

Webster's Disciplinary Action on Break-Ins Cited as Argument for Clear Rules

# F.B.I. Climate Changes, Six Feel the Heat

By ANTHONY MARRO

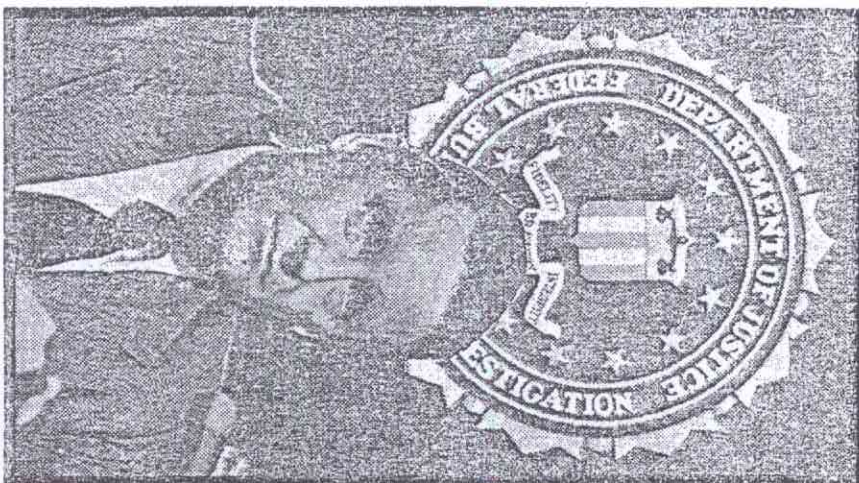
WASHINGTON — When William H. Webster announced last week that he had decided not to discipline most of the Federal Bureau of Investigation agents involved in illegal break-ins, mail openings and wiretaps in the New York area in the early 1970's, he added that if he had been weighing the matter as a judge, rather than as the bureau's director, he probably would have done the same thing. Clinging what he called the "climate of the times," the former Federal judge from St. Louis asserted that to punish agents who had acted in good faith would be both "counterproductive and unfair."

Whether Mr. Webster's decision was in fact judicial, or fair, may be under discussion soon in the Senate, when Edward M. Kennedy, the new chairman of the Judiciary Committee, convenes hearings on a legislative charter for the bureau. Advocates of strict statutory sanctions for the F.B.I.'s operations have already signaled that they intend to use last week's announcement to bolster their case that a strong charter is needed to prevent such infractions in the future. "You can't have the rules changing every time the climate changes," said John Shattuck of the American Civil Liberties Union.

Whether the committee will concur remains to be seen. Mr. Kennedy has made the charter a high priority, and his accession to the committee chairmanship means that some kind of document is likely to be sent to the floor. There, presumably, it will meet with little opposition. After the Church committee's disclosures, voting for "reform" is almost obligatory. What kind is the question. Conservatives will support the bureau's claim that it needs to preserve flexibility, and three committee members normally on the liberal side of such arguments face re-election challenges from conservative candidates in two years.

Mr. Webster's decision was ticklish in large part because most of the agents in question were not only following orders, but were doing things for which others had received merit awards in the past. In 1970, the bureau was searching for fugitive radicals, most of them members of the Weather Underground. Under pressure from the Nixon White House to catch them, and frustrated by its lack of success, the bureau created a special group — Squad 47 — and told it to use any means necessary to track them down.

Between 1970 and 1975, the means included at least 32 break-ins, 17 wiretaps, two microphone installations, and numerous mail-openings, all directed at relatives and friends of the fugitives, and all without judicial warrants. In 1972 the United States Supreme Court ruled that prior judicial approval was needed



Dennis Brack, black star  
William H. Webster

before wiretaps could be installed in national security cases. The bureau sent orders to the field to disconnect the microphones in six instances. No such instructions were sent to Squad 47.

To Mr. Webster, that was a crucial omission, and on that in part he based his conclusion that it would be unfair to discipline agents for playing the game the way it had been played in the past when they weren't told that the rules had been changed. What he did decide, however, was to discipline six men who he believed had violated regulations, or had broken laws independently, not under orders. The

punishments, he said, would range from letters of censure for three agents who had staged break-ins or placed wiretaps on their own (one of them will also be suspended for a month) to denunciation for one agent who had not cooperated with the inquiry. Two supervisors, Horace Beckwith and Brian Murphy, will be dismissed outright. Mr. Beckwith, on the ground that he had "ignored specific instructions" and Mr. Murphy, that his testimony was "unworthy of belief."

In the bureau, and at the Justice Department, last week, many agents and officials were saying privately that Mr. Webster's decision was "judicious." Some used the word "politic." By refusing to discipline the more than 60 agents whose names had been submitted to him for action by the Justice Department, they said, he avoided a major confrontation with his troops, and prevented turmoil within the bureau. At the same time, they said, his decision to fire two supervisors would permit him to argue to Congress that he was willing to impose sharp disciplinary measures on his agents, and so could be trusted to hold them in line.

Not all the agents were happy, however, particularly friends of Mr. Beckwith, a veteran of work against the Ku Klux Klan and other terrorist groups. Unlike Mr. Murphy, who had been his superior, Mr. Beckwith has not reached retirement age, and thus stands to lose 12 years of his expected pension, at \$20,000 a year — unless he can persuade the Civil Service Commission to reverse Mr. Webster's decision. That strategy is now being pursued by Wallace La Prade, the former head of the New York office dismissed by Attorney General Griffin B. Bell last July. Other agents point out that many of those who gave Squad 47 its instructions escaped with their pensions simply because they reached retirement age or resigned before the inquiry was over.

Mr. Webster's decision took the form of a 21-page letter to Mr. Bell which sought to maximize the threat of the Weather Underground and minimize the acts of the agents (some of which were labelled "unauthorized initiatives"). Its line of argument was the line of defense that the bureau's supporters will take against advocates of a strong charter. Such activities, the letter said, are a thing of the past, and not one successful claim of constitutional violation by an agent has been brought in court since the Presidential guidelines under which the bureau now operates were put into effect in 1976. What those advocates are likely to respond is that one person's "unauthorized initiative" can be another person's felony crime if the "climate" changes again.

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