

Richard Nixon's Own Deep Throat

By Max Holland

The Washington Post's supposedly best-kept secret during its Watergate coverage—the identity of its inside source—was no secret to Richard Nixon

When [W. Mark Felt](#) unmasked himself as Deep Throat, in May 2005, the ballyhoo was dampened by a distinct feeling of anticlimax. As the FBI's number two man in 1972, Felt was the first real suspect: speculations that he had been *Washington Post* reporter Bob Woodward's *über*-source appeared in print as early as 1974. And despite 30 years of denials, he never lost his status as the most likely leaker in most observers' eyes. His eventual admission was less a thunderbolt than a confirmation of what was already widely believed.^[1]

Much more surprising is that the Nixon White House knew about Felt, with a degree of certainty far beyond mere suspicion, almost from the start. On October 19, 1972, [H. R. "Bob" Haldeman](#), Nixon's chief of staff, told the president that Felt was the *Post*'s primary source. This conversation was revealed in November 1996, when the National Archives released the so-called "abuse of governmental power" tapes.^[2] In hindsight, it should have been seen as an important clue about Deep Throat's identity. However, it received little attention, probably because it conflicted with the popular narrative of the scandal, which holds that Felt was both principled and incognito.^[3]

Haldeman, of course, turned out to be right, which begs the question: how did he know? The answer is that the White House had its own secret sources, including one who had access to *The Washington Post*'s inner workings. We might think of him as Nixon's Deep Throat.

Uncovering the identity of this Deep Throat is a thornier matter. While it was one of the lawyers working for or in proximity to the *Post* on Watergate-related matters, apart from that fact, it may be that nothing more definitive can ever be said. Even so, exploring the possibilities one by one helps illuminate how Washington worked then, and probably how it still really works. As Benjamin Franklin once observed about keeping confidences, "Three may keep a secret, if two of them are dead."

What Haldeman Knew

On October 10, 1972, *The Washington Post* published what Woodward would later describe as “perhaps [the] most important” Watergate story he and Carl Bernstein ever wrote.^[4] Stretching over three columns on the upper right quadrant of the front page, the piece began,

FBI agents have established that the Watergate bugging incident stemmed from a massive campaign of political spying and sabotage conducted on behalf of President Nixon’s re-election and directed by officials of the White House and the Committee for the Re-election of the President.

Until then, the *Post*’s coverage had been piecemeal and inchoate: a steady drip of articles with intriguing information but unclear implications, whose ins and outs could be followed only by dedicated lawyers or political junkies. The [October 10 story](#) was the first to put the break-in in context. With it, Watergate became a story of national import.^[5]

Nine days later, Nixon and Haldeman had a desultory but revealing afternoon conversation about Watergate coverage. Nixon had sensed for weeks that someone, somewhere, was supplying the *Post* with its incremental but relentless scoops.^[6] The FBI was high on his list of suspects, even though several factors argued against its involvement. [L. Patrick Gray](#), the acting director since J. Edgar Hoover’s death in May 1972, was beholden to Nixon for his appointment, and the Bureau had a reputation for discipline insofar as sensitive White House matters were concerned. It seemed especially hard to conceive that the FBI would leak information contrary to the interests of a president who seemed certain to win re-election a month hence. But Haldeman’s information, captured on the president’s voice-activated tape recorder, left little doubt.

NIXON: You know . . . materials are leaked out of the FBI. Why the hell can’t [Patrick] Gray tell us what the hell is left? [You] know what I mean?

HALDEMAN: We know what’s left.

NIXON: [Did you] read the file?

HALDEMAN: We know what’s left, and we know what’s leaked, and we know who the leak is.

NIXON: Is it . . . somebody in the FBI?

HALDEMAN: Yes, sir.

NIXON: How’d you find out?

HALDEMAN: Through . . . a full circle through the—

NIXON: [Justice] Department?

HALDEMAN: —place where it’s come from. The FBI doesn’t know who [the leak] is. Gray doesn’t [know] who the leak is, but we do . . . and *it’s very high up*.

Washington Decoded

NIXON: Somebody . . . next to Gray?

HALDEMAN: Mark Felt.

NIXON: *[puzzled]* Now why the hell would he do that?[\[7\]](#)

The conversation meandered for more than 12 minutes before Nixon again pressed Haldeman about how he had learned of the leak. The chief of staff explained the information had come from an “official in the publication who knows where the reporter in the publication is getting his stuff.” The official, Haldeman said, was a “legal guy” whose knowledge “came directly from the reporter.”

HALDEMAN: I believe he’s a former Justice Department man *or* a former FBI man.

NIXON: So who made the contact with him?

HALDEMAN: *He* made the contact here with . . . with a guy at the Justice Department.

NIXON: Why did he do that?

HALDEMAN: Because he knows what the *problem* is. He has been extremely concerned about it. *He* is a former FBI man. He knows that the FBI is leaking to a reporter in his publication.

NIXON: What does he think about it?

HALDEMAN: He’s going berserk about it. So he has *told* the guy at Justice, who he knows, what . . . what the route is. He said, “I think you oughta know this, and I don’t know what you can do about him . . . and how can you handle him.”

The guy at Justice told [White House counsel] John Dean. He has not told anybody else, including [Attorney General Richard] Kleindienst or Pat Gray, because he’s afraid that either of them might react in such a way as to do more harm than good.[\[8\]](#)

Taking Haldeman’s description at face value, Nixon’s Deep Throat was a lawyer with access to the *Post* newsroom, perhaps one involved in vetting Watergate-related stories. Because of a background in the Justice Department or the FBI, the lawyer was perturbed by Felt’s disclosure of information from a highly sensitive investigation. He may also have believed (although Haldeman made no allusion to this scenario) that the *Post*’s investigation was tainted by partisanship or ideology—as Richard Harwood, the *Post*’s assistant managing editor, was suggesting internally.[\[9\]](#)

Although, as noted, the Nixon/Haldeman exchange was largely ignored when the tape was released, it did capture the attention of the person who had the most reason to be curious—and furious—about the leak from inside the *Post*. In *The Secret Man*, his 2005 book about his relationship with Felt, Woodward alludes to the conversation and what it signified.

On October 19, [1972], I moved the flowerpot back, hoping to set a meeting that night in Rosslyn [with Felt].

That same afternoon, as we would learn years later, Nixon met in his hideaway office in the Executive Office Building with Haldeman. . . . Haldeman reported that he had learned authoritatively from his own secret source . . . that there was a leak in the FBI. . . .

[When] Nixon pressed for the White House's source . . . Haldeman said the information came to them from some "legal guy," presumably someone who worked at the *Post*. . . .

This meant that we at the *Post* perhaps had our own Deep Throat problem, someone who was leaking information to the Justice Department and the White House about our sources. We never found out who might have been providing information from the *Post*, but the White House apparently came very close to establishing that one of our sources was Felt.^[10]

Although this description seems indicative of an internal inquiry, Woodward told me recently that "There was no effort to find out who might have been that source that I know of."^[11] Indeed, the October 19 conversation has been treated almost as if were apocryphal. Only in 2005 did the *Post* itself take note of it, in an article pointing toward a figure who was not even involved in the *Post*'s legal affairs in 1972.^[12] Even Woodward attached enough qualifiers to the incident to effectively discount it (consider, for instance, the tentativeness in his remark that "We never found out who *might* [emphasis added] have been providing information from the *Post*").

