THE WHITE HOUSE
WASHINGTON

Date: 1/17/89

FOR: Arthur B. Culvahouse, Jr.

FROM: **WILLIAM J. LANDERS**
Associate Counsel to the President

The comment not only is untrue, it is impossible to "reclassify" material in the public domain. There is no authority for it, nor would it meet the criteria for classification in E.O. 12356.

THE WHITE HOUSE
WASHINGTON

Date: Jan 14

TO: Bill Landers

FROM: ARTHUR B. CULVAHOUSE, JR.
Counsel to the President

See Miami Herald

FYI: _____

on page 2. Is this

COMMENT: _____

true?

ACTION: _____

No

U.S. Department of Justice
Office of Public Affairs

PM News Summary for The Attorney General

THURSDAY AFTERNOON, JANUARY 12, 1989

UPI

UNITED PRESS INTERNATIONAL

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Thornburgh certifies need to protect secrets

By GREGORY GORDON

WASHINGTON (UPI) -- In a sealed affidavit, Attorney General Dick Thornburgh certified Thursday that the threatened exposure of U.S. secrets forced the government to drop two key Iran-Contra charges against Oliver North.

Thornburgh and independent prosecutor Lawrence Walsh filed declarations in response to U.S. District Judge Gerhard Gesell's demand Monday for a formal statement that the decision to withhold classified information was made at the highest levels of government.

Walsh, who has spent more than two years and $12 million in taxpayers' money investigating the Iran-Contra scandal, asked Gesell Jan. 5 to dismiss the two main charges against ex-White House aide North because the administration had refused to declassify data needed for the case.

North still faces trial Jan. 31 on 12 other criminal counts charging him with obstructing Congress, shredding documents and other improprieties during his secret campaign to arm the Nicaraguan Contra rebels.

If convicted of all those charges, he could face up to 60 years in prison and $3 million in fines.

The counts being dropped accuse North of conspiracy and theft of government property in his role in the controversial diversion to the Contras of about $14 million in proceeds from U.S. arms sales to Iran.

Last week, Thornburgh said he agreed with the decision of an inter-agency committee of intelligence experts to bar release of the classified documents, saying that national security secrets would be exposed at trial.

Walsh contended to the judge at a Monday hearing that no certification from the administration was necessary because he was simply exercising his prosecutorial right to drop charges because he lacked sufficient evidence to proceed. However, he agreed to comply with the court's request for a justification from Thornburgh for the decision.

Gesell was expected to act promptly on the request.

James Wieghart, a spokesman for Walsh, declined comment Thursday on a report by the Knight-Ridder News Service that the withheld documents include the names of several Latin American government officials who work for the CIA. The exposure of those ties, Knight-Ridder said, could disrupt U.S. intelligence activities in several countries.

Despite contentions from North's lawyers that classified information also pervades the rest of the case, they have served subpoenas on President Reagan, Vice President George Bush, Secretary of State George Shultz and more than 70 other administration officials -- including about 40 from the CIA, sources say.

The prospects of a trial going forward appear to hinge, in large part, on how Gesell rules on North's arguments that he must use much of the same classified information to defend himself on the other 12 charges.

An administration official familiar with the case predicted this week that the case now can proceed to trial, perhaps even as scheduled.

Gesell plans to begin considering North's arguments at a hearing Friday. Walsh is expected to lay out the theory of his case, contending it is narrow in scope and will not require a broad defense.

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The Miami Herald
DATE: 1-12-89
PAGE: 1A

U.S. feared North's documents would reveal CIA Latin contacts

By ALFONSO CHARDY
Herald Washington Bureau

WASHINGTON — Documents withheld by the Reagan administration from the prosecution of former Lt. Col. Oliver North include the names of several Latin American government officials who work for the Central Intelligence Agency, sources close to the Iran-contra probe say.

While many of the withheld documents detail incidents that are already known publicly, the administration fears that even a circumspect discussion of the episodes in an American courtroom might expose the Latin American officials' links to the CIA and disrupt U.S. intelligence activities in several countries, the sources said.

One source said some of the withheld documents previously had been declassified during congressional investigations of the Iran-contra affair, but were subsequently reclassified in an effort to limit discussion of the incidents.

The administration's refusal to allow the documents to be used in North's prosecution forced Iran-contra special prosecutor Lawrence Walsh to ask that the two major charges against North be dismissed.

U.S. District Judge Gerhard Gesell is expected to act on that request this week.

Gesell also has suggested that other charges against North might be in jeopardy because of the refusal to permit use of the documents.

All of the sources consulted for this article are either familiar with some of the documents or with the legal strategies of Walsh and North's defense team.

Some of the sources are closely tied to North's defense team while others either worked closely with North in the past or participated in the 1987 congressional investigation into the Iran-contra affair. One of the sources is a senior administration official who advises the State Department and the White House on Central American security policy.

Countries listed in the documents, the sources said, include Costa Rica, El Salvador and Venezuela where — respectively — North's contra resupply network built an airstrip, controlled part of an air base and attempted to buy military aircraft.

North's activities in these countries were central to Walsh's legal strategy to show that the former National Security Council aide conspired to defraud the United States and steal government property by using the profits from arms sales to Iran to purchase supplies for the contras. Those are the charges Walsh now wants withdrawn.

In each case, the sources said, Walsh has documentary evidence — invoices, receipts and other legal papers — showing transactions involving Iran arms sales profits to purchase contra supplies.

Declassification of the documents probably would shed little light on whether President Reagan authorized North to help the contras, the sources said. But it would almost certainly expose Latin American security officials who collaborate with the United States in covert operations, the sources said.

Some of the officials, the sources said, are CIA assets — on the payroll of the Central Intelligence Agency — who systematically assist the United States in specific projects to collect intelligence or carry out operations to further or protect American interests in the region.

At least two of them — Gen. Juan Ramon Bustillo, commander of the Salvadoran air force, and Benjamin Piza, a security expert and former Costa Rican security minister — were linked to North after the Iran-contra affair broke in 1986, but the names of at least a dozen other agents and collaborators have never been publicized, the sources said.

They said the foreign officials assisted North because they believed that North and his lieutenants were acting with official U.S. approval.

For example, in March 1986 the then CIA station chief in Costa Rica — Joe Fernandez — brought Piza and his wife to Washington to meet with North and then with Reagan, if only to have their picture taken with the American president. Walsh also charged Fernandez in the Iran-contra criminal case, but subsequently dropped the charges because Fernandez worked at CIA headquarters in Virginia, not in the District of Columbia, where Walsh has jurisdiction.

"If you ask Piza whether he thought Reagan supported North's activities, he probably would have concluded that he did," a senior administration official who once worked closely with North said.

Piza and other Costa Rican security officials, whose names remain secret, assisted North and Fernandez in building an alternate contra resupply airstrip in northern Costa Rica where supply aircraft could land for refueling and repairs after delivering weapons to the contras inside Nicaragua.

Also key to Walsh's case was the assistance Bustillo, the Salvadoran general, gave North. Between 1985 and 1986, Bustillo authorized North and his contra resupply aides to use a section of El Salvador's principal air force base — Ilopango — for air resupply drops to the contras inside Nicaragua.

A third significant element in Walsh's case was North's efforts to purchase the resupply aircraft launched from Ilopango. As part of the evidence, Walsh planned to show that in November 1985 North and one of his co-defendants, Richard Secord, sent one of Secord's assistants to Venezuela to buy military aircraft from the Venezuelan air force.

cont'd.

In a document entitled "Proof of the Charges" which Walsh filed in federal court Dec. 5, the special prosecutor, who did not identify Venezuela by name, says that when Secord's assistant, Richard Gadd, "encountered resistance from [deleted] North used his influence as a representative of the United States government to vouch for Gadd's bona fides with the government [deleted]."

While Walsh attempted to protect Venezuela's identity in his filing, the incident was outlined in a 1,002-page supplementary report issued in September 1988 by the congressional Iran-contra committees. The report is one of several, generally unheralded supplements that the committees have released since their "final" report was made public in November 1987.

In the September supplement, Venezuela is openly identified as the country where North tried to buy the aircraft.

"Around November 1985," the congressional report says, "Gadd locates three C-123 aircraft for purchase for the resupply operation. Secord tells Gadd that the cost will be paid by 'donation.' Gadd arranges to tell Secord the price, after which Secord will transfer the funds to the seller. North intercedes to help the sale by 'a letter, a message or . . . a telephone call to . . . the American embassy in Caracas, Venezuela."

The congressional report issued in September suggests that Assistant Secretary of State Elliott Abrams played a role in the effort.

An entry in North's notebook for November 1985, the congressional report says, records a request from North to Abrams to tell a Latin American country that "ACE [a shell company set up by Richard Gadd to hold title to the aircraft for the resupply operation] is OK."

Abrams declined comment through a spokesman who said his boss cannot discuss an ongoing criminal investigation. North's lawyers have subpoenaed Abrams as a witness and Walsh himself was planning to summon Abrams to testify against North.

The November 1987 final Iran-contra congressional report said that Abrams denied "any knowledge of the planes belonging to the Latin American country's air force."

The final Iran-contra report notes that it was the "logistics director" of the Venezuelan air force that objected to the sale of the airplanes because he feared that the aircraft would be used for drug-trafficking. The report did not identify the logistics director by name.

Ultimately, efforts to buy the Venezuelan aircraft failed and the North network purchased the resupply planes in Canada and the United States.

Los Angeles Times

DATE: 1-12-89
PAGE: Pt. V p. 1

The Man Who Would Prosecute Oliver North Is a Marine

Veteran Known for His Tough Courtroom Stance

By DAN MORAIN, *Times Staff Writer*

SAN FRANCISCO—John Keker was a young second lieutenant commanding a platoon of 60 Marines in Vietnam 23 years ago when an enemy bullet shattered his elbow and left it permanently disabled.

Now, the retired Marine is enmeshed in a different sort of combat. His target is another bemedaled Marine veteran, the one President Reagan has called a national hero.

With a Washington courtroom as the battlefield, Keker, 45, is leading the effort to prosecute retired Lt. Col. Oliver North in what would be the first criminal trial to come of the Iran-Contra scandal. *Semper fidelis* aside, if Keker has any loyalty toward a fellow Marine in distress, it does not show.

"What North has been doing for the last five years has, as far as I'm concerned, nothing to do with the Marine Corps," Keker said in a recent interview at his San Francisco office before shuttling back to Washington.

Simple and Direct Reason

When independent counsel Lawrence E. Walsh selected Keker last month to lead a team of three lawyers who will prosecute the former White House aide, he had a simple and direct reason for tapping him.

"The general feeling here is that he's one of the top trial attorneys in the country," said James G. Wieghart, spokesman for the special prosecutor.

"John Keker is genuine-tough, the sort of person you would want with you if you were in a tough spot," said William Brockett, a Yale Law School classmate of Keker, his partner in a flourishing litigation firm, and a Vietnam veteran himself.

And Walsh is in a tough spot, indeed. In the past week, it has become less clear that there will even be a prosecution. Walsh was unable to persuade Reagan Administration officials to declassify documents that North claims to need in his defense, and was forced to ask U.S. District Judge Gerhard A. Gesell to dismiss two key charges: conspiracy to defraud the U.S. government and theft of $14 million in proceeds from arms sales to Iran to help finance U.S.-backed Contras in Nicaragua.

Dispute Over Classified Papers

North's attorney, Brendan V. Sullivan Jr., claims he needs classified documents to defend against the dozen charges that remain, and is trying to persuade Gesell to throw out the rest of the case. In a hearing set for Friday, Keker will step forth to argue that there is no need for classified papers in the pared-down trial.

As pretrial maneuvering continues, lawyers who know Keker say that if anyone can bring the case to trial, it is Keker. After almost 20 years on the defense side of the well, he will play the part of a prosecutor for the first time in the most important case of his career.

The drama of it all is not lost on him.

"When you go to court," he said, "you get a chance to be a hero, which is a thing that most people repress the desire for. You also get a chance to fail enormously.

"That sort of edge is something that people who are trial lawyers usually like. "You get a chance to do the right thing. You get a chance to do it in a stylish way."

□

In the infantry, Keker and North had similar experience in war. Both led platoons in especially bloody battles. Both were wounded and awarded Purple Hearts. North won a Silver Star for heroics in 1969. After Vietnam, however, they took very different paths.

Keker rarely talks in any detail about Vietnam, fends off questions about his wound with a quip, and has a hard time imagining a cause worth the high price of war.

"I don't like flag-waving. That's not what I am," said the San Francisco Democrat, whose firm has taken on such *pro-bono* causes as fighting random drug testing of college athletes. "Anybody who wants to be a flag-waver can wave the flag. It seems to me that it papers over things that need to be talked about."

By the time Keker recuperated from his wounds in 1966, he was convinced that the war was a mistake. He retired from the Marines as a first lieutenant, spent his savings traveling with his wife in Europe, and returned to enter Yale where he made the law review, and dabbled in liberal politics of the times.

After graduating, he worked as a law clerk for Chief Justice Earl Warren, then moved to San Francisco for a job as a deputy federal public defender. In 1973, he went into private practice, and he built a reputation by specializing in white-collar criminal defense and business litigation.

His success is reflected by Keker & Brockett's office, once a warehouse for wine, later a bawdy nightclub, now a brick and open-beamed showcase where Calistoga, not aged coffee, is offered to visitors. Keker won't discuss his fees, except to say he can make more in a good hour in San Francisco than the special prosecutor pays in a day. Walsh's trial attorneys are paid at a rate of $278 a day.

Two years ago, as outlines of the Iran-Contra scandal emerged, Keker sought a job with Walsh. Driven not only by a long-held interest in the secret workings of government but also by simple curiosity, he thought it would be "fun" to find out what really happened in the worst foreign policy failure of the Reagan Administration.

'He Really Was Offended'

"The political and legal implications struck me as enormous," Keker said, though he won't say anything beyond that about North or the trial: "He'll have his day in court. That's what everybody is entitled to. What he has to say, what I have to say, will be said in the courtroom."

Keker's friends say he wanted the job because he was appalled by the whole messy affair.

"What motivated him," Brockett said, "was that he was offended by what North had done, rather than a desire to become famous in his time. I think he really was offended."

