

The original documents are located in Box 22, folder “Justice - FBI Allegations Against Clarence Kelley - General (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Sept. 1976?

On Monday, August 30, the Attorney General received a report from the Office of Professional Responsibility concerning Director Clarence Kelley's receipt of gifts from subordinates and his receipt of goods and services from the FBI. The report was developed as part of an ongoing investigation into allegations that FBI officials: (1) received kickbacks by FBI officials for the purchase of equipment for the FBI; (2) misappropriated funds established for confidential expenditures and for the FBI recreation association; (3) engaged in systematic theft of government goods and services. The report contained no evidence that Director Kelley was implicated in any of these matters. It did show that Mr. Kelley received various items as Director of the FBI. It contained a recommendation by the attorney assigned to the case and a recommendation by the Counsel on Professional Responsibility.

A copy of this report had previously (August 27th) been given to Deputy Attorney General Harold R. Tyler, Jr. for his recommendation and Mr. Tyler in turn also asked two Assistant Attorneys General and the head of a different bureau in the Department to examine the report and the recommendations it included and to give to him their individual conclusions as to what action they thought was appropriate.



The three consultants and the Deputy Attorney General concluded that no disciplinary action against Director Kelley was warranted, and that Director Kelley in accordance with his own desire in the matter, should be instructed to reimburse the Bureau for any items that could possibly raise a question. This recommendation was made by the Deputy Attorney General to the Attorney General.

After reviewing the report and the investigation, the Attorney General and the Deputy Attorney General reached the following conclusions concerning the nature of the items received by Director Kelley:

I. Gifts from Subordinates

The Justice Department's Standard of Conduct, 28 C.F.R. § 45.735-14(e) (1967), which is drawn from Civil Service Regulations that govern Federal employee responsibilities and conduct, permits voluntary gifts of nominal amounts given on special occasions. The history of the regulation clearly shows that it permits associates or friends to join together to aggregate these nominal amounts. The gifts which Director Kelley received from subordinates clearly fall within what the Department's Standard of Conduct allows.



Director Kelley and his wife found housewarming types of gifts in their apartment when they arrived in Washington after Mr. Kelley's appointment as Director.

During the past three years, Mr. Kelley also received gifts from the FBI Executive Conference on occasions such as his anniversary in the Bureau and Christmas. Mr. Kelley was told that these gifts were paid for by pooled voluntary donations from the members of the Executive Conference. The most expensive item was a chair, which was purchased for \$105 by the 16 members at a cost of \$6.56 apiece.

II. Goods and Services

As to goods and services provided by the Bureau, some were requested and provided to assist the Director to work at home, particularly during the period of his wife's terminal illness. Others were provided by the Bureau because of concerns relevant to the security of a top law enforcement and security official. Still other services and items were provided to the Director for his own use but without initial understanding on his part that they would come from other than private commercial outlets to be compensated by him. He is in the process of reimbursing the government for these items, as he had tried to do in the past.



It has been widely reported that two valances constructed of plywood were constructed for and placed in Director Kelley's apartment by the Bureau's Exhibits Section. The Director did not ask the Bureau to make these valances and when he discovered that it had done so immediately offered to pay for them. The Bureau was particularly interested in the installation of these valances for understandable reasons involving the possibility that the security of the apartment could be penetrated during installation.

The Exhibits Section also repaired a hinge on a damaged cabinet Mr. Kelley purchased at a furniture store.

Work was also done by FBI garage employees on Director Kelley's personal automobile. When he learned of this, the Director instructed that thereafter the automobile should be serviced at a private garage at his expense. Again, Bureau officials were concerned about a security breach.

During Mrs. Kelley's illness, the Director tried to spend as much of the evenings as possible at home. He asked that he be loaned a small cabinet to hold Bureau

materials he worked with at home. The Bureau without Mr. Kelley's request also loaned the Director two television sets during this period -- which have been returned -- because it was felt that he should have immediate access to a range of broadcast news. He considered these items at all times as Bureau property on loan which would be returned.

Mr. Kelley's attempts to reimburse the Bureau which were turned down, his efforts to avoid repetition of the incidents, and his repeated refusal to accept other benefits which we have not described are evidence of an effort to be honest and careful which are persuasive of Mr. Kelley's integrity. The circumstances which surrounded these incidents -- the concern in the Bureau that security not be breached, the Director's preoccupation at the time with bringing that agency through a difficult period of inquiry and change, and the profound sadness of the terminal illness of Mr. Kelley's wife -- are additional factors to be taken into account.

It has been suggested that unless Mr. Kelley is forced to resign there will be an aura of special treatment because of his high position. But Mr. Kelley's

conduct was different in kind from the conduct of others which has led to disciplinary action and criminal prosecution.

