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HERMAN: Mr. Webster, after all the many years of finding that FBI agents have committed illegal acts, and have committed improper actions, what have you done--what assurances do we now have that the FBI is under proper self-disciplined control?

MR. WEBSTER: I suppose that the place to start are the 1976 guidelines, which definitively set forth what is expected of FBI agents and the FBI in the conduct of investigations. Since that date, there has not been one successfully-made claim of a constitutional tort against an agent of the FBI. I think that speaks for itself, and for the quality and discipline of the men and women in our organization.

ANNOUNCER: From CBS News, Washington, a spontaneous and unrehearsed news interview on FACE THE NATION, with the Director of the Federal Bureau of Investigation, William H. Webster. Judge Webster will be questioned by CBS News Law Correspondent Fred Graham; by Anthony Marro, Bureau Chief, Newsday; and by CBS News Correspondent George Herman.

HERMAN: Judge Webster, you say our protection is, at least for the time being, the guidelines which you say definitively set forth what an FBI agent may do and may not do. Another district judge, federal district judge, if I may remind you, has ruled that those guidelines are not definitive, that they do not bar similar violations to those in the past; so there seems to be some disagreement as to whether they will actually protect us or not.

MR. WEBSTER: I think you must be referring to a single case--

HERMAN: Yes.

MR. WEBSTER: --in Detroit. Those are preliminary rulings, and they're very narrow, if you follow them. They simply decline to grant

the government's motion for summary judgment, which meant that there was an arguable issue of fact on that question. He--the same judge did hold that our investigations did not violate the Fourth Amendment or search and seizure rights, and simply said that on motion basis, he couldn't say as a matter of fact that the guidelines would in no case violate someone's--someone's rights.

MARRO: Aside from the question of what's actually in your guidelines, and the legislative charter, which we're supposed to have announced this week, Congressman Edwards from California, who runs your oversight group on the Hill, insists that any guidelines or charter are worthless if he can't exert real congressional oversight, and that he can't do this unless he can monitor your informant program. Why have you objected so strongly to letting at least the Congress have access to your informant file?

MR. WEBSTER: Mr. Marro, first, the--the informant is, as in all forms of law enforcement, the single most important tool that we have. It's a very sensitive tool; we do not receive confidential information, either at the street crime level or as high as federal judges, when the perception is there that other people have access to that information. We have endeavored as best we can--and I'm still working on ways and means to satisfy the congressional committee's responsibility for oversight, to which I fully subscribe--that we are complying with all of the regulations, and are insisting on compliance with our own regulations.

I recently completed a study of all of our informant files and about a thousand files that have been closed, to determine the degree of compliance within our own organization. I will report to the oversight committee very shortly on that, and provide them with the report.

But it's a difficult perceptual problem to a person whose life may be in danger, whose reputation may be on the line, who may be subject to other forms of intimidation, to tell him that various other people besides the FBI may have access to his files.

GRAHAM: Judge Webster, one of the problems of oversight in the past has been that when the House and Senate and the GAO were looking into allegations of break-ins and other abuses, in the very recent years, there were allegations afterwards that FBI officials lied to them. And in fact, facts came to life later that there had been more break-ins than had been reported. You were assigned the task of finding out who lied. More than a year has passed, and we haven't heard from that, although I understand that a report is now on--

MR. WEBSTER: Yes.

GRAHAM: --your desk. Will you tell us now who lied, or when are we going to know who lied, and is anyone going to be punished?

MR. WEBSTER: Right. As you know, I took care of the 68 agents who had been referred to me for disciplinary action or possible disciplinary action by the Attorney General, at the same time that the Deputy Attorney General asked for such explanations as I could provide as to the failure of the FBI to accurately^{convey} to the committees the information that they requested. I've had a very thorough and extensive inquiry by my Planning-Inspection Division, Office of Professional Responsibility, and I'm going through the details of that report at the present time. I have seen the summaries of those reports, and there are indications that there was a shortfall in candor in some quarters, largely retired and out of my--

GRAHAM: You mean they lied.

MR. WEBSTER: I don't want to use those terms in the context of this investigation, because there were--there were arguments about what was asked for, and there were interpretations based on what was asked for that were very constricted. There was a problem of whether or not this--some of this information related to national security matters. There was another problem that I think I've already corrected, and that is the ambiguity that pervaded intelligence investigations in the past--words like anonymous source, sensitive source, were often applied when we were talking about a surreptitious entry.

