



**THE DEPARTMENT OF JUSTICE REPORT
ON THE RELATIONSHIP BETWEEN
UNITED STATES RECORDING COMPANY
AND THE
FEDERAL BUREAU OF INVESTIGATION
AND
CERTAIN OTHER MATTERS
PERTAINING TO THE F.B.I.**

JANUARY, 1978

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INTRODUCTION

This is a report on a Department of Justice investigation of alleged misconduct by certain past and present officials of the Federal Bureau of Investigation.

In the Fall of 1975, the House Select Committee on Intelligence provided the Department with information that certain officials of the F.B.I. were allegedly profiting from the Bureau's business transactions with its exclusive electronics equipment supplier, the United States Recording Company of Washington, D.C. On November 3, 1975, Attorney General Edward H. Levi requested F.B.I. Director Clarence M. Kelley to investigate these allegations. Director Kelley appointed an Ad Hoc Committee to oversee an inquiry by the F.B.I.'s Inspection Division, the Bureau unit ordinarily responsible for internal investigations. Attorney General Levi found the report of the Inspection Division and the Ad Hoc Committee to be incomplete and unsatisfactory. On January 2, 1976, he directed the Office of Professional Responsibility and the Criminal Division to review the Inspection Division Report and conduct an independent investigation. The Deputy Attorney General requested two Criminal Division attorneys to work with the Office of Professional Responsibility in supervising a special team of F.B.I. investigators, who were carefully selected from Bureau field offices for their ability and experience. I.R.S. agents were also selected to investigate the tax implications of the allegations.

Hundreds of past and present F.B.I. officials were interviewed. Agent-accountants examined vast quantities of documents and records to determine the nature of the F.B.I.-U.S.R.C. relationship and the FBI's procedures for purchasing electronic equipment. As the investigation proceeded and possible criminal violations emerged, a Federal Grand Jury in the District of Columbia, aided by the Criminal Division attorneys, began to review the findings of the Department's investigators.

The investigation was completed on November 11, 1976. The findings went beyond the original allegations into other areas of misconduct uncovered by the investigation. The Criminal Division investigative report examined the use of Government material and personnel services by F.B.I. officials for their personal benefit; the administrative mishandling and misapplication of appropriated funds; the misuse of funds of the FBI Recreation Association -- a private association of FBI employees; and improprieties in the FBI's dealings with contractors other than USRC.

PART I

A. The Relationship Between the United States Recording Company and the Federal Bureau of Investigation

Joseph Tait has been owner and manager of the United States Recording Company (USRC) since 1938. Incorporated in 1969 in the District of Columbia, USRC sells and distributes electronic equipment, principally to the Federal Government.

Mr. Tait started doing business with the Government in 1943, when Army Intelligence asked the Bureau's Laboratory Division, then interested in purchasing two Army microphones, to use USRC as a middleman. In the late 1940's, USRC contracted with the Bureau to service amplifiers, recorders and other technical equipment used by the Laboratory Division. From 1963 to 1975, USRC was virtually the sole supplier of electronic equipment to the FBI, and Bureau purchase orders were frequently directed to USRC without open bidding as required by Government procurement statutes and regulations.^{1/}

FBI officials justified the exclusive relationship under a specific exemption for purchases that require confidentiality for security reasons.^{2/} The following facts do not support this explanation, however. For instance, from 1971 to 1975, the Bureau made \$500,000 worth of exclusive purchases from USRC which were not marked as confidential. Much of the equipment, including transmitters, receivers, and microphones, clearly fell into the "sensitive" category, but it was not clear why other "non-sensitive" equipment was purchased exclusively from USRC. Also, the Bureau took few precautions to insure the security and confidentiality of the FBI-USRC relationship.

^{1/} 41 U.S.C. 252(c) and regulations promulgated thereunder.

^{2/} 41 U.S.C. 252(c) (12).

A number of electronic equipment manufacturers and suppliers were aware that the FBI used USRC as a middleman. The Bureau often purchased equipment directly from the manufacturer, but always paid its bills through USRC. USRC employees did not receive security clearances. The firm was broken into on at least two occasions. USRC made equipment deliveries to the FBI during working hours in a panel truck plainly marked "U.S. Recording Company."

Moreover, the FBI failed to follow proper procedures for such "confidential" purchases. Section 252(c)(12) of Title 41 of the United States Code requires an agency head to make a determination that the purchase of certain equipment should not be publicly disclosed before public advertising and open bidding regulations can be suspended. No evidence was found that either the Attorney General or the FBI Director ever made such a formal determination. The procurement regulations were also evaded, and the scrutiny of the Department of Justice avoided, by the "splitting" of orders to USRC so that no single order exceeded \$2,500, the limit above which all purchase orders had to be advertised for open bid.^{3/}

From 1961 to 1973, the Bureau purchased large quantities of tape recorders, playback units, closed circuit television

^{3/} The limit was raised to \$10,000 by statutory amendment in 1974.

systems, video tape machines, laboratory test equipment and FM radio equipment under confidential contract with USRC to the virtual exclusion of all other contractors. The costs to the Government of this special relationship were considerable. From Fiscal Year 1971 through 1975, 60 percent of USRC's total sales were made to the Bureau. Department investigators examined 1,339 USRC sales invoices, compared the cost of each item, where available, to USRC to the price USRC charged the Bureau, and found an average mark-up of 23.8 percent from Fiscal Year 1969 through 1975. Individual mark-ups varied widely and were as high as 40 to 70 percent. In addition to high mark-ups, by using USRC as a middleman, the Bureau was not able to purchase equipment at discount prices offered by manufacturers for direct sales on large orders. For example, in 1971 the Bureau paid USRC \$147,261.50 for burglar alarm equipment which could have been purchased from a New York supplier for \$81,357.00.

