
What the Senate Ethics Committee refuses to admit about FBI crimes

by Linda de Hoyos

I. Violation of the Constitution of the United States

The very existence of the Abscam campaign represented a violation of the Constitution, on three counts: violation of the separation of powers, violation of due process guaranteed by the Sixth Amendment, and the use of law enforcement capabilities to carry out a political witch-hunt.

Violation of the separation of powers

On March 3, the gross violation of the separation of powers between the executive branch and the Congress were raised on the floor of the Senate by Senator Daniel Inouye (D-Hi.): "It is not the business of the executive branch to test for weaknesses in any member of Congress or to attempt to discover at what point the uncorrupt can be corrupted. . . . After many weeks of studying the anatomy of Abscam, I am convinced that the decision to undertake it, the Government's misconduct once it began, and its subsequent effort to justify it all, all add up to an encroachment on the independence of the legislative branch which we cannot tolerate if we are to remain separate and co-equal."

The next day, Senator Alan Cranston, Democrat of California, again raised the issue in motivating his resolution for a full Senate investigation into Abscam:

Moreover, I am sure all Senators share my deep concern about an undercover operation directed

against the Senate by executive branch prosecutors who unblinkingly asserted in an October 2, 1981, Government brief on this matter "that undercover operatives do not need probable cause, or even reasonable suspicion to commence an investigation." . . .

Such an operation when directed against the co-equal legislative branch of Government by the executive branch poses a very real threat to the separation of powers and checks and balances that the Constitution establishes to protect our system of government and the freedom of all Americans.

Executive branch action—such as through the manipulation that occurred in the 1960s and 1970s of FBI and IRS resources—to develop information which could be used to attempt to compromise members of the Congress could impair the constitutionally established independence and integrity of the Congress itself.

Unchecked abuse of executive branch investigation and prosecutorial power could escalate into despotism and the ultimate subservience of the Congress to the executive branch in derogation of the Constitution.

It takes little imagination in light of the events of the last decade or so to conjure up a scenario whereby an executive branch, believing the tactics employed in Abscam were appropriate or at least tolerated, might target a member of Congress

because of the member's anti-administration views and actions.

Toleration by us of the Government's actions under the previous administration in this case would, in my view, invite its repetition under circumstances that could produce a disastrous blow to our constitutional form of Government.

A political witch-hunt

But, in fact, political targeting of the Congress has already occurred under Abscam. Even aside from the case of Senator Williams, Senators Inouye and David Pryor (D-Ark.) presented cases of Justice Department targeting of Senators, despite the fact that there was no reason to suspect them of corruption.

"In recorded conversation on September 10, 1979," Senator Inouye reported, "Mr. Melvin Weinberg, Abscam's No. 1 con man, said 'Javits we would definitely like and we'd like Moynihan.'

"Now just what was going on in this investigation? This Abscam team wanted the Speaker of the House, Tip O'Neill. They went after Peter Rodino, Chairman of the House Judiciary Committee."

Senator Inouye then documented for the Senate the process by which it was determined to go after Sen. Strom Thurmond, Chairman of the Senate Judiciary Committee:

Let us take, for example, a recorded conversation of January 7, 1980, in which Congressman John Jenrette of South Carolina indicated that Senator Strom Thurmond, the senior Senator from South Carolina, could be approached to assist these Abscam investors, but that he would be "damn expensive."

the stand at his trial, he said that his allegations about Senator Thurmond were false. . . .

What actually happened in this case? Let me quote from the testimony of Mr. Phillip Heymann:

"The first time I think I learned of Jenrette's statement about Senator Strom Thurmond was when United States Attorney Charles Ruff called me up and said, 'I want to go ahead and offer in some way an opportunity for Senator Thurmond to come in and take some money. . . .'

"And I said, 'Go ahead.' This is the first time I heard of it. So, for me, the time within 15 minutes of the time the phone rang, I said, 'Yes.'"

Within 15 minutes—that is according to his testimony—the Assistant Attorney General of the United States said, "Yes." And this from the man who testified before Congress:

"After the careful internal review procedures are satisfied, we will initiate an undercover investigation only where we have a well-founded reason to believe that there is a pattern of criminality."

Later, in testimony before the House Judiciary Committee on March 4, 1980, Phillip Heymann simply lied as to the nature of the Abscam probe: "I know of no case where an agent has gone out and tried to persuade a political figure to take a bribe, which would be the equivalent of trying to persuade him to take stolen goods."

