

For the Record Post 9/14/76

FBI Director Kelley: 'An Effort to Be

On Sept. 4 the Department of Justice issued the following statement with regard to FBI Director Clarence M. Kelley:

On Monday, Aug. 30, the Attorney General received a report from the Office of Professional Responsibility concerning Director Clarence Kelley's receipt of gifts from subordinates and his receipt of goods and services from the FBI. The report was developed as part of an ongoing investigation into allegations that FBI officials:

—received kickbacks by FBI officials for the purchase of equipment for the FBI;

—misappropriated funds established for confidential expenditures and for the FBI recreation association;

—engaged in systematic theft of government goods and services. The report contained no evidence that Director Kelley was implicated in any of these matters. It did show that Mr. Kelley received various items as director of the FBI. It contained a recommendation by the attorney assigned to the case and a recommendation by the Counsel on Professional Responsibility.

A copy of this report had previously (Aug. 27) been given to Deputy Attorney General Harold R. Tyler Jr. for his recommendation, and Mr. Tyler in turn also asked two Assistant Attorneys General and the head of a different bureau in the department to examine the report and the recommendations it included and to give to him their individ-

ual conclusions as to what action they thought was appropriate. The three consultants and the Deputy Attorney General concluded that no disciplinary action against Director Kelley was warranted, and that Director Kelley, in accordance with his own desire in the matter, should be instructed to reimburse the bureau for any items that could possibly raise a question. This recommendation was made by the Deputy Attorney General to the Attorney General.

After reviewing the report and the investigation, the Attorney General and the Deputy Attorney General reached the following conclusions concerning the nature of the items received by Director Kelley:

1. *Gifts from subordinates.* The Justice Department's Standards of Conduct, 28 C.F.R. Sec. 45.735-14(E) (1967), which is drawn from Civil Service Regulations that govern federal employee responsibilities and conduct, permits voluntary gifts of nominal amounts given on special occasions. The history of the regulation clearly shows that it permits associates or friends to join together to aggregate these nominal amounts. The gifts which Director Kelley received from subordinates clearly fall within what the department's Standards of Conduct allow.

Director Kelley and his wife found housewarming types of gifts in their apartment when they arrived in Washington after Mr. Kelley's appointment as director.

During the past three years, Mr. Kelley also received gifts from the FBI Executive Conference on occasions such as his anniversary in the bureau and Christmas. Mr. Kelley was told that these gifts were paid for by pooled voluntary donations from the members of the Executive Conference. The most expensive item purchased was a chair, which was purchased for \$105 by the 16 members at a cost of \$6.56 apiece.

2. *Goods and services.* As to goods and services provided by the bureau, some were requested and provided to assist the director to work at home, particularly during the period of his wife's terminal illness. Others were provided by the bureau because of concerns relevant to the security of a top law enforcement and security official. Still other services and items were provided to the director for his own use but without initial understanding on his part that they would come from other than private commercial outlets to be compensated by him. He is in the process of reimbursing the government for these items, as he had tried to do in the past.

It has been widely reported that two valances constructed of plywood were constructed for and placed in Director Kelley's apartment by the bureau's Exhibits Section. The director did not ask the bureau to make these valances, and when he discovered that it had done so immediately offered to pay for them. The bureau was particularly interested in the installation of these valances for understandable reasons involving the

Honest and Careful'

possibility that the security of the apartment could be penetrated during installation.

The Exhibits Section repaired a hinge on a damaged cabinet Mr. Kelley purchased at a furniture store and provided a plywood bedboard.

Work was also done by FBI garage employees on Director Kelley's personal automobile. When he learned of this, the director instructed that thereafter the automobile should be serviced at a private garage at his expense. Again, bureau officials were concerned about a security breach.

During Mrs. Kelley's illness, the director tried to spend as much of the evenings as possible at home. He asked that he be loaned a small cabinet to hold bureau materials he worked with at home. The bureau without Mr. Kelley's request also loaned the director two television sets during this period—which have been returned—because it was felt that he should have immediate access to a range of broadcast news. He considered these items at all times as bureau property on loan which would be returned.

Mr. Kelley's attempts to reimburse the bureau, which were turned down, his efforts to avoid repetition of the incidents, and his repeated refusal to accept other benefits which we have not described are evidence of an effort to be honest and careful which are persuasive of Mr. Kelley's integrity. The circumstances which surrounded

these incidents—the concern in the bureau that security not be breached, the director's preoccupation at the time with bringing that agency through a difficult period of inquiry and change, and the profound sadness of the terminal illness of Mr. Kelley's wife—are additional factors to be taken into account.

It has been suggested that unless Mr. Kelley is forced to resign there will be an aura of special treatment because of his high position. But Mr. Kelley's conduct was different in kind from the conduct of others which has led to disciplinary action and criminal prosecution.

In our view, the caliber of government service is not improved in situations such as this, where there is every evidence of an intention to be honest, by a reading of human conduct in its worst possible light. For us to consider all gifts in the same way one considers those which are given for base or illegal purposes and to equate actions done with honest intent with those which are mendacious and mean can only in the end protect the venal by disparaging the decent.

It is our view that Mr. Kelley should remain as director of the FBI and that he should reimburse the bureau as he has sought to do, for goods and services as to which there may be even the slightest question. The Office of Deputy Attorney General has been designated to work with Mr. Kelley on this matter.