

Gray Expresses 'Sense of Shame' At Burning Files

Felt Dean, Ehrlichman Expected It

By Lawrence Meyer
Washington Post Staff Writer

L. Patrick Gray III, who resigned in disgrace as acting director of the FBI last April, testified yesterday that he burned documents related to the Watergate investigation because White House aides John D. Ehrlichman and John W. Dean III had given them to him with "the clear implication" that they should be destroyed.

"It is true that neither Mr. Ehrlichman nor Mr. Dean expressly instructed me to destroy the files," Gray told the Senate Select Watergate Committee. "But there was, and is, no doubt in my mind that destruction was intended. Neither Mr. Dean nor Mr. Ehrlichman said or implied that I was being given the documents personally merely to safeguard against leaks."

Calling his destruction of the documents in late December, 1972, a "grievous misjudgment," Gray said he was left with a "sense of shame." And he added, "I shall carry the burden of that act with me always."

Gray resigned from the FBI on April 27, the day after it was first publicly revealed that he had destroyed the documents, which consisted of two files from the White House office safe of Watergate conspirator E. Howard Hunt Jr.

Gray described how and why he destroyed the documents, and how the FBI investigated Watergate, in a 90-minute statement he read yesterday afternoon to the Senate Watergate committee, which recessed until Monday without questioning him.

Gray's statement complicated an already tangled web of contradictions on many points of testimony heard by the committee in nine weeks of hearings on the Watergate investigation.

In significant, and perhaps crucial respects, Gray's description of conversations he had with Ehrlichman concerning the Hunt documents differs from what

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Ehrlichman had told the Senate committee. Ehrlichman, once President Nixon's top domestic adviser, resigned from the White House staff under fire on April 30.

Gray's statement also conflicts with the testimony of deputy CIA director Lt. Gen. Vernon A. Walters, who preceded Gray at the witness table. Both Gray and Walters testified about a series of meetings they had in June and July, 1972, to discuss the potential risks to CIA operations in Mexico posed by the FBI's investigation of the Watergate affair. They eventually concluded that no such risk or any other FBI-CIA conflict existed.

In addition, Gray's statement conflicts in some respects from the testimony of former White House counsel Dean, who was fired by President Nixon on April 30.

Emerging clearly from the testimony of both Gray and Walters, however, was the fact that Dean separately, but simultaneously, was trying to restrain the FBI investigation of the Watergate affair by attempting to play Walters and Gray against each other.

According to Gray, the FBI restrained its full investigation of \$114,000 in Nixon campaign funds, which had passed through Watergate conspirator Bernard L. Barker's Miami bank account, because of Dean's persistent assertions that the money involved the CIA.

The FBI had traced \$89,000 of that sum to a Mexican lawyer, Manuel Ogarrio, and \$25,000 to Minneapolis industrialist Kenneth Dahlberg. Dean, according to Gray, continually linked the two men as being involved with the CIA.

At the same time, according to Walters, Dean also was talking to him, trying to persuade Walters that the CIA was somehow involved in the Watergate break-in and bugging. Even if the agency was not involved in the bugging, Walters said Dean was suggesting, it should assist in restraining

the FBI.

When Dean was unable to get any assistance from the CIA, according to the testimony yesterday, Dean called Gray and told him that the Ogarrio and Dahlberg checks were unrelated to Watergate. In fact, however, the \$114,000 provided untested evidence that the Watergate break-in was financed by campaign funds of the Committee for the Re-election of the President.

In contrast to his admissions about his own acts, Gray continued to defend the FBI's investigation of the Watergate break-in and bugging, which he described as a "full-court press" in his abortive confirmation

hearings to become permanent director of the FBI.

"Instructions were issued at the outset of the investigation and regularly thereafter," Gray said yesterday, "to ensure that this case was handled as a major case under the immediate supervision of the special agent in charge of each field office to which investigative leads were referred by the Washington field office or any other field office setting out leads to be pursued."

Gray's defense of the FBI and his assertion that he would have resigned rather than restrain the investigation posed a strange paradox in view of his admission that he had destroyed documents.

In human terms, Gray, who sat before the committee ramrod-straight like the ex-Navy captain that he is, must be added to the litany of names whose lives and careers have been shattered by their involvement in the Watergate affair.

