Page 85 ~ OTHER;
Page 86 ~ OTHER;
Page 87 ~ OTHER;
Page 88 ~ OTHER;
Page 89 ~ OTHER;
Page 90 ~ OTHER;
Page 91 ~ OTHER;
Page 92 ~ OTHER;
Page 93 ~ OTHER;
Page 94 ~ OTHER;
Page 95 ~ OTHER;
Page 96 ~ OTHER;
Page 97 ~ OTHER;
Page 98 ~ OTHER;
Page 99 ~ OTHER;
Page 100 ~ OTHER;
Page 101 ~ OTHER;
Page 161 ~ OTHER;
Page 162 ~ OTHER;
Page 163 ~ OTHER;
Page 164 ~ OTHER;
Page 166 ~ OTHER;
Page 167 ~ OTHER;
Page 168 ~ OTHER;
Page 169 ~ OTHER;
Page 171 ~ OTHER;
Page 172 ~ OTHER;
Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 177 ~ OTHER;
Page 200 ~ Duplicate;
Page 205 ~ Duplicate;
Page 206 ~ Duplicate;
Page 212 ~ OTHER;
Page 213 ~ OTHER;
Page 214 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X

X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 98

Page 8 ~ b1;
Page 14 ~ OTHER;
Page 15 ~ OTHER;
Page 16 ~ OTHER;
Page 18 ~ OTHER;
Page 19 ~ OTHER;
Page 21 ~ OTHER;
Page 22 ~ OTHER;
Page 24 ~ OTHER;
Page 25 ~ OTHER;
Page 26 ~ OTHER;
Page 27 ~ OTHER;
Page 28 ~ OTHER;
Page 29 ~ OTHER;
Page 30 ~ OTHER;
Page 31 ~ OTHER;
Page 32 ~ OTHER;
Page 33 ~ OTHER;
Page 34 ~ OTHER;
Page 35 ~ OTHER;
Page 36 ~ OTHER;
Page 37 ~ OTHER;
Page 38 ~ OTHER;
Page 39 ~ OTHER;
Page 40 ~ OTHER;
Page 41 ~ OTHER;
Page 42 ~ OTHER;
Page 43 ~ OTHER;
Page 44 ~ OTHER;
Page 45 ~ OTHER;
Page 52 ~ OTHER;
Page 53 ~ OTHER;
Page 54 ~ OTHER;
Page 55 ~ OTHER;
Page 56 ~ OTHER;
Page 58 ~ OTHER;
Page 59 ~ OTHER;
Page 61 ~ OTHER;
Page 62 ~ OTHER;
Page 64 ~ OTHER;
Page 65 ~ OTHER;
Page 66 ~ OTHER;
Page 67 ~ OTHER;
Page 68 ~ OTHER;
Page 69 ~ OTHER;
Page 70 ~ OTHER;
Page 71 ~ OTHER;
Page 72 ~ OTHER;

Page 73 ~ OTHER;
Page 74 ~ OTHER;
Page 75 ~ OTHER;
Page 76 ~ OTHER;
Page 77 ~ OTHER;
Page 78 ~ OTHER;
Page 79 ~ OTHER;
Page 80 ~ OTHER;
Page 81 ~ OTHER;
Page 82 ~ OTHER;
Page 83 ~ OTHER;
Page 84 ~ OTHER;
Page 85 ~ OTHER;
Page 86 ~ OTHER;
Page 87 ~ OTHER;
Page 88 ~ OTHER;
Page 89 ~ OTHER;
Page 90 ~ OTHER;
Page 91 ~ OTHER;
Page 92 ~ OTHER;
Page 93 ~ OTHER;
Page 94 ~ OTHER;
Page 95 ~ OTHER;
Page 96 ~ OTHER;
Page 97 ~ OTHER;
Page 98 ~ OTHER;
Page 99 ~ OTHER;
Page 100 ~ OTHER;
Page 101 ~ OTHER;
Page 161 ~ OTHER;
Page 162 ~ OTHER;
Page 163 ~ OTHER;
Page 164 ~ OTHER;
Page 166 ~ OTHER;
Page 167 ~ OTHER;
Page 168 ~ OTHER;
Page 169 ~ OTHER;
Page 171 ~ OTHER;
Page 172 ~ OTHER;
Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 177 ~ OTHER;
Page 200 ~ Duplicate;
Page 205 ~ Duplicate;
Page 206 ~ Duplicate;
Page 212 ~ OTHER;
Page 213 ~ OTHER;
Page 214 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X

X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

WUDITH CLARK, et al.,

Plaintiffs,

- against -

UNITED STATES OF AMERICA, et al.,

Defendants.

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

D. Not Remove
RETAIN AS TOP SERIAL
C
SEC 6

62-118045

NOT RECORDED

JUN 11 1979

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ~~plaintiffs'~~ ^{for each party} attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant^s ~~concerning~~ ^{MSX} the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{the attorneys for the other parties} ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~APRIL 18~~, 1979
May 16


United States District Judge

~~CONFIDENTIAL~~

FBI

b1

TRANSMIT VIA:

- Teletype
- Facsimile
- _____

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS.

AIRTEL

Date 4/25/79

TO: DIRECTOR, FBI ATTN: SA JOSEPH L. PIERNEY
 FROM: *Jmm* LEGAT, OTTAWA (62-548)
 Room 7825 JEH

UNITED STATES VERSUS
 L. PATRICK GRAY III, ET AL;
 DISCOVERY PROCEEDINGS.

PATRICK GRAY

Re Ottawa cable 3/22/79 and Bureau R/S 3/29/79.

[Redacted]
 [Redacted]

ENCLOSURE ATTACHED
ENCLOSURE

- 3 - Bureau (Enc.2)
- 1 - Foreign Liaison (Direct)
- 1 - Ottawa
- RLM:cae
- (4)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

REC-136

~~CONFIDENTIAL~~ MATERIAL ATTACHED

62-118045-171

15 MAY 1 1979

*Copy of encl.
 removed by DE-19
 recovery special
 5/2/79*

*4- [Signature]
 5- [Signature]*

T. [Signature]

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(16)
 DATE 03-02-2009

~~CONFIDENTIAL~~

Greenberg/Gray-2898

Approved: *[Signature]*
34 JUN 5 1979

Transmitted _____ (Number) _____ (Time)

Per _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs
(Envelope only)

Greenberg/Gray-2899



62-118645-171

ENCLOSURE

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. O'Brien

DATE: 4/4/79

FROM : J. L. Tierney

SUBJECT: UNITED STATES vs. W. MARK FELT, 'et al.
DISCOVERY PROCEEDINGS

Tierney
#314

PURPOSE: To advise of Department's certification of completion of discovery and intention to seek in camera ex parte hearing.

DETAILS: By letters dated 3/30/79, (copies attached) the Department asserted to the Court discovery has been completed.

In the letter filed openly discovery is declared completed by the government and issues remaining minimized, with in camera handling predicted. Additional releases of NSA and CIA information are cited.

Additional CIA information was placed in the Department's vault for defense review.

(S)

[Redacted]

b1

(S)

[Redacted]

b1

2 ENCLOSURE

9 APR 25 1979

Enclosures (2)

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Steel
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. O'Brien
- 1 - Mr. Daly

JLT:mmb (10)

(CONTINUED - OVER)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-02-2003

~~SECRET~~



53 JUN 13 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

Memorandum from Mr. Tierney to Mr. O'Brien
Re: Mark Felt

A second letter, filed under seal, reveals the prosecution's intent to proceed ex parte. The substitution of materials for the foreign source documents is outlined, and the redesignation of domestic intelligence investigations as foreign intelligence operations is mentioned. Both have been ordered produced by the Court.

The foreign source materials are covered by the three affidavits of Paul V. Daly, and the redesignations are to be covered by an affidavit by Mary Lawton, Deputy Assistant Attorney General, which is still under discussion. We have been invited to participate in the discussions on the Lawton affidavit and will advise of any difficulties encountered.

RECOMMENDATION: None. For information.

APPROVED: <i>WAB</i> Director <i>WAB</i> Assoc. Dir. <i>WAB</i> Dep. AD <i>WAB</i> Dep. AD Inv. <i>WAB</i>	Adm. Serv. _____	Legal Coun. <i>WAB</i>
	Crim. Inv. _____	Plan. & Insp. <i>WAB</i>
	Ident. _____	Rec Mgnt. <i>WAB</i>
	Intell. <i>WAB</i>	Tech. Servs. _____
	Laboratory _____	Training _____
	Public Affs. Off. _____	



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

March 30, 1979

FJM:ams

Honorable William B. Bryant
Chief Judge
U.S. District Courthouse of the
District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Re: United States v. Felt, et al (Crim. No. 78-000179)

Dear Judge Bryant,

The government has completed its discovery. Various "house cleaning" details have been resolved with the assistance of defense counsel. Furthermore, after discussion with defense counsel, the government has voluntarily produced, and undertaken to produce, additional documents that will be helpful in forging stipulations for trial. Finally, as to the "foreign involvement" of the Weatherman, in light of the Court's February 22 rulings with respect to the Barker-Martinez defense, government counsel conducted an extensive review of possible ways of lessening redactions. The Federal Bureau of Investigation, the National Security Agency and the Central Intelligence Agency have all released substantial amounts of information that had previously been withheld. For example, five documents containing CIA information which were the subject of redaction

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

62-118045-172
ENCLOSURE
Greenberg/Gray-2903

complaints by counsel for Mr. Miller have been released in substantially unredact form.

The government anticipates that some dispute will remain as to the adequacy of the government's compliance with discovery and that in camera resolution of those disputes by the Court will be necessary. However, the government reiterates that the discovery phase of this case is over and that defense counsel are fully informed so as to be able to proceed with preparation for trial.

Sincerely,



Francis J. Martin
Trial Attorney
Criminal Division

cc: Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire



OFFICE OF THE PRESIDENT
CHARLES H. STANLEY

5 BELAIR
NORTH LITTLE ROCK, ARK. 72116

OUTSIDE SOURCE

March 15, 1979

58
Cc

The Honorable Griffin B. Bell
The Attorney General
U. S. Department of Justice
Washington, D.C.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

Dear Judge Bell:

In a public proclamation in July, 1978, the Society of Former Special Agents of the FBI, Inc., called for the dismissal of the indictment of L. Patrick Gray, W. Mark Felt, and Edward S. Miller as not being in the best interests of the American citizens or this Nation. Now, with international terrorism and Communist imperialism on the increase, as President of our Society, I am appealing to you to dismiss this prosecution.

This action is taken at the insistence of our National Board of Directors, the leaders of our six National Regions, and the more than 7,400 aroused members in our 94 chapters across the country who are irrevocably dedicated to righting this miscarriage of justice. In our personal contacts throughout the country, we are convinced the American public supports us.

REC-114 62-118045-173

We have witnessed major foreign terrorism, including the Entebbe hostage incident, the Munich Olympics massacre, the Vienna OPEC attack, and the wanton murders of Aldo Moro and Hans-Martin Schleyer. Recently, the tragic events in Iran, the assassination of our United States Ambassador in Afghanistan, and the increasing Communist designs in South America spotlight our Nation's vulnerability. Lack of accurate foreign intelligence data is crippling our Nation's decision-making ability in world affairs. Surely, this is not the time to further weaken the intelligence community through the trial of public servants who sought to protect our country.

JUN 12 1979

We feel that you - a renowned jurist and the Nation's leading legal authority - must be sorely tried in conscience by the Gray-Felt-Miller cases - a prosecution that rests on a retrospective, retroactive, essentially ex post facto prosecutorial thesis which is anathema to fair play, due process and fundamental justice.

Our Society members with expertise in the legal field interpret the "rule of law" as giving the Attorney General the unquestioned discretion to initiate and/or terminate a federal prosecution and believe that precedent exists for you, as Attorney General, to not prosecute these indictments.

59 JUN 13 1979

62-118045

Honorable Griffin B. Bell
March 15, 1979
Page Two

As the Court said in United States v. Cox, 324 F.2d 167 (1965):

"It follows, as an incident of the constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions."

And again in United States v. Cowan, 524 F.2d 504 (1972), the Court said:

"The Executive remains the absolute judge of whether a prosecution should be initiated and the first and presumptively the best judge of whether a pending prosecution should be terminated."

And note the expression of Judge Leventhal in the Barker-Martinez case (546 F.2d at 972), quoting in part from the Supreme Court's decision in United States v. Dotterweich, 320 U.S. 277, 285 (1943):

"Our system is structured to provide intervention points that serve to mitigate the inequitable impact of general laws while avoiding the massive step of reformulating the law's requirements to meet the special facts of one harsh case. Prosecutors can choose not to prosecute, for they are expected to use their 'good sense. . .conscience and circumspection' to ameliorate the hardships of rules of law."

The FBI officials are being prosecuted for their actions in pursuit of the Weatherman fugitives. Through its own statement of purpose, the Weather Underground is a "Marxist-Leninist Communist revolutionary group." As defined in its statements and publications, the Weather Underground is dedicated to rebellion against the United States, with a documented history of anarchistic attacks on American industry, law enforcement, and the government itself. The international character of the Weather Underground is amply set out in the Report of "The Weather Underground", by the Senate Judiciary Committee in January, 1975. Enclosed is a copy of an analysis of the Weather Underground prepared by professional security experts in our Society. After reviewing these documents, students of terrorism, as well as the American public, will have no difficulty classifying the Weatherman organization as international as distinguished from a domestic group. In fact, Director Webster, in his press conference on December 5th, noted that the Weatherman organization is the "closest thing we have in the United States to international terrorism."

Honorable Griffin B. Bell
March 15, 1979
Page Three

These alleged violations by FBI officials occurred during a period of national crisis. A President, a Senator, and a civil rights leader had been assassinated. An unpopular war was ripping the country. The campuses were in an uproar. The Weatherman was scourging the Nation. Not even the Nation's Capitol was spared -- the Capitol Building and the Pentagon were bombed by the Weatherman. Under this attack on our national security, the FBI responded to the desperate urging of the American people and government to contain this criminal conspiracy, with techniques long accepted by Congress, Attorneys General, and Presidents.

Perhaps these past officials, as well as the FBI men, were mindful of the following admonition of Thomas Jefferson, "A strict observance of the written laws is doubtless one of the highest duties of a good citizen, but it is not the highest. The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation."

Senator John Glenn, in February, 1979, the anniversary of his earth-orbit flight, echoes the sentiments of the FBI officials when he stated, "Patriotism has been the main motivation of my entire adult life." He said it was time to cease putting down our heroes and start supporting America and the things she stands for.

Assuredly, Gray, Felt, and Miller were dedicated to "saving our country when in danger", and were motivated by patriotism with no thought of personal gain.

In addition, they acted in a national crisis of international terrorist activity upon the demand of their government superiors. At that time, there were no guidelines or directions. In fact, on April 20, 1978 -- the very day that Messrs. Gray, Felt, and Miller were being arraigned in the Federal Courthouse in Washington, D.C., you may recall that you were testifying across town on Capitol Hill in regard to future guidelines and a charter pertaining to the very same techniques for which these men were being charged.

I was particularly impressed and encouraged, Judge, by one of your replies in that testimony on that day. Senator Kennedy asked you whether we would have avoided indicting top echelon people if we had clearly defined procedures outlining permissible as well as prohibited investigative techniques. Your answer, which emphasized one of the basic reasons for this petition to you now, was:

"Definitely. That has worried me from the very first day I became Attorney General. I have wondered about this. If our system that we had in place at the time was so inadequate that the error could be committed, I wonder about it. Negligence could be committed, as distinguished from acting with criminal intent. I have wondered about that."

Honorable Griffin B. Bell

March 15, 1979

Page Four

Recently, the government has requested delays in the trial due to serious complications in granting the defense access to necessary classified material. The prolonged nature of the investigation over the past five years and the refusal to provide the requested data indicate the uncertainty of the prosecution and also attest to national security as the major factor in this case.

As I stated previously, and as demonstrated by actions in the past three years, our Society will neither lessen its resolve nor spare its resources in the all-out effort to vindicate our three associates. To defend active and former FBI Agents charged with violations during the performance of duties in the Weatherman fugitives investigation, our members, current FBI Agents and many concerned citizens throughout the country have, since 1976, contributed more than \$800,000 to our Special Agents Legal Fund, Inc. Since the inception of the fund, we have expended more than \$600,000 for legal representation which the Department of Justice refused to provide for these men. We estimate that legal expenses for the pending Gray-Felt-Miller trial - presumably of six weeks' duration - will amount to approximately \$6,000 per day for a seven-day week, in addition to pre-trial costs of about \$75,000. Accordingly, we are mounting a campaign at this time to collect an additional \$250,000-\$300,000.

In this period of inflation, not even justice comes at low cost. Nevertheless, this Society is determined to bring our cause to the forum of public opinion and to contend for justice in the American judicial system. Recognizing the authority of the Attorney General as the prime solution to this dilemma, our first recourse - in the name of good conscience, compassion, and common sense - is this request to you to dismiss these charges.

I would sincerely appreciate your personal consideration and response to this petition so that I might make your observations available to our national membership and make further decisions on the course of action by our Society.

Sincerely yours,

CHARLES H. STANLEY
President

Enclosure

Greenberg/Gray-2984



OFFICE OF THE PRESIDENT
CHARLES H. STANLEY

5 BELAIR
NORTH LITTLE ROCK, ARK. 72116
March 15, 1979

The President
The White House
Washington, D.C.

Dear Mr. President:

I am well aware of the current problems involving the welfare and security of our great nation and hope and pray for success in your courageous endeavors.

We, as American citizens and former Special Agents of the FBI, feel there is a matter developing which also directly affects the security of our country - the miscarriage of justice in prosecuting L. Patrick Gray, Mark Felt, and Edward Miller for carrying out their duties in pursuit of the Weather Underground fugitives then threatening our Nation's security.

As our President, you, more than anyone else, are aware of the absolute necessity for maintaining the intelligence capabilities of our government at the highest level. The unwarranted attacks on the FBI and other intelligence agencies certainly have affected the continuing receipt of accurate intelligence data so vital to the operations of our government.

While the indictments of Gray, Felt, and Miller already have impaired our intelligence-gathering capabilities, a subsequent trial will be even more damaging to our Nation's welfare.

Realizing your heavy schedule, we still appeal to you to take a few moments to review this unjust and security-weakening action, after which we are certain you will agree that the trial should not take place and the indictment should be dismissed.

Enclosed is a copy of a letter addressed to the Attorney General urging him, as the highest legal officer of our government to use his legal authority to dismiss the indictment of Gray, Felt, and Miller.

Thank you for your consideration.

Most respectfully yours,

CHARLES H. STANLEY
President

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

Enclosures

ENCLOSURE

62-115045-173



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

March 5, 1979

FJM: ams

FEDERAL GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

CS

Brian P. Gettings, Esquire
1400 N. Uhle Street
Courthouse Square
Arlington, Virginia 22216

W. Mark
Re: United States v. Felt

Dear Mr. Gettings,

The government has had an opportunity to review your proposed "Stipulation on Policies and Practices" and is willing to engage in further discussions to avoid the necessity of detailed proof of uncontested facts which would needlessly burden the conduct of the trial. There are, however, some problems with your proposed "Stipulation on Policies and Practices". These problems may be categorized as (a) clear misstatements of fact; (b) assertions of fact which the government cannot affirmatively agree are true; and (c) characterizations of fact which are either not supportable or simply inappropriate. Specifically, the following problems exist with regard to your proposed stipulation.

REC-114 62-115045-174

JUN 12 1979

(1) The Brownell memo - You characterize the 1954 (not 1955) memorandum from Attorney General Brownell as delegating to the FBI authority to engage in surreptitious entry for

4-PA
Greenberg/Gray-2986

53 JUN 13 1979

electronic and non-electronic purposes. (§2,3,7,17,23,26)
This is not the case. In early 1954, the Supreme Court, in Irvine v. California 347 U.S. 128 (1954), held that evidence obtained from a trespassory microphone placed in a bedroom was admissible in state court criminal proceedings. In the wake of that decision, Department of Justice policy with respect to microphone surveillances was re-evaluated. Attorney General Brownell then issued his May 20, 1954 directive authorizing the FBI to use microphone surveillances, including microphones that required trespass for installation. This authorization continued in effect until 1965, when Attorney General Katzenbach directed that all microphone surveillances be limited to cases involving the national security and that each microphone surveillance was to be authorized by the Attorney General. Also, you characterize the Brownell memo as dealing with "electronic surveillance"--this is over inclusive. Procedures regarding electronic surveillance in the form of wiretapping have been governed by President Roosevelt's 1940 directive to Attorney General Jackson stating that wiretapping could be used "in such cases as you may approve, after investigation of the need in each case". This practice of Attorney General authorization for FBI wiretapping has remained in effect for nearly forty years. Finally, your characterizations of the Brownell memo as delegating authority to engage in non-electronic surreptitious entries, i.e., bag

jobs, is totally false.

(2) Tenure of Attorney General Kennedy - As you are no doubt aware, Senator Robert Kennedy, at various times, denied that he ever knew of FBI microphone surveillances when he was Attorney General. There are various FBI documents that would support your assertions (¶5) that Attorney General Kennedy was aware of and encouraged the use of microphone surveillances in organized crime cases. Contrary to your assertion, these same FBI documents indicate Attorney General Kennedy's view that such microphone surveillances were "all illegal".

(3) Tenure of Attorney General Katzenbach - Certain of your assertions concerning Attorney General Katzenbach would appear to be in error. Attorney General Katzenbach was clearly aware of FBI electronic surveillance in the form of wiretapping--he, of course, gave written case by case approval for such wiretapping. It is also clear that he was aware of FBI microphone surveillances, including microphone surveillances involving trespass, by surreptitious entry or otherwise. In July 1965, all microphone surveillances were discontinued at the direction of Attorney General Katzenbach. In September 1965, microphone surveillances involving trespass, in national security cases only, were reinstated pursuant to case by case authorization by the Attorney General. The

government is unaware of "more than 100" after-the fact authorizations of microphone surveillances (¶6). As noted above, the Attorney General has authorized specific wiretaps for forty years. Also, the Brownell memo never authorized non-electronic surreptitious entries. (¶7)

(4) Tenure of Attorney General Ramsey Clark - Your assertion that Attorney General Clark became aware of microphone surveillances and authorized the Department of Justice to defend civil suits arising out of those microphone surveillances (¶9) is essentially correct. However, the implication that this included non-electronic "warrantless surreptitious entries", i.e., bag jobs, is false. The Department of Justice has never defended the legality of a bag job, i.e., a warrantless surreptitious entry and physical search of a premises. Also, your assertion that no Attorney General has ever advised the Director that the FBI may not engage in warrantless surreptitious entries (¶26) is misleading to the extent that in June 1967 Attorney General Clark specifically refused to authorize a surreptitious entry and search in connection with the foreign intelligence-gathering program referred to in your ¶10.

(5) Foreign Intelligence Gathering Program (¶10) - Your description of the foreign intelligence-gathering program (¶10) is somewhat misleading in that it fails to note that

almost all surreptitious entries were directed at premises occupied by aliens. Your recent assertion that "satellite" entries were targeted against American citizens may be accurate, based on information available to you. Government counsel are presently unaware of any such entries, and appropriate files are being reviewed to determine whether such entries occurred. The government does not dispute the bona fides of your assertions and would be willing to consider a stipulation which would put these "satellite" entries into an appropriate perspective. The government does not dispute that Presidents and Attorneys General were aware of this program--although Bureau records may reflect that not all Presidents and Attorneys General knew of it. The government does not dispute that no President or Attorney General ever authorized any of these entries, but notes that the only time such specific authorization was sought--from Attorney General Clark--it was denied.

(6) Klan and other bag jobs - The government agrees that the Bureau conducted bag jobs directed at the Ku Klux Klan (¶11) but is unaware of any evidence that would support your apparent implication that these bag jobs in any way led to the arrest and conviction of the murderers of civil rights works in Mississippi. The government is not able to stipulate that Attorneys General were aware of any such bag jobs, although they may have been aware of wiretapping (specifically) and microphone surveillances (generally). The government is

not aware of any electronic surveillance or surreptitious entries (electronic or bag job) directed at the Minutemen (¶11).

(7) Hoover cut off - Certain aspects of your description of the Hoover cut off on bag jobs are in error. The cut off was formally communicated to the field with respect to the program described in your ¶10. This was necessary because the field was authorized to conduct surveys (entries) in connection with that program, and formal instructions to cease such surveys were needed (see discovery item 81A & 81B). This was not the case with other bag jobs, which required headquarters approval--and certainly appropriate Domestic Intelligence Division officials were aware of the cut off. The characterization of Mr. Hoover's cut off on bag jobs as an "opinion" is misleading. It was--in the clearest possible terms--a directive. Also, the statement that in cutting off bag jobs Mr. Hoover "was specifically referring" to the program referred to in your ¶10 is not supported by the evidence.

(8) John Kearney bag jobs (¶13) - In the spring of 1968, New York supervisor John Kearney conducted five bag jobs, all with approval from FBI headquarters. Any stipulation should note that these bag jobs did not relate to SDS or Weatherman. The proposition that Kearney was advised that "the Hoover "ban' ...did not apply to 'his kind of cases'" is somewhat at variance with the information available to the government. It may be helpful to explore your basis for this assertion.

(9) Title III - Your assertion that Title III "left open" the issue of the power of the President (not the executive branch) to authorize warrantless electronic surveillance in national security cases (§14) would be better expressed in the terms of the Supreme Court in Keith--that Title III was "neutral" on the subject of the President's powers to authorize warrantless electronic surveillance in National Security matters. Your assertion that the FBI, with the knowledge of the Justice Department, conducted surreptitious entries (feasibility surveys) prior to seeking Departmental, and thereafter judicial, authorization, pursuant to Title III, for microphone surveillances is not supported by any evidence known to the government.

(10) Your §16 - The assertion that prior to Keith (June 19, 1972) the Attorney General authorized electronic surveillance in national security cases without distinction as to whether the case was foreign or domestic is accurate to a point. The documents presented by the FBI to the Attorney General in each case clearly noted whether the justification was predicated on considerations of internal security (domestic) or foreign intelligence. This distinction was always clearly made in affidavits filed by the Attorney General in connection with Alderman hearings.

(11) Huston Plan - Your description of the Huston Plan (§18) is essentially accurate but the government cannot agree that Director Hoover's opposition to the program discussed in

your ¶10 was "for solely practical reasons" or that those same reasons prompted President Nixon to withdraw the Huston Plan. It is clear that unsuccessful efforts were made in the winter of 1970-71 to revive the Huston Plan (¶21). However, the government has no evidence that these efforts failed solely (as you imply) because of Director Hoover's opposition to the program discussed in your ¶10.

(12) Your ¶19 - This paragraph mixes two separate events. The first is an August 1970 incident when, after talking to President Nixon, Director Hoover ordered increased informant coverage in connection with fears of possible terrorist kidnappings of diplomats. The second is an April 1971 incident when, after talking to President Nixon, Director Hoover ordered a "no holds barred" investigation of a multiple police killing in New York (not involving the Weatherman). It should be noted that several technical barriers did exist to such an investigation since the FBI had no jurisdiction to investigate these murders. The government, of course, would stipulate to an accurate statement with respect to these two incidents.

(13) Weatherman bag jobs - The government will stipulate that Weatherman bag jobs began in August 1970 and continued until at least 1974. The government will not stipulate that these bag jobs were conducted "as a result of a direction from

Mr. Hoover". (§20)

(14) Disclosure of bag jobs to Attorney General - It is clear that the Department of Justice, after Mr. Felt's retirement in 1973, was made aware of surreptitious entries-- electronic and non-electronic--by the FBI. (§25) For example, the Special Prosecutor was apprised, by Mr. Gray, of the Arab terrorist bag job. With this one exception the Special Prosecutor was not apprised of any other FBI bag jobs. Also, the so-called Ruckelshause inquiry--which continued after he resigned--did not result in the Department being apprised of FBI bag jobs. You, of course, have been apprised in discovery of other disclosures by the FBI to Department of FBI bag jobs, including the disclosures that prompted the investigation that uncovered the bag jobs alleged in the present indictment. The government would again, of course, be willing to stipulate to any reasonable recitation of these facts. Your §25, however, states that after Mr. Felt's retirement Attorneys General were advised that the Director of the FBI on occasion specifically authorized the use of warrantless surreptitious entry. This is correct to the extent that Attorneys General were advised that such activities occurred in the past. It is in error to the extent that it implies that Attorneys General learned of this practice and permitted it to continue.

(15) Minor Inaccuracies - There are a number of relatively minor additional inaccuracies in your proposed stipulation. The meeting with President Eisenhower's cabinet occurred in

1956 (not 1955) and covered a wide range of topics, including those mention in your ¶1. There was obviously use of warrantless microphones surveillances involving trespass during the tenure of Attorney General Rogers. Data available to government counsel would not warrant your characterization (¶4) that this constituted a "massive program". You are correct that in 1965 President Johnson banned electronic surveillance in all cases not involving national security (¶8). However, your characterization of President Johnson's motivations as relating to the Bobby Baker case is speculative and will not be stipulated to by the government. Your discussion of the CIA mail opening program (¶24), in order to be fully accurate, must state that this program involved international mail and not domestic mail. As you are aware, search and seizure law regarding border searches stands on a different footing from search and seizure law in a fully intra-United States situation. See United States v. 12,200 Ft. Reels of Film, 413 U.S. 123 (1972); Almeida-Sanchez v. United States, 413 U.S. 266 (1973); United States v. Martinez-Fuerte, 428 U.S. 543 (1976); and similar cases. Also the declination of prosecution on the CIA mail opening case was in January 1977 (not in 1976). Finally, the first Departmental guidelines relating to warrantless surreptitious entries involving electronic only, were promulgated by the Justice Department in 1974 (not 1976) (¶27). These guidelines (1974 and 1976)

do not permit bag jobs.

Although it appears that your proposed stipulation contains a number of errors, some of major magnitude, it is believed that these errors were made in good faith and that you would be willing to correct them. As to areas where the government cannot confirm information we would be willing to do so if you can provide us with hard evidence and/or direct us to Bureau files that would corroborate these assertions. As noted in several cases above, your proposed stipulation contains various characterization, perhaps best described as editorializations, that are simply inappropriate in any stipulation. Finally, for obvious advocacy reasons, your stipulation centers almost exclusively on policies concerning microphone surveillances involving trespass--whether by surreptitious entry or otherwise--and continually blurs the major distinctions between such activities and surreptitious physical searches of a premises, i.e., bag jobs such as those involved in this case.

In conclusion, the government believes that there is room for further negotiation that could result in a mutually acceptable stipulation as to a number of matters you have raised. In addition, there may be some additional facts that the government would propose as stipulations. In any

event, our negotiations with respect to possible stipulations will be helpful to all parties in hopefully eliminating from trial detailed and extended proof of matters that can be presented to the jury in cogent and effective form by stipulation or other suitable methods. As you have acknowledged, government (or defense) stipulations as to certain facts represent agreements as to accuracy only and do not in any way concede the trial admissibility of those facts. Please advise me of any suggestions you may have concerning the resolution of the present disagreements between us, as detailed above, concerning the accuracy of certain aspects of your proposed stipulation.

Sincerely,



Francis J. Martin
Trial Attorney
Criminal Division

cc: Chief Judge Bryant
Alan I. Baron, Esquire
Thomas A. Kennelly, Esquire

UNITED STATES GOVERNMENT

~~SECRET~~

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. ^{AK} ~~Dwy~~
Federal Bureau of Investigation

DATE: March 5, 1979

FROM : Francis J. Martin ^{FJM}
Criminal Division

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 drh/baw/sbs

SUBJECT: Los Angeles Informant

C^r

L. Patrick

As you are aware, Chief Judge Bryant ruled on February 22, at an in camera hearing that Mr. Gray, in his efforts to distinguish the [] entry from the Weatherman entries, will not be precluded from stating that he authorized the [] entry on the basis of hard information that there would be an imminent terrorist attack in this country similar to the Munich massacre. Judge Bryant specifically ruled that he would not preclude Mr. Gray from stating that part of his "hard information" included information that this terrorist attack would be []

PPG

b6
b7C
b7D

[] . The information, in fact, was that

[]

[]

[]

REC-114 62-118001-177

6-13
4 MAR 20 1979

It has been the prosecution's understanding, ab initio, that this information- [] -could not be publicly revealed because to do so would compromise the Los Angeles informant who provided the information, in-

b7D

~~SECRET~~

4-Maly P...

~~SECRET~~

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



53 JUN 13 1979

~~SECRET~~

cluding likely physical reprisal. Due to the grave impact that refusal to permit public disclosure of this information will have, i.e., certain dismissal of the prosecution of Mr. Gray, it is of obvious importance that all facts and circumstances surrounding this situation be examined in the closest possible detail.

As I understand the situation based on our various discussions, the Los Angeles informant and [redacted] [redacted] met in [redacted] with [redacted] and discussed [redacted] [redacted]. It is unclear to me whether any actual [redacted] took place. However, my clear understanding is that ultimately nothing substantive came of the meeting and that later planned terrorist attacks were totally unrelated. As I understand it, the sensitivity of the information derives from the assertion that if the information is revealed, [redacted] will immediately know that the Los Angeles informant was the source. There are, of course, alternatives to this -- [redacted] [redacted] or their associates could have been an informant or could have been the subject of a technical surveillance. This is not to underestimate the possible danger of public disclosure to the Los Angeles informant, but merely to suggest that the greater the number of possible, if not actual, sources the less the likelihood that the Los Angeles informant would be pinpointed as the source.

b6
b7C
b7D

~~SECRET~~

~~SECRET~~

As I understand it the Bureau's information on [redacted] and the L.A. informant is now [redacted] years old.

In the intervening years it is quite possible that the danger of compromise, and of reprisals, that were very real in 1972 may have diminished considerably. Accordingly the Bureau should conduct the following investigation with respect to [redacted]:

b6
b7C
b7D

(1) Determine his present whereabouts and general background information.

(2) Determine whether he is presently associated with any organized violent radical elements, i.e., whether he is presently in a position to effect any reprisal or is even likely to be cognizant of events such as the Gray trial that would prompt him to make the connection with the L.A. informant.

(3) Determine whether he is presently disaffected from organized radical groups, in particular whether he believes that "everyone" was an informant and thus would be less likely to single out the L.A. informant.

(4) Gather any additional data concerning [redacted] that you believe may be pertinent to determining the likelihood that public disclosure of the

[redacted] would jeopardize the L.A. informant. In setting forth the above requests it is realized that it may be difficult to gather certain of the information without alerting [redacted] to the Bureau's

b6
b7C
b7D

~~SECRET~~

~~SECRET~~

renewed interest in him. However, in view of the importance of this matter, every feasible effort should be made to develop a full current profile on [redacted].

b6
b7C

With respect to the L.A. informant, the Bureau should locate the informant and arrange to interview him. You should arrange to participate personally in the interview. The interview should cover all aspects of the [redacted] [redacted] and the informant's dealings with [redacted] and other militants thereafter. You should develop any information that could possibly bear on the likelihood that [redacted] could identify the source--and be a serious threat to the source--if the [redacted] were revealed.

b6
b7C
b7D

Finally, all Bureau information concerning the circumstances of the original [redacted] should be reviewed to determine the possibility of plausible attribution of the information to sources other than the L.A. informant. While in a matter of this importance it would be inappropriate to set a fixed date for completion of your investigation, you should obviously proceed with all deliberate speed.

b7D

Greenberg/Gray-3001

~~SECRET~~

132

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2	CLASSIFICATION UNCLAS	PRECEDENCE PRIORITY
DATE 3/6/79		

FM DIRECTOR FBI

START HERE

FM DIRECTOR FBI
TO TO FBI LOS ANGELES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

BT
UNCLAS *L. Patanski*
U. S. VS. GRAY

RE YOUR TELETYPES 1/16 AND 2/27/79, CAPTIONED [REDACTED] b2 b7D
[FORMER].

THE DEPARTMENT OF JUSTICE, IN CONNECTION WITH CAPTIONED
MATTER, HAS REQUESTED WE LOCATE AND INTERVIEW [REDACTED] AND
CONDUCT CERTAIN INVESTIGATION CONCERNING [REDACTED]
[REDACTED]. IN VIEW OF THE DEPARTMENT'S REQUEST, YOU ARE TO EXPEDI-
TIOUSLY ASCERTAIN THE CURRENT WHEREABOUTS OF [REDACTED] AS WELL
AS [REDACTED]. THIS INVESTIGATION SHOULD BE AS DISCREET AS
POSSIBLE. ADVISE FBI HEADQUARTERS AS SOON AS BOTH INDIVIDUALS
ARE LOCATED, AT WHICH POINT ARRANGEMENTS WILL BE MADE FOR
INTERVIEW OF [REDACTED].

DO NOT TYPE PAST THIS LINE

b2
b6
b7C
b7D

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY <i>[Signature]</i>	DRAFTED BY PVD:DMD {8}	DATE 3/6/79	ROOM 6888	TELE EXT. 3542
-----------------------------------	---------------------------	----------------	--------------	-------------------

- 1 - MR. ADAMS
- 1 - MR. MCDERMOTT
- 1 - MR. STEEL
- 1 - MR. BASSETT
- 1 - MR. MOORE
- 1 - MR. MINTZ
- 1 - MR. DALY

REC-114
[Handwritten initials] 62-118045-176

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
23002CR
MAR 06 1979

MAR 21 1979

[Handwritten] 62-118045

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

▶ START HERE

BT

20
18
16
14
12
10
8
6
4
2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-3003

NOTE: BY MEMO MARCH 5, 1979, FRANCIS J. MARTIN TO P. V. DALY, WE WERE REQUESTED TO LOCATE THE LA SOURCE AS WELL AS [REDACTED] [REDACTED] WAS FORMERLY A SUBJECT OF A DOMESTIC SECURITY INVESTIGATION, LA TELETYPE 2/27/79. ADVISED CURRENT WHEREABOUTS WAS UNKNOWN. THEY PREVIOUSLY ADVISED BY THEIR TELETYPE 1/16/79, THAT THE WHEREABOUTS OF [REDACTED] WAS UNKNOWN. WHILE MARTIN'S REQUEST ASKED FOR MORE INFORMATION THAN THE MERE LOCATION OF THESE INDIVIDUALS, IT IS BELIEVED WE SHOULD FIRST LOCATE THE INDIVIDUALS PRIOR TO ISSUING ANY FURTHER INSTRUCTIONS. IT IS BELIEVED ADVANTAGEOUS THAT SOURCE BE INTERVIEWED BY AGENT WHO HANDLED SOURCE IN PAST IN CONJUNCTION WITH A DEPARTMENTAL ATTORNEY. THE ADVANTAGE IS IT ALLOWS MARTIN TO MAKE HIS ON-THE-SPOT ASSESSMENT OF THIS MATTER AND THERE CAN BE NO QUESTION AS TO THE CREDIBILITY OF A BUREAU CONTACT WITH THE SOURCE. SINCE [REDACTED] AND THE SOURCE HAVE HAD A CLOSE RELATIONSHIP IN THE PAST, IT WOULD APPEAR LIKELY THE SOURCE MAY BE IN A POSITION TO FURNISH INFORMATION CONCERNING [REDACTED] CURRENT ACTIVITIES AND THE ANSWERS TO OTHER QUESTIONS MARTIN ASKED IN HIS MEMORANDUM.

APPROVED:	Adm. Serv.	Legal Coun.
Director <i>[Signature]</i>	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir.	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
Dep. AD Adm. <i>[Signature]</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. <i>[Signature]</i>	Laboratory _____	Training _____
		Public Affs. Off. _____

[Handwritten signature]

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul Daly *PD*

DATE: March 12, 1979

FROM : Frank Martin *FJM*
DEPT OF JUSTICE

SUBJECT: United States v. L. Patrick Gray, et al

Enclosed is an inventory and a package of FBI documents which were exhibits in grand jury proceedings. Frank Dunham has requested copies of these documents. Please process the documents for eventual transmittal to defense counsel.

JD

*enclosures
returned
to Dept. 3/22/79
junk*

REC-114 62-118045-177

11 JUN 12 1979

Greenberg/Gray-3005

4 - Daly - PD

62-118045



JUN 13 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

RECORDS MANAGEMENT DIVISION

P. Daly

Attached Los Angeles teletype advises [redacted] (former) was contacted by Bureau Agents and advised if information he furnished regarding activities of [redacted]

b2
b6
b7C
b7D

[redacted] were disclosed, his identity would be compromised. The source stated the disclosure of his identity through disclosure of the information would place he and his family in physical danger.

A copy of the teletype was furnished to Barnet D. Skolnik and Francis J. Martin of the Department. Martin remarked that from the content of the teletype the interview was conducted in accordance with his instructions.

b6
b7C

(Martin conferred with SA [redacted] [redacted] on 3/12/79 and furnished instructions as to how he wanted the interview conducted.) SA [redacted] was accompanied by ASAC Joseph V. Corless.

Martin requested SA [redacted] return to FBIHQ so that he might confer with him regarding source. This has been arranged.

b6
b7C

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Moore
- 1 - Mr. Mintz
- 1 - Mr. Bassett
- 1 - Mr. Steel
- 1 - Mr. Daly

prel

APPROVED: _____

WB Director _____
 Assoc. Dir. _____
 Dep. AD _____
 AD Inv. _____

gma Adm. Serv. _____
gms Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

HW

LA0674 3732005Z

OO HQ

DE LA #1

0 142005Z MAR 79

FM LOS ANGELES

TO DIRECTOR IMMEDIATE

BT

~~SECRET~~

AIRN: SUPV. PAUL DALEY (HAND CARRY), ROOM 6888 JEH BUILDING

U.S. VS GRAY, ET AL.

L. Patrone FORMER SOURCE, [REDACTED] WAS CONTACTED ON MARCH 13,

1979 AT 3:40 P.M. BY ASAC JOSEPH V. CORLESS OF THE LOS ANGELES

DIVISION AND SA [REDACTED] OF THE BOSTON DIVISION, AND PROVIDED WITH THE OFFICIAL IDENTITY OF THE INTERVIEWING AGENTS.

SOURCE WAS ADVISED THAT INTERVIEWING AGENTS WISHED TO DISCUSS

WITH HIM INFORMATION HE HAD FURNISHED TO SA [REDACTED] IN [REDACTED]

[REDACTED] RELATING TO [REDACTED]

[REDACTED]. IN RESPONSE TO

QUESTIONS CONCERNING THE ABOVE, SOURCE VOLUNTARILY PROVIDED THE

FOLLOWING:

SOURCE STATED HE DID NOT EXACTLY RECALL WHEN [REDACTED]

[REDACTED] OBTAINED INFORMATION FROM [REDACTED] ABOUT

REC-114

62-118045-178

11 JUN 12 1979

b6
b7C

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. HD
Tech. Servs. _____
Training _____
Public Affs. Off. _____

62-118045

4- Woly-PJD

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Serv.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

[Handwritten signature]
Am 6888

[Handwritten signature]

b2
b6
b7C
b7D

Greenberg/Gray-3007

53 JUN 13 1979

[REDACTED]

[REDACTED]. HOWEVER, HE DID RECALL THAT UPON RECEIPT OF THIS INFORMATION, HE IMMEDIATELY FURNISHED IT TO SA [REDACTED]. HE ALSO ADVISED THAT [REDACTED]

[REDACTED]

[REDACTED] PROVIDED SOURCE WITH THIS INFORMATION. HOWEVER, HE BELIEVED [REDACTED]

[REDACTED]

[REDACTED] WHICH HE COULD NOT RECALL AND AN UNKNOWN REPRESENTATIVE FROM [REDACTED]. SOURCE ADDITIONALLY

STATED HE COULD NOT REMEMBER IF HE WAS TOLD ANYONE ELSE WAS AT [REDACTED], BUT STATED

"THERE COULD HAVE BEEN MORE."

SOURCE STATED HE DID NOT KNOW HOW MANY PEOPLE [REDACTED]

[REDACTED] HAD DISCUSSED THIS PLAN WITH PRIOR TO SOURCE'S HEARING ABOUT IT, BUT EXPRESSED OPINION THAT HE MUST HAVE DISCUSSED IT WITH SOMEONE WHO WAS NOT SUPPOSED TO KNOW [REDACTED]

[REDACTED]. SOURCE

ADDITIONALLY STATED THAT AS FAR AS HE KNOWS, [REDACTED] DID

b6
b7C
b7D

b6
b7C
b7D

NOT DISCUSS THE PLAN WITH ANYONE OTHER THAN [REDACTED]

[REDACTED]
IN CONNECTION WITH [REDACTED], SOURCE
STATED HE DID NOT KNOW WHERE [REDACTED]
NOR HIS IDENTITY. HE DID SPECULATE, HOWEVER, THAT [REDACTED]

b6
b7C
b7D

[REDACTED]
RES [REDACTED]

IT WAS SOURCE'S UNDERSTANDING, BASED ON CONVERSATIONS
WITH [REDACTED] THAT [REDACTED]
[REDACTED]. SOURCE DID NOT
KNOW WHO [REDACTED] HAD TOLD, HOW MANY PEOPLE [REDACTED] HAD TOLD, BUT
SOURCE POINTED OUT THAT IT "COULD HAVE BEEN JUST ONE PERSON
WHO SHOULD NOT HAVE KNOWN ABOUT THE PLAN." SOURCE STATED
THAT ALL THE INFORMATION HE GATHERED RELATING TO THIS INCIDENT
WAS INFORMATION FURNISHED DIRECTLY TO HIM BY [REDACTED]
AND NO ONE ELSE.

b6
b7C
b7D

SOURCE STATED THAT HE COULD NOT RECALL IF [REDACTED]

[REDACTED] OR IF IT WAS [REDACTED]
[REDACTED].

b7D

SOURCE STATED THAT [REDACTED]

[REDACTED] SOURCE STATED

b6
b7C
b7D

[REDACTED] SOURCE MENTIONED ADDI-

TIONALLY THAT HE (SOURCE) NOW ALSO HAS [REDACTED].

WHEN QUERIED AS TO WHETHER OR NOT PUBLIC DISCLOSURE OF THE ABOVE INFORMATION WOULD PUT SOURCE OR ANY MEMBER OF HIS FAMILY IN JEOPARDY, HE REPLIED, "IT WOULD BE DETRIMENTAL TO ME." WHEN ASKED IF IT WOULD PUT SOURCE AND HIS FAMILY IN PHYSICAL DANGER, HE SAID, "SHIT, YEAH." HE WAS THEN ASKED IF ONLY A PORTION OF THIS INFORMATION WAS MADE PUBLIC, AGAIN WITHOUT IDENTIFYING HIM, WHICH COULD HAVE COME FROM OTHER SOURCES OTHER THAN HIMSELF, WOULD HE STILL BE IN JEOPARDY? IN REPLYING TO THIS SOURCE STATED, "IT COULD COME BACK TO ME EASILY IF SOMEONE WANTED TO PUT TWO AND TWO TOGETHER." HE ALSO STATED THAT "THERE ARE PLENTY OF PEOPLE WHO WOULD STILL HOLD IT AGAINST ME, INCLUDING [REDACTED]."

b6
b7C
b7D

SOURCE STATED THAT "STREET AND REVOLUTIONARY PRINCIPLES WOULD

REQUIRE THAT I BE EXECUTED" AND HE FELT "THIS WOULD HAPPEN."

SOURCE REMINDED SA [REDACTED] THAT UPON INITIAL CONTACT BY THE FBI IT WAS AGREED THAT HIS RELATIONSHIP WITH THE FBI WOULD REMAIN CONFIDENTIAL IN THAT HIS LIFE AND THAT OF HIS FAMILY WOULD BE IN JEOPARDY IF RELATIONSHIP REVEALED. SOURCE STATED HIS FEELINGS WERE STILL THE SAME AND "NOTHING IS CHANGED." HE RE-EMPHASIZED THAT DISCLOSURE OF THE ABOVE INFORMATION COULD REVEAL HIS IDENTITY AS THE SOURCE.

b6
b7C

SOURCE WAS THEN ASKED IF HE FELT A SIMPLE STATEMENT APPEARING IN PUBLIC TO THE EFFECT THAT [REDACTED]

[REDACTED]

[REDACTED] WOULD

BE DETRIMENTAL TO HIM. SOURCE REPLIED, "[REDACTED]

[REDACTED]." WHEN ASKED TO

FURTHER EXPLAIN, SOURCE STATED THAT "[REDACTED]

[REDACTED]." SOURCE WENT ON TO SAY THAT [REDACTED]

[REDACTED]

[REDACTED]." "IF [REDACTED]

[REDACTED] FOUND OUT, HE'D KILL ME [REDACTED]

b6
b7C
b7D

[REDACTED]."

INTERVIEW CONCLUDED AT 4:20 P.M. AND UPON EXITING RESIDENCE, SOURCE STATED TO SA [REDACTED] "IT'S A GOOD THING YOU CAME BECAUSE I WON'T TALK TO ANYONE ELSE."

b6
b7C

IT IS NOTEWORTHY THAT AT NO TIME DURING THIS INTERVIEW WAS ANY MENTION MADE OF THE GRAY, MILLER, FELT TRIAL.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

March 15, 1979

Address Reply to the
Division Indicated
and Refer to Initials and Number FEDERAL GOVERNMENT

BDS:ams

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-02-2009 BY 65179 dmh/baw/sbs

Honorable William B. Bryant
Chief Judge
U.S. District Court for the
District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Re: United States v. Gray, et al

L. Patrick

Dear Judge Bryant,

As the government has stated previously, certain of the Court's recent rulings, which would allow defendant Gray at trial to make public certain data which the Court has, over the government's objection, found to be relevant to the core evidentiary disputes in the case, have now put the case against defendant Gray in a posture different from that of the case against defendants Felt and Miller. Accordingly, we earlier advised the Court that it was highly probable that severance of defendant Gray would be necessary.

REC-114 62-118045-179

JUN 12 1979

The issue of possible severance of defendant Gray has now been fully reviewed within the Department of Justice and a final determination has now been reached that, in the government's judgment, such a severance is now required in the interests of justice. While the Department of Justice is

4-

Greenberg/Gray-3012

53 JUN 13 1979

actively pursuing both the factual inquiries and ultimate policy determinations that are required by the Court's recent rulings, it is clear that the resolutions which the government is likely ultimately to propose to the Court would be more fair in the context of a trial of defendant Gray alone than in the context of a joint trial. Accordingly, we suggest that the Court now reconsider and grant, in light of the Court's recent rulings, defendant Gray's earlier motion for severance.

With respect to trial of defendants Felt and Miller, we will continue to work as expeditiously as possible to complete the pre-trial matters required by the Court's recent ruling as to the availability to them of a Barker-Martinez defense. Our objective is to proceed to trial of defendants Felt and Miller at the earliest possible date, with trial of defendant Gray to be scheduled thereafter.

Sincerely,

Barnet D. Skolnik / fea RJM
Barnet D. Skolnik
Special Assistant U.S. Attorney
for the District of Columbia

cc: Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

J. [Signature]

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *HAD*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

Memorandum

TO : Mr. Bassett *HMB*

FROM : P. V. Daly *pd*

SUBJECT: UNITED STATES v. GRAY ET AL
L. Patrick

DATE: 3/19/79

P. [Signature]

PURPOSE:

The purpose of this memorandum is to summarize the status of this matter as it relates to discovery.

SYNOPSIS:

Chief Judge William Bryant ordered the Government to complete discovery in this matter by 3/30/79 during open court hearing on 3/15/79. With the exception of foreign government materials, the discovery as to FBI materials will be completed by that time. Alternative methods of furnishing the foreign government material being considered. The problem presented by the Los Angeles source has not been resolved.

[Signature]

RECOMMENDATION:

That on completion of discovery, we submit a memorandum, in writing, to the Department stating that fact along with our understandings as to the Department's instructions concerning discovery.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-02-2009 BY 65179 dmh/baw/sbs

APPROVED: *[Signature]*

Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *HAD*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Mintz

REC-114 62-118045-180 *pd*

- 1 - Mr. Moore
- 1 - Mr. A. Steel
- 1 - Mr. Bassett
- 1 - Mr. Daly

11 JUN 12 1979

PVD:jam *jam*
(9)

(CONTINUED-OVER) *[Signature]*

P. Daly



Greenberg/Gray-3014

53 JUN 13 1979

62-118045

P. V. Daly to Mr. Bassett Memorandum
Re: United States v. Gray Et Al

DETAILS:

On 3/15/79, Chief Judge William Bryant ordered the Government to complete the discovery ordered by him in August 1978 by 3/30/79 or he would entertain a motion to dismiss the case. As it currently stands, we have completed all discovery with the exception of information relating to foreign direction, collaboration or influence as it applies to the Weatherman. These documents can be divided into two categories: (1) those that originate from a foreign government, and (2) those that originate from a sensitive Bureau source or method. As to foreign government material, the Department has taken the position that this material cannot be released to the defense and have so advised the court. In an effort to satisfy the court and the defense, at the request of the Department, we isolated the documents of this nature which are 15 in number. We then reviewed pertinent Weatherman files to locate the information contained in these documents in other documents, but not originating with a foreign government. This review was generally successful, and Departmental attorneys and paralegals reviewed that material on 3/12,13, and 14/79. It is the Department's intent to appear in camera ex parte with the Judge, show him the foreign government information, as well as the same information from a nonforeign government. By this, they hope to persuade the court to accept the substitute information for discovery purposes and not release the foreign government information.

Judge Bryant's discovery order is actually wider in scope as it applies to foreign government information than the material being discovered. The order calls for the production of material relating to foreign travel. Departmental Attorney Francis J. Martin's instructions to the Bureau were to disregard the travel information as furnished by foreign governments unless it related to foreign connection, direction or influence. Martin believed this was consistent with Judge Bryant's ruling that the Barker-Martinez defense was available to the Miller and Felt.

Should the Judge not accept this interpretation and demand production of all travel information, the amount of documents would increase from 15 to approximately 500. This,

P. V. Daly to Mr. Bassett Memorandum
Re: United States v. Gray Et Al

in Martin's view, would be an insurmountable obstacle since, in many instances, we cannot find alternative sources of information which might satisfy the court.

As to Central Intelligence Agency (CIA) and National Security Agency (NSA) material in our files which is subject to discovery, the Department is negotiating directly with those agencies as to production of the material. CIA has placed all but 29 of their discoverable documents in the Department of Justice vault without redaction for defense review. NSA has submitted paraphrased versions of documents for defense review in those instances where it is not possible to redact the document. It is CIA and NSA's positions that this is for discovery purposes and that disclosure for trial is another question entirely.

With regard to the informant problem raised in connection with the prosecution of Gray, Martin interviewed SA [redacted] on 3/15/79 concerning the contact with [redacted] (FORMER). [redacted] amplified on the contents of the Los Angeles teletype of 3/14/79, which set forth the results of his and ASAC Joseph V. Corless's contact with that source. Generally, he identified and described the backgrounds of the various people who had knowledge of the [redacted] Martin, subsequent to the interview, requested a memorandum be submitted to him setting forth details regarding our contact with the source.

In light of the severance of Gray from Miller and Felt and trial of Gray to follow Miller, the resolution of the source question is less pressing at this time.

157

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

b6
b7C

PAGE 1 OF 3

DATE 3/20/79	CLASSIFICATION CONFIDENTIAL	PRECEDENCE IMMEDIATE
-----------------	---	-------------------------

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

START HERE

SFM
CJO

FM DIRECTOR, FBI
TO LEGAL ATTACHE, OTTAWA {IMMEDIATE} ①
LEGAL ATTACHE, MEXICO CITY {IMMEDIATE} ①
14 LEGAL ATTACHE, HONG KONG {IMMEDIATE} ①
LEGAL ATTACHE, TOKYO {IMMEDIATE} ①

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1, 6)
DATE 03-02-2009

12 BT

~~CONFIDENTIAL~~

10 UNITED STATES VERSUS L. PATRICK GRAY III, ET AL; DISCOVERY
PROCEEDINGS

8 ON MARCH ONE FIVE, LAST, U.S. DISTRICT COURT JUDGE ORDERED
GOVERNMENT TO COMPLETE DISCOVERY PROCEEDINGS BY MARCH THREE
6 ZERO, NEXT. PROSECUTION IS PREPARING TO PRESENT TO COURT
PAREN EXPARTE AND IN CAMERA PAREN AT THAT TIME ALL MATERIALS
4 ORDERED PRODUCED IN DISCOVERY WHICH HAVE NOT YET BEEN FURNISHED
THE DEFENSE, ALONG WITH A CLAIM OF EXECUTIVE PRIVILEGE BY
2 ATTORNEY GENERAL AS TO THESE DOCUMENTS AND INFORMATION. SOME OF
THESE MATERIALS ORIGINATED WITH FIVE DIFFERENT FOREIGN

DO NOT TYPE PAST THIS LINE

REC-114 62-118045-181

11 JUN 12 1979

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY <i>[Signature]</i>	DRAFTED BY JAM/CLS [73]	DATE 3/20/79	ROOM 4634/5	TELE EXT. []
-----------------------------------	----------------------------	-----------------	----------------	------------------

- 1 - MR. J. B. ADAMS
- 1 - MR. J. J. MCDERMOTT
- 1 - MR. J. A. MINTZ
- 1 - MR. H. N. BASSETT
- 1 - MR. W. O. CREGAR

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
235726
MAR 21 1979

62-118045

~~CONFIDENTIAL~~

4 - [Signature]

53 JUN 13 1979

DO NOT FILE WITHOUT COMMUNICATIONS SECTION Greenberg/Gray-3017

~~CONFIDENTIAL~~

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

b1
b7D

PAGE 2

CONTINUATION SHEET

~~PAGE TWO: DE HQ 0157 C O N F I D E N T I A L~~

(U) GOVERNMENTS AND RELATE TO SDS AND/OR WEATHERMAN INVESTIGATIVE
20 RESULTS. ~~EX~~

(U) 18 IN CONNECTION WITH THE CLAIM OF PRIVILEGE, DEPARTMENT HAS
REQUESTED FBI DETERMINE WHETHER THE FOREIGN GOVERNMENTS OBJECT
16 TO THE RELEASE OF THEIR MATERIAL. ~~EX~~

(U) FOR YOUR INFORMATION DEFENSE COUNSEL AND DEFENDANTS HAVE
14 CLEARANCE FOR MATERIAL UP TO AND INCLUDING SCI. ~~EX~~

(U) YOUR SOURCES SHOULD BE ADVISED THAT THE ITEMS FURNISHED
12 BY THEM WILL BE SPECIFICALLY IDENTIFIED IF THEY DESIRE TO
REVIEW SAME FOR POSSIBLE DISCLOSURE TO THE DEFENSE. ~~EX~~

(U) 10 THE FOREIGN AGENCIES WHICH FURNISHED THE PERTINENT
DOCUMENTS HAVE BEEN IDENTIFIED AS [REDACTED]

8 [REDACTED]
[REDACTED]
6 [REDACTED] [REDACTED]

(C) [REDACTED] ~~EX~~
4 HANDLE PROMPTLY. SUTEL BY AM OF MARCH 22, 1979. CONTACT
WITH AUTHORITATIVE SPOKESMAN IS DESIRED, BUT CONTACT SHOULD NOT
2 BE DELAYED TO ACHIEVE IDEAL HIGH LEVEL CONTACT. {U}

~~C&E 1979, REASON 2, DRD MARCH 30, 1979.~~

DO NOT TYPE MESSAGE BELOW THIS LINE

DO NOT TYPE PAST THIS LINE

Greenberg/Gray-3018

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

CONTINUATION SHEET

START HERE

BT

20
18
16
14
12
10
8
6
4
2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-3019

~~CONFIDENTIAL~~

Teletype to Ottawa, Mexico City, Hong Kong, Tokyo
Re: U.S. Vs. L. Patrick Gray III, Et Al; Discovery Proceedings

NOTE:

Coordinated with SA Paul V. Daly, Defense Discovery Special, Records Management Division. Restatements requested March One Nine, Last, by Frank Martin, Trial Attorney, after conferring with Robert Keuch, Deputy Assistant Attorney General.

BTG
RM *[Signature]*

APPROVED:	Adm. Serv. _____	Legal Coun. _____
<i>MB</i> Director _____	Crim. Inv. _____	Plan. & Insp. <u> </u>
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u> </u>
Dep. AD Adm. _____	Intell. <u> </u>	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

*Read to Frank Martin
US DJ and he approved
of the content of teletype
pvc*

[Signature]

O 210215Z MAR 79

21 MAR 79 03 14z

FM HONG KONG

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

TO DIRECTOR IMMEDIATE 060-20

BT

~~CONFIDENTIAL~~

UNITED STATES VERSUS L. PATRICK GRAY, III, ET AL; DISCOVERY PROCEEDINGS.

Asst. Dir.:	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

REBUTEL, MARCH 20, 1979.

CANNOT MAKE INTELLIGENT APPROACH TO [REDACTED]

b7D

[REDACTED],
WITHOUT KNOWING EXACTLY WHAT MATERIALS THE DEPARTMENT WISHES TO
RELEASE TO THE DEFENDANTS.

Go

DESPITE CLEARANCES OF DEFENDANTS AND COUNSEL, AND THEIR
PRIOR POSITIONS IN FBI, [REDACTED] HAS PREVIOUSLY
EXPRESSED, IN WRITING, THAT HE WISHES EVEN THE MERE FACT OF
[REDACTED] FBI COOPERATION CONSIDERED CONFIDENTIAL, AND ALL INFORMATION
PROVIDED TO BE CONSIDERED AT LEAST CONFIDENTIAL OR OF A HIGHER
CLASSIFICATION, AND NOT TO BE RELEASED OUTSIDE OF THE FBI WITHOUT
[REDACTED] PRIOR APPROVAL.

b7D

REC-114 62-118045-182

11 JUN 12 1979

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-03-2009

4- Waly-PVD

53 JUN 13 1979

PAGE TWO ~~C O N F I D E N T I A L~~

THIS APPROVAL IS ROUTINELY OBTAINED IN CRIMINAL MATTERS,
AND IN SECURITY MATTERS FOR PASSAGE TO OTHER SECURITY SERVICES.
WHAT THE POSITION OF THE [] WOULD BE WITH RESPECT TO DISCLOSURE b7D
EX PARTE AND IN CAMERA IN THIS CASE IS NOT KNOWN, BUT LEGAT
BELIEVES IT WOULD DEPEND LARGELY ON THE NATURE OF THE MATERIAL.

LEGAT IS CERTAIN THAT WITHOUT INFORMING [] OF THE SPECIFIC
MATERIAL, THE [] WILL OBJECT TO RELEASE OF ANY REPEAT ANY b7D
MATERIAL PROVIDED BY IT.

LEGAT WILL POSTPONE CONTACT WITH [] ON THIS MATTER b7D
UNTIL FURTHER ADVISED BY HEADQUARTERS.

~~C&E BY 887, REASONS 1, 2 AND 3, DRD MARCH 21, 2009.~~

BT

~~CONFIDENTIAL~~
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

132

PAGE 1 OF 2

DATE 3/21/79	CLASSIFICATION CONFIDENTIAL	PRECEDENCE IMMEDIATE
-----------------	---	-------------------------

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 03-03-2009

START HERE

FM FM DIRECTOR, FBI

TO TO LEGAL ATTACHE, HONG KONG {IMMEDIATE}

BT

~~CONFIDENTIAL~~

UNITED STATES VS L. PATRICK GRAY III, ET AL; DISCOVERY
PROCEEDINGS.

RE HONG KONG TELETYPE, MARCH 21, 1979

INFORMATION SOUGHT TO BE USED IN CAPTIONED CRIMINAL PROSE-

CUTION IS OF A ROUTINE SECURITY NATURE AND CONSISTS OF

DO NOT TYPE PAST THIS LINE

REC-114 (2)-118091-187

APPROVAL SOUGHT IS TO USE SECURITY MATTER

DO NOT TYPE MESSAGE BELOW THIS LINE

11 JUN 12 1979

APPROVED BY <i>Woc/A</i>	DRAFTED BY JLT/CLS {4}	DATE 3/21/79	ROOM 4634/5	TELE EXT. 4691
-----------------------------	---------------------------	-----------------	----------------	-------------------

- 1 - MR. H. N. BASSETT
{ATTN: PAUL DALY}
- 1 - MR. W. O. CREGAR
- 1 - MR. [REDACTED]

~~CONFIDENTIAL~~

b6
b7C

4 - Dalby

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

2230A
MAR 21 1979

53 JUN 13 1979

DO NOT FILE WITHOUT COMMUNICATIONS STAMP Greenberg/Gray-3023

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

~~CONFIDENTIAL~~

PAGE 2

CONTINUATION SHEET

~~PAGE TWO RE HQ 0132 C O N F I D E N T I A L~~

18 INFORMATION IN A CRIMINAL PROSECUTION FOR DISCLOSURE TO
20 APPROPRIATELY CLEARED DEFENSE COUNSEL DURING DISCOVERY ONLY AND
18 NOT FOR USE IN A PUBLIC TRIAL.

~~C&E 1729, REASON 2, DRD MARCH 21, 1977.~~

16 BT

1

14

12

10

8

6

4

2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-3024

~~CONFIDENTIAL~~

Teletype to Hong Kong
Re: US Vs L. Patrick Gray III, Et Al; Discovery Proceedings.

NOTE:

Referenced Hong Kong cable request clarification of instructions to contact [redacted] set forth in Bureau Teletype, March 20, 1979.

*RSL
RM*

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. _____
Dep. AD Adm. _____	Intell. <i>WOLF</i>	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

*Read by Frank Martin, 3/21/79, who
added end of last sentence
beginning " " for disclosure
to appropriately cleared. "*
SK

~~CONFIDENTIAL~~

Assoc. Dir.	
Dep. Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

O 220520Z MAR 79

FM HONG KONG (197-1)

TO DIRECTOR IMMEDIATE

22 MAR 79 06 02z
663-21

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

BT

~~CONFIDENTIAL~~

UNITED STATES VS. L. PATRICK GRAY, III; ET AL;
DISCOVERY PROCEEDINGS.

REBUTELS, MARCH 20 AND 21, 1979.

[Redacted]

INFORMED MARCH 22, 1979: ~~(S)~~

[Redacted]

CONSEQUENTLY, [Redacted] OBJECTS TO AND WILL NOT REPEAT WILL NOT APPROVE
RELEASE OF THAT INFORMATION OUTSIDE OF FBI FOR EX PARTE, IN
CAMERA REVIEW BY COURT AND/OR DEFENSE. ~~(S)~~

~~C&E BY 387, REASONS 1, 2 AND 3, DRD MARCH 22, 2009.~~

BT

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 03-03-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

53 JUN 13 1979

~~CONFIDENTIAL~~

Greenberg/Gray-3026

62-118045

MAR 22 1979

REC-114 62-118045-184

Butz

b7D

b1
b7D

JUN 12 1979

O 221700Z MAR 79

FM OTTAWA

TO DIRECTOR IMMEDIATE 078-22

BT

~~CONFIDENTIAL~~

UNITED STATES VERSUS L. PATRICK GRAY III, ET AL; DISCOVERY
PROCEEDINGS

REBUTEL MARCH 20, 1979. RE LEGAT TELEPHONE CALL MARCH 22,
1979.

Asst. Dir.	
Dep. Asst. Dir.:	
Adm. Serv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

22 MAR 79 1 10z
RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

[REDACTED]

ADVISED ON MARCH 22, 1979, THAT [REDACTED] POLICY IS NOT TO AUTHORIZE
RELEASE OF THEIR DOCUMENTS AND INFORMATION AS IDENTIFIED IN
RETEL.

[Handwritten signature] b7D

THEY BELIEVE THAT NO DOUBT THIS PRECEDENT SHOULD
BE CONTINUED IN THIS INSTANCE; HOWEVER, PRIOR TO GIVING A
DEFINITIVE ANSWER, THEY WOULD REQUIRE IDENTIFICATION OF [REDACTED]
MATERIAL IN QUESTION SO THAT IT COULD BE REVIEWED BY [REDACTED].

b7D

~~C&E 1453, REASON 1, DRD MARCH 22, 2009.~~

REC-114 62-118 045-185

BT

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-03-2009

11 JUN 12 1979

RECEIVED
MAY 3 1979
RECEIVED
MAY 3 1979

[Handwritten signature]

53 JUN 13 1979

cc - Legal Coun.

Greenberg/Gray-3027

~~CONFIDENTIAL~~

Asst. Dir.:	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

0 222020Z MAR 79

22 MAR 79 21 22z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

FM MEXICO CITY 2P

TO DIRECTOR IMMEDIATE NR 164-22

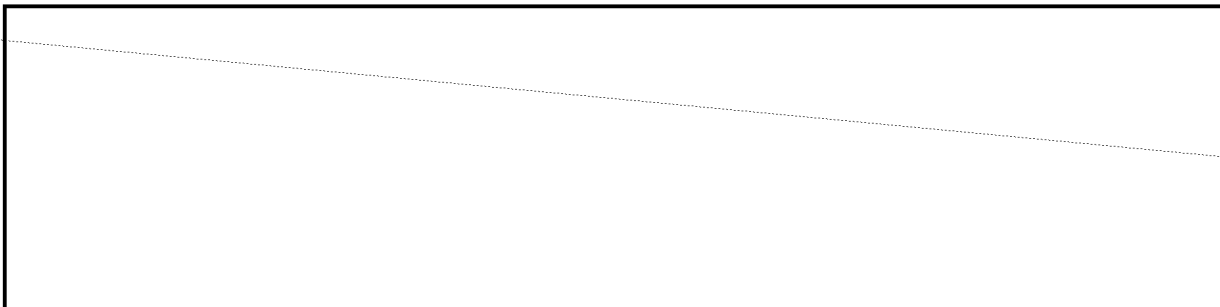
BT

~~CONFIDENTIAL~~

UNITED STATES VERSUS L. PATRICK GRAY, III; ET AL. DISCOVERY
PROCEEDINGS.

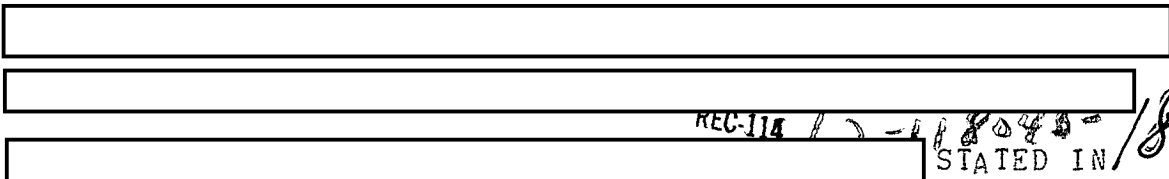
REBUTEL MARCH 20, 1979.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE



[Handwritten signature]
b1

ON MARCH 22, 1979, CONTENTS OF REBUTEL WERE DISCUSSED WITH



REC-116 100-448048-186 STATED IN

UNEQUIVOCAL TERMS THAT [REDACTED] COULD NOT
COURTESY THE RELEASE OF MATERIAL RELATIVE TO CAPTIONED

b6
b7C
b7D
11 JUN 12 1979

MATTER WHICH ORIGINATED WITH [REDACTED] AND WAS
PREVIOUSLY PROVIDED TO THE OFFICE OF LEGAL ATTACHE, MEXICO
CITY, UNDER ANY CONDITIONS TO ANYONE OUTSIDE THE FBI.

END PAGE ONE

[Handwritten signature]

53 JUN 13 1979

~~CONFIDENTIAL~~

Greenberg/Gray-3028

~~CONFIDENTIAL~~

b6
b7C
b7D

PAGE TWO ~~C O N F I D E N T I A L~~

[REDACTED] REQUESTED THAT HE BE ADVISED IN THE EVENT ANY ACTION TAKES PLACE WHICH WOULD ALLOW THE RELEASE OF THE MATERIAL OR WOULD DISCLOSE COOPERATION BY [REDACTED].

[REDACTED] REITERATED THAT [REDACTED]

[REDACTED] HE IS QUALIFIED TO ADDRESS THIS SUBJECT AND HE IS AGAINST THE RELEASE OF MATERIAL WHICH ORIGINATED WITH THE [REDACTED] IN CAPTIONED MATTER.

~~CLASSIFIED AND EXTENDED BY 4938; REASON 2, DRD MARCH 22,~~

~~1999.~~

BT

~~CONFIDENTIAL~~

Greenberg/Gray-3029

[REDACTED] Deputy Special Coordinator, Special Coordinating Staff--Taiwan, Bureau of East Asian and Pacific Affairs, State Department, advised on 3-21-79:

The U. S. Government has no official representation on Taiwan. Unofficial representation in the form of the American Institute in Taiwan is planned but is not yet in operation because of lack of funds. Therefore, the U. S. Government has no way to approach authorities on Taiwan. Furthermore, the U. S. Government has no official dealings with authorities from Taiwan anywhere in the world.

AKN

6588

OK to file
4-3-79

~~SECRET~~

Asst. Dir.	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

b6
b7C
b7D

0 220600Z MAR 79

FM TOKYO

22 MAR 79 07 32z

TO DIRECTOR IMMEDIATE 081-21

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

BT

~~CONFIDENTIAL~~

UNITED STATES VERSUS L. PATRICK GRAY III, ET AL; DISCOVERY
PROCEEDINGS.

REBUCAB MARCH 20, 1979; TOKCABS MARCH 27 & 28, 1978, BUCAB
MARCH 24, 1978, CAPTIONED, "SUBCOMMITTEE ON INTERNATIONAL OPERATIONS;
SENATE COMMITTEE ON FOREIGN RELATIONS" FOREIGN LIAISON MATTER.

ENTIRE TEXT CLASSIFIED ~~CONFIDENTIAL~~.

ON MARCH 22, 1979, (MARCH 21 WAS JAPANESE HOLIDAY), []

[]

[] WAS CONTACTED AS RE-

QUESTED IN REBUCAB. DURING CONTACT IT WAS POINT OUT THAT []

CONSIDERS THE RELATIONSHIP BETWEEN THE FBI AND [] TO BE CONFI-

DENTIAL AND ANY INFORMATION EXCHANGED IS CONSIDERED TO BE CONFI-

DENTIAL AND FOR FBI USE ONLY, PARTICULARLY IN MATTERS OF A SECURITY

NATURE. [] ADVISED THAT WITHOUT FULL STUDY OF THIS MATTER

REC-114 62-118045-187

INCLUDING THE DETAILS OF THE CASE AND CONTENT OF THE DOCUMENTS IN

JUN 12 1979

QUESTION THAT HE COULD NOT RESPOND AS TO WHETHER OR NOT [] HAS AN

OBJECTION TO THE RELEASE OF DOCUMENTS OR INFORMATION FROM THE []

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 03-03-2009

no DECLASS. NOTICE
4-P. []
4428 55 []
62-118045

53 JUN 13 1979

~~SECRET~~

Greenberg/Gray-3031

PAGE TWO ~~CONFIDENTIAL~~

FOR EXAMINATION BY THE DEFENDANTS IN COURT PROCEEDINGS REFERRED TO IN REFERENCED COMMUNICATION.

IT IS NOTED THAT BY REFERENCED CABLE DATED 3/27/78, TOKYO RESPONDED TO REQUEST TO CONTACT [] ALONG SIMILAR LINES. AT THAT TIME THE [] REQUESTED THE RELATIONSHIP BETWEEN [] AND FBI BE KEPT CONFIDENTIAL AND FURTHER INDICATED IN PART THAT DATA IS PROVIDED THE FBI BY [] FOR INFORMATION ONLY. AT THAT TIME WHEN MATTER WAS THOROUGHLY DISCUSSED, [] DESIRED NO DISCLOSURES TO ANYONE OUTSIDE THE FBI. DURING THE 3/22/79 MEETING WITH [] A DESIRE TO MAINTAIN THE LONG STANDING CONFIDENTIAL RELATIONSHIP WAS EXPRESSED, ALSO A CONCERN THEREFORE WAS EXPRESSED. LEGAT TOKYO DOES NOT FEEL THIS STANCE WILL CHANGE. [] ADVISED HE WOULD STUDY MATTER BUT NEEDS TO SEE CONTENTS OF DOCUMENTS IN QUESTION BEFORE DECISION IS MADE.

b6
b7C
b7D

TOKYO FILES CONTAINING INFO ON SDS AND WEATHERMAN ARE LIMITED AND REVIEW OF SAME LOCATED NO INFORMATION FROM [] []

(S)

[]
[]

b1
b7D

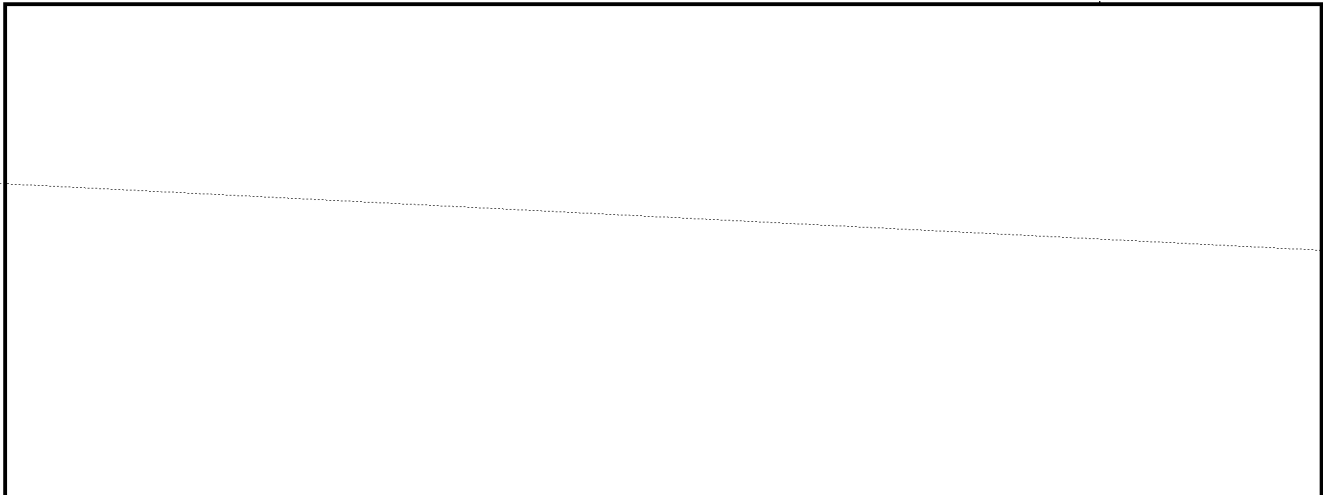
IS NOT IN A POSITION TO MAKE A DECISION ALONG THE LINES DESIRED

~~SECRET~~

~~PAGE THREE CONFIDENTIAL~~

IN REFERENCED CABLE. IN ORDER TO OBTAIN SUCH A DECISION SAME WOULD HAVE TO BE HANDLED BY LETTER, (TELEPHONE INSECURE) OR

(S) THROUGH ASSISTANCE OF OSI, NISO



b1

(S) BUREAU IS REQUESTED TO ADVISE IF STATEMENTS BEYOND THOSE SET OUT IN REFERENCED CABLES ARE NEEDED IN RESPONSE TO CURRENT REQUEST. IF NOT, BUREAU IS REQUESTED TO SPECIFICALLY IDENTIFY DOCUMENTS IN QUESTION AND FURNISH THEIR CONTENTS SO DECISION BY AGENCIES INVOLVED CAN BE MADE.

ADMINISTRATIVE:

LEGAT TOKYO NOTES THAT CONTACT OF ON 3/22/79, CAUSED SOME CONCERN IN VIEW OF POTENTIAL POLITICAL RAMIFICATIONS AND QUESTIONS

b7D

~~SECRET~~

~~SECRET~~

b7D

PAGE FOUR ~~CONFIDENTIAL~~

AS TO RELATIONSHIPS WITH FOREIGN AGENCIES. ALSO SOME CONCERN WAS EXPRESSED AS TO CONFIDENTIALITY BETWEEN FBI AND [REDACTED]. LEGAT POINTED OUT THAT BECAUSE OF THE BUREAU'S RECOGNITION OF THE EXISTING CONFIDENTIAL RELATIONSHIP THAT [REDACTED] WAS BEING CONTACTED AND ASKED SPECIFICALLY AS PERTAINS TO A PARTICULAR CASE IN VIEW OF THE DISCOVERY PROCEEDINGS AND ORDERS OF THE USDC JUDGE. THE EXPLANATION ASSURED [REDACTED] OF OUR DESIRE TO CONTINUE TO MAINTAIN THE CONFIDENTIAL RELATIONSHIP BUT FEARS EXIST THAT IF SUCH INFORMATION IS RELEASED FROM FBI CONTROL THAT THE CONFIDENTIAL NATURE OF SAME WILL NOT BE MAINTAINED. LEGAT TOKYO HOPES THAT IN VIEW OF THE REQUESTS FOR CONFIDENTIALITY WHICH WERE MADE IN MARCH, 1978, THAT SUCH CAN BE UTILIZED AS RESPONSE IN CURRENT MATTER AS WELL AS IN ANY FUTURE MATTERS OF AN IDENTICAL OR SIMILAR NATURE.

~~C AND E 1813; REASON 2, DRD MARCH 30, 1999.~~

BT

~~SECRET~~

Greenberg/Gray-3034

Asst. Dir.:	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	_____
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

UNITED STATES GOVERNMENT
Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

TO : The Director
FROM : Legal Counsel *JAM*
SUBJECT: W. MARK FELT

DATE: 3/22/79

P. Dally
6886 #212

At 2:04 p. m., March 22nd, Mary Lawton, Office of Legal Counsel, Department of Justice, called me and said that Mark Felt had been briefed today regarding certain security information in order to grant him a security clearance in connection with the pending criminal prosecution. She said that following his briefing, Mr. Felt refused to sign the oath and said that his refusal was based on the fact that if he did so it would interfere with the publication of his book which contains information concerning the specific program involved in the briefing.

Ms. Lawton said that the Department is considering whether it is necessary to apply for an injunction against publication of the classified material in the book. For that purpose, she requested a copy of the employment secrecy agreement, if any, Mr. Felt may have signed while employed at the FBI.

Ms. Lawton also inquired as to whether anyone in the FBI has given Mr. Felt authorization to include classified material in his book.

RECOMMENDATIONS:

(1) That the Records Management Division furnish a copy of any employment agreement Mr. Felt may have signed to Ms. Lawton.

APPROVED: <i>WJM</i>	Adm. Serv. _____	Legal Coun. <i>JAM</i>
Director _____	Crim. Inv. _____	Plan. & Insp. <i>JAM</i>
Assoc. Dir. _____	Ident. _____	Rec Mgnt. _____
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

(2) That the Records Management Division advise Ms. Lawton whether Mr. Felt has been authorized by the Bureau to include in his book any classified information.

APPROVED: <i>WJM</i>	Adm. Serv. _____	Legal Coun. <i>JAM</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. _____
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

JAM:nls (7)

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - Mr. Cregar
- 1 - Mr. Long
- 1 - Mr. Mintz



5 JUN 13 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

62-118045

P. Dally PD

9-11-79
4
FBI/DOJ

~~SECRET~~

Assoc. Dir.	
Dep. Dir. Adm.	
Dep. Dir. Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Serv.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

b1
b6
b7C
b7D

P 23140Z MAR 79

23 MAR 79 15 45z

FM PARIS

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

TO DIRECTOR PRIORITY 082-23

BT

~~SECRET~~

UNITED STATES VERSUS L. PATRICK GRAY III, ET AL.;
DISCOVERY PROCEEDINGS.

REBUCAB MARCH 22, 1979.

RELEASE OF INFORMATION ORIGINATING WITH [REDACTED]

[REDACTED] IN CAPTIONED MATTER

WAS DISCUSSED ON MARCH 23, 1979, WITH [REDACTED]

ADVISED [REDACTED] TOTALLY OPPOSED TO INFORMATION CONCERNING [REDACTED]

BEING RELEASED TO DEFENDANTS AND DEFENSE COUNSEL.

~~C & E BY 2415; REASON (1); DRD MARCH 23, 2009.~~

BT

REC-114 62-118045-189

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 03-03-2009

11 JUN 12 1979

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Handwritten: [Signature]

53 JUN 13 1979

~~SECRET~~

Greenberg/Gray-3036

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett *HB*

FROM : Mr. Daly *pd*
W. Mark

SUBJECT: U. S. vs. Felt et al.

DATE: 3/27/79

PURPOSE: The purpose of this memorandum is to secure approval for two affidavits to be signed by the writer and submitted to the court in this matter.

RECOMMENDATION: That attached affidavits be executed and furnished the Department.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-03-2009 BY 65179 dmh/baw/sbs

APPROVED: *W*

Director	Adm. Serv.	Legal Coun.
Assoc. Dir.	Crim. Inv.	Plan. & Insp.
Dep. AD Adm.	Ident.	Rec. Mgnt.
Dep. AD Inv.	Intell.	Tech. Servs.
	Laboratory	Training
		Public Affs. Off.

ENC. BEHIND FILE

4-ENCLOSURE
 Enclosures (2)

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Steel
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Bassett
- 1 - Mr. Daly

PVD:jeg (8)

Continued on Page Two

Greenberg/Gray-3037



4 - Daly

original delivered to Mastini by [unclear] 3-28-79 true copies attached along with [unclear] certification

REC-111

62-118045-190

JUN 12 1979

4 - [unclear]

Memorandum from Mr. Daly to Mr. Bassett
Re: U. S. vs. Felt et al.

DETAILS: Francis J. Martin of the FBI Task Force U. S. Department of Justice requested two affidavits be prepared for submission to the court pertaining to certain discoverable information in our possession originating with foreign police and intelligence services. The affidavits are to be submitted in connection with the proposed claim of privilege by the Attorney General.

The information prompting the submission of these affidavits pertains to foreign direction, collaboration and contacts by the Weathermen and their associates. An effort was made in each instance to find parallel information which did not originate with a foreign police or foreign intelligence service. While this was generally successful there were six instances where parallel information could not be located. We also, at the request of the Department contacted all the foreign governments with one exception. The governments responded through our legats denying permission to release of the information to the defense. Two of the governments conditioned their response by stating they would be willing to review the documents in question and give a definitive answer. Absent such a review both governments requested the material not be released. We have forwarded the documents to those governments through the appropriate legat. Mr. Martin, who has reviewed the documents in question and is aware as to the details of their responses, has elected not to wait for any change in those two governments' response and to go forward with the affidavits. The one instance where contact could not be made involved [redacted] In view of this Government's current lack of diplomatic relations with that country, State Department requested we not contact them. Martin is fully cognizant of this problem.

The attached affidavits were discussed in detail with Mr. Martin and his associate Lubomyr M. Jachnycky. Both stated that as to style and content they met with their approval.

~~SECRET~~

62-118045-190
ENCLOSURE

Greenberg/Gray-3039

● ~~SECRET~~ ●

3/29/79

Paul V. Daly
Federal Bureau of Investigation
ARREST CHECK
WITNESS LIST

FEDERAL GOVERNMENT

Frank Martin
Department of Justice

W. Mark Felt

Pursuant to your request, the below-listed present and past employees of the Federal Bureau of Investigation (FBI) were searched in the records of the Identification Division, FBI. No arrest record for any of these individuals was located.

Adams, James B.
[Redacted]
Branigan, William
Conrad, Ivan W.
[Redacted]

Kitchens, Thomas W. Jr.
LaPrade, J. Wallace
Mack, Paul L.
Moore, Donald W. Jr.

[Redacted]

[Redacted]

Bishop, Thomas E.
Cleveland, William V.
Decker, Andrew J.
Hoxie, Herbert E.

[Handwritten signature]

[Redacted]

Shackleford, Robert L.
[Redacted]
Sullivan, William A.

[Redacted]

Young, Paul C.

1 - ENCLOSURE

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

JLT:bas
(3) *bas*

*delivered to Martin
by Brennan
3-29-79
62-118045-191*

REC-114 JUN 12 1979

4 - Daly

62-118045
Greenberg/Gray-3055

53 JUN 13 1979

JENCKS GRADY INVENTORY

27 2/15/78
1/16/78
1/16/78

222
Birth Day
Check

* Adams, James B. 12-21-26 3501
302 10/13/76 (A)
office interview 7/11/77 (B)
office interview 5/9/78 (C)

* [redacted] 3502 b3
302 7/15/77 (A) b6
office interview 8/11/76 4 civil (B) b7C
[redacted] (C)

* [redacted] 3503 b3
office interview (3) Sept 76 (A-C) b6
[redacted] 2 civil (D) b7C
[redacted] (E)
stmnt, admn. Procedures WDC - 3/9/78 (F)
10/5/78 (G)

* [redacted] 3504 b3
[redacted] 2 CIVIL (A)

* Branigan, William 7-25-76 3505
office interview 8/25/77 1 civil (A)

* [redacted] 3506 b3
[redacted] 2 civil (A)

* [redacted] 3507 b3
[redacted] no civil (A)

* [redacted] 3508 b3
office interview 10/13/76 (A)
[redacted] 2 civil (B)

* [redacted] 3509 b3
office interview 10/8/76 (A) b6
office interview 2/6/78 3 civil (B) b7C
[redacted] (C)
[redacted] (D)

** [redacted] 3510 b3
[redacted] no civil (A) ←
[redacted] (B)

* [redacted] 3511 b3
[redacted] 2 civil (A)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

62-118045-191

ENCLOSURE Greenberg/Gray-3056

* [redacted] *1 civil* 3512 b6
office interview - 4/24/78 (A) b7C

* [redacted] *no civil* 3513 b3
office interview transcript *no civil*
8/20/76 (A)
(B)
(C)
(D)
(E)

* [redacted] *no civil* 3514 b6
302 - 11/8/76, 6/28/77 (A-B) b7C
office interview 1/12/78 (C)

* Mack, Paul L. *10-1-25 civil* 3515
office interview 7/12/77; 2/2/78 (A-B)

** [redacted] *no civil* 3516 b3
[redacted] *no civil* (A) b6
b7C

* [redacted] *1 civil* 3517 b3
[redacted] (A)
B

* [redacted] *1 civil* 3518 b6
office interview 1/18/78 (A) b7C

* [redacted] *3 civil* 3519 b3
office interview 8/18/76 (A) b6
[redacted] (B) b7C

* [redacted] *no civil* 3520 b3
office interview *no civil* 11/22/76 (A) b6
office interview 2/22/78 (B) b7C
[redacted] (C)

* [redacted] *2 civil* 3521 b6
office interview 2/28/78 (A) b7C

* [redacted] *no civil* 3522 b3
[redacted] *no civil* (A) b6

* [redacted] *1 civil* 3523 b7C
302 10/1/76 (A) b3
office interviews (2) (B-C) b6
[redacted] (D) b7C

302 - 8/24/76
302 - 10/26/76
office interview 8/27/76

3524 b3
(A)
(B)
(C)
(D)
(E)
(F)

office interview 9/14/76

3526 b3
(A) b6
(B) b7C

office interview 3/15/78

3527 b3
(A) b6
(B) b7C

office interview - 1/10/78

3529 b6
(A) b7C

office interview 1/26/78

3530 b6
(A) b7C

office interview 8/27/76

3531 b3
(A) b6
(B) b7C

office interview 8/20/76
10/21/76

3532
(A)
(B) b3
(C) b6
(D) b7C

302 9/7/76
office interview - 4/28/78

3533
(A) b3
(B) b6
(C) b7C
3534(A) b7C

Waiver of Rights Forms:

LaPrade J. Wallace

(3513-F)
(3520-D) b6
b7C

Immunity Agreements:

[redacted]	(3503-G)
[redacted] (3/31/78)	(3522-B)
[redacted] (9/14/76)	(3526-C)
[redacted]	(3527-C)
[redacted] (8/27/76)	(3531-C)
[redacted]	(3532-E)
[redacted]	(3533-D)

*duplicate names
on this sheet*

* No arrest record on basis of Bureau personnel fingerprints filed in criminal file & former Bureau personnel fingerprints retrieved from civil file and researched against criminal file.

** Unable to identify with arrest record on the basis of information furnished. This is a name check only. No fingerprints located criminal or civil files.

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Memorandum

TO : [Redacted]

DATE: 3/30/79

FROM : *Dex*
[Redacted]

b6
b7C

1 - [Redacted]
 (Attn: [Redacted])
 1 - [Redacted]

b6
b7C

SUBJECT: EDWARD S. MILLER
 DOCUMENTS ORIGINATED MORE THAN
 TWENTY YEARS AGO INVOLVING
 CLASSIFIED INFORMATION

W. Mark Felt

FBI documents containing classified information and originated more than twenty years ago have been denied the requester. These documents are listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC). *Pgg*

Prior to presentation to the DRC the FBI declassified page 1 of documents 1 and 2, brackets at bottom; document 3, page 1, brackets at bottom (except stenographic reference), and page 2, paragraph 7; document 4, page 1, brackets at bottom (except stenographic reference) and page 2, paragraph 6 (except information in brackets); document 5, page 1, brackets at bottom (except stenographic reference).

The remaining documents were presented to the DRC on 2/7/79, at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: Disclosure Section should review this request in line with the above decision and insure that all appropriate material is processed for release to the requester.

Enclosure / **ENCLOSURE**

REC-114 62-118045-192

JUN 12 1979

acg
 ACG:jmh
 (3)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-03-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3060

b6
b7C

NAME: F.B.I. Personnel File of Edward S. Miller, 67-45111

COMPONENT: FBI

ADDRESS:

DRC #:

FOIPA #:

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

SEE ATTACHMENTS

Greenberg/Gray-3061

STAFF COMMENTS: * The documents in this case, which are over 20-years old, are the subject of a discovery request in criminal litigation.

The Committee should review document 3, page 1, bracketed information, and page 2, paragraph 7 (representative) and document 6, page 1, bracketed information (representative) to determine whether continued classification is warranted. The remaining information appears to be appropriately characterized by the F.B.I., as it concerns intelligence activities, sources or methods, the release of which would cause at least identifiable damage to the national security. The classification of this material has been coordinated with another government agency having a direct interest in the subject matter.

(Continued on next page....)

DECISION OF THE REVIEW COMMITTEE:

1. DECLASSIFY: Page 1 of documents 1 and 2, brackets at bottom; document 3, p. 1, brackets at bottom (except stenographic reference), and p. 2, paragraph 7; document 4, p. 1, brackets at bottom (cont. next pg.)...
2. UPHOLD CLASSIFICATION: All documents listed per attachment, except as noted above.
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER: The Committee determined that application of the "balancing test" was not appropriate.
6. COMMENTS: The Committee unanimously determined that the 20-year old classified information is within the purview of the Attorney General's prior decisions on such information.

DATE OF MEETING: February 7, 1979

CHAIRMAN: Robert Keuch

* THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

ENCLOSURE

62-118045-192

Edward S. Miller (continued from p. 1)

STAFF COMMENTS:

In view of the fact that this information may directly impinge on a pending criminal matter, and may, therefore, affect either the rights of the defendants or the government's ability to conduct a successful prosecution, or both, the staff recommends that the Committee consider whether application of the "balancing test" is appropriate.

DECISION OF THE REVIEW COMMITTEE:

1. DECLASSIFY: (except stenographic reference) and p. 2, paragraph 6 (except information in brackets); document 5, page 1, brackets at bottom (except stenographic reference).

FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
Document # 1 Memorandum from IC Dean [unclear] Director, FBI Date: 4/13/57	1	all bracket info top and bottom	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	2 thru 8	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	1 thru 6	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	7	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	3	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Document # 2 Letter from SAC, Washington, DC page 3, 5 Date: 10/13/57	1	all bracket info top, 3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	1, 2, 4, 5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	all bracket info bottom	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENSION REFERENCE FCIM, II, 1-2.4.2
	2	1, 2, 4, 5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	3	all Unchecked info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	3	1, 3	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	3	2, 4	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
document # 3 letter from SAC, in Francisco, CA written 1/18/57	1	all Unchecked info top and bottom except 1/2 bottom	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	Subject, 1, 2, 3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	4, 5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	all Unchecked info top, 7	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	1 thru 4, 6	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENSION REFERENCE FCIM, II, 1-2.4.2
	2	5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Document # 4 letter from SAC re: [unclear] to director dated 6/18/57	1	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	Subject, 1 thru 5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	6	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	1 thru 3	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	3 thru 6	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Document # 5 letter from SAC, re: [unclear], et al dated 6/18/57	1	all bracket info top, 1, 3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	2, 4, 5	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	all bracket info top	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
	2	all bracket info top 2, 4	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	2	1, 3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
document # 6 file from supervisor to [unclear], [unclear] [unclear] [unclear] dated 11/5/58	1	all bracket info top 5	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	1, 2, 3	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	1	4	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
document # 7 2 and 2.4 of memo from SAC, San Francisco Director, FBI dated 11/9/57	1	3	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
document # 8 2 and 2.4 of memo from SAC, San Francisco Director, FBI	1	3	<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input checked="" type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

~~SECRET~~

April 2, 1979

OUTSIDE SOURCE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-03-2009

Honorable William B. Bryant
United States District Judge
United States District Court
Washington, D.C. 20530

Re: United States v. W. Mark Felt, et al.

Dear Judge Bryant:

This responds to Francis J. Martin's two letters to you dated March 30, 1979, one not under seal and the second under seal. In the unsealed letter, Mr. Martin asserts that "the government has completed its discovery". We believe that assertion to be incorrect and that other assertions contained in that letter are most misleading. We are presently reviewing our records and certain documents we received only Friday, March 30, 1979 in order to document a Motion to Dismiss for Failure to Comply with Court-Ordered Discovery. We expect to file this motion no later than Friday, April 6, 1979. The areas in which we presently believe the government's response to the Court's order to be incomplete are as follows:

1. The government has failed to provide the defense with access to at least 500 documents from foreign governments relating to the foreign travel and contacts of members of the Weatherman Underground Organization (WUO) and their collaboration with agents of foreign powers which were received by the FBI and/or contained in the files of the FBI during the time period relevant to the indictment;
2. The government has failed to provide the defense with access to all documents generated by the National Security Agency, relating to the foreign connections of the WUO, and which were received by the FBI and/or contained in the files of the FBI during the time period relevant to the indictment;

REC-114
62-118045-193

JUN 12 1979

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Greenberg/Gray-3067

~~SECRET~~

Handwritten signature/initials

62-118045

3 JUN 13 1979

Honorable William B. Bryant
April 2, 1979
Page Two

b6
b7C

[Redacted]

PO CG
PD Waterworks - 73
Palmetto

3. The government has failed to provide the defense with documents relating to surreptitious entries other than those charged in the indictment which took place during the period of the indictment;
4. The government has exceeded the authority to protect pending investigations and intelligence sources and methods granted in the Protective Order of December 22, 1978 by totally withholding documents falling within the scope of the Court's discovery order containing such information rather than by providing such documents to defense counsel with appropriate redactions;
5. The government has withheld production of documents tending to show Presidential and Attorney General approval of the use of surreptitious entries;
6. The government has withheld production of innumerable relevant documents generated by the Department of Justice in response to or inviting relevant FBI documents that have been produced to the defense;
7. The government has failed to provide the defense with a quantity of documents furnished the Department of Justice by the FBI specifically to be turned over to the defense in this case;
8. The government has failed to provide the defense with documents falling within the Court's discovery order specifically designated, described, and requested by the defense;
9. The government has failed to provide the defense with access to innumerable "other copies" of documents from the 1537 lost and destroyed "tickler" files from the IS-2 Section of the Domestic Intelligence Division; which the government has previously maintained as being readily available in the main bureau files;
10. Access to documents is being improperly restricted. Defense counsel is being forced to review documents in the vault that are not classified SCI. These documents should have been turned over to the defense.

routine

all found

*Do not
stuff Proad
memo*

true

*Dept
true
CF # 3*

b1

(S) eg - NY [Redacted] file, ordered SE after 6/67

*do not
com # say*

*Dept
true*

~~SECRET~~

Honorable William B. Bryant
April 2, 1979
Page Three

With respect to the sealed letter, we wish to register herein strong objection to any ex parte presentation to the Court by the government of its position on any issue in this case. We have not sought such privilege on behalf of Mr. Felt for any reason at any stage of the proceedings thus far and we believe such ex parte practice, when unconsented to by opposing counsel, to be totally foreign to legitimate procedure in a criminal case. On April 6, 1979, when we submit our motion to dismiss on the discovery issue, we also intend to submit a memorandum in support of the objection we here raise to ex parte proceedings. We respectfully request that the Court conduct no in camera and/or ex parte proceedings in connection with the matters raised in the sealed letter from Frank Martin of March 30, 1979 until we have had an opportunity to be heard on the propriety of proceeding in such manner.

We would deeply appreciate your Honor allowing us until Friday to present the above papers to the Court. We have no objection to allowing the government a reasonable time to respond with a hearing at a time thereafter of mutual convenience to the Court and counsel. If there is any problem with proceeding as outlined above, we respectfully request that we be so advised.

Very truly yours,

Brian P. Gettings

Brian P. Gettings

cc: Francis J. Martin, Esquire
Thomas A. Kennelly, Esquire
Alan I. Baron, Esquire

~~SECRET~~

Greenberg/Gray-3069

UNITED STATES GOVERNMENT

Memorandum

JH
TO : William H. Webster, Director
Federal Bureau of Investigation
FROM : *PBH/PLK*
Philip B. Heymann
Assistant Attorney General
Criminal Division
SUBJECT: Unauthorized Disclosure of Classified Information

DATE: April 23, 1979
PBH:FJM:ams
File No. 177-16-33

L. Patrick Gray

Reference is made to your memorandum of February 14, 1979, regarding the unauthorized disclosure of classified materials. Please provide copies of the following documents, which will be of assistance in making a full reply to the issues you have raised.

1. Director to Assistant Attorney General, Civil Rights Division; 6/22/76; classification procedures
2. Assistant Attorney General, Civil Rights Division to Director; 6/25/76; clearances for attorneys
3. Director to Attorney General; 6/29/76; outlined clearance procedures for defense attorneys
4. Director to Assistant Attorney General, Civil Rights Division; 7/26/76; expressed concern over protection of classified national security information
5. 6/22/78; interview with Dick Long
6. Director to Attorney General; 9/3/76; requesting [redacted]
7. Assistant Attorney General to Director; 9/7/76 forwarding [redacted]

EXP. PROC.
34 MAY 2 1979

ORIGINAL FILED IN 62-118045-187X

Recd 5/7/79
LETTER TO AAG, CRIMINAL DIV.
DR:HF 5-16-79

[redacted] b3
[redacted] b3

62-118045

NOT RECORDED
167 JUN 13 1979

23 MAY 1 1979

Greenberg/Gray-3070



3 JUN 13 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

SIM

8. Deputy Associate Director to Skolnik; 2/10/78 or 2/6/78; classification of Grand Jury materials.

9. Deputy Associate Director to Benjamin R. Civiletti; 4/24/78; redaction of discovery documents.

10. FBI, Security Officer to Department of Justice Security Officer; 5/5/78; re: unmarked, classified FBI material in Task Force possession.

11. Deputy Associate Director to Deputy Assistant Attorney General, Criminal Division; 5/19/78; SCI information in Task Force possession.

~~CONFIDENTIAL~~

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS
WASHINGTON, DC 20314



7 JUN 1979

REPLY TO
ATTN OF: DADF

SUBJECT: United States v. L. Patrick Gray III, et al Defense Discovery

TO: Federal Bureau of Investigation
Special Office for Defense Discovery
Room 6888, Hoover Building
Attn: Mr. Brennan
Washington DC 20535

JIM Brennan

1. We have reviewed the AFOSI information contained in the attached documents and have declassified it in accordance with current Air Force directives. We have bracketed in red that information which "(c) release would constitute undue embarrassment or damage to unrelated third parties," and in black we have bracketed information under "(b) for protection of informants or sources."

2. Should you require further assistance regarding this matter, please contact, Doris Mattingly, 693-6650.

Roger D. Cook

ROGER D. COOK
Colonel, USAF
Vice Commander

1 Atch
FBI Discovery Documents

*attached copy exercised
and returned by Air Force
JCB*

62-118045

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

When Atch Nr¹.....is (are) withdrawn
or not attached, the classification of
~~Confidential~~ on this correspondence
will be cancelled in accordance with AFR 205-1

~~CONFIDENTIAL~~

FOUR

LAW OFFICES

Diuguid, Siegel & Kennelly

One Thousand Connecticut Avenue, N.W.

Suite 1112

Washington, D.C. 20036

(202) 872-0700

Epstein

April 3, 1979

OF COUNSEL
HOWARD S. EPSTEIN

MARYLAND OFFICES

107 W. JEFFERSON ST.
ROCKVILLE, MD. 20850

3737 BRANCH AVENUE
HILLCREST HEIGHTS,
MARYLAND 20031

JOHN P. DIUGUID**
THOMAS L. SIEGEL*
THOMAS A. KENNELLY*

KARL W. PILGER*
ELIZABETH J. WILLIAMS**

OUTSIDE SOURCE

D.C.
MD.

sr
C

The Honorable William B. Bryant
Chief Judge
United States District Court
for the District of Columbia
U. S. District Courthouse
Washington, D. C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

L. Patrick
Re: United States v. Gray, et al.
Criminal No. 78-179

Dear Judge Bryant:

Epstein

On behalf of Mr. Miller, we have now carefully examined the documents which the government has turned over since the hearing on March 15th. These consist of:

- Approximately 37 FBI documents containing information from the CIA
- Approximately 12 FBI documents containing Sensitive Compartmented Information
- Approximately 25 documents from the White House (National Security Council and the President's Foreign Intelligence Advisory Board)
- Approximately 150 FBI documents containing information from the Bureau's own sources

REC-114 62-118045

194

11 JUN 12 1979

We wish to inform the Court that the government has not provided us with any documents from the National Security Agency nor any documents from foreign intelligence sources concerning foreign connections or foreign collaboration by the Weatherman organization. We understand that the volume in these two categories is upwards of 500 documents.

62-118045

4 - Mark

ENCLOSURE

ENC. BEHIND FILE

53 JUN 13 1979

Greenberg/Gray-3073

The Honorable William B. Bryant
April 3, 1979
Page Two

These are the very documents which are at the heart of our continuing controversy with the government. All of them were in the files of the Intelligence Division of the FBI at the time Mr. Miller headed that division. They are still in the FBI files.

These are the same documents which the Court ordered turned over to us at the chambers conference on February 22nd and in open court on March 15th.

In view of this development, or rather lack of development, a motion to dismiss the indictment would now seem to be in order. Attached hereto is a copy of the motion we have filed today.

We also take issue with the government's proposed intent to assert a State Secrets privilege and to make ex parte and in camera submissions in the discovery process. The government previously made such attempts in connection with its proposed Supplementary Protective Order which the Court rejected. It is well recognized that a State Secrets privilege is not available in criminal prosecutions, United States v. Andolschek, 142 F.2d 503 (2nd Cir. 1944), and that ex parte proceedings are to be avoided in resolving discovery issues, Alderman v. United States, 394 U.S. 165, 180-185 (1969).^{1/}

We see no value in permitting the government to continue to avoid its discovery obligations by once more raising these arguments.

^{1/} More detailed discussions of these issues have been previously submitted in "Defendant Miller's Objections to Proposed Supplementary Protective Order" (pp. 7-9) and "Memorandum of Defendant, L. Patrick Gray, III, in Response to Government's Motions in Limine" (pp. 14-23).

Diuguid, Siegel & Kennelly

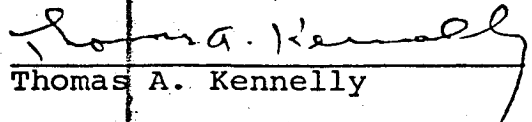
The Honorable William B. Bryant
April 3, 1979
Page Three

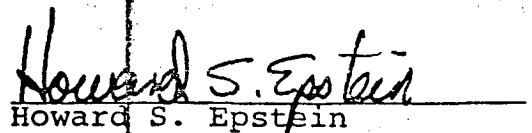
We believe the Court's instructions to the government on March 15th were clear and unequivocal. We think the government cannot deny that it has failed to comply. We therefore urge that a dismissal of the indictment at this time is fair and just.

Respectfully,

DIUGUID, SIEGEL & KENNELLY

By


Thomas A. Kennelly


Howard S. Epstein

Attachment

cc: Francis J. Martin, Esquire
Alan I. Baron, Esquire
Brian P. Gettings, Esquire

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3076

62-118045-

F-2: 209(D)1-39; CCT; 10/2/78

209(B)1-29; PFIAB; 10/2/78

226; Huston Plan; 11/8/78

245A-V; Huston supplement; 11/20/78

F-3: 253(A)1-5; Intelligence Division redesignation;
1/30/78

F-4: 209(F)1-47; Keith; 11/2/78

2. This matter will be addressed separately prior to March 30.

3. Your list, submitted as Attachment A to Unresolved Pretrial Matters, and other lists for which you request explanations of redactions have been forwarded to the FBI for processing. Once discovery is completed we will orally advise you of the generic nature of the redacted material. While there is a large volume of material involved, please note that many redactions pertaining to foreign influence have been lifted in light of Judge Bryant's recent discovery order.

4. Mr. Sol Lindenbaum has been telephonically contacted and asserts that he never authorized any national security electronic surveillances. His involvement in the approval process for wiretap applications was limited to Title III requests. Mr. Lindenbaum further asserts that to his knowledge no Attorney General ever delegated this authority with respect to national security wiretaps between 1952 and 1975.

5. A copy of the Guidelines for Foreign Intelligence collection and Foreign Counterintelligence Investigations is enclosed herein as discovery document #316.

6. Copies of the specific documents you have requested have been, and are being made available as rapidly as possible. You are reminded that these are documents that you or your agents have previously seen during discovery and they are currently available to you at the Bureau. It is the government's position that discovery of these documents is complete. The government will continue to provide copies of specific documents as requested.

7. Copies of Grand Jury exhibits that are not known to have been previously furnished to you during discovery are attached hereto as discovery items [redacted].

b3

8. Requires no rational response.

9. See response to paragraph three.

10. You have previously been furnished a memorandum from [redacted] as discovery item #254A. [redacted] has indicated that the first time he ever received information (other than public source information) concerning the Bureau's utilization of bag jobs in Weatherman cases was the occasion in 1978 that is reflected in his memorandum. You should also be advised that no current or former Departmental employee is being represented by attorneys from the Civil Division in defense of the civil suit in New York. That decision is wholly unrelated to any issue of contemporaneous "knowledge" of bag jobs by Department of Justice personnel.

b6
b7C

11. With respect to the documents requested in your letters of March 1 and March 12, we can advise you that at least some of that material has already been provided in other discovery materials. In addition, some of the requested attachments are not discoverable. We are processing these materials expeditiously; those that are discoverable will be provided shortly.

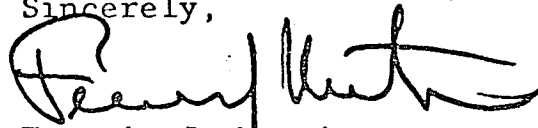
12. The documents referred to in the first paragraph of your March 20, 1979, letter are enclosed as are the requested inventories. As in our response to paragraph six, the documents you specifically request are not being treated as "unresolved discovery". The FBI has been provided with a copy of your letter; please note that documents not circled were not produced because of insufficient identifying data.

13. There are three attachments to discovery documents 186-195. Two of those attachments do not relate in any way to the subject matters of this case and are not discoverable. The third attachment, an IEC intelligence estimate on student demonstrations in 1971 is not believed to be discoverable because it does not pertain to the Weatherman. However, having undertaken to provide it, the document has been processed and is available to you for inspection at Mr. Daly's office.

14. The Government has no Jencks obligations with respect to participants at the dinner at Mr. Hoover's residence. Our Brady obligations have been fulfilled by our letter of May 17, 1978, wherein we notified you that you may wish to interview Messrs. Ehrlichman, Mitchell and Nixon.

15 and 16. We are prepared to work with you in an effort to arrive at factually-accurate stipulations concerning "Foreign Connections" and "Policies and Practices". To that end, we will be more than happy to make available documents that will assist in resolving factual disputes with respect to those issues. Such documents are unrelated to the government's discovery obligations. We will devote our full attention to these matters as soon as possible after March 30.

Sincerely,



Francis J. Martin
Attorney
Criminal Division

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.

SUITE 550
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

February 6, 1979

OF COUNSEL
GERRY LEVENBERG

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 drh/baw/sbs

Francis J. Martin, Esquire
Criminal Division
Department of Justice
Washington, D.C. 20530

Barnet D. Skolnik, Esquire
Special Assistant United
States Attorney
6233 Slender Sky
Columbia, Maryland 21044

Re: United States v. W. Mark Felt, et al.

Gentlemen:

Enclosed are three Stipulations. The Stipulation on "Policies and Practices" deals with the past practices and procedures of the Department of Justice in dealing with surreptitious entries (warrantless) and warrantless electronic surveillance. The second concerns the 1972 terrorist surreptitious entries authorized by then Director L. Patrick Gray, III. The third enclosed Stipulation deals with the "foreign connections" of the Weather Underground.

We are doubtful that a trial mechanism can be devised which can both adequately protect national security and accord fairness to the rights of the defendant, Mr. Felt. The three Stipulations we have drafted represent our best effort to express in nonclassified form the facts which we believe could be established at trial through legally admissible evidence only if national security concerns, which you have alleged, were disregarded. Accordingly, we might be willing to accept, in lieu of live testimony and documentary evidence to the same effect, these three Stipulations enclosed herewith. If you are not even willing to entertain something along the lines of the enclosures, we will pursue the matter no further. On the other hand, if you believe our proposal has some degree of merit, please advise so we may begin serious discussion. It is our belief that there is nothing contained in the proposed Stipulation which does not have a basis in fact.

ATTACHMENT B

Greenberg/Gray-3081

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006

(202) 872-1095

March 21, 1979

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*

*MEMBER VIRGINIA BAR ONLY

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

Dear Frank:

Our meeting of 3/19/79 concerning purely logistical problems in providing information relating to the FBI's use of the surreptitious entry technique was helpful and your subsequent permission to examine certain FBI files seems to be a step in the right direction in our efforts to identify, quantify and qualify the use of the technique of surreptitious entry by the FBI in the past. We of course will not object if this aspect of discovery is not capable of being certified as complete by 3/30/79. Of course, we do not presume to speak for Mr. Kennelly or the Court and certainly do not intend to waive any discovery rights by agreeing not to protest if good-faith efforts leave this particular discovery avenue still open when the Court-imposed deadline is reached.

For your assistance, we here take the time to list other items of discovery which our records reflect as outstanding. We believe the completion of discovery on the following items should be accomplished before any certification is made to the Court that discovery in this case is complete:

1. Original formal discovery requests granted by the Court in its Memorandum and Order of August 17, 1978 to-wit: A. 14, C. 1, 2 and 4, F. 2-4. We recognize that you might consider your response to certain discovery requests of our co-defendants as responsive to these particular requests of Mr. Felt which were granted by the Court last summer but you have never so stated. If such be the case, please advise which documents already furnished are in response to which request as you have done for our co-defendants and whether you have completed your response to these particular requests of Mr. Felt.

2. Specifically, with regard to Felt discovery request C. 4, we call your attention to paragraph III of Defendant Felt's Statement re Unresolved Pre-trial Matters. We have not received any third

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

ATTACHMENT C

Greenberg/Gray-3084

2.

With respect to the Stipulation on "Policies and Practice", if we were to agree we would not by so doing relinquish our outstanding discovery demand in this area. We would still want the right to discover documents relating to all instances where these techniques, as set forth in paragraphs 3 and 23 of the Stipulation, were used, who approved their use, why and so forth. We want to make a compilation of the number of times each technique was used and want to select out for comparison purposes as many examples of specific uses as we choose. We not only offer that we will make a good faith attempt not to select any examples that have classification problems, we guarantee that there will be none.

The Stipulations on "foreign connection" and the "1972 terrorist surreptitious entry", on the other hand, would terminate any need for further discovery in these areas with one caveat. With respect to the proffered Stipulation on the 1972 terrorist surreptitious entry we suggest this only if we can be assured that the facts concerning that event will be limited at trial to those contained in the Stipulation. If any additional facts or circumstances concerning the event are admitted, we renew our request for full discovery on this event and the right to fully explore it at trial.

The Stipulations enclosed herein have been drafted, in good faith, to avoid any reference to a classified national security matter. If we are wrong and these Stipulations do contain matters which should be protected as national security information, please advise forthwith.

Finally, our response to the motion in limine may well be contingent on your position concerning the Stipulations we have hereby tendered for your consideration. It is therefore imperative that we receive your reaction with regard to these Stipulations no later than noon on Thursday.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER



Brian P. Gettings

BPG:evb

cc: U. S. District Judge



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

LEONARD, COHEN & GETTINGS
RECEIVED
MAR 30 1979

Address Reply to the
Division Indicated
and Refer to Initials and Number

FJM:ams

Frank W. Dunham, Esquire
Leonard, Cohen, Gettings & Sher
Suite 550
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

*Picked up
at Daley's
office per
3/30/79
phone call
from Martin's
office.*

Dear Frank,

This will respond to your letter of March 21 concerning certain incomplete "discovery" matters. I will cover them in the sequence raised in your letter.

1. For responses to formal discovery requests please refer to the following documents:

A-14: Nixon file search, F-1 through L-4; 10/2/78

Transcript of White House tape 2/16/78, conversation with Nixon, Ehrlichman and Gray; 8/24/78 (Mr. Baron, alone, agreed to conditions for release as set by counsel for Mr. Nixon.)

Documents by or for Nixon, Attorney General Mitchell, other White House staff regarding WUO. 230A-R; 11/16/78

Huston Plan, 226, 11/8/78

C-1: It is our understanding that you have made arrangements with Mr. Daly regarding organizational charts.

C-2: 5/25/78; The government made available approximately 450 volumes of WUO files.

11/14/78; A copy of Weatherman album listing 238 known Weathermen was provided with files not previously tendered to be made available upon request.

C-4: 209(A)1-359; plans to deal with WUO, including "Foreign Influence in the New Left"; 10/27/78

246(B)1-8; DOJ file review; 12/28/78

ATTACHMENT D

LEONARD, COHEN, GETTINGS AND SHER

Francis J. Martin, Esq.

March 21, 1979

Page Three

We believe that, in addition to the foregoing, the Court's recent ruling that the Barker-Martinez defense is available to Mr. Felt coupled with your earlier promise to provide Jencks & Brady materials 30 days in advance of trial, and considering the present posture of the case, combine to make the following items fall within the scope of materials that should be provided to us before any good-faith certification can be made to the District Court that discovery in this case is complete:

13. The attachments to documents 186-195 referred to in your 9/1/78 letter.

14. Jencks and/or Brady materials referred to in your letter transmitting documents 80A-85L re 1969 dinner at Mr. Hoover's residence attended by Ehrlichman, Mitchell, Nixon and Tolson during which Hoover told anecdotes about surreptitious entries.

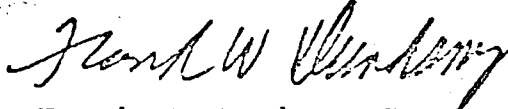
15. In addition to information concerning past specific uses of the technique of surreptitious entry, referred to in the opening paragraph of this letter and on which we are currently working together to pursue a suitable discovery solution, any other documents in the possession of the Department of Justice, including the FBI, which would tend to support in whole or in part any of the factual assertions contained in the Stipulation on Policies and Practices forwarded by our letter of 2/6/79.

16. In addition to the third agency documents referred to in paragraph (2) above, any documents or evidence in the possession of the government which would support the factual assertions contained in the Stipulation of Foreign Connections forwarded to you in our letter of 2/6/79.

We have gone to considerable effort to catalog for you here those items of discovery which we in good faith, upon a thorough review of our files, believe remain outstanding. We have set these forth as an aid to you in assuring that all materials you have intended to give us or are obligated to give us have been delivered.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER



Frank W. Dunham, Jr.

FWD:kw

Greenberg/Gray-3087

2/
Request #8 was made in vacuo and should be disregarded. It was left over from our Chicken case.

LAW OFFICES

LEONARD, COHEN, GETTINGS AND SHER

Francis J. Martin, Esq.

March 21, 1979

Page Two

b6
b7C

^{1/} agency documents concerning the foreign involvement, collaboration or travel of the Weathermen. Of course, we are aware that you need no reminder on this item since this particular area of discovery is causing the principle problem as a result of Judge Bryant's ruling on the Barker-Martinez defense.

3. You have promised us an explanation of redactions in any discovery documents for which we specifically request such explanation. Our list submitted as Attachment A to Defendant Felt's Statement re Unresolved Pre-trial Matters requesting an explanation of redactions in specifically identified documents has not been responded to.

4. Response to our letter dated 2/5/79 re approval of electronic surveillance in national security matters by Sol Lindenbaum or other DOJ personnel other than the Attorney General.

5. Information re guidelines past and present for obtaining executive approval of national security intelligence techniques referred to in our letter of 2/14/79.

6. 16 of the specific documents requested in our form listings of documents (#973-989).

7. Copies of the documents shown witnesses in their testimony before the Grand Jury requested in our letter of 2/23/79.

8. Everything that is handwritten we want ~~typewritten~~ (double spaced) and everything that is typewritten (single spaced) we want handwritten unless it is neither or xeroxed in which case we are entitled to both.^{2/}

9. Documents requested and explanations of redactions referred to in our letter of 2/27/79.

10. Response to our request for materials per our letter of 2/28/79.

11. Requested documents per our letter of 3/1/79 supplemented by our letter of 3/12/79.

12. Documents and explanations of deletions of documents per our letter of 3/20/79.

Greenberg/Gray-3088

^{1/} By third agency we mean an agency of the U.S. government separate and apart from the Department of Justice and/or documents originating from foreign governments or foreign intelligence services.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-03-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3092

JUN 14 1979

Tzw

6-14-79
145

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 85

- Page 44 ~ Referral/Direct;
- Page 46 ~ Referral/Direct;
- Page 47 ~ Referral/Direct;
- Page 72 ~ b3; b6; b7C; b7D;
- Page 73 ~ b3; b6; b7C; b7D;
- Page 74 ~ b3; b6; b7C; b7D;
- Page 75 ~ b3; b6; b7C; b7D;
- Page 76 ~ b3; b6; b7C; b7D;
- Page 77 ~ b3; b6; b7C; b7D;
- Page 78 ~ b3; b6; b7C; b7D;
- Page 81 ~ OTHER;
- Page 82 ~ OTHER;
- Page 83 ~ OTHER;
- Page 84 ~ OTHER;
- Page 85 ~ OTHER;
- Page 86 ~ OTHER;
- Page 87 ~ OTHER;
- Page 88 ~ OTHER;
- Page 89 ~ OTHER;
- Page 90 ~ OTHER;
- Page 91 ~ OTHER;
- Page 92 ~ OTHER;
- Page 93 ~ OTHER;
- Page 94 ~ OTHER;
- Page 95 ~ OTHER;
- Page 96 ~ OTHER;
- Page 97 ~ OTHER;
- Page 98 ~ OTHER;
- Page 99 ~ OTHER;
- Page 100 ~ OTHER;
- Page 101 ~ OTHER;
- Page 142 ~ OTHER;
- Page 143 ~ OTHER;
- Page 144 ~ OTHER;
- Page 145 ~ OTHER;
- Page 146 ~ OTHER;
- Page 147 ~ OTHER;
- Page 148 ~ Duplicate;
- Page 149 ~ Duplicate;
- Page 150 ~ Duplicate;
- Page 151 ~ Duplicate;
- Page 167 ~ OTHER;
- Page 168 ~ OTHER;
- Page 169 ~ OTHER;
- Page 170 ~ OTHER;
- Page 217 ~ b3; b6; b7C;
- Page 218 ~ b3; b6; b7C;
- Page 219 ~ b3; b6; b7C;

Page 220 ~ b3; b6; b7C;
Page 221 ~ b3; b6; b7C;
Page 222 ~ b3; b6; b7C;
Page 223 ~ b3; b6; b7C;
Page 224 ~ b3; b6; b7C;
Page 225 ~ b3; b6; b7C;
Page 226 ~ b3; b6; b7C;
Page 227 ~ b3; b6; b7C;
Page 228 ~ b3; b6; b7C;
Page 229 ~ b1; b3; b6; b7C;
Page 230 ~ b3; b6; b7C;
Page 231 ~ b3; b6; b7C;
Page 232 ~ b3; b6; b7C;
Page 233 ~ b3; b6; b7C;
Page 234 ~ b3; b6; b7C;
Page 235 ~ b3; b6; b7C;
Page 236 ~ b3; b6; b7C;
Page 237 ~ b3; b6; b7C;
Page 238 ~ b3; b6; b7C;
Page 239 ~ b3; b6; b7C;
Page 240 ~ b3; b6; b7C;
Page 241 ~ b3; b6; b7C;
Page 242 ~ b3; b6; b7C;
Page 243 ~ b3; b6; b7C;
Page 244 ~ b3; b6; b7C;
Page 245 ~ b3; b6; b7C;
Page 246 ~ b3; b6; b7C;
Page 247 ~ b3; b6; b7C;
Page 248 ~ b3; b6; b7C;
Page 249 ~ b3; b6; b7C;
Page 250 ~ b3; b6; b7C;
Page 251 ~ b3; b6; b7C;
Page 252 ~ b3; b6; b7C;
Page 253 ~ b3; b6; b7C;
Page 254 ~ b3; b6; b7C;
Page 255 ~ b3; b6; b7C;
Page 256 ~ b3; b6; b7C;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 85

- Page 44 ~ Referral/Direct;
- Page 46 ~ Referral/Direct;
- Page 47 ~ Referral/Direct;
- Page 72 ~ b3; b6; b7C; b7D;
- Page 73 ~ b3; b6; b7C; b7D;
- Page 74 ~ b3; b6; b7C; b7D;
- Page 75 ~ b3; b6; b7C; b7D;
- Page 76 ~ b3; b6; b7C; b7D;
- Page 77 ~ b3; b6; b7C; b7D;
- Page 78 ~ b3; b6; b7C; b7D;
- Page 81 ~ OTHER;
- Page 82 ~ OTHER;
- Page 83 ~ OTHER;
- Page 84 ~ OTHER;
- Page 85 ~ OTHER;
- Page 86 ~ OTHER;
- Page 87 ~ OTHER;
- Page 88 ~ OTHER;
- Page 89 ~ OTHER;
- Page 90 ~ OTHER;
- Page 91 ~ OTHER;
- Page 92 ~ OTHER;
- Page 93 ~ OTHER;
- Page 94 ~ OTHER;
- Page 95 ~ OTHER;
- Page 96 ~ OTHER;
- Page 97 ~ OTHER;
- Page 98 ~ OTHER;
- Page 99 ~ OTHER;
- Page 100 ~ OTHER;
- Page 101 ~ OTHER;
- Page 142 ~ OTHER;
- Page 143 ~ OTHER;
- Page 144 ~ OTHER;
- Page 145 ~ OTHER;
- Page 146 ~ OTHER;
- Page 147 ~ OTHER;
- Page 148 ~ Duplicate;
- Page 149 ~ Duplicate;
- Page 150 ~ Duplicate;
- Page 151 ~ Duplicate;
- Page 167 ~ OTHER;
- Page 168 ~ OTHER;
- Page 169 ~ OTHER;
- Page 170 ~ OTHER;
- Page 217 ~ b3; b6; b7C;
- Page 218 ~ b3; b6; b7C;
- Page 219 ~ b3; b6; b7C;

Page 220 ~ b3; b6; b7C;
Page 221 ~ b3; b6; b7C;
Page 222 ~ b3; b6; b7C;
Page 223 ~ b3; b6; b7C;
Page 224 ~ b3; b6; b7C;
Page 225 ~ b3; b6; b7C;
Page 226 ~ b3; b6; b7C;
Page 227 ~ b3; b6; b7C;
Page 228 ~ b3; b6; b7C;
Page 229 ~ b1; b3; b6; b7C;
Page 230 ~ b3; b6; b7C;
Page 231 ~ b3; b6; b7C;
Page 232 ~ b3; b6; b7C;
Page 233 ~ b3; b6; b7C;
Page 234 ~ b3; b6; b7C;
Page 235 ~ b3; b6; b7C;
Page 236 ~ b3; b6; b7C;
Page 237 ~ b3; b6; b7C;
Page 238 ~ b3; b6; b7C;
Page 239 ~ b3; b6; b7C;
Page 240 ~ b3; b6; b7C;
Page 241 ~ b3; b6; b7C;
Page 242 ~ b3; b6; b7C;
Page 243 ~ b3; b6; b7C;
Page 244 ~ b3; b6; b7C;
Page 245 ~ b3; b6; b7C;
Page 246 ~ b3; b6; b7C;
Page 247 ~ b3; b6; b7C;
Page 248 ~ b3; b6; b7C;
Page 249 ~ b3; b6; b7C;
Page 250 ~ b3; b6; b7C;
Page 251 ~ b3; b6; b7C;
Page 252 ~ b3; b6; b7C;
Page 253 ~ b3; b6; b7C;
Page 254 ~ b3; b6; b7C;
Page 255 ~ b3; b6; b7C;
Page 256 ~ b3; b6; b7C;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Joseph Tierney
Federal Bureau of Investigation

DATE: June 6, 1979
Rec'd late PM 6/8/79 PM

FROM : John W. Nields *4wn4.*
Criminal Division

SUBJECT: United States v. Felt
W. Mark

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Please have the following completed by June 14, 1979.

(1) Locate and deliver to me in form appropriate for disclosure to the defendants all documents requested in writing by counsel for Felt which he has claimed were "referred to" in documents previously disclosed. (You have Frank Dunham's letters listing such documents.)

(2) Locate and deliver to me in form appropriate for disclosure to the defendants documents specifically requested in the letter of Kathy Worthington dated June 5, 1979. (If the document has previously been disclosed to the Judge as a foreign source document give me a copy so marked.)

(3) Determine whether excerpts of the [redacted] interview has found its way into the [redacted] file.

(Handwritten initials)
b6
b7C

*Nields was advised when he delivered this:
1 & 2 above overlap. The "referred to" documents are part of the "specifically requested" documents. Nields did not understand this. Worthington promised 6/6/79 to deliver a final list to supplement her 6/15/79 (should be 6/5/79) letter so they would have given us on two pieces of paper all documents they are now seeking.*

b6
b7C

3. Answer is no. File reviewed by [redacted] 6/6/79 when question raised by Marc Cummings (material processed and reviewed - which is only portion of file relevant - through late 1974 or early 1975) [redacted] interview not quoted in [redacted] file up to that point. Nields advised 6/6/79.

EX-136 REC-37

62-118045
4-85
Greenberg/Groy 3093
225 6/9/79

JUL 2 1979



62 JUL 20 1979

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: June 7, 1979
Rec'd 6/8/79 - PM

FROM : Francis J. Martin
Criminal Division

SUBJECT: United States v. Felt

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Consistant with Joe Tierney's conversation today with John Niels my memorandum of yesterday concerning additional discovery files to be processed should be modified as follows:

(1) Each file should be processed through the time of the relevant bag job. The file review should continue to the time of the end of the conspiracy, June 1, 1973, or six months after the bag job, whichever is later. Only the following documents from this portion of the file need be processed:

(a) pre-bag job documents that were late in being serialized in the file;

(b) any document that in any way refers to the bag job;

(c) any document that reflects Attorney General authorized electronic surveillance of the bag job target; and

(d) any document that, in your judgement, reflects significant action in the case and would be of assistance to the defense in understanding the nature of the FBI's interest in the target of the bag job.

(2) With regard to the Al Fatah file--the beginning date for processing of June 1, 1971 should be viewed as a suggestion as to the approximate time period to be covered. You should use your sound discretion in determining at what point to begin processing the files--obviously with a view towards assuring that all information in any way leading to the relevant bag job is processed.

The above does not contradict instructions given during conference AM of 6/8/79 with Mr. Finzel & staff. Re #2, we are going back at least one year (to 9/1/71) and then further if we have not included all essential reported facts which formed basis for decision to authorize 9/1/72 bag job. JFM 6/9/79



62 JUL 20 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-3094

62-118045

FBI

[Redacted]

b6
b7C

ATLANTA, GEORGIA 30305

TELEPHONE

[Redacted]

May 24, 1979

[Redacted]

b6
b7C

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

President Jimmy Carter
The White House
Washington, D. C.

OUTSIDE SOURCE

Dear Mr. President:

I was disappointed to learn from a Deputy Appointments Secretary that your schedule was so heavy that you were unable to provide a few moments for me to meet with you and share my observations concerning F.B.I. related subjects.

The proposed Charter for the F.B.I., if adopted, will have a long and lasting impact on law enforcement and intelligence operations in this country at all levels.

My experience as a career employee of the F.B.I. has always been available to you and the quality of my services as Chairman of the State Crime Commission of Georgia is known to you. My observations therefore concerning the proposed Charter, as well as pending indictments of Former F.B.I. personnel and the investigations of F.B.I. operations, would be sincere, honest and of value to you.

EX-136

REC-69

62-118045-204

I am particularly concerned over the protracted preliminary proceedings involved in the prosecution of former F. B. I. employees L. Patrick Gray, Mark Felt and Ed Miller. The expense of legal representation as well as the anxiety of these men and their families should be brought to an early resolution. Surely the Government attorneys could have prepared their case for trial in a period of one year. Such, however, does not appear to be the case.

11 JUN 19 1979

I recognize the heavy burdens which you presently bear, but urge that you personally inquire into the status of the prosecution of these three men in the interest of justice. I believe if you were to do so, you would agree that the outstanding indictments should be dismissed.

4-825

As always, I am ready to be of assistance.

66 JUL 31 1979

Sincerely,

[Redacted Signature]

b6
b7C

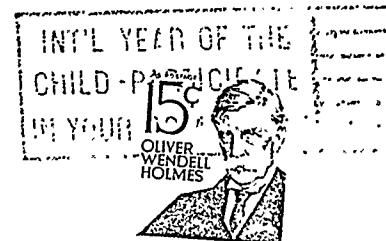
JLMcG/jk

Greenberg, Gray, 3095



ATLANTA, GEORGIA 30305

b6
b7C



President Jimmy Carter
The White House
Washington, D. C.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/abs

Greenberg/Gray-3096

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

4-36 (Rev. 10-17-78)

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
INTERNAL ROUTING/ACTION SLIP

TO	BLDG.	ROOM	NAME/TITLE/ORGANIZATION	TO	BLDG.	ROOM	NAME/TITLE/ORGANIZATION
			Associate Director:				Checkers T-124
			Dep. A.D.-Adm.				Classifying T-112
			Dep. A.D.-Inv.				Consolidation T-125
			Assistant Director:				Filing Unit T-222
			Adm. Serv.				F.O.I.A. T-314
			Crim. Inv.				Numbering T-114
			Ident.				Personnel Rec. T-135
			Intell.				Recording Unit T-123
			Laboratory				Ser. Research T-225
			Legal Coun.				Voucher-Payroll T-153
			Plan & Insp.		10955		LFP Pkg. T-324
			Rec. Mgnt.		3239-A		Lab. Pkg. T-241
			Tech. Servs.		7350		Library T-213
			Training		1B-327		Mail Room T-152
					7220		NCIC T-245
	5829		Mr. O'Brien T-211				Special Inquiry T-231
	5644		Mr. Ave T-211				Uniform Crime Rep. T-245
	5835		Mr. Hogan T-211				
	4266		Mr. Andrews T-141				BY SPECIAL MESSENGER
	4336		Mrs. Rose T-111				EXPEDITIOUS ATTENTION
	4859		Mr. Kuhn T-224				
	3161		Mr. Lile T-241				
	614B		Movement T-234				

- RECOMMENDATION/COMMENT
- SEE REMARKS ON REVERSE
- MAKE COPIES (NO.)
- RETURN (BY)
- LOG
- FILE
- SEE ME
- CALL ME
- NECESSARY ACTION
- COORDINATE
- PER INQUIRY
- INFORMATION

*OK to file
4-58*

FROM: Routing Unit T-111

Bldg. J&H

PHONE 4765

ROOM 4336

DATE 17 JUN 11 79

FORM DOJ-359A
8-1-74

ID DOJ 790606027 THE WHITE HOUSE OFFICE

REFERRAL

TO: DOJ

DATE: JUN 06 79

REPLY: DIRECT REPLY. FURNISH INFORMATION COPY

IF MORE THAN 9 DAYS DELAY IS ENCOUNTERED PLEASE TELEPHONE [REDACTED]

b6
b7C

BASIC CORRESPONDENCE AND CONTROL SHEET AND COPY OF RESPONSE (OR DRAFT) MUST BE
RETURNED TO: AGENCY LIAISON (ROOM 94) WHITE HOUSE.

REMARKS: ATTN: FBI

X LETTER MAILGRAM TELEGRAM

DATED: MAY 24 79

TO: PRESIDENT CARTER

FROM: [REDACTED]

ATLANTA, GA 30305

b6
b7C

SUBJECT: CONCERN RE PROSECUTION OF FORMER FBI EMPLOYEES

RESPONSE:

CLOSED OUT:

BY DIRECTION OF THE PRESIDENT:

PAMELA ZINN

ASSOCIATE DIRECTOR OF CORRESPONDENCE

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. *W. Bailey*

DATE: 7/20/79

FROM : *JL* J. L. Tierney

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-04-2009 BY 65179 dmh/baw/sbs

SUBJECT: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

PURPOSE: To provide serial for filing enclosure behind file.

DETAILS: SA Paul V. Daly has executed three affidavits in captioned case under the heading "SUPPLEMENTAL IN CAMERA EX PARTE AFFIDAVIT."

The first affidavit was executed 3/28/79 and is filed in section 6. It, together with a memorandum and other affidavits is filed as serial 190. The enclosures for the 3/28/79 affidavit should be filed to serial 190.

The second affidavit was executed 5/29/79. The 5/29/79 affidavit and enclosures should be filed to the serial number of instant memorandum.

The third affidavit was executed 7/13/79 and is attached to instant memorandum, together with that affidavit's enclosures, another affidavit by SA Daly of the same date, and a copy of a proposed certification by the Attorney General. These affidavits, enclosures, and the proposed certification should be filed to the serial number of instant memorandum.

RECOMMENDATION: 1. That enclosures to affidavits 3/28/79 and 5/29/79 be filed as outlined above.

REC-19

62-118045-205

JUL 24 1979

2. That affidavits 7/13/79, enclosures and proposed certification be filed as outlined above.

ST 109

JLT:bas

"KEEP IN BULKY ROOM"



AUG 1 1979

4 Jlt

Greenberg/Gray-3099

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bailey *WCB*

DATE: 7/30/79

FROM : J. L. Tierney

~~EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1, 6)
DATE 03-04-2009~~


SUBJECT: U. S. vs. W. Mark Felt, et al
 Authorization Memoranda for Surreptitious Entries
 (U) Delayed Filing (X)

PURPOSE: To place on record in appropriate substantive files copies of original memoranda held by the Department which reflect FBIHQ authorization for surreptitious entries between 9/7/72 and 4/13/73. (X)

DETAILS: Thirteen original memoranda from E. S. Miller to Mr. Felt were maintained in Mr. Felt's office. When discovered in 1977, they were turned over to the Departmental Attorneys responsible for the Surreptitious Entries investigation. The Department has maintained custody of these originals since that time, making available copies for use in administrative inquiries and discovery proceedings in instant case. Their existence has not been widely known to FBI personnel. (X)

Various civil litigations and FOIPA requests make it mandatory to have these memoranda available to insure our files are complete. (X)

Set forth in chronological order below are the files, based on subjects or targets mentioned or obviously involved, in which copies of the related memoranda would now be filed. (X)

- | | | | | |
|-----|---------|---|-----------|----------------------------------|
| (U) | 9/7/72 |  | b6
b7C | 105-203076 (X)
105-183400 (X) |
| (U) | 10/6/72 | Arab Information Center
Al Fatah | | 105-42860 (X)
105-183400 (X) |

- Enclosures (14) **ENCLOSURE**
- 1 - Mr. McDermott (Enc. 1) **ENCLOSURE ATTACHED**
 - 1 - Mr. Steel (Enc. 1)
 - 1 - Mr. Colwell (Enc. 1)
 - 1 - Mr. Mintz (Enc. 1)
 - 1 - Mr. Bailey (Enc. 1)
 - 1 - Mr. Flanders (Enc. 1)
 - 1 - Mr. Daly (Enc. 1)
 - 1 - Mr. Tierney (Enc. 1)
 - 1 - 62-117964 (Enc. 14)

Class. & Ext. by 6076
Reason-FCIM 11, 1-2.4.2 2
Date of Review 7/27/99

H. T. Tierney

(CONTINUED - OVER)

~~CONFIDENTIAL~~

UNRECORDED COPY FILED IN 62-117964-



~~CONFIDENTIAL~~

Memorandum from Mr. Tierney to Mr. Bailey

Re: U. S. vs. W. Mark Felt, et al.

Authorization Memoranda for Surreptitious
Entries Delayed Filing ~~(S)~~

(U)

10/24/72	Vision Works		100-474382	(S)
(U)	[REDACTED]	b6	100-47617	(S)
		b7C	100-473961	(S)
			100-474912	(S)
11/17/72	[REDACTED]	b6	100-454261	(U)
		b7C	100-455389	(U)
			100-477464	(U)
11/22/72	[REDACTED]			(S)
	Al Fatah		105-183400	(S) b6 b7C
12/13/72	[REDACTED]	b6	100-465959	
		b7C	100-454261	(U)
1/10/73	[REDACTED]	b6	88-56609	(U)
		b7C		
1/15/73	(U) Stronghold Consolidated		157-20210	(S)
	[REDACTED]	b6	100-452737	(S)
		b7C		
2/13/73	[REDACTED]	b6	176-1991	(U)
		b7C		
3/6/73	(U) [REDACTED]	b6	65-74972	(S)
		b7C		
3/8/73	[REDACTED]	b6	100-454261	(U)
		b7C		
4/13/73	[REDACTED]	b6	100-452919	(U)
		b7C		
4/17/73	[REDACTED]			(S) b7E

No comparable document exists for [REDACTED] b6
which arises out of an Attorney General authorization. ~~(S)~~ b7C

Copies of all thirteen of these memoranda are attached to the original of instant memorandum, and to the copy which is designated for the Surreptitious Entries file (62-117964). The entire package will therefore be retrievable only from these two files. (U)

In order to avoid superfluous proliferation of sensitive documents, a standard format memorandum (copy attached) will be used to place the copies of the authorization memoranda as unrecorded serials in their respective files. It states the location of the originals and refers back to instant memorandum for a full explanation. (U)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Memorandum from Mr. Tierney to Mr. Bailey
Re: U. S. vs. W. Mark Felt, et al.
Authorization Memoranda for Surreptitious
Entries Delayed Filing (S)

(U)

RECOMMENDATION: That authorization memoranda be placed
in file as outlined above. (U)

APPROVED:

SK

MP
Director _____
Assoc. Dir. _____
Dep. AD Adm. AM
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. WCB
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-3103


ENCLOSURE

62-118045-206

~~CONFIDENTIAL~~

b6
b7C

9/7/72

MR. FELT:

DO NOT FILE

AL FATAH
INTERNAL SECURITY - MIDDLE EAST

On 9/7/72 Security Supervisor [redacted] Dallas Office, telephonically contacted Bureau Supervisor [redacted] and requested authorization to contact an anonymous source in connection with captioned matter at the Arab Information Center, Suite 1302, Hartford Building, 400 North St. Paul, Dallas, Texas. He assured that such contact could be accomplished with full security. I was advised of the Dallas request during the course of this telephone call by Supervisor McDonnell and authorized the contact of the anonymous source provided full security was assured.

ACTION:

For information.

~~7~~
E. S. Miller

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-14-2009

~~3/14/79~~
CLASS. & EXT. BY ~~6076 WAH/mac~~
REASON-FCIM 11, 1-2.4.2 ~~2~~
DATE OF REVIEW ~~9/7/92~~

~~CONFIDENTIAL~~

Greenberg/Gray-3104

1281 (REV 3 15 75)

~~CONFIDENTIAL~~

b7D

10/6/72

MR. FELT:

DO NOT FILE

ARAB INFORMATION CENTER
INTERNAL SECURITY - MIDDLE EAST

(U) ~~(S)~~
On 10/6/72 SAC Roy Moore of our Chicago Office telephonically contacted me and requested authority to contact an anonymous source at [redacted] Chicago, Illinois. He assured me that such contact could be accomplished with full security, and I gave him authority to proceed.

ACTION:

For information.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-14-2009

~~E. S. Miller~~

~~7~~

~~3/14/79~~
CLASS. & EXT. BY ~~6076 WAH/mac~~
REASON-FCIM II, 1-2.4.2 ~~2~~
DATE OF REVIEW ~~10/6/92~~

~~CONFIDENTIAL~~

Greenberg/Gray-3105

~~CONFIDENTIAL~~

10/24/72

DO NOT FILE

MR. FELT:

REVOLUTIONARY ACTIVITIES - WEATHERMAN

On 10/24/72 SAC, Portland, requested authority to contact our anonymous source at the Vision Works, Eugene, Oregon. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-04-2009

~~3/14/99~~
~~CLASS. & EXT. BY 6076 WAH/mac~~
~~REASON-FCIM 11, 1-2.4.2 2~~
~~DATE OF REVIEW 10/24/92~~

~~CONFIDENTIAL~~

11/17/72

DO NOT FILE

MR. FELT:

REVOLUTIONARY ACTIVITIES - WEATHERMAN

On 11/17/72 SAC Decker, New York, requested authority to contact an anonymous source at [redacted] Brooklyn, who may have some knowledge concerning [redacted] He assured me that such could be accomplished with full security and I gave him authority to proceed.

b6
b7C
b7D

ACTION:

For information.

E. S. Miller

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-9-82 BY 10321 DRM/gray

1-317 (REV. 3-10-72)

~~CONFIDENTIAL~~

b1

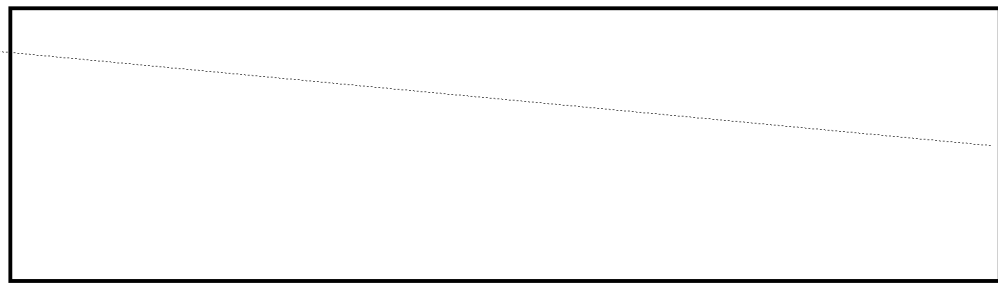
11/22/72

MR. FELT: *7*

DO NOT FILE

(C)

~~⊗~~



ACTION:

For information.

E. S. Miller

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-04-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

7

~~3/14/79
CLASS. & EXT. BY 6076 WAH/mac
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 11/22/92~~

~~CONFIDENTIAL~~

12/13/72

DO NOT FILE

MR. FELT: ~~7~~



4
On 12/13/72 SAC Decker, New York, requested authority to contact the captioned anonymous source. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller

A handwritten signature in cursive, appearing to be 'E. S. Miller'.

~~7~~
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE ~~7-9-82~~ BY ~~10321 DRM/gjg~~
2/14/85 sp2 Tap/dd

1/10/73

MR. FELT

DO NOT FILE

Re: b6
88-56609 b7C

u
On 1/10/73 SAC J. Wallace LaPrade, Newark, requested authority to contact an anonymous source at Union, New Jersey. He assured me that such could be accomplished with full security and I gave him authority to proceed.

b7D

ACTION:

For information.

E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-9-82 BY 10321 DRM/gug

~~CONFIDENTIAL~~

1/15/73

MR. FELT

DO NOT FILE

Re: STRONGHOLD CONSOLIDATED PRODUCTIONS, INC.

On 1/15/73 SAC Andrew J. Decker, New York, requested authority to contact an anonymous source at [redacted] New York City. He assured me that such could be accomplished with full security and he was given the authority to proceed.

b7D

ACTION:

For information.

E. S. Miller

DECLASSIFIED BY 10321 DRM/gag
ON 8-9-82

311479
CLASS. & EXT. BY 6076 WAH/lmac
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 1/15/92

~~CONFIDENTIAL~~

2/13/73

MR. FELT

DO NOT FILE

Re: [redacted] b6
b7C

On 2/13/73 SAC Arbor W. Gray, New York, requested authority to contact an anonymous source at the residence of [redacted] New York City. He assured me that such could be accomplished with full security and he was given the authority to proceed.

b7D

ACTION:

For information.

E. S. Miller

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-9-82 BY 10321 DRM/gg

Greenberg/Gray-3112

~~CONFIDENTIAL~~

March 6, 1973

MR. FELT

DO NOT FILE

Re: [redacted], aka b6
ESP - PO b7C

ASAC Hunter Helgeson of the Chicago Office called today and requested authority to contact an anonymous source at the [redacted] Street, Chicago, Illinois. He assured me that such could be accomplished with full security and he was given the authority to proceed.

b7D

ACTION:

For information.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-04-2009

E. S. Miller

[Handwritten signature]

3/14/79
CLASS. & EXT. BY 6076 WAH/mac
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 3/6/93

~~CONFIDENTIAL~~

Greenberg/Gray-3113

(U) ~~X~~

March 8, 1973

MR. FELT:

Re: [REDACTED] b6
REVOLUTIONARY ACTIVITIES - b7C
WEATHERMAN

u
On March 7, 1973, SAC Arbor W. Gray, New York, requested authority to contact an anonymous source at [REDACTED] Brooklyn, New York. He assured me that such could be accomplished with full security and I gave him authority to proceed. b7D

ACTION:

For information.

~~7~~
E. S. Miller 

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3114

April 13, 1973

MR. FELT: ~~7~~

Re: [redacted] b6
b7C

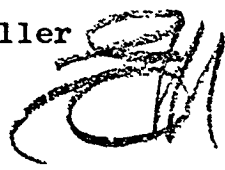
On April 13, 1973, [redacted] of
the New York Office requested authority to contact
an anonymous source at [redacted]
New York, New York. He assured me that such
could be accomplished with full security and I
gave him authority to proceed.

b6
b7C
b7D

ACTION:

For information.

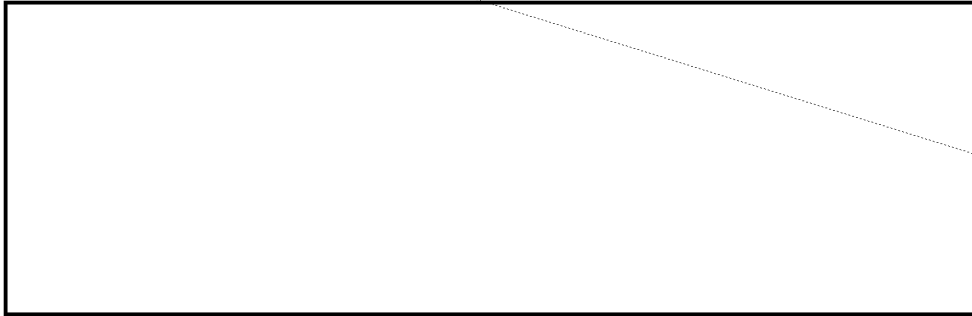
E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-9-82 BY 10321 DRM/gg

April 17, 1973

MR. FELT: ~~7~~



ACTION:

For information.

E. S. Miller *[Handwritten Signature]*

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 03-04-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~3/14/79~~
CLASS. & EXT. BY ~~6076 WAH/mac~~
REASON-FCIM II, 1-2.4.2 ~~2~~
DATE OF REVIEW ~~4/17/93~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO [Redacted]

DATE: 7/5/79

FROM [Redacted]

b6
b7C

1 - [Redacted]
1 - [Redacted]

b6
b7C

SUBJECT: GRAY-FELT-MILLER DISCOVERY CASE
DOCUMENTS ORIGINATED MORE THAN
TWENTY YEARS AGO INVOLVING
CLASSIFIED INFORMATION

GRAY, L. PATRICK

An FBI document containing classified information and originated more than twenty years ago have been denied the requester. This document is listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC).

This document was presented to the DRC on 3/20/79, at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: None. For information.

Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Handwritten initials and a circled 'a'.

LBS
LBS:jmh
(3)
ENCLOSURE

REC-69

SI-126

62-118045-207

6 AUG 16 1979

Handwritten initials '486'



57 SEP 5 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

62-118045 Greenberg/Gray-3117

ADDRESS:

FILE: 62-85205-1100: The Present Menace of Communist Espionage and Subversion, National Security Council Briefing, 9:00 a.m., March 8, 1956.

DRC #:

FOIPA #: N/A

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

SEE ATTACHMENTS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

STAFF COMMENTS: *

The materials in this case, which are over twenty years old, appear to be appropriately characterized by the F.B.I. as they contain information pertaining to intelligence activities, sources, or methods, the release of which would cause at least identifiable damage to the national security.

DECISION OF THE REVIEW COMMITTEE:

1. DECLASSIFY:
2. UPHOLD CLASSIFICATION: All documents listed per Attachments
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER:
6. COMMENTS: The Committee unanimously determined that the 30-year old classified information is within the purview of the Attorney General's prior decisions on such material

DATE OF MEETING: March 20, 1979

CHAIRMAN: Mr. Ulman

* THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

ENCLOSURE

11-95205-1100	8 ends 9	2	Confidential <input checked="" type="checkbox"/> Secret Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other <input checked="" type="checkbox"/> _____
	26	2	Confidential Secret <input checked="" type="checkbox"/> Top Secret (HYCLO)	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	27	1	Confidential Secret <input checked="" type="checkbox"/> Top Secret (HYCLO)	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) <input checked="" type="checkbox"/> _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____

FBI/DOJ

UNITED STATES GOVERNMENT

Memorandum

b6
b7C

TO : *JT* Joe Tierney
Federal Bureau of Investigation

DATE: July 5, 1979

FROM : Francis J. Martin *FJM*
Criminal Division ~~FEDERAL GOVERNMENT~~

SUBJECT: Felt Requests

L. PATRICK GRAY

Attached are three letters from Frank Dunham dated June 27, 1979 which will require a response. The letters are as follows:

(1) Letter re: [redacted] --Dunham states that [redacted] was not listed in the Weatherman Album supplied by the government and states that he wants all files on [redacted]: Although Dunham is correct on the listing, we have already processed and made available most of the Philadelphia, New York and headquarters files on [redacted]. Please arrange for the necessary processing of the remainder of the [redacted] files (if any). The files should be processed for the same time period as was done for the files on other principle Weatherman, e.g. [redacted].

(2) Letter re: Venceremos Brigade--Dunham asks for the identity of the Bureau official who requested of the Attorney General that VB be designated as foreign. Technically this was presumably Clarence Kelley. However, please identify those individuals involved in the 1974 Administrative redesignation and those officials involved in the 1976 submission to the Attorney General on VB.

(3) Letter re: Membership List--Dunham requests a list of all individuals who traveled to Cuba with the VB and all members of the WEB Dubois Club. To the extent that such lists, or partial lists; are readily available they should be provided.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

EX-115 62-118045-208

REC-2

6 AUG 17 1979

3 ENCLOSURE

*ask 7/17/79
JLT:bas*

4-2A

66 SEP 12 1979

Greenberg/Gray-3120



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER
SUITE 550

1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLÉ STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
*MEMBER VIRGINIA BAR ONLY

June 27, 1979

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Dear Frank:

We are in possession of evidence which convinces us that [redacted] is a Weatherman and was considered such by the Bureau. However, [redacted] was left off of the list of Weathermen which you furnished to us. Because of this fact, we believe you may not have considered documents relating to this individual to be part of your discovery obligation. We ask that any documents relating to [redacted] including his contacts with either foreign governments or foreign agents be turned over to us (or added to the 900+ documents now in the judge's chambers with appropriate additions to the claim of State's Secrets Privilege as necessary.)

b6
b7C

We view any documents in the possession of the United States government relating to [redacted] as critical to our defense.

b6
b7C

Sincerely,

LEONARD, COHEN, GETTINGS & SHER


Frank W. Dunham, Jr.

FWD:kw

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER
SUITE 550
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
*MEMBER VIRGINIA BAR ONLY

June 27, 1979

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Dear Frank:

Your June 19, 1979 letter to the Court indicates that the Venceremos Brigade was classified as "foreign" in December, 1974. We would appreciate receiving the name of the individual within the Bureau who submitted material to the Attorney General requesting that the Venceremos Brigade be so classified.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER


Frank W. Dunham, Jr.

FWD:kw

Greenberg/Gray-3122

ENCLOSURE

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER
SUITE 550
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
*MEMBER VIRGINIA BAR ONLY

June 27, 1979

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-04-2009 BY 65179 dmh/baw/sbs

Dear Frank:

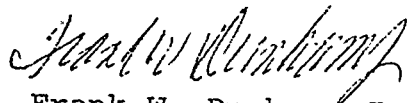
We would like to request an alphabetical, legible and complete listing of all people who travelled to Cuba with the Venceremos Brigade. If you could provide such a list, it would greatly simplify our investigation of this case and we ask that you provide it in the spirit of cooperation.

We would also appreciate receiving a membership list for the relevant time period of members of the W.E.B. Dubois Club, now known as the Young Workers Liberation League.

Thank you for your cooperation.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER


Frank W. Dunham, Jr.

FWD:kw

Greenberg/Gray-3123

July 17, 1979

FEDERAL GOVERNMENT

Joseph L. Tierney
Federal Bureau of Investigation
U. S. vs. Felt, et al.
Discovery Proceedings

L. PATRICK GRAY

Francis J. Martin, Esq.
Department of Justice

Reference your letter 7/5/79 captioned "Felt Requests."

The [redacted] file is being processed. Since it is a small file we are doing the entire file without particular regard to time frame.

b6
b7C

As you point out, the Bureau official responsible for the 1974 and 1976 actions on Venceremos Brigade was former Director Clarence M. Kelley. Subordinate officials who initiated the actions in both instances are listed on the face of the documents which reflect those actions, all in the possession of defense counsel. They are:

1. Internal Administrative Action - 1974 - Don H. Roberts - dictator (now ASAC, Mobile), Forrest S. Putman, Jr. - Section Chief (now SAC, Albuquerque), Homer A. Boynton, Jr. - information copy (now Inspector, Public Affairs), W. R. Wannall - Assistant Director (now retired).
2. Recommendation to Attorney General - 1976 - [redacted] - dictator (now Supervisor, Miami), [redacted] - supervisor (now assigned to Houston), Sebastian S. Mignosa - Section Chief (assignment unchanged), Thomas Leavitt - Assistant Director (now retired).

b6
b7C

EX-115 REC-2 62-118045-209

With regard to membership lists for Venceremos Brigade and W. E. B. Dubois Club, presumably in the 1972-73 time frame, there are no readily available membership lists. Lists of participants of individual Venceremos Brigades do exist, but all these lists present foreign source problems. Even if we were to regenerate these lists as new documents, any assumption that the individuals on the lists were verified as having participated by means independent of the foreign source would not be valid. Ascertaining which names had been independently verified would be possible only through exhaustive new research. The possibility of there being false identities used by some of the Brigade members could not be eliminated, and the false identities may have been available solely from the foreign sources.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. McDermott (Enc.)
- 1 - Mr. Steel (Enc.)
- 1 - Mr. Bailey (Enc.)
- 1 - Mr. Daly (Enc.)
- 1 - Mr. Tierney (Enc.)

JLT:bas (7)

MAIL ROOM

62-118045 Greenberg/Gray-3124

Francis J. Martin, Esq.

Our personnel who reviewed Venceremos Brigade (see FBI package 41, consisting of five sections and including Venceremos Brigade materials; in answer to Gray 59(e) and Miller 33(e) on the general question of foreign travel/contact) recall no significant mention of W. E. B. Dubois influence, although there was undoubtedly some overlap of membership.

As a result of the current inquiry we have reviewed the W. E. B. Dubois main file and located no significant mention of Venceremos Brigade. We have also reviewed indices under the names of the two organizations, looking for "see references" for one organization in the main file of the other. This would be a normal research method in attempting to verify any connection between the two groups and no such "see references" were located.

We recall at least one instance of a former W. E. B. Dubois member going on a Venceremos Brigade trip to Cuba. We can assume this was not an isolated instance. We should also assume the W. E. B. Dubois Club would be interested in exerting some influence over the Venceremos Brigade, but the successful accomplishment of such influence does not appear to be documented in FBI files.

We are, therefore, taking no further action on this particular defense inquiry.

SR

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director <i>WMB/dls</i>	Crim. Inv. _____	Plan & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>WMB</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

*Hand delivered
7/23/79 SR*

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bailey *WLB*

DATE: 7/3/79

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-05-2009 BY 65179 dmh/baw/sbs

FROM : J. L. Tierney

Tierney

SUBJECT: U. S. vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

GRAY, L. PATRICK

PURPOSE: To advise of status of captioned case.

DETAILS: No hearings have been held since the 5/16/79 hearing was adjourned. Judge Bryant has been involved in a difficult criminal trial, and some defense counsel are taking summer vacations for the first two weeks in July. The parties expect to be before the Judge again during the third week of July.

Documents reflecting foreign source information not material to the foreign involvement issue have been submitted to the court for review, as ordered on 5/16/79.

At the 5/16/79 hearing the court ordered processing of files related to other instances of surreptitious entries which occurred during the time frame of the conspiracy. Three of these are in the Arab Terrorist field, two are FCI involving operations of hostile intelligence services, one is a domestic organization supportive of a hostile foreign power, one is on [redacted] and one is Weatherman - related (not processed before because Department concluded the entry was approved but did not occur).

10
[Handwritten initials]

b7D

EX-115 REC-69 2-118045-210

Processing of the above files is being done by units and personnel who normally handle civil discovery. Records are being maintained by us in the same fashion and in the same location as earlier discovery in this case. Classification review of the estimated 85 sections is complete and the redactions are proceeding at a good pace. On 7/2/79 we began making referrals to third agencies. We anticipate that, by the third week in July, the prosecution will be able to advise the court we are finished and await only the return of the referrals from third agencies.

4-PUD

- 1 - Mr. McDermott
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Ryan
- 1 - Mr. Daly
- 1 - Mr. Tierney

(CONTINUED - OVER)



Memorandum from Mr. Tierney to Mr. Bailey
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

Explanations of redactions made in materials previously disclosed have been proceeding satisfactorily. Generic descriptions of redacted information are being given orally by us in our space and appear to be resolving the majority of the issues. Three sessions have been held to date and have covered almost one third of the documents for which explanations were sought. There will be no more sessions until the third week in July.

The next hearing before the court will undoubtedly review the status of discovery and may also address the various defense motions for dismissal (failure to comply with discovery, vagueness) and the prosecution motion to reconsider applicability of the Barker-Martinez defense.

RECOMMENDATION: None. For information.

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u>WCB</u>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-3127

UNITED STATES GOVERNMENT

Memorandum

TO : ACTING DIRECTOR, FBI

FROM : SAC, PORTLAND (100-13082) (P)

SUBJECT: *[Handwritten initials]*

DATE: 12/26/72

[Handwritten signature/initials]

[Large redacted box]

aka

[Redacted box]

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-05-2009 BY 65179 dmh/baw/sbs

SM - WEATHERMAN
(OO: Portland)

As the Bureau is aware, the Portland Division has been conducting investigation, including photographic surveillance, of Vision Works, 37 West Seventh Street, Eugene, Oregon. The basis of this investigation is the fact that CLAYTON VAN LYDEGRAF, assumed Weatherman advisor, has been known to frequent this establishment. VAN LYDEGRAF also has personally indicated that *[redacted]* at Vision Works were his close contacts. Investigation has subsequently identified *[redacted]* Portland file 100-12817, and *[redacted]* is included on ADEX of Portland Division.

b6
b7C

At 4:55 P.M., 9/18/72, a male individual was observed in front of the Vision Works Printing Company, 37 West Seventh Street, Eugene, Oregon, and was engaged in the process of attaching new license tags to a blue Dodge pickup truck bearing Oregon license *[redacted]*.

b6
b7C

Oregon Department of Motor Vehicles (DMV), Salem, Oregon, revealed that Oregon license *[redacted]* was issued 9/18/72 as a replacement for Oregon license *[redacted]* and is assigned to a 1950 Dodge pickup truck, VIN *[redacted]* with *[redacted]*.

b6
b7C

- 2 - Bureau (AM) (RM)
- 7 - Portland (3-100-13082) (*[redacted]*)
 - (1-100-12817) (*[redacted]*)
 - (1-100-13007) (Vision Works)
 - (1-100-1715) (*[redacted]*)
 - (1-176-38) (WEATHFUG)

b6
b7C

DEC 29 1972

LKE:csa
(9)

JAN 8 1973

62-118045-211

ENCLOSURE

Rev. Act. Sect.



[redacted] shown as the registered owner, date of birth [redacted]
[redacted], with residence at 37 West Seventh, Eugene, Oregon.

b6
b7C

[redacted] born [redacted] in [redacted]
with residence at 37 West Seventh, Eugene, Oregon, currently
holds Oregon driver's license # [redacted] which is due to expire
7/2/73. She is described as 5'10", 150 pounds.

b6
b7C

On 10/24/72, [redacted] Records Section, Lane County
Sheriff's Office, Eugene, Oregon, advised that she was able
to locate a record in the files of her agency for [redacted]
[redacted], disclosing the following physical description:

b6
b7C

Race	White
Sex	Female
Date of Birth	[redacted]
Address	[redacted]
	Brownsville, Oregon
Occupation	Vision Works Company

b6
b7C

[redacted] advised that [redacted] was issued a traffic
citation by an officer of her department on 7/11/72 for having
no operator's license in possession. [redacted] was operating
a 1952 GMC pickup on the Interstate 5 freeway near milepost
19 north of Eugene, Oregon, at the time of the citation.
According to the traffic citation, pickup bore Montana license
[redacted]. (This is probably Missouri license [redacted] as a
1952 GMC pickup bearing Missouri license [redacted] has been
observed during surveillance of Vision Works on numerous
occasions.)

b6
b7C

[redacted] failed to appear 7/28/72 in District
Court, Eugene, and a warrant was issued for her arrest
10/5/72, charging her with failing to appear on the traffic
violation charge. Bail was set at \$54.

b6
b7C

[redacted] was arrested by the Eugene Police Depart-
ment, 10/26/72, in connection with the above traffic warrant.
[redacted] posted bail in the amount of \$54 on 10/26/72 and was
released from the city/county jail, Eugene, Oregon. [redacted]
furnished her local address as 37 West Seventh, Eugene, Oregon.

b6
b7C

[redacted] who is highly knowledgeable concerning the Vision Works operation, has continually reviewed all photographs taken during photographic surveillance of Vision Works and has identified several of these photographs as depicting an individual known to him as "[redacted]" who is the [redacted].

b2
b6
b7C
b7D

On 10/24/72, [redacted] Lane Interagency Narcotics Team (LINT), Lane County District Attorney's Office, Eugene, Oregon, advised that he recalls an incident which took place during the early spring of 1972 which involved undercover narcotics officers [redacted] advised that [redacted] were on the fourth floor of the Lane County Courthouse waiting to testify before a grand jury when [redacted] took several photographs of both officers.

b6
b7C

[redacted] advised that both officers detained [redacted] and removed the film from her camera. He advised that no charges were filed against [redacted] related to the officers that she was working for "The Augur," an underground newspaper, and was attempting to identify the officers working in an undercover capacity for the LINT team.

b6
b7C

[redacted] reviewed a series of photographs taken of individuals in the vicinity of Vision Works, 37 West Seventh Street, Eugene, Oregon. He selected a photograph of a female individual as being identical to the [redacted] who attempted to photograph the LINT officers. [redacted] also selected a photograph of [redacted] as being identical to an individual he has seen in the company of [redacted].

b6
b7C

The above photograph of [redacted] has been identified by [redacted] as depicting an individual identical to "[redacted]" the [redacted].

b2
b6
b7C
b7D

On 10/25/72, [redacted] advised that he had observed several items of a personal nature in the possession of the subject including personal letters, envelopes, business cards, and school diplomas, which indicate the subject is from the State of California. Leads have been set forth for Los Angeles, Sacramento, and San Francisco Divisions to conduct investigation regarding the subject's apparent previous residence in the State of California.

b2
b7D

Investigation has established that the subject and [redacted] are currently residing at the [redacted] Road, Brownsville, Oregon, with several other individuals. Portland Division is currently conducting investigation to identify the residents at this address and to determine the activities of subject and [redacted].

b6
b7C

Subject is important to the overall Weatherman picture in view of the fact that CLAYTON VAN LYDEGRAF is known to have attempted to make contact with a Weatherman (Now a fugitive) during the spring of 1972 at which time VAN LYDEGRAF advised that he could be contacted in Eugene, Oregon, through [redacted]. The implication of this reference would suggest that both [redacted] were acquaintances or known to the Weatherman fugitive.

b6
b7C

LEADS

PORTLAND

AT BROWNSVILLE, OREGON. Will continue investigation to identify the residents at [redacted] and determine the activities of captioned subject and SEAN O'REILLY.

b6
b7C

AT EUGENE, OREGON. Will follow and report activities of subject and will obtain mug shot of subject from Eugene Police Department.

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: June 8, 1979

Rec'd 6/8/79 [initials]

FROM : Francis J. Martin
Criminal Division

FJM

SUBJECT: United States v. Felt

W. Martin

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-05-2009 BY 65179 dmh/baw/sbs

Attached is a list of Weatherman Communiques which took credit for various bombings and/or stated the radical political positions of the Weatherman. We would like to have a copy of each communique. At this time it would not be worth the effort involved to conduct full scale file reviews to locate each of these documents. However, there are two possible locations where all or some of these communiques might be found. The first is among the "flyspray" material, i.e., it is possible that or someone else kept a file containing copies of the communiques. The second source is the FBI lab, which I believe kept copies of all communiques for reference in comparing typewriting and handwriting samples. Please provide any of these communiques that can be located without undertaking full scale file reviews.

FJM

REC-5 62-118045-211X

ST-118

6 JAN 24 1980

(Note: The numbering on the attached list of communiques is chronological but it does not appear to be the same numbering used by the Weatherman.)

Attachment appears to be almost verbatim retype of list furnished by us to Katz (obtained by Dick McNeely). We have reviewed material seized by Mrs. Long (A), inquired of unit now handling Weatherman (B), and asked the Lab to check their files (C) and Katz is aware. Our only alternatives open now is to review a large number of individual FBIHQ files or to ask Chicago to review theirs. Chicago is probably the best possibility.

ENCLOSURE



5010-110

4 [initials] 6/9/79

UNITED STATES GOVERNMENT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-05-2009 BY 65179 dmh/baw/sbs

TO : Frank Martin/John Nields

DATE: June 7, 1979

FROM : Jim Katz

SUBJECT: Listing of Weather Underground Communiques (in chronological order) which should be obtained from Federal Bureau of Investigation files

<u>Dated</u>	<u>Title or Intent</u>	<u>How Signed</u>
1. 5/21/70	"A Declaration of a State of War"	[Redacted] b6 b7C
2. 6/5/70	Attempted bombing at San Francisco Hall of Justice	Weatherman
3. 6/9/70	Bombing New York City Police Department Headquarters	Weatherman
4. 7/26/70	Celebration of 11th anniversary of Cuban revolution and threat to Attorney General Mitchell	Central Committee Weatherman Underground
5. 9/15/70	Assisting Timothy Leary to escape to Algeria	[Redacted] b6 b7C
6. 10/6/70	Press conference announcing a fall offensive- numerous bombings in country	[Redacted] b6 b7C
7. 10/8/70	Message to Brother Dan Berrigan expressing support	The Weatherman Underground

Greenberg/Gray-3136

62-118045-211x

ENCLOSURE

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan.



- | | | | | | |
|-----|--------------|---|----------------------|--|-----------|
| 8. | 12/6/70 | "New Morning-Changing Weather" | <input type="text"/> | Weather Underground | b6
b7C |
| 9. | 2/28/71 | Bombing of United States Capitol | | Weather Underground | |
| 10. | Mayday, 1971 | Letter of support to <input type="text"/> | b6
b7C | Weather Underground | |
| 11. | 8/28/71 | Response to killing of George Jackson | | Weather Underground | |
| 12. | 9/17/71 | Response to Attica riots-bombing of Twin Tower Building | | Weather Underground | |
| 13. | 5/19/72 | Response to air war in North Vietnam-bomging of Pentagon | | Weather Underground | |
| 14. | 2/23/73 | Common Victories communique issued after Vietnam war ceasefire | | Weather Underground | |
| 15. | 5/18/73 | Protest killing of 10 year old black by New York Police Department officer-attack on 103rd Precinct | | Weather Underground
New York Region | |
| 16. | 7/73 | Collective letter to the Women's Movement | | Women of the Weather Underground | |
| 17. | 9/28/73 | Bombing of ITT Headquarters for Latin American following coup in Chile | | Weather Underground | |
| 18. | 10/16/73 | Letter from <input type="text"/>
<input type="text"/> | <input type="text"/> | <input type="text"/> | b6
b7C |

- | | | | | |
|-----|----------|--|--|-----------|
| 19. | 2/20/74 | Communique on the
Symbionese Liberation
Army | <div style="border: 1px solid black; width: 200px; height: 20px; display: inline-block;"></div> | b6
b7C |
| 20. | 3/6/74 | Bombing of HEW, San
Francisco to celebrate
International Women's
Day | Women's Brigade
Weather Underground | |
| 21. | 3/14/74 | Stinkbomb dinner at
Hilton Hotel honoring
Governor Rockefeller to
protest drug program | Weather Underground | |
| 22. | 4/74 | Analysis of Vietnam
and the Movement | (This communique
becomes a part of
"Prairie Fire"
issued in July, 1974 -
<div style="background-color: black; width: 200px; height: 15px; display: inline-block;"></div>) | |
| 23. | 5/31/74 | Bombing of California
District Attorney
Evelle Younger in retali-
ation for deaths of SLA
members | Weather Underground | |
| 24. | 6/13/74 | Bombing of headquarters
of Gulf Oil, Pittsburgh,
for Gulf's involvement in
Angola | Weather Underground | |
| 25. | 9/10/74 | Bombing of Anaconda
American Brass Company,
Oakland, California in
protest of Anaconda's
activities in Chile | Weather Underground | |
| 26. | 10/17/74 | Attempted disruption of
Boston School Committee
meeting in protest of
busing stand | Weather Underground | |

- | | | | |
|-----|---------|--|---------------------|
| 27. | 1/28/75 | Bombing of U.S. Department of State, Washington, D.C., in protest of Vietnam fighting | Weather Underground |
| 28. | 1/28/75 | Attempted bombing of the Agency for International Development, Oakland, California, to protest renewed fighting in Vietnam | Weather Underground |
| 29. | 6/16/75 | Bombing of the Banco de Ponco, New York City, showing solidarity with Puerto Rican workers | Weather Underground |
| 30. | 9/5/75 | Bombing of Kennecott Copper Company, Salt Lake City, Utah, protesting overthrow of President Allende of Chile | Weather Underground |

[Note: During 1976, No bombing incidents occurred for which the Weather Underground claimed credit by Communique or other means or which law enforcement agencies thought attributable to the Weather Underground even though no claim of credit was made.]

- | | | | |
|-----|--------|--|-------------------------|
| 31. | 2/4/77 | Bombing of Federal Building, San Francisco, California | Revolutionary Committee |
|-----|--------|--|-------------------------|

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Asst. Dir.:	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	_____
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bailey

DATE: 7/30/79

FROM : J. L. Tierney

SUBJECT: U. S. vs. W. Mark Felt, et al.
Authorization Memoranda for Surreptitious Entries
Delayed Filing *(X) U*

PURPOSE: To file copies of captioned memoranda in appropriate substantive files. (U)

DETAILS: By memorandum 7/30/79 J. L. Tierney to Mr. Bailey under the above caption (62-118045-206) authority was given to file copies of informal memoranda from E. S. Miller to Mr. Felt regarding surreptitious entries in appropriate substantive files. Originals remain in the custody of the Department. *U (X)*

File captioned _____
Bufile # _____, should now receive copy/copies of memorandum/a dated _____. (U)

RECOMMENDATION: None. File. (U)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/13/96 BY SP-7/ML/CA

REC-113 62-118045-212

Enclosure/s

AUG 28 1979

DECLASSIFY ON *10-19-79*
BY *9803 RDD/etj*

19 ENCLOSURE
*19 Encl's detached
Filed in CASE Files 9/10/79*

Class. & Ext. by *6076*
Reason-FCIM II, 1-2.4.2 *2*
Date of Review *7/27/99*

ULT:bas
688EP-2810

Greenberg/Gray-3140

~~CONFIDENTIAL~~

UNRECORDED COPY FILED IN

179

Plan

on the Pavement

Boou

62-117964-

100-474282-

65-74472-

100-474912-

88-56607

100-477464-

100-47617-

105-42860-

100-452737-

105-187400-

100-45299-

105-203076-

100-454261-

105-214731-

100-455387-

105-19991-

100-465959-

105-20210-

100-473961-

105-19991-

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bailey *WBO*

- 1 - Mr. McDermott
- 1 - Mr. Boynton

DATE: 8/27/79

FROM : J.L. Tierney

- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Tierney

Assoc. Dir.	_____	Adm.	_____
Dep. AD Adm.	_____	Inv.	_____
Dep. AD Inv.	_____	ES	_____
Asst. Dir.:			
Adm. Servs.	_____	vs.	_____
Crim. Inv.	_____		
Ident.	_____		
Intell.	_____		
Laboratory	_____		
Legal Coun.	_____		
Plan. & Insp.	_____		
Rec. Mgnt.	_____		
Tech. Servs.	_____		
Training	_____		
Public Affs. Off.	_____		
Telephone Rm.	_____		
Director's Sec'y	_____		
		Off.	_____
		Rm.	_____
		Sec'y	_____

PURPOSE:

To advise of status of captioned matter.

DETAILS:

Additional processing of files ordered by the court 5/16/79 has been completed. The records have been reviewed by the retired Agents on behalf of defense counsel. A relatively insignificant amount of material was referred to other Federal agencies and has not yet been returned. Defense counsel are aware of this and we expect to receive most of it back for review by the defense during the next month.

The court will reconvene on 8/30/79 after adjourning the hearing on 5/16/79. ASAC Paul V. Daly will be present at the hearing if his testimony is needed. The prosecution does not expect dismissal over any discovery issues. They expect to solve evidentiary problems of sensitive documents by locating substitute materials or by offering to make stipulations. The defense will resist these proposals and the final decision will be made by the court.

(Handwritten circle)

Chief Prosecutor ~~John W.~~ Niels, Jr., has been interviewing present and past FBI employees as prospective witnesses. Mr. Niels advises he is doing so primarily to be personally familiar with all witnesses rather than to rely on the record of prior interviews or testimony.

REC-124 62-118045-217X

OCT 18 1979

The prosecution has not mentioned the charges against former Acting Director L. Patrick Gray III. The trial of Mr. Gray was severed from that of Messrs. Miller and Felt earlier this year. It is apparent the prosecution will reach a final decision on whether or not to try Mr. Gray only after this trial is over.

JLT:tdp (7)

CONTINUED - OVER

4-JLT

Greenberg/Gray-3142



Memorandum J.L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Mr. Niels has recently been expressing a desire to speed up trial preparation by the defense, so that the evidentiary problems may be identified and an attempt made to resolve them. He has expressed a hope to try the case in October, although both prosecution and defense camps had previously been giving November as a target. I believe even the November date is unduly optimistic.

RECOMMENDATION:

None. For information.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director <i>WMB</i>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. <i>BS</i>	Ident. _____	Rec. Mgnt. <i>WUB</i>
Exec. AD-Inv. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

UNITED STATES GOVERNMENT

b3

Memorandum

TO : Joseph L. Tierney
Federal Bureau of Investigation

DATE: August 28, 1979

FROM : Francis J. Martin
Criminal Division

SUBJECT: United States v. Felt

W. Mark

Enclosed are various documents received from attorneys

[Redacted]

[Redacted]. Please conduct the necessary classification review and prepare appropriate copies for delivery to defense counsel. While most of these documents are [Redacted]

[Redacted]. If any of these documents have previously been processed for the defense they need not be processed a second time. In particular, I have enclosed only

[Redacted]

[Redacted] --I assume this paper has already been provided to the defense.

*Post available.
Retired Agents did not ask
to see it. JTB
62-118045-212X*

*Package returned
to Martin 9/17/79 with*

classification markings.

Processed for disclosure

to defense separately. Will

forwarded to Martin separately.

*done
frank
6 JAN 24 1980
enc. serves as
work copy to
show redactions
frank*

ENCLOSURE

ENC. BEHIND FILE



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 9/10/79 BY 6076 WEAH/MSB
~~SECRET MATERIAL ATTACHED~~

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

59 JAN 31 1980

62-118045

4-SPF

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bailey *Wrasfe*

DATE: 9/26/79

FROM : *JK* Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
Discovery Proceedings

[Handwritten signature]

At approximately 4 p.m. today John W. Niels, prosecutor in captioned matter, advised me we must prepare a package of copies of the documents which are being placed in the Department of Justice's vault under the minimal redaction style agreed to during Mr. Niels' meeting with Judge Webster. Only those documents in which there will appear a redaction for the protection of extremely sensitive informants or redactions requested by NSA, CIA or the State Department need be included.

The package is to be reviewed by Judge Bryant's law clerk whose last day of work with Judge Bryant is Friday, 9/28/79. Judge Bryant wants the law clerk to review the material and advise him on it before the law clerk leaves.

Mr. Niels predicted that both prosecution and defense were likely to be called before Judge Bryant again next week in chambers, although Judge Bryant could conceivably approve or reject without a hearing the prosecution's proposed handling of the questions posed by Judge Bryant at the last in-chambers hearing. It is therefore possible Judge Bryant will rule on the Department's proposal sometime next week. The ruling could include dismissal of the indictment or approval of the discovery as constituting due process in this case and ordering the case to proceed to trial as scheduled on 1/2/80.

APPROVED: *[Signature]*

Director	Adm. Serv. <i>REC-124</i>	Legal Coun.
Exec. AD-Adm.	Crim. Inv.	Plan. & Insp.
Exec. AD-Inv. <i>JK</i>	Ident.	Rec. Mgnt. <i>WJTB</i>
Exec. AD-LES	Intell.	Tech. Servs.
	Laboratory	Training
		Public Affs. Off.

62-118045-213

OCT 18 1979

SK

- JLT:tdp (8)
- 1 - Mr. Colwell
- 1 - Mr. Boynton
- 1 - Mr. Steel
- 1 - Mr. Mintz

- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney



63 OCT 24 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

August 29, 1979

FEDERAL GOVERNMENT

Joseph L. Tierney
Federal Bureau of Investigation

- 1 - Mr. McDermott
- 1 - Mr. Boynton
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

John W. Niels, Jr.
Department of Justice

Pursuant to your request, there is attached an unclassified memorandum on FBI letterhead which sets forth the Weatherman participation in the [redacted] as related in confidence to the FBI in 1974 and 1976.

b6
b7C
b7D

The "source" used in the memorandum is [redacted] in 1974 and 1976, respectively.

b6
b7C
b7D

The memorandum is prepared as a substitute for the [redacted] which is filed as an unrecorded serial in the FBIHQ WEATHFUG file (176-1594, section 97). This report was denied in its entirety to the defense in order to protect [redacted] identity as a source of the information. The largest and most relevant part of the report is [redacted] in 1974. Although [redacted]

b3
b6
b7C
b7D

An unexcised copy of the withheld report is already in your possession.

REC-76 2-118045-214

OCT 18 1979

It is noted that [redacted]

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

[redacted] (CG 40-66 Sub A). A summary, both of those [redacted]

b3

JLT:tdp (9)

ENCLOSURE

63 NOV 20 1979

Delivered by hand 8/29/79 LK

63-118045

4- [signature]

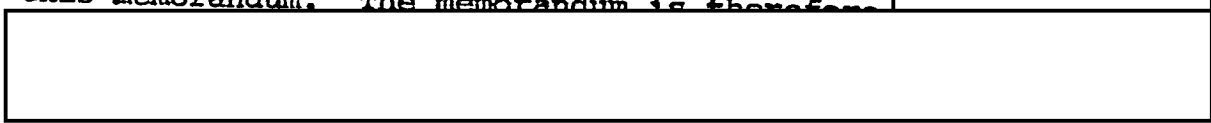
MAIL ROOM

Greenberg/Gray-3146

b3
b6
b7C
b7D

John W. Nields, Jr.
Department of Justice

this memorandum. The memorandum is therefore



Enclosure

WHW/AS/ST

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Inv. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-3147



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

JWN:ams
FEDERAL GOVERNMENT

September 5, 1979

Honorable William H. Webster
Director of Federal Bureau of
Investigation
J. Edgar Hoover Building
Washington, D.C. 20530

WHW/p-s

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-06-2009 BY 65179 drh/baw/sbs

OTHER Pursuant to Sealed Court Order

Dear Sir,

I am enclosing

[Redacted]

[Redacted]. I hope [Redacted]
provides a useful backdrop for your own consideration of
this issue.

W.M.A.A.

*Received 9/5/79 and
delivered to Director's Office.*

REC-122

Sincerely, *62-118045-215*

John W. Nields Jr.

John W. Nields, Jr.
Special Counsel
United States Department
of Justice

6
ENCLOSURE

OCT 18 1979

[Redacted]

returned to DOJ 9/19/79, no

copy being returned by FBI OTHER Pursuant to Sealed Court Order

*Full copy reviewed
by FBI; contains nothing
classifiable per Van Drucis ltr 9/17/79*

Greenberg/Gray-3155

*Joseph L. Tearing
62-118045*

4-8



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

JWN:ams

September 5, 1979

Honorable William H. Webster
Director of Federal Bureau of
Investigation
J. Edgar Hoover Building
Washington, D.C. 20530

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-06-2009 BY 65179 dmh/baw/sbs

OTHER Pursuant to Sealed Court Order

Dear Sir,

I am enclosing [redacted]

[redacted]

I hope [redacted]

provides a useful backdrop for your own consideration of
this issue.

Sincerely,

John W. Nields Jr.

John W. Nields, Jr.
Special Counsel
United States Department
of Justice

OTHER Pursuant to Sealed Court Order

*delivered
to Adm. Steel with copy
of attached summary.
Copy of summary also
delivered to Colwell.*

*[redacted]
to be reviewed for classification
copied and returned to DOJ when
available from Director's office.
JWS 9/6/79*

OTHER Pursuant to Sealed Court Order

62-118045-215
ENCLOSURE

Memorandum

TO : Mr. Bailey *wjz*

FROM : *JL* Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

- 1 - Mr. McDermott
- 1 - Mr. Boynton
- DATE: 8/29/79
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

Assoc. Dir.	Exec AD Adm.
Dep. AD Adm.	Exec AD Inv.
Dep. AD Inv.	Exec AD LES
Asst. Dir.:	Asst. Dir.:
Adm. Serv.	Adm. Servs.
Crim. Inv.	Crim. Inv.
Ident.	Ident.
Intell.	Intell.
Laboratory	Laboratory
Legal Coun.	Legal Coun.
Plan. & Insp.	Plan. & Insp.
Rec. Mg.	Rec. Mgnt.
Tech. S.	Tech. Servs.
Training	Training
Public Aff.	Public Affs. Off.
Telephone Rm.	Telephone Rm.
Director's Sec'y	Director's Sec'y

FBI/DOJ

Flinders

PURPOSE:

To advise that closed file reflecting 1972 security investigation of [redacted] at El Centro, California, will be processed for defense counsel. b6
b7C

4 - Tierney

DETAILS:

Representative of defense counsel has inquired whether newspaper reports of past Weatherman activity on part of [redacted] are true. Defense has been advised the connection with Weatherman organization was reported indirectly through a source covering the Revolutionary Union. Defense indicates they will request file. Prosecution has been advised. b6
b7C

We will also process the 8/9/79 FBIHQ memorandum which records the first report of the shooting of [redacted] and indicates [redacted] is the subject of Bufile 100-471519. b6
b7C

Bufile 100-471519 has been classified "CONFIDENTIAL" but will be made available to defense counsel as discovery material. This file reflects information received from a source in 1971 that [redacted] was a member of the Weatherman faction of SDS. The source furnishing the information received the information from members of the Revolutionary Union. The information does not appear ever to have been verified through any sources covering Weatherman. b6
b7C

RECOMMENDATION:

None. For information.

REC-124 62-118045-216

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-06-2009 BY 65179 dmh/baw/sbs

APPROVED: *WCB*

Director _____
Exec. AD-Adm. _____
Exec. AD-Inv. _____
Exec. AD-LES _____

OCT 18 1979

Adm. Serv. _____ Legal Coun. _____
Crim. Inv. _____ Plan. & Insp. _____
Ident. _____ Rec. Mgnt. *WCB*
Intell. _____ Tech. Servs. _____
Laboratory _____ Training _____
Public Affs. Off. _____

62-118045 Greenberg/Gray-3178

JL
JLT:tdp (7) *[Signature]*



UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Joseph T. ⁸⁴⁵ ~~Stoney~~
Federal Bureau of Investigation

FROM : Francis J. Martin *FJM*
Criminal Division

SUBJECT: Clark v. United States

DATE: September 11, 1979

FJM:rah

~~FEDERAL GOVERNMENT~~

Greenberg/Gray-3179

Attached are copies of those documents which were removed from US-2 in August-September 1976 by Departmental attorneys. Please provide those documents to the appropriate officials in the Bureau in order that they may be processed for civil discovery in the Clark case. Thanks.

Attachment

L. Patrick Gray

The enclosures are copies of materials seized by the Department as they have been disclosed to the defense in U.S. vs. L. Patrick Gray II, et al. The excissions were made *DC* by Frank Marten who did not refer the documents to the FBI for classification review or processing. He states he did not believe they contained any classifiable information. Since much of this package is illegible, Marten has agreed to find the originals in his files and make them available for copying. He will call when they are ready.

Joseph Stoney 9/11/79

Copies attached. Originals returned 1/21/80

Mr. Martin.

~~SECRET~~ 4-DIT
material attached

Being processed for production for civil discovery in Clark case. 1/18/80

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

62-118045

56 MAR 18 '80



5 ENCLOSURE ATTACHED

DEPARTMENT OF JUSTICE

Joseph Tierney
Federal Bureau of Investigation

September 11, 1979

Francis J. Martin
Criminal Division

FJM:rah

Clark v. United States

Attached are copies of those documents which were removed from IS-2 in August-September 1976 by Departmental attorneys. Please provide those documents to the appropriate officials in the Bureau in order that they may be processed for civil discovery in the Clark case. Thanks.

Attachment:

Greenberg/Gray-3180

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-06-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-3181

62-118045-216X

File No. Investigation Entry Form

Date Received 8/23/73

From Vile Cabinet #425-26
(NAME OF CONTRIBUTOR)

42. Room 4427
(ADDRESS OF CONTRIBUTOR)

SA.
(NAME OF SPECIAL AGENT)

To Be Returned Yes No Receipt Given Yes No

Description:

*airtel from acting Dir
To SAC Chicago 8/21/73
with handwritten notes
attached.*

Greenberg/Gray-3182

UNCLASSIFIED
9803 RDD 10/1/79

117 A



Airtel

1/11/73

To: SACs, Chicago	Newark
Albany	New York
Boston	Philadelphia
Cleveland	Portland
Detroit	San Francisco
Los Angeles	Seattle
Milwaukee	

- 1 - Mr. J. P. Callahan
- 1 - Mr. E. S. Miller
- 1 - Mr. R. L. Shackelford
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]
- 1 - [Redacted]

From: Acting Director, FBI

WEATHFUG
OO: CHICAGO
BUDED: 1/25/73

This is to advise all recipient offices of a conference to be held at Chicago, Illinois, February 13-14, 1973, of FBI personnel responsible for Weathfug cases.

Those attending this conference will be designated by SACs of the following offices along the lines stated hereafter:

1. SACs of Seattle, Detroit, San Francisco, New York, Milwaukee, Cleveland, and Chicago will designate by name the case Agent of each Weathfug case in which that office is office of origin and the supervisor of Weatherman fugitive cases or the Weatherman coordinator for that office.
2. SACs of Los Angeles, Philadelphia, Portland, Boston, Albany, and Newark (which Headquarters considers to be major auxiliary offices in those cases) will designate by name the supervisor of Weathfug cases or the Weatherman coordinator for that office.

Each case Agent from those offices listed in paragraph number one above shall be prepared to personally discuss in detail all aspects of the specific Weathfug case or cases assigned to him (where his office is office of origin). These case Agents must be completely familiar with the entire Bureau investigation of these

GEM:was
(35)

SEE NOTE PAGE TWO

Greenberg/Gray-3183

UNCLASSIFIED

9803 RDD 10/1/79

Encl: 6

Airtel to SAC, Chicago, et al.
Re: Weatherfug

subjects, security and fugitive. They should be prepared to present with particular emphasis the problems and obstacles encountered in locating each specific fugitive assigned to them.

Each office will also prepare for Chicago and Headquarters a list of items or problems they believe should be considered for an agenda for such a conference with particular care being to limit such to the Weatherfug problem. This list should be carefully prepared with the assistance of responsible supervisory personnel, only after consultation with appropriate investigative personnel. In order that proper coordination and consideration of this material can be given by Headquarters this list should be furnished to Headquarters and Chicago by 1/25/73.

Each recipient office will by return communication advise Chicago and Headquarters as to the identity of individuals designated to represent each office at the conference February 13-14, 1973.

NOTE:

See memorandum R. L. Shackelford to Mr. E. S. Miller, dated 1/10/73, captioned "Proposed Conference of Headquarters and Field Personnel Handling Weatherman Fugitive Cases, Chicago, Illinois, February 13-14, 1973," prepared by Harwas.

Greenberg/Gray-3184

14828

CLASSIFIED BY 9/18/98
EXEMPT FROM GDS CATEGORY 1
DATE OF DECLASSIFICATION INDEFINITE

Why - who - what
Why - who - what

to discuss problems directly with most knowledgeable, stress them below, direct recommendations for improvement in our environment

- 1 - In Chicago
- 2 - Care agents of Supp in OO + 1 SA from 6. and office about 24 SA in plan of
- 3 - 3 Sub Unit supervisor to plan
- 4 - to start 2nd days - begin early

5 - OLA. can agent to present ideas + obstacles to success of discussion

(2) Intervention - when to be conducted how

(3) → need for observation & evaluation -

(4) Personality assessment of subjects

(5) Coverage of leads - continuity, follow up

+ rapid reporting intelligent appraisal on continuing basis

(6) Initiative by supervisory office as well as OO -

(7) Techniques of mail cover

~~CONFIDENTIAL~~

to all checks of uniformity re to all checks
& moving, ~~these~~ photographic

- (8) Steps & peculiar use of SA
under available material -
- (9) Coverage of family - development
of neighbors, sources - good
receiving interviews of family mem
ber -
- (10) Re: ~~the~~ sophisticated techniques
- (11) ~~the~~ check
- (12) ~~the~~ reward possibilities down
interviews -
- (13) Questions of Immunity (No) or
raise question of substance if
subject remembers -
- (14) Foreign investigation - Canada, esp

~~CONFIDENTIAL~~

1) We canceled of Jim Swain - now we
need their conf to make up for lack of
~~contact~~ contact - we had planned
contact them in service

2) Hqs. you going out to get
their knowledge spread from day
to day in mind of not situation
then will also be in ~~service~~ from
personal contact with case agents.

Microphone Installation
Survey

~~TOP SECRET~~
~~SECRET~~
~~CONFIDENTIAL~~

ENC # 1B

UNCLASSIFIED

9803 RDD 10/1/79

5-6 (Rev. 2/6/75)

INTELLIGENCE DIVISION

3/5, 1975

- | | |
|---|--|
| <input type="checkbox"/> Mr. Wannall | Foreign Liaison Unit |
| <input type="checkbox"/> Mr. Leavitt | <input type="checkbox"/> Mrs. Liskey, 4026 JEH |
| <input type="checkbox"/> Mr. Mack | <input type="checkbox"/> Miss Tweedon, 4026 JEH |
| <input type="checkbox"/> Mr. Boynton | <input type="checkbox"/> Mrs. Haines, 4026 JEH |
| <input type="checkbox"/> Mr. Branigan | <input type="checkbox"/> Mrs. French, 4026 JEH |
| <input type="checkbox"/> Mr. Cregar | <input type="checkbox"/> Mrs. Dennis, 4425 JEH |
| <input type="checkbox"/> Mr. Deegan | <input type="checkbox"/> Steno Pool, 4027 JEH |
| <input type="checkbox"/> Mr. Fulton | <input type="checkbox"/> Miss Nommensen, 4439 JEH |
| <input type="checkbox"/> Mr. F.S. Putman | <input type="checkbox"/> Mrs. Ruegsegger, 4439 JEH |
| <input checked="" type="checkbox"/> Mr. Shackelford 1/0 | <input type="checkbox"/> Teletype Unit, 6247 JEH |

SUPERVISORS

- Mr. Brune 1/0
- Mr. Brunnick 1/0
- Mr. Cook 1/0
- Mr. Duhadway 1/0
- Mr. Felix 1/0
- Mr. Gerblick 1/0
- Mr. Grigalus 1/0
- Mr. Lattin 1/0
- Mr. Lex 1/0
- Mr. Lunsford 1/0
- Mr. McMahon 1/0
- Mr. McNiff, T.J. 1/0
- Mr. Mendenhall 1/0
- Mr. Preusse 1/0
- Mr. Seabaugh 1/0
- Mr. Schroeder 1/0
- Mr. Smith, W.L. 1/0
- Mr. Thompson, C.W. 1/0
- Mr. Williams, D.R. 1/0

- Room _____
- Please Call Me
 - Please See Me
 - For Information
 - Initial and Return
 - Initial and Forward
 - Correct
 - Status
 - Please Handle
 - Per Call

RECORDS SECTION

- Consolidation Unit
- Place on Record & Return
- Mail Room
- Open
- Note file # and Return
- R/S to Room

1009 1/0 since 11/1/67

UNCLASSIFIED

9803 RDD 10/1/79

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-06-2009

~~CONFIDENTIAL~~

14525 9/15/78

HINKS

SHACKELFORD

1967 - None

1968 - None

1969

①
Students for a Democratic Society
(Chicago Region)
Chicago Regional Office
701 West Armitage
Chicago, Illinois
9/15/69
10/29/69
100-439048 (u)

1. Not a citizen
2. (g) see attached
3. Negative (u)

1970

(u) [Redacted]

b6
b7C

(u) 1. American citizen
2. (g) see attached
3. Negative (u)

(See Weatherman Faction of the SDS)

②
[Redacted]

1971

3. Negative (u)

③
[Redacted]
New York City b6
12/6/71 b7C
12/16/71
100-457986 (u)

1. American citizen
2. (g) installed 12/16/71; trip
involved (100-457986-35)
3. Negative (u)

1972

④
[Redacted]
New York City b6
3/23/72 b7C
6/19/72
(u) 100-454261 (u)

1. American citizen
2. (g) installed 3/23/72
3. Negative (u)

CLASS & EXT. BY 9803 RDD
REASON FCIM II, 1-2.4.2 2
DATE OF REVIEW 9/15/89

~~CONFIDENTIAL~~

b1

~~CONFIDENTIAL~~

1972 - Continued

(U) [redacted]
(Automobile w/Illinois license)
1/18/72 b6
2/28/72 b7C
[redacted]

1. American citizen
2. (C) no contact
3. Negative

1973 - None

(U) 1974 - None

Greenberg/Gray-3191

~~CONFIDENTIAL~~

Stealth for a Private Society

Bureau file 100-439948 June reveals Attorney General authorized microphone surveillance on 9/3/69. Letter dated 9/10/69 to Illinois Bell Telephone Co. requested leased line facilities. It was activated on 9/15/69. On 10/29/69 Bureau agents retrieved misur following the vacating of premise by SDS. Circumstances of installation not set forth in file. Section personnel have no knowledge of installation.

Greenberg/Gray-3192

UNCLASSIFIED

9803 RDD 10/1/79

~~CONFIDENTIAL~~ CONFIDENTIAL

(U) [redacted] b6 b7C

(U) [redacted] is a citizen of the United States. b6 b7C

(U) On 12/18/71, then Attorney General John Mitchell authorized installation of a misur to intercept voice communications in the automobile of [redacted] Chicago. This automobile registered to [redacted] bearing 1971 Illinois license plate [redacted]. b6 b7C

(U) This misur was instituted at 12 noon (1/18/72) and discontinued (2/28/72) because of inactivity. The misur was given symbol number (CG 9093-S*). b6 b7C

(U) This (automobile) was owned by [redacted] when the surveillance was instituted; however, no information is available to where it was exactly placed but occupancy was involved since it was obviously placed in the (automobile). The term (CAT (Concealed Automobile Transmitter) was utilized. b6 b7C

(U) This misur was completely unproductive from (1/18 to 2/2/72) and [redacted] did not use the (automobile from 2/2 to 2/28/72) as (she) was out of the city. b6 b7C

3. No black bag operations are involved in connection with the above misur.

14828 9/18/78 2

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

CLASS. & EXT. BY 9803 RDD
REASON-FCIM II 1-2.4.2 2
DATE OF REVIEW 1/18/92

Greenberg/Gray-3193

~~CONFIDENTIAL~~ CONFIDENTIAL

~~CONFIDENTIAL~~

(U) [redacted] (S) b6 b7C

Bureau files do not indicate any misur on this individual. [redacted] in March, 1970, was paramour of one [redacted] Philadelphia.

She had mentioned to an individual [redacted] was involved in bombings and was a Weatherman. Both [redacted] resided at above address and telephone was in name of [redacted] A tesur was approved on this address 3/30/70 by then Attorney General John Mitchell and was discontinued 5/26/70. It was given symbol number (PH 1135-S*) Bufile number for this tesur is 100-439048-37 (JUNE). (S)

b6 b7C

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

~~1482 7/18/78~~

Greenberg/Gray-3194

CLASS. & EXT. BY 9803 RDD
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 3/30/90

~~CONFIDENTIAL~~

ROUTE IN ENVELOPE

March 5, 1975

DO NOT FILE

~~SECRET~~

MEMORANDUM FOR MESSRS. W. R. WANNALL
T. W. LEAVITT
P. L. MACK

H. A. BOYNTON, JR.
W. A. BRANIGAN
W. O. CREGAR
J. G. DEEGAN
F. S. PUTMAN, JR.
R. L. SHACKELFORD

CLASSIFIED BY 1482 Y
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

In accordance with Mr. Wannall's instructions on 3/3/75, there is attached, where appropriate, two copies of a list setting out microphone installations approved by the Attorney General from 1/1/67 to date. This list has been broken down by Section Chiefs and is attached only if the particular Section had such microphone installations approved.

The Sections are requested to review this list to determine the information indicated below. At this time, there is to be no contact with the field in connection with the information being requested.

1. The citizenship of each subject.
2. The circumstances of the installation of each microphone. With regard to each installation, indicate whether:
 - a. Microphone encapsulated in telephone prior to installation of telephone by telephone company personnel.
 - b. Microphone installed in equipment or items to be delivered to subject.
 - c. Installed by FBI personnel after occupancy with physical trespass.
 - d. Installed by FBI personnel before occupancy. (Include further explanation such as installed while building being constructed, after sign lease or while space negotiations being conducted etc.)

CLASS. & EXT. BY 9803 RDD
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 3/5/95

Enclosures

CONTINUED - OVER

JWD:rfk

- 1 - Mr. Fulton
- 1 - Mr. Horner

ROUTE IN ENVELOPE

~~SECRET~~

~~SECRET~~

Memorandum for Messrs.

- e. For [redacted] only [redacted] technique to collect [redacted] from [redacted] no physical trespass. (X)
 - f. None of above. Include explanation showing how installation accomplished.
 - g. File review and/or knowledge of Section personnel does not indicate circumstances of installation.
3. Each Section is also requested to determine whether a black bag operation was conducted concurrent with any of the above trespassory microphone installations. If so, furnish a separate writeup indicating:
- a. Subject's name and citizenship.
 - b. Bureau file number.
 - c. Date of the operation (Include exact file designation from which information determined, include serial number.)
 - d. Where operation took place specifically and ~~Greenberg/Grays 3196~~ include exact file designation from which information determined, include serial number.)
 - e. Name and title of the individual approving the operation. (Include exact file designation from which information determined, include serial number.)

In addition, each Section Chief is being asked to determine from each Special Agent assigned to his Section whether any Special Agent has a knowledge of any black bag operation (exclusive of 3 above) which was conducted from 1/1/67 to date. If any Special Agent indicates such knowledge, he should furnish the same information requested in Item 3a through Item 3e above.

CONTINUED - OVER

~~SECRET~~

~~SECRET~~

~~SECRET~~

Memorandum for Messrs.

You will recall that as of 10/25/74 a survey was conducted to determine the circumstances regarding the installation of microphone surveillances and [redacted] matters in effect at that time. Those microphones and [redacted] matters previously surveyed are indicated by a red asterisk on the 1974 list and it is not necessary to furnish the circumstances of the installation inasmuch as this is available in the [redacted]

~~IS-3 SECTION~~

IS-3

It is requested that you not duplicate the attached list nor this note and that the note and both copies of the list be returned to the [redacted] Section, Attention: SA R. H. Horne Room 4847. It is suggested that you indicate Items 1 and 2 on a copy of the attached list.

As you know, a specific deadline has not been set, however, it is requested that your survey be completed and the results furnished the IS-3 Section no later than 3/20/75 if possible. If it is not possible to meet this deadline, please advise Special Agent Horner.

