

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : Criminal No. 78-401(2)&(3)
 :
 JANE KEMBER :
 MORRIS BUDLONG :
 a/k/a MO BUDLONG :

SENTENCING MEMORANDUM OF THE UNITED STATES OF AMERICA

The United States of America respectfully submits this Sentencing Memorandum to aid the Court in imposing sentence in this case.

I.

Introduction

The defendants, Jane Kember and Morris Budlong, were each found guilty, following a jury trial, of nine counts of aiding and abetting burglary in the second degree. The evidence which led the jury to return these guilty verdicts revealed that during the years 1973 to 1976 the defendants ordered the commission of brazen, systematic and persistent burglaries of United States Government offices. Their purpose was to ransack these offices of all documents of interest to the organization which they led -- the Guardian's Office of the Church of Scientology -- in order to secure total exemption from taxation and to protect Scientology's founder, L. Ron Hubbard. In the process, from their headquarters in East Grinstead, England, they challenged and attempted to undermine the judicial and governmental structure of the United States. They did so by fraudulently using the Freedom of Information Act (FOIA) in a manner never intended by the Congress of the United States.

As this Court heard, these defendants set about filing FOIA requests with various Government agencies in order, inter alia, to cause these agencies to gather all the requested documents in a central repository for the review process mandated by the FOIA. Once the Guardian's Office discovered where these documents were located, they began a systematic pillaging of that office - repeated

and surreptitiously breaking into that office, taking the documents, photocopying them with Government equipment and supplies, and replacing them in the Government files so that, in the words of defendant Budlong, these thefts would not be uncovered.

Notwithstanding the fact that they had obtained illegally all the documents they were seeking, they proceeded to file FOIA suits in the courts of this country, complaining that the particular Government agencies had not given them all the documents to which they were entitled. Thus, they perpetrated a fraud upon the American judicial system. They came into the American courts with unclean hands, seeking documents which they had already obtained by violating the laws of the United States. After abusing the trial courts, they proceeded to abuse the appellate courts never disclosing that they were engaging in litigation in bad faith, totally heedless of the waste of judicial resources involved. Such conduct, which strikes at the very heart of the judicial system, cannot be tolerated.

These defendants additionally ordered the theft of documents and memoranda of attorneys representing the United States Government, a party against whom they had instituted a variety of lawsuits. They did so to discover the attorneys' legal strategy and gain an unfair strategic advantage in the courts. In effect, they violated the attorney-client privilege of every litigant who opposed them, a fact which they seek to obfuscate by complaining in bad faith, that their own attorney-client privileges were violated. Such conduct cannot be permitted in our judicial system.

Once their emissaries were caught in the midst of one of their criminal acts, the defendants orchestrated from England a massive obstruction of the due administration of justice. Such outrageous conduct, which, we submit, this Court can consider under standards recognized by the Supreme Court, strikes at the very heart of our judicial system - a system which has often, at crucial times in our history, been the savior of our institutions.

Moreover, a review of the documents seized from the two Los Angeles, California, offices of the Guardian's Office - including log books of messages from these two defendants -- show the incredible and sweeping nature of the criminal conduct of these defendants. Indeed, Guardian Program Order 158, and some of the other orders in evidence, have already provided the Court with a glimpse of this conduct. These crimes included: the infiltration and theft of documents from a number of prominent private, national, and world organizations, law firms, newspapers, and private citizens; the execution of smear campaigns and baseless law suits for the sole purpose of destroying private individuals who had attempted to exercise their First Amendment rights to freedom of expression; the framing of private citizens who had been critical of Scientology, including the forging of documents which led to the indictment of at least one innocent person; and violation of the civil rights of prominent private citizens and public officials. These are but a few of the criminal acts of these two defendants which, we submit, give the Court a glimpse of the heinous and vicious nature of their crimes.

In view of the severity of the crimes of which the defendants Kember and Budlong were convicted, the high level of their positions in the organizational hierarchy of the Guardian's Office, compared with the positions held by their nine co-defendants who were convicted after a non-jury trial based on an uncontested stipulation of evidence, as well as the additional information which we now bring to this Court's attention, we submit that the public interest demands the imposition of substantial terms of incarceration. This Court must make it clear beyond peradventure that the criminal conduct of these two defendants cannot be countenanced, and that anyone who sets about masterminding and executing the crimes of which they were convicted, uses and then tampers with the judicial

system as they have, will be dealt with in the most severe terms provided by the law.

II.

The Law

The right of this Court to consider evidence of other crimes prior to imposing a sentence has long been recognized. It is well settled that "before making [a sentencing] determination, a judge may appropriately conduct an inquiry broad in scope, largely unlimited either as to the kind of information he may consider, or the source from which it may come." United States v. Tucker, 404 U.S. 443, 446 (1972). Courts have a duty to obtain as much information as they can about a convicted defendant's background, character, and conduct, criminal or otherwise, so that they can impose a sentence to fit the circumstances of the case and the individual defendant. See United States v. Grayson, 438 U.S. 41 (1978); 18 U.S.C. § 3577 (1976). Thus, hearsay assertions are admissible, Williams v. Oklahoma, 358 U.S. 576 (1959), as is information about prior crimes committed by the defendant, even if the indictments for those crimes are pending, United States v. Metz, 470 F.2d 1140 (3d Cir. 1972), cert. denied, 411 U.S. 919 (1973); or the defendant was never tried for the other crimes, Williams v. New York, 337 U.S. 241, 244 (1949); or the charges were dismissed without an adjudication on the merits, United States v. Doyle, 348 F.2d 715 (2d Cir.), cert. denied, 382 U.S. 843 (1965); United States v. Needles, 472 F.2d 652, 655 (2d Cir. 1973); or the defendant otherwise avoided conviction. United States v. Jones, 113 U.S. App. D.C. 233, 307 F.2d 190 (1962), cert. denied, 372 U.S. 919 (1963); United States v. Cifarelli, 401 F.2d 512, 514 (2d Cir.), cert. denied, 393 U.S. 987 (1968). Even facts developed in prosecutions where the defendant was acquitted can be considered by the sentencing judge. United States v. Sweig, 454 F.2d 181 (2d Cir. 1972).

In addition, the Court can consider all the circumstances surrounding a defendant's conviction for the present crime. A court is also warranted in increasing the sentence when it believes that the defendant has undermined the judicial system through repeated perjury. United States v. Grayson, supra.

III.

The Charges on Which the Defendants Were
Convicted and the Continuation of the Burg-
laries after Meisner and Wolfe Were Caught.

Each of the two defendants now before the Court were found guilty of nine counts of aiding and abetting second degree burglaries of government offices at the Internal Revenue Service, the Department of Justice and the office of an Assistant United States Attorney in this very courthouse. The evidence at their trial proved beyond any doubt that the defendants not only commanded and directed these burglaries but also received the fruits of the burglaries -- copies of the stolen Government documents -- and that they commended and awarded their subordinates for their success in these criminal endeavors. Based on this overwhelming evidence, with which this Court is intimately familiar, a jury returned unanimous verdicts of guilty against both defendants.

