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THE LAST BREAK-IN

IT was early June 1972. A federal grand jury had been investigating Phillip Mackin Bailley since the April seizure of records and photographs from his office and home. Although there had been only one original complainant and the seized materials, Assistant United States Attorney John Rudy had developed charges against Bailley through the testimony of friends and acquaintances, and from several women who were prepared to testify about Bailley's sexual practices. The allegations included luring women somewhere for sex, photographing them in the nude, then threatening to release the photos unless the women engaged in sexual activities with other people. (None of these allegations were ever proven, nor constituted acts for which Bailley was convicted.)

Rudy took his time and proceeded carefully, for he knew he would be indicting a practicing lawyer, not some ordinary pimp. In his view, Bailley was a bad apple in the legal system who practiced before the very court that would soon have to bring him to justice. Rudy readied and the grand jury returned on June 9, 1972, a twenty-two-count indictment of Bailley charging violations of the Mann Act, the federal

Travel Act, the federal extortion statute, the District of Columbia blackmail statute, the District pandering statute and the District procuring statute. The actions covered in the indictment spanned the period from Bailley's induction into the Washington, D.C., bar in 1969 right up to February of 1972.

To the public at large this was, at best, news of only modest importance. Mary Ann Kuhn wrote up the indictment and an interview with Bailley for a late edition of the June 9 Washington *Daily News*, headlined D.C. LAWYER CHARGED WITH WHITE SLAVERY, and the newspaper printed it on an interior page. The first three editions of the Washington *Star* went to press before the story broke; then, rather suddenly, it became page-one news for the *Star*. The "night final" edition replaced a top-of-the-paper story about the bombing of Haiphong and Hanoi with the lurid headline CAPITOL HILL CALL-GIRL RING UNCOVERED. The story was written by reporters Winston Groom and Woody West. Its lead paragraph read, "The FBI here has uncovered a high-priced call girl ring allegedly headed by a Washington attorney and staffed by secretaries and office workers from Capitol Hill and involving at least one White House secretary, sources said today." It named Bailley as head of that operation and reported that Bailley had denied the charges entirely. "Sources close to the investigation" were cited as saying that clients of the operation were prominent D.C. attorneys and that

> no high officials either on Capitol Hill or at the White House were involved in running the ring, but they did indicate that a White House lawyer was a client. It was learned that a subpoena several weeks ago of a White House employe prompted a phone call from White House aide Peter Flanigan to the U.S. Attorney's Office.
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> No one in the [U.S. Attorney's] office would acknowledge that such a phone call was made. But sources outside the office said Flanigan apparently called to find out if there was any chance of embarrassment to the Nixon administration.

How had the *Star* found out about Bailley's involvement in the call-girl operation when the Columbia Plaza ring was not mentioned in the indictment? Rudy appears not to have known about it, and his office had not told the reporters, nor had Bailley. Bailley was actually peripheral to the call-girl ring and was not charged with anything having to do with it; he was faced with jail time, disbarment, and fines for his involvement with women who were not part of Cathy/Heidi's Columbia Plaza ring. He would even make this very point much later,

from the federal prison in Danbury, Connecticut, when trying to get his sentence reduced.

Peter M. Flanigan, the White House aide referred to in the *Star* article, has denied to us any call from him at the White House to Rudy's office while the grand jury was sitting in order to learn if anyone in the Nixon administration was implicated. All sorts of bells would have gone off if there had been that danger, Flanigan says: "A story this weird I believe I would have remembered it, if it had happened, but I have absolutely no memory of it whatsoever. I never heard of Mr. Bailley until [this interview]. I never saw this [newspaper] story until today nor did any reporter at any time before or after . . . ever contact me on this matter."

According to the *Star* reporters, the story developed in the following manner. Around nine or nine-thirty in the morning, Groom picked up the indictment from the court, but although it involved a lawyer it was otherwise so ordinary that he filed something similar to what Kuhn had written for the *Daily News*. Back at the city room, Woody West believes he must have received other information that took what was actually a second story given or relayed to him from another direction, commingled it with Bailley's indictment, and made the whole thing page-one news. West thought the call-girl information might have come from a reporter that the *Star* had stationed in the press room at the White House, but can't recall.

The *Star* made plain in the article itself that the information had not come from the U.S. Attorney's office. Moreover, Rudy denies that any such suggestion of a Capitol Hill call-girl ring would have come from his office. Actually, he remembers repeating that denial to John Dean, later on the day that the indictment and article appeared, June 9.

In an extraordinary move, Dean telephoned Rudy directly. He said right off the bat that he was "calling on behalf of the president of the United States," and demanded—citing the *Star* story of the ring as his rationale for the call—that the prosecutors come right over and bring "all documentary evidence identified with people involved in the [Bailley] investigation," so he could determine if anyone in the White House was involved in the ring. The night final edition of the *Star* did not hit the streets until about 1:30 P.M., and this telephonic summons was issued shortly thereafter. Records from the Executive Office Building show that John Rudy and his superior, Don Smith, visited John Dean at 4:00 P.M. on Friday, June 9, 1972, and we have interviewed John Rudy about that meeting.

