



CPL. ROBERT FLECK
... "obeyed his directive"

Va. Officer Describes CIA Break-in

By Jay Mathews
and Stephen J. Lynton
Washington Post Staff Writers

The chief of the Fairfax City police in 1971 personally broke into a Fairfax photo studio at night, without a warrant, so that agents from the Central Intelligence Agency accompanying him could photograph some papers inside, a Fairfax City policeman alleged yesterday.

A CIA spokesman last night declined to comment on any aspect of the reported break-in.

Cpl. Robert L. Fleck, who said he stood lookout at a nearby gas station on orders of the then police chief Murray Kutner during the February, 1971, break-in, quoted Kutner as telling him he had to remove the hinge pins on the studio door when a CIA lock expert failed to open it.

Kutner, who retired from the Fairfax City force last Jan. 3, had said earlier this week that he knew nothing of the incident.

"I think they're getting us mixed up with Fairfax County," Kutner said Tuesday when the Rockefeller commission first revealed the Fairfax City break-in as the only "instance (that) has been discovered where local police actively participated in a CIA operation." Kutner could not be reached for further comment yesterday.

See FAIRFAX, A8, Col. 1

FAIRFAX, From A1

Fleck, speaking in the Fairfax City office of his attorney, Gilbert K. Davis, identified the scene of the break-in as the now-defunct Roland Studio on the second floor of a commercial building at 10419 Main St. in Fairfax City.

He said he understood that the CIA agents were investigating the activities of a former CIA clerk, Deborah Fitzgerald, and her partner in the photo business, Orlando Nunez de Villavicencio del Toro, who once served in the Castro government in Cuba. The couple is now married.

Fleck, a Fairfax City policeman since 1967 is the first individual to publicly identify the locations and participants in the break-in.

"At the time of the break-in," Fleck said in a prepared statement, "I never had any question in my mind that anything illegal was happening. I had been told by Chief Kutner, my superior, to act in my official capacity as a police officer to watch the outside of the establishment. I obeyed his directive since he led this operation."

Fleck said he began to have doubts about his participation in the break-in as the Watergate scandal blossomed in 1972 and 1973. He said he discussed it with his wife, who advised him to tell no one about the break-in "because I could get into a lot of trouble."

But on Jan. 16, 1975, he saw a statement by CIA director William E. Colby in The Washington Post about illegal CIA operations that appeared to refer to the 1971 break-in.

The statement referred to a break-in "in 1971 in the Washington area."

"An ex-employee became involved with a person believed to be a foreign intelligence agent," Colby's statement said. "Security suspicions were that the two were engaged in trying to elicit information from agency employees. A surreptitious entry was made into the place of business jointly occupied by the two suspects. Results were negative. An attempt to enter the suspect agent's apartment was unsuccessful."

Fleck said the published statement led him to tell Davis, his attorney and friend, his story. "I advised him that I wished to make this matter public because I believed that to remain silent would constitute a failure to discharge my obligations to my government

and to my fellow citizens," Fleck said.

Davis said he has not yet heard from the Justice Department on his March 25 request that Fleck be granted immunity from prosecution should federal prosecutors decide the break-in violated the civil rights of the photo studio owners. Conspiracy to violate an individual's civil rights, a federal offense, carries a penalty of up to \$5,000 and 10 years in jail.

Fairfax Commonwealth's Attorney Robert F. Horan Jr. said last night that the participants in the reported break-in probably cannot be prosecuted under Virginia's laws.

A charge of breaking into the studio with intent to photograph documents, Horan said, would amount to a misdemeanor, not a felony. The statute of limitations on misdemeanors is one year and, in this case, would have expired in 1972. "There's no prosecution action that could be taken," Horan said.