The internal procedures I've put into effect preclude the use of those terms without actual identification of the technique and what was done, and so forth, so that anyone now being asked to respond to those questions would have no difficulty in giving an accurate response.

GRAHAM: May I just ask you, will anyone be punished, and if not, will the names of the responsible persons be made public?

MR. WEBSTER: I can't answer that question completely because it--my response has to go to the Deputy Attorney General. In terms of punishment, this was not a disciplinary request; it was a factual inquiry. There may be some punishment. As I pointed out, virtually all of those to whom the finger points are out of the control of the FBI and have been for some time.

MARRO: Are they outside the statute of limitations as well?

MR. WEBSTER: Well, I'm not sure what criminal statutes are involved here, Mr. Marro.

MARRO: Obstruction of a congressional investigation, obstruction of justice.

MR. WEBSTER: I can't answer the question, because I'd have to

think in terms of the date. Very possible--

MARRO: This is very possibly perjury if somebody testified before a congressional committee.

MR. WEBSTER: I don't think that there is any evidence of perjury, because I think those who testified were testifying on the basis of information supplied to them by others who had not done as scrupulous a job, or who had made their own interpretations about what they had to disclose.

GRAHAM: Will the facts be made public?

MR. WEBSTER: Well, I--I certainly think that as much as I can make public will be made public. It's a long and extensive internal investigation. I have no desire to conceal anything. It's simply a report on what happened some time ago.

GRAHAM: Names of responsible people--will they be made public?

MR. WEBSTER: The investigation, of course--those who didn't want to cooperate with the investigation were not--did not have to if they were outside the Bureau. So it's a little like my trying to go into some of the speculation that some more recent committees of Congress have given. I just don't want to--want to lay out names and say these people may have been responsible or they may not have. I'll try to be as accountable as I can.

GRAHAM: But isn't there a problem here? Years of allegations, illegal activities, break-ins, wiretaps, mail openings--and almost no one has been published, and you won't--you're not telling us you're even going to say who did it. What kind of--what kind of--how can the American people be confident that the FBI is in control?

MR. WEBSTER: Well, we're talking about incidents of some years

past. The investigations that have--are some time after the fact. We've done the best job we can to answer the questions of the Deputy Attorney General, and let's see how the report looks and see whether it's sufficiently complete. We really have done the best we can.

HERMAN: But you know, Judge Webster, not too far from your building is a statue with a sign on it that says what is past is prologue.

MR. WEBSTER: That's right.

HERMAN: The best guardian in the American tradition, of the security of these matters, keeping them from straying over the--out of the range again--is scrutiny, and public scrutiny.

MR. WEBSTER: Yes, indeed.

HERMAN: Now you're proposing, as I understand it, to restrict Freedom of Information Act access to files for something like seven years. Is that correct?

MR. WEBSTER: Criminal investigative files. I've made a number of suggestions to fine-tune the Freedom of Information Act. I believe in freedom of information and as much disclosure as is possible. I also know that I am charged with administering a bureau responsible for protecting the safety of the American people in terms of federal crimes assigned to its jurisdiction. There has to be a balance between disclosures which imperil the lives of confidential informants and restrict the amount of information that we receive, and the public's need to know the contents of criminal investigative files.

MARRO: In the case of informants, there are at least two cases we know of--one in Newark and one in Cleveland--where informants were killed after--after, not necessarily because--information about their cooperation was stolen from FBI files, by FBI employees, and sold to

organized crime figures. There are no cases that we know of yet where informants have been harmed because of information obtained from the FOI. Can't a case be made that the real problem isn't the Act but the inability of the Bureau to safeguard, protect its own files?

MR. WEBSTER: I don't think so. The Newark case did not involve the disclosure of names of informants. The Cleveland case did. When we found that incident, we arrested the employee and her husband; they were convicted and have been sentenced promptly. That, to my knowledge, is the only incident of informant information being given out by an employee of the FBI. The perception--and I've been around the country a lot in the last year and a half; I've visited 35 cities in 21 states, and I've talked to agents everywhere I've gone, and I've visited 19 Field Offices--the perception of the informant is that if his name is made available, through the Freedom of Information Act, he's just not going to supply information.

Now, we've documented that for the Government Accounting Office; we've given instance after instance of shrinkage of information, information that we should have had--including information from federal judges.

(MORE)

MARRO: Well, doesn't the FBI manual, though, instruct agents at the start that they're supposed to tell informants that there is always the chance that they may have to testify in trial, that they really can't assure them of absolute confidentiality?