According to Rudy, after discussing the request with criminal

division head Don Smith and possibly with First Assistant U.S. Attorney Harold Titus, he and Smith traveled to the White House in a limousine sent for that purpose. As demanded by Dean, the prosecutors brought with them Bailley's address book and fifty to sixty of the nude photos, which had been seized in early April.

Rudy remembered the entire incident with great clarity, down to the gray pin-striped suit and blue shirt Dean was wearing, and the layout of the office. He had never before been summoned by the White House, and this was a big deal for him. "That's the kind of stuff," he told us, about which "you stand up and salute and say, 'Yes, sir!' That was heady stuff."

Dean's first inquiry after greeting the men was a question: Who did they think leaked the information on the call-girl ring to the press? Rudy didn't know, and Dean replied that he thought it had been the *Democrats.*

Dean then asked to whom at the White House the story referred. From the materials Rudy brought, Dean selected a possibility. The person Dean picked out was neither a male White House lawyer nor a White House secretary, as the *Star* had reported and as the *Washington Post* would report the next day. Rather, the person was a female employee in an agency across the street, whose picture Rudy had brought with him. Dean noted this, and looked at the other photos. Then he saw the Bailley address book, and it was this that became his main focus.

Dean looked closely at the address book and the photos, and informed the men that he wanted to keep the materials over the weekend. This, of course, would have been a gross violation of the maintenance of evidence in a currently pending case, and Smith quite properly said that could not be allowed. As a lawyer, Dean would have known full well that taking possession of the evidence was improper, but he asked for it anyway. When that idea was scotched, Dean returned to staring intently at the address book.

Though he concealed any sense of this from Rudy and Smith, he could not have avoided seeing the name of his live-in girlfriend, Mo Biner—"Clout"—and the alias of her close friend Heidi Rikan—"Cathy Dieter."

When he couldn't get hold of the address book for the weekend, he came down to the next level. He asked if he could copy the address book so he could compare the names in it to "a list of personnel in the White House, to see if the same names appear in both places." Ordinarily, such a request would be summarily denied, but the prosecutors were, after all, dealing with the president's lawyer, and Dean's

request was considered reasonable. Dean called in an "older woman" who took the address book to another room and photocopied it.

John Rudy later told us he had not known at the time he sat in Dean's EOB office that "Mo" Biner was personally connected to John Dean. Had he known, he said, "That would have changed the picture a whole lot." Rudy stated that the entire proceedings would have had a different character if he had known that Maureen Biner was Dean's lover; that is to say, if Rudy knew that Dean had a personal interest in Bailley's records. Then he would have more properly understood that Dean's motives were personal and that he was *not* acting "on behalf of the president of the United States." But this was not revealed by Dean.

The secretary soon returned with Bailley's address book and the copies of its pages, which Dean then checked to see if all the pages were there, and then against the White House personnel list, circling certain names with a pen as he did so. "He was very meticulous," Rudy told us. After about forty-five minutes, Rudy and Smith went back to their offices, taking the book and photos but leaving with Dean the photocopied pages.

A few days later, Rudy wrote a five-page summary of the Bailley case for the file, in which he spent a paragraph detailing the meeting with Dean at the EOB. In a recent interview, he remembered this document especially, because others involved with the prosecution of Bailley complimented him and called it the best summary of the case.

As for John Dean, immediately after Rudy and Smith left the EOB, he called a middle-level official in an independent agency across from the White House and told him that one of the female attorneys who served under him had her name in Bailley's book and that he, Dean, had seen her nude picture as taken by Bailley. Called on the carpet, the female attorney, who had no connection to any call-girl ring, said she had briefly been in love with Bailley and denied any wrongdoing. By 5:30 P.M. that afternoon, she had been forced to resign. Now Dean had a scalp to show for the meeting with Rudy, should he ever be asked what action he had taken as a result of it. But he did not create any permanent record of his meeting with Rudy and Smith through memos to the file, to his superiors, or to the Department of Justice—as he normally did with important matters—and has not spoken publicly, written, or testified about it, ever since.

Recently, we asked Haldeman and Lawrence Higby (Haldeman's top aide, and the proper channel for something like the Bailley case) about this matter. They knew nothing of a Dean meeting with local prosecutors to request evidence earmarked for a pending criminal case. We pressed further: Was that the proper way for Dean to go about the

task of protecting the White House in such a sensitive matter? Both men responded that it was not, that a standard procedure had been established and promulgated. Under it, Dean would be in touch with them, to ask for and receive from them permission to call Assistant Attorney General Henry E. Petersen, head of the criminal division at Justice, and make the request to the prosecutors through that correct channel. Petersen could have been urged to make haste, to answer Dean's question and possibly to provide a copy of the address book, and all the answers and materials would have come back through the same channel from Justice. But if it had been done that way, other people would have known of John Dean's extraordinary interest in the affairs of Phillip Mackin Bailley.