Others at the *Post* have expressed deep skepticism. As Harry Rosenfeld, the assistant managing editor for metropolitan news in 1972, put it during a 2007 interview, "It's not that I don't believe [Haldeman and Nixon] said it. [It's that] I don't believe what they said."^[13]

Rosenfeld did not believe that any lawyer he knew at the *Post* would do such a thing; and he did not believe a legal person at the *Post* could have known the identity of Woodward's best source. After all, that knowledge had been expressly denied even to the three editors involved in the Watergate stories from the beginning: Rosenfeld, managing editor Howard Simons, and special Watergate editor Barry Sussman.^[14] As of October 10, only Ben Bradlee, the *Post*'s executive editor, had any detailed information about Deep Throat, namely, his "job, experience, access, and expertise"—everything, in other words, except his name.^[15]

But in the end, these doubts do not outweigh the facts, as expressed not just in the October 19 recording but in many subsequent taped White House conversations. An alleged source at the *Post* correctly fingered Mark Felt as the source of the leaks to the newspaper within days of the seminal October 10 story. This is, to say the least, strong evidence that Nixon's Deep Throat existed.

Furthermore, the gist of the October 19 conversation has been corroborated by the only living person in the chain of those said to have conveyed the information—John Dean, the executive secretary, in effect, of the cover-up. Dean says that the "guy at Justice" who told him about Mark Felt was [Henry E. Petersen](#), then the assistant attorney general in charge of the Criminal Division. "I got [the information] from Petersen and gave it to HRH [Haldeman], who could have gotten it from no one else," he wrote in an email two years ago. Petersen "told me he had learned from an attorney close to the *Post*. . . that

Felt was leaking . . . and Petersen was worried that it could impact [the Justice Department's] ability to prosecute.”[\[16\]](#)

Dean could not recall exactly when Petersen spoke to him about Felt, but given the White House's agitation over the leaks to the paper, it seems unlikely that Dean would have delayed passing the information on to Haldeman. This in turn suggests that the leak from inside the *Post* was connected with the newspaper's ground-breaking October 10 story, to which Felt was instrumental.[\[17\]](#)

After this point, the trail becomes less clear. Henry Petersen died in 1991, before the National Archives released the October 19 conversation, so he was never asked about the matter. And so a number of figures must be considered as possibilities in the search for Nixon's Deep Throat. Some will, of course, appear likelier than others; but it is worth remembering that our nation's capital is a place where personal bonds and institutional loyalties sometimes prompt people to act in the most unexpected, seemingly inexplicable, ways.

All The *Post*'s Legal Men

The literal interpretation of a “legal guy” at the *Post* would be the paper's in-house counsel, or perhaps the general counsel of The Washington Post Company, the corporate entity that oversaw subsidiaries, including the *Post*, *Newsweek*, and a number of radio and television stations around the country. In the fall of 1972, two lawyers fit that description: Gerald W. Siegel, who had joined the newspaper in 1961 as vice president and counsel, and Alan R. Finberg, the general counsel of the Washington Post Company since 1971.

Neither man is a very likely candidate for Nixon's Deep Throat. For starters, neither was ever employed by the Justice Department or FBI.[\[18\]](#) In addition, Finberg, who died in 1995, primarily supplied legal advice to managers of the Post Company's operating units. Because his office was in the *Newsweek* building in New York, he was not privy to *Post* scuttlebutt. Siegel, who died in 2000, did work at the newspaper's office in Washington, but he focused on such things as labor negotiations and the paper's land and business acquisitions. Most important of all, according to both Harry Rosenfeld and Barry Sussman, neither Finberg nor Siegel was involved in any of the legal issues that cropped up during the *Post*'s coverage of Watergate in the late summer and early fall of 1972.

Their lack of involvement was not unusual: the *Post* turned to outside legal counsel whenever freedom of the press issues arose.

Until 1971, that counsel had been Royall, Koegel & Wells. But after the *Post* followed *The New York Times*'s lead and published the Pentagon Papers—a key moment for the

newspaper, its “coming of age,” as David Halberstam later put it—the firm lost the *Post*’s confidence and eventually its business.[\[19\]](#)

Beginning in 1972, the *Post* retained Williams, Connolly & Califano, a local firm that specialized in litigating criminal and civil cases. It was something of an odd choice, as media law was well outside its expertise. But name partner [Edward Bennett Williams](#) had long craved the *Post* as a client because of the stability it promised and power it radiated. He had lured Joseph Califano away from a much larger firm with this express purpose in mind, and the two were of like mind about the mission. When the *Post*’s publisher, Katharine Graham, ordered the switch to Williams, Connolly in December 1971, it was an enormous plum for the relatively small firm.[\[20\]](#)

Two aspects of Califano’s background make him at least a superficial fit with Haldeman’s description of the “legal guy” leaking to Henry Petersen. Califano had been a lawyer in the Defense Department during the administration of John F. Kennedy—not at the Justice Department or FBI, true, but at least in the Executive branch. And he was involved in clearing the *Post*’s Watergate stories from the start, making him one of the few people who might have known early on about the FBI leak.[\[21\]](#) According to James Mann, a *Post* metro reporter in 1972 who worked with Woodward on some of the earliest stories, Woodward was quite open with those directly involved in the Watergate coverage, speaking about “my source at the FBI” or “my friend at the FBI” and “making it plain that this was a special, and unusually well-placed, source.”[\[22\]](#)

But on closer inspection, the case for Califano as the leaker is implausible, even after granting the fact that his government legal experience does not match Haldeman’s description very well. In addition to the ethical breach involved, it is unlikely that Califano would have jeopardized the prestige and billable hours that came from being counsel to *The Washington Post*, the client he and Williams had worked so assiduously to obtain. Then, too, one must consider his close friendships with Howard Simons and Ben Bradlee, bonds that pre-dated his position as the *Post*’s lawyer. It would also be hard to identify a more partisan attorney in 1972. Califano, who had also served in the Johnson administration, was eager for the Democrats to retake the White House (although he had little enthusiasm for Senator George McGovern, the Democratic nominee). And he was deeply enmeshed in party affairs as the lawyer for the Democratic National Committee (DNC), which had filed a civil lawsuit promptly after the break-in. In fact, it was in this capacity as the DNC’s lawyer that his involvement in the Watergate story began.[\[23\]](#)

If Califano would not conceivably have done anything to thwart the *Post*’s coverage, then who at Williams, Connolly might have? In May 2007, when I asked him about the October 19 Nixon-Haldeman conversation, Califano said he had never even heard about it before. “I have no idea who that would be. I mean, I have *no* idea . . .” he emphasized. “I certainly knew nothing about it at the time.”[\[24\]](#)

A bevy of Williams, Connolly partners and associates worked on *Post* or Watergate-related legal issues during the summer and fall of 1972, ranging from Williams to Gregory Craig, now President Obama’s White House counsel but then fresh out of Yale

Law School. However, a cross-check of the [Martindale-Hubbell](#) Law Directory for 1972/73 shows that only two had worked for *any* arm of the US government before joining the firm. One was [John G. Kester](#), who was deputy assistant secretary of the Army during Nixon's first term, and the other was Harold Ungar, who worked for the Department of Justice from 1943 to 1953.