A. B. Fulton

~~SECRET~~

~~SECRET~~

b6
b7C

Imd Specialized IN-SERVICE



FOC # 3

Greenberg/Gray-3198

UNCLASSIFIED

9803 RDD 10/1/79

117 C

1972

___ Mr. E. S. Miller	___ Mrs. Schwab, 1026 9&D
___ Mr. D. E. Moore	___ Mrs. Liskey, 1028 9&D
___ Mr. Wannall	___ Mrs. Stauffer 1023 9&D
___ Mr. Branigan	___ Miss Tweedon, 1036 9&D
___ Mr. Decker	___ Mrs. Dennis, 714 9&D
___ Mr. A. W. Gray	___ Stevo Pool, 916 9&D
___ Mr. G. C. Moore	___ Miss Nommensen,
___ Mr. Shackelford	926 9&D
___ Mr. T. J. Smith	___ Mrs. Ruegsegger, 926 9&D

SUPERVISORS

___ Mr. Brooks
 ___ Mr. Druken, T. P.
 ___ Mr. Eikenberry
 ___ Mr. Freeman, C. F.
 ___ Mr. Floyd
 ___ Mr. Gerblich
 ___ Mr. Griffith
 ___ Mr. Grubert
 ___ Mr. Lex
 ___ Mr. Lunsford
 ___ Mr. Mallet
 ___ Mr. Menzel
 ___ Mr. McNiff, T. J.
 ___ Mr. Murphy, B. P.
 ___ Mr. Pence
 ___ Mr. Preusse
 ___ Mr. Schroeder
 ___ Mr. Stilling, R. J.
 ___ Mr. Thompson, C. W.
 ___ Mr. White, D. P.
 ___ Mr. Williams, D. R.

Room _____
 ___ Please Call Me
 ___ Please See Me
 ___ For Information
 ___ Initial and Return
 ___ Initial and Forward
 ___ Correct
 ___ Status
 ___ Please Handle
 ___ Per Call

RECORDS BRANCH

___ Consolidation Unit
 ___ Place on Record &
 ___ Return
 ___ Mail Room
 ___ Open
 ___ Note file # and Return
 ___ R/S to Room _____

attached copy
with [unclear]
acs

UNCLASSIFIED

9803 RDD 10/1/79

REVOLUTIONARY ACTIVITIES SECTION

R. L. SHACKELFORD

5-6 (Rev. 6-26-72)

DOMESTIC INTELLIGENCE DIVISION-111
REVOLUTIONARY ACTIVITIES SECTION

1972

<input type="checkbox"/> Mr. E. S. Miller	<input type="checkbox"/> Mrs. Schwab, 1028 9&D
<input type="checkbox"/> Mr. D. E. Moore	<input type="checkbox"/> Mrs. Liskey, 1028 9&D
<input type="checkbox"/> Mr. Wannall	<input type="checkbox"/> Mrs. Stauffer 1028 9&D
<input type="checkbox"/> Mr. Branigan	<input type="checkbox"/> Miss Twcedon, 1036 9&D
<input type="checkbox"/> Mr. Decker	<input type="checkbox"/> Mrs. Dennis, 714 9&D
<input type="checkbox"/> Mr. A. W. Gray	<input type="checkbox"/> Steno Pool, 916 9&D
<input type="checkbox"/> Mr. G. C. Moore	<input type="checkbox"/> Miss Nommensen,
<input checked="" type="checkbox"/> Mr. Shackelford	<input type="checkbox"/> 926 9&D
<input type="checkbox"/> Mr. T. J. Smith	<input type="checkbox"/> Mrs. Rucgsegger, 926 9&D

SUPERVISORS

<input type="checkbox"/> Mr. Brooks	Room _____
<input type="checkbox"/> Mr. Druken, T. P.	
<input type="checkbox"/> Mr. Eikenberry	
<input type="checkbox"/> Mr. Freeman, C. F.	<input type="checkbox"/> Please Call Me
<input type="checkbox"/> Mr. Floyd	<input type="checkbox"/> Please See Me
<input type="checkbox"/> Mr. Gerblich	<input type="checkbox"/> For Information
<input type="checkbox"/> Mr. Griffith	<input type="checkbox"/> Initial and Return
<input type="checkbox"/> Mr. Grubert	<input type="checkbox"/> Initial and Forward
<input type="checkbox"/> Mr. Lex	<input type="checkbox"/> Correct
<input type="checkbox"/> Mr. Lunsford	<input type="checkbox"/> Status
<input type="checkbox"/> Mr. Mallet	<input type="checkbox"/> Please Handle
<input type="checkbox"/> Mr. Menzel	<input type="checkbox"/> Per Call
<input type="checkbox"/> Mr. McNiff, T. J.	
<input type="checkbox"/> Mr. Murphy, B. P.	<input type="checkbox"/> RECORDS BRANCH
<input type="checkbox"/> Mr. Pence	<input type="checkbox"/> Consolidation Unit
<input type="checkbox"/> Mr. Preusse	<input type="checkbox"/> Place on Record &
<input type="checkbox"/> Mr. Schroeder	<input type="checkbox"/> Return
<input type="checkbox"/> Mr. Stilling, R. J.	<input type="checkbox"/> Mail Room
<input type="checkbox"/> Mr. Thompson, C. W.	<input type="checkbox"/> Open
<input type="checkbox"/> Mr. White, D. P.	<input type="checkbox"/> Note file # and Return
<input type="checkbox"/> Mr. Williams, D. R.	<input type="checkbox"/> R/S to Room

[Handwritten signatures and notes in the routing slip area]

REVOLUTIONARY ACTIVITIES SECTION

UNCLASSIFIED

9803 RDD 10/1/79

[Handwritten initials]

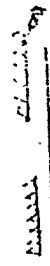


CAB 13
DRAW 3

UNCLASSIFIED

9803 RDD 10/1/79

117 D



function
Prayer + ...

1. Tell PK records to mail sets +
see card + go to ...
good stuff from PK. - ...

2. Friends -

3. Comment re \$50. to get ...
to ...
What basis (info ...)

4. People ...
... know ...

5. ...
... when to ...

6. Anonymous Source - ...

7. Current Statements - ...

8. PK's ...
... know ...

9. Model lecture ...

10. Stops with Customs at border.

11. Mail Cover *

12. Risk - ...

- 13. Voice tapes to King, effects
- 14. [unclear] to all offices - [unclear]
 will become limited expense for
 direct operations
 justify every 6 months
- 15. Paper from Bill [unclear], SE
- 16. Transfer to other offices - don't want to go
 in OP wants out?
- 17. [unclear] ^{100:} Site [unclear] - only [unclear] & [unclear]
 in [unclear] SA's
- 18. [unclear] ^{100:} OP's [unclear] are [unclear]
- 19. [unclear] ^{100:} not [unclear] on some effects
- 20. [unclear] ^{100:} Handling agent [unclear] [unclear]
 [unclear] [unclear] - [unclear] consider [unclear]
- 21. Voice tapes of [unclear]
- 22. Daily [unclear] or [unclear]
- 23. [unclear] ^{100:} [unclear] [unclear] [unclear] - [unclear] [unclear]
 phone books - [unclear]

24. Lock van

25. Legal

26. Discuss some kinds of fugitives &

27. Artists' conception of fugitives - can use

28. When album - poor photos -

29. Name - Books of objects - 40 more objects

30. Army - good name & location - (limited in ways - some in fields)

31. Contacting SA's of underman -

32. Portland Park - Lake

8-21

40

Handwritten notes at the top of the page, including "The following..." and "The following..."

Continuation

October 2, 1972

8:30 (Class departed 10th of Pennsylvania...)
4:42-4:55
7:15-7:30

11:00-12:00
12:00-1:00
1:00-2:00
2 hrs
3 hrs

Thursday - October 3, 1972

8:00-12:00
12:00-1:00
1:00-5:00
20 hrs
b6
b7C

Wednesday - Oct 4, 1972

8:00-12:00
12:00-1:00
1:00-5:00
b6
b7C

UNCLASSIFIED

9813-2-10/79

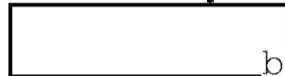
117E

Thursday Oct 5, 1972

8:00 - 10:00

1 hr
Wachtman ideology -

Russian, Chinese communism

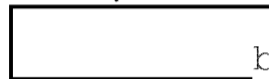


b6
b7C

10:00 - 12:00

~~ART bombing matter~~

~~Parlan - Caplan - Brubaker~~



b6
b7C

12:00 - 1:00

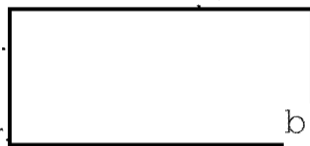
Ranch

1:00 - 4:00

Drugs, etc Keep

4:00 - 5:00

Handwriting Best



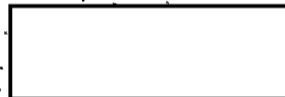
b6
b7C

Friday Oct 6, 1972

4 hrs

8:00 - 12:00

Legal matters



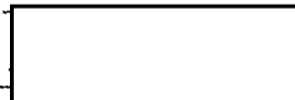
b6
b7C

12:00 - 1:00

Lunch

1:00 - 5:00

Legal matters



b6
b7C

Sat

Oct 7, 1972

8:00 - 12:00

~~Furman~~

Mr. Mooney & staff

12:00 - 1:00

~~Lunch~~

1:00 - 5:00

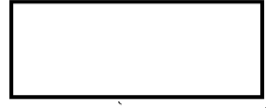
~~Defense matters~~

Tues
~~Monday~~

Mon, Holiday
Oct 10, 1972

8:00 - 12:00

Foreams



b6
b7C

12:00 - 1:00

Lunch

1:00 - 5:00

~~Foreams~~

6:00 - 9:00

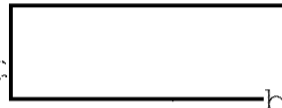
Night foreams

Wed
~~Tuesday~~

Oct 11, 1972

8:00 - 10:00

2 hrs
Availability Chart Techniques



b6
b7C

10:00 - 12:00

3 hrs
C/ plans, etc

12:00 - 1:00

Lunch

1:00 - 3:00

Explosives, etc

3:00 - 5:00

~~Security~~ ~~investigation~~

Thurs
~~Wed~~

Oct 12, 1972

8:00 - 10:00

4 hrs
Weathering fingerprint notes Mr. R.L.S.

10:00 - 11:00

Related ITSP cases

11:00 - 12:00

~~Weathering~~ Lunch

1:00 - 2:00

~~Weathering~~ Related ITSP case

2:00 - 5:00

Weathering - 2 hrs special invest. Mr. C Jones

Techniques of foreams

Oct

Friday Oct 13, 1972

8:00 - 12:00

Section Chief Seminar

R.E.S. & S.

12:00 - 1:00

Lunch

1:00 - 2:00

270 Symposium of Dr. Simeon

M.E.S. Inc

2:00 - 2:30

Conclusion

D.L.S. & S.C.

2:30

Class Resumes

3:00

Business Luncheon for

Washington, D.C.

4 hrs

4 hrs

Project on the Home Curriculum

- 6 hrs ✓ ... SPECTRA - W.P.
- 6 hrs ✓ ... W.P.
- 4 hrs ✓ ...
- 1 hr ✓ ...
- 3 hrs ✓ ...
- 2 hrs ✓ ...
- 4 hrs ✓ ...
- 2 hrs ✓ ...
- 2 hrs ✓ ...
- 4 hrs ✓ ...
- 2 hrs ✓ ...
- 8 hrs ✓ ...
- 2 hrs ✓ ...
- (6) 6 hrs ✓ ...
- 59 hrs 7.2 day ...

Comments

~~Meeting~~ - 2nd session + 1st session

Meeting of 1st session - 1st session + 1st session

1st session - 1st session - 1st session

Meeting of 1st session

Meeting of 1st session

Meeting of 1st session

Meeting of 1st session

Meeting of 1st session

Meeting of 1st session

DOMESTIC INTELLIGENCE DIVISION-FBI
REVOLUTIONARY ACTIVITIES SECTION

b6
b7C

_____, 1972

<input type="checkbox"/> Mr. E. S. Miller	<input type="checkbox"/> Mrs. Schwab, 1028 9&D
<input type="checkbox"/> Mr. D. E. Moore	<input type="checkbox"/> Mrs. Liskey, 1028 9&D
<input type="checkbox"/> Mr. Wannall	<input type="checkbox"/> Mrs. Stauffer 1028 9&D
<input type="checkbox"/> Mr. Branigan	<input type="checkbox"/> Miss Tweedon, 1036 9&D
<input type="checkbox"/> Mr. Decker	<input type="checkbox"/> Mrs. Dennis, 714 9&D
<input type="checkbox"/> Mr. A. W. Gray	<input type="checkbox"/> Steno Pool, 916 9&D
<input type="checkbox"/> Mr. G. C. Moore	<input type="checkbox"/> Miss Nommensen,
<input type="checkbox"/> Mr. Shackelford	<input type="checkbox"/> 926 9&D
<input type="checkbox"/> Mr. T. J. Smith	<input type="checkbox"/> Mrs. Ruegsegger, 926 9&D

SUPERVISORS

Mr. Brooks
 Mr. Druken, T. P.
 Mr. Eikenberry
 Mr. Freeman, C. F.
 Mr. Floyd
 Mr. Gerblich
 Mr. Griffith
 Mr. Grubert
 Mr. Lex
 Mr. Lunsford
 Mr. Mallet
 Mr. Menzel
 Mr. McNiff, T. J.
 Mr. Murphy, B. P.
 Mr. Pence
 Mr. Preusse
 Mr. Schroeder
 Mr. Stilling, R. J.
 Mr. Thompson, C. W.
 Mr. White, D. P.
 Mr. Williams, D. R.

Room- _____
 Please Call Me *Mr. Preusse*
 Please See Me
 For Information
 Initial and Return
 Initial and Forward
 Correct
 Status
 Please Handle
 Per Call

RECORDS BRANCH
 Consolidation Unit
 Place on Record &
 Return
 Mail Room
 Open
 Note file # and Return
 R/S to Room _____

*get tel out to
 Denver re Philip V. Newlin*

use

*This will contain Ben
 write by telephone
 what 545 — and
 out to attend in Denver*

UNCLASSIFIED

REVOLUTIONARY ACTIVITIES SECTION

R. L. SHACKELFORD

117 G

ENC 3A

[Redacted]

3/2/71
CLASSIFIED BY 14825 9/18/88
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

b6
b7C

I know one really knows when terminating
resides - 191 Claremont + tel
H Green was furnished to his
probation officer as place he
could reach there

2) - Possible contact with W. [Redacted]

a) [Redacted]

Always, fed or telephone as such
matters on playing, based on [Redacted]

with [Redacted]

3) - [Redacted] not involved in anything.
4) - [Redacted] much more promising
target - either active or
will largely be related to publishing
problems concerning the "Liberator"
Guardian

5) - [Redacted] White Printer
involved in own sub. adv. - not
cannot find file, etc

[Redacted]

(NY file)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-09-2009

~~UNCLASSIFIED~~
9/23/200 10/1/29

ENC # 1 D

117 F

~~CONFIDENTIAL~~

Memorandum

Asso. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.: _____
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. *the* _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : THE DIRECTOR

DATE: 9/5/79

FROM : *Lee* COLWELL

SUBJECT: U.S. VS. W. MARK FELT, ET AL.;
DISCOVERY PROCEDURES

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-09-2009 BY 65179 dmh/baw/sbs

PURPOSE:

To record information received and action taken regarding alleged surreptitious entry in 1971.

DETAILS:

On Friday, 8/31/79, at approximately 3:30 p.m., ASAC Paul V. Daly, telephonically furnished the following information:

Mr. Daly stated that he had just completed a telephone conversation with Mr. John Niels, who is handling the Government's prosecution in the Gray, Felt, Miller trial. Mr. Daly stated that he had proposed a hypothetical situation to Mr. Niels to solicit an opinion as to his (Daly's) responsibility in bringing to the attention of Mr. Niels and the Court information of possible relevance to a recent Order of Discovery involving "higher authority" issued by the Court. Mr. Niels advised Mr. Daly, after hearing the hypothetical situation, that the responsibility of the Agent to report the information was absolute. Mr. Daly stated that he was calling me because the hypothetical situation was in reality factual and it involved the following circumstances.

In May, 1979, former SAC Robert Kunkel, Alexandria Division, advised ASAC Daly in a confidential conversation that in 1971 Kunkel was present when then Assistant Director William Sullivan advised Assistant Attorney General Rehnquist of a situation where a member of the so-called New Left element allegedly had dynamite stored in the Washington, D. C., area. Mr. Kunkel at that time was Special Agent in Charge of the Washington Field Office. Allegedly, after discussing the situation, Assistant Attorney General Rehnquist authorized a surreptitious entry to determine whether or not the individual had in fact dynamite in his possession. According to Kunkel, this surreptitious entry was consummated by an FBI Agent and was not recorded in writing anywhere in FBI files.

LC:ams
(2)

62-118045-216X
CONTINUED - OVER

Greenberg/Gray-3213

AUG 12 1980



59 AUG 19 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Memorandum for the Director

Re: U.S. vs. W. Mark Felt, et al.

I asked Mr. Daly why he had not reported this information previously and he stated that he had, in connection with his other duties involving complying with motions of discovery of documents, attempted to verify by location of some reference in FBI files that the alleged entry did in fact occur. Furthermore, he has been attempting to convince former SAC Kunkel, who is now retired, to come forward with his information since it involves knowledge and approval of a high authority. Mr. Daly stated that there was no doubt that he was eventually going to bring this to the attention of his superiors, but believed that he could convince Mr. Kunkel to step forward or locate some reference to this entry in FBI files. Being unsuccessful on both occasions and in view of the recent Order of Discovery of documents involving higher authority, he felt obligated to bring it to my attention immediately.

I told Mr. Daly to report to my office at 9 a.m. on Tuesday, 9/4/79.

After discussion with you and Mr. Mintz, I contacted ASAC Daly on 9/4/79 and in Mr. Daly's presence talked to Mr. John Nields. I told Mr. Nields that Mr. Daly had brought certain information to our attention and that since it appeared the information was relevant to pending prosecution, I was requesting Mr. Daly to go directly to Mr. Nields' office and personally provide him with the information in Daly's possession. I asked that Mr. Nields see Mr. Daly promptly and he said he would do so.

Subsequently on 9/4/79, Mr. Daly advised me that he and Supervisor Joseph L. Tierney met with Mr. John Nields and apprised him of the information given to Mr. Daly by former SAC Kunkel. Daly told Mr. Nields that this was confirmation of a hypothetical situation described to Nields by Daly on 8/31/79. Daly stated that his efforts to substantiate through documents this information were discussed with Mr. Nields. Daly said that Mr. Nields agreed that the procedures utilized by Daly were proper insofar as Mr. Nields was concerned. According to Mr. Daly, Mr. Nields stated that he would contact defense counsel, advise them of this information, and arrange for an in-depth interview with Kunkel. He stated that he would have Mr. Daly call Kunkel and set up the interview for Departmental attorneys.

On 9/5/79 at 3:30 p.m., Mr. Daly telephonically advised me that at Mr. Nields' request he had called former SAC Kunkel at his residence at approximately 3:20 p.m., advised Kunkel of the

Memorandum for the Director

Re: U.S. vs. W. Mark Felt, et al.

disclosures made by him (Daly), and requested Mr. Kunkel to make himself available for interview by Departmental attorneys. Mr. Daly stated that Mr. Kunkel advised him that he had no recollection of this conversation, and that he (Daly) must be out of his mind.

ACTION:

None. For information.

APPROVED: <i>WWS</i>	Adm. Serv. <i>RE/xc</i>	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Inv. <i>DR</i>	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-3215

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.: _____
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : THE DIRECTOR

DATE: 9/28/79

FROM : *LC* LEE COLWELL

SUBJECT: U. S. VS. W. MARK FELT, ET AL.;
DISCOVERY PROCEDURES

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-09-2009 BY 65179 dmh/baw/sbs

PURPOSE:

To furnish you brief background and results of action taken by me in connection with the activities of ASAC Paul V. Daly, Alexandria Division.

DETAILS:

On Friday, 8/31/79, ASAC Daly advised me that he had been informed in a confidential conversation in May, 1979, with former SAC Robert Kunkel (retired), Alexandria Division, that former Assistant Director William Sullivan (deceased) and then Assistant Attorney General Rehnquist had held a meeting regarding a situation where a member of the so-called New Left element allegedly had dynamite stored in the Washington, D. C., area. Subsequently, the then Assistant Attorney General allegedly authorized a surreptitious entry to determine whether or not the individual had, in fact, dynamite. Allegedly, the surreptitious entry was consummated by an FBI Agent and not recorded in FBI files. This alleged surreptitious entry was not identified as a result of our inquiry internally, nor am I aware of its being identified by the Department during their two and a half year inquiry into surreptitious entries.

Subsequent to a discussion with you, I instructed Daly to immediately advise Mr. John Nields, who is handling the prosecution in the Felt, et al., trial. I personally talked to Mr. Nields on the telephone and advised him that Daly was coming to his office to furnish him information pertinent to the Felt, et al., prosecution.

Thereafter, in the presence of Mr. Nields, Daly was interviewed by attorneys for Messrs. Felt and Miller (Kennelly and Gettings), at which time Daly furnished them information he had obtained from former SAC Kunkel. During the interim, Mr. Kunkel had advised both Daly and Nields that he had no recollection of a conversation with ASAC Daly involving this matter and that Daly must be out of his mind.

Handwritten: 62-118045-217X1

Enc. Greenberg/Gray-3226

LC:ams

(2)

AUG 12 1980

CONTINUED - OVER

59 AUG 10 1980 Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



Handwritten: 3/1/80
FBI/DOJ

Memorandum for The Director
Re: U. S. VS. W. MARK FELT, ET AL.

Mr. Niels and his staff have indicated that they are appreciative of the information furnished to them, however, indicated they have much more substantial information regarding Departmental knowledge of the use of this technique.

I submitted a memorandum (attached) to you on 9/5/79 outlining information brought to my attention and action taken by me. I also recommended that we wait a few days before pursuing further with Mr. Daly the issue of why he failed to report information in his possession regarding an alleged entry.

I have since discussed this matter in detail with Mr. Daly. He has been responsible for handling the Bureau's task in connection with discovery matters regarding this trial for approximately two years. He has advised me that in his opinion he is very knowledgeable as to FBI documents relating to surreptitious entries. At the time Mr. Kunkel made his comments to Daly in May, 1979, Daly did not recall ever reviewing any information in our records system that could be identifiable with the incident as reported by Mr. Kunkel. Daly stated that he was concerned that perhaps he had overlooked the information previously and felt a responsibility to go back and review records to attempt to identify the incident as described to him by Mr. Kunkel. Daly stated he felt a high responsibility in this regard because of his diligence in adhering to the discovery procedures in the past.

Furthermore, he was concerned about accuracy and since Mr. Kunkel's comments were vague except for the identities of those individuals present, he (Daly) felt a heavy responsibility to identify the alleged incident and bring it to the attention of the appropriate officials so that the matter could be pursued with Mr. Kunkel. In the interim, he stated that on numerous occasions he attempted to convince Kunkel to step forward and furnish any information in his possession concerning an entry in 1971. He was not successful in encouraging Kunkel to step forward and contact either FBI officials or Departmental attorneys.

As the result of an order for discovery of certain classified documents issued by the trial judge on 8/30/79, Daly stated he felt he was obligated to bring to my attention the comments made to him by Kunkel

Memorandum for The Director
Re: U. S. VS. W. MARK FELT, ET AL.

in May, 1979. He stated that at that time, after an exhaustive file review and continued efforts to get Kunkel to step forward had not been successful, there was no alternative for him but to report the comments made by Kunkel. Daly emphasized that regardless of the order issued by the Judge in this case, he was fast approaching the point where he felt obligated to report the matter even though he was unable to confirm an entry had been made.

I have discussed this matter in detail with Mr. Daly and emphasized to him that it is essential for him to report immediately any information coming to his attention regarding entries or alleged entries even if based on comments by third parties. He understands this need, agrees, and will not permit a recurrence of delay in the future. Mr. Daly admits that in retrospect he should have brought the matter to someone's attention, but in his defense states he has been very concerned about accuracy since this trial and the issue of surreptitious entries are so sensitive. I have orally admonished SA Daly and believe that this situation will have a therapeutic effect.

In summary, I believe that we have done all that is possible to inform the prosecutor of all information available to us. ASAC Daly has advised the prosecutor that his review of our records failed to locate any entry identifiable with that alleged by Mr. Kunkel.

RECOMMENDATION:

That no further action be taken in this matter.

APPROVED: <i>WML</i>	Adm. Serv. <i>pet</i>	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Adm. <i>OR</i>	Intell. _____	Tech. Servs. _____
Exec. AD-Inv. _____	Laboratory _____	Training _____
Exec. AD-LES _____		Public Affs. Off. _____

RECEIVED
TELETYPE UNIT

7 Nov 79 01 05z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Exec. AD-Inv.	<input checked="" type="checkbox"/>
Exec. AD-Adm.	<input checked="" type="checkbox"/>
Exec. AD-LES	<input checked="" type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Insp.	<input checked="" type="checkbox"/>
Laboratory	<input checked="" type="checkbox"/>
Legal Coun.	<input checked="" type="checkbox"/>
Plan. & Insp.	<input checked="" type="checkbox"/>
Rec. Mgmt.	<input type="checkbox"/>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Off. of Cong. & Public Affs.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

040006 2100016Z

RR HW

DE OM

R 060016 NOV 79

FM OMAHA (66-75) ROUTINE

TO DIRECTOR, FBI

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

UNCLAS

ATTENTION: LEGAL COUNSEL DIVISION

L. Patrick
U.S. V. GRAY; ET AL.

ON NOVEMBER 5, 1979, JOHN NIELDS, SPECIAL COUNSEL FOR PROSECUTION IN CAPTIONED CASE, CALLED SA [REDACTED] AND REQUESTED THAT SA [REDACTED] COME TO WASHINGTON ON A DAY BETWEEN NOVEMBER 14 AND 20, 1979, FOR INTERVIEW IN CONNECTION WITH THE PROSECUTION IN THIS MATTER.

UACB, AGENT [REDACTED] WILL ARRANGE TO TRAVEL TO WASHINGTON ON BUREAU GTR TO MEET WITH MR. NIELDS.

BT

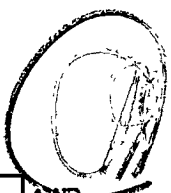
62-118045-218

16 NOV 9 1979

66DEC 5 1979

Greenberg/Gray-3229

Handwritten signature and initials
231



b6
b7C

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

CG - from 7/19/66 on only

TO : Joseph Tierney
Federal Bureau of Investigation

DATE: October 16, 1979

FROM : Frank Martin
Criminal Division

Greenberg/Gray-3230

SUBJECT: United States v. W. Mark Felt

FEDERAL GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Please determine, if possible, who wrote the following memo and what file it came out of.

On 10/22/79 Martin was advised attached memo 7/19/68 appeared to be a Chicago copy. RLS is probably Richard L. Strain, then a CG squad supervisor, now an FBIHQ Section Chief. Initials of former SAC Maslin Johnson are probably on memo. Initials "TB" not identifiable. Typist would probably be [redacted] [redacted] (pk), then and now squad secretary. This info obtained from CG Supervisor [redacted] 219

b6
b7C

Martin indicated satisfactory, does not intend to pursue matter, was aware of it before. Document is discoverable.

DEC 20 1979

Efforts underway to identify any similar documents. Now learn this document and one or two others surfaced in ACLU suit from CG files per [redacted] of SCR. None were known to have existed before. All recovered will now be processed.

b6
b7C

ENCLOSURE



5010-110

(OVER) Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

10/24/79

62-118045

4-5

RS/Korb.

Chicago advises no other memoranda
after 7/19/66. Prior memoranda not discoverable
per Martin. 7/9/68 memo re NMC being released.
with redactions in regular discovery. Unexcised
copy attached to this memo.

1-11-68

Greenberg/Gray-3231

July 9, 1968
NOT FOR FILE

NATIONAL MOBILIZATION COMMITTEE
TO END THE WAR IN VIETNAM (NMC)

Facts

The Chicago Office of the NMC is located in Room 315, 407 South Dearborn Street, Chicago, Illinois. The NMC is primarily controlled by [redacted] key activist Chicago Office and Chicago area coordinator of the NMC.

b6
b7C

The NMC is at the present time the leading organization mobilizing anti-war demonstrations against the Democratic National Convention to be held the last week of August, 1968. In addition, the NMC has an ad hoc committee known as Summer of Support which is currently organizing coffee houses outside of various military bases throughout the country for the purpose of enticing military personnel to these coffee houses for "creative disruption of the military."

b6
b7C
b7D

Security

Maximum security exists. [redacted] potential confidential source-racial matters, Chicago Office, is [redacted] of the [redacted] with offices in [redacted] Chicago.

[redacted] displays an extremely cooperative attitude and expressed a willingness to be of assistance to the FBI. [redacted] will not have knowledge of this anonymous source development.

Chicago indices, a check of the Chicago Credit Bureau records and Chicago Police Department records failed to reflect any adverse information regarding [redacted]

b6
b7C
b7D

Anticipated Productivity

It is expected that this source will be able to furnish information concerning the present leadership of the NMC in the Chicago area, its activities and sources of finances. In

- 1-Bureau
- 1-Chicago (100-)
- RLS:meh
- (2)

Greenberg/Gray-3232

62-118045-219
ENCLOSURE

addition, it is expected that information can be obtained through this source concerning mechanics to be implemented by the NMC with regard to demonstrations at the forthcoming Democratic National Convention. This source can also provide valuable information concerning the establishment of coffee houses and implementation of procedures to "creatively disrupt the military."

Recommendation

In view of the maximum security, it is recommended that authority be granted to make contact with this source on or about July 16, 1968, sometime between the period 1:00 AM to 5:00 AM.

Greenberg/Gray-3233

To: Mr. Bailey

11/16/79

W. MARK FELT

Attached letter from prosecution to defense counsel with copy for court interprets the Supplementary Protective Order of 11/5/79. It covers our expressed concern that notes taken in the vault could be used to reconstruct redacted documents already in possession of defense counsel.

Mr. Nielsds has advised defense counsel initially planned to refuse to comply, but have agreed to participate and raise problems encountered on an individual basis. Both counsel have already visited the vault on at least one occasion.

RS
Joseph L. Tierney

Enclosure

- 1 - Mr. Boynton
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

62-118045-220

DEC 20 1979

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <i>WCB</i>
Exec. AD-Adm. <i>[Signature]</i>	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

66 JAN 4 1980

3- *[Handwritten]*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

November 9, 1979

Address Reply to the
Division Indicated
and Refer to Initials and Number

JWN:ams:mal
CRIM

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Dear Sirs: Re: United States v. Felt

Pursuant to the Supplementary Protective Order (the Order) issued by the Court on November 5, 1979, and the consent of the government set forth in my letter of September 13, 1979, the government will place in the vault in unredacted form a number of documents which you have previously received in redacted form. One purpose of the vault procedure, as you know, is to make very sensitive information contained in the documents available to you, while at the same time retaining maximum control of pieces of paper on which such information is written.

I.

You already have in your possession redacted versions of almost every document which is now being placed in the vault in unredacted form. It is our interpretation of the Order that you may not write back into documents which you have in your possession the redacted words which are now being revealed to you only in the vault. Any other construction of the Order would defeat its entire purpose.

The Order, of course, does contemplate that notes on separate pieces of paper may be taken subject to an "appropriate safe" storage requirement. An "appropriate safe" for such notes will be, subject to the requirements of paragraph II below, one maintained in your offices other than the one in which you keep copies of the documents to which the notes relate.

II.

Some of the redacted documents to be placed in the vault tomorrow contain Sensitive Compartmented Information (SCI) and have been so classified pursuant to Executive Order 12036 and predecessor documents. Any notes of such documents, taken pursuant to section 1(b) of the Supplemental Protective Order must, under the terms of the Order be maintained in an "appropriate safe." If the notes contain enough detail so that they are themselves classifiable as SCI, or together with other documents in your possession to which the notes relate would be

62-118045

62-118045-4-585
220

ENCLOSURE

Greenberg/Gray-3235

classifiable as SCI, the only "appropriate safe" would be the vault, and this is to advise you that the government so construes the Order. Any other construction would circumvent the entire purpose of the Order which is to make SCI and other sensitive information available to you while still retaining strict control of physical pieces of paper containing such information. Such notes would be maintained in the vault for your access only. More limited or cryptic notes should of course be stored in a safe in your office.

The documents classified SCI will be separate from the other documents and any person entering the vault will be asked to read a short notice which will inform the person of the factors which would render any notes classifiable as SCI. Any notes which qualify as SCI must, in the government's view, remain in the vault both under the Protective Order and under Executive Order 12036.

Sincerely,

John W. Nields, Jr.

John W. Nields, Jr.
Special Counsel
Criminal Division

cc: Chief Judge William B. Bryant
(w/enclosure)

Greenberg/Gray-3236

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 5 - 1978

JAMES E. DAVEY, Clerk

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal No. 78-00179
	:	
W. MARK FELT and	:	
EDWARD S. MILLER	:	

SUPPLEMENTARY PROTECTIVE ORDER

This matter comes before the court upon what amounts to a motion of the United States for a Supplemental Protective Order to prevent the unauthorized disclosure of portions of documents redacted in accordance with paragraph eight (8) of the Protective Order dated December 22, 1978.

Upon consideration thereof and the opposition expressed by the defendants, the court ORDERS:

(1) All documents that were made available to the defense in response to discovery requests dealing with higher authority, outside knowledge, past practices, or related areas, ¹ and to which defendants Felt and Miller had access while they were FBI officials, shall be placed in the Department of Justice Special Security Center ("vault") in unredacted form subject to the following conditions:

(a) The unredacted documents shall be viewed only in the vault by the two defendants, their counsel, and any consultant, expert, paralegal, or clerical personnel assisting in the preparation of the defendants' case. All individuals reviewing the unredacted material shall fulfill the access standards for Top Secret and SCI material outlined in the

¹ - Including all documents except those covered by paragraphs 3 and 4 of this Order.

INFO COPY

Protective Order of December 22, 1978.

(b) Any notes taken by defense counsel during review of the unredacted portions of documents shall be maintained in an appropriate safe. These notes will be returned to the government at the conclusion of this case.

(c) No portion of, or information relating to, any unredacted material shall be disclosed to anyone, including prospective witnesses, without court approval pursuant to paragraph two (2) of this Order.

(2) Within twenty (20) days of the signing of this Order, or thereafter upon good cause shown, defendants may notify the government of any documents covered by paragraph one (1) of this Order to which they claim a right of broader access or use in unredacted form. Upon such notification, the government shall, within five (5) days, deliver any such document to the court in unredacted form, clearly indicating the portion or portions previously redacted. The court will then decide, with or without argument, whether the defendants must be granted broader access to or use of the documents.

(3) The documents described in paragraph (a)(6) of the letter of the government to this court, dated September 13, 1979, shall be disclosed to the court for a determination whether such documents shall be placed in the vault in unredacted form.

(4) Within twenty (20) days of the signing of this Order, or thereafter upon good cause shown, defendants may notify the government of any redacted documents from the

substantive files of the Weathermen, related New Left groups, and targets of non-indictment "bag jobs" that the defendants have received and to which they claim a right of broader access or use. Upon such notification, the government shall, within five days, deliver any such document to this court in unredacted form, clearly indicating the portion or portions previously redacted. The court will then decide, with or without argument, whether the defendants must be granted broader access to or use of the documents.


UNITED STATES DISTRICT JUDGE

Dated: *November 5, 1974*

AK0081 3191719

OO HI
DE ER

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

RECEIVED
TELETYPE UNIT

Exec AD-Adm.	
Exec AD-LES	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	<i>OK/SB</i>
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

6 151710Z NOV 79

15 Nov 79 17 34z

FM NEWARK

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

TO DIRECTOR (IMMEDIATE)

BT

UNCLAS

U.S. VERSUS U. MARK FELT; ET AL; DISCOVERY PROCEEDINGS - TRIAL
PREPARATION

b6
b7C

ATTENTION: JOSEPH L. TIERNEY, RECORDS MANAGEMENT DIVISION
RE BUREAU AIRTEL TO NEWARK, NOVEMBER 5, 1979, AND NEWARK
AIRTEL TO BUREAU, NOVEMBER 9, 1979.

(2)

IN REFERENCED NEWARK AIRTEL BUREAU WAS ADVISED THAT HUBERT WILLIAMS,

62-118045-221

DIRECTOR OF POLICE, NEWARK, NEW JERSEY POLICE DEPARTMENT, WAS
CONTACTED BY SAC ROBERT J. MC CARTHY ON NOVEMBER 8, 1979, AT
WHICH TIME IT WAS DETERMINED THE OFFICER IN QUESTION HAS BEEN
RETIRED FOR MORE THAN SIX YEARS. A LETTER, WHICH ENCLOSED THE
INFORMATION IN QUESTION, WAS DIRECTED TO RETIRED CAPTAIN [REDACTED]

[REDACTED] THROUGH THE NEWARK POLICE DEPARTMENT AND WAS RECEIVED
BY CAPTAIN [REDACTED] ON NOVEMBER 14, 1979.

DEC 20 1979

*Copy furnished to
John W. Nichols, Jr.
11/15/79 SB*

4-RT

66 JAN 4 1980

62-118045

Greenberg/Gray-3244

PAGE TWO, NEWARK, INCLAS

IN THE ABSENCE OF THE SAC, CAPTAIN KINNEY WAS CONTACTED AT HIS RESIDENCE, [REDACTED] CHATHAM, NJ, BY AGENT ROBERT P. WRIGHT AND SA [REDACTED]. CAPTAIN [REDACTED] STATED THAT HE HAD READ THE LETTER SEVERAL TIMES SINCE RECEIVING IT AND UNDERSTOOD ITS CONTENTS. CAPTAIN [REDACTED] ADVISED THAT HE WAS IN CHARGE OF THE INTELLIGENCE DIVISION OF THE NEWARK POLICE DEPARTMENT PRIOR TO HIS RETIREMENT. AMONG HIS DUTIES, HE WAS PERSONALLY INVOLVED IN HANDLING GREAT VOLUMES OF INTELLIGENCE INFORMATION, SOME OF WHICH WAS DISSEMINATED TO THE FBI. HE STATED THAT TO THE BEST OF HIS KNOWLEDGE THE INFORMATION OF INTEREST WOULD NOT BE DOCUMENTED IN NEWARK POLICE DEPARTMENT FILES SINCE INFORMANT INFORMATION WAS NOT NORMALLY MADE A PART OF DEPARTMENT RECORDS.

b6
b7C

CAPTAIN [REDACTED] ADVISED THAT BASED ON THE TYPE OF INFORMATION ENCLOSED WITH THE LETTER, HE BELIEVES HE KNOWS THE IDENTITY OF THE SOURCE WHO PROVIDED THE INFORMATION TO HIM. HE STATED THAT HE HAS NOT MAINTAINED CONTACT WITH THE SOURCE AND HAS NOT SEEN THAT PERSON FOR OVER FIVE YEARS. SINCE THE INFORMATION MAY TEND TO IDENTIFY THE SOURCE AND BECAUSE OF HIS

b6
b7C

PAGE THREE, NEWARK , ENCLAS

CONTINUED CONCERN THAT IF IDENTIFIED THE SOURCE MAY BE ENDANGERED,
HE REQUESTED THAT THE INFORMATION BE KEPT CONTINUED PROTECTION FROM
DISCLOSURE AND THAT HIS PRIOR REQUEST FOR CONFIDENTIALITY BE
HONORED.

BT

Greenberg/Gray-3246

Exec AD Adm.	___
Exec AD Inv.	___
Exec AD LES	___
Asst. Dir.:	
Adm. Servs.	___
Crim. Inv.	___
Ident.	___
Intell.	___
Laboratory	___
Legal Coun.	___
Plan. & Insp.	___
Rec. Mgnt.	___
Tech. Servs.	___
Training	___
Public Affs. Off.	___
Telephone Rm.	___
Director's Sec'y	___

FBI/DOJ

To: Mr. Bailey

W. MARK FELT

11/15

Newark reports response from retired Newark officer who requests FBI honor confidentiality of from his source.

Newark's response will be given to [redacted]

[redacted] at the Department.

Although Mr. Nields' original question is answered in the attached teletype, we should anticipate a request from Mr. Nields that the FBI refuse to honor the confidential relationship or for the FBI's position on this issue.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

PT
Joseph L. Tierney

(2)

- 1 - Mr. Boynton (Enc.)
- 1 - Mr. Mintz (Enc.)
- 1 - Mr. Bailey (Enc.)
- 1 - Mr. Daly (Enc.)
- 1 - Mr. Tierney (Enc.)

62-118045-222

DEC 20 1979

RE 11/15 WAW

2/4/80

60 NOV 17 1980

62-118045

4-8-75

Dinguid, Siegel & Kennelly
One Thousand Connecticut Avenue, N.W.

Suite 1112

Washington, D.C. 20036

(202) 872-0700

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

October 29, 1979

OF COUNSEL
HOWARD S. EPSTEIN
ROBERT T. WRAY

MARYLAND OFFICES

107 W. JEFFERSON ST.
ROCKVILLE, MD. 20850

3737 BRANCH AVENUE
HILLCREST HEIGHTS,
MARYLAND 20031

JOHN P. DIUGUID*
THOMAS L. SIEGEL
THOMAS A. KENNELLY
KARL W. PILGER*
ELIZABETH J. WEISBERG*

ALSO ADMITTED IN

Honorable William B. Bryant
Chief Judge
U.S. District Court
U.S. Courthouse
Constitution Avenue and John Marshall Place
Washington, DC 20001

Re: United States v. Felt et al.
Cr. No. 78-179

W. MARK FELT

Dear Chief Judge Bryant:

We have been requested by your law clerk, Mr. Michael Album, to further delineate our objections to the government's proposed Supplementary Protective Order submitted with its letter of September 13, 1979.

2

62-118045-223

At the outset it is more important to consider what the Order does not do than what it does. It does not give us access to all the unredacted documents that the Court said we are entitled to on August 30. The Order does nothing to remove the redactions from any of the vast numbers of pertinent documents described by the government in Part B of its letter. The government has unilaterally and arbitrarily chosen to exclude all of those documents from the purview of the Order, and therefore they will, in spite of the Order, remain redacted.

DEC 20 1979

The Order does nothing about the 900 Weatherman files to which we have been denied access in toto. The Order gets

66 JAN 4 1980

62-118045 Greenberg/Gray-3248

4-5

Honorable William B. Bryant

Page 2

October 29, 1979

us not one whit closer to the 35 relevant and material (by the government's own admission) documents to which the government asserts the "secrets of state" privilege.

Based on these facts, the proposed Order should be rejected because it continues to protect the government from producing discovery documents previously ordered by the Court without giving defendants any more ability to have materials necessary to defend this action.

It seems to us that the first step is to require the government to turn over the files, as this Court has repeatedly importuned the government to do. Once that is agreed to, then it is perfectly proper to discuss reasonable measure of preventing unauthorized disclosure through a protective order (which is the purpose of a protective order). The government seeks to subvert the purpose of a protective order by using it as a shield to preclude production of relevant discovery. To argue the pros and cons of a protective order which deals only with piecemeal discovery seems to us a waste of time at this point. It shifts the emphasis away from when it should be. It puts the proverbial cart before the horse. Give us the discovery, and we will prevent unauthorized disclosure consistent with our right to prepare a defense.

Moreover, this Order would accomplish nothing. It forestalls resolution of the basic issue now facing this Court.

Honorable William B. Bryant
Page 3
October 29, 1979

That issue is whether these defendants have a constitutional right to examine, take notes from, discuss, and otherwise utilize in the preparation of their defense their own work papers which this Court has previously ordered discovered. Paragraph (3) of the Order throws resolution of that issue right back to the Court.

It is obvious that we cannot prepare our defense if we cannot take notes [para. (1)] or discuss the documents with anyone [para. (2)], including our investigative staff of 14 former Special Agents, most of whom were formerly in the Intelligence Division, and all of whom have current Top Secret clearances.

Therefore, we will necessarily invoke paragraph (3) as to all of the documents and claim our constitutional right to at least examine, take notes, and discuss the documents with persons who have the necessary security clearances.

But it is at this point that paragraph (3) would require a useless and time-consuming procedure. Presumably the defendants would have to show, and the Court would have to determine, that "the redacted portion is material to their defense and properly the subject of discovery." Paragraph (3) does not itself say this, but presumably that is the government's intention, for the quoted language is in Mr. Niels' letter of September 13 at page 2, para. A (4).

Honorable William B. Bryant

Page 4

October 29, 1979

But this is a redundant procedure. The documents were turned over in the first place only because this Court ordered them turned over as material to the defense and properly the subject of discovery. Or, as Mr. Niels himself puts it at page 2, part A: "All documents which were made available to the defense in response to discovery requests dealing with higher authority, outside knowledge, past practices, or related areas, and to which Felt or Miller had access while they were FBI officials, will be placed in the Department of Justice Special Security Center (the vault) in unredacted form..."

In sum, this Court has clearly stated that the defendants have a right to examine in unredacted form and to utilize in the preparation of their defense those documents which are material to their defense and properly the subject of discovery. In response, the government proposes a protective order which says: As to those very documents, the defendants can see them but cannot utilize them without a determination by the Court that the redacted portion is material to their defense and properly the subject of discovery. If there is anything this case does not need, it is more circumlocution. The Order should be rejected in its present form. It should be taken up again only in connection with full and complete discovery.

We would emphasize again that all of this pertains only to the defendants' initial right of discovery and not to public

Honorable William B. Bryant
Page 5
October 29, 1979

disclosure at trial, which will concededly require stricter scrutiny.

Finally, if the Court, despite our objections, decides to sign the Order, we request that unredacted versions of all discoverable documents be made available in the vault, not just those selected by the government.

Respectfully submitted,
DIUGUID, SIEGEL & KENNELLY

Thomas A. Kennelly

Thomas A. Kennelly

Howard S. Epstein

Howard S. Epstein

cc: Mr. Nields
Mr. Gettings
Mr. Baron

✓ FBI

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Boynton *B*

DATE: 11/

FROM : W. L. Bailey *WLB*

SUBJECT: SURREPTITIOUS ENTRY INVESTIGATION

PURPOSE:

W. MARK Felt

To advise that Chief Judge William Bryant, U. S. District Court for the District of Columbia, entered a supplementary protective order on 11/5/79 in captioned matter.

DETAILS:

John Nields, Special Prosecutor, advised ASAC Paul V. Daly late in the afternoon on 11/6/79 that Judge Bryant had entered a supplementary protective order in this matter. Mr. Nields had not obtained a copy of that order as yet. Nields subsequently furnished a copy of the order. The Judge modified the suggested order by the Government in two important areas.

1. He allowed unlimited access to defendants' counsel and other individuals working with the defense in this matter. All such individuals will be required to have proper clearances. While on the surface this appears to greatly expand access, in reality it probably does not. Felt's attorney, Bryan Gettings, has been using a paralegal extensively in his preparation for trial in this matter and what the Judge's modification does is extend access to the paralegal.

2. The second aspect which is modified is the note-taking instructions. Judge Bryant has allowed unrestricted notetaking contrary to the suggested order. The notes must be maintained in a safe. The disadvantage to this aspect is that the defense has in its possession the same documents in a redacted form and now will be able to go back to their office and fill in the blanks.

Enclosure

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Bailey

- 1 - Mr. Steel
- 1 - Mr. Tierney
- 1 - Mr. Daly

DEC 20 1979

PVD:IAT
(7)

JAN 4 1980

62-118045

4-215
Greenberg/Gray-3253

Exec AD Adm.	<input checked="" type="checkbox"/>
Exec AD Inv.	<input checked="" type="checkbox"/>
Exec AD LES	<input type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<i>WLB</i>
Laboratory	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input type="checkbox"/>
Rec. Mgnt.	<i>WLB</i>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

2- ENCLOSURE

(2)

62-118045-224



Mr. Nields desires to discuss these changes with the Bureau to determine whether the changes are acceptable. He has asked that we make the review and determinations as soon as possible.

RECOMMENDATION:

That the Intelligence Division review attached order and make recommendations as to whether the order is acceptable.

APPROVED: *WMA*
Director _____
Exec. AD-Inv. *[Signature]* _____
Exec. AD-Adm. *[Signature]* _____
Exec. AD-LES _____

Adm. Serv. _____	Legal Coun. _____
Crim. Inv. _____	Plan. & Insp. _____
Ident. _____	Rec. Mgnt. _____
Intell. _____	Tech. Servs. _____
Laboratory _____	Training _____
	Public Affs. Off. _____

[Signature]

Greenberg/Gray-3254

Memorandum W. L. Bailey to Mr. Boynton
Re: Surreptitious Entry Investigation

ADDENDUM: INTELLIGENCE DIVISION 11/8/79 EJO:mjt

Assistant Director William O. Gregar, Intelligence Division (INTD), reviewed the documents in question and INTD will bring this matter to his attention upon his return 11/13/79 and any additional comments he has will be provided. However, due to the emergency nature of the request, INTD makes the following comments.

It is our understanding that the documents which are the subject of Judge Bryant's order are the same documents which have been excised and reviewed by Mr. Gregar and the Director and approved for dissemination to defense attorneys. It is our understanding that the Judge's order, however, modifies the suggested order of the Government in two important areas: First, the question of unlimited access to documents by the defendants' counsel and other individuals connected with the defense in this matter. This does not present a substantial problem for INTD since it will only involve one additional paralegal person who must have the necessary clearances according to the order. Secondly, Judge Bryant has ordered unrestricted note-taking of these documents contrary to the suggested order. Although the documents which are subject to the note-taking order must be reviewed in a vault of the Department of Justice, these notes can be taken by defendants' counsel to their office. Defendants' counsel already have excised documents and the notes that they will take from the documents in the possession of the Government will enable them to fill in the excised portions of the documents already in their possession.

The note-taking presents grave problems in terms of a substantial risk posed by the inadvertent disclosure to a hostile intelligence service. Ordinarily, INTD would have objected to the note-taking out of hand because of the grave risks presented; however, due to the importance of this case INTD has taken a very hard look at the note-taking issue. It would be very helpful if the Judge would order

that nothing be written on the excised documents already in the possession of the defendants' counsel and/or the excised documents and the notes be kept separately in two different safes. However, the threat still remains even if defendants' counsel do not fill in the "blanks" on their excised documents with their notes. The excised documents and the notes would remain in the same general area, albeit in two safes, and anyone who has access to that space and the two safes would have at their disposal the excised documents and the notes and could do whatever is necessary to compare the documents and notes, thereby leading to a substantial risk of compromise of extremely sensitive intelligence sources and methods.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Inv. _____	Intell. _____	Tech. Servs. _____
Exec. AD-Adm. _____	Laboratory _____	Training _____
Exec. AD-LES _____		Public Affs. Off. _____

Greenberg/Gray-3256

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 5 - 1978

JAMES F. DAVEY, Clerk

UNITED STATES OF AMERICA

v.

Criminal No. 78-00179

W. MARK FELT and
EDWARD S. MILLER

SUPPLEMENTARY PROTECTIVE ORDER

This matter comes before the court upon what amounts to a motion of the United States for a Supplemental Protective Order to prevent the unauthorized disclosure of portions of documents redacted in accordance with paragraph eight (8) of the Protective Order dated December 22, 1978.

Upon consideration thereof and the opposition expressed by the defendants, the court ORDERS:

(1) All documents that were made available to the defense in response to discovery requests dealing with higher authority, outside knowledge, past practices, or related areas, ¹ and to which defendants Felt and Miller had access while they were FBI officials, shall be placed in the Department of Justice Special Security Center ("vault") in unredacted form subject to the following conditions:

(a) The unredacted documents shall be viewed only in the vault by the two defendants, their counsel, and any consultant, expert, paralegal, or clerical personnel assisting in the preparation of the defendants' case. All individuals reviewing the unredacted material shall fulfill the access standards for Top Secret and SCI material outlined in the

⁽¹⁾
1 - Including all documents except those covered by paragraphs 3 and 4 of this Order.

Protective Order of December 22, 1978.

(b) Any notes taken by defense counsel during review of the unredacted portions of documents shall be maintained in an appropriate safe. These notes will be returned to the government at the conclusion of this case.

(c) No portion of, or information relating to, any unredacted material shall be disclosed to anyone, including prospective witnesses, without court approval pursuant to paragraph two (2) of this Order.

(2) Within twenty (20) days of the signing of this Order, or thereafter upon good cause shown, defendants may notify the government of any documents covered by paragraph one (1) of this Order to which they claim a right of broader access or use in unredacted form. Upon such notification, the government shall, within five (5) days, deliver any such document to the court in unredacted form, clearly indicating the portion or portions previously redacted. The court will then decide, with or without argument, whether the defendants must be granted broader access to or use of the documents.

(3) The documents described in paragraph (a)(6) of the letter of the government to this court, dated September 13, 1979, shall be disclosed to the court for a determination whether such documents shall be placed in the vault in unredacted form.

(4) Within twenty (20) days of the signing of this Order, or thereafter upon good cause shown, defendants may notify the government of any redacted documents from the

substantive files of the Weathermen, related New Left groups, and targets of non-indictment "bag jobs" that the defendants have received and to which they claim a right of broader access or use. Upon such notification, the government shall, within five days, deliver any such document to this court in unredacted form, clearly indicating the portion or portions previously redacted. The court will then decide, with or without argument, whether the defendants must be granted broader access to or use of the documents.

William B. Bryant
UNITED STATES DISTRICT JUDGE

Dated: *November 5, 1974*

OFFICE OF DIRECTOR
 FEDERAL BUREAU OF INVESTIGATION
 UNITED STATES DEPARTMENT OF JUSTICE

November 8, 1979

Judge,

Attached hereto are the recommendations relating to the most recent order entered by the Court in the U.S. v. Felt litigation. As you may recall, the principal issue is the Court's note-taking instructions. The concerns expressed by both the Intelligence Division and Mr. Mintz in their notes are (1) that there is a possibility that the excised documents the defendants already have could be reconstructed by using the notes and (2) that the notes need to be adequately protected.

These concerns were communicated to the DOJ by Paul Daly as were the comments you made to me this morning on these two issues.

Daly now advises that the plan the DOJ is proposing is to write a letter to the defense counsel with a copy to the Court setting forth the Department's interpretation of the Court's order. This interpretation will include (1) that the notes taken from the documents will not be used to reconstruct the excised documents in any way; (2) that where the Court order indicated "the notes would be placed in an appropriate safe," this meant that notes containing Sensitive Compartmentalized Information (SCI) could not leave the Departmental vault since that is the appropriate safe for SCI material and notes containing Top Secret information have to be placed in a GSA-approved safe; and (3) that the defense counsel will be provided with an additional safe so that notes may be kept in a different safe from the excised documents for added security.

Greenberg/Gray-3260

Mr. Boynton _____
 Mr. Colwell _____
 Mr. Moore _____
 Mr. Bailey _____
 Mr. Boyse _____
 Mr. Cregar _____
 Mr. Herndon _____
 Mr. Joseph _____
 Mr. Long _____
 Mr. Mintz _____
 Mr. Mullen _____
 Mr. Otto _____
 Mr. Stames _____
 Mr. Bruemmer _____
 Mr. Hotis _____
 Mr. Roin _____
 Mr. Steel _____
 Tele. Room _____
 Miss Devine _____

4-85 (OVER)

I have talked with Lee Colwell, Ed O'Malley and John Mintz about this plan and they agree that it is satisfactory. I, likewise, agree and would recommend that you approve Paul Daly advising the Department that the approach is acceptable to the FBI.

Adrian *Adrian*

v/a/PA
OK
UNOS

ADVISE P. DALY @ 2:00 PM 9/9/74

AL

4-B
5-WOC/SA

Greenberg/Gray-3261

ALS:cwb

(2)

OFFICE OF DIRECTOR
 FEDERAL BUREAU OF INVESTIGATION
 UNITED STATES DEPARTMENT OF JUSTICE

Mr. Boynton _____
 Mr. Colwell _____
 Mr. Moore _____
 Mr. Bailey _____
 Mr. Bayse _____
 Mr. Cregar _____
 Mr. Herndon _____
 Mr. Joseph _____
 Mr. Long _____
 Mr. Mintz _____
 Mr. Mullen _____
 Mr. Otto _____
 Mr. Stames _____
 Mr. Bruemmer _____
 Mr. Hotis _____
 Mr. Roin _____
 Mr. Steel _____
 Tele. Room _____
 Miss Devine _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-09-2009 BY 65179 dmh/baw/sbs

[Handwritten initials and scribbles]

Greenberg/Gray-3262

Greenberg/Gray-3263

62-118045-224

ENCLOSURE

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
INTERNAL ROUTING/ACTION SLIP

b6
b7c

TO	BLDG.	ROOM	NAME/TITLE/ORGANIZATION	TO	BLDG.	ROOM	NAME/TITLE/ORGANIZATION
✓ Telelift #214		7152	Director	Telelift #245		7427	Mr. Farrington
#235		7142	Exec. Ass't. Dir. -Inv.	#245		7427	
#235		7110	Exec. Ass't. Dir. -Adm.	#245		7427	
#235		7110	Exec. Ass't. Dir. -Law Enf. Serv.	#213		7326	Civil Litigation Unit I
#341		11255	Identification Division	#213		7326	Civil Litigation Unit II
	Quantico		Training Division	#231		3648	Info & Privacy Acts Litigation Unit
#234		6012	Administrative Services Division		Quantico		Legal Instruction Unit
#211		5829	Records Management Division	#231		3658	Legal Liaison/Congressional Affairs
#232		4026	Intelligence Division	#231		3642	Legal Research Unit
#233		5012	Criminal Investigative Division	#314		6995	Freedom of Information Act (FOIA)
#241		3090	Laboratory Division	#152		1B327	Mail Room
#213		7159	Technical Services Division	#242		4437	Reading Room
#245		7427	Legal Counsel Division	#243		5448	Special Case Review Unit
#213		7125	Planning and Inspection Division	#243		5434	Special Projects Review Unit
#245		7222	Public Affairs Office				Mr.

While I understand the concern expressed by the Intelligence Division, their suggestions for more specific handling of the notes do not dispose of the problem of vulnerability of the information. I would suggest their concerns be made known to the Court with a request to modify the order.

- RECOMMENDATION/COMMENT
- SEE REMARKS ON REVERSE
- MAKE COPIES (NO.)
- RETURN (BY ALL INFORMATION CONTAINED
- LOG
- FILE
- SEE ME
- NECESSARY ACTION
- COORDINATE
- PER INQUIRY (Over)
- INFORMATION

FROM: LEGAL COUNSEL

HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

ROOM: _____

DATE: _____

Greenberg/Gray-3264

to the effect that the notes
would be maintained
in the DoJ vault and
would be reviewable
by defense counsel therein.

JM 11/8/79

memorandum

DATE: November 16, 1979

4014

REPLY TO
ATTN OF: John Nields
Criminal Division

SUBJECT: Searching Bureau Records

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

TO: *JNK*
Joseph Tierney
Federal Bureau of Investigation

FEDERAL GOVERNMENT

b6
b7C

W. MARK FELT

Please conduct a search of Bureau records to determine what outstanding charges exist for the following Weathermen. For those for whom there are no longer charges pending, please advise as to what the circumstances were which led to the disposition of the charges.



(2)

62-118045-225

DEC 20 1979

2
ENCLOSURE

ENCLOSURE ATTACHED
NOV 5 1980
758

62-118045

4 JNK



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

U.S. Government Printing Office: 1977-241-530/3474

Greenberg/Gray-3266

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

JNK

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3267



62-118045-225
ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

ZW.DCFBIWA00.NIC/W173527846

DCFBIWA00
EW-C 1L0169Q00 NAM/[REDACTED] SEX/F RAC/W POB/[REDACTED] DOB/[REDACTED] HGT/504
WGT/128 EYE/BLU HAI/BRO FBI/[REDACTED] SMT/GLASSES
FPC/DOPM14071015P0110906 MNU/OA-CPD214392 SOC/[REDACTED]
OLN/W429220 OLS/OH OLY/70 OFF/5001 DOW/031670 OCA/W7744529
NIC/W173527846

b6
b7C

DCFBIWA00
MIS/ARMED DANGEROUS ARMED AND DANGEROUS WAR NR 69-3358 69-38

OSTOTAL BOND 125,000

NIC/W173527846

ORI IS SHERIFF:S POLICE COOK COUNTY SUBSTATION CHICAGO IL

AKA/[REDACTED]

AKA/[REDACTED]

AKA/[REDACTED]

AKA/[REDACTED]

b6

b7C

NIC/W173527846

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

ZW.DCFBIWA00.NAM/[REDACTED] DOB/[REDACTED]

DCFBIWA00

EW-C 1L0169Q00 NAM/[REDACTED] SEX/F RAC/W POB/[REDACTED] DOB/[REDACTED] HGT/504

WGT/128 EYE/BLU HAI/BRO FBI/[REDACTED] SMT/GLASSES

FPC/DOPM14071015P0110906 MNU/OA-CPD214392 SOC/[REDACTED]

OLN/W429220 OLS/OH OLY/70 OFF/5001 DOW/031670 OCA/W7744529

NIC/W173527846

b6
b7C

DCFBIWA00

MIS/ARMED DANGEROUS ARMED AND DANGEROUS WAR NR 69-3358 69-38

OSTOTAL BOND 125,000

NIC/W173527846

ORI IS SHERIFF:S POLICE COOK COUNTY SUBSTATION CHICAGO IL

AKA/[REDACTED]

AKA/[REDACTED]

AKA/[REDACTED]

AKA/[REDACTED]

b6

b7C

NIC/W173527846

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Greenberg/Gray-3268

ZW.DCFBIWA00.NAM/[REDACTED] FBI/[REDACTED] DOB/[REDACTED] SOC/[REDACTED]

b6
b7C

69-118045-225

DCFBWA00

NO NCIC WANT FBI/
NO NCIC WANT SOC/
NO NCIC WANT DOB/

[REDACTED]
[REDACTED]
[REDACTED] NAM/ [REDACTED]

b6
b7C

ZW.DCFBIWA00.NAM/ [REDACTED]. DOB/ [REDACTED]. FBI/ [REDACTED]. SOC/ [REDACTED]

DCFBWA00

EW (1L01C9000 NAM/ [REDACTED] SEX/F RAC/W POE/ [REDACTED] DOB/ [REDACTED]

HGT/506 WGT/120 EYE/BRO HAI/BRO FBI/ [REDACTED] MNU/OA-1R213555
OFF/5001 DOW/031670 OCA/W7745701

MIS/WARR NRS 69-3808, 70-1830 BOND 75,000 FOR CONSP, BAIL JMP

NIC/W173870452

ORI IS SHERIFF:S POLICE COOK COUNTY SUBSTATION CHICAGO IL

NIC/W173870452

b6
b7C

DCFBWA00

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

EW-C NYFFIN00 NAM/ [REDACTED] SEX/F RAC/W POB/ [REDACTED]

DOB/ [REDACTED] HGT/506 WGT/125 EYE/BRO HAI/BRO FBI/ [REDACTED]

OFF/4902 DOW/030670 OCA/88-11265

MIS/NO BOND RECOMMENDED-ARMED + DANGEROUS USE OF EXPLOSIVES

NIC/W217844034

b6
b7C

DCFBWA00

ORI IS FBI NEW YORK NY

AKA/ [REDACTED]
AKA/ [REDACTED]
AKA/ [REDACTED]
AKA/ [REDACTED]
AKA/ [REDACTED]
AKA/ [REDACTED]

b6
b7C

NIC/W217844034

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

NO NCIC WANT SOC/ [REDACTED]

UNITED STATES GOVERNMENT

Memorandum

TO : Paul V. Daly *PVD*
Federal Bureau of Investigation

DATE: November 3, 1978
FJM:ams

FROM : Francis J. Martin *FJM*
Criminal Division

SUBJECT: Bag Job

b6
b7C

FEDERAL GOVERNMENT

W. MARK Felt

EXP. PROC.
39 OCT 5 1979

Attached is the result of the Long group review of the Phoenix Weathfug file in September 1976. This is the file review that revealed the two bag jobs (dates on 1(A) envelopes) in Tucson. There was no known headquarters approval. The photographs from the bag jobs are in my files. The headquarters copy of the enclosed airtel is filed as 176-1594-2592.

b6
b7C

#39
(Z)

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

62-118045-226

12-20
16 OCT 5 1979

ENCLOSURE

66 JAN 4 1980



5010-110

62-118045

Greenberg/Gray-3270

9/10/76

Phoenix Review

WEATHERFUG
PHOENIX FILE 176-18

This report covers volumes 1 through 7 of the above-captioned file. This case was opened in the Phoenix Division on April 8, 1970, and is presently in a pending status. Volumes 8 through 13 will be reported in a separate report. This review was conducted on August 26, 1976.

The file reflects the investigation conducted by the Phoenix Division relative to the Weatherfugs.

INVESTIGATIVE TECHNIQUES

1. TECHS: None.

2. SURREPTITIOUS ENTRIES: Serial 190 reflected a piece of unlined yellow paper bearing various notations was forwarded to the FBI Laboratory for the appropriate examinations. This serial reflected this piece of paper was received from an anonymous source on 4/11/72, from the apartment of [redacted] Tucson, Arizona, by Special Agent [redacted] Enclosure 1.

b6
b7C

A 1(a) envelope dated 4/11/72, reflected the above-described piece of paper was obtained from an anonymous source. Enclosure 2.

A 1(a) envelope dated 3/28/72 contained 35mm panatomic-X film with 20 exposures of documents obtained from the apartment of [redacted]. No mention was made as to who furnished these photographs; however, the 1(a) envelope was filled out by [redacted], on the above date. Enclosure 3.

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

TWB/pjm (4)

62-118045-226

ENCLOSURE

Greenberg/Gray-3271

ADDENDUM: SURREPTITIOUS ENTRY INVESTIGATION TWB/pjm 9/10/76

Concerning enclosure 3 mentioned in this report, the Phoenix Office has been requested to make appropriate copies of negatives found in the 1(a) file and forward same to the FBI Headquarters, Washington, D. C. This request was made of Assistant Special Agent in Charge, ROGER YOUNG of the Phoenix Division.

Upon receipt of the appropriate documents, they would be forwarded to the Department of Justice.

Assistant Special Agent in Charge, ROGER YOUNG determined that former Special Agent [redacted] was on vacation somewhere in Louisiana and would be unavailable for contact concerning this matter. It is recommended that [redacted] be contacted concerning this incident upon his return to Tucson, which was estimated to be sometime in early October, 1976.

b6
b7C

Greenberg/Gray-3272

4/24/72

AIRTEL

TO: DIRECTOR, FBI (176-1300)
ATTN: FBI LABORATORY

FROM: SAC, PHOENIX (176-18) (P)

WEATHERFUG

Enclosed for the Lab is a 4"x5 1/2" piece of unlined yellow paper bearing various notations in green ink with sentence at the top reading, "determines the letter at end of code". A Xeroxed copy of both sides of this paper are set out on the following pages.

The following three examinations are requested:

1. LATENT FINGERPRINT SECTION: It is requested that the paper be processed for any latent prints and that any developed be compared with fingerprints of all Weatherman fugitives for whom fingerprints are available.

2. It is requested that the Cryptanalysis Section examine the notations on the paper to determine if possible, the nature of the code and whether it might be something possibly utilized by the Weatherman fugitives' underground apparatus. Telephone numbers appear to be involved in the notations on the paper and review of Chicago and Manhattan telephone directories reveal those areas do have some of the prefixes listed on the paper. However, the nature of the complete combinations of numerals and letters shown is not known. No inquiries have been made by Phoenix Office of telephone company sources regarding the notations.

- 5 - Bureau (RM) (Encl.-1)
- 1 - Chicago (RM) (Info)
- 2 - WFO (RM)

Greenberg/Gray-3273

- (1 - 176-265) .b2
- (1 - [redacted]) b7D
- 3 - Phoenix
- (1 - 100-7960) [redacted] b6
- (1 - 100-7961) [redacted] b7C

RPP:lmb
(11)

WPP

Searched _____
 Serialized J
 Indexed J
 Filed J

ENC. 1 176-18-195

PX 176-1B
RPP:lmb

3. It is requested that the handwriting on the paper be compared with available handwriting samples of all Weatherman fugitives.

Background information is as follows:

On [redacted] an individual associated with WEATHFUG related activities, left [redacted] via automobile [redacted] and [redacted] Tucson, Arizona. Prior to departure, the informant told [redacted] contacting WFO Agents she would stop in Tucson, Arizona, where she expected to contact one [redacted] aka [redacted] who formerly resided [redacted]. [redacted] had told the informant in correspondence of a "cave commune" near Tucson, founded by [redacted] and others. Location of this cave commune was not known to informant. Informant told Agents WEATHFUG [redacted] was supposed to be presently residing in the cave and informant expected to see [redacted] if he was still in Arizona.

b2
b6
b7C
b7D

On [redacted] /72, informant telephonically advised WFO Agents that upon arrival in Tucson, she was to contact one [redacted] Tucson, who was to [redacted] correct address [redacted] is [redacted] Tucson).

b6
b7C
b7D

On [redacted] /72, the informant telephonically advised WFO Agents from California that she had left Tucson after failing to make contact with [redacted]. She said she went to [redacted] apartment in Tucson and talked to [redacted] roommates who told her [redacted] was out of town. A fixer was maintained on [redacted] during the pertinent period and although she did not leave town, she was surveilled away from the apartment several times.

b6
b7C
b7D

Investigation at Tucson has developed that [redacted] a native of [redacted] is a student at the University of Arizona (UA), Tucson, and shares the above apartment with two other UA students. She is not known to security sources of the Phoenix Office and no information has been developed indicating she has been involved in any New Left activities in the Tucson area. An established source has advised

b6
b7C
b7D

PX 176-18
RPP:lmb

that [redacted] during [redacted] 1972, has received several letters for one [redacted] and it appears [redacted] could at least be a mail drop in the WEATHERFUG underground apparatus.

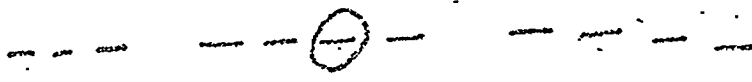
b6
b7C
b7D

On [redacted] /72, an anonymous source made available to SA [redacted], the enclosed paper which the source said was obtained from [redacted] apartment. The paper was located in a desk used exclusively by [redacted] and was in a small box containing several old letters and other items apparently considered keepsakes by [redacted]

b6
b7C
b7D

The enclosed paper is the original; the source said an exact duplicate was prepared by the source and returned to the box.

Upon completion of the requested examinations, it is requested that the original paper be returned to Phoenix. Xeroxed copies of both sides of the paper are as follows:



determines the letter
at end of code

- 1 = O
- 2 = A
- 3 = E
- 4 = H
- 5 = J

- 6 + 9 = N
- 7 = R or K
- 8 = V
- 0 = Z

last no's
 last 176 Chicago
 097 Chicago

first no's
 338 Chicago
 467
 777 n.y.

777-3826-021
 338-3148-1%4

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-09-2009 BY 65179 dmh/baw/sbs

82.2 3641

10215-12.147

31D & found
40 Confirmed

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

822 3671

1025-1247

3D stand
45 confirm

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Paper obtained from Apartment of
Tucson, Arizona
Furnished by anonymous source to
SA [redacted] [redacted] 172

b6
b7C
b7D

RPP

Px File 176-18
Bufile 176-1300

File No. 176-18-10(16)

Date Received 1/22

b7D

From Greenberg/Gray Source

(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

By [Redacted]

(NAME OF SPECIAL AGENT)

b6
b7C

To Be Returned Yes
 No

Receipt given Yes
 No

Description:

"4 5/4" centred yellow
note paper with notations in
green ink with sentence at
"top reading" determines the
letter at end of code".

Photo 1/22/44
[Redacted] *J*

b7D

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

File No. 176-1A-1a(17)

Date Received 3/28/72

From _____
(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By _____

b6
b7C

To Be Returned Yes
 No

Receipt given Yes
 No

Description:

35 mm Panatomic-X
film (no exposure) 7
documents from _____

b6
b7C

(2 neg. strips)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

UNITED STATES GOVERNMENT

b3
b6
b7C

Memorandum

TO : Joseph Tierney *JTB*
Federal Bureau of Investigation

DATE: October 16, 1979
FJM:ams

FROM : Frank Martin *FJM*
Criminal Division

SUBJECT: United States v. W. Mark Felt

FEDERAL GOVERNMENT

The enclosed 302 and grand jury transcript for [redacted] [redacted] have been determined to be discoverable. Please process these materials as soon as possible for forwarding to defense counsel.

2

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

62-118045-227

DEC 20 1979

2- ENCLOSURE

[Handwritten signature]

4- *[Handwritten initials]*



5010-110

66 JAN 4 1980

62-118045

114

~~CONFIDENTIAL~~

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/24/76

[redacted] Special Agent of the Federal Bureau of Investigation (FBI), furnished the following information after being told the nature of the inquiry and that he may terminate the interview at any time.

b6
b7C

[redacted] stated that during August of 1972 he was senior relief supervisor and Weatherman coordinator at the FBI office in Detroit, Michigan.

b6
b7C

He understood that the Weatherman fugitive program had been transferred from Division Nine to Division Five at FBI Headquarters in Washington, D. C. Shortly after the transfer, Division Five held an In-Service and he was selected, because of his position in the Detroit Office, to attend that In-Service which was in August of 1972.

The main purpose for the In-Service was to furnish the Agents with ideas and ways to apprehend the Weatherman fugitives. Many of the fugitives had been sought for the past two years and had not been apprehended and a great deal of pressure was on the Agents to locate them. He recalled that there were a good many Agents called "beards" who were undercover Agents and there was a good deal of discussion among the participants, especially the participants from the offices where the bulk of Weatherman investigation had taken place mainly New York, Seattle, San Francisco, Portland, and Los Angeles. During the In-Service there was discussion regarding surreptitious entries and it was mentioned that surreptitious entries would be approved on a limited basis. The In-Service was the main responsibility of FBI Headquarters Supervisor [redacted] was present during most of the discussion; however, [redacted] stated that he could not definitely state that [redacted] stated that he would authorize surreptitious entries but felt that [redacted] was present because [redacted] was in charge of the In-Service and was present during most of the discussions. He could not definitely name any specific individual making the statement that surreptitious entries would be or might be approved.

b6
b7C

DECLASSIFIED ON 10/23/79
BY 2842 PUD/9/m
Post Release

10-23-79
CLASS. & EXT. BY 2842 PUD/9/m
REASON FCIM II, 1-2.4.2
DATE OF REVIEW 8-24-96

Interviewed on 8/19/76 at Detroit, Michigan File # _____

Greenberg/Gray-3282

by SA [redacted] Date dictated 8/24/76

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

62-118045-227

ENCLOSURE

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

He recalled that Special Agent [redacted] a representative of the Legal Section at FBI Headquarters, held a discussion about the legal aspects in locating the Weatherman fugitives. He recalled that a heated exchange took place between the In-Service Agents and [redacted] because [redacted] had told them that surreptitious entries were not legal.

During the last day of the In-Service he recalled going to the offices of FBI Supervisor SHACKELFORD and Assistant Director ED MILLER. At SHACKELFORD's office he does not recall any discussions regarding surreptitious entries, the discussion was mainly pep talk designed to get the Agents excited about locating the Weatherman fugitives. At Mr. MILLER's office he does not recall any discussion about surreptitious entries or black bag jobs and does not recall any Agents from New York asking Mr. MILLER whether New York should continue to disseminate information from bag jobs in the same manner that New York had disseminated it for years. It is possible that surreptitious entries and bag jobs were discussed, however, due to the length of time since that In-Service, he simply does not recall that conversation.

He left the In-Service with the feeling that bag jobs or surreptitious entries had occurred and possibly occurred in the five field offices that he had previously mentioned; however, he could not specifically recall any specific discussion regarding any specific surreptitious entries and does not know in fact that they did occur based on discussion at the In-Service. He was informed at the In-Service by one of the supervisors that surreptitious entries would be approved on a limited basis and that a proposal should be submitted to the Bureau.

He does recall a discussion regarding electronic devices and knows that it was discussed concerning illegal wire taps or bugs and suicide taps. Suicide taps are methods of illegal electronic bugging and that if you got caught you were on your own. There was only discussion and there were no displays made of any electronic devices and he is of the opinion that discussions were spontaneous and could not be considered part of the program as scheduled by the FBI Headquarters Supervisor. It was mainly an open discussion among the Agents and the particular supervisor giving the particular class session. Again he was of the opinion that illegal electronic devices might be approved on a limited basis by the Bureau.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

When he returned to his field division, Detroit, he reported the discussion regarding surreptitious entries and illegal wire taps to his supervisor, Special Agent in Charge NEIL J. WELCH. WELCH exploded and said in no way would he authorize in his office any such illegal activities.

After the In-Service and in September of 1972, L. PATRICK GRAY was Acting Director of the FBI, and GRAY made a visit to the Detroit Office. He, [redacted] was assigned to drive GRAY wherever GRAY wanted to go. On a Friday and prior to GRAY's speaking address at the Milwaukee Bar Association meeting, he, [redacted] drove GRAY and NEIL J. WELCH to a surveillance office, Title C-9, which is another office separate from the main Detroit Field Office. He sat out in the car while GRAY and WELCH went inside and GRAY addressed the Agents that were on the C-9 squad. WELCH and GRAY departed from the C-9 office and sat together in the back seat of the car while, he, [redacted] drove them to the Detroit Statler Hilton Hotel. It was approximately 4:15 on the Friday afternoon and he overheard a conversation between GRAY and WELCH. GRAY stated that he had recently authorized a bag job in Dallas, Texas. GRAY made the comment that the Weatherman had to be apprehended. WELCH stated something to the effect, asking GRAY why we were doing this and stated it in a strong disagreeing tone of voice indicating he did not approve of the Bureau authorizing the surreptitious entries. It was at that point that GRAY made the comment that the Weatherman fugitives had to be apprehended. GRAY left no doubt in [redacted] mind that this type of activity was going to be approved.

b6
b7C

[redacted] stated that the reason that he brought this subject up at this particular period of time was because he had read in the latest New York Times Newspaper that former FBI official W. MARK FELT had made the comment that GRAY had approved the surreptitious entries and that GRAY had denied that he had made any such approval. [redacted] stated he wanted to set the record straight that he had overheard GRAY commenting that he, GRAY, had approved a surreptitious entry indicated that he would approve other entries.

b6
b7C

Regarding the surreptitious entry that GRAY stated he had authorized in Dallas, Texas, [redacted] stated that he was later able to learn through other sources of information that the entry occurred at the Arab Information Center in Dallas, Texas, and he is of the opinion that GRAY authorized that entry based on the conversation he overheard GRAY had with WELCH. (S)(u)

b6
b7C

Greenberg/Gray-3284

~~CONFIDENTIAL~~

b6
b7C

RECEIVED
TELETYPE UNIT

8 Nov 79 00 03z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgmt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

SE0003 3112313Z

RR HQ

DE SE

R 072300Z NOBV 79

FM SEATTLE (66-2948)

TO DIRECTOR ROUTINE

BT

UNCLAS

ATTN: LEGAL COUNSEL DIVISION.

U.S. VS. L. PATRICK GRAY, ET AL, CRIMINAL NUMBER 78-000179.

REBUAIRTEL, JANUARY 8, 1979, TELCAL FROM FRANK MARTIN, DOJ, NOVEMBER 5, 1979; TELCAL TO INSPECTOR DEPUTY ASSISTANT DIRECTOR JAMES FARRINGTON, LEGAL COUNSEL DIVISION, NOVEMBER 3, 1979.

UACB, SA [REDACTED], SEATTLE, DIVISION, WILL REPORT FOR AN INTERVIEW WITH FRANK MARTIN, DOJ, ON NOVEMBER 14, 1979, PER MARTIN'S REQUEST.

BT.

TIE

2

62-118045-22

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

DEC 20 1979

60 NOV 07 1980

64 JAN 1980

62-118045

Airtel

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

- 1 - Mr. Steel
 - 1 - Mr. Mintz
 - 1 - Mr. Bailey
11/5/79
 - 1 - Mr. Daly
 - 1 - Mr. Tierney
- PERSONAL ATTENTION

To: SAC, Newark

From: Director, FBI

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

Reference is made to telephone conversation 11/2/79 between SA Joseph L. Tierney at FBIHQ and Newark Office.

Newark file 88-8767 captioned [redacted] aka, - Fugitive, (WEATHFUG), UFAP - FORGERY, presently located at FBIHQ. Enclosed for Newark are Xerox copies of NKtel 8/11/72 (serial 11), NKairtel 10/18/72 (serial 23), NKairtel 11/2/72 (serial 28), NKtel 1/12/73 (serial 64), and NKrep of SA [redacted] 2/9/73 (serial 90).

Above serials reflect information set forth in varying detail which was received through an officer of the Newark Police Department from a highly placed and reliable, but unidentified, source. This information is of potential use to the defendants in the above-captioned case as supplying part of the basis for entry of premises occupied by Flatley's parents. It is believed that the court will want to permit the defense to use these documents at trial.

The Newark Police Department should therefore be contacted for permission to release the information to the defendants so that they may make use of it in open court. If necessary, Police Department should be requested to contact the original source of this information to obtain the source's permission.

If the Police Department is willing to release some, but not all, of the information furnished, copies should be returned with the material to be excised before use at trial.

MAILED 3
NOV 5 1979
FBI

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Enclosures - 5

TLT:tdp (8)

Handwritten: 62-118045-218
62-118045-218
62-118045-218

Handwritten: 62-118045-229

DEC 20 1979

SEE NOTE PAGE TWO

Handwritten: Return to Tierney Box 699B

Greenberg/Gray-3326

59 NOV 19 1980
MAIL ROOM

Handwritten: 62-118045

Airtel to Newark

RE: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

clearly indicated by brackets.

Serials may be exhibited to the Police Department if believed to be helpful in reaching a decision, at Newark's discretion.

SAC should handle contact with Police Department personally. If SAC believes his personal handling is inappropriate, contact FBIHQ.

NOTE:

The wording of the above instructions was reviewed and approved by Mr. Niels. SAC being instructed to handle personally because Mr. Niels believes failure to permit use of this material in court could cause prosecution to be dismissed. The effectiveness of the FBI's effort to obtain use of the material at trial cannot be subject to later question.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <i>WUB</i>
Exec. AD-Adm. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

NCA

[Handwritten signature]
Mr. Tierney

Memorandum W. L. Bailey to Mr. Boynton
Re: Surreptitious Entry Investigation

ADDENDUM: INTELLIGENCE DIVISION 11/8/79 EJO:mjt

Assistant Director William O. Cregar, Intelligence Division (INTD), reviewed the documents in question and INTD will bring this matter to his attention upon his return 11/13/79 and any additional comments he has will be provided. However, due to the emergency nature of the request, INTD makes the following comments.

It is our understanding that the documents which are the subject of Judge Bryant's order are the same documents which have been excised and reviewed by Mr. Cregar and the Director and approved for dissemination to defense attorneys. It is our understanding that the Judge's order, however, modifies the suggested order of the Government in two important areas: First, the question of unlimited access to documents by the defendants' counsel and other individuals connected with the defense in this matter. This does not present a substantial problem for INTD since it will only involve one additional paralegal person who must have the necessary clearances according to the order. Secondly, Judge Bryant has ordered unrestricted note-taking of these documents contrary to the suggested order. Although the documents which are subject to the note-taking order must be reviewed in a vault of the Department of Justice, these notes can be taken by defendants' counsel to their office. Defendants' counsel already have excised documents and the notes that they will take from the documents in the possession of the Government will enable them to fill in the excised portions of the documents already in their possession.

The note-taking presents grave problems in terms of a substantial risk posed by the inadvertent disclosure to a hostile intelligence service. Ordinarily, INTD would have objected to the note-taking out of hand because of the grave risks presented; however, due to the importance of this case INTD has taken a very hard look at the note-taking issue. It would be very helpful if the Judge would order

that nothing be written on the excised documents already in the possession of the defendants' counsel and/or the excised documents and the notes be kept separately in two different safes. However, the threat still remains even if defendants' counsel do not fill in the "blanks" on their excised documents with their notes. The excised documents and the notes would remain in the same general area, albeit in two safes, and anyone who has access to that space and the two safes would have at their disposal the excised documents and the notes and could do whatever is necessary to compare the documents and notes, thereby leading to a substantial risk of compromise of extremely sensitive intelligence sources and methods.

Greenberg/Gray-3329

memorandum

DATE: November 8, 1979

REPLY TO
ATTN OF: Francis J. Martin
Criminal Division

SUBJECT: United States v. Felt

FJM

W. MARK Felt

FEDERAL GOVERNMENT

TO: Joseph L. *Ellis*
Federal Bureau of Investigation

Greenberg/Gray-3330

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

In an interview today, former Section Chief and SAC Arbor W. Gray indicated that briefing papers for use by Director Hoover in meetings with the President may have been filed in a "00" file. He also indicated that such documents may have been filed in a "Research" file. If you have not previously done so, please determine whether any such files exist and whether they contain any documents discoverable in United States v. Felt.

Thanks

11/13/79 Martin contacted, will obtain permission from Gray's lawyer (Bradley) to contact him and find out if he has anything specific in mind. Otherwise, no logical action since search of such files previously conducted. This memo concealed by a protective formality.

8-919-746-2678

62-118045-230

11/16/79 Arbor W. Gray (via WATS) recalls a "Central Research File" which should be in central indices as a main file subject.

DEC 20 1979

Main Indices: 100-147952

File reviewed - nothing discoverable.

4-PT

Martin advised of results 12/17/79

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



66 JAN 4 1980

62-118045

FBI

Date: 11/9/79

Transmit the following in _____
(Type in plaintext or code)

Via Airtel _____
(Priority)

To; Director, FBI

From: SAC, Newark

U. S. Vs. W. MARK FELT; ET AL
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

ReBuairtel to Newark dated 11/5/79; Butelcall of EAD
HOMER A. BOYNTON to SAC, Newark, 11/8/79, and telcalls to and from
ASAC PAUL V. DALY, Alexandria Office, 11/8/79.

Enclosed for the Bureau are copies of a letter and
enclosure forwarded to Captain _____, and a copy of a
cover letter forwarding these items to HUBERT WILLIAMS, Director
of Police, Newark, New Jersey Police Department.

ReBuairtel requested SAC, Newark, to contact the Newark,
New Jersey Police Department for permission to release information
that had been received by the Bureau from an officer in the Newark,
N. J. Police Department. This information from a highly placed
and reliable, but unidentified source of the officer's, is of
potential use to the defendants in the above captioned case and it
is believed that the court will want to permit the defense to use
this information at trial.

DEC 20 1979

In line with Bureau instructions, on 11/8/79, HUBERT
WILLIAMS, Director of Police, Newark, N. J. Police Department, was
contacted by SAC ROBERT J. MC CARTHY and SA _____
concerning the Bureau's request. Mr. WILLIAMS advised that the
officer involved in this matter had retired about six years ago
and that he did not know where the officer is presently residing.
He requested that the FBI direct a letter, making its request
known, and that he would forward such a request to the officer,
if he could locate him. He stated that sources of police officers

- 3 - Bureau (Enclosures - 8)
- 1 - Newark

RJM:PMS
(4)

icy detached
icy of airtel and
one copy of each (4)

Handwritten initials and signatures, including "4-5" and "62-118045".

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

Greenberg/Gray-3331

Handwritten circled number "2"

Handwritten notes: "2 NK let's", "2 NK encl", "b6", "b7C"

Handwritten number: "62-118045-231"

b6
b7C

Handwritten note: "66 furnished to John W. Neelds, on 11/27/79"

in the Newark Police Department are personal to each officer and that there is no departmental ruling that any such information obtained from sources be placed into writing. He said there is also no departmental ruling that any such information not be placed in writing.

This information was telephonically provided on 11/8/79 to ASAC PAUL V. DALY of the Alexandria Division who then dictated a letter (copy enclosed for Bureau) to be forwarded to Captain [redacted] through Director WILLIAMS of the Newark, N. J. Police Department. This letter was provided to Director WILLIAMS on 11/9/79.

b6
b7C

Bureau will be advised of Captain [redacted] reply.

b6
b7C

Greenberg/Gray-3332

On August 11, 1972, NK T-1, who has provided reliable information in the past, advised that a person alleged to be subject was reportedly negotiating through a Newark attorney to surrender herself. NK T-1 advised that a female individual who was identifying herself as the mother of one [redacted] was attempting to negotiate through this legal counsel for her daughter to turn herself in to the authorities as she was wanted on Federal charges of "forgery and gun charges". Because of the recent contact made by Bureau Agents with subject's parents on July 18, 1972, during which they were advised of the charges pending against subject, it was deemed likely that the person attempting these legal negotiations may in fact be subject's mother or a concerned party calling on behalf of subject.

b6
b7C

On October 6, 1972, NK T-1 was recontacted and advised that the person identifying herself as [redacted] mother has made no effort to recontact or negotiate to turn her daughter in.

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

62-118045-231

ENCLOSURE

Greenberg/Gray-3333

On October 31, 1972, NK T-1 advised of learning during the week of October 23-27, 1972, that [redacted] had a contact in Chicago, Illinois, identified as [redacted] and that two telephone numbers were reportedly associated with [redacted] and known by [redacted]. The significance of these numbers was not known by NK T-1. These telephone numbers are [redacted]. It is noted that area code 312 covers the Chicago area. The significance of this connection between subject and [redacted] was not known by NK T-1 nor did the source know how current the alleged connection was.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

62-118045-231

ENCLOSURE

Greenberg/Gray-3334



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Post Office Box 1158
Newark, New Jersey 07101

November 9, 1979

Mr. Hubert Williams
Director
Newark Police Department
22 Franklin Street
Newark, New Jersey

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 drh/baw/sbs

Dear Director Williams:

Enclosed are a letter and a xerox portion of a report to be forwarded to Captain [redacted] retired member of the Newark, New Jersey Police Department. Also enclosed are copies of the same material for your records. This is in accordance with your request yesterday, November 8, 1979, that a letter to Captain [redacted] be prepared and forwarded to you setting forth a request for permission to release certain information to the defendants in a criminal matter being prepared for trial by the United States Government. This case is styled United States Versus W. Mark Felt; Et Al.

b6
b7C

As I discussed with you yesterday, this relates to information received by the Federal Bureau of Investigation through the Newark, New Jersey Police Department from a highly placed and reliable, but unidentified source, and the necessity of receiving permission to release this information to the defense so that they may make use of it in open court. I am certain that, if necessary, the original source of this information would be contacted to obtain the source's permission.

Please forward this request to Captain [redacted] and advise him that a response in this matter would be appreciated as soon as possible.

b6
b7C

Sincerely,

Robert J. McCarthy
Special Agent in Charge

Enclosures - 6

- 1 - addressee
 - ② - Bureau
 - 1 - Newark
- RJM:PMS
(4)

Greenberg/Gray-3335

62-18045-231

ENCLOSURE



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Post Office Box 1158
Newark, New Jersey 07101

November 9, 1979

Captain [redacted] b6
Retired b7C
Newark, New Jersey Police Department

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Dear Captain [redacted]: b6
b7C

As you may be aware, the United States Government is currently preparing for trial in a criminal matter arising out of a surreptitious entry investigation. This case is styled United States Versus W. Mark Felt; Et Al. In connection with this trial the defense, pursuant to discovery, is being furnished material contained in FBI files relevant to their defense. In that connection, an FBI report contains information which originated with you. This information you obtained from an informant or source. I am enclosing a xerox copy of that portion of the report containing the information in question. The information is attributed as coming from Newark T-1.

The Department of Justice deems it essential that the defense be given access to this information and ultimately be permitted to use it at trial in the interests of mounting an adequate defense.

We would appreciate your review of this information and a determination as to whether the information may be discovered in this case and ultimately disclosed at trial. If that is not possible, we ask you consider whether portions of it may be so used.

Sincerely,

Robert J. McCarthy
Special Agent in Charge

Enclosures - 2

- 1 - addressee
- 1 - Hubert Williams, Director of Police, Greenberg/Gray-3336
Newark, NJ Police Department

- ② - Bureau
- 1 - Newark

RJM:PMS
(5)

62-118045-231
ENCLOSURE

Date of Mail 12-16-69

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter X Airtel 3
- LHM _____ Memo _____
- Report _____ Other _____
- Teletype _____

Subject FELT, MARK W.

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-237

PERMANENT SERIAL CHARGE-OUT

BB4

Greenberg/Gray-3337

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-09-2009 BY 65179 dmh/baw/sbs

Date of Mail 1/13/80

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____ Airtel _____
- LHM _____ Memo xx
- Report _____ Other _____
- Teletype _____

Subject L. Patrick Gray III

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-247x

PERMANENT SERIAL CHARGE-OUT

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-09-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-3338

71

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 53

- Page 67 ~ b1;
- Page 68 ~ b1;
- Page 69 ~ b1; b6; b7C;
- Page 70 ~ b1; b6; b7C;
- Page 71 ~ b1; b6; b7C;
- Page 72 ~ b1;
- Page 73 ~ b1; b6; b7C;
- Page 74 ~ b1;
- Page 75 ~ b1;
- Page 124 ~ b1;
- Page 149 ~ Referral/Direct;
- Page 150 ~ Referral/Direct;
- Page 151 ~ Referral/Direct;
- Page 152 ~ Referral/Direct;
- Page 153 ~ Referral/Direct;
- Page 154 ~ Referral/Direct;
- Page 155 ~ Referral/Direct;
- Page 156 ~ Referral/Direct;
- Page 157 ~ Referral/Direct;
- Page 158 ~ Referral/Direct;
- Page 159 ~ Referral/Direct;
- Page 160 ~ Referral/Direct;
- Page 161 ~ Referral/Direct;
- Page 162 ~ Referral/Direct;
- Page 163 ~ Referral/Direct;
- Page 164 ~ Referral/Direct;
- Page 165 ~ Referral/Direct;
- Page 167 ~ b1;
- Page 168 ~ b1;
- Page 169 ~ b1;
- Page 170 ~ b1;
- Page 171 ~ b1;
- Page 172 ~ b1;
- Page 173 ~ b1;
- Page 174 ~ b1;
- Page 175 ~ b1;
- Page 176 ~ b1;
- Page 177 ~ b1;
- Page 179 ~ b1;
- Page 181 ~ b1;
- Page 182 ~ b1;
- Page 220 ~ b1;
- Page 221 ~ b1;
- Page 222 ~ b1;
- Page 225 ~ Referral/Direct;
- Page 226 ~ Referral/Direct;
- Page 227 ~ Referral/Direct;
- Page 228 ~ Referral/Direct;

Page 229 ~ Referral/Direct;
Page 230 ~ Referral/Direct;
Page 247 ~ Duplicate;
Page 248 ~ Duplicate;
Page 249 ~ Duplicate;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 53

- Page 67 ~ b1;
- Page 68 ~ b1;
- Page 69 ~ b1; b6; b7C;
- Page 70 ~ b1; b6; b7C;
- Page 71 ~ b1; b6; b7C;
- Page 72 ~ b1;
- Page 73 ~ b1; b6; b7C;
- Page 74 ~ b1;
- Page 75 ~ b1;
- Page 124 ~ b1;
- Page 149 ~ Referral/Direct;
- Page 150 ~ Referral/Direct;
- Page 151 ~ Referral/Direct;
- Page 152 ~ Referral/Direct;
- Page 153 ~ Referral/Direct;
- Page 154 ~ Referral/Direct;
- Page 155 ~ Referral/Direct;
- Page 156 ~ Referral/Direct;
- Page 157 ~ Referral/Direct;
- Page 158 ~ Referral/Direct;
- Page 159 ~ Referral/Direct;
- Page 160 ~ Referral/Direct;
- Page 161 ~ Referral/Direct;
- Page 162 ~ Referral/Direct;
- Page 163 ~ Referral/Direct;
- Page 164 ~ Referral/Direct;
- Page 165 ~ Referral/Direct;
- Page 167 ~ b1;
- Page 168 ~ b1;
- Page 169 ~ b1;
- Page 170 ~ b1;
- Page 171 ~ b1;
- Page 172 ~ b1;
- Page 173 ~ b1;
- Page 174 ~ b1;
- Page 175 ~ b1;
- Page 176 ~ b1;
- Page 177 ~ b1;
- Page 179 ~ b1;
- Page 181 ~ b1;
- Page 182 ~ b1;
- Page 220 ~ b1;
- Page 221 ~ b1;
- Page 222 ~ b1;
- Page 225 ~ Referral/Direct;
- Page 226 ~ Referral/Direct;
- Page 227 ~ Referral/Direct;
- Page 228 ~ Referral/Direct;

Page 229 ~ Referral/Direct;
Page 230 ~ Referral/Direct;
Page 247 ~ Duplicate;
Page 248 ~ Duplicate;
Page 249 ~ Duplicate;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X   Deleted Page(s)   X  
X  No Duplication Fee X  
X   For this Page    X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

-----x
UDITH CLARK, et al., :
Plaintiffs, :
- against - :
UNITED STATES OF AMERICA, et al., : 78 Civ. 2244 (NEL)
Defendants. :
-----x

AMENDED
PROTECTIVE ORDER

Plaintiffs having moved this Court for an order to protect the discovery process and to further the interests of justice, and the Court having duly considered the matter, it is ORDERED that:

1. No document identifiable with any plaintiff in the possession, custody or control of the individual defendants or Government agency defendants shall be destroyed or obliterated in any manner pending a final determination of this action, including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected by this order shall be placed and maintained under supervisory control of the Court in the physical custody of any person or agency now in possession of such records who shall be responsible for the physical integrity of the documents. Any defendant which has in its possession any of the documents shall be bound by its terms.

3(a). A copy of this order shall be circulated to each field office and legal attaches of the Federal Bureau of Investigation ("FBI") as well as any organizational unit within the headquarters of the FBI. Additionally, copies of the order will be circulated to appropriate officials of the Postal Service and Department of Justice having custody of documents identifiable to any plaintiff.

*Do Not Remove
RETAIN AS TOP SERIAL*

SEC. 1

62-118045

NOT RECORDED
JUN 11 1979

Greenberg/Gray-5183

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to plaintiffs' attorneys ^{for each party} and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant^s *MSZ* concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{*The attorneys for the other parties*} ~~plaintiffs~~ ^{*such parties,*} ~~plaintiffs~~ by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~APRIL 18~~, 1979
May 16

Monica Lopez
United States District Judge

DEPARTMENT OF THE AIR FORCE
Headquarters Air Force Office of Special Investigations
Washington, DC 20314



REPLY TO
ATTN OF: XPX (Major Goforth, 693-6620)

19 JUN 1978

SUBJECT: U.S. V.L. Patrick Gray III, et al Defense Discovery/Classified
Material (FBI Letter, 8 Jun 78)

TO: Federal Bureau of Investigation (Mr Paul V. Daly)

1. The information provided by AFOSI is no longer classified and we interpose no objection to its release to the defense counsel. AFOSI may be identified as the source of the information.

2. Please direct any questions to the AFOSI project officer Major W.C. Goforth, (693-6620).

Thomas M. Slawson
THOMAS M. SLAWSON, Lt Col, USAF
Deputy Director of Plans, Programs,
and Resources

1 Atch
FBI Ltr, 8 Jun 78 w/enclosure

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

62-118045

When Atch Nr 1 is (are) withdrawn
or not attached, the classification of
~~Confidential~~ on this correspondence
will be cancelled in accordance with AFR 285-1

Greenberg/Gray-5186

UNITED STATES GOVERNMENT

Memorandum

TO : Department of the Air Force

DATE: 6-8-78

FROM : *[Handwritten initials]* Paul V. Daly, Federal Bureau of Investigation BY LIAISON
Defense Discovery Special
Room 6888, JEH

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

~~CONFIDENTIAL~~
Material Attached

Greenberg/Gray-5187



Department of the Air Force

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 6/8/78

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: POTB
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force X Other _____
OSI

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	100-176013	40 & 39	2/19/73
	sect 1	(non-symbol source page of serial 40 & page 2 of serial 39)	
	(NY file)		

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 drh/baw/sbs



~~SECRET / CONFIDENTIAL / UNCLASSIFIED~~
MATERIAL ATTACHED

NY 100-176013

Non-Symbol Informant Page

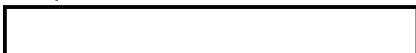
The fourth confidential source is the records of
OSI, United States Air Force, Park Air Force Base, Philippine
Islands.

CAUTION: DO NOT DISSEMINATE TO RESIDENT AGENCIES, DETACH.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5190

~~CONFIDENTIAL~~



b6
b7C

SDS was founded during June, 1962, at Port Huron, Michigan, and in the 1960's functioned as the leading New Left campus-based student organization in the United States. From a stance of "participatory democracy," the SDS moved to a radical-revolutionary position. It maintained a national office at 1608 West Madison Street, Chicago, Illinois, until February, 1970. Internal factionalism during 1969 produced three main factions: Weatherman, Revolutionary Youth Movement (RYM), and Worker Student Alliance (WSA). The Weatherman and RYM no longer consider themselves associated with the SDS. The WSA faction continues to use the name SDS.

T-12-1148

On December 11, 1972, a second confidential source, who has furnished reliable information in the past, advised that [redacted] and [redacted] had "somewhat of a falling out" and see each other only occasionally.

b6
b7C

100-1148

On April 15, 1972, a third confidential source, who has furnished reliable information in the past, advised that [redacted] began to spend a series of evenings at McGuire Air Force Base, Fort Dix, New Jersey, accompanied frequently by [redacted] the purpose of which was to oppose United States escalation of the Vietnam War and to urge GI resistance at Fort Dix and at McGuire Base. This source further advised that during June, 1972, this "Dix-McGuire Project" became defunct and no longer operates.

b6
b7C

Handwritten: [redacted]

On October 16, 1972, a fourth confidential source, who has furnished reliable information in the past, advised that [redacted] was arrested by the Philippine authorities in connection with a raid on the National Lawyers Guild office, Olongapo, Philippines, under current Martial Law. President Marcos ordered [redacted] released on October 24, 1972.

b6
b7C

~~CONFIDENTIAL~~

#17

ACTING DIRECTOR, FBI

2/9/73

SAC, NEW YORK (100-176013)(S)

[Redacted]

b6

SM - ~~SECRET~~
(OO:NY)

b7C

Enclosed for the Bureau are six copies of a LHM suitable for dissemination.

The confidential sources referred to in the attached LHM are as follows:

- First source
- Second source
- Third source

[Redacted]

b2

b7D

The Special Agents who observed the subject in NYC were SA [Redacted]

b6

b7C

The attached LHM is being classified "Confidential" to further protect the identity of the sources utilized in the preparation of the LHM; the unauthorized disclosure of such information would possibly lead to their identification and damage the security interest of the US.

In view of the recent guidelines set forth for recommendations concerning ADEX, the NYO is not recommending [Redacted] for inclusion into ADEX.

b6

b7C

NY is preparing information for inclusion of [Redacted] into the Weatherman Album, which will be submitted to the Bureau for approval.

b6

b7C

- 2 - Bureau (Encls. 6)(RM)
- 1 - Newark (Encl. 1)(RM)
- 1 - New York (100-171161)
- ① - New York

JLV:eps
(5)

eps #49

100-176013-6

SEARCHED _____ INDEXED _____
SERIALIZED _____ FILED _____
MAR 7 1973
NEW YORK

CHIEF CLERK
CLERK IN CHARGE

2/9/73

[Redacted]

b6

b7C

FILE STRIPPED
DATE 3/7/73 BY [Signature] ON 2/21/73

ORIGIN [Redacted]

REPLY [Redacted]

NY 100-176013

Non-Symbol Informant Page

*referred
to 3rd Agency*

The fourth confidential source is the records of
OSI, United States Air Force, Clark Air Force Base, Philippine
Islands.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

CAUTION: DO NOT DISSEMINATE TO RESIDENT AGENCIES, DETACH.

~~CONFIDENTIAL~~

New York, New York
February 9, 1973

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

[Redacted]

b6
b7C

T-9

On April 14, 1972, a first confidential source, who has furnished reliable information in the past, advised that [Redacted] resides at [Redacted] apartment [Redacted] New York City, New York, and is the paramour of [Redacted]

b6
b7C

[Redacted] is publicly known as a Weatherman supporter and is the sister of [Redacted] leader of the Weatherman underground.

b6
b7C

Weatherman, formerly a faction of Students for a Democratic Society (SDS) controlled the SDS National Office from June, 1969, until its closing in February, 1970. Weatherman then entered an underground status and adopted a tactic of "strategic sabotage," with police and military installations designated as primary targets.

~~CONFIDENTIAL~~

Retained 14828
5/8/78

Classified By [Redacted] b6
Exempt From General Declassification Schedule of Executive Order 11652 b7C
Exemption Category 2
Automatically Declassified On ~~INDEFINITE~~

This document contains neither recommendations nor conclusions of the Federal Bureau of Investigation (FBI). It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Searched _____
Serialized _____
Indexed _____
Filed _____

100-176413-39

~~CONFIDENTIAL~~

[Redacted]

b6
b7C

SDS was founded during June, 1962, at Fort Huron, Michigan, and in the 1960's functioned as the leading New Left campus-based student organization in the United States. From a stance of "participatory democracy," the SDS moved to a radical-revolutionary position. It maintained a national office at 1608 West Madison Street, Chicago, Illinois, until February, 1970. Internal factionalism during 1969 produced three main factions: Weatherman, Revolutionary Youth Movement (RYM), and Worker Student Alliance (WSA). The Weatherman and RYM no longer consider themselves associated with the SDS. The WSA faction continues to use the name SDS.

T-12

On December 11, 1972, a second confidential source, who has furnished reliable information in the past, advised that [Redacted] and [Redacted] had "somewhat of a falling out" and see each other only occasionally.

b6
b7C

On April 15, 1972, a third confidential source, who has furnished reliable information in the past, advised that [Redacted] began to spend a series of evenings at McGuire Air Force Base, Fort Dix, New Jersey, accompanied frequently by [Redacted] the purpose of which was to oppose United States escalation of the Vietnam War and to urge GI resistance at Fort Dix and at McGuire Base. This source further advised that during June, 1972, this "Dix-McGuire Project" became defunct and no longer operates. ~~(S)~~

b6
b7C

referred to by 3 R.R. Agency

[Large redacted block]

b6
b7C

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

[redacted] b6
b7C

National Lawyers Guild (NLG) is a communist front organization of lawyers and law students dedicated to Communist Party, USA, and New Left ideals for radical change of the social, economic and judicial systems in the United States.

[redacted] has been observed on several occasions in New York City during December, 1972, by Special Agents of the Federal Bureau of Investigation (FBI).

b6
b7C

All of the above sources, together with observations of the Special Agents of the FBI have obtained the following description of [redacted]

b6
b7C

Name
Address

[redacted]

Apartment [redacted]
New York City

Telephone

[redacted]

Sex

Male

Race

Caucasian

Date of Birth

[redacted]

Place of Birth

Height

Five feet nine inches

Weight

150 pounds

Eyes

Brown

Hair

Black (thick and full bearded)

Passport

[redacted] issued September 19, 1972

Parents

[redacted]

[redacted] Long Island,
New York

Brother

[redacted]

Sherman Oaks, California

b6
b7C

~~CONFIDENTIAL~~

Greenberg/Gray-5196

~~CONFIDENTIAL~~

[Redacted]

b6
b7C

Employment

City of New York,
Human Resources Administration
(part-time)

Vehicle Used

1966 black Volvo,
sedan,
New York license 6Y3686

Registered to: [Redacted]

b6
b7C

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : John J. McDermott
Deputy Associate Director, FBI

DATE: Apr:

FROM : *MSL* Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel

~~FEDERAL GOVERNMENT~~

L. Patterson

SUBJECT: FBI Participation in Discovery in the Kearney and the Gray, Felt and Miller cases.

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

This memorandum will confirm our discussion of April 11, 1978 concerning the processing of FBI files and other materials in response to the discovery order in the Kearney case and in anticipation of discovery in the Gray, Felt and Miller cases.

In the interest of preserving a record of the work already done by the FBI in the Kearney discovery, the FBI should preserve a listing of materials which have already been reviewed and processed, as well as noting materials which have yet to be processed so that this work will not have to be duplicated. The FBI should also prepare an inventory of materials which it collected from sources other than official files, noting both the general content and the location where the material was found or the custodian of the material. "Leads" to additional material, not yet found and reviewed, should also be preserved so that further efforts to locate this material can be made if necessary.

I understand that the Bureau has already made arrangements to retrieve material previously furnished to Kearney defense counsel and that the Department will be notified when this is completed.

In anticipation of future discovery requests in connection with the Gray, Felt and Miller cases, the Bureau will keep a small staff together for the purpose of processing those files as to which discovery is a virtual certainty--

REC-110

62 - 118045 - 1

DE-111

14 AUG 31 1978

Greenberg/Gray-5198

8 4 SEP 14 1978

4-PVD

namely, the files relating to individuals against whom actions were taken that form the basis of the indictment. To the extent these files were not already processed, processing will continue using the same basis of redaction contained in the Kearney discovery order.

We also agreed that the moratorium on destruction of field office security files should be continued until such time as we determine what the scope of discovery will be in the Gray, Felt and Miller cases. The Department will attempt, however, to limit the field office files involved in discovery in those cases so that normal destruction can resume in most of the Offices. ||

We will do our best to see that the discovery in these cases is more limited than that ordered in the Kearney case.

cc: Phil Jordan
Bob Keuch
Barnet Skolnik

Handwritten initials

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

TO : D. Michael Griffen
Investigative Coordinator

DATE: April 19, 1978

FROM : Barnet D. Skolnik
Special Counsel
Department of Justice

BDS/AM

SUBJECT: United States v. L. Patrick Gray III, et al

~~SECRET~~

b6
b7C

4-1
ben

4
2

In connection with preparation for the trial in United States v. Gray, et al it will be necessary for this office to have in its possession the originals of any documents that may be used at trial. The bulk of these documents will be the dissemination documents from various bag jobs. This office should be provided with all originals of each document, i.e. headquarters copies, field office copies, and copies designated for related files. For example, if a document is requested from the [redacted] file you should also provide all copies of that document that were designated for another file; such as [redacted] or Weathfug. You need not provide original copies which were sent to field offices other than New York.

Any document relating to Weatherman bag jobs should not be classified. Should any of the requested documents warrant classification for some reason, other than reference to a bag job, the original should not be classified at this time. A copy of any such document should be provided to this office with an appropriate indication as to which portions of the document warrant classification.

Coff

Finally, in order to facilitate review, by both Department attorney's and defense counsel, of pertinent New York files it is requested that certain files be brought to FBI headquarters as soon as feasible.* For each requested file it is only necessary at this time to bring to Washington the volumes of that file covering the period from the beginning of the investigation (serial 1) to January 1, 1974. Any volumes dealing with the period after January 1, 1974 up to January 1, 1977 should be brought to Washington only if doing so will not impede the current work of the New York office. The files that should be brought to Washington are:

*/Any bulky exhibits, 1A envelopes, etc. should also be brought to Washington.

cc: Paul Daly

REC-110

62 - 118045 - 2

Greenberg/Gray-5200

14 AUG 31 1978

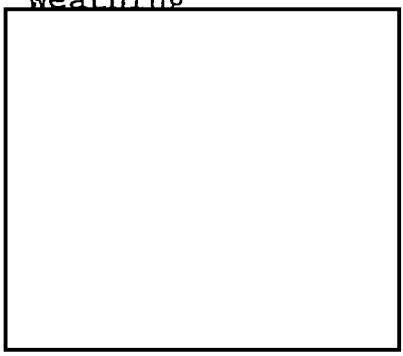
12

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4-PD 0



Weathfug



- NY file 176-403A
- NY file 176-86
- NY file 100-171161
- NY file 100-172368
- NY file 100-166899
- NY file 176-96
- NY file 176-100
- NY file 100-167400
- NY file 100-176013
- NY file 176-97
- NY file 100-178220

b6
b7C

The original Bureau documents that should be provided to this office are the indicated serials from the following files:

- 1) Weathfug: New York file 176-403A-3016, 3359, 3396, 3473, 3506, 3630, 3643, 3644, 3648, 3671, 3678, 3691, 3695.

59

Bureau file 176-1594-3118, 3130, 3139,
 60 3146, 3166, 3344, 3353, 3357, 3399c, 3405,
 3455, 62 63

- 2) [Redacted Box]: New York file 176-86-538, 554, 606, 609, 612A, 614, 624, 629 and the serial corresponding Bufile 176-1637-1025.

b6
b7C

14 - Bureau file 176-1637-945, 1012, 1014, 1016, 1023, 1025, 1044, 1076, and the serial corresponding to NY file 176-86-554

- 3) [Redacted Box]: New York file 100-171161-457, 458, 463, 470, 495, 499, 506, 508, 516, 531, 535, 538, 550, 552, 555, 559, 568, 569, 575

b6
b7C

Bureau file 100-454261-non recorded serials corresponding to NY file 100-171161-457, 458, 463, 531, 535, 538, 550, 552 and serial corresponding to Bureau file 176-1594-3146

- 4) [Redacted Box]: New York file 100-172368-23, 24, 29, 30 and 31

b6
b7C

Bureau file 100-465959-10, 11, and 13

- 3 -
- 5) [redacted]: New York file 100-166899-17, 18, and 21 b6
b7C
- 6) [redacted]: New York file 176-96-384, b6
Bureau file 176-2004-258. b7C
- 7) [redacted]: New York file 176-100-80 b6
√ Bureau file 176-1636-106 b7C
- 8) [redacted]: New York file 100-167400-358 b6
b7C
- 9) [redacted]: New York file 100-176013-40, 41 b6
b7C
- 10) [redacted]: New York file 176-97-203, 205, 215, 216, 220. b6
b7C
Bureau file ⁸⁸~~176~~-49004-142, 162, 166, 170, 177.
- D 11) [redacted]: Bureau file 88-56609-64, ²90 and ⁴191 b6
b7C

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bassett

DATE: 4/21/78

FROM : P. V. Daly

SUBJECT: UNITED STATES OF AMERICA

L. PATRICK GRAY, III,
W. MARK FELT and
EDWARD S. MILLER

[Handwritten initials] 4-1
2-1
[Handwritten initials]

In connection with the above-described case, Messrs. Gray, Felt and Miller were arraigned on 4/20/78, at which time the Judge directed the Government to furnish material in compliance with Rule 16 of the Federal Rules of Criminal Procedure.

Frank Martin of the Criminal Division of the Department telephonically contacted the writer and advised him of this and requested that the Bureau locate documents needed to comply with the Judge's order. He stated he would furnish such a list on the morning of 4/21/78, and that the documents must be furnished the Defense by 4/25/78. He requested that no classification be placed on the documents, if indeed the documents warranted such classification. He was informed not only would classification have to be done on these materials, but that they would also be reviewed for any excisions necessary to protect sources, etc. He indicated that Barnett Skolnick, the Prosecutor in this matter, and he had discussed this matter and both were in agreement that the Bureau should not classify these materials. He was again advised this was not possible and that classification would have to be done as well as review for excision.

The aforescribed conversation was brought to the attention of Ms. Mary Lawton, Deputy Assistant Attorney General, Office of Legal Counsel. She stated the Bureau's decision was correct and that she would contact Acting Deputy Attorney General Benjamin Civiletti concerning this matter.

It was subsequently learned from conversation with Jim Savage and Paul Boucher of the Department, that they had contacted SA D. Michael Griffin, who had coordinated the

- 1 - Mr. Colwell
- 1 - Mr. Bassett
- 1 - Mr. Daly

REC-110

DE-111

62-118045-3
4-21-78
P. V. DALY

PVD:bag (4)

CONTINUED - OVER

14 AUG 31 1978



4 SEP 14 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

Memorandum to Mr. Bassett
Re: United States of America

v.
L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

Bureau's assistance in the investigation of this matter, and arranged to have SA Griffin furnish the material responding to the court order. It would appear that because of the response by the writer as to the necessity of classification and review for excision, the Department decided to utilize the services of SA Griffin since the policy during the investigation was not to review the documents for classification or excision since they were only to be furnished the Department. In this instance, of course, they are to be furnished the Defense Counsel and the Defendants for use and will be used in the forthcoming trial.

It is observed that the possibility exists that classified materials may have been used in establishing the overt acts supporting the indictment and the Department, because they have never had the documents reviewed for classification or source problems, remains unaware of this.

A potential problem also exists if the Department plans to furnish the Defense and use in the prosecution original Bureau documents already in their possession, which were furnished to them by Mr. Long's group. For instance, the Miller to Felt memoranda will presumably be used. Although these memoranda are undoubtedly unclassifiable, they should be reviewed by the Bureau to make that determination. Although this requirement of Bureau review of the Miller to Felt memoranda is arguably a technicality, we have absolutely no way of knowing what other documents the Department may be planning to furnish the Defense which involve serious classification problems of considerably more than a technical nature.

RECOMMENDATION:

None. For information.

1/2

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *HW*

DATE: 4/21/78

FROM : P. V. Daly *PV*

SUBJECT: UNITED STATES OF AMERICA

L. PATRICK GRAY, III,
W. MARK FELT and
EDWARD S. MILLER

Patrick Gray, W. Mark Felt, Edward S. Miller

*4-1
7-1
Wen*

Attached as an enclosure in an envelope is the list of ten documents which the Prosecution intends to furnish to the Defense in compliance with Rule 16 of the Federal Rules of Criminal Procedure. The list was received by SA [redacted] on 4/21/78 from Jim Savage of Barnett Skolnik's staff. It describes the documents by file subject and Bufile with serial number, with the exception of the last document, for which a Xerox copy of the document taken from the files of the New York Office was furnished. b6
b7C

Set forth below, numbered 1 through 10, are the documents requested:

1) New York letter to the Acting Director, 2/15/73, Attention: Document Section, on the WEATHFUG file (176-1594-3353). The letter submits typewritten samples from three typewriters in the apartment of [redacted] Avenue, New York, which were furnished by [redacted] on 2/14/73. (Overt Acts (OA) 23-26). b6
b7C
b7D

REC-110

62-118045-4

2) New York airtel to the Acting Director, 12/15/72, under the WEATHFUG and [redacted] captions (176-1637-945), which encloses photographs of handwriting and typewriting samples from the apartment of [redacted] Brooklyn. The information was furnished by [redacted] on 12/11/72. (OA 6-9). The document was classified "Confidential XGDS-2" after review 2/27/78 during the Kearney defense discovery special. b6
b7C
b7D

AUG 31 1978

3) New York nitel to the Acting Director, 2/26/73, under the [redacted] captions (176-1637-1023), sets forth a Passport Office lead based upon information from [redacted] at [redacted] Brooklyn, on 2/24/73. (OA 21-22). b6
b7C
b7D

ENCLOSURE

- 1 - Mr. Bassett
- 1 - Mr. Daly

CONTINUED - OVER

*Daly
8/8/8*

Memorandum to Mr. Bassett
Re: United States of America

v.
L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

4) New York airtel 2/13/73 to the Acting Director, Attention: document Section, under the [redacted] caption (176-1637-1014), forwards photograph for handwriting comparison. The enclosure was obtained 2/13/73 from "a confidential source" not further described. (OA 19-20). b6 b7C

5) New York airtel to the Acting Director, Attention: Documents, 2/14/73, under the [redacted] captions (176-1637-1012), encloses eleven photographs. Enclosures were obtained 2/13/73 from [redacted] at [redacted] Brooklyn. (OA 19-20). b6 b7C b7D

6) New York airtel 5/17/73 to the Acting Director, Attention Cryptanalysis - Translation, under the [redacted] caption (176-2004-258), forwards six photographs of Yiddish writing for translation. The airtel reports contact with [redacted] ("a sensitive source with knowledge of [redacted] [redacted]") with no date given. The document was classified "Confidential XGDS-2" following review 10/18/77 by DCRU, FOIPA Branch. It is noted the file was copied 5/25/77 and 6/20/77 in connection with FOIPA requests. (Probably OA 27-30). b6 b7C b7D

7) Newark teletype 2/6/73 to the Acting Director, under the [redacted] caption (88-56609-90), reports information received 2/5/73 from CS [redacted] concerning a letter, reported elsewhere to have been forwarded to [redacted] and [redacted] Union, New Jersey. (OA 17-18). b6 b7C b7D

8) Newark teletype 1/12/73 to the Acting Director and several field offices under the [redacted] caption (88-56609-64), reports information received from a "highly confidential source" 8/11/72 and 10/31/72. This source was not associated with any particular address but may involve [redacted]. The teletype also reports information received 1/10/73, CS [redacted], who reported information recently in the possession of [redacted]. (OA 14-16). b6 b7C b7D

9) Newark airtel to the Acting Director, Attention: Laboratory, 5/25/73, under the [redacted] caption (88-56609-191), encloses three photographs of an envelope and card requesting handwriting comparison with known fugitives. b6 b7C

Memorandum to Mr. Bassett
Re: United States of America

v.
L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

The photographs were received from [redacted] no date given, described as being in a position to furnish information on Flatley's parents [redacted]. The original photographs in the enclosure envelopes are marked as having been received in evidence as Government exhibits 9-A through 9-C on 3/10/78. (Probably OA 31-32) - b6 b7C b7D

10) New York airtel to the Acting Director, 1/11/73, under the WEATHFUG and [redacted] captions (100-465959-8), enclosing five photographs of handwriting and type-writing samples for the Document Section. The documents were furnished by [redacted] on 12/20/72, and the source is described as a highly placed sensitive source at [redacted] New York, the residence of [redacted], who sublet her apartment to her associate, [redacted] from December, 1971, through July, 1972. (OA 10-13). b6 b7C b7D

It, therefore, appears that one document received at FBIHQ for each surreptitious entry set forth in the list of overt acts attached to the indictment of 4/10/78, is included. The overt acts list surreptitious entries at five locations:

[redacted] b6 b7C
New York
12/20/72 (OA 10-13)

[redacted] b6 b7C
Union, New Jersey
1/10/73 (OA 14-16)
2/5/73 (OA 17-18)
5/17/73 (OA 31-32)

[redacted] b6 b7C
New York
2/14/73 (OA 23-26)

[redacted] b6 b7C
New York
4/16/73 (OA 27-30)

[redacted] b6 b7C
[redacted]
Brooklyn
12/11/72 (OA 6-9)
2/13/73 (OA 19-20)
2/24/73 (OA 21-22)

Action for record purposes

[Redacted]

b6
b7C

Bureau file

88-56609-64 612

90

191

[Redacted]

b6
b7C

Bureau file on ATTACHED

AIRTEL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5208

ORIGINAL Bureau documents

Weather

Bureau file

176 - 1594 - 3353 - OR

b6
b7C

Bureau file

176 - 1637 - 945 OK

1012

1014

1023

b6
b7C

Bureau file

176 - 2004 - 258

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5209

1-160-004

FBI

Date: 1/11/73

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO: ACTING DIRECTOR, FBI

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

FROM: SAC, NEW YORK

SUBJECT: WEATHFUG
(OO:CG)
Bufile 176-1594
NYfile 176-403A

[Redacted]

b6
b7C

SM-REFACT
(OO:NY)
Bufile 100-465959
NYfile 100-172368

Enclosed for the Bureau, Chicago and San Francisco are five photographs which comprise handwriting and/or typewriting samples obtained by the New York Office.

For the information of the Bureau and receiving Offices, the New York Office developed [Redacted] a highly placed sensitive source, at [Redacted]

b6
b7C
b7D

[Redacted] New York City, [Redacted]. This is the residence of [Redacted] a New Left attorney.

- 5-Bureau (Encls. 5) (RM)
 - (1-FBI Laboratory, Document. Section)
 - (2-100-465959)
- 2-Chicago (ENCL. 5) (RM)
- 4-San Francisco (Encls. 5) (RM)
- 1-New York (100-172368)
- 1-New York (100-171161)
- 1-New York

176-453-11-3/23

JLV:dab
(15)

62-118045-4

Enclosure
ENCLOSURE

Handwritten initials/signature

NY 176-403A

By way of background, [redacted] first came to the attention of the New York Office when she apparently lost an item of identification, which was subsequently found in the Wilkerson Town House explosion in Greenwich Village, New York during March, 1970.

[redacted] subsequently sublet her apartment from December, 1971 through July, 1972 to [redacted]

b6
b7C

[redacted] has now returned to her apartment at [redacted] Street, New York City, and is now employed as a New Left attorney for the Legal Aid Society, 100 Centre Street, New York City.

On 12/20/72, [redacted] was contacted and advised that [redacted] currently has a roommate, one [redacted] a white female, employed at the National Lawyers Guild (NLG), 23 Cornelia Street, New York City.

b6
b7C
b7D

The source furnished the enclosures as items of typewriting and/or handwriting, a part of which is from one [redacted] (LNU) and a part from one [redacted] National Lawyers Guild, San Francisco, California. The source further advised that the NLG is maintaining records of all FBI contacts that come to their attention.

b6
b7C

[redacted] advised that [redacted] was in recent contact with the following individuals from the San Francisco area:

b6
b7C
b7D

[redacted]
Berkeley, California

[redacted]
Berkeley, California

b6
b7C

NY 176-403A

[Redacted]

Berkeley, California

[Redacted]

b6
b7C

[Redacted]

Oakland, California

[Redacted]

The following background concerning [Redacted] was furnished by the source:

b6
b7C

Sex	Female
Race	Caucasian
Nationality	American
Date of Birth	[Redacted]
Place of Birth	[Redacted]
Height	5'5"
Weight	120 lbs.
Hair	Red
Eyes	Brown
Characteristics	Wears glasses and very modern and colorful clothing
Passport Number	[Redacted] (to expire 7/24/74).

b6
b7C

The FBI Laboratory, Document Section is requested to examine the handwriting and typewriting in the five enclosed photos and, if feasible, make comparisons with all submissions under CAPCOM, PENCOM and WEATHFUG.

San Francisco identify the aforementioned individuals and conduct any additional investigation resulting there from deemed logical.

Information copies are being furnished to the Chicago Division as Office of Origin in WEATHFUG.

NY 176-403A

Receiving Offices, when reporting results of this communication, are requested to so paraphrase it, to protect the identity of the source referred to herein.

ARMED AND DANGEROUS - EXTREMIST

Benjamin R. Civiletti
Acting Deputy Attorney General

4/26/78

John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
UNITED STATES v. L. PATRICK GRAY, III,
W. MARK FELT, AND EDWARD S. HILLER

FEDERAL GOVERNMENT

This will confirm a conference today between
Mr. James Savage of Mr. Skolnik's office and SA Joseph L.
Tierney of our special office for compliance with discovery
in the prosecution of captioned case.

It is our understanding that the originals of
the following documents with four copies are desired by
Mr. Skolnik's office by close of business Monday, 4/24/78,
for use in compliance with discovery ordered by the Court
under Rule 16 of the Federal Rules of Criminal Procedures
on Tuesday morning, 4/25/78.

A. The ten documents as listed by Mr. Savage
for SA [redacted] on Friday, 4/21/78.

b6
b7C

1. 176-1594-3353
2. 176-1637-945
3. 176-1637-1012
4. 176-1637-1014
5. 176-1637-1023
6. 176-2004-258
7. 88-56609-64
8. 88-56609-90
9. 88-56609-191
10. The Bureau file copy of New York
Serial 176-403A-3473.

REC-110

62-118045-5

AUG 31 1978

B. All memoranda concerning surreptitious
entries relating to the Weathermen from SAC Folder
Number 25.

C. 1A envelopes and bulky exhibits as set
forth in Paragraph A, Sub-paragraphs 1 through 3;
Paragraph B, Sub-paragraphs 1 through 3; and Paragraph
C, Sub-paragraphs 4, 7, 9, 14, 15, 16, and 18 in the

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - Mr. Bassett
1 - Mr. Daly

(SEE NOTE - PAGE 3)

Greenberg/Gray-5214

3 4 SEP 14 1978

Acting Deputy Attorney General

letter from William L. Gardner to Joseph Schulte, dated 10/26/76 and captioned "Surreptitious Entry Investigations," a copy of which was furnished to us by Mr. Savage with notations of the exact material desired as set forth herein.

With regard to the materials listed above for use in discovery, Mr. Skolnik's office has been advised all original documents are available and will be delivered as requested with the exception of approximately five of the 1A envelopes listed under Paragraph C above, which will be obtained and furnished as promptly as possible. These materials have been returned to Field Office files.

We will furnish Mr. Skolnik with the original document and four machine-made copies of each. All original documents will be reviewed for compliance with current classification guidelines. Redactions will be made from the copies which are to be furnished to the defense on the basis of informant and source protection, compromise of ongoing investigations, and the privacy of unrelated third parties. No redactions will be made on the ground of classification. Unredacted copies should not be furnished to the defense without further consultation with us.

It is our further understanding that additional materials are desired for the use of the Department in preparation of this case for trial. The additional materials to be compiled and furnished are set forth in a memorandum from Mr. Skolnik to D. Michael Griffin, dated 4/19/78 and captioned "United States v. L. Patrick Gray, III, et al." As discussed, this request involves moving the entire New York files pertaining to the WEATHERFUG investigation and for ten individual files from New York to FBI Headquarters. This cannot be done within the next week, but will be accomplished as quickly as possible. In the interest of efficiency, therefore, we will not furnish the original documents from New York files numbered 1 through 11 on Pages 2 and 3 of Mr. Skolnik's memorandum until the original file is received from New York. We will attempt to furnish the original documents from Headquarters files set forth in those numbered paragraphs by close of business Friday, 4/29/78.

Acting Deputy Attorney General

If the above is not in accord with Mr. Skolnik's understanding or desires, please contact SA Paul V. Daly or SA Joseph L. Tierney at 324-3542 as soon as possible.

- 1 - Barnett D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division
- 1 - Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel
- 1 - Robert Keuch
Deputy Assistant Attorney General
Criminal Division

NOTE: The above intended to confirm to the Office of Barnett D. Skolnik the classification review, the redaction policy with regard to materials going to the defense, and the exact list of materials desired as well as the schedule needed. Clarification of the materials needed is necessary to avoid confusion and conflict which has resulted from the Department furnishing annotated copies of two existing documents to SA D. Michael Griffin on 4/20/78 and a handwritten list of documents desired to SA [redacted] on 4/21/78. The Department indicated to SA Griffin on 4/20/78 that a substantial portion of the documents listed in Mr. Skolnik's memorandum of 4/19/78 were needed in compliance with Rule 16 of discovery by close of business Monday, 4/24/78. After conferring with Mr. Savage on the morning of 4/24/78, it has been made clear that only the ten documents on the list furnished to SA [redacted] on 4/21/78 are needed.

b6
b7C

pro

Copy for FBI's TS Control

UNITED STATES GOVERNMENT

RETAIN WITH RECEIPT

Memorandum

SHOWS REASON FOR DISSEMINATION
TO DOJ

DATE: April 24, 1978

TO : Paul Daly, Special Agent
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

FROM : Brock Willcox Justice Dept.
FBI Task Force

FEDERAL GOVERNMENT

SUBJECT: United States v. Gray et. al.
L. PATRICK

62-118045-2

As supplementing the April 19, 1978 memo, captioned as above, from Barnet Skolnik, the originals of the following documents will be required for trial, and should be furnished to the prosecution office as soon as possible. Where possible, the documents which are not so marked on their face have been reproduced, and copies are attached. The location of the originals should be ascertainable from the document.

1. Handwritten note from L.P. Gray, dated 5/30 10:53 A.M., beginning "What major intelligence programs, if any, have been abolished?" (copy enclosed)

2. Branigan to Miller memo dated 5/31/72. (File number obscured. It is a 6-page memo; copy of top page is enclosed)

See TS# 78-1007

3. Shackelford to Miller memo dated 6/8/72, file/serial 156-437147-3634(?) (copy of top page enclosed)

4. Handwritten note from L.P. Gray, dated 6/15 12:00 noon P.M., beginning "Let's make this a productive meeting" (copy enclosed - document is probably attached to Shackelford to Miller memo dated 6/8/72 re SDS (Weatherman) Internal Security - Revolutionary Activities).

Wm

5. Shackelford to Miller memo dated 6/23/72 file/serial

[Redacted]

b6
b7C
b7D

6. L.P. Gray to Felt memo dated 6/28/72 file/serial

[Redacted]

62-118045-5X

7. Miller to Felt memo dated 6/30/72 file/serial

[Redacted]

8. Cleveland to Felt memo dated 7/3/72. (Serial number obscured; copy of top page enclosed).

62-11766-130

Top Sec. dated
prior to 7-1-77 -- form
detached.

REC-137
[Handwritten initials]

9 AUG 4 1978

DOC. CLASS. [Handwritten]

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-5217



5010-110

OCT 19 1978 BDC

INCONS SEP 19 1978

outcom 10/19/78 BDG

62-117166 sub 130

RECEIVED

Greenberg/Gray-5218

9. L.P. Gray handwritten notes dated 7/17/72, file/serial

[REDACTED]

b6
b7C
b7D

10. Typed copy of L.P. Gray's notes, in form of memo to Felt. (No file number-copy of top page enclosed)

11. L.P. Gray handwritten note dated 7/17/72, file/serial

[REDACTED]

12. Shackelford to Miller memo dated 7/21/72 (no file number - copy of top page enclosed. Memo refers to an "attached teletype." The referenced teletype is hereby requested, and should be provided also).

13. Teletype 9/7/72, 105-183400-1296.

14. Miller to Felt memo, dated 9/7/72, file/serial 105-183400-1435.

15. Shackelford to Miller memo dated 9/13/72 file/serial 1-17-2663 (Memo has attached a teletype and an In-Service Agenda. Both attachments are also requested).

16. Miller to Felt memo 9/21/72 file/serial 105-183400-1531.

17. T.J. Smith to Miller memo dated 8/4/72, file/serial 66-8160-3433.

Greenberg/Gray-5219

UNITED STATES GOVERNMENT
Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. McDermott
YH
FROM : H. N. Bassett *HNB*

DATE: 4/27/78

SUBJECT: UNITED STATES v. L. PATRICK GRAY, III, ET AL
DOCUMENT CLASSIFICATION MATTER

PURPOSE: To advise of steps being taken in an attempt to resolve anticipated questions involving classification of documents relating to the WEATHFUG investigation required for the prosecution of captioned case.

SYNOPSIS: The Departmental Review Committee (DRC), which exercises the Attorney General's approval authority in classification matters under Executive Order 11652, has in the past upheld classification to protect live sources and some investigative techniques in domestic security cases. The DRC has never decided a Weatherman classification appeal where a surreptitious entry was directly on point. Many documents now being requested by Barnet D. Skolnik, who is responsible for supervising the prosecution of captioned case, would be classified under present policy. Mr. Skolnik has requested the FBI not mark the originals of these documents until the classification matter has been finally adjudicated. The FBI has refused to deliver documents under such circumstances, and the Department has agreed with this position. It is in our interest to resolve these questions promptly in order to avoid what may be ultimately decided to have been overclassification and the resultant declassification actions involved. The Department has agreed to consider the issues at the next regularly scheduled meeting of the DRC Tuesday, May 2, 1978.

RECOMMENDATION: None, for information.

REC-110 62-118045-6

PVD/est

APPROVED: _____

Director _____

Assoc. Dir. _____

Dep. AD Inv. _____

Dep. AD Adm. _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Spec. Inv. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

- 1 - Mr. Bassett
- 1 - Mr. Ryan
- 1 - Mr. Ross (Attention: _____)
- 1 - Mr. Moore (Attention: _____)
- 1 - Mr. Daly

_____ b6
_____ b7C

(DETAILS - OVER)

JLT:sjb
(6)

Baldy
6/8/78



SEP 14 1978

Memorandum to Mr. McDermott

Re: United States v. L. Patrick Gray, III, Et Al
Document Classification Matter

DETAILS: The DRC consists of five members, one of whom is a representative of the FBI. It exercises the Attorney General's approval authority over classification matters under Executive Order 11652, or evaluates issues and makes recommendations upon which the Attorney General personally acts.

In the past, the DRC has upheld classification of some materials in domestic intelligence cases, which were legitimately opened to protect the national security. Classification of documents to protect live informants and sources and some investigative techniques including mail covers, technical surveillances, and microphone surveillances, have all been upheld. There has been no decision of the DRC which directly approves classification in order to protect surreptitious entry as an investigative technique in a Weatherman case.

Barnet D. Skolnik is responsible to Acting Deputy Attorney General Civiletti for supervising the prosecution of Messrs. Gray, Felt, and Miller. In preparing for trial, he is requesting delivery of original FBI documents for possible use in Court. Many of these documents are now classifiable under the present policy of the FBI in those areas in which the DRC has approved classification, or in which a successful argument upholding their classification before the DRC can be envisioned.

Mr. Skolnik's Office requested the FBI to withhold stamping the classification of individual documents on the originals of those documents before delivering them to the Department. He desired markings be withheld until the classification issue for each document has been finally adjudicated, presumably by the DRC, or perhaps by the Attorney General himself acting independently. The FBI refused to deliver classifiable documents without proper markings. Deputy Assistant Attorney General Mary C. Lawton advised Mr. Skolnik the FBI's position was proper, and he now concurs.

The prompt resolution of the classification issues is in the best interest of the FBI and all parties involved. To delay resolution of the issues risks a last minute decision by the DRC that FBI documents needed in the prosecution of the case have been overclassified and must be declassified. This would not only aggravate Mr. Skolnik's task unduly and thereby

Memorandum to Mr. McDermott

Re: United States v. L. Patrick Gray, III, Et Al
Document Classification Matter

potentially antagonize him, it would also result in a considerable amount of wasted effort both in the initial classification action and in the ultimate declassification action which might be required by the DRC.

In view of the above, SAs Paul V. Daly and Joseph L. Tierney met with Deputy Assistant Attorney General Mary C. Lawton and Robert Keuch on 4/26/78. They agreed with this analysis of the problem presented and were aware of Mr. Skolnik's concern, and his desire to avoid classification issues, and to determine what material may be properly classified, and what material should be declassified, as promptly as possible.

It was noted that review of the issues and decision by the DRC will allow resolution of classification problems with regard only to those documents whose originals are now being requested for use in the prosecution. It does not provide a vehicle to resolve the issue of the classification of original documents or copies of FBI documents furnished to the Department during the lengthy Surreptitious Entries Investigation. Resolution of this aspect of the classification problem will be sought separately, the Department having been advised by memorandum dated 2/6/78, from John J. McDermott to Barnet D. Skolnik, captioned "U. S. vs. Kearney, Discovery Proceedings." Copies of this memorandum were designated for Ms. Lawton and Mr. Keuch.

Mr. Keuch advised he would arrange to have these classification issues examined and resolved by the DRC at its next regular meeting, on Tuesday, 5/2/78. He offered an earlier meeting if desired, but preparation for presentation of the matter precludes us from accepting his offer.

Those personnel handling classification review for the Defense Discovery Special will select a representative assortment of documents to be presented to the DRC. Presentation to the DRC will be handled by representatives of the FBI's Document Classification Office, who are normally responsible for such presentations. Mr. Keuch advised he had no reservations with regard to the identities of any FBI employees participating in the presentation, including any who may be involved in the Surreptitious Entries Investigation. He understands presentation involves advocacy and, therefore, sees no conflict.

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.: _____
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett

DATE: 5/1/78

FROM : P. V. Daly

SUBJECT: UNITED STATES v. L. PATRICK GRAY, III, ET AL
 RULE 16 DISCOVERY
 REPORTED UNAUTHORIZED DISCLOSURE OF CLASSIFIED/
 UNEXCISED FBI DOCUMENTS

4-1
 wear

PURPOSE: To record events leading up to reported unauthorized disclosure of classified information and of FBI documents prior to review by FBI personnel.

SYNOPSIS: Discovery under Rule 16 of the Federal Rules of Criminal Procedure ordered at the arraignment in captioned prosecution 4/20/78 necessitated delivery of copies of FBI documents to the offices of three different defense attorneys. Pursuant to requests received from the Department's "FBI Task Force" 4/20 and 4/21/78, originals of FBI documents with proper classification and copies with excisions of exempted material were delivered to the Department on 4/24 and 4/26/78. A fourth request from the Department by memorandum dated 4/24/78 was received; and pursuant to this request, 17 original documents were located. One of these documents was noted to be classified "Top Secret" and to require a compartmentalized clearance for access. Following the delivery to the Department of other properly reviewed documents 4/26/78, Departmental attorneys were advised of the sensitive nature and restricted access of this document; and they exhibited copies of it from our records bearing no classification markings. On 4/27/78, the Security Officer at the Department advised the FBI's Security Officer copies

(JP)

Enclosures

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Moore
- 1 - Mr. Bassett
- 1 - Mr. Ryan
- 1 - Mr. Daly

REC-110

~~TOP SECRET~~

62-118045-9

~~MATERIAL ATTACHED~~

18 AUG 31 1978

~~DETACH BEFORE FILING~~

Material detached 5/1/78 JFT
to be destroyed.

(SYNOPSIS - CONTINUED)

JLT:sjb/lab
(7)

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1)
 DATE 03-27-2009

enberg/Gray-5223

J. P. O'D
 6/8/78 JFT

8 4 SEP 14 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

~~SECRET~~

Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, Et Al
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

of the sensitive document and other FBI document not yet subjected to classification review or review for the excision of the exempted material had already been delivered to defense counsel. On Friday, 4/28/78, a meeting was held between representatives of the FBI's discovery compliance office, the Department's "FBI Task Force," the Security Officer of the Department, Deputy Assistant Attorney General Mary C. Lawton, and Special Assistant to the Attorney General Philip Jordan. Following this meeting, a quick review of the documents not previously reviewed by the FBI was accomplished and four were designated as the most sensitive, necessitating immediate retrieval from defense counsel, since the documents are not properly stamped and not all defense counsel have been given security clearances or access to compartmentalized information. Arrangements were made to retrieve the documents from Mr. Gray's attorney in Baltimore and Mr. Miller's attorney in Washington, D. C. Arrangements to retrieve the documents from Mr. Felt's attorney, who has them in his possession on a business trip to Las Vegas, are incomplete, but are being pursued. Arrangements will be made for FBI review of the balance of the materials now in the hands of the Department, but have been deferred pending retrieval of the most sensitive documents.

RECOMMENDATION: None, for information.

APPROVED: <i>WJ</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>HW</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

prod

DETAILS: On Thursday and Friday, 4/20-21/78, instructions were received by the office for compliance with Defense Discovery Requests concerning original documents, which the "FBI Task Force" prosecuting captioned case, needed to comply with discovery under Rule 16 of the Federal Rules of Criminal Procedure ordered at the arraignment on Thursday, 4/20/78. Two lists had been furnished to SA D. Michael Griffin on Thursday, and one list was furnished to SA [redacted] on Friday.

b6
b7C

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Both instructions were to furnish the originals of documents, enclosures, or bulky exhibits and four copies to be furnished to the defense. After an initial disagreement over whether or not classification markings should be made on the originals prior to delivery, it was conceded by the Department such markings were required. On Monday, 4/24/78, it was discovered the original instructions were misleading, overlapping, and incomplete. Arrangements were made to deliver those documents which the Department indicated were most urgently needed, and the delivery was accomplished before close of business 4/24/78. A second delivery was made on Wednesday, 4/26/78, and a third delivery has been scheduled for Friday, 4/28/78. By memorandum dated 4/24/78, from Breck Willcox to Paul Daly, 17 additional documents relating primarily to that aspect of the case involving former Acting Director Gray were requested, also for delivery by Friday, 4/28/78.

We have been dealing primarily with Mr. James Savage, who shares office space with Mr. Breckenridge Willcox, both of whom are assigned to Barnet D. Skolnik, Chief of the "FBI Task Force."

On Wednesday, 4/26/78, Mr. Savage requested assistance in reconciling documents already delivered or to be delivered as listed on the three separate lists given to the FBI the preceding week. Two FBI employees were dispatched to make the second delivery and to assist in reconciling the requests at approximately 2:30 p.m.

At approximately 4:30 p.m., SA's Joseph L. Tierney and Sammy J. Miller went to the same office to see Messrs. Savage and Willcox concerning declassification of some of the documents and to discuss classification problems in general, it having been discovered one of the documents requested in Mr. Willcox's memorandum should have been classified "Top Secret" and required a compartmentalized clearance for access.

Following the declassification actions, which were taken on original documents delivered Monday, 4/24/78, Messrs. Savage and Willcox were advised at least one of the documents in Mr. Willcox's memorandum was extremely sensitive.

~~SECRET~~

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Mr. Willcox asked whether or not we were referring to a Branigan to Miller memorandum and produced a copy of the document from a folder on his desk. After examination, Mr. Willcox was advised this was indeed the document which was extremely sensitive. It was explained to him that the document should be classified sensitive and that it required compartmentalized access at the SI or perhaps even the TK level. Mr. Willcox indicated he did not understand classification procedures and had never been involved with them before. He shortly thereafter expressed his belief that 95 percent of the documents classified by the government should not be classified. This comment followed a discussion both of the sensitive document mentioned above and an explanation of the efforts being taken by the FBI to have the policy with regard to classification to protect sources and methods in domestic intelligence investigations reviewed by the Departmental Review Committee (DRC). This review was being sought in order to avoid unduly complicating the handling of exhibits by classifying them and subsequently declassifying them following review by the DRC.

Mr. Willcox was preparing to leave the office. He replaced the copy of the sensitive document in the folder and took it, together with several other folders, through an interior door to an adjacent office. Moments later he returned to the office and asked Mr. Savage for the location of the safe. Mr. Savage advised him the safe had been moved to the office of Mr. Paul Boucher.

At no time during the above conversation did either Mr. Savage or Mr. Willcox give any indication that the sensitive document had already been given to defense attorneys under Rule 16. At no time has any member of the "FBI Task Force" indicated that any other FBI documents other than those being reviewed and delivered to them on 4/24 and 4/26/78, were being given to the defense.

~~SECRET~~

~~SECRET~~

Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

During the meeting, further effort was made to explain to Messrs. Savage and Willcox the special handling required for Top Secret documents and the special access required for compartmentalized information. They were advised that when the original and further copies of the sensitive document or any similar Top Secret documents were furnished, an accounting had to be made of all copies of the document which would be numbered, and copies already in their hands would have to be appropriately marked and added to the accounting to the documents being delivered.

The meeting concluded at approximately 5:30 p. m. with Mr. Savage, Mr. Willcox having departed, emphasizing the need to deliver originals at an even faster rate and not later than Friday, 4/28/78.

On Thursday, 4/27/78, the Document Classification/ Security Officer at FBI Headquarters was apprised of the above, and he immediately notified the Security Officer at the Department of Justice. He was advised by the Departmental Security Officer that copies of the above sensitive document had been made and distributed to various personnel in the Department for review. The personnel in Mr. Skolnik's Office who originally held the copies and the individuals to whom the copies were distributed in the Department do not have compartmentalized clearances. In addition, the Departmental Security Officer has found six more copies of the document were made and have been given to the defense attorneys who also do not have compartmentalized clearance.

On Friday, 4/28/78, Deputy Assistant Attorney General Mary C. Lawton was advised by SA Paul V. Daly that Mr. Skolnik's Office had reportedly given the above sensitive document and possibly others to the defense counsel without any classification markings and without review by the FBI to make the usual excisions under discovery to protect sensitive sources and methods, ongoing investigations, and privacy of unrelated third parties; and the attorneys assigned to Mr. Skolnik, when advised of the sensitive nature of at least

~~SECRET~~

~~SECRET~~

Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

one of the documents on 4/26/78, failed to report to the FBI that this document had already been given to the defense. Ms. Lawton advised she would proceed to Mr. Skolnik's Office in order to assess the situation.

A meeting was held in the office of the FBI "Task Force" attended by Department Attorney Paul Boucher, SA Daly, Ms. Lawton, Philip Jordan, Special Assistant to the Attorney General, later joined by Messrs. Willcox and Savage and SAs Tierney and Miller.

Copies of the materials which were delivered to defense attorneys on Tuesday, 4/25/78, were furnished for review. The object of the review was to isolate those documents whose extreme sensitivity necessitated their immediate retrieval from defense counsel. No attempt was made to cover all classification or source protection problems, such action being deferred in favor of immediate resolution of the most critical documents. Four documents were selected, the first of which is the original sensitive document mentioned above.

1. Memorandum from W. A. Branigan to Mr. Miller, 5/31/72, captioned "Major Intelligence Programs."
2. Memorandum from Mr. E. S. Miller to Mr. W. M. Felt, 9/7/72, captioned "Al Fatah, Internal Security - Middle East."
3. Teletype from Acting Director to SACs Alexandria, et al, 9/7/72, captioned "Al Fatah, Internal Security - Middle East."
4. Memorandum from E. S. Miller to Mr. W. M. Felt, 9/21/72, captioned "Al Fatah, Internal Security - Middle East."

~~SECRET~~

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

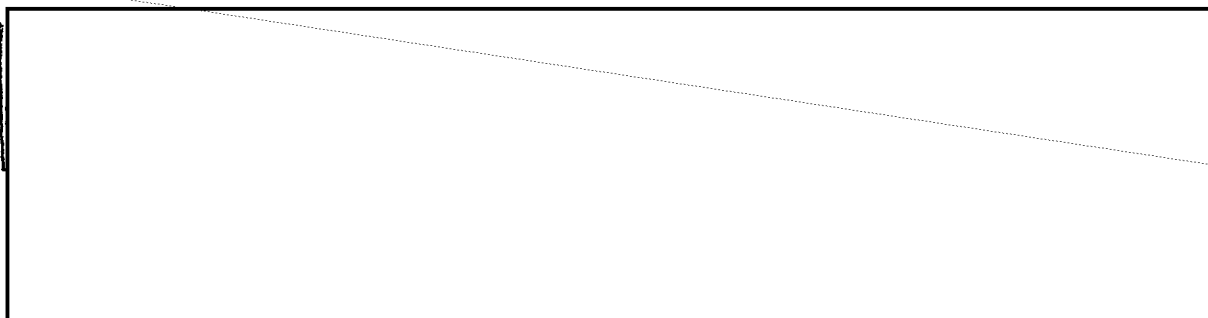
None of the above documents were stamped indicating classification level with the exception of the 9/7/72 and 9/21/72, which were marked "June."

Attached in an envelope stamped "Top Secret" are copies of the four documents as they exist in the Departmental files and as they were sent to defense attorneys with the exception of the 9/7/72 memorandum, which bears a valid stamp, it having been copied from the FBI record copy of the document which has now had proper classification markings added.

The first document listed above contains compartmentalized information which will require clearance from the National Security Agency before any further handling of the document by the Department is accomplished. It requires a compartmentalized clearance to review. It also jeopardizes two former Bureau sources no longer in this country and in general jeopardizes to some extent our capabilities in the foreign intelligence area.

The 9/7/72 memorandum compromises an FBI informant in [redacted] since it sets forth information concerning a relationship between [redacted] organization which we can only presume is known only to the informant and one other person.

b7D



b1

~~SECRET~~

Envelope detached 5/1/78 Sft

(S)

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Memorandum 9/21/72 contains information concerning the target of a surreptitious entry in Dallas which was approved by Acting Director Gray, the full details of which have not been disclosed although the fact that one such entry did occur has been publicized. There is additional information in the memorandum the source of which is not clear since it is a summary memorandum but which could have come from foreign intelligence agencies.

The Department is making immediate arrangements to retrieve the copies of these four documents already furnished to defense attorneys. Mr. Miller's defense attorney has been contacted in Washington and is willing to return the documents. Mr. Gray's attorney in Baltimore has also been contacted and will turn them over to a representative of the Department who is traveling to Baltimore. Mr. Felt's attorney cannot be contacted although his office is trying to locate him in Las Vegas where he has traveled on business with the documents in his possession. The Department will attempt to arrange to have the documents in Las Vegas placed in a sealed envelope in the office of a U. S. Marshal over the weekend to be returned to Washington by the attorney in time for a meeting scheduled for all defense attorneys on Tuesday, 5/2/78.

Mr. Boucher advised SA Daly he was aware of the agreement that no materials were to go to the defense without prior review by the FBI and thought this agreement had been honored. He was not aware that documents had been furnished to the defense on 4/25/78 which had not been subjected to review by the FBI for the purpose of making classification determinations and excisions of material exempt from discovery. Mr. Willcox stated that he was not aware of such an agreement which he assumed had been made prior to the turn over on the task force in December 1977.

The meeting was joined by Chuck Trombetta from the Security Office of the Department. Mr. Trombetta took into his possession all readily available copies of the most sensitive documents to be placed in an approved container in his office.

~~SECRET~~

Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

It was pointed out and generally discussed by Mr. Trombetta, the representatives of the FBI Task Force and SAs Miller and Tierney that an incomplete review had now been done. The documents to be made available to the defense and those already given out have not received in most cases a full classification review or a review to excise materials exempt under discovery. The existence of other copies of the above four documents in the 81 volumes of material furnished by Mr. Long to the FBI Task Force during the Surreptitious Entries Investigation and the lack of a classification review of this material was also discussed. It was noted the FBI had apprised the Task Force of the nature of the material in their hands which they acquired during their investigation by memorandum dated 2/6/78 from John J. McDermott to Barnet D. Skolnik, captioned "U. S. vs. Kearney, Discovery Proceedings." Mr. Trombetta asked if he could have a copy of this memorandum and he was advised one would be furnished.

Mr. Trombetta expressed his concern and indicated he would consult with his superiors with a view towards asking the FBI to form a task force to review from a classification standpoint all FBI documents now in the hands of the "FBI Task Force."

It was also pointed out to Messrs. Boucher, Savage, and Willcox that a second review of the documents furnished to defense attorneys would be necessary and that it might be necessary to return more copies of documents from defense counsel in order to make excisions. This more complete review will be accomplished when the four most sensitive documents are back in Departmental control. They were advised the defense has been given some documents which are stamped classified and do not reflect recent declassifications and that there was some inconsistent classification which we were not able to resolve at the scene since some research was involved.

~~SECRET~~

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosures of Classified/
Unexcised FBI Documents

ADDENDUM: At approximately 2:10 p. m. Mr. Boucher advised SA Tierney by telephone he had determined the sensitive documents had not, in fact, been brought to Las Vegas by Mr. Felt's attorney but had been left in an office safe in Arlington, Virginia. Mr. Boucher stated he was making arrangements to retrieve these documents on 4/28/78.

~~SECRET~~

Special Counsel to the
Assistant Attorney General
Barnet D. Skolnik
Criminal Division
John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. HEARNEY
DISCOVERY PROCEEDINGS

2/6/78

The initial review of the records furnished by Mr. Richard E. Long to Mr. William L. Gardner of the Civil Rights Division beginning in 1976 has included a partial review of the material to determine whether or not it contains information which should be classified in the interest of national defense or foreign relations under Executive Order 11652.

Although our review is partial in the sense that we are not marking as classified all information potentially classifiable, we have determined a large amount of the material is classified. Classification has been primarily at the Confidential and Secret level, although numerous items classified Top Secret have been reviewed.

Our normal procedure in the course of such review would require us to notify all holders of copies of the documents of each classification action taken. This would include declassifications as well as documents containing classified information which are newly so marked. The notification would go to all holders of copies both within the FBI and outside the FBI including the Department of Justice and other Federal agencies.

Such a notification program at this time would hinder our review of records pursuant to the court ordered discovery. We assume the requirement to mark your copies of the documents would constitute a similar hindrance to your operation. A complicating factor lies in the fact that the classification review is not complete and further classification action may be necessary if any of the documents are needed in the future, such as if the prosecution or the defense desires to introduce them at trial.

1 - Mr. Bassett
(Attention:)
1 - Mr. Daly

b6

b7C

(SEE NOTE - PAGE TWO)

Greenberg/Gray-5233

JLT:sjb
(6)

COPY
Do Not FILE

The Special Counsel to the
Assistant Attorney General
Criminal Division

Since adherence to our normal procedures is impractical at this time, the only solution for the moment is for you to regard the entire package of material furnished by Mr. Long as classified under Executive Order 11652. The ultimate solution of the problem can be postponed, but would involve either the posting of classification warnings, destruction of the material, or the returning of the material to the FBI's control for appropriate disposition.

If you have any questions, please do not hesitate to contact Mr. Paul V. Daly or Mr. Joseph L. Tierney on Extension 3542.

- 1 - Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel
- 1 - Robert Kauch
Deputy Assistant Attorney General
Criminal Division

NOTE: Instant letter prepared to apprise Mr. Skolnik of the problem which now exists with regard to classification markings and to propose a temporary solution. Although Departmental officials and Mr. Skolnik are obviously aware the records furnished to them contained sensitive information, the volume of classification actions now being taken makes formal notification appropriate.

~~SECRET~~

Director, Central Intelligence Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6882, JEM

5-9-78

~~CONFIDENTIAL~~

U. S. v. L. PATRICK GRAY III, SR. et al.
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4-1
delivered
by liaison 5/10/78
Wes JW

(S) [Redacted]
[Redacted] Also attached is a copy of a teletype dated September 7, 1972, from our Headquarters to several of our Field Offices. Both documents are classified "SECRET." Our document has been exempted from the general declassification schedule under Category 2 because it contains information [Redacted]

(S) The FBI teletype is required for use in the prosecution of captioned case. The prosecutor intends to introduce it in evidence at the trial. [Redacted]

(S) [Redacted] Since the prosecutor in the Department of Justice desires to use the teletype at trial, a classification review to insure current compliance with the provisions of Executive Order 11652 is required. Our classification of the document at the "SECRET" level [Redacted]

(S) [Redacted] although we would classify other materials in the teletype "CONFIDENTIAL" [Redacted] AUG 31 1978

Since this is a document which is especially critical to the prosecution's case, they are most interested in having it declassified or downgraded, or in isolating within paragraphs the specific material resulting in the overall classification of the document. We, therefore, seek verification

Enclosures (3) ~~SECRET~~ (SEE NOTE PAGE 2)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. Cregar
- 1 - Mr. Bassett
- 1 - [Redacted]

6888 (SEE NOTE PAGE 2)
JLK:cmd [Redacted]
(6) ~~SECRET~~ MATERIAL ATTACHED

~~SECRET~~

Greenberg/Gray-51b6

8 4 SEP 14 1978

b7C

~~SECRET~~

Director, Central Intelligence Agency

ation, both of the overall classification and of the specific elements in the document which caused the classification. For this reason, the teletype is also enclosed in excised form so that you can verify those elements of the first paragraph which we believe support the classification. These elements of the document could be excised before the document is used at trial, both from the standpoint of protection of classified information and from the standpoint of source protection, which we anticipate both the Department of Justice and the United States District Court will honor.

If you consider it desirable to meet in person to discuss this single document or the additional documents which we expect to encounter in processing material for the prosecution and defense which involve your agency's interests, we would be most happy to oblige. Please feel free to contact me or Special Agents Joseph L. Tierney or Stanley J. Miller at 324-3542. Although we expect to encounter additional material requiring consultation with you, the attached teletype is the most critical to the prosecution and requires the most expeditious handling.

(S) 1042: Bureau teletype September 7, 1972, located at 105-103400-1296. [redacted]

(S) The teletype, which was initialed by former Acting Director Gray, is one of 17 whose originals are desired by the Department for use during trial. Prompt resolution is necessary for the prosecution to comply with discovery of documents ordered April 20, 1978, under Rule 16, Federal Rules of Criminal Procedure. "SECRET" marking not being removed until [redacted] concurs with excisions [redacted]

b1

~~SECRET~~

~~SECRET~~ *Doc*
No Foreign Dissemination
IMMEDIATE

CODE

TELETYPE

- 1 - Mr. E.S. Miller
 - 1 - Mr. A.J. Decker
 - 1 - [REDACTED]
 - 1 - Mr. Morgan
- b6
b7C
9/7/72

TO: SACS, ALEXANDRIA
ATLANTA
ALBANY
BALTIMORE
BOSTON
BUFFALO
CHARLOTTE
CHICAGO
CLEVELAND
DALLAS
DETROIT
HOUSTON
JACKSON
JACKSONVILLE

KANSAS CITY
LOUISVILLE
MIAMI
NEW YORK
NEW HAVEN
OKLAHOMA CITY
PHOENIX
PITTSBURGH
SALT LAKE CITY
SAN FRANCISCO
SAN JUAN
SEATTLE
SPRINGFIELD
WFO

PERSONAL ATTENTION

J U N E

FROM: ACTING DIRECTOR, FBI

AL FATAH, INTERNAL SECURITY - MIDDLE EAST. *14828*
5/1/78

DECLASSIFIED BY
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE
P/7/1
92 P/1,2

RECGAIRTEL NOVEMBER ONE, NINETEEN SEVENTY-ONE, CAPTIONED

[REDACTED] IS - MIDDLE EAST," SETTING FORTH [REDACTED]

[REDACTED] BUTEL SEPTEMBER FIVE, LAST, DUAL

CAPTIONED, "AL FATAH, IS - MIDDLE EAST; JEWISH DEFENSE LEAGUE,

IS - NATIONALISTIC TENDENCY - JDL," SETTING FORTH URGENCY OF

CURRENT SITUATION BASED ON ACTION BY AL FATAH'S "BLACK

SEPTEMBER" GROUP, MUNICH, GERMANY, SEPTEMBER FIVE, LAST;

BUTEL FEBRUARY FOUR, LAST, INSTANT CAPTION, SETTING FORTH

INSTRUCTIONS FOR INVESTIGATIONS OF FATAH CADRE AND LEADERS OF

- Felt
- Baker
- Bates
- Bishop
- Callahan
- Cleveland
- Conrad
- Dalbey
- Jenkins
- Marshall
- Miller, E.S.
- Ponder
- Se. ara
- Walters
- Tele. Room
- Mr. Kinley
- Mr. Armstrong
- Ma. Herwig
- Mrs. Neenan

HJM:dgo
(6)

COMMUNICATIONS SECTION REC-28
EX-116

2 SEP 12 1972

SEE NOTE PAGE TWO

TELETYPE

ROUTE IN ENVELOPE

~~SECRET~~ *h*

MAIL ROOM TELETYPE UNIT

62-118045 - No Foreign Dissemination

ENCLOSURE

TELETYPE TO SAC, ALEXANDRIA
RE: AL FATAH

ANY PRO-FATAH GROUP [REDACTED]
[REDACTED]
[REDACTED]

WHICH LEADERS, BECAUSE OF THEIR PRO-ARAB SYMPATHIES, MIGHT
BE SECRET FATAH MEMBERS OR UTILIZED BY FATAH TO CARRY OUT
OPERATIONAL OR SUPPORT ROLES IN TERRORIST ACTIVITIES IN
THE U. S. ~~(S)~~

RECIPIENTS IMMEDIATELY INSTITUTE [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] THIS MATTER IS TO BE
HANDLED MOST EXPEDITIOUSLY AND YOU ARE TO SUTEL RESULTS
WITH SPECIFIC RECOMMENDATIONS REGARDING [REDACTED]
[REDACTED]
[REDACTED] ~~(S)~~

NOTE:

Terrorist activities, Munich, Germany, 9/5/72, by
Al Fatah group and information received indicating [REDACTED]
[REDACTED] dictate Bureau
should utilize all investigative means possible to ferret
out individuals to be involved and take action to preclude
any embarrassing terroristic activities in this country.
Instructions issued to have [REDACTED]
[REDACTED] ~~(S)~~

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

FBI

Date: 11/1/71

Transmit the following in _____
(Type in plaintext or code)

A I R T E L

(Priority)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1-human)
DATE 03-27-2009

(S) TO : DIRECTOR, FBI [redacted] b1

FROM : SAC, CHICAGO [redacted] (P) b2
b7D

(S) SUBJECT: [redacted] b1
IS - ME

(OO: CHICAGO)

Re Chicago airtel, 9/20/71.

Wheaton

K

(S) [redacted]

b1

ENCLOSURE

- 2 - Bureau (Encs. 10) (RM)
- 2 - Alexandria (Encs. 4) (RM)
- 2 - Atlanta (Encs. 4) (RM)
- 2 - Albany (Encs. 4) (RM)
- 2 - Boston (Encs. 4) (RM)
- 2 - Buffalo (Encs. 4) (RM)
- 2 - Charlotte (Encs. 4) (RM)
- 2 - Dallas (Encs. 4) (RM)
- 2 - Detroit (Encs. 4) (RM)
- 2 - Houston (Encs. 4) (RM)
- 2 - Jackson (Encs. 4) (RM)
- 2 - Jacksonville (Encs. 4) (RM)
- 2 - Kansas City (Encs. 4) (RM)
- 2 - Louisville (Encs. 4) (RM)
- 2 - Miami (Encs. 4) (RM)
- 2 - New York (Encs. 4) (RM)
- 2 - New Haven (Encs. 4) (RM)
- 2 - Oklahoma City (Encs. 4) (RM)
- 2 - Philadelphia (Encs. 4) (RM)
- 2 - Pittsburgh (Encs. 4) (RM)
- 2 - Phoenix (Encs. 4) (RM)
- 2 - Salt Lake City (Encs. 4) (RM)
- 2 - San Francisco (Encs. 4) (RM)
- 2 - San Juan (Encs. 4) (RM)
- 2 - Seattle (Encs. 4) (RM)
- 2 - Springfield (Encs. 4) (RM)

(CHICAGO COPIES CONTINUED ON
PAGE 2)

EX-112

REC 31/37-1-100-10

NOV 5 1971

NAT. INT. SEC.

JMD/DAK
(66)

Approved: *[Signature]* Sent _____ M Per _____
59 DEC 2 1971 Agent in Charge NOV 21 1971

ENCLOSURE Greenberg/Gray-5289

~~SECRET~~

RECORDED COPY FILED IN 105-183400

CG [redacted] b2
b7D

14 - Chicago

- (S) (1 - [redacted])
- (1 - 105-27889) (AL-FATAH)
- (1 - [redacted])
- (1 - [redacted])
- (1 - [redacted])
- (1 - 105-31425) ([redacted])
- (1 - 105-29351) ([redacted])
- (1 - [redacted])
- (S) (1 - 105-New) [redacted]
- (1 - 105-New) [redacted]
- (1 - 105-New) [redacted]
- (1 - 105-New) [redacted]
- (1 - 105-New) [redacted]

b1
b6
b7C

JMD/bak
(66)

b2
b7D

[Redacted]

(S) [Redacted]

b1

(S) For the information of offices which have received no prior communications under the [Redacted] caption:

b1

(S) [Redacted]

b1

(S) Chicago will furnish information [Redacted] by separate communication.

b1

LEADS

Recipient offices are requested to conduct discreet, limited investigations to identify individuals in their territories through agency checks and contact with established sources.

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

Director, National Security Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JTB

5-9-78

BY LIBISON

DELIVERED BY
ON 5-9-78
A. J. R. ... Jr.

U. S. v. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

Attached is a copy of relevant portions of an internal FBI memorandum from W. A. Branigan to E. S. Miller dated May 31, 1972, and captioned "Major Intelligence Programs." The memorandum is classified "TOP SECRET - UMBRA." Also attached is an excised copy of this memorandum. Excisions have been made with a view toward removing all classified material from the copy. Until we receive your final approval or your concurrence with this evaluation; however, we have marked the excised version as "CONFIDENTIAL" as a precautionary measure.

The office handling prosecution in captioned case desires to use the attached document at trial. A classification review to insure current compliance with the provisions of Executive Order 11652 is, therefore, required. Preliminary review by FBI personnel has resulted in the conclusion, the document should be classified "TOP SECRET - UMBRA" since it involves general policy and past history of efforts by FBI to secure material for use by your agency. The material was obtained through live sources as well as other investigative techniques, as set forth in the document.

Since this is a document which is especially critical to the prosecution's case, they are most interested in having the document declassified or downgraded, or to isolate within paragraphs the specific material resulting in classification of the overall document. Verification is, therefore, sought; both of the overall classification assigned and of those specific elements in the document which cause the classification.

A substantial portion of the document does not involve your agency and will be handled completely by the FBI.

- 1 - Mr. Gregar
- 1 - Mr. Susselt
- 1 - [Redacted]

(6)

b6
b7C

REC-110

(SEE NOTE PAGE 2)

12 - 118045 - [Handwritten initials]

~~CONFIDENTIAL~~
~~TOP SECRET - UMBRA~~
Material Attached

AUG 31 1978

Greenberg/Gray-5251

FBI/DOJ

CLASSIFIED BY 1482/af
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

8 4 SEP 14 1978

MAIL ROOM

Director, National Security Agency

We believe your agency has the primary interest and should set the classification policy for that material commencing on page 1, under the first program heading, and continuing through the end of page 2. In addition, the paragraph which begins at the end of page 3 and carries on to the top of page 4 consists of information received from your agency. (U)

It would appear the complexity of the classification issue and the intermingling of information makes intelligent discussion of this document difficult in correspondence form. Accordingly, we suggest it may be beneficial to meet with representatives of your agency to discuss the document and its various considerations in detail. We are prepared to meet with you at your earliest possible convenience, should you agree that such a meeting will be helpful. Please feel free to contact me or Special Agents Joseph L. Tierney or Casey J. Miller at 324-3542 in this regard. We expect to have to handle more similar material as we proceed, but this document is the most critical and requires the most expeditious handling. (U)

Enclosures (2)

Greenberg/Gray-5252

NOTE: Original document not placed on record and continues to exist in the same form as it was found 8-19-76; in a filing cabinet in CI-1 Section, INTR; marked "Sensitive Programs" in a folder which is in possession of Defense Discovery Special. Memorandum 8-20-76, from E. C. Peterson to Mr. F. W. Leavitt and captioned "SURREPTITIOUS ENTRY" records the finding of the Branigan memo at 62-117106-42 and has a copy of the memo attached. (U)

Excised copy of relevant portions of Branigan memo given to NSA being kept behind yellow of instant outgoing. Two enclosures to NSA are excised and unexcised relevant portions. (U)

Instant letter classified "~~CONFIDENTIAL~~" since it (U) mentions classification of enclosure as "~~TOP SECRET~~ ~~CONFIDENTIAL~~". (X)

- Felt
- Mohr
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele. Room
- Mr. Kinley
- Mr. Armstrong
- Ms. Herwig
- Mrs. Neenan

Memorandum

~~TOP SECRET~~

112
15-6

TO : MR. E. S. MILLER

DATE May 31, 1972

FROM : W. A. BRANIGAN

ORIGINAL ONLY
DO NOT FILE

SUBJECT: MAJOR INTELLIGENCE PROGRAMS

On May 30, 1972, Acting Director Gray inquired, "What major intelligence programs, if any, have been abolished?" He also asked for the reasons for their discontinuance and whether these programs should be reinstated. Specifically, Acting Director Gray asked, "What is necessary to reinstitute them?" (U)

The following are major intelligence programs formerly conducted by the Bureau but which are now discontinued:

~~PROGRAM~~

[REDACTED]

[REDACTED] largely accomplished through [REDACTED] This was

[REDACTED] But there were some isolated instances when [REDACTED]

[REDACTED] in [REDACTED] we successfully [REDACTED] for example,

[REDACTED] available [REDACTED] made

[REDACTED] later, extending through [REDACTED] we were able to [REDACTED]

During the years of operation, the Bureau was successful

[REDACTED]

[REDACTED]

[REDACTED]

By letter dated [REDACTED] we advised the then Attorney General Ramsey Clark of [REDACTED] and asked for authority to attempt to [REDACTED] and asked for such operations involved [REDACTED] pointing out that [REDACTED] By letter of [REDACTED] permission was declined. In [REDACTED] renewed his request

WAB:hke (1) [REDACTED] CONTINUED - OVER

ROUTE IN ENVELOPE

118045-9
Greenberg/Gray-5253
ENCLOSURE

Downgraded to Secret
60324 ucba 3-6-2009

REMOVED BY 5/1/72
EXEMPT FROM GDS CATEGORY 2, 3, 4
DATE OF DECLASSIFICATION INDEFINITE
75, 5, 5, 0

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

(U) which was later withdrawn in [REDACTED] The Attorney General
was notified of the request [REDACTED] but had not responded
at the time when the request was withdrawn. X

(U) In [REDACTED] requested [REDACTED]
[REDACTED] This request was declined in [REDACTED] X

(U) In [REDACTED] stated that he believed that it would
be advantageous to [REDACTED]
was advised that the Director stated that he would not engage
in this program unless directed to do so by the Attorney General. X

(U) On [REDACTED] the Director wrote the
Attorney General pointing out the grave risks involved in such
an operation and further that the planned [REDACTED]
[REDACTED] would represent a new [REDACTED] X

It is our considered opinion that we should reinstitute
the [REDACTED] Program on a limited basis where the [REDACTED]
[REDACTED] can be obtained through cooperating
sources. It is our considered judgment that the Bureau at this
time should not embark on a program of [REDACTED]

[REDACTED] In this regard we
recognize the grave consequences to [REDACTED]

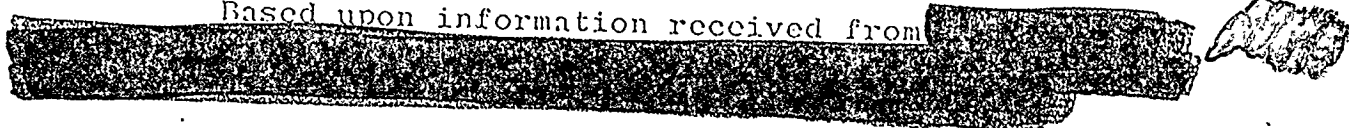
We recognize the additional [REDACTED]

[REDACTED] the increased alertness of [REDACTED]

and
finally we recognize the [REDACTED]

(U) In order to reinstitute a program involving the
[REDACTED]
it would be necessary to assemble selected personnel in the major
offices and [REDACTED]
These personnel would necessarily have to [REDACTED] X

Based upon information received from



Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

[REDACTED] is one of the most
difficult problems that we face. [REDACTED]

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bassett *HMB*

FROM : Mr. Daily *L. Patrick Gray, Jr.*

SUBJECT: U. S. v. GRAY, FELT, AND MILLER

DATE: 5-12-78

W. Mark Felt, Edward B. Miller, Jr.

PURPOSE: To advise of receipt of informal discovery request and the Government's response, thereto.

*4
28*

DETAILS: By three letters dated May 1, 1978, (copies attached), counsel for captioned defendants presented to the Department discovery requests in conformance with local court rules requiring counsel to resolve discovery matters prior to filing of formal motions which is slated for May 22, 1978. While there are some differences, essentially, the three requests are directed toward reaching the same material. The Government's response, as contained in its letter of May 10, 1978, (copy attached), generally restricts the discovery to Weathermen investigative files and policy relating to the use of surreptitious entries. Certain portions of the defense attorney's letters are properly classifiable. For example, Thomas A. Kennelly, attorney for Miller, requested information relating to contacts with the Cuban Mission to the United Nations. In this regard, the Department will be alerted to the potential for disclosure of sensitive material in connection with oral arguments concerning those portions of the discovery request denied by the Government. Similar problems arose during discovery arguments relating to Kearney's indictment and as a result, the arguments were held in camera and the discovery order sealed. This procedure would appear appropriate in this matter, also.

(Handwritten initials)

62-118045-10

The Department's response which reserves the right to redact material "to protect ongoing investigations and to prevent undue embarrassment or injury to unrelated third parties," does not allow, on its face, excisions to protect sources or methods, and in this regard, it is departure from the standards for redaction used in the Kearney matter.

Enclosures (3) *ap*

4-ENCLOSURE

- 1 - Mr. Bassett
- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - [Redacted]
- 1 - [Redacted]

b6
b7C

PVD:dmd *dmd*

SEARCHED
SERIALIZED
INDEXED
AUG 31 1978
FBI - NEW YORK

(CONTINUED OVER)

Greenberg/Gray

(Handwritten signature)



SEP 14 1978

Daly to Bassett Memo
Re: U. S. v. Gray, Felt, and Miller

Also of interest, is the Government's agreement to the extent covered by Brady to furnish in response to question 10 of the discovery request by Mr. Gray, "All threats of indictment or the institution of disciplinary action made by the Government to any person in connection with the investigation and/or prosecution of this case."

We anticipate meetings with the Department concerning their responses to the discovery request and will raise questions presented by their response.

RECOMMENDATION: For information.

per

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____	Ident. _____	Rec Mgnt. <i>[Signature]</i>
Assoc. Dir. _____	Intell. _____	Tech. Servs. _____
Dep. AD Adm. <i>[Signature]</i>	Laboratory _____	Training _____
Dep. AD Inv. _____		Public Affs. Off. _____

LAW OFFICES

Diuguid, Siegel & Kennelly

One Thousand Connecticut Avenue, N. W.

Suite 1112

Washington, D. C. 20036

(202) 872-0700

*Miller
file copy*

JOHN P. DIUGUID*
THOMAS L. SIEGEL*
THOMAS A. KENNELLY*
KARL W. PILGER*

May 1, 1978

OF COUNSEL
HOWARD S. EPSTEIN*

MARYLAND OFFICES

107 W. JEFFERSON ST.
ROCKVILLE, MD. 20850

3737 BRANCH AVENUE
HILLCREST HEIGHTS,
MARYLAND 20031

*D.C.
*MD.

Barnet D. Skolnik, Esquire
Special Counsel Criminal Division
U. S. Department of Justice
Room 2244
Washington, D. C. 20530

Re: U.S. v. Gray, et al.

Dear Mr. Skolnik:

Attached herewith please find our informal Request for a Bill of Particulars and Discovery Requests submitted on behalf of defendant Edward S. Miller.

Sincerely,

DIUGUID, SIEGEL & KENNELLY

By

Thomas A. Kennelly
Thomas A. Kennelly

Attachments

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

ENCLOSURE

Greenberg/Gray-5259

602-118045-10

DISCOVERY REQUESTS

GENERAL

1. The names of all "attorneys for the Government," within the meaning of Rule 6(d), who were present when the Grand Jury was in session, including the Grand Jury which returned this indictment and its predecessor Grand Jury which heard testimony in this case.
2. A copy of the directives or orders in February 1973 which redesignated the Domestic Intelligence Division as the Intelligence Division of the FBI.
3. The complete criminal record of all Weatherman fugitives referred to in paragraph 5 of the indictment, together with copies of the pertinent fugitive warrants and supporting affidavits.
4. The complete criminal record of all persons whom the Government intends to call as witnesses, or at this time contemplates might be called as witnesses.
5. All FBI directives or memoranda generally authorizing the utilization of undercover FBI agents in Weatherman investigations and generally describing the training of such undercover agents.
6. The FBI personnel file of Edward S. Miller.
7. A written list of the names and addresses of all Government witnesses which the Government intends to call in the presentation of the case in chief together with any record of prior felony convictions of any such witnesses which are within the knowledge of the attorneys for the Government. [ABA Standards, Sec. 2.1(a)(i)]
8. Relevant written or recorded statements, including Grand Jury minutes of relevant testimony of persons intended to be called as witnesses at trial. [ABA Standards, Sec. 2.1(a)(i) and (iii)]
9. Any materials or information in the possession or control of the prosecutors which tends to negate the guilt of the accused as to the offense charged or would tend to reduce his punishment therefore. (ABA Standards, Sec. 2.1(c)]
10. All written statements and the substance of all oral statements made by this defendant which the Government intends to offer in evidence at trial.
11. All written statements and the substance of all oral statements made by any other co-conspirators during the course of the conspiracy which the Government intends to offer in evidence at trial against this defendant.

12. All written statements and the substance of all oral statements made prior to or after the conspiracy by co-defendants which the Government intends to offer in evidence at trial. (Bruton v. U.S., 391 U.S. 123.)
13. All FBI documents reflecting the purpose of, reasons for, and anticipated results of the surreptitious entries referred to in the indictment.
14. All promises, inducements, rewards, or immunity given by the Government to any person it intends to call as a witness at trial.
15. Statements of all persons interviewed reflecting what such persons heard Mr. Gray say, material to the offense charged in this indictment, when he spoke to groups of FBI officials, as alleged in Overt Acts No. 2 and No. 4.
16. All information in the FBI files which shows that the "relatives and acquaintances of Weatherman fugitives" referred to in the indictment had contact with, supported, aided, abetted, or in any way assisted said Weatherman fugitives.

APPROVAL OF HIGHER AUTHORITY/
MISTAKE OF LAW/CRIMINAL INTENT

- (1) 17. A document entitled "POSITION PAPER ON JURISDICTION, 2/13/75, FBI Intelligence Division," together with all supporting papers.
- (2) 18. A document entitled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historical Perspective, 10/28/75," together with all supporting papers.
- (3) 19. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define, describe, or explain the term "surreptitious entry."
- (4) 20. All orders, directives, policy statements, or guidelines, issued to or by the FBI regarding the "technique of surreptitious entry," effective 1950 to the present, including but not limited to:
 - a. Such documents which describe under what circumstances surreptitious entries are legal and under what circumstances they are illegal.
 - b. Such documents which describe what prior approval is required for utilization of the technique of surreptitious entry.

c. The so-called "Hoover memos" of 1966 and 1967.

- (5) 21. All documents showing dissemination of any or all of the documents called for in paragraph 20 above to the following offices of the FBI in which Mr. Miller served during the periods indicated below.
- Los Angeles, 1950-51
San Francisco, 1951-62
FBI Headquarters, 1962-66, 1969-74
Mobile, 1966
Honolulu, 1966-69
Chicago, 1969
- (6) 22. All FBI records and all records in the possession of the Government, showing that special agents of the FBI conducted surreptitious entries from 1950 through 1974, including documentation showing whether or not such surreptitious entries were approved by the President of the United States, the Attorney General, the Director of the FBI, other Government official, or a court order.
- (25) 23. All prosecutive reports from FBI special agents to federal prosecutors prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature that special agents of the FBI conducted surreptitious entries.
- (26) 24. All communications from FBI Headquarters to the Departments of Justice or other Government agencies prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature, that special agents of the FBI conducted surreptitious entries.
- (7) 25. Those portions of all Department of Justice directives, guidelines, policy statements, orders, memoranda, or manuals effective from 1950 to the present which set forth the conditions for prosecution of FBI employees who utilize the technique of surreptitious entry.
- (15) 26. All documents and memoranda prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the FBI concerning plans to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to the so-called "Huston Report" in 1970 or 1971.
- (16) 27. All documents showing communication between the White House and the Department of Justice, and the White House and the FBI, concerning plans and investigative methods to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to:
- a. a memorandum prepared in the early 1970's by FBI liaison to the White

b6
b7C

House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the FBI to use all means possible to stop terrorist activities.

- (17) 28. Those portions of all tapes and transcripts of White House conversations in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.
- (18) 29. All documents, including reports and statements of persons interviewed, which indicate that there was an absence of approval by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

NATIONAL SECURITY

- (8) 30. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define or distinguish between the following terms:
- a. "National security," "domestic security," and "internal security."
 - b. "Foreign intelligence" and "domestic intelligence."
- (9) 31. Documents prepared by a joint Department of Justice/FBI committee known as the "Department Review Committee" which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.
- (10) 32. All other documents which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.
- (11) 33. All documents in the possession of the Department of Justice, the FBI, DOD, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:

- a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the FBI detailing the relationship of members of the Weatherman organization and foreign governments or agents.
 - b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one [redacted] a Weatherman member, which indicates contact with the government of North Vietnam. b6
b7C
 - c. Internal documents of the Weatherman organization including all copies in the possession of the government of the publication "Osawatomie," the Weatherman periodical.
 - d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to [redacted] b7D
 - e. Documents in FBI files showing communications between the Weatherman organization, SDS, the "Venceremos Brigade," and the Cuban Mission to the United Nations.
 - f. Pertinent documents from FBI files designated as "109-12" (foreign political matters) and all sub-files thereunder.
 - g. Pertinent documents from FBI files designated as "66-1686" (the "June file").
 - h. Pertinent documents from FBI files described as "Foreign Influence in the New Left" and all sub-files thereunder.
 - i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.
34. All orders, directives, policy statements, or guidelines issued to or by the FBI, effective from 1950 to the present regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.
- (13) 35. All documents showing dissemination of any or all of the documents called for in paragraph 34 above to the following offices of the FBI in which Mr. Miller served during the periods indicated:

Los Angeles, 1950-51
 San Francisco, 1951-62
 FBI Headquarters, 1962-66, 1969-74
 Mobile, 1966
 Honolulu, 1966-69
 Chicago, 1969

*letter
on 10 added
list of the R*

(12) →

- (14) 36. All documents showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September 1972.

PRE-INDICTMENT DELAY

- (19) 37. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries...." Disclose the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.
38. Reference the above press release which stated (page 4): "Subsequent to the return of the Kearney indictment, the Department learned that a former high FBI official was prepared to testify under oath that he had personally communicated to Kearney the personal wishes of then FBI Director Hoover that any available means be utilized to catch Weatherman fugitives. This testimony, potentially of great assistance to Mr. Kearney, now is unavailable because of the official's death." Disclose all written statements and the substance of all oral statements made by former Deputy Director of the FBI, William C. Sullivan, in the possession of the government relating to the Weatherman fugitive investigation, including but not limited to all memoranda, etc. made by him while an official of the FBI and all interviews and Grand Jury testimony after his retirement (on this subject).
- (20) 39. All other documents reflecting the personal wishes of FBI Director Hoover with regard to the means to be utilized to catch Weatherman fugitives.
40. A memorandum from William Ruckelshaus, Deputy Attorney General, to Clarence M. Kelley, Director, FBI, written in approximately July 1973, believed to begin with the words "Dear Chief," which discussed, inter alia, surreptitious entries.
41. The FBI's response to the above memorandum, insofar as it pertains to surreptitious entries.
- (21) 42. All evidence showing that any Attorney General of the United States or President of the United States, while in office, learned of the utilization of the technique of surreptitious entry by FBI agents or officials, but declined to order an investigation or rejected an

investigation or declined to prosecute any employees or former employees of the FBI.

SELECTIVE PROSECUTION

- (22) 43. A list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers came to the attention of the Department of Justice.
- (23) 44. A list of all investigations conducted by the FBI from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers.
- (24) 45. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, all documents showing the basis for such determination.

Thomas A. Kennelly
Attorney for Edward S. Miller

EDWARD S. MILLER

REQUEST FOR BILL OF PARTICULARS

Indictment, paragraph 7:

1. As to "the District of Columbia and elsewhere," specify the "elsewhere."
2. Give names and last known addresses of all "others to the Grand Jury known."
3. Give names and last known addresses of all the "citizens of the United States" against whom the defendants conspired.
4. Name all the "Weatherman fugitives" referred to in this paragraph.
5. Particularize the "certain rights and privileges secured to them by the constitution and laws of the United States" if other than the Fourth Amendment.

Indictment, paragraph 8:

6. Give names and last known addresses of all the "other officials and agents of the FBI" referred to in this paragraph.
7. Name all the "homes and premises of relatives and acquaintances of Weatherman fugitives" referred to in this paragraph; and name the "relatives and acquaintances" as well as the "Weatherman fugitives" if different from those referred to in paragraph 7 of the indictment.
8. If there are other surreptitious entries intended to be proof of the conspiracy alleged, in addition to those related in the Overt Acts, provide particulars as to each.

Overt Acts:

9. As to Overt Act No. 1:
 - a. What is the exact date of the conversation, to the best of the government's knowledge?
 - ~~b. At what address did the conversation take place?~~
 - c. At what time?
 - d. Who else was present?
 - e. Who, if anyone, overheard the conversation?
 - f. Describe the substance of the conversation.

Greenberg/Gray-5267

Edward S. Miller

10. As to Overt Act No. 2:

- a. Give names and last known addresses of all members of the "group of FBI officials" referred to in this Overt Act.
- b. Identify the conference by name, description, or purpose.
- c. Describe the substance of what Mr. Gray actually said as it relates to this indictment.

11. As to Overt Act No. 4:

- a. Give names and last known addresses of all members of the "group of FBI officials" referred to in this Overt Act.
- b. Identify the conference by name, description, or purpose.
- c. Describe the substance of what Mr. Gray actually said as it relates to this indictment.

12. As to Overt Act No. 5:

- a. Give names and last known addresses of the "agents attending a Weatherman in-service training course."
- b. Give name(s) and last known address(es) of the person(s) who gave the lecture.
- c. Give names and last known addresses of any other persons who heard the lecture.
- d. Describe in detail the substance of the lecture as it relates to this indictment.

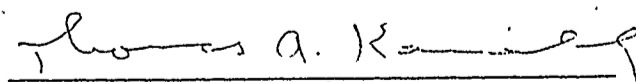
13. As to Overt Act No. 15, give names and last known addresses of all the "agents of the FBI" referred to therein.

14. As to Overt Act No. 17, give names and last known addresses of all the "agents of the FBI" referred to therein.

15. As to Overt Act No. 19, give names and last known addresses of all the "agents of the FBI" referred to therein.

16. As to Overt Act No. 21, give names and last known addresses of all the "agents of the FBI" referred to therein.

17. As to Overt Act No. 31, give names and last known addresses of all the "agents of the FBI" referred to therein.



Thomas A. Kennelly
Attorney for Edward S. Miller

LAW OFFICES

FRANK, BERNSTEIN, CONAWAY & GOLDMAN

1300 MERCANTILE BANK & TRUST BUILDING

2 HOPKINS PLAZA

BALTIMORE, MARYLAND 21201

CABLE ADDRESS
FRASKOP

AREA CODE 301
547-0500

*Gray
file copy*

ELI FRANK, JR.
HOWARD H. CONAWAY
ROBERT M. GOLDMAN
JOHN H. HEROLD
M. PETER MOSER
LAWRENCE F. RODOWSKY
LEONARD E. COHEN
SHALE O. STILLER
ROBERT G. LEVY
STEPHEN H. SACHS
WILBERT H. SIROTA
MORTON P. FISHER, JR.
BERRYL A. SPEERT
GEORGE W. LIEBMANN
RONALD P. FISH
PETER F. AXELRAD
MAX E. BLUMENTHAL
ALAN I. BARON
MONTE FRIED
J. DARBY BOWMAN, JR.
DONOVAN M. HAMM, JR.
PETER H. GUNST
JOHN J. KENNY
ANN MCKENRICK TURNBULL

ELI FRANK
1874-1958

JOSEPH BERNSTEIN
1897-1972

CYRIL R. MURPHY, JR.
GREGORY L. REED
JOHN J. WOLOSZYN
ALLAN P. HILLMAN
FRED WOLF, III
JEFFREY ROCKMAN
ELEANOR M. CAREY
JAMES A. ROTHSCHILD
ROBERT S. CURRAN
ROBERT B. LEVIN
ELLEN LIPTON HOLLAND
NEAL SEROTTE
MICHAEL J. TRAVIESO
SANDRA M. GILMORE
JEROME D. CARR
SUSAN M. RITTENHOUSE
MARY KATHERINE FARMER
ALAN M. BARR
JANE ENNIS SHEEHAN
JEFFREY A. WYAND

COUNSEL
GEORGE GUMP

May 1, 1978

Barnet D. Skolnik, Esquire
Assistant United States Attorney
8th Floor, United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: U. S. v. Gray

Dear Mr. Skolnik:

Pursuant to our recent discussion, attached hereto is a list of those items which defendant Gray seeks to discover prior to trial of the above case. This list is being submitted to you in order to comply with local rules requiring counsel to attempt to resolve discovery matters prior to the filing of formal motions. We wish to note that if it is necessary to amend this list in any significant respect, we will advise you in advance of May 22, 1978, the date set for the filing of motions.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Very truly yours,

Alan I. Baron
Alan I. Baron

AIB/pr
Encl.

62-118045-10

ENCLOSURE

Greenberg/Gray-5269

7. The names and addresses of persons whom the Government intends to call as witnesses, together with any statements by such witnesses in the Government's possession, custody or control.

2. The names and addresses of such "others" as are known to the Grand Jury with whom the defendant Gray is alleged to have conspired.

4. The names and addresses of each person questioned by the Government who will not be called as a witness, together with any statements by such persons in the Government's possession, custody or control.

4. All books, papers, documents, records, photographs or other tangible objects in the possession, custody or control of the Government, including any documents or reports of F.B.I. personnel, which in any manner pertain to F.B.I. efforts or the efforts of local law enforcement agencies to apprehend Weatherman fugitives.

5. The criminal record of any witnesses to be called by the Government.

2. To state whether any person whom the Government intends to call as a witness was or is under investigation or indictment, or was or is subject to disciplinary action by an agency of the United States for any offense against the United States or of any state, or for violation of any rule or regulation of an agency of the United States. If the answer is in the affirmative, to disclose (a) the name and address of each such witness; (b) the details and circumstances of each investigation and/or indictment and/or disciplinary action; (c) as to any such investigation, indictment or disciplinary action, the details and circumstances of all promises or representations made by either the prosecutors or investigators in this case to each such witness or person acting on behalf of such witness.

7. To disclose whether any electronic eavesdropping or wire tapping was employed by the U. S. Government or any State Government or any third person with the knowledge of the U. S. Government, directly or indirectly, in the preparation and/or investigation of this case. If the answer is in the affirmative, to disclose any and all tape, wire or other recordings and/or transcriptions of such recordings or conversations in which any of the defendants and/or alleged conspirators, named and unnamed, participated

8. The fruits of any searches and/or seizures conducted in connection with the investigation of the matters alleged in the indictment, together with all warrants in support thereof, including but not limited to, items seized from F.B. I. offices in Washington, D.C. and New York City on or about August 19, 1976, which documents defendant Gray signed, approved, or which documents were allegedly prepared as a result of the conspiracy alleged in the indictment herein.

5 ~~8~~. All promises, inducements or rewards given by the Government to any person whom it intends to call as a witness.

10. All threats of indictment or the institution of disciplinary action made by the Government to any person in connection with the investigation and/or prosecution of this case.

41 ~~11~~. All books, papers, records, recordings, documents, photographs or other tangible objects in the possession, custody or control of the Government which directly or indirectly reflect involvement or collaboration by the Weatherman Organization or its members with any foreign power, or with any agent of a foreign power.

26 ~~12~~. If, during the period 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents authorized (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; or (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, produce all books, records, documents, recordings; photographs or other tangible objects which reflect such authorizations.

27 ~~13~~. If, during the period 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents ever withdrew authority for (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, produce all books, records, recordings, documents, photographs or other tangible objects which reflect withdrawal of such authorization.

28 ~~14~~. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents every authorized the F.B.I. to use surreptitious entries without a warrant; installation and/or retrieval of microphones without a warrant; installation of wrietaps without a warrant; the opening of mail without a warrant, as investigative techniques, produce all books, records, recordings, photographs, documents or other tangible objects which reflect the authorization to use such investigative techniques.

29 ~~15~~. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents ever withdrew authority from the F.B.I. to use surreptitious entries without a warrant; installation and/or retrieval

of microphones without a warrant; installation of wiretaps without a warrant; or the opening of mail without a warrant, as investigative techniques, produce all books, records, recordings, photographs, documents or other tangible objects which reflect removal of the authorization to use such investigative techniques.

12 16. All books, papers, records, documents, photographs, or other tangible objects in the custody or control of the Government which reflect that F.B.I. agents engaged in warrantless surveillance techniques from the period January 1, 1960 to the present.

17. Provide a copy of the memorandum purportedly issued by F.B.I. director Hoover in 1966-67 directing agents to halt warrantless entries.

20 18. All books, papers, records, documents, photographs or other tangible objects in the custody or control of the Government which reflect that any person or persons in the Department of Justice, other than members of the F.B.I., were aware of the use of warrantless surveillance techniques by the F.B.I. from the period January 1, 1960 to the present.

21 19. All prosecutive reports from F.B.I. agents to federal prosecutors prepared during the period January 1, 1960 to the present which reflect that F.B.I. agents engaged in warrantless surveillance techniques.

20. All books, papers, records, documents, photographs or other tangible objects in the possession, custody or control of the Government pertaining to the creation of Squad 47 in New York Field Office, all of the records of the activities of such Squad 47 from January 1, 1960 to the present.

30 21. All books, papers, records, documents, photographs, or other tangible objects in the possession, custody or control of the Government, which pertain to the creation and function of the Cabinet Committee on Terrorism and any contact between that Committee and any representative of the F.B.I., including but not limited to the defendant, Gray.

22. All books, papers, records, notes, recordings, documents, photographs or other tangible objects in the Government's possession, custody or control, emanating from or directed to the defendant Gray and which pertain to the Weatherman Organization, in-service classes pertaining to Weathermen, studies of Weatherman Organization, or any foreign or domestic terrorist group operating or attempting to operate in the United States.

23. All books, papers, records, notes, recordings, documents or other tangible objects regarding the visit of defendant Gray to the National Security Agency on or about August 30, 1972.

24. All books, records, notes, recordings, documents or other tangible objects in the Government's possession, custody or control which pertain to meetings between defendant, Gray and the President's Foreign Intelligence Advisory Board on or about June 1, 1972 and August 2, 1972, including but not limited to any notes or other records made by any member of said Board or by members of their staff.

18 25. All books, papers, records, recordings, photographs, documents and other tangible objects in the Government's possession, custody or control which reflect contact between the President's Foreign Intelligence Advisory Board, or members of the Board staff, and the F.B.I., particularly the Domestic Intelligence Division of the F.B.I.

8 26. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the conversation alleged to have taken place in August, 1972, between Mr. Gray and Mr. Miller, as set forth in the first overt act of the indictment.

9 27. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the statement allegedly made by Mr. Gray on September 12, 1972, as set forth in the second overt act in the indictment.

28. All books, records, notes, documents, photographs or other tangible objects in the Government's possession, custody or control which reflect the content of the Weatherman in-service training course held from October 2, 1972 to October 6, 1972, referred to in the third and fifth overt acts in the indictment.

29. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the statement allegedly made by Mr. Gray on September 26, 1972 as set forth in the fourth overt act of the indictment.

30. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control issued by Mr. Gray during his tenure as Acting Director advising F.B.I. personnel that breach of the law or F.B.I. regulations by agents would not be tolerated.

6 31. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control reflecting efforts taken during Mr. Gray's tenure to ensure that the F.B.I. operated within the confines of the Keith decision.

32. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control regarding efforts to apprehend Arab terrorists operating or attempting to operate in the United States during Mr. Gray's tenure.

33. Studies conducted by the Domestic Intelligence Division of the F.B.I. regarding F.B.I. jurisdiction in the intelligence field.

34. Transcript of meeting between defendant Gray and SAC Grappe in August, 1972.

35. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control of meetings between defendant Gray and any SACs at F.B.I. headquarters.

36. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control regarding Weathermen, and crimes alleged members of Weatherman were charged with.

37. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control reflecting the authority of each person who was present in any grand jury room during proceedings leading to this indictment to be present in such grand jury room.

38. If any evidence presented to the grand jury which handed down the indictment was originally presented to any other grand jury, produce all books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which purported to authorize the transfer to the indicting grand jury, evidence received by any grand jury other than the grand jury which handed down the indictment.

39. A copy of the directives or orders in February 1973 which redesignated the Domestic Intelligence Division as the Intelligence Division of the FBI.

40. The complete criminal record of all Weatherman fugitives referred to in paragraph 5 of the indictment, together with copies of the pertinent fugitive warrants and supporting affidavits.

41. All FBI directives or memoranda generally authorizing the utilization of undercover FBI agents in Weatherman investigations and generally describing the training of such undercover agents.

42. Relevant written or recorded statements, including Grand Jury minutes of relevant testimony of persons intended to be called as witnesses at trial.

10 43. All written statements and the substance of all oral statements made by any other co-conspirators during the course of the conspiracy which the Government intends to offer in evidence at trial against this defendant.

11 44. All written statements and the substance of all oral statements made prior to or after the conspiracy by co-defendants which the Government intends to offer in evidence at trial.

45. All FBI documents reflecting the purpose of, reasons for, and anticipated results of the surreptitious entries referred to in the indictment.

46. All information in the FBI files which shows that the "relatives and acquaintances of Weatherman fugitives" referred to in the indictment had contact with, supported, aided, abetted, or in any way assisted said Weatherman fugitives.

47. A document entitled "POSITION PAPER ON JURISDICTION, 2/13/75, FBI Intelligence Division," together with all supporting papers.

48. A document entitled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historical Perspective, 10/28/75," together with all supporting papers.

49. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define, describe, or explain the term "surreptitious entry."

50. All orders, directives, policy statements, or guidelines, issued to or by the FBI regarding the "technique of surreptitious entry," effective 1960 to the present, including but not limited to:

- a. Such documents which describe under what circumstances surreptitious entries are legal and under what circumstances they are illegal.
- b. Such documents which describe what prior approval is required for utilization of the technique of surreptitious entry.
- c. The so-called "Hoover memos" of 1966 and 1967.

51. All FBI records and all records in the possession of the Government, showing that special agents of the FBI conducted surreptitious entries from 1960 through 1974, including documentation showing whether or not such surreptitious entries were approved by the President of the United States, the Attorney General, the Director of the FBI, other Government official, or a court order.

*Mosses
Dates*

19 ~~52~~. All communications from FBI Headquarters to the Departments of Justice or other Government agencies prepared from 1960 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature, that special agents of the FBI conducted surreptitious entries.

31 ~~53~~. All documents and memoranda prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the FBI concerning plans to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to the so-called "Huston Report" in 1970 or 1971.

32 ~~54~~. All documents showing communication between the White House and the Department of Justice, and the White House and the FBI, concerning plans and investigative methods to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to:

- a. a memorandum prepared in the early 1970's by Mr. FBI liaison to the White House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the FBI to use all means possible to stop terrorist activities.

b6
b7C

33 ~~55~~. Those portions of all tapes and transcripts of White House conversations in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.

34 ~~56~~. All documents, including reports and statements of persons interviewed, which indicate that there was an absence of approval

by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

40 57. Documents prepared by a joint Department of Justice/FBI committee known as the "Department Review Committee" which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.

42 58. All other documents which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.

43 58. All documents in the possession of the Department of Justice, the FBI, DOD, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:

- a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the FBI detailing the relationship of members of the Weatherman organization and foreign governments or agents.
- b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one [redacted] a b6 Weatherman member, which indicates contact with b7C the government of North Vietnam.
- c. Internal documents of the Weatherman organization including all copies of the possession of the government of the publication "Osawatomie," the Weatherman periodical. b7D
- d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to [redacted]
- e. Documents in FBI files showing communications between the Weatherman organization, SDS, the "Venceremos Brigade," and the Cuban Mission to the United Nations.

- f. Pertinent documents from FBI files designated as "109-12" (foreign political matters) and all sub-files thereunder.
- g. Pertinent documents from FBI files designated as "66-1686" (the "June file").
- h. Pertinent documents from FBI files described as "Foreign Influence in the New Left" and all sub-files thereunder.
- i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.

3860. All orders, directives, policy statements, or guidelines issued to or by the FBI, effective from 1950 to the present regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.

3561. All documents showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September 1972.

4862. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries...." Disclose the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.

63. Reference the above press release which stated (page 4): "Subsequent to the return of the Kearney indictment, the Department learned that a former high FBI official was prepared to testify under oath that he had personally communicated to Kearney the personal wishes of then FBI Director Hoover that any available means be utilized to catch Weatherman fugitives. This testimony, potentially of great assistance to Mr. Kearney, now is unavailable because of the official's death." Disclose all written statements and the substance of all oral statements made by former Deputy Director of the FBI, William C. Sullivan, in the possession of the government relating to the Weatherman fugitive investigation, including but not limited to all memoranda, etc. made by him while an official of the FBI and all interviews and Grand Jury testimony after his retirement (on this subject).

64. All other documents reflecting the personal wishes of FBI Director Hoover with regard to the means to be utilized to catch Weatherman fugitives.

65. A memorandum from William Ruckelshaus, Deputy Attorney General, to Clarence M. Kelley, Director, FBI, written in approximately July 1973, believed to begin with the words "Dear Chief," which discussed, inter alia, surreptitious entries.

66. The FBI's response to the above memorandum, insofar as it pertains to surreptitious entries.

67. All evidence showing that any Attorney General of the United States or President of the United States, while in office, learned of the utilization of the technique of surreptitious entry by FBI agents or officials, but declined to order an investigation or rejected an investigation or declined to prosecute any employees or former employees of the FBI.

22 68. A list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers came to the attention of the Department of Justice.

23 69. A list of all investigations conducted by the FBI from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers.

70. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, all documents showing the basis for such determination.

71. All books, papers, records, documents, photographs, and other tangible objects in the government's possession, custody, or control which were issued by Mr. Gray, received by Mr. Gray, or prepared at Mr. Gray's request and which deal in any way with the Weatherman Organization, or the abandonment or resumption of intelligence and/or counterintelligence by the FBI, or within the scope of the FBI's jurisdiction in the intelligence or counterintelligence field.

15 72. All FBI documents marked either "June" and/or "Do Not File" from the period January 1, 1960, to the present.

16 73. All FBI Headquarters Inspection Division reports and inspector's worksheets of inspections conducted by the FBI Headquarters Inspection Division of the New York Field Office, the Washington Field Office, and any other field office in which the Weatherman Organization, or any member thereof, was the subject of an investigation, or in which efforts of any kind were made by special agents of the FBI to locate and apprehend fugitive members of the Weatherman Organization for the period January 1, 1960, to the present.

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
P. O. BOX 742
ARLINGTON, VIRGINIA 22216
(703) 525-2260

*Felt
file copy*

HARVEY B. COHEN
JERRIS LEONARD*
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
THOMAS A. KAROL
*MEMBER D. C. BAR ONLY

WASHINGTON, D. C. OFFICE
1700 PENNSYLVANIA AVENUE, N. W.
(202) 872-1095

ALEXANDRIA, VIRGINIA OFFICE
424 N. WASHINGTON STREET

May 1, 1978

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Barnet D. Skolnik
Department of Justice
Constitution Avenue
Washington, D.C. 20530

Re: United States of America v.
L. Patrick Gray, et al

Dear Mr. Skolnik:

In accordance with our conference of April 25, I am acknowledging receipt of the following:

1. Grand Jury Testimony. b3
2. Internal F.B.I. Memoranda relating to the Weatherman activities.
3. Memoranda from Edward S. Miller to W. Mark Felt.
4. SAC Memoranda from the New York Field Office relating to results of entries by F.B.I. agents.
5. Dissemination Memoranda from the New York Field Office.
6. Copy of L. Patrick Gray's hand written notes from a September 1972 conference.

It is my understanding that I will receive reproductions of photographs which were fruits of the surreptitious entries recited in the indictment. Additionally, many of the Xerox copies provided us are barely legible and I should like to have access to the originals.