Liddy had been having problems with McCord and the material coming from the bug in the DNC. The logs from McCord, which he said came from Baldwin and which Liddy reedited and had his secretary type up, showed nothing of interest. Liddy was almost embarrassed to pass them on. Yet he felt he had to show something, and on June 8 put the transcribed logs in an envelope for Magruder, with expectations that Jeb would give it to Mitchell.

According to Magruder, he did pass it on, in two directions. He first showed it to Strachan, who reported back that "It was junk." The next day, in Magruder's account, he had a private meeting at the CRP offices with John Mitchell in which they reviewed the logs. Mitchell then supposedly called Liddy in and said, "This stuff is not worth the paper it's printed on." Magruder told us that he has a vivid recollection of this meeting and added that it happened so quickly that Liddy didn't even get a chance to sit down.

This account, of course, at least implicitly tied John Mitchell to the second break-in.

Once again, however, we do not believe Magruder's account. In his Senate testimony and later interviews with us, Mitchell denied this meeting with Liddy, or reviewing the logs of the bugging. Liddy also contradicts Magruder and says that this meeting never occurred.

In Liddy's account, he was called in to Magruder's office on June 12 and asked by Magruder if the bug could be replaced. Liddy said that it could, but there was no money in the budget for another Watergate entry, and besides, they wanted to go into McGovern's headquarters. Magruder ignored this and asked him how many file cabinets were in the DNC. Then he got to the heart of the matter. Banging the lower left drawer of his own desk, Jeb told Liddy, "Here's what I want to know. I want to know what O'Brien's got right here."

Liddy understood the reference completely, for in that drawer, he knew, Magruder kept his own derogatory information on the Democrats.

Liddy bought the idea hook, line, and sinker—so completely that he was convinced when he wrote in 1980 that this was the previously unknown key to the break-in. He shouted it in his book by italicizing his conclusion: "*The purpose of the second Watergate break-in was to find out what O'Brien had of a derogatory nature about us, not for* us *to get something on* him *or the Democrats.*" Liddy says that it was not until June 15 that he briefly got to see Mitchell and to slip on the corner of Mitchell's desk a blank envelope containing the bugging logs; even at that moment, Liddy says, he was not able to discuss the bugging, and certainly did not receive any direct authorization to go in a second time from Mitchell. He didn't even ask for it, since he already had such authorization from Magruder.

Confronted by us with these contradictions, Magruder refused to give up the idea that he had met with Mitchell and Liddy about the logs, but he admitted to us that Liddy's version of the events was correct—and that he, Magruder, had been told by John Dean to obtain derogatory information about Republicans that the Democrats kept at their Watergate headquarters, and that Dean, not Mitchell, had directed him to have Liddy and his men go back into the DNC to obtain this information.

Magruder was not eager to give us that acknowledgment. At first he said only that the order to go back into the Watergate "came from Strachan or Dean," but when pressed, he amended his attribution of the order and said, "I'm sure it was Dean."

Maxie Wells went on vacation in early June, and she gave a key to her desk to another woman at the DNC, Barbara Kennedy, for use in case the desk had to be opened while she was away. Maxie was back at work by June 12, and on that day received at the DNC a visitor who announced himself as "Bill Bailey."

He was actually McCord's man Alfred Baldwin, and he bore a strong physical resemblance to Phil Bailley. He had been sent into the DNC, he later told the Senate investigating committee, by McCord, in order to get the layout of the place. He knew before he entered that both Larry O'Brien and Spencer Oliver were out of town. To receptionist Clota Yesbeck he expressed disappointment, and was passed on to Maxie Wells. Later, in her own debriefing by the Senate committee, Yesbeck said that she believed Baldwin had been in the DNC to see Maxie many times before—but she may well have been confused by

the name he gave her on entering and his physical resemblance to Phil Bailley, who had been in and out of the DNC more than a few times. Then too, the Bailey name was one to conjure with inside the Democratic stronghold, for it was borne by an important Democrat from Connecticut; Baldwin has at times said that he claimed to have been that Bailey's nephew, though at other times has not pressed this notion.

But why would McCord have sent Baldwin in to get the lay of the land, if there had already been a break-in and the burglars already knew the setup? There must have been another reason.

Baldwin made sure that he saw Maxie Wells by telling Yesbeck that he was a friend of Spencer Oliver's. Yesbeck passed him on, and returned to her duties in the reception area. Then something happened either between Baldwin and Wells, or while Baldwin was in proximity to Wells's desk. We can't say precisely what, but we do know that after the burglars were caught, the key to Maxie's desk was found in the possession of burglar Rolando Martinez.