Both Kester, who is currently of counsel at Williams & Connolly (as it is now known), and Ungar, who died in 1985, served as counsel in the DNC's civil suit; neither was involved in vetting *Post* stories. Still, one can imagine a scenario whereby Ungar, who more closely fits Haldeman's description of the "legal guy," might have become aware of the information about Felt informally. To sketch out this scenario, we must first flesh out the portrait of Edward Bennett Williams.

As noted earlier, Woodward gave Ben Bradlee, and Bradlee alone, salient details about Deep Throat. That had occurred the day the October 10 centerpiece story was published; Bradlee wanted to know first-hand how the stories had been put together and where the information was coming from. Or as Bradlee explained with aplomb to his cub reporter over lunch (Bernstein was out of town), "our cocks are on the chopping block now and I just want to know a little more about this."[\[25\]](#)

Bradlee, in turn, was a very close friend of Williams; he sought his non-legal advice many times as coverage of the Watergate scandal progressed, and Williams more than once bucked Bradlee up when he expressed doubts about the unfolding story or concern that it might be an elaborate hoax. As Bradlee wrote in his 1995 memoir, in reference to a Watergate-related development, "I had no idea what to do except—as usual—talk with Ed Williams."[\[26\]](#)

Along with his other larger-than-life attributes, Williams was an inveterate gatherer of inside information; he "wanted to know everyone's secrets," as Sally Quinn, Ben Bradlee's wife, once put it. If anyone in Washington was capable of piecing together scant details and coming up with Felt's name, it was Williams. There was a reason why he was the best criminal attorney in town. "Ed had wonderful antennae," said J. Alan Galbraith, a now-retired Williams & Connolly partner who was involved in the Watergate civil suit. In late 1972, Galbraith recalled, Williams "assured me . . . they were talking about us in the Oval Office . . . [and] basically, what he told me they were saying about us was what turned out to be on the [Nixon] tapes, to my astonishment."[\[27\]](#)

All the considerations that rule out Califano as the leaker also apply to Williams, along with a few more. Williams never worked for the US government; and while it was not unknown for him to skirt the boundaries of legal ethics, he invariably acted on behalf of his clients, never in violation of their interests or confidences. What cannot be ruled out is that Williams may have shared information with Harold Ungar, who worked closely with him on the DNC lawsuit—unaware, perhaps, of the potential impact of such a disclosure on someone who, like Ungar, had spent a decade toiling at the Justice Department.[\[28\]](#)

Without real evidence surfacing, though, it cannot be proved that Ungar, or any Williams, Connolly attorney, did something both ethically questionable and contrary to a highly-prized client's interests.^[29] Actually, it would have been contrary to *two* clients' interest, given that the law firm represented the DNC as well as the *Post*. As it turned out, the fact of its dual representation opened the door to yet another attorney's involvement in the late summer of 1972.

A Conflict of Interest Realized

Williams had an exceptionally relaxed notion, especially for a lawyer, about what constituted a conflict of interest. As Califano wrote, Williams "always stretched to the limit the number of clients we could represent in a particular matter without finding a conflict." But as the scandal unraveled, representing both the *Post* and the DNC became untenable, at least for the newspaper.^[30]

On June 20, three days after the break-in, Califano had announced Williams, Connolly would be representing the DNC in a million-dollar civil lawsuit against the burglars, the Committee to Re-elect the President (CRP), and "unnamed others" for conspiring to violate the civil and constitutional rights of the Democrats. Standing beside him was the DNC chairman, Larry O'Brien, who stated without hesitation (and without any evidence, as yet) that the White House, if not the president himself, would be found ultimately responsible for the break-in. O'Brien's assertion ensured that media coverage of Watergate would be politically charged, and nowhere more so than at the *Post*, because of its reputation as a liberal newspaper and its relationship with Williams, Connolly.^[31]

The first hearing on the suit took place less than a week later. The CRP's attorney, Kenneth W. Parkinson, immediately raised the issue of Williams, Connolly's ties to the *Post*. After pointing out that, although the American Bar Association's code of ethics made it improper for lawyers to discuss a pending case with reporters, the DNC's counsel had already been quoted in the press, Parkinson observed, "I also understand that there is some relationship between Mr. Williams's firm and the Washington Post Newspaper Company."^[32]

Over time, an ineradicable suspicion grew within GOP circles, including the White House, that Williams, Connolly lawyers were fueling the *Post*'s coverage. Under this scenario, the *Post* was still digging into Watergate, when the rest of the media had largely given up, because Williams was funneling information gained through the lawsuit to the paper's editors and/or reporters. As the RNC chairman, Senator Bob Dole (Kansas), famously asked during a 20-minute, blistering attack on the *Post* in late October, "Does it not seem strange that Mr. E. B. Williams, the Democrats' unpaid attorney in the Watergate civil trial, is also the attorney for *The Washington Post*?"^[33]

Ben Bradlee has consistently denied that there was any cross-pollination between the lawsuit and the newspaper's dogged pursuit of the Watergate story; an impermeable

wall supposedly separated the two efforts.[\[34\]](#) For the most part, of course, his assertion is true—after all, with Mark Felt in its hip pocket, the paper hardly needed information from Williams. But on at least one occasion, Williams ordered an attorney from the firm to leak a sensational development to Woodward and Bernstein.

On August 5, Williams had sent J. Alan Galbraith to North Haven, Connecticut to interview Alfred C. Baldwin III. A former FBI agent, Baldwin had been responsible for monitoring the electronic bugs installed in DNC headquarters and preparing the transcripts that eventually reached the in-box of Jeb Magruder, the CRP's deputy director. Baldwin's willingness to talk was the first real break in the case; his testimony provided the first direct proof of E. Howard Hunt and G. Gordon Liddy's complicity in the break-in, and he later became the government's chief witness against the burglars. Besides establishing the link between the bugging and the Nixon re-election campaign, Baldwin also supplied a crucial factual correction: on June 17, the burglars were entering DNC premises for the *second* time.[\[35\]](#)

Galbraith gave Williams a detailed memo about his meeting with Baldwin. Then, "on Ed's instruction," as Galbraith recently recalled, he leaked the information to Bernstein and Woodward. Despite the authority of the source, the reporters were intent on following their customary two-source rule. "They told me they'd corroborate [Baldwin's story] with their source at the FBI," Galbraith told me this fall.[\[36\]](#) The result was another front-page story. Appearing on September 11, it disclosed, without naming Baldwin, that a "self-described participant has [given] Democratic investigators" a detailed account of the electronic surveillance of DNC headquarters.[\[37\]](#)

This scoop made real the conflict-of-interest that had existed in theory since late June. Even before it was published, however, *Post* editors had taken steps to put a little more distance between their paper and Williams, Connolly. With the depositions of more than a dozen CRP officials about to begin the first week in September, it had become increasingly problematic, legally and journalistically, for the same law firm to represent the DNC and counsel the *Post*. If nothing was done about this conflict, it risked giving credence to Republicans' charge that with respect to Watergate, the *Post* was little more than an appendage of the Democratic Party.