I would like to take this opportunity to make an informal discovery request pursuant to the local rules of the United

62-118045-10
ENCLOSURE
Greenberg/Gray-5280

May 1, 1978

States District Court. In addition to material of a general nature, I would like to request any material or information which tend to support motions to dismiss for either pre-indictment delay or selective prosecution and also, any evidence which tends to support the view that the Weatherman organization constituted a national security threat justifying the use of entries as described in the indictment:

General Discovery Requests

- (B.2) 1. Please furnish the names and addresses of persons whom the government intends to call as witnesses, together with their relevant written and recorded statements.
- (B.3) 2. Please furnish the names and addresses of each person questioned by the government and any cooperating local law enforcement agencies and the report and notes from any such interviews.
3. Please furnish any books, papers, documents, records, photographs and all tangible objects which the government intends to use at trial which have not already been provided.
- (A.7) 4. Please furnish any report or statements of experts.
5. Please furnish the complete criminal records of all persons whom the government intends to call or at this time contemplates may be called as witnesses.
- 9 6. Please provide access to inspect and copy all items seized from the offices of the F.B.I. in Washington, D.C. and New York City on or about August 19, 1976.
- B.(4) 7. Please indicate all promises, inducements and rewards given by the government to any person that the government intends to call as a witness at trial.
8. Please make available all information of whatever form which is favorable to the Defendant, W. Mark Felt, or tends to exculpate him either through an indication of his innocence or through the potential impeachment of a co-conspirator or potential government witness, and any information or source which may lead to evidence which is favorable to the Defendant.

May 1, 1978

(C.2.) 9. Please list all present and former members of the Weatherman organization, and last known address and state, whether they are under indictment; or have been acquitted of charges related to their alleged activities as members of the Weatherman organization.

10. With reference to the persons referred to in the indictment, please state their full names, last known address, their relationship or association with members of the Weatherman organization, whether they have been indicted and result of the indictment, and any information that they had contact with, supported, aided, or in any way assisted members of the Weatherman organization.

(C.2.) 11. Please list by date and describe all criminal acts the government believes were committed by members of the Weatherman organization or its predecessor organization or allied groups, and the members believed to be involved and their last known addresses.

12. Please provide any correspondence by the Justice Department to any Congressional committee or organization relating to the enforcement of Section 241 of Title 18 of the United States Code.

Pre-Indictment Delay

(E.1.) 1. Please state the first date any employee of the Department of Justice learned that the Defendant had ordered any of his assistants to use warrantless entries in the F.B.I. investigation of the Weatherman organization and state the name and addresses of any such person or persons.

(E.2.) 2. Please state how long any employee of the Department of Justice knew and had reasonable grounds to believe that surreptitious entries were being used in the Weatherman investigations before a decision was made by the Department of Justice to conduct a full scale investigation of the activities mentioned in the indictment.

May 1, 1978

3. Please state the name and current address of any Attorney General of the United States or President of the United States who learned of F.B.I. techniques of surreptitious entry while in office, but who either did not order an investigation or rejected an investigation or declined to prosecute any agents of the F.B.I.

4. Please provide any facts which would tend to support the Defendant's claim that he was prejudiced by pre-indictment delay.

Selective Prosecution

1. Did the Department of Justice conduct an investigation into warrantless mail openings, entries or electronic surveillance by members of the C.I.A. or any other government agency. If so, was a decision reached to prosecute any members of these agencies?

2. Has any Attorney General decided not to prosecute the Defendant or postpone a prosecutorial decision concerning the acts alleged in the indictment. If so, please indicate when that decision was made and produce any documents detailing reasons for same.

National Security Defense

1. I would like to have access for inspection and copying any information to support the proposition that the Weatherman organization constituted a national security threat justifying the use of surreptitious entries. This should include any and all evidence which supports the view that members of the Weatherman organization had contact with or received support from any hostile foreign government or representatives of hostile foreign governments or persons supporting the aims of any hostile foreign governments.

2. I would like to inspect any documents relating to any and all wiretapes and electronic surveillance conducted by any government agency in investigations of Weatherman activities.

3. Please provide all interviews, memorandum or tapes prepared by or for President Nixon, Attorney General Mitchell or any other member of the White House staff concerning Weatherman activities.

May 1, 1978

- (F.8.) 4. Please provide a copy of the so called "Chicago report."
5. I would like access for inspection and copying any internal documents of the Weatherman organization.
6. I understand from our April 25 conference that you will provide for me a copy of the publication, Osawatomie.
7. Please provide any and all reports of any government agency including but not limited to the F.B.I. and C.I.A. relating to Weatherman activities with the exception of those which I have already been provided.
8. Please provide any and all reports of foreign law enforcement or government agencies relating to the Weatherman organization.
9. Please provide any documents which indicate whether or not the Weatherman organization was classified by any government agency or committee as a National Security Threat or a threat to the Internal Security of the United States.
- (C.4) 10. Please provide documents or names and addresses of any potential government witnesses or any government informant who could support the proposition that members of the Weatherman organization had contact with or received support from any hostile foreign government or representatives of any hostile foreign government or persons supporting the aims of any hostile foreign government.
11. Please provide any and all Orders, Memorandums, Testimony or other documents issued within the last 38 years by any President of the United States, his designated representative, any director of the F.B.I., C.I.A. or predecessor organization dealing with the procedures or guidelines to be followed in matters involving the national security or internal security of the United States.
12. Please state the date, time and provide documents relating to any other and all warrantless entries ordered by the Defendant or F.B.I. officials on behalf of the Department of Justice
13. Provide documents relating to any new guidelines sent to the F.B.I. relating to investigative techniques in intelligence gathering.

Barnet D. Skoinik

Page 6

May 1, 1978

Inasmuch as the first paragraph of this letter was drafted last week and you have since retrieved several documents from us, the enumerated acknowledgment in that paragraph must be limited, at this time, to reflect that fact. You know what you retrieved and presently I do not.

Please be advised that, due to the press of time and some other business, this request is not quite complete. I anticipate that my additional requests will be completed and in your hands within a few days.

I certainly appreciate your cooperation with regard to the above mentioned discovery requests relating to this case.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER



BRIAN P. GETTINGS

MDC/BPG:jet



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 10, 1978

Address Reply to the
Division Indicated
and Refer to Initials and Number

BDS : FJM : ams

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al

Dear Sirs:

The following constitutes the Government's response to the various defense requests for non-Rule 16 discovery in this case, as set forth in your three respective letters of May 1, 1978. As a review of this letter will make clear, we have made every effort to agree to your requests even where, as is often the case, we believe the request to be insupportable as a matter of law. We want to avoid extended litigation in this case--we choose rather to accommodate you wherever possible so that we can get on with trying the case at the earliest reasonable date. Only where a discovery request is in our judgment truly unreasonable have we declined to agree.

With regard to the massive quantities of material which we herein agree to discover to you, you will shortly receive a list of those materials that are presently available for your immediate review. You will be notified as other materials become available for that purpose. Of course, as to all material, the government retains the right suitably to redact the material so as to protect on-going investigations and to prevent undue embarrassment or injury to unrelated third parties. As to all discovery herein agreed to, the phrase "to the extent known to Government counsel" should be understood to modify all of our discovery undertakings.

Requests Made by Defendant Gray:

1. All Jencks and Brady material (if any) will be turned over 30 days before trial.

2. A list of the known unindicted coconspirators will be provided as particulars at the appropriate time.

62 - 118045 - 10
ENCLOSURE Greenberg/Gray-5286

3. This material will not be provided as such. However, Brady material (if any) will be turned over 30 days before trial.

4. The Government will make available the FBI files on the Weatherman. This will consist of Weatherman files (including control files) maintained at FBI headquarters, the New York Field Office and the Newark Field Office, as well as FBI materials relating to Weatherman that have been found in other than Weatherman files. All such material will be made available for the period from the inception of the Weather Underground Organization (1969) to June 30, 1974. That date, which is thirteen months after the closing date of the conspiracy as charged in the indictment, is the date on which the last of the present defendants, Mr. Miller, retired from the FBI.



b6
b7C

5. This material will be provided.

6. Brady material (if any) will be turned over 30 days before trial.

7. The answer is negative.

b6
b7C

8. This material, to the extent it is relevant to the Weatherman investigation and is still available, will be provided.



9. Brady material, (if any) will be turned over 30 days before trial.

10. Brady material, (if any) will be turned over 30 days before trial.

11. This request is denied as irrelevant.

12. This material will be provided to the extent *McShane* indicated in ¶4 above.

13. This material will be provided to the extent indicated in ¶4 above. Also, additional material will be provided concerning the FBI's response to the Keith decision. *McShane*

14. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

15. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

16. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

17. These memoranda will be provided. *Potts*

18. Relevant material will be provided to the extent indicated in ¶4 above. *McShane*

19. Relevant material will be provided to the extent indicated in ¶4 above.

20. This material will be provided to the extent indicated in ¶4 above.

21. All such documents in FBI files which indicate that they were seen by defendant Gray will be provided.

22. All such documents relating to the Weatherman investigation have either already been provided as Rule 16 discovery or will be provided to the extent indicated in ¶4 above. The request is otherwise overbroad. *Patts*

23. Any such material will be provided. *Patts*

24. Any such material will be provided. *Patts*

25. This request is denied as overbroad.

26. Rule 16 material has been provided. Jencks material will be provided 30 days before trial.

27. Jencks material will be provided 30 days before trial.

28. Any such material will be provided. *Patts*

29. Jencks material will be provided 30 days before trial.

30. Any such material will be provided. *Brady*

31. This material will be provided to the extent indicated in ¶13 above.

32. This request is denied as overbroad.

33. The last such study prior to the 1969 formation of the Weatherman, and any additional studies up to June 30, 1974, will be provided. *Coverough*

34. Any such material will be provided.

35. Any such material relating to organized SAC conferences will be provided.

b6
b7C

36. This material will be provided to the extent indicated in ¶4 above.

37. This material will be provided.

b6
b7C

38. Three grand juries have had a part in the investigation of the subject matter of this case. An August 1976 Southern District of New York grand jury heard evidence concerning the subject matter. No materials (i.e., subpoenaed documents or testimony) from that grand jury were presented to the April 1977 District of Columbia grand jury which indicted this case. In the fall of 1976 a regular grand jury in the District of Columbia took testimony from several witnesses, including [redacted]

b3

The testimony before that grand jury of [redacted] was later read to the April 1977 grand jury that ultimately indicted the case. You have already received a copy of the transcript of the reading of that testimony. No other testimony or evidence was transferred to the indicting grand jury. No Court order was obtained (as none was necessary).

39. Any such material will be provided.

40. This material will be provided to the extent indicated in ¶4 above.

b6
b7C

41. This material will be provided to the extent indicated in ¶4 above.

42. Jencks material will be provided 30 days before trial.

43. Jencks material will be provided 30 days before trial.

44. Jencks material will be provided 30 days before trial.

b6
b7C

45. This material will be provided to the extent indicated in ¶4 above.

46. This material will be provided to the extent indicated in ¶4 above.

47. This request is denied as irrelevant to the events of 1972-73.

b6
b7C

48. This request is denied as irrelevant to the events of 1972-73.

49. This request is denied.

50. Any such orders, directives, etc., issued prior to June 30, 1974 and concerning domestic matters will be provided.

51. This request is denied, except to the extent indicated in ¶4 above.

52. This request is denied, except to the extent indicated in ¶4 above.

b6
b7C

53. The "Huston Report" will be provided. The request is otherwise overbroad and is denied, except to the extent indicated in ¶4 above.

b6
b7C

54. The Haynes memo will be provided. To the extent the request seeks information concerning "other terrorist groups" it is denied as overbroad. To the extent the request seeks FBI documents concerning the Weatherman, this material will be provided to the extent indicated in ¶4 above. An appropriate search will be instituted for any similar documents in Department of Justice files.

b6
b7C

55. This request is denied as overbroad. However, any known White House tape recordings of any defendant in this case will be made available.

56. This request is denied.

57. This request is denied as irrelevant to the events of 1972-73.

58. This request is denied as irrelevant, except to the extent indicated in ¶4 above.

b6
b7C

59. This request is denied as irrelevant.

60. This request is denied as overbroad.

61. This request is denied as irrelevant.

62. This request is denied as irrelevant.

63. Any communication between [redacted] and the government during the investigation of this case, including any relevant grand jury testimony or notes of interview of [redacted] will be provided. Memoranda, etc., made by Mr. [redacted] will be provided to the extent indicated in ¶4 above.

b3

b6
b7C

64. No such documentation is known to Government counsel.

65. This memorandum will be provided.

66. This memorandum will be provided.

67. Any such material will be provided.

68. This request is denied.

69. This request is denied.

70. This request is denied.

71. Rule 16 material has been provided. Beyond that, the request is denied, except to the extent indicated in ¶4 above.

72. This request is denied as overbroad.

73. This request is denied as irrelevant.

Requests Made by Defendant Felt:

"General Discovery Requests"

1. Jencks material will be provided 30 days before trial. *Jencks*

2. Jencks and Brady material (if any) will be provided 30 days before trial.

3. Rule 16 material has already been provided.

4. Any such material will be provided.

5. Jencks and Brady material (if any) will be turned over 30 days before trial.

6. This material, to the extent it is relevant to the Weatherman investigation and is still available, will be provided.

7. Brady material will be turned over 30 days before trial.

8. Brady material will be turned over 30 days before trial.

9. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

10. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

11. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

12. This request is denied.

b6
b7C

b6

b7C

[Redacted]

[Redacted]

b6
b7C

"Pre-Indictment Delay"

1. The fact in question was first learned during the course of the investigation which led to the present indictment.

2. Such knowledge was first acquired during the investigation which led to the present indictment.

3. Any such material known to Government counsel will be provided.

4. There was no pre-indictment delay.

"Selective Prosecution"

1. The January 1977 press release on the CIA mail-opening investigation will be provided.

2. The answer is negative.

"National Security Defense"

1. This request is denied as irrelevant.

2. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

3. This request is denied as unclear.

4. This request is denied as irrelevant.

5. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

6. This material will be provided.

7. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

8. This request is denied as irrelevant.

9. This request is denied as irrelevant.

10. This request is denied as irrelevant.

11. This request is denied as overbroad.

b6
b7C

b6
b7C

12. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above.

b6
b7C

13. This request for "new guidelines" is denied as irrelevant to the events of 1972-73.

Requests Made by Defendant Miller:*

1. This material will be provided.

2. Any such material will be provided.

b6
b7C

3. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

[Redacted]

4. Brady material (if any) will be turned over 30 days before trial.

5. This material will be provided for the period from the inception of the Weather Underground Organization (1969) to the date of defendant Miller's retirement (June 30, 1974).

6. This file will be provided.

7. Jencks and Brady material (if any) will be turned over 30 days before trial.

8. Jencks material will be turned over 30 days before trial.

9. Brady material (if any) will be turned over 30 days before trial.

10. Rule 16 material has already been provided.

11. Rule 16 material has already been provided. Jencks material will be turned over 30 days before trial.

12. Rule 16 material has already been provided. Jencks material will be turned over 30 days before trial.

b6
b7C

13. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

[Redacted]

*Only the Discovery Requests submitted by counsel for defendant Miller are being responded to herein. The "Request for Bill of Particulars" will be responded to later.

14. Brady material (if any) will be turned over 30 days before trial.

15. Jencks and Brady material (if any) will be turned over 30 days before trial.

b6
b7C

16. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.



17. This request is denied as irrelevant to the events of 1972-73.

18. This request is denied as irrelevant to the events of 1972-73.

19. This request is denied.

20. Any such orders, directives, etc., issued prior to June 30, 1974 and concerning domestic matters will be provided.

21. Any known such dissemination of the materials provided under ¶20 above will also be provided.

b6
b7C

22. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above.



23. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above.



b6
b7C

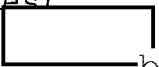
24. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above.



b6
b7C

25. No such documents are known to Government counsel.

26. The "Huston Report" will be provided. The request is otherwise overbroad and is denied, except to the extent indicated in ¶4 (Gray's requests) above.



b6
b7C

27. The Haynes memo will be provided. To the extent the request seeks information concerning "other terrorist groups" it is denied as overbroad. To the extent the request seeks FBI documents concerning the Weatherman, this material will be provided to the extent indicated in ¶4 (Gray's requests) above. An appropriate search will be instituted for any similiar documents in Department of Justice files.



b6
b7C

28. This request is denied as overbroad. However, any known White House tape recordings of any defendant in this case will be made available.

29. This request is denied.

30. This request is denied.

31. This request is denied as irrelevant to the events of 1972-73.

b6
b7C

32. This request is denied as irrelevant, except to the extent indicated in ¶4 (Gray's requests) above.

33. This request is denied as irrelevant.

34. This request is denied as overbroad.

35. This request is denied as overbroad.

36. This request is denied as irrelevant.

37. This request is denied as irrelevant.

38. Any communication between [redacted] and the government during the investigation of this case, including any relevant grand jury testimony or notes of interview of Mr. [redacted] will be provided. Memoranda, etc., made by Mr. [redacted] will be provided to the extent indicated in ¶4 (Gray's requests) above.

b3

39. No such documentation is known to Government counsel.

40. This memorandum will be provided.

41. This memorandum will be provided.

42. Any such material will be provided.

43. This request is denied as overbroad.

44. This request is denied as overbroad.

45. This request is denied as overbroad.

Very truly yours,

Barnet D. Skolnik
Special Counsel
Department of Justice

TO : Mr. Daryl
FROM : J. L. Tierney
SUBJECT: L. Patrick III
U. S. v. GRAY et al
DISCOVERY

DATE: 5-10-78

11
20
On May 9, 1978, Frank Martin, Department of Justice, Task Force, discussed Discovery and issues previously raised with him May 4, 1978.

Martin is interested in having the Bureau make further excisions, beyond those authorized during Discovery, on documents which the prosecution intends to use at trial. Excisions would be made with a view towards arriving at an unclassified copy which could be introduced in evidence in court. The defense may be interested in a similar arrangement. He was advised we could accommodate ~~him~~ ^{them} on a limited basis, but not a wholesale basis. ~~He does not want to start this now~~

Martin is interested in having the copies of documents now in his hands, which have been excised according to Discovery standards, reviewed to determine whether the redactions had any effect on the classification of the redacted copy ie: causing the copy to be downgraded or declassified. He is not prepared to start this operation in the immediate future, however.

Martin will review, hopefully by the end of this week, the bulky exhibit folders. He will retain only those la envelopes which relate to the prosecution and will return unrelated la envelopes. This will avoid classification and source protection problems which are particularly difficult when applied to exhibits such as photographs taken by or including Bureau informants or undercover Agents.

Martin agreed to furnish a restatement of the original documents which his office has requested for use during trial. Original documents, thus far, have been requested on a series of occasions by memorandum, handwritten note, telephone call, and the circling of serial numbers on lists which were prepared for other purposes.

JLT:dmd

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

REC-110 62-118045-11
14 AUG 31 1978
Greenberg/Gray-5296

8 4 SEP 14 1978

U. S. v. GRAY et al
DISCOVERY

Martin agreed, also, that the request to furnish the originals and unrecorded copies of documents should be reconsidered and was no longer necessary for FBIHQ files.

Martin explained that he was interested in keeping three separate lists of Discovery material: 1. Material processed and made available for Discovery, 2. Processed material reviewed by the defense, and 3. Unprocessed material of which copies are requested by the defense.

It was suggested to him that the easiest way to comply with number 3 above would be to furnish him with copies requested by the defense. In this connection, it was pointed out to him that there would be a considerable administrative saving if each of the three defense camps would agree to accept a single package of copies of documents. Martin agreed this to be advantageous but pointed out differences in defense camps might preclude defense attorneys from agreeing to this. Because of the benefit involved, particularly reduced recordkeeping, it will be explored by him.

Martin was advised the Branigan memorandum had been referred for consultation with NSA and the teletype involving the Middle East - Dallas situation has been referred to CIA. He asked if this had already been done and stated he felt the Department might prefer to refer these documents, themselves, in order to point out the Department's interests. He was advised, not only had the referral already been made, but that FBI documents should be referred by the FBI and the entire situation was explained in the referral letters to both agencies. He asked if he could have copies of the referral letters and was told that he could. He acknowledged that the Department could also correspond separately to NSA and CIA regarding the referrals, if it cared to.

*Recorded since prior instructions were
to some extent rescinded.*

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

Director, National Security Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6828, JEM

5-9-78

BY LIAISON

U. S. v. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

Attached is a copy of relevant portions of an internal FBI memorandum from W. A. Branigan to F. S. Miller dated May 31, 1978, and captioned "Major Intelligence Programs." The memorandum is classified "TOP SECRET - UMBRA." Also attached is an excised copy of this memorandum. Excisions have been made with a view toward removing all classified material from the copy. Until we receive your final approval or your concurrence with this evaluation; however, we have marked the excised version as "CONFIDENTIAL" as a precautionary measure. ~~(S)~~

The office handling prosecution in captioned case desires to use the attached document at trial. A classification review to insure current compliance with the provisions of Executive Order 11652 is, therefore, required. Preliminary review by FBI personnel has resulted in the conclusion, the document should be classified "TOP SECRET - UMBRA" since it involves general policy and past history of efforts by FBI to secure material for use by your agency. The material was obtained through live sources as well as other investigative techniques, as set forth in the document. ~~(S)~~

Since this is a document which is especially critical to the prosecution's case, they are most interested in having the document declassified or downgraded, or to isolate within paragraphs the specific material resulting in classification of the overall document. Verification is, therefore, sought; both of the overall classification assigned and of those specific elements in the document which cause the classification. (U)

A substantial portion of the document does not involve your agency and will be handled completely by the FBI.

- 1 - Mr. Cregar
- 1 - Mr. Bassett
- 1 - [Redacted]
- 1 - [Redacted]

b6
b7C
(SEE NOTE PAGE 2)
62-118045-12

CLASSIFIED BY 1482 JF
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

JLT:pd
(6)

~~CONFIDENTIAL~~ ENCLOSURE
C. Greenberg/Gray-5299
Material Attached

Director, National Security Agency

We believe your agency has the primary interest and should set the classification policy for that material commencing on page 1, under the first program heading, and continuing through the end of page 2. In addition, the paragraph which begins at the end of page 3 and carries on to the top of page 4 consists of information received from your agency. (U)

It would appear the complexity of the classification issues and the intermingling of information makes intelligent discussion of this document difficult in correspondence form. Accordingly, we suggest it may be beneficial to meet with representatives of your agency to discuss the document and its various considerations in detail. We are prepared to meet with you at your earliest possible convenience, should you agree that such a meeting will be helpful. Please feel free to contact me or Special Agents Joseph L. Tierney or Sammy J. Miller at 324-3542 in this regard. We expect to have to handle more similar material as we proceed, but this document is the most critical and requires the most expeditious handling. (U)

Enclosures (2)

FBI CONTROL FORM FOR TOP SECRET MATERIAL

(Attach original to material; send copy to Top Secret Control Officer)

~~TOP SECRET~~

MATERIAL ATTACHED

1 XEROX OF

Top Secret Control Number HQ 78=1007 Copy ORIGINAL of b6 copies

Employee initially handling material SA b7C

Originator of Material FBIHQ (W. A. BRANIGAN TO E. S. MILLER)
(FBI field division, FBIHQ or outside agency)

LTR LHM REPORT TELETYPE AIRTEL MEMO OTHER

Dated May 31, 1972

Captioned: MAJOR INTELLIGENCE PROGRAMS

Field or FBIHQ file and serial number: Not on record (copy in 62-117166-42 encl)

Each employee handling this material will (1) notify the Top Secret Control Officer, and (2) note on reverse side of this form the following action which applies:

- A - Relinquished to another employee within the division.
- B - Delivered outside of the division.
- C - Downgraded, declassified or destroyed.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

A - Sign and date; do not detach from material

Signature of Receiver	Date	Signature of Receiver	Date
[Redacted]	5/9/78	b6	
		b7C	

(B) - Detach form, fill out this portion and route to Top Secret Control Officer
Delivered to: NISA General Counsel [Redacted] Date 5/9/78
(FBI field division, FBIHQ, outside agency)
Reminder: Obtain receipt and route to Top Secret Control Officer

C - Detach form, fill out this portion and route to Top Secret Control Officer
Downgraded to: _____ by _____ date _____
Declassified by: _____ date _____
Destroyed by: _____ date _____

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/sbs

FD 502 (12-9-76)

FBI RECEIPT FOR ~~TOP SECRET~~ MATERIAL

Top Secret Control Number HQ.78-1007 Copy 1 XEROX OF ORIGINAL TO NSA of _____ copies.

Originator of Material FBIHQ (W. A. BRANIGAN TO E. S. MILLER)
(FBI field division, FBIHQ or outside agency).

LTR LHM REPORT TELETYPE AIRTEL MEMO OTHER

Dated May 31, 1972

Captioned: MAJOR INTELLIGENCE PROGRAMS

b6
b7C

Delivered by [Redacted] SA, FBI

Delivered to USA General Counsel

Signature of Receiver [Redacted]

ROUTE THIS RECEIPT TO ~~TOP SECRET~~ CONTROL OFFICER

Federal Bureau of Investigation
Office of Associate Directors

_____, 1978

- Director
- Mr. Adams
- Mr. McDermott
- Mr. Bassett
- Mr. Cochran
- Mr. Colwell
- Mr. Cregar
- Mr. Joseph
- Mr. Kelleher
- Mr. Kent
- Mr. Long
- Mr. Mintz
- Mr. Moore
- Mr. Boynton
- Mr. Mack
- Mr. Feeney

- Telephone Room
- Reading Room
- Mail Room
- Teletype
- Pr. & Sp. Mgnt. Sec.
- For Approp. Action
- For Your Approval
- Initial and Return
- Please Call Me
- For Information
- Per Conversation
- Please See Me

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/abs

Room _____

*Rec'd from Office
Director's Office
1/7/81*

4-20

JMA 62-118045

J. B. Adams
Room 7142, Ext. 3515 *RV*

FEDERAL GOVERNMENT

Memorandum

~~TOP SECRET~~

TO : MR. E. S. MILLER

DATE: May 31, 1972

FROM : W. A. BRANIGAN

ORIGINAL ONLY
DO NOT FILE

SUBJECT: MAJOR INTELLIGENCE PROGRAMS

On May 30, 1972, Acting Director Gray inquired, "What major intelligence programs, if any, have been abolished?" He also asked for the reasons for their discontinuance and whether these programs should be reinstated. Specifically, Acting Director Gray asked, "What is necessary to reinstate them?" (U)

The following are major intelligence programs formerly conducted by the Bureau but which are now discontinued:

PROGRAM

largely accomplished through [redacted]

But there were some isolated instances when [redacted]

in [redacted] we successfully [redacted]

available [redacted]

Later, extending through [redacted] we were able to [redacted]

During the years of operation, the Bureau was successful [redacted]

By letter dated [redacted] we advised the then Attorney General Ramsey Clark of [redacted] and asked for authority to attempt to [redacted] such operations involved [redacted]

By letter of [redacted] permission was declined. [redacted] renewed his request [redacted]

WAB:hk
(1)

ROUTED TO 62-118045-12

ENCLOSURE

CLASSIFIED BY 1057/5/72
EXEMPT FROM GDS CATEGORY 2, 3, 4
DATE OF DECLASSIFICATION INDEFINITE

Memorandum from W. A. Branigan to Mr. F. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

(U) which was later withdrawn in [redacted] The Attorney General was notified of the request [redacted] but had not responded at the time when the request was withdrawn. X

(U) In [redacted] requested [redacted] This request was declined in [redacted] X

(U) In [redacted] [redacted] stated that he believed that it would be advantageous to [redacted] was advised that the Director stated that he would not engage in this program unless directed to do so by the Attorney General. X

(U) On [redacted] the Director wrote the Attorney General pointing out the grave risks involved in such an operation and further that the planned [redacted] would represent a new [redacted] X

It is our considered opinion that we should reinstitute the [redacted] Program on a limited basis where the [redacted] can be obtained through cooperating sources. It is our considered judgment that the Bureau at this time should not embark on a program of [redacted]

[redacted] recognize the grave consequences to [redacted] We recognize the additional [redacted] the increased alertness of [redacted] Finally we recognize the [redacted] X

(U) In order to reinstitute a program involving the [redacted] it would be necessary to assemble selected personnel in the [redacted] offices and [redacted] These personnel would necessarily have to [redacted] X

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

[REDACTED] is one of the most
difficult problems that we face.
[REDACTED]

(U)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 5/17/78

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	_____
Adm. Serv.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO: DIRECTOR, FBI

FROM: SAC, PHOENIX (66-1596)

SUBJECT: INDICTMENTS OF
L. PATRICK GRAY,
W. MARK BELT, and
EDWARD S. MILLER
INFORMATION CONCERNING

Today the enclosed letter, signed by 126 employees of the Phoenix Division, including the SAC, was mailed to Attorney General.

10
[Signature]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

62-118045-12X

15 JAN 13 1981

ENCLOSURE

2 - Bureau (Enc. 1)

1 - Phoenix

62-118045

LMG/mcf
(3)

Approved: _____

Transmitted _____ Greenberg/Gray-5308 Per _____

(Number)

(Time)

FBI/DOJ

69 FEB 10 1981

May 9, 1978

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Honorable Griffin B. Bell
Attorney General of the United States
Washington, D. C.

Dear Mr. Bell:

On January 14, 1977, the Department of Justice issued a prosecutive opinion, in the form of a report, with respect to a campaign of warrantless mail opening conducted by C.I.A. employees from 1953 to 1973.

The report states that prosecution would be unlikely to succeed because of the unavailability of important evidence and because of the state of the law that prevailed during the course of the mail opening program.

This report made certain points, set forth below, which are of genuine concern to both present and past employees of the F.B.I.

These points are are follows:

1. The notion that warrantless mail opening programs of the C.I.A. were obviously illegal is a mistaken perception of our Nation's recent history.
2. A belief existed within and outside government that in response to exigencies of national security, the President had broad constitutional authority with respect to the collection of intelligence information.
3. Judicial decisions in this field were rare and of ambiguous import.
4. It is reasonable to believe, that persons should not be prosecuted when the governing rules of law have changed during and after the conduct alleged to be illegal, was performed.
5. A prosecution for this conduct would be particularly unfair when it is considered that ignorance of the developing law was in large part the fault of the Government and the Department itself.

62-118045-12X
Greenberg/Gray-3309

ENCLOSURE

6. The Department considered prosecutions in the 1960's based upon evidence derived from F.B.I. warrantless mail openings and decided not to prosecute. The Department took no steps to instruct the C.I.A. or F.B.I. to cease their mail opening activities.
7. During the mid-1960's and early 1970's, the then Attorneys General probably were informed generally of C.I.A. warrantless mail opening activities. Again, no steps were taken to determine the scope or legality of this activity.
8. The Department's investigation disclosed that the persons operating in the intelligence field were left to proceed according to their best estimates of legal constraints in a vague and yet vitally important area. This, in effect, left them to "take their chances" in an extremely uncertain legal environment.
9. In such circumstances, prosecution takes on an air of hypocrisy and may appear to be the sacrifice of a scape-goat.
10. Presidents from Eisenhower to Nixon were apparently aware of the warrantless mail opening activity, but, because of the policy of "Presidential Deniability", concrete evidence of this knowledge was unavailable.
11. Prosecution of this case would be tantamount to indicting an era and would raise fundamental questions concerning the application and use of the criminal law.

Primarily, for the reasons set forth above, prosecution of C.I.A. Agents involved in this activity was declined.

The parallels between the case set forth above and the Department's indictment of three former F.B.I. officials in April, 1978, are, to say the least, significant.

Both cases involved alleged violations of Fourth Amendment Constitutional safeguards.

Warrantless surreptitious entry, like C.I.A. mail openings, has been a valuable investigative technique of the F.B.I. for many years in the national security field.

Undoubtedly, past Presidents, Attorneys General and other high executive branch officials were aware of F.B.I. practices of surreptitious entries, just as the evidence - in the report mentioned above - reflects that they were aware of C.I.A. mail opening activities.

Certainly, no past President or Attorney General, presumably being aware of activities of this nature, took positive steps to instruct the F.B.I. that these practices violated the Fourth Amendment. It is extremely unlikely that past President Nixon or former Attorney General John Mitchell would admit, under these circumstances, that they knew about F.B.I. surreptitious entry practices. However, it is well known that the Weatherman Bombings were a great source of embarrassment to President Nixon's war on crime; and therefore, it is reasonable to assume that he would order the F.B.I. through the Attorney General to utilize all proven investigative techniques, including surreptitious entry, to bring this crime wave to a halt. Because of the concept of "Presidential Deniability", concrete evidence of this belief probably does not exist.

As late as 1972, Departmental Attorneys argued before the U.S. Supreme Court in (United States vs. United States District Court (Keith Case), that no prior judicial approval was necessary for F.B.I. Agents to utilize electronic surveillance equipment to overhear private conversations of domestic subversives.

The Department argued that this conduct was lawful as a reasonable exercise of the President's power to protect national security and was not covered by the Fourth Amendment. This stand by the Department reflects its firm belief that the President's authority to conduct warrantless investigations in the national security field, was outside the parameters of the Fourth Amendment.

The indictment of the former F.B.I. officials covers the period of May, 1972 until May, 1973.

It is recognized that the so-called "Keith Case" held on June 19, 1972 that prior judicial approval was heretofore necessary before electronic surveillance could be undertaken against domestic radicals; and therefore, by analogy, this case could be held to impose the same standard upon F.B.I. conduct in the surreptitious entry field.

However applying this new standard to such a short period of time (July, 1972 - May, 1973) ignores the fact that this practice occurred regularly for many years without any question of its legality.

It is also reasonable to assume that persons who were aware of the implication of the Keith Case could misunderstand its effect and believe that it only related to electronic surveillance.

In any event, the C.I.A. mail opening campaign was not ended until February, 1973, which was eight months after the "Keith Case" was decided.

The F.B.I. conduct, for which the three former F.B.I. officials stand indicted, continued until May, 1973. The Department has stated that persons should not be prosecuted when the governing rules of law change during the time period when the conduct alleged to be illegal was performed.

To apply a "Keith" standard to F.B.I. personnel, who arguably were not aware of its full implications and fail to apply it to C.I.A. personnel for essentially similar conduct, i.e. disregard of Fourth Amendment principles, smacks of an arbitrary double standard which can only be assumed to stem from a vindictive desire to bring public discredit upon the F.B.I.

As you know, a conviction under Title 18, U.S.C. Section 241, can only be successful if the prosecution can prove that the defendants specifically intended to violate an alleged victim's known or definite constitutional right.

It is submitted that the defendants in this case intended only to obtain information leading them to the whereabouts of radical bombers and had no motivation or intent to violate the Fourth Amendment rights of the alleged victims.

The Department's own prosecutive report regarding C.I.A. activities, states that a successful prosecution under Section 241 can only be maintained, if it can be shown at the time the defendants acted, that protection of the right violated, had been made definite by decision or other rule of law.

This report states "it is doubtful that, at the time the defendants (CIA) acted, the Fourth Amendment forbade their actions with sufficient clarity to be definite," as required for conviction.

There is no substantial difference between the C.I.A. conduct outlined in the above report and the F.B.I. conduct resulting in the above indictments.

Page -5-

Using the Department's own language, we, the undersigned, cannot help but feel "in such circumstances, prosecution takes on an air of hypocrisy and may appear to be the sacrifice of a scape-goat."

Even assuming, for the sake of argument, that the F.B.I. conduct which resulted in the indictments was clearly illegal, the principle of a dual standard of Justice cannot be lightly dismissed.

This is especially true when one considers the fact that amnesty was granted for draft dodgers and deserters who shirked their duty to Country while F.B.I. Agents, who were acting only in the interest of their Country are treated like common criminals and prosecuted for doing what they reasonably perceived as their duty.

This prosecution seems even more vindictive and malicious when compared with the Department's decision not to prosecute a former C.I.A. Agent after he allegedly revealed highly sensitive information concerning the identities and locations of C.I.A. operatives in foreign countries.

In view of the above, we protest the Attorney General's decision to indict L. Patrick Gray, W. Mark Felt and Edward S. Miller.

We, the undersigned, consider these men not to be lawbreakers but rather modern day heroes, who deserve a better fate than prosecution for their efforts on behalf of this Country.

Sincerely yours,

b6
b7C

Robert Keuch
Deputy Assistant Attorney General
Criminal Division
John S. DeLoxnett
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. J. Patrick O'NEIL III, et al.
DISCOVERY PROCEEDINGS

5-19-78

FEDERAL GOVERNMENT

Reference is made to a letter, with enclosure, from the Federal Bureau of Investigation to the National Security Agency (NSA), dated May 9, 1978, a copy of which is attached for ready reference. Also attached is a copy of the NSA response dated May 15, 1978.

Please note both of the above enclosures are classified "CONFIDENTIAL" and are to be handled by COMINT channels only.

As a review of the enclosures will indicate, we have been advised by NSA that materials such as those encountered in the internal FBI memorandum from W. A. Branigan to E. S. Miller dated May 31, 1972, and captioned "Major Intelligence Programs," should continue to be classified "TOP SECRET" with access restricted to individuals who have an "SI" clearance.

The exchange of correspondence with NSA has resolved the issues of whether the document is properly classified, and whether the copy of the document with our proposed excisions is unclassified. We are in the process of resolving with NSA whether or not they would consent to furnishing the document to defense counsel in an unexcised and still classified form. We will advise you as soon as this third issue is settled.

As discussed in the past, most recently during our conference on April 20, 1978, there are an undetermined number of copies of this FBI document which have been made available to Mr. Skolnik's office and, thereafter, reproduced.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
 - 1 - Mr. Cregar (Enclosures)
 - Adm. Servs. 1 - Mr. Bassett (Enclosures)
 - Crim. Inv. 1 - [redacted] (Enclosures)
 - Ident. _____
 - Intell. _____
 - Laboratory _____
 - Legal Coun. _____
 - Plan. & Insp. (4)
 - Rec. Mgnt. _____
 - Tech. Servs. _____
 - Training _____
 - Public Affs. Off. _____
 - Telephone Rm. _____
 - Director's Sec'y _____

Hand delivered to Mr. Keuch office and receipt obtained by J.L. TIERNEY SFS

REC-110
62 FBI 118045-13
MAY 18 15 35 1978

ENCLOSURE
ENCLOSURE

CONFIDENTIAL MATERIAL ATTACHED
HANDLE VIA COMINT CHANNEL ONLY

14 AUG 31 1978

Daly 6888

8 4 SEPT 4 1978 ROOM

Greenberg/Gray-5314

Deputy Assistant Attorney General
Criminal Division

In addition, there are an undetermined number of similar documents which have not been reviewed by the PLI but which contain similar material of presumably identical classification levels requiring restricted access. Such material was pointed out in my memorandum to Mr. Skolnik on February 6, 1978.

We will continue to service the requirements of Mr. Skolnik's office in complying with discovery demands by the three defendants in this case, although we expect to encounter considerable difficulty in accomplishing referrals to third agencies and in handling highly classified materials which we are viewing for the first time as necessary for use at trial in the prosecution of the captioned case.

We will keep you advised of any significant developments in this regard, in view of your responsibilities with regard to discovery, and your interest as a member of the Departmental Review Committee.

Enclosures (3)

1 - Mary W. Lutton (enclosures) 3
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Harold R. Skolnik (enclosures) 3
Criminal Division

APPROVED:

Director
Assoc. Dir.
Dep. AD
Dep. AD

Adm. Serv.
Crim. Inv.

Ident.
Intell.
Laboratory

Legal Coun.
Plan. & Insp.
Rec. Mgnt.
Tech. Servs.
Training
Public Affs. Off.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

9/12/79

TO: MESSRS. COLWELL, BOYNTON, CREGAR,
MINTZ, DALY, AND TIERNEY

FROM: ADRIAN STEEL

AS
FELT, W. MARK.

Attached is a copy of a memo summarizing the agreements reached at our meeting with John Niels on 9/7/79 relating to discovery in U.S. v. Felt, et al.

Judge Webster has reviewed and initialed the memo and I thought each of you might like to review the memo for information purposes.

62-118045-
NOT RECORDED
11 MAR 11 1981

*File in
U.S. vs. Felt, et al.
"as is" per Mr. Steel
128281
OMAR 12 1981
1- ENCLOSURE*

62-118045-

4-87

September 11, 1979

AD
Judge,

O
FELT, W. MARK

As per your request, this memorandum sets forth the substance of the decisions made with Special Counsel John Niels at our meeting on Friday, September 7, relating to discovery in U.S. v. Felt, et al. Mr. Mintz has reviewed this memorandum and is in agreement that it sets forth the substance of those decisions.

It was agreed that, at least with respect to FBI documents and information, the government will supply access to all the documents at issue in an unredacted form to the two defendants and to two attorneys for each defendant. Exceptions to unredacted access can be made where a particular source, technique or method of special sensitivity is contained in a document. In such cases, the document can be shown to the District Court judge to explain the reasons for the redaction. This access will be provided in the vault at the Department of Justice and will limit note taking to only a list of identifying numbers of those documents the defendants or their counsel wish to argue are relevant to the court.

Mr. Niels also agreed that this access was to be provided for discovery purposes only, and he would seek an appropriate court order to limit use and dissemination of the information. (I will ask Paul Daly to obtain a copy of the order to be proposed to the court to protect the information.). Finally, Mr. Niels agreed to check with other appropriate agencies if a particular piece of information came from those agencies or could impact upon such matters as foreign policy.

You also instructed Daly to conduct further review of the documents in order to assure that only the redactions which are, in fact, necessary to protect confidential sources or techniques are made.

If this memorandum is in accord with your view as to the decisions made, I will keep it in our file for possible further reference.

62-118045-4-8

62-118045
NOT RECORDED

MAR 11 1981

Adrian
Adrian

J
W
2/12-179

60 MAR 12 1981
ALS:cwb
(2)

Greenberg/Gray-5317

Department of the Army

5-22-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEM
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/THIRD AGENCY AND CLASSIFIED MATERIAL

BY LIAISON

~~FEDERAL GOVERNMENT~~

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eq., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys processing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

Enclosures (6) ENCLOSURE

14 AUG 31 1978

(SEE NOTE PAGE 2)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. 1 - _____
- Rec. Mgnt. 1 - _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

ULT:dmd
Telephone Rm. 131
Director's Sec'y MAIL ROOM

~~SECRET MATERIAL ATTACHED~~

Greenberg/Gray-5318

FBI/DOJ

Delivered by Liaison
Ltr. INSCOM Liaison, Forwarded Bldg.
on 5-22-78
by LAC

8 4 SEP 14 1978
J.L. Tierney, Rm 6888

Department of the Army

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-5320

62-118045-14

ENCLOSURE

Director, National Security Agency
Attention: General Counsel

5-23-78

P. V. Jolly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JSH
U. S. vs. L. PATRICK GRAY III, ET AL
SERRANO DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

Went 4-1
GENERAL GOVERNMENT

Reference is made to my letter to you on
May 9, 1978, and to your response dated May 15, 1978.

We very much appreciate both the promptness and
the definitive nature of your answer to our two questions.
We are now able to proceed with a clearer understanding of
your interest and its gravity.

A third issue remains beyond the two addressed
in our exchange of correspondence. The issue concerns access
by defense counsel during discovery to documents, the same
as, and similar to that under discussion.

The Attorney General has issued clearances to
defense counsel for all three defendants. They have been
authorized access to material up to the "Top Secret" level
with additional access to compartmentalized information
included.

REC-110

62-118045-15

Although copies of some classified material are
being furnished to defense counsel, available storage
facilities will probably preclude their possession of copies of
documents containing compartmentalized information. The
FBI will undoubtedly recommend such a limitation in any
case.

We, therefore, need your view on the 14 AUG 31 1978
of whether properly cleared defense attorneys should be
given the opportunity to review unexcised and still
classified versions of the document we have discussed
and similar materials. If you would agree to access by
them for the purpose of review, a fourth issue arises of
whether or not they should be allowed possession of such
materials.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. Cregar
- 1 - Mr. Bassett
- 1 - [Redacted]

(SEE NOTE PAGE 2)

Hand delivered by TIERNEY
5/24/78 JH

H. [Signature]

JLP and [Signature] b6
MAIL ROOM b7C

Greenberg/Gray-5338

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bassett *H/S*

FROM : P. V. Daly *PVD*

SUBJECT: U. S. vs. GRAY, FELT, AND MILLER

DATE: 5-25-78

Daly *new* *4-1* *1-1*

L. Patrick Gray III

W. Mark Felt

Edward S. Miller

ly *no*

PURPOSE: To advise of Departmental acceptance of Bureau position in connection with discovery concerning captioned matter to protect sensitive sources, methods, and techniques.

DETAILS: By memorandum dated May 12, 1978, you were advised that in connection with the Government's response to the discovery request made by various defendants, the Department had neglected to include in its response a provision allowing for the protection of informants and other sensitive material. This problem was discussed with Robert L. Keuch, Deputy Assistant Attorney General of the Criminal Division, who agreed with the Bureau's concerns. As a result of that discussion, Keuch, by memorandum dated May 22, 1978, to Frank Martin of the Department's FBI Task Force (copy attached), suggested the following language be added to any agreement concerning discovery, outlining what materials may be excised, "Information which would identify or tend to identify an informant, source, sensitive method or technique may be redacted."

Mr. Keuch is also arranging for a meeting between FBI representatives and departmental personnel responsible for the prosecution to discuss additional problems presented by the discovery request.

RECOMMENDATION: None, for information.

Enclosure

1 - Mr. Bassett

PVD:dmd
(2)

APPROVED:

Director _____

Assoc. Dir. _____

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv.	_____	Legal Coun.	_____
Crim. Inv.	_____	Plan. & Insp.	_____
Ident.	_____	Rec Mgnt.	_____
Intell.	_____	Tech. Servs.	_____
Laboratory	_____	Training	_____
		Public Affs. Off.	_____

REC-110

62-118045-117

4-PVD

8-8-8

ENCLOSURE

Greenberg/Gray-5353

14 AUG 31 1978

8 SEP 14 1978



memorandum

DATE:

May 22, 1978

REPLY TO
ATTN OF:

Robert L. Keuch, Deputy Assistant
Attorney General, Criminal Division

RLK:Mal

SUBJECT:

Discovery Responses

TO:

Frank Martin
Task Force (Room 2241)

Per our conversation -- I would suggest we protect our options by language along the following lines:

"Information which would identify or tend to identify an informant, source, sensitive method or technique may be redacted."

cc: Paul Daly, FBI ✓
Mary Lawton, OLC

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

62-118045-17

ENCLOSURE

Greenberg/Gray-5354

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5-10-12

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/abs

TO : Paul V. Daly
FBI Headquarters

DATE: May 25, 1978

FJM:ams

FROM : Francis J. Martin, Trial Attorney
Criminal Division

FJM

SUBJECT: Discovery in United States v. Gray, et al

J. Patrick

I. The Weatherman Files

You have received a copy of the informal exchange of correspondence with defense counsel pursuant to which we have agreed to make certain discovery undertakings.* The principle such undertaking, in terms of volumes of material, is our agreement to make the Weatherman files (Headquarters and New York) available to defense counsel. Enclosed is the letter to defense counsel informing them that approximately 450 volumes of Weatherman files that you have processed are ready for their review. It is probable that some additional Weatherman files will need to be processed for defense counsel. At this time the files on [redacted] and [redacted] should be processed. You should also process the files (New York and Headquarters) on [redacted]

b6
b7C

[redacted] Capbom, Penbom and Explosion at ITT Building (Bufile 174-4567). We will attempt to determine in the near future whether defense counsel will want to see any further Weatherman files.

gp

II. Files (Other than Weatherman) which We have Agreed to Turn Over

In addition to the Weatherman files, the Government has also agreed to make certain other materials available to defense counsel. It is very important that these materials be processed and made available to defense counsel as soon as possible. In approximate order of importance, these materials are as follows:

1. Materials seized in New York and Washington on August 19, 1976 (Gray request #8). We have agreed to make available any of these documents that relate to Weatherman. Accordingly, these

REC-110

62-118045-18

*A supplemental discovery request by Gray's counsel and the Government's response are enclosed.

ENCLOSURE



5010-110

gp
ENCLOSURE

14 AUG 31 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4-PVD

Greenberg/Gray-5355

8 4 SEP 14 1978

materials should be processed as soon as possible (if that has not already been done in connection with the Kearney case). Also, as you know, after its initial seizure certain materials were returned to IS-2, where they were later destroyed. An effort should be made, based on inventories or any other available data source, to determine as well as possible what materials were destroyed. Also, please provide any regulations that relate to the routine destruction of such materials.

2. Materials relating to policy statements on surreptitious entries (Gray request #50). You have already provided, and we have turned over to defense counsel, the "Hoover memos" and other materials in this category. Any additional materials should be processed as soon as possible.
3. The Huston Plan and any internal documents relating to the Huston Plan (up to June 1973) should be processed (Gray request #53).
4. We have agreed to provide the "Haynes memo" (Gray request #54). This memo, and any similar documents dealing with FBI - White House communication on Weatherman, should be processed.
5. We have agreed to provide any studies relating to the jurisdiction in the intelligence field of the Domestic Intelligence Division during the period 1969 (last study prior to that date) thru June 30, 1974. This material should be gathered and processed.
6. We have agreed to provide FBI materials relating to the Keith decision. This material should be processed and would include any specific directives issued as a result of Keith and any general directives or policy analyses prepared during the period of the alleged conspiracy, i.e., up to June 1973.
7. We have agreed to provide any materials relating to directives issued by Mr. Gray to the effect that breach of law or of FBI regulation by agents would not be tolerated (Gray request #30). Mr. Gray has also requested (Gray request #90) any documents indicating that SAC's disregarded, or sought to determine the applicability to surreptitious entries of, a September 21, 1972 memorandum issued by Gray (copy attached). You should endeavor to locate any documents which would be responsive to this request.

Mr. Gray may consider statements that he made when addressing agents during field office visits as within the scope of this request. You should determine the nature and extent of any records reflecting such statements, some of which may have been tape recorded.

8. You should obtain the tape and transcript (if any) of Mr. Gray's meeting with SAC Grappe in August 1972 (Gray's request #34).
9. We have agreed to provide Mr. Gray with certain materials relating to his dealings with the Cabinet Committee to Combat Terrorism (Gray request #21), the National Security Agency (Gray request #23) and the President's Foreign Intelligence Advisory Board (Gray request #24). These materials should be gathered and processed.

III. Files which the Court May Order Us to Turn Over.

In addition to the materials that the Government has voluntarily agreed to supply to the defense, it is likely that at least some additional discovery will be ordered by the Court as a result of discovery motions filed on May 22, 1978. Those motions, for the most part, seek materials that defense counsel have previously requested but that the Government has declined to produce. Should the Court order any such material produced, it is absolutely imperative that the Government not be required to ask for a substantial delay in order to prepare to make such material available to the defense. While it may not be possible to be prepared totally for every possible contingency, it is essential that the Government be in a position to represent to the Court that it has been making better than a good faith effort to have all disputed discovery material processed as expeditiously as possible, so that it will be available for defense counsel's review if the Court so orders. Accordingly, you should begin processing the following materials, with a firm target completion date of July 1, 1978:

1. Mr. Gray has requested all documents reflecting FBI efforts regarding Arab terrorists during his tenure (Gray request #32). The Government has denied this request as overbroad, but may agree to a narrower request. In any event, at a minimum, the files on and on Al Fatah, as well as any other control files, should be processed for the period of Gray's directorship.
2. Foreign Influence: counsel for all defendants have requested -- both generally (e.g. Gray request #11) and as to specific items (e.g. Gray request #59) -- materials tending to establish the proposition that

b6
b7C

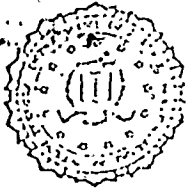
the Weatherman constituted a "foreign" terrorist group. The Government has opposed this discovery as irrelevant. Should the Court rule for the defense on this issue, however, it will be vitally important for the Government to be able to produce this material for defense review as soon after such ruling as possible. Accordingly, you should process the specific materials requested (Gray request #59) as well as any other files bearing on the foreign influence issue. That processing must include appropriate submissions to third agencies asking for the release of any requested documents or information that were generated by that agency.

3. The defense has requested two 1975 position papers from the Intelligence Division (Gray request #'s 47 and 48) which the Government has declined to produce on the grounds that they are irrelevant to the events of 1972-73. These position papers should be processed. Also, Mr. Gray has requested materials relating to the "abandonment or resumption" of intelligence programs (Gray request #71). This material should also be processed.
4. Mr. Gray has requested materials relating to all post-1966 (Hoover cut-off) bag jobs. You should process all materials relating to all such bag jobs.
5. Mr. Gray has requested any documents showing that Congressional Committees investigating Capbom were informed that surreptitious entries had occurred or would occur in the FBI investigation of the Weatherman. The Government has responded that Government counsel are unaware of any such documents. You should gather any materials relating in any way to testimony before, or documents submitted to, any Congressional Committee with respect to Capbom.

We should arrange to meet soon in order to discuss any logistical problems which you may foresee in preparing discovery materials in strict accordance with instructions set forth above.

cc: Keuch
Lawton

Greenberg/Gray-5358



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

September 21, 1972

- Mr. Ladd _____
- Mr. Callahan _____
- Mr. Cleveland _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Jenkins _____
- Mr. Marshall _____
- Mr. Miller, L.S. _____
- Mr. Pender _____
- Mr. Soyars _____
- Mr. Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Ms. Herwig _____
- Ms. Neenan _____

In Reply, Please Refer to
File No.

Memorandum to All Special Agents in Charge:

(A) USE OF MICROPHONES AND RECORDING EQUIPMENT --

In order to avoid any misunderstanding relative to the situation recently uncovered in our Los Angeles Office, you are advised that as a result of an inquiry which I ordered it was determined that the Special Agent in Charge of that office had his office equipped with electronic devices in order to record conversations occurring in his office as well as telephone conversations.

This was in direct violation of Bureau regulations. Specifically, the Special Agents' Handbook, Part I, page 1, states that, "a Special Agent shall not engage in entrapment or any other improper, illegal or unethical tactics in procuring information or evidence." This Handbook, in Part I, page 1b, states that a Special Agent shall not "install secret phone systems or microphone plants without Bureau authorization." Part I, Section 1, page 2, Manual of Rules and Regulations, states, "employees must not install secret telephone systems or microphones without Bureau authority."

In view of the foregoing situation, I want to reiterate the above long-standing regulations and to advise that drastic administrative action will be taken against any employee who violates or attempts to violate these regulations.

L. Patrick Gray, III
Acting Director

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

9/21/72
MEMORANDUM 23-72

102-118045-18

*Gray
Additional
file Copy*

17 ~~74.~~ All documentation and tangible objects in the Government's possession, custody or control which reflects in any way that the House and Senate Intelligence Committees and the General Accounting Office were misled by representatives of any government agency concerning the nature and extent of surreptitious entries by agents of the Federal Bureau of Investigation.

25 ~~75.~~ All documents and tangible objects in the Government's possession, custody and control which reflect in any way that any government agency other than the Federal Bureau of Investigation engaged in undercover penetration and/or surreptitious entries of premises frequented or believed to be frequented by members of the Weatherman Organization and/or friends or sympathizers of that organization, including, but not limited to all such documents relating to the so-called "Chaos" program conducted by the Central Intelligence Agency from January 1, 1960 to the present.

36 ~~76.~~ Any and all documents and tangible objects in the Government's possession, custody or control which reflect in any way that the President of the United States and/or the Attorney General of the United States and/or their representatives were advised that the F.B.I. investigation of the Weatherman Underground would include surreptitious entries.

37 ~~77.~~ Any and all documents in the Government's possession, custody or control which reflect in any way that Congressional Committees investigating the Weatherman Underground's bombing of the U. S. Capitol were told that surreptitious entries had occurred or would take place in the future.

78. State whether or not former Attorney General Elliott L. Richardson was the subject of an investigation for alleged violations of law similar to those charged in the instant indictment. If the answer is in the affirmative, produce all documents, and tangible objects, in the Government's possession, custody or control, which reflect in any way that Richardson authorized or ratified surreptitious entries by government agents against the Weatherman Underground.

44 ~~79.~~ Disclose the date of convening of each grand jury considering proceedings against the defendants in this case, or any of them, in the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia or elsewhere; the date of the first issuance of a subpoena duces tecum by each such grand jury; the date of the first issuance of a subpoena for testimony by each such grand jury; the date of the first receipt of documents by each such grand jury; the date of dissolution of each such grand jury; and identical information relating to the grand jury returning the indictment in this matter.

45 ~~80~~. Produce all petitions, motions and orders of court relating to the convening, and/or discharge of any of the aforesaid grand juries.

46 ~~81~~. Produce a listing of all materials subpoenaed by each such grand jury and all witness testimony taken by each such grand jury and a statement as to which of these documents and what of this testimony was submitted to each subsequent grand jury, including each reference by any prosecutor to any such document(s) or testimony.

82. State whether any of the prosecutors present at [redacted] testimony before the Washington grand jury on March 6, 1978 had occasion to review prior to such time, [redacted] s prior testimony before any other grand juries. b3

51 ~~83~~. Produce all press releases, speeches, interviews, public statements, or transcripts or recordings of public statements formal or informal by the Attorney General of the United States, the Chief of the Criminal Section of the Civil Rights Division or other representatives of the Department of Justice relating in any way to the investigation or indictment of the defendant.

52 ~~84~~. Produce all records and notations of meetings or personal or telephone conversations with media representatives by the Attorney General of the United States or personnel of the Department of Justice relating in any way to the investigation or indictment of the defendant.

53 ~~85~~. Produce all press releases, public statements and communications to Congressional Committees issued at any time by the United States Attorneys for the District of Columbia or the Southern District of New York, or the Department of Justice relating in any way to investigations of illegal break-ins by the Federal Bureau of Investigation generated since January 1, 1973.

54 ~~86~~. Identify the time, place, participants, nature, occasion and substance of each statement to or in the presence of any press, radio or television representative concerning the investigation or indictment of the defendant, by the Attorney General of the United States, by any representative of the United States Attorney's Office in New York or Washington, the Department of Justice or any employee thereof, to the extent that this information is not disclosed by documents produced pursuant to paragraph 85.above.

55 87. Produce all internal Justice Department memoranda relating in any way to pre-trial publicity in connection with the investigation or indictment of defendant and identification of the time, place, participants, nature, reason and substance of each verbal communication or instruction within the Justice Department relating to pre-trial publicity in connection with this investigation and indictment, including all communications between the Department and present and former counsel associated with the investigation including William L. Gardner, Stephen Horn, and Richard F. Johnston relating to volunteered public statements concerning the investigation and indictments.

56 88. Produce those portions of the grand jury minutes reflecting questioning of witnesses by grand jurors or comments by grand jurors.

57 89. Produce all press clippings relating to the investigation and indictment of defendant systematically maintained by or in the possession of the Department of Justice.

90. Attached hereto find a copy of Mr. Gray's memorandum of September 21, 1972. Produce any documents or tangible objects in the Government's possession, custody or control which:

- (a) Indicate that SACs were told by anyone to disregard the contents of this memorandum;
- (b) Reflect that any SAC or representative of any SAC contacted F.B.I. headquarters to determine whether this memorandum applied to the conducting of surreptitious entries by F.B.I. agents; and
- (c) Reflect that there was any response to any inquiry set forth in paragraph 90(b).

91. All documents or tangible objects which reflect in any way that Mr. Hoover ordered the reinstatement of surreptitious entries as an investigative technique by F.B.I. agents, including, but not limited to, any statements by William C. Sullivan to that effect.

39 92. All documents or tangible objects which reflect that F.B.I. agents received incentive awards for conducting surreptitious entries from January 1, 1960 to the present.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 15, 1978

Address Reply to the
Division Indicated

and Refer to Initials and Number

FJM:ams

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Alan I. Baron, Esquire
Frank, Bernstein, Conaway & Goldman
1300 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: United States v. Gray, et al

Dear Mr. Baron:

The following constitutes the Government's response to additional non-Rule 16 discovery requests received from you on May 9, 1978. As with our response of May 10, 1978, to non-Rule 16 discovery requests from counsel for each defendant, the Government retains the right suitably to redact the material produced so as to protect on-going investigations and to prevent undue embarrassment or injury to unrelated third parties. As to all discovery herein agreed to, the phrase "to the extent known to Government counsel" should be understood to modify all of our discovery undertakings.

Additional Requests by Defendant Gray

74. This request is denied as irrelevant.

75. This request is denied as irrelevant.

76. No such documents reflecting that any President or Attorney General was so advised are known to Government counsel. As to "their representatives" any such documents will be provided to the extent indicated in ¶4 (Gray's original requests) of our letter of May 10, 1978.

77. No such documents are known to Government counsel.

78. What are you talking about?

79. The following information will be provided: the date each grand jury was sworn in; the date on which each grand jury first heard evidence in this investigation; and the date each grand jury last met with regard to this investigation.

cc: Brian Gettings, Esquire
Thomas A. Kennelly, Esquire

Greenberg/Gray-5363

62-118045-18

ENCLOSURE

80. This request is denied, as irrelevant, however certain data will be provided as indicated in ¶79 above. If any further data is still required, please let us know.

81. This request is denied.

82. Yes

83. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

84. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

85. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

86. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

87. This request is denied.

88. Jencks material will be turned over 30 days before trial.

89. This request is denied because it seeks public media reports that are equally accessible to all counsel.

90. No such documents or objects are known to Government counsel.

91. No such documents or objects are known to Government counsel. However, materials relating to Mr. Sullivan will be produced as indicated in ¶63 (Gray's original requests) of our letter of May 10, 1978.

92. This request is denied as irrelevant.



Francis J. Martin
Trial Attorney
Criminal Division

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. Bassett

DATE: 5-26-78

FROM : P. V. Daly

Daly #212

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

PURPOSE: To record receipt of additional requests in connection with discovery for captioned case.

DETAILS: By letter dated May 25, 1978, addressed to Paul V. Daly (copy attached with its enclosures), the Department requested additional material be prepared for review by defense counsel in connection with captioned case. Among the material to be processed for possible review is the following: 1. "Bag jobs" from 1966 to 1974. 2. Materials seized in New York and FBI Headquarters by representatives of the FBI's Task Force on August 19, 1976, relating to Weathermen. In connection with this request, some of the material has since been destroyed. The Department desires we attempt to determine what was destroyed. 3. Files on Al Fatah, bombing of the Capitol (Capbomb) and bombing of Pentagon (Penbomb). 4. Materials relating to Mr. Gray's contacts with the Cabinet Committee to Combat Terrorism, the National Security Agency (NSA), and the President's Foreign Intelligence Advisory Board.

It should be anticipated that extremely sensitive material will be processed for review by attorneys in this matter. Redactions will be made to protect ongoing operations, sensitive sources, methods, techniques, informants, and the privacy of unrelated third parties. A significant percentage of the material will have to be referred to other agencies for their review prior to release. To date, the documents referred to NSA for approval have been primarily classified "Top Secret" and required compartmental clearance for access. NSA has tentatively indicated they would oppose giving the material to defense counsel.

RECOMMENDATION: None, for information.

gp
ENCLOSURE

Enclosures (3)

- | | |
|-------------------|--|
| 1 - Mr. McDermott | 1 - Mr. Daly |
| 1 - Mr. Bassett | 1 - |
| 1 - Mr. Colwell | 1 - Mr. Tierney |

PVD:dmd
(7)



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-5366

FBI/DOJ

8 4 SEP 14 1978

REC-110 62-118045-191

14 AUG 31 1978

b6
b7C

Daly 5/28/78

9
Doract J. Shelnik
Special Counsel to the
Assistant Attorney General
Criminal Division
John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
P. D. vs. L. PATRICK GARY FBI, ET AL

6-5-78 4-1

FEDERAL GOVERNMENT

In connection with our review of FBI files in an effort to locate materials called for in the informal discovery agreement between the Government and defense attorneys in captioned matter, we have located a reference to a document which was furnished to the office of James A. Wilferother, who was then Associate Deputy Attorney General. This document was part of a series of documents taken by the FBI from the office of Neil Krogh, Jr., at the Department of Transportation. We believe the document, which is described as a three-page memorandum for the President's file dated August 23, 1971, captioned "Presidential meeting with the Attorney General, Director Hoover, Messrs. Ehrlichman and Krogh, May 20, 1971," may be significant in connection with this matter. The Bureau did not retain a copy of this document or any documents taken from Krogh's office.

Our belief that the document may be significant is prompted by Mr. Krogh's involvement in a liaison capacity between the Bureau and the White House in connection with domestic intelligence matters. This role is highlighted by Krogh's advising our Liaison Agent on March 5, 1970, that the President wanted us to use technical surveillances and other sophisticated techniques in connection with the investigation of various organizations, including the Students for a Democratic Society.

An additional factor, which would indicate that the document might be significant, is that we know, based on a memorandum from Mr. Hoover dated May 27, 1971, that the President had called him on May 26, 1971, in connection with the slaying of two police officers in New York and, according to Mr. Hoover's memorandum, said, "We wanted to

MAILED 7
JUN 5 1978
FBI

REC-110

62-118045-20

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. McDermott (Enclosures)
- 1 - Mr. Bassett (Enclosures)
- 1 - Mr. Daly (Enclosures)
- 1 - Mr. Tierney (Enclosures)

PVD:dmd
(8)

8/31
ES JUN 7 1978

(SEE NOTE PAGE 2)

ENCLOSURE

MAIL ROOM

Greenberg/Gray-5367

8 4 SEP 14 1978

Special Counsel to the
Assistant Attorney General
Criminal Division

make certain we didn't pull any punches in going all out in gathering information, particularly intelligence information in this situation in New York." Since it would appear the President's conversation with the Director took place the same date as the meeting described in the memorandum in Krogh's possession, it is possible there may be some relationship between the two.

In order to assist you in locating the document in question, I am enclosing a copy of the Washington Field Office airtel to the Director dated April 15, 1974, and letterhead memorandum which shows the delivery of the materials in question. We are not in a position to say whether or not other materials described in the inventory attached to the airtel have relevance to captioned matter, and perhaps a review should be made of those, also.

Enclosures (2)

1 - Mary C. Lawton (Enclosures - 2)
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Robert Kauch (Enclosures - 2)
Deputy Assistant Attorney General
Criminal Division

NOTE: Unsuccessful attempts were made to locate copies of the materials furnished to Wilderotter by communication with the Washington Field Office, as well as a review of Headquarter's files. Based on these reviews, we have learned that all copies were furnished to Wilderotter and nothing retained by the Bureau.

APPROVED: _____

Director _____
Assec. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____

Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

FBI

Date: 4/15/74

Dep. Dir.	
Dep. Asst. Dir.:	
Adm. Serv.	
Ident.	
Inspection	
Intell.	
Lab.	
Legal Coun.	
Plan. & Eval.	
Spec. Inv.	
Training	
Telephone Rm.	
Director Sec'y	

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (65-74060)

FROM: SAC, WFO (65-11613) (C)

ATTN: INSD

MC LEX

Reference is made to Bureau call from Supervisor b6
 Division 5, instructing that the material b7C
obtained from EGIL KROGH, JR. be delivered to the office of
Mr. JAMES A. WILDERROTTER, Room 4208, U. S. Department of Justice,
for appropriate disposal.

Attached are 3 copies of an LHM concerning this matter.
Two copies of the LHM were delivered with the EGIL KROGH, JR.
material to Mr. WILDERROTTER's office on 4/15/74.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

REC-15

1 - Bureau (Enc. 5)
1 - WFO

CJJ:jak
(3)

Approved: _____
Special Agent in Charge

Sent _____ M Per _____
Government Printing Office

62-118045-20
ENCLOSURE

Greenberg/Gray-5369



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20535

April 15, 1974

In Reply, Please Refer to
File No.

DISPOSITION OF UNITED STATES GOVERNMENT
DOCUMENTS LAST IN POSSESSION OF

When Egil Krogh, Jr. resigned from the Department of Transportation (DOT), he left in his office a number of documents. The Washington Field Office of the FBI was directed to obtain the material and to review it.

b6
b7C

The data generally falls into three categories: White House material which Krogh took to the DOT, DOT material and personal material of Egil Krogh. These papers are in nine cartons and are submitted to the Department of Justice for disposal.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside.

65-74060-4176
ENCLOSURE 2 = 118045-20
ENCLOSURE

FEDERAL BUREAU OF INVESTIGATION

6/21/73

Date of transcription

Property which has been in the custody of EGIL KROGH, located in the United States Department of Transportation security file cabinet number 275, Room 10200D, United States Department of Transportation, was examined and contained the following:

A folder labeled "3-21-72 Gov. SHAFER's mtg. w/President to present Mari. Comm. Report" contained:

Two page memorandum for the President's file, dated March 27, 1972 captioned "Meeting with Gov. SHAFER to receive copy of marijuana report".

A one page memorandum dated March 22, 1972 to EGIL KROGH from [redacted] requesting memorandum on President's meeting with Governor SHAFER.

Two page memorandum for the President dated March 20, 1972 captioned "Meeting with RAYMOND P. SHAFER, Chairman, Marijuana Commission, March 21, 1972, 5:00 p.m. (10 minutes)" from BUD KROGH.

Two page document captioned "Background information on the National Commission on Marijuana and Drug Abuse".

Two page memorandum dated March 17, 1972 to JOHN EHRLICHMAN from BUD KROGH captioned "Response to Marijuana Commission Report".

Two page (yellow copy) memorandum dated March 21, 1972 for RON ZIEGLER from BUD KROGH captioned "Marijuana Commission Report".

One page document captioned "President's Schedule, Tuesday - March 21, 1972".

Three pages of handwritten notes on legal size paper captioned "Meeting - R.N. - Gov. SHAFER, EHRLICHMAN, KROGH, 5:05 p.m. - Tues., 22 Mar. 72".

Material Reviewed

Interviewed on 6/15/73 at Washington, D. C. File # 65-11513

by SA [redacted] :bjh/tsm b6 b7C Date dictated 6/18/73

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

65 ENCLOSURE

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 04-09-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5371

One page document addressed to "RON" from "BUD" concerning agreement by the President and Gov. CHAFER at meeting.

A folder labeled "President's Meeting with U.S. Attorneys 2/7/72", contained:

Two page memorandum to the President dated February 3, 1972 from BUD KROGH captioned "Meeting with 30 U.S. Attorneys February 7, 1972, 11:30 a.m. (15 minutes)". A one page list of participants was attached.

Three page document captioned "Thank you, Mr. President" dealing with the narcotics problem.

Two page White House press release dated January 28, 1972 on drug abuse.

One page White House press release dated January 28, 1972 on drug abuse.

One page White House press release dated January 28, 1972 contained executive order on "Concentration of law enforcement activities relating to drug abuse".

A folder labeled "[redacted]" contained:

Three page memorandum for [redacted] dated August 26,

1971.

One page, handwritten notes captioned "From [redacted]"

b6
b7C

A folder labeled "[redacted]" contained:

Two pages containing handwritten notes on legal size paper with caption "[redacted]".

b6
b7C

Report by [redacted] captioned "Key Factors Enhancing the Morale of the Vietnamese Communist Soldier", dated March, 1972.

A folder labeled "9/28/71, BK's meeting with Attorney General", contained:

b6
b7C

Two pages of handwritten notes on legal size paper.

A folder labeled "P trip to N.Y. 3/20/72 - drugs" contained:

Two page uncaptioned, undated document beginning with the words "In spring of 1971".

One page memorandum for the President dated March 17, 1972 captioned "New York meeting with drug abuse law enforcement officials, March 20, 1972, 11:40 a.m. (20 minutes)" with one page list of participants attached.

One page memorandum for the President dated March 17, 1972 captioned "Meeting with Governor ROCKEFELLER, March 20, 1972, 12:05 p.m. (15 minutes)" with one page list of participants attached.

One page memorandum for the President dated March 17, 1972 captioned "Meeting with Federal Undercover Narcotics Agents, March 20, 1972, 12:25 p.m. (5 minutes)".

One page memorandum for the President dated March 17, 1972 captioned "Tour through JFK Airport's customs facilities, March 20, 1972, 1:10 p.m. (15 minutes)".

Four page memorandum for Cabinet Committee on International Narcotics Control dated March 17, 1972.

Six page memorandum for the President dated March 18, 1972 captioned "Meeting with Cabinet Committee on International Narcotics Control, March 20, 1972, 3:30 p.m. (1 hour)".

Seven page memorandum dated March 18, 1972, 11:30 a.m. captioned "Guest and Staff Detailed Schedule, President's trip, President's visit to New York City to inspect Federal Narcotics Enforcement Measures".

Three page document captioned "Suggested impromptu remarks for President at conclusion of New York trip".

Three page White House press release dated March 20, 1972 captioned "The White House, President NIXON's New York trip, fact sheet".

Seven page document captioned "President NIXON's New York trip, fact sheet".

A folder labeled "P Mtg. w/Patrolman of the Year - 10/24/72", contained:

Two page memorandum for the President dated October 22, 1972 captioned "Meeting with Patrolman of the Year, October 24, 1972, 11:30 p.m. (10 minutes)" with two page list of participants attached.

One page memorandum to Mr. BUD KROGH dated October 20, 1972 captioned "Policeman of the Year".

A folder labeled "RN meeting - May 26, 1971", contained:

Three page memorandum for the President's file, dated August 23, 1971 captioned "Presidential meeting with the Attorney General, Director HOOVER, Messrs. EHRLICHMAN and KROGH, May 26, 1971".

A folder labeled "Mtg. w/RN 10/29/71 (Boy Scouts - Silver Buff.)", contained:

Four page memorandum for the President dated October 23, 1971 captioned "Meeting with the Boy Scouts of America, October 29, 1971, 12:00 noon (15 minutes)".

A folder labeled "RN's mtg. w/Gov. SCHAFER - Sept. 9, 1971", contained:

Seven page memorandum for BUD KROGH dated September 3, 1971 captioned "Governor SCHAFER's meeting with the President".

One page memorandum to EGIL KROGH dated September 10, 1971 from .

Two page memorandum (green copy) for the President's file dated September 10, 1971 captioned "Meeting with Honorable RAYMOND SHAFER, Thursday, September 9, 3:00 p.m.". b6
b7C

Two page memorandum (yellow copy) of above memorandum for the President's file dated September 10, 1971.

A folder labeled "Meeting with RN June 14, 71", contained:

Six page memorandum for the President's file dated July 26, 1971 captioned "Meeting with Ambassadors and State Department officials on International Narcotics Trafficking, June 14, 1971, 10:10 a.m. - 11:45 a.m.". b6
b7C

One page memorandum for B. KROGH dated June 18, 1971 from the Staff Secretary with copy of above six page memorandum for the President's file dated July 26, 1971.

A folder labeled "Mtg. w/President - narcotics - Dec. 6, 1971" contained:

Three copies of four page memorandum for the President (undated) captioned "Meeting on narcotics, December 6, 1971, 3:30 p.m. (20 min.)".

Five copies of three page memorandum for the President dated December 4, 1971, captioned "Meeting on narcotics, December 6, 1971, 3:30 p.m. (20 min.)".

A folder labeled "Mtg. w/President, Nov. 2, 71 cab. mem. on exec. reorg." contained:

Four page memorandum for the President's file dated November 3, 1971 captioned "Meeting with cabinet members on executive reorganization".

Eight copies of three page memorandum for the President dated November 2, 1971 captioned "Meeting with cabinet members, November 2, 1971, 3:30 p.m. (15 minutes)".

Three page document (undated) captioned "President's Departmental Reorganization Program, President's meeting with Departmental Secretaries, Tuesday, November 2, 1971".

One page document, undated, captioned "President's Departmental Reorganization Program, comments of Director SHULTZ to the Press after meeting with the President, Tuesday, November 2, 1971".

Two page document dated November 2, 1971 captioned "President's Departmental Reorganization Program, fact sheet".

One page document captioned "Transfers to the proposed Department of Community Development".

One page document captioned "Proposed Department of Community Development".

A folder labeled "RN meeting with 8 - June 8, 1970" contained:

One manilla folder, labeled as above, which contained:

Five pages of handwritten notes on legal size paper.

A folder labeled "Mtg. w/P May 27, 71 JDE/bk, drug sit. military", contained:

One page memorandum dated June 1, 1971 for B. KROGH from the Staff Secretary enclosing a memorandum for the President's file dated November 5, 1971, captioned "Meeting with JOHN EHRLICHMAN and BUD KROGH May 27, 1971".

A copy of above memorandum for the President's file dated November 5, 1971.

A folder labeled "P mtg. w/Mayor WASHINGTON and Chief WILSON 11:00 a.m., 10/13/71" contained:

b6
b7C

Four page memorandum for the President dated October 12, 1971 captioned "Meeting with Mayor WALTER WASHINGTON and Chief WILSON on October 13, 1971, 11:00 a.m. (30 minutes)".

One page memorandum for Mr. EGIL KROGH, JR. from [redacted] dated September 28, 1971 and captioned "Mayor WASHINGTON and Chief WILSON".

One page memorandum to [redacted] from H. R. HALDEMAN dated September 15, 1971 suggesting Mayor WASHINGTON and Chief WILSON be invited to meeting with the President.

Two copies of a one page memorandum for [redacted] dated July 27, 1971 captioned "Mayor WASHINGTON/Chief WILSON, crime report to RN".

One page memorandum for BUD KROGH dated July 23, 1971 from [redacted] regarding proposed meeting with Mayor WASHINGTON and Chief WILSON and report on crime reduction.

Three page memorandum for BUD KROGH dated August 23, 1971 captioned "D.C. Crime".

One page memorandum for Mr. EGIL KROGH, JR. from [redacted] dated September 28, 1971 captioned "Mayor WASHINGTON and Chief WILSON".

Three page memorandum for the President (rough draft), undated, captioned "Meeting with Mayor WALTER WASHINGTON and Chief WILSON, October 13, 1971, 11:00 a.m. (30 minutes)".

One copy of a magazine titled "Metropolitan Police, D.C., 1971".

One page of newspaper clippings dated October 13, 1971.

One copy of a periodical captioned "Food World" dated July, 1971.

One page memorandum for CHARLES COLSON captioned "D.C. Environmental Services Corps".

Two page document, undated, captioned "Remarks by Mayor WALTER E. WASHINGTON, October 8, 1971". b6 b7C

Two page press release dated October 8, 1971 under the letterhead of the Department of Environmental Services, District of Columbia Government.

Two page memorandum to Administration and Office Heads, dated September 17, 1971 captioned "Environmental Service Corps".

Five page document captioned "A prospectus for the Environmental Service Corps".

Two photographs (Mayor WALTER WASHINGTON pictured in both).

Two copies of a two page memorandum for the President's file, dated October 21, 1971 captioned "Meeting with Mayor WASHINGTON and Chief WILSON".

Two page document captioned "Schedule Proposal", dated September 17, 1971, from EUD KROGH to

A folder labeled "President's radio speech - Crime and Drug", contained:

Three copies of a document captioned "Radio speech - Crime and Drugs", dated October 4, 1972 and described as "Second draft".

One copy of the above document, fourth draft.

One copy of above document, fifth draft.

A folder labeled "P mtg. with POWELL and REHNQUIST", 12-22-71" contained:

Two copies of a three page memorandum for the President dated December 21, 1971 captioned "Meeting with POWELL and REHNQUIST, December 22, 1971, 11:00 a.m. (15 minutes)".

Two copies of a two page document captioned "Schedule proposal, date December 13, 1971" covering presentation of Supreme Court appointments to POWELL and REHNQUIST.

A folder labeled "[redacted]", contained:

Four page memorandum for BUD KROGH dated December 1, 1971 captioned "[redacted] Esq.". b6 b7C

A folder labeled "Sept. 21, 72 - P trip to Laredo, Texas", contained:

One booklet, labeled "Customs" and described within as a "Briefing Book, President NIXON, Laredo District".

One cover sheet from Bureau of Narcotics and Dangerous Drugs enclosing a copy of a teletype stamped "Sept. 21, 1972", "Confidential", concerning Heroin Seizure in Guadalajara.

One printed page, undated, uncaptioned, beginning with the words "Source's ranging from news reports".

One page White House press release dated September 22, 1972 concerning the President's visit to Laredo, Texas.

One page White House press release dated September 22, 1972 captioned "Statement by the President".

Three page document dated September 21, 1972 captioned "Statement by the President: Laredo visit".

Twelve page memorandum for the President dated September 19, 1972 captioned "Drug Strategy".

Thirteen page document dated September 21, 1972, 4:00 p.m., captioned "Guest and Staff Detailed Schedule, Presidential trip, visit to Laredo, Rio Grande, Harlingen and San Antonio, Texas".

Five page document dated September 21, 1972 captioned "Fact sheet: Laredo customs facility".

One page memorandum for BUD KROGH dated September 21, 1972 and captioned "Presidential visit to South Texas, September 22 - 23, 1972".

Three page White House press release dated September 22, 1972 captioned "Remarks of the President at the United States Customs Border Station".

Five pages containing teletype messages on drug related subjects.

One page of handwritten notes on legal size paper.

Two page document dated September 20 captioned "Fact sheet: Laredo customs facility".

One page, undated, memorandum for [redacted] captioned "P's trip to Laredo".

Two page undated document captioned "President NIXON's Laredo, Texas visit, fact sheet".

One page memorandum dated September 20, 1972 for a [redacted] and classified "Administratively Confidential". b6 b7C

Two page, undated, uncaptioned document beginning with the words "In Washington, D. C. I've met with many organizations or police".

Two page (Xerox copy) of news items on narcotics war of Nuevo Laredo.

A folder labeled "Mtg. w/P 9/7/72 - Internat. Conf. of Police Associations", contained:

One page memorandum for [redacted] dated May 12, 1972 captioned "International Conference of Police Associations".

Five page memorandum dated May 8, 1972 for [redacted] captioned "International Conference of Police Associations".

Seven copies of a two page memorandum for the President, dated September 6, 1972 captioned "Meeting with Police Association Representatives, September 7, 1972, 12:00 noon (10 minutes)".

One page memorandum for the President's file dated September 8, 1972 captioned "Presidential meeting with the International Conference of Police Associations, September 7, 1972".

One page memorandum to EGIL KROGH, JR. dated September 8, 1972 captioned "Memorandum for the President's file".

One page memorandum for Mr. BUD KROGH dated September 4, 1972, captioned "International Conference of Police Associations".

One page memorandum for [redacted] dated November 1, 1971 captioned "Proposed Presidential meeting with International Conference of Police Associations".

Five page document time stamped "72 Sept 5:00 p.m. 12:27" to [redacted] from [redacted]

Two pages containing handwritten notes on legal size paper which related to police matters.

One copy of a bill (S. 2087) to Amend Omnibus Crime Control and Safe Streets Act of 1958.

Two pages (Xerox copies) of the Congressional Record - Senate, September 5, 1972, containing information about "Public Safety Officers' Benefits Act of 1972".

One page letter to EGIL KROGH, JR. dated September 12, 1972 from [redacted]

One page, under the letterhead of the International Conference of Police Associations dated September 6, 1972.

b6
b7C

One empty manila folder labeled "ICPA - Sept. 7, 1972, Presidential meeting".

A folder labeled "9/8/72 mtg. w/ [redacted] - Attorneys and Narc. Law", contained:

One legal size pad of paper containing several pages of handwritten notes.

Two page memorandum for the President's file dated September 13, 1972 captioned "Meeting with [redacted] Attorneys, 10:45 a.m., September 6, 1972".

Four page memorandum for the President dated September 8, 1972 and captioned "Meeting with Drug Enforcement Attorneys, September 8, 1972, 10:30 a.m. (10 minutes)".

Ten page White House press release dated September 8, 1972 captioned "The White House, press conference of FYLES AMBROSE, Special Assistant Attorney General and Director, Office for Drug Abuse Law Enforcement".

A folder labeled "Drug abuse law enforcement mtg. w/P, 7/24/72", contained:

Two page memorandum for the President's file dated August 9, 1972 captioned "Meeting with law enforcement officials on Monday, July 24, 1972, 10 - 12:24 a.m.".

One page memorandum to Mr. EGIL KROGH, JR. dated July 24, 1972 from [redacted]

b6
b7C

One page, undated, captioned "Informal remarks by the President at Narcotics Law Enforcement Briefing, July 24, 1972".

One page of handwritten notes on legal size paper.

Numerous fliers related to Federal Narcotics Enforcement.

Nine page memorandum for the President dated July 24, 1972 captioned "Meeting with Federal Drug Enforcement officials, July 24, 1972, 10:30 a.m. (10 minutes)".

WFO 4-11-72
12

Three page White House press release dated July 24, 1972 captioned "The White House, Drug Abuse Law Enforcement Program, Fact sheet".

Three page document, undated, captioned "Drug Abuse Supplemental Fact Sheet".

A folder labeled "P Drug activities - March 20, 21, 22, 1972", contained:

Five page memorandum to [redacted] from [redacted] dated March 1, 1972 (no caption).

A folder labeled "National Advisory Council - mtg. w/P 10/17/72", contained:

One copy "Drug Abuse Prevention Program Briefing Book".

Eight page document, undated, captioned "Remarks of EGIL KROGH, JR., Executive Director, Cabinet Committee for International Narcotics Control, International Narcotics Control Conference, Department of State".

b6
b7C

Two page memorandum for the President, dated October 16, 1972 and captioned "Meeting with National Advisory Council for Drug Abuse Prevention, October 17, 1972, 11:00 a.m. (10 minutes)".

Two page undated, uncaptioned, document beginning with the words "It's a pleasure to be able to talk with you this morning" and dealing with drug abuse.

One page memo, undated, captioned "Suggested KROGH talking points".

One copy of the "Drug Abuse Office and Treatment Act of 1972".

Two copies of a two page document dated October 17, 1972 captioned "National Advisory Council for Drug Abuse Prevention".

Two page memorandum for Mr. KROGH dated October 17, 1972 and captioned "Presidential remarks" submitted by [redacted]

Four page White House press release dated October 15, 1972 captioned "The White House, Text of a Radio Address by the President on Crime and Drug Abuse".

Two pages containing handwritten notes on legal size paper.

One page memorandum for Mr. EUD KROGH dated October 16, 1972 from [redacted] and captioned "National Advisory Council on Drug Abuse Prevention".

A manilla folder labeled "P letter (1/9/73) to Met. Wash. B of Tr.", contained:

One page (carbon copy) of a letter dated January 9, 1973 to Mr. WALTER MC ARDLE, President, Metropolitan Washington Board of Trade. The carbon copy was unsigned.

A folder labeled "RN mtg. June 17, 1971", contained:

One page memorandum to B. KROGH from the Staff Secretary dated June 22, 1971.

Three copies of one page memorandum for the President's file dated August 31, 1971 and captioned "Bipartisan Congressional Briefing on Drug Message, June 17, 1971, 8:00 a.m.".

b6
b7C

Director, Central Intelligence Agency

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4-1
delivered
BY LIAISON
6/8/78 JW

~~FEDERAL GOVERNMENT~~

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 [Redacted Box]

b6
b7C

2 ENCLOSURE
JLT:dmd (m)

(4)

MAIL ROOM

~~SECRET~~
Material Attached

REC-110 62-118045-2d

4-1

14 AUG 31 1978

(SEE NOTE PAGE 2)

8 4 SEP 1978

Greenberg/Gray-5384

Director, Central Intelligence Agency

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Department of State

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

You may make and retain or return all copies of
this correspondence, the referral form, and the documents
at your option.

14 AUG 31 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [redacted] b6
1 - [redacted] b7C

(SEE NOTE PAGE 2)

JLT:dmd [signature]
(4) ENCLOSURE

~~SECRET~~
Material Attached

DELIVERED BY LIAISON
6/8/78

MAIL ROOM Greenberg/Gray-5389

8 4 SEP 14 1978

Department of State

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its content.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Treasury Department
Bureau of Customs

6-8-78

4
2
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JHE
U. S. vs. L. PARRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4-1
BY LIAISON
W
FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

REC-102 - 118045 - 23

We must be able to determine from your
reply the following. 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

AUG 31 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

1 EN [Redacted Box]

b6
b7C

DELIVERED BY LIAISON
DATE 6/8/78
(SEE NOTE PAGE 2)

JLT:dmd [Signature]
(4)

MAIL ROOM

Greenberg/Gray-5397

8 4 SEP 14 1978

Treasury Department
Bureau of Customs

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: [Redacted]

Telephone: 324-3542

b6

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs Postal _____
Army _____ Navy _____ Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	105-178669	—	5/23/69

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Treasury Department
Bureau of Customs*



~~SECRET~~ / UNCLASSIFIED

MATERIAL ATTACHED

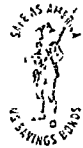
Greenberg/Gray-5399

62-118045-23

ENCLOSURE



TREASURY DEPARTMENT
BUREAU OF CUSTOMS
BUFFALO, N.Y.



MAJ 23, 1969

b6 Per FBI INV 6-702 MU
b7C

Neil Welch
Special Agent in Charge
Federal Bureau of Investigation
U. S. Courthouse Building
Buffalo, New York 14202

Dear Sir:

On May 19, 1969 [redacted] Maplewood,
New Jersey, DO [redacted] at [redacted] and [redacted]

[redacted] New York, N. Y., DOB [redacted]
[redacted] entered the United States at the Rainbow
Bridge, Niagara Falls, New York, in a 1965 blue Chevrolet convertible,
N.Y. Plate 1C5506, owned by [redacted] West,
New York, N. Y. (not a passenger).

A search of the vehicle resulted in the finding of a quantity of
marihuana and a marihuana pipe. Both subjects were turned over to
Niagara Falls, New York Police authorities for prosecution under the
narcotic laws of New York State.

Your Agent [redacted] at the writer's request, responded to the
bridge as I believed [redacted] personal note book contained intelligence
of the SDS Movement. The pages of the book were duplicated at the
bridge that same evening.

On May 20, 1969 your office was furnished 52 Xerox pages of duplicated
notes from [redacted] book. Please advise if I can be of further assistance.

Sincerely yours,

FREDARR J. MURPHY
Customs Agent in Charge

cc: F.B.I. Washington, D.C.

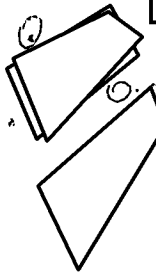
SEARCHED <i>1/1</i>	INDEXED
SERIALIZED	FILED
MAY 27 1969	
FBI - WASH. FIELD OFFICE	

ENCLOSURE

REPLY TO: CUSTOMS AGENT IN CHARGE, P.O. BOX 864, BUFFALO, NEW YORK, 14205

ENCLOSURE

Greenberg/Gray-5400



*176-98**

*100-47447**

100-48765-177P4

100-178167-

100-178167-23

United States Postal Service

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6388, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

1 - [redacted] b6
1 - [redacted] b7C

62-118045-24
14 AUG 31 1978
(SEE NOTE PAGE 2)

JLT:dmd
(4)
ENCLOSURE
MAIL ROOM

~~CONFIDENTIAL~~
Material Attached

DELIVERED BY LIAISON
DATE 6/8/78

Greenberg/Gray-5401 FBI/DOJ

8 4 SEP 14 1978

United States Postal Service

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: _____
Telephone: 324-3542

-To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal
Army _____ Navy _____ Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	88-50195	622	11/18/78
	b6 Per FBI		
	b7C		

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Postal Service*



~~SECRET, CONFIDENTIAL, UNCLASSIFIED~~
MATERIAL ATTACHED

62-118045-24
ENCLOSURE Greenberg/Gray-5403

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-31-2009

FBI

~~CONFIDENTIAL~~

Date: 12/6/74

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIR MAIL
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, ALBANY

SUBJECT: [Redacted] aka b6 Per FBI

FUGITIVE (WEATHFUG)
IO #4363
UFAP-MOB ACTION-HOMICIDE
POSSESSION OF DANGEROUS WEAPON
(OO: CHICAGO)
(Bufile 88-50195)
(Chicago 176-1085)
(ALfile 88-5366) (P)

[Redacted] aka b6 Per FBI
SM-WEATHERMAN
b7C

(OO: CHICAGO)
(Bufile 100-449781)
(Chicago 100-46370)
(ALfile 100-23674) (P)

WEATHFUG (MAIL COVERS)
(OO: CHICAGO)
(Bufile 176-1594)
(Chicago 176-1677)
(ALfile 176-41)

Re: Albany airtel to Bureau, 11/25/74.

- 6-Bureau (2-88-50195)
(2-100-449781)
(2-176-1594)
- 6-Chicago (2-176-1085)
(2-100-46370)
(2-176-1677)
- 7-Albany (2-88-5366)
(2-100-23674)
(2-176-41)
(1-176-41 Sub 3)

RAM:bah
(19)

REG-103

88-50195-662

DEC 10 1974

CLASSIFIED BY 1482 SJM
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE
Pg 2 Para 1, 3

Approved: _____
191974 Special Agent in Charge

Sent _____ M Per _____

~~CONFIDENTIAL~~

62-118045-24

ENCLOSURE

Greenberg/Gray-5404

UNREC COPY FILED IN 100

Spencer
Tommy
James

J

AL 88-5366
100-23674
176-41

~~CONFIDENTIAL~~

For the information of FBIHQ and Chicago, Albany is in receipt of a letter from Postal Inspector [redacted] Boston, Massachusetts dated 12/2/74 which advises that the Albany mail cover request submitted on 10/25/74 on [redacted] was actually put into effect on 11/18/74 and will conclude 12/18/74. [redacted] returned Albany's letter of 11/25/74 which requested an additional 30 day mail cover on [redacted] and [redacted] noted that mail covers can not be authorized during the period between December 4 and December 25, 1974. In view of this and based on the fact that no information of value has been obtained to date in regards to mail covers on [redacted] Albany will not submit any additional mail cover requests on her at this time. UACB or Chicago. (X)

For information of Chicago, on 12/5/74, information was received from a confidential source who is in a position to furnish such information, that [redacted] was in receipt of a letter from an unknown individual postmarked 11/25/74, at Stratford On Avon, England. For further information, Albany investigation re [redacted] deems that as of 12/2/74 her mail was to be forwarded to [redacted] Vermont and investigation is currently being conducted re this address. b6 Per FBI b7C

As noted in re airtel, the mail cover request on [redacted] for mail in care of [redacted] submitted 11/5/74 will soon expire and based on United States Post Office mail cover restrictions as set forth above, Albany is not requesting an additional 30 day mail cover at this time. Albany notes that the Boston Division currently has a mail cover on [redacted], Massachusetts and he continues to receive mail at this address as set forth in Boston airtel to Bureau dated 11/27/74 under [redacted] caption. As indicated in this airtel one [redacted] from [redacted] New York was in contact with [redacted] by letter postmarked 10/15/74 and Albany feels that this letter would not have been directed to [redacted] at this address if they were operating a mail drop for him at [redacted]. In view of this, Albany is submitting no additional mail cover requests on [redacted] at this time. UACB or Chicago. (X) b6 Per FBI b7C

Investigation at Albany re [redacted] WEATHFUGS is continuing. b6 Per FBI b7C

CONSIDER [redacted] ARMED AND DANGEROUS. b6 Per FBI
CONSIDER WEATHERMAN DANGEROUS b7C

~~CONFIDENTIAL~~

United States Department of State
Passport Office

6-8-78

~~FEDERAL GOVERNMENT~~

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

WCA 4-1

4/10

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

[Handwritten initials in a circle]

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [Redacted] b6
1 - [Redacted] b7C

REC-110
[Handwritten signature]

62-118045-25

(SEE NOTE PAGE 31) 1978

JLT:dmd
[Handwritten initials]
(2) ENCLOSURE

MAIL ROOM

DELIVERED BY LIAISON
Greenberg/Gray 5406
[Handwritten initials]

FBI/DOJ

8 4 SEP 14 1978

United States Department of State Passport Office

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: _____
Telephone: 324-3542

b6
b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other USSD - Passport

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	176-1700	358	4/26/78
	...		

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Department of State
Passport Office*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-25
ENCLOSURE Greenberg/Gray-5408

UNITED STATES GOVERNMENT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

TO : ACTING DIRECTOR, FBI (176-1700)

DATE: 4/26/73

FROM : SAC, WFO (176-98)(P)

SUBJECT: [redacted] aka b6
FUGITIVE (WEATHFUG) b7C
IO #4358
ARL - CONSPIRACY
(OO:CG)

Providence

Re Bureau airtel to WFO, 3/7/73.

Enclosed for New York, Chicago, and Milwaukee is one copy each of photograph of [redacted] b6 b7C

A review of United States Department of State, Passport Office files by SA [redacted] on 4/23/73, disclosed that [redacted] was issued passport number [redacted] on 2/1/68, at New York, New York, for proposed travel to France. b6 b7C

She listed purpose of the travel being "to visit sick father". In her application, dated 2/1/68, at New York, New York, she stated she intended to depart from New York via air on approximately 2/3/68, for a stay abroad of approximately one month.

This individual stated that she was born on [redacted] at [redacted] She gave her permanent residence as [redacted] Woodside, New York and listed her parents as [redacted] at the same address. b6 b7C

- ② - Bureau
- 2 - New York (176-403)(Enc. 1)
- 1 - Chicago (176-1300)(Enc. 1)(Info)
- 1 - Milwaukee (Enc. 1)(Info)
- 1 - WFO

WTT:sup
(7)

Greenberg/Gray-5409

23 APR 27 1973



5010-108

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

62-118045-25

WFO 176-98

The following description of this individual appears in the reviewed records:

Height:	5 feet 8 inches
Hair:	Brown
Eyes:	Blue
Occupation:	Student

Department of the Air Force

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6698, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

~~FEDERAL GOVERNMENT~~

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

Delivered by Liaison
on 6-8-78
by LAC

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [Redacted Box]

b6
b7C

JLT:dmd gmd
(4)

~~CONFIDENTIAL~~
Material Attached

62-118045-26

(SEE NOTE PAGE 231 1978)

Greenberg/Gray-5411

FBI/DOJ

8 4 SEP 14 1978
Folk, Treasury, RM 688

Department of the Air Force

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Immigration and Naturalization Service

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6388, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

Handwritten: 4-1
FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may take and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [Redacted] b6
1 - [Redacted] b7C

REC-110

62-118045-27

Handwritten signature

14 AUG 31 1978

(SEE NOTE PAGE 2)

JLIT:dmd *QMD*
(4)

MAIL ROOM Greenberg/Gray-5416

DELIVERED BY LIAISON

6/8/78

Handwritten: aKN

FBI/DOJ

8 4 SEP 14 1978

Immigration and Naturalization Service

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: [Redacted]

Telephone: 324-3542

b6

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other INS

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic File # Serial # Date

[Redacted]

b6
b7C

105-178699

—

2/5/73

Greenberg/Gray-5418

*Enclosure 6-8-78
Immigration and
Naturalization Service*



~~CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-27

ENCLOSURE

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
6 Frankfurt, Germany

FEB 13 1973

FILE: A 11 529 068

DATE: February 5, 1973

IN RE: [Redacted]

b6
b7C

APPLICATION: Temporary admission to the United States pursuant to section 212(d) (3) (A), Immigration and Nationality Act

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

consular officer

The applicant(s) has (have) been found by a

immigration officer

visa under Section(s) 212(a) (28) of the Act.

Nationality: Stateless	Date and Country of Birth: [Redacted]	Country of Residence: France	b6 b7C
Occupation: [Redacted]	Employer: [Redacted] France.		
Purpose in seeking entry into United States and destination: To transit the United States to and from Jamaica on assignment for his newspaper and will visit his father, [Redacted] Brooklyn, New York, enroute.			
Plans regarding travel to United States and period of temporary stay: Will enter on or about February 12, 1973, enroute to Jamaica and will transit the United States enroute to France before August 5, 1973.			
Basis for favorable action: The Department of State recommends his admission on humanitarian reasons.			

ORDER: It is ordered that the application be granted for the above indicated purpose, subject to revocation at any time, valid as set forth below.

ENTRY: Two entries during February 1973.

PERIOD OF TEMPORARY STAY: No entry to exceed five days.

BRH:so

105-178671-

Brooks R. Hierstein
Acting Officer in Charge

Basis of excludability

NOT RECORDED

FEB 12 1973

Form I-194
(Rev. 5-15-71)

Director, FBI
(For use in Section 212(a) (28) cases only)

Greenberg/Gray-5419

ENCLOSURE

DELIVERED BY LIAISON
ON 6-9-78
L. J. ...

Federal Aviation Administration

6-6-78

4
or

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

FEDERAL GOVERNMENT

4-1

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will usually suffice.

PK

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

62-118045-28

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [Redacted]
1 - [Redacted]
ENCLOSURE
JLT:dmd
(4)

b6
b7C

[Handwritten signature]

14 AUG 31 1978
(SEE NOTE PAGE 2)

MAIL ROOM

Greenberg/Gray-5420

FBI/DOJ

8 4 SEP 14 1978

Federal Aviation Administration

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: [Redacted]

Telephone: 324-3542

b6

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	176-2167	808	8/10/73

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Federal Aviation Administration*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-28
ENCLOSURE Greenberg/Gray-5422

DELIVERED BY LIAISON
ON 6-14-78
A. J. KENNEDY, JR.

Secretary, Health, Education, and
Welfare

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEE
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

W 4-1

FEDERAL GOVERNMENT

4/28

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

(JK)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

1 - [Redacted Box]
1 - [Redacted Box]

b6
b7C

REC-110

4-10-78

62-118045-29

(SEE NOTE PAGE 231 1978)

JLT:dmd *dmd*
(4) 2-ENCLOSURE

MAIL ROOM

Greenberg/Gray-5423

FBI/DOJ

8 4 SEP 14 1978

Secretary, Health, Education, and Welfare

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

Greenberg/Gray-5424



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 5/6/78

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten:

b6

Telephone: 324-3542

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other HW

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
	b6 b7C	504	5/6/78

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Secretary, Health, Education,
and Welfare*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-79

ENCLOSURE

Greenberg/Gray-5425

PERSONAL DATA ON APPLICANT FACULTY RESEARCH ABROAD
 Doctoral Dissertation Research
 P.L. 87-256, Section 102(h) (6)

THIS SPACE FOR USE OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-31-2009 BY 65179 dmh/baw/sbs

FEDERAL BUREAU OF INVESTIGATION
 WASHINGTON, D. C. 20535

CES

GOVERNMENT EMPLOYEE

TO BE FILLED IN BY APPLICANT

1. NAME (Last, First, Middle, and Maiden-if applicable) [Redacted]

2. BIRTH DATE [Redacted]

3. BIRTH PLACE [Redacted] b6 b7C

4. U.S. CITIZEN NATURALIZED

5. ALIEN

6. REGISTRATION NUMBER [Redacted] NATIVE COUNTRY [Redacted] DATE AND PORT OF ENTRY [Redacted]

7. IF MARRIED, WIDOWED, DIVORCED OR SEPARATED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE, AND DATE AND PLACE OF MARRIAGE. INCLUDE WIFE'S MAIDEN NAME (Indicate all previous marriages)

SINGLE MARRIED SEPARATED DIVORCED WIDOWER

Los Angeles, California
 Married June 8, 1969 in Berkeley, California
 Interlocutory Decree of Dissolution of Marriage 6/20/73
 Final Decree due October 26, 1973 (California State Superior Court, Alameda Co.)

8. CITIZENSHIP OF PRESENT SPOUSE U.S.

9. DATES AND PLACES OF RESIDENCE FOR THE PAST 15 YEARS

FROM	TO	NUMBER AND STREET	CITY	STATE
1958	1965	[Redacted]	Berkeley	California
1965	1966	[Redacted]	Wellesley	Massachusetts
1966	1967	[Redacted]	Wellesley	Massachusetts
1967	summer	[Redacted]	Cambridge	Massachusetts
1967	1968	[Redacted]	Princeton	New Jersey
1968	summer	[Redacted]	[Redacted]	[Redacted]
1968	1969	[Redacted]	Wellesley	Massachusetts
1969	Aug. 1970	[Redacted]	Princeton	New Jersey
1970	June, 1973	[Redacted]	Princeton	New Jersey
1973	present	32 [Redacted]	Princeton	New Jersey

b6
b7C

Return to:
 Director of Security
 Dept. of Health, Education & Welfare
 Washington, D.C. 20201

176-1700-176

10. EMPLOYMENT EXPERIENCE

FROM	TO	NAME AND ADDRESS OF EMPLOYER	TITLE AND BRIEF DESCRIPTION OF DUTIES
9/67	1/68	Princeton University	student library assistant checking and shelving
July 71	Aug 71	Princeton University	research assistant cataloguing Japanese prints
Sept 73	present	Princeton University	Assistant Master/ assist in planning and implementation of programs for minority students

11. EDUCATION (List present or most recent degree or training and work back)

NAME OF SCHOOL	ADDRESS	FROM	TO	DEGREES
Princeton University	Princeton, New Jersey	1969	present	M.A., 1973
Wellesley College	Wellesley, Massachusetts	1965	1969	B.A., 1969
Princeton University	Princeton, New Jersey	1967	1968	-----
summer language study Univ. of California	Berkeley, California	1966	summer	
Harvard University	Cambridge, Massachusetts	1967	summer	
Tokyo Japanese Language School	Tokyo, Japan	1968	summer	
Columbia University	New York, N.Y.	1969	summer	
Middlebury College	Middlebury, Vermont	1970	summer	
				Greenberg/Gray-5427

12. SOCIAL SECURITY NUMBER

[Redacted]

b6
b7C

13. MILITARY SERVICE (Past and Present)

SERIAL NUMBER	BRANCH OF SERVICE	FROM	TO

SIGNATURE OF APPLICANT

[Redacted Signature]

DATE

Oct. 9, 1973

b6
b7C

I ACCEPT THAT ALL THE INFORMATION PROVIDED ON THIS FORM IS CORRECT TO THE BEST OF MY KNOWLEDGE

6-9-78

United States Coast Guard

6-8-78

4-1

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEE
U. S. vs. L. PATRICK GRAY III, ET AL.
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON
FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1 - [redacted] b6
1 - [redacted] b7C

JLT:dmd dmd

(4) [redacted]

MAIL ROOM

REC-110
62-118045-30
4-Pal Daly
(SEE NOTE PAGE 2) 1978

Greenberg/Gray-5428

FBI/DOJ

8 4 SEP 14 1978

United States Coast Guard

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: BRENNAN
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other COAST GUARD

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's material or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informant or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
[Redacted]	b6 b7C 88-50195	309	5/10/73

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Coast Guard*



~~SECRET/CONFIDENTIAL~~ **UNCLASSIFIED**

MATERIAL ATTACHED

62-118045-30

ENCLOSURE Greenberg/Gray-5430

United States Forest Service

6-8-78

5
nd
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JRH
U. S. vs. I. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

4-1
W
~~FEDERAL GOVERNMENT~~

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

(Handwritten initials)

62-118045-31

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

1 - [Redacted]

b6
b7C

2 ENCLOSURE
JLT:dmd
(4)

MAIL ROOM

(SEE NOTE PAGE 2)

AUG. 31 1978

DELIVERED BY LIAISON

4- [Handwritten]
08/28
Greenberg/Gray-5431

FBI/DOJ

8 4 SEP 14 1978

United States Forest Service

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



R

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: BRENNAN
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other US Forest Service

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
WEATHERfyg	176-1594	NR-above 3434	3/8/72

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Forest Service*



~~CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-31

ENCLOSURE

Greenberg/Gray-5433

NR 04 PX CODE

3:57AM NITEL 3-8-72 DLN

TO: DIRECTOR (176-4300)

WFO (176-265)

FROM: PHOENIX (176-18)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

WEATHFUG.

[REDACTED]

SN-SDS (WEATHERMAN)

Handwritten notes:
307-
FUGA-P
S-mul

RE WFO TEL TO BUREAU MARCH SIX LAST.

ON MARCH SEVEN LAST, [REDACTED]

SPECIAL INVESTIGATIONS UNIT, TUCSON PD, ADVISED KNEW OF NO COMMUNE
LOCATED IN A CAVE IN THE TUCSON AREA. HE ADVISED NO RECORD OF
ANYONE NAMED [REDACTED]

b6
b7C

[REDACTED]

ON MARCH SEVEN [REDACTED] INVESTIGATOR, U. S. FOREST
SERVICE, CORONADO NATIONAL FOREST, TUCSON, ADVISED THERE ARE
NUMEROUS GROUPS OF YOUNG HIPPIES CAMPING IN THE CORONADO FOREST,
MANY OF WHOM STAY FOR SHORT PERIODS OF TIME AND PASS ON TO OTHER
PLACES. HE SAID THERE ARE COUNTLESS CAVES AND DESERTED MINE SHAFTS
BUT KNOWS OF NO COMMUNES AS SUCH LIVING IN CAVES. [REDACTED] SAID

b6
b7C

Handwritten notes:
referred

THERE IS A COMMUNE OF SORTS LIVING IN AN AREA KNOWN AS CALIFORNIA
END PAGE ONE

REC-66

176-1594
NOT RECORDED

MAY 22 1973

MAY 22 1973

62-118045-31

ENCLOSURE Greenberg/Gray 5434

PAGE TWO

PX 176-18

GULCH NEAR RUBY, ARIZONA. HE SAID THE FOREST SERVICE PICKED UP ABOUT TEN OF THESE PEOPLE IN OCTOBER, NINETEEN SEVENTYONE FOR TRESPASSING AND BROUGHT THEM BEFORE THE U. S. MAGISTRATE, TUCSON, BUT WERE RELEASED AND ARE STILL LIVING IN THIS AREA. ONE CAVE IN THIS AREA IS LOCATED ON PRIVATE LAND JUST OUTSIDE THE NATIONAL FOREST PROPERTY.

ON MARCH SEVEN [REDACTED] FOREST RANGER, NOGALES DISTRICT, CORONADO NATIONAL FOREST, ADVISED HIS DISTRICT IS POCK MARKED WITH CAVES AND ABANDONED MINE SHAFTS AND FROM TIME TO TIME THERE ARE HIPPIES AND CAMPERS WHO STAY IN THEM BUT MOST OF THEM MOVE ON. HE SAID THERE IS A GROUP LIVING IN AN AREA KNOWN AS CALIFORNIA GULCH NEAR RUBY, ARIZONA AND THEY HAD BOUGHT SOME PRIVATE LAND IN THE AREA. THERE IS A MINE SHAFT WHICH RUNS ABOUT TWO HUNDRED FEET INTO THE SIDE OF A HILL WHICH THESE PEOPLE USE. HE SAID THIS GROUP MAINTAINS A P. O. BOX ONE SEVEN ONE IN ARIVACA, ARIZONA. HE SAID IT IS LOCATED APPROXIMATELY FIVE TO SEVEN MILES NORTH OF THE U.S. - MEXICO BORDER. HE SAID THERE ARE TWO DIRT ROADS LEADING INTO THE AREA FROM THE NOGALES HIGHWAY AND FROM ARIVACA, ARIZONA. FEASIBILITY OF COVERAGE IN THIS AREA IS BEING EXPLORED. INVESTIGATION CONTINUING. PENDING.

b6
b7C

END

cc [unclear]
Greenberg/Gray-5435

Department of the Navy

6-8-78

FEDERAL GOVERNMENT

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL.
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

You may make and retain or return all copies of
this correspondence, the ^{REC-110} referral form, and the documents,
at your option.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

2-EN [Redacted] b6
1- [Redacted] b7C

JLT:dmd
(4)

MAIL ROOM

14 AUG 31 1978

Greenberg/Gray-5436

FBI/DOJ

Delivered by Liaison
To NISHIP SA WM, O'Reilly
on 6-7-78
by [Signature]

J.L. Trendle, Room 6888

8 4 SEP 1 1978

Department of the Navy

Documents furnished may include both documents-- originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.



UNITED STATES DEPARTMENT OF JUSTICE

R

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 6/8/72

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: BRENNAN
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
weather fug	176-1594	3384	2/27/73

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Enclosure to 6/8/72
Dept. of Army Newsg



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-32

ENCLOSURE Greenberg/Gray-5438

UNITED STATES GOVERNMENT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

TO : ACTING DIRECTOR, FBI (176-1594)

DATE: 2/27/73

FROM : SAC, HOUSTON (176-15) (P)

SUBJECT: WEATHFUG

ReDLlet to Bureau, 1/31/73.

The following investigation was conducted by
SA [redacted]:

b6
b7C

AT CORPUS CHRISTI, TEXAS

On 2/12/73; [redacted] Assistant Security Officer,
Naval Air Station, advised as follows:

b6
b7C

He ascertained that [redacted] USN, NSN
[redacted] is presently a patient at the USN Hospital at this
station in the psychiatric ward. Authorities at this station
are awaiting arrival of his U.S. Navy records, at which time a
determination will be made concerning disciplinary action to be
taken with regard to his alleged desertion.

b6
b7C

On 2/20/73, [redacted] USN, NSN [redacted]
was interviewed at the USN Hospital at the Naval Air Station,
and he advised as follows:

b6
b7C

He was born [redacted], Arkansas, and he
enlisted in the USN about April, 1968. In December, 1969, he
was assigned at the Naval Air Station, Whidbey Island, Oak
Harbor, Washington. He was "having mental problems" and was
unable to adapt to the Navy, having some superiors who were
constantly harassing him, so he absented himself on or about
12/23/69. He went to Vancouver, British Columbia, on 12/25/69,
and stayed at a hostel at which a number of other persons on
unauthorized absence from the U.S. military service were also
staying.

b6
b7C

He married [redacted] whom he had not known prior
to his desertion, and she subsequently had a daughter, now
eight months old. He and [redacted] resided at [redacted]
North Vancouver, and he worked as a tire retreader. He spent some
time in the Presbyterian Hospital for mental problems. He

b6
b7C

- 2 - Bureau (RM)
- 1 - Chicago (176-1677) (Info.)
- 2 - Dallas (1 - 176-36) (1 - 42-18702) (Info.) (RM)
- 2 - Houston

EX-109

REC-2/11/73 11-2344



PWH/jam
(7)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

32

remained in Vancouver until November, 1971, at which time he came to the United States via commercial flight going to Los Angeles, California, for a stopover and then to Dallas, Texas. He visited with his parents who reside at Irving, Texas, and then surrendered himself to military authorities.

[redacted] stated he encountered a number of other persons in Canada who were on unauthorized absence from the military service, names not recalled, except [redacted] who absented himself with [redacted] from the Naval Air Station, Whidbey Island. He advised that [redacted] was married and has a child. He claimed that about seven or eight months ago [redacted] moved from Vancouver to some other place in Canada. b6 b7C

Photographs of a number of fugitives were exhibited to [redacted] including photographs of the following: b6 b7C

[redacted]

b6
b7C

He advised he did not recognize any of these photographs as that of persons he had seen at any time. He said that, so far as he knew, he had no contact in Canada with any persons wanted by U.S. authorities other than persons who were deserters from the military service or who were wanted for Selective Service violations.

LEADS:

CHICAGO AND DALLAS (INFORMATION)

Copies of this communication are being sent to the Chicago and Dallas offices for information in view of possible interest.

TO : *PV* V. Daly
FROM : J. L. Tierney
SUBJECT: *Patrick L.* U. S. vs. GRAY ET AL
CHANGES TO FRANCIS J. MARTIN
LETTER DATED MAY 25, 1978

DATE: 6-14-78

4-1
7-1

new

4/28

On June 13, 1978, I discussed with Frank Martin several unclear or difficult aspects of the work required by him in his letter to you dated May 25, 1978.

With regard to the first portion of his letter, "I. THE WEATHERMAN FILES," Martin indicated he did not expect the entire New York and FBIHQ files to be processed but rather:

JP

1. The [redacted] files, both New York and FBIHQ, should be reviewed for any documentation of a Bag Job which occurred in August 1974. Martin recalls the Bag Job is recorded in the next to the last serial in the New York files. Any document in FBIHQ referring to the August 1974 Bag Job should also be processed. b6
b7C
2. The [redacted] individual files and the explosion at the ITT building files, both New York and FBIHQ, should be reviewed for documents relating to four Bag Jobs in Hurley, New York, which occurred between December 1973 and November 1974 and for a microphone installed during the same time period for which there is probably no documentation. If the files are reviewed for the time period of June 1973 through December 1974, this time frame should be sufficient to review. The Department has copies of travel vouchers, the originals of which are in Bureau files and which should be reviewed. b6
b7C
3. The entire files for Capbom and Penbom should be processed both at FBIHQ and New York. This work is necessary because of defendant Miller's interests in these files. The [redacted] time frame of 6/73 - 12/74 should be done first with earlier portions of the file done second. b6
b7C

REC-110 67-118045-33

14 AUG 31 1978

The entire New York files in their original form should be brought to FBIHQ for all of the above-listed files. Martin recommends we review the summaries of these files prepared by Mr. Long to assist us in locating the exact serials sought. Martin has been advised that the Wisbom and [redacted] bombing files do not relate to Weatherman and, therefore, do not need processing.

b6
b7C

4-22-78

J. L. Tierney to P. V. Daly Memo
Re: U. S. vs. Gray et al
Changes to Francis J. Martin
Letter dated May 25, 1978

If any of the defendants want these files, however, Martin will not object.

With regard to the second portion of the letter, "II. files (other than Weatherman)...," in which subparagraph 1 directed inventory and processing, a discussion ensued.

Martin was advised that following the seizure of 22 filing cabinets on August 19, 1976, by Mr. Long's men, the files were inventoried with each divider and each folder listed but without any listing of the contents of the folders or any indication of their size. This inventory remains. Within one month of initial seizure, instructions were received to return the filing cabinets and their contents to the offices from which they were seized. Two or three weeks later, further instructions were received to retrieve some of the folders which had been returned. Of 232 folders sought, only 185 could be located. For example, in cabinet number 1, which was seized from Mr. Shackelford, 11 folders were sought and none were returned. The labels of these folders were read to Mr. Martin from the inventory. It was pointed out to him that Mr. Shackelford's "Branch Chief Conference Notes" are not on the inventory, although they were obviously seized at some point. The original inventory is, itself, therefore, incomplete, or the defendants are laboring under a misunderstanding that all seizures occurred on August 19, 1976.

Martin had been unaware of the sequence of events and details of the seizure/return/retrieval. He asked several questions to insure he now understood. He was asked who had selected the folders for attempted retrieval, and by what standard of selection they had operated. I noted to him that we would be unable to vouch for the completeness of these records or that all relevant folders had been designated during September or October 1976. He acknowledged the Department would vouch for the selection process.

Martin has Shackelford's notes on the Branch Chief Conference as well as approximately ten sessions of both FBIHQ and Philadelphia files in the [redacted] cases and the Newark files on [redacted]. He will make the originals of these and other files available to us next week for processing.

b6
b7C

Greenberg/Gray-5442

J. L. Tierney to P. V. Daly Memo
Re: U. S. vs. Gray et al
Changes to Francis J. Martin
Letter dated May 25, 1978

With regard to the materials seized, Martin required three things to be done as promptly as possible:

1. Inventory all presently available materials according to the original inventory prepared by Mr. Long. Continue with the procedure of counting the number of documents in each folder.
2. The attempt to locate documents should be reasonable, that is, logical locations should be searched. There is no necessity at this point to search the entire building to locate missing folders. Personnel holding documents should be advised to destroy no further materials.
3. With handwritten notations on the original inventory, list what documents are still available so that Martin can review presently available materials and designate which folders must be processed for the defense. Martin will also consult with the defense to determine whether they seek to have additional folders processed beyond those designated. Martin will agree to a ^{reasonable} expansion but will fight an overly broad expansion if requested by the defense.

Martin was unable to continue the discussion due to his deadline tomorrow for completing the discovery motion papers. Although most major issues were clarified or settled, we agreed to continue the discussion later.

JLT
JLT:dmd

cc: 

*I will notify NYO (Dalseg) to get
copies of originals listed transported here*
JLT

b6
b7C

General S. Steinhilber
Special Counsel to the
Assistant Attorney General
Criminal Division
John C. McFarland
Deputy Associate Director
Federal Bureau of Investigation
U. S. DEPT. OF JUSTICE
DISCOVERABLE - INFORMATION OF FOREIGN ORIGIN

6-15-78

4-1
WCA

FEDERAL GOVERNMENT

L. Patrick

Referenced to you in a letter dated May 25, 1978,
from Mr. Francis A. Martin of your office, to Mr. Paul W.
Paly captioned "Discovery in United States of, Gray, et al."

Part III, numbered paragraph two of Mr. Martin's
letter advises us of the need to anticipate both adverse
court decisions and negotiated settlements of potential areas
of discovery sought by the defense, particularly "Foreign
Influences" such as that sought by defendant Gray's recent
motion 39. The necessity for immediate response in the
event of an adverse court ruling is emphasized. Our
propositions are to include material or submission of
material to "third agencies" the original material
found in FBI records.

JP

As one contained by subparagraph (B) of Mr. Gray's
motion number 39, Mr. Wolf's National Security Release
paragraph 8, and subparagraph (B) of Mr. Miller's motion
number 32. All three seek materials from foreign law
enforcement or Government agencies concerning weathermen,
and their foreign connections, travel, communications, or
activities.

REC-110

62-118045-34

Cooperative foreign agencies are among the most
valuable sources available to the FBI and to the intelligence
community of the United States. At times they are the sole
source of information needed by the FBI. A basic premise
of their cooperation with us, and ours with them, is the
assurance of confidentiality which is absolute and without
reservation.

14 AUG 31 1978

Any violation of either's confidence, to honor
the assurance, real or perceived, causes a deterioration in
the relationship. The prospect of disclosure involves sub-
sidizations peculiar to the country involved, and its impact
on the local political scene.

- 1 - Mr. Bassett
- 1 - Mr. Cregar Attn. [redacted]
- 1 - Mr. Moore Attn. [redacted]

(SEE NOTE PAGE 3)

b6
b7C
FBI/DOJ

Greenberg/Gray-5444

MAILED 15
JUN 15 1978
FBI

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

8 4 SEP 1978

MAIL ROOM 2
T: dmd (me) (7)

Barnes D. Sholin
Special Counsel to the
Assistant Attorney General
Criminal Division

Some relationships are with an individual and not necessarily with the foreign agency the individual represents. Other relationships are with both the foreign agency and the individual representative; we have no means to determine after the fact if the representative exceeded his authority in furnishing information in reliance upon our assurance.

We cannot evaluate with any precision the potential damage which disclosure or the threat of disclosure would cause. Indeed, to inquire into the possibility would open the issue of disclosure and cause the reevaluation we seek to avoid. Even worse, it would make clear that information furnished in confidence now rests in the hands of a criminal prosecutor who contemplates its use by the defense in a public trial.

During discovery proceedings in this case's ancestor (U. S. vs. Kearney) we processed a large volume of Weatherman material in which we redacted information which would have tended to identify foreign sources. These redactions were all based on protection of sources and the adverse impact on open investigations, present and future. We are continuing to redact on this basis.

Obviously, the FBI is compelled as a matter of survival to urge strict adherence to the position that material furnished by foreign sources, both individual and institutional, is exempt from discovery and to be redacted.

Similarly, we would object most strenuously to any suggestion that foreign sources be "consulted" as "third agencies" with a view toward securing their concurrence with the release of their information or documents. For the reasons outlined above, such consultation would raise issues which would be inconsistent with, and possibly fatal to our relationships.

If the Department finds itself faced with a court order requiring disclosure of sources, the Director of Central Intelligence (DCI) will have to be notified and consulted. The DCI has a statutory obligation for the protection of intelligence sources and methods under Section 103 (3) (3) of the National Security Act of 1947 (50 U. S. Code, Section 403 (3) (3)).

Barnet S. Sholnik
Special Counsel to the
Assistant Attorney General
Criminal Division

We have processed ample examples of foreign source material in files already reviewed and will not, therefore, undertake any separate effort to locate, review, and redact all examples of relevant foreign source information. The majority of the relevant foreign source material is located in substantive files already reviewed. Although other examples undoubtedly exist, we cannot justify the empty exercise of locating and redacting to disclose it.

If you are unable to concur with any of the above points, please advise Special Agents Paul V. Saly or Joseph S. Blotney.

- 1 - Mary C. Lorton
Deputy Assistant Attorney General
Office of Legal Council
- 1 - Robert Rouch
Deputy Assistant Attorney General
Criminal Division

NOTE: A substantial amount of material from foreign sources has been encountered. Almost all material from foreign sources would be relevant to the issue of foreign involvement in the Weatherman organization. Mr. Martin's letter directs processing of this material by 7-1-78, in anticipation of negotiated settlement or adverse court ruling on the issue of foreign involvement which has, thus far, been denied to the defense under discovery as irrelevant. Instant letter outlines for the Department the critical nature of the issue, and reminds them of the interest of DCI.

RA
PVA/est

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u>HS</u>
Dep. AD Adm. <u>AN</u>	Intell. <u>W21A</u>	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

UNITED STATES GOVERNMENT

Memorandum

TO : Paul V. Daly
FBI Headquarters

DATE: May 13, 1978
WJM:ams

FROM : Francis J. Martin, Trial Attorney
Criminal Division

SUBJECT: Discovery ... United States v. Gray, et al

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

I. The Weatherman Files

You have received a copy of the informal exchange of correspondence with defense counsel pursuant to which we have agreed to make certain discovery undertakings.* The principle of such an undertaking, in terms of volumes of material, is our agreement to make the Weatherman files (Headquarters and New York) available to defense counsel. Enclosed is the letter to defense counsel informing them that approximately 450 volumes of Weatherman files that you have processed are ready for their review. It is probable that some additional Weatherman files will need to be processed for defense counsel at this time. The files on [redacted] and [redacted] should be processed. You should process the files (New York and Headquarters) on [redacted]

b6
b7C

[redacted] Corp., Penbox and explosion at ITT Building (Bufile 174-4367). We will attempt to determine in the near future whether defense counsel will want to see any further Weatherman files.

II. Files (Other than Weatherman) which We have Agreed to Turn Over

In addition to the Weatherman files, the Government has also agreed to make certain other materials available to defense counsel. It is very important that these materials be processed and made available to defense counsel as soon as possible. In approximate order of importance, these materials are as follows:

- 1. Materials seized in New York and Washington on August 19, 1976 (Gray request #8). We have agreed to make available any of these documents that relate to Weatherman. Accordingly, these

*A supplemental discovery request by Gray's counsel and Government's response are enclosed.



5010-110

Copy - do not file

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray-5447

materials should be processed as soon as possible (if that has not already been done in connection with the Kearney case). Also, as you know, after its initial seizure certain materials were returned to IS-2, where they were later destroyed. An effort should be made, based on inventories or any other available data source, to determine as well as possible what materials were destroyed. Also, please provide any regulations that relate to the routine destruction of such materials.

2. Materials relating to policy statements on surreptitious entries (Gray request #50). You have already provided, and we have turned over to defense counsel, the "Hoover memos" and other materials in this category. Any additional materials should be processed as soon as possible.
3. The Huston Plan and any internal documents relating to the Huston Plan (up to June 1973) should be processed (Gray request #53).
4. We have agreed to provide the "Haynes memo" (Gray request #54). This memo, and any similar documents dealing with FBI - White House communication on Weatherman, should be processed.
5. We have agreed to provide any studies relating to the jurisdiction in the intelligence field of the Domestic Intelligence Division during the period 1969 (last study prior to that date) thru June 30, 1974. This material should be gathered and processed.
6. We have agreed to provide FBI materials relating to the Keith decision. This material should be processed and would include any specific directives issued as a result of Keith and any general directives or policy analyses prepared during the period of the alleged conspiracy, i.e., up to June 1973.
7. We have agreed to provide any materials relating to directives issued by Mr. Gray to the effect that breach of law or of FBI regulation by agents would not be tolerated (Gray request #30). Mr. Gray has also requested (Gray request #90) any documents indicating that SAC's disregarded, or sought to determine the applicability to surreptitious entries of, a September 21, 1972 memorandum issued by Gray (copy attached). You should endeavor to locate any documents which would be responsive to this request.

Mr. Gray may consider statements that he made when addressing agents during field office visits as within the scope of this request. You should determine the nature and extent of any records reflecting such statements, some of which may have been tape recorded.

8. You should obtain the tape and transcript (if any) of Mr. Gray's meeting with SAC Grappe in August 1972 (Gray's request #34).
9. We have agreed to provide Mr. Gray with certain materials relating to his dealings with the Cabinet Committee to Combat Terrorism (Gray request #21), the National Security Agency (Gray request #23) and the President's Foreign Intelligence Advisory Board (Gray request #24). These materials should be gathered and processed.

III. Files which the Court May Order Us to Turn Over

In addition to the materials that the Government has voluntarily agreed to supply to the defense, it is likely that at least some additional discovery will be ordered by the Court as a result of discovery motions filed on May 22, 1978. Those motions, for the most part, seek materials that defense counsel have previously requested but that the Government has declined to produce. Should the Court order any such material produced, it is absolutely imperative that the Government not be required to ask for a substantial delay in order to prepare to make such material available to the defense. While it may not be possible to be prepared totally for every possible contingency, it is essential that the Government be in a position to represent to the Court that it has been making better than a good faith effort to have all disputed discovery material processed as expeditiously as possible, so that it will be available for defense counsel's review if the Court so orders. Accordingly, you should begin processing the following materials, with a firm target completion date of July 1, 1978:

1. Mr. Gray has requested all documents reflecting FBI efforts regarding Arab terrorists during his tenure (Gray request #32). The Government has denied this request as overbroad, but may agree to a narrower request. In any event, at a minimum, the files on [redacted] and on Al Fatah, as well as any other control files, should be processed for the period of Gray's directorship.
2. Foreign Influence: counsel for all defendants have requested -- both generally (e.g. Gray request #11) and as to specific items (e.g. Gray request #59) -- materials tending to establish the proposition that

b6
b7C

the Weatherman constituted a "foreign" terrorist group. The Government has opposed this discovery as irrelevant. Should the Court rule for the defense on this issue, however, it will be vitally important for the Government to be able to produce this material for defense review as soon after such ruling as possible. Accordingly, you should process the specific materials requested (Gray request #59) as well as any other files bearing on the foreign influence issue. That processing must include appropriate submissions to third agencies asking for the release of any requested documents or information that were generated by that agency.

3. The defense has requested two 1975 position papers from the Intelligence Division (Gray request #'s 47 and 48) which the Government has declined to produce on the grounds that they are irrelevant to the events of 1972-73. These position papers should be processed. Also, Mr. Gray has requested materials relating to the "abandonment or resumption" of intelligence programs (Gray request #71). This material should also be processed.
4. Mr. Gray has requested materials relating to all post-1966 (Hoover cut-off) bag jobs. You should process all materials relating to all such bag jobs.
5. Mr. Gray has requested any documents showing that Congressional Committees investigating Capbom were informed that surreptitious entries had occurred or would occur in the FBI investigation of the Weatherman. The Government has responded that Government counsel are unaware of any such documents. You should gather any materials relating in any way to testimony before, or documents submitted to, any Congressional Committee with respect to Capbom.

We should arrange to meet soon in order to discuss any logistical problems which you may foresee in preparing discovery materials in strict accordance with instructions set forth above.

cc: Keuch
Lawton

Greenberg/Gray-5450

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Top Secret Control Number FBIHQ 78-1152

Originator of Material NSA GC/197/78
(FBI field division, FBIHQ or outside agency)

Letter Airtel

Date of Mail 6/13/78

LHM Memo

Report Other

Teletype

Captioned:

Patrick Gray

This serial is under the control of the Top Secret Control Officer located in the Document Classification Office.

Authority - 62-116065

File number 62-118045-35

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5451

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-01-2009

~~CONFIDENTIAL~~

Robert Brown
Deputy Assistant Attorney General
Criminal Division
John A. Wethercott
Deputy Associate Director
Federal Bureau of Investigation
F. B. I., 400, L. BARRICK@GRAY INT. IN AL.
DISCOVERY OPERATIONS

8-19-78

FEDERAL GOVERNMENT

4-1
WCA

Reference is made to a letter from the Federal Bureau of Investigation to the National Security Agency (NSA) dated May 12, 1978, a copy of which is attached. A copy of the NSA response dated June 13, 1978, is also attached. (U)

It is to be noted the NSA response is classified ~~TOP SECRET~~ ~~CONFIDENTIAL~~. For this reason, instant letter is classified ~~CONFIDENTIAL~~. (U)

You were previously advised of the decision by NSA to classify as ~~TOP SECRET~~ ~~CONFIDENTIAL~~ NSA materials in the internal NSA memorandum from G. A. Shannon to G. C. Miller dated May 31, 1978, and captioned Major Intelligence Programs. (U)

Our letter to NSA dated May 23, 1978, posed the question, which was not raised in our earlier exchange of correspondence with NSA, of access by properly cleared defense attorneys to NSA material in the May 31, 1978, memorandum. (U)

In addition to furnishing guidance in general terms concerning classification levels of NSA materials, the NSA response of June 13, 1978, objects to furnishing such materials to defense counsel for the reasons set forth in this letter. (U)

We will continue to keep you advised of significant developments in this regard, in view of your responsibilities in the discovery proceedings, and your interest as a member of the Departmental Review Committee. (U)

14 AUG 31 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. Bassett
- 1 - Mr. Cregar - Attn. [redacted] (Enclosures - 2)
- 1 - [redacted] (Enclosures - 2)

(SEE NOTE PAGE 2)

b6
b7C

JLT:dmd dmq
(8)

~~CONFIDENTIAL~~
~~TOP SECRET - DMBRA~~
Material Attached

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____

MAIL ROOM

8 4 SEP 14 1978

Handwritten: July 6888

Handwritten: HND

CLASSIFIED BY 14828 GAT/98
EXEMPT FROM GDS CATEGORY 2, 3
DATE OF DECLASSIFICATION INDEFINITE

LET TO DAVE KRUCIK HAND DELIVERED TO ORFEO TRANSDATA JR 6/15/78 BY THOMAS A WILLIAMS JR.

Handwritten: S ad

~~CONFIDENTIAL~~

Robert Kuehn
Deputy Assistant Attorney General
Criminal Division

A copy of this letter is being furnished to the General Counsel at NSA to complete our records insofar as the additional copy of their June 13, 1970, letter to us is concerned. In order to avoid proliferation of highly classified and compartmentalized documents, a copy of the NSA letter is not included for Mr. Lepton or Mr. Shelnik. We trust you will make your copy available to them. (U)

Enclosures - 3

- 1 - Director
National Security Agency
Attention: General Counsel
- 1 - Samuel M. Shelnik (Enclosure)
Criminal Division
- 1 - Mary C. Lepton (Enclosure)
Deputy Assistant Attorney General
Office of Legal Counsel

b6
b7C

NOTE: Copies of NSA response furnished INTD and DCO since classification policy of current interest set forth therein. On 6-15-78, [] General Counsel's Office, NSA advised NSA had no objection to furnishing copy of their response to the Department of Justice. [] is aware Department may seek to have Interagency Review Board at White House declassify NSA information for use at trial and asked to be advised promptly of any positive indication that Department is actually taking such action. (U)

PVD/els

~~CONFIDENTIAL~~

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 24

- Page 11 ~ b6; b7C;
- Page 13 ~ b6; b7C;
- Page 14 ~ b6; b7C;
- Page 15 ~ b6; b7C;
- Page 32 ~ Referral/Direct;
- Page 33 ~ Referral/Direct;
- Page 34 ~ Referral/Direct;
- Page 35 ~ Referral/Direct;
- Page 36 ~ Referral/Direct;
- Page 55 ~ Referral/Direct;
- Page 56 ~ Referral/Direct;
- Page 57 ~ Referral/Direct;
- Page 58 ~ Referral/Direct;
- Page 59 ~ Referral/Direct;
- Page 60 ~ Referral/Direct;
- Page 61 ~ b1;
- Page 62 ~ b1;
- Page 63 ~ b1;
- Page 64 ~ b1;
- Page 65 ~ b1;
- Page 66 ~ b1;
- Page 67 ~ Referral/Direct;
- Page 68 ~ Referral/Direct;
- Page 69 ~ Referral/Direct;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 24

- Page 11 ~ b6; b7C;
- Page 13 ~ b6; b7C;
- Page 14 ~ b6; b7C;
- Page 15 ~ b6; b7C;
- Page 32 ~ Referral/Direct;
- Page 33 ~ Referral/Direct;
- Page 34 ~ Referral/Direct;
- Page 35 ~ Referral/Direct;
- Page 36 ~ Referral/Direct;
- Page 55 ~ Referral/Direct;
- Page 56 ~ Referral/Direct;
- Page 57 ~ Referral/Direct;
- Page 58 ~ Referral/Direct;
- Page 59 ~ Referral/Direct;
- Page 60 ~ Referral/Direct;
- Page 61 ~ b1;
- Page 62 ~ b1;
- Page 63 ~ b1;
- Page 64 ~ b1;
- Page 65 ~ b1;
- Page 66 ~ b1;
- Page 67 ~ Referral/Direct;
- Page 68 ~ Referral/Direct;
- Page 69 ~ Referral/Direct;

```
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X For this Page X  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
```

62-

HQ-118045

Serial 272X14

EBF



62-HQ-118045-E272X14

**DO NOT
DESTROY**
FOIPA # 1104977

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5676

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5677

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5678

62-118045-272X14

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Memorandum to: Chief, Civil Discovery Review Unit 1
Civil Suit: Grey Felt Miller
Subject: Justice Department Documents
File # _____

ADDENDUM: DOCUMENT CLASSIFICATION UNIT

Note hand written notes were not
included in classification. Document 246-B-1
page 5.

TEAM CAPTAIN:

REVIEWER: _____

EXTENSION: 3630

ROOM: 6380

ADDENDUM DATE: 4-15-80

TIME EXPENDED: 1 1/2 hrs.

b6
b7C

REQUESTER/CIVIL LITIGATION: *Krey, Felt, Miller*

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
<i>Justice Dept Doc.</i> <i>- 246(A)16</i>	<i>2</i>	<i>3</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
<i>- 246.B-1</i>	<i>5</i>	<i>2,3</i>	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
<i>- 246 B3</i>	<i>6</i>	<i>1</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> _____ (2) _____ (3) _____ Other _____
	<i>7</i>	<i>3</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
			<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	<i>10</i>		<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
<i>- 246 B7</i>			<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
	<i>3</i>	<i>3</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
	<i>9</i>	<i>1</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
	<i>11</i>	<i>1,8</i>	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____

REQUESTER/CIVIL LITIGATION: *Krey, Felt, Miller*

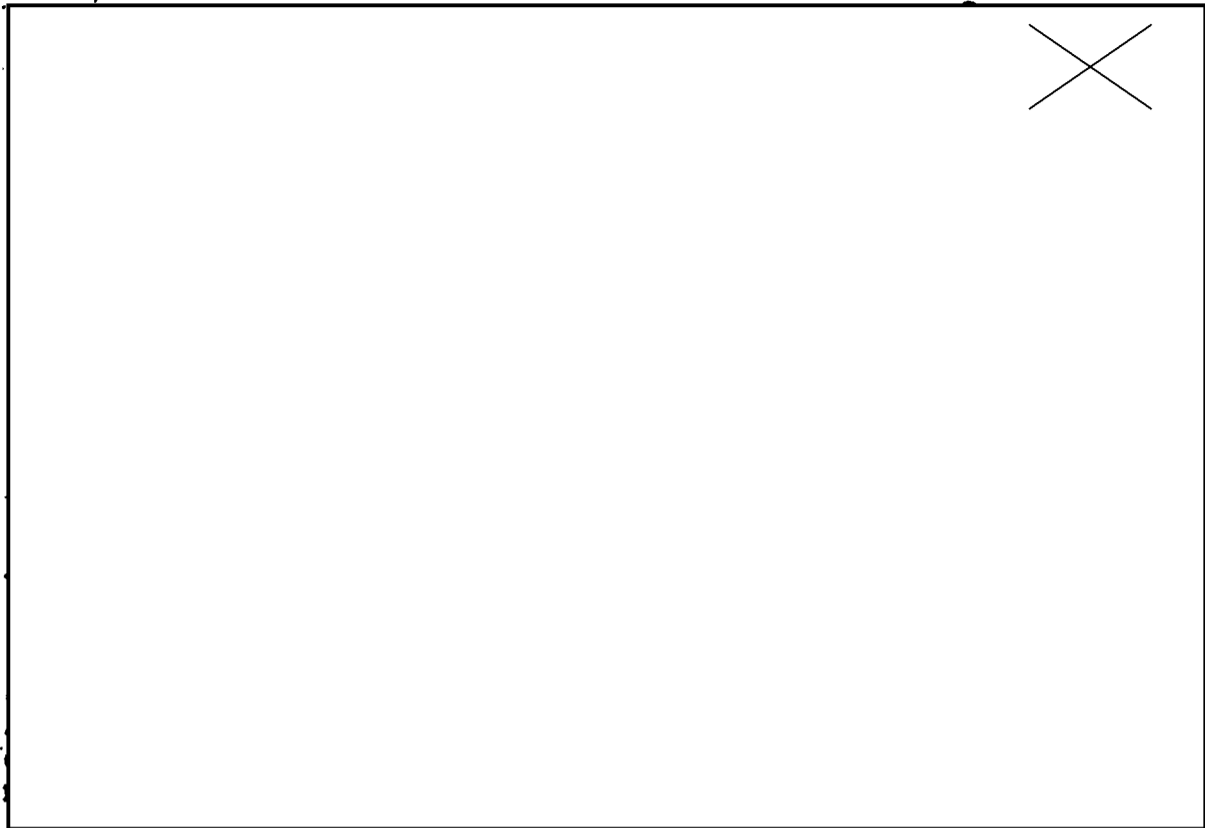
C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENSION REFERENCE FCIM, II, 1-2.4.2
<i>Justice Dept Doc</i> 24687	12	1-5	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
	13	1,2	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
-24688	1	2,3	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
-254B	4	4	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	3	2	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	4	1,2	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	5	1,2	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	6		<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
-255I	2	1-5	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____
	3	1,2	<input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> _____ (2) _____ (3) <input checked="" type="checkbox"/> _____ Other _____

REQUESTER/CIVIL LITIGATION: *Gray, Felt Miller*

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENSION REFERENCE FCIM, II, 1-2.4.2
<i>Justice Dept Doc</i> 255I	4	1	Confidential <input checked="" type="checkbox"/> Secret Top Secret	(1) <input checked="" type="checkbox"/> (2) _____ (3) _____ Other _____
	5	1, 2	Confidential <input checked="" type="checkbox"/> Secret Top Secret	(1) <input checked="" type="checkbox"/> (2) _____ (3) _____ Other _____
	5	3, 4	Confidential <input checked="" type="checkbox"/> Secret Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> (3) _____ Other _____
	6	2-5	Confidential <input checked="" type="checkbox"/> Secret Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> (3) _____ Other _____
- 256	1	1	Confidential Secret <input checked="" type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> (2) _____ (3) <input checked="" type="checkbox"/> Other _____
- 257A	1	1	Confidential Secret <input checked="" type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> (2) _____ (3) _____ Other _____
	2	2	Confidential Secret Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> (3) _____ Other _____
- 257B	1	1	Confidential Secret <input checked="" type="checkbox"/> Top Secret	(1) <input checked="" type="checkbox"/> (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			Confidential Secret Top Secret	(1) _____ (2) _____ (3) _____ Other _____



b6
b7C

RUBIN, JERRY JULDE

Rubin is a founder of the Youth International Party, (Yippies) in New York in 1968. He visited to Cuba along with 83 other individuals during the summer of 1964 in violation of the Department of State regulations. The trip was sponsored by the Pro-Castro Student Committee for Travel to Cuba. W

Rubin has a long record of arrests due to demonstration activity including the 1966 University of California at Berkeley, the October 1967 Pentagon, Columbia University disturbances in April 1968, and the Democratic National Convention in August 1968. W



~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

~~SECRET~~

TO : The Attorney General

DATE: November 27, 1968

JWY:vde

JWY

FROM: J. Walter Yeagley, Assistant Attorney General, Internal Security Division

File number Students for a Democratic Society - Gray

SUBJECT: Ninth World Youth Festival (IX WYF)
Sofia, Bulgaria, July 28 - August 6, 1968

146-1-10401

I think it is worthwhile to call to your attention that 50% of the American delegates to the Ninth WYF were members of the Students for a Democratic Society. This compares to 20% from the DuBois Clubs of America and 10% from the Communist Party with the remaining 30% being from other organizations or unidentified. Only four or five were identified as militant Black Nationalists. Six were deserters from U.S. Armed Forces. The American delegation may have totaled 85 persons, 71 having been identified to date. u

The World Youth Festivals go back to 1947 and are usually held every other year. An American delegate from Wisconsin described them as follows after returning from the 1962 Festival: "The 1962 Helsinki Youth Festival, as well as the seven previous Festivals, was an exclusive Communist effort." The first six Festivals were held behind the Iron Curtain. u

During the recent meeting in Sofia the American delegation held meetings with three other groups. (1) With a group of U.S. Army deserters (2) a group of Soviets and (3) a group from North Vietnam. u

The American delegation was led by Carolyn Black who belongs to both the Communist Party and the DuBois Clubs of America and Jarvis Tyner, National Chairman of the DuBois Clubs, who was also a convention speaker. After the Festival, the Soviets sponsored a tour of Russia for eight Americans. u

cc - The Deputy Attorney General

146-1-51-18249	
DEPARTMENT OF JUSTICE	
27	JAN 17 1969

Declassified Date 12/14/06
(Authority: 28 C.F.R. 17.26)

Greenberg/Gray-5688

Robert L. Heath
Robert L. Heath
Deputy Assistant Attorney General

~~SECRET~~

246B5

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4-15-80 BY

Francis X. Worthington
Chief, Civil Section

July 16, 1968

J. D. Moore

JDM:mkm

Students for a Democratic
Society (SDS)

146-1-51-18249

B.D.B.

~~CONFIDENTIAL~~

An SDS National Council Meeting was held at the University of Kentucky during the period of March 28-31, 1968. SDS agreed with University officials that those attending would be limited to delegates, observers and invited guests; that no sessions of the meeting would be held outdoors, and that all press, except internal press, be barred. u

The CPUSA issued a memorandum prepared by Mike Zagarell for the National Youth Commission, concerning the SDS National Council Meeting. The memorandum was addressed to "Youth Activists" and stated that the CP believed the meeting would be of major importance in the ideological development of SDS and that many important questions would be up for resolution. CP representatives were instructed to attend the meeting and be prepared to effectively present the CP position on the fight against racism, the student strike, and building draft resistance. CP urged full mobilization of all SDS people with whom the CP had contact. In addition, it was stated that the CP National Office had been informed that the DuBois National Office would have an official representation at the meeting.

The attendance at the sessions varied between 150 and 300 individuals. u

~~CONFIDENTIAL~~

Records
Mr. Worthington (original)
Mr. Moore
Hold

Greenberg/Gray-5689

Declassified Date 12/14/76
(Pursuant to 28 C.F.R. 17.26)

Robert L. Keuch
Deputy Assistant Attorney General 246B7

4-15-80
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 7-16-88

CONFIDENTIAL

A source advised that the entire Council Meeting was disorganized, with a number of scheduled events never being held, with many present trying to talk simultaneously, and with constant interruption of speakers and bickering occurring. Because of the confusion, it was difficult to determine in exactly what formation various resolutions were finally adopted. Tim McCarthy and Mike Spiegel from the National Office of SDS in Chicago, were the appointed leaders of the Council Meeting but had little success in attempting to control the meeting. u

The source commented that he observed no open immorality, drinking or the use of drugs by those attending and he gained the impression that the majority were serious about the meeting and desired to have it end with some definite proposals. However, the lack of organization and leadership ~~was~~ resulted in much turmoil. u

At the evening session on March 28, about 100 persons attended. The session consisted of a panel discussion by Dean Clamage, Joe Horton, Jean Rockwell and Carl Davidson. u

Clamage, Horton and Rockwell discussed their visit to Cuba in February 1968 and Davidson discussed his visits to Cuba in 1964 and 1967. u

The general tone of the remarks made by the above four individuals was favorable to the current government in Cuba. Davidson described the current situation in Cuba as being a great urban renewal project and stated the worst housing in Havana was not nearly as bad as the housing in the slums of Chicago. He stated the maximum rent paid for housing was ten per cent of an individual's salary and under current plans, as of 1971, no one in Cuba would have to pay rent for housing. He did comment that life in Cuba currently is somewhat rugged and there is some rationing of food, but on the whole Davidson was without criticism of the Cuban government. u

CONFIDENTIAL

- 2 -

Greenberg/Gray-5690

~~CONFIDENTIAL~~

Clamage's remarks included the statement that since Castro has assumed power in Cuba, there has been a definite increase in the living standards of the Cuban people; that the entire Cuban people support the current government. u

The sessions on March 29 and 30 were devoted to workshops and a plenary session which was continued on March 31. u

Another source advised he was in attendance during some sessions of the Southern Caucuses at the National Council Meeting and a dispute occurred regarding SDS' relationship with the SSOC. The principal individual opposing SDS working with SSOC was Ed Clark, of New Orleans, who felt that SSOC was trying to eliminate SDS influence in the South. Clark claimed SSOC could not be trusted because of its association with individuals from the National Student Association and Clark alleged that funds originating with CIA were received by SSOC. Tom Gardner of SSOC vigorously objected to Clark's remarks and strongly supported the work SSOC has done in the South. u

"The Kentucky Kernel", in its issue of April 1, 1968, reported: u

The SDS National Council Meeting had ended on the afternoon of March 31, 1968, after a more or less uneventful four days. The University's fears of possible disorder, which prompted a closed meeting and barring of the press, proved unfounded. The press ban, which the University had hoped would not only reduce the chances for disruption but also protect the University's image from conservative elements in the State, seems largely to have backfired in that members of the press got around the ban "legally" by talking to Council participants outside the meeting halls. u

Tim McCarthy said that the draft provided the Council's main issue, and that the resolution adopted on the draft encourages SDS Chapters to organize around that issue on campuses and to use that as a tool to reach other issues. u

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

McCarthy commented that the EDS has decided to join in a lawsuit against the draft and while it does not necessarily expect to win the suit while the case is pending SDS can file a petition for an injunction against draft boards who try to induct people who desire to file for conscientious objector status. u

McCarthy is further reported as having said that the Council adopted a resolution on the "Black Liberation Movement", which stated that SDS should take the responsibility of making visible the underlying reasons and actions of the "black movement." u

It was further reported that the issue that produced the most division among those attending the Council was with respect to the course EDS should follow during the election campaign. A few suggested working within the established political channels. Others wanted to work within the Peace and Freedom Party, and similar organizations. Many expressed a view that "liberals" were capitalizing on the efforts of radical groups, to further their own aims but without getting to the core of what SDS feels should be changed within American society. All resolutions regarding the election campaign were tabled. u

"The Kentucky Kernel", in its issue of April 23, 1968, reported that the Fayette County Grand Jury on April 22, 1968, had blasted the University of Kentucky for permitting the SDS National Council Meeting to be held on the campus of the University, and it also criticized the University for allowing a chapter of SDS to be formed at the University. In its report, the Grand Jury stated that, "It would appear that little or no real investigation of the intentions and purposes of the organization was made before it registered. It would further appear that it received little or no responsible faculty supervision." u

Literature was distributed by the following organizations:

Students for a Democratic Society

W.E.B. DuBois Clubs of America
New York, New York

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Bay Area Spartacist League
Berkeley, California

Southern Conference Educational Fund, Inc.

Monthly Review Press
New York and London

Monthly Review
333 Sixth Avenue
New York, New York

Boston Progressive Labor Party
Cambridge, Massachusetts

Southern Student Organizing Committee
Nashville, Tennessee

A National Convention of the SDS was held at Michigan State University, East Lansing, Michigan, on June 9-15, 1968, with approximately 550 persons attending, which included delegates, members, and observers. Mike Spiegel, SDS National Secretary, officially convened the convention, before approximately 300 persons. u

Following the convening of the convention, Carl Davidson, SDS Inter-organizational Secretary, gave a report on the radical student movement. Davidson stated this movement is going forward throughout the United States and the world and that the SDS should get together with students from other countries, such as France, Italy, Germany, Japan and Latin America, in order to allow the movement to continue forward in the months to come. u

After Davidson's report, a panel discussion was held on the "Columbia University Incident." In this discussion, which consisted of four members, including Mark Rudd, SDS leader from Columbia, it was indicated that the present Student Revolt in France shows the need of an alliance between students and the workers. It was further indicated that the SDS, as an organization, must take on "international characteristics" in order to further its cause. u

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Rudd also stated that the SDS is planning an International Students Conference which would be held late this summer in Canada, possibly in Montreal. Rudd also spoke about his arrest at Columbia during the demonstrations and added that a "Liberation School" will function at Columbia this summer. u

On Monday, June 10, 1968, it was announced by Mike Spiegel that each regional area represented at the convention would hold separate caucuses in order to elect a representative to the Steering Committee, which committee would set policy for the rest of the SDS Convention. u

During the afternoon session, the convention broke into workshops which dealt with the problems the various chapters faced during the past year; the solutions to those problems, and the problems the chapters must face in the future. u

Carl Davidson was heard to state that students must cooperate with the working class and join a common struggle against capitalist imperialism. u

In the evening session a panel discussion was held on "SDS Summer Work." The panel consisted, in part of Les Coleman, SDS National Office; Mike James, SDS leader from Chicago; John Feurst from New York and Steve Komm.

The points made were:

1. Methods or ways must be determined in order to obtain the support of the workers.
2. Concerted effort must be made by SDS members to work closely with the workers.
3. After working closely with the workers and gaining their complete confidence, they must be organized. u

On Tuesday, June 11, 1968, the convention again met in workshops which stressed problems that local chapters must face. u

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

In the afternoon the convention met in plenary session, which was chaired by Eric Mann. Among those who spoke were:

David Gilbert who stated that the consumers in present-day America are the ones that are being cheated by the capitalist manufacturers and are targets of exploitations.

Manish Sinclair who said that the SDS must make a concerted effort in the forthcoming period to work and organize together in order to achieve its goals.

Jeff Gordon who argued that the present-day capitalist system in the United States must be completely changed and a new system, not further described, must replace the capitalist system.

Robert Pardun stated that every effort must be made to keep Progressive Labor Party members out of the SDS unless they first agree to work for the SDS and place PLP efforts and endeavors second. Pardun added that the United States Government is presently harassing the SDS. As a result, Pardun urged that the SDS decentralize, with the individual regions taking over. Pardun cautioned that in the event that such decentralization is not effected, he is afraid the SDS may not be around much longer.

The evening session met in workshops and again discussed forthcoming summer work on the part of SDS members. In this connection, a discussion was held with respect to setting up a National Student Labor Project (SLAP).

On Wednesday, June 12, the SDS conducted no regular business during the morning. In the afternoon, the session was spent in workshops with one of the workshops being concerned with "The Military." During the course of this workshop, the editor of "The Bond", a newspaper written for servicemen, was heard to state that consideration should be given to the setting up of "coffee workshops" or "drop-in-centers." These establishments would be available for servicemen and could be used by them as a place where they could gather and talk to somebody about the problems they are facing.

~~CONFIDENTIAL~~

CONFIDENTIAL

(U) in the military service. In addition, these establishments would offer an excellent opportunity for the SDS to politically orientate the servicemen to the SDS programs and endeavors. ✕

This workshop wrote a resolution condemning the armed forces as instruments of American imperialism and advocating the politicizing and organizing of the military; setting up G.I. drop-in-centers near military installations offering a political program aimed at aiding the G.I.'s in radical struggle and organizing efforts in the military; encouraging individuals and chapters to conduct an organized campaign to involve G.I.'s in their social and political activities; establishing a military counselling service; and providing support for radical struggles within the military — i.e. demonstrations, publicity, printing facilities, etc. u

The evening discussion of the panel was held on "Racism." John Levun from San Francisco State College who was one of the speakers was not well received as it was claimed his talk had nothing to do with racism. u

According to the source, a representative from an organization in New York City, which uses an obscene word in its organizational title, spoke and stated that the white man should take up arms against other whites in order to help the Negroes. u

On Friday morning, the convention met in plenary session and was chaired by Tim McCarthy, Assistant National SDS Secretary.

The following items of business were conducted during this session:

1. National Secretary's report.
2. Financial report.
3. Constitutional proposals. u

CONFIDENTIAL

~~CONFIDENTIAL~~

The source advised that in connection with the financial report, the following information was furnished:

Total income for 1968: \$115,814.90

Total expenses for 1968: \$114,642.52

It was further stated that during the year \$51,000 was received in contributions, and \$19,059 was received from dues and subscriptions. It was added that the National Office had recently purchased a printing press for \$12,000; but to date, it had not been installed. (U)

Three proposals were submitted to amend the 1967 SDS Constitution but all three were voted down. u

The morning session on Friday was again chaired by Tim McCarthy and concerned itself with nominating and electing three national officers:

Bernadine Dohrn, a lawyer, was elected to the position of Inter-organizational Secretary. During a questioning period as to her qualifications, she replied that she was a "revolutionary communist." u

After Dohrn addressed the convention, a floor fight took place between SDS and PLP members. Speakers from both factions addressed the convention and at times, there were loud verbal outbreaks. As a result of this fight, there is a definite possibility that a split will develop between SDS and PLP in the foreseeable future. u

Fred Gordon was elected Internal Education Secretary. u

Mike Klonsky was elected National Secretary. He stated that the SDS must be decentralized; that every SDS member must have a sense of brotherhood; and that he too considered himself to be a "revolutionary communist." u

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

In the late afternoon session the following individuals were elected to the SDS National Interior Committee (NIC):

Chip Marshall
Eric Mann
Carl Oglesby
Jeff Jones

Mike Spiegel
Bartee Haile
Mike James
Morgan Spector

At the Saturday session, the resolution on "The Military" was passed. u

After the adjournment of the National Convention a press conference was held at which the old and new SDS national officers were presented. This confirmed the election of the new officers. A news release was issued containing the following material:

The National Convention brought together about 300 delegates from local chapters all over the country. After discussion it was felt that the SDS should maintain a decentralized organization to prevent the development of any national bureaucracy; the national office should serve only in a coordinating and educative role, and that more initiative should come from regional centers. u

Much of the discussion centered on ways of extending the movement to new constituencies — to uncommitted students and high school students, and to workers, hippies, and the poor. u

The Convention reaffirmed its strong opposition to the draft and voted unanimously to support the SDS National Draft Coordinator, Jeff Segal, who is presently in prison for draft refusal. SDS also affirmed the solidarity with students at Columbia University who are now in jail for their protest against Columbia's counter-insurgency military research programs, and Columbia's role as one of the biggest slum lords in New York. u

~~CONFIDENTIAL~~

- 10 -

Greenberg/Gray-5698

~~CONFIDENTIAL~~

On Saturday, June 15, 1968, the first meeting of the newly elected National Interior Committee (NIC) was held at Michigan State University with approximately 40 persons present. One of the items discussed was International Students Conference which is to be a conference of radicals and which will possibly be held in Canada in the late summer, however, final details were to be worked out later. X

The SDS still maintains its national offices in Chicago, Illinois, with regional offices in New York City; Syracuse, New York; in Los Angeles; in Cambridge, and in Washington, D. C. u

SDS continues to operate a Community Action Organization called JOIN, which means jobs or income now. u

The Radical Educational Center (REC) the internal education arm of SDS, continues to maintain its offices in Chicago. u

The "New Left Notes" (NLN) Vol. II, No. 25, in the issue dated June 26, 1967, contained an article captioned "Membership Report", which read in part as follows:

"The recorded membership of SDS stands at 6,371. In addition, there are 588 people who subscribe to "NLN" but are not members. Of the 6,371 members only 875 have paid dues since January 1, 1967. u

"Since last August (1966), 38 chapters have applied for and received recognition. This brings the total number to almost 250. u

With respect to CP interest in SDS, a source advised that a meeting of the CPUSA Secretariat with invited guests was held on January 25, 1968 at which the main topic was a discussion of the organization of SDS and the CPUSA attitude toward that organization. Al Silverstone reported on a convention of SDS held during the Christmas vacation, 1967, in

~~CONFIDENTIAL~~

- 11 -

Greenberg/Gray-5699

~~CONFIDENTIAL~~

(U) Bloomington, Indiana. He was the principle CP strategist at the convention and worked in close cooperation with Phyllis Kalb who was representing the CP national office. Of the approximately 150 delegates, 15 were CP members.

(U) Silverstone reported that the size of SDS was stated as being 3,000 card-carrying national members and that it was estimated that there are six non-dues paying members for every dues-paying member.

(U) During the meeting of the CPUSA Secretariat, Gus Hall and other speakers stressed the need for a fight for CP ideology and called for articles in CP publications on SDS and for journalistic contributions to SDS publications, such as "NLN." Hall also said "We must begin to put many more cadre directly into SDS", and called for CP youth to be moved directly into the SDS national office in Chicago to give the CP a pipeline into SDS leadership.

(U) Silverstone underlined the need and possibility for greater Communist participation in SDS and stressed the possibilities of recruitment from SDS.

(U) It appears that SDS has moved strongly more to the left. In its convention it set up a workshop entitled "Sabotage and Explosives" which was held on June 12, 1968. There were about 13 persons present but several were on-lookers. Persons recognized in attendance were Jim Brenston, believed to be from Boston, Pat Danner, believed to be from New York City, and Don Castleberry, from San Francisco, California.

(U) Jim Brenston appeared to be the workshop leader. The discussion included methods to disrupt selective service facilities. Among the suggestions offered were sending letters dipped in combustible material; flushing "bird bombs", a firecracker-type explosive, down toilets to disrupt plumbing; using sharp triangular shaped metal instruments designed to stop vehicles; using molotov cocktails fired from a shotgun; electronic firing devices; using radio jamming equipment, and dropping thermit bombs down manholes to destroy communication cables.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(U) Don Castleberry stated at the workshop that he was going to form an information center or a clearing center for the exchange of technical information on explosives. ~~X~~

(U) A workshop entitled "Self-Defense and International Security" was held on the afternoon of June 12, 1968. Approximately 13 persons were in attendance. The discussion dealt with self-defense and stressed the importance of forming karate clubs. The workshop also discussed tactics employed by police and counter-tactics to be employed against the police. ~~X~~

Another indication of the leftward movement of the SDS is that at the plenary session held on June 13, 1968, positions of the SDS were stated to be that greater regional control will prevail in SDS as opposed to central control; that more effort will be devoted to confronting the "establishment" off campus; that a stronger campus movement to "the left" will be promoted; that the formation of student revolution organizations will also be promoted; that SDS will concentrate on organizing and promoting revolutionary activities in large cities, and that SDS will support the black power movement. ~~X~~

~~CONFIDENTIAL~~

Mr. Francis X. Worthington
Chief, Civil Section
Internal Security Division

February 29, 1968
RBC:cc

Roger B. Cabbage

146-151-15249

Recent Activities of the Students
for a Democratic Society (SDS)

~~CONFIDENTIAL~~
Reclassified Date 12/14/79
(Pursuant to 28 C.F.R.17.26)

~~Robert L. Keuch~~
Deputy Assistant Secretary General

Pursuant to your request, the following is a resume of recent activities of the Students for a Democratic Society (SDS). u

The Students for a Democratic Society (SDS) held a National Council meeting in Bloomington, Indiana, from December 27 to December 31, 1967, with 150 persons in attendance. A National Council meeting is supposed to put into practice decisions made at National Conventions, the last being held in June, 1967. One delegate for each twenty-five local members is entitled to attend. The Council rejected a Progressive Labor Party (PLP) backed program of agitation on campuses aimed at exposing universities as tools of imperialism. It also rejected the Communist Party-W.E.B. DuBois Clubs of America plan of "student strikes" this spring. A program was approved favoring demonstrations from April 20 through April 30, 1968, employing disruptive demonstrations at draft centers and harassment of military and police personnel. In addition, SDS will play a major role in planned disruptions of the Democratic National Convention in Chicago, Illinois. Al Silverstone and Phillis Kalb, CP members, attended. Silverstone stated that approximately one third of the delegates were PLP members or PLP influenced and fifteen were CP members. This is probably an exaggeration. X

Representatives of the SDS, the CP, the National Conference for New Politics and various militant civil rights groups met in Chicago, Illinois, on February 6, 1968, to make plans for organizing demonstration activities by both Negro and white groups in Chicago during the Democratic National Convention next August. On November 16, 1967, Steve Halliwell, Jeffrey Jones, Karen Koonan and Cathy Wilkerson, all SDS members, departed

ords/
bage
d

Greenberg/Gray-5702

246B8

~~CONFIDENTIAL~~

4-15-80
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 2-27-86

~~CONFIDENTIAL~~

(U) New York City for Paris, France, with the intention of going to North Vietnam. They never went to North Vietnam from Cambodia because of "heavy bombing". In October, 1967, SDS filed suit against General Hershey, Director of the Selective Service System to enjoin him from enforcing a new draft policy. Other recent activities include demonstrations against military, Central Intelligence Agency, and Dow Chemical Company recruiters, university administration, the draft and the Vietnam war. X

At the June National Convention at which 400 persons attended, SDS resolved to support any "left" group that the government "attacks" and to cooperate with and aid the Student Nonviolent Coordinating Committee. Other resolutions concerned the Vietnam war, university reform, draft resistance unions, civil rights and labor. u

The present national offices and officers of SDS are:

- | | |
|---|-----------------|
| National Secretary | Michael Spiegel |
| Educational Secretary | Robert Pardun |
| Interorganizational Secretary | Carl Davidson |
| Assistant National Secretary | Steve Halliwell |
| Assistant Interorganizational Secretary | Bob Gottlieb |
| National Draft Resistance Coordinator | Jeff Segal |
| Financial Secretary | Boe Shomer |

There are approximately 250 SDS chapters with 6,371 recorded members. u

Greenberg/Gray-5703

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

4/169

~~CONFIDENTIAL~~

FOREIGN TRAVEL BY MEMBERS OF THE
STUDENTS FOR A DEMOCRATIC SOCIETY
AND OTHER MILITANT NEW LEFT LEADERS

The series of campus disturbances which have recently taken place around the country may have been in some instances influenced by previous demonstrations against the United States' policy in Vietnam. The National Mobilization Committee to End the War in Vietnam which sponsored the Pentagon demonstration of October 21, 1967 and the Fifth Avenue Vietnam Peace Parade Committee, and the Spring Mobilization Committee To End the War in Vietnam which sponsored demonstration in San Francisco, California and New York, New York on April 15, 1967, had among its leaders not only such people as David Dellinger, Dagmar Wilson, Sidney Lens and Robert Greenblatt, but also members of the Students for a Democratic Society, the Student Mobilization Committee and the Youth International Party. Many of these individuals made trips abroad to contact either representatives of the National Liberation Front of South Vietnam or foreign governments and/or foreign organizations opposed to the United States policy in Vietnam. (u)

A short summary of some of these leaders and of their foreign travels follows. (u)

DAVIDSON, CARL

Davidson was a national officer of SDS in 1966-67.

[Redacted]

b6
b7C

[Redacted]

b6
b7C

Greenberg/Gray-5709

146-1-51-12-17		RECORD
DEPARTMENT OF JUSTICE		
14	JAN 8 1970	
K.A.U.		

246(B)3

~~4-15-80~~
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2 3
DATE OF REVIEW 4-2-2009

~~CONFIDENTIAL~~

DAVIS, IRVING

He is the Deputy Chairman of SNCC for the East Coast and Assistant Director of SNCC International Affairs in New York City. [redacted]

~~CONFIDENTIAL~~

b6
b7C

[redacted] u

[redacted]

b6
b7C

He was one of several SNCC members who spoke on the Columbia University campus during the student riot in April 1968. u

DAVIS, RENNARD CORDON (also known as Rene Davis)

Davis was elected to this National Council of SDS in 1963 and held various leadership positions until 1967. u

[redacted]

b6
b7C

[redacted]

b6
b7C

DELLINGER, DAVID TYRE

Dellinger is the Chairman of the National Mobilization Committee to End the War in Vietnam and the editor of activists' magazine, "Liberation." u

He also was one of the leading organizers of the protest activities during the August 1968 Democratic National Convention at Chicago, and at the Pentagon demonstration in October 1967. u

~~CONFIDENTIAL~~

DELLINGER, DAVID TYRE (Cont'd.)

~~CONFIDENTIAL~~

Dellinger was in Peking and Hanoi during October and November 1966. u

In April 1967 he visited Paris to participate in the Bertrand Russell War Crimes Tribunal. But when France did not permit the Tribunal to sit there, Dellinger went to Stockholm, Sweden to assist in the arrangements for the Tribunal to be held there. u

In September 1967 he was one of 41 Americans who went to Bratislava, Czechoslovakia for a conference with North Vietnamese and Vietcong representatives. u

He went to Hanoi on May 26, 1967 and returned to the United States on June 13, 1967. u

In January 1968 he visited Havana, Cuba to attend the International Cultural Congress. u

In June 1968 he went to Paris where he met with representatives of the North Vietnamese peace delegation. u

He went to Prague, Czechoslovakia later in June, 1968 where he met with members of the National Liberation Front. u

In November 1968 he again went to Cuba where he underwent an operation. u

On January 31, 1969 he went to Paris where he met with the National Liberation Front delegation to the Vietnam peace conference. Accompanying him on this trip were Rene Davis, Cora Weiss, and Richard Barnett. u

DOHRN, BERNADINE RAE

She is the National Secretary of SDS at the present time.

--

b6
b7C

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

[Redacted]

b6
b7C

EGLESON, NICK

Egleson was National President of SDS during 1966-67 and very active in student demonstrations against the Vietnam War.

[Redacted]

[Redacted]

b6
b7C

GITLIN, TODD

A past national officer of SDS,

[Redacted]

[Redacted]

b6
b7C

GOLDBERG, BRUCE

Goldberg is a leader of the SDS at the University of Colorado and holds a position of teaching assistant in the Philosophy Department.

[Redacted]

[Redacted]

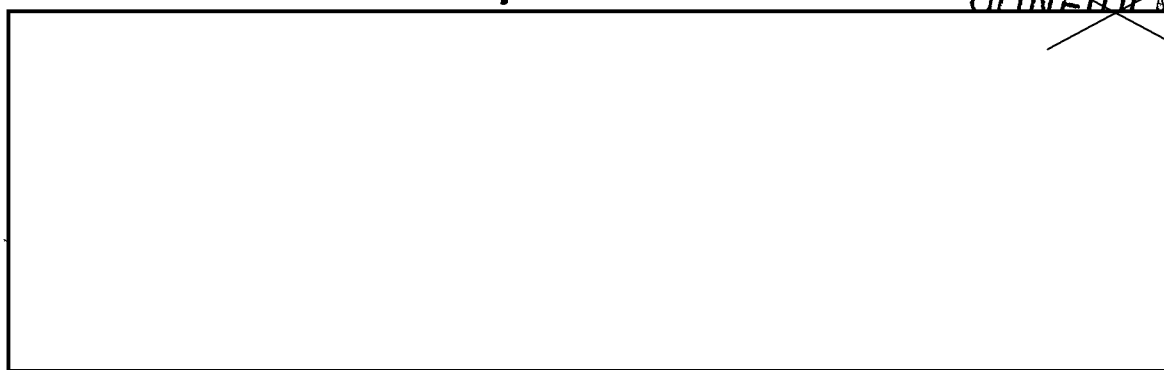
b6
b7C

[Redacted]

b6
b7C

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~



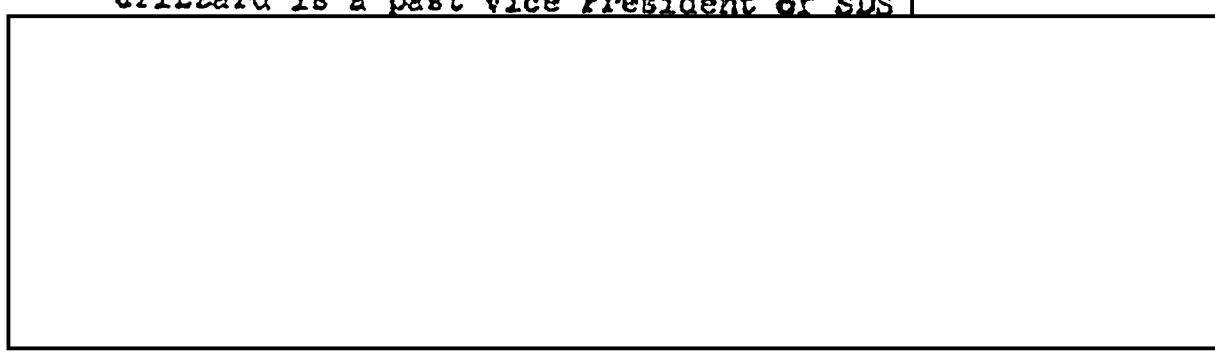
b6
b7C



b6
b7C

GRIZZARD, VERNON

Grizzard is a past Vice President of SDS



b6
b7C

HALLIWELL, STEVE

Halliwell was National Secretary of SDS during the summer of 1967 and in 1968 was the leader of the New York Regional Office of SDS.



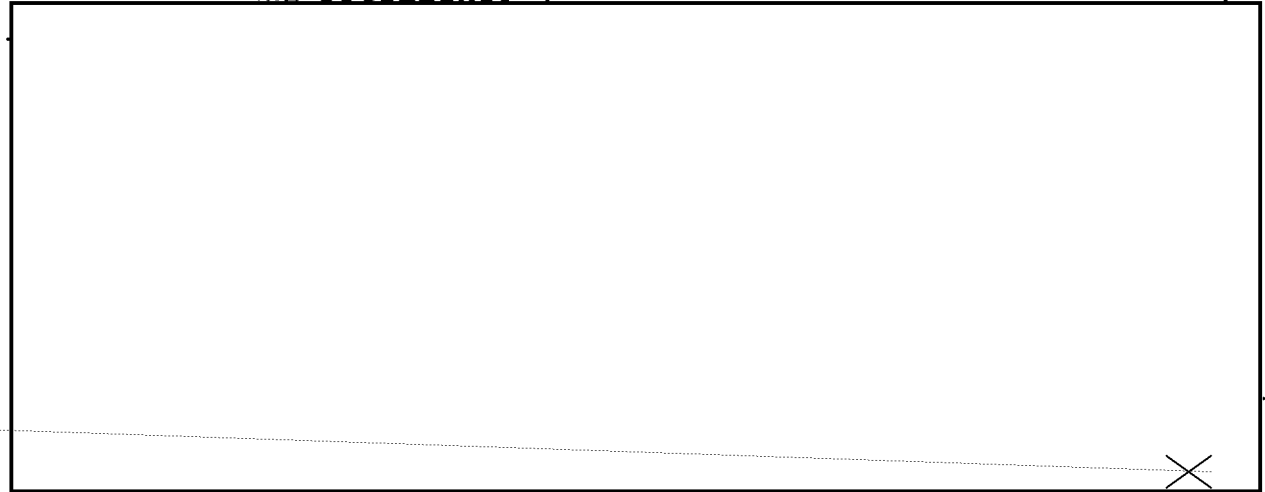
b6
b7C

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

HAYDEN, THOMAS

Thomas Hayden was one of the founders of SDS and a past National President.

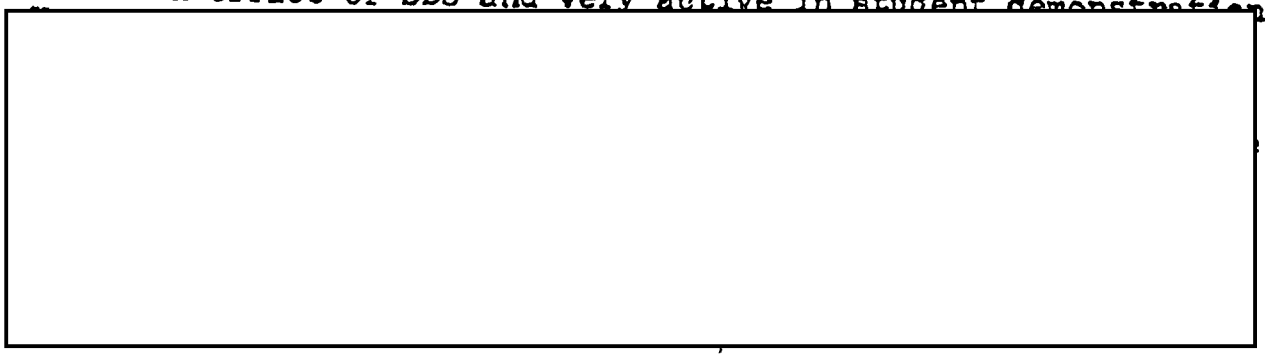


b6
b7C

(U)

JONES, JEFFREY

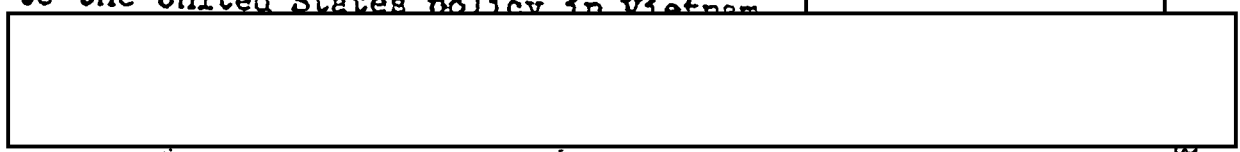
Until recently Jones was the office manager of the New York Office of SDS and very active in student demonstrations.



b6
b7C

KISSINGER, CHARLES CLARK, JR.

Kissinger was National Secretary of SDS in 1965 - 1966 and has been a militant leader in opposition to the draft and to the United States policy in Vietnam.



b6
b7C

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

KLONSKY, MICHAEL KENNETH

Klonsky at present is the National Secretary of SDS.

[Redacted]

b6
b7C

KRASNER, PAUL JAMES

Krasner is one of the founders of the Youth International Party (Yippies). He is the editor of "The Realist," which publication has been described by him as the magazine of applied paranoia.

[Redacted]

b6
b7C

KURZWEIL, BETTINA APTHEKER

Bettina Aptheker is a member of the National Committee of the Communist Party and an active leader in the Student Mobilization Committee and the Spring Mobilization Committee to End the War in Vietnam.

[Redacted]

b6
b7C

(U)

LESTER, JULIUS

Lester was a SNCC member on the International War Crimes Investigating Team.

[Redacted]

b6
b7C

MARSHALL, CHARLES "CHIP"

Marshall is on the National Interim Committee of SDS from the New England region.

[Redacted]

b6
b7C

~~CONFIDENTIAL~~



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

JAWB

Address Reply to the
Division Indicated
and Refer to Initials and Number

December 22, 1978

FJM:ams

Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al

Dear Sirs:


The enclosed documents, discovered as a result of re-
viewing Department of Justice files, are provided in re-
sponse to the following discovery requests:

- 246(A) 1 through 15 are in response to Miller discovery request 15;
- 246(B) 1 through 9 are in response to Felt request 64;
- 246(C) 1 and 2 are in response to Gray request 12.

You will notice that many of these documents do not fall strictly within the categories of material ordered discovered by Judge Bryant. We have chosen to interpret "plans to deal with the Weathermen" in broad terms, and have included internal DJ prosecutive memos back as far as 1965 relating to SDS.

Also please note that one document in these materials remains classified: the July 24, 1977 memo from Cubbage to Worthington. The last paragraph, unrelated to this case, is classified confidential.

Please sign a copy of this letter and return it to us to evidence receipt.

Sincerely,


FRANCIS J. MARTIN
Trial Attorney,
Criminal Division

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray 5715

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

December 28, 1978

Address Reply to the
Division Indicated
and Refer to Initial and Number

FJM:ams

Alan J. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al

Dear Sirs:

The enclosed documents, discovered as a result of re-viewing Department of Justice files, are provided in re-sponse to the following discovery requests:

246(A)1 through 16 are in response to Miller
discovery request 15;

246(B)1 through 8 are in response to Felt re-
quest C4;

246(C)1 and 2 are in response to Gray request 12.

You will notice that many of these documents do not fall strictly within the categories of material ordered discoverable by Judge Bryant. We have chosen to interpret "plans to deal with the Weathermen" in broad terms, and have included internal Department of Justice prosecutive memos relating to SDS back as far as 1965.

Also, please note that one document in these materials remains classified, i.e., the July 24, 1967 memo from Cabbage to Worthington. The last paragraph, unrelated to this case, is classified confidential.

Please sign a copy of this letter and inventory and return it to me at your earliest convenience.

Sincerely,



FRANCIS J. MARTIN
Trial Attorney
Criminal Division

Greenberg/Gray-5/17

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

INVENTORY

246(A) [Plans to Deal with the Weatherman]

1. Memo, Wilson to Director 5/21/70
2. Memo, Yeagley to Director 5/4/70
3. Memo, Crandall to Davitt 4/24/70
4. Memo, Vincent to Task Force 4/24/70
5. Memo, Waterman to Yeagley 3/16/70
6. Memo, Wilson to Director 2/19/70
7. Memo, SDS Task Force to Davitt 7/17/69
8. Memo, Yeagley to Director 4/14/69
9. Memo, Yeagley to Director 2/18/69
10. Memo, Yeagley to Director 4/30/68
11. Memo, Kern to Vinson 10/28/65
12. Memo, Attorney General to Yeagley 6/23/65
13. Memo, Yeagley to Attorney General 6/22/65
14. Memo, Yeagley to Director 6/25/65
15. Memo, Director to Attorney General 8/17/70
16. Memo, Cubbage to Worthington 7/24/67 (~~Confidential~~)

246(B) [Foreign Involvement]

1. Memo, Walz to Belcher 3/17/70
2. Draft memo, Task Force to Davitt 4/3/70
3. Twelve pages titled: "Foreign Travel by Members of the Students for Democratic Society and other Militant New Left Leaders."
4. Letter, Yeagley to Watson, 4/7/69
5. Memo, Yeagley to Attorney General, 11/27/68
6. Memo, Yeagley to Attorney General 6/19/68
7. Memo, Moore to Worthington 7/16/68
8. Memo, Cubbage to Worthington 2/29/68

246(C) [Bag Job Since 1966]

1. Memo, SDS Task Force to Davitt 8/26/70
2. Memo, SDS Task Force to Davitt 7/15/70

Greenberg/Gray-5719

Francis X. Worthington
Chief, Civil Section

July 24, 1967

Roger E. Cabbage

RBC:ekm

RECORD

146-1-51-15249

Students For A Democratic Society (SDS)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

The following is a memorandum on the national convention of SDS held from June 25 to June 30, 1967, at the University of Michigan. It includes information on Communist Party directives concerning SDS. (u)

SDS National Convention

The SDS held its national convention from June 25 to June 30, 1967, on the University of Michigan campus, Ann Arbor, Michigan. About 285 delegates from various chapters attended. As if to insure that the individual chapters of the organization are kept "free wheeling" and not under central control, the delegates, abolished the titles of president, vice-president and secretary, substituting instead three national secretaries. (u)

The delegates focused most of their interest on the draft and on the organizing of radical movements. Concerning the draft, some wanted the organization to help Army deserters go "underground." Many felt radicals should enter the Army in an attempt to disrupt it. Generally, the student delegates believed the most effective program would be one aimed at disrupting the Selective Service System apparatus, but they admitted this was probably hopeless. (u)

The SDS called for acts of civil disobedience when necessary. Proposals were passed calling for support of the Revolutionary Action Movement and SNCC by demonstrations and the giving of funds. (u)

cc: Records
Mr. Worthington (original)
Mr. Moore
Mr. Cabbage
Hold

~~CONFIDENTIAL~~

246(A)16

CLASS. & EXT. BY

Greenberg/Gray-5720

~~4-15-80~~
CLASS. & EXT. BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 7-24-87

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

The majority of the delegates were in favor of continuing demonstrations against the war in Vietnam. (u)

The Soviet Union has invited a representative of SDS to the Youth Conference of the 50th Anniversary of the Russian Revolution to be held in that country later this summer. It was agreed to send Jeff Shero, former SDS Vice President to the Youth Conference. However, upon his arrival, Shero should endeavor to hold a press conference at which time he would condemn both Russia and the U.S. for their responsibility in the war in Vietnam. (u)

Communist Party Influence

(u) At a Michigan District Communist Party State Committee meeting held on February 26, 1967 in Detroit, Thomas Dennis said the Communist Party must attempt to take over the SDS completely. Dennis said this take-over is a Party order and efforts should begin at once. (T-7 and T-8, 3/14/67 of Detroit memo, 6/15/67) (S) (X)

Thomas Dewitt Dennis, Jr. is the chairman of the Michigan District Communist Party. (T-15, 3/16/67 of Detroit memo, 6/15/67) (u)

~~CLASSIFIED BY [Signature]
EXEMPT FROM AUTOMATIC DOWNGRADING AND
DECLASSIFICATION SCHEDULE
EXEMPTION CODE: T+U
AUTOMATICALLY DECLASSIFIED ON~~

~~CONFIDENTIAL~~

- 2 -

Greenberg/Gray-5721



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

FJM:ams

February 12, 1979

Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al

Dear Sirs:

The following items of discovery, from Department of Justice files, (254 through 258) are hereby transmitted:

254(A) through (C) are in response to Gray Request 12.*

255(A) through (I) are in response to Felt Request C8.

256(A) is in response to Gray Requests 31-32.

257(A) and (B) are not in response to any specific request, but are provided in the spirit of full disclosure.

258(A)-(C), consisting of transcripts of testimony, and a press conference of Attorneys General Mitchell and Levi, are in response to Gray Requests 31-32.

Mr. Baron had specifically requested any discoverable information provided to the Department of Justice by former

*Agent [redacted] referred to in document 254(A), was one of the agents who refused to answer questions concerning Weatherman bag jobs by the Seattle Field Office. [See next to last page of the Shaheen Referral (#221)]

b6
b7C

Special Agent [redacted]
information in Item 254(C).

You will find this infor-

b6
b7C

You are further advised that, pursuant to a specific request from Mr. Baron, a search was made of the files of former Associate Deputy Attorney General James Wilderotter. Nothing of relevance to bag jobs was located. In addition, Mr. Wilderotter was telephonically contacted, and denied that he ever received information from the FBI concerning bag jobs.

Sincerely,



FRANCIS J. MARTIN
Trial Attorney
Criminal Division

Greenberg/Gray 5723

Inventory

254A.C

OTHER Pursuant to Sealed Court Order



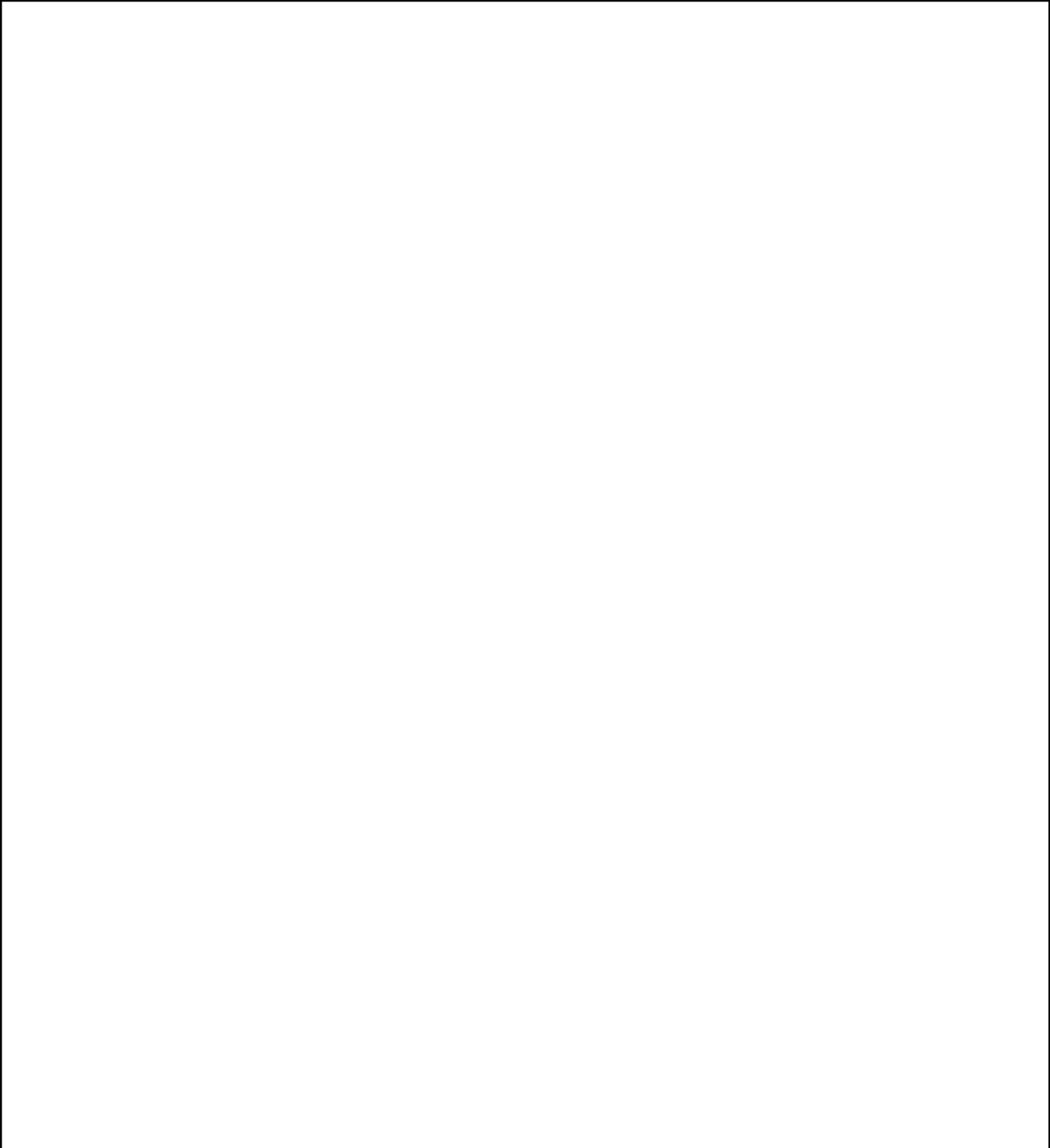
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Grand Jury 5724

Inventory

255A-T

OTHER Pursuant to Sealed Court Order



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5725

Inventory-256A

OTHER Pursuant to Sealed Court Order

Inventory 257A

OTHER Pursuant to Sealed Court Order

Inventory 258A-C

OTHER Pursuant to Sealed Court Order

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-06-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5726

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 56

- Page 31 ~ OTHER;
- Page 39 ~ OTHER;
- Page 40 ~ OTHER;
- Page 41 ~ OTHER;
- Page 42 ~ OTHER;
- Page 43 ~ OTHER;
- Page 44 ~ OTHER;
- Page 45 ~ OTHER;
- Page 46 ~ OTHER;
- Page 47 ~ OTHER;
- Page 48 ~ OTHER;
- Page 49 ~ OTHER;
- Page 50 ~ OTHER;
- Page 51 ~ OTHER;
- Page 52 ~ OTHER;
- Page 53 ~ OTHER;
- Page 54 ~ OTHER;
- Page 56 ~ OTHER;
- Page 57 ~ OTHER;
- Page 58 ~ OTHER;
- Page 59 ~ OTHER;
- Page 60 ~ OTHER;
- Page 61 ~ OTHER;
- Page 62 ~ OTHER;
- Page 63 ~ OTHER;
- Page 64 ~ OTHER;
- Page 65 ~ OTHER;
- Page 66 ~ OTHER;
- Page 67 ~ OTHER;
- Page 68 ~ OTHER;
- Page 69 ~ OTHER;
- Page 70 ~ OTHER;
- Page 71 ~ OTHER;
- Page 72 ~ OTHER;
- Page 73 ~ OTHER;
- Page 74 ~ OTHER;
- Page 75 ~ OTHER;
- Page 76 ~ OTHER;
- Page 77 ~ OTHER;
- Page 78 ~ OTHER;
- Page 79 ~ OTHER;
- Page 111 ~ OTHER;
- Page 122 ~ Duplicate;
- Page 153 ~ OTHER;
- Page 156 ~ Duplicate;
- Page 177 ~ OTHER;
- Page 178 ~ OTHER;
- Page 179 ~ OTHER;

Page 180 ~ Duplicate;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 215 ~ b6; b7C;
Page 236 ~ b1;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 56

Page 31 ~ OTHER;
Page 39 ~ OTHER;
Page 40 ~ OTHER;
Page 41 ~ OTHER;
Page 42 ~ OTHER;
Page 43 ~ OTHER;
Page 44 ~ OTHER;
Page 45 ~ OTHER;
Page 46 ~ OTHER;
Page 47 ~ OTHER;
Page 48 ~ OTHER;
Page 49 ~ OTHER;
Page 50 ~ OTHER;
Page 51 ~ OTHER;
Page 52 ~ OTHER;
Page 53 ~ OTHER;
Page 54 ~ OTHER;
Page 56 ~ OTHER;
Page 57 ~ OTHER;
Page 58 ~ OTHER;
Page 59 ~ OTHER;
Page 60 ~ OTHER;
Page 61 ~ OTHER;
Page 62 ~ OTHER;
Page 63 ~ OTHER;
Page 64 ~ OTHER;
Page 65 ~ OTHER;
Page 66 ~ OTHER;
Page 67 ~ OTHER;
Page 68 ~ OTHER;
Page 69 ~ OTHER;
Page 70 ~ OTHER;
Page 71 ~ OTHER;
Page 72 ~ OTHER;
Page 73 ~ OTHER;
Page 74 ~ OTHER;
Page 75 ~ OTHER;
Page 76 ~ OTHER;
Page 77 ~ OTHER;
Page 78 ~ OTHER;
Page 79 ~ OTHER;
Page 111 ~ OTHER;
Page 122 ~ Duplicate;
Page 153 ~ OTHER;
Page 156 ~ Duplicate;
Page 177 ~ OTHER;
Page 178 ~ OTHER;
Page 179 ~ OTHER;

Page 180 ~ Duplicate;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 215 ~ b6; b7C;
Page 236 ~ b1;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Mr. James Brennan
Special Office for
Defense Discovery
Room 4859, Hoover Building
Federal Bureau of Investigation
Washington, DC 20535

Person to Contact:

[Redacted]

Telephone Number:
(202) 566-4912

Refer Reply to:
TX:D:F 79-M-177

Date:

b6
b7C

20 JUL 1979

Dear Mr. Brennan:

This refers to your memorandum dated June 11, 1979, in which you transmitted two unclassified Bureau memoranda in connection with the case of United States v. L. Patrick Gray, III et al for our disclosure recommendation.

We have reviewed the information relating to the Internal Revenue Service contained in your documents and have no objection to its disclosure. However, since these are Bureau documents, the ultimate decision to disclose rests with your agency.

Sincerely yours,

M. Farbman

Chief
Freedom of Information Branch

Enclosure
Unclassified FBI memo
dated 9-30-65 and attachment

62-118045

attached referral

Copies furnished

[Redacted]

no receipt

8/22/79

JCB

Greenberg/Gray-5454

b6
b7C

~~TOP SECRET~~ 3

TRRS

- Tolson _____
- Belmont _____
- Mohr _____
- DeLoach _____
- Casper _____
- Callahan _____
- Conrad _____
- Felt _____
- Gale _____
- Rosen _____
- Sullivan _____
- Tavel _____
- Trotter _____
- Tele. Room _____
- Holmes _____
- Gandy _____

UNITED STATES GOVERNMENT

Memorandum

ROUTE IN ENVELOPE

~~CONFIDENTIAL~~

JUNE

DATE:

9/30/65

TO : MR. BELMONT

FROM : W. C. Sullivan

SUBJECT: SPECIAL INVESTIGATIVE
TECHNIQUES

- | | |
|----------------|-----------------|
| cc Mr. Belmont | Mr. Conrad |
| Mr. Mohr | Mr. Felt |
| Mr. Casper | Mr. Sullivan |
| Mr. Rosen | Mr. Baumgardner |
| Mr. Gale | Mr. Donohue |

In the attached memorandum you recommended that we prepare for the Director's approval our suggested use of special investigative techniques. In the use of these various techniques, we intend to be most circumspect and cautious and there is set forth below the policy we propose to follow in connection with their use.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs
Pages 1 and 4 only

RECEIVED EXAMINATION DIVISION

109-I-8
JUL 17 1979

EXAMINATION SYSTEMS BRANCH

TAX DISCLOSURE BRANCH
TX:D:T
JUN 12 1979
DISCLOSURE OPERATIONS DIVISION

Division TX:D:F

JUN 12 1979

Department of Information

~~SECRET~~
Memorandum to Mr. Belmont
SPECIAL INVESTIGATIVE TECHNIQUES

INCOME TAX INFORMATION

We have in the past been able to obtain from the Internal Revenue Service, on a highly confidential basis, information from income tax records of considerable value in our investigations. This practice was recently discontinued. In view of the Attorney General's observations that this type of information can and should be obtained from the Internal Revenue Service, we will resume obtaining it, but will present the facts in each case to the Director for his approval before doing so.

RECOMMENDATION:

If you approve, we will carry out these procedures in line with the policy outlined above.

CB
7/11/56

W.E.S.
O

forward authority
for use of any of the
above to be obtained
here & not left to
discretion of any
Doc.
/

~~SECRET~~

~~CONFIDENTIAL~~

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

-----x
EDITH CLARK, et al., :
Plaintiffs, :
- against - :
UNITED STATES OF AMERICA, et al., :
Defendants. :
-----x

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to protect the discovery process and to further the interests of justice, and the Court having duly considered the matter, it is ORDERED that:

1. No document identifiable with any plaintiff in the possession, custody or control of the individual defendants or Government agency defendants shall be destroyed or obliterated in any manner pending a final determination of this action, including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected by this order shall be placed and maintained under supervisory control of the Court in the physical custody of any person or agency now in possession of such records who shall be responsible for the physical integrity of the documents. Any defendant which has in its possession any of the documents shall be bound by its terms.

3(a). A copy of this order shall be circulated to each field office and legal attaches of the Federal Bureau of Investigation ("FBI") as well as any organizational unit within the headquarters of the FBI. Additionally, copies of the order will be circulated to appropriate officials of the Postal Service and Department of Justice having custody of documents identifiable to any plaintiff.

*Do Not Remove
Retain as Top Serial
C*

SEC. 4

62-118045

NOT RECORDED

JUN 11 1979

Greenberg/Gray-5457

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ~~plaintiffs'~~ ^{for each party} attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendant^s ^{MSX} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~plaintiffs and plaintiffs' attorneys~~ ^{The attorneys for the other parties} ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~, 1979
May 16

Monroe H. Cole
United States District Judge

Greenberg/Gray-5459

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	_____
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : The Director

DATE: 11/30/78

FROM : Legal Counsel *[Signature]*

SUBJECT: U. S. V. GRAY, ET AL

L. Patrick III

PURPOSE: To report telephonic contact by former SAC Joseph F. Santoiana, Jr. with Inspector [redacted] of the Legal Counsel Division.

b6
b7C

SYNOPSIS AND DETAILS: At 10:40 a. m., Thursday, 11/30/78, former SAC Joseph F. Santoiana, Jr. called at FBIHQ and spoke with Inspector [redacted]. He advised that he has received a subpoena from the Department of Justice in connection with captioned suit, which subpoena furnished him the name and telephone number of Departmental Attorney Francis J. Martin, Criminal Division, to call if he had any questions regarding the subpoena. Mr. Santoiana then asked whether he should receive any instructions from the Bureau.

b6
b7C

[Handwritten initials]

Mr. Santoiana was advised that he is excused from his prior employment agreement and that he should feel free to cooperate with the Department of Justice representatives. He was further advised that although as far as Inspector [redacted] is aware, the Departmental Attorney handling this matter has been cleared to receive classified data, if he felt that their pretrial interview with him was hitting on areas of a classified nature, he was free to inquire whether they have the necessary clearance.

b6
b7C

REC-126 62-118045-107

Mr. Santoiana also advised that former Special Agents who were working for defense counsel in this case had also contacted him and asked a number of questions concerning his personal knowledge. He advised them that there is currently an outstanding subpoena for him and that he would prefer to contact FBI Headquarters prior to responding to their request. He then asked if the FBI could furnish him any guidelines in this regard. He was informed that there was an outstanding written request for such guidance from the Department (memorandum 11/13/78 from Paul V. Daly to Mr. Civiletti). He was advised that as a result of his telephonic request, a contact would be made with Departmental Attorney Martin and that we would be back in touch with him.

DEC 6 1978

JCF:nls (7)

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Bassett
- 1 - Mr. Mintz
- 1 - Mr. Daly

b6
b7C

CONTINUED - OVER

62-118045

[Handwritten box with number 9]



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

79 DEC 21 1978 Personnel File Joseph F. Santoiana, Jr.

Memorandum Legal Counsel for The Director
Re: U. S. V. GRAY, ET AL

At 4:15 p. m., 11/30/78, Departmental Attorney Martin returned Inspector [redacted] call at which time he advised that the Department was still working on guidelines to furnish the FBI to respond to inquiries of witnesses in this matter who are former Bureau Agents. He advised at this time in the interim any such requests for guidance could be responded to by telling the individual that Departmental representatives along with defense representatives were working on such guidelines and they anticipate having them made available to the FBI in the next two or three days. He suggested that no instructions should be given to these inquirers that they are not to talk to defense representatives, but merely to advise them of these negotiations going on between the Departmental attorneys and defense attorney representatives.

b6
b7C

At 5:13 p. m., 11/30/78, Mr. Santoiana was called at telephone number Area Code [redacted] and advised accordingly. At that time he indicated he would probably contact Inspector [redacted] sometime next week to determine if any guidelines have been received from the Department.

b6
b7C

RECOMMENDATION:

For information;

JCF

APPROVED: [Signature]	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. DC _____	Ident. _____	Rec. Mgnt. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

UNITED STATES GOVERNMENT

Memorandum

TO : John A. Mintz
Legal Counsel Division
Federal Bureau of Investigation

DATE: October 27, 1978

FROM: *JW* Breckinridge L. Willcox
Criminal Division
Department of Justice

SUBJECT: Bureau Witnesses; United States v. L. Patrick Gray, et al

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

The attached list of current FBI personnel may be called upon to testify at the trial of the above-captioned case. The trial is presently scheduled to commence on January 22, 1979 before Chief Judge Bryant at the United States Courthouse in Washington, D.C.

We would appreciate it if these individuals could be made available for purposes of trial. It is to be emphasized that not everyone on this list will necessarily be called upon to testify. Either the Government or the defense may wish to call some of these individuals, and it is requested that they be made available for a four-week period following January 22 should their presence at the trial be required by either side.

We will advise SA Paul Daly well in advance of trial of those witnesses the Government will need. None of these personnel in field locations should be brought to Washington for trial unless a specific request has been received from the prosecution team.

For the benefit of the individuals on this list, we have prepared a memorandum outlining our procedures. We have enclosed the appropriate number of copies, and we would appreciate it if they were each furnished a copy.

We would further appreciate it if you could verify the availability of these Bureau personnel.

We thank you very much for your assistance in this matter.

Greenberg/Gray-5462



5010-110

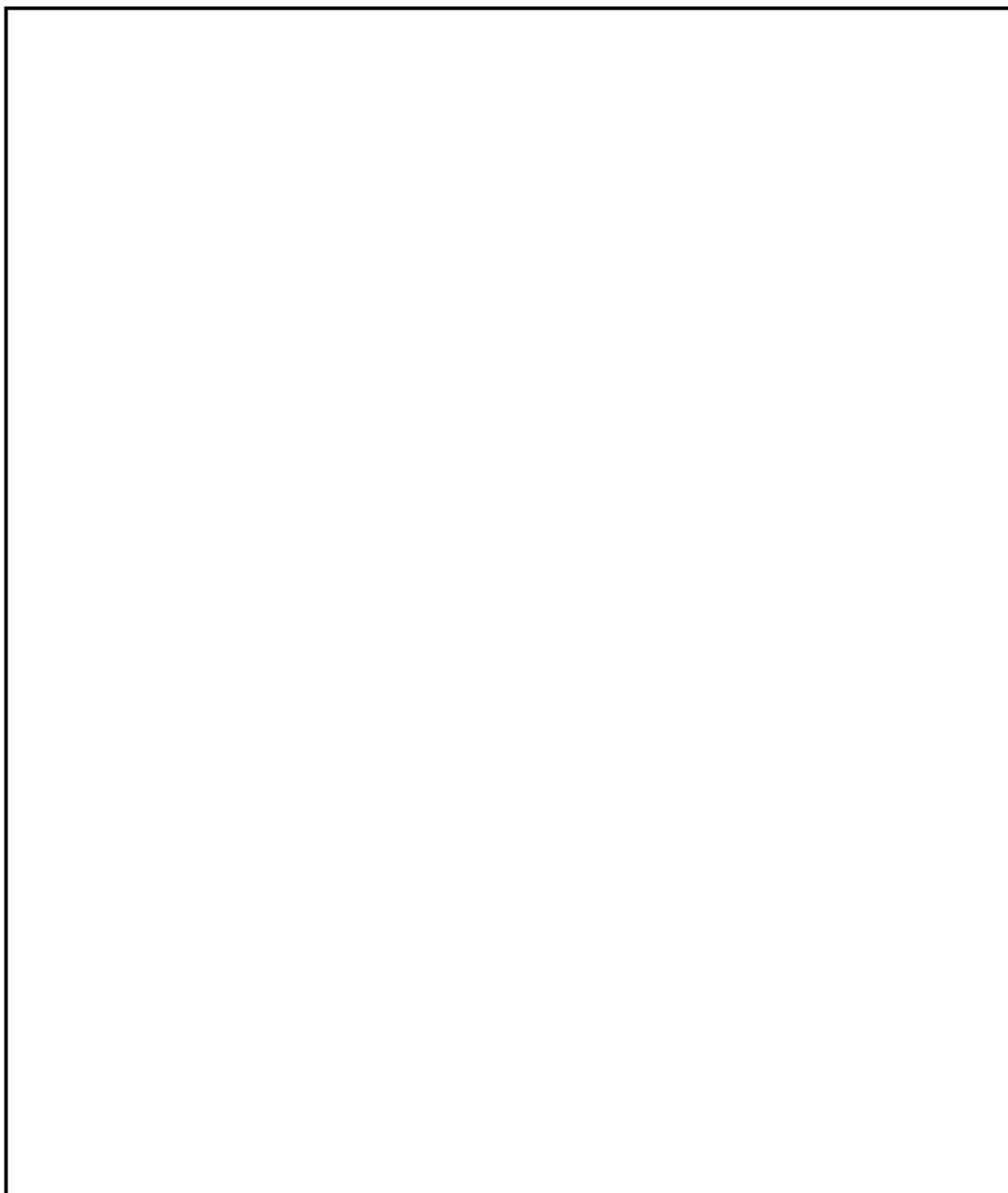
Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

62-118045-107X

List of Current FBI Personnel

OTHER Pursuant to Sealed Court Order



*These agents have already been subpoenaed through their attorneys. The Bureau should merely assure that there is no administrative difficulty by virtue of their present duties in securing their presence at trial.

