

# POLICE

## Magazine



September 1981—\$3.75

### **THE BATTLE OVER POLITICAL SURVEILLANCE**

Also in this issue...

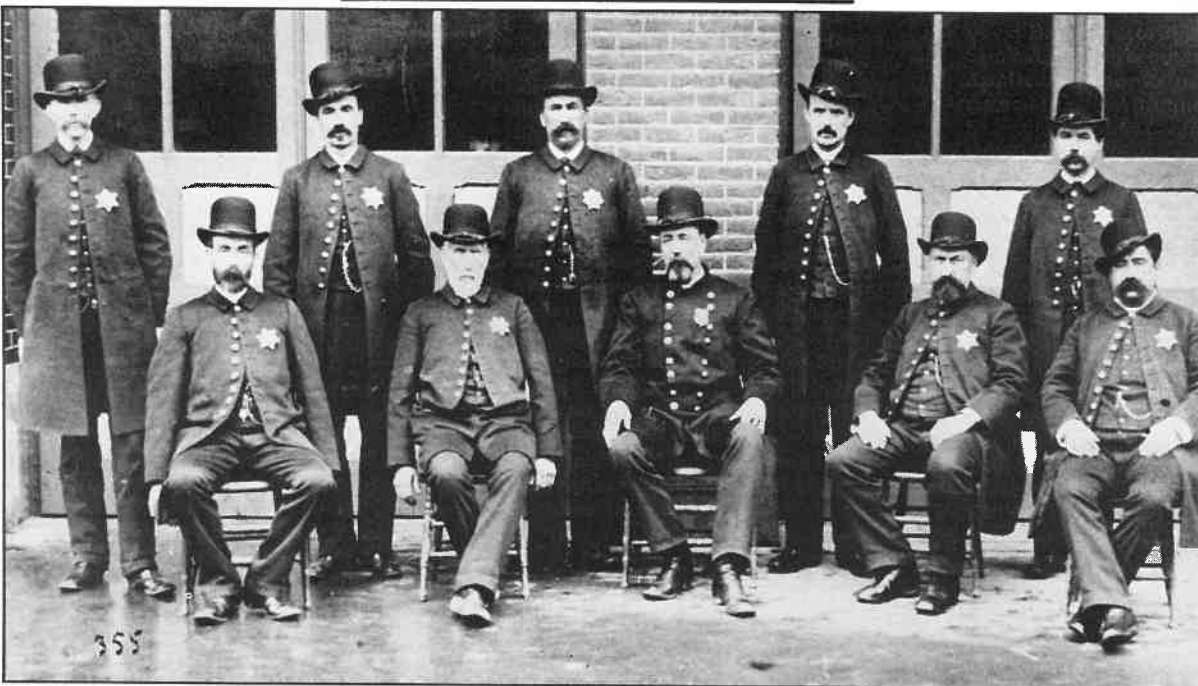
The Saga of Standing Soldier

Crime in the National Parks

The Sergeant Who Became Chief

The Crusade of Officer Corey





**The San Jose (Calif.) Police Department  
1880s**

We thank San Jose Off. Peter Guerin for this photo.  
Off. Guerin tells us the San Jose Police Department  
now has about 900 sworn officers.

**Police Magazine is interested in obtaining for publication  
photographs of police or police departments from  
earlier times. Please send such photographs to our  
offices at 116 W. 32nd St., New York, N.Y. 10001.  
All photographs will be returned to the sender after they  
have been reproduced for publication.**



## POLICE<sup>®</sup> Magazine

Editor: Michael S. Serrill

Managing Editor: Bruce Cory

Associate Editors: Stephen Gettinger,  
Kevin Krajick

Contributing Editors: John Blackmore,  
Edgar May, Joan Potter, Philip B. Taft, Jr.

Editorial Assistant: Rhona Raphael

Art Director: Bill Powers

Associate Art Director: Marcy Steinberg

Photographer: Tony O'Brien

Production Assistant: Beverly Mazlish

General Manager: Olos C. Pitts

Controller: Rachel Gutierrez

Circulation Director: David Williams

Circulation Assistant: George Hill

National Advertising Representative:  
Buchmayr Associates, 980 Post Rd., Darien,  
Conn., 06820, (203) 655-1639.

Criminal Justice Publications, Inc.,

Board of Directors:

Justin N. Feldman, Chairman

Drew S. Days III, Gerald G. Hotchkiss,

Robert Manning, Henry S. Ruth, Jr.

Herbert Sturz, James Vorenberg

## Departments

**Editor's Notebook 2**

**Roll Call 3**

**Labor News 42**

**Upcoming Events:**

Inside Back Cover

**On the cover:** Protesters clash with  
police during a recent demonstration  
at the proposed nuclear power plant  
near Seabrook, N.H. Photo by  
Lionel Delevingne/Picture Group



Page 6



Page 28



Page 44



Page 55

### **Policing Dissent: The New Limits on Surveillance**

6

by Kevin Krajick

Do the restrictions placed on political  
surveillance in recent years hamper vital  
police intelligence efforts or halt  
unnecessary invasions of privacy?

### **The Bull Market in Stolen Stocks and Bonds**

24

by Steve Govoni

How federal and local investigators are  
grappling with the estimated theft of  
almost \$3.5 billion in securities over the  
last two and a half years.

### **The Saga of Standing Soldier**

28

by James Gilbert

This fictional story about the shooting of an  
Indian police officer received honorable  
mention in our 1981 writing contest from  
the contest judge, novelist Joseph  
Wambaugh.

### **Keeping the Peace in the Parks**

44

by David Johnston

Crime in the national parks has increased  
in recent years, and so has the crime-  
fighting role of the federal park police and  
park rangers.

### **A Sergeant Finds Room at the Top**

50

by Don Waitt

One day, Cliff Heap was a sergeant in the  
detective division of the Shreveport (La.)  
Police Department. The next day, he was  
chief of police.

### **Should Police Try to Break Up 'Crime Families'?**

55

by Greg Mitchell

A California police officer thought so, and  
made national headlines when he set out to  
remove four children from their homes.



# Editor's Notebook

Our cover story in this issue concerns a subject as controversial within the law enforcement community as it is in the community at large: political surveillance by police agencies. In recent years, many large police organizations, including the Chicago Police Department, the New York Police Department and the FBI, have sharply curtailed their surveillance of political groups that don't seem to be bent on violence or subversion. It was not the passage of new laws that resulted in this cutback, but the conclusion by police administrators that widespread surveillance of nonviolent political groups was unnecessary. FBI officials defend that agency's own guidelines against Reagan administration efforts to soften them. Big-city police officials have accepted court-ordered consent decrees negotiated with political groups that sued them for invasion of privacy during the late sixties and early seventies, the heyday of police political surveillance.

The impending settlement of several lawsuits, described in the article beginning on page 6, plus renewed police intelligence activities focusing on anti-nuclear groups, have revived the controversy. The surveillance of anti-nuclear groups illustrates well the clash between "new" and "old" police thinking on this subject. The current hierarchy at the FBI and many police officials dismiss as unfounded the idea that those who demonstrate against the construction of nuclear power plants represent a nefarious, Soviet-inspired plot to undermine the national security. Nevertheless, dozens of local police agencies are actively infiltrating such groups, with the enthusiastic support of utility and nuclear power companies whose operations are disrupted by anti-nuclear demonstrators. The danger here is that police may be used as pawns in a campaign to preserve the economic self-interest of the utilities, as they were used in the first part of this century to save private business from the economic threat posed by labor unions.

\* \* \* \*

Two other articles in this issue will make you sit back and think a little bit. One concerns a sergeant in Shreveport, La. who was promoted to chief. He had no supervisory experience and no administrative experience. Yet Chief Cliff Heap is, by all accounts, including those of ranking officers who were passed over in his favor, doing well. His success should be an inspiration to all of you patrol officers and sergeants out there who know you have a chief in you somewhere.

Our second thought-provoker concerns Tom Corey, a juvenile officer in Pasadena, Calif. He tried to have the juvenile court remove four children from a family whose members had accumulated 400 arrests in the past decade, for fear that the children would grow up to be criminals. This is a novel theory, and while the court did not rule on it directly, Corey's hard work succeeded in having the children placed in other homes.

Corey tried to act in the children's best interests, but even he recognizes a dilemma: In Los Angeles County, as everywhere, there are not adequate facilities for the care of homeless young children. In Corey's case, the children will get foster care. But in most other such cases, the children would be sent to juvenile institutions where they would learn more about crime than they ever could in a "crime family."

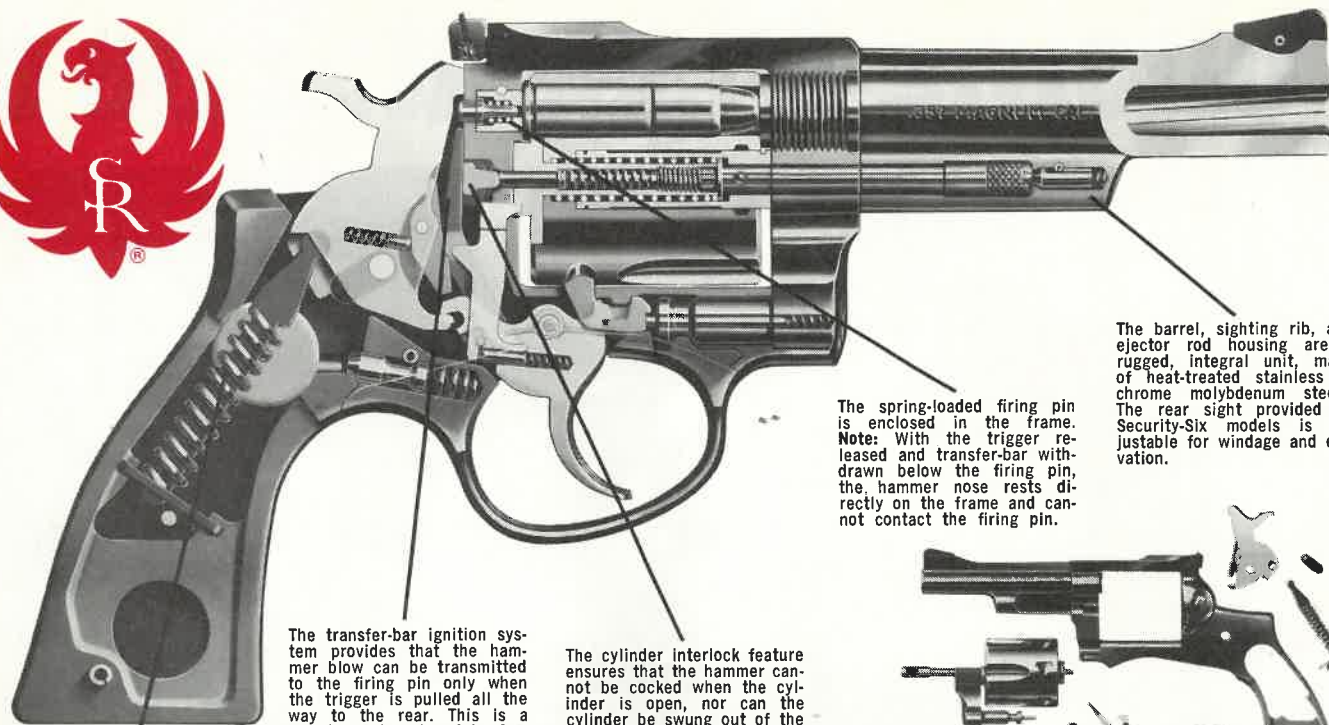
\* \* \* \*

Stop! Please do not send manuscripts to Joseph Wambaugh. In the July issue, we wrote that Mr. Wambaugh was interested in seeing "literature" from our readers. We were mistaken. While he says he welcomes letters, he is not a publisher and cannot help would-be police authors. So, if you have a manuscript you think is publishable, hold on to it and submit it for our 1982 Police Magazine Writing Contest. The rules will be published in our November issue. This issue includes one of the ten winners of the 1980 contest, a fictional story called "Standing Soldier," by James N. Gilbert. It will keep you on the edges of your seats, and will also give you a strong sense of your own mortality.



Editor





Music wire or stainless steel coil springs are used throughout the Ruger double action revolvers.

The transfer-bar ignition system provides that the hammer blow can be transmitted to the firing pin only when the trigger is pulled all the way to the rear. This is a positive internal safety feature designed to prevent firing if the revolver is dropped accidentally, or if the hammer spur receives a sharp blow.

The cylinder interlock feature ensures that the hammer cannot be cocked when the cylinder is open, nor can the cylinder be swung out of the frame when the hammer is cocked.

The spring-loaded firing pin is enclosed in the frame. Note: With the trigger released and transfer-bar withdrawn below the firing pin, the hammer nose rests directly on the frame and cannot contact the firing pin.

The barrel, sighting rib, and ejector rod housing are a rugged, integral unit, made of heat-treated stainless or chrome molybdenum steels. The rear sight provided on Security-Six models is adjustable for windage and elevation.



FIELD STRIPPED VIEW

# RUGER® Double Action Revolvers

These are the revolvers created by Ruger engineers who started with a fresh sheet of paper and an unlimited budget! There is nothing in the design of these Ruger double action revolvers which is there simply because "it has always been done that way"; nothing which reflects a commitment to outmoded production methods or obsolescent factory facilities. Representing a significant improvement in design, these revolvers incorporate creative Ruger engineering, sophisticated manufacturing techniques, and superior materials.

The Ruger design philosophy of strength, simplicity, and ease of maintenance has been applied throughout the design of these revolvers. Composed of a series of integrated subassemblies, the Ruger double action revolver can be field stripped to its basic components in seconds, without the use of tools. The entire lock mechanism is installed through the bottom of the grip frame as a unit, permitting the use of solid frame side-walls which contribute to the great strength of these revolvers. The complex milled-out frames and delicately fitted side-plates of other double action revolvers, and the difficulties of maintenance and weaknesses inherent in older designs are eliminated entirely.

The finest materials are used in Ruger double action revolvers. Music wire or stainless steel coil springs are used throughout and frames, cranes, cylinders, and barrels are of heat-treated stainless or chrome molybdenum steels. Most of the small internal parts of *all* models of Ruger double action revolvers are made of stainless steel.

In addition to traditional Ruger quality and dependable performance, the shooter enjoys the advantages of the durable stainless steel mechanism parts, even in standard blued models.



Ruger Security-Six Revolver in 357 Magnum caliber with rear sight adjustable for windage and elevation. Choice of 2 3/4", 4", or 6" barrel in blued finish or stainless steel.



Ruger Police Service-Six Revolver in 357 Magnum, 38 Special, and 9 mm parablum (blued model only) calibers with fixed sights. Choice of 2 3/4" or 4" barrel in blued finish or stainless steel.



Ruger Speed-Six Revolver with compact round butt in 357 Magnum, 38 Special, and 9 mm parablum (blued model only) calibers with fixed sights. Choice of 2 3/4" or 4" barrel in blued finish or stainless steel.

RUGER, Security-Six, Service-Six, and Speed-Six are registered U. S. trademarks



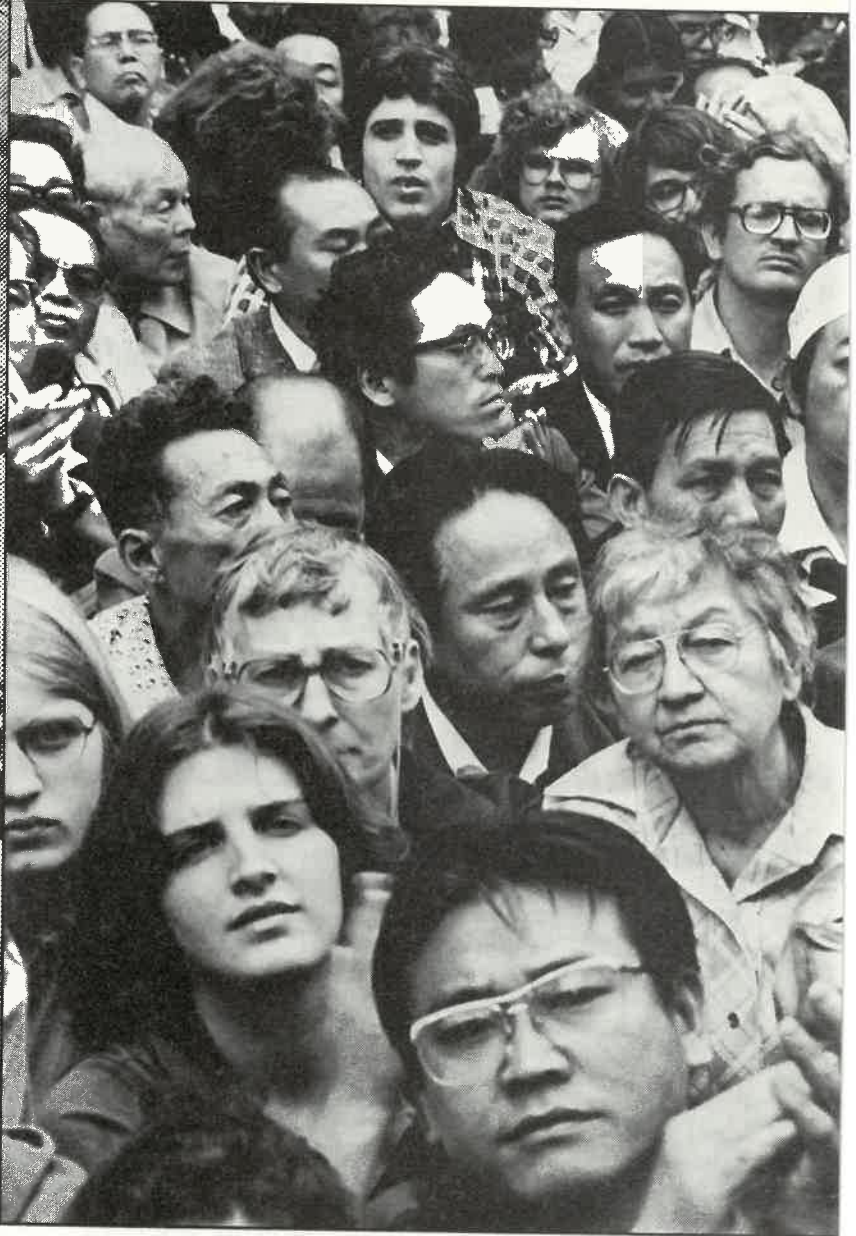
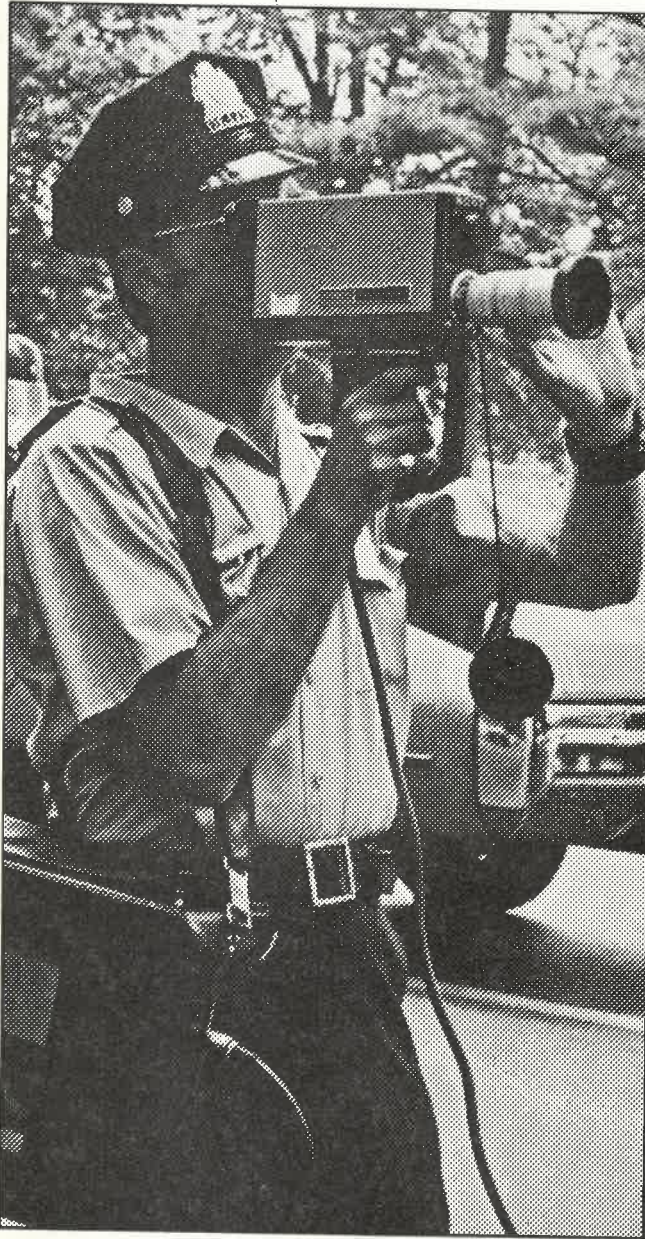
FOR YOUR COPY OF A FREE ILLUSTRATED CATALOG OF ALL RUGER FIREARMS, WRITE DEPT. PM

**STURM, RUGER & Company, Inc.**  
Southport, Connecticut 06490 U.S.A.

ALL RUGER FIREARMS ARE DESIGNED AND MANUFACTURED IN RUGER FACTORIES IN THE UNITED STATES OF AMERICA



# Policing Dissent: The Ne



by Kevin Krajick

**I**T was one of the first anti-war demonstrations in New York City since the Vietnam War. On April 17, 1981, a sunny day, thousands of demonstrators marched down Broadway and across town to the United Nations headquarters, shouting slogans to protest U.S. military involvement in El Salvador. "No more Vietnams! Money for people, Not for Bombs!" "No draft! No war! U.S. out of El Salvador!"

Many carried signs and banners, and leafleteers passed out literature on the sidewalk. Vendors sold anti-war buttons and copies of the socialist paper, *The Militant*, to passersby. A woman wheeling her child in a stroller paused to raise her fist in a salute as the procession passed by her. A tow truck driver sitting at the curb in his cab looked up in bewilderment when a young woman dropped a pamphlet into his open copy of the *Daily News*.

Only one thing seemed to be missing, according to veterans of demonstrations of a decade ago: the police intelligence officers who specialized in

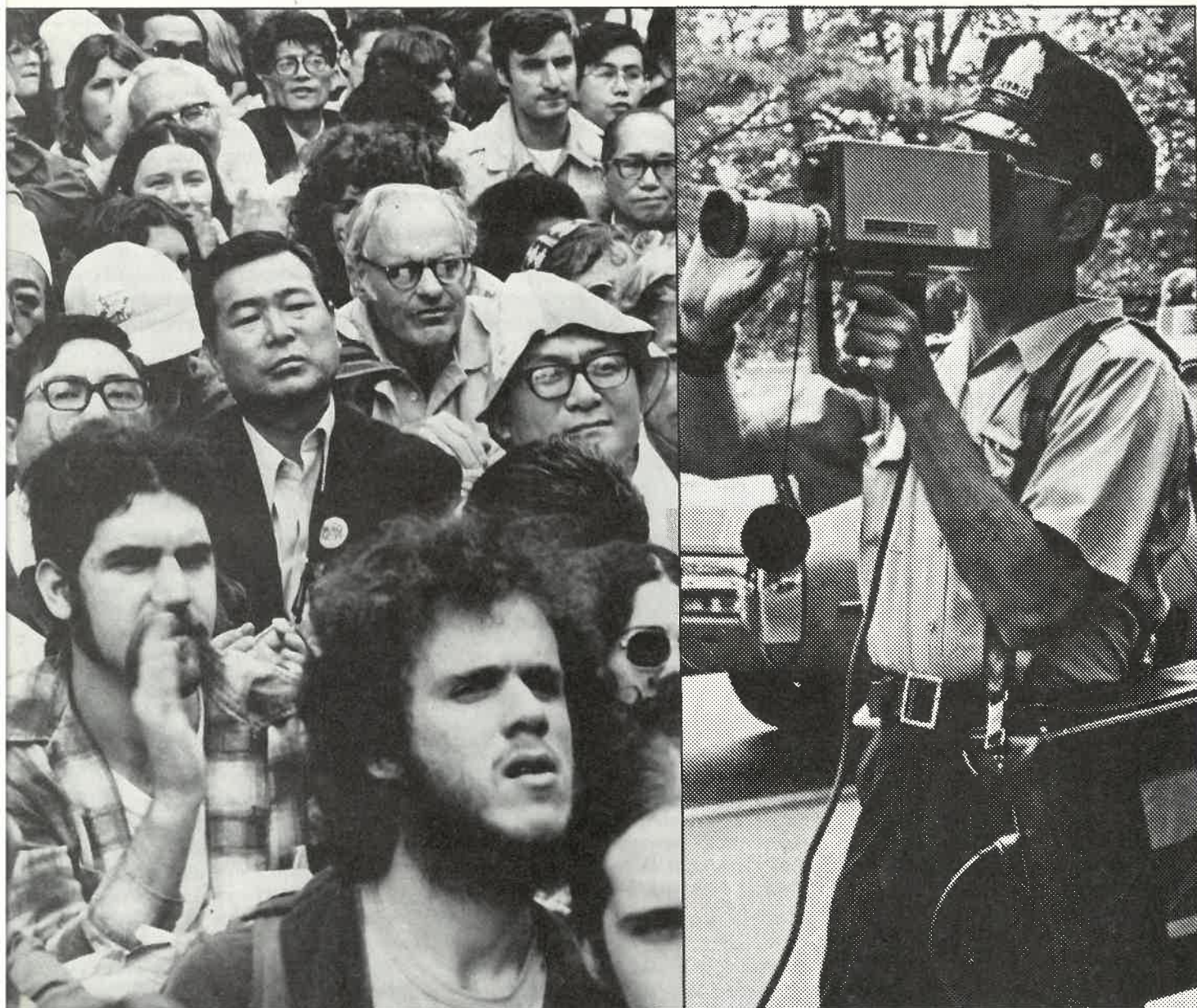
monitoring political dissent — in the parlance of political activists, the "red squad."

"If this was ten years ago, you'd see the police snapping pictures of everything and everybody like it was a wedding," said one protester. "I can't say I've seen them really doing it much lately."

But, unnoticed by most of the protesters, the police were indeed watching, though less obviously than in the past. The next week, the *Village Voice*, the city's liberal weekly newspaper, printed a picture taken at the demonstration by one of the protesters. The



# W Limits on Surveillance



Photos Lionel Delvingne/Picture Group

picture showed John Finnegan, a grave-looking plainclothes detective who is a member of the New York Police Department's Public Security Section, standing on the sidelines.

Finnegan was the unwitting star of the 1971 film, *Red Squad*, in which filmmakers turned cameras on the police intelligence officers who attended demonstrations. Even before the movie, Finnegan was a near-legendary figure, known by name to hundreds of protesters who saw him week after week. And now here he was again, though minus the camera crews that were sometimes part of the

Public Security Section's standard surveillance team.

Intelligence units like the Public Security Section are a necessary component of every large police agency. Their most important function is to gather intelligence on political violence and track down members of terrorist groups. They also keep a secret watch on organized crime and, sometimes, drug dealing; they often are involved in internal affairs investigations; they are responsible for protecting dignitaries.

But their most controversial role has been the surveillance of political

groups — groups that in many cases have never been involved in any criminal activity and, police critics say, are never likely to be. Many political activists therefore see intelligence units as a continuing threat to free speech and association. Such units have monitored feminist organizations, environmental groups, civil rights activists and even local PTAs.

This complex disagreement has dramatically sharpened in the past year, largely because dissent has resurged from a decade-long decline following the end of the Vietnam War and the days of the national civil rights



## Political intelligence units are the descendants of yesterday's 'labor squads' and 'red squads.'

movement. Today, the growing anti-nuclear movement, plus a wide range of liberal and leftist organizations opposed to the policies of the Reagan administration, are taking to the streets in increasing numbers. Right-wing groups such as the Ku Klux Klan are also more visible.

And, apparently, so are the "red squads." Many lawsuits have recently been filed challenging the police power to gather information on such movements. Long-standing intelligence disputes in New York and Chicago have just been tentatively settled, and restrict the police in important new ways. Other battles over intelligence practices are underway in Washington, D.C., New Haven, Conn., New Orleans, Houston, Philadelphia, Detroit, Los Angeles, Milwaukee and in the states of New Jersey, Michigan, New Hampshire, Mississippi and Connecticut, to name only a few.

Almost everyone agrees that police surveillance of political movements has dropped off since the mid-1970s, when a similar round of lawsuits and a long series of scandals involving police intelligence abuses rocked the country. As a result, the FBI and other agencies instituted restrictive guidelines on the gathering of political information.

But now there are moves pending at various levels of government to abolish such guidelines. Abolition is supported by those who believe domestic security intelligence curbs will encourage disorder by taking away from the police the ability to predict when activism will turn into terrorism.

"American intelligence is in the worst shape since Pearl Harbor," reads a report by the Heritage Foundation, a conservative "think tank" in California with close ties to the Reagan administration. The report calls for a "cumulative compilation of files" on a long list of political groups. It asserts that many of the current restrictions on internal security functions "arose from [legitimate but] poorly informed concern for civil liberties. . . . Individual liberties are secondary to the requirements of national security and internal civil order."

The recently renewed vigor of such views alarms people such as John Shat-

tuck, legislative director of the American Civil Liberties Union, which has been a powerful and effective proponent of intelligence curbs. Shattuck recently wrote that moves to undo the ACLU's work "pose serious and complicated threats to civil liberties," and that "a new talisman, 'terrorism,' may come to dominate the center stage in Washington." Shattuck wrote that while terrorist acts of violence are crimes, "investigations of 'threats' and political activities which 'may' result in



Photo by Maria Gil

**Det. John Finnegan (left) of the New York Police Department's Public Security Section is a familiar figure at protest demonstrations.**

criminal conduct create classic opportunities of investigative abuse."

Allan Adler, associate counsel of the Center for National Security Studies (CNSS), an ACLU-supported project that monitors police surveillance activities, said, "The police can too easily stifle political dissent under the guise of 'national security.' We don't want to keep the police from fighting crime. We want to make sure that crime is what they stick to."

**The gathering** of information about the political habits of Americans has a long and often chilling history. The Radical Bureau, the Black Hand Squad, the Neutrality Squad, the Bureau of Criminal Alien Investigations, the Special Services Division, the Anti-Subversive Unit — these are the bureaucratic and spiritual ancestors of

New York's Public Security Section and other such units.

Many of these units were started in the early 20th century in response to the newly budding labor movement, which was then seen as a highly subversive development. According to historians, intelligence units, often known generally as "labor squads," gathered intelligence about union organizers in cooperation with private industrial security firms and actively engaged in union-busting. When labor unionism became an acceptable feature of American life, the squads did not disband; instead, they shifted their emphasis to foreign immigrants and to movements that were supposedly inspired by communist ideology — hence the term "red squad."

Today, relatively little time is spent by intelligence units gathering information on political violence and terrorism. The size, number and activity of these groups has declined in recent years, according to the FBI. Terrorist experts can point to only a few groups with records of actual violence or conspiracy. Among them: the Puerto Rican nationalist group FALN, a Cuban exile group called Omega 7, the Black Liberation Army, the Puerto Rican Armed Resistance, several Croatian nationalist groups and three factions of the Ku Klux Klan. All of these groups have ostensible political causes, but pursue them through violent means.

The paucity of real terrorism in this country has often allowed police intelligence units to let their attention wander from violent threats to the public safety to causes that are merely unpopular or disliked by those in power. The most universally acknowledged misuse of such units has been to spy on politicians' political opponents. Former or current mayors of Seattle, Detroit and Houston have discovered, after they were elected, that their predecessors had used the cities' intelligence units to keep track of them. Former Mayor Richard Daley of Chicago had police report each week to him on the activities of his political "enemies."

In many cities, anyone who criticizes the police is immediately made a special target of the intelligence unit.



Massive evidence to this effect has recently been disclosed in Los Angeles and Milwaukee. In Atlanta, a lieutenant in charge of the Special Investigations Section resigned in 1979, partly to protest an order that he investigate a group that was erecting a billboard critical of the police.

The traditional targets of the old labor squads are still not exempt from surveillance. The entire police department of Milledgeville, Ga. recently was forced by a federal court to take an oath that they would not harass or monitor union activists, after it was discovered that they had conspired with several industries to keep unions out of the town. Several other cities have made similar agreements recently. In addition, the Putnam County (Ohio) Sheriff's Department is currently being sued by farm labor organizers for allegedly monitoring and harassing their members.

Even police labor organizers have been monitored. In February, several San Diego police officers who questioned the department's promotional process won a restraining order to keep other officers from tapping their phones. Other police labor activists have been kept under surveillance by fellow officers in Philadelphia and Chicago.

"The kinds of groups that police gather information about are a barometer of the times," says John Guido, the NYPD's deputy chief for inspectional services, who oversees all intelligence operations. "In the 1920s, if you raised the concept that workers should make more than a dollar an hour, you were a dangerous radical. Every generation perceives some kind of different threat. . . . Sometimes, the fears are fanatical."

Political intelligence squads reached their full flower in the late 1960s and early 1970s. During those years, political dissent, both peaceful and violent, exploded. Civil rights and anti-war activists were on the streets daily; terrorist bombings and race riots escalated.

Before that time, only the largest police departments had anti-subversive units. But in the mid-1960s, the federal Law Enforcement

Assistance Administration began giving out millions of dollars to police departments to expand intelligence units or to start new ones. This money was earmarked to fight organized crime. Instead, much of it was used to watch protesters.

The magnitude of these operations was disclosed around the same time as the Watergate scandal. Newspaper exposés and special Congressional investigations made daily headlines. It was revealed that the FBI and CIA (legally excluded from monitoring domestic dissent) had collected files on more than a million Americans whose only crime was to disagree with government policies. Local police files, revealed later, contained even more information on lawful political activity. Both local and federal agencies had launched campaigns to clandestinely disrupt, discredit and intimidate a wide variety of movements, and to have activists fired from their jobs and falsely branded as police informers.

Some police intelligence activities, such as breaking and entering and placing wiretaps without warrants, have since been declared illegal, either by court decisions or new laws. Other activities, such as the photographing of demonstrations, infiltration of organizations, and the compilation and retention of dossiers on individuals suspected of no crime, are still legal in most jurisdictions. Dossiers thus remain intact in filing cabinets and on magnetic computer tapes around the country.

These practices continue, despite years of controversy, because it is still unclear how much information police may or should collect on political causes, and how they are allowed to collect it. The Supreme Court has never ruled definitely on just when an informant in a political group violates other group members' right to privacy. The Court did decide in 1969 that even persons who advocate violence are protected from arrest by the First Amendment unless it can be proved they committed or conspired to commit criminal acts. But the Court did not protect such persons from surveillance.

The single most influential case on political surveillance is probably *Laird vs. Tatum*, the 1971 decision in which

# ZERO-IN

on Drug Identification  
with

## NARCOTEST DISPOSAKIT

Patented Procedures guide  
you to your I.D. Target.

**NARCOTEST DISPOSAKIT** identifies more drugs (36 in all) than all other test kits.

## NEW COCAINE BASE REAGENT

For the presumptive I.D. of both Cocaine Base and Cocaine Hydrochloride. **There is no other reagent available for field testing of Cocaine Base.**

## ALSO HEMIDENT™

Field Test Reagents for Bloodstain I.D. offered in two reagents. Kastle-Mayer #7811 or MacPhail's Reagent #7812. Both highly sensitive (1 ppm) safe. Contains no Benzidine, a known carcinogen.

ODV

First and Foremost  
in Narcotic Identification

INCORPORATED

P.O. Box 305N South Paris, ME 04281  
Write or call for additional info (207) 743-7712

Circle Reader Service #2





## 'The mere presence of police intelligence tends to discredit a group,' complains an activist.

organization and lowers its political effectiveness."

In his recent book, *The Age of Surveillance*, historian and civil rights lawyer Frank Donner writes, "The impact of surveillance on an individual's sense of freedom is enormous, and, for this reason, yields the greatest return of repression for the smallest investment of power. . . . Surveillance has transformed itself from a means into an end: an ongoing attack on nonconformity."

the Court decided that mere collection of information about a person's political associations does not necessarily violate his rights. The person has to prove that the information gathered or the means of gathering it has "chilled" his ability to exercise his right to expression in some specific way.

Technically, *Laird vs. Tatum* is not a decision on the constitutional issues of political surveillance. But it has been viewed by civil libertarians as a defeat that they would like to mitigate in currently pending suits. The case has been used by some police departments to justify the continuing practice of photographing peaceful demonstrations, collecting files on activists and, on occasion, infiltrating law-abiding groups.

Those opposed to such practices say that they do exert a subtle, hard-to-measure chilling effect. "One of the purposes of gathering intelligence is to intimidate people," says Linda Lotz, field organizer for the Campaign for Political Rights, a Washington, D.C.-based coalition of more than 80 minority, feminist, environmental and religious groups. The organization monitors police intelligence practices nationwide and prints a monthly report. "Just the mere presence of police intelligence tends to discredit a group," says Lotz. "If someone goes to a demonstration and sees the police videotaping an apparently peaceful picket line, they're going to ask themselves, 'Why are the police here? Is this group I'm getting involved in really subversive and crazy? Is my name going to end up in a file? Will it go into a computer?'" Lotz asserts that fear of police infiltrators "affects the level of trust in an

**Many law enforcement** officials, of course, disagree. "No one is more interested in protecting people's rights than the police," says David Harrigan, chief of the New Hampshire attorney general's criminal division. "The most basic duty of the police officer is to prevent a breach of the peace, whether it's a fight in a bar or a demonstration in front of city hall. . . . Violence abridges people's rights more than any intelligence operation. . . . The best reason for having [a police agent] inside an organization is so you don't have to deal on speculation, rumor and fear. . . . If we acted on the rumors of violence we heard, there *would* be repression. Most of the rumors turn out not to be true, and we don't do anything. . . . Political intelligence is not nearly so sinister as it sounds."

"We're not going to investigate the Democratic or Republican party, or the Knights of Columbus or the B'nai B'rith," says Hewitt Lovelace, public safety director of Greensboro, N.C. "But those organizations that pose a violent threat to the community should and will be investigated."

The real point of contention between proponents of strong intelligence operations and most civil libertarians is not whether violent terrorist organizations should be monitored. But, they ask, at what point, and based on what kinds of evidence, should an investigation of a group with political goals begin? All too often, claim civil libertarians, the criterion is ideology, not the possibility of violence.

"It's a fatuous position to say that the police should never under any circumstances keep files on a political group," says John Roemer, executive director

of the ACLU of Maryland. "The FALN [which has taken responsibility for a number of fatal bombings] is a political group, but their methods are terrorism."

"We believe the police should have a specific, articulable and reasonable suspicion that someone is about to commit or has committed a specific criminal act before they start investigating," says Allan Adler. "It's a fine balance, but it is possible to collect information and still protect First Amendment rights."

Some officials have accepted this idea. Odson Tetrault, chief investigator for the Detroit Board of Police Commissioners, has been given the job of sifting through the files of the city's old "red squad," disbanded by court order five years ago. He said, "What we used to do was, somebody would be looking through the paper, and they'd say, 'Hey, here's a group that doesn't have the right ideology. Let's go see if those commies are doing something criminal.' And we'd watch them day and night, trying to catch them at something. We didn't know what. I think that was wrong. You can't wait for someone to do something wrong just because you don't like them. You have to think they're doing something to begin with."

"I think a reasonable and prudent police officer would have to make a preliminary inquiry if someone announced their intention to commit murder and mayhem," said Richard Brzeczek, superintendent of the Chicago Police Department. "But if they determined that it's just idle talk, or people sitting around contemplating their terroristic navels, then there's no reason for continuing an investigation."

Others believe in much wider bounds. The Heritage Foundation report says, "Internal security files cannot be restricted to actual or imminent threats. Like most other human activities, violence, disaffection and conspiracy do not spring full-blown from the heads of their perpetrators. They develop, change and escalate over time and become linked with other elements and groups." The report urges a "cumulative compilation of files" on "anti-nuclear and anti-defense lob-



bies," all of the major socialist and communist groups in the country, a "range of radical and new left groups, some of whose members have sympathy for North Vietnam and Cuba," three Ku Klux Klan factions, all Iranian and Libyan organizations, "an expanding presence of immigrants from unstable and sometimes Marxist-influenced states," plus an assorted cast of "extremists" and "subversives."

Richard Morgan, a professor of constitutional law at Bowdoin College and author of the recent book, *Domestic Intelligence*, feels that a wide spectrum of political movements should be monitored, including many that do not advocate violence. "Passive resistance, civil disobedience, serious acts of disruption, like blocking highways, are crimes of sufficient magnitude to trigger internal security investigations," said Morgan.

Morgan said he also favors "deterrent interviewing" — visits and

questioning by the police of persons who espouse civil disobedience — "just to let them know you're there and you know what they're planning," he said. Peaceful demonstrations should be photographed, he said, "so there will be a record of who's there in case a specific crime does take place."

"This could easily slide over into harassment of people with unpopular views," he admits. "There would have to be an internal review of such a program by high officials to keep that from happening." In his book, though, Morgan notes that some of the worst intelligence abuses have been personally ordered by the highest of officials, such as J. Edgar Hoover and Richard Nixon, who both ran clandestine wars against various political groups.

**The trend over** the last few years, to the dismay of proponents of intelligence, has been for laws, court orders and internal guidelines to draw a close-

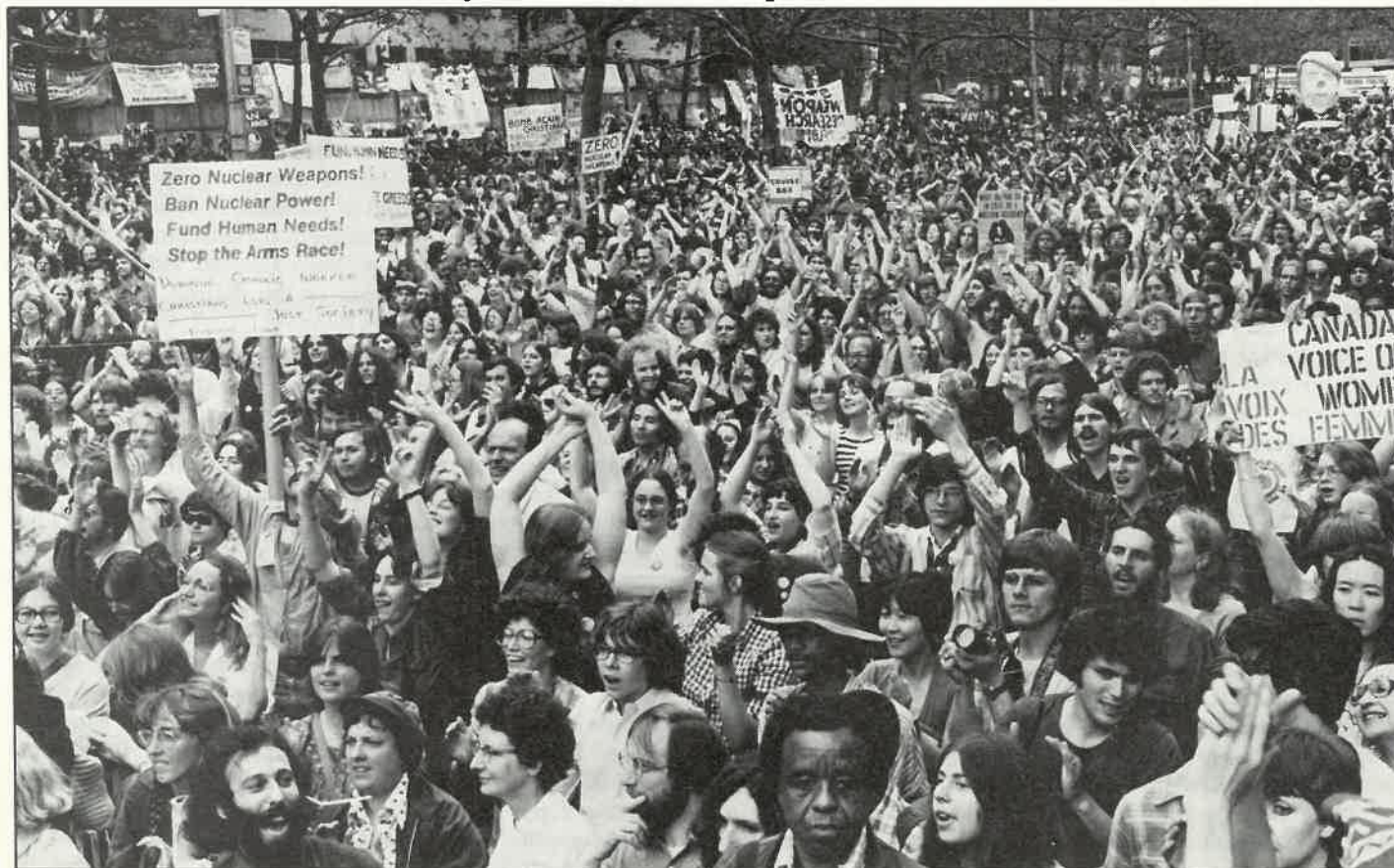
ing circle around the activities permitted police intelligence units.

Probably the first such court order concerning a city police department was imposed on the Memphis, Tenn. police in 1978 (*Police Magazine*, March 1979). Memphis police director E.W. "Buddy" Chapman complains now that the court "has hampered us considerably. We do virtually no intelligence gathering . . . in terms of potential civil disorder . . . because any group can hide behind the First Amendment."

"All of these lawsuits have unjustifiably and unnecessarily limited the scope of information available to police planners, from the CIA to the smallest police department," asserts Tim James, a Houston attorney and former city police officer, who is defending the city against a surveillance suit. "Police are not prepared in the way they used to be. Under these court orders, the

(continued on page 14)

**An anti-nuclear rally in New York City. Police in many cities have actively investigated anti-nuclear groups, but officials in New York and in the FBI say the movement seems to pose no threat.**



Lionel Delvingne/Picture Group



# Does the LAPD Go Too Far?

**T**HE FBI and most state and big-city police departments have sharply, and, in most cases, willingly cut back on intelligence activities during the last five years. The most significant exception to this change of policy is the Los Angeles Police Department. The LAPD apparently continues to monitor, infiltrate and disrupt liberal, leftist and civil liberties organizations on a scale that most departments have not seen since the late 1960s, and at a cost of millions of dollars.

Surveillance of political movements is carried out in Los Angeles by the LAPD's Public Disorders and Intelligence Division (PDID). According to the unit's guidelines, it is supposed to keep files only on organizations and individuals who "threaten acts disruptive of the public order" or who "assist such organizations."

Apparently, police believe that a large percentage of the city's political activity fits into this category. According to the yearly report of the PDID's top-secret activities, 754 organizations and 54 individuals were considered potentially dangerous as of last November — ten times the number of organizations the FBI says it has under full investigation nationwide.

The PDID is embroiled in at least five lawsuits brought by dozens of community groups alleging improper surveillance. So far, 1,600 pages of documents subpoenaed by various courts have turned up evidence of surveillance of at least 100 groups, and confirmed the names and activities of at least eight infiltrators, according to Terry Smerling, an ACLU attorney.

Asserts Michael Balter, coordinator of the Citizens' Commission on Police Repression (CCOPR), "The Constitution is just a rag as far as the LAPD is concerned." CCOPR, founded in 1977, is a coalition of about 50 community groups. It is administered by the ACLU. It is probably the only organization in the country that has a full-

time staff that monitors police intelligence activities in one city.

Police files obtained by plaintiffs in lawsuits have revealed that LAPD undercover agents spend a great deal of time and energy on activities that many police in other departments now say is of little value in detecting crimes or preventing terrorism. They report on the speeches of leftist activists and on the contents of political pamphlets. Great quantities of paper are consumed reporting on subjects like who served refreshments at a meeting of anti-nuclear protestors.

One agent turned in a handwritten account of an informal group discussion on school desegregation that took place in the living room of a couple who had lent the use of their home. The infiltrator's report included notes on a film that was shown, plus the names, physical descriptions and views of nine people present, as well as their professions and political associations and actions during the meeting ("stated he was a retried [sic] attorney. . . is the grandmother of (deleted). . . member of the ACLU . . . ran the projector. . .") The infiltrator reports that one "discussionist," a member of Parents for A Peaceful Implementation, "told of how the integration of the Pasadena School System resulted in better facilities for the lower income schools." Another participant "asked about the involvement of the Parent Teachers Association." The same infiltrator, after attending several rallies, also reported the views of various speakers and the fact that one speaker recited part of Martin Luther King, Jr.'s "I Have A Dream" speech. In other infiltrators' reports, groups' finances are frequently delved into. Reports routinely break down groups by race.

A police spokesman, asked about the apparent lack of connection between these activities and threatened public disorders, said he had no comment.

In 1976, the LAPD adopted guide-

lines that prohibit the storage of First Amendment information not relevant to a "threat" to the public order. The guidelines were adopted after the California Supreme Court ruled unanimously that police posing as students had illegally monitored the classroom of a leftist college professor.

The department's intelligence practices again became the center of controversy in 1978 when a CCOPR researcher uncovered a list of over 200 organizations said to be targets of police surveillance. The list included some groups with violent histories, such as prison gangs and terrorist organizations. But it also contained many apparently legitimate movements, ranging from the Women's Liberation Union to Support Our Servicemen. The police have never denied the authenticity of the list.

According to those who have seen police intelligence records, the PDID has not confined its activities to Los Angeles. Officers apparently followed one leftist activist to a rally he attended in Raleigh, N.C. in 1975. Other police officers traveled to a conference in New York City in 1977, posing as members of the Young Workers Liberation League.

It is rumored that LAPD undercover officers range not only across the country, but the world. Smerling quoted one retired LAPD officer as saying that agents are posing as full-time students in universities in Europe. One activist suing the LAPD testified that at least one undercover agent made forays into Mexico in the early 1970s, posing as a Marxist student organizer trying to create ties with American Marxists. According to an affidavit, he was captured and tortured by Mexican police along with the real American Marxists, until he convinced them that he was a police officer.

One local newspaper reporter said that one LAPD officer boasted that the department runs "one of the biggest in-



telligence operations in the world."

The Los Angeles Police Commission, which monitors the activities of the PDID, has been accused by critics of doing little to rein in the department. The commission, a group of prominent citizens appointed by the mayor, is supposed to audit the unit's activities every six months, but the audits appear sporadically. Each audit has given the PDID a clean bill of health. William Cowdin, executive secretary of the commission, said that the commissioners were given access to "100 percent" of PDID's files, and that "they're usually in agreement with 99 percent. The rest, they take up with PDID in private."

Reva Tooley, a member of the commission, admitted that the PDID has "on occasion gathered information on law-abiding citizens." But, last year, denying a request from the City Council, the commission refused to develop a system to make such files available to citizens. Instead, commission members insisted that such files be secretly destroyed, without notifying the subjects of the surveillance. The commissioners justified this by saying that the dissemination of files could compromise PDID's ability to monitor terrorists.

Councilman Zev Yaroslavsky, a leading critic of the PDID, said, "This approach assumes that we can completely trust the police department, when the record clearly shows that we have no reason to trust them. . . . PDID focuses its intelligence-gathering entirely too much on law-abiding groups whose only crime is to promote a point of view at variance with that of the department."

Mayor Tom Bradley, who was a Los Angeles police officer for 21 years, said in a statement last spring, when subpoenaed documents showed that the police had undercover agents attending City Council meetings, "It's been obvious to me and others for years that what PDID did was not always connected with criminal or terrorist acts." He stopped short of criticizing the police commission.

In late April 1980, the intelligence controversy heated up again with the

release of more documents, showing that police had been monitoring local politicians' speeches and activities. At this point, the commission and the police department announced that they would put into effect interim guidelines on the collection of First Amendment information. (The earlier guidelines dealt only with storage; collection was "too big a project," according to commission president Stephen Reinhardt.)

The guidelines prohibit the collection of any material on sexual, religious



or political activity that is not "relevant" to an investigation of a "threat" to the public order. Chief Daryl Gates was supposed to submit a proposal for permanent, more detailed guidelines "as soon as possible," according to a commission statement last year. But a police spokesman contacted recently said, "We have quite a lot of work to do on that. It'll be quite some time."

Two weeks after the interim guidelines were issued, City Council members critical of the PDID demanded that the police inform them of the total amount of money spent on undercover activities. The PDID's budget of \$1.8 million for its 51-officer staff was public knowledge, but most of the known infiltrators have technically been working for other units in the department.

Assistant Chief Marvin Iannone defied the Council members, asserting that a budgetary disclosure would "endanger the lives of officers." He

added that if he gave the subcommittee the information and an undercover officer were killed, each Council member would "naturally become a suspect" in their murders. The committee members expressed incredulity, repeating that they only wanted broad monetary figures, not names. But Iannone persisted. Upon leaving the hearing, Capt. Robert Loomis, PDID's commander, told a reporter that "one question just leads to another and another. We've got to stop it before it starts."

Later, the city attorney told police that they had to answer budget questions; so Council members compromised by meeting with Chief Gates in a closed session, in which Gates apparently answered some queries.

Chief Gates has asked for an increase in PDID's budget this year so the unit can begin preparing for possible terrorism during the 1984 Olympics, which will be held in Los Angeles.

Gates and other police officials have remained reluctant to discuss PDID's specific operations and to justify, or even to confirm, most alleged incidents of infiltration.

"First of all, we don't admit anything, and we don't make any attempt to explain everything of what our detractors say we are doing," said Cmdr. William Booth, an assistant to Chief Gates. "The more you talk about intelligence, the less effective it's apt to be. Terrorists could use that information."

However, Booth and others have offered general rationales for the PDID's activities. Booth said that "any group surveilled by PDID is involved in potential terrorism."

Does that include groups such as the school integration discussion group? "Any group," repeated Booth. "But remember, we don't admit to infiltrating anyone."

Cmdr. Booth said that the majority of an organization's members do not have to be involved in "potential terrorism," or even know about those who are, in order for it to qualify for surveillance.

-K.K.



## Surveillance (continued from page 11)

agent on the street almost has to call his supervisor every time he writes something down that's not a black and white criminal act. . . . If the Secret Service wants some information on potential assassins, they'd better not call on us, because we don't know."

In 1979, the International Association of Chiefs of Police adopted a resolution opposing "well-meaning but misguided" initiatives to "discredit the intelligence effort."

Police seem to be divided into two schools of thought on political intelligence: those who believe that every scrap of information, no matter how innocuous, should go into the files, and those of a newer school who believe intelligence officers should be highly selective and exclude as much political information as possible.

Doug Dills, head of the Seattle Police Officers' Guild, whose members are subject to a new, unique and very strict intelligence ordinance, tells why he favors the old "vacuum cleaner" approach: "The nature of intelligence gathering is that you keep your ear to the ground and pick up a piece here and a piece there. Some of the information you get may be false, some of it may be irrelevant, and a lot of it will be about lawful political activity. But you put it all in the sifter because you don't always know what is what. You never know when a seemingly innocent bit of information may turn out to be a piece in the puzzle of some future case."

Others think that the new intelligence restrictions have improved police effectiveness. "Most of the files collected in the '60s are an amalgamation of crap, bullshit and newspaper clippings," said David Smydra, executive secretary of the Detroit Board of Police Commissioners. "You could take all the political surveillance material gathered by all the police agencies in the country and you couldn't solve one misdemeanor with it. It was pathetic — nothing professional police should be proud of."

Says New York's deputy chief John Guido: "When the *Miranda* warnings [requiring police to inform an arrestee of his rights] went into effect, everybody said, 'Oh no, we all better get out of the police business. We won't be

able to do anything anymore.' But they were wrong, the same way people are wrong about intelligence guidelines." Guido says that "so much of our intelligence used to be helter-skelter. Guidelines and restrictions have helped us focus our resources on criminal acts, which is where they should be." New York adopted internal intelligence guidelines in 1973, similar to those a federal court is now considering imposing on the NYPD in response to a lawsuit filed in 1971 and only now being settled.

"People used to be promoted on the basis of how much information they gathered, not whether it was worth anything, so obviously we got a lot of worthless information about people's political and personal habits," says Capt. Donald Moss, commander of the NYPD's Public Security Section. "Now we gather less and analyze more."

Lt. Col. Justin Dintino, commander of the New Jersey State Police intelligence division, says the New Jersey police also adopted guidelines in 1973 after a court suit. They imposed the guidelines themselves because, says Dintino, "we knew that if we didn't, they'd be shoved down our throats. . . . The public is no longer going to accept what went on in the old days, and they may have thought up some guidelines that were so restrictive we couldn't live with them."

Dintino, who is also the head of the Law Enforcement Intelligence Unit (LEIU), a 235-agency national intelligence-sharing network, said that most police intelligence units not only collect less information today, but also have shifted their emphasis from political concerns to traditional organized crime. LEIU did collect and disseminate purely political information as late as 1976, one lawsuit has shown, but Dintino claims those days are over, and says LEIU guidelines drawn up in 1978 exclude such information. No complaints have been made since then, but the Michigan legislature has since banned police agencies in the state from belonging to the network.

**Recently, police** intelligence units have shown an interest in the anti-nuclear movement. The movement is

comprised mainly of local groups protesting construction of nuclear power plants, and is often allied with opponents of nuclear weaponry. Many of the groups use civil disobedience as a major tactic.

Proponents of the movement charge that utility companies and federal agencies such as the Nuclear Regulatory Commission have pressured the police into trying to stifle dissent.

Some of those who see nuclear power as vital to the national security consider the protestors potential saboteurs and have called for more surveillance. At the first hearing of the U.S. Senate Subcommittee on Security and Terrorism, in April, one witness accused the Mobilization for Survival, a major anti-nuclear coalition, of affiliation with the Soviet Union, a statement which the organization strongly denied, and which was denounced by a variety of civil rights organizations. The witness said that the Russians play a "covert role in promoting the anti-nuclear lobby."

Many power companies subject anti-nuclear protestors to extensive private surveillance, sometimes in conjunction with the police (see page 22).

Some top intelligence officials think the concern with anti-nuclear groups is exaggerated. "The most you'll get out of the 'nukes' is a trespass charge," says New York's John Guido. "The main contact we have with them is when they call us up to let us know they're having a demonstration." Norman Hope, a supervisor with the FBI's Terrorism Section, says, "We have no evidence that the anti-nuclear movement is dangerous . . . or that it is influenced [by the Soviet Union]. . . . We're not actively investigating them."

New Jersey's Justin Dintino says he sees "no danger of sabotage in the anti-nuclear movement."

A report by the Center for National Security Studies, issued in January, details 66 alleged incidents of anti-nuclear surveillance carried out by 22 police agencies over the past three years. These have included infiltrations, keeping of files, videotaping and photographing of activists, and at least one planned disruption of a group by undercover agents.



In late 1979, a trespassing case against 50 anti-nuclear protestors was dismissed by the California Supreme Court after it was revealed that one member of the group was an undercover sheriff's deputy who had disrupted the group's legal defense team. According to testimony, two deputies, from the San Luis Obispo and Santa Barbara sheriff's departments, had originally infiltrated the group and unsuccessfully tried to provoke militant tactics in an effort to "draw out violent actors." One infiltrator dropped out after the arrests, but the other stayed on, and at one point volunteered incorrect information that prevented defense lawyers from making an important argument. The protestors had been arrested for entering power company property during a demonstration.

Trespass charges were also dismissed when an infiltrator surfaced this February in a group of 15 Newburyport, Mass. activists trying to stop construction of a nuclear power plant in Seabrook, N.H. New Hampshire Attorney General Greg Smith ordered the charges dropped when defense attorneys learned at a court hearing that one of the defendants, police informant Lucas MacDonald, had been a group member for a year and had participated in privileged client-attorney discussions, presumably reporting them to the police.

Members of the group, who had been arrested while attempting a sit-in at the offices of a power company, say they plan to sue the state for violating their rights. Sharon Hollis, a member of the group, said, "We never thought this could happen in our group. We were very naive, we never espoused violence. . . . I thought I was trying to do something so meaningful, so good. . . . When I found out, I was frightened. I thought, 'If there's one, is there more? Am I really free to speak out?'"

New Hampshire state officials say they are justified in collecting intelligence on the anti-nuclear movement because over the past two years demonstrations at the Seabrook site have drawn armies of protestors seeking to cut down the plant's fence, block the access road with debris and occupy the

# LAUGH at the COLD!

It's 10° outside . . . Even getting colder. So you bundle up in layers and layers of heavy clothes. First with long underwear . . . then bulky, restrictive thermalwear on top.

Oh, you were warm all right. Like in a Turkish bath. Because you began to perspire from all your activity. And perspiring in that mountain of clothes is like perspiring in a plastic bag! The perspiration is locked in. So there you are. Wet and miserable.

But now, at last, Damart has solved the problem. Because Damart invented underwear that keeps you *warm, dry and comfortable* no matter how cold it is or how long you stay out. Underwear that's soft and light so you can move easily. Underwear knitted to let the *perspiration evaporate through* so you always stay warm and dry next to your skin. Nothing else does this like Damart.

Damart does this with a new miracle fabric—Thermolactyl. You can wear Damart indoors too, and turn your thermostat down into the 60's. You'll feel perfectly comfortable and enjoy dramatic savings in home heating costs.

Damart is so comfortable that the Mt. Everest climbing expedition wears it. So does the Chicago Bears Football Club, New England Patriots and Philadelphia Eagles.

Our free color catalog tells the full Damart Thermolactyl story and displays the whole Damart line for men and women *including tall sizes*. Send for your **FREE** copy now!



THE PROOF IS  
IN THE WEARING!

**Damart**  
Thermawear

When in the Boston  
area, visit our  
Portsmouth, N.H.  
Store (603) 431-4700

## THERE IS NO WARMER UNDERWEAR MADE!

Fill out and send to:

**DAMART, Dept. 12561**  
1811 Woodbury Ave.  
Portsmouth, N.H. 03805

**YES! Rush me your FREE DAMART**  
Catalog . . . I want to enjoy the fantastic  
warmth of Thermolactyl Underwear, a DAMART® exclusive. (I  
understand there is no obligation.)

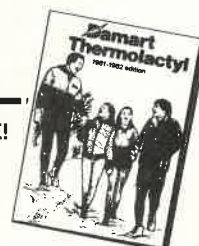
PRINT NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_

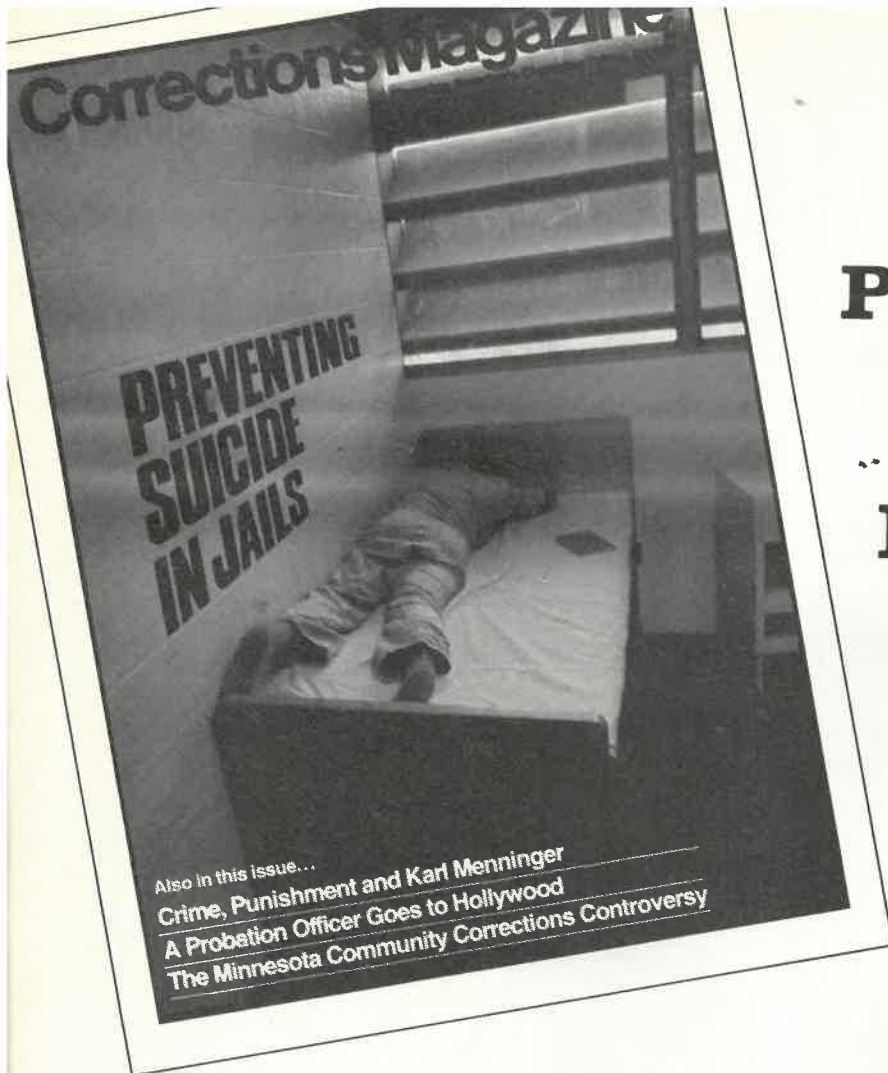
STATE \_\_\_\_\_

ZIP \_\_\_\_\_ © 1981, Damart



Circle Reader Service #3





# CRIMINAL JUSTICE PUBLICATIONS PUBLISHES TWO MAGAZINES.

You know us as

**POLICE**  
Magazine

May we  
introduce...

# Corrections Magazine®

the magazine that covers the  
corrections field in the way you've found **POLICE** covers yours.

Because your work is closely linked to the corrections field and its problems, we think you'll find valuable back-up in the kind of in-depth, impartial reporting in **Corrections Magazine**.

As a subscriber in the months ahead you'll consult **Corrections Magazine** for articles on:

- Race and the prison population
- Guard stress
- Military prisons
- The quality of jail visiting facilities
- Attica: ten years later

**SUBSCRIBE NOW AT NO RISK AND EXAMINE YOUR FIRST ISSUE WITHOUT OBLIGATION. IF YOU DON'T AGREE THAT CORRECTIONS MAGAZINE WILL AID YOU IN YOUR OWN WORK, WRITE "CANCEL" ON YOUR BILL AND OWE NOTHING. OR, PAY NOW. WE OFFER A FULL MONEY-BACK GUARANTEE.**

Your cost is \$17.97/year (6 issues).  
That's 25% off the single copy price!  
Or take two years (12 issues) for \$32.00.  
At 33% off!!



## After the FBI issued its guidelines, investigations dropped from 21,414 to 642.

site. Each time, they have been turned back by state police. "The police serve a legitimate function when they prevent 1,000 people from cutting their way onto private property," said David Harrigan, head of the attorney general's criminal division. Harrigan said that "we heard rumors that they were going to do much worse than just trespass. It turned out not to be the case at all, but we wouldn't have known that if we hadn't gathered intelligence."

The infiltration is only the latest in a series of anti-nuclear surveillance activities carried out by the New Hampshire State Police. The Clamshell Alliance, one of the organizers of the demonstrations, accused the police of tapping their phones in 1978. The FBI investigated, but reported it could find no evidence of a tap.

At demonstrations, police with video equipment are routine, and more or less accepted. But even Clamshell members were startled when a TV camera crew filming with equipment marked "WENH," the call letters of the local educational station, turned out instead to be state police officers. When the real WENH crew came along, they spotted the police and began filming them, at which point the police left.

WENH executives protested to the governor, complaining that the police were destroying their ability to collect news and endangering their camera crews. The governor's press secretary, Dayton Duncan, admitted that his office had issued the officers false press credentials and said that the incident, which was "the result of errors in judgment," would not be repeated.

**New Hampshire** is an exception in a time when intelligence gathering has been proscribed by a growing assortment of internal guidelines, laws and court settlements. Nowhere are the guidelines so strict as in the Federal Bureau of Investigation. These rules have bitten deeply into what was once the nation's premier political intelligence operation.

The need for restrictive FBI guidelines was recognized by both the Ford and Carter administrations. And now, five years after they were im-

plemented, they are not only accepted but endorsed by high FBI officials. Nevertheless, the Reagan administration has proposed to curtail or abolish them. This prospect sends chills down the spines of civil libertarians.

Between 1965 and 1975, the FBI collected files on more than a million Americans involved in mostly peaceful political activity. Large numbers of FBI agents wiretapped, infiltrated, photographed, and even rose to positions of leadership in such groups as the Socialist Workers Party. That party is now one of dozens of groups that have civil lawsuits pending against the Bureau for past improper surveillance and harassment; some plaintiffs have already been awarded monetary damages.

According to an audit by the U.S. General Accounting Office, little of this surveillance uncovered any criminal activity.

From 1965 to 1975, FBI agents committed at least 240 warrantless "surreptitious entries." In the Bureau's Counter Intelligence Program (Cointelpro), agents carried out more than 2,300 "dirty tricks" aimed at disrupting political groups. Agents called in bomb threats to political offices; they spread false rumors that various members of groups were police informers; they initiated rumors that activists were unfaithful to their spouses; they urged, successfully, through forged letters, that political dissidents be fired from their jobs. Under the personal direction of J. Edgar Hoover, the FBI conducted a decade-long clandestine war against Martin Luther King, Jr. and other civil rights leaders, using blackmail and Cointelpro-type tactics. For instance, a few weeks before King received the Nobel Peace Prize, the FBI sent him a letter accusing him of alleged sexual improprieties and urging him to commit suicide.

The FBI was assisted by the CIA, which conducted warrantless wiretaps and mail-openings on 10,000 domestic dissidents, in violation of its charter, and also helped equip and train police political intelligence squads in at least a dozen cities. In 1973, the National Security Agency lent the use of its sophisticated foreign intelligence

satellites to photograph anti-war demonstrations from space.

A wide array of federal officials denied these practices until hard evidence was produced by Congressional committees and investigative journalists. In 1976, at the height of the scandals, then-Attorney General Edward Levi issued the restrictive "Levi guidelines," which are still the basis of the FBI's "domestic security" operations.

The guidelines lay out criteria for three types of investigations into activity that involves First Amendment rights: "preliminary," "limited" and "full." Preliminary investigations can be initiated only when the FBI receives allegations of specific criminal acts, and only the least intrusive kinds of surveillance can be used. The investigation can become a "limited" one only when specific criminal acts appear to be "on-going or imminent." Investigative methods are still restricted. The Bureau may undertake a "full" investigation "only . . . on the basis of specific and articulable facts giving reason to believe that an individual or a group is or may be engaged in criminal activities," and only upon informing the attorney general. Agents may use "mail covers" (inspection of the outside of envelopes), undercover agents, informants and electronic surveillance, but only with the proper warrants. The need for "full" investigation must be weighed against "the danger to privacy and free expression."

Former President Jimmy Carter's Executive Order 12036, still in effect, supplements the guidelines by prohibiting mail-opening under any circumstances, and by requiring agents to use "the least intrusive means possible" in gathering information. The order also prohibits domestic electronic surveillance by the CIA.

By all accounts, these curbs have dramatically reduced the amount of federal domestic security intelligence gathering. According to FBI records, 21,414 domestic security investigations were underway in July 1973. After the guidelines went into effect, the number dropped to 642. FBI officials told *Police Magazine* in May that 20 groups and 44 individuals were



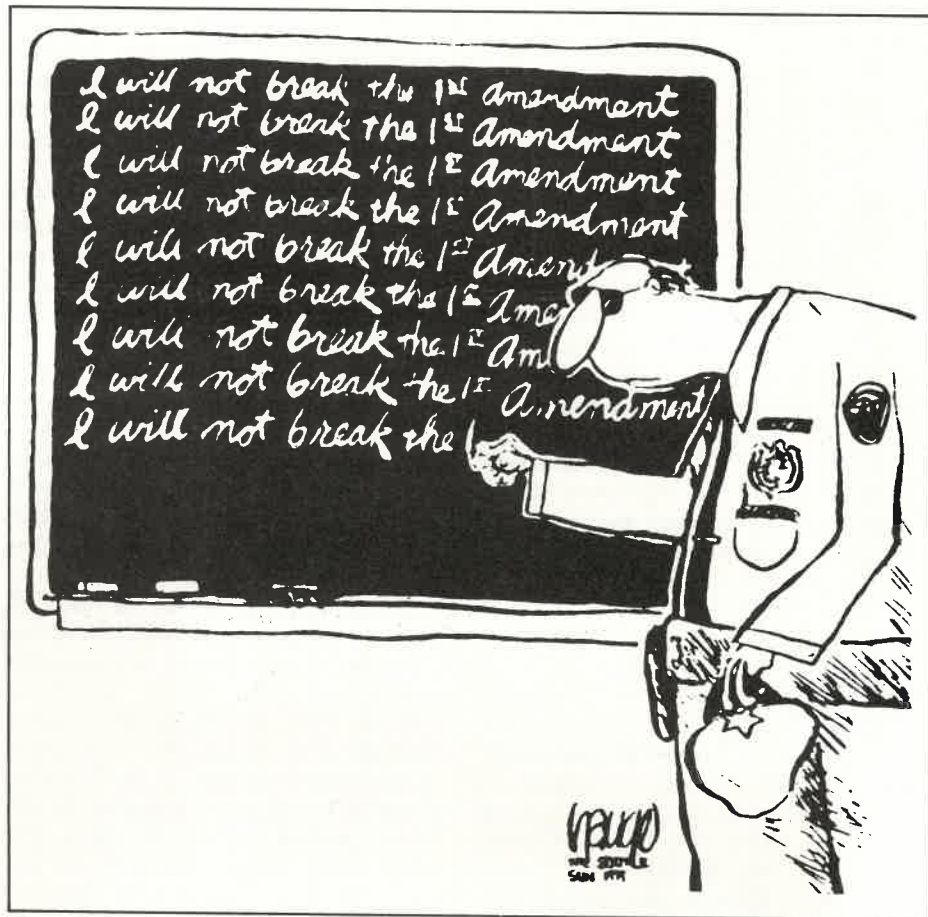
under "full" investigation by the Terrorism Section, which now handles most domestic security cases. In addition, a number of groups — the FBI would not say how many — suspected of committing crimes under the direction of foreign powers are under investigation by a separate counterintelligence section.

Even considering the hidden number of foreign counterintelligence cases, most civil libertarians feel the caseload decrease is real. "The guidelines have refocused the Bureau's domestic security mission away from broad surveillance of political activism onto real terrorist acts," said Jerry Berman, counsel for the Center for National Security Studies. "I gravely doubt if they are hiding anything improper." He cited budget figures to back his assertion, and the assurances of several in Congress who have access to the Bureau's classified intelligence information.

A wide range of citizens, led by none other than William Webster, the FBI's director, have urged that the guidelines be made into law, as part of the permanent FBI Charter that has been in the works for several years. But since President Reagan was elected, an increasingly vocal group of critics have attacked the guidelines and threatened to abolish them. "What the FBI is doing at this point is an overreaction to the scandals of the 1960s," says Richard Morgan, the Bowdoin College professor. "The stable certainly needed to be cleaned, but the pendulum has swung past the stops, and the Bureau is not collecting as much information as it should on the violent political fringes of America."

Local police complain of an "intelligence gap." The Levi curbs have "decimated the FBI and CIA to the point where we don't know whether Castro is smoking cigars or pot," says Burley Mitchell, North Carolina's secretary of crime control and public safety. "Terrorist organizations can be national and international in scope. Local and state agencies have too narrow a view to ever cope with that. The FBI is our only hope."

The Senate recently launched the new Subcommittee on Security and



Terrorism, a revival of the old Internal Security Subcommittee, which provided a forum in the 1950s for Senator Joseph R. McCarthy in his wide-ranging hunt for communists. At its first hearing in April, the committee heard testimony that a wide range of domestic dissidents are influenced by the Soviets. Joel S. Lisker, counsel of the new subcommittee, said that "we will do everything we can to modify and eliminate" the Levi guidelines.

In March, an interagency group led by CIA officials floated a proposed executive order that would scrap most of the current restrictions on the CIA and FBI. The draft aroused such an outcry that it was quickly disavowed by the White House. Administration officials issued a new, reworded statement, but it retained many of the broadened powers of the first. That draft was still under consideration by the White House at this writing.

Perhaps the administration's most dramatic indication that it favors wider

intelligence gathering was President Reagan's pardon this April of Mark Felt and Edward Miller. These two former high FBI officials were convicted last November of conspiring to violate the constitutional rights of Americans in the early 1970s, when they authorized illegal break-ins at the homes of friends, acquaintances and relatives of fugitive members of the Weather Underground. The pardons aroused widespread speculation that FBI agents would feel free, regardless of the law, "to do their job 100 percent," in Miller's words.

FBI officials, however, bridle at suggestions that the guidelines be junked. FBI director Webster said in a television interview after the Senate terrorism panel hearings, "I am satisfied that we are able to do our work effectively under those guidelines." He insisted that there "would be a storm of protest in the Bureau" if they were abolished. Webster denied that there is any "real evidence" that the Soviet



Union is sponsoring or instigating terrorist activity in the United States. He also denied that the pardons of Felt and Miller would affect agents' adherence to the guidelines.

FBI officials, in interviews with *Police Magazine*, said the guidelines in no way affect the Bureau's ability to deal with terrorism. "Terrorism is very high on our list of priorities. We feel we are doing all we need to do at this point," said Roger Castonguay, deputy assistant director of the FBI's criminal division. Terrorist incidents, while increasing worldwide, have declined domestically, from 111 in 1977 to 30 last year, according to Bureau reports. This has prompted FBI officials to ask, not for an increase in anti-terrorism forces as some in Congress have suggested, but for a decrease of 21 slots in the 126-agent Terrorism Section.

"I don't think that the criminal standard [in the guidelines] has precluded us from accumulating the data we need to prevent actual crimes," said Norman Hope, a supervisor with the Terrorism Section. "We've had some good successes under the guidelines." He cited the infiltration, arrest and conviction last year of a group of Croatian immigrants in New York City who were plotting to assassinate a political rival and bomb 100 people at a meeting.

Hope said that the unit now focuses mainly on several Puerto Rican independence groups, such as the FALN, the Machete Swingers and the Puerto Rican Armed Resistance, and on several Cuban exile terrorist organizations, such as Omega 7.

He said that "several specific Klaverns" of the Ku Klux Klan are under investigation for possible terrorist activity, as well as members of the Communist Workers Party and the Revolutionary Communist Party, who are under investigation for lesser offenses like assaulting diplomats at demonstrations.

"Times have changed, and the consensus is that we're better able to focus our attention on the criminal," said Roger Castonguay. "Before the guidelines, the FBI served a large intelligence function. There was a lot of perceived threat. Agents were looking for violators within political organiza-

tions. There was a much broader mandate. . . . The criteria were not very strict. . . . In relation to what's happening in Congress, I certainly don't see the FBI overreacting or going on any witchhunts."

**One of the few** local police agencies with restrictions on intelligence gathering as strict as the FBI's is the Seattle Police Department. But in Seattle the police are not as content with the guidelines as the FBI seems to be.

Seattle police are subject to the nation's only city ordinance limiting intelligence gathering. The law was passed unanimously by the City Council in July 1979 following a three-year lawsuit that uncovered questionable surveillance practices. The ordinance, a complicated 13-page document, restricts police investigations of First Amendment activities to cases where police "reasonably" believe the subjects are engaged in criminal activity. It sharply limits the use of informants and infiltrators, and prohibits the filing of information about a person's sex life unless police suspect he is involved in a sex crime. Its most controversial provision requires a civilian auditor to inspect police records every six months. If the auditor finds that police have filed information in violation of the ordinance, he is bound to inform the subject or subjects of the operation, who may sue for damages.

Lt. Pat Munter, head of the department's criminal information section, protests that the Seattle police are "in a Catch-22 situation. You can't investigate unless you can show criminal actions, and you can't show criminal actions unless you investigate. I don't think there's an easy answer to that one."