In the case of Senator Larry Pressler (R-S.D.), the sting operation was approved by FBI director William Webster himself. Senator Pryor told his colleagues March 10: "The investigation, the attempt of a \$50,000 bribe on Senator Pressler, was not authorized by mid-lemen. That authorization was made by William Webster. . . . William Webster has signed this memorandum. It states . . . 'Try to be sure this new Senator [Senator Pressler] knows he's being paid.'"

Senator Pressler had been told that he was not a subject of investigation by the FBI, as Pryor indicates: "I ask my colleagues, if Senator Pressler was not a subject of investigation, as the letter of Feb. 6, 1981, from the U.S. Department of Justice indicates, why then was it William Webster himself who gave this authorization?"

Violation of due process

"Never before had employees of the executive branch tried to frame up a member of Congress," Senator Williams told his peers on March 8. "Never before in the history of our great Nation has a Senator been convicted of a created crime. For the first time, we confront the fear that we could be ultimately and whimsically subjected to criminal punishment for no reason or any reason, all at the caprice of some executive employee."

Throughout the Abscam campaign against the Congress, the willingness to convict an individual on the basis of a crime created by the FBI constitutes a violation of due process. This violation of due process jeopardizes the rights of all citizens, Senator Cranston pointed out in his speech entered into the *Congressional Record* on March 4:

Abscam was a wholesale fishing expedition with the executive branch using a large net to try to trap members of Congress. It could have mounted into a massive assault upon the Constitution. Any Senator, no matter how unblemished his or her record, could have been targeted.

Due process requires strict observance of rules to protect all citizens from entrapment—from deliberate designs to overcome the will of someone resisting temptation and criminality. . . .

No one is immune from rumor and innuendo. Someone is almost always available to circulate gossip or fabricate charges against any elected official. . . .

Hence, if the FBI agent in charge is gullible, compromised, or simply careless, . . . as the evidence indicates beyond any doubt in Abscam, an individual in any walk of life could be made the target of a sophisticated, persistent scam.

But the most startling testimony to the FBI's *creation of crime* comes not from any senator but from within the FBI itself. In a memorandum dated Jan. 29, 1980, Newark Organized Crime Force chief Robert Stewart complained to his superiors that Abscam violates normal entrapment procedure. He described Abscam as follows:

Basically you have a public official who is minding his own business and presumably discharging his public responsibilities in a correct manner. An intermediary then asserts that the official is corrupt and will take a bribe. Usually, there is little or no evidence that the official knows anything about the intermediary's representations. There may be little, if any, extrinsic information which would suggest that the particular official is corrupt. On the contrary, most of the officials begin the conversation with disclaimers of criminal intent and offers to handle the problem in a perfectly correct and lawful manner. The Undercover Operatives then press, and they dangle large sums of money in front of the official—initially with promises that he will never be required to deliver the *quid pro quo* because the payment is only insurance against a remote contingency. The official relents and accepts the payments—in some cases offering to perform further criminal acts, in others without providing additional evidence of predisposition or criminal intent. In several cases the payment was refused.

All of this is very different in kind and quality from a conventional sting operation.

What happens when, as Senator Williams did, the official does refuse the bribe? In this case, a roster of charges are drawn up which the prosecutors believe, with the suppression of certain evidence can convince a jury—already operating in a climate of press innuendo concerning the victim. In reality, as Senator Inouye pointed out on the Senate floor on March 3, the official has in fact been accused *ex post facto* of a crime of coming to a meeting—or even worse, in the eyes of the FBI, of attempting to serve his constituents.

Senator Inouye argued:

Imagine if I were in New York during the convention in 1980 and a mayor from one of the cities in Hawaii comes forward and says, "I met some very interesting people. They would like to invest some money for geothermal energy." What am I sup-

posed to do? If I learn that his name is Abdul Habib, am I supposed to say, "Whoa, I do not want any part of Arabs." Is that what we are supposed to do?

So I go to this meeting. What have I done by going to this meeting? The same thing that Senator Williams did. He touted and blew his own horn. It was not vastly different; it was just slightly different in degree and maybe in kind. . . . I am certain that all of us have one time or another used our good offices to encourage investment in our State or in our State's businesses. What is wrong with that? . . .

So what crimes did Pete Williams commit, if he did commit any crime at all? He was trapped in this nightmare because he wanted to help his constituents. And what is the nature of our business here? To help our constituents. Each of us intercedes to encourage the economic interests of our constituents. This is part of our job. And we would not be re-elected unless we were able to provide such assistance.

II. Criminal means

The evidence submitted to the Senate on the FBI's use of criminal methods in order to carry out Abscam comes from two basic sources: memoranda submitted to the courts by assistant U.S. Attorneys Robert Weir and Edward Plaza, who risked their careers in submitting such information; and Mrs. Marie Weinberg, who knowingly risked and subsequently lost her life to bring forward such evidence.