The presence of the key was one startling thing. Another was the absence of any in-place bug or transmitting device. Just a day or two before the second break-in on June 17—but after Baldwin's visit—the telephone company swept the DNC phones for bugs and found none. And just after the break-in, the police and the FBI made their own sweeps and found no in-place bugs. In other words, the bug that had been installed during the first break-in, on the frequently used phone in the office of the chairman of the State Governors, the bug from which Baldwin overheard conversations and passed on logs about them to McCord and Liddy—that bug was *not* found at all. It seems likely, though we cannot prove it, that Baldwin either somehow obtained a key from Wells, or stole one; and just as likely that while in the DNC on June 12 he removed whatever bugs McCord had placed there. If McCord had shown him the location on a diagram, the removal of a bug would have taken Baldwin only a few seconds.

Baldwin left the DNC. Several days later, the burglars came to town.

On June 15, 1972, Phil Bailley and his attorney Edwin C. Brown, along with assistant United States attorneys John Rudy and Vincent Alto, appeared before U.S. District Court Judge Charles R. Richey in the federal courthouse in downtown Washington, D.C., for Bailley's arraignment. What occurred during this arraignment, and how it was altered in later proceedings, was so highly unusual that it bears some close scrutiny. It started out in a normal fashion, with Rudy presenting the twenty-two-count indictment and the defendant being asked how

he pleaded. As expected, Bailley pleaded not guilty to all counts, and a date was set, fifteen days hence, for a trial status conference. Rudy informed Judge Richey that the government had "no objection to Mr. Bailley's release on personal recognizance," meaning that Bailley would not be required to post any bond and would be allowed to be free and responsible himself for showing up in court at such later time when a trial or any other judicial proceedings would begin. So far, so standard.

Judge Richey was a presidential appointee who owed his recently acquired lifetime seat on the federal bench to Vice President Spiro Agnew. He had been assigned the Bailley case by a regular lottery system. We are not certain if he first learned of this case at the arraignment, but as the reader will recall, the *Star* had on June 9 carried a front-page story about the case, characterizing it as a call-girl ring with a White House connection. On June 10, the *Washington Post* had weighed in with its own front-page story, quoting courthouse sources as saying that "the White House had shown a special interest in the case and was exerting pressure on prosecutors not to comment on it." In any event, the June 15 arraignment proceedings before Judge Richey would take an extraordinary turn.

After stating that the prosecution had "no objection to Mr. Bailley's release on personal recognizance," the prosecutor proposed two things at once—first, to advise of an alternative to Bailley being released without bond (or released at all), and second, to disassociate himself and the government from that same alternative. He suggested that Judge Richey might wish to act on his own—the legal phrase is *sua sponte*—and specifically not at the request of the government, to order Bailley to be immediately committed to St. Elizabeth's Hospital for a sixty-day period to determine if he was mentally competent.

What transpired—the commitment of a practicing attorney to a notoriously understaffed mental hospital—was highly unusual. This is so particularly where neither the accused nor his counsel had been afforded prior notice that the issue of his commitment would be raised.

Almost embarrassed, Rudy now suggested that the rest of this discussion be held *in camera*, that is, in the judge's chambers, away from the public and the press, so that Rudy could present "certain objects and facts which we believe might justify this court" in sending Bailley to St. Elizabeth's. In effect, Rudy was asking Richey to view the "objects and facts" privately—while making it clear that if the judge wished to commit Bailley for observation, he'd have to do so on his own, without the prosecution requesting the commitment.

Richey, his clerk, Rudy, two U.S. marshals, a court reporter, and the rather stunned Bailley and his lawyer Brown adjourned immedi-

ately to an adjoining, unused jury room, where Richey convened a hearing on whether Bailley should be committed. In it, Rudy showed the judge the "objects and facts," i.e., the same photographs he had displayed to John Dean six days earlier, and argued from these that Bailley engaged in unusual sexual practices. He buttressed the point by graphic descriptions of photographs, sexual aids, and the motion picture films seized from Bailley's apartment.

Rudy told the court that "Mr. Bailley took photographs of females, a wide variety of females, in the nude. Some of these females were asked to engage in various acts such as putting whipped cream on their bodies. . . . This was done at Mr. Bailley's request for the purpose of exciting Mr. Bailley at a later time when he could look at these photographs, giving him a thrill so to speak beyond the normal act of sexual intercourse."

All of these showed, Rudy argued, that there was "something the matter with Mr. Bailley." Rudy suggested that these sexual materials might cause the court to want to determine, "*sua sponte*," whether Bailley "is competent to stand trial, but, more importantly, to see whether he suffered some mental disease or defect [insanity under D.C. law] at the time" of the alleged crimes. How these sexual depictions and paraphernalia had any bearing on whether Bailley was competent to understand the charges against him and aid in his own defense, or was insane, were questions that were not truly addressed. In summation, Rudy added, once again, that any proposed commitment of Bailley to a mental hospital would be *sua sponte*, and not at the government's request.

