

Kelley Deposition Raises Confusion Over Whether

By JOHN M. CREWDSON
Special to The New York Times

WASHINGTON, Nov. 18—Confusion arose today over whether Clarence M. Kelley, the Director of the Federal Bureau of Investigation, had been given information about the findings of a Justice Department inquiry into recent burglaries by some F.B.I. agents in the New York City area.

According to an uncorrected transcript of a civil deposition taken from him earlier this month, Mr. Kelley testified that he had avoided seeking such information in an effort to "maintain the integrity" of the investigation and that he had therefore been unable to conclude which of his aides had "deceived" him into believing that such burglaries had not occurred since 1966.

Mr. Kelley's assertion, made under oath, appeared to contradict a statement issued last June by J. Stanley Pottinger, an Assistant Attorney General, who is in charge of the burglary inquiry, that he and the F.B.I. Director had on occasion

"felt free to consult each other" about the case.

Asked for a clarification, a bureau spokesman said that until the time that Mr. Pottinger issued his statement Mr. Kelley had been receiving information about the form and direction that the investigation was taking.

The Pottinger statement was intended to correct a news report last June 30 that Mr. Kelley had been "sealed off" from the investigation, which the F.B.I. spokesman said had not been the case up to that time.

But the spokesman said that after Mr. Pottinger announced that Mr. Kelley had "not been sealed off from reports of other aspects of the investigation" Mr. Kelley decided that he should be sealed off after all and that he had been since then.

"They're both right," the spokesman said.

In his June statement, Mr. Pottinger gave the assurance that "whatever information is shared with him [Mr. Kelley] remains in his personal knowledge and possession only and is not disseminated

to other persons in the F.B.I. or elsewhere."

But in the deposition, taken in connection with a civil lawsuit brought by the Socialist Workers Party against the F.B.I. Director and other Federal officials, Mr. Kelley said that he had never sought or received from Mr. Pottinger "any information as to incidents, nor identities of persons involved" in the burglaries.

"I felt that in order there be complete purity and integrity in the investigation that I should not in any way do anything which might form the basis for the feeling there was any tampering, any obstruction or otherwise to try to cover up, so I remained completely detached from the investigation and remain to this day still in that condition," he said.

Details Called Unknown

The bureau spokesman said today, however, that his understanding was that up to the time the flow of information to Mr. Kelley was halted the Justice Department prosecutors had not learned the details of specific burglaries or the names

FRIDAY, NOVEMBER 19, 1976

C

A 15

He Received the Reports on Recent F.B.I. Burglaries

of the agents and officials who approved them and carried them out.

The F.B.I. Director did acknowledge in the deposition that once he discovered that the burglaries had not ended in 1966, as he had initially been led to believe, he told the bureau's executive conference, composed of his 16 highest-ranking aides, that he had concluded from news reports about the recent burglaries that there was "obviously someone or some people who have deceived me, letting me continue as I had in saying that they stopped at a certain date."

Mr. Kelley added that he had made no attempt to "probe to determine what they [the top aides] knew" about the recent burglaries, "nor did anyone volunteer any information," and that he had not discussed the matter since with the executive conference or any of its members individually.

Other sources have said, however, that Mr. Kelley had concluded, although on what basis is unclear, that Andrew J. Decker, an assistant F.B.I. director, is a target of the Pottinger inquiry, might

have been among those who withheld from him knowledge of the recent burglaries.

Asked today about Mr. Kelley's assertion in the deposition that he had made no "independent probe" into who was responsible for his having been misled, the F.B.I. spokesman said that the Director had been referring in August to Mr. Pottinger's investigation and not to one of his own, of which there had been none.

Justice Department sources said in August, however, that Mr. Kelley had been taking some cautious steps within the bureau to identify those who had "deceived" him.

Copies of the Kelley deposition were made available to news organizations yesterday before Mr. Kelley, as is standard procedure in civil proceedings, had corrected any errors in the transcript of his testimony.

When the Justice Department lawyers who are representing him in the lawsuit released by the Socialist Workers Party for publication, they reportedly complained to Thomas P. Griesa, the Federal

District Court judge in Manhattan who is presiding over the lawsuit.

Herbert Jordan, a lawyer for the party, said today that Judge Griesa had subsequently telephoned him and ordered him to recall those copies of the document that had already been handed out.

But Mr. Jordan said the judge had subsequently made it clear to him that his order was not intended to compel the news organizations involved to return the copies in their possession or to refrain from reporting on the contents of the deposition.

Albany Adding 50 to State Police

ALBANY, Nov. 18 (AP)—The state police force, its ranks cut by attrition during a hiring freeze that has lasted more than a year, will be getting 50 new recruits next year. Governor Carey's office announced today that 50 recruits would begin a six-month training program at the State Police Academy here beginning Jan. 1.