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Executive Grant of Clemency

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS on November sixth, 1980 W. Mark Felt was convicted in the United States District Court for the District of Columbia on an indictment charging violation of Section 241, Title 18, United States Code, and on December fifteenth, 1980 was ordered to pay a fine of five thousand dollars (\$5,000); and

WHEREAS the aforesaid court has suspended execution of the judgment of conviction pending appeal; and

WHEREAS it has been made to appear that the said W. Mark Felt is a fit subject for Executive clemency:

NOW, THEREFORE, BE IT KNOWN, that I, Ronald Reagan, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant unto the said W. Mark Felt a full and unconditional pardon.

IN TESTIMONY WHEREOF I have hereunto signed my name and caused the seal of the Department of Justice to be affixed.

DONE at the City of Washington this
day of March, in the
Year of Our Lord One Thousand Nine
Hundred and Eighty-one and of the
Independence of the United States the
Two Hundred and Fifth.



By the President:

Executive Grant of Clemency

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS on November sixth, 1980 Edward S. Miller was convicted in the United States District Court for the District of Columbia on an indictment charging violation of Section 241, Title 18, United States Code, and on December fifteenth, 1980 was ordered to pay a fine of three thousand five hundred dollars (\$3,500); and

WHEREAS the aforesaid court has suspended execution of the judgment of conviction pending appeal; and

WHEREAS it has been made to appear that the said Edward S. Miller is a fit subject for Executive clemency:

NOW, THEREFORE, BE IT KNOWN, that I, Ronald Reagan, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant unto the said Edward S. Miller a full and unconditional pardon.

IN TESTIMONY WHEREOF I have hereunto signed my name and caused the seal of the Department of Justice to be affixed.

DONE at the City of Washington this
 day of March, in the
Year of Our Lord One Thousand Nine
Hundred and Eighty-one and of the
Independence of the United States the
Two hundred and Fifth.



By the President:

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February 2, 1981

PERSONAL AND CONFIDENTIAL

The Honorable Edwin Meese III
Counsel to the President
The White House
Washington, D.C.

Dear Mr. Meese:

This follows up on our conversation of Friday, January 30, 1981, relating to the possibility of a Presidential pardon for my client, W. Mark Felt.

Enclosed is a copy of a blind memorandum on the same subject which I wrote around December 1, 1980. It may have been circulated to your transition team. Certain paragraphs which I have highlighted, on pages 4, 7 and 8, seem particularly apt at this moment. The remainder of the memo provides, I think, all of the background to the case you would need to intelligently discuss it with the President or, for that matter, with anyone else. Those matters which are asserted as facts therein are abundantly supported by trial evidence.

I have discussed our conversation fully with Mr. Felt. He is exceptionally gratified by the President's personal interest in his entire situation. He feels that he was greatly wronged by the fact of the prosecution, much more so incidentally, than by the conviction. He also has grave concern over the residue of the case within the intelligence and law enforcement communities which are still charged with the responsibility of preventing terrorism, both foreign and domestic, whatever those qualifications mean. Thus, Mr. Felt would welcome a pardon.

The Honorable Edwin Meese III

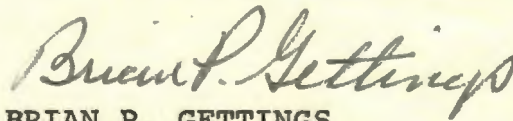
Page 2

February 2, 1981

For my own part, I would applaud a pardon not only as an act of generosity to a client but as an act of high statesmanship on behalf of the nation. What it would mean, in the broader sense, would not and should not be overlooked. Terrorism, international and domestic, is a matter of deep concern to me as a citizen and this case impinges substantially on our ability to deal with it. I am prepared, then, to assist you in any way in the preparation of any papers or positions you would want to support and justify a pardon. The key, it has always seemed to me, is that the Constitution only forbids "unreasonable" searches and seizures, a concept which, unfortunately, was wholly lost on the Carter Justice Department and, in the end, on the trial judge.