In our view, the caliber of government service is not improved in situations such as this, where there is every evidence of an intention to be honest, by a reading of human conduct in its worst possible light. The attempt to consider all gifts in the same way one considers those which are given for base or illegal purposes and to equate actions done with honest intent with those which are mendacious and mean can only in the end protect the venal by disparaging the decent.

It is our view that Mr. Kelley should remain as Director of the FBI and that he should reimburse the Bureau as he has sought to do, for goods and services as to which there may be even the slightest question. The Office of Deputy Attorney General has been designated to work with Mr. Kelley on this matter.

[Sept. 1976?]

DRAFT STATEMENT OF THE PRESIDENT

The President announced today that he had received and acted upon a report from Attorney General Levi concerning Director Clarence Kelley of the Federal Bureau of Investigation.

The President has concluded that, notwithstanding certain questionable acts on the Director's part, no adequate justification exists for terminating the services of Director Kelley. The President expressed his belief that Director Kelley's continued leadership of the FBI is in the best public interest and that he can be counted upon to pursue ~~vigorously~~ ^{effectively} his plans for needed corrections and improvements in the Bureau's operations.

The President has requested the Attorney General to make public the substance of his findings concerning Director Kelley which the Attorney General had reported to the President.



[Sept. 1976?]

DRAFT STATEMENT OF THE PRESIDENT

The President announced today that he had received and acted upon a report from Attorney General Levi concerning Director Clarence Kelley of the Federal Bureau of Investigation.

The President has concluded that, notwithstanding certain questionable acts on the Director's part, no adequate justification exists for terminating the services of Director Kelley. The President expressed his belief that Director Kelley's continued leadership of the FBI is in the best public interest and that he can be counted upon to pursue vigorously his plans for needed corrections and improvements in the Bureau's operations.

The President has requested the Attorney General to make public the substance of his findings concerning Director Kelley which the Attorney General had reported to the President.

[Sept. 1976?]

DRAFT STATEMENT OF THE PRESIDENT

The President announced today that he had received and acted upon a report from Attorney General Levi concerning Director Clarence Kelley of the Federal Bureau of Investigation.

After reviewing the evidence as reported by the Attorney General, and upon receiving assurances that desirable corrective measures are being taken, the President has concluded that no justification exists for terminating the services of Director Kelley. The President expressed his belief that Director Kelley's continued leadership of the FBI is in the best public interest and that he can be counted upon to pursue vigorously his plans for needed corrections and improvements in the Bureau's operations.

The President has requested the Attorney General to make public the substance of his findings concerning Director Kelley which the Attorney General had reported to the President.

THE WHITE HOUSE
WASHINGTON

I believe Clarence
Kelley has made it
well known to ~~us~~ ^{have}
The capacity to achieve
The essential high
standards of the FBI

[Sept. 1976?]

The President announced that he has received and carefully considered the report of the Attorney General concerning the allegations affecting Clarence Kelley, Director of the FBI. He stated that he fully accepts and agrees with the recommendation of the Attorney General that Clarence Kelley be neither formally disciplined nor asked to resign. The President is satisfied with the conclusion of the Department of Justice that the gifts received by Mr. Kelley from subordinates were clearly allowable by existing Civil Service-Department of Justice regulations for matters of this kind.

With respect to certain services and articles furnished to the Director by the Bureau, the President noted that these were either for official work at home during the terminal illness of Mrs. Kelley, or were items which the Director initially did not know or understand were coming from government sources. He accepts the view of the Department of Justice that Mr. Kelley, who has offered to do so, be permitted to make reimbursement as to goods and services as to which there is the slightest question.

Finally, the President reaffirmed his support for Director Kelley in the latter's efforts to lead and strengthen the Federal Bureau of Investigation.

[Sept. 1976]

The President announced that he has received and carefully considered the report of the Attorney General concerning the allegations affecting Clarence Kelley, Director of the FBI. He stated that he fully accepts and agrees with the recommendation of the Attorney General that Clarence Kelley be neither formally disciplined nor asked to resign. The President is satisfied with the conclusion of the Department of Justice that the gifts received by Mr. Kelley from subordinates were clearly allowable by existing Civil Service-Department of Justice regulations for matters of this kind.

With respect to certain services and articles furnished to the Director by the Bureau, the President noted that these were either for official work at home during the terminal illness of Mrs. Kelley, or were items which the Director initially did not know or understand were coming from government sources. He accepts the view of the Department of Justice that Mr. Kelley, who has offered to do so, be permitted to make reimbursement as to goods and services as to which there is the slightest question.

Finally, the President reaffirmed his support for Director Kelley in the latter's efforts to lead and strengthen the Federal Bureau of Investigation.



