

(a) 17 Material used in preparing for the deposition of RMA - Gray and Wiretap Investigation

SCREENED
By *slp* Date *abaton*

STATEMENT ISSUED BY MR. MILLER'S OFFICE

As appears from the stipulation filed in the United States District Court for the District of Columbia by the Special Prosecutor and the attorney for former President Nixon yesterday, Mr. Nixon on Monday and Tuesday of this week was examined under oath at the Coast Guard station ⁱⁿ ~~and~~ what used to be the Western White House in San Clemente, California. Some members of one of the Watergate grand juries were present. The examination was conducted by several members of the office of the Special Prosecutor and consisted of a total of approximately eleven hours of questioning over the two day period. The examination covered a wide range of subjects.

Mr. Nixon was not under subpoena. His sworn testimony in California for the District of Columbia grand jury was voluntary and responsive to the expressed desires of the office of the Special Prosecutor for his testimony relative to the grand jury's ongoing investigations. It was the former President's desire to cooperate with the office of the Special Prosecutor in the areas which that office desired to interrogate him, and it was Mr. Nixon's feeling in view of the anticipated length of his testimony,

the present state of his health, and the complications inevitably attendant to extended travel, the examination would be most efficiently conducted in California.

Mr. Nixon's decision to testify followed consultation with his medical advisors. The examination itself was conducted on Monday and Tuesday, June 23 and 24, 1975.

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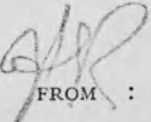
WATERGATE SPECIAL PROSECUTION FORCE

DEPARTMENT OF JUSTICE

Memorandum

TO : ALL STAFF

DATE: June 27, 1975


FROM : Henry S. Ruth, Jr.

SUBJECT:

As some of you know, on Monday and Tuesday of this week, under extreme precautions of confidentiality both preceding and during the two days, members of this Office took sworn testimony from Mr. Nixon about matters pending before Grand Jury III. The attached stipulation was released this morning by Chief Judge Hart at the Courthouse and reflects the only matters about the sworn testimony that are permitted to become public knowledge.

Consequently, no member of this staff shall speak to members of the press, friends, and other persons concerning any aspect relating to the actual occurrence or content of the testimony. As to those who were present during the testimony, no comments shall be made outside the Office concerning any aspect of what he or she saw or heard. In other words, we are treating this, as is our obligation, as we would any other matter involving grand jury testimony. Members of the press may try to reach you at home or in the office at any time of day or night for any scrap of detail. None should be furnished. All calls should be referred to John Barker.

There will be no exceptions to the above ground rules and no violation thereof will be countenanced.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE JANUARY 7, 1974
GRAND JURY

Misc. No.

STIPULATION

WHEREAS on June 23 and 24, 1975, Richard M. Nixon voluntarily submitted to an examination under oath at the San Mateo Loran Station, United States Coast Guard, San Diego County, California, said examination conducted by the Watergate Special Prosecution Force on matters subject to pending Grand Jury investigations, said examination ancillary to and with the consent (based on the health of Richard M. Nixon and other legal considerations) of the January 7, 1974 Grand Jury of the United States District Court for the District of Columbia, and said examination attended by two Grand Jurors with the approval of the Chief Judge of this Court; and

WHEREAS said examination was taken for presentation to and to be made a part of the minutes of the aforesaid Grand Jury; and

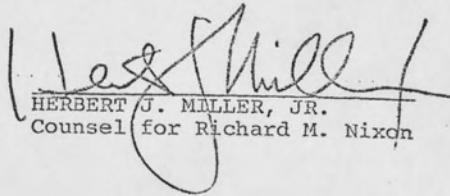
WHEREAS Richard M. Nixon, because inquiries have been made concerning this matter, desires that the fact of this proceeding be made public, but only with the consent of the Court; and

WHEREAS the Special Prosecutor has no objection thereto;

NOW, THEREFORE, counsel for Richard M. Nixon and the Special Prosecutor on this 26th day of June, 1975, hereby stipulate that this statement shall be filed with the Court.



HENRY S. RUTH, JR.
Special Prosecutor



HERBERT J. MILLER, JR.
Counsel for Richard M. Nixon

So ordered:

.....

CHIEF JUDGE

Dated: _____

6/16/75

TO: Jay Horowitz
FROM: Frank Martin
RE: Nixon's Testimony

I spoke with Stan Mortenson on Wednesday and got a brief outline of his impression of Nixon's response to various questions on both the wiretap and the Gray investigations. Mortenson had done the questioning on this matter and Miller had taken the notes of Nixon's responses. Mortenson did not have those notes with him and, therefore, did not give me a detailed rundown but should be calling me early ~~next~~^{this} week for more detail on Nixon's responses. Given that we have some advance warning on Nixon's likely responses, we should make an initial decision as to whether or not to try to develop the full background in both investigations or to specifically bore in on the July 12, 1971, meeting with Mardian and on the February 23, 1973, to February 28, 1973, ^{time period} concerning Gray. We may also want to get into some detail on the April, 1971, Hoover-Kleindienst-^{Bessa}~~logs~~ situation. Also, although not directly related to our original plans on questioning Nixon, we should make some decision with Hank concerning whether or not to get into whether or not Kissinger "initiated" any of the wiretaps. Outlined below as to various specific lines of inquiry is a combination of my readout from Stan concerning Nixon's present recollection, the extent to which Nixon's recollection is either ^{supported}~~reported~~ or contradicted by tapes and documents, and suggestions as to how to approach each line of inquiry.

I. The Wiretaps Themselves

Nixon recalls, in particular, Kissinger being very insistent upon wiretapping Tony Lake because of Lake's participation in the secret Paris negotiations. Apparently,

Nixon's recollection on that subject is rather vivid. Nixon claims to believe that the taps were never of very much value but Kissinger really wanted the wiretaps. Nixon assumes that the wiretaps were discontinued because of their low productivity and has no explanation for his April, 1973, comments concerning "knocking the wiretaps off after the hullabalo out there." As to the Radford taps, Nixon simply believes that they came off in the normal course as a result of Kieth decision. There are various tape references consistent with Nixon's claim not to have been intimately involved in the wiretaps and that Kissinger was the one who was involved. Specifically, on the July 6, ^{1971,} _^ tape, Nixon refers to the fact that he never saw any of the wiretap material and on the February 27, and 28th tapes, Nixon refers to Kissinger wanting the wiretaps and he, Nixon, assuming they were done, and also to the fact that Kissinger loved the wiretaps and used to read them all the time. If we want to go into the area of Kissinger's "initiation" of the wiretaps, it seems that Nixon's testimony will be straightforward and that this area could be handled by four or five relatively quick questions. As to Nixon's failure to recollect why the wiretaps were discontinued, he could be pushed a little given his statement on the tapes concerning the "hullabalo" but ^{it} _^ does not seem that this would be very productive.

II. July, 1971 -- San Clemente

According to Stan, Nixon has very little recollection of the July 10th, 1971, reference to not worrying "about taps on discovery" and similarly, has very little recollection of the overhear problem as it was discussed in the July 12, 1971, meeting. Nixon does not recall any relationship between the Ellsberg or Pentagon Papers case and the wiretap problem. He also has no or little knowledge concerning

why the wiretaps were not destroyed. As regards the indications of the July 12th notes that newspaper people should not be called before the grand jury, Nixon's recollection is that this was basically a public relations issue regarding suppression of the press. Nixon does recall Mitchell being concerned about Hoover and about the wiretap logs. Nixon also recalls a concern ^{that} at the existence ~~that~~ ^{of} these wiretaps might leak to the press as other things had been leaking to the press and that, therefore, the wiretaps should be destroyed. Nixon seems to be confusing the events in July, 1971, which is the overhear problem, with events in October, 1971, which is the ~~old~~ ^{and out of Hoover's possession and} issue of getting the wiretap material away from Hoover ^{into Ehrlichman's possession.} There are a number of things which are inconsistent with Nixon's recollection of the July 12, 1971, meeting especially the early notes concerning the overhear problem and the instructions for Hoover to destroy the logs which would indicate that Hoover would be cooperating in this effort. In addition, there is Mardian's statement that "the FBI's going all out now" with regard to the Ellsberg case. Also, it should be noted that the July 12, 1971, meeting is the time of the formation of the Plumbers Unit and this would be the logical thing to have happened given the considerations of the problems of "Intelligence Operations" causing problems when it comes to prosecutions. On the July 12th meeting, it would suggest probing point by point through Ehrlichman's notes with the assurance ^{of} Mortenson that he has gone over all this material again with Nixon and has explained to him why the July 12 events are different from the October, 1971, events.

III. Hoover Threat

Nixon recalls meeting with Hoover in early April, 1971, and states that there was no threat from Hoover and

that he never received any such threat. There is some support for Nixon's "impression" in the February, 1973, tapes where he seems to indicate disagreement ^{with the thought} that Hoover would ever threaten him. There is, however, significant contradiction for Nixon's present recollection, in particular, the reference on the October 25, 1971, tape to "Hoover bringing ^a the temple down with him, including me." Nixon now claims that this statement has no meaning to him. It seems that Nixon is confusing again events in April, 1971, August, 1971, and October, 1971. I would suggest probing on the October 25, 1971, tape reference above, as well as the April, 1971, notes which indicate that Hoover was upset over Kleindienst and had threatened to reveal the wiretaps. I would also probe on what was done to turn Kleindienst off on the Congressional investigation idea.

IV. Gray's Nomination

Nixon's recollection is that there had been some initial considerations consistent with the January 8, 1973, Haldeman notes, to not ~~know anything~~ ^{nominate} about Gray. Nixon further recalls that when it came down to trying to find someone else, various political factors indicated that the best they could do would be to send up Gray. This is somewhat confirmed by the February 14, 1973, discussion ^{with Ehrlichman}/concerning nominating Gray. With regard to the meeting with Gray, Nixon recalls the main ~~concerning~~ being how Gray would handle the Watergate questions, and that this is what he was principally concerned with probing Gray on. Also, Nixon does not assume that his discussion with Gray concerning the need for a direct relationship between the Director and the President meant that he expected Gray to engage in wiretapping or that Gray necessarily knew about the wiretapping that Hoover had done for Nixon as part of this direct

relationship with the President. Stan did not recall, without his notes, how Nixon responded to the tape references to the leaks to Time magazine. Other than for setting Nixon's general concern over Felt and leaks to Time as well as the fact that he pushed for Sullivan during this meeting, there does not seem that there is a lot to be gained by probing Nixon in detail on the February 16, 1973, meeting.

