

The truth about perjury

by Edward Spannaus

Since the public release of President Clinton's grand jury testimony, there has been no end to the prattling of pompous legal "experts" on television and in the press, warning that the very foundations of our legal system will crumble if the President is not prosecuted or impeached for perjury. Take, for example, that overnight TV sensation, Prof. Jonathan Turley, who instructs us that "perjury runs to the very heart the legal system. If we cannot enforce that value, it's going to be hard for us to enforce many other laws."

Turley is correct, but not at all in the way he intended. Perjury *does* run to the heart of the legal system. For all the debate over how prevalent perjury is in civil cases (especially divorce cases, where it is almost universal), our esteemed commentators are maintaining their silence on the dirty secret which every prosecutor and defense lawyer knows: the thoroughgoing pervasiveness of perjury by *government* officials in the *criminal* justice system.

'Testilying'

"The magnitude of police perjury in this country is not to be believed. . . . It is incomprehensible," a spokesman for the National Association of Criminal Defense Lawyers recently told *EIR*.

"That police in criminal cases regularly commit perjury is well known to criminal lawyers, judges and others familiar with the criminal justice system," stated a 1991 article in the *New England Law Review*. The problem is not limited to local police; it is well-known that the same pattern holds true for FBI agents and other Federal law-enforcement officers.

In some police precincts in New York City, that practice is so common that it is referred to as "testilying." In 1994, a report was issued by the "Mollen Commission," which was appointed two years earlier to investigate corruption in the New York Police Department; that report documented several forms of what it called police "falsification": testimonial perjury (testifying falsely under oath at a grand jury or trial), documentary perjury (swearing falsely under oath in an affidavit or criminal complaint), and falsification of police records (such as an arrest report). The normal pattern is that police officers manufacture tales to justify arrests and searches, put those falsifications in police reports, and then later feel they have to stick to their story when they testify on the witness stand.

The Mollen Commission report found that police falsification is widely tolerated by supervisors and prosecutors.

"We are not aware of a single instance in which a supervisor or commander has been sanctioned for permitting perjury or falsification on their watch," said the report. Likewise, the report said that several former and current prosecutors had acknowledged that perjury and falsification are ignored by prosecutors.

A treatise on criminal law practice noted that the same tends to be true of Federal prosecutors, who depend on agents to bring them cases, and, that if the prosecutors are not perceived as "team players," they will not get good cases from the agents.

Lying in the LaRouche case

The Federal prosecution of *EIR* founder Lyndon LaRouche and his associates is exemplary of the problem. Indeed, after Justice Department prosecutors filed their reply to the appeal brief filed by LaRouche and his co-defendants at the U.S. Court of Appeals in Richmond, the defendants filed an extraordinary "Table of Misstatements of Fact," citing well over 100 knowingly false or misleading statements in the government's reply brief. (That document was then widely circulated in a 1989 pamphlet entitled: "The LaRouche Railroad: Prosecutors Tell 148 Lies.")

Those lies were used to justify the conviction and imprisonment of seven innocent people. Earlier in the LaRouche case, there was presented an absolute open-and-shut case of perjury by the FBI's case agent in Boston, FBI Special Agent Richard Egan. Egan's perjury was used to justify the pre-trial detention of three associates of LaRouche—Jeffrey and Michele Steinberg, and Paul Goldstein.

At a detention hearing on Oct. 9, 1986, at which the government was arguing that the Steinbergs should be held in jail without bond because they were "a danger to the community" on grounds of obstruction of justice, Egan was asked about the government's contention that no documents had been produced to a Federal grand jury in Boston in response to various grand jury subpoenas. Egan testified under oath that there was not "one record" produced to the grand jury, and that there was not "one compliance" with the subpoena (see *EIR*, Jan. 30, 1987, p. 66).

But, at another hearing in December, Egan was forced to back down when he was confronted with grand jury minutes and other evidence showing that hundreds of thousands of pages of documents had in fact been handed over. Prosecutor John Markham then jumped up to say that the government would stipulate that "a wealth of material" had been produced by the defendants to the grand jury; Egan then admitted that "boxes and boxes and cartons and cartons" had been provided. When pressed, Egan sheepishly acknowledged, "I was wrong, I was mistaken." (Since Egan had been present when all that material was produced to the grand jury, he wasn't mistaken: he was *lying*, and lying under oath.) But, on the basis of this official FBI perjury, the Steinbergs spent over three months in jail, and others were also detained for a shorter time.