USRC asserted that its overhead costs amounted to 15 to 16 percent over the price it paid to the manufacturer. Department investigators found no objective evidence supporting a figure this high.

These findings essentially confirmed allegations made by a Special Agent of the FBI's Radio Engineering Section in 1973. He reported that the FBI paid too much for USRC equipment, that USRC mark-ups were too high, that FBI employees were forced to buy inexpensive items from USRC when they were available elsewhere, and that the FBI-USRC relationship was not

confidential. An Inspection Division inquiry was made into those allegations, but this investigation found that during that inquiry key witnesses were not interviewed. One Bureau official, now retired, provided Inspection Division investigators with palpably inaccurate information. The committees which reviewed the inquiry recommended the continued use of USRC as a "cutout" (i.e. a middleman used to conceal the Bureau's identity from outsiders) for confidential procurement without any sound basis for the conclusion. The agent who made the complaint was denied promotion and then transferred to the Tampa Field Office, where the Special Agent-in-Charge was told the agent was not a good "team" player and did not get along with other employees.

The officials chiefly responsible for the proper implementation of procurement requirements and procedures were John P. Mohr, Assistant to the Director for Administrative Affairs; Nicholas P. Callahan, Assistant Director, Administrative Division; and G. Speights McMichael, Chief Procurement Officer. The investigation clearly established that these officials knowingly failed to apply required procurement procedures to purchases from USRC. Two possible motives were found for their actions.

No evidence of cash kickbacks or bribes was discovered. Rather, a pattern of social contacts and minor gratuities was revealed between Mr. Tait and various FBI officials, including Messrs. Mohr, Callahan and McMichael. In the 1960's, Mr. Tait

and a number of high Bureau officials would get together at the Blue Ridge Rod and Gun Club (Blue Ridge Club)^{4/} to play poker. The poker parties would begin on Friday evening and continue until Saturday noon. (Each participant paid the host, a Bureau official, for the cost of food and lodging.)

Mr. Tait also entertained FBI officials on occasion at the Bethesda Country Club, Billy Martin's Carriage House in Georgetown, and the Rotunda Restaurant on Capitol Hill. There was no evidence of excessive drinking, associating with the opposite sex, payoffs, big winners or losers. Nor was there evidence that official FBI files were destroyed, as alleged, at the Blue Ridge Club.

Mr. Tait often gave Laboratory Division employees small gifts at Christmas time, such as tie clasps, wallets, manicure sets, and desk calendars. In 1971, Mr. Tait gave one FBI employee a stereo playback unit for his car after he retired from the Bureau. A former USRC employee stated that in 1969

^{4/} The Blue Ridge Club burned down on November 23, 1975, just before House Select Committee investigators were scheduled to interview Club employees. This investigation revealed that an eight-year-old child caused the fire while playing with matches. The child "confessed" to Department investigators. The testimony of other witnesses corroborates the confession.

Mr. Tait purchased and paid for the installation of an eight track tape player with two speakers in John P. Mohr's Cadillac at a total cost of \$172.12. There was no other evidence of any personal benefit to any other FBI official.

The investigation also disclosed another possible reason for the Bureau's special relationship with Mr. Tait and USRC. Over the years, Bureau officials came to trust Mr. Tait's willingness to keep the FBI-USRC relationship confidential, and especially, to keep Congress in the dark about FBI eavesdropping practices. In a March 14, 1963, memorandum to Laboratory Assistant Director, Ivan W. Conrad, Mr. Mohr ordered that:

...no recorders are to be purchased by the Bureau outside of USRC. The reason for this is because Mr. Tait of the USRC will protect the Bureau in the event questions are asked by a Congressional committee concerning the purchase of recorders by the FBI. Other companies will not do this for the Bureau.

On May 22, 1964, after learning that Mr. Tait had been invited to testify before the Senate Subcommittee on Administrative Practice and Procedure, Mr. Mohr wrote in a memorandum:

Mr. Tait told me he does not know at this point just what he is going to do with the letter but he does not intend to furnish the Subcommittee with any specific information. It should be noted that the Bureau purchases virtually all of its electronic eavesdropping devices from the U.S. Recording Company. Over the years Mr. Tait has been an excellent friend of the Bureau and would go to any lengths to protect our interests from any sources. He is a personal friend of mine

and he told me that he would most certainly furnish us with any response that he makes to the Subcommittee's letter before submitting it to the Subcommittee.^{5/}

According to past and present employees of the Radio Engineering Section, Mr. Mohr's March 1963 order initiated the Bureau's exclusive relationship with USRC.

The Department concluded that FBI officials showed an improper favoritism to Mr. Tait and USRC in violation of specific conflict of interest regulations of the Department of Justice.^{6/} However, no evidence was found indicating a fraudulent intent sufficient to make out a crime under Federal bribery or fraud statutes.

^{5/} A search of the transcripts of committee hearings revealed no evidence that Mr. Tait actually testified before the referenced subcommittee or any other subcommittee.

^{6/} 28 C.F.R. §45.735-2(b) and (c) prohibit the giving of favored treatment or advantage to any member of the public and any action which might result in, or create the appearance of: preferential treatment, the use of public office for private gain, or an adverse effect on public confidence in the integrity of the Government.

28 C.F.R. §45.735-14(a)(1) prohibits the acceptance by public officials of gifts or gratuities from those doing business with the Department of Justice.

B. Tax Investigation

Mr. Tait was tried and, on June 20, 1977, acquitted of all tax evasion charges under Title 26, United States Code, Section 7201, for the years 1971, 1972 and 1973.