And so the paper recused Williams, Connolly from vetting Watergate stories until the civil suit was settled. Since the arrangement was meant to be temporary, instead of hiring a new Washington lawyer the *Post* turned to an in-house attorney at a sister publication, *Newsweek* magazine.[\[38\]](#)

Mr. Smith Goes to Washington

[Edward L. Smith](#) had studied at Columbia University's Graduate School of Journalism and worked as an AP reporter and editor before deciding to go into law. He worked his way through NYU Law School while still with the AP, graduating in 1961. His first job

with a media company was at *The New York Times*, which he joined in 1968. He left the *Times* in 1971 to join *Newsweek* as an associate counsel. Smith also had some experience working in the government. From 1963 to 1966, he served as an assistant US attorney for the Southern District of New York's Civil Division—in other words, he was a former Justice Department lawyer.[\[39\]](#)

Smith, who is now a partner with the small New York firm of Rockett & Smith, recalled in a 2008 interview that his role in the *Post*'s Watergate stories began around Labor Day of 1972. Essentially, he replaced Joe Califano as the primary lawyer responsible for clearing articles for publication.[\[40\]](#) In late August, he came down to Washington for a few days in order to get up to speed.

“I had lunch, I remember, with Bradlee and Howie Simons,” Smith said. “They gave me this whole stack of clippings—everything that had been published up to that point about what was going on [with] Watergate.” After spending a few hours going through the stack, Smith went back to Simons. “Well, what do you think?” asked the *Post*'s managing editor. “I gotta tell you, it's really one jigsaw puzzle to me,” Smith responded. “You got a piece here, you got a piece there, [but] it doesn't seem to tie together anywhere. Isn't there some way you could make up some sort of a chart or diagram to see how these things fit?” Smith recalls that Simons replied, “Well, we tried that. But everything led right to the White House and we didn't have enough to substantiate that.” That's how early his involvement began, Smith said, because the whole thing wasn't “unravel[ing] very neatly, like the skin of onion.” Smith's recollection here, of course, jibes with the nature of the *Post*'s coverage in the late summer; as noted, it was not until the October 10 story that the “first outline of the true scope of the Watergate conspiracy” (as Bradlee characterized the article) appeared.[\[41\]](#)

At some point after his lunch with Bradlee and Simons, Smith also got together with the *Post*'s [Watergate reportorial specialists](#). “Well, you have to meet Woodward and Bernstein,” he was told, so he did. “Nobody had heard of Woodward [or Bernstein] . . . they were just a couple of kids at that point, and I remember I took them to lunch at the Madison Hotel,” Smith said. “I can't tell you how delighted they were that somebody was buying them lunch. [Again], that's how early on this whole thing was.”[\[42\]](#)

In the end, Smith did not actually review many stories. Part of the problem was that he was still working out of *Newsweek*'s New York offices. In addition, Smith recalled, *Post* editors had fairly stringent rules that had to be met before anything Watergate-related could even be considered for publication; concerns about libel once stories reached publication were therefore not that great. The only specific story Smith could recall vetting was an October 25, 1972 article that tied Haldeman to the CRP's cash fund—the same account used to pay Liddy, one of the masterminds behind the break-in. It was a difficult story to vet, in part because Smith was in New York and, out of real concern that the *Post*'s telephones might be tapped, he was reluctant to have the reporters or editors describe their sources over the phone. But he ultimately deemed the sourcing to be on a par with that of other stories the *Post* had run.[\[43\]](#)

Smith's substantive involvement lasted until late 1972, well after Nixon's landslide re-election; then, for a couple of reasons, it ebbed.^[44] The Watergate story shifted in large part to events that happened in public—for instance, James McCord's letter to Judge John J. Sirica in March, 1973, which asserted that perjury had occurred during the burglars' trial. Also in March, US District Court Judge Charles Richey forced Williams, Connolly to choose between representing the DNC in the civil lawsuit and providing counsel to the *Post*. The firm chose the latter, and Califano resumed the task of vetting Watergate stories and advising the newspaper on any related legal issues.^[45]

Was Edward Smith the White House's Deep Throat? It is tempting to think so; he matches Haldeman's description, and he was involved at a time—late August to late October—when the *Post*'s reliance on Felt was at its peak. And, as a lawyer “on loan” from *Newsweek*, he theoretically had less reason than some of the other candidates to be staunchly loyal to the *Post*. So I put the question to him directly this fall. The strength of his denial, along with his tone in the face of the question—he was unshaken, plain-spoken but not defensive—suggest that he is not the *Post* “legal guy” who leaked to Henry Petersen. “I didn't know anybody at [Petersen's] level, and I certainly didn't know anything about this!” he said. “I wouldn't even speculate as to who it might have been. But it ain't me, buddy.”^[46]

Smith was not enough of an insider, he went on, to know that Felt was Woodward's source—an assertion that is plausible, given the small number of people who had access to that information. He said he does not recall even knowing about the existence of Deep Throat or hearing the moniker, although within the tight circle of reporters and editors working on the story, the code-name was mentioned fairly casually. “Deep Throat was being bandied around among a lot of people at that time,” recalled Harry Rosenfeld, “and became sort of a joke, or [if] not a joke, a commonplace.”^[47] But with his office in another city, would Smith have been part of that tight circle? Not necessarily.

A Second Leak

Although there appear to be good reasons to dismiss each of the figures above as the conduit of information about Felt, the fact remains that *someone*, however unlikely-seeming, leaked. Furthermore, from L. Patrick Gray's 2008 memoir and other Nixon tapes, we know that a second improbable leak from the media to the administration occurred that October. [Roswell L. Gilpatric](#) was a senior partner with the Wall Street firm of Cravath, Swaine & Moore, which represented *Time* magazine. In the late summer and early fall, *Time* broke a number of significant Watergate-related stories, and Gilpatric told his friend [John Mitchell](#), Nixon's former attorney general and the director of his re-election campaign, that Felt was the magazine's primary source.^[48]

Gilpatric's action was highly surprising—perhaps even more so than that of the unknown leaker from the *Post*. For one thing, Gilpatric was a Kennedy Democrat, having served as deputy secretary of Defense from 1961 to 1964. In addition, the

relationship between Cravath, Swaine and Henry Luce's Time-Life publishing empire went back to the late 1920s; *Time* was a lucrative, high-profile account. Jeopardizing it was not something Gilpatric would have done lightly.

Exactly what was so egregious that two separate lawyers felt compelled to inform the administration about Mark Felt? And why didn't Nixon fire Felt, if not immediately, then soon after the 1972 election? The answers to those questions are inextricably bound up with Felt's motive for leaking, and will be the subject of the next *Washington Decoded* article.

Writer/researcher Fred Maxwell and editorial assistant Laura Stuart helped in the preparation of this article, which was edited by Amy Meeker.

[1] In June 1974, just two months after publication of *All the President's Men* disclosed Deep Throat's existence, [*The Washingtonian*](#) magazine pointed the finger at Felt, only to print Felt's famous denial—"it was not I and it is not I"—two months later. *The Wall Street Journal* also published an article in June that found the "Mark-Felt-as-Deep-Throat" theory a shade more plausible than any other. "I don't disagree with the reasoning," Felt told the *Journal*, "but I do disagree with the conclusion. Because I'm just not that kind of person." Bob Haldeman, Nixon's chief of staff, said during a 1975 CBS television interview that he "assumed" Felt was Deep Throat, although he was not positive. Subsequently, Haldeman also backed off the accusation. On a "Face the Nation" broadcast in 1976, then *Los Angeles Times* reporter Ronald J. Ostrow asked Felt point-blank if he had been Woodward's source. Felt responded, "No, I am not Deep Throat and the only thing I can say is that I wouldn't be ashamed to be because I think whoever helped Woodward helped the country." Much later, James Mann, Woodward's former colleague on the *Post's* metro section, wrote a discerning 1992 article in *The Atlantic* that concluded Deep Throat had to be someone at the FBI, most likely Felt or some other high-ranking official. Ronald Kessler, another former *Post* reporter, then wrote in a 2002 book that several FBI agents involved in the Watergate investigation believed Deep Throat was Felt. Kessler also drew attention to the fact that Woodward had unexpectedly visited Felt in Santa Rosa, California, allegedly in the summer of 1999 (the correct date was February 2000).

