

CORRECTION
 N.Y. Times

The New York Times, through an editing error, incorrectly reported yesterday that the Central Intelligence Agency was under a Justice Department subpoena in early August, 1972, when Richard Helms, then Director of Central Intelligence, ordered the agency to withhold information. The subpoena, ordering the C.I.A. to produce all Watergate communications, was not in effect at the time.

Helms Order to Withhold Watergate Data Reported

Former Subordinate in C.I.A. Also Told House Panel That Justice Department Was Denied Access to Key Witness.

By SEYMOUR M. HERSH
 Special to The New York Times

WASHINGTON, Feb. 1 — Richard Helms, while Director of Central Intelligence, ordered a high official of the agency to withhold Watergate information and deny Justice Department access to a key witness in the first six weeks after the break-in on June 17, 1972, according to previously unpublished testimony.

The official, Howard J. Osborne, who was director of security for the C.I.A. before he retired in late 1973, told a House Intelligence subcommittee in May, 1973, that Mr. Helms decided that a series of letters sent to the agency by James W. McCord Jr., a member of the team that broke into Democratic party headquarters at the Watergate complex, should not be forwarded to the Justice Department.

Hunt's Role

Mr. Helms made his decision at a time when the agency was under subpoena from the Justice Department to forward "all communications" related to Watergate.

The McCord letters, sent between July 29, 1972, and early January, 1973, warned the agency that officials of the Committee for the Re-Election of the President were planning to contend that the break-in was a C.I.A. operation.

In one of the letters, Mr. Mc-

Cord said, "I have the evidence of the involvement of [former Attorney General John N.] Mitchell and others sufficient to convince a jury, the Congress and the press."

Mr. Osborne also said that Mr. Helms had instructed him not to inquire into the agency's involvement with E. Howard Hunt Jr., another Watergate participant.

Mr. Helms further directed, Mr. Osborne said, that the Federal Bureau of Investigation not be permitted to interview Karl Wagner, a C.I.A. employe, who had knowledge that John D. Ehrlichman, then the chief White House adviser on domestic affairs, had authorized the agency to establish a working relationship with Mr. Hunt in July, 1971.

"You forget about that," Mr. Osborne quoted Mr. Helms as having told him in late June, 1972. "I will handle that. You take care of the rest of that."

At the time, Mr. Osborne had been designated by Mr. Helms as the official directly responsible for coordinating and expediting the C.I.A.'s communications with the F.B.I. about Watergate.

Mr. Helms and other high-level C.I.A. officials repeatedly stressed in their public state-

Continued on Page 40, Column 3

Continued From Page 1, Col. 2

ments that their actions regarding Watergate were not illegal, but legitimate steps to protect the agency from possible adverse publicity and to prevent the leak of highly classified information about the agency's operational procedures.

Mr. Osborne testified before the House subcommittee that he had told Mr. Helms he felt "very strongly" that the first McCord letter should be turned over to the F.B.I. However, Lawrence Houston, the general counsel to the C.I.A., testified that he had advised Mr. Helms that the agency had no legal responsibility to do so.

Ehrlichman Link

The three United States Attorneys who originally prosecuted the case for the Justice Department did not learn of the Ehrlichman link to the C.I.A. for five months. They also were not told of the McCord letters to the C.I.A. until May, 1973.

The House subcommittee began hearings in the spring of 1973 shortly after C.I.A. involvement with the White House "plumbers" became known. The panel eventually concluded that the agency had been misused by the Nixon Administration.

The testimony was declassified late last year, without public announcement, by Representative Lucien N. Nedzi of Michigan, the subcommittee chairman.

Mr. Helms told the Representatives that "everybody was instructed to help with the F.B.I. investigation in the agency, and every lead was checked. . . . All the records were gone through and all the things were pursued."

Mr. Helms was not directly asked about Mr. Osborne's allegations, but William E. Colby, then Mr. Helms' deputy and now Director of Central Intelligence, repeatedly told the sub-

committee that the agency's failure to provide all known information to the F.B.I. was based on its concern "that it would somehow be involved in the Watergate case and there was quite a lot of publicity and public information in the press. . . . I think the concern [was about leaks to the press.]"

Mr. Helms, who headed the C.I.A. from 1966 to 1973 and is now Ambassador to Iran, could not be reached for comment. A State Department aide said he was traveling and would not return to his post in Tehran, from which he has been on leave, until later this month.