THE WHITE HOUSE
WASHINGTON

*Kelley -
FBI*

September 2, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.*

SUBJECT: Director Kelley of the FBI

Attached in the sealed envelope is ^{2 supplemental} the
Attorney General's report to you on the
above subject.

Attachment



Kelley
FBI

THE WHITE HOUSE

WASHINGTON

September 3, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN

SUBJECT: Director Kelley of the FBI

Attached in the sealed envelope is a supplemental report from the Attorney General to you on the above subject.

Attachment



Office of the Attorney General

Washington, D. C. 20530

September 2, 1976

MEMORANDUM FOR THE PRESIDENT

For the past several months, the Department of Justice has been investigating allegations that FBI officials mishandled government funds and property. This investigation has focused on three separate sets of allegations: (1) receipt of kickbacks by FBI officials for the purchase of electronic equipment for the FBI; (2) misappropriation of the funds established for confidential expenditures and for the FBI Recreation Association; and (3) systematic theft of government goods and services by FBI officials.

[As a result of this investigation to date, Associate Director Callahan, has been removed on the basis of evidence that he misappropriated funds either belonging to the FBI Recreation Association or committed to expenditures for confidential purposes, i.e. use of informants, and that he received items that were made for him out of government property by Bureau personnel. The investigation also revealed that Mr. John Dunphy, the head of the Exhibits Section which constructs items for the Bureau, converted to his own use several thousands of dollars worth of government property, was a partner in fraud with respect to a Bureau fund and encouraged subordinates to obstruct this investigation. He offered to plead to a misdemeanor for the conversion of government property and this plea, along with his resignation, was accepted.]

In the course of this investigation, Director Kelley told investigators that he received various items from the FBI.

These items fall into different categories.



Office of the Attorney General
Washington, D. C. 20530

September 3, 1976

ADDENDUM TO THE MEMORANDUM FOR THE PRESIDENT
(of September 2, 1976)

There is one other item which, while not a part of this investigation, is discussed in the memorandum from the Director of the Office of Professional Responsibility, and which I believe it is important to bring to your attention.

That item concerns the trip which Mr. Kelley made on the weekend of October 4, 1974 with his wife to a meeting in New York City between the Prudential Insurance Company and the Special Agents Mutual Benefit Association. The Special Agents Mutual Benefit Association is an unincorporated association organized to furnish life and health insurance to its members who are present or retired special agents of the Bureau. It is not a part of the Bureau although its activities are of concern to the Bureau. Prudential has been the underwriter of the insurance plan sponsored by the Association since its inception.

My understanding is that Mr. Kelley allowed the Association to pay for Mrs. Kelley's transportation from Kansas City, Missouri, to New York and for her return to Washington, D.C. for this meeting and allowed the Prudential Life Insurance Company to pay for his own and Mrs. Kelley's expenses for two nights at the Waldorf Astoria Hotel in New York.

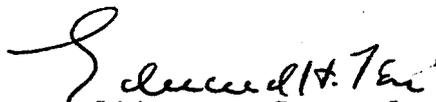
My view is that Mr. Kelley should be instructed to reimburse Prudential for these amounts, and should make such reimbursement to the Association which the Office of Legal Counsel may think desirable in terms of the highest standards of propriety.

James H. T. [Signature]
Attorney General



to avoid repetition of the incidents, and his refusal to accept other items are evidence of an effort to be honest and careful which persuade me of Mr. Kelley's integrity. The circumstances which surrounded these incidents -- the concern in the Bureau that security not be breached, the Director's preoccupation at the time with bringing that agency through a difficult period of inquiry and change, and the profound sadness of the terminal illness of Mr. Kelley's wife -- these are additional factors that lead me to believe in the propriety of Mr. Kelley's conduct. For these reasons, I do not believe that removal of Director Kelley is warranted.

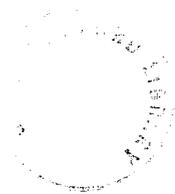
The Deputy Attorney General and I understand full well the importance that the affairs of the Department and the Bureau be conducted in such a way as to avoid the abuses of the past and with honesty and candor. Our view is that despite the incidents recorded above, Director Kelley has been giving the Bureau this kind of leadership. We do not recommend that he be asked to resign or that his leadership be impaired. We believe it is important he continue as Director of the Bureau.


