

TUESDAY, MAY 16, 1978

Contending Forces of Destiny

The FBI: Old Certainties and New Doubts at a Troubled Institution



Photos by Associated Press and by James K. W. Atherton—The Washington Post

The crowd outside U.S. District Court as L. Patrick Gray, W. Mark Felt and Edward S. Miller are indicted, above; J. Wallace LaPrade, top left, Stephen Horn, top right, John Shattuck, lower right.

By Myra MacPherson

In the once-hallowed kingdom of J. Edgar Hoover, it was a first: three top FBI officials photographed, fingerprinted, arraigned.

Former acting director L. Patrick Gray and associates W. Mark Felt and Edward S. Miller were indicted on charges of violating the civil rights of American citizens by authorizing illegal break-ins of the homes of radical Weatherman relatives five years ago.

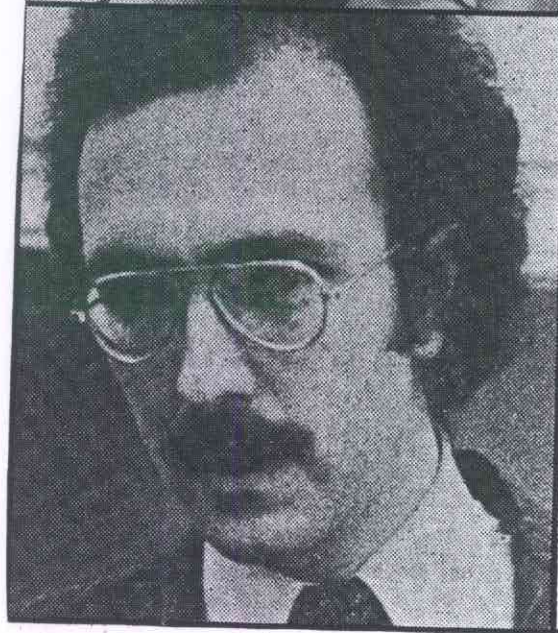
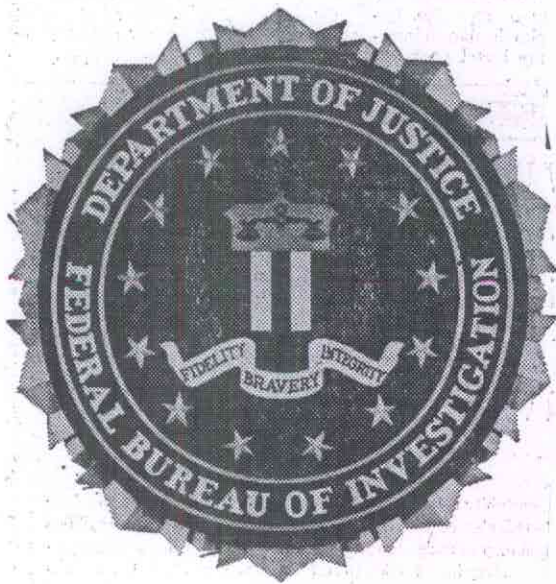
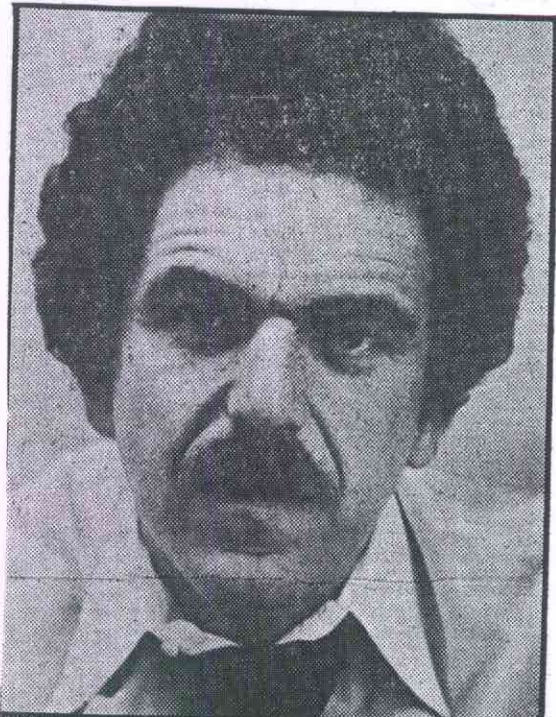
For hundreds of present and former FBI agents it seemed a bewildering joke. Their response mimicked the actions of their old antiwar adversaries. One April day outside the U.S. District Court they moved en masse—Demonstrating, protesting, cheering their comrades.