V. Time Magazine Story

According to Mortenson, Nixon's recollection is hazy and apparently he has little information about this period, at least from their initial conversation. Nixon states that he assumes ^{that} Gray ~~that he~~ would not necessarily have known about the wiretaps since they were closely held and he believes that only Hoover, Sullivan, Kissinger, Haig, Haldeman, Ehrlichman, and Mitchell would have such knowledge. Nixon further assumes that denying the Time allegations was something that he really would ~~have had to~~ ^{not} have dealt with. There is substantial contradiction for Nixon's view of these events. On the basis of the February 16, 1973, meeting with Gray, it is clear that Nixon would be very concerned about another "truthful" story to Time magazine and about the possibility that Felt and/or Sullivan was the source of this story. In addition, we have the February 25, 1973, notes of Haldeman's conversation with the President concerning the fact that Brandon and Safire were known to Time magazine as subjects of the wiretaps and that this would be an obvious concern to Nixon. This is buttressed by the fact that in his conversations on the 27th and 28th with Dean, Nixon continually refers to Brandon and ~~without being~~ ^{was probably very} ~~basically~~ concerned that it might leak out that Bill Safire had been wiretapped. Safire was still on the White House staff at that time. In addition the Haldeman notes clearly indicate

that Nixon had discussed the subject matter with Ehrlichman while they were at Camp David. Finally, there is a reference in the February 27th tape to Nixon discussing the wiretaps and saying "of course we had to stonewall and say nothing happened." This obviously indicates that this was the decision that had been reached at Camp David or had been reported to Nixon by Ehrlichman at Camp David. Nixon, on the February 28th tape makes an additional reference where Dean states that the Time magazine article is being stonewalled completely and Nixon says "oh, absolutely." It would appear that as to the issues in the Gray investigation, the questioning should concentrate on probing the events of the 24th, ~~and~~ 25th and 26th of February. This is due to the fact that we have a clear indication that Nixon spoke to Ehrlichman, but did not know the substance of that conversation and it is clear that Nixon later talked to Haldeman and he should have some knowledge as to what was done to assure ^{that} the Time allegations would be "stonewalled."

VI. Other Aspects

There are a few other more miscellaneous aspects of the questioning which we should discuss whether or not we should probe deeply on. This includes the Kleindienst knowledge of the wiretaps either as a result of the April, 1971, threat, the July, 1971, San Clemente meeting, and the implementation of the orders given by Nixon at that meeting, and finally discussions with Richard Moore concerning the wiretaps either during 1971, in discussions about replacing Hoover or in discussions about Sullivan's departure from the Bureau. Also, we should probe possibly whether or not Moore had any knowledge at the time of the Gray confirmation hearings and the Time magazine article

about the wiretaps. Finally, there is the question of whether or not there was other wiretapping done in the course of the Walsberg investigation. There are clear indications in two April 19, 1973, conversations, one with Petersen and one with Moore, that such wiretapping was done and that Nixon knows about it. There are, however, in some of these conversations, some disclaimers ^{as to} ~~of~~ the extent of Nixon's knowledge. I did not get into specifics with Stan concerning this issue, although he did state that as to a notation in Ehrlichman's July 10, 1971, notes concerning the fact that "Roger should be tapping more," it is Nixon's recollection that he was not aware whether or not Rogers was tapping at all, nor did he give a specific order that he should be tapping, but that this was a general statement about the problem of leaks out of the State Department, and an indication that there should be more wiretapping.

My initial ^{inclination} ~~indication~~ is that we should concentrate on July 10, 12, 1971, on February 24, 25, 1973, and possibly on the April, 1971, materials regarding Kleindienst and possible knowledge of the wiretaps.

Notes for Meeting w/ Miller
(GENERAL)

- ① Concealment of winetop records in order to prevent their discovery in connection with grand jury or trial proceedings re Pentagon Papers
Ellsberg
Halperin et al
Sheehan et al
- ② "Hoover Threats" & alternate (innocent) explanation for removal of records
- ③ Who had knowledge of reasons for the concealment of the records?
(Mitchell, HAK, HAKG, Moore, RGK....)
- ④ Who had knowledge of the winetops? (Kennedy and Radford)

(SPECIFIC)

① July 6, 1971 - Aug 11, 1971 (Approx.)

7/6/71 tape We know wintaps were being reviewed

7/10/71 memo * We know there was a concern
"Re: Taps on discovery"

7/12/71 memo * We know this concern was that
"Overhearing would be disclosed"
and that an order was given to
"destroy the logs"

Follow up questions on reports
p back to Nixon on the "overhear"
problem and "destroying" the
logs. (Further notes may permit
more detailed questions)

"Hoover threat"

8/4/71 HAK test. Testimony of RCH, JDE, WCS, et al
that the reason for the removal
was a "threat" by Hoover to reveal
the taps.
8/11/71 DRY memo
G.G. memo

Earlier possible threats

1/73 tape

Tape reference to "knocking the taps off after the 'hellsbells' out there". Why were taps discontinued on February 10, 1971.

2/12/71 notes

Hoover - Boggs - Klendick reference to threat to ROK to reveal the taps in connection with engineering testimony.

What if any "threat" did Hoover make in early August 1971? Follow-up on what was done in response to Hoover threat

10/25/71 tape

10/22/71 G6L memo

Reference to Hoover bringing Nixon down with him.

Other taps

4/17/73 tape

Tape reference to "They had the FBI do bugging once ~~they~~ it got into the case." What "bugging" was done with regard to the Pentagon Papers case?

7/10/71 notes

"Rogers should be tapping more"

(Gray)

Nixon's awareness that Gray (Kleindienst Moore) knew of the wiretaps.

10/25/71 tape

Fall 71 - At the time Gray was being considered as a replacement for Hoover

5/3/72 JDE memo

May 3, 1972 - At the time of Gray's appointment (note Radford taps in operation). Note also "Assignments directly from the President"

6/10/72 HAK memo (?)

June 20, 1972 - Discontinuation of the Radford taps
Jan 8, 1973

2/16/73 tape

* February 16, 1973 Gray's memorandum - note discussion of "leak investigations" and "Kraft" tap, also reference to Radford and Time magazine

2/23/73 note

2/27/73 tapes

2/28/73

2/26/73 memo

* February 26, 1973 Time article - what was done to determine the source of the leak, what assurances did Nixon get that Gray, Kleindienst et al would deny the story, who did Nixon discuss the wiretaps with (Zeigler, Hoig, HAK, ...?)

General

Any additional information Nixon may have learned about the concealment of the wiretaps as a result of the during the course of the Rockefeller investigation.

Chronology of Events re Removal of Wiretap Records

April 25, 1969 --

According to Kissinger, he meets with Nixon, Mitchell and Hoover on this day and it is decided that next time there is a major leak, wiretapping will be used to track down the source of the leak.

May 9, 1969 --

William Beecher (NY Times) reveals secret Cambodia bombing. Four conversations between Kissinger and Hoover on this date and a wiretap is installed on Halperin.

May 12, 1969 --

Attorney General signs authorization for Halperin wiretap (done three days earlier), as well as wiretaps on Davidson, Sonnenfeld, and Pursley.

April 30, 1970 --

Cambodian invasion -- at this time only wiretaps in operation are Halperin and Brandon.

May 4, 1970 --

Beecher (NY Times) reveals renewed secret bombing of Vietnam. Haig, on behalf Nixon requests wiretaps on Beecher, Pursley, Sullivan and Petersen.

May 13, 1970 --

Haig, on behalf of Kissinger, requests wiretaps on Lake and Lord. (Nixon apparently has a vivid recollection of Kissinger insisting upon the Lake wiretap because Lake had been involved in the secret Paris negotiations and Kissinger was afraid Lake would talk to Muskie about these negotiations since he was going to work for Muskie.)

May 15, 1970 --

According to Kissinger, at his request, all wiretap letters are sent from this time on to Haldeman rather than to Kissinger and Nixon.

February 10, 1971 --

All wiretaps then in operation (Halperin, Brandon, Sonnenfeld, Beecher, Sullivan, Petersen, Pursley, Lake, Lord) are discontinued. The day before Hoover had asked Sullivan for a list of all taps then in operation and noted on the bottom of Sullivan's memorandum "inquire of Colonel Haig whether any can be taken off."

March, 1971 --

(Haldeman notes indicate possible discussion of Hoover retirement.)

April 5, 1971 --

Congressman Boggs charges that the FBI is wiretapping Congressmen. Nixon or Haldeman calls Hoover to reassure him of their support.

April 6-11, 1971 --

Kleindienst states that he would welcome a congressional investigation of the FBI. Hoover calls Kleindienst and says any such investigation might reveal wiretaps done for the President. (See Liddy memo to files August 10, 1971.) Nixon recalls at this time having a breakfast with Hoover (Easter time), but believes there was no problem in terms of Hoover threatening to reveal the wiretaps.

April 12, 1971 --

Hoover sends memorandum, probably to all Assistant Directors, cutting Mardian out of Domestic Intelligence information and implying that the FBI wiretap some people at the President's request.

April 13, 1971 --

Nixon, Haldeman, Ehrlichman discuss Hoover problem, Nixon states that he discussed with Mitchell Hoover memo suggesting that the FBI had wiretapped some people for the President.

February-May, 1971 --

Sometime during this period, Mardian probably learned of the wiretaps in connection with preparing responses

to Senator Kennedy's request for a breakdown of the number of wiretaps conducted by the FBI. (See May 7, 1973, Mardian interview by Glanzer.)

June 13, 1971 --

Pentagon Papers published.

June 15, 1971 --

Wells prepares 6/15/71 memo re Morton Halperin. Also, Nixon meets with Ehrlichman and Mitchell for a general discussion of the Pentagon Papers and possible grand jury actions. Mitchell, earlier that day, had met with Hoover, Mardian and Kleindienst. Also, Sullivan in a memo refers to Ellsberg as a former assistant to John McNaughton, same description as Sullivan's handwritten notes on the Acid trip log. (Sullivan admits that he probably consulted this log in preparing his June 15, 1971, memo.)

June 16, 1971 --

According to Colson, Nixon and Kissinger are aware of Ellsberg-Halperin conversations.

June 17, 1971 --

Nixon meets with Ehrlichman and Kissinger. In this meeting, there is a general discussion of the Pentagon Papers and two specific points of note. First, there is a discussion of the Brookings Institute and the fact that, according to Tom Huston, they have a copy, or the original, of Johnson's 1968 bombing halt file. Nixon cites "Huston's plan" and says someone should go in and get the files. Ehrlichman's notes of the meeting indicate the President's stating "implement a theft." Second, in this meeting there is a discussion of the fact that Ellsberg used drugs. There is no specific reference by Kissinger to being aware of this fact specifically from the wiretaps. Kissinger states that Ellsberg is getting into drugs and Nixon picks up on this and says is he taking drugs. Kissinger's response is that there is no question about it, and Nixon says, "get it out," i.e. meaning, leak it to the press.