The Department found no evidence that Mr. Mohr violated any federal tax laws.

C. Conversion of Electronic Equipment

Ivan W. Conrad, former Assistant Director of the FBI Laboratory Division, was found to have taken a large quantity of FBI electronic equipment to his home, principally, between 1964 and 1966. Conrad liked to tinker with electronic equipment and was a "ham" radio operator. The equipment included voltmeters, wattmeters, battery testers, stereo amplifiers, consoles, speakers, microphones, cables, sidewinders, mixers, tape recorders, transformers, and other sorts of electronic gadgetry. This equipment was evidently delivered directly from USRC to Mr. Conrad's office at FBI headquarters and he took the equipment home. No record was made on FBI inventory files that Mr. Conrad had possession of the equipment.

In late December 1975, after being questioned by investigators from the 1975 Inspection Division inquiry about unaccounted for equipment and after denying knowledge of it, Mr. Conrad, with Mr. Tait's assistance, shipped twenty-nine

packages of electronic recording "ham" radio equipment and a large recording console from his home to the USRC warehouse in Southeast Washington. This included the equipment about which he had been questioned. A USRC employee made the delivery in a USRC truck. As much as eighty percent of the equipment had never been used and was in excellent condition. This equipment was subsequently recovered for the Bureau by this investigation. Purchasing documents revealed an acquisition cost of over \$20,000.

Mr. Conrad, who retired in July 1973, was interviewed four times during this investigation. He admitted that the equipment once belonged to the FBI. While head of the Laboratory Division, he ordered the equipment from USRC and then used it on "special projects" for Director Hoover, he said. He serviced the Director's television, hi-fi sets, short-wave radio, and designed a portable recording system for him. The console recorder was delivered directly to his home by Mr. Tait, and he took the other equipment home after USRC delivered it to the Bureau. He said that most of the equipment was obtained between 1964 and 1966.

Mr. Conrad asserted that he never intended to convert this equipment to his own use. After Director Hoover died in 1972, he wanted either to buy the equipment from USRC or return it to the company. He said he was "tardy" in not returning it

to Mr. Tait until late December 1975. In August 1976, in response to inquiries from this investigation, he delivered another shipment of electronic equipment to the FBI. He had signed this out of FBI Laboratory stocks in the early 1960's. Auto radios, control cables, heads, speakers, antennas, assorted accessory equipment, a stereo receiver, tape recorders, microphones, and a sound recording set were included in this shipment. It is believed that all FBI equipment that was in Mr. Conrad's possession has now been recovered.

D. Goods and Services of the FBI's Exhibits Section

The Department also investigated the allegation that FBI employees were required to provide goods and services to their superiors. The Exhibits Section of the FBI is staffed with accomplished craftsmen and artisans. Their official task is to design and construct exhibits for use in Department litigation and displays, furniture, and other exhibits for internal FBI use. The Radio Engineering Section is responsible for maintaining and servicing FBI electronic equipment. Interviews with past and present employees of those sections and an examination of photographs and personal logs maintained by some of them revealed that services were provided to FBI officials during official duty hours and that goods were

produced for FBI officials with Government property and equipment.^{7/} This constituted a misuse of Government time and materials, contrary to federal law and regulations. 18 U.S.C. 641; 28 C.F.R. 845.735-16. Prosecutions, where otherwise possible, are barred by the statute of limitations as virtually all of the following misconduct occurred more than five years ago. 18 U.S.C. 3282.

1. Director J. Edgar Hoover

Exhibits Section employees painted Director Hoover's house each year when he visited California during the summer. They built a front portico onto his house and dug a fish pond, equipping it with water pump and outdoor lights. They constructed shelves, telephone stands, and an oriental fruit-bowl. Home appliances, air conditioners, stereo equipment, tape recorders, and television sets, and electric wiring were serviced and repaired by Radio Engineering Section employees. Exhibits Section employees serviced his lawn mower and snowblower, maintained his yard, replaced sod twice a year, installed artificial turf, and planted and moved shrubbery. The Exhibits Section built a deck in the rear of his house, a

^{7/} No official documents, memoranda, or work orders were found which account for the work performed, the materials used, or the goods produced by Exhibits Section employees for the personal benefit of Bureau officials.

redwood garden fence, a flagstone court and sidewalks. A power window with sliding glass doors was also designed and constructed. Clocks were reset, metal polished, wall-paper retouched, firewood provided, and furniture rearranged. Employees were on call night and day for this work.

Mr. Hoover employed one grade 15 Bureau accountant to give him tax advice, maintain his tax records, and prepare his annual Federal tax return.

His secretary or two associates would generally make the work requests. Exhibits Section employees were called upon to build gifts for Director Hoover every year for Christmas, his service anniversary and other special occasions. These gifts included furniture such as tables, display cases, cabinets, a bar and valets. Assistant Directors chipped in to pay for cost of materials. Employee labor, however, was not compensated.

FBI employees called upon to perform these services did not think them proper, but felt compelled to follow orders for fear of losing their jobs, or of arbitrary transfers or promotion delays.

2. John P. Mohr

Mr. Mohr had car radios repaired, the body of his son's MG repaired and repainted, and an elaborate dental exhibit constructed for his son, a dentist. At his home, Exhibits Section employees shaved doors to accommodate new carpeting,

and Radio Engineering Section employees repaired his television numerous times, and installed phones, stereo hi-fi speakers (Mr. Mohr's property) and a burglar alarm system which required frequent servicing after installation (FBI property). They repaired his stereo and purchased and installed a new FM radio tuner in an existing cabinet which was modified by Exhibits Section employees. Mr. Mohr also received certain gifts made by the Exhibits Section, including a coat of arms, a dresser top valet, and an oak portable liquor cabinet in the shape of a wine case.

