

IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF NEW YORK

77 CRIM. 0245

UNITED STATES OF AMERICA)

v.)

JOHN J. KEARNEY)

CRIMINAL NO. _____

Violations of 18 U.S.C.
§§371, 1702, and 2511
(CONSPIRACY, OBSTRUCTION OF
CORRESPONDENCE, WIRE INTERCEPTION)

The Grand Jury Charges:

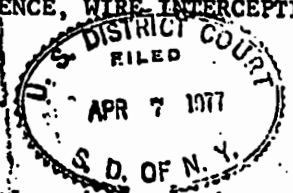
INTRODUCTION

1. From in or about August 1970 through in or about June 1972, JOHN J. KEARNEY, the DEFENDANT, was employed by the Federal Bureau of Investigation (hereinafter "FBI") as supervisor of Squad 47 in the New York office of the FBI, (hereinafter "Squad 47").

2. At all times material to this indictment Squad 47 was charged with investigative responsibility for the location and apprehension of fugitives associated with the Weatherman organization.

COUNT I

1. From in or about late 1970 or early 1971 through June 1972, in the Southern District of New York, JOHN J. KEARNEY, the DEFENDANT, together with other persons, including agents of Squad 47, to the grand jury known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit: to take letters that had been in authorized



depositories for mail matter before their delivery to the persons to whom they were directed, with design to pry into the business and secrets of another, in violation of Title 18, United States Code, Section 1702; and to possess keys to authorized receptacles for the delivery of mail matter with the intent unlawfully or improperly to use them or to cause them to be unlawfully or improperly used, in violation of Title 18, United States Code, Section 1704.

2. It was an object of the conspiracy to unlawfully examine the contents of mail in order to search for leads to the location and apprehension of Weatherman fugitives.

3. It was a part of the conspiracy that agents of Squad 47 would obtain and open mail addressed to individuals whom they suspected were in communication with persons associated with the Weatherman organization.

4. It was a further part of the conspiracy that defendant Kearney would obtain a device, referred to as a "steamer," that permitted an envelope to be opened and later resealed without any obvious evidence of tampering, that he would instruct agents of Squad 47 in the operation of the steamer, and that he, together with agents of Squad 47, would maintain possession of the steamer for the purpose of unlawfully opening mail.

5. It was a further part of the conspiracy that agents of Squad 47 would acquire mailbox keys and, together with defendant Kearney, maintain possession of those keys for the purpose of using them in unlawfully obtaining mail by unlocking mailboxes.

6. It was a further part of the conspiracy that agents of Squad 47 would unlawfully obtain mail from various addresses in the New York City area; take the mail to the FBI office at 201 E. 69th Street, New York, New York, where the letters would be opened, their contents copied, and the letters resealed; and return the mail to the addresses from which it had been obtained.

7. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

OVERT ACTS

1. In or about late 1970 or early 1971, but in any event prior to April 1971, defendant Kearney obtained for Squad 47 a steamer to be used in the surreptitious opening of mail.

2. From in or about late 1970 through June 1972, defendant Kearney, together with agents of Squad 47, maintained possession of keys that could be used to open various mailboxes in the New York City area.

3. From in or about 1971 through in or about early 1972, defendant Kearney instituted and supervised a procedure for obtaining and opening mail, known as the "mail run," and at various times assigned agents of Squad 47 to conduct the "mail run!"

4. In or about 1971, agents of Squad 47 possessed a key to the mailbox of Dana Biberman, who resided at 521 W.

111th Street, New York, New York, and obtained and opened mail delivered to that address.

5. In or about August 1971, agents of Squad 47 obtained and opened mail delivered to the address of Brian Flanagan, 375 Riverside Drive, New York, New York.

6. From in or about mid-1971 through in or about October 1971, agents of Squad 47 obtained and opened mail delivered to the address of Alvin Loving, 262 Bowery, New York, New York.

7. From in or about 1971 through June 1972, agents of Squad 47 possessed keys to mailboxes at 894 Riverside Drive, 900 Riverside Drive, and 674 W. 161st Street, New York, New York, and obtained and opened mail delivered to those locations and addressed to various persons, including Russell Neufeld, Phyllis Prentice, Steven Krugman, Laura Foner, Jane Spielman, Sally Stein, Judy Greenberg, Franklin Apfels, Joan Facher, and Mary Bolton.

8. In or about January and February 1972, an agent of Squad 47 obtained and opened mail addressed to Deborah Offner and other persons at 444 Central Park West, New York, New York.