Manufacture of evidence

Even before an investigation was given approval, the Abscam teams created evidence to convince superiors that the probe should be initiated or continued. According to the memoranda of Robert Stewart, this occurred in the case of Senator Williams. Stewart states: "On March 4, 1979, Mr. [Thomas] Puccio indicated that suspect 'W' [Williams] of New Jersey had a hidden interest in the particular business venture. It was the hidden nature of this interest which was *malum prohibitum*, and it was this fact which justified further investigation. . . . On May 11, 1979, . . . Mr. Puccio reiterated to Mr. Del Tufo and myself that 'W' had a hidden interest in the venture; and during a conversation on June 5, 1979; Puccio told me that 'W' had acknowledged his hidden ownership during a meeting the preceding Thursday. Many months later, when we finally obtained the tapes, the situation proved to be quite different. The whole idea of hidden ownership appears to have sprung up from a statement by 'F' [Philadelphia City Council member Abe Feinberg] on March 8th to the effect that 'W' would have a piece of the venture, though he could

not show it. That was a prediction by 'F,' not a statement of existing fact."

The set up continued. In his speech entered in the March 4 *Congressional Record*, Senator Cranston relates how Williams had been set up by Edward Ellis, a New Jersey owner of the Garden State Raceway. In the tape of March 5, 1979, it was revealed that "Edward Ellis, after coaching by Weinberg, indicates to undercover FBI man McCarthy that he can corrupt Senator Williams, and that he has already bribed him—he "cost me a hundred thousand bucks." Later in the March 8 tape both Feinberg and [former Camden Mayor Angelo] Errichetti, talking about how Ellis had oversold the Williams connection, indicate Ellis had probably never even met Senator Williams.

"As is confirmed by much other evidence, this was Weinberg's standard method of operation. As he told numerous Government prosecutors, 'we would have no cases' if he did not put words in people's mouths."

Forgery

According to an FBI contact memorandum dated Sept. 26, 1979, the Abscam team forged a letter in Senator Williams's name stating his interest in the Abscam business venture. Angelo Errichetti forged the letter during a meeting in Cherry Hill, New Jersey, with FBI agents Anthony Amoroso and Bruce Brady.

When Mr. Williams presented this story to the Senate, Senator John Melcher of Montana pointed out the reason for the forgery: "I suggest that perhaps the forged letter was to show in a convincing way, not to the sheik, who was an FBI agent, as the other three FBI agents are who know it is forged—but it was to convince somebody else that the Senator was willing to participate as broadly as the letter would indicate."

In short, the investigation was pushed along, not because of the slightest evidence of criminal intent or predisposition on the part of Senator Williams, but on the basis of manufactured evidence manufactured by Melvin Weinberg, the Abscam FBI agents, and Prosecutor Thomas Puccio.

Gift-taking and bribery

The chief evidence of gift-taking and bribery on the part of the Abscam team comes from an affidavit submitted by Mrs. Marie Weinberg to the court of the County of Palm Beach, Florida, on behalf of defendants Richard Kelly, Eugene Robert Ciuzio, and Stanley Weisz. Her affidavit began as follows:

"I) I am married to Melvin Weinberg. I am a resident of the State of Florida and I will disclose my home address to the Court *in camera*. The reason for my refusal to place my address in this affidavit is my fear that I shall come to harm if my home address is known."

In a letter to the Senate Ethics Committee on Jan. 22, 1982, Senator Inouye asked the Ethics Committee if it has considered Mrs. Weinberg's testimony, which he described as follows:

"Mrs. Weinberg will testify that Mel Weinberg did not lose four tapes on the Air Florida flight; as he testified at Senator Williams's trial; that Mel Weinberg pocketed substantial sums of money in kickbacks he got from Angelo Errichetti, and never disclosed this to the FBI agents who were supposed to be controlling him; that Weinberg gave Anthony Amoroso and John Good gifts (including those that he had extorted from others), and that said agents never closely supervised Weinberg; that certain FBI agents lost about 40 other Abscam tapes. I am told that Mrs. Weinberg can also testify that Mel Weinberg covered his gift of a microwave oven by purchasing another oven and giving the receipt to Puccio and FBI agents; that Mel Weinberg is and was in the possession of many of the Government's documents on Abscam; that Leslie Maitland, the reporter who broke Abscam, was a house guest of Mel Weinberg the week prior to the publication of the articles written by Maitland; that she [Marie Weinberg] was in possession of the 1979 and 1978 diaries of Mel Weinberg, and that Mel Weinberg stated to Marie Weinberg that he had perjured himself in a number of Abscam trials."