Exhibits Section employees painted a desk and made a drawing board for Mr. Mohr. They made, at his direction, a walnut cigar box, a walnut tape-cartridge rack, a walnut wine rack cabinet whose value has been estimated at \$2,000, and two walnut gun cases with glass front doors.

Mr. Mohr had employees mount snow tires, wash, and transport his personal automobile to commercial garages for repairs. A battery was installed in his car and a turn signal lamp was replaced by Exhibits Section employees. Mr. Mohr also received tapes of record albums which were copied and distributed by Radio Engineering Section employees at the direction of former Assistant to the Director Cartha D. DeLoach.

Mr. Mohr received services even after he retired in June 1972. Radio Engineering Section employees were sent to

his home, at his request, to repair electrical switches, televisions, and the burglar alarm system which had been installed earlier. Mr. Mohr also asked a Radio Engineering Section employee to repair his electric blood pressure machine. At Mr. Mohr's request to former Exhibits Section Chief John P. Dunphy, the Exhibits Section built a birdhouse according to plans he provided.

3. Nicholas P. Callahan

For Mr. Callahan, Exhibits Section employees silk-screened a felt cloth used for table games, cut doors at his house to accommodate new carpeting, printed maps showing the location of his beach home and finished styrofoam nautical objects to decorate it. They made walnut fishing rod racks for his beach home, assembled a lathe fence to prevent sand erosion at his beach home, and built a picket fence for his residence.^{8/} He had walnut shelves cut by section employees during official hours (he supplied the material), had a piece of plywood covered with weatherproof material for a shed roof, had Exhibits Section employees make a sign for his daughter and son-in-law with their name, and had former Exhibits Section Chief Leo J. Gauthier make a fuse box cover for the basement recreation room in his home. At his request, the Exhibits

^{8/} Contrary to the evidence obtained from Exhibits Section employees, Mr. Callahan stated that he paid for the material for the fences and installed them himself on personal time.

Section cast a desk memento in plastic for him to give to a friend and make him a set of stack tables which duplicated a set which had been made for Director Kelley (see below). Radio Engineering Section employees diagnosed troubles with his televisions and Exhibits Section employees framed his personal photographs.

Mr. Callahan also received various gifts. He received a framed plaque which recited an Irish prayer, a plaque bearing his coat of arms, a dresser top valet, a portable oak liquor cabinet in the shape of a wine cask, a decorative Christmas tree ball, and a gold medallion and chain for Mrs. Callahan into which a gold-disc with the FBI seal was set by the Exhibits Section (Mr. Callahan bought the medallion and chain). The valet and liquor cabinet were duplicates of gifts given to Director Hoover, Mr. Mohr and Mr. Dunphy.

Mr. Callahan also received considerable services to his automobile. Employees test drove his personal car, did diagnostic work on it, took it out for washes, fill-ups, snow tire mounting, and servicing at garages and muffler shops. Scratches on his car were touched up. (Some employees, however, recalled that the whole trunk lid on Mr. Callahan's car was painted.)

Mr. Callahan states that Mr. McMichael provided him with a Polaroid camera which he used for personal photographs.

Film for the camera was also provided at FBI expense. ^{9/}
He has since returned the camera.

4. John P. Dunphy

On August 13, 1976, Mr. Dunphy pleaded guilty to a misdemeanor charge under Section 641, Title 18, United States Code, as part of an agreement with the United States as a result of which he voluntarily tendered his resignation from his position as Chief of the Exhibits Section and cooperated with this investigation. ^{10/}

5. Director Clarence M. Kelley

On directions from Mr. Callahan shortly after Director Kelley and his wife moved to Washington, two sets of valances were made and installed in Director Kelley's apartment by the Exhibits Section and two television sets were purchased and installed by the Radio Engineering Section. After this investigation began, Director Kelley paid for the estimated cost of the valances. Director Kelley admitted he knew, after the

^{9/} Mr. Callahan testified that agents are allowed to take home cameras for personal use to maintain their proficiency with them. Agents assigned to this investigation verified that this is the case, but indicated that the practice is intended to maintain familiarity with cameras more complex than the Polaroid.

^{10/} A further term of the agreement was that he make restitution for the goods he received in an amount to be determined later between his attorney and attorneys for the United States. On September 28, 1976, Dunphy was fined \$500 and placed on probation. He returned all government materials to the Bureau, in accordance with the plea agreement.

job was done, that the Exhibits Section installed the first set of valances. When they proved unsatisfactory, he requested a second set to be built and installed. This set was also built and installed by Exhibits Section employees. The television sets were ordered returned by Director Kelley after this investigation revealed their source. Although Mr. Callahan said he directed that the televisions be loaned to Director Kelley, the sets were not entered on FBI equipment inventory until after their return from Director Kelley's apartment on February 19, 1976.

The Exhibits Section also built a walnut table, a set of stack tables, and a jewelry box which were given to Director Kelley as gifts from the Executive Conference. He was unaware that the Exhibits Section made the gifts, he said. The Conference, by donations from its members, paid for the materials used in these gifts.

Director Kelley's personal automobile received occasional servicing by FBI employees and his FBI-provided chauffuer performed personal errands for him. Section employees repaired a broken cabinet for Director Kelley, and mounted the FBI seal on a gold disc as a charm for the Director's wife.

6. Miscellaneous

The practice of providing FBI goods and services to high Bureau officials was not limited to the above individuals.