John Limpert, "[If It Isn't Tricia It Must Be . . .](#)" *The Washingtonian*, June 1974; Limpert, "[Deeper Into Deep Throat](#)," *The Washingtonian*, August 1974; Dennis Farney, "[If You Drink Scotch, Smoke & Read, Maybe You're 'Deep Throat'](#)," *The Wall Street Journal*, 25 June 1974; Don Irwin, "[Nixon Leaned to \[John\] Connally for 1972, Haldeman Says](#)," *Los Angeles Times*, 30 March 1975; "Face the Nation," CBS News, 29 August 1976; James Mann, "[Deep Throat: An Institutional Analysis](#)," *The Atlantic*, May 1992; David Daley, "Deep Throat," *Hartford Courant*, 28 July 1999; Chris Coursey, "'Deep Throat' Mystery Points to S[anta] R[osa] Man," *The Press Democrat*, 8 May 2002; Ronald

Kessler, *The Bureau: The Secret History of the FBI* (New York: St. Martin's Press, 2002), 179-180.

On Woodward's pledge to Felt to protect his anonymity, see Leonard Garment, "Deep Betrayal," *The Wall Street Journal*, 15 April 2003, and William Gaines and Max Holland, "[Deep Throat 3.0](#)," *Washington Decoded*, 11 May 2007.

[2] Watergate-related portions of the Nixon tape recordings (approximately 40 hours) were first made available by the president himself to the House of Representatives in April 1974; subsequently, the Watergate special prosecutor subpoenaed a total of about 60 hours of tapes, some 13 hours of which became public during court proceedings in the mid-1970s. In these recordings, Felt's name cropped up in several conversations between John Dean and the president, but the full import of what Nixon knew or thought about Felt remained hidden. In June 1991, the National Archives released all the tape recordings subpoenaed by the Watergate special prosecutor. Nonetheless, many more hours of Watergate-related recordings, not to mention all conversations on other subjects, remained closed. It took years of litigation and mediation before historian Stanley I. Kutler (a member of *Washington Decoded's* editorial board) and Public Citizen reached a negotiated settlement with the National Archives and Nixon estate for release of approximately 3,700 hours of tapes. In November 1996, the first materials governed by this settlement were released. These so-called "abuse of governmental power" segments, recorded during the period June 1971 to July 1973, totaled 201 hours. They consisted of 1,900 segments from 931 conversations deemed pertinent to Watergate in its broadest sense. Included in the initial tranche, for the first time, was the 19 October 1972 [conversation](#) regarding Felt.

Ronald J. Ostrow, "[FBI Investigating Its Former No. 2 Official](#)," *Los Angeles Times*, 17 November 1974; Tim Weiner, "[Historian Wins Long Battle to Hear More Nixon Tapes](#)," *New York Times*, 13 April 1996; Stanley I. Kutler, ed., *Abuse of Power: The New Nixon Tapes* (New York: The Free Press, 1997), xiv.

[3] *Slate's* Tim Noah was one of the few journalists who noticed, more or less contemporaneously, the import of the October 19 conversation. In 1999, Noah even interviewed Felt about the passage; the former FBI official said only that he had not been aware of it. Subsequently, an article that linked the Nixon/Haldeman conversation with speculation about Felt's role as Deep Throat appeared in Felt's hometown newspaper in 2002. Evidence that this connection was not widely appreciated is demonstrated by "news" stories that appeared after May 2005, informing readers that Felt had long been suspected of leaking by Nixon and Haldeman. Christopher Hitchens typified conventional thinking when he wrote that aside from Haldeman's warning to Nixon, "the tapes tell us nothing else." No one stressed that Nixon and Haldeman were discussing a revelation about Felt, rather than just speculating.

David Daley, "Deep Throat," *Hartford Courant*, 28 July 1999; Tim Noah, "[Deep Throat: The Game Is Afoot](#)," *Slate*, 29 July 1999, and Tim Noah, "[The Final Word on Deep Throat \(So Far\)](#)," *Slate*, 9 August 1999; Coursey, "'Deep Throat' Mystery," *The Press*

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Democrat, 8 May 2002; William Neikirk and Mike Dorning, "[Tapes Reveal Nixon Suspected Felt Was Anonymous Source Early On](#)," *Chicago Tribune*, 1 June 2005; CNN, "[Tapes: Nixon Suspected Felt](#)," CNN.com, 3 June 2005; Christopher Hitchens, "[The Insider](#)," *New York Times Book Review*, 24 July 2005.

[4] Bob Woodward, *The Secret Man: The Story of Watergate's Deep Throat* (New York: Simon & Schuster, 2005), 79.

[5] Bernstein and Woodward, "[FBI Finds Nixon Aides Sabotaged Democrats](#)," *Washington Post*, 10 October 1972. The October 10 story also reverberated internally at the *Post*. After weeks spent denigrating the coverage, the national desk suddenly wanted to take it over. Richard Harwood, the assistant managing editor for national news, argued that Watergate had become much too big for the metro staff, "inexperienced as it was in stories of such magnitude." He expressed the belief that if the "Woodstein" articles continued, and his veteran reporters were kept away from the story, the *Post's* future as a serious paper might even be jeopardized. As James McCartney wrote in a 1973 article in the *Columbia Journalism Review*, "Some of the [*Post's*] old hands . . . had studied the work of their young colleagues and were worried. They were not alone in the Washington journalistic community, where there was much head-shaking about the *Post's* apparent campaign." James McCartney, "*The Washington Post* and Watergate: How Two Davids Slew Goliath," *Columbia Journalism Review*, July/August 1973, 21.

When executive editor Ben Bradlee consulted Howard Simons, the *Post's* managing editor, Simons insisted that the story deserved to stay with the metro section reporters and editors who had been working it. *Post* lore has it that Bradlee made the popular, if risky, decision to "stick with the youngsters" on the basis of a gut instinct. But in retrospect, Bradlee's decision probably had little to do with loyalty to junior reporters. Only Woodward had access to a critical source. How could Bradlee shunt Woodward aside and risk losing the one source who had given the *Post* its clear lead? It was Deep Throat, after all, who had given Woodward, Bernstein, and their editors the confidence to pursue the story despite the administration's heated "non-denial denials" and denunciations of the *Post*.

Chalmers M. Roberts, *The Washington Post: The First 100 Years* (Boston, MA: Houghton Mifflin, 1977), 380, 433-437; Howard Bray, *The Pillars of the Post: The Making of a News Empire in Washington* (New York: W. W. Norton, 1980), 125-126; Robert G. Kaiser and J.Y. Smith, "[Post Reporter, Editor, Ombudsman Richard Harwood Dies at Age 75](#)," *Washington Post*, 20 March 2001.