To get the job, Keker turned to Charles Renfrew, an executive of Chevron Corp., who, like Walsh, had been a federal judge and deputy U.S. attorney general, serving during the early years of the Reagan Administration.

"I wrote to Ed that if I were in his spot putting together a staff, the first lawyer I would hire is John Keker," Renfrew said, calling him "uncanny in a courtroom."

"It came as no shock to me that John would try the case," Renfrew added. "You're just going to shoot with your best."

'Give No Quarter, Ask No Quarter'

In a courtroom, Keker's style is one of "give no quarter, ask no quarter," says William T. McGivern Jr., chief assistant U.S. attorney in San Francisco.

"John is probably as unfriendly as anyone you can deal with while the case is going on," said Palmer Kelly, an assistant U.S. attorney in Austin, Tex., who won a conviction against a client of Keker's, a lawyer who helped a drug dealer launder money. Kelly placed Keker on a list of the three top lawyers he has ever faced.

"[Sullivan] will try to smoke up the courtroom and throw the jury off the trail. Keker has got to blow the smoke out of the courtroom. Being one of the better 'smoke' lawyers himself is certainly going to help," Kelly said.

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cont'd.

The firm that Keker formed with Brockett a decade ago has fewer than 20 lawyers, but nonetheless is often mentioned in legal publications as one of the best litigation firms in the country.

Keker & Brockett built its reputation by winning cases for people charged with white-collar crime, later by handling complex business cases, and more recently by representing lawyers in malpractice suits.

Keker has had his share of glamour cases. He successfully defended George Lucas in a suit accusing Lucas of stealing the concept of the Walkers in the "Empire Strikes Back."

On leave from Walsh's staff last year, the Ivy League-educated San Francisco sophisticate questioned experts on such bucolic topics as a cow's rumen, and ended up with an $8-million libel verdict on behalf of a rancher who claimed that the University of California falsely accused him of poisoning his livestock.

In 1986, Keker defended San Francisco society figure and architect John (Sandy) Walker against vehicular manslaughter charges. Walker's blood alcohol count was .14%, and he was speeding along narrow Silverado Trail in the Napa Valley wine country in June, 1984, when he lost control of his Mercedes. His passenger, a 26-year-old woman, died.

Keker brought in a world-class race car driver who had helped design the Mercedes brake system to testify that the 368 feet of skid proved that a brake malfunction was to blame for the fiery crash.

"He created a theory out of thin air. There was evidence that the car was going in excess of 90. The car went airborne, hit an oak tree, then uprooted a second oak tree," said Mark Pollack, the prosecutor.

Though he lost the case, Pollack was effusive in his praise of Keker, saying that he has "developed his skill to the level of an art form.

"It was a pleasure opposing him."

□

Keker began his military service with an ROTC scholarship to Princeton. He had hoped to become a pilot. But when the Navy asked that he become a submarine officer, he became angry and took what he saw as his one out—the Marines.

After graduating *cum laude* from Princeton, he went to Quantico, Va., for training. There, in December, 1965, he finished with the highest rating in a class of 400 second lieutenants—"one of my proudest accomplishments," he says.

Newly married to his high school sweetheart, Christina Day, Keker arrived at Camp Pendleton that January, figuring to enjoy Southern California. Twenty-eight days later he was on a ship bound for Vietnam.

When he joined the Marines and realized that there was a chance that he would go to war, Keker dropped his desire to fly and chose the infantry. The decision had to do with his concept of fair fights, he said.

"I really didn't want to be in an airplane dropping bombs on people. It seemed somehow impersonal. If I was going to kill somebody, I'd rather do it face to face. It just made me more comfortable. It seemed more human to fight as an infantry platoon leader.

"The idea of being in charge of a platoon is a much different experience than just flying an airplane. I must say that to be responsible for a platoon, 60 Marines, and all that that entails, that is a big deal. I don't think it gets any bigger than that."

In July, 1966, as the war escalated, the Marines began Operation Hastings, their first foray to the Demilitarized Zone. "At least, they hadn't gone in officially" before, he said. It was their largest and most violent battle up to that point in the war, according to a Marine spokesman.

"We dealt with mines; we dealt with small attacks. But this was the first knock-down, drag-out fight that we had been in. This was the first bloody, awful battle. And it was—awful. . . . By the time I was wounded, about half the platoon was dead or wounded."

In all, 126 Marines died. Keker was among 448 who were wounded. He will not talk in detail about it.

"There is no way," Keker said, "that a person who has been in combat can talk about being in combat, especially in this day and age, especially in relation to the Vietnam War, especially to somebody who has not been in combat, someone who hasn't been in Vietnam. . . .

"You end up making yourself out to be a hero or, to the contrary, you make yourself out to be someone who is anti-war, or something. The truth is, you're a jumble of all of that.

"It's sort of nobody's business."

In February, 1967, after six months in Bethesda Naval Hospital, Keker retired from the Marines. He entered law school that fall. He was, he said, a "concerned citizen" who was involved in "bits and pieces" of campus activism, though his age and experience set him apart.

"I felt like an old man. I had a wife and a kid," said the father of two sons, ages 20 and 17.

"We were veterans. We respected other veterans," Brockett added.

On Fire Commission

Like Brockett, who once quit law to play poker professionally, Keker has, on occasion, felt a need to do more than represent clients. He ran unsuccessfully for the San Francisco Board of Supervisors in 1977. Mayor Art Agnos recently appointed him to the San Francisco Fire Commission. He says he'd like to have influence in national issues, but has no desire to leave his chosen city.

"Washington is a one-industry town. The one industry is very interesting. But the diversity of ways of thinking, the things that people are interested in, are just not there. It's remarkable how much it's not there.

". . . All the things that people make fun of California for are things that I like about California. I would not want to live in a place where you're not exposed to some of the dizziness that is here. I'm not part of the dizziness, but I like it around."

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Waiting On Attorney General Thornbu. gh

Never take a federal judge for granted.

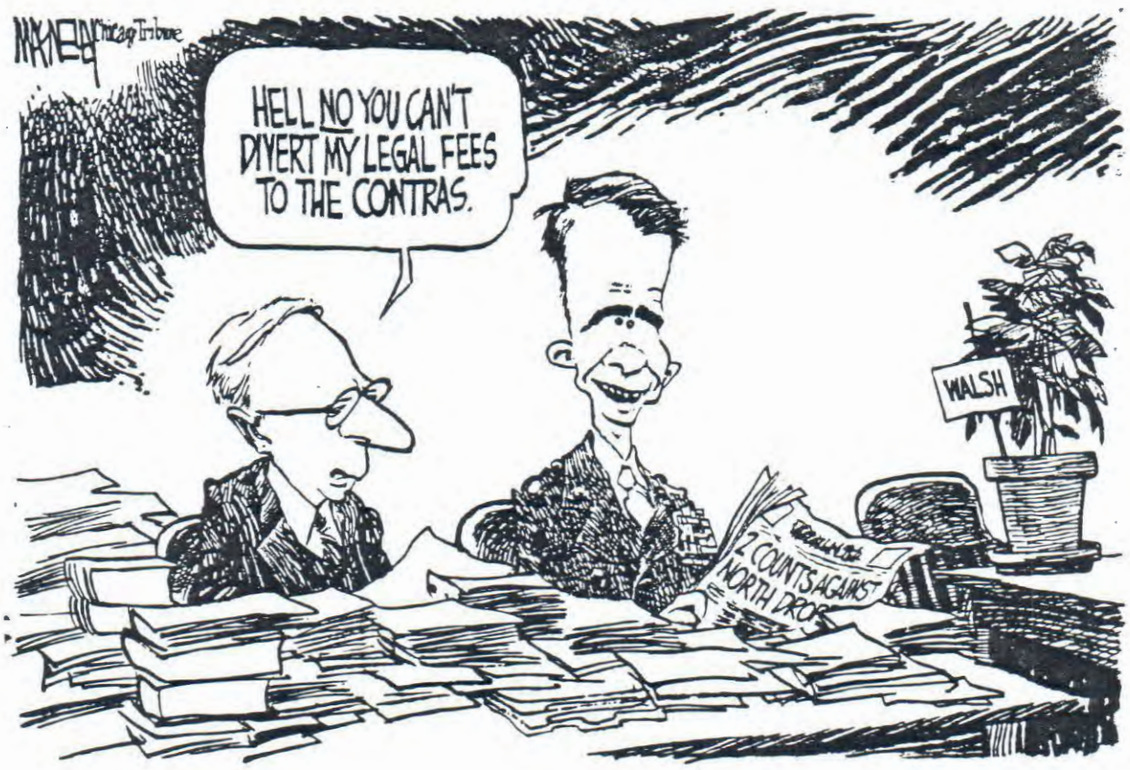
After the Reagan administration refused to permit portions of some classified documents to be used in the trial of Oliver North, independent prosecutor Lawrence E. Walsh requested that the central counts of theft and conspiracy be dropped. Judge Gerhard A. Gesell was expected to go along without a peep.

But the judge has declined to dismiss the counts until Attorney General Richard L. Thornburgh supplies an affidavit declaring that the documents cannot be entered into evidence without endangering national security.

Technically, the judge acted to ensure that the provisions of the 1980 Classified Information Procedures Act are carried out. It is clear, however, that his aim is to affix responsibility for dismissal of the charges on the man who heads the intelligence committee that unanimously turned thumbs down on the court's request. Can it be that the judge suspects that the administration's cry of national security is less than bona fide?

Interviewed last Sunday on television, Mr. Thornburgh confessed that he had not actually read the documents that his committee so definitively pronounced upon. Perhaps now he will be encouraged to take a look.

The Miami Herald
DATE: 1/12/87
PAGE: 27A



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(complete writethru -- bush names watkins and bennett)

By JOSEPH MIANOWANY
UPI Political Writer

WASHINGTON (UPI) -- President-elect George Bush filled the remaining Cabinet-level posts for his adminstration Thursday, selecting retired Adm. James Watkins as energy secretary and former Education Secretary William Bennett to lead the battle against drugs.

The vice president, citing the challenges both men will face, promised that his administration would be actively involved in trying to deal with the problems currently plaguing the nation's nuclear weapons facilities and in attempting to lessen America's drug problem.

He said that developing energy sources was not inconsistent with protecting the environment and, in an apparent attempt to calm the fears of oil and gas interests, contended it was essential for the nation to not rely on any single source of power.

Bush said drugs are as "serious as any problem we're likely to face in the years to come."

"We are at war. Drugs are a terrifying, insidious enemy," Bush added, contending they posed a threat that "reaches deep into our nation's soul."

The president-elect added he would be "personally involved" in the fight.

The selection of Watkins, a former chief of naval operations and commander in chief of the U.S. Pacific Fleet, was Bush's 14th and final Cabinet choice, completing the team that will take over the helm of government Jan. 20.

The 61-year-old has an extensive background in nuclear power -- an expertise that Bush is hoping will help him deal with the biggest problems facing the Energy Department.

Bennett, 45, is an ardent conservative who developed a reputation as being tough-talking and outspoken when he served as President Reagan's education secretary from February 1985 to last September. That post, often referred to as the nation's "drug czar," is considered to hold Cabinet rank.

Shortly after announcing the selections, Bush scheduled his first Cabinet meeting, calling together all 14 department heads to review the tasks ahead.

The Senate is planning to begin confirmation proceedings for the Cabinet members next week, although it is not expected that all the members will be cleared until at least next month.

Ironically, the two posts Bush announced Thursday were to head two departments that President Reagan had at one time wanted to eliminate.

The energy job has been the toughest to fill for Bush, who reviewed what aides described as several "short lists" of names for the job. The vice president, a former Texas oilman, was believed to be torn between choosing someone between candidates with backgrounds in oil and gas or nuclear power.

Eventually, Bush came down on the side of a nuclear background, and Thursday cited the nuclear-related tasks facing the Energy Department.

Cont'd

One of the most pressing concerns is how to deal with the nation's decrepit nuclear weapons plants, which the agency administers for the Pentagon. The factories, dating from the 1950s, are not only in disrepair but plagued by environmental problems. Some key facilities are shut down, and repair and cleanup costs have been estimated in by congressional leaders to exceed $100 billion.

The department also faces troubles in finding a permanent and safe place for the mountains of radioactive waste piling up across the nation in temporary storage.

Bennett, meanwhile, will be in charge of coordinating the federal fight on drugs, which both Republicans and Democrats said during the campaign was a top priority for the nation.

"Defeatism and despair about drugs simply will not do," Bush said Thursday, contending he was sure that Bennett would attack the problem with the same vigor that marked his stay at the Education Department, although cooperation with both congressional Democrats and Republicans was necessary.

Bush also sidestepped a question about Bennett's smoking habits and whether that would hamper his ability to lead the anti-drug fight.

Watkins, described by friends as an able, conscientious officer and a "George Bush-kind-of-guy," was also chairman of President Reagan's controversial presidential commission on AIDS.

He was commander of the U.S. Pacific Fleet, with headquarters in Honolulu, when he was chosen by Reagan as head of naval operations.

His broad experience in undersea craft, as well as conventional ships, came from his association with Adm. Hyman Rickover, father of the nuclear submarine. Watkins had been a student in Rickover's nuclear school and the experience he gained there led to his appointment as manager of naval reactors for the old Atomic Energy Commission.

Bennett, the chairman of the National Endowment for the Humanities before he succeeded Terrel Bell as education chief, called the nation's attention to troublesome educational problems such as students' low academic achievements, lack of discipline, values and morals.

During his tenure at the Education Department, he was a lightning rod for conservatives in the administration, and the target of widespread praise as well as fierce criticism for his unorthodox approaches to educational problems.

He was outspoken in criticizing many of the nation's largest universities for paying more attention to their own self-preservation than the education of students and blamed at least part of the rising costs of attending those schools on the universities.

At one point he caused a mild uproar, mainly among young people, when he argued that many students receiving student loans were using the money for vacations and stereos.

But despite the criticism, he never apologized for his approach.