June 25-30, 1971 --

This is the period of the Marks interview controversy, resulting in the demotion of Brennan and the subsequent reinstatement of Brennan at the insistence of the Attorney General. This incident was probably discussed at the Presidential level and it appears from a June 30, 1971, telephone conversation between Mitchell and Nixon that they were discussing this problem and that Mitchell had been able to smooth it over with Hoover.

June 25, 1971 --

Complaint filed against Ellsberg in Los Angeles and a warrant issued for his arrest.

June 28, 1971 --

Ellsberg is indicted on two counts -- one theft count and one espionage count. Also, Ellsberg surrenders in Boston. (From the time of Ellsberg's surrender to his Los Angeles arraignment on August 16, 1971, his attorneys continually made motions for the disclosure of the electronic surveillance information.)

July 2, 1971 --

Internal Security Division requests the FBI to determine whether or not Ellsberg has been overheard. This memo specifically states that this check is in anticipation of defense motions.)

July 6, 1971 --

Nixon meets with Haldeman, Ehrlichman and Mitchell. There is a general discussion of the progress of the grand jury. During the conversation, Haldeman raises the possibility of checking the wiretap logs for any information that might be helpful. Mitchell states that the logs are being reviewed at the Bureau. Haldeman then says that he recalls conversations of Sheehan being on the logs. (In fact, there was only one Sheehan conversation.) Nixon asked, "Who's got the time to read it," and notes that "I naturally never saw any of that stuff." Haldeman again states that in light of recent developments, those logs might have much more meaning and Mitchell again notes that they are being reviewed.

July 2-9, 1971 --

Wells tells Wannall there are no Ellsberg overhears.

July 9, 1971 --

Olson calls Brennan and asks for an elsur check on various grand jury witnesses, including Halperin, Warnke, Gelb and Sheehan. Also, on this date Mardian is instructed to go to San Clemente. Mardian claims he was instructed to do this in a call from Haldeman or Ehrlichman. It should be also noted that according to Dean, Mardian stated that he was going at Kleindienst's instructions.

July 10, 1971 --

Nixon meets with Haldeman, Ehrlichman and Rose Mary Woods. The initial discussion concerns the Nixon Library, but later gets into Ellsberg. At one point Nixon says that Rogers should be tapping more. (According to Mortenson, Nixon recalls this merely as a general outburst that the State Department was leaking and that everyone should be tapping more and not that he was specifically aware of any wiretapping being done by the State Department.) After this, someone states "re grand jury -- don't worry re taps on discovery re witnesses." (Nixon does not recall anything about this reference.)

July 12, 1971 --

8:15 a.m. Mardian has breakfast with Ehrlichman.
10:30 a.m. Dean meets with Ehrlichman to turn off the Brookings bombing. 11:00 a.m. Nixon meets with Haldeman, Ehrlichman and Mardian.

Mardian In

(1) Re National Security taps
Especially Special Coverage Taps
Beecher
Sheehan
Hedrick Smith
Overhearings would be disclosed
Referred
HRH (Haldeman) In
President

- (2) Southern District of New York
Whitney N. Seymour, Jr.
Summer Interns
Disloyal
Lindsey-types
Including North Seymour
- (3) M (Mardian): a number of documents out
NSC has
H (Haldeman) has
- (4) H (Haldeman) recover documents from Haig
- (5) President -- ok obtain and destroy all logs
- (6) Tell Hoover to destroy
- (7) M (Mardian): Ordered only to go with grand jury
short of newspaper
Witnesses or newspaper
Indictments
Await instructions from Attorney General
Now at that point
Can make Sheehan (?) Ellsberg cases now
- (8) President -- Let the Committees
Eastland
Ichord
Hit the papers
- (9) E.G. Congressional fight CBS
Don't call newspapers before grand jury
- (10) 10 year Statute of Limitations
Espionage
An inadequate statute
Need to inquire re law is adequate
- (11) M (Mardian): Question is Ichord
Eastland more dependable --
Has best lawyer
Kleindienst and M (Mardian) to Sen. E (Eastland)
President requests him to
Do it soon
- (12) FBI going all out now
- (13) We'll not deny Ichord the stuff
Get Eastland in too

- (14) Haig return documents to FBI
Then to RM (Mardian) for destruction
Haig request the FBI (Sullivan) to destroy all
special coverage
Sullivan will contact Mardian
- (15) 20% of source documents missing (Ellsberg)
Can't be found in Government files
- (16) Mathias -- didn't deliver his documents
- (17) President phone call
- (18) Gelb the principal co-conspirator

Also on July 12, 1971, there is the initial information
of the "Plumbers Unit."

Post July 12, 1971 --

Mardian dictates memo concerning the San Clemente meeting.
Next day, apparently after discussing the memo with
Kleindienst, Mardian destroys the memo and stenographic
notes.

July 13, 1971 --

FBI memo to Internal Security Division which states
that Ellsberg has never been overheard.

July 16, 1971 --

FBI memo to Internal Security Division which states
that Halperin, Warnke and Sheehan have been overheard
on foreign establishment wiretap, but does not mention
Halperin wiretap or any other overhears from special
coverage taps.

July 30, 1971 --

Wells leaves the FBI to go to work for Mardian. Note:
Wells later tells Smith that as of this time he was
still working with the wiretaps. Also, Kathy Stone's
recollection that she was told that the wiretap records
were over with "Brennan and Wells."

August 4, 1971 --

Mardian call to Mitchell followed immediately by Mitchell call to Sublivan. Liddy meets with Mardian and McGrath and is told that Wells will head IEC and that Wells is the one man that Hoover fears because of things Wells did for Hoover while he was in the Bureau. (Note: It is probably likely that Nixon had conversations with Mitchell at this time concerning the "Hoover threat," but we have no daily diary information or notes that can lead us to any such conversation.)

August 5, 1971 --

Mardian meets with Kissinger and states that Hoover is either blackmailing or threatening to blackmail the President with regard to the wiretap records.

August 10, 1971 --

Liddy memo to files re meeting with Mardian. During this meeting, Mardian recounts being in Kleindienst's office (April, 1971) when Kleindienst received a call from Hoover and Hoover threatened to reveal the wiretaps. Mardian does not tell Liddy that it is a threat to reveal the wiretaps, but only states that apparently Kleindienst did not perceive what the threat was.

August 11, 1971 --

Young list of agenda of items to discuss with Ehrlichman include "Hoover threat -- Mardian knows what it is." Nixon meets with Ehrlichman. General discussion of Pentagon Papers case and the progress of the SALT leak case. Ehrlichman notes that Hoover is scared to death of the Pentagon Papers case because he is afraid that if he doesn't do it right that it will hurt his reputation. Ehrlichman also states that Mitchell has decided that Pat Gray is the person to replace Hoover and that the method of doing this is to have Gray go over as Hoover's deputy for about six months and then become Director.

August 16, 1971 --

Ellsberg is arraigned in Los Angeles. U.S. Attorney Robert Meyer states that he is authorized by the Justice Department to state that Ellsberg has never been overheard on any electronic surveillance.

August 28, 1971 --

Sullivan sends his letter to Hoover citing all his various policy disagreements with Hoover's administration of the FBI.

Late August, 1971 --

According to Brennan, Sullivan goes to Mardian's office with the wiretap logs but Mardian is not there. Sullivan then brings the satchel to Brennan's office and asks him to deliver it upon Mardian's return. Brennan does this but claims not to have been aware of the contents of the satchel.

Early September, 1971 --

Mardian shows Wells the wiretap records and suggests that Wells may be asked to take custody of the records.

Mid-September, 1971 --

Nixon meets with Hoover and Hoover tells Nixon that he would be willing to leave if Nixon felt that he was a liability for Nixon in the 1972 campaign.

September 30, 1971 --

Hoover fires Sullivan.

October 2, 1971 --

Mitchell tells Hoover that the wiretaps were removed from the FBI with Hoover's concurrence and that the wiretap records have been destroyed.

October 8, 1971 --

Meeting of Nixon with Ehrlichman and Mitchell. Mitchell discusses the fact that Hoover is searching all over trying to find the wiretap records and that this may lead to a confrontation and suggest that, rather than Mardian holding the records, they be given to Ehrlichman. Nixon concurs and it is agreed that should Hoover confront Mitchell, it will simply be stated that the wiretap records are in the "President's hands."

October 8-25, 1971 --

Mardian delivers the wiretap records to Ehrlichman.

October 25, 1971 --

Meeting of Nixon and Ehrlichman. Nixon and Ehrlichman discuss Liddy's memo on the FBI and during the course of this meeting, Nixon states that with regard to Hoover "we have a man on our hands who may bring the whole temple down with him, including me." They go on to discuss the scenario of instead of having Hoover resign, in January, 1972, that at that time he would merely state that this is his last year in the Bureau and after the 1972 election, whoever is President can appoint the new Director and that he will only stay on until after the new Director is confirmed. There is also a discussion that Hoover might agree to Pat Gray being nominated as the new Director.

November 1, 1971 --

3:00 p.m. Mitchell meets with Hoover. It was probably at this meeting that Mitchell tells Hoover that the wiretap logs have not been destroyed but are in Ehrlichman's office. Hoover later tells this to Felt.

November 2, 1971 --


Nixon meets with Ehrlichman. The tape of this meeting does not exist, but notes indicate that the discussions were generally about strategies for getting rid of Hoover and that there is no specific discussion of the wiretap problem.

THE WHITE HOUSE

WASHINGTON

October 22, 1971

MEMORANDUM FOR: BUD KROGH

FROM: GORDON LIDDY 

SUBJECT: THE DIRECTORSHIP OF THE FBI

History

The FBI was born in another age. Six years after the doughboys came home from France at the end of World War I, America was still rural. Outside of her cities, paved roads were few. The automobile was just making its impact felt upon our society. The United States had entered World War I with something like 600 machine guns in its entire armed forces. The Germans had thousands and they terrorized the farmboy turned doughboy who returned home with tales of its awesome power.

The criminal element quickly exploited the new technology and married the machine gun to the automobile. Roving mobile bands swept into town and staged bank robberies which were the mechanized equivalent of wild west raids. The hinterlands were in terror of the Dillingers, the Barkers, the Floyds, the Nelsons, Bonnie and Clyde. There are towns in Indiana today with concrete pill boxes in their main square built in the 20's and 30's as miniature Maginot lines to defend against what was called "auto-banditry."

