

UNITED STATES GOVERNMENT

Memorandum

TO: THE DIRECTOR

DATE: 7/5/74

FROM: O. T. JACOBSON *OTJ*

SUBJECT: WATERGATE INVESTIGATION
OPE ANALYSIS

Assec. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Admin.	_____
Comp. Syst.	_____
Ext. Affairs	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Inspection	_____
Intell.	_____
Lab.	_____
Legal Coun.	_____
Plan. & Insp.	_____
Spec. Inv.	_____
Training	_____
Telephone Rm.	_____
Director Sec'y	_____

James Walter McCard

Pursuant to the Director's instructions on 5/14/74 for the Office of Planning and Evaluation (OPE) to conduct a complete analysis of the FBI's conduct of the Watergate and related investigations the enclosed study has been prepared. The General Investigative Division participated in major portions of this study.

In view of the immense scope of the Watergate investigations, it was necessary for OPE to narrow the focus of this analysis to those areas of the investigations which have caused critical commentary relating to the Bureau's performance. Therefore, the OPE staff undertook a review of selected materials which provided a comprehensive cross section of commentary regarding these investigations. The materials reviewed included "White House Transcripts", proceedings of the Senate Watergate Committee; confirmation testimony before the Senate Judiciary Committee on the nomination of L. Patrick Gray III to be FBI Director, Earl J. Silbert to be U. S. Attorney for the District of Columbia, and William D. Ruckelshaus to be Deputy Attorney General. Numerous books and articles relating to the Watergate matters were also reviewed. In addition, inspection reports, summary memoranda, and selected file materials were reviewed and analyzed as to content.

Enclosure *Detached by Director 7-10-74*

- 1 - Mr. Callahan (Encl.) *edms*
- 1 - Mr. Adams (Encl.) *edms*
- 1 - Mr. Gebhardt (Encl. *in OPE 7/11/74 + attached again*)
- 1 - Mr. Jacobson
- 1 - Mr. Sheets
- 1 - Mr. Revell

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attached
 ENCLOSURE 139-4089

CONTINUED - OVER

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"ENCLOSURE IN BULKY ROOM"
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/16/80 BY SP4 JRM/LMS

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After the conclusion of this review process OPE was able to define fifteen general areas of criticism which encompassed essentially the entire range of responsible public commentary on the Bureau's involvement in the Watergate matters. These fifteen areas of criticism are as follows:

1. Allowing John Dean to sit in on interviews of White House personnel; submitting copies and/or reports of the FBI investigative results to Dean, and clearing proposed investigative activity through Dean.
2. Failure to interview all CRP employees re Watergate; delay in reviewing CRP files; CRP attorneys sitting in on FBI interview of CRP employees, and CRP attorneys having access to FBI file material.
3. Delay and/or failure to obtain access to and account for contents of Howard Hunt's desk and safe at the White House.
4. Failure to fully explore all possible ramifications of Watergate matter with subjects, suspects and potential material witnesses.
5. Delay or failure to interview several individuals re monies and/or checks found in possession of defendants or having been deposited to their bank accounts.
6. Failure to obtain and execute search warrants for search of original five subjects' homes, offices and automobiles.
7. Failure to identify and interview all persons listed in address books, notebooks, et cetera, which were seized and determined to be the property of the 7 original subjects.

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8. Alleged failure to detect and remove "bug" from the telephone of Spencer Oliver in the Democratic National Committee Headquarters.
9. Failure to promptly and thoroughly investigate alleged election law violations by Segretti and others associated with CRP or the White House.
10. Alleged activities by former Acting Director Gray to limit, contain or obstruct FBI investigation of Watergate matter.
11. Alleged leaks of Watergate investigative results to news media, Congress or other unauthorized parties by Bureau personnel.
12. Failure to interview or inadequacy of interview with certain White House officials (Haldeman, Colson, Chapin, et cetera).
13. Alleged activities on part of Department of Justice officials to limit, contain, or obstruct FBI investigation (Kleindienst, Petersen, Silbert, et cetera).
14. Alleged attempt by CIA officials to interfere, contain or impede FBI Watergate investigation.
15. Alleged activities on part of White House officials to limit, contain or obstruct FBI Watergate investigation. (Dean, Haldeman, Ehrlichman, Colson, et cetera).