MR. WEBSTER: The manual says that we will do everything that we can to protect confidentiality, because in many cases it could be out of our control. If the Justice Department in the course of litigation acceded to a demand for disclosure, it would be out of our control.

HERMAN: Well, let me back back to my--my basic thrust, which was even assuming, as you say--and I have no reason to doubt it--that the FBI is now under control and is doing nothing improper or illegal, still, our Constitution is based on checks and balances--

MR. WEBSTER: Yes.

HERMAN: --and powers to survey. If you are going to close off freedom of information because of the danger to informants, the other, traditional, avenue in this country has been lawsuits. If an FBI agent or any other officer of the government commits some illegal act, the citizen may start a lawsuit against him. Now you're proposing to close that off too, as I understand it.

MR. WEBSTER: No, I'm not. The amendments to the Freedom of Info-- to the federal tort claims act, which has the support of the chairman of the Judiciary Committee, and the Attorney General, would simply substitute the United States as a party defendant in any constitutional tort suit brought against a law enforcement agent. Now, that does a number of--of salutary things. It provides a solvent defendant for whoever's a victim. It does not, as the question may imply, relieve the agent from criminal sanctions, or from my discipline, if he in fact

did violate our regulations in the course of an investigation, but it makes sure that we have aggressive and determined special agents who have to make, quote, tough calls in close situations and protects their families and them from the risk of extensive litigation and thereby, in my view, better safeguards the interests of the American people as a whole, while at the same time protecting the victim by providing a solvent defendant.

GRAHAM: Judge, the other day, a friend--a man I know--called me because he heard you were going to be on this program, and he read to me an affidavit that had been filed by one of your top officials in a case in which a lawsuit of this type is going on, and he had demanded information from two files that he had reason to believe showed misconduct by the FBI.

MR. WEBSTER: Was this a discovery request, or a freedom of information--

GRAHAM: It was a discovery request in case, and the answer was, in both cases, the files had been destroyed, and as you know, there was a lawsuit filed last week by a consortium of civil rights groups, asking that--the courts to stop the FBI from destroying files. So there is a perception that files that might show misconduct are being destroyed, and at the same time, the FBI is asking for a seven-year limitation on getting to these files, and perhaps that would permit plenty of time to destroy them and maybe the outcome would be that if wrong things were being done, there would be no way to ever find it out.

MR. WEBSTER: That's a--that's a concern that is absolutely without foundation. Now, first of all, our destruction policies are--are on the record; they are approved by the archivist. We are not de-

stroying files at the present time at headquarters, where almost all of our files are located. The files that we do want to destroy, for simple good management--business management reasons, are in the field, in the 59 field offices, which are largely copies of documents currently on file in the FBI.

We would want to do that not only so that we could be sure we were complying with freedom of information requests as promptly as possible by going to the one place where we would normally look, which is our headquarters files, and because it's simply not good management to keep all those carbon copies out in the field. This will not be a catch-22. I have assured those to whom I have made the suggestions that we will never ask for a moratorium that would preclude a proper look-see at our records.

GRAHAM: May I change the subject? Just recently the House Assassinations Committee reported that it might be a good idea to reopen the assassination of President Kennedy, and Martin Luther King, and suggested that the FBI might have had it wrong. What do you think? Do you want to reopen it? Do you think you might come to a different conclusion than before?

MR. WEBSTER: Well, I don't want to make a hasty judgment on that. The Committee has completed a two and a half year investigation; it spent about \$5 million in the process; the report, I understand, is some 26 volumes; I understood as late as last night the FBI has not yet received a set to review. We will review it--you can all buy it tomorrow morning, I understand, from Bantam Books--and we will review it and we will review it very carefully. I know that the committee, based on its conclusions earlier this year, did not fault the--or associate the FBI with any involvement in either of those assassinations.

It did come to the conclusion that the--that Oswald and James Earl Ray were the people who in fact committed the assassinations, and the only questions that are really up for grabs at the present time is whether or not there is any substantial evidence of conspiracy involving any other people.

Now, those tragedies occurred in 1963, 1964; a long time ago. Whether or not they should be reopened will be largely in the judgment of the officials of the Justice Department and such advice as we can give -- bring to bear on our ability to conduct a subsequent successful investigation, and whether or not the Congress is willing to commit the funds necessary for--

HERMAN: Do you have any time scale for that? How long will it take you to study and make some recommendations?