Since 1908, there had existed in the Department of Justice a small unit known as the Bureau of Investigation. It was incompetent and corrupt. J. Edgar Hoover, a young Justice Department lawyer, himself in his 20's, was called upon by then Attorney General Harlan F. Stone to serve as the 5th Director of the Bureau of Investigation to clean it up and turn it into the response to the criminal challenge demanded by the public.

Hoover met the challenge. He fought technology with technology, virtually inventing practical forensic criminal science and the crime

lab¹ and organized practical mass identification procedures built upon the new fingerprint technology.² For patronage hacks, he substituted young lawyers and accountants, depression hungry and eager to do a job. Hoover knew each man by name. There was mutual trust and respect. By the late 1930's, skill and dedication brought success and with success spread the fame of Hoover and his "G-men."

The organization was paramilitary in nature. Discipline was strict and one thing became crystal clear: the new FBI was created in the image and likeness of J. Edgar Hoover, and thou shalt not have false gods before thee. One who found this out was Melvin Purvis, the small, brilliant nemesis of John Dillinger. By the mid 1930's, Purvis' fame rivaled Hoover's. On the back of breakfast cereals, children were offered "Junior G-man" badges so that they could be just like Melvin Purvis and the FBI. Hoover crushed him. FBI history was rewritten, giving the credit to agent Samuel P. Crowley.³ Years later, Purvis died a suicide.

Master of modern law enforcement, master bureaucrat and charismatic leader, Hoover had good instincts and judgment. At the height of his fame he resisted the opportunity to form a national police force because he judged it to be wrong for America. Instead he formed the FBI National Academy⁴ to train state and local police to FBI standards.

With World War II came a new challenge -- Axis espionage.

Again, Hoover exploited the latest in technology -- primitive but effective concealed sound recording equipment and disguised motion picture cameras. The FBI had its own continuous wave back channel communication system from office to office and even Hawaii. Fingerprints were put on the then brand new IBM card sorting equipment in the D.C. National Guard Armory. The greatly expanded FBI could, at the end of World War II, claim correctly that there had been not one successful act of enemy sabotage carried out in the United States in World War II, as contrasted with the Black Tom explosions and other sabotage during World War I.

1. November 24, 1932

2. June, 1930

3. Who was hardly in a position to disclaim it. Crowley died under the guns of "Baby Face Nelson" four months after the death of Dillinger.

4. July 29, 1935

The cold war was made to order for Hoover and the FBI,⁵ and it went into the 1950's lean and hard. Masterful feats of clandestine counter-espionage were accomplished, and the FBI was rightly to be feared by foreign intelligence agencies.

The Korean War brought another expansion, but an internal change was taking place. No longer were all agents recruited from skilled professionals such as lawyers, accountants, scientists and linguists. Moreover, the cult of Hoover had begun to flower, and a lot of good men were leaving. It was becoming more difficult to replace them.

Much is made in the popular press of the so-called "petty tyrannies." This is misplaced concern. Crack FBI agents accepted the 24-hour discipline and the small annoyances. They knew that the inflated auto recovery figures, the meticulous records they were forced to keep on informant contacts that were unjustified by production, the professional image, etc., all helped Hoover when he went before Congress for appropriations.⁶ They were also aware that in the clandestine war against ruthless enemies every bit as professional as they were, lack of discipline could be deadly.

The "petty tyrannies" could be tolerated because of one great psychic reward. The FBI agent knew that he was a member of an elite corps. He considered the discipline under which he labored tougher than the U. S. Marines and its reasons for being analogous to that of the Corps. The country knew it too, and respected the agents accordingly. The burden was bearable and morale high because the FBI agents knew in their hearts "We're Number One."

Things Start To Go Wrong

In the early 1950's there emerged the phenomenon of the "Bureau clerk." These were young men without the education prerequisites brought in to the Identification Division for the most part as clerks and sent off to earn an accounting degree from such dubious institutions as Southeastern University in Washington, D. C. They then

5. The FBI had been investigating the activities, *inter alia*, of the Communist Party, U. S. A., since it entered the domestic intelligence field pursuant to secret instructions from President Roosevelt issued September 1, 1936.

6. And the highest pay in law enforcement for the agents -- beginning salary today is \$14,000.

became Special Agents and earned a salary they could not hope to approach outside the FBI. Reached at an early age, they became true believers in the cult of Hoover.⁷ Jealous of the more competent professionals, and unwilling to disagree with Hoover on anything,⁸ as they rose administratively by currying favor through flattery, the Bureau started to decline.

Hoover's assets, however, continued to increase. The Crime Records Division of the FBI is without doubt one of the finest public relations organizations ever put together.⁹ It has a legitimate purpose. The extraordinary reputation of the FBI and its agents, fostered by the Crime Records Division with its motion pictures, books, magazine articles, television and radio shows, speech program, press and Congressional contacts, mean that an FBI agent will be given information by a citizen that the citizen would not entrust to any other agency. When the FBI agent says the information will be kept in confidence, he is believed. The media impact is such that when a citizen is confronted with a real FBI agent, the agent is at a tremendous psychological advantage.

But here, too, things started to go wrong. More and more the Crime Records Division spent its time building up and protecting the reputation of Hoover. Hoover and the Bureau became synonymous. To attack one was to attack the other. So long as the Crime Records Division could keep Hoover away from the press, it could work wonders. But, contrary to the widely held impression, Hoover is not a reticent man.

7. And competitive ritual sycophants, baking cakes for Hoover's birthday; soliciting ever more flowery service club testimonials, etc.

8. The most absurd manifestation of which led to a rewriting of the history of the Trojan War. For a speech on communism, a draft sent to Hoover for approval compared the U. S. Communist Party with the legendary Trojan Horse. The draft came back with the marginal notation in blue ink, "They're not horses, they're snakes! -- H." The draft was "corrected" and thus was born the Trojan Snake.

9. By Louie B. Nichols, who went on to become Vice President of Schenley Industries. After Nichols left the FBI, Hoover remarked, "I never want another man to have such power in this organization again."

In recent years he has become even more of a hip-shooter; lately even departing the carefully prepared scripts for his Congressional appearances. Thus, the Berrigan problem, the Martin Luther King incident, the Ramsey Clark quote, and so on.

The concern with image, the cultism, has finally taken its toll. Virtually any genuine innovation or imaginative approach is stifled for fear of outside criticism. That which occurs is often done by field agents on their own initiative, with great pains taken to prevent Bureau Headquarters from learning of it. The morale of the FBI agents in the field has deteriorated badly, not because of the rule on haircuts and no coffee at the desk, etc., but because in his heart the FBI agent can no longer say, "We're Number One."

The Present Situation

The greatest decline has been in the performance of the Domestic Intelligence Division. As previously reported, all clandestine activities have been terminated. Liaison with the intelligence community has been disrupted and key men either forced out or relegated to posts where their skills cannot be exploited. Should the Peoples Republic of China be admitted to the United Nations, the establishment of its delegation will bring a quantum increase in the presence on U.S. soil of some of the finest espionage agents in the world. Thus, the Domestic Intelligence Division, the one most badly deteriorated, will be presented with a heavy increase in its task at a time when it cannot perform competently the task at hand.

Relations between the FBI and the Department of Justice, never good but for a short period after the advent of this Administration, are again deteriorating. Hoover refers openly to Assistant Attorney General Robert Mardian as (inaccurately) "that Lebanese Jew." He has reportedly threatened the President. Recently there have been articles in The Washington Post, The New York Times, Time and Life, which indicate that officials and/or former officials at the highest level of the FBI are now divulging to the press the serious shortcomings of Hoover and the Bureau.

So long as anti-Hoover press stories concerned themselves with the so-called "petty tyrannies" there was no real problem. Such stories

are not new, and are disregarded as the mutterings of disgruntled former junior employees. It is quite another situation when clandestine techniques are discussed openly and the security of the United States against foreign espionage and sabotage is called into serious question.

Years of intense adulation have inured Hoover to self-doubt. He remains realistic, however, and on June 30, 1971, his most trusted confidante, Clyde Tolson, stated to a reliable source, "Hoover knows that no matter who wins in '72, he's through."

Hoover has had a long, honorable and remarkable career. His accomplishments are truly great. But the situation was probably best stated by Alfred Tennyson in "The Idylls of the King":

"The old order changeth, yielding place to new,
And God fulfills himself in many ways,
Lest one good custom should corrupt the world."

J. Edgar Hoover should be replaced as Director of the FBI. The question is when?

Timing

One foresees no real problem with accomplishing the change following the 1972 election. The question then resolves itself as to whether the step should be taken before that time.

There are a number of reasons arguing against removing Hoover as Director of the FBI during 1972:

1. The change should have attached to it no hint of partisan politics, virtually an impossibility in a presidential campaign year. If the removal does not become an issue, the question of succession will. It is in the category of a Supreme Court appointment and carries with it the necessity of a confirmation hearing in the Senate.

2. 1972 will see the trial of the Berrigans and Ellsberg commence. The removal of Hoover in the course of those trials would, at least, lend weight to what are sure to be defense contentions of a conspiracy to justify Hoover's accusation against the Berrigans.

The most compelling reason against taking action in 1972 is the probability that issue-starved Democrats can be counted upon to exploit the matter even to the point of irresponsibility.

The question can, therefore, be refined further: should J. Edgar Hoover be removed as Director of the FBI between now and the end of the year?

Arguments Against Immediate Removal

1. Hoover could resist and make good his threat against the President. I am unaware of the nature of the threat and, therefore, cannot comment on the acceptability of the risk involved.

2. Removal of Hoover will not gain the President any votes on the left. The anti-Nixon bias of the left is visceral, not rational. On the other hand, some of the right could be alienated if the successor named is not acceptable.

3. The succession could become an issue unless someone is named who would be acceptable to both the left and the right, a difficult person to identify.

4. We would be presented with the problem of finding a suitable successor in a short period of time.

5. Even were the Peoples Republic of China admitted to the United Nations tomorrow, in all probability it will be a considerable period of time before it is ready to staff its delegation.

6. Hugh Sidey is wrong,¹⁰ there will be no "convulsion" in the FBI if Hoover is not replaced immediately.

Arguments For Immediate Removal

1. Sullivan, and possibly others, are talking to the press. The information is accurate, substantive and damaging.¹¹

10. "The crisis in the FBI finally demanded his [the President's] action. The aging J. Edgar Hoover would have to be eased out before the end of the year or Nixon would face a major convulsion in the FBI. . . ." Life, Oct. 22, 1971, "Heady Days Of Presidential Power."

11. See: "F. B. I. Is Said to Have Cut Direct Liaison With C. I. A." NYT, Oct. 20, 1971 (Tab A); "Deterioration of the FBI" Wash. Post, Oct. 11, 1971 (Tab B); "The File on J. Edgar Hoover" Time, Oct. 25, 1971 (Tab C).