Greenberg/Gray-5463

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoq. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. James B. Adams
Associate Director

DATE: 12/1/78

FEDERAL GOVERNMENT

FROM : Richard E. Long, Assistant Director
Administrative Services Division

SUBJECT: United States V. L. Patrick Gray et al
Criminal Number 78-000179, District of Columbia

b6
b7C

PURPOSE: To forward Department of Justice (DOJ) instructions to current FBI employees concerning the above captioned case scheduled for trial commencing 1/22/79.

DETAILS: Legal Counsel memorandum to the Director dated 11/1/78, (attached) contained approved recommendations for Administrative Services Division to identify the office of assignment of 39 current FBI employees who the DOJ has requested to be available as potential witnesses for forthcoming captioned trial. Memorandum from Breckinridge L. Willcox, Criminal Division, DOJ, to Legal Counsel Division dated 10/27/78, (copies attached) to each copy of this memorandum designated for each personnel file of potential employee/witness) sets forth the fact that either the Government or the defense may wish to call some of these individuals and requested they be available for a four-week period commencing 1/22/79.

Also enclosed is a copy of Mr. Willcox's memorandum of 10/27/78, addressed to "Witnesses for the Trial" which should be detached from each designated personnel file copy and furnished by Division Heads to the employee/witness.

Two individuals listed [redacted] and [redacted] have resigned and two individuals [redacted] have retired. Legal Counsel Division has notified Mr. Willcox of the identities of these four former employees for the purpose of DOJ making appropriate notification to these individuals. OTHER Pursuant to Sealed Court Order

In accordance with Bureau teletype to all SAC's dated 11/14/78, (copy attached) any employee contacted by defense attorneys or representative of a defense attorney should contact Legal Counsel Division for appropriate instructions. Notification should be made to Legal Counsel Division of the identity of any employee who will not be available during the four-week period on or after 1/22/79.

See page two (2) for copy count.

JLW:dal amp (21)
Encs. 21



53 JUN 13 1979
MAR 22 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

16 MAR 12 1979

REC-80

62-118045-107X

RECORDED

LEW/DOJ

Memorandum Long to Adams
 Re: U.S. V. L. Patrick Gray et al
 Criminal Number 78-000179, District of Columbia

RECOMMENDATIONS:

1. That each receiving Division Head insure employees assigned within their respective Division receive a copy of Mr. Willcox's memorandum dated 11/27/78, addressed to "Witness for the Trial."

[Handwritten signature]

2. That the attached airtel to SAC, Albany, with copies designated for appropriate offices, be approved and forwarded.

[Handwritten signature]

APPROVED: *[Handwritten initials]*

<i>WCB</i>	Director _____	Adm. Serv. <i>[Handwritten initials]</i>	Legal Coun. _____
	Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
	Dep. AD Adm. <i>[Handwritten initials]</i>	Ident. _____	Rec. Mgnt. _____
	Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
		Laboratory _____	Training _____
			Public Affs. Off. _____

- 1 - Mr. Adams (Encs. 2)
- 1 - Mr. Joseph (Encs. 2)
- 1 - Mr. Bassett (Encs. 4)
- 1 - Mr. Cregar (Encs. 4)
- 1 - Mr. Moore (Encs. 2)
- 1 - Laboratory Division (Encs. 4)
- 1 - Personnel files of each of the following:



OTHER Pursuant to Sealed Court Order

- [Redacted]* (resigned)
- [Redacted]* (resigned)
- [Redacted]* (retired)
- [Redacted]* (retired)

Greenberg/Gray-5465

1 1

11/14/78

UNCLASS

PRIORITY

FM DIRECTOR FBI

TO ALL SACS

BT

U.S. VS. L. PATRICK GRAY, III, ET AL.

IN CONNECTION WITH THE FORTHCOMING TRIAL IN CAPTIONED
 MATTER, DEFENSE ATTORNEYS FOR DEFENDANTS IN THIS CASE ARE
 PREPARING TO INTERVIEW CURRENT AND FORMER FBI PERSONNEL. SHOULD
 PERSONNEL BE CONTACTED BY REPRESENTATIVES OF THE DEFENSE
 ATTORNEYS OR THE DEFENSE ATTORNEYS, THEY SHOULD CONTACT OFFICE
 OF LEGAL COUNSEL ^{Division} FOR APPROPRIATE INSTRUCTIONS.

BT

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-01-2009 BY 65179 dmh/baw/sbs

PVD:evp

11/14/78

5829

4846

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Mintz (Route through for review)
- 1 - Mr. Bassett
- ① - Mr. Daly

Greenberg/Gray-5466

1 -
 1 -
 1 -

b6
b7C

62-118045-107X

ENCLOSURE

TO ALL SACS

U.S. VS. L. PATRICK GRAY, III, ET AL.

NOTE: INSTANT TELETYPE IS NECESSARY SINCE DEPARTMENT HAS NOT ADVISED OF WHAT RESTRAINTS THEY INTEND TO PLACE ON INFORMATION TO BE FURNISHED TO THE DEFENSE IN THIS MATTER. DEPARTMENT HAS HAD SUBPOENAS ISSUED FOR SOME BUREAU PERSONNEL AND PROVISIONS OF TITLE 28, CODE OF FEDERAL REGULATIONS, 1421, ET SEQ., REQUIRES THEY ADVISE OF ANY RESTRAINTS. BY MEMORANDUM DATED 11/13/76 DEPARTMENT REQUESTED TO FURNISH INSTRUCTIONS CONCERNING THIS.

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

TO : Witnesses for the Trial

DATE: October 27, 1978

FROM : Breckinridge Willcox
Criminal Division
U.S. Department of Justice

SUBJECT: United States v. Gray, et al., Crim. No. 78-000179,
District of Columbia

Attached is a request for your appearance as a witness in the above captioned case.

The trial is presently scheduled to begin on January 22, 1979. Testimony may not begin on that precise day, and/or your testimony may not be required until a later day. For these reasons the specific date upon which you will be called to testify cannot now be finally determined. You therefore need not appear in court on January 22, but should treat the request as being continuing in nature. That means that it will continue to require your presence in court whenever during the pendency of the case you may be notified that any party in the case wishes you to appear in court. As soon as that date has been determined, we will let you know. We hope that this procedure will involve as little inconvenience to you as possible. It is quite possible that neither side will want to call you as a witness, but you should plan to be available for several weeks after January 22 in the event that you are called as a witness.

You will be notified in a timely fashion if your presence is required. If you plan to be in a travel status in December (except for the holidays) or in January, it is imperative that you keep us informed as to how to reach you. Please call me at 724-7011 to inform me (or my secretary) of your travel plans, or if you have any questions.

At some point before your appearance in court we may contact you again to invite you to attend a pretrial interview. You will be under no obligation to accept that invitation; whether or not to do so will be entirely up to you. Similarly, it is possible that defense attorney and/or defense investigators may contact you to invite you



5010-110

62-118045-107X
ENCLOSURE

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-5468

to be interviewed by them. Again you will be under no obligation and will be entirely free to decide yourself whether or not to submit to such interview.

Airtel

12/7/78

To: SAC, Albany
From: Director, FBI

*Number of photostats submitted
written on enclosure to
outgoing copies*

UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

ReBuairtel to All SACS dated 11/14/78, captioned
U. S. VS L. Patrick Gray III et al, set forth instructions
that Legal Counsel Division should be notified if any employee
is contacted by defense attorneys or representatives of de-
fense attorneys concerning this case.

Enclosed are appropriate number of copies of two
self explanatory memoranda, both dated 10/27/78, from
Breckinridge L. Willcox, Criminal Division, Department of
Justice, one addressed to Mr. John A. Mintz, Legal Counsel
Division, and the second addressed to "Witnesses for the Trial"
on the above captioned matter. Copies of the memorandum
addressed to "Witnesses for the Trial" should be detached and
furnished to designated employees.

In the event any employee will not be available
during the four-week period on or after 1/22/79, Legal Counsel
Division should be immediately advised. Also, Legal Counsel
Division will provide guidance on securing a release from
Employment Agreement for those employees who may be contacted.

MAILED 13
DEC 11 1978
FBI

- Enclosures (2)
- | | |
|-------------------------------|----------------------------------|
| 2 - SAC, Alexandria (Encs. 2) | 2 - ADIC, New York (Encs. 8) |
| 2 - SAC, Baltimore (Encs. 2) | 2 - SAC, Oklahoma City (Encs. 4) |
| 2 - SAC, Cincinnati (Encs. 4) | 2 - SAC, St. Louis (Encs. 2) |
| 2 - SAC, Columbia (Encs. 2) | 2 - SAC, San Diego (Encs. 2) |
| 2 - SAC, Dallas (Encs. 2) | 2 - SAC, San Juan (Encs. 4) |
| 2 - SAC, Detroit (Encs. 4) | 2 - SAC, Seattle (Encs. 2) |
| 2 - SAC, Memphis (Encs. 2) | 2 - SAC, Springfield (Encs. 2) |
| 2 - SAC, Newark (Encs. 6) | 2 - SAC, WFO (Encs. 2) |

1 - Personnel files of each of the employees listed on next page.
JLW:las (60)
Based on memo Long to Adams, 12/1/78, captioned as above.

SI-115
REC-80
62-118045-108
9 DEC 12 1978

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

APPROVED: _____

Director _____

Assoc. Dir. _____

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

57 JAN 10 1979
MAIL ROOM

PERS. REC. UNIT

Airtel to SAC, Albany

Copies of airtel to placed in personnel files of:



OTHER Pursuant to Sealed Court Order

Greenberg/Gray-5471

Airtel

12/7/78

To: SAC, Albany

From: Director, FBI

UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

ReBuairtel to All SACS dated 11/14/78, captioned U. S. VS L. Patrick Gray III et al, set forth instructions that Legal Counsel Division should be notified if any employee is contacted by defense attorneys or representatives of defense attorneys concerning this case.

Enclosed are appropriate number of copies of two self explanatory memoranda, both dated 10/27/78, from Breckinridge L. Willcox, Criminal Division, Department of Justice, one addressed to Mr. John A. Mintz, Legal Counsel Division, and the second addressed to "Witnesses for the Trial" on the above captioned matter. Copies of the memorandum addressed to "Witnesses for the Trial" should be detached and furnished to designated employees.

In the event any employee will not be available during the four-week period on or after 1/22/79, Legal Counsel Division should be immediately advised. Also, Legal Counsel Division will provide guidance on securing a release from Employment Agreement for those employees who may be contacted.

Enclosures (2)

2 - SAC, Alexandria (Encs. 2)	2 - ADIC, New York (Encs. 8)
2 - SAC, Baltimore (Encs. 2)	2 - SAC, Oklahoma City (Encs. 4)
2 - SAC, Cincinnati (Encs. 4)	2 - SAC, St. Louis (Encs. 2)
2 - SAC, Columbia (Encs. 2)	2 - SAC, San Diego (Encs. 2)
2 - SAC, Dallas (Encs. 2)	2 - SAC, San Juan (Encs. 4)
2 - SAC, Detroit (Encs. 4)	2 - SAC, Seattle (Encs. 2)
2 - SAC, Memphis (Encs. 2)	2 - SAC, Springfield (Encs. 2)
2 - SAC, Newark (Encs. 6)	2 - SAC, WFO (Encs. 2)

1 - Personnel files of each of the employees listed on next page

JLW:las (60)

Based on memo Long to Adams, 12/1/78, captioned as above.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

62-118045-108

Greenberg/Gray-5472

DEC 14 1978

memorandum

DATE:

REPLY TO
ATTN OF:

D. Jerry Rubino
D. Jerry Rubino, Assistant Director
for Security Programs

SUBJECT:

Clearance of Potential Witnesses in the
U.S. v. L. Patrick Gray, et al Case

~~FEDERAL GOVERNMENT~~

TO:

[Redacted] b6
Security Officer b7C
Federal Bureau of Investigation

Your attention is invited to the attached memorandum and list of prospective witnesses attached thereto.

You are requested to provide this office with the current clearance status of all of those persons who are listed in the attached memorandum as current employees of the FBI. Your office should be prepared to indoctrinate these employees for special access to SI information as the need arises.

For those persons who are listed and are not current employees we need a statement concerning their period of employment with the FBI, and the level of security clearance they possessed.

Your expeditious handling of this matter will be greatly appreciated.

Attachment

SI 109

REC-24 162-118045-109

5 DEC 26 1978

ENCLOSURE

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5473

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

☆ U.S. Government Printing Office: 1977-241-530/3474

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112



9 JAN 09 1979

DEC 14 1978

D. Jerry Rubino, Assistant Director
for Security Programs

Clearance of Potential Witnesses in the
U.S. v. L. Patrick Gray, et al Case

[REDACTED] b6
Security Officer b7C
Federal Bureau of Investigation

Your attention is invited to the attached memorandum and list of prospective witnesses attached thereto.

You are requested to provide this office with the current clearance status of all of those persons who are listed in the attached memorandum as current employees of the FBI. Your office should be prepared to indoctrinate these employees for special access to SI information as the need arises.

For those persons who are listed and are not current employees we need a statement concerning their period of employment with the FBI, and the level of security clearance they possessed.

Your expeditious handling of this matter will be greatly appreciated.

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5474

UNITED STATES GOVERNMENT

Memorandum

[Redacted]

b6
b7C

DATE: November 22, 1978

FROM : Frank Martin *FM*

SUBJECT: Witnesses in United States v. Gray, et al

The draft Protective Order that we have discussed contemplates that your office will determine the trustworthiness of potential witnesses as well as their authority for access to SCI. Attached is a list of potential government and/or defense witnesses. It would be helpful if you would begin the clearance process (including SCI) for each of these witnesses. I would like to be able to advise defense counsel, at the time the Protective Order is signed, that all or most of these witnesses have been cleared for interview. All of these witnesses are former FBI employees, except for those with stars before their names. The latter are current employees.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

11:11 P 1:11

Greenberg/Gray-5475

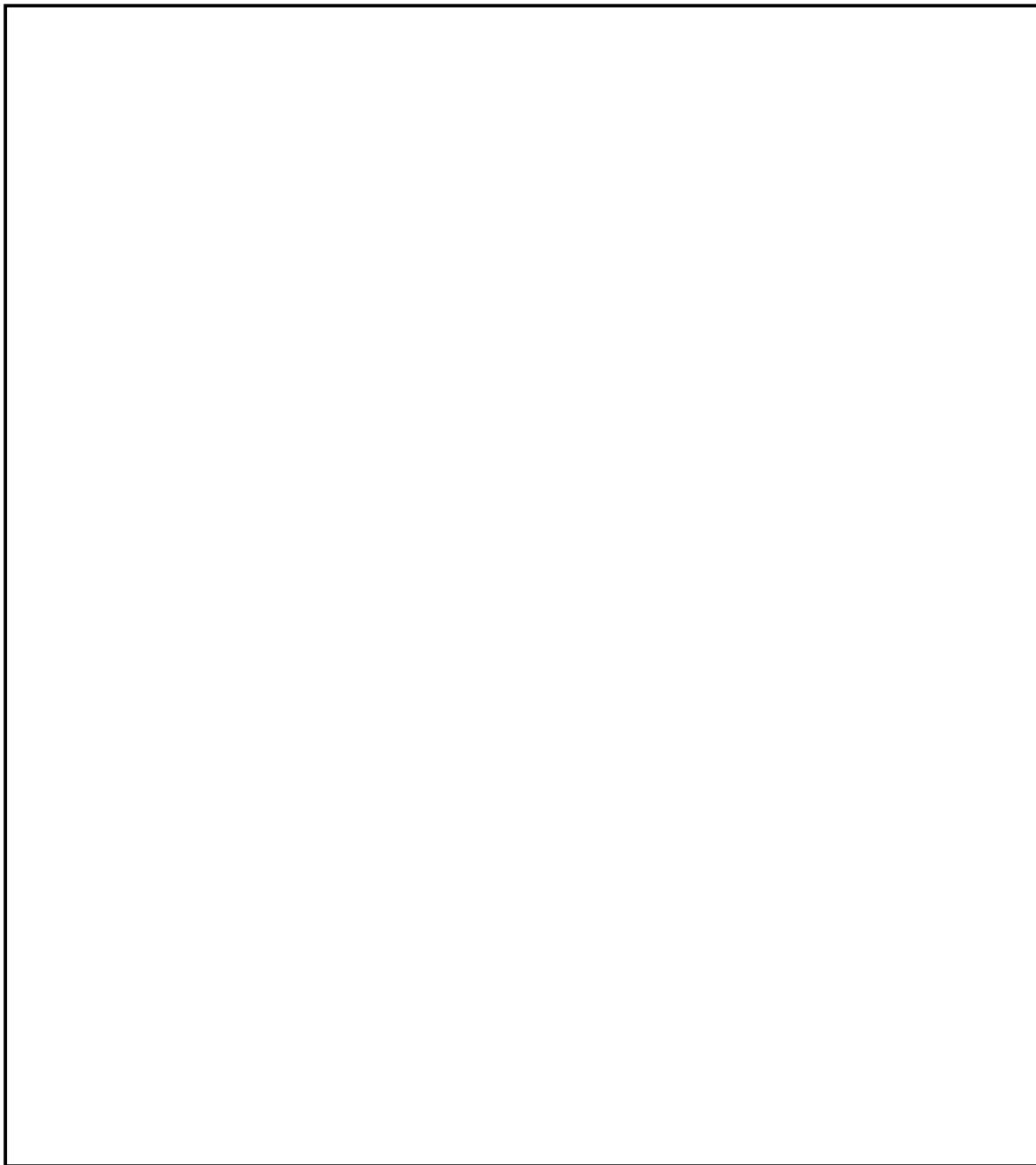
62-118045-109

ENCLOSURE



(*Current Bu. Emp.)

OTHER Pursuant to Sealed Court Order



ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

62-118045-109

ENCLOSURE ~~Greenberg/Gray-5476~~

FEDERAL GOVERNMENT

Date: December 19, 1978

To: D. Jerry Rubino
Security Officer,
Department of Justice

From:
Security Officer,
Federal Bureau of Investigation

b6
b7C

Subject: U.S. v. L. PATRICK GRAY, et al.,
CLEARANCE OF POTENTIAL WITNESSES

This is in reference to your memorandum dated December 14, 1978, enclosing a list of prospective witnesses in the above matter, and requesting information be furnished by this Bureau.

You will recall that by informal note, dated December 15, 1978, I returned to you a copy of the list of potential witnesses indicating thereon the date of those who are former Special Agents retired from the Federal Bureau of Investigation (FBI). A revised copy of this list is attached.

OTHER Pursuant to Sealed Court Order

The dates listed on the list indicated the dates on which the former agents ceased duty with the FBI, it being noted all had access for up to "Top Secret" on a need-to-know basis, until they ceased duty. The names on the list noted with a check (✓) are those whom your office has cleared to participate in the Defense Discovery Task Force. included on the list was not a Special Agent, but a White House fellow, who, for a brief period, was assigned to Director Kelley's office.

Enclosure

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

DR:plc
(5) plc

1 - Mr. H.N. Bassett
1 - b6
b7C

ENCLOSURE

MAIL ROOM

Greenberg/Gray-5478

79 JAN 09 1979

FBI/

MAILED 6
DEC 21 1978
FBI

109

REC-24 62-118045-110

5 DEC 28 1978

(Handwritten initials)

D. Jerry Rubino
Security Officer,
Department of Justice

OTHER Pursuant to Sealed Court Order

I have also noted on the attached list an asterix next to the names of [redacted] as these individuals are currently employed as Special Agents by the FBI, while on your list it is indicated they are retired. Also included on the attached list is the Sensitive Compartmental Information access authorization, where pertinent, for all current FBI personnel. Compartmental notice appears to the left of the individual's name.

I have been unable to identify [redacted] who appears on the list as a former Special ^{Agent} OTHER Pursuant to Sealed Court Order

All current FBI Special Agents included on the list are authorized for access to classified national security information and material up to "Top Secret" on a need-to-know basis. Though continuing investigative controls, we consider the background investigation of these personnel to be a current status.

My office is prepared at any time to afford additional clearance for access to Sensitive Compartmental Information as required, for any of the personnel included on the attached list.

(*Current Bu. Emp.)

SI, TK, D
AQ, SE, ST
AZ, JJ

TK, AQ, HX
GAM, EP, KE
SI, DY

SI,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

62-118045-110

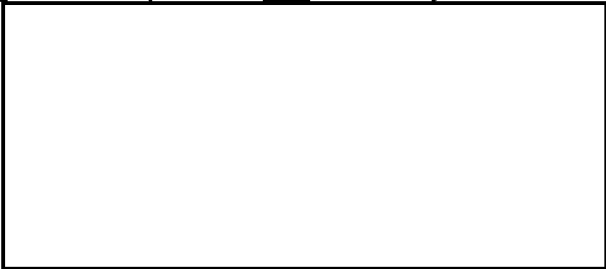
OTHER:		
RETIRED:	72	71
ON DUTY:	38	40
TOTAL:	111	112

ENCLOSURE

Date indicates - date of retirement

✓ indicates - cleared for Defense Discovery Task Force

S

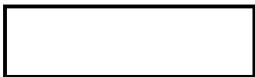


OTHER Pursuant to Sealed Court Order

SE, TK, BY



SI



WAS WHITE HOUSE FELLOW - LEFT 8/27/73.

OTHER Pursuant to Sealed Court Order



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
BDS:ams

December 12, 1978

FEDERAL GOVERNMENT

Honorable William B. Bryant
Chief Judge
U.S. District Court for the
District of Columbia
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

C.S.

J. Patrick

Re: United States v Gray, et al Crim. No. 78-000179

Dear Judge Bryant:

Enclosed for filing in the captioned case is the govern-
ment's Motion for Protective Order. As the Motion indicates,
your issuance of the Protective Order will greatly facili-
tate completion of the discovery process in this case;
indeed, completion of that process is probably impossible
without the Protective Order.

me

For that reason, and since the trial date of January
22 is only six weeks away, I respectfully request that the
Motion for Protective Order be handled by the Court as
expeditiously as possible. I understand that at least
one defense attorney in the case wishes to be heard in
opposition to the Motion; I ask that a prompt schedule

EX-113

REC-20 62-118045-111

ENCLOSURE

File 62-118045
4- [Signature]

79 JAN 16 1979

Greenberg/Gray-5482

for the submission of that opposition and of the government's response (if any) be established at the Court's earliest possible convenience.

Thank you very much.

Very truly yours,



BARNET D. SKOLNIK
Special Assistant United States
Attorney for the District of
Columbia

cc: Alan I. Baron, attorney for defendant Gray
Brian P. Gettings, attorney for defendant Felt
Thomas A. Kennelly, attorney for defendant Miller

bcc: Daniel Silver, NSA
John Morrison, CIA
✓ Paul Daly, FBI
Ben Civiletti, DJ
Bob Keuch, DJ
Mary Lawton, DJ
Chuck Trombetta, DJ

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5500



62-118045-

ENCLOSURE



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Official and Number
BDS: ams

December 12, 1978

~~FEDERAL GOVERNMENT~~

Honorable William B. Bryant
Chief Judge
U.S. District Court for the
District of Columbia
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

L. Patrick

Re: United States v. Gray, et al Crim. No. 78-000173

Dear Judge Bryant:

Enclosed for filing in the captioned case is the govern-
ment's Motion for Protective Order. As the Motion indicates,
your issuance of the Protective Order will greatly facili-
tate completion of the discovery process in this case;
indeed, completion of that process is probably impossible
without the Protective Order.

For that reason, and since the trial date of January
22 is only six weeks away, I respectfully request that the
Motion for Protective Order be handled by the Court as
expeditiously as possible. I understand that at least
one defense attorney in the case wishes to be heard in
opposition to the Motion; I ask that a prompt schedule

me

EX-113

REC-20 62-118045-112

20 JAN 8 1979

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

me
ENCLOSURE

4-File PVD

Greenberg/Gray-5525

79 JAN 16 1979

for the submission of that opposition and of the government's response (if any) be established at the Court's earliest possible convenience.

Thank you very much.

Very truly yours,



BARNET D. SKOLNIK
Special Assistant United States
Attorney for the District of
Columbia

cc: Alan I. Baron, attorney for defendant Gray
Brian P. Gettings, attorney for defendant Felt
Thomas A. Kennelly, attorney for defendant Miller

bcc: Daniel Silver, NSA
John Morrison, CIA
✓ Paul Daly, FBI
Ben Civiletti, DJ
Bob Keuch, DJ
Mary Lawton, DJ
Chuck Trombetta, DJ

Greenberg/Gray-5526

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5527

62-118045-112

ENCLOSURE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 v.)
)
 L. PATRICK GRAY, III)
 W. MARK FELT and)
 EDWARD S. MILLER)

Criminal No. 78-000179

FILED

DEC 26 1978

PROTECTIVE ORDER

JAMES F. DAVEY, Clerk

This matter comes before the Court upon the motion of the United States for a Protective Order to prevent the unauthorized disclosure or dissemination of classified National Security documents which have been or will be disclosed to defense counsel as part of the discovery process in this case. As used herein, the term "classified National Security document" refers to any document (or information contained therein) which is disclosed to defense counsel as part of the discovery process in this case, bears the designation "Confidential", "Secret", or "Top Secret", and does not bear a clear indication that it has been declassified by the Agency or Department of government that originated the document or the information contained therein (hereinafter referred to as "the originating agency"); such documents are under a National Security Classification pursuant to Executive Order 11652, 3 C.F.R. 339 (1974), reprinted in 37 Fed. Reg. 5209 (1972) and in 50 U.S.C. § 401, at 3682 (Supp. IV 1974). Those documents are the general subject matter of Part One of this Protective Order.

Some of those documents contain Sensitive Compartmented Information (SCI); such documents are the general subject matter of Part Two of this Protective Order.

*File
F. J. [unclear]*

The Court having considered the matter, pursuant to Rule 16(d)(1), Federal Rules of Criminal Procedure, and pursuant to the inherent power of the Court,

PART ONE

IT IS HEREBY ORDERED this 22 day of December, 1978, that:

(1) Without prior authorization of the originating agency, there shall be no disclosure or dissemination of any classified National Security document except as provided in this Protective Order.

(2) Without prior authorization of the originating agency, there shall be no public disclosure, by either the prosecution, the defense, or any other individual, of any classified National Security document until such time, if ever, that such document is admitted by the Court into evidence at the trial of this case.

(3) The three (3) defendants in this case and Alan I. Baron, counsel for defendant L. Patrick Gray III, Brian P. Gettings, counsel for defendant W. Mark Felt, and Thomas A. Kennelly, counsel for defendant Edward S. Miller, all having been granted a Top Secret security clearance by the Department of Justice, shall have full access to all classified National Security documents in this case. Said defense counsel may also disclose such classified National Security documents to any co-counsel, consultant, expert, paralegal or clerical personnel who are assisting them in the preparation of this case and who have received Top Secret security clearances. Each such security clearance shall be expeditiously granted by the Department of Justice, provided the requisite full-field background investigation has been favorably conducted and in the absence of good cause for withholding such clearance.

(4) Counsel for any party to this case may discuss classified National Security documents with a potential witness in the case only after having been informed that the government has made a favorable determination of the current trustworthiness of such potential witness. The Department Security Officer of the Department of Justice (or his designee) will expeditiously determine the current trustworthiness of any potential witness and will make--and communicate to counsel-- a favorable determination in the absence of good cause for believing the potential witness to be untrustworthy. Upon request of counsel for any party to this case, the Department Security Officer (or his designee) shall submit to the Court, under seal, the reasons for withholding such a favorable determination as to a potential witness with whom any such counsel wishes to discuss any classified National Security document. The Department Security Officer (or his designee) shall not disclose in any manner to counsel for any party to this case the identity of any individual denominated as a potential witness by counsel for any other party.

(5) Counsel for any party to this case shall exhibit a copy of this Protective Order to any potential witness to whom any classified National Security document (or contents thereof) is to be disclosed and shall obtain from such potential witness a signed Witness Acknowledgement that he agrees to be bound by the secrecy provisions of this Protective Order and by the regulations pertaining to the handling of classified National Security documents. A copy of this Protective Order and of said regulations shall be left with any such potential witness. The Witness Acknowledgement to be signed by each such witness is attached hereto as Attachment "A".

(6) Counsel shall at all times be responsible for arranging to store any classified National Security documents of which they have possession in an FBI or other secure facility in accordance with FBI requirements for protecting such documents.

(7) Defense counsel shall forthwith permit the Department Security Officer (or his designee) to affix the appropriate classifications to any grand jury transcript in the possession, custody or control of defense counsel which contains classified National Security information and must therefore be denominated a classified National Security document.

(8) With respect to all documents involved in the discovery process in this case, the government may redact any references:

- (a) that would tend to compromise pending investigations;
- (b) that constitute identifying data as to third parties who were unrelated to the Weatherman Organization and were not the subjects of FBI investigation; or
- (c) that would tend to disclose intelligence sources and methods -- but the government may not redact references to any surreptitious entries, electronic surveillances, or mail openings conducted by the FBI in its investigation of the Weatherman Organization.

Defendants and defense counsel shall forthwith return to government counsel all existing copies of certain pages of certain grand jury transcripts which are presently in their possession.

custody or control and which are known to contain references that would tend to disclose intelligence sources and methods, as more fully set forth in Attachment "B" hereto. The government shall then forthwith provide to defense counsel substitute pages which shall have been redacted so as to remove references that would tend to disclose intelligence sources and methods. Defendants and defense counsel shall, throughout the pendency of this case, have access to unredacted copies of all such transcripts at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

PART TWO

WHEREAS certain documents involved in the discovery process and in grand jury proceedings in this case contain Sensitive Compartmented Information (SCI), the storage, handling and control of which require extraordinary security precautions as mandated by Director of Central Intelligence Directive 1/1 "Uniform Procedures For Administrative Handling and Accountability of Sensitive Compartmented Information (SCI)"; and

WHEREAS it is not feasible to provide storage facilities for SCI at the offices of defense counsel; and

WHEREAS access to SCI requires a special security clearance and specific execution of a nondisclosure agreement pursuant to Director of Central Intelligence Directive 1/14, "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information";

IT IS HEREBY FURTHER ORDERED THAT the following provisions, in addition to the provisions of PART ONE, shall apply to SCI:

(9) Each defendant, defense counsel, and any consultant, expert, paralegal, or clerical personnel who are assisting them in the preparation of this case shall be granted access to SCI, as set forth in paragraph (11) below, provided the requisite full-field background investigation has been favorably conducted and in the absence of good cause for withholding such access, and provided further that such person has specifically executed the required SCI nondisclosure agreement (copy attached hereto as Attachment "C").

(10) Defendants and defense counsel shall forthwith return to government counsel all existing copies of certain pages of certain grand jury transcripts which are presently in their possession, custody, or control and which are known to contain SCI, as more fully set forth in Attachment "D" hereto. The government shall then forthwith provide to defense counsel substitute pages which shall have been redacted so as to remove SCI. Defendants and defense counsel shall, throughout the pendency of this case, have access to unredacted copies of all such transcripts at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

(11) Any document which is otherwise discoverable in this case but which contains SCI shall be provided to defense counsel in redacted form so as to remove SCI. Defendants and defense counsel shall, throughout the pendency of this case, have access to any such document without any such SCI redactions (but with such other redactions, if any, as are authorized by paragraph (8) above); such access shall be provided at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

(12) The provisions of paragraph (4) of this Protective Order are hereby supplemented in that the same procedures mandated therein shall also be applied so as to require a determination of authority to have access to SCI for any potential witness with whom counsel wishes to discuss SCI.

(13) The provisions of paragraph (5) of this Protective Order are hereby supplemented in that any counsel who wishes to discuss SCI with a potential witness shall first require any such witness to execute the required SCI nondisclosure agreement.

(14) The requirements of paragraph (13) of this Protective Order shall not apply to the extent that potential witnesses who are current government employees and have been determined to have a present Top Secret security clearance and authorization for access to SCI need not be required to execute the SCI nondisclosure agreement.

(15) All counsel shall be fully briefed by the Department Security Officer (or his designee) as to the general nature of information that must be handled as SCI and shall be alerted by him to the specific subject matters involved in the discovery process in this case which constitute SCI. In addition, all counsel shall alert potential witnesses to the possibility that they may be discussing SCI and shall request such witnesses similarly to alert counsel at any time the witness, from his own knowledge, believes that the information being discussed is SCI. Should counsel have any doubts as to whether or not a particular subject matter constitutes SCI, they shall seek the guidance of the Department Security Officer.

for his designee for a proper determination. The Department
Security Officer (or his designee) shall not disclose to counsel
or any party to the case the nature of any such inquiries
or any other counsel.

William B. Bryant
UNITED STATES DISTRICT JUDGE

17 October, 1978

NONDISCLOSURE AGREEMENT
RELATIVE TO SENSITIVE COMPARTMENTED INFORMATION

1. I, (Print Name) _____, hereby acknowledge that I have read and understand the nature and protection of certain classified information and intelligence sources and methods, which are known as Sensitive Compartmented Information, designated and designated Sensitive Compartmented Information.

2. I have been advised that direct or indirect unauthorized disclosure, unauthorized retention or negligent handling of the designated Sensitive Compartmented Information by me could cause irreparable injury to the United States and be used to advantage by a foreign nation.

3. I have been advised of the special handling procedures, the procedures which are to be used to protect the designated Sensitive Compartmented Information, and the procedures to be followed in any situation, whether or not to whom I contemplate disclosing this information have been approved for, specified, and I understand these procedures.

4. In consideration of being granted access to the designated Sensitive Compartmented Information, I pledge that I will never divulge such information, in any form or any manner, to anyone who is not authorized to receive it, without prior written authorization from an appropriate official of the United States Government.

5. I have been advised that any unauthorized disclosure of designated Sensitive Compartmented Information by me may be a substantial violation of an agreement, and may result in the termination of my employment. In addition, I have been advised that any such unauthorized disclosure by me may constitute violations of United States civil or criminal laws, including, but not limited to, the provisions of Sections 793, 794, and 793, Title 18, United States Code, and of Section 783, Title 50, United States Code.

6. I understand and agree that the United States Government may choose to apply, prior to any unauthorized disclosure of the designated Sensitive Compartmented Information by me, for a court order prohibiting such disclosure.

7. In any civil action which may be brought by the United States Government for breach of this agreement, the law of the District of Columbia shall govern the interpretation of this agreement. I have been advised that the action may be brought in the District of Columbia or in any other federal court in the United States where the United States Government may elect to file the action. My costs, and reasonable attorneys fees incurred by the United States Government may be assessed against me if I lose such action.

8. I hereby assign to the United States Government all rights, title, interest, and all royalties, compensation, and emoluments that have received, will result or may result from any such disclosure, publication or revelation not consistent with the terms of this agreement.

FORM 4066
5/82

ATTACHMENT 101

and their authorized representative of the United States Government, I understand all materials concerning the designated Sensitive Compartmented Information which are then in my possession or for which I am responsible. I understand that the designated Sensitive Compartmented Information is, and will continue to be, the property of the United States Government, and my failure to return all materials reflecting this information to the United States Government upon demand, may subject me to the penalties set out in Section 793 of Title 18, United States Code.

10. Unless I am released in writing by an authorized representative of the United States Government, I understand that all the conditions and obligations imposed upon me by this agreement apply during the time I am granted access to the designated Sensitive Compartmented Information, and at all times thereafter.

11. Nothing in this agreement constitutes a waiver on the part of the United States of the right to prosecute me for any statutory violation. Nothing in this agreement constitutes a waiver on my part of any defenses I may otherwise have in any civil or criminal proceedings.

12. Each provision of this agreement is severable. If a court should find any provision of this agreement to be unenforceable, all other provisions of this agreement shall remain in full force and effect.

13. I have read this agreement carefully and my questions, if any, have been answered to my satisfaction. I acknowledge that the briefing officer has made available Sections 797, 798, and 1001 of Title 18, United States Code, Section 783 of Title 50, United States Code, Executive Order 11652, as amended, and the National Security Council Directive of 17 May 1972, as amended, which implements this Executive Order so that I may read them at this time, if I so choose.

14. I have been advised that any false statement made by me in this agreement may subject me to the penalties set out in Section 1001 of Title 18, United States Code.

15. I make this agreement without any mental reservation or purpose of evasion.

Name: _____
Signature: _____
Date: _____
SSN (see Notice below) _____

NOTICE Organization _____

5 U.S.C. 552a, requires that federal agencies inform individuals of the information as solicited from them, whether the disclosure is mandatory, or that authority such information is solicited, and that the individual will be a part of the information. You are hereby advised that authority for using your Social Security Account Number (SSN) is Executive Order 9397. Your SSN will be used to identify you precisely when it is necessary to certify that you have access to the information indicated above. While your disclosure of your SSN is not mandatory, your failure to do so may delay the processing of such certification.

BUSINESS AFFIDAVIT

_____, have been requested
_____, (designee of) counsel for _____
_____, to discuss with him matters pertaining to
the case of United States v. L. Patrick Gray III, et al. I
have voluntarily agreed to discuss such matters and have been
informed of the Protective Order issued in that case on
_____. I acknowledge that I have read that
Protective Order and have read and am familiar with the Federal
regulations set forth in _____ CFR _____ pertaining to the
handling of classified information. I hereby acknowledge that,
as to any classified matters I may discuss with counsel in
this case, I am bound by the secrecy provisions of the said
Protective Order and by the said Federal regulations. (I
do hereby acknowledge that, as to any matters I may discuss with
counsel in this case concerning Sensitive Compartmented Informa-
tion, I am bound by the provisions of the required SCI secrecy
control plan I have executed and attached hereto.)

Witness

(or designee)

LIST OF GRAND JURY TRANSCRIPTS WHICH
CONTAIN SCHEMATA WHICH THEREFORE REQUIRE
EXEMPTION FROM REDACTION

Transcripts of P. Patrick Gray:

Date: 10/6/75 Pages: 9-11, 13-14, 21-22, 25, 27-40, 42-54,
77, 86-93, 113

Date: 11/3/76 Pages: 10-11, 13-15, 21-22, 26-41, 43-55,
(Recording) 78, 87-93

Date: 3/22/78 Page: 16
(Recording)

Date: 3/22/78 Pages: 41, 43, 51-55, 58-59, 73, 82, 96-98,
102-110, 112-115, 117, 119-120, 122-132,
135-139, 142-146, 148, 150-153, 162-164,
171, 155-158,

Transcripts of W. Mark Felt:

Date: 5/26/76 A.M. Pages: 9, 13-15, 33, 35-37, 39, 43-44,
51-53, 55-56

Date: 5/26/76 P.M. Pages: 15-16, 26, 29

Date: 5/15/78 Pages: 10, 13-15, 33, 35-37, 39, 43-44,
(Recording) 51-53, 55-56, 77-80, 91, 98

Transcripts of Edward S. Miller:

Date: 8/26/76 Pages: 39-40, 42-48, 50-51, 54-56, 64, 70

Date: 9/1/76 Pages: 10, 20-21, 30

Date: 6/15/78 Pages: 41-42, 44-50, 53, 56-58, 71, 72
(Recording)

Date: 3/21/78 Pages: 10-11, 21, 56
(Recording)

Transcript of William C. Sullivan:

Date: 7/15/77 Pages: 15, 43-54, 64-65, 67-69, 71-74, 76-81,
83-84, 94-95, 100-101, 105, 120-121,
186-187, 188-187, 232

PAGES OF GRAND JURY TRANSCRIPTS WHICH
CONTAIN REFERENCES THAT WOULD TEND TO
DISCLOSE INTELLIGENCE SOURCES AND METHODS
OF FBI, THEREFORE REQUIRE SUBSTITUTION
OF REDACTED PAGES.

Transcripts of L. Patrick Gray:

Date: 10/6/76 Pages: 27, 30, 34, 38, 39, 40, 43, 44,
45, 48, 52, 53, 64, 65, 66, 89, 90

Date: 3/20/78 Pages: 27, 31, 35, 39, 40, 41, 44, 45,
(reading) 46, 49, 54(a), 54(b), 65, 66, 90,
91

Date: 3/22/79 Pages: 43, 96, 119, 120, 121, 124, 125,
136, 137, 147, 151, 155, 156, 157

Transcripts of W. Mark Felt:

Date: 8/26/76 Pages: 14, 15, 39

Date: 3/15/78 Pages: 14, 15, 39
(reading)

IN THE UNITED STATES DISTRICT COURT.
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

- v -

L. PATRICK GRAY, III
W. MARK FELT and
EDWARD S. MILLER

Crim. No. 78-000179

PROTECTIVE ORDER

This matter comes before the Court upon the motion of the United States for a Protective Order to prevent the unauthorized disclosure or dissemination of classified National Security documents which have been or will be disclosed to defense counsel as part of the discovery process in this case. As used herein, the term "classified National Security document" refers to any document (or information contained therein) which is disclosed to defense counsel as part of the discovery process in this case, bears the designation "~~Confidential~~", "Secret", or "Top Secret", and does not bear a clear indication that it has been declassified by the Agency or Department of government that originated the document or the information contained therein (hereinafter referred to as "the originating agency"); such documents are under a National Security Classification pursuant to Executive Order 11652, 3 C.F.R. 339 (1974), reprinted in 37 Fed. Reg. 5209 (1972) and in 50 U.S.C. §401, at 3682 (Supp. IV 1974). Those documents are the general subject matter of Part One of this Protective Order.

Some of those documents contain Sensitive Compartmented Information (SCI); such documents are the general subject matter of Part Two of this Protective Order.

Part Three of this Protective Order sets forth provisions of general applicability.

The Court having considered the matter, pursuant to Rule 16(d)(1), Federal Rules of Criminal Procedure, and pursuant to the inherent power of the Court,

PART ONE

IT IS HEREBY ORDERED this _____ day of _____, 1978, that:

(1) Without prior authorization of the originating agency, there shall be no disclosure or dissemination of any classified National Security document except as provided in this Protective Order.

(2) Without prior authorization of the originating agency, there shall be no public disclosure, by either the prosecution, the defense, or any other individual, of any classified National Security document until such time, if ever, that such document is admitted by the Court into evidence at the trial of this case.

(3) The three (3) defendants in this case and Alan I. Baron, counsel for defendant L. Patrick Gray III, Brian P. Gettings, counsel for defendant W. Mark Felt, and Thomas A. Kennelly, counsel for defendant Edward S. Miller, all having been granted a Top Secret security clearance by the Department of Justice, shall have full access to all classified National Security documents in this case. Said defense counsel may also disclose such classified National Security documents to any co-counsel, consultant, expert, paralegal or clerical personnel who are assisting them in the preparation of this case and who have received Top Secret security clearances. Each such security clearance shall be expeditiously granted by the Department of Justice, provided the requisite full-field background investigation has been favorably conducted and in the absence of good cause for withholding such clearance.

(4) Counsel for any party to this case may discuss classified National Security documents with a potential witness in the case only after having been informed that the government has made a favorable determination of the current trustworthiness of such potential witness. The Department Security Officer of the Department of Justice (or his designee) will expeditiously determine the current trustworthiness of any potential witness and will make--and communicate to counsel-- a favorable determination in the absence of good cause for believing the potential witness to be untrustworthy. Upon request of counsel for any party to this case, the Department Security Officer (or his designee) shall submit to the Court, under seal, the reasons for withholding such a favorable determination as to a potential witness with whom any such counsel wishes to discuss any classified National Security document. The Department Security Officer (or his designee) shall not disclose in any manner to counsel for any party to this case the identity of any individual denominated as a potential witness by counsel for any other party.

(5) Counsel for any party to this case shall exhibit a copy of this Protective Order to any potential witness to whom any classified National Security document (or contents thereof) is to be disclosed and shall obtain from such potential witness a signed Witness Acknowledgement that he agrees to be bound by the secrecy provisions of this Protective Order and by the regulations pertaining to the handling of classified National Security documents. A copy of this Protective Order and of said regulations shall be left with any such potential witness. The Witness Acknowledgement to be signed by each such witness is attached hereto as Attachment "A".

(6) Counsel shall at all times be responsible for arranging to store any classified National Security documents of which they have possession in an FBI or other secure facility, in accordance with FBI requirements for protecting such documents.

(7) Defense counsel shall forthwith permit the Department Security Officer (or his designee) to affix the appropriate classifications to any grand jury transcript in the possession, custody or control of defense counsel which contains classified National Security information and must therefore be denominated a classified National Security document.

(8) With respect to all documents involved in the discovery process in this case, the government may redact any references:

- (a) that would tend to compromise pending investigations;
- (b) that constitute identifying data as to third parties who were unrelated to the Weatherman Organization and were not the subjects of FBI investigation; or
- (c) that would tend to disclose intelligence sources and methods--but the government may not redact references to non-live sources in the FBI investigation of the Weatherman Organization.

Defendants and defense counsel shall forthwith return to government counsel all existing copies of certain pages of certain grand jury transcripts which are presently in their possession, custody or control and which are known to contain references that would tend to disclose intelligence sources and methods,

as more fully set forth in Attachment "B" hereto. The government shall then forthwith provide to defense counsel substitute pages which shall have been redacted so as to remove references that would tend to disclose intelligence sources and methods. Defendants and defense counsel shall, throughout the pendency of this case, have access to unredacted copies of all such transcripts at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

PART TWO

WHEREAS certain documents involved in the discovery process and in grand jury proceedings in this case contain Sensitive Compartmented Information (SCI), the storage, handling, and control of which require extraordinary security precautions as mandated by Director of Central Intelligence Directive 1/19, "Uniform Procedures For Administrative Handling and Accountability of Sensitive Compartmented Information (SCI)"; and

WHEREAS it is not feasible to provide storage facilities for SCI at the offices of defense counsel; and

WHEREAS access to SCI requires a special security clearance and specific execution of a secrecy oath pursuant to Director of Central Intelligence Directive 1/14, "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information"--

IT IS HEREBY FURTHER ORDERED THAT the following provisions, in addition to the provisions of PART ONE, shall apply to SCI:

(9) Each defendant, defense counsel, and any consultant, expert, paralegal, or clerical personnel who are assisting them in the preparation of this case shall be granted access

to SCI, as set forth in paragraph (11) below, provided the requisite full-field background investigation has been favorably conducted and in the absence of good cause for withholding such access, and provided further that such person has specifically executed the required SCI secrecy oath (copy attached hereto as Attachment "C").

(10) Defendants and defense counsel shall forthwith return to government counsel all existing copies of certain pages of certain grand jury transcripts which are presently in their possession, custody, or control and which are known to contain SCI, as more fully set forth in Attachment "D" hereto. The government shall then forthwith provide to defense counsel substitute pages which shall have been redacted so as to remove SCI. Defendants and defense counsel shall, throughout the pendency of this case, have access to unredacted copies of all such transcripts at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

(11) Any document which is otherwise discoverable in this case but which contains SCI shall be provided to defense counsel in redacted form so as to remove SCI. Defendants and defense counsel shall, throughout the pendency of this case, have access to any such document without any such SCI redaction (but with such other redactions, if any, as are authorized by paragraph (8) above); such access shall be provided at the Department of Justice Special Security Center during normal business hours and at any other times upon reasonable request.

(12) The provisions of paragraph (4) of this Protective Order are hereby supplemented in that the same procedures mandated therein shall also be applied so as to require a prior determination of authority to have access to SCI for any potential witness with whom any counsel wishes to discuss SCI.

(13) The provisions of paragraph (5) of this Protective Order are hereby supplemented in that any counsel who wishes to discuss SCI with a potential witness shall first require any such witness to execute the required SCI secrecy oath.

(14) The requirements of paragraph (13) of this Protective Order shall not apply to the extent that potential witnesses who are current government employees and have been determined to have a present Top Secret security clearance and authorization for access to SCI need not be required to execute the SCI secrecy oath.

(15) All counsel shall be fully briefed by the Department Security Officer (or his designee) as to the general nature of information that must be handled as SCI and shall be alerted by him to the specific subject matters involved in the discovery process in this case which constitute SCI. In addition, all counsel shall alert potential witnesses to the possibility that they may be discussing SCI and shall request such witnesses similarly to alert counsel at any time the witness, from his own knowledge, believes that the information being discussed is SCI. Should counsel have any doubts as to whether or not a particular subject matter constitutes SCI, they shall seek the guidance of the Department Security Officer (or his designee) for a proper determination. The Department Security Officer (or his designee) shall not disclose to counsel for any party to the case the nature of any such inquiries from any other counsel.

PART THREE

(16) Nothing in this Protective Order (or in any secrecy agreement or oath) shall be construed as a waiver of any right by any defendant in this case, including such defendant's right to seek the introduction of any document into

evidence at trial and such defendant's right to proffer at trial oral testimony concerning any information which may be contained in any of the discovery documents which are the subject matter of this Protective Order. There shall, however, be a Supplementary Protective Order issued prior to the trial of this case, which shall establish procedures for dealing with classified National Security documents at trial. Such procedures shall include (but not necessarily be limited to) ones which (a) require defense counsel to give to the Court and government counsel reasonable advance notice of defense counsel's intention to utilize or discuss any classified National Security document or subject matter at trial; (b) establish that there shall be in camera consideration of the admissibility of any such evidence; and (c) allow government counsel sufficient time, prior to the admission of any such evidence, to consult with interested government agencies with regard to the options then available to the government.

United States District Judge

Greenberg/Gray-5548

WITNESS ACKNOWLEDGEMENT

I, _____, have been requested by _____, (designee of) counsel for _____, to discuss with him matters pertaining to the case of United States v. L. Patrick Gray III, et al. I have voluntarily agreed to discuss such matters and have been shown a copy of the Protective Order issued in that case on _____. I acknowledge that I have read that Protective Order and have read and am familiar with the federal regulations set forth in _____ CFR _____ pertaining to the handling of classified information. I hereby acknowledge that, as to any classified matters I may discuss with counsel in this case, I am bound by the secrecy provisions of the said Protective Order and by the said federal regulations. (I further acknowledge that, as to any matters I may discuss with counsel in this case concerning Sensitive Compartmented Information, I am bound by the provisions of the required SCI secrecy oath, which I have executed and attached hereto.)

Witness

Counsel (or designee)

Date

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5549

ATTACHMENT "A"

PAGES OF GRAND JURY TRANSCRIPTS WHICH
CONTAIN REFERENCES THAT WOULD TEND TO
DISCLOSE INTELLIGENCE SOURCES AND METHODS
AND WHICH THEREFORE REQUIRE SUBSTITUTION
OF REDACTED PAGES.

Transcripts of L. Patrick Gray:

Date: 10/6/76 Pages: 27, 30, 34, 38, 39, 40, 43, 44,
45, 48, 52, 53, 64, 65, 66, 89, 90

Date: 3/20/78 Pages: 27, 31, 35, 39, 40, 41, 44, 45,
(reading) 46, 49, 54(a), 54(b), 65, 66, 90,
91

Date: 3/22/78 Pages: 43, 96, 119, 120, 121, 124, 125,
136, 137, 147, 151, 155, 156, 158

Transcripts of W. Mark Felt:

Date: 8/26/76 Pages: 14, 15, 39

Date: 3/15/78 Pages: 14, 15, 39
(reading)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

ATTACHMENT "B"

Greenberg/Gray-5550

NONDISCLOSURE AGREEMENT
SENSITIVE COMPARTMENTED INFORMATION

1. I, (print full name) _____, hereby acknowledge that I have received a security indoctrination concerning the nature and protection of certain classified information and intelligence sources and methods, which are known as Sensitive Compartmented Information, designated as: _____, and hereinafter referred to as "the designated Sensitive Compartmented Information."

2. I have been advised that direct or indirect unauthorized disclosure, unauthorized retention or negligent handling of the designated Sensitive Compartmented Information by me could cause irreparable injury to the United States and be used to advantage by a foreign nation.

3. I have been advised of the security handling, storage, and transmittal procedures which are to be used to protect the designated Sensitive Compartmented Information, and the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and I understand these procedures.

4. In consideration of being granted access to the designated Sensitive Compartmented Information, I pledge that I will never divulge such information, in any form or any manner, to anyone who is not authorized to receive it, without prior written authorization from an appropriate official of the United States Government.

5. I have been advised that any unauthorized disclosure of the designated Sensitive Compartmented Information by me may be a substantial violation of this agreement, and may result in the termination of my employment. In addition, I have been advised that any such unauthorized disclosure by me may constitute violations of United States civil or criminal laws, including, as to the latter, the provisions of Sections 793, 794, and 798, Title 18, United States Code, and of Section 783, Title 50, United States Code.

6. I understand and agree that the United States Government may choose to apply, prior to any unauthorized disclosure of the designated Sensitive Compartmented Information by me, for a court order prohibiting such disclosure.

7. In any civil action which may be brought by the United States Government for breach of this agreement, the law of the District of Columbia shall govern the interpretation of this agreement. I have been advised that the action can be brought against me in any of the several appropriate United States District Courts where the United States Government may elect to file the action. Court costs, and reasonable attorneys fees incurred by the United States Government may be assessed against me if I lose such action.

8. I hereby assign to the United States Government all rights, title and interest, and all royalties, remunerations, and emoluments that have resulted, will result or may result from any such disclosure, publication or revelation not consistent with the terms of this agreement.

FORM 4066
5-78

ATTACHMENT "C"

(12)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

9. I understand that, upon demand by an authorized representative of the United States Government, I must surrender all materials concerning the designated Sensitive Compartmented Information which are then in my possession or for which I am then responsible. I understand that the designated Sensitive Compartmented Information is, and will continue to be, the property of the United States Government, and my failure to return all materials reflecting this information to the United States Government upon demand, may subject me to the penalties set out in Section 793 of Title 18, United States Code.

10. Unless I am released in writing by an authorized representative of the United States Government, I understand that all the conditions and obligations imposed upon me by this agreement apply during the time I am granted access to the designated Sensitive Compartmented Information, and at all times thereafter.

11. Nothing in this agreement constitutes a waiver on the part of the United States of the right to prosecute me for any statutory violation. Nothing in this agreement constitutes a waiver on my part of any defenses I may otherwise have in any civil or criminal proceedings.

12. Each provision of this agreement is severable. If a court should find any provision of this agreement to be unenforceable, all other provisions of this agreement shall remain in full force and effect.

13. I have read this agreement carefully and my questions, if any, have been answered to my satisfaction. I acknowledge that the briefing officer has made available Sections 793, 794, 798, and 1001 of Title 18, United States Code, Section 783 of Title 50, United States Code, Executive Order 11652, as amended, and the National Security Council Directive of 17 May 1972, as amended, which implements this Executive Order so that I may read them at this time, if I so choose.

14. I have been advised that any false statement made by me in this agreement may subject me to the penalties set out in Section 1001 of Title 18, United States Code.

15. I make this agreement without any mental reservation or purpose of evasion.

WITNESS:

Signature

Date

Signature

Date

SSN (see Notice below)

NOTICE Organization _____

The Privacy Act, 5 U.S.C. 552a, requires that federal agencies inform individuals, at the time information is solicited from them, whether the disclosure is mandatory or voluntary, by what authority such information is solicited, and what uses will be made of the information. You are hereby advised that authority for soliciting your Social Security Account Number (SSN) is Executive Order 9397. Your SSN will be used to identify you precisely when it is necessary to certify that you have access to the information indicated above. While your disclosure of your SSN is not mandatory, your failure to do so may delay the processing of such certification.

PAGES OF GRAND JURY TRANSCRIPTS WHICH
CONTAIN SCI AND WHICH THEREFORE REQUIRE
SUBSTITUTION OF REDACTED PAGES

Transcripts of L. Patrick Gray:

Date: 10/6/76 Pages: 9-11, 13-14, 21-22, 25, 27-40, 42-54,
77, 86-93, 113

Date: 3/20/78 Pages: 10-11, 13-15, 21-22, 26-41, 43-55,
(reading) 78, 87-93

Date: 3/22/78 Page: 16
(reading)

Date: 3/22/78 Pages: 41, 43, 51-55, 58-59, 73, 82, 96-98,
102-110, 112-115, 117, 119-120, 122-132,
135-139, 142-146, 148, 150-153, 162-164,
171 155-158,

Transcripts of W. Mark Felt:

Date: 8/26/76 A.M. Pages: 9, 13-15, 33, 35-37, 39, 43-44,
51-53, 55-56

Date: 8/26/76 P.M. Pages: 15-18, 26, 29

Date: 3/15/78 Pages: 10, 13-15, 33, 35-37, 39, 43-44,
(reading) 51-53, 55-56, 77-80, 91, 98

Transcripts of Edward S. Miller:

Date: 8/26/76 Pages: 39-40, 42-48, 50-51, 54-56, 69, 70

Date: 9/1/76 Pages: 10, 20-21, 36

Date: 3/15/78 Pages: 41-42, 44-50, 53, 56-58, 71, 72
(reading)

Date: 3/20/78 Pages: 10-11, 21, 36
(reading)

Transcript of William C. Sullivan:

Date: 7/15/77 Pages: 15, 53-54, 64-65, 67-69, 71-74, 78-81,
83-84, 94-95, 100-101, 105, 120-121,
166-167, 186-187, 232

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5553

ATTACHMENT "D"

UNITED STATES GOVERNMENT

Memorandum

PD

Paul V. Daly
Federal Bureau of Investigation

DATE: December 15, 1978

FROM *JW*

Breckinridge L. Willcox
Criminal Division

FEDERAL GOVERNMENT

L. Patrick

SUBJECT: Jencks Material, United States v. Gray, et al.

Under our Jencks obligations, we will be required to produce statements of those FBI agents who have recently been interviewed in connection with the administrative investigation of the matters the instant prosecution is concerned with.

We would appreciate it if you would furnish to us, no later than Wednesday, December 20, all 302s or other documents reflecting interviews or statements, in connection with the administrative proceedings, of those individuals on the attached list.

Any necessary classification should be done in accordance with our previous instructions.

Attachment.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

me

me
ENCLOSURE

4-11-78
me
Attachments handed delivered to Willcox by James Brennan 12/20-21/78
pre

REC-20 62-118045-113
62-118045-20 JAN 8 1979



UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

DATE: December 15, 1978

TO : Paul V. Daly
Federal Bureau of Investigation

FROM : Breckinridge L. Willcox
Criminal Division

SUBJECT: Classification Review of Jencks Material

L. Patrick Gray

In further reference to our memorandum of September 27, 1978, please find enclosed Jencks material, either Grand Jury transcripts, 302s or memoranda of interview on the attached list.

Any classification should be done in accordance with our previous instructions.

To complete our Jencks obligations, we will require this material, as well as that furnished on September 27, to be returned to us by the close of business, December 20.

(Me)

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

*Attachments
returned
to Willcox
12/29-21/78
BUD/jmk*

me
ENCLOSURE

EX-113
REC-20

62-118045-114

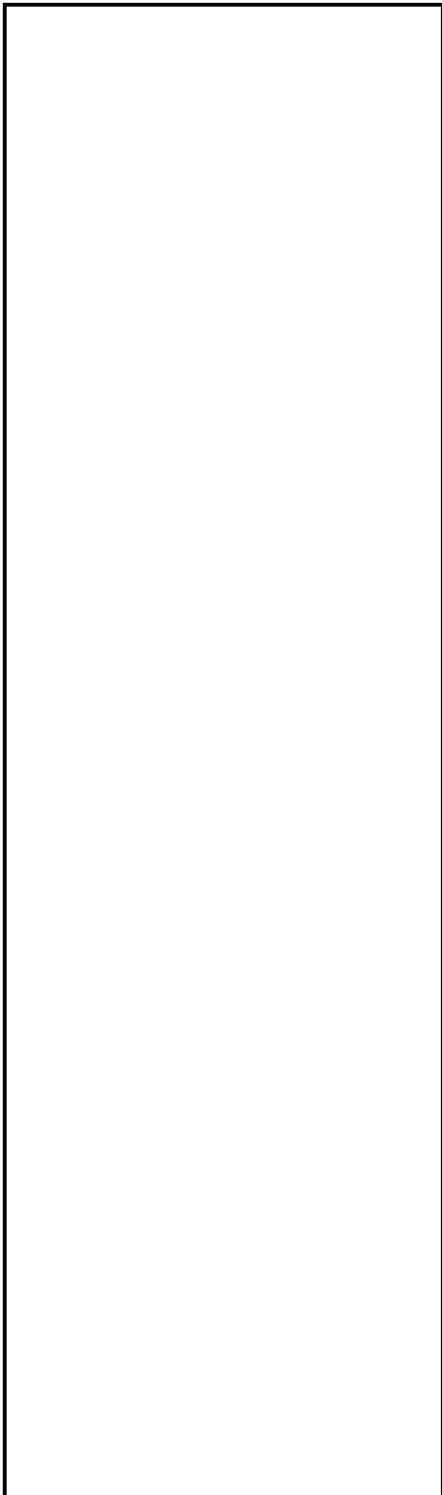
20 JAN 8 1979

*Giles
PD*

62-118045



79 50164101 16 1979

<u>Name</u>	<u>Grand Jury Trans.</u>	<u>Memo of Interview</u>	<u>302</u>
	1	1	
		2	
		1	
		1	1
		1	
		3	
	1	1	
		1	
		2	
		1	1
	1	2	
	b3 b6 b7C	1	
		1	
	1		
	3	1	2
	1		
	1		
1	2	1	
	2		
	1		
	1	2	
	1		

62-118045-114

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 12/15/78

TO: DIRECTOR, FBI

FROM: *JM/K* SAC, CINCINNATI (100-22287) (RUC)

SUBJECT: UNITED STATES V. L. PATRICK GRAY
ET AL
CRIMINAL NUMBER 78-000179,
DISTRICT OF COLUMBIA

Re Bureau airtel to Albany dated 12/7/78; Cincinnati telephonic contact with FBI Headquarters, 12/13/78.

It is to be noted that former SAC, [redacted], has retired as of 11/30/78, and was not provided enclosed item from referenced Bureau air **OTHER Pursuant to Sealed Court Order**

Enclosed copy of memorandum was provided SA [redacted] advised that he would be completely available for the months of January and February. He did note that he will be attending General Police Instructor in-service at Quantico from 1/7-19/79.

- 2 - Bureau
- 1 - Cincinnati

OTHER Pursuant to Sealed Court Order

RLD:skm
(3)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

EX-113

REC-20

62-118045-115

62-118048

14 DEC 18 1978

Greenberg/Gray-5558

[Signature]
COUNSEL

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

79 JAN 16 1979

X

12/15/78

TO: DIRECTOR, FBI
FROM: SAC, CINCINNATI (100-22287) (RUC)
SUBJECT: UNITED STATES V. L. PATRICK GRAY
ET AL
CRIMINAL NUMBER 78-000179,
DISTRICT OF COLUMBIA

Re Bureau airtel to Albany dated 12/7/78; Cincinnati telephonic contact with FBI Headquarters, 12/13/78.

It is to be noted that former SAC, [REDACTED], [REDACTED], has retired as of 11/30/78, and was not provided enclosed item from referenced Bureau airtel OTHER Pursuant to Sealed Court Order

Enclosed copy of memorandum was provided SA [REDACTED] [REDACTED] advised that he would be completely available for the months of January and February. He did note that he will be attending General Police Instructor in-service at Quantico from 1/7-19/79. OTHER Pursuant to Sealed Court Order

2 - Bureau
1 - Cincinnati

RLD:skm
(3)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

EXACT COPY

Greenberg/Gray-5559

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

TO: *PVD* Paul V. Daly
Federal Bureau of Investigation

DATE: December 21, 1978

FROM: ~~_____~~ Barnet D. Skolnik
Special Assistant U.S. Attorney

FEDERAL GOVERNMENT

SUBJECT: Proof of Citizenship; United States v. L. Patrick Gray, et al

As you are aware, the Government will need to prove the United States citizenship of the victims in the above styled case. We are informed that Bureau agents, specifically those handling fugitive cases, have experience in obtaining birth certificates from the appropriate custodians.

We respectfully request that you direct this memorandum to those Bureau agents in the field who could most easily obtain a copy of the birth certificates of the following individuals. We have included all relevant information presently known to us as to place and date of birth. Please note that we will require this information for trial purposes; consequently, we will need a certified true copy, or similar documentation, of the birth certificates of the following:

[Redacted]

[Redacted]

REC-20 62-118045-116

[Redacted]

OTHER Pursuant to Sealed Court Order

20 JAN '8 1979

62-118045

[Signature]

Greenberg/Gray-5560

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

PVD:caz 12-27-78



79 JAN 16 1979

5010-110



If additional information (names and DOB of parents, for example) is required, it is possible that the prosecutors could obtain it. If such additional information is required, or if other questions arise, please contact Task Force Attorneys Breck Willcox or Frank Martin at 724-7011.

Please note that we will require this documentation no later than January 18, 1979.

Airtel

Greenberg/Gray-5562

12/28/78

To: ADIC, New York
SACs, Newark
Chicago
Cincinnati

1 - Mr. Bassett

From: Director, FBI

UNITED STATES V. L. PATRICK GRAY, ET AL;
DISTRICT OF COLUMBIA, CR 78-000179
BUDED: 1/9/79

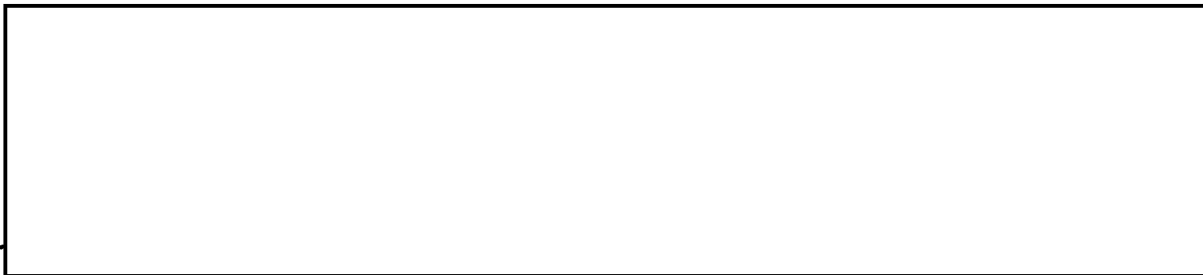
In connection with the forthcoming trial in captioned matter the Department has requested they be furnished certified true copies of the birth certificates for the following individuals:

OTHER Pursuant to Sealed Court Order

NAME

DOB

POB



Receiving offices obtain the requested birth certificates for individuals within your territory and forward same to FBIHQ, Attention: SA Paul V. Daly, Records Management Division, to reach FBIHQ by 1/9/79. Should difficulty be encountered in obtaining same promptly advise FBIHQ.

Identifying information being furnished is from FBIHQ files; additional information where necessary may be located in your files.

MAILED 14
DEC 29 1978
FBI

- 2 - Brooklyn/Queens
- 2 - New Rochelle

NOTE: By memorandum Barnet D. Skolnik to Paul V. Daly 12/21/78 Department requested birth certificates to establish U.S. citizenship. Deadline is necessary in view of Department's request they be furnished same by 1/18/79.

PVD:car (15)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

79 JAN 16 1979

MAIL ROOM

20 JAN 8 1979

REC-20 62-118045-119

DEC 30 11 12 EX-103

62-118045

pro

Daly 6388 JEH

UNITED STATES GOVERNMENT

Memorandum

TO : John A. Mintz
Legal Counsel Division
FBI

FROM *WJ*: Breckinridge L. Willcox
Criminal Division

DATE: December 21, 1978

FEDERAL GOVERNMENT

[Redacted Box]

SUBJECT: Bureau Witnesses; United States v. L. Patrick Gray, et al

b6
b7C

CS

In further reference to our memorandum of October 27, 1978, captioned as above, please add the following name to the list of prospective witnesses who should be made available for the purposes of trial:

[Redacted Name]

(SA-WFO)

(me)

Thank you for your assistance.

OTHER Pursuant to Sealed Court Order

J. *me*
ENCLOSURE

P. Daly *RD*

12/27/78 referred to Admin. Services Division for identification of and notice to the employee.

REC-20 62-118045-118
EX-113

17 JAN 2 1979

Greenberg/Gray-5563

9 LEGAL COUNSEL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



7 9 JAN 17 1979

UNITED STATES GOVERNMENT

Memorandum

TO : Witnesses for the Trial

DATE: October 27, 1978

FROM : Breckinridge Willcox
Criminal Division
U.S. Department of Justice

SUBJECT: United States v. Gray, et al., Crim. No. 78-000179,
District of Columbia

Attached is a request for your appearance as a witness in the above captioned case.

The trial is presently scheduled to begin on January 22, 1979. Testimony may not begin on that precise day, and/or your testimony may not be required until a later day. For these reasons the specific date upon which you will be called to testify cannot now be finally determined. You therefore need not appear in court on January 22, but should treat the request as being continuing in nature. That means that it will continue to require your presence in court whenever during the pendency of the case you may be notified that any party in the case wishes you to appear in court. As soon as that date has been determined, we will let you know. We hope that this procedure will involve as little inconvenience to you as possible. It is quite possible that neither side will want to call you as a witness, but you should plan to be available for several weeks after January 22 in the event that you are called as a witness.

You will be notified in a timely fashion if your presence is required. If you plan to be in a travel status in December (except for the holidays) or in January, it is imperative that you keep us informed as to how to reach you. Please call me at 724-7011 to inform me (or my secretary) of your travel plans, or if you have any questions.

At some point before your appearance in court we may contact you again to invite you to attend a pretrial interview. You will be under no obligation to accept that invitation; whether or not to do so will be entirely up to you. Similarly, it is possible that defense attorney and/or defense investigators may contact you to invite you

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-02-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5565



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

62-118045-118

to be interviewed by them. Again you will be under no obligation and will be entirely free to decide yourself whether or not to submit to such interview.

Airtel

12/29/78

To: SAC, Washington Field Office

From: Director, FBI

UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

ReBuairtel to All SACS dated 11/14/78, captioned U. S. VS L. Patrick Gray III et al, set forth instructions that Legal Counsel Division should be notified if any employee is contacted by defense attorneys or representatives of defense attorneys concerning this case.

OTHER Pursuant to Sealed Court Order

Enclosed are copies of two memoranda from the Criminal Division, Department of Justice, dated 10/27/78, the first addressed to John A. Mintz, Legal Counsel Division, and the second addressed to "Witnesses for the Trial" which should be detached and furnished to SA [redacted]

In the event SA [redacted] will not be available during the four-week period on or after 1/22/79, Legal Counsel Division should be immediately advised. Also, Legal Counsel Division will provide guidance in securing a release from Employment Agreement if SA [redacted] is contacted by defense attorneys.

OTHER Pursuant to Sealed Court Order

Enclosures 2

MAILED 16
DEC 29 1978
FBI

EX-113

DEC 28 11 28 AM '78

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

OTHER Pursuant to Sealed Court Order

1 - Personnel file of SA [redacted]

62-118045-119

REC'D [redacted]

JLW:las
(5)

62-118045

JAN 8 1979

9 JAN 16 1979
MAIL ROOM

Greenberg/Gray-5567

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : The Director

DATE: 12/5/78

FROM : Legal Counsel *JM*

L. PATRICK III

SUBJECT: UNITED STATES V. GRAY, ET AL

OTHER Pursuant to Sealed Court Order

SA [redacted] Records Management Division, called Inspector [redacted] on Monday, 12/4/78, to advise that he has been subpoenaed as a witness in captioned case. He inquired as to whether or not the Department would provide witnesses with attorneys and whether the Government would make the appropriate provisions for witnesses to obtain an attorney.

OTHER Pursuant to Sealed Court Order

[redacted] was advised that the Department has not furnished Legal Counsel Division with any information concerning the availability of either Departmental representation or affording private counsel to witnesses in this case, but that an inquiry would be made and that he would be apprised of the results of that inquiry.

OTHER Pursuant to Sealed Court Order

Departmental Attorney Breckinridge Willcox, Criminal Division, Department of Justice, was telephonically contacted by Inspector [redacted] and Mr. Willcox advised that to his knowledge, the Department's position is one in which they would review requests by witnesses for representation on an ad hoc basis. He suggested that [redacted] should prepare a communication to the Attorney General setting forth his desire to be represented by counsel in his capacity as a witness in the above-captioned case.

EX-114 REC-80 62-118045-120

[redacted] was then called back by Inspector [redacted] at 5:36 p. m., 12/4/78, and apprised of the procedure suggested by Mr. Willcox.

OTHER Pursuant to Sealed Court Order

RECOMMENDATION:

XEROX
FEB 2 1979

JAN 4 1979

For information.

JCF:nls (5)

- 1 - Mr. Bassett (Attn. [redacted])
- 1 - Mr. Daly
- 1 - Mr. Mintz
- 1 - Personnel File [redacted]

APPROVED: *JCF*
 Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv.	_____	Legal Coun.	_____
Crim. Inv.	_____	Plan. & Insp.	_____
Ident.	_____	Rec Mgnt.	_____
Intell.	_____	Tech. Servs.	_____
Laboratory	_____	Training	_____
		Public Affs. Off.	_____

OTHER Pursuant to Sealed Court Order



PEERS [redacted] b6 b7C

COPY RETAINED IN
PERSONNEL RECORDS UNIT

UNITED STATES GOVERNMENT

Memorandum FEDERAL GOVERNMENT

TO : Paul V. Daly *PVD*
Federal Bureau of Investigation

DATE: December 11, 1978

FROM : Francis J. Martin *FJM*
Criminal Division

SUBJECT: Discovery, United States v. L. Patrick Gray, et al

The enclosed 4 memos from the Director, FBI to the Attorney General were found in DJ file 146-1-51-18249. As you will note, these copies bear the approval signature of the Attorney General.

Your review of the relevant FBI files is requested to ascertain whether these signed copies have previously been made available to the defendants during discovery. If so, we shall dispense with producing them ourselves.

em

1-ENCLOSURE *PVD*

EX-125

Already furnished under discovery
REC 20 *146-1-51-18249-1207*
11 MAR 13 1979

4 *Daly*

Greenberg/Gray-5569



227

717-5930

5-14-69 153

NATIONAL HEADQUARTERS OF THE STUDENTS FOR A
DEMOCRATIC SOCIETY, CHICAGO, ILLINOIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

176-151-18249

DEPARTMENT OF JUSTICE		R E C O R D
20	JAN 25 1974	
O.R.C.M.		

Greenberg/Gray-5570

F-100

OFFICE OF THE DIRECTOR

~~SECRET~~

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 14, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: STUDENTS FOR A DEMOCRATIC SOCIETY
INTERNAL SECURITY - STUDENTS FOR A
DEMOCRATIC SOCIETY

The Students for a Democratic Society is a part of the New Left movement which is currently organized into approximately 235 chapters throughout the United States. The national headquarters is at 1608 West Madison Street, Chicago, Illinois.

The Students for a Democratic Society is a fiercely anarchistic group whose spokesmen boast of their determination to end our form of Government and destroy the traditions of democracy. Members of this organization have been in the forefront of the protest movement against United States policy in Vietnam and have called for an end to selective service as well as founding a number of antidraft unions.

During the past year drastic changes have occurred in the tactics employed by the Students for a Democratic Society to achieve their objectives. Students for a Democratic Society leaders who formerly advocated "nonviolence" and "passive dissent" are now urging the use of violence as a form of "active resistance" against the existing social order. Confrontation with school administrators now involves violence and heavy destruction of school property. Since April, 1968, major disorders precipitated by the revolutionary adherents of the Students for a Democratic Society have occurred on a number of college campuses.

At the Students for a Democratic Society National Convention held in June, 1968, one of the workshops dealt with explosives and sabotage techniques. The same militant mood was in evidence at a Students for a Democratic Society National Council meeting held in October, 1968, where pamphlets dealing with the making of various explosive devices were made available to the Students for a Democratic Society members.

~~SECRET~~

~~Group I~~

~~Excluded from automatic
downgrading and
declassification~~

Greenberg/Gray-5571

~~SECRET~~

MEMORANDUM FOR THE ATTORNEY GENERAL

At a National Council meeting of this organization held in Ann Arbor, Michigan, in December, 1968, a manual captioned "Work-In, a National SDS Summer Project" was brought to the attention of delegates to the meeting. This manual which has received wide distribution in this country sets forth a program by Students for a Democratic Society to invade industrial plants and other business organizations this summer for the purpose of disrupting operations and conducting an intensive propaganda campaign among employees geared against the United States and particularly private industry.

At an Eastern Regional Conference of the Students for a Democratic Society held on February 1-2, 1969, at Princeton University, Princeton, New Jersey, a five-page proposal entitled "Smash the Military Machine in the Schools" was distributed by the Columbia University Students for a Democratic Society chapter. This proposal called for fomenting student uprisings, agitational demonstrations and other disturbances and violence in universities and high schools this spring throughout the country. It strongly emphasized a nation-wide attack on Reserve Officers Training Corps on college campuses.

While this proposal has never been passed in the form of a resolution by the National Office of the Students for a Democratic Society, it nevertheless has been implemented on a number of occasions this spring by Students for a Democratic Society members and sympathizers. The major attack against Harvard University in April, 1969, was to abolish the Reserve Officers Training Corps at the University. Such attacks have also occurred at Yale University, George Washington University, Dartmouth College, Cornell University, California State College, Michigan State University and at many other colleges and universities.

At the Students for a Democratic Society National Council meeting held in Austin, Texas, in March, 1969, Michael Klonsky, Students for a Democratic Society National Secretary, advocated that Students for a Democratic Society become a strong, centralized, Marxist-Leninist, revolutionary movement. Many of the national leaders of Students for a Democratic Society support Klonsky in this regard.

~~SECRET~~

- 2 -

~~SECRET~~

MEMORANDUM FOR THE ATTORNEY GENERAL

During the six-month period from August, 1968, through January, 1969, 449 telephone calls were made from Students for a Democratic Society National Headquarters outside of the State of Illinois. During this same period of time an additional 86 telephone calls were made in Illinois outside of the metropolitan Chicago area.

A telephone surveillance on the national headquarters of the Students for a Democratic Society would provide extremely valuable information concerning the plans of this organization with respect to its efforts to implement its programs. Such a surveillance would supply valuable data concerning the advance planning of this group, its leaders and the source of its funds.

I, therefore, recommend the installation of a telephone surveillance on the national headquarters of the Students for a Democratic Society, 1608 West Madison Street, Chicago, Illinois, or any other address to which this organization may move in the future.

Respectfully,

J. Edgar Hoover
John Edgar Hoover
Director

APPROVED *[Signature]*

DATE 5/14/69

~~SECRET~~

- 3 -

~~SECRET~~

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 13, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: STUDENTS FOR A DEMOCRATIC SOCIETY
INTERNAL SECURITY - STUDENTS FOR A
DEMOCRATIC SOCIETY

Reference is made to this Bureau's memorandum dated May 14, 1969, captioned "Students for a Democratic Society, Internal Security - Students for a Democratic Society." By your approval of that memorandum on May 14, 1969, you authorized installation of telephonic surveillance on the national headquarters of the captioned organization at 1608 West Madison Street, Chicago, Illinois.

The telephone surveillance mentioned above has proved to be a source of valuable, timely and pertinent information concerning the activities, plans and operations of the Students for a Democratic Society. Information has been received concerning the travel plans of leaders and activists of the Students for a Democratic Society, the Students for a Democratic Society strategy for activities in the Fall of 1969, and information concerning the Students for a Democratic Society factional dispute with the Progressive Labor Party. Valuable data was furnished concerning Students for a Democratic Society support of a conference sponsored by the Black Panther Party, a militant racist group, in July, 1969. It is believed this surveillance's potential for continuation of this high-level performance is excellent, especially in furnishing information concerning the leadership, policy and activities of the Students for a Democratic Society.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-07-2009

~~SECRET~~~~Group I~~

~~Excluded from automatic
downgrading and
declassification~~

~~SECRET~~

MEMORANDUM FOR THE ATTORNEY GENERAL

Your authority is requested to continue the telephone surveillance at the Students for a Democratic Society national headquarters in Chicago for an additional three months.

Respectfully,

J. Edgar Hoover
John Edgar Hoover
Director

APPROVED *Dobson N. Mitchell (S.K.M.)*

DATE *8/10/69*

~~SECRET~~

- 2 -



~~SECRET~~
UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 13, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL
RE: STUDENTS FOR A DEMOCRATIC SOCIETY.

Reference is made to this Bureau's memorandum dated August 13, 1969, captioned "Students for a Democratic Society, Internal Security - Students for a Democratic Society." By your approval of that memorandum on August 14, 1969, you authorized the continuance of the telephone surveillance on the national headquarters of the captioned organization at 1608 West Madison Street, Chicago, Illinois.

The telephone surveillance mentioned above has continued to be a source of valuable, timely and pertinent information concerning the activities, strategy, plans and operations of the Students for a Democratic Society. The Weatherman faction of the Students for a Democratic Society, which is the action-oriented faction within the Students for a Democratic Society, controls the national headquarters and we therefore have been able to develop extremely valuable information concerning this group. Sensitive information has been recently developed concerning the travel of Students for a Democratic Society members and leaders abroad, the strategy and techniques of Weatherman faction at the recently held National Action demonstrations in Chicago, financial matters of the Students for a Democratic Society and the close relationship of this group with the Black Panther Party, a militant racist group.

It is believed this surveillance's potential for continuation of this high-level performance is excellent, especially in furnishing information concerning the leadership, policy and activities of the Students for a Democratic Society.

There are a substantial number of individuals currently under Antiriot Laws investigation as a result of their activity in Chicago, October 8-11, 1969. It is likely that certain of these may be overheard on this surveillance.

~~SECRET~~


GROUP 1
Excluded from automatic
downgrading and
declassification

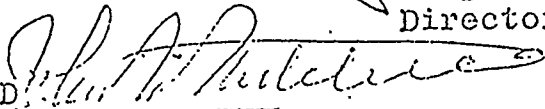
~~SECRET~~

- MEMORANDUM FOR THE ATTORNEY GENERAL

Your authority is requested to continue the telephone surveillance at the Students for a Democratic Society national headquarters in Chicago for an additional three months.

Respectfully,


John Edgar Hoover
Director

APPROVED 

DATE 11/13/69

OFFICE OF THE DIRECTOR



~~SECRET~~

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

February 12, 1970

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-07-2009

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: STUDENTS FOR A DEMOCRATIC SOCIETY

Reference is made to this Bureau's memorandum dated November 13, 1969, captioned "Students for a Democratic Society." By your approval of that memorandum on November 13, 1969, you authorized the continuance of the telephone surveillance on the national headquarters of the captioned organization at 1608 West Madison Street, Chicago, Illinois.

The telephone surveillance mentioned above has continued to be a source of extremely valuable, timely and pertinent information concerning the activities, strategy, plans, and operations of the Weatherman faction of the Students for a Democratic Society. The Weatherman faction has been in complete control of the national headquarters of the Students for a Democratic Society since the June, 1969, National Convention. The Weatherman faction is totally committed to violent revolution at this time and has made strategic plans to build an underground paramilitary organization designed to carry out guerrilla warfare in the cities of the United States.

Weatherman members have moved into collectives in the major cities of the country and in an effort to keep their whereabouts unknown to local and Federal authorities are continuously moving from one collective to another. Sensitive information from the telephone surveillance has enabled the Federal Bureau of Investigation to locate many of these individuals as well as ascertaining the location of their frequently changing collectives. Furthermore, the identities of persons who participated in the recent trip to Cuba sponsored by the Venceremos Brigade have been furnished by this source.

~~SECRET~~

GROUP 1
~~Excluded from automatic
downgrading and
declassification~~

Greenberg/Gray 5578

~~SECRET~~

MEMORANDUM FOR THE ATTORNEY GENERAL

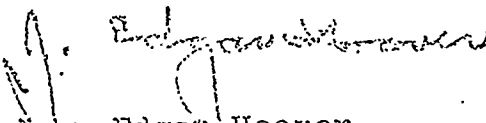
It is believed this surveillance's potential for continuation of this high-level performance is excellent, especially in furnishing information concerning the leadership, policy, and activities of the Students for a Democratic Society.

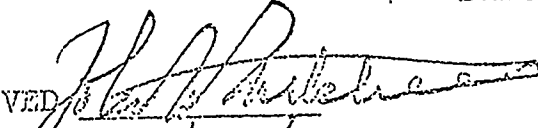
There are a substantial number of individuals currently under Antiriot Laws investigation as a result of their activity in Chicago, October 8-11, 1969. It is likely that certain of these individuals may be overheard on this surveillance.

At the current time, the Weatherman group is being forced to leave the premises at 1608 West Madison Street. However, a new headquarters has not been located and the move has not been completed.

Your authority is requested to continue the telephone surveillance at 1608 West Madison Street or to whatever new location the leadership of the Weatherman faction moves, for an additional three months. When the move is effected and telephone service installed at the new location, you will be advised.

Respectfully,


John Edgar Hoover
Director

APPROVED 

DATE 7/17/70

~~SECRET~~

-2-

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date 12/13/78

TO: DIRECTOR, FBI

FROM: SAC, NEWARK

SUBJECT: UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

Re Bureau airtel to Albany, 12/7/78.

Enclosed for the Bureau is one copy of a memorandum from the Criminal Division of the Department to Assistant Director JOHN A. MINTZ, dated 10/27/78, captioned as above and a memorandum from the Criminal Division of the Department dated 10/27/78, to "Witnesses for the Trial".

Copies of the attached memoranda were provided to SA [redacted] as requested in referenced airtel.

However, copies of the enclosures designated for [redacted] are being returned to the Bureau as [redacted] is not assigned to Newark.

EX-114

REC-2 62-118045-121

JAN 3 1979

- 2 - Bureau (Enc. 2)
- 2 - Newark
- JJOC/pmh
- (4)

12/20/78
J.K. Wilson

9-LEGAL COUNSEL

encls. sent to NK
airtel 12/27/78
met

Approved: [Signature] Transmitted 4:58 (Time) Per [Signature]

79 JAN 23 1979

FBI

TRANSMIT VIA:

PRECEDENCE:

CLASSIFICATION:

- Teletype
- Facsimile
- Airtel

- Immediate
- Priority
- Routine

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 12/13/78

TO: DIRECTOR, FBI

FROM: SAC, NEWARK

SUBJECT: UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

Re Bureau airtel to Albany, 12/7/78.

Enclosed for the Bureau is one copy of a memorandum from the Criminal Division of the Department to Assistant Director JOHN A. MINTZ, dated 10/27/78, captioned as above and a memorandum from the Criminal Division of the Department dated 10/27/78, to "Witnesses for the Trial".

Copies of the attached memoranda were provided to SA [redacted] as requested in referenced airtel.

However, copies of the enclosures designated for [redacted] are being returned to the Bureau as [redacted] is not assigned to Newark.

- 2 - Bureau (Enc. 2)
- 2 - Newark
- JJOC/pmh
- (4)

CARBON COPY

Greenberg/Gray-5581

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

[Redacted]

Attorney

[Redacted]

CHATTANOOGA, TENNESSEE 37402

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

OUTSIDE SOURCE

December 8, 1978

EXP. PROC. #8
 37 DEC 12 1978

Mr. William Webster, Director
Federal Bureau of Investigation
J. Edgar Hoover Building
Washington, D.C. 20535

L. Patrick Gray III

(Handwritten initials)

Dear Mr. Webster:

The FBI is the strongest force the American people have today between themselves and chaos. Your attempts to destroy it indicate one of two things, you are either a damned fool or in the employ of our enemies.

Sincerely,

[Redacted Signature]

b6
b7C

1-ENCLOSURE
JJP

*EX-115
no act 5
2-13-79
RTB: gmd
DEC 2*

62-118045-120X

3-29-79
16 DEC 11 1978

53 JUN 13 1979

Greenberg/Gray-5582

~~CORRESPONDENCE~~
*no routing necessary
Per PLN*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

* * * * *
TWO FBI AGENTS were ordered fired for illegal surveillance activities.

Director William Webster said the firings resulted from an investigation of break-ins, wiretaps and mail openings allegedly carried out by the FBI from 1970 to 1975 in its search for fugitive Weather Underground radicals. Webster said he also would demote one agent and suspend one for 30 days. But he said no action would be taken against 59 other active agents because they were acting under orders and without clear legal guidance from supervisors. The disciplinary actions against the four men, all supervisors, can be appealed to Webster and the courts.

Next month, former Acting Director E. Patrick Gray III and two top aides will go on trial on civil-rights charges arising from the Weather Underground case.

* * *

THE SUPREME COURT

sys
nic
ing
Je
cor
100
stu
the
tra
in
na
ph
ch
la
su
so
wi
H
wi
ph
L

Greenberg/Gray-5583

ENCLOSURE

62-118045-120 X1

AIRTEL

12/27/78

To: SAC, Newark

PERSONAL ATTENTION SAC

From: Director, FBI

**UNITED STATES V. L. PATRICK GRAY ET AL
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA**

Reurairtel 12/13/78 and Buairtel to Albany 12/7/78.

Enclosed are one copy each of two memoranda from the Criminal Division of the Department of Justice dated 10/27/78, the first addressed to John A. Mintz, Legal Counsel Division and the second addressed to Witnesses for the Trial.

The latter memorandum, inadvertently designated for [redacted] b6
[redacted] in the Bureau's original airtel, should be b7C
furnished to SA [redacted]

res

Enclosures (2)

JLW:malt

(0)

- 1 - Personnel File [redacted]
- 1 - Personnel File [redacted]

EX-114 b6 b7C

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 14
DEC 26 1978
FBI

DEC 28 11 52 AM '78
REC-2 62-118045-122

REC'D JAN 3 1979

Greenberg/Gray-5584

79 JAN 23 1979

MAIL ROOM [initials]

Mr. D. Jerry Rubino
Security Officer
Department of Justice

b6
b7C

1 - Mr. H. N. Bassett
1 - [redacted]

b6
b7C

December 27, 1978

FEDERAL GOVERNMENT

[redacted] Security Officer
FBI

UNITED STATES V. L. PATRICK
GRAY, ET AL.
CLEARANCE OF POTENTIAL WITNESSES

Reference is made to your memorandum dated December 14, 1978, enclosing a list of prospective witnesses in the above matter, and to my memorandum dated December 19, 1978, setting forth information relating to those prospective witnesses included on the list

OTHER Pursuant to Sealed Court Order

Additional research has determined that [redacted] included on the list, was a White House Fellow temporarily assigned to the Office of Planning and Evaluation of the FBI during the period August 28, 1972 - August 27, 1973. He was also assigned to the office of Acting Director L. Patrick C...

OTHER Pursuant to Sealed Court Order

This individual's full name is [redacted] and, during his period of assignment to the FBI, he was a Major in the U. S. Air Force. Upon assuming his duties at FBI Headquarters, he indicated he had previously been cleared for access to "Top Secret" and "SI." Records of this Bureau indicate his last known address, as of April 30, 1974, was [redacted] Kincheloe Air Force Base, Michigan 49788, telephone [redacted]

REC-60

62-418645-123

2 DEC 28 1978

DR:lfj
(5)

FX-113

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 6
DEC 27 1978
FBI

DEC 31 15 00 54 '78

REC'D CIVIL ROOM

02 JAN 19 1979

MAIL ROOM

Greenberg/Gray-5585

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 1-11-79

FROM : Legal Counsel *[Signature]*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL.
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

55
C

At 10:04 a.m. on January 11, Alan Baron, telephone number 301-547-0500, called and said that he is representing L. Patrick Gray in captioned prosecution. He requested me to arrange interviews for him with Bureau officials at FBI Headquarters. At his request, I have made the following arrangements.

OTHER Pursuant to Sealed Court Order

[Redacted] will be interviewed by Mr. Baron at 11 a.m.,
 January 12, 1979, in [Redacted] office.

RECOMMENDATION:

[Handwritten initials]

For information.

APPROVED:

WLB Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

EX-113 REC-47 62-778045-124 22 JAN 19 1979

NOTE:

On January 12, Mr. Baron called and cancelled his request for an interview and requested rescheduling. [Redacted] said that he would be retired following January 12 and requested Mr. Baron to call him at telephone number [Redacted] to arrange an interview. His request was conveyed to [Redacted] Mr. Baron's secretary, at 4:20 p.m. on January 12. OTHER Pursuant to Sealed Court Order

- 1 - [Redacted]
- 1 - Mr. Mintz
- 1 - Personnel file of [Redacted]

APPROVED:

WLB Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

JAM:bpr

(4) OTHER Pursuant to Sealed Court Order

Greenberg/Gray-5586

[Handwritten signature]



UNITED STATES GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Memorandum

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: December 15, 1978

FROM : *BW* Breckinridge L. Willcox
Criminal Division

FEDERAL GOVERNMENT

SUBJECT: Jencks Material, United States v. Gray, et al.

C⁵⁶

L. Patrick

Under our Jencks obligations, we will be required to produce statements of those FBI agents who have recently been interviewed in connection with the administrative investigation of the matters the instant prosecution is concerned with.

(Handwritten initials)

We would appreciate it if you would furnish to us, no later than Wednesday, December 20, all 302s or other documents reflecting interviews or statements, in connection with the administrative proceedings, of those individuals on the attached list.

Any necessary classification should be done in accordance with our previous instructions.

Attachment.

SI 109

REC-50

62-118845-125

JAN 24 1979

(Handwritten initials)
ENCLOSURE

Returned
12/21/78
by J. Beeman
(Signature)



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan.

Greenberg/Gray-5587

JAN 30 1979

UNITED STATES GOVERNMENT

Memorandum

TO: Paul V. Daly
Federal Bureau of Investigation

DATE: December 15, 1978

FROM: Breckinridge L. Willcox
Criminal Division

D. Patrick

FEDERAL GOVERNMENT

SUBJECT: Jencks Material, United States v. Gray, et al.

Under our Jencks obligations, we will be required to produce statements of those FBI agents who have recently been interviewed in connection with the administrative investigation of the matters the instant prosecution is concerned with.

We would appreciate it if you would furnish to us, no later than Wednesday, December 20, all 302s or other documents reflecting interviews or statements, in connection with the administrative proceedings, of those individuals on the attached list.

Any necessary classification should be done in accordance with our previous instructions.

Attachment.

crs

ENCLOSURE

EX-124

REC-2 02-118045-125*

MAY 15 1979

memo Lowell to Director +
12-22-78
let to [redacted]
OPR, DOJ
RED:imt
12-26-78

b6
b7C

66 JAN 12 1979
5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray-5589

DOC. CLASS. REV.

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

TO : John McDermott
Deputy Associate Director
Federal Bureau of Investigation
Barnet D. Skolnik
Special Assistant U.S. Attorney
for the District of Columbia

FROM : *[Signature]*

SUBJECT: United States v. Gray, et al

FEDERAL GOVERNMENT

DATE: December 19, 1978

L. Patnick

I would like to thank the Bureau for its valuable assistance in preparing for the hearing conducted in the Gray case on November 29 and 30, 1978. I fully realize that the short timeframe involved necessitated extra duty work over the Thanksgiving holidays. I would like to extend my personal appreciation to the Special Agents and support personnel who participated in this work. As a result of their investigation, we were able to account for much of the material from IS-2 that is no longer available (i.e., we were able to determine that many folders were pure ticklers and/or that they did not relate to the Weatherman investigation). I have attached for your information a copy of an affidavit filed by government attorney Frank Martin in Clark v. United States. The affidavit, which opposes impounding the Bureau's Weatherman files, is based, in part, on the investigation conducted by the Bureau.

[Handwritten initials]

REC-50 62-118045-126

JAN 24 1979

I would also like to note the invaluable assistance of Special Agent Paul Daly. Mr. Daly supervised the overall

[Handwritten signature]

ENCLOSURE



investigation in a thorough and expeditious manner. In addition, through extended efforts on his part we were able to determine that an important missing folder marked "Surreptitious Entries" contained information that had already been provided to the defense and that there was a witness available to testify concerning the contents of the folder.

Mr. Daly also attended the hearing and provided valuable assistance to both government and defense counsel with regard to the details of exactly what material was available. Finally, during the course of the hearing Mr. Daly realized that the Court had been provided with incorrect information and after determining the true facts, he promptly brought the situation to my attention and was able himself to take the witness stand and to clarify the situation for the Court.

Attachment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDITH CLARK, et al.,
Plaintiffs,

-against-

UNITED STATES OF AMERICA, et al.,
Defendants.

Index No. 78 Civ. 2244

AFFIDAVIT

I, FRANCIS J. MARTIN, being duly sworn, state as follows:

(1) I am a trial attorney in the Criminal Division, United States Department of Justice.

(2) From August 1976 to the present I have been assigned exclusively to the investigation into illegal investigative techniques used by agents of the Federal Bureau of Investigation (FBI) during the FBI's investigation of the Weather Underground Organization (hereafter the "criminal investigation"). I am presently one of the government trial counsel in the pending case of United States v. L. Patrick Gray, et al. (D.D.C. Bryant, C.J.; No. 78 Cr. 000179).

(3) During the course of the criminal investigation certain relevant documents concerning various individuals were segregated (originals obtained or copied). This process included segregation of certain relevant documents pertaining to each of the plaintiffs, with the exception of plaintiff Rosahn. The records of that investigation, including certain original FBI documents and copies of other relevant FBI documents are under my personal custody and control.

(4) Transfer of the originals of all FBI files pertaining to plaintiffs to the United States Court House, Foley Square, New York, New York would severely hamper the orderly conduct of the trial of United States v. Gray, et al in that

certain of these original documents may be required by the government or the defense for use at trial. The trial is presently scheduled to commence on January 22, 1979.

(5) Discovery of FBI files in United States v. Gray, et al has required that each discoverable document be reviewed to determine whether an assertion of privilege should be made as to any portion of that document. Documents have then been produced as discovery in redacted form, i.e. privilege information having been redacted. This process of redaction can take place in an orderly fashion only at FBI headquarters where trained personnel and the substantial files which would need to be consulted are available.

(6) Production and publication of many of these documents, even in redacted form, could result in publicity that would unfairly affect the right of the defendants in United States v. Gray, et al to a fair trial.

(7) Plaintiffs' motion to transfer FBI files to Foley Square relies in large part on the motion made by defendant Miller to dismiss the indictment in United States v. Gray, et al due to the loss or destruction of documents seized on August 19, 1976. After a two day evidentiary hearing that motion was denied by Chief Judge Bryant on November 30, 1978. In preparation for that hearing I conducted certain interviews and caused certain investigations to be conducted by FBI agents working under my personal direction. The testimony at the evidentiary hearing as well the investigations conducted at my direction disclosed the following facts which may be relevant to this Court's consideration of plaintiffs' motion to remove FBI files to the United States Court House at Foley Square.

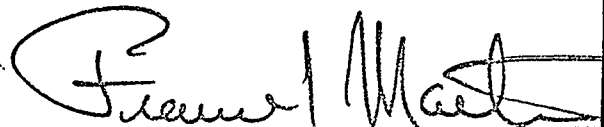
(a) Each and every document seized at FBI headquarters on August 19, 1976 was reviewed by FBI agents working under direction from the government prosecutors to remove and preserve documents relating to surreptitious entries (bag jobs), illegal wiretaps and illegal mail openings by FBI agents investigating the Weather Underground Organization. These agents removed sixty-four (64) relevant documents, all of which are presently available.

(b) The vast bulk of the documents seized were "tickler" copies, i.e. copies of documents in FBI official files. Tickler copies are maintained in folders by FBI supervisors at FBI headquarters in order to facilitate their supervision of cases. FBI regulations have mandated in the past that unless specific approval is given, tickler copies should not be kept for more than sixty (60) days. Presently, retention of tickler copies is left to the good judgement of each FBI headquarters supervisor.

(c) Approximately 2500 items (folders and correspondence) were seized on August 19, 1976 and approximately 1500 of those items are no longer available. Between August 1976 and the present a large number of domestic security cases were closed by the FBI. Tickler folders on approximately 500 such cases are among the 1500 items no longer available. Approximately 435 folders that are no longer available related to matters other than the Weather Underground Organization. Approximately 120 items were destroyed by Robert L. Shackelford, former Section Chief of the Internal Security Section number two (IS-2), the section which supervised the Weatherman investigation.

Approximately 120 items consisting of tickler folders and folders concerning the administration of the IS-2 section were destroyed when the IS-2 section was being disbanded. Finally, an additional 100 folders that are no longer available were clearly tickler folders.

(8) Attached hereto are the instructions followed by agents working with the prosecutors in reviewing Weatherman files in forty-four of the FBI's fifty-nine field office, Weatherman files at FBI headquarters, and the folders seized at FBI headquarters on August 19, 1976 (Attachment "A"). Also attached hereto is a copy of the directive prohibiting destruction of files relating to surreptitious entries or any other security or intelligence files. (Attachment "B") This directive was issued on June 1, 1976 at the request of J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division.



FRANCIS J. MARTIN
Trial Attorney
Criminal Division

Subscribed and sworn before me
this 5th day of December 1978

Annabelle Mooker

Notary Public

MY COMMISSION EXPIRES AUGUST 31, 1983

MEMORANDUM

TO : Investigation Coordinator

DATE: June 11, 1971

FROM : ✓ William L. Gardner
Chief
Criminal Section

SUBJECT:

W
Scott

All file reviews, beginning with the Weatherfug files will be comprised of two tasks. The first is the xeroxing of certain pertinent material. The second is the compilation of a report to be submitted by the reviewing agent or agents

The following material should be xeroxed and attached to the report:

(1) Every serial containing any reference whatsoever implicit or explicit, to a symbol number previously identified (by whatever means) as the symbol for a surreptitious entry;

(2) Every serial containing information, or pertaining to tangible things, the source of which cannot be positively identified as something other than a surreptitious entry. In other words, if the source of (a) information contained in the serial or (b) the tangible things discussed in the serial may possibly be a surreptitious entry, the serial should be xeroxed.

The aforementioned report should have a standardized format to simplify the tasks of those persons who will make use of it.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ATTACHMENT "A"

The report should contain:

- (a) file number - number of volumes
- (b) name of subject
- (c) date file opened and closed
- (d) in a few sentences, a characterization of the investigation's purposes
- (e) the investigative techniques used. In this subdivision, the report should list the various investigative techniques employed to include some detailed information with respect to the use of certain techniques:
 - 1. live informants (actual and PSI) (name need not be initially furnished)
 - (a) symbol number
 - (b) serial number where they appear
 - (c) nature of information furnished
 - 2. Techs
 - (a) symbol number
 - (b) serials
 - (c) authority
 - (d) time used
 - (e) nature of information furnished
 - 3. mail covers
 - (a) serials
 - (b) time used
 - (c) nature of information furnished

4. trash covers

- (a) serials
- (b) time used
- (c) nature of information furnished

5. surreptitious entries (apparent)

- (a) symbol number
- (b) date of entry
- (c) serial number

6. anonymous sources without symbol numbers

- (a) serial number
- (b) type of information furnished

The reports should be in a standardized format. If information from a specified category is in a file, the report should state so. When in doubt, information should be placed in the report, not excluded.

EXHIBIT C

PLAINTEXT

TELETYPE

URGENT

JUNE 1, 1976

TO ALL SACS AND LEGATS

FROM DIRECTOR FBI

TECHNICAL

SURREPTITIOUS ENTRY

- 1 - Mr. Callahan
- 1 - Mr. Jenkins
- 1 - Mr. Adams
- 1 - Each Assistant

EFFECTIVE IMMEDIATELY, ALL EMPLOYEES ARE HEREBY

INSTRUCTED NOT TO DESTROY ANY DOCUMENTS, WHETHER IN
OFFICIAL FILES, PERSONAL POSSESSION, OR OTHERWISE,
RELATING TO SURREPTITIOUS ENTRY OR ANY OTHER SECURITY
OR INTELLIGENCE FILES, MEMORANDA, DATA, INFORMATION OR
PAPERS. THIS INSTRUCTION APPLIES TO ALL COPIES AS WELL
AS ORIGINAL MATERIAL AND TO INDEX CARDS, ABSTRACTS, AND
SUMMARIES WHEREVER THEY MAY BE LOCATED.

ADVISE ALL EMPLOYEES OF THIS INSTRUCTION.

EX-112 REC-88 1.1. 1160-3.1
CC of teletype furnished AAG, Civil
Rights Division by r/s

NOTE: Mr. Adams requested this communication be prepared in
response to item #4 in a memorandum from Assistant Attorney General,
Civil Rights Division, to the Director dated May 28, 1976, captioned
"Surreptitious Entry Investigation." Ticklers for
information only at FBIHQ need not be retained,
per instructions of Wm. J. Gardner, 6/1/76.

- Assoc. Dir. _____
- Dep. AD _____
- Dep. AD-Adm. _____
- Asst. Dir. _____
- Adm. Serv. _____
- Ext. Affairs _____
- Fin. & Pers. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Rec. Mgmt. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

JAM:mfd

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Ext. Affairs _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____

RECEIVED 6/29/76

JUN 29 1976

RECEIVED

ENCLOSURE

TELETYPE

MAIL ROOM TELETYPE UNIT

ATTACHMENT "B"

Date of Mail 12/21/78

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____ Airtel _____
- LHM _____ Memo XX
- Report _____ Other _____
- Teletype _____

Subject L. PATRICK GRAY

Originator of Material [Redacted] FBIHQ

b6
b7C

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-127

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5601

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: January 3, 1979

FROM: *BH* Breckinridge E. Willcox
Criminal Division

SUBJECT: Classification of Discovery, United States v.
L. Patrick Gray, et al

C⁵⁰

Enclosed please find 3 documents from the files of the Department Review Committee. We have deemed these to be discoverable. Please review them for appropriate classification, if any, and return them to us as soon as possible.

res

SI 109

REC-50

62-118045-128

5 JAN 24 1979

3-ENCLOSURE
Willcox

*classified and returned
1/8/78 by James Brennan
4- [Signature]*



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray-5602

JAN 30 1979

9/29/76

DEPARTMENTAL REVIEW COMMITTEE (DRC) MEETING
ON 9/28/76, ANDRETTA ROOM, JUSTICE BUILDING

(This is an unofficial report of the above meeting
prepared for background and reference use only.)

Present as DRC Members:

- Leon Ulman, Chairman, Deputy Assistant Attorney General (DAAG), Office of Legal Counsel (OLC).
- Robert Keuch, DAAG, Criminal Division.
- Roger Whidden, Special Assistant to the Deputy Attorney General (attending for Mr. Rudolph W. Giuliani).
- D. Jerry Rubino, Chief, Security Programs Section, Security and Administrative Services Staff (SASS) (attending for Mr. Lloyd Bastian).

[redacted] Records Management Division, FBI, Document Classification Procedures and Compliance Unit (attending for [redacted]).

b6
b7C

DRC Staff Members Present:

[redacted] b6
b7C

Observers:

[redacted] OLC.

Joseph Wysolmerski, Chief, Personnel, Document and Emergency Preparedness Unit, SASS.

Garnett T. Tunstall, Records Management Division, FBI, Chief, Document Classification Review Unit.

[redacted] Records Management Division, FBI, Document Classification Review Unit.

b6
b7C

[redacted] Supervisor, General Investigative Division, FBI.

[redacted] Records Management Division, FBI, Secretary, Document Classification Procedures and Compliance Unit.

~~CONFIDENTIAL~~

Administrative Matter:

Mr. Ulman advised that he had been contacted by Assistant Attorney General Pottinger concerning a letter dated 9/3/76 to the Department from the FBI regarding discussions of classified information pertaining to the Weather Underground by a former Agent with his attorney who had not been cleared for access to such material. Mr. Pottinger advised that the implication of the letter was that the DRC had determined that classification of information concerning break-ins of Weather Underground headquarters was properly classifiable and he wishes a clarification of this ruling. After a discussion, it was decided that Mr. Ulman should inform Mr. Pottinger that the Committee has not made a specific ruling pertaining to surreptitious entries against the Weather Underground, but ^{has} determined that the investigation of this group is a matter of national security. Furthermore, Mr. Pottinger should be advised that the Committee has specifically determined that information that would reveal live informants or technical surveillance of Weather Underground headquarters is classifiable. (See the cases.)

b6
b7C

(U)

~~(C)~~

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

9/1/76

DEPARTMENTAL REVIEW COMMITTEE (DRC)
MEETING ON 8/31/76, ROOM 5505, JUSTICE BUILDING

(This is an unofficial report of the above meeting
prepared for background and reference use only.)

Present as DRC Members:

Leon Ulman, Chairman, Deputy Assistant Attorney
General (DAAG), Office of Legal Counsel (OLC).
Robert Kuch, DAAG, Criminal Division.
Roger Whidden, Special Assistant to the Deputy Attorney
General (DAG) (attending for Mr. Rudolph W. Giuliani).
Joseph Wysolmerski, Chief, Personnel, Document and
Emergency Preparedness Unit, Security and Administrative Services
Staff (SASS) (attending for Mr. Lloyd Bastian).
[redacted] General Investigative Division, FBI (FBI
Document Classification Officer). b6
b7C

DRC Staff Members Present:

[redacted] b6
b7C

Observers:

[redacted] OLC.
[redacted] Personnel, Document and Emergency
Preparedness Unit, SASS.
[redacted] General Investigative Division, FBI,
Document Classification Procedures and Compliance Unit.
Garnett T. Tunstall, General Investigative Division, FBI,
Chief, Document Classification Review Unit.
[redacted] General Investigative Division, FBI,
Document Classification Review Unit. b6
[redacted] General Investigative Division, FBI, b7C
Document Classification Review Unit.
[redacted] Supervisor, IS-2 Section, General
Investigative Division, FBI.
[redacted] General Investigative Division, FBI,
Secretary, Document Classification Procedures and Compliance Unit.

~~CONFIDENTIAL~~

62-118045-128

Deliberations:

5. [redacted] Family. The Weather Underground Organization and SDS are national security investigations because of violent activities and threat to our governmental system. In this case only a small group of people could have had knowledge of such information

b6
b7C

(U) and the "unidentified source" could have been one of these. As this information is fairly recent and the technique is still used and could be pinpointed, classification was upheld. ~~(S)~~

(U) 6. [redacted] family, who is suspected of harboring Weatherman fugitives, run a farm in Massachusetts. The documents in this case were determined to warrant continued classification particularly as a technique is still used and release could reveal sources and methods. ~~(S)~~

b6
b7C

Greenberg/Gray-5607

~~CONFIDENTIAL~~*Memorandum*

TO : J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

FROM : *JS* Leon Ulman
Chairman
Departmental Review Committee

DATE: September 29, 1976

DECLASSIFICATION AUTHORITY FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-07-2009
FBI INFORMATION ONLY

SUBJECT: Weathermen Classified Documents.

Referring to our telephone conversation of yesterday on the above, I am transmitting herewith a copy of the Committee's minutes dated September 1, 1976, regarding its meeting on August 31, 1976, and a copy of its formal actions on that date concerning the classified FBI documents regarding the Weathermen. The documents covered incidents occurring in 1972 and 1974. The Committee considered an FOI request by the [redacted] family and a similar request by one [redacted]. The Committee upheld the continued classification of the documents on the ground that the FBI investigation of the Weathermen was a proper national security matter and that declassification of the documents in question could result in the disclosure of intelligence sources or methods. See Executive Order 11652, § 5(B)(2). Those sources and methods were confidential live informants and electronic surveillances, and not break-ins. These actions confirmed similar Committee action taken by the Committee on April 8, 1976. We have been unable to locate the records of the Committee's action on that date, but I am certain that such actions did not involve break-ins. (X)

b6
b7C

At a meeting of the Committee held on September 28, 1976, I brought to the Committee's attention the substance of your telephone conversation with me. The FBI representative on the Committee, [redacted] conceded that the Committee at no time was presented with the question of documents involving break-ins in the Weathermen case, as may be the implication in the FBI memorandum dated September 23, 1976, a copy of which is attached for your information.

b6
b7C

If you have any further questions, please let me know.

Greenberg/Gray-5608

~~CONFIDENTIAL~~

62-118845-128

ENCLOSURE

UNITED STATES GOVERNMENT

Memorandum

TO : Paul V. Daly
Federal Bureau of Investigation

FROM : Francis J. Martin
Criminal Division

SUBJECT: United States v. Gray, et al

DATE: January 5, 1979

FEDERAL GOVERNMENT

J. Patrick

Attached is a list of names and addresses of Bureau officials who attended the SAC conferences at issue in the Gray case. Please mail to each of these officials a copy of the Director's recent airtel advising potential witnesses of the Bureau's and Department's position with regard to pretrial interviews.

C⁵⁶

(rbs)

*Per conversation with
Martin 1-8-79 we will
furnish him copies he
will send to each
witness.*

(rbs)
1- ENCLOSURE

REC-50
SI 109

62-118045-129

100 copies furnished
1-9-79 by
J. Brennan
Pnd

5 JAN 24 1979



JAN 30 1979

Greenberg/Gray-5609

UNITED STATES GOVERNMENT

Memorandum

TO : Director
Federal Bureau of Investigation

FROM : Benjamin R. Civiletti
Deputy Attorney General

SUBJECT: Potential Witnesses in
United States v. Gray, et al

DATE: January 2, 1979

FEDERAL GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

J. Patrick

Former Acting Director L. Patrick Gray III and former Bureau officials W. Mark Felt and Edward S. Miller are scheduled to go to trial in late January 1979 on a charge of conspiracy to violate the civil rights of citizens. In the coming weeks both government and defense counsel will be communicating with present and former Bureau employees who are potential witnesses at trial for the purpose of pretrial interviews. All such present and former Bureau employees are hereby authorized to participate in these interviews pursuant to the provisions of Title 28, Code of Federal Regulations, Section 16.21 (which require that they seek the approval of the Justice Department prior to submitting to such an interview).

Both government and defense counsel have been granted security clearances and, accordingly, present and former employees may discuss with them classified information, up to and including Top Secret information. It is likely that at least some interviews on behalf of the defense will be conducted by one or more retired Bureau officials who are working with defense counsel. These retired Bureau officials have the same security clearances as defense counsel and any interviews with them should be considered as interviews with defense counsel.

During the course of any such interviews present and former Bureau employees are free to discuss any aspect of their Bureau work which relate to this case. They must, of course, proceed with sound discretion to ensure that they do not in any way promise Bureau sources. Accordingly, they should not provide information that would identify (a) confidential sources of the Bureau, or (b) the targets of Bureau technical surveillances or of other sophisticated techniques used by the Bureau. However, all such targets in the Weatherman investigation may, of course, be identified.

Xerox copy - MR. MINTZ

WASH
1/3

4-PHF

C 50

EX-110

*ALL OFFICES
1/8/79 PVD/jg*

31 JAN 2 1979

REC-50 62-118045-130

84 FEB 2 1979



Any inquiries concerning these matters should be handled by your Legal Counsel Division. In order to ensure that there is no inadvertent interference with the rights of the defendants in this case, you should not inform the Department of the identity of any potential witnesses who are contacted by defense counsel.

If there are any questions about this authorization or the method of implementation, please communicate with me.

AIRTEL

1-8-79

To: SAC, Albany

From: Director, FBI

UNITED STATES v. GRAY, ET AL

J. Patrick

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Current and former employees will be contacted by defense counsel in this matter as potential witnesses. In that connection, I would like you to advise all employees of the following:

Deputy Attorney General (DAG) Benjamin R. Civiletti has formally released each such employee or former employee from the Federal regulations that would require prior approval for pre-trial interviews by defense counsel. Mr. Civiletti's memorandum to me (copy attached) also notes that Government and defense counsel in this case have received appropriate security clearance and that such employees or former employees may discuss classified information with them. In addition, all such persons are hereby released from the provisions of their FBI employment agreement that would prohibit them from discussing Bureau work with Government counsel or defense counsel. This release is for the limited purpose of such interviews and is safe consistent with the conditions stated in the DAG's memorandum attached. That is, information should not be disclosed "that would identify (a) confidential sources of the Bureau, or (b) the targets of Bureau technical surveillances or of other sophisticated techniques used by the Bureau. However, all such targets in the Weatherman investigation may, of course, be identified." Care should be taken to avoid disclosing information which would compromise ongoing investigations.

MAILED 16
JAN 8 1979
FBI

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Enclosure

2 - All Field Offices (Enclosure)

- 1 - Mr. Adams (Enclosure)
- 1 - Mr. McDermott (Enclosure)
- 1 - Each Assistant Director (Enclosure)

- 1 - Mr. Boynton (Enclosure)
- 1 - [Redacted] (Enclosure)
- 1 - [Redacted] (Enclosure)

NOTE: The contents of this airtel were discussed with trial attorney Francis J. Martin by SA Paul W. Daly. Existence of security clearances verified by SA [Redacted]

REC-50

62-118045-131
6 JAN 24 1979

MAIL ROOM
PVD jam (19)

P.V. [Signature]

b6
b7C

FBI/DOJ

Airtel to Albany
RE: United States v. Gray, et al

Such persons contacted by defense counsel or their designated representatives for the purpose of a pre-trial interview should understand that they are not under a legal obligation to submit to such an interview. Their only legal obligation will be to respond if they are subpoenaed. However, I would personally urge each of you to submit to such interviews on request and to be as cooperative and candid as possible.

Additionally, Government counsel also will be conducting pre-trial interviews. Current employees should be reminded of their continuing obligation to support the Department in its trial preparations. Employees must respond to questions posed to them by Departmental attorneys in the absence of a desire to invoke their Fifth Amendment right against self-incrimination. Should you have any questions concerning these instructions, you should contact the Legal Counsel Division, FBI Headquarters, 202-324-5016.

The following attorneys and former Special Agents possess top secret clearances -

OTHER Pursuant to Sealed Court Order



Airtel to Albany
RE: United States v. Gray, et al

Insure all personnel are aware of this communication and its attachment. It may be duplicated as necessary. Should you be contacted by former FBI employees who have been requested to submit to interview, they may be furnished copies of this communication.

APPROVED:

Director slw
Assoc. Dir. _____
Dep. AD Adm. slw
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. HS
Tech. Servs. _____
Training _____
Public Affs. Off. _____

pro

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date of Mail 12-22-78

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____
- LHM _____
- Report _____
- Teletype _____
- Airtel _____
- Memo
- Other _____

Subject L. Patrick Gray

Originator of Material FBI-HQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-132

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5624

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. *ref*
- Plan. & Insp. *ref*
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Memorandum ~~CONFIDENTIAL~~

TO : The Director

DATE: 12/22/78

FROM : *ok* L. Colwell

L. Patrick Gray

Murphy

SUBJECT: JENCKS MATERIAL
UNITED STATES V. GRAY, ET AL.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-07-2009

PURPOSE:

OTHER Pursuant to Sealed Court Order

To obtain approval for the forwarding of the signed statements of Counsel, Office of Professional Responsibility, Department of Justice, as possible Jencks Act material in the case United States v. Gray, et al. (U)

DETAILS:

By communication from Breckinridge L. Willcox, Criminal Division, Department of Justice, to Paul V. Daly, dated 12/15/78, the Department requested all documents reflecting interviews of certain named individuals as possible Jencks Act material in connection with the case United States v. Gray, et al. (U)

PJC

The Office of Professional Responsibility, Planning and Inspection Division, has obtained signed statements from two of the named individuals. This Division has classified these two statements in accordance with Executive Order 12065, consistent with current FBI policy. Pursuant to an agreement between Paul V. Daly and the Criminal Division, Daly is classifying relevant Department of Justice documents including interviews of these two individuals and has furnished these documents to Mr. Willcox by separate communication. (U)

Because of the extreme sensitivity surrounding this continuing inquiry and its origin in the Office of Professional Responsibility in the Department of Justice, I believe these statements should be furnished to of the Office of Professional Responsibility. However, I suggest we ask he take appropriate steps to prevent their release if at all possible. (U)

b6
b7C

Enc. - *See* 12/22/78

- 1 - Mr. Mintz
- 1 - Mr. Colwell
- 1 - Mr. Murphy

~~CONFIDENTIAL~~ REG-262-118045-132X

Classified and Extended by 14
Reason for Extension FCIM, II, 1-2.4.2 (2)
Date of Review for Declassification December 22, 1998

22
MAY 15 1979

RCD/mt (4)
JUN 5 1979

CONTINUED - OVER

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



53 JUN 13 1979

FBI/DOJ
TRM

~~CONFIDENTIAL~~

Memorandum L. Colwell to The Director
RE: JENCKS MATERIAL, UNITED STATES V. GRAY, ET AL.

Because of the nature of the inquiry, these two individuals were under compulsion to provide information to this Division. Both individuals face civil litigation and their statements to us were made without the benefit of counsel. Therefore, I believe I should do everything possible to prevent the widespread distribution of their statements. I point out it is likely their statements contain information which will not come out during testimony. (U)

Two paragraphs concerning the FCI SOLO Program have been deleted. E. C. Peterson, Section Chief, CI-1, Intelligence Division, advised any information concerning this program can be disseminated even within the Department of Justice only on Attorney General authority. (U) (S)

RECOMMENDATION:

That the attached communication with enclosures be forwarded to

b6
b7C

APPROVED: <i>W</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. <i>DR</i>
Assoc. Dir. _____	Ident. _____	Rec. Mgmt. _____
Dep. AD Adm. _____	Int'l. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

~~CONFIDENTIAL~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

[Redacted] Counsel b6 December 26, 1978
Office of Professional Responsibility, DOJ b7C

Director, FBI

L. Patrick

JENCKS MATERIAL
UNITED STATES V. GRAY, ET AL.

~~FEDERAL GOVERNMENT~~

Reference is made to a communication from Breckinridge L. Willcox, Criminal Division, Department of Justice, to Paul V. Daly, captioned as above, dated December 15, 1978, a copy of which is attached.

OTHER Pursuant to Sealed Court Order

Pursuant to the request in referenced memorandum, we are enclosing signed statements of **[Redacted]**

[Redacted] obtained by the Office of Professional Responsibility, Planning and Inspection Division, in connection with the administrative inquiry into alleged surreptitious entries conducted by the FBI during the Weatherman investigation. These statements have been classified in accordance with Executive Order 12065, and are being furnished to you for whatever action you deem necessary. Recognizing the dictates of the Jencks Act, I ask you to take appropriate steps to prevent the unnecessary disclosure of these statements. They were made without the aid of counsel and under compulsion and both individuals face possible civil litigation. Further, the statements likely contain information which may not come out during testimony.

(Handwritten initials)

REC-262-18045-132-X1

Two paragraphs in the statement of **[Redacted]** concerning an ongoing Foreign Counterintelligence investigation have been deleted. Any dissemination of this information within the Department of Justice can occur only with Attorney General approval.

OTHER Pursuant to Sealed Court Order

Paul V. Daly has classified Department of Justice documents concerning interviews of these individuals and is furnishing those documents by a separate communication to Mr. Willcox.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Enclosures (3)

- 1 - Mr. Mintz
- 1 - Mr. Colwell
- 1 - Mr. Murphy

APPROVED: *WDR*

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec. Mgnt. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

~~CLASSIFIED MATERIAL ATTACHED~~

NOTE: See memo Colwell to Director, same caption, dated 12/22/78.

(Handwritten circled number 3)

*Hand delivered
to [Redacted]
12:35 pm 12/22/78*

MAY 15 1979

FBI/DOJ

MAIL ROOM

b6
b7C

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 1-11-79

FROM : Legal Counsel *[Signature]*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL.
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

C⁵⁶
 At 10:04 a.m. on January 11, Alan Baron, telephone number 301-547-0500, called and said that he is representing L. Patrick Gray in captioned prosecution. He requested me to arrange interviews for him with Bureau officials at FBI Headquarters. At his request, I have made the following arrangements:

[Redacted] will be interviewed at 12 noon, January 12, 1979, in [Redacted] office.

OTHER Pursuant to Sealed Court Order

RECOMMENDATION:

For information.

APPROVED: *[Signature]*

Director

Assoc. Dir. *[Signature]*

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv.

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. *[Signature]*

Plan. & Insp. _____

Rec Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

NOTE:

OTHER Pursuant to Sealed Court Order

Mr. Baron called on January 12 and cancelled his request for an appointment that date and requested rescheduling. Arrangements have now been made for the interview of [Redacted] to be at 11 a.m., Tuesday, January 16, in [Redacted] office.

1 - Mr. Moore

1 - Mr. Mintz

1 - Personnel file of [Redacted]

APPROVED:

Director

Assoc. Dir. *[Signature]*

Dep. AD Adm. _____

Dep. AD Inv. _____

Adm. Serv. _____

Crim. Inv.

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. *[Signature]*

Plan. & Insp. _____

Rec Mgnt. _____

Tech. Servs. _____

Training _____

Public Affs. Off. _____

JAM:bpr

(4)

OTHER Pursuant to Sealed Court Order

Greenberg/Gray-5628

REC-6U

158045-133
16 JAN 24 1979



Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 1-11-79

FROM : Legal Counsel *JAM*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

SUBJECT: UNITED STATES v. GRAY, ET AL

OTHER Pursuant to Sealed Court Order

At 3:45 p.m., 1-11-79, [redacted] called me and said that she has been requested by Allen Baron, counsel to L. Patrick Gray, to be interviewed concerning captioned prosecution. She inquired as to the procedure necessary to obtain clearance for the interview. I furnished [redacted] the information in Bureau airtel dated 1-5-79 captioned as above and told her that she was released from her employment agreement for purposes of the interview. I discussed with her the limitations of providing information specified by the Deputy Attorney General in his January 2, 1979, memorandum.

[redacted] said that the interview will occur on Monday, January 15, 1979. OTHER Pursuant to Sealed Court Order

RECOMMENDATION:

For information.

APPROVED: *JAM*

Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *JAM*
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

EX-130

REC-60

62-118045-134

1 - Mr. Mintz

1 - Out-of-service file of [redacted]

JAM:bpr
(3)

OTHER Pursuant to Sealed Court Order

16 JAN 24 1979

Greenberg/Gray-5629



Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 1-11-79

FROM : Legal Counsel *[Signature]*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL.
 CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

CS

At 10:04 a.m. on January 11, Alan Baron, telephone number 301-547-0500, called and said that he is representing L. Patrick Gray in captioned prosecution. He requested me to arrange interviews for him with Bureau officials at FBI Headquarters. At his request, I have made the following arrangements:

[Redacted] will be interviewed by Mr. Baron at 10 a.m., January 12, 1979, in [Redacted] Office.

RECOMMENDATION: OTHER Pursuant to Sealed Court Order

For information. *[Signature]*

APPROVED: *[Signature]*
 Director _____
 Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *[Signature]*
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

OTHER Pursuant to Sealed Court Order

NOTE:

On January 12, Mr. Baron called and cancelled his request for an appointment on that date and requested rescheduling. Arrangements have now been made for him to interview [Redacted] at 10 a.m., Tuesday, January 16, 1979, in [Redacted] office.

- 1 - Mr. Adams
- 1 - Mr. Mintz
- 1 - Personnel file of [Redacted]

APPROVED: *[Signature]*
 Director _____
 Assoc. Dir. *[Signature]*
 Dep. AD Adm. _____
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *[Signature]*
 Plan. & Insp. _____
 Rec Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

REC-60

62-118045-135
 16 JAN 24 1979

JAM:bpr

(4)

OTHER Pursuant to Sealed Court Order
 Greenberg/Gray-5630



Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: 1-11-79

FROM : Legal Counsel *[Signature]*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

SUBJECT: UNITED STATES v. GRAY, ET AL

56
C

OTHER Pursuant to Sealed Court Order

On 1-11-79, [redacted] called me and said that he has been requested by Allen Baron, counsel to L. Patrick Gray, to be interviewed concerning captioned prosecution. He inquired as to the procedure necessary to obtain clearance for the interview. I furnished [redacted] the information in Bureau airtel dated 1-5-79 captioned as above and told him that he was released from his employment agreement for purposes of the interview. I discussed with him the limitations of providing information specified by the Deputy Attorney General in his January 2, 1979, memorandum.

[redacted] said that the interview will occur on Monday, January 15, 1979, at 1:30 p. m., at the Federal Communications Commission, Room 610, telephone 632-6971.

OTHER Pursuant to Sealed Court Order

RECOMMENDATION:

For information.

APPROVED: *[Signature]*

Director _____	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
Assoc. Dir. _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. _____	Ident. _____	Rec Mgnt. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

EX-130

REC-60 62-118045-136

OTHER Pursuant to Sealed Court Order JAN 24 1979

- 1 - Mr. Mintz
- 1 - Out-of-service file of [redacted]

JAM:bpr

(3)

Greenberg/Gray-5631



UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Assistant Director
Administrative Services Division

DATE: 1-26-79

FROM : Legal Counsel *[Signature]*

[Redacted]
b6
b7C

SUBJECT: UNITED STATES v. L. PATRICK GRAY, ET AL.
CRIMINAL NUMBER 78-000179, DISTRICT OF COLUMBIA

At 9:40 a.m., on January 26, 1979, *[Redacted]* former FBI official, b6
called me and said that he is assisting in the preparation of the defense in b7C
captioned prosecution. He requested to be furnished the current office location
of several Agents whom he described as being former members of Squad 47 in
the New York Office. He said he obtained the names from a letter dated
January 17, 1979, from Frank Martin to defense attorneys in the Gray prosecution.
[Redacted] requested that he be furnished the information telephonically as soon
as possible at telephone number *[Redacted]*. A list of names he furnished is
attached. *[Redacted]* is included among those identified as having Top Secret
clearances for purposes of interviews of FBI employees in the Gray prosecution.
See the Director's airtel to SAC, Albany, and all offices captioned as above
dated January 8, 1979.

RECOMMENDATION:

[Handwritten initials]

That Administrative Services Division determine the current location
of those persons on the attached list and appropriately advise *[Redacted]* at b6
telephone number *[Redacted]*. b7C

[Redacted]
Telephonically advised
1-29-79
[Signature]
b6
b7C

APPROVED: Adm. Serv. *[Signature]* Legal Coun. *[Signature]*
Crim. Inv. _____ Plan. & Insp. _____
Director _____ Ident. _____ Rec Mgnt. _____
Assoc. Dir. _____ Intell. _____ Tech. Servs. _____
Dep. AD Adm. _____ Laboratory _____ Training _____
Dep. AD Inv. _____ Public Affs. Off. _____

ENCLOSURE

Enclosure

1 - Mr. Mintz

ST 114 REC-2 62-118045-137

20 FEB 2 1979



JAM:bpr
(2)

Greenberg/Gray-5632

OTHER Pursuant to Sealed Court Order

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

- [Redacted] New York
- [Redacted] Newark
- [Redacted] Albany - Binghamton
- [Redacted] - Newark
- [Redacted] Resign 8-31-73
- [Redacted] NY - BQMRA
- [Redacted] Baltimore - Wilmington
- [Redacted] Resign 2-11-74
- [Redacted] - Newark
- [Redacted] Miami - Ft Lauderdale
- [Redacted] SAN JUAN
- [Redacted] Detroit - Ann Arbor
- [Redacted] NY - New Rochelle
- [Redacted] - OKla City
- [Redacted] - Detroit
- [Redacted] - Resign 2-2-73
- [Redacted] - NY
- [Redacted] - St. Louis

Greenberg/Gray-5633

62-118045-135

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/abs

Date of Mail 1/30/79

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter Airtel _____
- LHM _____ Memo _____
- Report _____ Other _____
- Teletype _____

Subject L. Patrick Gray

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-138

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5634

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date of Mail 1.22.1979

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____
- LHM _____
- Report _____
- Teletype _____
- Airtel _____
- Memo X _____
- Other _____

Subject Gray, L. Patrick

Originator of Material Legal Counsel

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-139

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-5635

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date 1/3/79

TO: DIRECTOR, FBI
(ATTN: SA PAUL V. DALY, RECORDS MANAGEMENT DIVISION)

FROM: SAC, CINCINNATI (100-22287) (RUC)

SUBJECT: UNITED STATES vs. L. PATRICK GRAY,
ET AL;
DISTRICT OF COLUMBIA,
CR 78-000179
BUDED: 1/9/79

Re Bureau airtel, 12/28/78.

b6
b7C

Enclosed for the Bureau is a certified true copy of the
birth certificate pertaining to [redacted] DOB
[redacted] at Cincinnati, Ohio.

2-Bureau (Enc. 1)
1-Cincinnati

ENCLOSURE

Wes

DHV:mjb
(3)

REC-126

62-118045-146

2/12
JAN 8 1979

Paul V. Daly 6888
[Signature]

Greenberg/Gray-5636

Approved: [Signature] Transmitted _____ (Number) _____ (Time) Per _____

79 FEB 16 1979

x

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

1/3/79

TO: DIRECTOR, FBI
(ATTN: SA PAUL V. DALY, RECORDS MANAGEMENT DIVISION)

FROM: SAC, CINCINNATI (100-22287) (RUC)

SUBJECT: UNITED STATES vs. L. PATRICK GRAY,
ET AL;
DISTRICT OF COLUMBIA,
CR 78-000179
BUDED: 1/9/79

Re Bureau airtel, 12/28/78.

Enclosed for the Bureau is a certified true copy of the
birth certificate pertaining to [REDACTED] DOB [REDACTED]
[REDACTED] at Cincinnati, Ohio.

b6
b7C

(2) Bureau (Enc. 1)
1-Cincinnati

DHV:mjb
(3)

Greenberg/Gray-5638

FBI

TRANSMIT VIA:

PRECEDENCE:

CLASSIFICATION:

Teletype

Immediate

TOP SECRET

Facsimile

Priority

SECRET

Airtel

Routine

CONFIDENTIAL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

UNCLAS E F T O

UNCLAS

Date 1/5/79

TO: DIRECTOR, FBI (ATTN: SA PAUL V. DALEY,
RECORDS MANAGEMENT DIVISION)

FROM: SAC, NEWARK (66-3687)

SUBJECT: UNITED STATES
- AGAINST -
L. PATRICK GRAY,
ET AL
USDC, DDC
78CR000179

Re: Bureau airtel dated 12/28/78.

Woo

Enclosed herewith is one copy of a Birth
Certificate of one [redacted] certified to be true
by the registrar of the Bureau of Vital Statistics, City of
Newark, County of Essex, New Jersey.

b6
b7C

REC-126

62-118045-141

5 FEB 12 1979

Serial 144
Woo
2 - Bureau (Encl.-1) ENCLOSURE
1 - Newark
JLL/kjr
(3)

4
Woo

Greenberg/Gray-5639

Approved: *TJG/10/79*

Transmitted _____ (Number) _____ (Time)

Per _____

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date 1/5/79

TO: DIRECTOR, FBI (ATTN: SA PAUL V. DALEY,
RECORDS MANAGEMENT DIVISION)

FROM: SAC, NEWARK (66-3687)

SUBJECT: UNITED STATES
 - AGAINST -
 L. PATRICK GRAY,
 ET AL
 USDC, DDC
 78CR000179

Re: Bureau airtel dated 12/28/78.

Enclosed herewith is one copy of a Birth Certificate of one [redacted] certified to be true by the registrar of the Bureau of Vital Statistics, City of Newark, County of Essex, New Jersey.

b6
b7C

CARBON COPY

2 Bureau (Encl.-1)
 1 - Newark
 JLL/kjr
 (3)

Greenberg/Gray-5640

Handwritten initials and date

FBI

TRANSMIT VIA:

PRECEDENCE:

CLASSIFICATION:

- Teletype
- Facsimile
- AIRTEL

- Immediate
- Priority
- Routine

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date 1/8/79

TO: DIRECTOR, FBI
(Attn: SA PAUL V. DALY, Records Management Division)

FROM: SAC, CHICAGO (197-25) (SQ. 15) (RUC)

UNITED STATES V.L. PATRICK GRAY,
ET AL;
DISTRICT OF COLUMBIA
CR 78-000179
BUDED: 1/9/79

Re FBIHQ airtel to Chicago dated 12/28/78.

b6
b7C

Enclosed for FBIHQ is one certified copy of the
Cook County, Illinois birth certificate of [redacted]
original name [redacted], date of birth [redacted].

REC-126 | 62-118045-142

[Handwritten signature]

5 FEB 12 1979

[Handwritten signature]

See Serial 144

- ② - Bureau (Encl. 1)
- 1 - Chicago
- WED/dj
- (3)

Greenberg/Gray-5641

ack
PUD:jmp
1/24/79

JEO/W

Approved: _____

Transmitted _____ (Number) _____ (Time)

Per _____

x AIRTEL

1/8/79

TO: DIRECTOR, FBI
(Attn: SA PAUL V. DALY, Records Management Division)

FROM: SAC, CHICAGO (197-25) (SQ. 15) (RUC)

UNITED STATES V.L. PATRICK GRAY,
ET AL;
DISTRICT OF COLUMBIA
CR 78-000179
BUDED: 1/9/79

Re FBIHQ airtel to Chicago dated 12/28/78.

b6
b7C

Enclosed for FBIHQ is one certified copy of the
Cook County, Illinois birth certificate of [REDACTED]
original name [REDACTED] date of birth [REDACTED]

2 - Bureau (Encl. 1)
1 - Chicago
WED/dj
(3)

Greenberg/Gray-5642

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Date 1/10/79

TO: DIRECTOR, FBI
(ATTN: SA PAUL V. DALY,
RECORDS MANAGEMENT DIVISION)

FROM: ADIC, NEW YORK (197-39)

SUBJECT: UNITED STATES V. L. PATRICK GRAY, ET AL;
DISTRICT OF COLUMBIA, CR 78-000179
BUDED: 1/9/79

Re Bureau airtel to New York, 12/28/78.

Enclosed for the Bureau are certified copies of
birth certificates for [redacted]

Be advised that the City of New York did not
require births to be registered officially until 1932.
The registered births during [redacted]
[redacted] were searched for all five boroughs;
however, no record could be found. The possibility
exists that the births were assisted by midwives and no
official record was made.

REC-126 62-118645-143

5 FEB 12 1979

See Serial 144
2-Bureau (Encls. 3) (RM)
1-New York

WEK:km
(4)

Greenberg/Gray-5643

Approved: ngw/wzk Transmitted _____ (Number) _____ (Time) Per _____

b6
b7C

b6
b7C

X

1/10/79

TO: DIRECTOR, FBI
(ATTN: SA PAUL V. DALY,
RECORDS MANAGEMENT DIVISION)

FROM: ADIC, NEW YORK (197-39)

SUBJECT: UNITED STATES V. L. PATRICK GRAY, ET AL;
DISTRICT OF COLUMBIA, CR 78-000179
BUDED: 1/9/79

Re Bureau airtel to New York, 12/28/78.

Enclosed for the Bureau are certified copies of
birth certificates for [REDACTED]

b6
b7C

Be advised that the City of New York did not
require births to be registered officially until 1932.
The registered births during [REDACTED]
[REDACTED] were searched for all five boroughs;
however, no record could be found. The possibility
exists that the births were assisted by midwives and no
official record was made.

b6
b7C

2-Bureau (Encls. 3) (RM)
1-New York

WEK:km
(4)

CARBON COPY

Greenberg/Gray-5644

Barnet D. Skolnik
United States Department of Justice

January 24, 1979

PVD

Paul V. Daly

J. Patrick

6

UNITED STATES VS. GRAY, ET AL.

Reference is made to your memorandum of December 21, 1978, in which you requested we obtain certified copies of birth certificates for certain individuals. Enclosed are certified copies of birth certificates for the following individuals; [redacted]

b6
b7C

[redacted]

[redacted] No record could be found for [redacted] Records in all five New York City Burroughs were searched.

b6
b7C

Enclosures (5)

(12)

Delivered to Martin report
by Paul [unclear]
62-118045-1414

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

PVD: jmp (4)

jmp

REC-126

5 FEB 12 1979

Greenberg/Gray-5645

84 FEB 14 '79 MAIL ROOM

~~SECRET~~

GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~CONFIDENTIAL~~

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. AD
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *AD*

DATE: 1/10/79

FROM : P. V. Daly *PVD*

CLASS. & EXT. BY 6076 WCAH/AD/B
 REASON-FCIM II 1-2.4.2 2
 DATE OF REVIEW 1/10/99

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1)
 DATE 04-07-2009

PURPOSE: To advise of the results of discussion with the Department concerning release of Bureau memorandum with the recommended excisions. (U)

DETAILS: Reference is made to memoranda Mignosa to Moore dated 12/21/78 and Peterson to Cregar dated 12/22/78. In referenced memoranda the Criminal Investigative and Intelligence Divisions recommended certain material be redacted from Bureau documents being released pursuant to court ordered discovery in this matter. The suggested redactions were discussed with the Director and subsequently with Departmental Attorney Francis J. Martin. Martin requested we consider leaving certain information in the Branigan to Miller dated 5/31/72, captioned "Major Intelligence Programs" which had been previously redacted. The Intelligence Division concurred with the vast majority of Martin's suggested changes. Those changes we could not comply were explained to Martin and he agreed with our position. (U) *AD*

Pursuant to an arrangement made by Barnet D. Skolnik on 12/28/78 Assistant General Counsel Philip Buchanan accompanied by Martin reviewed NSA information contained in our documents scheduled for release to the defense attorneys. Buchanan redacted that material NSA wanted to protect. The documents were delivered by me to Martin and Skolnik. These documents will be stored in the Department security vault and be available for review by defense counsel only in the Department vault. Copies of the documents with redactions are attached. That portion of the Branigan to Miller memorandum of 5/31/72 in brackets is what Martin asked we leave in but could not because of the sensitivity of the information. (S)

62-118045-145

REC-126

(CONTINUED P-10 V 1979)

AD
4 ENCLOSURE

- 1 - Mr. McDermott
 - 1 - Mr. Bassett
 - 1 - Mr. Cregar
 - 1 - Mr. Moore
 - 1 - Mr. Daly
 - 1 - Director's Office
- PVD:jmh (6)
jmh

P.V. Daly

~~CONFIDENTIAL~~

62-118045



84 FEB 14 '79

Buy U.S. Savings Bonds Regularly Through Your Savings Plan

~~SECRET~~

~~SECRET~~

~~CONFIDENTIAL~~

P. V. Daly to Mr. Bassett Memo
RE: U. S. vs. L. Patrick Gray III, et al

Al Baron, Gray's Attorney, informed both Martin and myself that Gray was in possession of detailed notes concerning the background information leading to the Al Fatah break-ins. Baron recited generally the contents of the notes and it would appear it is possible to [REDACTED]

(C) [REDACTED]
based on the information in his possession. We as well as CIA have previously expressed the need to protect these sources from disclosure and have redacted information from documents accordingly. Baron stated it is his intent to use this information at trial since he believes it to be essential to Gray's defense. Baron was made aware of the sensitivity of the information and agreed to protect it at this time. He advised he would not disclose the information during the course of his trial preparation. Martin informed me we would have to arrive at a solution to this problem in the immediate future. One solution he suggested was a stipulation as to the nature of the information. This particular matter will be discussed further with Martin. (S)

b1

(U) During the hearing of 12/18/78 before Chief Judge William Bryant concerning the issuance of a protective order, Thomas Kennelly defense counsel discussed an NSA communication. Mike Smith, Assistant General Counsel inquired as to how it was released during discovery, noting that Kennelly's discussion of it disclosed classified information and our agreement with NSA was that classified material would not be released to defense counsel. I determined the document in question was an NSA letter to me explaining the reason a certain NSA document could not be released to the defense. The document as furnished to the defense through the Department was unclassified. The defense attorneys because of their knowledge of the case were able to draw certain conclusions from the document. It was the orally stated conclusions which resulted in the disclosure of the classified information. (S)

(CONTINUED - OVER)

~~CONFIDENTIAL~~

- 2 Greenberg/Gray-5647
~~SECRET~~

~~SECRET~~

~~CONFIDENTIAL~~

P. V. Daly to Mr. Bassett Memo
RE: U. S. vs. L. Patrick Gray III, et al

Nonetheless, the document should not have been released and this problem was discussed with Mr. Smith. Steps have been taken to preclude this happening in the future. The Department has cautioned all defense counsel on the need to consult with the Department prior to using documents in open court so they may be apprised as to their sensitivity. This particular document has been placed under seal by the court. (u)

Martin advised on 1/8/78 that Judge Bryant on that date had postponed the trial date to 3/5/79. (u)

RECOMMENDATION: None, for information. (u)

PVD

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <u>Hand</u>
Dep. AD Adm. <u>MD</u>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-5648

~~CONFIDENTIAL~~

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-07-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5649

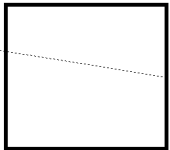
62-118045-145

ENCLOSURE

~~SECRET~~

8 September 1972 .b1

(S)



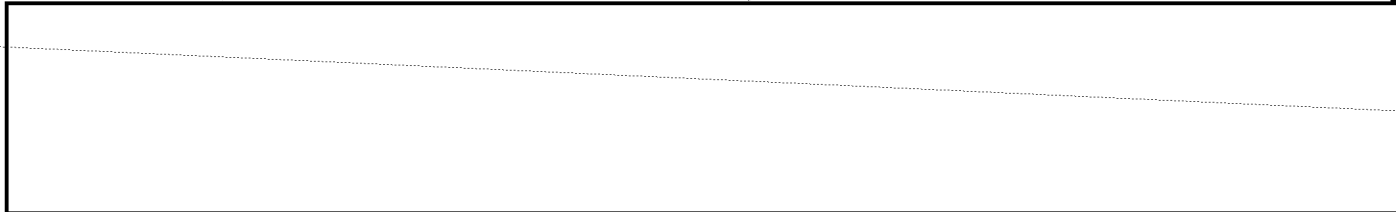
~~TOP SECRET~~

Mr. Edward S. Miller
Assistant Director, Domestic Intelligence Division
Federal Bureau of Investigation

b1

Dear Ed,

(S)



(S)



b1

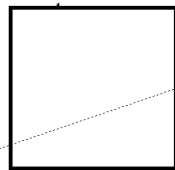
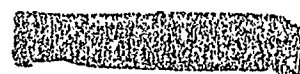
EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-07-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

*Downgraded to ~~Secret~~
per 60324 uc bau
3-6-2009*

DEC 8 1972

~~TOP SECRET~~



b1

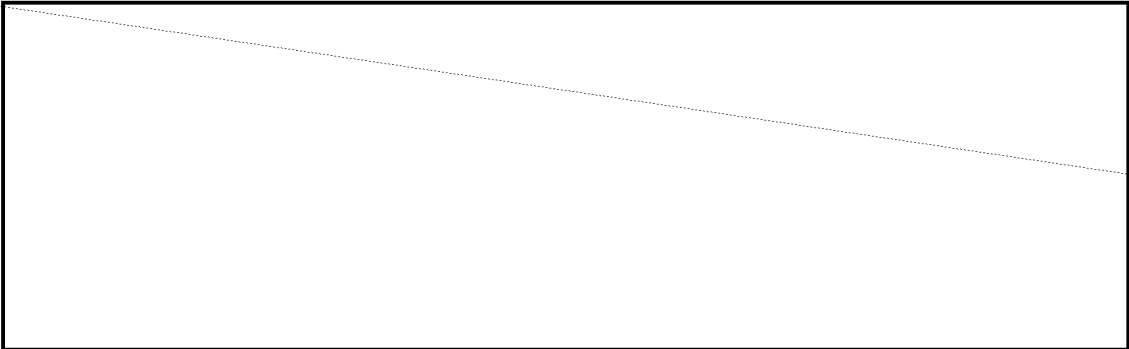
~~SECRET~~

(S)

Greenberg/Gray-5650

~~SECRET~~

(S)



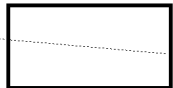
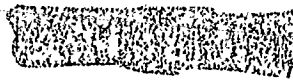
b1

Greenberg/Gray-5651

2



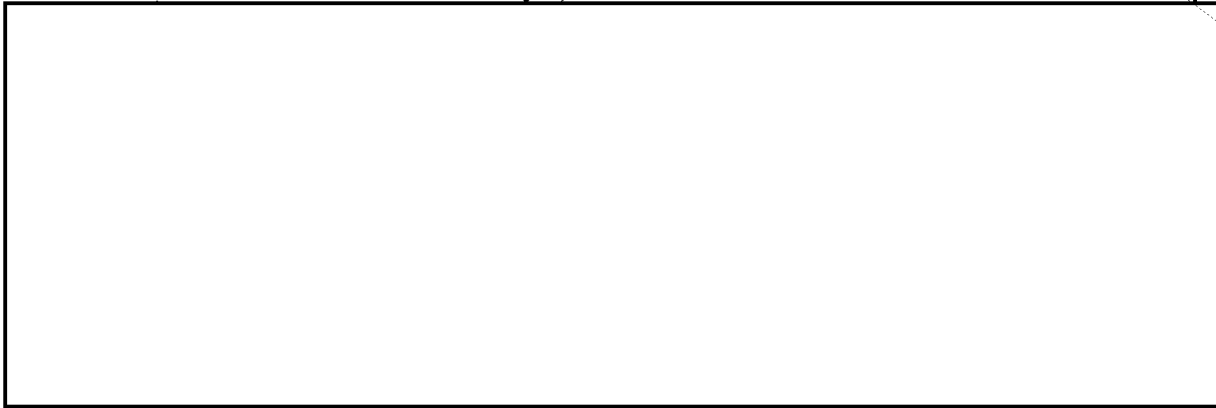
(S)



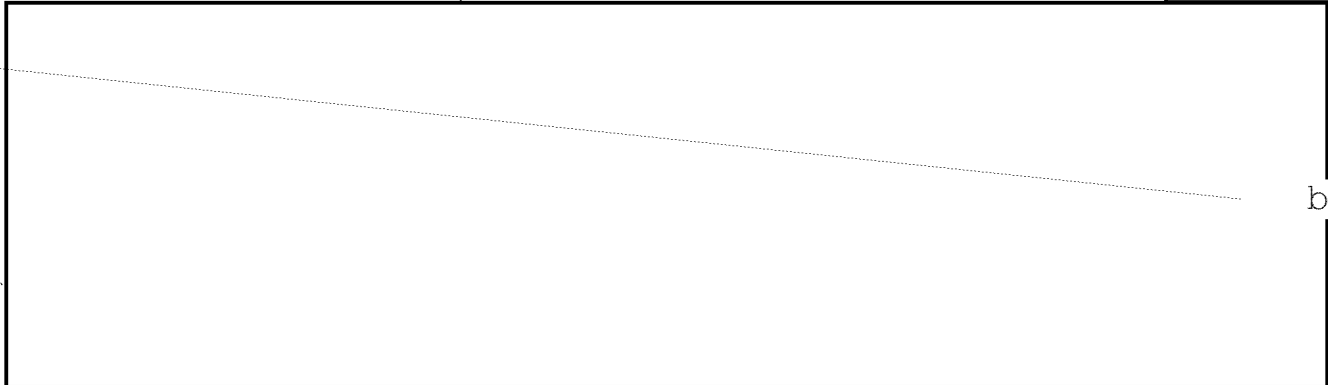
b1

~~SECRET~~

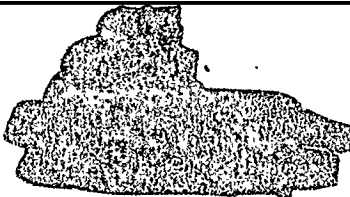
~~Other [redacted] Targets~~



(S)



b1



(S)



b1

(S)

b1



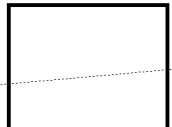
CLASSIFIED BY 1482 Jm
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

Pg. 3 Note only - Last 11

Re AIRS
11-4-72 (S)
Copy to Mr. Leonard
10-5-72

3

~~TOP SECRET~~



b1

(S)

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-17-2009

1972

- Boyer
- Bishop
- Callahan
- Campbell
- Casper
- Glendon
- Conrad

MR. E. S. MILLER

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

ORIGINAL ONLY
DO NOT FILE

W. A. BRANIGAN

~~TOP SECRET~~

- Shyers
- Walters
- Tele. Room
- Mr. Kinney
- Mr. Armstrong
- Ms. Herwig
- Mrs. Neenan

MAJOR INTELLIGENCE PROGRAMS

Reference is made to memorandum Branigan to Miller dated May 31, 1972, which discussed major intelligence programs formerly conducted by the Bureau but which are now discontinued. On this memorandum Mr. Gray asked the question, "Is there a need now?"



b1

EXEMPT FROM GDS CATEGORY 2, 3
DATE OF DECLASSIFICATION INDEFINITE

Coverage instituted during World War II enabled us to monitor postal communications directed to official establishments of unfriendly governments. In our society today we see disgruntled persons currently in possession of sensitive classified information threatening to or attempting to furnish such information to a hostile government when that individual becomes disillusioned or in disagreement with U. S. Government policies or procedures. Coverage in some instances could permit us to be in a position of knowing of such activity and being able to readily identify the individuals committing such acts.

Notwithstanding the fact that there is a need for such programs, from a tactical standpoint, as previously pointed out

b1

WOC:hke
(1)

CONTINUED - ONE

HANDLE WITH CARE

ROUTE IN ENVELOPE

~~SECRET~~

Greenberg/Gray-5653

(5)

b1

~~SECRET~~

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

in referenced memorandum, we feel such coverage should be deferred until after the national elections. (U)

b1

ACTION:

For information of the Acting Director (U)

DEA

EM

DT

Jan 6/7

Jan 9/13
8:43/14

b1

~~SECRET~~

~~TOP SECRET~~

~~TOP SECRET~~

~~SECRET~~

Tolson _____
 Mohr _____
 Miller, E.S.
 Casper _____
 Callahan _____
 Conrad _____
 Felt _____
 Gale _____
 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

ORIGINAL ONLY
DO NOT FILE

W. A. BRANTIGAN

SUBJECT: MAJOR INTELLIGENCE PROGRAMS

On May 30, 1972, Acting Director Gray inquired, "What major intelligence programs, if any, have been abolished?" He also asked for the reasons for their discontinuance and whether these programs should be reinstated. Specifically, Acting Director Gray asked, "What is necessary to reinstate them?"

The following are major intelligence programs formerly conducted by the Bureau but which are now discontinued

~~PROGRAM~~

b1

DATE OF DECLASSIFICATION INDEFINITE
 TS/S, M/C

[REDACTED]

[REDACTED]

[REDACTED]

WAB:hk
(1)

~~SECRET~~ CONTINUED - OV

ROUTE IN ENVELOPE

b1

A

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1, 6)
 DATE 04-08-2009

~~SECRET~~

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

enberg/Gray-5655

SURVEY

Survey was a successful program operated between 1959 and 1966, which involved screening of airmail destined for certain European countries and cities by our Agent personnel in an effort to detect illegal agent mail. While thousands of pieces of mail were screened each day, only a limited number were subjected to a detailed examination, including in rare instances opening the mail. Over the years our knowledge of operations developed certain criteria which enabled our personnel to be highly selective in developing suspects. The program was made possible through the confidential cooperation of highly placed Postal officials. ~~XX~~

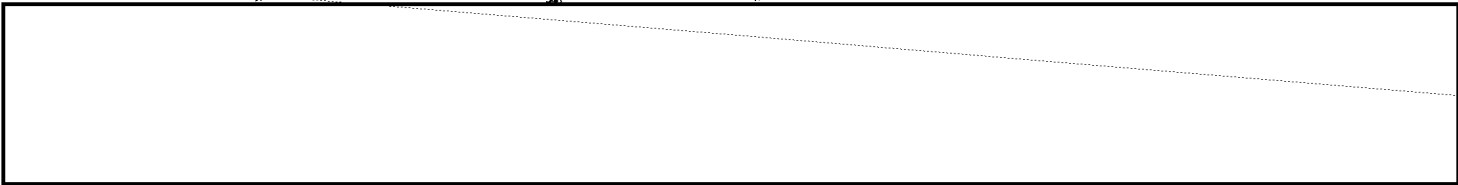
489
489
489
489

In [redacted] we identified a [redacted] illegal [redacted]. In [redacted] we uncovered a [redacted] illegal [redacted] who [redacted] under investigation until [redacted]. We successfully [redacted] intelligence operation in [redacted] and identified communications directed to a known [redacted] mail drop in [redacted]. ~~XX~~

489
489
489
489
489
489
489

The program was first initiated in New York and was later expanded to Washington, D. C.; Seattle, Washington; Los Angeles, California; and to Detroit, Michigan. It was suspended in all offices except New York and Washington, D. C., in 1963 and was discontinued there in July, 1966. ~~XX~~

Our decision to discontinue these surveys came indirectly as a result of a Senate Committee's (Senator Edward Long's committee) probe into the subject of mail covers. During these committee hearings which took place in March, 1965, our coverage came close but was not dragged into the hearings; however, Senator Long had indicated to the then Attorney General, "There were some Bureau Agents as potential witnesses and that they would take the Fifth Amendment rather than testify as to any national security matter." ~~(S)~~



b1

~~SECRET~~

[Redacted]

b1

The identification of [Redacted] illegal agents is one of the most difficult problems that we face. Communications of illegal agents utilizing the mail [Redacted]

FBI
FBI

(U) It is our judgment that the [Redacted] Survey should be reinstated and limited at this time [Redacted]

FBI

In order to reinstate the [Redacted] Survey, it would be necessary to secure the cooperation of [Redacted]

[Redacted] - Inspection, U. S. Postal Service.

b1

(S) [Redacted] is a former Bureau Agent [Redacted]

b6

[Redacted] If the cooperation of [Redacted] could be obtained, it would be necessary for him to procure the assistance of a limited number of Postal Service employees in the [Redacted]. Bureau personnel would necessarily have to be retrained in recognizing the possible indicators of illegal agent mail.

b7C

FBI

Z COVERAGE

Z Coverage was instituted during World War II and enabled us to monitor postal communications directed to official establishments of unfriendly governments. It was continued after World War II and operated against [Redacted] establishments in New York and Washington, D. C., until it was discontinued in July, 1966. The process of screening this postal correspondence was highly selective and only a limited number of communications were actually opened.

FBI

One of the most beneficial results of this procedure was the interception of offers of information by military and civilian personnel of the armed services. These communications were never permitted to reach the [Redacted] establishment and the writers when identified were reported to the appropriate military agency. In mid-1964 we intercepted a letter addressed to the [Redacted]. The writer expressed a desire to sell information and included a sample of the type of data available to him. It was estimated by Government officials at that time that, if the writer had been able to defect to the

FBI

FBI

~~SECRET~~

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

[redacted] the effects on national security would have:
(1) been more catastrophic [redacted]; (2) represented a cost to the U. S. Government of tens of millions of dollars; and (3) possibly precipitate war [redacted].

789
789
789

Z Coverage was discontinued as an indirect result of hearings conducted by Senator Edward Long.

If it is approved to explore the possibility of reinstating the [redacted] Survey, we should at the same time explore reinstating Z Coverage, both in New York and Washington, D. C. The risks in this program are risks of security both within and outside the organization.

789

To reinstitute the program it would be necessary to train personnel in screening procedures.

PROGRAM

789

This program involves the screening by Bureau Agent of [redacted] of individuals claiming American birth in an effort to identify [redacted]. The program was initiated in [redacted] after it was determined that certain [redacted]

789
789
789

The program was possible because of the cooperation of high officials of the [redacted]. The screening process was highly selective based on certain criteria such as [redacted]

789

In [redacted] we uncovered [redacted] and in [redacted] and [redacted] we identified [redacted] other programs but whose identities [redacted] the [redacted] Program. In March of 1967 the program was discontinued because it was thought possible that the Soviets had changed their methods of dispatching illegals to the U. S.

789
789
789

In the absence of positive information that the [redacted] agents as [redacted]

789

[redacted] we should not reinstitute this program.

789

In order to reinstitute the program, it would be necessary to secure the high level cooperation of [redacted]

789

Security Administration officials. To do this would require re-educating these officials over an extended period of time and it is not believed we have the same positive information now that we had in 1960. X

BLACK BAG OPERATIONS

YBS

[redacted] we formerly on a selective basis obtained intelligence information by surreptitious entry into the residences and offices of espionage subjects, Communist Party functionaries and leaders of other subversive movements. It is believed this should be reinstated on a highly selective basis wherein important objectives may be achieved. X

b1

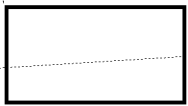
OBSERVATIONS:

The foregoing are the principal areas in which we have curtailed clandestine operations, for the most part since July, 1966. We had similar operations; for example, we had operations similar to [redacted] Survey which involved mail between the U.S. and Cuba and between the U.S. and Communist China. We feel the programs, such as [redacted] Survey and Z Coverage, are highly desirable from a counterintelligence standpoint, but certainly recognize there are risks involved (disclosure by people involved or previously involved). For this reason it is believed we should wait to embark upon these projects until after the forthcoming national elections. While disclosure or compromise of these techniques would not be anticipated, the impact of such disclosures prior to November, 1972, compels us to recommend deferment at this time. X

ACTION:

The foregoing is submitted in response to questions raised by the Acting Director. Questions 4 and 5 have been handled by the Special Investigative Division. (u)

b1



~~TOP SECRET~~ [redacted]

EM

(S)

memo W.A. Blumhagen
to E. S. [redacted] 6/6/72
WOC/krk

- 6 -

DEAN
6/3
10:41 AM

Is there a need now?

SUGGEST Z COVERAGE & [redacted]
SURVEY BE NOT REINSTITUTED
UNTIL DECEMBER 1972

memorandum

Philip B. Heymann
Assistant Attorney General
Criminal Division

PBH:JHD:TEM:cw

January 12, 1979

DATE: 1/13/79
REPLY TO: JHD
ATTN OF: JHD
SUBJECT: JHD

Unauthorized Disclosure of Classified Information

EXP. PROC.
37 JAN 15 1979

to: The Director
Federal Bureau of Investigation

Reference is made to your memorandum of October 6, 1978 to Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, captioned "U.S. v. L. Patrick Gray III, et al." Your memorandum provided information concerning the alleged unauthorized disclosure of classified information to the Grand Jury and the defendants' attorneys in the subject case. You requested that a review be made to determine the applicability of 18 U.S.C. § 793, and that a damage assessment be made pursuant to the provisions of 28 C.F.R. § 17.55.

Handwritten initials and date: JHD 1/22/79

There is attached hereto, for your information, a copy of our memorandum to Ms. Lawton informing her of our conclusion that the information provided to us in this matter does not indicate a possible violation of 18 U.S.C. § 793. In addition, it is our view that the damage assessment should be conducted by the originating agencies, i.e., the FBI, the CIA and the NSA.

Handwritten initials: JHD

It is requested that your Bureau conduct the necessary damage assessment of the disclosure of the pertinent information you originated, and that you request the NSA and the CIA to do the same with regard to their information and furnish their conclusions to your Bureau. The results of the damage assessments should then be referred to [redacted] Counsel, Office of Professional Responsibility.

b6
b7C

Attachment

EX-110

ENCLOSURE

REC-10

62-118045-145X
5-24
16 JAN 15 1979

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

LEGAL COUNSEL

304
66 JUN 18 1970

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray 5661

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

Memo DR to AMB, SAME CAPTION
DR:IF 2/13/79
ENC. LET TO AAG DRUM DIV
DR:IF 2-14-79



Philip B. Heymann
Assistant Attorney General
Criminal Division

PBH:JHD:TEM:cw

January 11, 1979

Unauthorized Disclosure of Classified Information

The Director
Federal Bureau of Investigation

Reference is made to your memorandum of October 6, 1978 to Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, captioned "U.S. v. L. Patrick Gray III, et al." Your memorandum provided information concerning the alleged unauthorized disclosure of classified information to the Grand Jury and the defendants' attorneys in the subject case. You requested that a review be made to determine the applicability of 18 U.S.C. § 793, and that a damage assessment be made pursuant to the provisions of 28 C.F.R. § 17.55.

There is attached hereto, for your information, a copy of our memorandum to Ms. Lawton informing her of our conclusion that the information provided to us in this matter does not indicate a possible violation of 18 U.S.C. § 793. In addition, it is our view that the damage assessment should be conducted by the originating agencies, i.e., the FBI, the CIA and the NSA.

It is requested that your Bureau conduct the necessary damage assessment of the disclosure of the pertinent information you originated, and that you request the NSA and the CIA to do the same with regard to their information and furnish their conclusions to your Bureau. The results of the damage assessments should then be referred to [redacted] [redacted] Counsel, Office of Professional Responsibility.

b6
b7C

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5662

memorandum

DATE:
 REPLY TO
 ATTN OF:
 SUBJECT:

Philip B. Heymann
 Assistant Attorney General
 Criminal Division

PBH:JHD:TEM:njs
 January 12, 1979

Unauthorized Disclosure of Classified Information

to: Mary C. Lawton
 Deputy Assistant Attorney General
 Office of Legal Counsel

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-09-2009 BY 65179 dmh/baw/abs

Reference is made to your memorandum, dated October 15, 1978 and captioned as above, to the Security Officers of the Civil Rights and Criminal Divisions. Your memorandum had attached a copy of an October 5, 1978 memorandum to you from the Director of the FBI, notifying the Department, pursuant to 28 C.F.R. § 17.55, of the disclosure of classified information to the Grand Jury during the investigation of the United States v. L. Patrick Gray III, et al. case, and that the Grand Jury transcripts containing the classified information have been furnished to defense counsel.

You requested that the Criminal Division undertake the damage assessment required by 28 C.F.R. 17.55, and make an inquiry to determine whether corrective measures and appropriate administrative, disciplinary or legal action should be taken. The memorandum from the Director of the FBI also stated that a review is necessary to determine the applicability of 18 U.S.C. § 793.

We have reviewed the information provided to us and, in our opinion, it does not disclose a violation of 18 U.S.C. § 793. We considered the possible application of § 793(d) which makes it a crime for a person who has authorized possession of information relating to the national defense, which he has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, to willfully communicate it to a person not entitled to receive it.

In the instant case, the FBI properly furnished information relating to the national defense to the Department's attorneys who were investigating alleged violations of Federal criminal laws. The FBI documents did not bear classification markings as required by Executive Order 11652. In turn, the attorneys, in the course of the investigation, routinely used the information in a grand jury and made discovery disclosures to attorneys for the defendants.

cc: The Director, FBI ✓

62-118045-145x 4-DR



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray-3065 Printing Office: 1977-241-530/3474

OPTIONAL FORM NO. 10
 (REV. 7-76)
 GSA FPMR (41 CFR) 101-11.6
 5010-112

ENCLOSURE

On these facts, it would not be possible to establish a felonious intent on the part of the Department's attorneys. It is apparent that initial responsibility lies with the FBI to ensure that the information transmitted has the proper classification markings so that it is obvious to the recipients it must be protected in the interest of national security. Because the documents they received from the Bureau did not bear proper markings, as required by the Executive Order and Departmental regulations, it would be difficult to establish that the attorneys were given adequate notice that the information was indeed classified and therefore related to the national defense within the meaning of the Espionage Act. Gorin v. United States, 312 U.S. 19 (1941), United States v. Heine, 151 F.2d 813 (2d Cir. 1945). This would apply notwithstanding the alerting of the attorneys by the FBI that the information they had received was "sensitive." Ostensibly classified information which has been lawfully released by an agency, although inadvertently without appropriate classification markings, may continue to be the subject of administrative protection if it thereafter is properly marked in accordance with Executive Order 11652 (now Executive Order 12065). However, under the circumstances of this case, we do not believe it would be appropriate to form the basis of a criminal prosecution.

In sum, criminal prosecution under 18 U.S.C. § 793(d) would be inappropriate because (1) Bureau Headquarters did not follow the procedures set forth in the Executive Order and Departmental regulations which require that each document bear a classification marking; (2) the attorneys received insufficient notice, and used the information in good faith; and (3) there is a complete lack of criminal intent.

We also considered the possible application of § 793(f)(1), which makes it a crime for a person having lawful possession of information relating to the national defense, through gross negligence, to permit it to be delivered to anyone in violation of his trust. The disclosure of the information to a Grand Jury and the defendants' attorneys in the course of the investigation could not, in our opinion, be shown to be "gross negligence" in violation of the statute. There are no reported decisions defining "gross negligence." It has been defined,

however, in another federal criminal prosecution and, as applied to this matter, would require that we prove that the attorneys acted in wanton or reckless disregard for the security of the documents and that they knew or should have known that such conduct threatened that security. We do not believe that we could prove, beyond a reasonable doubt, that their conduct was grossly negligent within the meaning of the statute.

Having concluded that there is no prosecutable violation of the espionage laws, we turn to the request that we conduct a damage assessment, and determine whether corrective measures and appropriate administrative, disciplinary or legal action should be taken.

We are wholly unqualified to assess the alleged damage that the disclosure caused to the national defense. Clearly, only the originating agencies, which we understand to be the FBI, CIA, and NSA, are able to judge what, if any, damage to the national defense resulted from the disclosure of the information to the Grand Jury and the defendants' attorneys. We believe, therefore, that those agencies should make the damage assessment. We note that the CIA and NSA have been informed of the disclosure and afforded the opportunity to review the transcripts, as has the FBI.

After the damage assessment by the responsible agencies has been completed, we recommend that the results thereof, together with the analysis of the possible criminal violations set forth in this memorandum, be forwarded to the Office of Professional Responsibility for a determination as to what administrative or disciplinary action, if any, should be undertaken.

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *Handwritten initials*

FROM : P. V. Daly *PVD* L. Patrick

SUBJECT: UNITED STATES vs GRAY, et al.

DATE: 1/17/79

Handwritten signature/initials

PURPOSE: The purpose of this memorandum is to record our transmission to the Department of certain sensitive documents. (u)

DETAILS: On 1/10/78 I met with Paul Michel, Associate Deputy Attorney General; Robert Keuch, Deputy Assistant Attorney General, Criminal Division; Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel; Barnet D. Skolnik and Francis J. Martin, trial attorneys in this matter. (u)

Skolnik stated that because of the resistance of the National Security Agency to the release of certain documents and information to the defense and ultimately for trial, he could not go forward with the trial in this matter.

b1

[Redacted block]

After considerable debate, it was decided that Deputy Attorney General Benjamin Civiletti would meet with officials in the Department of Defense and State Department in an effort to persuade them to release more information for discovery and ultimately for trial. The need to meet with State Department resulted from the impact release of these documents and information would have on our relations with other countries.

REC-126 62-118045-1416

Michel requested the Bureau prepare a notebook for Mr. Civiletti's use during these meetings. The notebook was to contain documents in Bureau files identified by the Department as essential for the trial with various redactions. We complied with Michel's request, and on 1/16/78 three copies of the notebook were delivered to the Department and appropriate receipts obtained. The majority of the documents require a compartmented clearance to have access. The following is a list of the documents included in the notebook:

- 1 - Mr. Adams
 - 1 - Mr. McDermott
 - 1 - [Redacted]
 - 1 - Mr. Bassett
 - 1 - Mr. Cregar
 - 1 - Mr. Mintz
- PVD:nsg (8)

CLASS. & EXT. BY 6076 ZLW/A/ADB
 REASON-FCIM II, 1-2.4.2
 DATE OF REVIEW 1/17/99

b6
b7C Greenberg/Gray-5666

CONTINUED-OVER

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

~~SECRET~~

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1, 6)
 DATE 04-03-2009



~~SECRET~~

P. V. Daly to Mr. Bassett memo
Re: United States vs Gray, et al.

- 1. Uncaptioned memo to file from former Director J. Edgar Hoover dated 4/12/71.
- 2. W. A. Branigan to E. S. Miller memo dated 5/31/72 captioned Major Intelligence Programs.
- 3. W. A. Branigan to E. S. Miller memo dated 6/6/72 captioned Major Intelligence Programs.
- (S) 4. Note from E. S. Miller to Felt dated 7/21/72 captioned [redacted] (S). b1
- (S) 5. [redacted] b1
- (C) 6. W. A. Branigan to E. S. Miller memo dated 10/10/72 captioned [redacted] (S). b1
- (S) 7. W. A. Branigan to W. R. Wannell memo dated 2/20/75 captioned Sam Survey, [redacted] (S). b1
- (U) 8. E. S. Miller to Felt memo dated 12/1/72 captioned President's Foreign Intelligence Advisory Board. (S)

A copy of the notebook is being retained and will be placed in file with the discovery material. (U)

Skolnik announced the next hearing will be 1/26/79 and will be for the purpose of discussing discovery. In particular, the defense will be raising the question of being denied access to certain documents previously ordered produced by the court. Additionally, an order is being drafted for application to the court in the near future placing restraints on what information may be disclosed during the trial through testimony. (U)

RECOMMENDATION: For information. (U)

APPROVED: <i>Wannell</i> (U)	Adm. Serv. _____	Legal Coun. _____
Director _____	Ext. Aff. _____	Plan. Insp. _____
Asst. Dir. _____	Ident. _____	Rec. Mgmt. _____
Asst. Dir. _____	Intell. _____	Spec. Inv. _____
Asst. Dir. _____	Lab. _____	Training _____
Asst. Dir. _____	Off. Cong. & Public Aff. _____	Off. Cong. & Public Aff. _____

Greenberg/Gray-5667

pm

~~SECRET~~

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. *hno*
- Rec. Mgnt. *hno*
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Bassett *#NRB*

DATE: 1/19/79

FROM : *per* P. V. Daly *L. Patrick*

SUBJECT: UNITED STATES VS. GRAY, ET AL,;

EW
PURPOSE: The purpose of this memorandum is to advise of receipt a draft supplementary protective order the Department intends to file with the Court on or about 1-23-79.

DETAILS: Barnet D. Skolnik, prosecuting attorney, furnished a draft supplementary protective order which the Government intends to file on or about 1-23-79. The draft order seeks to protect against the unnecessary disclosure of classified material during trial. Under the proposed order classified material will not be disclosed until the Government has had the opportunity to consult with the interested agency or Bureau.

Skolnik requested we advise him of any "serious" problems we may have with the proposed order. He has also requested NSA and CIA to do likewise. Legal Counsel, Criminal Investigative and the Intelligence Divisions should review the attached order so we may comply with Skolnik's request.

RECOMMENDATION: Legal Counsel, Criminal Investigative and the Intelligence Divisions review the proposed order and advise SA Paul V. Daly by close of business 1-22-79 of observations they may have in line with Skolnik's request.

Info
ENCLOSURE

REC-126

62-118045-147

5 FEB 12 1979

- Enc.
- 1 - Mr. Adams
 - 1 - Mr. McDermott
 - 1 - [redacted]
 - 1 - Mr. Bassett
 - 1 - Mr. Cregar
 - 1 - Mr. Moore
 - 1 - [redacted]

b6
b7C

APPROVED: *me*

Director _____
 Assoc. Dir. _____
 Dep. AD Adm. *me*
 Dep. AD Inv. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *hno*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-09-2009 BY 65179 dmh/baw/sbs

PVD:flr (9)

Greenberg/Gray-5668

84 1479



SUPPLEMENTARY PROTECTIVE ORDER

BDS
DRAFT # 2
1/16/79

This matter comes before the Court upon the motion of the United States for a Supplementary Protective Order to establish reasonable and fair procedures for conducting the trial of this case in such manner as to ensure both that the defendants receive a full and fair trial and that there is no public disclosure at trial which would be harmful or potentially harmful either to the security of the United States or to the conduct of the foreign policy of the United States.*/ As used herein, the term "classified National Security document" carries the same definition as that set forth in the Protective Order issued in this case on December 22, 1978.

The Court having considered the matter, pursuant to the inherent power of the Court

IT IS HEREBY ORDERED this _____ day of _____, 1979,

that:

PART ONE: NOTICE

1. Except as modified by paragraphs 2 and 3 herein, counsel for each defendant shall notify the Court and government

*/The government has notified the Court and defense counsel of certain subject matters involving classified National Security documents which subject matters the government believes will arise at trial. As to those subject matters, the Court is having the parties litigate, separate and apart from this Supplementary Protective Order, questions pertaining to the proper treatment of those subject matters at trial. Rulings as to such proper treatment will be made by this Court pursuant to that litigation. The procedures mandated herein, therefore, do not apply to those subject matters, except insofar as a defense counsel may become aware hereafter of any aspect of any such subject matter which aspect he intends to raise at trial but which aspect has not yet been litigated.

counsel, in writing, on or before February 5, 1979, of those subject matter which

(A) either involve classified National Security documents or are known or believed by defense counsel to involve any data which are to any degree under a National Security classification, and

(B) are intended by counsel for such defendant to be raised in any way at trial.

2. As to any such classified subject matter about which defense counsel do not wish to notify government counsel prior to trial, because of a good faith belief that such advance notice to government counsel might interfere with a defendant's right to a full and fair trial, such defense counsel may notify only the Court, in writing, on or before February 5, 1979. The writing shall also set forth the reasons for such good faith belief by such defense counsel. The Court will then decide whether or not to defer notice to government counsel (and litigation under Part Two below) in light of all relevant factors, including the extent to which the classified documents and/or data are already known to government counsel. The reasons for the Court's decision as to whether or not to defer notice to government counsel (and litigation under Part Two below) will be set forth by the Court on the record; in the event the decision is to defer, that portion

of the record shall not be disclosed to government counsel after a verdict in the case has been reached.

3. As to any such classified subject matter which defense counsel are unaware, as of February 5, 1979, is one which they intend to raise at trial, they shall notify the Court and/or government counsel (in accordance with the procedures set forth in paragraph 2 above) as soon as they become so aware.

PART TWO: LITIGATION OF ADMISSIBILITY

Litigation of the proper treatment to be accorded at trial to each classified subject matter shall be conducted under seal and in camera. Such litigation will be conducted as soon as possible after receipt of notice by government counsel, under Part One above, subject to the right of the Court to defer such litigation if necessary to ensure a full and fair trial for each defendant. Defense counsel shall, in the course of such litigation, be required to disclose to government counsel the specific defense trial plans for a classified subject matter only to the extent that such disclosure will not interfere with each defendant's right to a full and fair trial. If a defense counsel wishes, in accordance with that standard, to postpone disclosure to government counsel of all or any part of the specific defense trial plans for a classified subject matter, defense counsel may explain his reasons therefore to the Court ex parte. If the Court agrees that such,

disclosure of such plans should be postponed, the Court will decide the litigated issues (regarding proper trial treatment of a classified subject matter) on that basis, or will defer decision on the litigated issues, or will take whatever other steps are deemed by the Court to be just and fair. The Court will decide the litigated issues in writing, with as much precision as possible under the circumstances pertaining at the time of such decision, so as to enable the government to proceed, under Part Three below, with as much precision as possible.

PART THREE: GOVERNMENT CONSIDERATION OF OPTIONS

Following the Court's decision as to each litigation under Part Two above, government counsel will be given reasonable time under the circumstances to consult with interested government agencies and officials with regard to the options then available to the government as a result of such decision. In each such case, the Court will allow the government such time as is reasonable in light of the complexity and sensitivity of the subject matter involved. Until government counsel have reported back to the Court and final resolution of the situation has been reached, nothing which constitutes the classified subject matter of any litigation hereunder shall be admitted into evidence at trial or otherwise publicly disclosed or discussed in any way.

PART FOUR: GENERAL PROVISION

All procedures mandated herein will be conducted for each defendant separately, without the involvement of counsel for any other defendant, as to any subject matter or issue with regard to which any defendant demands such separated procedures.

UNITED STATES DISTRICT JUDGE

Memorandum

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

DATE: January 23, 1979

Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel

Unauthorized Disclosure of Classified Information

L. Patrick Gray

Your memorandum to me of January 12, 1979 concludes that the unauthorized disclosure of classified information in the course of the United States v. Kearney and United States v. Gray cases does not warrant prosecutive action under the espionage laws. While I concur in the conclusion, I consider it important to correct some misunderstandings reflected in your memorandum.

First, as I noted in my October 6, 1978 memorandum, the disclosure which primarily raised the question of an espionage law violation involved a document which indicated on its face that it contained communications intelligence information. This document was read, in part, to the Grand Jury.

Secondly, the attorneys for the government should have been on notice that the documents contained classified information. As the attached copy of an October 20, 1978 memorandum from [redacted] of the FBI notes, the question of reviewing documents for proper classification markings was raised at the outset of the investigation. At that time the FBI was refused the opportunity to review and mark classified information. I agree that the responsibility for not marking the documents at the time of origin lies with the FBI, but it did seek the opportunity to mark them prior to transmittal outside the FBI and put the government attorneys on notice that the documents in question might well contain classified information. Further, on February 10, 1978, the FBI notified the new prosecution team that documents in their possession did, in fact, contain

(Handwritten initials)

b6
b7C

MEMO DR TO HMB, SAME CAPTION
DR: LF 2-13-79
ENCLOSURE LET. TO AAG, CRIM DIV
DR: LF 2-14-79

REC-106

62-118045-149*

MAY 24 1979

4-22

Greenberg/Gray-5674

378

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

59 JUN 18 1979



classified information up to and including top secret. See copy attached. Accordingly, I would question the conclusion that the attorneys had insufficient notice of the classification of the material in their possession.

I repeat that I do not disagree with the conclusion that prosecution is inappropriate but I think it should be made clear that notice was given to the prosecutors at various stages of these cases.

cc: Honorable William H. Webster
Director
Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 154

Page 28 ~ OTHER;
Page 29 ~ OTHER;
Page 30 ~ OTHER;
Page 31 ~ OTHER;
Page 32 ~ OTHER;
Page 33 ~ OTHER;
Page 34 ~ OTHER;
Page 35 ~ OTHER;
Page 36 ~ OTHER;
Page 37 ~ OTHER;
Page 38 ~ OTHER;
Page 39 ~ OTHER;
Page 40 ~ OTHER;
Page 41 ~ OTHER;
Page 42 ~ OTHER;
Page 43 ~ OTHER;
Page 44 ~ OTHER;
Page 45 ~ OTHER;
Page 46 ~ OTHER;
Page 47 ~ OTHER;
Page 48 ~ OTHER;
Page 49 ~ OTHER;
Page 50 ~ OTHER;
Page 51 ~ OTHER;
Page 52 ~ OTHER;
Page 53 ~ OTHER;
Page 54 ~ OTHER;
Page 55 ~ OTHER;
Page 56 ~ OTHER;
Page 57 ~ OTHER;
Page 58 ~ OTHER;
Page 59 ~ OTHER;
Page 60 ~ OTHER;
Page 61 ~ OTHER;
Page 62 ~ OTHER;
Page 63 ~ OTHER;
Page 75 ~ OTHER;
Page 76 ~ OTHER;
Page 77 ~ OTHER;
Page 78 ~ OTHER;
Page 79 ~ OTHER;
Page 80 ~ OTHER;
Page 81 ~ OTHER;
Page 82 ~ OTHER;
Page 83 ~ OTHER;
Page 84 ~ OTHER;
Page 85 ~ OTHER;
Page 86 ~ OTHER;

Page 87 ~ OTHER;
Page 88 ~ OTHER;
Page 89 ~ OTHER;
Page 90 ~ OTHER;
Page 91 ~ OTHER;
Page 92 ~ OTHER;
Page 93 ~ OTHER;
Page 94 ~ OTHER;
Page 95 ~ OTHER;
Page 96 ~ OTHER;
Page 97 ~ OTHER;
Page 98 ~ OTHER;
Page 99 ~ OTHER;
Page 100 ~ OTHER;
Page 101 ~ OTHER;
Page 102 ~ OTHER;
Page 103 ~ OTHER;
Page 104 ~ OTHER;
Page 105 ~ OTHER;
Page 106 ~ OTHER;
Page 107 ~ OTHER;
Page 108 ~ OTHER;
Page 109 ~ OTHER;
Page 110 ~ OTHER;
Page 111 ~ OTHER;
Page 112 ~ OTHER;
Page 113 ~ OTHER;
Page 114 ~ OTHER;
Page 115 ~ OTHER;
Page 116 ~ OTHER;
Page 117 ~ OTHER;
Page 118 ~ OTHER;
Page 119 ~ OTHER;
Page 120 ~ OTHER;
Page 121 ~ OTHER;
Page 122 ~ OTHER;
Page 123 ~ OTHER;
Page 124 ~ OTHER;
Page 125 ~ OTHER;
Page 126 ~ OTHER;
Page 127 ~ OTHER;
Page 128 ~ OTHER;
Page 129 ~ OTHER;
Page 130 ~ OTHER;
Page 131 ~ OTHER;
Page 132 ~ OTHER;
Page 133 ~ OTHER;
Page 134 ~ OTHER;
Page 135 ~ OTHER;
Page 136 ~ OTHER;
Page 137 ~ OTHER;
Page 138 ~ OTHER;
Page 139 ~ OTHER;
Page 140 ~ OTHER;

Page 141 ~ OTHER;
Page 142 ~ OTHER;
Page 143 ~ OTHER;
Page 144 ~ OTHER;
Page 145 ~ OTHER;
Page 146 ~ OTHER;
Page 147 ~ OTHER;
Page 148 ~ OTHER;
Page 149 ~ OTHER;
Page 152 ~ OTHER;
Page 153 ~ OTHER;
Page 154 ~ OTHER;
Page 155 ~ OTHER;
Page 156 ~ OTHER;
Page 157 ~ OTHER;
Page 158 ~ OTHER;
Page 159 ~ OTHER;
Page 160 ~ OTHER;
Page 161 ~ OTHER;
Page 162 ~ OTHER;
Page 163 ~ OTHER;
Page 164 ~ OTHER;
Page 165 ~ OTHER;
Page 166 ~ OTHER;
Page 167 ~ OTHER;
Page 168 ~ OTHER;
Page 169 ~ OTHER;
Page 170 ~ OTHER;
Page 171 ~ OTHER;
Page 172 ~ OTHER;
Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 177 ~ OTHER;
Page 178 ~ OTHER;
Page 179 ~ OTHER;
Page 180 ~ OTHER;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 186 ~ OTHER;
Page 187 ~ OTHER;
Page 188 ~ OTHER;
Page 189 ~ OTHER;
Page 190 ~ OTHER;
Page 191 ~ OTHER;
Page 192 ~ OTHER;
Page 193 ~ OTHER;
Page 194 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 154

- Page 28 ~ OTHER;
- Page 29 ~ OTHER;
- Page 30 ~ OTHER;
- Page 31 ~ OTHER;
- Page 32 ~ OTHER;
- Page 33 ~ OTHER;
- Page 34 ~ OTHER;
- Page 35 ~ OTHER;
- Page 36 ~ OTHER;
- Page 37 ~ OTHER;
- Page 38 ~ OTHER;
- Page 39 ~ OTHER;
- Page 40 ~ OTHER;
- Page 41 ~ OTHER;
- Page 42 ~ OTHER;
- Page 43 ~ OTHER;
- Page 44 ~ OTHER;
- Page 45 ~ OTHER;
- Page 46 ~ OTHER;
- Page 47 ~ OTHER;
- Page 48 ~ OTHER;
- Page 49 ~ OTHER;
- Page 50 ~ OTHER;
- Page 51 ~ OTHER;
- Page 52 ~ OTHER;
- Page 53 ~ OTHER;
- Page 54 ~ OTHER;
- Page 55 ~ OTHER;
- Page 56 ~ OTHER;
- Page 57 ~ OTHER;
- Page 58 ~ OTHER;
- Page 59 ~ OTHER;
- Page 60 ~ OTHER;
- Page 61 ~ OTHER;
- Page 62 ~ OTHER;
- Page 63 ~ OTHER;
- Page 75 ~ OTHER;
- Page 76 ~ OTHER;
- Page 77 ~ OTHER;
- Page 78 ~ OTHER;
- Page 79 ~ OTHER;
- Page 80 ~ OTHER;
- Page 81 ~ OTHER;
- Page 82 ~ OTHER;
- Page 83 ~ OTHER;
- Page 84 ~ OTHER;
- Page 85 ~ OTHER;
- Page 86 ~ OTHER;

Page 87 ~ OTHER;
Page 88 ~ OTHER;
Page 89 ~ OTHER;
Page 90 ~ OTHER;
Page 91 ~ OTHER;
Page 92 ~ OTHER;
Page 93 ~ OTHER;
Page 94 ~ OTHER;
Page 95 ~ OTHER;
Page 96 ~ OTHER;
Page 97 ~ OTHER;
Page 98 ~ OTHER;
Page 99 ~ OTHER;
Page 100 ~ OTHER;
Page 101 ~ OTHER;
Page 102 ~ OTHER;
Page 103 ~ OTHER;
Page 104 ~ OTHER;
Page 105 ~ OTHER;
Page 106 ~ OTHER;
Page 107 ~ OTHER;
Page 108 ~ OTHER;
Page 109 ~ OTHER;
Page 110 ~ OTHER;
Page 111 ~ OTHER;
Page 112 ~ OTHER;
Page 113 ~ OTHER;
Page 114 ~ OTHER;
Page 115 ~ OTHER;
Page 116 ~ OTHER;
Page 117 ~ OTHER;
Page 118 ~ OTHER;
Page 119 ~ OTHER;
Page 120 ~ OTHER;
Page 121 ~ OTHER;
Page 122 ~ OTHER;
Page 123 ~ OTHER;
Page 124 ~ OTHER;
Page 125 ~ OTHER;
Page 126 ~ OTHER;
Page 127 ~ OTHER;
Page 128 ~ OTHER;
Page 129 ~ OTHER;
Page 130 ~ OTHER;
Page 131 ~ OTHER;
Page 132 ~ OTHER;
Page 133 ~ OTHER;
Page 134 ~ OTHER;
Page 135 ~ OTHER;
Page 136 ~ OTHER;
Page 137 ~ OTHER;
Page 138 ~ OTHER;
Page 139 ~ OTHER;
Page 140 ~ OTHER;

Page 141 ~ OTHER;
Page 142 ~ OTHER;
Page 143 ~ OTHER;
Page 144 ~ OTHER;
Page 145 ~ OTHER;
Page 146 ~ OTHER;
Page 147 ~ OTHER;
Page 148 ~ OTHER;
Page 149 ~ OTHER;
Page 152 ~ OTHER;
Page 153 ~ OTHER;
Page 154 ~ OTHER;
Page 155 ~ OTHER;
Page 156 ~ OTHER;
Page 157 ~ OTHER;
Page 158 ~ OTHER;
Page 159 ~ OTHER;
Page 160 ~ OTHER;
Page 161 ~ OTHER;
Page 162 ~ OTHER;
Page 163 ~ OTHER;
Page 164 ~ OTHER;
Page 165 ~ OTHER;
Page 166 ~ OTHER;
Page 167 ~ OTHER;
Page 168 ~ OTHER;
Page 169 ~ OTHER;
Page 170 ~ OTHER;
Page 171 ~ OTHER;
Page 172 ~ OTHER;
Page 173 ~ OTHER;
Page 174 ~ OTHER;
Page 175 ~ OTHER;
Page 176 ~ OTHER;
Page 177 ~ OTHER;
Page 178 ~ OTHER;
Page 179 ~ OTHER;
Page 180 ~ OTHER;
Page 181 ~ OTHER;
Page 182 ~ OTHER;
Page 183 ~ OTHER;
Page 184 ~ OTHER;
Page 185 ~ OTHER;
Page 186 ~ OTHER;
Page 187 ~ OTHER;
Page 188 ~ OTHER;
Page 189 ~ OTHER;
Page 190 ~ OTHER;
Page 191 ~ OTHER;
Page 192 ~ OTHER;
Page 193 ~ OTHER;
Page 194 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

602-118045-195
CHANGED TO
602-117958-29X1

AUG 23 1979
cmk/pvd

C

Greenberg/Gray-6220

UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

Memorandum

FEDERAL GOVERNMENT

TO : Joseph Tierney
Federal Bureau of Investigation

DATE: May 13, 1979

FROM : Frank Martin
Criminal Division

SUBJECT: ~~Department Knowledge of FBI Bag Jobs~~

DECLASSIFICATION AUTHORITY FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-09-2009
FBI INFORMATION ONLY

W. Marko Felt

Reference is made to discovery document 264(A)5 (memo, Director to AAG Olney, May 7, 1954, copy attached) previously provided in connection with discovery in the Gray-Felt-Miller case.

Please provide a copy of the memo of the Attorney General dated February 26, 1952, referred to in 264(A)5. *copy attached*

In addition, please identify T-1, T-2, T-7, T-8 and

T-12 in the report of Special Agent [redacted] dated November

2, 1953, at San Francisco, also referred to in 264(A)5.

100-3-74-47-119

100-49675-229

T-1 LA 3741-S*

T-2 CS SF 62X*

T-7 CS SF 71X*

T-12 CS SF 88X*

SF 2015-S*

SF 2015-S is microphone; others are only entries.

4-565

62-118045-

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

CLASS. & EXT. BY 6076 JAH/CPH - 6/19/79
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/99

3

Copy to [redacted] 2/22/79

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Office Memorandum • UNITED STATES GOVERNMENT

JH
TO : Mr. Hoover
Director, Federal Bureau of Investigation
FROM : Attorney General *J. Edgar Hoover*
SUBJECT: Wire Tapping Surveillances

DATE: February 26, 1952

O.T. WILL SURVEILLANCES
~~PERSONAL AND CONFIDENTIAL~~

Mr. Tolson	✓
Mr. Ladd	✓
Mr. Nichols	✓
Mr. Belmont	✓
Mr. Clegg	✓
Mr. Glavin	✓
Mr. Harbo	✓
Mr. Rosen	✓
Mr. Tracy	✓
Mr. Laughlin	✓
Mr. Mohr	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

Reference is made to your memoranda relative to wire tapping surveillances.

There is pending, as you know, before the Congress legislation that I have recommended which would permit wire tapping under appropriate safeguards and make evidence thus obtained admissible. As you state, the use of wire tapping is indispensable in intelligence coverage of matters relating to espionage, sabotage, and related security fields. Consequently, I do not intend to alter the existing policy that wire tapping surveillance should be used under the present highly restrictive basis and when specifically authorized by me.

The use of microphone surveillance which does not involve a trespass would seem to be permissible under the present state of the law, United States v. Goldstein, 316 U.S. 129. Such surveillances as involve trespass are in the area of the Fourth Amendment, and evidence so obtained and from leads so obtained is inadmissible.

The records do not indicate that this question dealing with microphones has ever been presented before; therefore, please be advised that I cannot authorize the installation of a microphone involving a trespass under existing law.

It is requested when any case is referred to the Department in which telephone, microphone or other technical surveillances have been employed by the Bureau or other Federal Agencies (when known) that the Department be advised of the facts at the time the matter is first submitted.

144
Memo
cc Rosen
2/27/52

File all copies
2-28
full

RECORDED - 112

66-8160-1876

MAR 31 1952

~~EXPEDITE PROCESSING~~

87-10
do
8PM

62-118045-57
5/5X

ENCLOSURE

Assistant Attorney General
Warren Olney III

UNCLASSIFIED

May 7, 1954

Director, FBI

PROSECUTION OF ADDITIONAL COMMUNIST
PARTY FUNCTIONARIES UNDER THE SMITH
ACT - CALIFORNIA

FBI File 100-3-74 sub 47-119

RECORDED - 60

Reference is made to your memorandum dated May 3, 1954, your file 146-1-12-2228, requesting to be advised of the availability of certain confidential informants to testify before a Federal grand jury and at a subsequent trial against

[Redacted]

[Redacted]

The status of the informants listed in the investigative report of Special Agent [Redacted] dated November 2, 1953, at San Francisco, is as follows:

T-1, T-2, T-7, T-8 and T-12 all represent highly confidential investigative techniques of the nature described in the memorandum of the Attorney General dated February 26, 1952, and discussed at a subsequent conference between representatives of the Bureau and the Department on May 22, 1952.

T-11 is a current confidential informant whom the Bureau does not desire to expose because of the extremely valuable information he is furnishing.

T-10 represents documentary evidence seized by Bureau Agents incidental to the lawful arrests of Communist fugitives [Redacted]

[Redacted] at Twain Harte, California, on August 27, 1953. This evidence would, of course, necessitate Special Agent testimony, the feasibility of which in this case can be explored.

- Tolson _____
- Ladd _____
- Nichols _____
- Belmont _____
- Clegg _____
- Glavin _____
- Harbo _____
- Rosen _____
- Tracy _____
- Mohr _____
- Trotter _____
- Winterrowd _____
- Tele. Room _____
- Holloman _____
- Miss Gandy _____

cc Bufile 100-3282
100-49675

MAILED 8
MAY 7 1954
COMM-FBI

EBR:imd
5 MAY 28 1954

ENCLOSURE

100-3-74 sub 47 -

UNCLASSIFIED

UNRECORDED COPY FILED IN

FD-73
(1-10-49)

FEDERAL BUREAU OF INVESTIGATION

FORM No. 1
THIS CASE ORIGINATED AT **LOS ANGELES**

FILE NO. **b6**
b7C

REPORT MADE AT SAN FRANCISCO	DATE WHEN MADE NOV 2 1953	PERIOD FOR WHICH MADE 10/16,20,21,26, 27/53	REPORT MADE BY ajs
TITLE		CHARACTER OF CASE INTERNAL SECURITY - C SMITH ACT OF 1940	

SYNOPSIS OF FACTS:

SECURITY INFORMATION - CONFIDENTIAL

Subject disappeared from his home in San Francisco in July, 1951. Since that time he has operated in the District 13, CP Underground under the code name [redacted]. He has held posts of CP Underground leader in Los Angeles, Calif., and member of Western Regional Committee of the CP-USA. Description set forth.

-P-

DETAILS: AT SAN FRANCISCO, CALIFORNIA

I. CONNECTION WITH COMMUNIST PARTY UNDERGROUND

a. Residences

[redacted] San Francisco, advised on July 10, 1951 that he last saw the subject at his usual residence, [redacted] San Francisco on July 7, 1951.

San Francisco T-1, of known reliability, advised that the subject, under the name [redacted] was residing in a clandestine manner at [redacted] Los Angeles, California in July, 1951.

SECURITY INFORMATION - CONFIDENTIAL

(Not reviewed for classification on 4/19/79)

APPROVED AND FORWARDED: <i>[Signature]</i>	SPECIAL AGENT IN-CHARGE	ENCLOSURE DO NOT WRITE IN THESE SPACES
COPIES OF THIS REPORT 6 - BUREAU (100-49675) (REGISTERED) 3 - LOS ANGELES (100-4959) (REGISTERED) (ENCL) 2 - SAN FRANCISCO (100-24427)		100-49675-229 RECORDED 52 INDEXED 52
COPIES DESTROYED		NOV 24 1953 SECT.

PROPERTY OF FBI—This confidential report and its contents are loaned to you by the FBI and are not to be distributed outside of agency to which loaned.

53 DEC 29 1953

ENCLOSURE

100-118045-1951

b. Housing and Couriers

San Francisco T-2, of known reliability, advised that in September and October, 1952, members of the District 13 Communist Party Underground were providing housing and couriers for the subject in his capacity as a functionary in the CP Underground.

The Communist Party has been cited by the Attorney General of the United States pursuant to Executive Order 10450.

c. Meetings

San Francisco T-3, of known reliability, stated that the subject met in a secretive manner on July 15, 1951 at 1645 Fulton Street, San Francisco, with [redacted] of the California CP, and [redacted] a convicted Smith Act subject.

San Francisco T-4, of known reliability advised that on August 19, 1951 [redacted] a CP member in San Francisco, remarked that she had on that date met with [redacted] at the Civil Rights Congress Headquarters in Oakland, California.

The Civil Rights Congress has been cited by the Attorney General of the United States pursuant to Executive Order 10450.

San Francisco T-5, of known reliability, stated that [redacted] CP member in Los Angeles, had remarked that she saw the subject in Los Angeles on September 7, 1951, at which time the subject had attended a two day meeting at a beach house in Venice, California. [redacted] was overheard to say that the meeting was comprised of members of the District 13, CP Underground.

San Francisco T-6, of known reliability, advised that [redacted] using the code name [redacted] was in contact with [redacted] then the District 13 CP Underground leader, in November, 1952.

According to San Francisco T-7, of known reliability, the subject, in March, 1953, was scheduled to meet with [redacted] District 13, CP Underground leader, and [redacted] who was arrested at Twain Harte, California by the FBI on August 27, 1953 in the company of Communist fugitives [redacted] and [redacted].

According to SF T-2, the District 13, CP Underground was to provide transportation for the subject to a meeting scheduled in March, 1953, such meeting to be comprised of District 13, CP Underground functionaries, including [redacted]

San Francisco T-8, of known reliability, advised in April, 1953 that the subject met secretly at a cabin in the Santa Cruz mountains in California on April 17-18, 1953 with [redacted] all District 13 CP Underground functionaries. According to the informant, discussions at the meeting centered upon establishing a courier system between the District 13, CP Underground and the CP National Office, and with matters of organization and policy within the District 13, CP Underground.

San Francisco T-9, of known reliability, stated that in May, 1953 the subject was to attend a meeting of the California State CP Underground Secretariat

According to SF T-2, SF T-8 and SF T-10, all of known reliability, the subject in his capacity as a functionary in the CP Underground was in contact with the following persons over the past 1 1/2 years:

[redacted] former District 13 CP Underground head, and member of the Western Regional Committee of the CP-USA.

[redacted] Communist Fugitive, and member of the Western Regional Committee of the CP-USA.

[redacted] member of the Western Regional Committee of the CP-USA.

[redacted] member of the Western Regional Committee of the CP-USA

[redacted] functionary, District 13, CP Underground. b6
b7C

[redacted] District 13, CP Underground.

[redacted] former leader of the CP Underground in Los Angeles. ✓

DOROTHY HEALY, convicted of violation of the Smith Act, 1940 in Los Angeles in August, 1952.

b. Posts

According to San Francisco T-11, of known reliability, the subject, under the name of [redacted] was active in February, 1952 in the District 13, CP Underground in an unknown capacity. b6
b7C

SF T-2 stated that in January, 1953 the subject was active in the District 13, CP Underground in an unknown capacity.

San Francisco T-7 stated that in March, 1953 the subject had been assigned temporarily by the District 13 CP leadership to the post of leader of the CP Underground in the Los Angeles area, replacing [redacted] who had resigned from the position.

SF T-7 advised that in April, 1953 the subject continued to head the District 13, CP Underground in the Los Angeles area and in that capacity was in continuous contact with DOROTHY HEALY, convicted Smith Act subject and leader of the open CP in Los Angeles.

According to SF T-2, the subject in his capacity as head of the CP Underground in Los Angeles was concerned with the political and organizational functions of the CP in Los Angeles, the material contributed to the "Daily People's World," a West Coast Communist dominated and controlled newspaper, matters of CP finances, CP infiltration into various Trade Unions, and with close liaison with the open CP leadership, represented by DOROTHY HEALY.

SF T-7 stated that in April, 1953 the open CP leadership in California, as represented by WILLIAM SCHNEIDERMAN who was convicted of violation of the Smith Act, 1940 in August, 1952, had proposed to place [redacted] on the State CP Underground Secretariat, and in addition, if DOROTHY HEALY, open CP leader in Los Angeles approved, to make the subject's position as CP Underground leader in Los Angeles permanent.

According to SF T-7, the subject in May, 1953 continued to lead the CP Underground in Los Angeles. SF T-7 advised further that in his position as CP Underground leader in Los Angeles, the subject was the center of the CP leadership in that area.

SF T-9 stated that the subject continued as leader of the CP Underground in Los Angeles in June, 1953.

The subject, according to SF T-8, was referred to by [redacted] as the "main guy" representing the "state" in July, 1953.

San Francisco T-12, of known reliability, stated that in August, 1953 the subject was still directing CP Underground operations in the Los Angeles area.

SF T-10 reported in August, 1953 that the subject was a member of the Western Regional Committee of the CP-USA, with the specific duties of furnishing active CP political leadership in the ideological and educational fields, and in the National Association for the Advancement of Colored People, questions. According to informant, at least four other members of the Western Regional Committee were [redacted]

e. Funds

According to SF T-2, from November, 1951 to January, 1953 the subject received wages and general expense money from the funds of the District 13, CP Underground. Informant related further that during this time the CP Underground provided the subject with an emergency reserve fund fluctuating from \$250.00 to \$300.00. Informant said that after January, 1953 the subject was probably still receiving funds through the CP Underground.

f. Laboratory Analyses

An FBI Laboratory report dated August 4, 1953 revealed that the subject was the writer of certain documents made available by SF T-2 that show the subject was actively participating in the District 13, CP Underground in February, 1953.

An FBI Laboratory report dated September 18, 1953 identified the subject as the writer of certain documents furnished by SF T-1, which placed the subject as actively participating in the District 13, CP Underground in August, 1953.

g. Miscellaneous

San Francisco T-13, of known reliability, advised that the subject, under the name [redacted] was receiving mail from his wife, [redacted] through the District 13, CP Underground courier system in February, 1952. b6 b7C

According to San Francisco T-14, of known reliability, the subject met secretly with his wife, [redacted] Los Angeles, during the latter part of February and early part of March, 1952. b6 b7C

San Francisco T-15, of known reliability, stated that in March, 1952 at the home of [redacted] CP members in Oakland, California, it was mentioned that [redacted] was operating in the District 13, CP Underground. b6 b7C

According to San Francisco T-12, of known reliability, in August, 1952 the subject had, on at least one occasion, used the disguise of dressing as a woman to avoid detection.

II. DESCRIPTION

The following is a description of the subject as obtained from reliable informants and personal observation:

SF 100-24427

Name & Aliases

1175

[Redacted]

Sex
Race
Born
Height
Weight
Build
Hair
Eyes
Complexion
Education
Marital Status

Male
Negro
[Redacted]
5'4"
168 lbs.
Stocky
Black
Brown. Wears horn-rimmed glasses.
Light brown
Fifth grade
Married. Wife, [Redacted]

b6
b7C

Children

[Redacted]

Venice, California

Occupations

Laborer, welder, seaman, service station attendant, refrigerator repairman, union organizer, associate newspaper editor.

FBI Number

[Redacted]

Fingerprint Classification

19 0 28 W MMM Ref 27
L 30 u OIM 30

Arrests

1932, Mason City, Iowa, PD No. 8221, (loitering)
1936, Los Angeles, Calif., PD No. 56991 (holding CP meeting without permit)

Peculiarities

Wears thin mustache

ENCLOSURES: (2) TO LOS ANGELES OFFICE

1 copy of Prosecutive Summary Report of SA [Redacted] dated 6/29/51 at San Francisco.

b6
b7C

1 copy of Supplemental Prosecutive Summary Report of SA [Redacted] [Redacted] dated 9/29/52 at San Francisco.

