

FBI files show U.S. DoJ protected top 'October Surprise' conspirators

by Edward Spannaus

Declassified FBI files obtained by *EIR* show that the U.S. Department of Justice (DoJ), along with top officials in the FBI and CIA, protected two of the top players in the "October Surprise" conspiracy from prosecution. The dramatic revelations in these newly released documents should add new impetus to the faltering drive for a congressional investigation into the efforts by operatives associated with the 1980 Reagan-Bush campaign to delay the release of the U.S. hostages in Iran.

- FBI documents show that a top Reagan-Bush Justice Department official and a former U.S. Attorney General tipped off Iranian arms dealer Cyrus Hashemi of an impending arrest warrant in 1984, allowing him to evade arrest.

- The FBI files also confirm that another former Justice Department official, J. Stanley Pottinger, was enabled to avoid indictment for illegal arms shipments to Iran during the hostage crisis, by a last-minute discovery that the FBI had "lost" crucial surveillance tapes.

- From 1981 to 1984, the Justice Department, probably in collaboration with the CIA and State Department, blocked efforts by federal agents and prosecutors in New York to prosecute Hashemi and Pottinger, using the excuse of "national security."

Debunking the debunkers

The new revelations also destroy one of the pet arguments of the apologists for the Bush-CIA group and the Israelis who are attempting to debunk the "October Surprise" theory. They argue that Cyrus Hashemi couldn't have been involved in a conspiracy with the Republicans to delay the release of the hostages, because he was later prosecuted by the Reagan-Bush administration. (They are always strangely silent about Pottinger.)

This was the theory first advanced by former Carter White House Counsel Lloyd Cutler in a reply to Gary Sick's commentary in the April 15, 1991 *New York Times*. Cutler contended that Hashemi's indictment proves that he wasn't involved in any conspiracy with William Casey to delay the release of the hostages, because he would have held "the royal flush of all blackmail hands." Argued Cutler: "Had the Reagan team done what was alleged, the Hashemis' prosecution would certainly have been dropped to buy their silence."

This same argument was also used in the recent efforts by

Newsweek and the *New Republic* to kill the October Surprise story. *Newsweek* wrote on Nov. 18: "But if Hashemi was working for the Reaganites, he was rather badly rewarded. In 1984 Hashemi was indicted by the Reagan Justice Department for arms smuggling."

Now, these newly released FBI documents prove conclusively that Hashemi and Pottinger—two key "October Surprise" players—were in reality *protected* from prosecution by the Reagan-Bush administration.

Prosecution stalled

In 1980, while Iranians were holding 52 Americans hostage, Hashemi and Pottinger were both playing a double game, pretending to assist the Carter administration in negotiating for the release of the U.S. hostages, while aiding the Reagan-Bush campaign in delaying the release of the hostages until after the November presidential election.

During this time, according to the FBI files, the FBI placed Hashemi's offices in New York under electronic surveillance, involving a microphone "bug," a telephone tap, and a video camera. The surveillance picked up conversations in which Hashemi and Pottinger were arranging the illegal purchase and shipment of embargoed military equipment to Iran.

Within days after the Reagan-Bush administration removed the wiretaps on Feb. 13, 1981, FBI agents and federal prosecutors in New York tried to get a search warrant to raid Hashemi's offices. The newly declassified FBI files show that FBI headquarters and the Justice Department blocked the raid on grounds it was "premature," throwing up all kinds of arguments, ranging from problems with disclosing the electronic surveillance, to the possibility that Hashemi might bring a lawsuit against the FBI! A Feb. 23, 1981 FBI memorandum states: "FBIHQ is of the opinion that the execution of the search warrants at this time is premature and would not allow for the Attorney General, FBIHQ Intelligence Division, [deleted] to fully consider all the ramifications of such actions." (The deleted portion probably refers to the CIA, which was in regular contact with Hashemi and also in regular consultation with the Justice Department, according to CIA files recently obtained by *EIR*.)

The New York FBI office strongly disputed the arguments raised by FBIHQ and the DoJ, defending the propriety

FOR INFORMATION FBIHQ, CYRUS HASHEMI CANCELLED HIS CONCORDE FLIGHT RESERVATION TO NEW YORK ON MAY 16, 1984 AT LAST MINUTE. AT THIS WRITING HASHEMI SCHEDULED TO ARRIVE NEW YORK ON FLIGHT 741 FROM LONDON AT 5:55 PM NEW YORK TIME. THIS IS HIGHLY DOUBTFUL AS HASHEMI'S NOW OBVIOUSLY AWARE OF PROSECUTION PLANS DUE TO EXPOSURE WHEN DOJ DEPUTY ATTORNEY GENERAL LOWELL JENSEN ORDERED USA, SDNY TO CALL HASHEMI'S ATTORNEYS TO DISCUSS EVIDENCE AND PROSECUTION BECAUSE HE MADE SUCH A COMMITMENT TO HASHEMI'S ATTORNEY, FORMER ATTORNEY GENERAL ELLIOTT RICHARDSON, WHO OBVIOUSLY HAS CYRUS HASHEMI NOTIFIED.