Widespread Pattern

Mr. Osborne's testimony about the initial high-level C.I.A. reaction to Watergate was part of what a New York Times inquiry has shown to be a more widespread pattern of C.I.A. noncooperation than previously known. The inquiry, which included interviews with former Federal investigators and an analysis of published C.I.A. Watergate testimony and documents, was begun shortly after the published allegations last December of C.I.A. domestic spying.

No evidence was found linking the C.I.A. to advance knowledge of the Watergate break-in, but the testimony and documents indicate that the intelligence agency followed the course it did in part because of a fear that some of its domestic cover firms as well as its 1971 domestic activities on behalf of the White House would be uncovered.

The C.I.A. is currently facing intensive investigations by House and Senate committees stemming from its admitted involvement in "questionable" domestic spying activities. In addition, an eight-member commission set up by President Ford and headed by Vice President Rockefeller is in its second month of hearings into the domestic spying allegations.

Among the key new findings of the inquiry were the following:

A number of high-level C.I.A. officials, including Mr. Helms and Mr. Colby, were informed on June 19, 1972—two days after the break-in—that a transcript of an internal C.I.A. tape recording showed that Mr. Ehrlichman had authorized the agency in 1971 to begin its support activities on behalf of Mr. Hunt, who was then a member of the White House security force known as the "plumbers," then investigating Dr. Daniel Ellsberg. The transcript was discussed at a C.I.A. meeting that day.

Mr. McCord had served as a member of the C.I.A.'s counter-intelligence branch since 1952 and was involved with preventing the penetration of the agency by agents from the Soviet Union. Mr. McCord was working for the agency's office of security in 1967-68 when, according to Senate testimony last month, it infiltrated 10 agents into radical groups in the Washington area in apparent violation of the C.I.A. charter, barring it from domestic activities. At least four former high-level C.I.A. counter-intelligence officials have resigned since the first published allegations of C.I.A. domestic activities.

None of the high-level C.I.A. officials, including Mr. Colby, informed Federal authorities of the repeated White House efforts in June, 1972, to involve them in the successful attempt to limit the initial F.B.I. Watergate inquiry. The officials also did not immediately disclose that they had been asked to provide bail funds for the original Watergate defendants.

None of the high-level C.I.A. officials involved in the initial deliberations after Watergate informed James R. Schlesinger, who replaced Mr. Helms as Director of Central Intelligence in February, 1973, of the extent of the agency's domestic activities on behalf of the White House in 1971. Mr. Schlesinger learned of Mr. Hunt's plumbers role from a C.I.A. liaison officer in early May, 1973.

Questions Left Open

The inquiry also left open questions about the objectivity and thoroughness of the initial inquiry by the House Intelligence subcommittee. In its report on its hearings, published Oct. 23, 1973, the subcommittee did not note, for example, that Mr. Helms ordered Mr. Osborne not to turn over the McCord letters.

The C.I.A. also did not inform the Justice Department that in July, 1972, it had received confidential information on the Watergate break-in from

Robert F. Bennett, the president of Robert R. Mullen and Company, a Washington-based public relations firm that provided "cover" for C.I.A. employees overseas and had hired Mr. Hunt after his retirement from the agency in 1971.

According to a report published last year by Senator Howard H. Baker Jr., Republican of Tennessee, the C.I.A. paid half of Mr. Bennett's attorney fees stemming from his grand jury appearance after the Watergate break-in.

In a recent interview, Seymour Glanzer, one of the original Watergate prosecutors who retired last year after serving 14 years with the Justice Department, characterized the C.I.A.'s post-Watergate actions as the efforts "of an intelligence agency serving some alien Byzantine power rather than one devoted to the best interests of the people of this country."

"Most of the facts may be known to the Government now," Mr. Glanzer said, "but the public isn't aware of what the C.I.A. has done. The whole venture was one of keeping information from us."

'Amazed' by Conduct

"I frankly was amazed by the conduct and the mentality I found in the C.I.A. Anyone who believes in candor must appear to be quite naive to them. And frankly, I must have appeared to be naive to them."

The most critical C.I.A. failure, Mr. Glanzer said, was the agency's decision not to produce the six letters sent by Mr. McCord after being served with a Justice Department subpoena compelling the agency to produce "all communications" relating to Watergate.