-P-

-6-

SOURCES

IDENTITY OF SOURCE	DATE OF ACTIVITY AND/OR DESCRIPTION OF INFORMATION	DATE RECEIVED	AGENT TO WHOM FURNISHED	FILE NUMBER WHERE LOCATED
✓ SF T-1; LA 3741-S*	7/31/53 8/13/53	7/31/53 8/13/53		
✓ SF T-2; CS SF 62X*	11/51-8/52 9/26/52 8/52-10/52 10/28/52 11/52-1/53 2/13/53 3/27/53 4/13/53	8/6/52 9/26/52 10/15/52 10/28/52 1/26/53 & 2/11/53 2/13/53 3/27/53 4/13/53		b6 b7C
SF T-3; [redacted]	7/15/51	7/18/51	[redacted] (orally)	100-24427-637
SF T-4; [redacted]	8/19/51	8/27/51	[redacted] (orally)	100-24427-772A
SF T-5; [redacted]	9/7/51	9/10/51	[redacted] (orally)	100-24427-782
SF T-6; CS SF 63X*	10/17/52	10/17/52		
✓ SF T-7; CS SF 71X*	3/10/53 3/11/53 4/9/53 4/16/53 5/8/53 5/13/53	3/10/53 3/11/53 4/9/53 4/16/53 5/8/53 5/13/53		
✓ SF T-8; SF 2015-S*	4/17,18/53 7/19/53	4/17,18/53 7/19/53		
SF T-9; LA 3721-S*	5/23/53 6/18/53	5/23/53 6/18/53		b6 b7C
SF T-10; Evidence seized incidental to arrests at Twain Harte, Calif.	8/27/53	8/27/53	[redacted] et al.	100-37592-1B (5)

SF 100-24427

cont.,...

ADMINISTRATIVE PAGE

IDENTITY OF SOURCE	DATE OF ACTIVITY AND/OR DESCRIPTION OF INFORMATION	DATE RECEIVED	AGENT TO WHOM FURNISHED	FILE NUMBER WHERE LOCATED
SF T-11: [redacted]	2/14/52	2/15/52	[redacted]	100-24427-919
✓ SF T-12; CS SF 88X*	8/14/53	8/14/53		
SF T-13: [redacted]	2/14/52	2/15/52	[redacted]	100-30619-1B(3)
SF T-14; Fisur	2/29-3/10/52	2/29- 3/10/52	[redacted] et al.	100-4959-1A28
SF T-15: [redacted]	3/5/52	3/5/52	[redacted]	100-29656A-301A (33)
SF T-16: [redacted]	8/52	9/10/52	[redacted]	LA 66-3462A(8)

b6
b7C

LEADS:

LOS ANGELES DIVISION

AT LOS ANGELES, CALIFORNIA

Will furnish completed documentation of SF T-14 and SF T-16 in this report.

SAN FRANCISCO DIVISION

AT SAN FRANCISCO, CALIFORNIA

Will continue efforts to locate the subject through available CP Underground sources.

REFERENCES:

Prosecutive Summary Report of SA [redacted] dated 6/29/51 at San Francisco.

Supplemental Prosecutive Summary Report of SA [redacted] dated 9/29/52 at San Francisco.

Administrative Report of SA [redacted] dated 2/18/53 at San Francisco.

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Joseph Tierney *JT*
Federal Bureau of Investigation

DATE: April 30, 1979

FROM : Francis J. Martin *FJM*
Criminal Division

SUBJECT: Additional Requests for Documents

C

W. Mark Felt

Attached is a copy of an April 23, 1979, request from Frank Dunham. Please provide me with copies of the requested documents and make available "brown-out" copies of the documents for which Mr. Dunham has requested redaction explanations.

*No need to
comply since in-person
spoken explanation now
being given in presence
of Woods/Martin & Felt's
attorneys* *JK*

(dNR)

62-118045-195X1

6 JAN 24 1980

Lmk
ENCLOSURE

4-5-80

62-118045



JJ

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

59 JAN 31 1980

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550

1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
*MEMBER VIRGINIA BAR ONLY

April 23, 1979

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-09-2009

Francis J. Martin, Esq.
Criminal Division
Department of Justice
Washington, D.C. 20530

Dear Frank:

Set out below are a number of additional matters which we would like to have addressed -- additional request for documents, request for generic explanations of redactions, and request for rexeroxed copies of illegible documents.

A. Additional Requests for Documents

b2
5/19/79
explained to
b6
b7C
62-115360-28
White house pkg
LPG 7-42
White house pkg 4.
Items removed for FCI
pkg 46 LPG 6-1
cut off?
done

1. Two documents behind 209(B)2 which were removed. *docu marked from and from DOJ Bu. package 3, d*
2. [Redacted]
3. [Redacted]
4. Document in front of 209(B)29^{28?} which was removed because it contained White House material, 3, 28
5. 4/9-4/27/73 inspection workpapers that were removed from document 210. *package 3*
6. Bureau document #105-195696, serial 112.
7. The names of agents conducting the feasibility study referred to in document 216(A)4. *Bu 19; 4*
8. Copy of the FBI Manual and Handbook as it existed in 1972 referred to in document 233(A)2. *Bu. 24; 2*
9. State Department document removed from 209(D)4. *Bu. 7; 4*
10. White House information attached to 209(F)47. *Bu. 12. 47*
11. Copy of the May 28, 1976 edition of "Foreign Intelligence Collection and Foreign Counterintelligence Investigation Guidelines.
12. Document 209(A)12 appears to refer to a wiretap on a foreign establishment. We need to know what country was overheard. *Bu 1; 12*

B. Explanation of Redactions

1. 209(A)2, airtel to Director from SAC Miami 3/21/68 re SDS *Bu. 1; 2*
2. 209(A)23, memo to SAC Albany from Director 4/15/69 re New Left Movement - Foreign Influence. *Bu +1; 23*
3. 209(A)31 Report re foreign support for revolutionary protest movements in the U.S. dated 6/30/69. *Bu. #1; 31*

~~SECRET~~

Francis J. Martin, Esq.
April 23, 1979
Page Two

4. ✓ 209(G)5, memo to DeLoach from Sullivan 2/15/68 re intelligence operations. Bu. 14.5
5. 218(A)51 teletype to SAC NY etc. from Director 11/13/69 re Venceremos Brigade; IS-ANA (New Left-Foreign Influence). Bu. 41, 51 #2 p192
6. 219(A)79, Report "Youth in Rebellion" 2/7/69 Bu. 38; 79 Vol #2
7. 209(C)7, Memo to Callahan from Jacobson 5/31/74 re adequacy of personnel special agent, NY division Bu. 2; 7
8. Attachments to document 216(A)79. Bu. 19. 79
9. 209(D)10, memo to Miller from Smith 10/31/72 re Cabinet Committee to Combat Terrorism. Bu. 7, 10
10. 209(D)15 memo to Miller from Cregar 10/17/72 re Cabinet Committee to Combat Terrorism. Bu. 7, 15
11. 81a, SAC NY from Director 7/22/66 re blocked out ESP-R #10-12
12. 82b - airtel SAC Atlanta from Director FBI 1/19/67 re blocked out espionage. #10 - 14 (first set)
13. 85a memo to Belmont from Sullivan 9/17/64 re Jaro Espionage - Russia. #9-1 (first set)
14. 85k - memo to Sullivan from Branigan 10/10/67 re [redacted] espionage - Russia. #9-11 (first set)

b6
b7C

C. Illegible Xeroxing

- Done*
1. 216(A)47. Bu. 19; 47

We would appreciate receiving the above documents and explanations in the near future or at least some indication as to whether or not you intend to make the information requested available. We anticipate that we may have similar requests in the future as we continue to digest the materials you have provided us.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER

Frank W. Dunham, Jr.

Frank W. Dunham, Jr.

FWD:kw

Greenberg/Gray-6234

~~SECRET~~

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bailey *WLB*

DATE: 5/7/79

FROM : *JL* J. L. Tierney

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-09-2009 BY 65179 dmh/baw/sbs

SUBJECT: U. S. vs. W. MARK FELT, et al.
DISCOVERY PROCEEDINGS

PURPOSE: To record resolution of a disagreement with Frank Martin of the Department, and a single past action on his part which we consider improper.

SYNOPSIS: Oral explanation of redactions to defense counsel for Mr. Felt will be made by FBI, instead of by Frank Martin as proposed by him. Martin will be present to litigate and to insure unnecessary issues are eliminated. Martin now advises he made similar explanations to Mr. Miller's counsel in December, 1978. Martin has been told we would have objected had we been aware.

RECOMMENDATION: None. For information.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>wlb/ptb</i>
Dep. AD Adm. <i>JL</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

DETAILS: The government has a recognized obligation under court-ordered discovery to provide generic descriptions or explanations of the justification for material withheld from the defense. The first attempt to do this was in the form of an alphabetical code added to a forty page list of documents already exhibited to the defense. Brian P. Gettings, attorney for Mr. Felt, prepared the list and indicated by a check-mark on the list those documents for which he desired an explanation. We added to the list the appropriate letter for the documents he selected (e.g. "A" for a pending investigation, "B" for protection of a source).

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Steel
- 1 - Mr. Mintz (Info.)
- 1 - Mr. Bailey
- 1 - Mr. Bresson (Info.)
- 1 - Mr. Daly
- 1 - Mr. Tierney

JLT:bas
(9)

MAY 15 1979
6-12



53 JUN 13 1979

Memorandum from Mr. Tierney to Mr. Bailey
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

By letter dated 4/17/79 Mr. Gettings' office complained of their inability to decide whether to litigate individual deletions based upon the limited explanation furnished. Additional explanations were requested by letter dated 4/23/79.

Both letters were forwarded to us by Mr. Martin who directed us to furnish him the "brown-out" or working copies of all the documents for which explanations were being requested.

Inquiry of Mr. Martin determined that he intended to bring the "brown-out" copies (the redacted text can be read through the brown, unlike the copies furnished the defense) to Mr. Gettings' office where he would endeavor to explain the nature of the withheld material more explicitly in hope of satisfying defense counsel. I immediately advised Mr. Martin I had reservations about his performing this function and would have to consider it.

On 5/2/79 I advised Mr. Martin we strongly objected to this procedure and proposed instead that written explanations be furnished or that the oral explanation be furnished by us. He agreed to our furnishing the oral explanation, but insisted he also be present, emphasizing his function in the litigation of minimizing contested areas and insuring the trial of this case is not unnecessarily blocked by our inability to reveal sensitive information during disclosure. I have agreed to this procedure.

During the 5/2/79 discussion Mr. Martin revealed for the first time he had already given similar explanations to Thomas Kennelly, attorney for Mr. Miller, during December, 1978. He did not have to obtain "brown-out" copies from us since he already had unredacted copies of the documents then in question in his files. I told him we would have objected had we known.

At my request the defense will be asked to come to FBI space, in order to avoid an enormous logistical problem of removing individual copies of serials from our records. The target date is 5/14/79 so the prosecution can say the explanations have been given before the 5/16/79 hearing. Mr. Martin will go over the material with us beforehand, in effect a "dress rehearsal." ASAC Paul V. Daly will be present if at all possible.

Memorandum from Mr. Tierney to Mr. Bailey
Re: U. S. vs. W. Mark Felt, et al.
Discovery Proceedings

Although I did not have to say so explicitly, our objection to Mr. Martin's original procedure is particularly strong because he has demonstrated a lack of sensitivity to classified materials in the past. I am aware of no precedent for his proposal and believe we should not create one. We must be permitted to formulate and express the explanation for the sensitivity of our records, particularly when the issues are protection of sources, intelligence methods and techniques, and pending investigations. When the explanation is oral, the question becomes critical.

Because of his perspective as a prosecutor, there will undoubtedly be differences of judgment between Mr. Martin and us on the amount of detail to be furnished to satisfy the defense. We are confident of our ability to resolve them in spite of the fluid and dynamic nature of an oral conference with defense counsel.

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. Dir.:	_____
Adm. Inv.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : MR. MCDERMOTT

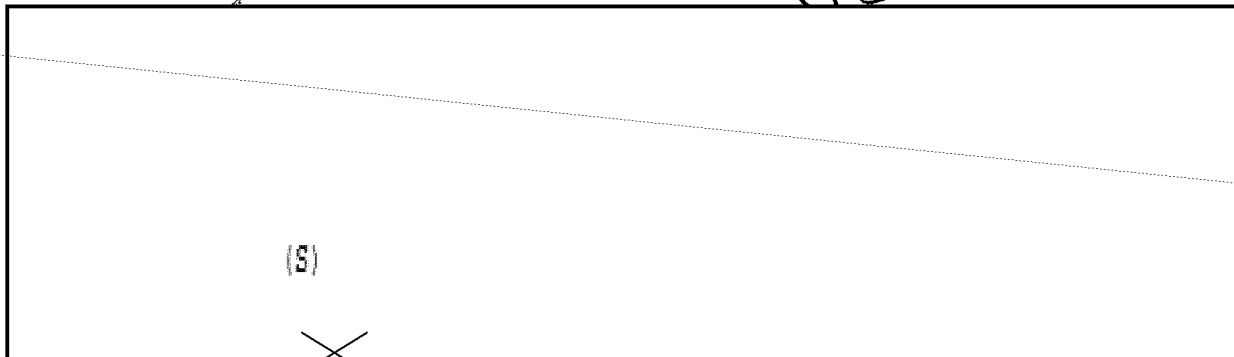
EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-09-2009

DATE: 5/17/79

FROM : W. L. Bailey

SUBJECT: U. S. vs FELT ET AL

A. Tierney



b1

No final ruling was made on the Attorney General's claim of privilege. The Judge was disturbed by the fact that Miller and Felt would have had access to this material in their official capacity as FBI officials and this material may have been a factor in the decision to authorize surreptitious entries. Because of this possibility, Judge Bryant expressed concern that it would not be proper to deprive them of the material in discovery in this matter. The Department has asked that the Judge reconsider his decision to allow defendants the Barker-Martinez defense. The Judge did not rule on this motion. (u)

At the conclusion of the hearing, the Judge expressed a final concern at the various hurdles being placed before the defense making it difficult for the defense to properly represent their clients and indicated he was ready to clear some of the hurdles away. Judge Bryant also ordered the production to him in camera of approximately 400 additional documents containing foreign government information and production to the defense of additional files. (u)

- 1 - Mr. McDermott
- 1 - Mr. Bailey
- 1 - Mr. Steel
- 1 - Mr. Tierney

CLASS. & EXT. BY 9803 RCU/2009 5/24/79
 REASON-FCIM II, 1-2.4.2 2
 DATE OF REVIEW 5/17/99 62-118045-197
 (CONTINUED-OVER)
 REC-114

PVD:jam *jam* (5)

11 JUN 12 1979



3 JUN 13 1979

~~SECRET~~

W. L. Bailey to Mr. McDermott, Memorandum
Re: U. S. vs Felt Et Al

Arrangements are being made to comply with this and the necessary personnel to fulfill this request are being selected. The 400 additional documents containing foreign government information are to be produced Friday, 5/18/79. (u)

prcd

APPROVED: *WLB*

Director _____	Adm. Serv. _____	Legal Coun. _____
Assoc. Dir _____	Crim. Inv. _____	Plan. & Insp. _____
Dep. AD Adm. <i>AD</i>	Ident. _____	Rec. Mgmt. <i>WLB/AD</i>
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

MP



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC
DECLASSIFICATION GUIDE
EXEMPTION CODE: 25X(1)
DATE 04-15-2009
FBI INFORMATION ONLY

Address Reply to the
Division Indicated
and Refer to Initials and Number

JWN:ams

FEDERAL GOVERNMENT

May 23, 1979

Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Felt

Dear Sirs,

We have made arrangements to provide you with access in your offices to documents previously available to you only in the Department of Justice Security Center or in the office of Mr. Daly at FBI headquarters. The documents consist of very sensitive FBI information, in substantially unredacted form, received from the National Security Agency, the Central Intelligence Agency and from the FBI's own sources. However, on request to [redacted] of the Department's Security Office (telephone no. 633-4511) a courier will bring the requested documents to you in the morning and pick them up in the evening provided that they are handled in accordance with his instructions.

b6
b7C

Should you need to show a document to a properly cleared witness whom you interview outside of your office, either in Washington, D.C. or elsewhere, a courier will be provided. [redacted] will brief you on details.

b6
b7C

You already have possession of redacted copies of many of the above documents. If you want redacted copies of any of the other documents mentioned above, or if you have any questions, please let me know.

REC-114 62-118245-198

Sincerely,

JUN 12 1979

John W. Nields Jr.

John W. Nields, Jr.
Special Counsel
Criminal Division

cc: Chief Judge Bryant
Orfeo Trombetta

53 JUN 13 1979

Greenberg/Gray-6240

SC
C

[Handwritten initials]

*Rec'd 5/25/79
Revised to [redacted] and [redacted]
[redacted] [redacted]
[redacted]*

b1

- 1 - Mr. J. J. McDermott
- 1 - Mr. W. O. Cregar
- 1 - Mr. W. L. Bailey

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

May 18, 1979

Director, FBI

- 1 - Mr. J. L. Tierney
- 1 - [Redacted]

b6
b7C

UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
& GRAY, III, ET AL.)

Reference is made to your memorandum dated April 23, 1979, requesting I provide you copies of 11 documents identified in the enclosure to my memorandum of February 14, 1979.

Enclosed is a copy of an interview form (FD-302) dated June 23, 1978, setting forth the results of the interview of Assistant Director Richard E. Long on June 22, 1978. Originals of the other ten documents requested have been provided to the Department, except for the two which originated within the Department. It is presumed file copies of the latter are maintained in the Department.

Your request at this late date for copies of documents relating to the safeguarding of national security material in an important and sensitive investigation raises questions relating to accountability and safekeeping procedures within the Department.

I am particularly concerned regarding document numbered 11 in your memorandum of April 23, 1979. This communication from the Deputy Associate Director, FBI, to the Deputy Assistant Attorney General, Criminal Division, contained classified enclosures, including one originating within another Intelligence Community agency and relating to Sensitive Compartmented Information. If this document and its enclosures are not locatable within the Department, I request the provisions of Title 28, Code of Federal Regulations, Part 17.55 (28 CFR 17.55) be invoked and that I be advised so I may alert the National Security Agency, who is the originator of one of its enclosures.

62-117792

① - 62-118045 (US v. Gray, et al.)

DR:lfj
(15)

DUPLICATE YELLOW

62-118045
NOT RECORDED
167 JUN 13 1979

SEE NOTE PAGE 4

Greenberg/Gray-6277

53 JUN 13 1979

62-117792-135
ORIGINAL FILED IN

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

If you desire further identifying information relating to the ten documents, please contact the FBI Security Officer (324-4901).

I am furnishing copies of this memorandum to the recipients of my memorandum of February 14, 1979. I request the Department Security Officer make any necessary inquiries in an effort to determine if these documents have been lost or compromised. I am also designating a copy of this memorandum for Mr. Allan Kornblum, Chief Attorney, Investigation Review Unit, as he was appointed on April 9, 1979, by the Attorney General to conduct a review of procedures within the Department for safeguarding national security information and material.

My concern regarding unauthorized disclosures of sensitive national security material in connection with the surreptitious entry investigation, and my request that corrective action be taken, including that required by the Code of Federal Regulations, were first communicated to the Department by memorandum dated October 5, 1978. My memorandum to you dated February 14, 1979, again requested you review this matter under the requirements of 28 CFR 17, and specifically requested Parts 17.38 and 17.55 be complied with, that responsibility for the unauthorized disclosure be determined, and that this matter be considered by the Department Review Committee (DRC) at the earliest possible date so that recommendations could be provided to the Attorney General. I also requested I be provided reports of the appropriate Security Officers as well as the Security Officer of the Department. Again, by memorandum dated April 3, 1979, I requested I be advised of the status of this inquiry.

I again request appropriate steps be taken to expedite the necessary action required by the Code of Federal Regulations and that I be advised.

Enclosure

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

- 1 - Assistant Attorney General
Office of Legal Counsel
- 1 - Assistant Attorney General
Civil Rights Division
- 1 - Mr. Leon Ulman, Chairman
Department Review Committee
- 1 - Mr. Michael E. Shaheen, Jr., Counsel
Office of Professional Responsibility
- 1 - Mr. D. Jerry Rubino
Security Officer
Department of Justice
- 1 - Mr. Allan Kornblum, Chief Attorney
Investigation Review Unit

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

NOTE: On 10/5/78, the Director delivered a memorandum to the Deputy Attorney General, Office of Legal Counsel, expressing concern regarding the handling of national security information in this matter. He requested the Department conduct a review to determine if there was a violation of statutes and that the provisions of the Code of Federal Regulations be effected. The Assistant Attorney General, Criminal Division, responded on 1/12/79, stating prosecution was inappropriate because the FBI did not follow Executive Order and Department regulations, attorneys received insufficient notice and used information in good faith, and there was lack of criminal intent. By memorandum dated 2/14/79 to the Assistant Attorney General, Criminal Division, the Director furnished a chronological summary of the continuing notice provided to the Department which would indicate possible negligence on the part of the Department, and requested the inquiry required by the Code of Federal Regulations be conducted. A follow-up memorandum was forwarded to the Department on 4/3/79. The Department has now requested we furnish copies of documents which we have either already provided to them or which originated within the Department to assist them in replying to the issues raised by the Director. As eight months have elapsed since the Director brought this matter to the Department's attention, and three months since he reiterated his request have passed, and it would appear the Department has not even located the documents involved at this late date, this memorandum is warranted. Also, the Department is either unable to locate or has lost additional classified information, and this should be called to its attention so that appropriate inquiries necessitated by the Code of Federal Regulations may be effected.

126

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

PAGE 1 OF 3

DATE 5/24/79 CLASSIFICATION ~~CONFIDENTIAL~~ PRECEDENCE IMMEDIATE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-15-2009

START HERE

FM FM DIRECTOR, FBI
TO TO LEGAL ATTACHE, PARIS {IMMEDIATE}

L. Patrick Gray III

~~BT~~
~~CONFIDENTIAL~~

UNITED STATES VERSUS W. MARK FELT, ET AL; DISCOVERY PROCEEDINGS
RE LEGAT LETTER TO FBIHQ NOVEMBER 19, 1971, CAPTIONED

[REDACTED] IS-CU, OO:NY, MADRID FILE 105-171 {CLASSII-
FIED ~~CONFIDENTIAL~~ DURING FBIHQ REVIEW ON MARCH 28, 1978}. ~~EX~~

RELET IS A DOCUMENT POTENTIALLY RELEVANT TO DEFENSE EFFORTS
IN CAPTIONED CASE. THE PRESENT ISSUE TO BE RESOLVED IS WHETHER
OR NOT IT CAN BE DISCLOSED TO DEFENDANTS FELT AND EDWARD S.

MILLER AND THEIR DEFENSE COUNSEL, ALL OF WHOM HAVE BEEN ISSUED
TOP SECRET CLEARANCES BY THE DEPARTMENT. DISCLOSURE SOUGHT BY
THE PROSECUTION TEAM IS DURING DISCOVERY PROCEEDINGS ONLY AND

NOT FOR USE AT PUBLIC TRAIL. ~~EX~~ **REC-138** *62-118045-199*
SIMILAR REQUESTS HAVE BEEN MADE WITH RESPECT TO SIMILAR

DOCUMENTS TO SIX OTHER FOREIGN SOURCES COVERED BY OTHER LEGATS.

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY *WLB/RA* DRAFTER *JLT:CLS* {7} DATE 5/24/79 ROOM 6786/4 TELE EXT. 4802

- 1 - MR. J. J. McDERMOTT
- 1 - MR. A. L. STEEL
- 1 - MR. J. A. MINTZ
- 1 - MR. W. O. CREGAR
- {ATTN: [REDACTED]}
- 1 - MR. W. L. BAILEY
- 1 - MR. J. L. TIERNEY

~~CONFIDENTIAL~~

22 MAY 25 1979

COMMUNICATIONS SECTION
MAY 24 1979
052331Z

b6
b7C

62 JUN 25 1979

Greenberg/Gray-6281

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

FBI/DOJ

DO NOT TYPE PAST THIS LINE

b6
b7C

Handwritten notes and stamps

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

~~IPAGE RTU DE HQ 0126 C O N F I D E N T I A L~~

ALL OBJECTIONS TO DISCLOSURE BY SUCH SOURCES HAVE BEEN AND WILL
BE HONORED. ONE GOVERNMENT COULD NOT BE CONTACTED {REPUBLIC OF
CHINA - NO DIPLOMATIC RELATIONS} AND PRIVILEGE WAS ASSERTED AND
DISCLOSURE REFUSED. ~~DCJ~~

LEGAT, PARIS SHOULD INQUIRE OF BOTH SOURCES FOR PERMISSION
TO RELEASE RELET TO DEFENSE DURING DISCOVERY. RELET SHOULD BE
EXHIBITED TO SOURCES IF THEY DESIRE PRIOR TO MAKING DECISION
UNLESS COMPELLING REASON TO THE CONTRARY EXISTS. ALTHOUGH DIS-
CLOSURE TO DEFENSE IS SOUGHT BY PROSECUTION TO AVOID HAVING
FOREIGN SOURCE PROTECTION INTERESTS UNNECESSARILY PREVENT CAP-
TIONED CASE COMING TO TRIAL, REFUSAL BY SOURCE TO CONSENT TO
DISCLOSURE WILL BE HONORED BY FBI AND ATTORNEY GENERAL. ~~DCJ~~

LEGAT MAY CONSULT ASAC PAUL V. DALY OR SA JOSEPH L.
TIERNEY THROUGH FBIHQ IF CLARIFICATION OR COPY OF RELET NEEDED.

DO NOT TYPE MESSAGE BELOW THIS LINE

DO NOT TYPE PAST THIS LINE

b1

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

CONTINUATION SHEET

~~PAGE THREE DE HQ 0126 CONFIDENTIAL~~

HANDLE EXPEDITIOUSLY AND SUTEL RESULTS OF CONTACT: {U}

~~C&E 1929, REASON [1], DRD MAY 24, 2077.~~

20
18

BT

16

14

12

10

8

6

4

2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

~~CONFIDENTIAL~~

Teletype to Legat, Paris

Re: United States Versus W. Mark Felt, Et Al; Discovery Proceedings

NOTE:

Legats, Hong Kong, Mexico City, Ottawa, Paris, and Tokyo have [redacted] already been contacted during March, 1979. [redacted] sources asked to review documents in question before reaching decision, and then refused permission. Inquiry of Legat, Paris, now required because a new document has now surfaced. Additional explicit detail included in this communication since several Legats were unable to grasp action required during the last round of communications and had to seek clarification via telephone. (U) (C)

b7D

Text reviewed and approved by John Nields, DOJ. (U)

- 4 -

Greenberg/Gray-6284

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-15-2009

Assec. Dir.	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Inte'l.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

29 MAY 79 14 24z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

P 291145Z MAY 79
FM PARIS (197-1)
TO DIRECTOR PRIORITY 144-29
BT

REANEY
S-M

~~CONFIDENTIAL~~

UNITED STATES VERSUS W. MARK FELT, ET AL; DISCOVERY PROCEEDINGS.

RE BUREAU CABLE, MAY 24, 1979.

CONTACT WITH [REDACTED]

b7D

[REDACTED] DETERMINED BOTH AGENCIES

INCONTROVERTIBLY OPPOSED TO RELEASE OF INFORMATION FURNISHED
BY THEM TO LEGAT, MADRID. THIS POSITION IS CONSISTENT WITH
POLICY FOLLOWED BY BOTH AGENCIES IN ANY INSTANCE WHERE DISCLOSURE
OF THEIR INFORMATION IS REQUESTED.

~~CLASSIFIED BY 2415, REASON (1), DRD MAY 29, 2009.~~

BT

*Copy removed
5/30/79*

EX-110

62-118045

REC-70

62-118045-200

MAY 31 1979

Greenberg/Gray-6285

- 1 - Mr. J. J. McDermott
- 1 - Mr. W. L. Bailey
- 1 - Mr. R. P. Finzel

June 14, 1979

Mr. Philip D. Heyman
Assistant Attorney General
Criminal Division

John J. McDermott
Assistant to the Director-
Deputy Associate Director, FBI

- 1 - Mr. J. L. Tierney
- 1 - [redacted]

b6
b7C

UNAUTHORIZED DISCLOSURE OF
CLASSIFIED INFORMATION
(UNITED STATES V. L. PATRICK
GRAY, III, ET AL.)

W. MARK FELT

Reference is made to your memorandum dated April 25, 1979, requesting you be provided copies of 11 documents identified in the enclosure to the Director's memorandum of February 14, 1979, and to the Director's memorandum to you dated May 18, 1979, furnishing you one of the documents which had not been previously furnished to the Department.

On June 7, 1979, Mr. Francis J. Martin, of the Criminal Division, solicited copies of the other ten documents from a Special Agent of this Bureau. He desired these copies of the documents so he would be in a position to interview [redacted] of the Civil Rights Division, regarding the whereabouts of the Department's copies of the documents and the circumstances relating to their handling within the Department.

b6
b7C

I have instructed this Bureau's Security Officer to make available to Mr. Martin for review copies of the ten documents originally requested in your memorandum of April 23, 1979. so he will be in a position to effectively interview [redacted] However, I would appreciate your promptly abiding by the request set forth in the Director's memorandum dated May 18, 1979, that appropriate steps be taken to expedite the necessary action required by the Code of Federal Regulations.

b6
b7C

- 1 - Mr. D. Jerry Rubino
Security Officer
Department of Justice

DUPLICATE YELLOW

SEE NOTE PAGE 2

- 1 - Mr. A. L. Steel, Jr.
- 1 - 62-118045 (US v. Gray, et al.)
- 62-117792

62-118045-
NOT RECORDED
JUN 21 1979

DR:lfj
(11)

61 JUL 13 1979 Greenberg/Gray-6361

62-117792-150
ORIGINAL FILED IN

Mr. Philip B. Heymann
Assistant Attorney General
Criminal Division

NOTE: On 10/5/78, the Director delivered a memorandum to the Deputy Assistant Attorney General, Office of Legal Counsel, expressing concern regarding handling of national security information in this matter and requesting that the Department conduct a review to determine if there was a violation of criminal statutes or Federal regulations. Assistant Attorney General, Criminal Division, responded on 1/12/79, stating prosecution was inappropriate because the FBI did not follow Executive Order and Department regulations, attorneys received insufficient notice and used information in good faith, and there was a lack of criminal intent. The Director responded by furnishing a chronological summary of the continuing notice provided to the Department and requested an inquiry be conducted as required by the Code of Federal Regulations. A follow-up memorandum was forwarded on 4/3/79. Thereafter, by memorandum dated 4/23/79, Department requested copies of the documents already provided to them be again provided to assist them in replying to the issues raised by the Director. As it appears the Department is either unable to locate or has lost additional classified information, the matter was called to the attention of the Assistant Attorney General, Criminal Division, by memorandum dated 5/18/79 so that appropriate inquiries could be made in accordance with the Code of Federal Regulations. Ten of the 11 documents were not again furnished to the Department. Based on the request of Department Attorney Martin, we believe it is appropriate to allow him to review our copies of the documents he is unable to locate in Department of Justice files. Attached letter again reminds Department of its responsibilities in connection with the Code of Federal Regulations in this matter.

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 91

Page 59 ~ Duplicate;
Page 61 ~ Duplicate;
Page 63 ~ Duplicate;
Page 65 ~ Duplicate;
Page 67 ~ Duplicate;
Page 98 ~ OTHER;
Page 99 ~ OTHER;
Page 100 ~ OTHER;
Page 101 ~ OTHER;
Page 102 ~ OTHER;
Page 103 ~ OTHER;
Page 104 ~ OTHER;
Page 105 ~ OTHER;
Page 165 ~ b1;
Page 194 ~ b1;
Page 199 ~ OTHER;
Page 200 ~ OTHER;
Page 222 ~ OTHER;
Page 223 ~ OTHER;
Page 224 ~ OTHER;
Page 225 ~ OTHER;
Page 226 ~ OTHER;
Page 227 ~ OTHER;
Page 228 ~ OTHER;
Page 229 ~ OTHER;
Page 230 ~ OTHER;
Page 231 ~ OTHER;
Page 232 ~ OTHER;
Page 233 ~ OTHER;
Page 234 ~ OTHER;
Page 235 ~ OTHER;
Page 236 ~ OTHER;
Page 237 ~ OTHER;
Page 238 ~ OTHER;
Page 239 ~ OTHER;
Page 240 ~ OTHER;
Page 241 ~ OTHER;
Page 242 ~ OTHER;
Page 243 ~ OTHER;
Page 244 ~ OTHER;
Page 245 ~ OTHER;
Page 246 ~ OTHER;
Page 247 ~ OTHER;
Page 248 ~ OTHER;
Page 249 ~ OTHER;
Page 250 ~ OTHER;
Page 251 ~ OTHER;
Page 252 ~ OTHER;

Page 253 ~ OTHER;
Page 254 ~ OTHER;
Page 255 ~ OTHER;
Page 260 ~ OTHER;
Page 261 ~ OTHER;
Page 262 ~ OTHER;
Page 263 ~ OTHER;
Page 264 ~ OTHER;
Page 265 ~ OTHER;
Page 266 ~ OTHER;
Page 267 ~ OTHER;
Page 268 ~ OTHER;
Page 269 ~ OTHER;
Page 270 ~ OTHER;
Page 271 ~ OTHER;
Page 272 ~ OTHER;
Page 273 ~ OTHER;
Page 274 ~ OTHER;
Page 275 ~ OTHER;
Page 276 ~ OTHER;
Page 277 ~ OTHER;
Page 278 ~ OTHER;
Page 279 ~ OTHER;
Page 280 ~ OTHER;
Page 281 ~ OTHER;
Page 282 ~ OTHER;
Page 283 ~ OTHER;
Page 284 ~ OTHER;
Page 285 ~ OTHER;
Page 286 ~ b1;
Page 288 ~ b1;
Page 289 ~ OTHER;
Page 290 ~ OTHER;
Page 317 ~ OTHER;
Page 318 ~ OTHER;
Page 348 ~ OTHER;
Page 349 ~ OTHER;
Page 350 ~ OTHER;
Page 351 ~ OTHER;
Page 352 ~ OTHER;
Page 353 ~ OTHER;
Page 354 ~ OTHER;
Page 355 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 91

- Page 59 ~ Duplicate;
- Page 61 ~ Duplicate;
- Page 63 ~ Duplicate;
- Page 65 ~ Duplicate;
- Page 67 ~ Duplicate;
- Page 98 ~ OTHER;
- Page 99 ~ OTHER;
- Page 100 ~ OTHER;
- Page 101 ~ OTHER;
- Page 102 ~ OTHER;
- Page 103 ~ OTHER;
- Page 104 ~ OTHER;
- Page 105 ~ OTHER;
- Page 165 ~ b1;
- Page 194 ~ b1;
- Page 199 ~ OTHER;
- Page 200 ~ OTHER;
- Page 222 ~ OTHER;
- Page 223 ~ OTHER;
- Page 224 ~ OTHER;
- Page 225 ~ OTHER;
- Page 226 ~ OTHER;
- Page 227 ~ OTHER;
- Page 228 ~ OTHER;
- Page 229 ~ OTHER;
- Page 230 ~ OTHER;
- Page 231 ~ OTHER;
- Page 232 ~ OTHER;
- Page 233 ~ OTHER;
- Page 234 ~ OTHER;
- Page 235 ~ OTHER;
- Page 236 ~ OTHER;
- Page 237 ~ OTHER;
- Page 238 ~ OTHER;
- Page 239 ~ OTHER;
- Page 240 ~ OTHER;
- Page 241 ~ OTHER;
- Page 242 ~ OTHER;
- Page 243 ~ OTHER;
- Page 244 ~ OTHER;
- Page 245 ~ OTHER;
- Page 246 ~ OTHER;
- Page 247 ~ OTHER;
- Page 248 ~ OTHER;
- Page 249 ~ OTHER;
- Page 250 ~ OTHER;
- Page 251 ~ OTHER;
- Page 252 ~ OTHER;

Page 253 ~ OTHER;
Page 254 ~ OTHER;
Page 255 ~ OTHER;
Page 260 ~ OTHER;
Page 261 ~ OTHER;
Page 262 ~ OTHER;
Page 263 ~ OTHER;
Page 264 ~ OTHER;
Page 265 ~ OTHER;
Page 266 ~ OTHER;
Page 267 ~ OTHER;
Page 268 ~ OTHER;
Page 269 ~ OTHER;
Page 270 ~ OTHER;
Page 271 ~ OTHER;
Page 272 ~ OTHER;
Page 273 ~ OTHER;
Page 274 ~ OTHER;
Page 275 ~ OTHER;
Page 276 ~ OTHER;
Page 277 ~ OTHER;
Page 278 ~ OTHER;
Page 279 ~ OTHER;
Page 280 ~ OTHER;
Page 281 ~ OTHER;
Page 282 ~ OTHER;
Page 283 ~ OTHER;
Page 284 ~ OTHER;
Page 285 ~ OTHER;
Page 286 ~ b1;
Page 288 ~ b1;
Page 289 ~ OTHER;
Page 290 ~ OTHER;
Page 317 ~ OTHER;
Page 318 ~ OTHER;
Page 348 ~ OTHER;
Page 349 ~ OTHER;
Page 350 ~ OTHER;
Page 351 ~ OTHER;
Page 352 ~ OTHER;
Page 353 ~ OTHER;
Page 354 ~ OTHER;
Page 355 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Memorandum

TO : MR. BOYNTON *B*

DATE: 11/1

FROM : W. L. BAILEY *WB*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dnh/baw/sbs

SUBJECT: UNITED STATES VS.
MARK FELT; ET AL
DISCOVERY PROCEEDINGS -
TRIAL PREPARATION

Exec AD Adm.	_____
Exec AD Inv.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	<i>WB</i> ✓
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

The purpose of this memorandum is to advise concerning results of the Newark Office contact with the Newark, N. J., Police Department seeking permission to provide to defense, and ultimately use in open court, information provided by a highly confidential source of that department.

By way of background, John W. Niels, Jr., Special Prosecutor, U. S. Department of Justice, requested we contact the Newark Police Department to obtain permission to disclose to the defense in discovery, and ultimately at trial, information furnished by a highly confidential source of that department relative to the whereabouts of a Weatherman fugitive, [redacted].

The information indicated that [redacted] were aware of the whereabouts of [redacted]. In the eyes of Niels, this formed the basis for the break-in directed against [redacted]. Niels viewed this information as being essential to the defense and failure to obtain permission to disclose same for discovery and trial purposes may force the Department to dismiss the indictments.

The SAC, Newark, preliminarily contacted Hubert Williams, Director of Police, Newark, N. J., and asked whether the information could be used in accordance with the Department's request. Williams asked that a letter be directed to Captain [redacted], the former head of the Newark Police Department Intelligence Unit, who initially furnished the information to the FBI. He pointed out that it was unlikely there was any record in the department files containing this information, and that [redacted] would have to be contacted to determine whether

ORIGINAL

DEC 20 1979

- 1 - Mr. Boynton
- 1 - Mr. Mintz
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

62-118045

4-9

66 JAN 4 1980

SEE CID ADDENDUM PAGE 3



the information could be disclosed. [redacted] when contacted by ASAC Robert P. Wright, Newark Office, advised that he personally handled great volumes of intelligence information in his official capacity, some of which was disseminated to the FBI.

b6
b7C

[redacted] stated although he believes he knows the identity of the source, he cannot be certain. The source, according to [redacted] would be endangered by the release of the information. He requested that the information be protected from disclosure and that his prior request for confidentiality be honored. The above information has been furnished John W. Nields, Jr.

b6
b7C

We should anticipate the Department asking for our views as to whether to honor [redacted] request, since in the Department's view the information is essential in this matter. The Criminal Investigative Division would appear to be in the best position to assess what impact failure to honor that request might have. It is suggested the ultimate decision in this matter will be the Department's.

b6
b7C

RECOMMENDATION

That the Criminal Investigative Division review this matter in accordance with the above and submit their recommendation.

Ind

APPROVED:

Director _____
Exec. AD-Inv. *SP* _____
Exec. AD-Adm. *SP* _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. *JM* _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

WCB



4

ADDENDUM OF CRIMINAL INVESTIGATIVE DIVISION SLP:rar 11/16/79

The Criminal Investigative Division (CID) strongly believes that the FBI must honor [redacted] request for the continued confidentiality of his informant. A great deal of valuable information relating to FBI investigations is obtained from police departments and other state and Federal law enforcement agencies through the use of their confidential informants. When the information is supplied, it is clearly understood by both the giver and receiver that the source of the information will be protected, unless the contributing agency stipulates otherwise. If it were known that the FBI abrogated this principle, it could seriously curtail the receipt of information from other law enforcement agencies, upon whom we rely heavily.

b6
b7C

In addition to receiving valuable information through the confidential informants of other agencies, the FBI disseminates a great deal of our confidential informant information to these same police departments. When such dissemination is made, it is our clear understanding that they will not compromise our informants without our permission. There have been numerous incidents in which we have strenuously objected to the use of informant information by other law enforcement agencies in a manner which we believe would compromise our informants. The FBI has maintained our objections even though, in some instances, it has meant the termination of prosecutive action against the subjects of a particular case. Not honoring [redacted] request, therefore, would put us in a position of reversing our own longstanding policy.

b6
b7C



APPROVED:	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. <u>AM</u>	Plan. & Insp. _____
Director _____		Rec. Mgnt. <u>W.D./R/S</u>
Exec. AD-Inv. _____	Ident. _____	Tech. Servs. _____
Exec. AD-Adm. _____	Intell. _____	Training _____
Exec. AD-LES _____	Laboratory _____	Public Affs. Off. _____

Greenberg/Gray-6813

November 19, 1979
Joseph L. Tierney
Federal Bureau of Investigation

1 - Mr. Daly
1 - Mr. Tierney

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

John W. Nields, Jr.
Department of Justice

FEDERAL GOVERNMENT

Enclosed are Cover Pages A through C, and pages 1, 1A, 17 and 18 of FBI Report October 1, 1970, by Special Agent [redacted] at San Francisco, captioned [redacted] Security Matter - Anarchist.

b6
b7C

The foreign source information relevant to the foreign involvement issue appears on Cover Pages B and C.

The substitute information is included in the newspaper article on pages 17 and 18. The substitution does not cover the identical meeting as that furnished by the foreign source, but is the same type overseas contact with similar people. No substitute for the propaganda advice could be located.

Enclosure



JLT:tdp (5)
NOTE:

62-118045-233

Serial 100-451802-27, FBI Package 97, item 276.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Affs. Off. _____
- Off. of Cong. & Public Affairs _____
- Director's Sec'y _____

*Personally delivered
11/24/79 JS*

DEC 20 1979

CONFIDENTIAL MATERIAL ATTACHED

62-118045-233
NOV 27 1980

62-118045

MAIL ROOM

Greenberg/Gray-6814

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

- 1 - Mr. Colwell
- 1 - Mr. Boynton

DATE: 11/26/79

- 1 - Mr. Steel
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Bailey
- 1 - Mr. Finzel

- 1 - Mr. Daly
- 1 - Mr. Tierney

TO : Mr. Bailey *WLB*

FROM : J.L. Tierney *JLT*

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS/TRIAL PREPARATION

PURPOSE:

To advise of defense request to add unredacted documents to the vault, as provided for in the discovery order, and designation of the same documents for use at trial.

DETAILS:

By letter dated 11/23/79 (copy attached) attorneys for Edward S. Miller furnished the Department with copies of documents received by them during routine discovery. The defense requests these documents be placed in the vault in unredacted form under the new protective order, and designates the documents as needed for trial. The letter and copies were forwarded to us Friday 11/23/79 at approximately 4 p.m. *JML*

Several hundred documents were specified. They were reviewed Friday evening, Saturday and Sunday by both FBI and Department personnel. Many of the documents specified are already in the vault, or are already in the process of being placed in the vault.

Following review, there are less than 100 documents requiring new work. The documents appear to present no new issues not already discussed with the Intelligence Division. The principal impediment to compliance will be locating unredacted copies of the documents on such short notice. Mr. Niels computes the expiration of the five days as ~~COB~~ Wednesday, 11/28/79. Additional personnel will be assigned to meet the deadline.

62-118045-233X

6 JAN 24 1980

The defense request also specifies the same documents for use at trial, which requires separate classification review and processing action, but is not subject to the five-day deadline.

Enclosure

JLT:tdp (10) *JLT*

CONTINUED - OVER



Memorandum J.L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS/TRIAL PREPARATION

A meeting had been scheduled for Monday, 11/26/79, with Deputy Assistant Attorney General Robert Keuch to discuss trial preparation problems, including classification and source protection issues. The meeting was to have been attended by Messrs. Nields and Martin, Mr. Daly and myself, and Mr. Finzel as the Bureau's Document Classification Officer. This meeting will undoubtedly be postponed because of the death of Mr. Keuch's wife 11/22/79 and our mutual preoccupation with making the vault deadline.

Attorneys for W. Mark Felt designated a much larger group of documents for use at trial approximately 10 days ago. These documents have been identified by the Department but have not yet been furnished to us to begin work.

Bearing in mind the difficulty already encountered with the Newark Police Department source, and the Department itself not having designated any additional documents for use at trial since 4/78, Mr. Nields' observation that the time between now and the 1/2/80 trial date will be hectic, appears justified.

RECOMMENDATION:

None. For information.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <u>WUB</u>
Exec. AD-Adm. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

LAW OFFICES

~~SECRET~~

Diuguid, Siegel & Kennelly

One Thousand Connecticut Avenue, N. W.

Suite 1112

Washington, D. C. 20036

(202) 872-0700

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-16-2009

JOHN P. DIUGUID*
THOMAS L. SIEGEL
THOMAS A. KENNELLY

KARL W. PILGER*
ELIZABETH J. WEISBERG*

ALSO ADMITTED IN

*MD. John W. Nielsds, Jr., Esquire
Main Justice Building, Room 2304
U.S. Department of Justice
Washington, D.C. 20530

November 23, 1979

OF COUNSEL
HOWARD S. EPSTEIN
ROBERT T. WRAY

MARYLAND OFFICES

107 W. JEFFERSON ST.
ROCKVILLE, MD. 20850

3737 BRANCH AVENUE
HILLCREST HEIGHTS,
MARYLAND 20031

Re: United States v. Gray, Felt and Miller

Dear Mr. Nielsds:

Pursuant to paragraph (4) of the Supplementary Protective Order of November 5, 1979, we are enclosing herewith copies of redacted documents from the discovery files made available to us, for which we will need unredacted copies for probable use at trial. These consist of approximately 600 pages.

Please be advised that of the many thousands of redacted documents in the discovery files, we have carefully selected only those we are most likely to need at trial.

As we understand paragraph (4), you will within five days deliver the above documents to the court in unredacted form for the court's determination of our request for broader access to and use of the unredacted documents at trial.

It should be understood that this is not a complete list of documents we intend to use at trial, but only the redacted documents included under paragraph (4).

Paragraph (2) of the Supplementary Protective Order requires us to notify you within twenty days after November 5th of any documents covered by paragraph (1) to which we claim a right of broader access or use in unredacted form. However, those documents were not made available for viewing in the vault until November 13th. Therefore we have not yet completed our review. We expect to do so early next week and should have our paragraph (2) notification to you by November 30th.

62-118045-233x

~~SECRET~~

ENCLOSURE

Greenberg/Gray-6817

Dinguid, Siegel & Kennelly

②

John W. Nields, Jr., Esquire
November 23, 1979
Page 2

There are some additional discovery documents which have been made available for viewing only in the vault, but which you have not included in your paragraph (1) inventories. Of that group, we have selected the following for probable use at trial, in unredacted form unless otherwise indicated. We suggest you submit them to the court along with the paragraph (4) documents:

Handled by per [redacted] 12/30/79

- ① LPG-2-4 - *Div to N.Y, 6/21/68 2 pgs.* [redacted] (105-178669-10)
b6
- ② LPG-6-8
b7C
- 3. ✓ LPG-7-23
- ④ LPG-7-74
- ⑤ LPG-7-80
- ⑥ LPG-7-90 (as redacted in vault) (169-185)
U pgs
- ⑦ LPG-7-109
- ⑧ LPG-7-110 [redacted] b1
- ⑨ LPG-7-147 [redacted] (try 7-66)
- 10. LPG-7-166 [redacted]
- 11. ✓ LPG-7-193
- ⑫ LPG-8-13
- ⑬ LPG-8-16
- ⑭ LPG-8-42 [redacted] 2 LPG-7-54 b1
100-439048-3566
- ⑮ LPG-9-2 105-145696-2010
- ⑯ (LPG number cut off). Airtel Director (66-8160) to SAC, NY (66-8170) re surreptitious entries, 2/18/76 LPG-7-3.

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006
(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B COHEN
BRIAN P GETTINGS
DAVID E SHER
WILLIAM L STAUFFER, JR
JOANNE F ALPER
JAMES T DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*

November 30, 1979

*MEMBER VIRGINIA BAR ONLY **FEDERAL GOVERNMENT**

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Orfeo Trombetta, Esquire
Chief, Special Security Center
Room 6740
Department of Justice
Washington, D.C. 20530

Re: United States v. W. Mark Felt, et al.

Dear Mr. Trombetta:

We will need to serve subpoenas duces tecum on the Director of NSA and the FBI or their authorized representatives as custodians of records for their respective agencies. The "duces tecum" part of the subpoena, in order to be drafted with sufficient specificity, must of necessity refer to information which can only be discussed in the vault. Rather than have these subpoenas served through normal court channels, we would ask your assistance in arranging to have an appropriate representative of the Director of the two organizations referred to herein meet us in the vault so that personal service may be effected at that time and any questions that the recipient of the subpoena may have can be answered under secure circumstances. We would appreciate it if you would not communicate this request to government counsel. The subpoena in turn will be filed with the court under seal with the appropriate redactions to protect SCI information.

We thank you for whatever cooperation you can render in this matter. If service, as proposed in this letter, cannot be arranged, we will, of course, have no alternative but to issue the subpoena through normal channels which cannot, by their very nature, provide the appropriate safeguards for the information the government desires to protect.

Very truly yours,

Brian P. Gettings

Brian P. Gettings

Frank W. Dunham, Jr.
Frank W. Dunham, Jr.

62-118045-233x1

6 JAN 24 1980

4-5-80

FWD:lmt

57 FEB 1 1980

62-118045

Greenberg/Gray-6819

Date

ROUTING AND TRANSMITTAL

12-4-79

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials Date

1. [redacted] FBI

b6

2. JCF/ea

b7C

3. [redacted]

4. ALL FBI INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

5. DATE 04-16-2009 BY 65179 dmh/baw/sbs

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Per our conversation, the meeting is scheduled for 10:00 a.m. on Monday, December 10, 1979 in Room 6744, Main Justice.

Please note and comply with the underlined sentence in paragraph one of the attached letter.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

D. Jerry Rubino
Department Security Officer

Room No.—Bldg.

6744 - Main

Phone No.

633-2094

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.205

memorandum

DATE: November 28, 1979

REPLY TO: Francis J. Martin
ATTN OF: Criminal Division

FJM

FEDERAL GOVERNMENT

SUBJECT: United States v. Felt

W. Mark

TO: Joseph L. Tierney, FBI
Criminal Division

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 drh/baw/sbs

[redacted] the New York case agent on the Bookchin bag job, was interviewed yesterday. Your assistance in resolving two questions that arose during the interview is requested.

b6
b7C

1. The Bookchin bag job arose in connection with the [redacted] case. Please have New York determine when [redacted] case was assigned to [redacted].

b6
b7C

2. The information that prompted the Bookchin bag job was from an informant of the Washington Field Office. Please make the WFO informant file on [redacted] available for review.

b2
b7D

forwarded by WFO ASAC Duffin 12/3/79

Thanks

R/d. [redacted] 11/20/79

b6
b7C

NY 176-97

SAC Al Smith 12/8/79

*1. Copy of serial showing assignment to [redacted]
2. Any indication that Bookchin was prompted by [redacted] from 176 file or [redacted] file, if any.*

b2
b6
b7C
b7D

Re above, NY 176-97 at FBIHQ. Reviewed (copy) at NY by Supervisor [redacted] to trace connection between [redacted] info and bag job one year later. [redacted]

62-118045-233X2

5 FEB 26 1980

*ack: 2/21/80
JLT: tlp*

4-5



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

U.S. Government Printing Office: 1977-241-530/3474

Greenberg/Gray-6821

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

56 MAR 18 '80

Diuguid, Siegel & Kennelly

John W. Niels, Jr., Esquire
November 23, 1979
Page 3

Handled
by Da J
12/30/79

- 17. (LPG number obliterated). Airtel to Albany re Venceremos Brigade, 105-195696, date obliterated. *try LPG-9-3. 105-195696-3009*
- 18. Airtel 7/17/69 to SAC's NY, WFO, SF, CG from Director, re travel of U.S. citizens to Cuba. (As redacted in vault.) *(100-454734-1)*
- 19. Director (100-452121) to SAC NY (105-12905) 8/22/69 re [redacted] (As redacted in vault.) *(100-452121-8)*
- 20. Director to NY 11/29/67 re [redacted] North Vietnam. *(105-475019-2)*
- 21. 3 White House memoranda:
 - a. 12/19/74 Ford to AG
 - b. 2/ 3/77 Carter to AG
 - c. Carter to Vice President (Pres. Dir. NSC-19).

b6
b7C

IS b6
b7C

Sincerely,

DIUGUID, SIEGEL & KENNELLY

Thomas A. Kennelly
Thomas A. Kennelly
Attorney for Defendant Miller

cc: Chief Judge Bryant (w/o encl.)
Mr. Gettings (w/o encl.)
Mr. Baron (w/o encl.)

Greenberg/Gray-6822

November 28, 1979

Mr. Bailey *W.B.*

Felt, W. Mark

Attached are copies of the following correspondence on discovery/trial preparation issues:

my

1. Gettings 10/31/79 listing documents for trial (forwarded to FBI for action on 11/27/79).
2. Gettings 11/23/79 listing discovery documents for vault.
3. Kennelly 11/23/79 listing documents for both discovery and vault (furnished also with my 11/26/79 memo to you).
4. Department to Kennelly 11/26/79 re request for discovery in vault.
5. Department to both Kennelly and Gettings proposing a conference by 12/3/79 to identify documents and/or information required by the defense for trial.

(Handwritten mark)

J.L. Tierney

4-5-85

Enclosures

- 1 - Mr. Steel (Encs)
- 1 - Mr. Colwell (Encs)
- 1 - Mr. Boynton (Encs)
- 1 - Mr. Mintz (Encs)
- 1 - Mr. Bailey (Encs)
- 1 - Mr. Daly (Encs)
- 1 - Mr. Tierney (Encs)

APPROVED:

Director *[initials]*
 Exec. AD-Inv. *[initials]*
 Exec. AD-Adm. *[initials]*
 Exec. AD-LES *[initials]*

Adm. Serv. _____
 Crim. Inv. _____
 Ident. *[initials]*
 Intell. _____
 Laboratory *[initials]*
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WUB*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

5 ENCLOSURES

JLT/pcn
(8)

Rec'd [unclear]
[unclear]
 148 JAN 26 1981

62-118045
62-118045-233X3

15 JAN 14 1981

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6824

ENCLOSURE



62-118045-233X3

281(A)284, 282(A)319, 282(A)322, 283(A)328, 283(A)330, 283(A)331, 283(A)332, 283(A)338, 283(A)340, 283(A)341, 284(A)354, 284(A)357, 284(A)360, 284(A)363, 285(A)51, 285(A)52, 285(A)53, 285(A)54, 285(A)57, 285(A)58, 285(A)66, 286(A)376, 286(A)377, 286(A)380, 286(A)381, 286(A)386, 286(A)387, 286(A)388, 286(A)391, 286(A)397, 286(A)398, 287(A)424, 287(A)429, 287(A)435, 289(A)464, 289(A)465, 289(A)469, 290(A)488, 291(A)504, 291(A)514, 291(A)521, 292(A)532, 292(A)539, 292(A)541, 292(A)542, 292(A)543, 292(A)544, 292(A)545, 292(A)546, 292(A)547, 292(A)561, 292(A)566, 292(A)571, 292(A)584, 294(A)593, 295(A)615, 295(A)617, 295(A)620, 296(A)636, 296(A)638, 297(A)647, 297(A)648, 297(A)654, 299(A)673, 299(A)675, 299(A)677, 300(A)686, 300(A)691, 300(A)692, 300(A)695, 300(A)699, 300(A)701, 301(A)715, 301(A)720, 301(A)721, 301(A)724, 302(A)728, 302(A)732, 303(A)748, 303(A)752, 303(A)758, 304(A)761, 304(A)768, 304(A)775, 305(A)780, 305(A)795, 306(A)800, 306(A)801, 306(A)802, 307(A)812, 307(A)813, 307(A)820, 307(A)822, 307(A)823, 307(A)824, 307(A)825, 307(A)826, 307(A)827, 307(A)828, 307(A)829, 308(A)830, 308(A)831, 308(A)832, 308(A)833, 308(A)835, 308(A)841, 308(A)843, 308(A)845, 308(A)846, 309(A)847, 309(A)849, 309(A)851, 309(A)852, 309(A)855, 309(A)856, 310(A)866, 310(A)874, 311(A)889, 311(A)890, 311(A)891, 311(A)896, 311(A)898, 313(A)910, 313(A)923, 314(A)939, 314(A)940, 314(A)945, 315(A)953, 315(A)954, 315(A)961, 315(A)965, 316(A)1, 317(A)1, 317(A)5, 317(A)6, 317(A)20, 317(A)21, 317(A)23, 317(A)29, 317(A)30, 317(A)41, 317(A)60, 317(A)63, 317(A)64, 317(A)69, 317(A)70, 318A, 318B, 318C, 318D, 318E, 318F, 318G, 318H, 318I, 318J, 318K, 318L, 318M, 318N, 319(A)6, 320(A)2, 321(A)2, 321(A)14, 321(A)15, 321(A)16, 321(A)17, 321(A)19, 321(A)29, 321(A)31, 321(A)34, 321(A)46, 321(A)47, 321(A)52, 322(A)1, 322(A)3, 322(A)4, 322(A)5, 322(A)9, 322(A)10, 322(A)15, 322(A)18, 322(A)19, 322(A)20, 322(A)24, 323(A)1, 323(A)2, 323(A)3, file, 324(A)1, 324(A)3, 325, 326(A)2, 326(A)3, 326(A)30, 327, 328, 329(A)1, 330(A)4, 330(A)10, 330(A)11, 331(A)6, 331(A)7, 334(A)1, 334(A)2, 334(A)3, 334(A)4, 334(A)5, 334(A)6, 334(A)7, 334(A)8, 334(A)9, 334(A)11, 334(A)13, 334(A)15, 334(A)18, 335(A)12, 335(A)13, 335(A)16, 336(A)1, 336(A)3, 340(A)1,

b6
b7C

Memorandum

219(A) 129, 219(A) 130, 219(A) 131, 219(A) 132, 219(A) 135, 219(A) 137,
 219(A) 141, 219(A) 155, 219(A) 156, 219(A) 159, 219(A) 168, 219(A) 170,
 219(A) 188, 219(A) 195, 219(A) 200, 219(A) 216, 219(A) 223, 219(A) 226,
 219(A) 234, 219(A) 237, 219(A) 249, 219(A) 255, 219(A) 262, 219(A) 263,
 219(A) 275, 219(A) 283, 219(A) 290, 219(A) 302, 219(A) 314, 219(A) 321,
 219(A) 335, 219(A) 342, 219(A) 344, 220B, 220D, 220F, 220G, 220H, 220I,
 220J, 220K, 220M, 220(N) 3, 220(N) 4, 220(N) 6, 220(N) 7, 220(N) 8,
 220(N) 9, 220(N) 10, 220(N) 11, 220(N) 12, 220(N) 15, 220(N) 24, 220(N) 26,
 220(N) 31, 220(N) 32, 220(N) 36, 220(N) 37, 221, 221C, 221D, 221E, 221F,
 221G, 221L, 222, 224, 225(A) 2, 225(A) 3, 225(A) 4, 225(A) 5, 225(A) 6,
 225(A) 7, 225(A) 8, 225(A) 9, 225(A) 10, 225(A) 12, 225(A) 13, 225(A) 14,
 225(A) 15, 225(A) 16, 225(A) 17, 225(A) 19, 225(A) 20, 225(A) 22, 225(A) 24,
 225(A) 26, 225(A) 27, 225(A) 28, 225(A) 29, 225(A) 31, 225(A) 32, 225(A) 35,
 225(A) 43, 225(A) 45, 225(A) 46, 225(A) 49, 225(A) 50, 225(A) 51, 225(A) 52,
 225(A) 53, 225(A) 54, 225(A) 56, 225(A) 57, 225(A) 58, 225(A) 59, 225(A) 60,
 225(A) 61, 225(A) 62, 225(A) 63, 225(A) 64, 225(A) 65, 226, 227(A) 1, 227(A)
 227(A) 3, 227(A) 4, 227(A) 5, 227(A) 8, 227(A) 10, 227(A) 13, 227(A) 20,
 227(A) 21, 227(A) 22, 227(A) 23, 227(A) 25, 227(A) 26, 227(A) 29, 227(A) 32,
 227(A) 33, 227(A) 35, 227(A) 39, 227(A) 41, 227(A) 43, 227(A) 44, 228(A) 1,
 228(A) 2, 228(A) 3, 228(A) 6, 228(A) 9, 228(A) 10, 228(A) 12, 228(A) 13,
 228(A) 14, 228(A) 15, 228(A) 22, 228(A) 24, 228(A) 30, 228(A) 32, 228(B) 4,
 228(C) 1, 228(C) 2, 228(D) 7, 228(F) 3, 228(F) 10, 228(F) 12, 228(G) 32,
 228(G) 34, 228(H) 7, 228(H) 9, 228(J) 14, 228(J) 37, 228(J) 40, 228(K) 22,
 228(M) 4, 228(N) 6, 228(N) 19, 228(N) 38, 228(N) 40, 228(N) 43, 230F,
 230K, 230P, 230Q, 231B, 231C, 231F, 233(A) 5, 233(A) 7, 233(A) 18,
 233(A) 22, 233(A) 23, 233(A) 31, 233(A) 41, 233(A) 42, 233(A) 51, 233(A)
 233(A) 59, 233(A) 60, 238(A) 238B, 238C, 238D, 238E, 238F, 240A, 240
 240C, 240D, 241B, 241C, 241D, 241E, 241F, 241G, 241H, 241I, 241J,
 241K, 241L, 242B, 245B, 245D, 245E, 245O, 245Q, 246(A) 1, 246(A) 5,
 246(A) 11, 246(A) 16, 246(B) 1, 246(B) 2, 246(B) 3, 246(B) 5, 246(B) 7,
 246(B) 8, 246(C) 2, 247, 248(A) 1, 248(A) 5, 249(A) 2, 249(A) 5, 249(A)
 249(A) 8, 249(A) 10, 249(A) 11, 249(A) 12, 249(A) 13, 249(A) 14, 249(A) 16,
 249(A) 19, 249(A) 22, 249(A) 24, 249(A) 25, 249(A) 26, 249(A) 29, 250(A)
 250(A) 4, 250(A) 5, 250(A) 6, 250(A) 7, 250(A) 8, 250(A) 12, 250(A) 17,
 250(A) 19, 250(A) 20, 250(A) 21, 250(A) 22, 250(A) 25, 250(A) 28, 250(A)
 250(A) 33, 251(A) 5, 252(A) 1, 252(A) 2, 252(A) 5, 254B, 254C, 255C, 25
 256A, 257B, 258A, 258C, 259(A) 1, 259(A) 16, 259(A) 17, 259(A) 22, 260
 260(A) 31, 260(A) 32, 260(A) 33, 260(A) 34, 260(A) 35, 260(A) 36, 260
 260(A) 43, 261(A) 72, 261(A) 74, 261(A) 77, 261(A) 79, 261(A) 80, 261
 261(A) 93, 261(A) 95, 262(A) 2, 262(A) 5, 263(A) 11, 264(A) 1, 264(A) 3,
 264(A) 4, 264(A) 5, 264(A) 6, 264(A) 7, 264(A) 10, 265(A) 1, 265(A) 2,
 265(A) 3, 265(A) 4, 265(A) 5, 265(A) 6, 265(A) 7, 265(A) 8, 265(A) 9, 26
 265(A) 11, 265(A) 12, 265(A) 13, 265(A) 14, 265(A) 15, 265(A) 16, 265(A) 17,
 265(A) 18, 265(A) 19, 265(A) 20, 265(A) 21, 265(A) 22, 265(A) 23, 265(A) 24,
 265(A) 25, 265(A) 26, 265(A) 27, 265(A) 28, 265(A) 29, 265(A) 30, 265(A) 31,
 265(A) 32, 265(A) 33, 265(A) 34, 265(A) 35, 265(A) 36, 267B, 268(A) 1,
 268(A) 2, 268(A) 6, 268(A) 7, 268(A) 8, 268(A) 9, 268(A) 13, 268(A) 14,
 268(A) 16, 268(A) 17, 268(A) 18, 268(A) 23, 268(A) 24, 268(A) 27, 268
 268(A) 30, 268(A) 34, 268(A) 37, 268(A) 37a, 268(A) 38, 268(A) 40, 26
 268(A) 45, 270(A) 1, 270(A) 6, 270(A) 8, 272A, 273(A) 116, 275(A) 149,
 276(A) 185, 278(A) 215, 278(A) 218, 278(A) 221, 278(A) 226, 278(A) 228,
 279(A) 231, 279(A) 232, 279(A) 234, 279(A) 235, 279(A) 239, 279(A) 240,
 279(A) 241, 279(A) 242, 279(A) 243, 280(A) 253, 280(A) 254, 280(A) 255,
 280(A) 256, 280(A) 259, 280(A) 260, 280(A) 263, 280(A) 264, 280(A) 265,
 280(A) 267, 280(A) 268, 280(A) 269, 280(A) 270, 281(A) 275, 281(A) 276,

PRELIMINARY LISTING OF DOCUMENTS TO BE USED AT TRIAL

- 71, 78, 80a, 80d, 80e, 80L, 81a, 81b, 82b, 83, 84cc, 85a, 85b, 85c, 85e, 85f, 85g, 85h, 85k, 85L, 86, 87, 88, 89, 90, 94, 95, 98, 99, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 118, 119, 120, 125, 127, 128, 133, 134, 135, 136, 137, 139, 140, 143, 144, 145, 146, 151(A)2, 151(A)4, 151(A)7, 151(A)8, 152(A)1, 152(A)2, 152(A)3, 152(A)4, 152(A)5, 152(A)6, 152(A)7, 152(A)8, 152(A)9, 152(A)12, 152(A)21, 152(A)23, 152(A)36, 152(A)46, 153(A)8, 153(A)19, 153(A)25, 153(A)28, 153(A)31, 153(A)34, 153(A)35, 153(A)39, 153(A)48, 153(A)56, 153(A)58, 153(A)59, 153(A)66, 153(A)83, 153(A)104, 156A, 156D, 156F, 160A, 162A, 164A, 166B, 166C, 166E, 166F, 167A, 167B, 168A, 171A, 173A, 173I, 175A, 175F, 175G, 175H, 175J, 175L, 176A, 176B, 176C, 176D, 176G, 176H, 176I, 186, 187, 188, 189, 191B, 192, 196, 197, 198, 202, 206, 207, 209, 209(A)2, 209(A)3, 209(A)9, 209(A)11, 209(A)12, 209(A)15, 209(A)18, 209(A)19, 209(A)20, 209(A)21, 209(A)23, 209(A)24, 209(A)25, 209(A)26, 209(A)31, 209(A)33, 209(A)34, 209(A)44, 209(A)50, 209(A)52, 209(A)53, 209(A)55, 209(A)59, 209(A)61, 209(A)62, 209(A)63, 209(B)1, 209(B)2, 209(B)3, 209(B)4, 209(B)5, 209(B)6, 209(B)8, 209(B)9A, 209(B)10, 209(B)11, 209(B)15, 209(B)17, 209(B)18, 209(B)21, 209(B)24, 209(C)7, 209(C)13, 209(C)16, 209(C)27, 209(D)3, 209(D)10, 209(D)12, 209(D)13, 209(D)15, 209(D)28, 209(D)29, 209(D)30, 209(D)31, 209(D)32, 209(D)33, 209(D)39, 209(E)2, 209(F)1, 209(F)2, 209(F)3, 209(F)9, 209(F)17, 209(F)18, 209(F)20, 209(F)24, 209(F)26, 209(F)30, 209(F)31, 209(F)38, 209(F)39, 209(F)42, 209(F)43, 209(F)44, 209(F)46, 209(G)2, 209(G)3, 209(G)4, 209(G)5, 209(G)9, 209(G)12, 209(G)13, 209(G)14, 210, 214(B)66, 216(A)1, 216(A)2, 216(A)4, 216(A)7, 216(A)8, 216(A)11, 216(A)12, 216(A)22, 216(A)23, 216(A)30, 216(A)38, 216(A)39, 216(A)44, 216(A)46, 216(A)47, 216(A)54, 216(A)61, 216(A)68, 216(A)79, 217B, 217D, 218(A)2, 218(A)3, 218(A)6, 218(A)9, 218(A)12, 218(A)14, 218(A)16, 218(A)19, 218(A)21, 218(A)22, 218(A)23, 218(A)25, 218(A)27, 218(A)31, 218(A)39, 218(A)40, 218(A)41, 218(A)44, 218(A)46, 218(A)47, 218(A)50, 218(A)51, 218(A)52, 218(A)53, 218(A)54, 218(A)55, 218(A)58, 218(A)59, 218(A)66, 218(A)67, 218(A)68, 218(A)69, 218(A)71, 218(A)73, 218(A)74, 218(A)75, 218(A)76, 218(A)78, 218(A)79, 218(A)80, 218(A)81, 218(A)82, 218(A)84, 218(A)85, 218(A)87, 218(A)89, 218(A)92, 218(A)93, 218(A)94, 218(A)98, 218(A)102, 218(A)103, 218(A)104, 218(A)107, 218(A)108, 218(A)112, 218(A)117, 218(A)118, 218(A)121, 218(A)122, 218(A)123, 218(A)125, 218(A)126, 218(A)129, 218(A)130, 218(A)134, 218(A)135, 218(A)137, 218(A)140, 218(A)141, 218(A)142, 218(A)143, 218(A)145, 218(A)148, 218(A)149, 218(A)151, 218(A)152, 218(A)153, 218(A)154, 218(A)155, 218(A)156, 218(A)157, 218(A)158, 218(A)159, 218(A)161, 218(A)164, 218(A)165, 218(A)167, 218(A)169, 218(A)172, 218(A)173, 218(A)174, 218(A)178, 218(A)182, 218(A)185, 218(A)190, 218(A)193, 218(A)198, 218(A)199, 218(A)203, 218(A)205, 218(A)210, 218(A)218, 218(A)222, 218(A)224, 218(A)226, 218(A)227, 218(A)228, 218(A)229, 218(A)230, 218(A)232, 218(A)235, 218(A)239, 218(A)240, 218(A)243, 219(A)1, 219(A)7, 219(A)9, 219(A)12, 219(A)14, 219(A)27, 219(A)36, 219(A)43, 219(A)45, 219(A)46, 219(A)50, 219(A)54, 219(A)60, 219(A)79, 219(A)89, 219(A)92, 219(A)102, 219(A)103, 219(A)117,

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

202 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
703 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAFFIER, JR.
JULIANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
WALLACE H. KLEINDIENST
*MEMBER 1992 VIA BAR ONLY

October 31, 1979

John W. Nields, Jr., Esq.
F.B.I. Task Force
Department of Justice
Room 2304, Main
Washington, D.C. 20530

Dear John:

This responds to your letter of October 26, 1979 to Frank Dunham concerning our designation of documents that we intend to use at trial. I do not believe we ever agreed to make such a designation this far in advance of trial but, so long as the limitations on what we are now designating are understood, there is no harm in our view in giving you a preliminary listing. As of this date we believe we will rely in our case-in-chief on the documents set forth hereinafter. Most certainly as time goes on there will be numerous additions to this list and there will likely be a few deletions from it. In other words, this is strictly preliminary and by no means final. We expect that eventually we will be able to use these in totally unredacted form. Using your numbering system the documents are as set forth on the attached.

Very truly yours,

LEONARD, COHEN, GETTINGS & SHER

Brian P. Gettings
Brian P. Gettings

BPG:kw
Attachment

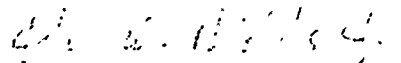
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 drh/baw/sbs

Greenberg/Gray-6828

that under no circumstances should the Government's inability to make all classified proof available to you in exactly the form you desire result in a dismissal of the Indictment. It is incumbent upon all of us, therefore, to find a way of putting the information you wish to place before the jury in an appropriate form for trial.

I look forward to hearing from you.

Very truly yours,



John W. Nields, Jr.
Special Counsel
Criminal Division

cc: Chief Judge Bryant

II.

I believe it is in your interest, the Government's interest and the Court's interest for us to go through the tedious process of attempting together to identify and resolve the classification problems pre-trial and to narrow the issues which need to be resolved by the Court.

As you know, it is the Government's position, supported by the law of this Circuit, that the thorough search of the home and papers of a citizen of the United States without a warrant (and without specific approval of the Attorney General) is and has always been a clear violation of the Fourth Amendment to the United States Constitution;*/ and that the number two and number three men at the nation's leading law enforcement agency are responsible for knowing such clear constitutional rules.**/ Since we can prove without any remote reference to classified material, and indeed since your clients have formally admitted, that they authorized a series of searches without warrants (or Attorney General authorization) of the homes of friends and relatives of certain Weatherman fugitives, we assert that there is no "mistake of law" defense available to Felt and Miller in this case.

We have not taken the position that the absence of any defense in this case should preclude you from offering certain evidence in the nature of excuse, mitigation or absence of responsibility to the jury and indeed we will find an unclassified form for much of the information you wish to put before the jury.***/ We do emphatically take the position, however,

*/United States v. Ehrlichman, 546 F.2d 910 (D.C. Cir. 1975).

**/Of course we also believe we can prove to a certainty that Miller and Felt in particular and the FBI in general knew that "bag jobs" on United States citizens were clearly illegal.

***/Of course, there are still some areas of proof which we will categorically contend are irrelevant and inadmissible and to which we will object at trial. It is not the purpose of the proposed meeting to discuss such areas of proof. The sole purpose is to identify exactly what information you wish to put before the jury so that our declassification task will be manageable.

documents which are cumulative, some which are not evidentiary and some which are unrelated to any issue previously raised by the defense. Indeed, Mr. Gettings has indicated that the list will probably be substantially shortened as he focusses more closely on the trial.

Moreover, some documents contain many pieces of information with classification problems but only one piece which will be of use to you at trial. If the Government attempted to resolve every classification issue raised in these 1,000 documents, without knowing if the information to which the problem relates will ever be used at trial, the trial would be inevitably and unnecessarily delayed. In addition, after the Government reached a solution to each such classification problem, the Court would be overwhelmed with an excessively and unnecessarily burdensome task of determining in each instance whether the resolution was satisfactory.

Accordingly, I suggest that Government counsel and counsel for Felt and Miller meet as soon as you are ready to do so, and no later than December 3, 1979, so that you may identify with further specificity the information, contained in the 1,000 documents or any other documents, which you wish to use at trial. Presumably this would include information concerning the national security threat posed by the Weatherman Organization, any transactions you rely on for your claim that the Weatherman are agents of a foreign power, information showing outside pressure on the FBI to catch the Weatherman fugitives, information tending to show that higher officials outside the FBI wanted it to engage in illegal entry or at least were aware that the FBI did illegal entries, information tending to show that Acting Director Gray authorized the illegal entries charged in the indictment and was therefore a member of the conspiracy, information tending to minimize Felt and Miller's responsibility for the illegal entries charged in the indictment, and other propositions in support of your "mistake of law" defense.

When the information you wish to use at trial is more narrowly identified, we can immediately begin the task of putting it in unclassified form for trial. Any disputes which arise over whether the form is satisfactory will then be brought before the Court in a focussed and manageable form.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Address Reply to the
Division Indicated
and Refer to Initials and Number

JWN:ams
CRIM

November 26, 1979

Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Felt, et al.

Dear Sirs,

I am writing to suggest a meeting among counsel for the Government and counsel for Felt and Miller to take place no later than December 3, 1979, as part of the process of putting the information contained in classified discovery documents into unclassified form for trial.

I.

I have indicated several times, e.g., in my letters dated July 16, 1979, and October 26, 1979, that the Government is ready to put into unclassified form for trial the information contained in the discovery documents which you wish to put before the jury. There can be no dispute over what information is - it is all contained in documents to which we all have access. Substantially all of it which will be of use to the defense can be put into unclassified form. However, the task of putting the facts in a form that protects the sources and methods of intelligence gathering is a very time consuming one - as I have previously indicated. It is for this reason that I requested by letters dated July 16, 1969, and October 26, 1969, that you each designate those documents which contain information which you wish to use at trial.

I now have Mr. Gettings' preliminary list of such documents by letter dated October 31, 1979. The list contains approximately 1,000 documents, some of many pages, the majority of which contain at least some classified information. The list appears to me to be excessive. It appears to contain some

Greenberg/Gray-6832

~~SECRET~~

- 7 -

- ✓ 125. Letter; Dir. to Attorney General; DOJ Policy on ELSER & SE; (2)
2/19/74
- ✓ 126. Memo; Kelley to Callahan; Meeting in Office of President; 12/20/74
- 127. Memo; Hansinger to Walsh; Edward S. Miller; former A-D, DAD
(permanent brief); 2/6/75
- 128. Insert; for Mr. Adams; SE ("Black Bag" Jobs); (accomplishments
in past); 6/19/75
- ✓ 129. Letter; Dir. to Assistant Attorney General; SE; 9/3/75
- ✓ 130. LHM (w/encl.); SE; 9/3/75
- 131. Letter; Dir. to Assistant Attorney General; SE; 1/7/76
- 132. LHM (w/encl.); SE; 1/7/76
- 133. Letter; Dir. to Assistant Attorney General; SE; 8/18/76
- 134. LHM (w/encl.); (Long for Gardner); Headquarters Review)
(DOJ file cabinet #13) (2 encl listed separately); 9/2/76
- 135. Memo (DOJ); Hoerber to File; Interview with William Branigan;
8/25/77
- ✓ 136. Memo; Peterson to Leavitt, Electronic Surveillance; 9/9/77
- ✓ 137. Letter (encl 5/27/72; Miller to Gray); Ryan to Boucher;
Surreptitious Entry; 4/5/78

Greenberg/Gray-6833

~~SECRET~~

~~SECRET~~

6 -

- ✓ 102. Memo; Smith to Miller; PFIAB; 11/27/72
- ✓ 103. Memo; Smith to Miller; PFIAB; 11/30/72
- ✓ 104. Memo; Miller to Felt; PFIAB; 12/1/72 (2)
- ✓ 105. Memo; Miller to Felt; PFIAB; 12/1/72 (2)
- ✓ 106. Memo; Miller to Felt; PFIAB; 12/11/72
- ✓ 107. Memo; Vermeersch to SAC, New York; Bag Job; 12/11/72; 12/20/72; 3/8/72
- 108. Memo; Walters to Felt; Inspection - DID 8/18-9/1/72; 12/12/72
- 109. Letter; Dir. to Miller, no subject; (re: recent DID inspection); 12/13/72
- 110. Memo (w/encl.); Miller to Felt; HRCENT Study PFIAB; 1/8/73
- 111. Memo; Miller to Felt; Meeting with Attorney General; 1/10/73
- ✓ 112. Memo; Gregor to Miller; _____MUN; 1/12/73
- ✓ 113. Memo; Putman to Miller; _____MUN; 4/12/73
- 114. Letter; Dir. to Cox; Alleged Illegal Activities of Interest to the Special Prosecutor's Office; 7/3/73.
- ✓ 115. Memo; Putman to Miller; _____MUN; 7/5/73
- ✓ 116. Memo; Smith to Miller; Dissem of Info to SP, Watergate SPF; 8/22/73
- ✓ 117. Memo; Smith to Miller; Dissem. of Info to SP, Watergate SPF; 8/29/73
- 118. Memo; Petersen to Director; [] Watchlist; 9/7/73
- ✓ 119. Letter; Dir. to Attorney General; [] Watchlist; 9/10/73
- ✓ 120. Memo; Smith to Miller; Procedures [] Watchlist; 9/25/73
- 121. Memo; Attorney General to Dir.; Requests by FBI - [] Watchlist; 10/1/73
- 122. Letter; Director to NSA; [] -Watchlist; 9/26/73
- 123. Position Paper; Surveys, Projects and for Intensification Programs 10/23/73
- ✓ 124. Letter; Dir. to Attorney General; DOJ Policy on ELSUR and SE; (2) 2/19/74

b6
b7C

~~SECRET~~

Greenberg/Gray-6834

~~SECRET~~

- 5 -

80. Airtel; Acting Director to SAC, Albany; Revolutionary Activities; 7/13/72
81. Memo; Gray (Dir) to Felt; Weatherman; 7/18/72
82. Memo; Cleveland to Felt; (Foreign Source); 7/21/72
- ✓ 83. Memo; Shackelford to Miller; SDS; 7/21/72
84. Teletype; Dir. to Albany, et al.; SDS; 7/24/72
- ✓ 85. "Position Paper"; Thomas J. Smith; Domestic Intelligence Division; Scope of _____; 7/31/72
86. Memo; Moore to Miller; Foreign Influences; 8/11/72
87. Teletype; Dir. to Alexandria, et al.; Al Fatah; 9/7/72
88. Memo; Decker to Miller; Internal Security - Middle East; 9/20/72
89. Memo; Decker to Miller; Meeting of Interagency Group on Protection Against Terrorism in the Unites States; 9/29/72
90. Notes (handwritten); L.P. Gray, III to _____; no subject; (meeting with "CW" Felt-Miller); 10/3/72
91. Memo; Decker to Miller; CCCT; 10/6/72
92. Memo; Cregor to Miller; CCCT; 10/10/72
93. Memo; Cregor to Miller; CCCT; 10/13/72
94. Memo; Cregor to Miller; CCCT; 10/17/72
95. Memo; Cregor to Miller; CCCT; 10/19/72
96. Memo; Cregor to Miller; CCCT; 10/25/72
- ✓ 97. Memo; Cregor to Miller; CCCT; 10/30/72
98. Memo; Smith to Miller; CCCT; 10/31/72
- ✓ 99. Memo; Cregor to Miller; CCCT; 10/31/72
- ✓ 100. Memo; Branigan to Miller; Humint PFIAB; 11/10/72
101. Memo; Shackelford to Miller; Weatherman; 11/16/72

Greenberg/Gray-6835

~~SECRET~~

~~SECRET~~

- 4 -

b6
b7C

66. Teletype; ; Dir., FBI to Dir. CIA; [redacted] 8/26/71 (2)
67. Memo; Ponder to Tolson; Insp.- DID, 8/17-9/9/71; 9-27-71
68. Photo; personnel file; Edward S. Miller; 9/27/71
69. Letter; Dir. to Miller; no subject (re: inspection); 9/28/71
- ✓70. Memo; Wannall to Miller; MUN; 10/21/71
71. LHM; New York; [redacted] 11/7/71
72. Airtel; Dir. to SAC, New York; [redacted]; 2/23/72 b6
b7C
73. Memo; Shackelford to Miller; 3/27/72
- ✓74. Memo; Miller to Rosen; PFIAB; 4/6/72
- ✓75. Memo; Shackelford to Miller; VB; 4/28/72 (2)
- ✓76. Memo; Shackelford to Miller; VB; 4/28/72 (2)
77. Airtel; Director to SAC, Albany; VB; 5/4/72
78. Airtel; Dir. to SAC, Albany; VB; 5/4/72
71. Airtel; SAC, Philadelphia to Acting Director; [redacted] 5/5/72
72. Memo; Shackelford to Miller; Weathfug; 5/8/72 b6
73. Memo; Shackelford to Miller; [redacted] (fugitive); 6/8/72 b7C
74. Memo; Shackelford to Miller; Weathfug; 6/12/72
75. Memo; Engelstad to Cleveland; Weathfug; 6/23/72
76. Agenda; Agenda for Conference at FBI Headquarters on Weatherman; 6/22/72
77. Insert; Desired recommendations which may result from Weatherman Conference; 6/22/72
78. Notes (handwritten); L.P. Gray, III; no subject; (meeting with Sullivan); 7/6/72
79. Airtel; Acting Director to SAC, Albany; Revolutionary Activities; 7/12/72

Greenberg/Gray-6836

~~SECRET~~

39. Memo; SAC, Chicago to Director; SDS; 12/1/69
41. Letter (w/attachments); Hoover to Kissinger; SDS; 1/2/70
42. Letter; Hoover to ?; SDS; 1/21/70 (2)
43. Letter; Hoover to ?; SDS; 1/21/70 (2)
46. LHM; HQ; VB; 2/26/70
- ✓ 47. Memo; Hayes to Sullivan; New Left; 3/6/70
48. Report; New York; Michamin; 3/30/70
- ✓ 49. Memo; Wannall to Sullivan; MUN; 2/28/70
- ✓ 50. Letter; Hoover to President; New Left Kidnappings; 8/17/70 (2)
- ✓ 51. Letter; Hoover to SACs; New Left Kidnappings; 8/17/70
- ✓ 52. Letter; Hoover to President; New Left Kidnappings; 8/17/70 (2)
- ✓ 53. Letter; Dir. to Attorney General; New Left Kidnappings; 8/17/70
54. [REDACTED] b1
55. Report; Chicago; [REDACTED]; 4/15/71^{b6}_{b7C}
56. Memo; Brennan to Sullivan, Increased Utilization of ELSUR in Intelligence and Security Investigations; 7/18/71
- ✓ 57. Airtel; New York to Dir.; MUN; 7/22/71
- ✓ 58. LHM; New York; MUN; 7/22/71 (2)
- ✓ 59. LHM; New York; MUN; 7/22/71 (2)
60. LHM; New York; Foreign Influence; 8/20/71
61. Airtel; Dir., FBI to SAC, New York; Foreign Influence; 8/23/71 (3)
62. Airtel; Dir., FBI to SAC, New York; Foreign Influence; 8/23/71 (3)
63. Airtel; Dir., FBI to SAC, New York; Foreign Influence; 8/23/71 (3)
64. Teletype; ; Dir., FBI to Dir. CIA; [REDACTED] 8/26/71 (3)
65. Teletype; ; Dir., FBI to Dir. CIA; [REDACTED] 8/26/71 (3)

b6
b7C

21. Memo; Belmont to Boardman; subject excised (incentive award to B.J.); 9/16/59
22. Letter; Director to SAC, New York; Esp.; 7/22/66
- ✓ 23. Memo; Sullivan to DeLoach; Intelligence Operations; 2/15/68
- ✓ 24. Memo; Brennan to Sullivan; PFIAB; 3/19/68
- ✓✓ 25. Memo; Kearney to SAC, New York; Bag Jobs; 3/21/68; 3/21/68; 4/2/68; 5/16/68; 5/16/68; 5/22/68; 5/28/68; 5/30/68; 6/12/68
- ✓ 26. LHM; Miami; SDS; 3/21/68
27. Report; Chicago; SDS; 11/8/68
- ✓ 28. Letter; Dir. to SAC, Albany; New Left - Foreign Influence; 4/15/69
- ✓✓ 29. Memo; Hoover to Tolson, et al.; President (telephone conv.); 4/23/69 (2)
- ✓✓ 30. Memo; Hoover to Tolson, et al.; President (telephone conv.); 4/23/69 (2)
31. Position Paper; Foreign Support for Revolutionary; 6/30/69
32. Letter; Director to Huston; Foreign Communist Support; 7/1/69
33. Report; Chicago; ; 8/14/69 ^{b6}
_{b7C}
- ✓ 34. Memo & LHM; SAC, Chicago to Dir.; Ad Hoc Committee; 8/29/69
- ✓ 35. Letter; PFIAB to Dir.; no subject (re: for influ in NL); 10/31/69
- ✓ 36. Memo; Brennan to Sullivan; New Left - Foreign Influence; 11/3/69
- ✓ 37. Letter; Dir. to SAC, Albany; New Left - Foreign Influence; 11/4/69
38. Memo; Cotter to Sullivan; SDS; 11/6/69
- ✓ 39. Memo; Brennan to Sullivan; Foreign Support for Revolutionary Protest Movements in the United States; 11/6/69
40. Letter; Dir. to PFIAB (Hoover to Coyne); no subject; (for support of protest groups); 11/7/69
41. Position Paper; Foreign Support for Revolutionary; 11/21/69

~~SECRET~~

- ✓ 1.. Insert; T.J. Smith; Microphone Surveillances; undated
- ✓ 2. Insert; Internal Constraints; undated
- ✓ 3. Insert; Reason^{er} Number 7; undated
- ✓ 4. Insert; Ruckelshaus Number 7; undated
5. Insert; Personnel File Summary; Edward S. Miller; 11/27/50-forward
- ✓ 6. Letter; Dir. to AG; subject excised (results of) 11/9/54
7. Memo; San Fran. to Dir.; subject excised (commendation for B.J.)
4/6/56
8. Letter; San Fran. to Dir.; Rec for Incentive Award; Edward S.
Miller; 10/2/56
9. Letter; San Fran. to Dir.; subject excised (commendation for B.J.)
10/2/56
10. Letter; San Fran. to Dir.; subject excised (incentive award for
B.J.); 2/18/57
11. Letter; San Fran. to Dir.; Rec for Incentive Award; Edward
S. Miller; 6/18/57
12. Letter; San Fran. to Dir.; subject excised (incentive award
for B.J.); 6/18/57
13. Letter; San Fran. to Dir.; subject excised (incentive award
for B.J.); 9/10/57
14. Memo; Fletcher to SAC; San Fran. - [excised] (incentive for
B.J.); 2/5/58
15. Letter; San Fran. to Dir.; Edward S. Miller; 3/10/58
16. Memo; Edwards to Mohr; Edward S. Miller (incentive award) 4/3/58
17. Letter; Hoover to Miller; no subject (commendation) 6/6/58
18. Letter; San Fran. to Dir.; subject excised (commendation for
B.J.); 7/22/58
19. Letter; Hoover to Miller; no subject (commendation letter)
8/1/58
20. Memo; Edwards to Mohr; Supervisory Organization; San Francisco
Division; 8/20/58

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-16-2009

~~SECRET~~

Greenberg/Gray-6839

over classified documents for trial until counsel have made an effort to narrow and solve as many such issues as possible.

I am sending to both you and Mr. Gettings a letter of today's date addressing the issue of trial proof suggesting a meeting among counsel on December 3, 1979. I urge you by then to have identified information in the discovery documents which you actually wish to introduce at trial, so that the Government's declassification task may become manageable and the task of the Court in resolving any disputes between us also becomes manageable.

Sincerely,

John W. Nields, Jr.

John W. Nields, Jr.
Special Counsel
Criminal Division

cc: Brian P. Gettings, Esq. w/attachments
Chief Judge Bryant w/ attachments

the weekend, we have sorted out your documents and made an inventory which I have attached. The documents which are checked were already in the vault in unredacted form. The ones with two checks have actually been sent to you in unredacted form. The Claim of Privilege document is marked with three checks. The remainder will be placed in the vault by the end of the day Friday, November 30, 1979, as required by the Order. See Fed. R. Crim. P. Rule 45(a).^{*} Should any small portion of these documents require some redaction even in the vault, they will of course be delivered to the Court by Friday. The documents listed in your letter but not attached will be handled in a similar fashion.

In addition to the documents which you have attached to your letter, I have, as I represented in my letter of September 13, 1979, gone through the discovery documents from the substantive files on the Weathermen and identified those redactions which relate to "foreign involvement" or other issues you have previously identified as being of interest to you. The documents containing those redactions will also be placed in the vault in unredacted form on Friday, November 30, 1979. Finally, a review of the discovery documents has turned up a few additional redactions in non-Weatherman files. Substantially all of these documents will also be placed in the vault in unredacted form by Friday, November 30, 1979. Any remaining redactions in such documents will, of course, be shown to the Court. Accordingly, by Friday, November 30, 1979, you should have access to all materials, including those relating to the Weatherman, which are properly discoverable.

II.

Your letter indicates that you will probably want to use the documents attached and others to be identified later at trial. The effort at putting the information you wish to use at trial into unclassified form is, as has been noted by all of us and by the Court, an effort very different from the effort to make information available to you classified or unclassified as discovery. We should avoid burdening the Court with disputes

*/Where you delivered to us more than one copy of the same document the number (2) or (3) as the case may be appears after the document on the inventory.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Address Reply to the
Division Indicated
and Refer to Initials and Number

JVN:ams
CRIM

November 26, 1979

Thomas A. Kennelly, Esquire
Diuguid, Siegel & Kennelly
1000 Connecticut Avenue, N.W.
Washington, D.C. 20036

Re: United States v. Felt, et al
Cr. 78-000179

Dear Mr. Kennelly,

I.

I have your letter of November 23, 1979, in which you state that you enclose redacted documents pursuant to paragraph 4 of the Supplementary Protective Order (the Order) of November 5, 1979. The documents should, according to the Order, have been redacted documents which have not been placed in the vault in unredacted form by the Government pursuant to the Order, and which you would like to obtain greater access to - i.e., see in unredacted form.

A brief review of the documents attached to your letter revealed that many of them have already been placed in the vault in unredacted form pursuant to the Order, some have actually been delivered to you in unredacted form, and one is the subject of a Claim of Privilege and is before the Court already. The task of determining which of the documents attached to your letter have already been seen by you in unredacted form was made considerably more difficult by the fact that you supplied us with no inventory, the documents were in no particular order, some documents consisting of several pages were unstapled while other which were stapled included more than one document, and sometimes the same documents appeared two or three times in different places in your package. Over

Greenberg/Gray-6842

REQUESTED DOCUMENTS TO BE PLACED IN VAULT

31A, 83, 134, 136, 153(A)25, 153(A)28, 153(A)31, 153(A)34, 153(A)35,
153(A)39, 153(A)56, 153(A)58, 153(A)59, 153(A)83, 153(A)104, 153A,
176G, 176H, 209(A)9, 209(A)20, 209(A)51, 209(A)59, 209(D)13, 209(D)15,
216(A)44, 216(A)54, 216(A)61, 216(A)79, 218(A)19, 218(A)40, 218(A)71,
218(A)71, 218(A)73, 218(A)74, 218(A)75, 218(A)81, 218(A)82, 218(A)84,
218(A)103, 218(A)104, 218(A)107, 218(A)117, 218(A)122, 218(A)130,
218(A)141, 218(A)145, 218(A)145, 218(A)149, 218(A)156, 218(A)161,
218(A)164, 218(A)167, 218(A)205, 218(A)228, 218(A)235, 218(A)239,
220K, 220(N)4, 220(N)24, 220(N)26, 220(N)31, 220(N)36, 221C, 221D,
221E, 221F, 221J, 221L, 224, 225(A)2, 225(A)3, 225(A)5, 225(A)7,
225(A)8, 225(A)9, 225(A)10, 225(A)13, 225(A)14.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6848

John W. Nields, Jr., Esq.
November 23, 1979
Page Two

Further, to the extent that the government contends that the appearance of Mr. Felt's initials on a document constitute acceptance, agreement, or ratification of the content contained therein, we contend that these documents are statements of the defendant pursuant to Rule 16B of the Federal Rules of Criminal Procedure and that, absent an order from the Court to the contrary, we are entitled to possession in unredacted form of all such statements of the defendant that relate in any way to the issues which you well know we intend to raise at trial. Further, any documents written by prospective government witnesses which relate to the subject matters of this case in their broadest sense, are Jencks material and should be turned over to us pursuant to 18 U.S.C. 3500, absent an order of the Court to the contrary. We believe we are entitled to documents in this category in unredacted form. If you do not provide us with what we consider to be 16B material, i.e. statements of the defendant Felt in completely unredacted form, we will assume that you do not intend to use such documents at trial either in your direct case or on cross examination. Concomitantly, if you do not furnish us with documents written by witnesses you previously indicated you might call at trial, we will assume that you no longer intend to call that witness.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER

Brian P. Gettings

Brian P. Gettings

Frank W. Dunham, Jr.

Frank W. Dunham, Jr.

Mark D. Cummings

Mark D. Cummings

FWD:kw
Attachment

cc: Chief Judge William B. Bryant
Thomas A. Kennelly, Esq.

*Paid Nov. 26
4/10/80*

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CLUMMINGS*
WALLACE H. KLEINDIENST
*EXCEPT VIRGINIA STATES ONLY

SUITE 550
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006
(202) 672-1095

VIRGINIA OFFICES
1400 NORTH CHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

November 23, 1979

John W. Nields, Jr., Esq.
F.B.I. Task Force
Department of Justice
Room 2304, Main
Washington, D.C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Dear John:

Attached is the first list of documents we desire to see in unredacted form. These documents were not among those originally placed in the vault for our inspection. It is requested that you place them in the vault in unredacted form in accordance with the terms of the Court's Order. As you can see from reviewing the list, we have been highly selective in preparing our list. We would hope that, having limited the number of our requests, that you would do everything you can do to accomodate these requests.

We will be working over the weekend and will transmit to you on Monday, November 26 another listing. We hope that Monday's transmittal will be our final request. We cannot state with assurance, however, that we will not request you to send additional documents to the vault in unredacted form, especially because we have only recently received certain documents from you and because you have not identified the witnesses you intend to call at trial. I am sure that if you were to provide us with a list of government witnesses, we would be able to complete our requests in short order.

In addition to the foregoing, we also note that we are unable, in many instances, to tie particular documents you have given us to the documents referred to in the grand jury testimony we have been furnished as Jencks and Brady material. What we need is a cross reference between the grand jury exhibit number and the discovery document number.

Additionally, we renew our request for [redacted] grand jury testimony and any documents referred to during that grand jury appearance. We believe that [redacted] testimony contains details which he may not now recall but which are of significant relevance to our defense and we ask you to carefully consider whether your Brady obligation is fully satisfied at this time in light of this particularized request.

b3
b6
b7C

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. WLB
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Memorandum

TO : MR. BOYNTON

FROM : W. L. Bailey *WLB*

SUBJECT: U. S. vs FELT ET AL

DATE: 12/4/79

W. MARK FELT

Tierney

WLB

Am 4859

The purpose of this memorandum is to advise of the current status of captioned matter.

Currently, the Department is responding to two aspects of trial preparation of this case. The first is preparation of selected documents for storage in the Department vault as provided for in the supplemental protective order. The second is processing discovered documents for trial disclosure. These documents have been identified by the defense as being needed for use in court in the defense of their clients.

As to the first category, these documents are being processed on five-day deadline. To date, these deadlines have been met.

The second category of documents is now being prepared for review by substantive divisions. Many of these documents are going to present substantial difficulty from a disclosure standpoint. For example, some documents will contain sufficient information to identify a live source. Since the defense has identified the documents as being essential for trial, they will have to be reviewed for a determination as to whether trial disclosure of document is possible. Various options are available such as disclosure with certain information redacted. These documents will have to be reviewed by the Intelligence, Planning and Inspection, and Criminal Investigative Divisions so that this determination can be made. It is imperative

2

62-118045-234

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Cregar
- 1 - Mr. Mintz

- 1 - Mr. Mullen
- 1 - Mr. Otto
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

DEC 20 1979

4-DALY

AD PVD:jam

(11) *86 JAN 4 1980*

(CONTINUED - OVER)

62-118045



W. L. Bailey to Mr. Boynton Memorandum
Re: U. S. vs Felt Et Al

that review be thorough, expeditious and the Bureau's position be realistic, since it may be necessary to answer questions raised by the Department. A like review will be necessary for those documents to be used in the trial by the prosecution. The Department, as yet, has generally not identified those documents.

Ultimately, it is anticipated that with certain documents the decision will have to be reviewed by the Director, especially where the Department is urging an exception to existing policy.

RECOMMENDATION:

For information.

APPROVED: <i>WLB</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <i>WLB</i>
Exec. AD-Adm. <i>JB</i>	Intell. _____	Tech. Srvs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

memorandum

DATE: December 10, 1979

REPLY TO: Francis J. Martin
ATTN OF: Criminal Division

FJM

SUBJECT: Jencks Discovery

FEDERAL GOVERNMENT

TO: Paul V. Daly
Federal Bureau of Investigation

W. MARK FELT

Kindly process the attached interview of Robert Shackelford for Jencks Discovery as soon as possible.

Thanks

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

*Reviewed returned
to Martin 12/11/79
classified confidential
pro*

7

62-118045-235
Filip

DEC 20 1979

11000
62-118045



60 NOV 07 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

U.S. Government Printing Office: 1977-241-530/3474

Greenberg/Gray-6853

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Boynton *WLB*

FROM : W. L. Bailey *WLB*

SUBJECT: U. S. vs. W. MARK FELT, et al.

DATE: 12/11/79

T. P. ...
WLB

Purpose is to advise of receipt of a subpoena from the defense in captioned matter (copy attached).

The subpoena calls for the production of documents on January 2, 1980, at the U. S. District Court for the District of Columbia. The subpoena itself is classified "Top Secret" requiring a compartmented clearance for access. A substantial number of the documents are similarly classified.

The Department and NSA are in receipt of similar subpoenas. Prosecutor John Niels has been furnished a copy of the subpoena and arrangements have been made for compliance.

RECOMMENDATION:

For information.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-16-2009 BY 65179 dmh/baw/sbs

Enc.

- 1 - Mr. Boynton
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Cregar
- 1 - Mr. Mullen
- 1 - Mr. Bailey
- 1 - Mr. Tierney
- 1 - Mr. Daly

APPROVED:

Director _____
 Exec. AD-Inv. *WLB*
 Exec. AD-Adm. *WLB*
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WLB*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

PC

WLB PYD:mjl (9)

62-118045-236

6 JAN 24 1980

60 NOV 07 1980

62-118045



56 JAN 24 1980

Greenberg/Gray-6854

12/31/79

To: Mr. Boynton

From: W.L. Bailey

MARK O FELT

*Enclosure detached
& handled separately*

Attached letter* from attorneys
for Mr. Felt withdraws their subpoena
issued 12/7/79 to Paul Daly which was
returnable 1/2/80.

Areas of the subpoena which the
defense indicates will be changed in
some way are: NSA materials (2), mem-
bership lists (8), 56 specified docu-
ments (12 and 13), documents involved
in the [redacted] case (15), and the actual
documents which were the subject of
the first and second claims of
privilege in this case (16).

b6
b7C

Copy of unclassified portion of
the subpoena, keyed as above, is
attached to letter.

62-118045-238

* Copy furnished *Ms. Nield*

- 1 - Mr. Boynton (Enc.)
- 1 - Mr. Steel (Enc.)
- 1 - Mr. Mintz (Enc.)
- 1 - Mr. Cregar (Enc.)
- 1 - Mr. Mullen (Enc.)
- 1 - Mr. Bailey (Enc.)
- 1 - Mr. Tierney (Enc.)
- 1 - Mr. Daly (Enc.)

6 JAN 24 1980

NOV 07 1980

4-BAILEY

56 JAN 24 '80

Greenberg/Gray-6855

Memorandum

Exec AD Adm.	<input checked="" type="checkbox"/>
Exec AD Inv.	<input checked="" type="checkbox"/>
Exec AD LES	<input type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input checked="" type="checkbox"/>
Rec. Mgnt.	<input checked="" type="checkbox"/>
Tech. Servs.	<input checked="" type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

TO : Mr. Boynton *MB*

DATE: 12/12/79

FROM : W. L. Bailey *WLB*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

SUBJECT: U. S. vs. W. MARK FELT, et al.

The purpose of this memorandum is to advise the Department of our position regarding trial disclosure of the attached memoranda.

In connection with the forthcoming trial in captioned matter, John Nields, prosecutor for the Department, furnished two versions of one FBI memorandum which the Government desires to use in this case. According to Nields, this is the only potentially classified document intended for use by the Government in prosecuting this case.

The memorandum in question is W. C. Sullivan to C. D. DeLoach dated 7/19/66, captioned "Black Bag" Jobs. In the two versions the Department has made deletions and in some instances substituted language for deleted material. The deletions and substituted language tracks the motions in limine adopted by the Court in this matter. One version discloses greater classified material than the other, however, both versions are properly classified as indicated. The Intelligence Division has reviewed the memorandum and interposed no objection to trial disclosure of either version.

The Intelligence Division correctly pointed out that the classification primarily arises out of National Security Agency (NSA) concerns and that agency should be consulted. In view of this we should advise the Department that both versions of the memorandum are properly classified and that we do not object to trial use, however, the NSA should be consulted.

RECOMMENDATION:

62-118045-239
6 JAN 24 1980

The Department be advised in accordance with the above.

2 ENCLOSURE *WLB*

Enc.

- 1 - Mr. Colwell
- 1 - Mr. Boynton
- 1 - Mr. Mintz
- 1 - Mr. Cregar
- 1 - Mr. Bailey
- 1 - Mr. Tierney
- 1 - Mr. Daly

PVD:mjk(8)

APPROVED *WLB*

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

Nields advised 12/15/79

62-118045

4- Jst



57 JAN 31 1980

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-16-2009

- Tolson
- DeLoach
- Mohr
- Wick
- Casper
- Callahan
- Conrad
- Felt
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele. Room
- Holmes
- Gandy

Memorandum

Mr. C. D. DeLoach

DATE: July 19, 1966

W. C. Sullivan

DO NOT FILE

SUBJECT: "BLACK BAG" JOBS (u)

~~DeLoach~~
~~Sullivan~~

The following is set forth in regard to your request concerning what authority we have for "black bag" jobs and for the background of our policy and procedures in such matters. (u)

We do not obtain authorization for "black bag" jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, "black bag" jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation. (u)

The present procedure followed in the use of this technique calls for the Special Agent in Charge of a field office to make his request for the use of the technique to the appropriate Assistant Director. The Special Agent in Charge must completely justify the need for the use of the technique and at the same time assure that it can be safely used without any danger or embarrassment to the Bureau. The facts are incorporated in a memorandum which, in accordance with the Director's instructions, is sent to Mr. Tolson or to the Director for approval. Subsequently this memorandum is filed in the Assistant Director's office under a "Do Not File" procedure. (u)

In the field the Special Agent in Charge prepares an informal memorandum showing that he obtained Bureau authority and this memorandum is filed in his safe until the next inspection by Bureau Inspectors, at which time it is destroyed. (u)

62-118045-239

RJS/pca
(3) [signature]

ENCLOSURE CONTINUED OVER Greenberg/Gray-6857

Memorandum to Mr. C. D. DeLoach
Re: "BLACK BAG" JOBS

We have used this technique on a highly selective basis, but with wide-range effectiveness, in our operations. We have several cases in the espionage field, for example, where through "black bag" jobs we determined that suspected illegal agents actually had concealed on their premises the equipment through which they carried out their clandestine operations. (u)

Also through the use of this technique we have on numerous occasions been able to obtain material held highly secret and closely guarded by subversive groups and organizations which consisted of membership lists and mailing lists of these organizations. (u)

This applies even to our investigation of the Ku Klux Klan. You may recall that recently through a "black bag" job we obtained the records in the possession of three high-ranking officials of a klan organization in a southern state. These records gave us the complete membership and financial information concerning the klan's operation which we have been using most effectively to disrupt the organization and, in fact, to bring about its near disintegration. (u)

It was through information obtained through our "black bag" operations that we obtained the basic information used to disrupt a subversive organization. (u)

Through the same technique we have recently been receiving extremely valuable information concerning political developments in a foreign affairs area and we also have been able to use it most effectively in a number of instances.

CONTINUED — OVER

Memorandum to Mr. C. D. DeLoach
re: "BLACK BAG" JOBS

recently through which we have obtained information concerning
growing XYZ country intelligence activities directed
at this country.] ~~(S)~~

In short, it is a very valuable weapon which we have
used to combat the highly clandestine efforts of subversive
elements seeking to undermine our Nation. (u)

RECOMMENDATION:

For your information. (u)

Handwritten notes:
D
more work
much to be done
J

ROUTE IN ENVELOPE

Memorandum

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-16-2009

- Tolson
- DeLoach
- Mohr
- Wick
- Casper
- Callahan
- Conrad
- Felt
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele. Room
- Holmes
- Gandy

Mr. C. D. DeLoach

DATE: July 19, 1966

W. C. Sullivan

DO NOT FILE

SUBJECT: "BLACK BAG" JOBS

~~Mr. DeLoach~~
~~Mr. Sullivan~~

The following is set forth in regard to your request concerning what authority we have for "black bag" jobs and for the background of our policy and procedures in such matters. (u)

We do not obtain authorization for "black bag" jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, "black bag" jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation. (u)

The present procedure followed in the use of this technique calls for the Special Agent in Charge of a field office to make his request for the use of the technique to the appropriate Assistant Director. The Special Agent in Charge must completely justify the need for the use of the technique and at the same time assure that it can be safely used without any danger or embarrassment to the Bureau. The facts are incorporated in a memorandum which, in accordance with the Director's instructions, is sent to Mr. Tolson or to the Director for approval. Subsequently this memorandum is filed in the Assistant Director's office under a "Do Not File" procedure. (u)

In the field the Special Agent in Charge prepares an informal memorandum showing that he obtained Bureau authority and this memorandum is filed in his safe until the next inspection by Bureau Inspectors, at which time it is destroyed. (u)

Our most comprehensive use of this technique and a measure of the outstanding success we have achieved with it involves its use in the "A" program. This involves the surreptitious entry of premises utilized by aliens who are known

RJS/pcn
(3) pcn

CONTINUED — OVER

Greenberg/Gray-6860

Memorandum to Mr. C. D. DeLoach
Re: "BLACK BAG" JOBS

agents of a foreign power. The searches of such premises are conducted at the request of another government agency, but are also of value to us through the intelligence information obtained. We have been operating this program for twelve years and to date the information obtained ----- has been of assistance to the government ----- agency which has requested these searches.

In addition, the intelligence value of the information received has been beyond calculation. (S)

We have used this technique on a highly selective basis, but with wide-range effectiveness, in our operations. We have several cases in the espionage field, for example, where through "black bag" jobs we determined that suspected illegal agents actually had concealed on their premises the equipment through which they carried out their clandestine operations. (S)

Also through the use of this technique we have on numerous occasions been able to obtain material held highly secret and closely guarded by subversive groups and organizations which consisted of membership lists and mailing lists of these organizations. (U)

This applies even to our investigation of the Ku Klux Klan. You may recall that recently through a "black bag" job we obtained the records in the possession of three high-ranking officials of a klan organization in a southern state. These records gave us the complete membership and financial information concerning the klan's operation which we have been using most effectively to disrupt the organization and, in fact, to bring about its near disintegration. (U)

It was through information obtained through our "black bag" operations that we obtained the basic information used to disrupt a subversive organization. (U)

Through the same technique we have recently been receiving extremely valuable information concerning political developments in a foreign affairs area and we also have been able to use it most effectively in a number of instances.

CONTINUED -- OVER

Memorandum to Mr. C. D. DeLoach
re: "BLACK BAG" JOBS

recently through which we have obtained information concerning
growing XYZ country intelligence activities directed
at this country. (X)

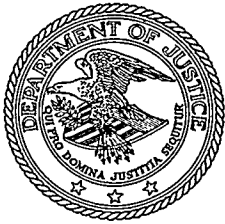
In short, it is a very valuable weapon which we have
used to combat the highly clandestine efforts of subversive
elements seeking to undermine our Nation. (U)

RECOMMENDATION:

For your information.

*For more such techniques
must be used.*

Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____



Office of the Attorney General
Washington, D. C. 20530

December 5, 1979

FEDERAL GOVERNMENT

Honorable William H. Webster
Director
Federal Bureau of Investigation
Room 7176 J. Edgar Hoover Building
9th & Pennsylvania Avenue, N.W.
Washington, D. C.

Dear Judge Webster:

W. Mark Felt

(JMP)

As you know, the trial in United States v. Felt and Miller is scheduled to begin in January, 1980. The trial team, headed by John Nields, has been working closely with the Bureau in preparation for discovery and trial, and I am advised that they have received excellent cooperation.

We are now at a crucial stage in which key documents needed by the prosecution and by the defense must be processed, including declassification, redaction and summarization, on an expedited basis. I would appreciate your assistance in helping to insure that this process is accomplished as expeditiously as possible, and particularly that decisions concerning the treatment of classified material are made in a manner which, while fully consistent with national security concerns, is appropriately sensitive to the requirements of this important prosecution. It would be particularly helpful if Paul Daly, who has been so extraordinarily helpful to the prosecutors throughout their work, could be made available on a full-time basis during this period of intensive preparation.

62-118045-210

Jan 24 1980

Sincerely,

Benjamin R. Civiletti

Benjamin R. Civiletti
Attorney General

*Let to AG
12-12-79
PVD:jam*

[Handwritten signature]

59 JAN 31 1980

[Handwritten initials]
Greenberg/Gray-6863

C
#38
12-21-79

SEARCHED
SERIALIZED
INDEXED
FILED

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Phone Rm. _____
- Director's Sec'y _____

TO : Mr. W. L. Bailey *WLB*

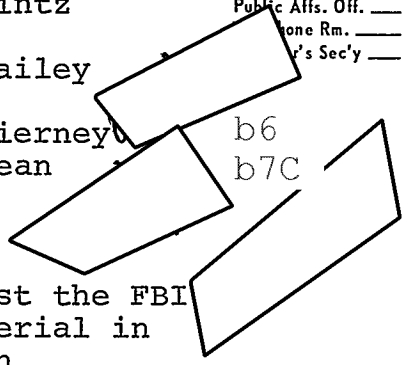
DATE: 12/5/79

FROM : R. P. Finzel *RF*

- 1 - Mr. H. A. Boynton
- 1 - Mr. A. L. Steel
- 1 - Mr. J. A. Mintz
- 1 - Mr. P. Daly
- 1 - Mr. W. L. Bailey

SUBJECT: UNITED STATES v. W. MARK FELT, et al.
DISCOVERY PROCEEDING, TRIAL
PREPARATION

- 1 - Mr. J. L. Tierney
- 1 - Mr. L. E. Dean



PURPOSE: To advise that at Departmental request the FBI is evaluating classifiability of material in 29 subject areas regarding foreign influence on Weatherman. Review, involving appropriately 17 volumes of documents, scheduled for completion on or about 12/18/79.

DETAILS: On 12/4/79, Departmental Attorneys Francis Martin and Daniel Friedman conferred with Section Chief Finzel to request Bureau evaluation of the classifiability of Departmental write-ups of 29 subject areas of foreign influence on Weatherman. The Department had summarized and grouped material from 17 volumes of documents into a synopsisized version of approximately 50 legal length pages particularizing foreign influence on Weatherman in 29 areas. The Department intends to, in the near future, make a substantive proposal to the defense in this matter regarding classifiability of foreign influence on Weatherman. The Departmental Attorneys requested expeditious Bureau evaluation of the classification of their write-ups. Finzel advised these Attorneys that the Bureau will cooperate in this matter and afford it priority attention.



62-118045-240X

One Special Agent, four classification analysts, and two clerical personnel have been assigned as of this date to conduct classification review. Tentative completion dated 12/18/79.

RECOMMENDATION: None. For information.

6 OCT 14 1980

APPROVED: _____

Director _____

Exec. AD-Inv. _____

Exec. AD-Adm. _____

Exec. AD-LES _____

Adm. Serv. _____

Crim. Inv. _____

Ident. _____

Intell. _____

Laboratory _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. *WLB*

Tech. Servs. _____

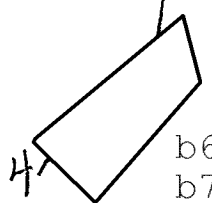
Training _____

Public Affs. Off. _____

137



KIK:jmh *549*
NOV 14 1980



The Attorney General

December 12, 1979

Director, FBI

U. S. vs FELT BE & L

W. Mark

In accordance with your letter of December 5, 1979, I have made Paul Daly available on a full-time basis for trial preparation purposes.

Decisions concerning disclosure or nondisclosure of sensitive materials during trial will be made on an expeditious basis. As you are no doubt aware, in many instances, other U. S. Government agencies will have the responsibility for that determination. In view of this, I would suggest you also communicate your desires to those agencies.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

EM

62-118045-241

MAILED 2
DEC 17 1979
FBI

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Mr. Mintz

- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

6 JAN 24 1980

NOTE: Many of the documents being sought for trial use originated with other agencies such as the Central Intelligence Agency and National Security Agency. Obviously, as to those documents, those agencies have to make the determination as to what, if anything, can be disclosed during trial.

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
 - Adm. Servs. _____
 - Crim. Inv. _____
 - Ident. _____
 - Intell. _____
 - Laboratory _____
 - Legal Coun. _____
 - Plan. & Insp. _____
 - Rec. Mgnt. _____
 - Tech. Servs. _____
 - Training _____
 - Public Affs. Off. _____
 - Telephone Rm. _____
 - Director's Sec'y _____

PVD:jamjam (9)

APPROVED:

- Director *W.H.W.*
- Exec. AD-Inv. *KS*
- Exec. AD-Adm. *X*
- Exec. AD-LES *X*

- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____

- Legal Coun. *JM*
- Plan. & Insp. _____
- Rec. Mgnt. *WAS*
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____

JAN 9 1980

MAIL ROOM

62-118045

Greenberg/Gray-6865

4-JPR

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

Memorandum

TO : Assistant Director
 Records Management Division

FROM : Legal Counsel *JAM*

SUBJECT: U.S. v. W. MARK FELT, et al.

DATE: 12-20-79

JOANNE KINOY, et al., v.
 JOHN N. MITCHELL, et al.
 (U.S. D. C., S.D.N.Y.)
 CIVIL ACTION NO. 70-CIV-5698

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-16-2009 BY 65179 dmh/baw/sbs

John Niels, prosecutor in the Miller, Felt, Gray case requested access to documentation of claims of executive privilege executed by the Attorney General in the Kinoy case where such claims concern surreptitious entries.

I caused the documentation to be located and this matter to be discussed with David White the Department attorney representing the Government in the Kinoy case. With White's concurrence, the attached documents may be reviewed by Niels. These materials are under seal in the Kinoy case; therefore, I request that they not be made a part of the files of the prosecutor or furnished him for use in the prosecution without prior specific approval by me and by David White.

RECOMMENDATION:

That Paul Daly and/or Joe Tierney make these documents available for review by John Niels under the conditions indicated above.

62-118045-242

6 JAN 24 1980

Not shown to [redacted] Meles Puket copy he obtained [redacted]

APPROVED:

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *JAM*
 Plan. & Insp. _____
 Rec. Mgnt. *[Signature]*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

Enclosure
 1 - Civil Litigation Unit II
 1 - Mr. Bailey
 1 - Mr. Mintz

JAM:bpr

(4)

ENCLOSURE

62-118045

4-266

59

JAN 31 1980

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Boynton *WB*

FROM : W. L. Bailey *WB*

SUBJECT: U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Steel
- DATE: 12/26/79
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Mullen
- 1 - Mr. Bailey
- 1 - Mr. Tierney

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

T. G. Gray
Gray

PURPOSE:

To advise of receipt of two court orders and their contents in captioned matter.

RECOMMENDATION:

None. For information.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-16-2009 BY 65179 dmh/baw/sbs

APPROVED: *WB*
 Director _____
 Exec. AD Adm. _____
 Exec. AD Inv. _____
 Exec. AD Leg. _____
 Exec. AD Plan. & Insp. _____
 Exec. AD Rec. Mgnt. _____
 Exec. AD Tech. Servs. _____
 Exec. AD Training _____
 Exec. AD Public Affs. Off. _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WB*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

DETAILS:

Attached are two court orders issued in captioned matter on 12/21/79 by Chief Judge William Bryant. One court order overrules the Government's claims of privilege as to two documents. These documents contain information received from foreign governments. Judge Bryant notes that "claims of privilege have not been afforded absolute status" by the courts and that in balancing interests of the defense it is necessary for the defense to be furnished the information contained in the documents. Judge Bryant allows that the documents can be redacted to protect the foreign government source as has been done with other documents in case.

By way of background, during the early phases of discovery the defense was inadvertently given access to some foreign government information which had been redacted to protect sources. The court, the Department and the defense were aware these few disclosures were inadvertent and steps were taken to correct this.

62-118045-243

JAN 24 1980

Enclosures (2)

PBD
 PBD:evp
 (9)

CONTINUED OVER

4-Gr



2
277

62-118045

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
 Greenberg/Gray-6875

59 JAN 31 1980

Memorandum W. L. Bailey to Mr. Boynton
U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

The second order generally provides that certain documents redacted to protect sensitive sources and methods, per the supplemental protective order of November 5, 1979, be lifted and information be made available under that order with certain redactions lifted. These redactions were made in conformance with recommendations of the Intelligence Division and were reviewed by the Department. Lifting of these redactions will allow the defense access to highly sensitive material.

On 12/22/79 John Nields, Departmental prosecutor in this matter, advised he had not discussed these orders with higher authorities in the Department. However, he mentioned the possibility of submitting a motion to the court to reconsider. Obviously, another possibility is vacating the claim of privilege as to this information. It should be noted we have canvassed the foreign governments in this matter and their uniform position has been to protect the information. As to information redacted under the supplemental protective order, whether to comply or not is within the purview of the Bureau and the Department since the material in question is FBI generated.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : Criminal No. 78-00179
 :
 W. MARK FELT and :
 EDWARD S. MILLER :

FILED

DEC 21 1979

MEMORANDUM AND ORDER

JAMES F. DAVEY, Clerk

A

On August 17, 1978, this court, pursuant to Fed. R. Crim. P. 16(a)(1)(c), granted certain discovery requests of defendants Felt and Miller. Two such requests, Miller's request #11 and Felt's request #C-4, were directed at materials reflecting the foreign activity of the Weathermen Organization, including foreign travel and contact or collaboration with foreign powers or agents. This court considered these materials relevant to the defendants' asserted defense of reasonable reliance on the authority of superiors. See United States v. Barker, 546 F.2d 940 (D.C. Cir. 1976).

In particular, part (d) of Miller's request #11 asked for "[a]ny and all reports of foreign law enforcement or governmental agencies including but not limited to the Royal Canadian Mounted Police;" Felt's request #C-4 encompassed all "[d]ocumentary materials made and maintained or received by the Justice Department and the FBI in the ordinary course of business. . . ."

1 - Miller's request #11, as limited by this court, is directed at FBI and Justice Department documents Miller might have come in contact with while serving with the agency. Felt's request was directed only at FBI and Justice Department material.

62-118045-243

ENCLOSURE

On December 13, 1978, defendant Miller filed a motion to compel discovery of material relating to the foreign activity of the Weathermen Organization. The motion alleged that the government had failed to produce documents received from foreign intelligence agencies and the NSA falling within the scope of Felt and Miller's discovery requests #C-4 and #11. The government failed to respond directly to this motion; it did, however, continue to challenge the applicability of the Barker-Martinez defense underlying the defendants' discovery claim. During a hearing among the parties, this court ruled that the Barker-Martinez defense was available to defendants Miller and Felt. Transcript of Hearing, 2/22/79, at 57-58.

On March 30, 1979, counsel for the government advised this court that although "[t]he government has completed its discovery," "some dispute will remain as to the adequacy of the government's compliance with discovery and that in camera resolution of those disputes by the court will be necessary." Letter from F. J. Martin to Chief Judge William B. Bryant (3/30/79). On April 4, 1979, defendant Miller moved to dismiss the indictment for failure to produce material received from foreign intelligence sources and the NSA relating to the foreign activity of the Weathermen; defendant Felt filed a similar motion on April 6, 1979.²

The government responded by filing a Motion to Modify³ the August 17, 1978 discovery order. This court was asked

2 - Defendants' discovery requests directed at material sent by NSA to the FBI were resolved during an in camera hearing among the parties. Transcript of Hearing, 3/16/79, at 18, 37.

3 - The motion was filed under seal.

to relieve the government from complying with Miller's discovery request #11(d) or any portion of his request #11 or Felt's request #C-4 requiring the production of documents or information obtained by the FBI from cooperative foreign intelligence agencies. According to the government, such documents and information were submitted to the FBI pursuant to strict understandings that they would not be disclosed to anyone outside the Executive Branch without consent of the foreign source.⁴

In support of its motion, the government distinguished two types of documents or information received from foreign sources: material disclosing contact or collaboration between the Weathermen and hostile foreign powers and material resulting from the general surveillance and investigation of Weathermen fugitives and other suspected "hippies" by intelligence agencies of the host foreign country. The government concedes the relevancy of this first category. The Attorney General, however, has submitted in camera affidavits stating that disclosure of such documents (or information contained in the documents) other than in an ex parte, in camera showing to this court, would adversely affect the national interest by severely impairing vital relationships with foreign intelligence agencies. The government has delivered approximately 38 documents falling under this claim of privilege to this court for ex parte, in camera review.⁵ Accompanying 25

4 - During an in camera session, counsel for the government stated that the agreements permit disclosure only to current members of the intelligence community. Transcript of Hearing, 8/30/79, at 32. The government has asked the respective foreign intelligence agencies to disclose the disputed material. The agencies have refused.

5 - Twenty documents were submitted to this court in April 1979. Subsequent submissions have raised the total to 38.

of the documents are memorandum, reports, and other material from non-privileged domestic sources. The government claims that these discoverable domestic sources provide the defendants with "parallel" or partially "parallel" information, thereby amounting to adequate compliance with the discovery requests. Although no "parallel information" of any type could be found for the remaining 13 documents, the government has submitted admissions conceding relevant facts that also appear in most of the material.

The government has also delivered to this court for ex parte, in camera review approximately 900 documents or information from foreign agencies pertaining to general surveillance and investigation of Weathermen in the host foreign country. These documents are first alleged to be irrelevant and immaterial to the defendants' case; if the court should find the opposite, the government has indicated its intent to assert a claim of privilege identical to the one described above.

On June 5, 1979, defendant Miller filed a motion to produce the specific understandings with foreign agencies prohibiting disclosure of intelligence information or material forwarded to the FBI.

B

The defendants have developed two complimentary legal arguments, each in the end resting on the asserted importance of material from foreign agencies for the elaboration of

⁶ - The government has since indicated that these understandings are not in writing. Government's Response to Miller's Motion to Produce "Specific Understandings With Foreign Government Agencies" at 1 (under seal).

their Barker-Martinez defense. Defendants argue that the government's motion to modify the discovery order of August 1978 is premised on a faulty claim of privilege, an improper use of ex parte, in camera procedures, and shields material at the heart of their defense. Their motion to dismiss the indictment stresses the latter point, implicitly accepting the claim of privilege but relying on the doctrine developed by Learned Hand in United States v. Andolschek, 142 F.2d 503, 506 (2nd Cir. 1944): the government cannot choose to prosecute an individual while erecting a claim of privilege to hide material relevant to the defense.

It appears most logical to address first the validity of the asserted privilege and the ex parte, in camera, procedures adopted to determine its applicability and impact. If the privilege and procedure are legally permissible, this court must then determine whether the nature of the desired material requires a choice between dismissing the indictment or refusing to modify the August 1978 discovery order.

1. The Claim of Privilege

The affidavits submitted by the Attorney General comply with the procedural requirements set forth in United States v. Reynolds, 345 U.S. 1, 7-8 (1953) (formal claim of privilege must be lodged by head of department after "actual personal consideration by that officer"). The defendants attack the substance of the asserted privilege. They stress the failure of the Attorney General to specifically invoke a claim of "state secrets." Defendant Miller's Opposition to

Government's Motion to Modify at 6-7. Moreover, they claim that the defendants viewed much of the material while employed at the FBI, thereby making the present attempt to prevent disclosure unreasonable and unnecessary. Id.

The defendants' suggestion that the claim of privilege somehow lacks potency because the Attorney General failed to recite the words "state secrets" is unconvincing. His affidavit states that disclosure of the material would adversely affect relationships with foreign intelligence agencies that are essential to our national security interest. This type of determination, by a key figure in the Executive Branch, falls well within those "areas of Art. II duties [to which] the courts have traditionally shown the utmost deference." United States v. Nixon, 418 U.S. 683, 710 (1974). See United States v. Reynolds, 345 U.S. 1, 10 (1953) (determination by Secretary of Air Force that exposure of military matters would jeopardize national security).

Defendants' claim that Miller or Felt might have viewed the material in the past does nothing to vitiate the asserted privilege. Protection of sources, not information, lies at the heart of the claim by the Attorney General.⁷

The government has indicated that the agreements with foreign agencies permit disclosure only to present members of the intelligence community on a "need to know" basis. The respective foreign agencies whose information is at issue in this case have not consented to disclosure. In short, neither the manner in which the privilege is asserted nor the prior exposure of the material to

⁷ - The importance of this objective has been stressed recently by intelligence agencies in other contexts, and has met with court approval. See Hayden v. NSA, No. 78-1728, slip op. at 6-7 (D.C. Cir., Oct. 29, 1979).

the defendants renders the claim of privilege invalid.

2. In Camera, Ex Parte, Review of the Material

a. Documents Claimed to be Immaterial

As discussed earlier, supra at 3-4, the government has designated a number of documents containing information from foreign intelligence agencies as immaterial or irrelevant to the defendants' case. The government contends that these documents merely disclose efforts by foreign intelligence agencies to record the activities of Weathermen and other suspected radicals, and do not expose contacts between Weathermen and agents of hostile foreign powers. At the request of this court, the documents have been submitted for in camera, ex parte review.

Although the original discovery order in this case encompassed all aspects of the foreign conduct of the Weathermen Organization, e.g. foreign travel and correspondence, Fed. R. Crim. P. 16(d)(1) allows for modification upon a sufficient showing. In camera ex parte presentation of disputed material is recognized as an appropriate means of establishing such a showing. United States v. Pelton, 578 F.2d 701, 707 (8th Cir.), cert. denied, 439 U.S. 828 (1978). Such a procedure need not be triggered by a formal claim of privilege, infra at 9-10; it is also justified when the sensitive nature of the disputed material is apparent. Id. at 707 (material disclosed identity of individuals cooperating with government on criminal prosecution); United States v. Buckley, 586 F.2d 498, 506 & n.6 (5th Cir. 1978), cert. denied, 440 U.S. 982 (1979)

(defendant sought production of FBI investigative files). The agreements covering the use and dissemination of information received from foreign intelligence agencies lead this court to conclude that in camera, ex parte review of the material will best serve the public interest. See United States v. Buckley, 586 F.2d 498, 506 (5th Cir. 1978), cert. denied, 440 U.S. 982 (1979).

The adoption of in camera, ex parte procedures does not threaten the defendants' constitutional right to exculpatory material, Brady v. Maryland, 373 U.S. 83 (1963), or their statutory right to material evidence, Fed. R. Crim. P. 16(a)(1)(c). Defendants' reliance on Alderman v. United States, 394 U.S. 165 (1969) and its progeny is misplaced. Alderman involved determining whether certain evidence was "tainted" as a result of fourth amendment violations and vulnerable to a motion to suppress; a determination that the Court stressed was subtle, complex and prone to error when performed without the defendant. 394 U.S. at 181-82.

The present case, however, requires determinations of exculpation and materiality. In United States v. Agurs, 427 U.S. 97, 106 (1976), the Court foresaw the use of ex parte proceedings as a permissible means of uncovering exculpatory and material information. This approach has been widely used by the lower courts before and after Agurs. See, e.g. United States v. Loman, 551 F.2d 164, 166 (7th Cir.), cert. denied, 433 U.S. 912 (1977); United States v. Ross, 511 F.2d 757, 765 (5th Cir. 1975); cert. denied, 423 U.S. 836 (1975).

This court has been apprised of the essential elements of defendants' Barker-Martinez defense in a number of pleadings submitted in the case, as well as from long in camera hearings. In light of this background, and the experience of this court in disposing of discovery requests, it is doubtful that ex parte, in camera review will in any way prejudice the defendant.

b. Material Falling Under the Asserted Privilege

The government has voluntarily submitted this material to this court for in camera, ex parte review. In the present case, this procedure is necessary to determine whether invocation of the privilege is proper. United States v. Reynolds, 345 U.S. 1, 10-11 (1953). The defendants claim the material in the face of a criminal prosecution; this amounts to a "showing of necessity" sufficient enough to require this court to examine the material and insure that it contains information originating from foreign intelligence sources. Id. at 11. It does.

In camera, ex parte review is not just necessary to insure that the material properly falls within the asserted privilege. The defendants have moved to dismiss the indictment for failure to comply with discovery. Thus, the court must evaluate now the importance of the disputed material within the context of this case. The standards associated with such a review are discussed in the succeeding section. Of present interest is the defendants' claim

that they have a right to examine privileged material and argue about its impact on this case.

It is obvious that "the security which the privilege is meant to protect," United States v. Reynolds, 345 U.S. 1, 10 (1953), will be jeopardized if defendants participate in an in camera examination of the material. In camera, ex parte review has been approved in a number of criminal and civil cases involving general discovery requests aimed at sensitive materials, In re Attorney General, 596 F.2d 58, 60 (2nd Cir. 1979) (civil) (FBI files), cert. denied sub nom., Socialist Workers Party v. United States Attorney General, 48 U.S.L.W. 3239 (Oct. 9, 1979) (No. 78-1702); United States v. Boyce, 594 F.2d 1246, 1252 (9th Cir. 1979) (criminal) (national security material); United States v. Buckley, 586 F.2d 498, 506 (5th Cir. 1978), cert. denied, 440 U.S. 982 (1979) (criminal) (FBI files); United States v. Ehrlichman, 546 F.2d 910 (D.C. Cir. 1976), cert. denied, 429 U.S. 1120 (1977) (criminal) (tapes of Presidential conversations). The approach also has been adopted with discovery requests made in conjunction with motions to suppress. United States v. Lemonakis, 485 F.2d 941, 962-63 (D.C. Cir. 1973), cert. denied, 415 U.S. 989 (1974); United States v. Humphrey, 456 F. Supp. 51, 59 (E.D. Va. 1978). In camera, ex parte review has also been contemplated as a means of implementing subpoenas directed at sensitive material for use at trial, United States v. Nixon, 418 U.S. 683, 714-715 (1974), or grand jury proceedings, Nixon v. Sirica, 487 F.2d 700, 720-21 (D.C. Cir. 1973).

The fundamental difference between the type of review at issue in Alderman and the present case has already been discussed, supra at 8-9. The national security considerations at issue here also counsel against too much reliance on Alderman, for when discovery requests touch upon "a field as delicate and sensitive as foreign intelligence gathering," in camera procedures may be necessary to determine that the defendants suffer no injustice. United States v. Lemonakis, 485 F.2d 941, 963 (D.C. Cir. 1973), cert. denied, 415 U.S. 989 (1974).

It is important to note that the Alderman Court was not confronted with any claim of privilege, i.e., national security, state secrets, or otherwise. Although the two companion cases involved espionage convictions, the effect on national security of permitting the defendants to examine transcripts of illegally heard conversations was not as clearly delineated as it is in the present case.⁸ The existence of a formal claim of privilege, raises considerations similar to those presented by Justices Harlan and Fortas in their opinions in Alderman, 394 U.S. at 187 (Harlan, J. dissenting); id. at 201 (Fortas, J. concurring and dissenting in part). Both Justices suggested that ex parte, in camera review prevail when a motion to suppress involved serious national security considerations. Their reasoning is persuasive in the context of the present case, when disclosure could jeopardize a number of reliable intelligence sources each capable of delivering a variety of intelligence

⁸ - Thus the Court's general pronouncements favoring disclosure in all instances, 394 U.S. at 181, should not automatically be transposed to the present case.

information. See United States v. Williams, 580 F.2d 578, 586 (D.C. Cir.), cert. denied, 439 U.S. 957 (1978) (under Alderman effect of disclosure on national security minimized because limited to "'defendant's own conversations'" overheard on "'own premises'").

This is not to suggest that the interests of the defendants must be sacrificed in the name of national security. In the present case, the government has provided this court with "parallel" and "partially" parallel information, as well as admissions; it is possible to place the information from the foreign source alongside the substitute and identify any inadequacies. Compare with United States v. Alderman, 394 U.S. 165, 182 (1969) (such a comparison not possible when determining the subtle issue of "tainted conversations").

This manner of presentation leads this court to believe that ex parte, in camera review will not prejudice the defendant. Taglianetti v. United States, 394 U.S. 316, 317-18 (1969) (task is not "too complex," or "margin of error too great" to prohibit in camera judgment of trial court).

3. Assessing the Defendants' Need for Discovery

Defendants' right to discover documentary material controlled by the government rests on two grounds: the constitutional right to discover exculpatory evidence, as developed in Brady v. Maryland, 373 U.S. 83 (1963), and the statutory right to documents which are material to the preparation of the defense, Fed. R. Crim. P. 16(a)(1)(c).

The Court has recently indicated that the constitutional right is rather narrow, applying only to material that "creates a reasonable doubt" about the defendant's guilt. United States v. Agurs, 427 U.S. 97, 112 (1976). Although Rule 16(a)(1)(c) has at times been interpreted to track closely with the constitutional standard, see United States v. Ross, 511 F.2d 757, 762 (5th Cir.), cert. denied, 423 U.S. 836 (1975), this court believes that documents are "material in the preparation of the defense" if there is a strong indication that they will play an important role in uncovering admissible evidence, aiding witness preparation, corroborating testimony, or assisting impeachment and rebuttal. See United States v. Tanner, 279 F. Supp. 457, 470 (N.D. Ill. 1967), rev'd on other grounds, 471 F.2d 128 (7th Cir. 1972), cert denied, 409 U.S. 949 (1972) (cited approvingly in Notes of Advisory Committee on 1974 Amendments to Rules of Criminal Procedure, 62 F.R.D. 271, 311 (1975)); Reznick, The New Federal Rules of Criminal Procedure, 54 Geo.L.J. 1276, 1278-80 (1966) (discussing meaning of "materiality" in predecessor to Rule 16(a)(1)(c)); cf. United States v. Crow Dog, 532 F.2d 1182, 1189 (8th Cir. 1976), cert. denied, 430 U.S. 929 (1977) (no Brady violation when undisclosed material would have been used for "minimal" impeachment purposes).

In the present case, the government has asserted that some documents are irrelevant and immaterial to the defendants' case. ~~This court has examined a representative sample~~ of such documents, with the constitutional and statutory standards discussed above in mind. This court believes

that this material is not material to the defendants' case, in particular their Barker-Martinez defense. Such a defense does not require a general investigation of how friendly governments monitored Weathermen activities. Cf. Clay v. United States, 397 F.2d 901, 915 (5th Cir. 1968), vacated on other grounds sub nom., Giordano v. United States, 394 U.S. 310 (1969) (defense to violation of Selective Service laws did not require broad investigation into activities and procedures of draft system).

The government has conceded the relevancy of those 38 documents falling under its claim of privilege; it has also attempted to minimize the effect of non-disclosure by claiming that information revealing contacts between the Weathermen and hostile foreign powers is not a "core" issue in the defendants' case. Defendants follow the lead of the government, simultaneously dancing in two different directions. They attack the privilege, and argue that the documents falling under such a claim relate to "core" issues and must be discovered, well aware that prosecutions involving sensitive intelligence information are often dropped by the government because of discovery and trial demands. E.g., DeChamplain v. McLucas, 367 F. Supp. 1291, 1293 n.1, 1295 (D.C.D.C. 1973). Or, defendants accept the privilege, argue that the withheld information relates to "core issues," and move to dismiss the indictment.

A satisfactory solution of the problem requires that the "core/non-core, comply or dismiss" approach urged by the parties be jettisoned. ~~Contacts between the Weathermen and hostile foreign powers are clearly important to defendants'~~ Barker-Martinez defense, and that defense is as close to the "core" as any other issue in this case. Defendants' right to the material covered by the privilege must be

judged in reference to the constitutional standard set forth in Agurs, and the statutory standard incorporated in Rule 16. The latter, however, becomes more demanding in the context of a formal assertion of privilege. United States v. Nixon, 418 U.S. 683, 713 (1974) (Special Prosecutor required to demonstrate that subpoenaed Presidential material was "'essential to justice of the [pending criminal] case.'"); United States v. Haldeman, 559 F.2d 31, 76-77 (D.C. Cir. 1976), cert. denied, 431 U.S. 933 (1977) (defendant required to show "'demonstrated, specific need for evidence'" in order for Rule 16 request to prevail over privileged Presidential material) (citing United States v. Nixon).

This court has examined the 38 documents. Special attention has been given to the demands of the Barker-Martinez defense, and information already available to the defendants, e.g. "parallel" information, "partially" parallel information, admissions, and documents released earlier in the case. See United States v. Lee, 589 F.2d 980, 989 (9th Cir. 1979) (defendant failed to establish that discovery material in his possession was inadequate to support defense). Two documents contain information of extreme importance for the Barker-Martinez defense, and appear to meet the heightened standard of scrutiny associated with Rule 16 in cases involving privilege and Agurs.

This determination does not require the dismissal of the indictment, as the defendants suggest. Such a result would be warranted only if the court recognizes the government's claim of privilege as absolute, prevailing over the type of showing associated with Agurs and a

more demanding version of Rule 16. Other claims of privilege have not been afforded absolute status. United States v. Nixon, 418 U.S. 683, 711-713 (1974) (confidentiality of Presidential conversations); Roviaro v. United States, 353 U.S. 53, 62-64 (1957) (informant's privilege); Nixon v. Sirica, 487 F.2d 700, 716-718 (D.C. Cir. 1973) (confidentiality of Presidential conversations). And although the Court has never directly addressed the manner in which a "claim of need to protect military, diplomatic, or sensitive national security secrets" is to be balanced against countervailing interests, United States v. Nixon, 418 U.S. 683, 706, 712 n.19 (1974), this court believes that the present case requires a balancing of interests similar to that found in other cases involving claims of privilege.

Defendants' interest in the two documents referred to earlier, supra at 14, is of "constitutional dimensions," United States v. Nixon, 418 U.S. 683, 711 (1974). The Agurs standard is designed to vindicate the due process clause of the fifth amendment, by insuring that the defendant receives all the material necessary for a fair trial. Heightened scrutiny under Rule 16 is designed to identify only material that is of the utmost importance to the defendant and his counsel in the preparation of the defense. "[T]he allowance of the privilege to withhold" such material would "cut deeply into the guarantee of due process of law and gravely impair the basic function of the courts." Id. at 712.

In addition to determining "the inroads of ... [the] privilege on the fair administration of criminal justice," id. at 711-712, this court must also determine the impact disclosure may have on the rationale and policy underlying the claim, id. at 712. Two extensive protective orders are in effect in this case. The two documents in question are to be turned over to the defendant subject to any redactions necessary to protect intelligence sources, pursuant to ¶8 of the December 1978 protective order.⁹ In addition, the two documents are to be stored in the vault at the Justice Department, in accordance with the supplementary protective order of November 1979. These factors lead this court to conclude that disclosure of the two documents will not unduly impair relationships with foreign intelligence services.

For the reasons set forth in this memorandum, it is hereby ORDERED that:


(a) The government's Motion to Modify the August 1978 Discovery Order is granted, except for documents identified as II(A)(1)(a) and III(F)(1)(a) (without the Appendix) which were submitted to this court for ex parte, in camera review in April 1979. These two documents may be redacted to prevent disclosure of intelligence sources, pursuant to ¶(8) of the December 1978 Protective Order, and stored in accordance with the Supplementary Protective Order.

⁹ - These redactions should resemble those used to protect foreign sources in material already turned over to the defendants.

(b) Defendant Miller's Motion to Compel Discovery of Foreign Connections of Weathermen is denied, except for the two documents referred to above in ¶(a).

(c) The motions of defendants Miller and Felt to dismiss the indictment are denied.

(d) Defendant Miller's motion to produce specific understandings with foreign governments is denied.


United States District Judge

Date: *December 19, 1979*

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
DEC 21 1979

UNITED STATES OF AMERICA : JAMES F. DAVEY, Clerk
v. : Criminal No. 78-00179
W. MARK FELT and :
EDWARD S. MILLER :

MEMORANDUM AND ORDER

On November 5, 1979, this court entered a Supplementary Protective Order regarding access to documents redacted under paragraph (8) of the Protective Order dated December 22, 1978. Paragraphs (3) and (4) of the Supplementary Protective Order provide that this court examine certain documents to determine if they shall be placed in the vault in unredacted form. During the last two weeks, this court has examined, in camera, the documents referred to in paragraph (3), and those documents that the defendants have requested in unredacted form pursuant to paragraph (4).

In light of this review, the court ORDERS the following:

(1) All documents referred to in paragraph (3) of the Supplementary Protective Order shall remain in the vault in redacted form.

(2) Those documents that the court has segregated into package (a) shall be unredacted to reveal any relationship (actual or suspected) between "bag job" targets and hostile foreign intelligence agencies and the location of bag jobs (projected or completed). Redactions in documents segregated into package (b) shall be removed only where indicated.

(N)

62-118045-243

ENCLOSURE

(3) All remaining documents examined by this court pursuant to paragraph (4) of the Supplementary Protective Order shall remain in the vault in redacted form.¹

(4) Any statements by the government accompanying those documents that this court has determined will remain in the vault in redacted form shall be sealed and preserved, in accordance with Fed. R. Crim. P. 16(d)(1).


United States District Judge

Date: *December 21, 1979*

1 - This does not apply to one document for which the government is preparing a more complete Rule 16(d)(1) submission. This court will determine the status of that document after receipt of the government's statement.

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Boynton *MB*

- 1 - Mr. Boynton
- 1 - Mr. Colwell

DATE: 12/27/79

FROM : W.L. Bailey *WB*

- 1 - Mr. Steel
- 1 - Mr. Cregar
- 1 - Mr. Mintz
- 1 - Mr. Mullen
- 1 - Mr. Bailey
- 1 - Mr. Finzel
- 1 - Mr. Daly
- 1 - Mr. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATIONS

T. Bailey
W.L. Bailey
4859 #224

PURPOSE:

To advise of new tasks and deadlines set, as well as action being taken to meet them based on hearing 12/19/79.

DETAILS:

On 12/19/79 the court postponed trial in this case from 1/2/80 until 3/17/80.

The prosecution will outline for the court and the defense sensitive areas of proof contained in documents revealed during discovery, propose methods to get around these sensitive areas (i.e., by substitutions, sanitized summaries, and/or stipulations and concessions), and specify those extremely sensitive areas, the court-enforced public disclosure of which would force the prosecution to move for dismissal. This submission must be ready by 1/14/80. The defense will have 14 days to object (1/28/80) and the court will then rule within 15 days.

JML

62-118045-244

The outline and proposals will be written by the prosecution based upon a sample of relevant/sensitive documents selected by them from the larger group designated by all the parties. This selection was to be given to us on 12/26/79 but will now be furnished to us for review as soon as possible. We must furnish comment in the form of a damage assessment for the sample group by Wednesday, 1/9/80. While a current classification review of these documents would be desirable, it is not essential for INTD and CID to render judgement. It will be omitted, if necessary, to adhere to the 1/9/80 deadline. Since they are part of the larger group, mentioned below, they will eventually be reviewed for classification before they are used in court.

The larger group of documents designated by the prosecution and both defense camps must be completed (both classification review and damage assessment) by Monday, 1/28/80, so that the prosecution can respond to defense objections which are due that day.

JAN 24 1980

JLT:tdp (11)

CONTINUED - OVER



59
59

62-118045

4- JLT

Memorandum W.L. Bailey to Mr. Boynton
RE: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATIONS

In order for INTD and CID to make the 1/28/80 deadline, RMD must finish their classification review by Wednesday, 1/23/80.

The two orders of the court dated 12/21/79 regarding redactions on vault documents are the subject of a separate memorandum.

RECOMMENDATION:

None. For information:

APPROVED: *WLB*
Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. *WLB* _____
Exec. AD-LES _____
Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. *WLB* _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO *W.B./one* Mr. Bailey

DATE: 1/7/80

FROM *J.L.T.* Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.

On 12/18/79, at the request of Executive Assistant Director Colwell, Mr. Paul V. Daly, observed his opening of an envelope. The envelope was in his desk draw and bore (then) Inspector Paul L. Mack's initials and was sealed with scotch tape.

The contents of the envelope were copies of the so-called two-line memoranda authorizing "black bag" jobs. Attached to the memoranda was a routing slip to the Director dated 5/25/77 advising the originals had been shown to (then) Attorney General Bell and given to (then) Assistant Attorney General Civiletti on 5/25/77.

The memoranda, routing slip and envelope are being placed in file for record purposes. (62-118045)

*Retain and
do not destroy
inner envelope
in attached
enclosure 2 FF*

PVD

PVD:tdp (2)

1 - Mr. Daly

*- 2 - dup
ENCLOSURE*

"ENCLOSURE 1 118045"

4- JLT

(62) 118045-245

6 JAN 24 1980

*over
4- JLT*

62-118045

Greenberg/Gray-6899



INSTRUCTIONS: This form is to be removed from file by a Filing Unit employee only upon the return of the item.

Subject U.S. vs. W. Mark Felt, et al

Type of Mail	Date of Mail
<input type="checkbox"/> Report	
<input type="checkbox"/> Incoming letter	
<input type="checkbox"/> Outgoing letter	
<input checked="" type="checkbox"/> Memorandum	<u>SA Joseph L. Tierney to Mr Bailey</u>
<input type="checkbox"/> Airtel	
<input checked="" type="checkbox"/> Teletype	<u>1/7/80</u>
<input type="checkbox"/> Enclosure (describe)	
<input type="checkbox"/> Laboratory Work Sheet	
<input type="checkbox"/> Personnel Security Questionnaire (PSQ)	
<input type="checkbox"/> Loyalty Form	
<input type="checkbox"/> Other (describe)	

Removed for <input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Miss <input type="checkbox"/> Room	Removed by <u>Mr Paul Daly</u>	Date of Removal <u>9/11/80</u>
--	-----------------------------------	-----------------------------------

Reason for Removal

For copying (If for another agency, list agency and date of request.)

To send to DOJ - John Shields

To attach to

For office use

For change to another file

Other (Specify)

U.S. vs. W. Mark Felt, et al

Complete File and Serial Number 62-118045-245

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs



enclosure

62-118045-245

Federal Bureau of Investigation
Office of Associate Director

5/27, 1977

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

<input checked="" type="checkbox"/> Director	<input type="checkbox"/> Miss Devine
<input type="checkbox"/> Mr. Held	<input type="checkbox"/> Telephone Room
<input type="checkbox"/> Mr. Adams	
<input type="checkbox"/> Mr. McDermott	<input type="checkbox"/> Reading Room
<input type="checkbox"/> Mr. Ash	<input type="checkbox"/> Mail Room
<input type="checkbox"/> Mr. Bassett	<input type="checkbox"/> Teletype
<input type="checkbox"/> Mr. Cochran	<input type="checkbox"/> Pr. & Sp. Mgnt. Sec.
<input type="checkbox"/> Mr. DeBruler	
<input type="checkbox"/> Mr. Decker	
<input type="checkbox"/> Mr. Fehl	<input type="checkbox"/> For Approp. Action
<input type="checkbox"/> Mr. Kelleher	<input type="checkbox"/> For Your Approval
<input type="checkbox"/> Mr. Leavitt	<input type="checkbox"/> Initial and Return
<input type="checkbox"/> Mr. Long	<input type="checkbox"/> Please Call Me
<input type="checkbox"/> Mr. Meincke	<input type="checkbox"/> For Information
<input type="checkbox"/> Mr. Mintz	<input type="checkbox"/> Per Conversation
<input type="checkbox"/> Mr. Moore	
<input type="checkbox"/> Mr. Boynton	<input type="checkbox"/>
<input type="checkbox"/> Mr. Feeney	<input type="checkbox"/>
<input type="checkbox"/> Mr. Mack	<input type="checkbox"/>
<input type="checkbox"/> Mr. Revell	<input type="checkbox"/>
<input type="checkbox"/> M _____	

b6
b7C

Room _____

The original 13 memoranda and folder entitled "Confidential Sources" were delivered by me personally to Assistant Attorney General Civiletti, Criminal Division at 10²⁰ AM 5/25/77 pursuant to your instructions.

over

PLM
Paul W. Mack
Room 7110, Ext. 5606

FBI/DOJ

Greenberg/Gray-6902

11/ 11/

The original folder and its
contents were previously made
available to Attorney General
Bell by you for review on the
morning of 5/25/77 at JEH Building

PLM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6903

CONFIDENTIAL SOURCES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-16-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6904

April 17, 1973

MR. FELT: ~~7~~

RE: U. S. CHINA FRIENDSHIP
ASSOCIATION

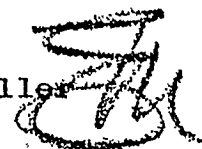
On April 16, 1973, [redacted]
of the San Francisco office requested authority
to contact an anonymous source at an office
building on [redacted]. He
assured me that such could be accomplished with
full security and I gave him authority to proceed.

b6
b7C

ACTION:

For information.

E. S. Miller



Greenberg/Gray-6905

April 13, 1973

MR. FELT: ~~_____~~

Re: [REDACTED]

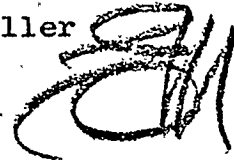
b6
b7C

On April 13, 1973, [REDACTED] of the New York Office requested authority to contact an anonymous source at Apartment [REDACTED] New York, New York. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6906

March 8, 1973

MR. FELT:

Re: [REDACTED]
REVOLUTIONARY ACTIVITIES -
WEATHERMAN

b6
b7C

On March 7, 1973, SAC Arbor W. Gray, New York, requested authority to contact an anonymous source at [REDACTED] Brooklyn, New York. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.


E. S. Miller

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6907

March 6, 1973

MR. FELT

DO NOT FILE

Re: [redacted] aka
ESP - PO

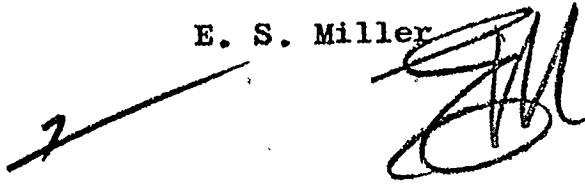
b6
b7C

ASAC Hunter Helgeson of the Chicago Office called today and requested authority to contact an anonymous source at [redacted] Chicago, Illinois. He assured me that such could be accomplished with full security and he was given the authority to proceed.

ACTION:

For information.

E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6908

2/13/73

MR. FELT

DO NOT FILE

Re: [REDACTED]

b6
b7C

On 2/13/73 SAC Arbor W. Gray, New York, requested authority to contact an anonymous source at the residence of [REDACTED] [REDACTED] New York City. He assured me that such could be accomplished with full security and he was given the authority to proceed.

ACTION:

For information.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

E. S. Miller

[Handwritten signature]

Greenberg/Gray-6909

1/15/73

MR. FELT

DO NOT FILE

Re: STRONGHOLD CONSOLIDATED
PRODUCTIONS, INC.


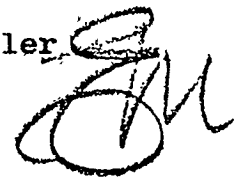
b6
b7C

On 1/15/73 SAC Andrew J. Decker, New York, requested authority to contact an anonymous source at [redacted] New York City. He assured me that such could be accomplished with full security and he was given the authority to proceed.

ACTION:

For information.

E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6910

1/10/73

MR. FELT

DO NOT FILE

Re:

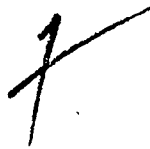
b6
b7C

On 1/10/73 SAC J. Wallace LaPrade, Newark, requested authority to contact an anonymous source at Union, New Jersey. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6911

12/13/72

DO NOT FILE

MR. FELT: ~~7~~



b6
b7C

On 12/13/72 SAC Decker, New York, requested authority to contact the captioned anonymous source. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller

A handwritten signature in cursive script, appearing to read "E. S. Miller".

~~7~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/14/85 BY sp2ap/dd

Greenberg/Gray-6912

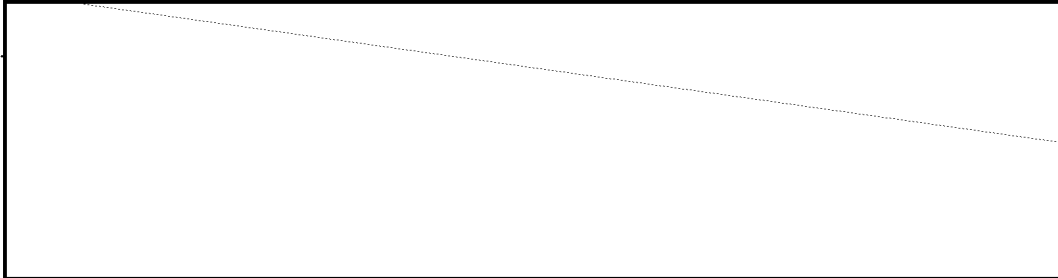
~~CONFIDENTIAL~~

11/22/72

MR. FELT: ~~7~~

DO NOT FILE

(C)



b1

ACTION:

For information.

E. S. Miller

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-20-2009

~~7~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Greenberg/Gray-6913

~~CONFIDENTIAL~~

11/17/72

DO NOT FILE

MR. FELT:

REVOLUTIONARY ACTIVITIES - WEATHERMAN

On 11/17/72 SAC Decker, New York, requested authority to contact an anonymous source at [redacted] Avenue, Brooklyn, who may have some knowledge concerning [redacted]. He b6 b7C
assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

7
E. S. Miller [Signature]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6914

10/24/72

DO NOT FILE

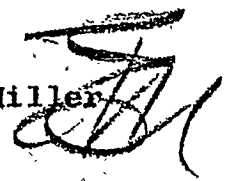
MR. FELT:

REVOLUTIONARY ACTIVITIES - WEATHERMAN

On 10/24/72 SAC, Portland, requested authority to contact our anonymous source at the Vision Works, Eugene, Oregon. He assured me that such could be accomplished with full security and I gave him authority to proceed.

ACTION:

For information.

E. S. Miller 

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6915

10/6/72

MR. FELT:

DO NOT FILE

ARAB INFORMATION CENTER
INTERNAL SECURITY - MIDDLE EAST

On 10/6/72 SAC Roy Moore of our Chicago Office telephonically contacted me and requested authority to contact an anonymous source at captioned Center, 18 South Michigan Avenue, Chicago, Illinois. He assured me that such contact could be accomplished with full security, and I gave him authority to proceed.

ACTION:

For information.

E. S. Mibler



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

~~7~~
Greenberg/Gray-6916

9/7/72

MR. FELT:

DO NOT FILE

AL FATAH
INTERNAL SECURITY - MIDDLE EAST

On 9/7/72 Security Supervisor [redacted] Dallas Office, telephonically contacted Bureau Supervisor [redacted] and requested authorization to contact an anonymous source in connection with captioned matter at the Arab Information Center, Suite 1302, Hartford Building, 400 North St. Paul, Dallas, Texas. He assured that such contact could be accomplished with full security. I was advised of the Dallas request during the course of this telephone call by Supervisor [redacted] and authorized the contact of the anonymous source provided full security was assured.

b6
b7C

ACTION:

For information.

7
E. S. Miller

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-6917

~~CONFIDENTIAL~~

Revised 5/25/77

Revised 3/17/78 to

discuss with Schmitt, NAC, 16 March

Revised 3/17/78

per
PJ



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-20-2009 BY 65179 dmh/baw/sbs

January 10, 1980

Director, FBI

U.S. VS. W. MARK FELT, ET AL.

The Attorney General

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Cregar
- 1 - Mr. Mullen
- 1 - Mr. Bailey
- 1 - Mr. Tierney
- 1 - Mr. Daly

FEDERAL GOVERNMENT

In connection with captioned case, we have been furnished, by a series of letters, certain FBI documents identified by the Department for possible trial use by the defense. In general, we have been requested to advise what information in those documents may be disclosed and what information must be protected.

As you are aware, extremely sensitive information has been disclosed to the defense in the course of discovery. This disclosure of sensitive material was prompted by the uniqueness of the case and our desire to assist in the prosecution. The disclosure was made to properly cleared counsel and defendants under a series of strict protective orders. Obviously, public disclosure raises different concerns and additional information must be protected.

Imp

We have reviewed the selected documents and have indicated to John W. Nields, Jr., what information must be protected and the reasons therefor. Generally, the protected information falls into the following categories:

1. Information which would, or would tend to identify or compromise live sources.
2. Information disclosing the use of technical surveillances and other extraordinary techniques in specific investigations. Such information appearing in Weatherman files will, of course, not be protected nor will general information disclosing the FBI's use of such techniques.

Additionally, all information originating with foreign governments has been redacted in accordance with the Court's order of December 21, 1979.

62-118045-246

MAILED 2
JAN 11 1980
FBI

6 JAN 24 1980

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

We have not made redactions to protect privacy interests. Derogatory information of varying degrees appears in some of the documents and disclosure might prove harmful. I would suggest this information be protected where possible.

It is my understanding that procedures have been set up to refer information originating with another Executive

SEE NOTE PAGE TWO

JAN 9 1980

MAIL ROOM

mailed 1/11/80

62-118045

4-PR

The Attorney General

Branch agency to that agency for approval prior to disclosure. We will indicate to your representatives that information which should be referred in accordance with this procedure. Further, certain of the documents disclose our investigative interests in specific foreign governments and their representatives. Traditionally, the State Department has classified such information, and should be consulted in this regard.

I and my representatives are available to discuss any particular redaction causing prosecutive concern.

1 - The Deputy Attorney General

1 - John W. Niels, Jr.
Special Counsel
Criminal Division

NOTE:

Draft specifically approved by Asst. Directors of Intelligence, Criminal Investigative and Legal Counsel Divisions.

APPROVED:

Director WJW
Exec. AD-Inv. WJW
Exec. AD-Adm. WJW
Exec. AD-LES WJW

Adm. Serv. _____
Crim. Inv. Am
Ident. _____
Intell. WJW
Laboratory _____

Legal Coun. WJW
Plan. & Insp. _____
Rec. Mgnt. WJW
Tech. Servs. _____
Training _____
Public Affs. Off. _____

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : William O. Cregar *WOC*
Assistant Director

DATE: January 11, 1980

FROM : John W. Nields, Jr. *JWN*
Special Counsel

SUBJECT: Declassification Foreign Influence
United States v. Felt, et al

C
W. Marks

In order to avoid disclosure of foreign influence data obtained by the Bureau from cooperative foreign intelligence agencies the government made four admissions concerning foreign influence which then substituted for much of the foreign agency data. These admissions are attached and are all classified confidential. These admissions provide proof of assertions that are highly relevant to the defense case and which should be available for use at trial. Please let me know what direct harm to national security would result from disclosure of these admissions at trial.

cc: Francis M. Mullen, Jr.
Paul V. Daly
Robert Finzel

*McHargue OK'd
Daly already has
agreed. JNK*

(DC)

Greenberg/Gray-6921

~~[CONFIDENTIAL MATERIAL ATTACHED]~~

1- ENCLOSURE

4-5A
62-118045-247

5 FEB 26 1980

62-118045-



56 MAR 18 '80

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

~~CONFIDENTIAL~~



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

~~SECRET~~

March 29, 1979

U.S. vs Felt, et al

The following admissions are made by the Government with respect to the issue of the foreign involvement of The Weatherman. These admissions are made solely for the purpose of the litigation of U.S. vs Felt et al. (U)

(U) (1) Leaders of the Student for Democratic Society (SDS) and the Weatherman Underground Organization (WUO) contacted and met with officials of the Cuban government in order to make arrangements for travel to Cuba. Cuban government officials assisted in such travel arrangements. Leaders of SDS and WUO were also in contact with suspected Cuban intelligence officers. (S) ^{SKIP} b1

(2)

(3)

(U) (4) Members of the SDS and WUO were in contact with representatives of the USSR. (S) ^{CUBA} b1

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-21-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

~~CONFIDENTIAL~~

62-118045-249

CLASS. & EXT. BY 8160 3-29-79
REASON-FCIM II, 1-2.4.2 (1)(2)
DATE OF REVIEW 3-29-99

ENCLOSURE

Greenberg/Gray-6922



~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. *WLB*
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Boynton *WLB*

~~SECRET~~
By 6080
FCIM 1
Date 1/21/2000

DATE: 1/21/80

FROM : W. L. Bailey *WLB*

SUBJECT: U.S. vs FELT et al

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 04-21-2009

W. Marks
 PURPOSE: To advise Judge William Bryant of U. S. District Court, Washington, D. C., ordered the production of certain information which originated with the [redacted] for discovery purposes. ~~(S)~~

RECOMMENDATIONS:

1. That the Department be advised of our position that the information should not be disclosed absent [redacted] approval. ~~(S)~~

APPROVED: *WLB*
 Director _____
 Exec. AD-Inv. *WLB*
 Exec. AD-Adm. *WLB*
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WLB*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

2. Should the Department make the disclosure, we advise the [redacted] that the disclosure has been made and the circumstances under which it was made. ~~(S)~~

APPROVED: *WLB*
 Director _____
 Exec. AD-Inv. *WLB*
 Exec. AD-Adm. *WLB*
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *WLB*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

5 FEB 26 1980

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 2 - Mr. Cregar (Attn: Mr. Fulton)
- 1 - Mr. Mintz
- 1 - Mr. Mullen

- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

PVD:jam (11)

(CONTINUED - OVER)

Greenberg/Gray-6923

~~SECRET~~
By 6080
FCIM 1
Date 1/21/2000

SEE ADDENDUM INTD PAGES 4 and 5



ENCLOSURE

62-118045

~~SECRET~~

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

56 MAR 18 '80

Mr. Bailey to Mr. Boynton Memorandum
Re: U.S. vs Felt et al

DETAILS:

[Redacted]

[Redacted]

b1

(S) During discussions between SA Paul V. Daly and Special Counsel John W. Nields, on 1/20/80, it was the consensus we would make a high-level contact with the [Redacted] to ask their approval for release of the information in question, advising them the disclosure would be to cleared counsel in a vault and that the defense would not be given possession of the documents. The [Redacted] would be advised disclosure would be for (S) discovery purposes under a strict discovery order. While there is no reference to [Redacted] as the source of the information in question, the environment in which it is being disclosed as well as its content would pinpoint them as the source. (S)

On 1/21/80, Nields advised SA Daly that he had discussed this matter with Deputy Assistant Attorney General Robert Keuch. [Redacted]

(S) [Redacted] The rationale of Keuch's opinion is unknown. [Redacted]

b1

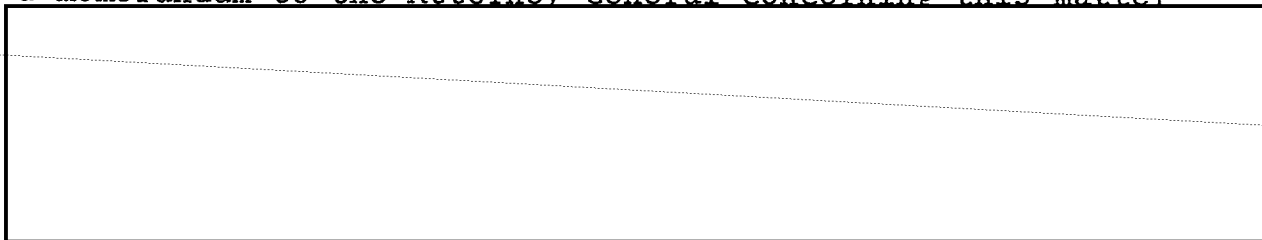
[Redacted] Nields desired to know what the Bureau's position would be concerning this. (S)

In prior discussions between Assistant Director Cregar and Nields, Nields was advised that the Bureau was under an obligation to secure approval of the foreign govern-

Mr. Bailey to Mr. Boynton Memorandum
Re: U.S. vs Felt et al

(U) ment in question prior to release of its information. Cregar explained to Nields the nature of our arrangements with the foreign governments and, additionally, stated high-level contact could be made by high-level Bureau officials to secure the approval of that government. ~~(S)~~

(S) Nields also advised, on this date, that he is preparing a memorandum to the Attorney General concerning this matter



b1

~~(S)~~

~~SECRET~~

Memorandum to Mr. Boynton from W. L. Bailey
Re: U.S. VS FELT ET AL

ADDENDUM: INTELLIGENCE DIVISION (INTD)

EJO
EJO:mjt 1/21/80

b1



(S)

(S)

b1

~~SECRET~~

CLASS. & EXT. BY 115
REASON-FCIM II, 1-2.4.2 (2Y3)
DATE OF REVIEW January 21, 2000
~~January 21, 2000~~

Memorandum to Mr. Boynton from W. L. Bailey
Re: US. VS FELT ET AL

ADDENDUM: INTELLIGENCE DIVISION (INTD) - continued

The FBI has managed to use this information in its counter-intelligence investigations without compromising any CIA recruitments, thereby building a climate of trust between the CIA and the FBI that we would do nothing to jeopardize sensitive CIA sources. [REDACTED]

(S) [REDACTED]

The DCI has a mission to protect sensitive sources and methods and the U.S. Government's [REDACTED]

(S) [REDACTED]

5) Should the information from this source become public, it would immediately result in a termination of the existence of the source. The FBI's recent experience with

(S) [REDACTED] (S)

b1

b1

~~SECRET~~

DO-6

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

January 22, 1980

- Mr. Boynton _____
- Mr. Colwell _____
- Mr. Moore _____
- Mr. Bailey _____
- Mr. Bayse Cap'n Mr. Dealy
- Mr. Cregar _____
- Mr. Herndon _____
- Mr. Joseph _____
- Mr. Long _____
- Mr. Mintz _____
- Mr. Mullen _____
- Mr. Otto _____
- Mr. Stames _____
- Mr. Bruemmer _____
- Mr. Hotis _____
- Mr. Roin _____
- Mr. Steel _____
- Tele. Room _____
- Miss Devine _____

J. J. J.

Judge,

As we discussed this morning, a problem has developed in which the District Court has ordered the production for discovery purposes of certain information we received from [redacted]

b1
b7D

[redacted]

A memo is being prepared to the Attorney General along these lines. (S)

As you can tell from the memo and Intelligence Division's addendum, there is a strong belief here that this would be a serious mistake. The memo basically seeks your approval for our continued assertion of this position, and those involved would like you to consider personally contacting the Attorney General or Mr. Heymann to express concerns about the apparent decision. If you prefer not to personally contact someone in the Department, your concerns can be conveyed through Paul Daly and Special Counsel John Nields to the Attorney General.

(u)

~~Administrative~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-21-2009

Greenberg/Gray-6929

62-118045

FILE
DO NOT DETACH

ALS: cwb
(2)

~~SECRET~~

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : William O. Cregar *WOC*
Assistant Director

DATE: January 23, 1980

FROM : John W. Nields, Jr. *JWN*
Special Counsel

DECLASSIFICATION AUTHORITY FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-21-2009
FBI INFORMATION ONLY

SUBJECT: Declassification of Foreign Influence
United States v. Felt, et al

C
W. Marks

A review of documents which defendants have designated for trial use reflects a topic not covered in any of the 29 write-ups previously forwarded to you for your review. That topic is the visit by [redacted] to Moscow, Leningrad and a small Soviet village, during September-December 1967. Two documents reflecting this trip (9/23/68 [p. C] and 1/24/69 [p. 27]) are forwarded herewith for your analysis of the harm which would result from disclosure of this information at trial. (N.B. Availability of this information for use at trial would facilitate an argument that other information, far more sensitive and less relevant [relating to her 1964-65 year in the USSR and to her efforts to arrange what became the 1967 trip], should be excluded as cumulative.) ~~(S)~~

b6
b7C

DC

cc: Francis M. Mullen
Paul V. Daly
Robert Finzel

Answered 2/15/80
[Signature]

INFO:

[redacted]
100-438168

Sec 2 b6
Sec 1 b7C
Sec 3 *9-12/69*
unrecorded RFR 6/7/71

62-118045-249
5 FEB 26 1980

176-38 Sec 1 serials 3, 7, 14
174-7926 Sec 9

4-36

Leonard Bandier (not reviewed, undated)
100-39869 contains early info -
100-438168 opened
6/4/62

62-118045

DC
ENCLOSURE
ENC. BEHIND FILE

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

56 MAR 18 80

UNITED STATES GOVERNMENT

Memorandum

TO : William O. Cregar *WOC*
Assistant Director

FEDERAL GOVERNMENT

DATE: January 23, 1980

FROM : John W. Nields, Jr. *Jwan Jr*
Special Counsel

SUBJECT: Declassification of Foreign Influence
United States v. Felt

C
W. Mark

Please let me know as soon as possible what harm, if any, would result if the government were to make the following admission, for use at trial in United States v. Felt, regarding the August 1968 SDS trip to Cuba:

While in Cuba, members visited the Russian embassy and also met with a representative of the NLF, who urged that they conduct ~~anti-war~~ *anti-war* demonstrations and raise money for the NLF. ~~(X)~~ *(X)*
promote communism

For your information this proposed admission is a revised version of paragraph four of write-up 12 of the 29 write-ups prepared by the Department and reviewed for classification by Robert Finzel. It will be most helpful to the government's position to be able to make this admission.

cc: Francis M. Mullen, Jr.
Paul Daly
Robert Finzel

62-118045-250
According to excusing done
in response to 12/28/79
Nields to Cregar let above
para is OK for use at trial
with additional info added
to text (copies attached), FEB 23 1980
Martin advised 1/31/80
He will follow classification
assigned by [redacted] to this
paragraph in summary, probably
reflects action. JKT
JKT

2 - ENCLOSURE

Rec'd
1/31/80
JKT

b6
b7C

62-118045



U.S. VS. MARK FELT, ET AL. - TRIAL PREPARATION
ROOM 4859, TL #224, EXT. 4763

Orinaha report 12/10/80

DOCUMENT DESCRIPTION:

DOCUMENT LOCATION: *100-437642-1175*
(or file & serial number)

REVIEWED BY SA OF

b6
b7C

DATE 1/4/80

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-21-2009 BY 65179 dmh/baw/sbs

1. Recommend Release: All (Part*) Nothing (circle one)

[* portions to be withheld are bracketed]

2. Rationale:

~~_____~~ *UPT*
*I have reviewed and informants; including those
logically also, especially arranged.
Human assets*

3. General Statement of Damage if Released:

Identify sources with assets

4. Note any necessary referrals to other Executive Branch agencies.

Greenberg/Gray-6932

~~UNCLASSIFIED TOP SECRET SECRET CONFIDENTIAL
MATERIAL ATTACHED~~

ENCLOSURE
62-118045-250

FEDERAL BUREAU OF INVESTIGATION

~~CONFIDENTIAL~~

REPORTING OFFICE OMAHA	OFFICE OF ORIGIN CHICAGO	DATE 12/10/68	INVESTIGATIVE PERIOD 9/4 - 12/4/68
FILE OF CASE STUDENTS FOR A DEMOCRATIC SOCIETY (SDS)		REPORT MADE BY <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>	TYPED jp
		CHARACTER OF CASE IS - SDS	
DECLASSIFICATION AUTHORITY DERIVED FROM: FBI AUTOMATIC DECLASSIFICATION GUIDE DATE 04-21-2009			

REFERENCE:

Omaha report of SA dated 9/12/68. b6
b7C

- P* -

LEADS:

MINNEAPOLIS - KANSAS CITY - SPRINGFIELD

Information copies are being furnished to the above offices in view of their interest in this matter.

OMAHA - At Omaha, Nebraska:

Will follow and report activities of the SDS in the Omaha Division.

ACCOMPLISHMENTS CLAIMED					None	ACQUIT-TALS	CASE HAS BEEN:
ENVIC	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/>

APPROVED SPECIAL AGENT IN CHARGE COPIES MADE: 1 - CC 924 (DB) ⑧ Bureau (Registered Mail) (7 - 100-439048) (1 - 14-2941 (SDS-Sedition)) 5 - Omaha (100-6890) (Copies continued on Cover Page B) Dissemination Record of Attached Report	DO NOT WRITE IN SPACES BELOW <div style="font-size: 2em; font-weight: bold; text-align: center;">100-439048-2495</div> <div style="text-align: right; font-weight: bold;">REC</div> <div style="text-align: center; font-weight: bold;">12 DEC 12 1968</div> <div style="text-align: right; font-weight: bold;">1259</div> <div style="text-align: right; font-weight: bold;">EXEMPT FROM GDS, CATEGORY 2</div> <div style="text-align: right; font-weight: bold;">DATE OF DECLASSIFICATION INDEFINITE</div> <div style="text-align: right; font-weight: bold;">11-13-78 SSP/BTJ</div> <div style="text-align: right; font-weight: bold;">INT. SEC.</div>
Agency: <i>RAO, IDIU, ...</i> Request Recd. Date Fwd. 51 DEC 19 1968 How Fwd. <i>RS</i> By: <i>R/S/p/s</i>	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE ENCLOSURE 62-118045-250

~~CONFIDENTIAL~~

THE ELECTIONS ARE A HOAX:

"Humphrey, Nixon and Wallace are really no different from each other. Elections are a device used by the ruling class to deceive American workers and students into giving up their just struggles and depending instead on ruling class politicians.

"IMMEDIATE + UNCONDITIONAL WITHDRAWAL FROM VIETNAM - NO NEGOTIATIONS:

"The U. S. has no right to be in Vietnam. The Vietnamese peoples' right to self determination is not negotiable. Workers and students shouldn't have to get killed in an imperialist war for the bosses.

"THE 'LAW AND ORDER' ISSUE IS JUST A COVER-UP FOR RACISM,

"and government suppression of the black liberation movement, the student anti-war movement and the growing labor movement. "

In September, 1968, OM T-10 advised that on August 26, 1968, several individuals, among whom was [redacted] Dubuque, Iowa, flew to Mexico City and Havana, Cuba. While in Cuba, [redacted] visited the Russian Embassy, where he obtained posters and literature. He was also a member of a group who met with a representative of the National Liberation Front (NLF), who encouraged the group to participate in anti-Vietnam demonstrations, collect money for NLF, and promote Communism. ~~(U)~~

b6
b7C

On November 14, 1968, OM T-9 advised there had been no meetings of the SDS at Luther College since October 19, 1968. There had been a United States Air Force recruiter on the campus but there was no demonstration by the SDS. OM T-9 believed that interest in the SDS was declining.

UNITED STATES GOVERNMENT

Memorandum

TO : William H. Webster
Director FEDERAL GOVERNMENT
Federal Bureau of Investigation

DATE: January 23, 1980

FROM : Philip B. Heymann
Assistant Attorney General
Department of Justice

J.H.

SUBJECT: United States v. Felt, et al

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-21-2009 BY 65179 dmh/baw/sbs

W. Marks

CJ
36
2/26/80
JAN 23 1980

As you know, the defendants in the above-captioned case have demanded during discovery proceedings a copy of the attached document, which, as the Bureau has informed the Department, contains some information received from a foreign government intelligence service. As you requested, the Department opposed this demand. By orders dated November 5, 1979 and December 21, 1979, the Court denied the request of the defense for a copy of the document, but ordered that it be placed in a vault at the Department of Justice, and that the defendants and their lawyers be permitted to read the document there. The Court also placed the document under a Court order, violation of which is punishable by contempt of Court, forbidding the defendants and their attorneys from revealing the information to anyone other than to the Court itself during argument. Again, at your request, the Attorney General filed a Claim of Privilege with respect to the information in this document and asked the Court to reconsider the portion of its order requiring the Department to place the document in the vault. By order filed January 17, 1980, the Court denied the request to reconsider. *(C)*

I appreciate the force of the arguments which you put to me during our meeting yesterday afternoon. However, I have concluded that the Department should comply with the order of the Court because, for the following reasons, I am absolutely satisfied that, under the Court's order, we will be able to protect the foreign government's information.

62-118045-251
5 FEB 26 1980

ENCLOSURE *12*

Let to Commissioner
1/23/80
W.H.W./mjh

4-JET

62-118045

56 MAR 18 '80

First, the Court has denied the defendants or their attorneys physical possession of the document.

Second, the information is subject to a Protective Order, punishable by contempt of Court, prohibiting the defendants or their attorneys from orally disclosing the information to anyone except the Court.

Third, the information is, as a practical matter, of no use to the defense and will probably be disregarded by them as soon as they view it - both because it is not related to the issues in the case and because it was received by the Bureau after the end of the conspiracy charged in the indictment.

Fourth, this case is unique in that both defendants are former officials of the Bureau (who had access to this document while they were in the Bureau) and both lead attorneys are former officials of the Department of Justice.

Fifth, the identity of the source of the information will not expressly be revealed.

Under these unique circumstances, it is my judgment that the order of the Court must be obeyed.

Airtel

- 1 - Mr. W. O. Crègar - (FS)
- 1 - Mr. G. M. Quinn
- 1 - Mr. D. Ryan

8/22/73

TO: SAC'S, Albany
 Atlanta (105-4925)
 Baltimore
 Boston
 Chicago (105-32924)
 Detroit (100-41558)
 Los Angeles (105-30848)
 New York (105-115089)
 Newark (105-27875)
 Philadelphia (105-19082)
 Sacramento (105-3992)
 San Francisco (105-27263)
 Seattle (105-7942)
 Tampa
 WFO (105-107456)

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1, 6)
 DATE 04-22-2009

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

FROM: Director, FBI (105-214731)

b6
b7C

UNITED STATES - CHINA FRIENDSHIP ASSOCIATION, aka
 United States - China People's Friendship Association

IS - RU
 IS - CH
 OO: NEW YORK

In 6/71, the United States - China Friendship Association (USCFA) was established in San Francisco at a public meeting with [redacted] chairman of the organization's Executive Committee, in attendance. [redacted] had recently returned from extended residence in the People's Republic of China (PRC). Since 1971, the Steering Committee of the USCFA in San Francisco has been reported to be dominated and controlled by the Revolutionary Union (RU), a basic Marxist/Leninist/Maoist organization. Current information has been developed indicating Tompkins has been traveling throughout the United States seeking to organize new chapters and to coordinate the efforts of the USCFA.

RECORDED COPY FILED IN

- Assoc. Dir. _____
- Asst. Dir.: _____
- Admin. _____
- Comp. Syst. _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Cong. Serv. _____
- Corr. & Csm. _____
- Research _____
- Press Off. _____
- Telephone Rm. _____
- Director Sec'y _____

1 - 105-184369 (RU)

REC-47

20 AUG 22 1973

DB:egt
(35)

EX-112

MAILED 25
 AUG 21 1973
 FBI

700 AUG 24 1973

CLASS. & EXT. BY 6-15-79 9803 RPP WOB
 REASON-FCIM II, 1-2.4.2 2-3
 DATE OF REVIEW 8-22-93

DR/JA

MAIL ROOM TELETYPE UNIT

ENCLOSURE 62-118045-251

~~SECRET~~

~~SECRET~~

Airtel to SAC's, Albany, et al
Re: United States - China Friendship Association, aka
United States - China People's Friendship Association
105-214731

In 8/71 the first public meeting of the United States - China People's Friendship Association (USCPFA) was held in New York City, after a preliminary organizing meeting had been held at the headquarters of I Wor Kuen (IWK), a pro-Maoist group composed primarily of ethnic Chinese. The first meeting of the New York organization featured Victoria Holmes Garvin as a speaker. Garvin, a former leader of the Communist Party, USA (CPUSA), also has had extended residence in the PRC, where in the mid-1960's she married Leibel Bergman. Bergman is also a long-time communist who resided clandestinely in the PRC during the period 1965-1967. Upon his return to the United States, he indicated a desire to collect intelligence in behalf of the Chinese communists and in 1968 he founded the RU, which has become the leading Marxist/Leninist pro-Chinese communist organization in the United States. [redacted]

b6
b7C

[redacted] became the first chairman of the USCPFA in New York City and she is a former communist who resided for extended periods in the PRC and who more recently has been reported as an RU member. Recently, [redacted] of Fleetwood, Pennsylvania, replaced [redacted] as the chairman of the USCPFA in New York City and he also is a former CPUSA member who has resided for extended periods in the PRC. [redacted] has been currently identified as a leader of the RU (X)

(U)

All recipients have reported current or past evidence of USCF or USCPFA within their field office territories. Of interest, it is noted [redacted] the leader of the RU in Philadelphia, has also been reported as the leader of the USCPFA in Philadelphia. [redacted] reportedly the leader of the RU in Los Angeles, is believed to be responsible for the USCF in Los Angeles. In other areas the USCF has been reported as strongly influenced or completely dominated by the RU.

b6
b7C

[redacted] all have had close and continuing contacts with representatives of the PRC either in the United States, Canada, or in Communist China. In 6/73 CHANG Hai-tai, Chief United Nations correspondent for the Shisinhus News Agency (official PRC agency) attended a meeting of the USCPFA in New York City along with a second PRC official. At a regional conference of the USCF held in Washington, D. C., 6/16-17/73, [redacted] a representative of the Liaison Office, PRC, Washington, D. C., was in attendance. [redacted]

b1
b6
b7C

(S)

- 2 -

Greenberg/Gray-6938

~~SECRET~~

~~SECRET~~

~~SECRET~~

Airtel to SAC's, Albany, et al
Re: United States - China Friendship Association, aka
United States - China People's Friendship Association
105-214731

(S)

b1
b6
b7C

At a regional conference of the USCFA in Washington, D. C., on 6/16-17/73, representatives were in attendance from Atlanta, New York, Trenton and Princeton, New Jersey, Baltimore, and Washington, D. C., as were observers from Albany and Los Angeles.

[redacted] was present and appeared to be the leading activist and it was indicated New York was presently a quasi-headquarters of the USCFA. A West Coast meeting of the USCFA was planned for mid-September in San Francisco and East Coast representatives were invited to attend. It was stated that in the future an attempt would be made to force the various chapters of the USCFA into a national organization.

b6
b7C

Based on the above, it is desired all recipients review file and conduct any necessary investigation to establish the existence of USCFA or USCPFA chapters within their respective territories. This investigation should identify all present and past activists in the chapters, headquarters mail or contact addresses, the identity of publications (copies of which should be forwarded to HQ), and, specifically, any subversive influence or evidence indicating close association with the PRC. If an initial report has not been prepared on USCFA or USCPFA activity, one should be promptly forwarded to HQ together with appropriate recommendations. Thereafter, in instances of active USCFA or USCPFA activity, semiannual reports must be submitted. Any recipient determining there is no USCFA or USCPFA activity may forward a letter setting forth pertinent comments. New York has been designated origin in this investigation and copies of all communications should be furnished to the New York Office for information purposes. Any information relating to USCFA or USCPFA efforts to organize nationally or contact with PRC officials should be promptly furnished to HQ. The USCFA and USCPFA have sponsored a number of delegations to the PRC. Information relating to these delegations, of course, must be promptly forwarded to HQ.

Afford this investigation aggressive and innovative attention.

- 3 -

~~SECRET~~

Greenberg/Gray-6939

~~SECRET~~

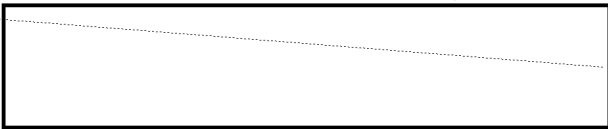
~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Information classified per letter dated 8-14-2009

January 23, 1980

LOCAL & STATE



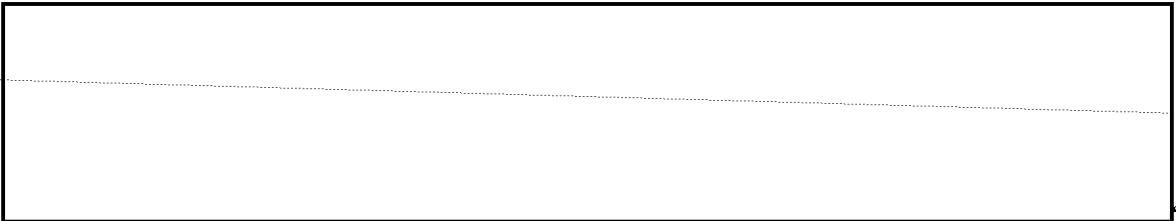
b1

b6
b7C
b7D

Dear :

As the trial of former FBI officials Miller and Felt approaches, there have been a number of court orders, one of which touches upon our relationship with you. Over our objections, the court has ordered access under very carefully controlled circumstances to one document which contains some intelligence supplied It is contained in the last sentence on page two of the August 22, 1973, communication from Headquarters to certain field offices. The communication is attached to the enclosed January 23, 1980, memorandum from Assistant Attorney General Philip B. Heymann to me.

b1



b1

This trial has been highly publicized and is very controversial. I am informed that the only alternative to compliance with the court's order is dismissal of the indictment. In that eventuality, the role of the FBI in that result would be a matter of searching scrutiny. The case has been in preparation for almost two years and thousands of documents are involved.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

WHW:mfd

- 1 - Mr. Daly
- 1 - Mr. O'Malley

*Delivered personally 1/24/80
EVG/ELK*

62-118045-252

~~SECRET~~

4-525 5 FEB 26 1980

62-118045-

CLASS. & EXT. BY *Director*
REASON-FCIM II, 1-2.4.2 (2v3)
DATE OF REVIEW *January 23, 2000*

Greenberg/Gray-6940

MAIL ROOM

FBI/DOJ

56 MAR 18 '80

(S)



b1

As you will note from Mr. Heymann's memorandum, the Government does not anticipate that defense counsel or defendants will have any interest in this particular document for trial purposes. In any event, the defendants would have to seek a court order to produce the document for trial should they desire to use it and the Government would oppose its use. Under the court order, disclosure would be to cleared counsel in a Department of Justice vault; defense counsel will not have possession of the documents. They may make notes which must be stored in an appropriate safe and are subject to a protective order.

Notwithstanding the Department's assessment of the risk, we take our obligation to you as the provider of this information most seriously. We have consistently interposed objections to its dissemination on your behalf. We recognize an obligation to inform you of these developments and of the court order. If you are willing to acquiesce in the procedures outlined in the court's order and in Mr. Heymann's enclosed memorandum, the Department will oppose any use or disclosure of your material at trial. If you wish to prevent the limited disclosure of your information to the defendants and their counsel, as outlined in Mr. Heymann's memorandum and the court order, it will be necessary for you to advance your objections to the Attorney General or the President.

I have asked Deputy Assistant Director Edward J. O'Malley to discuss the contents of this letter with you and to deliver it to you or not, as you prefer. He will be glad to answer any other questions that might be helpful to you in making your own assessment.

Sincerely,

William H. Webster
Director

Greenberg/Gray-6941

~~SECRET~~

O 259059Z JAN 80
FM OTTAWA (62-545)

RECEIVED
TELETYPE UNIT

TO DIRECTOR IMMEDIATE 023-25

25 JAN 80 21 39z

BT

~~SECRET~~

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

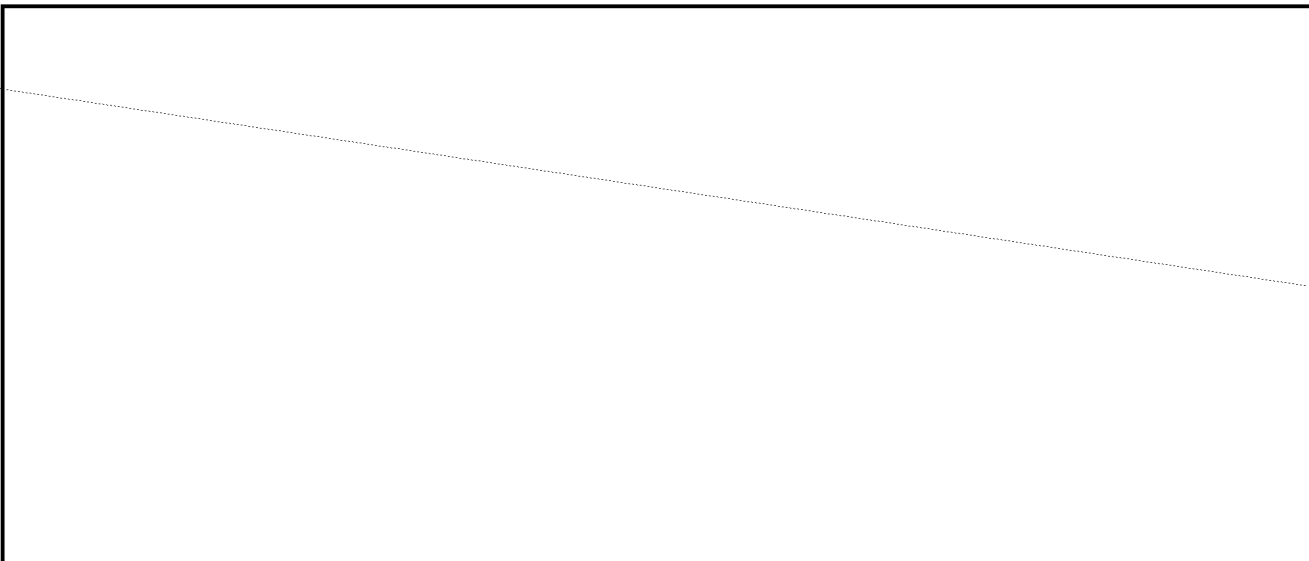
ATTENTION E.J. O'MALLEY, INSPECTOR-DEPUTY ASSISTANT DIRECTOR
UNITED STATES VERSUS L. PATRICK GRAY III, ET AL; DISCOVERY
PROCEEDINGS.

Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgmt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

✓ E. O'MALLEY

RETELCALL FROM LEGAT OTTAWA TO DEPUTY ASSISTANT DIRECTOR

O'MALLEY, JANUARY 25, 1980.



b1

BT

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-22-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

Continuation
per Ottawa
TT 428180 FEB 26 1980

494T J. [Signature] Rm 6992

62-118045

56 MAR 18 '80

Greenberg/Gray-6942

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Joseph L. Tierney *JLT*
Federal Bureau of Investigation

DATE: January 25, 1980

FROM : John W. Nields, Jr. *JWNY*
Special Counsel

SUBJECT: United States v. Felt, et al

W. Mark

C I am attaching a letter from the attorney for W. Mark Felt. By the "[] Memorandum" Mr. Gettings is referring to the Arbor Gray policy memo. Please advise whether we have complied with his request. If not, please do so at the earliest possible opportunity.

b6
b7C

*Exhibits are
Classification*

AC

62-118045-254

5 FEB 26 1980

1- ENCLOSURE

4-JLT

62-118045 Greenberg/Gray-6943



56 MAR 18 '80

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

LAW OFFICES
LEONARD, COHEN, GETTINGS AND SHER

SUITE 550
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006

(202) 872-1095

VIRGINIA OFFICES
1400 NORTH UHLE STREET
COURTHOUSE SQUARE
ARLINGTON, VIRGINIA 22216
(703) 525-2260

JERRIS LEONARD
HARVEY B. COHEN
BRIAN P. GETTINGS
DAVID E. SHER
WILLIAM L. STAUFFER, JR.
JOANNE F. ALPER
JAMES T. DEVINE
FRANK W. DUNHAM, JR.
MARK D. CUMMINGS*
WALLACE H. KLEINDIENST
*MEMBER VIRGINIA BAR ONLY

January 21, 1980

John W. Nields, Jr., Esq.
F.B.I. Task Force
Department of Justice
Room 2304, Main
Washington, D.C. 20430

Dear John:

Earlier in the discovery process, we made an oral request for a copy of the "[redacted] Memorandum" referred to in your A summary pleading as A13 together with all attachments and documents referred to therein. Pursuant to that request, we did receive a copy of the "[redacted] Memorandum" and a few attachments.

b6
b7C

We would like to renew our request at this time and ask that you furnish us, as soon as possible, with copies of all attachments and documents referred to in the memo.

We look forward to receiving these documents in the near future.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER

Brian P. Gettings

Brian P. Gettings

BPG:kw

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-21-2009 BY 65179 dmh/baw/sbs

62-118045-254

ENCLOSURE

Greenberg/Gray-6944

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-21-2009 BY 65179 dmh/baw/sbs

Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TELETYPE UNIT

O 281520Z JAN 80
FM OTTAWA (62-548)

28 JAN 80 16 18Z

TO DIRECTOR IMMEDIATE

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

BT
UNCLAS E F T O

ATTENTION: E. J. O'MALLEY, INSPECTOR-DEPUTY ASSISTANT DIRECTOR
UNITED STATES VS. D. PATRICK GRAY, III, ET AL; DISCOVERY

Handwritten initials/signature

PROCEEDINGS.

REOTTTEL, JANUARY 25, 1980.

62-118045-255

LAST WORD IN RETEL SHOULD BE "CONTINUATION", RATHER THAN

CONFIRMATION.

FEB 26 1980

RETEL SHOULD SHOW CLASSIFYING INFORMATION AS FOLLOWS:

~~C AND E BY 1453, REASON 1, DRD JANUARY 25, 2010.~~

BT

Handwritten: JHT 62-118045

Handwritten: J. Greenberg Rm 6992

56 MAR 18 '80

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~SECRET~~

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. WJG
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. WJG
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : The Director WJG

FROM : E. J. O'Malley EJO

SUBJECT: U.S. VS FELT, ET AL

DATE: 1/28/80

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(6)
 DATE 04-22-2009

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

W. Marks
PURPOSE:

C

(S) [Redacted Box] b1

SYNOPSIS:

(S) [Redacted Box] b1

Enclosure - Sent 1/28/80
 EJO:mjt (5)
 1 - Mr. Cregar
 1 - Mr. O'Malley
 1 - Mr. Daly
 1 - Mr. Steel

62-118043-256

5 FEB 06 1980

~~SECRET~~

CONTINUED - OVER

AC
ENCLOSURE

CLASS. & EXT. BY 115
 REASON-FCIM II, 1-2.4.2 (2 & 3)
 DATE OF REVIEW January 28, 2000

62-118043 Greenberg/Gray-6946



Memorandum to The Director
Re: U.S. VS FELT, ET AL

RECOMMENDATION:

That a copy of this memorandum and its attachment be furnished to the Department of Justice to facilitate a request to the court for an extension of time to permit consultation at high levels in the Government.

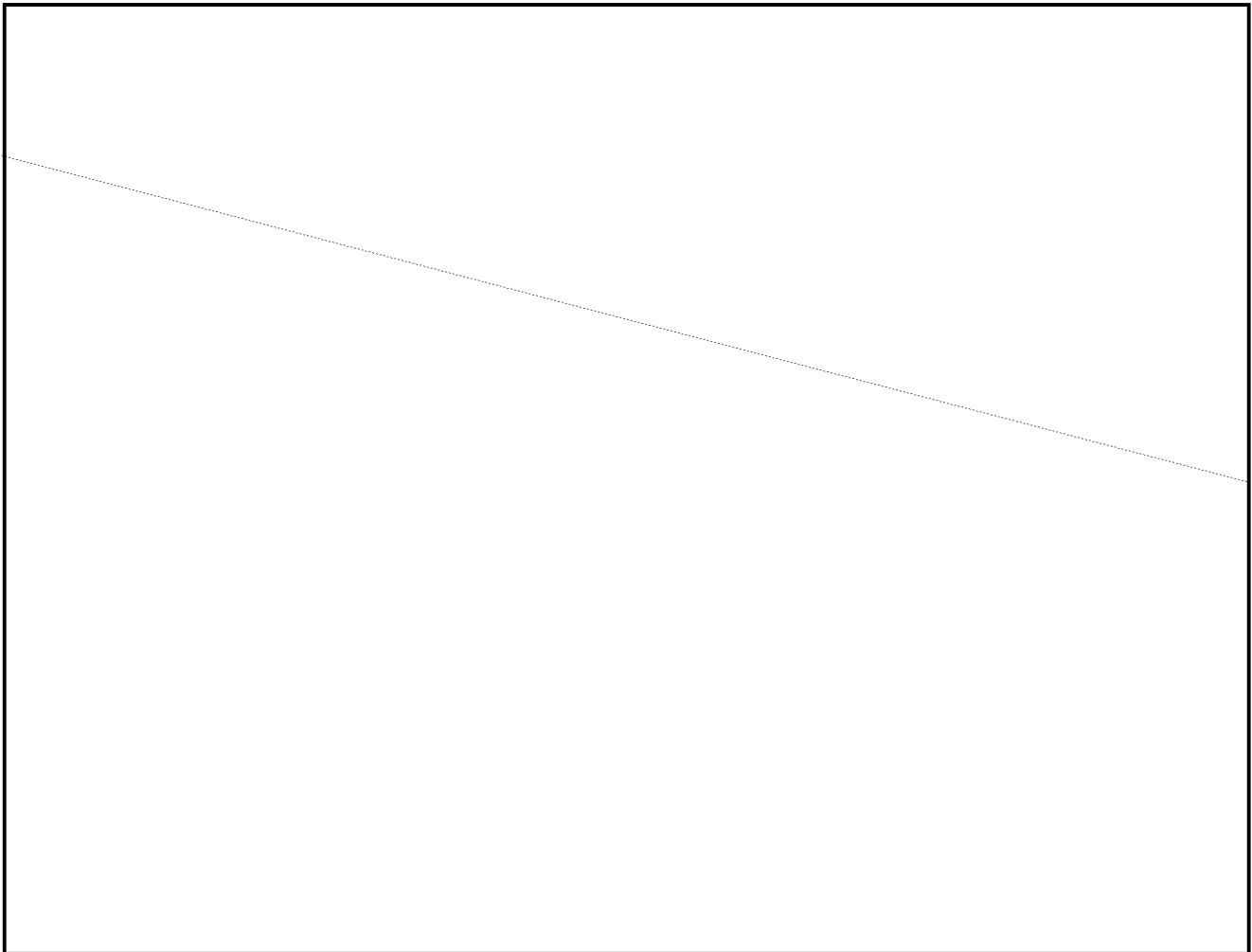
b1

(S)

APPROVED:

	Acm. Serv. _____	Legal Coun. <u>Jaw</u>
	Crim. Inv. _____	Plan. & Insp. _____
<u>W</u> Director <u>W</u>	Ident. _____	Rec. Mgnt. _____
ec. AD-Inv. _____	Intell. <u>EG</u>	Tech. Servs. _____
ec. AD-Adm. _____	Laboratory _____	Training _____
ec. AD-LES _____		Public Affs. Off. _____

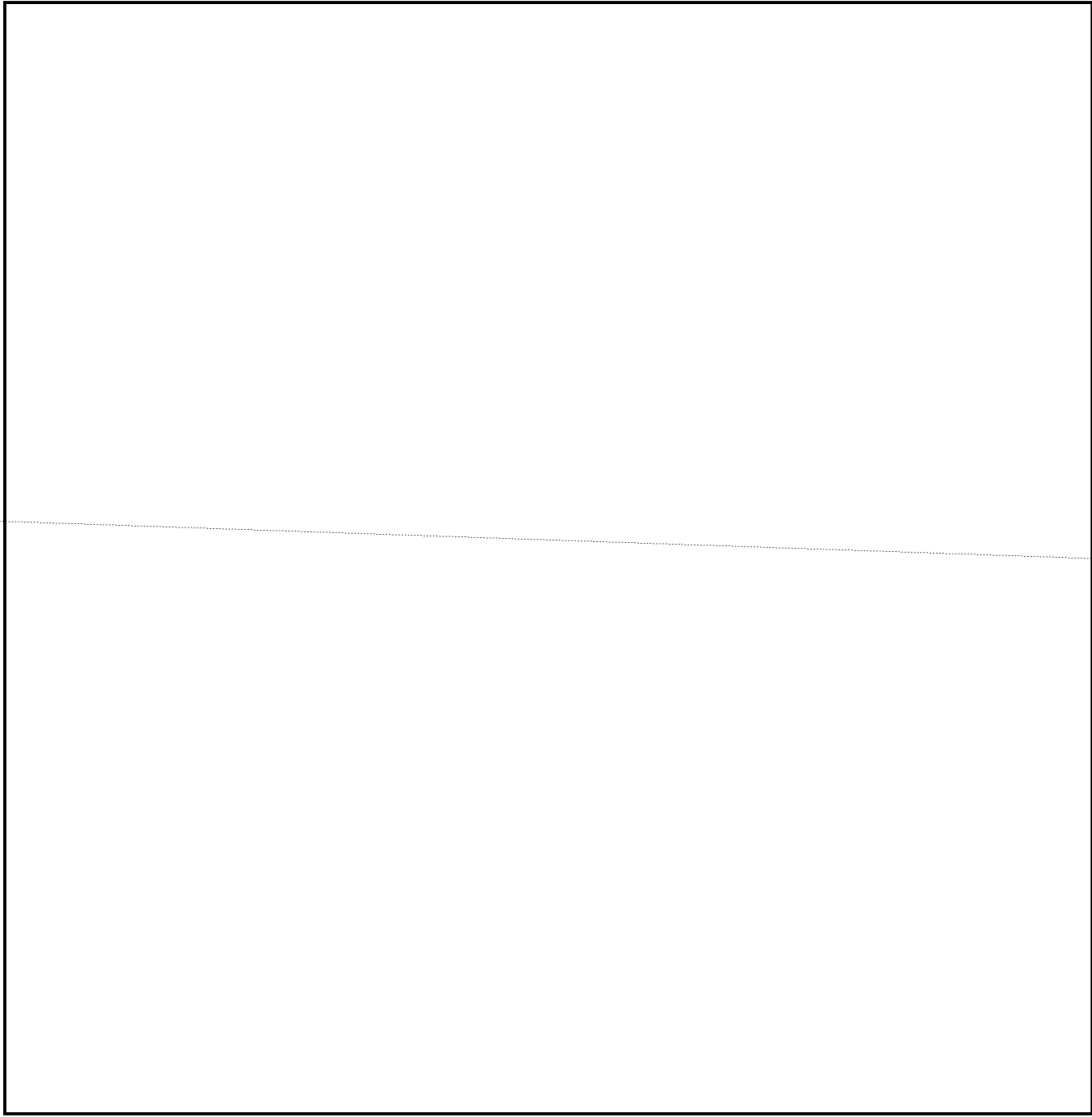
DETAILS:



(S)

b1

Memorandum to The Director
Re: U.S. VS FELT, ET AL



(S)

b1

Memorandum to The Director
Re: U. S. VS FELT, ET AL



(S)

b1

~~SECRET~~
FEDERAL GOVERNMENT

- 1 - Mr. Cregar
- 1 - Mr. O'Malley
- 1 - Mr. Daly
- 1 - Mr. Steel

Mr. Philip R. Heymann
Assistant Attorney General
Criminal Division

January 28, 1980

Director, FBI

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-22-2009

U. S. VS FELT, ET AL

W. Marks

Enclosed is a copy of a memorandum from Deputy Assistant Director Edward J. O'Malley, Intelligence Division, to me which recounts a discussion between FBI [redacted] representatives regarding the January 17, 1980, court order to disclose [redacted] information to the defense for discovery proceedings. [redacted]

b1

In accordance with this request and in view of [redacted] I am requesting that you seek as much time as possible from the court to enable the [redacted] Government to reach a decision and to make that decision known to our Government.

b1

Enclosures (2)

EJO:mjt (7)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

*Reviewed
by [redacted]
1/28/80
5:30*

AS

APPROVED: _____

Director <i>W. Marks</i>	Adm. Serv. _____	Legal Coun. <i>Jm</i>
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. <i>W. Marks</i>	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

62-118045-257

4-5-80
5 FEB 19 1980

~~SECRET~~

CLASS. & EXT. BY 115
REASON-FCIM II, 1-2.4.2 (2 & 3)
DATE OF REVIEW January 28, 2000

62-118045

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAIL ROOM

56 MAR 18 '80

~~SECRET~~

Greenberg/Gray-6951

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-22-2009

- Exec AD Adm. _____
- Exec AD Inv. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. *WB*
- Rec. Mgnt. *WB*
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

1/29/80

Gray
AM

Mr. Boynton:

C
(S) Attached is the Department's letter to the court regarding their intended disclosure of [redacted] information in discovery in this matter.

b1

(S) [redacted] It is noted the reference to a phone call to the Director [redacted] is erroneous and this has been brought to Nield's attention.

b1

(S) The Department asks the court to grant a delay in its compliance with 1/17/80 order until 2/12/80 allowing [redacted] to convey its position to the U. S. Government.

b1

W. Mark Felt

W. L. BAILEY

WLB

- 1 - Mr. Colwell
- 1 - Mr. Cregar
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Bailey
- 1 - Mr. Mullen
- 1 - Mr. Daly

4-PVJ

WLB/als

62-118045-258

PVP
PVD:mjl (8)

5 FEB 26 1980

1- ENCLOSED

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

62-118045

~~SECRET~~

Greenberg/Gray-6952

56 MAR 18 '80

Date of Mail 1-28-80

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____
- LHM _____
- Report _____
- Teletype _____
- Airtel _____
- Memo XX
- Other _____

Subject FELT, MARK W.