The Ethics Committee informed Senator Inouye that it had decided that it need not call upon Mrs. Weinberg to testify before it.

Affidavits submitted by the FBI in late February, after the death of Mrs. Weinberg, corroborated her testimony. As reported to the Senate by Senator Cranston: "We learned only last week that FBI affidavits filed on Feb. 23 before Judge [George] Pratt fully corroborate Marie Weinberg's allegations that numerous personal effects from her home were turned over the FBI agents Good and Amoroso. . . . Besides attesting to Mrs. Weinberg's credibility, these affidavits show incredible insensitivity on the part of the FBI and Justice Department. Chief Prosecutor Puccio now defends these actions by the FBI and suggests that the extent to which the agents . . . had been compromised by engaging in personal financial transactions with Weinberg is irrelevant to Senator Williams's case. . . ."

"Despite Mr. Puccio's assertions in Judge Pratt's court that there was nothing improper about these transactions, they clearly violate the Department of Justice's Standard of Conduct regulations, in part 45 of the Code of Federal Regulations governing the behavior of all Justice Department employees."

Conflict of interest

Given the overall criminal character of the Abscam investigation and its criminal methods, it is not surprising to find that Prosecutor Thomas Puccio, in charge of

the Abscam campaign against corruption, should be involved in a conflict of interest. The conflict revolves around his co-authorship of a book on Abscam with Jack Newfield of the *Village Voice*.

In his letter to the Senate Ethics Committee, Senator Inouye reported: "I am told that Esther Newberg, the literary agent for author Jack Newfield, will be queried concerning Thomas Puccio's possible illegal financial interest in *Project X*, the book to be written by Newfield on Abscam, whose hidden collaborator was allegedly Thomas Puccio. This book project was in progress prior to the indictment of Senator Williams.

"I am told that Mr. Puccio will be queried about his allegedly inconsistent testimony concerning Mr. Newfield's book and his involvement therein."

The Senate Ethics Committee replied that they had already called upon Thomas Puccio, and further answered, "Again, the issue is not the conduct of Mr. Puccio, but rather the conduct of Senator Williams."

But there is doubt that this conflict of interest, which already violates the Justice Department standards, was irrelevant. Senator Williams reported to the Senate on March 8 that "Mr. Newfield, a reporter, has been quoted as saying that: 'If Williams isn't convicted maybe there won't be a book.'"

Forum shopping

Substantial evidence was submitted to the Senate to show that the Abscam prosecutors in 1980 had forced the moving of the Abscam trials from Newark, New Jersey, to the Brooklyn court of Judge George C. Pratt where the cases would be prosecuted by Brooklyn Organized Crime Strike Force chief Thomas Puccio.

The change in venue came with the case of Kenneth MacDonald, vice-chairman of the New Jersey Casinos Control Commission, who had been brought up on Abscam charges. After the Newark Grand Jury had already begun hearing the case, members wrote the following letter to the Newark Judge Fisher:

"Our Thursday panel [panel jury] listened to testimony in this case [MacDonald] from early fall through the first week of January. We expected the attorneys to present the bill for our consideration within a few weeks. Now, without having been told, we read in the newspaper that this case is to be moved to a grand jury in Brooklyn.

"This seems a strange decision in view of the time spent on the case in Newark, and of the court costs, payments to jurors, and commuting expenses of attorneys from Washington and of some of the witnesses. . . .

"Moreover, what does this mean in terms of the overall investigation? Does the Justice Department feel that it will be more likely to get the preferred decision in Brooklyn than in Newark?"

The ensuing course of the Abscam trials would tend to answer that question in the affirmative. Judge George C. Pratt specifically charged the grand jury in Brooklyn to overlook all misconduct of the FBI.

The issue of forum shopping was also directly raised in the Senate debate on March 9 by Senator Cranston:

"Two weeks ago, in filing answers to Senator Williams's and Mr. Jenrette's motions to reopen the due process hearings, the Government took conflicting positions. And listen to this: In its memorandum before Judge Bryant in the Jenrette case, the Government staunchly denied Marie Weinberg's allegations about her husband's transfer of personal property to the FBI agents. But the very next day, before Judge Pratt in the Williams case, the Government filed the FBI affidavits confirming her accounts.

"I am shocked by this Government duplicity. Is this a case of forum shopping to find where best to bury incriminating evidence of Government misconduct?"