Clyde Tolson, long-time Associate Director under Hoover, had FBI employees develop several patented devices during

official hours. These included a reuseable bottle cap and a power window opener. These patents were assigned to the FBI. There was no evidence that Mr. Tolson personally benefited from the development of these devices. One of the power windows was installed for President Johnson in the White House. A second unit, designed and intended for President Johnson's ranch, was never completed.

E. Imprest Fund

There was evidence that an FBI official received reimbursement from the FBI Imprest Fund (petty cash fund) for personal purchases.

G. Speights McMichael, Chief Procurement Officer, denied that Imprest Funds were used for the personal purchases of Bureau officials. He stated that he did not check to see whether the purchases were proper. Under Federal law he was required, as the Bureau's chief procurement officer, to certify that each disbursement was proper and correct. Each voucher reads, in part: "I certify that the disbursements claimed herein are correct and proper..." Many of the personal purchases could have been used by the Exhibits Section and, therefore, could have escaped Mr. McMichael's attention. He admitted being derelict in his responsibilities as the Imprest Fund's cashier, disbursing and certifying officer.

F. Confidential Fund

Part of the FBI's annual appropriation is specified "not to exceed \$70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on his certificate." The most common use is for payments to informants. Contrary to the appropriation language and to Federal regulations, this money was drawn from the Treasury by travel vouchers that failed to reflect the actual expenditures. Top FBI administrative officers were, therefore, able to maintain in cash form these monies over which they exercised custody and control. Field Offices were given separate funds for payment of informants which were maintained in separate accounts in addition to the so-called "Confidential Fund" which was kept at headquarters. Also contrary to Federal regulations, the unspent portion of the yearly appropriation was accumulated. By 1974, the headquarters "Confidential Fund" totalled \$34,000.

Nicholas P. Callahan controlled the Fund from 1946, when he was Number One man to the Assistant Director of the Administrative Division, until July 1973, when he became Associate Director. John P. Mohr, Clyde Tolson, and Director Hoover could also authorize disbursements. A 1974 inspection of the Fund concluded that "no written guidelines exist pertaining to the utilization of this fund" and that separate records for this fund were kept by FBI administrative units

apart from the FBI's normal accounting system and were not subject to Treasury Department audit. This investigation revealed uses of the "Confidential Fund" maintained at headquarters by FBI administrative officers that were not within the scope of the appropriation.^{12/}

This investigation revealed that between August 1956 and May 1973 the Bureau purchased over \$75,000 worth of electronic equipment with money from the Confidential Fund. No memoranda, purchase orders, requisitions, vouchers or similar documentations were located indicating why the equipment was purchased or who requested it.

Mr. Callahan acknowledged that Mr. Mohr and he decided to use Confidential Fund monies to purchase electronic equipment. This was not done to disguise the nature of the equipment, he said, but to expedite large purchases of equipment.

The Confidential Fund was also used to pay for public relations expenses. Between 1961 and 1975, \$23,399.15 of Confidential Funds were spent on room rentals, food, drink and gifts for the liaison officers of foreign and domestic law

^{12/}

Title 31 U.S.C. 628, a non-criminal statute, prohibits the use of appropriated funds for a purpose not specified in the appropriation. The Counsel on Professional Responsibility has requested the Department's Office of Management and Finance to review these facts, to take necessary administrative action to prevent the recurrence of this conduct, and if appropriate, to refer the matter to the Comptroller General for possible recovery actions against responsible disbursing officers.

enforcement and intelligence gathering organizations.

Mr. Callahan approved disbursements for liaison functions.

There was also evidence that Mr. Mohr, and, to a far lesser extent, Assistant Director Eugene W. Walsh, and Deputy Associate Director Thomas J. Jenkins also authorized such disbursements. Director Kelley recalled such an authorization by himself on one occasion.

One of these officials stated that any expenditure which in any way aids "the detection and prosecution of crimes against the United States," including liaison functions, is justified under the FBI's total appropriation and that the Confidential Fund was used only to expedite reimbursement. He admitted, however, that the Confidential Fund had been obtained on the representation to Treasury that they would be used for "unforeseen emergencies of a confidential character." Congress had not been informed that the Bureau was incurring public relations and liaison expenses and paying them out of the Confidential Fund. The Bureau had never submitted a formal request to Congress or the Office of Management and Budget for the proper budget authority to make these Confidential Fund expenditures. Title 31, United States Code, Section 551, which prohibits the use of appropriated funds for lodging, feeding, or providing transportation to an assemblage, can be interpreted specifically to prohibit the use of the Confidential Fund for public relations and liaison purposes.

This investigation also revealed that FBI officials used the Confidential Fund to cash personal checks. This practice was stopped after Mr. Walsh was questioned about the practice on May 21, 1976.

No evidence was found indicating that any senior official applied these appropriated funds to his own use.

G. The FBI Recreation Association

The FBI Recreation Association (FBIRA) was founded in 1931 for the purpose of promoting and encouraging athletic, social and welfare activities among its members. The FBIRA is an independent and tax-exempt organization whose membership is voluntary. The Association's funds were spent on athletic and social functions, group travel, clubs, hobbies, art shows, and publication of The Investigator, a monthly magazine reporting on FBIRA activities. Its constitution and bylaws provide for the election of officers and a five-member Board of Directors.