I think we must assume that there will be no let-up of truly damaging disclosures.

- Maxine Cheshire states in the Washington Post for October 21st that "a former FBI official [Sullivan] took copies of enough records with him when he left to write a book. Now he is looking for a journalist collaborator."

- I am informed reliably that Sullivan "wants to be vindicated." At 59 and out of office, there is no payoff for him in remaining quiet. Others may follow Sullivan's example.

- Evans and Novak in their column of October 11th said that there was "more to come."

- Life is believed to have another major story in the works.

- Sullivan has been "keeping book" on Hoover for some time. He is a skilled writer who authored Hoover's book on Communism.¹² His book could be devastating should he choose to expose such matters as the supervisor who handled Hoover's stock portfolio and tax matters; the painting of Hoover's house by the FBI Exhibit Section; the ghost writing of Hoover's books by FBI employees; the rewriting of FBI history and the "donation" by "admiring" facility owners of accommodations and services which are often in fact underwritten by employee contributions; and the dismantling of the nation's counter-espionage capability.

- In the past, when the FBI was performing its mission in an outstanding manner, aggrieved former high officials held their tongues in the belief that to go public would hurt mission performance. Now that performance has fallen off, Sullivan (obviously) and others may well believe that the way best to protect the FBI is to attack so that the problem can be remedied.

12. A Study Of Communism, Holt, Rinehart & Winston, New York, 1962.

2. There will be no upheaval in the FBI should Hoover be replaced immediately. The vast majority of agents would approve. A few old cronies, such as Clyde Tolson, could be expected to resign in a huff with, perhaps, some public comment.

3. Immediate removal would guarantee that the President would appoint the next Director of the FBI, something akin in importance to a Supreme Court appointment opportunity.

4. The Hoover incumbency would be undercut as a factor in the forthcoming Berrigan and Ellsberg trials.

5. The matter would be over and done with now and removed as a potential issue for the 1972 campaign.

6. Inaction, plus further disclosures in the press, could lead to charges that the President knew, or ought to have known, of the serious deterioration of the FBI, and failed to act out of concern for his re-election.

7. Short term, a prompt removal could enhance the President's image as an action oriented President and confound his critics.

8. Long term, the action could be compared legitimately to the resolute stand taken by President Truman in the Douglas MacArthur case which, unpopular at the time, is now viewed as a plus in his presidency.

9. The country is, in my judgment, ready for the change. The situation is somewhat analogous to that of China.

Methods

1. The most desirable method would be for Hoover to ask the President to find a successor as the "unfounded" personal attacks upon Hoover are, in his judgment, harmful to the national interest in general and to his beloved FBI in particular. This might be brought about through a Mitchell-Hoover conversation.

2. A second amicable method would be for the President himself to express the above sentiments to Hoover. He might well cooperate on that basis, were things handled adroitly.

3. The President could simply announce now that on January 1, 1972, he will not take the affirmative action of seeking to exempt Mr. Hoover for another year from the mandatory retirement provisions of the law, stating that he cannot in good conscience do so as neither he nor the country has the right to expect so much of one man, and that he wishes to announce whom he shall nominate as a successor now so that there should be not the slightest element of partisan politics involved in the changeover.

Comment

Hoover is in his 55th year with the Department of Justice.¹³ Even his secretary dates from the first world war.¹⁴ There is no dishonor, express or implied in asking a man in such circumstances to give up the burden of office.

Recommendation

After weighing all of the foregoing, I believe it to be in the best interests of the Nation, the President, the FBI and Mr. Hoover, that the Director retire before the end of 1971.

13. Since July 26, 1917.

14. Helen W. Gandy, who became Hoover's secretary on March 25, 1918.

OutlineIntro

Questions re:

Pentagon Papers investigation
~~and~~Removal of the records of the NSC
wintapsI Pentagon Papers

Concern re

- What are they
- Who prepared them (Halperin)
- Where are copies (Rosen)
- Who had access (H, W, G)
- Who leaked (Ellsberg)

Q - who checked into previous leaks by Halperin, including wintap records

II Ellsberg

Concern re:

- ~~unstable~~ other documents
- unstable

supplied by you
A Hy

(6/17/71 tape)

Q - HAK, others mention drugs
- who else discussed

+

Ex 4

Acid Trip letter

in view of
concern
direct any
wire taps

- ① recall being informed of contents - discussed with whom
- ② Anyone checking for more info from taps on DE
 - JDE, HRH
 - HAK, Haig
 - JNM

Other overhears (in partic. DE, MH)

4/19/73 conversation with
Moone, Peterson

Peterson - "How when Hoover got into it - it should now be wiretapping"

Moone - "They had the FBI do bugging and it got into the case, let me assure you"

9. ^{sin}
- ① RH aware of taps
 - ② Who else would be AWARE
 - ③ [if no need - recall making statement - why]

HAK, JDE, HRH, JNM, RCM,
WCS, Bez, Haig, Laird

After Ellsberg indictment

RH, JNM, JDE, HRH
(p 8)

Ex 2

7/6/71 Tape

Intro

conspiracy - other documents
NSC staff
(press)

ref p 8 'taps being reviewed in FBI?'

Review
- purpose
- timing

- recall being in formal of review
- recall anyone at WH, NSC doing such a review.

Ex 3

7/10/71 Notes (RH, JDE, HRH, RHW)

- Nixon Library
- con. trans to Pentagon Papers

(10)

Royce - should be tapping more

(11)

"The Grand Jury - don't worry re taps or discovery"

- recall statement
- recall JDE, HRH saying they had discussed problem with RCM, a JNM (out of touch)
- recall - RCM would fly out to discuss w/ RN had discussed w/ RGM
JNM

Mitchell out of town 4

- who set up 7/12/71 mtg
- talking paper
- did RM know re subject matter prior to meeting

Ex 4

7/12/71 Notes (RM, JDE, HRH, RCA)

- Notes concern ~~from~~ when RCM in
- wiretap records
 - Pentagon papers

would like to go through point by point, to see if we can refresh your recollection

- ① Re National Security Tops (esp) Special Coverage Tops
- Beecher
 - Sheehan
 - Hedrick Smith

Overhearing would be disclosed

- Referred

- (do you) recall HSC tops were discussed
- do you recall RCM listing the names of people taped or overheard

cut off
 formation of
 Phoenix Unit

if DE
Aired Trip.

- other than Beecher, Sheehan, Smith
any other NAMES - Harper,
Ellsberg

~~do you recall doing~~

- did RCM have a list of names
or other papers.

*

- did RCM state overhearing
would be disclosed
- any mention of overhearing

Also Harper

- did RCM state that DOJ
expect DE attys to
file motions requiring disclosure

- did RCM state that DOJ
expect Beecher, Sheehan, Smith
Attys. to file motions
requiring disclosure

- did RCM state that he had
learned of this "overhear"
problem during DOJ's
preparation of the Pentagon
Papers etc review of the
wiretap records during the DOJ's
preparation of the Pentagon
Papers case

7/6/71
Mitchell
referred to

② S.D. MY
 Whitney North Seymour, Jr
 Summer interviews
 Disloyal
 Lindsey types
 Including North Seymour

- do you recall RCM stating that a number of officials in the FBI and DOT would have to be informed of these taps, i.e. people working with the Grand Jury and the Ellsberg trial would have to be told about these wires

- do you recall your concern that some of these ^{DOT} arrangements might be "disloyal" such as those working in SDNY and that they might leak the fact that these taps had occurred.

- do you recall a concern that if Hoover knew about the Ellsberg overhear he might leak that ~~to~~ information]

(|| destroy = remove ||) ?

③ M: A number of documents out
MSC - has
H - has

④ H - recover documents from Haig

⑤ TI - OK, obtain and destroy
all logs

⑥ Tell Hoover to destroy

- do you recall such a discussion
concerning destroying the logs

- do you recall instructing
someone to tell Hoover to
destroy the logs

- ~~do you recall~~ who was instructed
to ~~to~~ contact Hoover

- what discussion was there concerning
whether or not Hoover would
go along with destroying the
logs

- do you recall later discussing
them with ~~you~~ with Hoover.

or window records

- 6J (8)
- Cons Comm (9)
- Σ line (10)
- Cons Comm (11)

Pentagon Paper
 Cons. Inv.

(12) FBI going all out now

one Q.

- do you recall that previously there had been some foot dragging by the FBI.
- do you recall being informed by RCM that now the FBI was "going all out" in investigating the case.

(13) Cons Comm

(14) Hais return documents to FBI
 Then to RM (Mandin) for destruction
 Hais request the FBI (Sullivan)
 to destroy all special coverage.
 Sullivan will contact Mandin

- 15 - doc missing
- 16 - Mathis
- 17 - TI phone call
- 18 - Gelb

Later in the same meeting, it is stated that Haig is to return the wiretap records to the FBI and that these records will then be given to Mardian for destruction. Immediately after this, it is stated that Haig should request the FBI, in particular, Mr. Sullivan, to destroy all the wiretap records. This is followed by a statement that Sullivan will contact Mardian concerning the wiretap records.

(1) Do you recall that the final resolution of this meeting was that Mr. Mardian and Mr. Sullivan were to cause all records of these wiretaps to be destroyed.

As you can see from Mr. Ehrlichman's notes, there is no mention of any dispute between Mr. Sullivan and Director Hoover. As your attorneys have informed you, there is some evidence that in early August, 1971, there was a concern expressed by Mr. Mardian to Dr. Kissinger, to the effect that Mr. Hoover could not be trusted with control of the wiretap records. With this background, do you now recall that at this July 12, 1971, meeting --

(1) The principal concern was that "overhearings would be disclosed" and

(2) That any concern about how Hoover might "use" these wiretap records did not arise until sometime after this July 12, 1971, *date meeting*

Also, as you can see from Mr. Ehrlichman's notes, the instruction given with respect to the logs was that they should be destroyed, and there is no indication that the logs should be delivered to Mr. Ehrlichman. Your attorneys have reviewed with you the transcript of a tape recording of an October 8, 1971, meeting that you had with Mr. Mitchell and Mr. Ehrlichman. It is clear from that transcript that it was at this October 8, 1971, meeting that the decision was

*only if
Mardian*

Felt

*8/16/71
DE-LA ARDAIM
'MO DE also*

only

made to deliver the wiretap records to Mr. Ehrlichman.

With this background, do you now recall --

- (1) That at this first meeting with Mr. Mardian the instruction given was to destroy the logs and that sometime later a division was made to give the logs to Mr. Ehrlichman.