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Associated Press

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BUSH (TOPS N071)
URGENT
BY TOM RAUM

WASHINGTON (AP) -- PRESIDENT-ELECT BUSH COMPLETED THE TOP RANKS OF HIS ADMINISTRATION TODAY BY SELECTING RETIRED ADM. JAMES D. WATKINS TO BE ENERGY SECRETARY AND FORMER EDUCATION SECRETARY WILLIAM J. BENNETT TO LEAD THE NATION'S FIGHT AGAINST DRUGS.

BUSH MADE THE ANNOUNCEMENT A FEW HOURS BEFORE HOLDING A DRESS-REHEARSAL MEETING OF HIS CABINET AT BLAIR HOUSE, THE GOVERNMENT GUEST QUARTERS ACROSS FROM THE WHITE HOUSE.

IN INTRODUCING BENNETT, BUSH SAID THE NEW POST ''IS A TREMENDOUS UNDERTAKING AND THE BOTTOM LINE IS THIS: WE NEED FULLY AND COMPLETELY TO MARSHAL THE NATION'S ENERGY AND INTELLIGENCE IN A TRUE, ALL-OUT WAR AGAINST DRUGS. WE CAN AND WE MUST WIN THAT WAR.''

ON THE TROUBLES FACING THE NEW ENERGY SECRETARY, BUSH SAID, ''I'M COMMITTED TO SOLVING THE PROBLEMS THAT EXIST WITHIN OUR ATOMIC ENERGY-DEFENSE COMPLEX. I'M SURE THAT WITH JIM WATKINS BY MY SIDE, WE'RE GOING TO DO JUST THAT.''

WATKINS, 61, WAS A NUCLEAR SUBMARINE COMMANDER BEFORE BECOMING CHIEF OF NAVAL OPERATIONS UNDER PRESIDENT REAGAN, A JOB HE HELD UNTIL 1986. MORE RECENTLY, HE HEADED A PRESIDENTIAL COMMISSION ON AIDS WHICH LAST YEAR RECOMMENDED NEW LAWS TO PROTECT VICTIMS OF THE DEADLY DISEASE FROM DISCRIMINATION.

HE IS CONSIDERED AN AUTHORITY ON NUCLEAR WARFARE. THE ENERGY DEPARTMENT FACES A MULTI-BILLION DOLLAR CLEANUP OF THE NATION'S AGING AND INCREASINGLY UNSAFE NUCLEAR WEAPONS PLANTS.

BENNETT, 45, WILL GET THE NEW JOB OF COORDINATING THE GOVERNMENT'S WAR ON DRUGS -- A POSITION CREATED BY CONGRESS JUST LAST YEAR. BUSH ORIGINALLY PLANNED TO GIVE VICE PRESIDENT-ELECT DAN QUAYLE THE JOB, BUT THE LEGISLATION SUBSEQUENTLY PASSED EXPRESSLY PROHIBITED THE VICE PRESIDENT FROM THE JOB.

ALTHOUGH THE POSITION IS NOT STRICTLY SPEAKING A CABINET POST, BENNETT IS EXPECTED TO HAVE CABINET RANK. THE FORMAL TITLE OF THE NEW AGENCY IS THE OFFICE OF NATIONAL DRUG CONTROL POLICY; INFORMALLY, IT HAS TAKEN ON THE TITLE DRUG CZAR.

POPULAR AMONG CONSERVATIVES, BENNETT SERVED AS REAGAN'S EDUCATION SECRETARY FROM 1985 UNTIL LAST SEPTEMBER, WHEN HE LEFT GOVERNMENT TO LECTURE AND WRITE.

BUSH HAD A HARD TIME FILLING BOTH JOBS, THE LAST TOP-LEVEL POSTS IN HIS ADMINISTRATION. AIDES SUGGESTED HE VACILLATED ON THE ENERGY POST BETWEEN AN OIL-STATE CANDIDATE AND ONE WITH EXPERIENCE IN NUCLEAR ENERGY.

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Los Angeles Times

DATE: 1-12-89
PAGE: Pt. I 1, 1

Derwinski Tipped S. Korea on Defector, Then Denied It

By RONALD J. OSTROW and ROBERT L. JACKSON, *Times Staff Writers*

WASHINGTON—Edward J. Derwinski, President-elect Bush's choice to head the new Department of Veterans Affairs, concealed for more than five years that he had leaked confidential information in 1977 to a South Korean diplomat—a leak that federal investigators say could have cost the life of a Korean intelligence officer who was about to defect to the United States.

Derwinski, who served 24 years in Congress as a Republican from Chicago, publicly denied the charges when they were raised in 1978. He dismissed the leak allegations as "guilt by association" because he was known to be friendly toward anti-communist governments, including South Korea's.

He refused to testify before a federal grand jury that investigated the matter, and he gave no statement to the House Ethics Committee, which also looked into the episode.

Both inquiries ended inconclusively. U.S. officials said that pursuing them could have disclosed sensitive "sources and methods" of the American intelligence community.

But the unpublished record of a 1983 congressional hearing shows that Derwinski admitted then that he had given the confidential information to a Korean diplomat in a phone call.

"This guy [the Korean defector] would have been severely punished or killed, as well ashis family," a senior law enforcement official said recently, noting that Korean CIA agents arrived at the defector's home a half hour after FBI agents had escorted him to safety.

The September, 1977, phone conversation between Derwinski, who was in his congressional office, and the South Korean Embassy was recorded by U.S. intelligence and helped spark the subsequent investigation.

During the call, Derwinski leaked word of the planned defection, government sources said.

Episode May Haunt Him

Now, on the eve of Senate confirmation hearings on his nomination to head the new Veterans Department, Derwinski's involvement in the episode and his early lack of candor are coming back to haunt him.

Sen. Alan Cranston (D-Calif.), chairman of the Senate Committee on Veterans Affairs, wrote President-elect Bush last week saying that the charges "must be covered by the FBI in its customary background investigation." Cranston asked for a copy of the FBI report before the committee's hearing on Derwinski's nomination.

FBI agents already have interviewed the nominee and are expected to focus on the incident in their background report.

The newly surfaced hearing record shows that, in 1983, Derwinski belatedly admitted the basic truth of the allegations. Documents show that Derwinski, now an undersecretary of state, made his first admissions in a closed meeting with senators just before he was confirmed to his first State Department post, as counselor, in March, 1983.

A transcript of Derwinski's little-noticed confirmation hearing—never printed or published by the Senate but found in the National Archives—shows that Sen. Claiborne Pell (D—R.I.) insisted on putting on the public record what Derwinski had told the panel privately the day before.

Pell referred to Derwinski's telephoned tip to the Korean Embassy as "an error in judgment" and suggested that Derwinski "should say just what he did [say] to us yesterday in that meeting."

Pell was referring to charges that Derwinski had tipped off the embassy that Sohn Ho Young, a high-ranking official of the Korean CIA, was preparing to defect in the face of an imminent transfer from his New York base back to South Korea.

The Justice Department and Congress at the time were investigating a scandal that came to be known as Koreagate—covert payments to members of Congress by South Koreans in an effort to influence U.S. policy toward that nation.

A panel on which Derwinski was the ranking Republican—the House Foreign Affairs subcommittee on international relations—had secretly been in touch with Sohn and planned to have him testify about the Korean CIA's involvement in the scandal. The information about Sohn's plan to defect was so sensitive that former Rep. Don Fraser (D-Minn.), who was chairman of the subcommittee at the time, told only one other member about it—Derwinski.

The next day, the subcommittee was informed by a Justice Department official that the Korean CIA had been told of Sohn's intention to defect. After trying unsuccessfully to warn Sohn, Fraser turned to the FBI, which dispatched agents to Sohn's New Jersey home. They escorted the defector from his home, along with his family, about half an hour before Korean CIA officials arrived there to stop the defection.

According to the Senate transcript, Derwinski acknowledged that he had mentioned the imminent defection during a phone conversation with Korean diplomats on another subject. He said the defector was to be asked to testify as part of "an ongoing [subcommittee] investigation which I had opposed from the beginning."

Derwinski said he had opposed the investigation because "I felt we were endangering U.S.-Korean relations at a time of the discussion of [U.S.] troop withdrawals."

He told senators that he never mentioned the name of the intended defector and termed his leak "inadvertent." He said he never gave the matter "any serious thought." Derwinski added that "I considered this [Sohn's planned testimony] sort of a grandstand development at the committee level, of which I did not approve."

"I really did not think it would have any complications," Derwinski said of the phone call, according to the transcript.

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When asked if he realized that Sohn might be in danger as a result of his tip, Derwinski told the senators: "It never crossed my mind. In fact, I was not aware whether . . . the defection had actually taken place. . . . Hindsight is always better than foresight."

Derwinski, who has had a reputation for candor during his 24 years in Congress and nearly six years at the State Department, refused to discuss his role in the Korean incident with Times reporters this week.

Bill Anderson, a former Chicago newspaperman who is assisting Derwinski during the change in administrations, described the incidents as "an 11-year-old story, a non-event."

"He was not charged with any illegal or unethical conduct," Anderson said. "That's the operative comment."

An attorney who represented Derwinski at the time refused to discuss the case.

Sheila Tate, a spokeswoman for the Bush transition office, said: "Any questions that arise will be answered by Mr. Derwinski at his confirmation hearings." She added: "I am not privy to any FBI information."

According to the 1983 transcript, members of the Senate panel commended Derwinski on his admission and said they were willing to forgive one instance of "poor judgment" when matched against 24 years of congressional service.

Issue Raised by Cranston

Derwinski last week paid a courtesy visit to Cranston, who will preside over his confirmation hearings. During their meeting, Cranston raised the Korean issue, and Derwinski neither admitted nor denied tipping off the Koreans, according to an individual who was present. He was "rather vague" about it, this source recalled.

Robert Boettcher, former staff director of the subcommittee on which Derwinski served, said Derwinski had been angry when he was accused of having leaked word of the defection. In a 1980 book about the Koreagate scandal, Boettcher said Derwinski had contended that his friendliness toward South Korea had led to the accusation and that he had told the staff: "I wind up as suspect No. 1 because of guilt by association."

According to Boettcher, Derwinski reported that, when he was called before the grand jury investigating the incident, he refused to answer questions, citing the "speech and debate" clause of the Constitution, which grants members of Congress immunity from prosecution for certain activities in the course of their official duties.

Boettcher wrote also that the Departments of State, Justice and Defense and the CIA had stopped providing classified material to the subcommittee for six months because of the unresolved breach of security. This seriously impeded the panel's inquiry into South Korean affairs, he said.

Grand jurors subsequently issued a sealed report that was given to the House Ethics Committee. When the committee concluded its inquiry in October, 1978, Rep. James H. Quillen (R-Tenn.) told the Associated Press that Derwinski was "completely cleared."

But Chairman John J. Flynt Jr. (D-Ga.) said that "insufficient evidence" had prevented the committee from taking action. And Rep. Lee H. Hamilton (D-Ind.), who headed the inquiry, told the Washington Post that "publication of the evidence [held by the intelligence community] would jeopardize intelligence sources and methods."

Flynt died in 1985. Hamilton refused to discuss the case this week.

Los Angeles Times

DATE: 1-1
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Bush to Quickly Establish Panel on Ethics Laws

By JAMES GERSTENZANG and CATHLEEN DECKER, *Times Staff Writers*

WASHINGTON—In his first days in office—and possibly on Inauguration Day itself—George Bush will establish a bipartisan commission to examine the full scope of ethics laws that govern federal officials and employees, sources close to the President-elect said Wednesday.

Hoping to put an early and positive stamp on a sensitive issue, Bush's aides have lined up seven people, including former Atty. Gen. Griffin B. Bell and Fred F. Fielding, President Reagan's first White House counsel, to review current ethics laws as well as stronger ethics legislation that Reagan vetoed on Nov. 23.

Hopes to Buy Time

By tackling the issue quickly, Bush apparently hopes to buy some time from a Congress already moving to revive the vetoed legislation while also signaling his intention to act on a subject that has drawn widespread political attention.

At the same time, an effort on ethics can provide an initial focal point for his Administration, much as Reagan signaled his attack on federal spending by freezing government hiring on his first day in the White House and Jimmy Carter moved to heal the Vietnam War trauma by granting amnesty to those who fled the country to avoid the draft.

"I think it's a fairly good thing to do on the first day of your presidency. It's a good statement for the President to make, that he wants an ethical Administration," said Bell, who has been asked to be vice chairman of the commission. But Bell left open just how far the panel might go, saying he understood the vetoed legislation to be "on the drastic side" and adding, "I didn't know we needed any more ethics laws."

The ethics commission is part of a package of closely guarded initiatives for the new Administration's first hundred days that have been the subject of virtually nonstop meetings among Bush aides over the last few days. Bush plans to discuss some of those initiatives with the members of his Cabinet-to-be in a meeting today.

Before the meeting, Bush hopes to announce the last of his Cabinet members, a secretary of energy. Sources on Wednesday listed several possible candidates, chief among them Adm. James D. Watkins, who last year chaired a highly regarded commission on the AIDS crisis. Congressionmal sources also said Harold Agnew, a nuclear physicist and former director of the Los Alamos National Laboratories, was a prominent candidate for the post.

In addition, former Carter Administration Defense Secretary Harold Brown and former Rep. W. Henson Moore (R-La.) have been under consideration for the job.

Asked Wednesday about his plans for the energy post, Bush told reporters that "we'll probably have some announcements soon, very soon."

The idea to make government ethics the first of Bush's public initiatives goes back at least to last July, when the Reagan Administration was under fire on ethical issues Bush promised that, if elected, he would appoint a special counselor responsible for ethics and that his Administration would send an "unmistakeable" message that public employees must be held to "an exacting code of conduct."

At the time, some of his aides were concerned that although Bush has faced no questions about his own personal affairs, he would pay a political price for the problems of some top Reagan Administration officials. Reagan's first deputy chief of staff, Michael K. Deaver, was convicted of perjury, former political assistant Lyn Nofziger was convicted of illegally lobbying former White House colleagues, and several other senior and mid-level Administration officials came under sharp criticism for other activities.

"The importance here is that the President-elect was sincere in the campaign in expressing his interest in ethics and making sure it is done promptly and a bill submitted to Congress," said Jan Baran, counsel of Bush's campaign organization who is on the list of commission members.

Baran said the panel would be asked to prepare a recommendation within about 30 days that will be "broader in its scope" than the failed ethics bill.