Gray abandoned his effort to win confirmation by the Senate to succeed J. Edgar Hoover as FBI director when his handling of the Watergate investigation was questioned as being too responsive to demands by the White House. As Ehrlichman's earlier Senate testimony made clear, Gray was also abandoned during the confirmation procedure by his nominal sponsors in the Nixon administration.

Then Gray's personal reputation, the lifeblood of any lawyer—which Gray also is—was called into question by his admission that he had destroyed the Hunt documents. Although Gray asserted that these documents were not "evidence" in the Watergate case, that position may be contradicted by the federal Watergate grand jury.

In addition to admitting the destruction of the documents, Gray also revealed publicly yesterday that on July 12, 1972, deputy CIA director Walters gave him a memo indicating that Watergate conspirators G. Gordon Liddy and Hunt had been given CIA assistance at an earlier time.

Gray said he had no recollection of the memo until it was shown to him by federal prosecutors this spring. "I am told that the original of this memorandum was found in my safe after I left the FBI," Gray said.

Gray termed "nonsense" the "insinuation (that) has been made that I somehow purposely suppressed this information to hinder the investigation."

He explained that "I do not recall noting the significance, if any, of the information at the time . . . And, if I had any intention of suppressing this information, I would certainly not have left it in my safe. In short, any suggestion that I had any improper intention in my handling of this memorandum is absolutely false."

The information about Hunt's and Liddy's earlier CIA assistance that Walters turned over to Gray in July, 1972, could have led the FBI to uncovering the burglary of the offices of Daniel Ellsberg's psychiatrist in September, 1971. That operation involved Watergate conspirators Hunt, Liddy, Barker and Eugenio Martinez. Speculation has focused on the theory that part of the reason for the Watergate cover-up was to conceal the Ellsberg break-in.

Gray, however, offered no justification for destroying the Hunt documents. Gray gave this account of the events leading up to their destruction:

On June 28, 1972, 11 days after the Watergate break-in, Gray went to a meeting in Ehrlichman's White House office, at 6:30 p.m. Gray said the purpose of the meeting was to discuss FBI leaks of information concerning the Watergate investigation.

Gray said he was "surprised" to find Dean at the meeting. "after the usual greetings were exchanged," Gray said, "Mr. Ehrlichman said something very close to, 'John (Dean) has something that he wants to turn over to you.' I then noticed," Gray said, "that Mr. Dean had in his hands two white manila legal-size

file folders.

"Mr. Dean then told me that these files contained copies of sensitive and classified papers of a political nature that Howard Hunt had been working on. He said that they have national security implications or overtones, have absolutely nothing to do with Watergate and have no bearing on the Watergate investigation whatsoever.

"Either Mr. Dean or Mr. Ehrlichman said that these files should not be allowed to confuse or muddy the issues in the Watergate case.

"I asked whether these files should become a part of our FBI Watergate file. Mr. Dean said these should not become a part of our

Watergate file, but that he wanted to be able to say, if called upon later, that he had turned all of Howard Hunt's files over to the FBI.

"I distinctly recall Mr. Dean saying that these files were 'political dynamite,' and 'clearly should not see the light of day,'" Gray said.

Conceding that nothing explicit was said about destroying the files, Gray continued, "the clear implication of the substance and tone of their remarks was that these two files were to be destroyed and I interpreted this to be an order from the counsel to the President of the United States (Dean) issued in the presence of one of the two top assistants to the President of the United States (Ehrlichman)."

Although they disagree in their versions, Dean and Ehrlichman agreed while testifying before the committee that Gray was not told, explicitly or implicitly, to destroy the documents, which contained forged cables by Hunt attempting to implicate President Kennedy in the assassination of South Vietnamese President Ngo Dinh Diem.

Dean said Ehrlichman told Gray "that we had some material for him that had come from Hunt's safe. Ehrlichman described it as politically sensitive, but not related to the Watergate per se." Dean continued, "I said we did not believe they related to the Watergate in any way, but should they leak out, they would be political dynamite in an election year.

"At no time," Dean said, "while I was present with Gray and Ehrlichman was he (Gray) instructed by myself or Ehrlichman to destroy the documents. Rather, he was merely told that they must never be leaked or made public."

