

Gray Says He Tried to Warn Nixon of Staff's Interference

By Lawrence Meyer and Peter A. Jay
Washington Post Staff Writers

Former Acting FBI Director L. Patrick Gray III testified yesterday that a July, 1972, conversation he had with President Nixon was "adequate to put him on notice that the members of the White House staff were using the FBI and the CIA" to "confuse" the investigation of the Watergate break-in.

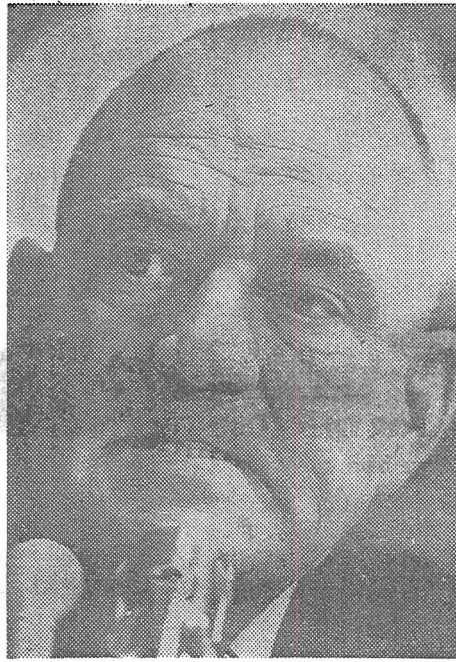
Gray told the Senate select Watergate committee that he "frankly expected the President to ask me some questions" after being told that his aides were trying to "mortally wound" the President. But Gray said that Mr. Nixon asked him no questions and told him to proceed with the investigation.

If President Nixon had asked, Gray said, he would have told him that he was referring to efforts by White House counsel John W. Dean III and top presidential domestic adviser John D. Ehrlichman as those trying to "mortally wound" him.

Gray also testified that last March 23, his abortive confirmation hearings to become permanent FBI director, he received another telephone call from President Nixon. During this call, which Gray described as a "buck up" call because of the difficulties he was experiencing in the hearings, Mr. Nixon said, according to Gray, "You will recall, Pat, that I told you to conduct a thorough and aggressive investigation."

Gray said that he "remembered that so distinctly because I had the eerie feeling that this was being said to me, but why, and I related it immediately to the July 6th telephone conversation I had with the President in the previous year." Although Gray said he thought Mr. Nixon was making the statement for the "record," Gray told the committee it did not occur to him that Mr. Nixon might be recording the conversation.

In his testimony yesterday, Gray attempted to explain to the committee why, despite his misgivings about what he believed Dean and Ehrlichman were doing,



By James K. W. Atherton—The Washington Post

L. Patrick Gray: an "eerie feeling."

he persisted in cooperating with Dean, turning over FBI files to him and destroying documents that he said he had the "impression" were given to him by Dean and Ehrlichman to destroy.

The committee, for its part, had apparent difficulties in understanding Gray's actions and reasoning. At times during his testimony, Gray appeared to contradict himself as he tried to recall what went through his mind as he dealt with Ehrlichman and especially with Dean.

Under questioning by Sen. Lowell P. Weicker Jr. (R-Conn.), Gray also told the committee that no one asked him any questions concerning the Watergate matter from March until April 16 of this year.

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A White House spokesman declined last night to clarify what "investigations" Mr. Nixon referred to in his April statement or whom he "ordered" to report to him. "We stand on the text of the speech," the White House spokesman said.

Gray testified that Petersen's inquiry on April 16 concerned Gray's burning documents from the White House safe of Watergate conspirator E. Howard Hunt Jr. Gray has told the Senate committee that he destroyed the documents because Dean and Ehrlichman told him they were unrelated to Watergate but were sensitive national security matters that would be "political dynamite" if revealed. Gray said he denied even receiving the documents, however, in his April 16 conversation with Petersen, but then admitted to Petersen the following day that he destroyed them.

According to Gray, he also had told Ehrlichman on April 15 that the documents had been destroyed during the second of two very brief phone calls from Ehrlichman. Gray said Ehrlichman made no comment at the time.