Also during that October 8, 1971, meeting, Mr. Mitchell refers to these wiretaps as being "part of the overall investigation of the Pentagon Papers and this whole mess."

- (1) Do you recall Mr. Mitchell or others referring to the fact that these wiretap records were being used to help in the investigation of the Pentagon Papers and/or Mr. Ellsberg.

(EH + DE
concern)

Liddy memo

Ex 5

During a conversation ^{you recall} on October 25, 1971, you discussed with Mr. Ehrlichman, Mr. Liddy's memorandum concerning J. Edgar Hoover. In that memo ^(at p 7) Mr. Liddy states that one of the

10/21/71 type

Ex 6

arguments against attempting to remove Mr. Hoover is that, "Hoover could resist and make good his threat against the President." ^(p 7) During this meeting with Mr. Ehrlichman you state ^(p 3) that in J. Edgar Hoover "we may have/our hands here a man who will pull down the temple with him, including me."

- (1) Do you recall whether or not you were aware that Mr. Hoover had indicated to you or others that he might disclose these wiretaps?

- (2) What was it that Mr. Hoover could do or reveal that would enable him to pull you down with him.

(2) Do you recall

(2) Do you recall that earlier, around Easter 1971, there was a controversy involving Mr Hoover, ~~the~~ Congressman Boyce and Mr Klendick?

4/13/71 note

Ex 7

(3) Referring to the notes from April 1971; does this refresh your recollection such that you now recall that Mr Hoover had raised with Mans Mitchell, Klendick or others the fact that if there was a Congressional investigation of the FBI he might have to testify about these NSC wiretaps?

(4) At or about the time of your Easter meeting with Mr Hoover did you recall discussing these wiretaps with Mr Klendick?

(5)

Referring again to the transcript of your October 25, 1971 meeting with Mr Ehrlichman. During that meeting

you suggest that the Hoover problem should be discussed with Richard Moore? (p 15)

① Do you recall having discussions with Mr Moore concerning Mr Hoover's retirement?

at or about this time

10/2/71 memo re was

10/25/71 "RAT on US" PG (Moore to talk to WGS)

② Do you recall having discussions with Mr Moore concerning the NSC writings and/or the fact that Mr Sullivan had given the records of these writings to Mr Mondin who later gave them to Mr Richardson.

No resp, would you once again state your present best recollection of the substance of the July 12, 1971 meeting with Mondin in San Clemente.

Did Do you recall having any other meetings with Mr Mondin during the summer and fall of 1971, that is, meetings that would have concerned the Pentagon Papers case Mr Folsberg or the records of these writings ~~any thing else you want to add~~

Thank you Mr Nixon

~~But~~

As you are aware we would like to ask you some questions concerning the wiretapping of newsmen and members of the NSC staff. These wiretaps were in operation from May 1969 to February 1971. Focus on removal - but some background - both of us will ask questions but on diff aspects

① Would you briefly state the circumstances which led to the initiation of this program of wiretapping.

② From May 1969 to May 1970 (or for the first 12 months of this project) reports the FBI sent reports on these wiretaps to both you and Dr Kissinger. The reports direct addressed to you were delivered to Mr Ehrlichman.

(a) Did Dr Kissinger and/or Mr Ehrlichman report directly to you about the wiretaps information they were receiving from the FBI?

(b) ~~to~~ Any program Do you recall any ~~instance~~ occasion, ~~while~~ while these wiretaps were in operation, when information gained from these wiretaps was "leaked" to the ~~press~~ members of the press or others.

What follow-up actions were taken on the bases of this information?

scope

③ In May 1970, Mr Lake resigned from the NSC staff and later went to work for Mr Muskie. At this time Mr Lake's phone was ~~to~~ wiretapped. What, if any, conversation did you have with Dr Kissinger concerning ~~the~~ wiretapping Mr Lake?

~~④ At approximately the~~

~~④ Did ~~at~~ Did Dr Kissinger request that anyone in~~

④ Did Dr Kissinger request that Mr Lake be tapped? Did he request that anyone else be tapped?

HOA
change

⑤ In a conversation with Henry Peterson on April 19, 1973 you stated that "with the hullabaloo that arose out there we knocked off all of those taps". Why were these wiretaps discontinued in February of 1971?

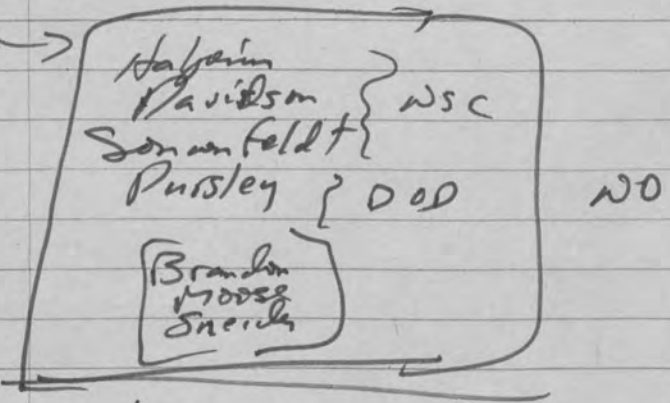
- Brandon info leads to 4/25/71 meeting
- or Stan Becker's article on 5/7

did you receive them from me?

- on wiretaps themselves:
 - what use ~~was~~ were those things put to?
 - how organized?
 - ever analyzed?
 - organized into separate files

- anybody's specific job to analyze?
- or did Charideman send with cover letters

- Halberman -> change



- Hoover -> did FBI think they were productive

- view it as one project

- rather - extensive + unusual
- discrete project apart from other FBI work
- "Sullivan's" work - includes Joseph Kraft

QUESTIONS

(A) As you are aware we would like to ask you some questions concerning the wiretapping of newsmen and members of the NSC staff

(2) What prompted this program of wiretapping?

(2) Did you approve this program of wiretapping?

(3) Did you have a conversation with Henry A. Kissinger concerning placing a wiretap on Lake?

(4) Did Henry Kissinger request that Lake be tapped?

(5) Did Henry Kissinger request that anyone else be tapped?

(6) In a conversation with Henry Peterson on 4/19/73 you refer to the fact that these wiretaps were discontinued "after the hullabalo out there;" why were these taps discontinued on 2/10/71?

(B) On June 13, 1971, the New York Times began publication of the Pentagon Papers. There is evidence that in the days immediately following that publication you discussed with Henry Kissinger, and others, Daniel Ellsberg, and that Henry Kissinger, possibly in addition to others, informed you that Mr. Ellsberg used drugs (6/17/71 tape).

McNamara + Halperin + Ellsberg
destruction of other
Make another account
verify
"settling out drug story"

(1) Did Henry Kissinger or anyone else inform you that they had information from the wiretaps confirming that Ellsberg used drugs?

Hay

(2) I show you this letter from J. Edgar Hoover to you dated 9/3/69 and direct your attention to the second paragraph concerning Mr. Ellsberg. Did Henry Kissinger, John D. Ehrlichman, H.R. Haldeman, John N. Mitchell, or others inform you about the substance of this information? Were you informed that this information came from a wiretap? Who else knew about this wiretap information?

Do you recall having ^{previously} known about this wiretap information when in May 1973, this letter was brought to your attention?

(3) Were you aware of any other overhears (intercepts) of Ellsberg, in particular, overhears of Ellsberg and Halperin?

on matter relevant

(4) On 4/19/73 in separate conversations with Richard Moore and Henry Petersen ^{there is some} you indicated that there was wiretapping conducted either by the FBI or others in connection with the Pentagon Papers investigation? Do you have any knowledge of such wiretapping? Who, other than yourself,

would know if such wiretapping was done? Henry Kissinger, John Ehrlichman, Buzhardt, Helms, Haldeman, Mitchell, Haig, . . .

~~#112~~
DE defam
June 58

(C) On July 6, 1971, at a meeting you had with Mitchell, Ehrlichman, Haldeman you were informed ^{by Mr Mitchell} that the records of these wiretaps were being reviewed at the FBI in order to determine whether or not these records contained any information helpful to the Pentagon Papers investigation. (Tr 8)

conspiracy
press / NSC
Army Staff

On July 10, 1971, in a discussion you had with Ehrlichman, it was stated that in connection with the grand jury investigation there was no need to worry about wiretaps being disclosed through discovery motions.

(1) Did Ehrlichman state that he had discussed this matter with Mardian?

do you recall

(2) Did Ehrlichman or anyone else tell you that Mardian had been told to come to San Clemente to discuss the ^{id} subject with you? *follow-up*

On July 12, 1971, you met at 11:00 a.m. with Mardian, Ehrlichman and Haldeman. Ehrlichman's notes indicate that when Mr. Mardian came into the meeting the first subject discussed was:

#9 Q.3
1966

"Re: National Security Taps"
(Especially) -- Special Coverage Taps

All Ellsberg P.P. notes

report and analysis review

(William) Beecher

(Nick) Sheehan

Hendrick Smith

Overhearings would be disclosed.

Referred

~~(1) Do you recall this meeting with Mr. Mardian?~~

(2) Do you recall that these NSC wiretaps were discussed at this meeting?

(3) Do you recall Mr. Mardian listing any names of people tapped or overheard, other than Messrs. Beecher, Sheehan, and Smith? (Ellsberg) (H/S/peri)

(4) Did Mr. Mardian have with him a list of people who had been wiretapped?

(5) Did Mr. Mardian state that "overhearings would be disclosed"?

(6) Did Mr. Mardian state that the Justice Department expected Ellsberg's attorney to file motions requiring overhears to be disclosed?

(7) Did Mr. Mardian state that he expected that attorneys for Messrs. Beecher, Sheehan or Smith would file motions requiring overhears to be disclosed?

At this time Hoover, William C. Sullivan and a very few others in the FBI and Justice Department knew about these wiretaps.

(1) Did Mr. Mardian state that a number of people in the FBI would have to be told about these wiretaps?

(2) Did Mr. Mardian state that a number of people in the Justice Department would have to be told about these wiretaps?

(3) Did Mr. Mardian state that a number of people in the Boston and Los Angeles U.S. Attorney's Offices would have to be told about these wiretaps?

(4) Did Mr. Mardian, or anyone else, state that they feared that these people in the "bureaucracy" would "leak" the fact that these wiretaps had occurred?

*Why I ask
in this
context*

Ehrlichman's notes reflect that you stated that various people in one of the U.S. Attorney's offices were "disloyal."

(1) Were you prompted to make this observation in light of the possibility that if these wiretaps became known to various people in the Justice Department and U.S. Attorney's Offices some of those people might be "disloyal" and would "leak" to the press the fact that these wiretaps had occurred?

