

Bell Undermined Inquiry on FBI, Ex-Probers Say

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Attorney General Griffin B. Bell undermined the Justice Department investigation of allegedly illegal FBI break-ins by refusing to take action against FBI officials who wouldn't cooperate with prosecutors, the former chief attorney in the case charged yesterday.

William L. Gardner, joined by three other members of the task force who resigned from the investigation last December in a dispute with Bell, told a Senate Appropriations subcommittee that the attorney general in effect "shut down" the inquiry rather than indict several FBI officials as they recommended.

In addition, Bell "thwarted" their efforts to find out if high-level FBI officials deliberately hid the extent of the break-ins from congressional investigators, Gardner said.

In what was considered an extremely strong public statement for someone still in the Justice Department, Gardner said Bell's conduct "reflected adversely on the integrity of the Department of Justice by illustrating that we have one set of rules for our own, but far higher standards for others."

The "crux" of the dispute was that Bell was "adamantly opposed" to the task force recommendation last March that eight FBI officials be indicted for their role in break-ins used to search for members of the radical Weather Underground in the early 1970s.

Instead, Bell had only John J. Kearney, a retired FBI supervisor, indicted at the time. He dropped that case April 10 in announcing the indictments of former acting FBI director L. Patrick Gray III and two other high-ranking aides, W. Mark Felt and Edward S. Miller. They were not among the eight officials first recom-

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mended to be indicted by Gardner's team.

The attorney general said then that he had decided to prosecute only those most responsible for approving the allegedly illegal activities.

Bell also started proceedings to fire another top official, Assistant FBI Director J. Wallace LaPrade, for allegedly lying to a federal grand jury. Gardner's task force of civil rights division attorneys had recommended that LaPrade, who was removed as head of the FBI's New York office, be indicted.

Bell's refusal to have LaPrade indicted had a "devastating" impact on the investigation, Gardner said. "We could not secure the cooperation of witnesses because we could not make credible representations that they must either be fully forthcoming or face the definite threat of criminal prosecution," he said.

Bell's resolution of the FBI investigation already has triggered an angry response from many FBI agents. At the arraignment of Miller, Felt and Gray, hundreds demonstrated in support of them. And LaPrade has challenged Bell to a debate and implied that the Carter administration is carrying out warrantless surveillance, similar to that allegedly used against the Weather Underground.

Gardner and his colleagues. Ste-

phen A. Horn, Richard F. Johnston and Paul R. Hoeber, on the other hand, argued that Bell was too lenient with the FBI.

They found immediate support from Sens. Lowell Weicker (R-Conn.) and Patrick Leahy (D-Vt.), both of whom expressed particular concern about the allegations that Bell condoned lying by high FBI officials.

Weicker, who asked the Gardner task force to testify, said after the hearing that he thought Bell should resign.

Leahy, a former state prosecutor, said there was an "obvious double standard" in Bell's handling of the investigation. "No other agency would be treated with such tender loving care as the FBI was," he said.

He also said it was "most distressing" to learn that there is evidence that high-ranking current FBI officials lied to prosecutors and earlier congressional investigators. "That bothers the hell out me," he said.

Bell turned that investigation back to the FBI as an administrative rather than a criminal inquiry.

Sen. Ernest F. Hollings (D-S.C.), the subcommittee chairman, defended Bell as an honest and capable man. "We shouldn't act in an unrealistic fashion like the attorney general was all of a sudden engaged in a big cover-up. He was trying to get rid of the blooming thing..."

Hollings was at times hostile toward Gardner, telling him once harshly: "You give your answer, son." At another point, when Gardner objected to a characterization Hollings made, the senator responded: "You can sit there. I'll hold you in contempt. You don't object... I'll state what I please."

But the subcommittee chairman also seemed surprised at testimony that the FBI gave a lecture on surreptitious entries at its Quantico, Va., training school in 1972.

"They were running a school on burglary, heavens above," he said. There was a "guest lecturer for that class," he was told.

Hollings also took time to criticize

himself and other members of Congress for going along with activities such as the break-ins. "They (FBI officials) had bag jobs (break-ins) going on all over the country," he said.

Bell was out of the city yesterday. His spokesman, Terrence B. Adamson, told reporters that he didn't want to contribute to a "media event" by commenting on the specific charges.

But he said: "We are witnessing a period in Washington in which anyone whose recommendations are rejected, against whom disciplinary proceedings may be instituted for who is to be replaced feels free to challenge the attorney general publicly."

In his extraordinary statement yesterday, Gardner, chief of the civil rights division's criminal section, said his group agreed to accept Weicker's invitation to testify after Bell's final decision, in part, to correct "misstatements" by the attorney general.

He traced the dispute over the investigation back to the original 336-page prosecution memo the task force delivered to Bell in March of 1977.

Benjamin R. Civiletti, then head of the criminal division, approved the eight recommended indictments, Gardner said. Civiletti also recognized Bell's conflict in trying to both run the FBI and prosecute its officials, he added.

At one point Civiletti suggested the case needed a special prosecutor, Gardner said.

Civiletti said in a phone interview yesterday that Bell's final decision was "a matter of judgment." He said Gardner's group exhibited "tunnel vision, and rigidity in thinking the only way to find the facts was to bring perjury indictments."

"I was trying to expand their view that it wasn't necessary to prosecute everyone to achieve the goal," Civiletti said.

Gardner's statement went into detail about Bell's refusal to indict LaPrade and James Ingram, another current official, who allegedly made a

false statement to General Accounting Office investigators.

Neither was mentioned by name yesterday.

Horn quoted Bell as telling LaPrade it would be "disgrace" for the FBI if he was indicted for perjury. "The only thing left for you to do is to tell the truth and count on my mercy," he quoted Bell as saying in a December meeting aimed at getting LaPrade to change his testimony.

Gardner said his investigators found evidence of break-ins as recent as November 1974, including one that was withheld from the GAO.

The FBI also hid the extent of the break-ins from the Senate Intelligence Committee, Gardner said. The same headquarters section that told the Senate no break-ins occurred after 1968 ran the 1972 course at Quantico, which including training on how to do the so-called "black bag" jobs.

Weicker and Leahy noted yesterday that they will be watching to make sure Bell does not retaliate against Gardner, Horn and Johnston, who are still with the Justice Department. Hoeber resigned last December.