

U.S. Opens Its Prosecution Of Former FBI Officials

By Laura Kiernan

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A special government prosecutor told a federal jury here yesterday that two former high FBI officials violated the "special and precious" personal security guaranteed in the Bill of Rights when they authorized FBI field agents to invade secretly homes of friends and relatives of the Weather Underground Organization eight years ago.

Moments after prosecutor John W. Nields Jr. finished his opening statement in District Court, defense lawyer Brian P. Gettings jumped to his feet to tell the jurors that the government's case amounted to "second-guessing" decisions of two men who believed they had the authority to stop bombings and terrorism by the radical Weathermen.

The sharp, emotional contrast drawn for the jury set the stage for what is expected to be a long courtroom battle centered on the FBI's conduct in pursuing political dissidents a decade ago.

The two defendants, W. Mark Felt, 67, a career FBI man who rose to the number two position at the bureau before his retirement, and Edward S. Miller, 56, formerly head of the FBI's powerful domestic intelligence division, are charged with authorizing the break-ins—known in FBI jargon as black bag jobs—in violation of the civil rights of the persons whose homes were targeted.

Their indictment, two years ago, followed a painful internal investigation at the Justice Department that climaxed when then-Attorney General Griffin B. Bell decided that only those bureau men "at the high levels" should be prosecuted in connection with the break-ins.

Felt and Miller, both in dark blue suits and white shirts, sat stiffly at a

table in the well of the courtroom as prosecutor Nields told the jury that their actions were "a violation of the rights of all people of this country, violations that cannot and will not be tolerated as long as we have a Bill of Rights."

The Fourth Amendment to the Constitution, part of the Bill of Rights, protects citizens against unreasonable searches and seizure of personal belongings.

Nields described how in 1972 and 1973, allegedly with Felt and Miller's approval, agents in old clothes rummaged with a special document camera through desks, bureaus and closets where they found and photographed address books, love letters, a valentine and pages from a diary, searching in vain for clues to the whereabouts of Weathermen fugitives. The case involves nine such break-ins in New York and New Jersey.

Nields said the government will prove that Felt and Miller "knew full well that these searches were illegal and unconstitutional" because they were completed without warrants, were not connected to an arrest and could not be justified as related to a national security matter.

At the time, the Weathermen were "taunting" the FBI with bombings, including one at the Capitol and another at the Pentagon, Nields told the jury, adding, "You may find at times the FBI was virtually at war" with the radical organization. But the real question in the case, Nields said, is not the violent activity of the Weathermen, but the need to protect the civil rights of their friends and relatives, who had committed no crime.

The wrongs of the Weathermen will "shriek at you from the documents and testimony," Nields told the jury. And the sounds of their bombs "will ring in your ears." The Constitution, he said to the jury, "doesn't make much noise," but its protections repre-

sent the "deepest and highest aspirations of the American people."

Nields urged the jury to say "no to bag jobs, no to anonymous sources, not here, not in America, not in the finest country in the world."

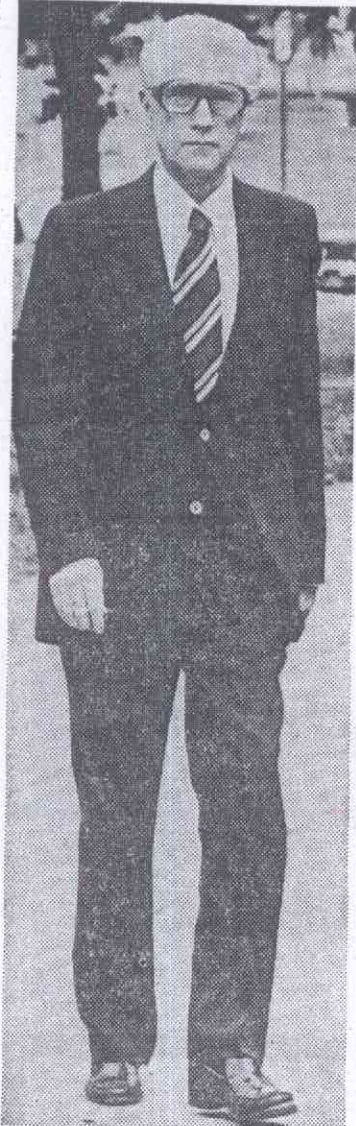
Felt's lawyer, Gettings, told the jury that the Weathermen had "worked hand-in-hand" with hostile foreign governments, including the Soviet Union, North Vietnam and Cuba. There's no denying that the break-ins occurred, Gettings said; Felt "thought it was the right thing to do for the national security of the United States of America."

Gettings said circumstantial evidence will show that, in 1970, then Director J. Edgar Hoover got general approval for surreptitious FBI entries related to domestic intelligence activities from then-president Nixon and Attorney General John Mitchell. That same authority, Gettings said, rested with L. Patrick Gray III when he took over the bureau after Hoover's death in 1972. At that time, Felt became the acting associate director of the bureau.

Gray was also charged—like Felt and Miller—with conspiracy, but because of national security reasons which have plagued the case from the start he has been granted a separate trial.

Miller's lawyer, Thomas A. Kennely, told Chief Judge William B. Bryant yesterday that he would reserve an opening statement until the start of the defense case.

In September 1972, Gettings said, Felt was told by Miller that Gray had said break-ins could go ahead where necessary, provided they were "carefully controlled." Gettings said Felt thought that Gray was changing Hoover's policy, set down in 1966, which supposedly ruled out such activities.



W. Mark Felt, 67, ex-number two FBI official, entering federal courthouse.



Photos by Douglas Chevallier—The Washington Post

Edward S. Miller and wife arrive for start of Weatherman break-ins trial.