

# Senate Quiz of Gray-- Confirmation Hopes Fade

## Washington

L. Patrick Gray III told the Senate Judiciary Committee yesterday that he had never notified anyone in the FBI or the Justice Department that he was releasing FBI documents on the Watergate investigation to the White House.

Gray, who has been acting director of the FBI for 11 months and who has been nominated to be its permanent head, is in his fourth week of testimony before the committee considering that nomination. The chances for Senate confirmation appeared to be dwindling.

Gray also told the committee yesterday that the FBI had kept no records of precisely what information it had turned over to John W. Dean III, President Nixon's counsel.

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

Gray acknowledged that he had received a memorandum from D. J. Dalbey, his chief legal adviser, on July 20 informing him that all

FBI records were "in the custody of the attorney general and technically may not be released from the department without his consent."

At the bottom of this memorandum, Gray had underlined a sentence that read, "the authority and obligation of the FBI 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, Gray said he had not told Attorney General Richard Kleindienst about the material he was releasing to 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 (Dem-Mass.), who asked the bulk of the questions of Gray yesterday, 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 FBI and that the attorney general would be notified."

Gray argued that the Dalbey memorandum applied only to cases in which the FBI 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 Dean because the folders containing the documents had a yellow inventory sheet attached to them.

The Nixon administration's fight for Senate confirmation of Gray's nomination appeared to be in deep trouble.

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

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