

Gray Testifies He Gave Data on Watergate Inquiry to Dean Without Telling Kleindienst or F.B.I. Aides

By DAVID E. ROSENBAUM

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L. Patrick Gray 3d told the Senate Judiciary Committee today that he never notified Attorney General Richard G. Kleindienst or anyone else in the Federal Bureau of Investigation or the Justice Department that he was releasing F.B.I. documents on the agency's Watergate investigation to the White House.

Mr. Gray, who has been acting director of the F.B.I. for 11 months and who has been nominated to be its permanent head, also told the committee that the F.B.I. had kept no records of precisely what information it had turned over to John W. Dean 3d, President Nixon's counsel.

Mr. Gray said Mr. Dean had been given "an integral part of the total Watergate file" and had picked the material up personally from Mr. Gray.

Mr. Gray acknowledged that he had received a memorandum from D. J. Dalby, his chief legal adviser, on July 20 informing him that all F.B.I. records were "in the custody of the Attorney General and technically may not be released from the department without his consent."

**Sentence Underlined**

At the bottom of this memorandum, Mr. Gray had underlined a sentence that read, "The authority and obligation of the F.B.I. are to keep the Attorney General fully informed and to leave the rest to him." Then, in his own handwriting, he had written and then initialed a notation in red ink that read, "Do so in this case and in all future cases."

Nonetheless, Mr. Gray said that he had not told Mr. Kleindienst about the material he was releasing to Mr. Dean on July 28 because "I did not think it was necessary in view of the fact that I had a request from the counsel to the President of the United States."

Senator Edward M. Kennedy, Democrat of Massachusetts, who asked the bulk of the questions of Mr. Gray today, charged the nominee with "secrecy" and said:

"It just seems to me that you would keep some slips of paper showing what went out from the F.B.I. and that the Attorney General would be notified."

**Differentiation By Gray**

Mr. Gray argued that the Dalby memorandum applied only to cases in which the F.B.I. was considering volunteering information to the White House and did not apply to instances when the material was requested. He said that

there was no need to keep a record of what documents had been given to Mr. Dean because the folders containing the documents had a yellow inventory sheet attached to them.

The nomination of Mr. Gray, who is considering his confirmation, appears to be in deep trouble.

Many Senators on the committee, perhaps a majority, believe that Mr. Gray should not be approved unless Mr. Dean agrees to appear for questioning. Furthermore, experienced observers believe that, even if the committee should approve the nomination, it would likely fail on the Senate floor as long as Mr. Dean refuses to testify.

Even Senator Edward J. Gurney, a Florida Republican, who has been one of the Administration's chief defenders on the Judiciary Committee, acknowl-

edged today that "Mr. Gray is in trouble."

In a radio interview on the Columbia Broadcasting System, Senator Gurney said, "Later on, when the tempers have cooled down, we'll do something about Mr. Gray, but I don't think we'll do anything about him right this moment."

President Nixon has asserted that Mr. Dean is covered by "executive privilege" and, therefore, may not testify. In a policy statement of March 12, the President declared:

"A member or former member of the President's personal staff normally shall follow the well-established precedent and decline a request for a formal appearance before a committee of the Congress."

This policy seems to run counter to a statement made 11 months ago by Mr. Dean. In a letter to Dr. Jeremy J. Stone, director of the Federation of American Scientists, which was dated April 20, 1972, and was released by Dr. Stone today, Mr. Dean wrote:

"The precedents indicate that no recent President has ever claimed a 'blanket immunity' that would prevent his assistants from testifying before the Congress on any subject."

For Mr. Gray's part, he has remained outwardly calm during most of the long and often repetitious hearings. At times, he has seemed to become irritated and to begin to raise his voice, but each time has caught himself, gathered his self-control and then spoken softly and respectfully.

Time and again he has exhibited what appeared to be an unquestioning regard for his superiors in the Government, an outlook perhaps stemming from his background as a Naval Academy graduate and naval officer.

When he was asked why he continued to depend on Mr. Dean's confidentiality, despite reports that Mr. Dean had made some documents available to unauthorized persons and despite testimony that Mr. Dean

was a friend of G. Gordon Liddy, one of the Watergate defendants, Mr. Gray responded:

"The President of the United States is not going to appoint his own counsel to conduct this kind of investigation if the President has any reason to believe that his counsel has been involved."

At another point, Mr. Gray remarked, "I just can't imagine any President who would have a man sitting there who was involved in this kind of thing."

"There have been other Presidents who have been involved in this kind of thing," Senator Kennedy declared.

"Of course, Senator Kennedy," Mr. Gray replied.

Yesterday, Mr. Gray acknowledged that he had continued to forward material to Mr. Dean even after learning that Mr. Dean had recommended Liddy for a job at the Nixon re-election headquarters.

Liddy was one of those convicted of plotting to break into and bug the Democratic na-

tional headquarters at the Watergate office building here last June.

Asked today whether he considered informing President Nixon when he discovered the relationship between Mr. Dean and Liddy, Mr. Gray responded:

"That thought didn't strike my mind."

Mr. Gray said that he would continue to give Mr. Dean any material he requested as long as Mr. Dean remained the President's counsel.