Attorney General

There is no evidence that the Director willfully used his office for his personal benefit or was motivated by the desire for personal gain. I am unable to find any impropriety on the Director's part, in receiving the housewarming, Christmas or anniversary gifts. The Justice Department's Standard of Conduct, 28 C.F.R. § 45.735-14(e) (1967), states specifically that the provision of 5 U.S.C. 7351 "does not prohibit a voluntary gift of nominal amount made on a special occasion such as marriage, illness or retirement."^{1/} The gifts by the Executive Conference were purchased through voluntary donations by members of the Conference. Each donation constituted a nominal amount -- on the average, approximately \$5.15 -- and the occasions on which they were given seem to be "special occasions" within the meaning of this regulation. As for the housewarming gifts, Mr. Kelley could possibly have donated them to the Department, but since he did not know who gave them it would have been difficult for him to return them. Certainly, the arrival of Mr. Kelley in Washington to assume the office of Director of the FBI should be considered a "special occasion."

Nor do I find any impropriety in the Director's benefitting from the use of Bureau resources in these cases. Mr. Kelley received most of these items at a time when his wife was terminally ill and he needed help to perform domestic chores. Mr. Kelley's attempts to reimburse the Bureau which were turned down, his efforts

^{1/} This regulation is based on a comparable Civil Service Commission regulation contained in the regulations promulgated by the Commission to implement Executive Order 11222, which governs Federal employee responsibilities and conduct. See 5 CFR 735.202(d). This particular provision of the Department's Standard of Conduct was approved by the Civil Service Commission, which is directed under section 201(b) of the Executive Order to coordinate the Standards of Conduct regulations of the various Federal agencies. I have been advised by the Office of Legal Counsel that 5 U.S.C. § 7351 which is a statutory bar on the acceptance of gifts does not contravene this regulation.



It was on this same loan basis that the Director used two television sets at his home. The theory of the Director and other Bureau officials was that the television sets were necessary in order to keep the Director informed about matters involving the Bureau. Both television sets were considered by the Director to be Bureau property and they were returned, one before the investigation began and one during the investigation.

Finally, Mr. Kelley's automobile was repaired at the Bureau's garage. The automobile was taken to the garage without the Director's knowledge. Upon learning of this, Mr. Kelley instructed his driver never to have it repaired there again. As in the case of the valances, the Director had been told that the automobile was taken to the FBI garage for security reasons, since the Bureau has always wished to avoid the possibility that an overhearing or tracking device be placed in the Director's car.

Conclusion

On Monday, August 30, I received two memoranda regarding Director Kelley. One, which was written by the attorney assigned to conduct the investigation, recommended that the Director be removed from office. The other, which was written by the attorney's supervisor, recommended that a "lesser penalty would be appropriate -- a letter of reprimand or admonishment, for example." He also recommended that Director Kelley reimburse the Bureau for the value of the goods and services which were of personal benefit to him and that he disclose the fact that he received the items and gifts. I asked Deputy Attorney General Tyler to consult three other Presidential appointees in the Department to obtain their view on this matter. I also asked him to review the record independently to give his own recommendation as well. The consultants as well as Deputy Attorney General Tyler agree that all that the record of this case warrants is an instruction to the Director to reimburse the Bureau for any goods and services received by him which could possibly raise a question. I concur in that view.

the reason why Mrs. Kelley did not take this task on herself. The driver, without the Director's knowledge, went to the Exhibits Section which designed, constructed and installed the valances. Because Mrs. Kelley was not satisfied with the set of valances, the Director asked that a second set be constructed and installed. It was at this time that he discovered that the Exhibits Section had made them. The Director stated that he offered to pay for both sets of valances but was told by the Associate Director of the Bureau that the value was nominal and that there was no way he could reimburse the Bureau for the costs. (While the material was of nominal value, when the expenses for labor, including that of a GS-16 supervisor, are also added, the estimates range as high as \$300). Mr. Kelley has been told subsequently that the Bureau, rather than a private company, was chosen to undertake this task because of security reasons -- officials in the Bureau did not want to take the risk that electronic surveillance devices could be implanted in the wall during the installation of the valances.

A cabinet purchased by the Kelleys from a furniture store was also repaired by the Exhibits Section. In this case, the Director asked his driver to have someone repair the cabinet. After it was repaired, he learned that his driver had taken the cabinet to the Exhibits Section.

Mr. Kelley also received a cabinet that was built by the Exhibits Section to store official Bureau materials at his home. He stated that he asked whether there was a second-hand cabinet that he could use in his home for official purposes since he wanted to spend more time with his wife who was terminally ill. He was not aware that the Exhibits Section constructed it and has said that he always had considered it to be Bureau property which he intended to return upon leaving the Bureau.

I. Gifts from Subordinates

When the Director and his wife arrived in Washington after Mr. Kelley's appointment as Director they discovered in their newly acquired apartment a four place setting of dishes containing the FBI seal, an oven warmer, coffee maker, digital clock, three bottles of liquor, three bottles of wine, a vacuum cleaner, and miscellaneous staple goods such as powdered sugar and salad dressing.