Attorney Brown attempted to cut through the prosecutorial baloney and to argue that while Bailley might have been quite sexually inventive, these activities had to do with consenting adults, and that none of Rudy's "objects or facts" were "sufficient for a showing to have him committed or to have him examined with reference to some possible defect." He was adamant that Bailley was not even faintly considering a defense of insanity against the pending charges. He vigorously opposed the idea of his client being committed.

Nonetheless, Richey concluded these secret proceedings—where none of the photos, sexual aids, motion pictures, or unmentioned address books made their way into the court file—by ruling that Bailley would be sent to the mental hospital as soon as a bed could be found. And then he added a further *sua sponte* condition on Bailley's freedom: a gag order, restraining "the accused and his counsel, as well as government counsel" from engaging in "any *further* publicity, pre-trial

publicity." Richey's words suggest that he may well have known about the press attention to this case.

Richey's ruling was a complete contradiction: On the one hand Richey would commit Bailley to a mental hospital to determine if he was competent, and on the other hand Richey would allow Bailley to remain free and to practice law until a bed became available at St. Elizabeth's. The discussion included the fact that Bailley was going to be able to continue to represent clients and to appear in court on their behalf while waiting for a bed to become available at St. Elizabeth's. Richey evidently believed that Bailley was competent to represent clients, but not himself.

All of this would have been enough to raise plenty of questions, as well as eyebrows. But what happened next was confusion bordering on deception in the official court docket sheets of the case. Rudy had disassociated the government from responsibility for Bailley's commitment. But the docket entry on the file was written to state falsely that Bailley was committed to St. Elizabeth's upon "the oral motion of the government." And a second document on the date of the arraignment, the actual court order committing Bailley, signed by Richey, says in effect that Richey committed Bailley because Bailley and his counsel asked to have Bailley committed! The operative paragraph reads, "Upon consideration of the motion by the Defendant for an examination of the mental competency. . . ." Down on the bottom of the second page, Bailley's attorney Brown signed it with the notation, "seen and approved." But Brown had objected to Bailley's commitment, and so had Bailley.

When Rudy noticed the error in the docket entry that erroneously identified the government as having asked for Bailley's commitment, he became upset. Rudy was so upset that, before the status hearing on June 30, he asked Bailley co-counsel Allan M. Palmer to take the matter up with Judge Richey. Palmer informed Richey, on the record, that the docket sheet was in error, and that the docket sheet should have read *sua sponte*, meaning that Richey acted on his own. Richey made no response on the record to the pointing out of this error, and the documents were not changed nor any addendum made—the docket sheet in the court file still reads that Bailley was committed upon motion of the government, and the court order still reads that Bailley asked to have himself committed.

Consider: Bailley was gagged and committed to a mental hospital on the day of his arraignment. However, the record of who initiated Bailley's commitment procedure was confusing, was in conflict with the facts and with itself—was false. "The only reason Bailley was sent

to St. Elizabeth's was to discredit him," John Rudy recently told us. But who would want Bailley discredited? Why would it have to be done right away? Why discredit a presumed innocent defendant in a criminal case, particularly when that defendant was a member in good standing of the bar? And why would an unrequested gag order be issued in this case?

We know that John Dean had an extraordinary interest in the address book; and we have also seen that there is strong evidence linking Dean to the break-ins at the DNC. Not only did Dean express an interest in Bailley's case, he had a girlfriend whose name and Clout nickname were in an address book along with the alias of her friend Heidi Rikan, an address book that might well be introduced into evidence in a Mann Act court case.

Judge Charles Richey would not talk with us directly, but when a third party asked Judge Richey about these matters, he asserted that he had never met or spoken to John Dean at any time about any subject, Bailley or otherwise; that he knew nothing of Dean's meeting with Rudy and Smith; and that he had little memory of the proceeding in which he had ordered Bailley committed to St. Elizabeth's.

While the initial case was pending, a second grand jury was convened by Rudy, in response to the *Star* article, to look into the possibility of a call-girl ring. Rudy told us recently that he had issued subpoenas in this case to the women listed in Bailley's address book—the one he had shown Dean.

Only about 10 percent of those served came to the grand jury to testify, Rudy remembers. If a woman was out of town, the prosecutors went on without her. As for those who did come in, as a way of identifying them Rudy compared the women to those depicted in the photographs found in Bailley's apartment. This unusual procedure etched the entire sequence of events deeply in Rudy's memory.

As Maureen Dean reported in her book, a bit earlier in the year she found herself precipitously dropped because John wanted to enjoy his freedom. Then had come a reconciliation, and even an engagement. Then, she writes, there was a sudden break: "I realized that John was not ready to marry me and would not be for some time. There was only one course for me: to quit my job, return to Los Angeles, and disappear." So that's what she did, disappearing effectively for the entire summer of 1972. Dean's own version of this event, reported in *Blind Ambition*, puts the date of the breakup in late June of 1972. We know from Rudy that the subpoenas were served during that same period.