9. From in or about January 1972 through June 1972, agents of Squad 47 possessed a key to the mailbox of Jennifer Dohrn and Judith Clark, who resided at 217 Thompson Street, New York, New York, and obtained and opened mail delivered to that address.

In violation of Title 18, United States Code, Section

371.

COUNT II

From in or about 1971 through June 1972, in the Southern District of New York, JOHN J. KEARNEY, the DEFENDANT, with design to pry into the business and secrets of another, did aid, abet, counsel, induce, and procure agents of Squad 47 to take, before delivery to the persons to whom they were directed, letters addressed to persons at 894 Riverside Drive, 900 Riverside Drive, and 674 W. 161st Street, New York, New York, including Russell Neufeld, Phyllis Prentice, Steven Krugman, Laura Foner, Jane Spielman, Sally Stein, Judy Greenberg, Franklin Apfels, Joan Facher, and Mary Bolton, which letters had been in authorized depositories for mail matter.

In violation of Title 18, United States Code, Sections 2 and 1702.

COUNT III

From in or about January 1972 through June 1972, in the Southern District of New York, JOHN J. KEARNEY, the DEFENDANT, with design to pry into the business and secrets of another, did aid, abet, counsel, induce, and procure agents of Squad 47 to take, before delivery to the persons to whom they were directed, letters addressed to persons at 217 Thompson Street, New York, New York, including Jennifer Doherty and Judith Clark, which letters had been in authorized depositories for mail matter.

In violation of Title 18, United States Code, Sections 2 and 1702.

1. From in or about late 1970 through June 1972, in the Southern District of New York, JOHN J. KEARNEY, the DEFENDANT, together with other persons, including agents of Squad 47, to the grand jury known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit: to willfully intercept, endeavor to intercept, and procure other persons to intercept and endeavor to intercept, wire communications within the Southern District of New York, in violation of Title 18, United States Code, Section 2511(1)(a).

2. It was an object of the conspiracy to unlawfully intercept wire communications for the purpose of seeking leads to the location and apprehension of Weatherman fugitives.

3. It was a part of the conspiracy that agents of Squad 47, under defendant Kearney's supervision, guidance, and control, would unlawfully intercept and endeavor to intercept wire communications of selected individuals whom they suspected were in contact with persons associated with the Weatherman organization.

4. It was a further part of the conspiracy that defendant Kearney, together with agents of Squad 47, would maintain possession of electronic, mechanical, and other devices for the purpose of unlawfully intercepting wire communications.

5. It was a further part of the conspiracy that defendant Kearney would authorize and direct agents of Squad 47 to install electronic, mechanical, and other devices for the purpose of unlawfully intercepting wire communications.

6. It was a further part of the conspiracy that defendant Kearney would authorize, direct, and assign agents of Squad 47 to monitor, record, transcribe, and summarize the contents of unlawfully intercepted wire communications.

7. It was a further part of the conspiracy that defendant Kearney would retain the notes and summaries prepared by agents of Squad 47 during the course of monitoring unlawfully intercepted wire communications.

8. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

OVERT ACTS

1. From in or about late 1970 through June 1972, defendant Kearney supervised meetings of Squad 47 during which he and the agents discussed various individuals of interest to Squad 47 and whether their telephones should be wiretapped.

2. From in or about late 1970 through June 1972, defendant Kearney, together with agents of Squad 47, kept the wiretapping equipment in his office or in the squad room.

3. From in or about late 1970 through June 1972, defendant Kearney obtained information about locations at which various telephone wires could be tapped.

4. From in or about late 1970 through June 1972, defendant Kearney posted schedules assigning agents of Squad 47 to monitor wiretaps.

5. From in or about late 1970 through June 1972, defendant Kearney maintained files containing notes and summaries of conversations overheard on wiretaps installed and monitored by agents of Squad 47.

6. In or about late 1970 or early 1971, agents of Squad 47, from a location at 14th Street and 8th Avenue, New York, New York, installed and monitored a wiretap on a telephone in the vicinity thereof.

7. In or about late 1970 or early 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of Sam Karp at 186 2nd Avenue, New York, New York.

8. In or about early 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of James Worth at 325 E. 5th Street, New York, New York.

9. In or about the spring or summer of 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of Alvin Loving at 262 Bowery, New York, New York.

10. From in or about early 1971 through in or about December 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of Dana Biberman and other persons at 521 W. 111th Street, New York, New York.

11. In or about August and September 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of Brian Flanagan at 375 Riverside Drive, New York, New York.

