

Post 4-31-77

## 'Black Bag' Probe Clears FBI Official

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The Justice Department has cleared John F. Malone, who formerly headed the FBI's New York field office, of possible prosecution in its break-in case, Malone's attorney has announced.

Attorney Paul Windels said he was advised Friday by William L. Gardner, supervisor of the break-in investigation, that "there would be no prosecution of Malone."

He quoted Gardner as saying, "It was not even a close question concerning Malone" a spokesman for Gardner declined comment.

Malone's reported clearance came as Attorney Gen. Griffin B. Bell continued to review recommendations for indictment of others in the case. Windels said Gardner's advisory apparently meant that Malone was not among those recommended for prosecution in the report prepared by the department's Civil Rights Division.

Other lawyers and potential defendants who could be reached for comment said they had not heard from Gardner.

Malone, who retired in 1975 as an assistant FBI director in New York, had figured prominently in the so-called "black bag" investigation. The Justice Department began its probe of 1971-1973 break-ins by FBI agents after veiled references to them were found in file folders in the New York office.

The folders reportedly were located in a locked cabinet in what had been Malone's outer office.

However, a source familiar with the case said that Malone's general supervision of the office had not necessarily placed him in the operational chain of command. Malone testified last January before a federal grand jury investigating the burglaries.