The bill Reagan vetoed would have restricted for the first time paid lobbying by former members of Congress and their top aides. It also would have tightened lobbying restrictions on former White House officials and others who leave jobs in the executive branch of government.

Baran said the commission would go beyond "post-employment conflicts" and would examine all aspects of government ethics.

Inclusion of judges and members of Congress in ethics laws regulating the conduct of current and former officials in the executive branch would represent a major expansion of present laws.

In addition to Bell, Fielding and Baran, those recruited for membership on the commission, according to sources close to Bush, include Lloyd Cutler, White House counsel during Jimmy Carter's final two years in the White House, former Sen. Harrison H. Schmitt (R-N.M.), former U.S. Appellate Court Judge Malcolm R. Wilkey and R. James Woolsey, undersecretary of the Navy during the Carter Administration. Wilkey would serve as chairman, and staff members would be borrowed from the White House counsel's office and the Justice Department.

The new Congress already has signaled its intent to move on ethics issues. House Speaker Jim Wright (D-Tex.) and House Minority Leader Robert H. Michel (R-Ill.) plan to name a bipartisan task force to carry out an in-depth review of House ethics rules. Rep. Barney Frank (D-Mass.), chairman of a House subcommittee with jurisdiction over the Ethics in Government Act, has urged Bush to impose tougher restrictions on post-employment lobbying by the incoming Administration officials.

AP Associated Press

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SOLICITOR CANDIDATES
BY JAMES ROWLEY

WASHINGTON (AP) -- AN ARCHITECT OF PRESIDENT NIXON'S UNSUCCESSFUL EXECUTIVE-PRIVILEGE WATERGATE DEFENSE IS A TOP PROSPECT FOR THE POST OF U.S. SOLICITOR GENERAL IN THE NEW BUSH ADMINISTRATION.

CHARLES ALAN WRIGHT, A CIVIL LAW EXPERT, IS AMONG FIVE OR SIX CANDIDATES BEING CONSIDERED FOR THE JUSTICE DEPARTMENT'S TOP LEGAL POLICY POSITION BY PRESIDENT-ELECT BUSH'S TRANSITION TEAM AND ATTORNEY GENERAL DICK THORNBURGH.

ALSO UNDER CONSIDERATION ARE TWO CONSERVATIVE FEDERAL APPELLATE JUDGES APPOINTED BY PRESIDENT REAGAN: RALPH K. WINTER OF THE 2ND U.S. CIRCUIT COURT OF APPEALS IN NEW YORK AND KENNETH STARR OF THE U.S. CIRCUIT COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

BEST KNOWN FOR HIS WORK FOR NIXON DURING THE 1973-74 WATERGATE INVESTIGATION, WRIGHT, 61, HAS A FORMIDABLE REPUTATION AMONG LAWYERS AS A LEGAL SCHOLAR AND EXPERT ON FEDERAL COURT PROCEDURE.

A UNIVERSITY OF TEXAS LAW PROFESSOR, WRIGHT HELPED DEVISE THE LEGAL ARGUMENT THAT EXECUTIVE PRIVILEGE EXEMPTED NIXON FROM COMPLYING WITH A SUBPOENA TO SURRENDER TAPE RECORDINGS OF OVAL OFFICE CONVERSATIONS.

ALTHOUGH THE SUPREME COURT ACCEPTED NIXON'S ARGUMENT THAT EXECUTIVE PRIVILEGE WAS A VALID CONCEPT, THE JUSTICES RULED 8-0 IN 1974 THAT HE STILL WAS NOT EXEMPT FROM SUBPOENAS FOR EVIDENCE NEEDED IN COURT CASES.

IN A DECISION THAT LED TO NIXON'S RESIGNATION, THE HIGH COURT ORDERED HIM TO SURRENDER THE TAPES, WHICH CONTAINED DAMAGING EVIDENCE OF WHITE HOUSE INVOLVEMENT IN COVERING UP THE WATERGATE BREAK-IN.

THE PRESIDENTIAL APPOINTMENT OF A SOLICITOR GENERAL REQUIRES SENATE CONFIRMATION.

THE SOLICITOR GENERAL IS THE GOVERNMENT'S CHIEF APPEALS LAWYER, ARGUING CASES BEFORE THE SUPREME COURT AND DECIDING WHETHER TO APPEAL LOWER COURT DECISIONS AGAINST FEDERAL AGENCIES.

THE SOLICITOR IS KNOWN IN LEGAL CIRCLES AS THE 10TH JUSTICE BECAUSE THE HIGH COURT HAS TRADITIONALLY RELIED UPON HIM TO PROVIDE LEGAL GUIDANCE.

CHARLES FRIED, THE CURRENT SOLICITOR, IS LEAVING OFFICE TO RETURN TO HARVARD UNIVERSITY LAW SCHOOL.

WINTER, 53, A FORMER YALE UNIVERSITY LAW PROFESSOR WHO BECAME A JUDGE IN 1982, AND STARR, 42, WHO SERVED AS COUSELOR TO ATTORNEY GENERAL WILLIAM FRENCH SMITH FROM 1981 UNTIL HIS APPOINTMENT TO THE D.C. CIRCUIT IN 1983, HAD BEEN MENTIONED AS POSSIBLE SUPREME COURT NOMINEES FOLLOWING THE 1987 RETIREMENT OF JUSTICE LEWIS POWELL.

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JUSTICE THURGOOD MARSHALL GAVE UP A SEAT ON THE 2ND CIRCUIT TO BECOME SOLICITOR GENERAL IN 1965. TWO YEARS LATER, PRESIDENT JOHNSON NAMED HIM TO THE HIGH COURT.

WRIGHT'S APPOINTMENT AS SOLICITOR GENERAL WOULD CAP A DISTINGUISHED CAREER AS A PROFESSOR, APPELLATE LAWYER AND EXPERT ON COURT PROCEDURE. HE HAS REPRESENTED THE STATE OF TEXAS BEFORE THE SUPREME COURT, NOTABLY IN DEATH PENALTY AND VOTING-AGE CASES.

WRIGHT ALSO IS THE CO-AUTHOR OF THE DEFINIITIVE LEGAL TEXTBOOK ON FEDERAL COURT PROCEDURES AND PRACTICE.

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AP Associated Press

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NERVE GAS-ARREST
NEWARK, N.J. (AP) -- CUSTOMS AGENTS TODAY ARRESTED A KOREAN-BORN NATURALIZED CITIZEN ON CHARGES OF CONSPIRING TO BUY NERVE-GAS WEAPONS FOR EXPORT FROM THE UNITED STATES.

RICHARD MERCIER, AGENT IN CHARGE OF THE CUSTOMS OFFICE IN NEWARK, WOULD NOT IDENTIFY THE MAN OR SAY WHERE THE NERVE GAS WAS DESTINED.

''THIS IS A BIG ONE,'' HE SAID. ''WE'RE TALKING LARGE QUANTITIES.''

AN ARRAIGNMENT WAS SCHEDULED FOR LATER TODAY BEFORE A U.S. MAGISTRATE.

''IT PERTAINS TO THE EXPORTATION OF MUNITIONS, AND THE MUNITIONS INVOLVED NERVE GAS,'' MERCIER SAID. THE AGENT WOULD NOT DISCUSS HOW THE MAN ALLEGEDLY INTENDED TO TRANSPORT THE GAS.

THE MAN WAS ARRESTED IN NEWARK AFTER A SEVEN-MONTH INVESTIGATION, AUTORITIES SAID.

''THIS IS THE ONLY ARREST WE ANTICIPATE RIGHT NOW,'' SAID ASSISTANT U.S. ATTORNEY ANNE SINGER, WHO IS HANDLING THE CASE. SHE DECLINED TO COMMENT FURTHER.
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FORT WAYNE, Ind. (AP) _ Gene Upshaw, Executive Director of the NFL Players Association, faces possible criminal charges of tax evasion, The Fort Wayne News-Sentinel reported today.

The Justice Department is considering such charges, the newspaper said, citing what it described as a congressional source familiar with a Labor Department investigation into the union's financial records.

A union source called the story ''old hat.''

A Washington television station, WJLA, reported Wednesday night that the Labor Department concluded its year-long audit of NFLPA records and passed some of the information to the Justice Department.

The congressional source told The News-Sentinel that scrutiny of those records went ''miles beyond'' an ordinary review.

''Justice is into this in a pretty big way,'' said the source, who requested anonimity. ''I don't think their presence can be construed in any way as routine.''

According to the source, a Justice Department internal memo ''strongly suggests'' that there is sufficient evidence to indict Upshaw, a 15-year NFL veteran and a member of the Pro Football Hall of Fame.

The same memo requests an ''expeditious'' determination of whether or not charges should be brought against Upshaw. An indictment, if brought, would probably center around a ''six-figure loan'' to Upshaw from the NFLPA, said the source. ''There is some discrepancy about whether (the dollar amount) was a loan, salary, compensation, or whatever.''

The source also said it is likely the Justice Department will recommend that the Labor Department proceed with a determination on possible civil charges against the NFLPA. Union officials last year confirmed that they were being audited, but referred to the audit, at various times, as ''routine'' and ''random.''

''We've been fully cooperating with a routine audit by the Department of Labor for nearly a year and we are confident that when the process is completed the NFLPA will be found to be in compliance with all applicable law,'' Doug Allen, the union's assistant executive director, told The Associated Press.

Upshaw could be reached for comment.

Frank Woschitz, director of public relations for the NFLPA, told The News-Sentinel its information was ''just re-hashing a lot of the stuff (the media) started bringing up a few months ago.''

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HOWEVER, AN UNNAMMED NFLPA SOURCE TOLD NEWSPAPER, ''THINGS ARE GETTING KIND OF HAIRY AROUND HERE.''

THOM GATEWOOD, THE MANAGING DIRECTOR OF NFL-PRO, A RIVAL UNION SEEKING TO REPLACE THE NFLPA AS THE BARGAINING AGENT FOR THE LEAGUE'S 1,600 PLAYERS, SAID WEDNESDAY NIGHT THAT THE JUSTICE DEPARTMENT'S INVOLVEMENT LENDS CREDENCE TO CHARGES HIS GROUP HAS BEEN MAKING FOR NEARLY A YEAR.

''BASICALLY, IT PUTS THE INFORMATION INTO THE HANDS OF THE PEOPLE WHO CAN DO SOMETHING WITH IT,'' SAID GATEWOOD. ''THE NFLPA IS ON THE DEFENSIVE NOW. ALL WE'VE EVER ASKED FOR IS FISCAL ACCOUNTABILITY, AND NOW IT LOOKS AS IF THEY'RE GOING TO HAVE TO BE ACCOUNTABLE.

Los Angeles Times

DATE: 1-12-89
PAGE: Pt. I Pg. 1

Few Employees Tested for Drugs in Workplace

Survey Also Finds Lower-Than-Expected Rate of Use; Experts Warn of Misinterpreting Data

By JESUS SANCHEZ and JUBE SHIVER Jr., *Times Staff Writers*

The federal government, in a major study of drug testing in the workplace, reported Wednesday that fewer than one worker in 100 was checked by a current employer for drug use last year.

Several outside experts said the study, based on a Labor Department survey of 7,500 businesses, showed a lower-than-expected rate of both drug testing and drug use in the American workplace. In fact, they reasoned, the figures were so low that it might discourage more companies from adopting drug-testing programs, which can be costly.

'Why Create This Hassle?'

"I guess that employers who see this and are not engaged in testing will say, 'So we're like most people. Why should we invest money in this and create all this hassle?'" said Clyde Summers, a professor at the University of Pennsylvania.

But some experts argued that the figures showed that drug testing has acted as a deterrent to drug abuse. Such tests are "a powerful shaper of behavior," said Lee Dogoloff, executive director of the American Council for Drug Education. "My concern is that companies will misinterpret the statistics. They might say 'because the numbers are so low, we don't have a problem.'"

The study, which excluded government employees, was released amid strong concerns among labor groups and others about the threats to workers' privacy posed by on-the-job drug testing. A key U.S. Supreme Court ruling on drug testing for government workers is expected in a few months, and labor unions representing private sector employees have brought suits as well.

Drug testing, the survey reported, is much more common at big companies than small ones. Only 3% of employers have drug-testing programs, but those companies employ 20% of American workers, according to the report. The survey also found that job applicants were four times as likely to be tested as workers already on the job.

"I think most employers are reluctant to test their current employees," said Elaine Kaplan, deputy director of litigation at the National Treasury Employees Union, whose suit to invalidate a Coast Guard drug-testing program is pending before the Supreme Court. "Current employees have unions to represent them and they have a lot more ammunition to fight drug programs than applicants."

The survey showed that companies were generally reluctant to test workers at random. About 64% of the employers conducted tests on workers suspected of drug use while only about 25% carry out random tests.

Test results varied widely by industry. The highest rate of apparent drug use was in the retail trade business, where about 20% of current employees and 24% of job applicants tested positive. At the other end of the scale was the transportation field, where only 5.6% of current employees and 10% of job applicants tested positive, the survey showed.

Retailers and labor union officials expressed surprise at the study's findings and suggested the data may be misleading because drug testing in the retail industry is not as widespread as in fields such as manufacturing, aerospace and defense.

"My experience is that drug testing is much more prevalent in other industries," said Andrea Zinder, research director of Local 770 of the United Food and Commercial Workers, which represents about 30,000 Southern California grocery store employees, meatpackers and pharmacy clerks.

The head of a leading Southern California drug-testing firm speculated that it may be the nature of the job and the level of supervision employees encounter that correlates most closely with drug use.

"Jobs that involve long periods of inactivity certainly lend themselves to drug use as do jobs with less supervision" and those that have late evening shifts, said Ray Kelly, president of Stat Tox Center in Mission Hills, a leading Southern California drug-testing firm.

For those reasons, Kelly said, "the fact that there is a greater incidence of drug use among retail workers doesn't surprise me."

Among those tested overall, about 9% of current employees showed signs of drug use while approximately 12% of job applicants tested positive, according to the survey.

But drug-testing opponents said the figures show the drug problem among employees has been overblown. They said the findings also might indicate that employers are having trouble spotting employees with a drug problem.