12. In or about November and December 1971, agents of Squad 47 installed and monitored a wiretap on the telephone of Marie Jeter at 305 W. 13th Street, New York, New York.

13. In or about January and February 1972, agents of Squad 47 installed and monitored a wiretap on the telephone of Johanna Lawrenson and other persons at 138 E. 34th Street, New York, New York.

14. In or about February and March 1972, agents of Squad 47 installed and monitored a wiretap on the telephone of Sara Blackburn and Lewis Cole at 50 W. 8th Street, New York, New York.

15. From in or about December 1971 through in or about March 1972, agents of Squad 47 installed and monitored wiretaps on the telephones of Russell Neufeld and other persons at 894 Riverside Drive, New York, New York.

16. In or about April 1972, agents of Squad 47 installed and monitored wiretaps on the telephone of Julie Nichamin and William Price at 61 W. 87th Street, New York, New York, and on public telephones in the vicinity thereof.

In violation of Title 18, United States Code, Section 371.

COUNT V

In or about April 1972, in the Southern District of New York, JOHN J. KEARNEY, the DEFENDANT, willfully intercepted, endeavored to intercept, and procured agents of Squad 47 to intercept and endeavor to intercept, wire communications of Julie Nichamin and William Price, residing at 61 W. 87th Street, New York, New York, and wire communications of Julie Nichamin and other persons transmitted from public telephones located in the vicinity of 61 W. 87th Street, New York, New York.

In violation of Title 18, United States Code, Sections 2 and 2511(1)(a).

A TRUE BILL

W. M. Reynolds
Foreman

Drew S. Days, III
DREW S. DAYS, III
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Robert M. Gaskin
United States Attorney

Date: April 7, 1977

77 CRIM 3245

United States District Court
SOUTHERN DISTRICT OF NEW YORK
THE UNITED STATES OF AMERICA

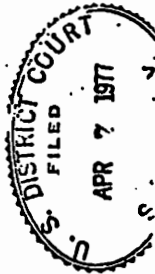
vs.

JOHN J. KEARNEY

INDICTMENT

DREW S. DAYS, III
A TRUE BILL
Assistant Attorney General

WILBUR McREYNOLDS
Foreman.



JUDGE DUBOIS

April 7, 1977
Filed Subpoena
H. J. Keane

April 14, 1977 - L. J. (att. Herbert Santora)
Heads not guilty. Det. Abagnel.
W. J. J. for all purposes.
L. J. Keane

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENTOFFENSE CHARGED
CONSPIRACY

OBSTRUCTION OF CORRESPONDENCE

WIRE INTERCEPTION.

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

Place of offense

SDNY

U.S.C. Citation

18 USC §§ 371,
1702, 2511

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT - SOUTHERN
DISTRICT OF NEW YORK

772 CRIM 0245

JOHN J. KEARNEY

Address { c/o Hubert Santos, Esq. (attorney)
51 Russ Street tel. (203) 249-
Hartford, Conn. 6548Birth Date { Jan. 15, 1922 ☒ Male ☐ Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

UNITED STATES GRAND JURY - SDNY

☐ person is awaiting trial in another Federal or State Court,
give name of court☐ this person/proceeding is transferred from another district
per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges
previously dismissed which were
dismissed on motion of:
☐ U.S. Att'y ☐ Defense☐ this prosecution relates to
a pending case involving
this same defendantSHOW
DOCKET NO.Name and Office of Person
Furnishing Information on
THIS FORMWilliam L. Gardner
Criminal Section, Civil Rights
Division, U.S. Dept. of Justice
Washington, D.C. 20530
☐ U.S. Att'y ☒ Other U.S. Agency
Same as above
room 7815 ext. 3401Name of Asst. U.S. Att'y
(if assigned)

DEFENDANT

IS NOT IN CUSTODY

- 1) ☒ Has not been arrested, pending outcome this proceeding.
If not detained give date any prior summons
was served on above charges none
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction ☐ Fed'l ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainee been filed? ☐ Yes ☐ No If "Yes" give date filed
Mo. Day YearDATE OF
ARREST

Or... If Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY ☐ Mo. Day Year☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

This Indictment was returned by a special grand jury empanelled on August 17, 1976
This case is being prosecuted by the CRIMINAL SECTION, CIVIL RIGHTS DIVISION, U.S. DEPT.
OF JUSTICE, WASHINGTON, D.C. 20530. Correspondence should be addressed to William L. Gardner
at this address. ALL CORRESPONDENCE SHOULD BE MARKED "PERSONAL - MAIL ROOM DO NOT OPEN"