Ehrlichman testified that Dean said, "'Pat, I would like to give you these.' The sense of it," Ehrlichman said, "was that these were contents of Hunt's safe that were politically sensitive and that we just could not stand to have them leaked. I do not know whether he (Dean) had talked to Gray before or not, because Gray seemed to understand the

setting and the premise, so to speak. And he (Dean) turned the documents over to him (Gray) and John Dean then left."

Ehrlichman testified that he said little but "probably chimed in on the subject of leaks, which was then kind of a, was a theme that I was hitting with Mr. Gray right along. And as I have testified before, I do not recall the specific language that was used. The sense of the conversation between the three of us, which was not a long conversation, was that the purpose of Pat Gray taking delivery of these was to avoid the leak problem which all of us recognized that the FBI was having."

Ehrlichman added one more descriptive word to his recollection of the conversation: "I think the word 'politically' (sensitive) was in it. I think it was very clear they had political overtones rather than saying sensitive from a national security standpoint or something of that kind."

Gray, however, suggested in his statement that he understood that the documents related to national security and that part of his "shame" results from permitting "myself to be used to perform a mere political chore."

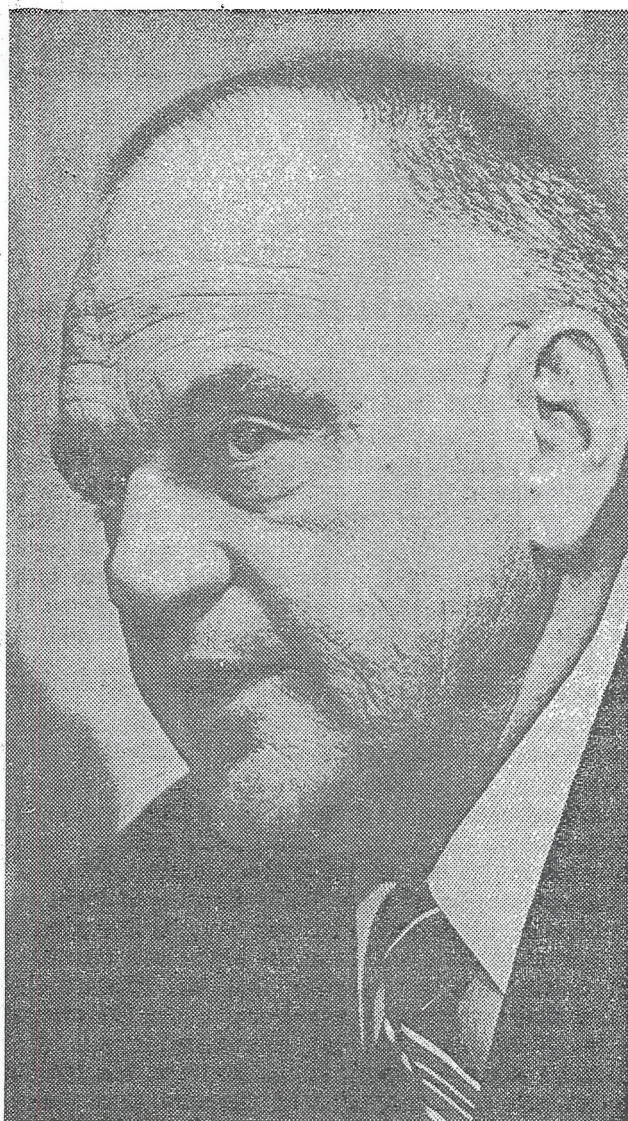
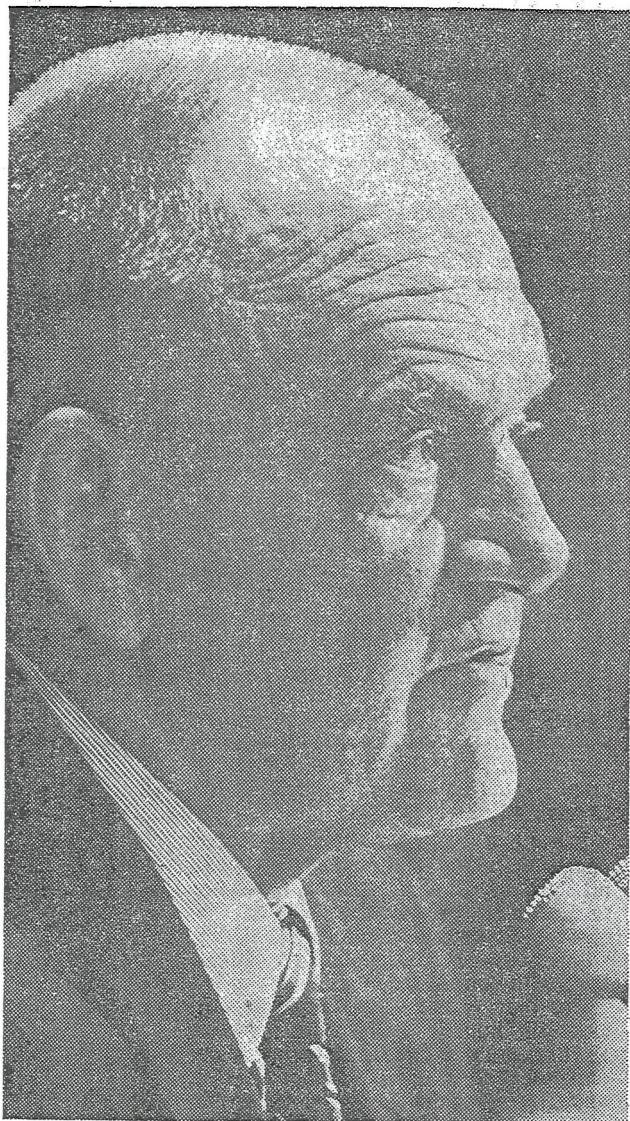
Gray said he took the documents to his apartment where he left them "on a closet shelf under my shirts." He then took them to his office two or three weeks later, he said, and put them in his safe.