This investigation revealed that between September 1951 and June 1972, Nicholas P. Callahan obtained \$39,590.98 from the FBIRA designated for the "Library Fund." The Association's records contain no explanation or authorization for these disbursements. No disbursement requests or vouchers were found. Mr. Callahan was the Library Fund's only recipient and maintained the only records of its expenditures. Mr. Mohr periodically reviewed the records. Shortly after Mr. Hoover

died, Mr. Callahan and Mr. Mohr discontinued the Fund and destroyed its records. Neither of the two FBIRA treasurers who served during this period knew why the fund was named the Library Fund in the FBIRA Disbursements Journal. The treasurers understood that these "Library Fund" disbursements were for Director Hoover's public relations expenses, such as office flowers, condolence telegrams, and for unspecified office expenses, such as books and newspapers.

Only Messrs. Hoover, Tolson, Callahan, Mohr, and the treasurers knew about the "Library Fund" and disbursements were made to the Fund without the authorization of FBIRA officers whose approval is required under the FBIRA charter. Mr. Callahan asserted that the disbursements were for official public relations and liaison functions for which appropriated funds are unavailable under law and that they were proper under a broad interpretation of the FBIRA constitution's "general welfare" clause because money spent promoting the FBI's general welfare is in the best interest of its employees.

The investigation also revealed that \$55,849.77 of FBIRA funds were expended on receptions for National Academy students and guests between April 8, 1958, and June 20, 1972. The National Academy is an FBI operated training and education facility for local law enforcement personnel around the country. The receptions were not FBIRA activities and they were not open to FBIRA members. About half the cost of the receptions

was borne by those attending the receptions so that net cost to the FBIRA after offset by these donations was \$29,443.67. The FBIRA constitution and bylaws do not provide for expenditures for such functions as National Academy receptions.

From July 1952 to December 1975, another \$12,219.90 of FBIRA funds were spent on miscellaneous or liaison expenses and on receptions, luncheons, retirement parties, and gifts for foreign law enforcement liaison officers, and senior FBI officials. The funds also covered the cost of FBI press receptions and other public relations expenses. Director Hoover, Mr. Callahan, Mr. Mohr, Mr. DeLoach, and Mr. Walsh, not the FBIRA Board of Directors, approved these disbursements, according to the records.

The above facts established that, from 1951 to 1975, high officials of the FBI obtained funds from the FBIRA for public relations and other uses not authorized by its charter and without obtaining the approval of its Board of Directors. There is no evidence that these Bureau officials converted the money to their own use and, therefore, no evidence of criminal intent as required under Title 18, United States Code, Section 654.

H. Special Agents Mutual Benefit Association (SAMBA)

SAMBA is an unincorporated association designed to provide life and health insurance to FBI employee members. The Prudential Insurance Company has been SAMBA's underwriter

since SAMBA was founded in 1948. SAMBA is independent of the FBI, with private offices at 1325 G Street, N.W., Washington, D.C.

This investigation uncovered questionable expenses from SAMBA books and records. The amount of \$635.21 was withdrawn from the SAMBA account to pay for a retirement party and gift for Mr. Mohr. \$310.22 of this withdrawal covered the price of a Sears Roebuck fishing boat, which was delivered to Mr. Mohr by FBI employees. One SAMBA officer admitted that SAMBA funds were used, in disregard of its charter, to pay for retirement parties, luncheons, and gifts for out-going SAMBA officials and Directors. Other questionable expenses included two professional football season tickets for the use of a SAMBA official, Saturday work charges, wedding and anniversary gifts, and annual Christmas parties.

Director Kelley and his wife, along with Mr. and Mrs. Mohr, Mr. and Mrs. Thomas Jenkins, and SAMBA President Thomas J. Feeney, Jr., and his wife, attended a weekend meeting in New York City with officials of Prudential Life Insurance Company, which underwrites the SAMBA policy. Director Kelley's travel from Kansas City, Missouri, to New York and return to Washington, D.C., was by Government Travel Request (GTR). Travel for Mrs. Kelley and the others was paid by SAMBA. Prudential paid all other expenses. Director Kelley subsequently reimbursed Prudential for these expenses.

I. FBI Officials' Relations with Firearms Suppliers

The Remington Arms Company, which bids on arms and ammunition contracts with the FBI, maintains a 300-acre working farm and game preserve in Chestertown, Maryland, called Remington Farms. On January 3 and 4, 1972, Remington hosted three FBI officials at Remington Farms and paid for their room, board, hunting licenses and stamps at a cost of \$203.50. Twelve other FBI officials were hosted at the Remington Farm on three subsequent occasions, costing the arms dealer an additional \$1,168 in room and board.

Remington also paid for liquor, ammunition, guides and game shot on these four weekends. Although a breakdown by individual is not available for these costs, Remington spent a total of \$2,013.96 for forty seven individuals for the four weekends. Fifteen of the forty seven guests were then active FBI officials.

FBI records show that the Remington Firearms Company has not been awarded a firearms contract since 1971. The hunting weekends mentioned above all occurred after 1971. Six ammunition (not firearms) contracts have been awarded to Remington since fiscal year 1971, but each of these contracts was solicited and awarded after open bidding by the Justice Department. Although several of the FBI officials who attended the hunting weekends were in a position to influence the awarding of arms contracts, no arms contracts were awarded

to Remington during the 1970's. Nor were arms contracts awarded during this time to Winchester Firearms Company which hosted a hunting weekend for three Bureau officials in 1973.

The Federal illegal gratuities statute, Title 18, United States Code, Sections 201(f) and (g), requires that the gratuity shall be "for or because of" an official act. This investigation found no evidence that the recipients of the gratuities did anything for Remington or Winchester, and therefore, there was no evidence warranting prosecution under this statute. The evidence does indicate that the Departmental regulation prohibiting the accepting of gifts or entertainment from those having or seeking a contractual relationship with the United States was violated. 28 C.F.R. §45.735-14(a). Moreover, the evidence shows that these employees also violated the general Departmental prohibition against conduct creating the appearance of impropriety. 28 C.F.R. §45.735-2. The Attorney General has referred this matter to the FBI Director with instructions to take appropriate administrative action against these employees.