[6] Three days after the break-in, Nixon was already exclaiming to Charles Colson, "Where the hell are all these leaks . . . coming from?" By late July the president suspected "some lower echelon shit-ass at the Justice Department or the FBI." On the actual day the October 10 article appeared, however, Nixon thought it indicated a leak from Colson's office.

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Bob Woodward and Scott Armstrong, [“White House Tapes Contradict \[Nixon’s\] Previous Claim,”](#) *Washington Post*, 1 May 1977; Kutler, *Abuse of Power*, 108; Haldeman CD-ROM Diary, 10 October 1972.

[7] Specially prepared transcript; see also Kutler, *Abuse of Power*, 170; L. Patrick Gray with Ed Gray, *In Nixon’s Web: A Year in the Crosshairs of Watergate* (New York: Times Books, 2008), 129-131. Haldeman’s written diary entry for October 19 did not refer to the disturbing new information about Mark Felt. But the next morning Nixon raised the matter anew, and in Haldeman’s entry for October 20 he noted, “We found the FBI leak, and that it’s at the next to highest level. I gave the president this report yesterday.” Haldeman CD-ROM Diary, 20 October 1972.

[8] Specially prepared transcript; see also Kutler, *Abuse of Power*, 171-172; Gray, *In Nixon’s Web*, 129-131.

[9] Harwood, a profane, outspoken ex-Marine renowned for his ability to get to the bottom of deceptions by those in power, had been one of Bradlee’s key hires in a careful effort to purge the *Post* of its perceived liberal bias and transform it into one of the nation’s leading newspapers. Harwood despised using newspapers to promote causes of any kind, and was known internally for calling the pre-Bradlee *Post* a “schlock newspaper,” too accepting of liberal nostrums. As noted earlier, Harwood, who was not privy to the existence of Deep Throat, had been arguing that the “Woodstein” articles might end up making the *Post* look ridiculous. Roberts, *The Washington Post*, 380, 433.

[10] Woodward, *The Secret Man*, 85-87.

[11] Bob Woodward email to Max Holland, 2 October 2009. Woodward also said he did not know when he first learned of the October 19 conversation. The most likely time, of course, was following publication of *The Abuse of Power*, Stanley Kutler’s book on the Nixon tapes. Separately from Kutler, however, *The Washington Post* and *Newsweek* were active in reviewing and transcribing selective “abuse of governmental power” (AOGP) tape segments following their release in November 1996. It is possible Woodward learned about the October 19 conversation through colleagues at these publications, and prior to the release of Kutler’s book in November 1997. It is worth noting that neither the *Post* or *Newsweek* drew attention to the October 19 conversation about Felt; in addition, a Lexis-Nexis search shows the October 19 exchange was not highlighted in any articles that appeared about the AOGP tape recordings, beginning in late 1996 when they were released, through late 1997, when there was a flurry of articles in conjunction with publication of Kutler’s book.

See, for example, Bob Hohler, [“Dark, Scheming Side of Nixon Is Portrayed in Latest Tapes,”](#) *Boston Globe*, 24 November 1996; George Lardner, Jr., [“25 Years After Break-In, Nixon’s Words Endure: Recordings Undercut a Long Rehabilitation from Watergate Disgrace to Elder Statesman,”](#) *Washington Post*, 17 June 1997; George Lardner, Jr. and Walter Pincus, [“Nixon’s Fateful Reversal: After Early Decision to Destroy Tapes,”](#)

[President Changed His Mind](#),” *Washington Post*, 30 October 1997; Evan Thomas and Lucy Shackelford, [“Nixon Off the Record](#),” *Newsweek*, 3 November 1997.

[12] The *Post* article suggested that the “legal guy” was the late Washington attorney [William G. Hundley](#), who was not a lawyer for the *Post* in 1972. “I don’t understand about the Hundley speculation,” says Woodward.

Michael Dobbs, [“Watergate and the Two Lives of Mark Felt](#),” *Washington Post*, 20 June 2005; Woodward email to Holland, 2 October 2009.

[13] Interview with Harry Rosenfeld, 1 June 2007.

[14] Ibid. In 2005, when Felt came forward, Rosenfeld recalled that he did inquire in 1972 about Deep Throat’s identity. “I asked [Woodward] and we agreed he would not tell me. [Deep Throat’s] job, certainly, if not his life, would be in danger. Mark McGuire, [“Revelation Troubles Watergate Veteran](#),” *Albany Times Union*, 1 June 2005.

[15] In the fall of 1972, only Bernstein (apart from Woodward) reportedly knew who Deep Throat was and the pivotal role he was playing. *Post* editors Simons, Rosenfeld, and Sussman knew of Deep Throat’s existence, of course, but did not know his identity. Bradlee was also in the dark until October 10, when the “spying and sabotage” article appeared; at that point he learned salient details.

Ben Bradlee, *A Good Life: Newspapering and Other Adventures* (New York: Simon & Schuster, 1995), 365; Gaines and Holland, [“Deep Throat 3.0](#),” *Washington Decoded*, May 2007.

[16] John Dean emails to Bill Gaines, 27 June 2007 and 5 September 2007. Dean’s recollection that Petersen gave him the information is corroborated by a comment Dean made to the president during a meeting in the Oval Office on February 27, 1973. “Well, let me tell you where I . . . where else [I] heard that [Felt was leaking] from . . . [The information] came to Henry Petersen . . . Petersen is an old hand over there, as you know, and, bless his soul, he’s a valuable man to us.” [Conversation Number 864-4](#), 27 February 1973, Nixon White House Tapes, NARA.

[17] The day before the October 10, 1972 story ran, Woodward and Felt held what was probably their longest garage meeting ever, a marathon session that lasted from 1:30 AM until 6 AM. “So much [of the story] was from [Felt],” Woodward wrote in 2005. After the 5½-hour meeting during the wee hours, the *Post* reporter had typed up a three-page memo about the conversation with “my friend (or my source) at the FBI,” as Deep Throat was also known in and around the *Post*’s metro desk. That memo, replete with references that all but made it clear that Deep Throat was in the FBI, was promptly shared with Bernstein and the duo’s editors. It referred to reports “on [L. Patrick] Gray’s desk,” and the fact that Deep Throat had direct access to documents from the FBI’s ongoing investigation.

Bernstein and Woodward, "[FBI Finds Nixon Aides Sabotaged Democrats](#)," *Washington Post*, 10 October 1972; Bernstein and Woodward, *All the President's Men* (New York: Simon & Schuster, 1974), 130-135, 144; Woodward, *The Secret Man*, 78-80.

[18] Before joining the company, Finberg had been an associate counsel with the General Dynamics Corporation, a large defense contractor. Prior to that, he worked in New York as an associate at the Cravath, Swaine & Moore law firm and as a partner with Stein, Kripke & Rosen. Siegel had worked at the Securities & Exchange Commission before becoming chief counsel of the Senate Democratic Policy Committee from 1953 to 1958, while Lyndon B. Johnson was majority leader. He then worked for Johnson in 1960 on civil rights issues while LBJ was campaigning for the Democrats' presidential nomination.

Avis Thomas-Lester, "[Alan Finberg Dies; Post Co. Vice President](#)," *Washington Post*, 30 June 1995; "[Gerald W. Siegel, 83: Post Official, LBJ Adviser](#)," *Washington Post*, 17 October 2000.