The law "might suit the purposes of the Revolutionary Communist Party, the KKK and the ACLU, but it was never the intent of reasonable people. . . . They've neutered us," claims Doug Dills, president of the Seattle Police Officers' Guild. "The average officer is so afraid of violating the ordinance that every bit of information that goes into the files is so laundered as to make it useless," he said. "So far, terrorism has been pretty quiet, but when something

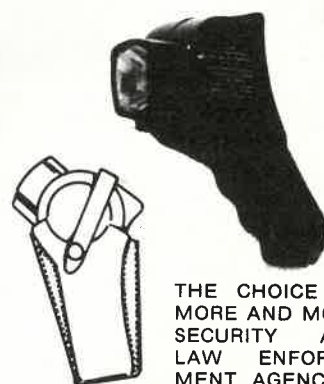
happens and we don't know who's done it, they'll see how it works."

The police department was, in Munter's words, "kicked out" of the LEIU when the law was passed, because LEIU officials were afraid that their top-secret files on organized crime would fall into the hands of the civilian auditor. "We've been cut off from the free flow of information," said the department's legal counsel, Leo Poort. "Some state and interstate agencies that I won't name won't talk to us in any kind of case."

Poort said the other agencies' concern was that the civilian auditor would leak sensitive information to the public, even though the ordinance contains safeguards against that.

Defenders of the law say the police have overreacted by interpreting it as more restrictive than it really is. City Councilman Randy Revelle, the law's main sponsor, said that the law does not regulate the gathering of information so much as its storage. For the

**Renders individuals harmless  
for up to 30 minutes.**



THE CHOICE OF  
MORE AND MORE  
SECURITY AND  
LAW ENFORCE-  
MENT AGENCIES.

**Nebulizer XL-4**

**THE ULTIMATE  
NON-LETHAL WEAPON**

The Nebulizer XL-4 has 2 independent protective features. A parabolic light beam, 80% the brilliance of a flash cube, for a blinding and startling effect. An all new repellent spray, not mace or a teargas, that is designed to render individuals harmless for up to 30 minutes. This spray is effective to 10 feet with a 4 to 8 ft. spray pattern. All parts, bulb and repellent canister are replaceable.

Available at leading gun dealers  
**FOR DEPARTMENTAL BIDS CALL . .**  
Central Ohio Police Supply  
(513) 593-0306

**Circle Reader Service #4**





**A South Carolina Highway Patrol officer takes photographs of protestors arriving in Barnwell, S.C., site of an Army plutonium processing facility, for an anti-nuclear rally in May 1978.**

most part, he said, officers are allowed to keep any personal records they want, so long as nothing in violation of the ordinance goes into official files. "We're not kidding ourselves, that we can control what Officer Jones puts in his hand or writes in his own little notebook," said Revelle. "What the law aims at is keeping those early stages of an investigation, when police pick up a lot of useless information, from going into the files. . . . If that information later becomes relevant to a criminal investigation, they're free to put it into the files. . . . I think there are officers out there not collecting information that they're perfectly entitled to collect."

Revelle said he believes that police agencies that have refused to share information with the Seattle police have misinterpreted the law to mean that all their files will be opened to the public,

when actually this is not the case. However, the city council will hold hearings this summer to determine if changes need to be made. "We realize that this is a very touchy subject, and we're treading on new ground," said Revelle. "There may be some bugs that have to be worked out of this law."

**The Seattle law** is regarded by civil libertarians around the country as a model. Efforts are underway in Washington, D.C. to pass an ordinance based on it, and the authors of a recently proposed permanent court injunction in Chicago also have used it as a guide.

The Chicago injunction, if approved by a federal district court as expected, has far-reaching implications. First, it is the strictest and most detailed such settlement so far, and could influence other pending cases. Second, it reins in

what was once one of the most aggressive political surveillance and disruption operations in the country. The proposed injunction would end seven years of litigation.

The Chicago Police Department's Subversive Squad was abolished in 1975 after a federal grand jury report concluded that it had "assaulted the fundamental freedoms of speech, association, press and religion as well as the constitutional rights to privacy of hundreds of individuals," and contained "all the earmarks of a police state." Around the same time as the grand jury investigation, five separate class-action lawsuits were filed by community groups and individuals who said they had been spied upon and harassed by the squad.

Evidence released by the grand jury, and, just recently, by the litigants in the lawsuits, has shown that the



Chicago police ran a Cointelpro-like program until 1975. The police collaborated in the early 1970s with a right-wing group, the Legion of Justice, in breaking into the offices of left-wing organizations, spray-painting slogans of rivals on their walls, removing files and destroying equipment. One former Subversive Squad member, jailed in 1979 during the civil suit proceedings for refusing to answer questions, finally admitted that he had infiltrated a group called Citizens for a Democratic Society and unsuccessfully urged members to shoot police officers. He even plotted out specific rooftops where snipers could kill police.

By the time the squad's files were subpoenaed in the late 1970s, they contained the names of 200,000 individuals and 800 organizations, most of them lawful political groups. They had included more, but it turned out that the police had monitored the legal teams of the people who were suing them, and destroyed many of their files as a result. Among the records left were dossiers on the PTA, Planned Parenthood, several Catholic and Jewish councils, the *Atlantic Monthly*, the NAACP, an organization trying to stop a freeway from being built, environmentalists, feminists and dissident City Council members. Opponents of the late Mayor Richard Daley got special attention, and he received weekly reports from the squad on his enemies' activities. Up until 1971, the squad was in daily contact with Army Intelligence, which is legally barred from operating in the country.

The injunction would exceed the curbs placed on other agencies. It would require the police to have a "reasonable suspicion" that crimes are "imminent" or have already been committed by a political group before they can investigate. High police officials would have to approve investigations of political groups. Information would have to be gathered by the least intrusive means possible; infiltrators may be used only to prevent serious injury or to prevent a crime, and they may not collect political information. The police promise not to attempt to disrupt any organization exercising its First Amendment rights.

Police records are to be inspected every several years by an independent, private auditing firm to insure compliance. The court will retain jurisdiction over the case and seek punishment for violations in contempt-of-court proceedings.

The plaintiffs are still suing the police for \$480,000 in damages, largely to cover the costs of property destroyed by the police and their allies in the course of their clandestine raids.

Lawyers for the plaintiffs say that surveillance and harassment of political groups dropped off sharply after the lawsuits were filed. After the disbanding of the Subversive Squad, the police formulated guidelines for intelligence activities that department legal advisors say are close to those outlined in the pending settlement. Police were at first opposed to the settlement, but have now acquiesced. Two years ago, former Police Superintendent James O'Grady complained that the lawsuit had rendered the police "virtually helpless to protect the city from terrorist activities."

But current superintendent Richard Brzecek, who, as the department's former legal counsel, helped draw up the guidelines, said, "We have had no problem with them. Historically, I think the Intelligence Division responded in good faith at the time to legitimately perceived needs. Unfortunately, as those . . . needs waned or passed away, there should have been a focus to move the division on to more contemporary activities."

Two similar lawsuits are in progress against the Michigan State Police and the Detroit Police Department. This year, after a six-year legal battle, the state police finally agreed to release its 38,000 personal surveillance files beginning in May to those who were investigated by the subversive squad. The plaintiffs in the Detroit lawsuit and the Detroit Board of Police Commissioners are in the process of working out a system for notifying citizens about the existence of files that were kept on them and releasing to them the information in those files.

The significance of the Michigan suits is that the agencies may face tremendous financial liabilities if the

courts decide that their files have damaged the individuals in them.

For instance, testimony and documents submitted to the courts in these cases have suggested that police turned over information about labor activists to private companies that resulted in firings and denied promotions, according to attorneys. Lenore Goldman, a spokesperson for the National Lawyers Guild, which is helping litigate the case, said that companies, including Panex and Chrysler, allegedly received information involving members of the United Auto Workers. Lawyers for the plaintiffs say they have already been contacted by 5,000 people who received court-required notices in the mail that they had been subjects of surveillance.

Some surprising role reversals have recently come to light with the sending out of the notices. Among the former targets was Detroit Mayor Coleman Young, who, as a community activist, was the subject of a file before he was elected. Another person who recently received a notice was David Stockman, director of Ronald Reagan's Office of Management and Budget, widely regarded as one of the most powerful and conservative people in the U.S. government. When Stockman was a college student in the 1960s, he was the sole Detroit staff member of Vietnam Summer, an anti-war group that state police monitored.

**Jerry Berman** of the Center for National Security Studies says that all the recent court-imposed restrictions on intelligence gathering are "big steps forward. They remove some of the unbridled discretion that the police have always had." But some civil libertarians are less happy with the pending settlement of a suit in New York City.

The settlement arises from a case similar to that in Chicago, and is also pending before a federal court. However, the restrictions it imposes on the police are far less stringent. Unlike the Chicago settlement, which requires "reasonable suspicion" before surveillance can be launched, the New York proposal requires only that the police receive "specific information" that a criminal act could be in progress — le-



gally, a much more permissive standard. Said one lawyer involved in the Chicago suit, "Let me give you an example of 'specific information.' An anonymous caller tells the red squad: 'This peace group on West Street is also running guns on the side.' Now that's specific information, and it could set the whole secret police apparatus in motion. You see, it may be the worst quality information, but it sure is specific." Critics believe the settlement contains other deficiencies as well.

"Oh, there are some paper hurdles, but nothing that a one-legged police spy will not be able to negotiate with ease," jabbed *Village Voice* columnist Nat Hentoff. "The settlement is a dangerous hoax . . . the red squad's most ambitious scam — going legit

with the imprimatur of the New York Civil Liberties Union," wrote Hentoff.

Dorothy Samuels, executive director of the NYCLU, which negotiated the settlement, praised it as "a major step toward eliminating police surveillance and record keeping directed at lawful political activity and dissent." However, many of the plaintiffs in the class-action suit, which included Abbie Hoffman and the Yippies, have objected to the settlement, and are trying to convince the federal district court not to accept it.

Lawyers associated with the NYCLU privately admit that they took what they could get, since the suit has dragged on for almost ten years. They say the police appear to have curbed their surveillance activities since 1973,

when they issued internal guidelines that resemble those in the proposed settlement. At the time the suit was filed, in 1971, the police had files on 1.2 million politically active New Yorkers; a million names were purged when the guidelines were set up.

Rosemary Carroll, counsel to the department, denied that the settlement would encourage the police to return to "the days when everybody accused of being a red went into the files." Even under the loose terms of the settlement, she said, "social protest occurs in a different atmosphere now. The range of accepted dissent has considerably widened. . . . If we went around checking up on every group in town, we'd be chasing our own tails, and we wouldn't have any time to chase criminals." □

## The Rise of Private Political Intelligence

**P**PRIVATE enterprise has rushed in to fill what some police refer to as "the intelligence gap." Public police agencies, strapped by public criticism and legal curbs on their intelligence operations, have been receiving information in the past few years from a growing array of private surveillance operations that specialize in collecting information about political movements.

Some civil libertarians see this as a dangerous trend, since private intelligence operations are not subject to state, local or federal guidelines; nor are they subject to freedom of information acts or other disclosure laws that would allow them to be monitored. In addition, it is more difficult to sue them than public agencies for violating privacy and free expression rights.

The largest group of private intelligence officers appears to be the firms working for industries, particularly utility companies, that are facing opposition to the construction of nuclear power plants. Some of these private firms apparently exchange information with police agencies on a regular basis.

Former officials of the utility indus-

try have stated publicly that information about anti-nuclear protestors is circulated among utilities and police through pro-nuclear trade associations.

A report by the ACLU-sponsored Center for National Security Studies lists 47 incidents of alleged surveillance by security agents of 18 utilities and private agencies over the past three years. Utility companies have admitted to photographing protestors and taking down license plate numbers of cars parked near demonstrations.

One of the largest such operations is run by the Georgia Power Co. By 1977, its internal security unit had a budget of \$750,000, a staff of nine investigators and an arsenal of sophisticated surveillance equipment. This operation, according to former company investigators who were interviewed by the *Atlanta Journal*, investigated anyone "who would fit into the antagonistic category . . . someone who for any reason would be against rate increases or would have some type of opposition to . . . the power company." The investigator said the department's "dirt gathering" operations were used

to brand the company's foes as "commies and queers." The investigators said police helped them infiltrate groups and passed on information from police computers.

An investigation by the Georgia Public Service Commission failed to substantiate the details of the allegations, but did find that many of the security division's records had been destroyed the day after the former investigators went public. Many of these security departments are staffed with former police officers, as in the case of the security bureau of the Public Service Co. of New Hampshire, which is now building a highly controversial nuclear reactor. According to David Harrigan, chief of the state attorney general's criminal division, the company employs at least four former state police officers, several of whose jobs had been to monitor anti-nuclear protestors for the police.

Some of the private groups that offer information to police agencies have an obvious political bent themselves. One such group is the U.S. Labor Party, which started in 1968 as a left-wing



group, but later evolved into a right-wing political organization. Its members and its leader, Lyndon LaRouche, are widely regarded as eccentric because of their complicated international conspiracy theories linking Zionists, the Rockefeller family, the Institute for Policy Studies, the British government, the CIA, and the anti-nuclear movement.

The Labor Party publishes a twice-monthly newsletter called *Investigative Leads*, which is made available mainly to police and private security agencies. Its purposes, according to party literature: "With American law enforcement agencies . . . dangerously constrained as the result of the [U.S. Justice Department's intelligence] guidelines, it is clear that [they] need consistent and honest intelligence assessments" so they can keep track of "treasonous elements."

Among the "consistent and honest assessments" contained in April and May 1980 issues of *Investigative Leads* was a report on a "conspiracy to destroy law enforcement" organized by the ACLU, several members of Congress and former Justice Department officials; the American Friends' Service Committee; the National Urban League; former New York City Police Commissioner Patrick Murphy and the Police Foundation, a Washington, D.C.-based research organization that Murphy heads. The newsletters contained several specific predictions of sabotage by nuclear activists that never materialized, plus the allegation that the nuclear accident at Three Mile Island in 1979 was the product of anti-nuclear terrorism.

Some police agencies apparently take the Labor Party's intelligence operations seriously. In April 1977, a New Hampshire state police officer visited two party members at their Boston office, and was told by them that an upcoming anti-nuclear demonstration at Seabrook was "nothing but a cover for terroristic activity." This allegation, which had no supporting evidence, and turned out not to be true, was written up in a report in which the officer called the party members "two very well-informed gentlemen."

In another inaccurate briefing, LaRouche's followers told former Philadelphia Mayor Frank Rizzo that the leftist groups planned a massive disruption of the 1976 Bicentennial Celebration. After the briefing, Rizzo asked for federal troops to preside over the celebration, but was turned down.

**Another private** intelligence newsletter is *Information Digest*, edited by John and Louise Rees, a Washington, D.C.-based couple who are pro-



**Patrick Murphy of the Police Foundation: part of "a conspiracy to destroy law enforcement?"**

fessional intelligence gatherers. This publication covers many of the same movements as *Investigative Leads*, but also includes reports on right-wing groups such as the Ku Klux Klan and the American Nazi Party. According to some law enforcement intelligence officers, much of the information is accurate; a Center for National Security Studies report agrees, but states that the *Digest* contains a "strong right-wing bias. . . conspiratorial interpretations and habitual red-baiting."

According to numerous official sources, including Congressional testimony, the Reeses have worked for the Washington, D.C., Police Department as informers, monitoring the city's counterculture through an alternative bookstore set up for that purpose, and for numerous private concerns. The

Reeses were domestic security informants for the FBI and covered left-wing movements for the Bureau until 1976. Before editing *Information Digest*, John Rees edited a newsletter for the Church League of America, an organization that claimed to have the "largest and most comprehensive files on subversive activity, with the single exception of the FBI."

At a cost of \$500 per yearly subscription, *Information Digest* is sent to about 40 police agencies, including the FBI, the Secret Service, U.S. Customs, the U.S. Drug Enforcement Administration, the Michigan, Maryland, New York and New Hampshire state police, and numerous local agencies, according to a report done for the New York State Assembly Office of Legislative Oversight and Analysis. "*Information Digest* was the string that held together a network of hidden informants whose information was recorded by police departments throughout the nation . . . without independent checking as to the validity and source," the report says.

Some people are currently suggesting that such private concerns take an even larger role in intelligence gathering as a way for police to circumvent legal curbs on their own intelligence operations. A report by the Heritage Foundation, prepared for the national security advisors of the Reagan administration, recommended last November that federal agencies "contract with one or several of the many private corporations that have specialized in providing information on terrorist movements as a way of overcoming federal intelligence curbs."

Tim James, an attorney who is defending the Houston Police Department against a lawsuit for alleged improper political surveillance, says he considers private intelligence as the inevitable consequence of restrictions on public agencies. "As the police get more and more afraid to do anything, you see all the best police intelligence officers going into the corporations and starting their own companies," he said. "They're able to do there what the police can't do for our taxpaying citizens."

-K.K.



# The Bull Market in Sto

by Steve Govoni

**S**ECURITIES theft, long a lucrative field for mobsters, con men and white-collar criminals, is a growth industry. In 1971, the staff of the U.S. Senate Permanent Subcommittee on Investigations estimated that \$400 million in stocks and bonds had been stolen during the previous two years. Today, the problem has grown to the point that at least \$3.5 billion worth of securities have been reported as lost, stolen or counterfeited since 1979, and are still missing.

Most of them were stolen, say FBI agents. The FBI has the chief responsibility for solving such cases. Agent Barry Dembo, who once handled all stolen security investigations for the FBI's New York office, said the thefts are mostly inside jobs. Dembo, now assigned to the FBI office in Newburgh, N.Y., says, "Usually there is a well-organized group of people involved with accomplices working as low or medium-level employees on the inside. So when the paper comes out, it's predetermined where it goes." In some cases, FBI agents say, the accomplices have taken bank and brokerage house jobs with the intention of later pulling securities thefts jobs; in others, employees with gambling debts or blackmail problems have been recruited into securities theft rings.

FBI officials say they have devoted additional resources to combating this problem, but decline to elaborate, on the grounds that specific information might encourage criminals. But they concede they cannot keep on top of every case. "We're concentrating all our efforts on quality cases and referring smaller ones to local authorities," said agent Michael Downey, a white-collar crime supervisor at the FBI's New York office. Agents working out of that office have recovered roughly \$25 million in stolen securities so far this year, obviously a small fraction of the amount stolen.

*Steve Govoni is a business reporter for The Record of Bergen County, N.J.*

Photos by Bill Powers



# Detective in Spying Case Linked to Birch Leader

By JOEL SAPPPELL, Times Staff Writer

A Los Angeles police detective under investigation for stashing intelligence files in his home and garage was deeply involved in a privately funded operation headed by the chairman of the John Birch Society to computerize information about Americans on the political left, The Times has learned.

Los Angeles police officials are investigating whether Detective Jay Paul illegally channeled material from confidential police intelligence files to the data bank run by Western Goals, a tax-exempt foundation based in Alexandria, Va.

The foundation was created in late 1979 by Rep. Larry P. McDonald (D-Ga.), who this year became the Birch Society's chairman. McDonald, noted for his anti-communist attacks in the Congressional Record, has praised the late Sen. Joseph McCarthy as "a real hero" and denounced Martin Luther King Jr. as a man "wedded to violence."

Paul ran the computer system from his wife's law office in Long Beach, using about \$100,000 worth of equipment provided by the foundation. He was the data bank's chief programmer and for two years computerized vast amounts of information sent to him by Western Goals from numerous sources.

Paul has told LAPD internal affairs investigators that he tapped into the computer system to compile intelligence reports for Los Angeles police officials. According to an official of Western Goals, Paul was not paid by the foundation, although his wife, Ann Love, had an undisclosed financial arrangement with the foundation. She could not be reached for comment.

An East Coast police intelligence source, who asked not to be identified, said that Western Goals has a reputation of serving as a "clearing-house" for certain police depart-

Please see SPYING, Page 3

→  
continued next pg.



# SPYING: Suspect Ran Computerized Intelligence System for Birch Leader

Continued from First Page

ments that have been barred from keeping political information on citizens not engaged in criminal activity. By funneling such information to Western Goals—which operates free of government control—the police can retain access to a broad spectrum of “laundered” intelligence materials, said the source, who has been involved in police intelligence work for a decade.

Paul's attorney, Robert Loew, said police higher-ups in the LAPD's soon-to-be-disbanded Public Disorder Intelligence Division not only knew of Paul's Western Goals affiliation but considered the computer a good intelligence resource and “advocated” its use and continued development.

He insisted, however, that the detective passed no information from undercover police investigations to the foundation.

Work evaluations written by Paul's superiors hint at the foundation connection. One, from May, 1982, states that as “a trained computer technician,” Paul has provided “valuable information for the department.” Another, written in late 1981, praises Paul for develop-

ing “valuable contacts for intelligence information” during two trips to the East Coast at his own expense. Attorney Loew confirmed that those trips were to Western Goals.

Paul reportedly told investigators that he showed his bosses in the Public Disorder Intelligence Division how a video display terminal located in the division's seventh-floor office in Parker Center could be used to retrieve data from Western Goals' system. The Times was unable to determine whether intelligence officers in the division actually took advantage of the setup. Police spokesman Cmdr. William Booth refused to shed any further light on the matter, including whether Los Angeles Police Chief Daryl F. Gates knew of the computer. Booth would say only that there is an ongoing investigation and that police officials are keeping the district attorney's office apprised of the probe's progress.

In fund-raising literature, Western Goals has cited the existence of its “sophisticated” data bank, but said it was keeping its location under wraps for “security reasons.”

A 1981 pitch for more than

\$55,000 said that Western Goals' computer capabilities made it “the first and only public foundation to enter this area and fill the critical gap caused by the crippling of the FBI, the disabling of the House Committee on Un-American Activities and the destruction of crucial government files.”

The foundation's literature boasts that “thousands of documents relating to the internal security of our country and the protection of gov-

**Daryl Gates' feud with Ira Reiner heats up. Page 1. Part II.**

ernment and institutions from communist-controlled penetration and subversion” have been computerized and are “just a push of a button away from our veteran analysts, who will continue to work closely with the official agencies in charge of our protection.”

As for the future, the foundation promised daily “updates”—via computer—about the activities “of those who would seek to bring revolutionary change to America.” But the operation never got that far, according to sources on both coasts.

In January, Western Goals' ambitious plans were derailed when Paul became the target of investigations by the Los Angeles Police Department's Internal Affairs Division and the Los Angeles County district attorney's office. In the course of those investigations, Paul surrendered more than 100 cartons of intelligence materials that he had stored in his home and garage. The materials included folders on police commissioners, judges, politicians and Police Department critics.

In the scandal's wake, Western Goals retrieved its computer tapes from Paul, including one that named about 5,000 to 6,000 groups and individuals, sources said. Los Angeles police internal affairs investigators were in Washington, D.C., last week negotiating with McDonald for access to the tapes.

McDonald was unavailable for comment. But his press spokesman, Tommy Toles, said the congressman had “no interest” in discussing Western Goals' internal operations. Toles said the only thing the public needs to know about Western Goals is that information it disseminates through various publications is “accurate” and available.

Describing itself as an “educational” foundation sustained solely by tax-deductible contributions, Western Goals states in promotional literature that it is dedicated to forging a potent constituency here and abroad to “rebuild and strengthen the political, economic and social structure of the United States and Western civilization so as to make any merger with totalitarians impossible.”

Its “advisory board” is studded with prominent ultra-conservatives, some with longstanding ties to the Birch Society. Until his death last year, Rep. John Ashbrook (R-Ohio) was among the board's most active members. He, like McDonald, strongly supported reactivation of the House Committee on Un-American Activities. Ashbrook's widow, Jean, has taken her husband's place in Congress and on the Western Goals board, alongside conservative Reps. Philip M. Crane (R-Ill.) and Bob Stump (R-Ariz.)

Also on the board are an assortment of retired military leaders, including Gen. George S. Patton III, Gen. John Singlaub, who headed U.S. forces in Korea until he was dismissed by former President Jim-

my Carter for insubordination; Marine Corps Gen. Walt Lewis, and Admr. Thomas Moorer, who served as chairman of the Joint Chiefs of Staff during the Nixon Administration.

In addition, the advisory board includes two Nobel laureates who helped father the nuclear age—Edward Teller and Eugene Wigner—as well as industrialists, philanthropists, writers and doctors.

To achieve its aims, Western Goals has established a sister foundation in West Germany, begun producing television documentaries, sponsored radio programs and published nearly a dozen books on national security and foreign affairs. Some of those publications have been written by a single author. Others are projects of the Western Goals staff.

One staff project, for example, was “The War Called Peace: The Soviet Peace Offensive,” which is characterized as a “startling account” of the forces behind the nation's nuclear freeze movement. The book suggests that virtually every major organization behind the nuclear weapons freeze movement

Please see SPYING, Page 14

over →



# SPYING: Suspect in Probe Worked for Birch Leader

Continued from Third Page

is an enemy of American interests.

"Broken Seals," another staff effort, claims to shed light on a conspiracy to "destroy the foreign and domestic intelligence gathering capabilities of the United States" that includes, among many others, the American Civil Liberties Union, the National Lawyers Guild, the American Friends Service Committee and the Center for National Security Studies. The latter is a Washington-based organization headed by Morton Halperin, a former staff member of the National Security Council whose home telephone was bugged during and after his service in the Nixon Administration.

## Editor Linked to Paul

The man behind these books and a monthly foundation newsletter is Western Goals Editor John Rees. He is Washington correspondent for the John Birch Society's Review of the News and a years-long associate of Detective Paul. Paul helped Rees set up an interview with Chief Gates for Review of the News. The chief made the cover of the magazine's Sept. 24, 1980, issue.

Rees' wife, Louise, is a former investigator for the now-defunct House Internal Security Committee, formerly the House Un-American Activities Committee (HUAC). Today, she is on McDonald's congressional staff, described by one McDonald critic as "HUAC in exile."

The Reeses have a long history of engaging in free-lance intelligence activities. They have disseminated their information to law enforcement agencies across the country—including the Los Angeles Police Department—through a controversial newsletter called Information Digest.

In 1976, the New York State Office of Legislative Oversight issued a blistering report on Information Digest after disclosures that New York State police used the publication to build dossiers on some of New York's most prominent citizens, including politicians, entertainers, journalists, union leaders and scores of others. The report characterized Information Digest as a "sophisticated, right-wing newsletter" that has supplied police departments throughout the country with a "barrage of derogatory information" obtained through

questionable methods on liberals and leftists.

Scores of back issues of Information Digest were among the documents Paul was storing outside the department, sources said, adding that the newsletter was routinely circulated through the intelligence division before being returned to Paul for storage.

Rees, according to the New York legislative report, earlier published "National Layman's Digest" for the Church League of America, described in the report as a "job blacklisting operation."

In a telephone interview, Rees defended Information Digest, saying that it is considered an authoritative source of information and has subscribers in the public and private sector. He called the New York state report a "lie."

As for Western Goals, Rees confirmed that Paul had been working as its computer "consultant," but contended that the system was to be moved to Alexandria as soon as Paul worked out the "bugs." In addition, Rees insisted that the computer's data base does not contain information from police agencies. He said Western Goals relies on an "abundance of riches on the public record," such as newspapers, organizational fund-raising letters and court documents. McDonald has said that some information comes from the private files of retired government officials.

Among the groups Rees cited as being of interest to Western Goals is the American Civil Liberties Union, the Ku Klux Klan, the Communist Workers Party and the National Lawyers Guild. Rees also said he "absolutely" monitors the activities of Linda Valentino, spokeswoman for the ACLU of Southern California and a longtime critic of the Los Angeles Police Department's intelligence-gathering practices.

Said Rees: "I read statements that she makes to the public. I've listened to her on the radio, and a number of my friends have attended meetings that she speaks at and will call in and say that at such and such a time Miss Valentino said so and so. It is exactly the same process as any newsroom uses."

Valentino, when informed of Rees' comments, called him "a self-appointed arbiter of what constitutes a proper political view," who "could have been working in Hollywood 30 years ago helping to blacklist people." She said the "danger" of Western Goals' operation is that "unsubstantiated innuendo gets legitimized through the use of Larry McDonald's congressional credentials and ends up in police intelligence files across the country."



### **Radicals in Justice Department**

■ *Boston, August 19* — Columnist Ben Stein decries as "madness" the way "innocent men who devoted their lifetimes to protecting the citizenry are being tormented." Stein is referring to Justice Department charges brought against F.B.I. agents acting against Weatherman and other terrorists. Stein says that with the Carter election, "In came the Democratic hipsters of the New Left, who worshipped revolutionaries . . . I knew these people. I went to law school with some of them. It was a great source of mirth that these particular foxes had

**The Review Of The NEWS, August 29, 1979**

now been sent to the Justice Department henhouse. How would these Trotskis in three-piece suits respond to their new task of enforcing the laws? The standards were overnight turned upside down.

"Since the leftist revolutionaries are now inside the government, why shouldn't they try to punish the people who made life miserable for their former comrades at arms in the Movement?" Stein concludes that law-enforcement officers "are being prosecuted and persecuted" because "a group of power-crazed young lawyers at Justice want to show off to their left-wing friends."



Larry Baker and Kathleen Taylor

## Seattle is first to curb over-zealous police probes

SEATTLE — The post-Watergate years have brought disclosures that police agencies have engaged in large-scale collection of personal and political information about people's lawful activities. In Seattle, local policemen spied on black construction workers, Indians, anti-war activists and advocates of various causes.

But Seattle did something about it.

On July 2, the city council unanimously enacted the nation's first law to outlaw political surveillance by the local police.

It is useful to look at the situation in Seattle, where the debate addressed concerns echoed across the country.

In 1975, when a Seattle police chief disclosed that he had destroyed political files on 750 Seattle residents, the City Council pledged to regulate police-intelligence activities. While the police denied improper activities, a coalition of community groups was created to press for strong reforms.

After three years of hearings and drafting, Seattle produced an ordinance that strikes a balance between legitimate law-enforcement needs and the protection of personal and political privacy. The police wanted to keep their wide latitude to investigate, and claimed that regulations would hamper routine police work. Citizens wanted to stop investigations of political groups, invasions of privacy and police harassment.

Experience in Seattle and other cities has shown that the police have an overly broad view of their investigative role. Lacking policy guidelines, policemen have not restricted themselves to investigating suspected criminal activity.

A former Seattle intelligence commander described how a typical investigation began: "Somebody was scanning the papers one morning, spotted the name of a group and said, 'What is that?' Somebody else sitting next to him said, 'I don't know. Let's find out.' And this is the way most of these things started."

For policemen, dissent itself becomes suspect. Isolated in a narrow world, the police fail to distinguish between advocacy and threats to public safety. Thus, the paranoia of Seattle policemen led them to suspect that a pro-Palestinian's summer suntan was an effort to look like an Arab. It was inaccurate and irrelevant.

Unlike repressive dictatorships in other parts of the world, our system of government requires a police force that stays out of politics. The police have no business basing investigations on political ideology. They should limit themselves to enforcing

laws passed by legislative bodies.

The Seattle law effectively addresses the need to investigate crime while protecting political rights. It prohibits the collection of political information unless it is about a person suspected of criminal activity and is relevant to the investigation. When it is necessary to solve a particular crime, the police can collect political information after obtaining a detailed written authorization.

In all cases the least-intrusive investigative technique must be used. In the past, policemen have used wiretaps and informants to obtain information that could easily be gained from public sources. The result has been unnecessary invasions of privacy and a climate of fear and distrust.

One of the most crucial aspects of the new law is the establishment of an independent auditor with authority to review at random all police files. The auditor must notify subjects of improper surveillance. This supervision is essential to overcome the closed-door attitude of police departments.

The ordinance is careful not to interfere with legitimate investigations. Policemen can collect whatever information is necessary and relevant to criminal investigations. The ordinance merely requires that policemen justify the collection of political information.

The 14 hours of training each police officer is scheduled to receive before the ordinance goes into effect on Jan. 1 should help increase his sensitivity to First Amendment rights.

Representatives of the community sat down with policemen and other city officials for over 150 hours to draft the ordinance. Each side was a fierce advocate but each was able to respect the legitimate concerns of the other. The result may not be perfection, but as the bill's prime sponsor, Councilman Randy Revelle, said in urging his council colleagues to adopt the ordinance: "Everyone involved in the drafting process is hurting a little. They all think something is wrong, but each dislikes a different provision. This tells me that the ordinance is roughly right."

The Seattle ordinance shows that it is possible to place appropriate controls on police activities. It is central to our political freedoms that other cities follow Seattle's judicious lead.

Larry Baker and Kathleen Taylor represented the Coalition on Government Spying in drafting Seattle's police intelligence ordinance.

New York Times Special Features

Columbian

11/13/79



## Cops' Co-Op

*Civil libertarians fear police data exchange*

**“W**hat have you got on this guy?” Police departments have always asked this question of each other, and very often of the FBI, as they look for information that will help an investigation. In 1956 some departments, frustrated by their inability to get data from the cautious FBI, began setting up an organization known as the Law Enforcement Intelligence Unit to share their files on a more systematic basis. Almost unknown to outsiders, L.E.I.U. has since acquired a membership of 227 state and local police departments in the U.S. and Canada. Now, like the FBI a few years ago, L.E.I.U. is being criticized by civil libertarians who suspect it of spreading vague suspicions about citizens who may have done nothing worse than champion unpopular political causes.

In theory, L.E.I.U. is a private fraternal association of police officials who keep tabs on organized-crime figures and their associates. But the organization is supported entirely by public funds, including \$36,000 from California and \$2 million contributed in the past by the federal Law Enforcement Assistance Administration. The man behind the founding of the co-operative was former Los Angeles Police Chief William Parker, who feuded with FBI Director J. Edgar Hoover, and its headquarters are in California's department of justice. There L.E.I.U. keeps computerized card files on 4,000 people. For \$350 in annual fees, a police department can ask for information on any of the 4,000; for an extra \$300, it can get copies of all the cards.

Hugh Allen, the L.E.I.U. coordinator in the state's department of justice, can cite no convictions of major organized crime figures as a result of the agency's activities. He maintains, however, that in-



L.E.I.U. Critic Linda Valentino

*Fears of reputations casually abused.*

formation obtained by L.E.I.U. helped federal authorities return Mafia figures Salvatore and Joseph Bonanno Jr. to prison for parole violations in 1978. Allen justifies the organization's activities by saying that it concentrates on preventing crime by alerting local police to watch the activities of organized-crime figures closely.

Though L.E.I.U. may focus on the Mafia, it has a disturbingly casual approach to what constitutes dangerous or suspicious activity, as shown by some of its file cards that have become public. Under the heading of "criminal activities," one card noted that a subject "travels extensively." Another card listed former California State Senator Nathan Holden as an "associate" of a member of the Black Panther Party. The only association was that Holden had once been the landlord of a Black Panther.

**S**ome 400 of L.E.I.U.'s cards have been obtained by Chicago Civil Rights Lawyer Richard Gutman as a result of a still pending class-action suit he filed against the Chicago police department in 1974, charging the force with politically motivated surveillance and harassment that was unconstitutional. Gutman admits that most of the cards cover the activities of suspected criminals, but he says that 64 bear information that is basically political. One card described a former University of Washington professor as a "Marxist scholar ... present at many demonstrations in Seattle," none of which has anything to do with the Mafia.

Charles Casey, an official of the California department of justice, concedes that L.E.I.U. once collected political intelligence but says it has stopped and is try-

ing to purge its files of those cards. Indeed, L.E.I.U. virtuously maintains that it kicked out the Houston police department for political spying. The Houston version is that it dropped out because it wanted no part of the political intelligence gathering requested by L.E.I.U.

Civil libertarians have other gripes about L.E.I.U. Linda Valentino, who has investigated the network for the American Friends Service Committee, points out that L.E.I.U. cards are based on arrest records, with no notation of the disposition of the case; thus a card might state that a subject had been arrested but fail to note that the case against him had been dropped or the person acquitted. Worse, if L.E.I.U. receives a query about someone on whom it has no information, it will automatically start a file on that person. Casey claims that files are scrapped if no solid information shows up in a year.

Just what does go on in L.E.I.U. is difficult to pin down because of one important and disturbing point: although L.E.I.U. is financed by public funds, it is not now subject to any kind of public check on its activities. ■



- 1976 General Accounting Office Report of February 24, 1976, entitled *FBI Domestic Intelligence Operations - Their Purpose and Scope - Issues That Need to be Resolved*.
- 1977 General Accounting Office Report of November 9, 1977, entitled *FBI Domestic Intelligence Operations: An Uncertain Future*.
- 1978 Report of the Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, 1978, entitled *The Erosion of Law Enforcement Intelligence and its Impact on the Public Security*.

The erosion of law enforcement intelligence has exacerbated during the last three years. Guidelines that in effect give opportunity to terrorists and violent prone individuals are the order of the day. Threats and/or attacks against government officials will still be met with dispatch; however, it is the average citizen and the targeted businessman who will become the victim when law enforcement can no longer offer "the early warning system."

Today, individuals and organizations can plan and develop violent attacks within the US, against its citizens, businesses and its institutions secure in the belief that no law enforcement agency possesses deterrent capability.

---

## Stability Factors

---

### THE AMERICAN MOVE TO FINANCE SOVIET VENTURES IN CENTRAL AMERICA

#### NICARAGUA - NO PLACE FOR AMERICAN MULTINATIONALS

On September 6th, forty-one days after the fall of the Somoza government, a member of the new Sandinista ruling junta appeared in Havana before the CONFERENCE OF NON-ALIGNED NATIONS seeking Third World aid in rebuilding Nicaragua's devastated economy. This bid was singularly unsuccessful. The plea fell on deaf ears.

The economy of Nicaragua is in dire straits and the months ahead will prove exceptionally severe. The new Sandinista government is not yet in total control of the country and the population can become restive. According to the current head of the national bank in Managua, at least \$150 million in aid is required annually for three years to prevent total economic collapse. According to officials of the International Monetary Fund, the figure is closer to \$250 million needed annually for at least eight years for the country just to stay afloat. To overcome the all-but-totally inept national economic leadership, massive infusions of cash and technical support are needed.

In Havana, Daniel Ortega Saavedra, a leading Sandinista, tried to convince the 95 nations attending the NON-ALIGNED CONFERENCE that his government sought no alignment and was therefore justified in asking for help from non-aligned countries. However, Ortega, the Cuban trained guerrilla, immediately found himself in dialectic difficulty when asked why, if his government was non-aligned, had it rushed to recognize the Vietnamese/Soviet backed insurgent regime of Heng Samrin in Cambodia. Ortega riposted that recognition of Heng Samrin signaled no Nicaraguan alignment with the Soviet Union, but merely underscored a tenet of Sandinista foreign policy -- support all national liberation movements worldwide.



MR. NUGENT. - say based on the Department ruling and that one investigative case which was cited specifically by the Department, we would not do that, and do not do that.

MR. YOUNG. Are you allowed to read it and remember it?

MR. NUGENT. I would think that might be allowable in the private confines of one's home.

\* \* \* \* \*

MR. YOUNG. When was the case on the Progressive Labor Party closed?

MR. NUGENT. The Progressive Labor Party case was closed in September 1976, September 20, 1976, to be exact.

MR. YOUNG. Well, the Progressive Labor Party has publicly proclaimed that they intend to take power in the United States by using "armed struggle" and that they are engaged in a program of penetrating the Armed Forces.

This information appeared in the PROGRESSIVE LABOR MAGAZINE, their own magazine that was published in the spring of 1978.

In a case like this where they themselves have made this declaration, can the FBI collect these public documents on a group like the Progressive Labor Party, despite the fact that the case has been closed?

MR. NUGENT. Absolutely not.

MR. YOUNG. Absolutely not.

Now, let me make sure that I make sure I understand and anybody who reads this record understands. The Progressive Labor Party who has proclaimed through their own publication that they edit, publish, print, and somebody pays for, has said that they intend to take power by armed struggle. Now there is something in gut law against advocating the violent overthrow of the government, isn't there?

MR. NUGENT. That is quite true. However, due to the nature of the investigations which are conducted under the Domestic Security criteria today, if you have seen the guidelines, it is very specific in that advocacy or rhetoric is not the criteria on which we can base a domestic security investigation. There has to be that one step further, involvement in force and violence and violation of federal law, or at least a conspiracy to violate some federal law with force and violence on which we can base basically a criminal type approach to an investigation, not a searching for programs which groups may advocate in the press or in speechmaking and so forth.

MR. YOUNG. In other words, you are not allowed to be involved in fire prevention; you have to wait until the fire starts.

MR. NUGENT. Pretty close to that, yes sir.

MR. YOUNG. I wonder what the American people would say if they all knew about that. I have an idea what their reaction would be.

The House Permanent Select Committee on Intelligence is composed of men who know that even though copies of their staff report are technically available to anyone, only the press can ensure that congressional investigation reports become known to the public. In the case of the HPSCI report on "Security Clearance Procedures in the Intelligence Agencies" the press only saw fit to stress the possibility of incompetence in government because of variances in security clearance procedures. Nothing was said by the mass communications media about the House finding that there has been an erosion in the protection once offered to the nation against coercion of the American people by politically violent groups and movements.

The House Permanent Select Committee on Intelligence is obviously concerned that the Attorney General's Domestic Security Investigation Guidelines has caused an erosion in domestic security which transcends the question of the threat of the penetration of our government by hostile interests and is threatening the domestic security of the nation as a whole. The HPSCI Staff Report advises readers interested in the impact of the Attorney General's guidelines to read the following publication, which amounts to a chronicle of the deterioration of internal security in the United States:



Thomas J. O'Brien, of the Department of Defense, testified, on June 21, 1979, about procedures used by that agency in identifying security risks. Mr. O'Brien responded to a series of questions by Committee staff member Herbert Romerstein and testified as follows:

MR. ROMERSTEIN. Among the criteria in Executive Order 10450 for denying employment are knowing membership in a group that plans the overthrow of the government by force and violence, or knowing membership in a group that advocates the use of violence to deny others their civil rights.

Does the DoD have the data base to determine whether the prospective employee or member of the Armed Forces holds such a membership?

MR. O'BRIEN. We do not hold a data base, per se. We conduct an extensive investigation. During the interview portion of the investigation, we will ask questions with respect to the person's involvement in activities that might advocate the overthrow of the government or that might advocate the denial of others' constitutional rights. Conceivably the person would have been arrested in some context that might lead to this kind of discovery.

MR. ROMERSTEIN. But you don't collect data on such organizations so that you would be able to determine if a member of such a group --

MR. O'BRIEN. We do not.

MR. ROMERSTEIN. Where would you get that kind of information normally? Is there another agency that would supply it if they had the data?

MR. O'DONNELL. We would go to the Federal Bureau of Investigation and inquire as to their knowledge of the organization.

MR. ROMERSTEIN. If a group such as one of those referred to in Executive Order 10450 publishes a plan to penetrate the Armed Forces, from whom would you expect to get the information so that you could take protective measures to prevent such people from coming in?

MR. O'BRIEN. Our primary source of information of this type is the Federal Bureau of Investigation.

MR. ROMERSTEIN. Thank you.

Donald Perrine and Paul Nugent testified on behalf of the Federal Bureau of Investigation in response to a series of questions by Congressman C. W. (Bill) Young. They testified as follows:

MR. YOUNG. Per Perrine, let me just ask the questions and then anyone, you or anyone can respond.

MR. PERRINE. All right, very well.

MR. YOUNG. I want to talk about the organizational cases. It is my understanding that most of them have been closed since the Attorney General's guidelines were issued. Is that correct?

MR. PERRINE. Yes, and I would like to have Mr. Nugent address that question more specifically.

MR. NUGENT. The answer to your question is yes, that the majority of the cases, investigative cases which have been closed since the adoption of the guidelines in April 1976 have been due to the criteria established by the guidelines for investigation. They either did not meet that criteria or were closed for another reason, but the vast majority of them have been closed for that reason.

MR. YOUNG. Now if a case on an organization has been closed, is the FBI still permitted to collect public type information relative to the group and its activities?

What about the case of, say, a newspaper article.

MR. NUGENT. Yes, sir.

MR. YOUNG. Are you permitted to collect that?

MR. NUGENT. To persue the newspaper and clip it? No, sir, that is not done at this point.

MR. YOUNG. You say it is not done. Are you not permitted to do it?



press accurately reported the Subcommittee's central finding that there is a considerable variance between, and a need to standardize, the security clearance procedures employed by the agencies of the intelligence community.

Left unmentioned by the press was the revelation in the published staff report of the Hearings, that the FBI will no longer keep track of most persons, groups, organization or movements which advocate the overthrow of the government of the United States through armed force or violence or who seek to alter the form of government of the United States through unconstitutional means. FBI authority only becomes operational at such time as those persons, groups, organizations or movements have already committed planned acts of violence.

It was revealed further in FBI testimony that since 1976 the FBI has not kept current files on violent subversive organizations. This state exists even though the US intelligence community and other agencies of the government, requiring security clearances for all or some of their employees, must rely on the FBI for the information the FBI no longer keeps. The FBI feels that it cannot legally monitor the most dangerous, or potentially dangerous, subversive groups because of the wording of *The Attorney General Domestic Security Investigation Guidelines* of 1976. These guidelines restrict the investigation or collection of information about subversives to those groups which are actually engaged in violence or violations of federal law. Advocacy of violent or armed action, or advocacy of the overthrow of the government is, by the definition of the Attorney General's guidelines, merely political advocacy or rhetoric and cannot be considered criteria on which to base a domestic security investigation.

Presidential Executive Order 10450 (*Security Requirements for Government Employment*) establishes the following criteria, among others, for determining whether the employment of a particular individual is consistent with the national security interest of the United States and its government:

(4) *Advocacy of use of force or violence to overthrow the government of the United States, or of alteration of the form of government of the United States by unconstitutional means.*

(5) *Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, fascist, communist, or subversive, of which has adopted, or shows a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.*

The HPSCI staff was so astonished by the outright conflicts (described in the staff report as "anomalies") between Executive Order 10450 and the Attorney General's *Domestic Security Investigation Guidelines* that the FBI testimony about the restrictions imposed by the guidelines was reproduced twice in the staff report, once in the body of the report and again as an attachment for added emphasis. The text of the pertinent portion of the Hearing follows:

#### APPENDIX D

#### *To Oversight Report*



twenty-five years in US prisons - Collazo for attempted assassination of President Truman in 1950, the three others for attempted assassination of US Congressional members in 1954. Five members of the House of Representatives were wounded during the attack.

In September 1979 President Carter, in a humanitarian gesture, released THE PUERTO RICAN FOUR. The freed terrorists vehemently denounced US "aggression against Puerto Rico," refused to express any remorse for their criminal acts and committed themselves to the use of violence, if necessary, to secure the independence of Puerto Rico from the US.

The book also commends revolutionary prisoners of war, Pablo Marciano and Nydia Cuevas, both serving time in US Federal Prisons for kidnapping the Chilean Consul in Puerto Rico in 1978. Marciano is at Lewisburg, Pennsylvania and Cuevas is at Pleasanton, California.

Final praise is for POW William Morales, a suspected member of the terrorist FALN which claims responsibility for 57 bombings in the US since 1974.

In July of 1978, Morales was seriously injured when an explosive device detonated in his New York apartment. Morales suffered the loss of one hand, partial loss of the other hand as well as serious facial injuries. Found in his apartment were three pipe bombs, 68 sticks of dynamite and a large quantity of incendiary type chemicals. The dynamite was determined to be from the same batch previously recovered from a FALN bomb factory in Chicago.

Morales escaped from prison in May, 1979 and has not yet been apprehended.

On October 13, 1979, Lolita Lebron, Irving Flores and Rafael Miranda traveled under assumed names from Puerto Rico to New York in the company of Nelson Canals, leader of the national effort to secure their release from prison. Canals was previously a staffer for the NATIONAL COMMISSION ON HISPANIC AFFAIRS (NCHA) of the EPISCOPAL CHURCH. NCHA travel records subpoenaed during FALN bomb investigations in 1977 reveal Canals made several trips between New York and San Juan shortly before and after the Fraunces Tavern bombing. Travel records of other members and employees of the Commission also correspond with dates and sites of FALN bombings.

While in New York the group met with suspected members of the FALN and the WUO followed by a lengthy closed-door session with Fidel Castro.

Three days later, on October 17, 1979, in an obviously synchronized action, the FALN took credit for two major bombings in Chicago and a series of three bombings in Puerto Rico.

---

## Terrorism Assessment

---

### FBI CAN INVESTIGATE POLITICAL VIOLENCE -

#### AFTER THE BOMBS EXPLODE

In May 1979 the staff and members of the Oversight Subcommittee of the House Permanent Select Committee on Intelligence (HPSCI) conducted hearings and an indepth study of the differences between the security clearance procedures used by the Central Intelligence Agency (CIA), Department of State, Defense Intelligence Agency (DIA) and the National Security Agency (NSA). When the Hearing results were published in September 1979 the



# Judge puts limit on mail scrutiny

NEWARK, N.J. (AP) — A federal judge ruled Wednesday that it is unconstitutional for postal inspectors to scrutinize mail for the general purpose of "protecting the national security."

U.S. District Judge Lawrence A. Whipple said that his ruling would not affect so-called mail covers in criminal or fugitive investigations, but that "national security as a basis for the mail cover is unconstitutionally vague and overbroad."

Inspecting mail covers is a practice by which postal inspectors note any return address or other information appearing on the outside of mail addressed to certain organizations or individuals.

The judge ruled in the case of Lori Paton of Mendham who sued the FBI in 1973 after she learned she was investigated for a letter she erroneously sent to the Socialist Workers Party.

Miss Paton said she meant to obtain information from the Socialist Labor Party for a high school project.

As a result of her letter, the FBI began a file on Miss Paton with a classification that indicated "subversive matter," court records showed.

"If the mail cover of the SWP had been based on a good faith criminal investigation, it most certainly would be valid," Whipple said.

The Socialist Workers Party mail cover, however, was started by acting FBI director L. Patrick Gray because the group "has put forth a continuing propaganda program against the American form of government," Whipple said.

Although Whipple ruled that mail scrutiny was unconstitutional, he reserved a decision on whether Miss Paton's individual rights were violated.

■ It is illegal for police to spy on suspected political subversives in Michigan. On January 3rd, Governor William Milliken signed the measure repealing laws that permitted such surveillance. All records used by the state police "red squad," except those being used in court cases in Wayne and Ingham counties, must be abolished by February 2nd, said the governor, noting that many of the laws creating and allowing police surveillance were found unconstitutional by state and federal courts.

81-05-11

0

R-N 1-24-79



**film**

## Film exposes government spying

### "THE INTELLIGENCE NETWORK"

film by the Campaign for Political Rights,  
1 Massachusetts Ave. NE, Washington,  
C., tel: 202-547-4705.

#### DIANE ST. CLAIR

Having weathered a long series of revelations concerning the abuses of intelligence agencies like the FBI and the CIA, many people may be ready to believe that a congressional slap on the hand has taught them a lesson that they won't forget. Important in its warning that we not be fooled, "The Intelligence Network" reminds that the structure for official spying is still intact at home and abroad.

#### FILM'S PRODUCERS

The film was produced by the Campaign for Political Rights (formerly the Campaign to Stop Government Spying). This is a coalition of over 80 organizations, both left-liberal and progressive, committed to ending covert operations abroad and political spying and harassment in the United States. The film introduces people to the issue of political surveillance and harass-

ment and shows how such activity is used against political groups with many different constituencies, ranging from the women's movement to the student movement, the peace movement and the Black movement. At times the agencies did more than just spy, as in the case of the police raid on Black Panther headquarters in Chicago, which led to the murders of Fred Hampton and Mark Clark.

#### SPYING AT HOME, ABROAD

The CIA has historically engaged in many covert actions abroad, as in the 1973 overthrow of Chile's President Salvador Allende. What "The Intelligence Network" forces the viewer to confront, in an alarmingly clear and forceful way, is the connection between illegal action abroad and at home.

To make its point, the film examines the connection between the coup in Chile and the 1976 assassination of Orlando Letelier, who was Allende's minister of defense before the coup. Letelier was murdered in Washington, D.C. by Cuban nationalists, working with the Chilean secret police (DINA). A colleague, Ronni Karpen Moffitt

was killed in the same bomb blast which killed Letelier.

The film contains interviews with Letelier's widow, Isabel, and with Robert Borosage, Director of the Institute for Policy Studies, where both Letelier and Moffitt worked. Isabel Letelier recounts the election of Allende, the mood of the country, the coup which overthrew the government, and finally, her husband's assassination. Borosage analyzes the structure of CIA operations and uses the Chilean example to show how that structure worked. He also explains how CIA activity led to the murder.

#### ORGANIZERS HARASSED

Important too is the film's coverage of domestic spying. Political organizers from across the country—ministers, lawyers, organizers, professors—often with their police files in hand, describe how they were harassed by intelligence units.

The film's final message is that political spying is still going on, with the intelligence agencies' new targets including the anti-nuclear power movement and the American Indian Movement (AIM).

GUARDIAN—MAY 16, 1979—19

## Seattle bans police spying

Seattle has become the first city in the country to pass legislation limiting police intelligence gathering.

In a unanimous vote July 2, the city council okayed an ordinance prohibiting police from collecting information on people's lawful political, religious or community activities or beliefs. The law will go into effect Jan. 1.

Similar efforts to restrict political surveillance are underway in Michigan, New York, California, Chicago and Washington, D.C., according to the Coalition on Government Spying.

The coalition, which includes local chapters of the American Friends Service Committee, the American Civil Liberties Union, the National Lawyers Guild and about 48 other groups; was a major force in pushing for the police controls.

"This ordinance is a positive step toward ending political intelligence gathering," said Kate Pflaumer, a coalition representative. "It severely limits those investigations which reach into First Amendment activities." Pflaumer also noted, however, that mechanisms to ensure that police obey the ordinance had been watered down during the year in which the city council debated the measure. The final draft of the legislation was backed by the mayor, the police chief and the county prosecutor.

Police spying was discovered in Seattle in 1975 when the press revealed the names of 150 individuals and organizations on whom Seattle police had kept political files. The names included a number of activists as well as church leaders, media figures, Democratic party regulars and businessmen.

The chief of police then promised that the old files were destroyed and "such files are not now maintained, nor will they be in the future."

A number of progressive organizations and individuals were not convinced, however, and in 1975 formed the Coalition to Stop Government Spying. They filed suit to obtain their political files. In April 1978 the first few files were obtained and four days later Mayor Charles Royer introduced legislation banning illegal surveillance.

*Guardian*  
7-18-79



## Court to rule on contempt citation

# SWP: make Bell come clean

Will the contempt citation against U.S. Attorney General Griffin Bell stick in the appeals process?

A 3-judge panel in U.S. Circuit Court in New York has yet to decide after hearing arguments Nov. 15 in the government's appeal against the contempt citation against Bell.

U.S. Attorney Robert Fiske testified Nov. 15 that "We would rather lose the case than turn over the files on the informants."

Last July federal Judge Thomas Griesa held Bell in contempt of court because he refused to turn over to the Socialist Workers Party (SWP) files on 18 FBI informants. It was the first time in history a U.S. attorney general was held in contempt of court.

The citation grew out of the 1973 suit by the

Trotskyist SWP for \$40 million in damages against the FBI and others and for an injunction against FBI harassment.

The SWP presented evidence, including FBI files, that the FBI sent some 300 agents and informers into the organization. The FBI burglarized SWP head quarters some 95 times; photographed or stole some 8 million documents; pressured landlords to evict the party from its offices; recruited local cops to spy and break up SWP meetings, and secured the cooperation of school and college officials to fire SWP members and officers.

Judge Griesa had ordered the FBI to relinquish its files so SWP lawyers could properly evaluate the evidence. The FBI had offered to pay the SWP damages,

but Griesa said the proposal was "unworkable."

SWP attorney Leonard Boudin noted that "the U.S. attorney general stands in no higher a position than any other litigant," and therefore has no right to defy a court order.

In a related development, the Political Rights Defense Fund will conduct a New York City rally Dec. 9 to demand that Bell turn over the informer files and to insist on an end to FBI crimes. The meeting will begin at 7 pm in Tishman Auditorium at the New York University Law School, corner of W. 4th St. and MacDougal. Donation is \$3. The Guardian, along with a number of groups, is cosponsoring the event.

A.W.

Guardian 11-29-78



# Secret Service claims restrictions hurt safety

WASHINGTON (AP) — Secret Service and Justice Department officials disagreed publicly Tuesday whether they are less likely to learn of assassination threats because of new restrictions on investigations.

Secret Service Director H. Stewart Knight told the House assassinations committee that new restrictions on investigating domestic groups hamper his ability to prevent assassination.

Knight said he no longer gets the intelligence he needs on a number of domestic groups, "particularly those that advocate violence, disseminate information on bomb making and the like."

"In effect, we're trying to run a zero-error operation," Knight testified. "The best way to prevent something from happening is to know in advance who is planning what, when and where."

But Deputy Attorney General Benjamin Civiletti said the FBI believes it is supplying the Secret Service as much useful evidence as ever on assassination threats.

"Right now I have no knowledge. I've seen no studies, I have no information which indicates that an increase . . . of security investigations would lead to any positive increase of protection," Civiletti said.

He said the Secret Service is getting far less information because security investigations on domestic groups have fallen from about 20,000 cases a year to about 50.

But he said the FBI believes it is gleening as much useful information on potential assassination threats from the 50 cases as it did from the 20,000.

Rep. Robert Edgar, D-Pa., told the

Secret Service director the new restrictions were imposed after admitted FBI harassment of Dr. Martin Luther King and anti-war groups.

"How do you walk the tight line between your need for information and the right to privacy?" Edgar asked.

"It's a real dilemma," Knight said. "I'm confident that our zeal to do our job is not going to blind us to rights of privacy."

The new Justice Department guidelines prohibit the FBI — the Secret Service's intelligence source — from infiltrating organizations or putting them under surveillance simply to keep watch on them.

The FBI now may conduct only criminal investigations of groups suspected specifically of planning violence, overthrow of the government, interference with its policy-making, or deprivation of civil rights.



in persuading the Cook County office to do it.

What we are faced with today is a growing integration between the local operation and the federal operation. This is something that is very serious and will not go away despite the current investigations.

As a matter of fact, it's useful to think about this intelligence operation a little bit like hibernation. When the weather gets bad the bear goes into the cave and waits for a change in climate. And that's what is happening now. There is going to be a certain reduction in the federal presence, and while that happens the red squads and other units will go on doing what they did before, holding the fort, so to speak, against "subversion."

Now let me talk a little about BOSS. BOSS has a long and smelly genealogy. It started out as an operation to counter the Black Hand, an Italian-American society of the turn of the century. It got its birth certificate, so to speak, from a man named Robert Pinkerton, who was the son of Allen Pinkerton, organizer of the great private detective agency and the one who broke the Molly McGuires. Robert Pinkerton drew up the basic outline of action for all of these local units.

Through the years BOSS has functioned on behalf of employers and generally to restrain dissent. One of the techniques used is the deep penetration agent. That is, infiltrators who are placed in left groups for periods of five to fifteen years. Mildred Blauvelt, for example, infiltrated the Communist party for nine years; Margaret Disco for fifteen years. And she was honored for her work by being made chief of the policewomen's bureau.

The New York operation prides itself on its professionalism. Its character, however, is very vague. It says its purpose, its mission—that's another intelligence word that must be savored—is "to assure the development, effective use, and interchange of information on the activities of syndicated or organized crime, persons involved therein, or other major criminals, and/or groups whose purpose is the disruption of governmental activities or the peace and harmony of the community."

The official biographer of the red squad, a man named Anthony Bouza, says, "The nebulousness of the directive is vaguely reminiscent of the injunction to Peter in Matthew 17: 18-19, when Christ said, 'Thou art Peter, and upon this rock I will build my church.'

"And the elaborate and impressive edifice of the Roman Catholic Church," says Bouza, "rests on this base." In other words, he was comparing the growth of the New York City red squad to the growth of the Catholic church.

During the 1960s this outfit made an average of 1,000 annual major investigations and 600 lesser investigations. Let me call to your mind some of the outstanding work that the BOSS did.

First, they conducted a frame-up trial in the Harlem riot case in 1964, based on the testimony of a detective who had been recruited from the Pinkertons. Then they harassed various groups that engaged in antiwar protest. They were responsible for beating up two professors, Jonah Raskin and Robert Riley. As I said before, in 1968 they visited the Ethical Culture Society. They conducted sweeps of all suspected targets in the same way.

Their most notorious achievement was the five cases involving Blacks that began in 1964 with the "Statue of Liberty case" and ended in 1971 with the Panther 21 case. In every one of these cases, the jury refused to accept the prosecution's evidence. The decision to prosecute was unquestionably influenced by the glut of expendable agents, the fearsome rhetoric of the subjects, and the hopes of exploiting fears of Black unrest.

The racist quality of the prosecution was not lost on Black policemen. The Guardians Association, an organization composed of nearly all the city's Black policemen, issued a release in June 1971 denouncing BOSS's exploitation of Black agents for the betrayal of Black radicals and insisted that there were other, less offensive methods of surveillance.

Sgt. Howard Sheffey, president of the Guardians, said, "I am advising my men to inform people that they are assigned to inform on that 'I am a police officer assigned to inform on you.'"

This somewhat curbed the readiness of the BOSS to recruit agents to betray their fellows.

I want to conclude by making one observation. There has been a widespread attack on the methods and stated goals of these units in a number of cities throughout the country—Baltimore, Houston, Los Angeles, Chicago, and Cleveland. But for reasons that I can't fathom, BOSS seems to lead a charmed life.

It seems to me that we have to turn on BOSS the same kind of searchlight, the same kind of investigative scrutiny, that other units have been subjected to all over the country.



# Spotlight on the Red Squads

INTERNATIONAL SOCIALIST REVIEW JULY 1976

Break-ins, murder raids, racist frame-ups, beatings of radicals, the use of informers—these methods are the stock-in-trade of police red squads. They work hand in glove with the CIA and FBI, taking care of dirty work, but their role has been largely ignored by Congress and the media.

The following is an edited version of the talk by Frank Donner at an April 28 meeting sponsored by the Political Rights Defense Fund. The meeting of 300, held at the New York City Society for Ethical Culture, heard numerous civil libertarians and political figures speak out against government secrecy and surveillance of those who dissent. The Political Rights Defense Fund is a nonpartisan organization that is publicizing and raising funds for the widening suit by the Socialist Workers party and Young Socialist Alliance against government spying and harassment.

## By Frank Donner

A previous speaker mentioned the complicity of the New York red squad in burglaries of the Socialist Workers party offices, and I thought it might be illuminating to tell you something about the New York City red squad and similar units all over the country.

The red squads came into their own in this country in the 1960s, with the burgeoning of antiwar protest and ghetto unrest. Relatively dormant up to that time, these units got a new lease on life. Their membership grew, and by 1970 there were ninety on the staff of what was called BOSS, the Bureau of Special Services. (It since has gotten another name, but that one will do.) There were ninety on the staff and fifty-five more under cover.

The role of the red squad is well described in the Senate testimony by a police inspector. He says how "police now have become watchdogs and observers of vocal subversive and revolutionary-minded people. . . . They cover all meetings, rallies, lectures, marches, sit-ins, lay-downs, fasts, vigils, or any other type of demonstration that has ominous overtones. . . .

"These officers know by sight the hard-core men and women who lead and inspire demonstrations. They know their associates, family

Frank Donner, a longtime civil liberties attorney, is director of the American Civil Liberties Union Project on Political Surveillance and general counsel for the United Electrical Workers union. He is the author of *The Un-Americans* and has devoted years of study to government use of informers and other methods against the left.

ties, techniques, and affiliations with organizations leaning toward Communism, both on and off the attorney general's list. They see them day in and day out, recruiting, planning, carrying signs, and verbally assaulting the principles of democracy.

"Yes, the police role has become one of . . . surveillance, taking photographs, identifying participants, and making records of the events. On this basis, local police are able to piece together this jigsaw puzzle and see the widespread activity of the hard-core demonstrators and instigators."

This was presented to the Senate in the late 1960s. But it doesn't altogether describe what the red squad became in this city.

For example, in 1968 two red squad men came to the building where we are meeting now, the Ethical Culture Society. They demanded a list of the members of the society because they were suspected of being subversives.

The red squad became the operational arm, so to speak, of the constellation of intelligence agencies that is called the "intelligence community." And the police—especially the members of these countersubversive units—became highly politicized. They saw themselves as the frontline

protectors of civilization against the threat of subversion.

They also organized into area groups called the Law Enforcement Intelligence Units. Here is the way one officer described his area group:

"We meet twice a year, exchange information, and are brought up to date on problems in surrounding areas. We get to know one another personally, which is very important in the sensitive type of work you are in when you are dealing with criminal or subversive intelligence.

"We have the United States and Canada broken up into four zones. Our last zone meeting was in Toronto, Canada, where we met with the Canadian intelligence people."

This account illustrates something that has happened since the 1960s which is irreversible. That is, the growth of a nationwide chain of these so-called red squads or countersubversive units.

As you probably know, the CIA, which is barred by statute from interfering with or involving itself in domestic "internal security" intelligence, conducted seminars for the red squads in September 1972. These seminars were on a subject called "data handling."

"We decided we needed training in the analysis of large amounts of information," the New York City red squad chief said, "and that the CIA was well equipped for such training, which was done gratis, only costing us about \$2,500 in transportation and lodging."

In this way they learned improved "filing" techniques. The intelligence field is, as you know, simply seething with euphemisms. One of the milder euphemisms is "data handling," meaning compiling files and dossiers.

As a result of initiatives begun in the 1960s, red squads began to function in coordination with the federal intelligence community. That is, they did things that either the feds were barred from doing, or that would embarrass them.

One of their accomplishments, for example, was to help the Nixon administration to monitor and harass left-wing lawyers by organizing raids on their law offices. In 1970 and 1971 alone, there were some fifteen law offices that were broken into on behalf of the federal antisubversive operation but carried out by local operatives. This functional cooperation is something that is irreversible.

We also see it very clearly in the Fred Hampton case, in which the Federal Bureau of Investigation tried to get first the Chicago red squad, and then the Cook County attorney's office, to organize a raid on the Panthers. They succeeded



FRANK DONNER

Lou Howort

over →



**Hamstringing Covert CIA Operations**  
■ Washington, October 25 — CIA Director Stansfield Turner says that a foreign country recently rejected a covert action plan because it did not believe that the CIA could keep the operation a secret. Without naming the country involved, Turner says that "a foreign intelligence agency declined a joint covert action with us that would have been of great benefit to both countries. It did so when reminded that I must notify eight committees of Congress of any covert action. They simply did not believe that we could keep that secret." Under a

The Review Of The NEWS, November 8, 1978

*entire intell*

law passed in 1974, each proposed covert operation must be approved personally by the President before congressional oversight committees are notified.

● A left-wing group called the Citizens Commission on Police Repression is working with a liberal Los Angeles City Councilman, ZEV YAROSLAVSKY, in a full-scale assault on Los Angeles Police Department intelligence operations. YAROSLAVSKY has introduced legislation that would inhibit LAPD efforts to keep track of radical, violence-prone groups. If you live in Los Angeles, urge your City Councilman to support the LAPD.

*Pink  
Sheet  
8-14-78*



anti intell

### Endangering CIA Agents' Lives

■ Washington, October 30 — A new edition of the anti-CIA publication *Covert Action* comes out today with another list of names of alleged agents and the locations where they are oper-

The Review Of The NEWS, November 15, 1978

7

ating under diplomatic cover in nine countries. The publication, which is put together under the guidance of renegade CIA agent Philip Agee, who left the agency in 1969 after 12 years of service, lists recent transfers of alleged CIA personnel from West Germany to Switzerland, from England to the Philippines, and from the Dominican Republic to Argentina. It names alleged agents at the U.S. embassies in France, Italy, India, Venezuela, El Salvador, and Jordan, and carries a do-it-yourself guide on how to find and unmask CIA agents abroad. The purpose of the publication, according to the July edition of *Covert Action*, is to wreck the CIA by "exposing CIA personnel and operations whenever and wherever we find them."

### Data called 'useless'

SEATTLE (AP) — The Coalition on Government Spying says documents obtained from the Seattle Police Department's intelligence files show that unit collected "false, useless and damaging" information.

"The police invented some vague notion of conspiracy," said Kathleen Taylor. She said the documents represented summaries of information collected by the police on 42 plaintiffs who later filed a suit to obtain their intelligence files.

0 8-20-78



# A Plan to Curb Police Spying

By Darrell Glover

Mayor Charles Royer yesterday proposed legislation limiting the intelligence gathering activities of the Seattle Police Department and banning political surveillance.

In a letter to the City Council, Royer said that he had been "threatened" with an investigation by police and that the department "was gathering information on people where there really was no specific criminal activity involved."

Royer and other KING-TV employees were the subject of police inquiries by former police Chief George Tielsch, recently retired Chief Robert Hanson said in 1974.

More recently the Coalition on Government Spying went to court to force release of information in police files on several groups and individuals.

In January, King County Superior Court Judge Frank D. Howard ordered the city to disclose the general nature of information kept by police on 36 individuals and six groups.

The Post-Intelligencer disclosed earlier this week that Seattle police had been keeping a secret file

on the activities of the Seattle chapter of the National Lawyers Guild from 1975 to 1977 — long after former Chief of Police Robert Hanson said politically motivated investigations had been halted.

The Lawyers Guild has no record of criminal activity.

Besides prohibiting political surveillance, the proposed ordinance:

- Bans investigations of the media unless a particular reporter or corporation is engaged in criminal activity, and it bans the recruiting of reporters as undercover agents.

Royer was a television newsmen at the time he was threatened with an investigation of his activities.

- Prohibits disruption of political organizations through provoking criminal acts or the use of false or derogatory information.

- Bans the entrapment in crimes of violence by soliciting or inducing activity to commit a crime of violence by individuals or organizations.

- Sets up procedures that must

Back Page, Column 1

Seattle Post-Intelligencer,  
Saturday, April 15, 1978

S ★

## Royer's Plan on Spying

From Page A-1

be followed, and limits investigations and involve collection of information on a person's beliefs, lawful associations or activities.

- Provides that a judge must approve a continued investigation if it involves information on beliefs, associations and activities.

- Limits the investigation of public meetings and demonstrations to the collection of data necessary to the collection of data necessary to provide public safety at each event.

- Assures that material collected on peoples beliefs and activities is sealed at the close of an authorized investigation and destroyed three years later, unless it is needed for legal proceedings.

- Provides that private citizens and groups have access to police

intelligence files that contain information on them, unless that access clearly hinders law enforcement. Also, people can ask that information be deleted or corrected in such files.

- Provides that an independent auditor conduct random examinations of police files to insure compliance with the law.

Those persons violating the law will be subject to disciplinary actions and civil and criminal penalties.

Under the proposed ordinance, violators can be fined up to \$500 or sentenced to 180 days in jail for each violation, or both.

Persons injured under violations of the law can collect civil penalties of not less than \$100 or more than \$1,000 for each violation.

Royer said the police department recognizes the need to limit intelligence gathering activities to information necessary to solve or prevent specific unlawful acts.

The proposed ordinance also provides for investigations regarding organized crime, and states that no investigation of any person relating to organized crime shall be conducted for more than seven days unless authorized in writing by the chief of police.

The chief may extend such investigations for 90-day periods.

The City Council's public safety and justice committee will be briefed on Royer's proposal by the mayor's staff at a meeting at 10:15 a.m. Wednesday.



# The Sacramento Union

FINAL  
HOME EDITION

It's Saturday Sept. 23, 1978

## Police spied on public, group claims

By LAWRENCE C. IRBY  
Staff Writer

A nationwide, Sacramento-based organization of 250 police agencies, created in 1956 to keep tabs on organized crime, also is a clearinghouse for information on political activities of private citizens, a Detroit group charged Friday.

The National Organizing Conference to Stop Government Spying released documents showing that the Law Enforcement Intelligence Unit (LEIU) operated a spy network on political dissidents.

The group contends the police unit kept records of anti-nuclear demonstrators, Vietnam war protestors, black activists and American Indians.

Pat Casey, assistant director of the Organized Crime and Criminal Intelligence Branch in the state Justice Department—which is a member of the LEIU—is the unit's Sacramento spokesman.

Most police agencies in California—

including the Sacramento police and sheriff's departments—are members of the unit, Casey said.

"I guess all kinds of people were in the files in the 1960s," Casey said Friday afternoon.

This has changed, he said. Files are kept on Mafia-type hoodlums, forgery and fraud rings, and Murder Inc., he said.

"(The files) are only on people involved in criminal activities as defined by the California Penal Code," Casey said.

Capt. James Feust of the sheriff's special investigations unit said the unit was formed by police departments in San Francisco and Los Angeles in 1956, after the departments learned that criminals were commuting between the cities.

"They had to have a tracking system to find out who was coming to town," he

## Police ran spy agency, group says

✓—From A1

said. "Cooperation is the name of the game in law enforcement or you never solve crimes."

He said the sheriff's department is not running a spy network on the political activities of Sacramentans, however.

"What some agencies may do, I have no control over. If they tread water where they shouldn't, that's their problem," Feust said.

LEIU is not a secret organization, but a group of law enforcement agencies that have pooled communicative resources in order to better track criminals, he said. The files on private citizens were in addition to records of about 25,000 organized crime figures and associates kept by the LEIU, according to the coalition of 80 groups.

In addition, the conference charged the police unit received taxpayer money indirectly through federal, state and local government, but hides its operations behind its status as a private organization.

The documents, obtained in a lawsuit in Chicago, covered eight persons the group claimed were targeted for police scrutiny solely because of their political

Among the eight included in the documents were Michael Phillip Lerner, a University of Washington professor; peace activist Leland Kater Lubinsky of Redlands, Calif., and black activists Richard Henry of Jackson, Miss., and Michael Zinzun of Pasadena, Calif.

Also named in the LEIU documents were Ann McCarty, a Louisville resident identified by the records as a "longtime Communist Party member"; an unidentified man described as a war and tax resister, and American Indian leaders Clyde and Vernon Bellecourt.

Although the file supplied by the Redlands police listed no arrest record for Lubinsky, it identified him as a "recognized leader in peace movements."

The conference claimed that perhaps as many as 10 percent of the LEIU's records were kept on private citizens who had never been in trouble with the law.

Outside Lubinsky and Henry, the others had been arrested at least once for varying offenses.

✓—To A2, Col. 4



# Controversy brings dissolution of LA police intelligence unit

By LEE SIEGEL

LOS ANGELES (AP) — The elite intelligence unit of the Los Angeles Police Department, whose roots go back to the 1920s, will be dissolved at the end of the week amid accusations that its officers spied on citizens, public figures and their civilian bosses.

The Police Commission, a civilian group that hires and fires police chiefs and sets department policy, ordered Chief Daryl Gates to dismantle the unit by Friday in a controversy that one newspaper columnist has dubbed "Datavilgate."

"For this controversy to have reached this stage is purely dumb. I mean it's dumb," said Gates, who told the commission last month, "There isn't any way that we cannot on occasion trample on some people's privacy and freedom."

But Superior Court Judge Jerry Pacht, the subject of an intelligence dossier, said the unit must be disbanded because "if nothing is done, we are countenancing police-state tactics."

Five years ago political activist groups filed the first lawsuits alleging abuses by the Public Disorder Intelligence Division, which has been treated favorably on such television shows as "Dragnet" and "Adam-12."

The controversy lay dormant until late 1982, when there were new allegations that intelligence officers had compiled files on a judge, Mayor Tom Brad-

ley, police commissioners and other officials and that the unit was keeping more than 90 boxes of files, possibly including some ordered destroyed by the commission in 1975.

The unit, which has 50 officers and an annual budget of about \$2.5 million, also is being investigated by the district attorney's office, a grand jury and the police Internal Affairs Division.

Trial should start in October for six lawsuits — now consolidated into one — brought by 108 individuals and 23 political activist groups against the city, many police officers, the Police Commission, Gates and former Chief Ed Davis, according to Linda Valentino, a plaintiff and spokeswoman for the American Civil Liberties Union of Southern California.

The suit contends that, for a decade, intelligence officers improperly spied on their meetings, infiltrated their organizations and even engaged in "intimate personal relationships" with their members.

Created in 1970, the Public Disorder Intelligence Unit was a descendant of the old Red Squad of the 1920s. In 1975, the commission ordered the unit to destroy some 2 million outdated file cards on 55,000 individuals.

Gates said he was unaware that boxes of files — possibly some of those ordered destroyed — had been removed to a variety of locations, including one detective's garage. While he approved

the targets of intelligence operations, Gates denied there was any improper spying.

City Councilman Zev Yaroslavsky, the subject of an intelligence file, said, "The issue is that the government should never be in the business of monitoring the lives of law-abiding citizens."

"I have never said we have always done everything exactly correct," Gates said in an interview last week, adding that any mistakes were "minor." But he reluctantly agreed to the commission's decision Jan. 18 to disband the unit.

City Attorney Ira Reiner, who will be defending the city and police in the consolidated lawsuit, has criticized "zealot" intelligence officers who were "willing to abuse every single moral or ethical precept" in their work. Gates wants Reiner replaced on the case by a private lawyer, but the City Council has twice voted to keep him.

Council and Police Commission members, while saying Gates bears ultimate responsibility for the conduct of his officers, are awaiting the outcome of the pending investigations before determining if the chief was involved personally in any of the alleged misdeeds.

Gates says he did not authorize the keeping of the files and was not aware that dossiers — which he calls "folders" filled with "junk" like news clippings — were compiled on public officials.



## Board orders police unit axed

LOS ANGELES (AP) — The Police Commission voted unanimously Tuesday to dismantle an intelligence unit charged with conducting unauthorized spying and keeping secret files in defiance of commission orders.

The five-member appointed civilian commission, which sets police department policy, ordered the Public Disorder Intelligence Unit disbanded within 45 days.

The commission said, however, that the unit's anti-terrorism intelligence-gathering functions should be continued by other arms of the police department.

Police Chief Daryl F. Gates said a transition committee would be established to handle the matter.

City Attorney Ira Reiner told the City Council Monday that members of the unit had conducted their own spy operations and violated every "ethical precept" of a free society.

Reiner described the abuses as "far-reaching" and "beyond anything we've seen so far," contending the officers believe it is "completely appropriate ... to abuse every single moral or ethical precept that's involved in what we understand as a free society."

These police officers, he said, are "utterly convinced what they are doing is right for America."

Gates said in a statement that Reiner was "way out of line" and commented, "I'll bet there are several terrorists clapping their hands in glee over the panic that's beginning to set in."

The intelligence division has been under investigation by the district attorney, the Los Angeles County grand jury and the police department's own Internal Affairs Division.

Longstanding criticism of the unit came to a head with recent revelations that large numbers of intelligence documents had been stored outside the department instead of being destroyed as ordered by the Police Commission.

Among the dossiers found recently were files on police commissioners Reva Tooley and Stephen Yslas and on former commissioner Stephen Reinhardt, who is now a U.S. Appeals Court judge in Los Angeles, as well as on Superior Court Judge Jerry Pacht, the Los Angeles Times has reported, citing unidentified sources.

### Police must reveal spies

LOS ANGELES (AP) — City officials must reveal by Friday the identity of a police informant who allegedly infiltrated and spied on peaceful political

0 3-10-83

organizations, a judge has ruled.

Superior Court Judge Lester E. Olson's ruling came in six lawsuits — now consolidated into one case — brought by 108 individuals and 23 political activist groups who contend their civil rights were violated by the Police Department's Public Disorder Intelligence Division.

City lawyers received the judge's ruling Tuesday, although Olson issued it last Friday.

The Citizens Commission on Police Repression, one of the plaintiffs in the consolidated lawsuit, has been trying since last September to learn the identity of the informant so the person can be named as a defendant in the case.

The suits list as defendants the city, the police commission, police Chief Daryl Gates, former Chief Ed Davis, a number of identified police officers, and some 300 current and former police officers whose identities are not known.



# When Policemen Become Spies

by Robert Spector

**A** 59-year-old grandmother in Seattle, Wash., likes to exercise her right of free speech by writing letters to the editor. In June 1977, she wrote to a local newspaper questioning, in the mildest terms, Jimmy Carter's position on the B-1 Bomber. The day the letter was published, a member of the Seattle police intelligence unit clipped it out and slipped it into a file labeled "Profile of Miscellaneous Indicators."

As a mushrooming number of nationwide lawsuits and public disclosure acts revealed, local police intelligence units have compiled files on millions of law-abiding citizens. They have been routinely and indiscriminately mixed in with files on real criminals. Infiltrators and informants have reported false and misleading information.