The Director stated that neither he nor his wife knew where these items came from. He assumed they were housewarming gifts from friends in the Bureau.

On the occasion of his anniversaries with the FBI and at Christmas, Mr. Kelley received a walnut table, a set of stack tables, and a man's jewelry box, all of which were made in the FBI Exhibits Section. These were gifts given to the Director by the Executive Conference which is composed of the high-ranking officials of the Bureau. There is no evidence that Mr. Kelley knew the Exhibits Section made these items. Though an FBI seal was affixed to the stack tables and jewelry box, Mr. Kelley could have reasonably believed that the seal was placed on the items only after the Executive Conference purchased them for the Director.

II. Goods and Services

At various times, resources of the Bureau -- in terms of time, personnel and property -- were used for Mr. Kelley's personal benefit. In no case, however, did Mr. Kelley request that the services of the FBI be used for his benefit and at the few times the Director did learn that the services had been rendered, he offered to reimburse the Bureau for them.

Soon after arriving in Washington to assume the office of Director, Mr. Kelley, at the request of his wife, asked his driver to arrange for the construction of drapery valances for his apartment. Mrs. Kelley, at this time was dying of cancer, and this undoubtedly accounts for

THE WHITE HOUSE
WASHINGTON

September 3, 1976

RBC:

Re the AG's memo to the President on Kelley,
two items were left off:

\$105 lounge chair

\$ 86 clock





Office of the Attorney General

Washington, D. C. 20530

September 2, 1976

MEMORANDUM FOR THE PRESIDENT

For the past several months, the Department of Justice has been investigating allegations that FBI officials mishandled government funds and property. This investigation has focused on three separate sets of allegations: (1) receipt of kickbacks by FBI officials for the purchase of electronic equipment for the FBI; (2) misappropriation of the funds established for confidential expenditures and for the FBI Recreation Association; and (3) systematic theft of government goods and services by FBI officials.

[As a result of this investigation to date, Associate Director Callahan, has been removed on the basis of evidence that he misappropriated funds either belonging to the FBI Recreation Association or committed to expenditures for confidential purposes, i.e. use of informants, and that he received items that were made for him out of government property by Bureau personnel. The investigation also revealed that Mr. John Dunphy, the head of the Exhibits Section which constructs items for the Bureau, converted to his own use several thousands of dollars worth of government property, was a partner in fraud with respect to a Bureau fund and encouraged subordinates to obstruct this investigation. He offered to plead to a misdemeanor for the conversion of government property and this plea, along with his resignation, was accepted.]

In the course of this investigation, Director Kelley told investigators that he received various items from the FBI.

These items fall into different categories.



I. Gifts from Subordinates

When the Director and his wife arrived in Washington after Mr. Kelley's appointment as Director they discovered in their newly acquired apartment a four place setting of dishes containing the FBI seal, an oven warmer, coffee maker, digital clock, three bottles of liquor, three bottles of wine, a vacuum cleaner, and miscellaneous staple goods such as powdered sugar and salad dressing.

The Director stated that neither he nor his wife knew where these items came from. He assumed they were housewarming gifts from friends in the Bureau.

On the occasion of his anniversaries with the FBI and at Christmas, Mr. Kelley received a walnut table, a set of stack tables, and a man's jewelry box, all of which were made in the FBI Exhibits Section. These were gifts given to the Director by the Executive Conference which is composed of the high-ranking officials of the Bureau. There is no evidence that Mr. Kelley knew the Exhibits Section made these items. Though an FBI seal was affixed to the stack tables and jewelry box, Mr. Kelley could have reasonably believed that the seal was placed on the items only after the Executive Conference purchased them for the Director.

II. Goods and Services

At various times, resources of the Bureau -- in terms of time, personnel and property -- were used for Mr. Kelley's personal benefit. In no case, however, did Mr. Kelley request that the services of the FBI be used for his benefit and at the few times the Director did learn that the services had been rendered, he offered to reimburse the Bureau for them.

Soon after arriving in Washington to assume the office of Director, Mr. Kelley, at the request of his wife, asked his driver to arrange for the construction of drapery valances for his apartment. Mrs. Kelley, at this time was dying of cancer, and this undoubtedly accounts for

the reason why Mrs. Kelley did not take this task on herself. The driver, without the Director's knowledge, went to the Exhibits Section which designed, constructed and installed the valances. Because Mrs. Kelley was not satisfied with the set of valances, the Director asked that a second set be constructed and installed. It was at this time that he discovered that the Exhibits Section had made them. The Director stated that he offered to pay for both sets of valances but was told by the Associate Director of the Bureau that the value was nominal and that there was no way he could reimburse the Bureau for the costs. (While the material was of nominal value, when the expenses for labor, including that of a GS-16 supervisor, are also added, the estimates range as high as \$300). Mr. Kelley has been told subsequently that the Bureau, rather than a private company, was chosen to undertake this task because of security reasons -- officials in the Bureau did not want to take the risk that electronic surveillance devices could be implanted in the wall during the installation of the valances.