Ehrlichman has told the Senate committee that he called from Mr. Nixon's Executive Office Building office while Mr. Nixon sat near him. Ehrlichman said he immediately reported to Mr. Nixon that Gray had said that the documents had been destroyed and asked Ehrlichman's support to keep that fact from being revealed. Ehrlichman testified that in the second phone call he had told Gray that he could not support Gray in keeping the destruction a secret.

Ehrlichman also told the committee that Mr. Nixon then contacted Kleindienst or Peterson to tell them of the destruction. Ehrlichman said Mr. Nixon was asked by whomever he contacted not to fire Gray until an investigation had been made. President Nixon, Ehrlichman said, "forebore" not to dismiss Gray.

An entirely different picture emerges, however, from Gray's account yesterday of a meeting he was summoned to on April 26 with Petersen and then Attorney General Richard G. Kleindienst in Kleindienst's Justice Department office.

By April 26, news reports were carrying the story of Gray's destroying the documents. Gray said he told Kleindienst and Petersen that he had given to the information to Weicker, who subsequently gave the story to the news media.

After Gray told all this to Kleindienst and Petersen, Gray recounted yesterday, "Mr. Kleindienst said, 'Let's have a drink.'"

"And Mr. Petersen and Mr. Kleindienst and I all went into a little private office off of his main office and Mr. Kleindienst fixed a drink for himself and for Mr. Petersen and I do not drink and I just sat there in an overstuffed leather chair and Mr. Kleindienst was sitting right in front of me facing me and he said to me, 'It

HEARING, From A1

Weicker quoted President Nixon's April 30 statement in which Mr. Nixon said that "new information" came to him that an effort had been made to conceal facts about Watergate from him and from the public.

"As a result," Mr. Nixon said during his April 30 speech, "on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigations to get all the facts and to report them directly to me, right here in this office."

In response to a question from Weicker, Gray said yesterday, "I received no such order from anybody . . . I was not given any orders by the President of the United States or anyone to give them any facts about the Watergate situation until Mr. (Assistant Attorney General Henry E.) Petersen came to me on April 16th."

Cox Will Quiz Hunt and Barker

Two of the convicted Watergate conspirators held at the federal penitentiary in Danbury, Conn., were brought back to the Washington area last night for further questioning by special Watergate prosecutor Archibald Cox's staff and possible grand jury appearances.

E. Howard Hunt Jr. and Bernard L. Barker, were being held yesterday at the Montgomery County Detention Center, and are expected to be questioned today, according to lawyers connected with the case.

Three other Watergate conspirators, Eugenio R. Martinez, Virgilio R. Gonzales and Frank A. Sturgis, were reportedly en route from the prison for further questioning by Cox.

doesn't seem to me that you can continue as acting director of the FBI.'

"And I said," Gray recalled, "Well, Dick, it does seem to me that I can continue as acting director of the FBI because these files had absolutely nothing to do with Watergate and the men and women of the FBI know I have done nothing to stifle this investigation, but that I will accede to whatever the President wishes. If he wishes me to continue to serve, I will serve. If he wishes me to resign, I will resign."

"Mr. Kleindienst then went into his other office and said he was going to talk to the President and during his absence Mr. Petersen was pacing up and down in the office, walking back and forth, and I remember him distinctly saying, 'Pat, I am scared.' And I said, 'Henry, why?' And I am still sitting there in that chair. And he said, 'I am scared because it appears that you and I are expendable and (White House chief of staff H. R.) Haldeman and Ehrlichman are not.' And I said, 'Henry, do you think I should get a lawyer?' And—this is the first time I had entertained the idea—and he said, 'Yes.' And I did, later," Gray said.

At that point, Gray testified, Kleindienst returned and said, "The President wants you to continue to serve as acting director," and I said, 'Fine, Dick, I will do it.'

In that same conversation, according to Gray, "Mr. Kleindienst said to me, 'There must be no implication that in burning these files there was any attempt of a cover-up at the White House,' and I told him, I said, 'Dick, I clearly got instructions I thought, to burn those files and I burned them and that is going to be my testimony.'"