The evidence further shows, however, that the defendants did not stop their elaborate schemes on June 11, 1976 when they were informed that Michael Meisner and Gerald Bennett Wolfe had been confronted by the Federal Bureau of Investigations in this very courthouse during one of their attempted burglaries. Indeed, to the contrary, the evidence overwhelmingly demonstrates that the defendants continued to issue Guardian Orders and directives commanding crimes identical to those for which they have been convicted. We submit that such evidence is probative at a sentencing because it brings into focus more than anything else the refusal by the defendants to live by the law -- their apparently intractable

conviction that they are somehow above the law. This is illustrated by Mrs. Hubbard's statement on the witness stand that she and her codefendants, including these two defendants, felt they could do to others whatever they perceived, however erroneously, others were doing to them. Thus, they created the "Intelligence" or "Information" Bureau because they decided they had no use for the lawful remedies provided by our legal system. See e.g.; Government Exhibit No. 2 at trial. Such behavior, we submit, cannot be tolerated in any civilized society.

The following is a sampling of a few of the directives and orders which show that the defendants continued their illegal activities beyond June 1976:

Date and Exhibit	Order or Communication
31 July 1976 (Gov't Exh. No. 109) (Exh. No. 1 hereto)	Compliance Report Re: Guardian Program Order 302 Operating Target 5. Lists priorities for penetration of Government agencies. Among agencies targeted for penetration: CIA, FBI, Defense Communications Agency, Federal Protective Service, Federal Bureau of Prisons, Office of the President and Vice President of the United States, the United States Senate, and the Administrative Office of the U.S. Courts.
15 October 1976 (Gov't Exh. No. 107) (Exh. No. 2 hereto)	Defendant Budlong to Richard Weigand: "Attached is a project which can be utilized to debug and accomplish any infiltrating target you may have trouble with in your area." Budlong demands that "[e]ach time it is implemented . . . B 1 WW is to be notified." The attached project is called <u>WEAVER'S NEEDLE</u> . Major Target: "To successfully infiltrate (name of agency or organization) to locate and obtain their files on the C of S."
27 May 1977 (Gov't Exh. No. 111) (Exh. No. 3 hereto)	Defendant Jane Kember reissues Guardian Program Order 158 as GPgmO 158 R (Reissue). While tracking the previous order of 5 December 1975 it refines it and changes some of the targets. Defendant Budlong's title appears immediately before Kember's name at the end of the order, indicating he approved the order.

3 June 1977
(Gov't Exh. No. 112)
(Exh. No. 4 hereto)

U.S. Secretary W.W. Hermann Brendel in a communication sent to defendants Kember and Budlong also lists priorities for B 1 U.S., including obtaining all U.S. Government files, and U.S. District Attorney, Los Angeles, files. It lists various operations against private individuals and organizations and state agencies including getting:
(1) Susan Mondale "checked out;"

(2) "Time-Life Books discredited."

Additionally, based upon the correspondence between the defendant Jane Kember and Deputy Guardian U.S. Henning Heldt, there is no question but that the defendant Kember directed, encouraged, and personally monitored the Guardian's Office attempt to attack and destroy Assistant United States Attorney Nathan Dodell. Indeed on June 6, 1976, defendant Kember wrote to Heldt: "Have we ever done a really thorough B1 investigation of Dodell? . . . let me know what B1 found on him . . . want the intell[igence] actions looked over." That directive was complied with on 29 June 1976. See Exh. No. 6 hereto. Then on June 9, 1976 defendant Kember telexed former co-defendant Heldt: "Re: Justice Dodell attack strategy & yr desp[atch] 4 June. I consider that yr actions are excellent and that you are holding the line beautifully. V[ery] W[ell] D[one] and let me know how it goes." She was given the information on 29 June 1976. See Exh. No. 7 hereto.

We submit that a mere sampling of the orders and communications emanating from these defendants indicates their heavy involvement not only in the criminal activities for which they were convicted but also in identical criminal activities for at least the year following the FBI's confrontation with Meisner and Wolfe in this courthouse.^{1/} Such a pervasive pattern of conduct would indicate

1/ While Kember and Budlong claim that the burglaries were carried out solely to remove "false reports" from Government files, the documents show otherwise. In fact, one of the programs of the Guardian's Office called for the deliberate planting of false reports in Government files. In a World Wide project issued 16 September 1975 by
(continued on next page)

that the only reason our proof of these criminal ventures ends in June 1977 is that the searches took place on July 8, 1977. One can only speculate as to whether these illegal activities were ever terminated by these defendants.

(1/ continued from preceding page)

aide David Gaiman, Deputy Guardian for Public Relations World-Wide, an operation is ordered to plant false information in U.S. Security agency computers, "to hold up the American security to ridicule, as outlined in the GO by LRH." It describes the plan as "to take a cat with a pedigree name . . . and to get the name into a computer file, together with a record whether it be criminal, social welfare, driving or whatever; and to build the sequence of events to the point where the creature holds a press conference and photographic story results." The project called for the use of plants to place the false information into U.S. security agency computers. See Exh. No. 5 hereto.

IV.

The Obstruction of justice

The seized documents demonstrate beyond peradventure that the two defendants before the Court for sentencing, Jane Kember and Morris Budlong, from their secure haven in East Grinstead, England, orchestrated a massive cover-up, obstructing the administration of justice in the United States. They suppressed and fabricated evidence to be presented to investigating authorities and the grand jury in order to insulate themselves and Scientology from liability for the crimes which they had ordered and committed, including the nine burglaries of which they now stand convicted. In so doing, they committed crimes ranging from harboring a fugitive to suborning perjury. Not only did they commit these crimes against the American judicial system, but they did so with impunity. Examples from a few of the seized documents provide a flavor of the brazenness and singlemindedness with which these two defendants set about obstructing the American judicial system. We submit that this Court not only can, but indeed should, consider this evidence in assessing the culpability of these defendants and the likelihood of their rehabilitation, or lack of such likelihood.

A. As to Jane Kember, the following are summaries of but a few of her communications which show her clearly at the helm of the conspiracy to obstruct justice:

Date and Exhibit

Communication

June 25, 1976
GWW Log Book,
p. 141 (Exh. No.
8, hereto)

Jane Kember sends telex to Henning Heldt:
"Re: Guardian's Office D.C., Evaluation. Leave Herbert [Meisner] where he is. If Patsy [Meisner] not OK work out other solution."
[Complied to November 18, 1976].

October 29» 1976
GWW Log Book,
p. 149 (Exh. No.

Jane Kember sends telex to Henning Heldt:
"Henning. I am totally overrun

9 hereto)

on not getting vital data from BI lines. I want the following data in full. Re: MM [Mike Meisner] and your Boffin eval which has not even been received at WW. Are you having trouble with MM [Meisner] and why? I want full report and precise details. What are the possibilities of a Grand Jury investigation? I want full details. Why does the CSG [Mary Sue Hubbard] ordered time schedule have to be altered to await the outcome of the Silver [Wolfe] trial. If MM pleaded guilty could he then just say nothing or appear to be type 3 [crazy]? Will you please get me a full report on this whole scene without any justifications as to security being the reason for withhold of vital data. Much love, Jane."

