

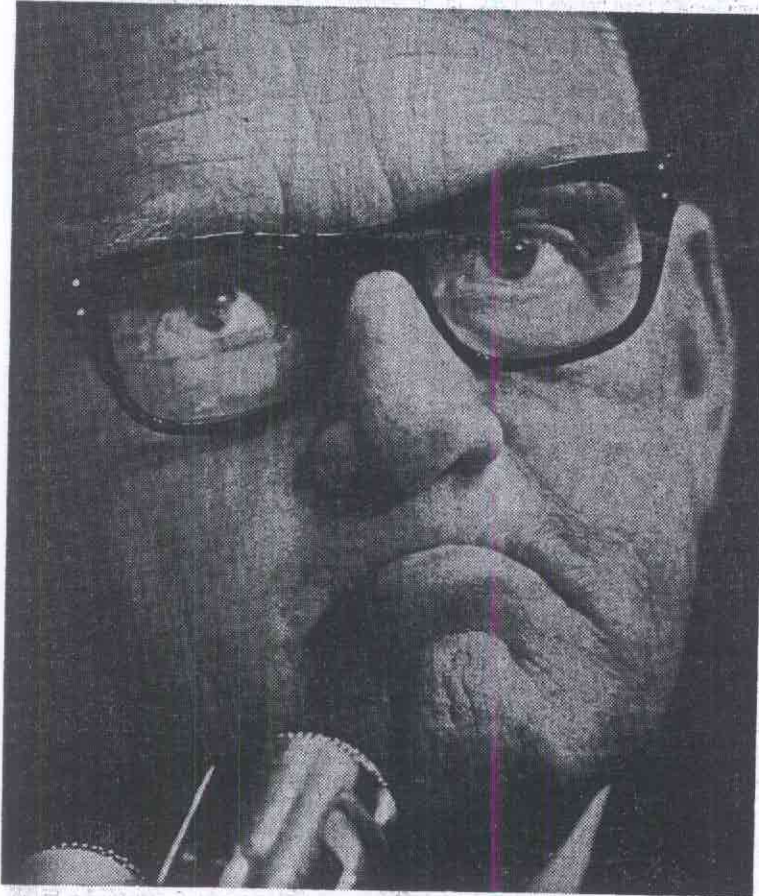
## The Weather

Today— Cloudy, rain likely by tonight, high in mid 80s, low in mid 50s. Chance of rain 40 percent today, 60 percent tonight. Wednesday — Partly cloudy, high near 70. Yesterday's temp. range: 69-52. Details, C2.

# The

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By James K.W. Atherton—The Washington Post, 1973.

Former acting FBI director L. Patrick Gray III during Watergate hearings.

# Washington Post

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## Gray, 2 High-Ranking Aides Are Indicted in FBI Break-Ins.

By Charles R. Babcock  
Washington Post Staff Writer

Former acting FBI director L. Patrick Gray III and former high-ranking aides W. Mark Felt and Edward S. Miller were indicted yesterday on charges of authorizing illegal break-ins by FBI agents searching for radical fugitives in the early 1970s.

Attorney General Griffin B. Bell said in making the announcement that he was dropping the pending criminal case against another FBI official, John J. Kearney, because he decided "to prosecute only those at the high levels."

Bell also said he will initiate disciplinary proceedings against another top FBI official, assistant director J. Wallace LaPrade, who is in charge of the FBI's office in New York, and about 70 other agents who took part in the so-called "black bag" cases.

The indictment charges that Gray, Felt, former No. 2 man in the bureau, and Miller, who headed the domestic intelligence division, conspired to violate the civil rights of friends and relatives of members of the Weather Underground.

At one point the indictment alleges

that in 1972 agents attending a "weatherman in-service training course" at the FBI academy in Quantico, Va. received a lecture on "how to conduct surreptitious entries."

All three men denied the charges yesterday. The single felony count against each is punishable by 10 years in prison or a \$10,000 fine or both.

Felt told the Associated Press that he and the other two men rejected a justice Department proposal that they plead guilty to a misdemeanor charge.

The nearly three-year-old investigation has been described by Bell's aides as the most troubling of his tenure.

Bell is known to have struggled with conflicting wishes to uphold the principle that not even the nation's top law enforcement officials are above the law while not damaging further the already eroded morale of the FBI.

Bell's approval of an indictment of Kearney a year ago triggered a storm of protest from the FBI and its supporters. The attorney general then began to question the adequacy of the investigation being conducted by the FBI.

See FBI, A4, Col. 1



Former high-ranking FBI officials W. Mark Felt, left and Edward S. Miller.  
Felt: 1978, James E. W. Alberton; Miller: 1974, Joe Heiberson.

## FBI, From A1

original five-member team of civil rights division attorneys and ordered that it be broadened.

"I never thought they were doing it on their own," Bell told reporters yesterday in referring to Kearney and other agents from the New York office who allegedly participated in the "black bag" jobs. "I thought they were told to do it."

Bell said he found no evidence, however, that the Nixon White House

or Justice Department or anyone else outside the FBI approved the break-ins.

The attorney general said his attitude in the case was "you ought to prosecute wrong doers." But he used his prosecutorial discretion, he said, to restrict the prosecutions to those with the greatest responsibility.

The original task force quit last December in a dispute with Bell.