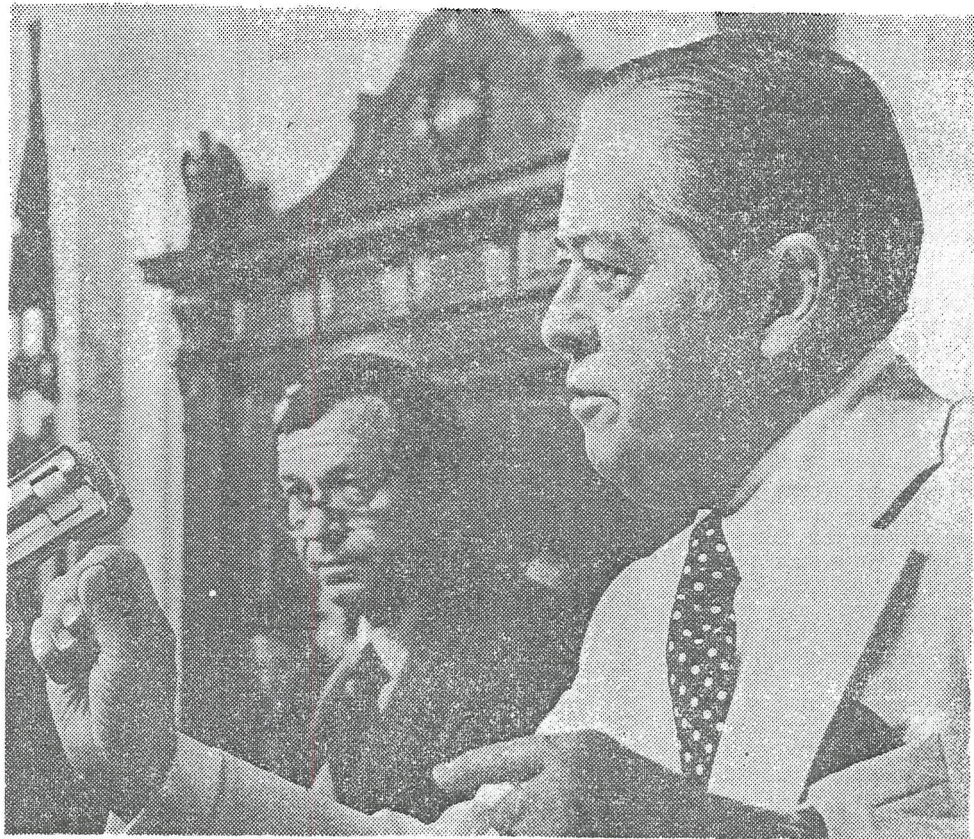
Under questioning yesterday, Gray testified that in giving him Hunt's files and leaving him with the impression that they should be destroyed, Dean and Ehrlichman "were acting for the President."

"I made that assumption," Gray said, "but... in fairness and honesty, I have to say I just cannot testify under oath that the President ordered them to do this."

In the six months that he held the documents before burning them with Christmas wrappings and household trash last December, Gray said, he did not look at them. "I didn't have the natural curiosity of the cat or of the female," Gray told the committee.

Just before destroying the files, Gray said, he did look at them and saw what appeared to be a cable implicating officials of the Kennedy administration in the assassination of South Vietnamese President Ngo Dinh Diem and some onion-skin copies of correspondence as well.

Gray said he did not stop to ask himself, before de-



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Sen. Joseph Montoya questions Patrick Gray as Sen. Herman Talmadge listens.

stroying the files, why they should be politically harmful to the Nixon administration. Since then, it has established that the cable Gray read was falsified by Watergate conspirator Hunt.

In his contacts with John Dean, Gray said, he was told by Dean that he was reporting "directly" to President Nixon. Gray said Dean first talked to him on June 25 and July 2, 1972, outside Gray's apartment in Southwest Washington about Dean's desire to receive FBI reports on the Watergate investigation. Gray said he turned the reports over to Dean, without checking first with Attorney General Kleindienst, because he thought Dean was working for President Nixon.

During this same period, Gray was meeting frequently with deputy CIA director Lt. Gen. Vernon A. Walters in an effort to determine what role, if any, the CIA had in the Watergate affair.

By July 6, Gray said, he and Walters had become disturbed at the efforts of Dean and Ehrlichman to "confuse the issue" by involving the CIA when the CIA was not involved.