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-257X

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-6955

Handwritten initials/signature

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly *PVD*
Federal Bureau of Investigation

DATE: January 29, 1980

FROM : Francis J. Martin *FJM*
Criminal Division

SUBJECT: Foreign Influence Summary

L. Patrick Gray

Enclosed is another copy of the foreign influence summary together with a cross reference between the exhibit numbers (D-1 thru D-21) and [redacted] write-ups (DSF-1 thru DSF-29) or other sources. The FBI information should be reviewed to assure that it is in fact unclassified or that although classified Division 5 has agreed to its release. You may wish to have [redacted] do the initial review which would then isolate the few issues that will require review by Division 5. However, you should use whatever procedure you feel will be the most efficient.

b6
b7C

(DC)

I have attached as enclosure "A" pages 13 thru 28 of Felt's specific document #841. * These pages deal with antiwar conferences. Although stamped secret, the absence of paragraph markings by [redacted] and the nature of the information lead me to believe that the information is unclassified. Please let me know if this is the case.

b6
b7C

Thanks *62-118045-259*

5 FEB 26 1980

cc: Robert Finzel

** Monograph 11/21/69
Foreign Support for Revolutionary
Protest Movements in the U.S.
Classification retained by SVM 1/4/82
on 9/21/80 - needs recheck
classroom handling 11/30/80*

*Answered by 2/15/80
ST*

ENCLOSURE ATTACHED

Greenberg/Gray-6956

62-118045 4-5k



56 MAR 18 '80

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

D-1 DSF-2
D-2 DSF-4
D-3 DSF-5; DSF-6
D-4 DSF-9; DSF-10
D-5 DSF-12
D-6 DSF-11
D-7 (See enclosure "A")
D-8 NSA Summaries
D-9 DSF-16
D-10 DSF-15
D-11 DSF-18
D-12 DSF-14
D-13 DSF-22
D-14 FBI Admissions
D-15 DSF-14; DSF-25
D-16 DSF-25
D-17 DSF-26; CIA
D-18 CIA
D-19 CIA
D-20 Washington MPD
D-21 See Nields to Cregar memo dated 1/4/80; Subject: Declassification -
 b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-22-2009 BY 65179 dmh/baw/sbs

~~SECRET~~

(U) For several years, the NCNA has been forwarding large quantities of anti-United States propaganda material to Negro publications and pro-Chinese communist groups in the United States. Information was received in May, 1968, which disclosed the NCNA had commenced circulating photographs in this country depicting racial riots, arsonist activity, and other civil disorders participated in by the American Negro. ~~X~~

(U) Data was received on May 3, 1968, revealing a news release had been sent from China Features, Peking, China, to the Black Organization of Students, Rutgers University, Newark, New Jersey. The news release contained a statement by Mao Tse-tung in which mention was made of support of the Afro-American struggle against violent repression. ~~X~~

The BPP makes widespread use of the "Red Book" in instructing its members. The "Red Book" is a collection of quotations by Mao Tse-tung. Sections of it have been incorporated into the BPP "Political Education Kit." One such section advocates the abolition of war through war and states that in order to get rid of the gun it "is necessary to pick up the gun." ✓

During January, 1969, a BPP leader in Los Angeles had a poster in his possession which had been published by the Peoples Fine Arts Press, Shanghai, China. It was captioned "Support the Peoples of the World in Their Anti-Imperialist Struggle." ✓

E. International Conferences

Numerous conferences throughout the world during the past few years have evidenced both the international character of the revolutionary protest movement and the desire of foreign elements to influence the conduct of that movement within the United States. The majority of these meetings have focused on opposition to the United States position in Vietnam. As active participants in these gatherings, representatives of militant groups within the United States have joined with their foreign counterparts in efforts to undermine the United States. A representative sampling of such conferences will illustrate this point, and, in addition, give some indication as to the disruptive, anti-United States proposals made at them. ✓

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-22-2009
Pages 13-28 only

~~SECRET~~

1. International Conference on Vietnam

Stockholm was the scene of the International Conference on Vietnam held from July 6 through July 9, 1967. The World Peace Council, an international communist front organization, was one of the principal organizers of this conference. Among the 452 persons who attended the conference were delegates from communist countries. Among those present from the United States were Dr. Benjamin Spock; CPUSA National Committee member Herbert Aptheker; the Reverend James Bevel; [redacted] of Women's International League for Peace and Freedom; and [redacted] then an official of the National Conference of New Politics. U

skip

b6
b7C

The conference made plans for a world "Peace in Vietnam Day" to coincide with the antiwar demonstration in Washington, D. C., on October 21-22, 1967. Our investigation of this matter disclosed that a massive demonstration of approximately 35,000 people took place in Washington, D. C., which demonstration culminated with an assault on the Pentagon. Demonstrations were also held in various other cities, both inside and outside of the United States. U

2. Latin American Solidarity Organization (LASO) Conference

In July and early August, 1967, Stokely Carmichael, of the Student Nonviolent Coordinating Committee, was a guest of the Cuban Government and an "honorary delegate" to the conference of the LASO held in Cuba. He sought to tie in the Negro extremist activities in the United States with the anti-imperialist revolutionary struggle which was the basic theme of the conference. With headquarters in Havana, Cuba, LASO was formed by communist, revolutionary and terrorist groups from various Latin American countries dedicated to the violent overthrow of imperialism, particularly United States imperialism. U

skip

3. Bratislava Conference

Another so-called peace conference was held at Bratislava, Czechoslovakia, from September 6 through September 13, 1967. Among the 41 persons from the United States who attended the conference were: David Dellinger, who led the

✓
your
p.7

~~SECRET~~

delegation from the United States: SDS leader [redacted] and [redacted], who headed an SDS delegation of nine; [redacted] and [redacted] both of SKCC; [redacted] of the Student Mobilization Committee; [redacted], a writer for the "New Republic" magazine; [redacted] and [redacted] both of the American Friends Service Committee; [redacted] a professor at Yale University; and [redacted] of "Ramparts" magazine. U

Both North Vietnam and the NLF sent delegations to the conference. U

The delegates from the United States to the Bratislava conference were furnished free lodging and meals while at the conference but were required to pay their own transportation expenses. They were thoroughly briefed by Dellinger well in advance of their departure and were instructed to be prepared to give reports and participate in discussions on various topics, including the antiwar, student and civil rights movements and an analysis of the current American political situation. Dellinger told the delegates that the purpose of the conference was to create solidarity and mutual understanding between revolutionaries from Vietnam and their supporters in the United States and that the delegates were chosen on the basis of their experience in radical activity. U

4. International Cultural Congress

In January, 1968, an International Cultural Congress, attended by more than 500 delegates and observers from all over the world, was held in Cuba. Some 25 individuals from the United States were present, including David Dellinger and SDS leaders [redacted] and [redacted]. Five members of SKCC reportedly traveled to Havana to attend this conference. This travel was handled through the [redacted] Mission to the United Nations [redacted]. The announced purpose of this conference was to obtain unity of action in Cuban anti-imperialism fights. U

*you have,
p. 8; you
might
expand
yours
a bit*

b6
b7C

5. Japanese Conference on Vietnam

An international meeting sponsored by Beheiren, a Japanese peace group, was held in Kyoto, Japan, August 11-14, 1968. Approximately 250 antiwar activists including 23

*skip here;
include,
if at all,
later,
as 1/2 a
sentence,
in connection
with 1969
conference with Japanese*

~~SECRET~~

- 15 -

from the United States were in attendance at this conference. Discussion centered on such subjects as how to wage a campaign against war and for social change throughout the world, how to deal with the Okinawa issue and the United States - Japan Security Pact, how to assist United States deserters and draft evaders and how to coordinate antiwar movements around the world.

6. International Assembly

Columbia University was the site of an International Assembly held in September, 1968. This Assembly was sponsored by the Columbia University chapter of SDS and representatives from many foreign countries were in attendance. Much of the activity of the Assembly centered around revolutionary tactics to be employed by students.

* see my write up #3, text at n.9

7. Budapest Conference

A group of 20 American antiwar activists including SDS members traveled to Budapest, Hungary, in September, 1968, to meet with representatives of North Vietnam and the National Liberation Front. Nine of the group from the United States had taken part in the demonstrations at the Democratic National Convention in Chicago a few weeks before this trip. The meetings were arranged by David Dellinger and centered on the Paris Peace Talks, on prospects for further student unrest in the United States and on furthering unrest among American servicemen.

✓ your p. 11

b6
b7C

8. Hemispheric Conference to End the War in Vietnam

From November 28 to December 1, 1968, the Hemispheric Conference to End the War in Vietnam was held in Montreal, Canada, hosted by the Communist Party of Canada. It was attended by approximately 1,700 delegates and observers, including a five-man delegation from North Vietnam, headed by Hoang Minh Giam, Minister of Culture, and a two-man delegation from the National Liberation Front of South Vietnam. Others in attendance included extremists, communists, pacifists and student radicals from North and South America.

The approximately 25 BPP members in attendance, with the aid of white radicals, took over control of the conference following a series of fights and scuffles. Together with other extremists they attacked the "solidarity with the

optional note that [redacted] attended see my write up #3, text at n.10 and also note that this could tie in with Mike Spiegel's stating in a speech on 9/11/68 that he + others had had an interview with N. Viet. students in Canada (see my write up #1, text at n.2)

~~SECRET~~

Vietnamese" there, wanted to assist North Vietnam and the Viet Cong and wanted to denounce American imperialism. A participant at the conference described the BPP members as "black storm troopers" and said that no decision was made at the conference without consideration of the Panthers' reactions. U

BPP leader [redacted] addressed the conference on December 1, 1968, and called for the overthrow of colonial powers. Seale also had a series of conferences with the North Vietnamese and National Liberation Front delegations. U

b6
b7C

9. Stockholm Conference on Vietnam

The Stockholm Conference on Vietnam was held May 16 through 18, 1969. Approximately 350 to 400 individuals from 52 countries representing a myriad of peace and antiwar groups were present. About 25 individuals from the United States attended. U

This conference was requested jointly by the National Liberation Front of South Vietnam (NLF) and the Democratic Republic of Vietnam (DRV) delegations to the Paris Peace Conference. The basic theme was to promote acceptance among the world's intellectuals of the 10-Point Program advanced by the NLF and DRV at the Paris Peace Conference. They felt that if they could convince the conference participants that this program was the only legitimate answer to the Vietnam situation, the influence these individuals had in their respective countries would be sufficient to build world opinion in support of the 10-Point Program. U

~~SECRET~~

maybe -
read this
with #14
infra

~~SECRET~~

A report of the Working Group on Action of this conference set forth seven proposals to be used to undermine support of the United States position in Vietnam. These were:

- a. Collection of signatures of prominent people to be publicized in newspapers.
- b. National and international demonstrations on July 4 in the form best suited to the organizations and the movement in each country. Specific suggestions called for vigils outside United States Embassies on July 4 and the reading aloud of names of Americans killed in Vietnam.
- c. Boycott of United States firms providing goods for the war in Vietnam or engaged in the transporting of such goods.
- d. Increased international support for draft resistance in the United States and by Americans abroad; encouragement of defection from the United States armed forces; and, opposition within the Army.
- e. Increased support of the 10-Point Program of the NLF and exposure of "the weaknesses" of President Nixon's Eight-Point Program.
- f. A campaign for recognition of the National Liberation Front of South Vietnam and the Democratic Republic of Vietnam by more world governments.
- g. The issues of the war in Vietnam, particularly the unconditional withdrawal of United States troops and the 10-Point Program of the NLF, should be stressed as widely as possible at all national and international conferences. ✓

With regard to proposal number one enumerated above, the June 25, 1969, edition of "The Washington Post" carried a three-quarter page advertisement calling for the President to end the war in Vietnam now. Specifically, the signers of this advertisement, many of whom have had communist affiliation, called for a halt to offensive military operations and the withdrawal of all United States troops within one year to begin immediately. ✓

~~SECRET~~

~~SECRET~~

10. World Congress of Women and World Peace Council Conferences

SKIP
In June, 1969, delegations from the United States attended conferences of the World Congress of Women in Helsinki, Finland, and the World Peace Council in East Berlin, Germany. Both of these are international front groups controlled by the Soviet Union. These conferences served as forums for propaganda against the United States' position in Vietnam. U

We have determined that the World Peace Council Conference in East Berlin, June 21-23, 1969, was concerned with the following points:

- a. Unceasing denouncement of United States imperialism.
- b. Recognition of the government of the German Democratic Republic by the United States and other countries within its sphere of influence.
- c. Encouragement to the Vietnamese to continue fighting inasmuch as they are fighting the battle of all emerging nations and this will give the latter the courage to fight their own wars of liberation.
- d. Support of provisional revolutionary governments wherever they occur.

The American delegation to this conference included communists, members of SNCC, and the various peace groups. U

(U) 11. North American Conference of Anti-Imperialist Youth
Regina, Saskatchewan, Canada
May 7-12, 1969] X

SKIP (U) This conference was attended by more than 100 people from Canada and the United States. Approximately 12 of these individuals were United States citizens. The conference was oriented toward the Chinese-Communist point of view and was X

~~SECRET~~

~~SECRET~~

concerned with the working class struggle for democracy and socialism within the imperialist countries. It supported the following:

The struggle for the liberation of Quebec

The struggle of Afro-Americans and other minority groups against racial discrimination

The struggle of the revolutionary youth in the United States and Canada

The struggle of the Vietnamese people against "U. S. fascist aggression"

The struggle of the Czechoslovakian people against "Soviet fascist occupation"

(U) The "great proletarian cultural revolution and the Peoples' Republic of China." ~~X~~

(U) The conference called for rallies, conferences and other programs against U. S. imperialism. One of the resolutions called for support of the "oppressed people" of the U. S. on such questions as racial discrimination and "fascist repression" and the struggles of students, servicemen and working class against monopoly capitalism. ~~X~~

12. Conference Sponsored by the Voice of Women (Canada)

Skip
The communist infiltrated Voice of Women (VOW), a Canadian women's organization, sponsored a visit to Canada by five Vietnamese women during the period July 3-17, 1969. On July 11 and 12, 1969, a two day conference was held at Vancouver, British Columbia. Approximately 136 Americans registered for this conference representing such groups as Women Strike for Peace (WSP), Women's International League for Peace and Freedom (WILPF), American Friends Service Committee (AFSC), and the War Resisters League (WRL). Both the Americans and the Vietnamese were very pleased with this conference and considered it to be a success. u

~~SECRET~~

- 20 -

Greenberg/Gray-6965

~~SECRET~~

Attendees were furnished an appeal from Pham The Truc, a member of the House of Representatives, Republic of Vietnam. This appeal called for the immediate halt of support for South Vietnam, the withdrawal of all U. S. military forces from Vietnam and for sincerity on the part of the U. S. Government at the Paris peace talks.

The American caucus to this conference issued a resolution which called for the following:

- a. Unconditional withdrawal of American troops from Vietnam.
- b. Removal from office of South Vietnamese leaders.
- c. Support of a Provisional Coalition Government in South Vietnam.
- d. Publicizing the 10-point program of the National Liberation Front.
- e. A campaign against chemical and biological warfare.
- f. Contacts with U. S. Congressmen to urge their support for withdrawal of U. S. troops from Vietnam.
- g. Recommending a nation-wide demonstration against the war be held in Washington, D. C. on November 15, 1969. *u*

This American resolution also contained suggestions for action in their fight against the war in Vietnam. It stated their approach should always be multi-level in order to reach more people and that the cost of the war should be related to the many problems the U. S. faces on the domestic front. It was also suggested that opposition should be raised against repressive action and legislation aimed at war dissenters.

~~SECRET~~

- .21 -

Greenberg/Gray-6966

13. World Conference of Youth and Students
for Vietnam Solidarity
→ Helsinki, Finland
August 23-27, 1969

skip
but note
that this
is probably
what BD
was invited
to by the
Working
Group

This conference was called as a result of Vietnamese youth organizations appealing to the World Federation of Democratic Youth (WFDY) and the International Union of Students (IUS), international youth organizations which are controlled by the Soviet Union. U

The United States was to have been represented by a delegation made up of members of the W. E. B. DuBois Club and the Black Panther Party (BPP). This group was to have traveled to Helsinki, Finland, by way of the Soviet Union utilizing the Soviet airline, Aeroflot; however, through a mix-up Aeroflot declined to honor the tickets of the group and they did not make the trip. U.

14. Conference of the International Liaison Committee
of the Stockholm Conference on Vietnam
Stockholm, Sweden
October 11-12, 1969

note: the
Working
Group →

As noted above, in May, 1969, the Stockholm Conference on Vietnam was attended by approximately 400 representatives from 52 countries including several individuals from the U. S. This conference was requested jointly by the National Liberation Front of South Vietnam (NLF) and the Democratic Republic of Vietnam (DRV) delegations to the Paris Peace Conference. The basic theme was to promote acceptance of the program advanced by NLF and DRV at the Paris Peace Conference. A subsequent report of the Working Group on Action of this conference set forth several proposals to be used to undermine support of the U. S. position in Vietnam. These proposals included collecting and publicizing signatures of prominent people opposed to the war; national and international demonstrations on specific dates; increased international support for draft resistance and opposition within the U. S. military forces; and a campaign for recognition of the NLF and DRV by the governments of other nations. U

A meeting of the International Liaison Committee of the Stockholm Conference on Vietnam was held October 11-12, 1969, in Stockholm. Two representatives of the New Mobilization Committee to End the War in Vietnam (NMC) attended the meeting

~~SECRET~~

at which were representatives from anti-Vietnam war organizations in 20 countries as well as the DRV and NLF. This meeting was held to hear reports on the Fall Offensive of NMC and to formulate a call for worldwide demonstrations on 11/15/69. A call was issued for immediate consultations to begin with all international and national organizations taking part in the Fall Offensive with a view to launching a united initiative for the immediate, total and unconditional withdrawal of U. S. and allied troops from South Vietnam. *u*

In addition to planning for a conference no later than early January, 1970, suggestions were made for activities for the Fall Offensive. These suggestions included:

1. Demonstrations at New Zealand and Australian embassies focused on their involvement in U. S. war against Vietnam.
2. Traveling teams of Vietnamese and Americans to speak in European countries. The Vietnamese liked this idea and were to discuss it when they returned to Paris.
3. A delegation of Americans to meet with Vietnamese in Paris as soon as possible to discuss developments in the anti-war movement in the U. S.
4. A worldwide day of prayer for Vietnam on November 15 or 16.
5. A worldwide day of collection for Vietnam at temples and churches during December. *u*

Deep and extensive concern was expressed that November 15 would not be seen as the end of the offensive. Delegates expressed strong hopes that the New Mobilization Committee would very soon project plans for action after November 15. *u*

F. Visits to the United States by Foreign Revolutionaries

The virtual lack of travel restrictions by the United States, coupled with the comparative ease in obtaining a United States visa, practically eliminates any problems foreign leftists have in traveling to the United States. There have been numerous such individuals who have traveled here in the

~~SECRET~~

past for varying reasons. Notable among these are [redacted] [redacted] from Belgium and Karl Dietrich Wolff from Germany. u

[redacted] is a leading member of the Trotskyite Secretariat of the Fourth International. He is also an activist in the New Left movement throughout Western Europe. [redacted] was active in founding the anarchistic Socialist German Students Federation (German SDS) in Berlin, Germany, and is friendly with leaders of various radical youth groups in Western Europe. [redacted] trip was arranged by the Socialist Workers Party (SWP) while the Young Socialist Alliance (YSA) organized the tour of [redacted]. These two individuals, during September and October, 1968, made separate tours which took them to some 50 college and university campuses from coast to coast and border to border. Each appearance made by these two individuals was marked by their espousing the revolutionary doctrine of the New Left before United States college students. u

skip

b6
b7C

Karl Dietrich Wolff, a former national chairman of the German SDS, entered the United States on February 25, 1969, reportedly to engage in a speaking and fund raising tour arranged for him by SDS. He appeared at some 16 colleges throughout the country and did not miss any opportunity to spread seeds of discontent and anarchy. He cited examples of harassment and disruption and announced the need to build an international revolutionary alliance, adding that victory for the movement in one country is a victory for the movement in another. u

add something
may be not all
See my writings #3
test at n. 11
and at n. 19
They will use Wolff as a building block to show who contacts with international radicals;
1969 Japanese action (my #20) is another

Wolff was subpoenaed to appear before the Senate Internal Security Subcommittee and during his testimony expressed support for the regimes in Cuba and North Vietnam, the Viet Cong, and the National Liberation Front of South Vietnam. u

skip
A BPP rally in Los Angeles, California, on November 6, 1968, was addressed by a Mexican student who was reportedly associated with the Student Strike Committee of Mexico City, Mexico, which organization had been involved in violent clashes with Mexican police and military units. During a subsequent meeting, it was agreed that Mexican student leaders would come to Los Angeles to instruct the BPP in disruptive tactics and that BPP members would go to Mexico for training. u

~~SECRET~~

G. Contact Between Leaders of United States Protest Groups and Representatives of Foreign Communist Groups.

1. New Left Movement

Cuba and North Vietnam have been particularly strong magnets for New Left protest groups. Much of the strength of these organizations derives from their ability to maintain close relationships and dialogues with foreign establishments. For instance, the National Mobilization Committee to End the War in Vietnam (NMC) maintains a foreign contact list of over 300 individuals and organizations throughout the world. Its chairman, David Dellinger, has travelled to the Soviet Union, North Vietnam, Czechoslovakia, Cuba and Sweden in furtherance of opposition to the war in Vietnam. The NMC and Dellinger maintain almost constant contact with the Governments of Cuba and North Vietnam and representatives of the National Liberation Front of South Vietnam. Dellinger feels such contacts give the NMC and himself notoriety and build their image in the movement. *u*

One of the most highly publicized visits to North Vietnam was a ten-day trip made in December, 1965, by a former member of the American Youth for Democracy, a defunct communist youth group; Herbert Aptheker, a member of the National Committee of the CPUSA and Thomas Hayden, one of the founders of SDS. Their trip was not authorized by the State Department. It was described by the three travellers as a "fact-finding" mission. *u*

b6
b7C

✓ Following the Bratislava Conference held in September, 1967, Hayden and two other SDS members travelled to North Vietnam. *u*

✓ In February, 1968, 20 SDS members visited Cuba and, while there, held conferences with representatives of the National Liberation Front, the political arm of the Viet Cong, and with individuals from North Korea. *u*

✓ In March, 1968, Carl Davidson, an SDS national officer, visited Cuba where he met with representatives of Communist China, North Korea and North Vietnam. another SDS activist, visited North Vietnam in April, 1968. *u*

b6
b7C

~~SECRET~~

~~SECRET~~

A group of 34 SDS members travelled to Cuba by way of Mexico in late August, 1968. Part of this group met with a representative of the National Liberation Front who stated that the New Left in the United States should conduct more and more demonstrations against the war in Vietnam.

u

In November, 1968, four women representing the Women Strike for Peace travelled to the Soviet Union at the invitation of the Soviet Women's Committee. En route, they met with Madame Phan Thi Kim, head of the National Liberation Front of South Vietnam delegation to the Paris Peace Conference, in Paris, France. In the Soviet Union, the delegation was hosted by various women in influential positions throughout the Soviet Union. A representative of the group planned to return via Prague, Czechoslovakia, and make contacts there.

skip

(U)

In April, 1969, it was determined that three individuals of the Women's International League for Peace and Freedom (WILPF) had received an invitation from the National Headquarters of the [redacted] of Women to visit [redacted]. On May 26, 1969, these three individuals travelled [redacted] by way of [redacted]. This was the last leg of a trip which had taken them through several South American countries. These individuals had attempted to have their passports validated for this [redacted] but the Passport Office denied their request.

skip

(U)

On June 20, 1969, a delegation of 20 individuals under the sponsorship of the Committee of Returned Volunteers (CRV) travelled to Cuba by way of Mexico City. This trip was organized with the full knowledge that it is contrary to State Department regulations; however, a statement adopted by the group indicated that the travel would be made without such approval as a further demonstration of the CRV opposition to United States policies. Available information indicated that all expenses over and above transportation were to be borne by the [redacted] Government.

do not overlook all the CRV travelers before + during the 7/69 SDS trip, and all the travel by lots of other non-SDS, non-UB people

u

On July 7, 1969, a group of 31 individuals travelled to Cuba by way of Mexico City. This group contained members of the SDS and the CRV. While in Cuba, representatives of this group met with 15 representatives of the NLF and of North Vietnam. These individuals assured the American group of the legitimacy of the Provisional Revolutionary Government of South Vietnam and condemned the U. S. for its war crimes. These said they urged the anti-war activists to continue their fine work in resisting the U. S. war efforts and acknowledged the value of this activity.

u

~~SECRET~~

ie see next page 26 + see my writeup 13, part d

~~SECRET~~

✓
Bernardine Dohrn, a national leader of the SDS who participated in the above conference, held a press conference after her return to the U. S. in which she said total withdrawal of U. S. troops from South Vietnam is the first condition for peace. She then announced plans for demonstrations in Chicago, Illinois, in October, 1969, in support of that demand. u

other travelers
Fourteen representatives of the WSP traveled to Cuba by way of Mexico City on July 11, 1969. This trip was made with the knowledge that the participants would not have their passports validated for such travel. According to the Cuban press service, "Prensa Latina" on July 29, 1969, the WSP delegation met with a delegation of Vietnamese women who were also visiting Cuba. The WSP group also met with members of the Central Committee of the Communist Party of Cuba and with the president of the Federation of Cuban Women. The Vietnamese women's delegation included a member of the Central Committee of the NLF and an official of the Provisional Revolutionary Government of the Republic of South Vietnam. u

CRV
On July 25, 1969, some 20 individuals representing the CRV traveled to Cuba by way of Mexico City. As in the case of the CRV sponsored trip to Cuba in June, 1969, this travel was made without securing State Department validation of individual participant's passports. u

(U) It is interesting to note that at the CRV National Assembly held on September 12-16, 1969, a resolution in support of the Cuban revolution was passed. With regard to the CRV sponsored trip to Cuba in June, 1969, it has been ascertained that one of the participants while speaking with representatives of the Vietnamese Embassy in Havana was instructed not to speak in terms of revolution to American servicemen, but rather he should speak to the servicemen in terms of their families and whether or not the individual wanted to die. (S)

After ten years of consistent failure, the Castro Regime is going all out in an attempt to meet its established sugar quota. In so doing, the Cuban Government has underwritten and agreed to a group of Americans associated with the New Left traveling to Cuba to participate in the sugar harvest. u

The organization of the Venceremos Brigade came to light during June, 1969, when the formation of its Executive Committee was announced. This committee discloses it to be a broad coalition of various New Left-type groups as well as representatives from the Black Panther Party and the Revolutionary Union. u

~~SECRET~~

The Brigade originally was to consist of two groups of 150 people each. One of these groups is scheduled to travel to Cuba, November, 1969, and the other is to depart in January, 1970. Applicants are made to understand that they will be facing a different type of life and are warned that they must abide by the stringent Cuban laws pertaining to the use of marijuana and drugs. A rather detailed application is required of each applicant in triplicate which requires a voluntary statement as to the individual's background and his involvement and motivation in "the movement." u

An example of the ability of the subversive New Left movement to reach a wide audience is probably best illustrated by "Ramparts" magazine and its former Managing Editor Robert Scheer. u

"Ramparts" magazine espouses a line of opposition to United States domestic and foreign policy from a left-oriented position, utilizing sensationalist muckraking to draw the reader's attention to its attacks on various Government agencies. u

The political orientation of "Ramparts" magazine is a reflection of the activities and ideology of its former Managing Editor. Scheer has been extremely active in this country in a leadership capacity in a broad range of new left protest activities and openly espouses support of Fidel Castro and the Vietnam National Liberation Front. His foreign travels include a trip to Cambodia, Thailand and South Vietnam in February, 1966. In January, 1968, he attended the Cultural Congress held in Havana, Cuba, traveling to Cuba via Mexico City as an accredited correspondent. He stated he traveled with the approval of the State Department. He was again in Cuba from April 23, 1968, to May 10, 1968, and from December 31, 1968, to January 13, 1969, during which time he attended the celebration on January 2, 1969, of the 10th anniversary of the Cuban revolution. u

Demonstrative of Scheer's political ideology is the following statement made by Scheer in 1965, "The Viet Cong is a party of peace, and if I was in Vietnam, I would be on the side of the Viet Cong." u

FEDERAL GOVERNMENT

January 31, 1980

Joseph L. Tierney
Federal Bureau of Investigation

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

1 - Mr. Crescioli
1 - Mr. Tierney

Department of the Army (INSCOM)
Forrestal Building
Washington, D. C. *relocated*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-22-2009 BY 65179 dmh/baw/sbs

Reference is made to our letter May 22, 1978, to you and its enclosures, copies of which are attached for your ready reference. We are unable to locate a copy of your response to that letter, and suspect we may have received your reply by telephone.

The Department of Justice is preparing for trial, scheduled for March 17, 1980, and these same documents have been requested by the defense for use in open court. Our prior referral to you was for use in discovery proceedings which involved disclosure only to defense counsel with appropriate clearances. The request now is to use the documents at a public trial.

Please note page two of the memorandum of A. J. Marchessault, August 23, 1951, which indicates investigative activity by your agents outside the U. S.

If you have any questions, please do not hesitate to call me at 324-4763 or John W. Nields, Jr., Esq., at the U. S. Department of Justice, 633-5218. *DC*

Enclosure

ds
JLT:tdp (5)
NOTE:

Relet filed at 62-118045-14

Delivered by Liaison

2-4-80
LAC

62-118045-260

Greenberg/Gray-7008

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

~~SECRET MATERIAL ATTACHED~~

5 FEB 23 1980

MAIL ROOM

56 MAR 18 '80

JK
J. L. TIERNEY

4-8-80
62-118045

UNITED STATES GOVERNMENT

Memorandum

TO : Paul V. Dailey *PV*
Federal Bureau of Investigation

FROM : Francis J. Martin *FJM*
Criminal Division

DATE: February 5, 1980
FJM:ajw

SUBJECT: Foreign Influence Motion

~~FEDERAL GOVERNMENT~~

I have completed a number of the exhibits (D-1 thru D-21) to the Government's memo of law on the foreign involvement of the Weathermen. [redacted] is reviewing the memo to assure that all the Bureau information in the memo can be released. He is also paragraph marking the memo. I would like him to do the same for the exhibits which I have enclosed, i.e. assure that the Bureau information can be released pursuant to our previous discussions and have them paragraph marked. I would like to have these back as soon as possible.

b6
b7C

Thanks again.

L. Patricia Gray

Attachments D-1, D-2, D-3, D-4, D-5, D-6,
D-9, D-11, D-12, D-12 Supplement, D-13, D-17
enclosed.

*revised copy
rec'd 2/11/80*

Discussed 2/8/80 by Martin & Friedman with *(AC)*
Turner, Donovan, Marsland, Brandon, McHargue, Mahoney
& [redacted]. Mostly completed except some exhibits needing
Div. 5 comment. *FA*

b6
b7C

*Final answers given by 2/15/80 *FA**

Greenberg/Gray-7009

pk
62-118045-261

AC
12 ENCLOSURE
ENCLOSURE ATTACHED

5 FEB 26 1980

62-118 045



56 MAR 18 '80

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-22-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-7010



62-118045-261

ENCLOSURE

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-11-2009

5/5/72

AIRTEL

TO: ACTING DIRECTOR, FBI

~~SECRET~~

FROM: SAC, PHILADELPHIA

SUBJECT: [redacted] aka
SM - REVOLUTIONARY ACTIVITIES (EXTREMIST)
(OO: PH)
Bufile 100-466098
PH 100-53469

b6
b7C

WEATHFUG
(OO: CG)
Bufile 176-1594
PH 176-180

Re Bureau letter to Philadelphia 4/7/72, and Philadelphia airtel to Director, 4/20/72 under the caption. [redacted]

b6
b7C

As the Bureau and Chicago are aware, Philadelphia has instituted intensified investigation of [redacted] and his contacts based on the fact that [redacted] is a possible link in the WEATHFUG underground network, and referenced Bureau letter directed that Philadelphia submit a bi-weekly summary airtel of activities.

b6
b7C

Investigation by Philadelphia continues to be centered around three locations on West Harvey Street in the Germantown section of Philadelphia: 1) [redacted] 2) [redacted] and 3) a BP Gas Station located at the corner of Greene and Harvey Streets.

b6
b7C

- 2 - Bureau (RM)
- 1 - Chicago (Info.) (RM)
- 2 - Philadelphia (1 - 100-53469)
(1 - 176-180)

MPS/lss
(5)

MPS
lss

100-53469-sub-C-3

Searched _____
Serialized _____
Indexed _____
Filed _____

~~SECRET~~

~~SECRET~~

[redacted]
Philadelphia, Pa.

b6
b7C

[redacted] Apartment

[redacted] continues to reside in common-law relation- b6
ship with [redacted] in the second floor rear apartment, b7C
telephone #VI 8-1631.

On 4/24/72, a Volkswagen bearing Ohio license
817-7NM, driven by a young white female, was observed at b6
the premises and the female driver entered the [redacted] b7C
apartment leaving shortly thereafter with [redacted]

The records of the Bureau of Motor Vehicles,
Columbus, Ohio, reflect that the above Ohio license is b6
registered to [redacted] Englewood, b7C
Ohio, Montgomery County. Cincinnati and Philadelphia indices
negative re [redacted].

Toward the end of the last week of April, a con-
fidential source advised that a small package appearing to b6
be several items of mail, arrived at the [redacted] apartment b7C
address addressed to [redacted]. The return address re-
flected it was from [redacted], Vt.

[redacted] Apartment b6
b7C

[redacted] pays the rent and subscribes to
telephone #VI 3-0678. at the second floor front apartment b6
at [redacted] has not been positively b7C
identified as having ever appeared at the apartment, and
was not known to have any connection with captioned investiga-
tion until April 1972.

[redacted] Toll records pulled on [redacted] telephone number b6
[redacted] reflect a call to the residence of [redacted] b7C
N. Y.

Not a FOIA redaction

~~SECRET~~

~~SECRET~~PH 100-53469
176-180

[redacted] is known to [redacted] and the Bureau as a known [redacted] agent for the past [12] years.

Soviet Intelligence Service (SIS)

The [redacted] Division has further advised that both [redacted] and his wife are former CP members.

[redacted] engaged in

His wife,

[redacted] is

[redacted] Both usually travels to [New York City] to meet with Soviet principals.

[redacted] born [redacted] is a [graduate student at State University of New York,] traveled to [Moscow] as a guest of KGB, and is currently operated by [redacted] as a "spotter."

SIS Soviet intelligence

MR "B" →

[redacted] born [redacted] attended the [University of [redacted]] years and currently works for [redacted] his father. He has no known subversive activities; however, his dress and appearance are of ["hippie type"] and [Buffalo] advised it is possible he could be mistaken as female.

[redacted] born [redacted] has been studying in [redacted] for the past two years under program of [redacted] organization. [She] has no known participation in subversive activities.

[redacted] born [redacted] resides with parents and is currently a [high school] student with no record of subversive affiliations.

[Buffalo] advised it is their opinion that the only member of the [redacted] family who could logically have any current Weatherman connections would be [redacted] who was at home when the [Opel] sedan registered to [redacted] appeared at the [redacted] residence (as previously reported).

~~Soviet intelligence SIS~~

Information re above [redacted] activity received from [redacted] @ highly confidential source, and extreme caution must be exercised handling any information attributed to this source.

b6
b7C

MR "B" →

~~SECRET~~

PH 100-53469
176-180

~~SECRET~~

[Buffalo] further advised that toll checks on [redacted] reflect no calls directed to numbers in the Philadelphia area.

On 4/24/72, it was learned from a confidential source that the person known as [redacted] pays the monthly rent for the second floor front apartment by money order from the Girard Bank, Schoolhouse Lane Branch, Philadelphia, Pa. The money orders are signed [redacted] Abington, Pa. The source indicated he felt it strange that [redacted] would rent the apartment in [redacted] yet use the [redacted] address on her money orders which is where she apparently lives and which is close to her place of employment at [redacted] in Jenkintown, Pa. Both her residence and employment are some distance from the [redacted] apartment.

b6
b7C

Physical observation by Bureau Agents observed that [redacted] resided at and received mail at the [redacted] apartment until approximately 5/2 or 5/3/72. She has not been seen at the premises since, though her name remains on the mailbox.

b6
b7C

[redacted]
Philadelphia, Pa.

b6
b7C

On 4/19/72, discreet surveillance by Bureau agents ascertained that on that date, [redacted] who resides at [redacted] had just arrived at that address from an unknown origin and again took up residence at [redacted].

b6
b7C

[redacted] is a garage type apartment located in a well screened, secluded back yard. Motor vehicles which have in the past been associated with [redacted] were not observed in the area.

b6
b7C

[redacted] were not observed at this address subsequent to 4/19/72 until 4/27/72 at which time [redacted] was observed at [redacted] Street (see section on [redacted]).

b6
b7C

~~SECRET~~

~~SECRET~~

PH 100-53469
176-180

On 4/26/72, surveillance in the vicinity of [redacted] revealed a blue or black Chevrolet, Pa. license #08676D, and a cream colored Cadillac, Pa. license #15427Y, parked in the yard at the [redacted] address. b6 b7C

The Pennsylvania BMV, Harrisburg, Pa., reflected Pa. license 08676D is registered to a [redacted] Philadelphia, Pa., for a 1971 Ford coupe. b6 b7C

Philadelphia indices reflect a 165-1147 master file on [redacted]. b6 b7C

Pennsylvania BMV records reflect Pa. license 15427Y is registered to [redacted] Street, Philadelphia, for a 1967 or 1968 Cadillac sedan. b6 b7C

Philadelphia indices reflect a reference only to [redacted]. NCIC negative re both vehicles and plates. b6 b7C

BP Service Station
Corner of Greere and
Harvey Streets
Philadelphia, Pa.

The printout sheets concerning toll calls made from the coin box telephone located at this BP service station have been pulled for the most recent cycle and will continue to be pulled on a regular basis. Bell Telephone Company sources advise that toll calls made from coin boxes charged to credit card numbers do not show up on the coin box toll printout and only show up on the bill of the holder of the credit card.

The toll call printout above reflects numerous toll calls at various times to a telephone in Easton, Pa., indicating a possible intra-state gambling operation and a possible tie-in with [redacted] above. Subscriber identifications of called numbers are being obtained by separate communication. b6 b7C

~~SECRET~~

PH 100-53469
176-180

~~SECRET~~

Toll calls charged to credit card [redacted] known to be pertinent to captioned investigation are being pulled and will be analyzed.

b6
b7C

[redacted] was observed to make a telephone call from the coin box at the BP station at approximately 3:25 p.m., on 5/4/72.

b6
b7C

[redacted]
Philadelphia, Pa.
Telephone #VI 9-4982

b6
b7C

[redacted] resided with his wife and small child across a narrow driveway from the [redacted] apartment at [redacted] until 4/24/72.

b6
b7C

On 4/21/72, [redacted] by Bureau Agents ascertained that he and his family were planning to move to a farm near Jasper, N.Y.

b6
b7C

On 4/27/72, [redacted] and his family were observed moving under cover of dark (10 p.m.). Several white males including [redacted] helped load their possessions into an apparently orange colored Chevrolet pickup truck bearing New York license C61-665.

b6
b7C

The New York State Department of Motor Vehicles at Albany, N. Y., advised that New York license C61-665 is registered to [redacted] born [redacted] whose residence is shown as [redacted] Jasper, N. Y., for a 1968 Chevrolet orange pickup.

b6
b7C

On 5/1/72, a confidential source advised that two white males identified as [redacted] both of [redacted] Philadelphia, Pa., purchased the entire building at [redacted] Street.

b6
b7C

On 5/2/72, these individuals were observed departing the area of [redacted] in a blue VW, Pa. license 808-50B, registered to [redacted] Philadelphia.

b6
b7C

~~SECRET~~

Greenberg/Gray-7046

PH 100-53469
176-180

Philadelphia indices negative re [] and [] b6
[] b7C

[] was observed back in Philadelphia 5/2 or 5/3/72 at which time it was ascertained he had returned to pick up his welfare check. b6
b7C

ADMINISTRATIVE

Philadelphia has opened case files on contacts of [] believed to have potential involvement in underground activities to facilitate coverage of the activities and the handling of information concerning these individuals. b6
b7C

Investigation by Philadelphia is being, and will continue to be conducted to identify unknown contacts of [] and others close to him believed to have potential involvement in underground activities. b6
b7C

An agent has been making relatively frequent coverage of the BP Service Station at Greens and Harvey Streets where he is in a position to observe and log the identities of persons making calls as well as the times of the calls made over the coin box at that location, which appears to be a major communications link in the Philadelphia area. As it has been previously reported, the above persons and others of possible interest frequent this service station for gas, minor repairs, change, cigarettes, etc.

As mentioned above, toll calls have been requested by subpoena on the credit card assigned to [] and discreet background is being conducted to further identify [] A confidential source at Bell Telephone Company has advised that [] has disclaimed all calls on its 4/17 bill charged to [] credit card. The telephone company is conducting its own discreet investigation and is cooperating with Philadelphia. b6
b7C
b7D

Toll calls charged to other possibly pertinent telephone numbers will be sent into [] as they are identified. b2
b7E

~~SECRET~~

PH 100-53469
176-180

~~SECRET~~

For the information of the Bureau, the semi-annual individual report on [redacted] is currently due. Submission of this report is being held in abeyance UACB in view of the sensitive, complex investigation re [redacted] which, as the Bureau is aware, is currently being intensified in view of his potential underground connections. It should be noted that little information is available for inclusion in a report suitable for dissemination concerning [redacted] as an individual, and Philadelphia is of the opinion that such a report at this time could conceivably hamper our investigation. b6 b7C

UACB. Philadelphia will prepare a thumbnail summary of the [redacted] case to date which will be sent to East Coast and other logical offices where [redacted] case leads have been or are likely to be sent. The purpose of this sketch will be to assist these offices in their coverage of present and/or future leads and it will also make them aware of the nature of the investigation currently underway in Philadelphia, in the event that they independently receive information of potential value in this case. b6 b7C

The Bell Telephone Company is interested in the fraud aspects of the illegal use of a credit card and is cooperating in a highly discreet, coordinated investigation through [a former Bureau agent.]

ALL INDIVIDUALS INVOLVED IN NEW LEFT
EXTREMIST ACTIVITY SHOULD BE CONSIDERED
DANGEROUS BECAUSE OF THEIR KNOWN ADVOCACY
AND USE OF EXPLOSIVES, REPORTED ACQUISITION
OF FIREARMS AND INCENDIARY DEVICES, AND
THEIR KNOWN PROPENSITY FOR VIOLENCE.

~~SECRET~~

Greenberg/Gray-7049

~~SECRET~~

- 1 - Mr. J. A. Sizoo
- 1 - Mr. R. L. Shackelford
- 1 - Mr. T. J. McNiff
- 5/8/72
- ① - Mr. W. N. Preusse
- 1 - Mr. H. Mallet

Mr. E. S. Miller

R. L. Shackelford

DO NOT FILE

WEATHFUG

PURPOSE:

To advise status of our security investigations concerning the 26 Weatherman fugitives.

DETAILS:

Scope of the Weatherman Problem

Our investigation of the revolutionary Weatherman group centers on approximately 200 people throughout the country. Included in that number are the 26 Weatherman fugitives. Also included is a group of about 40 individuals, all non-fugitives, whose whereabouts are unknown and who are believed active in the Weatherman underground.

The Weatherman group went underground more than two years ago. Since that time, a few fugitives have been apprehended, however, the key Weatherman leaders remain at large. For the past six months, the Weatherman group has been quiescent in that it has issued no communiques to the press and has claimed no bombings since last Fall.

Information developed to date shows that Weatherman has concentrated its members and activity on the East and West Coasts since early 1970; however, it appears that they can travel almost anywhere with relative ease, particularly in and out of Canada. They undoubtedly exist within the so-called youth culture, which is drug-oriented and anti-law enforcement. They are supported by above-ground sympathizers, as well as by their own thefts and frauds.

Weatherman advocates use of marijuana and LSD, but oppose hard drugs, such as heroin and amphetamines. It is possible that some Weatherman activists have become drug addicted to the extent that they have dropped out of the revolution. Such a report has been received concerning Weatherman leader [redacted] however, this has not been verified.

b6
b7C

HJ:crk
(6)

CONTINUED - OVER

~~SECRET~~

EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

Memorandum to Mr. E. S. Miller
RE: WEATHERFUG

Though they are a small group and are probably only loosely coordinated, it must be assumed that Weatherman will continue sporadic acts of extreme violence.

Question of Supervision of Weatherman
Fugitive Cases

As you are aware, the 23 Weatherman fugitives' cases are supervised by Special Investigative Division (SID). The overall investigations of the Weatherman organization, including non-fugitive underground activists and the Weatherman support group, are supervised by the Domestic Intelligence Division (DID). It is believed that coordinated investigation could be best continued if the supervision of the Weatherman fugitive cases was also assumed by DID. Accordingly, it is recommended that the advisability of this change be discussed at our next Weathering conference with you.

Plans for Apprehension of Two Fugitives in Canada

Fugitives [redacted] have been located in Canada [redacted] by a source of the Los Angeles Office [redacted]

[redacted] Within the past few days, this Los Angeles source [redacted] was advised that [redacted] is certain [redacted]

b2
b6
b7C
b7D

The above plan is currently under consideration and is being handled by SID.

Fugitive [redacted] Reported Recently in
Washington, D. C.

b6
b7C

[redacted] a suspect in the CARBON case, has informed [redacted] a WFO source that [redacted] was in Washington, D.C., on [redacted] claims that the unknown individual who accompanied [redacted] was [redacted] At the time of the visit, [redacted] introduced this person to [redacted]

b6
b7C
b7D

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
RE: WEATHFUG

only as [redacted] [Source] has checked available photographs of [redacted] but because of facial hair on [redacted] [Source] is unable to verify that [redacted] is identical with [redacted] [Source] advised that [redacted] intended to stay in Washington, D.C., only a short time and was planning to visit friends somewhere in Virginia. (X)

b6
b7C

Investigation concerning this report is continuing, however, to date, no further pertinent information has been developed.

Possible Break Up of People's Law
Office in Chicago

The small group of radical lawyers at People's Law Office (PLO) in Chicago has been a mainstay of Weatherman support since 1969. One lawyer there, [redacted] is known to have furnished about \$700 to fugitive [redacted] in March, 1971, and this office has been a key communications channel for Weatherman.

b6
b7C

Now, PLO appears on the verge of disintegration. [redacted] has experienced a number of personal problems, including [redacted] and the [redacted]. It appears he may be leaving Chicago and may concentrate his activities at Attica, New York, where he has been representing inmates at Attica Prison.

b6
b7C

Another PLO member, [redacted] who is believed to have been at one time active in the Weatherman underground under a false identity, is contemplating a permanent move to the West Coast. He will probably take with him another PLO activist, [redacted].

b6
b7C

Another PLO attorney, [redacted] and his girlfriend [redacted] may also be contemplating departure from the PLO operation.

b6
b7C

The effect of these contemplated changes is not yet known and this situation is being closely followed.

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
RE: WEATHERUG

Miss "A"

Soviet Intelligence Service (SIS)

Possibility of KGB Involvement with Weatherman

[redacted] in Philadelphia is of much interest in the Weatherman investigation since his address was used by Weatherman [redacted] to obtain false identification. In addition, [redacted] has also used a car registered to a still unidentified individual at [redacted] address. An apparent associate of [redacted] named [redacted] has recently been connected with the residence in Rochester, New York, of [redacted] who has been a ~~Soviet~~ Agent for the past 12 years. The significance of [redacted] association with [redacted] and with [redacted] has not been determined.

b6
b7C

Gene
S/S

Miss "A"

Our Buffalo office has noted that [redacted] has several children, including a son [redacted] who was active in Students for a Democratic Society (SDS) in 1969. [redacted] has also been co-opted by the KGB to act as a "spotter." It is the opinion of Buffalo that the [redacted] involved with the Soviets would not also be involved with Weatherman. One [redacted] who has no known subversive background, may be the tie-in with [redacted]. This is based only on the fact that [redacted] has a "hippie-type" appearance and was at home at the time [redacted] car was seen at the [redacted] residence.

b6
b7C

Gene

IS
Mr. B

Miss "B"

Miss "A"

Miss "A"

Investigation of this situation is being handled with great caution in view of the highly confidential espionage sources involved.

Three Weeks Survey of United States Residents Who Apply for Landed Immigrant Status in Canada Completed

This survey was conducted to determine whether a larger survey of these applicants was feasible in order to ascertain whether they are utilizing false identity and are of interest to our investigations. The three weeks survey determined that on the average, 73 applications for landed immigrant status from United States residents were received daily by the Bureau for name check purposes. The survey further shows that only an average number of 24 applications daily would be of interest to our investigations. This survey was handled in the Revolutionary Activities Section by [redacted] and a larger survey appears feasible. A memorandum will be submitted in the near future recommending the implementation of this survey.

b6
b7C

~~SECRET~~

Memorandum to Mr. E. S. Miller
RE: WEATHERFUG

Technical Coverage

At present, we have both telephone surveillance (tesur) and microphone surveillance (misur) coverage of [redacted]

(U)

[redacted] We also have misur coverage of Weatherman activist [redacted] [redacted] are in New York. (S)

b6
b7C

At the present time, our most promising target for additional technical coverage continues to be [redacted] in Cambridge, Massachusetts. She is [redacted] who supports a number of extremist causes. She closely associates with both black and white extremists. Suspected Weatherman activists reside with her, who are believed to have information on whereabouts of Top Ten fugitives [redacted] Investigation of [redacted] continues and recommendation for technical coverage will be made at the appropriate time. (S)

(U)

b6
b7C

ACTION:

For information.

Greenberg/Gray-7053

~~SECRET~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-11-2009

~~SECRET~~

- 1 - Mr. J. A. Sizoo
- 1 - Mr. R. L. Shackelford
- 1 - Mr. T. J. McNiff
- 5/8/72
- 1 - Mr. W. N. Preusse
- 1 - Mr. H. Mallet

Mr. E. S. Miller

R. L. Shackelford

DO NOT FILE

WEATHFUG

PURPOSE:

To advise status of our security investigations concerning the 26 Weatherman fugitives.

DETAILS:

Scope of the Weatherman Problem

Our investigation of the revolutionary Weatherman group centers on approximately 200 people throughout the country. Included in that number are the 26 Weatherman fugitives. Also included is a group of about 40 individuals, all non-fugitives, whose whereabouts are unknown and who are believed active in the Weatherman underground.

The Weatherman group went underground more than two years ago. Since that time, a few fugitives have been apprehended, however, the key Weatherman leaders remain at large. For the past six months, the Weatherman group has been quiescent in that it has issued no communiques to the press and has claimed no bombings since last Fall.

Information developed to date shows that Weatherman concentrated its members and activity on the East and West Coast since early 1970; however, it appears that they can travel almost anywhere with relative ease, particularly in and out of Canada. They undoubtedly exist within the so-called youth culture which is drug-oriented and anti-law enforcement. They are supported by above-ground sympathizers, as well as by their own thefts and frauds.

Weatherman advocates use of marijuana and LSD, but oppose hard drugs, such as heroin and amphetamines. It is possible that some Weatherman activists have become drug addicts to the extent that they have dropped out of the revolution. Such a report has been received concerning Weatherman leader [redacted] however, this has not been verified.

b6
b7C

HM:erk

CONTINUED - OVER

1-15-80 (6)
 CLASS. & EXT. BY 5180 CEB/DFM
 REASON-FCIM II, 1-2.4.2
 DATE OF REVIEW 15 8 97

~~SECRET~~

FINAL COPY POSITIVE

CLASSIFIED BY 6076 ZLW/RSB
EXEMPT FROM GDS CATEGORY 3
DATE OF DECLASSIFICATION INDEFINITE

Memorandum to Mr. F. S. Miller
RE: WEATHFUG

~~SECRET~~

Though they are a small group and are probably only loosely coordinated, it must be assumed that Weatherman will continue sporadic acts of extreme violence.

Question of Supervision of Weatherman
Fugitive Cases

As you are aware, the 26 Weatherman fugitives' cases are supervised by Special Investigative Division (SID). The overall investigations of the Weatherman organization, including non-fugitive underground activists and the Weatherman support group, are supervised by the Domestic Intelligence Division. It is believed that coordinated investigation could be best continued if the supervision of the Weatherman fugitive cases was also assumed by DID. Accordingly, it is recommended that the advisability of this change be discussed at our next Weatherman conference with you.

Plans for Apprehension of Two Fugitives in Canada

Fugitives [redacted] have been located in Canada by a source of the Los Angeles Office. Canadian authorities have advised that these two fugitives are not extraditable and have no plans to deport them. Within the past few days, this Los Angeles source, [redacted] has advised that (he) is certain [redacted]

b2
b6
b7C
b7D

[redacted]

(U)

The above plan is currently under consideration and is being handled by SID.

Fugitive [redacted] Reported Recently in Washington, D. C.

b6
b7C

[redacted], a suspect in the CAPDON case, has informed a NEG source that [redacted] was in Washington, on [redacted] claims that the unknown individual who accompanied [redacted] was [redacted]. At the time of the visit, [redacted] introduced this person to [redacted]

b6
b7C
b7D

CONTINUED - OVER

~~CONFIDENTIAL~~
~~SECRET~~

Memorandum to Mr. F. S. Miller
RE: WEATHERFUG

~~SECRET~~

(U) only as [redacted] (Source) has checked available photographs of [redacted] but because of facial hair on [redacted] (source) is unable to verify that [redacted] is identical with [redacted] (Source) advised that [redacted] intended to stay in Washington, D.C., only a short time and was planning to visit friends somewhere in Virginia. (X)

b6
b7C

Investigation concerning this report is continuing, however, to date, no further pertinent information has been developed.

Possible Break Up of People's Law Office in Chicago

(U) The small group of radical lawyers at People's Law Office (PLO) in Chicago has been a mainstay of Weatherman support since 1969. One lawyer there, [redacted], is known to have furnished about \$700 to fugitive [redacted] in March, 1971, and this office has been a key communications channel for Weatherman. (X)

b6
b7C

Now, PLO appears on the verge of disintegration.

b6
b7C

(U) [redacted] has experienced a number of personal problems, including [redacted] and the [redacted]. It appears he may be leaving Chicago and may concentrate his activities at Attica, New York, where he has been representing inmates at Attica Prison. (X)

(U) Another PLO member, [redacted] who is believed to have been at one time active in the Weatherman underground under a false identity, is contemplating a permanent move to the West Coast. He will probably take with him another PLO activist [redacted]. (X)

b6
b7C

(U) Another PLO attorney, [redacted] and his girlfriend [redacted] may also be contemplating departure from the PLO operation. (X)

b6
b7C

The effect of these contemplated changes is not yet known and this situation is being closely followed.

CONTINUED - OVER

~~SECRET~~

Memorandum to Mr. J. S. Miller
RE: WEATHERFUG

SOVIET INTELLIGENCE
SERVICE (SIS)

~~SECRET~~

(U) Possibility of KGB Involvement with Weatherman

Ms. "A"
[redacted] in Philadelphia is of much interest in the Weatherman investigation since his address was used by Weatherfug [redacted] to obtain false identification. In addition, [redacted] has also used a car registered to a still unidentified individual at [redacted] address. An apparent associate of [redacted] named [redacted] has recently been connected with the residence in Rochester, New York, of [redacted] who has been a co-opted KGB Agent for the past 12 years. The significance of [redacted] association with [redacted] and with [redacted] has not been determined. (S)

SIS
Our Buffalo Office has noted that [redacted] has several children, including a son [redacted] who was active in Students for a Democratic Society (SDS) in 1969. [redacted] has also been co-opted by the KGB to act as a "spotter." It is the opinion of Buffalo that the [redacted] involved with the Soviets would not also be involved with Weatherman. One [redacted] who has no known subversive background, may be the tie-in with [redacted]. This is based only on the fact that [redacted] has a "hippie-type" appearance and was at home at the time [redacted] car was seen at the [redacted] residence. (S)

OPERATED
(U) Investigation of this situation is being handled with great caution in view of the highly confidential espionage sources involved. (S)

MR. B
(U) Three Weeks Survey of United States Residents Who Apply for Landed Immigrant Status in Canada Completed

(U) This survey was conducted to determine whether a larger survey of these applicants was feasible in order to ascertain whether they are utilizing false identity and are of interest to our investigations. The three weeks survey determined that on the average, 73 applications for landed immigrant status from United States residents were received daily by the Bureau for name check purposes. The survey further shows that only an average number of 24 applications daily would be of interest to our investigations. This survey was handled in the Revolutionary Activities Section by [redacted] and a larger survey appears feasible. A memorandum will be submitted in the near future recommending the implementation of this survey. (S)

CONTINUED - OVER

~~CONFIDENTIAL~~
~~SECRET~~

~~SECRET~~

Memorandum to Mr. E. S. Miller
RE: WYATTEUG

~~CONFIDENTIAL~~

b6
b7C

Technical Coverage

At present, we have both telephone surveillance (tesur) and microphone surveillance (misur) coverage of [redacted] [redacted] We also have misur coverage of Weatherman activist [redacted] and [redacted] are in New York. (S)(U)

At the present time, our most promising target for additional technical coverage continues to be [redacted] in Cambridge, Massachusetts. She is [redacted] who supports a number of extremist causes. She closely associates with both black and white extremists. Suspected Weatherman activists reside with her, who are believed to have information whereabouts of Top Ten fugitives [redacted] Investigation of [redacted] continues and recommendation for technical coverage will be made at the appropriate time. (U)

ACTION:

For information.

~~(S)~~
b6
b7C

Greenberg/Gray-7058

~~CONFIDENTIAL~~
~~SECRET~~

~~SECRET~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 08-11-2009

F B I

Date: 5/5/72

~~TOP SECRET~~
~~SECRET~~

Transmit the following in APPROPRIATE AGENCIES AND FIELD OFFICES
(Type in plaintext or code)

Via AIRTEL
ADVISED BY ROUTING SLIP(S) BY [Signature]
DATE 7-19-79 (Priority)

~~CONFIDENTIAL~~

TO: ACTING DIRECTOR, FBI

FROM: SAC, PHILADELPHIA

SUBJECT: [Redacted] aka per 62-117964-9

SM - REVOLUTIONARY ACTIVITIES (EXTREMIST)
(OO: PH)
Bufile 100-466098 b6
PH 100-53469 b7C

WEATHFUG
(OO: CG)
Bufile 176-1594
PH 176-180

CLASSIFIED BY 1482 DM/AB
3/20/78
EXEMPT FROM GDS CATEGORY 2, 3
DATE OF DECLASSIFICATION INDEFINITE
para marked C otherwise U

CLASS. & EXT. BY 6076 CAR/DA
REASON FCIM II, 1-2.4.2, 1-2.4.3
DATE OF REVIEW 5/5/81
para marked
& declassified

Re Bureau letter to Philadelphia 4/7/72, and Philadelphia airtel to Director, 4/20/72 under the [Redacted] caption. b6
b7C

As the Bureau and Chicago are aware, Philadelphia has instituted intensified investigation of [Redacted] and his contacts based on the fact that [Redacted] is a possible link in the WEATHFUG underground network, and referenced Bureau letter directed that Philadelphia submit a bi-weekly summary airtel of activities. b6
b7C

Investigation by Philadelphia continues to be centered around three locations on West Harvey Street in the Germantown section of Philadelphia: 1) [Redacted] 2) [Redacted], and 3) a BP Gas Station located at the corner of Greene and Harvey Streets. b6
b7C

- ② - Bureau (RM)
 - 1 - Chicago (Info.) (RM)
 - 2 - Philadelphia (1 - 100-53469)
(1 - 176-180)
- MPS/lss
(5)

1x270x 9040 5/16/72
CF/gdw

12 MAY 10 1972

Downgraded to Secret 3-6-2009
Ucbaw 60304

54 MAY 23 1972

Approved: _____
Special Agent in Charge

~~SECRET~~

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

~~TOP SECRET~~

b6
b7C

[redacted]
Philadelphia, Pa.

~~SECRET~~
CONFIDENTIAL

[redacted] Apartment b6
b7C

[redacted] continues to reside in common-law relation-
ship with [redacted] in the second floor rear apartment,
telephone #VI 8-1631. (U)

b6
b7C

On 4/24/72, a Volkswagen bearing Ohio license
817-7NM, driven by a young white female, was observed at
the premises and the female driver entered the [redacted]
apartment leaving shortly thereafter with [redacted]

b6
b7C

The records of the Bureau of Motor Vehicles,
Columbus, Ohio, reflect that the above Ohio license is
registered to [redacted] Englewood,
Ohio, Montgomery County. Cincinnati and Philadelphia indices
negative re [redacted]

~~(S)~~
MS "A"

Toward the end of the last week of April, a con-
fidential source advised that a small package appearing to
be several items of mail, arrived at the [redacted] apartment
address addressed to [redacted]. The return address re-
flected it was from [redacted] Vt.

b6
b7C

MS "B"
[redacted] Apartment

MS "B"

b6
b7C

[redacted] pays the rent and subscribes to
telephone #VI 3-0678, at the second floor front apartment
at [redacted] has not been positively
identified as having ever appeared at the apartment, and
was not known to have any connection with captioned investiga-
tion until April 1972.

b6
b7C

Toll records pulled on [redacted] telephone number
reflect a call to the residence of [redacted] Rochester,
N. Y.

b6
b7C

~~SECRET~~

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

SOVIET INTELLIGENCE SERVICE (SIS)

(U) (S) [redacted] is known to Rochester and the Bureau as a known KGB agent for the past 12 years. ~~(S)~~ (U) b6 b7C

(U) (S) The Buffalo Division has further advised that both [redacted] and his wife are former CP members. [redacted] is [redacted] engaged in the manufacture of [redacted]. His wife, [redacted], is employed as [redacted] University of Rochester. Both usually travel to New York City to meet with Soviet principals. ~~(S)~~ (U) b6 b7C

(U) (S) [redacted] born [redacted] is a graduate student at State University of New York, traveled to Moscow as a guest of KGB, and is currently operated by KGB as a "spotter." ~~(S)~~ (U) b6 b7C
MR-3 SIS

(U) [redacted] born [redacted] attended the University of Rochester two years and currently works for his father. He has no known subversive activities; however, his dress and appearance are of "hippie type" and Buffalo advised it is possible he could be mistaken as female. ~~(S)~~ (U) b6 b7C

(U) [redacted] born [redacted] has been studying in [redacted] for the past two years under program of [redacted] organization. She has no known participation in subversive activities. ~~(S)~~ (U) b6 b7C

(U) [redacted] born [redacted] resides with parents and is currently a high school student with no record of subversive affiliations. ~~(S)~~ (U) b6 b7C

(U) Buffalo advised it is their opinion that the only member of the [redacted] family who could logically have any current Weatherman connections would be [redacted] who was at home when the Opal sedan registered to [redacted] appeared at the [redacted] residence (as previously reported). ~~(S)~~ (U) b6 b7C
SIS

(U) (S) Information re above KGB activity received from [redacted] a highly confidential source, and extreme caution must be exercised handling any information attributed to this source. ~~(S)~~ (U) b2 b7D

~~TOP SECRET~~

~~CONFIDENTIAL~~

PH 100-53469
176-180

(U) Buffalo further advised that toll checks on [redacted] reflect no calls directed to numbers in the Philadelphia area. (S) (u)

b6
b7C

(U) On 4/24/72, it was learned from a confidential source that the person known as [redacted] pays the monthly rent for the second floor front apartment by money order from the Girard Bank, Schoolhouse Lane Branch, Philadelphia, Pa. The money orders are signed [redacted] Abington, Pa. The source indicated he felt it strange that [redacted] would rent the apartment in [redacted] yet use the [redacted] address on her money orders which is where she apparently lives and which is close to her place of employment at [redacted] in Jenkintown, Pa. Both her residence and employment are some distance from the [redacted] apartment. (S) (u)

b6
b7C

(U) Physical observation by Bureau Agents observed that [redacted] resided at and received mail at the [redacted] apartment until approximately 5/2 or 5/3/72. She has not been seen at the premises since, though her name remains on the mailbox. (S) (u) (S)

b6
b7C

[redacted]
Philadelphia, Pa. (S) (u)

b6
b7C

(U) On 4/19/72, discreet surveillance by Bureau agents ascertained that on that date, [redacted] who resides at [redacted] had just arrived at that address from an unknown origin and again took up residence at [redacted]. (S) (u)

b6
b7C

(U) [redacted] is a garage type apartment located in a well screened, secluded back yard. Motor vehicles which have in the past been associated with [redacted] were not observed in the area. (S) (u)

b6
b7C

(U) [redacted] were not observed at this address subsequent to 4/19/72 until 4/27/72 at which time [redacted] was observed at [redacted] Street (see section on [redacted]). (S) (u)

b6
b7C

~~TOP SECRET~~

PH 100-53469
176-180

~~TOP SECRET~~
~~SECRET~~

On 4/26/72, surveillance in the vicinity of [redacted] revealed a blue or black Chevrolet, Pa. license #08676D, and a cream colored Cadillac Pa. license #15427Y, parked in the yard at the [redacted] address. ~~(S)~~ (U) b6 b7C

The Pennsylvania BMV, Harrisburg, Pa., reflected Pa. license 08676D is registered to a [redacted] Philadelphia, Pa., for a 1971 Ford coupe. ~~(S)~~ (U) b6 b7C

Philadelphia indices reflect a 165-1147 master file on [redacted]. ~~(S)~~ (U) b6 b7C

Pennsylvania BMV records reflect Pa. license 15427Y is registered to [redacted] Street, Philadelphia, for a 1967 or 1968 Cadillac sedan. ~~(S)~~ (U) b6 b7C

Philadelphia indices reflect a reference only to [redacted]. NCIC negative re both vehicles and plates. ~~(S)~~ (U) b6 b7C

BP Service Station
Corner of Greene and
Harvey Streets
Philadelphia, Pa. ~~(S)~~ (U)

The printout sheets concerning toll calls made from the coin box telephone located at this BP service station have been pulled for the most recent cycle and will continue to be pulled on a regular basis. Bell Telephone Company sources advise that toll calls made from coin boxes charged to credit card numbers do not show up on the coin box toll printout and only show up on the bill of the holder of the credit card. ~~(S)~~ (U)

The toll call printout above reflects numerous toll calls at various times to a telephone in Easton, Pa., indicating a possible intra-state gambling operation and a possible tie-in with [redacted] above. Subscriber identifications of called numbers are being obtained by separate communication. ~~(S)~~ (U) b6 b7C

~~TOP SECRET~~
~~SECRET~~

PH 100-53469
176-180

~~TOP SECRET~~

~~SECRET~~
~~CONFIDENTIAL~~

(U) Toll calls charged to credit card [redacted] b6
known to be pertinent to captioned investigation are b7C
being pulled and will be analyzed. ~~(S)~~

[redacted] was observed to make a telephone b6
call from the coin box at the BP station at approximately b7C
3:25 p.m., on 5/4/72. ~~(S)~~ (U)

[redacted]
Philadelphia, Pa.
Telephone #VI 9-4982

[redacted] resided with his wife and small child b6
across a narrow driveway from the [redacted] apartment at b7C
[redacted] until 4/24/72. ~~(S)~~ (U)

On 4/21/72, pretext conversation with [redacted] b6
[redacted] by Bureau Agents ascertained that he and his b7C
family were planning to move to a farm near Jasper, N.Y. ~~(S)~~ (U)

On 4/27/72, [redacted] and his family were observed b6
moving under cover of dark (10 p.m.). Several white males b7C
including [redacted] helped load their possessions into
an apparently orange colored Chevrolet pickup truck bearing
New York license C61-665. ~~(S)~~ (U)

The New York State Department of Motor Vehicles
at Albany, N. Y., advised that New York license C61-665 b6
is registered to [redacted] born [redacted] whose b7C
residence is shown as [redacted] Jasper,
N. Y., for a 1968 Chevrolet orange pickup. ~~(S)~~ (U)

On 5/1/72, a confidential source advised that b6
two white males identified as [redacted] b7C
[redacted] both of [redacted] Philadelphia,
Pa., purchased the entire building at [redacted]
Street. ~~(S)~~ (U)

On 5/2/72, these individuals were observed de- b6
parting the area of [redacted] in a blue VW, Pa. b7C
license 808-50B, registered to [redacted]
Philadelphia. ~~(S)~~ (U)

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

~~TOP SECRET~~

Philadelphia indices negative re [redacted]

b6
b7C

[redacted] was observed back in Philadelphia 5/2 or 5/3/72 at which time it was ascertained he had returned to pick up his welfare check. ~~(S)~~ (U)

b6
b7C

ADMINISTRATIVE

Philadelphia has opened case files on contacts of [redacted] believed to have potential involvement in underground activities to facilitate coverage of the activities and the handling of information concerning these individuals. ~~(S)~~ (U)

b6
b7C

Investigation by Philadelphia is being, and will continue to be conducted to identify unknown contacts of [redacted] and others close to him believed to have potential involvement in underground activities. ~~(S)~~ (U)

b6
b7C

An agent has been making relatively frequent coverage of the BP Service Station at Greene and Harvey Streets where he is in a position to observe and log the identities of persons making calls as well as the times of the calls made over the coin box at that location, which appears to be a major communications link in the Philadelphia area. As it has been previously reported, the above persons and others of possible interest frequent this service station for gas, minor repairs, change, cigarettes, etc. ~~(S)~~ (U)

As mentioned above, toll calls have been requested by subpoena on the credit card assigned to [redacted] and discreet background is being conducted to further identify [redacted]. A confidential source at Telephone Company has advised that [redacted] has disclaimed all calls on its 4/17 bill charged to [redacted] credit card. The telephone company is conducting its own discreet investigation and is cooperating with Philadelphia. ~~(S)~~ (U)

b6
b7C
b7D

Toll calls charged to other possibly pertinent telephone numbers will be sent into [redacted] as they are identified. ~~(S)~~ (U)

b2
b7E

~~SECRET~~
~~CONFIDENTIAL~~
~~TOP SECRET~~

~~TOP SECRET~~PH 100-53469
176-180~~TOP SECRET~~
~~CONFIDENTIAL~~

For the information of the Bureau, the semi-annual individual report on [] is currently due. Submission of this report is being held in abeyance UACB in view of the sensitive, complex investigation re [] which, as the Bureau is aware, is currently being intensified in view of his potential underground connections. It should be noted that little information is available for inclusion in a report suitable for dissemination concerning [] as an individual, and Philadelphia is of the opinion that such a report at this time could conceivably hamper our investigation.

b6
b7C

UACB, Philadelphia will prepare a thumbnail summary of the [] case to date which will be sent to East Coast and other logical offices where [] case leads have been or are likely to be sent. The purpose of this sketch will be to assist these offices in their coverage of present and/or future leads and it will also make them aware of the nature of the investigation currently underway in Philadelphia, in the event that they independently receive information of potential value in this case.

b6
b7C

The Bell Telephone Company is interested in the fraud aspects of the illegal use of a credit card and is cooperating in a highly discreet, coordinated investigation through (a former Bureau agent.)

ALL INDIVIDUALS INVOLVED IN NEW LEFT
EXTREMIST ACTIVITY SHOULD BE CONSIDERED
DANGEROUS BECAUSE OF THEIR KNOWN ADVOCACY
AND USE OF EXPLOSIVES, REPORTED ACQUISITION
OF FIREARMS AND INCENDIARY DEVICES, AND
THEIR KNOWN PROPENSITY FOR VIOLENCE.

~~TOP SECRET~~~~CONFIDENTIAL~~
~~SECRET~~
~~JAN 19 1960~~
~~TOP SECRET~~

5/5/72

AIRTEL

TO: ACTING DIRECTOR, FBI

~~SECRET~~

FROM: SAC, PHILADELPHIA

SUBJECT: [redacted] aka
SM - REVOLUTIONARY ACTIVITIES (EXTREMIST)
(OO: PH)
Bufile 100-466098
PH 100-53469

b6
b7C

WEATHFUG
(OO: CG)
Bufile 176-1594
PH 176-180

Re Bureau letter to Philadelphia 4/7/72, and Philadelphia airtel to Director, 4/20/72 under the caption. [redacted]

b6
b7C

As the Bureau and Chicago are aware, Philadelphia has instituted intensified investigation of [redacted] and his contacts based on the fact that [redacted] is a possible link in the WEATHFUG underground network, and referenced Bureau letter directed that Philadelphia submit a bi-weekly summary airtel of activities.

b6
b7C

Investigation by Philadelphia continues to be centered around three locations on West Harvey Street in the Germantown section of Philadelphia: 1) [redacted] 2) [redacted] and 3) a BP Gas Station located at the corner of Greene and Harvey Streets.

b6
b7C

- 2 - Bureau (RM)
- 1 - Chicago (Info.) (RM)
- 2 - Philadelphia (1 - 100-53469)
(1 - 176-180)

MPS/lss
(5)

MPS lss

100-53469-sub-C-3

Searched _____
Serialized _____
Indexed _____
Filed _____

~~SECRET~~

205 Proposal

PH 100-53469
176-180

~~SECRET~~

[redacted]
Philadelphia, Pa.

[redacted] Apartment

[redacted] continues to reside in common-law relationship with [redacted] in the second floor rear apartment, telephone #VI 8-1631.

b6
b7C

On 4/24/72, a Volkswagen bearing Ohio license 817-7NM, driven by a young white female, was observed at the premises and the female driver entered the [redacted] apartment leaving shortly thereafter with [redacted]

b6
b7C

The records of the Bureau of Motor Vehicles, Columbus, Ohio, reflect that the above Ohio license is registered to [redacted] Englewood, Ohio, Montgomery County. Cincinnati and Philadelphia indices negative re [redacted]

b6
b7C

Toward the end of the last week of April, a confidential source advised that a small package appearing to be several items of mail, arrived at the [redacted] apartment address addressed to [redacted]. The return address reflected it was from [redacted] Vt.

b6
b7C

[redacted] Apartment

[redacted] pays the rent and subscribes to telephone #VI 3-0678, at the second floor front apartment at 242 West Harvey Street. [redacted] has not been positively identified as having ever appeared at the apartment, and was not known to have any connection with captioned investigation until April 1972.

b6
b7C

[redacted] Toll records pulled on [redacted] telephone number [redacted] reflect a call to the residence of [redacted] N. Y.

b6
b7C

~~SECRET~~

~~SECRET~~

PH 100-53469
176-180

[redacted] is known to [redacted] and the Bureau as a known [redacted] agent for the past [12] years.
Soviet Intelligence Service (SIS)

The [redacted] Division has further advised that both [redacted] and his wife are former CP members. [redacted]

[redacted] engaged in [redacted] His wife, [redacted]

is [redacted]

[redacted] Both usually travels to New York City to meet with Soviet principals.

[redacted] born [redacted] is a graduate student at State University of New York, traveled to Moscow as a guest of KGB, and is currently operated by [redacted] as a "spotter."
SIS Soviet intelligence

Mr "B" →

[redacted] born [redacted] attended the University of [redacted] years and currently works for his father. He has no known subversive activities; however, his dress and appearance are of "hippie type" and Buffalo advised it is possible he could be mistaken as female.

[redacted] born [redacted] has been studying in [redacted] for the past two years under program of [redacted] organization. She has no known participation in subversive activities.

[redacted] born [redacted] resides with parents and is currently a high school student with no record of subversive affiliations.

Mr "B" ←

Buffalo advised it is their opinion that the only member of the [redacted] family who could logically have any current Weatherman connections would be [redacted] who was at home when the Opel sedan registered to [redacted] appeared at the [redacted] residence (as previously reported).

b6
b7C

Soviet intelligence SIS
Information re above [redacted] activity received from [redacted] a highly confidential source, and extreme caution must be exercised handling any information attributed to this source.

PH 100-53469
176-180

~~SECRET~~

[Buffalo] further advised that toll checks on [redacted] reflect no calls directed to numbers in the Philadelphia area.

On 4/24/72, it was learned from a confidential source that the person known as [redacted] pays the monthly rent for the second floor front apartment by money order from the Girard Bank, Schoolhouse Lane Branch, Philadelphia, Pa. The money orders are signed [redacted] Abington, Pa. The source indicated he felt it strange that [redacted] would rent the apartment in [redacted] yet use the [redacted] address on her money orders which is where she apparently lives and which is close to her place of employment at [redacted] in Jenkintown, Pa. Both her residence and employment are some distance from the [redacted] apartment.

b6
b7C

Physical observation by Bureau Agents observed that [redacted] resided at and received mail at the [redacted] apartment until approximately 5/2 or 5/3/72. She has not been seen at the premises since, though her name remains on the mailbox.

b6
b7C

[redacted]
Philadelphia, Pa.

On 4/19/72, discreet surveillance by Bureau agents ascertained that on that date, [redacted] who resides at [redacted] had just arrived at that address from an unknown origin and again took up residence at [redacted]

[redacted] is a garage type apartment located in a well screened, secluded back yard. Motor vehicles which have in the past been associated with [redacted] were not observed in the area.

b6
b7C

[redacted] were not observed at this address subsequent to 4/19/72 until 4/27/72 at which time [redacted] was observed at [redacted] Street (see section on [redacted]).

b6
b7C

~~SECRET~~

~~SECRET~~

PH 100-53459
176-180

On 4/26/72, surveillance in the vicinity of [redacted] revealed a blue or black Chevrolet, Pa. license #08676D, and a cream colored Cadillac, Pa. license #15427Y, parked in the yard at the [redacted] address.

b6
b7C

The Pennsylvania BMV, Harrisburg, Pa., reflected Pa. license 08676D is registered to a [redacted] Philadelphia, Pa., for a 1971 Ford coupe.

b6
b7C

Philadelphia indices reflect a 165-1147 master file on [redacted]

b6
b7C

Pennsylvania BMV records reflect Pa. license 15427Y is registered to [redacted] Street, Philadelphia, for a 1967 or 1968 Cadillac sedan.

b6
b7C

Philadelphia indices reflect a reference only to [redacted] NCIC negative re both vehicles and plates.

b6
b7C

BP Service Station
Corner of Greene and
Harvey Streets
Philadelphia, Pa.

The printout sheets concerning toll calls made from the coin box telephone located at this BP service station have been pulled for the most recent cycle and will continue to be pulled on a regular basis. Bell Telephone Company sources advise that toll calls made from coin boxes charged to credit card numbers do not show up on the coin box toll printout and only show up on the bill of the holder of the credit card.

The toll call printout above reflects numerous toll calls at various times to a telephone in Easton, Pa., indicating a possible intra-state gambling operation and a possible tie-in with [redacted] above. Subscriber identifications of called numbers are being obtained by separate communication.

b6
b7C

~~SECRET~~

PH 100-53469
176-180

~~SECRET~~

Toll calls charged to credit card [redacted] known to be pertinent to captioned investigation are being pulled and will be analyzed.

b6
b7C

[redacted] was observed to make a telephone call from the coin box at the BP station at approximately 3:25 p.m., on 5/4/72.

[redacted]
Philadelphia, Pa.
Telephone #VI 9-4982

b6
b7C

[redacted] resided with his wife and small child across a narrow driveway from the [redacted] apartment at [redacted] until 4/24/72.

b6
b7C

On 4/21/72, [redacted] [redacted] by Bureau Agents ascertained that he and his family were planning to move to a farm near Jasper, N.Y.

b6
b7C

On 4/27/72, [redacted] and his family were observed moving under cover of dark (10 p.m.). Several white males including [redacted] helped load their possessions into an apparently orange colored Chevrolet pickup truck bearing New York license C61-665.

b6
b7C

The New York State Department of Motor Vehicles at Albany, N. Y., advised that New York license C61-665 is registered to [redacted] born [redacted] whose residence is shown as [redacted] Jasper, N. Y., for a 1968 Chevrolet orange pickup.

b6
b7C

On 5/1/72, a confidential source advised that two white males identified as [redacted] [redacted] both of [redacted] Philadelphia, Pa., purchased the entire building at [redacted] Street.

b6
b7C

On 5/2/72, these individuals were observed departing the area of [redacted] in a blue VW, Pa. license 808-50B, registered to [redacted] Philadelphia.

b6
b7C

~~SECRET~~

Greenberg/Gray-7074

PH 100-53469
176-180

Philadelphia indices negative re [] and

b6
b7C

[] was observed back in Philadelphia 5/2 or 5/3/72 at which time it was ascertained he had returned to pick up his welfare check.

b6
b7C

ADMINISTRATIVE

Philadelphia has opened case files on contacts of [] believed to have potential involvement in underground activities to facilitate coverage of the activities and the handling of information concerning these individuals.

b6
b7C

Investigation by Philadelphia is being, and will continue to be conducted to identify unknown contacts of [] and others close to him believed to have potential involvement in underground activities.

b6
b7C

An agent has been making relatively frequent coverage of the BP Service Station at Greene and Harvey Streets where he is in a position to observe and log the identities of persons making calls as well as the times of the calls made over the coin box at that location, which appears to be a major communications link in the Philadelphia area. As it has been previously reported, the above persons and others of possible interest frequent this service station for gas, minor repairs, change, cigarettes, etc.

As mentioned above, toll calls have been requested by subpoena on the credit card assigned to [] and discreet background is being conducted to further identify []. A confidential source at Bell Telephone Company has advised that [] has disclaimed all calls on its 4/17 bill charged to [] credit card. The telephone company is conducting its own discreet investigation and is cooperating with Philadelphia.

b7D
b6
b7C

Toll calls charged to other possibly pertinent telephone numbers will be sent into [] as they are identified.

b2
b7E

PH 100-53469
176-180

~~SECRET~~

For the information of the Bureau, the semi-annual individual report on [redacted] is currently due. Submission of this report is being held in abeyance UACB in view of the sensitive, complex investigation re [redacted] which, as the Bureau is aware, is currently being intensified in view of his potential underground connections. It should be noted that little information is available for inclusion in a report suitable for dissemination concerning [redacted] as an individual, and Philadelphia is of the opinion that such a report at this time could conceivably hamper our investigation.

b6
b7C

UACB, Philadelphia will prepare a thumbnail summary of the [redacted] case to date which will be sent to East Coast and other logical offices where [redacted] case leads have been or are likely to be sent. The purpose of this sketch will be to assist these offices in their coverage of present and/or future leads and it will also make them aware of the nature of the investigation currently underway in Philadelphia, in the event that they independently receive information of potential value in this case.

b6
b7C

The Bell Telephone Company is interested in the fraud aspects of the illegal use of a credit card and is cooperating in a highly discreet, coordinated investigation through a former Bureau agent.

ALL INDIVIDUALS INVOLVED IN NEW LEFT
EXTREMIST ACTIVITY SHOULD BE CONSIDERED
DANGEROUS BECAUSE OF THEIR KNOWN ADVOCACY
AND USE OF EXPLOSIVES, REPORTED ACQUISITION
OF FIREARMS AND INCENDIARY DEVICES, AND
THEIR KNOWN PROPENSITY FOR VIOLENCE.

~~SECRET~~

~~SECRET~~

- 1 - Mr. J. A. Sizoo
- 1 - Mr. R. L. Shackelford
- 1 - Mr. T. J. McNiff
- 5/8/72
- ① - Mr. W. N. Preusse
- 1 - Mr. H. Mallet

Mr. E. S. Miller

R. L. Shackelford

DO NOT FILE

Greenberg/Gray-7077

WEATHFUG

PURPOSE:

To advise status of our security investigations concerning the 26 Weatherman fugitives.

DETAILS:

Scope of the Weatherman Problem

Our investigation of the revolutionary Weatherman group centers on approximately 200 people throughout the country. Included in that number are the 26 Weatherman fugitives. Also included is a group of about 40 individuals, all non-fugitives, whose whereabouts are unknown and who are believed active in the Weatherman underground.

The Weatherman group went underground more than two years ago. Since that time, a few fugitives have been apprehended, however, the key Weatherman leaders remain at large. For the past six months, the Weatherman group has been quiescent in that it has issued no communiques to the press and has claimed no bombings since last fall.

Information developed to date shows that Weatherman has concentrated its members and activity on the East and West Coasts since early 1970; however, it appears that they can travel almost anywhere with relative ease, particularly in and out of Canada. They undoubtedly exist within the so-called youth culture, which is drug-oriented and anti-law enforcement. They are supported by above-ground sympathizers, as well as by their own thefts and frauds.

Weatherman advocates use of marijuana and LSD, but oppose hard drugs, such as heroin and amphetamines. It is possible that some Weatherman activists have become drug addicted to the extent that they have dropped out of the revolution. Such a report has been received concerning Weatherman leader [redacted] however, this has not been verified.

b6
b7C

HM:erk
(6)

DoV Proposed CONTINUED - OVER
~~SECRET~~

EXEMPT FROM GDS CATEGORY
DATE OF DECLASSIFICATION INDEFINITE

Memorandum to Mr. E. S. Miller
RE: WEATHFUG

Though they are a small group and are probably only loosely coordinated, it must be assumed that Weatherman will continue sporadic acts of extreme violence.

Question of Supervision of Weatherman
Fugitive Cases

As you are aware, the 23 Weatherman fugitives' cases are supervised by Special Investigative Division (SID). The overall investigations of the Weatherman organization, including non-fugitive underground activists and the Weatherman support group, are supervised by the Domestic Intelligence Division (DID). It is believed that coordinated investigation could be best continued if the supervision of the Weatherman fugitive cases was also assumed by DID. Accordingly, it is recommended that the advisability of this change be discussed at our next Weathfug conference with you.

Plans for Apprehension of Two Fugitives in Canada

Fugitives [redacted] have been located in Canada (by a source of the Los Angeles Office [redacted])

[redacted] Within the past few days, this Los Angeles source, [redacted] has advised that he is certain [redacted]

[redacted] (This source, who is working [redacted] in this endeavor, wants [redacted])

The above plan is currently under consideration and is being handled by SID.

Fugitive [redacted] Reported Recently in
Washington, D. C.

[redacted] a suspect in the CARBON case, has informed (a WFO source) that [redacted] was in Washington, D.C., on [redacted] now claims that the unknown individual who accompanied [redacted] was [redacted] At the time of the visit, [redacted] introduced this person to [redacted]

CONTINUED - OVER

b2
b6
b7C
b7D

b6
b7C
b7D

Memorandum to Mr. E. S. Miller
RE: WEATHFUG

only as [redacted] [Source] has checked available photographs of [redacted] but because of facial hair on [redacted] [Source] is unable to verify that [redacted] is identical with [redacted] [Source] advised that [redacted] intended to stay in Washington, D.C., only a short time and was planning to visit friends somewhere in Virginia. (U)

b6
b7C

Investigation concerning this report is continuing, however, to date, no further pertinent information has been developed.

Possible Break Up of People's Law
Office in Chicago

The small group of radical lawyers at People's Law Office (PLO) in Chicago has been a mainstay of Weatherman support since 1969. One lawyer there, [redacted], is known to have furnished about \$700 to fugitive [redacted] in March, 1971, and this office has been a key communications channel for Weatherman.

b6
b7C

Now, PLO appears on the verge of disintegration. [redacted] has experienced a number of personal problems, including [redacted] and the [redacted]. [redacted] It appears he may be leaving Chicago and may concentrate his activities at Attica, New York, where he has been representing inmates at Attica Prison.

b6
b7C

Another PLO member, [redacted] who is believed to have been at one time active in the Weatherman underground under a false identity, is contemplating a permanent move to the West Coast. He will probably take with him another PLO activist, Susan Jordan.

b6
b7C

Another PLO attorney, [redacted] and his girlfriend [redacted] may also be contemplating departure from the PLO operation.

b6
b7C

The effect of these contemplated changes is not yet known and this situation is being closely followed.

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
RE: WEATHFUG

Miss "A"

Soviet Intelligence Service (SIS)

Possibility of ~~RGB~~ Involvement with Weatherman

[redacted] in Philadelphia is of much interest in the Weatherman investigation since his address was used by Weathfug [redacted] to obtain false identification. In addition, [redacted] has also used a car registered to a still unidentified individual at [redacted] address. An apparent associate of [redacted] named [redacted] has recently been connected with the residence in Rochester, New York, of [redacted] who has been a ~~co-opted~~ Agent for the past 12 years. The significance of [redacted] association with [redacted] and with [redacted] has not been determined. (S)

b6
b7C

2/27/69

gene

Our Buffalo Office has noted that [redacted] has several children, including a son [redacted] who was active in Students for a Democratic Society (SDS) in 1969. [redacted] has also been co-opted by [redacted] to act as a "spotter." It is the opinion of Buffalo that the [redacted] involved with the Soviets would not also be involved with Weatherman. One [redacted] who has no known subversive background, may be the tie-in with [redacted]. This is based only on the fact that [redacted] has a "hippie-type" appearance and was at home at the time [redacted] car was seen at the [redacted] residence. (S)

b6
b7C

IS
Mr B

Miss "A"

Mr "B"

Miss "A"

Investigation of this situation is being handled with great caution in view of the highly confidential [espionage] sources involved. (S)

Three Weeks Survey of United States Residents Who Apply for Landed Immigrant Status in Canada Completed

This survey was conducted to determine whether a larger survey of these applicants was feasible in order to ascertain whether they are utilizing false identity and are of interest to our investigations. The three weeks survey determined that on the average, 73 applications for landed immigrant status from United States residents were received daily by the Bureau for name check purposes. The survey further shows that only an average number of 24 applications daily would be of interest to our investigations. This survey was handled in the Revolutionary Activities Section by [redacted] and a larger survey appears feasible. A memorandum will be submitted in the near future recommending the implementation of this survey.

b6
b7C

CONTINUED - OVER

~~SECRET~~

Memorandum to Mr. E. S. Miller
RE: WEATHERFUG

Technical Coverage

(U) At present, we have both telephone surveillance (tcsur) and microphone surveillance (misur) coverage of [redacted] [redacted] We also have misur coverage of Weatherman activist [redacted] [redacted] are in New York. (S)

b6
b7C

(U) At the present time, our most promising target for additional technical coverage continues to be [redacted] in Cambridge, Massachusetts. She is [redacted] who supports a number of extremist causes. She closely associates with both black and white extremists. Suspected Weatherman activists reside with her, who are believed to have information on whereabouts of Top Ten fugitives [redacted] Investigation of [redacted] continues and recommendation for technical coverage will be made at the appropriate time. (S)

b6
b7C

ACTION:

For information.

Greenberg/Gray-7081

~~SECRET~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-11-2009

F B I

Date: 5/5/72

~~TOP SECRET~~
~~SECRET~~

Transmit the following in APPROPRIATE AGENCIES AND FIELD OFFICES (Type in plaintext or code)

Via AIRTEL ADVISED BY ROUTING SLIP(S) BY [Signature] DATE 7-19-79 (Priority)

~~CONFIDENTIAL~~

TO: ACTING DIRECTOR, FBI

FROM: SAC, PHILADELPHIA

SUBJECT: [Redacted]

DO NOT

DISSEMINATE

aka per 62-117964-9

SM - REVOLUTIONARY ACTIVITIES (EXTREMIST)

(OO: PH)

Bufile 100-466098

b6

PH 100-53469

b7C

WEATHFUG

(OO: CG)

Bufile 176-1594

PH 176-180

CLASSIFIED BY 1482 DM/AB
3/30/78
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE
para marked C. O. [Signature]

CLASS. & EXT. BY 6076 WAA/H/PA
REASON FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/94
para marked
dikawara

Re Bureau letter to Philadelphia 4/7/72, and Philadelphia airtel to Director, 4/20/72 under the caption.

b6
b6
b7C

As the Bureau and Chicago are aware, Philadelphia has instituted intensified investigation of [Redacted] and his contacts based on the fact that [Redacted] is a possible link in the WEATHFUG underground network, and referenced Bureau letter directed that Philadelphia submit a bi-weekly summary airtel of activities.

REC-110 100-466098-28

Investigation by Philadelphia continues to be centered around three locations on West Harvey Street in the Germantown section of Philadelphia: 1) [Redacted] Street, 2) [Redacted] and 3) a BP Gas Station located at the corner of Greene and Harvey Streets.

b6
b7C

- 2 - Bureau (RM)
- 1 - Chicago (Info.) (RM)
- 2 - Philadelphia (1 - 100-53469)
- (1 - 176-180)

1xerox 9040 5/16/72
CF/gdw

MAY 10 1972

MPS/lss
(5)

~~SECRET~~

54 MAY 23 1972

Approved: _____
Special Agent in Charge

~~TOP SECRET~~
~~CONFIDENTIAL~~

Final Composite

PH 100-53469
176-180

~~TOP SECRET~~

~~SECRET~~
~~CONFIDENTIAL~~

[redacted]
Philadelphia, Pa.

[redacted] Apartment

[redacted] continues to reside in common-law relationship with [redacted] in the second floor rear apartment, telephone #VI 8-1631.

b6
b7C

On 4/24/72, a Volkswagen bearing Ohio license 817-7NM, driven by a young white female, was observed at the premises and the female driver entered the [redacted] apartment leaving shortly thereafter with [redacted]

The records of the Bureau of Motor Vehicles, Columbus, Ohio, reflect that the above Ohio license is registered to [redacted] Englewood, Ohio, Montgomery County. Cincinnati and Philadelphia indices negative re [redacted] MS "A"

b6
b7C

Toward the end of the last week of April, a confidential source advised that a small package appearing to be several items of mail, arrived at the [redacted] apartment address addressed to [redacted]. The return address reflected it was from [redacted] Ms "B" [redacted] Apartment [redacted] Ms "B" [redacted] Vt.

b6
b7C

[redacted] pays the rent and subscribes to telephone #VI 3-0678, at the second floor front apartment at [redacted] has not been positively identified as having ever appeared at the apartment, and was not known to have any connection with captioned investigation until April 1972. Ms "B"

b6
b7C

Toll records pulled on [redacted] telephone number [redacted] reflect a call to the residence of [redacted] Rochester, N. Y.

b6
b7C

~~SECRET~~

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

SOVIET INTELLIGENCE SERVICE (SIS)

(U) [redacted] is known to Rochester and the Bureau as a known KGB agent for the past 12 years. ~~(S)~~

b6
b7C

The Buffalo Division has further advised that both [redacted] and his wife are former CP members. [redacted] is [redacted] engaged in the manufacture of [redacted]. His wife [redacted]

b6
b7C

[redacted] is employed as [redacted] University of Rochester. Both usually travel to New York City to meet with Soviet principals. ~~(S)~~

(U) [redacted] born [redacted] is a graduate student at State University of New York, traveled to Moscow as a guest of KGB, and is currently operated by KGB as a "spotter." ~~(S)~~

b6
b7C

MR-3

SIS

(U) [redacted] born [redacted] attended the University of Rochester two years and currently works for his father. He has no known subversive activities; however, his dress and appearance are of "hippie type" and Buffalo advised it is possible he could be mistaken as female. ~~(S)~~

b6
b7C

(U) [redacted] born [redacted] has been studying in [redacted] for the past two years under program of [redacted] organization. She has no known participation in subversive activities. ~~(S)~~

b6
b7C

(U) [redacted] born [redacted] resides with parents and is currently a high school student with no record of subversive affiliations. ~~(S)~~

b6
b7C

(U) Buffalo advised it is their opinion that the only member of the [redacted] family who could logically have any current Weatherman connections would be [redacted] who was at home when the Opal sedan registered to [redacted] appeared at the [redacted] residence (as previously reported). ~~(S)~~

b6
b7C

is "A"

SIS

Information re above KGB activity received from [redacted] a highly confidential source, and extreme caution must be exercised handling any information attributed to this source. ~~(S)~~

b2
b7D

PH 100-53469
176-180

~~TOP SECRET~~

~~CONFIDENTIAL~~

(U) Buffalo further advised that toll checks on [redacted] reflect no calls directed to numbers in the Philadelphia area. (S) b6 b7C

(U) On 4/24/72, it was learned from a confidential source that the person known as [redacted] pays the monthly rent for the second floor front apartment by money order from the Girard Bank, Schoolhouse Lane Branch, Philadelphia, Pa. The money orders are signed [redacted] [redacted] Abington, Pa. The source indicated he felt it strange that [redacted] would rent the apartment in [redacted] yet use the [redacted] address on her money orders which is where she apparently lives and which is close to her place of employment at [redacted] in Jenkintown, Pa. Both her residence and employment are some distance from the [redacted] apartment. (S) b6 b7C

(U) Physical observation by Bureau Agents observed that BARBARA DONOHUE, aka Bonnie, resided at and received mail at the EVANS apartment until approximately 5/2 or 5/3/72. She has not been seen at the premises since, though her name remains on the mailbox. (S) b6 b7C

[redacted] Philadelphia, Pa. (S)

(U) On 4/19/72, discreet surveillance by Bureau agents ascertained that on that date, [redacted] who resides at [redacted] had just arrived at that address from an unknown origin and again took up residence at [redacted]. (S) b6 b7C

(U) [redacted] is a garage type apartment located in a well screened, secluded back yard. Motor vehicles which have in the past been associated with [redacted] were not observed in the area. (S) b6 b7C

(U) [redacted] were not observed at this address subsequent to 4/19/72 until 4/27/72 at which time [redacted] was observed at [redacted] Street (see section on [redacted]). (S) b6 b7C

~~CONFIDENTIAL~~
~~TOP SECRET~~

PH 100-53469
176-180

~~TOP SECRET~~
~~SECRET~~

On 1/26/72, surveillance in the vicinity of [redacted] revealed a blue or black Chevrolet, Pa. license #08676D, and a cream colored Cadillac, Pa. license #15427Y, parked in the yard at the [redacted] address. ~~(S)~~ (U)

b6
b7C

The Pennsylvania BMV, Harrisburg, Pa., reflected Pa. license 08676D is registered to a [redacted] Philadelphia, Pa., for a 1971 Ford coupe. ~~(S)~~ (U)

b6
b7C

Philadelphia indices reflect a 165-1147 master file on [redacted]. ~~(S)~~ (U)

b6
b7C

Pennsylvania BMV records reflect Pa. license 15427Y is registered to [redacted] Street, Philadelphia, for a 1967 or 1968 Cadillac sedan. ~~(S)~~ (U)

b6
b7C

Philadelphia indices reflect a reference only to [redacted] NCIC negative re both vehicles and plates. ~~(S)~~ (U)

b6
b7C

BP Service Station
Corner of Greene and
Harvey Streets
Philadelphia, Pa.

~~(S)~~ (U)

The printout sheets concerning toll calls made from the coin box telephone located at this BP service station have been pulled for the most recent cycle and will continue to be pulled on a regular basis. Bell Telephone Company sources advise that toll calls made from coin boxes charged to credit card numbers do not show up on the coin box toll printout and only show up on the bill of the holder of the credit card. ~~(S)~~ (U)

The toll call printout above reflects numerous toll calls at various times to a telephone in Easton, Pa., indicating a possible intra-state gambling operation and a possible tie-in with [redacted] above. Subscriber identifications of called numbers are being obtained by separate communication. ~~(S)~~ (U)

b6
b7C

~~TOP SECRET~~
~~SECRET~~

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

(U) Toll calls charged to credit card [redacted] known to be pertinent to captioned investigation are being pulled and will be analyzed. ~~(S)~~

b6
b7C

[redacted] was observed to make a telephone call from the coin box at the BP station at approximately 3:25 p.m., on 5/4/72. ~~(S)~~ (U)

b6
b7C

[redacted]
Philadelphia, Pa.
Telephone #VI 9-4982 ~~(S)~~ (U)

b6
b7C

[redacted] resided with his wife and small child across a narrow driveway from the [redacted] apartment at [redacted] until 4/24/72. ~~(S)~~ (U)

b6
b7C

On 4/21/72, pretext conversation with [redacted] by Bureau Agents ascertained that he and his family were planning to move to a farm near Jasper, N.Y. ~~(S)~~ (U)

On 4/27/72, [redacted] and his family were observed moving under cover of dark (10 p.m.). Several white males including [redacted] helped load their possessions into an apparently orange colored Chevrolet pickup truck bearing New York license C61-665. ~~(S)~~ (U)

b6
b7C

The New York State Department of Motor Vehicles at Albany, N. Y., advised that New York license C61-665 is registered to [redacted] born [redacted] whose residence is shown as [redacted] Jasper, N. Y., for a 1968 Chevrolet orange pickup. ~~(S)~~ (U)

b6
b7C

On 5/1/72, a confidential source advised that two white males identified as [redacted] both [redacted] Philadelphia Pa., purchased the entire building at [redacted] Street. ~~(S)~~

b6
b7C

On 5/2/72, these individuals were observed departing the area of [redacted] in a blue VW Pa. license 808-50B, registered to [redacted] Philadelphia. ~~(S)~~ (U)

b6
b7C

~~TOP SECRET~~
~~CONFIDENTIAL~~

PH 100-53469
176-180

~~TOP SECRET~~

~~SECRET~~

[redacted] Philadelphia indices negative re [redacted] and [redacted] ~~(S)~~ (U)

b6
b7C

[redacted] was observed back in Philadelphia 5/2 or 5/3/72 at which time it was ascertained he had returned to pick up his welfare check. ~~(S)~~ (U)

b6
b7C

ADMINISTRATIVE

Philadelphia has opened case files on contacts of [redacted] believed to have potential involvement in underground activities to facilitate coverage of the activities and the handling of information concerning these individuals. ~~(S)~~ (U)

b6
b7C

Investigation by Philadelphia is being, and will continue to be conducted to identify unknown contacts of [redacted] and others close to him believed to have potential involvement in underground activities. ~~(S)~~ (U)

b6
b7C

An agent has been making relatively frequent coverage of the BP Service Station at Greene and Harvey Streets where he is in a position to observe and log the identities of persons making calls as well as the times of the calls made over the coin box at that location, which appears to be a major communications link in the Philadelphia area. As it has been previously reported, the above persons and others of possible interest frequent this service station for gas, minor repairs, change, cigarettes, etc. ~~(S)~~ (U)

As mentioned above, toll calls have been requested by subpoena on the credit card assigned to [redacted] and discreet background is being conducted to further identify [redacted]. A confidential source at Bell Telephone Company has advised that [redacted] has disclaimed all calls on its 4/17 bill charged to [redacted] credit card. The telephone company is conducting its own discreet investigation and is cooperating with Philadelphia. ~~(S)~~ (U)

b6
b7C
b7D

Toll calls charged to other possibly pertinent telephone numbers will be sent into [redacted] as they are identified. ~~(S)~~ (U)

b2
b7E

~~SECRET~~
~~CONFIDENTIAL~~
~~TOP SECRET~~

PH 100-53469
176-180

~~TOP SECRET~~

~~CONFIDENTIAL~~
~~TOP SECRET~~

For the information of the Bureau, the semi-annual individual report on [redacted] is currently due. Submission of this report is being held in abeyance UACB in view of the sensitive, complex investigation re [redacted] which, as the Bureau is aware, is currently being intensified in view of his potential underground connections. It should be noted that little information is available for inclusion in a report suitable for dissemination concerning [redacted] as an individual, and Philadelphia is of the opinion that such a report at this time could conceivably hamper our investigation.

b6
b7C

UACB, Philadelphia will prepare a thumbnail summary of the [redacted] case to date which will be sent to East Coast and other logical offices where [redacted] case leads have been or are likely to be sent. The purpose of this sketch will be to assist these offices in their coverage of present and/or future leads and it will also make them aware of the nature of the investigation currently underway in Philadelphia, in the event that they independently receive information of potential value in this case.

b6
b7C

The Bell Telephone Company is interested in the fraud aspects of the illegal use of a credit card and is cooperating in a highly discreet, coordinated investigation through (a former Bureau agent.)

ALL INDIVIDUALS INVOLVED IN NEW LEFT
EXTREMIST ACTIVITY SHOULD BE CONSIDERED
DANGEROUS BECAUSE OF THEIR KNOWN ADVOCACY
AND USE OF EXPLOSIVES, REPORTED ACQUISITION
OF FIREARMS AND INCENDIARY DEVICES, AND
THEIR KNOWN PROPENSITY FOR VIOLENCE.

~~SECRET~~

~~CONFIDENTIAL~~
~~SECRET~~
~~TOP SECRET~~

~~SECRET~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 05-11-2009

- 1 - Mr. J. A. Sizoo
- 1 - Mr. R. L. Shackelford
- 1 - Mr. T. J. McNiff
- 5/8/72
- 1 - Mr. W. N. Preusse
- 1 - Mr. H. Mallet

Mr. F. S. Miller

R. L. Shackelford

DO NOT FILE

WEATHFUG

PURPOSE:

To advise status of our security investigations concerning the 26 Weatherman fugitives.

DETAILS:

Scope of the Weatherman Problem

Our investigation of the revolutionary Weatherman group centers on approximately 200 people throughout the country. Included in that number are the 26 Weatherman fugitives. Also included is a group of about 40 individuals, all non-fugitives, whose whereabouts are unknown and who are believed active in the Weatherman underground.

The Weatherman group went underground more than two years ago. Since that time, a few fugitives have been apprehended however, the key Weatherman leaders remain at large. For the past six months, the Weatherman group has been quiescent in that it has issued no communiques to the press and has claimed no bombings since last Fall.

Information developed to date shows that Weatherman concentrated its members and activity on the East and West Coast since early 1970; however, it appears that they can travel almost anywhere with relative ease, particularly in and out of Canada. They undoubtedly exist within the so-called youth cult which is drug-oriented and anti-law enforcement. They are supported by above-ground sympathizers, as well as by their own thefts and frauds.

Weatherman advocates use of marijuana and LSD, but oppose hard drugs, such as heroin and amphetamines. It is possible that some Weatherman activists have become drug addicts to the extent that they have dropped out of the revolution. Such a report has been received concerning Weatherman leader [redacted] however, this has not been verified.

HM:erk

CONTINUED - OVER

b6
b7C

~~SECRET~~

Final Composite to
FINAL COMPOSITE

CLASSIFIED BY 6076 ZUG/PLB
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

1-15-80 (6)
CLASS. & EXT. BY 5180 RB/PLB
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5-8-97

Memorandum to Mr. E. S. Miller
RE: WEATHFUG

~~SECRET~~

Though they are a small group and are probably only loosely coordinated, it must be assumed that Weatherman will continue sporadic acts of extreme violence.

Question of Supervision of Weatherman
Fugitive Cases

As you are aware, the 26 Weatherman fugitives' cases are supervised by Special Investigative Division (SID). The overall investigations of the Weatherman organization, including non-fugitive underground activists and the Weatherman support group, are supervised by the Domestic Intelligence Division. It is believed that coordinated investigation could be best continued if the supervision of the Weatherman fugitive cases was also assumed by DID. Accordingly, it is recommended that the advisability of this change be discussed at our next Weatherman conference with you.

Plans for Apprehension of Two Fugitives in Canada

b2
b6
b7C
b7D

Fugitives [redacted] have been located in (Canada) by a source of the Los Angeles Office. (Canadian) authorities have advised that these two fugitives are not extraditable and have no plans to deport them. Within the past few days, this Los Angeles source, [redacted] has advised that (he) is certain [redacted] (U) [redacted] This source, who is working [redacted] in this endeavor, wants [redacted]

The above plan is currently under consideration and is being handled by SID.

Fugitive [redacted] Reported Recently in
Washington, D. C.

b6
b7C
b7D

[redacted] a suspect in the CAPRON case, has informed a WFO source that [redacted] was in Washington, on [redacted] now claims that the unknown individual who accompanied [redacted] was [redacted] At the time of the visit, [redacted] introduced this person to [redacted]

CONTINUED - OVER

~~CONFIDENTIAL~~
~~SECRET~~

Memorandum to Mr. F. S. Miller
RE: WEATHERFUG

~~SECRET~~

b6
b7C

(U)

only as [redacted] (Source) has checked available photographs of [redacted] but because of facial hair on [redacted] (source) is unable to verify that [redacted] is identical with [redacted] (Source) advised that [redacted] intended to stay in Washington, D.C., only a short time and was planning to visit friends somewhere in Virginia. (X)

Investigation concerning this report is continuing, however, to date, no further pertinent information has been developed.

Possible Break Up of People's Law
Office in Chicago

The small group of radical lawyers at People's Law Office (PLO) in Chicago has been a mainstay of Weatherman support since 1969. One lawyer there, [redacted] is known to have furnished about \$700 to fugitive [redacted] in March, 1971, and this office has been a key communications channel for Weatherman. (X)

b6
b7C

(U)

Now, PLO appears on the verge of disintegration.

b6
b7C

(U)

[redacted] has experienced a number of personal problems, including [redacted] and the [redacted]. It appears he may be leaving Chicago and may concentrate his activities at Attica, New York, where he has been representing inmates at Attica Prison. (X)

b6
b7C

(U)

Another PLO member, [redacted] who is believed to have been at one time active in the Weatherman underground under a false identity, is contemplating a permanent move to the West Coast. He will probably take with him another PLO activist, Susan Jordan. (X)

(U)

Another PLO attorney, [redacted] and his girlfriend [redacted] may also be contemplating departure from the PLO operation. (X)

b6
b7C

The effect of these contemplated changes is not yet known and this situation is being closely followed.

CONTINUED - OVER

~~SECRET~~

Memorandum to Mr. J. S. Miller
RE: WEATHFUG

SOVIET INTELLIGENCE SERVICE (SIS)

~~SECRET~~

(U) Possibility of KGB Involvement with Weatherman

Ms. "A"
[redacted] in Philadelphia is of much interest in the Weatherman investigation since his address was used by Weathfug [redacted] to obtain false identification. In addition, [redacted] has also used a car registered to a still unidentified individual at [redacted] address. An apparent associate of [redacted] named [redacted] has recently been connected with the residence in Rochester, New York, of [redacted] who has been a co-opted KGB Agent for the past 12 years. The significance of [redacted] association with [redacted] and with [redacted] has not been determined. (S)

SIS
OPERATED
Our Buffalo Office has noted that [redacted] has several children, including a son [redacted] who was active in Students for a Democratic Society (SDS) in 1969. [redacted] has also been co-opted by the KGB to act as a "spotter." It is the opinion of Buffalo that the [redacted] involved with the Soviets would not also be involved with Weatherman. One [redacted], who has no known subversive background, may be the tie-in with [redacted]. This is based only on the fact that [redacted] has a "hippie-type" appearance and was at home at the time [redacted] car was seen at the [redacted] residence. (S)

(U) Investigation of this situation is being handled with great caution in view of the highly confidential espionage sources involved. (S)

(U) Three Weeks Survey of United States Residents Who Apply for Landed Immigrant Status in Canada Completed

(U) This survey was conducted to determine whether a larger survey of these applicants was feasible in order to ascertain whether they are utilizing false identity and are of interest to our investigations. The three weeks survey determined that on the average, 73 applications for landed immigrant status from United States residents were received daily by the Bureau for name check purposes. The survey further shows that only an average number of 24 applications daily would be of interest to our investigations. This survey was handled in the Revolutionary Activities Section by [redacted] and a larger survey appears feasible. A memorandum will be submitted in the near future recommending the implementation of this survey. (S)

CONTINUED - OVER

~~CONFIDENTIAL~~
~~SECRET~~

~~SECRET~~

Memorandum to Mr. F. S. Miller
RE: WEATHERFUG

~~CONFIDENTIAL~~

Technical Coverage

At present, we have both telephone surveillance (toss) and microphone surveillance (misur) coverage of [redacted]. We also have misur coverage of Weatherman activist [redacted] [redacted] are in New York. (S)(U)

b6
b7C

At the present time, our most promising target for additional technical coverage continues to be [redacted] in Cambridge, Massachusetts. She is [redacted] who supports a number of extremist causes. She closely associates with both black and white extremists. Suspected Weatherman activists reside with her, who are believed to have information on whereabouts of Top Ten fugitives [redacted]. Investigation of [redacted] continues and recommendation for technical coverage will be made at the appropriate time. (U)

b6
b7C

ACTION:

For information.

Greenberg/Gray-7094

~~CONFIDENTIAL~~
~~SECRET~~

~~SECRET~~

UNITED STATES GOVERNMENT

Memorandum

TO : Paul Daly *PD*
Federal Bureau of Investigation

DATE: February 7, 1980

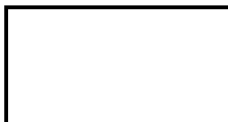
FROM : Frank Martin *FJM*
Criminal Division **FEDERAL GOVERNMENT**

SUBJECT: United States v. Felt

W. Marks

Enclosed for your review are exhibits D-15 and D-20.

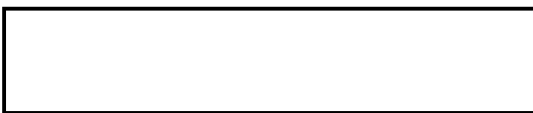
Thanks again for your help.



b6
b7C

b6
b7C

D-20 is



AE

You have the documents
as marked (circled)

62-118045-263

FJM 5 FEB 26 1980

Discussed 2/8/80. See note on 2/15/80 letter. *SK*
Final answers given by 2/15/80

4-5 SK

62-118045

DC
ENCLOSURE
ENCLOSURE ATTACHED



0 0

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-23-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7096



62-118045-263

ENCLOSURE

February 21, 1980
Joseph L. Tierney
Federal Bureau of Investigation

1 - Mr. Daly
1 - Mr. Tierney

UNITED STATES VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Francis J. Martin
Department of Justice

~~FEDERAL GOVERNMENT~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-23-2009 BY 65179 dmh/baw/sbs

Reference is made to your written inquiry dated
November 28, 1979.

NY 176-97 [redacted] was assigned to SA [redacted] effective March 14, 1972. It had until then been assigned to SA [redacted].

b6
b7C

Attached are copies of documents under [redacted] and [redacted] captions from NY 176-97. The serial number of the corresponding copy in [redacted] (main file of [redacted]) is noted as the second number in brackets when the serial appears in both files.

b2
b6
b7C
b7D

1. WFO teletype to Director, 3/6/72 (96) (70)

2. NY teletype to WFO, 3/7/72 (94) (73)

3. CG report of SA [redacted], 4/27/72 (117)

b6
b7C

4. NY airtel to Director, 5/16/72 (127)

5. CG airtel to Director, 5/31/72 (137)

6. CG report of SA [redacted] (150) 6/27/72

b6
b7C

7. NY airtel to CG, 6/27/72 (152)

8. NY airtel to Director, 6/28/72, captioned "PENBOM" (153)

62-118045-264

9. SA [redacted] memorandum to SAC, 7/26/72 (168)

FEB 23 1980

10. SA [redacted] memorandum to SAC, 8/23/72 (173)

11. SA [redacted] memorandum to SAC, 9/27/72 (174)

b6
b7C

12. SA [redacted] memorandum to SAC, 10/3/72 (176)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

JLT:tdp (5)

~~CONFIDENTIAL MATERIAL ATTACHED~~

SEE NOTE PAGE THREE

MAIL ROOM

56 MAR 18 '80

Hand delivered
2/22/80

4-5

Francis J. Martin
Department of Justice

13. NY airtel to Director, 11/30/72 (185)
14. Director airtel to CG, 11/20/72 (187)
15. NY airtel to Director, 12/8/72 (190)
16. CG airtel to Director, 12/13/72 (191)
17. SF airtel to Director, 12/28/72 (192)
18. NY airtel to Director, 1/19/73 (194)
19. CG airtel to Director, 1/26/73 (199)
20. AL airtel to Director, 2/3/73 (200)
21. NY airtel to Director, 2/12/73 (201)
22. NY airtel to Director, 2/21/73 (203)
23. NY airtel to Director, 2/26/73 (205)
24. CG airtel to Director, 3/15/73 (212)
25. NY airtel to Director, 3/27/73 (215)
26. NY airtel to Director, 3/28/73 (216)
27. NY airtel to Director, 4/9/73 (220)
28. CG airtel to Director, 4/19/73 (223)
29. AL airtel to Director, 7/27/73 (236)
30. NY letter to CG, 3/21/74

In addition to the above, four serials from
are furnished to assist in understanding *

1. DN letter to Director, 3/5/75 (69)
2. CG teletype to Director, 3/14/75 (70)

Francis J. Martin
Department of Justice

3. WFO teletype to CI, 2/28/73 (47)
4. WFO teletype to Director, 5/13/71

The above serials will all be processed for discovery.

Enclosures

(only for orig. encl. for yellow es pgs 201 maintained in Discovery Unit.)

NOTE:

Serials being furnished in order to avoid furnishing raw file to Department. True name of informant excised from copies furnished Department. Both name and identifying data will be excised from discovery disclosure to defense. Serials dated 3/6/72 and 3/14/75 are both marked as serial 70 in the file due to error in sequence of serialization.

b2

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 52

Page 7 ~ b1;
Page 9 ~ b1;
Page 10 ~ b1;
Page 11 ~ b1;
Page 29 ~ Duplicate;
Page 30 ~ Duplicate;
Page 31 ~ Duplicate;
Page 32 ~ Duplicate;
Page 33 ~ Duplicate;
Page 34 ~ Duplicate;
Page 35 ~ Duplicate;
Page 36 ~ Duplicate;
Page 37 ~ Duplicate;
Page 206 ~ OTHER;
Page 207 ~ OTHER;
Page 208 ~ OTHER;
Page 209 ~ OTHER;
Page 210 ~ OTHER;
Page 211 ~ OTHER;
Page 212 ~ OTHER;
Page 213 ~ OTHER;
Page 214 ~ b1; OTHER;
Page 215 ~ OTHER;
Page 217 ~ OTHER;
Page 218 ~ OTHER;
Page 219 ~ OTHER;
Page 220 ~ OTHER;
Page 221 ~ OTHER;
Page 222 ~ OTHER;
Page 223 ~ OTHER;
Page 224 ~ OTHER;
Page 225 ~ OTHER;
Page 226 ~ OTHER;
Page 227 ~ OTHER;
Page 228 ~ OTHER;
Page 229 ~ OTHER;
Page 230 ~ OTHER;
Page 231 ~ OTHER;
Page 251 ~ OTHER;
Page 252 ~ OTHER;
Page 268 ~ b6; b7C;
Page 269 ~ b6; b7C;
Page 273 ~ OTHER;
Page 274 ~ OTHER;
Page 275 ~ OTHER;
Page 276 ~ OTHER;
Page 277 ~ b1; OTHER;
Page 278 ~ OTHER;

Page 282 ~ OTHER;
Page 283 ~ OTHER;
Page 284 ~ OTHER;
Page 285 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 52

- Page 7 ~ b1;
- Page 9 ~ b1;
- Page 10 ~ b1;
- Page 11 ~ b1;
- Page 29 ~ Duplicate;
- Page 30 ~ Duplicate;
- Page 31 ~ Duplicate;
- Page 32 ~ Duplicate;
- Page 33 ~ Duplicate;
- Page 34 ~ Duplicate;
- Page 35 ~ Duplicate;
- Page 36 ~ Duplicate;
- Page 37 ~ Duplicate;
- Page 206 ~ OTHER;
- Page 207 ~ OTHER;
- Page 208 ~ OTHER;
- Page 209 ~ OTHER;
- Page 210 ~ OTHER;
- Page 211 ~ OTHER;
- Page 212 ~ OTHER;
- Page 213 ~ OTHER;
- Page 214 ~ b1; OTHER;
- Page 215 ~ OTHER;
- Page 217 ~ OTHER;
- Page 218 ~ OTHER;
- Page 219 ~ OTHER;
- Page 220 ~ OTHER;
- Page 221 ~ OTHER;
- Page 222 ~ OTHER;
- Page 223 ~ OTHER;
- Page 224 ~ OTHER;
- Page 225 ~ OTHER;
- Page 226 ~ OTHER;
- Page 227 ~ OTHER;
- Page 228 ~ OTHER;
- Page 229 ~ OTHER;
- Page 230 ~ OTHER;
- Page 231 ~ OTHER;
- Page 251 ~ OTHER;
- Page 252 ~ OTHER;
- Page 268 ~ b6; b7C;
- Page 269 ~ b6; b7C;
- Page 273 ~ OTHER;
- Page 274 ~ OTHER;
- Page 275 ~ OTHER;
- Page 276 ~ OTHER;
- Page 277 ~ b1; OTHER;
- Page 278 ~ OTHER;

Page 282 ~ OTHER;
Page 283 ~ OTHER;
Page 284 ~ OTHER;
Page 285 ~ OTHER;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Airtel

1 - Mr. Tierney

3/24/80

To: SAC, WFO Attention: Supervisor Sullivan, C-4

From: Director, FBI

U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

Reference is made to telephone conversation 3/24/80 between FBIHQ Supervisor Tierney and [redacted] of WFO. b6 b7C

This confirms oral request for review of passport file of [redacted] Passport Number [redacted]. Oral review should be furnished SA Tierney on extension 4763 and written passport review may be forwarded by routing slip to FBIHQ, Room 4859, Telelift #224. b6 b7C

JLT:tdp
(4)

[Handwritten signature]

[Handwritten initials in a circle]

62-118045-265

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-23-2009 BY 65179 dmh/baw/sbs

MAR 31 1980

*Hand delivered
to Supervisor Sullivan
3/24/80
JK
4-325*

62-118045

[Handwritten initials and date]

MAIL ROOM 1980

Greenberg/Gray-7108

Exec AD Adm.	_____
Exec AD Inv.	_____
Exec AD LES	_____
Asst. Dir.:	_____
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-23-2009 BY 65179 dmh/baw/sbs

12/80

~~SECRET~~

F DIVISION

U. S. vs. Felt, et al.

b1

(S) [Redacted]

[Redacted]

information be made available to the defense in the U. S. vs. Felt, et al. matter. The response permits discovery disclosure to the defense subject to the constraints outlined in the Court's November, 1979, supplemental protective order.

This order inter alia prohibits disclosure beyond the defendants and counsel without additional court approval. It is anticipated the defense will seek approval to show the information to possible witnesses. John Nields, Special Prosecutor, advised the Department would resist any such attempted use of the information and would convey that position to the [Redacted] (S) [This is contrasted with the Department's position relative to other sensitive material produced pursuant to the protective order in question. That position has been to allow the defense to exhibit the information to individuals who previously had access to same without requiring the defense to seek additional court approval.

b1

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Mullen

- 1 - Mr. Cregar
- 1 - Mr. Bailey
- 1 - Mr. Tierney
- 1 - Mr. Daly

All information contained herein is unclassified except where shown otherwise

PVD:mjl Information classified per letter dated 8-14-2009

APPROVED: _____

Director _____

Exec. AD-Inv. _____

Exec. AD-Adm. _____

Adm. Serv. _____

Crim. Inv. _____

Legal Coun. _____

Plan. & Insp. _____

Rec. Mgnt. _____

Tech. Servs. _____

~~SECRET~~

Memorandum

~~CONFIDENTIAL~~

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

JLT

TO : Mr. Bailey *wjg*

1 - Mr. Boynton

DATE: 3/6/80

FROM : Joseph L. Tierney

- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Mullen
- 1 - Intelligence Div.
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL. (U)

PURPOSE:

To advise of planned trip to review certain files of New York Office by Francis J. Martin, Departmental Attorney. (U)

DETAILS:

On 3/5/80 Francis J. Martin asked that arrangements be made for him to review files in the New York Office (NYO).

Martin wants to review the NYO versions of People's Peace Treaty, National Lawyer's Guild, and People's Coalition for Peace and Justice. He is exhausting all possibilities in finding a replacement for a critical item of foreign involvement information which CIA refuses to allow to be used at trial. It appears to involve information received from a foreign government source. (U)

Martin also wants to review the beginning of the [redacted] file. He is reviewing in detail the facts of several instances we uncovered and furnished during discovery in 1978 as samples of Departmental knowledge of the surreptitious entries technique. The [redacted] case was one of these. They have recently noticed some confirmation of this knowledge in Departmental documents and are now pursuing the matter. (U)

Departmental Attorneys, including Martin, reviewed original files in New York during the early, investigative phase, although they have not done so recently. They are given access to all FBIHQ files, except informants and assets. Martin and John W. Nields, Jr., were recently designated by the Attorney General to have access to "SOLO" information, and were briefed by Intelligence Division on its background. (U)

(Handwritten mark)

b6
b7C

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-23-2009

62-118045-266

~~CONFIDENTIAL~~

22 MAR 31 1980

Classified and Extended by 6080
Reason for Extension FCIM II, 1-2.4.2 (2,3)
Date of Review for Declassification 3/6/2000

JLT:tdp
64 APR 9 1980

CONTINUED - OVER

62-118045

4-58

Greenberg/Gray-7115

~~CONFIDENTIAL~~

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL. (U)

New York Supervisor [redacted] was in charge of the NYO portion of the discovery operation, is familiar with the files involved, and is acquainted with Martin. Arrangements will be made for Martin to review the above files Monday and Tuesday 3/10-11/80. (U)

b6
b7C

RECOMMENDATION:

None. For information.

APPROVED: <u>WAV</u>	Adm. Serv. _____	Legal Coun. <u>JM</u>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. <u>RS</u>	Ident. _____	Rec. Mgnt. <u>WUB</u>
Exec. AD-Adm. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

SEA

~~SECRET~~

February 26, 1980

Director, FBI

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

Assistant Attorney General
Criminal Division

~~SECRET~~
~~SOURCES~~
FEDERAL GOVERNMENT

- 1 - Mr. Colwell
- 1 - Mr. Boynton
- 1 - Mr. Steel
- 1 - Mr. Mintz
- 1 - Mr. Mullen
- (Attn: [redacted])
- 1 - Mr. Bailey
- 2 - Mr. Cregar
- (1 - [redacted])
- 1 - Mr. Daly
- 1 - Mr. Tierney

b6
b7C

[Handwritten signature]

In response to the request of John W. Nields, Jr., for a detailed assessment of the damage to be expected from public disclosure of the surreptitious entries conducted against the U.S. - China People's Friendship Association (USCPFA), and against Claude Lightfoot and John Abt, I have directed the Intelligence Division of the FBI to prepare such an assessment. This assessment was prepared by the specialists responsible for past and present supervision of our investigations in both areas. I have reviewed their assessment and, on the basis of that review, I support it. (S)

Enclosure

- 1 - Mr. John W. Nields, Jr. (Enclosure)
Criminal Division

DWM/MJS/JLT:tdp
(14)

NOTE:

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 06-10-2008

This letter is in response to Mr. Nields' specific request and covers only the USCPFA and the Lightfoot prosecution which Mr. Nields has indicated he believes the court will find essential for use at the trial. It does not cover any adverse rulings by the court on prosecution motions now pending, nor does it cover any general overall assessment of damage which Mr. Nields has indicated would be more appropriately outlined after the court rules on the prosecution motions. (U)

APPROVED:

Director *[initials]*
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. *[initials]*
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. *[initials]*
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

02-118045-267

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

~~SECRET~~

22 MAR 31 1980

Classified and Extended by 4412
Reason for Extension FCIM II, 1-2.4.2 (2,3)
Date of Review for Declassification 2/26/2000

ENCLOSURE

4 APR 9 1980

All copies for DOJ handed - delivered to John W Nields 5:50 PM 2/26/80

4-5A

62-118045

MAIL ROOM

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

~~SECRET~~

Dupe on pg30

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

February 26, 1980

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

CAUTION: This document contains information, access
to which requires the specific approval of the Attorney General.

The USCPFA was organized in June, 1971. [redacted]

(U)

[redacted]
FROM the inception of this organization, sources identified it
as operating under the influence of the Revolutionary Union (RU).
Some chapters were considered to be totally controlled by the RU.
The San Francisco chapter was such a chapter. (X)

b6
b7C

The USCPFA and the RU sponsored delegations travelling
to the PRC. The USCPFA delegations were led by RU members of
USCPFA. [redacted]

(S)

[Large redacted area]

b1
b6
b7C

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

DWM/MJS/JLT:tdp (14)

~~SECRET~~

Classified and Extended by 4412
Reason for Extension FCIM II, 1-2.4.2 (1,2,3)
Date of Review for Declassification 2/26/2010

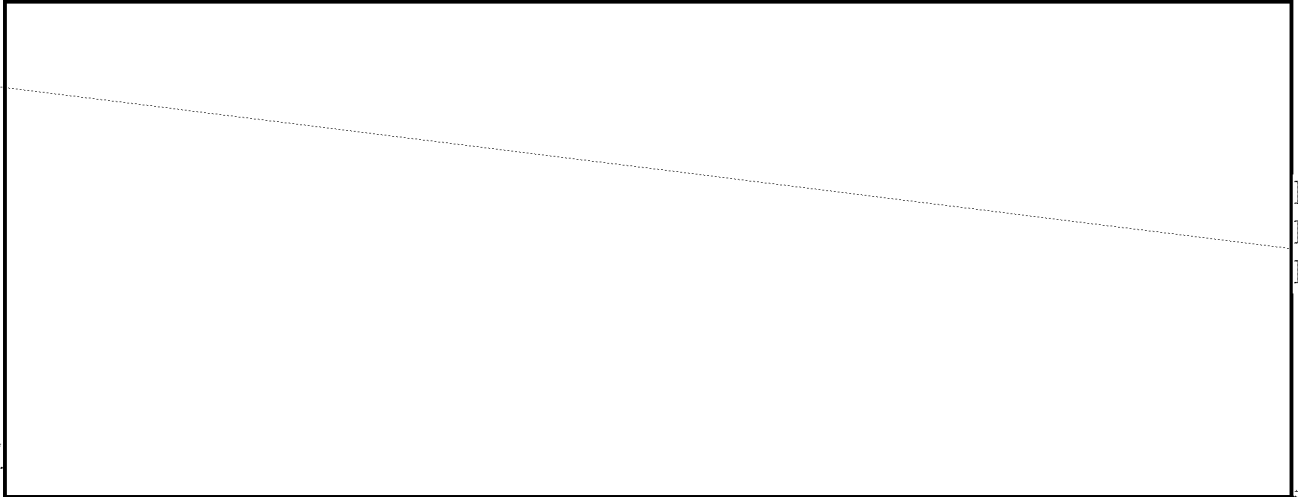
62-18045-267

Greenberg/Gray 7/118 MAT ROOM

ENCLOSURE

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)



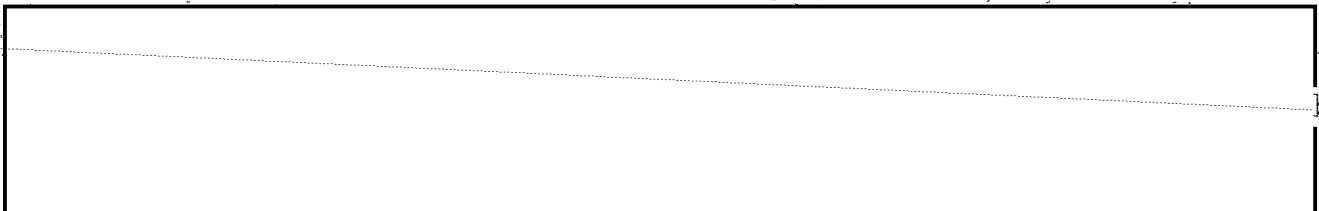
b1
b6
b7C

(U) The first USCPFA tour is frequently characterized by RU members as the first RU trip to the PRC. A tour led by [redacted] sponsored as a USCPFA tour left the U.S. during the first part of January, 1973, returning at the end of January, 1973. Another USCPFA tour entered the PRC April 2, 1973, led by [redacted] an RU member. (S)

b6
b7C

(U) On December 12, 1972, in a letter to FBI Headquarters, the San Francisco Office made the observation that the USCPFA in San Francisco was dominated by the RU and that they would intensify their investigation of the USCPFA to identify RU members in the organization. (S)

(U) Against this backdrop, the USCPFA surreptitious entry was conducted in San Francisco April 15, 1973. (S)



b1

Disclosure of this surreptitious entry, clearly conducted in the atmosphere of a foreign counterintelligence investigation, would cause the following damage:

~~SECRET~~

~~SECRET~~

U. S. VS. W: MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

1.

(S)

[Redacted]

b1

2. Disclosure would also degrade the effectiveness of the continuing full domestic intelligence investigation of the Revolutionary Communist Party (formerly the Revolutionary Union). It would also inhibit current foreign counterintelligence investigations of individuals, who were under investigation at the time of the entry because of their activities on behalf of the USCPFA.

3.

(S)

[Redacted]

b1

(C)

[Redacted]

b1

~~SECRET~~

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) The Claude Lightfoot situation concerns not only the potential degradation of our counterintelligence posture against the Communist Party USA (CPUSA), and against the Soviet Union, but also the loss of live assets, possibly including those involved in a sensitive operation directed against the CPUSA for over 25 years. (S)

(U) Claude Lightfoot has been a national leader of the CPUSA in the Chicago area, who had been prosecuted under the Smith Act and in 1958 was scheduled to be retried. Lightfoot himself was the target of surreptitious entries at his summer residence in Michigan in 1955. John Abt is a member of and prominent attorney for the CPUSA. He was also the target of surreptitious entries in 1958. These entries disclosed correspondence to Abt from the law advisor to the judge who handled the initial trial of Lightfoot and who was scheduled to retry the case. The correspondence was viewed as evidencing an improper influence over the judge since the law advisor to the judge was discussing the case with an attorney associated with the defense. (S)

(U) Both Lightfoot and Abt remain the subjects of pending investigations. (S)

(U) We have been advised the entries against Lightfoot himself are likely to be solved by summary or stipulation, but that the entries against Abt are different, since the documents must be available in court to determine whether or not they reflect notice to the Department of Justice of the use of the entry technique. The disclosure of either is likely to place live assets in substantial jeopardy. (S)

(U) The FBI now has five high-level CPUSA sources; not including the long-standing operation mentioned above, which involves several assets. The operation is known as the "SOLO" operation, and the assets are referred to individually as SOLO assets. (S)

Lightfoot is and was a close associate of the SOLO asset in Chicago. The entry against Lightfoot at his summer residence, previously considered impossible to accomplish, was successfully attempted because we were aware Lightfoot was drafting a major policy statement for use at an upcoming

~~SECRET~~

- 4 -

Greenberg/Gray-7121

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) national CPUSA meeting. The Chicago SOLO asset could have been the source of the information about Lightfoot's planned activity at his summer residence. A damage assessment by the CPUSA (undoubtedly assisted by the Soviets) could certainly include consideration of the possibility that the information about Lightfoot's planned activities at the summer residence could have come from his close associate, the SOLO asset. (S)

(U) The entries against Abt were not related to Lightfoot and the information concerning the law advisor's relationship was an incidental benefit. Abt is and has been a close associate of the SOLO asset in New York. Abt's wife is the recipient of Soviet funds specifically designated for her, and Abt himself has been paid from Soviet funds. Entries against Abt have been made solely as a result of SOLO information. The involvement of the SOLO assets in the delivery of the Soviet funds to the CPUSA is at the heart of the incontrovertible conclusion that the CPUSA is controlled by the Soviet Union. (S)

(U) We have already agreed to release during trial the existence of entries directed against the CPUSA, without specifying targets or dates. The assumptions which could be made by the CPUSA and the Soviets from this admission, and the damage assessment it permits, could cause a harm to the national security. Though demonstrable, that harm is acceptable, given the importance of this unique prosecution. (S)

(U) Admission of the Abt entries, however, allows additional assumptions of more serious consequence to be made. The CPUSA and the Soviets could first assume we had access to and understanding of all CPUSA records, including financial ledgers reflecting receipt of funds which came from the Soviets, maintained in Abt's office, at least in the late 1950's. They could also assume we had conducted entries against similar targets, perhaps the offices of other national figures in the CPUSA and of the CPUSA itself. The task of conducting a damage assessment of the loss to be expected when all CPUSA premises must be considered would be formidable and, we believe, less likely to be attempted. Once oriented to Abt and other targets of similar stature, the assessment is likely to be attempted and could be highly damaging to our investigative program and the security of our assets. (S)

~~SECRET~~

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) We believe the SOLO assets might have been identifiable from materials located in Abt's office in 1958. Whether or not this is actually so, the damage assessment could take it into consideration as a possibility. Given the second assumption of other entries directed against similar targets at the same time, however, we are certain that SOLO assets and other secret members of the party could be identifiable and the assessment would probably assume they had been identified. (S)

(U) Central to our analysis of the danger, and to the damage assessment by the CPUSA and the Soviets which revelation of these entries could prompt or assist, is the fact that the SOLO assets were never the targets of surreptitious entries, COINTELPRO actions, intensive overt investigation, or prosecution. For over 25 years we have carefully preserved the appearance of lack of U.S. knowledge of the secret CPUSA activities of the SOLO assets. The CPUSA and the Soviets could conclude we must have learned of the secret memberships from the Lightfoot, Abt, or similar entries. Their damage assessment then could question why we did not act on that information, and compromise by the FBI of secret members is a logical answer. (S)

(U) The SOLO assets have travelled regularly outside the U.S. to the Soviet Union, including trips for the purpose of transferring Soviet funds. The top SOLO asset was publicly known as a CPUSA official until the late 1940's when he withdrew from CPUSA activity. We recruited him in the early 1950's and he has been a secret member of the CPUSA since that time. The second most important SOLO asset has also been a secret CPUSA member since about 1950. Neither is known to our other assets as current CPUSA members. Both assets have devoted almost half their lives to assisting the U.S., are in fragile health, and could be ostracized, if compromised, by all of their associates who, at this stage, are almost exclusively CPUSA related. We have on numerous occasions acknowledged to them our moral obligations to protect them. (S)

Numerous claims of privilege have been submitted by Attorneys General Levi, Bell and Civiletti to protect SOLO information and preserve this operation. The operation has been reviewed by Presidents Ford and Carter. President Carter

~~SECRET~~

- 6 -

Greenberg/Gray-7123

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

(U) authorized its continuation and ordered strict limitation of knowledge concerning it. (S)

(U) The CPUSA has demonstrated its ability to take effective countermeasures based upon perceived dangers: following World War II it executed with partial success very effective plans to go underground because of its expectation of declining U.S. - Soviet relations; following the McCarthy Era and the Smith Act prosecutions it ceased issuing membership cards and reduced the maintenance of meticulous membership records when its vulnerability on that point became apparent. A comparable reaction to publication of entries, particularly the Abt entry, could be expected. Even though we might retain our assets, their effectiveness is likely to be curtailed severely since much of their reporting is based on their access to records. The CPUSA might be expected to limit access to records now accessible to our assets, or even discontinue maintenance of those records. (S)

Revelation of these or similar entries could result in the following damage:

1. It could allow an analysis of the depth, scope, and degree of our knowledge of the CPUSA. This could result in the identification of assets, possibly including SOLO assets, and allow the CPUSA and the Soviets to institute countermeasures to thwart our current and future efforts in this pending foreign counterintelligence investigation. The FBI today speaks with confidence concerning the threat posed by the Soviet-controlled CPUSA. Uncontrolled loss of the asset coverage and countermeasures could allow the Soviets to redirect the CPUSA without our knowledge.

2. It could prevent us from fulfilling our obligation to safeguard the interests and personal safety of the assets thus identified, particularly the SOLO assets. This could be publicized within the CPUSA and render cultivation of replacements nearly impossible since any targets for development could have documentation of our inability to protect them. Since the Soviets could have the same documentation, assets and potential assets in the Soviet intelligence services could be convinced beyond any arguments to the contrary that we could not assure their safe cooperation.

~~SECRET~~

- 7 -

Greenberg/Gray-7124

~~SECRET~~

U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION - DAMAGE ASSESSMENT (U)

3. The international repercussions of the uncontrolled collapse of the SOLO operation are beyond our capacity to evaluate, particularly since the U.S. is in a time of increased tension with the Soviet Union. Although the potential repercussions are not necessarily entirely negative from our country's viewpoint, the danger lies in their unpredictability. (S)

APPROVED: *[Signature]*

A
Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. *[Signature]*
Ident. _____
Intell. *WOB*
Laboratory _____

[Signature]
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

[Signature] {change noted
P.7 second full paragraph should be internally consistent.
"could result"
"would result"

b6
b7C

[Redacted]

Edward J. Malley

[Redacted]

[Signature]
All appropriate "would" changed to "could."
[Signature]

~~SECRET~~

UNITED STATES GOVERNMENT

FEDERAL GOVERNMENT

Memorandum

TO : Joseph L. Tierney
Federal Bureau of Investigation

DATE: March 18, 1980

FROM : John W. Nields, Jr. *fwyf*
Criminal Division

SUBJECT: United States v. ^{W MARK O}Felt

Please obtain from the FBI's New York office the
criminal case file on , circa 1972, 1973.
When it is received, please process it for discovery.

b6
b7C

4-8
62-118045-268

MAR 31 1980

62-118045

Greenberg/Gray-7126



AS
4 APR 9 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : MR. BOYNTON

DATE: 2-21-80

FROM : W. L. BAILEY

SUBJECT: UNITED STATES v. W. MARK FELT, et al.

Tierney #224

John Nields, Special Counsel, U.S. Department of Justice, advised this date that trial in captioned matter has been postponed from March 17, 1980, to May 12, 1980.

The postponement was based on a request of the defense which was not objected to by the Government.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

APPROVED: *WLB*

- Director _____
- Exec. AD-Inv. _____
- Exec. AD-Adm. _____
- Exec. AD-LES _____

- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____

- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. *WLB*
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____

- 1-Mr. Colwell
- 1-Mr. Boynton
- 1-Mr. Bailey
- 1-Mr. Cregar
- 1-Mr. Mullen
- 1-Mr. Steel
- 1-Mr. Tierney

PVD:jmr *Jmr*
(8)

62-118045-269

22 MAR 31 1980

4-585

62-118045

Greenberg/Gray-7127

4 APR 9 1980

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

Memorandum

~~FEDERAL GOVERNMENT~~

DATE: February 29, 1980

TO : William H. Webster
Director, FBI

FROM : Philip B. Heymann
Assistant Attorney General

SUBJECT: United States v. Felt, et al

P. H.

*Trinity
Reply*

U. MARK

Re your memorandum to me of February 26, 1980 relating to the above case, the Attorney General approved on February 26, 1980 the declassification of surreptitious entries conducted against John Abt in the late 1950's which are mentioned in discovery documents in the above case, and of the surreptitious entry conducted against the United States China Friendship Association in 1973. The declassifications will occur only if and when the trial Judge rules proof with respect to them by the defense to be admissible at trial. (X)

The Attorney General has not approved declassification of any information received from a foreign government intelligence service. Indeed, the issue of declassification for trial of any such information has never been raised with him. (U)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 06-10-2009

Exec AD Inv.	<input checked="" type="checkbox"/>
Exec AD Adm.	<input checked="" type="checkbox"/>
Exec AD LES	<input checked="" type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input checked="" type="checkbox"/>
Crim. Inv.	<input checked="" type="checkbox"/>
Ident.	<input checked="" type="checkbox"/>
Intell.	<input checked="" type="checkbox"/>
Laboratory	<input checked="" type="checkbox"/>
Legal Coun.	<input checked="" type="checkbox"/>
Plan. & Insp.	<input checked="" type="checkbox"/>
Rec. Mgmt.	<input checked="" type="checkbox"/>
Tech. Servs.	<input checked="" type="checkbox"/>
Training	<input checked="" type="checkbox"/>
Public Affs. Off.	<input checked="" type="checkbox"/>
Telephone Rm.	<input checked="" type="checkbox"/>
Director's Sec'y.	<input checked="" type="checkbox"/>

FBI/DOJ

www
62-118045-270
2 APR 1 1980

CLASS. & EXT. BY *declassified*
REASON *Source - methods*
DATE OF REVIEW *3/4/2000*

62-118045- 4-525

2 ENCLOSURE

ROUTE IN ENVELOPE

6 APR 9 1980

~~CONFIDENTIAL~~

Greenberg/Gray-7137



MAR 5 1980
1-4-4-1-80

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 3/3/80

TO: DIRECTOR, FBI (62-118045)
 (ATTN:) CIVIL RIGHTS AND SPECIAL INQUIRY SECTION, ROOM 3823

FROM: ADIC, NEW YORK (62-15466) (RUC) (M-13)

SUBJECT: US VERSUS FELT, W. MARIC
 ET AL

b6
b7C

ReButel to New York, dated 2/20/80.

Enclosed for FBIHQ is one SF-86 and two copies of FD-406 executed by THOMAS A. BOLAN and LOUIS BIANCONE respectively.

(Handwritten initials)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Enclosures
Delivered to
Don Friedman, DOJ
(for John W. Wilds, Jr.)
3/4/80

- 2 - Bureau (Encs. 6)
- 1 - New York

(Asst.)
ENCLOSURE

62-118045-27A-SK

62-118045

4-3
1980

DMS:mlg
(4)



b6
b7C

Approved: *(Signature)* 6.1 APR 1 1980

Transmitted _____ (Number) _____ (Time) Per _____

Greenberg/Gray-7138

124

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2

DATE 2/20/80 CLASSIFICATION UNCLAS PRECEDENCE PRIORITY

*F*HOPP NYDE HQ H0124 *H*YUOP 202217Z FEB 80

START HERE

FM DIRECTOR FBI (62-118045)

TO FBI NEW YORK PRIORITY

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

BT

14 UNCLAS

U. S. VS. W. MARK FELT ET AL.

12 REBUTELCAL TO SUPERVISOR [REDACTED], FEBRUARY 20, 1980. b6 b7C

10 DEPARTMENT HAS REQUESTED FBI ASSISTANCE TO EXPEDITE
INITIATION OF SECURITY CLEARANCE BACKGROUND INVESTIGATION FOR
8 TWO ATTORNEYS OF FORMER FBI EMPLOYEE, W. LA PRADE, WHO DEPART-
MENT DESIRES TO INTERVIEW. NEW YORK WAS REQUESTED TO OBTAIN
6 BACKGROUND FORMS FROM JOE VITALE IN U. S. ATTORNEY'S OFFICE,
SOUTHERN DISTRICT OF NEW YORK, AND DELIVER THEM TO THOMAS A.
4 BOLAN AND LEWIS BIANCONI, 39 EAST 68TH STREET, NYC, TELEPHONE
472-1400. WHEN ATTORNEYS HAVE COMPLETED FORMS, NEW YORK SHOULD
2 RETRIEVE THEM AND FORWARD EXPEDITIOUSLY TO FBIHQ, ATTENTION
SECTION CHIEF JOHN LAWN, CIVIL RIGHTS AND SPECIAL INQUIRY

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY [Signature] DRAFTED BY JDD:BAM (2) DATE 2/20/80 ROOM 3823/6 TELE EXT. 5591

RETURN TO MR. DOMZALSKI, ROOM 3823 62-118045-272

APR 3 1980

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

FEB 21 1980

64 APR 11 1980

DO NOT TYPE PAST THIS LINE

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

▷ PAGE TWO DE HQ 0124 S*UNCLAS

SECTION, ROOM 3823. INDIVIDUAL BACKGROUND INVESTIGATION WILL
BE SUBSEQUENTLY INSTITUTED UPON SPECIFIC REQUEST OF DEPARTMENT.

BT

⚡

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7140

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Exec AD Inv.	<input checked="" type="checkbox"/>
Exec AD Adm.	<input checked="" type="checkbox"/>
Exec AD LES	<input checked="" type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input checked="" type="checkbox"/>
Rec. Mgnt.	<input type="checkbox"/>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

TO : Mr. Bailey *msf*

FROM : *JK* Joseph L. Tierney

1 - Mr. Boynton
1 - Mr. Colwell
DATE: 4/28/80
1 - Mr. Steel
1 - Mr. O'Malley
1 - Mr. Mullen
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY, TRIAL PREPARATION

John T. Kelly

PURPOSE:

To advise of trial postponement from May 12 to July 7, 1980.

DETAILS:

At an in-chambers hearing today, April 28, the trial judge noted preparations for trial had made insufficient progress to allow trial to commence on schedule on Monday, May 12, 1980. He therefore reset trial for Monday, July 7, 1980. He stated his intention to allow sufficient lead time for all necessary preparations. He indicated judges frequently say no further continuances would be granted under similar circumstances, and then said, for the record, no further continuances would be granted.

Today's hearing covered only foreign involvement trial preparation; and cross discovery issues. Only the cross discovery issues were settled. Defendants have until Tuesday, May 6, to list all documents they intend to use at trial. The court denied defendant Felt's motion for discovery of the prosecution's rebuttal documents on the foreign involvement issue.

Prosecution and defense are to confer immediately in an effort to resolve all trial document disagreements in all areas except foreign involvement. The hearing was continued until Thursday, May 1, 1980. The other trial preparation motions, brought primarily by the prosecution, will be entertained at that time.

62-118045-272X

RECOMMENDATION:

None. For information.

22 MAY 6 1980

MS
WLT:tdp (9)
WLT

APPROVED: *WLT*

Director	<input checked="" type="checkbox"/>
Exec. AD-Inv.	<input checked="" type="checkbox"/>
Exec. AD-Adm.	<input checked="" type="checkbox"/>
Exec. AD-LES	<input checked="" type="checkbox"/>

Adm. Serv.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>

Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input checked="" type="checkbox"/>
Rec. Mgnt.	<input checked="" type="checkbox"/>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>

64 JUL 2 1980

memorandum

DATE: 5/6/80

REPLY TO: [Handwritten initials]
ATTN OF: LEGAT, MEXICO CITY (62-2a4) (RUC)

SUBJECT: UNITED STATES VERSUS FELT
INFORMATION CONCERNING
W. W. WANTS

sr
ew
TO: DIRECTOR, FBI
(ATTN: LIAISON UNIT; CI-3)

Re Mexico City teletype to Bureau, 4/16/80; and telephone calls of JOHN W. NIELDS, USDJ, District of Columbia, 5/24/80.

At 1:55 p.m. on 5/24/80, at Cuernavaca, Morelos, Mexico, [redacted] was personally served with a subpoena and court order by Vice Consul WILLIS E. HUME, American Embassy, Mexico City. HUME was accompanied by Assistant Legal Attache [redacted].

b6
b7C

JMB
X

130
② - Bureau
1 - Mexico City
AAR:sdr
(3)

62-118045-272x11

MAY 13 1980

Greenberg/Gray-7142

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11/5/82 BY SP2 [Handwritten initials]



64 JUL 3 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

639

PAGE 1 OF 2		CLASSIFICATION		PRECEDENCE	
DATE		UNCLAS E F T O		ROUTINE	
4/23/80					
#F059RRR CG NK NY SFIDE HQ H0059 #H04YER 231451Z APR 80 START HERE FM DIRECTOR, FBI TO TO FBI NEW YORK FBI CHICAGO. 14 FBI NEWARK FBI SAN FRANCISCO 12 BT UNCLAS E F T O 10 U. S. VS. W. MARK FELT, ET AL. DISCOVERY PROCEEDINGS 8 THIS CONFIRMS TELEPHONE CALLS APRIL 22 TO ASACS WRIGHT AND IVEY, SUPERVISORS [REDACTED] FROM SA TIERNEY, 6 RECORDS MANAGEMENT DIVISION, FBIHQ. RECIPIENT OFFICES SEND ORIGINAL FIELD OFFICE FILES 4 FOR [REDACTED] TO FBIHQ, ROOM 4859, TELELIFT NUMBER 224 TO ARRIVE NEXT FRIDAY, APRIL 25, IF POSSIBLE. COPY 2 OF FILE SHOULD BE RETAINED BY EACH OFFICE. ORIGINAL FILE MUST COVER ONLY TIME PERIOD 3/1/69 THROUGH 10/31/73, BUT DO NOT TYPE MESSAGE BELOW THIS LINE					
APPROVED BY	DRAFTED BY	DATE	ROOM	TELE EXT.	
WCB	JLT:dmw [4]	4/23/80	4859	4763	

est

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

DO NOT TYPE PAST THIS LINE

JMT

b6
b7C

b6
b7C

- 1 - Mr. Bailey
- 1 - Mr. Dean
- 1 - Mr. Tierney

627118045-272x2

APR 25 1980

60 JUL 10 1980

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
22152
APR 23 1980

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

PAGE TWO DE HQ 0059 UNCLAS E F T O

20 MUST INCLUDE ALL SUB FILES INCLUDING SURVEILLANCE LOGS,
ANY ELSUR RELATED MATERIALS LOCATED, AND BULKY ENCLOSURES.

18 RESOLVE ANY QUESTIONS BY TELEPHONE CALL TO FBIHQ,
EXTENSION 4763.

16 TRIAL NOW REMAINS SCHEDULED FOR MAY 12. THIS ADDITIONAL
14 DISCOVERY ORDERED BY COURT MONDAY, APRIL 21. TO BE ACCOMPLISHED
IMMEDIATELY.

BT

12 |

10

8

6

4

2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7144

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Date 3/28/80

TO: DIRECTOR, FBI (62-118045)
(ATTN: SA JOSEPH TIERNEY)

FROM: SAC, WFO (62-RC) (RUC)

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

ReBUairtel to WFO dated 3/24/80.

b6
b7C

[redacted] was issued Passport
Number [redacted] on 7/25/69 at Washington, D.C., for proposed
travel to Israel for purpose of tourism. Proposed length of
stay was two months. Approximate date of departure was
'August 1.'

(Handwritten initials)

(Passport file was reviewed 9/9/71 by SC [redacted]
[redacted], FBI.)

b6
b7C

Expiration date of 1969 passport was 7/24/74.

In March, 1975, subject applied for a new
passport, at which time she said the passport issued to her
in '1970?' had been lost while she was moving.

62-118045-272x3

10 APR 16 1980

She was issued No. [redacted] on 3/17/75 at San
Francisco for proposed pleasure travel for one month to
Mexico and Guatemala. She did not give an approximate date
of departure.

b6
b7C

- 2- Bureau
- 1- WFO

MB:spj
(3)

*Copy detached
and furnished to
Francis J. Martin;
DOV
4/3/80*

*4-5K
7-9m*

Approved: *(Signature)*

Transmitted _____ (Number) _____ (Time)

Per _____

Expiration date of her 1975 passport was 3/16/80.

On 10/27/75, under FOIA, subject requested from the Department of State:

I believe that you may be maintaining files and/or information on or pertaining to me, or concerning groups or organizations with which I have been actively involved, including cross-references to me in files under other person's names. I am writing to request a copy of any and all such materials.

This review was conducted at the Office of Passport Services by SC on 3/27/80.

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

FEDERAL GOVERNMENT

TO : Paul V. Daly
Federal Bureau of Investigation

DATE: April 2, 1980

FROM : Francis J. Martin
Criminal Division

FJM



b6
b7C

SUBJECT: United States v. Felt

INFO CONCERNING

One of the victims in the indictment in this case, [redacted] is presently believed to be in Cuernavaca, Mexico. We wish to subpoena [redacted] but prior to making any such efforts would like to know whether she is, in fact, in Cuernavaca. Our information is that [redacted] may be attending or at "a Spanish school" in Cuernavaca. Please have your Legat determine whether [redacted] is in Cuernavaca, how long she is likely to be there and, if she is not there, obtain any available information concerning her present whereabouts. It is important that [redacted] not be aware of any governmental interest in her.

b6
b7C

FJM

Please handle this request on an expedited basis and advise me of the results as soon as possible.

Thanks

62-118045-272x4

16 APR 16 1980

60 JUL 11 1980

[Handwritten signature]

5-9m

[Handwritten initials]

Greenberg/Gray-7147



DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

0-83 (Rev. 4-3-79)

142

PAGE 1 OF 2		CLASSIFICATION		PRECEDENCE	
DATE 4-4-80		UNCLAS E F T O		PRIORITY	
START HERE				ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dmh/baw/sbs	
FM	FM DIRECTOR FBI				
TO	TO LEGAL ATTACHE MEXICO CITY PRIORITY				
BT					
14	UNCLAS E F T O <i>W. Mark</i>				
	UNITED STATES VERSUS <i>LO</i> FELT; INFORMATION CONCERNING.				
12	FOLLOWING RECEIVED FROM U. S. JUSTICE DEPARTMENT ON				
	APRIL 3, 1980:				
10	ONE OF THE VICTIMS IN THE INDICTMENT IN THIS CASE, [REDACTED]				
	[REDACTED] IS PRESENTLY BELIEVED TO BE IN CUERNEVACA, MEXICO.				
8	WE WISH TO SUBPOENA [REDACTED] BUT PRIOR TO MAKING ANY				
	SUCH EFFORTS WOULD LIKE TO KNOW WHETHER SHE IS, IN FACT, IN				
6	CUERNEVACA. OUR INFORMATION IS THAT [REDACTED] MAY BE				
	ATTENDING OR AT "A SPANISH SCHOOL" IN CUERNEVACA. PLEASE HAVE				
4	YOUR LEGAT DETERMINE WHETHER [REDACTED] IS IN CUERNEVACA,				
	HOW LONG SHE IS LIKELY TO BE THERE AND, IF SHE IS NOT THERE,				
2	OBTAIN ANY AVAILABLE INFORMATION CONCERNING HER PRESENT WHERE-				
	ABOUTS. IT IS IMPORTANT THAT [REDACTED] NOT BE AWARE OF				
DO NOT TYPE MESSAGE BELOW THIS LINE					
APPROVED BY	DRAFTED BY	DATE	ROOM	TELE EXT.	
<i>Ego/awp</i>	JAM:JKR <i>[initials]</i>	4-4-80	4634/5	4691/232	

DO NOT TYPE PAST THIS LINE

b6
b7C

1 - LIAISON UNIT

SPM
60 JUL 07 1980

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER

03352M
APR

62-118045-27245

16 APR 16 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE *SP2 Taplan* BY *11/5/82*

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

FBI/DOJ

Greenberg/Gray-7148

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

PAGE TWO DE HQ 0142 UNCLAS E F T O

ANY GOVERNMENTAL INTEREST IN HER.

20 [] ISSUED U. S. PASSPORT NUMBER [] ON
18 MARCH 17, 1975, AT SAN FRANCISCO FOR PROPOSED PLEASURE TRAVEL
TO MEXICO AND GUATEMALA.

16 MEXICO CITY REQUESTED TO ATTEMPT TO COMPLY WITH EXISTING
INSTRUCTIONS AND SUTEL REPLY ATTENTION LIAISON UNIT, CI-3, F.

14 BT

|

12

10

8

6

4

2

DO NOT TYPE MESSAGE BELOW THIS LINE

DO NOT TYPE PAST THIS LINE

b6
b7C

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

~~SECRET~~

0
A
P
16
CH
PAGE 1 OF 1

DATE 5/7/80 CLASSIFICATION ~~UNCLAS E F T O~~ PRECEDENCE ROUTINE

#F164ERR CGUDE HQ HD164 #H04EOR 072102Z MAY 80

▶ START HERE

FM FM DIRECTOR FBI
TO TO FBI CHICAGO 1

ATTN: SUPERVISOR [REDACTED]

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 04-24-2009

14 BT b6
b7C

~~UNCLAS E F T O~~

12 U. S. VS W. MARK FELT, ET AL.
TRIAL PREPARATION

MARK W. FELT

10 FURNISH XEROX COPY OF CHICAGO 100-40903-SUB J TO FBI
HEADQUARTERS, ATTN: SA TIERNEY, ROOM 4859. AT YOUR DISCRETION,

8 YOU MAY OMIT MATERIALS IN THE SUB J WHICH DID NOT ORIGINATE
6 WITH [REDACTED] DELIVERY BY TUESDAY, MAY 13
WILL SUFFICE.

Emb DO NOT TYPE PAST THIS LINE

4 NOTE DOCUMENTS MAY NO LONGER BE CLASSIFIED SOLELY TO
PROTECT THE EXISTENCE OF THE WIRETAPS DIRECTED AGAINST SDS.

BT

2 |

62-118045-272x6

OCT 3 1980

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY *WRB* DRAFTED BY *JLT:jmh* DATE 5/7/80 ROOM 4859 TELE EXT. 4763

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

4-885

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER

05207 am
MAY 8 1980

59 OCT 22 1980

62-118045

DO NOT FILE WITHOUT COMMUNICATIONS STAMP
Greenberg/Gray-7150

~~SECRET~~

(S) NOTE: File to be reviewed at request of John W. Nields in an attempt to locate materials for use at trial as substitutes for materials originating with [redacted]. This request has already been coordinated with Supervisor [redacted], Sub J used in Chicago as control file from which to channelize that product of these two technical surveillances.

b1
b6
b7C

PARAGRAPH TWO COORDINATED WITH [redacted]

b6
b7C

~~SECRET~~

- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Boynton

DATE: 5/19/80

FROM : W. L. Bailey

SUBJECT: U. S. vs W. MARK FELT et al
TRIAL PREPARATIONS

T. Tierney
MARK W. Felt

PURPOSE: To advise of a request by defense counsel to interview the Director.

RECOMMENDATION: That this request be brought to the Director's attention.

*Noted: WLB
Mr. Kennelly notified 6/2/80 (after repeated unsuccessful attempts to converse on telephone). He indicated his intention to interview Mr. Mintz.*

APPROVED:	Adm. Serv. <input type="checkbox"/>	Legal Coun. <input type="checkbox"/>
Director <input type="checkbox"/>	Crim. Inv. <input type="checkbox"/>	Plan. & Insp. <input type="checkbox"/>
Exec. AD-Inv. <input checked="" type="checkbox"/>	Ident. <input type="checkbox"/>	Rec. Mgnt. <input checked="" type="checkbox"/>
Exec. AD-Adm. <input checked="" type="checkbox"/>	Intell. <input type="checkbox"/>	Tech. Servs. <input type="checkbox"/>
Exec. AD-LES <input type="checkbox"/>	Laboratory <input type="checkbox"/>	Training <input type="checkbox"/>
		Public Affs. Off. <input type="checkbox"/>

DETAILS: On 5/19/80, Thomas J. Kennelly, attorney for Defendant Miller, contacted the Director's Office seeking an interview with the Director. The request was referred to SA Joseph L. Tierney.

Mr. Kennelly advised that both he and Brian P. Gettings, assisted by no more than one associate each, would like to interview the Director as a prospective defense witness in captioned matter. The testimony anticipated would involve the Director's report following his inquiry into the Surreptitious Entries Matter. Mr. Kennelly states he is interested in having the Director testify there were no rules or guidelines and there were great pressures brought to bear on the FBI at the time of the offense being prosecuted. Mr. Kennelly does not desire to go into any of the specifics of the administrative action and commented, specifically, he had no intention of causing embarrassment to the Director.

62-118045-272X1

Mr. Kennelly would prefer to interview the Director sometime Thursday or Friday of this week or Tuesday or Wednesday of next week.

6 OCT 5 1980

Mr. Kennelly may be reached locally at 872-0700.

In accordance with the policy of the prosecutor in this case, John W. Nields, Jr. has not been notified of this request. The prosecutor's policy has been that they should not be notified of potential defense witnesses.

- 1 - Mr. Boynton
- 1 - Mr. Colwell
- 1 - Mr. Mintz
- 1 - Mr. Otto
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Tierney

JLT:jam (8)

57 OCT 22 1980

62-118045

Exec AD Inv.	<input checked="" type="checkbox"/>
Exec AD Adm.	<input checked="" type="checkbox"/>
Exec AD LES	<input checked="" type="checkbox"/>
Asst. Dir.:	
Adm. Servs.	<input type="checkbox"/>
Crim. Inv.	<input type="checkbox"/>
Ident.	<input type="checkbox"/>
Intell.	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>
Legal Coun.	<input type="checkbox"/>
Plan. & Insp.	<input type="checkbox"/>
Rec. Mgnt.	<input checked="" type="checkbox"/>
Tech. Servs.	<input type="checkbox"/>
Training	<input type="checkbox"/>
Public Affs. Off.	<input type="checkbox"/>
Telephone Rm.	<input type="checkbox"/>
Director's Sec'y	<input type="checkbox"/>

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bailey *MB*

FROM : Joseph L. Tierney *ALT*

SUBJECT: U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

- 1 - Mr. Boynton
- DATE: 5/8/80
- 1 - Mr. Colwell
- 1 - Mr. Mintz
- 1 - Mr. Mullen
- 1 - Mr. O'Malley
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

MARK W. FELT

PURPOSE:

To advise of status of preparations for trial 7/7/80, hearings on motions, and newly undertaken discovery processing.

DETAILS:

At hearings 4/28 and 5/7/80, the court ordered postponement of the trial from 5/12 to 7/7/80, discovery (in the vault) of files on Leibel Bergman (FBIHQ, NY, NK, CG, SF), and designation by defense of documents needed for trial by 5/6/80. *(circled)*

The Bergman discovery is expected to be completed in the near future, possibly by Friday, 5/23/80. Field office files have been received at FBIHQ and are undergoing classification review now.

62-118045-272X8

The defense has listed over 500 more documents for trial. Of these, only 221 were on the list which Divisions 5 and 6 worked on during December and January. There are approximately 300 new documents listed. I have advised Frank Martin, DOJ, I estimate this will take 3-6 weeks, more likely 6 weeks.

Mr. Martin predicts we have 10 days to two weeks to prepare these 300 documents. The trial will be delayed by whatever time we exceed two weeks. Martin can accept a one-week delay. He suggests we alter our procedures and perform two functions simultaneously on separate tracks: classification review and review by Divisions 5 or 6. I have advised Martin there is no assurance this will improve the final completion time, but we are willing to attempt it, although it will exacerbate coordination problems and jeopardize the quality of the final product. We have no choice.

Additional Division 4 personnel are being assigned to these tasks. Divisions 5 and 6 should be alert to the need to handle their portions of the processing as promptly as is practical. It would be premature to suggest overtime work at this time, but we will keep overtime in mind and will request it, if necessary.

CONTINUED - OVER

SLT:tdp (10)

u-816
62-118045

57 OCT 9 1980

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U. S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

At the 5/7/80 hearing the court began to review documents on which prosecution and defense were unable to agree. The court ruled on 10 out of an estimated 50 problem documents. Two or three other documents were agreed upon on the spot and removed as issues. One document was referred for further research by the prosecution rather than submit to an adverse ruling or an undesirable stipulation.

None of the problems involved issues of concern to the FBI, although all were FBI documents. There were four or five rulings against the prosecution where NSA has the primary interest. They will cause NSA great concern.

The hearing lasted three hours and was set over until Monday, 5/12/80.

RECOMMENDATION:

None. For information.

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. <i>[Signature]</i>	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
Exec. AD-Adm. <i>[Signature]</i>	Intell. _____	Tech. Servs. _____
Exec. AD-LES <i>[Signature]</i>	Laboratory _____	Training _____
		Public Affs. Off. _____

[Handwritten initials]

R 161630Z APR 80

~~CONFIDENTIAL~~ RECEIVED TELETYPE UNIT

FM MEXICO CITY (62-234)(RUC) 2P

16 APR 80 23 29z

TO DIRECTOR ROUTINE NR. 253-16

BT

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

~~UNCLAS E F T O~~

ATTENTION LIAISON UNIT, CI-3.

MARK W. FELT

UNITED STATES VERSUS FELT; INFORMATION CONCERNING.

RE BUTEL DATED APRIL 4, 1980.

A CONFIDENTIAL SOURCE ABROAD FURNISHED THE FOLLOWING

INFORMATION ON APRIL 15, 1980: ~~(S)~~

WITNESS IS PHYSICALLY LOCATED AT COLEGIO

[Redacted]

CUERNAVACA,

MORELOS, MEXICO. SHE ATTENDS CLASSES FROM 8:00 AM TO

b6
b7C

2:00 PM DAILY AND CAN BE REACHED AT TELEPHONE NUMBER 2-16-98

ON CAMPUS. SHE WILL BE STUDYING THIS WEEK AND THE NEXT ON

CAMPUS AND THEN WILL GO ON A WEEKS FIELD TRIP. AFTER THE FIELD

TRIP SHE WILL RETURN TO THE CAMPUS FOR ONE WEEK OF STUDY AND

DEPART THE INSTITUTION ON MAY 7, 1980.

62-118045-272 X9

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

6 OCT 3 1980

34
60 OCT 24 1980

*Mields notified
4/21/80
mca*

4-BALY

62-118045

CLASS. BY *SP2 TRP/ML*

~~CONFIDENTIAL~~

Greenberg/Gray-7155

Exec. AD-Inv.	
Exec. AD-Adm.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Intell.	<i>Sp/Blue</i>
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

MIAK b6
b7C

[Redacted]

[Signature]

[Signature]

PAGE TWO MX 62-234 ~~UNCLAS E F T O~~

(U) PRESUMABLY SHE WILL RETURN TO THE UNITED STATES. SHE DID NOT FURNISH A RESIDENCE ADDRESS IN CUERNAVACA. (S)

ADMINISTRATIVE:

(U) THE CONFIDENTIAL SOURCE ABROAD IS (S)

b2
b7D

IT IS SUGGESTED THAT IF THE DEPARTMENT WISHES TO BE MADE AWARE WHEN THE WITNESS RETURNS TO THE UNITED STATES THAT A STOP BE PLACED IN THE EPIC COMPUTER AND LOOKOUT BOOK.

BT

not desired

~~CONFIDENTIAL~~

Greenberg/Gray-7156

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~SECRET~~

- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

TO : MR. BOYNTON ^{HB}

FROM : W. L. BAILEY ^{wrb}

SUBJECT: U.S. vs. W. MARK FELT, et al

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

4-16-80

MARK W. FELT

PURPOSE:

To advise Department inadvertently disclosed sensitive foreign counter-intelligence (FCI) operation to defense in captioned matter and to set forth steps to prevent additional disclosure by the defense. (U)

DETAILS:

John Nields, special prosecutor for the Department in captioned matter, telephonically advised ASAC Paul V. Daly on this date that one of his staff had mistakenly placed a package of unredacted documents in the Departmental vault on April 15, 1980, and that these documents were reviewed by the defense. By way of explanation, the Department is furnished two sets of discovery documents, one of which is redacted to protect sensitive operations, sources, etc. A paralegal on Nields' staff inadvertently placed the unredacted set in the vault. The unredacted documents disclosed foreign government information of a very sensitive nature as well as an extremely sensitive FCI operation.

[Redacted]

operation and netted extremely valuable intelligence. (S) It was an extremely successful

62-118045-272X10

This disclosure was discussed with Nields and it is believed that it would be advantageous to brief defense counsel concerning this matter and to apprise them of the sensitivity of the information. Up to this point, based on what the defense has seen, they would be aware, and have in fact stated.

[Redacted]

They may not appreciate the sensitivity of the information in their possession. They, in fact, have sufficient information to compromise the operation as well as the [Redacted] Nields agrees that such a briefing of the defense would be very desirable. (S)

- 1-Mr. Colwell
- 1-Mr. Boynton
- 1-Mr. Steel
- 1-Mr. O'Malley
- 1-Mr. Mullen
- 1-Mr. Daly
- 1-Mr. Tierney

344

~~SECRET~~

Classified and Extended by 6080
Reason for Extension FCIM II, 1-2.4.2 (2, 3)
Date of Review for Declassification 4/16/2000

62-118045

PVD:jmr
(8)

Greenberg/Gray-7157
CONTINUED - OVER

Memo from W. L. Baily to Mr. Boynton
Re: U.S. vs. W. MARK FELT, et al

This matter has been discussed with Deputy Assistant Director O'Malley of the Intelligence Division and he is in agreement that the defense should be briefed in this matter and it should be stressed to the defense the need to take whatever steps are necessary to prevent additional disclosure by the defense of this information. In line with these discussions with the Department and the Intelligence Division, the defense attorneys will be briefed regarding this matter. It should also be noted that the disclosure in the vault is pursuant to a supplemental protective order which places strong constraints on the defense regarding what use they may make of information received in the vault. These constraints, coupled with the briefing, should serve to minimize possible damage. At the time of the briefing, the defense will also be advised to protect foreign government information and other sensitive information they may have inadvertently received. (U)

RECOMMENDATION:

For information.

AS	APPROVED <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
	Director _____	Crim. Inv. _____	Plan. & Insp. <i>[Signature]</i>
	Exec. AD-Inv. <i>[Signature]</i>	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
	Exec. AD-Adm. <i>[Signature]</i>	Intell. <i>[Signature]</i>	Tech. Serv. _____
	Exec. AD-LES _____	Laboratory _____	Training _____
			Public Affs. _____

THE BRIEFING OF DEFENSE COUNSEL IS SET FOR 4:00 PM, 4/18/80.

[Signature]

UNITED STATES GOVERNMENT

Memorandum

TO *[Handwritten initials]* Mr. D. G. Flanders

DATE: 4/28/80

FROM *[Handwritten initials]* D. R. Koman

1 - Mr. J. L. Tierney

1 - Mr. D. R. Koman

SUBJECT: Gray, Miller, Felt Special
DOCUMENTS ORIGINATED MORE THAN
TWENTY YEARS AGO INVOLVING
CLASSIFIED INFORMATION

MARK W. FELT

An FBI document containing classified information and originated more than twenty years ago has been denied the requester. This document is listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC).

This document was presented to the DRC on 2/21/80 at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: Disclosure Section should review this request in line with the above decision and insure that all appropriate material is processed for release to the requester.

Enclosure

62-118045-272X11

WEB/vp
WEB:vp
(3)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

OCT 3 1980

2 ENCLOSURE

2 OCT 23 1980

[Handwritten signature]

62-118045



GRAY, MILLER, FELT SPECIAL

COMPONENT:

FBI

ADDRESS:

DRC #: DDC.
Crim. Action #78-00179

FOIPA #: MR. TIERNER

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

SEE ATTACHMENT

STAFF COMMENTS: * The document in this case, which is over twenty years old, appears to be appropriately characterized by the F.B.I. as it concerns intelligence methods directed against a subversive organization. Release of this information would cause at least identifiable damage to the national security.

It does not appear that the need to protect this information is outweighed by the public interest in disclosure.

DECISION OF THE DEPARTMENT REVIEW COMMITTEE:

1. DECLASSIFY:
2. UPHOLD CLASSIFICATION: All documents listed per attachment.
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER:
6. COMMENTS: The Committee unanimously determined that the twenty-year old classified information is within the purview of the Attorney General's prior decisions on such material.

DATE OF MEETING:

2/21/80

ACTING

CHAIRMAN: JUDITH BARTNOFF

*THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

62-118045-272x11

Greenberg/Gray-7160

REVISED 6-1-78

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
INTERNAL ROUTING/ACTION SLIP

TO	BLDG.	ROOM	STA#	NAME/TITLE/ORGANIZATION	TO	BLDG.	ROOM	STA#	NAME/TITLE/ORGANIZATION
JEH	7010	235		Mr. McDermott	JEH	5425	243		
JEH	7110	235		Mr. Adams	JEH	5425	243		
					JEH	5425	243		
JEH	11255	341		IDENTIFICATION DIV.					
JEH	6012	234		ADMINISTRATIVE SERVICES	JEH	8988	245		
JEH	5829	211		RECORDS MANAGEMENT	JEH	5442	243		
JEH	4026	232		INTELLIGENCE DIV.	JEH	5224	243		
JEH	5012	233		CRIMINAL INVESTIGATIVE	JEH	5434	243		
JEH	3090	241		LABORATORY DIV.	JEH	5437	243		
JEH	7159	213		TECHNICAL SERVICES	JEH	5431	243		
JEH	7427	245		LEGAL COUNSEL	JEH	5448	243		
JEH	7125	213		PLANNING AND INSPECTION					
QUANT	co	152		TRAINING DIV.	JEH	5442	243		
									TOP SECRET CONTROL OFFICER
JEH	5829	211							
JEH	5829	211			JEH	6380	314		DCRU, FOI-PA
JEH	6296	314			JEH	5447A	143		FILE REVIEW
					JEH	5648	222		FILING UNIT
JEH	5644	211			JEH	1B327	152		MAIL ROOM
JEH	7437	245			JEH	4543A	115		NAME SEARCHING
JEH	5835	211			JEH	1B973	151		PRINTING UNIT
JEH	6995	314			JEH	1835	253		PROPERTY
JEH	6992	314			JEH	6658	215		READING ROOM
					JEH	4336C	111		ROUTING
JEH	5841	211			JEH	6247	244		TELETYPE UNIT
JEH	7338	245		CIVIL LITIGATION UNIT					
				ATTN: <u>Technical and Microphone Search</u>					
JEH	3658	231							
JEH	11262	341							
JEH	4859	224							
JEH	4634	232							
JEH	4042	242							
JEH	6075	234							

SEARCHED Gray Miller FILE # 66-04

ATTN: Technical and Microphone Search

ALL INFORMATION LISTED ON ATTACHED CONTAIN
SENSITIVE INFORMATION OVER 20 YEARS
OLD AS OF 10/10/98. THIS INFORMATION IS
NOT TO BE RELEASED TO THE PUBLIC
WITHOUT THE APPROVAL OF CONTINUED CLASSIFICATION.

PLEASE FURNISH RESULTS TO SPRU, SPRU,
ATTORNEY Gray Miller Felt

- | | | |
|---|----------------------------------|---|
| <input type="checkbox"/> RECOMMENDATION/COMMENT | <input type="checkbox"/> LOG | <input type="checkbox"/> NECESSARY ACTION |
| <input type="checkbox"/> SEE REMARKS ON REVERSE | <input type="checkbox"/> FILE | <input type="checkbox"/> COORDINATE |
| <input type="checkbox"/> MAKE COPIES (NO.) | <input type="checkbox"/> SEE ME | <input type="checkbox"/> PER INQUIRY |
| <input type="checkbox"/> RETURN (BY) | <input type="checkbox"/> CALL ME | <input type="checkbox"/> INFORMATION |

FROM DOCUMENT CLASSIFICATION & REVIEW SECTION RECORDS MANAGEMENT DIVISION	BLDG. J. EDGAR HOOVER	ROOM 5437
	PHONE 3567	DATE 11/17/80

b6
b7c

REQUESTER:

PAGE _____

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
66-04-1566	3	1	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dmh/baw/sbs			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Greenberg/Gray-7162			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____

REQUESTER:

PAGE _____

C. FBI records have been reviewed and the following portions of documents listed have been classified:

DOCUMENT DESCRIPTION	PAGE	PARAGRAPH	CLASSIFICATION	EXTENTION REFERENCE FCIM, II, 1-2.4.2
66-04-1566	3	1	<input checked="" type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) <input checked="" type="checkbox"/> _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 04-24-2009 BY 65179 dmh/baw/sbs			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____
Greenberg/Gray-7163			<input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> Top Secret	(1) _____ (2) _____ (3) _____ Other _____



JUNE
~~PERSONAL AND CONFIDENTIAL~~

UNITED STATES DEPARTMENT OF JUSTICE NO NUMBER
SAC LETTER Q
FEDERAL BUREAU OF INVESTIGATION Series 1952

In Reply, Please Refer to
File No.

~~CONFIDENTIAL~~ April 24, 1952

WASHINGTON 25, D. C.

MEMO FOR MR.	HOOVER	BROWN, B. C.	HENNRICH	PRICE
	TOLSON	CALLAHAN	HOOD	RENNEBERGER
	LADD	CALLAN	HOLLOMAN	ROGERS
	NICHOLS	CLEVELAND	HURLEY, L.P.	SCATTERDAY
	BELMONT	CONRAD	JONES, M. A.	SIMON
	CLEGG	CROSBY	KEAY	SIZOO
	CONNELLEY	DeLOACH	LAUGHLIN	STANLEY
	GLAVIN	DOWNING	LEONARD	STEIN
	HARBO	EAMES	MALLEY	TAMM, Q.
	ROSEN	EDWARDS, H. L.	MASON, E. D.	TROTTER
	TRACY	EGAN	McGUIRE	VECHERY
	BAUMGARDNER	FEENEY	MOHR	WHERRY
	BOWLES	FLYNN	NAUGHTEN	WICK
	BRANIGAN	GEARTY, G.	PARSONS	WINTERROWD
			PENNINGTON	

CLASSIFICATION RETAINED BY 182 5/20/40 7/5/78
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE

RE: TECHNICAL AND MICROPHONE SURVEILLANCES

The Attorney General has advised that whenever the Department is giving serious consideration to the institution of criminal prosecution in any particular case, the Bureau, upon request, should advise the Department in detail concerning any telephone, microphone, or other technical surveillances employed by the Bureau or other Federal agencies (when known) as well as any other investigative techniques or procedures which would compromise or otherwise endanger a successful criminal prosecution. On the other hand, whenever the Bureau is aware or has reason to believe that the Department is seriously considering prosecution, the Bureau should promptly advise the Department of the existence of any of the above factors without waiting for a specific request from the Department. (u)

CASES INVOLVING USE OF CONFIDENTIAL TECHNIQUES

In view of the above, no case in which confidential techniques were employed as an investigative step should be presented to the United States Attorney for a decision relative to prosecution without prior authorization from the Bureau. Therefore, whenever such cases are developed to a point where they are ready for presentation to the United States Attorney for a decision relative to

APR 24 1952

RECORDED - 82 62-118045-212-11
1966-07-1566

MAY 2 1952

EX-32 25
Classified by 1929 7/14/77
Exempt from GDS, Category 2
Date of Declassification Indefinite

CLASS. & EXT. BY 2842 BVS/ams 4/1/80
REASON-FCIM II, 1-2.4.2 2
DATE OF REVIEW 1/21/90

~~CONFIDENTIAL~~ Greenberg/Gray-7164

~~CONFIDENTIAL~~

As soon as the subpoena duces tecum is issued or a defense motion entertained which calls for the production of Bureau records pertaining to alleged technical or microphone surveillances, you should immediately take the necessary steps to preserve all original discs, tapes, records, etc., obtained from technical or microphone surveillances of the defendants as well as those obtained through continuing operations of other related installations (such as Communist headquarters) which could occasionally cover the defendant's conversations. There should be absolutely no further destruction of those discs, tapes, records, etc., until the Bureau authorizes you to do so. The Department has advised that the denial of a pretrial motion and the quashing of a subpoena requiring the production of certain discs, tapes, records, etc., based on evidence allegedly illegally obtained through wire tapping and other technical surveillances, would not represent a final and conclusive disposition of the matter and would not preclude the defendants from attempting to pursue a similar line of inquiry at any stage of the trial. In view of this, it is the opinion of the Department that it is both desirable and necessary that these records be preserved and retained not only during the pendency of the motions and subpoenas in question but also during the entire progress of the trial to which applicable. The Department will re-examine this entire matter at the conclusion of the trial in order to determine the desirability and propriety of reverting to the established procedure for the disposal of this material. The office of prosecution in each instance should take the necessary steps to advise the auxiliary offices of the above procedure. (u) (c)

The above instructions apply not only to defendants but also to defense attorneys selected to represent a subject. Under no circumstances does the Bureau desire technical coverage on a defense attorney after the institution of prosecutive action and his selection or appointment to represent the defendant becomes known. Instructions in this regard were set forth in No Number SAC Letter J, dated October 19, 1951. (u) (c) (u)

The procedures outlined above must be thoroughly understood and followed. (u)

4/24/52
NO NUMBER SAC LETTER Q
Series 1952

- 3 -

~~CONFIDENTIAL~~

Greenberg/Gray-7165

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. Boynton _____
Mr. Colwell _____
Mr. Joseph _____

June 3, 1980

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

Judge,

Attached is a memorandum we received today from Phil Heymann to you on the U.S. v. Felt litigation. As you will recall, Mr. Heymann and you spoke last week about the District Court's dissatisfaction with the inability of the parties to resolve the problems relating to the use of documents at trial.

Mr. Mullen _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

This memorandum from Mr. Heymann proposes that the two or three remaining key issues be presented to Judge Bryant at this time for a pre-trial resolution of those issues.

b1



The other issues which are not as significant or critical as the issues that will be submitted for pre-trial resolution would not be raised with the court unless and until one of the defendants determined to offer the document into evidence at trial itself. While this approach is attractive because it allows for a more manageable solution to the current problems, it does have a risk. Should the defense want to use at trial one of the documents which had not been previously ruled upon by the court, then the government would have a fairly short time period within which to decide whether to object to the entry of the document into evidence.

~~SECRET~~

Enc.
ALS:aga

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

4-5-80

- OVER
7/1/8
FBI/DOJ

~~SECRET~~

In recognition of the fact that there may be a short time period for decision during the trial, Paul Daly and Joe Tierney plan to go over the documents which would fit in such a category and identify the five or six kinds of problems or questions which will likely arise and then submit those to you at this time in a memorandum for your review and consideration. This will allow for a more timely and considered evaluation of these issues and will provide them with guidance as to how they should react at trial should one of the documents be offered into evidence.

We have discussed this approach with Mr. Colwell, Mr. Mintz, and Mr. Finzel and the memorandum containing the issues will be submitted to Divisions 5 and 6 for their comments when it is completed.

John Neilds, Special Prosecutor, spoke with me today and indicated he would like to have you review the memo from Mr. Heymann today, if possible, so that he, Neilds, will be able to know if he can present this proposed resolution to the Court at the hearing scheduled for Wednesday morning.

Adrian ^{Gray}

-Also, Tierney and Daly are still ^{WORKING ON} ~~discussing~~ the defense counsel's request to meet with you to talk about your possibly testifying at trial. They have communicated your thoughts to the attorneys but they are still indicating a desire to at least meet with you. If they continue to press for such a meeting, Mr. Mintz plans to meet with them to discuss the request. We will keep you advised.

Greenberg/Gray-7167

~~SECRET~~

-6
OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. Boynton _____
Mr. Colwell _____
Mr. Joseph _____
Mr. Bailey _____
Mr. Bayse _____
Mr. Greenleaf _____
Mr. Long _____
Mr. McKenzie _____
Mr. Mintz _____
Mr. Mullen _____
Mr. O'Malley _____
Mr. Otto _____
Mr. Stames _____
Mr. Young _____
Mr. Bruemmer _____
Mr. Hotis _____
Mr. Roin _____
Mr. Steel _____
Tele. Room _____
Miss Devine _____

Greenberg/Gray-7168

UNITED STATES GOVERNMENT

Memorandum

TO : William H. Webster
Director
Federal Bureau of Investigation

DATE: May 30,

FROM : Philip B. Heymann
Assistant Attorney General
Criminal Division

P. H.

FEDERAL GOVERNMENT

SUBJECT: United States v. Felt

MARK W. Felt

Bill: This is the matter we discussed at the

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

The prosecution team and defendants in United States v. Felt have been engaged for the past six months in effort to resolve, pretrial, the national security problems posed by the defendants' use of various documents at trial. The approach taken, with respect to all of the documents except those taken from the Weatherman files, has been to attempt to reach agreement with the defendants on the redaction of sensitive material, usually accompanied by some substitution or stipulation. Those documents on which agreement could not be reached have been brought to the trial judge and disputes resolved by him. This process has covered information from both the FBI and other agencies, and decisions by the trial judge excluding trial use of information in the documents will govern oral testimony as well. The process has involved extraordinary expenditure of time and effort on the part of Government counsel, FBI personnel including Paul V. Daly and Joseph L. Tierney and the trial judge. With the process nearly complete, no issue has been resolved in a manner unacceptable to the government.

The documents from the Weatherman files presents a slightly different problem. There are more documents in this area than in the others combined, with over 1,200 designated by the defense for trial use. The documents will be used by the defense to show the criminal acts of the Weatherman, about which there is no dispute, and their connections to foreign powers, about which there is some dispute. It is likely that, in order to present their case effectively to the jury, the defense will use an expert or summary witness to present the "foreign influence" information and contentions. Undoubtedly, the defense will wish to punctuate their "foreign influence" contentions by showing or reading to the jury some documents from the Weatherman files. However, it seems inconceivable that they will actually show 1,200 documents or anything like that number to the jury or that the trial judge would permit them to do so. Government counsel and the

62-118045-272X12

60 OCT 23 1980

4-86

62-118045
Greenberg/Gray 7169

EXP. PROC.
0861-2 NPP
9/12/80



Court have attempted to force the defense to designate the documents they will use. These efforts have been less than successful and will probably remain so until the defense actually faces an immovable trial date. Trial is now scheduled for July 7, 1980.

Government counsel have begun the process of seeking rulings from the Court on disputed redactions in documents in the Weatherman files. These documents pose a myriad number of unrelated classification issues, rather than a limited number of shared issues as in the other subject matter areas. The trial judge has shown some justifiable impatience with the process, and it threatens to be virtually interminable.

For these reasons, the members of the trial team are of the view that it is neither feasible nor sensible to seek final resolution at this time, through rulings of the Court, of every classification problem in each of the 1,200 plus documents. Rather, the appropriate step at this time is a thorough screening of the documents to isolate those in which the seriousness of the national security concern and the strength of the defense need for the information combine to make full pretrial treatment warranted. The other issues, largely consisting of live source protection problems, will be resolved when and if the document is actually used or when the summary witness is about to testify.

A substantial analysis of all of these documents has already been done. That analysis, together with the screening process about to be conducted, should pinpoint those national security problems that ought to be fully resolved prior to trial. From among the hundreds and hundreds of other documents some will undoubtedly emerge at trial as presenting national security issues. They will have been analyzed prior to trial by Government counsel, together with Special Agents Paul V. Daly and Joseph L. Tierney, and will be finally resolved with the court as they surface, within the time constraints of trial.

The indictment in this case is over two years old. The investigation is much older. We would all like to have this case resolved and behind us as soon as possible. The proposal outlined above appears to me to be the only sensible way to proceed under the circumstances. I hope you agree. Please let me know as soon as you can whether or not you concur. The trial attorneys will appear before the trial judge on Wednesday, June 4, 1980 and should have a proposal for the trial judge at that time.

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~SECRET~~

TO : Mr. Bailey *WJ/1/80*

1 - Mr. Colwell
1 - Mr. Boynton
DATE: 4/14/80

FROM : *JLT* Joseph L. Tierney

1 - Mr. Steel (Enc. 3)
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. O'Malley
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS
TRIAL PREPARATION (U)

Exec AD Inv. ___
Exec AD Adm. ___
Exec AD LES ___
Asst. Dir.:
Adm. Servs. ___
Crim. Inv. ___
Ident. ___
Intell. ___
Laboratory ___
Legal Coun. ___
Plan. & Insp. *WJ/1/80*
Rec. Mgnt. ___
Tech. Servs. ___
Training ___
Public Affs. Off. ___
Telephone Rm. ___
Director's Sec'y ___

PURPOSE:

To record government motion and defense response on issue of foreign involvement. (U)

MARK W. FELT

DETAILS:

Attached is a copy of a government Memorandum of Law and Exhibits in support of government motion "D," and a copy of defense response to all government motions "A" through "I." (U)

The government Exhibits reduce foreign involvement in the prosecution view to 19 areas. The 19 summaries were written by the prosecution in consultation with us. As written, they represent a level of damage acceptable to representatives of Divisions 5 and 6, given the extraordinary nature of this case. (U)

The defense response includes a summary of foreign involvement from the defense perspective ("Tab C") and suggested admissions ("Tab E"). The summary is based upon documents released during discovery under one or the other of two highly restrictive protective orders. It may also contain details obtained by the defense during interviews of potential witnesses, particularly retired Agents and Bureau officials. (U)

62-118045-272X13

The defense summary and admissions were not written in cooperation with us. It has therefore now been reviewed by the Division 5 and 6 personnel who reviewed the prosecution's summary. (U)

If the court adopts the defense summary the following items of concern will arise:

JLT:tdp (10)
Enc. 3

~~SECRET~~

4-810

CONTINUED - OVER

Classified and Extended by 6080
Reason for Extension FCIM II, 1-2.4.2 (1,2,3)
Date of Review for Declassification 4/14/2000

*Enclosures
detached
to be filed
Res 4/14/80*

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 04-24-2009

arg/Gray-7171

Memorandum Joseph L. Tierney to Mr. Bailey
RE: U.S. VS. W. MARK FELT, ET AL.

1. Foreign sources may be identified: Italy, France, Mexico, and Canada. (Note pages 32 and 56).

(S) 2. Live sources of the FBI may be identified: SOLO Operation, [redacted] a Soviet recruitment in place, b1 live informants of WFO and LA, a Cuban double agent, and a commercial bank. (Note pages 32 and 42).

(S) 3. Intelligence methods of the FBI may be identified: [redacted] b1 [redacted] warrantless searches and microphones of the CPUSA, investigative criteria for individual Venceremos Brigade cases. (Note page 36 and Admission #24).

(U) 4. Other agencies may also be expected to have concerns: CIA (pages 20 and 54a), NSA (page 3, Admission #29), and the Metropolitan PD (pages 54 and 54a). (S)

A detailed assessment of the above potential damage would be premature. The prosecution will resist the expansion of detail which the defense summary represents. The actual damage assessment should be made on the basis of the court's ruling on the motion. It does appear now likely the defense will prevail on at least some of the motion. (U)

The hearing set for Monday, 4/14/80, has been postponed until Friday, 4/18/80, at the request of the prosecution. The trial date remains set at Monday, 5/12/80. (U)

RECOMMENDATION:

None. For information. (U)

Pen

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
Director _____	Crim. Inv. <i>EM/CM</i>	Plan. & Insp. <i>[Signature]</i>
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <i>WVB</i>
Exec. AD-Adm. <i>[Signature]</i>	Intell. <i>EJG/PA</i>	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

[Handwritten mark]

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bailey

FROM : Joseph L. Tierney

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

- 1 - Mr. Steel (Enc.)
 - 1 - Mr. Mullen (Enc.)
 - 1 - Mr. Mintz (Enc.)
- DATE: 3/25/80

- 1 - Mr. O'Malley (Enc.)
- 1 - Mr. Bailey (Enc.)
- 1 - Mr. Tierney (Enc.)

Exec AD Inv.

Exec AD Adm.

Exec AD LES

Asst. Dir.:

- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm
- Director's Sec'y

Handwritten notes and signatures:
 242
 [Signature]
 [Signature]

PURPOSE:

To record inadvertent disclosure by the Department during discovery of documents not referred to the FBI and other agencies, and to recommend no action be taken unless documents or information needed for use at trial.

DETAILS:

On 2/28/80 [redacted] who is employed by the attorneys for Mr. Felt, furnished a copy of a Departmental document obtained during discovery. The document is a 3/17/70 internal Department memorandum summarizing the results of an ELSUR check for a then-pending prosecution, apparently the [redacted] case. The document was stamped "SECRET" with no indication of a current classification review. A copy is attached (246B1).

b6
b7C

The document was unfamiliar and its disclosure represented an apparent departure from standard procedure of referring documents for consultation when they contain information of substance. John W. Nields, Jr., was advised of the disclosure which did not follow our discovery policy of protecting FCI targets of electronic surveillances and may also involve an NSA intercept. On 2/29/80 Francis J. Martin made available two bundles of disclosures by the Department for review.

Handwritten circle: (redacted)

Copies of those presenting possible problems were made and are attached.

Handwritten: 62-118045-272X14

Document 255I appears to be a CIA document; 256A and 257A and B contain information of joint NSA/FBI interest, with NSA having the overriding concern. In particular, 256A refers to a technique of acute concern to NSA.

NOV 4 1980

Mr. Martin has been apprised of which documents are believed to present possible problems for the FBI, and which documents should have been referred to CIA (255I) and NSA (246B1, 256A, 257A and 257B). Mr. Martin was advised he should now notify CIA and NSA. He indicated he would do so.

SECRET MATERIAL ATTACHED

EST:tdp (7)

CONTINUED - OVER

Greenberg/Gray-7173

4 ENCLOSURE

Handwritten notes and stamps:
 50 NOV 3 1980
 ENC. BEHIND 74
 PVD/BJ

Memorandum Joseph L. Tierney to Mr. Bailey
 RE: U.S. VS. W. MARK FELT, ET AL.
DISCOVERY PROCEEDINGS

The inadvertent disclosures are unfortunate, but are not believed to set precedents, even in this discovery operation. None present any immediate danger to FBI interests sufficient to require extreme actions such as their attempted retrieval from defense counsel. If specified for trial, however, several will be of great concern. The situation should not recur since Messrs. Nields and Martin are well aware of the need to consult with the originating agency on substantive disclosure and derivative classification issues before disclosing Departmental documents incorporating substantive information from the FBI or other agencies.

RECOMMENDATION:

That no action be taken now and the matter be addressed as a trial issue if it arises.

u/w
 APPROVED: *u/w*
 Director
 Excc. AD-Inv.
 Exec. AD-Adm.
 Exec. AD-LES
 Adm. Serv.
 Crim. Inv.
 Ident.
 Intell.
 Laboratory
 Legal Coun.
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs.
 Training
 Public Affs. Off.
SK

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- A I R T E L

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 4/23/80

TO : DIRECTOR, FBI (~~100-147952~~) ⁶²⁻¹¹⁸⁰⁴⁵
 ATTENTION: SUPERVISOR JOSEPH TIERNEY, FBIHQ,
 ROOM 4859, TELELIFT 224
 J. EDGAR HOOVER BUILDING

FROM : SAC, CHICAGO (100-19564) ~~CONFIDENTIAL~~

SUBJECT: LEIBEL BERGMAN *U.S. vs W. Mark Felt* b1
 [Redacted] *Etal*

Resonary Proceedings
 Re Bureau telephone call to Chicago 4/22/80.

Enclosed for the Bureau are four (4) serials from Chicago's file of captioned matter, all of which are classified ~~"Top Secret"~~. *(w/du)*

The following serials are enclosed:

100-19564-~~99~~, 101, 106, 112.

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

~~TOP SECRET MATERIAL ATTACHED~~

~~CONFIDENTIAL~~

Classified and Extended by 5868
 Reason for Extension FCIM, II, 1-2.4.2 (2 & 3)
 Date of Review for Declassification 4/23/00 NOV 24 1980

1 cc returned to cg
 ② - Bureau (Encl. 4)
 1 - Chicago
 PLT:flk
 (3)

encls returned to cg 11/17/80 flk

DeWey
[Signature]

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

62-118045

59 DEC 9 1980
 Approved: *[Signature]* 149

Transmitted _____ (Number) _____ (Time) Per _____

Greenberg/Gray-7175

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- A I R T E L

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 4/23/80

62-118045
 TO : DIRECTOR, FBI (~~100-147952~~)
 ATTENTION: SUPERVISOR JOSEPH TIERNEY, FBIHQ,
 ROOM 4859, TELELIFT 224
 J. EDGAR HOOVER BUILDING

FROM : SAC, CHICAGO (100-19564) (SQUAD 12)

SUBJECT: LEIBEL BERGMAN

W. MARK Telt b1

Re Bureau telephone call to Chicago 4/22/80.

A review of captioned file disclosed 208 serials bearing a date within the period 3/1/69 through 10/31/73.

Enclosed for the Bureau are the following serials:

100-19564-76 through 98

- 100
- 102 - 105
- 107 - 111
- 113 - 151
- 153 - 194
- 194A
- 195 - 261
- 261A
- 262 - 282

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

62-118045-272X16

Serials 100-19564-99, 101, 106 and 112 have been furnished to the Bureau under separate cover.

Serial 100-19564-152 could not be located for review.

② - Bureau (Encl. 204) (~~SECRET MATERIAL ATTACHED~~)
 1 - Chicago
 PLT:flk
 (3)

*ice + encls
 returned to
 Cg 11/17/80
 flk*

4 - flk

62-118045

APR 24 1980

5 *DEC 9* 1980
 Approved: *JOI / NOJ*
 149

Transmitted _____ (Number) _____ (Time)

Per *flk*
 FIVE

Greenberg/Gray-7176

~~CONFIDENTIAL~~

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- A I R T E L

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 5/16/80

TO : DIRECTOR, FBI (ATTENTION: SUPERVISOR J. TIERNEY,
ROOM 4859, JEH)

FROM : SAC, CHICAGO (197-25) (SQUAD 12)

SUBJECT: U.S. VS. W. MARK FELT
ET AL
TRIAL PREPARATION

Re Butel dated 5/7/80, and Chicago airtel dated 5/8/80.

Enclosed for FBIHQ is one xerox copy of 100-40903-Sub J which serials were not previously sent with referenced Chicago airtel.

(Wilde)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-05-2009 BY 65179 dmh/baw/sbs

*Enclosures removed.
Will be destroyed
when no longer needed
SK*

B
2 - Bureau (Encl. 3)
2 - Chicago
(1 - 100-40903 Sub J)
RDS:flk
(4)

62-118045-272X17

11-29
~~5 MAY 19 1980~~

4-SK

T. Tierney
5/22

62-118045

59 DEC 9 1980

Approved: *JOE / ns, 49*

Transmitted Greenberg/Gray-717 Per _____
(Number) (Time)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- A I R T E L

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 5/8/80

TO : DIRECTOR, FBI (ATTENTION: SUPERVISOR J. TIERNEY, ROOM 4859, JEH)

FROM : SAC, CHICAGO (197-25) (SQUAD 12)

SUBJECT: U.S. VS. W. MARK FELT
ET AL
TRIAL PREPARATION

Re Bureau tel dated 5/7/80.

Enclosed for FBIHQ is one xerox copy of every serial in Chicago file 100-40903 Sub J. No materials were omitted and decision to omit serials being left to the discretion of the Bureau.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

62-118045-272X18

- ② - Bureau (Encl. 814)
 - 2 - Chicago (1 - 100-40903)
- RDS:flk SJS-J
(4)

ENCLOSURE
Bulfinch

Enclosure to be removed & destroyed when no longer needed per

EX-107 24 1990

62-118045

4-56

J. TIERNEY
SUPERVISOR

Approved: *[Signature]* Transmitted _____ Per _____
(Number) (Time)

59 DEC 9 1980

Greenberg/Gray-7178

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

~~CONFIDENTIAL~~

Date 4/24/80

TO: DIRECTOR, FBI
 ATTN: SUPERVISOR JOSEPH TIERNEY, FBIHQ
 ROOM 4859, TELELIFT 224,
 J. EDGAR HOOVER BUILDING

FROM: SAC, CHICAGO (197-25)

U.S. vs. ^o
 W. MARK FELT ET AL;
 DISCOVERY PROCEEDING

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-05-2009

Re Bureau teletype dated 4/23/80, Chicago airtels (2)
 dated 4/23/80, captioned "Leibel Bergman, [redacted]" (C)

Enclosed for the Bureau are serials 36, 37 and 38 of
 Chicago file 100-19564-Sub 1 captioned "Leibel Bergman [redacted]".
 Also enclosed for the Bureau are the logs of 3/1/69, and 3/2/69,
 for [redacted] which are maintained in CG 100-19564-Sub 1.

A Xeroxed copy of each of the above serials is being
 maintained in the Chicago file.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED EXCEPT
 WHERE SHOWN OTHERWISE

1cc + encls. returned to CG 11/17/80 frank

- ② - Bureau (encl. 5)
- 2 - Chicago (1-100-19564-Sub 1)
- PLT/apt (4)

62-118045-272 X19
4-frank

62-118045

Approved: *[Signature]*

Transmitted _____ (Number) (Time)

Per _____

59 DEC 9 1980 149

~~CONFIDENTIAL~~ Rosenberg/Gray-7179

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 4/24/80

TO: DIRECTOR, FBI
 (ATTN: SA JOSEPH TIERNEY, RM 4859,
 JEH; TEL LIFT 224)

FROM: SAC, NEWARK (62-4106)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 drh/baw/sbs

SUBJECT: U.S. vs. W. MARK FELT,
 ET AL
 DISCOVERY PROCEEDINGS

RE: Bureau teletype dated 4/23/80

John

Enclosed for the Bureau are the following original Newark main files, subject of which is LEIBEL BERGMAN:

1.) Serials 29 - 477 of 105-23027, covering pertinent period of 3/1/69 thru 10/31/69, (Serials 60 and 61 are excluded, as they are dated 3/26/68 and 6/21/68 respectively) of subject's main file. (xeroxed copies retained Newark)

2.) Complete volume 105-23027 Sub 1. (xerox copy maintained Newark)

3.) Complete volume 105-23027 Sub 2 and Sub 2, Vol. 2. (duplicate copy maintained in Newark as 105-23027 Sub 3 Vol. 1 and 2)

3- Bureau (Enc. 7)
 (1- package copy)
 2- Newark (1- 105-23027)
 DSJ/pab
 (5)

encls. returned to Newark 4/11/80

62-118045-27210
4-10-80

62-118045

Approved: *Rm/149*

Greenberg/Gray-7180

59 DEC 9 1980

Transmitted _____ Per _____

(Number) (Time)

- 4.) Complete volume 105-23027 Sub 4. (xerox copy maintained Newark)
- 5.) Complete volume 105-23027 Sub 5. (duplicate copy maintained in Newark as 105-23027 Sub 6)
- 6.) Complete 105-23027 - 1A - 36. (xerox copies maintained in Newark)
- 7.) Sub 1A, Exhibits 3 - 41 (exhibit 19 is missing). (xerox copy maintained in Newark)

For information of the Bureau, pen register tapes, magnetic tapes and index not forwarded to the Bureau per telephone call with ASAC WRIGHT, Newark Division.