In late September, Gray said, he took the documents to his home in Stonington, Conn., "and placed them in a chest of drawers in the area just outside my bedroom." He said he intended to burn them, but hospitalization forced by illness and the subsequent delay of convalescence delayed the destruction until Christmas week when "I burned them . . . with the Christmas and household paper trash that had accumulated immediately following Christmas."

Gray said he took his first look at the files just before burning them and was "shaken" when he read the cables about the Diem assassination. Gray said he did not doubt the "authenticity of the cable." Although he looked at other material in the two files, Gray said, he did not "absorb" the subject matter and does not know what it was.

Gray denied testimony by Dean that they spoke after a Justice Department luncheon in January about the files.

Dean testified that shortly before the conversation with Gray, Dean had told Assistant Attorney General Henry E. Petersen that Gray had been given the two files. Dean said Gray approached him shortly after that and told him to "hang tight" about not disclosing that Gray had received the docu-



By Bob Burchette—The Washington Post

L. Patrick Gray testifies on burning files: "I shall carry the burden of that act with me always."

ments. Dean said Gray told him then that the documents had been destroyed. Dean said he told the Watergate prosecutors in early April that Gray had destroyed the documents.

Gray testified yesterday that "I recall no such meeting or conversation with Mr. Dean at a Department of Justice luncheon, and my records do not indicate any such luncheon meeting."

Gray then turned to potentially the most important part of his testimony, the conversations with Ehrlich-

man in which Gray informed him of the documents' destruction.

During his confirmation hearings in March, Gray said, Petersen told him that he had been informed by Dean that Gray had received two files from Hunt's safe. Gray said Petersen asked him if Dean had spoken to him about the matter and Gray said he replied "truthfully" that Dean had not. Gray said he did not acknowledge that Dean, in fact, had turned the documents over and "would have denied the receipt of such files" if Petersen had asked. Gray said he does not recall Petersen asking him if he received the files.

Gray said that he then told Dean about this, and Dean confirmed having told Petersen about the files. Gray said he told Dean that if the files "had nothing to do with Watergate, he

(Dean) ought not be discussing them at all, but that, if he did, he should at least tell Mr. Petersen the full story of their significance and the instructions to me."

On March 6, Gray said he called Ehrlichman — a call that Ehrlichman has dated as occurring on March 7 or 8. In his rendition of events, Gray asserted that he had not made any false statements under oath concerning what the FBI had received from Hunt's safe "but I acknowledge that I purposely did not volunteer this information to the committee."