"That 9% means employers are very poor judges if someone has a problem or they are being very cautious," said the University of Pennsylvania's Summers.

John Hunt, personnel manager at Southern California Edison, which has been testing all job applicants for two years, said the utility's results were close to those in the government report. Last year, 9.3% of applicants tested positive for drugs last year and "we have had a relatively consistent reduction in that figure," he said.

Hunt attributes the drop to increased awareness of drug testing. Job applicants "are less likely to come in if they use drugs," he said. "We think it's worth it," he said of the utility's drug-testing program.

Under the "unreasonable search and seizure" standard of the Fourth Amendment of the U.S. Constitution, federal, state and local governments' freedom to test workers is limited. Private employers have more freedom to test at will unless restricted by a labor union agreement or other pact, said Benjamin Aaron, a specialist in labor law at the UCLA School of Law.

In addition, at least 11 states—but not California—have enacted laws regulating drug testing by private employers, usually by requiring employers to notify employees in advance of any drug test, setting standards for drug testing laboratories and limiting testing to hazardous or safety-related jobs.

Los Angeles Times

DATE: 1-12-89
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2 Cocaine Suppliers Get Lengthy Sentences

By PAUL FELDMAN,
Times Staff Writer

Two Los Angeles men who police say supplied large quantities of rock cocaine to several Crips street gang factions were sentenced Wednesday to lengthy federal prison terms.

Police described the 132 pounds of cocaine seized last May as the largest cache of the drug taken from outright gang members or associates.

Michael Ray Ector, 25, identified by authorities as a long-time associate of the West Los Angeles-based Playboy Gangster Crips, was handed a 20-year sentence by U.S. District Judge Laughlin E. Waters. Andre Jackson, 21, who had no previous criminal convictions, received a 15-year term.

The pair were arrested last May when police, acting on a tip from a jailed drug dealer, served a search warrant on a West 76th Street house and discovered 60 1-kilogram bags of cocaine inside. The fingerprints of Ector, who was in the house when police served the warrant, were discovered on 10 of the bags. Jackson was arrested when he returned to the residence during the search.

Pleaded Guilty

Ector, whose gang nickname was "Money Mike," eventually pleaded guilty to possession of cocaine for distribution and a second count of conspiracy to distribute cocaine.

Jackson, whose 10-year-old sister was killed in an unrelated 1987 random drive-by shooting, was convicted by a federal jury on the same two charges.

Both men had faced minimum 10-year sentences under federal law because of the large quantity of drugs.

Satisfied With Sentences

Assistant U.S. Atty. Janet C. Hudson, who prosecuted the case, said she was satisfied with the sentences.

"I think the court was very aware of the fact we've got a serious drug problem that is getting much, much worse. We have to crack down, and increased sentences are about the only option if we are ever going to make any kind of a dent."

A third defendant, Ector's half-brother Alonzo Troy Andrus, 19, faces retrial Feb. 7. A mistrial was declared in Andrus' first trial when a jury was unable to reach a verdict.

The Miami Herald DATE: 1-12-89 PAGE: 1A

Refugees on their way to Miami

By DAVID HANCOCK
Herald Staff Writer

BROWNSVILLE, Texas — Hundreds of Central American refugees stranded on the U.S.-Mexico border jubilantly boarded buses to Miami and other U.S. cities Wednesday in hopes of ending weeks of living in squalor, uncertainty and desperation.

Meanwhile, hundreds more lined up at the U.S. Immigration and Naturalization Office at Harlingen and flocked to Western Union offices where relatives wired them money for the journey.

More than 1,700 refugees have been processed by the U.S. Immigration and Naturalization Office at Harlingen since Monday, when U.S. District Judge Filemon Vela issued a temporary restraining order against immigration officials that allows the immigrants to travel out of the border area. The judge ordered INS to abandon its month-old policy that required political asylum applicants to remain in South Texas pending a review of their cases.

On Wednesday, 739 refugees got their applications filed and stamped by INS — and most headed straight for the Greyhound-Trailways bus station.

"Ninety-five percent are going to Miami," said station manager George Reynolds. To handle the excess of travelers, the bus line has added 30 buses this week to various destinations: Miami, Los Angeles, other cities in Texas.

"All day long, it's people going to Miami, all day long," said Humberto Flores, ticket agent for the Greyhound-Trailways station in Brownsville. "It's been pretty busy."

Herman Cabezas is one of those wanting to make that journey. He got his papers stamped Wednesday, but now he must wait until his sister-in-law in Miami wires him the money to travel.

He's certain that good things lie ahead for him in the city that's become a mecca for hundreds of thousands of Nicaraguans and other Central Americans.

"We've heard that in Miami there is support for the Nicaraguans," said Cabezas, traveling with his wife and three children.

Cabezas and his family crossed the Rio Grande into Brownsville on Jan. 5, after an arduous journey by foot and bus from Nicaragua. In his homeland, he said, he was harassed by the military and was unable to earn enough to support his family. During the journey through Mexico, he said, he had to bribe immigration agents and bus drivers several times before they made it through the border.

Bemil Morales is bound for Los Angeles, but she, too, must wait for the money to come from relatives.

"I'm too old for this trip," said Morales, a 64-year-old grandmother sprawled on the grass lawn outside the INS office with her 4-year-old grandson and 22-year-old nephew.

Juan Mendoza, a 31-year-old Nicaraguan who has lived in Miami for six months, went to Texas to meet his wife Luz Marina and three children, including a 1-year-old daughter, who traveled by themselves from Matagalpa in Northern Nicaraguan.

"She was desperate to come," said Mendoza, who planned to stay with his family at Bobby Maduro Miami Stadium until he can find work.

Vela's order was to last until today, pending a full hearing on a class-action lawsuit against the INS, but was extended when the hearing was postponed to Jan. 31. Hundreds of refugees camped outside the INS office early Wednesday, vying for the chance to be the next to leave South Texas.

"I'm trying to leave tomorrow," said Jairo Ramon Contreras Martinez, a 24-year-old Nicaraguan camped by the door and trying to make it to a cousin's house in Austin. "Thank God for the kindness of the American people."

Dolores Muniz and other members of Harlingen's Citizens' Committee for Justice took blankets, sweet potatoes, beans, rice, noodles, bread and tea to the men, women and children huddled under blankets and sheets of black plastic at the INS center.

"We're all human beings," Muniz said. "These people are freezing, they're starving."

Virginia Kice, spokeswoman for the INS' Harlingen District, said more than 800 people were in line when the door opened Tuesday.

"It was reminiscent of the last days of the amnesty program" last year when some undocumented aliens received legal status under a landmark immigration-reform law, Kice said.

The asylum applicants include Nicaraguans, Salvadorans, Guatemalans, Hondurans. INS officials estimate as many as 5,000 have been stranded in the rural border area since the stricter immigrations guidelines went into effect Dec. 16. Most have been living in abandoned buildings and makeshift shelters while they waited to be reviewed by INS.

Near Brownsville on Tuesday, crews used bulldozers to remove debris from a makeshift campsite where more than 300 of the refugees had been staying in improvised tents. The immigrants were ordered off the property by Tuesday afternoon and many took refuge in churches.

City commissioners voted Tuesday night to demolish the condemned Amber Motel, where about 150 Central Americans have been holed up in squalid conditions.

This report was supplemented by Herald wire reports.

The Miami Herald DATE: 1-12-89 PAGE: 1

Odio: No more exiles in stadium

'Inn is full,' city official tells crowd of refugees

By GEOFFREY BIDDULPH
And CHRISTOPHER MARQUIS
Herald Staff Writers

Miami City Manager Cesar Odio ordered the doors of Bobby Maduro Miami stadium closed to newcomers Wednesday night, while hundreds of indigent Nicaraguan and other Central American refugees headed toward Miami by bus.

The stadium, which for almost a month has served as the city's only shelter for homeless Nicaraguans, has exceeded its capacity of 250 refugees, Odio said, and cannot provide proper beds and bathroom space for more.

"There's not a new policy," Odio said. "We haven't been taking extra people in for three weeks."

The city manager's announcement came on the eve of what promises to be one of the largest sudden influxes of Central American refugees to Miami in recent years.

As many as 5,000 refugees, for weeks restricted to the Brownsville area of South Texas, were effectively given permission to travel to their destinations in the United States, while their claims for political asylum are being processed.

U.S. District Judge Filemon Vela on Monday issued a temporary restraining order effectively suspending a travel ban imposed by U.S. immigration officials last month. He decried squalid conditions in squatter's camps around Brownsville.

On Wednesday, the judge said he would delay a decision on whether to reinforce the order with a preliminary injunction until Jan. 31, allowing the refugees to travel until then.

Hundreds of the refugees crowded Brownsville bus stations Wednesday for a special-fare $89 journey to Miami. About half of the 5,000 squatters were destined for Miami, Texas relief workers said.

Miami Mayor Xavier Suarez said the ruling threatened to overwhelm the city.

"It's a declaration of open frontiers," he said. "The effect is very, very drastic for this community."

Miami, historically the destination of most Nicaraguan refugees, became more inviting to some after Odio opened the baseball stadium for temporary housing, and declared he would not abandon them.

"Throughout Mexico, they kept on telling us about Bobby Maduro stadium," said Sergio Castillo, a Nicaraguan who crossed the Rio Grande Sunday and bused into Miami on Wednesday.

"So I came here," he said. "But I thought everybody could enter."

Castillo was one of 15 refugees, including Hondurans and Salvadorans, who were left outside Wednesday night after the stadium was closed. He said he spent much of the day wandering the streets of West Dade, searching for friends to take him in.

Odio held fast to his pledge Wednesday not to abandon refugees, and enlisted aides to find shelter for those locked out of the stadium. About 150 of Miami's homeless population are also sheltered at the stadium.

The city manager was cheered by refugees as he entered the stadium Wednesday night, then stepped among 100 Nicaraguans gathered around a three-foot statue of the Virgin Mary, their heads bowed in a rosary prayer.

"The inn is full," Odio said.

Meanwhile, Suarez prepared a telegram for Ygnacio Garza, mayor of Brownsville, requesting that he publicly announce the stadium is full.

Declaring "crisis" conditions, Suarez said he would also send wires to President Reagan and Florida Gov. Bob Martinez, asking for federal and state relief.

County officials Wednesday also expressed concern over the nearing bus loads of largely poor refugees. Except for the stadium shelter, neither Miami nor Dade County has instituted a resettlement program for a Nicaraguan refugee community that now numbers more than 100,000.

"From a practical standpoint, there's a limitation to what we can do," said County Manager Joaquin Aviño.

The stadium must be vacated by Jan. 25, when the Baltimore Orioles arrive to begin spring training there.

Aviño said workers are clearing county wetland at a West Dade site to set up temporary housing with as many as 60 trailers.

Cristobal Mendoza, whose overcrowded Little Havana shelter was closed and relocated at the stadium, estimates 400 refugees will arrive by the weekend. The key to absorbing them, he said, is for the federal government to issue them work permits.

Herald staff writers Ronnie Ramos and Craig Gemoules contributed to this report.

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The Miami Herald DATE: 1-12-89 PAGE: 1A

Sen. Bentsen assails restrictions by INS on travel of refugees

By R.A. ZALDIVAR
Herald Washington Bureau

WASHINGTON — Texas Sen. Lloyd Bentsen, charging that new travel restrictions on Central American refugees have turned the South Texas border into "a massive detention center," Wednesday urged the Immigration and Naturalization Service to permanently reinstate its old policy of letting asylum applicants go on to cities like Miami.

Bentsen

Meanwhile, in Brownsville, Texas, U.S. District Court Judge Filemon Vela postponed until Jan. 31 a hearing originally set for today on a lawsuit by refugees against INS. Vela's temporary order allowing refugees to settle outside the South Texas border area will remain in effect during the postponement. That gives the Nicaraguans coming across the Texas border a wider "window of opportunity" through which to head for South Florida, as hundreds have already done.

Robert Rubin, attorney for the refugees, said this would allow a "more orderly" departure from the area. Vela's original order gave refugees a 72-hour window to leave South Texas, setting off a scramble.

INS spokesman Duke Austin said 967 refugees were given permission to leave Tuesday. Forty percent were headed for Miami, making it the top destination.

Bentsen said the soaring numbers of Central American refugees, driven by an exodus from Nicaragua, are "comparable to the Cuban boatlift."

The former Democratic vice-presidential candidate called for federal aid to local governments dealing with the refugees, citing a $35 million emergency fund created for that purpose under the 1986 Immigration Reform and Control Act.

However, Austin said no money has ever been appropriated for the fund. Under the law, the president must declare an immigration emergency for any payments to be made.

Congressional investigators estimate that there are 150,000 to 200,000 Nicaraguan refugees in Costa Rica and Honduras, who may want to come the United States. The 1980 Cuban boatlift brought 125,000 refugees to U.S. shores, most of whom settled in Miami.

Bentsen said he urged Attorney General Dick Thornburgh Tuesday not to contest the Brownsville lawsuit. "I suggested they go back to the old policy," Bentsen said. He said Thornburgh promised "immediate consideration" of his request.

Austin said INS had no official response to Bentsen.

Before Dec. 16, INS had allowed refugees applying for political asylum at the border to transfer their cases to other cities within the United States. Most Nicaraguan refugees chose Miami. Once in Miami, the refugees were issued temporary work permits.

Last December, INS decided most of the Nicaraguans were economic, not political refugees, and took steps to limit the flow. The agency said asylum applicants would have to have their cases decided at the border, instead of going to other cities and obtaining work permits.

The new policy created a bottleneck in South Texas. Bentsen said refugees were sleeping under trees and in churches, and local governments were strained beyond their means trying to deal with destitute newcomers to an area that was already economically depressed.

He said he would like to see those who don't qualify for political asylum deported quickly, but added that he knew of no alternative to the system that INS originally used.

INS spokesman Verne Jervis said the restrictive rules had dramatically reduced the number of refugees seeking asylum in South Texas. From Oct. 31 to Dec. 9, the INS office there handled an average of 1,745 asylum applications a week.

In the three weeks after the new policy went into effect the number averaged 450 a week.