Yours very truly,

LEONARD, COHEN, GETTINGS & SHER

A handwritten signature in cursive script that reads "Brian P. Gettings".

BRIAN P. GETTINGS

BPG:jet
Enclosure

PROCLAMATION _____ (No.) _____ . _____ (Date) _____ , 1981

GRANTING PARDON TO W. MARK FELT AND EDWARD S. MILLER

By the President of the United States of America
a Proclamation

Acting pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution of the United States, I, Ronald Reagan, President of the United States, do hereby grant a full, complete and unconditional pardon to W. Mark Felt and Edward S. Miller, retired officials of the Federal Bureau of Investigation, who were convicted on November 6, 1980, of conspiring in 1972 to authorize warrantless searches as part of the FBI's investigation of the Weather Underground.

Evidence at the trial established that the Weather Underground was a Communist terrorist organization responsible for many bombings throughout our country in the 1970's, including explosions at the State Department, the Pentagon, and the United States Capitol. The activities of the Weathermen resulted in death, injury, property damage and widespread fear among the public. Weathermen were known to be in collaboration with the intelligence organizations of Soviet Russia, Cuba, North Vietnam and the Viet Cong in an attempt to undermine, through their terrorist acts, American efforts to negotiate a peaceful settlement to the conflict in Vietnam.

These convictions are an unfair blemish on these men and the institution they served. They were trained career employees with a combined experience of over 65 years of distinguished service to the people of the United States. Their tenure extended over three wars. I am satisfied that they had no criminal intent or thought of personal gain, and their actions were intended to be in the best interest of the United States.

It has long been a part of the FBI's mission, in wartime and peacetime, to keep the president advised of the activities of hostile foreign powers and their collaborators in this country. A part of this mission is to gather intelligence to thwart those whose avowed purpose is to launch violent attacks against our people and our institutions.

In authorizing surreptitious entries, that is, secret physical searches of premises without warrants, in a very limited number of cases, these officials acted in strict accordance with policies and procedures which had been in effect for over thirty years. They had been led to believe by a long line of presidents, attorneys general and high officials of the Department of Justice that surreptitious entries in important national security cases were not only permissible but required. The prosecution of Mr. Felt and Mr. Miller was based on a standard of conduct which did not exist in 1972 and which did not take cognizance of the historical precedent for their actions.

To take pressure off subordinate agents, Mr. Felt and Mr. Miller came forward over four years ago to acknowledge publicly that they had authorized agents to conduct surreptitious entries in an effort to stop the bombings.

My action is not only on behalf of Mr. Felt, Mr. Miller and their families who have had to endure intense anxiety for the past four years. It is also in vindication of the FBI, the intelligence community and law enforcement officials everywhere in the United States. I want them to know that though the rules governing their conduct may change from time to time, they will not later be prosecuted under rules or interpretations of law not in effect when they acted in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

LAW OFFICES

DIUGUID, KENNELLY & EPSTEIN

ONE THOUSAND CONNECTICUT AVENUE, N.W.

WASHINGTON, D.C. 20036

JOHN P. DIUGUID*
THOMAS A. KENNELLY
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*ALSO ADMITTED IN MD.

(202) 872-0700

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ROCKVILLE, MD. 20850

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MARYLAND 20031

February 3, 1981

Mr. Edwin Meese III
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Meese:

It was kind of you to call on January 30. Please be assured that Edward S. Miller would accept a Presidential pardon with deepest gratitude. It is most gracious and compassionate of the President to consider such action at this time.

A Presidential pardon would serve at least three beneficial purposes. It would ensure justice to Ed Miller and Mark Felt, whose conduct was at all times in the best interest of the United States and entirely devoid of any criminal intent or thought of personal gain.

Second, and more importantly from the nation's standpoint, it would affirm the President's determination to assert his constitutional responsibility, as exercised through the FBI, to thwart violent attacks, both domestic and foreign, against the very foundations of the security of this country. As he has consistently stated, the people of this country expect no less from their president.