Rudy's second grand jury called Bailley's parents and some of his

seven sisters, and had only one question for them: Where was Jeannine? They all testified that she was backpacking in Europe and could not be reached.

Out of this second grand jury came a second indictment that superseded the first, and again made no mention of any charges relating to any call-girl ring. This new and slightly longer indictment was given an entirely new case number. Usually, such a second indictment that supersedes a pending indictment would retain the number of the first one, in order to prevent confusion and to keep a record of the proceedings that had been amassed in the first case. Here, just the opposite happened: the presence of a new, and seemingly unrelated, case number assigned to the second indictment had the effect of making the first Bailley case, and its paper trail, all but disappear. Any reporter who wanted to find out about the Bailley proceedings would find only a file with the new case number 1718-72, and would not have been able to discern from this file the relevant matters that had occurred in the first case, such as the secret commitment hearing, the confusion about who had proposed the defendant's commitment to the mental asylum, and other matters. And that was good news for anyone seeking to bury Phil Bailley and his address books before they became the focus of intense scrutiny.

We will return to Bailley and the devastating disposition of his case later in this book, in temporal sequence.

We come at last to the second and final Watergate break-in, the one to which most Americans refer as the beginning of the case that resulted in many people going to prison and in the resignation of Richard Nixon. Eight men were involved in the execution, supervision, and observation of the break-in that night of June 16–17: Gordon Liddy, Howard Hunt, James McCord, Alfred Baldwin, Bernard Barker, Frank Sturgis, Rolando Martinez, and Virgilio Gonzalez. The men from Miami were staying at the Watergate hotel, and Liddy agreed to meet everyone in Room 214 at 8:00 P.M., the hour at which guards at the Watergate office building made the last regular inspection of the premises before a midnight check. Liddy arrived late, having had a scare when he jumped a light and was pulled over by a traffic officer. McCord, Martinez, Gonzalez, and Sturgis were eating lobster tails in the Watergate hotel restaurant. Upstairs in 214, Liddy found lights, camera stands, and men practicing rapid-fire photography because they'd have to shoot so many photos during the time they were at the DNC headquarters.

Because of the rush, the ostensible need to change the bugs, and

the recent Magruder insistence on photographing everything, many details had not been completed. For instance, only earlier that evening, Baldwin had to be sent out to buy some extra wire and some batteries for a microphone-transmitter that McCord was concealing in a smoke alarm to be placed on a wall; he'd found the batteries but not the wire. McCord told him to solder the batteries together, and Baldwin managed to melt them. Liddy was told by McCord that some of the other battery-operated transceiver units were low and hadn't been recharged; Liddy couldn't believe how sloppy the bugging preparations were—but then, he himself was a perfectionist.

He was not, however, the surreptitious entry expert, and left the particulars of that to McCord and the other ex–CIA men. It was a Friday night, and the expectation had been that the DNC would be vacant, but lights in the Democratic headquarters stayed on and on, and Liddy decided to delay the break-in from a scheduled 10:00 P.M. until after midnight.

Using the pretext of delivering a typewriter, McCord got himself into the office building. According to the logs maintained by the Watergate's private security service, General Security Services, Inc., McCord, under an alias, signed in at 10:50 P.M. He took the elevator up to the eighth floor, his announced destination—where coincidentally the Federal Reserve Board had recently been burglarized. Then he went quickly through the stairwell all the way down to the garage, taping open doors and stuffing latches with bits of paper on the eighth and sixth floors, the B-2 and B-3 levels, and the doors leading into the underground garage. He returned to the Watergate hotel, then went over to Baldwin's observation post, all before 11:30 P.M.

At the office building, security guard Frank Wills arrived, logged in, and began the scheduled midnight tour of the building. Just as soon as he began, he discovered the tampered locks on B-2 and B-3, returned to the lobby, and wrote down that they had been "stuff with paper." He unstuck these locks, making them work again. Although the stuffing could have been a maintenance man's doing, Wills decided he'd better call his superior, but couldn't reach him immediately, as Captain Bobby Jackson was making rounds in a location about twenty minutes away. Wills left a message on the GSS answering service saying there was a problem and requesting Jackson be contacted by beeper to give instructions. Jackson had some difficulty getting to a phone, and while Wills waited for him he called another supervisor, who told him to check the locks on other floors. If those were taped, too, there could be a burglary in progress; if not taped, the first ones could have been a maintenance man's leftover handiwork. As Wills was preparing to

check, a young man came downstairs from the DNC headquarters, and Wills went with him across the street to the Howard Johnson's to get something to eat.

The DNC was now dark, and so was the Watergate office building's lobby—but McCord reached Hunt and Liddy by walkie-talkie and told them, in effect, that the coast was not yet clear. The break-in was delayed. Liddy thought little of this; as we have seen, in the first break-in it was he who had let several hours go by, just to be sure there would be no problems.