"The McCord contacts would have been vital," Mr. Glanzer said, because Earl J. Silbert, the principal United States Attorney investigating Watergate, "had selected McCord as the weak link—the only person who had information and might be made willing to talk."

"The letters were an indication that there was some way of reaching the man," the former prosecutor said.

Mr. McCord, who had earlier rebuffed an attempt to begin plea bargaining, repeatedly warned the C.I.A. in the letters that attempts would be made to place the blame for Watergate on the agency.

Upon learning in May, 1973 of the McCord letters, Mr. Glanzer said, the prosecutors told one high-level C.I.A. official—not Mr. Helms—that he was a potential target of a grand jury investigation. The official resigned within days, Mr. Glanzer said.

Cox Takes Over

At about the same time, however, Mr. Silbert and Mr. Glanzer were succeeded in the Watergate investigation first by Archibald Cox, the Watergate special prosecutor, and the C.I.A. actions did not become a public issue.

In Mr. McCord's first letter to the C.I.A., which was sent to the office of Mr. Helms six weeks after Watergate, Paul O'Brien, an attorney for the Nixon re-election committee, was quoted as having said that committee officials had initially informed him that the break-in was a C.I.A. operation.

"He says he did not know otherwise," Mr. McCord's letter said, "until one of the defendants told him the facts and he says he blew up over it."

The letter said that there would be an attempt to depict the Watergate break-in as a C.I.A. operation and suggested that the Watergate prosecutors were leaking anti-agency material to the press.

Mr. McCord closed the letter with the following statement, which, given his extensive knowledge of counterintelligence operations, may have led to varying interpretations inside the agency:

"The fact remains that I have lived in Washington since 1942 and know certain things about the District of Columbia from first-hand knowledge, having lived there in the past, that I wanted you to be aware of."

The letter initially was dismissed as crank mail, Mr. Osborne told the House subcommittee in May, 1973, but was subsequently identified through Mr. McCord's handwriting. Mr. Osborne then recounted the following events:

"I showed the letter to Mr. Helms: I told him that I felt very strongly that the letter should be turned over to the Federal Bureau of Investigation. Mr. Helms, after some reflection, decided that he would like to have legal opinion on the matter and summoned Mr. Lawrence Houston, general counsel of the agency, to his office and had him read the letter."

'Legal Obligation'

"After he had finished reading the letter, the ensuing discussion, to the best of my recollection, centered about whether the agency had any legal obligation to forward the letter to the Justice Department or the Federal Bureau of Investigation."

"Both Mr. Helms and Mr. Houston decided that there was no such obligation, and I was told to take no further action on it. Mr. Helms instructed me

to restrict knowledge of the existence of the letter to an absolute minimum number of people."

When Mr. McCord's subsequent letters were received at home by a C.I.A. employee in late December, 1972, and early January, 1973, they were brought to Mr. Osborne, who, as he told the subcommittee, was authorized by Mr. Helms to file them.

The letters were turned over to the Watergate prosecutors in May, 1973, after Mr. Schlesinger ordered all C.I.A. employees to come forward with any evidence or information in connection with the White House plumbers or other domestic C.I.A. involvement.

Mr. Osborne acknowledged to the committee that he had been troubled by Mr. Helms's order not to forward the McCord letters.

"We had been working very closely with the F.B.I.," he testified. "I have always given them everything. I have never held anything from them."

'He Was My Boss'

"At the time I don't think I really agreed with it [the decision to withhold the letters]. But, you know, I worked for Mr. Helms, he was my boss. I would do the same thing with Mr. Schlesinger."

A review of the published testimony indicates that Mr. Helms was never specifically asked about his request that the McCord letters not be forwarded.

Mr. Houston, however, was questioned by the House subcommittee about his counsel to Mr. Helms after receipt of the initial McCord letter in August, 1972. He defended his action by noting that he had been involved in many cases where persons under indictment threatened or hinted at a C.I.A. involvement.

In the case of the McCord letter, he added, he considered it to be a similar warning or threat that there "might be an actual attempt to involve the agency in the defense of those arrested in the Watergate incident."

Since the C.I.A. had no prior involvement in the Watergate break-in, Mr. Houston explained, and since any threat of bluff was best countered, in his opinion, by ignoring it, "I therefore advised the Director of Central Intelligence that we had no legal responsibility to pass the letter on to any other authorities and that we would work with the United States Attorneys when the defense actually made a formal attempt to involve the agency at the trial. The Director agreed."