Third, the President would be sending a clear signal to the intelligence and law enforcement communities that they will not be the "whipping boys" of his Administration. The pardons will demonstrate beyond any mere words support for the intelligence and law enforcement communities instead of the brutalization they have undergone during recent years.

The responsibility for carrying out the President's national security obligations in this country rests squarely with the

Mr. Edwin Meese III
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February 3, 1981

Federal Bureau of Investigation; Ed Miller, as head of the Intelligence Division of the FBI, had that responsibility squarely on his shoulders in 1972-73.

Never in our history had we been faced with such outrageous, unabashed, and terroristic attacks upon the people and institutions of this country as were mounted by a group of admitted revolutionary communists calling themselves the Weather Underground Organization. We have always had to deal with spies and saboteurs and other enemy agents. But none of these had dared, as did the Weathermen, to launch bombing attacks nationwide against police stations, office buildings, college campuses, and even the United States Capitol and the Pentagon. The Weathermen were not merely college students who took the right to protest a bit too far. The Weather Underground was composed of hard-core communist revolutionaries dedicated to acts of terrorism operating under the influence of foreign hostile intelligence agencies with a demonstrated ability to execute sophisticated bombing schemes. Evidence in the trial disclosed that during this period there were over 40,000 bombings, bomb scares, and bomb threats. Twenty-three people were killed, hundreds were injured, and there was more than \$20 million of property damage.

Ed Miller and Mark Felt were prosecuted for authorizing surreptitious entries, that is, searches of private premises without a warrant, in efforts to locate Weatherman fugitives.^{1/} The case did not involve any allegations of wiretapping, bugging, or other intrusions.

Felt and Miller have never denied authorizing the Weatherman-related entries, six in all, from September 1972 to May 1973.^{2/} In 1976, long after their retirement, both Felt and Miller came forward publicly to acknowledge that they had approved the entries. They did this in the hope of ending what they viewed as harassment of FBI street agents who had actually conducted the entries.

^{1/}Specifically, they were charged with a one-count violation of 18 U.S.C. § 241, conspiracy to violate civil rights of citizens.

^{2/}The records show that Felt and Miller actually authorized 13 entries during this period, the other seven being against other terrorist groups and suspected spies. Inexplicably, these other entries were not included in the charge of conspiracy.

Mr. Edwin Meese III
Page 3
February 3, 1981

The public trial record in the case reveals that for approximately 30 years the FBI, on the authority of Director Hoover, conducted surreptitious entries for the purpose of photographing documents in matters relating to the national security and public safety. These searches were thought permissible because they were for the purpose of gathering intelligence information and not for the purpose of gathering evidence to be used in law enforcement. The targets of the searches included, among others, Nazi and Soviet spies, Communist Party members, and the Ku Klux Klan.

Ed Miller had been an integral part of that effort. During his career he received ten commendations from the Director for his work in conducting surreptitious entries of great value to the United States; exactly the same type of conduct for which he was later criminally indicted.

Nor was there, prior to his retirement in 1974, any prohibition - either constitutional, statutory, case law or executive edict - against use of surreptitious entries in high-priority national security cases.

Even as late as in mid-trial the Department of Justice claimed inherent Presidential authority to do the acts for which Felt and Miller were being prosecuted, but asserted that they could not be done without specific Presidential or Attorney General approval. The jury was instructed that such approval was required in 1972, notwithstanding that the only cited authority for this requirement was a ^{3/}Court of Appeals interpretation of the Fourth Amendment in 1976^{3/}, four years after the acts alleged. It was also not until 1976 that the Department of Justice first began to develop FBI guidelines for intelligence investigations.

Prior thereto, as the trial record shows, Presidents, Attorneys General, and other officials in the Department of Justice were well aware of the FBI's practice concerning surreptitious entries. It was not only condoned; it was considered necessary and desirable for intelligence purposes where the national security was at stake.