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Los Angeles Times
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Amnesty Seekers Relieved to Find Test Easier Than Expected

By GINGER LYNNE THOMPSON, *Times Staff Writer*

Blanca Quintero has lived nervously in this country for 15 years.

Afraid that she was "not smart enough" to become a legal resident, the Mexican native avoided the government for years and lived quietly and anonymously with her two children.

Quintero, who has worked as a housekeeper for five years for John Gavin, former U.S. ambassador to Mexico, said, "I was afraid to go out because I thought the police were going to get me and send me back to Mexico."

But Wednesday, Quintero said she was "set free"—and it was much easier than she expected.

She was one of 16 amnesty applicants to earn permanent residency by passing a 15-question exam, administered by the Immigration and Naturalization Service at its Wilshire Boulevard office for phase two of its amnesty program.

More than 800,000 immigrants applied for amnesty in the Los Angeles area under the first phase of the program from May, 1987, to May, 1988. In the second phase, these applicants must demonstrate a knowledge of English, civics and U.S. history in order to obtain permanent residency status.

INS officials said they expect 300,000 of the applicants to follow Quintero's lead by taking the multiple-choice exam at one of the 16 INS offices throughout the area.

Others may choose to prove their English proficiency by taking INS-approved classes at one of 300 schools in the area and thus would not have to take the test. Applicants younger than 16, or 65 years and older, are exempt, officials said.

Harold Ezell, INS Western regional commissioner, said his staff is negotiating with religious and community groups in hopes that they will become licensed to administer the test.

"It is going to be tough to find enough space for everyone to take the test, so we are hoping to get Catholic charities, local schools and other groups involved to help out," Ezell said.

"It was so easy," said Quintero, who has taken night classes for the last year. "They asked questions that you hear every day, like, 'Who was the first President of the United States?' and 'Who can declare war in this country?' "

Maria Lafarga and her husband, who both got perfect scores on the test, agreed.

"I can't believe how easy it was. I was so nervous when I came in here," said Lafarga, who hopes to work as a supermarket cashier. "I feel like a new person."

To take the test, immigrants must fill out an appointment card, available at all INS offices, and the agency will notify applicants of the time and date of their exam through the mail. Applicants have 18 months from the time of earning their temporary residency card to complete the second phase of the program.

The test, to be given on Thursday nights starting Jan. 19, will be administered by videotape to groups of immigrants. Applicants must sign a statement at the top of the test that says they have studied at least 40 hours of English and U.S. history, and then they have to answer nine of the 15 questions correctly to pass.

"If they fail the test the first time, they can take it as many times as they need to pass, free of charge," Ezell said.

But if the applicants who took the test Wednesday are any indication, passing is not going to be a problem. Fifteen of the 16 test takers passed—five with perfect scores.

THE KANSAS CITY STAR.

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PAGE: 22A

Cuban's death spurs fear of more suicides

By Phil Jurik
staff writer

Leavenworth prison officials conducted a "psychological autopsy" last week to learn why a Cuban refugee, detained at the U.S. Penitentiary two years after completing his prison sentence, killed himself.

To others, there was no mystery.

Alfredo Aguilera, 34, had recently been denied release. Freedom was not in his foreseeable future.

"It's awful hard to hang on," said George Crossland, co-founder of the Mariel Assistance Program, which aids Cuban detainees at Leavenworth. "It's miserable there."

Crossland and other advocates for detainees fear that other Cubans, haunted by a new threat of being deported from Leavenworth and by continuing confinement with no release in sight, will choose Aguilera's route.

"I bet within six months, you'll see three or four more of these if they can figure out a way," Crossland said.

Fashioning a rope from strips of blanket, Aguilera hanged himself in his cell shortly before 3 a.m. Dec. 30.

Advocates think Aguilera is the first detainee to have committed suicide since November 1987, when riots by Cuban inmates at correctional facilities in Atlanta and Oakdale, La., led to guarantees of regular reviews of release appeals.

The riots started partly because of deportation rumors. Immigration officials last month began serving Leavenworth detainees with papers that mark the first step toward deportation to Cuba.

"Serving deportation papers in Leavenworth really has shaken them up. These people have told me . . . they'd rather die than go back to Cuba."

—George Crossland,
co-founder of the Mariel Assistance Program

"Serving deportation papers in Leavenworth really has shaken them up," Crossland said. "These people have told me over and over and over they'd rather die than go back to Cuba. The whole country is a prison."

But prison officials said the deportation papers were not causing problems among the detainees.

Prison officials requested Aguilera's mental autopsy, consisting of interviews with people who knew him and background reports, to reconstruct his state of mind last month, said Fred Fry, a prison spokesman. Findings will not be made public.

But Crossland, of Overland Park, said he sensed Aguilera's anguish the day the detainee made his final, unsuccessful plea for freedom.

Aguilera had awaited freedom since finishing his prison sentence in October 1986. He was convicted in 1982 of possessing a machine gun and of aggravated assault. He was convicted again in 1983 of gun possession.

He remained behind bars, partly because he was among 125,000 Cubans who sailed to the United States in 1980 on a boat lift from Mariel.

Immigrants from Mariel who commit crimes in the United States are placed in detention indefinitely after completing their prison sentences.

Justice Department officials say they established that policy to protect U.S. citizens. Many of the Mariel immigrants had been imprisoned in Cuba and were considered dangerous, including Aguilera, they said.

"What we're talking about here is a serious criminal," said Daryl Borgquist, a Justice Department spokesman. "It's not surprising his release request was denied."

Aguilera had been imprisoned in Cuba for trying to flee the country.

He was given a release review before a panel of immigration officials on Oct. 19. Another volunteer handled Aguilera's case, but Crossland talked to him that day.

"I told him, 'This is your day for liberty, Alfredo,' " Crossland recalled. "He said, 'I hope so.' He just looked very desperate and far away.

"When he walked out, he thought he had it. He was sure he was going to get to see his mom."

But Aguilera told a detainee who was later released to a Kansas City halfway house of his plan, Crossland said.

"He said if he didn't get out this time, he felt there was no hope. And he was going to kill himself if he could figure out a way," said Crossland, who said he spoke with the former detainee. The Justice Department refused to allow reporters to interview that man.

Aguilera was told Dec. 9 he would not be freed. His mother, Elvira Ramos of Miami, received a brief letter from him two days before he died, according to The Associated Press.

"I don't know what to do, but you should also know that nothing matters," he wrote. "It's just that anything is better than this slow agony."

Aguilera showed no signs of despondency, Fry said.

"Obviously, if he had, we would've taken extra precautions," he said.

Crossland does not fault the prison.

"The burden on the prison staff is incredible," he said. "There's no way those guys can keep up with it all. The problem is the whole crazy immigration process."

PEOPLE

Power to the People

"I believe in the diversity you get in giving computing power to your users. It's very inefficient to wait for the information systems people to come set you up. Basically I'm very inclined to support local hackers. The advantages you get by having people do their own stuff are great."

MacRae Drives Automation Success at INS

Systems chief backs broad strategy for information technology

By LEIGH RIVENBARK

When Elizabeth Chase MacRae came to the Immigration and Naturalization Service in late 1986, she was walking into a difficult situation at an agency with a troubled record in automation.

Now, two years into MacRae's tenure as associate commissioner for information systems, that reputation is changing. INS successfully has automated immigrant legalization, is updating its automated lookout system for catching illegal aliens and is moving with confidence into new technologies, from optical image storage to fingerprint identification systems.

In a relatively short time, MacRae has helped steer the agency away from potential disaster. In 1985 and 1986 INS' automation program had begun with high hopes and ended with a crash. Contracting irregularities in a huge ADP procurement prompted Congress to cut off INS' automation funds.

The general state of INS' procurements reflected high interest in automation but low drive in getting automation into the field, according to MacRae. "We were on the verge of automating without funds for completing it. Things were halfway in place.

"With the extreme interest in automation, everybody wanted everything at once, so we were continually getting the new things and leaving the rest unfinished. Doing a prototype is fun, but it's not fun to do it 50 more times and put it in place," she said.

MacRae sounds like a team player, speaking of past agency history as if she were with INS at the time, but in referring to what "we" did she never glosses over the rough times. "When an organization which has not been very much automated starts off, it tends to bite off more than it can chew. People's expectations were raised and then dumped."

But things began to change. Congress passed the Immigration Reform and Control Act of 1986, and INS hired MacRae.

She credits the immigration reform act with giving INS not only the funds for automation but also the push to get started: a six-month deadline for designing, installing and implementing an immigrant legalization system for more than 100 INS posts.

"The reform act certainly got people moving," MacRae said. "We could not have done legalization without automation. We all knew you couldn't really put a system together in six months."

But INS had no choice between what they knew couldn't be done and what Congress said had to be done. The information systems staff gets the credit for meeting that seemingly impossible deadline, MacRae said.

"The momentum of working very hard and working together has carried through. I know the information systems people didn't have a very good relationship with the contracting office, but now we do."

The resulting project, the Legalization Application Processing System (LAPS), was in place on time. "It was an extraordinary effort. Everyone just pitched in and worked," MacRae recalled. The major impact of designing and implementing a system so quickly was that bugs remained in the system, but INS' staff was prepared for problems, she said. When LAPS went live, "there were people standing around acting as midwives — that's an apt analogy, midwives."

INS had attempted a general case-tracking system a few years before the LAPS project, but the plans proved too ambitious, MacRae said. "There's a saying in the ADP area, 'You never know what a user wants until you give him what he asks for.' We tried to do too much all at once. Although we didn't create a system that worked, we learned a great deal."

Because LAPS originally was designed to implement the reform act and handle legalization of illegal aliens, the number of LAPS stations around the country has been decreasing as the government's amnesty programs for illegal aliens reach their deadlines. But INS is by no means scrapping the system. Instead, INS is moving it forward, linking LAPS with a fraud data base designed to catch false identity and work documents, MacRae said.

The LAPS project showed MacRae and her co-workers the kind of manager she has become. "In a situation where you have a tight time line, you're being directive," she said. "The time pressure means you can't waffle around."

Incrementalism is the central tenet of her management philosophy, she said, largely because the budget constraints on federal agencies render plans uncertain. If emergencies arise, budget priorities have to be rearranged. The fire in Oakdale, La., in 1987 at INS' Immigrant Detention Center and INS' increasing drug-interdiction work are examples of how circumstances can shift money from systems to other more immediate needs, MacRae said.

Broad Scope

For MacRae, information technology goes beyond computers and records management. Her division also is responsible for radio surveillance equipment, voice-privacy radios, microwave towers and alien registration-card production.

Last year INS procured an optical storage system to assist with registration-card production, storing images of photographs and signatures. MacRae's division is working on fingerprint technology for immigrant IDs and special features to help detect false immigrant cards.

"The new card will have fraud-preventive features such as features of the paper that will show up in ultraviolet light," she said. There is no way to prevent all fraud, MacRae added, so INS continues to devise new techniques as people find ways to overcome old ones.

MacRae spent 12 years at the Department of Energy before coming to INS. "Energy was exciting in the '70s when there was an energy crisis," but by 1986, with the crisis over, she needed more of a challenge.

Not that she already hadn't faced plenty of challenges: pursuing her education at Harvard, Yale and the Massachusetts Institute of Technology, then educating others as a teacher at the University of Maryland and at a university in the Middle East.

Then, at DOE, she worked her way through a variety of posts including economic analysis and forecasting, statistical surveys, and management and administrative direction.

PROFILE

Ask her what that varied experience gave her to bring to INS, and two words emerge again and again: flexibility and user. Flexibility means buying and building systems "broad enough in scope" that they can be the basis for a larger system or can suffice alone if circumstances prevent further expansion. Flexibility, she explained, is why she prefers PCs over dumb terminals.

At DOE, the information systems focus was on "a big mainframe computer. I don't believe in that," she said. "I believe in the diversity you get in giving computing power to your users. It's very inefficient to wait for the information systems people to come set you up. Basically I'm very inclined to support local hackers. The advantages you get by having people do their own stuff are great."

For example, several INS users wrote their own dBase or Lotus programs to track workloads. INS has set up a clearinghouse of such locally written programs "so if Denver needs it and Buffalo has it, they can share," MacRae said. In time the clearinghouse may give awards for the best locally written INS programs.

MacRae knows about "local hacking" because she's done it herself and done it well enough to sell her own computer game to Atari and Texas Instruments Inc. Experimenting on her home computers — note the plural: MacRae and her husband have seven computers at home — inspired her to turn Mankala, an African game played with stones on a game board, into a video game.

She no longer has time to work on video games. Even with two years under her belt and no deadline as pressing as LAPS was, she still finds her job challenging, she said.

"We'd like to make our current systems more user-friendly, improve our interface for all systems," she said, outlining future plans. "We'd like to include our 'hackers' in that by giving them INS design standards, which don't exist yet." Groups are at work on standards, but she emphasized that standards will not be handed down from on high. She wants to go into the field and ask users what they need.

Her other priority is to distribute even more power to end users through placing minicomputers at major points of entry with heavy workloads, MacRae said.

As she distributes more power to her users, MacRae will have to orchestrate their far-flung activities, but she has plenty of practice in leading a group, whether as head of information systems or as conductor of the Falls Church, Va., Concert Band. Like the video game earlier in her career, the band is something for which she is making time. She's flexible. ◀

Los Angeles Times

DATE: 1/12/
PAGE: 1, Part IV

Jurors at GAF Trial Distrusted Chief Witness for Government

By SCOT J. PALTROW, *Times Staff Writer*

NEW YORK—Two former jurors in the GAF Corp. stock manipulation trial disclosed that a number of jurors doubted the truthfulness of the government's main witness, Boyd L. Jefferies, the former chairman and chief executive of the Los Angeles-based securities firm Jefferies Group Inc.

Joann Crawford, 51, a management employee at New York Telephone Co., also said that in discussing the case among themselves, just after a federal judge declared a mistrial on Tuesday, some jurors indicated "prejudice" against Jefferies because of his wealth and a remark he had made about "menial jobs."

Needed More Evidence

GAF and its vice chairman, James T. Sherwin, are accused of plotting with Jefferies & Co., the brokerage subsidiary of Jefferies Group, to bid up the price of Union Carbide stock in 1986. GAF at the time was preparing to sell a big block of Carbide shares. U.S. District Judge Mary Johnson Lowe declared a mistrial Tuesday because a prosecutor had delayed turning over to defense lawyers a report suggesting that a crucial piece of evidence had been tampered with.