MR. WEBSTER: Well, I haven't any idea on that; / we all--we ran some preliminary figures to see what would be involved in the accoustical evidence in the Kennedy case, and depending on the scale of the investigation, that could cost from \$50,000 to a million dollars, depending on how accurate and complete the testing would be, but it'd be my recommendation to the Attorney General that if such a ¹reevaluation is made, it'd be made by an independent contractor, so that there'd be no question about our trying to vindicate our original conclusions.

MARRO: I'd like to ask a question about personnel practices at the FBI. You had a--a couple of cases in recent weeks where there were-- I think two, maybe just one--file clerks who were dismissed from the bureau because they were homosexuals.

MR. WEBSTER: One.

MARRO: One, okay. Is there any real--is there any real challenge

to the national security, or the integrity of FBI operations, by having homosexual file clerks pushing mail carts through the J. Edgar Hoover building?

MR. WEBSTER: Let's--let me try to answer that question without directing it to the particular case that's involved, because that's going through the administrative process, and I have not received the formal appeal.

All of our employees at FBI headquarters have top secret clearance, and therefore presumably have access anywhere in the building, although we have internal restrictions that would protect the most sensitive material from any employee who just happened to come along.

Law enforcement generally has been troubled by this problem. Traditions in law enforcement--and I've checked around all the different federal agencies and I know the posture in state and local law enforcement--has been that there is a potential for compromise for those who engage in such conduct which is generally not approved by society, and in some places, illegal.

Now, we treat it as a factor, and I must say in candor, it's a significant factor. It's a troublesome thing; I hope that the particular case will be handled with fairness and justice and I hope that at some point we will have a better understanding of the problem and the policy that should be addressed to it.

(MORE)

GRAHAM: In a related way, Sir, in the old days, J. Edgar Hoover days, they used to transfer to Dubuque an agent who spent the night with a person of the opposite sex not his spouse. Is that still the rule?

MR. WEBSTER: No, that's not the rule. We're trying to stay out of people's private lives unless their conduct, and the emphasis is always on conduct not on personal beliefs, impacts upon the effectiveness of that individual and the Bureau and the area in which--

GRAHAM: So an agent can live with a person of the opposite sex?

MR. WEBSTER: Well, I don't have a policy for or against that conduct but how the Bureau is seen is important in our effectiveness.

HERMAN: The Bureau has just entered after briefly ducking out of the New Jersey kidnaping case. Do you have anything new to tell us about that this morning?

MR. WEBSTER: No, I do have some information about it but I'm not at liberty to discuss it.

HERMAN: Is it promising?

MR. WEBSTER: We have leads.

(MORE)

MARRO: It's been a couple of months since Mr. Adams left as the number two official in the Bureau and he still hasn't been replaced. Is this because you don't have any person in your executive confidence who is competent or does it mean that maybe you'll look outside the FBI structure?

MR. WEBSTER: Well, I've considered both outside and inside. I made up my mind not to be in a hurry on this particular appointment because it is likely one that will be with me for a while. I am going to do some restructuring, taking advantage of the talent that's there. It is not because there is no one qualified but I want to be sure that when I do make that appointment that I have someone who is the most qualified I can find.

GRAHAM: Judge Webster, there was a recent allegation by a former official now deceased, Mr. Sullivan, that the FBI suspected that there was a Soviet agent in its New York office back in the 60's. Can you confirm that for us and can you tell us anything about it?

MR. WEBSTER: Well, I saw the same advance information. I made the inquiry. There was some information never validated. There was an attempt to either prove it or disprove it. It was never proved.

GRAHAM: There was a suspicion then?

MR. WEBSTER: Well, there was a suspicion in some quarters.

HERMAN: You turned your attention in new directions, white collar crime and so forth. Are you satisfied though with the FBI's grip on the problems caused by Mafia killings or reputed Mafia killings as we recently had?

MR. WEBSTER: Well.....

HERMAN: In brief....

MR. WEBSTER: When the day comes that I say we can't improve our performance, that will be time for a new Director. And we're working hard in specific areas and with specific programs to improve our effectiveness there.

HERMAN: Thank you very much for being our guest today on FACE THE NATION.

ANNOUNCER: Today on FACE THE NATION, the Director of the Federal Bureau of Investigation, William H. Webster, was interviewed by CBS News Law Correspondent Fred Graham, by Anthony Marro, Bureau Chief NEWSDAY, and by CBS News Correspondent George Herman. Next week, another prominent figure in the news will FACE THE NATION.