^{3/}U.S. v. Ehrlichman, 546 F.2d 910 (D.C. Cir. 1976).

Mr. Edwin Meese III
Page 4
February 3, 1981

Attorney General Brownell testified that Hoover authorized the searches on authority delegated to the office of the FBI Director by the office of the President. President Nixon agreed. Assistant Attorney General Yeagley (now a senior judge on the D.C. Court of Appeals) testified that while he was head of the Internal Security Division from 1959 to 1970, every Attorney General was well aware of the practice. Richard Kleindienst, who was Attorney General at the time of the alleged offenses, testified that he was unaware of any rule requiring Attorney General or Presidential approval of surreptitious entries, but he considered the Weathermen a threat to the national security, and given the facts as he understood them, had he been requested he would probably have had no trouble authorizing entries on Weatherman friends or relatives.

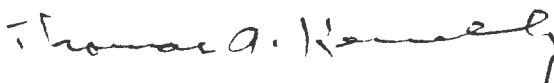
The entire trial record compels the conclusion that Mark Felt and Ed Miller could not have known that their actions were illegal and would not, at the pinnacle of long and distinguished careers, have deliberately engaged in a criminal conspiracy.

This prosecution should never have been brought. One suspects that political factors strongly influenced the go-ahead decision. A cynic might also suggest that the prosecutors correctly anticipated that a jury would be unable or unwilling to accept the concept of warrantless searches for any purpose. In any event, the jury was bound by the Court's ex post facto imposition of the requirement of Attorney General or Presidential approval for each entry.

This entire miscarriage of justice can best be rectified by a Presidential pardon.

I have reviewed the pardon proclamations by President Ford of Mr. Nixon, and the Carter pardon of selective service violators. Since there seems to be no standard pardon format, I have taken the liberty of enclosing for your consideration a proposed form of pardon for Messrs. Felt and Miller. If we can be of any further assistance, please do not hesitate to call.

Yours sincerely,


Thomas A. Kennelly

TAK/dhv
Enclosure



EM to answer

OFFICE OF THE PRESIDENT

FRANK L. PRICE
1977-78

1141 VAN NUYS STREET
SAN DIEGO, CALIFORNIA 92109

December 2, 1980

Mr. Edwin Meese, III
Transition Office
1726 M St., N.W.
Washington, D.C. 20036

Dear Ed:

Congratulations on your tremendous success in the landslide election of Ronald Reagan and also on the great poise and intelligence you displayed on the Barbara Walters interview Sunday as well as on similar recent press interview programs!

As you undoubtedly know, former FBI officials W. Mark Felt and Edward S. Miller were found guilty on November 6 in the U.S. District Court in Washington, D.C. They are scheduled for sentencing by Judge William B. Bryant on December 15.

These fine and honorable men have been the victims of a great miscarriage of justice! They now face the possibility of receiving up to 10 years in prison and/or a \$10,000 fine. All the federal fugitive warrants for the Weather Underground terrorist bombers were dismissed by the Department of Justice in 1979. Two of the most notorious of these radicals, Bernadine Dohrn and William Ayers, are currently negotiating, through their lawyers, to surrender and face Illinois State charges in exchange for a promise of leniency. But FBI officials become the criminals! What a charade!

Defense attorneys for Felt and Miller are appealing the case to the U.S. Circuit Court of Appeals for the District of Columbia and, if need be, will appeal to the U.S. Supreme Court. However, this process will take months, maybe on into 1982, and will cost additional thousands of dollars in legal fees. Newspaper speculation now is that the charges against former acting Director L. Patrick Gray, III, will be dismissed since the Felt/Miller scalps have been taken.

I believe that honor, decency, and even the future of American security and intelligence require that Felt and Miller be exonerated. Editorial opinions from across the country decry this "travesty of justice" and call for the immediate attention of President-Elect Ronald Reagan. Please see sample articles and editorials which I am sending you under separate cover.

