

Panther Suit Raises Question Of a Possible FBI Cover-Up

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By John M. Goshko
Washington Post Staff Writer

CHICAGO—The slowly unwinding trial of a lawsuit in U.S. District Court here has raised questions about whether Richard G. Held, the new deputy head of the FBI, tried to cover up alleged FBI involvement in the 1969 killing of two Black Panthers.

Prompting these questions is a \$47.7 million civil rights damage suit filed by survivors of a Dec. 4, 1969, pre-dawn raid on a Panther apartment in which Panther leaders Fred Hampton and Mark Clark were shot to death by Chicago police.

Testimony at the trial has revealed that the FBI's Chicago field office, which Held headed from 1973 until July, withheld evidence from the Panthers' lawyers even though Held had been subpoenaed and ordered by the judge to produce the documents.

Held figures in the case because he headed the Chicago field office during the period of pretrial motions seeking evidence and the period from the start of the trial in January until he left in July to go to Washington.

In addition, an FBI agent has testified that Held allowed an FBI official, who is one of the defendants in the lawsuit, to supervise the review and selection of the documents that were turned over to the lawyers.

In response to this testimony, the Panthers' lawyers have asked the trial judge, Joseph Sam Perry, to hold Held in contempt. The judge has said he will not rule on the request for a contempt citation until the end of the trial.

Although the testimony about Held has been in the trial record since late March, it has not been widely reported outside the Chicago area. However, its implications have taken on increased importance because of FBI Director Clarence M. Kelley's July 20 appointment of Held to the bureau's second-ranking post of associate director.

Held replaced Nicholas Callahan, who was fired by Kelley on July 16 in the course of an investigation into alleged financial irregularities and "abuses of power" by some FBI executives.

At the time, FBI sources said Held's appointment was intended to underscore Kelley's commitment to reform of the bureau. Held, whose career had been spent largely in field offices, was described by the sources as a counter to the entrenched Washington-oriented bureaucrats who are identified with the abuses that have plunged the FBI into controversy.

However, on July 29, The Washington Post reported that Held, while head of the Minneapolis field office in the late 1960s and early 1970s, had implemented various tactics as part of the FBI's now discredited counterintelligence program (Cointelpro) to harass and discredit political radicals.

Held subsequently acknowledged overseeing Cointelpro programs in the Minneapolis office. But, he said, the

program actually was run from Washington and he was "not aware of its day-to-day activities."

So far, though, he has not replied, either in court or out, to the questions about his role in the Chicago Panther suit.

Arnold Kanter, the assistant U.S. attorney who is representing the FBI defendants in the trial here, told The Washington Post that Held is prevented from saying anything by federal regulations barring government officials from commenting on matters that are under litigation.

Held, Kanter said, will not be able to speak out until the jury hearing the lawsuit delivers its verdict and Perry rules on the motion for a contempt citation against the FBI official. Lawyers on both sides estimate that it could take as long as six months before the trial reaches that point.

Underlying Held's role is the continuing controversy about whether the raid against the Panthers was a legitimate exercise of police functions or an attempt to use the law as a cover for harassing and killing members of the militant black organization.

This controversy was not resolved by a federal grand jury, which looked into the case and did not return any indictments, or by the trial—and subsequent acquittal—on Illinois state charges of 14 of the law enforcement officials involved in the raid.

That has left attention centered on the lawsuit being heard in federal court here. It was filed in 1970 on behalf of the seven Panthers who survived the raid and the families of Hampton and Clark.

Originally, it named as defendants former State's Attorney Edward V. Hanrahan, whose office ordered the raid, and 26 police officers and members of his staff. At the time, there were no indications of FBI involvement in the raid.

Later, though, press and congressional disclosures about Cointelpro revealed that the FBI had been attempting to provoke into violence so-called "Black hate groups" like the Panthers.

It also became known that one of Hampton's bodyguards, William M. O'Neal Jr., was a paid FBI informer and had provided Hanrahan's office—through his FBI control officers—with a floor plan of the Panther apartment and with information that the Panthers allegedly were storing illegally acquired guns there. Lawyers for the Panthers contend that this information provided the pretext for the raid.

As a result of this information, the suit was amended last year to include as defendants O'Neal and three FBI officials: Marlin W. Johnson, former head of the Chicago field office; Robert Piper, who headed the squad in the Chicago office charged with pursuing the Panthers, and Roy M. Mitchell, who was O'Neal's control officer.

A central contention of the amended suit is the charge that the FBI orchestrated the raid by conspir-

ing with O'Neal to incite the state's attorney and the police into moving against the Panthers. The allegation is denied by the government.

Prior to the start of the trial on Jan. 5, the Panthers' lawyers served Held with a subpoena calling for all documents in the Chicago field office relating to Hampton, O'Neal, the other plaintiffs and the circumstances of the raid.

A government objection resulted in Perry's blocking part of the subpoena request. But he ordered that all the disputed documents be turned over to him for his inspection, safekeeping and ultimate decision about whether they would be given to the Panthers' lawyers.

The FBI then delivered a number of documents to the judge, and some of them—described by the Panthers' legal team as "four thin folders"—eventually were given to the plaintiffs. Justice Department lawyers stated repeatedly on the record before Perry that the FBI had complied fully with his orders to produce the documents.

But, in March, an FBI agent testifying in the case made reference to a document that the Panthers' attorneys said they had not seen. That prompted the judge to demand whether the government had produced all the documents.

He got his answer six days later when government attorneys wheeled into the courtroom two shopping carts crammed with additional documents.

After examining it, the lawyers for the Panthers charged that the FBI's original response to the subpoena had produced "substantially less than 10 per cent" of the applicable documents. In contrast to the four folders they were given initially they said, the new material added up to 16 volumes of documents on O'Neal, 12 on Hampton, 21 on the other plaintiffs and 82 on the Black Panther Party.

In addition, an FBI agent, Larry Deaton, revealed on the witness stand that the review and selection of documents turned over in response to the original subpoena had been performed by 15 to 20 agents chosen and supervised, in part, by Piper—the chief of the squad dealing with Panther matters and one of the three FBI defendants in the suit.

There has been no direct evidence in the trial that Piper used this authority to withhold documents prejudicial to his case. But the Panthers' attorneys have cited one instance of a document that they didn't get on the first go round and that has a direct bearing on Piper's testimony.

It was a message sent by Piper to FBI headquarters on Dec. 11, 1969, recommending that O'Neal be given a special bonus because the raid was based on the information he had furnished. On the witness stand, Piper had said he had never been aware that the raid was based on information provided by O'Neal.