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IN VIEW OF THE ABOVE, IT DOES NOT APPEAR TO BE APPROPRIATE TO IMMEDIATELY EXECUTE SEARCH WARRANTS UNTIL THE U.S. ATTORNEY'S OFFICE HAS FULLY CONSIDERED THE IMPACT OF THE EXECUTION OF THE WARRANTS.

FBIHQ IS OF THE OPINION THAT THE EXECUTION OF THE SEARCH WARRANTS AT THIS TIME IS PREMATURE AND WOULD NOT ALLOW FOR THE ATTORNEY GENERAL, FBIHQ INTELLIGENCE DIVISION, TO FULLY CONSIDER ALL THE RAMIFICATIONS OF SUCH ACTIONS.

On January 26, 1982, Mr. Jachnycky contacted Mary C. Lawton, Counsel for Intelligence Policy, DOJ, to inquire regarding the possibility of obtaining the Attorney General's authority. Mary Lawton advised that the Attorney General's authority was not granted and that the grand jury should be postponed. AUSA Levides was advised and the grand jury was postponed.

During this time, the USA, John Martin, SDNY, was telephonically contacted by Deputy Associate Attorney General Jeffrey Harris, who advised that the grand jury be postponed because of national security considerations.

Memorandum
 To: Mr. C. P. [redacted]
 From: [redacted]
 Date: January 23, 1982

RE: [redacted]

Enclosed for the attention of the [redacted] are two copies of a letterhead memorandum (LHM) dated January 22, 1982, and one copy of a letterhead memorandum (LHM) dated January 21, 1982. The LHM dated January 22, 1982, was prepared by the [redacted] and is captioned "Mysterious Disappearance of Tape Recordings of Court Ordered Monitorings in the Case Entitled 'Cyrus Hashemi, et al., Neutralities Violation; OO: New York'". The LHM dated January 21, 1982, was prepared by the [redacted] and is captioned "Mysterious Disappearance of Tape Recordings of Court Ordered Monitorings in the Case Entitled 'Cyrus Hashemi, et al., Neutralities Violation; OO: New York'".

Mr. Slover
 S. G. Flanagan
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PERSONAL NOTIFICATION - DO NOT FILE

Classified by 1565 [redacted] 6/11/84
 Declassify on: OADR 9-19-91

Mr. Revell:
 This communication is classified SECRET unless otherwise noted.

The purpose of this communication is to furnish you an update on the status of search efforts to locate two missing evidentiary tape recordings produced in connection with a joint FBI/U.S. Customs investigation entitled "Cyrus Hashemi, et al., Neutralities Violation; OO: New York".

On 6/8/84, [redacted] advised that United States Attorney (USA) SDNY is now in the process of evaluating the extent to which an inability to produce the tapes would affect future indictment and prosecution. USA SDNY is expected to issue his opinion on this matter following a joint meeting between FBI, U.S. Customs, and the USA SDNY tentatively scheduled for 6/12/84. Tentative indications from the USA SDNY are that an inability on the part of the Government to produce the tapes would adversely affect prosecution.

MYSTERIOUS DISAPPEARANCE OF TAPE RECORDINGS OF COURT ORDERED MONITORINGS IN THE CASE ENTITLED "CYRUS HASHEMI, ET AL., NEUTRALITIES VIOLATION; OO:NY"

of their investigation and noting that the "intelligence interests in the surveillance of subject have terminated and have been secured." Nevertheless, the Justice Department and FBI headquarters repeatedly stalled the efforts in New York to prosecute Hashemi and Pottinger. A Jan. 29, 1982 FBI memorandum, for example, says that the Justice Department had ordered the U.S. Attorney to postpone convening a planned

federal grand jury investigation "because of national security considerations."

Justice Dept. tips off Hashemi

After years of delay, arrest warrants for Hashemi and a number of other participants were finally issued in New York in mid-May of 1984.

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Excerpts from the 1,300 pages of declassified FBI files on Cyrus Hashemi which have recently been obtained by EIR under the Freedom of Information Act.

However, Hashemi evaded arrest after being tipped off by the Justice Department. A declassified New York FBI teletype dated May 16, 1984 complains that Hashemi, who was in London, canceled his Concorde flight reservation returning to the U.S. at the last minute, after Deputy Attorney General Lowell Jensen ordered the U.S. Attorney in New York to notify Hashemi's attorneys of the prosecution. Jensen did this, according to the FBI teletype, "because he made a commitment to Hashemi's attorney, former Attorney General Elliot Richardson, who obviously has Cyrus Hashemi notified."