Mr. Edwin Meese, III

-2-

December 2, 1980

Ed, I am writing to you, as a former national president of the Society of Former Special Agents of the FBI, Inc., and a career FBI Agent, on behalf of Mark and Ed and all my fellow X-Agents.

We would be most grateful if you would call this matter to the attention of President-Elect Reagan and the new Attorney General. It would be our hope that the proper steps could be taken to right this wrong and to clear these fine men of all criminal charges.

Very sincerely,



Frank L. Price

FRANK L. PRICE
1141 VAN NUYS STREET
SAN DIEGO, CALIFORNIA 92109



PERSONAL

Mr. Edwin Meese, III
Transition Office
1726 M St., N.W.
Washington, D.C. 20036



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THE WHITE HOUSE


WASHINGTON

23 April 1981

Dear Mr. Woodson:

Thank you for your letter of 17 April 1981 and for sending us a copy of the San Francisco Chronicle's endorsement of the F.B.I. pardons. Please know that Mr. Meese appreciates all the material sent to him.

Sincerely,

A handwritten signature in dark ink, appearing to read 'EWT', with a small flourish at the end.

Edwin W. Thomas, Jr.
Assistant Counsellor
to the President

Mr. Michael E. Woodson
900 Mission Avenue
San Rafael, California 94901

MICHAEL E. WOODSON

900 Mission Avenue
San Rafael, California 94901
(415) 453-8144

2 0 APR 1981

April 17, 1981

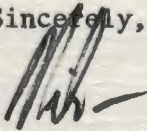
Edwin Meese, III
Counselor to the President
The White House
Washington, DC 20500

Dear Ed:

Enclosed are the newspaper articles covering your quick trip to San Rafael. I thought you would also enjoy seeing the San Francisco Chronicle's endorsement of the F.B.I. pardons.

Please do not hesitate to call if I can be of any help during your future trips.

Sincerely,



Michael E. Woodson

MEW/bk
enclosure

Meese Urges End To Insanity Pleas

Presidential counselor Edwin Meese called yesterday for an end to insanity pleas in criminal cases and said the way psychiatry is used in trials is a "disgrace."

President Reagan's adviser, once a deputy district attorney in Alameda County, said new laws should be passed banning insanity pleas.

He told the California Sheriff's Association meeting in San Rafael that "a good portion of the trial is taken up with hot-and-cold running psychiatrists for both sides telling all the things wrong with the accused" — when, instead, a defendant's mental condition should be considered only after a conviction, because the condition at the time of the commission of a crime

was irrelevant.

"The way psychiatrists are now pushed and tugged and in effect compromised with their medical standards in order to provide testimony for one side or another — this is a disgrace for their profession," Meese said.

At one point, Meese referred to John W. Hinckley Jr., charged with shooting President Reagan March 30. He held up a newspaper story in which four attorneys gave their views on how Hinckley might be defended.

"I think they ought to think seriously about the system of laws where a person who has admittedly committed a crime is put in a position where lawyers think there is a real possibility of helping him



EDWIN MEESE
He spoke in San Rafael

to escape justice, and helping him to outwit the system," Meese said.

Governor Brown arrived unexpectedly and told the association it should join with him to expand the jail and prison systems and toughen anti-crime laws — especially for juveniles.

San Francisco Chronicle

THE VOICE OF THE WEST

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William German
Managing Editor

4-17-81

Templeton Peck
Editorial Page Editor



The FBI Pardons

THE GRACE OF an unconditional presidential pardon has been accorded W. Mark Felt and Edward S. Miller, formerly top officials of the Federal Bureau of Investigation. This pardon was something President Reagan has felt keenly about since the agents' trial last fall. It was carried out in a spirit of fairness. And we are bound to agree with Griffin Bell, the attorney general who authorized their prosecution for civil rights violations, that it writes "a good ending to a bad chapter."

This is not to say that a jury verdict should be overturned lightly. Nor that trampling of individual rights by law-enforcement agents should be in any way condoned. Nor that it is any excuse, when nabbed, black-bag in hand, to say: "I was just following orders."

