

RACING
RESULTS-ENTRIES

Los Angeles

LARGEST CIRCULATION IN THE WEST, 1,020,479 DAILY, 1,289,183

VOL. XCVI

SEVEN PARTS—PART ONE

144 PAGES

THURSDAY, MARCH 31, 1977

FBI Officials May

Times

SUNDAY

MORNING
FINAL

MORNING ★ FINAL

Copyright © 1977
Los Angeles Times

DAILY 15c

Face Trial

Justice Dept. Proposes 6 in Break-ins Be Prosecuted

BY RONALD J. OSTROW and ROBERT L. JACKSON
Times Staff Writers

WASHINGTON—A team of Justice Department lawyers has recommended the unprecedented step of prosecuting at least six past and present FBI officials for break-ins, mail openings and wiretaps in New York, it was learned Wednesday.

day.

The recommendation, now under review by Atty. Gen. Griffin B. Bell and the department's criminal division chief, calls for a sequence of prosecutions.

These would move up the ladder of responsibility and authority to avoid what the team saw as the major pitfall of the original Watergate break-in probe—failing to obtain the full cooperation of the burglars in testifying against higher-ups.

The break-ins, mail openings and wiretaps were conducted in the 1971-73 period chiefly against friends and relatives of fugitive members of the terrorist Weather Underground.

The Justice Department's year-long investigation has been directed by J. Stanley Pottinger, who recently stepped down as assistant attorney general for civil rights. The probe has been a source of great unease within the tradition-minded FBI that has long prided itself on being free of corruption.

A special unit of FBI agents was assigned to the case and instructed to report directly to Pottinger, bypassing FBI Director Clarence M. Kelley as a means of assuring an unfettered probe.

Now, the attorney general must decide whether to let the prosecutions go forward.

The investigators' recommendation calls for seeking grand jury indictments initially of New York-based FBI officials above the rank of street agent who played roles in carrying out the operations but did not have ultimate authority.

Please Turn to Page 10, Col. 1

tents, said Wednesday that Bell had sent a copy to Benjamin R. Civiletti, newly appointed head of the criminal division; for his review. Meanwhile, Bell is continuing to study the report and its recommendations, the aide said.

"A decision (by Bell) not to move would be a political, not a legal, judgment," one attorney familiar with the case said.

"I don't mean that invidiously," he added, saying that convicting former and present FBI officials might not be worth the price of dredging up abuses by the agency and focusing on the past for another year.

The identities of those recommended for grand jury indictment by the report could not be learned. However, it was determined that the report did not recommend action against L. Patrick Gray III, acting FBI director at the time many of the burglaries and related operations occurred.

Several past and present FBI officials have figured prominently in the probe of so-called "black-bag jobs."

W. Mark Felt, the bureau's No. 2 man under Gray, and Edward S. Miller, former assistant director in charge of the FBI's domestic intelligence division, have both acknowledged that they approved "surreptitious entries" by agents in 1972 for intelligence-gathering purposes.

The two men testified last August before a federal grand jury investigating the alleged illegal activities.

The highest official still at FBI headquarters who has figured in the probe is Andrew J. Decker, now assistant director in charge of the FBI's records management division. In late 1972 and early 1973, Decker was special agent in charge of the New York field office's internal security division.

Earlier this year, Decker was restored to the FBI's policymaking executive conference. However, one official cautioned Wednesday against concluding that the reinstatement meant Decker had been cleared.

Please Turn to Page 11, Col. 1

10 Part I—Thurs., Mar. 31, 1977

Los Angeles Times

FBI OFFICIALS

Continued from First Page

These individuals would face the choice of standing trial or entering a guilty plea and cooperating with prosecutors as they sought to indict Washington-based superiors.

If the lower-level targets chose not to cooperate, the government would have the option of seeking to seal their indictments rather than moving ahead with their trials. The object of all the options, the recommendation makes clear, would be to avoid having subordinates invoke Fifth Amendment protection against self-incrimination as prosecutors pressed cases against higher-ups.

Bell received Pottinger's lengthy report on March 17. An aide to the attorney general, declining to discuss its con-

PROBE OF FBI

Continued from 10th Page

He said the reinstatement followed a discussion between Pottinger and Kelley in which it was determined that the break-in probe would not be discussed at sessions of the executive conference, thus allowing Decker to return.

Two others still with the FBI who have figured in the probe are James Ingram, deputy assistant director in the general investigative division, and J. Wallace LaPrade, who heads the FBI's New York field office.

Ingram, who was formerly special agent in charge of the New York office's internal security division, is alleged to have issued instructions that prevented the General Accounting Office from learning of the break-ins when the GAO was conducting a review of FBI domestic security operations.

LaPrade, who headed the New York field office's intelligence operations in 1971 and 1972, was summoned in January by federal grand jurors who sought to question him about charges that he had personally approved some break-ins.

John F. Malone, who retired in 1975 as head of the FBI's New York field office, also appeared before a grand jury last January. The Justice Department probe began a year ago after veiled references to break-ins were found in locked file cabinets that had been kept in Malone's outer office.

The department had begun a search of the file cabinets in response to a multimillion-dollar damage suit filed by the Socialist Workers Party against the FBI. The SWP al-



J. Stanley Pottinger



Griffin B. Bell

AP photos

leged that it had been the object of FBI burglaries for years.

To try to pin down responsibility for FBI misconduct, the grand jury granted immunity from prosecution to nearly 50 FBI field agents in return for their testimony.

The recommendation is understood to discount the importance of an earlier Justice Department decision not to prosecute Central Intelligence Agency officials for mail openings that the CIA conducted from 1953 to 1973.

Kelley and other FBI officials have hailed that decision in what has been seen as an effort to have the same reasoning apply to the FBI break-ins, wiretaps and mail openings.

However, the report noted that the CIA actions were conducted in relation to foreign intelligence gathering, while the FBI's actions were taken against domestic targets.

The Supreme Court in the 1972 Keith case held that the government could not conduct such operations in domestic cases without a warrant. But, like Congress, the high court left open the question of whether they can be conducted in foreign intelligence matters.

Another reason the CIA decision is thought not to hinder an FBI prosecution is that the report cites no evidence that officials outside the FBI authorized or had knowledge of the illegal operations. In contrast, Senate hearings produced evidence that various Presidents and attorneys general had some knowledge of the illicit CIA operation.

A Justice Department spokesman said Wednesday night that Asst. Atty. Gen. Civiletti is not operating under a deadline in reviewing the report and recommendation. He said Civiletti could not estimate when his review would be completed.