

FBI Ex-Officials' Trial Is Postponed Until May

2/23/80
By Charles R. Baklock
Washington Post Staff Writer

The conspiracy trial of former top FBI officials W. Mark Felt and Edward S. Miller has been postponed again because of continued difficulties with national secrets.

U.S. District Court Chief Judge William B. Bryant decided Thursday to move the scheduled March 17 trial to May 12. Sources familiar with the case said the new delay is necessary to give government prosecutors more time to prepare statements on which categories of classified materials they feel can be disclosed at trial.

Felt and Miller were indicted in April 1978 on charges that they approved illegal break-ins by FBI agents searching for members of the radical Weather Underground in the early 1970s.

In pretrial motions, defense attorneys have said they will claim that Felt, the former No. 2 man in the bureau, and Miller, the former intelligence division chief, had higher authority to approve the break-ins. They also claim government documents will show that break-ins have been a routine investigative technique for decades and that the Weather Under-

ground's ties to foreign powers made the break-ins legal.

Federal prosecutors have argued, on the other hand, that the group was not a legitimate target of a national security investigation. They also emphasized that the victims of the break-ins were friends and relatives of the radical fugitives, not suspected criminals.

After months of arguing over which classified documents would be available to the defense in discovery procedures, the pretrial preparation has now turned to which of the documents can be introduced at trial, according to sources.

The prosecution team in the midst of preparing position statements of what the U. S. intelligence agencies feel can be disclosed in several subject areas expected to be raised by the defense, the sources said.

For instance, it is likely that the defense lawyers will want to introduce documents showing that the FBI has conducted break-ins at foreign embassies for intelligence purposes.

The government is likely to balk at any such disclosure, even though it is widely known, because it doesn't want to be in a position of confirming the practice officially in court.