A cabinet purchased by the Kelleys from a furniture store was also repaired by the Exhibits Section. In this case, the Director asked his driver to have someone repair the cabinet. After it was repaired, he learned that his driver had taken the cabinet to the Exhibits Section.

Mr. Kelley also received a cabinet that was built by the Exhibits Section to store official Bureau materials at his home. He stated that he asked whether there was a second-hand cabinet that he could use in his home for official purposes since he wanted to spend more time with his wife who was terminally ill. He was not aware that the Exhibits Section constructed it and has said that he always had considered it to be Bureau property which he intended to return upon leaving the Bureau.

It was on this same loan basis that the Director used two television sets at his home. The theory of the Director and other Bureau officials was that the television sets were necessary in order to keep the Director informed about matters involving the Bureau. Both television sets were considered by the Director to be Bureau property and they were returned, one before the investigation began and one during the investigation.

Finally, Mr. Kelley's automobile was repaired at the Bureau's garage. The automobile was taken to the garage without the Director's knowledge. Upon learning of this, Mr. Kelley instructed his driver never to have it repaired there again. As in the case of the valances, the Director had been told that the automobile was taken to the FBI garage for security reasons, since the Bureau has always wished to avoid the possibility that an overhearing or tracking device be placed in the Director's car.

Conclusion

On Monday, August 30, I received two memoranda regarding Director Kelley. One, which was written by the attorney assigned to conduct the investigation, recommended that the Director be removed from office. The other, which was written by the attorney's supervisor, recommended that a "lesser penalty would be appropriate -- a letter of reprimand or admonishment, for example." He also recommended that Director Kelley reimburse the Bureau for the value of the goods and services which were of personal benefit to him and that he disclose the fact that he received the items and gifts. I asked Deputy Attorney General Tyler to consult three other Presidential appointees in the Department to obtain their view on this matter. I also asked him to review the record independently to give his own recommendation as well. The consultants as well as Deputy Attorney General Tyler agree that all that the record of this case warrants is an instruction to the Director to reimburse the Bureau for any goods and services received by him which could possibly raise a question. I concur in that view.

There is no evidence that the Director willfully used his office for his personal benefit or was motivated by the desire for personal gain. I am unable to find any impropriety on the Director's part, in receiving the housewarming, Christmas or anniversary gifts. The Justice Department's Standard of Conduct, 28 C.F.R. § 45.735-14(e) (1967), states specifically that the provision of 5 U.S.C. 7351 "does not prohibit a voluntary gift of nominal amount made on a special occasion such as marriage, illness or retirement."^{1/} The gifts by the Executive Conference were purchased through voluntary donations by members of the Conference. Each donation constituted a nominal amount -- on the average, approximately \$5.15 -- and the occasions on which they were given seem to be "special occasions" within the meaning of this regulation. As for the housewarming gifts, Mr. Kelley could possibly have donated them to the Department, but since he did not know who gave them it would have been difficult for him to return them. Certainly, the arrival of Mr. Kelley in Washington to assume the office of Director of the FBI should be considered a "special occasion."

Nor do I find any impropriety in the Director's benefitting from the use of Bureau resources in these cases. Mr. Kelley received most of these items at a time when his wife was terminally ill and he needed help to perform domestic chores. Mr. Kelley's attempts to reimburse the Bureau which were turned down, his efforts

^{1/} This regulation is based on a comparable Civil Service Commission regulation contained in the regulations promulgated by the Commission to implement Executive Order 11222, which governs Federal employee responsibilities and conduct. See 5 CFR 735.202(d). This particular provision of the Department's Standard of Conduct was approved by the Civil Service Commission, which is directed under section 201(b) of the Executive Order to coordinate the Standards of Conduct regulations of the various Federal agencies. I have been advised by the Office of Legal Counsel that 5 U.S.C. § 7351 which is a statutory bar on the acceptance of gifts does not contravene this regulation.

to avoid repetition of the incidents, and his refusal to accept other items are evidence of an effort to be honest and careful which persuade me of Mr. Kelley's integrity. The circumstances which surrounded these incidents -- the concern in the Bureau that security not be breached, the Director's preoccupation at the time with bringing that agency through a difficult period of inquiry and change, and the profound sadness of the terminal illness of Mr. Kelley's wife -- these are additional factors that lead me to believe in the propriety of Mr. Kelley's conduct. For these reasons, I do not believe that removal of Director Kelley is warranted.

