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Questions About Gray

Who asked you to campaign actively for President Nixon when you were acting director of the FBI?

Why did you use the FBI to gather campaign material for Nixon?

Why did the FBI do so little investigating of the Watergate political bugging conspiracy?

Why did the FBI bug White House officials?

Why did the FBI bug Washington news reporters?

These are among the questions that L. Patrick Gray III should be prepared to answer when he goes before the Senate Judiciary Committee, probably this week for hearings on his nomination to succeed J. Edgar Hoover as director of the FBI. Most presidential nominees start out with the odds for congressional approval about 95% in their favor Gray's case is different. A number of Senators are worried at the prospect of giving so much power to so partisan an official.

Enraged. His use of wiretapping is an example. About three years ago, according to four different sources in the Government, the White House was concerned by a series of leaks, so it asked Hoover to tap the phones of suspected reporters and even suspected White House officials. Hoover balked, and demanded authorization from John Mitchell, then the U.S. Attorney General Mitchell sanctioned the surveillance, according to the sources, on the grounds of domestic "security," which sidestepped the necessity of getting a court order for each tap. The operation started with only one tap, but soon expanded to include surveillance of six or seven

reporters plus an undisclosed number of White House aides.

The wiretapping operation actually helped to keep Hoover on the job until his death last year. According to the same sources, Richard Kleindienst, then Deputy Attorney General, tried to force Hoover to step down, and in 1971 even gave his support to a proposed congressional investigation of the FBI. Enraged Hoover indicated to Kleindienst that if he was called to testify on Capitol Hill he might disclose the wiretaps. (Kleindienst denies this exchange ever took place.) The scuttle-Hoover maneuver was quickly forgotten.

After taking over as acting FBI director, Gray gave his approval of the wiretaps, and they were continued for a month and a half of his tenure. The operation, which never uncovered any White House leaks, ended after the Supreme Court overruled Mitchell's wiretap policy last June. It declared that even in domestic security cases, a court order was necessary for wiretapping.

TIME asked several key officials to comment on this account of taps on the press, and they denied it. "A pipe dream," said Mitchell. "Wiretaps on reporters were never authorized by me." Said Kleindienst: "I have never heard of bugging reporters' telephones." Said a White House spokesman: "No one at the White House asked for or ordered any such taps."

More generally, what concerns the critical senators is the charge that Gray is turning the FBI into an arm of the Administration. Last September he went against the FBI'S nonpartisan tradition and ordered 21 agency field offices in 14 states to file expert advice on how the President and his aides could best handle campaign issues related to criminal justice. Gray himself went on the stump for Nixon and made pro-Administration speeches in Butte, Mont., Cleveland and Spokane—blatantly political activity his predecessor would never have undertaken.

Much of the Senate opposition to Gray is rooted in his lack of law-enforcement experience. Gray, who became a lawyer while on active duty with the Navy in 1949, retired after 20 years of military service in 1960. He was nominated for a federal judgeship, but because of his meager qualifications, the nomination was withdrawn before the American Bar Association could officially act upon it. He and Nixon had met at a Washington cocktail party in 1947, and the two have been on friendly terms ever since.

As of now, it is impossible to predict the outcome of the hearings. Some Democrats, who could finally go either way have tacitly supported the Gray nomination. Majority Leader Mike Mansfield has indicated he would go along with Nixon's choice, but he adds a qualification: "Pending the hearings." At those hearings,

opposition can be expected from liberal Democrats like Teddy Kennedy and Birch Bayh of Indiana But Gray may have a more dangerous foe in West Virginia Conservative Democrat Robert Byrd. "In the nine months that Mr. Gray has held the post of acting director, there has been increasing criticism of that bureau as becoming more and more a political arm of the Administration," Byrd told the Senate. "Under J. Edgar Hoover, the FBI had always been a nonpolitical bureau, and Mr. Hoover meticulously avoided partisanship in campaigns." Confirmation of Gray, the Senator added, "would be damaging to the proficiency and morale of the agency."

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