Jury selection is due to begin today for a retrial. But it may be delayed after a hearing this morning before the U.S. 2nd Circuit Court of Appeals in New York on a request by defense lawyers to dismiss the case.

Crawford and Leo Lozada, 38, who served as jury foreman, said in interviews Wednesday that although they both had doubts about Jefferies' testimony, most jurors felt they hadn't heard enough evidence to have made up their minds about the case.

"There was a consensus [after the mistrial] that, at the point the trial was at, we did not have a good enough feeling one way or the other," Lozada said. "We would have had to hear more testimony or see more evidence."

The jurors said they had followed the judge's instruction not to discuss the case among themselves while the trial was still under way.

The mistrial was declared after Jefferies had testified for one week and the government was still presenting its case. The government was expected to call at least one additional witness—James Melton, the top trader at Jefferies & Co.—to try to directly corroborate Jefferies' account.

Lozada said that he and other jurors wouldn't have accepted Jefferies' testimony without corroboration because the former brokerage chairman has been cooperating with prosecutors to try to get a light sentence. Jefferies, implicated by former stock speculator Ivan F. Boesky in illegal securities schemes, pleaded guilty to two felony counts in 1987 and has been living at his home on the grounds of a country club in Indian Wells, near Palm Springs.

Lozada, a management consultant who works for nonprofit colleges, said that despite his own skepticism, he didn't totally discount Jefferies' testimony, adding that while on the stand Jefferies gave the appearance of telling the truth. But, Lozada said, "at least one other juror was more skeptical about his statements and his believability, because he is an admitted criminal."

Crawford said a few jurors seemed prejudiced against Jefferies because of "his station in life," she said. "They resented it." Several of the jurors were blue-collar or clerical workers. She said they had been influenced by the beginning of Jefferies' testimony, when he recounted his background and talked about working on a ranch for several years immediately after leaving college. He referred to the work as performing "menial jobs."

"That sort of stuck in some of their [the jurors'] minds," she said.

The Jefferies case is the first of a family of related cases, stemming from the guilty pleas of Boesky and former investment banker Dennis B. Levine, to come to trial. There was some concern among attorneys about whether jurors would be able to follow the jargon and complexities of stock trading and Wall Street finance.

But both Lozada and Crawford praised efforts by Judge Lowe and Assistant U.S. Atty. Carl H. Loewenson Jr. to ensure that all terms were explained in simple language. "I did not find it difficult to follow," she said.

However, on Tuesday, another juror, William Patten, had said in an interview that the trial at times had come close to being too complex for the jurors to follow.

But Lozada and Crawford said they were pleased with what they had learned during the trial about how the stock market works. "This was a hell of an education," Lozada said.

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NATIONAL REVIEW

RICO Run Amok

THE WORLD MAY never know if Drexel Burnham, the Wall Street securities firm that pioneered the modern junk-food market and by that means helped to restore power to corporate stockholders, was guilty of the charges to which it is currently negotiating a guilty plea. In truth, Drexel Burnham had little choice, whether innocent or guilty.

By taking action against the company under the RICO law, intended for use against organized crime, federal prosecutors were able to impose on the company financial sanctions that threatened to ruin it *before the trial.* Once Drexel was able to limit the financial costs of conviction by advance agreement, the calculation was plain and imperative. The costs of pleading guilty: $650 million in fines and restitution. The costs of insisting on a fair trial: bankruptcy and ruin. When criminals make such threats to companies, we call it "the protection racket." When federal prosecutors and the SEC do so, we give them favorable newspaper headlines.

In other words, RICO has abolished the presumption of innocence. That is a legal innovation that is hard to justify even if it leads to the jailing of murderers. It is doubly difficult to support when its victims are stockbrokers whose clients, supposedly the victims of their activities, make no complaint. The most lasting legacy of Mr. Rudolph Giuliani, the U.S. Attorney for Southern New York, who has led the battle against Drexel, may well be to have destroyed the credibility of a guilty plea. These are not the best credentials for Mr. Giuliani's rumored run for the mayoralty of New York.

LEGAL TIMES

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ANALYSIS

A Friendly Judiciary, With Slots to Fill, Awaits New President

As Reagan's opportunity for reshaping the federal bench comes to a close, a survey of key appointments shows the groundwork has been well laid for a conservative revolution.

BY HERMAN SCHWARTZ

By the time his second term expires on Jan. 20, 1989, President Ronald Reagan will have appointed 83 circuit judges out of 169 authorized positions, leaving eight seats vacant, and 292 district judges out of the 575 authorized, leaving 18 slots unfilled. Of his 375 appointments, 30 are women and 23 are black, Hispanic, or Asian-American.

What difference has this spate of appointments made? Are the Reagan judges far more conservative than others? Have they been able at least to begin the conservative revolution in the courts? Have there been any other consequences from this kind of appointment?

Answers to these questions are not easy. A fundamental shift in judicial direction can come only from the Supreme Court, and until Justice Lewis Powell Jr.'s unexpected retirement in 1987 provided the opportunity, there had been no such shift. But lower-court judges with strongly held views can affect the outcomes of numerous decisions that never reach the Supreme Court and that sometimes point the way in new directions. What is the record so far?

At the trial-court level, the Reagan-wrought change so far does not seem great, partly because many of the likely differences are in the fact-finding and management of specific trials, and such matters take time to become noticeable. Civil-rights lawyers have complained about some Reagan judges and been pleasantly surprised by others.

The most significant reshapings are at the U.S. Courts of Appeals, where these "regional Supreme Courts" make law for groups of states and where the administration has had the freest hand. It is here that the truly ideological appointments have been made, with special emphasis on ideologues and law professors like Robert Bork (no longer on the bench), Pasco Bowman, Frank Easterbrook, Douglas Ginsburg, Alex Kozinski, Daniel Manion, Richard Posner, Laurence Silberman, and Stephen Williams. By December 1987, Reagan appointees had achieved a majority on some of the circuits—the 2nd Circuit in New York, the 6th and 7th circuits in the Midwest, and the D.C. Circuit—and were near a majority elsewhere. Together with the appointees of Presidents Richard Nixon and Gerald Ford, the conservatives were in command of most Courts of Appeals.

Obviously, the decisions of the Reagan judges have not been uniformly hostile to individual rights. Obedience to the Supreme Court or strong circuit precedent, regardless of personal unhappiness with these decisions, and even the judges' own beliefs or objective legal analyses, have sometimes produced surprisingly liberal results.

Judge Ralph Winter of the 2nd Circuit, for example, has been relatively sympathetic to criminal defendants, and Judge Posner of the 7th Circuit has not tried to reduce access to the courts with standing and similar devices. Reagan judges on the 8th Circuit upheld a constitutionally dubious Minnesota abortion statute, although a trio of Reagan appointees on the 6th Circuit struck down a similar Ohio statute. Nor can one fail to note that some of the decisions against individual rights were legally sound, for neither the Constitution nor other law provides a remedy for all the world's ills and injustices.

But many of these new judges have ignored precedent or unambiguous law or, when the choice was available, have chosen the side of authority to reject a claim that rights were violated. Creating and expanding court-shutting devices like standing, government immunity to suit, and political questions; rewriting the antitrust laws virtually to eliminate concern about economic concentration and the preservation of small business; and narrowly interpreting Supreme Court precedent have been among the most common techniques. In the process, the Reagan judges have transformed at least two of the circuits—the 7th and the D.C. circuits—into forums hostile to civil-rights and civil-liberties claimants. Judicial profiles of a few key figures who are still on the bench follow.

Richard Posner

Judge Posner of the 7th Circuit Court of Appeals has concentrated on antitrust and similar economic issues, going at the law with a zeal that even a sympathetic corporate lawyer described in the *Antitrust Bulletin* as "almost religious," marked by the absence of "a judicial and restrained approach to finding the law."

(continued)

Posner's basic idea is to construe narrowly the antitrust laws to allow a great deal of anti-competitive behavior and to skirt inconsistent Supreme Court decisions. In 1986, a group of 21 state attorneys general attacked Posner and the 7th Circuit in a Supreme Court petition for ignoring the high court's rulings and condoning such practices as allowing competitors to form group boycotts to exclude other competitors, permitting manufacturers to prohibit advertising price reductions, and allowing sellers to insist that if a customer wants a very desirable product, the customer has to take a second, less desirable item.

But antitrust law is not the only arena in which Posner has justified the conservatives' pleasure at his appointment. He believes that prisoners injured by prison doctors should look for a lawyer in the open market. (The other members of his panel in the 1983 case, *Marriott v. Faulkner*, 697 F.2d 761, disagreed.) He called for changes in the law of *habeas corpus* in a concurrence in a 1985 case, *Phelps v. Duckworth*, 772 F.2d 1410. With the concurrence of another Reagan appointee and against a vigorous dissent in *Menora v. Illinois High School Association*, 683 F.2d 1030, in 1982 he overturned a district judge's ruling against a high-school basketball association rule that prevented Jewish players from wearing yarmulkes, even though the District Court found the caps created no safety hazard.

After studying Posner's record through 1985, Professor James Wilson of Cleveland-Marshall College of Law concluded in a 1986 law-review article that Posner and the even more conservative Reagan appointee Judge Frank Easterbrook usually reject First Amendment, equal-protection, and due-process arguments, as well as most complaints from criminal defendants and prisoners.

J. Harvey Wilkinson

"Conservatives couldn't be happier with Judge Wilkinson," concluded *The Wall Street Journal* in February 1988 of this 4th Circuit conservative. "He's as good as we anticipated he would be," rejoiced then Assistant Attorney General William Bradford Reynolds.

And no wonder. In *Croson v. City of Richmond*, 822 F.2d 1355, which the Supreme Court is reviewing this term, Wilkinson killed a Richmond City plan that set aside 30 percent of municipal construction contracts for minority businesses. The dissenting appellate judge pointed out that the city council had evidence that between 1978 and 1983, only two-thirds of one percent of city contracts had gone to minorities and that, as one city councilman put it, "the general conduct in the construction industry in this area, and the state and across the nation, is one in which race discrimination . . . is widespread"—a fact disputed by no one at the hearing and virtually beyond argument.

Wilkinson has also generally favored the prosecution in criminal cases and usually opposes civil-rights claimants.

On the other hand, Wilkinson tried to have the full 4th Circuit rehear a case in which publisher Larry Flynt was ordered to pay damages to the Rev. Jerry Falwell for invading Falwell's right to privacy. Flynt's *Hustler* magazine had run a parody of a Campari Liqueur ad in which Falwell allegedly committed incest with his mother as his "first time." Except for Wilkinson, the circuit lined up in ideological camps. Some observers have suggested that Wilkinson's eloquent concern for First Amendment values resulted from his three years as editor of the *Norfolk Virginian-Pilot*. In February 1988, the Supreme Court unanimously agreed with Wilkinson in its decision in *Flynt v. Falwell*, 108 S. Ct. 876 (1988).

Frank Easterbrook

Easterbrook has been on the 7th Circuit only since spring 1985, but he has already established himself as a brilliant manipulator of legal doctrine, usually to stop litigants from suing public officials.

In a 1986 prison case, *Chapman v. Pickett*, 801 F.2d 912, concerning a prisoner who was kept in solitary confinement for 289 days because his Moslem religious beliefs prevented him from handling dishes on which pork had been served, Easterbrook, in dissent, not only wanted to rule against the prisoner but also to open up and overrule decisions in the case made eight years earlier and not even challenged by the prison administrators.

In another case decided during his first year on the bench, Easterbrook was willing to allow Social Security Administration judges who ruled against beneficiaries to refuse to make specific fact findings, even though this was required by statute; other members of the circuit refused to go along with him (*Stephens v. Heckler*, 766 F.2d 284). In still other cases, he attempted to create procedural barriers against Social Security recipients and others claiming government benefits.

By narrowly defining "excessive force," Easterbrook has also tried to protect local governments against those beaten up by the police. Professor James Wilson, who studied Easterbrook's record on civil liberties, concluded that the judge is "as 'result-oriented,' 'unprincipled,' and 'non-neutral' as the liberals he and his colleagues have so often criticized on these very grounds."

Alex Kozinski

Affirmative action was a target not only for Wilkinson but also for Alex Kozinski of the 9th Circuit. In 1987, in *Associated General Contractors v. San Francisco*, 813 F.2d 922, involving a system of preferences in municipal contracts created by the San Francisco Board of Supervisors for minority (10 percent), female (two percent), and local businesses, Kozinski applied a very restrictive interpretation of the Supreme Court's racial-preference cases to strike down the minority preferences, while upholding the other preferences. Even though he admitted that the city had made a very careful analysis of the problem and that no witnesses had spoken against the preferences, Kozinski concluded there had been no finding of prior discrimination by the board, a prerequisite to such relief, despite lower court findings and evidence to the contrary.

Kozinski also seems to have ignored governing Supreme Court decisions in a 1986 ruling that a Santa Barbara, Calif., regulation that controlled mobile-home park rents might be a so-called taking, requiring the city to compensate the mobile-home landlords for the reduced value. As three other judges pointed out, at least three Supreme Court cases, as well as those of numerous other courts, had rejected rent-regulation challenges, often without even bothering to hear arguments. Kozinski relied on a lone dissent by Rehnquist in a 1983 case that the Court had refused to hear "for lack of a substantial federal question."

Silberman and Starr

Judge Laurence Silberman of the D.C. Circuit quickly established himself as one of the most zealous ideological appointees, whereas Judge Kenneth Starr, an early appointee to that same bench, was something of a centrist. On affirmative action, however, such distinctions would vanish; and both took aim at it in August 1987. In a 2-1 decision, in *Hammon v. Barry*, 826 F.2d 73, with Judge Abner Mikva in angry dissent, the two Reagan appointees brushed aside substantial evidence of discrimination at the D.C. Fire

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Department and gave a narrow reading to a recent group of Supreme Court decisions that had upheld affirmative action. They reversed the approval of a voluntarily adopted affirmative-action hiring plan by a lower court judge, who had overridden his hostility to race-conscious employment decisions—he had struck down the promotional provisions—because the judge found the evidence of past hiring discrimination to be so strong.