Gray said he placed a call to the Western White House and spoke to Clark MacGregor, director of the Nixon reelection committee, and expressed his concern. Gray said he was surprised when Mr. Nixon called him shortly after the conversation with MacGregor.

Gray said he told Mr. Nixon "that Dick Walters and I feel that people on your staff are trying to mortally wound you by using the FBI and the CIA and by confusing the question of whether or not there is CIA interest

or not in the people that the FBI... is to interview."

"Did you think," Talmadge asked Gray, "that your conversation with the President on July 6, 1972, was sufficient to adequately put him on notice that the White House staff was engaged in obstructing justice?"

"I don't know that I thought in terms of obstructing justice," Gray said, "but I certainly think there was, it was adequate to put him on the notice that the members of the White House staff were using the FBI and the CIA."

"Do you think," Talmadge asked, "a reasonable and prudent man on the basis of the warning that you gave him at this time, would have been alerted to the fact that his staff was engaged in something improper, unlawful and illegal?"

"I do," Gray said, "because I frankly expected the President to ask me some questions." Two weeks later, Gray said, he asked Walters if Mr. Nixon had spoken to him and Walters told him that Mr. Nixon had not discussed the Watergate affair with Walters. "I began to feel that General Walters and I were alarmists, that we had a hold of nothing here," Gray said.

Apparently comforted by his estimation of himself as an "alarmist," Gray continued to cooperate with Dean, providing him with files.

Even on July 6, Gray testified at a later point, "I certainly had no knowledge of any attempt at a cover-up. There is no question about that. No knowledge of, no suspicion of or no awareness of, and I was trying to tell the President that I believed and Dick Walters believed



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Sen. Lowell P. Weicker Jr., left, and Sen. Edward Gurney confer during L. Patrick Gray's testimony.

that people on his staff were using the FBI and the CIA to confuse the question . . . and it could very well have been the activity on the part of over-zealous individuals over there to protect the President. I said 'mortally wound the President.'

In his testimony, Gray referred to his career in the Navy, from which he retired as a captain in 1960. "In the Navy I was trained in, you said 'Ave, Ave, sir.'" when given an order, Gray said.

"It was the same Navy I served in . . . Captain Gray," Talmadge replied.

During his unsuccessful confirmation hearings last March, Gray returned again and again to the phrase, "presumption of regularity" to describe why he turned FBI files over to Dean. Yesterday, the phrase he returned to frequently was, "I did not have those kinds of suspicions."

"I am merely trying to recite as a fact," Gray told the committee, "those suspicions did not enter my mind and I have not been that kind of a person in all of my life. I have not been suspicious of people. I have not lived nor was I raised or brought up with or served with people that I had to be suspicious of."

As a result, Gray told the committee in Spanish, with Sen. Joseph M. Montoya (D-N. M.) supplying the translation, "I have a lot of hurt in my heart at this time."

Was he overawed by the presidency and the people he was dealing with, Gray was asked by Weicker.

"I do not know that I was overawed," Gray replied, "but I certainly had a very, well, the only way to classify it, deep and abiding respect built up over the years for the office of the presidency and knowing and feeling in my own mind that no matter who comes into that office he always rises to the burdens of that office and that the individuals in it, in my judgment and in my book, have always bene above and beyond reproach and perhaps with that in mind . . . you could say yes, that I was overawed, but I believed and I trusted and I think I had every reason to believe and to trust and at no time did I ever consider that I was dealing with individuals who were trying to sweep me into the very conspiracy that I had the responsibility of investigating. That is a madman's horror and I just

did not have that that feeling."

Gray was questioned closely by committee vice chairman Howard Baker (R-Tenn.) on differences between his account and that of Lt. Gen. Vernon A. Walters, the deputy director of the Central Intelligence Agency, concerning conversations the two men had in the days immediately following the Watergate burglary.

Walters preceded Gray to the committee's witness table on Friday. He described Gray as having actively sought written notice from the CIA that the FBI's

Watergate investigation might uncover covert intelligence operations if extended into Mexico—notice Walters said he would not give.