Wills returned to his guard post just in time to get Captain Jackson's call, which made the same suggestion he'd previously gotten from the other supervisor: check the other locks before hitting the panic button. Before making that inspection, Wills evidently decided to finish his cheeseburger.

Gordon Liddy at the command post was dependent on information from McCord, who wasn't sitting tight. Every few minutes, he seemed to be somewhere else—the HoJo's restaurant, the exterior of the complex, the Baldwin listening post. McCord arrived at Room 214 at 1:05 A.M., claiming he had been across the street in the garage, checking the locks. If he had, he would have discovered that Wills had unstuffed them. It is not clear if McCord was just trying to explain away a delay to a nervous group of men, or if this was a deliberate lie. The burglars set out. Hunt and Liddy were to remain behind in 214, connected to the McCord group and to Baldwin by walkie-talkies. Five minutes later, when the business-suited burglars reached the B-2 door, they found it relocked, and couldn't get in.

From here on, accounts differ. As author Jim Hougan first revealed in his 1984 book *Secret Agenda*, based on conversations with a number of the participants in the burglary, after finding the way blocked, McCord, Barker, and Martinez went back to confer with Hunt and Liddy while Gonzalez tried to pick the lock and Sturgis acted as his bodyguard. The decision to go back in was made by Liddy, over Hunt's objection. Liddy reasoned that a maintenance man could have undone the lock-stuffing, and that since no alarm had been raised, the coast was actually clear.

The burglary group left the Watergate hotel so quickly that they were incredibly sloppy. Though they carried false identification, on their persons they had many things that would tie them to Hunt, Liddy, the CRP, and the White House—a key to Room 214, $100 bills that had come from the money previously laundered by Barker for Liddy, and a pop-up address book notebook with Howard Hunt's name in it. The Cubans especially felt they had nothing to fear by dashing

off for this burglary, for they were intensely loyal to Howard Hunt and knew he wouldn't do anything to harm them. Hunt had given particular instructions to Martinez, but, acting as a good cutout should, hadn't said where the instructions had originated.

To recap: Liddy thought the men were aiming for O'Brien's office. Hunt—according to Martinez—had given Martinez a marked floor plan showing the target in the Oliver/Wells/Governors section of the DNC as well as a key to Maxie Wells's desk. Howard Hunt has denied giving a key or a floor plan to Martinez or any of the burglars, but, as the reader will recall, Hunt did confirm that the target of the first break-in was a phone Hunt said was used by Wells and Oliver.

It was 1:30 A.M., June 17, 1972. Gonzalez had been successful in opening and retaping the door. The burglars were able to enter from the garage to the building, and they went in and up the stairs. After several minutes, McCord reappeared and joined them in the stairwell; then the five men walked up to the sixth floor.

The burglars were trying to get into the DNC offices proper when Frank Wills discovered that the B-2 lock had been retaped. Returning to the lobby, Wills discussed this with the just arrived Federal Reserve Board office's guard Walter Hellams, who wanted to call the police. Wills wasn't ready yet. He telephoned the man who had had the shift before him to find out if there had been any taped locks on that shift; the man said no. Wills called Jackson again and informed him of the new taping, and it was only after this that Wills telephoned the District of Columbia police. At 1:52, the call went out from the dispatcher and was picked up by a unit of plainclothesmen only a block and a half from the Watergate, who said they'd respond. One of the policeman, Carl Shoffler, had hair down to his shoulders.

Meanwhile, McCord, Martinez, Barker, Sturgis, and Gonzalez had with some difficulty removed a door and gotten into the DNC suite and were moving about, though not in Larry O'Brien's office. They were in the offices near Virginia Avenue and the terrace, those belonging to Oliver and Wells and the office of the press secretary on the other side of Oliver's. Martinez was setting up a camera atop Maxie Wells's desk.

After some confabulation in the lobby with Wills and Hellams, the three police officers and two guards went up a stairwell to the eighth floor, the logical place to begin looking for burglars since the Federal Reserve Board office on that floor had been recently hit. Inside the DNC on the sixth floor, Martinez heard noise of their tramping up the stairs. McCord told him it was probably the regular two o'clock inspection round, and advised Barker to turn off his walkie-talkie to

prevent the static from being heard. The police and guards had a hard time getting into the FRB on the eighth floor, decided no one was in there, and then headed down, stopping to look at the seventh floor, and then at the sixth.

Now Baldwin in the HoJo's could see the interlopers. Over the walkie-talkie he rather casually asked Liddy in Room 214, "Hey, any of our guys wearin' hippie clothes?" "Negative," Liddy replied. "All our people are in business suits. Why?" Baldwin told him they had "trouble": men with guns on the sixth floor.