Mr. Houston subsequently acknowledged under questioning, however, that when Mr.

Silbert and Mr. Glanzer requested the C.I.A. to supply information in October in anticipation of a C.I.A. defense at the Watergate trial, the agency still withheld the letters.

Nedzi Interrogates

Then there was the following exchange with Representative Nedzi.

NEDZI: Isn't this really suppressing evidence?

HOUSTON: No, sir, I did not consider it evidence at all.

NEDZI: It was not evidence of agency involvement, but it was certainly information that could very well have been useful to the conduct of a complete investigation, and I think that the agency's obligation goes beyond just defending itself.

Mr. Osborne also testified that he was ordered by Mr. Helms not to inquire into Mr. Hunt's links to domestic C.I.A. activities in 1971.

After being assigned to find out what possible involvement, if any, the C.I.A. had had in the Watergate break-in—an assignment he received from Mr. Helms on the evening after the break-in—Mr. Osborne recalled being approached by a young C.I.A. officer, Mr. Wagner.

Mr. Wagner had served in 1971 as an aide to Gen. Robert E. Cushman Jr., the C.I.A. Deputy Director at the time, and the recipient of Mr. Ehrlichman's request for agency help for Mr. Hunt.

Mr. Wagner learned at a staff meeting that Mr. Osborne had been assigned to the investigation, Mr. Osborne said, and "called me and said he had something he wanted to tell me but he had to check with the Director first. The Director called me on the telephone that same day and said, 'You forget about that. I will handle that. You take care of the rest of it.'"

"I was specifically excluded" from knowledge of the C.I.A. involvement in the Ellsberg burglary, "and I am delighted I was."

Mr. Colby told a Senate Armed Services Committee hearing in July, 1973, then considering his nomination to be C.I.A. Director, that a transcript of a July 7, 1971, Hunt-Cushman conversation—in which Mr. Ehrlichman's role was mentioned—was discussed at a high-level agency meeting on June 19, 1972.

Fact Not Relayed

However, Mr. Colby said, when the C.I.A. formally informed the F.B.I. three weeks later that it had supplied false documentation and other materials to Mr. Hunt and G. Gordon Liddy, another Water-

gate defendant, it did not relay the fact that Mr. Ehrlichman had been involved with Mr. Hunt one year before Watergate.

Instead, the Senate testimony showed, the C.I.A. said only that the materials had been supplied to Mr. Hunt in response to a "duly authorized extra-agency request."

At one point during the Senate hearings, Mr. Colby told Senator Edward M. Kennedy, Democrat of Massachusetts, that the information was not supplied because "it was not all that important who made the phone call from the White House to General Cushman about this little one assistance for Mr. Hunt."

Mr. Ehrlichman's name was provided to the Justice Department on Nov. 27, 1972, in response to a specific question from Mr. Silbert. In a later memo about that meeting, Mr. Colby wrote that he "had danced around the room several times for 10 minutes to try to avoid becoming specific on this."

Mr. Colby further disclosed during the Senate hearings that on June 28, 1972, Mr. Helms has issued an order requesting that the F.B.I. not interview Mr. Wagner and another C.I.A. official who also knew of some C.I.A. aid to Mr. Hunt in 1971.

At the time, Mr. Helms justified the order, according to the Senate testimony, on the ground that the F.B.I. should "desist from expanding this investigation into other areas which may eventually run afoul of our operations."

'A Lot of Leaks'

In his July, 1973, testimony before the Senate Watergate committee, Mr. Helms referred to that order, telling the Senators that "there was starting to be a lot of leaks out of the F.B.I. for the first time on matters of this kind." Mr. Helms later had this exchange with David M. Dorsen, an assistant chief counsel on the committee:

DORSEN: And to your knowledge, was any relative information withheld by the C.I.A. to the F.B.I. and Justice Department, information that you were aware of while the events were taking place in June, July or August of 1972?

HELMS: Sir, I do not believe so. Does the record show that there was anything of this kind?

DORSEN: No, I am not suggesting that at all. I am just asking for your knowledge. I have no knowledge to the contrary.

HELMS: Well, I do not either, but I just want to be sure that my recollections tracked with the facts.

In his earlier testimony before the House subcommittee, though, Mr. Helms said he had prevented the F.B.I. from interviewing Mr. Wagner, whom he did not mention by name, because he had not wanted information about Mr. Hunt's involvement with Mullen and Company, the public relations firm, "from being spread all through the Government, that we had people under cover there."