Also for information of the Bureau, Newark maintains a main file on Newark file 105-37220.

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 6-9-80

FROM : Legal Counsel *JLM*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

SUBJECT: *W. Marko*
U.S. v. FELT AND MILLER
#78-179 Cr.
U.S.D.C., D.C.

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

On June 9, 1980, you met with Thomas A. Kennelly, Howard Epstein, and Brian Gettings concerning captioned prosecution. At the conclusion of your meeting Messrs. Kennelly, Epstein, and Gettings met with me concerning the prosecution. At the conclusion of my meeting with them, Mr. Kennelly presented me with a subpoena calling upon you to testify in the case July 7, 1980, at 10 a.m. He also presented me with a subpoena calling for my testimony in that case on July 7, 1980, at 10 a.m.

Mr. Kennelly restated the assurances previously given to you that the July 7 date is the date indicated as the beginning of the prosecution and that the actual date of your appearance as a witness would be much later, probably the first of August.

At 3:47 p.m., June 9, 1980, I called John Niels, the Special Counsel, and advised him of the receipt of the two subpoenas. He requested me to send him copies of them and to furnish him a copy of the January 2, 1979, memorandum from the Deputy Attorney General to you regarding interviews of potential witnesses by defense counsel in this case. I have complied with his request.

62-118045-273

RECOMMENDATION:

For information.

6 JUN 12 1980

APPROVED *AK*

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. *JLM*
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

1 - Mr. Mintz

JAM:bpr
(2)



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

g. m. jones

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7183

ENCLOSURE



62-118045-274

United States District Court

FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Holt and Miller

No. *78-179 Cr.*

To *William H. Webster*

You are hereby commanded to appear in the United States District Court for the
District of Columbia at 3rd St. & Constitution Ave., / in the city of
Washington, D. C. on the *7th* day of *July* 19*80* at 10 o'clock *A.M.* to
testify in the above-entitled case.

This subpoena is issued on application of the *defendants*.

July 9, 19 *80*
F. A. Kennedy
Attorney for *Miller*
1500 Conn. Ave. N.W.
Address *872-0700*

JAMES F. DAVEY
Clerk.
By *Robert S. Lane*
Deputy Clerk.

RETURN

Received this subpoena at *Wash. D.C.* on *July 9, 1980*
and on *July 9, 1980* at *FBI DC*
within named *Miller through John A. Mintz, Asst. Dir. - Legal* served it on the
by delivering a copy to *Mintz* and tendering² to *Holt and Miller* the fee for one day's attendance and the mileage
allowed by law. *and mileage waived.*

F. A. Kennedy
By _____

Service Fees _____
Travel _____ \$
Services _____
Total _____ \$

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

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

CO-294
Rev. 4/78

*memo from Asst Director - Legal Council
to John Nields 6-9-80 JAM:lv 62-118045-274
ENCLOSURE*

9-7-80

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Memorandum

TO : Director
Federal Bureau of Investigation

FROM : Benjamin R. Civiletti *BR*
Deputy Attorney General

SUBJECT: Potential Witnesses in
United States v. Gray, et al

DATE: January 2, 1979

Former Acting Director L. Patrick Gray III and former Bureau officials W. Mark Felt and Edward S. Miller are scheduled to go to trial in late January 1979 on a charge of conspiracy to violate the civil rights of citizens. In the coming weeks both government and defense counsel will be communicating with present and former Bureau employees who are potential witnesses at trial for the purpose of pretrial interviews. All such present and former Bureau employees are hereby authorized to participate in these interviews pursuant to the provisions of Title 28, Code of Federal Regulations, Section 16.21 (which require that they seek the approval of the Justice Department prior to submitting to such an interview).

Both government and defense counsel have been granted security clearances and, accordingly, present and former employees may discuss with them classified information, up to and including Top Secret information. It is likely that at least some interviews on behalf of the defense will be conducted by one or more retired Bureau officials who are working with defense counsel. These retired Bureau officials have the same security clearances as defense counsel and any interviews with them should be considered as interviews with defense counsel.

During the course of any such interviews present and former Bureau employees are free to discuss any aspect of their Bureau work which relate to this case. They must, of course, proceed with sound discretion to ensure that they do not in any way compromise Bureau sources. Accordingly, they should not provide information that would identify (a) confidential sources of the Bureau, or (b) the targets of Bureau technical surveillances or of other sophisticated techniques used by the Bureau. However, all such targets in the Weatherman investigation may, of course, be identified.

62-118045-274

ENCLOSURE

*Memo from Asst Dir - Legal Council to
John Nichols, 6-9-80 JAM:bn*

g-m [Signature]

-2-

Any inquiries concerning these matters should be handled by your Legal Counsel Division. In order to ensure that there is no inadvertent interference with the rights of the defendants in this case, you should not inform the Department of the identity of any potential witnesses who are contacted by defense counsel.

If there are any questions about this authorization or the method of implementation, please communicate with me.

cc: Paul Daly
FBI

Greenberg/Gray-7186

FEDERAL GOVERNMENT

Mr. John Nields, Special Counsel
Room 2304
Main Justice Building

June 9, 1980

Assistant Director - Legal Counsel
Federal Bureau of Investigation
W. Mark O.
U.S. v. FELT AND MILLER
#78-179 Cr.
U.S.D.C., D.C.

1 - [redacted] b6
1 - Mr. Steel b7C
1 - Mr. Mintz

On June 9, 1980, I accepted service of a subpoena on behalf of the Director to testify in the captioned prosecution on July 7, 1980, at 10 a.m. I also accepted a subpoena addressed to me to testify in the same case on July 7, 1980. Copies of these subpoenas are attached.

At 3:47 p.m. on June 9, 1980, I advised you by telephone of the receipt of these subpoenas. You requested me to forward copies and to furnish you with a copy of a memorandum dated January 2, 1979, from then Deputy Attorney General Civiletti to the Director, FBI, concerning witness interviews by defense counsel. A copy of that memorandum is attached.

Enclosures - 3

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

JAM:bpr
(6)

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 14
JUN 10 1980
FBI

62-118045-274

JUN 12 1980

MAIL ROOM

57 JUN 26 1980

Greenberg/Gray-7187

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7188

597

ENCLOSURE

62-118045-275X1

GRAY, FELT, MILLER SPECIAL	COMPONENT: F.B.I.
ADDRESS:	DRC #:
	FOIPA #: INITIAL

DOCUMENTS INVOLVED AND COMPONENT'S POSITION: *

SEE ATTACHMENTS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

STAFF COMMENTS: *

The documents in this case, which are over twenty years old, appear to be appropriately characterized by the F.B.I. as they concern intelligence methods directed against members of a subversive organization. Release of this information would cause at least identifiable damage to the national security.

It does not appear that the need to protect this information is outweighed by the public interest in disclosure.

DECISION OF THE DEPARTMENT REVIEW COMMITTEE:

1. DECLASSIFY:
2. UPHOLD CLASSIFICATION: All documents listed per attachment.
3. CONSULT WITH:
4. REGRADE TO:
5. OTHER: The Committee unanimously determined that the twenty-year old classified information was within the purview of the Attorney
6. COMMENTS: General's precedents.

DATE OF MEETING: May 8, 1980

CHAIRMAN: Leon Ulman

*THIS PORTION SHOULD BE UNCLASSIFIED IF POSSIBLE - IF NOT, USE CLASSIFIED ATTACHMENT. USE SUPPLEMENTAL PAGES IF THIS SPACE IS INADEQUATE.

Document # 1

SM 124

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

~~CONFIDENTIAL~~ UNITED STATES DEPARTMENT OF JUSTICE

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Harbo	_____
Mr. Mohr	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Sizoo	_____
Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____

NY, NY; 3/7/55

JUNE

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [redacted] WA; IS - C. SUBJECT NO LONGER RESIDING AT [redacted] STREET, BROOKLYN, NY. SERVICES OF [redacted] DISCONTINUED 12 NOON, 3/7/55.

noted

b6
b7C
b7D

KELLY

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

③ - BUREAU (100-36670) (REGISTERED MAIL)

Mr. Belmont

CLASS. & EXT. BY 9803 PAB/dls
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/79
APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-79

RECORDED-45

EX-125

100-36670-73

17 MAR 15 1955

TJM:JH (#7-1)
100-16854-Sub 4

Greenberg/S... 7190

Approved: [Signature] Sent _____ M Per _____
Special Agent in Charge

~~CONFIDENTIAL~~

3-24-55
bar pc

Document # 2

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

NY, NY; 12/27/54

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Harbo	_____
Mr. Mohr	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Sizoo	_____
Mr. Winterrowd	_____
Tele. Room	_____
Miss Gandy	_____

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [redacted] IS - C. RENVAIRTEL, 12/23/54. TECHNICAL SURVEILLANCE

ASSIGNED SYMBOL NUMBER [redacted] TECHNICAL SURVEILLANCE
CONF. INFL. [redacted] THIS MESSAGE WILL ACTUALLY BE REPORTED

(U) SYMBOL NUMBER [redacted] b6
NY: [redacted] b7C
b7D

1243

KELLY

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

3 - BUREAU (100-36670) (REGISTERED MAIL)

9803 R.O.O./OB
5/3/79
CLASS. & EXT. BY
REASON-FCIM 11, 1-2.4.2
DATE OF REVIEW 5/3/89

Mr. Belmont

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79

RECORDED - 72
INDEXED - 72

100-36670-71
16 REC-28 1032
1-3-53

ARM:JH (#7-1)
100-16854-Sub 4

Greenberg/Gray-7191

Approved: [Signature] Special Agent in Charge

Sent _____ M Per _____

~~CONFIDENTIAL~~

Document # 3

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Harbo	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Winterrowd	
Tele. Room	
Mr. Holloman	
Miss Gandy	

~~CONFIDENTIAL~~

AIR-TEL

NEW YORK, N.Y.
DECEMBER 23, 1954

Transmit the following Teletype message to: BUREAU

JUNE

TECHNICAL SURVEILLANCE

RALPH GLICK. IS - C. REURAIRTEL DECEMBER 14 LAST: TESUR

INSTALLED 1:00 PM, 12/23/54, ON [] RESIDING AT []
 STREET, BROOKLYN, NY, TELEPHONE MAIN 2-4167. RESULTS WILL BE
 REPORTED UNDER SYMBOL NUMBER []

b6
b7C
b7D

KELLY

N.Y.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

(3) - Bureau (100-36670)

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79

9803 RAA/ALB
 5/3/79
 CLASS. & EXT. BY
 REASON-FCIM II, 1-2.4.2
 DATE OF REVIEW 5/3/99

FJS:RAA
100-16854 Sub 4

Mr. Belmont

RECORDED-27

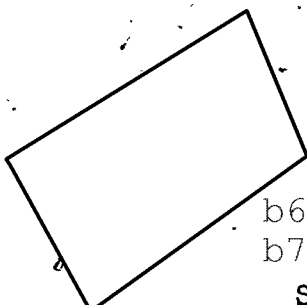
INDEXED - 21

100-36670-70

NO DEC 27 1954

30

REC'D SEC



b6
b7C

Approved K. [Signature]
Special Agent in Charge

Sent M Per Greenberg/Gray-7192

Document # 4

cc - Mr. Boardman
Mr. Belmont
Mr. Tolson
Mr. Donohue
Mr. Baumgardner
Mr. Doyle

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

~~CONFIDENTIAL~~

December 10, 1954

700-36670-69

PERSONAL AND ~~CONFIDENTIAL~~

RECORDED - 6

JUNE

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: [redacted] (U) b6
INTERNAL SECURITY - C b7C

EX-125

Information has recently been received from a source of known reliability that [redacted] is active as New York [redacted] for the Communist Party and is known to be in contact with New York State and National underground leaders. [redacted] is residing at [redacted] Street, Brooklyn, New York, occupying a room in a residence owned by [redacted]. (U) b6 b7C

It is felt that a technical surveillance on the telephone at this residence, MAin 2-4167, would materially assist in the investigation of the Communist Party underground since [redacted] is believed to utilize this phone in arranging his contacts with Communist Party leaders and in making underground meetings. [redacted] who is supplying [redacted] present hideout, has been identified as a Communist Party member from five to ten years' standing and is a known contact of other underground leaders in the New York City area. (U) b6 b7C

Accordingly, authority is requested to install a technical surveillance on the telephone at the residence occupied by [redacted] MAin 2-4167, or at any other address to which [redacted] may move. (U) b6 b7C

Respectfully,

John Edgar Hoover
Director

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-79

- Tolson
- Boardman
- Nichols
- Belmont
- Harbo
- Mohr
- Parsons
- Rosen
- Tamm
- Sizoo
- Winterrowd
- Tele. Room
- Holloman
- Gandy

WFD:dlf dlf (9)

Approved:

SENT FROM D. O.
TIME pm
DATE 12/13/54
BY 70

~~CONFIDENTIAL~~

RECEIVED READING ROOM
FBI
DEC 10 9 26 09 PM '54

UNRECORDED COPY FILED IN 100-36670-69

Drawings sent to 9803 RAS/AS
CLASS. & EXT. BY 5/3/77
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/89

Handwritten initials: A.P.S.

Handwritten initials: J.M.

Office Memorandum • UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

TO : Director, FBI

DATE: 12/3/54

FROM : SAC, New York (100-16854-Sub 4)

JUNE

SUBJECT: RECOMMENDATION FOR INSTALLATION OF TECHNICAL OR MICROPHONE SURVEILLANCE

RE: Title [redacted] b6 b7C

Character of Case IS - C
Field Office NEW YORK

Symbol Number
Type of Surveillance (Technical ~~xxx~~
Microphone)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

1. Name and address of subject:

[redacted] Brooklyn, NY b6 b7C

2. Location of technical operation:
Sutec

3. Other technical surveillances on same subject:
None

4. Cost and manpower involved:
Cost not known until installed.
Manpower - 13.48 hours per week

5. Adequacy of security:
Believed to be adequate.

APPROPRIATE AGENCIES AND FIELD OFFICES
ADVISED BY ROUTING SLIP ON 5-3-79 *pat*

~~CLASS. & EXT. BY 9803 PRC/AB
REASON-FCIM II, 1-2.4.2 5/3/70
DATE OF REVIEW 5/2/39~~

EXP. PROC.
DEC 6 1954

UNRECORDED COPY FILED 100-16854-Sub 4

RECORDED - 6

ENCLOSURE

INDEXED - 6

12 DEC 4 1954

Greenberg/G 19

SPECIAL DELIVERY

TJM:JH

12-29-54
lw JW

~~CONFIDENTIAL~~

b6
b7C

[redacted] 69

~~CONFIDENTIAL~~

6. Type of case involved:

INTERNAL SECURITY - C

7. Connection or status of subject in the case:

Subject, [redacted] resides with [redacted] and receives messages through [redacted] telephone

b6
b7C

8. Specific information being sought:

CP underground contacts of [redacted]

b6
b7C

9. Reasons for believing the specific information will be obtained by the technical surveillance:

[redacted] has advised that [redacted] has received telephonic messages through the [redacted].

b6
b7C
b7D

10. Importance of case and subject:

See #7, 8, and 9 above.

~~CONFIDENTIAL~~ (S) (U) (C) (T) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z) (AA) (AB) (AC) (AD) (AE) (AF) (AG) (AH) (AI) (AJ) (AK) (AL) (AM) (AN) (AO) (AP) (AQ) (AR) (AS) (AT) (AU) (AV) (AW) (AX) (AY) (AZ) (BA) (BB) (BC) (BD) (BE) (BF) (BG) (BH) (BI) (BJ) (BK) (BL) (BM) (BN) (BO) (BP) (BQ) (BR) (BS) (BT) (BU) (BV) (BW) (BX) (BY) (BZ) (CA) (CB) (CC) (CD) (CE) (CF) (CG) (CH) (CI) (CJ) (CK) (CL) (CM) (CN) (CO) (CP) (CQ) (CR) (CS) (CT) (CU) (CV) (CW) (CX) (CY) (CZ) (DA) (DB) (DC) (DD) (DE) (DF) (DG) (DH) (DI) (DJ) (DK) (DL) (DM) (DN) (DO) (DP) (DQ) (DR) (DS) (DT) (DU) (DV) (DW) (DX) (DY) (DZ) (EA) (EB) (EC) (ED) (EE) (EF) (EG) (EH) (EI) (EJ) (EK) (EL) (EM) (EN) (EO) (EP) (EQ) (ER) (ES) (ET) (EU) (EV) (EW) (EX) (EY) (EZ) (FA) (FB) (FC) (FD) (FE) (FF) (FG) (FH) (FI) (FJ) (FK) (FL) (FM) (FN) (FO) (FP) (FQ) (FR) (FS) (FT) (FU) (FV) (FW) (FX) (FY) (FZ) (GA) (GB) (GC) (GD) (GE) (GF) (GG) (GH) (GI) (GJ) (GK) (GL) (GM) (GN) (GO) (GP) (GQ) (GR) (GS) (GT) (GU) (GV) (GW) (GX) (GY) (GZ) (HA) (HB) (HC) (HD) (HE) (HF) (HG) (HH) (HI) (HJ) (HK) (HL) (HM) (HN) (HO) (HP) (HQ) (HR) (HS) (HT) (HU) (HV) (HW) (HX) (HY) (HZ) (IA) (IB) (IC) (ID) (IE) (IF) (IG) (IH) (II) (IJ) (IK) (IL) (IM) (IN) (IO) (IP) (IQ) (IR) (IS) (IT) (IU) (IV) (IW) (IX) (IY) (IZ) (JA) (JB) (JC) (JD) (JE) (JF) (JG) (JH) (JI) (JJ) (JK) (JL) (JM) (JN) (JO) (JP) (JQ) (JR) (JS) (JT) (JU) (JV) (JW) (JX) (JY) (JZ) (KA) (KB) (KC) (KD) (KE) (KF) (KG) (KH) (KI) (KJ) (KK) (KL) (KM) (KN) (KO) (KP) (KQ) (KR) (KS) (KT) (KU) (KV) (KW) (KX) (KY) (KZ) (LA) (LB) (LC) (LD) (LE) (LF) (LG) (LH) (LI) (LJ) (LK) (LL) (LM) (LN) (LO) (LP) (LQ) (LR) (LS) (LT) (LU) (LV) (LW) (LX) (LY) (LZ) (MA) (MB) (MC) (MD) (ME) (MF) (MG) (MH) (MI) (MJ) (MK) (ML) (MM) (MN) (MO) (MP) (MQ) (MR) (MS) (MT) (MU) (MV) (MW) (MX) (MY) (MZ) (NA) (NB) (NC) (ND) (NE) (NF) (NG) (NH) (NI) (NJ) (NK) (NL) (NM) (NN) (NO) (NP) (NQ) (NR) (NS) (NT) (NU) (NV) (NW) (NX) (NY) (NZ) (OA) (OB) (OC) (OD) (OE) (OF) (OG) (OH) (OI) (OJ) (OK) (OL) (OM) (ON) (OO) (OP) (OQ) (OR) (OS) (OT) (OU) (OV) (OW) (OX) (OY) (OZ) (PA) (PB) (PC) (PD) (PE) (PF) (PG) (PH) (PI) (PJ) (PK) (PL) (PM) (PN) (PO) (PP) (PQ) (PR) (PS) (PT) (PU) (PV) (PW) (PX) (PY) (PZ) (QA) (QB) (QC) (QD) (QE) (QF) (QG) (QH) (QI) (QJ) (QK) (QL) (QM) (QN) (QO) (QP) (QQ) (QR) (QS) (QT) (QU) (QV) (QW) (QX) (QY) (QZ) (RA) (RB) (RC) (RD) (RE) (RF) (RG) (RH) (RI) (RJ) (RK) (RL) (RM) (RN) (RO) (RP) (RQ) (RR) (RS) (RT) (RU) (RV) (RW) (RX) (RY) (RZ) (SA) (SB) (SC) (SD) (SE) (SF) (SG) (SH) (SI) (SJ) (SK) (SL) (SM) (SN) (SO) (SP) (SQ) (SR) (SS) (ST) (SU) (SV) (SW) (SX) (SY) (SZ) (TA) (TB) (TC) (TD) (TE) (TF) (TG) (TH) (TI) (TJ) (TK) (TL) (TM) (TN) (TO) (TP) (TQ) (TR) (TS) (TT) (TU) (TV) (TW) (TX) (TY) (TZ) (UA) (UB) (UC) (UD) (UE) (UF) (UG) (UH) (UI) (UJ) (UK) (UL) (UM) (UN) (UO) (UP) (UQ) (UR) (US) (UT) (UU) (UV) (UW) (UX) (UY) (UZ) (VA) (VB) (VC) (VD) (VE) (VF) (VG) (VH) (VI) (VJ) (VK) (VL) (VM) (VN) (VO) (VP) (VQ) (VR) (VS) (VT) (VU) (VV) (VW) (VX) (VY) (VZ) (WA) (WB) (WC) (WD) (WE) (WF) (WG) (WH) (WI) (WJ) (WK) (WL) (WM) (WN) (WO) (WP) (WQ) (WR) (WS) (WT) (WU) (WV) (WW) (WX) (WY) (WZ) (XA) (XB) (XC) (XD) (XE) (XF) (XG) (XH) (XI) (XJ) (XK) (XL) (XM) (XN) (XO) (XP) (XQ) (XR) (XS) (XT) (XU) (XV) (XW) (XX) (XY) (XZ) (YA) (YB) (YC) (YD) (YE) (YF) (YG) (YH) (YI) (YJ) (YK) (YL) (YM) (YN) (YO) (YP) (YQ) (YR) (YS) (YT) (YU) (YV) (YW) (YX) (YZ) (ZA) (ZB) (ZC) (ZD) (ZE) (ZF) (ZG) (ZH) (ZI) (ZJ) (ZK) (ZL) (ZM) (ZN) (ZO) (ZP) (ZQ) (ZR) (ZS) (ZT) (ZU) (ZV) (ZW) (ZX) (ZY) (ZZ)

~~CONFIDENTIAL~~

11. Possibilities of obtaining desired information by other means (Explain in detail):

There is no feasible way of learning who is calling [] through the [] other than a tesur. When [] does furnish information as to contacts of [] this information is from one month to two years old in practically all cases.

b6
b7C
b7D

12. Risks of detection involved:

Negligible to none

13. Probable length of technical surveillance:

Indefinite

14. Request made for technical surveillance by any outside agency (name specific official, title and agency):

None known

~~CONFIDENTIAL~~ 7196

15. Remarks:

~~CONFIDENTIAL~~
~~JAN 17 1953~~

16. Recommendation of Assistant Director:

17. Recommendation of Assistants to the Director:

~~CONFIDENTIAL~~
~~JAN 17 1953~~

~~CONFIDENTIAL~~

Document # 6

~~CONFIDENTIAL~~

Subject b6
b7C

INTERNAL SECURITY - C

(U) This serial, the original memorandum from the FBI to the Attorney General dated 12/10/54, which was returned to the Bureau signed by the Attorney General authorizing FBI to conduct electronic surveillance, has been permanently removed for retention in the National Security Electronic Surveillance File per memorandum T. J. Smith to Mr. E. S. Miller dated 7-13-73. See 62-115687-1 for details and where maintained. (X)

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

9803 RDO/AB
5/3/73
~~CLASS. & EXT. BY~~
~~REASON-FCIM II, 1-2.4.2~~
~~DATE OF REVIEW 5/3/89~~

Removed By 343

Date 12/5/73

Complete File and Serial Number 100-36670-68

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~ Greenberg/Gray-7198

Document # 7

~~CONFIDENTIAL~~



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D. C.
December 10, 1954

In Reply, Please Refer to
File No.

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

~~PERSONAL AND CONFIDENTIAL~~

Downgrade to Conf 1-2-4-2
CLASS. & EXT. BY 1-2-4-2
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/2/78

MEMORANDUM FOR THE ATTORNEY GENERAL

[Redacted]
INTERNAL SECURITY - C

b6
b7C

Information has recently been received from a source of known reliability that [Redacted] is active as New York [Redacted] for the Communist Party and is known to be in contact with New York State and National underground leaders. [Redacted] is residing at [Redacted] Street, Brooklyn, New York, occupying a room in a residence owned by [Redacted].

b6
b7C

It is felt that a technical surveillance on the telephone at this residence, MAin 2-4167, would materially assist in the investigation of the Communist Party underground since [Redacted] is believed to utilize this phone in arranging his contacts with Communist Party leaders and in making underground meetings. [Redacted] who is supplying [Redacted] present hideout, has been identified as a Communist Party member from five to ten years' standing and is a known contact of other underground leaders in the New York City area.

b6
b7C

Accordingly, authority is requested to install a technical surveillance on the telephone at the residence occupied by [Redacted] MAin 2-4167, or at any other address to which [Redacted] may move.

b6
b7C

Respectfully,

J. Edgar Hoover
John Edgar Hoover
Director

RECORDED 13

100-36678-68

7 DEC 17 1954

EX-128

Approved: *7/63*
Date: *12-13-54*

~~CONFIDENTIAL~~ Greenberg/Gray-7200

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-29

UNRECORDED COPY FILED IN 100-36678-68

12/22/54
12-14
12-13
12-13

Document # 8

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

TO : THE DIRECTOR

DATE: December 9, 1954

- Tolson _____
- Boardman _____
- Nichols _____
- Belmont _____
- Harbo _____
- Mohr _____
- Parsons _____
- Rosen _____
- Tamm _____
- Sizoo _____
- Winterrowd _____
- Tele. Room _____
- Holloman _____
- Gandy _____

FROM : L. V. BOARDMAN

lv

JUNE 10/53
9803
2/3/79
1-2.4.2
5/3/89

SUBJECT: [redacted] INTERNAL SECURITY - C

b6
b7C

CLASS. & EXT BY
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW

Reference is made to the attached FD-142 from SAC, New York, dated December 3, 1954, requesting authority for the installation of a technical surveillance at the residence currently occupied by [redacted] Brooklyn, New York. It will be recalled that [redacted] is one of the principal figures in the Communist Party security apparatus for the State of New York and is known to be in contact with ranking National Communist Party underground leaders. This telephone is listed to [redacted] at the above address and designated Brooklyn telephone number, Main 2-4167.

[redacted] is a contact of [redacted] leading Communist Party underground functionaries in the New York area, and reportedly has been a member of the Communist Party for five to ten years.

SAC, New York, has indicated that a survey for the installation of this technical surveillance has been completed and that authority was requested to effect its installation. If authorized, a leased-line letter will be necessary indicating the address as [redacted] Brooklyn, New York.

It will be recalled that an anonymous source, [redacted] is currently in operation at [redacted] residence which is a room located in the building under the control of [redacted] as landlord. This anonymous source is extremely valuable and since [redacted] is believed to be using [redacted] telephone, this technical surveillance if authorized, would contribute materially to the security attendant upon the operation of this anonymous source. In addition, it would provide valuable intelligence data concerning [redacted] contacts and meetings with other underground leaders in the New York City area.

In view of the foregoing, it appears that the request of SAC, New York, is fully justified under the circumstances outlined herein and that if authorized, this technical surveillance should produce extremely valuable data relating to the Communist Party underground.

Attachments (2)

cc - Mr. Boardman

RECORDED - 24

INDEXED - 24

7 DEC 15 1954

WFD:djf

EX-130

Mr. Belmont

Mr. Donohue

Mr. Baumgardner

Mr. Doyle

Greenberg/Gray-7201

~~CONFIDENTIAL~~

OK
12-9-54
12/22/54
27

RECEIVED

~~CONFIDENTIAL~~

RECOMMENDATION:

It is recommended that the attached memorandum to the Attorney General requesting authority to effect a technical installation on the telephone utilized by [redacted] at the residence of [redacted] Brooklyn, New York, or to any other address to which [redacted] might move, be approved. (S)

b6
b7C

V. JW
12-9

Greenberg/Gray-7202

~~CONFIDENTIAL~~

AK
ARB.5

7202
W

Document # 9

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

FD-36
Mr. Tolson
Mr. Boardman
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Sizoo
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

NY, NY; 12/2/54

JUN

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

Transmit the following Teletype message to: BUREAU...JUNE...URGENT

JUNE. [redacted] IS - C. REBUTEL, 11/16/54, AUTHORIZING SURVEY FOR
TECHNICAL SURVEILLANCE
INSTALLATION OF TESUR ON RESIDENCE OF [redacted]

BROOKLYN, NY, TELEPHONE MAIN 2-4167. SURVEY COMPLETED. SECURITY ASSURED.
TECHNICAL SURVEILLANCE
AUTHORITY REQUESTED TO INSTALL TESUR. LEASED LINE LETTER SHOULD SHOW

ADDRESS [redacted] BROOKLYN, NY. FORM FD-142 FOLLOWS. THE FOLLOWING
IS SECURITY INFORMATION ON [redacted] SUBJECT OF NY FILE #100-121319:

RELIABLE INFORMANTS ADVISED: ONE [redacted] KNOWN TO [redacted]
LEADING CP UNDERGROUND FUNCTIONARY, NY AREA, AUGUST, 1952; ONE [redacted]
MEMBER OF CP FIVE OR TEN YEARS; [redacted] ACQUAINTED WITH [redacted]
MEMBER OF BRONX COUNTY CP, JUNE, 1953; SUBSCRIBED TO "THE WORKER", SEPTEMBER,

1951. [redacted] LEASED ROOMS TO [redacted] A MEMBER OF CP UNDERGROUND, NYC,

1952. [redacted] REGISTERED ALP, 1950 TO 1953. RELIABLE INFORMANTS ADVISED

[redacted] PETITIONED GOVERNOR DEWEY IN BEHALF OF MORRIS U. SCHAPPES, CP

MEMBER CONVICTED OF PERJURY, JUNE, 1941; ASSOCIATED WITH OR SYMPATHIZED

WITH CP, JUNE, 1942; MEETING OF TEACHER GROUP OF MAGAZINE "EQUALITY" HELD

IN APARTMENT OF [redacted] NOVEMBER, 1940. [redacted] REGISTERED

ALP, 1950 TO 1952. (U)

Mr. Belmont

Let to AG
12/10/54
memo to KELLY
Director
12/9/54
WFD

b6
b7C

③ - BUREAU (REGISTERED MAIL)

100-36670-
[redacted]
[redacted]

TJM:JH (#7-1)
100-16854-Sub 4

RECORDED-68

17 DEC 3 1954

EX-128

Approved: JJK
Special Agent in Charge

Sent M Per Gray-7203
~~CONFIDENTIAL~~

b6
b7C

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-5-7-8-8-8

CLASS. & EXT. BY 5/3/89
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/89

9803 BAR/AB

UNRECORDED COPY FILED IN 100-413012

Document #10

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

0-9a
cc - W. S. Johnson
Mr. Doyle

To: COMMUNICATIONS SECTION.

~~CONFIDENTIAL~~

DECEMBER 2, 1954

AIRTEL

Transmit the following message to:

SAC, NEW YORK (100-16854)

JUNE. [redacted] INTERNAL SECURITY - C. [redacted] NY AIRTEL

NOVEMBER 15, 1954, AND BUAIRTEL NOVEMBER 16, 1954, GRANTING

AUTHORITY TO INSTITUTE TESUR SURVEY ON TELEPHONE OF [redacted]

[redacted] LANDLORD. SUAIRTEL RESULTS OF SURVEY. (X)

N.Y.

HOOVER

BUfile - 100-36670

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

WFD:dlf dlf
(5)

NOTE ON YELLOW:

NY airtel 11/15/54 requested that authority in view of fact that [redacted] landlord and [redacted] is reportedly being contacted through phone of [redacted]. No employee received as yet. Highly confidential anonymous source of outstanding value has been established on [redacted] and it appears that if feasible this tesur would provide requisite security for continued successful operation this source.

CLASS. & EXT. BY 9803 R. O. O. / 105
REASON-FCIM 11, 1-2.4.2
DATE OF REVIEW 5/2/89

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-79

EX-104

RECORDED - 63
INDEXED - 63

100-36670-64

13 DEC 6 1954

MAILED 11
DEC - 2 1954
COMM-FBI

- Tolson _____
- Boardman _____
- Nichols _____
- Belmont _____
- Harbo _____
- Mohr _____
- Parsons _____
- Rosen _____
- Tamm _____
- Sizoo _____
- Winterrowd _____
- Tele. Room _____
- Holloman _____
- Gandy _____

~~CONFIDENTIAL~~

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

Greenberg/Gray-7204

~~CONFIDENTIAL~~

SENT VIA _____

M Per _____

703
WFD

Document # 11
F.B.I. TELETYPE

4-41a

M. J. ...
1343

DECODED COPY

~~CONFIDENTIAL~~

JUNE

- Mr. Tolson _____
- Mr. Boardman _____
- Mr. Nichols _____
- Mr. Belmont
- Mr. Harbo
- Mr. Mohr _____
- Mr. Parsons _____
- Mr. Rosen _____
- Mr. Tamm _____
- Mr. Sizoo _____
- Mr. Winterrowd _____
- Tele. Room _____
- Mr. Holloman _____
- Miss Gandy _____

WASH 4 FROM NEW YORK 15 152100 4-55 P

DIRECTOR URGENT

JUNE. [redacted] WA., IS-C. REBUFILE 100-36670 AND MYTEL OF NOVEMBER 9 LAST CAPTIONED QUOTE CPUSA-UNDERGROUND OPERATIONS, IS-C UNQUOTE. A SURVEY OF INFORMATION FURNISHED BY [redacted] REFLECTS THAT SUBJECT IS BEING CONTACTED BY OTHER CP MEMBERS THROUGH THE TELEPHONE OF [redacted] SUBJECT-S LANDLORD. BUREAU PERMISSION IS REQUESTED FOR NY TO CONDUCT IMMEDIATE SURVEY TO INSTALL TECHNICAL SURVEILLANCE ON [redacted] [redacted] BROOKLYN, NY, TELEPHONE MAIN 2-4167; [redacted] IS SUBJECT OF PENDING NY SECURITY FILE 100-121319. (X)

b6
b7C
b7D

COPIED TO FILE

KELLY

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP ON 5-3-79 *reb*

WA NY R 4 WA RD

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

11-15-54

9803 RAO/5:03 PM MP

Mr. Belmont

CLASS. & EXT. BY 5/3/79
 REASON-FCIM II, 1-2.4.2
 DATE OF REVIEW 5/3/79

Tel to NYC with memo 11/16/54
WFO
 RECORDED - 128
 1-5-55
extra

NOV 22 1954

Greenberg/Gray-7205

UNRECORDED COPY FILED IN 10

~~CONFIDENTIAL~~

If the intelligence contained in the above message is to be disseminated outside the Bureau, it is suggested that it be suitably paraphrased in order to protect the Bureau's coding systems.

... ..

Document #12

Greenberg/Gray-7206

0-9a

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~
URGENT

To: COMMUNICATIONS SECTION. NOVEMBER 16, 1954

Transmit the following message to SAC, NEW YORK

JUNE. [] INTERNAL SECURITY - C. REURTEL NOVEMBER FIFTEEN, LAST. AUTHORITY GRANTED INSTITUTE TESUR SURVEY ON TELEPHONE OF []

BROOKLYN, NEW YORK, TELEPHONE MAIN TWO DASH FOUR ONE SIX SEVEN. TESUR SURVEY IN ADDITION TO COMMENTING UPON SECURITY ASPECTS AND FEASIBILITY OF PROPOSED INSTALLATION SHOULD CONTAIN BRIEF SUMMARY OF AVAILABLE SUBVERSIVE DEROGATORY DATA CONCERNING

b6
b7C

[] SEVERAL SUBVERSIVE REFERENCES NOTED BUREAU FILES NONE OF WHICH WERE IDENTIFIABLE WITH [] BASED UPON INFORMATION SUPPLIED RETEL.

NR. 161824
ENC. 1844-1845 BY []
CK. [] BY []
APPROVED BY []
TYPED BY []
FILED BY []

Bufile - 100-36870

WFD:dlf

cc - Bufile 100-3-94-34

CLASS. & EXT. BY 9903 RDO/CS
REASON-FCIM II, 1-2.4.2
DATE OF REVIEW 5/3/79

NOTE ON YELLOW:

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 04-24-2009

[] is a member of the New York State Underground Board who was recently located in Brooklyn, New York. The New York Office on November 8 and 9, 1954, established a highly confidential anonymous source relating to []. This source has been tremendously productive of valuable information concerning Communist Party operations. Retel requests immediate

b6
b7C

- Tolson
- Boardman
- Nichols
- Belmont
- Harbo
- Mohr
- Parsons
- Rosen
- Tramm
- Zoo
- Interrowd
- Tele. Room
- Holloman
- Andy

authority for tesur survey in view of fact that [] is being contacted by other Communist Party members through the telephone of [] landlord, in view of the New York request teletype reply being sent.

RECORDED - 73
INDEXED - 73
TELETYPE
NOV 16 1954
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

SENT VIA

Per []

UNRECORDED COPY FILED

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. *[Handwritten initials]* Planders

DATE: June 2, 1980

FROM *[Handwritten initials]* D. R. Koman

1 - Mr. J. L. Tierney

1 - Mr. D. R. Koman

SUBJECT: GRAY, FELT, MILLER SPECIAL DOCUMENTS ORIGINATED MORE THAN TWENTY YEARS AGO INVOLVING CLASSIFIED INFORMATION

W. MARK Felt

Certain FBI documents containing classified information originated more than twenty years ago have been denied the requester. These documents are listed in an appeal addendum, a copy of which is attached along with the staff comments of the Department Review Committee (DRC).

These documents were presented to the DRC on 5/8/80, at which time the DRC unanimously determined that the 20-year old material is within the purview of the Attorney General's prior decisions on such material and classification was upheld.

Action: Disclosure Section should review this request *[Handwritten circled 2]* in line with the above decision and insure that all appropriate material is processed for release to the requester.

Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

62-118045-275X1

WEB
WEB:vp
(3)

4-8-85

6 OCT 8 1980

ENCLOSURE ATTACHED

[Handwritten circled 2]
ENCLOSURE

62-118045
Greenberg/Gray-7207



57 NOV 14 1980

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Memorandum

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: June 2, 1980

FROM : Legal Counsel *JAM*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 04-24-2009 BY 65179 dmh/baw/sbs

SUBJECT: U.S. v. GRAY, ET AL.

L. Patrick

On June 2, 1980, Thomas A. Kennelly, attorney for defendant Ed Miller, called me and said that he has determined that he will cause a subpoena to be served on Director Webster in the above-captioned case and he asked me whether it was necessary for him to serve the subpoena personally on the Director. I told him that I was authorized to accept personal service on behalf of the Director and that I would be available for that purpose.

Mr. Kennelly said that he and defense counsel Gettings, who is representing Mark Felt, would like to request an opportunity to interview me personally in regard to captioned case and requested such interview be conducted on Monday, June 9, 1980. I told Mr. Kennelly that I would be available for such an interview and we agreed that he and Mr. Gettings, plus their assistants, would appear at my office at 11:00 a. m., June 9, 1980, for such interview.

By memorandum to you dated January 2, 1979, then Deputy Attorney General Civiletti authorized such interviews of FBI employees pursuant to 28 CFR 16.21 with limitations concerning confidential sources of the Bureau and the targets of Bureau technical surveillances and other sophisticated techniques. The Deputy Attorney General further instructed "In order to insure that there is no inadvertent interference with the rights of the defendants in this case, you should not inform the Department of the identity of any potential witnesses who are contacted by defense counsel." Therefore, I am not at this time advising the Department or the prosecutor, Nields, of the requested interview.

If Mr. Kennally serves a subpoena for you, I will discuss that matter with the prosecutor and advise you promptly of the action recommended.

- 1 - Mr. Mintz
 - 1 - Mr. Tierney
- Records Management Division

JAM:pdh

(3)

60 JUL 07 1980

CONTINUED - OVER

6 JUN 13 1980

Legal Counsel to The Director
RE: U. S. v. GRAY, ET AL.

RECOMMENDATION:

For information.

APPROVED:	Adm. Serv. _____	Legal Coun. <u><i>JLW</i></u>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Adm. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.

EDITH CLARK, et al.,
Plaintiffs,
- against -
UNITED STATES OF AMERICA, et al.,
Defendants.

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-24-2009 BY 65179 dmh/baw/sbs

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

*Do Not Remove
RETAIN AS TOP SERIAL*

C

62-118045
NOT RECORDED
JUN 11 1979

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ~~plaintiffs'~~ ^{for each party} attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. ~~Nothing in this order shall preclude the~~
handling, necessary marking of documents, or necessary
alteration of copies of documents in the ordinary course of
business or trial preparation by anyone in possession of the
documents.

7. It is the intent of the Court that this order
shall be broadly construed so as to prevent the destruction of
any documents. In the event of any question by ^{any} defendant ^{MSJ}
concerning the scope and coverage of this order, or any
question concerning whether any particular documents come
within the designated scope and coverage of this order, the
documents in question will not be destroyed or obliterated
in whole or part, until either: (a) they are presented to
~~plaintiffs and plaintiffs' attorneys~~ ^{the attorneys for the other parties} for examination and
~~plaintiffs,~~ ^{such parties,} by their attorneys, stipulate in writing that
the documents may be destroyed or obliterated in whole or
part; or (b) the Court, after a hearing duly noticed, exempts
the specified documents in question from its order.

8. In addition to specific instructions concerning
communication of the contents of this order contained herein,
defendants and their attorneys shall communicate the contents
of this order forthwith to all appropriate individuals so as
to assure the effectuation and compliance with the order by
all persons.

9. Within 30 days, defendants shall report to the
Court all steps taken so as to assure the effectuation and
compliance with this order by all persons.

Dated: New York, New York

~~April 18~~, 1979

May 16

Monroe Coble

United States District Judge

~~SECRET~~

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Colwell *7/3/80*

4/10/78

DATE: 6/16/80

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 04-24-2009

FROM : *WLB/RM*
L. Bailey

SUBJECT: U.S. vs FELT et al

MARK W. FELT

T. Bailey

PURPOSE: The purpose of this memorandum is to advise of disclosure problems in connection with trial of captioned case, and to solicit the observations of the Intelligence (INTD) and Criminal Investigative (CID) Divisions.

SYNOPSIS: Documents prepared for trial use in this matter have been reviewed. A number of the documents as redacted would tend to disclose confidential relationships between the FBI and telephone companies, banks and, in some instances, individuals. The Department, to date, has not taken steps to protect third-party privacy issues.

RECOMMENDATION: That the CID and INTD furnish their comments regarding trial disclosure problems outlined in this memorandum.

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. <i>49</i>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. <i>49</i>	Ident. _____	Rec. Mgnt. <i>WLB/RM</i>
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

SEE INTD ADDENDUM
ON PAGE 5

DETAILS: Documents designated for trial use by the defense counsel for Felt have been reviewed. Miller's attorney has not designated, as of this time, all the documents needed for trial and may not do so until trial. The Department has brought this to the court's attention, and Judge Bryant had indicated he will instruct Miller's attorney to give reasonable advance notice of documents he intends to use during trial.

62-118045-275X

The documents have been reviewed and have been divided into two categories by the Department prosecutors. The first category is those documents containing the highly sensitive information. These documents will be discussed pretrial with the defense and, if necessary, the court to resolve any disclosure

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. O'Malley

- 1 - Mr. Revell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly

48

PVD:jam *jam*
(9)

(CONTINUED - OVER)

See CID Addendum Page Eight

~~SECRET~~ MATERIAL ATTACHED

62-118045

Greenberg *57 OCT 1980*

W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

problems during trial. For the most part, up to this point, documents in this category have been redacted or the information stipulated to protect national security concerns.

The second category is those documents which do not present a serious national security concern. These documents will be addressed during the course of trial as they are entered into evidence. All of the documents designated for trial use have been reviewed by the appropriate investigative division, as well as by SAs Paul V. Daly and Joseph L. Tierney. The prosecutors have indicated what information they will seek to protect in these documents and what will have to be disclosed during trial. Information to be disclosed during trial presents a number of problems that can be best outlined by category.

Sources of Information

A considerable amount of information contained in these documents originated with bank officials, telephone company representatives and school officials. While the trial documents will be redacted to protect the identity of the person furnishing the information, it will be clear that someone at a particular bank or telephone company furnished the FBI information. In many instances, we accepted information from banks and telephone companies with the assurance we would not disclose it further without the issuance of a subpoena duces tecum.

There are also instances where we were furnished privileged information. For example, a physician furnished details regarding his treatment of an individual affiliated with the Weatherman. While the doctor's name will be redacted, the disclosed information, if read by the patient, would undoubtedly disclose his identity.

Many of the documents contain information furnished by parents, neighbors and acquaintances of subjects of investigation. Again, while the identity of the individual furnishing the information will be redacted, the information will, in many instances, tend to disclose the source of the information.

Also, contained in the documents is information furnished by people who were involved with various New Left groups and later cooperated. Some of the more detailed information obtained during our investigation of the Weatherman was obtained in this fashion. Because the information is so detailed, disclosure will, in some instances, pinpoint the source of the information even with the identity redacted.

W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

Third-Party Privacy

We have notified the Department in writing that we would leave to their judgment any third-party privacy problems presented by disclosure of information during trial. Based on the fashion in which the documents have been redacted for trial purposes, it appears that a large amount of derogatory information pertaining to individuals will be disclosed. To date, there has not been any noticeable effort to protect privacy interests by the Department.

There is one other category of information which, at this time, is presenting a problem concerning its trial use. The information in question is foreign government information, which has been inadvertently disclosed to the defense. In both instances, the information in question was the subject of a claim of privilege tendered to the court. The claims of privilege were upheld by the court in both instances with exception that the court ruled the defense could have a portion of a document containing [redacted] information. We recently learned that the Department inadvertently disclosed the additional [redacted] information contained in the document in question. The additional information is much more specific in content and the defense is pushing for trial use of that information, as well as the information the court ruled they are entitled to. This has not been resolved as of yet.

(S)

b1

The second instance of foreign government information being in jeopardy is information originating with the [redacted]

(S)

[redacted] These issues will be resolved one way or the other pretrial. There are other minor problems where foreign government information was furnished the defense inadvertently, but the information in question is very nebulous and/or is contained in our files from a nonforeign government source so that an effective substitution can be made.

b1

We are continuing to work with the Department to resolve problems outlined in this memorandum; however, it is highly unlikely that all the problems will be resolved. In some instances, it may be possible to protect information because the defense does not enter the whole document into evidence. Our understanding, at this time, is that while a whole document might go to the jury, only that portion of it entered into evidence will become public. For example, in a 600-page Weatherman report, the defense might use only one or two pages. The remaining pages would not become public.

~~SECRET~~

W. L. Bailey to Mr. Colwell Memorandum
Re: U. S. vs FELT et al

As to oral testimony during the course of this trial, Judge Bryant has instructed the defense that all testimony, when based on a document, must be limited to that which is going to be disclosed in the document. This will prevent defense witnesses from putting back into evidence orally that which has been redacted.

SEE INTD ADDENDUM ON PAGE 5

See CID Addendum Page Eight

- 4 -

Greenberg/Gray-7216

~~SECRET~~

~~SECRET~~

Memorandum to Mr. Colwell
Re: U.S. vs FELT et al

ADDENDUM BY E. J. O'MALLEY - 6/18/80 EJO:lm1 *lm1*

The disclosure during trial of two types of information mentioned in this memorandum raises serious issues concerning which INTD must comment.

INTD is seriously concerned and objects to the disclosure during trial of information furnished to the FBI in confidence by public, private, or foreign sources. It is not sufficient to redact the identities of banks, telephone companies, and physicians if the nature of the information itself will compromise the source. Such a compromise directly relates to the keystone on which rests the FBI's ability to function as an investigative agency, the public and private cooperation in our investigations. We do not and never will be able to operate in a vacuum which is where we will end up if sources of information recognize that they can no longer trust us to honor our promises of confidentiality or promises to seek a subpoena duces tecum. Such a disclosure would hamper our already tenuous relations with banks and telephone companies in many parts of the country.

The chilling effect on informant development caused by the mere existence of civil suits against the FBI and the Freedom of Information Act (FOIA) is well known. We have no control over the institution of a civil suit against us or the information we legally release under the FOIA, but the costly perception persists in some areas that we cannot protect our sources. How much greater will be the damage if the Government releases compromising information in a prosecution? It is no defense to say that the disclosure was made in a very special case or that it was disclosed despite FBI objections. Nor will it help to say that we are seeking relief from FOIA requirements. The impact of the disclosure will be squarely on the FBI and it is we who will pay the price in terms of future support from public utilities, banks, and private citizens.

The disclosure of a second category of information, that furnished to us in confidence by a foreign government, is of direct concern to INTD. We are talking here about two pieces of information which were "inadvertently" furnished by the Department of Justice (DOJ) to defense counsel. The first is extremely sensitive information that clearly pinpoints the [redacted] b1

(S) [redacted] The defense has indicated that it wants to use these two pieces of information

CONTINUED - OVER

~~SECRET~~

CLASS. & EXT. BY #113
REASON-FCIM II, 1-2.4.2 2 3
DATE OF REVIEW 6/18/2000

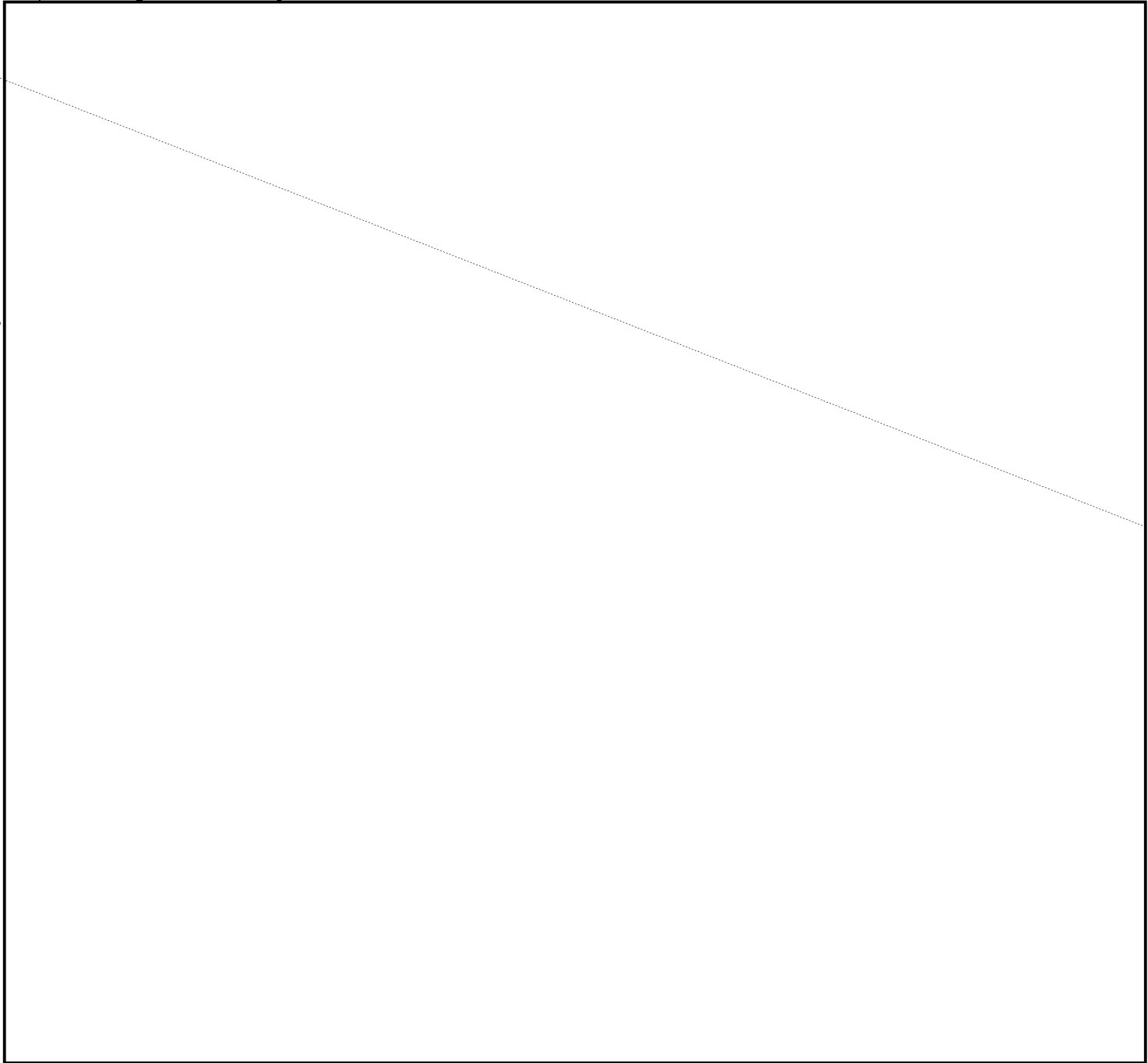
~~SECRET~~

Memorandum to Mr. Colwell
Re: U.S. vs FELT ET AL

ADDENDUM BY E.J. O'MALLEY Continued:

during trial and the Department is not confident that the Judge will not so order despite DOJ objections. DOJ further indicated that should such be ordered and it was necessary for the trial that they would abide by the Judge's instructions rather than dismiss the case. b1

(S)



~~SECRET~~

~~SECRET~~

Memorandum to Mr. Colwell
Re: U.S. vs FELT ET AL

ADDENDUM BY E. J. O'MALLEY Continued:

(S)

[Redacted]

b1

The FBI has gone as far as it possibly can in agreeing to the release of information to defense counsel in this prosecution, including the personal commitment of the Director of the FBI in the case of the [Redacted] information. [Redacted]

(S)

[Redacted]

b1

(S)

Of even greater concern to INTD is the effect of the use of [Redacted] information during the trial if so ordered by the court. This would remove all doubt as to the future cooperation between the [Redacted] intelligence services and the FBI. It would cease. We have a need to maintain very close relationships with many other friendly intelligence services which would also be damaged should news of the release of such sensitive information become known, as it surely will. In addition, we are part of the U.S. Intelligence Community and our standing in that Community will be damaged by such disclosure during trial with a drying-up of sensitive information from the rest of the Community, a not-unlikely prospect. The DCI is charged with the protection of Intelligence Community sources and methods and the FBI sits on his Security Committee. To date, he has not been consulted regarding the damage that could be inflicted on the Intelligence Community if foreign source information is released during a trial in the United States. He should be consulted and his thinking obtained.

b1

(S)

The 6/13/80 "inadvertent" release by the DOJ to defense counsel of a list of [Redacted] in the New York Office is the subject of a separate memorandum and INTD will comment separately on that issue.

b1

APPROVED:

~~SECRET~~
- 7 -

Director _____
Exec. AD-Inv. AM
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. EGJ
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~SECRET~~

ADDENDUM: CRIMINAL INVESTIGATIVE DIVISION JUNE 20, 1980 RKM:grk

The disclosure at trial of FBI documents that, either individually or in total, would tend to identify confidential relationships between individuals or organizations and the FBI would cause serious damage to our investigative operations. (U)

The Criminal Investigative Division (CID) believes that any disclosure of confidential information furnished the FBI by banks, telephone companies, and other public organizations would severely hamper our future investigative efforts in almost all programs. In nearly every instance, the public sources who have provided confidential information did so only after assurances were given that the source of the information provided would not be divulged by the FBI. We are already experiencing great difficulty in obtaining records and other data from organizations such as banks and telephone companies, as a result of the Freedom of Information Act (FOIA). Should the assistance rendered the FBI by these public organizations be brought out in open court, further erosion of our relationships with these organizations would occur, thus resulting in a reduction of the FBI's ability to fulfill its investigative responsibilities. (U)

Also of great concern to CID is the release of documents which would reveal the cooperation rendered by informants and casual sources. The Department of Justice (DOJ) has requested we contact the Newark, New Jersey, Police Department to obtain permission to disclose at trial information furnished by a highly confidential source of that department, relative to the whereabouts of a Weatherman fugitive, [redacted]. The DOJ believes that [redacted] were aware of the whereabouts of [redacted] and that this formed the basis for the break-in directed against [redacted]. (U)

b6
b7C

The SAC, Newark, established contact with Captain [redacted] [redacted] the former head of the Newark Police Department Intelligence Unit, who initially furnished the information to the FBI, in an attempt to comply with the DOJ request to obtain permission to disclose information furnished by a highly confidential source concerning the whereabouts of [redacted] states that he cannot be certain of the identity of the source in question. However, according to [redacted] the source would be endangered by the release of the information, and the information should be protected from disclosure and his prior request for confidentiality should be honored. (U)

b6
b7C

CID strongly believes that the FBI must honor [redacted] request for the continued confidentiality of his informant. A great deal of valuable information relating to FBI investigations is obtained from police departments and other state and Federal law enforcement agencies through the use of their confidential informants.

b6
b7C

~~SECRET~~

Classified and Extended by 8024

Reason for Extension FCIM, II, 1-2.4.2 (2)

Date of Review for Declassification June 20, 2000

~~SECRET~~

When the information is supplied, it is clearly understood by both the giver and receiver that the source of the information will be protected, unless the contributing agency stipulates otherwise. If it were known that the FBI abrogated this principle, it could seriously curtail the receipt of information from other law enforcement agencies, upon whom we rely heavily. (U)

In addition to receiving valuable information through the confidential informants of other agencies, the FBI disseminates a great deal of our confidential informant information to these same police departments. When such dissemination is made, it is our clear understanding that they will not compromise our informants without our permission. There have been numerous incidents in which we have strenuously objected to the use of informant information by other law enforcement agencies in a manner which we believe would compromise our informants. The FBI has maintained our objections even though, in some instances, it has meant the termination of prosecutive action against the subjects of a particular case. Not honoring [redacted] request, therefore, would put us in a position of reversing our own longstanding policy. The release of this information in open court would cause unacceptable damage to the FBI. (U)

b6
b7C

The connection between Al Fatah and [redacted] is also a matter of extreme concern to the CID. Specifically, this matter concerns information furnished by a Los Angeles source that members of Al Fatah had contacted [redacted] in the United States to obtain explosives and ammunition for use in fomenting an incident in the United States. The source also advised that Al Fatah contemplates "A spectacular action in the United States." (S)

b7D

(U)

When this issue developed, Agents of the Los Angeles Office contacted the informant in Los Angeles. This informant advised that, should the above information be made public, his identity and relationship with the FBI would be known, which would place his life in jeopardy. (U)

CID strongly believes that the information furnished by this informant, and all others, must be protected. This informant's information, should it be released in trial, would in all likelihood identify him. He would be in danger of losing his life, and it would make the development of new informants and the retention of current sources more difficult than it already is. The CID believes that releasing this information would, therefore, constitute a violation of established ethical values and would cause unacceptable damage to the FBI's current and future operations. (U)

Another issue of concern is the need to protect the identities of casual sources. Specific examples of this type of source as their use relates to this matter are numerous and varied. One casual

~~SECRET~~

~~SECRET~~

source was the father of a Weatherman fugitive, who willingly discussed his daughter's life and furnished general information of some value to our investigation. Another fugitive's sister also provided valuable assistance. Neighbors, local police department personnel, and real estate personnel, to name just a few, all provide information of value to the FBI. (U)

The FBI has a longstanding history of protecting the confidentiality of the citizens who assist us in our investigations. Release of information furnished by these casual sources and their identities would clearly violate this principle and would most assuredly limit the cooperation and information received from casual sources in future investigations. (U)

SSM

APPROVED:

Director _____
Exec. AD-Inv. AM
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. RJM
Ident. _____
Int. Aff. _____
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

~~SECRET~~

Memorandum

TO : Mr. Colwell *JK*

DATE: 6/2/80

FROM : W. L. Bailey *WLB*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

SUBJECT: U. S. vs. W. MARK FELT
TRIAL PREPARATION

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____ <i>WLB</i>
Tech. Servs.	_____ <i>WLB</i>
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

WLB
MARK W. FELT

PURPOSE:

To obtain approval for the temporary loan of three support employees to the Department.

RECOMMENDATION:

That three support employees be selected from Records Management Division to work at the Department full time for approximately two weeks, and thereafter on an as-needed basis until trial.

APPROVED:	Adm. Serv.	_____	Legal Coun.	_____
Director	Crim. Inv.	_____	Plan. & Insp.	_____
Exec. AD-Inv.	Ident.	_____	Rec. Mgnt.	_____ <i>WLB</i>
Exec. AD-Adm.	Intell.	_____	Tech. Servs.	_____
Exec. AD-LES	Laboratory	_____	Training	_____
			Public Affs. Off.	_____

DETAILS:

On 6/2/80 John W. Nields, Jr., advised that he needed assistance which he is unable to procure from his own channels within the Department. He asked for three Bureau support employees, who are familiar with the theory and mechanics of redacting documents, to work full time for about two weeks and part time thereafter. He would like them to start 9:00 A.M., Tuesday, 6/3/80. Shift changes would not be required.

- 1 - Mr. Colwell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Flanders
- 1 - Mr. Finzel
- 1 - Mr. Tierney

62-118045-275X2

6 OCT 3 1980

JK
JLT/pcn
(7) *pcn*

CONTINUED - OVER

200
60 OCT 23 1980

62-118045

Memorandum to Mr. Colwell
Re: U. S. vs. W. MARK FELT

Mr. Niels explained he has copies of trial documents prepared after consultation with us or other Federal agencies. In the existing set, material to be excised is marked by yellow highlights, and, in some cases, there is additional textual material or substitute phrases to be inserted in place of the excised text. A neat, final version of the redacted document must now be prepared. The work will be done under the supervision of a GS-11 Paralegal. The employees should have sufficient ability to detect gross errors or misapplications of the excising policy, but will be engaged in the mechanical transfer of excisions from one copy of a document to another. Efficiency and precise attention to detail are the prime talents sought. Mr. Niels has also noted a rudimentary knowledge of typing would be helpful.

Although a valid case can be made for our understaffed status, a better case could be found in which to take that position. We have no real choice except to honor Mr. Niels' request.

*Since documents belong to FBI
and in view of nature of case we
should be ~~so~~ cooperative and assist
whenever we can.
JC,*

The following reported to Mr. Niels AM of 6/3/80:

[Redacted]

- FOIPA

[Redacted]

} Document Classification
and Reviled Section

b6
b7C

QA 6/3/80

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 05-04-2009

~~FEDERAL GOVERNMENT~~

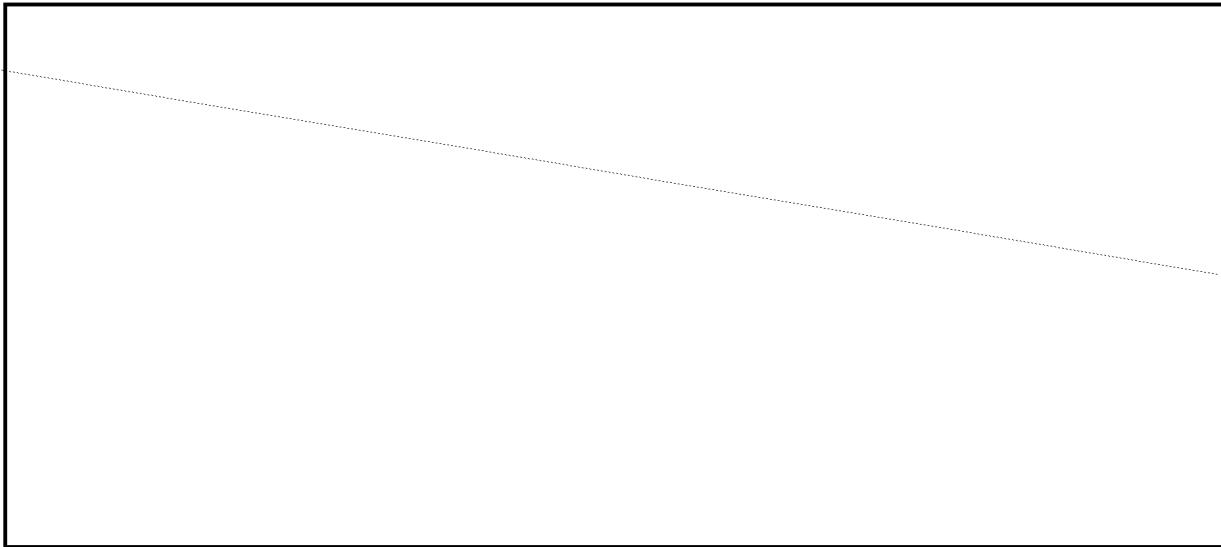
The Attorney General

July 3, 1980

Director, FBI

Greenberg/Gray-7225

U.S. vs. W. MARK FELT, et al.



b6
b7C

[Handwritten signature]

Special Counsel John W. Nields, Jr., is familiar with the background regarding this disclosure and has a copy of the document containing the information in question. (U)

62-118045-276

Classified and Extended by 115
Reason for Extension FCIM II, 1-2.4.2 (1,2,3)
Date of Review for Declassification 7/3/2010

JUL 23 1980

*Hand delivered
7/3/80 JLT*

*Copy furnished
to Nields 7/3/80
JLT*

~~SECRET~~

5-Jew

Exec AD Inv. _____
Exec AD Adm. _____ NOTE: See memo E. J. O'Malley to Mr. Mullen dated 7/2/80, captioned
Exec AD LES _____ as above, JLT:tdp.

- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. O'Malley
- 1 - Mr. Revell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Daly
- 1 - Mr. Tierney

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
DVD:mjl (11) 1980

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____

Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

Legal Coun. _____

Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

MAIL ROOM

Memorandum

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : The Director

DATE: June 19, 1980

FROM : Legal Counsel *JAM*

SUBJECT: W. MARK ϕ ϕ
U. S. v. FELT AND MILLER, EDWARD S.
#78-179 Cr.
U. S. D. C., D. C.

At 2:56 p. m., June 19, 1980, Thomas Kennelly, the attorney representing Ed Miller, called and requested the Bureau to furnish him a copy of a memorandum from Cassidy to Wannall dated September 17, 1975, captioned "General Accounting Office review of FBI Operations" for purposes of captioned case. I referred his request to Paul Daly who agreed to locate the material and furnish it appropriately.

I asked Mr. Kennelly when he would submit a letter to the Director outlining the areas of testimony he would request from the Director. He said that due to his busy schedule he would not prepare such a letter prior to Saturday, June 21, 1980, but that he would expedite forwarding the letter.

RECOMMENDATION:

For information.

APPROVED: *[Signature]*

Director _____	Adm. Serv. _____	Legal Coun. <i>JAM</i>
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-04-2009 BY 65179 dmh/baw/sbs

1 - Mr. Mintz

JAM:pdh
(2) *[Signature]*

60 JUL 30 1980

Greenberg/Gray-7226

LEGAL COUNSEL *[Signature]*

62-118045-277

22 JUL 3 1980

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~SECRET~~

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : The Director *W*

FROM : E. J. O'Malley *W*

SUBJECT: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

DATE: 7/10/80

7/10/80
Tierney
Daly
Mullen

PURPOSE:

To advise of contacts with Department of Justice (DOJ) regarding presentation of damage assessment to Director of Central Intelligence (DCI) in the context of captioned trial and the DCI's responsibility for protection of intelligence community sources and methods. (S)

RECOMMENDATION:

That we concur that the Attorney General (AG) present our damage assessment regarding sources and methods to the DCI along with such assessments by other members of the intelligence community concerned with this trial. (S)

** Per Director OK to ask A.G. to present damage assessment to DCI in this instance only because of possible appearance of FBI self-interest.*
OK 7/14/80

APPROVED:

Director _____
 Exec. AD-Inv. _____
 Exec. AD-Adm. *X* _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. *W* _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____

DETAILS:

O'Malley to Mullen memorandum dated 7/2/80, recommended that EAD Mullen contact Assistant Attorney General (AAG) Heymann to explore DCI participation in the damage assessment and to insure DCI's aware of his option to participate. (S)

- 1 - Mr. L. Colwell
- 1 - Mr. F. M. Mullen, Jr.
- 1 - Mr. J. A. Mintz
- 1 - Mr. O. B. Revell
- 1 - Mr. W. L. Bailey
- 1 - Mr. E. J. O'Malley
- 1 - Mr. A. L. Steel, Jr.
- 1 - Mr. P. Daly
- 1 - Mr. J. L. Tierney

62-118045-277
Directly addressed 7/14/80
SEP 12 1980

SEE INTD ADDENDUM PAGES 4 and 5

~~SECRET~~

CONTINUED - OVER *5-25*

EJO:lfr
5(10)

Classified and Extended by 115
 Reason for Extension FCIM, II, 1-2.4.2 (1, 2 and 3)
 Date of Review for Declassification (July 10, 2010)

W

62-118045

Greenberg/Gray-7227

~~SECRET~~

Memorandum to The Director from E. J. O'Malley
Re: U. S. VS. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

(U) An August 18, 1980 date has been set for captioned trial. Since AAG Heymann was unavailable for contact due to his presence in the United Kingdom and since EAD Mullen was on annual leave, and due to the imminence of the trial, Assistant Director (AD) O'Malley contacted John C. Keeney, Deputy Assistant Attorney General, Criminal Division, DOJ. Accompanying AD O'Malley were Deputy Assistant Director Robert P. Finzel and ASAC Paul Daly. ~~(S)~~

(U) The National Security Act of 1947, the National Security Council Directive Number 1, dated 2/17/72, and Executive Orders 12036 and 12065, all of which place responsibility for the protection of intelligence sources and methods with the DCI, were discussed with Mr. Keeney. He was also informed that the FBI, as a member of the intelligence community, is required by Executive Order 12036 to advise the DCI of matters involving the protection of sources and methods and that our purpose in contacting him was to discuss this requirement. He was further advised that we would do a damage assessment and, as required by the Executive Order, would furnish it to the DCI. It was also pointed out to him that we are aware that the AG intended to participate in an overall damage assessment, including one submitted by FBI, in order to balance the national security interests with prosecutive interests and that an independent, detached, view on the damage from the DCI would greatly assist the AG in this regard. Mr. Keeney said that he would discuss this matter with the DOJ Counsel involved in trial preparation and would call Mr. Daly on 7/11/80 regarding that discussion. ~~(S)~~

(U) During the early evening of 7/10/80, Deputy AG Charles Renfrew contacted AD O'Malley and stated that Mr. Keeney briefed him on our earlier discussion regarding the presentation to the DCI of a damage assessment vis-a-vis intelligence sources and methods. He said that this is a very legitimate concern on our part and that he concurs that a determination has to be made by the DCI as to the damage which could be caused to sources and methods by this trial. ~~(S)~~

~~SECRET~~

- 2 -

Greenberg/Gray-7228

~~SECRET~~

Memorandum to The Director from E. J. O'Malley
Re: U. S. VS. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

(U) Judge Renfrew said that he understood that the AG offered to make an overall damage assessment and that our assessment would be presented to the AG and he, Judge Renfrew, wondered about the timing involved. AD O'Malley replied that we are aware of the AG's offer and that, following a recent briefing on the potential damage, coupled with the setting of the trial date of 8/18/80, we decided to move quickly in order to prepare our damage assessment in time to allow the DCI to consider it and present his separate views to the AG. AD O'Malley added that because of the time pressure we could not wait until AAG Heymann returned from the United Kingdom. (S)

(U) Judge Renfrew suggested that we consider concurring with the AG presenting our damage assessment to the DCI. He said that this would further insulate the FBI from any charges or a perception of bias by directly presenting our assessment to the DCI. He was informed that it has been the FBI's intention all along to insure that the AG receive an unbiased, objective view on the damage and that our presentation of our assessment to the DCI was in furtherance of this. He said that the AG would be returning to Washington on Wednesday, 7/16/80, and requested that we consider asking him to present our damage assessment to the DCI. AD O'Malley informed Judge Renfrew that he would discuss his suggestion with other Bureau officials and would return his call. (S)

(U) After discussing Judge Renfrew's suggestion with EAD Colwell, AD O'Malley attempted unsuccessfully to recontact him on 7/10/80 to inform him that his suggestion would be sent up by memorandum for consideration by Judge Webster. (S)

(U) Judge Renfrew's suggestion makes sense if the AG presents our damage assessment to the DCI along with those of other concerned members of the intelligence community and it is recommended that it be considered favorably by the Director. (S)

~~SECRET~~

~~SECRET~~

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
1 - Mr. Revell
1 - Mr. Bailey
1 - Mr. O'Malley
1 - Mr. Steel
1 - Mr. P. Daly
1 - Mr. Tierney

Memorandum E. J. O'Malley to The Director
Re: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

ADDENDUM: INTELLIGENCE DIVISION

EJO:mjt.7/18/80

Following the Director's approval to ask the Attorney General to present the damage assessment to the DCI, in this instance only because of possible appearance of FBI self interest, a meeting was held on July 15, 1980, between AD O'Malley, DADs Finzel and Monroe, ASAC Daly and SA Joseph Tierney. The main issue concerned the writing of the damage assessment, and the need for appropriate personnel to help in preparing it. SA [redacted] of the Criminal Investigative Division, SA [redacted] of the Records Management Division and SA [redacted] of INTD were selected to work with Messrs. Daly and Tierney in preparing the damage assessment. SAs Daley and Tierney will also pull the necessary documents which have to be analyzed.

b6
b7C

It was emphasized during the meeting that the documents which will be reviewed are those which have been furnished to the defense and that, although one can never be sure exactly which of these documents will or will not be used by the defense, it was decided that we would give it our best effort in presenting a total damage picture should any of the documents be used since it is not predictable in advance which will or will not be used.

The summary will be placed in a binder and will consist of an executive summary, details, and exhibits which will consist of documents supporting the views set out in the executive summary. The damage assessment will be furnished to the Director for transmittal to the Attorney General.

On July 16, 1980, AD O'Malley attempted to contact Judge Renfrew to advise him of the Director's decision in this matter but did not succeed in so doing until late in the afternoon. AD O'Malley requested an appointment to see Judge Renfrew during the early morning hours of July 18, 1980, to further discuss this issue. Judge Renfrew agreed. During the morning of July 18, 1980, AD O'Malley called Judge Renfrew's office and was informed that he had left town and had probably forgotten about the meeting. AD O'Malley then contacted Eric Richard to determine whether or not Judge Renfrew had time to brief the Attorney General on Judge Renfrew's suggestion that the damage assessment be furnished to the DCI through the Attorney General and Judge Webster's concurrence with that suggestion in this case only. Eric Richard said that Judge Renfrew had met with the Attorney General for two hours on July 17, 1980, and he did not think that the subject had come up during their discussion. AD O'Malley informed Mr. Richard that Judge Renfrew

- 4 -

~~SECRET~~

CONTINUED - OVER

Memorandum E. J. O'Malley to The Director
Re: U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL (U)

had made a suggestion about the damage assessment being furnished to the DCI but that he, O'Malley, did not think that he should present Judge Renfrew's idea to the Attorney General but recommended that we wait until Judge Renfrew returned to work on Tuesday, July 22, 1980, to permit Judge Renfrew to present his own idea personally to the Attorney General. Eric Richard concurred with this thinking. AD O'Malley then contacted Judge Renfrew's secretary and requested an appointment for Deputy Assistant Director James E. Nolan to meet with Judge Renfrew during the morning of July 22, 1980, to discuss with him the damage assessment. She advised that Judge Renfrew should be free between 9:15 a.m., and 9:45 a.m. on July 22, 1980.

DAD Nolan will formally advise Judge Renfrew of Judge Webster's decision on this issue and will further suggest to Judge Renfrew that the Attorney General or he should alert the DCI that the damage assessment is being prepared and will be furnished to the DCI for his viewing, that CIA and NSA should also furnish damage assessments to the DCI through the Attorney General to enable the DCI to have the complete picture regarding potential damage and finally, that the DCI alert the State Department to be ready to furnish its views since much of the damage will have foreign policy implications.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Inv. _____	Intell. <u>EJON</u>	Tech. Servs. _____
Exec. AD-Adm. _____	Laboratory _____	Training _____
Exec. AD-LES _____		Public Affs. Off. _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____ *EGP*
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Mr. Colwell
- 1 - Mr. Mullen

DATE: 7/2/80

- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- 1 - Mr. Revell
- 1 - Mr. Bailey
- 1 - Mr. Steel
- 1 - Mr. Daly
- 1 - Mr. Tierney

TO : Mr. Mullen *Jm*

FROM : E.J. O'Malley *EGP*

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

MARK W. Felt

PURPOSE:

To advise of action being taken to protect essential interests of the FBI and the intelligence community. (U)

RECOMMENDATIONS:

(1) That the attached letter from the Director to the Attorney General [redacted]

[redacted]

b1

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. <i>Jm</i>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. <i>EGP</i>	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 05-04-2009

(2) That EAD Mullen contact AAG Heymann to explore or of Central Intelligence (DCI) participation in the assessment and insure DCI is aware of his option to ipate. (U)

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. <i>Jm</i>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. <i>EGP</i>	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

**I CONCUR ON THE UNDERSTANDING
THE DCI WOULD PROVIDE CENTRAL DAMAGE
ASSESSMENT OF POTENTIAL DISCLOSURES
FOR ALL INTELLIGENCE AGENCIES
INVOLVED AND WOULD NOT BE
REQUESTED TO ADVOCATE
DISMISSAL OF PROSECUTION*

A briefing and discussion was held on 7/1/80 of the several areas of concern expected to arise from public disclosures during trial in captioned prosecution, their impact on the FBI and the intelligence and law enforcement communities, and the options available to us to minimize this impact. Attending were Executive Assistant Director Mullen, Assistant Directors O'Malley, Revell and Mintz, Deputy Assistant Directors Finzel and Monroe, Special Assistant to the Director Steel, ASAC [redacted], Daly and SA Joseph L. Tierney. (U)

~~SECRET~~

62-118045-2771
OCT 3 1980

Enc. - Sent 7/5/80

JLT:tdp
(10)

Classified and Extended by 115
Reason for Extension FCIM II, 1-2.4.2 (1,2,3)
Date of Review for Declassification 7/2/2010

60 OCT 23 1980

62-118045

~~SECRET~~

Memorandum E.J. O'Malley to Mr. Mullen
RE: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

The group shares the concern of the Director that the FBI not be an obstacle to this prosecution, either in fact or in the perception of the Department or the public. Nevertheless, we have essential interests which should be protected. These interests relate primarily to the protection of sources, including foreign sources, technical sources, informants and FCI Assets, and "casual" sources. The Director has publicly voiced our traditional concern for the protection of all confidential sources on several occasions, as in connection with remedial legislation proposals for FOIPA, and our reactions in this case should be consistent with this posture. Furthermore, the operational effectiveness of the intelligence and law enforcement communities depends on the ability of their members, including the FBI, to take necessary steps to protect sources and information exchanged between agencies on a confidential basis. The FBI will be held accountable by other agencies for damages arising from this prosecution, despite the fact that responsibility for the decisions rests with the Department. (U)

The postponement of the trial date from 7/7/80 (no new date has been set) removes the necessity to establish policy for disclosure decisions on the eve of or during trial in the absence of the Director. Such policy may be considered in about two or three weeks when the range of materials will presumably be further narrowed by trial preparation. (U)

Two issues of immediate concern remain. (U)

(S)

b1

~~SECRET~~

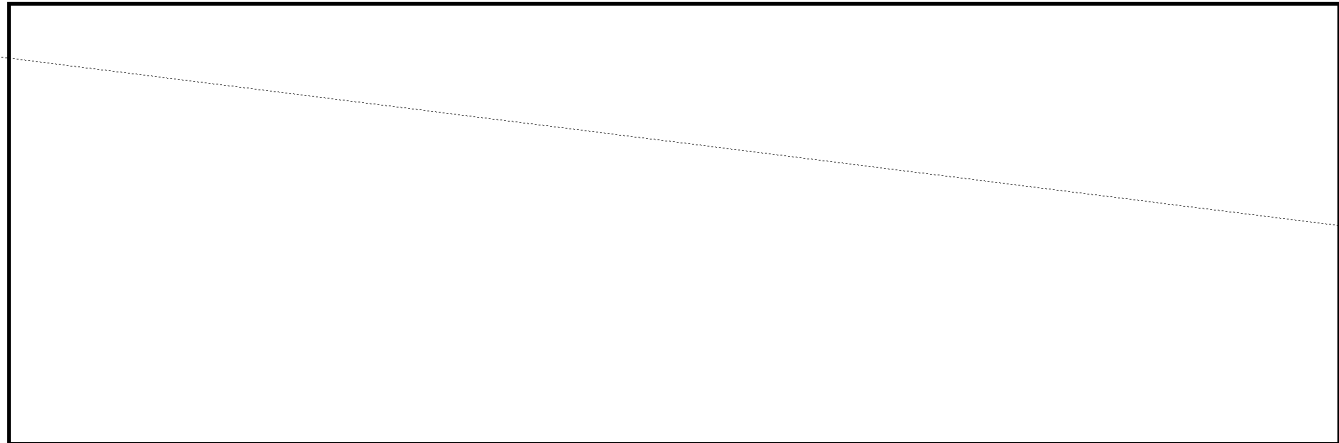
- 2 -

Greenberg/Gray-7233

~~SECRET~~

Memorandum E.J. O'Malley to Mr. Mullen
RE: U.S. VS. W. MARK FELT, ET AL.
PREPARATION FOR TRIAL (U)

(S)



b1

The attached letter from the Director to the Attorney General has been prepared recommending that the Department arrange for the notification. (U)

The second issue concerns the noninvolvement, to date, and the statutory obligations of the DCI (Admiral Stansfield Turner) with regard to the protection of sources and methods. (U)

We have been assured repeatedly by the prosecution that the Attorney General will receive a damage assessment, not only from the FBI, but from NSA and CIA, to assist him in balancing the prosecutive interest with the damage to the national security. This balancing will most likely occur shortly before trial, but could be called for by the Attorney General as soon as the narrowing of trial disclosure issues, mentioned above, is completed. The request for such a presentation could come, therefore, in two or three weeks. (U)

The consensus of the meeting was that DCI involvement in this damage assessment would be in the interests of the Department, the FBI and the national security. Perhaps it is mandatory in light of the DCI's statutory obligations. (U) *

Executive Assistant Director Mullen can personally explore with AAG Heymann DCI participation in the damage assessment. We should insure that the Department is aware of the advantages of this participation, and that DCI is aware of the potential damage to sources and methods presented by trial disclosures. It is noted that DCI may choose not to participate. (U)

~~SECRET~~

- 3 -

*EX. ORDER 12036, 51-604

Greenberg/Gray-7234

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 05-04-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

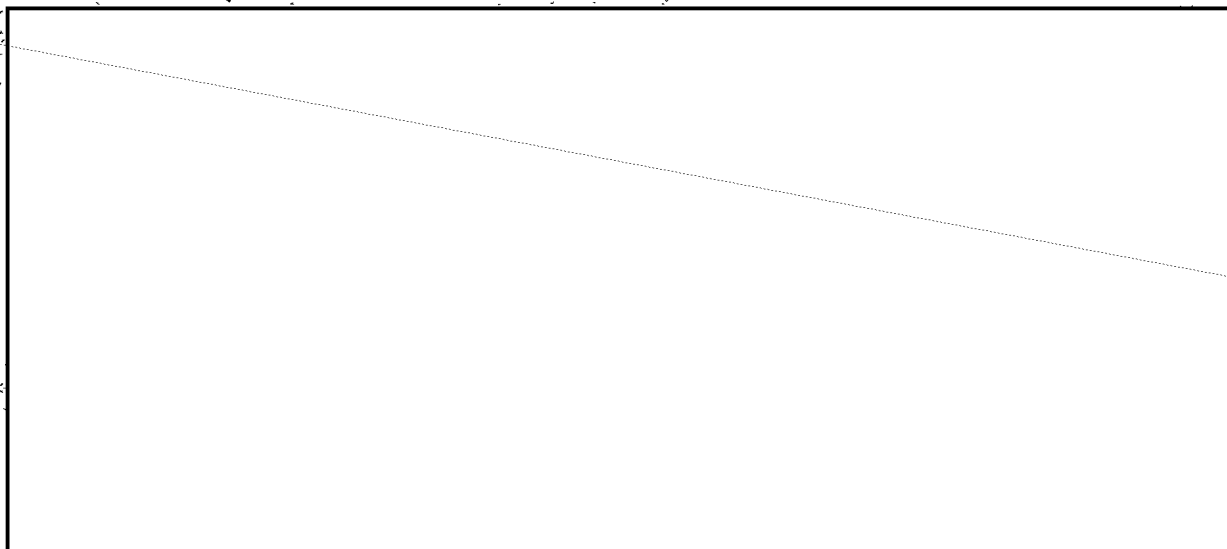
~~SECRET~~

The Attorney General

July 3, 1980

Director, FBI

U.S. vs. W. MARK FELT, et al.



b1

Special Counsel John W. Nields, Jr., is familiar with the background regarding this disclosure and has a copy of the document containing the information in question. (U)

~~Classified and Extended by 115~~
~~Reason for Extension FCIM II, 1-2.4.2 (1,2,3)~~
~~Date of Review for Declassification 7/3/2010~~

~~SECRET~~

NOTE: See memo E. J. O'Malley to Mr. Mullen dated 7/2/80, captioned as above, JLT:tdp.

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
PVD:mjl (11)

62-18045-277X1
① - Mr. O'Malley
1 - Mr. Revell
1 - Mr. Steel
1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

ENCLOSURE

Greenberg/Gray-7235

~~SECRET~~

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

July 3, 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Judge,

- Mr. Colwell _____
- Mr. Mullen _____
- Mr. Joseph _____
- Mr. Bailey _____
- Mr. Bayse _____
- Mr. Greenleaf _____
- Mr. Long _____
- Mr. McKenzie _____
- Mr. Mintz _____
- Mr. O'Malley _____
- Mr. Otto _____
- Mr. Revell _____
- Mr. Stames _____
- Mr. Young _____
- Mr. Bruemmer _____
- Mr. Hotis _____
- Mr. Roin _____
- Mr. Steel _____
- Tele. Room _____
- Miss Devine _____

Attached is the memo we discussed yesterday morning at breakfast relating to the U.S. v. Felt trial. As I indicated then, Mr. Mullen chaired a meeting on Tuesday morning in which the current problems were identified and resolutions developed. The two problems requiring immediate action are (1) [redacted]

(S)

[redacted] and (2) the need to

b1

advise the Department of the FBI's belief that the DCI should participate in the damage assessment which will be done prior to the actual trial in this matter.

With respect to the first of these, [redacted] attached is a memo from your to the Attorney General setting forth the FBI's position. [redacted]

(S)

[redacted] it was believed best

Exempted from automatic declassification

Authority derived from FBI Automatic Declassification Guide

Exemption code 25X(6) Date 05-04-2009

[redacted] en will explore in your absence the possibility of the DCI participating and if any problems arise, you can then address those with the Attorney General after you return. (We have been advised that the Department, at least informally, does not strongly object to DCI participation, and this problem may be resolved prior to your return.)

~~SECRET~~

FILE

(CONTINUED FBI/DOJ OVER)

~~SECRET~~

Also, we have indications from the District Court's clerk that the trial will be reset for the beginning of August. John Mintz advises that he is continuing his efforts to secure a list of topic areas the defense counsel plan to cover in your testimony and he will provide that to you as soon as it is received

Adrian
Adrian

Greenberg/Gray-7237

ALS:cwb
(2)

~~SECRET~~

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

~~SECRET~~

- Mr. Colwell _____
- Mr. Mullen _____
- Mr. Joseph _____
- Mr. Bailey _____
- Mr. Bayse _____
- Mr. Greenleaf _____
- Mr. Long _____
- Mr. McKenzie _____
- Mr. Mintz _____
- Mr. O'Malley _____
- Mr. Otto _____
- Mr. Revell _____
- Mr. Stames _____
- Mr. Young _____
- Mr. Bruemmer _____
- Mr. Hotis _____
- Mr. Roin _____
- Mr. Steel _____
- Tele. Room _____
- Miss Devine _____

~~SECRET~~

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

Memorandum

TO: *WZB/aw* Mr. Bailey

DATE: 7/24/80

FROM: *JEP/12* L. E. Dean

SUBJECT: UNITED STATES OF AMERICA
VS. FELT AND MILLER

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-04-2009 BY 65179 dmh/baw/sbs

C mark

PURPOSE: To record contacts between the Department of Justice (DOJ) Security Office and FBI employees who are being interviewed in connection with the inadvertent disclosure of sensitive classified information in captioned litigation matter.

RECOMMENDATION: None. For information.

APPROVED: Adm. Serv. _____ Legal Coun. _____
 Crim. Inv. _____ Plan. & Insp. _____
 Director _____ Rec. Mgnt. *WZB/aw*
 Exec. AD-Inv. _____ Tech. Servs. _____
 Exec. AD-Adm. _____ Training _____
 Exec. AD-LES _____ Laboratory _____ Public Affs. Off. _____

DETAILS: On 6/13/80, sensitive FBI documents were inadvertently released by DOJ personnel to defense counsel in captioned matter. While these documents have been recovered, the DOJ Security Office is conducting an inquiry to ascertain the circumstances surrounding their inadvertent disclosure.

In that regard, [redacted] DOJ Security Office, has indicated he will be interviewing FBI personnel who have, or may have, knowledge of the particular documents and the circumstances surrounding their inadvertent disclosure. [redacted]

b6
b7C

62-118045

62-118045-278
 (CONTINUED - OVER)

- 1 - Mr. Bailey
- 1 - Mr. Dean
- 1 - Mr. Downum

JUL 28 1980

DD:dmh
 (4)

66 AUG 8 1980

file 4

Memorandum from L. E. Dean to Mr. Bailey
Re: United States of America
vs. Felt and Miller
Bufile 62-118045

point of contact at the Bureau will be with Unit Chief [redacted] Classification Training, Review and Clearances Unit, Document Classification and Review Section, Records Management Division, to coordinate arrangements for all interviews.

b6
b7C

On 7/10/80, [redacted] requested assistance for making arrangements for interview of [redacted] in connection with his inquiry. [redacted] was advised [redacted] is on temporary assignment to DOJ for the Felt and Miller case and may be reached on extension 4763.

b6
b7C

On 7/11/80, [redacted] requested assistance for arranging an interview with Joseph L. Tierney. Mr. Tierney was subsequently interviewed by [redacted] who also received an on-site review of their working space on 7/11/80.

b6
b7C

- 1 - Mr. Colwell
 - 1 - Mr. Mullen, Jr.
 - 1 - Mr. Mentz
 - 1 - Mr. Revelle
 - 1 - Mr. Bailey
 - 1 - Mr. O'Malley
 - 1 - Mr. Steel
- July 22, 1980
- 1 - Mr. Daly
 - 1 - Mr. Tierney

The Deputy Attorney General

Francis M. Mullen, Jr., Executive
Assistant Director, Investigations

U. S. VS. W. MARK FELT, ET. AL.
PREPARATION FOR TRIAL

FEDERAL GOVERNMENT

Reference is made to your discussion on July 22, 1980, with Deputy Assistant Director (DAD) James E. Nolan of this Bureau concerning the preparation of a damage assessment with regard to intelligence sources and methods in connection with captioned prosecution.

The FBI is currently preparing such an assessment of the FBI documents furnished to the defense and Director Webster has agreed that it would be appropriate in this instance for the Attorney General to present the FBI's damage assessment to the Director of Central Intelligence (DCI) for his views. This would be appropriate as the DCI is the responsible officer for the protection of U.S. intelligence sources and methods. To enable the DCI to have a total picture you may desire to request the Central Intelligence Agency (CIA) and the National Security Agency (NSA) to make assessments of their documents for the DCI's review.

The FBI's assessment will be provided to the Attorney General early next week and therefore it would appear most beneficial if the CIA and NSA assessments could be provided to the DCI no later than July 31, 1980.

If you desire to contact NSA or CIA to request such assessments the requests could be made to their General Counsels who are familiar with the documents their agencies have produced for the defense in this matter, namely, Messrs. Daniel Schwartz and Daniel Silver, respectively.

62-118045-279

JUL 24 1980

see note page 2

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

JEN:mjt (11)

RECEIVED ON 7-22-80
DELIVERED TO Judge Renfrew
AG'S OFFICE ON 7-22-80

BW

MAIL ROOM

Greenberg/Gray-7241

The Deputy Attorney General

NOTE:

On July 18, 1980, AD O'Malley attempted to contact Judge Renfrew to advise him of the Director's decision in this matter but Judge Renfrew was out of the city and arrangements were made for DAD Nolan to see Judge Renfrew on the morning of July 22, 1980. DAD Nolan advised Judge Renfrew of the FBI's preparation of the damage assessment and of the need for similar assessments by CIA and NSA if the DCI were to have a total picture of the potential damage so that he might advise the Attorney General concerning the damage to U.S. intelligence which might result from disclosures anticipated at the trial.

Judge Renfrew asked DAD Nolan if he would provide him with a short memorandum concerning their discussion that he might use in his discussion with the Attorney General. DAD Nolan advised the memorandum would be to him on this date.

APPROVED:

Director _____
Exec. AD-Inv. _____
Exec. AD-Adm. _____
Exec. AD-LES _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. 5/20/80
Laboratory _____

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

Memorandum

~~CONFIDENTIAL~~



EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE: 25X(1,6)
DATE 05-04-2009
FBI INFORMATION ONLY

FEDERAL GOVERNMENT

Subject
Investigation Re.: Inadvertent Disclosure of
Sensitive Compartmented Information in the
Case of U.S. v. Felt/Miller
THRU: D. Jerry Rubino, Director
Security Programs Staff, JMD

Date
July 14, 1980
MARK Felt

To
[Redacted]
Security Officer
Federal Bureau of Investigation

From
[Redacted]
Investigation Officer

b6
b7C

An integral part of the above-captioned investigation is to determine when, where, and how the Sensitive Compartmented Information (SCI) involved in the above-captioned case left the requisite SCI control channels. (u)

In this regard, you are requested to provide us with answers to the following questions:

- (S) o When [Redacted] material is released from the Special File Room, is it always properly marked, controlled, and kept within SCI channels? ~~(S)~~ b1
- (S) o When [Redacted] material is provided to the Department's prosecution team, is it always properly marked, controlled, couriered by an SCI cleared courier, and receipted for pursuant to U.S. Intelligence Community directives? ~~(S)~~ b1
- (S) o Is Room 4859, FBI Headquarters Building, in which [Redacted] material is presently stored, a U.S. Intelligence Community approved SCI Storage Facility (SCIF)? If so, please provide us with a copy of the letter of certification. ~~(S)~~ b1
- o Has Room 4859, FBI Headquarters Building, been certified by your office or any FBI official for the open storage of National Security Information (SCI)? If so, please provide us with a copy of the letter of certification. (u)
- (S) o With the exception of certain [Redacted] material, the remainder of the FBI classified NSI being processed in Room 4859, FBI Headquarters Building as part of the above-captioned case, is being stored in file cabinets. This appears to be in contravention with National and departmental level regulations. If these file cabinets

62-118045-281

ACK: 7/31/80 JLB/yek

AUG 7 1980

Greenberg/Gray-7243

59 SEP 18 1980

~~CONFIDENTIAL~~

ORIGINAL CL BY DIR, NSA
 DECL REVW ON 7-14-'2000
EXT BYND 6 YRS BY DIR, NSA
REASON FGI

~~CONFIDENTIAL~~

- 2 -

have been authorized for the storage of classified NSI, please provide us with a copy of the instrument by which the FBI has authorized such storage. ~~(S)~~

- (S) o Are all employees of the Records Management Division, who have unescorted access to Room 4859, FBI Headquarters Building, cleared for special access to SCI, specific access to the [redacted] and do all such employees have a need-to-know with regard to the non-SCI classified NSI material stored in this room in support of the above-captioned case? ~~(S)~~ b1
- (S) o Have the following FBI employees assigned to assist in the production of case-related material been indoctrinated for SCI and specifically briefed on the [redacted]? If so, please provide the dates of such briefings and a copy of their respective SCI indoctrination oaths: ~~(S)~~ b1

b6
b7C

Your expeditious response to these questions will greatly assist in the processing of this investigation.

Greenberg/Gray-7244

~~CONFIDENTIAL~~

Date of Mail 8-8-80

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____ Airtel _____
- LHM _____ Memo XX
- Report _____ Other _____
- Teletype _____

Subject FELT, MARK

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 60324 uc baw/dk/sbs

File Number 62-118045-280

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-7245

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~CONFIDENTIAL~~

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. O'Malley *(50)*

DATE: 7/17/80

FROM : *WB* L. Bailey

SUBJECT: INADVERTENT DISCLOSURE OF
 (S) [REDACTED]
DAMAGE ASSESSMENT ~~(S)~~

b6
b7C

MARK W. Felt



b6
b7C

PURPOSE: To advise of status of inquiry concerning the
 (S) inadvertent disclosure of [REDACTED] information
 and results of damage assessment. ~~(S)~~ b1

SYNOPSIS: On 6/13/80, three FBI documents concerning the
 (S) [REDACTED] were inadvertently provided by
 the Department of Justice (DOJ) to defense counsel in the
 case of United States v. Felt and Miller. Discussion with
 D. Jerry Rubino, DOJ Security Officer, on 6/20/80 determined
 the matter to be referred to the Office of Professional
 Responsibility (OPR). On 6/24/80, Mr. Rubino advised DOJ
 OPR will make inquiry into the matter. The FBI was requested
 to make a damage assessment of the inadvertent disclosure. b1
 FBI assessment reveals damage to the national security
 unlikely and recommendation for administrative action is
 not warranted. ~~(S)~~

RECOMMENDATION: None. For information. (U)

EXEMPTED FROM AUTOMATIC
 DECLASSIFICATION
 AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 EXEMPTION CODE 25X(1,6)
 DATE 05-04-2009

APPROVED: _____

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

ENCLOSURE

Enclosure
 62-118045
 1 - Mr. O'Malley
 1 - Mr. Bailey
 1 - Mr. Tierney

1 - Mr. Dean
1 - [REDACTED]

(CONTINUED - OVER)
20 SEP 3 1980

See Details Page 2

b6
b7C

DD:dmj (6)

60 NOV 25 1980 ~~CONFIDENTIAL~~

Classified and Extended by 8160
 Reason for Classification - FCIM II, 1-2.4.2 (2)
 Date of Review for Declassification July 17, 2000

~~REC MGT.~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

Greenberg/Gray-7246

FBI/DOJ

~~SECRET~~

~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S) [redacted]
Damage Assessment ~~(S)~~ b1

(S) DETAILS: On 6/13/80, three FBI documents concerning the [redacted] were inadvertently provided by DOJ to defense counsel in the case of United States v. Felt and Miller. These documents are identified as follows:

(S) [redacted]

On 6/20/80, Unit Chief [redacted] Classification Training, Review and Clearances Unit, Document Classification and Review Section, Records Management Division, met with Mr. Rubino to discuss the current status of captioned matter.

(S) Mr. Rubino advised he had received a statement from H. W. Nields, Jr., Criminal Division, DOJ, regarding details of how [redacted] information had been inadvertently disclosed to defense counsel personnel (see enclosure).

Mr. Rubino concurred that Mr. Nields' memorandum did not sufficiently address all areas necessary for a proper damage assessment to be performed. Questions such as (a) the identity of all individuals who actually reviewed the sensitive material; (b) the identity of all individuals who may have had access to the disclosed material; (c) length of time, if any, the material was left unattended or otherwise left unsecured; (d) do the individuals who viewed the material possess the necessary clearances; (e) the likelihood of a further inadvertent disclosure of the information to other unauthorized personnel or inadvertently referring to the information directly or indirectly at trial, and other similar questions. (U)

(CONTINUED - OVER)

~~CONFIDENTIAL~~

~~SECRET~~

~~SECRET~~

~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S) [redacted] Damage Assessment (S) b1

Mr. Rubino advised he had collected the basic facts as to what had happened, would refer his findings to the DOJ OPR and suggested the FBI defer any inquiry pending a response from DOJ OPR. (U)

On 6/24/80, Mr. Rubino advised DOJ OPR is undertaking an inquiry into the inadvertent disclosure of sensitive information and requested that the FBI not make any inquiries outside its agency. The FBI should make a damage assessment concerning the incident, however. (U)

Pending the receipt of DOJ OPR findings, there is little reason to expect damage to the national security as a result of the inadvertent disclosure since: (U)

- (1) The individuals known (at this time) to have had possession of the material were subject to a background investigation and were determined to be trustworthy. (U)
- (2) Clearances were granted, based upon the background investigation, for them to review national security information on a need-to-know basis. (U)
- (3) There is no reason, at present, to believe any of the individuals who reviewed the material will reveal this information to any other person, either "cleared" or "uncleared." (U)

Therefore, while sensitive information was given to cleared individuals who did not have a need-to-know, and while there was a breakdown in the administrative procedure for passing approved material

(CONTINUED - OVER)

~~CONFIDENTIAL~~

~~SECRET~~

~~SECRET~~

~~CONFIDENTIAL~~

Memorandum from W. L. Bailey to Mr. O'Malley
Re: Inadvertent Disclosure of

(S) Damage Assessment (X) b1

to the defense counsel, this does not appear to be a security violation which will result in any identifiable damage to the national security. No recommendation for administrative action is warranted at this time. Personnel involved have been cautioned to exercise greater care when handling sensitive, classified information. (U)

Upon receipt of results of DOJ OPR inquiries, a determination will be made by the FBI Security Officer and the Senior Intelligence Officer as to any further action warranted. (U)

~~CONFIDENTIAL~~

- 4 -

Greenberg/Gray-7249

~~SECRET~~

Memorandum

62-118045-281X

TO : D. Jerry Rubino
Justice Management Division

DATE: June 18, 1980

FROM : John W. Nields, Jr. *John W.*
Criminal Division

SUBJECT: Inadvertant Disclosure of Classified Material

On Friday, June 13, 1980, I handed to both defense counsel in the case of United States v. Felt and Miller a package of classified documents. They had been redacted in conformity to the instructions of the originating agency so that they could be introduced in evidence at trial with the consent of that agency. Unfortunately, as I later determined two unredacted documents were inadvertently attached to the redacted trial documents. When this was discovered a few hours later, the entire packages were retrieved. They were neither copied nor shown to uncleared personnel.

The unredacted documents were included in the package as the result of a series of errors. First, my para-legal, requested the FBI to supply a cleaner copy of two or more of the trial documents. When the clean copy was received she redacted it for trial use. In two cases, the FBI had attached to the clean copy another document which had not been requested.

b6
b7C

After had redacted the trial documents, I reviewed them. I noticed that some trial documents had other documents attached. Each such document was covered with a note reading "Do Not Xerox". I did not read the documents. When I finished reading the trial documents I instructed that they be xeroxed and sent to defense counsel. Our xerox machine was broken and the documents were delivered to the FBI for xeroxing. Four copies of each document were made, and four packages were returned to our offices. Apparently, the unredacted attached documents were also xeroxed. Neither I nor any on my staff reviewed the xeroxed packages after they returned from the FBI and before they were delivered by me to defense counsel. Plainly, this should have been done.

b6
b7C

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

62-118045-281X



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Form OBD-197
MAY 1978

Greenberg/Gray-7250

In addition, on retrieving the documents I discovered that on six of them classification markings which should have been redacted were not. I and one other member of my staff have now reviewed all the trial documents again. So have security people from the NSA. No additional errors have been found.

The two unredacted documents have been removed from the packages. The errors in redacting the trial documents have been corrected. The packages are being re-delivered to defense counsel.

~~SECRET~~

~~CONFIDENTIAL~~

July 31, 1980 (U)

[Redacted]

Security Officer (U)

FEDERAL GOVERNMENT

b6
b7C

INADVERTENT DISCLOSURE OF SENSITIVE COMPARTMENTED
INFORMATION IN THE CASE OF U.S. VS. FELT/MILLER (U)

Mr. D. Jerry Rubino, Director
Security Programs Staff
Justice Management Division (U)

MARK FELT

Reference is made to the memorandum of Investigation
Officer [Redacted] dated July 14, 1980, requesting
answers to seven specific questions regarding captioned
matter. (U)

b6
b7C

(S) Question 1: When [Redacted] material is released from the
Special File Room, is it always properly
marked, controlled, and kept within SCI channels? (S)

b1

(S) Question 2: When [Redacted] material is provided to the
Department's prosecution team, is it
always properly marked, controlled, couriered by an
SCI cleared courier, and receipted for pursuant to
U.S. Intelligence Community directives? (S)

b1

62-118045

- 1 - Mr. O'Malley
- 1 - [Redacted]
- 1 - [Redacted]

b6
b7C

- 1 - Mr. Bailey
- 1 - Mr. Tierney

JLR:yeck
(8)

Am

~~CONFIDENTIAL~~

Paragraphs followed by (8160) have been classified
originally. Other classified paragraphs are classified
derivatively from DOJ report dated 7/14/80 with above caption. (U)

~~Classified and Extended by Multiple Sources~~
~~Reason for Extension FCIM II, 1-2.4.2 (2)~~
~~Date of Review for Declassification July 31, 2000~~

62-118045-282

AUG 7 1980

MAILED 13
JUL 31 1980
FBI

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

~~SECRET~~

Greenberg/Gray-7252

MAIL ROOM

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director

Answers to Questions 1 & 2: Since 1976 The Department of Justice prosecution team, in above captioned case, due to their stated exigencies of the situation, has obtained possession of FBI documents, including Sensitive Compartmented Information (SCI) [redacted] which were not properly marked, controlled, and kept within SCI channels, couriered by an SCI cleared courier nor receipted for pursuant to U.S. Intelligence Community directives. [redacted] may recall the incident in 1978, when after consultation with the FBI Security Officer, he personally removed unprocessed compartmented information from the prosecution teams office to secure it in the Department Security Office safe. (S) (8160)

b1
b6
b7C

The FBI has expressed consistent concern since that time, both verbally and in writing, with Department of Justice personnel being in possession of extremely sensitive National Security Information and material without being placed on notice as to its sensitivity pursuant to U.S. Intelligence Community directives; i.e., FBI processing for markings, receipts, et. al. Efforts of a former FBI Security Officer to remedy the situation resulted in his being disqualified from further contact with captioned case by written directive from the Department of Justice. (U)

Question 3: Is Room 4859, FBI Headquarters Building, in which [redacted] material is presently stored, a U.S. Intelligence Community approved SCI Storage Facility (SCIF)? If so, please provide us with a copy of the letter of certification. (S) (U)

b1

Question 4: Has Room 4859, FBI Headquarters Building, been certified by your office or any FBI official for the open storage of National Security Information (SCI)? If so, please provide us with a copy of the letter of certification. (U)

~~CONFIDENTIAL~~

- 2 -

~~SECRET~~

Greenberg/Gray-7253

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director

(S) Question 5: With the exception of certain [redacted] material, the remainder of the FBI classified NSI being processed in Room 4859, FBI Headquarters Building as part of the above-captioned case, is being stored in file cabinets. This appears to be in contravention with National and departmental level regulations. If these file cabinets have been authorized for the storage of classified NSI, please provide us with a copy of the instrument by which the FBI has authorized such storage. (S)

b1

Answers to Questions 3, 4 & 5: Director of Central Intelligence Directive 1/19, effective June 6, 1978, entitled Uniform Procedures for Administrative Handling and Accountability of Sensitive Compartmented Information (SCI), paragraph 2 (a) states "The Central Intelligence Agency will be responsible for accrediting those SCI facilities within organizations not under the security cognizance of an Intelligence Community Senior Intelligence Officer (SIO)." (U)

Paragraph 1 (d), of same Directive, defines an Intelligence Community Senior Intelligence Officer as "those officials who represent their departments or agencies on the National Foreign Intelligence Board (NFIB)." (U)

(U) The Assistant Director, Intelligence Division, Federal Bureau of Investigation, is an SIO and has accredited Room 5991 (Special File Room) as a permanent storage facility for SCI after informal inspections of the JEH building (FBI Headquarters) by a representative from the Special Security Center, Central Intelligence Agency. No "letter of certification" is required nor maintained by the FBI SIO. (S) (8160)

The FBI JEH Building operates on a "closed building concept". All FBI personnel are cleared for "Top Secret" access. Noncleared personnel must be escorted. The Federal Protective Service maintains a 24 hour perimeter security patrol, accompanied by a 24 hour internal security patrol by FBI employees. Additional security systems include closed circuit television, electronic alarms, restricted areas and special keying requirements. (U)

~~CONFIDENTIAL~~

- 3 -

~~SECRET~~

Greenberg/Gray-7254

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director

Room 4859, JEH Building (FBI Headquarters) is part of a restricted access area, requiring special identification to be presented at guarded check points and requiring special access keys after normal duty hours to gain entrance through locked doors. Being located on the fourth floor of a building under 24 hour armed perimeter guard with additional 24 hour internal patrol, the SIO is satisfied that no forced entry may be gained through windows or exterior walls. In any event, closed circuit television provides immediate response to any such attempt. (U)

Room 4859, JEH Building (FBI Headquarters), is an SIO authorized facility for review of National Security Information by appropriately cleared personnel with a need-to-know including material designated Top Secret and SCI. In addition, Room 4859 and the surrounding area is an SIO authorized facility for permanent open storage of National Security Information up to Top Secret and temporary storage of SCI material. (S) (8160)

At a meeting of the Departmental Review Committee 7/19/72, in response to the Bureau's request, Departmental Regulations covering this point were changed to accommodate us, specifically to allow for the storage of classified material in non-safe type cabinets where our files were kept under continuous surveillance by supervisory personnel and security patrols. No "letter of certification" is required nor maintained by the FBI SIO. (U)

Question 6: Are all employees of the Records Management Division, who have unescorted access to Room 4859, FBI Headquarters Building, cleared for special access to SCI, specific access to the [redacted] and do all such employees have a need-to-know with regard to the non-SCI classified NSI material stored in this room in support of the above-captioned case? (S) b1 (S)

Question 7: Have the following FBI employees assigned to assist in the production of case-related material been indoctrinated for SCI and specifically briefed on the [redacted] If so, please provide the dates of such briefings and a copy of their respective SCI indoctrination oaths: (S) b1 (S)

~~CONFIDENTIAL~~

~~SECRET~~

~~CONFIDENTIAL~~

D. Jerry Rubino, Director



b6
b7C

Answers to Questions 6 & 7: All employees of the Records Management Division are cleared to ~~Top Secret~~. [redacted] assigned to captioned matter, were given SCI indoctrination on 9/12/79 and 1/26/79, respectively. If other employees assigned to assist for short periods of time request documents from the Special File Room that are SCI material, they are refused and the documents are picked up by [redacted]. Any production of SCI materials in captioned matter is handled by [redacted].

b6
b7C

(U) [redacted] (S) (8160)

Note: Referenced memorandum of investigation Officer [redacted] [redacted] DOJ, dated 7/14/80 inquired into security procedures of FBI and security of certain FBI space. Bureau responses provided to set forth procedures in FBI to maintain sensitive material in secure fashion.

b6
b7C

~~SECRET~~

~~CONFIDENTIAL~~

Memorandum

66 Falls



- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir. _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

To : Mr. Long

Date 7-21-80

From : J. L. Williamson

Subject : U.S.V. (FELT), et. al.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

PURPOSE:

To advise that John Nields, Special Prosecutor, Department of Justice in captioned matter, requested certain information from the FBI Manual of Instructions.

On 7-16-80, Mr. Nields contacted the Performance, Recognition and Awards Unit (PRAU) requesting access to the Manual of Instructions and to the FBI Special Agent Handbook as set forth below:

Manual of Instructions - Vol. I, Section 2, pages 20, 21, 22, 23 and 24

FBI Handbook for Special Agents - Part II, pages 14b, 14bb, 14c, 14cc, 14d, 14e, 14f, 14g, 14h, 14i and 14j

As they appeared as of 7-1-72, and any changes to 7-1-73.

After reviewing these documents, he requested copies. Copies of these sections have been made for Mr. Nields and will be furnished to him. He has been advised that this material is available for him presently. Copies of these documents will be maintained in the PRAU for further reference.

DOC: bm (3)

- 1 - Mr. Coulson
- 1 - Mr. Daly

SEP 5 1980

ENCLOSURE

APPROVED: _____

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Inv. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

64 SEP 24 1980

Greenberg/Gray-7257

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

C. SEARCHES AND SEIZURES

[Information on the law of search and seizure is contained in Bureau monographs on this subject furnished to all offices.]

1. Deleted
2. Bureau instructions
 - a. Deleted
 - b. Deleted
 - c. Deleted
 - d. Immunity of representatives of foreign governments and their property from arrest
 - (1) Diplomatic representatives of foreign governments in the U. S. are exempt from arrest by all officers, Federal or state.
 - (2) Officers of either Federal or state governments may not enter the office or dwelling of these representatives for the purpose of making an arrest, search, or seizure.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

62-118045-283

- (3) There are two types of immunity granted to representatives of foreign governments:
- (a) Territorial immunity — It applies to all embassies, legations, and consulates and, consequently, no Agent of the Bureau should ever attempt to enter any embassy, legation, or consulate for the purpose of making any arrest, search, or seizure. This territorial immunity extends to both the offices and residences of ambassadors and ministers, but only to the office of a consul and not to his residence.
 - (b) Personal immunity — It applies to ambassadors and ministers, members of their staffs and domestic servants; consequently, no Agent should ever attempt to cause the arrest or detention of any person included in these classifications. The personal immunity applies to the staffs and domestic servants, irrespective of the citizenship of the members of the staff or servants. It will be noted that personal immunity is not granted ordinarily to consuls from arrest on misdemeanor charges. In the event the arrest of a consul is contemplated, the Bureau should be immediately notified by telephone or teletype before any action is taken in order that an appropriate check may be made with the State Department to determine whether the consul involved has any special immunity.
- e. [Searching military personnel on Government reservations
Military personnel, their personal effects, and their living quarters on Government reservations may be searched legally by other military personnel on authority of a commanding officer having jurisdiction at that place. Evidence found may be introduced at criminal trial in Federal district court. Department of Justice memorandum 2-5-48; Grewe v. France, 75 F. Supp. 433 (1948); U. S. v. Grisby, 335 F. (2d) 652 (1964). Neither search warrant, consent, nor an arrest to which the search is incidental is needed. The search should be made by military personnel.]
- f. Marking evidence for identification
- (1) All articles legally seized as evidence should be carefully marked for identification. These markings should be of such a character as not to injure the evidence itself. They should be made in such a manner as to preclude the possibility of the marks being obliterated. Their character should be such as to make it possible for the person or persons who obtained the evidence to testify at a later date that this particular article was found at a certain place at a certain time. Each mark should be distinctive; therefore, an "x" should never be used. Evidence obtained and placed in containers or cellophane envelopes should be appropriately identified. (See section 8 of this manual.)
 - (2) Detailed notes should be made describing the articles found, the place they were found, the date found, and the person who found them and the identifying mark on each. The original notes should be preserved in the investigative file of the case for use by the Agent when he is called upon to testify at the trial.
 - (3) If any of the evidence contains identifying numbers, such as found on guns or lottery tickets, these numbers should be recorded by the Agent finding the article and the original notes preserved.
- g. Inventory and receipt for property obtained through search and seizure
- (1) During the course of a search incidental to a lawful arrest or by consent with the use of a waiver, form FD-26, if money, property, documents, or anything of value is seized from the premises or the person subjected to the search, an itemized list in duplicate (triplicate if by search warrant) of all such money, property, documents, or other things of value shall be made. Extreme care should be exercised to insure that the description of all items obtained is adequate and accurate.

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

The following certificate shall be set forth at the conclusion of the itemized list and shall be witnessed by at least two Agents or one Agent and another person. If the subject or the person from whom the property, money, or other things of value are obtained refuses to sign the certificate a notation should be made indicating the reason for refusal.

This is to certify that on _____ at _____, Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, at the time of conducting a search of my person and/or the premises at _____ obtained the above-listed items. I further certify that the above represents all that was obtained by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

- One copy of this itemized list shall be furnished the subject or the person from whose premises the property, including documents or other things of value, was obtained, as a receipt. The original of this itemized list, along with the certificate attached, shall be included in the exhibit envelope of the case file.
- (2) Where a search of premises is conducted under a search warrant, the itemized list and certificate shall be prepared in triplicate since the law requires that the original thereof shall be returned to the U. S. [Magistrate] or district court judge issuing the search warrant. One copy of this itemized list as an inventory, together with a copy of the search warrant, shall be turned over to the subject as provided for in rule 41 of the Federal Rules of Criminal Procedure.
- (3) Whenever an Agent conducting a lawful search under a search warrant, incidental to lawful arrest, or by consent with the use of a waiver, does not seize or obtain any property or anything else of value the following certificate shall be obtained:

Greenberg/Gray-7260

This is to certify that on _____ at _____ Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, conducted a search of the premises at _____ occupied by me. I certify that nothing was removed from my custody by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

The provisions of the preceding section shall also apply to the procedure set forth in this section.

- h. Counting recovered money
Whenever money or other property consisting of numerous items requiring counting is obtained in connection with Bureau investigations, the money or property should be independently counted by two Agents and their results compared for the purpose of verifying the accuracy of the count and detecting any errors.
- 3. Bureau policy
 - a. Search warrants should be obtained in all cases wherever possible. Efforts to have search warrant issued, whether successful or not, should be reported. A copy of every affidavit filed by an Agent is to be obtained and filed as a serial in the case file.
 - b. USA's authority is necessary before applying for a search warrant.
 - c. [Deleted]
 - d. Searches and seizures must be planned and conducted in as short a period of time as reasonably possible.
 - e. There must be no exploratory searches. Extreme care should be used at all times to avoid a situation which would preclude the Bureau from adequately refuting and emphatically denying any accusation of ransacking.
- 4. Searches and seizures by state, local, or foreign officers
Relevant evidence seized independently by state, local, or foreign officers must be called to the attention of the USA promptly and described in the next investigative report so that attention will be directed early to the circumstances of its seizure. All evidence seized illegally by state or local law enforcement officers is inadmissible in court, regardless of the jurisdiction of the officer by whom it was seized or the court in which it is presented. *Mapp v. Ohio*, 367 U. S. 643 (1961). Legality is to be tested by the Federal standard, however, with the result that a Federal court may uphold a seizure previously held illegal by a state court. Relevant evidence seized by foreign law enforcement officers in their own country and acting on their own initiative may be admissible in a U. S. court even though the evidence was not obtained in conformance with fourth amendment standards. *Brulay v. U. S.*, 383 F. (2d) 345 (1967).

Greenberg/Gray-7261

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

5. U. S. Bureau of Customs searches
The Department has expressed the view that should a Customs officer lawfully conducting an investigation for customs purposes request the assistance or presence of a Bureau Agent, the presence of such Agent and his participation in questioning the individual being searched would not invalidate an otherwise legal search or seizure. The Department further stated that the U. S. customs service by statutory enactment has the right to search without a warrant and without placing under arrest aliens or citizens entering the U. S. The Bureau's policy with reference to diplomatic personnel or similar official personnel of foreign governments is not to request or conduct an examination or search of their baggage or other material under their control without first obtaining the permission of the State Department. When information is received that an individual assigned to the diplomatic staff of a foreign government is carrying material of importance to the national security of the U. S., the permission of the State Department is requested to have the search effectuated.

The local office of the Bureau of Customs should be requested to effect a search of the material in the possession of individuals who do not have any official status when, in the opinion of the field, it is believed that something of value will be ascertained (see Manual of Rules and Regulations, part II, section 8B, re placing stops with INS). Bureau Agents may be present at such an examination in the capacity of an observer only.

[6. Discovery and inspection

[A Federal court may order the Government to permit the defendant, prior to
[trial, to inspect, copy, or photograph books, papers, documents, tangible
[objects, buildings, or places, upon a showing of materiality and reason-
[ableness. This will include items of physical evidence obtained by search
[and seizure but it does not apply to investigative reports, memoranda,
[other internal Government documents, or to statements made by witnesses.
[However, upon a sufficient showing, the court may at any time order that
[the discovery or inspection be denied, restricted, or deferred, or make
[such other order as is appropriate. (Rule 16.)]

D. HABEAS CORPUS PROCEEDINGS; REFUTING FALSE ALLEGATIONS

1. Departmental instructions
By Departmental Circular #4004, Supplement #1, dated 12-29-47, the Department instructed all USAs to immediately notify the SAC of the office covering their judicial district whenever habeas corpus proceedings are filed in cases investigated by the FBI.
2. Bureau instructions
 - a. It is the responsibility of each SAC to insure immediate notification of his office regarding the filing of habeas corpus proceedings in cases investigated by the FBI. Where such proceedings are filed, the Bureau must be immediately advised of all pertinent facts and developments. Copies of petitions for writs of habeas corpus and other pleadings and briefs in such proceedings must be immediately obtained and forwarded to the Bureau. It is the responsibility of each SAC to take appropriate action to insure the complete refutation of all false allegations of mistreatment, misconduct, or otherwise on the part of Agents which may be raised in such habeas corpus proceedings. The official court records in each instance must clearly show a thorough and complete refutation of such false allegations.
 - b. Whenever, during the course of a trial in either Federal or state courts, derogatory statements or false allegations of misconduct, brutality, or other illegal treatment are made against Agents of the FBI, immediate steps are to be taken by the Agents present through the USA or state prosecutor to insure a complete refutation on the official court record of such false statements or allegations. Agents in attendance at such trials should immediately advise the SAC of the field office where the case is being tried of the facts concerning such derogatory statements and false allegations. It is the responsibility of the SAC to determine if the false statements and allegations are adequately refuted on the official court records and to promptly advise the Bureau of all pertinent facts and circumstances.

Greenberg/Gray-7262

SECTION 2. ARRESTS, INTERVIEWS AND CONFESSIONS,
SEARCHES AND SEIZURES

The following certificate shall be set forth at the conclusion of the itemized list and shall be witnessed by at least two Agents or one Agent and another person. If the subject or the person from whom the property, money, or other things of value are obtained refuses to sign the certificate a notation should be made indicating the reason for refusal.

This is to certify that on _____ at _____, Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice, at the time of conducting a search of my person and/or the premises at _____ obtained the above-listed items. I further certify that the above represents all that was obtained by Special Agents of the Federal Bureau of Investigation, U. S. Department of Justice.

(SIGNED) _____

Witnessed:

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

Special Agent
Federal Bureau of Investigation
U. S. Department of Justice

One copy of this itemized list shall be furnished the subject or the person from whose premises the property, including documents or other things of value, was obtained, as a receipt. The original of this itemized list, along with the certificate attached, shall be included in the exhibit envelope of the case file.

- (2) Where a search of premises is conducted under a search warrant, the itemized list and certificate shall be prepared in triplicate since the law requires that the original thereof shall be returned to the [Federal magistrate] issuing the search warrant. One copy of this itemized list as an inventory, together with a copy of the search warrant, shall be turned over to the subject as provided for in rule 41 of the Federal Rules of Criminal Procedure.
- (3) Whenever an Agent conducting a lawful search under a search warrant, incidental to lawful arrest, or by consent with the use of a waiver, does not seize or obtain any property or anything else of value the following certificate shall be obtained:

62-118045-283X

ENCLOSURE

Greenberg/Gray-7264

62-118045-283X

ENCLOSURE

Greenberg/Gray-7275

The Attorney General

July 28, 1980

Director, FBI

U. S. v FELT et al.

MARK W. FELT

In accordance with recent discussions with John W. Nields, Jr. of your staff and the Deputy Attorney General, I am enclosing the attached damage assessment relating to anticipated disclosures of information in the forthcoming trial of this matter. This assessment was prepared by the Intelligence Division of the FBI with assistance from the Criminal Investigative Division as well as our Security Office. The assessment is being sent to you for possible forwarding to the Director of Central Intelligence in connection with his statutory responsibilities to protect sources and methods. The assessment and its attachments are examples of anticipated disclosure problems based on a review of documents marked for trial purposes. Solutions to disclosure problems in connection with this trial are developed periodically and it may well be that some of these specific examples cited in the damage assessment may be resolved. However, in view of the scheduled trial date of August 18th, it is not possible to hold a damage assessment in abeyance pending attempted solution of all the problems.

62-118045-283X

I would like to express appreciation for the sensitivity to national security concerns exhibited by the prosecutors and for their ability to come up with alternate disclosure methods protecting such concerns.

Enclosures

*delivered to Eric Richards with enclosures
7/29/80
prd.
W HW*

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.:
 - Adm. Servs. PVD:jam (13)
 - Crim. Inv.
 - Ident.
 - Intell.
 - Laboratory
 - Legal Coun.
 - Plan. & Insp.
 - Rec. Mgnt.
 - Tech. Servs.
 - Training
 - Public Affs. Off.
 - Telephone Rm.
 - Director's Sec'y

- 1 - Mr. Revell
- 1 - Mr. Steel
- 1 - Mr. Bailey
- 1 - Mr. Tierney

6 OCT 3 1980

*62-118045-
4-120*

57 OCT 22 1980
MAIL ROOM

Greenberg/Gray-7291

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 05-04-2009

~~CONFIDENTIAL~~

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

July 28, 1980

UNITED STATES v. W. MARK FELT, ET AL.

DAMAGE ASSESSMENT

This constitutes the assessment of anticipated damage to the national security and to present and future operations of the FBI as a result of disclosures necessitated by the trial of Messrs. W. Mark Felt and Edward S. Miller now scheduled for August 18, 1980. This assessment responds to a suggestion of Prosecutor John W. Nields, Jr., who indicated his inability to adequately assess the potential national security damage. Mr. Nields requested the FBI submit such an assessment for the consideration of the Attorney General. This assessment speaks only to the potential damage to the FBI and does not purport to speak for other members of the United States Intelligence Community or for the foreign relations interests of the United States. (U)

Attached as exhibits are copies of documents and stipulations as they are presently scheduled for use at trial. The exhibits used were selected from a review of those exhibits and stipulations which were available to us during the week of July 21, 1980. (U)

No attempt has been made to identify, much less to present, every possible situation of potential danger. Instead, a representative collection is presented here. The selection was based upon the review and the recollection of situations which were difficult to satisfactorily solve. Some of these problem areas may be solved completely or in part before the trial commences. The concerns represented by this particular communication, however, will remain in other trial document, testimonial or stipulation situations. (U)

~~CONFIDENTIAL~~

~~Classified and Extended by 115~~
~~Reason for Extension FCIM II, 1-2.4.2 (1,2&3)~~
~~Date of Review for Declassification 7/28/2010~~

Exec AD Inv. *WJW*
Exec AD Adm. *WJW*
Exec AD LES

- | | | |
|-------------------|----------------|---------------|
| Asst. Dir.: | | |
| Adm. Servs. | 1-Mr. Colwell | 1-Mr. Revell |
| Crim. Inv. | 1-Mr. Mullen | 1-Mr. Steel |
| Ident. | 1-Mr. Mintz | 1-Mr. Bailey |
| Intell. | 1-Mr. O'Malley | 1-Mr. Tierney |
| Laboratory | | |
| Legal Coun. | | |
| Plan. & Insp. | | |
| Rec. Mgnt. | | |
| Tech. Servs. | | |
| Training | | |
| Public Affs. Off. | | |
| Telephone Rm. | | |
| Director's Sec'y | | |

~~SECRET MATERIAL ATTACHED~~

~~(CONTINUED-OVER)~~

- | | | |
|---------------------|------------|-------------------|
| APPROVED: | Adm. Serv. | Legal Coun. |
| Director <i>WJW</i> | Crim. Inv. | Plan. & Insp. |
| Exec AD-Inv. | Ident. | Rec. Mgnt. |
| Exec AD-Adm. | Intell. | Tech. Servs. |
| Exec AD-LES | Laboratory | Training |
| | | Public Affs. Off. |

JLT/PVD:jam *jam* (13)

prd 62-11804

MAIL ROOM

ENCLOSURE

~~SECRET~~

United States v. W. Mark Felt, et al.

Our problems center on our protection of sources of information such as foreign governments, informants and casual sources. (U)

In preparing for trial, we have dealt with a considerable amount of foreign government information. With two exceptions, we have been able to substitute nonforeign government information covering the same event or set of facts. The substitute information has either been the subject of a stipulation or the document has been altered to contain nonforeign government information. In either case, the fact that the FBI had the same or similar information which required special handling will be obvious at trial. Because of the nature of these stipulations and/or altered documents, it may be concluded that a foreign government or some other sensitive source has furnished the same information. (U)

The term casual source describes a large group of people who furnish information to the FBI. Casual sources include cooperative neighbors, friends and relatives of fugitives, state and local law enforcement agencies and sources of information such as banks and utilities. The receipt of this information was and is premised on the FBI's ability to protect these sources from disclosure. (U)

There are two problems presented by oral testimony. The first involves oral testimony based on documents from FBI files. Chief Judge Bryant has refused to issue a trial protective order but has said he will instruct the defense that the witness must testify in line with the document as presented into evidence. By this, he is limiting testimony and precluding a witness from putting into evidence information which has been removed from a particular document. Hopefully, this will prevent information we sought to protect from being disclosed. The success, of course, rests on the ability and willingness of the witness to avoid inadvertent disclosure during the course of testimony in the heat of the trial. (U)

The second problem involves the witness who will be testifying without benefit of a document or on aspects of a situation not included in the edited document. This presents a different problem since the witness does not have a document to proscribe his testimony and must rely on some instruction either from the court, the defense or the Department of Justice. Even with such instruction, the witness must be able to determine whether the information he is disclosing originated from a sensitive source such as a foreign government. In many instances,

United States v. W. Mark Felt, et al.

witnesses possess information they learned eight to ten or more years ago. They are not going to be able to recall where, how, or when they learned it. Generally, it is the origin of information which creates the need to protect it, be it a foreign government or a sensitive informant. (S)

To date, the only effective constraint on disclosure in this area are the three court-approved motions in limine. These motions govern a very small area of concern and do not prevent disclosure of information of serious concern to the Bureau. It is difficult to make a prediction or even a guess at what may or may not be disclosed during the course of this trial by witnesses. With the defense attempting to show foreign direction of the Weatherman, there is a substantial risk that sensitive information will be disclosed. This information often originates with a foreign government, a live source

b1

[Redacted]

[Redacted]

b1

An attempt is being made to create a summary of the information in such a fashion as to give the defense the information it needs to defend their clients and, at the same time, protect the national security concerns. As of now, a summary acceptable to the defense and the Government has not been drafted. (S)

Finally, we are concerned about our ability to correctly analyze and assess damage from documents which, in most cases, are at least seven years old.

RECEIVED
TELETYPE UNIT

23 JUL 00 21 21z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Exec. AD-Inv.	_____
Exec. AD-Adm.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

HN0642 2042115

OO HQ

DE HN 005 2042115

O 232100Z JULY 80

FM HONOLULU (67-3277)

TO DIRECTOR IMMEDIATE

BT

UNCLAS E F T O

ATTENTION JOSEPH L. TIERNEY, ROOM 4859, JEH

UNITED STATES VS L. PATRICK GRAY, ET AL, U.S. DISTRICT COURT,
DISTRICT OF COLUMBIA; CR

ON JULY 22, 1980, SA [REDACTED] WAS CONTACTED BY
HIS ATTORNEY, [REDACTED], AND ADVISED THAT THE DEPARTMENT
OF JUSTICE HAD REQUESTED SA [REDACTED] PRESENCE IN WASHINGTON,
D.C. FOR PRETRIAL CONFERENCE ON THE FOLLOWING ALTERNATE DATES:
JULY 24, 29 OR 31, 1980. JULY 24, 1980 WAS IMMEDIATELY RULED
OUT AS BEING A PHYSICALLY IMPOSSIBLE DEADLINE TO MEET. REGARDING
THE 29TH AND 31ST, SA [REDACTED] IS MORE THAN WILLING TO COOPERATE
IN THIS MATTER; HOWEVER, ON THOSE PARTICULAR DATES, IT WOULD BE
EXTREMELY INCONVENIENT AND POSE A SEVERE HARDSHIP AS HE HAS
PREVIOUSLY BEEN APPROVED ANNUAL LEAVE FOR THE DATES OF JULY 29 OCT 3 1980

(V)

b6
b7C

67-118045-283 X1

60 NOV 07 1980
 Contents conveyed
 Frank Martin, DOJ,
 will advise John Wields
 DOJ and confer with
 attorney. Martin expected to be able
 to accommodate [REDACTED] needs
 but doubts if a single pretrial
 and trial trip combined
 is possible. LJS 7/24/80
 62-118045-

b6
b7C

PAGE TWO DE HN 67-3277 UNCLAS E F T O

THROUGH AND INCLUDING AUGUST 6, 1980; AS HE MUST MOVE FROM HIS PRESENT RESIDENCE TO A NEW RESIDENCE ON JULY 31 AND AUGUST 1, 1980 AND WILL BE PHYSICALLY HANDLING THE ENTIRE MOVE, INVOLVING THE PACKING AND UNPACKING OF HOUSEHOLD EFFECTS.

ON JULY 23, 1980, SA [REDACTED] ADVISED HIS ATTORNEY OF THE ABOVE, WHO IN TURN WILL CONTACT THE DEPARTMENT OF JUSTICE.

b6
b7C

REQUEST OF THE BUREAU:

BUREAU IS REQUESTED TO CONTACT THE DEPARTMENT OF JUSTICE AND ADVISE THEM THAT SA [REDACTED] REQUESTS PRETRIAL CONFERENCE BE HELD CLOSER TO THE DATE OF ACTUAL TRIAL. FLIGHT FROM HONOLULU TO WDC IS ELEVEN HOURS IN DURATION, SIX HOUR TIME DIFFERENCE AND COSTS APPROXIMATELY \$800.00. IT WOULD APPEAR MOST REASONABLE AND MOST ECONOMICAL TO GRANT SA [REDACTED] REQUEST.

b6
b7C

BT

005

2011 May Day

Greenberg/Gray-7296

UNITED STATES GOVERNMENT

Memorandum

TO : Joe Tierney

DATE: August 10, 1980

FROM : John W. Nields, Jr *JWN*

SUBJECT: mark
U.S. v. Felt et al

C

Please provide me with a copy of a document from Tolson's files dated Jan. 6, 1967 stating that A.G. authorization should always be obtained in writing.

Joe, please initial + date the copy you send over here. Thanks



Greenberg/Gray-7297

[Handwritten signature]
50 SEP 23 1980

Handled 8/11/80 2:55
62-118045-284

4-3

62-118045-

SEP 12 1980



DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

086

PAGE 1 OF 4	CLASSIFICATION SECRET	PRECEDENCE ROUTINE
DATE 9-16-80		

START HERE

FM FM DIRECTOR FBI

TO ALL LEGAL ATTACHES ROUTINE

BT

~~SECRET~~

U. S. VS W. MARK FELT, ET AL.; FOREIGN SOURCE INFORMATION. {U}

12 THE TRIAL OF FORMER ACTING ASSOCIATE DIRECTOR W. MARK FELT
 AND FORMER ASSISTANT TO THE DIRECTOR EDWARD S. MILLER BEGAN
 10 MONDAY, SEPTEMBER 15, 1980. PROSECUTION CASE IS EXPECTED TO
 CONSUME TWO WEEKS OR MORE AND DEFENSE FOUR WEEKS OR MORE. THE
 8 SAME CHARGES AGAINST FORMER ACTING DIRECTOR L. PATRICK GRAY III
 ARE STILL OUTSTANDING AND HE MAY BE TRIED AFTER THIS TRIAL IS
 6 COMPLETED. {U}

DOCUMENTS AND ORAL TESTIMONY TO BE USED PRIMARILY BY THE
 4 DEFENSE ON THE ISSUE OF FOREIGN INVOLVEMENT IN THE WEATHERMAN
 UNDERGROUND ORGANIZATION {WUO} WILL COVER AREAS ON WHICH
 2 FRIENDLY FOREIGN SERVICES AND LEGAL ATTACHE SOURCES HAVE FURN-
 IShed INFORMATION. {U}

62-118045-285

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY <i>[Signature]</i>	DRAFTED BY JLT:JKR {19}	DATE 9-15-80	ROOM 4634/5	TELE EXT. 4691/232
-----------------------------------	----------------------------	-----------------	----------------	-----------------------

- 1 - MISS DEVINE
- 1 - MR. R. J. BRUEMMER
- 1 - MR. A. L. STEEL
- 1 - EACH EXECUTIVE ASSISTANT DIRECTOR

- 1 - EACH ASSISTANT DIRECTOR
- 1 - MR. P. DALY
- 1 - MR. J. L. TIERNY

SEP 19 1980

Greenberg/Gray-7298

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER

6608T 21 1980 SEP 17 1980

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

~~SECRET~~

DO NOT TYPE PAST THIS LINE

~~SECRET~~

2

CONFIDENTIAL

PAGE TWO DE RUEHFB 0086 ~~SECRET~~

LEGAL ATTACHES MAY ASSURE ANY SOURCE OR FOREIGN SERVICE
 20 THAT INFORMATION FURNISHED BY THEM HAS NOT BEEN CLEARED FOR USE
 18 AT TRIAL. ALL FOREIGN SOURCE INFORMATION HAS BEEN EXCISED FROM
 16 DOCUMENTS CLEARED FOR TRIAL. THE TRIAL JUDGE HAS ORDERED THAT
 14 WITNESS TESTIMONY BE LIMITED IN THE SAME FASHION. STIPULATIONS
 12 HAVE BEEN DRAFTED AND DOCUMENTS ALTERED TO REPLACE FOREIGN
 10 SOURCE INFORMATION WITH INFORMATION OBTAINED FROM PUBLIC SOURCE
 8 MATERIAL OR FROM DOMESTIC SOURCES. OFTEN THE SUBSTITUTE INFOR-
 6 MATION HAS BEEN MORE DETAILED AND SPECIFIC THAN THE FOREIGN
 4 SOURCE INFORMATION IT IS REPLACING. WHEN IT IS LESS SPECIFIC,
 THE LESSER DETAIL HAS BEEN USED. IN SEVERAL INSTANCES, INFOR-
 MATION IS BEING LABELED AS FROM AN INFORMANT OR A WIRETAP IN
 THE UNITED STATES TO PRECLUDE QUESTION WHEN IT APPEARS TO
 ORIGINATE IN A FOREIGN COUNTRY. YOU MAY ASSURE YOUR SOURCES
 THEY CAN ASSERT IN RESPONSE TO ANY INQUIRY THAT THEY ARE NOT
 THE SOURCE OF ANY INFORMATION MADE PUBLIC DURING THIS TRIAL AND
 THAT THEY HAVE BEEN SO ASSURED BY THE FBI. ~~IS~~

DO NOT TYPE PAST THIS LINE

(U)

(S)



b1
b6
b7C

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7299

~~SECRET~~

~~SECRET~~

E

PAGE THREE DE RUEHFB 0086 ~~SECRET~~

(S)

b1

18
16
14
12
10

DO NOT TYPE PAST THIS LINE

(C)

b1

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7300

~~SECRET~~

~~SECRET~~

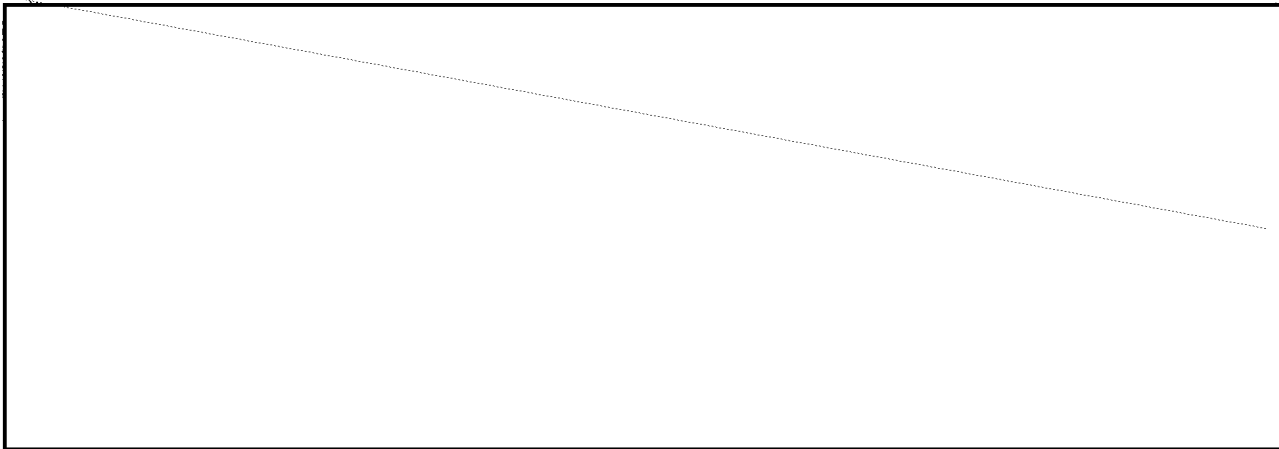
4

CONTINUED

PAGE FOUR DE RUEHFB 0086 ~~SECRET~~

(C)

20
18
16
14
12
10
8
6
4
2



b1

DO NOT TYPE PAST THIS LINE

LEGAL ATTACHES SHOULD ALERT OTHER EMBASSY OFFICIALS TO THIS MATTER, ASSURING THEM THAT RELEASE OF ANY FEDERAL THIRD AGENCY INFORMATION FOR THIS TRIAL HAS BEEN CLEARED BY THE DEPARTMENT OF JUSTICE WITH THE APPROPRIATE HEADQUARTERS, NOTABLY STATE AND CIA. {U}

~~C AND E 8868, REASONS 1 AND 2, DRD SEPTEMBER 15, 2010.~~

BT

|

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7301

~~SECRET~~

JAMES G. MARTIN
9TH DISTRICT, NORTH CAROLINA

COUNTIES:
IREDELL
LINCOLN
MECKLENBURG

COMMITTEE:
WAYS AND MEANS

WASHINGTON OFFICE:
341 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1976

Congress of the United States
House of Representatives
Washington, D.C. 20515

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

September 4, 1980

~~FEDERAL GOVERNMENT~~

Mr. Emil Moschella
Special Agent-in-Charge
Federal Bureau of Investigation
Office of Congressional Affairs
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Mr. Moschella:

A constituent of mine has corresponded with me concerning the trial of W. Mark Felt and Edward S. Miller. The trial concerning these two gentlemen has been met with several delays since it was to first begin on January 22, 1979. Because of the numerous delays the legal costs to these agents have greatly increased. I would like to inquire as to what is the Department's policy of assisting its agents with their legal fees when the reason for the trial was a job related matter.

Your attention to this matter is greatly appreciated.

Sincerely,

Jim Martin
James G. Martin
Member of Congress

②

62-118045-286

SEP 22 1980

164 OCT 20 1980

Greenberg/Gray-7302

9-22-80
212

*LET. RECORDED 9/19/80
RECORDED WITH 9-12-80
RFB: JCB*

28—Judicial Administration

tion, together with all process-
findings served upon him, to his
supervisor or whomever is
designated by the head of his depart-
ment or agency, forthwith. The em-
ploying federal agency shall submit
to the Civil Division in a written
manner a statement, with all
relevant data, as to whether the em-
ployee was acting within the scope of
his employment, together with its
recommendation as to whether represen-
tation should be provided. The com-
munication between the employee and
the individual acting as an attorney at
the employing agency, with regard to
the request for representation, shall
be treated as subject to the attorney-
client privilege. In emergency situa-
tions the Civil Division may initiate
immediate representation after com-
munication by telephone with the em-
ploying agency. In such cases, appro-
priate written data must be subse-
quently provided.

Upon receipt of the agency's re-
sponse to a request for counsel, the
Civil Division will determine whether
the employee's actions reasonably
appear to have been performed within
the scope of his employment, and
whether providing representation is in
the interest of the United States. If a
determination is made, Civil
Division will inform the agency and/or
the employee that no representation
will be provided.

Where there appears to exist the
probability of a federal criminal in-
vestigation or indictment relating to the
subject matter for which represen-
tation is sought, the Civil Division
shall contact a designated official in the
Federal Division for a determination
whether the employee is either a
suspect in a federal criminal investiga-
tion or a defendant in a federal crimi-
nal case. An employee is the target of
a federal criminal investigation if, in addition to being
substantially implicated by having
appropriate responsibilities at the
appropriate time, there is some evi-
dence of his specific participation in a
crime. In appropriate instances, Civil
Division and Tax Divisions and any
other prosecutive authority within the
Department should be contacted for a
determination.

Chapter I—Department of Justice

§ 50.16

(4) If the Criminal, Civil Rights or
Tax Division or other prosecutive au-
thority within the Department (here-
inafter "prosecuting division") indi-
cates that the employee is not the
target of a criminal investigation con-
cerning the act or acts for which he
seeks representation, then representa-
tion may be provided. Similarly, if the
prosecuting division indicates that
there is an ongoing investigation, but
it is a matter other than that for
which representation has been re-
quested, then representation may be
provided.

(5) If the prosecuting division indi-
cates that the employee is the target
of a criminal investigation concerning
the act or acts for which he seeks re-
presentation, Civil Division will inform
the employee that no representation
by Justice Department attorneys will
be provided. If the prosecuting divi-
sion indicates that the employee is a
target of an investigation concerning
the act or acts for which he seeks re-
presentation, but no decision to seek an
indictment or issue an information has
been made, a private attorney may be
provided to the employee at federal
expense under the procedures of
§ 50.16.

(6) If conflicts exist between the
legal or factual positions of various
employees in the same case which
make it inappropriate for a single at-
torney to represent them all, the em-
ployees may be separated into as many
groups as is necessary to resolve the
conflict problem and each group may
be provided with separate representa-
tion. Some situations may make it ad-
visable that private representation be
provided to all conflicting groups and
that Justice Department attorneys be
withheld so as not to prejudice partic-
ular defendants. In such situations,
the procedures of § 50.16 will apply.

(7) Once undertaken, representation
under this subsection will continue
until either all appropriate proceed-
ings, including applicable appellate
procedures, have ended, or until any
of the foregoing bases for declining or
withdrawing from representation is
found to exist, including without limi-
tation the basis that representation is
not in the interest of the United
States. In any of the latter events, the

representing Department attorney on
the case will seek to withdraw but will
ensure to the maximum extent possi-
ble that the employee is not preju-
diced thereby.

(8) Justice Department attorneys
who represent employees under this
section undertake a full and tradition-
al attorney-client relationship with
the employees with respect to the at-
torney-client privilege. If representa-
tion is discontinued for any reason,
any incriminating information gained
by the attorney in the course of repre-
senting the employee continues to be
subject to the attorney-client privi-
lege. All legal arguments appropriate
to the employee's case will be made
unless they conflict with governmen-
tal positions. Where adequate repre-
sentation requires the making of a
legal argument which conflicts with a
governmental position, the Depart-
ment attorney shall so advise the em-
ployee.

(b) Representation by Department
of Justice attorneys is not available to
a federal employee whenever:

(1) The representation requested is
in connection with a federal criminal
proceeding in which the employee is a
defendant;

(2) The employee is a target of a fed-
eral criminal investigation on the same
subject matter;

(3) The act or acts with regard to
which the employee desires represen-
tation do not reasonably appear to
have been performed within the scope
of his employment with the federal
government; or

(4) It is otherwise determined by the
Department that it is not in the inter-
est of the United States to represent
the employee.

(28 U.S.C. 509 and 510)

[Order No. 683-77, 42 FR 5695, Jan. 31,
1977]

§ 50.16 Representation of Federal employ-
ees by private counsel at Federal ex-
pense.

(a) Representation by private coun-
sel at federal expense may be provided
to a federal employee only in the in-
stances described in § 50.15 (a)(5) and
(a)(6).

62-118045-286 383

ENCLOSURE

§ 50.15

Office of Federal Contract Compliance Programs

41 CFR Part 60-3
Department of Justice
28 CFR 50.14
Civil Service Commission
5 CFR 300.103(c)

Normally when citing these guidelines, the section number immediately preceding the title of the guidelines will be from these guidelines series 1-18. If a section number from the codification for an individual agency is needed it can also be added at the end of the agency citation. For example, section 6A of these guidelines could be cited for EEOC as follows: "Section 6A, Uniform Guidelines on Employee Selection Procedures (1978); 43 FR —, (August 25, 1978); 29 CFR Part 1607, section 6A."

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

ALAN K. CAMPBELL,
Chairman, Civil Service Commission.

RAY MARSHALL,
Secretary of Labor.

GRIFFIN B. BELL,
Attorney General.

(28 U.S.C. 509; 5 U.S.C. 301)

[Order No. 668-76, 41 FR 51735, Nov. 23, 1976, as amended at 43 FR 38295, Aug. 25, 1978]

§ 50.15 Representation of Federal employees by Department of Justice Attorneys or by private counsel furnished by the Department in state criminal proceedings and in civil proceedings and Congressional proceedings in which Federal employees are sued or subpoenaed in their individual capacities:

(a) Under the procedures set forth below, a federal employee (herein defined to include former employees) may be represented by Justice Department attorneys in state criminal proceedings and in civil and Congressional proceedings in which he is sued or subpoenaed in his individual capacities, not covered by § 15.1 of this chapter.

(1) When an employee believes he is entitled to representation by the Department of Justice in a proceeding, he must submit a request for that representation, together with all process and pleadings served upon him, to his immediate supervisor or whomever is designated by the head of his department or agency, forthwith. The employee's employing federal agency shall submit to the Civil Division in a timely manner a statement, with all supporting data, as to whether the employee was acting within the scope of his employment, together with its recommendation as to whether representation should be provided. The communication between the employee and any individual acting as an attorney at his employing agency, with regard to the request for representation, shall be treated as subject to the attorney-client privilege. In emergency situations the Civil Division may initiate conditional representation after communication by telephone with the employing agency. In such cases, appropriate written data must be subsequently provided.

Title 28—Judicial Administration

(2) Upon receipt of the agency's notification of request for counsel, the Civil Division will determine whether the employee's actions reasonably appear to have been performed within the scope of his employment, and whether providing representation is in the interest of the United States. If a negative determination is made, Civil Division will inform the agency and/or the employee that no representation will be provided.

(3) Where there appears to exist the possibility of a federal criminal investigation or indictment relating to the same subject matter for which representation is sought, the Civil Division will contact a designated official in the Criminal Division for a determination whether the employee is either a target of a federal criminal investigation or a defendant in a federal criminal case. An employee is the target of an investigation if, in addition to being circumstantially implicated by having the appropriate responsibilities at the appropriate time, there is some evidence of his specific participation in a crime. In appropriate instances, Civil Rights and Tax Divisions and any other prosecutive authority within the Department should be contacted for a similar determination.

Chapter I—Department of Justice

(4) If the Criminal, Civil, Tax Division or other prosecutive authority within the Department indicates that the employee is a target of a criminal investigation concerning the act or acts for which he seeks representation, then representation may be provided. Similarly, if the prosecuting division indicates there is an ongoing investigation into a matter other than that for which representation has been requested, then representation may be provided.

(5) If the prosecuting division indicates that the employee is a target of a criminal investigation concerning the act or acts for which he seeks representation, Civil Division will advise the employee that no representation will be provided by Justice Department attorneys. If the prosecuting division indicates that the employee is a target of an investigation concerning the act or acts for which he seeks representation, but no decision has been made, a private attorney may be provided to the employee at his expense under the procedure set forth in § 50.16.

(6) If conflicts exist between legal or factual positions of employees in the same case, the Department may make it inappropriate for a private attorney to represent them and employees may be separated into groups as is necessary to resolve the conflict problem and each group may be provided with separate representation. Some situations may make it advisable that private representation be provided to all conflicting groups that Justice Department attorneys are withheld so as not to prejudice the interests of individual defendants. In such cases, the procedures of § 50.16 will apply.

(7) Once undertaken, representation under this subsection will continue until either all appropriate proceedings, including applicable rules of procedure, have ended, or the employee has withdrawn from the proceedings on the basis of the foregoing bases for withdrawal, including withdrawal on the basis that representation is not in the interest of the employee. In any of the latter cases,

1 - Mr. Young
(Attn: Mr. Moschella)
1 - Civ. Lit. Unit II

September 12, 1980

Honorable James G. Martin
House of Representatives
Washington, D.C. 20515

~~FEDERAL GOVERNMENT~~

Dear Congressman Martin:

Reference is made to your letter of September 4, 1980, to Special Agent Emil Moschella of our Office of Congressional and Public Affairs, concerning a constituent's inquiry about the trial of former Bureau officials W. Mark Felt and Edward S. Miller. You noted the trial had been delayed on several occasions and inquired as to the Department of Justice (DOJ) policy with regard to payment of legal fees.

Departmental policy with reference to representation of Federal employees is contained in 28 Code of Federal Regulations, Section 50.15, two copies of which are enclosed for your convenience.

In the event you have further questions concerning this matter, you may wish to correspond with the Assistant Attorney General, Civil Division, DOJ.

Sincerely yours,

William H. Webster

William H. Webster
Director

62-118045-287

10

Enclosures (2)

1 Assistant Attorney General
Civil Division

SEP 22 1980

NOTE: Congressman Martin refers to constituent's inquiry concerning the W. Mark Felt and Edward S. Miller trial and notes legal costs to defendants have increased due to trial delays. He is being furnished with copies of the appropriate Code of Federal Regulations provisions, and being referred to the DOJ for further inquiries.

SEP 17 1980

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

BWP:jab
(6)

356 11 20 1980

APPROVED:

Director W. H. Webster
 Exec. AD-Adm. _____
 Exec. AD-Inv. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

34 OCT 26 1980

MAIL ROOM

Greenberg/Gray-7305

Handwritten initials/signature

Handwritten signature

8/27/80

K

Mr. Colwell:

MARK W. FELT

Re: U. S. v. Felt, et al.

Exec AD Inv.	___
Exec AD Adm.	___
Exec AD LES	___
Asst. Dir.:	
Adm. Servs.	___
Crim. Inv.	___
Ident.	___
Intell.	___
Laboratory	___
Legal Coun.	___
Plan. & Insp.	___
Rec. Mgnt.	___
Tech. Servs.	___
Training	___
Public Affs. Off.	___
Telephone Rm.	___
Director's Sec'y	___

FBI/DOJ

Judge Bryant set trial for Monday, 9/15/80. The prosecution estimated its case would take one week without any time allotted for examination, two weeks with defense cross-examination taken in and perhaps more than two weeks if security problems arise as a result of the cross-examination. The defense case is expected to take four weeks. The earliest date the defense case may be predicted to begin is therefore Monday, 9/29/80. Judge Bryant indicated the trial will run four days each week if the jury is not sequestered and five days each week if the jury is sequestered. Defense counsel indicated to the court they did not desire the jury to be sequestered and the prosecution postponed taking a position on the issue.

4859
TL 225

Defense counsel had requested the trial to begin 9/22 or 9/29/80. The prosecutor's office understands Judge Bryant has scheduled himself to begin an ABSCAM trial on 10/21/80.

Judge Bryant has yet to sign the Trial Protective Order although he has indicated he will, perhaps with some alterations.

R. P. Finzel

62-118045-289

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Revell
- 1 - Mr. O'Malley
- 1 - Mr. Mintz
- 1 - Mr. Otto
- 1 - Mr. Steel
- 1 - Mr. Tierney
- 1 - Mr. Finzel

6 OCT 3 1980

JLT:mjl (10)

50 OCT 23 1980

Greenberg/Gray-7308

62-118045

8/28

4-981

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7309

af



63-118045-290

DATE 8/2/80

RETURN. DATE _____

All information contained herein is unclassified

Date 05-04-2009 by 65179 dmh/baw/sbs

Minolta VSR1 # 213266535mm f/1.4 lens # 1114273NAME JOHN W. NIELDS, JR.DIVISION DOJ ROOM _____ EXT. 633-5218SIGNATURE John W. Nields Jr.

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Exec AD Inv. _____
 Exec AD-Adm. _____
 Exec AD LES _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Greenleaf

DATE: 7/31/80

FROM : W.L. Bailey *B/ps*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-04-2009 BY 65179 dmh/baw/sbs

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

MARK W. Felt

PURPOSE:

To document request for document camera.

DETAILS:

Francis J. Martin, Esq., Department of Justice, has advised he needs a document camera in an attache case similar to what would have been in use in the New York Office in 1972-73. The camera will be used during the trial of captioned prosecution.

Mr. Martin will execute whatever property receipt is customary. *attached*

Trial is now scheduled to commence Monday, 8/13/80. The duration of trial is uncertain but has been estimated at six weeks.

Delivery to Mr. Martin will be arranged by SA Joseph L. Tierney (X-4763).

RECOMMENDATION:

That camera be made available, as requested.

62-118045-290

APPROVED:

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Adm. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

6 OCT 3 1980

Four

ENCLOSURE

ENCLOSURE ATTACHED

JLT:tdp (3) *tdp*

1 - Mr. Mones (Rm. *3449*, TL #241)

1 - Mr. Tierney

Briefcase attache # 4

Minolta SR1

2132665

35mm f2.4 lens

1114273

62-118045

Delivered to Mrs. Nields

8/2/80

53 NOV 6 1980

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs



FEDERAL GOVERNMENT

Subject

United States v. Felt, et al

MARK W. Felt

Date

August 12, 1980

CBR:ams

To

Director
Federal Bureau of Investigation

From

The Attorney General

CPAL 8.12.80

All present or former employees of the Department of Justice who are potential witnesses in the case of United States v. Felt, et al are released pursuant to 28 C.F.R. §16.21 from their employment agreements, so that they may discuss with cleared trial counsel for any defendant in the above case any information, whether or not classified, which in their judgment or that of trial counsel is relevant to the issues in the trial, except for information which to their knowledge was received from a foreign government intelligence service, and except for the names of live sources. If they believe any such foreign government information is relevant to the issues in the case, they should immediately contact S.A. Joseph L. Tierney, and identify the document in which the information is contained. He will be under instructions immediately to bring the document to the Court for its review. Any notes taken by defense counsel of classified matters as a result of such interviews should be stored in accordance with the Protective Order issued on November 5, 1979 in this case.

(CPAL)

62-118045-291

6 OCT 3 1980

Four - J7/meal

*Let to AG
8-13-80
PVD:jam*

258

Greenberg/Gray-7312

59 NOV 3 1980

The Attorney General

August 19, 1980

Director, FBI

U. S. v. FELT, et al.

~~INTERNAL SECURITY~~ GOVERNMENT

MARK W. FELT

Reference is made to your memorandum to me dated August 12, 1980, which released current and former Department of Justice employees from the provisions of 38 C. F. R. 16.21 enabling them to disclose to cleared defense counsel in this matter all relevant information in their possession excepting information which originated from a foreign government or the identity of a live source.

For purposes of this case, I am similarly releasing current and former employees of the FBI from employment agreements to disclose the aforementioned information to cleared defense counsel.

Should any current or former FBI employee have any questions regarding this release, they should contact the Legal Counsel Division, telephone [redacted]. I am furnishing a copy of this communication to Special Counsel John W. Nields, Jr. for furnishing to the defense counsel so that it might be displayed to potential witnesses in this matter.

JWR

b6
b7C

1 - John W. Nields, Jr.
Special Counsel

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Steel
- 1 - Mr. Finzel
- 1 - Mr. Tierney

Original by hand to AG's office 8/18/80 SFA
Copy by hand to Mr. Nields 8/18/80 SFA
62-118045-292
4-SFA

DVD:jam
(11)

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

60 OCT 21 1980

MAIL ROOM

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director <i>WAW</i>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Adm. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Public Affs. Off. _____

OCT 8 1980

*N.B. THE CITATION USED BY THE A.G. SHOULD HAVE BEEN 28CFR 16.22 INSTEAD OF 16.21. HOWEVER, HIS INTENTION IS CLEAR AND THERE IS NO IMPEDIMENT TO THE DIRECTOR'S ACTION HERE.

~~SECRET~~

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1, 6)
DATE 08-04-2009

7/24/80
Greenberg/Gray-7314

Mr. Colwell:

Re: U.S. vs. Felt, et al.

MARK W. FELT

Judge Bryant on this date issued a discovery order directing that three documents be placed in the security vault at DOJ subject to the Court's supplemental protective order which precluded disclosure to anybody outside the defense, including witnesses, absent further court approval. Two of the documents contain information of foreign origin. One of these documents contained information originating with the [redacted]. This document was a subject of a prior successful Claim of Privilege, however, the substance of the information contained in a separate document was disclosed to the defense. The court has now rescinded the original Claim of Privilege and ordered the disclosure. We may, however, protect the identity of the [redacted] as the originators.

The second document pertains to information we received from a Mexican source. Again, in disclosing this document we can protect the fact that it originated with the Mexican source, however, the substance of the information shows clearly the event took place in Mexico City as does the substance of the information received from the [redacted].

As to these two documents, we should continue to advise the Department we object to disclosure of foreign government information and reemphasize the commitment we have made to these governments to protect their information and that that commitment should be honored by the U. S. Government. We have contacted these governments previously as to their position regarding disclosure of their information in the course of discovery in this case and both governments have asked that we protect their information. As to the [redacted] information, a stipulation has been drafted from nonforeign government sources information covering the information in question. The defense initially accepted the stipulation on July 22, however, have now rescinded that position.

62-118045-293

We have, of course, with Departmental support, protected the identity of any specific target of electronic surveillance in the FCI area. As to this particular tap, a substantial amount of information concerning foreign involvement of the targets of the entries in this case and their associates comes from this surveillance. The defense is very much aware of the fact that we had such electronic coverage and in fact we are, at the request of the Department, working with the defense to create a summary of the information to protect this coverage during the trial. Regarding this document, we should restate our position to the Department that we desire to protect the identity of the target of this electronic coverage. We should, however, realize that the defense and the defendants are already very much aware of this fact.

The Department wants the Bureau's position as soon as possible. If approved, SA Paul V. Daly will advise the Department of the Bureau's position as suggested above.

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Steel
- PVD:mjl

- 1 - Mr. O'Malley
- 1 - Mr. Bailey
- 1 - Mr. Daly

Nields
Daly 7/24/80

WLB
EJN
JK
WOW

~~SECRET~~

4-34

62-118045

OCT 3 1980

Privacy Act Protected Information

B

SEP 3 1980

Honorable William B. Bryant
Chief Judge
U.S. District Court for the
District of Columbia
United States Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

MARK W. FELT

Dear Chief Judge Bryant:

Re: United States v. Felt/Miller
Criminal No. 78-000179

Pursuant to a verbal request from the Defense Counsel for Mr. Felt in the above-captioned criminal case, I have been asked to grant access to Top Secret National Security Information for Messrs. [redacted]

b6
b7C

[redacted] attorneys for [redacted] The adjudication of this clearance is made pursuant to the provisions of Executive Order 12065, "National Security Information," dated June 28, 1978 the Information Security Oversight Office Implementing Directive No. 1, dated December 1, 1978, and the Protective Order filed in this case dated December 20, 1978 (Part One, (4)).

Attached for your convenience is a brief synopsis of information on both of the aforementioned attorneys.

In making such an adjudication, I am responsible, as the Department Security Officer, for making a determination of trustworthiness and for ensuring that a valid need-to-know exists and that such access to classified National Security Information "is essential to the accomplishment of official Government duties or contractual obligations" (E.O. 12065 §4-101). Naturally my decision must be based on information developed in the requisite Federal Bureau of Investigation (FBI) full-field background investigation, the need-to-know determination, and input from the proponent organization.

Please be advised that Counsel for defendant Felt had indicated a desire to interview [redacted] in February, 1980. At that time it was requested that

b6
b7C

Copies furnished:

Records

D. Rubino - SPS

[redacted] - SPS

[redacted] - FBI/ISO

F. MARTIN - FBI/TASK FORCE

50 OCT 23 1980

DJR: [redacted] 4511;bjr:9-3-80

NOT RECORDED
25 OCT 8 1980

b6
b7C

62-118045

Greenberg/Gray-7315

I grant Messrs. [redacted] a Top Secret National Security Clearance with Special Access to Sensitive Compartmented Information. After detailed discussions with the proponent organization, the National Security Agency, and with the defense counsel for Mr. Felt it was determined that access to classified National Security Information at the Secret level would be sufficient. The adjudication to grant access to Secret National Security Information to Messrs. [redacted]

b6
b7C

[redacted] was made pursuant to the aforementioned directives, a review of their FBI full-field background investigations, a valid need-to-know determination and input from the proponent organization. Although I was not entirely comfortable with the decision to grant access, at that time, I decided in favor of the defense.

Inasmuch as it is somewhat uncommon for the Federal Government to grant access to classified National Security Information to the attorneys of a potential witness, Messrs. [redacted] [redacted] were granted such access to Secret level material with the following limitations:

b6
b7C

The Secret clearance granted did not include or encompass access to National Security Information which would disclose:

- o FBI confidential sources, targets of technical surveillance or other sophisticated techniques or methods used by the FBI (Weatherman investigation related information excluded), as specified within the January 2, 1979 memorandum from then Deputy Attorney General Civiletti to the Director, FBI, subject "Potential Witnesses in United States v. Gray et al."
- o Information revealing National Security Agency activities.

b6
b7C

Such clearances were further conditioned upon the acquisition of signed acknowledgements by Messrs. [redacted] stating that they had read and were familiar with the Information Security Oversight Office's regulation concerning the safeguarding of classified information and material (the same acknowledgement signed by all Department personnel given access to classified National Security Information.)

In spite of all of the effort expended to clear these gentlemen, the defense counsel never conducted the proposed interview, therefore the requested clearances were never granted.

With regard to the current request for access to Top Secret National Security Information and specific access to a classified and highly sensitive current FBI intelligence collection program, please be advised that I have again reviewed the cases of Messrs. [redacted] Based on consideration of the need-to-know and on the review of their respective FBI full-field background investigations, which describe [redacted]

[redacted] as outlined in the attachment to this letter and [redacted]

[redacted] the state of the record precludes the Federal Government from granting access to Top Secret National Security Information to these men. My decision is based on the fact that we must protect the sources and methods currently being utilized by the FBI, some of which are being employed in current criminal investigations. Further, I can find no justification for giving attorneys for a potential witness access to such a current intelligence operation. The attending risk of turning over such sensitive material to persons over which we can exercise little or no control is inconsistent with out responsibility to protect such material.

Accordingly, pursuant to my responsibilities as outlined in 28 CFR §17.80 I have decided not to grant the requested clearances.

Should you have any questions or wish to discuss this matter further, please feel free to contact me on [redacted]

Sincerely,

D. Jerry Rubino
Department Security Officer

Enclosures

b6
b7C

SV0002 2172005

PP HQ

DE SV

P 042005Z AUG 80

FM SAVANNAH (66-1491)

TO DIRECTOR PRIORITY

BT

UNCLAS

RECEIVED
TELETYPE UNIT

4 AUG 80 20 06z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Adm. Serv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	✓ B/SES
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

JMC

Mark W. Felt

T. Jeffrey

SURREPTITIOUS ENTRY INVESTIGATIONS SPECIAL, 1976.

ON AUGUST 4, 1980, FRANK MARTIN, DEPARTMENT OF JUSTICE (DOJ), TELEPHONICALLY CONTACTED SA [REDACTED] AT AUGUSTA, GA. RA. MARTIN REQUESTED SA [REDACTED] REPORT TO DOJ ROOM 2304 AT 3:00 PM ON AUGUST 6, 1980, TO REVIEW DOCUMENTS UNCOVERED DURING CAPTIONED INVESTIGATION. MARTIN ELABORATED THAT SUPERVISOR JOSEPH TIERNEY, OF FBIHQ, WAS FAMILIAR WITH THIS MATTER.

b6
b7C

OC

UACB AGENT WILL REPORT AS DIRECTED.

BT

62-118045-293X

23 NOV 80

4-5-80

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

4 NOV 1 1980 SAH

62-118045

Greenberg/Gray-7320

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

8/7/80

Gray Files

OTHER Pursuant to Sealed Court Order

Mr. Colwell:

W. MARK FELT

Attached are ³ ~~two~~ documents prepared by the Department of Justice. The first is an

[Redacted]

The second document is a letter prepared by Special Counsel John W. Nields to the Attorney General. This particular letter shows it originated with Nields and ASAC Daly. Generally, it states what information is being protected in this case through redactions, stipulations and admissions. It generally outlines what information will be disclosed during trial. It points out that a vast body of classified material is in the hands of the defense for trial use and asks that the Attorney General pursuant to his authority in 28CFR 17.64 authorize disclosure of classified information in trial. This is necessary since we have not in this case declassified material to be used in trial but rather have furnished it to the Department in a classified form. Declassification can only be achieved through the authority of the Attorney General. Declassification in this instance being sought from the Attorney General will only apply to that portion of documents actually entered into evidence in this case. All other information will retain its classification. For example, some of the documents exceed 50 and 60 pages and the defense may use only a couple of sentences in its case. In that example all the remaining portion of that document will retain its declassification. The ultimate thrust of the memorandum to the Attorney General is to also release witnesses to testify in court during the trial releasing classified information. The intent is that the oral testimony will be tailored through the Claim of Privilege to protect the same information and concerns that we have protected in processing the documents for trial. In effect, the Government is seeking a trial protective order.

As to the letter, it would be appropriate if the letter is from Nields to the Attorney General and it should not show ASAC Daly as a participant. We have furnished our position regarding possible damage occurring in this trial to the Attorney General and Nields has a copy of that. That communication presents our concerns to the Department. Nields has obviously taken those concerns into consideration in preparation of this memorandum and it should show clearly that he is the author.

OTHER Pursuant to Sealed Court Order

The [Redacted] to be used in support of the Attorney General's Claim of Privilege should be executed.

Encs. (2)

3 -

ENCLOSURE

W. L. Bailey
W. L. BAILEY

62-118045-293/2
62-118045

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Revell
- 1 - Mr. O'Malley
- 1 - Mr. Steel
- 1 - Mr. Daly

Downgraded to ~~Secret~~
UCBaw 60324 3-9-2009

UNCLASSIFIED

~~TOP SECRET~~
MATERIAL ATTACHED

JAN 18 1981

PVD:mjl (8)

69 JAN 29 1981

* The ~~third~~ document is the AFFIDAVIT [Redacted]
will sign.

OTHER Pursuant to Sealed Court Order

Memorandum



ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

Subject

United States v. Felt, et al

Date

August 7, 1980
JWN:ams

To

Benjamin R. Civiletti
Attorney General

From

John W. Nields, Jr.
Paul V. Daly

As you are aware, the defendants in the above case have designated for use at trial over 2,000 documents drawn from the files of the FBI or the Department of Justice. The letters and other filings by defense counsel making the designations are attached. The documents themselves are too voluminous to attach. Some of these documents are over fifty pages long. The majority of them contain some classified information; many of them contain several items of classified information. Some of the classified information was obtained from other intelligence agencies - the CIA or the NSA. However, the overwhelming bulk of the material was classified originally within the Department of Justice.

The information relates to the investigation of the Weather Underground organization, which was conducted as a national security investigation, and to past FBI techniques in obtaining foreign intelligence and internal security information. In almost every case the information was classified (1) because it was received from a foreign government intelligence service; (2) because it was received through electronic surveillance of a foreign diplomatic establishment; (3) because it would disclose electronic surveillance of or otherwise identify a foreign counterintelligence target (a spy) or; (4) it was obtained from a live source. Live sources may be broken down into two categories: informants or double agents - persons who supply information on an ongoing basis; and casual sources - neighborhood friends, bank officials, etc.

We have been engaged for the better part of the past year in a process, conducted in part under supervision of the Court and in part through negotiations with defense counsel, of removing from the documents designated for trial the most sensitive items of information, while still leaving available the information needed by the defense for a fair trial. This has been accomplished through redactions in the documents, substitutions on the documents and summaries and stipulations to replace

62-118045-293/2

ENCLOSURE

all or parts of documents.

We believe we have successfully concealed that any information was received by the Federal Bureau of Investigation from any foreign government intelligence services, the existence of any electronic surveillance of a foreign diplomatic establishment and the identity of all but a few targets of foreign counterintelligence investigations and only in those cases in which the FBI concurred. As to informants, we have taken steps to conceal the identity of each informant. There is of course some risk that a few will be identifiable, at least tentatively, from the information in the documents. We believe that the documents as altered do not reveal the identity of any informant whose life would be endangered. Some casual sources will be identifiable, but we believe this will be held to a minimum.

Accordingly, some of the documents as altered and some of the stipulations and summaries and some documents which have not been altered remain properly classified. No way existed in such cases to provide the defense with the information they need in wholly unclassified form. In addition, a vast quantity of information in the Weatherman files received from casual sources has been left in the documents because (a) the administrative task of deleting only the information not needed by the defense would be prohibitive; and (b) we anticipate that only a portion of this information will actually be used at trial - i.e., published to the jury.

The administrative task of declassifying each item of classified information remaining in the documents is unfeasible and undesirable. It is unfeasible because it could not be accomplished without a considerable delay in the trial; and it is undesirable because we wish the classified information to receive protection following the trial if it has not been made public - i.e., communicated to the jury and become part of the public record during the trial.* Thus we recommend formally declassifying the public information only at the end of the trial.

Pursuant to 28 C.F.R. §17.64 the Attorney General, or the Acting Attorney General, has the authority to authorize disclosure of classified information under certain circumstances. We

*We plan to treat as "in evidence" only those parts of the documents which are actually communicated to the jury. Defense counsel have indicated acquiescence in this process.

suggest that you sign the attached memorandum authorizing disclosure at trial through introduction in evidence of the documents described above as altered and summarized, where relevant and necessary to a fair trial of the case, and also authorizing oral testimony about classified information which does not fall within the parameters of the Claim of Privilege referred to in the memorandum. This should have the effect of permitting testimony approximately in congruence with the documents; and it is necessary in order to release defense witnesses who are former FBI officials from their employment agreements and CFR provisions which would otherwise prohibit them from testifying about any classified facts. Finally, the attached memorandum directs Government counsel to seek an order precluding testimony about matters covered by the Claim of Privilege without prior authority from the Court. We think this is necessary in order to prevent unanticipated testimony about particularly sensitive matters.

Greenberg/Gray-7330

Memorandum

Exec AD Inv.

Exec AD Adm.

Exec AD LES

Asst. Dir.:

Adm. Servs.

Crim. Inv.

Ident.

Intell.

Laboratory

Legal Coun.

Plan. & Insp.

Rec. Mgnt.

Tech. Servs.

Training

Public Affs. Off.

Telephone Rm.

Director's Sec'y

TO : Mr. Colwell

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

DATE: 8/13/80

FROM : R. P. Finzel

SUBJECT: U. S. v. FELT et al.

W. MARK FELT

During in camera hearing held on 8/12/80, Judge Bryant heard arguments on



OTHER In camera

Judge Bryant has put off the trial from 8/18/80 to an uncertain date, most likely after Labor Day. Judge Bryant indicated he would rule on the claim of privilege motion Monday, 8/18/80, and will hold another hearing on 8/22/80, at which time a trial date will possibly be set.

(Handwritten initials)

8/13

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Steel
- 1 - Mr. Finzel
- 1 - Mr. Tierney

PVD
PVD:jam
(8)

62-118045-293X1

20 MAY 24 1980

4-5-80

62-118045

(Handwritten signature)

59 DEC 9 1980

149

Greenberg/Gray-7335

SV0002 2522019
PP HQ

DE SV
P 082019Z SEPT 80

FM SAVANNAH (166-1491)

TO DIRECTOR PRIORITY

BT

UNCLAS

SURREPTITIOUS ENTRY INVESTIGATION SPECIAL, 1976.

RECEIVED
TELETYPE UNIT

8 SEP 80 20 21z

FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

U.S. vs. W. Mark Felt, et al
W. Mark Felt, et al

Exec. AD-Adm.	_____
Exec. AD-Inv.	_____
Exec. AD-LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Serv.	_____
Training	_____
Off. of Cong. & Public Aff.	_____
Telephone Rm.	_____
Director's Sec'y	_____

ON SEPTEMBER 8, 1980, FRANK MARTIN, U. S. DEPARTMENT OF JUSTICE,

WASHINGTON, D.C., TELEPHONICALLY ADVISED SA [REDACTED] OF THE AUGUSTA, GA., RA, THAT [REDACTED] WAS TO REPORT TO ROOM 2304 MAIN

JUSTICE BUILDING 1:30 P.M., SEPTEMBER 17, 1980. [REDACTED] IS EXPECTED

TO GO OVER TESTIMONY WHICH HE WILL GIVE LATER AS A GOVERNMENT WITNESS IN FORTHCOMING TRIAL.

UACB, [REDACTED] WILL REPORT AS DIRECTED.

BT

b6
b7C

62-118045-294

8 OCT 3 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-04-2009 BY 65179 dmh/baw/sbs

2/24
60 NOV 07 1980

62-118045

Greenberg/Gray-7336

Memorandum



Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. Mintz *JAM*

Date 9-11-80

From : C. R. McKinnon

Subject : U.S. v. MILLER; FELT; GREY

W. Mark Felt

PURPOSE:

To request that [redacted] Administrative Services Division (ASD), be released from her employment agreement to testify in captioned matter.

b6
b7C

DETAILS:

On 9-11-80, Special Counsel John Nields, Department of Justice, advised Special Agent [redacted] ASD, that [redacted] would be required to be a witness in the matter of U.S. v. Miller; Felt; Grey. [redacted] at the request of Mr. Nields, has reproduced the Special Agent's Handbook as it existed in September, 1972 with revisions to May, 1973. [redacted] will testify as to her duties and responsibilities for the maintenance and the administration of all Bureau manuals. Mr. Nields advised that the FBI Special Agent's Handbook will be an item of evidence, and it is necessary for [redacted] to testify that the manuals prepared by her were done in the regular course of her duties and represents the Special Agent's Handbook as it existed in September, 1962. [redacted] will be a necessary witness on Monday, 9-15-80. This matter has been discussed with Legal Counsel Division. It is the opinion of ASD that this testimony is appropriate and would recommend that [redacted] be released from her employment agreement in order to give this testimony.

b6
b7C

RECOMMENDATION:

That [redacted] be released from her employment agreement to testify concerning her duties and knowledge of the FBI Handbook, FBI Manuals and any related matters.

b6
b7C

APPROVED: _____
 Adm. Serv. _____
 Crim. Inv. _____
 Director _____
 Exec. AD-Adm. _____
 Exec. AD-Inv. _____
 Exec. AD-LES _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

DOC:bm (5)

- 1 - Mr. Mintz
- 1 - Mr. Tierney
- 1 - Mr. Coulson
- 1 - Personnel File of [redacted]

ml

66 NOV 13 1980
149

b6
b7C

67-118045-295

NOV 7 1980

OCT 2 1980

COPY RETAINED IN PERSONNEL RECORDS UNIT

~~SECRET~~

Airtel

- 1 - Mr. Mullen
- 4 - Mr. O'Malley
- (1 - [redacted] (Enc. 3)
- (1 - [redacted] (Enc. 3)
- (1 - [redacted] (Enc. 3)

~~SECRET~~

9/30/80

- 1 - Mr. Revell
- 13) Mr. PERSONAL ATTENTION

To: SAC, Chicago (100-41353) (Enc. 13)
 Denver (Enc. 3)
 Miami (100-15214) (Enc. 3)
 New York (100-154902) (Enc. 3)
 San Francisco (100-54721) (Enc. 3)
 St. Louis (Enc. 3)

- 3 - Mr. Finzel
- (1 - [redacted])
- (1 - [redacted])
- 1 - Mr. Daly
- 1 - Mr. Tierney (Enc. 3)

From: Director, FBI

ALCHEMY (Ad Hoc Committee for a Marxist-Leninist Society (AHC);
Bufile: 100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION (S)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1, 6)
DATE 05-04-2009

ReBuairtel to All SACs 9/19/80, setting forth
 general background and the overall source protection situation
 anticipated during the predicted six-week trial of second
 captioned matter. Instant communication addresses problems
 anticipated with regard to sources involved in AHC. AHC is
 the single source situation mentioned in referenced airtel
 as likely to result in suspicion or identification of an FBI
 source based on a review by a knowledgeable person of informa-
 tion originating with the source. (S)

Enclosed for each recipient are two packages of
copies of documents, each with an inventory attached, and a
list of sources whose identities now may be in jeopardy. (U)

The first package, numbered 1 through 20, contains
copies of FBI documents prepared between 1967 and 1970 and
containing information from AHC sources. (S)

~~SECRET~~

Classified and Extended by 8060
 Reason for Extension FCIM II, 1-2.4.2 (2)
 Date of Review for Declassification 9/26/2000

1 - Each FBIHQ file listed in Enclosure 3
 (See page 1a of yellow)

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 4
 OCT 1 1980
 FBI

OCT 17 1980

MAIL ROOM

~~SECRET~~

NOT RECORDED
 25 OCT 9 1980

3114
 100-442715
 ORIGINAL FILED IN

13

[Handwritten signature]
 4859
 74 224

100-442715
 4-325 69-118045

OCT 7 1980

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

1 - 65-31868

1 - 100-227629

1 - 100-29233

1 - 100-258511

1 -

1 - 100-369208

b2
b7D

1 -

1 -

1 -

1 - 100-2264

1 - 105-201890

1 - 100-363259

1 - 100-235196

~~SECRET~~

- 1a -

Greenberg/Gray-7339

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

The second package, lettered A through P contains copies of stipulations and excised documents as they will be used at captioned trial. These documents contain paraphrased information based on the source reports in the first package. (U)

Both packages may be broken down into the following categories:

- 1--4 A Bergman's mission for the PRC
- B--G Bergman (general, not from AHC)
- 5--7 Bergman interest in SDS
- 8--14 H--L SDS and Van Lydegraf contact with PRC
- 15--17 M--N Bergman and AHC at Algiers conference
- 18--19 O--P RU knowledge of Weathfugs
- (C) 20 (S)

b1

(U) In those instances in which only part of a stipulation is from AHC, the pertinent material is indicated by underlining the text and a line drawn in the right-hand margin. (S)

(S)

Bergman is likely to be overwhelmed by the wealth of detailed information the FBI had about him, and this may divert and diffuse his attention, at least at the outset. San Francisco should review this material to see if it poses any threat to an analysis which has not been attempted at FBIHQ

b1
b2
b7D

(S)

Information being used at trial involves AHC contacts with Students for a Democratic Society/Weatherman Underground Organization (SDS/WUO) and with Leibel Bergman and an AHC source directed against Bergman's organization, the Revolutionary Union (RU). It may be broken down into the following categories:

~~SECRET~~
- 2 -

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

1. Leibel Bergman

- a. Mission for the PRC (1967)
- b. Interest in SDS/WUO (1969)
- c. Algiers Conference (1969-70)
- d. Bergman/ [] knowledge (1970)

b6
b7C

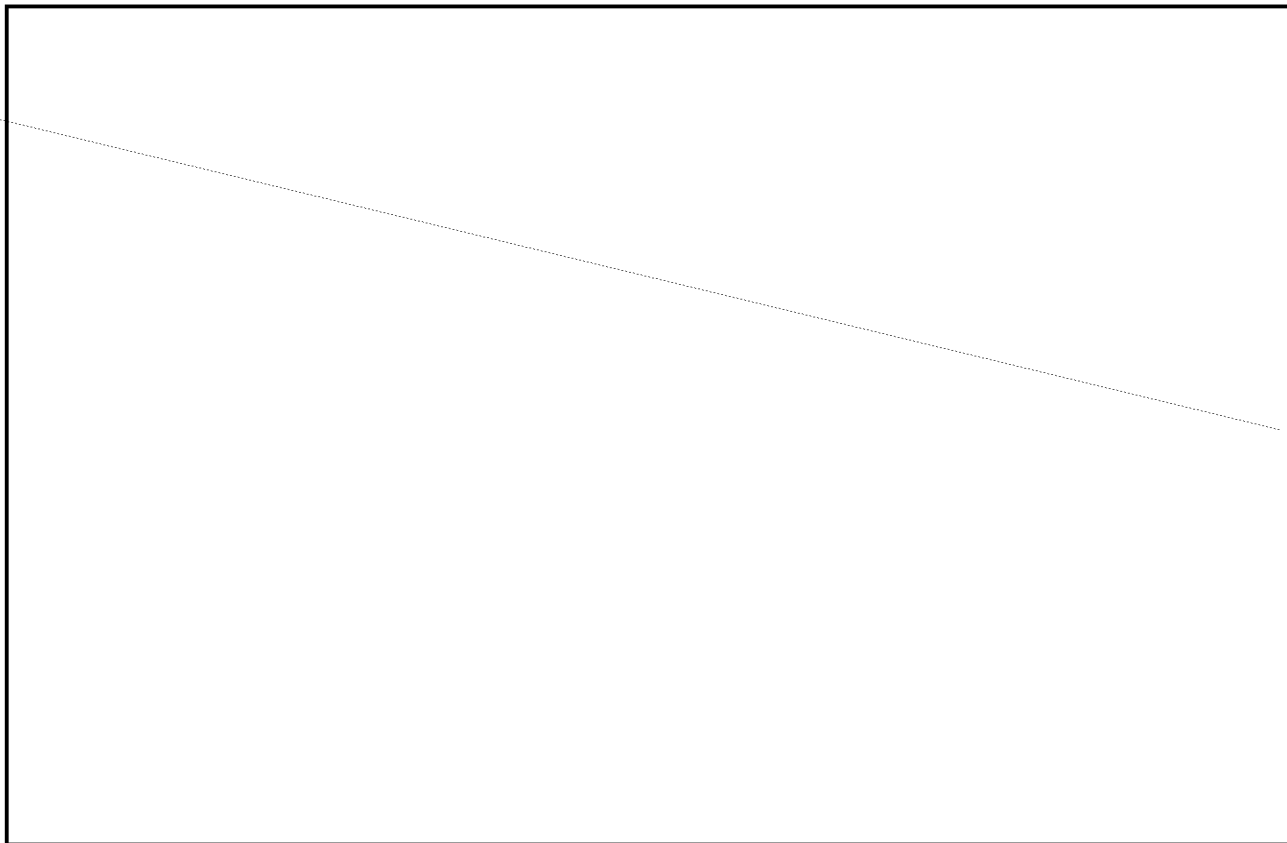
2. SDS

- a. Contact with PRC (1969)
- b. SDS/WUO Philosophy (1969)
- c. Clayton Van Lydegraf (1969-70)
- d. Algiers Conference - [] (1969)

b6
b7C

3. Revolutionary Union

- (U) a. Knows location of Dohrn (1970) (S)



b1
b6
b7C

~~SECRET~~

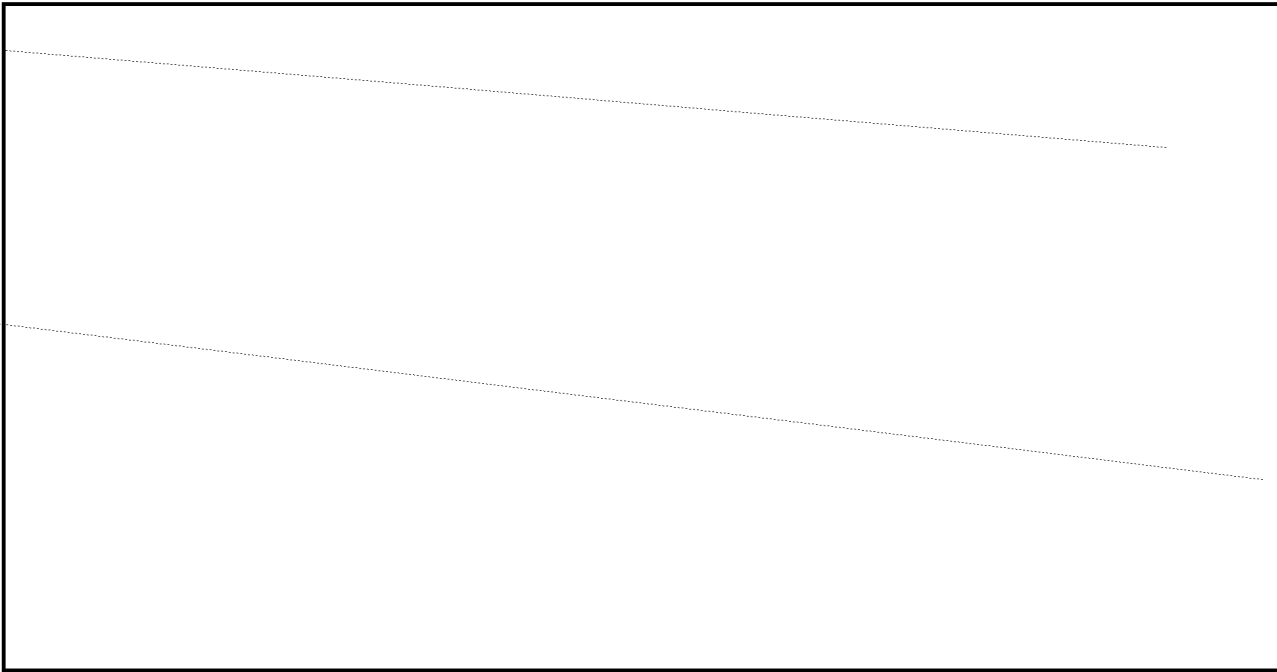
- 3 -

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

(S)



b1
b2
b6
b7C
b7D

It is also important to note we cannot predict how much of the sensitive information will be publicized by the media during the trial, or how much of the stipulations and documents will go into the record and be shown to the jury. Only those parts of the stipulations and documents which are actually given to the jury will be made part of the public record. We must prepare, however, for detailed media attention and for all of the attached stipulations and excised documents (in Enclosure 2) going into the record. Assuming the "worst possible case" means we must prepare for Bergman, or perhaps an attorney representing a former WUO subject, such as [redacted] in a future civil action, reviewing the court record after the trial is over. (S)

b6
b7C

~~SECRET~~

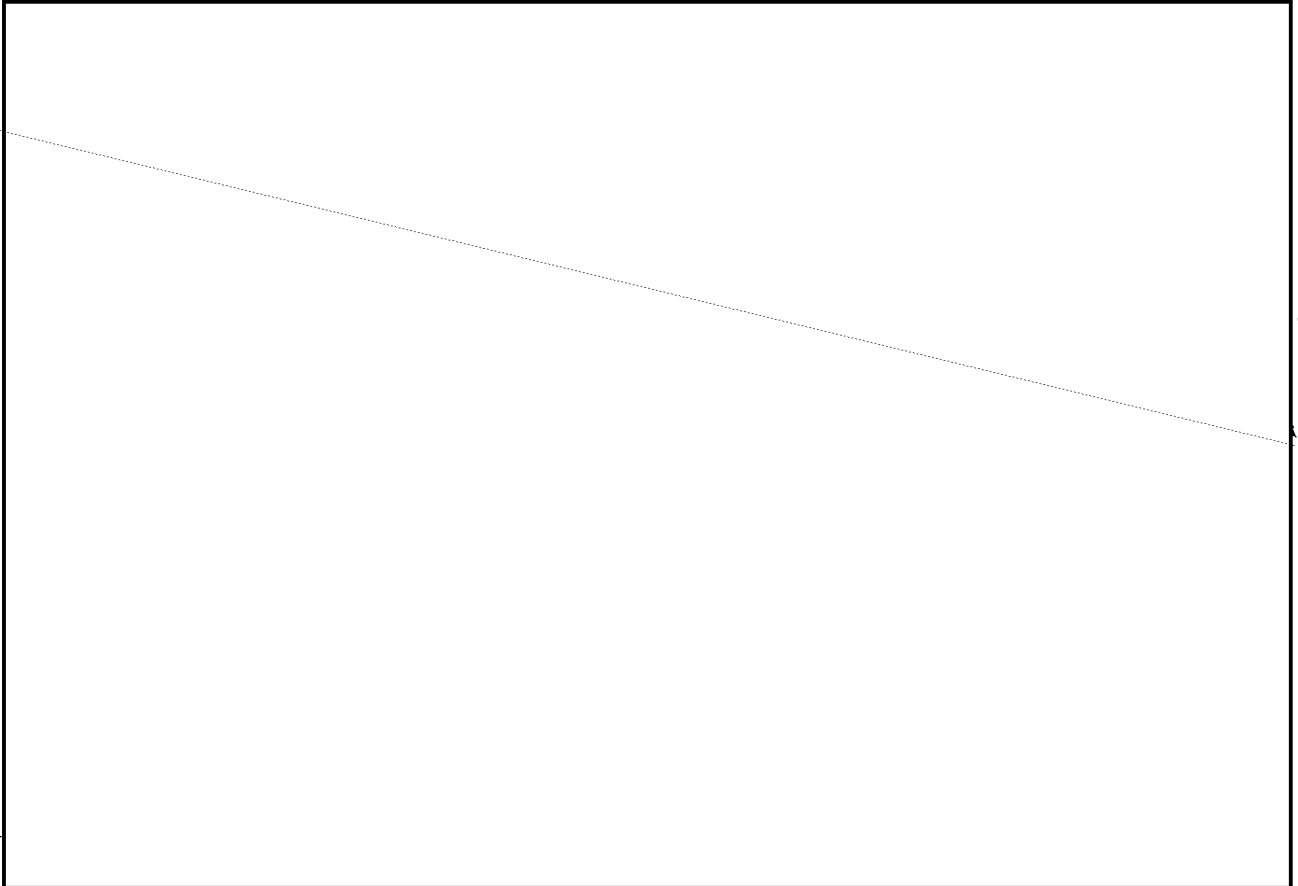
- 4 -

Greenberg/Gray-7342

~~SECRET~~

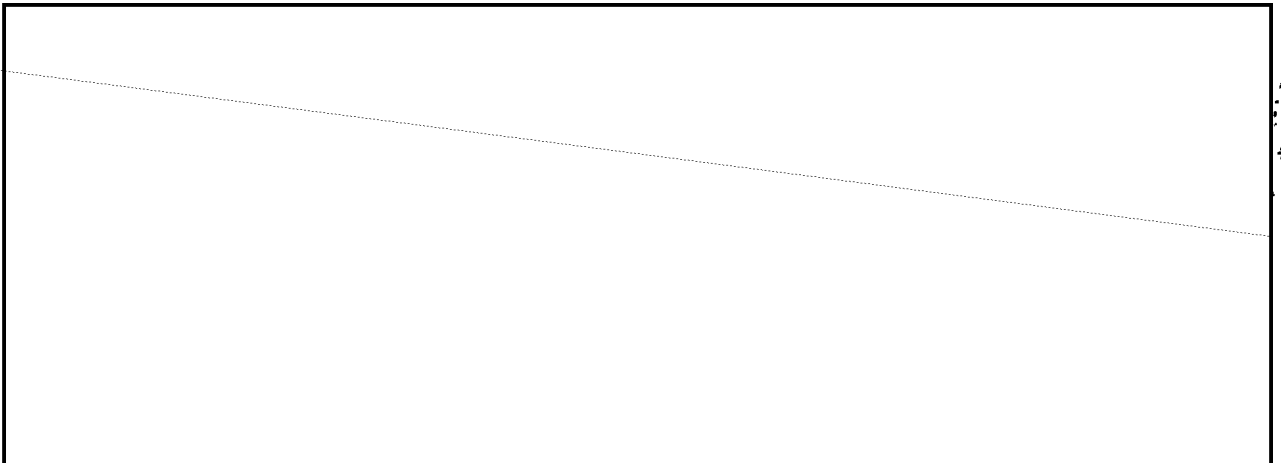
Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION



b1

(S)



b1

~~SECRET~~
- 5 -

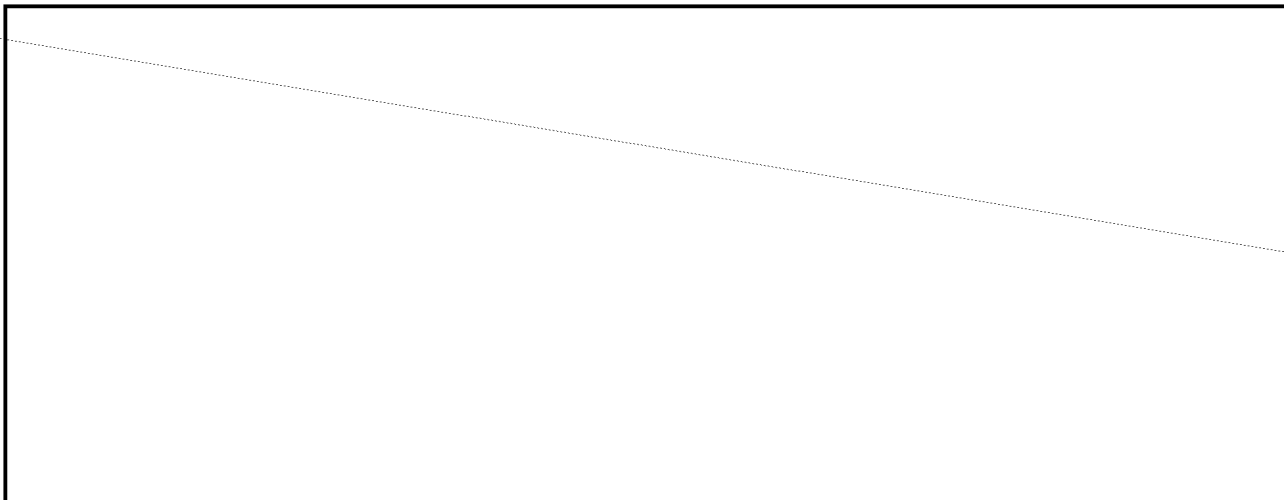
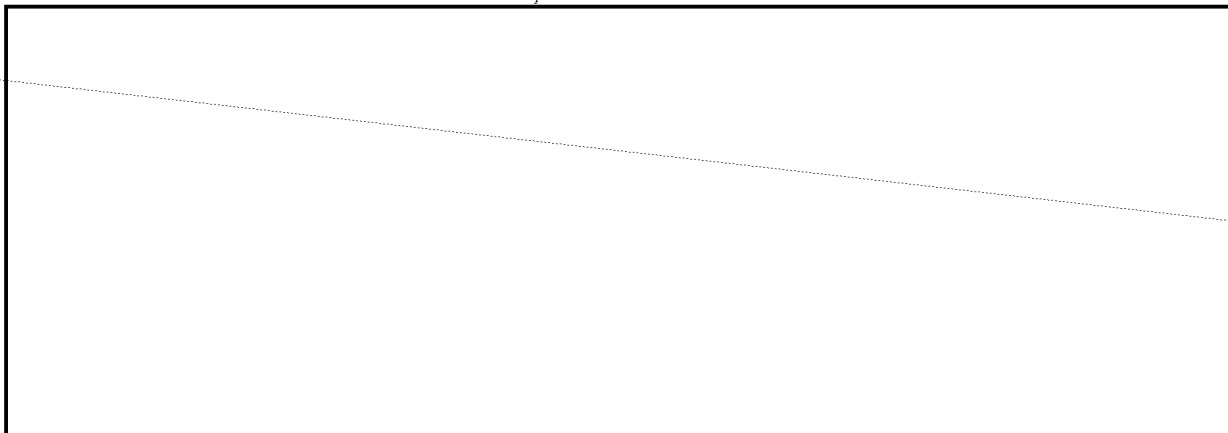
Greenberg/Gray-7343

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

b1
b2
b7D



b1
b2
b6
b7C
b7D

Direct communication between interested field offices is encouraged, as is contact with FBIHQ. Telephone communication should, of course, be discrete. FBIHQ personnel who are familiar with most aspects of this situation are SA [redacted] (Ext. 4591), Joseph L. Tierney (Ext. 4763) and [redacted] [redacted] (Ext. 4601). (U)

b6
b7C

(U) ALL RECIPIENTS: Following review of this communication, make arrangements to notify sources now located in your territory of the problem NLT Monday, 10/13/80, and offer to confer with the sources to develop defensive cover story. (S)

~~SECRET~~

6 -

~~SECRET~~

Airtel to SAC, Chicago, et al
RE: ALCHEMY
100-442715

U.S. VS. W. MARK FELT, ET AL.
TRIAL DAMAGE - SOURCE PROTECTION

CHICAGO:

(U) 1. Request the assistance of [redacted] in reviewing the jeopardy situation, and actually notifying the sources. (S) b6 b7C

(U) 2. Notify FBIHQ and other recipients of any considerations or additional endangered sources not covered by this communication. Notification of new aspects should be in time to be taken into consideration before 10/13/80 deadline of notifying source of basic problem. (S)

(C) 3. Although a fugitive-style investigation would be inappropriate, leads to locate [redacted] should be set if he is not in the Chicago area. (S) b1 b2 b7D

NEW YORK:

(C) 1. Discreetly determine location of [redacted] (former [redacted]) and contact SA [redacted] at FBIHQ. (S) b1 b2 b6 b7C b7D

DENVER, MIAMI, SAN FRANCISCO, AND ST. LOUIS:

1. Handle sources in your respective territories. (U)

SAN FRANCISCO:

(U) 1. Consider possible jeopardy to [redacted] from wide disclosures of RU information. Notify him of expected publicity if believed desirable. (S) b2 b7D

(U) Copies of this communication should be filed in each informant or asset's field office file. Copies of the enclosures should not be unnecessarily reproduced, particularly the list of sources which shows both true name and symbol number. Enclosures should be filed only in the AHC file, which should be treated as an Informant/Asset file in each office because of the concentration of source information there. No enclosures should be filed in any 62, 197 or other litigation file opened in connection with this prosecution. (S)

APPROVED: _____	Adm. Serv. _____	Legal Coun. _____	SECRET - 7 -
Director _____	Crim. Inv. _____	Plan. & Insp. _____	
Exec. AD-Adm. _____	Ident. _____	Rec. Mgmt. _____	
Exec. AD-Inv. _____	Insp. _____	Tech. Serv. _____	
Exec. AD-LES _____	Intelligence _____	Training _____	
		Off. Cong. & Public Affs. _____	

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-05-2009 BY 65179 dmh/baw/sbs

Date 9/11/80

Sme

TO: DIRECTOR, FBI
(ATTN: JOE PIERNEY, RM 4859, TELELIFT 225)

FROM: SAC, NEWARK (62-4106) (RUC)

SUBJECT: MARK W. FELT, et al
DISCOVERY PROCEEDINGS - TRIAL PREPARATION

RE: Butelcall 9/11/80.

(Handwritten initials)

Enclosed for the Bureau are the following items:

- 1.) A certified copy of Birth Certificate.
- 2.) A letter from the Union County Board of Elections re Voter Registration Information for .

b6
b7C

Enclosures detached and hand delivered to office of John W. Fields, Jr., DOV.

4-56

9/15/80

62-118045-295X

ENCLOSURE

2- Bureau (Enc. 2)
1- Newark
JWM/pab
(3)

15 SEP 12 1980

62-118045

(Handwritten signatures)

Approved: _____ Transmitted _____ Per _____

(Number) (Time)

59 NOV 13 1980

149

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-05-2009 BY 65179 dmh/baw/sbs

Date 9/15/80

TO : DIRECTOR, FBI
ATTENTION: CIVIL LITIGATION UNIT II

FROM : SAC, ATLANTA (197-21) (P)

SUBJECT : UNITED STATES v. GRAY, FELT, MILLER

W. MARK Felt

On 9/12/80, SA [redacted] Atlanta Division, was served with a defense subpoena in the above styled case, commanding him to testify in Washington, D. C., on 9/15/80. A follow-up telephone call by SA [redacted] to defense attorney, Mark D. Cummings, indicated that SA [redacted] presence would probably not be required until the end of September, 1980.

b6
b7C

UACB, SA [redacted] will testify for the defense in this case.

b6
b7C

It is requested that the Administrative Services Division, FBIHQ, issue approval for SA [redacted] to travel to Washington, D. C., at Government expense, in order to testify.

b6
b7C

- 2 Bureau
- 2- Atlanta
- 1- 197-21
- 1- 66-2278

67-118045-296

RTT:ehr
(4)

SEP 17 1980

60 NOV 09 1980
ABA Unit com 9/18/80

Approved: *J.D.G./MWT* Transmitted _____

(Number) (Time)

Per _____

[Signature]
7326
213

Memorandum



Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

~~CONFIDENTIAL~~

To : Mr. E. J. O'Malley

Date 10/14/80

From : J. E. Nolan, Jr. *JEN*

Subject : U.S. vs. W. MARK FELT, ET AL.

DECLASSIFICATION AUTHORITY DERIVED FROM:
 FBI AUTOMATIC DECLASSIFICATION GUIDE
 DATE 05-18-2009

PURPOSE:

To advise that defense counsels for Messrs. Miller and Felt have informed me that they intend to call me as a witness. (U)

ACTION:

None. For information. (U)

DETAILS:

Should testify in response to interrogatories

APPROVED _____
 Director _____
 Exec. AD-Adm. _____
 Exec. AD-Inv. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

On 10/13/80, at the request of counsels for the defense, I met with them at Mr. Gettings' office. (U)

They advised that they wished at trial to cover the history of the development of the FCI Guidelines, in particular, why the search provisions of the Guidelines were not included in the first edition of the Guidelines published in 1976, but rather were issued in 1978. (U)

62-118045-297

They also inquired whether I was aware of the reactivation of Program C in 1972 and I advised them that former Section Chief W. A. Branigan had so advised me at that time. They inquired as to whether I was aware of the entries in the [redacted] case and I told them that I was. (U)

b6
b7C

- JEN:mjt (8)
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. Finzel
- 1 - Mr. O'Malley
- 1 - Mr. J.E.Nolan
- 1 - Mr. Tierney
- 1 - Mr. Daly

~~CONFIDENTIAL~~

OCT 27 1980

Classified and Extended by 4091
 Reason for Extension FCIM, II, 1-2.4.2 (2 and 3)
 Date of Review for Declassification October 14, 2000

CONTINUED-OVER

JEN

~~CONFIDENTIAL~~

Memorandum J. E. Nolan, Jr., to E. J. O'Malley
Re: U.S. vs. W. MARK FELT, ET AL

They also inquired as to whether under FISA the FBI had ever received authority to make an entry into a U.S. person's residence for a Misur installation. I informed them that we had. They asked had the FISA Court ever been requested to approve a physical search not involving electronic surveillance and I told them it had, but that such searches had not involved entry into premises. (U)

They asked if I had ever participated in any entries and I advised them that in 1962 and 1964 I had been involved in such entries into motel rooms of agents of foreign powers and as part of a surveillance during the entry into the apartment of an agent of a foreign power. (U)

They asked whether during my assignment to the Espionage Section at FBIHQ from 1969 until 1974, it was my understanding that surreptitious entries could be approved in a major espionage case. I told them that it was my understanding at the time that were the case of major significance use of such a technique could be considered.