Gray said he thought Walters took some of their discussion out of context, but that otherwise "I don't believe we are that far apart." Rather than seeking a letter from the CIA, Gray said he had told Walters that he would not stop the FBI's investigation without one. The distinction, he conceded, could have been misinterpreted.

Again and again, Gray defended both the vigor and the extent of the FBI's investigation of the Watergate affair.

"I was proud of those men," he said. "I thought the FBI was doing a terrific job."

He said that there were over 300 agents assigned to the investigation, and that they put in over 27,000 hours on the assignment. All but six of the 59 domestic FBI field offices were involved, he said, as were four foreign offices.

Assistant majority (Democratic) counsel Rufus Edmisten, questioning Gray, cited an article in this month's issue of the Armed Forces Journal by convicted Watergate conspirator James McCord. McCord, in the article, was critical of the FBI's handling of the investigation, and said that every employee of the Committee to Re-elect the President should have been interviewed by the bureau.



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David Dorsen, assistant chief counsel of the Watergate committee; Stephen Sachs, attorney for L. Patrick Gray, and Gray review documents before hearing opens.

the people they were interviewing?"

He said he had been assured that the agents had not been awed and had carried out their investigation aggressively, so "one must conclude at this point in time that what was being told to the agents was not correct."

"Well, to put it another way," Gurney said, "perhaps the reason why it did not lead beyond those two (Hunt and Liddy) is because there was a massive cover-up involved and people were not talking or they were not telling the truth." Gray agreed.

Gray said he did not know whether the FBI investigated the plane crash in Chicago last December that took the life of Hunt's wife, Mrs. Hunt's purse, containing \$10,000 in hundred-dollar bills, was found in the wreckage.

Some reports, never substantiated, suggested that sabotage might have been involved in the plane crash. Similar unconfirmed reports said that FBI agents appeared at the crash site almost immediately after it occurred.

Gray recalled that he had been hospitalized in Connecticut at the time of the crash.

Several times during the hearing, Gray found himself unable to explain various FBI procedures.

"I do not like to admit this," he said, "but I did not even know (last year) that the two little red baskets under my desk in the office of the acting director of the FBI were burn baskets—the contents of which were always burned.

Had he realized that, he indicated, he would not have taken the documents from Hunt's safe to his Connecticut home for burning, but would simply have put them into the little red baskets.

The FBI did investigate the activities of Donald Segretti, a political saboteur

hired by White House aides to disrupt the campaigns of Democratic presidential candidates in 1972, Gray said.

And at no time, he said, did the bureau seek to "low-key" its Watergate investigation—as Walters, in a memo written after a meeting with Gray shortly after the June 17, 1972 break-in, said Gray suggested to him it would.

The investigation was even pursued vigorously in Mexico, where campaign contribution checks were "laundered" by passing through a Mexican bank to conceal the names of contributors, Gray said.

At the request of Walters, Gray said, he had the FBI delay interviews of Mexican lawyer Manuel Ogarrío and Minnesota industrialist Kenneth Dahlberg (whose \$25,000 check went through the bank account of Bernard L. Barker, one of the Watergate burglars). Walters has testified that Dean told him to tell Gray that an investigation of the two men could jeopardize the security of a CIA operation in Mexico.

But soon, Gray said, he decided that "we had done everything we could do to trace the money except interview those two men," so he told Walters that unless the CIA gave him instructions in writing not to do so he was proceeding with the investigation.

"My message to him was either you have got an interest in Ogarrío and Dahlberg or you haven't," he said, "and if you have I need it in writing or I am going to go ahead and interview those people."

But the FBI investigation even then was unable to establish the full dimensions of the Watergate scandal, Gray said.

"I never expected to run into a Watergate in the service of a President of the United States," he told the committee, "and I ran into a buzzsaw, obviously."

"The professionals within the FBI felt that the leads ran to 60 employees of the committee," Gray said, "and we had no other leads to interview other people." He said perhaps 15 or 20 White

House employees were also interviewed.

But if the FBI was as thorough as Gray maintained, Sen. Edward J. Gurney (R-Fla.) wanted to know, why did it not lead beyond G. Gordon Liddy and E. Howard Hunt—two of the seven Watergate defendants who had worked at the White House.

"I don't know," Gray replied. "I have asked myself that many times and I wonder were the agents awed by