Silberman and Starr also voted to strike down the independent-counsel statute as too great an encroachment on the president's power. Of the eight Supreme Court justices who reviewed the case in *Morrison v. Olson*, only Scalia agreed with them.

Partisanship Problems

Obviously, because it is still very early, it is difficult to make definitive judgments about so subtle a matter as the impact of judges on the law. As Assistant Attorney General Stephen Markman, who took over as the Justice Department's point man in judge selection, said in May 1987, "It will take five to 10 years before the full impact of the process is felt." That seems a bit pessimistic (or optimistic, depending on one's perspective), but the basic idea is correct: It is still early, and the single most important factor—the future direction of the Supreme Court—has not yet been decided at this writing.

But there are other effects of the conservative court-packing campaign, apart from the specific case outcomes and shifts in substantive and procedural law. These include the impact on how Americans perceive the courts and on the internal workings of the institution.

The conservative campaign to tilt the courts in a new direction is not illegitimate. Those in position to produce such a tilt and who think it necessary are constitutionally and otherwise entitled to do so.

Such a concentrated effort, however, introduces an intensely partisan and divisive note into the selection process. Although partisan politics are inevitable, such considerations have usually played a very minor role in lower-court appointments and only a slightly greater role in Supreme Court nominations. Sen. Patrick Leahy (D-Vt.) once said that "National Pickle Week has been as likely to generate spirited debate as the selection of a federal district or appellate judge with life tenure"; and though that is far from an ideal situation, it means that less attention has been paid to partisan political and ideological considerations.

The conservatives' crusade to pack the courts with ideological zealots has induced more rather than less partisanship. The effect on how the courts are perceived by the public and the bar is especially disturbing. It is not hard to imagine the uneasiness of lawyers arguing cases before judges whose appointments they publicly opposed, and the nervousness their clients must feel. On the other side of the bench, it takes a remarkably mature and selfless person to forget who tried to deny him or her a highly coveted prize. Disqualification is a solution, but hardly an ideal one.

The polarization that such controversies create can also make it more difficult for judges to work together, to seek common ground, and to narrow differences. It may harden positions that were far apart to begin with.

Finally, the determination with which the conservatives have pursued their goal of putting reliably staunch conservatives on the courts could well produce a mirror-image determination in a liberal administration. This reaction would be particularly understandable if there is widespread public support for such a move, as there was for President Franklin Roosevelt. Except when he tried to tamper with the Supreme Court's independence, he encountered no great public opposition to his efforts to appoint liberals to the Supreme Court and lower courts. This kind of action and reaction can only damage the courts even further.

All of this can impair the aura of objectivity and fairness on which the authority of our courts ultimately depends. That would be the gravest harm that the conservative court-packing could inflict. □

The Star-Ledger
NEWHOUSE NEWSPAPERS
Newark, N.J.

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Con artist gets 12 years for penny stock fraud

By JOSEPH R. PERONE

Marshall Zolp, a slick con man and major stock swindler, was sentenced yesterday to 12 years in prison for racketeering as part of a plea bargain in which he agreed to testify about penny stock scams involving organized crime figures.

The eloquent flimflam artist showed no emotion as he was sentenced in federal court before U.S. District Judge Alfred J. Lechner Jr. Zolp, 42, agreed to repay $1.8 million to stockholders of Laser Arms Corp., a bogus company he created to market a phony, self-chilling beer can. He also was fined $50,000.

Several co-conspirators from New Jersey are serving prison terms for their role in the $2.4 million fraud.

Zolp, who is in the federal witness protection program, served as "a franchise," or front man, for mobsters who sought to enrich themselves at the expense of small investors, according to Robert P. Warren, chief of the Fraud and Public Protection Division of the U.S. Attorney's Office in Newark.

"He was a vehicle for various organized crime figures," Warren said, "to funnel money back to them by bilking the public."

Warren said Zolp is providing information to the Securities and Exchange Commission and the Justice Department regarding "various investigations."

After the sentencing, Warren said Zolp also has provided information about a foreign "terrorist organization which he had contact with in jail." He would not name the organization or provide further details about the organized crime probes. He also said Zolp's life has been threatened.

Zolp is talking to government investigators about "crime families mainly in New Jersey," according to his attorney, Raymond Sussman. He said the mob provided Zolp with "customer sales offices and equipment," including a sales office in a New York car dealership, to further some penny stock scams.

"He was driven by organized crime, and the money was going to be distributed to organized crime," Sussman said. He said Zolp has provided information to federal grand juries in Los Angeles and Louisiana.

Sussman also said his client's life was threatened. He said one time Zolp was kidnaped from New Jersey by organized crime figures and taken to Long Island. He "was told he was going to be murdered," according to Sussman. Instead, he maintains, Zolp was beaten "as a warning."

In a separate incident, Sussman said "an escape was prevented" as a result of information his client provided to the government about a group of terrorists who are "waiting to be deported." He declined to name them.

A former alcoholic and combat pilot who deserted during the Vietnam war, Zolp used charm and cunning to draw savvy investors into his penny stock frauds. His trademarks included fictitious documents, non-existent directors and various aliases.

Zolp created false financial documents and a shareholders' report that featured phony officers under the names Robert Wardlaw, Tucker Binkley and Seymour Schwartz, according to U.S. Attorney Samuel A. Alito Jr. The report included forged signatures and photographs of non-existent officers, including a deceased actor.

Zolp and 10 other defendants conspired from December 1985 to September 1986 "to manipulate the price of Laser Arms stock in violation of the criminal provisions of federal securities laws," Alito said.

Zolp also obstructed justice by ignoring a court order freezing some Laser Arms accounts. Zolp and others transferred monies from the frozen accounts to other accounts under his control. Alito said Zolp caused $200,000 to be transferred into an account with the Reliance Savings and Loan of Rahway ar another $250,000 to be transferred "to assoc ates in Las Vegas, Nevada."

During the past 11 years he has been the subject of seven different state or federal securities probes.

Zolp, impeccably dressed in a dark blue suit with his hair slicked back, smiled as he entered the courtroom yesterday. "I stand here shamed today—disgraced," he said prior to sentencing. He told the court his behavior "was perhaps out of character" and said his friends could not understand how he became involved "in the malicious hoax that Laser Arms became."

Lechner pointed out that Zolp's behavior was not out of character.

"You are a con man. There is no way around it," Lechner said. "Everything has fallen apart. You've been caught."

In return for the guilty plea, the government has agreed not to prosecute Zolp for failing to file income tax returns since 1968 and his involvement with any violations regarding Securities Transfer Inc., Cambridge Capital Corp. and Post, Hamilton and Druthers, a brokerage house.

Zolp also has agreed to plead guilty to a criminal contempt charge in Chicago.

The Miami Herald

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Witness charged with bribery attempt

By LORI ROZSA
Herald Staff Writer

A federal grand jury investigation involving Palm Beach County developer Thomas S. Waldron suffered a setback Wednesday when FBI agents arrested a man for allegedly trying to bribe the developer.

Javier Revuelto Pineiro of Boca Raton, who gave damaging testimony against Waldron before a federal grand jury, told Waldron he would recant his testimony if Waldron paid him $200,000, the FBI said.

"In return for the $200,000, Pineiro would return to the grand jury . . . and 'sanitize' his previous testimony, which would extricate Waldron from his legal problems," FBI agent Anthony Yanketis wrote in Pineiro's arrest affidavit.

Diane Cossin, spokeswoman for the U.S. attorney's office in Miami, said she couldn't comment on the grand jury investigation, but added that anytime a witness is arrested, it can jeopardize the entire case.

Yanketis said Waldron allowed the FBI to tap a phone call Pineiro made to him.

Yanketis said Pineiro told Waldron on Nov. 26 that he had testified before the grand jury in Fort Lauderdale eight days before and said Waldron had falsified documents to Florida National Bank in 1987 to obtain a loan from the bank.

Pineiro also said he told the grand jury that Waldron had back-dated documents and had hidden assets relating to the bankruptcy of Waldron's Diamond C Construction Co., according to Yanketis.

Pineiro was arrested at the Palm Hotel in West Palm Beach Wednesday after he allegedly took a $75,000 payment from Waldron, FBI agents said.

The Hartford Courant

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Love led defendant underground, lawyer says

By WILLIAM COCKERHAM
Courant Staff Writer

SPRINGFIELD — A 40-year-old woman accused of conspiring to overthrow the U.S. government had two choices a decade ago, her attorney said Wednesday — join her avowed revolutionary husband underground, or never see him again.

William Newman told a U.S. District Court jury that defendant Patricia Gros Levasseur — charged with seditious conspiracy, racketeering and conspiracy to racketeer — is innocent and that whatever she did to harbor her 42-year-old fugitive husband, Raymond Luc Levasseur, was out of love for him and their three children.

Newman said Raymond Levasseur would have left his family, to protect them, if they had not used aliases and false identification.

The federal government has charged that the Levasseurs and a third defendant, Richard C. Williams, 41, were involved in at least a dozen bank robberies and bombings throughout the Northeast from 1976 until they were arrested in 1984.

"The promises of proof you heard from the government [Tuesday] will not be made in this case," Newman told the 10 women and two men sitting in the jury box. "Proof will not be shown that she ever robbed a bank, cased a bank or drove a getaway car. It did not happen. She wasn't a bomber, a bank robber or an attempted murderer."

Newman said Patricia Levasseur, who lived with her family in Derby, Conn., in 1978 under aliases, was not unlike any other normal woman.

"She did everything you'd expect from a caring mother," he said. "She enrolled her children in school, took them to doctors' appointments . . . baked cookies for PTA meetings . . . grew a garden."

Newman said he and his client resent the government's use of the term "underground."

"Underground? She only joined her husband to be away from the eyes and ears of the government. She didn't live in a safe house. She lived in a home. It wasn't a cell. It was a marriage," he said. The term cell was used in the 1950s to describe communist groups.

Newman said, however, that Levasseur does subscribe to many of her husband's beliefs, including that the U.S. government supports racism and repression. On Tuesday, Raymond Levasseur, who prosecutors say was a leader of the radical United Freedom Front, told the jury that he is a revolutionary, but denied being a racketeer or a criminal.

The first witness, a head teller in a Maine bank allegedly robbed by the radical group in 1976, was called to the stand late Wednesday morning. Although she did not identify any of the defendants, she did describe a ski-masked robber who stuck a small revolver in her ribs during the robbery. Other witnesses are expected to testify about the robbery.

Among other bank robberies attributed to the group was one at a branch of New Britain Bank & Trust Co. in New Britain, in which $89,000 was taken June 25, 1981.

Mayor Barry's Legacy

TWO D.C. UNDERCOVER cops were stationed at a Ramada Inn late last month, where they were about to make a drug deal with one of the guests, a former city employee named Charles Lewis. But who should drop in for a social call on Mr. Lewis but Mayor Marion Barry?—whereupon the detectives were recalled from their assignment. After Lewis checked out, police found traces of cocaine in the room where he'd just spent four weeks. The mayor had visited him several times, and a Barry aide had picked up the tab for his stay. Upon leaving, Lewis vanished.

When the story hit the front page of the *Washington Post*, Barry had a lot of explaining to do. He didn't do it. He admitted only "maybe lack of some judgments" in his associations and accused the *Post* of waging a vendetta against him, perhaps because it has persisted in reporting on his associations. He implied that the liberal paper was somehow driven by racist motives, a charge only his most diehard followers were buying.

Barry has been the subject of several scandals and many rumors. In his ten years as mayor, 11 city officials have been convicted on corruption charges, and his former mistress served time twice, once for drug dealing and once for refusing to testify whether she'd supplied Barry himself with drugs. His turn may be coming: the Justice Department is investigating his latest indiscretion.

It's a pattern at least as old as Jimmy Walker: a flamboyant big-city mayor with an ethnic base of popularity plays fast and loose with the law, then tries to keep his head out of the noose by appealing to his followers' shared sense of victimhood. This time the act isn't flying. Even (or especially) the capital's black journalists are openly saying he's an embarrassment, and whites, in this post-*Bonfire* world, aren't being bluffed or scared off from criticizing him. Barry has made D.C.'s city government a bad joke, brought discredit on home rule, and jeopardized whatever chance the District had of attaining statehood.

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Put guilty in prison

FOR PROCUREMENT RIPOFFS

IT MAY COME as a surprise to some within the "military-industrial complex," but bribery is not an art. It is a crime. Those who practice it are criminals.

That is the message delivered now that the Justice Department's Operation Ill Wind finally has gusted through the glass towers of Crystal City, an office complex near the Pentagon teeming with defense contractors. Indicted for bribery, conspiracy, wire fraud, racketeering, and theft of Government property were Stuart E. Berlin, a civilian Navy official with virtually unchecked authority to award contracts; consultants Fred Lackner and William Parkin, who allegedly funneled regular payments to Mr. Berlin; and Teledyne Industries and three of its former vice presidents.

Hours earlier, Hazeltine Corp., which is a subsidiary of Emerson Electric Co., and two of its executives pleaded guilty to related charges and agreed to pay $1.9 million in fines and costs. Teledyne marketing executive Michael Savaides, who bought and sold information, also admitted to conspiring to bribe Mr. Berlin.

If corruption in the Pentagon's multibillion-dollar purchasing process is as endemic as insiders insist, corporate fines — however stiff — will not change the climate. Indeed, for a company of Emerson's size (annual sales $6.7 billion), a million-dollar fine is little more than a nuisance, the cost of doing business. To change the climate, corporate executives must go to prison when convicted of bribery or fraud. They must be held *personally* responsible for tolerating a corrupt environment.

Since 1982 Congress has rewritten defense-procurement laws four times to tighten procedures and enforcement. Additional changes are warranted; the revolving door, for example, clearly remains a problem. Still, the tightest law will be corrupted if there is greater reward in flouting than obeying it. For too long the rewards of flouting and skirting procurement laws have been higher than the risks.

U.S. Attorney Henry Hudson of Alexandria, Va., says that that is changing, that there are more indictments, more pleas, more trials, and more glass to be broken in Crystal City. Good! Let every shard find its target. And let every target know that it has been hit.