

New York F.B.I. Chief May Face More Questions on Wiretap Case

By NICHOLAS M. HORROCK

Special to The New York Times

WASHINGTON Oct. 3—Government prosecutors are contemplating recalling the chief of the big New York office of the Federal Bureau of Investigation before a grand jury in an effort to straighten out contradictory testimony about an illegal electronic surveillance in Staten Island, sources familiar with the case said today.

This is the first indication of activity in a case that has seemed frozen in bureaucratic limbo since last spring. The Department of Justice has been investigating alleged abuses by the F.B.I. for more than 16 months under two Administrations, but only one indictment has been brought and only one potential suspect cleared by an official statement.

Department sources said there had been growing pressure to make a decision on the F.B.I. cases before Judge Frank M. Johnson Jr., President Carter's nominee to head the bureau, takes office. Judge Johnson's confirmation hearings before the Senate Judiciary Committee are to begin a week from today, a White House source said.

According to well-informed sources, the second grand jury appearance for J. Wallace LaPrade, an assistant director of the F.B.I., might give him an opportunity to resolve contradictions between his testimony and that of other bureau men on a wiretapping stakeout in an antiwar radical case several years ago.

A Chance to Query Him

But another source said that it would also provide the Government with chance to ask Mr. LaPrade whether he had had a role in a series of previously undisclosed burglaries.

On May 10, The New York Times quoted Government sources who said that the prosecutors had recommended to Attorney General Griffin B. Bell that Mr. LaPrade be prosecuted. The prosecutors, from the civil rights division, which has handled the case, said they had also found evidence that could warrant prosecution of John F. Morley, Andrew J. Decker, Arbor Gray and James Ingram, all of whom had served in F.B.I. internal security work.

The recommendation to prosecute Mr. LaPrade, key sources said, was based on contradictions between his testimony and that of other F.B.I. agents about an electronic surveillance in the bureau's effort to catch Cameron Bishop, an antiwar radical wanted in the early 1970's in connection with several bombings.

Several agents and officials were questioned by a Federal grand jury, sitting in the Southern District of New York about who was in a panel truck parked on a stakeout of an unauthorized wiretapping of a telephone that the agents believed Mr. Bishop would use.

Mr. LaPrade reportedly said he was not in the truck. Other agents said he was.

A source said that Mr. LaPrade would

have an opportunity to "clear up" the contradiction before a grand jury hearing that was ordered to review the case by Mr. Bell last spring.

Thomas Bolan, Mr. LaPrade's lawyer, said he could not comment on the case. John Wilson, a spokesman for the Justice Department, said that lawyers handling the investigation referred comment to Benjamin Civelletti, an Assistant Attorney General in charge of the criminal division, and that Mr. Civelletti was on the way to Los Angeles. Later Marvin Wall, the chief spokesman for the department, called back and said that it was declining comment because this was an active criminal investigation.

As the case has dragged on, lawyers both within the department and for the defense, members of the F.B.I. and those under investigation have criticized the department's delay.

"This has left all these men [F.B.I. officials and agents implicated in the reported abuses] in limbo over what's going to happen," one defense lawyer complained privately. "And I think that's vastly unjust."

The starting date of the investigation has not been reported. But it has been under way at least 16 months, according to records and interviews. At the end of the Ford Administration, Justice Department lawyers were reported to have prepared to recommend a series of prosecutions.

Bell Ordered Review

Four months later, John Kearney, a retired bureau supervisor, was indicted on charges stemming from the case. In the uproar that followed, Mr. Bell ordered a Washington grand jury to completely review the allegations and determine whether higher-ranking officials had ordered the illegal activities.

Two months later, department lawyers wrote to John Morley, a former F.B.I. official who headed internal security intelligence work in New York at one point, and told him he was no longer a target of the investigation.

There has been substantial speculation that if the department could not bring prosecutions against high-ranking bureau or department officials in the burglary and wiretapping cases, it would not be able to prosecute the lower level men who were working under orders.

If this is the case, several sources said, the department may choose to drop the charges against Mr. Kearney.

It has been clear that Mr. Bell has been reluctant to prosecute agency men for actions taken during their investigations. He has been under heavy pressure from groups supporting the F.B.I. and from conservative national security advocates who have argued that the Government could not prosecute its employees for properly trying to protect citizens against dangerous agitators.