

# F.B.I. BURGLARIES SAID TO BE FOCUS OF MAJOR INQUIRY

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Justice Dept.'s Nationwide Investigation May Affect Hundreds of Agents

## MEN RETAINING COUNSEL

### Investigators Reported to Have Delved Into Secret Files in 59 Field Offices NYTimes

The following article was written by Nicholas M. Horrocks and is based on reporting by him and John M. Crewdson.

Special to The New York Times

WASHINGTON, June 23—The Department of Justice is conducting a nationwide investigation of alleged illegal burglaries since 1971 by the Federal Bureau of Investigation that could ultimately involve hundreds of agents and officials of the bureau's intelligence division, according to well-placed F.B.I. sources.

At least a dozen agents, including an assistant director of the bureau, have retained private legal counsel because of the investigation. The inquiry is the broadest criminal investigation of the F.B.I. ever conducted, and one key agent said that it could result in changes in the fabric of the bureau "as it now exists."

The burglaries under investigation were allegedly performed by agents against organizations and individuals of the New Left, particularly members or supporters of the militant Weatherman organization, according to well-placed bureau sources.

#### Special Team Formed

The investigation is being conducted by William E. Gardner, chief of the criminal section of the civil rights division of the Department of Justice. He is assisted by a special team of F.B.I. men under the direction of Richard Ash, the head of the bureau's identification division.

The inquiry was apparently begun after a civil suit brought against the F.B.I. and its officials by the Socialist Workers Party uncovered documents that indicated that surreptitious

entries of the homes and offices of officials of the left had been made after 1971.

What has made the timing a sensitive factor is that the F.B.I. told the Senate Select Committee on Intelligence Activities and the Ford Administration that it had no record of using burglary in domestic cases after 1966 when the director, the late J. Edgar Hoover, ordered the practice halted.

Clarence M. Kelley, the current director of the bureau, has consistently stated that the practice ended in 1966.

#### Secret Files Involved

According to bureau sources, the current investigation has delved into heretofore secret files maintained in the 59 F.B.I. field offices, including the file of the special agent in charge, and a "do not file" file. These files were not searched when the Senate committee made its investigation last year and have no counterpart in Washington.

A Senate committee spokesman said that the F.B.I. had previously assured the panel that it had provided all available evidence relating to burglaries committed by its agents. The search of the field office files, ordered by Mr. Kelley last May 13, two weeks after the committee issued its final report, was undertaken in response to the Socialist Workers Party lawsuit.

One top Justice official has told newsmen privately that this belated disclosure "is beginning to give us all the shakes."

Bureau agents learned of the

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department's investigation about 10 days ago when Mr. Gardner began calling agents on the telephone, identifying himself, warning them that they were targets in a criminal investigation and advising them to get lawyers. He is expected to conduct the interviews himself.

The bureau later sent agents a teletype message permitting them to retain lawyers and followed this up with a teletype message that told the agents any lawyers they chose would have to be cleared by the Department of Justice before the agents could discuss classified information with them.

The highest ranking official known to have retained a lawyer is Andrew J. Decker, who was recently promoted by Mr. Kelley to be assistant director in charge of the bureau's com-

puter operation. Before coming to Washington, Mr. Decker was in the intelligence division and at one point was special agent in charge of the intelligence division operations in New York.

He has retained Edward Bennett Williams, one of Washington's most prominent criminal lawyers. Mr. Decker declined to comment on the case and referred all questions to Mr. Williams.

A group of present or former agents, in the New York field office has retained Jack B. Solerwitz, a Mineola, L. I., lawyer who is counsel for the Federal Criminal Investigators Association.

Mr. Solerwitz confirmed that he had been hired by the F.B.I. men, but declined to name his clients or disclose their number, because he felt this would help the Department of Justice in its investigation.

#### Legal Liabilities

Another agent has retained Brian Gettings, the former United States Attorney in Alexandria, Va. William Hundley, a former Assistant Attorney General who now practices law in Washington, has been asked to take on the cases of still other F.B.I. men.

The legal liabilities for men who have been involved in burglaries could be difficult to determine. One F.B.I. source said that he and his colleagues had made the entries under instructions from superiors and would have been severely disciplined if they had refused.

"You know that nobody even goes to the bathroom around here without permission," he said.

He said that even if an agent was given immunity to testify in the Federal investigation, he might face burglary charges from the local authorities or a civil suit by the victims of the break-ins.

A report in The Los Angeles Times said that 20 agents, most of them in New York, were under investigation. Bureau sources said, however, that the inquiry would be "far wider" and already included the San Francisco, Los Angeles and Chicago field offices, where the bureau dealt with substantial radical political activity.

There was no indication how many agents, supervisors or top officials might be implicated in the investigation. According to F.B.I. sources, a surreptitious

entry involved agents as look-outs, radio watchmen and other support functions as well as the man or men who entered the premises.

In addition to these men, the operations were authorized through the bureau's chain of command, and this same chain read the reports, which contained information that would show an informed reader that the material had come from a burglary.

One well-placed source said "several hundred" men would

ultimately be touched by the inquiry.

What has concerned the "street agent," according to several sources, is the fear that line F.B.I. men will be "sacrificed," and that the officials who ordered the burglary will "walk away" untouched.

The legal liability of some of the street agents was "astronomical," one source said, because the burglaries were committed by special trained teams, and some men made "dozens" of entries. Another source said that he knew of one agent who had made 60 entries, each of which could be the base for a criminal charge.

The entries were made to photograph and search records and to place electronic listening devices. One well-placed source said that many of the listening devices had been placed without the authorization of the Department of Justice.

F.B.I. documents released last March by the Socialist Workers Party, which obtained them in its lawsuit, showed that the party's Manhattan headquarters were burglarized by agents more than 90 times between 1960 and 1966.

After these burglaries were disclosed, two F.B.I. agents, George P. Baxtrum Jr. and Arthur J. Greene Jr., and John F. Malone, a former F.B.I. assistant director in charge of the New York City field office, were added to the party's lawsuit as defendants.

The Justice Department, citing its criminal investigation of agents who carried out such break-ins and of F.B.I. officials who approved them, declined to defend any of the three, although the Government has provided funds for private counsel.

#### One Point Not Clear

In announcing that decision, the department did not make clear whether Mr. Baxtrum, Mr. Greene or Mr. Malone were targets of the criminal investigation however.

Yesterday, at a hearing in the civil case, Paul Windels, a Manhattan lawyer retained by Mr. Malone, told Federal District Judge Thomas P. Griesa that he intended to "implead," or implicate, other high F.B.I. and Justice Department officials in the burglaries.

The Socialist Workers Party charged in its suit that it was the target of at least three burglaries in the period now under investigation by Mr. Gardner's office—in 1971 and 1972 in Detroit and in 1973 at the Manhattan apartment of Norman Oliver, the party's candidate for Mayor of New York that year.

Included in the files allegedly taken in Detroit was a letter of resignation from the party written by Norma Jean Lodico, who left Detroit to take a job with the Interior Department here.