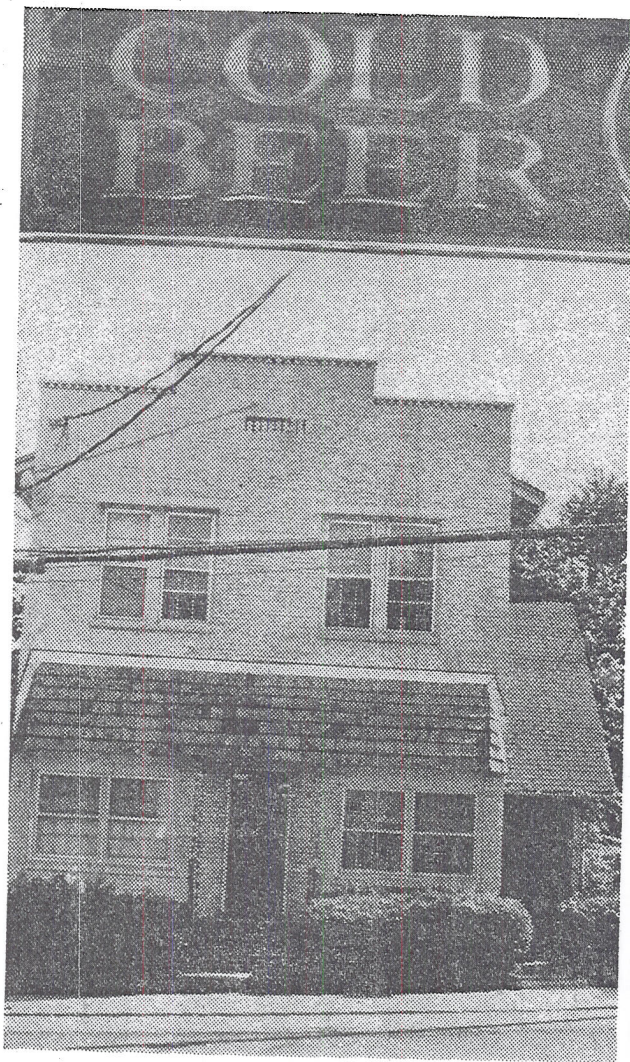
He added, however, that he was awaiting further information from the Rockefeller Commission and would continue to investigate the incident.

Horan said Maj. Leonard P. Kline, the current Fairfax City police chief told him his understanding was that the CIA had conducted surveillance of the photo studio, had seen CIA employees visiting it and suspected them of supplying an ex-CIA employee with classified documents, which they hoped to discover through the break in. The person described the ex-CIA employee suspected of gaining classified documents, Horan quoted Kline as telling him, was Nunez himself, not his wife.

Nunez said last night that he has never worked for the CIA. He confirmed, however, that some CIA employees had visited his studio. These, he said, were friends of his wife at the time she was a part-time CIA employee.

Although he says he cannot remember the specific date, Fleck said the break-in occurred on a Friday in February, 1971. He had joined the Fairfax City force in 1967 after a 20-year career as a military policeman and was rapidly promoted to corporal, spending part of his time as an administrative assistant to Kutner.

On the night of the break-in, as Fleck was preparing to go home to dinner, Kutner asked him to report back for duty at 11 p.m. When Fleck returned that night, he found Kutner with a man he knew to be a



The commercial building in Fairfax City, left, whose second floor once contained the Roland Studio allegedly broken into by CIA and Fairfax City police is photographed



through window of Friendship Grill across the street. The Grill, right, was reportedly used by CIA agents to keep the studio and a record shop below it under surveillance.

By Bob Burchette—The Washington Post

CIA employee from previous meetings in Kutner's office and at areawide police meetings.

"In his office," Fleck said, "Chief Kutner showed me a folder which he indicated was the plan of the Central Intelligence Agency for this particular operation. There were code names for various items," none of which Fleck can now remember.

The CIA man "said that they were not ready to go because the people they were interested in had not gotten home yet. Someone told me that the CIA was following these two people, and when they went home in the evening we were going to be notified, at which time we could proceed to the place of operation."

During the course of the evening, Fleck said, he saw 10 or 11 people in plain clothes whom he did not recognize and assumed to be connected with the CIA. One well-dressed man in his 50s was described as a "big deal" in the agency by one young agent, Fleck said. Four or five men accompanied Kutner to the door of the studio while the others drove around in cars during the three-to-four-hour operation he said.

