

Lawyers Clash With Bell

5 Quitting Probe of FBI

12/13/77

By Robert G. Kaiser
and Charles R. Babcock
Washington Post Staff Writers

The five Justice Department attorneys who have been investigating possible criminal behavior by FBI agents conducting "black bag" operations have asked to be removed from the case after a clash with Attorney General Griffin B. Bell.

Bell announced the unusual action—the first public split among department attorneys in several years—at a luncheon meeting with reporters. He characterized it as a "disagreement in principle."

But a source close to the task force said yesterday that "a whole group of

lawyers doesn't leave over a simple dispute about strategy . . . The Attorney General indicated his intentions in the case to the task force lawyers and they refused to participate."

Bell said at the luncheon that the task force has wanted for several months to seek indictments against other FBI officials for taking part in wiretaps, break ins and mail openings against radicals in the early 1970s.

John J. Kearney, a supervisor in the FBI's New York field office, is the only official indicted so far. His indictment in April was greeted with a storm of protest from supporters of the bureau, who complained the FBI

See BELL, A7, Col. 1

BELL, From A1

had suffered enough in recent years from congressional investigations of intelligence abuses.

The FBI investigation has thus been one of the most vexing issues Bell has faced.

Bell said yesterday the plan for proceeding differed from the task force's because he wanted to wait until the Kearney trial was settled before proceeding on others. That case has been bogged down though, because of massive pre-trial discovery motions.

The Attorney General told reporters yesterday he had to consider other factors besides the specific cases the task force had focused on. He mentioned he also had to wear "other hats" and consider "the FBI as a whole and foreign intelligence."

This seemed to be a reference to his concern about FBI morale in light of the Kearney indictment and to the likelihood that national security would be raised as a defense in such cases.

One official familiar with Bell's thinking in the case said last night that Bell was concerned about the massive discovery which Kearney's defense lawyer, Edward Bennett Williams, is pursuing. Williams is seeking evidence to justify the wiretaps and

mail openings on the ground the targets, radical members of the Weather Underground, were somehow involved with foreign governments.

A source close to the task force said last night that the lawyers investigating the case flatly rejected that argument. And, an official close to Bell agreed no such evidence had been uncovered to date. "But it could crop up at any time and then what do you do with eight cases instead of one?"

That same concern about possible discovery of national secrets by defense attorneys was a factor in the Justice Department's recent decision to let former CIA Director Richard Helms plead to a lesser charge than perjury after he refused to tell a Senate committee about covert Central Intelligence Agency operations in Chile.

Bell, who inherited the sensitive 18-month-old FBI investigation from the Ford administration, said that new attorneys already have been assigned to the case and that the task force headed by William Gardner will stay on until they are familiar with background of the investigation.

Regarding his search for a new FBI director, Bell said he has four or five new names under consideration, including a university president, at least

one "great lawyer" and other national figures with prosecutorial experience. Only one of the men he is now considering was on earlier lists of candidates for the job, he said.

Bell indicated that his previous selection of federal Judge Frank M. Johnson of Alabama—who had to withdraw for health reasons—had opened up new possibilities by suggesting that the administration would not be restricted to a prosecutor or police chief in its search.

Bell said he would suggest several names to President Carter to think about "over the holidays," but wouldn't predict when a choice might be made.

Bell revealed that the Justice Department is considering a civil suit against Frank Snepp, a former Central Intelligence Agency analyst in Vietnam who recently published a book on the 1975 fall of Saigon in apparent violation of an oath he gave the agency when he was hired. Bell indicated he was inclined to bring a case against Snepp. The subject was discussed by him and other senior department officials at a meeting yesterday morning, he said.

"I don't want to say too much about it if we're going to have a lawsuit," Bell said. He described two issues

raised by the Snepp case in which he was "very interested."

One, is the oath CIA employees routinely sign not to divulge agency secrets either during or after their term of employment an enforceable contract? The second, Bell said, is "the whole area of classification of documents in the government," which he said is very complex.

Bell said yesterday he had spent a lot of time thinking about how to restore national confidence in the FBI and the bureau's own confidence in itself. This would be the principal job of the new director of the bureau, he said. He called the appointment of a new director perhaps "the most important appointment the President will make."