The Deputy Attorney General and I understand full well the importance that the affairs of the Department and the Bureau be conducted in such a way as to avoid the abuses of the past and with honesty and candor. Our view is that despite the incidents recorded above, Director Kelley has been giving the Bureau this kind of leadership. We do not recommend that he be asked to resign or that his leadership be impaired. We believe it is important he continue as Director of the Bureau.


Attorney General



Office of the Attorney General
Washington, D. C. 20530

September 3, 1976

ADDENDUM TO THE MEMORANDUM FOR THE PRESIDENT
(of September 2, 1976)

There is one other item which, while not a part of this investigation, is discussed in the memorandum from the Director of the Office of Professional Responsibility, and which I believe it is important to bring to your attention.

That item concerns the trip which Mr. Kelley made on the weekend of October 4, 1974 with his wife to a meeting in New York City between the Prudential Insurance Company and the Special Agents Mutual Benefit Association. The Special Agents Mutual Benefit Association is an unincorporated association organized to furnish life and health insurance to its members who are present or retired special agents of the Bureau. It is not a part of the Bureau although its activities are of concern to the Bureau. Prudential has been the underwriter of the insurance plan sponsored by the Association since its inception.

My understanding is that Mr. Kelley allowed the Association to pay for Mrs. Kelley's transportation from Kansas City, Missouri, to New York and for her return to Washington, D.C. for this meeting and allowed the Prudential Life Insurance Company to pay for his own and Mrs. Kelley's expenses for two nights at the Waldorf Astoria Hotel in New York.

My view is that Mr. Kelley should be instructed to reimburse Prudential for these amounts, and should make such reimbursement to the Association which the Office of Legal Counsel may think desirable in terms of the highest standards of propriety.

Edward A. Tamm
Attorney General

THE WHITE HOUSE

WASHINGTON

September 3, 1976

MEMORANDUM FOR THE PRESIDENT

FROM:

PHILIP W. BUCHEN *P*

SUBJECT:

Director Kelley of the FBI

Attached in the sealed envelope is a supplemental report from the Attorney General to you on the above subject.

Attachment



The President announced that he has received and carefully considered the report of the Attorney General concerning the allegations affecting Clarence Kelley, Director of the FBI. He has concluded that ~~notwithstanding certain questionable transactions in which the Director was involved,~~ no adequate justification exists for terminating the services of Clarence Kelley.

The President said he is satisfied with the conclusion of the Department of Justice that the gifts received by Mr. Kelley from subordinates were allowable by existing Civil Service and Department of Justice regulations on matters of this kind.

With respect to certain services and articles furnished to the Director by the Bureau, the President noted that these were either for official work at home during the terminal illness of Mrs. Kelley, or were items which the Director initially did not know or understand were coming from government sources. The President accepts the view of the Department of Justice that Mr. Kelley, who has offered to do so, be permitted to make reimbursement as to any items about which ~~any~~ *there is the slightest question.* ~~question remains.~~



Finally, the President reaffirmed his support for Director Kelley in the latter's efforts to lead and strengthen the Federal Bureau of Investigation.



DRAFT STATEMENT FOR THE PRESIDENT

The President announced that he has received and carefully considered the report of the Attorney General concerning the allegations affecting Clarence Kelley, Director of the FBI. He stated that he fully accepts and agrees with the recommendation of the Attorney General that Clarence Kelley be neither formally disciplined nor asked to resign. The President is satisfied with the conclusion of the Department of Justice that the gifts received by Mr. Kelley from subordinates were [clearly] allowable by existing Civil Service-Department of Justice regulations for matters of this kind.

With respect to certain services and articles furnished to the Director by the Bureau, the President noted that these were either for official work at home during the terminal illness of Mrs. Kelley, or were items which the Director initially did not know or understand were coming from government sources. He accepts the view of the Department of Justice that Mr. Kelley, who has offered to do so, be permitted to make reimbursement as to goods and services as to which there is the slightest question.

Finally, the President reaffirmed his support for Director Kelley in the latter's efforts to lead and strengthen the Federal Bureau of Investigation.



DRAFT STATEMENT FOR THE DEPARTMENT OF JUSTICE

On Monday, August 30, the Attorney General received a report from the Office of Professional Responsibility concerning Director Clarence Kelley's receipt of gifts from subordinates and his receipt of goods and services from the FBI. The report was developed as part of an ongoing investigation into allegations that FBI officials: (1) received kickbacks by FBI officials for the purchase of equipment for the FBI; (2) misappropriated funds established for confidential expenditures and for the FBI recreation association; (3) engaged in systematic theft of government goods and services. The report contained no evidence that Director Kelley was implicated in any of these matters. It did show that Mr. Kelley received various items as Director of the FBI. It contained a recommendation by the attorney assigned to the case and a recommendation by the Counsel on Professional Responsibility.