"It was in this context," Gray said, that he called Ehrlichman, in a conversation Gray said he was unaware Ehrlichman was recording. "There is no doubt," Gray testified, "that the message I intended to give to Mr. Ehrlichman was that he should tell Mr. Dean that he should not disclose the delivery to me of those two files."

According to transcripts of the conversation between Gray and Ehrlichman and then between Ehrlichman and Dean, Gray conveyed that message to Ehrlichman, who then somewhat flipantly passed it on to Dean.

At 10:30 p.m. on April 15, Gray said, he received a call from Ehrlichman. Gray gave this account:

"He (Ehrlichman) simply told me Dean had been talking to the prosecutors for some time and 'we' think you ought to know about it. It was obvious from his tone and manner in which he spoke that no questions were invited and none were asked. I merely said thanks as he was hanging up the phone. I may have said, 'Good evening, John' or 'Hello, John' when I picked up the phone and it is my firm recollection that he started talking right away and made no response.

"At shortly after 11 p.m., Ehrlichman called me again. This time his remarks were

just as short, terse and to the point. He said, 'Dean has been talking about the files he gave you and you better check your hole card.' I said, 'John, those papers were destroyed long ago.' Again it was plain and obvious that no questions were invited and none were asked.

"Both of these calls were of extremely short duration, less than 15 seconds each. His manner was fast talking and he seemed tense.

"I know," Gray said, "that Mr. Ehrlichman has testified that in these conversations I told him I would deny receiving the files and asked him to support me in that denial. I have absolutely no recollection of such an exchange and believe that both conversations were substantially as I have described them. I realize that the conversations may have been recorded without my knowledge."

Ehrlichman testified that he made the calls from President Nixon's Executive Office Building Office as Mr. Nixon sat near him. According to Ehrlichman, Mr. Nixon raised the question of the files, which he said had been mentioned in a meeting earlier that day with Petersen and Attorney General Kleindienst. Ehrlichman said Mr. Nixon wanted to know where the documents were and what was in them.

Ehrlichman said he called Gray and told him that Dean apparently had told the prosecutors that he had given the documents to Gray. Ehrlichman gave this account of the first phone call:

"Mr. Gray said, 'Well, he (Dean) can't say that.' and I said, 'Well, he did say that,' and he (Gray) said, 'If he says that, I will deny it,' and I said, 'Well, Pat, it isn't a subject for denial. Obviously it's not something you can deny, I recall the episode very clearly.' 'Well, he (Gray) says, 'You have got to back me up on this.' Then he went on to say, 'I destroyed the documents.'"

Professing himself to be "nonplussed" at what he said he was learning for the first time, Ehrlichman hung up the phone after saying something "rather confused."

Ehrlichman said he told Mr. Nixon what Gray had said and after realizing that he had not made it clear to Gray that he would not support the story, Ehrlichman said he called Gray back.

"So," Ehrlichman testified, "I placed a second call

right then, and I said, 'Pat, I didn't respond clear enough to your suggestion and I just want to tell you, as I have to tell you, that I would have no choice if I were asked but to say that I was present at the time the documents were delivered to you.' Gray, according to Ehrlichman, said, "I understand. I guess I will have to do what I have to do" or words to this effect, and that is the end of the second conversation."

Ehrlichman said President Nixon then notified Petersen or Kleindienst about Gray's destroying the documents. According to Ehrlichman, either Petersen or Kleindienst asked Mr. Nixon not to remove Gray until they could investigate the matter and Mr. Nixon complied with that request.

Gray said, however, that the following day — April 16 — Petersen told him that Dean had told the prosecutors that he had given two files to Gray. Gray said he denied receiving the files.

Troubled at his denial, Gray said, he slept "little, if any, that night" and at 9 a.m. on April 17 he called Petersen and told him about destroying the documents. Gray said he told Petersen he had not read the files. Petersen said the prosecutors would want Gray before the grand jury, Gray said, and "I told him I would go willingly and 'tell it to them straight.'"

Petersen is scheduled to testify, along with Kleindienst, before the committee recesses for several weeks. Among other questions, Petersen is certain to be asked by the committee if Ehrlichman or Mr. Nixon contacted him or Kleindienst to tell them about Gray's admission to Ehrlichman, or whether, as Gray suggested, the information came from Dean.