General Investigative Division was furnished the 15 areas of criticism along with references as to origin and was requested to provide OPE with the following:

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- (1) A brief summary of the investigative activity conducted which gave rise to the criticism.
- (2) General Investigative Division's appraisal of the validity of the criticism and how it might have been avoided.
- (3) Any changes of policy that have resulted from such criticism.
- (4) General Investigative Division's instructions (brief summary) to the field relating to any of the above cited matters.
- (5) Citations to file materials and communications which substantiate the Bureau's position in each of the areas mentioned above.

After receipt of General Investigative Division's information (set forth in Section IV of the study), the position of the Bureau in regard to each area of criticism was analyzed by OPE and where indicated original file materials were reviewed. The results of the overall OPE analysis are set forth in Section V of the study.

The enclosed study is lengthy, however, it is designed to provide ready reference to particular problem areas as well as an overview of the investigation. The table of contents has been designed to provide sufficient detail so that specific activities and/or subject matters can be succinctly reviewed.

OBSERVATIONS

Certain aspects of the FBI's investigative effort in the Watergate affair have received adverse commentary or publicity. A careful review of the basis for these criticisms reveals them to be largely groundless or beyond the control of the Bureau. There can be no question

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that the actions of former Attorney Generals Mitchell and Kleindienst served to thwart and/or impede the Bureau's investigative effort. The actions of John W. Dean at the White House and Jeb S. Magruder at the Committee to Re-Elect the President were purposefully designed to mislead and thwart the Bureau's legitimate line of inquiry. At every stage of the investigation there were contrived covers placed in order to mislead the investigators.

In spite of the most serious impediments posed in this investigation, the professional approach used by the Bureau and the perseverance of our investigative personnel were the ultimate key to the solution of not only the Watergate break-in but the cover up itself.

Those most closely associated with the Bureau's efforts including Acting U. S. Attorney Earl Silbert, Assistant Attorney General Henry Petersen, former Acting Director Ruckelshaus and the Special Prosecutor's Office have on several occasions praised the Bureau's investigative performance in these cases. The direction given to Bureau investigations by the U. S. Attorney's Office and the Criminal Division of the Department of Justice has been the subject of much criticism due to a clear intent to initially steer away from political issues. Acting U. S. Attorney Silbert and Assistant Attorney General Petersen have borne the brunt of most of this criticism. The FBI followed well established Departmental policies in these areas and did vigorously pursue cases when requested to do so by the Department and/or the Special Prosecutor. All information developed indicating any possible violations of Federal law was properly referred to the Department.

In OPE's view the Bureau has a legitimate and compelling defense in all but three of the areas of criticism. In these three areas the facts must speak for themselves as no adequate explanation can be rendered due to the circumstances involved.

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These areas are as follows:

- a. The actions and activities of former Acting Director Gray.**

The actions of Mr. Gray have been fully investigated and reported to the Special Prosecutor's Office. No further action appears warranted by the Bureau in this area.

- b. The possibility of information having been leaked from FBI personnel.**

There are indications that certain Bureau materials relating to the Watergate matters were leaked. This is the subject of a continuing Inspection Division inquiry and has not been further pursued by OPE.

- c. The alleged failure to detect an electronic "bug" in a search of the Democratic Watergate Headquarters.**

The possibility of Bureau personnel overlooking or failing to detect an electronic device during a search of the Democratic National Committee Headquarters cannot be disproven. Our personnel say they could not have overlooked such a device, but responsible authorities cite facts and circumstances leading them to believe that the Bureau personnel failed to detect a "bugging device" planted by James McCord. There appears to be no way of resolving this dispute and the Bureau's position has been formally stated to the Department of Justice.

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The Bureau's position relative to the total activities involved in the Watergate investigations can be strongly defended as the enclosed study indicates. OPE believes that the information and documentation contained in this study thoroughly demonstrate the high caliber of investigative effort and professional conduct of Bureau personnel involved in the Watergate matters.

ACTION:

For information.

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