[19] David Halberstam, *The Powers That Be* (New York: Alfred A. Knopf, 1979), 573-578.

[20] Evan Thomas, *The Man to See: Edward Bennett Williams, Ultimate Insider, Legendary Trial Lawyer*, (New York: Simon & Schuster, 1991), 264; Joseph A. Califano, Jr., *Inside: A Public and Private Life* (New York: Public Affairs, 2004), 224.

[21] Interview with John Kuhns, 31 May 2007. Kuhns was a young Williams, Connolly associate who worked on the *Post* side of things with Califano.

[22] Mann, "[Deep Throat](#)," *The Atlantic*, May 1992.

[23] The burglars had been arrested at 2:30 AM at the headquarters of the Democratic National Committee, and one of the first persons to be notified later that Saturday morning was Califano. His first telephone call, in turn, was to his friend Howard Simons, who then made sure the burglary would be thoroughly covered. Bray, *The Pillars of the Post*, 124.

[24] Interview with Joseph Califano, 30 May 2007.

[25] As Woodward described the lunch in *All the President's Men*,

Bradlee had a general idea of who the reporters' sources were, "but that's secondhand from Sussman and Rosenfeld," he said. "I'd like it firsthand now—how the stories have been put together and where they're coming from." Bradlee was a reporter by background and instinct; he understood the reluctance to discuss sources with anyone, including the editor.

"Tell me what you feel you can," he said. "Just give me their positions and tell me again that you're sure, and that Carl is sure, and that these are people who have no big ax to grind on the front page of *The Washington Post*."

Bradlee fidgeted in his chair. He and Woodward discussed how the stories had been covered, how the reporters had dealt with sources and under what circumstances they had met and communicated. The line

was drawn at a point which satisfied Bradlee's reportorial instinct and responsibilities as an editor, as well as Bernstein's and Woodward's promises of anonymity to their sources.

In Bradlee's 1995 memoir about the same lunch, the *Post* executive editor was a bit more specific about what he learned that day.

I . . . accepted Woodward's desire to identify [Deep Throat] to me only by job, experience, access, and expertise . . . [G]iven the high stakes . . . I don't see how I settled for that, and I would not settle for that now.

Bradlee eventually learned Deep Throat's name in the spring of 1976, when he pressed Woodward for the information amid charges that the fabled secret source was a composite character and didn't really exist. Bernstein and Woodward, *All the President's Men*, 145-146; Bradlee, *A Good Life*, 365; Gaines and Holland, "[Deep Throat 3.0](#)," *Washington Decoded*, May 2007.

[26] Williams reportedly told Bradlee, "Ben, the kids [Bernstein and Woodward] have got to be right because otherwise why are the Nixon people lying so goddamn much? If they're clean why don't they show it? Why are there so many lies? I'll tell you why. Because you've got them." Thomas, *The Man to See*, 275; Bradlee, *A Good Life*, 359; Bray, *The Pillars of the Post*, 132.

[27] Thomas, *The Man to See*, 19; Interview with J. Alan Galbraith, 6 October 2009.

[28] One former Williams, Connolly attorney, Earl C. Dudley, Jr., said of Ungar, "[It] wouldn't have been Harold . . . Harold was considerably older [and] didn't have that kind of Justice Department contacts in the early '70s." However, Henry Petersen was a career official at the Justice Department who began working there in the late 1940s. Interview with Earl C. Dudley, Jr., 6 October 2009.

[29] According to Professor Stephen Gillers, an expert in legal ethics at the New York University School of Law, leaking information gained through representation of the *Post* would have meant the lawyer was violating his "fiduciary and ethical duty" to the newspaper. If the lawyer believed that someone in the FBI (specifically, Felt) was acting illegally by leaking details from an on-going criminal investigation, he should have advised the paper and recused himself from any involvement. Or, the lawyer could have stated that he was personally offended by the spectacle and refused to have anything to do with the newspaper's Watergate coverage. But the lawyer did not have the right, according to Gillers, to reveal the *Post*'s confidences; indeed, he had "a duty not to do so." Acting otherwise exposed the lawyer to disciplinary action by his bar association. Stephen Gillers email to Max Holland, 6 June 2007. With respect to someone like Ungar, however, the roundabout manner in which he may have learned the information makes the situation less than clear-cut. Conceivably, it could be argued that Ungar, if he indeed leaked to Petersen, did not become privy to the information through his firm's representation of the *Post* or the DNC, but primarily because of the Williams-Bradlee friendship.

[30] Califano, *Inside*, 283; Thomas, *The Man to See*, 274.

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[31] Califano, *Inside*, 268-272; Thomas, *The Man to See*, 269-274; Woodward, "[O'Brien Sues GOP Campaign](#)," *Washington Post*, 21 June 1972. On 12 September 1972, however, US District Court Judge Charles Richey temporarily halted the taking of depositions in the DNC civil suit, and on September 21, he issued a permanent ban until after the criminal trial of the Watergate burglars. Lawrence Meyer, "[Trial of Watergate Suit Before Nov. 7 Held 'Impossible'](#)," *Washington Post*, 22 September 1972.

[32] Robert Pack, *Edward Bennett Williams for the Defense* (New York: Harper & Row, 1983), 4-5.

[33] Lou Cannon, "[Dole Lays Dirty Politics to McGovern](#)," *Washington Post*, 26 October 1972; Bernstein and Woodward, *All the President's Men*, 181-182. Eventually, it would even be alleged that Williams was Woodward's Deep Throat. Thomas, *The Man to See*, 274-275.

[34] "'I didn't get anything out of him,' says Bradlee. 'I thought 'Holy God, we'll get everything. Ed is finally going to pay off.'" [But] according to Bradlee, Williams refused to give the *Post* any inside information from the DNC suit." Thomas, *The Man to See*, 275. Bradlee reiterated this statement for a 1992 *Post* article. Walter Pincus, "[A Watergate Mystery: Was There a Second 'Deep Throat'?](#)" *Washington Post*, 28 June 1992.

[35] The purpose of the June 17 re-entry was to fix the bug on the telephone of Larry O'Brien's secretary, which had been installed May 28. Barry Sussman, *The Great Cover-up: Nixon and the Scandal of Watergate* (Arlington, VA: Seven Locks Press, 1992), 6-7.

[36] Galbraith interview, 6 October 2009. According to Califano's memoir, he "wanted [DNC chairman Larry] O'Brien to go public immediately with Baldwin's explosive revelations. But Ed Williams discouraged me." Williams's modus operandi, according to Galbraith, was to "leak things slowly." Califano, *Inside*, 272; Interview with J. Alan Galbraith, 26 October 2009.

O'Brien eventually did go public with part of Baldwin's story on August 15, and then again on September 7, both times without naming Baldwin. Bill Kovach, "[O'Brien Asserts Bugging of Offices Preceded Raid](#)," *New York Times*, 16 August 1972; Woodward and Bernstein, "[13 Face Quiz in 'Bugging' Case](#)," *Washington Post*, 16 August 1972; Bernstein and Woodward, "[More Phone Tapes Charged](#)," *Washington Post*, 8 September 1972.