November 1, 1976
GWW Log Book,
p. 150 (Exh. No. 10
hereto)

Jane Kember sends telex to Henning Heldt:
"Problems appear to be with MM [Meisner] (1) Overts [thoughts against Scientology] been pulled [i.e., drawn out of him in an auditing session?]; (2) Is he producing? (3) Anyone explained that cooperation out of the question; (4) anyone explained why we want Silver's case handled first?; and (5) anyone explained he will not open his mouth?
..."

November 1, 1976
GW Log Book,
p. 151 (Exh. No. 11
hereto)

Jane Kember to Henning Heldt:
"D.C. MM [Meisner] Mess. Please get BI data up the line fast and also data on urgent situations."

November 12, 1976,
GWW Log Book,
p. 155 Exh. No. 12
hereto)

Jane Kember to Henning Heldt:
"Re: Herbert [Meisner]. That sounds much better. Please let me know when his overts have been pulled." [See Exh. No. 10, supra].

January 11, 1977,
GWW Log Book,
p. 162 Exh. No. 13
hereto)

Jane Kember to Henning Heldt:
"Henning, Please send me a list of all the people who know about the M [Meisner] cycle. Then please report on how you are getting eyes only actually being duplicated and all extraneous people off, repeat off, the lines. Much love, Jane."

April 20, 1977,
Exh. No. 14
hereto)

Handwritten letter from Jane Kember to Henning Heldt:
[Jane Kember sets out in detail the present plans for the cover-up, and asks what is causing the delay in completion of the cover-up. She concludes: "Please write a detailed

report which actually answers these questions . . . "].

B. As to Morris Budlong, the seized documents clearly show that every detail of the cover-up had to receive his specific approval. For example:

<u>Date and Exhibit</u>	<u>Communication</u>
September 28, 1976 (Exh. No. 15 hereto)	from Mo Budlong to Dick Weigand, DGIUS, cc: to Jane Kember: Sets forth plan for harboring Meisner as a fugitive (change his identity, go into hiding) and obstructing justice by having Wolfe plead guilty, giving no details of the reason for being in the courthouse. Concludes: <u>"If any of the above is not clear, please ask immediately as I don't want any confusions on what has to be done."</u>
November 2, 1976 (Exh. No. 16 hereto)	Mo Budlong sends telex to Greg Willardson, DDGIUS, criticizing the Information Bureau for handling the obstruction of justice by itself without help from the Legal Bureau. Concludes: <u>"Rectify this immediately. BI handles security and keeps M [Meisner] and Silver [Wolfe] cheered up. Legal handles the cases and Legal handling. You will wrap all of BI round a telegraph pole if you continue this way. <u>Send full explanation by telex, Love, Mo."</u></u>
December 1, 1976 (Exh. No. 17 hereto)	To Mo Budlong, cc: to Jane Kember, from Mitchell Hermmman: Sets out details on how the obstruction of justice is being handled in the United States Guardian's Office. Concludes by telling Mo Budlong that the overall cover story for Meisner and Wolfe is being prepared <u>for his final approval.</u>
January 24, 1977 (Exh. No. 18 hereto)	Telex to Mo Budlong from Dick Weigand, DGIUS: "Re: Silver [Wolfe]: Justice going for Grand Jury on Silver matter this month. Also Justice wants to talk with Silver. Plan if to stall Grand Jury by Silver promise of tall in end of January. Handling is to get Silver briefed and drilled at US by BI and Legal to give Justice admission of guilt and back-up story if needed from Herbert [Meisr Pjt currently at WW, specifically Tgt. 4. <u>Need your ok on use of Tgt. 4 to proceed.</u>

Intention is with Silver drilled and briefed he can get Justice to drop Grand Jury. Grand Jury not wanted as Silver could be given immunity then made to give data as no 5th Amendment rights after immunity. Then data from him could be used to get us or Herb [Meisner] or even used against Silver if proved false. Can I get your telex OK or not OK on Tgt. 4 so as to proceed. Love, DGIUS. . . .

January 24, 1977
(Exh. No. 19 hereto)

In reply to the above, Mo Budlong sends telex to Dick Weigand, DGIUS:

"Target 4 on my copy is to brief Silver on story. This is OK but DGLWW requires more data on grand jury's powers and has asked DGIUS for same [A] If Silver [Wolfe] states that he will plead guilty will Grand Jury proceed? [B] Is Grand Jury going for indictment on Silver or Murphy? [C] If Silver is to plead guilty, why does he need a story? [D] Also per plan, if Murphy [Meisner] is to plead guilty, why does he need a story? Surely sequence is he is arrested, goes to trial, pleads guilty and is sentenced. Much love, MO."

January 24, 1977
(Exh. No. 20 hereto)

In reply to the above, Dick Weigand telexes Mo Budlong:

"Re: Silver [Wolfe]. Reply to your Q's: (A) If Silver pleads guilty, matter should not go to Grand Jury. This needs to be verified by Legal. (B) Grand Jury is for Silver. (C) Story for following: United States Attorney's Office District "of Columbia has theory that Silver and Herb [Meisner] after documents for Church. They want to determine what Silver was up to and will drop charges if they determine theory not true. A meeting with them was set up at their request to go over this. Silver story for meeting. Purpose twofold: to provide time for legal to research and to see if U.S. Attorney's Office can be convinced to drop charges. Silver attorney predicts Silver will be charged with impersonation and forgery of I.D. and trespass. Silver has acknowledged doing this. Difficulties would come if he were also charged with conspiracy and Grand Jury was used to try to develop this charge aimed at Church. (D) Murphy [Meisner] story would be needed for same

May 3, 1977
(Exh. No. 21 hereto)

To Mo Budlong from DGIUS, Dick Weigand and Greg Willardson, DDGIUS; reports on handling of Meisner due to his lack of cooperation:

"We went back to BI and organized a crew of guys to handle the worst eventualities

by force if necessary (i.e., gag, handcuffs, etc.)"

"We eventually got to [Meisner's] at about 2:15 a.m., 30 April, and Dick, Brian (SE Sec) and I went in to see [Meisner] first with the three guards . . . Herbert was quite upset about the guards initially . . . [H]e was not going to allow guards staying with him. He then threatened that then he would have to leave even if he had to make a scene, including involving the police"

"At times throughout the above conversations the guards and I were searching through his belongings removing any materials connected with the Church or his notes on the scene, and safeguarding dangerous implements like knives, razors, etc"

"We then left at about 6-6:30 a.m. with the guards in charge."

May 2, 1977
(Exh. No. 22 hereto)

To Mo Budlong from DGIUS, Dick Weigand:

". . . The guards stayed with [Meisner] and are with him now."

"Then on Saturday and Sunday I had people continue to look for a better place to take him. Sunday a place was found and Brian and the guards tried to move him. He refused and said he would pull in all sorts of trouble if we tried to get him out the door. He was physically removed from the building, and taken to the new place where he is still under constant watch. His auditing will hopefully be started today as the auditor is getting handled today"

June 7, 1977
(Exh. 23 hereto)

Letter (CSW) from DGIUS to Mo Budlong containing handwritten approval by Budlong: DGIUS proposes a slight change in the cover story to be used by Meisner when he turns himself in after a year as a fugitive. He is to claim that he found out he was wanted by calling his wife, instead of by calling Wolfe, as was originally the story. Mo approves the change in the cover story on June 15, 1977, writing: "This change is fine. Love, Mo B"

June 22, 1977
(Exh. No. 24 hereto)

To Mo Budlong, cc: to Jane Kember, from Cindy Raymond:
Mo (and Jane) are informed attached) that Meisner has escaped and that B-I is developing programs, inter alia, to provide a cover for "his turning."

Thus, as the evidence shows, these defendants orchestrated an elaborate cover-up, beginning in June 1976 and continuing through June 1977 and, no doubt, thereafter. In fact, a significant part of the defense they presented at trial - their attack on the integrity and reliability of Michael Meisner -- was foreshadowed in the "obstruction documents." They presented this Court with a shabby attempt at impeaching Meisner's credibility by claiming that he stole money from the Church - the same false claim they made against another former Scientologist who had the courage to expose their crimes and thus fell victim to their fair game doctrine. Allard v. Church of Scientology of California, 58 Cal. App. 3d 439, 129 Cal. Rptr. 797 (Ct. App. 1976), cert. denied, 97 S. Ct. 1101 (1977).

It is the two defendants before the Court for sentencing who, along with their already convicted and sentenced cohort, Mary Sue Hubbard, bear the greatest degree of responsibility for the massive conspiracy to obstruct justice which they jointly directed. While the others already convicted of that offense (Henning Heldt, Duke Snider, Gregory Willardson, Richard Weigand, Cingy Raymond, and Gerald Bennett Wolfe) indeed deserved the punishment they received, they acted under direct orders of Jane Kember and Morris Budlong, a factor appropriate for consideration by this Court in assessing the relative severity of the sentences that the defendants Kember and Budlong should receive.

V.

Other Crimes Committed by These Defendants

The defendants' contention that they committed the crimes of which they stand convicted in order to protect their Church from Government harrassment collapses when one reviews a sample of the remaining documents seized by the FBI during the execution of the two Los Angeles search warrants. If anything, these documents establish beyond question that the defendants, their convicted co-defendants, and their unindicted co-conspirators, as well as their organization, considered themselves above the law. They believed that they had carte blanche to violate the rights of others, frame critics in order to destroy them, burglarize private and public offices and steal documents outlining the strategy of individuals and organizations that the Church had sued. These suits were filed by the Church for the sole purpose of financially bankrupting its critics and in order to create an atmosphere of fear so that critics would shy away from exercising the First Amendment rights secured

2/

them by the Constitution. The defendants and their cohorts launched vicious smear campaigns, spreading falsehoods against those they perceived to be enemies of Scientology in order to discredit them and, in some instances, to cause them to lose their employment. Their targets included, among others, the American Medical Association (AMA), which had branded Scientology's practice of "dianetics" as "quackery"; the Better Business Bureau (BBB), which sought to

2/ This is precisely how Scientology's critics viewed Scientology's activities. Newsweek, November 20, 1978 at 133: "The Church of Scientology relies on suits and petty harassment to register its complaints. In August, the Scientologists slapped a \$1 million suit on the Los Angeles Times after it ran a series about the Church. The Times wasn't accused of libel; rather, the Scientologists claimed that the paper conspired with the FBI and Justice Department to violate the church's civil rights by poisoning the atmosphere before a trial" of the nine convicted co-defendants. See also discussion, infra, regarding Scientology's lawsuits against its perceived "enemy", Paulette Cooper.

respond to private citizens' inquiries about the courses offered by Scientology, newspapers which merely sought to report the news and inform the public, law firms which represented individuals and organizations against whom Scientology initiated law suits (often for the sole purpose of harrassment); private citizens who attempted to exercise their First Amendment rights to criticize an organization whose tactics they condemned; and public officials who sought to carry out the duties for which they were elected or appointed in a fair and even-handed manner. To these defendants and their associates, however, anyone who did not agree with them was considered to be an enemy against whom the so-called "fair game doctrine" could be invoked. Allard v. Church of Scientology of California, supra. That doctrine provides that anyone perceived to be an enemy of Scientology or a "suppressive person," "[m]ay be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. [He m]ay be tricked, sued or lied to or destroyed." Id., 58 Cal. App. 3d at 443 n.1, 129 Cal. Rptr. at 800 n.1.^{3/} This policy, together with the actions of these defendants who represent the very top leadership of the Church of Scientology, bring into question their claim that their Church prohibited the commission of illegal acts.

The United States submits that the activities outlined in this section show the scope, breadth and severity of the crimes committed

37 This led the California Court of Appeals to state that "Any party whose tenets include lying and cheating in order to attack its 'enemies' deserves the results of the risk which such conduct entails." Id., 58 Cal. App. 3d at 452, 129 Cal. Rptr. at 805.

Defendants, through one of their attorneys, have stated that the fair game policy continued in effect well after the indictment in this case and the conviction of the first nine co-defendants. Defendants claim that the policy was abrogated by the Church's Board of Directors in late July or early August, 1980, only after the defendants' personal attack on Judge Richey. Transcript of September 5, 1980, at 14.

by the defendants in this case. It is for this very reason that the United States believes that the defendants must be sentenced to substantial terms of incarceration.

A. Private Organizations

American Medical Association

In the early 1970's, unindicted co-conspirator L. Ron Hubbard, founder of Scientology, issued an order concerning the "Great Health Monopoly", which accused the AMA of monopolizing health care to the exclusion of groups such as Scientology. In this order, Hubbard called for the break-up of the AMA.

In accordance with the Founder's policy, the AMA's Chicago headquarters were first infiltrated by Scientology in 1972. Documents stolen during this period were utilized in the publication of a book written by unindicted co-conspirator Joe Lisa using a pseudonym. The book, entitled "In the Public Interest," was covertly published and distributed by the Information Bureau of the Guardian's Office in order to discredit the AMA.

In early 1974, Michael Meisner, then the Assistant Guardian for Information in the District of Columbia, was ordered to recruit and place an agent in the AMA's District of Columbia office. Co-defendant Hermann, who was in charge of covert operations in the District of Columbia, recruited June Byrne and assisted her in infiltrating the local AMA office under the false name of Lisa Giannotti. Among the documents photocopied and stolen by Byrne

4/ See Exh. No. 25 hereto, which contains much correspondence among co-defendants Heldt, Weigand and Raymond, with copies sent to defendants Kember and Budlong, concerning the use of Ms. Byrne as a covert operative at the Clearwater Sun newspaper, following her detection by AMA investigators in 1975. At page 4, co-defendant Heldt writes: "P.S. We must get this reported to WW." At page nineteen, co-defendant Raymond stated that June Byrne had been blown as a Scientology agent at the Clearwater Sun. She added "that there is a chain of events leading up to the base blown agents which starts in late 1974 when June (The CWSUN FSM) was placed in
(continued on next page)

were minutes of meetings between the AMA and the National Medical Association; memoranda of discussions with the federal Department of Health, Education and Welfare; and memoranda regarding the Joint Commission on the Accreditation of Hospitals (JCAH) and the Coordinating Committee on Health Information (CCHI).

Another covert operative was placed in the Chicago headquarters of the AMA in order to obtain all documents on the CCHI. That agent, Sherry Hermann, a/k/a Sherry Canavaro, a/k/a Sandy Cooper, obtained all these documents and relayed them to her husband, co-defendant Mitchell Hermann who was her case agent. (Exhibit No. 26 hereto.)

In the Spring of 1975, Mr. Meisner received an order to covertly leak to the press the numerous AMA documents which had been obtained in the District of Columbia and Chicago. That action was intended to provoke investigations of the AMA's tax exempt status by Congressional Committees, the IRS, and the Federal Trade Commission. Pursuant to these directives, Mr. Meisner was to anonymously contact reporters and send them copies of these stolen documents. Newspapers subsequently referred to that anonymous source as "Sore Throat."

Defendants Kember and Budlong were kept constantly apprised of the operations concerning the AMA, and indeed encouraged these activities. Thus, for example, on October 16, 1975, Jane Kember told Henning Heldt, in response to a report of his on October 7, 1975: "AMA: SORE THROAT . . . Let me know how this goes." GWW Log, p. 101, Exh. No. 27 hereto. And again on October 21, 1975, defendant Kember telexed to Heldt the cover story to be used by AMA infiltrators, if caught:

Henning Re: Sore Throat . . . David [Gaiman -

4/(continued from preceding page)

the AMA D.C." Co-defendant Raymond discussed the placement of Jodie Gumpert as a second covert agent at the AMA in the District of Columbia, her detection by the AMA, and her subsequent infiltration of the Clearwater Chamber of Commerce.

DGPRWW] has laid down a strategy which is to enable us to contain the scene. Our plants when trapped are Freedom investigative reporters just like any other newspaper. The plants themselves do not have to confess or be named. . . . We can undercut AMA's continual effort to expose us by indicating it is a smokescreen to prevent Freedom from publishing. . . . MLV, Jane

GWW Log, p. 101, Exh. No. 27 hereto. Likewise, on October 7, 1975, defendant Budlong telexed Weigand, DGIUS:

Dick, Sore Throat is an Intelligence matter. Nothing in your data indicates a situation requiring other Bureau assistance. Send full data on the scene before you hand Sore Throat matter over to anyone else. Love, Mo

DGIWW Log, p. 27, Exh. 27-A hereto.

Better Business Bureau

The infiltration of the Council of Better Business Bureaus (CBBB) began on December 4, 1972, with the placement of Sherry Canavaro (later Sherry Hermann, a/k/a Sandy Cooper) as a covert agent within that organization. (Document No. 16727.) Defendants Kember and Budlong were informed of Scientology's covert operations within the CBBB and prospects that the covert agent might become the CBBB's representative to the CCHI (Coordinating Conference on Health Information). (Exhibit No. 28 hereto).

5/

Mental Health Organizations

Guardian Order 121569 MSH (1) issued on December 15, 1969, directed the infiltration of all mental health organizations both nationally and world-wide. Exhibit No. 29 hereto. This Guardian Order was carried out on a number of fronts by operatives of the Information Bureau headed by defendant Budlong. Thus local mental

5/ One of the functions of the CCHI was to coordinate efforts against groups believed to promote quackery. The defendants were successful in having their covert operative become the CBBB's representative to two CCHI meetings, one of which she was able to tape.

health organizations were infiltrated by covert operatives in Las Vegas and St. Louis. Indeed, the Assistant Guardian for Information in Las Vegas reported that "everything possible was done to collect this data, everything from infiltration to stealing to eavesdropping, etc. . . ." (Document No. 13336.)

Co-Defendant Sharon Thomas was recruited as a covert operative in 1973 in the District of Columbia by co-defendant Snider, the Assistant Guardian. She was later assigned to infiltrate the American Psychiatric Association (APA). Beginning in January 1974, co-defendant Hermann supervised co-defendant Thomas' APA thefts. While in the APA, co-defendant Thomas stole documents -regarding Scientology as well as confidential files of the APA's Ethics Committee concerning complaints against psychiatrists. (Document Nos. 8804 and 8805.) These stolen documents were sent to defendant Budlong.

Moreover, Guardian Program Order 1238 (Exhibit No. 30 hereto), issued by the defendant Kember and approved by the defendant Budlong, had as its "major target:"

To obtain the information necessary to take over the control of NIMH [National Institute of Mental Health] while at the same time establishing the lines and resources to be used in taking over NIMH.

Also included in that program were the infiltration of the Public Health Service, the Food and Drug Administration, and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

"Anti-Cult" Groups

The Los Angeles-seized documents set out a variety of actions instituted by the defendants and their organization against individuals and groups engaged in so-called "anticult" activities. In February 1977, Jane Kember promulgated Guardian Program Order 1017, entitled "ARM (Anti-Religion Movement) Clean Sweep" (Document No. 13724), which had been approved by defendant Budlong. That Guar-

dian Order called for the placement of "covert agents" for "data collection lines" with anti-cult groups. (Id. at 1.)

B. Law Firms

As part of their criminal activities the defendants actively encouraged burglaries and thefts of documents from private law firms in Washington, D.C., and Los Angeles, California, that represented private organizations sued by Scientology, including the law firm of Arent, Fox, Kintner, Plotkin and Kahn, in D.C.

At least three burglaries were committed during the early months of 1976 at the law offices of Arent, Fox, Kintner, Plotkin and Kahn, who then represented the St. Petersburg Times in a Scientology-initiated law suit. Defendants Kember and Budlong were regularly kept informed of the results. In February and March 1976 three entries were made into the office of Jack Bray and his secretary at the above-mentioned law firm, the first one by Richard Kimmel, the acting Assistant Guardian for Information in the District of Columbia, and the second one by Kimmel and Michael Meisner. On each occasion, documents outlining the law firm's strategy in defending the law suit brought against the St. Petersburg Times were taken. See Exhibit No. 31 hereto, a telex from defendant Duke Snider to the World-Wide Guardian's Office, dated 13 February 1976, setting out information obtained by Kimmel from Mr. Bray's office.

C. Private Individuals And Public Officials

The defendants directed and encouraged a number of covert operations against private individuals and public officials to destroy and discredit these persons because they had either attempted to exercise their First Amendment rights by criticizing Scientology or by attempting to carry out their duties as public officials.

Paulette Cooper

As early as February 29, 1972, defendant Kember had written the DGIUS (then Terry Milner) directing that he find out information about Paulette Cooper so that she could be "handled" (Exh. No. 32 hereto). Paulette Cooper is the author of The Scandal of Scientology, a work highly critical of Scientology. Kember's interest in handling Cooper continued, and her loyal workers in the United States carried out incredible schemes pursuant to Kember's directive. In March 1976, Mo Budlong's deputy at World-Wide asked for details on an Operation Dynamite to be carried out against Paulette Cooper. The operation was delegated to the Northeast Information Bureau Secretary, with the directive to "Report to WW." (Exh. No. 33, DGIWW log book pp. 72 and 73.) Also in 1976, the highest ranking Scientologists in the United States, including at least six of the co-defendants (Heldt, Snider, Weigand, Willardson, Hermmann, and Raymond), designed a series of plans in furtherance of the directives of co-defendants Kember and Budlong, which had as their goal Paulette Cooper's imprisonment or commitment to a mental institution.

In the Spring of 1976 six separate schemes were devised with the express purpose

"To get P.C. (Paulette Cooper) incarcerated in a mental institution or jail, or at least to hit her so hard that she drops her attacks."

(See Operation Freakout dated 1 April 1976, Exhibit No. 34 hereto; see also Exhibit No. 35.) Their stated purpose was "[t]o remove PC [Paulette Cooper] from her position of Power so that she cannot attack the C[hurch] of S[cientology]." The six separate schemes

6/ In addition to Kember's specific directive that Cooper be "handled," Mo Budlong and other World-Wide supervisors were under standing orders to see to it that all attacks on Scientology occurring anywhere in the world were "reported and handled properly, [or] both CSG [Mary Sue Hubbard] and I will have your heads for breakfast . . . love Jane." Order of Jane Kember contained in Information Bureau Hat Pack, volume I, Exh. No. 37 hereto (emphasis added).

were jointly entitled "Operation freakout." In its initial form Operation Freakout had three different plans. The first required a woman to imitate Paulette Cooper's voice and make telephone threats to Arab Consulates in New York. The second scheme involved mailing a threatening letter to an Arab Consulate in such a fashion that it would appear to have been done by Paulette Cooper. Finally, a Scientology field staff member was to impersonate Paulette Cooper at a laundry and threaten the President and then Secretary of State Henry Kissinger. A second Scientologist would thereafter advise the FBI of the threat.

Two additional plans to Operation Freakout were added on April 13, 1976. The fourth plan called for Scientology field staff members who had ingratiated themselves with Cooper to gather information from Cooper so Scientology could assess the success of the first three plans. The fifth plan was for a Scientologist to warn an Arab Consulate by telephone that Paulette Cooper had been talking about bombing them.

The sixth and final part of Operation Freakout called for Scientogists to obtain Paulette Cooper's fingerprints on a blank piece of paper, type a threatening letter to Kissinger on that paper, and mail it. ^{7/}

77 The sixth plan bears a distinct resemblance to a scheme of Scientologists in 1972 and 1973 against Paulette Cooper. In 1972 Scientologists obtained Paulette Cooper's fingerprints on a blank piece of paper, typed two bomb threat letters on that and another piece of paper, sent the threats to Scientology offices in New York, and then advised the FBI that they had received the threats and that they may have come from Cooper. Paulette Cooper was indicted in the Southern District of New York in 1973 for making these threats. An order Nolle Prosequi was filed on that indictment in 1975. As Bruce Raymond/Randy Windment noted in his April 13, 1976 "CSW" to Weigand, which Weigand approved, the sixth plan of Operation Freakout was likely to prove effective since the same kind of scheme against Cooper had worked in the past.

Attached is approved Operation Freakout.
This additional channel [the sixth plan]
should really have her put away. Worked
with all the other channels. The F.B.I.,
already think she really did the bomb
threats on the C of S [Church of Scien-
tology].

(Document No. 11423).

On March 31, 1976, defendant Kember telexed Henning Heldt concerning Ms. Cooper:

PC [Paulette Cooper] is still resisting paying the money but the judgment stands in PT [present time] [8/] Have her lawyer contacted and also arrange for PC to get the data that we can wait for her to turn up publicly so we can slap the writs on her. If you want legal docs, from here we will provide. Then if she still declines to come we slap the writs on her before she reaches CW [Clearwater] as we don't want to be seen publically [sic] being brutal to such a pathetic victim from a concentration camp.

GWW Log, p. 131 (Exh. No. 36 hereto.)

Gabriel Cazares

When Scientology first decided to set up a base in Clearwater, Florida, in late 1975, it did so using the cover name of "United Churches of Florida" (UCF) with no outward connection to Scientology. Gabriel Cazares, who was Clearwater's Mayor, campaigned for the disclosure of the true purposes of the UCF. When UCF's connections to Scientology were uncovered, Mayor Cazares became highly critical of Scientology. Because of his criticism, Mayor Cazares was targeted by the Guardian's Office and its Information Bureau and covert operations designed to remove him from office were ordered.

To that end, in early March 1976, co-defendant Hermann notified co-defendant Snider that Mayor Cazares was about to attend a Mayor's Conference in Washington, D.C., on March 13-17, and that Assistant Guardian for Information in Clearwater, Joe Lisa, was formulating a covert operation to claim that Mayor Cazares had a mistress. (Exhibit No. 38 hereto.) Shortly thereafter, Hermann

8/ Cooper has been sued by the Church of Scientology on numerous occasions and in many jurisdictions around the world. Since 1970 the Church of Scientology has filed six lawsuits in three foreign countries and numerous lawsuits in the United States against Cooper. As of December 1979, with the exception of three foreign lawsuits and a counterclaim in an American lawsuit, all of the actions had been dismissed.

ordered Mr. Meisner to carry out an operation on Mayor Cazares during his Washington trip -- that operation was to involve a fake hit-and-run accident. Sharon Thomas was to be the main participant in that operation. She was to meet Mayor Cazares, drive him around town, and at a predetermined location stage a hit-and-run accident with Mr. Meisner as the "victim."

On March 14, 1976, Thomas offered to show Mayor Cazares the town. During that drive, Thomas, who was driving, staged her fake hit-and-run accident in Rock Creek Park, hitting Michael Meisner. She drove on without reporting the accident to the police. Of course, Thomas knew that no harm had been caused to the "victim." (Exhibit No. 39 hereto). In a report dated March 15, 1976, to defendant Morris Budlong, Welgand apprised Budlong of the incident and discussed how Scientology could use that "fake" accident against Mayor Cazares and concluded that "I should think that the Mayor's political days are at an end." (Id. at 2.)

On June 6, 1976, Jane Kember promulgated Guardian Program Order 398, entitled "Mayor Cazares Handling Project." Its purpose was "to remove Cazares from any position from which he can Inhibit the expansion of Scientology" and called for, among other things: (1) carrying "out a covert campaign to create strife between Cazares and the City Commission"; and (2) placing a covert operative in his Congressional campaign organization, getting the operative "as highly placed as possible. Use this operative to collect data on planned activities and feed this to PR and Legal to carry out operations to hamper the effectiveness of the campaign" (Exhibit No. 40 hereto.) On November 3, 1976, unindicted co-conspirator Joe Lisa informed co-defendant Snider that Mayor Cazares had been defeated in the Congressional race as a result of the implementation of defendant Jane Kember's Guardian Program Order 398, and the other Scientology actions which included "[p]hone calls . . . spreading rumors inside his camp, contributing

to disorganization in his campaign" (Document No. 1491.)

Celebrities

On January 4, 1976, defendant Jane Kember issued Guardian Order 1361-3 which called for the theft of Los Angeles IRS Intelligence files on "celebrities, politicians and big names." In complete disregard for the rights of these individuals, Jane Kember directed that the stolen information be published. (Document No. 11513.) In fact, IRS files on former California Governor Edmund Brown, current California Governor Edmund Brown, Jr., Los Angeles Mayor Tom Bradley and his wife, and Frank Sinatra^{9/} were stolen from the IRS' Los Angeles offices and disclosed to the press. (Document Nos. 11514, 1546, and 1548.)

D. Newspapers

The defendants and their organization mounted a head-on assault upon newspapers that had been critical of Scientology. They infiltrated newspapers and, in other instances, without disclosing that they were associated with Scientology, planted stories of interest to their organization. For the sake of brevity, we will cite just one example.

In November 1975, defendant Willardson ordered Michael Meisner to send three District of Columbia covert agents to Clearwater. One of the operatives sent to Clearwater was June Byrne, the blown AMA

9/ These are but four examples of the numerous operations conducted against private citizens and public officials. A review of the documents seized in Los Angeles shows the incredible scope of these operations.

In fact, in order to help determine what individuals and groups to develop operations against, the files of the World-Wide Information Bureau, which defense witness Sheila Chaleff so fondly referred to as "Mo's Files," are divided into eight "enemy" classifications, depending upon the particular degree of "suppressiveness" which the Guardian's Office perceives in its "enemies." Among the eight classifications are "traitor," "enemy," and "international enemy." The latter category includes such "treacherous" groups as the European League for Human Rights, the World Council of Churches, the United Nations, and the World Federation for Mental Health. Exh. No. 41 hereto.

agent. In Clearwater, Ms. Byrne infiltrated the Clearwater Sun and provided Scientology almost daily reports on the activities of that newspaper, all of which were forwarded to defendants Kember and Budlong (See. e.g., Documents Nos. 17988, 17991, 17995, 17996, 18006 which cover less than a two-week period.) She remained as Scientology's covert operative at the Sun until late 1976 when she was withdrawn out of fear that her cover had been blown.

E. State and Local Government Agencies

Numerous state and local Government agencies throughout the United States were targeted for infiltration by the defendants and the Guardian's Office. These infiltrations and thefts were called for by two programs promulgated by Jane Kember - Guardian Program Order 302, which was also approved by defendant Budlong, and Guardian Order 1080. Guardian Program 302, Government Exhibit 67 at trial, ordered the infiltration of of all Governmental agencies that refused to acquiesce to Scientology's demand for access to their files.^{10/}

On March 4, 1974, defendant Jane Kember issued GO 1080, an umbrella program ordering the infiltration of the California Attorney General's Office and all local district attorney's offices in California. (Exhibit No. 42 hereto.) On January 13, 1976, a sub-project of GO 1080 regarding the Los Angeles Office of the California Attorney General was promulgated. It directed that that office be infiltrated "through any way or means and then locate and obtain full copies of any and all files on the C of S, C of S investigations, etc." (Document No. 1317 at 13-15.) On February 12,

10/ Thus, pursuant to GPgmO 302, Deac Finn, the Assistant Guardian for Information in New England (AGI NE), wrote on June 8, 1976, requesting Weigand's approval for Finn's project to infiltrate the Suffolk County District Attorney's Office (Document No. 1535, p. 2). See also Document No. 21703 entitled "Project Owl" which sets out co-defendant Hermann's plans for such infiltration in response to the planned investigation of the Church for criminal fraud and of one of its members for kidnapping.

1976, it was reported that keys to the Attorney General's office had been obtained. (Document No. 1318 at 2.) Co-defendant Weigand also outlined for the benefit of defendant Budlong the progress of GO 1080, appending excerpted stolen data prepared by defendant Raymond. (Document No. 1323; See also Document No. 1336 - a similar letter from defendant Willardson to defendant Kember, routed through defendants Heldt, Weigand and Budlong.)

On August 10, 1976, compliance was reported to Guardian Program Order 302 as it pertained to the Los Angeles District Attorney's Office. (Document No. 149; Documents Nos. 11591-11595 are copies of documents stolen from that office.) On that same date, compliance was reported with Guardian Order 1080 and Guardian Program Order 302 as far as the Yolo County District Attorney's Office was concerned. (Document No. 813.)

F. Other Federal Government Agencies and the United Nations

Among other direct orders issued by Jane Kember calling for illegal operations against other Government agencies and international organizations, to be carried out by Mo Budlong and his Information Bureau, are the following:

1. Guardian Order 1344, issued October 10, 1974 (Exh. No. 43 hereto), called for penetration of and theft of documents from the 11th District Coast Guard Intelligence and the National Headquarters of Coast Guard Intelligence, Washington, D.C. The program was carried out by, inter alia, the placement of co-defendant Sharon Thomas as Scientology's covert operative at the Coast Guard (prior to her employment at the Department of Justice). Duke Snider makes the following cryptic notation on the cover sheet of the G.O.: "Jane also telexed and mentioned that the BI targets are to be done and not just left up in the air." (Exh. No. 43).

2. Guardian Programme Order 283, issued February 24, 1976

(Exh. No. 44 hereto), which was proposed by co-defendant Cindy Raymond, approved by Morris Budlong, and issued by Jane Kember, had the following over all "Plan: To penetrate the UN [United Nations] and establish lines for feedback data so that we can predict and handle anything that may stop the acceptance of our submissions to the U.N." Later documents indicate Scientology recruited an FSM to apply for a job as a security guard at the U.N.

3. Guardian Programme Order 407, issued June 9, 1976 (Exh. No. 45 hereto), subtitled "Off the Hook", and issued by Jane Kember two days before Meisner and Wolfe were confronted in this Court-house, called for getting "Scientology in all its aspects 'off the hook' with the IRS" The means to be used included "monitor IRS handling of audit on 1361 lines" and "ensure 1361 Collection Line keeps close watch on area of IRS concerned with LRH tax returns. . . ."

VI

Comparative Roles of These Defendants and
the Previously Convicted Co-Defendants

The defendant Jane Kember was, during the periods relevant to the charges of which she was convicted, the Guardian World-Wide of the Church of Sciengology. Her principal role was to "protect" and "defend" Scientology from all persons and organizations, private and governmental, whom Scientology viewed or perceived as its enemies. As such -- after L. Ron Hubbard (the Founder and Commodore), and Mary Sue Hubbard (the Deputy Commodore, Controller, and Commodore Staff Guardian) -- she was superior in authority to everyone else within the Guardian's Office. By the defense's own witnesses this Court was told that the defendant Kember ruled with an iron hand the whole Guardian's Office network which stretched through dozens of countries in almost every continent in the world.

Prior to assuming her position as Guardian World-Wide in the late 1960s, the defendant Kember served as the Deputy Guardian for Intelligence (later renamed Information) World-Wide -- a position assumed about 1967 by her loyal and hard working deputy and now co-defendant -- Morris Budlong. Thus, both defendants Kember and Budlong are long-standing, committed and dedicated high officials of the Guardian's Office. It was unchallenged at their trial that these two defendants took a leading role in every endeavor of the Guardian's Office. They drafted, reviewed and issued every order which commanded the commission of criminal acts. They demanded total and absolute loyalty and obedience from their subordinates, awarded them when they obtained it, punished them when they did not. They demanded to be kept informed of every move made by their underlings through an elaborate system of weekly reports and emergency telex messages when the need arose.

Everyone of the other defendants previously convicted after a non-jury trial based on an uncontested stipulation of evidence, with the exception of Mary Sue Hubbard, were below them in the hierarchy of the Guardian's Office and carried out the orders of these two defendants. Seven of the other eight defendants subordinate to Kember and Budlong were convicted of one felony count carrying a maximum term of incarceration of five years in prison and a \$10,000 fine. In December, 1979, five of them received sentences of four years incarceration and \$10,000 fines; the other two received sentences of five years in prison and \$10,000 fines.

The defendants Kember and Budlong, on the other hand, were each found guilty following a five-week jury trial, of nine counts of burglary in the second degree -- felonies each carrying terms of incarceration of "not less than two years nor more than fifteen years." 22 D.C. Code § 1801(b). We submit that the sentences this Court will impose upon the defendants Kember and Budlong must be both commensurate with their role in the crimes of which they were convicted as well as with the sentences imposed upon their previously convicted co-defendants.

VII

Conclusion

The above recitation of evidence establishes beyond dispute the massive and insidious nature of the crimes these two defendants engaged in over the years. It also puts to rest their protestation, articulated by Mary Sue Hubbard from the witness stand, that they only burglarized Government offices and stole Government documents because of some imaginary Governmental harrassment campaign against them.

The brazen and persistent burglaries and thefts directed against the United States Government were but one minor aspect of the defendants' wanton assault upon the laws of this country. The well-orchestrated campaign to thwart the federal Grand Jury investigation by destroying evidence, giving false evidence in response to a grand jury subpoena, harboring a fugitive, kidnapping a crucial witness, preparing an elaborate cover-up story, and assisting in the giving of false statements under oath shows the contempt which these defendants had for the judicial system of this country. Their total disregard for the laws is further made clear by the criminal campaigns of villification, burglaries and thefts which they carried out against private and public individuals and organizations, carefully documented in minute detail. One can only wonder about the crimes set forth in the documents secreted in their "Red Box" data. That these defendants were willing to frame their critics to the point of giving false testimony under oath against them, and having them arrested and indicted speaks legion for their disdain for the rule of law. Indeed, they arrogantly placed themselves above the law meting out their personal brand of punishment to those "guilty" of opposing their selfish aims.

The crimes committed by these defendants is of a breadth and scope previously unheard. No building, office, desk, or files was safe from their snooping and prying. No individual or organization was free from their despicable scheming and warped minds. The tools of their trade were miniature transmitters, lock picks, secret codes, forged credentials, and any other devices they found necessary to carry out their heinous schemes. It is interesting to note that the Founder of their organization, unindicted co-conspirator L. Ron Hubbard, wrote in his dictionary entitled "Modern Management Technology Defined" that "truth is what is true for you," and "illegal" is that which is "contrary to statistics or policy" and not pursuant to Scientology's "approved program." Thus, with the Founder-Commodore's blessings they could wantonly commit crimes as long as it was in the interest of Scientology.

These defendants rewarded criminal activities that ended in success and sternly rebuked those that failed. The standards of human conduct embodied in such practices represent no less than the absolute perversion of any known ethical value system. In view of this, it defies the imagination that these defendants have the unmitigated audacity to seek to defend their actions in the name of "religion." That these defendants now attempt to hide behind the sacred principles of freedom of religion, freedom of speech and the right to privacy - which principles they repeatedly demonstrated a willingness to violate with impunity - adds insult to the injuries which they have inflicted on every element of society.

These defendants, their co-conspirators, their organization, and any other individual or group that might consider committing similar crimes, must be given a clear and convincing message: criminal activities of the types engaged in here shall not be tolerated by our society.

Moreover, we submit that in imposing any sentence upon these two defendants, the Court should consider the deterrent effect which

a severe sentence will have upon others - besides the defendant Jane Kember who apparently remains the Guardian World-Wide, all other members of the Guardian's Office, and L. Ron Hubbard himself, the ultimate responsible authority. It is clear from the press releases issued by Scientology following the jury's verdict, and their vicious actions against another member of this Court, that they have yet to learn the errors of their criminal ways.

The United States submits that the only appropriate punishment in this case, the only one that is in the best interest of justice and the public, is a substantial term of incarceration for each of the two defendants now before the Court.

Moreover, we submit that there is no reason whatsoever under 18 U.S. Code § 3148, why these two defendant should not be denied bail pending any appeal they wish to take. Both defendants are in this country solely for trial and the service of any sentence imposed by this Court, pursuant to an extradition order from the Government of the United Kingdom. Following the service of their sentences, they will return to the United Kingdom. They are not employed in the United States, and, indeed, in at least the case of defendant Kember cannot be so employed. Thus, the only questions which remain are, in the words of 18 U.S. Code § 3148, whether

[a] person . . . who has been convicted of an offense and . . . has filed an appeal . . . [presents] a risk of flight or danger . . . or if it appears that an appeal is frivolous or taken for delay. . . .

We submit that in the instant case, any appeal taken by these two defendants will be frivolous and taken only for the purpose of delaying the ultimate day of judgment. The only real issues raised by the defendants involved the challenge to the jurisdiction of this Court over the burglary charges, and whether they had standing to challenge the searches of the two Guardian's Office premises in Los Angeles, California. The Court of Appeals has already, for all

practical purposes, resolved against them the former issue. In Re; United States v. Kember (Mary Sue Hubbard, et al., appellants), D.C. Cir. Nos. 80-2329 to 80-2332 (decided November 24, 1980), slip op. at 11. As for the standing issue, it has been conclusively resolved against the defendants, as this Court pointed out, by the Supreme Court. Additionally, the defendants, international criminals, whose danger to the community the evidence overwhelmingly bears out, have been convicted of serious charges carrying severe penalties and now present a great risk of flight. Thus, we submit, defendants should be denied bail pending appeal.

Respectfully submitted,

CHARLES F. C. RUFF
United States Attorney

RAYMOND BANOUN
Assistant United States Attorney

JUDITH HEIHRION
(Assistant United States Attorney)

KATHERINE WINFREE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing Sentencing Memorandum has been mailed to R. Kenneth Mundy, Esquire, 1850 K Street, N.W., Washington, D.C., 20006 and John Shorter, Esquire, Mitchell, Shorter, & Gartrell, 508 Fifth Street, N.W., Washington, D.C., 20001, this 16th day of December, 1980.

RAYMOND BANOUN
Assistant United States Attorney