

*Jack Anderson and Les Whitten***Indictment of Agent Shakes the FBI**

The FBI, once the Rock of Gibraltar of government agencies, has been shaken down to its foundation. Several agents have been accused of violating the laws they were sworn to uphold. One veteran of the wars against crime and sedition, John Kearney, has been indicted and faces trial.

This has stirred a great debate in the backrooms of Washington. Most agents have lined up behind Kearney; they believe he has been singled out by the Justice Department as a scapegoat. The people around Attorney General Griffin B. Bell, on the other hand, warn that agents must live by the laws they enforce.

Both sides have brought us confidential papers. We have listened to their impassioned arguments. The outcome could determine whether the FBI will survive as a formidable law enforcement agency.

As the bootleggers and gangsters of the 1920s gave way to the drug traffickers and revolutionaries of the 1970s, the FBI stood unscathed. Its minions developed a reputation for vigilance and integrity. The greenest agent in the field became accepted in his community as a fearless, incorruptible bloodhound.

But increasingly the FBI devoted an incredible portion of its manpower, its budget and its priorities to spying on citizens who merely exercised the constitutional guarantees of free speech, assembly and petition.

The Socialist Workers Party, for example, preaches a peaceful but unpopular Marxist political philosophy. It does not advocate the violent overthrow of the existing system.

The party has every right under the Constitution, therefore, to operate in this country. Yet some FBI officials, in their zeal, began to look upon themselves as less subject to the laws they required others to obey.

They allegedly burglarized party offices and stole financial records, membership lists and other documents. The Socialist Workers have shown us evidence, for example, that the FBI broke into their headquarters in Detroit in October, 1971.

Some of the stolen records mysteriously turned up in the files of the Detroit police. One woman, named Norma Jean Lodico, resigned from the party, which kept the only copy of her resignation letter. Yet a copy of the letter later turned up in the files of the Civil Service Commission.

She was called in for questioning, as an Interior Department employee, about her "subversive" activities. Other people, whose names appeared on the stolen records, also began getting visits and phone calls from FBI agents.

The indicted Kearney, however, headed a special FBI team, which was assigned to investigate the Weathermen Underground. Unlike the Socialist Workers, the Weathermen were violent. They had claimed credit for numerous bombings across the country. FBI sources told us the Weathermen were the most dangerous of all political dissidents.

Now, Kearney has been charged with using illegal wiretaps and mail tamperings during his investigation of the Weathermen. His supporters

showed us a memo about the case which makes the following points:

- Former Attorney General Edward H. Levi, in a decision not to prosecute federal agents for opening mail, said: "Questions of the legality of intelligence methods . . . did not reach the courts until this decade . . . Whatever can be said about the law now, the department believes at the time the potential defendants acted, there was substantial basis for thinking that the law was otherwise."

- Levi maintained that officials "at the highest levels" failed to clarify investigative guidelines. Therefore, "all this would render a prosecution by the government hypocritical."

- The courts have also ruled that federal agents can't be held responsible for actions that they believed were proper and had the approval of superiors. This decision arose out of the trial of Bernard Barker and Eugenio Martinez, the Watergate burglars, who were also charged with the burglary of the office of Daniel Ellsberg's psychiatrist.

- The prosecution of Kearney will hinder future intelligence operations. Agents, despite orders from superiors, will be afraid to carry out the orders. "Why," demands the document, "should future agents disregard the warning that anything they do, no matter how well intentioned, . . . will be put to the test of strict criminal liability at a later time?"

The Kearney case, as it approaches a showdown, should produce some fireworks.