J. Miscellaneous Allegations

1. Financial Dealings Between Joseph C. Palumbo and John P. Mohr

This investigation received information from the House Select Committee on Intelligence that John P. Mohr and Joseph C. Palumbo of Charlottesville, Virginia had had improper

financial dealings. Mr. Palumbo and Mr. Mohr entered a financial arrangement in late 1972, after Mr. Mohr had retired from the FBI. The transaction was entirely lawful and at arms length and no evidence was found that Mr. Palumbo ever discussed the FBI or its activities with Mr. Mohr.

2. Official and Confidential Files

During 1975, an investigation was conducted into the disposition of the "official and confidential files" of J. Edgar Hoover following his death in May 1972. The inquiry determined that the files were turned over to Assistant Director W. Mark Felt by Miss Helen W. Gandy, Executive Assistant to Mr. Hoover, on May 4, 1972, and now are located at FBI headquarters. No evidence was found that official FBI files of any kind were removed to Mr. Hoover's home following his death.

PART II

A. Summary and Actions Taken Against Principal Subjects

1. John P. Mohr

(a) Mr. Mohr was Assistant Director for the Administrative Division of the FBI and the Assistant to the Director. He was primarily responsible for using USRC as an exclusive supplier of electronics equipment to the FBI. His conduct towards USRC violated 28 C.F.R. §45.735-2(b) and (c)(2) (prohibiting employees from giving preferential treatment to any person outside the Department). He received a few gratuities (tape deck, Christmas gifts) from Mr. Tait. No evidence was found that he was bribed, but he violated §45.735-14(a)(1), which prohibits employees from accepting gifts from those doing business with the Department.

(b) FBI employees provided goods and services to him as described above. This arguably violated 18 U.S.C. 641 (conversion of government property to his own use), (prosecution barred by the statute of limitations), and 28 C.F.R. §45.735-16 (misuse of federal property).

(c) Mr. Mohr was also responsible, along with Mr. Callahan, for using FBI Recreation Association and Confidential Fund monies for unauthorized public relations purposes. This matter has been referred to the Department's Office of Management and Finance for appropriate action (see footnote 12 above). In 1972, he attended an expense paid hunting weekend at Remington Farms, an FBI arms

supplier. This is a violation of the Department prohibition against accepting gifts from those doing business with the Department, 28 C.F.R. §45.735-14(a)(1).

(d) No action has been taken against Mr. Mohr. He retired on June 30, 1972. Criminal action under all of the above federal provisions is barred by the five year statute of limitations.

2. Nicholas P. Callahan

Mr. Callahan was Assistant Director for the FBI's Administrative Division and later Associate Director. In 1976, pursuant to Attorney General Levi's order, he was asked to resign as a result of this investigation. He did resign.

(a) Mr. Callahan was responsible for improperly diverting thousands of dollars of FBIRA and Confidential Fund monies to official FBI public relations activities. The funds were not authorized or appropriated for public relations activities. There was no evidence that he converted these funds to his personal use, and therefore, no evidence warranting prosecution. This matter has been referred to the Department's Office of Management and Finance for appropriate action. (See footnote 12 above.)

(b) Mr. Callahan admitted receiving FBI goods and services. FBI employees decorated his beach house, built a fence,

walnut shelves, and other furniture for his residence. The statute of limitations bars prosecution of Mr. Callahan for receiving government property in violation of 18 U.S.C. 641.

(c) No evidence was found that Mr. Callahan was bribed or that he received illegal gratuities.

(d) No further action has been taken against Mr. Callahan.

3. Ivan W. Conrad

Mr. Conrad was employed by the FBI Laboratory in many positions from 1934 to 1973. He retired on July 12, 1973, as Assistant Director of the Laboratory.

(a) Mr. Conrad took many pieces of electronic recording and amplifying equipment home with him and used them for his own benefit. Mr. Conrad asserted he had the equipment for legitimate purposes. The Department recovered all equipment, and Mr. Conrad tendered a \$1,500 cashier's check to pay for his use of the equipment.

(b) No further action has been taken against Mr. Conrad. Prosecution was barred, in the judgement of the Criminal Division, by the statute of limitations and because of the lack of evidence showing criminal intent on the part of Mr. Conrad.

4. Clarence M. Kelley

Director Kelley received the limited amount of goods

and services described above. He was not involved in any of the other matters which are the subject of this report. Attorney General Levi and Deputy Attorney General Tyler determined that no disciplinary action was called for, but that Director Kelley should reimburse the Bureau for the goods and services he received. That has been done and no further action against him has been taken. Director Kelley should be given credit for putting an end to the improper practices described in the report. His cooperation greatly assisted Departmental investigators in uncovering the facts. His cooperation made this report possible. It should also be noted that Director Kelley was primarily responsible for bringing about the internal reforms set forth in the final section of this report.

5. G. Speights McMichael

Mr. McMichael is no longer in charge of, but continues to work in, the FBI's Property Procurement and Management Section. He is no longer cashier of the Imprest Fund, a petty cash reimbursement fund.

(a) Mr. McMichael clearly neglected his responsibilities in managing the Imprest Fund. There is some evidence that he permitted violations of procurement procedures to favor USRC in the purchase of electronic equipment.

41 U.S.C. 252(c)(12). There is no evidence of bribery.

(b) While serving as the FBI's chief procurement officer, he attended an expense paid hunting weekend at Remington Farms. This is a probable violation of the Department regulation prohibiting the receipt of gifts from those doing business with the Department. 28 C.F.R. §45.735-14(a)(1).