In July 1979, the Seattle City Council became the first in the nation to pass a local ordinance setting specific guidelines for gathering intelligence information by a police department. The concern of the landmark bill is to protect personal privacy, freedom of dissent and First Amendment rights without handcuffing the police in its exercise of necessary official duties. The ordinance went into effect on Jan. 1.

A growing number of cities—Washington, D.C., New York, Chicago, Los Angeles, and Jackson, Miss., among them—are considering legislation.

The issue of local police spying is not new. Many intelligence-gathering units (dubbed "Red Squads" by critics because Communists were primary targets) date back 50 years—long before the anti-Vietnam War demonstrations and campus unrest of the '60s.

Seattle's ordinance illustrates an understanding of—and possible solution to—the problem. Seattle also showed what can happen if adversaries sit down and talk.

In 1974, during a city council confirmation hearing on a new police chief, the nominee (then acting chief) admitted to ordering the destruction of 100 police files on local individuals and organizations.

A year later, the local press



Kathleen Taylor, a campaigner against excessive police files, displays some of the documents yielded by Seattle officials after lawsuit.

reported the figure was closer to 750. The names of some of the individuals and organizations were printed. None had broken any laws nor were suspected of criminal activities. There were, as you might expect, anti-war

demonstrators and other political activists. But the files included Indians, black construction workers, elected officials and businessmen, too.

There was also a file on local TV news commentator Charles Royer, a

## In Other Cities

Other cities are looking closely at the Seattle ordinance and taking action.

• **Memphis:** In September 1978, Federal District Court Judge Robert McRae handed down a consent decree on a suit filed by the ACLU. It was a precursor of the Seattle legislation in that the Memphis Police agreed not to engage in political intelligence-gathering in the future, including infiltrating legitimate political organizations. Written authorization is required for information collection.

• **Washington, D.C.:** Efforts to draft an ordinance here predate Seattle. There has been some support from the city council. A lawsuit disclosed a file on Mayor Marion Barry from his days as a civil rights activist.

• **Los Angeles:** A citizens' committee is pressing the police commis-

sion to adopt new guidelines modeled in part on the Seattle ordinance. An outright ordinance is impossible under the city charter.

• **Chicago:** In the past, police collected dossiers on Rev. Jesse Jackson, Notre Dame University President Father Theodore Hesburgh, and others. The ACLU is pushing for a city council bill.

• **Detroit:** A judge appointed a special master in Wayne, Michigan's largest county, to examine police files. According to State Rep. Perry Bullard, "In the next several months, we will introduce more sophisticated Seattle-type legislation."

• **New York City:** Dorothy Samuels of the ACLU feels that "the Seattle ordinance has been a spur for thinking about the kind of rules we need in New York City and New York State."

critic of police operations in Seattle. When he was elected mayor in November 1977, Royer promised to propose a police intelligence ordinance. In 1978, a Police Intelligence Drafting Committee was formed. Represented were the mayor's office, the police department, the Coalition on Government Spying (a citizens' activist group), the city attorney, the city council, the King County prosecutor, the Office of Policy Planning and the American Civil Liberties Union (ACLU).


All parties knew an ordinance was inevitable. The mayor and the city council were strongly behind it, and the Coalition on Government Spying received endorsements from a cross-section of community groups. Hundreds of hours and six drafts later, the committee had a 26-page, 7000-word ordinance permitting the police to investigate and collect information that doesn't "unreasonably" infringe upon a person's right to privacy and other constitutionally protected civil rights.

The ordinance controls the collection and use of certain "restricted information." This is defined as private political, religious and sexual beliefs, preferences, activities and associations. It can only be collected if a connection to criminal activity is established. In that case, an officer must get a written authorization from a department member with the rank of lieutenant or above.

An independent auditor is the basic enforcement mechanism. Nominated by the mayor and confirmed by the city council, he has access to most police files and must examine them confidentially at least twice a year.

All police personnel (1000 officers and 400 civilians) are going through a two-day, 14-hour training session on the meaning, duties and enforcement of the ordinance. As a result, Assistant Police Chief Ray Connery expects "considerable administrative headaches the first year or two. We can still do our job as police, but it will require more paperwork."

There has been negative reaction from some law-enforcement colleagues. Local police routinely exchange information, but one unidentified city police department now refuses to do business with Seattle.

One of the side benefits of the Seattle ordinance is that advocates for all positions had a forum to defend their views. As Seattle Police Lt. Pat Munter puts it: "I think both sides grew from the experience. I learned from them, and I think they picked up an appreciation of some of the problems of law enforcement." 



## LAPD ordered to disband intelligence unit

The Los Angeles Police Commission has voted to disband an undercover intelligence unit of the Los Angeles Police Department that had come under fire for allegedly spying on city officials and civic organizations.

The decision came days after the Los Angeles Times reported that quantities of intelligence documents were hidden outside the police department in an apparent effort to avoid a Police Commission directive to destroy outdated intelligence files.

The commission ordered Police Chief Daryl F. Gates to "deactivate" the Public Disorder Intelligence Division and assign its personnel and some of its functions to other divisions.

It also set strict limitations on intelligence operations designed to combat terrorism in an effort to prevent the collection of political or other non-criminal information.

The Public Disorder Intelligence Division has been the subject of controversy in Los Angeles for several years, but the criticism had heightened in recent months, and the district attorney's office and a grand jury began investigating

Continued on Page 7

Law Enforcement News  
2-7-83

## LA Police Commission orders dissolution of intelligence squad

Continued from Page 1  
allegations that the unit carried out politically motivated surveillance.

The unit was created in 1970 by then-Chief Edward M. Davis to gather information needed to preserve the public order, protect dignitaries and investigate prison gangs.

Since 1976, the division has operated under guidelines imposed by the Police Commission, and the guidelines have been tightened several times as allegations of political surveillance continued.

The American Civil Liberties Union filed six lawsuits against the department, charging that it abused intelligence records.

Then in early January, the Los Angeles Times reported that more than 50 cartons of documents had been discovered by police and district attorney officials in an intelligence officer's home.

Those files included dossiers on two city commissioners and a former city

commissioner who is now a U.S. Appeals Court judge. A few days after the files were found, a third commissioner reported that a former custodian of the intelligence files had told him in 1979 that the department had a file on him.

The police commission decided to dismantle the unit after a three-hour executive session, to which several police officials were summoned. When the decision was announced, Gates, who vigorously supported the division, said he would establish a transition committee to assure that the division's anti-terrorism program continued.

A representative of the ACLU said she is "very happy" that the unit is to be disbanded, but said the group will continue its lawsuits because individuals who have been wrongly subjected to surveillance should be able to collect damages.

The department was given until early March to disband the unit.

## Intelligence curbed

LOS ANGELES (AP) — The Police Commission, made up of appointed civilians, has ordered the Los Angeles Police Department not to begin new intelligence activities without giving the board 24 hours' notice.

The commission's announcement late Friday came after a six-hour closed meeting. The commission also said it would restructure the intelligence division, but no details were released pending another commission meeting Wednesday.

The action followed reports that the division disobeyed orders to destroy dozens of intelligence files.

The commission questioned Police Chief Daryl Gates for three hours Friday about the Public Disorder Intelligence Division and the discovery that files had been spirited out of the department and stored at private homes after they were ordered destroyed.

Among the files were dossiers on Police Commission members Reva Tooley and Steven Yslas and former commission member Stephen Reinhardt, now a federal judge in Los Angeles.



# Release of LAPD spy files ordered

By Lennie La Guire  
Herald staff writer

**T**housands of pages of documents found in an LAPD intelligence officer's garage may be turned over to plaintiffs in the police spying lawsuits following a Superior Court decision yesterday in which the judge also suggested the district attorney was "stonewalling" the case.

Judge Lester Olson, denying the district attorney's claim of "blanket privilege" covering documents found in the possession of Detective Jay Paul, said he will order the papers relinquished. But police are expected to fight the release of any documents that could endanger informants or hinder investigations.

The so-called "Paul documents" are said to include dossiers on judges, political figures such as Mayor Tom Bradley and various members of the civilian Police Commission. Police Chief Daryl Gates, however, has said most of the material consists of "innocuous" news clippings.

The American Civil Liberties Union has filed suit on behalf of a number of groups and individuals who claim undercover LAPD officers spied on them illegally. ACLU lawyer Paul Hoffman said the plaintiffs feared they would not get the documents in time to use in trial in November if the district attorney's claim were upheld.

Olson, using words like "cover-up" and "stonewall," seemed incredulous that the district attorney still hadn't determined whether Paul had committed a crime.

"How can it take since Jan. 5 ... to figure out whether ... there's any likelihood that (the documents) were stolen?" he asked from the bench.

"You came in asserting every possible ground that you could to put down a stonewall," Olson later scolded the county counsel representing the district attorney's office in yesterday's proceedings. "There's no indication that anyone has done anything except look at (the Paul documents)."

The district attorney is charged

**PDID**

Continued from page A-1

only with finding out whether a crime has been committed, not with the city's defense in the upcoming civil proceedings.

Deputy district attorney Paul Rugneta, who has been handling the case and who was present at the initial service of the search warrant last January at Detective Paul's Long Beach area mobile home, refused comment as he left the courtroom.

But in a declaration Olson termed "totally unhelpful," Rugneta said he would need several more months to conclude his investigation.

The number of documents is voluminous. The total pages may exceed 100,000," Rugneta said in the declaration. "In order to evaluate each document, it must be separately analyzed."

The district attorney has co-custody of the documents with the police department. The documents are being held at Parker Center under supervision of the police department's Internal

Affairs Division, which also is investigating Paul.

The Paul case started to unfold Jan. 4, when the detective approached supervisors in the Public Disorder Intelligence Division with documents brought from home detailing a PDID investigation involving school desegregation. Paul came forward the same day the grand jury convened to hear testimony on allegations that outdated intelligence files had been offered to Los Angeles School District officials to circumvent a Police Commission order to destroy them.

A spokesman for Gates minimized the significance of Olson's decision.

"Chief Gates has been toying with the idea for some time of opening up those documents to public scrutiny and media scrutiny to see what a mountain is being made of ... newspaper clippings," said the spokesman, Cmdr. William Booth. Booth said Gates favors release of virtually all the documents, but feels that public disclosure of a "few" among the thousands of documents "wouldn't be in the best interests of a lot of people."

But spokesmen for the plaintiffs hailed Olson's decision as a major victory.

"They (the Paul documents) are sitting there like a monumental indictment of PDID and the Los Angeles Police Department," said Michael Balter, coordinator for the Citizens Commission on Police Repression, one of the groups suing the city.

"It's very significant," added ACLU information director Linda Valentino. Sources have said the documents include a dossier on Valentino that reportedly details portions of her medical record.

Olson gave attorneys on both sides of the civil suit until next Tuesday to present their plans for the turnover of the documents.

The judge cited two possible methods for doing so. One would give the city 45 days in which to go over the papers to decide which were privileged before handing them over. In the other scenario, the documents would be turned over to a referee judge who would examine them privately before making a determination.

Paul Chen/Herald photographer

LA Herald  
3-26-83



## PAUL: 'Fair-Haired Boy'

Continued from 18th Page

to the department's probe of Paul's relationship with the right-wing Western Goals Foundation. Paul was helping the tax-exempt foundation, headed by the chairman of the John Birch Society, computerize data on political leftists. He ran the computer operation out of his wife's law office, using \$100,000 worth of equipment provided by Western Goals.

Rice testified that he did not give Research West any information and that the relationship was approved by his superiors.

A former Research West official, Robert Lamborn, told The Times Tuesday that Los Angeles police officers did not provide "internal documents or official police property" to the organization. But Lamborn, a private investigator, said officers did send to Research West flyers about rallies and demonstrations in Los Angeles, copies of local underground newspapers and brochures put out by various organizations.

The organization sold background information to corporations

about their employees and advised the corporations about possible risks to their facilities. It had close ties to law enforcement agencies, particularly in the Bay Area.

Founded by former FBI agents, Research West was headed for more than 10 years by Patricia Atthowe, who made headlines in 1978 for refusing to cooperate with a congressional investigation into allegations that Research West was paid by utility companies to spy on anti-nuclear activists. Despite a threatened contempt citation, Atthowe blocked access to her firm's massive files, which she said were used to write articles and therefore protected by the First Amendment.

The probe was abandoned after a new Congress convened.

Research West went out of business in 1980 or 1981, leaving behind substantial debts, including a \$50,000 tax lien by the Internal Revenue Service.

Loew, Paul's attorney, said Rice's deposition shows that Paul's "relationship with Western Goals was not all that uncommon. There are many relationships with outside agencies."



# PAUL: Others Officers Complained

Continued from First Page

tips in the department who considered him their "fair-haired boy."

The former supervisor said there was frequent speculation that eventually Jay was going to embarrass the department, that eventually somebody was going to get it because of this guy.

Rice, who worked with Paul before the division was disbanded, said complaints about Paul's conduct were frequent and surfaced during division meetings attended by as many as 20 detectives and lieutenants.

One repeated complaint, dating to 1975, was that Paul may have been rifling through the desks and file drawers of other investigators when no one else was around. This was suspected because Paul always seemed to know some of the most detailed aspects of their investigations.

Rice said he and other officers voiced their suspicions to superiors "again and again and again." The only response they received, he said, was that they should lock up their materials, which Rice said he did.

In his deposition, Rice offered no proof of Paul's purported snooping. He simply stated, "I felt that if there was anybody in the division that would be doing it, he was the one because just about everybody else in the division had credibility."

## 'Arbitrary Intrusions'

Another persistent complaint concerned Paul's "arbitrary intrusions" into the confidential investigations of other officers, Rice said. As an example, he said that Paul would talk about fellow detectives' investigations to officers from other agencies—sometimes falsely claiming that he was assigned to the probes or was heading them.

To make matters worse, Rice said Paul was putting out "erroneous" information on the investigations.

Officers in the division learned of this from members of those law enforcement agencies, some of whom called the division to find out "just exactly what he (Paul) did here at PDID," said Rice, who accused Paul of improperly nosing into a probe he was conducting of an anti-nuclear group, the Alliance for Survival.

These actions, Rice suggested, may have "not only jeopardized the security of my investigations but the security of sources, victims, those individuals that are pertinent to an investigation."

During a six- to seven-year span, Rice said, at least 10 detectives and four lieutenants in the division complained of this "overlapping" problem. Although these complaints were relayed to the division's captains—John Thompson, Jesus Mejia and Robert Loomis—Paul was not restrained, Rice said.

## 'Investigator-at-Large'

Instead, he said, Paul was allowed to operate as an "investigator-at-large," whose precise responsibilities as a "special projects" officer remained a mystery to the rest of the division.

This situation was "absolutely unhealthy" for the division, Rice said, adding that he does not know whether the captains channeled the complaints higher up the chain of command. "I didn't get the feeling," Rice said, "he (Paul) was being controlled."

Thompson, Mejia and Loomis headed the division at different times and all three have since retired from the force. Thompson, now director of corporate security for Coca-Cola in Los Angeles, re-

***This situation was  
'absolutely unhealthy,'  
Rice testified.***

fused to talk to a reporter. Mejia and Loomis could not be reached for comment.

Rice said the complaints were satisfactorily resolved six to nine months ago. That is when Paul was removed from active duty in the division, after the discovery that he had stored 180 boxes of materials in his home and in a garage. The boxes included folders on Police Commission members, judges, lawyers, politicians and civil libertarians.

Rice testified that detectives in the division first suspected Paul of building his own intelligence library several years ago, when he was seen copying "highly confidential" documents after normal working hours. At that time, there was speculation that Paul was either "carting away" the material to his home or maintaining it somewhere within the division.

Rice did not say whether supervisors investigated the matter.

Paul's attorney, Robert Loew, refused to comment specifically about Rice's allegations. But "the fact that Jay Paul was never disci-

plined ought to tell you something," Loew said.

Paul, in fact, was consistently praised by his superiors in job evaluation reports as a hard-working, dedicated and loyal employee. In one evaluation report, he is described as a "mainstay" of the division. Another acknowledged that "Paul's closed-mouth approach often results in his being viewed as paranoid" but added that "his experience and knowledge have disclosed the necessity of this approach to protect both sources and the department." A third stated that Paul "gets along well with his supervisors and co-workers."

Sources familiar with Paul's duties said he was frequently asked to prepare special reports on a variety of sensitive topics, some destined for the eyes of the police chief. For example, one of Paul's reports was titled "Investigation into statements by Chief of Police Daryl F. Gates regarding activities involving the Citizens Commission on Police Repression," an anti-police-spying group.

The 30-page report, a copy of which was obtained by The Times, was prepared in late September, 1982, less than two weeks after the Police Commission announced it was investigating charges that Gates "deliberately misled" the public and the City Council about police infiltration of the group.

After studying "more than 300 news articles related to PDID operations between August, 1979, and September, 1982," Paul concluded that the allegations against Gates were without merit. The Police Commission has yet to release its findings.

## Concerned About Exchange

In response to questions during his deposition, Rice disclosed some details of his own activities in the division. He said he had a relationship with a now-defunct private intelligence-gathering group that was based in Northern California and has been described by civil libertarians as a thinly disguised blacklisting operation.

Rice said the outfit, Research West, provided him and his partner, Donald Bachman, with information relevant to their investigations. Police Internal Affairs Division investigators are reportedly concerned that, in return for such assistance, Los Angeles police officers may have provided Research West with confidential police information.

Those same concerns are central

Please see PAUL, Page 19

over



# The nation

## Birch tie reported

LOS ANGELES (AP) — A police detective under investigation for storing intelligence files at his home helped the head of the right-wing John Birch Society compile computerized information about American citizens, the Los Angeles Times reported Tuesday.

Police officials are investigating whether Detective Jay Paul illegally channeled material from confidential police intelligence files to the data bank run by Western Goals, a tax-exempt foundation based in Alexandria, Va., the newspaper said. Western Goals was created in 1979 by Rep. Larry P. McDonald, D-Ga., who this year became the chairman of the John Birch Society.

The Police Department's Public Disorder Intelligence Division was recently ordered dismantled after investigators found that Paul, a member of the unit, had stored 100 cartons of intelligence materials in his house and garage.

The documents, including some that had been ordered destroyed, reportedly included dossiers on police commissioners, judges and a variety of public officials.

Paul ran the computer system from his wife's law office in Long Beach, using about \$100,000 worth of equipment provided by the foundation, the newspaper said.

He was the data bank's chief programmer and for two years computerized vast amounts of information sent him by Western Goals from many sources, the report said.

Paul reportedly told police internal affairs investigators that he tapped into the computer system to compile intelligence reports for Los Angeles police officials.



# PDID Detective Mistrusted by Peers, Testimony Shows

By JOEL SAPPELL, *Times Staff Writer*

Members of the Public Disorder Intelligence Division repeatedly complained to their superiors that fellow Los Angeles police Detective Jay Paul was snooping on them, rifling their desks and gabbing about their investigations to other law enforcement agencies, according to newly released testimony.

But police officials did nothing about the complaints and granted Paul special privileges, including permission to choose his working hours, to travel around the country and to have a police radio installed in his private car, Detective Kenneth M. Rice testified in a deposition taken from him this month by the American Civil Liberties Union.

The ACLU, which is suing the department over alleged illegal spying, provided The Times with parts of a 431-page document containing Rice's testimony.

The picture of Paul that emerges

from the deposition is that of a detective who is mistrusted and resented by his colleagues but who apparently retained the confidence of at least three commanders of the Public Disorder Intelligence Division over a seven-year period.

Paul, the central figure in the Police Department spy scandal, is under departmental and criminal investigations for storing thousands of pages of intelligence materials in his home and in a garage and for working on city time for a right-wing organization that was gathering intelligence on American leftists.

A former supervisor in the intelligence division, who requested anonymity, corroborated Rice's sworn testimony in an interview with The Times. He said it appeared to him and others in the division that Paul was "being protected" by high-

Please see PAUL, Page 18



## Council Fails to Pass Disclosure Law Schedules New Vote on Police Freedom-of-Information Measure

By CHARLES P. WALLACE,  
Times Staff Writer

After several hours of acrimonious debate, the Los Angeles City Council on Tuesday narrowly failed to adopt a sweeping freedom-of-information ordinance. The controversial measure will be put to another vote July 5.

The vote was 7 to 6, one vote short of the necessary eight-vote council majority needed for passage of the proposed law, which would have given civilians wide-reaching access to files held by the police and other city departments, except where it would jeopardize a confidential source or an ongoing investigation.

Both supporters and opponents of the law later said they were encouraged by the council action, although proponents were clearly disappointed at having lost the vote so narrowly.

### Vote 'Bodes Well'

Councilman Zev Yaroslavsky, author of the proposed legislation, said the fact that he was able to muster seven votes "bodes well" for eventual adoption of the measure, adding caustically that he hopes that council members who have promised to support the ordinance after further study will "be true to their word."

Police Chief Daryl F. Gates, who has been one of the most outspoken opponents of the proposal, said after the council vote, "You saw democracy in action."

The vote to reconsider the ordinance in six weeks came after several council members complained that they had not had a chance to review changes in the measure's

### LAPD Frustrated in Computer-Operation Inquiry, Gates Says

By JOEL SAPPELL, Times Staff Writer

Los Angeles Police Chief Daryl F. Gates said Tuesday that his department has been frustrated in its attempt to determine whether a detective fed confidential intelligence data to a private computer operation headed by the chairman of the John Birch Society.

So far, Gates said, Internal Affairs Division investigators have been unable to persuade the Arlington, Va.-based Western Goals Foundation to surrender computer tapes that Detective Jay Paul prepared as a part of an effort to build a massive data base

Please see GATES, Page 4

language. The changes were written into the ordinance late Monday night by Assistant City Atty. Pedro Echeverria after Gates released a letter from Richard T. Bretzing, head of the FBI office in Los Angeles, warning that adoption of the law would have a "chilling effect" on the exchange of information between the FBI and the Police Department.

The new language attempted to overcome that objection by stating that "nothing contained herein shall be construed to

require disclosure of confidential information provided in confidence by any government law enforcement agency for law enforcement purposes to any city department and which the governmental agency would not be required to disclose under the laws which apply to it."

It was the fear of such disclosure that led a stream of law enforcement officials, including U.S. Atty. Stephen Trott and Los Angeles County Sheriff Sherman Block, to warn the council Tuesday that the Los Angeles Police Department would be isolated from other law enforcement agencies by adoption of the measure.

### 'Moving Too Fast'

"I think you're moving too fast," Trott said. "I haven't had a chance to review these amendments but it's clear that somebody recognizes that other agencies are going to have a difficult time working with the Police Department."

Block said that the way the ordinance is worded "you might as well put up a neon-lighted billboard and tell them (criminals) what we are looking at," and that the Sheriff's Department now declines to provide federal officials with certain types of information because of fear of disclosure through the federal Freedom of Information Act.

Among those speaking in favor of the proposed ordinance was former U.S. Sen. John V. Tunney (D-Calif.), who said that recent revelations about police spying, along with the city's experience with administrative code sections on disclosure of documents, had revealed loopholes that

Please see COUNCIL, Page 8



Chief Daryl F. Gates testifying on freedom-of-information ordinance.

FITZGERALD WHITNEY / Los Angeles Times



## COUNCIL: Disclosure Law Narrowly Defeated

Continued from First Page

"need to be closed if the code is to fulfill its purpose." On the council floor, the debate was acrimonious. Councilwoman Peggy Stevenson said the council was "misled, systematically and repeatedly, by the highest command levels of the department" over the maintenance of secret files by the LAPD's Public Disorder Intelligence Division.

Stevenson, who heads the council's Police, Fire and Public Safety Committee, said the recent reorganization of the police's anying unit made the department accountable to the city, the passage of the proposed ordinance, she said, would make it "accountable to the people."

Councilwoman Joy Picus angrily accused the Police Department's leadership of trying to make it appear that supporters of the ordinance are Marxists and socialists.

Councilman Hal Bertson, who along with John Ferraro, led the floor fight against the proposed ordinance, called the law a "criminal's bill of rights" and angrily concluded that "we're not free if we don't have the freedom to go out on the streets."

As the speeches wound on, representatives of both sides of the issue lobbied strenuously with Councilman Gilbert W. Lindsey, who was the crucial eighth vote necessary to obtain passage. At one point, Councilman Dave Cunningham, who like Lindsey is black, called on the councilman to remember the history of oppression in the Deep South before making up his mind.

Lindsey, who was also being lobbied by Gates, dramatically rose to the council floor and condemned "legions of little bibles and old mothers," and the law's proponents knew that Lindsey's support had been lost. He voted against the bill.

More Committee Hearings

After the bill's defeat, Council President Joel Wachs took the floor to urge the council to take more time to consider the legislation. Wachs berated City Atty. Ira Reiner, because Reiner could not enumerate the differences between the city's proposed law and the federal statute without consulting an aide. Reiner retaliated by accusing Wachs of entering into "a silly trade, stamping his foot, waving his hand and almost reducing himself to tears."

When the legislation was defeated, Yaroslavsky said his support behind efforts to reconsider the law again on July 5. Stevenson said her committee would hear testimony from law enforcement officials to see if their objections were met by the new language in the bill.

The current language would prohibit disclosure when it would interfere with an ongoing investigation, deprive a person of a fair trial, violate another person's privacy, disclose the identity of a confidential source or reveal confidential information. In addition to excluding confidential information passed on by another agency, the measure also would prohibit the disclosure of security plans, investigative techniques or information that would endanger lives.

Councilmen Art Snyder and Ermani Bernardi were out of town during the vote. Both men are believed to be leaning against adoption of the freedom-of-information ordinance, which could jeopardize the bill's chances in July.

Voting in support of the bill Tuesday were Stevenson, Yaroslavsky, Cunningham, Picus, Robert Farrell, Marvin Braude and Pat Russell. Opposed were Wachs, Ferraro, Lipdsky, Bertson, Joan M. Flores, and Howard Penn.

## GATES: Inquiry Into Computer Operation

Continued from First Page  
on America's left.

Western Goals describes itself as "the first and only public foundation to . . . fill the critical gap caused by the crippling of the FBI, the disabling of the House Committee on Un-American Activities and the destruction of crucial government files." Its advisory board is packed with ultraconservative politicians, industrialists, writers and retired military leaders.

Paul ran the foundation's computer operation from his wife's law office in Long Beach, using about \$100,000 worth of equipment provided by Western Goals. The tax-exempt foundation was created in late 1979 by the Birch Society's current leader, Rep. Larry McDonald (D-Ga.).

Internal affairs officers learned of Paul's links to the foundation in January while investigating the storage of more than 100 boxes of intelligence materials in his home and garage. Western Goals retrieved the computer tapes before police investigators could get them.

Last week in Washington, D.C., two internal affairs investigators negotiated with Western Goals for access to the materials but came away empty-handed.

Gates told reporters at City Hall that foundation officials "have certain rights and they are protecting those rights." He said that, after discussing the matter with government attorneys, it does not appear that the department has sufficient evidence to force disclosure of the tapes through a warrant. Still, the chief said, "we're talking with (Western Goals), we're explaining our position and we're hopeful that we will have a cooperative effort here."

A Western Goals official said the foundation has balked at the Police Department's overtures out of fear that information on the tapes might be leaked by police to the media. The official, John Rees, said the foundation also is reluctant to turn over its materials because no convincing evidence of wrongdoing by Paul exists.

For his part, Gates said he had "absolutely no knowledge" of Paul's affiliation with Western Goals, which reportedly works closely with law enforcement

and publishes ultraconservative literature on domestic and foreign affairs. Gates said he learned about it from internal affairs officials, who are pursuing the probe with "great vigor."

Paul has told investigators that he utilized the data bank to prepare reports for superiors in the Public Disorder Intelligence Division, who not only approved of his Western Goals role but encouraged the computer's use.

Gates said he did not know who was involved or why. "We are examining (this case) all the way up, including to the chief of police," Gates said. "Let me tell you, internal affairs has carte blanche to investigate me."

## PRIOLO: Accusation

Continued from First Page

represent (gold) bullion." Under his current county contract, Priolo is paid \$4,500 per month, but he also serves such private clients as Mars Inc., the Virginia-based candy manufacturer, and the California Coin Dealers Political Action Committee.

Hufford, who generally steers clear of such matters, told the board under questioning from Hahn that he had known about Priolo's ties to the private groups but had never expected a conflict to arise.

"Since he represents the county of Los Angeles on this issue we have to make it clear," Hufford said. "I don't know how he can deal with that issue representing the county while also representing other clients."

Priolo was hired by the Board of Supervisors in April, 1982, to supplement the work of the county's four-member professional lobbying staff and to help mend the county's strained relationships with state lawmakers. Hahn, at the time, questioned why a former Republican lawmaker would be hired to lobby a Democratically controlled Legislature.



# Sunshine law opens Seattle police files

SEATTLE (UPI) — In December 1975 the Seattle Police Department noted in its secret intelligence files that a local Chicago activist was trying to have some bombs made.

The record noted that the American Friends Service Committee, a well-known pacifist organization, was willing to pay for the bombs.

The source of the information was not noted, although a common practice is to pay an informant for such items. The activist and the committee, both known for their support of unpopular causes, say the information is false.

In August 1977 the Seattle police intelligence unit recorded in its secret files a description of a political meeting, including the issues discussed, lists of speakers, those in attendance and their membership in organizations. Much of the information was inaccurate, say those who were there.

Moreover, there was no mention of any suspicious or illegal activity which would justify such surveillance, says the attorney whose file contained the document.

Another minority leader who recently was allowed to look at his intelligence file discovered that the intelligence unit had told the Portland, Ore., Police Bureau in 1973 that he "advocates terrorist acts."

He says that information is false and unsubstantiated in the file. His only record of arrest is for failure to disperse during a demonstration on behalf of minority construction workers.

"The activities of the police ought to be focused on criminal activities and not what they imagine to be possibly connected political activity," said Jim Douglas, associate attorney with the American Civil Liberties Union. "It puts police in the position of deciding who they're going to watch."

In watching, photographing and recording, say critics of such practices, the police intimidate and interfere with those who are exercising their basic American right to meet, discuss and make known their different points of view.

Some of the files released in Seattle included references to a bumper sticker proclaiming support for Indian rights and

to individuals whose "method of operation" was "participant in demonstrations," "attorney for activist causes," or advocate for "Third World causes" and minority issues such as fair employment and housing.

These people were able to look at their intelligence files because of Washington's Public Disclosure Act, which is patterned after the federal Freedom of Information Act. The law is based on the notion that the public has a right to know what the government is doing, how officials are performing their duties, and whether their own constitutional rights and freedoms are being violated in the process.

"It is an ironic twist that one of the ways to protect your privacy is through disclosure (of public records), and that in order to protect your privacy you have to know what the government is doing," said David Stobaugh, another Seattle attorney who has worked with the ACLU on public access to government records.

Numerous other states have such "sunshine laws" and Washington's was passed in 1972. Among other things it requires that police officials open their records to the public unless non-disclosure is essential to effective law enforcement or for the protection of another's privacy.

But it took a lawsuit by the Coalition on Government Spying and 41 other local organizations and individuals to press the police into acknowledging requests for public records. The Coalition is sponsored by the ACLU, the AFSC, and the National Lawyers Guild, and receives its funding primarily from the AFSC.

By late spring of 1978, after several court appearances and the election of a new city attorney, the Seattle Police Department began allowing citizens to look at their own files.

Deletions and withheld material are still being sought by the coalition and other plaintiffs. But Seattle is now one of the first cities in the country to set up a procedure for responding to requests from the public for review of police intelligence documents.

The Seattle Police Department is now receiving about 10 requests a week from citizens who want to see their intelligence files, said Major Ray Connery, commander of inspectional services, which includes the intelligence unit.

The department is also receiving numerous complaints from those who have seen their files that the information is "inaccurate or misleading or didn't truly represent them," said Connery.

He said it was "too soon to evaluate" what is to be done about those complaints. Many of the files are old, "frozen" now for several years, he said.

"The very nature of intelligence files is information that is in some cases highly speculative or requiring some degree of confirmation . . . based on the assumption that they were simply notes to other investigators," said Connery.

As a result of public access to the documents, "We are having to make considerable changes in the way file entries are written so that it's apparent why the entries are made and what precisely the interest was in having the information."

Connery added: "I would suspect that for all intents and purposes we will be out of the business of trying to monitor who among us might be leaning in the direction of terrorist acts. It's really a bit too early to say but I have a suspicion that's what the posture will be."

J 1-15-79



Case to Stop  
Gov Spying

## Conference targets U.S. spying

By ABE WEISBURD

More than 250 delegates representing some 150 organizations took part in the National Organizing Conference to Stop Government Spying in Ann Arbor, Mich., Sept. 22-24.

The conference, called by the Campaign to Stop Government Spying (CSGS), was an attempt to bring together grassroots organizers and resource people in order to further the movement combatting government repression.

Particular emphasis was placed on government spying on minority groups, women and political prisoners. This focus was appar-

ent not only in the range of speakers, but in the 30-odd workshops.

### SPEAKERS

Speakers included Mich. Rep. Perry Bullard, who has introduced a number of bills to outlaw the Red Squad and to set up a state Freedom of Information Act; John Trudell, president of the American Indian Movement; Maria Cueto, who served 11 months in jail for her refusal to cooperate with a federal grand jury investigating the Puerto Rican independence movement; Lewis Myers of the National Conference of Black

Lawyers; Ali Shabazz, director of the American Friends Service Committee's Philadelphia Surveillance Project; CSGS chairperson Morton Halperin, and CSGS national coordinator Peggy Shaker.

CSGS also previewed its new half-hour film, "The Intelligence Network." The 16mm film, which is available for bookings, interviews a number of victims of political spying and harassment by local and federal agencies.

For information and to order the film: CSGS, 201 Massachusetts Ave. NE, Washington, D.C. 20002.



## POLICE SPYING CURBED BY A COURT ORDER

City and police officials in Memphis, Tennessee, have been enjoined against political spying activities, according to the terms of a court agreement signed there today. The precedent-setting court settlement states that "...the City of Memphis shall not operate or maintain any office, division, bureau or any other unit for the purpose of engaging in political intelligence." In addition, the agreement prohibits the use of informants and electronic surveillance in the collection and dissemination of political intelligence, as well as limiting law enforcement activities that may violate Constitutional rights during the course of criminal investigations.

The settlement marks the first time that curbs have been imposed on local police intelligence activities.

The language of the agreement, which was approved by the Memphis city attorney, the mayor, and the police chief, is based on a model statute for controlling state and local police activities drafted by Jerry Berman of the Center for National Security Studies. It was the result of a lawsuit filed by

ACLU National Security Project attorney Jack D. Novik for damages and injunctive relief against the Domestic Intelligence Unit of the Memphis police department.

In the wake of this successful court action, the Center for National Security Studies is calling upon state and local jurisdictions to adopt statutes that would prevent law enforcement agencies from spying on, disrupting, and harassing individuals who are merely exercising rights that are protected under the First Amendment.

The need for such controls is exemplified in Seattle, Washington, where a lawsuit brought by the Coalition to Stop Government Spying has shown that as recently as October, 1977, the police department in that city maintained intelligence files on local politically active figures. The Seattle city council currently has under consideration a proposed ordinance that would limit political surveillance that infringes on First Amendment rights.

—Monica Andres  
Center for National  
Security Studies



## Hot Issue

# FBI Agents Rap Policy Of Burning Files, Link It to Public-Access Acts

Law Enforcement Impeded,  
They Say, and Congress  
May Consider the Problem

## What Hath RICO Wrought?

By JONATHAN KWITNY

Staff Reporter of THE WALL STREET JOURNAL

The extortion letter looked familiar to Detroit FBI agents when it was brought to their office earlier this year by a frightened citizen. As an agent relates the incident, the style of the letter was that of a man who had been investigated because of a similar threat three years ago.

Until recently, agents could have pulled the suspect's file, done a quick check and perhaps protected the frightened citizen. This year, however, they couldn't. The file, like hundreds of thousands of other FBI files, had been destroyed under a policy that is reducing more than half the bureau's files to ashes.

The bureau says it has to destroy the files because it is running out of room to store them. But many veteran agents say that the records are being destroyed because of the federal Freedom of Information and Privacy acts, generally referred to together as FOIPA. The acts have produced a deluge of requests from the public to see the files.

"I think we've all assumed a cause-and-effect relationship" between the acts and the destruction of the files, one agent says. "I don't think they (FBI officials) ever said that, but anybody who knows anything about the act (FOIPA) has got to come to that conclusion."

### Jogging Memories

Whatever the motives, many agents say the file burning could impede law enforcement. "We were looking for a guy here in the northern Virginia area," one veteran agent says. "You say, well, look for old what's-his-name who was running with him. But nobody remembers old what's-his-name's name, and the file's gone."

Destruction of records is only one of several blows that law-enforcement officials complain of in connection with FOIPA. What distinguishes records destruction is that it has been hushed up. On other fronts, the FBI has openly complained that scores of agents (mostly law-school graduates) and hundreds of support employees are being tied up dealing with requests for information when they are badly needed in the field to fight crime. The FBI says the cost is \$9.2 million a year—money that also is badly needed elsewhere.

Moreover, the FBI says, confidential informants have been clamming up because of fear that their identities will be revealed by the disclosures. Since wiretapping and bugging were greatly restricted by a 1968 law, such informants have become the FBI's sole effective weapon in many organized-crime cases.

### Congress in the Act

Congress may have to deal with these issues this fall because of growing pressure from various law-enforcement agencies for some sort of revision of the two acts. Both acts were passed over President Ford's veto in the post-Watergate concern about the secret political misuse of law enforcement. Many FBI agents and other critics of the two laws say they agree with the general intent of Congress, but they also say that the sweeping language of the laws has invited widespread abuse.

The Freedom of Information Act—originally passed in 1966 but drastically changed in 1975—was designed to open all government documents for public inspection unless there was a good reason to keep them secret. The Privacy Act was designed to allow individuals to see any files the government kept on them, supposedly so they could challenge inaccuracies and eliminate material of a purely personal nature.

Officially, the FBI hasn't taken a stand on what it wants Congress to do about the two acts. But the bureau has been cooperating with the General Accounting Office on a study clearly designed to show that the acts interfere with law enforcement. "My personal feeling is that there has been (such interference)," says John Ols, assistant director of the GAO, "but our finding is that it has been very difficult to document. And that is what we set out to do." The GAO is to report its findings to the Senate Judiciary Committee early next month.

### "Good Business Management"

The report won't cover problems created by records destruction, however, because the FBI's official position is that the destruction has nothing to do with FOIPA. "It's just good business management principles," says James Awe, section chief of the bureau's records management division in Washington.

The destruction policy started in April 1976, when the bureau told its field offices to eliminate records of cases that had been closed more than 10 years. In October 1977, the period was reduced to five years. And that represented just a small part of the destruction; it applied only to files in the so-called office of origin, the main FBI field office involved in each case.

Files in so-called auxiliary offices often contain as much information as the files in the office of origin, and these auxiliary files are being burned after only six months. The auxiliary files exist because, as a rule, agents don't travel on their cases; if questioning or other work needs to be done in other cities, as frequently happens, the field offices in the other cities do the work and forward copies of their reports to the office of origin. Under the new rules, the auxiliary offices don't even keep an index card referring to the work they have done. (In the case of the Detroit extortionist, an agent

Please Turn to Page 21, Column 1

9-27-78

WST



happened to remember which office of origin had the file, and eventually retrieved it; in two more years, however, even this file would have been destroyed.)

The file-destruction policy exempts files of particular historical interest, files involved in litigation or an unresolved FOIPA request, and files where there is particular reason to believe the case will become active again. For example, the bureau says, nobody is burning any files in the Jimmy Hoffa case.

Agents concede that the bureau has files it doesn't need, such as cases started on tips that turned out to be baseless. But they contend that hundreds of thousands of files with solid information are being destroyed under the new policy.

One agent, a specialist in Mafia prosecutions, notes that Anthony Provenzano, the Mafioso Teamster official, only this summer was convicted of a murder committed 17 years ago. The conviction came about when new evidence surfaced during the FBI's investigation of the Hoffa case and was pieced together with other crucial items from the moldering file on the unsolved murder. "The Provenzano case absolutely couldn't have been prosecuted if the files had been destroyed, because of the value of the evidence developed in the 1960s," the agent says. "Often you find the information you need where it's least suspected and where it's been for quite a time."

Mr. Awe, the bureau's official spokesman, says that summaries of all significant information in FBI files are preserved in a central file at bureau headquarters in Washington. Agents, however, say that only a small part of the information in a field-office file winds up in the central file. Moreover, the FBI has asked the archivist of the U.S., James B. Rhoades, for permission to destroy even the central files in criminal cases after they are 10 years old. Mr. Rhoades approved the destruction of the field-office files because, he says, agencies usually know best about their own files; but now he is withholding approval of the request to destroy central-office files and is seeking advice from Congress.

#### Avoiding Embarrassment?

Mr. Awe says the destruction of aging records was experimented with in some offices late in 1974 and so couldn't have been linked to FOIPA. But many agents disagree. "I don't give a damn what the bureau says," asserts one agent who reluctantly helped in the destruction. "Those files were destroyed for one specific reason: They had to cough them up. It had been thoroughly embarrassing to that point and promised to get even more embarrassing." As an example, he cites a disclosure under FOIPA of material about an alleged and previously unpublicized romance between Eleanor Roosevelt and a military officer.

"The really hypocritical thing about the whole situation is that although we had this stuff in our files, we weren't releasing it to anybody—and I have seen some really scurrilous stuff come out of these investigations," the agent says.

A colleague of his adds, "On balance, I would rather see a little bit of embarrassment for the administrators than handicap the whole investigative effort. This destroying of records every six months is a terrible mistake." He says that the records of a criminal whose name has frequently been in the news are being destroyed under the new policy before the criminal has finished serving his current jail term.

Beyond the controversy over whether files are being destroyed to avoid embarrassment, everyone involved agrees that the burden of looking through files whenever someone sends a request is enormous. Mr. Awe and other FBI spokesmen note that prior to release, every file has to be examined page by page by senior clerical employees under the supervision of FBI agents with law degrees. Many kinds of information are supposed to be deleted from the documents before disclosure, including material that might identify confidential informants, violate the privacy of third parties or disclose law-enforcement techniques.

#### Deadline for Replies

The law says that information requests must be answered within 10 days. But about 19,000 requests a year have been pouring in. The FBI's original FOIPA staff of 140 persons fell 12 or 13 months behind in its processing by 1976, and Congress demanded faster action.

That demand resulted in the FBI's "Project Onslaught," in which 300 field agents from around the country were brought to Washington for several months to attack the backlog. With some 650 persons working full time, the bureau whittled down the backlog to 30 days by the end of last year.

Then a judge ordered the release of the Julius and Ethel Rosenberg file—400,000 pages. A special team has been assigned to clear 40,000 of these pages a month. Meanwhile, the FBI says, the rest of the backlog has lengthened to between 90 and 120 days.

The FBI says that no more than 1% or 2% of the requests for information are from journalists or historians, who were expected to be the chief beneficiaries of the Freedom of Information Act. About 40% of the requests come from citizens who want to know if the FBI has a file on them but on whom no FBI file exists. Many thousands of other requests come from prison inmates purportedly looking for grounds for appeal. Skeptical agents, however, suspect the prisoners often are trying either to find out who informed on them or to kill time by harassing the FBI.

#### Requests From Mafia?

The bureau also says it has reliable evidence that the Mafia in at least one major city has instructed all its members to write requesting their files. "The sole purpose of this process is to attempt to identify informants," an FBI spokesman says. He adds that if a crook can glean even a hint that he is under investigation at a particular time, he can become much more circumspect until the heat's off.

Another problem is that plaintiff lawyers often want to use the FBI as a cheap investigative service. Agents tell of a recent homicide case on the high seas. Shipping executives told the FBI that they had previously been aware that the suspect was mentally unstable. Learning this under FOIPA, a lawyer for the victim's heirs has greatly enhanced his damage suit against the shipping company. Agents fear such episodes will imperil future investigations. One agent says witnesses now "are thinking not in terms of



telling simply what happened, they are thinking of, God, if I say the wrong thing, the company's negligent."

Many agents say that because of FOIPA, they can't any longer in good faith guarantee anonymity to a source. "I can say that we'll do whatever we can, and that's usually pretty substantial, but I can't guarantee it," says an agent who has handled some of the bureau's most publicized cases. He adds, "You're assuming a lack of intelligence on the part of the applicant who gets the records that he won't be able to piece together who the source is. You're relying on the people who review the records (in Washington), and you just don't know how careful that guy is going to be."

#### Disobeying Orders

"Often the people doing the processing aren't even aware that it's informant information," says another agent. One field official confides that he disobeys instructions from headquarters in some instances to keep information from being destroyed or disclosed. Agents in another office say they keep what they call "hip-pocket sources," whose identities are never recorded, against bureau regulations.

The FBI has compiled a list of examples of past informants who won't talk now because of the danger of disclosure under FOIPA. A spokesman says that more than 20 local or state police agencies have written "indicating that their intelligence units are fearful that furnishing information to us may jeopardize their own sources." He cites Los Angeles, Milwaukee and Phoenix police. Earlier this year, the bureau says, a federal judge declined to provide information about a candidate for another federal judgeship because he said he feared his derogatory remarks would come back to him through FOIPA.

Even civil-liberties lawyers who support FOIPA tend to oppose the file destruction, arguing that citizens whose rights have been violated may need the files to press suit against the government. Lawyers for the American Civil Liberties Union say they favor sealing old records so that only a judge can unseal them after a court hearing.

Whatever the solution, confusion and controversy have surrounded the bureau's destruction policy. An agent in the Northeast notes recent bureau instructions to make more use of the Racketeering in Interstate Commerce, or RICO, law. RICO, designed to combat Mafia-type crime, provides heavier penalties for violators who have established a pattern of racketeering activity. To invoke the law, the FBI must offer proof of prior acts consistent with the specific criminal act being charged. "The RICO statute says go back 10 years, and the files are destroyed after five years," the agent complains. "You figure it out."





# They're Out To Destroy The F.B.I.

by John Rees

■ ON JULY 31, 1979, a long-range program to emasculate the Federal Bureau of Investigation moved a step nearer completion as President Carter sent a message to Congress detailing legislation to create a charter for the Federal Bureau of Investigation. Senator Edward Kennedy, Chairman of the Judiciary Committee, introduced the Administration's proposal in the Senate

as S. 1612 while House Judiciary Committee Chairman Peter Rodino (D.-New Jersey) offered it in the House as H.R. 5030.

The F.B.I. charter legislation was developed largely from the work of the Senate Select Committee on Intelligence. In January 1975, under the Chairmanship of Senator Frank Church (D.-Idaho), this Committee be-

gan 15 months of bitter attacks on the intelligence-gathering activities of the F.B.I. and C.I.A. during the turbulent 1960s and early 1970s. The resultant Church Committee Report was based upon months of "investigations" by Committee staffers, many of them young graduates in political science without any background in intelligence, and upon outrageous Hearings in which dedicated F.B.I. agents were subjected to hostile and highly partisan questioning under the klieg lights of television. When the Report was released in April 1976, Senator Church said its recommendations "constitute an agenda for action."

Senator Barry Goldwater (R.-Arizona), another member of the Intelligence Committee, thought otherwise. "The report," he said, "tends to blacken the reputation of agencies and persons who have served America well. . . . this is a report that probably should never have been written." Senator John Tower (R.-Texas) added that "the Committee's 'corrective' focus is almost exclusively on prohibitions or limitations of agency practices. . . . We were not mandated to render our intelligence systems so constrained as to be fit for employment only in an ideal world." In the three intervening years during which the F.B.I. charter has been prepared, the warnings of Goldwater and Tower have been largely ignored and criticism has been escalated into flagellation.

In an era of escalating international and transnational terrorism sponsored by the Soviet Union and its allies,

attacks on the F.B.I. and our other essential intelligence agencies have been carried out by a well-financed grouping of lawyers from the National Lawyers Guild, an old-time Communist Party Front; the Marxist Institute of Policy Studies; and, the radical American Civil Liberties Union. These bitter opponents of the F.B.I. had the support of "Liberal" Members of the House and Senate, and of a Justice Department and Administration whose leaders respond only to the stimulus of "Liberal" opinion.

Few will dispute that updated legislation specifying the responsibilities of the Federal Bureau of Investigation is long overdue. If for no other reason than to protect F.B.I. agents from lawsuits alleging that their investigations are not mandated by law and are therefore illegal. At present, this important and once prestigious agency derives its authority from a one-paragraph federal law passed by the 60th Congress in 1908 to establish a federal agency with strictly limited police power to investigate interstate crime and fraud against the government which could not be handled by local law-enforcement agencies. That legislation was approved by Congress only after President Theodore Roosevelt intimated that Congress was opposing the bill to protect criminals in Congress and their crooked pals.

With the rise of modern totalitarianism and the creation in the U.S. of numerous organizations controlled by foreign powers, the F.B.I. was by Presidential Order given the responsibility



of investigating Nazi and Communist subversion. As the Communists developed political terrorism as a weapon in the West, the F.B.I. was by Presidential Order given the added responsibility of preventing and countering terrorist activities. Now, the authority of these Executive Orders is deemed insufficient by Congress. And justly so. The F.B.I. needs a congressional mandate to guarantee that it can adequately deal with terrorism, foreign subversion, and organized crime.

#### Radicals Would Cripple F.B.I.

As we have noted, the prime movers in formulating the restrictive provisions of the Kennedy-Rodino Bill have been a cadre of radical lawyers. Their bases of operation are the (Communist Front) National Lawyers Guild (N.L.G.); the Institute for Policy Studies (I.P.S.), a Marxist think-tank whose staff has included leaders of terrorist revolutionary groups; and, the American Civil Liberties Union (A.C.L.U.). In 1974, I.P.S. and the A.C.L.U. sponsored the formation of the Center for National Security Studies (C.N.S.S.), staffed by members of I.P.S. and the National Lawyers Guild. With former Kissinger aide Morton Halperin as their leader this gang began working with the Judiciary and the Intelligence Committees to handcuff the F.B.I. In 1977 these Leftists joined with the notorious American Friends Service Committee to produce a grassroots anti-F.B.I. pressure group called the Campaign to Stop Government Spying. This too was

headed by Morton Halperin, a man whom even Henry Kissinger suspected of leaking our defense secrets.

The tactics were simple but effective. The Center for National Security Studies and the A.C.L.U. repeatedly testified for the most extreme restrictions on the F.B.I. This way phony compromise solutions could be arranged to assure most of the restrictive provisions the extreme Left wanted. It was not necessary to abolish the F.B.I. if it could be tied up with so many regulations and restrictions that intelligence operations necessary to our national security become impossible.

We are not overstating radical authorship of the F.B.I. charter legislation. As Senator Alan K. Simpson (R.-Wyoming) notes, "the A.C.L.U. had more input into the draft than either the F.B.I. or U.S. Senators."

Thus it is hardly surprising that the major thrust of the charter proposal is to codify the extreme restrictions placed on the F.B.I. by Attorney General Edward Levi at the height of the Watergate reaction. This University of Chicago Law School professor not only had no experience in intelligence but had himself been a member of the (Communist Front) National Lawyers Guild in the mid-1940s — long after the N.L.G.'s early "Liberal" members had quit in disgust over the Party Line flip-flop after the Hitler-Stalin Pact. Levi's 1976 restrictions were confirmed by Carter's man Griffin Bell. Now the Administration-supported F.B.I. charter would go still further. In

fact it would strip the F.B.I. of its authorization to undertake investigations in connection with this nation's vital Loyalty and Security program, thus giving the Soviet K.G.B. and its allies a free run at placing agents in our government and in the employ of leading defense contractors.

#### A Look At The Charter

The proposed F.B.I. charter makes it clear that those functions not specifically delegated to the F.B.I. are forbidden. To paraphrase T.H. White in *The Once And Future King*, "Everything not compulsory is forbidden."

One example drawn from many shows how this would harm the internal security of our country. Under the Kennedy-Rodino charter, and indeed under the existing Attorney General's Guidelines, an organization planning the overthrow of the government by force and violence cannot even be investigated by the F.B.I. until it is about to carry out its plan. And, somehow, evidence would have to be provided demonstrating that is indeed the case. At this point it would obviously be far too late to get undercover agents into the group even if the F.B.I. were somehow made aware of the conspiracy at the magic moment.

Equally insane are rules governing the investigation of terrorist groups. The F.B.I. is forbidden to move against such killers while they are in the planning and training stage, and can place them under investigation only after the terrorists have moved on to acquisition of explosives or weapons, the

active recruiting of demolitions experts, and so on. Obviously the F.B.I. will not know that this is happening if it is forbidden to employ undercover agents and informants in the violence-oriented groups from which terrorist cadres are formed. Under this rule we would be reduced to the slim hope that a defector from the group would voluntarily appear with documentation of the plot in time for the F.B.I. to investigate and stop the killings.

Congressman Lawrence Patton McDonald (D.-Georgia) is an internationally recognized expert on combating terrorism. He tells *The Review Of The News*: "Those aspects of the proposed F.B.I. charter and the Attorney General's Guidelines that concern terrorism and subversion are dangerously inadequate; and I view them as part of the drive to destroy the F.B.I. in a campaign that is designed to wipe out all of this country's internal security defenses. This charter restricts the F.B.I. in the surveillance of subversive groups and severely hinders their investigation of terrorist bands. It is a part of the same campaign that destroyed the House Internal Security Committee in 1975 and the Senate Subcommittee on Internal Security in 1978. The fight in the House of Representatives to restore the Internal Security Committee through H. Res. 48 is a part of our counterattack. Another part must be the fight for an F.B.I. charter that will restore that agency's ability to protect Americans from subversion and terrorism."

Senator Strom Thurmond (R.-



South Carolina) reinforces McDonald's views, declaring: "I am also concerned about the efforts of the F.B.I. and its ability to investigate and keep track of subversive and terrorist organizations that operate almost unfettered in this country. Domestic security investigations have been reduced substantially within the last few years because of First Amendment considerations. I am sensitive to First Amendment rights and the protections they deserve as guaranteed by our Constitution, but to permit revolutionary groups to operate within the borders of the United States unwatched concerns me. There have been too many acts of open violence and terrorism in recent years to let these groups go without investigation."

### The Situation Is Serious

Senator Thurmond and Representative McDonald are concerned that while there are scores of violence-oriented groups functioning in the United States only a handful (from 12 to 16) are presently under investigation by the F.B.I.

The existing Attorney General's Guidelines, to be codified by the new F.B.I. charter, already place severe limitations on the F.B.I.'s ability to collect vital information. On June 21, 1979, a House Intelligence Subcommittee held Hearings on the security programs in the federal intelligence agencies. Supervisory personnel from the Department of Defense testified that they rely entirely on the F.B.I. to provide them with information on

groups that plan the overthrow of the government by force or violence or that rely on violence to deny others their rights under our Constitution. The Defense Department witnesses explained that the military is now forbidden to collect any information — even newspaper clippings — about civilian groups attempting to penetrate or undermine our military or defense agencies and that only the F.B.I. could give them warning about such activities.

Later in that Hearing, Congressman C.W. "Bill" Young (R.-Florida) questioned F.B.I. witnesses on the effect the Attorney General's Guidelines are having on the F.B.I.'s ability to provide essential security information to the Defense Department. The F.B.I. officials admitted that the cases on most subversive organizations had been closed and that the F.B.I. could not even collect "public source" information such as newspapers, pamphlets, and magazines published by those groups. The F.B.I. spokesman also testified that their investigation of the Progressive Labor Party (P.L.P.) had been closed since September 20, 1976. Congressman Young pointed out to them that the P.L.P. has "publicly proclaimed that they intend to take power in the U.S. by using 'armed struggle,' and that they are engaged in a campaign of penetrating the Armed Services." Young noted for the benefit of the F.B.I. that this information could be found in the official P.L.P. organ *PL Magazine* published in the Spring of 1978.

Congressman Young asked the

F.B.I. officials, "In a case like this where they themselves have made this declaration, can the F.B.I. collect these public documents — on a group like the P.L.P. — despite the fact that the case has been closed?" The official responded, "Absolutely not." He then admitted that the F.B.I. isn't even allowed current information on P.L.P. members who might infiltrate our Armed Services as a part of the P.L.P.'s program of subversion.

In short, summarized Young, "You are not allowed to be involved in fire prevention; you have to wait until the fire starts."

### Reds Given Green Light

Unfortunately, the case of the Progressive Labor Party is not an isolated one. The F.B.I. has been forced to close its investigations of many violence-oriented subversive groups. Also closed is investigation of the (Trotskyist Communist) Socialist Workers Party (S.W.P.) and its Young Socialist Alliance (Y.S.A.), the American section of the Fourth International that is already engaged in terrorism in Latin America, Western Europe, Asia, and the Middle East. Trotskyist Communists make a show of being cross with the Soviet Union, but they collaborate with the Cubans worldwide in revolutionary terrorist endeavors. This year Trotskyists murdered Airey Neave, a leading Conservative Member of the British Parliament, tried to kill N.A.T.O. Commander Alexander Haig in June, and last week killed Earl Mountbatten.

Yet another closed F.B.I. investigation is that of the violence-prone National Caucus of Labor Committees (N.C.L.C.), alias the U.S. Labor Party (U.S.L.P.). In addition to ties to East Germany and Libya that have been outlined in the *Congressional Record* reports of Representative Larry McDonald, the N.C.L.C./U.S.L.P. has been revealed by one of its defectors to have been in direct contact with Soviet officials at the U.N. Mission. The N.C.L.C./U.S.L.P. is now trying to penetrate the Republican Party and a number of Conservative groups, and its people use as "evidence" that they are "good communists" the fact that the F.B.I. investigation was closed.

Of the 12 to 16 terrorist and subversive groups still being investigated by the F.B.I., one can make an educated guess that they include the bombers of the New World Liberation Front; the so-called Armed Forces of National Liberation that killed at least five people with explosives; and, several groups of Croations and Cubans believed responsible for assorted shootings and bombings. But, under the guidelines about to be made law by the proposed F.B.I. charter, we have no assurance that even these are being effectively investigated.

### Further Restrictions

Under the guidelines and the proposed F.B.I. charter legislation, even when investigating a dangerous violence-prone terrorist or subversive group the F.B.I. can only investigate the top leaders and decision makers.



The lower-level officials and rank-and-file members who do the bidding of the top plotters can not be investigated. In other words, should the F.B.I. be able to open an investigation of the P.L.P.'s program of subverting the Armed Services, federal agents could only investigate a handful of top P.L.P. leaders and would have to ignore members actually carrying out the party's tasks.

In dealing with terrorist cadres this restriction has serious implications. The terrorist Symbionese Liberation Army, for example, was formed by the members of several San Francisco Bay chapters of the Maoist militant Venceremos Organization. Some members and associates of the Venceremos gang did not want personally to become involved in terrorism, but later provided logistical support, including hiding places, for fugitive terrorists. Under the current guidelines and the proposed F.B.I. charter the identities of these people would remain unknown. In fact none of the now active terrorist support groups in the U.S. are being investigated.

As a result of these restrictions, the ability of the F.B.I. even now to provide information that it is required to give our government under the Loyalty and Security Program and Executive Order 10450 is virtually nil. But President Carter's Kennedy-Rodino Bill has a solution. And that solution may be found in Section 528 on Page 50 of the text of the bill: It repeals the laws that require the F.B.I. to assist in those Loyalty and Security programs, leav-

ing our government open to widespread infiltration by Communists at a time when Communist espionage involves thousands of agents operating in our country.

The Communists, of course, are not the sole beneficiary of all this. Although the Attorney General's Guidelines and the Kennedy-Rodino Bill are not specifically directed at stopping the gathering of intelligence on the activities of organized crime, the F.B.I. can no longer collect information on the activities of organized crime families when the activities are not themselves criminal violations. In recent months Special Agents of the F.B.I. in New York have complained in a memorandum that placed their jobs in jeopardy that they aren't able to gather sufficient information to develop racketeering prosecutions. For instance, the F.B.I. can no longer carry out surveillance of the funerals, weddings, and other "social activities" at which F.B.I. agents were formerly able to observe and photograph politicians visiting and paying homage to gangsters, racketeers, and the overlords of organized crime.

Naturally the Kennedy-Rodino F.B.I. charter acutely limits such "sensitive" investigative techniques as wiretaps, mail covers, trash collections, examination of bank records, and so on, along the lines proposed by the radical lawyers.

And remember that under the charter legislation all subversive organizations — across the board — will be immune from F.B.I. investigation unless it is shown that they will im-

mediately mount a terrorist operation or violate a federal criminal law.

### Congressional Resistance Grows

Concocted between the harshly critical staffs of the Congressional Judiciary Committees, the bureaucrats of the Department of Justice, and the radicals of the A.C.L.U. and the Center for National Security Studies joint "Project on Civil Liberties and National Security," the F.B.I. charter has been presented to Congress, as Senator Simpson said, "as a finished product, rather than as a Bill capable of being changed."

But changed it shall be if a bipartisan coalition of Conservatives and moderates has its way in the coming floor fights. *The Review Of The News* spoke with Congressman F. James Sensenbrenner Jr. (R.-Wisconsin) who serves on the House Judiciary Committee and the Subcommittees on Civil And Constitutional Rights, and Crime. Sensenbrenner said, "For the last five years the F.B.I. has been under attack by those who do not want a strong agency. An amended and sound charter passed by the Congress will be an important tool in thwarting these attacks." Representative Sensenbrenner vowed, "If we have our way the final version will not be written by the A.C.L.U.; it will increase the capability of the F.B.I., and will strengthen them in the areas of anti-terrorism, subversion, and in their war against crime. My staff and I are going to work to ensure that the F.B.I. is given the support that it both needs and deserves."

In the Senate, Senator Simpson's staff is already drafting amendments that would provide the Federal Bureau of Investigation with greater authority in its inquiries and is preparing a list of witnesses to be heard in Hearings when the Senate resumes business after Labor Day.

Representative Henry J. Hyde (R.-Illinois), the ranking Republican member of the Subcommittee On Civil And Constitutional Rights, told *The Review Of The News*: "It's a very controversial and hot issue, and when it comes before my Civil Rights Subcommittee it will be very carefully considered. I am not philosophically inclined to inhibit effective law enforcement, and that includes appropriate investigative techniques. And I am not one that believes there have been widespread abuses by the F.B.I." Congressman Hyde concluded: "As the Hearings develop, I will introduce and support measures to make it more effective. I don't believe in handcuffing the F.B.I. in this era of terrorism. I want them to be fully effective and fulfill their legitimate responsibility of safeguarding our citizens."

Conservatives would do well to contact their own Representative and Senators on this important issue. The issue is simply one of whether this nation is to be opened up to free reign for terrorists, enemy agents, and organized crime. If that is what we want there is no better way to achieve it than to approve the Kennedy-Rodino Bill to handcuff the F.B.I. in these essential areas. ■ ■



### And Now INTERPOL

■ INTERPOL, the world-renowned international police force based in Paris, is undergoing the same type of assault on its activities that has crippled both the C.I.A. and the F.B.I. — and with many of the same characters leading the charge.

Originally organized at Vienna in 1923 as the International Police Commission, INTERPOL now serves 126 coun-

49

### The Review Of The NEWS, October 31, 1979

tries. Its revised constitution has been altered to limit the role of this force to crimes involving drugs, counterfeiting, stolen gems, and works of art. Anything that smacked of military, political, religious, or racial character was long off-limits. Such restrictions permitted terrorists and hijackers to operate on an intercontinental basis in Europe with relative impunity. Based upon these restrictions, vicious murderers were able to yell "foul" when the Dutch police disclosed through the INTERPOL net that the Palestinian terrorist group, Black September, had mailed the letter bomb which killed an Israeli diplomat in London.

The recent barrage against any INTERPOL attempt to impede the wave of worldwide terrorism comes, predictably, from America where the Carter Administration has charged INTERPOL with violating personal privacy and human rights, and of using U.S. contributions to amass an international data bank which our Congress is powerless to monitor. West Germany, permeated as it is with spies, terrorists, and drug pushers, has taken up the cry of human-rights violations and is demanding the destruction of INTERPOL files. Now the drive against INTERPOL is taking on the characteristics of a Leftist objective.

From Germany the calls to give international criminals a clean slate and a clear field have spread to France. There it is not forgotten that during the de Gaulle era details on hundreds of thousands of Frenchmen were on file, and their telephones tapped, be-

cause they disagreed with the General over the war in Algeria. This was so recent, and feeling is so bitter, that despite the staggering increase in the crime rate the National Assembly has passed a Privacy-Protection Law.

To avoid clashing with the new law, the INTERPOL headquarters in Paris suspended plans to put index cards listing millions of known criminals into a computer bank. For terrorists and hardened criminals it is an indisputable victory. Law-enforcement officers who are being killed with greater and greater impunity know very well where this is leading: The supra-national government of Europe intends to take the matter out of the hands of individual countries and introduce its own computer bank where its enemies, the anti-socialists and anti-Common Marketters, will receive prominence.



62-7-79

## Secrecy: *Guardian* Security agency immunity

A court ruling last week effectively blocks the files of the National Security Agency (NSA) from the jurisdiction of the Freedom of Information Action (FOIA).

Ruling on a suit by Jane Fonda and Tom Hayden, the U.S. Court of Appeals in Washington decided Oct. 29 that the NSA does not have to provide a detailed analysis of why its documents should not be released under the FOIA. In a 3-0 vote, the court ruled that federal judges should accept the security agency's reasoning without question and that there is no

need for judges to examine the relevant documents.

"The present case is one example where some of the interests of the adversary process are outweighed by the nation's legitimate interests in secrecy and orderly process for disclosure," wrote U.S. Circuit Court Judge Malcolm Wilkey in the decision.

The court ruling effectively legitimizes the NSA's practice of submitting an opinion to judges, without the documents in question, expressing its views as to why the documents' release would imperil "national security."

Hayden and Fonda had charged that the NSA possesses foreign intelligence reports about them—but refuses to release the information.

The court ruling gives the NSA wider discretion in responding to suits under the FOIA than is afforded the CIA, partially under the rationale that disclosure of NSA material

would allow the plaintiff to determine what channels the NSA uses to monitor foreign electromagnetic signals.

In a significant related development, a federal judge has ruled that the CIA can only bill filers of FOIA suits when the released material benefits the individual alone. When it benefits society as a whole, the filer of the suit cannot be charged.

It is unclear, however, exactly what standards the agency will use to determine who benefits from disclosure. High costs have been a serious obstacle to facilitating the release of documents under the FOIA.



*It is at all times necessary, and more particularly so during the progress of a revolution and until right ideas confirm themselves by habit, that we frequently refresh our patriotism by reference to*

# First Principles.

THOMAS PAINE

## NATIONAL SECURITY AND CIVIL LIBERTIES

### The New Seattle Ordinance to Control Police Spying: How It Was Put Together

By Kathleen Taylor

This summer Seattle became the first city in the nation to enact legislation controlling police intelligence activities. Like cities across the country, local police had engaged in extensive collection of personal and political information about people's lawful activities. Unlike other cities, Seattle addressed the problem by establishing comprehensive controls governing all police investigations.

It is useful to examine how the Seattle community, represented by the Coalition on Government Spying, actively participated in developing and drafting intelligence controls. The Coalition (a project of the local affiliates of the American Civil Liberties Union, the American Friends Service Committee, and the National Lawyers Guild) joined with police officers and city officials in over a hundred hours of intensive drafting sessions.

The City Council had become concerned about police intelligence activities in 1975 when the acting chief of police revealed that he had destroyed over 600 improper intelligence files. Two years and three hearings later, the Council finally agreed to a few basic concepts for intelligence reform and appointed a committee—composed of the Coalition, police and prosecutors, and other city officials—to develop the legislation. The committee

(continued on page 6)

*Kathleen Taylor is the Coordinator of the Seattle Coalition on Government Spying. She would like to express special thanks to Kate Pflaumer and Larry Baker, who represented the Coalition in drafting the ordinance.*

#### Inside:

In the News, p. 8  
In the Courts, p. 12  
In the Literature, p. 12

New Documents, p. 14  
Chartering the F.B.I.  
John Shattuck, Jerry J. Berman and  
Morton H. Halperin, p. 16



## New Seattle Ordinance (continued from page 1)

struggled, line by line, with six versions before a final draft was approved. The process, although painfully long, produced an ordinance which will substantially alter police investigative procedures, but which even the police on the drafting committee grudgingly admit is workable.

### Three Starting Points

The Coalition for its part insisted that legislation must include its "principles for effective legislation" which had been endorsed by a wide range of community groups. The principles included a ban on political spying, strict limitations on the use of informants, an independent auditor, standards for collecting information, limits on dissemination of information, and realistic and enforceable penalties. All eleven principles were addressed in some fashion by the final version of the ordinance.

These principles had first taken shape a year before the city council gathered together a drafting team, when the Coalition began developing its own legislation. Although the Coalition attempted to write an effective and workable bill, in retrospect the original draft may have been neither. At that time, the Coalition could not fully assess its proposal's impact on the police because of an ignorance of police investigative work—a situation exacerbated by the department's unwillingness to explain its procedures. Despite this handicap, attorneys for the Coalition soon became experts in the arguments for the concepts of intelligence controls. And political intelligence files gained through a public disclosure lawsuit supported the community's demand for strict controls.

The Coalition's proposal was a variation of a model drafted by Jerry Berman of the Center for National Security Studies. It attempted to set standards to serve as general guidelines, but also to provide specific procedures for authorizations of investigations, record-keeping and review. Since the justifications used to begin a political investigation varied, the Coalition realized that it would be ineffective simply to eliminate the intelligence section, ban political spying, or even to design tight controls on investigations of political terrorism. Most crime labelled political terrorism could easily be reclassified into more traditional categories of crime if police found it expedient. Therefore all police investigations had to be subject to the controls of the ordinance. The Seattle ordinance adopts this basic framework.

But the Coalition was only one view within a drafting process peopled by aggressive and vigorous advocates of diverse positions. The police, vociferously supported by city attorneys, at first tried to narrow the scope of the ordinance to the intelligence section and minimize restrictions on investigations. They proposed limiting the bill to a list of affirmative guidelines setting forth the proper purpose and function of the intelligence unit: it should collect information about organized criminals, provide security to public officials, and collect other information as requested by the chief of police.

The City Council's participation in the drafting was to act as referee. Whenever an impasse was reached by the drafters, the issues were presented to the council committee for a decision. Fortunately, the council committee was led by Randy Revelle, a councilmember with a strong commitment to enact adequate controls.

### The Drafting Process: Reaching Agreements

The city drafting process was one of refining the Coalition's original proposal into a bill workable for the police and effective for the community. It was a give and take process. Anytime provisions in one section of the bill were relaxed to meet a legitimate concern, other sections had to be tightened. Coalition attorney Kate Pflaumer likened the process to a balloon. "If you squeeze it on one end, it must expand somewhere else. The reverse is true, too," she said. The modifications to the authorization procedures exemplify the process.

### What Authority For Collecting Political Information?

The Coalition's original draft anticipated that the most flagrant political abuses occur in investigations of "potential" crimes (non-violent protest groups have been surveilled on the speculation that they might someday do something illegal). Thus, the Coalition wanted a provision which would require a judicial authorization for the collection of political information during an investigation of a "future crime." But investigations of crimes which had already been committed and of organized crime, each had different investigative standards and needed authorizations signed by the chief rather than by a judge.

This three standard approach was considered too bureaucratically cumbersome by the city. And the Coalition acknowledged that authorizations for investigations might be more effective if approved by the lieutenant directly responsible for the investigation. The argument for a low level authorization procedure was based on the belief that the command officer in charge will be better informed about the investigation and the need, if any, to collect political information, and thus would be less likely than a judge or the chief to "rubber stamp" the authorization. And to prevent the authorizing commander and the investigating officer from themselves becoming rubber stamps, the Seattle ordinance holds them responsible for the authorization by establishing administrative penalties and civil liability for abuses. Similar liability would be difficult to assess against a judge.

### Investigations of Crime

Originally, the earlier drafts held that investigations were to be allowed to continue for seven to thirty days before authorizations to collect political information would be required. When the authorization procedure was collapsed into a single internal process, that period for unrestricted initial inquiry was dropped. An authorization now is required *prior* to collection of political information. The internal authorization procedure without an unrestricted initial inquiry may well be better than the original proposal for judicial authorization. It provides more accountability for collection within the department. It requires an officer to make a determination before collecting any information, why political and religious material is necessary.

The ordinance does not provide a standard for commencing all investigations. Instead, a strict standard for collecting "restricted information" (political or religious information) was adopted. There now must be reasonable suspicion that the *person* on whom restricted information is collected has committed or is about to commit a crime, and that the restricted information is relevant to the investigation of the crime.

This is the essential concept of the Seattle ordinance: to limit



collection of "restricted information" to that about an individual suspected of committing a crime, and to require a written, detailed authorization in order to collect it. In certain instances, restricted information can also be collected about a victim or a witness. In no case can information be gathered about associates of persons who simply hold views similar to those held by a crime suspect.

In the waning hours of the drafting, the new police chief suddenly proposed that the investigative standard be markedly altered to eliminate restrictions on investigations of most crimes. Any time the police had established probable cause that a crime had been committed, he wanted to allow the police full rein to collect any relevant information without an express authorization. Authorizations would only be required to collect restricted information prior to establishing "probable cause" that a crime had been committed. The question of the nature of the individual suspect's involvement was completely dropped. From the Coalition's standpoint, the chief's proposal was a dramatic change in approach which could not be handled just by tightening language elsewhere in the bill. The proposal aroused a major controversy which was resolved not by negotiations or redrafting, but by the mayor assessing the strengths of the contending parties and deciding to back the community over his chief.

#### Non-Criminal Investigations

Two aspects of police work not directly related to criminal investigations required special attention in drafting the bill. Both police protection for public officials and police services in connection with public events may arguably require collection of some restricted information, even where no crime is being investigated. But by using the pretense or the excuse of traffic and crowd control, police in the past have gathered excessive information about public political events and about the persons and organizations which sponsor them.

Since the information is not about criminal activity, its collection would not otherwise have been allowed under the ordinance. Therefore, an allowance was made to collect information necessary for traffic enforcement or to provide adequate city response to ensure the public health and safety. To avoid abuses, the information must be maintained in an area of the department open to public inspection during regular police department hours. Anyone will be able to review what the department is collecting, and it will be easier than making a public disclosure request.

The least restrictive sections of the ordinance pertain to infor-

mation collected pursuant to the protection of visiting dignitaries and officials. The city's responsibility to provide security for visiting dignitaries was hard to argue with, but the parameters for providing security were controversial. The police wanted broad leeway to collect restricted information about people who "might pose a threat to the security of a public official." This was soon limited to visiting rather than local dignitaries. Under a "might pose a threat" standard for carrying out investigations, it was feared that *any* organization vocally opposed to a public official would come under police scrutiny. The Coalition sought to limit the collection of information to people who actually "pose a threat" to the "life and safety" of the visitor, and to require authorization by the chief. After long and heated debate by drafting committee members, the council chair opted for the standard for investigating suspects who could pose a threat to the life and safety.

The looser standard was counter balanced with a requirement that a file be purged within 60 days of the visitor's departure, unless the subject continues to "pose a threat" and a new authorization is obtained. Dignitary protection files must be kept separate from other department files, accessible only to the officer charged with the duty of dignitary protection. They cannot be shared with other units or agencies unless the information meets the standards for a regular authorization.

#### For the Future . . .

The Seattle ordinance is considered a success. It received unanimous approval by the City Council. Citizen groups are cautiously optimistic, and the police department has begun instructing its personnel how to live by it. (Every police department employee, civilian and sworn, must attend 14 hours of training in information storage and collection.) The ordinance is the result of citizen groups maintaining a strong position but being flexible enough to incorporate the city's perception of appropriate police activities. And other provisions, such as the independent audit and record keeping requirements and the use of the state public disclosure law will help the Coalition monitor the new law.

The true test of the ordinance will come during the next "crisis" when the streets are again full of angry citizens with unpopular demands. Only then will we know whether it is possible to have legislative police intelligence controls that protect first amendment rights. ■

## PARTIAL SUMMARY OF SEATTLE POLICE INTELLIGENCE ORDINANCE

NO. 108333

July 2, 1979

### I. PURPOSE AND BASIC POLICIES

Section 1. *Statement of Purpose.* The ordinance shall allow information to be collected for law enforcement purposes, so long as this does not unreasonably interfere with First Amendment rights or the right to privacy.

#### Section 2. *Basic Policies.*

No person shall become the subject of an investigation because of political or community activism.

Information collection by the police shall be relevant to a proper police function and shall not be collected or used for political purposes. Police files shall be periodically reviewed for

relevancy and purged.

When gathering restricted information the police shall use the technique with the least adverse impact on lawful political or religious activity.

Disclosure of non-public police information shall be strictly limited.

### II. EMPHASIZED TERMS, EXEMPTIONS, AND EXCLUSIONS

*Infiltrator* means a person directed by the police to gather information from within and about a political or religious organization by acting or posing as a member or associate of the organization.

*Private sexual information* means information concerning a person's sexual practices or orientation.

*Restricted information* means information about political or religious associations, activities, beliefs or opinions.

### III. HANDLING PRIVATE SEXUAL INFORMATION

Section 11. *Collection and Use of Private Sexual Information.* Private sexual information may be collected only if it is relevant to and part of an investigation of a sex related crime.

Section 12. *Receipt and Transmission of Private Sexual Information.*



chive; grinder, The Bettmann Archive; roomer, Culver Pictures Inc.; drinkers, The New York Times.

"Camelot. Camelot."  
"I can't hear you well enough."

go on public television are suspected of thinking. This country isn't ready for a President who thinks."

SEATTLE — The post-Watergate years have brought disclosures that police agencies have engaged in large-scale collection of personal and political information about people's lawful activities. In Seattle, local policemen spied on black construction workers, Indians, antiwar activists and advocates of various causes.

But Seattle did something about it.

On July 2, the City Council unanimously enacted the nation's first law to outlaw political surveillance by the local police.

It is useful to look at the situation in Seattle, where the debate addressed concerns echoed across the country.

In 1975, when a Seattle police chief disclosed that he had destroyed political files on 750 Seattle residents, the City Council pledged to regulate police-intelligence activities. While the police denied improper activities, a coalition of community groups was created to press for strong reforms.

After three years of hearings and drafting, Seattle produced an ordinance that strikes a balance between legitimate law-enforcement needs and the protection of personal and political privacy. The police wanted to keep their wide latitude to investigate, and claimed that regulations would hamper routine police work. Citizens wanted to stop investigations of political groups, invasions of privacy and police harassment.

Experience in Seattle and other cities has shown that the police have an overly broad view of their investigative role. Lacking policy guidelines, policemen have not restricted themselves to investigating suspected criminal activity.

A former Seattle intelligence commander described how a typical investigation began: "Somebody was scanning the papers one morning, spotted the name of a group and said, 'What is that?' Somebody else sitting next to him said, 'I don't know. Let's find out.'

## Curbing Seattle's Police

By Larry Baker  
and Kathleen Taylor

And this is the way most of these things started."

For policemen, dissent itself becomes suspect. Isolated in a narrow world, the police fail to distinguish between advocacy and threats to public safety. Thus, the paranoia of Seattle policemen led them to suspect that a pro-Palestinian's summer sun tan was an effort to look like an Arab. It was inaccurate and irrelevant.

Unlike repressive dictatorships in other parts of the world, our system of government requires a police force that stays out of politics. The police have no business basing investigations on political ideology. They should limit themselves to enforcing laws passed by legislative bodies.

The Seattle law effectively addresses the need to investigate crime while protecting political rights. It prohibits the collection of political information unless it is about a person suspected of criminal activity and is relevant to the investigation. When it is necessary to solve a particular crime, the police can collect political information after obtaining a detailed written authorization.

In all cases the least-intrusive investigative technique must be used. In the past, policemen have used wiretaps and informants to obtain information

that could easily be gained from public sources. The result has been unnecessary invasions of privacy and a climate of fear and distrust.

One of the most crucial aspects of the new law is the establishment of an independent auditor with authority to review at random all police files. The auditor must notify subjects of improper surveillance. This supervision is essential to overcome the closed-door attitude of police departments.

The ordinance is careful not to interfere with legitimate investigations. Policemen can collect whatever information is necessary and relevant to criminal investigations. The ordinance merely requires that policemen justify the collection of political information.

The 14 hours of training each police officer is scheduled to receive before the ordinance goes into effect on Jan. 1 should help increase his sensitivity to First Amendment rights.

Representatives of the community sat down with policemen and other city officials for over 150 hours to draft the ordinance. Each side was a fierce advocate but each was able to respect the legitimate concerns of the other. The result may not be perfection, but as the bill's prime sponsor, Councilman Randy Revelle, said in urging his Council colleagues to adopt the ordinance: "Everyone involved in the drafting process is hurting a little. They all think something is wrong, but each dislikes a different provision. This tells me that the ordinance is roughly right."

The Seattle ordinance shows that it is possible to place appropriate controls on police activities. It is central to our political freedoms that other cities follow Seattle's judicious lead.

Larry Baker and Kathleen Taylor represented the Coalition on Government Spying in drafting Seattle's police intelligence ordinance.

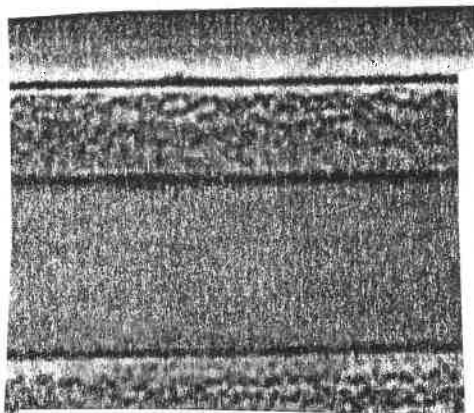


### Suit Against Philadelphia Police

■ Philadelphia, October 30 — U.S. District Judge J. William Ditter dismisses the bulk of a Justice Department lawsuit charging Mayor Frank L. Rizzo and 19 other top city and police

13

R-N 11-14-79



### Fonda and Hayden Lose FOI Suit

■ Washington, October 29 — The U.S. Circuit Court of Appeals for the District of Columbia rules that Jane Fonda and Tom Hayden have no right under the Freedom of Information Act to obtain National Security Agency reports about their anti-war activities during the Vietnam War. The actress and her husband asked the Agency to turn over all its material on them, but a District Court held that disclosure of the documents could damage national security interests. The three-judge Appeals panel agrees, saying that the information is "sensitive and properly classified," and that its disclosure might "help to identify communications intercepted by the NSA."

The Review Of The NEWS, November 14, 1979

officials with condoning systematic brutality and civil rights violations by the Philadelphia Police Department. In a 44-page opinion, Ditter says that the Justice Department had no standing when it filed the suit last August and that "to recognize standing in the case would be to vest an excessive and dangerous degree of power in the hands of the Attorney General." He criticizes the "sensational public statements" made by Justice Department attorneys and says that "the Government's timetable, in combination with its press releases, amounted to a stacked deck, the effect of which was to deny the individual defendants their day in court." Ditter says, however, that he will consider a minor portion of the suit, which alleged that the city discriminated in the administration of federally funded programs. Mayor Rizzo, in a statement, calls the decision "a triumph for the rule of law rather than self-serving political interests in the Justice Department which attacked this city and its outstanding Police Department."

## Destroy photographs

Portland police were observed Nov. 8 by a reporter for The Oregonian taking photographs of Iranian students parading in downtown Portland. They had a parade permit. Their demonstration was orderly. So, why the photographs?

The parade was an exercise of rights of political speech and assembly. If no unlawful behavior occurred, the taking of pictures by police would amount to state intimidation of those rights.

Chief Bruce Baker and Commissioner Charles Jordan, who supervises the Police Bureau for the City Council, should assure the public that all photographic prints and negatives not directly used in a criminal investigation will be purged from police intelligence files.

■ FORMER U.S. Ambassador to Cuba Earl E.T. Smith warns that American policy is helping to install and entrench Communist regimes in Nicaragua, Guatemala, and other Central American countries. Speaking in Washington before the National Committee for the Restoration of Internal Security, Mr. Smith urged revival of the Internal Security Committees of Congress. He noted that it was these Committees which documented how William Wieland and a handful of other State Department officials assisted Castro's takeover of Cuba, adding: "If the Senate Subcommittee on Internal Security were in existence today, it would be holding Hearings on how some State Department officials are interfering in the internal affairs of Latin countries" in support of Marxists and Communists. Smith cited a U.P.I. dispatch which quoted John Bushnell, Deputy Secretary for Inter-American Affairs at the U.S. State Department, as saying that a Leftist revolution in Guatemala like that in Nicaragua "is inevitable."

R-N  
3-5-80  
Anti-Intel

0 11-14-79



INTERNAL SECURITY BREAKDOWN LOWERS POLICE MORALE

*Anti-Intel*

THE PINK SHEET has often discussed the anti-internal security mania that has propelled the federal government and the federal courts to destroy our internal security safeguards.

Local police departments have had to destroy internal security files. And in New York City, according to well-placed PINK SHEET sources, files on Puerto Rican terrorists and others which have not been destroyed have disappeared. Additionally, court orders have made files open to possible terrorist inspection.

All this has had a serious impact on our own security. It also has had another serious impact which has received little attention: lowering police morale.

One New York City police veteran had summed it up well: "My kids have to raise families in this country and I'm damned worried about its future."

*PS 2-11-80*

PROPOSED BILL WOULD CRIPPLE FBI

*Anti-Intel*

Capitol Hill insiders expect liberal Congressman PETER RODINO, Chairman of the House Judiciary Committee, to send to the full House of Representatives a bill (HR 5030) to protect the "civil rights" of potential terrorist groups. It would effectively thwart the Federal Bureau of Investigation from infiltrating these groups.

An informed House source told THE PINK SHEET "this bill would put in concrete the current attempt to shackle the FBI. If it becomes law, the FBI cannot infiltrate the increasing number of terrorist-oriented groups in this country unless it can show a link to an impending--and the crippling word is impending--crime." Of course, no government intelligence body faced with the terrorist potential this nation faces can effectively operate under such shackles.

To be effective, FBI infiltrators must work their way into the fabric of potential terrorist groups and infiltrate particular cells, in order to prevent terrorist or other crimes. According to our source, HR 5030 "would leave us no defenses, because we need these 'moles.'" Yet the FBI would no longer be able to infiltrate on civil rights grounds."

The House Judiciary Committee, under the leadership of Chairman RODINO, has become top-heavy with liberals. This new bill, if allowed to pass, could effectively strip the FBI of much of its investigative power. Write your Congressman (U.S. House of Representatives, Washington, DC 20515) to let him know you oppose HR 5030.

*PS 4-7-80*



**B****The Oregonian**

FRIDAY, NOVEMBER 9, 1979

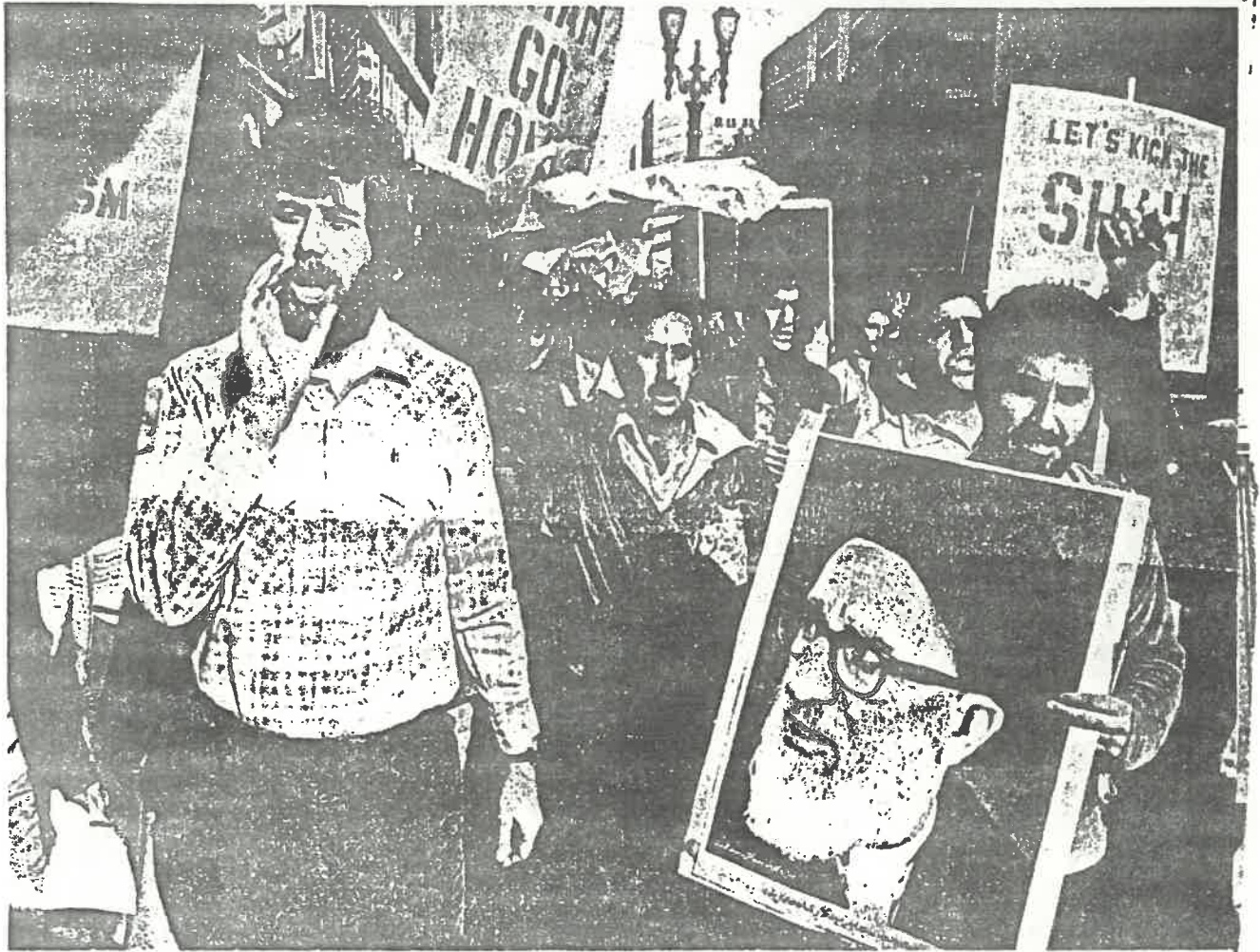
**METRO/NO**

Photo by TIM JEWETT

**AYATOLLAH OPPOSED** — Roy Priest (left), a student at Portland State University, shouts at supporters of Muslim Student Society in Portland Thursday as they

marched in support of occupation of U.S. Embassy in Tehran, Iran. Iranian leader Ayatollah Ruhollah Khomeini (on poster) appears to be watching.

over →



# Iranians attack Iranian march

By DON BUNDY  
of The Oregonian staff

About 30 supporters of the Muslim Student Society at Portland State University marched Thursday morning through downtown Portland, chanting "Down with U.S. Imperialism" and "Death to the shah" as bystanders jeered, pushed and spit on them.

A leader of the group, Mohammad Ahmadi, a PSU student from northern Iran, said the demonstration was aimed at "the imperialist activities of the United States government."

He said, "U.S. Imperialism is pro-

tecting the shah (the former Shah of Iran Mohammad Reza Pahlavi) who murdered thousands of Iranian people."

Ahmadi said the demonstrators supported the takeover of the U.S. Embassy in Tehran, where more than 60 Americans are being held hostage by followers of Iran's religious leader, Ayatollah Ruhollah Khomeini.

The demonstrators passed out leaflets that asked: "Can you justify aiding and abetting a criminal just because he gave you a good deal on stolen goods? Is oil more valuable than human lives? What would you do?"

Asked how the group felt about the hostages being held, Ahmadi said, "We support the occupation of the embassy as an anti-imperialist action."

Mohammad Tajally, an Iranian student at PSU and one of the demonstrators, said: "We are not against the American people. The American people are different from the American government."

The march began at Smith Memorial Center on the PSU campus and proceeded past the Multnomah County Courthouse then past the Federal Building.

As the group progressed, a crowd began to trail along behind, countering the demonstrators' chants. Hecklers yelled: "Death to the ayatollah," "Iranians go home" and other epithets.

C.M. Bell of Portland moved in front of the demonstrators as they moved past The Oregonian Building on Southwest Broadway, trying to prevent them from passing with their sidewalk-wide banners.

"Iranians go home," he said. "We don't need you. I don't support your attitudes toward our people in Iran. You come over here as students, and all you do is raise hell."

Terry Funkhauser, Portland, grabbed one of the signs being carried by the demonstrators and exchanged blows with him.

"What gives them the right to put those signs up in my country," he said. "They put up those signs saying how bad Carter is and how bad America is, but they wouldn't go home for anything."

As the group moved to Southwest Fourth Avenue, people working in the office buildings above leaned out open windows and spit at them.

Portland police interrupted the march at one point to check on the group's permit, then let it continue. Plainclothes officers from the intelligence division also were present, observing and taking photographs.

As the marchers headed along Southwest Clay Street and back toward the university, opposition to the demonstrators mounted. More anti-march people darted among them, ripping at their banners and signs, pushing and yelling obscenities at the stragglers.

Passing motorists were honking horns and yelling, "Send the Iranians home."

There were no injuries and no arrests.



PRESIDENT  
DAVID M. BURKS  
SHERIFF, LANE COUNTY, OREGON

## *Oregon-Washington Lawman's Association*

P.O. BOX 404 • EDMONDS, WASH. 98020

November 26, 1979

The Editor  
The Oregonian  
1320 S. W. Broadway  
Portland, Oregon 97201

Dear Sir:

Your editorial of November 14th, entitled, "Destroy Photographs", presented false issues and fostered misunderstanding. The subject of the editorial was police action at a November 8th demonstration in downtown Portland, involving Iranian students and counter-demonstrators.

Questions posed to the editorial readers were: "Why photographs, the parade was orderly. There was no unlawful behavior." The police were criticized for picture-taking of a lawful assembly. The editorial claimed that such action amounted to state intimidation of citizens' rights. The Oregonian advocated that the photographs be removed from police files and destroyed.

To clarify the issues presented in the editorial and provide accurate information to the public, the Oregon-Washington Lawman's Association offers the following:

Photographs are frequently taken at potentially violent demonstrations by plain-clothes officers to provide evidence of crimes should persons be attacked. Uniformed officers are normally not in the view of the crowd to reduce intimidation and unnecessary contact during emotional demonstrations. Typically, a reserve force of uniform police can be moved in to quell a disturbance if one should break out.

No photographs were taken during this particular demonstration by the police, and reserve forces were not needed. There were no photographs to destroy. More important considerations are involved, however, in evaluating police actions and The Oregonian's editorial.

The reality of crowd control is that police officers are experienced peace keepers. They are able to prevent violence with quiet, professional measures. For example, during this same November 8th demonstration, plain-clothes officers removed a club



from the sleeve of a counter-demonstrator who had apparently intended to use it to advance his objectives.

The editorial states that there was no unlawful behavior, although The Oregonian's own reporter, Don Bundy, in describing the November 8th demonstration in The Oregonian, said that the Iranian marchers were shouting, "Down with imperialism and death to the Shah, as bystanders jeered, pushed, and spit on them". The taking of pictures, if the police had done so, is no more intimidating than the press so doing. This is because they are both dressed exactly alike, in plain, unidentified attire. The public, we believe, tends to realize, however, that it is the press who maintains photos in a library mode for years, while the police do not maintain photographs unless a person is accused of a serious crime and is arrested.

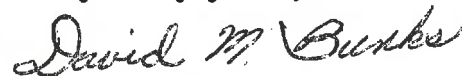
Even though no photographs were taken during the November 8th demonstration, the issue of the legality of the police doing so has been clearly deemed appropriate by the courts. A few case citations which police surveillance and photography of participants have been upheld are: *Laird v. Tatum*, 408 U.S. 1, 92 S.Ct. 2318, 33 L.Ed.2d 154 (1972); another case we invite readers to review is *Aronson v. Giarusso*, 436 F.2d 955 (5th Cir. 1971).

These Appellate Court cases, and numerous others, clearly indicate that the police can surveil and photograph participants in demonstrations in order that the peace and safety of the public can be advanced while citizens' rights to demonstrate are maintained.

The Oregonian over-reacted to their lack of knowledge of police authority by presenting false information and faulty conclusions to the public.

Accuracy and accountability are expected of all who serve the public and that clearly includes the press and law enforcement. It is the position of the Oregon-Washington Lawman's Association to do our utmost to advance professionalism, while protecting both the rights of citizens and maintaining the public peace.

Very truly yours,



David M. Burks, President  
(Sheriff, Lane County, Oregon)



# "DOMESTIC SPYING": THE CONSTITUTIONAL IMPERATIVE

American Spec. Jan. 80

The proposed FBI charter would give every terrorist one free blast.

In 1975 a Federal Bureau of Investigation informant assigned to infiltrate the "Black Guerrilla Family," a terrorist group closely linked with the Symbionese Liberation Army kidnapers of Patty Hearst, caught wind of a chilling plot. BGF members were talking of kidnapping Governor Jerry Brown's sister and holding her hostage until the governor freed the two SLA killers serving life sentences for murdering Oakland's black school superintendent, Dr. Marcus Foster.

Instantly, the FBI tipped the Los Angeles police. They threw a 24-hour guard around the governor's sister and her family, and mounted a tight surveillance on six suspected plotters whose prison records included sentences for murder, rape, and kidnapping. An all-out investigation eventually produced sufficient evidence to arrest the ringleaders on unrelated criminal charges.

This was "preventive intelligence" at its best. Through the years, the FBI's domestic intelligence operations have aborted many such terrorist plots. Yet these successes have been overshadowed and forgotten in a drumfire of news media and congressional criticism of "government spying." In September 1977 the chairmen of two important Senate committees over, seeing intelligence, Senators Frank Church and Edward Kennedy, called for new legal restrictions that would end all such FBI intelligence investigations: "No American should be investigated unless the Bureau has probable cause to believe that a crime has been, is being or is about to be committed," they declared. "The public record is devoid of any evidence that intelligence investigations are an effective tool in protecting the public from terrorist violence." That these committee chairmen could make such a demonstrably erroneous claim and go unchallenged is a measure of the unrealism in Washington over "government spying." Consider these episodes revealed in the published reports of

Senator Church's own Select Committee to Study Intelligence Activities:

- In September 1974 Japanese Emperor Hirohito paid a state visit to the United States. An FBI file check on press-pass applicants turned up disturbing secret informant reports about one. The applicant, a Japanese-American woman living in Los Angeles, had been closely associated with the violent American Indian Movement and had been in touch with the Black Panther Party. Further investigation showed that her next-door neighbor, another young radical woman, had recently acquired two "assassination special" automatic pistols plus a powerful military rifle. The gun-buyer had then moved to New York, where Hirohito was scheduled to make several public appearances. Two informants strategically placed within extremist organizations reported to the Bureau that there was indeed a plot afoot to assassinate the Emperor. Hours before his New York appearances, federal authorities raided the terrorists' apartment and found a cache of illegal weapons. To avoid identifying the informants and ending their usefulness, the Justice Department prosecuted the two occupants on firearms charges in lieu of pressing an assassination conspiracy case.

- In June 1974 two FBI informants at a

meeting of a white hate group in New Jersey learned that a Klan activist planned a bombing in an unidentified city. Further investigation revealed that he had collected diagrams of the sewer and water systems of Washington, D.C., and had targeted the Internal Revenue Service headquarters. He and a number of associates were caught redhanded with an arsenal of weapons and chemical explosive components, and were put behind bars.

- In June 1970 an FBI informant within the Black Panther Party warned of a planned ambush on Detroit police, and named the designated attackers. On the appointed day, two unseen snipers riddled a police cruiser with armor-piercing bullets. Miraculously, the two officers were only wounded. Police caught the would-be killers with their weapons when they returned to their nearby residence—sent them away with long prison terms. Three other named Panthers scouting another section of Detroit for a diversionary target were nailed with illegal weapons in hand, convicted, and sent to jail.

Intelligence operations of the sort that thwarted these three plots would be impossible under the restrictions Senator Kennedy and Church now urge Congress to write into law in order to stop "government spying." As one intelligence official recently warned, "We are in some instances attempting to cure a sore throat by decapitating the patient."

Indeed, the FBI's domestic intelligence operations have already been virtually destroyed. Under Attorney General Edward Levi's 1976 guidelines, pending investigations were slashed in two years from 9,814 to 642, and the number of special agents assigned dropped from 783 to 143. Instead, more than 500 agents were transferred to doling out FBI files under the Freedom of Information Act—allowing outsiders to identify informants, at least one of whom was later murdered by Mafia gangsters. And since 1976 the number of domestic intelligence informants has been cut from 1,100 to fewer than 50. The fall-off



Eugene H. Methvin is a senior editor of Reader's Digest and the author of *The Riot Makers* and *The Rise of Radicalism*.



in intelligence has been so severe that the Secret Service director has warned Congress that there is now growing doubt about his agency's ability to protect the President, Vice President, and visiting heads of state.

When Mark Rudd, an original Weather Underground organizer, surrendered in 1977 after seven years on the FBI's "Ten Most Wanted" list, the Carter Justice Department did not even call him before a grand jury to be questioned about the 1971 bombing of the U.S. Capitol or the support apparatus that helped him and his fellow terrorists evade the FBI for so long. At the time, Attorney General Griffin Bell had a dozen lawyers pursuing top FBI officials who had authorized electronic surveillance and surreptitious break-ins against the Socialist Workers Party. Not a single agent was assigned to investigate the Weather Underground itself.

When newsmen asked in 1977 how a band of Hanafi Muslims could seize 110 hostages in three buildings within blocks of the White House, they got a simple answer: An informant within the group had been withdrawn to appease political critics of "government spying."

In this atmosphere Congress is now moving to write into law a "charter" that would further restrict the FBI's domestic intelligence and anti-terrorist activities. Many of the charter's advocates are still reacting against the abominable excesses of J. Edgar Hoover. But as the Senate Select Committee to Study Intelligence Activities rightly concluded, "The excesses of the past do not justify depriving the United States of a clearly defined and effectively controlled domestic intelligence capability." In other words, our concern for individual privacy and political freedom must be balanced against the need for effective intelligence about terrorist conspiracies which threaten the rights of everyone.

Indeed, the delicacy of the intelligence task springs from the unprecedented nature of 20th-century extremist movements operating on the principle "Kill one, frighten ten million." Declared Leon Trotsky, "No underground group can function without a screen of sympathizers." To penetrate the screen requires intelligence of a surgical precision that can be obtained

only with the full arsenal of modern clandestine operations: informant networks, electronic surveillance, covert action. If it is to give the FBI that capability, Congress must address itself to several important questions about domestic intelligence, lest it enact a charter that, like the draft now being debated, would emasculate the FBI in the name of civil liberty.

1. *Whom do we watch?* For 60 years American legislators and Supreme Court Justices have struggled with this problem. The Justices have refused to allow legislatures and courts to jail advocates of violence for "mere words" until they present "a clear and present danger" or an "imminent threat of lawless action." Yet, to apply such stringent criminal formulas to prohibit merely watching the radical milieu in which extremists grow and organize means that, as one judge pointed out, "we give every terrorist one free blast." So the courts have repeatedly overruled civil libertarians' claims that the mere existence of a governmental data-gathering and "spy" apparatus "chills" free speech and political activity. As Justice Thurgood Marshall said in upholding FBI informant penetration of the Socialist Workers Party: "Our abhorrence for abuse of governmental investigative authority cannot be permitted to lead to an indiscriminate willingness to enjoin undercover investigation of any nature, whenever a countervailing First Amendment claim is raised."

Yet the Carter administration's draft charter goes a long way toward doing just that. It largely accepts the "criminal standard" sought by the American Civil Liberties Union and its congressional allies. The charter would permit investigation only after the FBI already has "facts or circumstances that reasonably indicate" a group or person has engaged in criminal activity.

Consider how this "criminal standard" would cripple law enforcement. On September 22, 1977, terrorists murdered a prominent San Juan labor lawyer in his own home. The killers distributed clandestine "press releases" proclaiming the victim was "condemned to death and executed by Labor Commandoes" for "crimes against the working class." On one such communiqué police found a single fingerprint. Tracing it was impossible—until an FBI analyst studied files on Puerto Rican

extremists based on informants' reports and made up a list of 400 possible suspects. The print was quickly traced to militant Teamsters Union organizer Miguel Cabrera, who more than four years previously had quit as too mild the Cuban-financed Puerto Rico Socialist Party. Then witnesses to the killing identified a photograph, and Cabrera and two others were arrested and tried on murder charges. A jury found them not guilty last March—but since their arrests the "Labor Commandoes" have not been heard from since. As literally scores of criminal cases demonstrate, such "intelligence" files based on informants' reports are crucial to stopping terrorist campaigns as soon as they begin, if not before. The December attack on a U.S. Navy bus in Puerto Rico, which killed two, underlines the point. Yet that kind of general background intelligence has not been collected since Levi's guidelines were imposed in 1976.

The open society's predicament in the face of terrorism is symbolized by the infamous snapshot of President Kennedy's assassin, Lee Harvey Oswald, proudly holding his sniper-rifle in one hand and the Trotskyite Communist newspaper the *Militant* in the other. The social fact of 20th-century extremism is that violent words tend to produce violent deeds. People who don sheets or swastikas or proclaim themselves "Marxist-Leninist" espouse genocidal philosophies that have produced millions of dead in this century. Does not this historical record present reasonable "probable cause" at least to watch such groups?

2. *What about electronic surveillance?* Due to congressional inaction, the U.S. government for the past six years has been denied the ability to use bugs and wiretaps for intelligence against domestic terrorists. In 1972 the Supreme Court required, for the first time, prior judicial authorization for all such surveillances of strictly domestic terrorist groups. At the same time, the Justices urged Congress to enact a law establishing more lenient standards for such court orders than those applied to criminal warrants, in order to meet the special needs of intelligence-gathering. Not until last year did Congress act. By a narrow margin, the legislators passed a bill permitting warrants to be issued under less stringent standards for surveillance of foreign spies and terrorists; incredibly, however, that bill failed to authorize equal coverage of the domestic variety, so that the stricter criminal warrant criteria remain in place. Does it matter to American citizens whether the bomb or bullet that kills them is aimed by a Palestinian or Ku Kluxer, by domestic or international terrorists?

3. *What role should informants play?* In 1977 Attorney General Bell found himself deciding whether to let FBI agents teach would-be assassins how to shoot. Two FBI agents, posing for four and seven years as disgruntled Vietnam veterans, penetrated





the Weather Underground and met fugitive radicals who taught them how to make bombs. In return, the terrorists demanded that the "veterans" show them how to shoot. Their proposed victims: a judge, a California senator, and the leaders of anti-busing protests. Bell instructed the undercover agents to go ahead, but to use techniques worked out by FBI academy instructors that would ensure that the terrorists would be atrocious marksmen. Ultimately, the FBI arrested five members of the terrorist group hours before they planned to bomb the California senator's office; four of them pleaded guilty.

Such operations obviously require risks and trade-offs. During the maelstrom of campus violence in the late 1960s, for instance, one FBI informant played a daring but adept game of deterring violence by "one-upmanship." Whenever someone threatened to throw a firebomb, he would ridicule the notion and propose "something really powerful—I can get some next week." By "next week" either the would-be terrorist would have cooled off, or the FBI informant would think up new excuses. Eventually, however, one group slipped away from the counselor-of-delay and firebombed an ROTC headquarters. The informant promptly turned them in, only to be accused by the defendants of having initiated the episode himself as an agent provocateur." Ultimately, a grand jury investigation exonerated the informant, and the firebombers were convicted.

The proposed Carter charter would require the FBI to instruct informants that they shall "not participate in crimes of violence." The FBI has always done so. But agents working against Ku Klux Klan terrorists had to shut their eyes because, as one testified, "You can't be an angel and be a good informant in the Klan." Thus, while on the FBI payroll, one Klan informant in the company of other Kluxers at civil-rights demonstrators, boarded buses and kicked people, and charged into restaurants and beat blacks with black-

be authorizing a gigantic shift of power away from the executive and legislative branches, both answerable to the electorate, and toward the judicial, which is not. In 1972 the Supreme Court itself warned against this trend: "Carried to its logical end, this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of executive action. Such a role is appropriate for Congress acting through its committees and the 'power of the purse'; it is not the role of the judiciary."

4. *Will we allow covert counteraction?* Lawmen controlling informants within extremist groups face a classic dilemma. Prosecution requires "surfacing" the informant as a witness, ending his usefulness. "Do we prosecute one or two terrorists and leave a dozen or so unwatched?" one Justice Department lawyer asks. "We might thereby expose innocent people to worse violence." The alternative is to leave informants "in place" and exploit every opportunity to disrupt, expose, and disintegrate the extremists or turn their violence inward, thus accomplishing the ultimate purpose of law: keeping the peace.

Six times from 1956 to 1971 the FBI launched covert counteraction campaigns—"dirty tricks"—against a wide range of groups. In September 1964, after civil-rights workers were murdered in Mississippi, Attorney General Robert Kennedy proposed and President Johnson approved an all-out "secret war" on the Klan modeled on the FBI's first such disruption campaign, against the U.S. Communist Party. In Mississippi FBI agents identified 5,000 Klan members and interviewed every single one. Inside two years, they had "turned" more than 2,000 Klansmen into informants. "We had the Klansmen looking in their own pockets," C.D. Brennan, the FBI Assistant Director who ran the program, told me. "At the end of three years, we were virtually running seven of the 17 Klan groups. Through our top-level infiltrators, we issued instruc-

tions to all Klaverns: 'No Klansmen are to engage in any violence because that's just what the "feds" want, and we have to "outwit" them instead.'" That effectively ended the Klan threat.

Despite such past success, when a provision for strictly limited covert action was included in Attorney General Levi's 1976 guidelines, it stirred such Capitol Hill opposition that he withdrew it. Today, many in Congress propose legislation designed expressly to prohibit any FBI covert counteraction.

This would be a grave mistake, as would adopting the FBI charter in its present form. Congress can no more tell the executive branch how to wage internal war "to preserve, protect, and defend the Constitution" than it can write a handbook telling Air Force fighter pilots how to defend against Soviet bombers. It can play its classic role of calling the responsible officials to account for their stewardship and ventilating mistakes for future correction. If the Congress does its job of oversight, it can confidently arm our peace officers with the weapons of law enforcement—electronic surveillance, informant networks, surreptitious searches, and covert action—necessary for waging war on terrorists without seeming to sanction the kinds of abuses that have brought intelligence-gathering into disrepute. In writing an FBI charter, Congress would do well to follow Justice Robert H. Jackson's wise injunction that an open society must continually struggle to "reject as false claims in the name of civil liberty which, if granted, would paralyze or impair authority to defend the existence of our society and reject as false claims in the name of security which would undermine our freedoms and open the way to oppression. Our Constitution is not a covenant of non-resistance toward organized efforts at disruption and betrayal." □



Bob Wedrich

# Giving the FBI a rotten deal

IT IS AMAZING how international tensions can change the minds of politicians concerned about the propriety of methods used to combat domestic subversion.

In periods of detente with Moscow, Federal Bureau of Investigation agents charged with maintaining national security are considered civil rights-violating bums.

But when the Russian bear snarls across the borders of Afghanistan and thrusts his paws toward the Persian Gulf, the same politicians holler for the cops to protect their precious security at all costs.

The hypocrisy is disgusting. However, the price paid by the victims of such political vascillation is tragic.

Nearly three years ago, for example, the Carter administration's Justice Department obtained the federal grand jury indictment of former Acting FBI Director

***The Justice Department is persisting in invoking post-Watergate morality retroactively to the revolutionary 1960s, when terrorists were blowing up buildings.***

L. Patrick Gray; W. Mark Felt, former associate director, and Edward S. Miller, onetime assistant director for domestic intelligence.

The three were charged with having conspired to violate civil rights by ordering illegal break-ins in the hunt for fugitive members of the terrorist, radical Weatherman Underground organization.

THE GOVERNMENT alleged the three officials had been overzealous in FBI efforts to track down those believed responsible for the 1971 bombing of the capitol, among other violent acts.

And since the indictments, the Carter administration and the Justice Department have steadfastly refused to dismiss the charges, even though the defendants contend they were operating with the authority of the President of the United States.

In the course of their ordeal, about \$300,000 in legal fees have been accumulated by the 130 past and present FBI agents involved in the Justice Department witch hunt.

Former FBI Supervisor John Kearney alone rolled up \$158,000 in attorney's fees before former Atty. Gen. Griffin Bell dropped charges that Kearney had violated civil rights by directing subordinates to make surreptitious entries of domestic terrorist groups and read their mail.

And thus far, Miller and Felt face legal fees of nearly \$200,000, a figure certain to rise higher after their trial opens in Washington.

Clearly, these men have paid a high price for defending their country against foreign subversion.

AND BEFORE THE case is over, the price to American taxpayers may be even more staggering.

For it is estimated that by the time the trials are over, the government will have spent more than \$20 million to investigate and prosecute those accused of the spurious charges.

And all because the Justice Department is persisting in invoking post-Watergate morality retroactively to the revolutionary 1960s, when terrorists were blowing up buildings in their efforts to violently overthrow the United States government.

Incredibly, the vendetta goes on even as the Carter administration has done a complete about-face and is now preparing to ask Congress to create a secret court with power to authorize break-ins and mail openings by government agents.

That is where the hypocrisy comes in, because the proposal is being made as part of a comprehensive intelligence agency charter by the same Carter administration that indicted the FBI agents for conducting the same kind of operations.

EVEN MORE INCREDIBLE, President Carter is citing mounting U.S.-Soviet tensions as the reason for loosening restrictions on national security activities.

In short, the President is declaring that he wants FBI agents to go on doing what they always did because their country needs them to protect it.

He is recognizing the need for mail openings, wiretapping, surreptitious entries, and other forms of surveillance to safeguard the nation, just as did virtually all of his predecessors at the White House.

But he is refusing to instruct his Justice Department to drop the charges against Gray, Felt, and Miller because the operations they are accused of having ordered were not conducted under his ground rules.

In doing so, Jimmy Carter is conveniently forgetting that a succession of four Presidents and their attorneys general knew that such operations now deemed illegal were being carried out.

He is conveniently overlooking the files documenting information that Presidents practiced the doctrine of plausible deniability to avoid getting blamed themselves for acts they authorized that might later be questioned.

And he is unconscionably ignoring the hypocrisy of turning back the clock to retroactively apply standards prevailing today that that were not demanded by previous Presidents.

THESE GOOD AND decent men — Grey, Miller, and Felt — have suffered enough. So have Agent Kearney and the others who endured public shame before the Justice Department decided to prosecute their former bosses instead.

For having sought to defend their country with methods historically authorized by implied presidential consent, the three former officials still have their heads

snared in a pillory that only President Carter can unlock.

And I don't think Congress should grant him the powers he wants today to face a renewed Soviet menace without demanding that he correct the wrongs of his administration against these men yesterday.

Anti-Intelligence



## Archives Cross-Reference Sheet

The following **PHOTOGRAPH NEGATIVE MAP PLAN REPORT** **DOCUMENT** has been removed from this file. It can be found in:

Location: 01-09-46/4 Folder 6

Series No.: 8090-03 A2004-005

Title/Description: INTELLIGENCE  $\frac{1}{1}$  - Tabloid/broadside - 11 $\frac{1}{2}$ " X 17"

"Say No to the FBI," Center for Constitutional Rights, circa 1980

Restrictions: \_\_\_\_\_

Date: 4-19-06 By: Heane Arndt



Return to  
FALKthe  
pagePolice in the United States  
could be spying on YOU!

By DAVID F. POWER

The intelligence Section of the Seattle Police Department is one link in a nation-wide chain of police computers used to collect and transmit "intelligence data" on American citizens.

The Center for National Security Studies in Washington, D.C., has studied documents which reveal Seattle's role in a massive, federally-funded electronic network used to spy on United States citizens.

The federal Law Enforcement Assistance Administration (L.E.A.A.) spent \$100 million the past 10 years in most of the 50 states to develop several of these computerized "telecommunications" systems.

The computer chains include police units which claim to investigate "organized crime," "terrorists" or "subversives." Some of the networks extend to foreign agencies.

Lawsuits against police departments in Chicago, Detroit and Houston — all members of one or more of the networks — have exposed massive police dossiers on hundreds of thousands of innocent citizens.

Just this March, L.E.A.A. added \$15,000 to such an inter-agency agreement with the State Department to computerize its "Terrorism Data Base." The Washington Star reported that "the United States has swapped information about political dissidents with foreign governments and may do so in the future in an effort to check terrorism."

The Star added that the State Department admitted Cuba had received information about refugees in the United States.

The Center for National Security Studies interviewed John Perdew, a State Department agent who has direct control over the file. (L.E.A.A. funded the data base despite a December, 1976, amendment which rescinded its authority to investigate or deal with civil disorders or "subversives.")

Perdew, of the "S.Y. Command Center" of the Office of Security in the State Department, told us that this "name-check system" contains 20,000 names of individuals and organizations. He estimated that "19,000 or more" of these are foreign.

Perdew said the command center used to do "name checks" through the Treasury Enforcement Communications System and the Federal Bureau of Investigation's National Crime Information Center. Both are "telecommunications systems" like those financed by L.E.A.A. for local police use.

In fact, L.E.A.A.'s predecessor, the Office of Law Enforcement Assistance, financed the National Crime Information Center computer system, which links at least 80 computer terminals in every state and in several federal agencies.

Another system links every one of the 50 state capitols through a central computer, in Phoenix.

The L.E.A.A. has and continues to finance this operation, run by American Telephone and Telegraph.

The State Department now is linked to that system, too. Perdew said the State Department does not "query" local law enforcement, but that local departments could query it.

Perdew also said the command center keeps no records of who receives information from its data base. (Even the intelligence computer system of which Seattle is a member requires its users to maintain these "transaction logs.")

When questioned about the 1,000 domestic names in the file, which

civil-rights question, such tactics have proven to be ineffective, since illegal investigations never have succeeded in anticipating or preventing political violence," he said.

The Seattle Times reported June 27 that the Police Department has been sued by private individuals and organizations which said they were victims of police surveillance. In November, 1975, The Times reported that the Police Department had shredded 730 of its files, which contained "improper" information.

The reports of file shredding surfaced again December 15, 1976. But the Seattle City Council Public Safety and Justice Committee heard testimony February 8, 1977, that the police had files on the Socialist Workers Party, the Open Door Clinic, the United Action Caucus of the Communications Workers of America, and Cheryl Sedlik of the American Civil Liberties Union.

A conclusion from the research by The Center for National Security Studies is that the electronic network makes possible the instantaneous transmission of information:

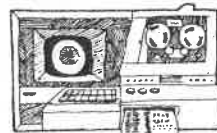
Files which police claim to have "destroyed" or "shredded" in one city can easily be placed in computer storage in any other city on the network and retrieved later.

Don R. Harris, a panelist in the July 26 City Council hearing, said later that police intelligence files can be transmitted electronically from coast to coast. Harris visited and studied twenty police departments while writing "Basic Elements of Intelligence: A Manual for Police Department Intelligence Units (1976)." The manual was supported by a grant from, and published by, the L.E.A.A.

Harris said that no police department could directly query another department's computer to obtain intelligence data.

The security against it, he explained, is that a police officer who receives a request for information must search the intelligence file by hand.

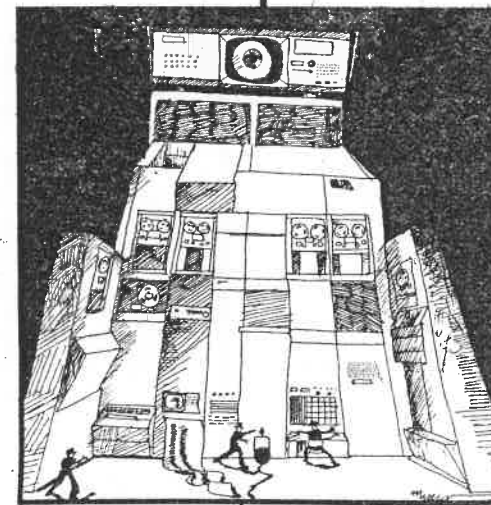
Once the intelligence is located, however, the police officer can transmit the information directly to any inquiring police department. This computer-message system is operating in the Seattle Police Department.



Lt. Jerry Anderson, of the Seattle Police Intelligence Section is on the executive board of this crime-index system.

Anderson also is a member of its nine-man technical operations subcommittee, which prepares the system operating manual. The crime index, also financed by the L.E.A.A., is an unincorporated association of several hundred police officers across the country and in Canada, with its own bylaws and code of ethics.

L.E.A.A. documents describe a "prototype" or first phase of the index as a 30-terminal network in which messages are "switched" between terminals by a central computer located in the intelligence



— Staff illustration by Joe Myers.

David F. Power, a graduate of the University of Chicago and a law student at Temple University in Philadelphia, worked as a legal intern this summer for the Center for National Security Studies in Washington, D.C. This article is taken from a report the center is preparing on ways the federal government has helped pay for investigations of United States citizens. It partly is based on testimony at a Seattle hearing on the role of the city police department.

crime index which permits the collection only of "public-record-information type of data." But the "special condition" is only a paper regulation and can be changed with the flick of a pen. An example is the modification of an L.E.A.A. program to permit the expanded, invasive use of a State Department Intelligence file.

The crime index is a summary of the persons named in the L.E.I.U. files. The extended questioning and debate about what is a "public record" thus concerns only the index itself, and L.E.A.A. places no restrictions on the content of the "private" manual files, which each L.E.I.U. detail claims to "own."

The crime index merely serves to "point" to the police department holding the correct L.E.I.U. cards. The Purpose is to point out to an inquiring agency the names and locations of what are labeled "additional information agencies."

Regardless of how much the L.E.A.A. may restrict the contents of the index, the subjects' names will always be included and they are sufficient to determine who holds L.E.I.U. cards on those subjects.

Now that the crime index is in full swing, all a police department needs to do is dial the free phone number, give the name of the subject they want intelligence on, wait for the "minicomputer" operator in Sacramento to punch a few buttons to retrieve the records of that subject, and write down the names of the other L.E.I.U. details who maintain the raw "Miscellaneous Intelligence Information." The requesting department can then dial the "additional information agencies" and retrieve the intelligence verbally.

over

↓

↓



puter system of which Seattle is a member requires it to maintain these "transaction logs.")

When questioned about the 1,000 domestic names in the file, which is being computerized with the \$15,000 from L.E.A.A., Perdue said the system is "strictly oriented for overseas."

He added, however, "We are, in a slight way, getting involved in domestic terrorism, to protect visiting foreign dignitaries."

Among those groups which have been investigated, Perdue said, are the Jewish Defense League, Iranian Students and the Clamshell Alliance, which occupied a nuclear reactor construction site in Seabrook, N.H., this May.

Internal L.E.A.A. memoranda disclose an exchange about the State Department terrorism file between the L.E.A.A. office of General Counsel and L.E.A.A. International Activities Staff.

The memos disclosed that L.E.A.A. funding for the "name check" system would be legal only if the intelligence was shared with "state and local law enforcement agencies." It is obvious from the file documents that there is more than an "academic" possibility that local police will use the data base.

The State Department office of security, in another memo, informed the L.E.A.A. International Activities Staff that "the system will permit much quicker retrieval of information about . . . 'suspect' personnel and . . . provide much prompter service to other law enforcement and security agencies asking for verification of employment, other sorts of name checks, etc."

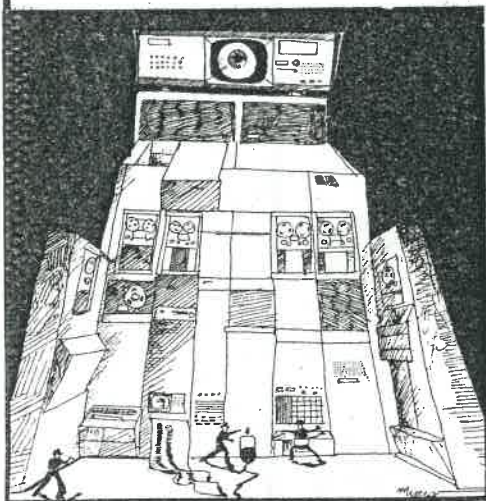


But a vital question remains: What is "terrorism?" If the non-violent Clamshell Alliance, which peacefully protests the construction of nuclear reactors can be considered "known terrorists," who will avoid being branded and spied upon?

The definition of "terrorism" is vital for Seattle residents because the proposed Seattle Police Department guidelines now being considered by The City Council permit the police to investigate "terrorism" as one form of "organized crime."

The proposed "Statement of Policy and Mission" may also give the Intelligence Section authority "to investigate events which may disrupt the community . . ."

Jerry J. Berman, director of the Project for Domestic Security, testified at a July 26 Seattle City Council hearing that he is "adamant that any investigation (into political groups) aimed at anticipating criminal activity is an illegitimate intelligence function. Aside from the



index as a 30-terminal network in which messages are "switched" between terminals by a central computer located in the intelligence section of the Michigan State Police in East Lansing.

In a manual second phase, 218 police agencies nation-wide and in Canada, including Seattle, now have access to the crime index headquarters via free telephone lines. These 218 agencies can obtain intelligence data by asking headquarters to search card files by hand.

A third phase is being developed. The crime index will install a "minicomputer" containing a file made up of the manual records in the Sacramento headquarters.

The "minicomputer" will be programmed to search its memory when ordered by headquarters personnel, greatly accelerating the retrieval of data.

It should be operating by December.

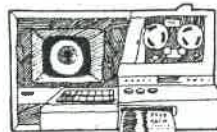
The Intelligence Section of the Seattle Police Department; therefore, can transmit intelligence data across a network which can handle up to 26,000 messages an hour. Messages can be passed back and forth between most major metropolitan police intelligence units.

Controversy erupted again in June over a Justice Department proposal to give control over a similar "message switching" system to the Federal Bureau of Investigation.

Representative John E. Moss, California Democrat, warned that if the F.B.I. were permitted to control such a system, "state and local criminal-data systems could be absorbed into a potentially abusive, centralized communications and computer information system under F.B.I. control, that might engage in surreptitious intelligence-gathering."

Documents obtained by the Center for National Security Studies and disclosures in Seattle, Chicago, Detroit, Los Angeles, and New York echo the warning.

It was proven that police spied on persons who merely exercised their First Amendment rights to make speeches and hold rallies and demonstrations. Lawsuits in progress in Houston and Sacramento — intelligence units which are also members of the crime index — are revealing the presence in intelligence files of prominent politicians and attorneys.



The defendant in the Sacramento suit, in fact, is the Organized Crime & Criminal Intelligence Branch of the California Department of Justice, the headquarters for the crime index. L.E.A.A. documents prove that the California agency received over \$1.6 million from L.E.A.A. to develop the three overlapping phases of the crime index.

In Houston, the files are being examined for the District Court by four law-school deans. The files include data compiled by the super-secret, clandestine Law Enforcement Intelligence Unit (L.E.I.U.), a supposedly "private" association of police-intelligence officers in more than 200 police agencies in the United States and Canada.

But the 218 police agencies which have access to the crime index are all members of the L.E.I.U. In fact, only L.E.I.U. members are permitted to join the index.

So, despite its claim to be a private association of police officers, who "just happen" to be on the public payrolls of scores of American cities, it is clear that the L.E.I.U. is directly assisted by federal money to spy on Americans.

The sanitized manual of "File System Standard Operating Procedure" released by the Seattle Police Department Intelligence Section in the July 26 hearing reveals that Seattle, like all 224 members of L.E.I.U. has custody of a separate card file of "L.E.I.U. Subjects."

The file is cross-referenced to Seattle's main, or "master index," card file.

The L.E.I.U. data is collected on two-sided, 5-by-8-inch cards which contain a large space for what is called "misc. Intelligence Information."

The cards demonstrate that only a small portion of L.E.I.U. data, a part called "public information," will be entered into the crime index.

Information which does not qualify as "public record" is obtained by wiretapping, bugging, planting informants or under-cover police officers and physical surveillance.

L.E.A.A. pays for police purchases of wiretaps, bugs, recording equipment, television and movie cameras, "night vision" and infrared lenses, helicopters, trucks and other surveillance vehicles. It also arranges or pays for training in the use of this equipment by the F.B.I., Bureau of Alcohol, Tobacco & Firearms; Bureau of Customs; Internal Revenue Service, and the Central Intelligence Agency.

L.E.A.A. has imposed a "special condition" on its grants to the

questing department can then use the additional information agencies" and retrieve the intelligence verbally.

(The Washington State Patrol in Olympia and the Tacoma Police Department also are members of the L.E.I.U.)

Seattle is also a terminal agency, or has simple access through Olympia on at least three other networks: The F.B.I.'s National Crime Information Center, the National Law Enforcement Telecommunications System, and Sea-King Alert, which links a regional network of computers and terminals in Washington, Alaska and British Columbia.



The technology of such networks is redundant; even if one system is damaged or closed down, other systems can continue transmission.

To examine the legal control over this and other surveillance activity which is assisted by L.E.A.A.-financed computers and other hardware, consider L.E.A.A.'s own regulations:

In the July, 1975, version of its "Guideline Manual for Discretionary Grant Programs," L.E.A.A. described who police should target to fight "organized crime."

Ironically, the definition warns that organized crime "does not include subversive groups dedicated to radical political change and terrorism." The absence of such an exclusion in all previous guidelines is a strong suggestion that L.E.A.A. first condoned, or at least did not prevent, the generation of information on "subversives."

The exclusion of subversives, whoever they are, from surveillance under the pretext of stopping "organized crime" provides little relief, however, because the same manual describes a program to train police to handle "terrorism," which also remains undefined.

Harris, the police expert, and Berman, the legislative expert, agreed that the only proper objective for police intelligence is "gathering information where there is a substantial danger that a crime has been committed or that criminal acts are threatened."

A report, submitted by the mayor's Office of Policy and Planning which was reviewed in the City Council hearing, reveals other failings in the present regulation of the Intelligence Section.

Even if the police responsibility is properly defined in the "Statement of Mission," the mayor does not know enough about the operation of the Intelligence Section to answer these crucial questions:

How many cases have Intelligence Section activities made against organized crime or terrorists?

If the unit responds to tips, how can it be assured that the unit is not used by devious persons as a tool for causing anguish to totally innocent citizens?

Have there been any such malicious tips received in the past?

If so, what were the outcomes?

Once started, when does an investigation end?

Would some of the organizations active in the 1960's still be the subject of investigation?

The Department of Justice regulations governing "criminal justice information systems" do not affect intelligence files. The regulations were drafted by L.E.A.A., and concern chiefly those information systems "funded in whole or in part with funds made available by" L.E.A.A. But the regulations state that "the individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigatory, or other related files . . ."

One of the first steps to controlling such systems is to disclose to an individual on request, as the Portland police will now do, whether or not he or she is in the "intelligence" file.

The pending lawsuit may succeed in forcing Seattle to disclose its "transaction log."

The East Lansing computer also probably maintains such a transaction log.

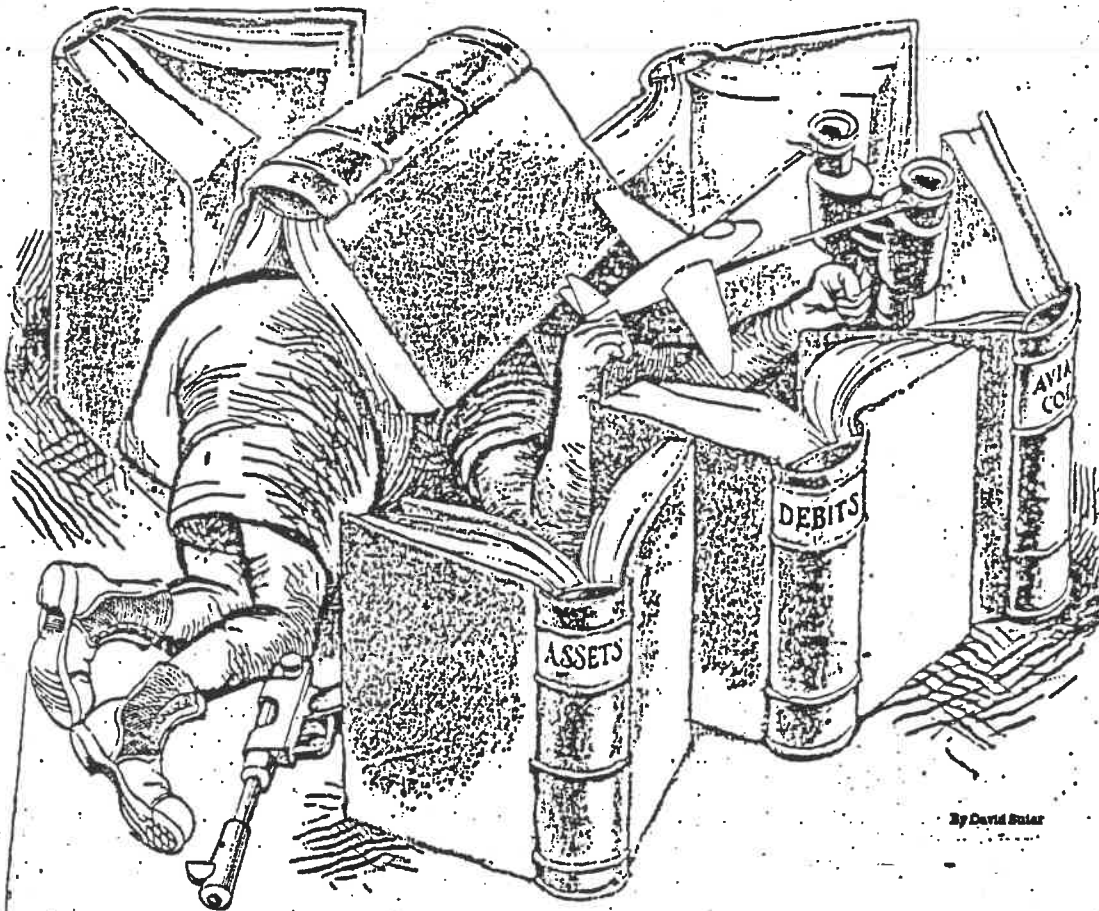
Most other applicable federal statutes, such as the Freedom of Information Act and the Privacy Act of 1974, contain exemptions for information concerning investigative methods or intelligence files.

Nor do present regulations even begin to provide any technical control over massive computer networks. The proliferation of remote terminals with direct access to central data bases is an inherent weakness in such systems.

"In the case of remote access to computers, even eternal vigilance can be no guarantee against possibly catastrophic tampering. Durrell Hillis, a program development manager at Motorola, Inc., recalls how he explained to an appalled Tennessee Valley Authority official that a high school student with a terminal in his basement might easily tell the TVA's computer to open all the flood gates under its control."



# The CIA's Shell Game



**P**LUSH Washington law offices may seem far removed from the grisly and often illegal world of covert operations, but the CIA's proprietary companies can provide a connection. Take the experience of an Arlington law firm.

In the early 1960s, its senior partner, L. Lee Bean, was contacted by an old friend from his University of Virginia days named Robert G. Harper. Harper worked out of offices on 17th Street NW shared by the firm of Purcell & Nelson, and he secured the aid of Bean's firm in setting up two CIA proprietaries.

One was called Zenith Technical Enterprises, and until 1964 it provided cover to the CIA's entire Miami station, which was the Agency's biggest installation anywhere outside of Washington. Zenith Technical was one of over 50 proprietaries the CIA maintained in Florida alone for Cuban operations. From behind Zenith's cover, the CIA waged a secret war against Castro, featuring sabotage, crop destruction and numerous assassination attempts.

The other proprietary set up by

Bean's firm became Anderson Security Consultants, Inc., located first in Arlington and then in a low modern building in Springfield. Anderson's ostensible function was to provide security services to private industry, banks and schools, but in fact its main job was to serve as the hidden operational arm in the Washington area of the CIA's Office of Security. The Senate Intelligence Committee deals with Anderson Security in its report, but calls it only "the Security Project."

Starting in 1967, Anderson Security tried to gather information and infiltrate Washington-area peace and civil rights groups — in order, the Agency later claimed, to provide advance warning of demonstrations that might threaten CIA buildings. Within the Agency, this domestic surveillance program was code-named "MERRIMAC." A few months after it began, CIA agents operating under it were instructed to collect information on who was contributing money to the targeted groups — a far cry from protecting buildings.

The Rockefeller Commission

found that these MERRIMAC activities "exceeded the CIA's statutory authority."

Another Arlington lawyer, who helped Bean set up both Anderson Security and Zenith Technical, explains his current feelings: "As I look at it now, I see the potential evils, but where do you draw the line? How do you deal with Communists? You have to look at the framework of what things were like then."

Asked if he felt misused after creating companies involved in attempted assassination and illegal domestic spying, the lawyer replied, "Yes, very definitely. They traded on my patriotism. My loyalty to my country has been used improperly — all under the guise of 'we can't tell you anything because of the secrecy, but believe us, it's all for the good. We're the good guys; we're trying to help and you can help us.' I fell for it. I never dreamed that our little tiny action would end up this way... We do this as lawyers every day, never knowing what will be done with the legal entities we set up."

—JOHN MARKS



# POLITICS AND POLICE INTELLIGENCE THE BINDER ISSUE

## INTERNATIONAL TERRORISTS HOLD DANCES, PICNICS

By Susan Chadwick

IN AN ORDINARY grey metal footlocker on the ninth floor of the Public Safety Building are seven black three-ring binders with the following titles: "Miscellaneous Articles and Relative Information," "Allocation Perspective for Public Events," "Domestic Problems," "Investigative Leads 1980," and "Pink Sheet 1980."

This is the reference library of the Seattle Police Department's Criminal Information Section, also called the Intelligence Unit. This library is the source of a polite dispute between the Police Department and the Coalition on Government Spying, a flap which has come to be known as the "Binder Issue." The material in these binders include newspaper clippings, letters to the editor, flyers advertising political benefits and rallies, and a great many articles, most of them written from a far right perspective, on revolution, terrorism, and the left.

Unfortunately, some of this material collected by the Police Intelligence Unit appears to violate the policies of the city's pioneer Police Investigations Ordinance, which now, after 18 months in existence, is being reviewed by the Mayor's Office and the City Council.

It is obligatory to say at this point, as does most everyone involved in this issue, that the Police Department is viewed as having made an extraordinary effort to comply with the long and very complicated Investigations Ordinance, which was, after all, a "major policy shift" for the city when it was passed two years ago, and is still the only one of its kind in the nation.

(Please see page 6)

There are other issues involved in Mayor Charles Royer's proposed changes to the ordinance, most notably the police department's request that individual police officers be allowed to keep political or religious information in their own notebooks without having to obtain authorization. The mayor has also recommended to the city council that the police department be informed first when a substantial violation of the ordinance is uncovered. Up till now no substantial violation of the ordinance has been found. However, the Coalition believes some of the material in the seven black binders violates the ordinance.

Most of the proposed changes have created little controversy, and it is really only the little-known and lately discovered "Binder Issue" that has posed a problem in the current review process.

The "Binder Issue," however, seems to strike at the heart of the ordinance itself and raises some questions fundamental to the law: When is political or religious "intelligence" information necessary for the police to investigate crimes, control crowds and traffic, or prepare for potentially disruptive rallies; and when are the police gathering information about individuals or groups merely because they are exercising their constitutional right to assemble or express their views?

Preventing the police department from gathering and maintaining political or religious information without a clear and legitimate purpose is just what the ordinance was designed to do.

The contents of the seven black binders were first discovered by Tom Parson, researcher with the Coalition on Government Spying, the organization which began pressing for the ordinance in 1974 and eventually, with the help of the Mayor's Office and City Council member Randy Revelle, won passage of the model law.

In May Parson asked to see the material kept by the Police Department under Section 8 of the Investigations Ordinance. Material gathered under this section is supposed to be open to public inspection and include "information about anticipated political or religious events," "information in a reference center or library," "printed literature from a criminal justice agency relating to law enforcement duties," and "Wanted Posters."

Parson was first told by the Police Department that he would have to make a request under the state Public Disclosure Law in order to see the material. He asked again, this time in writing, and almost a month later, on June 18, Parson was allowed to view the material in the department's Records Section.

What he found, particularly in the binder labeled "International Terrorism 1980," were "clearly inappropriate materials," he said.

"Inclusion of clippings and flyers, and even letters to the editor, regarding legal and legitimate political views and activities have no place in Seattle police files," Parson said.

55  
7-29

page 1

see next

2 pages

del →



"These files are in violation of the spirit of the Investigations Ordinance and are in violation of the policies set in Section 2 of the ordinance.

"In addition, many of these materials are grossly mislabeled by their inclusion in a binder titled 'International Terrorism.'"

"Labeling is an issue," said Dave Haley, legislative policy analyst for the council. He said it has been suggested that perhaps a more appropriate title for some of the material might be, "Demonstrations, Rallies, Dances, and Picnics."

In the binder titled "International Terrorism" Parson found:

- An advertisement clipped from a February issue of the *University of Washington Daily*, which listed speakers and sponsorship by a wide range of student organizations

- A flyer on Women and Revolution in El Salvador distributed by the local Committee in

Solidarity with the People of El Salvador

- An ad from the *UW Daily* with a photo of Archbishop Romero

- A newspaper article on the views of Dr. Giovanni Costigan on El Salvador

- A letter to the editor of the *UW Daily* from Jeffery Ritterman, M.D., about El Salvador, and another from Pam Mills

- Two large photos of a demonstration.

In other binders there are similar flyers advertising dance benefits and rallies, articles on disruptive rallies and events in other parts of the nation, articles on the Ku Klux Klan both in Washington and elsewhere, the Revolutionary Communist Party, Lifespring, "Female Issue Violence," Survivalists, Assassinations, right wing religious groups, Nazis, Greenpeace, Hare Krishnas and many others.

Some of this material appears to be appropriate to police concerns, particularly those

items which refer to past violence, threatened violence, violation of the law (including civil disobedience), or even the number of people who attended a demonstration, said Parson. But some of it should not be there, he said.

Parson also questions the binder titled "Investigative Leads 1980," which contains copies of a publication put out by the U.S. Labor Party called, "Investigative Leads."

"The U.S. Labor Party, under several names, has provided inaccurate and inflammatory information to police agencies in various parts of the country," said Parson. "It is right-wing and pro-nuclear."

ATTORNEY DAVID HOFF, who serves as auditor under the ordinance and is responsible for reviewing material collected by the police and determining that the law is being complied with, has, at the mayor's request, reviewed the material contained in the binders.

On July 14, one day before the city council hearing on proposed changes in the ordinance, Hoff wrote to the Mayor's Office that materials gathered by the police under Section 8 appeared to comply with Section 8 but that it was unclear whether they complied with the policies set forth in Section 2. In other words, Hoff said there was ambiguity in the ordinance and that it was up to the city council to decide what to do.

"I think this is one of those matters that go to the very core of the ordinance and should be addressed directly by the council," Hoff wrote.

"I happen to agree with the Auditor that there should be a little additional clarification as to what we can and can't collect," said Patrick Wright, public information officer for the SPD.

Why was the Police Department collecting letters to the editor, articles on people's political views, and on peaceful rallies and dances, and marking them "Terrorism?" "For informational purposes," Wright explained.

"It's a very ticklish issue," said Haley of the city council staff. Haley is the author of a draft memorandum on the mayor's proposed changes in the ordinance, results of the public hearing and written comments received by the council.

But the draft memorandum, to be circulated to the council Wednesday, July 29, will make no recommendation on the "Binder Issue."

The mayor has assured Councilmember Revelle that materials collected under Section 8 will be made available for public inspection upon request, Revelle said last week.

But the mayor's recommendation on how to resolve the apparent ambiguity in the ordinance is not due into Revelle's office until August 10.

Written comments from the public on the draft memorandum must be delivered to the council by 5 p.m. Tuesday, August 4.

On Tuesday, August 11, from 1:30 to 5 p.m., Revelle, a member of the Public Safety and Justice Committee, will chair a public work session on the ordinance. □

SS

7-29

(2)



# Intelligence law: Protection or hindrance?

by Susan Gilmore  
Times staff reporter

A California law-enforcement agency suspected that a militant group was moving into the Pacific Northwest in 1979, possibly to Seattle.

Later, that group, the Wellsprings Communion, was linked to an explosive jail break at the King County jail in which an inmate was killed and a guard injured.

But, said one investigator, the Seattle Police Department was not warned about the Wellspring organization. He said the California agency was afraid the information would leak to the public because of Seattle's police-intelligence ordinance.

The remarks came during a City Council inquiry into changes proposed in the law.

"I'm not sure if the information would have stopped the jail-break," said Robert Hausken of the Seattle chapter of the Federal Criminal Investigators, which includes federal law-enforcement agencies. "But the information was not passed on to Seattle as it should have been."

Hausken said that is just one incident in which other law-enforcement agencies have been reluctant to share sensitive secrets with the Seattle Police

Department.

The ordinance, which went into effect last year, restricts police in the gathering and use of secret intelligence files and allows police to collect information of a political, sexual or religious nature on groups and individuals only when it is relevant to the investigation of a crime.

But the Police Department says the law — the first of its kind in the nation — is hampering its dealings with other agencies who are afraid to pass on the sensitive data.

Lt. Patrick Munter, commander of the criminal-investigation section of the Police Department, said the city was expelled from a national organized-crime network, and did not apply for membership in the Western States Information Unit on narcotic trafficking, because of concerns about confidentiality under the ordinance.

"Other agencies won't share information because it may be made public," said Munter. "And

the ordinance is so darn long and complex."

The law arose from disclosures in 1974 by former Police Chief Robert Hanson that the Seattle Police Department had maintained several hundred intelligence files, some of them on politicians, civil-rights groups and members of various protest groups.

After the City Council adopted the law, it hired David Hoff, a local attorney, to audit the department and ensure that the law was being followed. He found no violations by police and recommended only minor changes.

Earlier this month, Mayor Charles Royer issued his report on the law and suggested a handful of changes. Those include recommendations that the police auditor

receive a thorough background check and that there be a three-day delay in notifying anyone on whom restricted information was collected to see if a police investigation would be jeopardized.

Meanwhile, the Coalition on Government Spying, one of the architects of the law, has charged that the Police Department still is maintaining improper secret intelligence files.

Members of the coalition told the City Council yesterday that there are "serious enforcement problems" linked to the ordinance. They said the police maintain files of newspaper clippings under such headings as "international terrorism" and "domestic violence," containing reports of such things as demonstrations against United States involvement in El Salvador.

Also included in the files, said Tom Parson, a coalition official, were newspaper clippings on Iran, the Philippines, Libya and the

equal-rights amendment, letters to the editor of The University of Washington Daily, and publicity against the draft.

T  
7-16



# House backing for wiretap bill expected

WASHINGTON (UPI) — The House is expected to add its approval to a Senate-passed measure requiring intelligence agencies to get court permission for any electronic surveillance carried out in the United States.

The Senate's 95-1 vote to pass the Foreign Intelligence Surveillance Act Thursday came after 10 years of debate on electronic spying, highlighted by exposure of abuses by the executive branch, the Watergate scandal and marathon Senate and House investigations of the CIA, FBI and other intelligence agencies.

The legislation was hailed by the American Civil Liberties Union and Attorney General Griffin Bell.

Officials of the FBI and CIA said they can live with the bill.

"Too often in the past," Bell said, "government officials used the rationale of 'national security' to surveil, disrupt or discredit political activities they did not like."

The legislation would eliminate the authority of the president to order electronic monitoring of espionage suspects. That authority was used for the first time recently when President Carter approved surveillance of figures suspected of spying for Vietnam.

Sen. Birch Bayh, D-Ind., chairman of the Senate Intelligence Committee that produced the bill as its first piece of legislation, said the act "will bring to an end the practice of electronic surveillance by the executive branch without a court order in the United States."

Court orders would be required for techniques such as conventional wiretaps and bugging devices, television monitoring and any advanced electronic methods.

"Targets" for electronic surveillance would have to be identified to designated judges whose approval would be required before the operation could be carried out.

Court orders would be required for all surveillance, without exception, with strict time limits imposed according to the person or organization affected. Differing standards will apply to foreign government establishments, Americans, resident foreigners and visitors.

## Former CIA Agent Found Guilty

Alexandria, Va., July 7 — U.S. District Judge Oren R. Lewis finds former CIA agent Frank W. Snapp guilty of violating his secrecy oath in publishing *Decent Interval*, a highly critical account of the CIA's conduct during the 1975 fall of Saigon, and orders him to turn over his "ill-gotten gains" to the Government. In his ruling, Lewis says that Snapp's failure to clear the book with the CIA "has caused the United States irreparable

The Review Of The NEWS, July 19, 1978

harm and loss. The CIA cannot protect its intelligence sources and methods if its agents are allowed to determine what intelligence ought to be made public." He orders that all Snapp's earnings from the book — about



Snapp violated his CIA oath of secrecy.

\$60,000 thus far — be placed in "a constructive trust" for Government use because "one who breaches his trust and secrecy agreements . . . ought not to be permitted to retain his ill-gotten gains." Snapp, who says that he will appeal the decision, accuses Lewis of "outrageous" pro-CIA bias and says that "no American should be deprived of his freedom of speech simply because he criticized the Government."

4-21-78



# 50 spies go out in cold

WASHINGTON (AP) — CIA Director Stansfield Turner told employees of the spy agency Monday that only 50 more will have to be fired to complete a planned cutback in the headquarters staff.

This will be less than a quarter of the 225 employees the agency had expected to let go by Oct. 1 in a reduction in the CIA division responsible for clandestine, or undercover, operations.

CIA information chief Herbert Hetu said greater than expected attrition resulting from decisions of some employees to retire and others to resign has enabled Turner to hold down anticipated firings.

Hetu emphasized that Turner stands by his goal of eliminating a total of 820 jobs at CIA headquarters in suburban

Langley, Va., mostly by attrition and by not filling jobs which become open in the normal course.

A total of 212 firing notices were given out by the CIA last fall. Hetu said 53 of the affected personnel will be reassigned to other CIA divisions from the clandestine operations section and that the records of 50 others are still under review to determine if they can be reassigned to other duties.

Turner's memorandum said that the 50 additional employees tabbed for firing will be formally notified by June 1 and will be given 90 days warning that they will be dropped as of Oct. 1. However, any persons on that list who can retire during the 1979 fiscal year starting Oct. 1 will be allowed to remain until that time.

## Attack on Police Intelligence Units

**■ Lansing, Mich., January 18 —** Circuit Court Judge Thomas L. Brown orders the Subversive Activities Unit of the Michigan State Police disbanded and its files on 50,000 persons destroyed. According to Brown, the existence of the 29-member "Red Squad" has had a "chilling effect" on the rights of free speech, assembly, and petition of the government for redress of grievances. The unit, with an annual budget of \$750,000, was created in 1931 under a criminal syndicalism law and given additional authority in 1950 by a subversive activities law. No arrests were ever made under either law. The suit to disband the squad was filed by Zolton Ferency, former Democratic candidate for Governor, on behalf of the Human Rights Party of Michigan.

## Chicago police spied

**CHICAGO (UPI) —** Police spied on hundreds of civic, community and political organizations — including the League of Women Voters — as part of their so-called "Red Squad" activities, court records show. In papers filed in U.S. District Court Saturday, the city admitted spying on about 800 organizations, such as the City Club, the Catholic Interracial Council, the Baha'i Center, Chicago Teachers Union, Concerned Transit Workers and the PTA. The surveillance activities by a police intelligence squad were acknowledged in a 37-page document signed by Corporation Counsel Stanley Garber and filed by Peter Fitzpatrick, the special assistant corporation counsel retained to defend the city against a series of police-spying suits.



# Perjury counts against CIA's Helms sleazy treatment for long service

The sermon today has to start with a confession. I raise my right hand and solemnly swear that I have known and liked Dick Helms for a decade or more.

I do not believe my regard for him blinds me to his faults. I think I was among the first to point out — and in a highly critical way — that as director of Central Intelligence in June, 1972, he had knowledge of the Watergate cover-up which he did not divulge.

But the rest of the case against what Helms did in the Nixon years strikes me as small beer — the kind of thing that the law, under the doctrine of *de minimis non curat lex*, usually ignores. That definitely includes the activities which generated the perjury charge which was compromised last week in a bargain with the Justice Department whereby Helms pleaded guilty to a misdemeanor and was fined \$2,000 and given a two-year suspended sentence.

The perjury charges related to covert actions carried out by the CIA in Chile between the election of Sept. 4, 1970, and the military coup which ousted the left-wing regime of Salvador Allende late in 1973. These operations were conducted under express order of the president and other designated authorities. There is no question of the agency or Helms acting on their own bat.

Neither is there a serious issue of concealing what was done from the Congress. More than a decade before the Chilean events, the CIA had worked out with the Congress proceedings whereby covert actions were reported to specially established oversight committees, but not to other committees of the Congress. All CIA covert actions in Chile were duly reported to the established oversight committees.

Helms' troubles grew out of testimo-

ny to two other committees after he had left the CIA to accept appointment as ambassador to Iran. One set of questions was posed by Sen. Frank Church of the multinational companies subcommittee on March 6, 1973. The record here is incomplete because much of the material was classified.

The other set of questions were posed by Sen. Stuart Symington on Feb. 7, 1973, in hearings of the Foreign Relations Committee on Helms' confirmation as ambassador. The Symington questions are generally cited as presenting, in ways far more specific than the Church questioning, the *prima facie* case of perjury.

Sen. Symington asked: "Did you try in the Central Intelligence Agency to overthrow the government of Chile?" Helms replied: "No, sir."

Symington then asked: "Did you have any money passed to the opponents of Allende?" Helms replied: "No, sir."

In fact the CIA did supply funds to keep democratic elements in Chile alive during the Allende regime. Whether that constitutes trying to overthrow the government is — to put it mildly — a hard question.

As to the passing of the money, Helms contends that he thought Symington was asking about giving funds to Allende's two opponents in the election, and in the runoff that was eventually decided by the Chilean Congress.



Stuart Symington

Though that possibility was explored, no money seems actually to have changed hands.

The argument for bringing perjury charges is thus intrinsically weak. It rests chiefly on the doctrine of equality before the law — the principle that people in office should be treated just like anybody else.

But doesn't that doctrine apply very poorly to the head of an intelligence organization with a sworn duty to keep secrets? Doesn't his responsibility not to divulge secrets to unauthorized people mitigate the offense of not coming totally clean with a congressional committee asking vague questions in regions outside its formal area of responsibility?

My answer to those questions is yes. I do not think an official who spent 30 years honorably serving the American government should have been charged with perjury in such a murky case. I believe the investigation should have been cut off by the Ford administration or the Carter administration — with perhaps a formal opinion by the attorney general indicating that the circumstances were special and would never apply in the future.

It is not surprising in these conditions that Helms told the judge who sentenced him that he was proud of his actions. James Schlesinger, the energy secretary who also headed the CIA, told Helms that he could consider the outcome an honor, to be borne as a kind of duelling scar. But who wielded the sabre? An ungrateful government, I believe, with men serving as president and attorney general who lacked the courage to stand up to a Congress which didn't want its right hand to know what its left hand was doing.



# Trial of ex-CIA director called 'disastrous'

By ROWLAND EVANS AND ROBERT NOVAK

Oregonian 8-19-77

WASHINGTON — President Carter must decide soon between permitting or blocking criminal prosecution of former CIA Director Richard Helms, an agonizing choice of whether to fulfill his campaign pledges for "open" government at the cost of the nation's higher interests.

So dangerous to this country are the implications of the unprecedented grand jury investigation of Helms on suspicion of perjury that Carter has been secretly warned by informal advisers he must never let the case go to trial. One eminent Democrat, deeply involved in high intelligence matters for many years, has said privately that Helms' indictment and trial "would be the single most damaging thing that could be done to this country."

These "damaging" consequences would include further deterioration of U.S. intelligence, an end of any further intelligence cooperation with the United States by allied nations and exposing the nation and its recent presidents to obloquy. In short, self-flagellation of the nation would reach a masochistic peak.

To prevent this, the President must block the grand jury, now well into its second year of probing the truth of Helms' 1973 Senate testimony on Chile. Carter almost certainly would have to instruct Atty. Gen. Griffin Bell to veto an indictment and thereby prevent a trial.

Such a move would infuriate the liberal community, including large segments of Congress and the press. Moreover, Carter's campaign trail was strewn with pledges, calculated to

make him appear different from President Ford, for government operating "in the open," as he declared in the first presidential debate.

That the grand jury is moving toward indicting Helms by no means suggests guilt. In fact, experienced lawyers and politicians here believe the chance of finding the former chief spy guilty of perjury is, in the words of one lawyer, "exactly zero."

Nevertheless, in his defense, Helms would be compelled to reveal the most secret Oval Office and National Security Council deliberations. This unquestionably would involve former presidents in what the CIA's critics call the seamy, squalid side of the intelligence game: Helms would be relieved from protecting sources and directions given to him, even by a president, if forced to defend himself in a public trial.

The President could be taken off the hook by George A. Carver and Robert G. Andary, Justice Department criminal division lawyers in charge of the Helms investigation. They could simply rule the grand jury had "no case."

The President is not going to be so lucky, well-informed sources have told us. The youthful investigators who have spent so many months hunting Helms down want to confront him in open court as prosecutors.

The grand jury probe has subpoenaed every scrap of paper in the Central Intelligence Agency bearing on clandestine operations against the late Marxist President of Chile, Salvador Allende. It has questioned for long hours scores of



RICHARD HELMS

top CIA officials and former officials. Included are Thomas Karamessines, who for many years ran clandestine operations, and Elizabeth Dunlevy, Helms' longtime confidential secretary.

Interoffice memos, personal logs, calendars and records of every traceable telephone call made out of Helms' office during his seven years as CIA director — as well as thousands of calls from CIA's Latin American section —

are under grand jury scrutiny.

Accordingly, prosecutors Carver and Andary would no more welcome a presidential order barring indictment and trial than would liberals in Congress, the media and elsewhere who have expended so much righteous energy against the once super-secret CIA.

That righteous energy and Helms' predicament both stem partly from bad decisions made in the Ford White House and Justice Department during the post-Nixon demand for purging Watergate wickedness. The grand jury probe of Helms was started by Ford's attorney general, Edward Levi, an action viewed by one seasoned lawyer here with liberal connections as "an outrage."

But Levi had plenty of company. Helms, who gave 32 years of honorable service to his country, was summoned to the White House from his post as ambassador to Iran in January 1975 to be warned by presidential counsel Philip Buchen. Helms was informed that anything he told the President (identified by Buchen as "the nation's chief law enforcement officer") could be used against him in the investigation Levi was then contemplating.

With post-Watergate morality reinforced by Jimmy Carter's promises never to run other than an "open" government, a presidential decision to block indictment of Helms would not be easy. But the alternative, exposing the nation's intelligence system and past occupants of the Oval Office to further abuse, might well be pondered carefully by the President.



# FBI 'triviality' hit Spies' files on feminists outrage writer

By PATRICIA MOORE  
Chicago Daily News Service

Letty Cottin Pogrebin, feminist and writer, pored through 1,377 pages of FBI reports on the women's movement obtained under the Freedom of Information Act. She found that the government was concerned about how the women wore their hair and where they rented buses to attend rallies.

There was more, of course, but Ms. Pogrebin concluded, "I'm outraged at the triviality, the gathering of information about appearances and sex. Maybe I shouldn't be surprised, but I'm also outraged at the level of intelligence of the people in charge of a surveillance system."

Ms. Pogrebin has written about the FBI spying, covering 1969 to 1973, in the Ms. magazine. One page of small type in the magazine carries the names of hundreds of organizations mentioned in the files. They range from the American Anthropological Association and the Boston Day Care Action Committee to Red Butterfly Cell and United Gay Liberation Front.

Ms. Pogrebin, an editor of Ms., discovered that FBI agents and paid informers dogged women to ERA rallies and small consciousness-raising sessions. During the six weeks spent sorting and collating the FBI files, she saw a fascination for recording vehicle li-

cense and serial numbers on rented buses at rallies.

"It was like, 'Ah, we've found a guilty bus!'" She also found the agents and informers were absorbed in identifying lesbians and relating discussions about lesbianism.

The author calls it "a paranoid's fantasy come true." Specifically, she means J. Edgar Hoover: "He was a real misogynist. Hoover didn't like or understand women." When FBI agents in the field suggested that feminist activity wasn't worth covering, the late director fired back directives telling them to keep at it.

The magazine quotes from a Hoover memo, found in the files: "... it is absolutely essential that we conduct sufficient investigation to clearly establish subversive ramifications of the WLM (women's liberation movement) and to determine its potential for violence... as well as any possible threat they may represent to the internal security of the United States."

In other words, Ms. Pogrebin says, Hoover was convinced the movement was a threat and the agents darn well better find the proof.

But the FBI often found the pickings — straight or gay, radical or routine — slim. The magazine quotes field reports:

— Chicago, 1970: "Chicago Wo-

men's Liberation Union with offices at 2875 W. Cermak. There are no officers 40-50 people."

— Detroit, 1971: "Several individuals within the organization, who might exert influence, are middle-aged ladies well established in their respective communities and view the movement as 'extracurricular activity.'"

— Unspecified location: "One of the most interesting aspects of the delegates' dress was the extreme fuzzy appearance of their hair... someone said this... was gotten by braiding their hair in tiny braids and leaving it that way while it was wet until it dried. Then they would take out the braids. From the looks of their hair they apparently really didn't bother to try and comb it out afterwards."

"A fashion magazine feature!" exclaimed Ms. Pogrebin. "We pay taxes to pay for a description of frizzy hair. I don't even think Vogue would pay for that." While the writer is outraged by that kind of surveillance, she is serious about the impact.

"The FBI says it has stopped the spying, but the files are still there. So if a woman applies for a government grant or a civil service job, if Jimmy Carter appointed a woman tomorrow as an ambassador to some country, these files are pulled out."

She said the FBI leadership perceived women "as sheep who could be used, molded." She ran across a 1972 FBI study called Exploitation of Women's Movement by Socialist Workers Party.

"It reads like a college paper and a poor one at that. They took slender reeds and tried to build a massive structure," Ms. Pogrebin said.

"The point was that women had to be protected from leftist exploitation. They couldn't believe that women, who might not agree with the Socialist Party on all points, could join with them on certain issues."

The magazine asked only for files on the general subject of the women's movement. (Individuals must ask for their own.) Ms. Pogrebin is convinced there are more reports filed under names of persons and organizations.

She hopes others will ask for files under the Freedom of Information Act but warns, "If they don't have a file on you, they will after you ask. The mere asking creates a file. The FBI claims it's a routine business practice, but it's guilt by innuendo. If you ask for your file, you must have done something wrong."

Ms. Pogrebin worries about apathy — Hoover is dead, the spying stopped in 1973 — and insists that such files must be exposed.

0 7-28-77



# History's wheel turns for some who feared knock

By THOMAS J. DOLAN

Chicago Daily News Service

CHICAGO — Richard

Criley, 65, was scrambling eggs when a U.S. marshal knocked at the

door of his South Keeler Street townhouse and asked to see his identification.

Years ago, Criley learned to fear such a knock.

The last time, a marshal served a congressional subpoena on Criley to demand testimony before a committee investigating "subversives."

But this time, the marshal carried a letter containing an FBI confession that 15 years ago it used illegal "dirty tricks" against Criley in an effort to damage him and hamper his peace group organizing.

The marshal knocked at 8 a.m. on Dec. 20, 1976. Just hours earlier, Criley had stood on the stage of the Auditorium Theater as thousands of people applauded him,

honoring him for 17 years as the mainstay of the Chicago Committee to Defend the Bill of Rights.

Criley is one of 13 persons in Chicago and 225 Americans nationwide who have received such letters from the FBI so far, according to a Justice Department spokesman. The letters inform the recipients that they may obtain records of the "dirty tricks" used against them by writing to the FBI. The disclosures were ordered last year by Atty. Gen. Edward H. Levi.

But the spokesman said all other details of the letter-writing program are secret on the grounds that the government wishes to protect the privacy of the FBI targets. Those receiving the let-

ters, all hand-delivered by U.S. marshals, are former targets of COINTELPRO, the FBI's disruption campaign aimed at leftists, peace group leaders and black nationalists.

"I can't imagine who got them," commented Morton H. Halperin, director of the Project on National Security and Civil Liberties, 122 Maryland Ave., N.E., Washington, D.C.

Halperin said his organization and the American Civil Liberties Union (ACLU) have offered to provide lawyers for any FBI victim who wishes to take legal action to seek redress of any harm done to him. But, said Halperin, so far his organization has been able to identify only three persons nationwide — Criley, former University of Chicago professor Richard Flacks and a person in the San Francisco area.

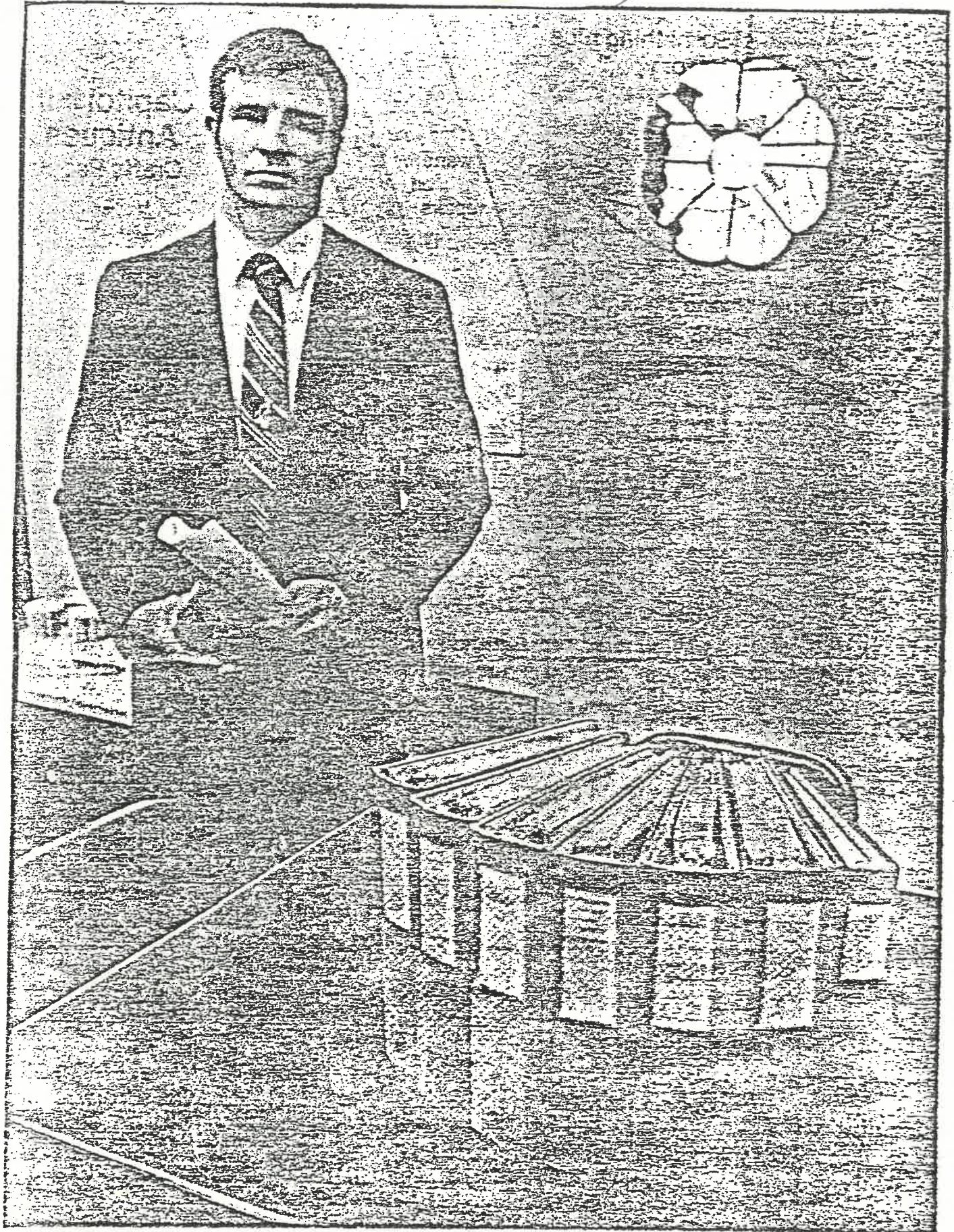
"You have to understand the criteria," Halperin said.

"These people are people who were targets of illegal action, activities which harmed them, and they were previously not aware of the FBI's campaign against them."

Halperin and others the actual number of contacted by The Sun- COINTELPRO targets is Times said they believe much larger than 225.



(THE SEATTLE SUN  
the Seattle Red Pink Paper)



SS  
7-26

(3)

Seattle Police Public Information Officer Patrick Wright and the seven binders.



**Internal Security**

In an incredible decision, the U.S. District Court for the District of Columbia awarded \$711,937 as compensation to radicals whose constitutional rights were allegedly violated during the Vietnam War era. The court ruled that the Washington, D.C. Police Department and the FBI had conducted illegal surveillance, circulated false information to disrupt activities of protest groups, and provoked dissension between white and black groups.

Prominent among the groups winning the suit is the D.C. Committee for the Bill of Rights, a communist-dominated group first exposed in this newsletter (see Issue #109). Other organizations winning judgments include the Trotskyite Socialist Workers Party and its arm, the Young Socialist Alliance.

Individuals who got awards of \$93,750 each include:

- SAMMIE ABBOTT, mayor of Takoma Park, Md., and a long-time identified member of the CPUSA (see Issue #37).
- ABE BLOOM, former leader of D.C. SANE; teacher at the W.E.B. DuBois School for Marxist Studies; and leader in Washington Mobilization and New Mobilization. His personal assistant in his business profession is long-time identified member of CPUSA, HELEN GUREWITZ.
- ARTHUR WASCOW, former key workhorse for the Marxist-oriented Institute for Policy Studies; one of the planners of the 1971 "Mayday" riots.
- RICHARD POLLACK, former staff member of the cited CPUSA-dominated New Mobilization and Peoples Coalition for Peace & Justice; now active with RALPH NADER's Critical Mass anti-nuclear power group.

The other 3 individuals winning the suit each received awards of \$81,062:

- TINA HOBSON, whose late husband JULIUS HOBSON was an admitted Marxist and a member of the D.C. City Council.
- Rev. DAVID EATON, pastor of All Souls Unitarian Church. EATON supports many far-left causes and is now a member of the D.C. School Board.
- REGINALD BOOKER, a founder of the Washington Black United Front, a left-wing, anti-semitic, anti-white organization.

The Washington Peace Center also won damages of \$93,750 for alleged public activities against it. The center has been another base of radical and Marxist activities. Its Board of Directors has included several identified members of the CPUSA and sympathizers.

The CPUSA-dominated Women Strike for Peace also sued, but could not show any damage done by intelligence agencies.

AMERICAN SENTINEL Contributing Editor MAX FRIEDMAN worked for a year as an undercover agent in the Washington Peace Council, D.C. Mobilization, National Mobilization and New Mobilization. His findings concerning communist penetration and dominance of the so-called "peace" movement were featured in publications such as U.S. News & World Report and the Washington Star.

FRIEDMAN disagrees with the court decision: "I cannot understand how a jury could fail to agree with the defense counsel. The activities of these groups and individuals, which included planning and performing major acts of civil disobedience and rioting, warranted surveillance and preventive action."

"The foreign contacts of the radicals required penetration and surveillance. These included Cuba, North Vietnam, and Viet Cong, Soviet Union and Japanese Communist front operations," Friedman added.

If the government's appeal is unsuccessful, intelligence operations will be further crippled. THE AMERICAN SENTINEL will keep you posted on the case.



# Privacy of letters at issue

By JEFFREY MILLS

WASHINGTON (AP)

— Customs agents should be forbidden to open lightweight letters coming into the United States unless the agents first obtain search warrants, says a House committee, complaining about dangers to rights of free speech.

The House Government Operations Committee said in a report released Tuesday that routine opening should not be allowed for international mail weighing one ounce or less. Most letters weigh less than that.

The committee indicated heavier mail can more easily conceal drugs or other illegal items and should continue to be subject to opening without a warrant.

A customs officer is allowed to open a letter entering the United States — without a warrant — if the officer has reasonable cause to suspect there is an illegal item in the piece of mail.

Customs officers are prohibited from reading the letters.

Agents open about 57,000 letters per year and find something improper about 60 percent of the time, according to statistics furnished by the Customs Service.

A 1977 Supreme Court decision held that these openings do not violate the constitutional prohibition against illegal searches.

The committee report said, "Packages sent in sealed international-letter-class mail clearly could pose a threat if they can enter the country without routine examination."

But it added that "light, flat envelopes pose little threat in the form of dutiable or prohibited articles, but have a high privacy interest, since they contain the bulk of correspondence in the mails."

Official  
Comment



OCT 10 1978

(LEIU)

(LOS ANGELES) -- A COALITION OF 40 CIVIC ACTION GROUPS HAS ACCUSED A NATIONWIDE POLICE INTELLIGENCE EXCHANGE AGENCY OF SPREADING "IMPROPERLY" GATHERED INFORMATION ON PRIVATE INDIVIDUALS. THE CHARGE AGAINST THE LAW ENFORCEMENT INTELLIGENT UNIT WAS MADE IN LOS ANGELES YESTERDAY BY THE CITIZENS COMMISSION ON POLICE REPRESSION.

THE LAW ENFORCEMENT INTELLIGENCE UNIT WAS SET UP IN 1956 AS AN CLEARING HOUSE FOR POLICE-GATHERED INFORMATION ON ORGANIZED CRIME.

--DASH--

AT A NEWS CONFERENCE, COALITION SPEAKERS DISPLAYED 13 CARDS OBTAINED FROM THE UNIT'S INTERSTATE ORGANIZED CRIME INDEX. THE CARDS DESCRIBED VARIOUS INDIVIDUALS AS "POLITICAL ACTIVIST," "RECOGNIZED LEADER IN THE PEACE MOVEMENT" AND "LONGTIME COMMUNIST PARTY MEMBER."

COALITION SPOKESMEN SAID INFORMATION CONTAINED IN THE CARDS WAS PROVIDED TO THE INTELLIGENCE UNIT BY MEMBER POLICE DEPARTMENTS, INCLUDING THOSE IN REDLANDS AND PASADENA. BUT ONE OF THE INDIVIDUALS DESCRIBED IN THE CARDS, MICHAEL ZINZUN, NOTED THAT MUCH OF THE INFORMATION ON HIS CARD WAS NOT TRUE. "EVEN MY SOCIAL SECURITY NUMBER IS WRONG," ZINZUN SAID.

--DASH--

OFFICIALS OF THE POLICE UNIT COULD NOT BE REACHED FOR COMMENT. ASKED IF THE LOS ANGELES POLICE DEPARTMENT HAD ANY ROLE IN THE UNIT'S ALLEGED INTELLIGENCE GATHERING ACTIVITIES, DEPARTMENT SPOKESMAN LIEUTENANT DAN COOKE SAID. "WE DO NOT CONDUCT POLICE SURVEILLANCE. THEREFORE, WE COULD NOT SUPPLY INFORMATION TO THAT END."



## On the Left

### RED-INFLUENCED GROUP ATTACKS INTELLIGENCE SERVICES

The Communist-influenced Campaign for Political Rights (CPR) is conducting a wide-ranging propaganda battle against U.S. intelligence services.

The CPR was originally--and more honestly--called the Campaign to Stop Government Spying. Launched in 1977, it was actually organized the year before, principally by ROBERT BOROSAGE of the National Lawyers Guild, then director of the Center for National Security Studies (CNSS) and now director of the Institute for Policy Studies (IPS), with which he has long been affiliated. The IPS, ACLU and its CNSS, and a CounterSpy offshoot group helped BOROSAGE put the Campaign together.

CPR now claims more than 80 member and cooperating organizations. It is opposed to all U.S. (but not Soviet) covert operations and also wants to end all "political spying" here--that is, ban intelligence gathering on subversive activities by the FBI, state and local police, etc.

"Many of the organizations and individuals" in CPR, it says, also believe the U.S. should halt all "secret spying" except in wartime--abolishing the CIA, DIA, NSA and other foreign intelligence services.

Moscow's influence in and on the CPR is exerted by a string of officially cited Communist fronts:

- National Lawyers Guild
- National Emergency Civil Liberties Committee
- National Committee Against Repressive Legislation
- National Alliance Against Racist and Political Repression
- International Longshoremen's and Warehousemen's Union (expelled from the CIO for being Communist-dominated)

These Kremlin-satellite organizations are joined in CPR by such other radical groups as CounterSpy and PHILIP AGEE's Covert Action Information Bulletin, the Puerto Rican Socialist Party, the Black Panther Party and Women Strike for Peace. More "establishment" and "respectable" CPR members include the ACLU, Americans for Democratic Action, CNSS and about a dozen church-related organizations.

CPR fights to undermine U.S. intelligence by massive distribution of anti-intelligence propaganda (a newsletter, films, posters, pamphlets and special studies) on the CIA, FBI, NSA, Secret Service, local police intelligence units, etc. Other activities include a campus project; local coalitions and committees; and lobbying at all levels.

CPR recently held a public forum in Washington, "Covert Action Against Nicaragua," in an effort to forestall any effective CIA covert action against the Sandinista junta. Among the speakers enlisted by CPR were:

- FRANK CHURCH, former chairman of the Senate intelligence investigating committee
- Sen. CLAIBORNE PELL (D-RI), who introduced CHURCH
- MAUREEN BUNYAN, anchor woman for "Eyewitness News" on Washington's WDM
- KAREN DE YOUNG, foreign editor of the Washington Post
- ROBERT WHITE, ambassador to El Salvador during the CARTER administration
- ROBERT PASTOR, National Security Council senior staff member under CARTER
- 3 Democratic members of the House of Representatives: TOM HARKIN (IA), MATTHEW MCHUGH (NY) and DAVID BONIOR (MI)

In addition, the 3 last-named joined 10 other House Democrats in signing a letter to members of Congress opposing any U.S. effort to weaken the Marxist grip on Nicaragua and urging them and their staffs to attend the CPR forum. The other signers were: MICHAEL BARNES (MD), who is chairman of the House Subcommittee on Inter-American Affairs; SHIRLEY CHISOLM and TED WEISS (NY); JOHN CONYERS (MI); RON DELLUMS and DON EDWARDS (CA); BOB EDGAR (PA); JAMES OBERSTAR (MN); and PARREN MITCHELL (MD).



LEFTISTS RALLYING TO FREEDOM OF INFORMATION ACT

The possibility that Congress may amend the Freedom of Information Act (FOIA) to protect national security is causing consternation on the left.

Hostile foreign intelligence services, CounterSpy magazine and a host of communist and radical organizations have used FOIA to pry open CIA, National Security Agency, FBI and other intelligence agencies' secrets (see Issue #272). The Act has also caused friendly foreign powers that formerly provided important, sensitive information to the U.S. to halt the flow of these data. Intelligence and security officials are deeply concerned and have so testified for several years. A number of bills have been introduced to correct the situation.

The leftist Campaign for Political Rights, with major help from the ACLU and its Center for National Security Studies (see Issue #287), has been conducting an intense drive to block corrective legislation and promote the belief that FOIA, as is, serves the American

p. 6

people and that any changes in it would be extremely harmful.

CPR used its Covert Action Against Nicaragua Forum (see Issue #287) to launch its latest initiative in this drive--a 200-page book, Former Secrets. It summarizes 500 cases that allegedly "underscore the value" of FOIA and reveal the "tremendous benefits" it has conferred on the American public.

Actually, the summaries are so skimpy (averaging 4 per page of very open type) that the volume has little value--except to give CPR the opportunity of spreading a little more of its anti-intelligence message. Fortunately, the steep price (\$15 regular; \$9 for students, faculty and tax-exempt groups) won't help its sales.

AS 7-26-82



might have been handled better under the new guidelines, the department mentioned an armored car robbery in New York a few years ago. Federal officials contend that remnants of the radical left of the 1960s, who weren't any longer under surveillance, were responsible for the robbery.

Consistent investigative standards, in addition, "should help eliminate any perception that actual or imminent commission of a violent crime is a prerequisite to investi-

gation," the Justice Department said in a statement. "This will help agents to discover terrorist activity before anyone is hurt."

Mr. Berman and Mr. Edwards, however, question whether the FBI should launch investigations based on a group's open advocacy of violence as they say the new guidelines would permit. Mr. Edwards said that this could have a "chilling" effect on people's right to express themselves.

# U.S. Eases Guidelines for Investigating Groups Suspected to Be Violence-Prone

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—The Justice Department eased its guidelines for investigating political or social groups it suspects being violence-prone, and immediately drew criticism from civil libertarians.

Complaining that the Federal Bureau of Investigation has been hampered from thoroughly investigating criminally subversive organizations, the department agreed to "simplify and clarify" the old guidelines, which were issued in 1976. The department eliminated many special restrictions placed on "domestic security investigations," and instead applied the same standards and investigative techniques that are permitted for inquiries into general crimes and racketeering.

Critics fear that the alterations give the FBI freedom to expand their surveillance into areas that would violate free-speech rights. "We have some serious concerns about the new guidelines," said Jerry Berman, legislative counsel for the American Civil Liberties Union here. The guidelines might encourage the FBI to conduct inquiries that would intrude on "lawful First Amendment activity," he said.

Attorney General William French Smith maintained that the civil rights of dissenting groups will be upheld as before. "Our citizens are no less threatened by groups which engage in criminal violence for political or racist purposes," he said, "than by those which operate lawlessly for financial gain."

Justice Department officials will be asked to explain their new guidelines at congressional hearings that probably will be held soon. The guidelines don't require congressional approval.

## Public Assurances

"In private discussions the FBI and the Department of Justice have assured members of the House (Judiciary) committee that no loosening of the (1976) guidelines is intended, (that) this is not a signal to expand domestic intelligence," said Rep. Don Edwards (D., Calif.), chairman of the House Civil Rights subcommittee. "We would like the department and the FBI to give us those same assurances in public."

The new guidelines, which take effect March 21, will permit the FBI to initiate a full investigation faster, use informants sooner and continue a probe longer, even after a suspect group has become inactive. The guidelines also state that the FBI can collect publicly available materials on groups that aren't being investigated as long as privacy rights aren't violated.

The department cites several advantages for the changes. It said that FBI agents currently are reluctant to undertake domestic security or terrorist investigations, because they fear that they might be personally liable and subject to lawsuits. Several suits of this kind have been initiated, the department said. The "clearer" and "cleaner"

new rules will encourage agents "to get in when we should," said the FBI's director, William Webster.

In addition, the new rules end what the department viewed as a cumbersome multi-level approach to investigating that permitted different and escalating standards and techniques for "preliminary," "limited" and "full" investigations. Under the new guidelines, the FBI will be allowed to start a full investigation as soon as it has a "reasonable indication" of the existence of a group intent on criminal violence.

## Continuing Observation

The new guidelines also permit the FBI to continue observing a group "when there is a lull in violent criminal activity—perhaps only temporary." Previously, the FBI tended to close investigations and stop using informants during these periods.

As an example of a case that it said



# FBI spying restrictions eased

## Revised guidelines target terrorist groups

By RONALD J. OSTROW  
LA Times-Washington Post Service

WASHINGTON — The Reagan administration eased restrictions Monday on the FBI's domestic security investigations, drawing guarded praise from conservatives who contend the bureau has been dangerously shackled but eliciting concern from liberals who believe the relaxed rules will chill free speech.

In announcing the new rules, Attorney General William French Smith said, "Our citizens are no less threatened by groups which engage in criminal violence for political or racist purposes than by those which operate lawlessly for financial gain."

"We must ensure that the criminal intelligence resources, which have been brought to bear so effectively in organized crime and racketeering investigations, are effectively employed in domestic security-terrorism cases," Smith said.

The revised guidelines, which take effect March 21, replace the first comprehensive list of "do's" and "don'ts" on FBI domestic security work issued by former Attorney General Edward H. Levi in 1976. Those rules came after a series of disclosures of FBI abuses, including infiltration of anti-war and women's rights groups and campaigns to discredit such civil rights leaders as Martin Luther King Jr.

FBI Director William H. Webster, who appeared with Smith at the news conference, said the revision responds to concerns expressed by FBI field agents "and is in our view an extremely balanced and positive law enforcement initiative."

The new rules eliminate the differing sets of standards for the FBI's domestic security investigations and its



WILLIAM FRENCH SMITH

general law enforcement responsibilities, a change that Smith and Webster said was designed to clarify murky areas for agents who were reluctant to pursue domestic security leads for fear of being sued.

Under the revisions, the FBI now can:

- Recruit informants and infiltrate them into organizations before the FBI has a "reasonable indication of criminal activities." Under the Levi guidelines, such techniques were barred during a preliminary inquiry, and the new rules permit them only under "compelling circumstances and when other investigative means are not likely to be successful."
- Monitor organizations that may

be temporarily inactive but whose prior record or stated objectives "indicate a need for continued federal interest, so long as the minimum standard for investigation is satisfied." Under the old guidelines, there was a tendency to close investigations and end informant coverage when there was a lull in violent criminal activity or when a group had simply gone dormant.

- Conduct investigations of persons for advocating in a public speech criminal activity or indicating "an apparent intent to engage in crime," particularly violent crimes. Although the Levi guidelines did not deal as directly with the sensitive question of advocacy, they required agents to consider such questions as the immediacy and magnitude of a threatened harm and the danger to privacy and free expression before conducting a full investigation.

Sen. Jeremiah Denton, R-Ala., chairman of the Senate Judiciary subcommittee on security and terrorism, called the changes a "step in the right direction," although he said that he was not completely satisfied with them.

Denton tentatively set hearings on the new rules for March 16.

Rep. Don Edwards, D-Calif., chairman of a House Judiciary subcommittee that oversees the FBI's domestic security work, said he was concerned that the new guidelines would permit full investigations based on advocacy alone.

"The Supreme Court has made it clear that mere advocacy is not enough to warrant a prosecution," Edwards said in a statement. "Yet the FBI wants to investigate speech. If such investigations cannot result in prosecution, then what other purpose can they serve than to chill legitimate First Amendment activities," Edwards said.

### Intelligence curbed

LOS ANGELES (AP) — The Police Commission, made up of appointed civilians, has ordered the Los Angeles Police Department not to begin new intelligence activities without giving the board 24 hours' notice.

The commission's announcement late Friday came after a six-hour closed meeting. The commission also said it would restructure the intelligence division, but no details were released pending another commission meeting Wednesday.

The action followed reports that the division disobeyed orders to destroy dozens of intelligence files.

The commission questioned Police Chief Daryl Gates for three hours Friday about the Public Disorder Intelligence Division and the discovery that files had been spirited out of the department and stored at private homes after they were ordered destroyed.

Among the files were dossiers on Police Commission members Reva Tooley and Steven Yslas and former commission member Stephen Reinhardt, now a federal judge in Los Angeles.

03-5-83

0 1-9-83



# Civil rights groups sue over new FBI guidelines

By JOHN DOWLING

CHICAGO (AP) — A coalition of civil rights groups has asked a federal court to stop the FBI from implementing new guidelines on political spying, arguing that the rules could have a "chilling effect" on dissidents.

The groups filed a class-action suit Wednesday in U.S. District Court, contending that the guidelines violate a consent agreement signed in 1981 by a federal judge in Chicago. That agreement, the result of a seven-year legal dispute, allows the FBI to investigate political groups only when their conduct violates the law.

The guidelines issued Monday by Attorney General William French Smith permit full investigation into public advocacy of crimes or violence when there is apparent intent to carry out those actions.

The suit seeks a temporary restraining order to stop the FBI from acting under the guidelines, which are to go into effect March 21.

Smith and FBI Director William Webster said the new guidelines were intended to bring rules for domestic security investigations into line with general FBI guidelines for criminal investigations.

Smith said the guidelines would "reaffirm the importance of gathering criminal intelligence about violence-prone groups while retaining adequate

protection for lawful and peaceful political dissent."

But attorney Richard Gutman, who filed the suit, said the guidelines are likely to have a "chilling effect" on the activities of political dissidents and offer the potential for violation of First Amendment rights.

"These guidelines are a step backward," Gutman said. "If they go into effect, we believe that people are going to be intimidated."

Gutman said he asked for a hearing Friday on the suit. If a temporary restraining order is issued, Gutman said, the groups will seek a permanent order to prevent the FBI from acting under Smith's guidelines.

The coalition includes the Chicago Peace Council, several Unitarian church groups, the Alliance to End Repression and Clergy and Laity Concerned, Gutman said.

The new guidelines were issued to replace curbs imposed in 1976 by then-Attorney General Edward Levi. Levi imposed the restrictions to halt a series of abuses uncovered by congressional committees. The panels found that the FBI during the 1960s and early 1970s infiltrated anti-Vietnam war groups, civil rights organizations and the women's liberation movement and tried to discredit their leaders, including the Rev. Martin Luther King Jr.

3-10-83



# Mayor backs information law

LOS ANGELES (AP) — Mayor Tom Bradley says he will support a city Freedom of Information law that Police Chief Daryl Gates warned could leave Los Angeles vulnerable to terrorism during the 1984 Olympics.

Bradley announced his support for the ordinance — and his intention to sign it if approved by the City Council — after a council committee met Monday and postponed consideration of the matter for four weeks.

The ordinance would give Los Angeles residents access to their police intelligence files, with some exceptions.

Renewed debate on the ordinance was spurred by the recent controversy over the Police Department's Public Disorder Intelligence Division, which has been accused of improperly spying on political activists and keeping files on Bradley and other officials.

Bradley said he had no curiosity about seeing his own file.

"I have seen other files," the mayor said. "They are nothing but a bunch of garbage — a bunch of newspaper clippings, totally irrelevant to their (the intelligence unit's) mission, their responsibilities."

He complained that the intelligence division violated Police Commission orders by building files on officials not under criminal investigation.

In a letter sent Friday to Bradley, Gates said the Freedom of Information law would enable criminals to discover — within certain limits — whether they are being investigated and if the police investigation involves an informant.

He said other intelligence-gathering agencies, fearful that their own investigations would be "blown" under a Los Angeles FOI measure, would refuse to exchange the fruits of their probes with police here.

"The city would be ill-advised to allow the Olympics to take place in Los Angeles (if the FOI proposal is passed)," Gates told Bradley. "Doing so would subject our guests and the citizens of this community to the increased potential of violent criminal acts which would damage the reputation of Los Angeles, worldwide, for years to come."

Bradley press secretary Ali Webb said the mayor has not seen the chief's report and could not comment on it.

However, Councilman Zev Yaroslavsky, who proposed the ordinance, said it should help ensure that future police spying is more usefully concentrated against terrorists, not law-abiding citizens.

The council's police oversight committee agreed Monday to delay its review of the proposed Freedom of Information ordinance until April 16 at the request of Yaroslavsky and City Attorney Ira Reiner.

The measure, as now written, apparently would require all city departments that conduct law-enforcement investigations or intelligence-gathering to disclose their files — with some key exceptions — to

those persons who are the targets of their probes.

Yaroslavsky conceded to Councilwoman Peggy Stevenson, the Police, Fire and Public Safety Committee chairwoman, there may be a need to "narrow down" the law so it applies only to files gathered by the police department's Public Disorder Intelligence Division or its successor.

Intelligence files prepared by PDID, due to be disbanded, are at the center of the growing controversy about the Freedom of Information proposal. Six lawsuits against the city have alleged that PDID officers wrongly spied on law-abiding citizens and groups.

0 3-16-83



# Court strikes down FBI spying guidelines

LA Times-Washington Post Service

CHICAGO — A federal judge Monday barred the Federal Bureau of Investigation from spying on domestic political groups that advocate civil disobedience or other illegal acts and struck down new Reagan administration guidelines on the FBI's surveillance operations.

In a decision that eventually could have broad national implications although it applies immediately only to FBI investigations in northern Illinois, U.S. District Judge Susan Getzendanner characterized the administration guidelines as so "lenient" that they would allow the government to spy on activities protected by the First Amendment.

The temporary injunction issued by the judge is expected to spark other legal challenges nationwide to the FBI guidelines, according to a spokesman for the American Civil Liberties Union in Washington.

"I am aware of . . . lawyers in other cities

who are considering reopening litigation to ask for similar injunctive relief against the FBI guidelines," Jerry Berman, legislative counsel for the ACLU, who would not name the cities, said.

The judge's 18-page opinion was aimed specifically at investigative guidelines issued March 7 by U.S. Attorney General William French Smith, which eased rules imposed on the FBI during the Ford administration to restrict surveillance of domestic political groups. The new rules, in part, authorize FBI inquiries into groups that "advocate criminal activity . . . unless it is apparent . . . that there is no prospect of harm."

Such a standard, according to Getzendanner, would allow FBI investigations of groups exercising rights protected by the First Amendment "even if there exists only 'some' prospect of harm, however small." She said that the new guidelines also violate a 1981 consent decree under which the FBI and Chicago police agreed to curbs on do-

mestic spying.

The ruling is expected to affect federal investigations nationwide, particularly if groups targeted for investigations in other urban areas also operate in Chicago.

Douglass Cassell, an attorney for the ACLU, said the judge's order reaffirms that "mere speech, mere advocacy is protected by the First Amendment.

"This represents an important signal to the government that it can't roll back whatever modest reforms of the FBI have taken place," Cassell added. "Reagan's first try to undo reform has been nipped by the courts."

The government argued unsuccessfully that political activity may be constitutionally protected from punishment, but not from investigation. But Getzendanner upheld a more rigid standard, ruling that the FBI can act against political advocates only when their advocacy is likely to, or is intended to, result in imminent and harmful criminal acts.

0 4-19-83





MILAN CHUCKOVICH/The Columbian

Counselor Richard Long talks with Richard.

Throughout his teen-age years, Richard would tell people he was an alcoholic, although he never thought he had a problem. Even after the car crash, he continued to drink, he said. But he was becoming increasingly depressed and thought of suicide. He decided to get help.

For the last month, Richard said he has been cleaning up his life and dealing with himself through TurnAround, the inpatient alcoholism treatment program on the fourth floor of St. Joseph Community Hospital in Vancouver.

"It's really hard to look at yourself and accept some of these things about yourself, to face your problems when all your life you've stuffed them inside yourself," he said Thursday.

"It's hard to do that, but afterward, God, you feel so much better and fired up to cope with your problems. There's more love up here, more than some people have ever known in their lives."

space on the hospital's fourth floor. Construction is expected to take about four months. Until then, youngsters will be in the same unit with adults, but their programs will be different.

Statistics show why that is necessary. While 65 to 70 percent of the adults who go through the program do not take another drink, the success rate for teen-agers in the adult program is less than 50 percent, estimated Dennis Malmer, clinical director of TurnAround.

"I sure think we can stake the odds better in their behalf by going to a more unique and specific focus for them," said Malmer, 34.

Starting Monday, a tutor from Portland will help teen-age patients with their school work for 10 hours a week. Nine adolescents currently are in the program.

In the past, young alcoholics missed school for the 30 or more days they were in treatment. Many of

Vancouver Lions and their Department. They will be introduced to sports such as swimming, pickleball to work off their energy and to show them what activities are available.

"Chemically dependent people, especially kids, haven't ever learned to use their leisure time constructively," Malmer said. "If a person is going through approach recovery, he or she has to learn how to have a good life without the use of drugs. We know that, adults know it's there, and in school who are recovering, it's there, but I don't think it's coming through these doors do."

The treatment program for adolescents also will feature more one-on-one time with counselors and therapy devoted especially to youngsters. Their families also will participate in the therapy sessions. Large groups will have adults and youngsters together.

## Camas police letter surfaces in lawsuit

By WENDY REIF  
The Columbian

CAMAS — A letter written in 1970 from the Camas Police Department asked Chicago police for advice on how to deal with guerrilla warfare and subversive groups, according to documents released last week by a Chicago attorney.

The letter is part of a correspondence file that was sought by the attorney in a 10-year-old case claiming Chicago police spied on groups involved in non-criminal political, religious, civil rights and anti-war activities.

The documents, released Wednesday, indicated three Oregon and two Washington police agencies were among 150 law enforcement agencies nationwide that exchanged informa-

tion between 1963 and 1975 about groups involved in these activities.

But former Camas Chief James Bourland said he recalled no such letter.

Thursday, Richard Gutman, the lawyer who obtained the Chicago police files as part of a pretrial process, said the letter, written on City of Camas stationery Oct. 6, 1970, to the Chicago police, read:

"We are requesting information from your department on subversive activities. We are initiating a training program in which we plan to deal with all areas of guerrilla warfare. We are particularly interested in all areas of subversive groups; their tactics, their objectives, and measures which have been used as defense against them. All information

will remain anonymous as to the source and special names for subversive groups will not be used in connection with information from the source."

Gutman said the letter, sent by Bourland, appeared to be a form letter that might have been sent to other police departments as well.

Bourland, who was chief from 1965-1974, said, "I don't understand. I don't ever remember doing anything like that. This is all news to me. We never had any reason for that (type of information)."

The only cases he recalled in which the department shared information with other departments were drug investigations. He speculated that someone in the department might have used his stationery.

The date of the letter made Bourland speculate that someone might have sought the information for training purposes in light of the big Sky River Rock Festival in Washougal in August of 1970.

Three other members of the police department at the time said they remember no subversive group activity, investigations or need for that type of information.

"It doesn't sound like something Jim Bourland would write," said Sgt. Bob Rhode.

Officers in the department during that era reiterated the chief's contention that there was no reason to seek such information because there were no anti-war protests in Camas nor potential government targets for subversive activity.

## Lions gather

Nearly \$400 in cash and check boxes of food, one turkey and a guitar minus its strings.

That was the result Saturday 5½-hour Lions Club collection involving 275 volunteers who went door-to-door in the Ridgefield west Vancouver areas.

The Lions were elated with donations, which easily surpassed weekend's 247 boxes, \$244 and turkey.

Saturday's labor completes yearly project, with collections

*This Christmas,  
do something new.*



**SPECIAL**  
Fine copies  
your price

**20%**



11-28-84  
**Protesters have trouble**

PROVIDENCE, R.I. (AP) — At least 67 Brown University students were under threat of suspension or dismissal Tuesday after they interrupted a recruiting program by CIA representatives with a "citizen's arrest" of the two men.

More than 300 students, many carrying protest placards, began clustering around Pembroke Hall, the site of the recruiting session, about a half-hour before it began Monday night.

More than 100 students then filled a small lecture room and at least 50 others stood in the hallway as CIA representatives Roger Sampson and Steven Conn, a 1944 Brown alumnus, began their presentation.

Someone blew a whistle and about half of those in the room stood up to make the "citizen's arrest," reading the two men a lengthy list of allegations

against the CIA ranging from drug smuggling to secretly planning war.

Sampson and Conn left the room immediately and were not approached by the demonstrators. Meanwhile, university officials persuaded many of those in the audience to sign a roster that many students apparently thought was a petition against the CIA seminar.

But Robert Reichley, vice president for university relations, said the list of 67 names would be turned over to the University Council on Student Affairs for disciplinary action, including possible suspension or dismissal.



# Police in 34 states said to trade political spying information

By BARBARA BLUMENTHAL

CHICAGO (UPI) — The Chicago Police Department exchanged political spying information with 159 agencies in 33 other states, including Oregon, an attorney who went to court for the information said Tuesday.

"Never before has there been documentation

of the broad existence of this kind of activity," said Chicago lawyer Richard Gutman. "There's been evidence of a couple of isolated incidents but nothing that showed so many police departments and other law enforcement agencies participating."

In 1977, a U.S. District Court judge ordered

the Chicago Police Department to turn over its files of agencies that requested and supplied political surveillance information to Chicago. Gutman alleged that the spying was conducted illegally because no evidence of criminal activity existed.

The files run from 1964 to 1975, when the Chicago Red Squad was eliminated. About 100

municipal police departments, 26 state law enforcement agencies, 16 sheriff's offices and 17 other public and private agencies either supplied or received information during that time.

Gutman obtained the information in September and has been compiling it since then, he said.

12-5-84

THE OREGONIAN, THURSDAY, DECEMBER 6, 1984

4M D5

## Northwest lawmen minimize involvement in spying network

By PAUL MANLEY  
of The Oregonian staff

Documents released Wednesday by a lawyer in Chicago indicate that the Multnomah County district attorney's office and three Oregon police agencies were among approximately 150 law-enforcement agencies that exchanged information between 1963 and 1975 on individuals and groups engaged in non-criminal political, religious, civil rights and anti-war activities.

In Washington, the Seattle and Camas police departments were listed among members of the group, apparently known as Law Enforcement Intelligence Units.

The Multnomah County district attorney from 1973 to 1980, Earl Haas, said he has no recollection of receiving or requesting information from the police spy network.

Present or former members of the Portland Police Bureau, the Multnomah County sheriff's office and the Eugene Police Department said they recalled little about the group, although all

three agencies were listed in the Chicago documents as participants.

The list of alleged participants was released by Richard M. Gutman, a lawyer who obtained the Chicago police files as part of a pretrial process in a federal court case alleging improper spying activities by the Chicago police.

Gutman said the police agencies either requested or provided information on people and organizations engaged in legal activities.

"This shows that police departments throughout the country were interested in gathering information on lawful activity protected by the First Amendment" to the U.S. Constitution, Gutman said.

Gutman cited one example in which the Indianapolis Police Department sought "any data" about a group called Clergy and Laity Concerned, which was involved in lawful anti-war activities.

The files were compiled by the Chicago Police Department's intelligence security section, commonly called the

"Red Squad," which was disbanded in 1975.

Detective David W. Simpson, spokesman for the Portland Police Bureau, said Wednesday that he had talked about the Chicago revelation with Deputy Chief Robert Schwartz, "who said (the Portland police) got virtually no information" from the network. In fact, Simpson added, Schwartz did not specifically recall receiving any information.

"He (Schwartz) is about the only one left around" from that era, Simpson said, noting that other police officials of the period have either died or retired.

John T. Drum, public information officer for the Multnomah County sheriff's office, said his department "apparently belonged to an association that the Chicago unit also belonged to." Drum said he believed it was called "the Law Enforcement Intelligence Units."

"We never worked any cases with the guys from Chicago," Drum said.

Drum said the sheriff's office "had only two people who worked in intelligence at that time. One didn't remember anything; the other remembered being in that association."

"I can't recall any information requested or received from that agency," said Haas, the former district attorney. "My personal opinion is that information of that nature gathered for political activities is improper and shouldn't be engaged in."

Haas said the district attorney's office "did not engage in gathering political information about citizens of the state of Oregon. We weren't interested in it, didn't feel it was any of our business, and it would be an invasion of privacy to do so."

Former Eugene Police Chief Dale Allen, who was named to the post in 1970, recalled that his department had participated in the Law Enforcement Intelligence Units but added, "I cannot recall specifically communicating with the Chicago Police Department."

"If my recollection serves me cor-

rectly, we did not receive any information that was political in nature," Allen added.

H. Art Ellsworth, who preceded Allen as Eugene's police chief, recalled that "our detective division was involved in it." However, Ellsworth

added, "I didn't take an active part in it myself."

"On anything to do with political activities, we cooperated pretty much with the FBI," Ellsworth said. "We knew the FBI was involved in political activists, and we pretty much went along with their wishes."





# ORGANIZING AGAINST GOVERNMENT SPYING

Campaign to Stop Government Spying.....1/78

Numerous public disclosures have now revealed the existence of a vast cooperating spy network in the United States. The House and Senate Intelligence Committees have documented a clear picture of spying, harassment and disruption directed against thousands of political targets by many government agencies. While exercising their First Amendment rights to organize and speak politically, Americans have had their phones tapped and false, inflammatory information circulated to friends and employers. Intelligence agencies have also promoted violence between groups, disrupted marriages and caused people to lose their jobs.

At the core of this spy network are the major federal intelligence agencies—the FBI, CIA, INS, NSA and Military Intelligence. These and other federal intelligence agencies work closely with local police department intelligence units known as “red squads” and state police intelligence divisions, exchanging information and dossiers on people. Local and state police have formed their own “private club,” the Law Enforcement Intelligence Unit (LEIU), which collects and exchanges information on individuals and groups in various cities. There is also an active relationship between these agencies and industrial intelligence services, private security agencies, campus police and right-wing “spy” groups. In addition, growing concern is now being registered about the function of federal grand juries, which many view as an abusive extension of the national intelligence apparatus.

The CIA, along with other intelligence agencies, secretly operates on college campuses, spying on and harassing individuals and political groups. The agency has a special cooperative relationship with foreign intelligence agencies operating within the U.S., including the Korean CIA, Iran’s SAVAK and Chile’s DINA. Moreover, the CIA continues to conduct covert operations against foreign governments in order to sabotage them.

No politically active groups have been missed by the agencies. The Black, Chicano, Puerto Rican, Native American, Asian, labor, peace and women’s movements have all been victimized. Religious, environmental, consumer and civil liberties groups have also been targets. The only lesson the agencies seem to have learned from the exposures of wrongdoing is that they should avoid writing down what they do and that they should operate in greater secrecy. Spying continues, and there will be many more victims if it is not stopped—now!

Only organized, united opposition involving diverse groups of people can end these abuses of our constitutional rights. The Campaign to Stop Government Spying assists and helps to build local coalitions throughout the country in order to combat political spying. This organizing guide combines tested tactics and ideas from many experienced organizers and is designed to aid individuals and groups in their organizing efforts.

## BUILD LOCAL COALITIONS

Local groups have been formed throughout the country based on the coalition concept. Some coalitions are broadly based while others are not. Issue priorities differ from city to city: Group A is working on national legislation and the FBI; Group B is working on local legislation and red squads; Group C works on all these plus the issue of campus and labor spying. No matter what the organizational nature of the group is or its priorities, the ideas below can help.

*A special word about coalitions:* Cooperative efforts bring gains that individuals or single groups can not achieve working alone. A coalition is a temporary, working alliance of groups trying to achieve a clearly defined limited goal. It creates a structure whereby various constituencies and interest groups join forces and resources to tackle important issues—and win! The issue of government spying presents a tremendous opportunity for such a unified effort because almost every politically active group has been spied on!

**RESEARCH:** Every local organizer emphasizes research as the first big step towards organizing a coalition to fight spying. Facts are necessary to inform and create interest.

Get a small group of people together to uncover important information. If there is an already-established group, form a sub-committee. If this is your first step, it can be a foundation upon which to build your coalition.

Seek out students who may be able to earn credit for doing such research; investigative reporters, journalists, lawyers and other interested persons may donate time. Make a general assessment of the local situation. Try to find out the kinds of local abuses which have taken place. Is the local police department involved? The FBI? Other federal agencies?



**FORM AN ORGANIZING COMMITTEE**—Pull together a small working group for an preliminary meeting. If your goal is to build a broader coalition, this is a preliminary step. (In some cases creating a small, energetic group and keeping it that way has proven successful.)

Determine the kinds of coalitions which have existed or still exist in the area. Is there an anti-police brutality group? Was there a anti-Senate Bill 1 coalition? How is the consortium of churches organized and what are its priorities? What political machine runs the community? Who are the powerful forces? If there is an existing local organization working around the issue, perhaps they can be of help at the outset. Or, it might be possible (and better) to link up with something that already exists to avoid duplication of effort. And . . . what are the traditional political activists doing? Are there local political figures (especially those fighting the political machine) interested in the issue? Remember, welfare reform, full employment, civil liberties, minority community and anti-nuclear interests can all be linked with the fight against intelligence agency abuse.

Researchers can help determine goals and priorities for the projected larger group. Contact local affiliates of national member organizations of the Campaign as well as other groups. Go to organizations which clearly have been victims of spying (those cited in government documents, FOIA disclosures and news reports).

**CALL COMMUNITY MEETINGS** In order to discuss the issue and form a coalition, contact everyone who might be interested: Third World, women's, civil liberties, church, trade union, environmental, peace and other groups.

Clearly state the purpose of the meeting at the outset. A good way to begin a meeting is to ask someone who has gotten their file back to discuss its contents. Show a movie, a slide show, or host a major speaker. Stimulate discussion and encourage questions.

After presenting information, suggest (don't dictate!) priority issues to confront. To make sure that the necessary work gets done, establish working committees on projects of interest to different groups: press, publicity, research, legal. Form an ad hoc steering committee to help guide the work of the group, keep things going between meetings of the full group and communicate with the Campaign and other local groups. Elect a temporary chair(s).

**TAP COMMUNITY RESOURCES** The most successful group will be the one which not only has hard workers, but also has adequate resources and staff. Locate office space and phones that can be donated or shared. Solicit in-kind donations: paper, envelopes, mimeograph, printing, copying, desks, file cabinets, and general office supplies. Approach possible funding sources. Convince an individual or organization to volunteer staff time.

## **MOBILIZE COMMUNITY ACTION—MOUNT A PUBLIC EDUCATION CAMPAIGN**

**LEAFLET, DISTRIBUTE BROCHURES, PUBLISH A NEWSLETTER** Design attractive leaflets, fact sheets, organizational brochures and posters to publicize the issues and the goals of your group. Distribute and post these at public places. Publish an ongoing newsletter (weekly, monthly, quarterly) to keep people abreast of current news about intelligence abuse as well as coalition activities.

**SCHEDULE SPEAKERS AND FILMS** Establish your own speakers bureau. Seek out local people already well-versed on the issue to participate. Develop potential speakers. Schedule speakers at high schools, colleges, rallies, churches, union halls. Bring in outside experts on the intelligence agencies and use them for a major public speech, panel discussion, meeting with local government officials or a big fundraiser for your group. Remember, speakers can be used to recruit new members into the coalition.

Ask the Campaign for assistance in finding and scheduling appropriate speakers. See the Campaign's "Planning a Speaking Event" and "Speakers Program." Show films, slide shows and videotape documentaries. See the Campaign's "Materials List" for suggestions. Develop your own audio-visual materials on the local and national situation. (The Campaign will gladly help with national publicity and distribution.) Set up literature tables and have sign-up sheets available at all these events. Get people involved right away in the ongoing effort.

**ORGANIZE RALLIES AND DEMONSTRATIONS** Plan and organize carefully those visible expressions of community concern. Schedule activities in front of the FBI office, police headquarters or at the state capitol when a bill is being considered. Be realistic! Try to ascertain your prospects of success. Ill-planned or poorly-attended rallies and demonstrations can create a bad image for your group and create frustrations among members.

**ORGANIZE PEOPLE'S COURTS OR HEARINGS** such as the Minnesota and New York Citizen Review Commission hearings on the FBI and the Philadelphia People's Court.

Such hearings are usually community sponsored and organized, and as many people as possible should be involved from the start in the planning. Victims of intelligence abuse from various walks of life testify about their experiences before an independent hearing board or panel of "people's judges," including well-known, respected community leaders.



Following the testimony, the hearing board/judicial panel presents its findings, makes recommendations or returns "indictments." These can be published and distributed publicly. The event should be well-publicized to ensure wide attendance and good press coverage. Focus the hearings on a manageable target: the local police, FBI or INS—not all of the above. Such events should be videotaped in order to develop documentaries for future organizing use. When well-organized, this can be a highly effective and successful activity.

**STREET THEATER, SKITS** Use short plays or skits to dramatize the abuses of spy groups and how people can organize to stop them. Streets, community centers, movie theaters, parks, shopping malls and any other place frequented by crowds are good areas to stage such events. When possible, make it a fundraiser.

**LITIGATION** File lawsuits against government intelligence agencies for files, damages, discovery, declaratory and injunctive relief. Use lawsuits as organizing tools—put together a "lawsuit support group" to help publicize the issues of the suit, raise money for the suit and organize strong community support for it at every important legal step.

**Important** Attorneys/plaintiffs/organizers should recognize the important, complementary roles of legal action and community mobilization around a lawsuit. A cooperative and mutual working relationship between plaintiffs and attorneys (when clients are consulted and involved in making legal decisions) is essential.

**LOBBY AND ORGANIZE LETTER WRITING CAMPAIGNS** Organize citizens delegations to urge lawmakers to support legislation which would end intelligence abuses. Urge all concerned about the issue to send letters and telegrams to appropriate government officials and elected representatives registering their concern.

**DEMAND HEARINGS** Urge thorough investigative hearings by local, state and federal lawmakers into the workings of the intelligence agencies. Locally, your group can play a role in these ways:

- Provide council members and legislators with appropriate questions for law enforcement officials who may testify. (Be prepared for those who may lie, cover up or defend abuses.)
- Call in national experts to testify. Campaign speakers are available to testify and have done so.
- Help organize the testimony of known victims who will detail intelligence abuse from their own experience.
- Testify on behalf of your group at hearings.

For all such hearings, organize a strong community presence and make sure that the media is notified.

**CIRCULATE PETITIONS** Draw up petitions which support: passage of local, state or national legislation; and end to political surveillance; opening up of state or local police files; an end to grand jury abuse. Carefully determine who the petitions should be directed to and accompany them with explanatory hand-out literature.

**ENCOURAGE THE USE OF THE FREEDOM OF INFORMATION ACT** The FOIA allows citizens to request and obtain personal records from federal government agencies that conduct surveillance on U.S. citizens. A simple request letter to an agency begins the process. Contact the Campaign for brochures which detail the necessary steps.

Distribute form letters for an FOIA request at meetings and major events. Stage a "File Day" where people come to a centralized place to learn how to write for their file and do it while there.

Constantly explain the value and importance of using the FOIA. Obtaining files means getting more information about the extent of spying, the techniques employed, how much the spy agencies have cooperated and individuals and groups who have been victims.

Use and reprint brochures and fact sheets explaining in detail the use of the FOIA. Be sure to check with the author/publisher for permission to reprint. See the Campaign's "FOIA as an Organizing Tool."

**ORGANIZE CONFERENCES** Well-organized conferences on intelligence abuse can be another very effective way to mobilize local concern about the issue. Some coalitions have emerged out of conferences of this kind. Other coalitions organize conferences after they become established. Conferences also serve to focus work, make connections between individuals and groups, share experiences, and enhance work. Write the Campaign for ideas

**ORGANIZE STATEWIDE COALITIONS** to fight government spying as a link for local groups. They are the organized answer to: • Efforts to pass state FOIA or anti-surveillance legislation • State legislative investigations into spying by state and local police • Mobilizing state-wide public pressure on governors and attorneys general about the issue • Maintaining communication and sharing information and experiences.

**FUNDRAISING** is essential to all your group's activities. There are many creative ways to do it. Send for *The Grass-roots Fundraising Book: How to Raise Money in Your Community* by Joan Flanagan. An experienced fundraiser discusses several good ideas. \$4.75 plus 50¢ postage to National Office, The Youth Project, 1000 Wisconsin Avenue, NW, Washington, D.C. 20007.



## RED SQUADS

Much public attention has focused on F.B.I. CIA and other federal intelligence agencies. But what may be the largest army of political spies can be found in almost every city and town—states too. They are the local intelligence units known as "red squads," which cooperate with the major intelligence agencies. These units have different names: Intelligence Unit, Special Services Division, Special Investigations Unit, Inspectional Services Division and others.

**GATHER INFORMATION** Most efforts to inspect police records will be met with resistance. Find out if there is a "Sunshine Law" (state/local version of the federal Freedom of Information Act) which allows citizens access to such records. *Caution:* where these laws do exist, law enforcement agencies are often exempt from the act.

Contact your police or sheriffs department and ask whether or not it has an organized intelligence unit. Remember, the name may not be as obvious as Intelligence Unit, so describe its function. Usually, it's the division which investigates "organized crime," "terrorism," or "narcotics." These code words are often used as covers for their illegal activities.

Ask the police if this unit or any division of the department maintains files on political groups or individuals. If so, ask if you can inspect the general investigative files maintained by the unit. If not check further.

Ask if the department publishes an organizational or police manual. If so, order a copy. This should be public information.

Check the manual for the name they gave you. If they refused to name the unit, look for a name similar to the ones listed above. If there's a description of its duties, see if it also indicates how many officers it employs.

Check also to see if the department has a budgetary breakdown of police operations. A city council legislative/oversight committee should also have one. You may find out how much money is being allocated to the unit and how many officers it employs from this source.

Talk to sympathetic police officials/officers (especially retirees) who may be able to give you important information.

Check to see if there's an "open meetings" act of some kind in your town. These laws require government agencies such as the board of police commissioners to conduct public business meetings. Attend these to listen, question and obtain important information.

Police civilian review board in your area? Consult with them (especially after you've obtained information).

Find out the relationship (if any) between your local police department and the Law Enforcement Intelligence Unit: Ask your city council to make an inquiry. Ask the police directly if they are members of LEIU.

Check your local city council minutes (under title of police budget or similar topic) for record of approval of trips by police officers to some national or regional meeting/conference. It may have been an LEIU meeting. Write the Campaign for the "secret" LEIU membership list, and George O'Toole's detailed *Penthouse* article on the organization. Note: LEIU has both departmental and individual membership.

Contact your State Planning Agency (which handles LEAA grants) or the national Law Enforcement Assistance Administration office: LEAA, Enforcement Office, 633 Indiana Ave. NW, Washington, D.C. 20531, (202) 376-3990. Find out if LEAA has provided technologically advanced surveillance equipment of any kind to your police department. Also, when checking the press morgues (see below) look for newspaper stories that may have announced or discussed a local or state LEAA grant. For information on how to conduct research into LEAA grant assistance to state and local law enforcement agencies contact: Center for National Security Studies, 122 Maryland Ave. NE, Washington, D.C. 20002, (202) 544-5380.

Check with a reference librarian for testimony made before congressional anti-subversive committees that may have involved your city, a history of the police department, or recent police studies by local universities.

A good investigative reporter may be doing or has done some research on police operations or intelligence in general. Check around for them (at newspapers as well as radio and television stations). Contact reporters whose regular news beat is police activity or crime and those from labor, radical, liberal or third world publications.

Some call press morgues (newspaper clipping file) the best specific source of information. Located at newspaper offices, they're usually open to the public during regular working hours. Check news stories, past and current, about labor strikes, urban disorders, mass protests, police brutality. They may reveal pertinent information about the red squad. Ask a reporter for assistance.

Interview possible victims of police surveillance and harassment who would have first hand information. This can more easily be done when the press or some other source publicly discloses names of persons/groups who have been victims of spying. Ask third world, womens, consumer and various political groups if they have seen plainclothes or uniformed police officers taking pictures, recording license plate numbers, asking questions and taking literature at demonstrations. Solicit the help of an experienced investigator from such places as a Public Defender's Office. Have there been any unexplained office burglaries during which office files and/or machines were destroyed or taken? Get individuals and groups to document such occurrences.



Approach local officials for assistance. Ask city council, police commission, and school board members, as well as the mayor's office and officials at government agencies. Find out what they know about the police intelligence function. Express your concern about possible political intelligence gathering by the police. Ask for help in getting more information.

Utilize the federal Freedom of Information Act. Many files obtained by individuals and groups under the act includes information provided to the FBI and other federal agencies by local, campus and state police. These files can reveal invaluable information about red squad activities.

Contact lawyers or legal groups handling civil rights, police brutality, narcotics or red squad cases who probably have files containing useful information. They may have obtained information through discovery (see lawsuits) in these cases which they might be willing to share.

Visit your city or state auditor's office. They probably list people on the public payroll by agency. Ask to see their files. You may find out who's working for the red squad and how much they're being paid.

**STATE POLICE** also spy on individuals and groups. Utilize the same research techniques as above to obtain information.

Check with the State Attorney General's Office, state archives, individual state legislators, appropriate legislative oversight committees and state agencies. Almost all state agencies are required to file annual reports with state legislatures. Check with legislative reference libraries which should have them.

Utilize a "State FOIA" (if one's available and can help you) to obtain information. They have names such as Public Disclosure Act, Sunshine Act, Public Records Act, Information Practices Act.

Ask the Campaign for "How to Investigate your Local and State Police." Send for the Campaign's "Materials List" for key resources. An important publication to get is the "Intelligence Abuse and Your Local Police" organizing handbook available from the American Friends Service Committee, 1501 Cherry Street, Philadelphia, Pennsylvania 19102.

## ORGANIZING AGAINST RED SQUADS

**LAWSUITS** From Chicago, Detroit, Houston to Seattle, groups are suing the red squads to expose abuses and win damages. Suits can expose unknown programs, muster the support of the courts and/or community, and demonstrate where the laws which are currently on the books do not protect essential political rights and need to be changed.

Remember, it is not necessary to have very detailed information about red squads to file a suit. You can allege specific abuses if you have reasonable belief they exist. One of the purposes of a suit is to obtain information about allegations you make which may not be factually substantiated in full (for example, whether or not the Police Department maintains political files). It is better, however, to have specific information about abuses. Such information is usually obtained through "discovery" proceedings in court, where certain information in the possession of the police can be legally obtained. Discovery is crucial and how much information you get will depend largely on the judge handling your case.

*Caution:* Plan ahead, because suits can be long, time consuming, complex and expensive. Never-the-less, they have proven to be a valuable organizing tool. Community support and organization around the lawsuit is essential. Carefully define the specific goals of the suit: to win damages and/or to hold officials liable? Bring to light how bad present rules and regulations are and need changing? Create greater civilian control of or oversight of agencies?

Contact legal help organizations such as the ACLU, National Conference of Black Lawyers, National Lawyers Guild, NAACP Legal Defense Fund and Legal Aid Centers for information and assistance. Write the Campaign for contacts in your area.

Lawyers who consider taking on red squad lawsuits should consult a litigation manual on political surveillance titled "Pleading Discovery and Pretrial Procedure for Litigation," available from the Better Government Association, Rm 1118, 360 N. Michigan Ave., Chicago, Illinois 60601. Price: regular \$15.00 per copy. Tax exempt organizations \$7.50. Pre-paid orders only.

**LEGISLATION** ending political spying by city and state police and state FOIA's are important goals for local organizing. You can formulate model legislation in both areas and solicit the support of a friendly lawmaker who could introduce it. It is important to have competent legal help when drafting your proposed legislation so that it will be most effective. A packet called "Model Squad Legislation" is available for \$3.00 from the Center for National Security Studies, 122 Maryland Ave. NE., Washington, D.C. 20002. The Campaign has speakers available to speak on the subject for community meetings or talking with city/state officials.

**PUBLIC EDUCATION CAMPAIGNS** are critical to anything you do. See the "Mobilize Community Action . . ." section.



## THE FBI

The FBI has been at the center stage of public disclosures about intelligence agency abuses. Hearings, FOIA requests, press disclosures and lawsuits have revealed more about the agency than we've ever known. The agency conducted the illegal Counter-intelligence Program (COINTELPRO) to disrupt, discredit, and neutralize several political groups during the 1960's and early 70's. While the official program has ended, the tactics employed continue.

**GATHER INFORMATION** See press articles, reports from congressional hearings, books written on the bureau and special FBI reports done by the U.S. General Accounting Office.

Urge individuals and groups to make FOIA requests.

Research and analyze information obtained from lawsuits groups and individuals have filed against the agency.

Check out possible links between the FBI and your local and state police. Follow news articles that may cite joint investigations, arrests, raids. Talk to political groups in your town who might have information or personal experiences.

Find out what FBI office has jurisdiction over your area. The bureau has 59 field offices in all 50 states and Puerto Rico. Check your phone book for a listing. Geographical areas of responsibility for field offices differ. Some cover more than one state, others do not. The bureau also has resident agencies covering smaller areas within states, which operate under the field offices.

Find out what your local FBI office has been doing: Check the Senate Intelligence Committee's COINTELPRO report for possible references to it. The FBI has opened its COINTELPRO files for public inspection in Washington, D.C. Check them to see if your local FBI field office has been discussed. FOIA request information may also cite the office's activities.

**SUPPORT FEDERAL LEGISLATION** aimed at ending the FBI's illegal activities.

**AS A DISCUSSION/EDUCATIONAL PIECE**, compare the FBI's role as portrayed in the famous TV series with what it has actually been doing. You may be able to get access to those films from a local film library.

## THE CIA

The CIA conducts political surveillance on Americans at home and abroad, accepts requests from the FBI to put travelling citizens under surveillance, claims the right to wiretap and burglarize American homes and apartments overseas and continues to conduct clandestine operations against foreign governments.

**GATHER INFORMATION** on the agency from libraries, colleges, local foreign affairs groups, Senate and House Intelligence reports and resources in the Campaign Materials list.

Ask foreign political and student organizations in your area if they are currently being spied on and harassed by the CIA. The agency is still authorized by Presidential Executive Order to infiltrate such groups under the guise of national security. (Be sensitive to the need at times for them to be cautious and discreet about their activities.)

Try to involve their members in the work of your group and actively support their efforts to end CIA harassment.

Find out if a relationship exists between the CIA and your local and state police departments. An FOIA request, lawsuit, city council/congressional inquiry or directly asking the departments may reveal such information. Remember, the CIA has been provided with information from red squads on certain individuals and groups and has also helped to train police officers in various counter-espionage techniques such as burglaries, wiretapping and the like.

Talk to people returning from abroad: did they learn anything about the CIA in that nation? Are they themselves being harassed by the agency?

Encourage individuals and groups to make FOIA requests with the agency to see if they have been victims of CIA domestic programs such as Operation CHAOS (the CIA's major program for spying on dissident groups).

Mobilize support for legislation to end CIA abuses.

### The CIA on Campus

The Campaign encourages members of the academic community to confront the problem of political spying on campus. Local, state and federal law enforcement agencies and especially the CIA, gather political information on individuals and groups at many universities.

The Campaign works with individuals and groups to end the CIA's covert use of academics and to urge universities to adopt guidelines governing the CIA's presence on campus. Local coalitions should establish cooperative relationships with student groups working on the issue. For further information see the Campaign's "Spying on Campus Organizing Guide" and contact the Campaign's Campus Project.



## OTHER INTELLIGENCE AGENCIES AND GROUPS

Find out about all agencies. Investigate possible links between them and your local or state police departments: Are they exchanging information, coordinating investigations?

**FEDERAL AGENCIES** such as the Internal Revenue Service, National Security Agency, Military Intelligence (Army, Navy, Air Force, Coast Guard), Secret Service, Civil Service Commission, Drug Enforcement Administration, Bureau of Indian Affairs, Immigration and Naturalization Service, the Alcohol, Tobacco and Firearms Division of the U.S. Treasury Department and many other government agencies have also spied on, harassed and maintained dossiers on the lives and activities of millions of Americans.

Work with special constituencies in your area interested in or victimized by any of these agencies. For example: A GI organizing committee (Army intelligence) a Chicano organization (INS), a Government employees union (Civil Service Commission), Native American groups (Bureau of Indian Affairs).

Mobilize support for federal legislation that would outlaw political surveillance by any of these agencies.

**FOREIGN INTELLIGENCE AGENCIES** are in this country under special agreement which permits them to operate in the U.S. and the CIA to operate overseas. Victims of these agencies include students, tourists, press and dissidents and their tactics include harassment, surveillance, disruption and murder.

Contact foreign students, political and foreign policy groups for information. The foreign intelligence agencies often operate on college and university campuses—don't neglect the community colleges with foreign student populations.

Obtain statements by foreign nationals and prominent community leaders supporting the need to stop the activities of foreign intelligence agencies in the U.S. Be sensitive to the need for some foreign nationals to be discreet or keep from being involved in political activities in order to protect their and their family's safety.

Mobilize local support for an open investigation with hearings and full public disclosure into the illegal activities of the DINA, SAVAK and the KCIA in the United States. Begin with your own set of hearings locally. Urge your Senators, Representatives and the Justice Department to investigate these illegal activities.

**CORPORATE AND PRIVATE INTELLIGENCE SERVICES** Many corporations operate "security departments" that maintain files on employees. Some also contract with private security agencies to spy on and harass workers during labor disputes and conduct surveillance on environmental and consumer groups challenging corporate practices. Information gathered on workers' political activities has been passed on to the police, the FBI and other agencies.

Consult a lawyer or legal groups to help develop angles for possible suits against corporations involved in such practices.

Help formulate state legislation that would prevent the above kind of corporate/public agency collaboration. Support legislation allowing public and private employees access to their personnel files and the right to correct errors.

**RIGHT WING SPY GROUPS** There is a right-wing intelligence network in America which has ties to the John Birch Society, members of Congress, the government intelligence apparatus at all levels and other right-wing groups. This network provides the FBI and local police with information about the plans and activities of political groups, which is often false and inflammatory.

Check with politically active groups that may know of right-wing group surveillance/disruptive activity in your area.

**Caution:** The tactics of the right-wing spies are vicious. They distort seemingly innocent remarks, take statements out of context, and blatantly misquote. They also seem to have lots of money. Be careful, watch for them, and expose their activities.

**GRAND JURIES** Within recent years, federal grand juries have become awesome tools of government repression, wielding enormous legal powers. Gather as much information as you can about the work of federal grand juries. Legal groups in your area can help. Find out if a grand jury is currently sitting in your area and why (contact the nearest U.S. Attorney's office). Is anyone jailed in your town for not cooperating with the grand jury? What are the issues? Educate the public about grand jury abuse and how to fight it. People should know that if anyone receives a subpoena to appear before a grand jury, they should immediately contact a lawyer, preferably one who knows grand jury law. that the FBI uses the grand jury for investigations and that people don't have to talk to the FBI if agents come asking questions. Push for grand jury reform legislation. Organize public defense campaigns and support groups to free jailed grand jury victims.

For further organizing information or names of groups working on specific agencies contact the Campaign.



## UTILIZE THE MEDIA

The media is important to everything you do. The press establishment is not easily convinced so don't get frustrated when it is not responsive. However, armed with some "know-how," you can often impact the press to make it more responsive.

**MAINTAIN A PRESS LIST** Maintain an updated and extensive press list with addresses and phone numbers which include all major, small neighborhood, college, labor, left, black and third world newspapers in your community. Include all TV and radio stations. List editors and writers of organizational newsletters as well.

**LIST OF KEY PRESS CONTACTS** Keep a separate list of key press contacts within the media (friendly, responsive, important) for special mailings and phone calls.

**FRIENDLY CONTACTS** Develop friendly contacts and working relationships with reporters and editors. Hold special gatherings for media people. Supply sympathetic investigative journalists with important information for possible stories.

**INNUNDATE THE PRESS** Keep in constant communication with the press with neat, well-written and newsworthy press releases and other materials about what you are doing. Be sure that your facts are reliable and can be substantiated. Provide the press with adequate notice of major activities of your group. Background information on intelligence issues is helpful in keeping reporters up-to-date and provides additional opportunities to contact the media.

**EDITORIAL LETTERS** Organize well-written letters to the editor of all newspapers concerning specific actions, lawsuits, and legislation. Meet personally with editorial boards to discuss your efforts and the paper's editorial policies. Take community leaders along with you on such visits.

**RADIO AND TV** Schedule appearances on radio and TV talk shows. Arrange to show slide shows and films on TV (this is easier to do on public and cable stations). Get radio stations to play tapes of important speeches on the issue.

**ACTUALITIES** Set up radio phone interviews (actualities) with a group spokesperson or national speaker. You're making a news appearance without being at the station! The Campaign can arrange for speakers to do this from their offices.

**PRESS CONFERENCES** Organize press conferences to coincide with major announcements of activities and events; the launching of a lawsuit, a fight for legislation, a mass demonstration, the beginning of a petition campaign. *Caution:* Know your media and don't stage press conferences for everything. Think ahead! Unless they are carefully planned and timed, press conferences can produce poor results.

**STAGE MEDIA EVENTS** Try going to the police department to demand they allow public inspection of files to prove that no political ones are being kept. Alert the press ahead of time. Take prominent people to go ask for their files. Deliver a "people's subpoena" to the local FBI official to appear at an upcoming Citizen's Review Commission hearing. Invite members of the press to come along.

**USE THE CAMPAIGN** If you accomplish a "first" or uncover important information deserving national coverage, contact the Campaign. We have national press contacts and can put information into Organizing Notes.

**WRITE** for the Campaign's Media Fact Sheet, which discusses press utilization in detail.

---

*The Campaign to Stop Government Spying is a coalition of over 80 religious, educational, environmental, civic and labor organizations which have joined together to call for strict controls on the operations of local, state and national intelligence agencies. The Campaign urges groups and individuals across the country to meet the challenge posed by continued police and intelligence agency abuses. Towards these goals the Campaign functions as a national clearinghouse, providing materials and organizing assistance to coalitions and groups working to end spying.*

---

 Campaign to Stop Government Spying

201 Massachusetts Avenue, N.E. Washington, D.C. 20002 (202) 547-4644



# Grassroots Lobbying on Intelligence Legislation

Campaign to Stop Government Spying Action Committee

5/78

Congressional investigations and other recent disclosures of information about abuses by the CIA, FBI, IRS, and other federal agencies have demonstrated the urgent need for new legislative controls on US intelligence activities. In the past, the intelligence community has operated under Executive Order, secret Presidential authorization or its own internal regulations.

The time has come for the American people, through Congress, to firmly establish parameters within which these agencies will function in the future. By publicly drafting, considering and debating strict legislative guidelines governing intelligence agencies, Congress can have an unprecedented effect on the operation of the U.S. intelligence apparatus—and still maintain the protection of individual rights guaranteed by the Constitution.

There are a variety of ways Congress can limit the activities of the intelligence agencies.

- House and Senate "Oversight" committees are mandated to review past and present workings of the agencies and to draft legislation defining the effectiveness, efficiency and constitutionality of specific intelligence functions.
- By making public the now-secret budgets for intelligence activities in many federal agencies, bureaus and departments, Congress can subject them and their functions to closer public scrutiny.
- Specific legislation addressing the role of a single agency or the limits on a certain activity (such as wiretapping) can be used to prohibit the most flagrant violations of rights.
- By establishing mechanisms, such as criminal penalties and a special prosecutor, Congress can regulate the activities of the intelligence agencies and prevent some of the most flagrant violations.
- But, the most comprehensive means of controlling activities and preventing the recurrence of past abuses is through the adoption of legislative "charters"—clear delineations of the function and purpose, capabilities and responsibilities of each agency.

Because of the capability of Congress to legislate meaningful reforms, the passage of bills and the grass-roots work needed to influence this passage remain vital and necessary parts of the fight against intelligence abuse.

National legislation provides a focus around which individuals and groups throughout the country can be organized. The education required to influence a bill is the basis for many other efforts. The network of individuals and groups established around a particular piece of legislation can continue to function and be activated to consider related issues. Most importantly, it is only by organizing to influence national legislation that we can affect pending bills.

Constituent pressure is an all-important part of the legislative process—it can cause a bill to die; it can force amendments; it can educate Representatives and Senators; it can create an issue where previously there has been none; it can support the efforts of particular legislators to bring about meaningful change.

This organizing guide is meant to assist anyone interested in affecting national legislation through individual action and organized constituent pressure. National legislative action is just one of the many ways to work toward ending political spying and harassment in the United States and covert operations abroad.

While legislative action such as charters, public disclosure of budgets and regular Congressional Intelligence Committee oversight can contribute to controlling abuses, legislation can also legitimate dangerous practices and authorize repressive techniques. Drafting and passing a bill generally requires compromise and this process can turn a progressive bill into a vehicle for legalizing abuses. On the intelligence issue, many members of Congress depend entirely upon other members who sit on the Oversight or Judiciary Committees, or upon experienced staff people. When Senators and Representatives are not well-informed on the particulars of a bill, it is much easier for the intelligence community to influence the bill's final form, especially when "national security" is used as a justification for unlimited power.

Congress is a maze of egos, special interests, ambitions, conflicting political philosophies and hundreds of individual notions of what is right and what is wrong. Political pragmatism is the accepted rule. In such an atmosphere, legislation broadly protective of civil and political rights is hard to attain.

Congress has not supported tight controls over intelligence operations in the past. Future legislation will probably reflect the less stringent approach to controlling intelligence operations unless constituent pressure is mobilized to make a difference.



## Collect Background Information

**KNOW THE ISSUE.** Before beginning to organize constituent pressure, familiarize yourself with the issue.

Identify areas of specific concern to members of your group and encourage each person to become an "expert" on one topic. This will enable you to send delegations of experts to discuss upcoming legislation with your legislators. It also divides the workload.

Establish a small reference library including copies of committee reports, bills, articles on the legislation and articles on the issue in general. (See Organizing Notes and the Campaign's "Materials List" for ideas.)

### KNOW YOUR SENATORS AND REPRESENTATIVE

**Identity:** To find out who your Senators and Representatives are, contact the local library, county court house or local board of elections.

**Committee Assignments:** Committee and Subcommittee membership usually is a good indication of legislative interests and influence. Watch especially for members who are on the Senate or House Intelligence Committees and Judiciary Committees (although Appropriations, Armed Services and other committees often have jurisdiction over intelligence legislation).

**Background:** In order to influence your legislators and to understand their reasons for certain positions, it is important to know their political backgrounds. Which constituencies were responsible for their elections? Who are their basic supporters—what are their ongoing concerns? Which groups have opposed their policies? Are they up for reelection soon?

**Legislative Record:** Check your Senators' and Representative's voting records. While there have been only a few votes on intelligence legislation as such, positions taken on related matters such as the criminal code, budget disclosures, basic civil liberties issues and the federal Freedom of Information Act will be helpful.

Be sure to find out which legislative accomplishments the legislators take responsibility for—these will be the areas of greatest concern to them. Watch for cosponsorship of specific legislation and for lengthy floor statements.

**Position on the Issue:** It is most important to know as much as you can about the position of your Congresspeople on the issue *before* approaching them to discuss it. In doing so, you appear more knowledgeable, and can impress them with your concern (you are involved enough to do some research) and, most importantly, you know what to expect!

To get information on your Senators and Representatives, check:

*Almanac of American Politics.* Available through bookstores and libraries (if your library doesn't have it, ask them to carry it.) Lists voting records on key issues, biographical background on individual legislators, committee assignments, political and demographic information and even includes a picture! \$7.95.

*Organizing Notes* Monthly newsletter including regular updates on intelligence legislation and upcoming hearing schedules. Free to organizers. Campaign Action Committee.

*Congress Handbook.* Shorthand version of the *Almanac of American Politics*. \$2.75. PO Box 566, McLean, VA 22101. Ask your local bookstore.

*Public Citizen's Guide to the U.S. Capitol*, with information on the committee system, hearings, etc.; \$1.25 from Public Citizen Visitors Center (PCVC), 1200 15th St., N.W., Washington, DC 20005, 202/659-9053. Three hour escorted tours of Capitol Hill also available (when Congress is in session), with visits to legislators' offices, hearings, floor debates, etc.; \$2.50 from PCVC.

\**Congressional Record* Published daily. Contains all statements made on the floor of each house, plus items "read into the record." (Editorial changes or floor statements are permitted by Senate and House staffers.) Includes hearings schedules, vote tallies. \$45/year. U.S. Government Printing Office.

\**Congressional Quarterly* Publishes two weekly newsletters on Congressional activities. Includes voting records. Prices vary. *Congressional Quarterly*, 1414 22nd N.W., Washington, D.C. 20037.

\*These publications are extremely expensive. Consult your local library, political science department of the university, or local Congressional office to obtain access to copies. If none are carried, request that libraries do so.

Check your local newspaper for voting records or positions on specific legislation. Even if such information has not been printed, it is possible that it is available through the newspaper office or from a friendly reporter.

Public Interest and other organizations such as Common Cause, Friends Committee on National Legislation, League of Women Voters and ADA distribute voting record charts, which provide some background on your legislators' records.

Most Representatives and Senators publish a newsletter or a periodic review of what they have accomplished. Ask for copies of these publications to give you a better idea of public statements and major concerns. Ask to be added to their regular mailing lists.



**KNOW THE LEGISLATIVE PROCESS** See the Campaign Action Committee's "Intelligence Legislation—A Flow Chart." Write to your Representative for copies of "How a Bill Becomes Law" and your Senators for "How Our Laws are Made"—primers on the legislative process.

**FIND OUT WHAT BILLS ARE UNDER CONSIDERATION.** See Organizing Notes for regular updates on pending legislation. Contact the Campaign Action Committee for further information on specific pieces of legislation.

**OBTAIN COPIES OF BILLS, HEARINGS AND COMMITTEE REPORTS OF INTEREST TO YOUR GROUP.** Write to your Representative or Senators. Write also to the Chair of the Committee which is considering the legislation. Request information on when the bill will be considered by the subcommittee, full committee and full House or Senate.

## Legislative Strategy

**ANALYZE AND COMPARE CURRENT LEGISLATIVE OPTIONS** Assign members of your group to study legislation, preferably relating to each person's area of expertise.

Involve other people. Recruit lawyers, legal workers, law students, lobbyists and professors to assist in analysis. Contact groups specifically interested in legislative work and groups who will be affected by the legislation.

**ESTABLISH PRIORITIES** The category of Intelligence Legislation includes many separate issues and many different bills. Decide which specific kinds of legislation (Budget Revelations, Foreign Intelligence Control, Action Against Official Wrongdoing, Comprehensive Charters) and which specific issues (CIA abroad or at home, FBI, other agencies, Agency cooperation with Local Law Enforcement, LEAA) are of interest and *real concern* to your group.

Be sure to consider your Representative's and Senators' committee assignments and special concerns when setting priorities.

Set specific and realistic goals, including intermediate goals. For example, you may want to defeat a specific piece of legislation, but your intermediate goal might be to have the Committee set up hearings on the legislation.

Give serious consideration to your group's strength and resources. It is better to give a lot of attention to one or two pieces of legislation than to spread yourselves too thin over many bills.

**SUGGEST APPROPRIATE LEGISLATION** If there is no legislation already introduced on an issue of particular concern, you may wish to consider proposing your own. If you decide to take this on, make sure you have a Senator or Representative who is willing to draft a bill and support it—otherwise it could be a futile exercise.

Urge the legislator to help draft the bill and push it through. Contact other organizations in your area and around the country to let them know about your bill and how they can help support its passage. (Contact the Campaign Action Committee for assistance on building nationwide support.)

**DECIDE THE ROLE YOUR SENATORS AND REPRESENTATIVE CAN PLAY** Committee Assignments, Voting Record, Specific Interest in Certain Areas and Staff Interest in the issue are all factors to be considered:

If you decide, after reviewing the information, that certain Senators or Representatives in your area can have a greater impact on the legislative process, or are more likely to work for your legislative goals, target these members specifically.

BUT remember, every Member of Congress has a responsibility to understand the issues, know the legislation and vote on it. They all require constituent pressure and attention.

## Develop Materials on the Legislation

**PAMPHLETS AND LEAFLETS** Request materials relating to your bill(s) which have been prepared by national organizations. Order these in bulk for distribution, or use them in preparing your own materials.

To write your own leaflet or pamphlet, use the information gained in a study of the legislation, existing materials and add to it your goals and intermediate goals. For distribution to your members and the general constituency, make your leaflet short, concise and attractive.

Be specific about the issue. Give bill numbers, the process to be influenced (Committee action, floor vote, or both), the status of the bill (in committee, not yet introduced, etc.).

Tell people what they can do. Give a few kinds of actions, but be sure that your recommendations are designed to influence the Representative or Senator in the best way possible, while continuing the education process.

Give names of legislators, committee information if relevant, addresses and phone numbers (include local offices), and a contact name and number for local information from your group.

**POSITION PAPERS** Prepare position papers to discuss the issue and the bill. The papers should be prepared to attract the interest of specific constituencies, as well as be generally informative.



## Develop Materials—and Organize

**ORGANIZATIONAL RESOLUTIONS** have many purposes—They can help to build your coalition, gain access to the membership of a new group and show your congressperson the breadth of concern on the legislative front. Approach a sympathetic member of the organizations for advice on introduction of the resolution.

Provide copies of similar resolutions, passed by other organizations to aid in the drafting and inter-organizational lobbying.

Educate individual members of the group before the resolution comes to a vote.

Encourage the group to publish its resolution, and prepare a packet of such resolutions for distribution to local newspapers and to your Congresspeople.

**TESTIMONY** When a subcommittee or committee of Congress is holding hearings on relevant legislation, consider having a representative of your group—or representatives of a number of groups—ask to testify. Testifying at a hearing is a good way of letting Congress know about the grass-roots concern on the issue. The "experts" on all sides of the issue generally are heard, as are the recognized Washington lobbyists. It is more unusual, and therefore more impressive, when a constituent from a local group presents testimony.

Request to testify by sending a letter to the Chair of the appropriate committee/subcommittee explaining in brief form:

- who you are and who you represent
  - what issues you wish to address
  - what your competence is on these issues (experience, expertise)
- If the committee notifies you that you will be put on the schedule, prepare your testimony and have it printed ahead of time for distribution at the time of the hearing.

### RULES FOR GOOD TESTIMONY

**Keep it succinct.** Your actual testimony need not follow exactly your written statement. Be prepared to be interrupted at any time to explain a specific point or general statement.

**Write your statement and present your testimony with an eye toward quotable quotes and revelations which will interest the press.** Draw heavily on your local research, investigations, and documents to provide information that legislators might not know or should be reminded of. **MEMBERS OF CONGRESS WILL PAY MORE ATTENTION TO YOUR TESTIMONY IF YOU HAVE NEW INFORMATION SUPPORTED BY DOCUMENTATION.**

**Address the topic you have chosen and keep focused on that topic.** Even in comprehensive testimony such as on "The Need for Intelligence Reform" be as specific as you can.

**Back up your statements with footnotes and documentation such as actual agency documents, court cases, other congressional statements and reports, hearings and specific laws (including the Constitution).** You need not quote all sources as you read your testimony, but be sure that they are included in the written statement.

**Consider having "counsel" appear with you to address some of the technical points which will be considered.** (It doesn't hurt for moral support, either). This tactic can also be used to permit the "expert" to testify along with the "name," thus getting attention, press coverage, and accurate information.

If you are not able to, or are not permitted to, testify, you can submit a statement "for the record." This will appear in the printed hearing report and can also be distributed at the time of the hearings.

If you are on good terms with your representative, ask that s/he introduce you to the committee before the hearings begin. After your appearance, you may ask your Congressperson to insert your testimony into the Congressional Record.

Testimony can also be reprinted for use as a position paper. Congressional testimony has an added credibility, and it will naturally reflect the amount of time and expertise involved in its preparation.

You will probably have to provide your own transportation to Washington, D.C. to testify. Be sure that you have the resources to do so before writing to request an appearance. On occasion, hearings are held by the Congress across the country, especially when a community is experiencing a unique manifestation of the issue being considered.

**Warning:** Many Congressional hearings are held without the presence of all the committee's members. Do not be surprised if your statement is heard by only one member or by staff. Also, committees sometimes hold hearings only to satisfy constituent demands. It is not unusual for the members present to be inattentive, hostile or disinterested.



Petitions can be effective in educating the general public about the legislation. They are not effective as a direct lobbying tool. Draw up a petition with a brief, concise explanation of the issue and the legislation. Allow sufficient space for signatures and provide columns for printed name, address and zip code.

Most people will ask questions before signing a petition. Be sure that the table is staffed at all times with people knowledgeable about the issue. Your petition table should include: ● Pamphlets, Resolutions, other material for distribution ● Copies of the Bill(s), *Almanac of American Politics*, Statements and speeches by Congresspeople for reference. ● Plenty of pens. Petitions signed in pencil are not taken seriously.

**Set up tables at public places such as markets, on street corners, at concerts, or at other public gatherings. BE SURE THAT YOU HAVE OBTAINED ALL THE REQUIRED PERMITS.**

**Notify the press of your petition effort and specific location of tables. If you are certain to have lots of activity around the tables, interest will be encouraged by the presence of the press.**

Once you have collected thousands of signatures, present them to your representative(s). Have representatives of prominent groups present the petitions and be sure to arrange media coverage of the event. Glossy black-and-white pictures should be taken for use by local papers.

**NOTE:** Be sure that the people who sign the petition are residents of the proper area (district for Representatives, State for Senators). If you are collecting signatures for both, segregate your petitions by district (as when doing a petition drive at a statewide conference, county fair, with a traveling speaker). If most of the signers of the petition are from the representative's district (or the state in the case of a Senator), your legislators will not be able to easily discount them.

**DEMONSTRATIONS AND RALLIES:** Demonstrations and rallies have little influence on Congress unless they are unusually large. Generally, it is hard to get large crowds for legislative issues.

However, demonstrations have good press and organizing value, especially if they are attended by a sizable crowd, are original (using street theatre and costumes, for example) and are well-organized.

Schedule your event to coincide with visits by your Representative and Senators to the home district, to coincide with a lobbying effort, or just before a bill is up for a vote.

**Be sure to have available petitions, sample letters and all your literature for distribution at such events.**

## Build Constituent Pressure

**MOUNT A LETTER-WRITING CAMPAIGN**

Place articles in organizational and community publications and newsletters suggesting that letters be sent to specific Representatives or Senators on the issue or bill.

**When writing a letter:**

- Type or hand-write the letter. Never send a mimeographed or printed letter. Typed letters on professional letterhead are also useful, especially if the issue addressed is considered controversial.
- Address the issue briefly and concisely. State specific concerns.
- BE SURE to refer to the bill numbers of pending legislation that you are discussing. (Such as, please vote against "S. 333" or support the Smith amendment to "HR. 245".)
- Ask for the member's position on the legislation and for a copy of the bill if you need one.
- Make it personal. State the issues of concern to you. Your statements should reflect your ideas and suggestions.

Set up letter-writing tables, possibly in conjunction with petition tables. Have letter-writing parties and encourage groups to set aside time at meetings for writing letters to your legislators.

Be prepared with papers, envelopes, stamps, literature, proper titles and addresses and a sample letter with a few suggested points. **REMEMBER TO ENCOURAGE ORIGINALITY.**

**TELEPHONE CALLS, MAILGRAMS AND WIRES:** When a dramatic impact is needed, time is short (a vote is due in committee or on the floor) or constituents don't want to take the time to write, suggest calls and telegrams. A flood of telegrams, right before a key vote, can be very effective. Develop a regular mailing list of people to notify every time a write-in or telegram campaign is needed. Then you will be ready to respond to legislative developments.

When calling a congressional office, try the district office first to save money. Be concise. Staff people will appreciate your efforts to be friendly and brief, and will give you more attention. Register your concern and ask for a statement of the legislator's position. However, if the money is available, calls to the Washington offices are more effective.

Investigate special rates for mailgrams and night telegrams. Be sure to include a complete home address so that the staff can contact you later with a response.

Use the Special "Personal Opinion Telegram" for sending a 15-word message to your legislators for \$2.00 (Call Western Union for details.)



**VISITS WITH REPRESENTATIVES** Delegations of four to ten individuals, representing as many groups as possible, are another important way to visit legislators. Try to include both "experts" and "victims" of intelligence abuses.

Schedule a meeting far enough in advance to prepare the delegation properly. Meet at least once to select a spokesperson, to review the specific points you plan to raise, and to make sure that each person has a topic to speak on. It is important that each member of the delegation be familiar with both the issue and the specific bill to be discussed. Prepare a packet of information to be left with the legislator.

Arrive at the meeting with the legislator promptly. Be clear and concise in talking with him/her: "We're here to ask for your support for these amendments." "We're here to help you understand our point of view." "We're here to ask you to cosponsor X bill." Keep the meeting short, and try to wrap-up the appointment with some followup by both parties: The delegation will provide additional information, the legislator will take X position on the next vote, etc. And, send a letter thanking him/her for meeting with you and putting on paper any arguments you made.

**ADMINISTRATION POSITION** The position of the Executive Branch and its various bureaus and agencies is a critical factor. Active lobbying by the Executive Branch has a major impact on the passage of bills. Similarly, opposition from the President may doom legislation.

Usually, the Administration reveals its position during hearings while testifying for or against a pending bill. In some cases, intelligence authorization and control legislation in particular, the Administration has a great deal of input even before a bill is introduced.

Example: The Foreign Intelligence Surveillance Act was drafted with a great deal of assistance from the Justice Department. Many federal agencies have continuing input to Committee Staff regarding the Intelligence "Charters."

When you are working on legislation, be sure that you know the position of the Administration in general and of the specific bureaus and departments concerned.

**DIRECT LOBBYING** Lobbyists—people who talk directly to Congressional members and staffs about the intricacies of a piece of legislation or an issue—have varying effects on the passage of bills. The intelligence community itself acts as a lobbyist, augmenting the influence of official agency representatives with retired agents or closely-connected business representatives.

Any concerned person can be a lobbyist and any concerned organization can have a lobbyist by using the First Amendment right to "petition the government for redress of grievance."

Your influence as a lobbyist will depend on a number of factors:

- The value of your information. Individuals with specific information from past experience, specific advice to aides in the drafting of legislation, or with a technical expertise will receive serious consideration.
- The effectiveness of presentation. No matter what your background, or area of expertise, if your presentation is unclear, confusing or too lengthy, you will not be effective. Be short, concise, and specific. Provide backup for your statements, and offer additional information if requested to support your main points.
- The amount of influence or "clout" you represent. A person representing a nationwide membership organization may have more influence in general—but the person from a local community group will have direct political influence with specific legislators.

## Creating a Community Presence

**ESTABLISH A CLEARINGHOUSE FOR INFORMATION** status reports, press calls, coordination of volunteer activities. If you already have an ongoing group, use its structure and offices to full advantage.

If you do not have existing facilities, approach a group which is especially concerned about national legislation. Ask for space in its office. Alternatively, ask for volunteers and try to obtain the use of church or community space.

Establish a working relationship with the local Representative's and Senators' district offices. Call upon the staff in these offices when you have questions. In return, supply them with information when they need it, or when an important development should be brought to their attention.

Contact national organizations working on specific legislation. These groups will often have more accurate and up to date information on legislation than the district offices. (Contact the Campaign Action Committee for specific ideas.)

Keep up-to-date on the status of bills, amendments, hearings, and changes in position by members of Congress.

Keep in touch with other groups working on intelligence legislation for action ideas, strategy suggestions and general information. (See Organizing Notes for monthly updates of activities around the country.)



**GET PEOPLE INVOLVED** Link your legislative priorities with other community concerns. While such linkage will not result in total commitment to your position by other groups, any amount of cooperation is valuable. While other groups may not be interested in all of your concerns, they may be willing to work on some of them.

**ESTABLISH A SPEAKERS BUREAU** Local or national speakers can provide general outreach and credibility to your position. Schedule speakers for radio and TV talk shows, universities, community groups, churches and union meetings. Raise the issue whenever you can to create an atmosphere of concern.

Hold training sessions to prepare speakers for possible questions. Be sure to keep your speakers (and the whole group) up-to-date on current legislative activities.

It is important that your speakers and your entire group know the "other side" of the issue so that when opponents speak in your area you are ready to respond.

Example: A representative of the CIA or FBI (or Association of Former Intelligence Officers) is scheduled to address a campus gathering. You should be prepared to respond by offering a speaker for a teach-in, distributing literature outside the speech, requesting equal time and writing "letters to the editor" for local papers. Be sure that a number of individuals are distributed throughout the audience who are prepared to ask probing questions.

**MEDIA CONTACT** is very important.

Contact the media about local events such as community meetings, presentations of petitions and demonstrations.

Identify interested local reporters to write stories about the issue or on the "human interest" aspect of your work.

Locate recognized experts in your community to write magazine articles, Op-Ed pieces for the newspaper, or articles in newsletters.

Write letters to the editor and offer to provide information for editorials.

Schedule out-of-town "experts" to talk about the bill and the issue on local talk shows, with local reporters and editorial boards.

Make a press announcement out of passage of new resolutions of support or other indications of your community's concern. (Be sure to get permission from the individual or group *first*.)

For information on working with the media, see the Campaign to Stop Government Spying's "Media Fact Sheet."

## Developing Alternative Strategies

**BE FLEXIBLE** During a legislative campaign it is often possible to see your weak spots and to predict which votes you will likely lose—thus you can plan accordingly.

Example: If you have focused initially on the House of Representatives and you lose your fight, you should transfer immediately to a Senate strategy.

When you lose a fight in committee, increase pressure on another committee (if there is concurrent jurisdiction)—or focus on the vote in the full chamber.

## IF A BAD BILL PASSES DESPITE ALL YOUR EFFORTS, YOU HAVE SEVERAL OPTIONS:

The President may be asked to veto the bill. Again be warned. This kind of an effort is possible, but needs to be organized on a massive scale in order to be effective.

Efforts to repeal the bill may be launched. Immediate repeal is difficult since Congress usually needs to see evidence of abuses before it will take action. **BE FOREWARNED** that repealing a bill can be the most difficult legislative action.

You may want to focus on legislation that will amend the bill that passed, or offset some of its most offensive provisions.

You may wish to challenge the legislation in the courts on Constitutional grounds.

## THE DEATH OF A BILL IN CONGRESS can sometimes operate in your favor.

*If you were in favor of a bill and it does not come to a vote*, it may give you more time to organize support before it is introduced in the next session. (Most bills introduced in any given Congress never come up for a vote.) If this happens, organize your community, prepare new materials, educate the incumbent, help redraft the bill if needed, and work for a stronger group and a more sustained effort to support your legislation.

*If your bill has been defeated*, ascertain the cause of the defeat, both in terms of the Congressional process and your community campaign. Take steps to correct your mistakes. Consider changing the form of the legislation. Perhaps limit your work to a less comprehensive bill, or help redraft the legislation so that different subcommittees and committees will have jurisdiction. Finally, focus on getting a new piece of legislation introduced and passed in the next session.



## Evaluate Your Effort

Building a movement around legislation, although national in its focus, is a uniquely local project. The success of your efforts will ultimately depend on:

- your ability to find and utilize local resources
- the willingness of local groups to get involved and participate
- the coverage of the local press
- the political persuasion of your Representative or Senators.

It is therefore important to have several criterion by which to measure your success. The obvious standard is whether your representatives voted the way you wanted. If they have, express your appreciation for their position. But remember, the final vote may not be the most important measure of your success.

The scope of your outreach, the long-term effects of your educational effort, the continued growth of coalition activity and the possible use of your network for future legislative purposes represent positive achievements which may well outlive the immediate legislative outcome.

**Note:** In your analysis of legislative losses, be critical of the shortcomings of your fight, but recognize also the victories which have resulted from your efforts. Legislative may be stalled for several years or the vote for your position may be much larger because of your work. A bill may be significantly better because of legislative demands.

- Your work on legislation can increase support of other organizing in the community, such as work to control the local red squad or control the activities of intelligence agencies on a nearby campus.
- Legislative organizing can raise consciousness about the FOIA and encourage people to write for their individual and organizational files.
- You will increase the general understanding of the magnitude and scope of the problem of intelligence abuse. And thereby lay the groundwork for future struggles against government harassment and abuse of constitutional rights.

For further information on working on National Legislative issues, contact the Campaign Action Committee.

## Things to Remember

It is always harder to organize in support of legislation than against it. While many groups will oppose a bill for different reasons, they will not be willing to support legislation if it includes provisions with which they do not agree.

When you cannot convince your Senators or Representative to see things your way, consider working for candidates who will oppose them in the next election. Not only may you get a better representative, but your work will increase the pressure on the incumbent to consider your opinions.

Establish cordial relationships with Congressional staffs, both in the district and in Washington. These individuals have a great deal of influence on members of Congress. They are usually more knowledgeable than members of Congress about particular issues and have more time to meet with you and discuss your position. **DO NOT ABUSE THEIR TIME.** They are very busy and will appreciate your understanding.

Never make a statement you cannot support. Alternatively, remember that your experience and position are as valid as those of members of Congress and their staffs.

Be concise, brief and logical whenever you write, call or meet with legislative staff of Congresspeople.

Pay attention to your materials, letters, articles. Be sure they are well-written, easily understood and clearly reproduced.

Your work will be enhanced and strengthened if you relate it to the work of others throughout the country. To share information, strategies, ideas and insights, contact the national legislative clearinghouse on intelligence legislation—the Campaign Action Committee.

*Special thanks to Esther Herst, of the National Committee Against Repressive Legislation, for her assistance in preparing this guide.*

## Campaign to Stop Government Spying Action Committee

*supporting the work of national, regional and local organizations seeking reform  
of the United States Intelligence Community through national legislative action*

201 Massachusetts Avenue, N.E. Washington, D.C. 20002 (202) 678-4090



# Ethics and Public Policy Center

Georgetown University □ 1211 Connecticut Ave., Washington, D.C. 20036 □ 202 857-0595

---

Ernest W. Lefever  
Director

For information call:  
Steve Mayerhofer (202) 857-0595

For release: January 10, 1980

## CONGRESS AND TV NETWORKS FAULTED ON QUALITY OF C.I.A. DEBATE

WASHINGTON, D.C.--The American people have been inadequately served by Congress and the three TV networks in the continuing debate over the role of the CIA. So conclude two government professors at Georgetown University in a new study, The CIA and the American Ethic.

Examining the past five years, Ernest W. Lefever and Roy Godson maintain that Congress has allowed itself to become a partner in the dangerous game of crippling America's capacity to gather clandestine intelligence and to engage in covert action abroad. This it did at the very time when the Soviet Union was becoming increasingly disruptive in areas vital to the West.

While Congress's unprecedented involvement in intelligence has had some positive results, Dr. Godson says the Hughes-Ryan Amendment to the 1974 Foreign Assistance Act has virtually closed down America's already declining capacity for covert action. Further, he says, the Foreign Intelligence Surveillance Act of 1978 has applied criminal-law standards to the wholly different and demanding problems of counterintelligence and counterterrorism.

Dr. Lefever asserts that America is facing a dangerous world where freedom and the rule of law are jeopardized by Third World chaos and Soviet expansion. Citing Iran as a "microcosm of world politics," Lefever says that tragic developments there resulted in part from the irresponsible and destructive attack on U.S. intelligence services.

(more)



To keep freedom alive, he says, the U.S. needs a vigorous foreign policy supported by a strong military establishment and effective intelligence services. Such capabilities, he concludes, are wholly compatible with the Judeo-Christian ethic, which calls for just ends supported by just and appropriate means.

The Congress, says Godson, has been influenced by the aggressive "anti-intelligence lobby," which openly seeks to diminish, if not abolish, U.S. capabilities in clandestine collection, counterintelligence, and covert action. This estimated \$750,000-a-year effort by many interlocking groups is led by the Institute for Policy Studies, the American Civil Liberties Union, and the Center for National Security Studies. It is aided by a handful of disaffected former CIA officers, some of whom have used extreme disclosure tactics.

In examining the evening news shows of the three TV networks from January 1974 through October 1978, Lefever found that CIA activities were generally portrayed as immoral, illegal, or insufficiently accountable. Of the CIA stories, 68.2 per cent reflected unfavorably on the agency and only 13.9 per cent favorably. Less than 5 per cent of the intelligence coverage was devoted to Soviet-bloc agencies, more than 95 per cent to the CIA. Lefever could not find five references to the far-flung subversive activities of the Soviet KGB in the 58-month period. This made the CIA appear like "some villainous Don Quixote tilting at vaporous windmills."

Ben Wattenberg in a foreword to the book and Charles Lichenstein in an afterword call for a restored intelligence capability. Agreeing with the co-authors, Lichenstein says the key questions in the intelligence debate have scarcely been addressed.

The CIA and the American Ethic: An Unfinished Debate is published by the Ethics and Public Policy Center, 1211 Connecticut Avenue N.W., Washington, D.C. 20036. 176 pages; cloth \$9.50, paperback \$5.00.

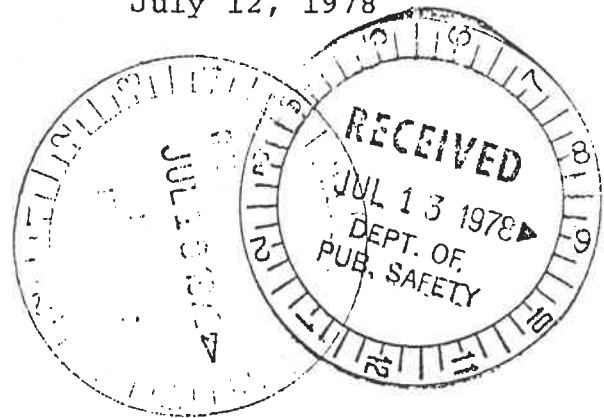


# Coalition on Government Spying

American Civil Liberties Union • American Friends Service Committee • National Lawyers Guild

July 12, 1978

Lawrence G. Waldt, Director  
Department of Public Safety  
King County Courthouse  
Seattle, Washington 98104



Dear Sheriff Waldt:

This is a request to inspect and copy certain documents pursuant to the State Public Disclosure Act, RCW Chapter 42.17.

I am requesting that you make available for inspection and copying any and all of the following documents or records, which are in the possession of the King County Police Department:

1. Any and all materials, documents, letters, forms or other documents which relate in whole or in part to:
  - \*King County Police Department's application for membership in the LEIU;
  - \*Endorsements or sponsorship of the King County Police Department's application for membership in LEIU;
  - \*Notification of acceptance of the Department's application for membership in LEIU;
  - \*Notifications of suspension or termination, administrative or otherwise, of the Department's membership in LEIU;
  - \*Notices of reinstatement of the Department's membership in LEIU;
2. All bills from LEIU for King County Police Department membership assessment since January 1, 1973;
3. All copies of the LEIU Bulletin and any other publications of the LEIU since January 1, 1973;
4. Any and all rules, regulations or agreements (other than the LEIU Constitution and By-laws) governing operations in the Northwest Zone of LEIU or of IOCI;



5. Any and all materials, manuals, documents or other information relating to:
  - \*The constitutions, by-laws or policies or procedures of the Interstate Organized Crime Index (IOCI);
  - \*Instructions from LEIU or the Law Enforcement Assistance Administration (LEAA) regarding the use or operation of the IOCI/LEIU computer and the LEIU toll-free WATS telephone system;
  - \*IOCI index system;
  - \*Evaluations of the IOCI system, including any required by LEAA;
  - \*Purge or inclusion criteria in either the LEIU or IOCI system;
6. Blank copies of any forms or documents used in the IOCI/LEIU computer system, including but not limited to any forms used in the log files;
7. Any copies of the IOCI users manual, operating manual or security and privacy manual;
8. Any and all reports or documents prepared by the IOCI Security and Privacy Committee;
9. Any statistical reports prepared by IOCI or LEIU on the operation of or using the data from the IOCI or LEIU system; including but not limited to reports which cover:

\*Rate of new subjects added to the file.

\*Frequency of data base use.

\*Transaction hit and no-hit rates.

\*Agencies with common interests.

\*Rate of activity in Coordination File.

\*Types and location of criminal activity.

\*Frequency of criminal activities.

\*Migration or matriculation of criminal subjects.

\*File statistics (from file reorganization.)

\*Number of records added and purged in the previous six months.



10. Any and all reports, documents or other materials which relate to or describe:

\*General policies and procedures or priorities for the developments, implementation or expansion of IOCI;

\*Any requests for expansion of the IOCI to include data other than public record information;

11. Any and all lists, indexes or other documents which describe or list IOCI publications or reports of the IOCI;
12. Any and all handbooks, manuals, final progress reports, audio-visual materials submitted to LEAA pursuant to grant contract 77SS-99-6005 (grant title, Interstate Organized Crime Index (IOCI) Mini);
13. Any and all materials, documents, correspondence and phone logs relating to:
- \*Notification to the King County Police Department or any officers in the Department of the dissolution of IOCI and/or its incorporation into LEIU;
- \*The return of any LEIU/IOCI publication materials to LEIU;
14. The names of any King County Police Department officers who are LEIU representatives or members of the LEIU executive committee or any other committees.

Thank you for your prompt attention to this request.

Sincerely,

*Kathleen Taylor*

Kathleen Taylor  
Coordinator



## COALITION ON GOVERNMENT SPYING

- | NAME                                      | F |
|---|---|
| 1. American Civil Liberties Union         |   |
| 2. American Friends Service Comm.         |   |
| 3. Coalition on Government Spying         |   |
| 4. El Centro de la Raza                   |   |
| 5. Its About Time Womens Bookstore        |   |
| 6. National Lawyers Guild                 |   |
| 7. Bentley, Bruce K.                      |   |
| 8. Bird, Harley                           |   |
| 9. Bocanegra, Jual Jose                   |   |
| 10. Bondurant, Susan                      |   |
| 11. Bratcher, Michael                     |   |
| 12. Carlson, Richard W.                   |   |
| 13. Caughlan, John                        |   |
| 14. Chapel, Curtis Jr.                    |   |
| 15. Chavelle, Cornelius - <i>Deceased</i> |   |
| 16. Coupez, Nancy                         |   |
| 17. Crane, Susan Wilder                   |   |
| 18. Crow, Ginny                           |   |
| 19. DeFelice, James                       |   |
| 20. Diamondstone, Fred                    |   |
| 21. Dixon, Elmer                          |   |
| 22. Doniego, Angel                        |   |
| 23. DuVall, George D.                     |   |
| 24. Feathers, James K.                    |   |
| 25. Fraser, Clara                         |   |

- |  |  |
|--|--|
| 26. Gallegos, Roberto                            |  |
| 27. Gibbs, Robert H.                             |  |
| 28. Gossett, Larry                               |  |
| 29. Hensley, Franklin C.                         |  |
| 30. Iverson, Alice Paine                         |  |
| 31. Johnson, Ronald<br>(AKA Ronald McThomas)     |  |
| 32. Kieffer, Miriam G.                           |  |
| 33. Leavy, Michael                               |  |
| 34. Lieb, Wayne                                  |  |
| 35. Lippman, Roger                               |  |
| 36. Lockert, Ellen                               |  |
| 37. Maestas, Roberto                             |  |
| 38. MacDowell, Martha A.                         |  |
| 39. Mathews, Johnie                              |  |
| 40. Mercer, Lyle                                 |  |
| 41. Park, Roxanne                                |  |
| 42. Palmason, Dr. Edward P.                      |  |
| 43. Parson, Thomas                               |  |
| 44. Rood, Timothy W. J.<br>Salinas, Raul         |  |
| 45. St. Clair, Betty                             |  |
| 46. Saporta, Sol                                 |  |
| 47. Sedlik, Charyl                               |  |
| 48. Sedlik, Earl                                 |  |
| 49. Turner, Linda M.                             |  |
| 50. Waldman, Selma                               |  |
| 51. Washington Democratic Council<br>Wilson, Roy |  |



**SYMPOSIUM**

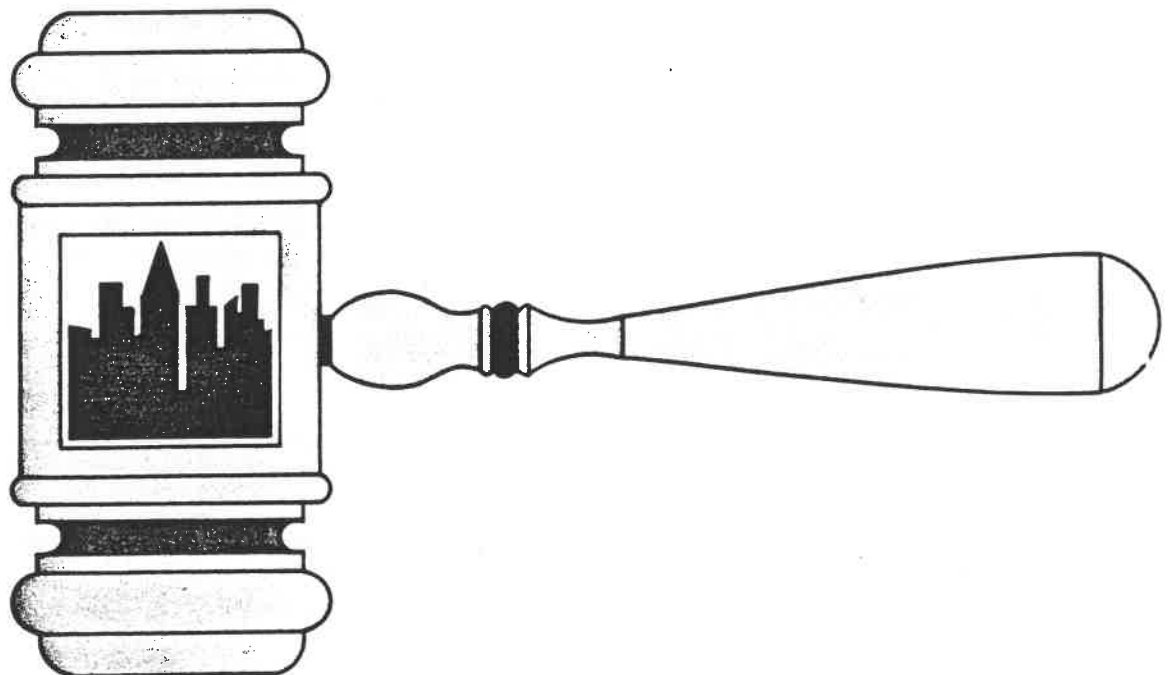
**POLICE SURVEILLANCE OF POLITICAL  
ACTIVITY: CONTROLS THROUGH  
LITIGATION AND LEGISLATION**



*volume fifty-five*

*issue 4*

*Summer 1978*





## PART II: LITIGATION

### Chapter 3: Pleading, Discovery, and Pretrial Procedure for Litigation Against Government Spying†

ROBERT HOWARD\*

KATHLEEN M. CROWLEY\*\*

#### I. THE COMPLAINT: SCOPE, GROUNDS, PARTIES, AND RELIEF

##### A. *Scope of the Suit*

Litigation to prevent government spying and disruption of lawful political and social activity may take a variety of forms. As of December 1976, approximately fifty lawsuits were pending against federal, state, and local intelligence agencies, ranging from individual wiretap cases to broad-scale class actions. The illegal activities alleged in these suits include acts of burglary, inciting violence, surveillance (including eavesdropping and wiretapping), the disruption and harassment of peaceful groups for political reasons, and the dissemination of adverse information about innocent citizens to their families, friends, landlords, employers, and others. The list of abuses grows as new suits are filed.

The size and scope of such a suit depends largely on the availability of energy and resources devoted to exposing the improper conduct of intelligence agencies.<sup>1</sup> One approach is to focus on partic-

---

† This Article has been developed from a conference handbook published by the Better Government Association and prepared for use at the National Conference on Government Spying, Chicago, Illinois, January 20-23, 1977.

The authors wish to acknowledge the assistance of Sonja Baesemann, Lois Lipton Kraft, Lance Haddix, David M. Hamlin, Susan Sekuler, and Christine Wheelock. Special thanks are extended to *Alliance/ACLU* co-counsel Richard M. Gutman and Robert J. Vollen, and to both Margaret Winter of the Political Rights Defense Fund and Morton Halperin of the Project on National Security and Civil Liberties for their continuous help and support.

\* General Counsel, Better Government Association, Chicago, Illinois; Lecturer, Northwestern University School of Law; B.A., Michigan State University, 1963; J.D., Harvard University School of Law, 1967.

\*\* B.A., Mundelein College, 1972; J.D., Northwestern University School of Law, 1977. Member, Illinois Bar.

1. Of course, the principal consideration in every case rests upon the allegations that give rise to a cause of action. These allegations often surface from various sources. For example, at the federal level, covert intelligence activities have been uncovered through the efforts of congressional committees, litigants, and journalists. At the state and local level, initial data has been obtained through interviews with people victimized by the visible repercussions of alleged governmental abuses.



## 2. First Amendment

Plaintiffs in anti-surveillance suits have struggled in recent years, with growing success, to overcome a hostile Supreme Court opinion that was based as much on lack of standing as on first amendment principles. In *Laird v. Tatum*,<sup>7</sup> the Court agreed that the court of appeals had properly identified the issue presented, namely, whether the jurisdiction of a federal court may be invoked by a complainant who alleges that the exercise of his first amendment rights is being chilled by the mere existence, without more, of a governmental investigative and data-gathering activity that is alleged to be broader in scope than is reasonably necessary for the accomplishment of a valid governmental purpose.<sup>8</sup>

In a five-to-four decision dismissing the complaint, Mr. Chief Justice Burger wrote for the majority:

[R]espondents' claim, simply stated, is that they disagree with the judgments made by the Executive Branch with respect to the type and amount of information the Army needs and that the very existence of the Army's data-gathering system produces a constitutionally impermissible chilling effect upon the exercise of their First Amendment rights. . . . Allegations of a subjective "chill" are not an adequate substitute for a claim of specific present objective harm or threat of specific future harm.<sup>9</sup>

It is important therefore that the complaint contain the kind of individualized claim found wanting in *Tatum*. Presumably, a complaint that presents a tangible constitutional violation arising from an alleged "chilling" effect of governmental action that falls short of a direct prohibition against the exercise of first amendment rights would be sufficient for standing purposes.<sup>10</sup>

Important is the allegation of plaintiff's "personal stake in the outcome of the litigation." To accomplish this, the complaint would do well to demonstrate that plaintiffs are the subjects of extra-legal investigations; that their privacy has been invaded; their conversa-

---

7. 408 U.S. 1 (1972).

8. *Id.* at 10.

9. *Id.* at 13-14.

10. Cases cited by the Court as presenting examples of sufficient "tangible constitutional violations" were: *Baird v. State Bar of Arizona*, 401 U.S. 1 (1972) (inquiry into political beliefs as prerequisite to practice law); *Keyishian v. Board of Regents*, 385 U.S. 589 (1967) (teacher loyalty laws and regulations); *Lamont v. Postmaster Gen.*, 381 U.S. 301 (1965) (Post Office detention of "communist political propaganda"); *Gaggett v. Bullitt*, 377 U.S. 360 (1964) (state requirement that employee take unduly vague oath containing promise of future conduct at risk of prosecution for perjury or loss of employment).



The federal constitutional right to privacy has been characterized as a penumbral right, formed by "emanations" from the specific guarantees of the Bill of Rights.<sup>17</sup> Where the government has allegedly gathered political intelligence data by intrusive means, and has disseminated the materials so gathered for allegedly illegitimate ends, several lower federal courts have held that a cause of action will lie for the violation of the right to privacy as well as for violation of other specifically guaranteed constitutional rights.<sup>18</sup>

The Brandeis notion of privacy—"the right to be left alone"<sup>19</sup>—has been more explicitly enshrined in many states by recently enacted constitutional provisions.<sup>20</sup> In *White v. Davis*,<sup>21</sup> the California Supreme Court overruled a demurrer to a complaint which sought to enjoin covert intelligence gathering activities practiced by the Los Angeles Police Department on the University of California, Los Angeles campus. The court found the complaint had not only alleged sufficiently serious violations of federally guaranteed first amendment rights, but also made out a prima facie violation of the state constitutional right to privacy.<sup>22</sup>

#### 4. Wiretap Claims

Title III of the Omnibus Crime Control and Safe Streets Act of 1968,<sup>23</sup> created a civil cause of action against anyone who intercepts, discloses, uses, or procures anyone else to intercept, disclose or use, wire or oral communications obtained in violation of Title III.<sup>24</sup> Remedies include actual damages of \$100 per day for each day of violation or \$1,000, whichever is greater, as well as punitive damages and reasonable attorney fees with costs.<sup>25</sup>

The Federal Communications Act of 1934<sup>26</sup> made it illegal for any person not authorized by the sender to "intercept any communication and divulge or publish its existence, contents, substance, purport, effect or meaning of such intercepted communication to

NAACP, 366 U.S. 293 (1961); *Talley v. California*, 362 U.S. 60 (1960); *Bates v. Little Rock*, 361 U.S. 516 (1960).

17. See, e.g., *Griswold v. Connecticut*, 381 U.S. 479 (1965).

18. See, e.g., *Handschu v. Special Serv. Div.*, 349 F. Supp. 766 (S.D.N.Y. 1972).

19. Warren & Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890).

20. See, e.g., ALASKA CONST. art. 1, § 22; HAWAII CONST. art. 1, 35; ILL. CONST. art. 1, §

6.

21. 13 Cal.3d 757, 533 P.2d 222, 120 Cal. Rptr. 94 (1975).

22. *Id.* at 775-77, 533 P.2d at 233-34, 120 Cal. Rptr. at 105-07. For the first instance that a California court found a state constitutional right to privacy, see *Melvin v. Reid*, 112 Cal. App. 285, 297 P. 91 (1932).

23. 18 U.S.C. § 2520(a)-(c) (1976).

24. See *Kinoy v. Mitchell*, 331 F. Supp. 379 (S.D.N.Y. 1971).

25. 18 U.S.C. § 2520(a)-(c) (1976).

26. 47 U.S.C. § 605 (1970).



- (8) Certain bank records;
- (9) Certain oil well data.<sup>35</sup>

One need not prove "relevance" or the "need to know" under the FOIA in order to obtain information.<sup>36</sup> Thus, it is sometimes possible to obtain information not otherwise available in discovery. In a case currently pending, the plaintiffs have sought to gain access to records of the CIA's budget and past expenditures, to enable them to raise important constitutional issues without encountering insurmountable standing issues in the discovery process.<sup>37</sup>

On the other hand, the FOIA has serious limitations for use in anti-spying litigation, since the exceptions against disclosure of government spying data are much broader and more absolute than under federal common law.<sup>38</sup>

#### 6. *The Privacy Act*

The Privacy Act,<sup>39</sup> effective September 27, 1975, gives one the right to inspect one's own records maintained by most federal agencies, to correct inaccuracies, and, to a limited extent, to control uses and accuracy of records. Some examples of exemptions are:

- (1) CIA, FBI, and law enforcement agencies;
- (2) "National security" files;
- (3) Secret Service intelligence files;
- (4) Some investigatory files (e.g., those of the Securities and Exchange Commission).

There are also certain administrative remedies to be exhausted that are similar to the FOIA.<sup>40</sup>

#### C. *Class Action Considerations*

If the plaintiffs desire only personal relief, the question of a class action does not arise. Assuming, however, that systemic relief against government spying is the goal, proceeding on behalf of a class may be essential,<sup>41</sup> although this course of action is very taxing in terms of discovery, class management, and proof.

35. 5 U.S.C. § 552(a)(k) (1976).

36. *Moore-McCormack Lines, Inc. v. I.T.O. Corp. of Baltimore*, 508 F.2d 945, 950 (4th Cir. 1974).

37. *Halperin v. Colby*, No. 75 0676 (D.D.C., filed May 1, 1975).

38. See the discussion of government privileges against discovery, SECTION VB, *infra*. For a more comprehensive treatment of this subject, see M. HALPERIN, J. SHATTUCK, L. ELLSWORTH & M. LYNCH, *LITIGATION UNDER THE AMENDED FEDERAL FREEDOM OF INFORMATION ACT* (A.C.L.U. 1976) [hereinafter cited as HALPERIN & SHATTUCK].

39. 5 U.S.C. § 552(a) (1976).

40. See HALPERIN & SHATTUCK, *supra* note 38, at 53-63.

41. For the technical issues involved in securing certification of the class, see text accompanying notes 140-74, *infra*.



preliminary injunction stage, with notice and dissemination of documents to the class deferred, the burden of work is still great.

Of course, the possibility of successfully abrogating the abuses of an intelligence system and for developing a political base through class litigation is correspondingly greater. Both legally and politically, therefore, a class action is the most desirable vehicle for confronting an intelligence system if the plaintiffs and their counsel are confident they have the will and the resources to persevere through several years of litigation.

#### *D. The Prayer for Relief*

The details of potential relief in the form of money damages, declaratory judgment, and injunction are not addressed in this Article. At the pleading stage, however, the best advice is to forego almost all detail in describing the relief requested. While it is true that an aggressive or elaborate prayer for relief can have an impact on public education, it can shift disastrously the focus of litigation away from the defendants' wrongful conduct. Claims for large dollar amounts of damages or far-reaching injunctions, presented in the abstract at the beginning of the case, can be the basis for great alarm or ridicule by the defendants, and arouse the natural resistance of the judge.<sup>44</sup>

Since the ultimate form of relief will depend on the facts proved in court and the understanding that the judge develops with the parties and the issues, it is best to let specification develop as the relevant facts in controversy surface.<sup>45</sup>

## II. THE MOTIONS TO DISMISS: RESPONDING TO TYPICAL CHALLENGES OF MUNICIPAL AND FEDERAL DEFENDANTS TO THE FORM AND SUFFICIENCY OF THE COMPLAINT

### *A. Inadequate Factual Detail in the Complaint*

Since most of the details of covert intelligence operations will be in the possession of the defendants, it may be difficult to present many specific facts in the complaint. If that is the case, defendants may well move under rules 8 and 12(b)(6) of the Federal Rules of Civil Procedure to dismiss on the ground that the allegations are insufficiently specific to give them notice of the claims that they are called upon to defend. In view of the liberal requirements of "notice pleading" in the federal courts, this argument should fail if plain-

44. See, e.g., *Build of Buffalo, Inc. v. Desita*, 441 F.2d 284 (2d Cir. 1971).

45. For a low-profile prayer for relief, see the Complaint in *ACLU v. Chicago*, 431 F. Supp. 25 (N.D. Ill. 1976) (Complaint on file at the University of Detroit Journal of Urban Law).



the gathering of information from public sources.<sup>51</sup>

Judge Kirkland ruled in favor of the plaintiffs in *ACLU v. Chicago*,<sup>52</sup> noting that the complaint went beyond allegations of subjective "chill" to allege "facts, which if proven, would provide the basis for a claim of immediate harm."<sup>53</sup> The activity complained of included a full range of intelligence and disruption tactics.<sup>54</sup> Similarly, in the *Alliance to End Repression v. Rochford*<sup>55</sup> opinion, Judge Lynch found that the plaintiffs' allegations presented a justiciable controversy.<sup>56</sup> The *Alliance* plaintiffs claimed specific impingement of their constitutional rights in several respects. They are itemized as follows:

- (a) police intelligence gathering and dissemination of information;<sup>57</sup>
- (b) surveillance and provocation by paid informers and undercover agents;<sup>58</sup>
- (c) electronic surveillance;<sup>59</sup>
- (d) unlawful entry and seizure;<sup>60</sup>
- (e) overt surveillance,<sup>61</sup> and
- (f) summary punishment and harassment.<sup>62</sup>

51. In *ACLU* the plaintiffs distinguished *Tatum* in their brief opposing defendant's motion to dismiss. They argued that their complaint alleged actions that defendants specifically had taken against them; that they alleged more than a "chill" on the exercise of their constitutional rights; and that the governmental activities were more pervasive than those in *Tatum* (Brief on file at the University of Detroit Journal of Urban Law). See also the order granting partial summary judgment in *Benkert v. Michigan State Police*, No. 74 023 9340AZ (Wayne County Cir. Ct. Mich., filed June 9, 1976).

52. 431 F. Supp. 25 (N.D. Ill. 1976).

53. *Id.* at 27.

54. For example, the first part of ¶ 9-2 of the complaint stated: "Defendants have gathered and maintained voluminous quantities of information in the form of documents, electronic and photographic recordings and other data compilations concerning the lawful activities of plaintiffs." See note 45, *supra*.

55. 405 F. Supp. 115 (N.D. Ill. 1975).

56. *Id.* at 120.

57. See, e.g., *Bach v. Mitchell*, No. 71 C 22 (W.D. Wis. 1973); *Handschu v. Special Serv. Div.*, 349 F. Supp. 766 (S.D.N.Y. 1972) (initiation and inducement of criminal activity by government).

58. See, e.g., *Handschu v. Special Serv. Div.*, 349 F. Supp. 766 (S.D.N.Y. 1972).

59. See, e.g., *Katz v. United States*, 389 U.S. 347 (1964) (warrant procedure is constitutional precondition of electronic surveillance); *United States v. United States District Court*, 407 U.S. 297 (1972) (prior judicial approval required for domestic security surveillance).

60. See, e.g., *Mapp v. Ohio*, 367 U.S. 643 (1961) (evidence obtained by searches and seizures in violation of Federal Constitution in criminal trial in state court is not admissible).

61. See, e.g., *Philadelphia Resistance v. Mitchell*, 58 F.R.D. 139 (E.D. Penn. 1972) (interrogatories beyond scope of discovery in ongoing action for allegedly excessive surveillance).

62. See, e.g., *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) (warrantless entry of plaintiff's residence by agents acting under color of federal authority).



vindicated only through a representative before the court, the principles of *jus tertii* may apply to allow the organization to assert the rights of third parties, whether or not they are members.<sup>71</sup>

C. *Subject Matter Jurisdiction*

1. *Jurisdiction of Section 1983 Claims under 28 U.S.C. § 1343*<sup>72</sup>

Formerly, jurisdictional amount requirements were a problem in suits brought against federal officials, because the \$10,000 requirement of section 1331 applied and the no-jurisdictional-amount rule of section 1343 normally did not. If both municipal and federal officials were sued, however, this problem was avoided by alleging a conspiracy between them. The conspiracy would bring the conduct of the federal officials under the umbrella of state action, and jurisdiction under section 1343 was then available without regard to jurisdictional amount.<sup>73</sup> It should be noted, though, that suit is precluded against a city under section 1983.<sup>74</sup>

In 1976, however, Congress amended section 1331<sup>75</sup> and expressly excluded from the \$10,000 requirement actions "brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity."<sup>76</sup> Thus, resort to section 1343 is no longer necessary.

71. NAACP v. Alabama, 357 U.S. 449, 459 (1958); Barrows v. Jackson, 346 U.S. 249 (1953). See Sedler, *Standing to Assert Constitutional Jus Tertii in the Supreme Court*, 71 YALE L.J. 559 (1962); Note, *Standing to Assert Constitutional Jus Tertii*, 88 HARV. L. REV. 423 (1974).

72. 28 U.S.C. § 1343 (1970 & Supp. V 1975). For a thorough discussion of subject matter jurisdiction see C. ANTIEAU, *FEDERAL CIVIL RIGHTS ACT, CIVIL PRACTICES* (1971).

73. In ACLU v. Chicago, 431 F. Supp. 25 (N.D. Ill. 1976), the plaintiffs alleged that a conspiracy between city and federal officials resulted in unlawful governmental intrusions, and the court granted jurisdiction based upon § 1343. See Complaint for Plaintiff, *supra* note 45, at 34-35.

74. On June 6, 1978 the Supreme Court decided *Monell v. Dept. of Soc. Serv. of the City of New York*,—U.S.—, 98 S. Ct. 2018 (1978), overruling *Monroe v. Pape*, 365 U.S. 167 (1961), insofar as *Monroe* held that local governments were wholly immune from suits under section 1983. The Court in *Monell* stated that a local government is liable for the constitutional torts of its employees only if the injury inflicted results from the "execution of a government's policy or custom whether made by its lawmakers or by those whose edicts or acts may . . . be said to represent official policy . . . ." 98 S. Ct. at 2038. The Court, however, affirmed *Monroe v. Pape* as far as it held that the doctrine of *respondeat superior* was not a basis for rendering a municipality liable under section 1983. *Id.* at 2022 n.7. It is unknown at this time how *Monell* will affect anti-surveillance litigation.

75. Act of Oct. 21, 1976, Pub. L. No. 94-574, § 2, 90 Stat. 2721 (1976).

76. 28 U.S.C. § 1331 (1970 & Supp. V. 1975), as amended by, Act of Oct. 21, 1976, Pub. L. No. 94-574, § 2, 90 Stat. 2721 (1976).



*D. Personal Jurisdiction Over Defendants and Service of Process*

The capacity in which the defendant is sued, and the remedy that is sought will dictate the type of service necessary to confer *in personam* jurisdiction on the court. When a suit seeking damages is brought against an official in his individual capacity, the defendant must be personally served under Federal Rule of Civil Procedure 4(d). If the individual resides out-of-state, a state long-arm statute may be used to effect extra-territorial service of process. Generally, if the defendant can be shown to have committed tortious acts or conducted business within the state, there have been sufficient "minimum contacts" with the state to trigger the long-arm statute.<sup>84</sup>

If, however, federal defendants are being sued in their official capacity for equitable relief, under 28 U.S.C. § 1391<sup>85</sup> service may be made by certified mail beyond the territorial limits of the district in which the action is brought. Defendants may argue, though, that the liberal service by certified mail provision does not apply when nonfederal, as well as federal, defendants are sued.<sup>86</sup> This interpretation has been rejected by several judges, including Judge Kirkland in the *ACLU* case.<sup>87</sup> As noted in the *Powelton* case, "Section 1391(3) is essentially a plaintiff's provision,"<sup>88</sup> it was enacted so that plaintiffs suing federal officials would not be compelled to litigate in the District of Columbia. The court in *Powelton* concluded that the literal statutory requirement that "each defendant" be a federal defendant referred only to the defendants beyond the forum's territorial limits.<sup>89</sup>

---

on military base); *Gautreaux v. Romney*, 448 F.2d 731 (7th Cir. 1971) (federal agency's acquiescence in municipal agency's admittedly discriminatory housing program); *Illinois Migrant Council v. Pillios*, 398 F. Supp. 882, 892 (N.D. Ill. 1975) (warrantless entries and searches to seek out illegal aliens).

84. See *International Shoe Co. v. Washington*, 326 U.S. 310 (1945).

85. 28 U.S.C. § 1391 (1970 & Supp. V 1975).

86. *East Haven v. Eastern Airlines*, 282 F. Supp. 507 (D. Conn. 1968) (lack of venue and personal jurisdiction over governmental official under proper statute); *Chase Sav. & Loan Ass'n v. Federal Home Loan Bank Bd.* 269 F. Supp. 965 (E.D. Pa. 1967) (state chartered savings and loan association could not sue Federal Home Loan Bank Board because the latter was not covered under language of Homeowner's Act).

87. 431 F. Supp. at 30, 31. See also *Green v. Laird*, 357 F. Supp. 227 (N.D. Ill. 1973) (venue with respect to federal official not improper because nonfederal officers and officials joined in the same action); *Brotherhood of Locomotive Eng'rs v. Denver & R.G.W. R.R.*, 290 F. Supp. 612 (D. Colo. 1968) (service on federal officers or employees effective under statute allowing action to be brought in any jurisdiction in which plaintiff resides).

88. *Powelton Civil Home Owners Ass'n v. HUD*, 284 F. Supp. 808, 833 (E.D. Pa. 1968).

89. *Id.*



and further "that because of the nature of defendants' alleged unlawful activities, plaintiffs [in the exercise of due care] could not reasonably have become aware of these activities at the times they were alleged to have occurred."<sup>96</sup> Therefore, the filing of the complaint was timely, even with regard to specific incidents occurring more than five years earlier.

### G. Immunity Against Damage Claims

#### 1. The Official Immunity Defense (State Officials)

In *Tenney v. Brandhove*<sup>97</sup> and again in *Pierson v. Ray*,<sup>98</sup> the Supreme Court noted that the legislative history of section 1983 gave no clear indication that Congress intended to abolish common-law immunities by enactment of the section.<sup>99</sup> Accordingly, *Tenney* recognized a legislator's absolute immunity from suit under section 1983 for activities in legislative proceedings, and *Pierson* provided similar protections to a judge acting within his judicial role. Likewise, *Imbler v. Pachtman*<sup>100</sup> accorded a prosecutor an absolute immunity even for bad faith actions in both the initiation of a prosecution and the presentation of the state's case.<sup>101</sup>

The Court in *Pierson* observed that the common law had never granted absolute immunity to police officers, but that the common law defenses of good faith and probable cause were still available to police officers under section 1983.<sup>102</sup> This "reasonable good faith" defense was explained, in *Scheuer v. Rhodes*,<sup>103</sup> to be qualified immunity, available to officers of the executive branch of the government, and dependent upon the scope of discretion, the responsibilities of the office, and all the circumstances as they reasonably appeared at the time of the cause of action upon which liability is sought to be based.<sup>104</sup> The existence of reasonable grounds for the belief formed at the time and in light of all the circumstances, coupled with a good faith belief, afforded the basis for this qualified immunity for acts performed in the course of official conduct. *Wood v. Strickland*<sup>105</sup> further emphasized that this immunity standard contained both objective and subjective elements, since even

96. *Id.*

97. 341 U.S. 367 (1951).

98. 386 U.S. 547 (1967).

99. See note 74 & accompanying text, *supra*.

100. 424 U.S. 409 (1976).

101. *Id.* at 431.

102. 386 U.S. at 555.

103. 416 U.S. 232 (1974).

104. *Id.* at 247-48.

105. 420 U.S. 308 (1975).



both discretionary and mandatory acts "at those levels of government where the concept of duty encompass[ed] the sound exercise of discretionary authority,"<sup>112</sup> provided that these acts were "within the outer perimeter of . . . the officials' line of duty."<sup>113</sup>

On remand in the *Bivens* case,<sup>114</sup> the Second Circuit rejected the federal agents' absolute immunity claim, finding that while the defendants had acted in their line of duty, the "discretionary" acts which they were performing were not of such a nature as to justify a grant of absolute immunity. The Second Circuit reasoned that the agents' and government's legitimate interests would be adequately served by allowing defendants to assert the *Pierson* good faith defense.

Since then, several circuits have followed the rationale of the Second Circuit, particularly in light of the Supreme Court's disposition of the absolute immunity claim in *Scheuer v. Rhodes*.<sup>115</sup> In *Mark v. Groff*,<sup>116</sup> the Ninth Circuit went so far as to opine that *Scheuer* "destroyed the notion of absolute immunity for executive officials."<sup>117</sup> The *Mark* court could see no reason to distinguish, for immunity purposes, between state officials sued under section 1983, and federal officials sued under the general federal question statute. Instead, the court thought it advantageous to have just one federal immunity rule for suits arising under federal law, stating that the rights at stake in suits brought under the Bill of Rights were no less worthy of protection than those protected by section 1983.<sup>118</sup>

## 2. Eleventh Amendment

In actions involving a state and state officials, the eleventh amendment may be raised as a bar to suit in federal court.<sup>119</sup> It does

---

112. *Id.* at 575.

113. *Id.*

114. 456 F.2d 1339 (2d Cir. 1972).

115. 416 U.S. 232 (1974). See also *Economou v. Dep't of Agriculture*, 535 F.2d 688, 696 (2d Cir. 1976) (*Scheuer* qualified immunity applied to officials of executive branch of federal government); *Weier v. Muller*, 527 F.2d 872, 874 (5th Cir. 1975) (dictum suggests *Scheuer* qualified immunity applies to federal agents allegedly violating fifth amendment rights); *Apton v. Wilson*, 506 F.2d 83, 91-92 (D.C. Cir. 1974) (specifically applying *Scheuer* in fourth and fifth amendment suit). A claim of absolute immunity for federal officials was also recently disallowed in *Halperin v. Kissinger*, 424 F. Supp. 838 (D.D.C. 1976), but the opinion of Judge John Louis Smith granting damages does not detail his reasoning.

116. 521 F.2d 1376 (9th Cir. 1975).

117. *Id.* at 1379.

118. *Id.* at 1380-81. See also note 115 & accompanying text, *supra*.

119. The amendment provides: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." U.S. CONST. amend XI.



### 3. Legislative Immunity

Members of the Police Board of the City of Chicago argued in the *ACLU* case that they enjoyed a type of legislative immunity from suit; this argument, however, was flatly rejected by the district court.<sup>130</sup> The Board, as established by state statute, did perform some rule-making functions,<sup>131</sup> but the court found that the Board enjoyed only the limited immunity from damages provided for municipal officials; namely, that their actions as officials had been taken in good faith.<sup>132</sup> Unlike prior decisions, which found a legislative immunity in similar circumstances,<sup>133</sup> the Board was not composed of elected state officials, nor did it perform a special investigative function for the legislature.<sup>134</sup>

## III. CLASS CERTIFICATION

### A. The Motion for Certification

Federal Rule of Civil Procedure 23(c)(1) provides that the maintainability of a class action should be determined by the court "as soon as practicable after the commencement of an action."<sup>135</sup> The practice of government defendants has been to motion for a stay of discovery as to class allegations pending class determination; an early motion by plaintiffs to certify their class may therefore serve to speed up the process of receiving broad scale discovery. Class determination should be made independent of the merits of the case, and perhaps even before a consideration of the merits.<sup>136</sup> In any case, to avoid discovery delays, the class motion should not be determined later than the defendants' motion to dismiss.

In order to qualify a suit as a class action, the moving party bears the burden of proving that the complaint (1) defines an ascertainable class, (2) complies with the requisites of Rule 23(a),<sup>137</sup> and, (3) falls within one of the categories established by Rule 23(b).<sup>138</sup>

### B. Ascertainability of Class Membership

The ascertainability provision is best expressed as requiring that "members of a class must be capable of definite identification

130. 431 F. Supp. at 29-30.

131. *Id.* at 29.

132. *Id.*

133. See, e.g., *Tenney v. Branhove*, 341 U.S. 367 (1951); *Martone v. McKeithen*, 413 F.2d 1373 (5th Cir. 1969).

134. 431 F. Supp. at 29.

135. See Fed. R. Civ. P. 23.

136. *Eisen v. Carlisle*, 417 U.S. 156, 178 (1974); *Haas v. Pittsburgh Nat'l Bank*, 60 F.R.D. 604, 615 (W.D. Pa. 1973).

137. See note 135 & accompanying text, *supra*.

138. *Id.*



officialdom.<sup>148</sup> A similar class denial occurred where a class was defined as “all persons who wish and are legally entitled to be married”<sup>149</sup> and generally described as all persons working for the preservation of civil rights and the end of racial discrimination.<sup>150</sup>

C. *Prerequisites of Rule 23(a)*

With regard to the “numerosity” requirement, no novel arguments in relation to the issue of impracticability of the joinder of absent class members have surfaced in surveillance cases.<sup>151</sup> Surveillance plaintiffs can point out that the questions of fact and law common to the class are the existence of a “pattern and plan” of illegitimate government surveillance violative of both statutory and constitutional rights. The gist of defendants’ anticipated argument would be that the lawfulness of their conduct would very much depend on the factual context in each individual case.<sup>152</sup> At this juncture, it is important to reassure the court that it need not review the circumstances of each particular government intrusion in order to determine the existence and validity of an institutionalized course of conduct.<sup>153</sup>

Rule 23(a)(3) provides that a class action may be brought only if the claims or defenses of the representative parties are typical of the claims or defenses of the class. The plaintiffs’ assertion of typicality is seldom denied, because it is so difficult to ascribe a meaning to it, thus “causing courts to find compliance with [this provision] with little or no explanation.”<sup>154</sup>

If any opposition is raised regarding the “fairness and adequacy of representation,” it will likely center around the maxim that some absent class members may prefer to “let sleeping dogs lie,” and would not wish to expose their past activities to public scrutiny.<sup>155</sup>

148. *V.V.A.W. v. Benecke*, 63 F.R.D. 675, 679-80 (W.D. Mo. 1974).

149. *Rappaport v. Katz*, 62 F.R.D. 512, 513 (S.D.N.Y. 1974).

150. *Chaffee v. Johnson*, 229 F. Supp. 445, 448 (S.D. Miss. 1964), *aff’d*, 352 F.2d 514 (5th Cir. 1965).

151. See generally 3B MOORE’S FEDERAL PRACTICE ¶ 23.05 (2d ed. 1978); 7 C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1762 (1972).

152. *Paton v. La Parde*, 382 F. Supp. 118 (D.N.J. 1974), *vacated on other grounds*, 524 F.2d 862 (3d Cir. 1975).

153. See *Yaffee v. Powers*, 454 F.2d 1362, 1366 (1st Cir. 1972) (pronouncement of the nonexistence of a class prior to discovery of information known to defendant improper); *Norwalk CORE v. Norwalk Redev. Agency*, 395 F.2d 920, 937 (2d Cir. 1968) (complaint alleging discrimination against a group in general raises question of fact common to that class and justifies a class action).

154. 3B MOORE’S FEDERAL PRACTICE ¶ 2306[2], at 197 (2d ed. 1978). But see *Paton v. LaParde*, 382 F. Supp. 118 (D.N.J. 1974), *vacated*, 524 F.2d 862 (3d Cir. 1975).

155. See *Zweibon v. Mitchell*, 516 F.2d 594, 605 n.8 (D.C. Cir. 1975) (pretrial hearing); *Phillips v. Klassen*, 502 F.2d 362, 366 (D.C. Cir. 1974) (class members antagonistic with interests of representatives of a class not bound by adjudication taken in their name).



ate final injunctive relief or corresponding declaratory relief,"<sup>163</sup> a class action is maintainable. Defendants may resist certification under this section on the ground that surveillance classes are not "cohesive,"<sup>164</sup> the rationale being that the defendants usually engaged in a variety of activities against a multitude of persons claiming violation of various constitutional rights. This contention ignores the fact that *defendants themselves defined* the class by pursuing a course and plan of surveillance of persons engaged in noncriminal activity.<sup>165</sup>

Plaintiffs may also request both monetary or injunctive relief. In response to this, the defendants may argue that certification is inappropriate where the final relief sought is exclusively or predominantly one of damages.<sup>166</sup> Where, however, monetary relief is incidental to the requested equitable relief, the class has been held maintainable under rule 23(b)(2).<sup>167</sup>

Rule 23(b)(3)<sup>168</sup> applies to actions where common issues predominate over issues affecting only individual members and where a class action would prove superior to alternative methods for fair and efficient adjudication. Plaintiffs are advised, however, to allege, where possible, that their class is maintainable under Rule 23(b)(1) or (b)(2), rather than Rule 23(b)(3). This course of action is desirable because it defers, if not obviates, the question of notice to absent class members.<sup>169</sup> Additionally, certification is mandatory if a class meets the requirement of Rule 23(b)(1) or (2). Discretionary elements enter into the decision to verify a 23(b)(3) action, and a hostile or hesitant judge may elect to opt out of dealing with a 23(b)(3) class.

When common issues predominate, the defense tactic again is to emphasize the fact that the constitutional rights claimed to have

163. See note 135 & accompanying text, *supra*.

164. See *Wetzel v. Liberty Mutual Ins. Co.*, 508 F.2d 239 (3d Cir. 1975).

165. See also *Alliance to End Repression v. Rochford*, 565 F.2d at 979; *Yaffee v. Powers*, 454 F.2d 1362 (1st Cir. 1972).

166. Advisory Committee's Note, 39 F.R.D. 69, 102 (1966).

167. *Sullivan v. Murphy*, 478 F.2d 938 (D.C. Cir. 1973) (class action relief sought when mass arrests occur); *Yaffee v. Powers*, 454 F.2d 1362 (1st Cir. 1972) (nonexistence of class issue not to be decided prior to discovery of relevant information from defendant); *Robinson v. Lorillard Corp.*, 444 F.2d 791 (4th Cir. 1971) (employer departmental seniority system found unlawful); *Almenares v. Wyman*, 453 F.2d 1075 (2d Cir. 1971), *cert. denied*, 405 U.S. 944 (1972); *ACLU v. City of Chicago*, 431 F. Supp. 25 (N.D. Ill. 1976); *Alliance to End Repression v. Rochford*, 407 F. Supp. 115 (N.D. Ill. 1975); *Green v. Cauthen*, 379 F. Supp. 361 (D.S.C. 1974) (class action brought on basis of police department discriminatory policies stated action against police officers only); *Butcher v. Rizzo*, 317 F. Supp. 899 (E.D. Pa. 1970) (line-up "fill-ins" practices by police challenged).

168. See note 135 & accompanying text, *supra*.

169. See 3B MOORE'S FEDERAL PRACTICE ¶ 23.72[2] at 486 n.6 (2d ed. 1978).



be compressed in a case where even efficient discovery will involve years of work.

A basic reference for the management of such litigation is the *Manual for Complex Litigation*.<sup>176</sup>

Generally speaking the *Manual* is very progressive in its recommendations, calling for the use of pretrial conferences and the active involvement of the judge.<sup>177</sup>

Since issues of litigation management are largely committed to the discretion of the judge, the *Manual* will also provide respected authority for proposals that depart from normal routines in order to expedite the disposition of the case.

#### A. Use of Pretrial Conference

The premise of the Federal Rules is that attorneys should organize the process of litigation amongst themselves, with the judge becoming involved only to resolve legal disputes, set deadlines, and conduct the trial.<sup>178</sup> Typically, this results in the attorney involving himself with the judge only occasionally for motions or status calls within the formal confines of a courtroom. This provides only a limited opportunity, if any, to educate the judge about the intricacies of the lawsuit, and secure his assistance in resolving procedural problems with relative informality. These are, however, objectives which should be pursued by plaintiffs' counsel.

This can be accomplished through a series of regular informal pretrial conferences involving the judge (including his law clerks) and all counsel. The basic approach of the *Manual for Complex Litigation*, as employed in both the *ACLU* and *Alliance* cases<sup>179</sup> and *Socialist Workers Party v. Attorney General*<sup>180</sup> case, is that the conference should be conducted as informally as possible. Success in using the pretrial conference procedure in this manner may depend largely on having a judge who is at least marginally receptive to the expedition of the case, even if it is only to ease his own docket congestion. Moreover, in actions involving an entirely hostile judge, the situation may be such that no procedural approach will be of much value. Even in these situations, however, pretrial conferences may permit more progress than traditional motion calls and briefs.

176. *MANUAL*, *supra* note 174.

177. *Id.* ¶0.40, at 26-28.

178. *See* FED. R. CIV. P. 16.

179. *ACLU v. City of Chicago*, 431 F. Supp. 25 (N.D. Ill. 1976); *Alliance to End Repression v. Rochford*, 407 F. Supp. 115 (N.D. Ill. 1975).

180. 375 F. Supp. 318 (S.D.N.Y.) (granting plaintiff's motion for preliminary injunction restraining FBI from conducting or monitoring SWP national convention), *rev'd per curiam* 510 F.2d 253 (2d Cir.) *stay of mandamus denied*, 419 U.S. 1314 (1974) (Marshall, J.).



ference there had been no class discovery, and the judge had intimated earlier that class discovery would not be appropriate.<sup>185</sup> The pretrial agenda, however, suggested that document production of the entire index card system of the Chicago Police Security Section and Gang Intelligence Section, and the entire intelligence files of a limited number of designated class members, should be ordered. The defendants' objections were discussed orally and production of the documents was ordered. In contrast, traditional discovery procedure would have required a written request, defendants' objections, plaintiffs' motion to compel, a briefing schedule, and a decision by the court; a method which could have taken at least five to six months to resolve, depending on the judge's backlog for resolving contested motions.

Detailed draft orders can also be presented to the court as attachments to the agenda and may provide the basis for concrete discussion of discovery mechanics in the conference. The agenda, for example, in the *ACLU* case included draft orders for the tape recording of depositions and for defining the rules for dissemination of discovery documents to class members. The former was entered in the conference, while the latter was remitted to a briefing schedule.<sup>186</sup>

On many matters, of course, there is no occasion for briefs, and the conference simply provides the opportunity for a much more thorough and informal discussion than would be available in open court on a status call. In this category are status reports, discovery deadlines, and logistical arrangements that are entirely discretionary and nonlegal in character. The conference can also be used to

185. See notes 178-81 & accompanying text, *supra*.

186. The variety of matters that were raised and resolved in pretrial conferences in the *ACLU/Alliance* case are indicated by the set of Pretrial Orders Nos. 1-5 (on file at the University of Detroit Journal of Urban Law). In summary, these included the following significant items: tape recording of depositions, mechanics of document discovery, consolidation of *ACLU* and *Alliance* for discovery, order for production of index cards, briefing schedules, an order prohibiting destruction of documents by Defendants, mechanics and deadlines for discovery responses, submission of a limited motion for preliminary injunction by stipulation to the facts involved, and a tentative determination that a document depository would be established.

The discovery process provided in these orders differed significantly from the normal process under the Federal Rules of Civil Procedure. In essence, the process called for: (a) counsel to confer prior to the due date for answers, to resolve any problems of interpretation or logistics and to inform plaintiffs which requests would be answered and which objected to; (b) defendants to file memoranda of law at the same time they filed objections (in effect building an automatic motion to compel into the process and requiring legal justification for all objections); and (c) consideration of all objections at a pretrial conference before plaintiffs were required to write a responsive brief, the theory being that ill-founded objections would be overruled without a complete briefing schedule. *Id.*



two objectives. First, a subjective evaluation of the documents should be conducted to determine in general terms what kinds of intelligence activities are revealed against particular plaintiffs; second, an objective analysis of the documents should be taken (if possible by computerization) to provide a statistical overview of actions taken against the class as a whole, in order to permit ready identification for deposition purposes of the documents about which a particular control officer or informer should be interrogated.

In addition to evaluating documents for evidentiary purposes, the plaintiffs will presumably attempt to disseminate documents to the class members, since disclosure of intelligence reports is a partial remedy in itself. Moreover, since most intelligence reports present only personal data without identifying sources or acquisition methods, the only legal interest that affects such data is the general privacy interest of the subject.<sup>188</sup>

A preliminary step taken by the plaintiffs in *ACLU/Alliance* was to secure a protective order that allowed the dissemination of documents in undeleted form to any class member who was a subject of such documents.<sup>189</sup> Each subject was allowed to decide whether to disclose any personal intelligence data publicly. Since plaintiffs' counsel carried out the dissemination, the opportunity was provided to communicate with the affected class members, and to solicit their factual feedback. In effect, the document dissemination was a built-in discovery process.<sup>190</sup>

The use of computers may provide a partial answer to management problems encountered by the plaintiffs' receipt of an unmanageable number of documents during discovery. The benefits of computer use are obvious. A computer has the capacity to store, search, match, and retrieve data accurately from millions of pages in seconds, and for this reason it may be invaluable in: (1) organizing and retrieving evidence in the form of documents, deposition testimony, or prior trial testimony during the course of trial or trial preparation, (2) generating indexes and summaries of evidence, and (3) analyzing evidence for use in trial. For example, the retrieval of all reports filed by a particular control officer or informer for a

---

188. See the discussion of protective orders, SECTION VC *infra*.

189. Initially, dissemination had been limited to the index cards that identified and briefly summarized the intelligence reports concerning each class member.

190. A different approach was taken in the anti-surveillance case of *Benkert v. Michigan State Police*, No. 74 023 9340AZ (Wayne County Cir. Ct., Mich., order entered March 25, 1976), where the summary judgment provided, as part of plaintiff's relief, for dissemination of documents compiled by the state police to the class members and for the appointment of a monitor responsible for overseeing the dissemination.



sition to government spying. Thus, while disclosure is a very limited remedy in controlling or terminating government spying, it is an essential step toward that end.

The management of discovery through pretrial conferences and suggestions on handling discovery of intelligence files has already been discussed in Section IV. In other respects, discovery in anti-spying cases may not be significantly different from traditional techniques.<sup>193</sup>

It should be borne in mind, however, that intelligence agency defendants are much more committed to, and experienced in, secrecy and evasion than any other agency of the government, and are thus more reluctant to yield files and methods to plaintiff adversaries. Therefore, there can be little reliance on the good faith of the defendants to respond to discovery. This necessitates the highest degree of precision in drafting discovery requests, and in monitoring the adequacy of the response.

For the sake of clarity, the process of discovery will be divided into the following problem areas: (1) the law surrounding the privileges that defendants will assert to defeat discovery requests, primarily executive privilege and the informer's privilege; (2) protective orders, which defendants will probably request to limit dissemination of data obtained in discovery, perhaps confining it to parties in the case to keep it from public knowledge; (3) obstructionist tactics that defendants will employ to delay or defeat the discovery process; and (4) reverse discovery, by which defendants will attempt to intimidate the plaintiffs or to carry on the intelligence gathering function through detailed discovery requests.

#### *B. Government Privileges Against Discovery*

Although the general rule is that the rules of discovery are fully applicable to the government, a number of substantial exceptions to that rule have developed in the form of special government privileges.<sup>194</sup> These privileges can be divided into three major categories: (1) the traditionally recognized privilege for "state secrets," (2) the

193. A sample set of combined interrogatories and document requests addressed to the Chicago Police Department with regard to the *ACLU* case are on file with the University of Detroit Journal of Urban Law. The introductory definitions and the format of these discovery requests may be a useful model for other counsel. Similar sets of interrogatories and document requests to the FBI and Army Intelligence are available from plaintiffs' counsel in the *ACLU* case.

194. See, e.g., *United States v. Proctor & Gamble Co.*, 356 U.S. 677 (1958), where the Court upheld the "long-established policy that maintains the secrecy of the grand jury proceedings in federal courts." *Id.* at 681 (footnote omitted). It qualified its position, however, by stating "[W]e only hold that no compelling necessity has been shown for the wholesale discovery and production of a grand jury transcript under Rule 34." *Id.* at 683.



would not be appropriate in all circumstances, but only where the party seeking disclosure demonstrated sufficient necessity.<sup>202</sup>

The case law offers few guidelines on the actual scope of the state secrets privilege. The traditional statement of the privilege is that it encompasses military and diplomatic secrets.<sup>203</sup> More recently, the military secrets aspect of the privilege has been referred to by some courts and commentators as encompassing secrets relating to national security.<sup>204</sup> This terminology suggests something broader than purely military secrets, although the issue does not appear to have arisen in any case to date. The Advisory Committee notes to Proposed Rule 5-09 of the Federal Rules of Evidence, which recognize a privilege for governmental secrets relating to the national defense, indicated that terminology was used mainly because similar terminology is used in the criminal espionage statutes.<sup>205</sup> National defense, as used in those criminal statutes, has been interpreted as a "generic concept of broad connotation, referring to the military and naval establishments and the related activities of national preparedness."<sup>206</sup>

Noteworthy with respect to the state secrets privilege is *Dayton v. Dulles*.<sup>207</sup> In that case, former Secretary of State Dulles had denied the plaintiff's passport on the ground that the plaintiff was going abroad to engage in activities which would advance the Communist movement.<sup>208</sup> In seeking review of this decision, the plaintiff sought discovery of the information upon which the Secretary had based his decision. The Secretary claimed that the information was privileged because disclosure "might prejudice [conduct of United States] foreign relations,"<sup>209</sup> and that public disclosure of "the sources and detail of this information would . . . be detrimental to our national interest by compromising investigative sources and methods . . . seriously interfering with the ability of [the State] Department and the Executive branch to obtain reliable information affecting internal security."<sup>210</sup> The court therefore refused the motion for discovery.<sup>211</sup>

---

excision is relevancy or admissibility or under such cases as *United States v. Reynolds* . . . .

*Id.* at 715 n.21 (citations omitted).

202. 345 U.S. at 13.

203. See, e.g., *United States v. Reynolds*, 345 U.S. 1 (1953).

204. See, e.g., *United States v. Nixon*, 418 U.S. 683, 706 (1974).

205. 18 U.S.C. §§ 793-94 (1976).

206. *Gorin v. United States*, 312 U.S. 19, 28 (1941).

207. 245 F.2d 71 (D.C. Cir. 1957), *rev'd on other grounds*, 357 U.S. 144 (1958).

208. 245 F.2d at 73-74.

210. *Id.*

211. *Id.* at 77.



A recurring issue with respect to the official information privilege is what effect, if any, the Freedom of Information Act<sup>218</sup> (FOIA), has on the scope of the privilege to be recognized under the general rule 501 that was enacted by Congress.<sup>219</sup> The FOIA contains nine exceptions to its general requirement of public disclosure of government documents. Two of these exceptions correspond in general terms to the two sub-categories of the official information privilege as developed at common law. Section (5) provides for the nondisclosure of "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."<sup>220</sup> Section (7) exempts

investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel . . . .<sup>221</sup>

Although these exemptions would appear to be fatal to plaintiffs in an anti-surveillance action, the clear weight of authority holds that the scope of discovery remains unaffected by these FOIA exemptions. In reaching this conclusion, the courts have emphasized the fact that the FOIA neither contains a provision for weighing the litigant's need, nor grants a court authority to impose a protective order to limit dissemination.<sup>222</sup> Nevertheless, government

218. 5 U.S.C. § 552(b)(1976).

219. *Id.*

220. *Id.*

221. *Id.*

222. *Kerr v. United States Dist. Ct. for the Northern Dist. of Cal.*, 511 F.2d 192 (9th Cir. 1975) (discovery pursuant to an action against personnel of California Adult Authority by prisoners); *Verrazzano Trading Corp. v. United States*, 349 F. Supp. 1401 (Cust. Ct. 1972) (Freedom of Information Act used to attempt discovery of material during pending litigation); *City of Concord v. Ambrose*, 333 F. Supp. 958 (N.D. Cal. 1971) (the Freedom of Information Act used to attempt discovery of customs bureau training information); *Boyd v. Gullett*, 64 F.R.D. 169 (D. Md. 1974) (discovery sought of police investigative files); *Pleasant Hill Bank v. United States*, 58 F.R.D. 97 (W.D. Mo. 1973) (disclosure of HUD files sought pursuant to a specific cause of action proper); *Hodgeson v. GMAC*, 54 F.R.D. 445 (S.D. Fla. 1972) (informer's privilege properly invoked).



plaintiff sought all internal GSA reports, memoranda, and other documents concerning a sale to the company. The court determined that the documents consisted solely of policy recommendations, and thus were protected by a qualified privilege. Two reasons given for applying the privilege in this instance were: (1) protecting intra-governmental communications, and (2) safeguarding the administrative decision making process from unwarranted intrusion. The court refused to order disclosure of the documents because the plaintiff had failed to establish sufficient need.

The protection afforded by the *Kaiser* decision was later narrowed by the Court in *EPA v. Mink*,<sup>231</sup> where the privilege was found inapplicable to purely factual information contained in internal reports. Still, the *Kaiser* decision retains much of its vitality; many courts applying *Kaiser* continue to recognize that the privilege for intra and inter-agency memoranda is a qualified one, but have denied discovery with little or no explanation.<sup>232</sup>

An exception to the strict application of the privilege has been recognized where the government is charged with official misconduct. In actuality, however, this is not really an exception, but rather a recognition that the party's need for the information outweighs the government's interest in nondisclosure. For example, in *Black v. Sheraton Corporation of America*,<sup>233</sup> the government admitted undertaking unlawful electronic surveillance and summary judgment was granted on plaintiff's suit. In order to establish the amount of damages, plaintiff sought FBI files relating to the surveillance. The district court rejected the government's claim of privilege

---

231. 410 U.S. 73 (1973).

232. See *Comm. for Nuclear Responsibility v. Seaborg*, 463 F.2d 788 (D.C. Cir. 1971) (excision of material consisting solely of advice, deliberation and recommendations of government employees); *Boeing Airplane Co. v. Coggeshall*, 280 F.2d 654 (D.C. Cir. 1960) (privilege for recommendations concerning policies and decisions, but no privilege for investigatory or other factual reports); *Brown v. United States*, 58 F.R.D. 599 (D.S.C. 1973) (qualified privilege for intra-agency communications containing opinions, conclusions, and recommendations reached by government officials in connection with their official duties, but not for computations and facts, or reports of interviews); *Union Oil Co. of Cal. v. Morton*, 56 F.R.D. 643 (C.D. Cal. 1972) (*in camera* inspection of documents claimed subject to interdepartmental correspondence privilege); *Simons-Eastern Co. v. United States*, 55 F.R.D. 88 (N.D. Ga. 1972) (qualified privilege for opinions, conclusions, and reasoning); *United States v. Articles of Drugs Consisting of 30 Individually Cartoned Jars, More or Less*, 43 F.R.D. 181 (D. Del. 1967) (corporation claimant's refusal to answer interrogatories in civil suit due to possible incriminating results in parallel criminal proceedings); *Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena*, 40 F.R.D. 318 (D.D.C. 1966) (qualified privilege protecting "advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated") *id.* at 324.

233. 371 F. Supp. 97 (D.D.C. 1974).



sure will be ordered will depend upon the applicability of the privilege for advisory memoranda containing evaluative information.<sup>236</sup>

One question not clearly answered, however, is whether this privilege applies to investigatory files compiled for civil as well as criminal law enforcement purposes. Although some courts have expressly phrased the privilege as being one for investigatory files relating to criminal investigations, the issue has not been specifically addressed.<sup>237</sup> Since the major purpose of the privilege is to prevent premature disclosure of the government's prosecution, the privilege might be equally applicable where civil enforcement is contemplated. Courts applying the FOIA exemptions to investigatory files do not draw a distinction between civil and criminal proceedings.<sup>238</sup> Ten criteria frequently applied in determining the discoverability of police investigatory files are: (1) the extent to which disclosure will discourage citizens from giving the government information; (2) the impact upon persons who have given information to having their identities revealed; (3) the degree to which governmental self-evaluation and program improvement will be chilled by disclosure; (4) whether the information sought is factual data or evaluative summary; (5) whether the party seeking the discovery is an actual or potential defendant in any criminal proceeding either pending or likely to follow from the incident in question; (6) whether

because no enforcement proceedings were contemplated and the purpose of the program was counter-intelligence). *But see* *Aspen v. Department of Defense*, 491 F.2d 24 (D.C. Cir. 1973) (investigatory file for law enforcement purposes exempt under FOIA, even after termination of investigation and enforcement proceedings); *Kott v. Perini*, 283 F. Supp. 1 (N.D. Ohio 1968) (police records afforded absolute privilege, whether or not there was an ongoing investigation, and whether or not facts or opinions were involved). *Kott* has not been followed by other courts, and was expressly criticized in *Frankenhauser v. Rizzo*, 55 F.R.D. 339 (E.D. Pa. 1973).

236. *See* *Kenyatta v. Kelley*, 375 F. Supp. 1175 (D.C. Pa. 1974) (material concerning "circumstances" under which plaintiff had been placed on FBI's "Agitator's Index," and for that reason subjected to surveillance was "evaluative" and thus privileged); *Boyd v. Gullet*, 64 F.R.D. 169 (D. Md. 1974) (discovery of police investigatory files containing complaints, records, and reports of alleged incidents of police brutality against blacks allowed; material of a nonfactual nature submitted to *in camera* inspection for a balancing of interests); *Gaison v. Scott*, 59 F.R.D. 347 (D. Hawaii 1973) (discovery limited to factual material contained in police files even though plaintiff had established a great need, noting only that evaluative material should usually remain confidential); *Philadelphia Resistance v. Mitchell*, 58 F.R.D. 139 (E.D. Pa. 1972) (privilege for information where plaintiffs were under investigation for burglary and as to the contents of policy statements, regulations, authorizations and other directions governing surveillance information on what legal basis surveillance was conducted remained privileged, but general information concerning the manner in which the investigation was conducted could be discovered).

237. *See* note 238 & accompanying text, *infra*.

238. *See, e.g.,* *Center for National Policy Review on Race and Urban Issues v. Weinberger*, 502 F.2d 370 (D.C. Cir. 1974); *Sitlow v. Brinegar*, 494 F.2d 1073 (D.C. Cir. 1974) (*per curiam*).



alleged misconduct or perversion of power by a government official . . . discovery may well be proper."<sup>244</sup>

Two recent cases invoking the "official information" privilege deserve special mention, however, since they appear to recognize an expansion of the scope of privilege. In *Kinoy v. Mitchell*,<sup>245</sup> the plaintiffs sought records pertaining to alleged unlawful electronic surveillance. The government agreed to disclose this information as to eleven of the fourteen domestic security taps, but claimed privilege as to the remaining domestic wiretaps and as to all foreign security wiretaps. With respect to the foreign wiretaps, the court declined to rule on the merits until certain procedural deficiencies were corrected. Relative to the domestic security wiretaps, the court reviewed the recognized common law categories of government privilege, including the privilege for "police files compiled in connection with an ongoing criminal investigation," and concluded that the documents did not come within any of these privileges.<sup>246</sup> The court, however, recognized a new basis for a qualified privilege—material connected with "an ongoing domestic security investigation"—but postponed ruling on its application until certain procedural deficiencies in the invocation of the privilege were corrected.<sup>247</sup>

In *Jabara v. Kelly*,<sup>248</sup> the plaintiff alleged unlawful surveillance by government officials, including the Director of the FBI, and sought answers to interrogatories and requests to admit evidence documenting the investigation. The government contended that this information was privileged since it was contained in investigatory files. Not clear in the case was whether the files were related to an ongoing criminal investigation. The government declined to clarify the matter and the district court stated that after examining the documents *in camera*, it was of the opinion "that the investigation . . . was conducted pursuant to legitimate government concerns."<sup>249</sup> The court then applied a balancing test to the various items sought, "keeping in mind" the government's fears that disclosure would result in: (1) loss of anonymity of government informers; (2) a compromise of ongoing federal investigations; and (3) exposure of tactical intelligence which would jeopardize current investigatory

244. *Id.* at 12. See *Zimmerman v. Poindexter*, 74 F. Supp. 933 (D. Hawaii 1947) (discovery of a military file containing confidential FBI reports allowed in a wrongful imprisonment action; where plaintiff's loyal citizenship and actionable deviation from official conduct are brought in issue, relevant documents elucidating those vital issues could not be withheld).

245. 67 F.R.D. 1 (S.D.N.Y. 1975).

246. *Id.* at 12-14.

247. *Id.* at 14.

248. 62 F.R.D. 424 (E.D. Mich. 1974).

249. *Id.* at 431.



effective law enforcement."<sup>254</sup> In theory, however, the privilege is not absolute; it is limited by its underlying purpose, and by considerations of fundamental fairness. Where disclosure is "helpful to the defense of an accused, or is essential to a fair determination of an action, the privilege must give way."<sup>255</sup>

Analysis of an informer's privilege claim involves a two-step process, starting with a determination of whether the privilege even applies. In *Alliance*,<sup>256</sup> Judge Kirkland found the privilege inapplicable where (1) the informants reported on lawful, private activities; and (2) the informants were paid government agents. Denial of the privilege in these circumstances, it was held, would not "chill" the reporting of law violations by private citizens.<sup>257</sup>

Second, assuming the privilege is found applicable, the party's need for the information must be balanced against the public interest in the uninterrupted flow of information from informers to the government.<sup>258</sup> Surveillance plaintiffs should have little difficulty expressing why discovery of informer's names is essential to the proof of their case.<sup>259</sup> The government will, however, attempt to tip the balance by asserting that disclosure of an informer's identity will subject the informer to reprisals.<sup>260</sup> The government will also likely contend that a private citizen should not be expected to make the legal judgment, on pain of subsequent exposure or damage claims, that the information or assistance that he is about to furnish the government does not in fact relate to legitimate law enforcement functions.

### C. Protective Orders and Gag Rules<sup>261</sup>

Federal Rule of Civil Procedure 26(c) provides that upon the

---

254. *Roviaro v. United States*, 353 U.S. 53, 59 (1957).

255. *Id.* at 60.

256. *Alliance to End Repression v. Rochford*, No. 74 C 3268, slip op. at 4 (N.D. Ill., Mar. 26, 1976) (memorandum opinion & order) (on file at the University of Detroit Journal of Urban Law).

257. *Id.*

258. *Id.*

259. See *Roviaro v. United States*, 353 U.S. 53 (1957) (the privilege being a qualified one, informants are on notice of risks of exposure); *Black v. Sheraton Corp. of America*, 47 F.R.D. 263, 267 (D.D.C. 1969) (veracity of reprisal claims are easily questioned); *Alliance to End Repression* No. 74 C 3268, slip op. at 3 (N.D. Ill. Mar. 26, 1976) (memorandum opinion and order compelling production of deleted evidence).

Note that while exemption (7) of the FOIA enshrines the informer's privilege absolutely, the scope of discovery in non-FOIA cases would be unaffected by the exception. See generally C. McCORMICK, *THE HANDBOOK OF THE LAW OF EVIDENCE* § 148 (2d ed. 1972); 8 WIGMORE ON EVIDENCE § 2374 (McNaughton rev. 1961).

260. See *Jabara v. Kelly*, 62 F.R.D. 424, 433 (E.D. Mich. 1974); *Wood v. Brier*, 54 F.R.D. 7, 12 (E.D. Wis. 1972) (a distinction made between paid and volunteer informants).

261. FED. R. CIV. P. 26(c).



and other facts about the defendants. The government maintains that if systems data is disclosed, legitimate law enforcement procedures and national security functions will be impaired. While this may be true in limited circumstances, the widespread public disclosure of intelligence methods and activities in recent years by Congress, pursuant to the Church Committee,<sup>265</sup> along with the need for public awareness of illegal intelligence operations, are strong arguments to be balanced against the government interest.

Grim predictions of dire consequences ensuing from discovery have led some courts to enter blanket orders covering all systems data.<sup>266</sup> Entry of blanket orders, however, can be resisted on first amendment principles,<sup>267</sup> and on the ground that the "good cause" requirement of Rule 26(c) can be satisfied only by "a particular and specific demonstration of fact as distinguished from stereotyped and conclusory statements."<sup>268</sup> An item-by-item approach to discovery by the court would carry a greater chance of success for the plaintiff than insistence upon a blanket order for disclosure.<sup>269</sup> In *Alliance*, the Judge ruled that only information related to defendants' methods of acquisition would be restricted from public dissemination; information as to the maintenance, use, or destruction of intelligence files would not.<sup>270</sup>

While plaintiffs may be able to endure an order restricting dissemination of systems data to the public during discovery, proper preparation of the case becomes virtually impossible if the bar continues indefinitely. In the early stages of *Alliance*, access to discovery documents was limited solely to the attorneys. That part of the order was lifted however, in response to the argument that such

265. For an in-depth analysis of the Church Committee's findings, see Berman, *The Case for a Legislated FBI Charter*, 55 U. DET. J. URB. L. post (1978).

266. *Halperin v. Kissinger*, 434 F. Supp. 1193 (D.D.C. 1977) (access to wiretap information restricted to plaintiffs and counsel); *Philadelphia Resistance v. Mitchell*, 58 F.R.D. 139 (E.D. Pa. 1972) (access to COINTELPRO information restricted to plaintiffs and attorneys); *Fonda v. Gray*, No. 73 2442 mml (C.D. Cal., filed Oct. 18, 1973) (restricting dissemination of all discovery material to persons other than counsel or parties); *Dellinger v. Mitchell*, No. 176869 (D.D.C., filed June 25, 1969) (motion to dismiss filed April 6, 1978) (access to answers to undescribed interrogatories restricted to plaintiffs and counsel).

267. *Cf. Nebraska Press Ass'n v. Stuart*, 423 U.S. 1327, 1333 (1975) (governing principle is that the press, in general, is to be free and not restrained by court order); *Chicago Council of Lawyers v. Baur*, 522 F.2d 242 (7th Cir. 1975), *cert. denied*, 427 U.S. 912 (1976) (rules denying first amendment rights must be neither nor overbroad).

268. 8 C. WRIGHT & A. MILLER, *FEDERAL PRACTICE AND PROCEDURE*: ¶ 2035, at 265 (1972).

269. This was the approach utilized by Judge Griesa in *Socialist Worker's Party v. Attorney General*, 387 F. Supp. 747 (S.D.N.Y. 1974), *rev'd* 510 F.2d 253 (2d Cir. 1974), although he did limit access to the FBI Manual of Instructions to counsel and one representative of the plaintiffs.

270. 75 F.R.D. 431, 435 (1976).



efits inherent in such cooperation, it will provide an opportunity to maintain informal pressure and accountability with respect to the discovery process. If interrogatories are addressed to several defendants, plaintiffs should insure that responses are received from all and that the responses are based on the personal recollection of each defendant, as well as all available documents. Defendants might otherwise attempt to respond only on behalf of a few select persons, or by means of basic central administrative documents. In either event, this would constitute a failure to respond based on the personal recollection of the administrators, or field agents who have actually carried out the intelligence activities.<sup>273</sup>

The pursuance of discovery in waves does not limit the ability of plaintiffs to present additional discovery requests even during the pendency of a wave request. At that point, however, the plaintiffs should, if possible, accumulate follow-up inquiries and present them at one time.

Discovery requests, particularly for documents, should be presented in both specific and general form. A solely general request (e.g., "all documents on a given subject matter") will invite defendants to interpret the request, and define the scope and the timing of their response. Specific requests, on the other hand will arguably relieve defendants of the responsibility to make a comprehensive search for all relevant documents. In follow-up communications with defendant's counsel, plaintiffs should always emphasize the generality of defendant's discovery, even when dealing with the production of the readily identifiable documents from specific sources. Specific discovery is also facilitated, of course, by plaintiffs' gaining easy access to indices and to a physical inventory of defendants' files.

From the outset, plaintiffs' counsel if urged to maintain a log of defendants' defaults in discovery. This could include, perhaps under separate headings, delays, omissions, and inaccuracies. The underlying purpose behind this is to provide a comprehensive and precise accounting of the difficulties encountered in discovery for use when a major default occurs and the question of sanctions arises. An example of this may be illustrated by a blatant failure to

273. In *Alliance*, the court found the defendant affiant's answers to interrogatories referred only to the unavailability of information because certain documents had allegedly been destroyed, but made no mention of his *personal* knowledge of the matter sought. Such answers were "incomplete" and "evasive" in the court's mind, and sanctions were imposed. Those paragraphs in the plaintiff's complaint which could not be proved without the documents withheld, were ordered admitted *prima facie*. Defendants would have the burden of rebutting the allegations contained therein. 75 F.R.D. 438, 440-41 (1976).



the relevance of the information. Since the defendants already knew of the identity of the parties suing them, there was no need for discovery of membership lists and associations. Also, the court held that to allow detailed discovery of this strictly statistical data would serve only to "chill" claims of police surveillance. Second, as a matter of policy, the court was reluctant in a suit alleging an invasion of privacy, absent a clear showing of need, to allow defendants to discover the very information they allegedly had been seeking by covert means.<sup>278</sup>

Questions regarding the organizations' membership lists, names of leaders, employees, contributors, and salary and funding information can also be considered violative of plaintiffs' first amendment right to associational privacy.<sup>279</sup> In order to override this right, there must exist a compelling state interest,<sup>280</sup> and, "even though the government purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved."<sup>281</sup> Additionally, there must exist a substantial nexus between the disclosure and the purpose for which the disclosure is made.<sup>282</sup> Lastly, requests for the discovery of an individual's living habits, friends, employment, salary, political and religious beliefs, educational background and membership in organizations clearly infringes upon first amendment freedoms of speech, religion, and association, as well as privacy.<sup>283</sup>

## VI. CONCLUSION

Litigation against government spying has presented, and will

---

Mar. 30, 1976) (memorandum opinion & order) (on file at the University of Detroit Journal of Urban Law).

278. *Id.*

279. *Louisiana ex rel Gremillion v. NAACP*, 366 U.S. 293 (1961) (disclosure of membership lists); *Bates v. Little Rock*, 361 U.S. 516 (1960) (compelled disclosure of membership lists violative of associational freedom); *NAACP v. Alabama*, 357 U.S. 449 (1958) (immunity from state scrutiny with respect to membership lists); *United States Serviceman's Fund v. Eastland*, 488 F.2d 1252 (D.C. Cir. 1973) (actions within legislative sphere of immunity); *Printing Indus. of Gulf Coast v. Hill*, 382 F. Supp. 228 (D.C. Tex. 1974) (printer's rights to freedom of press and political and associational privacy); *Pollard v. Roberts*, 283 F. Supp. 248 (E.D. Ark. 1968) (disclosure of identity of political contributors).

280. *Spence v. Washington*, 418 U.S. 405 (1974) (improper use of flag statute and freedom of expression); *Schneider v. State*, 308 U.S. 147, 160 (1939) (first amendment freedoms of speech and press apply to the states through the 14th amendment).

281. *Shelton v. Tucker*, 364 U.S. 479, 488 (1960).

282. *Gibson v. Florida Legislative Comm.*, 372 U.S. 539 (1963).

283. *Communist Party of Indiana v. Whitecomb*, 414 U.S. 441 (1974) (loyalty oaths); *Healy v. James*, 408 U.S. 169 (1972) (first amendment associational interests on college campuses); *Brandenburg v. Ohio*, 395 U.S. 444 (1969) (per curiam) (statute prohibiting mere advocacy).



## **The law books that give you the peace of mind of knowing**

This modern, complete encyclopedia gives you the assurance of knowing . . . .

- you have the answer to every case law question that you may be asked;
- you have all the law, even the exceptions to the rule;
- your answer is based on all decisions reported in the National Reporter System.

What more can you ask for in a work-saving set of law books? Why not ask for details . . . today. CJS is surprisingly easy to own. Your local West Sales Representative can give you full details.

### **WEST PUBLISHING COMPANY**

Joseph J. Blandina  
P.O. Box 19065  
230 N. Washington Sq., Suite 112  
Lansing, MI 48933  
Phone: 517/489-6909

Floyd J. Gammon  
1576 Charter Oak Drive  
Rochester, MI 48063  
Phone: 313/963-1033

John M. Walsh  
470 Abbey Wood  
Rochester, MI 48063  
Phone: 313/963-1033

# **CORPUS JURIS SECUNDUM**



*"The FBI should cease . . . political intelligence activities under whatever name or names such activities are being pursued. Bill of Rights freedoms should be guaranteed for all."*

— from the Hearing Board Report  
of the Minnesota Citizens'  
Review Commission on the FBI

*"In Nazi Germany . . . first they put the Communists and the Jehovah's Witnesses in concentration camps, but I was not a Communist or Jehovah's Witness so I did nothing. Then they came for the Social Democrats, but I was not a Social Democrat so I did nothing.*

*"Then they arrested the trade unionists, but I did nothing because I was not one. Then they arrested the Jews, and again I did nothing because I was not Jewish. Then they came for Catholics, but I was not a Catholic so I did nothing again.*

*At last they came and arrested me, but by then it was too late . . ."*

— Martin Niemoller

#### **Further Information**

Individuals and organizations who wish to participate in the formation and conduct of the Review Commission or who desire further information should contact:

**National Citizens' Review Commission  
on the FBI  
Post Office Box 28352  
Washington, D.C. 20005**

A project of Resources for Community Change

National Citizens' Review Commission  
on the FBI  
P.O. Box 28352  
Washington, D.C. 20005

## **NATIONAL CITIZENS' REVIEW COMMISSION ON THE**





# National Citizens' Review Commission on the

## Introduction

The Federal Bureau of Investigation has often been accused of repression directed against people working for change in American society. These allegations did not stop after the death of J. Edgar Hoover or with the reported close of its domestic intelligence program, COMTELPRO. FBI surveillance continues today against organizations and individuals whose ideas and actions are contrary to the interests of established powers.

The creation of a National Citizens' Review Commission on the FBI has been recommended by various regional citizens' review commissions held during the past few years. At a meeting held in September 1978 the 80 member organizations of the Campaign to Stop Government Spying, a national organization composed of numerous politically-oriented groups including civil liberties, church, and minority peoples organizations, also called for the creation of the NCRC. Several organizations have formed a steering committee to begin the process. Hearings are planned beginning October 12, 1979 in Washington, D.C., where testimony will be given by those who have been the past and continuing targets of investigation. A Hearing Board composed of responsible citizens from varied sectors of the nation and independent of the steering committee will be formed to hear the testimony.

A National Citizens' Review Commission on the FBI joins the efforts of such organizations as Amnesty International and the Bertrand Russell Tribunals to monitor the infringement of civil liberties by governmental entities.

## Objectives of the National Citizens' Review Commission

- To investigate and make public allegations of illegal acts of harassment, surveillance and repression by the FBI
- To bring about increased pressure, through public education as a result of the hearings,



to discourage FBI interference in our various political communities

- To present evidence to the general public that cannot be presented in the courts
- To bring people together who have been threatened or affected by questionable FBI activities
- To build local and national resistance to further FBI activities which may undermine our basic freedoms

## Origins of the Citizens' Review Commissions

The impetus for a National commission to investigate the extra-legal activities of the FBI resulted from the success of regional citizens' review commissions held in Minnesota, Iowa,

and New York. The Minnesota Citizens' Review Commission on the FBI has been in existence for over two years, and has held three sets of hearings. The Minnesota Hearing Board has published findings and recommendations concerning FBI operations against Blacks, Native Americans, women's groups, the anti-war movement, and others. Extensive collections of evidence and video and audio tapes, which are available for public use, have been compiled where regional hearings have been held. The citizens' review commission format has also been used by several communities to investigate such issues as police brutality and racial discrimination.

## Structure

The Review Commission is composed of two basic units:

- A steering committee, consisting of organization representatives and individuals, is responsible for the advance organization of the Review Commission and for coordinating the logistics of the hearings. The steering committee operates on the basis of a set of agreements allowing for cooperation among groups with disparate orientations.
- An independent hearing board will hear the testimony and make findings and recommendations. Members of the Hearing Board will be drawn from various sectors of the national society to provide an objective forum for the testimony.





## S.Y.L.P. MEMO

2627 Mission Street  
San Marino, California 91108

# Support Your Local Police -- and Keep Them Independent!

May 24, 1983

TO: The Los Angeles City Council  
SUBJECT: "Freedom of Information Acts"

BOTH IGNORANT AND FREE CAN NEVER BE  
by Joseph Mehrten, Western Director

It was Thomas Jefferson who said, "If a nation expects to be both ignorant and free, it expects what never was and never will be." The gathering and maintaining of intelligence information go hand-in-hand with freedom. This reason alone should be enough to cause any freedom of information act to be rejected.

Experience with such acts demonstrates that their very name is a misnomer. They would be more properly labeled as "destruction of information acts." By their operation, these laws assist those who endeavor to deceive and plot against free people.

The merest tyro who has studied anything about intelligence work knows that to reveal information sources is the surest way to destroy those sources. At best, thereafter follows ignorance and blundering; or at worst, deception, misinformation, and defeat. The latter usually prevails because the enemies of freedom are never so stupid as to destroy their information sources by imposing such a requirement upon themselves. They labor and hope for us to throw away our intelligence, and our defenses, and our weapons, while they keep theirs.

Though many of its supporters may not realize it, freedom of information acts are part of a continuing movement to destroy the freedoms long enjoyed in this country. History demonstrates the logic of such an effort. Could the Greeks have beguiled the Trojans into defeat and slavery had the Trojans known what was contained in the phoney horse? Had the Trojan leaders made an intelligence effort, would it have been wise to alert the Greeks to it with a freedom of information act?

The only reason we study history is to avoid its mistakes and learn from its successes. Would we be an independent nation had George Washington not received intelligence of Benedict Arnold's planned betrayal? Would the Nazis have been defeated had the Allies provided "Freedom of Information" on who was in the Resistance? If there had been penetration and adequate intelligence on the Black September terrorists, could they have succeeded in murdering twelve Olympic athletes or in perpetrating their other crimes? Yet, who would dare penetrate such a group knowing his presence could be revealed by a freedom of information request?

Remembering that ancient wooden horse, should we not look into the belly of the anti-intelligence movement and ask ourselves, "Who does this movement benefit?" To do so will subject you to the cant of "McCarthyism" from paranoid reactionaries and others whose purpose is to blind and neutralize. But as leaders of a great city,

. . . . .

ADDITIONAL COPIES OF THIS MEMO ARE AVAILABLE AT 4/\$1.00, POSTAGE PAID.



it is imperative that you examine the facts, rather than the emotions, for the safety and lives of many people are in your hands.

Just as rain always precedes the flood, erosion of capability, confidence, and morale in local police by bizarre court decisions, watered-down personnel standards, and uncalled-for restraints have preceded the crime wave that presently engulfs this nation. At the national and state level, intelligence units are almost totally decommissioned.

For example, by 1979, the F.B.I. had only 143 agents working in efforts to counter 2,000 known K.G.B. agents.<sup>1</sup> This gives the Soviet K.G.B. a fourteen to one advantage.<sup>2</sup> No wonder freedom lost in Vietnam, in Poland, in Czechoslovakia, in Nicaragua, in Panama! No wonder the Soviets were able to invade Afghanistan with equipment built by American know-how and credit guaranteed by the U.S. taxpayer. No wonder the very existence of our country is being threatened by Soviet missiles whose guidance systems and sophisticated hardware are made with U.S. technology. No wonder people in high places advocate a "freeze" now, surely knowing it means, "Be a slave later."

As far back as 1977, the detrimental impact of freedom of information acts on public security was clear. I submit testimony on the subject of THE EROSION OF LAW ENFORCEMENT INTELLIGENCE--CAPABILITIES--PUBLIC SECURITY taken by the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee in that year. Substantial excerpts are reproduced here for your study. These contain the testimony of Ambassador Laurence H. Silberman, who was Deputy Attorney-General of the United States; testimony of H. Stuart Knight, Director of the U.S. Secret Service; testimony of Frank Carrington, Executive Director of Americans for Effective Law Enforcement, and testimony by Professor Charles Rice of the prestigious Notre Dame law school.

The testimony "establishes that there has been a catastrophic erosion in law enforcement intelligence, from almost every standpoint and every level. Major State and local intelligence files that represent the product of many years of labor have either been destroyed or locked up. Moreover, the free exchange of intelligence between Federal, State, and local enforcement agencies that used to be taken for granted has come to an end because of the impact of the Freedom of Information Act and the Privacy Act." It further demonstrates that the service often recommends the President and other dignitaries not visit certain U.S. cities. Recorded also is the chilling effect such acts have had on needed intelligence gathering by endangering the lives of informants.

The testimony demonstrates the logical and factual impossibility of the demand that intelligence efforts selectively target only those who are committing terrorist crimes, to the exclusion of all others. What about those who house, feed, motivate, and provide other aid to the terrorists?

Lastly, the testimony demonstrates the monumental expense the freedom of information acts have imposed on governments, and thus, on the taxpayers, while making our country less safe--costing more than sixty five times the original estimate!

We only ask that this council learn from the mistakes of others and not repeat them, while remembering Jefferson's wise advice, "If a nation expects to be both ignorant and free, it expects what never was and never will be." ■

<sup>1</sup>*Self Destruct: Dismantling America's Internal Security*, Robert Morris, New Rochelle: Arlington House, 1979.

<sup>2</sup>*Las Vegas Sun*, "Soviet Spies Flood D.C.; U.S. Agents Overworked," U.P.I., 1/6/78.



**THE EROSION OF LAW ENFORCEMENT  
INTELLIGENCE—CAPABILITIES—  
PUBLIC SECURITY**

---

**HEARINGS**  
BEFORE THE  
SUBCOMMITTEE ON  
CRIMINAL LAWS AND PROCEDURES  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
NINETY-FIFTH CONGRESS  
FIRST SESSION

---

**PART 1**

---

July 13, 27, and September 21, 1977

---

Printed for the use of the Committee on the Judiciary





Mr. Rossides. Very much so, Mr. Chairman. Let me give you two examples which were under my supervision at the time. They are in regard to terrorism. Alcohol, Tobacco and Firearms, which have responsibilities—coordinate responsibilities, and overlapping responsibilities—and work closely with the FBI, has to work closely with State and local police. It is an absolute necessity—particularly in the area of terrorism.

Little was known as to who may be potential terrorists. Further—and I've never wanted to get into too much testimony about it—regarding the Secret Service and the question of Presidential protection and heads of state protection, you have to have it. It is based on proper intelligence-gathering.

The criticism of the Secret Service back at the time of the tragedy of the assassination of President Kennedy was that they had not had adequate intelligence-gathering capabilities. A massive effort was made to improve that. It did improve. We spent a substantial amount of time reviewing and going over Secret Service intelligence-gathering operations. They absolutely had to be based on cooperation with State and local officials.

Senator Hatch. We appreciate your testimony, Mr. Rossides. I think it has been very enlightening and very interesting to me, personally. I am sure it will be as equally enlightening to others in our society.

Mr. Rossides. Thank you.

Senator Hatch. Let's call on Mr. Silberman at this point.

Mr. Silberman, may we have your testimony now?

#### STATEMENT OF AMBASSADOR LAURENCE H. SILBERMAN

Mr. Silberman. Thank you, Mr. Chairman.

I must say that I am particularly pleased to see this committee start a process of evaluation of past congressional legislation. It seems to me that what you are engaged in is an analytical process of determining what the cost of past legislation is on the impact of law enforcement. My cost I refer not just to direct monetary cost—which I will touch on—but also the cost in terms of impact on ongoing and desirable programs.

Often the Congress, in passing legislation, ignores the impact of legislation and the costs—the tradeoffs. This is particularly true in regulatory legislation. I think that that has been true in this case.

The Freedom of Information Act Amendments of 1974 most importantly—it seems to me—changed the previous law, which exempted from disclosure investigatory files compiled for law enforcement purposes. It changed that to force the law enforcement agencies to make a page by page analytical analysis within massive files in order to make the determination as to what information in that file was mandatory disclosable under the law and what could be exempted.

That process has had, first of all, an enormous financial cost. I refer to the FBI. As Deputy Attorney General, of course, I had supervisory responsibility over the FBI. I should like to touch on that because the FBI is our largest law enforcement agency and has been the major target of Freedom of Information Act and Privacy Act requests and litigation over those matters.



the Bureau to make a page-by-page analysis of investigatory files in order to determine what should and should not be disclosed.

One of the reasons that it is inevitable that there will be mistakes is that the people doing that analysis are not going to be the same people who are doing the investigation. Therefore, they may not know what kind of information will trigger, in the wrong hands, the disclosure of the identity of informants.

Without informants, criminal law enforcement is impossible. Former associates in the Bureau have told me that informants have been literally frightened by the knowledge that under Freedom of Information Act/Privacy Act requests these risks do occur. As a result, there have been several occasions where informants have requested the Bureau to destroy everything in the file which relates to them. Indeed, their activity in providing information of law enforcement importance has been chilled. I can't blame them.

Senator HATCH. Is the use of informants one of the major effective means of gathering intelligence and creating better law enforcement?

Mr. SILBERMAN. Well, informants have now become unfashionable. They will probably be unfashionable for several years in the Congress and in the press. Indeed, there is even a bill, as I understand it, which strikes me as the height of absurdity, which would require a warrant before the Federal Government can use an informant. They would actually need the authority of a court order.

Without informants there can be no effective criminal law enforcement. Informant is just another word for citizens who are prepared to give information to the Federal Government which will permit the Federal Government to effectively enforce the criminal laws.

Senator HATCH. How will that affect intelligence gathering activities?

Mr. SILBERMAN. Well, it will destroy it. It will certainly destroy it, or seriously impair it at a minimum.

Senator HATCH. In other words, in our rambunctious desire to have everybody have the right to obtain information from the Federal Government we may be destroying our intelligence gathering abilities in this country and creating much greater opportunity for underworld elements to have much greater sway and force in the country.

Mr. SILBERMAN. I think that is correct. I was interested in your reference to pendulums. I am morally convinced that in a few years we will have incidents which will generate such publicity that the Congress will rush to repair the damage that they have already done. However, of course, during that time we will pay a cost.

I may say that I have been informed--and I think reliably informed, of an example of the impairment of the local and Federal law enforcement intelligence gathering which has resulted. During the Hanafi disturbance here in Washington, the District of Columbia police had destroyed their intelligence files at a time when it was desperately important for Federal officials to know information about the Hanafi group--and particularly how many there were, because you can well see that while those hostages were being held it was enormously important to know who else might be out there disposed to aid those who were holding the hostages--but the files had been destroyed. Federal officials were placed in an awful position of not knowing what they should have known.



Senator Hatch. Who are most of the people who ask for benefits under the Freedom of Information and Privacy Act?

Mr. SILBERMAN. Well, I can't be sure who most of them are. There are thousands and thousands. What troubles me is some of them that I will touch on. There are all sorts of people who are just curious as to what the Bureau has in their files that they request.

Senator Hatch. Therefore, their curiosity is costing the American taxpayer millions and millions of dollars to comply with the Freedom of Information and Privacy Act, plus costing our agents time?

Mr. SILBERMAN. Exactly right. I am about to tell you what the cost is, exactly.

The Congress, when it passed the amendments to the Freedom of Information Act estimated that the cost would be \$30,000 a year for the Federal Government to comply. That was an outrageous and, in my judgment, dishonest estimate which the executive branch, and particularly the Justice Department, seriously quarreled with.

The truth now is out. It is costing the Bureau, in fiscal year 1977, almost \$13 million to comply.

Senator Hatch. Are you sure of that? The Congress, at the time that they enacted this law, estimated \$30,000 a year as the cost?

Mr. SILBERMAN. That is correct.

Senator Hatch. And it is now costing us \$13 million taxpayer dollars?

Mr. SILBERMAN. That is exactly right. Just the FBI alone.

Senator Hatch. Just the FBI alone? Do you have any estimate what it is costing throughout the Federal Government?

Mr. SILBERMAN. I couldn't give it to you.

Senator Hatch. It's got to be many times multiplied.

Mr. SILBERMAN. I should think that that would be of interest to this committee.

To break that down, there are 375 persons in the FBI working on Freedom of Information Act and Privacy Act requests. Included within that group are 50 highly trained agents.

I will go into why it is necessary to have highly trained agents perform this function. However, beyond that, there are enormous litigation costs to the Justice Department and to the Government as a whole. The Freedom of Information Act and the Privacy Act matrix requires an adjudication of all sorts of issues by the courts. That has been an enormous expense to the courts and to the law enforcement operation, too.

I think the more important cost is not direct—

Senator Hatch. Have you estimated the litigation costs?

Mr. SILBERMAN. No; I do not have that. The Justice Department ought to.

Senator Hatch. Would that be \$50,000 or would that be in the millions?

Mr. SILBERMAN. Oh, it has to be in the millions.

Senator Hatch. So you are saying that on top of \$13 million—

Mr. SILBERMAN. That is just employment costs to the FBI.

Senator Hatch. Which is what—65 times \$30,000?

Mr. SILBERMAN. I beg your pardon?

Senator Hatch. Is that of times \$30,000—the original estimate which you characterized as being dishonest? Who made those original estimates and who are you characterizing as being dishonest?

Mr. SILBERMAN. The Congress.

Senator Hatch. You are saying that the Congress people who actually did this—either staff or Members—literally had to know it was going to cost the American taxpayers more than \$30,000?

Mr. SILBERMAN. I remember myself telling them many, many times that their estimate was outrageously low and that the cost was going to be enormous because it would be necessary in many of these cases to make a document-by-document analysis of—

Senator Hatch. Of all files?

Mr. SILBERMAN. Every file requested.

Senator Hatch. Therefore, you are saying that it costs \$13 million just for the FBI, and that does not cover litigation costs which would be several million dollars. It also does not include the loss of 50 highly trained agents' time, plus 325 other people who work continuously on this problem?

Mr. SILBERMAN. Precisely. Enormous as those costs are they will go up—they will certainly go up, because there is a massive backlog. My understanding is that 200 extra agents have been called in on an emergency basis to try to deal with the backlog. However, you will have to get that information more directly from the Bureau and the Justice Department.

Senator Hatch. I think we may do that. In addition, you are saying that a awful lot of these requests—you cannot estimate the exact percentage—are merely curiosity requests.

Mr. SILBERMAN. There is no question about that. However, I am less concerned about those than some others that I will talk about.

Senator Hatch. OK.

Mr. SILBERMAN. The indirect cost of this process, Senator, is, if anything, more troubling. Your committee has already seen testimony from local law enforcement officials to the effect that they have been deterred in transmission of information to the Federal Government and, I can say, notably to the FBI, for fear that information in the criminal intelligence area, which they do transmit to the Bureau, might well be disclosed in Freedom of Information Act/Privacy Act requests.

There are several reasons to be concerned about that. First of all, with the massive task which the Bureau has it is absolutely incredible that human error will result in the disclosure of information that should not be disclosed.

Senator Hatch. Such as what?

Mr. SILBERMAN. Well, Senator, there have already been cases where there has been disclosure of informants' identity. In fact, the Bureau in one case—which I cannot be specific about for obvious reasons—has had to begin to protect an informant whose life was endangered by virtue of a mistake made in the transmission of information under a Freedom of Information Act request.

The important thing is that these mistakes are inevitable given the scope of the requests and the necessity which Congress placed upon



Mr. SILBERMAN. If I may, let me tell you something about the underworld which you will be particularly interested in. The Bureau is enormously concerned because certain techniques have developed to, if I may use the term, to "play" the Freedom of Information Act/Privacy Act on the part of organized crime figures.

Senator HATCH. Does this include foreign espionage agents?

Mr. SILBERMAN. Yes.

Senator HATCH. Would you cover both of them?

Mr. SILBERMAN. Yes. It is a simple technique. Let's suppose that you are the head of a criminal conspiracy and you are concerned about the possibility of informants within your conspiracy—one or more. Therefore, you direct all of them to make Freedom of Information requests for their files.

First that puts the Bureau in a difficult position because they may or may not want to disclose that there is a criminal investigation which would permit an exemption. Suppose they had not started a criminal investigation yet?

Beyond that, there is a separate problem. The informant will not have a file. However, if they respond to everyone and say that the informant does not have a file, that is a dead giveaway that that individual making the request is indeed an informant. In that case, they have to make up a phony file in order to protect his identity. That is tricky.

Senator HATCH. I can imagine.

Mr. SILBERMAN. This is a technique that can be, and I believe is being, used also in the foreign intelligence area. As a matter of fact, there is one example of an East German making a request under the Freedom of Information Act/Privacy Act for his file.

Apparently, the ruling is—and I think probably it is correct—that the law does not limit itself to American citizens. Therefore, I suppose we could get a crazy situation where everyone in the KGB will sit down and write the Bureau from Moscow making a Freedom of Information Act request for their files.

Senator HATCH. You have indicated this, but I do not think you have stated it directly. Has this been a great advantage to the underworld—these two Acts, and the intimidation of the law enforcement officials thereby?

Mr. SILBERMAN. I will answer in this way: I cannot give you a quantitative response to that except to say that I cannot help but believe that anything which improperly diminishes the effectiveness of law enforcement capabilities by striking at the possibility of generating legitimate law enforcement intelligence must aid those forces, both domestically and in foreign intelligence, whose purposes are deleterious to the United States.

Senator HATCH. I certainly appreciate your testimony. I think it has been very helpful to us.

Again, Jack Anderson in his column this morning stated—and I want to know if all three of you are in agreement with this—

that meanwhile tip and down the country police are inhibited. They are afraid of stepping too hard on individual rights. They do not understand the new privacy laws. Rather than take the risk they hold back on law enforcement. There is an urgent need for reform. Investigative guidelines, for example, are desperately needed. Suddenly lawmen have become extremely timid, and the criminals and the terrorists, unfortunately, are catching on.



Our witnesses today are Mr. Stuart Knight, Director of the Secret Service, and Mr. Glen King, executive director of the International Association of Chiefs of Police.

Gentlemen, will you rise to be sworn?

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KNIGHT. I do.

Mr. KING. I do.

Senator HATCH. We will begin this morning with Mr. Stuart Knight, who is the Director of the Secret Service.

We are delighted to have you here. We feel particularly honored that you would be with us to help us become more enlightened on this problem. The more we get into it, the more we are finding that it is a crucially serious problem for all Americans.

The funny thing is that the people who have the obligations and the duties of protecting us in this society all seem to be unanimous that we are faced with some very serious problems in this area—unless something is done to alleviate the excessive zeal for privacy that we seem to have in this area.

Mr. Knight, we are grateful to have you and Mr. King with us today. I have heard Mr. King before. I want to welcome you, also.

We will begin with you, Mr. Knight, and then we will move to you, Mr. King.

#### STATEMENT OF H. STUART KNIGHT, DIRECTOR, U.S. SECRET SERVICE

Mr. KNIGHT. Thank you, Mr. Chairman.

I have a brief statement. With your permission, I would like to read it for the record.

As you know, the U.S. Secret Service protects the President and others, including the Vice President and visiting heads of state and government. The Secret Service also has the responsibility for the protection of the major candidates for the offices of President and Vice President of the United States.

The Secret Service obtains information concerning individuals and groups who may be a potential threat to the safety of the President from the law enforcement community. The President's Commission on the Assassination of Former President Kennedy, more popularly known as the Warren Commission, suggested that the Secret Service increase its efforts to identify persons and groups who could compromise the safety of the President. Also, it recommended that other agencies furnish intelligence data to the Secret Service to enhance Presidential security.

For a number of years, the Secret Service received substantial quantities of information from other agencies having intelligence gathering capabilities. In recent months, however, the amount of information received by the Secret Service has diminished considerably. While it is difficult to evaluate the quality of the information, it does appear that the material we are currently receiving is less specific and not as complete as it was formerly.

The decline in the quantity and quality of intelligence data is a matter of concern to us. We are a recipient of intelligence information

and rely on other agencies to supply the necessary intelligence to perform our protective mission.

While we have observed that the quantity and quality of such intelligence has declined, any reason which we may assign for this phenomenon would be speculative. The intelligence agencies themselves would be the committee's best witnesses in that regard. I only note that the Secret Service has experienced a sharp decline in the amount of intelligence data being received compared to an earlier period.

We would prefer, Mr. Chairman, to answer questions relating to specifics on the type of information being received in executive session. I would be most happy to answer any other questions you or the members of the staff may have.

Senator HATCH. Thank you, sir.

You point out in your statement that the President's Commission on the Assassination of Former President Kennedy, more popularly known as the Warren Commission, suggested that "the Secret Service increase its efforts to identify persons and groups who could compromise the safety of the President and recommended that other agencies furnish intelligence data to the Secret Service to enhance Presidential security."

Then you say in your statement that not only are you getting less information but that the quality of this information has deteriorated. What this adds up to is that the recent trend in the matter of intelligence has run completely counter to the recommendation of the Warren Commission. Would you agree with that?

Mr. KNIGHT. That is correct, Mr. Chairman.

Senator HATCH. Do you have any other comments to make in that regard?

Mr. KNIGHT. I think we have to differentiate between the receiving of information and the accumulation of that information. There is no question in my mind—none whatsoever—that the law enforcement community, when it has the information, gives us that information they feel is necessary for us to carry out our responsibilities.

I am not for a minute implying or inferring that any law enforcement agency is not being cooperative. What disturbs me is the problem of them not being able to give us information simply because they do not have that information any more. I want to draw that distinction between—

Senator HATCH. You feel that they used to have that information?

Mr. KNIGHT. They did, formerly. We received the greatest of cooperation because everyone recognizes our awesome responsibility. Therefore, it is not a matter of their reluctance to give us information that they have. We just feel that they do not have the information to give us that they did formerly.

Senator HATCH. To what reasons do you attribute that?

Mr. KNIGHT. Well, as I say, that is speculative and hearsay on my part. However, I am sure—having read previous hearings from this subcommittee—that there is a reluctance on their part because of the Freedom of Information Act, the Privacy Act, and guidelines that are established for them by whatever controlling bodies they function under, whether it be a legislative guideline or a mayoral guideline or whatever.



Senator HATCH. Have you found that those guidelines generally are more restrictive or less apt to provide for an aggressive intelligence-gathering service than heretofore?

Mr. KNIGHT. I think in general terms that is true, Mr. Chairman, realizing that guidelines by their very definition are subject to interpretation. I think that in an effort to be most circumspect many agencies put the broadest interpretation on the guidelines so that they will be certain that they are living within them.

Senator HATCH. So many of them are intimidated by the guidelines today, to the point where they really are not doing what they used to do to provide the information to your service?

Mr. KNIGHT. I think that is a fair statement, Mr. Chairman.

Senator HATCH. You say that you have been receiving far less information. Would you be prepared to venture an estimate of the magnitude of the falloff in information? Do you get 20 percent of the information you used to get—or 40 percent, or 50 percent? Approximately how much?

Mr. KNIGHT. After discussion with people in my organization who handle this, their best estimate is that we are now receiving only 40 to 50 percent of the information we received previously.

Senator HATCH. Would the falloff be even higher, possibly?

Mr. KNIGHT. My guess is that it would be closer to 40 percent than 50 percent.

Senator HATCH. That is quite a falloff, though.

Mr. KNIGHT. Yes, indeed.

Senator HATCH. That could seriously jeopardize the work that you have to do?

Mr. KNIGHT. That is a source of concern to me.

Senator HATCH. In this particular day and age, maybe you should describe for the record some of the things that your particular service does.

Mr. KNIGHT. I am not sure I understand what you mean.

Senator HATCH. Could you describe for the record some of the things that your service is responsible for?

Mr. KNIGHT. We are responsible for 13 permanent protectees. They include the President, members of his family, the Vice President, and so forth. In addition, by statute, we are responsible for the safety of visiting heads of state and heads of government.

Last year, for example, there were 89 visits to this country by heads of state and heads of government. I am sure you are familiar, also, with our criminal duties regarding the counterfeiting and forgery of Government obligations. This is a large portion of our responsibility.

Senator HATCH. Right.

What you seem to be saying to me is that we could have some international incidents if some of these people who come to this country are not protected as adequately in the future as they have been in the past because of the falloff in intelligence-gathering information.

Mr. KNIGHT. Yes, sir.

Senator HATCH. If that occurs, that could be an embarrassment to everybody in America, not to mention the fact that it would be tragic if it did occur.

Mr. KNIGHT. Right.

Senator HATCH. Last but not least, you seem to be indicating that maybe even the President himself may be in much greater jeopardy today because of the up to 40-percent falloff in intelligence information that we have heretofore had in the past.

Mr. KNIGHT. I think that is a fair statement, Mr. Chairman. As I indicated to you, it is a source of concern to me. My people are dedicated to the preservation of the safety of the President and the other people we protect. We have spent many hours discussing current problems that we did not have perhaps 2 years ago, vis-a-vis the receipt of intelligence information.

Senator HATCH. I have been calling this up to a 40-percent falloff. Actually, it is up to about a 60-percent falloff.

Mr. KNIGHT. Yes; we are receiving about 40 to 50 percent of what we formerly received.

Senator HATCH. I misconstrued that. Do you mean it is actually only 40 percent of what you used to get to protect these very important 13 lives, plus the visiting Heads of State?

Mr. KNIGHT. Correct.

Senator HATCH. As I recall your testimony, you say that there has also been a serious falloff in the quality of your intelligence—for much of which you have to rely upon others to obtain.

By that I presume you mean the completeness and precision of your intelligence. I know it is harder to make a percentage estimate on this point, but isn't it possible that the erosion in quality may have reduced the overall effectiveness of your intelligence input by, let us say, another 25 percent, or even more?

Mr. KNIGHT. I am sure you recognize that an assessment or an evaluation of the quality is purely a subjective judgment. We find that the reports are not as complete. They are not as thorough. They are not as full of detail as they were formerly.

To assign a percentage to that would be extremely difficult. However, I would not argue with your assessment.

Senator HATCH. So you do not blame that on competency. You still have as much competency in the intelligence-gathering sector as you have had in the past. You are not blaming it on reduced personnel, are you? Or a lesser budget?

Mr. KNIGHT. No, sir.

Senator HATCH. Basically, you are coming down to just two things: the Freedom of Information Act and the Privacy Act, which have caused a super-conservative approach to intelligence gathering operations.

Mr. KNIGHT. I think the Freedom of Information Act and the Privacy Act are contributing factors. I think also we have to look at the atmosphere in which these people now have to operate in terms of guidelines that may be imposed upon them and the attitudes of the various organizations to which they report.

Senator HATCH. Where do these attitudes and guidelines come from? Do they still come back to these two acts and the overinterpretation of them? Are they coming from a change or shift in Government emphasis?

Mr. KNIGHT. I think there is a change and shift in Government emphasis.

Senator HATCH. What do you think is bringing that about?

Mr. KNIGHT. A reaction—an overreaction in my opinion, but a reaction nevertheless—to some of the alleged misuses of intelligence information in the past.



Senator HATCH. You seem to be saying that there is an overreaction by the public, which brings influence to bear upon the Congress, and which in turn produces acts like the Freedom of Information Act and the Privacy Act, which overreact to prevent good intelligence-gathering procedures.

Mr. KNIGHT. Yes, sir.

Perhaps I could cite a specific example with which I am personally familiar. Prior to September of 1975, I and my organization were under a great deal of inquiry as to why we maintained files on people we deemed to be a potential source of danger to the President.

A great deal of rhetoric was spent on that subject matter. Then, in September of 1975, as you will recall, in California we had Sarah Jane Moore and Squeaky Fromme. We had neither of those ladies' names in our files. The question after September was: Why did you not have those names in your files? Why were you not aware of these people? That is a 180-degree turnaround from the period preceding September.

In many respects we know that this is almost a no-win situation, because you are first accused of maintaining too many files on too many different people. Then, when an incident occurs and you do not have that information in your file, you are accused of being inept because you did not have them in your files.

Senator HATCH. I would say so.

Yet, you have indicated that we have a 60-percent falloff in the quantity of information, and a fairly high—25 percent or more—falloff in the quality of information.

Mr. KNIGHT. Yes, sir.

Senator HATCH. If I put that together just in my own mind it would seem to me that you come up with something in the neighborhood of a 75-percent falling off in total intelligence information which the Secret Service has had heretofore to protect the President and others, under its obligation.

Mr. KNIGHT. Yes, sir. I think that the rationale for us accumulating information is that the responsibility of my organization is to prevent something from happening; not to solve something after it has occurred.

Senator HATCH. So yours is a preventative agency?

Mr. KNIGHT. Exactly. It strikes me as commonsense and logic that if we know what is going to happen and who is going to do what and when and where, we can then take steps to nullify and negate those operations. Without that information we cannot take steps to nullify them. That is where I have a concern.

Senator HATCH. Would it be a reasonable assumption that the law enforcement community generally does its level best to cooperate with the Secret Service, because the community itself realizes the tremendous obligation that you have? Because of those obligations, it would certainly produce a high degree of motivation on their part, it would seem to me, to protect the President and foreign dignitaries and these other top-level people that you have an obligation to protect.

Mr. KNIGHT. I do not think there is any question that everyone—and perhaps Mr. King can speak to that in greater detail later—will cooperate with us to the utmost. The point is, they cannot give us information that they do not have.

Senator HATCH. They do not have the information any more because of these overreactions caused by public sentiment?

Mr. KNIGHT. Precisely.

Senator HATCH. And caused by the Congress and caused by these acts?

Mr. KNIGHT. Precisely.

Senator HATCH. If the law enforcement community, which has to cooperate with you, and which does because it is highly motivated to protect the President and the 17 other people you watch and the foreign dignitaries who come to this country—if they are as highly motivated as you and I certainly believe, then I think that it would be a reasonable assumption that if the Secret Service suffers from an erosion of law enforcement intelligence, that other law enforcement agencies, including Federal, State, and local law enforcement agencies, have probably suffered even more erosion because of the not-so-high motivations that they may have in their own areas as contrasted and compared to the motivation to help you.

Mr. KNIGHT. Yes, sir. If I may, I would like to take 1 minute to explain to you my feelings about guidelines for the collection of intelligence.

Senator HATCH. I would be happy to hear them.

Mr. KNIGHT. I feel very deeply that we in the law enforcement community have the right to expect that the people who are in the policy-making positions have the right to establish guidelines for us as to how we should function.

More than that, I think they have an obligation to establish guidelines under which we should operate. I also think that before those guidelines are drawn up and promulgated we in the law enforcement community have an obligation to them to point out our problems and what their actions will do so that they can make an informed decision as to what the guidelines will be.

There is no question in my mind that I and my organization are going to live and follow both in the spirit and in the letter of any guidelines that are set down. The American people are going to live with the results. So I think that it is incumbent on us to make certain that the people who make these decisions recognize what they are about.

Senator HATCH. You seem to be indicating that we need some sort of a balance that we presently do not have in order to be able to effectuate the important security work that you have to do.

Mr. KNIGHT. Right.

Senator HATCH. When the President of the United States has made arrangements, say, to visit a certain city, how does the Secret Service go about making arrangements to accompany and protect him?

Mr. KNIGHT. We send people out in advance, depending upon such factors as how long he will be there and so forth. Since we relied so heavily in the past on the intelligence information, we felt that we could adequately perform our function. Now, with the paucity of information we are receiving, we are only left with one alternative, and it is a poor alternative, at that. We really do not know what might occur. We feel that we must increase the number of people traveling with the protectee. That is a very, very poor second, or alternative, or option that we exercise.



Senator HATCH. It is in these huge crowded situations that the President travels in.

Mr. KNIGHT. Yes, sir.

Senator HATCH. What happens if the President wants to visit, say, a large city like Chicago, where the intelligence files have been locked up or destroyed, or otherwise done away with, for more than 2 years? How can the Chicago police cooperate with you without their files?

Mr. KNIGHT. They can only then rely on what we would term "institutional memory"—what their personal recollections are. This is not the greatest source of information.

Senator HATCH. I would hate to have the President protected based upon the memory, in a city like Chicago, of the men within the institution. Memory is not the type of thing that brings all of the information back.

Mr. KNIGHT. You are absolutely right.

Senator HATCH. Unless it is a computer, and the information has been plugged into it. Then again, because of the interest in protecting informants and so forth, they are not putting a lot of this information in writing any more?

Mr. KNIGHT. Correct.

Senator HATCH. When the Secret Service does not have adequate intelligence about a city—let's say the city of Chicago, or any other city for that matter—that the President is about to visit, how do you come up with the information to correct the deficiency? Or do you?

Mr. KNIGHT. We don't, really.

Senator HATCH. In other words, you have to hope and pray when the President goes to a major city like Chicago that, by adding more Secret Service people, their eyes are somehow going to pick up the people who might have a potential to harm the President.

Mr. KNIGHT. That is correct. However, I do not want to leave you or the public record with the impression that the President is vulnerable.

Senator HATCH. Well, you do everything you possibly can, I am sure of that.

Mr. KNIGHT. Absolutely.

Senator HATCH. I am sure of that, and I commend you for it. I think, from what I have seen, that it is just tremendous what you do. You are, however, as you indicated, probably 75 percent strapped today as compared with 3 or 4 years ago.

Mr. KNIGHT. Correct.

Senator HATCH. That is an incredible problem, it seems to me—especially with the violence that has increased in this country. I just look at New York during this last blackout period. If that had continued for a few more days it would have been one of the most colossal messes in the history of the world.

If you have to assign large numbers of additional agents to compensate for inadequate intelligence, doesn't this place a serious strain on the capabilities of the Secret Service?

Mr. KNIGHT. Absolutely. We divert those agents from other functions and the performance of other duties.

Senator HATCH. Let me ask that in another way. Are there some cities within the United States that you might just recommend to the President that he not visit because of the inadequacy of avail-



Senator HATCH. The subcommittee has heard that in many parts of the country the current criteria or guidelines, except in the cases of a handful of organizations like the Weather Underground, prohibit any intelligence entry about an individual on the basis of mere membership in an organization. There has to be an indictment or a conviction before they can make an entry. This applies even to violence-prone organizations like the Palestine Liberation Organization or a number of other organizations that you could mention or I could mention here today.

In your opinion, is this a valid guideline in seeking to protect the President and foreign dignitaries? Is it enough for the Secret Service to have the names only of those who have been indicted or convicted—or do you think you ought to know the identity of as many members as possible of such organizations?

Mr. KNIGHT. I am not certain that we need to know the membership of every organization. That would be a monumental undertaking. I am not sure we are capable of handling. What we would be interested in are those who appear to be prone to violence and have the capabilities of carrying out that violence. This is the sort of information which we previously received and which we are not now receiving.

In other words, reporting after the fact is a bit late sometimes. Senator HATCH. Yes. Especially if it involves some of the top leaders in our Government, which you are sworn and dutybound to protect.

Mr. KNIGHT. Yes, sir.

Senator HATCH. After President Kennedy was killed, it was not a great thing to find out that maybe it was Oswald who did it?

Mr. KNIGHT. No.

Senator HATCH. It would have been better to have known about that before hand?

Under present guidelines or criteria, would it not be extremely difficult for the Secret Service or other agencies to use electronic surveillance against domestic radical organizations, even where there is some reason for fearing that they may be planning some violence against the President or foreign dignitaries?

Mr. KNIGHT. My understanding is that it would be. Now, we are not in that business, as I explained to you before. We are the customer of these other agencies.

Senator HATCH. You rely on information that is provided by other intelligence gathering organizations and law enforcement organizations within the Government and elsewhere—even State and local?

Mr. KNIGHT. Yes, sir.

Senator HATCH. You say in your statement that you can only speculate on the reasons for the decline in quality and quantity of the intelligence information available to the Secret Service. I must say that I find this statement a little bit surprising. Many of the law enforcement officers who have testified before the subcommittee have stated flatly that they do not send any intelligence to Washington now, except in rare cases. They seem to say that it is because they are afraid that this information and their sources will be revealed under the Freedom of Information Act and the Privacy Act. Those who have appeared have agreed—and I think to a man—that their own ability to gather intelligence has been badly eroded by the hostile

attitude of the media toward all intelligence gathering activities and by the restrictive guidelines under which they have had to operate. These include a virtual ban on electronic surveillance; a ban in most cases on taking photographs of demonstrations; and the increasing difficulty of getting information from private citizens because they fear that their names will have to be made public.

Surely these matters must have been mentioned to the Secret Service by some of the members of the law enforcement community with whom you work.

Mr. KNIGHT. There is no question about that, Mr. Chairman. My only point in saying this is that these are the things that are reported to us by others. As you have indicated, the best witnesses are those people themselves. You have already taken that testimony.

Senator HATCH. Then, if I understand what you are saying, when you say it is only speculation, you are trying to be totally accurate with semantics. You are saying that you believe that this is what is causing the erosion and this is what is causing the falloff—these two acts and the opinion of the public. You have made that point pretty strongly here.

That is basically what the law enforcement people have told you all over the country: If something is not done about this to balance it out, your work is going to be—as it already is—seriously jeopardized?

Mr. KNIGHT. That is correct.

Senator HATCH. Although you do not want to indicate to the public or anybody else that the President's life could be in danger on various trips or various occasions, you have acknowledged that there are some times that you just plain hope he never goes to?

Mr. KNIGHT. Correct.

Senator HATCH. You have also acknowledged that although you are going to do everything you can to protect him, you are seriously hampered in some ways because now it is a matter of adding staff and depending upon oral memory in some of these areas to which the President or other people are going—including foreign dignitaries. This may be a pretty defective way of giving you the assets necessary to provide the protection you are supposed to provide.

Mr. KNIGHT. Correct.

Senator HATCH. What, it seems to me, your testimony adds up to is that the Secret Service has suffered and has been badly hurt by the erosion of law enforcement intelligence, and that this greatly complicates your task.

Would it not be a matter of simple deduction that this intelligence erosion increases the danger to the President of the United States and to the foreign dignitaries as well?

Mr. KNIGHT. Yes, sir.

Senator HATCH. That is just a matter of outright fact?

Mr. KNIGHT. Correct.

Senator HATCH. That is a pretty pathetic thing in a Nation that reveres, loves, and stands up for the President of the United States.

Has the Secret Service called the facts which we have been discussing to the attention of the President and of the administration and of the people around the President?

Mr. KNIGHT. Yes, sir.

Senator HATCH. He understands these problems?



## EROSION OF LAW ENFORCEMENT INTELLIGENCE— CAPABILITIES—PUBLIC SECURITY

WEDNESDAY, OCTOBER 5, 1977

U.S. SENATE,  
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES  
OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:45 a.m. in room 1318, Dirksen Senate Office Building, Senator Strom Thurmond (acting chairman of the subcommittee) presiding.

Staff present: Richard L. Schultz, counsel; David Martin, analyst; Robert J. Short, investigator; and Alfonso L. Tarabochia, investigator.

Senator THURMOND. The subcommittee will come to order.

Today the subcommittee will again be taking testimony on the subject of "The Erosion of Law Enforcement Intelligence Gathering and Its Impact on the Public Security."

In the course of the continuing series of hearings on this subject, the subcommittee has already taken testimony from the Secret Service and the Drug Enforcement Administration: from former officials of the Treasury Department, the Justice Department, and the Internal Revenue Service; from a broad array of law enforcement officers working at the State and metropolitan levels; and from a panel of top security officers in the field of private industry.

The testimony presented to date establishes that there has been a catastrophic erosion of law enforcement intelligence, from almost every standpoint and at every level. Major State and local intelligence files that represent the product of many years of labor have either been destroyed or locked up.

Moreover, the free exchange of intelligence between Federal, State, and local enforcement agencies that used to be taken for granted has now come to an end because of the impact of the Freedom of Information Act and the Privacy Act.

What little intelligence does remain is virtually frozen in place, instead of being shared with others.

Perhaps the most dramatic evidence of what this is doing to our society was the statement of Mr. Stuart Knight, Director of the Secret Service, that as a result of the quantitative and qualitative fall off in the intelligence supplied to them, the Secret Service may today be getting only 25 percent as much intelligence as they used to get. In some cities, Mr. Knight told the subcommittee, the situation was so bad that the Secret Service had recommended against any visit by the President.



**THE EROSION OF LAW ENFORCEMENT INTELLIGENCE  
AND ITS IMPACT ON THE PUBLIC SECURITY**

TUESDAY, FEBRUARY 28, 1978

U.S. SENATE,  
SUBCOMMITTEE ON ORIGINAL LAWS AND PROCEDURES  
OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 11:10 a.m., in room 6226, Dirksen Senate Office Building, Senator Strom Thurmond presiding.

Staff present: Richard Schultz, counsel; Robert J. Short, investigator; David Martin, analyst; and A. L. Tarabochia, investigator.

Senator THURMOND. The subcommittee will come to order.

The subcommittee meets today to receive the testimony of Mr. Frank Carrington, executive director, Americans for Effective Law Enforcement, and Prof. Charles Rice, Notre Dame Law School.

The testimony today is in connection with the subcommittees' continuing inquiry about the erosion of law enforcement intelligence and its impact on the public security.

We are pleased to have such distinguished witnesses before the subcommittee, and I want to make mention of Mr. Carrington's book, "The Defenseless Society." Though I have not had an opportunity to read this book in its entirety, I have read enough to know this to be a very thoughtful writing concerning the balance and perspective of the criminal's rights versus the rights of society.

Mr. Carrington and Professor Rice, please stand and be sworn.

Do you swear that the testimony you are about to give to the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. Carrington. I do.

Mr. Rice. I do.

Senator THURMOND. Mr. Carrington, I believe you are going to testify first. You may proceed.

**STATEMENT OF FRANK CARRINGTON, EXECUTIVE DIRECTOR,  
AMERICANS FOR EFFECTIVE LAW ENFORCEMENT, INC.**

Mr. Carrington. Thank you, Mr. Chairman. For the record, my name is Frank Carrington. I am the executive director of Americans for Effective Law Enforcement, Inc. Evanston, Ill.

Very briefly, by way of background, I am an attorney, and was active in law enforcement on Federal, State, and local levels for 10 years before taking this job.



I will readily concede that our FBI and Intelligence as a separate and distinct branch of Government is not bound by prior judicial pronouncements. I do submit, however, that the highest courts in the land have, in their wisdom, set their seal of approval upon preventive law enforcement. I submit further that the clear-cut evidence of the escalation of secretive and clandestine crime which this subcommittee has heard, demonstrates that we need more, not less, protection from that kind of criminal.

Based upon the foregoing, Americans for Effective Law Enforcement, Inc., urges this subcommittee to strengthen rather than to erode the power of the peace forces in this country to investigate, and to prevent crime.

Respectfully submitted.

Mr. CARRINGTON, Mr. Chairman, the testimony I give today addresses a subject that I do not think has been addressed before. I think it is basically whether it should be against the law to enforce the law. Now, in the first instance, such a question might appear to be ridiculous on its face. I submit, however, that it is not.

I submit that the recent anti-intelligence activities in the past year stem proximately from the Watergate situation. There is a concerted effort to make it against the law to enforce the law.

The privacy enthusiasts seem to take the position that it is perfectly alright for the Federal Bureau of Investigation or other law enforcement agencies to investigate terroristic crimes, provided they selectively target those who are committing those crimes and proceed directly against them.

This is a logical and factual impossibility. Terrorists, the secretive criminal, and the covert agent all seek to blend in with the average, law-abiding members of the community.

To postulate that intelligence gathering must be limited to those who are actually committing crimes presupposes you know who is committing the crimes. You do not, because they are blending in with the rest of society.

It is like telling a surgeon to excise a cancerous tumor without cutting through healthy tissue.

Nevertheless, this has been the thrust of the general privacy movement toward the erosion of law enforcement. It basically gets down to the fact that unless your can target—which you cannot without penetration-type investigations—then you cannot investigate at all.

What has never ceased to amaze me is that during all this time when intelligence gathering has been under attack, the term "illegal police surveillance" or "illegal intelligence gathering" has been used very, very loosely, and I think very, very erroneously, because all of the case law—and I am talking about the highest case law in this country, the Supreme Court of the United States and the Federal district courts of appeal, U.S. district courts, and State supreme courts, who are the people whom our Constitution system mandates to set up the Constitution parameters of what can and cannot be done—has said there is nothing wrong with intelligence gathering.

I have listed a rather extensive number of cases in my prepared testimony, and for brevity's sake I will merely highlight some of these cases.

The main case—the case that I think stands for the principals that I have just enunciated—is *Socialist Workers Party v. Attorney General of the United States* which came down in late 1974. The Socialist Workers Party was going to hold their annual convention

in St. Louis, Mo., and they were very vocal in their opposition to infiltration and undercover agents at the convention.

I filed a lawsuit in the U.S. District Court in the Southern District of New York stating that it would chill their first amendment rights of freedom of speech and assembly if the FBI were permitted to infiltrate and they claimed from the U.S. district court an injunction prohibiting the FBI from infiltrating or surveilling any member of the Socialist Workers Party convention.

The Government appealed that to the U.S. Court of Appeals for the Second Circuit, and the injunction was overturned.

The Supreme Court of the United States was, at that time, in its Christmas recess, so the single judge who sits for the second circuit, Mr. Justice Thurgood Marshall, received the case, and he wrote a one-~~man~~ opinion in the case.

I do not think it takes a lot of elaboration to say that Mr. Justice Marshall, perhaps to his credit, is the leader of the liberal block of the U.S. Supreme Court, and yet he stated, very categorically, that the FBI could indeed infiltrate and place under surveillance the convention of the Socialist Workers Party.

The basic premise on which he based his decision is worth reading into the record. I think, even though it is already printed.

Justice Marshall said:

It is true that governmental surveillance and infiltration cannot in any context be taken lightly. But our abhorrence for abuse of governmental investigative authority cannot be permitted to lead to an indiscriminate willingness to enjoin all further investigation of any nature, whenever a countervailing First Amendment claim is raised.

In this case, the Court of Appeals has analyzed the competing interest at some length, and its analysis seems to me to compel denial of relief. As the Court pointed out, the nature of the proposed monitoring is limited, the conduct is entirely legal, and if relief were granted, the potential injury to the FBI's continuing investigative efforts would be apparent. Moreover, as to the threat of disclosure of names of the Civil Service Commission, the Court of Appeals has already granted interim relief. On these facts, I am reluctant to upset the judgment of the Court of Appeals.

There are other U.S. court of appeals cases—*Aronson v. Giarusso* and *Belknap v. Dilling*. There is a ringing New Jersey supreme court opinion written by Justice Weintraub in the case of *Anderson v. Sills* which is quoted at length in my prepared testimony.

It is postulated there that the Government not only has the right but the duty to protect its citizens by maintaining some sort of intelligence control over subversive activities.

If, then, we have the arbiters of our constitutional guidelines—the courts up to and including the highest court in the land—stating that intelligence gathering, and by this I mean intelligence gathering which will brush up against the rights of some innocent individuals, is certainly permissible and, to take Justice Weintraub's position, mandatory, why have we heard such a hue and cry about illegal police spying?

I concede that there have been examples of illegality, but to categorize the entire intelligence function in this country as illegal just because innocent people happen to be brought under surveillance, I think is a total distortion of what the law-enforcement mission in this country should be. I think it has contributed as much to the erosion of preventive law enforcement as any other factor.



best, then we could have avoided putting hundreds of people through an ordeal of terror, and one individual might be alive today.

Mr. SCHULTZ. Thank you, Mr. Carrington. Mr. R. would you like to comment?

Mr. RICE. I would certainly agree with those comments. They illustrate the bad effects of absolutizing these constitutional rights.

There are those who would so absolutize the right of privacy or freedom of association or freedom of speech or whatever, so that they would not even let innocent lives get in the way.

You have a grotesque situation where there is claimed to be an immunity even to observation in your activities and your associations with various organizations in such a way that this immunity is said to be so sacrosanct that even when there is legitimate reason for thinking that it might serve to prevent murder, you nevertheless have that immunity.

I think that is the result of ideology run wild in this area. It is certainly not required by the Constitution. It is certainly not required even by a proper interpretation of the Freedom of Information Act or the Privacy Act.

I think that what has happened—as Mr. Carrington pointed out—is that there has been an excessive interpretation as the result of some kind of hysterical climate.

Mr. CARRINGTON. Professor Rice's comments can be illustrated very dramatically by a colloquy that I engaged in with Professor Vern Countryman who is a professor of law at Harvard University. This colloquy took place during a meeting of a committee—an ad hoc self-appointed committee to study the FBI—at Princeton University in October 1971. I had raised the point—

Mr. SCHULTZ. You are reading from your book, "The Defenseless Society"?

Mr. CARRINGTON. Yes.

Mr. SCHULTZ. Would you give us the page number, for the record?

Mr. CARRINGTON. Yes. I am starting on page 16, and I will be quoting from page 17.

I had made the point that just before the conference, the FBI had apprehended the bombers of school buses in Pontiac, Mich.—the bombers being Ku Klux Klan members—and I said "What about that?"

I will quote now from the rest of the colloquy:

"Countryman: Well, my judgment would be that if the only way to detect that bombing is to have the FBI infiltrating political organizations, I would rather the bombing go undetected."

"Carrington: No matter whether somebody was killed?"

"Countryman: Yes. Yes, there are worse things than having people killed. When you have got the entire population intimidated, that may be worse. We put some limits on law enforcement in the interests of preserving a free and open society or at least we try to, and every time we do that—things like the privilege against self-incrimination, things like the Fourth Amendment—every time we do that, that involves a judgment that even though some crimes and some crimes involving the loss of life will go undetected, it is better in the long run to have a society where there is some protection from police surveillance."

"Carrington: I'm not really that sure that the family of Robert Fassnacht, who was blown up at Wisconsin, or the families of the kids that were killed in the Birmingham church bombing would agree with that."

"Countryman: I'm sure that the families of the victims would not agree in any of the instances that I've mentioned, but I don't believe that most of us would say that for that reason we should repeal the Fourth and Fifth Amendments."

I consider that a rather callous statement, Mr. Chairman, on the part of Mr. Countryman, but, other than that, I think if you want to reach the absolute limits of absolutizing the right of privacy, I think that is about as good an example as you are going to find.

Mr. RICE. That is another illustration of what you have to call ideological fanaticism.

I think it is significant that those who advocate those kinds of academic positions are not, themselves, the bombers or the targets of the bombs involved, and they are very ready to absolutize these rights when other people's rights and lives are at stake.

I think it is abstracted from any rational theory of Government which has anything to do with reality.

Mr. SCHULTZ. I understand your arguments. You are saying that basically our law enforcement agencies have frequently given in to this antiintelligence hysteria which swept the country in the post-Watergate period and that many of the restrictions that have been imposed have been self-imposed.

Many of the restrictions are not actually called for by the law or the court decisions.

Would you say that this is the case in the mass destruction of intelligence files and the locking up of files that has taken place in many cities and States?

Mr. CARRINGTON. Would your respond?

Mr. CARRINGTON. Yes. It is an overreaction. It is a total overreaction. It may be that in some States there are laws that require this.

California, for example, case law and court decisions have extremely restrictive—actual legal restrictions on intelligence gathering, but in most States there are no such restrictions, or the restrictions are only very reasonable. You cannot use intelligence gathering, for example, to harass somebody, and things like that.

Very few people, when the Watergate fall-out started, and when the trumpets of privacy started blowing, dug their heels in and said: "What a minute, you show us some statutory law, or some case law, where it is wrong for us to gather intelligence."

One, the commissioner of police in Baltimore, did exactly that and a grand jury found that his intelligence records demonstrated absolutely no criminal activity on the part of the police. He was investigated by a State senate committee for months and months, and they could not come up with anything. But Commissioner Pomerlean was the exception, rather than the rule.

It is easier just to go along with what is perceived as the rule and take the fall-back position of destroying the records. Some day, they will come back to haunt people.

It has already happened in New York with the La Guardia bombing. Eleven people were killed. I think this subcommittee has testimony that the police were stymied because they had to destroy their intelligence files and no infiltrators or anything. To my knowledge, their bombing still has not been solved.



## S.Y.L.P. MEMO

2627 Mission Street  
San Marino, California 91108

# Support Your Local Police -- and Keep Them Independent!

### STATEMENT ON POLICE INTELLIGENCE

FOR IMMEDIATE RELEASE

From Joseph Mehrten  
Western Director  
Support Your Local Police Committees

February 14, 1983

### THE NEED FOR POLICE INTELLIGENCE

There are two ironies in the controversy over police intelligence. The first is the great concern over alleged invasions of privacy. Yet, many of those expressing concern have long been active in efforts that would abrogate the very foundation of privacy, that is, the right of private property.

The second irony is found in the diminished effectiveness of local police that will result from diminished intelligence. If the effectiveness of local police is destroyed, anarchy will raise its criminal head. This will pave the road for a new kind of law and order foreign to America--namely, a national police which will be centrally controlled by a central authority in Washington, D.C.. A dictator cannot function without a national police, or "Gestapo."

The over forty thousand separate, independent local police forces in the United States are a great bulwark against any such eventuality. These independent local police departments are a valuable force for the preservation of civil liberties.

We feel that certain public officials, including the City Attorney, have acted rashly with verbal attacks on the police department and its officers. Such statements, whether calculated to do so or not, are needlessly detrimental to good morale on the police force. Such morale is essential to effective law enforcement. Furthermore, such statements are detrimental and adverse to respect for law and order and, as such, contribute to a higher crime rate.

The January 31st editorial by KNBC summarized the situation with the following responsible observation:

*If you think the criticism of police intelligence activities is loud now, consider just how loud it would become if there were some terrorist activity by some radical group, and police were taken by surprise.*

*Gathering and storing information about people and their organizations is, we submit, a legitimate, necessary function of any police unit responsible for public order. That's not to say police will always do the intelligence gathering job perfectly, and that everyone will always be pleased. They won't.*

*Totally innocent organizations will be infiltrated; completely innocent people will be watched; perfectly peaceful activities will be recorded; and constitutionally protected ideas will be suspected. But which is better? To have too much information? Or too little? Or none at all.*

*The intelligence-gathering function cannot and should not be eliminated. That it has been over-done in several glaring ways, there can be no doubt. But we doubt*



*also that the job of gathering information either can or should be eliminated. Controlled better, yes. Eliminated, no.*

Let us make sure in developing controls and guidelines that we are not left with an intelligence agency incapable of gathering intelligence.

-30-

EXTENSION OF REMARKS BY JOSEPH MEHRTEN TO POLICE, FIRE, AND PUBLIC  
SAFETY COMMITTEE, FEBRUARY 14, 1983, COUNCIL CHAMBER, CITY HALL  
(This memo paraphrases the extended remarks.)

After hearing the statements preceeding me, I should like to briefly extend my remarks.

Italy is a country where such was the case. Italy gave in to an anti-intelligence campaign and virtually halted intelligence operations. It has subsequently hosted numerous terrorist atrocities, including the Red Brigade terrorist murder of former Prime Minister Aldo Moro. Moro was one of those who supported the anti-intelligence campaign. Also in Italy we have seen the kidnapping of U.S. General James Dozier by the same Red Brigade, plus the attempted assassination of the Pope by Bulgarian sub-contractors of the Soviet secret police (KGB).

Many have spoken this morning about the First Amendment right to speak. The right to speak should and does grant the reciprocal right to everyone, including the police, to listen and record. To listen and record is a legitimate function of any police department. The Yaroslavsky Proposal as it was outlined this morning would prevent the police department from even reading and clipping the newspaper. The proposal offered here would result in the blind not being able to protect those who cannot see.

Since public officials hold a public trust and in deference to the public's right to know, any freedom of information act, if it is really necessary, should include the following provision: Whatever intelligence information police intelligence gathers on public officials should not only be released to those officials, but also to the public at large. The word is *accountability*!



## S.Y.L.P. MEMO

2627 Mission Street  
San Marino, California 91108

# Support Your Local Police -- and Keep Them Independent!

January 1983

### POLICE INTELLIGENCE IS BETTER THAN POLICE IGNORANCE

It is not surprising that some individuals and extremist groups fear intelligence-gathering activities by police departments and work to dismantle the agencies charged with intelligence. Organized efforts to destroy local police effectiveness have been manifest in this country for decades as the objective of radical, socialist, and totalitarian groups.

On June 13, 1961, Lyman B. Kirkpatrick, Jr., inspector general on the staff of the Director of the Central Intelligence Agency, testified to the Internal Security Subcommittee of the Senate Judiciary Committee of the United States as follows:

*Our police are among the foremost guardians of freedom and, thus, a major target of the Communists. The better the force, the greater its efficiency, the higher its competence in preserving the peace, the more vital it is for the Communists to destroy it. . .*

*The international Communist organization provides a training manual for espionage agents in which their duties are enumerated. This pocket-sized pamphlet was seized in Europe. Let me paraphrase the tasks assigned to agents in one of the countries in the Free World.*

*First, make investigations and report the activities of the police and security services.*

*Second, investigate and repress those security organizations which support the government.*

*Third, find ways to infiltrate into the police and security organizations to steal documents--particularly those recording their knowledge of Communism--and to destroy everything of value.<sup>1</sup>*

While the above is not surprising to even the most casual observer of world events, most people should be shocked and surprised that members of the Los Angeles Police Commission also fear intelligence-gathering activities on the part of the police department. These commissioners are now moving in concert with others to scrap the intelligence unit. (See January 12, 1983, *Los Angeles Times*, next page.)