The New York FBI office, which had worked the Hashemi case since 1980, grumbled that because of this "DoJ-sponsored courtesy," the arrests were not likely to occur. They rather bitterly informed FBIHQ that "results of a positive nature do not appear forthcoming despite the massive investigative effort put forth thus far."

A few weeks later, the prosecutor on the Hashemi case met with Hashemi's attorney Elliot Richardson. During this meeting, held on June 12, 1984, "No mention was made by Richardson of a possibility of the return of Hashemi to the United States."

Hashemi stayed outside the United States and remained a fugitive for almost two years, until he returned to the U.S. to aid the Customs Service in the 1986 sting operation against Israeli Gen. Abraham Bar-Am and others. During the time he was a fugitive, he was in frequent contact with top CIA officials, including William Casey, through Richardson and John Shaheen, a businessman and close friend of Casey who was one of the founders of the CIA. During this time, there was apparently no effort made to extradite Hashemi.

In fact, on the contrary, a recently declassified CIA document from November 1985 states: "We were advised in August 1985 that the U.S. government must not touch the Iranian in the U.K. whom the U.S. is seeking to extradite for his part in a failed Iranian attempt to purchase U.S. arms." The memo goes on to discuss the fact that Elliot Richardson was attempting to arrange for the charges against Hashemi to be dropped, in return for his efforts to aid in the hostage negotiations ongoing at that time.

Even after Hashemi returned to the U.S. as part of the U.S. Customs sting operation in March 1986, he was still—inexplicably—allowed to travel abroad. In July 1986, Hashemi suddenly died in London, under what an FBI memo calls "questionable circumstances."

The 'missing tapes'

The newly released FBI files also confirm the long-rumored "loss" of FBI surveillance tapes of Hashemi and Stanley Pottinger. The files further confirm that the absence of these critical tapes was used as the reason for not indicting Pottinger, a former Assistant Attorney General during the Nixon and Ford administrations.

A partially released FBI file, labeled "Administrative Inquiry—'Missing Tapes,'" documents an internal FBI inves-

tigation which was conducted after the loss of the tapes was allegedly discovered at the end of May 1984—days before Pottinger was to have been indicted. (A March 29, 1984 teletype said that evidence would soon be presented to a grand jury, and that among those charged would be "a former Assistant Attorney General of the United States.")

The fact that critical tapes were missing was discovered at the end of May; nevertheless, federal prosecutors in Manhattan stated their opinion that Pottinger could still be indicted for perjury and other counts, even if, lacking the tapes, they could not substantiate a conspiracy count. A June 1, 1984 FBI teletype from New York states that "indictment may be delayed one week to allow for a thorough search, but not otherwise affected." The loss of the tape "may jeopardize successful conviction of [deleted] on conspiracy count but not affect substantive counts of indictment, including perjury."

On July 18, 1984, the other indictments in the case were announced, and U.S. Attorney Rudolph Giuliani held a press conference. An FBI teletype reporting the press conference stated: "A reporter asked if an evidence tape was missing . . . most questions were related to J. Stanley Pottinger and his involvement in the matter . . . Giuliani informed the investigation on Pottinger is continuing."

However, the Justice Department and FBI headquarters continued to successfully stall and block the prosecution of Pottinger.

According to the "Missing Tapes" file, the FBI conducted an extensive internal investigation into the missing tapes. One of the first documents in the FBI's internal investigative file, dated June 21, 1984, is captioned "Mysterious Disappearance of Tape Recordings of Court Ordered Monitorings in the Case Entitled 'Cyrus Hashemi, et al. . . .'"

On June 11, 1984, a memorandum was prepared for top FBI officials William Webster and Oliver "Buck" Revell by the head of the FBI's Terrorism Section, Stanley Klein. The Klein memo bears the following notation in capital letters across the top: "Personal Notification—Do Not File." It summarizes the investigation of the missing tapes to date, and says that the loss of the tapes "would adversely affect prosecution [deleted]." Subsequent investigation showed that the missing tapes—three in number—had apparently been hand-carried from New York to Washington in 1981 or 1982 and delivered to the FBI headquarters, possibly at the request of the Justice Department.

An October 1985 summary of the probe stated that "significant inconsistencies" had been found in the stories told by various FBI officials involved with the tapes. However, the file as disclosed under the Freedom of Information Act does not indicate any resolution of the internal investigation.

This is clearly a mystery which rivals the famous "18-minute gap" in the Nixon-Rosemary Wood tapes, and which merits an equally prominent investigation—if Congress has the courage to go after it.