A copy of this report had previously (August 27th) been given to Deputy Attorney General Harold R. Tyler, Jr. for his recommendation and Mr. Tyler in turn also asked two Assistant Attorneys General and the head of a different bureau in the Department to examine the report and the recommendations it included and to give to him their individual conclusions as to what action they thought was appropriate.

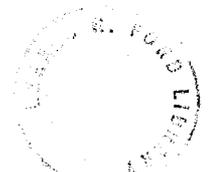


The three consultants and the Deputy Attorney General concluded that no disciplinary action against Director Kelley was warranted, and that Director Kelley in accordance with his own desire in the matter, should be instructed to reimburse the Bureau for any items that could possibly raise a question. This recommendation was made by the Deputy Attorney General to the Attorney General.

After reviewing the report and the investigation, the Attorney General and the Deputy Attorney General reached the following conclusions concerning the nature of the items received by Director Kelley:

I. Gifts from Subordinates

The Justice Department's Standard of Conduct, 28 C.F.R. § 45.735-14(e) (1967), which is drawn from Civil Service Regulations that govern Federal employee responsibilities and conduct, permits voluntary gifts of nominal amounts given on special occasions. The history of the regulation clearly shows that it permits associates or friends to join together to aggregate these nominal amounts. The gifts which Director Kelley received from subordinates clearly fall within what the Department's Standard of Conduct allows.



Director Kelley and his wife found housewarming types of gifts in their apartment when they arrived in Washington after Mr. Kelley's appointment as Director.

During the past three years, Mr. Kelley also received gifts from the FBI Executive Conference on occasions such as his anniversary in the Bureau and Christmas. Mr. Kelley was told that these gifts were paid for by pooled voluntary donations from the members of the Executive Conference. The most expensive item purchased was a chair, which was purchased for \$105 by the 16 members at a cost of \$6.56 apiece.

II. Goods and Services

As to goods and services provided by the Bureau, some were requested and provided to assist the Director to work at home, particularly during the period of his wife's terminal illness. Others were provided by the Bureau because of concerns relevant to the security of a top law enforcement and security official. Still other services and items were provided to the Director for his own use but without initial understanding on his part that they would come from other than private commercial outlets to be compensated by him. He is in the process of reimbursing the government for these items, as he had tried to do in the past.



It has been widely reported that two valances constructed of plywood were constructed for and placed in Director Kelley's apartment by the Bureau's Exhibits Section. The Director did not ask the Bureau to make these valances and when he discovered that it had done so immediately offered to pay for them. The Bureau was particularly interested in the installation of these valances for understandable reasons involving the possibility that the security of the apartment could be penetrated during installation.

The Exhibits Section repaired a hinge on a damaged cabinet Mr. Kelley purchased at a furniture store and provided a plywood bedboard.

Work was also done by FBI garage employees on Director Kelley's personal automobile. When he learned of this, the Director instructed that thereafter the automobile should be serviced at a private garage at his expense. Again, Bureau officials were concerned about a security breach.

During Mrs. Kelley's illness, the Director tried to spend as much of the evenings as possible at home. He asked that he be loaned a small cabinet to hold Bureau



materials he worked with at home. The Bureau without Mr. Kelley's request also loaned the Director two television sets during this period -- which have been returned -- because it was felt that he should have immediate access to a range of broadcast news. He considered these items at all times as Bureau property on loan which would be returned.

Mr. Kelley's attempts to reimburse the Bureau which were turned down, his efforts to avoid repetition of the incidents, and his repeated refusal to accept other benefits which we have not described are evidence of an effort to be honest and careful which are persuasive of Mr. Kelley's integrity. The circumstances which surrounded these incidents -- the concern in the Bureau that security not be breached, the Director's preoccupation at the time with bringing that agency through a difficult period of inquiry and change, and the profound sadness of the terminal illness of Mr. Kelley's wife -- are additional factors to be taken into account.

It has been suggested that unless Mr. Kelley is forced to resign there will be an aura of special treatment because of his high position. But Mr. Kelley's



conduct was different in kind from the conduct of others which has led to disciplinary action and criminal prosecution.

In our view, the caliber of government service is not improved in situations such as this, where there is every evidence of an intention to be honest, by a reading of human conduct in its worst possible light. The attempt to consider all gifts in the same way one considers those which are given for base or illegal purposes and to equate actions done with honest intent with those which are mendacious and mean can only in the end protect the venal by disparaging the decent.

It is our view that Mr. Kelley should remain as Director of the FBI and that he should reimburse the Bureau as he has sought to do, for goods and services as to which there may be even the slightest question. The Office of Deputy Attorney General has been designated to work with Mr. Kelley on this matter.

