

Ralph L. Stavins

## FBI 'Black Bag Jobs': Who Should Pay?

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Since World War II, scores of crimes against American citizens have been committed by the CIA and FBI in the name of national security. We are now beginning to learn how the Carter administration will respond to these sins of the past.

Recent disclosures in the press indicate that the Justice Department is giving serious consideration to requesting a grand jury to return criminal indictments against six middle-level FBI officials. These men apparently authorized surreptitious entries into the homes and offices of the Socialist Workers Party, the Weatherpeople and their friends, or the "New Left."

The indictments are not being sought against the agents who did the

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"black bag jobs," nor against the policy-makers who conceived the generation-old strategy. Early accounts indicate that the field agents were given immunity from prosecution in exchange for their testimony against the six, and that the top echelon will probably go free.

As in every organization, a chain of command links the top to the bottom; in the case of the FBI, it was the chain that violated the laws, not just the middle links. Congressional testimony and internal FBI memoranda have already established that the policy encouraging—even requiring—surreptitious entries was created, link by link, by the directors and their assistants, not the case officers or field agents.

William C. Sullivan, assistant director of the FBI in charge of the Domestic Intelligence Division, in a memorandum dated July 19, 1968, candidly admitted that "black bag" jobs were "clearly illegal."

Although illegal, burglary was a customary practice. Sullivan described it as "an invaluable technique," and Charles Brennan, Sullivan's protege and assistant, has testified that 236 entries were recorded from 1942 to 1968. Because they were illegal, yet customary, a procedure had to be invented to notify middle-

level personnel that the top echelon had authorized the burglaries, while at the same time assuring the policy-makers that their written orders would be destroyed.

"The perfect coverup," said Sen. Richard Schweiker after reviewing the procedure. "It certainly makes it very difficult for bodies like the Warren Commission and Congress to do their jobs. And I think it is very significant, and I think the record should very clearly show that this procedure was used at the uppermost levels, and was used for certain purposes, and I think we just touched the tip of the iceberg as to what purposes and what motivation and what the situation was."

What choice did middle-level bureau officials have in severing their links in the chain on the grounds that they would be violating the law?

None.

Had any of the six voiced a civil libertarian view or even the concerns of a law-abiding citizen, they would have been quietly transferred to North Dakota. By going along, indeed by seizing the initiative, they got ahead. The

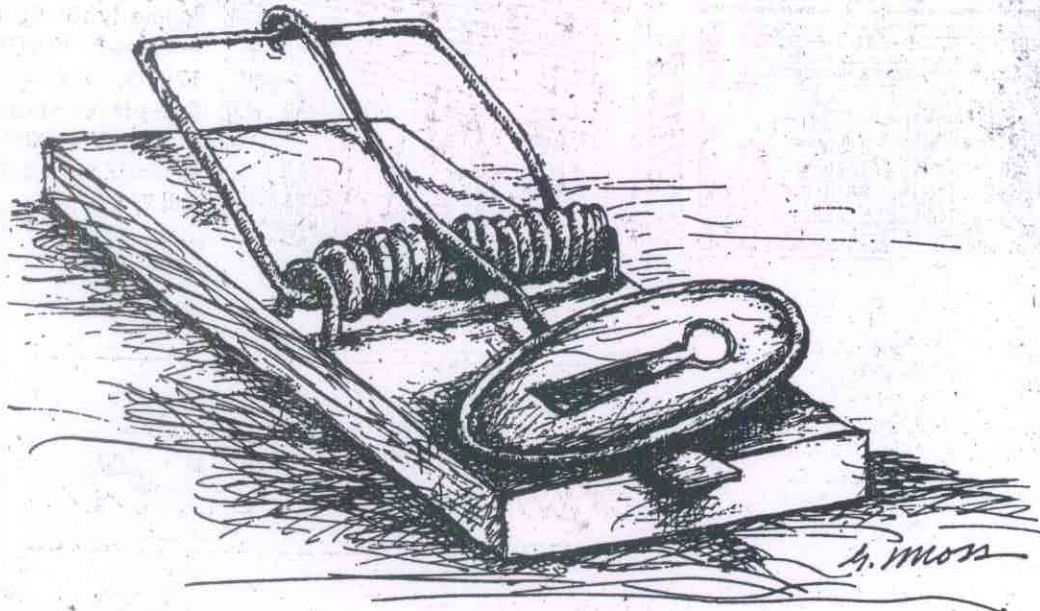
path upward in the bureau hierarchy was through the intelligence section, which required a cooperative milieu for the execution of fundamentally tainted methods of operation. Sullivan himself experienced a mercurial rise through the ranks because he zealously trumpeted the "get the left" program originated by J. Edgar Hoover. His decline and fall would have been just as precipitous had he aroused the director's ire.

In a letter to Hoover, written to defend himself against the charge of disloyalty to the chief, Sullivan describes the fate of those who fail to appease the director:

"Do you think many [inspectors] will disagree with you? What would happen if they did?"

"... You have absolute power in the FBI... you can fire me, or do away with my position... or transfer me or in some other way work out your displeasure with me."

This system of rewards and punishment is what governed bureau behavior, not the remote laws found in the federal criminal code. The fact that these informal rules contravened



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and transcended formal sanctions, although not constituting a legal and moral defense, certainly ought to be taken into account in assessing blame.

What about those policy-makers who fashioned the informal, highly subjective sanctions that flew directly in the face of the laws they had sworn to uphold? It was the directors and the assistant directors who ordered the laws broken and rewarded those who did, and punished those who did not.

For this reason they ought to incur a double responsibility, but apparently the middle-level official is being targeted as the fall guy for the entire system. Once again, it looks like those who had the ultimate responsibility for the whole chain will escape punishment.

If the Carter administration wishes to take moral leadership and move forward with an intelligence community that secures the moral approval of both its employees and the public, then it ought to reconstruct standards of personal responsibility for future policy-makers, not throw their past underlings to the wolves.