It was one of those peculiar Washington moments when destinies seem poised. A vast institution and its minions and adversaries are caught up in complex questions of American justice. And as the evening news again spins out tales told by courthouse doors the American public is again forced to reexamine old certainties and new doubts.

While some contending forces await the outcome, they ponder and explain and justify . . .

"In the old days, when a war was over they used to give a guy a medal. Today, they'd want to put him in jail." J. Walter (Wally) LaPrade looks bitter. "That's where the FBI is today."

See FBI, C4, Col. 1



FBI, From CI

LaPrade has been temporarily deposed as head of the FBI's large New York office. The word is that Attorney General Griffin Bell will soon make that permanent. For now, LaPrade (rhymes with bad) is ensconced in a sumptuous suite. He is uncomfortable in this borrowed office with its FBI seal and American flag, devoid of personal bric-a-brac, in the J. Edgar Hoover building.

LaPrade, 51, is 5 feet 10-3/4 inches and well-dressed—glen plaid suit, gold watch chain over vest, gold cufflinks. He is dark and has a brooding look when he does not smile, partly because of a childhood scar that creases the bridge of his nose to form a frown.

LaPrade is fighting his case through the press and Bell is furious. After all, rather than seek indictment of LaPrade for perjury in connection with the Weatherman case, Bell, according to Justice Department officials, begged LaPrade to change his grand jury testimony. After LaPrade recanted, Justice officials say, Bell requested LaPrade to resign.

LaPrade, 27 years an FBI man, said no, blasted Bell on the nightly news and asked the attorney general to debate him publicly—an offer Bell could refuse. Bell, in turn, delivered an ominous message to LaPrade via the press. The LaPrade incidents reminded him of an "old Georgia saying—no good deed goes unpunished."

LaPrade has promised to fight any firing, as he awaits Bell's next move.

LaPrade grew up in Richmond, Va., dreamed not of catching Dillinger, but of becoming a Navy pilot. Lindbergh was a hero. "On Sundays I used to go to the airport and watch the planes come in." At 17, in 1944, he joined the Navy, but didn't finish flight training. The war was soon over and flight training was abolished.

He got a master's in economics and public administration at the University of Richmond, was recruited for the FBI, moved through a half-dozen cities before taking over the tough New York post.

As he talks of earlier days, a smile occasionally flickers over LaPrade's face, but mostly he seems tense.

LaPrade is a disciplined man. Remembers dates precisely. Speaks like a computer about "conducting inspections of field offices to check the performances of stated duties." Asked to elaborate "stated duties," he gropes, returns to manualess: "How they handle cases — productivity, efficiency conformance with all rules and regulations."

"It is the feeling of all agents in the

FBI. We were doing our job to the best of our ability under stated authority with no motive of personal gain and in good faith," says LaPrade. "Many instructions from the top were not in writing. Today, of course, there is great care they be in writing.

"I recall my particular dealings with Hoover in 1971. A number of police officers had been murdered by militant groups." He still angers at the thought. "Seven, eight, 10 of 'em in a few months time! The Black Liberationist Army took credit for it! I got a call from Hoover. He said, 'The president is alarmed. Hoover said the president wanted the FBI to 'do something about this.' That's the way things were often put. So we did."

LaPrade set up a special squad, conducted investigations that led to the arrest and conviction of three men. Were there any "black bag" (surreptitious entry) jobs in this case? LaPrade seems shocked. "No, we were collecting evidence to be used in a court of law. That would have been disallowed as evidence."

In the Weatherman case the FBI men are charged with "black bag" operations—illegal break-ins, wiretaps and mail openings of Weatherman relatives in an attempt to locate the Weathermen, who were suspected of blowing up buildings.

LaPrade will not discuss the case or his alleged perjury, except to say, "We are the scapegoats. We have only 'guidelines' and 'executive order' to follow—no law. The only way to protect the FBI agent is that there be a law," specifying duties, he says. (A bill spelling out the limits of surveillance is now pending.)

LaPrade glowers. "The alleged techniques widely criticized in connection with the Weathermen are used in other cases, like organized crime. The Justice Department has not seen fit to make an issue of that."

LaPrade echoes what all interviewed FBI agents profess. New rules drastically hamper their surveillance of would-be terrorists, fugitives or any group they happen to suspect. "We cannot protect the American people anymore!"

The FBI is America's last line of defense, he avows—Pearl Harbor wouldn't have happened had there been better surveillance, the 1975 unsolved LaGuardia bombings "could have been solved" if his men had had freer rein.

"Look, the spy game is a dirty business. There is no way with the morality of our system that we can 'condone' the concept of spying, but it's been in existence since Biblical times. And always will be. Some nations take every advantage of it. Those that want to take the position of 'sanctimonious morality'

will end up being defeated."

LaPrade rifles through a pile of letters supporting him. "I want you to see this poem. It's a cute little thing."

It is from a former police officer. In part, it reads:

*"Justice, says Bell, is my long forte!
The Weathermen have a right to
their sport.*

*Pipe bombs are their tools of trade!
Wait till they kill a pretty maid.
Then go out FBI and arrests those
creeps/but please into their mail
do not peep.*

*Their friends you all know have a
civil right/while half the nation
in fright.*

*Suppose Justice Bell found a bomb
in his bath/Would he call the
FBI or just take it with a laugh?"*

The ACLU Takes the Fourth

"I am astounded that in all the ends-justify-the-means excuses given for FBI conduct, no one refers to the law — the constitutional rights of the citizens whose houses were bugged or whose phones were wiretapped," says John Shattuck, Washington director of the American Civil Liberties Union.

When the ACLU moved out of its dingy, underground headquarters to a new suite of offices on Capitol Hill last year, they brought their civil liberties posters and cartoons along. One illustrates the fourth amendment — "no unreasonable search or seizure." An astonished family is watching TV — as a blue-suited cop comes charging out of the set, into the home.

The ACLU has an absolute, if totally opposite, position from the FBI.

"The law is crystal clear. It requires a warrant — and did back when the alleged Weatherman break-ins 'took place. No 'new rules' are operating today. In those cases, they weren't even searching a fugitive's home but those of their relatives. The old guilt-by-association number," says Shattuck.

Shattuck, a lanky, mustachioed 34-year-old with aviator glasses, lards his sentences with facts on constitutional law and humor. He is Yale (undergrad) and Clare College (law) with a stint at Cambridge; he clerked for a year for a New York federal judge.

His claim to fame, he says, is that, "I'm the only lawyer who ever put Richard Nixon under oath—for whatever that's worth." As Mort Halperin's lawyer (the former national security aide sued his boss, Henry Kissinger, and other top officials after his phone was tapped for 21 months), Shattuck listened to a garrulous, defensive Nixon for seven hours at San Clemente. The ACLU sued on behalf of a number of groups to get Nixon's tapes and papers and Nixon ended up complaining to Shattuck that the ACLU was invading his privacy.

As Midwest coordinator for Eugene McCarthy in 1968, Shattuck was one of the antiwar demonstrators the FBI no doubt filmed during those stormy years.

"There probably wasn't a single antiwar group from 1965 to 1975 that was not investigated by the FBI, generally illegally. The same is true of virtually every civil rights group," says Shattuck. Files gained under the Freedom of Information Act have disclosed, in fact, the infiltration of everything from the Socialist Worker's Party to the feminist movement.

"I've seen my CIA file," says Shattuck. It ends with the fact that at Yale Shattuck organized to prevent government investigators from getting access to student files. Shattuck jokes, "The final sentence should have been added—that I was a 'miserable failure' at it. The fact they've got all that information on file is testimony to how incompetent I was."

Civil libertarians are now frightened of the current permissible presidential order, issued only four months ago, that allows break-ins if the president and attorney general approve each specific entry—and if the person in question is probably "an agent of a foreign power."

"The 'national security state' supposedly dismantled since Watergate, is still very much in place," says Shattuck. "A 'foreign power' is not defined. Would Martin Luther King Jr. be regarded as an 'agent of a foreign power' because (some) men surrounding him were purported to be Communists? That was the excuse given for wiretapping his phone."

But for the FBI, Shattuck concedes, there is often a simple order to things that counters such concerns. "They believe in what they're doing. To them, it's like wiping out a disease."

The Agency Bag Men

• "We picked up who was sleeping with whom all the time on the phone taps. We were used to that. We didn't care who was sleeping with whom." He adds with a chuckle, "You'd be surprised who was."

He has an Irish name and a face to match, which is not exactly giving away his anonymity. He is but one of thousands of Catholics recruited by Hoover from schools like Fordham. Hoover, who studied to convert to Catholicism at one point, felt those with Jesuit training would make ideal FBI men. They were used to taking orders; they were disciplined; they held no love of anti-God Communists; they were patriots.

"One of my proudest accomplishments was being an agent," says the man, now a successful Washington lawyer who was recruited just before World War II when 90 percent of the agents were lawyers.

He has the nice suburban home, a

passel of children; he is *guy*, swears a lot, gives his cigarette the old Humphrey Bogart treatment as he rolls it around in his mouth, puts his feet up on his desk. Above all, he reminisces with a kind of glee, as do many former FBI agents. "One FBI agent friend of mine said it best when asked why he didn't retire after a zillion years. 'Where else,' he said, 'can you get paid for playing cops 'n robbers?' It was a helluva lot of fun."

He caught some German spies, did a

number of black-bag jobs on embassies to crack espionage cases, searched for the ever-changing faces of the FBI's "10 Most Wanted."

"Hell, surreptitious entry was the name of the game. The unspoken message was 'Go in — and don't get caught.' It wasn't so easy to get warrants — often things were just in the investigative stage. It never occurred to us we were doing anything illegal — so long as the end justified the means."

He laughs. "I know that's a helluva legal answer, but that's how we felt. We had schools for wiretapping, classes in lock-picking and opening mail. Hell, you had to learn — you just didn't know these things by instinct. Half the time you didn't have to break in. You'd get the cooperation of the hotel or apartment manager or embassy informant. You never went in unless you knew what you were looking for — a code book, for example, or an address book."

In the domestic field, he explains, "Say you're looking for some son of a bitch and you figured he might have a girlfriend and if you thought getting into her apartment might locate him, you managed to get in. We didn't consider that illegal — still, you knew if you got caught you'd be in trouble. But what the heck, we had very good relations with the police."

"Look, we weren't the S.S. We weren't violating their *physical* civil rights as it were. There was always a great deal of public outcry to break these cases. It was the same kind of climate during the Vietnam war with the antiwar groups. Listen, Martin Luther King had a lot of kooks around him." He winks. "He wasn't the Martin Luther King they named the streets after. You have to look back at the times."

Two other former agents, 30-year men who retired just two years ago, were involved in antiwar surveillance toward the end of their careers. One wrote a high school essay on Christ and Communism, and decided then and there he wanted to be an FBI agent. "The FBI is noted for its preparedness," he said, "You didn't have to 'break in.' You might be 'reading

the gas meter.' I went in as a cosmetic salesman once. Made presents to the people." What was the group? "Some Communist functionaries." His friend says, "I went in disguised as a telephone man at times. Under today's rulings, we'd be violating your rights."