Ehrlichman's notes go on to indicate that Mr. Mardian stated that there were a number of wiretap documents ~~vested~~ ^{located} in various files and that the NSC had some of these documents and that Mr. Haldeman had some of these documents. There is then an instruction that Mr. Haldeman should get from Haig all the wiretap documents that were in NSC files. Following this you state that you agree and that all the wiretap logs should be obtained and destroyed. It is then stated that someone should tell Hoover to destroy the wiretap records.

(1) Do you recall giving an instruction to destroy the wiretap records?

(2) Do you recall giving an instruction that someone should tell Hoover to destroy the wiretap records?

*Attorney
names*

(3) Who was instructed to contact Hoover?

(4) What discussion occurred concerning whether or not Hoover would agree to destroy the logs?

(5) What, if any, later discussions did you have with Hoover concerning the wiretaps or the wiretap records?

- who set up 7/12/71 mtg
- talking paper.

Ex 4

7/12/71 Notes (RN, JDE, HRT, RCH)

would
~~me~~

THE WHITE HOUSE
WASHINGTON

RM
at
Camp
David

6 PM 23rd

9 PM 24th

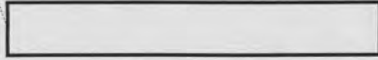
? Manifest

Aspen Lodge

Nixon Testimony

General

How much background vs.
taping in on 7/12/71 + 2/26/73
(4/14/71?)



occasional / consistency with tapes

from DSM

if I never saw tape
HAK would think
HAK would think
center Hollaballo

① HAK wanted tape, particularly Lake, PH never thought they were of any value. Assumed they went off because not of value.

- Hollaballo has no meaning
- Radford tape off in normal course as a result of Keith.

How many would threaten me
Roll - representative

② JEH threat

- Recalls 4/71 conv. w/ JEH - no threat, everything OK
- reference to "bring the temple down with him, including me" - has no meaning now.
- no recal. of JEH ever threatening it

(Prob - separating 4/71, 8/71, 10/71)

→ 7/10/71 - no recd. re - "Don't worry re taps on diary"

(3) 7/12/71 - little recollection recalls JHM concern^{re: JEH} and also fear that existence of taps would ~~show~~ leak, ∴ destroy the logs.
does not recall "overhead" problem. a relationship to DE or P.P.

taps in DE case
Kolla balls
WDR circuit system
formation of plumbers
- now legal team.
tell Hoover to destroy
FBI scans all out now.

(Appears to be confusing 7/71 and 10/71)
- little knowledge re: why not destroyed
- Stay away from P.B. press G.J. or Indict.
due to P.P. not taps
7/12/71 - 10/18/71 unclear.

(4) 2/16/73

RM recalls - Gary chosen because they
although ~~want~~ they wanted someone else (1/24/73)
they couldn't come up with a better
choice (all political factors considered) 2/24/73
- Main concern w/ Gary
was his handling of Watergate -
conv. re: direct relationship with
Director did not presume that
this meant wiretapping just break
your ass
- Time no info

concern re: Felt
follow-up.
"of course we had
to stone it and
say nothing happened"
"oh absolutely"
2/25/73 memo

(5) 2/23-26/73

little info
Assumes Gary did not know
didn't really have to deal w/ it

→ did he refer to
R6K

(6) WDR, R6K, P. Moore

Questions

(A) ~~Intro~~

As you are aware we would like to ask you some questions concerning the wiretapping of ~~the~~ newsmen and members of the MGC staff.

- ① Did you approve this program of wiretapping?
- ② Did you have a conversation w/ HAK concerning placing a wiretap on Lake?
- ③ Did HAK request that Lake be tapped?
- ④ Did HAK request that any one else be tapped?
- ⑤ In a conversation w/ Henry Peterson on 1/19/73 you refer to the fact that these wiretaps were discontinued "after the hullabaloo out there", why were these taps discontinued on 2/10/71

B On June 13, 1971 the New York Times began publication of the Pentagon Papers. There is evidence that on the days immediately following that publication you discussed w/ HAK and other Daniel Ellsberg and that HAK, ~~if not others~~, possibly in addition to others, informed you that Mr Ellsberg used drops (6/17/71 tape)

① Did HAK or anyone else inform you that they had information from the wiretaps confirming that Ellsberg used drops

② I show you this letter from JEH to you dated 9/3/69 and direct your attention to the second paragraph concerning Mr Ellsberg. Did HAK, JDE, HRH, JNM, or others inform you about the substance of this information? When you informed that this information came from a wiretap? Who else knew about this wiretap information?

③ Were you aware of any other overhears (intercepts) of Ellsberg, in particular overhears of Ellsberg and Harperin?

either by the
FBI or others

(c) On 4/19/73 in separate conversations w/ Richard Moore and Henry Peterson you indicated that there ~~was~~ wiretapping conducted in connection with the Pentagon Papers investigation? Do you have any knowledge of such wiretapping? If so who, other than yourself, would know of such wiretapping was done? - HAK, JDE, Bushardt, Helms, HRH, JNM, AMH,

(3)

you were informed

C On July 6, 1971 at a meeting you had with ~~Moore~~ JNM, JDE, HRH that the records of their wiretaps were being reviewed at the FBI in order to determine whether or not these records contained any information helpful to the Pentagon Papers investigation.

On July 10, 1971, in a discussion ^{you had} with ~~Mr. Ehr~~ JDE, with you ~~was~~ it was stated that there ~~was~~ no need to worry in connection with the Grand Jury's investigations there was no need

to worry about wiretaps being disclosed through discovery matters.

① Did JOE state that he had discussed this matter with RCM?

② Did JOE or anyone else tell you that RCM would had been told to come to Smolenski to discuss this subject with you?

On July 12, 1971 you met at 11⁰⁰ AM w/ RCM, JOE and HRH. JOE's notes indicate that when Mr. Mandim came into the meeting the first ~~subject~~ ^{subject} discussed was:

"Re: National Security Taps"
especially) - Special Coverage Taps

(William) Beecher
(Niel) Sheehan
Hedrick Smith

Overhearing would be disclosed.

- Referred -

- ① Do you recall this meeting with Mr Mandim?
- ② Do you recall that these NISC wiretaps were discussed at this meeting?
- ③ Do you recall Mr Mandim listing any names of people tapped or overheard, other than Messrs Beecher, Sheehan, or Smith?
- ④ Did Mr Mandim have with him a list of people who had been wiretapped?
- ⑤ Did Mr Mandim state that "overhearings would be disclosed"?
- ⑥ Did Mr Mandim state that the Justice Department expected Ellsberg's attorneys ~~to~~ to make file motions requiring overhears to be disclosed?
- ⑦ Did Mr Mandim state that he expected ^{that} attorneys for Messrs Beecher, Sheehan or Smith would file motions requiring overhears to be disclosed?

At this time Mr JEH, was and a very few others in the FBI knew about the and Justice Department knew about these wiretaps.

① Did Mr Mandim state that a number of ~~good~~ people in the FBI would have to be told about these wiretaps?

② Did Mr Mandim state that a number of people in the Justice Department would have to be told about these wiretaps?

③ Did Mr Mandim state that a number of people in the Bosta and Los Angeles U.S. Attorney's Office would have to be told about these wiretaps?

④ Did Mr Mandim, or anyone else, state that they feared that these people in the "Secrecy" would "leak" the fact that these wiretaps had occurred?

DE's notes reflect that you stated that unnamed people in the U.S. Attorney's Office in New York were "disloyal". Your The suspicion that these people may have been "disloyal" may have been passed on to you by your son-in-law Edward Cox, who was then working at the U.S. Attorney's office in New York.

① When you wanted to make this observation in light of the possibility that if these wiretaps become known to unnamed people in the Justice Department and ~~xxx~~ U.S. Attorney's Office some of these people may be "disloyal" and would "leak" to the press the fact that these wiretaps had occurred?

Ston

How does RN refer to tapes
"NSC tapes"

Originator of tape
1st time Hoover came to him
with overview of Brander
lessons on SALT talks
mtg w JEH, JMM
HAK when Jones left - Musker
logs review

- discontinue references -

7/12/71

7/10/71

Wt concern tapes here

if does in FBI case

A might lose

M to deliver to WCH

M - inst.

no DE request

H to deal w JEH

Sofia M. Linn - A7/11 party

Hoover a FDI may leak

China accord - embarrassing

US material in tape

I card no recall

Sullivan never deliver to RCM

Felt in show WCS

WCS had copy - this had copies

no report back

sophisticated E had not gather the

7/10 no recall.

Thrust

Gray

- RM direct Rolford type - myolite
- Time H, E, Z probably
- did not mention to Gray
- discontinued - Rolford - handled by Felt
E-14
- no Gray answer

1/8 } too political
others considered - Gray only one
Gray job on W/G.
no one else
2/14 } Gray not professional

(4) Did Mr. Mardian, or anyone else, state that they feared that these people in the "bureaucracy" would "leak" the fact that these wiretaps had occurred? Ehrlichman's notes reflect that you stated that various people in ^{one of} the U.S. Attorney's Office ~~in New York~~ were "disloyal." ~~The impression that these people were "disloyal" may have been passed on to you by your son-in-law, Edward Cox, who was then working at the U.S. Attorney's Office in New York.~~

(1) Were you prompted to make this observation in light of the possibility that if these wiretaps became known to various people in the Justice Department and U.S. Attorney's Offices some of those people ~~may~~ ^{might} be "disloyal" and would "leak" to the press the fact that these wiretaps had occurred?

JDE's notes go on to indicate that Mr Mandin stated that there were a ~~few~~ number of wiretap documents located in various files and that the NSC had some of ~~and~~ these documents ~~and~~ that Mr Holdeman had some of these documents. There is ~~then~~ an instruction that Mr Holdeman should get from Hris, All the wiretap documents that ~~is~~ were in NSC files. Following this you state that you agree and that all the wiretap logs should be obtained and destroyed. It is then stated that someone should tell Hoover to destroy the wiretap records.

① Do you recall giving an instruction to destroy the wiretap records?

② Do you recall giving an instruction that someone should tell Hoover to destroy the wiretap records?

③ Who was instructed to contact Hoover?

④ What discussion occurred concerning whether or not Hoover would agree to destroy the logs?

⑤ What if my later discussion did you have with Hoover concerning the wiretaps or the wiretap records.

Later in the same meeting it is stated that Haig is to return all the wiretap records to the FBI and that these records will then be given to Mondrion for destruction.

Immediately after this it is stated that Haig should request that Sullivan at the FBI, the FBI, in particular Mr Sullivan, to destroy all the wiretap records. This is followed by a statement that Sullivan will be contact Mondrion concerning the wiretap records.