Inside the DNC, the burglars deduced that the jig was up. McCord grabbed some papers from the press secretary's desk—application blanks for press credentials at the convention by campus newspapers, a memo on where to get low-cost dormitory rooms in Miami, and a memo on allowable travel expenses. Then the burglars all hid behind desks. "They got us," Barker whispered over the walkie-talkie. Rolando Martinez thought about what was happening and decided that he and his fellow Miamians had been betrayed by James McCord.

Guns drawn, the police and guards entered the DNC offices, discovered the men hiding behind the desks, and ordered them to stand up and "assume the position"—hands against a wall, legs spread—for a pat-down. The burglars complied readily, almost with nonchalance, and offered no resistance. They looked so odd, in business suits and wearing rubber gloves, that the police assumed they were dealing with professionals, probably men from organized crime who might well be armed. No weapons were found. Somebody called for backup units, and from nearby streets squad cars with lights flashing began heading for the building.

Realizing that this was not a crime involving street criminals, Shoffler and the two other plainclothesmen proceeded with care, so as to produce from their searches of the burglars the sort of solid, properly taken evidence that would stand up in court. Shoffler recalls,

> We put them all against the wall and I was going to be the listing officer and [fellow officer John] Barrett was going to be the searching officer. That being the case we only patted them for weapons and then left them on the wall so that Barrett could go one by one to seize items from them.

While under arrest with his hands against the wall, Martinez took a calculated and highly dangerous risk, one that could have cost him his life. He reached inside his coat pocket for something. When Shoffler saw Martinez do this, he immediately slammed and wrestled the Cuban until he was neutralized. "I almost had to break his arm off," Shoffler

remembers. Shoffler searched him thoroughly to see what Martinez had been trying so desperately to get rid of: It was a small key, taped to the back of a notebook. Martinez has acknowledged to us that he was trying to get rid of the key that he says was given to him by Howard Hunt, and that this action by Shoffler prevented him from doing so.

Shoffler asked Martinez what the key was for, but got no answer. He decided not to remove it from the notebook and try it on any of the desks, realizing that to do so might compromise the evidence. The burglars had lots of loose keys, mostly blanks, and lock-picking equipment. Of more immediate concern was the smoke alarm device—the police thought it might be a bomb.

The function of Martinez's key would not become apparent until ten days later, when the FBI by trial and error discovered that it fit the desk of Maxie Wells. When interviewed about this by the FBI, both Wells and Barbara Kennedy—to whom Wells had given the spare key to her desk—were able to produce their keys. But, according to the available FBI reports, neither woman was asked the obvious follow-up questions: *Why* would a Watergate burglar have a key to Wells's desk in his possession, and what items of possible interest to a Watergate burglar were maintained in Wells's locked desk drawer? Although another DNC employee told us that Wells was interviewed by the FBI "four or five times," no reports of additional Wells/Martinez key interviews are to be found in the official Watergate files at the National Archives or at the J. Edgar Hoover Building in Washington, D.C. And curiously, two years later, when testifying about the break-in before the Senate Watergate committee, Wells would avoid disclosing her knowledge that Martinez had in his possession a key to her desk. Howard S. Liebengood, assistant counsel to the minority staff of the committee, confirmed to us that the information Maxie Wells kept to herself, if known to the minority staff, could have significantly altered the focus of the investigation.

In the Watergate hotel, Hunt knew it was all over, and told Liddy they'd have to get out quickly, because Barker had the key to the hotel room. Soon, the cops would come there. They exited so rapidly that they didn't have time to clean out the second room, and so left behind electronic equipment, $100 bills that matched sequentially with those in the burglars' pockets, a Barker address book that also contained Hunt's White House telephone number, and a check made out by Hunt to a local country club. Liddy got in his jeep and prepared to go home, as Hunt said he'd take care of Baldwin and the observation post. Hunt went into the HoJo's and found Baldwin calmly looking over the

scene across the avenue, observing the squad cars with lights, and McCord and the other burglars being led out of the building and into a paddy wagon. Hunt wanted Baldwin out of town, but Baldwin complained that he had a lot of stuff to load. By his own account, Hunt then told him to load it up in McCord's van and get away. Baldwin took everything out of the room, but then drove the van and the electronic equipment, including the walkie-talkies that matched the one taken from Barker in the DNC, to McCord's home in a Maryland suburb. Then he got out of town, heading for Connecticut.

Gordon Liddy reached his own home about three in the morning, thinking about all the files and the evidence linking this burglary to higher-ups that he'd have to destroy when he got to the office the next morning. He knew that McCord's fingerprints were on file, since McCord had been in government service, which meant he would be "made" within twenty-four hours and his employment easily traced to the CRP. That, of course, would place Liddy himself in jeopardy, even if all the burglars kept their mouths shut. His wife stirred in bed and asked him if anything was wrong.

"There was trouble. Some people got caught. I'll probably be going to jail," he told her, then climbed into bed and tried to get some sleep.