After these stories appeared, the much more detailed account of what Baldwin had to say appeared in the *Post* on September 11. Asked recently about how they were tipped off to the Baldwin story, Bernstein and Woodward said, "neither of us has a clear recollection of where the first information . . . came from." In *All the President's Men*, they wrote, "The reporters had learned of [Baldwin] while making some routine checks. Bernstein had been told that a former FBI agent had participated in the Watergate operation; that he had informed investigators that Democratic headquarters had been under electronic

surveillance for about three weeks . . . ” Bernstein email to Max Holland, 28 October 2009; Bernstein and Woodward, *All the President’s Men*, 108.

The papers of Woodward and Bernstein that are currently open to research at the [Ransom Center](#) do not shed any light on the Baldwin scoop; if there are any relevant files, they are still closed. The FBI first learned about Baldwin on June 19, and had obtained his full account by July 10. [FBI Watergate Investigation: OPE Analysis](#), File No. 139-4089, 5 July 1974, 77, 79, released under the Freedom of Information Act.

[37] Bernstein and Woodward subsequently tried to get Baldwin to go on the record. That particular scoop, however, would be scored in early October by Jack Nelson and Ronald J. Ostrow of the *Los Angeles Times*, to Bradlee’s great chagrin.

Bernstein and Woodward, “[Bugging ‘Participant Gives Details](#),” *Washington Post*, 11 September 1972; Jack Nelson and Ronald J. Ostrow, “[Bugging Witness Tells Inside Story on Incident at Watergate](#),” *Los Angeles Times*, 5 October 1972; Bernstein and Woodward, *All the President’s Men*, 110; Alicia C. Shepard, *Woodward and Bernstein: Life in the Shadow of Watergate* (Hoboken, NJ: John Wiley & Sons, 2007), 55-57; Halberstam, *Powers That Be*, 637-641.

[38] Rosenfeld interview, 1 June 2007; Sussman, *The Great Cover-up*, 97.

[39] “[US Prosecutor Resigns](#),” 23 November 1966, *New York Times*; AP, “[Smith Promoted at Newsweek](#),” *Washington Post*, 8 April 1974.

[40] Interview of Edward L. Smith, 12 June 2008; Califano, *Inside*, 283; Rosenfeld interview, 1 June 2007.

[41] Smith interview, 12 June 2008; Bradlee, *A Good Life*, 336.

[42] Smith interview, 12 June 2008.

[43] Ibid; Interview of Edward L. Smith, 26 October 2009. The October 25 article contained an error of fact that the White House immediately seized upon, and tried to use to discredit all of the *Post*’s coverage. Bernstein and Woodward had reported that CRP treasurer Hugh Sloan told the Watergate grand jury that Haldeman was among those authorized to approve payments from the cash fund. In fact, Sloan had said no such thing to the grand jury, although the information about Haldeman’s access was nonetheless true.

Bernstein and Woodward, “[Testimony Ties Top Nixon Aide to Secret Fund](#),” *Washington Post*, 25 October 1972; Sussman, *The Great Cover-up*, 117-123; Bernstein and Woodward, *All the President’s Men*, 182-192; Bernstein and Woodward, “[Magazine Says Nixon Aide Admits Disruption Effort](#),” *Washington Post*, 30 October 1972.

[44] Before Smith's involvement ended, he was involved in a controversial episode that is revealing of the post-election climate, when the Watergate scandal seemed unlikely to ever unravel completely. In late November 1972, Smith recalled, he was asked if Woodward and Bernstein could interview members of the grand jury. The duo had received a tip that one juror so hated Nixon that she might be willing to talk to reporters. Grand-jury proceedings are normally considered inviolate, however, and federal rules of criminal procedure require that jurors take an oath not to disclose anything they have learned from witness testimony. Woodward and Bernstein asked their editors, Rosenfeld and Sussman, what they thought about approaching the supposedly disgruntled juror, and the editors, in turn, contacted Smith for his advice (although Smith remembers being asked by Woodward and Bernstein directly). Califano and Williams were also consulted.

"I said, 'Well, yes and no,'" Smith recalled. "'No, you can't approach [grand jurors] and sound them out on that basis. If they come to you voluntarily, that's something else again.'" Woodward and Bernstein were so desperate for a story, however, that they began approaching grand jurors while pretending they did not actually know whether the person had been impaneled. After one juror complained to Judge John Sirica, who was presiding over the burglars' prosecution, it took all of Edward Bennett Williams's formidable powers of persuasion to keep Woodward and Bernstein out of jail.

When Bernstein and Woodward wrote about this episode in *All the President's Men*, they said they undertook the effort after Bradlee had been "reassured by the [Post's] lawyers." When Williams saw this reference prior to the book's publication, he went ballistic over the insinuation that he had sanctioned the reporters' efforts to contact grand jurors; he thought it would damage his reputation with judges all over the country, and pressed Califano to get the text changed. But Richard Snyder, head of Simon & Schuster, refused to make the alteration and for several years, Woodward and Bernstein were on Williams's "blacklist."

Bernstein and Woodward, *All the President's Men*, 207, 210-211, 222-223; Smith interview, 12 June 2008; Interview with Harry Rosenfeld, 21 June 2008; Califano, *Inside*, 278-279; Thomas, *The Man to See*, 276-278; Sirica, *To Set the Record Straight*, 54-55.

[45] In response to the DNC lawsuit, CRP attorneys had filed a motion in February demanding that the *Post* (and several other media outlets) produce reporters' notes, internal memos, and telephone logs. It was a transparent effort to discover the identity of the anonymous sources behind the media's Watergate coverage. When Califano showed up as representing the *Post*, while another Williams, Connolly lawyer appeared in the same hearing as the DNC's lawyer, Judge Richey threatened to hold a hearing on the law firm's conduct unless it dropped representation of one of its clients. Califano, *Inside*, 282-283.

[46] Smith interview, 6 October 2009.

[47] *Ibid*; Rosenfeld interview, 1 June 2007.

[48] Gray, *In Nixon's Web*, 133; see also Mark Felt and John O'Connor, *A G-Man's Life: The FBI, Being "Deep Throat," and the Struggle for Honor in Washington* (New York: Public Affairs, 2006), 198. L. Patrick Gray first spoke about the Gilpatric leak during his March 22, 1978 sworn testimony before a federal grand jury; his revelation was not made public until release of his memoir in 2008. That year a *Times* reporter contacted Gilpatric's son, John, who said he found the account hard to believe; the elder Gilpatric, who died in 1996, had never mentioned knowing John Mitchell, who died in 1988. In addition, Gilpatric's former partner at Cravath, Samuel C. Butler, who knew him as well as anybody at the firm, did not know that Gilpatric was friends with Mitchell.

However, in addition to being presented in sworn testimony, the *Time*-Gilpatric leak was alluded to during a February 16, 1973 tape-recorded meeting of President Nixon, FBI acting director Gray, and senior White House adviser John Ehrlichman, and again on February 27 during a meeting between the president and John Dean. More likely than not, Gilpatric learned about Felt from John F. Dowd, a former Cravath associate who was the full-time editorial counsel at *Time* in 1972.

Ed Gray email to Max Holland, 3 November 2009; David Stout, "[Ex-FBI Chief's Book Revisits Watergate](#)," *New York Times*, 9 March 2008; Interview with Samuel C. Butler, 13 October 2009; Gray, *In Nixon's Web*, 159; [Conversation Number 858-3](#), 16 February 1973; [Conversation Number 864-4](#), 27 February 1973, Nixon White House Tapes, NARA.