① Do you not recall that the final resolution of this meeting was that Mr Mondrion and Mr Sullivan were to cause all records of these wiretaps to be destroyed.

As you can see from Mr Ebelidman's notes there is no mention of any dispute between Mr Sullivan and Director Hoover. As your attorney's have informed you, there is some evidence that in early August 1971 there was a concern expressed by Mr Mandin to Dr Kissinger, to the effect that Mr Hoover might ~~should~~ could not be treated with the ~~the~~ ^{the} central of the window records. With this background, ~~is it now clear~~ do you now recall that at this July 12, 1971 ^{meeting} there was no concern

① The principal concern was that "overhearing" would be disclosed" and

② That any concern about ^{how} Hoover might use these window records did not arise until sometime after this July 12, 1971

Also, As you can see from Mr Ebelidman's notes there is ~~no indication~~ that instruction given with respect to the logs was that they should be destroyed, and there ~~was~~ is no indication that the logs should be

Exhibit

delivered to Mr Ehrlichman. Your
attorneys have reviewed with you
the transcript of a tape recording of
an October 8, 1971 meeting that you had
with Mr Mitchell and Mr Ehrlichman.
It is clear from that transcript
that it was at this October 8, 1971
meeting that the decision was made
to deliver the wiretap records to Mr
Ehrlichman. With this background,
do you now recall

Q That it ~~was~~^{is} after this
first meeting with Mr Madison
the instruction given was to
destroy the logs and that
sometime later a decision was
made to give the logs to
Mr Ehrlichman.

Also during that October 8, 1971
meeting Mr Mitchell refers to these
wiretaps as being "part of the
overall investigation of the Patagon
Papers and this whole mess".

→ Q Do you recall Mr
Mitchell or others referring to
these wiretap records as ~~is~~ the
fact that these wiretap records

were being used to help in the investigation of the Putzger Papers and/or Mr Ellsberg.

During a conversation on October 25, 1971 you discussed with Mr E, a memorandum prepared by Mr Liddy's memorandum concerning J. Edgar Hoover. In that memo Mr Liddy states that "Hoover could be that one of the arguments against attempting to remove Mr Hoover is that, "Hoover could resist and make good his threat against the President." During this meeting w/ Mr E you state that in J. Edgar Hoover "we ^{may} have a our hands here a man who will bring the whole pack down the temple with him, including me."

① Do you recall whether or not Mr Hoover you were aware that Mr Hoover had indicated to you or others that he might disclose these wiretaps?

② What was it that Mr Hoover could do a revolt that would cause enable him to pull you down with him.

Memorandum

TO : Jay Horowitz

DATE: May 15, 1975

FROM : Frank Martin *FM*SUBJECT: Questioning Nixon

The following is an outline of events which Nixon should be questioned about with regard to the Gray and wiretap investigation.

1. April 25, 1969, meeting with Kissinger, Hoover, and Mitchell. Did Nixon order a program of wiretapping? Did Kissinger specifically suggest that wiretapping be used to track down leaks?

Tape →

2. Why were all the wiretaps discontinued on February 10, 1971?

3. Hoover-Boggs-Kleindienst controversy early April, 1971. Did Hoover threaten to reveal the wiretaps? Did Nixon, or anyone to Nixon's knowledge, discuss with Kleindienst the wiretaps on the fact that Hoover might reveal the wiretaps?

*July 6, 1971
HAK AMH
R6/1*

4. Pentagon Papers -- Did Nixon instruct or was he aware of anyone in the White House, Department of Justice, or FBI reviewing the wiretap letters and/or logs with regard to the Pentagon Papers leak or the SALT leak? Was Nixon aware that Ellsberg had been overheard? Same question on Sheehan, Smith, Beecher, Halperin, Warnke, Gelb. Also, was any wiretapping done by the FBI or anyone else with regard to the Pentagon Papers leak?

Tape →

5. When and from whom did Nixon first learn, prior to the July 12, 1971, meeting, that there was a "problem" with regard to the wiretaps and their possible revelation in connection with the Pentagon Papers litigation?

cc: Files
Chron
Ruth (2)
Davis
Martin
Martin Chron

6. What was the full substance of Nixon's conversation with Ehrlichman on July 10, 1971. Ehrlichman's notes reflect -- "Re: Grand Jury, don't worry re: taps on discovery."

7. What was the full substance of July 12, 1971, meeting with Mardian? ("Overhearings would be disclosed.") With whom did Nixon later discuss the "overhear" problem -- Kissinger, Haig, Mitchell, Moore, Kleindienst, others? Did Nixon make any dictabelt recording of his recollection of this meeting or later meetings on the subject?

8. When, where and from whom did Nixon later receive reports on what had been done as a result of his July 12, 1971, order to destroy the logs? Why were the logs and other records not destroyed?

9. Did Hoover, in early August, 1971, or at any time in the Summer or Fall of 1971, indicate that he might reveal the existence of these wiretaps? If so, did this threat in any way relate to the Pentagon Papers case or other "leak" cases? Did Nixon during this time period ever discuss the wiretaps, Pentagon Papers or other leak cases with Hoover? With whom did Nixon discuss the Hoover threat (Haldeman, Ehrlichman, Kissinger, Haig, Mitchell, Mardian, Kleindienst, Moore, others)?

10. Why were the wiretap records given to Ehrlichman by Mardian? Did anyone other than Ehrlichman have access to those records?

Oct 25, 71

11. Was any attempt ever made to force Hoover to retire? If not, did this decision have anything to do with the Hoover threat?

12. In the Fall of 1971, consideration was given to replacing Hoover with Pat Gray. Did anyone brief Gray on the wiretaps or the Hoover threat?

13. At or about the time of Gray's appointment, May 3, 1972, did anyone discuss with Gray the Radford wiretaps (then in operation) or the NSC wiretaps?

14. With whom did Nixon discuss the discontinuance of the Radford wiretaps? (January 20, 1972). Did anyone discuss this with Gray? June

one questions

15. At or about the time of Gray's nomination, February 16, 1973, did anyone discuss with Gray the Radford or NSC wiretaps?

16. With whom did Nixon discuss the February 26, 1972, Time article? Did anyone discuss it with Gray? Did Nixon, or anyone else, receive assurances that Gray would deny the Time allegations?

17. Did anyone inform Nixon that Gray would and/or had testified that there were "no records" of the wiretaps alleged by Time?

18. In May, 1973, Ruckelshaus recovered the wiretap records from the White House files of Ehrlichman. With whom did Nixon discuss the Ruckelshaus investigation, and/or the fact that Ellsberg had been overheard on the wiretaps, and/or the fact that the wiretaps somehow related to the Pentagon Papers investigation? What was discussed at Nixon's May 11, 1973, meeting with Haldeman and Haig?

Consuming
raising
events

19. Were any of the following individuals aware of the Radford and/or NSC wiretaps: L. Patrick Gray, Richard Kleindienst, Richard Moore?

20. Were any of the following individuals aware that Ellsberg had been overheard and/or that the NSC wiretaps somehow related to the Pentagon Papers investigation: Haldeman, Ehrlichman, Kissinger, Haig, Mitchell, Kleindienst, Mardian, Sullivan, Gray, Moore?

THE WHITE HOUSE

WASHINGTON

May 3, 1972

MEMORANDUM FOR THE PRESIDENT
FROM JOHN EHRLICHMAN
SUBJECT Meeting with Richard Kleindienst, Pat Gray
Wednesday, May 3, 1972
2:45 p.m.

I. PURPOSE

The purpose of the meeting is for the President to offer the position of Acting Director of the Federal Bureau of Investigation to L. Patrick Gray III.

II. BACKGROUND

Technically the appointment of an Acting Director of the FBI is the prerogative of the Attorney General. Under the circumstances, the President must and will be actively involved in any such selection.

III. TALKING POINTS

- (1) Being totally convinced of Pat Gray's loyalty, ability and demonstrated competence both at HEW and at the Justice Department, he has been the President's first choice in the event of a contingency of this kind for many months.
- (2) The President has always had a very personal relationship with the Director of the FBI, not only because of their long-time friendship, but also because of the very necessary direct link between the President and the Director involving assignments which are exquisitely personal in nature.

G-84

18-4-75
(GEM)

FOLDER TITLE:

May 1972

ROOM NUMBER:

84

CONTAINER

NUMBER:

5E 237

- (3) Dick Kleindienst understands that, from time to time, there may even be assignments directly from the President to the Director as to which the Attorney General ought not to be a party. This is primarily for the protection of the Attorney General. He has to testify, etc., and sometimes it's just better that he can honestly and truthfully say that he knows nothing about a given set of circumstances.
- (4) White House contacts for the Director of the FBI have been Bob Haldeman and John Ehrlichman for special matters, and Alex Butterfield for FBI background investigations of all prospective and active Administration officials. This should continue to be the arrangement with occasional contacts with Dick Moore and Bud Krogh.
- (5) Gray's primary assignment is to consolidate control of the FBI, making such changes as are necessary to assure its complete loyalty to the Administration.

A diligent effort should be made to locate and sequester all surreptitious investigation of the Administration or its personnel in which Hoover may have engaged for protective purposes. Gray should track closely with Haldeman in this effort.

The FBI has been kept out of certain law enforcement activities in the past. The most conspicuous has been narcotics, another has been organized crime. The President would like to have Pat Gray's recommendation in the near future as to the Bureau's entry into these important areas of law enforcement.

IV. PRESS PLAN

Kleindienst and Gray will go out before the press after the meeting with the President, three o'clock, for the announcement to be made by Kleindienst.

THE ADMINISTRATION

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 re-



FBI CHIEF L. PATRICK GRAY III
Some questions to answer.

porters 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."

APRIL 19, 1973 FROM 3:45 P.M. TO 5:00 P.M.

MOORE: Yeah.

PRESIDENT: Edgar Hoover wouldn't do Ellsberg because Louis, uh, Marx, the daughter was married. Marx was a friend of Hoover's. You know the story there.

MOORE: Ahh.

PRESIDENT: The toy man. The daughter was married to Ellsberg and Edgar -- just personally -- just couldn't bring himself to get into it. So we had to do something on Ellsberg and, and the capabilities up here to try to get information on the Ellsberg case. But now on that score There was no bugging, I found. They had the FBI do bugging once it got into the case, let me assure you, but, but as far as the -- there was this crazy thing where Hunt goes out and breaks into the psychiatrist's office and has a picture taken. I mean, I mean, uh, (unintelligible) look at some files and so forth. But, Ehrlichman, Ehrlichman had no knowledge of, of that particular thing. He did not approve anything like that and so forth and so on. And I don't know what Dean's talkin' about the Plumbers. Is that it? . . .

Tapes

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