But the Felt-Miller case must be considered in the context of its times. And in the context of what happened to others in their agency. "America was at war in 1972," said the president, "and Felt and Miller followed procedures they believed necessary to inform the government of connections between the Weather Underground, and such notorious European groups as the Cohn Bendit gang. The distinction between right and wrong in this case is hardly a clear one. In much of our history, such actions would have been acceptable."

THESE WERE THE "days of rage." Days of bombings and other violent acts against the corporate and governmental establishment. And the searches authorized by these particular agents were aimed principally at bringing an end to the terrorism that was shaking the country.

Besides, there was testimony at the agents' trial, that the top FBI man, L. Patrick Gray, gave his aides "general approval" to perform these searches. Yet the government dropped charges against Gray on grounds its evidence was unconvincing. With the agent-in-charge cleared, where does fairness lie in the Felt-Miller convictions?

The conviction of these government servants "grew out of their good-faith belief that their actions were necessary to preserve the security interests of their country," said President Reagan. That goes to the heart of the case, and is sound argument for lifting this burden from their shoulders.

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Former lawmen in break-in receive pardon

By Erik Ingram
Of the IJ staff

Edwin Meese III, top White House aide to President Ronald Reagan, announced in San Rafael that "full and unconditional pardons" were granted today to two former FBI officials convicted of authorizing unlawful break-ins during the Nixon administration's search for radical opponents of the Vietnam War.

Meese's announcement, timed to coincide with Reagan's in Washington, drew a standing ovation from a group of California sheriff's meeting at the Holiday Inn.

Noting that the Carter administration had granted pardons to draft dodgers, Meese declared that "we can be no less generous" for those trying to protect the national interests.

The two, W. Mark Felt and Edward S. Miller, were appealing their U.S. District Court convictions of violating the civil rights of friends and relatives of members of the Weather Underground, a leftist, occasionally violent offshoot of the anti-war movement of the 1960s.

Felt was fined \$5,000 and Miller, \$3,500 by U.S. District Judge William B. Bryant after their conviction last December.

Both men admitted approving break-ins of private residences, but Miller's lawyer, Thomas A. Kennelly, said the practice was long-established and would be possible under current guidelines so long as the bureau's director or the attorney general approved.

"During their long careers," Reagan said, the two served the FBI and the nation "with great distinction."

"To punish them further — after three years of criminal prosecution proceedings — would not serve the ends of justice," Reagan said.

Meese quoted the president's prepared statement as saying their convictions "grew out of their good-faith belief that their actions were necessary to preserve the security interests of our country."

Meese appeared as the keynote speaker during the last day of a three-day convention of the California State Sheriffs Association.

Besides making the announcement of the pardons, Meese called for sweeping changes in the laws dealing with the suppression of evidence and the insanity defense.

"A defendant's mental condition is unimportant as to whether he did the crime or not," Meese told the

gathering. While a defendant's mental state might have some influence on whether he should be sentenced to a state hospital, it should not be allowed to cloud the truth of the crime, he said.

Meese, a former deputy district attorney in Alameda County, said laws dealing with the suppression of evidence, the so-called exclusionary rules, have turned trials into "tests not of the truth of the accusation but of the actions of the policeman."

"Nothing is as critical to our system" as modifying those laws, he

See Lawmen, page A8

Country club plan loses in Fairfax

By Frank Farrara
Of the IJ staff

Fairfax voters defeated a measure to change the commercial recreation zoning at the Marin Town and Country Club by a vote of 1,735 to 650 Tuesday.

Voters thus reaffirmed the zoning on the 23.5-acre former resort property they had set by ballot in 1972.

The 50.6 percent turnout was higher than city officials expected, reflecting the heat of the campaign and last-minute phone calls to voters.

The measure was to rezone the property to planned development status to permit Marin Town and Country Associates Ltd. to build 175 cottages and apartments, plus health and recreational facilities at the site.

Fairfax Mayor Frank Egger, co-leader of the Vote No group, said, "It's a great victory for the people of Fairfax."