- 2 -

~~CONFIDENTIAL~~

Greenberg/Gray-7349

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-05-2009 BY 65179 dmh/baw/sbs

X

9/11/80

TO : DIRECTOR, FBI (100-439048) ((ATTN: JOE TIERNEY)

Smc

FROM: SAC, CHICAGO (100-40903) (C) (SQUAD 11)

WEATHER UNDERGROUND ORGANIZATION (WUO)
DOMESTIC SECURITY
OO: CHICAGO

Mark W. Felt

Re FBIHQ telcall from SA Joe Tierney to Chicago
9/11/80.

Enclosed for FBIHQ are the following two tapes per
the request of SA Tierney:

1. Original of a tape recording of the voice of
Bernardine Rae Dohrn delivering a press conference at the
Civic Center at Washington and Dearborn, Chicago, 12/22/69
at noon, recorded by SA [redacted].

2. Copy of an original tape recording of the voice
of Dohrn delivering a press conference at 701 West Armitage
Street, Chicago 9/12/69. This recording emanated from WGN TV
in Chicago and the original was last known to be in the custody
of [redacted] of that station.

It is noted that in retelcall SA Tierney also
requested the tape supposedly depicting [redacted] voice that was
delivered at the University of California at Berkeley on
5/27/70. Chicago cannot locate this tape recording and
believes that it is in the possession of the FBI Laboratory.
Chicago sent same to the Laboratory by airtel 6/3/70 and is
unable to locate any record of it having been returned.

b6
b7C

No copies of the above two tape recordings have been
retained by Chicago.

62-118045-

(2) - Bureau (Enc. 2)
1 - Chicago
WED:meb
(3)

NOT RECORDED
46 NOV 5 1980

Greenberg/Gray-7350

m/

59 NOV 13 1980

3871
ORIGINAL FILED IN 100-439048

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1474774-0

Total Deleted Page(s) = 43

- Page 24 ~ OTHER;
- Page 25 ~ OTHER;
- Page 26 ~ OTHER;
- Page 27 ~ OTHER;
- Page 28 ~ OTHER;
- Page 43 ~ Referral/Direct;
- Page 52 ~ Duplicate;
- Page 53 ~ Duplicate;
- Page 54 ~ Duplicate;
- Page 55 ~ Duplicate;
- Page 56 ~ Duplicate;
- Page 57 ~ Duplicate;
- Page 58 ~ Duplicate;
- Page 59 ~ Duplicate;
- Page 89 ~ Duplicate;
- Page 90 ~ Duplicate;
- Page 91 ~ Duplicate;
- Page 92 ~ Duplicate;
- Page 93 ~ Duplicate;
- Page 94 ~ Duplicate;
- Page 95 ~ Duplicate;
- Page 96 ~ Duplicate;
- Page 97 ~ Duplicate;
- Page 98 ~ Duplicate;
- Page 99 ~ Duplicate;
- Page 100 ~ Duplicate;
- Page 101 ~ Duplicate;
- Page 102 ~ Duplicate;
- Page 103 ~ Duplicate;
- Page 104 ~ Duplicate;
- Page 159 ~ b6; b7C; b7D;
- Page 161 ~ b6; b7C; b7D;
- Page 162 ~ b6; b7C; b7D;
- Page 163 ~ b6; b7C; b7D;
- Page 164 ~ b6; b7C; b7D;
- Page 165 ~ b6; b7C; b7D;
- Page 166 ~ b6; b7C; b7D;
- Page 167 ~ b6; b7C; b7D;
- Page 168 ~ b6; b7C; b7D;
- Page 169 ~ b6; b7C; b7D;
- Page 170 ~ b6; b7C; b7D;
- Page 171 ~ b6; b7C; b7D;
- Page 172 ~ b6; b7C; b7D;

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X Deleted Page(s) X
X No Duplication Fee X
X For this Page X

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1298655-0

Total Deleted Page(s) = 43

- Page 24 ~ OTHER;
- Page 25 ~ OTHER;
- Page 26 ~ OTHER;
- Page 27 ~ OTHER;
- Page 28 ~ OTHER;
- Page 43 ~ Referral/Direct;
- Page 52 ~ Duplicate;
- Page 53 ~ Duplicate;
- Page 54 ~ Duplicate;
- Page 55 ~ Duplicate;
- Page 56 ~ Duplicate;
- Page 57 ~ Duplicate;
- Page 58 ~ Duplicate;
- Page 59 ~ Duplicate;
- Page 89 ~ Duplicate;
- Page 90 ~ Duplicate;
- Page 91 ~ Duplicate;
- Page 92 ~ Duplicate;
- Page 93 ~ Duplicate;
- Page 94 ~ Duplicate;
- Page 95 ~ Duplicate;
- Page 96 ~ Duplicate;
- Page 97 ~ Duplicate;
- Page 98 ~ Duplicate;
- Page 99 ~ Duplicate;
- Page 100 ~ Duplicate;
- Page 101 ~ Duplicate;
- Page 102 ~ Duplicate;
- Page 103 ~ Duplicate;
- Page 104 ~ Duplicate;
- Page 159 ~ b6; b7C; b7D;
- Page 161 ~ b6; b7C; b7D;
- Page 162 ~ b6; b7C; b7D;
- Page 163 ~ b6; b7C; b7D;
- Page 164 ~ b6; b7C; b7D;
- Page 165 ~ b6; b7C; b7D;
- Page 166 ~ b6; b7C; b7D;
- Page 167 ~ b6; b7C; b7D;
- Page 168 ~ b6; b7C; b7D;
- Page 169 ~ b6; b7C; b7D;
- Page 170 ~ b6; b7C; b7D;
- Page 171 ~ b6; b7C; b7D;
- Page 172 ~ b6; b7C; b7D;

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

X	Deleted Page(s)	X
X	No Duplication Fee	X
X	For this Page	X

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

SV0003 2732054

PP HQ

DE SV

P 292045Z SEP 80

FM SAVANNAH (166-1491)

TO DIRECTOR PRIORITY

BT

UNCLAS

RECEIVED
LETTER UNIT

29 SEP 00 20 56z

Exec. AD Adm.	
Exec. AD Inv.	
Exec. AD Leg.	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Insp.	
Intell.	
Lab.	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Off. of Cong. & Public Affs.	
Telephone Rm.	
Director's Sec'y	

Mark W. Felt

SURREPTITIOUS ENTRY INVESTIGATION SPECIAL, 1976.

ON SEPTEMBER 29, 1980, FRANK MARTIN, U. S. DEPARTMENT OF JUSTICE, WASHINGTON, D. C., TELEPHONICALLY ADVISED SA ROBERT E. CONRAD OF THE AUGUSTA, GA., RA THAT CONRAD WAS TO REPORT TO WASHINGTON, D. C., TO APPEAR IN TRIAL OF FORMER BUREAU OFFICIALS ON SEPTEMBER 30, 1980.

ch
OC

UACB, CONRAD WILL DEPART RA AFTERNOON SEPTEMBER 29, 1980, AND SHOULD RETURN WHEN TESTIMONY IS COMPLETED.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-11-2009 BY 65179 dmh/baw/sbs

62-118045-298

23 NOV 3 1980

4-511
Mr. [unclear]
Room 48509
TL# 224
A. [unclear]

62-118045

597

64 NOV 14 1980

Greenberg/Gray-7351

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~CONFIDENTIAL~~

TO : Director, FBI ()
FROM : Legal Attache, London (200-62) (P)

DATE: 9/22/80

SUBJECT: U. S. vs. ^{w.} ^O MARK FELT; ET AL
FOREIGN SOURCE INFORMATION

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 08-11-2009

Reference: Butel to all Legats 9/17/80.

Dissemination, as outlined below, was made on dates indicated.

_____ copies of

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Pertinent information from retel - security matter.

Name and Location of Agency	Date Furnished
(S) [Redacted] (S)	(S) b1 9/22/80
[Redacted] (S)	"

62-118045-

RECORDED
28 OCT 7 1980

~~CONFIDENTIAL~~

3 - Bureau
(1 - Foreign Liaison Desk)

~~Classified and Extended by...6159...
Reason for Extension:
FCIM, II, 1-2.4.2... (1)(2).....
Date of Review for Declassification:
9/22/2010~~

574
66 NOV 14 1980

62-118045 J. R. [Signature]
14221

~~SECRET~~

Greenberg/Gray-7352

~~CONFIDENTIAL~~

RECEIVED
TELETYPE UNIT

16 OCT 80 03 06 Z

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

CG0013 2900219

RR HQ SL

DE CG

R 0160219Z OCT 80

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 05-11-2009

FM CHICAGO (100-41353) (SQUAD 12)

TO DIRECTOR (100-442715) ROUTINE

ST. LOUIS ROUTINE

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

ATTENTION INTD

ACHEMY, U.S. VS. W. MARK FELT, ET AL; TRIAL DAMAGE-SOURCE
PROTECTION (S).

RE CHICAGO TELETYPE DATED OCTOBER 8, 1980.

b1
b2
b6
b7C
b7D

[REDACTED]

[REDACTED] PLANS TO MEET SOURCE OCTOBER 18 OR 19, 1980.

BUREAU AND ST. LOUIS WILL BE ADVISED OF SPECIFIC ARRANGEMENTS
MADE TO MEET SOURCE WHEN THEY ARE COMPLETED. (S)

~~O AND E 5808, REASON 2 AND 3, DRB OCTOBER 15, 2009~~

BT

62-118045

Greenberg/Gray-7353

NOT RECORDED

25 NOV 7 1980

59 NOV 19 1980

~~CONFIDENTIAL~~

ORIGINAL FILED IN 100-442715-3119

Memorandum



Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. McKinnon *cm/abb*

Date 9/3/80

From : J. L. Williamson *jlw/abb*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-11-2009 BY 65179 drh/baw/sbs

Subject : REQUEST FOR COPY OF
~~FBI HANDBOOK BY~~
~~SPECIAL COUNSEL,~~
~~U. S. DEPARTMENT OF JUSTICE.~~

W. MARK FELT
[Signature]

PURPOSE: To detail information requested by Special Counsel Nields, Department of Justice.

DETAILS: On 9/2/80 Special Counsel John Nields, Department of Justice, handling the matter of the USA vs Felt and Miller was in telephonic contact with SA [redacted] PRA Unit. Nields stated that he wanted a complete copy of the Agent's handbook as it appeared in September, 1972, with all the revisions published through May, 1973. Nields stated that the trial in this matter is scheduled to commence 9/15/80 and that he would like the material by 9/10/80. Nields advised that he probably should have let Administrative Services Division know of his specific needs prior to this date.

b6
b7C

[Handwritten initials]

On 9/3/80, John Nields and Dan Friedman (phonetic) attended a meeting with SA [redacted] in Room 6856, JEH, and requested the following be provided to them by 9/12/80:

b6
b7C

One copy of each page of the Handbook for Special Agents as it appeared on 9/1/72, and all revisions from 9/1/72 through May, 1973, in Xerox form which can be cut and punched to be put in a 3-ring binder.

DE-95 *62-118045-299*

RECOMMENDATION: That this material be prepared and provided as requested, and that this memorandum be retained for possible future reference.

Abb
JSS/gus

1 - [redacted] b6
 1 - [redacted] b7C

JSS:amo *(3)*

[Handwritten initials]

APPROVED: _____
 Director _____
 Exec. AD-Adm. _____
 Exec. AD-inv. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

59 NOV 20 1980

Greenberg/Gray-7354

62-118045

NOV 4 1980

4- [Handwritten]

PERS. REC. UNIT

FBI/DOJ

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

~~CONFIDENTIAL~~

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

TO : Mr. Colwell

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 05-11-2009

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- DATE: 9/9/80
- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- 1 - Mr. Revell
- 1 - Mr. Finzel
- 1 - Mr. Steel
- 1 - Mr. Daly
- 1 - Mr. Tierney

FROM : R.P. Finzel

SUBJECT: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION (U)

PURPOSE:

To record 9/8/80 meeting with the Director, and action taken. (U)

RECOMMENDATION:

None. For information and record purposes. (U)

APPROVED: _____

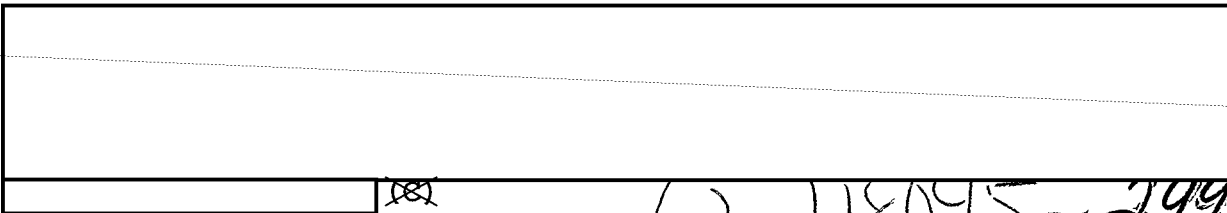
Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Adm. <u>VE</u>	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. <u>RM</u>
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Off. of Cong. & Public Affs. _____

Wdu

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DETAILS:

On 9/8/80 the Director met with EAD Mullen, ADs Mintz, O'Malley, and Finzel, Special Assistant Steel, ASAC Paul V. Daly and SA Joseph L. Tierney. The meeting was held to discuss the Attorney General's letter to the President of 8/29/80, copies of which were furnished to the Departments of State and Defense and to CIA for respective comments, but not to the FBI. The Attorney General was to furnish the Director a copy together with the responses of other agencies that day, but it had not been delivered yet. (U)



b1

Several questions regarding the precision and accuracy of statements in the Attorney General's letter were discussed. (U)

62-118095-299
4-5

AD O'Malley, ASAC Daly and SA Tierney had had the opportunity to review a copy of the Attorney General's letter and orally presented their concerns. (U)

15 JAN 18 1981

62-11804

~~CONFIDENTIAL~~

Classified and Extended by 8060

Reason for Extension FCIM II, 1-2.4.2 (2)

Date of Review for Declassification 9/9/2000

734

Greenberg/Gray-7355

~~CONFIDENTIAL~~

Rec'd from Director 1/17/81

JLT:tdp
(10)

~~CONFIDENTIAL~~

Memorandum R.P. Finzel to Mr. Colwell
RE: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

(U) The 8/29/80 damage assessment meeting with DAG Renfrew, State, NSA and CIA was discussed, and it was noted the Attorney General's letter to the President was approved and sent the morning of 8/29/80, prior to the scheduled discussion of damages to the intelligence community. The referral of the FBI damage assessment to DCI through the DAG had not achieved the anticipated impartial evaluation. The CIA response commented only on the lack of CIA "equities" in the FBI damage assessment. It was noted neither CIA nor NSA were requested by the Department of Justice to submit assessments of anticipated damage so that the DCI might comment on damage to the intelligence community as a whole should he so choose. (X)

These facts indicated it may have been a practical impossibility for the Attorney General to have conducted a balancing of prosecutive interests against national security interests in his decision to pursue captioned prosecution. This concern was heightened by the statement in the Attorney General's letter to the President: "Every issue has been successfully resolved except one." (U)

The Director stated, and all present agreed, we should not and would not appeal the Attorney General's judgment in balancing the competing interests in the prosecution, whether or not we concurred in that judgment. Our obligation was to resolve to our satisfaction that the Attorney General had the benefit of all the facts in reaching his decision, and in stating in his letter to the President that all other issues had been successfully resolved. (U)

The Director indicated he would review the letter and other agency responses to it as soon as he received them from the Attorney General. He would also ask the Attorney General if he had read the FBI damage assessment before reaching his decision. (U)

The Attorney General later called the Director to advise him the letter and responses were about to be sent over from the Attorney General's office. During this call, the Director asked the Attorney General if he had read the FBI damage assessment and considered it in reaching his decision. The Attorney General replied he had not read the FBI assessment but had read the responding letter from CIA. (U)

~~CONFIDENTIAL~~

- 2 -

Greenberg/Gray-7356

~~CONFIDENTIAL~~

Memorandum R.P. Finzel to Mr. Colwell
RE: U.S. VS. W. MARK FELT, ET AL.
TRIAL PREPARATION

On the morning of 9/9/80 John W. Nields, Special Counsel in charge of captioned prosecution, advised that the President had decided on a compromise in which the former officials of the other agency on whose behalf the surreptitious entries program was conducted can testify using only the euphemistic device ("Program C"). There will be no official confirmation of the nature of the program, and no declassification of it. (U)

~~CONFIDENTIAL~~

- 3 -

Greenberg/Gray-7357

Memorandum



Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. Colwell

Date 9/10/80

From : P. Finzel

Subject : U. S. vs W. MARK FELT

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-11-2009 BY 65179 dmh/baw/sbs

JIT/Steel
Tierney
 224

PURPOSE: The purpose of this memorandum is to recommend release of employees from employment agreements to testify in captioned trial.

RECOMMENDATION: That current and former employees be released from employment agreements to testify in captioned matter consistent with the motion in limine issued by the court.

APPROVED: _____
 Director _____
 Exec. AD-Adm. _____
 Exec. AD-Inv. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. EJOIN
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

nd
em
 10

DETAILS: Current and former FBI employees will be appearing as Government and defense witnesses in this case. The Attorney General by memorandum dated 8/11/80 (copy attached) authorized the release of classified information through oral testimony in this matter. This release applies only to classified information originating with the Department of Justice and only that information which is relevant to issues in this case.

Chief Judge William Bryant by Order dated 8/28/80 issued a motion in limine (copy attached) limiting testimony to be given in this matter protecting foreign government information, identity of sources and methods.

So there may be no misunderstanding on the part of current or former FBI employees, they should be released from employment agreements to testify in this matter consistent with the ~~motion~~ ^{order} in limine.

Enclosures

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- 1 - Mr. Revell

- 1 - Mr. Steel
- 1 - Mr. Finzel
- 1 - Mr. Daly
- 1 - Mr. Tierney

PVD:jtw
(10)

5-PM
ENCLOSURE
F-48
F-48
 59 NOV 20 1980

62-118045-300

NOV 3 1980

62-118045
 Greenberg/Gray-7358

4-JIT/Steel

Memorandum



ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-11-2009 BY 65179 dmh/baw/sbs

Subject

United States v. Felt, et al

Date

August 11, 1980
BRC:JWN:ams

To

Trial Counsel and Witnesses
in the Case of United States
v. W. Mark Felt, et al

From

The Attorney General

CAR 8.11.80

Pursuant to the power conferred on me by 28 C.F.R. §17.64 I hereby authorize disclosure at the trial of the above case of classified information originating with the Department of Justice, through oral testimony and through communication of documents to the jury, which is relevant to the issues in that case and essential to a fair trial of the case. With respect to documentary evidence, the authorization applies to the documents designated for trial use on the lists attached to the affidavit of Paul V. Daly dated August 7, 1980 and cleared for trial use by representatives of the FBI working in conjunction with the Government trial attorneys. At the close of the trial, a determination will be made as to which documents or parts of documents containing classified information have, by reason of their publication to the jury, entered the public domain and cannot remain classified. These portions will then be declassified.

This authorization does not apply to classified information which originated with an agency of the United States Government outside the Department of Justice. It further does not permit attorneys knowingly to elicit information through oral testimony falling within the terms of the Composite Claim of Privilege executed by me dated August 7, 1980, in the above case. With respect to information falling within the terms of this Claim of Privilege, disclosure at trial may occur only upon a prior ruling by the Court that the information is relevant and necessary to a fair trial, or upon consent of a representative of the Department of Justice or the Federal Bureau of Investigation.

67-118045-300

Greenberg/Gray-7359

ENCLOSURE

In order to assure proper protection of the above information, the trial attorneys for the Government will exhibit the Composite Claim of Privilege to all trial counsel for the defendants and will seek an order from the Court directing defense counsel to seek prior approval of the Court before knowingly eliciting oral testimony which would disclose information covered by the Composite Claim of Privilege.

Greenberg/Gray-7360

62-118045-300

ENCLOSURE

Greenberg/Gray-7361

UNITED STATES OF AMERICA

v.

W. MARK FELT and
EDWARD S. MILLER

:
:
:
:
:
:

Cr. No. 78-00179

FILED

AUG 28 1980

MEMORANDUM AND ORDER

JAMES F. DAVEY, Clerk

A

The government has moved in limine to prevent witnesses and defense counsel from unilaterally disclosing in open court certain classified information.¹ Instead, the government has requested an order directing witnesses and defense counsel to review information presented in one of three lists compiled by the government: witnesses are "not to disclose any item on such list during testimony ... absent specific direction from the court to do so ..."; counsel are "not knowingly to disclose through questions or argument or [elicitation of] testimony ... the items listed ... absent prior notice to the Government and approval by the court...." The longer list, for the perusal of counsel, identifies approximately twenty-two categories of intelligence information and activities, e.g., "[t]he fact that particular information was received from the intelligence service of a foreign country," "[t]he name of an informant." The shorter lists, for witnesses with various security clearances, identify approximately thirteen/seventeen of the categories contained in the longer list.

Underlying the motion in limine are affidavits submitted by Deputy Attorney General Renfrew and Secretary of Defense Brown asserting categorical claims of privilege. In his in camera, ex

¹The present motion supplements the Government's Motion for Disclosure of Certain Claims of Privilege to Defense Counsel and for an Order Directing Them to Advise the Court Prior to Knowingly Eliciting Testimony Covered by Such Claims of Privilege. This earlier government motion was filed in response to defendant Felt's Motion to Relieve Counsel from Obligations to Protect National Security Information During Trial and for a Trial Continuance.

... submission, Secretary Brown has elaborated upon the type of information falling within approximately six of the categories comprising the government list. He states that such information qualifies as secrets of state, the disclosure of which could severely damage certain intelligence activities. Deputy Attorney General Renfrew has offered a "composite claim of privilege," explaining how disclosure of information within any of the categories comprising the remainder of the list, e.g., information disclosing electronic surveillance of a foreign counter-intelligence target or intelligence gathering techniques, would adversely affect the national interest.² Judge Renfrew has also added that he is personally familiar with some of the documents designated by the defendants for use at trial, and that such documents contain information falling within the categories of information which, if disclosed, would adversely affect the national interest.³

B

It is important to understand the nature of the motion proposed by the government. Unlike a motion in limine excluding use of testimony at trial, e.g., United States v. Red Feather, 392 F. Supp. 916, 925 (D.S.D. 1975); the government seeks only to establish a notice provision protecting against the unwarranted disclosure of certain information through the question-by-question objection procedures normally used at trial. The standard to be applied to exclude particular witness testimony at trial, or the particular privilege underlying any attempts at exclusion, are not at issue at this point in the proceeding.

The only determinations for this court at present are

²Deputy Attorney General Renfrew asserted the claim of privilege in his capacity as Acting Attorney General, while Mr. Civiletti was out of the country.

³The affidavit of Judge Renfrew was accompanied by two affidavits by officials of the FBI and CIA further describing the nature of the classified information contained in the documents designated by the defendants for use at trial. Judge Renfrew indicated he had read the affidavits, one of which (Daly affidavit) added that the defendants intend to elicit testimony from witnesses who had access to classified information similar to that contained in the trial documents when employed by the FBI or Department of Justice.

whether the government has made an adequate showing for such a notice provision, and whether the provision impermissibly infringes on the defendants' constitutional rights.

The government has met its first burden. All the parties in this case have spent months examining documentary evidence to be tendered at trial, redacting information revealing sensitive information, and preparing substitute information, stipulations, or admissions for presentation to the jury. The government has expressed concern that defense witnesses unfamiliar with the manner in which the documents have been tailored for trial, or with access to classified information never addressed in these pretrial proceedings, might reveal sensitive information at trial. The claims of privilege by Secretary Brown and Judge Renfrew represent reasonable attempts to deal with a difficult situation: the government has no idea exactly what information defense witnesses, or even government witnesses on cross-examination, have reviewed during their years of service and may reveal. Under the circumstances, the proffered claims of privilege, by highlighting particular categories of sensitive information, suffice to alert this court "to the possibility of harm from the disclosure" of certain information at trial, and provide a sufficient basis to adopt a provision "to reserve for the government an opportunity to interpose specific objections" before any information is eventually disclosed at trial. Black v. Sheraton Corp., 564 F.2d 531, 543-45 (D.C. Cir. 1977); see Jabara v. Kelley, 75 F.R.D. 475, 487-89 (E.D. Mich. 1977) ("essential matter is that the executive officer claiming the privilege give careful consideration to the nature of the information withheld and its effect on national security"). Finally, there is no question that the categories of information delineated in the claims of privilege have traditionally been afforded protection. See, e.g. Roviato v. United States, 353 U.S. 53, 62-64 (1957) (informant's privilege); United States v. Reynolds, 345 U.S. 1 (1953) (state secrets); Halkin v. Helms, 598 F.2d 1, 8-11 (D.C. Cir. 1978) (NSA foreign intelligence activity qualifying under states secret privilege); United States v.

Crim. No: 78-00179, slip op. at 5-7 (D.D.C. Dec. 21, 1979) (intelligence information from foreign sources).

This court is also convinced that the proposed motion does not violate the sixth amendment right of the defendants to effective assistance of counsel or the first amendment rights of defense counsel and witnesses. The portion of the order directed at counsel is premised on the "knowing" disclosure of information through argument or questions directed at witnesses. According to the government, this is to prevent counsel from circumventing the detailed document preparation process that has taken place over the last six months by knowingly eliciting testimonial information [counsel knows] has been excluded during the document preparation process, or which they know would jeopardize exactly the same type of sources as have received protection from this court during the document preparation process." Government's Reply at 6 (emphasis in original).

The involvement of defense counsel in preparing the documents for use at trial, the categories of information presented in the claims of privilege and the lists attached to the government's motion combine to create adequate notice of the information not to be disclosed without court approval; the proposed standard protects against the sort of inadvertent disclosure alluded to by defendant Felt in his Motion to Supplement and Clarify the Record. The notice scheme falls far short of burdening defense counsel to the point where the defense is denied an "opportunity to participate fully and fairly in the adversary process." Herring v. New York, 422 U.S. 853, 858 (1975). Finally, the government's proposal affects only courtroom testimony and statements by witnesses and counsel; cases dealing with the first amendment repercussions of attempts to control extra-judicial statements or disclosures, e.g. In re Halkin, 598 F.2d 176 (D.C. Cir. 1979), are not persuasive. In even more ordinary circumstances trial judges are regularly involved in controlling the flow and form of the evidence offered to the jury.

It is hereby ORDERED that the government's Motion In Limine

and a Trial Protective Order is granted.

Furthermore, it is hereby ORDERED

(1) That any counsel calling any witness who is a present or former official of the United States Government with access to classified information shall exhibit Attachment B or C attached hereto, depending upon the level of classified information to which the witness had access, and shall instruct such witness not to disclose any item on such list during testimony at the above trial absent specific direction from the court to do so; and

(2) (a) That all counsel for defendants Felt and Miller with responsibility for eliciting testimony at the trial of the above case familiarize themselves with Attachment A hereto; and

(b) That such counsel are directed not knowingly to disclose through questions or argument or knowingly to elicit testimony about the items listed on Attachment A attached hereto, absent prior notice to the government and approval by the court or consent by the government.

And, it is further ORDERED that the clerk place Attachments A, B, and C to this order under seal.

And, it is further ORDERED that defendant Felt's Motion to Relieve Counsel from Obligations to Protect National Security Information During Trial is denied.


UNITED STATES DISTRICT JUDGE

Date: August 27, 1980

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-11-2009 BY 65179 dmh/baw/sbs

Date of Mail 9-3-80

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

- Letter _____ Airtel _____
- LHM _____ Memo XX
- Report _____ Other _____
- Teletype _____

Subject W. MARK FELT

Originator of Material E. J. O'MALLEY

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045-299x1

PERMANENT SERIAL CHARGE-OUT

Greenberg/Gray-7372

RIDS CU SERIAL CHARGE OUT PAGE

Records Management Division
RECORD/INFORMATION DISSEMINATION SECTION

SERIAL CHARGE OUT

This Document Has Been Removed

TOP SECRET MATERIAL

Document can be located in the SFR SCIF

Note To Disclosure:

Please proceed as usual processing other documents in this request.

Requester: Ivan Greenberg

Subject: L. Patrick Gray

FOIPA #: 1104977-001

File #: 62-118045

Serial: 300x

Date of Mail: 9-10-1980

Page(s): 6

Date Removed: 3-9-2009

Team #: CU-2

LAS:

Phone #:

b6
b7C

SERIAL CHARGE OUT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-11-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7373

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Exec AD Inv.	_____
Exec AD Adm.	_____
Exec AD LES	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

TO : Mr. E. J. O'Malley *EM*

FROM : J. F. Hengemuhle *JFH*

SUBJECT: UNITED STATES VS. W. MARK FELT, ET AL

DATE: 9/12/80

Hengemuhle

PURPOSE:

To report receipt of subpoena from defense in captioned matter and to seek release from employment agreements in order to testify.

RECOMMENDATIONS:

1. That SA Hengemuhle on whom subpoena was served, appear as defense witness without seeking prior Department of Justice (DOJ) approval.

APPROVED: *WJH*

Director	_____	Adm. Serv.	_____	Legal Coun.	_____
Exec. AD-Adm.	_____	Crim. Inv.	_____	Plan. & Insp.	_____
Exec. AD-Inv.	<i>JFH</i>	Ident.	_____	Rec. Mgnt.	_____
Exec. AD-LES	_____	Intell.	<i>EM</i>	Tech. Servs.	_____
		Laboratory	_____	Training	_____
				Off. of Cong. & Public Affs.	_____

EM

2. That Hengemuhle be released from employment agreements in order to testify in captioned trial.

APPROVED: *WJH*

Director	_____	Adm. Serv.	_____	Legal Coun.	_____
Exec. AD-Adm.	_____	Crim. Inv.	_____	Plan. & Insp.	_____
Exec. AD-Inv.	<i>JFH</i>	Ident.	_____	Rec. Mgnt.	_____
Exec. AD-LES	_____	Intell.	<i>EM</i>	Tech. Servs.	_____
		Laboratory	_____	Training	_____
				Off. of Cong. & Public Affs.	_____

- 1 - Mr. F. M. Mullen, Jr.
- 1 - Mr. E. J. O'Malley
- 1 - Mr. J. F. Hengemuhle
- 1 - 67- (Joseph F. Hengemuhle)

62-118045-301

22 NOV 5 1980

JFH:dmy
(5)

CONTINUED - OVER

JFH DEC 1 1980

4-01 [Signature]

62-118045- [Signature]

PERO REC UNIT [Signature]

Memorandum to Mr. E. J. O'Malley
Re: United States vs. W. Mark Felt, et al

DETAILS:

On 9/12/80 [redacted] retired FBIHQ official, served Section Chief Joseph F. Hengemuhle, CI-1 Section, Intelligence Division, with a subpoena calling for Hengemuhle's appearance in the Felt/Miller trial as a defense witness. This subpoena, dated 9/3/80, called for appearance at 10:00 am, 9/15/80, at the U.S. District Court for the District of Columbia. [redacted] also furnished a \$35 check payable to Hengemuhle for "witness fee and mileage." As noted by [redacted] he along with several other ex-Agents are assisting the defense in this matter thus he was requested by the defense to serve the above described subpoena.

b6
b7C

On 9/12/80, subsequent to the above service, Mr. Mark D. Cummings, attorney for the defense, called Hengemuhle stating he wished to discuss with Hengemuhle his participation in the preparation of the "Huston Report" of about ten years ago. Mr. Cummings started to ask some questions over the telephone and it was suggested to him that this matter could be more appropriately discussed person to person. Arrangements were made for Hengemuhle to be interviewed by Cummings in Cummings' office at 3:30, 9/12/80.

This matter has been coordinated with Mr. Paul Donahue of the Legal Counsel Division.

Pursuant to instructions issued by the Deputy Attorney General, Hengemuhle will respond to the subpoena and appear as a witness, if necessary, without seeking prior DOJ approval.

It is requested that SA Hengemuhle be released from his employment agreements in order for him to testify in captioned matter.

The original of the subpoena is being attached to the copy of this memorandum designated for Hengemuhle's personnel file.

The check, in the amount of \$35, will be returned to Mr. Cummings on 9/12/80.

~~CONFIDENTIAL~~

~~SECRET~~

AW

September 17, 1980

MEMORANDUM TO MR. O'MALLEY

RE: U.S. v. W. MARK FELT, et al. (u)

Reur ~~Top Secret~~ memorandum September 3, 1980. (u)

I reviewed with the Attorney General my July 3, 1980, memorandum to him. He had not seen it previously. The Attorney General will take this up with Niels and it is my general understanding that he will have Niels take the proper steps government to government. The Attorney General knows that I desire to notify the [redacted] directly if this is not to be done and I expect that he will let me know if for any reason Niels persuades him otherwise. (u)

b1

I think we should follow up on this in about a week to see exactly what happened in the event I am not notified. (u)

William H Webster

William H. Webster
Director

62-118045-3018

- 1 - Mr. Colwell
- 1 - Mr. Mullen

WHW:mfd

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 06-11-2009

FEB 26 1982

62-118045

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell.
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAR 4 1982

SENT FROM D.O.
TIME 5:15
DATE 9/17/80

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~CONFIDENTIAL~~

CLASS. & EXT. BY 809
REASON FOR IT 1-2.4.2 (243)
DATE OF REVIEW September 17, 2000
Greenberg/Gray-7376

~~SECRET~~

MAIL ROOM

Airtel

- 1 - [Redacted]
- 1 - Each Exec. Asst. Director
- 1 - Each Assistant Director
- 1 - Inspector Young

b6
b7C

~~CONFIDENTIAL~~

9/19/80

To: All SACs
All LEGATS

1 - Mr. O'Malley
PERSONAL ATTENTION

From: Director, FBI

- 1 - Mr. Revell
- 1 - Mr. Finzel
- 1 - Mr. Steel

U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER
TRIAL - SOURCE PROTECTION (U)

- 1 - Mr. Daly
- 1 - Mr. Tierney

BACKGROUND - GENERAL

The trial of former Acting Associate Director Felt and former Assistant to the Director Miller commenced Monday, 9/15/80 in the U.S. District Court for the District of Columbia, Chief Judge William B. Bryant presiding. The charges against former Acting Director Gray remain outstanding, but his trial has been severed and he may be tried after the trial of Messrs. Felt and Miller is completed. The prosecution case is predicted to take two weeks or more, and the defense case four weeks beginning approximately 9/29/80. (U)

Because the trial is likely to attract media reporting and commentary, this communication addresses source protection issues and related problems which may result. (U)

Trial issues of Weatherman violence, foreign involvement, past FBI practices, prior knowledge by the Department of Justice and the President have presented problems for the FBI and the intelligence community, particularly NSA and CIA. Solutions have been jointly negotiated by the interested agency, prosecutors and defense counsel, and, at times, with the assistance or based on decisions of the trial judge. Documents to be used at trial have been excised, partially rewritten, or made the subject of stipulations which replace documents. Oral testimony will follow the general outlines or philosophy

~~CONFIDENTIAL~~

Classified and Extended by 8060
Reason for Extension FCIM II, 1-2.4.2 (1) (2)
Date of Review for Declassification 9/19/2000

TLT:tdp
(145)

1 - Foreign Liaison Unit (route through for review)

62-118045-302

4-8-85

SEP 17 1980

NOV 3 1980

NOV 21 1980

62-118045

Greenberg/Gray-7377

MAILED 13
SEP 22 1980
FBI

- AD Inv.
- AD Adm.
- AD LES
- Dir.:
- Servs.
- Inv.
- Laboratory
- Coun.
- & Insp.
- Mgt.
- Servs.
- g
- fs. Off.
- Rm.
- Sec'y

MAIL ROOM

~~CONFIDENTIAL~~

Airtel to All SACs and All LEGATs
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

of documents to which the testimony relates, with the trial judge deciding new areas arising during trial. Solutions reached reflect a concern shared by all to balance the competing interests of the national security (primarily in protecting sources) with the Constitutional rights of the defendants to a fair trial. (U)

LEGATS - FRIENDLY FOREIGN SERVICES, SOURCES

Legats are being advised by cable they may assure any source or foreign service that information furnished by them in the past to the FBI has not been cleared for use at trial by either prosecution or defense. All such information has been excised from trial documents. When stipulations have been drafted to replace documents containing information received from foreign sources or governments, the stipulation includes only information received from domestic FBI sources. For instance, information from Legat sources about Venceremos Brigade travel to Cuba has only been included in stipulations to the extent domestic sources confirmed what the foreign sources reported, which in most cases was in the same or greater detail. (S)

A foreign service or source is in a position, therefore, to assert that a U.S. Government representative or the FBI has furnished assurances information relating to his country being disclosed at this trial was obtained by the FBI from sources within the United States. This assertion is possible, even though the foreign service or source may have furnished the same or similar information, since no information was released for trial which was not from a domestic source. In several instances the source is being described in a stipulation as an FBI wiretap in the U.S. or a domestic FBI informant in an attempt to anticipate obvious questions, since the information sometimes appears on its face to have emanated from a foreign country. (S)

FIELD OFFICES - INFORMANTS, ASSETS, CASUAL SOURCES

The actual identities of all informants and assets, and most casual sources, have been excised from documents, and the trial judge has indicated he will not allow witnesses to add such detail during oral testimony. However, because of

~~CONFIDENTIAL~~

- 2 -

Greenberg/Gray-7378

~~CONFIDENTIAL~~

Airtel to All SACs and All LEGATs
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

the likely publicity we can anticipate past and present sources contacting the FBI to inquire if facts disclosed at trial are based on information furnished by them, to express concern that facts disclosed at trial have identified them as the source, or to report being confronted with suspicions or accusations by persons about whom they furnished information to the FBI. (U)

FBIHQ personnel handling the production of documents are not aware of any informants or assets whose identities will be revealed by disclosures during this trial, except for one situation which is being handled by separate communication. Nevertheless, it is possible that some sources will feel threatened, if not actually be identified, in view of the detail to be revealed at trial, and the wide media coverage anticipated. (U)

Parents and close relatives of Weatherman fugitives who cooperated fully or partially with the FBI will be specifically identified in documents. This decision was made since the surreptitious entries being prosecuted were generally made against such relatives who did not cooperate in the fugitive investigation. Organizations who cooperated with the fugitive investigation, including banks, telephone companies, bus and airline companies, insurance companies, and hospitals, will sometimes be identified. The name and title of the individual employee contacted will be excised, however. (U)

Field offices contacted by a concerned present or former source should do everything possible to assuage source's concerns. If necessary to assist a source in handling accusations or constructing a safe cover story, you are encouraged to contact FBIHQ which may be able to locate copies of documents introduced in evidence causing possible jeopardy to the source. (U)

Substantive criminal violations arising out of accusations, such as threats, should be opened for investigation or referred to local authorities, as appropriate, and FBIHQ advised promptly. (U)

~~CONFIDENTIAL~~

- 3 -

Greenberg/Gray-7379

~~CONFIDENTIAL~~

Airtel to All SACs and All LEGATs
RE: U.S. VS. L. PATRICK GRAY III, W. MARK FELT, AND
EDWARD S. MILLER

For the duration of the trial, which is expected to last at least six weeks, contact should be made with SA Joseph L. Tierney (FBIHQ Ext. 4763) or ASAC Paul V. Daly (Alexandria Field Office). After the trial, contact should be made with the FBIHQ section handling the substantive matters on which the source reported. (U)

Contents of this communication should be brought to the attention of all investigative and complaint duty personnel. Copies may be reproduced if necessary. (U)

All personnel should refrain from public comment on the trial. Press inquiries should be referred to the Press Office at FBIHQ or the Department of Justice. (U)

APPROVED:	Adm. Serv. _____	Legal Coun. <i>JM</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. <i>SP</i>	Ident. _____	Rec. Mgmt. <i>RCS</i>
Exec. AD-Inv. _____	Intell. <i>EJG/N</i>	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Off. of Cong. & Public Affs. _____

~~CONFIDENTIAL~~

- 4 -

Greenberg/Gray-7380

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

Date 9/26/80

TO: DIRECTOR, FBI
 (ATT: LEGAL COUNSEL DIVISION)

FROM: ADIC, NEW YORK (197-39)

SUBJECT: U.S. V. PATRICK GRAY, III;
 ET AL
 TRIAL - SOURCE PROTECTION

Handwritten: [Signature]
 (Info)
 [Signature]
 W. MARK FELT

ReBuairtel to Albany, dated 1/8/79.

This will serve to confirm notification made on 9/26/80, by Supv. [redacted] New York Division, to Assistant Director JOHN A. MINTZ, Legal Counsel Division, FBIHQ, that on 9/25 and 26/80, Mr. MARK CUMMINGS, Attorney for MARK FELT, contacted Supv. [redacted] concerning captioned matter. Mr. CUMMINGS advised that it was his present intention to subpoena Supv. [redacted] as a witness to appear during captioned trial. The primary thrust of questioning by defense counsel would concern prior knowledge of surreptitious entries by US Department of Justice officials, as well as the circumstances of the meeting in April, 1977, between former Attorney General GRIFFIN B. BELL and Special Agents of the NYO.

b6
b7C

Handwritten: 4-5 [Signature] 62-118045-302X

16 SEP 29 1980

2-Bureau
1-New York

VAA:mev
(4)

Handwritten: 62-118045

LEGAL COUNSEL

Approved: [Signature]

Transmitted _____

Per _____

59 DEC 31 1980

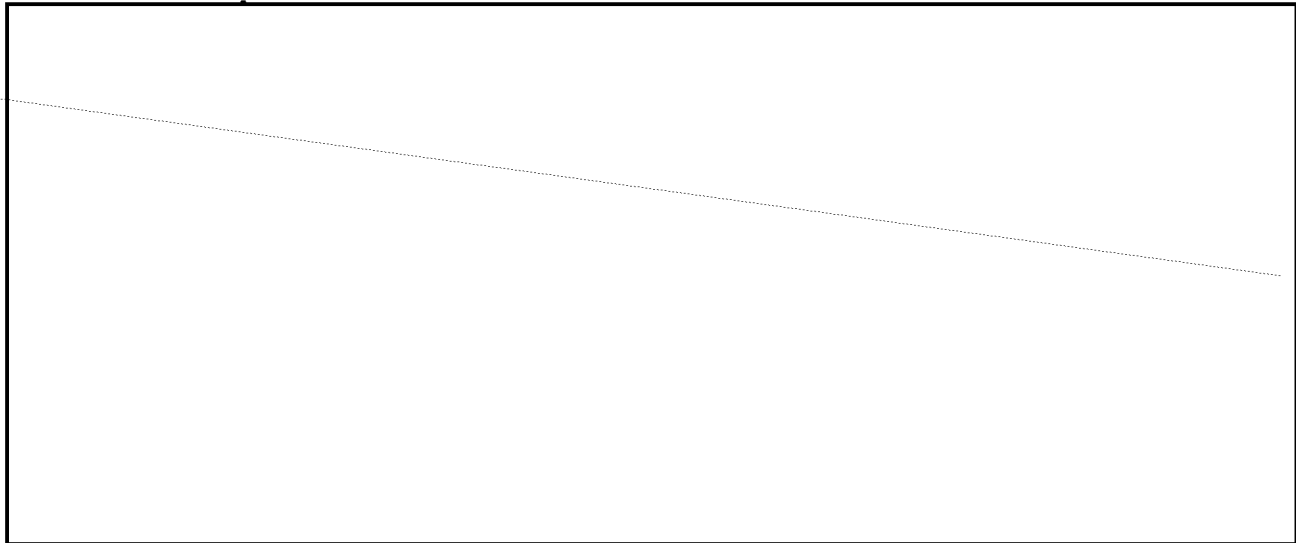
~~SECRET~~

The Attorney General

July 3, 1980

Director, FBI

U.S. vs. W. MARK FELT, et al.



b1

Special Counsel John W. Nields, Jr., is familiar with the background regarding this disclosure and has a copy of the document containing the information in question. (U)

~~Classified and Extended by 115
Reason for Extension FCIM II, 1-2.4.2 (1, 2, 9)
Date of Review for Declassification 7/3/2010~~

~~SECRET~~

NOTE: See memo E. J. O'Malley to Mr. Mullen dated 7/2/80, captioned as above, JLT:tdp.

1 - Mr. Colwell
1 - Mr. Mullen
1 - Mr. Mintz
PVD:mjl (11)

① - Mr. O'Malley
1 - Mr. Revell
1 - Mr. Steel

1 - Mr. Bailey
1 - Mr. Daly
1 - Mr. Tierney

62-118045-302X1
Greenberg/Gray-7383

~~SECRET~~

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

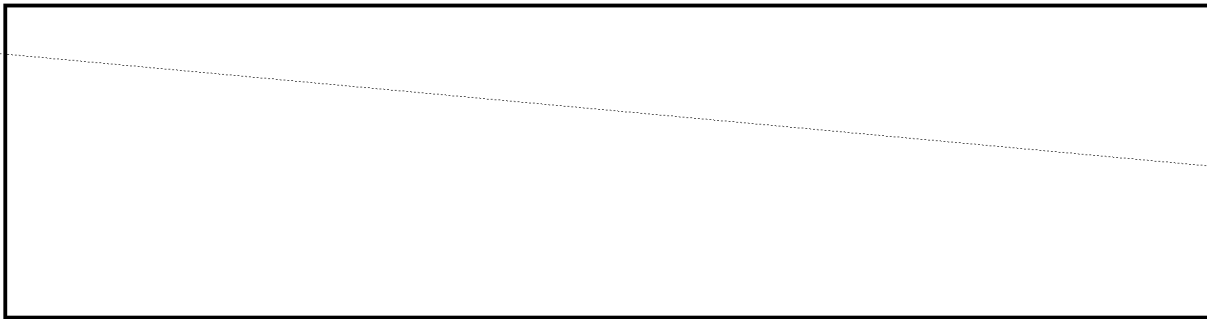
- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

TO : The Director



DATE: 9/23/80

FROM : E. J. O'Malley *EJO*

SUBJECT: U. S. v. W. MARK FELT, et al. *(u)*



b1

I have asked  to follow up on this with Eric Richard and we will keep you advised. At the appropriate time, 



b1
b6
b7C

do not discuss details - let it come by appropriate channels -

EJO:mjt
(5)

- 1 - Mr. Colwell
- 1 - Mr. Mullen
- 1 - Mr. Finzel (Tierney)
- 1 - Mr. O'Malley

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(6)
DATE 05-12-2009

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

CLASS. & EXT. BY 859
REASON-FCIM II, 1-2.4.2 (2 & 3)
DATE OF REVIEW September 23, 2000

MAR 1 1982

59 MAR 23 1982

Greenberg/Gray-7384

CE0010 2840027Z

PP HQ

RECEIVED
TELETYPE UNIT

DE CE

10 OCT 80 00 30z

P 092100Z OCT 80

FM CHARLOTTE (62-4290) (P) OF INVESTIGATION
COMMUNICATIONS SECTION

TO DIRECTOR PRIORITY

BT

UNCLAS

U.S. VS. L. PATRICK GRAY, III, W. MARK FELT, AND EDWARD S. MILLER.

SA HORACE P. BECKWITH, CHARLOTTE DIVISION, WAS ADVISED OCTOBER 9, 1980, BY REPRESENTATIVE OF DEFENSE ATTORNEYS IN THIS MATTER THAT SUBPOENA HAD BEEN ISSUED FOR HIS APPEARANCE MORNING OF OCTOBER 10, 1980, FOR TESTIMONY AT CAPTIONED TRIAL IN USDC, WASHINGTON, D. C. UACB, SA BECKWITH WILL APPEAR FOR TESTIMONY. HE WILL CONTACT SA JOSEPH L. TIERNEY, FBIHQ, FOR ANY SPECIALIZED INSTRUCTIONS PERTAINING TO TESTIMONY WHICH MAY REMAIN CLASSIFIED. SA BECKWITH HAS NOT BEEN INFORMED BY THE DEFENSE OF THE SCOPE OF HIS TESTIMONY.

BT

(P. 10)
10

62-118045-303

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

23 NOV 3 1980
TIERNEY
JMA

F-48 F-48
59 NOV 20 1980

62-118045

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

Date 10/15/80

smc

TO: DIRECTOR, FBI
ATTN: LEGAL SECTION

FROM: *WDR* SAC, SAN FRANCISCO

W. Mark Felt

SUBJECT: TRAVEL OF SA WILLIAM D. REAGAN
TO TESTIFY IN FELT/MILLER TRIAL

RMD

Re SA Joseph Tierney, ~~Legal Section~~ telephone call to SA William D. Reagan, 10/15/80.

from sbs

SA William D. Reagan has been subpoenaed to testify for the defense at the trial of retired Assistant Directors Mark Felt and Ed Miller, on 10/17/80. He will depart San Francisco on 10/16/80 and proceed as directed.

(V)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

62-718045 304

- 2 - Bureau (
- 1 - San Francisco
- WDR/paa
- (3)

2/8

62-114045

4-85
[Signature]
10/27/80
326
213

66 NOV 19 1980

Greenberg/Gray-7386

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : *PMA* Assistant Director
Records Management Division

DATE: 9-29-80

FROM : Legal Counsel *JM*

SUBJECT: U.S. v. FELT, et al.

W. MARK FELT

T. Gray
ADD
Apply
(Info)

At 11:35 a.m. on September 26, Special Agent of the New York Office called me and said that he had been contacted by a paralegal representative of Mark Cummings, an attorney participating in the defense in captioned prosecution. The purpose was to request him to be available for an interview and possible testimony as a witness in the case. He said no date had been set for the interview and his purpose in calling was merely to notify FBI Headquarters of this contact. He said he was familiar with the instructions concerning the release of potential witnesses for appearance in this case. I told him he should consider himself released from the employment agreement for purposes of possible testimony and interview in this matter. I requested him to submit an airtel to FBIHQ furnishing the details of this contact.

b6
b7C

RECOMMENDATION:

For information.

(PM 10)

APPROVED:	Adm. Serv. _____	Legal Coun. <i>JM</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Inv. _____	Intell. _____	Tech. Servs. _____
Exec. AD-LES _____	Laboratory _____	Training _____
		Off. of Cong. & Public Affs. _____

1 - Personnel file of

b6
b7C

JAM:bpr
(3)

62-118045-305

23 NOV 3 1980

62-118045

FC 48 *F-48*

4-221
JM

59 NOV 20 1980

Greenberg/Gray-7395

Date of Mail 10/8/80

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret
- SCI

Mail Category

Letter _____ Airtel _____
 LHM _____ Memo _____
 Report _____ Other _____
 Teletype XX

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/abs

Subject W. Mark Felt

Originator of Material FBIHQ

This serial has been removed and placed in the Special File Room of Records Branch.

Authority - 62-116065

File Number 62-118045- ✓

PERMANENT SERIAL CHARGE-OUT

lmr



Greenberg/Gray-7396

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- AIRTEL

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- UNCLAS E F T O
- UNCLAS

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1,6)
DATE 05-12-2009

~~SECRET~~

Date 10/27/80

b6
b7C

TO : DIRECTOR, FBI

FROM : SAC, CHICAGO (100-41353) (C) (SQUAD 12)

SUBJECT: ALCHEMY *W*,
U.S. VS. *O* MARK FELT, ET AL
(U) TRIAL DAMAGE - SOURCE PROTECTION (S)

~~SECRET~~

Re Bureau airtel dated 9/30/80, and teletype 10/10/80.

b1
b6
b7C

As the Bureau is aware retired SAs [redacted] were recently called upon

[Large redacted area]

~~SECRET~~

Classified and Extended by 5868
Reason for Extension FCIM, II, 1-2.4.2 (2 & 3)
Date of Review for Declassification 10/27/00

- 3 - Bureau
 - (1 - Administrative Services Division
 - Attn: Supervisor [redacted]
 - (1 - Intelligence Division
 - Attn: Supervisor [redacted]
- 1 - Chicago
 - PLT: flk
 - (4)

b6
b7C

EX OCT 30 1980

copy retained from 4433-jar
request to [redacted] ASD
102-118045-

SEE INTELLIGENCE DIVISION ADDENDUM, PAGE 3

b6
b7C

NOT RECORDED

NOV 19 1980

Approved: *[Signature]*

Transmitted (Number) (Time)

Per

Greenberg/Gray 7397

~~SECRET~~

100-41353-3191

~~SECRET~~

CG 100-41353

~~SECRET~~

(U) [redacted] left Chicago at 11:35 AM on 10/12/80, and contacted [redacted] and [redacted] in San Francisco, California. He arrived back in Chicago at 4:30 PM on 10/14/80. The total time expended by [redacted] on the Bureau's behalf was 2½ days including travel time. (S)

b2
b6
b7C
b7D

(S) [redacted] left his home in Mount Prospect, Illinois, by POA at 10:15 AM on 10/17/80, and arrived in St. Louis, Missouri, at 4:45 PM on 10/17/80. He then proceeded on a side trip for personal business to Columbia, Missouri. He returned to St. Louis at 6:00 PM on 10/19/80, obtained lodgings in Hazelwood, Missouri and [redacted] [redacted] left St. Louis at 1:35 PM on 10/20/80, and arrived at his residence at 8:05 PM on 10/25/80. The total time expended by [redacted] on Bureau business, including his travel time was 1½ days. (S)

b1
b2
b6
b7C
b7D

Messrs. [redacted] undertook these assignments on short notice and without hesitation put aside their personal affairs in order to advance the Bureau's interests. The contributions of Messrs. [redacted] were invaluable because of their close rapport with the sources contacted. (U)

b6
b7C

In view of the above, the Bureau is requested to award honorariums to both Messrs. [redacted] prepare drafts payable to each of them and forward those drafts to the Chicago office. (U)

b6
b7C

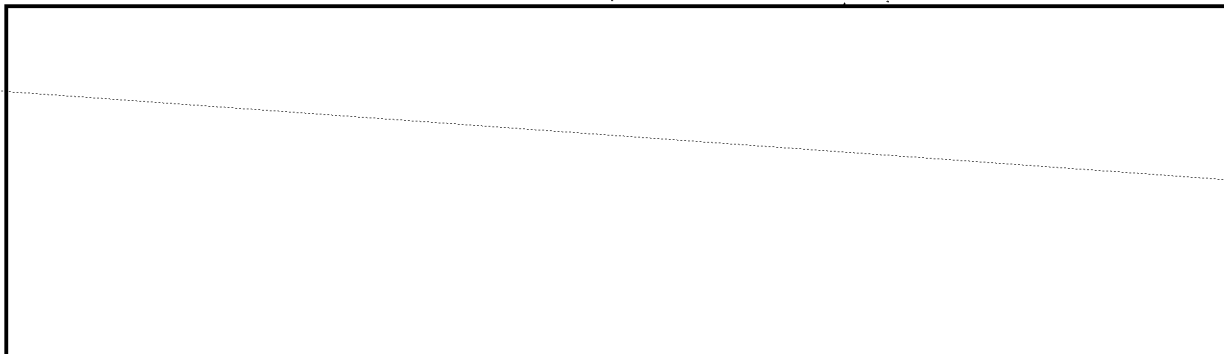
[redacted] annuity is \$30,516.00 and Mr. [redacted] annuity is \$29,172.00. (U)

b6
b7C

~~SECRET~~

~~SECRET~~

ADDENDUM: INTELLIGENCE DIVISION JWM:mpb 11/5/80



b1
b6
b7C

(S) Appropriate memoranda were written and Administrative Services Division (ASD) authorized use of SAs [redacted] [redacted] as experts whose services were authorized for less than a week. Both former SAs were aware that payment to them would depend on their annuity. Certificates of understanding which must be signed by former SAs [redacted] prepared by ASD, have been forwarded to Chicago 11/4/80. (U) ~~(S)~~

b6
b7C

Upon signing of certificates of understanding by SAs [redacted] and returning to ASD, checks should be made out by ASD to these former SAs for the services rendered as described in attached airtel. (U)

b6
b7C

~~SECRET~~

~~Classified and Extended by 1756
Reason for Extension, FCIM II, 1-2.4.2 (2 & 3)
Date of Review for Declassification 11/5/2000~~

- 3 -

~~SECRET~~

Greenberg/Gray-7399

November 19, 1980

Director, FBI

U. S. vs. FELT, ET AL.

SAC, Newark

W. Mark Felt

Enclosed are Volumes 1-3 of NK 88-8767 as returned by the Department of Justice to FBIHQ on 6/28/78. They had been obtained in 1976.

When returned by the Department, [redacted] was included in Volume 3 of NK 88-8767. Missing from [redacted] were the file back and cover, and serials 1 through 7. The [redacted] serials were removed from the 88 file during the trial and were entered into evidence. They cannot be returned until after all appeals have been exhausted, which will take at least one year.

b2

[redacted] relates not to a live source but to a mail cover and to one of the surreptitious entries involved in captioned prosecution.

b2

The [redacted] serials will be forwarded when received.

(circled signature)

b2

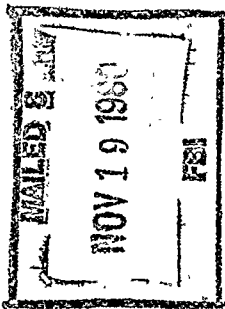
Enclosures (3)

JLT:law (4)

*Law
F/10/80*

62-118045-306

NOV 24 1980



- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

DEC 9 1980

MAIL ROOM

*149
F/10/80*

(Handwritten signature)
(circled signature)

62-118045-306
Greenberg/Gray-7400

November 19, 1980

Director, FBI

U. S. vs. FELT, ET AL.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

SAC, Philadelphia

W. Mark Felt

Being forwarded separately are the following Philadelphia files obtained by the Department of Justice in 1976, returned to FBIHQ 6/28/78, and now no longer needed at FBIHQ since the trial of captioned matter is complete:

- PH 100-54369 Main file, Volumes 1 through 3
Sub A (one volume)
Sub B, Volumes 1 and 2
Sub C (one volume)
- PH 100-50981 Main file (one volume)
- PH 176-204 Main file, Volumes 1 through 3
- PH 100-54221 Main file (one volume).

3 - PH
(one copy detached, sent with enclosures)

(Handwritten initials)

718115

JLT:law (5)

MAILED 24
NOV 19 1980
FBI

62-118045-307

NOV 24 1980

Greenberg/Gray-7401

- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.:
- Adm. Servs.
- Crim. Inv.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

(Handwritten signature)

DEC 9 1980

62-118045

(Handwritten signature)

MAIL ROOM

10/29/80

Mr. Colwell:

U. S. vs. Felt, et al.

U. Mark Felt

Former President Richard M. Nixon testified as a last-prosecution witness on rebuttal during the afternoon of 10/29/80.

Mr. Nixon testified on cross-examination that he considered the 1966 cutoff of the use of surreptitious entries to be a restriction imposed by the Director of the FBI. Mentioning Presidential Directives from Franklin D. Roosevelt, Truman and Eisenhower restated in a 1969 order of the Attorney General, Mr. Nixon stated his belief that the Presidential authority to order such searches in appropriate cases had been delegated to the Director of the FBI. The Huston Plan ordered the Director to remove his self-imposed restriction. The rescission of the Huston Plan a few days later left the Director in the same legal position he had been all along: the possessor of Presidential authority to order warrantless searches in appropriate cases who had decided not to exercise that authority. In Mr. Nixon's opinion former Acting Director L. Patrick Gray held the same power that Mr. Hoover had.

In a similar last-minute action, the prosecution has also called former Attorneys General Clark, Mitchell, Kleindienst and Katzenbach. Only Mr. Katzenbach remains to testify and the prosecution has indicated he will be their last witness.

There was a brief demonstration in court by a small group of persons against Mr. Nixon which was quelled quickly by deputy marshals. The demonstrators were escorted from the room without incident.

R. P. Finzel
R. P. Finzel

- 1 - Mr. Colwell
 - 1 - Mr. Mullen
 - 1 - Mr. Joseph
 - 1 - Mr. O'Malley
 - 1 - Mr. Revell
 - 1 - Mr. Mintz
 - 1 - Mr. Steel
 - 1 - Mr. Finzel
 - 1 - Mr. Tierney
- JLT:mjl (10)

b6
b7C

Routed through
Other #

4-85
62-118045-308

NOV 24 1980

59 DEC 9 1980

62-118045

Greenberg/Gray-7402

Exec AD Inv.	___
Exec AD Adm.	___
Exec AD LES	___
Asst. Dir.:	
Adm. Servs.	___
Crim. Inv.	___
Ident.	___
Intell.	___
Laboratory	___
Legal Coun.	___
Plan. & Insp.	___
Rec. Mgnt.	___
Tech. Servs.	___
Training	___
Public Affs. Off.	___
Telephone Rm.	___
Director's Sec'y	___

FBI/DOJ

Order

SAC, San Francisco

11/18/80

Director, FBI (62-118045)

U. S. vs. W. MARK FELT, ET AL

Being forwarded under separate cover are the following sections of SF 100-34639 concerning [redacted] which were processed for discovery at FBIHQ in connection with captioned prosecution:

b6
b7C

- Main File, Sections 22 through 29;
- Sub A, Section 4 (serial 1A50 - open);
- Sub B, one section (Tower);
- Sub I - one section;
- Sub II - Sections 1 through 4;
- Sub III - one section;
- Sub 4 - one section;
- Sub 5 - one section;
- Sub 6 - Sections 1 and 2.

3 - San Francisco
(one detached with enclosures)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

1 - Mr. Tierney

JLT/pcn
(5)

62-118045-309

NOV 19 1980

- Exec AD Inv. ___
- Exec AD Adm. ___
- Exec AD LES ___
- Asst. Dir.:
- Adm. Servs. ___
- Crim. Inv. ___
- Ident. ___
- Intell. ___
- Laboratory ___
- Legal Coun. ___
- Plan. & Insp. ___
- Rec. Mgnt. ___
- Tech. Servs. ___
- Training ___
- Public Affs. Off. ___
- Telephone Rm. ___
- Director's Sec'y ___

NOV 18 1980
FBI

102
028
MAIL ROOM
DEC 15 1980

Greenberg/Gray-7403

BH000/ 3151715

PP HQ

DE BH

10 Nov 80 17 23z

P 101715Z NOV 80

COMMONS SECTION

FM BIRMINGHAM (62-0)
TO DIRECTOR PRIORITY
BT
UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

ATTN OFFICE OF CONGRESSIONAL AND PUBLIC AFFAIRS; ATTN MR. YOUNG
W. MARK FELT, FORMER ASSOCIATE DIRECTOR; EDWARD MILLER, FORMER
ASSISTANT DIRECTOR; INFO CONCERNING.

C. H. ROBERTSON (X), [REDACTED], BIRMINGHAM, ALA. (CMT.
BROOK), 35223, WHO DESCRIBED HIMSELF AS A PRIVATE, RETIRED, AND
CONCERNED CITIZEN ADVISED HE IS SPONSORING A PETITION TO BE
CIRCULATED NATIONWIDE CALLING FOR THE PARDON OF FELT AND MILLER.

b6
b7C

108-118045-310

PETITION TO ALSO CALL FOR THE REIMBURSEMENT OF ATTORNEYS FEES.

THE CIRCULATION OF THE PETITION FOR THE PARDON WILL INCLUDE ALL
POLICE DEPARTMENTS IN THE U. S. AND OTHER ENTITIES. ROBERTSON
STATED THAT HE WAS HOPEFUL THAT MOUNTING PRESSURE WOULD CAUSE PRES.
CARTER TO PARDON FELT AND MILLER AND IF THIS DOES NOT OCCUR, HE WILL
PERSONALLY ATTEMPT TO PRESENT A PETITION TO PRESIDENT-ELECT REAGAN

20 NOV 18 1980

PERS. REC. UNIT

WPT

Office of Cong. and Pub. Affs.
Rm. 36-213

59 DEC 16 1980

Greenberg/Gray-7404

PAGE TWO BH 62-Ø UNCLAS

FOLLOWING HIS OATH OF OFFICE.

BH INDICES NEGATIVE RE

b6
b7C

BT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs



To : DIRECTOR, FBI
ATTN: OFFICE OF CONGRESSIONAL & PUBLIC AFFAIRS, MR. ROGER YOUNG
Date 11/20/80

From : SAC, BIRMINGHAM (62-2684)

Subject : W. MARK FELT, FORMER ASSOCIATE DIRECTOR;
EDWARD MILLER, FORMER ASSISTANT DIRECTOR;
INFORMATION CONCERNING

ReBHtel 11/10/80.

Attached are two self-explanatory copies of a Petition and Affidavit by CHARLES H. ROBERTSON, Birmingham, as provided 11/18/80.

The petition and affidavit was filed by ROBERTSON in a local court on 11/17/80 for record purposes.

For information.

Wade

(X)

62-118045-311

Wade
ENCLOSURE

② - Bureau (Enc. 2)
1 - Birmingham
JJR:rte
(3)

15 DEC 1 1980

Roger Young
Dir. of Cong. and Pub. Affs.

OCPA
[Signature]

59 DEC 19 1980

Greenberg/Gray-7406

REAL 1988 PAGE 681

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

Before me, the undersigned notary public in and for said county in said state, personally appeared CHARLES H. ROBERTSON, who after being duly sworn, deposes and says as follows:

My name is CHARLES H. ROBERTSON and I live at 3324 Overton Road, Birmingham, Alabama 35223. On this date, I have prepared the attached petition addressed to the Honorable Ronald Reagan pertaining to the prosecution and conviction of W. Mark Felt and Edward Miller. This petition was originated by me in the City of Birmingham, Jefferson County, Alabama, and will be distributed nationwide for signatures.

Charles H. Robertson

Sworn to and subscribed
before me this 17th day
of November, 1980.

Notary Public

My commission expires:
5/28/84

PETITION TO: THE HONORABLE RONALD REAGAN, PRESIDENT OF THE UNITED STATES OF AMERICA

WE, THE UNDERSIGNED CITIZENS OF THE UNITED STATES OF AMERICA, DO HEREBY EXPRESS OUR GRAVE CONCERN OVER THE PROSECUTION AND CONVICTION BY THE U. S. DEPARTMENT OF JUSTICE OF FORMER ASSISTANT FEDERAL BUREAU OF INVESTIGATION DIRECTORS, W. MARK FELT AND EDWARD MILLER. THE ONLY ACTS COMMITTED BY THESE LOYAL AMERICANS WAS AN ATTEMPT TO PROTECT AMERICA FROM TERRORIST GROUPS WHO WOULD TAKE AWAY OUR PRECIOUS LIBERTIES.

WE, THEREFORE, RESPECTFULLY PETITION YOU, AS PRESIDENT OF THESE GREAT UNITED STATES, TO TAKE WHATEVER STEPS YOU DEEM NECESSARY TO CLEAR THE NAMES OF THESE LOYAL AMERICANS, INCLUDING A PRESIDENTIAL PARDON.

- | | |
|-----------|-----------|
| 1. _____ | 20. _____ |
| 2. _____ | 21. _____ |
| 3. _____ | 22. _____ |
| 4. _____ | 23. _____ |
| 5. _____ | 24. _____ |
| 6. _____ | 25. _____ |
| 7. _____ | 26. _____ |
| 8. _____ | 27. _____ |
| 9. _____ | 28. _____ |
| 10. _____ | 29. _____ |
| 11. _____ | 30. _____ |
| 12. _____ | 31. _____ |
| 13. _____ | 32. _____ |
| 14. _____ | 33. _____ |
| 15. _____ | 34. _____ |
| 16. _____ | 35. _____ |
| 17. _____ | 36. _____ |
| 18. _____ | 37. _____ |
| 19. _____ | 38. _____ |
| | 39. _____ |
| | 40. _____ |

WHEN THIS SHEET FULL, RETURN TO:

_____ Charles H. Robertson
 _____ P. O. Box 43004
 _____ Birmingham, Alabama 35243

STATE OF ALA. EFFERSON CO
 REGISTERED INSTRUMENTS
 FILED 1988 PAGE 681
 NOV 13 1988
 400
 12
 11
 10
 9
 8
 7
 6
 5
 4
 3
 2
 1

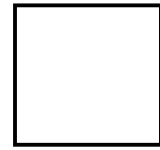
Memorandum

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Finzel
 FROM : J. L. Tierney

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

DATE: 12/1/80



b6
b7C

SUBJECT: U.S. vs. KEARNEY
 U.S. vs. FELT, et al.
 DISPOSITION OF RECORDS

W. MARK FELT

PURPOSE: To outline records being retained.

SYNOPSIS: On record material retained during criminal discovery in this matter is filed in 62-118045 (Gray, Felt, Miller) and 62-117958 (Kearney). Correspondence prepared by FBI personnel supervised by the Civil Rights Division (CRD) and coordinated by Mr. Richard E. Long has been filed in 62-117964, which was also used by personnel handling the subsequent administrative inquiry in the same matter. Unrecorded material compiled and gathered during criminal discovery consists of records of discovery disclosures and deliveries, original (tickler) documents seized by the Department in 1976, original records of surreptitious entries from the New York Office, and ticklers from the Senstudy/House Study Special. The overall pattern of retention during the appeal has been discussed with the prosecutors. Although retention during appeal is clearly required, very little actual need for access during appeal is anticipated. Most of this material is also subject to a court-ordered prohibition against destruction in a civil litigation. The Department is returning original FBI documents as they are encountered and will take appropriate steps to retrieve discovery materials from defense counsel and from the court.

RECOMMENDATION:

None. For information.

~~23 DEC 11 1980~~

- Enc.
 1 - Mr. Colwell
 1 - Mr. Mintz
 1 - Mr. Otto
 Atten: Mr. Ford
 2 - Mr. Finzel
 Atten: Mr. Lang
 Mr. Litzenberg
 1 - Mr. [Redacted]
 1 - Mr. Tierney
 1 - [Redacted]

APPROVED: _____
 Director _____
 Exec. AD-Adm. _____
 Exec. AD-Inv. _____
 Exec. AD-LES _____

Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____

Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____

62-118045-

NOT RECORDED

DEC 31 1980

CLASS. REV.

b6
b7C
CONTINUED - OVER
Greenberg/Gray-7409

ORIGINAL FILED IN 62-117958-32

Mr. Tierney to Mr. Finzel Memo
Re: U.S. vs. Kearney; U.S. vs. Felt, et al.,
Disposition of Records

DETAILS: Criminal discovery in the matter styled U.S. vs. John J. Kearney, began in January, 1978, was worked out of 62-117958.

Criminal discovery in the matter styled U.S. vs. L. Patrick Gray III, W. Mark Felt, and Edward S. Miller, began in April, 1978, and ended in November, 1980, was worked out of 62-118045.

By separate memorandum the records maintained by FBI personnel (primarily 1976-1977) coordinated by Mr. Richard E. Long and supervised by the CRD have been filed as serials and a bulky exhibit in 62-117964. This file was originally opened to handle the subsequent administrative inquiry by the FBI which grew out of the work of the CRD and Mr. Long's personnel.

Attached is an Inventory of unrecorded materials accumulated during the criminal discovery proceedings in captioned matters as they are now stored.

Discovery materials actually delivered to defense counsel are in Cabinets 1, 2 and 3.

Discovery materials reviewed by defense counsel, from which they made delivery requests may be broken down into three categories: FBIHQ Weathfug (Cabinets 7 through 12 and 16), New York Weathfug (Cabinets 13, 14 and 15), and Surreptitious Entries which were not included in the indictment (Cabinets 9 [drawer 1], 17, 18 [drawers 1, 3 and 4], and 19).

Materials seized in August-September, 1976, at FBIHQ are in Cabinets 4, 5, 6 and 16 [drawer 5]). They are tickler folders, primarily from IS-2 Section in Division 5. Although ticklers, they have in some respects been treated as original documents during discovery (not in the Records Management Division sense of the word).

New York original files, also seized in 1976 and known as "SAC folders" are contained in Cabinet 18 (drawer 2).

Senstudy and House Study ticklers are in Cabinets 21 and 22. These were used primarily for lead value during discovery and are the typical duplicative set of copies of what is

Mr. Tierney to Mr. Finzel Memo
Re: U.S. vs. Kearney; U.S. vs. Felt, et al.,
Disposition of Records

on record. Following completion of the appeal and resolution of civil litigation, these ticklers should be considered for destruction.

Upon resolution of the appeal and civil litigation issues, both discovery materials delivered and discovery materials reviewed should be considered for destruction.

Among the packages of discovery materials delivered are several which are answers to general questions which may have some value as the product of research into such areas as notice of use of the surreptitious entries technique outside the FBI. These instances are concentrated in the first series of packages numbered 1 through 19, and to a lesser extent in the first part of the second series numbered 1 through 49.

The Department has pointed out that defense counsel have an obvious need to retain possession of materials delivered in criminal discovery, which need will expire upon completion of the appeal process. Their continued retention of these materials after that creates a potential problem since they represent the same clients as defendants in civil litigation, for which there has been or will be civil discovery of the same documents. Civil discovery is processed to different standards, notably for disclosure to uncleared attorneys, unlike the criminal discovery in which all counsel were granted TS and SI clearances by the Attorney General. The Department will endeavor to retrieve the criminal discovery materials at that point.

The packages of discovery materials reviewed but not delivered will be of no value whatsoever after the appeal, and should be destroyed, subject only to the requirements of civil discovery. Prudence will dictate retention of an inventory of precisely which files were processed, but they are all processed copies of complete files within a given time frame. The processing standards differ from those which would be used under any other circumstances and the records are useless for any purpose outside this case.

The materials seized at FBIHQ in August-September, 1976, are three of the 22 cabinets seized at the time. In general they are those records the Department sought to retain for trial in October, 1976, records returned by the Department which they held

Mr. Tierney to Mr. Finzel Memo
Re: U.S. vs. Kearney; U.S. vs. Felt, et al.,
Disposition of Records

between 1976 and 1979, and records selected by defense counsel for review. With a few exceptions, they are classic ticklers and prime candidates for destruction after the appeal, subject to the future requirements of civil discovery which cannot be evaluated until that time.

Original New York files seized in 1976 or brought in to FBIHQ during the investigation or during discovery have been turned over to Civil Discovery Unit #2 in the Document Classification and Review Section and the New York Office advised. They will be returned to New York when no longer needed for civil discovery.

At the specific request of the Department the "SAC folders" are being kept with the criminal discovery materials. They should not be returned to New York without conferring with the Department. Since they were maintained in New York in the SAC's office in unserialized chronological order, and represent records of a discontinued program retained beyond the time when they should have been destroyed in the normal course of business, consideration should be given to retaining them at FBIHQ as a bulky exhibit to 62-117964 when the appeal is completed if they cannot be destroyed. They occupy one full file drawer.

The Department has custody of, or is responsible for retrieving discovery materials in the hands of defense counsel (mentioned above), materials submitted to the court in camera, and discovery materials located in the vault maintained by the Department's Security Officer. These areas have been discussed with the Department and they assure they will take the necessary steps to retrieve them at the appropriate time.

The Department also has possession of an undetermined amount of unidentified original FBI records which they obtained themselves during search and seizure operations, from FBI personnel during the investigation, or during discovery and preparation for trial. Some of these documents have been entered into evidence and the Department will not seek their retrieval until the appeal is over. Most are mixed through the records of the prosecutors office, however, and they have agreed to return them to us as they review their records prior to filing which they are now doing. There is no existing record of what materials are in their hands and no practical method to create one in view of the varied means by which they obtained the records. None of the original records in their hands are

Mr. Tierney to Mr. Finzel Memo
Re: U.S. vs. Kearney; U.S. vs. Felt, et al.,
Disposition of Records

b6
b7C

believed to be unique, extraordinarily sensitive, or essential to current FBI operations. They have the FBI copy of discovery package number 216 (Venceremos Organization) and NY 100-166899 [redacted] one volume) which they are attempting to locate and return.

Materials discussed above, with the possible exception of the Senstudy/House Study ticklers, are subject to the prohibition against destruction contained in the 5/17/79 order by the court in the case styled Judith Clark, et al.; v U.S.A., et al.; USDC, SDNY; 78 Civ. 2244 (MEL). The materials have been marked and copies of the court order affixed.

Memorandum

Exec AD Inv.
 Exec AD Ag.
 Exec AD LES
 Asst. Dir.:
 Adm. Servs.
 Crim. Inv.
 Ident.
 Intell.
 Laboratory
 Legal Coun.
 Plan. & Insp.
 Rec. Mgnt.
 Tech. Servs.
 Training
 Public Affs. Off.
 Telephone Rm.
 Director's Sec'y

TO : Mr. Colwell *[Handwritten initials]*

FROM : R.H. Finzel *[Handwritten initials]*

SUBJECT: W. MARK
 U. S. vs. FELT, et al

DATE: 11/24/80

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

PURPOSE: To advise current status of case and related Bureau activities.

RECOMMENDATION: None. For information.

APPROVED: Adm. Serv. Legal Coun.
 Crim. Inv. Plan. & Insp.
 Director Rec. Mgnt. RCM
 Exec. AD-Adm. Ident. Tech. Servs.
 Exec. AD-Inv. Intell. Training
 Exec. AD-LES Laboratory Off. of Cong. & Public Affs.

DETAILS: Recent contacts with representatives of both prosecution and defense counsel have revealed the following regarding the status of this case:

Sentencing before Judge Bryant remains set for 12/15/80. Both defendants met with Probation Officers following their convictions and visits by Probation Officers to their homes have been scheduled. The defense thinks incarceration is a realistic possibility.

The defense has 45 days from judgment (sentencing) to file briefs, and the Government then has 45 days to reply. The defense believes their 45 days will not begin to run until the full record is forwarded from the District Court to the Circuit Court of Appeals, which they believe will not happen until after the Christmas holidays. The defense suspects the appeal may not be argued in the Spring, but will be held over for the Fall term of the Circuit Court.

- 1 - Mr. Colwell
- ~~1 - Mr. Joseph~~
- 1 - Mr. Mullen
- 1 - Mr. Mintz
- 1 - Mr. O'Malley
- 1 - Mr. Revell
- 1 - Mr. Finzel
- 1 - Mr. Steel
- 1 - Mr. Daly
- 1 - Mr. Tierney

www 62-118045-312

15 DEC 4 1980

REC. MGT *[Handwritten initials]*

JLT/pcn
(11)

CONTINUED - OVER

[Redacted]

Norfolk, Virginia 23508

b6
b7C

Nov. 23, 1940

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 drh/baw/sbs

The Honorable Gerald R. Brown
President-elect of the United States
2411 Airport Boulevard, Suite 1430
Los Angeles, California 90045

Dear Mr. Brown:

I am very concerned and disturbed about the recent conviction
of J. Edgar Hoover and William C. Sullivan, two senior officials of the
FBI, in connection with charges of falsifying their
records in order to cover up their activities in 1942 and 1943.

As you may know, they were only following the usual procedure
at that time for obtaining evidence against radicals, and of the
type carried in violence and even plans to overthrow the government.

Many men they were acting under the orders of the director
and following his own track for the protection of our country.

As the former government, I am sure that one of your first orders of
business is to check into the cases of Mr. Hoover and Mr. Sullivan, look-
ing toward a full and complete review for those legal and political
activities.

A full review would not only be a kind and humane act of mercy
but it would be justice and decency. It would also be an indication
that your administration places common sense and dignity above any
political or technical considerations.

Should you find any irregularities and their conviction has already
been a travesty of justice. It is hoped that you can do a full
review and report of their legal case.

I hope this letter will give you some useful information.

[Redacted]

b6

Best copy available

62-118045-312X

Greenberg/Gray 7431

com/19

[Redacted]
Norfolk, VA 23508

b6
b7C

11-29-80

OUTSIDE POLICE

Dear Mr. Director:

wed/11

I hope you will see fit to recommend a pardon for Mrs. Felt and Miller.

Sincerely,

(JME)

[Redacted]

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

~~62-118045-312X~~

DEC 11 1980

Endo -

Greenberg/Gray-7432

CORRESPONDENCE

*12-10 Ack
Cenz/cls*

ENCLOSURE

DEC 16 1980

[Redacted]

Norfolk, Virginia 23508

b6
b7C

PERS. REC. UNIT

January 9, 1981

OUTSIDE SOURCE

Mr. W. Mark Felt
3216 Wynford Drive
Fairfax, Virginia 22030

Dear Mark:

The enclosed letters and checks were received at FBI Headquarters, and I am forwarding them to you. I'm sure you are finding the support from both your friends and those you don't even know most gratifying.

Sincerely yours,

Roger S. Young
Assistant Director
Office of Congressional
and Public Affairs

b6
b7C

- Enclosures (8)
- \$100 Check from [redacted] #131. (Dayton, Ohio)
- Two letters from [redacted] dated 12/16/80. (Houston, Texas)
- \$10 Check from [redacted] #466. (Houston, Texas)
- Letter from [redacted] received 12/23/80. (Cambridge, Mass)
- \$5 Check from [redacted] #244. (Cambridge, Mass)
- Letter from [redacted] dated 12/18/80.
- \$10 Check from [redacted] #183 (3722 Baltimore, Maryland 21207.

1 - Mr. Edward S. Miller
10454 Armstrong Street
Fairfax, Virginia 22030

62-118045-313

MN:sah (4)

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

59 FEB 4 1981

Greenberg/Gray-7433

PERS. RECORD UNIT

MAIL ROOM

J
R

Mlu

MAILED
JAN - 9 1981

oak
[Signature]
[Signature]

[Signature]

January 9, 1981

OUTSIDE SOURCE

[Redacted]

Baltimore, Maryland 21207

b6
b7C

Dear [Redacted]:

Your support is very much appreciated. Your check has been forwarded to Mr. W. Mark Felt.

Sincerely yours,

[Signature]
Roger S. Young
Assistant Director
Office of Congressional
and Public Affairs

MN:sah (3)

sah

V-28

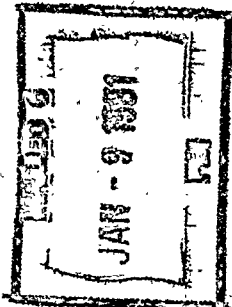
DE-103

62-118045-314

LBI
RECEIVED

JAN 12 1981

JAN 8 1 10 PM '81



- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

66 JAN 29 1981 Greenberg/Gray-7434

MAIL ROOM

Ret

[Handwritten initials]

January 9, 1981

OUTSIDE SOURCE

[Redacted]

Houston, Texas 77002

b6
b7C

Dear [Redacted]:

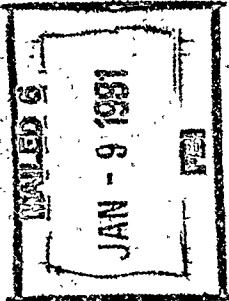
Your support is very much appreciated. Your letter and check have been forwarded to Mr. W. Mark Felt.

Sincerely yours,

Roger S. Young
Assistant Director
Office of Congressional
and Public Affairs

MN:sah (3)

del



V-28

DE-103 62-118045-315

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAIL ROOM

66 JAN 29 1981 RECEIVED

JAN 8 4 8 MAIL

JAN 12 1981

Greenberg/Gray-7435

mm

January 9, 1981

OUTSIDE SOURCE

[Redacted]

Dayton, Ohio 45414

b6
b7C

Dear [Redacted]:

Your support is very much appreciated. Your letter and check have been forwarded to Mr. W. Mark Felt.

Sincerely yours,

Roger S. Young
Assistant Director
Office of Congressional
and Public Affairs

[Handwritten signature]

MN:sah (3)

Sah

MAILED
JAN - 9 1981

DE-44 V-28 62-118045-316

RECEIVED
JAN 24 1981

64 JAN 30 1981

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAIL ROOM

Greenberg/Gray-7436

[Handwritten initials]

December 10, 1980

~~OUTSIDE SOURCE~~

[Redacted]

b6
b7C

Norfolk, Virginia 23508

Dear [Redacted]:

to MARK FELT

It was indeed kind of you to write on November 29th and furnish a copy of your letter to President-elect Reagan. Judge Webster has asked me to thank you for your thoughtfulness. We certainly appreciate your interest in expressing your views regarding the conviction of two former FBI officials and are grateful for your support.

Sincerely yours,

Roger S. Young
Inspector in Charge
Office of Congressional
and Public Affairs

[Handwritten initials]

b6
b7C

MAILED 6
DEC 10 1980
FBI

1 - Mr. Young - Enclosures (2)

NOTE: Bufiles indicate limited correspondence with [Redacted]. His enclosure ~~was~~ a letter to President-elect Reagan expressing his support of Messrs. Felt and Miller and requesting a full and complete pardon for them.

CAM:clr (4)

DE-104 62-118045-317

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
 - Adm. Servs. _____
 - Crim. Inv. _____
 - Ident. _____
 - Intell. _____
 - Laboratory _____
 - Legal Coun. _____
 - Plan. & Insp. _____
 - Rec. Mgnt. _____
 - Tech. Servs. _____
 - Training _____
 - Public Affs. Off. _____
 - Telephone Rm. _____
 - Director's Sec'y _____

CLF

Greenberg/Gray-7437

SUB

59 FEB 9 1981

MAIL ROOM

DE-104
REC-104
com
[Handwritten initials]

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs



- Exec AD Adm. _____
- Exec AD Inv. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Off. of Cong. & Public Affs. _____
- Telephone Rm. _____
- Director's Sec'y _____

To : Mr. Finzel

Date FEB 20 1981

From J. L. Tierney

Subject : U. S. vs. FELT, ET AL.
EXHIBIT: DOCUMENT CAMERA

PURPOSE: To record status of document camera introduced in evidence and arrange follow-up.

RECOMMENDATION: That Records Management Division recontact Departmental Attorney Frank Martin on or about September 1, 1981, and thereafter at six month intervals until the document camera is returned to the FBI.

APPROVED:	Adm. Serv. _____	Legal Coun. _____
	Crim. Inv. _____	Plan. & Insp. _____
Director _____		Rec. Mgnt. _____
Exec. AD-Adm. _____	Ident. _____	Tech. Servs. _____
Exec. AD-Inv. _____	Intell. _____	Training _____
Exec. AD-LES _____	Laboratory _____	Off. of Cong. & Public Affs. _____

DETAILS: A typical document camera in an attache case was charged out to the Department of Justice for use as an exhibit during captioned trial.

Although the trial has been completed, there is an appeal pending. The camera was received in evidence during the trial. It is now in the possession of Departmental Attorney Francis J. Martin, Criminal Appeals Section, Criminal Division. Mr. Martin does not want to return the camera to the FBI until the appeal is resolved. The status of the camera should be reviewed at six month intervals. Since the appeal is unlikely to be argued in the D. C. Circuit until the Fall of 1981, it should first be reviewed approximately September 1, 1981, by contacting Mr. Martin.

- 1 - Laboratory Division
Room 3449 TL #241)
- 1 - Finzel
- 1 - Dean (Lang)

JLT:jch (6)

62-118045 317X

15 MAR 2 1981

7-RA

69 MAR 11 1981

Greenberg/Gray-7438

Memorandum

Exec AD Inv. _____
 Exec AD Adm. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Finzel *F/Rux*

DATE: 2/17/81

FROM : P. L. Andrews *PA/Rux*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

SUBJECT: ~~COST DATA~~
~~GRAY, FELT, MILLER DISCOVERY SPECIAL~~

W. Mark Felt

PURPOSE:

To provide estimated costs associated with the Gray, Felt, Miller case.

RECOMMENDATION: For information.

APPROVED: Adm. Serv. _____ Legal Coun. _____
 Crim. Inv. _____ Plan. & Insp. _____
 Director _____ Rec. Mgnt. *F/Rux*
 Exec. AD-Adm. _____ Ident. _____ Tech. Servs. _____
 Exec. AD-Inv. _____ Intell. _____ Training _____
 Exec. AD-LES _____ Laboratory _____ Off. of Cong. & Public Affs. _____

DETAILS:

FBI spent an estimated 1,507,387.20 on the Gray, Felt, Miller Discovery Special (including the time spent on Kearney Discovery Special).

The estimated costs below include salary costs of Agent and support personnel; reproduction costs (1,500,000 copies) and space costs from January, 1978, through December, 1980. These costs are estimated through the GS-15 level and do not include any attempt to track the time of higher level officials/conferences with the Director.

62-118045-318
 DE-113
 Kearney (introductory phase of Gray, Felt, Miller 1/24/78 - 4/10/78)
 Agent and support salary costs \$ 419,087.00
 Reproduction costs 18,000.00
 Space costs 26,934.60
 Subtotal \$ 464,021.60

Gray, Felt, Miller (4/10/78 - 9/80)
 Agent and support salary costs \$ 945,101.00
 Space costs 56,261.60
 Reproduction costs 42,003.00
 Subtotal \$ 1,043,365.60
 TOTAL \$ 1,507,387.20

FEB 18 1981

53 MAR 11 1981

- 1 - Mr. Finzel
 - 1 - Mr. Tierney b6
 - 1 - [redacted] b7C
- RR:evp
(4).

Redp file TRUS

Greenberg/Gray-7439

TABLE OF CONTENTS

<u>Date</u>	<u>Witness</u>	<u>Transcript</u>	<u>Bench</u>
9/18/80	Openings Smith 766 Gardner 810	655-867	773-793
9/19/80	Gardner 871	868-954	949-953 954-960
9/22/80	Gardner 972	961-1105	985-1020 1047-1052 1088-1090
9/23/80	Mack 1108 Tschudy 1126 Vermeersch 1166	1106-1246	1114-1122 1246-1267
9/24/80	Vermeersch 1288	1267-1469	1269-1287
9/25/80	Vermeersch 1472	1470-1665	
9/26/80	Stec 1668 Bookchin 1747 Schreiberg 1807	1666-1841	1682-1685
9/29/80	Schreiberg 1855 Vericker 1917 Machtinger 1938 Gray 1973	1842-2050	
9/30/80	Decker 2053 Griffin 2091 Horn 2127 Conrad 2190	2051-2232	2111-2117
10/1/80	Shackelford 2235 Lander 2362	2233-2373	
10/2/80	Cohen 2395 Weaver 2402 Stuller 2455 Smith 2497	2374-2544	2408-2414
10/3/80	Smith 2547	2545-2683	
10/6/80	Smith 2689	2684-2827	2827-2835
10/7/80	Acquital Motion 2836 Miller Opening 2882 Preusse 2919 Sizoo 2970	2826-3008	

62-118045-319

ENCLOSURE

10/8/80	Moore 3021 Gray 3095 Evans 3154	3009-3164	3128-3121
10/9/80	Branigan 3180 Gordon 3319 Berley 3334	3165-3346	3226 3241-3268 3268-3271 3310-3311 3324
10/10/80	Meyer 3350 Cohn 3361 Litrento 3481 Grathwohl 3537	3348-3572	3486-3489 3504-3507
10/14/80	Grathwohl 3576 Bishop 3697 Burke 3725 Rogge 3732	3573-3756	
10/15/80	Brownell 3759 MacLennon 3838 Helgeson 3867 Linberg 3886 Ryan 3912	3757-3975	3890-3891 3904-3909 3915A-3924 3926 3975A-3980
10/16/80	Ryan 3988 DeLoach 4103 Blakey 4419A	3981-4236	4031-4039 4056-4060 4069 4077-4092 4095-4097 4101 4119-4120 4161-4162 4193
10/17/81	Yeagley 4239 O'Neill 4311 Bowers 4360 Reagan 4371 Beckwith 4405	4237-4472	4419 4443-4448 4352 4355 4392 4473-4485
10/20/80	Beckwith 4488 Worthington 4524 Barron 4564	4486-4647	4494-4495A 4504-4520 4537-4546 4552 4589-4590 4618-4621 4626-4643
Greenberg/Gray-7441			

62-118045-319

ENCLOSURE

10/21/80	Parsons 4651 LaPrade 4685 Barron 4724	4648-4842	4659 4665-4684 4716-4716B 4732-4743 4756-4757 4759 4785 4805 4835 4841
10/22/80	Barron 4851 Felt 4866	4843-5074	4939-4940 4990-4993 5024 5058-5059 5065-5068 5075-5076
10/23/80	Felt 5077	5076A-5232	5101-5102 5105-5106 5138 5152-5153 5162-5163 5205-5207 5215-5218
10/24/80	Hotis 5263 Hoeber 5404	5233-5430	5249-5254 5334-5335 5366-5373 5375-5403 5407-5408
10/27/80	Hotis 5466 Vorenberg 5609	5431-5653	5537 5634-5636 5641-5642
10/28/80	Clark 5659 Mitchell 5742 Kleindienst 5792	5654-5833	5704-5705B 5706-5708 5733 5736-5741 5827-5832 5834-5842
10/29/80	Smith 5845 Nixon 5909	5843-5939	5865-5869 5898-5901 5907 5937-5938
10/30/80	Katzenbach 5943	5940-6106	6028-6040
10/31/80	Arguments Instructions	6107-6300	6249-6250
11/4/80	Closing Arguments	6361-6546	6402 6519

62-118045-319

ENCLOSURE

11/5/80	Instructions	6555-6653	6547-6554 6609-6613 6626-6643
11/6/80	Verdict	6659-6664	6654-6658
12/15/80	Sentencing		

The separately bound bench conferences, are in four volumes with the following page ranges:

773-3226
3241-4621
4626-5373
5375-6658

Greenberg/Gray-7443

Memorandum



Exec AD Adm. _____
 Exec AD Inv. _____
 Exec AD LES _____
 Asst. Dir.:

- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Off. of Cong. & Public Affs. _____
- Telephone Rm. _____
- Director's Sec'y _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

To : Mr. Finzel

Date FEB 20 1981

From : J. L. Tierney

W. Mark

Subject : U. S. vs. FELT ET AL.
TRIAL TRANSCRIPT

PURPOSE: To place copy of trial transcript and exhibits on record, and to arrange for their location as reference material.

RECOMMENDATION: That the transcript, exhibits, and their related lists be placed on record as an enclosure to this memorandum, but be permanently charged out to the Document Classification Unit (Room 6380).

DETAILS: Attached as an enclosure is a copy of the transcript of trial in captioned case, including the exhibits entered into evidence which appear as part of the public record.

The transcript runs from page 655 on September 18, 1980, through page 6664 on November 6, 1980 and is bound into 33 separate volumes, each the equivalent of one day's proceedings. The transcript is complete except for pages 1 - 654 which covers jury selection and 6301 - 6360 which covers a session on November 3, 1980, on jury instructions.

The bench conferences which were sealed by the court for national security reasons are bound into four separate volumes. These separate volumes follow the same pagination as the basic transcript.

Exhibits are bound into four volumes for the government, eleven volumes for Mr. Felt, and five volumes for Mr. Miller.

- 1 - Mintz - (Enclosure)
- 1 - Finzel - (Enclosure)
- 4 - Dean - (Enclosure)
 - (1 - [redacted] (Enclosure)
 - (1 - [redacted] (Enclosure)
 - (1 - [redacted] - (Enclosure)
- 3 - Hall - (Enclosure)
 - (1 - [redacted] Enclosure)
 - (1 - [redacted] - (Enclosure)

62-118045-319

FEB 24 1981

4-File-RP

b6
b7C

Enclosures (3)

MAR 11 1981
jch
jch

CONTINUED - OVER

Memo to Mr. Finzel
Re: U. S. vs. Felt, Et Al.
Trial Transcript

Exhibits bearing classification markings are stamped as either declassified or unclassified with redactions by Robert L. Keuch, Associate Deputy Attorney General. Declassification actions taken were on the authority of Attorney General Civiletti.

Accompanying the exhibits are copies of the legal size inventories of exhibits in the order in which they were marked for identification and received in evidence, noting the witness to whom they relate. There are three inventories, one each for the government, Felt and Miller. There is also a typed list of government exhibits arranged according to the witness testifying to the exhibit.

Not every exhibit listed on the inventories is copied and included in the exhibit set for two reasons. If an exhibit was marked for identification but never received in evidence it is not included in the record and has not been copied, although it remains listed on the inventory. Frequently more than one party planned to introduce the same document as an exhibit. The document then appears on more than one inventory, but was received in evidence with only one exhibit number and appears only once in the record. The copies of the exhibits in this set were made from the actual court record. A few additional excisions or redactions were made by the Department to correct mistakes, and substitutions were then made in the court record.

Also attached is a table of contents outlining the transcript on a daily basis, listing the date, witnesses appearing with beginning page, page range for that day, and bench conferences for that day which have been removed and bound separately.

The exhibits are of immediate interest to personnel currently taking classification action on FBI records. Both transcript and exhibits are of interest to personnel handling Freedom of Information-Privacy Acts requests, civil discovery, and defense to civil litigation involving the FBI. It will therefore be preferable to have the set accessible as a reference in a central location rather than held as a bulky in a remote location. Maintaining the set in the Document Classification Unit has been coordinated with the Chief of the Document Classification and Review Section.

Jan

Subject FBI Participation in Discovery in the <u>Kearney, Gray, Felt and Miller Cases</u> <u>W. MARK</u>	Date 26 JUL 1982
---	---------------------

To
 Thomas H. Bresson
 Assistant Director
 Records Management Division

From
 Larry L. Simms
 Deputy General Counsel
 Office of Legal Counsel

This responds to your request of December 18, 1981 for advice on whether to end the moratorium on destruction of security related records which the Federal Bureau of Investigation has observed since January 16, 1978. We have received comments from the Torts Branch of the Civil Division (attached) and the Criminal Division. Both object to any lifting of the moratorium. The Federal Programs Branch of the Civil Division, which is handling American Friends Service Committee v. Webster, No. 79-1655 (D.D.C.), is indifferent because of the outstanding injunction in that case. This Office has no institutional interest in this matter and therefore defers to the judgment of the Civil and Criminal Divisions, since they are the litigating divisions who will have to produce any documents that are requested.

[redacted] Unit Chief, Field Coordination, Appeals Unit (FBI) [redacted] has expressed some dissatisfaction with these decisions. Since this Office is not responsible for the litigation, we cannot determine whether it would be appropriate to destroy the documents with which he is concerned. We recommend that any further correspondence be directed specifically to the litigating divisions and not to this Office.

b6
b7C

cc: John J. Farley, III
 Director, Torts Branch
 Civil Division

62-118045-

William C. Bryson
 Chief, Appellate Section
 Criminal Division

Vincent M. Garvey
 Assistant Branch Director
 Federal Programs Branch
 Civil Division

NOT RECORDED
 26 JUL 26 1982
 15 JUL 18 1982

60 JUL 19 1982
 ENCLOSURE

Original Filed In
 66-3286-1373
 4/ku

JJF:LLGregg:hmr

March 8, 1982

MEMORANDUM

TO: Mr. Larry L. Simms
Deputy Assistant Attorney General
Office of Legal Counsel

FROM: John J. Farley, III
Director, Torts Branch
Civil Division

SUBJECT: FBI - Document Destruction

Your memorandum of February 11, 1982, requests our comments on the Bureau's proposal to lift a moratorium on the destruction of certain security-related records. This moratorium was imposed by your office in view of the pendency of criminal proceedings against former FBI officials Kearney, Gray, Felt and Miller.

First of all, the criminal case against Messrs. Felt and Miller remains "pending" since an appeal has been filed. Moreover, the above individuals currently are defendants in a civil suit pending in the United States District Court for the Southern District of New York captioned Judith Clark, et al. v. United States, et al., 78 CIV 2244 MEL (S.D. N.Y.), which arises out of the Weather Underground and Weather Fugitive investigations. This case is primarily handled by the United States Attorney. That office should be consulted fully before any documents are destroyed. It might be noted, however, that it is likely that any documents retrieved in connection with the criminal cases would be deemed relevant to the related civil case, in view of the broad relevancy concept embodied in the Federal Rules of Civil Procedure.

Aside from the above, you should be aware that this Division handles several cases which challenge national security investigations conducted by the Bureau over the years. These include investigations of the Black Panther Party, National Lawyers Guild, Socialist Workers Party,

62-118045-

ENCLOSURE⁷

Greenberg/Gray-7447

Jewish Defense League, Peoples Coalition for Peace and Justice, Students for a Democratic Society, East Coast Conspiracy to Save Lives and numerous other groups. We are concerned that any destruction of security-related records might hinder our ability to defend the governmental and individual interests we represent in these lawsuits. It is perhaps significant to note that the Legal Counsel Division of the FBI, with which we work closely in defending these cases, does not appear to have been consulted on the question of resuming destruction. Its view would be helpful.

At the present time we are inclined to recommend against destruction of any security-related documents. At the very least, in the event the Bureau is permitted to commence normal destruction of records, provision should be made to ensure that this Division is advised in advance of any proposed destruction in order that our litigation interests and obligations might be protected. Various document retrieval and destruction programs notwithstanding, the destruction of relevant documents of potential evidentiary value could adversely impact on presently pending cases, particularly when they are subject to non-destruct orders.

cc: Mr. W. Donald Bonds
Deputy Assistant Attorney General
Civil Division

Mr. Vincent N. Carvey
Assistant Branch Director
Federal Programs Branch
Civil Division

Memorandum



- Exec AD Adm. _____
- Exec AD Inv. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Off. of Cong. & Public Affs. _____
- Telephone Rm. _____
- Director's Sec'y _____

To : Mr. Finzel

Date FEB 20 1981

From : J. L. Tierney

Subject : U. S. vs. ^{M. Mark} FELT, ET AL.
FOREIGN SOURCE DOCUMENTS -
IN CAMERA SUBMISSION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

PURPOSE: To record status of documents submitted to court in camera and to arrange regular follow-up until they are returned to FBI control.

RECOMMENDATION: That Records Management Division recontact Departmental Attorney Frank Martin on or about September 1, 1981, and thereafter at six month intervals until the documents are returned to FBI control.

APPROVED: _____

Director _____	Ident. _____	Plan. & Insp. _____
Exec. AD-Adm. _____	Intell. _____	Rec. Mgnt. _____
Exec. AD-Inv. _____	Laboratory _____	Tech. Servs. _____
Exec. AD-LES _____		Training _____
		Off. of Cong. & Public Affs. _____

DETAILS: During discovery proceedings in 1979 approximately 1200 documents (copies) relating to SDS, Weatherman, and the WEATHFUG organization were isolated. All contained information received from foreign sources which had no relevance to the issue of foreign involvement in the Weatherman.

The documents were isolated and turned over to Departmental Attorneys John W. Nields, Jr. and Francis J. Martin so they could be prepared to defend against the demand from defense counsel that all foreign source information be made available to them during discovery.

The Attorney General claimed executive privilege on all foreign source information which was concededly relevant to the issue of foreign involvement. The Department found it necessary, however, to submit those 1200 foreign source documents not relevant to the issue to the court in camera (and ex parte).

The court reviewed the 1200 documents and agreed they were not relevant and did not need to be made available to defense counsel during discovery.

- 1 - Finzel
- 1 - Dean (Lang)

JLT:jch (5)

CONTINUED - OVER

10 SEP 18 1981

64 OCT 27 1981

REC-112

FBI

Memo to Mr. Finzel
Re: U. S. vs. Felt, et al.
Foreign Source Documents -
In Camera Submission.

At conclusion of the trial I requested Messrs. Niels and Martin to retrieve the documents from the court. I suggested either the Department or the FBI could retain the set intact in case it became an issue on appeal. After considering the request, they refused. They stated they would retrieve the documents if the court requested it, but they would not approach the court to suggest it.

The documents are likely to be handled securely by court personnel until the passage of time or change in personnel dulls the court's perception of their sensitivity. They should not be allowed to remain even as part of the sealed portion of the court record beyond any arguable need for their retention.

The appeal is not likely to be argued in the D. C. Circuit until the Fall of 1981.

Mr. Martin, now assigned to the Appeals Section, Criminal Division () should be contacted on or about September 1, 1981, and thereafter at six month intervals until the documents are returned to FBI control.

b6
b7C

Memorandum



Exec AD Adm. _____
 Exec AD Inv. _____
 Exec AD LES _____
 Asst. Dir.: _____
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. R. P. Finzel

Date 4/6/81

From : E. J. O'Malley

Subject : U. S. vs. FELT, et al.
Foreign Source Documents -
In Camera Submission

W. Mark Felt

PURPOSE:

To advise of change in location of sensitive documents previously reported to have been left in the possession of the trial judge.

RECOMMENDATION:

None, for information.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

b6
b7C

62-118045-320

- 2 - Mr. R. P. Finzel
- (1 - Mr. Dean, attention)
- 1 - Mr. J. L. Tierney

3 APR 9 1981

JLT:ifc (4)

(CONTINUED - OVER)

246
60 APR 27 1981

Greenberg/Gray-7451

Memorandum E. J. O'Malley to Mr. R. P. Finzel
Re: U. S. vs. Felt, et al.
Foreign Source Documents -
In Camera Submission

DETAILS:

Memorandum J. L. Tierney to Mr. Finzel dated 2/20/81, captioned as above, noted the continued retention by the trial judge of approximately 1200 FBI documents containing foreign source information relevant to Weatherman but not relevant to the involvement of foreign powers in that organization. The Department had been unwilling despite our request to retrieve these sensitive documents from the court.

On 4/6/81, Departmental Attorney Francis J. Martin advised that all documents containing SCI or foreign source information had been retrieved from the judge's chambers and placed in the possession of Mr. Jerry Rubbino, Security Officer of the Department of Justice.

JM
||
The recommendation in referenced memorandum that Records Management Division contact Mr. Martin on or about 9/1/81 continues. Although the possibility of accidental mishandling of the foreign source documents is all but eliminated by Mr. Rubbino having possession of them, their extreme sensitivity requires the same follow-up action of contacting Mr. Martin with a view toward their eventual return to FBI control.

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 3	DATE 4/15/81	CLASSIFICATION UNCLAS	PRECEDENCE PRIORITY
*F14E*4PP AF0EDE HQ HO144 *H0YU0P 152209Z APR 81			
START HERE			
FM	FM DIRECTOR, FBI		
TO	TO ALL FBI FIELD OFFICES PRIORITY		
BT			
14	UNCLAS	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-12-2009 BY 65179 dmh/baw/sbs	
12	BUREAUWIDE INFORMATION PROGRAM {81-12}		
10	PRESIDENTIAL PARDON OF W. MARK FELT AND EDWARD S. MILLER		
8	ON APRIL 15, 1981, PRESIDENT RONALD W. REAGAN ISSUED THE FOLLOWING STATEMENT:		
6	"PURSUANT TO THE GRANT OF AUTHORITY IN ARTICLE II, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES, I HAVE GRANTED FULL AND UNCONDITIONAL PARDONS TO W. MARK FELT AND EDWARD S. MILLER.		
4	DURING THEIR LONG CAREERS, MARK FELT AND EDWARD MILLER SERVED THE FEDERAL BUREAU OF INVESTIGATION AND OUR NATION WITH GREAT DISTINCTION. TO PUNISH THEM FURTHER--AFTER THREE YEARS OF CRIMINAL PROSECUTION PROCEEDINGS--WOULD NOT SERVE THE ENDS OF JUSTICE.		
2	DO NOT TYPE MESSAGE BELOW THIS LINE		
APPROVED BY	DRAFTED BY	DATE	ROOM
<i>[Signature]</i>	JVA:PEB	4/15/81	7350
		TELE EXT	

COPY RETAINED IN PERSONNEL RECORDS UNIT

DO NOT TYPE PAST THIS LINE

- 1 - MR. COLWELL
- 1 - MR. MULLEN
- 1 - MR. OTTO
- 1 - EACH ASSISTANT DIRECTOR
- 1 - MR. YOUNG

- 1 - *[Redacted]*
 - 1 - MR. DIVAN
 - 1 - MR. BRUEMMER
 - 1 - MR. STEEL
 - 1 - MR. ROIN
 - 1 - *[Redacted]*
- 62-118045-321
b6
b7C

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER

[Handwritten Stamp]
APR - 3 1981

MAY 7 1981 APR 16 1981

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

[Handwritten Stamp]

33 MAY 19 1981

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS MESSAGE FORM

2

CONTINUATION SHEET

PAGE TWO DE HQ 0144 UNCLAS

20 THEIR CONVICTIONS IN THE U.S. DISTRICT COURT, ON APPEAL
 18 AT THE TIME I SIGNED THE PARDONS, GREW OUT OF THEIR GOOD FAITH
 16 BELIEF THAT THEIR ACTIONS WERE NECESSARY TO PRESERVE THE SECUR-
 14 RITY INTERESTS OF OUR COUNTRY. THE RECORD DEMONSTRATES THAT
 THEY ACTED NOT WITH CRIMINAL INTENT, BUT IN THE BELIEF THAT
 THEY HAD GRANTS OF AUTHORITY REACHING TO THE HIGHEST LEVELS OF
 GOVERNMENT.

12 AMERICA WAS AT WAR IN 1972, AND MESSRS. FELT AND MILLER
 10 FOLLOWED PROCEDURES THEY BELIEVED ESSENTIAL TO KEEP THE DIREC-
 8 TOR OF THE FBI, THE ATTORNEY GENERAL, AND THE PRESIDENT OF THE
 6 UNITED STATES ADVISED OF THE ACTIVITIES OF HOSTILE FOREIGN
 POWERS AND THEIR COLLABORATORS IN THIS COUNTRY. THEY HAVE
 NEVER DENIED THEIR ACTIONS, BUT, IN FACT, CAME FORWARD TO AC-
 KNOWLEDGE THEM PUBLICLY IN ORDER TO RELIEVE THEIR SUBORDINATE
 AGENTS FROM CRIMINAL ACTIONS.

4 FOUR YEARS AGO THOUSANDS OF DRAFT EVADERS AND OTHERS WHO
 2 VIOLATED THE SELECTIVE SERVICE LAWS WERE UNCONDITIONALLY PAR-
 DONED BY MY PREDECESSOR. AMERICA WAS GENEROUS TO THOSE WHO
 REFUSED TO SERVE THEIR COUNTRY IN THE VIETNAM WAR. WE CAN BE

DO NOT WRITE IN THESE SPACES

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

3

CONTINUATION PAGE

PAGE THREE DE HQ 0144 UNCLAS**UNCLAS

NO LESS GENEROUS TO TWO MEN WHO ACTED ON HIGH PRINCIPLE TO
BRING AN END TO THE TERRORISM THAT WAS THREATENING OUR NATION."

BT

|

DO NOT WRITE IN THESE SPACES

END OF MESSAGE

Memorandum



- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

To: Mr. Colwell

TL# 235

Date 4-9-81

From: R. P. Finzel

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Subject: UNITED STATES OF AMERICA v.
W. MARK FELT,
EDWARD S. MILLER
PROTECTION OF NATIONAL SECURITY INFORMATION

PURPOSE: To advise of a meeting on 4-8-81 of representatives of the CIA, NSA, DOJ, and the FBI, concerning security of documents used in the Felt/Miller trial.

RECOMMENDATION: None, for information.

APPROVED: _____

Director _____	Adm. Serv. _____	Legal Coun. _____
Exec. AD-Adm. _____	Crim. Inv. _____	Plan. & Insp. _____
Exec. AD-Inv. _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-LES _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Off. of Cong. & Public Affs. _____

DETAILS: On 4-8-81, Mr. D. Jerry Rubino, Security Programs Manager, DOJ, advised that the defense attorneys for Mr. Felt and Mr. Miller had seven safes in their law office containing documents with National Security Information which were used during the trial and were under a protective order of the court. In December, 1980, at the conclusion of the trial, the only individual having the combination for one of the safes resigned and the law firm had this safe drilled open by the Criminal Division of the DOJ. Mr. Rubino was not advised of this until March, 1981. The safe had remained unlocked for 75 days in the law office with no apparent security or protection for the classified documents. All personnel of the law office, the cleaning personnel, and any individuals having access to the building could have had access to the information in the open safe. One document found in the open safe was Sensitive Compartmented Information not authorized under court order to be in the hands of the defense. This document was seized by Mr. Rubino and is presently in his custody.

- 1 - Mr. Colwell
- 1 - Mr. O'Malley
- 1 - Mr. Mintz
- 1 - Mr. Finzel
- 1 - Mr. Dean
- 1 - Mr. Scherrer
- 1 - Mr. Tierney
- 1 - Mr. Litzenburg
- 1 - Mr. James
- 1 - Mr. Butts
- 1 - Mr. Steel

JLB:jac/jml
(12)

66 MAY 27 1981

62-118045-322 file 4-MJ

APR 22 1981

(CONTINUED-OVER)

Memorandum from R. P. Finzel to Mr. Colwell
Re: United States of America v.
W. Mark Felt,
Edward S. Miller
Protection of National Security Information

DOJ Attorney, Frank Martin, who is the prosecutor in Felt/Miller, wants all documents to be moved to the Court of Appeals for availability purposes with the exception of those maintained by the defense team.

Mr. Rubino does not agree with Mr. Martin concerning the custody of the classified documents and indicated he plans to make the following recommendations to the Attorney General:

- 1). That court permission be requested for the return of all documents held by the Felt/Miller defense team to Government control.
- 2). That all documents be made reasonably available to the defense attorneys and the Appeals Court.
- 3). That the Appeals Court be requested to adopt security procedures for the protection of classified information in the Federal Courts as authorized by Chief Justice of the United States, Warren Burger, pursuant to the Classified Information Procedures Act of 1980.
- 4). That the Appeals Judge be requested to appoint a member of the NSA as a Court Security Officer with the CIA and FBI providing individuals as points of contact for security reasons.
- 5). That the Attorney General recommend sanctions against the law firm for failure to protect classified information in accordance with the Court's protective order.

Mr. Rubino indicated he would be seeking FBI^{CIA and NSA} assistance in conducting a damage assessment on the possible compromise of the classified documents in the near future.

Greenberg/Gray-7457

Handwritten initials and scribbles at the top left of the page.

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

Immediate
PRECEDENCE
~~PRIORITY~~ *HS per Webster*

077

PAGE 1 OF 2	DATE 4/15/81	CLASSIFICATION UNCLAS	PRECEDENCE PRIORITY
-------------	--------------	-----------------------	--------------------------------

✠F077000 AF00DE HQ HQ077 ✠H4YU00 151901Z APR 81

START HERE

Handwritten initials 'de' on the left margin.

FM DIRECTOR FBI
 TO ALL SACs ~~PRIORITY~~ **FBI FIELD OFFICES IMMEDIATE**
 ALL LEGATS ~~PRIORITY~~ **LEGAL ATTACHES IMMEDIATE**

BT
UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

PRESIDENTIAL PARDONS

DO NOT TYPE PAST THIS LINE

THE PRESIDENT ANNOUNCED TODAY THAT HE HAS GRANTED FULL
 AND UNCONDITIONAL PARDONS TO W. MARK FELT AND EDWARD S. MILLER.
 A COPY OF THE STATEMENT MADE BY THE PRESIDENT AT THE TIME OF
 THIS ANNOUNCEMENT WILL BE FURNISHED SEPARATELY TO YOUR OFFICE.
 I HAVE MADE THE FOLLOWING STATEMENT WHICH YOU MAY USE IN
 RESPONSE TO INQUIRIES CONCERNING THE PARDONS:

"THIS ANNOUNCEMENT WILL BE WELCOME NEWS TO FBI EMPLOYEES
 THROUGHOUT THE COUNTRY. THIS BRINGS TO A CLOSE A DIFFICULT
 CHAPTER FOR THE FBI AND FOR THE FELT AND MILLER FAMILIES. WE
 ARE GRATEFUL FOR THE PRESIDENT'S ACTION."

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY <i>4</i>	DRAFTED BY RSY:NLS	DATE 4/15/81	ROOM 7116	TELE EXT. 235
----------------------	--------------------	--------------	-----------	---------------

- 1 - EACH EXECUTIVE ASSISTANT DIRECTOR
- 1 - EACH ASSISTANT DIRECTOR
- 1 - [Redacted]
- 1 - MR. HOTIS
- 1 - MR. HOTIS
- 1 - MR. ROIN
- 1 - [Redacted]
- 1 - MR. STEEL

62-118045-323

APR 27 1981

FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATIONS CENTER
 2347
 Greenberg/Gray-7458
 APR 16 1981

DO NOT FILE WITHOUT COMMUNICATIONS STAMP
PERS. REC. UNIT

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

▶ START HERE

BT

20
18
16
14
12
10
8
6
4
2

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE

Greenberg/Gray-7459

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

RAYMOND EUGENE CAHILL



WASHINGTON, D.C. 20036

18

ASSOCIATE



b6

May 1, 1981

AF

- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Tech. Servs.
- Training
- Public Aff. Off.
- Telephone Rm.
- Director's Sec'y

FBI/DOJ

Richard Cohen
Columnist
The Washington Post
1150 15th St., N.W.
Washington, D.C. 20071

Dear Sir:

Felt W. MARK

Your column in the Washington Post on April 22 concerning the Presidential pardons of Messrs. Felt and Miller -- aside from egregious grammatical error (perhaps the fault of your editor, who also dressed up the column with photographs and captions reflecting his own and the newspaper's bias) -- revealed your lack of understanding of the facts and the law with respect to the utterances of the two Presidents of the U. S. and the performance of the FBI and its agents in the past.

The actual statements made and positions taken by Presidents Nixon and Reagan were right as rain (and in harmony with the positions on this subject of previous Presidents, except Jimmie Carter, going back to President Roosevelt). The performance of the FBI in the field of National Security has been, on the whole, magnificent. And the FBI has adhered to the law -- admirably. You know, or should know, that this "law unto itself" calumny you repeated is a cliché employed by ultra-liberals and others of questionable motives who have smeared the Bureau and would destroy its effectiveness.

Messrs. Felt and Miller, in carrying out their sworn duties -- lawfully, your fallacious column to the contrary notwithstanding -- indeed served the FBI and their country with distinction and honor, as former President Nixon unerringly testified during their trial and as President Reagan accurately attested when conferring his unsolicited, unconditional pardons, exonerating them.

You have an interesting style. I read you regularly for that, frequently find you amusing. But your sophistic treatment of those whom you perceive to be your political or philosophical enemies unveils a dark side of Richard Cohen bound to be disappointing to anyone having a decent regard for the truth of a matter, for fair play.

I appeal to you to join the errant Washington Post in its desperate present effort to regain credibility. And if I didn't believe that you offer a better promise of success in this regard than does the Post, I wouldn't bother to write you this letter.

16 MAY 18 1981

62-118045-

NOT RECORDED Very truly yours,
18 JUN 16 1981

Raymond E. Cahill

copy

5/15/81

XP PROC #710

1981-3-14-1444

ORIGINAL FILED IN 94-8-6-1786

REC-1
no ack
necessary
AW

Memorandum



Exec AD Adm. _____
 Exec AD Inv. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. Finzel

Date 7/30/81

From : L. E. Dean

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

Subject : UNITED STATES vs.
 L. PATRICK GRAY, III,
 W. MARK FELT, AND EDWARD S. MILLER

PURPOSE: To develop a guide for access to and use of materials developed in the criminal discovery of captioned case.

RECOMMENDATION: None, for information.

APPROVED: Adm. Servs. _____ Laboratory _____
 Crim. Inv. _____ Legal Coun. _____
 Director _____ Off. of Cong. & Public Affs. _____
 Exec. AD-Adm. _____ Ident. _____ Rec Mgnt. _____
 Exec. AD-Inv. _____ Inspection _____ Tech. Servs. _____
 Exec. AD-LES _____ Intell. _____ Training _____

DETAILS: In April of 1978, Grand Jury indictments were returned against former Acting Director L. Patrick Gray, former Associate Director W. Mark Felt, and former Assistant Director Edward S. Miller for conspiring to violate the Fourth Amendment rights of friends and relatives of the Weather Underground. The alleged conspiracy occurred during the period of May, 1972, until May, 1973. Discovery was carried on by the same special task force that handled the criminal discovery of former New York Squad 47 Supervisor John J. Kearney. Kearney's prosecution proceedings were dropped in favor of prosecuting Messrs. Gray, Felt, and Miller. Discovery continued until the trial of Felt and Miller, which commenced 9/15/80. Messrs. Felt and Miller were later convicted by jury, fined by the presiding judge, and later pardoned by President Reagan. The trial of Mr. Gray was severed from Felt-Miller in early 1979, and prosecution was dropped in December, 1980. The on-record material retained during criminal discovery in this overall matter is filed in 62-118045. The actual work-related products of the special are stored in Room 4859. The transcript and exhibits are located in Room 6380.

Criminal discovery in the captioned matter was handled both formally and informally. Those formal matters would be filed in 62-118045. However, at times, there were over-the-phone requests which were never recorded on paper. Therefore,

- 1 - Mr. Finzel
- 1 - Mr. Dean
- 1 - [Redacted]
- 1 - [Redacted]

246
 1987
 b6
 b7C

23 AUG 4 1981

PHL/DJR:vae
 (5)

(CONTINUED - OVER)

Greenberg/Gray-7461

Memorandum of L. E. Dean to Mr. Finzel
Re: United States vs.
L. Patrick Gray, III,
W. Mark Felt, and Edward S. Miller

not all the processed copies of files and materials located in Room 4859 could be explained by a review of this file. Hence, it is imperative to briefly summarize why certain aspects of this discovery were done.

The processing of the Venceremos Brigade main file, for example, was limited to the serials in the file that actually pertained to individuals who had been, or later became, members of the Weathermen.

The files on Al Fatah and [redacted] were processed in their entirety by Civil Discovery Review Unit #1, specifically to show how a "foreign" terrorist organization was investigated by the Bureau. More importantly, it was to release to the defense the surreptitious entry authorized by L. Patrick Gray in September of 1972 [redacted]. This was considered vital for the defense of Messrs. Felt and Miller during their trial.

b6
b7C

By way of background, in July of 1966, the Director stated that he would no longer approve of the "black bag job" technique. This is known as the so-called "Hoover cut-off memo." After Director Hoover died in May of 1972, many Bureau supervisors, including Mr. Miller, were interested in reimplementing this technique. Mr. Miller personally queried Acting Director Gray regarding this in a private conversation. Mr. Miller has since contended that Mr. Gray was receptive to his suggestion, and when [redacted] was approved in September of 1972 after their private discussion, he felt the Bureau was in fact "back in business" of approving this technique.

b6
b7C

Cabinets 4, 5, 6, and 16 (Drawer 5) contain tickler folders seized in August through September of 1976 by the DOJ from IS-2 Section, Intelligence Division. Basically, these folders are from Mr. Preusse's and Mr. Shackelford's offices. In this instance, the defense was given an inventory of all the folders and was told by the Department to select only those folders it had an interest in seeing. The folders the defense selected were processed only if the contents of the folder had not been previously processed in their other discovery requests.

Specific discovery requests caused the main files on the SDS, Weathfug, Penbom, Capbom, and ITT cases, and the individual files on Weathermen subjects to be partially processed. Those requests can be located in the respective case's file. These main files were processed only within a time frame the defense requested, which varied according to each request.

The redacting of all files in discovery was limited to protecting sources, confidentiality, on-going investigations, and information which could cause undue embarrassment to a third party. As a condition precedent to affording defense counsel access to file materials, the Department required all defense attorneys to agree to a protective order from the Court. This order forced the defense to inform

Memorandum of L. E. Dean to Mr. Finzel
Re: United States vs.
L. Patrick Gray, III,
W. Mark Felt, and Edward S. Miller

Government counsel and the Court in advance of any intention to use classified material during the trial. After such notification, the Government would either declassify the material, seek an in-camera ruling from the Court denying relevance, or agree to a stipulation. Several stipulations were made and these can be located among the trial exhibits in Room 6380.

In addition, at no time were documents redacted solely because they were classified. Therefore, several documents were prepared for the trial in a still classifiable version, but only those which were actually made part of the exhibits were declassified. The declassification was on the authority of the Attorney General, and the trial exhibits have been marked by DOJ personnel to reflect this.

All these files were reviewed inside Bureau space by defense counsel who had been granted TS clearances by the Attorney General. Defense counsel then selected specific documents out of these file reviews. Later, they submitted a list of approximately 1,000 documents they wanted delivered to them. These documents can be found in packages numbered 84 through 130 in Cabinets 1, 2, and 3.

The packages that were actually delivered to the defense are contained in Room 4859, Cabinets 1, 2, and 3. The total number of packages delivered to DOJ is 232. Most deliveries to defense counsel were by DOJ attorneys. The FBI records will show several sets of documents delivered to DOJ which indicates delivery to defense counsel was intended. These packages were made up from requests by the defense and the Department. All the packages are numbered on the receipt which is attached to the front of the package. The receipt also explains briefly what is contained therein and, in some cases, an inventory of the package. The first series of packages, numbered 1 through 19, and the second series of packages, numbered 1 through 49, represent the defense's first set of interrogatories and requests following their indictment. All the other packages represent the defense or Department requests which were either formal (on paper) or over-the-phone.

There came a point in the discovery that the defense was allowed further access to the redacted portions of certain serials. With the least amount of excisions allowable, certain packages were delivered to the Department's vault for defense counsel access. These packages are marked "Vault" or have an asterisk on the inventory to designate that they were vault copies. Referenced inventory is an attachment to the J. L. Tierney memorandum to Mr. Finzel, 12/1/80, captioned "U. S. vs. Kearney."

An index to all the delivered packages is located in Room 4859, Cabinet 3, Drawer 5. This index is considered as "work papers" for this litigation file and is maintained as a bulky exhibit in this record. The index is made up of 3x5 cards placed in five boxes marked A, B, C, D, and E. Boxes A through E contain cards that represent every serial or communication processed in the delivered packages.

Memorandum of L. E. Dean to Mr. Finzel
Re: United States vs.
L. Patrick Gray, III,
W. Mark Felt, and Edward S. Miller

Each 3x5 card has listed on it the date of the communication, type of communication, the to and from, the package number it is located in, and sometimes the subject of the communication. For example, in boxes A through D, the cards are filed by what type of communication it is, e.g., abstract, airtel, briefing, CIA document, inspection write-up, lab report, letter, LHM, memorandum, monograph, note, report, and teletype. Box E is a listing of all documents which were delivered to the vault and are filed by date. The inventory is complete for all the delivered packages; however, a communication may have inadvertently been described as a memorandum, when in reality it is a letter. Cross-referencing the type of communication would be the appropriate way of determining if the communication was in discovery and what, if any, package it was delivered in. Box E, the vault index, contains many of the same documents that actually were received by defense counsel and some other documents that were processed for the first time. It should be noted that on some index cards, several package numbers will appear. This indicates that the document not only appears in different packages, but also that the document has probably been disclosed in different fashions. These different fashions were at times inadvertent and at other times specifically requested to be done so. In coupling the sets of indices with the delivered packages, the following observations could be made. First, it could be determined if a communication of any sort had been actually delivered to the defense, and second, in what package or packages it was delivered, and in what fashion it was redacted. These delivered packages represent only the materials the defense counsel received. Much more material was reviewed at FBIHQ that the defense never requested or received.

In summary, there is little, if any, future use for the cabinets that contain discovery material that was not delivered. The packages of discovery materials delivered may have some value in future civil litigation. Many of these packages contain answers to general questions which may have some value as the product of research into such areas as notice of use of the surreptitious entry technique (black bag job) outside the FBI.

Greenberg/Gray-7464

Memorandum of L. E. Dean to Mr. Finzel
Re: U. S. vs. Felt, et al.

Although the trial in this matter has been completed, there is an appeal pending. On 9/11/81, Departmental Attorney Martin was contacted in an attempt to determine the status of the above material. Mr. Martin stated that both the documents and a Bureau owned document camera were received in evidence during the trial. He stated that both the documents and the camera must remain intact in case this matter becomes an issue on appeal. He also advised that both the camera and the documents are being maintained in a secure manner.

Mr. Martin, Appeals Section, Criminal Division, DOJ, can be reached through telephone number

b6
b7C

Greenberg/Gray-7466

Memorandum



Exec AD Adm. ___
 Exec AD Inv. ___
 Exec AD LES ___
 Asst. Dir.:
 Adm. Servs. ___
 Crim. Inv. ___
 Ident. ___
 Intell. ___
 Laboratory ___
 Legal Coun. ___
 Plan. & Insp. ___
 Rec. Mgnt. ___
 Tech. Servs. ___
 Training ___
 Off. of Cong. & Public Affs. ___
 Telephone Rm. ___
 Director's Sec'y ___

To : Assistant Director **JAB/LES**
 Records Management Division (RMD)

Date 1/12/82

From : L. E. Dean **LEJ**

Subject : U. S. vs. FELT, et al.
 EXHIBIT: DOCUMENT CAMERA,
 FOREIGN SOURCE DOCUMENTS -
 IN CAMERA SUBMISSION

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

PURPOSE: To record status of certain documents and camera belonging to the FBI.

RECOMMENDATION: That RMD personnel recontact Jerry Rubino, DOJ, at regular intervals until this matter is resolved.

APPROVED: Adm. Servs. ___ Laboratory ___
 Crim. Inv. ___ Legal Coun. ___
 Director ___ Off. of Cong. & Public Affs. **JAB/LES**
 Exec. AD-Adm. ___ Ident. ___ Rec. Mgnt. ___
 Exec. AD-Inv. ___ Inspection ___ Tech. Servs. ___
 Exec. AD-LES ___ Intell. ___ Training ___

DETAILS: During discovery proceedings in captioned matter, 1,200 documents (copies) relating to the Students For a Democratic Society, Weathermen, and the WEATHFUG organization were identified. All of the documents contained foreign source information. After being isolated, the documents were turned over to Departmental Attorney Francis J. Martin in anticipation of a demand from defense counsel for such material.

The Attorney General later claimed executive privilege on all foreign source information. The Department found it necessary, however, to submit the 1,200 foreign source documents to the court in camera and ex parte in order to sustain the claim of privilege. The court reviewed the documents and ruled the material need not be produced to defense counsel during discovery.

- 1 - Mr. Kelleher
 (Attn: [Redacted])
 Room 3449, TL #241)
- 1 - Mr. O'Malley
 (Attn: Mr. Joseph L. Tierney)
 Room 4825, TL #232)
- 1 - Assistant Director, RMD
- 1 - Mr. Dean
- 1 - [Redacted]
- 1 - [Redacted]

b6
 b7C

62-118045-326
JAN 13 1982

DRB:vae vce
(7)

03 1982

(CONTINUED - OVER)

4-File
DM

Memorandum of L. E. Dean to Assistant Director, RMD
Re: U. S. vs. Felt, et al.

Although the trial in this matter has been completed, there is an appeal pending. It has been learned since our last contact with Frank Martin on 9/11/81, that he has been replaced in this matter by William Bryson.

On 1/6/82, Mr. Martin was telephonically contacted and advised that he was still in possession of the Bureau-owned document camera but no longer in possession of the above-described documents. He advised that the camera was no longer needed and could be returned to the FBI. The documents, he added, were maintained in the DOJ special file room under the supervision of Jerry Rubino.

On 1/6/82, Jerry Rubino, Director, Security Programs Staff, DOJ, was contacted and advised that the documents were being maintained by his section in a secure manner.

On 1/7/82, the Bureau document camera was obtained from Mr. Martin, for which he was provided a receipt (a copy of which is attached hereto). On 1/8/82, the camera was turned over to Mr. Barry L. Mones, Room 3449.

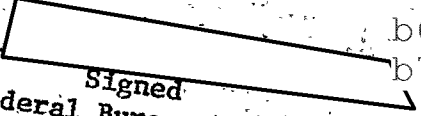
A Civil Discovery Review Unit #2 tickler has been set for 6/7/82 to recontact DOJ regarding the status of above documents.

Mr. Rubino can be reached at [redacted] and Mr. Martin can be reached at [redacted]

b6
b7C

1/7/82
Washington, D.C.

Received this date from Francis J. Martin, Attorney, United States
Department of Justice, one document camera, serial number 4


Signed
Federal Bureau of Investigation

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7482

Airtel

1/19/92

Director, FBI

ADIC, New York

W: mark

U. S. vs. FELT, et al.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

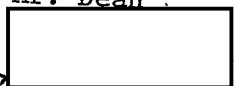
Forwarded under separate cover are two boxes containing original New York Field Office files previously submitted to FBIHQ for use in captioned matter. Review of these materials has been completed, and they are no longer needed by FBIHQ.

The field office files being returned are:

- 100-166899
- 100-172368
- 100-179220
- 176-96-1A Supplement
- 176-96 Volumes 1-17
- 100-179212 Volumes 1-9

2 - Package Copy

- 1 - Assistant Director, Records Management Division
- 1 - Mr. Dean



62-118045-327

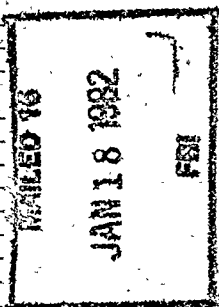
b6
b7C

PEM/GSL:vae vae
(9)

23 JAN 19 1992

NOTE: FBIHQ requested original New York Field Office files for utilization in connection with captioned matter. Inasmuch as these files are no longer needed by FBIHQ, they are being returned to New York.

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____



716543
716544

Greenberg/Gray-7483

MAIL ROOM

01/27/92
01/27/10

Greenberg
LB 4

Airtel

1/25/82

Director, FBI

ADIC, New York

U. S. vs. FELT, et al.

Forwarded under separate cover are two boxes containing original New York Field Office files previously submitted to FBIHQ for use in captioned matter. Review of these materials has been completed, and they are no longer needed by FBIHQ.

The field office files being returned are:

176-86 Volumes 1-18	100-176913 Volumes 1-3
176-86-1A Supplement	176-11 Volume 1
176-86-Sub 2	176-11-Sub A

Ch

2 - Package Copy

1 - Assistant Director, Records Management Division

1 - Mr. Dean

1 -

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

PER/GSL:vae *vae*
(9)

NOTE: FBIHQ requested original New York Field Office files for utilization in connection with captioned matter. Inasmuch as these files are no longer needed by FBIHQ, they are being returned to New York.

62-118045-328

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 12
 JAN 21 1982
 717391

JAN 28 1982

MAIL ROOM

Greenberg/Gray-7484

WJH

Memorandum



Exec AD Adm.
 Exec AD Inv.
 Exec AD LES
 Asst. Dir.:
 Adm. Servs.
 Crim. Inv.
 Ident.
 Insp. *epf*
 Intell.
 Lab.
 Legal Coun.
 Off. Cong. & Public Affs.
 Rec. Mgnt.
 Tech. Servs.
 Training
 Telephone Rm.
 Director's Sec'y

To : Mr. E. J. O'Malley *epf*

Date 1/22/82

From : *epf* L. Tierney

Subject

[Redacted Subject]

b6
b7C
b7D

1/22/82

PURPOSE: To record response to [Redacted] request for assistance. b7D

RECOMMENDATION: None. For information and record purposes.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

APPROVED *non*

Director	_____	Adm. Servs.	_____	Laboratory	_____
Exec. AD Inv.	_____	Crim. Inv.	_____	Legal Coun.	_____
Exec. AD LES	_____	Ident.	_____	Off. of Cong. & Public Affs.	_____
	_____	Intell.	_____	Rec. Mgnt.	_____
	_____		_____	Tech. Servs.	_____
	_____		_____	Training	_____

epf

DETAILS: By letter dated [Redacted] to the Director, [Redacted] requested FBI assistance. On behalf of an unidentified counsel, he requested documentation from our records of the trial of W. Mark Felt and Edward S. Miller, particularly legal opinions, judgments, and their pardon.

b6
b7C
b7D

I discussed with [Redacted] the limited nature of our records of this matter which was investigated as well as prosecuted by the Department of Justice. He indicated an interest in the law which was ultimately applied to the case and at my suggestion will forward to his headquarters the transcript of the trial on 11/5/80 which consists of the court's instruction to the jury. I'm also furnishing a copy of the "STATEMENT BY THE PRESIDENT" released by the White House on 4/15/81 outlining the pardon.

V-114 DE-39 62-118045-329

FIVE-90
b6
b7C
b7D

1 - Mr. E. J. O'Malley
1 - Mr. L. Tierney

XERO
FEB 26 1982

62-118045

10 FEB 18 1982

JLT:ifc (3)

(CONTINUED - OVER)

62-35717-1
UNRECORDED COPY

Memorandum from J. L. Tierney to Mr. E. J. O'Malley

Re: [redacted]

b6
b7C
b7D

I advised [redacted] we would be happy to discuss with him or some other [redacted] representative the problems encountered when sensitive records involving the national security become relevant to a criminal prosecution. I told him either I or SAC Paul V. Daly now assigned to the Albany Division were most familiar with the practical and the tactical considerations involved in protecting the present interests of an intelligence/law enforcement organization and balancing them against the rights of a criminal defendant who is a former member of the organization.

b6
b7C
b7D

He indicated his organization might request either SAC Daly or me to go to [redacted] where the present prosecution is located to consult with [redacted] representatives. I advised him I thought such a request would be favorably received as long as it was clear our function was to give them the benefit of our experience gained when undergoing a similar situation and to make smooth the handling of any FBI material which might become relevant during their prosecution.

b7D

It is noted that [redacted] situation differs from ours in that the [redacted] [redacted]. One prosecution is proceeding at this moment and 17 others are to follow.

b7D

Greenberg/Gray-7486

Doc

Airtel

2/9/82

Director, FBI

ARIC, New York

Q
E. S. vs. TALI, et al.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/abs

Forwarded under separate cover are seven boxes containing original New York Field Office files previously submitted to FBIHQ for use in captioned matter. Review of these materials has been completed, and they are no longer needed by FBIHQ.

The field office files being returned are:

176-493A-Sub A Supplement
176-493A Volumes 1-33



7 - Package Copy

- 1 - Assistant Director, Records Management Division
- 1 - Mr. Dean
- 1 -
- 1 -

b6
b7C

PEM/GSL:vae *uhs*
(14)

62-118045-330

NOTE: FBIHQ requested original New York Field Office files for utilization in connection with captioned matter. Inasmuch as these files are no longer needed by FBIHQ, they are being returned to New York.

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAILED 6
FEB - 9 1982
FBI

715207
715208
715209
715210
715211
715212
715213

TAP
by LEO
PH

FEB 10 1982

LAD

Greenberg/Gray-7487

Airtel

2/22/82

Director, FBI

ADIC, New York

U. S. vs. Mark et al.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Forwarded under separate cover are five boxes containing original New York Field Office files previously submitted to FBIHQ for use in captioned matter. Review of these materials has been completed, and they are no longer needed by FBIHQ.

The field office files being returned are:

- 174-1593 Volumes 1-10
- 105-42122 Volumes 1-9
- 176-100 Volumes 1-6
- 176-97 Volumes 1-5
- 174-1340 Volumes 1-10

Jam

5 - Package Copy

1 - Assistant Director, Records Management Division

1 - Mr. Dean

1 -

PEM/GSL:vae use
(12)

b6
b7C

62-118045-331

FEB 23 1982

NOTE: FBIHQ requested original New York Field Office files for utilization in connection with captioned matter. Inasmuch as these files are no longer needed by FBIHQ, they are being returned to New York.

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

MAIL ROOM

MAILED 9
FEB 22 1982

716594

716597

716595

716596

716598

Greenberg/Gray-7488

104
THE
ADD
OK

W
G

Airtel

3/8/82

Director, FBI

ADIC, New York

U. S. vs. HELT, et al.

Mark

Forwarded under separate cover are four boxes containing original New York Field Office files previously submitted to FBIHQ for use in captioned matter. Review of these materials has been completed, and they are no longer needed by FBIHQ.

The field office files being returned are:

- 176-403A-1B14(1)
- 176-403A-1B11(1)-1B11(12)
- 176-403A-1B1(1)-1B5
- 176-403A-1B3(1)
- 100-177212-1B1
- 176-403A-1B1(1)-1B10(10)
- 176-403A-1B12(1)-1B12(4)
- 176-86-1B1

- 100-171161
- 176-403-1B6(1)
- 176-403A-1B9(1)
- 176-403A-1B(4)
- 176-97-1B1
- 176-96-1B1(1)
- 176-403A-1B13(1)

71 Miscellaneous Enclosure Envelopes

(Handwritten initials)

718500
718501
718502
718503

Package Copy

Assistant Director, Records Management Division

Mr. Dean

(Redacted box)

62-118045-332

MAILED 1
MAR 8 1982
FBI

MAR 9 1982

b6
b7C

PEM/GSL:vae:uae
(11)

- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.: _____
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

NOTE: FBIHQ requested original New York Field Office files for utilization in connection with captioned matter. Inasmuch as these files are no longer needed by FBIHQ, they are being returned to New York.

Greenberg/Gray-7489

60 MAR 21 1982
MAIL ROOM

4 LAMZ

Memorandum



Exec AD Adm. _____
 Exec AD Inv. _____
 Exec AD LES _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Off. of Cong. & Public Affs. _____
 Telephone Rm. _____
 Director's Sec'y _____

To : Mr. Monroe *CM/TH*

Date 6/2/82

From : L. E. Dean *LED/TH*

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

Subject : U. S. v. *MARK* FELT et al.
 PROTECTION OF NATIONAL SECURITY INFORMATION

PURPOSE: To record status of certain FBI documents.

RECOMMENDATION: That Records Management Division personnel recontact U. S. Army Major Ronald George Jones, 695-2785, on 12/2/82 regarding the status of FBI documents concerned with captioned matter.

APPROVED:

Director _____	Adm. Servs. _____	Laboratory _____
Exec. AD-Adm. _____	Crim. Inv. _____	Legal Coun. _____
Exec. AD-Inv. _____	Ident. _____	Off. of Cong. & Public Affs. _____
Exec. AD-LES _____	Inspection _____	Rec. Mgnt. _____
	Intell. _____	Tech. Servs. _____
		Training _____

DETAILS: On 6/2/82, [redacted] 633-2605, was contacted at the DOJ, Special Security Center. He advised that the documents from captioned case, which include classified materials, are still being maintained in the vault at the DOJ's Special Security Center and will be so held until the disposition of the appeal in this case. U. S. Army Major Ronald George Jones has been specifically assigned to maintain the security of these documents. He can be contacted at 695-2785.

- 1 - Mr. O'Malley (Attn: Joseph L. Tierney)
- 1 - Mr. Monroe
- 1 - Mr. Dean
- 1 - [redacted]
- 1 - Mr. Barham

62-118045-333

16 JUN 8 1982

FOUR-B [signature]

DRB DRB:vae vae (6)

AKS
57 JUN 29 1982

Greenberg/Gray-7490

OK

Handwritten scribble

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Airtel

3/9/83

Director, FBI

SAC, Chicago [redacted] b6
(Attn: SA [redacted] b7C

Marked
UNITED STATES v.
FELT, et al.
(U.S.D.C., D.D.C.)
CRIMINAL NO. 78-00-179

ReBucal to Chicago on 3/8/83.

Enclosed herewith for Chicago are Chicago files [redacted] and 62-7608, together with copies of two memoranda each dated 7/7/77 and captioned "Surreptitious Entries" and "Surreptitious Entry Investigation," respectively.

b2
b7D

For the information of Chicago, your file 62-7608 was forwarded to FBIHQ on 4/8/80 in connection with the civil matter captioned American Civil Liberties Union, et al., v. City of Chicago, et al., (U.S.D.C., N.D. ILL.). The other items were hand-carried to FBIHQ in connection with captioned litigation.

In the event Chicago is unable to locate the originals of the two memoranda enclosed herewith, these items should be appropriately block stamped, serialized, and indexed into your file 62-7608. Chicago should also ensure that a copy of the memorandum from [redacted] is placed as last serial in Chicago file 65-5435. Copies of the other memorandum from SA [redacted] should be placed as last serial in the indicated Chicago files: 65-5435, 105-3188, 105-17130-Sub 1, 105-18019-Sub 1, 100-37762, and [redacted].

b2
b6
b7C
b7D

Chicago is also requested to properly serialize and index the one serial presently comprising your file [redacted].

Enclosures (4)

62-18045-334
~~SECRET MATERIAL ATTACHED~~

b2
b7D

- Exec AD Inv.
- Exec AD Adm.
- Exec AD LES
- Asst. Dir.: *TEV:vaevae*
 - Adm. Servs. (4)
 - Crim. Inv.
 - Ident.
 - Intell.
 - Laboratory
 - Legal Coun.
 - Plan. & Insp.
 - Rec. Mgnt.
 - Tech. Servs.
 - Training
 - Public Affs. Off.
 - Telephone Rm.
 - Director's Sec'y

MAIL ROOM Greenberg/Gray-7491

MAR 10 1983
[redacted box]

b6
b7C

PERS. REC. UNIT

Memorandum



ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Subject Disposition of Files in United States ✓ Felt, Crim. No. 78-179 (D.D.C.), D.J. File 177-16-33	FEDERAL GOVERNMENT Date December 30, 1985 MMM:LHR:rno
---	--

To *MARK*
 [Redacted] *Rwx 1/17/86*
 Chief, Records Unit
 Federal Bureau of Investigation

From *MM*
 M. Miles Matthews, Director
 Office of Administration
 Criminal Division

b6
b7C

Some months ago this Division undertook the processing of the files from the case of United States v. Felt so that they might, to the largest extent possible, be transferred to the National Archives. The files involved in this undertaking were contained in two vaults and some 30 safes or locked cabinets located throughout the Main Justice Building.

In large part, the impetus to transfer these files to the Archives came from the practical need to recover the safes for use in the Division. There was also a strong sense that the case has historical importance as an outgrowth of the workings of the Watergate Special Prosecution Force.

The material consists of files from the initial inquiry by the Civil Rights Division (begun in August 1975) into the FBI's use of "surreptitious entry" as an investigative technique; and the files of the Civil Rights Division (April 1976 - December 1977) and the Criminal Division (December 1977 - April 1978) task forces which investigated, using three grand juries, the use of so-called "black bag jobs" in the Weatherman investigation in the early 1970s. Also included are the files employed in our obtaining an indictment of Messrs. Gray, Felt and Miller; the files of the trial team (April 1978 - November 1980), which prosecuted the case against Felt and Miller; and, the files relating to the dismissal of the charges against Gray.

Some of the material is classified and relates to such subjects as the historical use of surreptitious entry (for microphone surveillance) and "black bag jobs," both in policy terms and in particular cases; the extent to which government officials were aware of use of those techniques; the proposed revival of such techniques in investigations other than the Weatherman investigation; and, the whole question of the extent to which foreign powers or groups controlled or aided the Weatherman group.

ENCLOSURE
 Almost without exception, the classified information is contained in FBI documents or in legal pleadings, memoranda, or working papers of Department attorneys or defense attorneys, prepared from FBI documents. Some of the classified information comes from the CIA and the NSA although only a few documents are from those agencies. The reason is that the inquiry and investigation were limited to the FBI and, later, the discovery phase of the prosecution was limited to what was contained in FBI files.

62-118045-335

JUL 30 1986

50 AUG 12 1986
64 OCT 28 1987

Greenberg/Gray-7492

[Redacted] b6 b7C

With the concurrence of Deputy Assistant Attorneys General Knapp and Toensing, a Paralegal Specialist from the Office of Enforcement Operations [redacted] was detailed to work on processing the files. Rule 6(e) notices were filed in the Southern District of New York and the District of Columbia to allow her access to the grand jury material in the files. She performed three tasks:

b6
b7C

- (i) Inventory. Inventories had previously been prepared for most of the safes. She verified their accuracy and, when necessary, created new inventories.
- (ii) Double check for code word material. In principle, all code word material in the possession of government counsel should have been removed from the ordinary safes, and placed in the safe in the Assistant Attorney General's vault, and all code word material to which defense counsel had access should always have been in the safe in the security center. She double checked this and moved any item containing code word material to the Assistant Attorney General or security center safes.
- (iii) Removal of grand jury material. All grand jury material was removed from the files, in accordance with our understanding that Rule 6(e), Fed. R. Crim. P., would preclude access to anyone not authorized by the court.

[redacted] removed all the grand jury material. When she removed an item or portion of an item, she placed a notice in the file stating that material had been removed and where it could be found. The removed materials have been boxed and sent to the Department's classified files, or security center as appropriate.

b6
b7C

Now that [redacted] tasks are complete, I am writing to advise you of the completed process and to invite your comments concerning further disposition of the records, in particular, the extent to which the records may be transferred to the National Archives.

b6
b7C

The records in question consist of three types:

(1) Grand Jury records: As noted above, all those records have been boxed (approximately 115 boxes) and sent to the Department's classified files with access precluded to anyone not authorized by the court. In that regard, note that in the case of American Friends Service Committee v. Webster, 720 F2d 29 (CA DC 1983), the Civil Division argued vigorously, and the D.C. Circuit agreed, that the Archivist cannot be given even temporary inspection-type access (much less permanent possession) of grand jury material, nor would there be any basis for a court order allowing such access. Accordingly, we will not seek to transfer these records to the National Archives and consider their current status their final disposition.

(2) Code word material: Approximately 16 boxes of code word material have been boxed and placed in the Department's security center.

In our view the National Archives is fully competent and fully equipped to house and care for code word material. We have learned, from Edwin A. Thompson, Director of the Records Declassification Division at the Archives, that the Archives has various storage areas which have been approved for, and which contain, code word material, including areas at some of the Presidential Libraries around the country, as well as two areas at the Archives building in Washington.

One of the areas in Washington contains materials from diverse sources such as former National Security Advisor files, the files of the Rockefeller Commission, and the files of the Watergate Special Prosecution Force. Indeed, the Watergate files at the Archives contain some of the very same documents as are in our code word files.

The other code word storage area at Archives headquarters contains the complete files of the Senate Select Committee on Intelligence (the Church Committee). Those files probably include the substance of all of the code word material we have, and much more.

Nonetheless, strong arguments have been put forward that this material be kept in the Department's security center. To the extent that records or information that originated with your agency is contained in these boxes, we would appreciate your views and any explanation as to why the records should not go to the National Archives. ←

(3) The remaining litigative file: Approximately 164 boxes of other litigative material remains. There can be no doubt that the records are of historical significance. This is not just the judgment of the participants in the case but also that of Mr. Henry Wolfinger who makes such judgments for the Archives with respect to judicial records. The Archives has expressed a strong interest in acquiring all the records. There are sound administrative and historical reasons for keeping the file intact. Accordingly, subject to consideration of your views and comments, we anticipate transferring all of the remaining litigative files to the National Archives. ←

With regard to the transfer, safeguards can and should be established to insure appropriate consultation by the Archives with the Department, and/or the agency whose information is involved, before any declassification and release of information to the public. Edwin Thompson emphasizes that consultation is a standard practice for the Archives, and he cites the existence of a working relationship, for consultation, between his office and NSA with respect to various old files. A draft letter of agreement with the National Archives (and draft response from them) are attached. Your views on the form and content of each are sought as well. ← ?-A

If you wish to review any of the records concerning your agency, please call Leslie H. Rowe, Associate Director of this office, on 633-2641. Mr. Rowe will make arrangements for you to review the indexes and/or the actual ←

records. If, after the review you wish to make comments or recommendations concerning the proper disposition of the records we would be pleased to receive them. They will be given every consideration.

Thank you for your assistance in this matter. We look forward to the early disposition of these records.

Attachments



Washington, D.C. 20530

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Archivist of the United States
National Archives and Records Service
Washington, D.C. 20408

Dear :

Because the case of United States v. Felt, Crim. No. 78-179 (D.D.C.), D.J. File 177-16-33, is closed and, in our judgment, is of historical significance, I offer you our records (minus the grand jury records) in this case for permanent preservation in the National Archives.

The records being offered, were compiled for law enforcement purposes, are of a generally sensitive nature (in many instances classified) or are otherwise subject to legal restraints which require that a significant portion of the records be closed to public access. Accordingly, I request that the following specific restrictions on access to and use of the records be imposed:

1. Prior to making a decision on opening to public access any documents, or information provided to the Criminal Division by other Department of Justice components, such as the Federal Bureau of Investigation, or other Federal agencies, such as the Central Intelligence Agency or the National Security Agency, the Archivist of the United States or his designee will consult with the Criminal Division as well as the agency of origin and/or the agency with primary subject matter interest.
2. Access to all other records under this agreement will be governed by the General Restrictions of the National Archives, consistent with the Freedom of Information Act, 5 U.S.C. 552.

The Assistant Attorney General, Criminal Division, and other Department of Justice personnel specifically designated in writing by him, may have access without regard to any or all restrictions. In recognition of the need of the Department of Justice for possible access to and the use of certain records, it is agreed that copies of any records designated by the Assistant Attorney General, Criminal Division, that may be necessary for use in

Greenberg/Gray-7496

ENCLOSURE

62-118045-335

litigation involving the United States as a party or in which the interests of the United States are being represented, shall be provided to the Department of Justice without resort to a subpoena duces tecum. Routinely, copies of documents, rather than originals, shall be provided. Certified copies shall be provided upon request.

I appreciate your assistance and cooperation in this matter, and that of your staff in developing this accession procedure.

Sincerely,

STEPHEN S. TROTT
Assistant Attorney General
Criminal Division

Greenberg/Gray-7497

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

Department of Justice
Washington, D.C. 20530

Dear :

On behalf of the United States of America and in accord with the provisions of 44 U.S.C. 2103-4, I accept for deposit with the National Archives of the United States the permanently valuable records of United States v. Felt, Crim. No. 78-179 (D.D.C.), D.J. File 177-16-33. I further accept the specific restrictions and other conditions placed upon these records pursuant to your letter of _____.

The acceptance of that portion of the records that consists of materials provided to the Criminal Division by other Department of Justice components and other Federal agencies will be fully subject to the restrictions of the Freedom of Information Act, 5 U.S.C. 552 and prior to any decision on opening such records to public access, we will consult with your Division or the agency which originated or has primary subject matter interest in the records.

Sincerely,

Archivist of the United States

Greenberg/Gray-7498

62-118045-335
ENCLOSURE

242

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2	CLASSIFICATION UNCLAS	PRECEDENCE ROUTINE
-------------	--------------------------	-----------------------

#F242RR AF0BDE HQ #0242 #HTYUOR 072348Z DEC 83

START HERE

FM DIRECTOR FBI

TO ALL FBI FIELD OFFICES (ROUTINE)

ALL LEGAL ATTACHES (ROUTINE)

BT

UNCLAS

BUREAU WIDE INFORMATION PROGRAM (83-23)

INFORMATION CONCERNING FORMER FBI OFFICIALS W. MARK FELT AND EDWARD S. MILLER

ON NOVEMBER 15, 1983, THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA VACATED THE JUDGMENTS OF CONVICTION AGAINST FORMER FBI OFFICIALS W. MARK FELT AND EDWARD S. MILLER AND REMANDED THE CASE TO THE DISTRICT COURT WITH INSTRUCTIONS TO DISMISS THE INDICTMENTS. ON NOVEMBER 28, 1983, DISTRICT JUDGE WILLIAM B. BRYANT COMPLIED WITH THE ORDER AND DISMISSED THE INDICTMENTS. THE APPELLATE COURT ORDER STATED IN PART THE FOLLOWING:

"ON CONSIDERATION OF APPELLANTS' MOTION TO VACATE THE JUDGMENTS OF CONVICTION ON THE GROUND THAT THE PRESIDENTIAL

DO NOT TYPE MESSAGE BELOW THIS LINE

APPROVED BY <i>Wan</i>	DRAFTED BY RSY:NLS	DATE 12/7/83	ROC 7116	FILE EXT 5352
---------------------------	-----------------------	-----------------	-------------	------------------

- 1 - EACH EXECUTIVE ASSISTANT DIRECTOR
- 1 - EACH ASSISTANT DIRECTOR
- 1 - MR. BLUM
- 1 - MR. J. MURRAY
- 1 - MR. HOTIS
- 1 - [REDACTED]

62-118045 -
NOT RECORDED
43 JAN 5 1984

171984

b6
b7C

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS CENTER
1013Z
DEC 09 1983

DO NOT FILE WITHOUT C: Greenberg/Gray 7499

DO NOT TYPE PAST THIS LINE

62-115962-546

ORIGINAL FILED IN

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

PAGE TWO DE HQ 0242 UNCLAS

20 PARDON GRANTED TO THE APPELLANTS HAS RENDERED THESE CASES MOOT
 18 AND THAT REPRESENTATIONS HAVE BEEN MADE THAT COLLATERAL
 16 CONSEQUENCES ARE UNLIKELY TO FLOW FROM THE FACT OF APPELLANTS'
 14 CONVICTIONS, AND THE RESPONSE OF THE APPELLEE UNITED STATES
 12 WHICH AGREES WITH THE APPELLANTS THAT AS A MATTER OF LAW THESE
 CASES ARE MOOT, IT IS ... FURTHER ORDERED BY THE COURT THAT
 THE JUDGMENTS BELOW ARE VACATED AND THE CASES REMANDED TO THE
 DISTRICT COURT WITH DIRECTIONS TO DISMISS THE INDICTMENTS ON
 THE GROUNDS OF MOOTNESS."

10 THIS ACTION IS RECEIVED THROUGHOUT THE FBI WITH A GREAT
 8 SENSE OF SATISFACTION AND APPRECIATION. WE ARE ESPECIALLY
 HAPPY FOR THE FELT AND MILLER FAMILIES.

6 PLEASE BRING THESE DEVELOPMENTS TO THE ATTENTION OF ALL
 4 PERSONNEL.

BT

|

DO NOT TYPE MESSAGE BELOW THIS LINE

DO NOT TYPE PAST THIS LINE

Greenberg/Gray-7500

FILED
NOV 23 1983

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES F. DAVEY, Clerk

UNITED STATES OF AMERICA

v.

W. MARK FELT and
EDWARD S. MILLER

CR. No. 78-00179

ORDER

On November 15, 1983 the United States Court of Appeals for the District of Columbia Circuit issued the following order:

On consideration of appellants' motion to vacate the judgments of conviction on the ground that the Presidential pardon granted to the appellants has rendered these cases moot and that representations have been made that collateral consequences are unlikely to flow from the fact of appellants' convictions, and the response of the appellee United States which agrees with the appellants that as a matter of law these cases are moot, it is

ORDERED by the Court that said motion is granted. It is

FURTHER ORDERED by the Court that the judgments below are vacated and the cases remanded to the district court with directions to dismiss the indictments on the grounds of mootness. It is

FURTHER ORDERED by the Court that the Clerk shall transmit forthwith to the District Court, in lieu of the mandate, a certified copy of this Order.

NOT RECORDED

7 DEC 19 1983

Upon consideration hereof, it is hereby

64 JAN 17 1984

M

Greenberg/Gray-7501

[Handwritten signature]

Teletype to All SACs + Legats 12/6/83

JHM: baw

ORDERED that the indictment is hereby dismissed on the grounds of mootness.


UNITED STATES DISTRICT JUDGE

Date: *November 28, 1983*

Greenberg/Gray-7502

Date 11/17/83

Classification of Mail:

- Unclassified
- Confidential
- Secret
- Top Secret*
- SCI*

Mail Category:

- | | | | |
|----------|-------|--------|-----------|
| Letter | _____ | Airtel | _____ |
| LHM | _____ | Memo | <u>XX</u> |
| Report | _____ | Other | _____ |
| Teletype | _____ | | |

FD-501 Number _____ FD-502 Number _____

Subject Gray, L. Patrick III

Date of Mail 11/17/83

Description of Material Memo
(include identity of originating office or agency)

This serial has been removed and placed in:

Special File Room, Room 5991, FBIHQ

(Field Office - Room, Cabinet, or other location where material is stored)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

This action taken based upon authority of:

TS/SCICO, FBIHQ, 62-116065

Field Office Manager — 62-118045-V
File and Serial number

(Signature and Title of Approving Official)

Date

Greenberg/Gray-7503

*requires special handling

PERMANENT SERIAL CHARGE-OUT

Memorandum



- Exec AD *12/18/85*
- Exec AD LES *12/18/85*
- Asst. Dir.:
- Adm. Servs. *✓*
- Crim. Inv. *✓*
- Ident. *✓*
- Intell. *✓*
- Laboratory *✓*
- Legal Coun. *✓*
- Plan. & Insp. *✓*
- Rec. Mgnt. *✓*
- Tech. Servs. *✓*
- Training *✓*
- Public Affs. Off. *✓*
- Telephone Rm. *✓*
- Director's Sec'y *✓*

To : Mr. Mintz *JW*

Date 2/12/86

From : C. P. Monroe *CM*

Subject : DISPOSITION OF FILES IN UNITED STATES
v. FELT, CRIM. NO 78-179 (D.D.C.),
D. J. FILE 177-16-33
MARK

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

PURPOSE: The purpose of this memorandum is to apprise the Criminal Investigative Division (CID), the Intelligence Division (INTD), and the Legal Counsel Division (LCD) of the disposition proposed by the Criminal Division of the Department of the records processed for and resulting from captioned action.

Monroe

RECOMMENDATIONS:

1. That attached proposal by the Criminal Division of the Department be reviewed by CID, INTD, and LCD for comments/concurrence.

APPROVED:

Director _____	Adm. Servs. _____	Laboratory _____
Exec. AD-Adm. <i>*</i>	Crim. Inv. <i>✓</i>	Legal Coun. <i>JW</i>
Exec. AD-Inv. _____	Ident. _____	Off. of Cong. & Public Affs. _____
Exec. AD-LES _____	Inspection _____	Rec. Mgnt. <i>CM</i>
	Intell. <i>gpk</i>	Tech. Servs. _____
		Training _____

Box 1/14

**LCD = provide an opinion as to legal constraints on each alternative considered*

2. That document classification review be conducted prior to transfer to the National Archives.

Box 1/14

Done see LCD addendum 2/18/86

62-118045-336

DETAILS: By letter dated 12/30/85 (copy attached), M. Miles Matthews, Director, Office of Administration, Criminal Division, proposed the transfer of documents related to captioned matter to the National Archives, with the exception of Grand Jury materials. The records were stored in two vaults and some 30 safes or locked cabinets, which indicates a substantial volume of records.

JUL 30 1986

62-118045
Enclosures

- 1 - Mr. Mintz
- 1 - Mr. Clarke
- 2 - Mr. Davis (Attn: Mr. Blake) (Attn: Mr. Collingwood)
- 1 - Mr. Geer
- CMG:ogz (11)

- 1 - Mr. Monroe
- 1 - Mr. Scherrer
- 1 - Mr. Stoops
- 1 - Mr. Dudney
- 1 - *****

SEE LCD ADDENDUM PAGES 3-5

See CID Addendum
page (s) 6

SEE INTD ADDENDUM PAGE 7.

64 NOV 2 1985

ENCLOSURE 12

Greenberg/Gray-7504

b6
b7C

4- Scherrer 6/10/86

Memorandum from C. P. Monroe to Mr. Mintz
Re: Disposition of Files in United States
v. Felt, Crim. No 78-179 (D.D.C.),
D. J. File 177-16-33

Mr. Matthews has provided a detailed description of the processing of these records and has also drafted a letter (and response) to the Archivist to offer the collection to the National Archives.

Due to the sensitive nature of the records involved, the Records Management Division is seeking the comments of CID, INTD, and LCD concerning the proposed transfer. As an alternative to direct transfer to the National Archives, we might propose storage of the records in the Washington National Records Center in Suitland, MD, for a period of 50 years, rather than making the records immediately available to the National Archives.

In the event that full concurrence is granted to transfer the records to the National Archives, a classification review should be conducted for material relating to national security.

Greenberg/Gray-7505

6:48

Memorandum from C. P. Monroe, to Mr. Mintz, dated 2/12/86
Re: DISPOSITION OF FILES IN UNITED STATES v. FELT

ADDENDUM: LEGAL COUNSEL DIVISION (LCD), 3/25/86, LWM: [signature]

In the attached memorandum, we are advised that the Criminal Division of the Department of Justice (DOJ) is proposing the transfer to the National Archives of the Criminal Division's files related to its indictment of Messrs. GRAY, FELT and MILLER, the trial of Messrs. FELT and MILLER, and the dismissal of charges against Mr. GRAY. The only stated bases for such a transfer of admittedly classified and sensitive information is the need to recover storage space and the historical importance of the case.

There are four courses of action possible here.

1. Present Transfer to Archives

Once classified material is transferred to Archives, the Federal Bureau of Investigation (FBI) will have lost control over declassification of FBI material. Once classified material is transferred from the classifying agency to Archives, Archives may declassify the information without the permission of the classifier. Executive Order (EO) 12356, Section 3.2(c); 28 Code of Federal Regulations (C.F.R.), Section 17.47. The classifying agency is to review such material prior to transfer, 28 C.F.R., Section 17.47(a), but once the material is transferred it may be downgraded or declassified by Archives. 28 C.F.R., Section 17.47(b). The DOJ agreement with Archives requires only that Archives "consult" with the Criminal Division prior to release. There is no agreement to consult with other DOJ components such as the FBI. Presumably this requirement, which gives the FBI no voice in the decision, also applies to information which may fall under other recognized types of privilege, such as the informant and deliberative process privileges.

2. Present Transfer to Archives after
FBI Classification Review

This alternative has been proposed by Records Management Division (RMD), and would afford some measure of increased security over the documents. However, as we noted above, once the material is transferred to Archives, Archives may downgrade and declassify as it sees fit. EO 12356, Section 3.2(c); 28 C.F.R., Section 17.47. Classification review by the FBI would, however, afford us an opportunity to determine what is included in these documents. Without such a review by us,

Memorandum from C. P. Monroe to Mr. Mintz, 2/12/86
Re: DISPOSITION FILES IN UNITED STATES v. FELT

LCD Addendum Con't:

the Department as contributor might conduct its own classification review using persons less experienced in the significance of seemingly innocuous or confusing types of information.

3. Interim Storage by Washington
National Records Center

RMD has also proposed as an alternative that the records be sent to the Records Center for 50 years before being transferred to the National Archives. This alternative has several advantages.

A. Such storage, authorized by 44 United States Code (U.S.C.), Section 2907, would not give Archives declassification authority until Archives acquired the material from storage. EO 12356, Sections 3.2(a) and (c); 28 C.F.R., Section 17.45. Archives cannot order material transferred to it until the material is 30 years old. 44 U.S.C., Section 2103(2) (the time period was 50 years until changed to 30 by a 1978 amendment). Since the first concern of the Department in considering transfer to Archives is recovery of storage space, the first Departmental objective can be met without a present "release" to Archives. The Department's second concern--turning over documents of historical significance--may also be realized in accordance with the statute, although on a delayed basis.

B. Deferred transfer will also serve the FBI's interests in stemming the release of information used only for purposes of generating civil litigation against the FBI, not so much for purposes of redressing wrongs done to individuals, but more for purposes of prying information out of the FBI for the use of hostile foreign powers and the harrassment of former Bureau officials through the civil discovery process. Since we have not seen the information, it is difficult to assess the specific impact that release of this information would have on future and pending litigation against the FBI and its employees, but we have no doubt that the general impact cannot possibly be positive. We have a number of suits pending in which FBI practice and policy on surreptitious entry and electronic surveillance would be of assistance to the plaintiffs. Thirty years would significantly lessen the impact of release of such information upon the lives of our former employees, yet at the same time preserve the public's right to know.

Memorandum from C. P. Monroe to Mr. Mintz, 2/12/86
Re: DISPOSITION FILES IN UNITED STATES v. FELT

LCD Addendum Con't:

4. No Transfer

Although no one has recommended that the FBI oppose all transfer of documents to Archives, it is an option to be considered. We point out, however, that Archives does have the power to take the documents after 30 years unless the agency head certifies they are currently needed. 44 U.S.C, Section 2103(2). Since the Department is now, in effect, saying it has no use for the documents, it seems likely that the Archives would be successful in obtaining possession. Such a position by the FBI might risk the present transfer of documents to Archives, thereby exposing the material to declassification, our former employees to harassing litigation, and our present civil suits to the impact of additional disclosure of sensitive investigative techniques.

For the reasons discussed above, LCD recommends that the FBI request that the Department transfer the records to Washington National Records Center for storage and that the records not be turned over to the National Archives until at least 30 years have passed from the date the files were generated.

APPROVED:	Adm. Servs. _____	Laboratory _____
	Crim. Inv. _____	Legal Coun. <u>JD*</u>
Director _____		Off. of Cong. & Public Affs. _____
Exec AD-Adm. _____	Ident. _____	Rec. Mgnt. _____
Exec AD-Lv. _____	Inspection _____	Tech. Servs. _____
Exec AD-LES _____	Intell. _____	Training _____

gsk

** as indicated above, each of three alternatives is legally permissible.*

Greenberg/Gray-7508

Memorandum from C. P. Monroe to Mr. Mintz, dated 2/12/86
 RE: DISPOSITION OF FILES IN UNITED STATES
 V. FELT, CRIM. NO. 78-179 (D.D.C.),
 D.J. FILE 177-16-33

[Handwritten signature]

ADDENDUM: CRIMINAL INVESTIGATIVE DIVISION; 5/21/86; JDM:bam

The Criminal Investigative Division supports the recommendation of the Legal Counsel Division. The FBI should request the Department transfer the records to the Washington National Records Center for storage, and that the records not be turned over to the National Archives until at least 30 years have passed from the date the files were generated.

[Handwritten initials]

APPROVED:----- Adm. Servs.----- Laboratory-----
 Crim. Inv.----- Legal Coun.-----
 Off. of Cong
 & Public Affs.-----
 Director-----
 Exec. AD-Adm.----- Ident.----- Rec. Mgnt.-----
 Exec. AD-Inv.----- Inspection----- Tech. Servs.-----
 Exec. AD-LES----- Intell.----- Training-----

[Handwritten initials]

- | | | |
|-------------------------|---|-----|
| 1 - Mr. Mintz | 1 - Mr. Monroe | |
| 1 - Mr. Clarke | 1 - Mr. Scherrer | |
| 2 - Mr. Davis | 1 - Mr. Stoops | |
| (Attn: Mr. Blake) | 1 - Mr. Dudney | b6 |
| (Attn: Mr. Collingwood) | 1 - | b7C |
| 1 - Mr. Geer | | |

Memorandum from C. P. Monroe to Mr. Mintz, dated 2/12/86
 Re: Disposition of Files in United States
v. Felt, Crim. No 78-179 (D.D.C.),
 D. J. File 177-16-33

ADDENDUM: INTELLIGENCE DIVISION (INID), 6/5/86, JLT:ifc *[Handwritten signature]*

INID agrees with LCD and CID that transfer of these records to the Washington National Records Center for storage, rather than to the Archives (with or without classification review) for permanent retention, offers the best prospect of protecting FBI interests. As noted by RMD, portions of the records are indeed sensitive. They will remain so indefinitely, and may be difficult to recognize as such. INID would be particularly concerned with historians' or archivists' potential lack of perception or sensitivity to two areas in particular. They are: information originating with friendly foreign intelligence services, and information relating to a now discontinued program comparable in many respects to today's 212 program. The FBI cannot afford to lose control over the declassification or disclosure of its records of either type.

The lapse of time has made and will continue to make these records more and more difficult to process responsibly and efficiently. Although unstated as a concern, this aspect is undoubtedly a factor in the DOJ proposal. Storage space is a valid concern, as stated, but the resource demands which a disclosure request would generate are very likely the impetus behind the proposal and the solution selected.

INID would also support revision of the relevant portions of E.O. 12356 which create this trap.

APPROVED:	Adm. Servs. _____	Laboratory _____
	Crim. Inv. _____	Legal Coun. _____
		Off. of Cong. & Public Affs. _____
Director _____	Ident. _____	Rec. Mgnt. _____
Exec. AD-Adm. _____	Inspection _____	Tech. Servs. _____
Exec. AD-Inv. _____	Intell. _____	Training _____
Exec. AD-LES _____		

[Handwritten initials: JLT, ifc]

INID ADDENDUM

Memorandum



To : Assistant Attorney General
Criminal Division
Attn: M. Miles Matthews, Director
Office of Administration

Date June 30, 1986

From : Robert W. Scherrer
Section Chief, Records Section
Records Management Division

Subject : DISPOSITION OF FILES IN UNITED STATES
v. FELT, CRIM. NO. 78-179 (D.D.C.)
D. J. FILE 177-16-33
mark

~~FEDERAL GOVERNMENT~~
~~FEDERAL GOV~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

This is in response to your letter, dated December 30, 1985, which pertained to the disposition of a substantial volume of record material originating from files of the Federal Bureau of Investigation (FBI). The material was accumulated over a period of five years from a series of intensive inquiries and investigations conducted by the Civil Rights Division and the Criminal Division and relate primarily to investigative techniques employed during the early 1970s and former FBI officials. I share your opinion of the historical value of the material, having served in an official capacity during the appraisal of FBI records by the National Archives and Records Administration (NARA) in response to orders issued in the action American Friends Service Committee, et al. v. William H. Webster, et al., and having had the opportunity to observe NARA's keen interest in the investigative techniques you mention. I also have an appreciation for your regard for restraints.

mark

As the result of the aforementioned NARA appraisal of records, criteria to identify permanent historical records were established, as well as retention periods to be observed prior to destruction or transfer of records to the National Archives. A category of inactive criminal-related records will be transferred to the National Archives after 30 years; however, the transfer of an active and more sensitive category of criminal records and security-related records will be delayed until the records are 50

Enclosures (3)

MAILED 10
JUN 30 1986

- Exec. AD-Adm. 62 118045
- Exec. AD-Inv. 1 Mr. Glover
- Exec. AD-LES 1 Mr. Clarke
- Asst. Dir.: 2 Mr. Davis (Attn: Mr. Blake)
- Adm. Servs. (Attn: Mr. McFarland)
- Crim. Inv. 1 Mr. Geer
- Ident. 1 Mr. McCreight
- Inspection 1 Mr. Scherrer
- Intell. 1 Mr. Stoops
- Laboratory 1 Mr. Dudney
- Legal Coun. 1
- Off. of Cong. & Public Affs. CMG: gm (12)
- Rec. Mgnt.
- Tech. Servs.
- Training
- Telephone Rm.
- Director's Sec'y

mark
ENCLOSURE

62-118045-337

JUL 30 1986

Greenberg/Gray-7511

SEE NOTE ON PAGE 4

b6
b7C

160 AUG 2 1986
64 OCT 28 1987
MAIL ROOM Russ

Memorandum from Robert W. Scherrer to Assistant Attorney General,
Criminal Division

Re: Disposition of files in United States
v. Felt, Crim. No. 78-179 (D.D.C.)
D. J. File 177-16-33

years old. Therefore, the transfer of the records or information originating with the FBI in any of the three categories which you have so articulately addressed, would be premature at the present time and would exceed by many years, the transfer dates for the corresponding information currently maintained in FBI files. The disposition schedule authorizing these retention periods was approved by the Archivist of the United States, but remains bound by the American Friends litigation.

As an alternative to a direct transfer, I would suggest storage of the records in the Washington National Records Center for a period equivalent to the retention periods of the original records. The material would remain within your control, would be retrievable, and would not be available for public scrutiny until a time designated by you. The records would be sealed for storage and placed in restricted areas in the record center to further enhance their security. You noted that the National Archives has expressed a strong interest in acquiring all the records. Receipt and maintenance of this material in the records center will ensure its ultimate (and direct) transfer to the National Archives in the future.

For your information, I have attached a copy of an internal memorandum, dated March 24, 1986, from Raphael O. Gomez, Trial Attorney, to David Anderson, Branch Director, Federal Programs Branch, Civil Division (Your file 145-12-4141), which provides a legal analysis on the disposition of tax and tax return information and Grand Jury and Title III materials, due to the legal restrictions imposed on their disclosure. The results of the analysis concluded that the statutory restrictions for the three categories did not preclude the National Archives from storing these materials.

I have taken the liberty to enclose a draft of a letter to [redacted] Assistant Archivist for Presidential Libraries and Project Director of the aforementioned appraisal of FBI records, to request security storage for the 295 containers you have described (removal to authorized records center containers could alter this figure), along with a draft of Standard Form 115 to offer the records to the National Archives. In the event that you choose to adopt this concept and [redacted] provides a positive

b6
b7C

Memorandum from Robert W. Scherrer to Assistant Attorney General,
Criminal Division

Re: Disposition of files in United States
v. Felt, Crim. No. 78-179 (D.D.C.)
D. J. File 177-16-33

response, future correspondence would include preparation of Standard Form 135 to describe the collection and its volume to obtain the necessary storage space in the records center and to cite the necessary restrictions on access. The FBI would conduct an appropriate classification review to enable the direct transfer of the material from the records center to the National Archives at the time designated by you. Regardless of your final decision on disposition, we would ask to be consulted in order to conduct the classification review prior to your releasing the records and to segregate any tax and Title III materials.

I am most appreciative of the opportunity to provide my views on the disposition of this sensitive record collection and also to comment on the obvious painstaking review and consideration you have afforded this matter. Please do not hesitate to contact me at telephone the event I can assist you further.

b6
ir b7C

Greenberg/Gray-7513

Memorandum from Robert W. Scherrer to Assistant Attorney General,
Criminal Division

Re: Disposition of files in United States
v. Felt, Crim. No. 78-179 (D.D.C.)
D. J. File 177-16-33

NOTE: Based on letter, dated 12/30/85, from Mr. Matthews, in which he requested comments and recommendations concerning his proposal to initiate an immediate transfer of record material resulting from the action United States v. Felt, excluding Grand Jury and code word materials. Mr. Matthews included a draft letter to the Archivist (and response) to offer the record collection. Since much of the material is sensitive and classified, C. P. Monroe memorandum to Mr. Mintz, dated 2/12/86, requested the views and comments of the Criminal Investigative, Intelligence, and Legal Counsel Divisions. Without exception, the responsive addenda strongly favored storage in the Washington National Records Center (WNRC) due to the nature of the material involved. Mr. Matthews is being advised that the original FBI documents will not be transferred to the National Archives for 50 years, and storage of the material in a restricted area in WNRC for a period equivalent to the retention of the original records is being suggested. Mr. Matthews is being provided with drafts of a letter to [redacted] and Standard Form 115 to initiate his offer, along with a legal analysis on the disposition of tax and tax return information and Grand Jury and Title III materials, prepared by the Civil Division, Department of Justice. We have requested to be notified, regardless of Mr. Matthews' final decision, in order to conduct the classification review and review the material for tax information and Title III materials.

b6
b7C

APPROVED: Adm. Servs. _____ Laboratory _____
Crim. Inv. _____ Legal Coun. _____
Director _____
Exec. AD-Adm. _____ *pm/rad*
Exec. AD-Inv. _____ Tech. Servs. _____
Exec. AD-LES _____ Intell. _____ Training _____

Greenberg/Gray-7514

MAR 24 1986

American Friends Service Committee
v. Webster, USDC D.C., C.A. 79-1655

RPGomez:jd
145-12-4141
Tel: 933-1710

David Anderson
Branch Director
Federal Programs Branch
Civil Division

Raphael O. Gomez
Trial Attorney
Federal Programs Branch
Civil Division

TIME LIMITS

The NARA and FBI are submitting their response to the district court's December 20, 1985 Order concerning approval of the records disposition plan for the FBI on March 31, 1986. They are also notifying the Court that the Plan is being amended as to the disposition of three types of statutorily restricted records: grand jury materials, Title III materials and tax returns and tax return information.

RECOMMENDATIONS

The NARA and FBI recommend that the FBI's Records Retention Plan be amended to provide that documentary material in FBI files which consist of grand jury, Title III and tax returns and return information ¹/ documents be transferred to the Archives under the schedule provided in the current Plan with certain limitations: (1) such materials would be segregated and sealed; (2) neither personnel from Archives or the public at large would have access to such materials, except as provided by the relevant statutes for such documents; and (3) the FBI would retain legal custody.

I recommend that the NARA and FBI's recommendation be approved.

Greenberg/Gray-7515

¹ With respect to tax returns and tax return information, the FBI may defer to the IRS as to whether such documents can be transferred in the manner proposed.

62-118045-337
ENCLOSURE

- 2 -

QUESTION PRESENTED

The Records Retention Plan submitted to the district court for its approval provides that three types of records, i.e. grand jury materials, Title III electronic surveillance materials and tax returns and tax return information, are to be transferred to the Archives or otherwise disposed pursuant to the disposition schedule contained in the Plan for the classification in which they are found. After submitting the Plan to the district court, the FBI determined that these statutorily restricted materials could not be transferred without restriction. Both agencies now agree that such records can be transferred but with the three restrictions outlined above. The question presented is:

Whether three discrete categories of records which are subject to statutory restrictions against disclosure, i.e. grand jury, Title III, tax returns and tax return information materials, can be transferred to the Archives where legal custody remains with the FBI and access by the Archives or the public at large is not permitted, except as provided by the relevant statutes which govern such materials.

STATEMENT

In developing the FBI's Records Retention Plan under this court's January 10, 1980 Order, the issue of whether NARA personnel could inspect statutorily restricted materials first arose. In its June 9, 1981 Order ^{2/} the district court directed the FBI to allow the Archives to inspect three types of records: grand jury materials, Title III electronic surveillance materials, and tax returns and tax return information. The district court based its determination on the records management provision of the records acts, 44 U.S.C. § 2906, which permits archival access to statutorily restricted materials under certain specified circumstances.

On appeal, the United States Court of Appeals for the D.C. Circuit reversed the district court's decision in part. AFSC v. Webster, 720 F.2d 29 (D.C.Cir. 1983). First, the Court of Appeals found that these three types of records have statutory

² After revisiting this question upon the government's motion for reconsideration, the Court reiterated its order on October 20, 1982.

restrictions which limit disclosure. 720 F.2d at 77. Second, the Court of Appeals held that these statutes did not provide an exception for archival inspection. Id. Finally, the Court held that the Archives authority to inspect such materials under the records management provision of the records acts, 44 U.S.C. § 2906(a)(2), permits access to statutorily restricted materials only upon approval by the head of the relevant agency or the President. Id. Neither had authorized such access in the instant case. Id.

The Court of Appeals, however, stated that while the Archives could not inspect such materials:

This is not to say that the District court must refrain from insisting that the FBI and the Archives deal with the FBI's management of [such materials]. These records are indeed appropriately considered in framing a records retention plan for the FBI. We hold only that in developing the plan, means other than inspection of the restricted use records must be employed.

Id.

Accordingly, the Archives did not have to redo the plan. It had made its determination concerning records disposition without actually inspecting such statutorily restricted materials. Under the methodology employed, the FBI had segregated such materials in separate folders and identified the type and number of pages of such segregated materials.

In November 1981, NARA and the FBI submitted the Records Retention Plan to the district court for its approval. The Plan provided for disposition of all FBI records, including those which had statutory restrictions as to disclosure. For instance, where the Plan provided that records in a specified classification would be transferred to the Archives for permanent retention, any statutorily restricted material in that classification would also be transferred. If the Plan provided for destruction of records in a classification after a specified retention period, any statutorily restricted material in the classification would also be destroyed.

After the Court of Appeals' decision which reversed the district court's order permitting inspection, the FBI sought to amend the Plan. The FBI proposed that statutorily restricted records would not be transferred to the Archives. In view of

the Court of Appeals' decision which held that the Archives could not inspect such materials, the FBI responds that it could not lawfully transfer them. The Archives disagreed.

The matter was referred to the Office of Legal Counsel. On February 27, 1986, OLC opined that NARA's archival administration authority under 44 U.S.C. §§ 2107(a) and 2108(a), which empowers the Archivist to open up 30 year old records that are subject to statutory restrictions, did not empower the Archivist to open up tax returns and tax return information, grand jury material and Title II electronic surveillance material. OLC opinion dated February 27, 1986 (attached).

Pursuant to the district court's December 23, 1985 Order, NARA and the FBI are responding to the court's recommendations concerning amendment of five areas in the Plan. Since the Court is now prepared to issue a final ruling on the Plan and in view of OLC's opinion which requires that the Plan be amended, NARA and the FBI both agree that the district court must be informed that the Plan is to be amended as to disposition of these three types of records. While OLC's opinion provides that unrestricted transfer of such statutorily restricted materials cannot be done, restricted transfer is allowable.

Accordingly, NARA and the FBI propose to amend the Plan as to these three statutorily restricted records as follows:

1. The FBI would transfer such materials in segregated and sealed form to the Archives pursuant to the schedule set out currently in the Plan;
2. The FBI would retain legal custody of such materials;
3. The Archives would agree not to access to such materials or to permit the public at large to have access, except as provided by the relevant statutes for such records, i.e. 26 U.S.C. § 6109, Fed. R. Crim. P. 6(e) and 18 U.S.C. § 2510 et seq.

DISCUSSION

The FBI's and NARA's proposal for restricted transfer of grand jury, Title III, tax returns and tax return information records resolves an impasse which has serious potential for an adverse decision from the district court, and potentially the Court of Appeals. The statutory restrictions which pertain to these three types of records involves the issue of disclosure and not transfer. With the restrictions detailed above, namely

legal custody remaining with the FBI and the Archives agreeing not to access such materials, except as provided by statute, the last major hurdle blocking approval of the Plan is removed.

The three kinds of materials at issue are grand jury materials, Title III electronic surveillance materials, and tax returns and tax return information. With regard to each, Congress has established comprehensive restrictions governing disclosure, either to members of the public or within the government itself, and as a general matter no disclosures are permitted.

1. Grand Jury Materials

Federal Rules of Criminal Procedure, 6(e)(2) establishes a general rule of nondisclosure that applies to each person to whom grand jury materials are entrusted. See S. Rep. No. 95-354, supra, at 7; Advisory Committee Notes on Fed. R. Crim. Proc. 6(e) (1966), 13 U.S.C. App. at 1411. The only exceptions to this rule are those found under Rule 6(e)(3). Subparagraph (e)(3)(A)(i) allows disclosure of grand jury materials under four exceptions:

Disclosure . . . may be to-

(i) an attorney for the government for use in the performance of such attorneys's duty; and

(ii) such government personnel as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce federal criminal law.

Disclosure . . . may also be made-

(i) when so directed by a court preliminarily to or in connection with a judicial proceeding; or

(ii) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury.

Fed.R.Crim.P. 6(e)(3)(A), (C).

The District of Columbia Circuit held in American Friends Service Committee supra, that Archives personnel do not meet any of these exceptions for the purpose of inspection. 720 F.2d at 72. However, Rule 6(e) does not prohibit the FBI from transferring grand jury materials to the Archives provided disclosure to the Archives personnel or any other person is not allowed, except as provided by Rule 6(e).

2. Title III Materials

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. §§ 2510-2520, authorizes the use of electronic surveillance in the investigation of certain serious offenses specified in 18 U.S.C. § 2516. The use and disclosure of materials obtained pursuant to Title III is governed by 18 U.S.C. § 2517. In pertinent part, Section 2517 provides:

(1) Any investigative or law enforcement officer, who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties. [emphasis added]

Section 2517 "must * * * be read in light of section 2518." S. Rep. No. 1097, 90th Cong., 2d Sess., reprinted in [1968] U.S. Code Cong. & Ad. News 2112, 2188. A comprehensive system of procedures for judicial control of electronic surveillance is established by 18 U.S.C. 2518. Of particular relevance here are the procedures set forth in subsection (8) (a) which, in pertinent part, provide that electronic surveillance

recordings shall be made available to the judge issuing [the order that authorized the surveillance] and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517 of this chapter for investigations. [emphasis added]

Subsection (8)(c) of Section 2518 further provides that any violation of the provisions of subsection (8) "may be punished as contempt of the issuing or denying judge."

Thus, Title III's primary restriction is to disclosure. Under the proposed amendment, the FBI retains legal custody and does not permit disclosure other than as provided by 18 U.S.C. § 2517. The FBI is also requiring that storage of such materials be maintained pursuant to FBI guidelines and that such facilities be subject to periodic inspection by the FBI to ensure that secure warehousing is maintained.

2. Tax Returns and Tax Return Information

26 U.S.C. § 6103 forbids disclosure of tax returns or documents that contain "return information" by any federal employee or officer except as allowed by the comprehensive provisions of the Section. Section 6103 provides, in pertinent part:

(a) General Rule. -- Returns and return information shall be confidential, and except as authorized by this title --

(1) no officer or employee of the United States,

* * * * *

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes

of this subsection, the term "officer or employee" includes a former officer or employee.

(b) Definitions. -- For purposes of this section --

(1) Return. -- The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf, of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information. -- The term "return information" means --

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense * * *.

While disclosure of tax returns and return information is restricted, Section 6103(n) permits the Archives or any person to warehouse or store such materials. Section 6103(n) states:

Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any

person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, posting, and procurement of equipment, for purposes of tax administration.

The Archives currently stores tax returns and tax return information for the IRS at the Archives' records center. Sec 44 U.S.C. §§ 2907, 3103; American Friends Service Committee, 720 F.2d at 71. Thus, while NARA does not have access to such materials for disclosure purposes, it does have authority to warehouse them.

Under the proposed restrictions which are permitted pursuant to 44 U.S.C. § 3103 3/ and 36 C.F.R. 12129.162, 4/ the FBI

³ 44 U.S.C. § 3103 provides:

When the head of a Federal agency determines that it may effect substantial economies or increased operating efficiency, he shall provide for appropriate storage, processing, and servicing of records in a records center maintained and operated by the Administrator of General Services or, when approved by him, in a center maintained and operated by the head of the Federal agency.

⁴ 36 C.F.R. 12129.162 provides in pertinent part:

Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with 44 U.S.C. 3103 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record. The Archivist of the United States will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws. (emphasis added).

will transfer grand jury materials, Title III materials and tax returns and tax return information in sealed enclosures. The FBI will retain legal custody. NARA will not have any access to such materials. Under Section 5103(n), in warehousing tax returns and tax return information, for purposes of storing such materials, the Archives actually looks at the materials. Under the instant proposal, the Archives will not look at or otherwise inspect these three types of records.

The proposed handling of these three statutorily restricted types of records does not violate any provisions of the relevant statutes which govern them. This proposal enables the Archives to retain records which it has determined to be of permanent value. Thus, NARA will have met its archival administration responsibilities, 44 U.S.C. §§ 2101-2114, which the D.C. Circuit has indicated that Archives still must meet with respect to these records. American Friends Service Committee, 720 F.2d at 76-77. If, in the future, there is an amendment to the records acts which permits Archives access to such materials or amendment to one or more of the three relevant statutes which would permit such disclosure, Archives has the records available to incorporate them with classifications from which they were segregated.

This proposal also moves the FBI much closer to the day it can be alleviated from the enormous administrative burden of storing FBI documents for which it no longer has any need to maintain. As the statutory restrictions for these three materials do not preclude Archives from storing such materials and the disclosure restrictions as to these materials are not violated, the NARA and FBI proposal is permissible.

Greenberg/Gray-7524

Basis for Storage

§ 1228.156

intended for inclusion in these folders, or pay records.

(c) Agencies should make every effort to locate all documents required to be in the folder and file them before the folder is transferred to the National Personnel Records Center. Loose papers being prepared for transfer to the National Personnel Records Center for inclusion in official personnel folders previously sent to the records center must be thoroughly screened by the transferring agency of all temporary material, as defined in the Federal Personnel Manual. Only those papers specifically prescribed in the Federal Personnel Manual for permanent inclusion in each individual's folder should be forwarded. Each document must show the following identifying information: Current name and the name under which formerly employed (if different), date of birth and social security number, and date of separation. The transmittal should clearly identify the agency personnel office and address.

(d) Transfer of fiscal records shall be in accordance with the procedures outlined in § 1228.152.

(e) Standard Form 127, Request for Official Personnel Folder (Separated Employee), shall be used by agencies in requesting transmission of personnel records of separated employees from the National Personnel Records Center. Use of this form ensures prompt transmission of the desired folders. It should be submitted to the National Personnel Records Center in duplicate.

§ 1228.156 Transferring vital records to Federal records centers.

NARA provides for the storage and protection of rights and interests vital records under the dispersed concept as described in Part 1236. The facilities of all NARA Federal records centers (FRC) without regard to geographical location are now available for agencies desiring to store these records. Each NARA Federal records center has areas with suitable temperature and humidity controls allowing the safe storage of paper records, magnetic tape, and photographic film. Agencies may make arrangements through the National Archives (NC), Washington,

36 CFR Ch. XII (7-1-85 Edition)

DC 20408, for the transfer of indispensable vital records to these depositories and for their use.

§ 1228.160 Release of equipment.

File equipment received with the transfer of records to a Federal records center will normally be disposed of in accordance with applicable excess personal property regulations. An agency desiring return of the equipment should make this request before transfer of the records to the records center.

§ 1228.162 Use of records in Federal records centers.

Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with 44 U.S.C. 3103 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record. The Archivist of the United States will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(a) Standard Form 180, Request Pertaining to Military Records, shall be used by Federal agencies to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries and may direct non-Government organizations to the Superintendent of Documents to purchase quantities of the form.

(b) Requests for official civilian personnel files shall be made in accordance with § 1228.154.

(c) For any other requests, agencies should use Optional Form 11, Reference Request—Federal Records Centers, or a form jointly designated by that agency and NARA.

§ 1228.164 Disposal clearances for records in Federal records centers.

(a) Records at the National Personnel Records Center covered by General Records Schedules 1 and 2 will be destroyed in accordance with those

National Arch

schedules with clearance.

(b) Contingent Federal agency construction after (at some uns future) held b ters will be dis agency concurr Form 1300, Age gent Disposal, c rence. If the ag the review not days, the reco the records to future transfer

(c) Other reco held by Federa disposed of wi the agency co: Form 1301, No stroy Records, currence for ea agency is notif its records for fails to respo within 90 cal will be dispose the appropriat

(45 FR 5705, Jan FR 6371, Feb. 21 18, 1984. Redesi FR 15723, 15725.

Subpart 1—Tra Natic

§ 1228.180 Auth

(a) Transfer vist of the Uni by 44 U.S.C. 21:

(1) Accept fic tional Archive: the records of the Congress di vist of the Unit cient historical rant their con the U.S. Govern

(2) Direct an the National / States of Fede: have been in e 30 years and mined by the States' to have other value to preservation b

DRAFT

[REDACTED]
Assistant Archivist for Presidential Libraries and
Director, FBI Appraisal Task Force
National Archives and Records Administration
Washington, D. C. 20408

b6
b7C

Dear [REDACTED]:

I am writing you in an effort to establish the disposition of a collection of material accumulated during a series of intensive inquiries and investigations conducted by the Civil Rights Division and the Criminal Division of the Department of Justice over a ten-year period. The material pertains to investigative techniques and includes the files employed in obtaining an indictment of former officials of the Federal Bureau of Investigation (FBI). We at the Department of Justice have recognized the historical potential of this material and our evaluation has been verified by Mr. Henry Wolfinger, appraiser from the National Archives and Records Administration. I have also consulted with SA Robert W. Scherrer, Section Chief and FBI Records Officer, since much of the material is contained in FBI files, and he recommended that I contact you for guidance.

My primary concerns rest with the protection of sensitive and classified material and keeping this file collection intact. My intention is to offer the record collection to the National Archives after the retention period of 50 years has elapsed to coincide with the authorities contained in the FBI records disposition schedule and the transfer of the original FBI documents. During the interim period, it would be most desirable to obtain secure storage space at the Washington National Records Center facility in Suitland, MD, to maintain the collection, which consists of approximately 300 cubic feet. Subsequent transfer to the National Archives would be accomplished directly from the records center. I am aware of the premium value placed on storage space, particularly on short notice; however, it will be several months before the necessary reviews are conducted and the collection is ready for storage.

I have attached the appropriate number of copies of SF 115 to initiate the offer of this record collection. I will look forward to receiving any guidance you might offer or any referral you might suggest.

Greenberg/Gray-7526

REQUEST FOR RECORDS DISPOSITION AUTHORITY
(See Instructions on reverse)

LEAVE BLANK

TO: **GENERAL SERVICES ADMINISTRATION**
NATIONAL ARCHIVES AND RECORDS SERVICE, WASHINGTON, DC 20408

JOB NO.

DATE RECEIVED

1. FROM (Agency or establishment)

NOTIFICATION TO AGENCY

2. MAJOR SUBDIVISION

In accordance with the provisions of 44 U.S.C. 3303a the disposal request, including amendments, is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10. If no records are proposed for disposal, the signature of the Archivist is not required.

3. MINOR SUBDIVISION

4. NAME OF PERSON WITH WHOM TO CONFER

5. TELEPHONE EXT.

DATE

ARCHIVIST OF THE UNITED STATES

6. CERTIFICATE OF AGENCY REPRESENTATIVE

I hereby certify that I am authorized to act for this agency in matters pertaining to the disposal of the agency's records; that the records proposed for disposal in this Request of _____ page(s) are not now needed for the business of this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, if required under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies, is attached.

A. GAO concurrence: is attached; or is unnecessary.

B. DATE	C. SIGNATURE OF AGENCY REPRESENTATIVE	D. TITLE
---------	---------------------------------------	----------

7. ITEM NO.	8. DESCRIPTION OF ITEM <i>(With Inclusive Dates or Retention Periods)</i>	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN <i>(NARS USE ONLY)</i>
1.	<p>Files and records of the Criminal Division and Civil Rights Division of the United States Department of Justice which culminated in criminal proceedings and encompassed a period of 10 years. The material consists of approximately 300 cubic feet of investigative and court records dated from the early 1970s, which are the products of Federal investigative agencies compiled for law enforcement purposes.</p> <p><u>PERMANENT</u>. Offer to the National Archives when 50 years old.</p>		

DRAFT

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-12-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-7527

MEMORANDUM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs



Exec AD Adm *[Signature]*
Exec AD Inv *[Signature]*
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. *[Signature]*
Ident. _____
Intell. _____
Lab. _____
Legal Couns. _____
Off. Cong & Public Affs. _____
OLIA _____
Rec. Mgnt. *[Signature]*
Tech. Servs. _____
Training _____
Telephone Rm. _____
Director's Sec'y _____

To : MR. MCCREIGHT *[Signature]*

Date 8-21-1987

From *[Signature]* Joseph L. Tierney *Oscate Comm. on Judiciary*
Subject : SUPREME COURT NOMINATION OF ROBERT H. BORK;
PROSECUTION OF MARK FELT AND E.S. MILLER

I was contacted yesterday by Frank Martin, DOJ, who is assisting in staffing the nomination of Mr. Bork and who was one of the Departmental attorneys in the prosecution of Felt and Miller.

The Department has received a press inquiry based upon a 1978 news story reporting on remarks made by Miller's attorney that Messrs. Ruckelshaus, Kelley and Bork were familiar with the surreptitious entries involved in the prosecution. The remarks quoted were in support of an argument the statute of limitations barred the prosecution, a position later abandoned by the defense. Miller's attorney submitted 10 documents in support of his argument to the court at the time.

In July, 1973, Ruckelshaus wrote to Kelley listing 11 issues he thought should be pursued by the newly-appointed Director. The 7th issue was investigative techniques "from the clearly legal to the clearly illegal". In December, 1973, Acting Attorney General Bork wrote to Mr. Kelley expressing his interest in pursuing these issues. There was considerable drafting of positions and debate within FBIHQ on how to respond to these issues, some easily handled, but the most troublesome being the one on investigative techniques. The documents available in this package and my personal recollection of what we were able to learn during the discovery process before the trial of Felt and Miller is that a final position or briefing cannot be said to have occurred. In the May-July, 1974 time frame it appears there were plans to brief AG Saxbe orally and to furnish for the record a non-specific response to the question.

ORIGINAL FILED IN 62-118045

ENCLOSURE

Enclosure

- 1 - Mr. Otto
- 1 - Mr. Revell
- 1 - Mr. Glover
- 1 - Mr. Ahlerich
- 1 - Mr. McCreight
- 1 - Mr. Clarke b6
- 1 - 77A-140555 b7C
- 1 - 62-118045 (FELT & MILLER)

JLT:jtf (9)

CONTINUED OVER

NOT RECORDED
4-28-88
5

APR 19 1988

139 APR 25 1988

Memo Joseph L. Tierney to Mr. McCreight dated 8-21-87
Re: Supreme Court Nomination of Robert H. Bork
Prosecution of Mark Felt and E.S. Miller

The Department's only request of the Bureau is for a classification review of these documents. They contacted me directly because of my past familiarity in collecting the documents. They are trying to be in a position to release the documents in an unclassified state to the press.

Attached is a copy of an article which appeared in the Boston Globe on 8-21-87 concerning this matter.

RECOMMENDATION:

None. For information and record purposes.

APPROVED: Adm. Servs. _____ Off of Cong.
 Crim. Inv. _____ & Public Affs. _____
 Ident. _____ Off of Lia. _____
Director *AS* Inspection _____ & Intl Affs. *Altm* _____
Exec. AD-Adm. *AS* Intell. _____ Rec. Mgmt. *Altm* _____
Exec AD-Inv. _____ Laboratory _____ Tech. Servs. _____
Exec. AD-LES _____ Legal Coun *AS/Alc* Training _____

Memo supports Bork FBI break-in charge

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-12-2009 BY 65179 dmh/baw/sbs

By Stephen Kurkjian
Globe Staff

A federal court judge in Washington late yesterday granted a Justice Department request to unseal a list of government documents, including one that appears to exonerate Robert H. Bork of a 1973 charge that he knew of illegal break-ins by FBI agents and did not try to stop them.

The Senate Judiciary Committee, which begins hearings next month on Bork's nomination as Supreme Court justice, had asked the Justice Department to provide the documents based on the statements made by a defense counsel in a 1978 case.

At a pretrial hearing in that case, the lawyer, Thomas Kennelly, asked that indictments against his client, one of three FBI officials charged in connection with the illegal break-ins, be dropped because top government officials at the time knew of their activities in 1973 and did nothing to investigate them.

In introducing the documents in 1978, Kennelly, according to a transcript of the hearing, stated: "I submit they show beyond the peradventure of a doubt that Mr. Ruckelshaus, Mr. Bork, the attorney general of the United States; Director Kelley, director of the FBI, the liaison deputy associate attorney general of the United States and other officials of the highest levels of the Department of Justice and the FBI knew or certainly had notice of the existence of surreptitious entries, the type alleged in this indictment, as early as 1973, and they did nothing about it."

William D. Ruckelshaus was deputy attorney general under Elliot Richardson until November 1973, when Bork replaced Richardson as attorney general after Richardson refused to dismiss Archibald Cox, the special Watergate prosecutor. Clarence Kelley was director of the Federal Bureau of Investigation.

Francis J. Martin, a Justice Department

official who prosecuted the case against the FBI officials, said last night that after reviewing the documents during the past two days he believed that Kennelly "may have been engaging in a little bit of hyperbole."

Kennelly, in an interview earlier in the day, said he did not recall making the statements, but added: "If I had documents to submit, I suspect there had to be something behind what I was saying and not just courtroom advocacy."

Yesterday, US District Judge William E. Bryant approved a Justice Department motion to lift the seal on the list of documents which had been secured because they contained classified information. The documents themselves will soon be turned over to the Judiciary Committee.

Having reviewed the documents recently, Martin said the only one that related to Bork's alleged knowledge was a memorandum written by Bork, as acting attorney general, to Kelley on Dec. 5, 1973. In the memo, Bork reminded Kelley of an inquiry being conducted by the department into investigative techniques used by the FBI.

Bork then wrote: "I ask that you report on these matters as expeditiously as possible and that your report include a detailed summary of conduct in the past under such programs and actions taken to insure that the rights of individuals are not violated while essential FBI investigations are pursued."

Bork was replaced by the head of the Justice Department the next month according to Martin's reading of the documents submitted in the FBI case, never received any response from Kelley.

Two of the three FBI officials, Edward Miller and W. Mark Felt, were convicted in 1980 of approving the series of break-ins. They were later pardoned by President Reagan. Charges against the third, L. Patrick Gray, the head of the FBI at the time, were dropped.

Nominee's net worth put at just under \$1 million

Associated Press

WASHINGTON - Supreme Court nominee Judge Robert H. Bork's net worth is nearly \$1 million, documents filed with the Senate Judiciary Committee show.

The documents, filed by Bork earlier this month as part of a lengthy response to a Senate questionnaire, listed Bork's total assets as nearly \$1.2 million and a

debt of \$205,000 for a net worth of \$980,000.

The bulk of Bork's worth is represented by the market value of his Washington home (\$569,000), and a \$500,000 pension plan. The \$205,000 debt is a mortgage on Bork's home.

If confirmed by the Senate, Bork apparently would be one of the wealthiest high court members.

62-118073

Greenberg/Gray-7530

[Redacted]

(PG) (FBI)

b6
b7C

From: [Redacted] (PG) (FBI)
Sent: Wednesday, April 15, 2009 10:27 AM
To: [Redacted] (RMD)(FBI)
Subject: FW: Manual Search Request

SENSITIVE BUT UNCLASSIFIED
RECORD 190-PG-C74071

Please see attached.

Thanks, [Redacted]

CDC Paralegal
[Redacted]



From: [Redacted] (PG) (FBI)
Sent: Wednesday, April 15, 2009 12:56 AM
To: [Redacted] (PG) (FBI)
Subject: RE: Manual Search Request

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Hi [Redacted]

b6
b7C

Manual indices search re William Mark Felt, aka Mark Felt were NEGATIVE.
Manual indices search re Deepthroat...indices card dated 3-75...file number 145-458-252p2...no identifying data on the indices card.

Thank you,
[Redacted]

From: [Redacted] (PG) (FBI)
Sent: Tuesday, April 14, 2009 8:41 AM
To: [Redacted] (PG) (FBI)
Subject: FW: Manual Search Request

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Hi [Redacted]

Manual indices search request.

Thanks, [Redacted]

CDC Paralegal
[Redacted]

✓
190-P-074071-384

S: [Redacted] 125 2/21 01. email

From: [redacted] (RMD)(FBI)
Sent: Monday, April 13, 2009 11:38 AM
To: [redacted]
Subject: Manual Search Request

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Good Morning,
I have a FOIA request that requires a Manual search. Please conduct a search on the following subject:
Felt, William, Mark
AKA Deepthroat, Felt, Mark
DOB 08/17/1913
DOD 12/18/2008

Thank you for your assistance,

[redacted]

Legal Administrative Specialist
WPU 1/ N-15
RMD/RIDS
Winchester, VA

[redacted]

Week 1 M-F 6:00-3:30
Week 2 M-W 6:00-3:30, Th 6:00-2:30, Fri Off

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED