

# Questions Rejected By Gray

## FBI Chief Cites Silence Order By Kleindienst

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Acting FBI Director L. Patrick Gray III, walking through what he described as a "minefield" between the executive and legislative branches of government, refused yesterday to give the Senate Judiciary Committee more details on the bureau's investigation of the Watergate bugging affair.

With his confirmation for the FBI post hanging in the balance, Gray said he had new orders from Attorney General Richard G. Kleindienst not to answer any questions that would reveal information from the FBI's files.

Pressed by both Republican and Democratic senators, Gray repeatedly stated that "I must respectfully decline to answer that question, because it goes to the substance" of confidential FBI reports.

"Those are my orders, and those are the orders I have to carry out," Gray said.

He suggested that the limitation was necessary in order to "reach a point of finality" in the confirmation hearings. Appealing to the committee to vote on his nomination, Gray said, "you have to go up or down on me. I'm entitled to some kind of judgment."

In a warning about the possible consequences of the new restrictions imposed on Gray, Sen. Birch Bayh (D-Ind.) said at one point that "those orders didn't help you at all . . . you've been open and direct, but others have not been."

At the end of the nominee's

2½ hour appearance, an aide to a key Democrat on the committee said that "it sounded like an old Fifth Amendment hearing from the 1950s."

Because of Gray's "orders," there is little prospect that the senators' curiosity will be any better satisfied this morning, when he is to return for another questioning session.

In the meantime, however, the Judiciary Committee voted unanimously to subpoena three other witnesses to appear at the Gray hearings:

- Judith Hoback, the former assistant to the treasurer of the Committee for the Re-election of the President, who has signed an affidavit saying that within 48 hours of a supposedly confidential FBI interview, she was questioned about it by officials of President Nixon's re-election effort.

- Thomas Lumbard, a former assistant U.S. attorney here, who has said that G. Gordon Liddy, later convicted as a Watergate conspirator, worked closely with presidential counsel John W. Dean III on Nixon campaign finance matters.

- Thomas Bishop, formerly an assistant FBI director and the bureau's public spokesman, who was at the center of a furor last fall over the use of FBI field offices to gather election-year information on

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criminal justice issues for the Nixon campaign.

Some committee members suggested that they might also seek to call Kleindienst as a witness, in order to clarify the origin and nature of his instructions rescinding Gray's original offer to the senators of unlimited access to the FBI's Watergate files.

As Gray explained those instructions yesterday, they dictate that the files may be inspected only by committee Chairman James O. Eastland (D-Miss.), ranking minority member Roman Hruska (R-Neb.) and their respective chief counsels.

Gray said that Kleindienst originally voiced no objection to his offer of unlimited access to the files and that he had "no way to account for" the Attorney General's change of heart.

"I had no opportunity to discuss this situation with the Attorney General" before the or-

der was issued last Friday, he told the committee.

Gray also said he had no idea or "impression" whether the instructions to close the files had originated in the White House.

Justice Department sources noted, however, that the order came one day after President Nixon, at a press conference, said that "the practice of the FBI furnishing 'raw files' to full committees must stop with this particular one."

The sources said that the Justice Department's public information office was instructed to prepare a news release spelling out Kleindienst's new guidelines. But such a release was never issued.

In the absence of any formal clarification, Gray interpreted the instructions broadly yesterday, declining to answer a long line of questions by Sen. Philip A. Hart (D-Mich.).

He refused, for example, to

provide files concerning an internal FBI inspectors' report on the use of the bureau's field offices to give the White House political advice.

In exasperation, Gray told Hart that "everything I say up here is being listened to by representatives of every intelligence service in the world"—presumably to learn how the FBI operates.

The Michigan senator, similarly frustrated, replied: "I'll be hanged if Moscow or Peking, or whoever our new enemies are, could be helped by your providing" one of the memos Hart was requesting.

Gray acknowledged again yesterday that he may have made a mistake when, at the urging of the White House, he spoke to the City Club of Cleveland during last fall's presidential campaign.

"Should I ever be confirmed for this position," he told Hart, "I'm never going to make a speech during a political campaign again."

Gray implied at one point

that he disagreed with the President that the ban on a Senate committee appearance by White House counsel was based not only on the doctrine of "executive privilege," but also on Dean's role as personal attorney for other White House staffers when he sat in on FBI interviews with them.

The nominee said he agreed with the first ground but added that he would have to "think through" the second one.

White House Press Secretary Ronald L. Ziegler, asked yesterday whether Mr. Nixon had abandoned hope that Gray would be confirmed, replied, "absolutely not."

Democrats on the Judiciary Committee were pessimistic, however. Sen. John V. Tunney of California suggested that the White House "has decided to throw Mr. Gray to the wolves," and Bayh observed that "with friends like Mr. Gray has down at the White House, he doesn't need enemies."