However, no evidence was presented in any other hearing suggesting that Mr. Wagner, if questioned by the F.B.I., would have discussed anything but Mr. Hunt's reliance on the C.I.A. in 1971 in connection with his White House plumbers work.

Furthermore, C.I.A. documents published last year by the House Judiciary Committee's impeachment inquiry showed that information about the secret use of Mullen and Company was supplied by the C.I.A. to the F.B.I. on June 21, 1972, four days after the Watergate burglary.

Colby Testifies

During testimony before the House and Senate in 1973, Mr. Colby, who had been placed by Mr. Helms in over-all charge of the C.I.A.'s handling of the Watergate inquiry shortly after the break-in, made a number of apparently contradictory statements.

During the House Intelligence subcommittee hearings in May, 1973, Mr. Colby was asked why the C.I.A. had not been more responsive in providing information to the F.B.I. He again cited C.I.A. concern over possible press leaks and said the agency had decided to "handle as much of the material that was subject to misunderstanding in an oral fashion rather than in a written fashion."

Yet, Mr. Nedzi, in discussing the meeting between the C.I.A. and the Watergate prosecutors in October, 1972, asked Mr. Colby whether he thought the Justice Department had been made "completely aware of all the facts that you had, is that right?"

Mr. Colby responded, "yes, they were totally informed."

Mr. Colby was then executive director of the agency.

In subsequent testimony before the Senate Armed Services Committee in July, 1973, Mr. Colby said that he had known of the White House attempts the year before to get the C.I.A. to provide bail funds for the Watergate defendants, and about other contacts, but had not told the Justice Department during the October meeting.

'Edge of Propriety'

Asked why, Mr. Colby said he had not considered the White

House's contacts to be potential wrongdoing.

"Their requests were, it seemed to me, on the edge of propriety," he said, "and the C.I.A. responsibility was to hold itself very specifically to the facts and act within its proper authority, and the C.I.A. did that."

It was those actions, revolving around the efforts of Mr. Ehrlichman and H. R. Halde- man, then the White House chief of staff, to get the C.I.A. to attempt to halt the F.B.I. inquiry into Watergate, that led to President Nixon's resignation last August. A White House tape recording showed that Mr. Nixon had directed his aides to attempt to involve the C.I.A. in the cover-up.

While supporting the actions taken by Mr. Helms in the months after Watergate, Mr. Colby also told the Senate Armed Services Committee that the basic decisions involving C.I.A. policy had been made by Mr. Helms.

"The basic philosophy of keeping the C.I.A. out of the misunderstanding of being involved and consequently handling the material through the top level of the F.B.I. and the Justice Department [and not through F.B.I. field agents and United States Attorneys] was a decision in which I shared," Mr. Colby testified. "It was obviously Mr. Helms's decision because he was in charge."

The fact that Mr. Schlesinger, who is now Secretary of Defense, had not been briefed by Mr. Helms and other high-level C.I.A. officials about the extent of the agency's involvement with Mr. Hunt and the White House plumbers was made explicit in a statement published last July by the House Judiciary Committee's impeachment inquiry.

Schlesinger Told

In the document, a C.I.A. official who was serving in a liaison position at the White House in May, 1973, recalled how he apparently was the first to inform Mr. Schlesinger about the C.I.A.'s involvement in the preparation of a psychological profile on Dr. Ellsberg and other matters.

"He seemed surprised, and unaware of any such link," the unidentified C.I.A. official said. "I was sure that someone had compiled the facts about the agency's involvement with Hunt and the Watergate and that it should be available somewhere in the agency if he had not already seen it."

"He seemed dismayed and bewildered that something like this could have happened and that he did not know about it."

On May 9, 1973, a few days after the discussion with the

4

C.I.A. liaison official. Mr. Schlesinger issued his order calling upon all C.I.A. employees to produce any evidence of domestic wrongdoing.

It was this request, reliable sources say, that not only led to the discovery of the McCord letters and more Watergate links, but also produced the evidence of other domestic activities—such as the infiltration of C.I.A. undercover agents into dissident groups and the accumulation of files on more than 10,000 American citizens who were opposed to the Vietnam war—that are being investigated by the Senate, the House and the Ford Administration.



Richard Helms

United Press International
James W. McCord