He gave credit to Councilwoman Carol Sherman "for her hard work in organizing the campaign and to the volunteers who walked the precincts, made telephone calls, held signs and passed out literature."

"In the last days of the campaign the response from people was tremendous, and we could feel that the

See Fairfax, page A8

Preservation Copy

Lawmen

From page A1

declared.

He also urged judges to "clean up their own acts" by improving the judicial process rather than imposing rules on law enforcement, such as the operation of prisons and treatment of prisoners.

He urged that judges impose "realistic sentences" and called for a return of the habitual-criminal statute that called for life sentences for three-time losers.

"Why should society suffer that kind of person on the street again, and again and again," he said, noting that statistics show that felons have only a 1-in-40 chance of being caught, convicted and sentenced to state prison. "You can't get odds like that at Reno," he said.

"After the Vietnam war, if a man from Mars visited earth and viewed the (judicial system) he would go back to Mars thinking there was no intelligent life on this planet."

He also promised that the federal government would be re-examining its role in law enforcement to eliminate duplication with state and local agencies.

"The State Department needs to be as aggressive as any other department in the federal government" in combating dope trafficking, he said.

Funding for the federal Law Enforcement Assistance Agency, cut by the Carter administration, may be renewed by the president, Meese noted.

"But it's not enough to throw



Edwin Meese III

Preservation Copy

WASHINGTON — President Reagan's pardon of two high Federal Bureau of Investigation officials who were convicted of authorizing illegal break-ins sends a clear message to the intelligence agencies: The President of the United States approves of Government burglaries.

One can visualize the intelligence operators' breaking out the champagne at F.B.I. headquarters in the J. Edgar Hoover Building and across the river at the Central Intelligence Agency, in Langley, Va.

The meaning of Mr. Reagan's action was immediately grasped by W. Mark Felt, one of the pardoned F.B.I. officials: "This is going to be the biggest shot in the arm for the intelligence community for a long time."

That a law-and-order President should place his imprimatur on official law-breaking would be breathtaking, astonishing, had we not as a people been tempered by the experience of Watergate. But we learned about burglary, did our undergraduate work in breaking and entering, as it were, under Richard M. Nixon. It was Mr. Nixon — himself the beneficiary of a Presidential pardon — who tried to tell us that he had covered up the Watergate burglary for reasons of "national security."

Memories are short. It is useful to review the history of F.B.I. burglaries, or "black-bag jobs."

The F.B.I. admitted to the Senate Intelligence Committee that it had committed hundreds of break-ins without a search warrant since World War II; in one case, in the 1960's, the F.B.I. burglarized the offices of the Socialist Workers Party in New York City 92 times, on the average of once every three weeks. By that time, the Government's law-breaking had become institutionalized.

In 1966, William C. Sullivan, an assistant director of the F.B.I., sent his now-celebrated memo to Mr. Hoover: "We do not obtain authorization for

The F.B.I. Pardoned

By David Wise

'black bag' jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it." In Orwellian fashion, the F.B.I. meticulously filed the record of each of its break-ins under the heading "Do Not File."

Mr. Hoover, out of growing caution and a desire to protect his own image in his twilight years, ordered a halt to the break-ins, but they continued. The burglaries that Mr. Felt, the No. 2 offi-

The Government as burglar

cial in the F.B.I., and Edward S. Miller, chief of the intelligence division, authorized took place in and around New York City in 1972 and 1973 during the search for members of the violent Weather Underground. Seeking leads, the F.B.I. broke into the homes of relatives of the fugitives.

Those who would defend the pardon argue that the two F.B.I. men had long records of service and that they authorized the burglaries to hunt down law-breakers. But that is precisely the point: The Government in searching for criminals is not itself empowered to break the law. The distinction is not

unimportant. It marks the difference between a free and a totalitarian society.