How did they feel about breaking in to the home of a relative, the mother, say, of a suspected antiwar radical?

"Well, did your daughter bomb the capitol? Some of these Weathermen were charged. These people were self-styled Marxist-Leninist-Communists. They were no angels. No one told us what to do. All they said was, 'Keep these people from bombing public buildings.' We were never sure subversive groups weren't using them." And spying on the feminist movement? "We didn't care what they were doing. But now Jane Fonda going to Hanoi . . . now, that was a matter of importance."

The question of the fourth amendment, and not being able to search without a warrant rankles a bit. "To 'break in' in order to apprehend a terrorist is a different intent than breaking-in, say, to steal. The FBI should

not have to stand by while people are blowing up buildings."

In Pursuit of Justice

"We had a job to do, but we wouldn't be given the tools, such as perjury prosecutions, with which to do it. I certainly know of no other department investigation conducted with these restraints. We were hamstrung."

This from the testimony of one of four Justice Department lawyers who quit the department's FBI task force and blasted Bell for undermining their investigation of the FBI cases.

One of the four "whistleblowers," as they are now called, is Stephen Horn, 6 feet 1, with red curly hair and moustache, 31. A New Yorker, his whole manner is casual as he balances his chair on two back legs and jokes about how he got into law school. "I was at Rutgers University as an engineering major and some friends were joking about how engineers couldn't read, couldn't think if they took your slide rule away. They dared me to take the law boards—and the one with the highest score would get a bottle of scotch. I got the scotch."

Horn was in ROTC and did a year in Vietnam. "I was there during the antiwar demonstrations." He grins in a manner guaranteed to anger any FBI agent as he says, "The FBI would have been proud of me."

Horn was back in his Civil Rights Division office along with William L. Gardner, who led the task force team, the day after they told a Senate appropriations subcommittee that the attorney general, in effect, "shut down" the investigation by refusing to indict several FBI officials in the alleged Weatherman break-ins they had recommended.

They blasted Bell for refusing to indict LaPrade. That action had a "devastating" effect on the investigation, they said. (Bell said he had decided to prosecute only those most responsible for approving the allegedly illegal activities.) But Horn said there was no way they could then tell any

one else that if he lied he'd be prosecuted for perjury, since LaPrade was not indicted. "If that person doesn't 'he'll laugh at you privately."

In a world of compliant bureaucrats, it was an extraordinary performance. Although Bell approved their appearance before the subcommittee, he also blasted it as a publicity stunt. It was "difficult enough to manage a large department without subordinates being given a government forum to debate their superior officers," he grumbled.

The Civil Rights Division's seventh-floor offices are down corridors of utilitarian white—unlike the fifth floor domain of the attorney general, with its pastel blue walls, marble columns, statues, murals, and silver Justice Department plaque over the men's room.

One of the task force team already has left Justice and Horn and Gardner indicate they will do so in the near future.

A major concern, said Horn, is that their thwarted investigation did not permit them to find out who at the top had made coverup stories. The Church committee was told, for example, that there had been no bag jobs since 1968. The investigators discovered that as late as 1972, a class was conducted on surreptitious entries at the FBI school at Quantico.

"Who over there (at FBI) still in positions of authority was involved? asks Horn. "You just don't know."

Defending Their Friends

For the Society of Former FBI agents, however, the thought that any FBI agent is indicted is an appalling miscarriage of justice. Larry Heim is a society member who helped raise \$392,000 for a legal defense fund for their friends. He meets a reporter in a bar to tell the FBI story once again. He is straight-arrow FBI, drinks ginger-ale, talks earnestly, sincerely.

"The FBI is beleaguered. For years there was a group at Justice who didn't like us. When Hoover was alive they didn't dare do anything." His congenial air fades. He looks bewildered. "Now, it's open season."