

FBI - II

Agents Are Being Given Immunity In Inquiry Into F.B.I. Burglaries

NYTimes

By JOHN M. CREWDSON
Special to The New York Times

SEP 11 1976

WASHINGTON, Sept. 10—Justice Department lawyers investigating recent burglaries by agents of the Federal Bureau of Investigation have apparently decided to forgo wholesale prosecutions of the agents in favor of focusing on those F.B.I. officials who knew of or approved the break-ins.

Jack B. Solerwitz, a Long Island lawyer who represents some 25 former members of the bureau's New York-based squad that carried out the burglaries, said in a telephone interview today that 21 of his clients had either received immunity from the prosecutors or been advised that their testimony was not needed.

Mr. Solerwitz, who is counsel to the Federal Criminal Investigators Association, a private organization that includes many F.B.I. agents, said that his four other clients were scheduled to answer Federal grand jury subpoenas next week and that he expected them, too, to be granted immunity from prosecution.

At least four other members of the squad not represented by Mr. Solerwitz have also been given limited, or "transactional," immunity by the Justice Department, according to sources familiar with the investigation.

The squad, which was made up of about 30 bureau agents operating out of the Manhattan office, was assigned from 1971 to 1973 to track down fugitive members of the Weather Underground organization, which has claimed responsibility for several bombings during that period, including one at the United States Capitol here.

Justice Department officials could not be reached for comment on what appeared to represent a major strategic decision in their investigation, but the F.B.I. agents represented by Mr. Solerwitz and the four others are believed to be

virtually all of those under investigation.

Those familiar with the thinking of the Justice prosecutors have characterized them as somewhat more sympathetic to the plight of the "street agents" who carried out the burglaries on authority from bureau higher-ups than to those bureau officials who provided the authorizations.

The prosecutors are also said to believe that the recognition by the courts that two lowly Watergate figures might have had reason to believe their actions were legal could have provided a valid defense for some of the agents, but not the bureau officials.

The two, Bernard L. Barker and Eugenio R. Martinez, were convicted for their part in the 1971 burglary of a Los Angeles psychiatrist who had treated Daniel Ellsberg. The burglars were searching for the file pertaining to Dr. Ellsberg, who has taken responsibility for providing the Pentagon Papers to the press.

Mr. Barker and Mr. Martinez, who were recruited for the job by E. Howard Hunt, a White House official and former American intelligence officer, were initially convicted in the case, but the court suspended their sentences after finding that they had been "duped by high Government officials" into believing that the break-in was legal because national security interests were at stake.

Their convictions were reversed by a Federal appeals court here last May on essentially the same ground.

Although a Federal grand jury in New York has been sitting in this case for some weeks now, Mr. Solerwitz said today that the agents and former agents who answered their grand jury subpoenas had been met outside the jury chamber by a Justice Department prosecutor who offered them the option of submitting to an informal interview.