Bell said the alleged illegal conduct by Kearney and other middle-level FBI officials was not excused by the

"mere fact" that they were following orders. "It will not be so considered (an excuse) in the future," he said.

"I have decided, weighing all the factors, that it would not be just to prosecute Mr. Kearney or others on his level for activities which are not likely to recur given the present attitude and safeguards in the FBI and the Department of Justice."

The indictment of Gray, Felt and Miller cites break-ins of five different homes in the New York City area in late 1972 and early 1973. The inhabit-

ants were all U.S. citizens and acquaintances or relatives of Weatherman fugitives.

The break-ins violated those citizens constitutional rights to have their homes protected against unreasonable searches and seizures, the indictment said.

It traced a series of acts in which Miller allegedly sent memos to Felt about persons whose homes were later entered surreptitiously by FBI agents. Gray at one point is alleged to have approved the agenda for the Weatherman in-service training course at Quantico where, the indictment charges, the lecture on break-in techniques was given.

Miller and Felt have both publicly acknowledged that they approved such break-ins.

Felt said yesterday, "In my own career up against mobsters, criminals, spies and the mad bombers of the Weather Underground, I never approached a case with criminal intent and never got any personal gain from a case."

Gray, now a lawyer in Connecticut, said through his attorney, Alan I. Baron: "I never participated in or knowingly authorized any illegal conduct during my tenure as acting director of the FBI."

Thomas Kennelly, who is Miller's attorney, said yesterday that his client "emphatically denies any wrongdoing. I think when the smoke clears he will emerge as a good man who at all times acted in the best interests of the United States."

Edward Bennett Williams, who was Kearney's attorney, said in a phone interview that he was pleased that the government had dropped "a case they couldn't win." He said he had urged the department to do so in several meetings.

Williams had planned to base Kearney's defense in part on grounds that the FBI official's actions were war-

ranted because the Weather Underground was a threat to the national security. In doing so he had made extensive discovery motions for government documents relating to similar conduct by other agents.

Kennelly declined to comment yesterday on whether Miller and the others might make similar arguments in their defense, but added that he thought discovery proceedings would be "extensive and lengthy."

Barnet D. Skolnik, the successful prosecutor of former vice president Spiro T. Agnew and suspended Maryland Gov. Marvin Mandel, will be the government's chief trial attorney in the case against Gray, Felt and Miller, Bell said yesterday.

Gray was appointed acting FBI director in May 1972 after the death of longtime bureau chief J. Edgar Hoover. Gray was never approved as permanent director because of his role in destroying evidence in the Watergate scandal.

A former top Hoover aide, the late William C. Sullivan, told reporters that he had passed on to Kearney Hoover's personal wishes that any available means be used to catch the members of the Weather Underground who had been accused of bombing the U.S. Capitol in 1971.

Bell refused to say yesterday whether his investigators found evidence that Hoover had given such orders.

Current FBI Director William H. Webster issued a statement yesterday saying there has been "concern" in the bureau "That a just resolution be achieved in this matter as early as possible."

Webster added that the ongoing disciplinary proceedings against other bureau agents "should not be allowed to cast a pall" on the dedicated work of FBI employees.

Bell asked Webster to take disciplinary action—from censure to dismiss-

sal—"where appropriate" against current FBI agents who participated in the illegal break-ins, wiretaps or mail openings.

Disciplinary proceedings against LaPrade will be handled by the Justice Department's Office of Professional Responsibility because of his rank as an assistant director, according to Benjamin R. Civiletti, acting deputy attorney general.

Bell rejected a recommendation to indict LaPrade for perjury last year and instead appealed to him personally to tell the truth. LaPrade's later testimony was helpful in other potential cases, Justice Department sources said.

In bringing an end to the long-running internal investigation, Bell said yesterday that he had followed the unanimous recommendations of his prosecutors because he believed they were "fair and just and in the public interest."

The attorney general added that there were indications that two apparently low-level Justice Department attorneys failed to tell inquiring congressional committees about all the break-ins. He declined to name them, but said they too would be investigated for possible disciplinary action.

## *The FBI Indictments*

**T**HESE DAYS it sometimes seems as if we are commenting on nothing but indictments of government officials. They are coming hot and heavy and at every level of government. But there is something different and special about the indictment returned yesterday against three former high officials of the FBI. It is that regardless of the guilt or innocence of the three men on the charge that was brought against them, the Department of Justice has tried to place responsibility for wrongdoing on the people at the top. There have been too many other episodes in the recent past—some involving criminal conduct, others merely mistakes of judgment—in which subordinates took the rap and the top people went free.

We do not wish to prejudge the case against L. Patrick Gray III, W. Mark Felt and Edward S. Miller. They say they are innocent and the government may be hard put to prove them guilty. That is as it should

be. The charge against the three is among the most serious that can be leveled against police officers—deliberate abuse of the power they have been given over the lives of citizens.

Nevertheless, Attorney General Griffin Bell has staked a great deal on this case. He chose to pass over those in the chain of command between the three on top and Special Agent John Kearney, against whom charges were dropped. His insistence on pursuing them directly, rather than going after other, lesser fishes in the process, was among the issues that led to the resignation of several of his investigators last winter. Mr. Bell has taken full responsibility both for the investigation and for the decision on whom to prosecute.

Whether or not the case stands up in court, however, Mr. Bell's decision was a good one. It insists on the accountability of high government officials for their acts, and in the area of police powers, this is undisputable.