Fleck, who was in a police uniform during the operation, was told to drive a marked car to the break-in site, only two blocks from the police station, and park at which was then an Esso station near the studio, he said. "If anyone attempted to go up the stairs which was the entrance to the studio, I was to stop them and to check them out," Fleck said.

former CIA part-time employee, but never knew his studio had been broken into.

"I'm still not sure," said Nunez, reached by telephone in New York as he was preparing to return to his home in the District of Columbia. "At this point in time, I don't know if they broke into my studio or not."

He said he and his wife had operated their own film company, called Voice and Vision Productions, in Washington. Now 34, Nunez said he was born in Cuba and with his family worked in the pro-Castro underground. At age 17 he was a lieutenant in Fidel Castro's rebel army and after Castro's victory became the No. 2 man in the propaganda, or public information, office of the national water works department in Havana.

Nunez said he immigrated to the United States in 1965 because of "lack of individual opportunities" and "lack of personal liberties" in Cuba.

Nunez said he had met Bernard L. Barker, now a convicted Watergate burglar and former CIA operative, when they both worked at a Zenith television plant in Chicago in 1966 and 1967. Reached yesterday in Miami, Barker confirmed that he knew Nunez but said he had never been asked about Nunez by any CIA employee and knew "absolutely nothing" about the reported 1971 break-in at Nunez' studio.

Deborah Fitzgerald, according to Nunez, observed CIA rules when she worked there in 1969 and 1970 and reported that she was seeing a foreign immigrant.

In late 1969, two FBI agents came to see Nunez to ask "what were my intentions" toward Miss Fitzgerald and tried to discourage him from seeing her, Nunez said. Later, he said, the FBI tried to recruit him as an informer against a friend of his, James M. Shea Jr., a former George Mason University professor and antiwar activist. Nunez said he turned down the FBI offer.

Fairfax City Mayor Nathaniel Young said yesterday he has turned Fleck's statement on the break-in over to Horan for investigation.

Fleck said he fears his participation in the break-in may jeopardize his chances for promotion to sergeant next month, but his attorney said he thought Fleck was blameless in the incident and should not be punished for it.

Young called Kutner "an outstanding chief of police."

"Any man, good, bad or indifferent, makes a few mistakes and maybe this was one," he said. The City Council will probably consider possible disciplinary action against Fleck or anyone else involved in the incident at its meeting Tuesday, he said.

The Rockefeller commission said three Fairfax police officers participated in the break-in, but Fleck said he knew only of Kutner and himself.

Contributing to this story were Washington Post Staff Writers Laura A. Kiernan and Megan Rosenfeld.

The operation began at 1 a.m., and as the hours went by Fleck said he began to needle a young CIA agent sitting in the car with him about the lock expert the CIA man had called "the best one they had."

"I commented to the CIA man that this lock expert 'must be some expert or else those locks are terrific!'" The CIA man referred to the well-dressed superior present for the break-in and said, "this is embarrassing when this guy is here," Fleck recalled.

At 4 or 5 a.m., Fleck said, Kutner and the CIA people emerged from the covered outside stairway to the studio's front door. Fleck met Kutner back at his office and said he told him, "It took you so long that you must have found what you were looking for." The chief responded: "No, what took us so long was that the lock man couldn't get through the lock, so I removed the hinge pins." I asked him if they found anything and he replied that he didn't think so."

The following Monday, Fleck said, Kutner asked him to go to the second story of a restaurant, the Friendship Grill, across from the studio and remove a black curtain used by CIA people to hide behind while they took pictures of the studio for several days.

When Fleck returned with the curtain, Kutner showed him photographs he said the CIA had taken of people going in and out of a record store, Chrysalis, Ltd., below the photo shop. This helped the police, Kutner told Fleck, because the record shop was suspected of being a center for drug pushers.

Nunez, one of the operators of the photo studio, said he knew federal authorities were interested in his relationship with Deborah Fitzgerald, the