

'Getting Hold' Of FBI Seen Top Priority

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When they inherit the Justice Department and begin to inventory their problems, Jimmy Carter's people can find comfort in at least one fact. Most of the tough ones are handily housed nearby in a single building, the big one across the street that contains the FBI.

The legacy of troubles there seems endless. For starters: do they fire the director, Clarence M. Kelley? Do they prosecute a bunch of field agents as common burglars? Do they clamp on more guidelines to limit FBI mail covers and informers?

Some are remnants of a distant past. Do Carter's people continue to probe the FBI investigation of, and possible involvement in the assassination of Martin Luther King? How do they bring the house that J. Edgar Hoover built into the Justice Department, where it's supposed to belong?

All these questions and a few others are being mulled over these days by Carter's advance scouts in Justice. If they've reached any conclusions they aren't saying. All they acknowledge is that a staggering number of decisions have to be made rather quickly about the FBI and that many of them necessarily involve painful confrontations. In his presidential campaign, Carter left few tracks for guidance, and some of them were contradictory.

There was the time last September, for example, when Carter said he thought Kelley ought to be fired for accepting personal gifts prepared by FBI personnel. Kelley, he said, had been caught "with government employees using my and your tax money decorating his apartment." But when asked if, as President, he would fire Kelley, Carter demurred. "I will cross that bridge when I come to it," he said.

For his part, Kelley says he won't quit and will address that issue "when it comes up." Whether it will come up at all is unclear. Carter's people talk rather soothingly of him now, citing Kelley's cooperation with the present Attorney General in instituting new guidelines to curb the bureau's worst abuses. Yet there are reports that Car-

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is already looking for a new director.

The current incumbents at Justice are leaving behind, for further investigation, the role of FBI field agents in precincts at the headquarters of such groups as Black Panthers, Weathermen and the Socialist Workers Party. How many were involved and how far up the FBI ladder the responsibility rests are the main issues being unraveled by the Civil Rights Division.

Nothing will happen before the Jan. 20 inaugural, but the question of prosecutions for the so-called "black-bag jobs" will be crowding the Carter team's calendar quickly thereafter.

Overriding all the specific questions about firings and prosecutions is, the Carter people recognize, the lasting problem of controlling the agency—"getting hold of it," in the common expression.

The FBI, under Hoover, went its own way for so long, ignoring Attorneys General when not in direct combat with them, that its separateness has been unofficially ratified by time.

Carter's people badly want to do something about it. "In a way," one of them mused the other day, "it's too bad we're in separate buildings." What they will do about returning the FBI to the fold is still unsettled. Carter has given no hints.

They seem anxious, however, to have some help from Congress. Sometime this year, they hope, the Senate Select Committee on Intelligence will get down to business and draft a new statutory charter to tell the FBI what it can and can't do. That work is just getting under way.

A lot of the other problems at Justice involve investigating people in government who aren't connected with the FBI. A detached observer might be tempted to think that Justice spends more time investigating the federal establishment than it does chasing crooks.

Justice's Public Integrity Section is burrowing into a lengthy investigation of the South Korean government's gifts to members of Congress. There's another probe still under way into allegedly illegal Central Intelligence Agency behavior reported by the commission headed by Vice President Rockefeller.

And if the matter isn't settled soon, Carter's people will find themselves stuck with the nine-month-old question of whether President Ford's former campaign manager, Howard H. (Bo) Callaway, should be prosecuted on conflict-of-interest charges.

That case, involving government approval of a proposed ski resort expansion has been up and down Justice's hierarchy like a yo-yo, and still isn't resolved. Reliable sources say prose-

cution is unlikely.

When it has time to look up the immediate prosecutorial decisions, Carter's new Attorney General will find two major policy decisions awaiting him on new legislative measures in Congress.

On one of them, Carter's position would be crucial. It is the legislation on electronic surveillance that cleared two Senate committees but never came to a vote in the last session. It would prohibit national security eavesdropping unless approved by selected federal judges.

The bill has considerable appeal in the Senate, but one legislative aide said last week: "It's chances depend wholly on what the Carter administration says." So far, Carter hasn't said anything, although he has generally deplored indiscriminate wiretapping and bugging.

The other major legislative initiative could assist or impede is the criminal law codification that has been hopelessly stalled, largely because of opposition from the American Civil Liberties Union.

The legislation, one of the most complex to hit the Senate, is in the process of being overhauled by Sen. Edward M. Kennedy (D-Mass.), and will probably re-emerge as a compromise minus the sections criticized most hotly by the ACLU.

Carter has said that the old bill — known as "S.1" — is too vague and "threatens to disrupt civil liberties guaranteed by the Constitution." A Carter aide said last week, "We want to take a look at what Kennedy turns out before we make any commitments on that one."

Down the road a bit, some experts on the sideline see a confrontation shaping up between Carter's Justice Department and the Senate over the

appointment of judges and U.S. attorneys.

Carter has said he wants merit to play a greater part in the selection of both judges and U.S. attorneys, and some see in this a challenge to senators who like to mix their political persuasions into those choices. One Carter aide said that part of the President-elect's purpose is to "see that not only white middle-class males are appointed."

"Carter," he continued, "thinks this is not incompatible with politics, and he hopes to see an accommodation with the Senate."

The incoming administration is attempting to get a jump on one tricky issue which has been bumping around the Justice Department for several years and causing sour feelings within the Criminal Division.

It is the question of whether to continue the "strike force," a Johnson-era innovation which combines investigators from several agencies in a single unit to probe organized crime in selected cities.

The strike forces irritated many of the U.S. attorneys who have no direct control over most of them, and Richard L. Thornburgh, head of the Criminal Division, has been slowly dismantling some of them. (Of the original 18, 13 remain in their original form).

Carter's team has begun an analysis of the strike forces' effectiveness, hoping to have an established position shortly after taking office. So far, the analysts have found merit on both sides of the argument, and aren't sure which way the Carter administration should turn.

There is a measure of irritation that the outgoing administration is weeding out some of the strike forces before the newcomers can determine their own approach.

"We would have found it more convenient if this dismantling had been put off until we got a better chance to look around," said one Carter scout.

Very quickly, also, the Carter administration must determine its approach to busing and school desegregation. It must decide whether to go along with the present posture asserted by Solicitor General Robert H.

Broke, who wants to limit the scope of desegregation orders and thus minimize busing, or to agree with black plaintiffs that the proper remedy in many cases is a district-wide desegregation order.

Despite his support from blacks, Carter has repeatedly taken a position against mandatory busing. A Carter aide acknowledged that the question of what position to take in several early court cases has not yet been answered.