(c) The evidence that Mr. McMichael knowingly approved Imprest Fund reimbursement for the personal purchases of an FBI employee is not substantial. There is no evidence that he converted government money to his own use.
18 U.S.C. 641 and 643.

(d) McMichael clearly failed to meet his responsibilities as the FBI's Chief Procurement Officer and probably violated 28 C.F.R. §45.735-13 (misuse of official position) and §45.735-16 (misuse of federal property). His attendance at Remington Farms probably violated §45.735-14 (gifts from Department contractors). He failed to assist Department investigators. The statute of limitations bars criminal action against Mr. McMichael. These matters have, however, been referred to the Director with instructions to institute appropriate administrative action against him.

6. Joseph X. Tait

(a) On June 20, 1977, a jury acquitted Mr. Tait of charges that he understated his income in 1971, 1972 and 1973, in violation of 26 U.S.C. 7201.

(b) A jury acquitted Mr. Tait on all counts of charges that he violated 18 U.S.C. 287 (false claims on the United States), 371 (conspiracy to defraud), and 1341 (mail fraud).

(c) Further comment regarding Mr. Tait is considered inappropriate because, unlike the other subjects of this report, he is not a government official.

B. Possible Civil Actions

1. U.S. Recording Company

The Department is considering taking civil action to invalidate USRC contracts and recover the excess profits obtained from the Bureau. The basis of such a suit would be the clear breach of applicable government procurement regulations. The Civil Division is now evaluating the relevant facts to determine whether the Department should institute a civil recovery action against the United States Recording Company or its president.

2. Conversion of Government Property by Bureau Officials

Civil actions may not be instituted because: the actual amounts involved are small compared to the expense of litigation; there would be substantial

difficulty in fixing the government's loss with any appreciable accuracy; and, much of the government's property has already been returned. In addition, civil action may be barred by the statute of limitations.

3. Imprest Fund

Approximately, \$1,700 was diverted from that fund for clearly improper purposes. The property obtained with Imprest Fund monies has been returned to the Bureau. This matter has been referred to the Department's Office of Management and Finance to review the facts, and to take necessary administrative action.

4. Confidential Fund

Approximately, \$75,000 was spent to purchase electronic equipment and \$23,000 was spent over a fifteen year period on public relations type matter. This matter has also been referred to the Department's Office of Management and Finance for appropriate administrative action.

5. FBI Recreation Association

Monies from the FBI Recreation Association were improperly diverted. According to the Civil Division, the Government lacks standing to initiate any civil action, except under a somewhat strained theory of parens patriae. Accordingly, no civil action will be instituted regarding this matter.

C. Action Taken to Prevent Recurrence

Within the last fifteen months, Director Kelley has taken the following corrective measures to prevent the recurrence of the improper practices described in this report. He has:

1. Reorganized the Inspection Division and renamed it the Planning and Inspection Division; created the Office of Professional Responsibility, an Office of Inspections, and an Office of Planning and Evaluation; established within the Office of Inspections a separate Audit Unit, responsible for auditing all FBI funds and financial transactions; and organized the Division so that it reports directly to him, as Director.

2. Removed the Property Procurement and Management Section from the Division with budget responsibility, the Finance and Personnel Division, thereby making one Division head responsible for procurement and another responsible for the FBI budget and funds. Director Kelley has placed a Special Agent Accountant, a Certified Public Accountant, as Section Chief of the Property Procurement and Management Section.

3. Discontinued the use of the U.S. Recording Company as a "cover" or "cut-out" for confidential purposes and established controls to ensure that all purchases are made in accordance with government regulations.

4. Restructured the FBI inventory system, to provide built-in controls and audit trails, and initiated automation of the inventory system to provide better accountability.

5. Discontinued the FBI Laboratory and Exhibits Sections' practice of providing personal services to FBI officials. Director Kelley also has discontinued the use of the unauthorized cash fund once maintained in the Exhibits Section.

6. Reorganized the management and handling of the FBI Recreation Association (FBIRA) and its funds, so that FBIRA officers are aware of their responsibilities to prevent unauthorized expenditures. A new treasurer of the FBIRA has taken office and is not responsible for any other FBI fund.

7. Replaced the FBI Confidential Fund with the Field Support Account, an imprest fund approved by the Treasury Department and administered in accordance with Treasury and Justice Department regulations.

8. Developed and improved the FBI career development program for Special Agents to ensure that the best qualified individuals are selected for administrative advancement, substantially reducing the possibility that one person or group can control the selection of such candidates.

In addition to these administrative measures, the FBI has increased legal instruction within its training curriculum; held training sessions on the FBI guidelines for career agents; and issued detailed instructions to the field on legal questions concerning the legality and propriety of investigative techniques. The FBI is also posing such questions to the Department's Office of Legal Counsel with increasing frequency.

On January 3, 1978, the Attorney General referred the entire U.S. Recording Company matter to the FBI and instructed the Director to initiate administrative proceedings against G. Speights McMichael and other FBI employees whom the Director considers to be appropriate subjects for administrative action. The Attorney General requested the Director to keep him advised by informing the Department's Counsel on Professional Responsibility of all administrative action taken.

Finally, the Attorney General has asked Director Kelley to bring to the Attorney General's attention any improper attempts to have FBI agents conduct investigations or undertake activities which are not within the Bureau's authorized jurisdiction. The Attorney General has also directed all Bureau personnel to bring reports of misconduct to the attention of appropriate Bureau officials, and when necessary, the Office of Professional Responsibility at the Bureau and at the Department of Justice.