

Report by F.B.I. Disputes Gray on Wiretaps

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WASHINGTON, Dec. 25 — A confidential F.B.I. report apparently contradicts the testimony of L. Patrick Gray 3d last March that he had no knowledge of nearly 20 "national security" wiretaps that President Nixon had ordered on newsmen and officials of his Administration.

Following the first published report of the wiretap effort, Mr. Gray told the Senate Judiciary Committee, which was holding hearings on his nomination to become Director of the Federal Bureau of Investigation, that he had made an inquiry and found "no record of any such business."

However, a copy of the confidential F.B.I. report, obtained by The New York Times, indicates that Mr. Gray, while the bureau's acting director, had been advised in advance of his testimony of the by-then defunct surveillance operation.

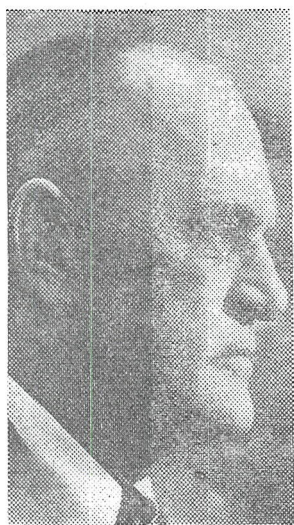
A recent telephone message left at Mr. Gray's law offices in New London Conn., went unanswered and efforts to reach him today at his home in Stonington, Conn., were unsuccessful.

Question by Kennedy

The existence of the wiretaps, which, between May 6 1969, and February, 1971, involved at least four newsmen and 13 Government officials, was first reported in Time magazine on Feb. 26, 1973, shortly before Mr. Gray began testifying in support of his nomination.

Three days later, Senator Edward M. Kennedy of Massachusetts, one of the committee's nine Democrats, asked the acting F.B.I. head to respond to the report, which both the White House and the Justice Department had rejected as without substance.

Mr. Gray replied under oath that he had examined the F.B.I.'s wiretap surveillance



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L. Patrick Gray 3d

records and found no evidence of any such program, adding that "Mr. Hoover [J. Edgar Hoover, the late F.B.I. director and Mr. Gray's predecessor] is not going to do something like this in the first place."

Nixon Approved Wiretaps

President Nixon later acknowledged, however, that he had approved the wiretaps as part of an effort to halt leaks of classified information to the press and had given joint responsibility for coordinating the effort to Mr. Hoover, Henry A. Kissinger, then the President's adviser on national security and now Secretary of State, and John N. Mitchell, then the Attorney General.

Mr. Gray's assertions that he had found nothing in the F.B.I. files to support the existence of the wiretaps was apparently technically correct. As the F.B.I. report on the matter relates, records on the wiretaps were sent to the White House before Mr. Gray took over the bureau, the result of an internecine struggle between Mr. Hoover and one of his assistants.

But the report, compiled after

an internal inquiry ordered last May by William D. Ruckelshaus, the next to take over the F.B.I.'s top post, shows that Mr. Gray was provided with a memo on Feb. 26, the day the Time article appeared, that related the known details of the disappearance of the wiretap records.

The report also notes that Mr. Gray was advised before that date of the circumstances surrounding the disappearance of the records, which included authorizations for the wiretaps and summaries and logs of the overheard conversations.

The records were eventually recovered by Mr. Ruckelshaus from the White House office of John D. Ehrlichman, about two weeks after Mr. Ehrlichman resigned on April 30 as President Nixon's chief domestic adviser.

According to the F.B.I. report, an inquiry ordered by Mr. Hoover had been able to reconstruct much of the surveillance operation in the absence of the missing records, including data on 16 of the 17 individuals whose telephones had been tapped.

This information, judging from the bureau's report, was also available to Mr. Gray before his testimony.

At one point, Mr. Kennedy recalled Mr. Gray's earlier denials of knowledge of the matter, asking, "You said that you had no basis for believing that the Time story had any basis in fact; is that correct?"

Stands by Testimony

"That is correct, sir," Mr. Gray replied. "I said I personally checked the record, and that has been my testimony consistently. That is my testimony today."

Asked whether after learning of the Time account, Mr. Gray had felt that he "ought to talk to anybody at the White House about this," he replied, "The White House has already issued a denial. The answer is No, Senator."

During his interrogation, Sen-

ator Kennedy noted that Richard G. Kleindienst, Mr. Mitchell's successor as Attorney General, had declared that neither he nor Mr. Mitchell had authorized any electronic surveillance of newsmen, White House officials or others "as reported by Time."

Did Mr. Gray, the Senator asked, attach the same qualification to his assertion that he had no reason to believe the report had any basis in fact?

"I don't draw any kind of qualification or implication from that at all, Senator," he replied.

"I don't really know what you are talking about—that we are tapping our own telephones, is that really the thrust of this question?"

"That practice has never come to my attention. I am trying to imagine how you do it."

Gave Up Position

On April 27, Mr. Gray stepped down as the F.B.I.'s acting head following news reports that he had destroyed certain materials taken from the White House safe of E. Howard Hunt Jr., one of the seven convicted Watergate conspirators.

The baldish, 57-year-old former submarine captain had asked Mr. Nixon to withdraw his nomination from the committee's consideration a month earlier, after it had become clear that he could not be confirmed.

Mr. Gray told the Watergate committee that he had destroyed the Hunt papers, some of which might have been material evidence in the Watergate criminal investigation.

But, he conceded, he had lied both in telling Justice Department officials that he had not read the files before burning them and in telling a member of the Watergate committee that he had destroyed the papers immediately after receiving them. In reality, he had kept them intact for months.