"If the government becomes a law-breaker," Justice Louis D. Brandeis said, "it breeds contempt for law." Whatever sympathy Americans may feel for the F.B.I. men — who were not sentenced to jail and will now not have to pay their fines totaling \$8,500 — is necessarily outweighed by the demands of law and the Fourth Amendment, which normally requires a search warrant to be issued by a court before the Government can enter our homes.

The point was nicely put by John W. Nields Jr., the Federal prosecutor who won the convictions of the F.B.I. men. He told the jury that during the trial they would "hear the sounds of Weatherman bombs ringing in your ears. We ask you also to listen for the sound of the Constitution of the United States. It doesn't make quite as much noise as the Weatherman bombs. It doesn't shriek at you. It doesn't even whisper. It just sits there silent, as it's done for 200 years. . . ."

During the Senate Watergate hearings, an indignant Sam J. Ervin Jr., his eyebrows dancing, vigorously challenged John D. Ehrlichman's assertion that the Government could break in for "national security." Mr. Ervin quoted William Pitt the Elder: "The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail — its roof may shake — the wind may blow through it — the storm may enter — the rain may enter — but the King of England cannot enter."

Now, nine years after the Watergate break-in, a new President is telling us that what a king cannot do, the F.B.I. can.

David Wise is author of "Spectrum," a novel about a struggle for power within the Central Intelligence Agency.

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April 22, 1981

The Honorable Edwin Meese III
Counsellor to the President
The White House
Washington, D.C. 20500

Dear Mr. Meese:

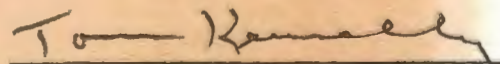
I wish there were adequate words to express our appreciation for what you have done for our client, Ed Miller. The Presidential pardon was an act of great courage motivated by an abiding sense of justice on the part of President Reagan and yourself.

Judging from the response we have observed, including that of Judge Bell, the President's action has been overwhelmingly received as a further example of this Administration's fervent desire to set things right again in our society.

It is interesting to note that the isolated complaints have come primarily from those who are unwilling to admit that this prosecution was an aberration which should never have been sanctioned in the first place.

You have made all of us very happy, and we thank you from the bottom of our hearts.

Yours very truly,


Thomas A. Kennelly

TAK:abs

24 APR 1981

INFORMATION MEMO

THE WHITE HOUSE

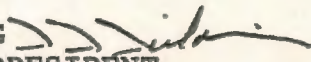
WASHINGTON

April 24, 1981

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM:

FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

I thought you'd enjoy reading this letter from Edward S. Miller, one of the former FBI officials you pardoned last week.

Attachment

MAR 24 1981

2 8 APR 1981

EDWARD MILLER

April 17, 1981

Dear Mr. President:

Two months ago, today, I received a note of encouragement from our seven year old granddaughter's school principal, Roberta Mahoney, in which she discussed, among other things, putting one's country first.

This triggered an elementary school recollection of my own resulting from my being tardy for school one beautiful spring morning. Arriving early at the school grounds, I had involved myself in piloting three small beetles on leaves across a nearby pond and was not aware the bell had rung. Trembling, I later explained to my principal that I had been pretending I was Columbus when he discovered America.

I had expected the worst; but, instead, she talked to me about our wonderful country where every little boy or girl could discover America for themselves, if only they were willing to try.

Obviously, you have succeeded in doing this, in the greatest of ways, last November, and we were

All instantly better for it. Like you, after many adventures and discoveries, I, also, learned America can be cruel; but, I never stopped loving her because I knew she had given much more than I had ever earned or deserved.

On April 15th, by you, her cruelty to me was erased and I discovered that in America, the busiest, most respected and important citizen, can reach down through over two hundred million lives and say to two small men, "Because you have tried to put your country first, I am taking from you what others have wrought and you can go back to sailing leaves on your ponds."

I would like one day to shake your hand and express my gratitude, and that of my family; however, until then, this most grateful "thank you" must suffice.

God bless you.

Sincerely,

Ed Miller

10454 Armstrong St.
Fairfax, Va., 22030