Suppression of evidence

The major point of suppression of evidence involved the Abscam tapes themselves. Senator Cranston reported to the Senate that "Some 900 tapes were made during the Abscam operation. Many never have been transcribed. Many were missing—many disappearing while in Weinberg's custody. Many have gaps.

"Custody and control of most of these tapes were entrusted to Mel Weinberg. The decision as to what to tape and what not to was entrusted to him. When the tapes were heard and transcribed by the FBI was controlled by Weinberg in terms of when he chose to send them in. The October 2, 1981, letter of former Federal Prosecutor Edward Plaza substantiates all of this."

Perjury

Once the Abscam case is brought to trial, the successful prosecution of the targeted victim depends on government testimony falsified to hide the gross violations of due process and ethical standards perpetrated during the "investigation."

The most exhaustive documentation of the perjury committed by Melvin Weinberg and the Abscam team is found in memoranda submitted by Edward Plaza and offered as exhibits to the Senate from Senator Cranston in the March 3 *Congressional Record*.

On Dec. 2, 1981, Edward Plaza presented Judge Penn, currently presiding over the due process hearing of the Jenrette case in Washington, D.C., with a memorandum in which he lists 10 instances of false testimony on the part of Deputy Assistant Attorney General Irving Nathan, including the following instance:

Nathan Testimony—page 704: "Most of the unrecorded conversations between Weinberg and the sub-

jects of Abscam investigations were of the 'Hello,' 'How are you' nature.

Facts: "A review of the existing tape recordings reveals substantial portions of un-recorded conversations as well as references to countless un-recorded and otherwise undocumented meetings between Weinberg and the various subjects. Plaza and Weir were advised by [Justice Department attorneys] Weingarten and Holder that telephone toll analysis revealed that there were more than eighty (80) un-recorded conversations between Weinberg and Errichetti alone."

Plaza lists five cases of false testimony on the part of FBI Special Agent John Good, including the following:

Good's Testimony—Pages 865 through 869: "Melvin Weinberg was carefully monitored during the investigation and the FBI maintained a careful chain of custody of the tapes produced by Melvin Weinberg."

Facts: "In May 1980, several months after the Abscam investigation had gone public, it was still not known which conversations and meetings of Weinberg had been taped. . . . Many months later Messrs. Weingarten and Holder were still uncovering evidence of untaped and undocumented Weinberg meetings and conversations."

As for Melvin Weinberg himself, Plaza has this to say:

"The limited purpose of this outline does not permit me to list all of Mr. Weinberg's false statements."

Yet on March 4, 1980, the FBI Director vouched for Melvin Weinberg and the entire stable of Federal Witness Protection Program criminal informants, in testimony before the House Judiciary Committee:

"Those of us who live in a world of decency . . . sometimes find it hard to assume that anyone who engages in crime can tell the truth. But when he is telling the information to someone whom he thinks is in league with him, that is sometimes the way by which we get our very best information consistently, in all types. . . ."

"We have some of the most important ones now that are going through the process, organized crime figures dealing with our undercover agents, and telling us things are that are true and turn out to be true."

As the summary evidence presented here and the pages of documentation in the *Congressional Record* show, the FBI Director would have more accurately stated: "things that are false and which we make to be true." That is the police-state method—protected by the U.S. controlled media—which is at the core of Abscam, from the initiation of "investigation" to the presentation of charges in the court, to the due process hearings, to the Senate Ethics Committee. This is the police-state method employed by the international dope machine against the citizenry of the United States, which must and will be stopped.

Who upheld the Constitution

Sen. Inouye:

'Trial a farce'



Excerpts follow from the statement by Daniel Inouye, Democrat of Hawaii, on the Senate floor March 10: Senator Inouye's opening statement to the Senate on March 3 in defense of Senator Williams was excerpted in the last issue of Executive Intelligence Review.

I know that all of us have read recent editorials and we have heard from our constituents that Pete Williams was convicted of crimes and, therefore, expulsion is the only possible remedy.

The Ethics Committee has said that the Senate should proceed independently of these convictions, and I agree. The convictions in Brooklyn are a house of cards that could collapse at any moment.

If the Senate's action is based on the trial court, and the trial court verdict is overturned, there will be nothing left but perhaps a Senate that looks foolish because we were in a rush to thrust an embarrassment from our midst. I believe that all of us who have spoken thus far would agree with at least this one proposition. It is the task of the Senate to judge our colleague solely on the evidence before us. And the Senate cannot and should not rest its decision on an initial judgment of a court in what will undoubtedly be a long and complex judicial process.

Mr. President, I know that such a view of this case will not win us any friends; I know that this view will be misunderstood by many of our constituents. But I believe that such a view will serve this body as an institution by