In all the furor over missing, hidden, and undestroyed intelligence files, some important questions rise to the surface that are being ignored: Why do we have police commissioners with backgrounds which interest police intelligence? Why do these commissioners want their files destroyed? As public servants, should not they be above suspicion? Is there something they want hidden?



# Police Commission Will Scrap Intelligence Unit

Wednesday, January 12, 1983/Part I

## Some Functions of Scandal-Ridden Division to Be Maintained, The Times Has Learned

By JOEL SAPPELL, *Times Staff Writer*

The Los Angeles Police Commission has decided to dismantle the Police Department's scandal-plagued Public Disorder Intelligence Division, The Times learned Tuesday.

The decision is expected to be announced today.

Under the commission's plan, hammered out with Police Chief Daryl F. Gates, certain division-functions and personnel will be reassigned to other areas of the department. Additionally, intelligence operations undertaken in the name of combating terrorism will be narrowly defined to prevent the gathering or retention of any political information not related to criminal activities.

### Era Has Come to End

"The last vestige of the old Red Squad days has come to an end in Los Angeles," said one source familiar with the commission's plans.

The intelligence unit has been the subject of controversy for years, but criticism of its activities reached new heights last week after disclosures in The Times that vast quantities of intelligence documents were hidden outside the department, apparently to circumvent a Police Commission directive to destroy outdated or irrelevant intelligence files. Discovered among the documents were dossiers on commission members Stephen Yslas and Reva Tooley and on former commissioner Stephen Reinhardt, now a U.S. Appeals Court judge in Los Angeles.

Investigations into the matter are being conducted by the Police Department, the district attorney's office and the grand jury.

Since 1976, the intelligence division has been operating under guidelines imposed by the Police Commission, which do not carry criminal penalties. Over the past few years, the guidelines have been strengthened several times follow-

ing allegations of politically motivated surveillance. Now, a majority of the five-member commission reportedly has concluded that the Police Department has not been adequately committed to vigorous enforcement of the guidelines and that elimination of the division is necessary.

One source close to the commission said the plan, details of which were still being drafted late Tuesday, had been in the works since early November when Associate Los Angeles Schools Supt. Jerry Halverson was quoted in The Times as saying that he and a subordinate were offered files on district personnel and others in the late 1970s.

The American Civil Liberties Union, which has filed six lawsuits against the department in connection with alleged intelligence abuses, said it will press ahead with the litigation despite the intelligence division's expected demise.

"I am very happy that PDID is going to be ended," said Ramona Ripston, executive director of the American Civil Liberties Union of Southern California, "but the litigation is against the entire Police Department, not just PDID." She added that individuals who may have been wrongly subjected to police surveillance have a right to collect damages.

While applauding the expected decision to disband PDID, Ripston and others expressed concern that other jurisdictions in the department may simply pick up where PDID left off.

As Los Angeles City Councilman Zev Yaroslavy, a longtime PDID critic, put it, "Whether this is a meaningful change will only be determined by the zealotry with which the commission policy is followed in the future."

At Parker Center headquarters, Cmdr. William Booth, the department's chief spokesman, declined

comment on the commission's reported plan.

The Public Disorder Intelligence Division, along with the Organized Crime Intelligence Division, was created by then-Chief Edward Davis in 1970. Prior to that time intelligence gathering was handled by a single division.

### Created in 1970

The Public Disorder Intelligence Division, according to its operating standards, has been responsible for gathering and maintaining information necessary to protect the public order. The division has also been responsible for assisting in the protection of dignitaries and in investigating prison gang activity.

It has long been accused of straying from its mandate by infiltrating and spying on lawful political and social protest groups. Those allegations have been fueled by police intelligence materials obtained by the ACLU in the course of its lawsuits.

### Monitored Police Critics

Those documents have shown that police monitored the activities of police critics, City Council members and an assortment of social activists.



Since these commissioners serve in the public trust, should not the intelligence files on them be made available to public scrutiny, rather than be destroyed? Cannot Mayor Bradley find five people among a city of 2.8 million who have not been subject to police investigation?

Is a full disclosure of the facts on the commissioners in the public interest? When corruption occurs on the police force, we applaud it being cleaned up. Shouldn't the same standard be required for commissioners? Is this California or is this Watergate? Who will ultimately benefit from the dismantling of police intelligence?

### The Nationwide Drive Against Law-Enforcement Intelligence Operations

Well-informed Americans know of such an ongoing campaign that is well organized in the United States. On September 18th, 1975, a Senate Subcommittee held hearings on this subject which Senator Strom Thurmond called together with this statement:

*The Senate Internal Subcommittee has received information from sources in many parts of the country pointing to the conclusion that there has been a highly organized and highly effective drive, on a national scale, against law enforcement intelligence operations. The scale of the operation may be gleaned from the fact that some seventy-five separate suits have been filed against law-enforcement agencies, ranging from the F.B.I. to the local police departments, seeking to compel them to divulge sensitive intelligence gathered on extremist groups or to divest themselves entirely of their intelligence files and intelligence operations.*

*The legal harrassment has been compounded by the apparent willingness of many people in our media to regard law-enforcement agencies as the prime enemy of our freedoms, rather than as their protector, and to disregard, or minimize the danger posed to our freedoms by the scores of extremist organizations openly committed to terrorist activities or to the violent overthrow of our form of government.*

*The organizations of the far left, needless to say, have been major and enthusiastic participants in the national drive against law enforcement intelligence. In this, regretfully, they have been abetted by organizations and individuals whose primary concern is the protection of civil liberties. For example, the American Civil Liberties Union, which has been instrumental in filing some thirty-odd suits against local, State, and Federal enforcement authorities, had this to say in its 1970-71 annual report: "The A.C.L.U. has made the dissolution of the Nation's vast surveillance network a top priority. \* \* \* The A.C.L.U.'s attack on the political surveillance is being pressed simultaneously through a research project, litigation, and legislative action." [NOTE: For a background summary of the A.C.L.U., founded by socialist Roger Baldwin in 1920, see p. 37 of The Review Of The News for January 12th, 1983.]*

*Unsure of their own rights, and understandably fearful that they might be found in violation of the Constitution, and anxious to disengage from the pressure of legal harrassment, some of our law enforcement agencies have completely disbanded the special intelligence units they previously maintained to monitor extremist groups of the left and right, while other law enforcement agencies have destroyed the intelligence files laboriously built up through many years of effort.*



The Subcommittee then took sworn testimony from Frank J. McNamara, the distinguished scholar who for many years served as research director and staff director for the House Committee on Un-American Activities. Among other things, McNamara testified about what happened at the Olympics in Munich when terrorists attacked the Israeli delegation; the growing number of terrorist bombings throughout Western Europe and in the United States; the fact that the Symbionese Liberation Army was found to have "a target list of 900 persons who were potential victims;" and "the F.B.I. estimates that there are over 15,000 terrorists organized in 21 groups in this country."

In the last eight years these numbers have become higher, as has the number of bombings in the United States, which in 1975 alone exceeded 2,000. Over New Years, 1983, a terrorist group bombed several locations in New York City simultaneously. McNamara observed that the police in the United States

*. . . number close to 450,000 men in some 40,000 separate systems in this country. . . They are much closer to crime on a day-to-day basis than the F.B.I. can possibly be. And terrorist crime is their responsibility just as much as ordinary crime is.*

*While the F.B.I. has general intelligence responsibility in this area, it is involved from the prosecution viewpoint only when there is a violation of a Federal statute. It does not have jurisdiction in violation of local and state laws.*

*Just as the C.I.A. is our first line of defense against terrorism on the international front, the police departments are our first line of defense domestically. If they have no intelligence, or inadequate intelligence, then the American people basically have no security against terrorism.<sup>3</sup>*

McNamara cited the Supplement Report on the Control of Disorder of March 1st, 1968, from the National Advisory Commission on Civil Disorders. It made the following recommendations on page 269:

*An intelligence unit staffed with full-time personnel should be established to gather, evaluate, analyze, and disseminate information on potential as well as actual civil disorder. It should provide police administrators and commanders with viable information essential for assessment and decision-making. It should use undercover police personnel and informants, but it should also draw on community leaders, agencies, and organizations in the ghetto.*

McNamara then quoted the Task Force on Law and Law Enforcement of the National Commission on the Causes and Prevention of Violence: "A major weakness of many police departments is the absence of a reliable intelligence system. This absence has gravely handicapped police and public officials in anticipating and preventing trouble, and in minimizing and controlling a disorder that has broken out."

Those studies were published in the late 1960's. In the 1980's it is no longer riots or civil disorders, it is terrorism that is a threat. Planners of terrorism are no doubt delighted with the desire of the L.A. Police Commissioners to abolish the intelligence unit. Last August, then Attorney-General for California, George



Deukmejian, reported to the legislature, "Terrorism, both international and domestic, continues to present a threat to the people of California." His report discussed such extremist groups and terrorist gangs known to be operating in California.

Italy, which gave in to an anti-intelligence campaign, virtually halted intelligence operations and subsequently hosted the Red Brigade terrorist murder of former Prime Minister Aldo Moro; the kidnapping of U.S. General James Dozier, plus the attempted assassination of the Pope by Rumanian subcontractors of the Soviet secret police (KGB). Yuri Andropov, the new boss in the Kremlin, was head of the KGB from 1967 to 1982. Will Andropov be delighted if we follow Italy's model?

### The Campaign to Stop Government Spying (CSGS)

Yes, there is an organized campaign which goes by the name CSGS. *Broken Seals* is a Western Goals Foundation report on the attempts to destroy foreign and domestic intelligence capabilities of the United States. It reveals that CSGS was unveiled at a January 20-23rd, 1977, " 'Conference on Government Spying' organized by the National Lawyers Guild (NLG) in Chicago 'in response to the need for unified action around the country to stop political spying.' " *Broken Seals* carefully documents how the American Friends Service Committee (AFSC) has worked closely with the NLG and the American Civil Liberties Union (ACLU) to form "local anti-intelligence coalitions with similar goals operating in Chicago, Cleveland, Milwaukee, Minneapolis, Pittsburgh, Seattle, and Jackson, MS."

The 110-page foundation report tells us this, among other details, about the American Friends Service Committee: "In April, 1976, the AFSC board issued a statement calling for the abolition of the Central Intelligence Agency and the Internal Security Division of the F.B.I. . . ." The AFSC has defined its "Government Surveillance" program's chief targets as follows:

*Along with our concern about abuses by federal agencies, however, we see our main job as checking out and combating spying on local and state police intelligence units, or "red squads," which have a history of hamstringing social change organizations. . .*

To staff the effort the AFSC hired several people in various cities, including "Linda Valentino" in Los Angeles. It's worth remembering that the AFSC became notorious in the Sixties when it mounted a drive to send blood to the Vietnam Communists.

*Broken Seals* also gives detailed history on the National Lawyers Guild (NLG) noting that it "remains an active affiliate of the International Association of Democratic Lawyers (IADL), an international Communist front which operates under the control of the International Department of the Central Committee of the Communist Party of the Soviet Union. As far back as 1950 the House Committee On Un-American Activities issued a report, *The National Lawyers Guild: Legal Bulwark of the Communist Party*, which stated:

*The real aims of the National Lawyers Guild, as demonstrated conclusively by its activities . . . are not specified in its constitution or statement of avowed purpose. In order to attract non-Communists to serve as a cover for its actual purpose as an appendage to the Communist Party, the National Lawyers Guild poses benevolently as "a professional organization which shall function as an effective social force in the service of the people. . ."*



*Broken Seals* reports further on the Guild:

*The NLG's International Committee has formed numerous subcommittees that coordinate both legal action and public relations and propaganda in support of various Soviet and Cuban-backed revolutionary terrorist movements. For example, the NLG's Middle-East subcommittee supports the Palestine Liberation Organization. . . The NLG's Vietnam subcommittee has pressed for U.S. economic aid and "reparations" to the Hanoi government. . . The NLG's Nicaragua subcommittee is headed by one Michael Maggio, a Washington, D.C., NLG activist who previously represented the Castroite Sandinista National Liberation Front. . .*

Intertwined in this anti-intelligence campaign is another organization called the National Committee Against Repressive Legislation (NCARL) headed by erstwhile Communist Party functionary Frank Wilkinson. NCARL is the organizational successor to his National Committee to Abolish HUAC, cited by many government agencies as a Communist front. For some time Wilkinson has been on the board of the Southern California American Civil Liberties Union (ACLU) and has been a director of a local organization called the Citizens Commission on Police Repression. His background is detailed on p. 39 of May, 1979, *American Opinion* magazine.<sup>4</sup>

Wilkinson is also found on the National Council of the National Emergency Civil Liberties Committee (NECLC), a Communist front that emerged in 1951. In the *Congressional Record* of September 23, 1975, we learn that for several years in the late 1960's and early '70's, co-directors of the NECLC at its New York City headquarters were Henry diSuvero and his then-wife Ramona Ripston. After this preparation and experience, Ripston graduated to the West Coast, where she is now the widely-quoted executive director of the ACLU of Southern California, working tirelessly for the end of police intelligence. Like all concerned Americans, she should ask herself, "Who will ultimately benefit?" *Broken Seals* devotes several pages to the National Emergency Civil Liberties Committee (NECLC) as does the September, 23rd, 1975, *Congressional Record*, beginning on p. 29919.

*Broken Seals* is available from Western Goals Foundation, 309-A Cameron St., Alexandria, VA 22314, for \$4.00 per copy. It is highly recommended to any serious student of intelligence, terrorism, and national security. The future safety of your lives, your families, and your property are at stake. For that reason we also advise that you make the above material available to members of the Los Angeles City Council, Chiefs-of-Police in Southern California, police officers, staff members of various D.A.'s offices, clergymen, the media, and other opinion molders. There is no morality in leaving Americans helplessly vulnerable to crime and terrorism. Police work is vital, dirty, and dangerous, and our police need all the support they can get, not continual harrassment!

Additional copies of this memo are available at 4/\$1.00, postage paid.

<sup>1</sup> *A Communist Plot Against the Free World Police*, Senate Internal Security Subcommittee Hearing, 1961, U.S. Printing Office.

<sup>2</sup> *The Review Of The News*, published weekly, 395 Concord Ave., Belmont, MA 02178. Annual subscription \$25.

<sup>3</sup> *The Nationwide Drive Against Law Enforcement Intelligence Operations*, Senate Internal Security Subcommittee Hearing, 1975, U.S. Printing Office.

<sup>4</sup> *American Opinion*, published monthly except July, 395 Concord Ave., Belmont, MA 02178. Subscription \$20.



# **RIOTING & TERRORISM!**

## **2nd Annual Disaster Planning Conference**

*Sponsored by* Western Oregon State College  
Division of Continuing Education

*In cooperation with:*

Emergency Management Division, State of Oregon  
Emergency Services Division, State of Washington  
Oregon Board on Police Standards & Training  
Oregon Fire Marshal's Office  
Oregon Fire Standards & Accreditation Board



**January 25-26, 1981**  
**Inn at the Quay**  
**Vancouver, Washington**



## WELCOME:

This conference is the second in a series of conferences on *Emergency Services and Disaster Planning* serving the various agencies in the Pacific Northwest which could be involved in the event of a disaster, e.g., police, firefighters, National Guard, the FBI, Department of Environmental Quality, Health Division, Red Cross, Department of Energy, Portland General Electric, Department of Transportation, Water Resources, Department of Forestry, Portland Power and Light, Federal Aviation Agency, Emergency Services, the Media, U.S. Geological Survey, and the Military, amongst others. All these agencies were represented at the first conference — and we welcome you to this, our second, which is focusing on **RIOTING AND TERRORISM**.

Division of Continuing Education  
Western Oregon State College

## RIOTING AND TERRORISM:

This conference, under multiple sponsorship of Oregon and Washington State agencies, is designed to allow all public officials and agencies concerned with rioting and terrorism an opportunity to be forewarned on techniques and methods used by those who practice illegal acts. It features Gene Frice, Chief, Criminal Justice Programs, of the CALIFORNIA SPECIALIZED TRAINING INSTITUTE of San Luis Obispo, California. (The CSTI is dedicated to the presentation of quality, contemporary instruction directed toward the proper, effective, and appropriate service to the citizens of our nation. Their efforts are directed to instruction in Civil Emergency Management and selected Criminal Justice programs — both areas of public concern and specifically contemporary in today's society).

The conference will give exposure to the doctrines and profile of the terrorist, including methods of thwarting illegal and unlawful acts against property

and persons. It will explore the terrorist trends in the U.S. from the domestic point of view, in addition the effects of increased terrorist activities in the Mideast and North Africa.

An overview will, in addition, provide participants with an "analytical look" at techniques, trends, and profiles of revolutionary insurgents and terrorists. This will include looking at the background of terrorists, noting that many revolutionists are "social" coming from wealthy homes and having extensive educational training, who will "champion any cause for excitement." Contrasts will also be explored with ghetto and minority revolutionists espousing their particular causes.

Guest speakers from the academic and law enforcement communities will complement the presentation of Mr. Gene Frice:

*Colonel Hussein Toga*, Commander of the Jordanian Royal Guard and Personal Security Officer to King Hussein, will be the luncheon speaker on the first day. His presentation will be, simply, "the PLO."

*Lt. George Engledow* of the Washington State Patrol will speak the second day at luncheon about bomb threats (telephone, letter or package) and how to handle them.

*Dr. Cari Shay*, Professor of Political Science at Western Oregon State College, will open the second day of the conference with "Pathological Politics: Contagion and Control." Dr. Shay says "Although acts of terrorism are criminal in nature, many are primarily political in terms of motivation and goal. The hope of the terrorist is to infect the social, economic, and/or political system with a contagious and, ultimately, fatal disease. Terrorism places democratic governments in a double bind. Underprotection and overprotection may both result in the loss of citizen loyalty and thus serve the terrorist's political purpose. An understanding of political contexts and political techniques can contribute much to the prevention and quarantine of terrorism, if not to its cure."



## FEE:

\$85 includes 2 lunches, coffee breaks & materials. Deadline for registration is January 24. Cancellations made up to 48 hours prior to the conference will be refunded (less a \$25 processing fee).

If two or more persons enroll from the same agency, we will allow a 20% discount if the same enrollment form or purchase order number is used.

### Conference schedule:

**January 25** 9:00-10:00 a.m. Registration  
10:00-12:00 noon Morning sessions  
12:00-1:30 p.m. Lunch  
1:30-4:30 p.m. Afternoon sessions

**January 26** 9:00-12:15 p.m. Morning sessions  
12:15-1:30 p.m. Lunch  
1:30-4:15 p.m. Afternoon sessions

The following credit is available:

1 unit of undergraduate college credit from WOSC (cost \$19), accreditation from Fire Standards & Accreditations and from the Board on Police Standards & Training.

To make lodging reservations call the Thunderbird Inn at the Quay (foot of Columbia St., Vancouver, WA 98660), phone (206) 694-8341. Quote WOSC Rioting and Terrorism Conference to obtain the following special rates:

Single	\$36-\$37
Double	\$41-42
Double (two beds)	\$43-\$44

These rates are good for Sunday, Monday & Tuesday nights.

To enroll by mail, fill out the form below and mail with your check or billing instructions to:

Joan S. Pratt  
Coordinator, Special Projects  
Division of Continuing Education  
Western Oregon State College  
Monmouth, OR 97361

Or you can register by phone by calling Joan at (503) 838-1220, extension 483 or (503) 362-1952.

Please register me for Rioting & Terrorism  
Jan. 25-26, 1982 at the Inn at the Quay:

Name: \_\_\_\_\_ Day phone: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ I enclose \$85

\_\_\_\_\_ Please bill my agency or P.O. # \_\_\_\_\_

Charge ☐ VISA ☐ BankAmericard # \_\_\_\_\_

Expiration date \_\_\_\_\_ Signature \_\_\_\_\_

NOTE: An income tax deduction is allowed for expenses in an educational endeavor to maintain & improve professional skills (Treas. Reg. 1-162-5). This includes, registraton fee, lodging, meals & travel.

For further information please call Joan Pratt at (503) 838-1220 ext. 483.



**WESTERN OREGON STATE COLLEGE** is a comprehensive liberal arts college with bachelor's and graduate degrees in a variety of professional fields. The college, founded in 1856, is located in the Salem Metropolitan Area.

**THE DIVISION OF CONTINUING EDUCATION** is an administrative unit of Western Oregon State College and is responsible for the management of Professional Development Seminars and more than a dozen other types of training programs which each year serve more than 4,000 professionals.

#### **WESTERN OREGON STATE COLLEGE SEMINARS & CONFERENCES**

*Air-Medical Evacuation*, April 18-19, 1982. Fee \$70. A two-day seminar providing training in emergency air-evacuation.

*Open-Learning Fire Service Program*: Entire year 1981-82. Tuition \$135.00 for a 5 credit course. (A program of correspondence study allowing professional fire service personnel to upgrade professional administrative skills while earning college credit.)

*Fire Marshal's Round-Table (fifth annual)*. May 14-15, 1982. Fire Station, Redmond. Fee \$62.00. (The Round-Table is designed to share up-dated information, explore issues, and raise questions related to the mandate of appropriate agencies to serve and protect vital public interests.)

*Evolution vs. Creationism*. March 7-8, 1982. Marriott Hotel, Portland. Fee \$49.00 (This symposium will address many of the key issues of the Evolution vs. Creationism controversy.)

*Microcomputers in Government Agencies*. June 12, 1982. Western Oregon State College, Monmouth. Fee \$95.00. (The use of small computers — Apple, TRS-80, etc. — for word processing, data management, fiscal management.)

*Fire Management Short Courses: Fire Law, Fire Protection Planning, Fire Management Practices, Managing Fire Personnel, Fire Department Budgets, Public Relations and Public Education*. (To be offered throughout the fire districts in Oregon.)

All of the following workshops will be presented at the Western Oregon State College Salem Office, 109 High Street, SE, Salem, Oregon for \$62.00 each.

*Advanced Grants*: May 2-3, 1982. (An in-depth analysis of proposal writing for persons with some proposal writing experience.)

*Management of Human Relationships in the Workplace*: March 7-8 and April 30-May 1. (Techniques and strategies essential for successful management of stressful situations.)

*Administrative Writing Skills*: April 23-24. (A workshop stressing the importance of communication through effective and skillful writing and editing.)

*Effective Techniques of Public Speaking*: March 12-13 and May 21-22, 1982. (The arts of persuasive and skillful oral presentations to the public.)

*Situational Leadership*: (Date to be announced). (How to assess the level of situational maturity of your subordinates; how to develop skills for the utilization of appropriate or alternative leadership styles.)

*Applying Adult Development Principles to Management Practices*. (Date to be announced). (An analysis of work attitudes, successful management strategies and techniques, design and implementation of company policies, delegation of responsibility, management styles, etc.)

*Performance in Motion*: (Date to be announced). (An in-depth look at how to enhance job productivity and career mobility.)

**FOR FURTHER INFORMATION** on any of the above contact Joan Pratt, (503) 838-1220, ext. 483.

## **SECOND ANNUAL EMERGENCY SERVICES AND DISASTER PLANNING CONFERENCE**

# **RIOTING & TERRORISM**



**WESTERN OREGON STATE COLLEGE**  
Division of Continuing Education

**JANUARY 25 - 26, 1982**  
Inn at the Quay

In cooperation with:

Emergency Management Division, State of Oregon  
Emergency Services Division, State of Washington  
Oregon Board of Police Standards & Training  
Oregon Fire Marshal's Office  
Oregon Fire Standards & Accreditation Board  
Washington State Criminal Justice Training Commission



**WELCOME** to the Second Annual Conference on Emergency Services and Disaster Planning. This series of conferences, planned and coordinated with the assistance of many agencies, seeks to serve professionals whose responsibilities include delivery of emergency services.

This conference, focusing on Rioting and Terrorism, is designed to instruct and update professionals with the latest ideas, theories, and techniques relating to the prevention and suppression of these illegal, and usually inhumane, acts.

The Division of Continuing Education at Western Oregon State College wishes to express sincere appreciation to all persons and agencies who have lent support to the production of the Conference. We sincerely appreciate your attendance and participation as we mutually place our efforts in service to the citizens of the Pacific Northwest.

*Wayne R. White*  
Wayne Rodgers White, Ph.D.  
Director

#### College Credit, Police & Fire Accreditation, Evaluation:

Eleven hours of training can be earned through the Washington State Criminal Justice Training Commission.

For FSAB accreditation, get form AC-11.

For Oregon BPST credit, sign sheet at registration table.

For one unit of Western Oregon State College credit (undergraduate), get registration form.

All of the above can be taken care of at the Western Oregon State College Registration table.

AT THE END OF THE LAST SESSION, PLEASE TURN IN YOUR COMPLETED EVALUATION SHEET AT THE REGISTRATION DESK.

#### MAJOR SPEAKERS

*Colonel Hussein Toga*, Commander of the Jordanian Royal Guard and Personal Security Officer to King Hussein, will be the luncheon speaker on the first day. His presentation will be, simply, "the PLO."

*Lt. George Engledow* of the Washington State Patrol will speak at the second day luncheon about bomb threats (telephone, letter or package) and how to handle them.

*Dr. Cari Shay*, Professor of Political Science at Western Oregon State College, will open the second day of the conference with "Pathological Politics: Contagion and Control."

*Gene Frice*, Chief, Criminal Justice Programs, of the California Specialized Training Institute of San Luis Obispo, California. (The CSTI is dedicated to the presentation of quality, contemporary instruction directed toward proper, effective, and appropriate service to the citizens of our nation. Their efforts are directed toward instruction in Civil Emergency Management and selected Criminal Justice programs — both areas of public concern and specifically contemporary in today's society.

Prior to his employment at CSTI Gene Frice was Special Agent for the California Department of Justice, and Investigator for Los Angeles County. He holds the rank of Colonel in the United States Army Reserve having served as both enlisted man and officer for 32 years. He is a graduate of California State University and of the University of South California, both in Los Angeles.

#### January 25, 1982

10 a.m. INTRODUCTION AND SCOPE OF THE CONFERENCE

*Dr. Ronald L. Chatham*, Professor of Social Science, Western Oregon State College

10:15 a.m. WELCOME

*Mr. Harvey L. Latham*, Administrator, State of Oregon, Emergency Management Division

*Mr. Hugh H. Fowler*, Director, Emergency Services Department, State of Washington

10:30 a.m. - TERRORISM —  
12:00 noon AN OVERVIEW

*Gene M. Frice*, Chief, Criminal Justice Program, California Specialized Training Institute, Camp San Luis Obispo, CA.

12:15 - LUNCH

1:30 p.m. Speaker:  
*Colonel Hussein Toga*  
Commander of the Jordanian Royal Guard and personal security officer to King Hussein.

"THE PLO"

1:30 - RIOTING AND TERRORISM  
3 p.m.

*Gene M. Frice*

3-3:20 p.m. BREAK

3:20 - RIOTING AND TERRORISM  
4:40 p.m.

*Gene M. Frice*

5-5:30 p.m. ANYONE INTERESTED IN FSAB, Police, or Western Oregon State College accreditation/credit, please remain to meet with Dr. Chatham.

#### January 26, 1982

9 - PATHOLOGICAL POLITICS:  
10:15 a.m. CONTAGION & CONTROL  
*Dr. Cari Shay*, Assistant Professor of Political Science, Western Oregon State College

10:15 - BREAK  
10:35 a.m.

10:35 a.m. - REACTIONS TO TERRORISM  
12 noon AND RIOTING

*Dr. Ronald L. Chatham*, Professor of Social Science, Western Oregon State College, Moderator.

\*FBI - *Robert S. Gast, II*, Special Agent in Charge, Portland Office

\*Oregon State Police - *Major David L. Witt*, District 1 Commander

\*Portland Police Department - *Lt. Robert Brooks & Sgt. Pat Nelson*, Planning & Research Division

\*Oregon Military Department - *Colonel Fabian Nelson*, Military Support Plans Officer, Oregon Army National Guard, Military Department, State of Oregon.

12:15 - LUNCH

1:30 p.m. Speaker:  
*Lt. George Engledow*, Capitol Security Section, Washington State Patrol  
"BOMB THREATS"

1:30 - RIOTING AND TERRORISM  
3 p.m.  
*Gene M. Frice*

3-3:20 p.m. BREAK

3:20-4 p.m. SUMMARY & CONCLUSION  
*Gene M. Frice*

ALL SESSIONS WILL BE IN THE EXPOSITION HALL.  
LUNCHEES WILL BE IN THE RIVER ROOM.



# Police purging secret files, chief says

By STEVEN CARTER  
of The Oregonian staff

Portland Police Chief Bruce Baker said Tuesday the bureau is purging its intelligence files of information that has proved valueless.

Baker made the comment while testifying before Multnomah County Circuit Judge Charles Crookham in a lawsuit brought by the city's Church of Scientology seeking access to police files on the organization.

Crookham took the case under advisement and gave no indication on when he might rule.

Baker called the Intelligence Division a "repository of bits and pieces of information," some of which proves to be useless, but some of which later can serve as a basis for criminal investigation.

The church wants access to confidential police information on it that apparently in-

volves complaints about the church made by the mother of a young woman who was a member.

Baker said the woman called him in 1975 saying she was concerned about the "well-being" of her daughter. But the chief added that after the probe, "there certainly wasn't any reason to believe her well-being was in any jeopardy."

Regarding the purge of information, he said, "I suspect that if this case were not going on (in court) and we were not required to keep it (the file) as part of this case, it would have been purged a long time ago."

But Baker said police should retain the right to keep confidential files, arguing that it protects informants and sources of information who want to remain anonymous, as well as preventing unsubstantiated charges from becoming public.

"You certainly would not want some

kind of fourth hand information on the public record," he said.

Robert Babcock, attorney for the church, said the file should be made public in order that any false information in it can be corrected.

He said that there was a danger that false information could be relayed to other divisions in the police bureau, and that if files were not opened there would be no way of knowing whether false information was being retained.

It was not enough for the police to acknowledge they were maintaining a file on an individual or organization, he said.

According to church officials, the National Church of Scientology has filed more than 20 similar suits against law enforcement agencies across the country in an effort to inspect and correct false information being kept about it.

6

Oregon Journal, May 19, 1977 (3)

## Chief defends police file

By JANET CHRIST  
Journal Staff Writer

The Portland Police Bureau is attempting to purge all investigative files of information which have no value to the bureau, Police Chief Bruce Baker testified at a Circuit Court hearing this week.

Baker was called as a witness in a civil case brought by the Church of Scientology over a police investigative file involving the church. It has asked the court to order that it be allowed to inspect the file.

When asked by plaintiff's lawyer, Robert Babcock, how long it would be before the Church of Scientology file was purged, Baker answered, "I suspect if this trial were not going on . . . it would have been purged a long time ago."

Circuit Judge Charles Crookham took the case under advisement.

Before the suit was brought, Babcock pointed out, the Police Bureau would not disclose whether such a file existed.

The file concerns "the well being of a young woman," Baker and police Officer Annette Jolin testified. It was started at the request of the woman's mother,

who phoned the bureau and voiced anxiety over her daughter's well being, Baker said.

He testified that at the close of the investigation, the bureau "had no reason to believe that her well being was in jeopardy."

Although Judge Crookham was allowed to inspect the file, Babcock had to question Baker and Ms. Jolin without having seen it, since it is still confidential.

"Have you ever played blindman's bluff?" Crookham smiled at Babcock when the issue arose.

Through his questions, Senior City Deputy Attorney Thomas Williams argued that there is a public interest to be served by keeping investigative files confidential.

"The investigative division becomes a repository for bits and pieces of information which sometimes become totally valueless or may later be extremely valuable points of reference for other divisions of the Police Bureau," Baker said.

Babcock argued that persons must have the right to inspect investigative files about themselves because there would be no way to know for certain whether false information was being kept or destroyed.



3. Win Jack

# Spy chief plans to ease secrecy

OREGON JOURNAL 4-14-78  
By United Press International

America's top spy, Stansfield Turner, wants to share intelligence information with the public.

Turner told groups in Columbus, Ohio, and Detroit Thursday of a major departure in the country's traditional policy of keeping such information secret.

"We want to share what information we collect when it can be unclassified," he said Thursday. "For example, there is economic and political information that we can collect that would be of value to American businessmen," he told the Economic Club of Detroit.

He said the CIA is ready to expand its intelligence activities to non-military areas that could give taxpayers "a better return on their investment."

In Columbus Thursday night, Turner said the tradition of keeping CIA work secret "is no longer the policy because the public wants to know. We will be speaking more, answering the media more completely and publishing more."

Turner said the Soviet Union, while concentrating heavily on maintaining an extensive spy network, has fallen seriously behind the United States in the technical aspects of intelligence.

He said that through satellites there are great amounts of information about potential oil and energy reserves, crop perspectives and industrial expansion, and that the CIA, as a public-funded agency, should share such information on a wider scale.

The CIA was the child of the wartime office of the Strategic Services, founded by William "Wild Bill" Donovan and molded by the British intelligence service. It carried out covert operations against Germany and Japan, but was disbanded at the end of the war because President Truman believed there was no place in peacetime for such cloak-and-dagger activities.

It was revived in 1947 to coordinate and analyze intelligence and "such other functions and duties related to intelligence as the National Security Council may from time to time direct."

**Q. How many persons get 24-hour Secret Service protection?**

— C.P., Benton Harbor, Mich.

**A.** The families of the President and Vice President, a total of 18 persons, receive the full-time protection of the Secret Service. In addition, during election campaigns, all candidates for the Presidency are protected around the clock. And the Executive Protection Service, the uniformed branch of the Secret Service, guards foreign Embassies in America throughout the day and night.

However, according to the Los Angeles Times/Washington Post News Service, "the Secret Service is experiencing so severe a decline in the quality of intelligence information that



**Secret Service head Knight warns of poor intelligence.**

its ability to protect the President and other public figures seriously has been impaired, according to director H. Stuart Knight. Intelligence information about potentially dangerous individuals and organizations is so bad in some cities, Knight says through a spokesman, that the Secret Service has advised President Carter and his predecessor, Gerald Ford, not to visit those cities."



off comments

R-N 11-22-78

### **FBI Act Endangers Informants**

■ *Baltimore, November 8* — FBI Director William Webster proposes a 10-year moratorium on disclosure of material from the Bureau's files because of the danger to informants, particularly in cases where information has been requested by convicts. In a speech to the Advertising Club of Baltimore, Webster points out that requests for material under the Freedom of Information Act are endangering informants, drying up sources of important information, and hindering exchanges of information with state and local law enforcement agencies. He says that these sources have become reluctant to cooperate with the Bureau out of fear that disclosure of their comments will embarrass them or involve them in civil suits. A 10-year moratorium, says the FBI chief, would allow exceptions for "subjects of such national interest and concern that we should make files available on demand under the act." He says that there could be a waiver of the 10-year period by the Attorney General when sufficient cause could be shown.

### **New Intelligence Office Created**

■ *Langley, Va., May 8* — Attorney General Griffin Bell announces the creation of a new intelligence office at the Justice Department and tells CIA officials that a legal system of accountability is needed. "We must strive to assure the people that their intelligence agencies will not be turned against them," Bell says at CIA headquarters. "There is a recognition on all sides that intelligence activity must be administered within the constitutional framework and that a legal system of accountability is needed." He also says that "if the CIA is to do its job, it must be willing and able to tell policymakers some unpleasant truths with unfailing accuracy, providing dispassionate analysis of foreign events and intentions for those involved in the passions of domestic politics who may want to see

the world differently." The new Office of Intelligence Policy and Review will be headed by Kenneth Bass, a senior government lawyer.

The Review Of The NEWS, May 23, 1979



# Bill to help shield CIA agents advances

WASHINGTON (UPI) — The Senate Intelligence Committee has joined its House counterpart in unanimously approving a bill setting tough criminal penalties for the publication of the names of American intelligence agents working under cover.

The Senate Intelligence panel finished its version of the proposed legislation late Tuesday and sent it to the Senate. The House Intelligence Committee version was reported out last Friday.

The proposed legislation is expected to reach the respective floors next month after the Democratic National Convention. Chances of passage are considered good.

Both bills provide for fines of up to \$50,000 or imprisonment up to 10 years for current or former U.S. intelligence or other officials who make public the names of agents, many of whom work abroad under diplomatic or other "cover."

The most controversial part of the bills concern the punishment of civilians who publicly identify intelligence agents, whether the disclosures are based on classified or unclassified information.

Civilians would be liable to fines of up to \$15,000 and imprisonment for a maximum of three years for deliberate published disclosure of the identities of covert agents.

The bills are aimed at publications such as *Covert Action Information Bulletin*, a Washington-

based periodical that has printed the names of more than 2,000 persons around the world that it claims were CIA agents.

Louis Wolfe, a co-editor, last month held a news conference in Kingston, Jamaica, to read the names, home addresses, telephone numbers and car license plate numbers of 15 persons he said were working under cover at the U.S. Embassy as CIA agents.

Three days later, the suburban Kingston home of N. Richard Kinsman, whom Wolfe had identified as the CIA chief of station in Jamaica, was subjected to an early morning bomb and machine gun attack. There were no casualties.

## Preventing Future Assassinations

■ Washington, December 11 — Top CIA and FBI officials tell the House Assassinations Committee about their plans to deal with assassination attempts in the future. In testimony today, Deputy CIA Director Frank Carlucci says that "in an age of terrorism we have been able to learn of plots that would have resulted in the death of innocent private citizens and have been able to cause actions that save lives. There are public figures alive in the world today who have CIA to thank for it." He emphasizes the importance of secrecy to protect intelligence sources who might warn of pending assassination plots. FBI Director William Webster says that the Bureau is already testing a new plan to deal with major crimes and used it in investigating the slaying of Representative Leo Ryan (D.-Calif.) in Guyana. In the case of a presidential assassination, he says, the FBI would set up command posts in Washington and at the scene, would gather and protect all evidence, and would have an autopsy conducted by a panel of experts and not by local authorities.

■ Washington, December 12 — Secret Service chief H.S. Knight says that Justice Department restrictions on domestic surveillance are hampering the agency's ability to protect the President's life. Testifying before the House Assassinations Committee, Knight says that the result of the restrictions imposed by the Attorney General in 1976 "has been significantly less information. We no longer get

The Review Of The NEWS, December 27, 1978

information on groups which we think we should be receiving — groups that urge violence or tell how to make bombs or Molotov cocktails." He says that "we are charged with preventing something from happening . . . . The best way is to know who is planning what, how, and when." Another witness, Deputy Attorney General Benjamin Civiletti, disagrees with Knight. While conceding that the FBI now can provide "only a fraction" of the quantity of information as before, Civiletti says that the quality of the information is as high as ever. He says that "to change the guidelines to broaden the information . . . would be very dangerous" to the civil liberties of all Americans.



## Internal Security

A long and hard-fought battle to protect the nation's intelligence services is nearing final victory in Congress. On March 19, the Senate passed a tough bill (S. 391) to punish those who publish names of covert intelligence agents. Also protected are foreigners who cooperate with U.S. intelligence.

A similar bill (HR 4) was passed by the House last September. Now the 2 bills go to a Conference Committee to iron out minor differences before final passage. Intelligence agencies have been seeking this bill for more than 5 years.

The Intelligence Agents Identities Protection Act is directed squarely against 2 publications in the business of revealing the names of CIA operatives around the world. Covert Action Information Bulletin, published by LOUIS WOLF, and CounterSpy, published by ex-CIA agent (now self-avowed communist) PHILLIP AGEE, have over the last several years "exposed" thousands of individuals as CIA agents.

AGEE in his 2 books (Dirty Work: The CIA in Western Europe and Dirty Work 2: The CIA in Africa) has named more than 1000 alleged CIA agents. Both the Bulletin and CounterSpy regularly unmask individuals they claim to be CIA covert operatives. The Bulletin boasts of having disclosed the identities of more than 2,000 CIA officers.

Apart from damaging national security, identity disclosure can jeopardize the personal safety of our intelligence officers:

- In 1975, RICHARD WELCH, at that time CIA station chief in Athens, was murdered in front of his home after CounterSpy identified him as a CIA official.
- In July 1980, RICHARD KINSMAN's house in Jamaica was attacked with submachine guns and explosives 48 hours after WOLF publicly charged that KINSMAN and 14 other U.S. Embassy officials were CIA agents. Three days later, there was an attempt on the life of another Embassy official.
- In October 1981, after AGEE's visit to Nicaragua, the pro-Sandinist newspaper published the names of 13 alleged CIA agents. Many of the Embassy officials named in the newspaper received death threats. Four female employees were harassed.

AGEE and WOLF have revealed names in Marxist Mozambique as well. The named officials were harassed and expelled.

The identity protection legislation is supported by the CIA, FBI and the Association of Former Intelligence Officers. Both the REAGAN and the CARTER administrations have favored enactment of this key legislation. Arrayed against the measure were the American Civil Liberties Union as well as most liberal journalist groups.

In both Senate and House, debate raged over what type of punishment to impose on individuals who expose the identities of intelligence agents. Opponents of tough penalties argued that the names of intelligence officers can sometimes be guessed from public documents such as the Department of State biographical register.

Proponents of stiff penalties pushed for a strong and objective standard in the bill to make an individual subject to prosecution if there were "reason to believe ... such activities [disclosure of agents] would impair or impede the foreign intelligence activities of the U.S." Fortunately, both the Senate and House versions of the bill include this "reason to believe" clause.

Rep. JOHN ASHBROOK (R-OH) and Sen. JOHN CHAFEE (R-RI) led the battle for a tough identity protection bill to safeguard U.S. intelligence officers overseas. AMERICAN SENTINEL readers should write them letters of thanks for their valiant and successful efforts.



## POINT REPORT

# US extremism grows as law is watered down

Extremism is growing in the United States while the internal security capability of the Government has deteriorated. Senator Orrin Hatch (Republican, Utah) states: "We have approached the status of a zero-security society. Our law enforcement agencies have been stripped of much of their ability to deal with domestic subversion, espionage, terrorism and with the depredations of organised crime."

The examples of the growth of extremism — of both the Left and the Right — are many. Among them:

- In mid-June, a trial began in Greensboro, North Carolina, in the case of six Ku Klux Klansmen and members of the American Nazi Party, each charged with first-degree murder and felonious rioting. Five Communists were shot to death at a November rally. At the same time, five members of the Communist Workers Party, a small Maoist organisation, were arraigned on felony riot charges stemming from the rally.

- In Southern California, Tom Metzger, a 42-year-old member of the Ku Klux Klan, won the Democratic Party's nomination for a seat in the US House of Representatives. His campaign was openly racist, against not only Blacks but Asians and Mexican-Americans.

- In North Carolina, Harold Covington, a leader of the National Socialist Party of America — an American Nazi — got 56 000 votes and came close to winning the Republican nomination for state attorney-general.

The guidelines under which the FBI now conducts business prohibit undercover infiltration of radical groups. Only *after* a crime has been committed can US officials take any action. Then, critics argue, it is too late.

At a conference on Law, Intelligence and National Security held in Washington, Herbert Romerstein, staff member of the House Permanent Select Committee on Intelligence, declared: "The basic provision of the guidelines is the necessity for the FBI to show that a criminal act has taken place or is imminent before the FBI can investigate a group or individual. This concept has a laudable ring. Many decent people will tell us that we don't want to investigate somebody who has not committed or is not about to commit a crime.

"Unfortunately, the realities of life are in direct contradiction with this wonderful concept, because in real life, when a group is planning to commit a terrorist act or commit some other act of violence, it doesn't make an announcement or invite people on the night before it takes action. More often than not, the act is planned over a long period of time. And unless you have informants in place over this long period of time, there is no way that you're going to know that this particular act is going to take place."

One case cited by Romerstein was the 1964 plot to blow up the Statue of Liberty, when hundreds of innocent people could have been killed. This plot, Romerstein noted, was planned in Cuba in 1963 by an individual who

visited the island, made his contacts there, then came back and organised a group in New York to do the job. In Cuba, he had made contact with a French-Canadian separatist group which provided the dynamite.

Romerstein stated: "The only reason the plot didn't succeed was that the New York Police Department had placed an undercover officer in one of the groups whose activities at that time appeared to be limited to what it called 'mere rhetoric'."

"A member of this group, an official of the Socialist Workers Party, which is no longer under investigation by the FBI, brought the police department's undercover officer in contact with Robert Collier, the ringleader of the

be allowable in the private confines of one's house." The fact is, critics charge, the FBI is not looking at such organisations at all.

The US has dismantled virtually its entire internal security apparatus. The House and Senate have eliminated their internal security committees. Internal security divisions have been disbanded at the US Department of Justice and in police departments across the country. Individuals applying for sensitive government positions cannot even be asked about their membership in Communist or Nazi organisations. To do so, the law now states, would be to violate their "right to privacy".

It is now the Civil Service Commission, not the FBI, which is responsible for investigating applicants for sensitive positions. It is illegal for investigators to ask about an applicant's membership in radical organisations.

Alan Campbell, chairman of the Civil Service Commission, was asked whether it was not essential to have carefully spelled out criteria dealing with the type of membership or association that might disqualify an applicant for federal employment.

He replied that such criteria were essential to a sound personnel security programme but admitted that the Civil Service Commission had no such criteria.

Campbell admitted frankly that applicants



Ku Klux Klan: growing threat to order

bomb group . . . The whole concept of these guidelines — that you don't institute surveillance or investigate because of mere rhetoric — goes to the heart of whether the FBI is going to be able to do its job."

At present the FBI does not even collect public information concerning potentially violent groups and individuals. In a congressional hearing an FBI official was asked whether newspaper articles were collected about such groups. The answer: "That is not done at this point."

Asked if he was allowed to read and remember such information in the newspaper, the FBI official replied: "I would think that might

could not be denied sensitive government employment on the basis of "mere membership" in Communist or Nazi groups. It is this state of affairs which led Senator Hatch to call the US a "zero-security society".

Former senator James Buckley of New York said in a recent address to retired FBI officers: "If things do not change there is no reason to believe that we will escape renewed, more intensified and better co-ordinated outbreaks of terrorism. We must re-examine the restraints now being placed on the FBI, the CIA and our police agencies. The constitution, after all, as Justice Goldberg once reminded us, is not a suicide pact."



# Responsible, supervised intelligence protects citizens from violence

(From Crime Control Digest)

The dangers to a local community and the fundamental freedoms of any society come not from criminal intelligence activities but from poorly regulated and supervised intelligence activities, says a prominent law enforcement spokesman.

Addressing the Ninth Annual Conference of the International Association of Airport and Seaport Police in London, Howard C. Shook, president of the International Association of Chiefs of Police, told his audience that recently the IACP was called upon by the Committee on the Judiciary of the U.S. Senate to discuss the erosion of law enforcement intelligence and its impact on the public security.

"As we see it," Shook said, "the critical question is to determine how the fundamental liberties of the people can be maintained in the course of the government's effort to protect their security. The delicate balance between these basic goals of our system of government — federal, state and local — is often difficult to strike, but it can, and must be achieved," he said.

"A government must protect its citizens from those individuals and groups who engage in violence and criminal behavior or in espionage and other subversive activities," he said.

Noting that intelligence has successfully prevented "dangerous and abhorrent acts," such as bombings, and aided in the arrest and prosecution of those responsible for such acts, Shook said, however, that "it cannot be denied that abuses and the invasion of personal privacy have occurred in the past.

"However," he added, "the solution to these problems is not to pass legislation that unduly limits law enforcement's intelligence-gathering capabilities. Rather," he continued, "the solution is to set forth a workable set of guidelines that will enable law enforcement agencies to protect citizens from the inherent dangers resulting from subversive activities, as well as preserve an individual's right to privacy."

Shook maintained that the dangers to a local community and the "fundamental freedoms of our society" come not from criminal intelligence activities, "but from poorly regulated and supervised intelligence activities.

"The importance of intelligence cannot be over-stressed," he said. "Without intelligence-gathering capabilities, we are inviting the onslaught of subversive activities as well as the erosion of law enforcement capabilities."

Shook went on to quote from the recent congressional testimony of a captain with the New Jersey State Police about the present state of law enforcement intelligence:

"The free flow of intelligence between federal, state and local agencies is essential to an effective law enforcement operation. To the extent that this flow is restricted, law enforcement is handicapped. Today, this flow is terribly restricted, at every level and in every direction: from city-to-city, from state-to-state, from state agencies to federal agencies, and from federal agencies to the state and local level. This is a disastrous situation and we've got to find some way of reversing it."

Although the captain's comments deal only with domestic intelligence operations, Shook said "the international situation concerning the free exchange of vital intelligence information is of concern to all of us."

"We are witnessing today a terrible, violent time in various nations," he said. "None of us can say this country is immune to terrorist activity. In every nation there are splinter groups and sympathizers, and the more we know about them the better our chance to avert tragedy.

"Equally appalling," Shook said, "is the outcry from those who demand to know why the law enforcement community did not know of every move of the terrorist, yet are at the forefront of obstacle placement in gathering that very intelligence."

There is no question about past abuses, Shook said, but added that we must not let those "indiscretions" destroy a "necessary and essential element in international safety.

"Citizens from the United States traveling abroad have the same right to protection as those citizens of other nations who visit America," he said.

"We should feel confident that a demented person is not going to put us in peril over some obscure cause in a distant nation. That is not something that we just expect, it is a right in civilized and free nations," Shook said.

Turning to another subject of international interest, the IACP president said, "Drug smuggling is one of the most vile forms of criminal activity facing people. It is profitable for the trafficker, but devastating for the user and for society generally. We must be in a position, through information exchange, to apprehend the courier and the seller. We owe this to the young people of our various

countries, the ones who seem most susceptible to the drug pusher.

"A serious problem that must be overcome is public lack of concern over our level of intelligence gathering," he continued. "While on the one hand the citizens of most free nations are willing and even eager to have military information exchanged to maintain national security, they sometimes balk at intelligence gathering at other levels," he noted.

Shook said he believes that the terrorist and the drug trafficker can do as much to destroy a country as an invasion from an unfriendly nation.

"It may not be as swift or as obvious," he said "but in its own sinister way and over a period of years the destruction will be just as complete and just as final as if a thousand tanks rolled through a village."

"We must demonstrate," he continued "through our good offices, that we are not compiling dossiers for the sake of gathering raw data, but, rather, must show a demonstrated need for the information and a responsible application of what we have learned.

"Criminal activity spawns the need for criminal intelligence," Shook said. "Society has been less effective in curtailing criminal activity than it has been in restricting the gathering of criminal intelligence. It should instead be fighting a battle to protect itself. It has directed police agencies to protect its interests and it must give these agencies the weapons with which to provide that protection," he said.

"Together, as responsible law enforcement officers, we can attain the public trust and confidence that is so necessary to an intelligence operation. I, for one," he stated, "am ready to tell the people I am charged to protect that my intelligence operation exists to protect, not to oppress. If intelligence exists for any reason other than to provide security and tranquility, then maybe our critics have a valid point," he said.

However, he concluded, "I do not believe that oppression is the end result of intelligence gathering in any free nation in the world, and those trying to sell that concept are not doing anyone but the criminal element a favor."



# Gates to Seek Bigger Anti-Terrorism Unit

Cites Bombings, Olympics in Saying He  
Wants to Expand Intelligence Division

By DAVID JOHNSTON

Times Staff Writer

Los Angeles Police Chief Daryl F. Gates said Tuesday he will recommend expanding his controversial intelligence gathering unit next year to deal with what he predicts will be increasing foreign terrorism in the city and security intelligence for the 1984 Olympics.

Gates said his Public Disorder Intelligence Division "may have been a little bit ineffective" in failing to prevent a Hollywood bombing Sunday involving a dispute between Armenians and Turks, and blamed this on cutbacks in the division's manpower.

The intelligence division currently has 54 officers working as analysts and supervisors—down from 90 three years ago—and an unknown number of undercover officers. Gates did not say Tuesday how many more officers he wants to hire for the division. Gates, in an impromptu news conference, also said he understands the Los Angeles Olympic Organizing Committee will pay its "fair share" of the cost of increased police intelligence work associated with the games.

## Ueberroth Disagrees

But Peter Ueberroth, the committee president, said this promise was limited to costs of crowd control at the games themselves and did not apply to intelligence gathering. He said the CIA, FBI and Los Angeles County Sheriff Peter J. Pitchess have all agreed to do intelligence work for security at the 1984 Olympics without seeking reimbursement from the committee.

No estimate has been made yet of security costs for the 1984 games, but total security costs for the 1976 Montreal Olympics were estimated by the host committee there at \$120 million. An unknown, but probably small, fraction of this was spent on police intelligence gathering.

Gates repeatedly has asserted that Los Angeles has largely been free of terrorist activities such as political bombings because of the "effectiveness" of the intelligence division.

Gates asked about the bombing Sunday of a Hollywood travel agency owned by a Turkish-born American and the bombing six days earlier of the Turkish consul general's Bel-Air home, noted that there have been other recent political bombings in the city involving Iranian and Nationalist Chinese issues.

LA Times  
10-15-80



## Warning From an Expert

San Francisco Chronicle 41

Wed., Oct. 15, 1980

# 'A Terrorist Pearl Harbor'

By Jerry Carroll

The horror of it seems distant if not unlikely on this pleasant day in this beautiful apartment with the glass walls and the panoramic view of — well, perhaps it would be better not to go into that.

"You can mention only that I live in the Bay Area," says the cultivated Israeli anti-terrorist expert seated on the rust-covered sofa. "You don't want to endanger me."

Paranoia abounds these days, but Sabi H. Shabtai, 39, who has the muscular quickness and thick neck of a man who punishes the body for its own good with dumbbells and exercise boards, has a megadose.

Shabtai, who in the early 1970s correctly predicted that hijacking planes would become a favored mode of revolutionary statement, fears the 1980s will see far worse.

"A terrorist Pearl Harbor," is the name he puts to what is in store for us.

What form it will take no one can say, according to Shabtai. With the proliferation of atomic weapons in an age of nuclear parity between the superpowers, it is easily within the realm of probability that a terrorist group will obtain an atom bomb and use it to blow up an American city.



'War by proxy is one way of putting it,' said Israeli anti-terrorist expert Sabi H. Shabtai

By Mike Maloney

↓ over



"War by proxy is one way of putting it," he says.

"Were that to happen, says Shabtai, you could bid farewell to constitutional safeguards, America's democratic institutions — the whole works. The populace would be so traumatized by such an event it would willingly embrace any totalitarian methods needed to ensure it didn't happen again.

"In times of crisis, people almost always are willing to trade their freedoms for order," Shabtai said.

Shabtai, who holds a doctorate in political science from the University of Chicago, is a former member of the Israeli Foreign Service. Was he ever a spy? Is he now? "If I were, I wouldn't tell you," Shabtai says.

"All right, I declare to you I

have not been a spy. OK?" he says with a gesture that throws the statement into question.

He was a senior fellow at the Adlai Stevenson Institute of International Affairs, where he specialized in problems of violence and international terrorism. He has advised the U.S. Army and American corporations on these problems.

"It is in the best interests of the democracy to increase its anti-terrorist capabilities now, while it can be done under constitutional processes," argues Shabtai. This entails beefing up the nation's intelligence and counter-intelligence services, for starters.

This is no easy thing, as Shabtai admits. For one thing, the FBI and the CIA are post-Watergate initials that could be shorthand for Beelzebub as far as a lot of people are con-

cerned. But both agencies must be strengthened, in his view.

"Did we dismantle the armed forces because of My Lai?" Shabtai asks.

Although he once breezed into a nuclear power plant bearing a bottle of water marked with the label "Nitroglycerin" to determine how difficult it would be for a terrorist to do likewise — a stunt that later helped lead to a tighter security at those facilities — he no longer believes that "static security" suffices.

"Unless we want to become a police state, there is no way we can protect all of the vulnerable places in the United States," he said.

"The best way of protecting against terrorism is to try to preempt them," Shabtai said. This means infiltrating terrorist groups the way the Israelis have.

"In Israel, five out of six terrorist acts are preempted," he added. "If they were not, perhaps there would be no Israel."

The lesson of the Israeli raid at Entebbe, Shabtai said, is that action must be taken swiftly. By contrast, the U.S. dithered for months after the embassy in Tehran was seized. As a consequence, Shabtai says, American foreign policy has been deformed every since.

"Vacillation has a tendency to create new attacks," Shabtai said. After the successful Entebbe raid, he said, "there was a slump in international terrorism." Since the takeover of the American embassy in Iran, there has been an upsurge.

Shabtai is a director of the newly formed International Association to Combat Terrorism, an El Paso-based organization of scholars and other experts that was formed to collect information on terrorist groups.

In the past, Shabtai's writings on terrorism have been confined to dry tracts published by scholarly magazines with a limited audience. "I wasn't reaching anyone," he said.

"One thing that has to be done is to educate the people about the threat. We can't win unless the public realizes that terrorism is a war being waged against the western democracies," he said.

In a bid to carry his message wider afield, Shabtai wrote a novel about a terrorist attempt to seize control of three nuclear reactors in Illinois. Negotiations for a movie are under way.



# CIA cites 'changing world' for need to allow domestic spying

By BARRY SCHWEID

LANGLEY, Va. (AP) — A top official of the Central Intelligence Agency said Tuesday a "changing world" has prompted the Reagan administration to explore whether to rescind some limits to CIA spying within the United States.

The administration has launched an intensive study of legal and other barriers to intelligence operations to see if some can be removed by the summer to combat international terrorism, deputy CIA director Bobby R. Inman said at a rare public briefing at CIA headquarters.

The survey is known to include consideration of expanding authority for the CIA to use break-ins, physical surveillance and covert infiltration of American groups and businesses in pursuit of foreign operatives.

However, Inman said, "There hasn't even been the slightest hint, from anyone, of using a covert action capability in a domestic situation."

But at the Capitol, Sen. Joseph Biden, D-Del., said he understood the new proposals would relax standards on mail-openings, surreptitious entry and electronic surveillance directed at Americans without evidence of criminal activity.

Biden, a member of the Senate Intelligence Committee, said he was "very disappointed" to hear of the proposals. He said he understood they would "re-introduce the CIA into domestic surveillance activities."

In a briefing at CIA headquarters in suburban Washington, Adm. Inman said terrorist activities required a re-examination of the inhibitions on intelli-

gence gathering in the United States. Inman said terrorist activities have stepped up since 1978 when then-President Carter signed an executive order limiting the CIA's ability to conduct domestic investigations.

Inman predicted that President Reagan will be asked to relax those restrictions and that Reagan will go along.

"I expect there will be some changes because of changes in the world we are operating in," the admiral said in an hourlong session. The last CIA press conference was held more than a decade ago.

Sen. Barry Goldwater, chairman of the Senate Intelligence Committee, said the proposed revisions were under study and that the CIA would brief members of his panel Friday.

Sources said the new intelligence

proposal is designed not only to curb terrorism but also to improve leak investigations and the CIA's ability to evaluate foreign economic developments.

Inman objected to published accounts of the study that he said had raised "great worries," within the government and among the public, about changes in CIA operations.

Many CIA operations were scaled down, some by court orders, others by executive command, during the Ford and Carter administrations.

All U.S. intelligence agencies now operate under an executive order signed by Carter in January 1978. That order, which actually relaxed some restrictions imposed by then-President Ford in a 1976 executive order, barred the CIA and other U.S. intelligence agencies

from conducting domestic operations that fall in the jurisdiction of the FBI.

The Ford-Carter restrictions were clamped on the CIA after revelations that the agency had been spying on domestic anti-Vietnam War groups and opening the mail of American citizens in the 1960s — despite the fact that the agency was established to gather intelligence abroad.

Now the CIA hopes to have the Ford-Carter restrictions redrawn to allow some domestic activities.

While stressing that no recommendations are final and that none had yet been sent to the White House, Inman said: "We are likely to see some revision of the executive order and some restrictions which now exist. And I believe that is likely to come about because of a changed world, because four

years ago ... terrorism was not a topic of great concern to us."

Other sources said the goals of the review include improving investigation of leaks and enhancing the CIA's ability to spy on foreign economic developments. Heading the study group is Daniel Silver, the CIA general counsel. Members were drawn also from the FBI, the National Security Agency and the Defense Department, among others.

"Obviously we are discussing changes of many kinds involving the agency," Dale Peterson, a CIA spokesman, said.

Inman appealed to the eight reporters invited to his briefing to give the administration "a little breathing space" to evaluate possible changes by not making it seem that decisions were imminent.



# Our Desperate Need For Police Intelligence Units

Senators Frank Church and Teddy Kennedy are promoting a new charter for the FBI which would in effect give every terrorist one free shot.

These liberals, along with the liberal-dominated Big Media, have kept up a drum fire against what they call "government spying" and what used to be identified as police or military intelligence.

"No American should be investigated unless the (Federal) Bureau of Investigation has probable cause to believe that a crime has been, is being, or is about to be committed," say Church and Kennedy.

Then these famous Senators go on to announce:

"The public record is devoid of any evidence that intelligence investigations are an effective tool in protecting the public from terrorist violence."

That such frightening nonsense should come from two of the committee chairmen of the United States Senate is something of a national horror. For American Spectator magazine has published a detailed refutation of this Church-Kennedy absurdity, compiled by Eugene Methvin, a senior editor of Readers Digest.

Among evidence of advance intelligence having saved lives, Methvin lists the following:

- 1975 — An FBI informant who infiltrated the "Black Guerilla Family" averted a planned kid-

napping of Gov. Jerry Brown's sister."

- 1974 — An FBI informant helped avert a planned assassination of Emperor Hirohito, by a Japanese-American woman who had associations with the American Indian Movement and the Black Panther Party.

- 1974 — Two FBI informants infiltrated a white hate group in New Jersey and learned of a Ku Klux Klan activist's plan to blow up the IRS in Washington.

- 1970 — An FBI informant within the Black Panther Party warned of a planned ambush of Detroit police.

- In 1977, two FBI agents infiltrated the Weather Underground and averted the planned murder of a California state senator, a judge and a leader of the anti-busing movement.

Also in 1977, however, when Hanafi Muslims seized 110 hostages in 3 buildings within blocks of the White House, they shot one of the D.C. City Council members who had supported an end to "government spying" — by the withdrawal of a D.C. police informant who had infiltrated the Hanafis.

With terrorism increasing — including bombings and murder of U.S. Navy personnel by terrorists in

Puerto Rico — the U.S. Senate Select Committee to Study Intelligence Activities has concluded:

"The excesses of the past do not justify depriving the United States of a clearly defined and effectively controlled domestic intelligence capability."

Supreme Court Justice Thurgood Marshall in upholding the right of the FBI to infiltrate the Socialist Workers Party, observed:

"Our abhorrence for abuse of governmental investigative authority cannot be permitted to lead to an indiscriminate willingness to enjoin undercover investigation of any nature, whenever a countervailing First Amendment claim is raised."

How much terrorism will have to break out in the United States before Big Media will cease what has been a massive assault on the FBI and CIA — with no such apparent concern for the U.S. operations of the KGB, or the assorted terrorist groups?

And why is it that in 1977, when Weather Underground founder Mark Rudd surrendered after seven years on the FBI's Most Wanted List, Mr. Carter's Justice Department did not call him before a grand jury to ask about the 1971 bombing of the U.S. Capitol?

--L.K.



# Press excluded, so terror meet ended

By BOB SISSON  
The Columbian

On Oregon college canceled its Vancouver conference on rioting and terrorism Monday after a featured speaker refused to let reporters cover the event.

Gene Price of the California Specialized Training Institute said he thought the presence of six reporters would inhibit discussion among him and the participants.

About 75 police and fire officials, disaster directors and bankers from Washington and Oregon met at the Thunderbird Inn at the Quay to hear Price and several other speakers.

The conference was sponsored by the Washington and Oregon departments of emergency services and Western Oregon State College at Monmouth.

College officials sent notices to area newspapers. They said in a college brochure that the media was welcome.

"It was assumed this was open enrollment... That's Western's position," Wayne Rodgers White, a college official, told the group. "Within that context, it's our policy that the press has access."

"I have no secrets of what I'm doing, but I wouldn't want to discuss it among the public," Price said. "It's not the kind of thing I want to share with someone who is not part of the law enforcement family."

Ironically, he said he gathers much of his intelligence on terrorists from news stories.

The event started at 10 a.m. and was canceled shortly after 1 p.m. Participants heard opening remarks and an overview of terrorism, ate

lunch and waited while leaders decided if the conference should continue. Price met with reporters during lunch.

His object, he said, was to make participants aware of terrorism worldwide "so they have a better appreciation of what exists." He would not be specific.

The California Specialized Training Institute of San Luis Obispo, Calif., provides emergency management training for such things as earthquakes, floods, nuclear "incidents" and civil disorder such as riots and terrorism, Price said.

He said people from Washington and Oregon have committed terrorist acts in California. He would not elaborate.

A luncheon speech by Col. Hussein Toga, commander of the Jordanian Royal Guard, also was canceled because of Price's position on media coverage. Toga is a graduate student in California on leave from the guard.

College officials sent between 3,500 and 5,000 brochures about the conference throughout Washington and Oregon, White said.

No one from Clark County attended. Vancouver Police Chief Leland Davis, Vancouver Fire Chief Otto Jensen, Clark County Emergency Services Director Ron Mitchell and Sheriff Frank Kanekoa said the college did not notify them of the conference.

Participants were refunded their \$85 conference fee. Price met privately with about 40 law enforcement officials after the conference to discuss terrorism. Reporters were not invited.

## Panel says terrorism gaining

By SUSANA HAYWARD

NEW YORK (AP) — The United States cannot cope with escalating worldwide terrorism and lacks a sound government policy to fight it, according to a four-member panel on international terrorism.

"The '70s have been known as the Terror Decade No. 1. . . . Unfortunately it's been directed at the West — not at the East or the Soviet Union," Frank H. Perez, the acting director of the U.S. State Department office for combating terrorism, said Thursday.

"Whereas there were 200 attacks worldwide against diplomats in 1970, there were twice as many in 1980," Perez said. "The year 1980 alone witnessed more than 100 attacks against U.S. diplomats and facilities."

Only hours after the conference ended, the Pentagon said U.S. Army Brig. Gen. James L. Dozier was kidnapped from his home in Verona, Italy. Police suspect the Red Brigades terrorists.

"We can't deal with (terrorism) on a unilateral basis. It involves other countries and cooperation around the world," Perez said. "We need a change — more effective measures."

He said that during 1980 there were 760 terrorist incidents, killing 642 people and wounding 1,078. Thirty-eight percent of the attacks were directed against Americans or U.S. properties, he added.

"Since 1968, there have been more than 3,000 attacks on diplomats worldwide, with more than 300

diplomats killed and more than 800 wounded. Twenty ambassadors from 12 countries have been assassinated, including five American ambassadors," he said.

In 1981, Perez said, there were 2,425 terrorists acts around the world.

He defined terrorism as "a criminal, abnormal act (used) for political purposes."

The panel also included Rep. Jeremiah A. Denton Jr., R-Ala., chairman of the Subcommittee on Security and Terrorism; Dan Pattir, a former counselor for Media Affairs for Israeli Prime Minister Mepachem Begin; and Yonah Alexander, a professor with the Institute for Studies in International Terrorism at the State University of New York.

Denton said the U.S. has evidence that "certain foreign powers support or incite terrorist activities directed against the national interest of the United States."

But the U.S. "lacks . . . understanding of terrorism" and needs to come up with a government policy to deal with it, he added.

"Carlos the Jackal" should be on the tip of the tongue of every high school student. Even our politicians don't know (who he is)," Denton said, referring to alleged terrorist Ilich Ramirez Sanchez.

The Venezuela-born Carlos, as he is known, is reputedly a member of a "hit squad" allegedly sent by Libya to kill President Reagan and other American government officials.



# Media terrifies terrorism session

By JOE URIS

ALTHOUGH THE PRESS was clearly invited through press releases and the conference literature itself, maybe sending a reporter to a conference on Rioting and Terrorism wasn't such a good idea.

Maybe it was the KEX guy with the tape recorder or the Willamette Week women with those pegged pants or the guy from the Daily Columbian with the unmatched outfit. Or maybe it's just that the press, itself, with its propensity for reporting what it sees and hears, is out of fashion these days.

Whatever the cause, the presence of the press was enough to demolish the second annual Disaster Planning Conference for disaster, law enforcement, fire, banking and education personnel, sponsored by Western Oregon State College's Division of Continuing Education. If these people are in charge of disaster planning, the taxpayers of Oregon and Washington are not getting their money's worth. That is, unless they just plan disasters, not deal with them.

It happened like this: The college's DCE division, which sponsors courses and conferences to meet the special needs of agencies like Oregon and Washington emergency groups, earns its keep on tuition and fees. So it tells the press and anyone else on various mailing lists about its courses. This works all too well, it turns out. For example, the press release on the disaster conference drew the news media to the Inn at the Quay in Vancouver, Wash., especially since the conference topic, "Rioting and Terrorism," sounded like a lulu.

Now, normally, this is fine and dandy. Good publicity, good image to the public, good done for the community. Right? Wrong.

It seems that the conference's many speakers were not anxious to be quoted during their presentations. The man doing most of the presenting, Gene Frice of the California Specialized Training Institute, would only talk to the press outside the conference. He would not discuss the specifics of his presentations. What he did say was that he had been treated less than responsibly by the press in the past and that with the press present, he and his audience would be inhibited.

Frice was generous with his time compared to one of the other top draws of this disaster event. Col. Hussein Toga, commander of the Jordanian Royal

The Oregonian

## FORUM

WEDNESDAY, JANUARY 27, 1982

Guard, personal security adviser to King Hussein, and a graduate student at the University of Southern California, was to have spoken after lunch on the Palestine Liberation Organization. He, apparently after hearing that the press was about, fled.

According to Wayne White, DCE director for Western Oregon State College, his staff only realized that the press might be unwelcome last Friday, three days before the two-day conference was to start. It was only Sunday night, the eve of the conference, that Frice insisted on no press coverage of the conference proceedings.

By Monday morning, as the conference got under way, the press people denied entrance waited by the reception area. Editors were called. Responding to requests for advice by Washington's emergency services staff, the Washington state attorney general's office ruled that the meeting was not covered under that state's open-meeting law.

Meanwhile, college executives, already anxious in the face of press interest, decided that their position all along was, as White put it, that there was "open enrollment in all our programs. Our policy always has been this." In the face of Frice's demand for press exclusion, the college then withdrew its support of the conference.

At noon, Frice agreed to speak to the press. The man from the California Specialized Training Institute explained his organization's role in teaching something called emergency management response training to local agencies throughout the country. His courses, he explained, are attended by public and private groups concerned with natural disasters, civil disorder, nuclear mishaps and terrorism.

In the law enforcement area, C.S.T.I. deals with tactics, alternatives to lethal force, arrest and control techniques, and riot and terrorism, he said.

Frice's organization, initially funded under the Nixon anti-crime programs of

the Law Enforcement Assistance Administration, is now supported by the state of California. Its origins apparently rest in the effort to curb the unrest that so disturbed the tranquility of America during the Vietnam War era.

Despite an evident drop in bombings and terrorist acts in recent years, Frice sees an increasing need for anti-terrorist and anti-riot training. While he admits incidents are down, he says harm and property damage of terrorist activities are up.

Citing alleged Armenian, Croatian and Black Liberation Army actions in past years, Frice sees potential threats to security everywhere. Even evidently in Oregon and Washington.

Frice indicated that his institute has been viewed critically by the press in the past. In final remarks before the conference officially disbanded, Frice said, "I want to speak to this group, not the rest of the world." With the press in attendance, he indicated he would be limited in what he and his students could say. "I don't have six or eight hours of ... that you would want to hear," he said.

After checking with his superiors in California, he decided on his own to cancel any public discussions. "I don't have any bones to pick with those folks back there (the press). You and I have dealt with the press many times. Sometimes they are less than responsible," he said.

As Washington Emergency Services Division personnel left the conference in the face of the withdrawal of DCE sponsorship, a rump group gathered and rented another room to hear Frice privately. When the press tried to enter the new meeting, it was turned away amidst hostile glances and hard stares.

Ironically, a similar conference was held with no apparent media attention at the Inn of the Seventh Mountain near Bend only a few months ago. It evidently had no press releases and no bro-

chures welcoming the media.

Frice admitted that he had perhaps not been clear enough in his initial demands for a closed event. Yet several questions seem unavoidable in the face of such a disaster presented by experts on disaster control:

What was Frice going to say that cannot be said in public? Was he going to tell of secret weapons, techniques or lists now in preparation? Or were the feelings that might be vented by all concerned too ugly for public consumption? Or is it simply a matter of in-groups and secret knowledge, like some kids' backyard club?

Why, given the lack of terrorism or recent riots locally, was this topic chosen for an Oregon-Washington conference? Are we, unknown to us, about to be victimized in our sleep? What, for that matter, is terrorism anyway, and how is dealing with it any different than dealing with any other crime?

And why an expert on the PLO? When was the last time the PLO struck in Astoria or Pendleton? It would seem that in the face of a rising crime problem in Oregon, with Portland fourth in the nation in the crime statistics, there are more pressing problems facing our law enforcement people than terrorism from the Near East. Is it just that terrorism is the new glamor crime replacing the Colombian Connection and the New Left Underground?

Finally, while Western Oregon State College did decide to stick to the commitment to open courses and public access through the media, why were it and all other agencies of both Oregon and Washington totally unprepared for the media interest that they provoked through their own press releases and choice of topics?

Given these times of harsh budget cuts in human services and increases in expenditures for war, the secrecy insisted on by men like Frice and apparently desired by many others at the Second Annual Emergency and Disaster Planning Conference takes on a possibly more ominous meaning. Are there plans afoot to stifle legitimate protest under the scary heading of riot and terrorism control? This question unfortunately must go unanswered, for the public's watchdogs in the media were left out of the discussion.

Joe Uris is a Portland writer who teaches history and sociology at Clackamas Community College.



together by the federal and state emergency planning officials. The man who put it together runs an outfit called the California Specialized Training Institute and we reported that his predecessors are now in charge of the Federal Emergency Management Agency, and are quickly changing it from an agency for civil defense and disaster control to a crack antiterrorist squad. However, this report by Jeff Stein, a writer in Washington, D.C., points out the new crew at the Federal Emergency Management Agency is about to get into a messy turf battle with the FBI, which thinks it's been doing a fine job controlling domestic terrorism.

**B**URIED DEEP IN the Northern Virginia mountains is the operational headquarters of a federal agency so secret that most Americans have never heard of it, yet it probably has more unchecked power to gather and store information on U.S. citizens than the FBI and the CIA combined. It's called the Federal Emergency Management Agency, whose official task is that of civil defense and disaster control. It operates a supersecret site inside a reinforced cave in Mt. Weather, to which the seat of government would move in the event of nuclear war. Under the rationale of conducting the government in a postwar world, the agency has amassed extraordinary powers to store confidential information on Pentagon records. Moreover, in another facility near Culpeper, Va., moreover, the agency compiles private bank records of citizens. Most people — including senior U.S. officials — would probably be surprised to learn that the agency has its own, confidential surveillance teams to shadow top officials in the line of presidential succession, and can eavesdrop on them even in the hushed privacy of their limousines through telephone lines maintained by the agency.

None of these extraordinary powers has exercised anyone much to date because the Federal Emergency Management Agency has hewn closely to its mandate to cope with natural disasters and civil defense. But now, officials in the FBI and some Capitol Hill investigators have begun discreet inquiries to find out what's been going on at the agency under the guidance of ambitious Reagan appointees, who seem to have some rather esoteric interests, particularly in terrorism. Chief among these is Louis Giuffrida, who is now heading the agency, and who is a close friend of Reagan counsel Ed Meese. During the Reagan governorship, Giuffrida was in charge of the California Specialized Training Institute in San Luis Obispo, where police from all over the United States, Canada, and Mexico received advanced training in "counterterrorism," riot control, and military government during civil emergencies. Now, according to well-placed sources, Giuffrida has shunned the routine mission of such things as flood control and the like in favor of turning the agency into the leading counterterrorism arm of the government. With his cronies recruited from California Specialized Training Institute, for example, he has quietly created a new "Disorder Consequences Division," and has taken steps to turn the National Firefighters

Please turn to page 7

## FEMA and Terrorism Losing Friends at the FBI

Two weeks ago we wrote about the short-lived conference on rioting and terrorism put



Willamette Week  
2-(16-22)-82.

## FEMA and Terrorism

Continued from 4

Academy in rural Emmitsburg, Md., into a school to train an elite corps of antiterrorist commandos.

All these developments have begun to irritate senior FBI officials, especially those in charge of monitoring the low level of terrorism in the United States. They were especially irritated to pick up reports last fall that Giuffrida and his allies were spreading the word on Capitol Hill that FBI Director William Webster was "soft" on terrorism and that FEMA needed to fill the vacuum. Moreover, according to a key FBI source, agency lobbyists have been doing "a quietly effective job" of convincing staff members of the new U.S. Senate Subcommittee on Security and Terrorism that the KGB, the Palestine Liberation Organization, and as undercover group in Cuba have made important links with American radical groups.

To date, ultra-rightists in and around the Reagan administration haven't had much luck in implementing the Heritage Foundation's much-ballyhooed blueprint for investigating suspected subversives. Alabama Sen. Jeremiah Denton's hearings last year on supposed Soviet influence in the American media were a conspicuous failure and the Weathermen episode in Nyack has been treated by the press more as a death-knell than a harbinger, much to the right wing's distress. Perhaps more importantly, FBI Director Webster has continued to emphasize white-collar crime over domestic terrorism, which, in fact, has continued to be more of a threat from right-wing Cuban exiles than any group on the left. Adding to Webster's political problems was the well-known conclusion around FBI headquarters on Pennsylvania Avenue that the White House's alarms about Libyan hit men were greatly overblown, if not fabricated.

With these developments, the ambitious Giuffrida and his fellow alarmists have begun to pick up some political chips. But apprehension that the Reagan administration is taking steps to create a new and supersecret police agency, armed with extraordinary emergency powers and unchecked access to millions of confidential files on American citizens, has now caught the attention of California Congressman Don Edwards. A former FBI agent himself, and a fan of Webster, Edwards is disturbed that officials of the Federal Emergency Management Agency may be going far beyond their mundane charter. It won't be long before Giuffrida and his friends get a call from Edwards with a simple question: What's going on out there?

—JEFF STEIN



# There's a Riot Going On

*Why are Oregon's cops and fire fighters and teachers so interested in terrorism? And why so secret?*

By SUSAN C. ORLEAN

A LOT OF PEOPLE are finding it tough to fall asleep these days. It's those recurring nightmares, those visions of Lt. Col. Charles Ray gunned down on a Paris side street, or Brig. Gen. James Dozier locked in a cramped Italian apartment, or that French nuclear plant pierced by Soviet missiles. Terrorism is the bogeyman of the '80s. So it's no surprise that a conference entitled "Rioting and Terror-

ism!" held last week in Vancouver, Wash., would pique the interest of more than a couple of jittery types.

Including ours. But after attending the conference, which ended in a fracas over press coverage, and after looking hard at the people charged with saving us from terrorists, it seems that the real ogre of this era may be zealous counterterrorism, endorsed by no less than Ronald Reagan, for whom it has held a special sway since his days as governor of California.

Then what of the conference? Its official name was the Second Annual Disaster Planning Conference, sponsored by Western Oregon State College's Division of Continuing Education in cooperation with the Oregon Emergency Management Division, the Washington Emergency Services Division, and a couple of Oregon police and fire boards. The First Annual conference was held in Portland last year and the buzzword was "volcano," certainly a far cry from terrorism. What came in between was the national meeting of state emergency planning directors, led by the Federal Emergency Management Agency.

In the past, the agency troubled itself with nothing but flood control. But Reagan's lieutenants, in particular presidential advisor Edwin Meese, have since quietly picked the Federal Emergency Management Agency as the nation's anti-terrorism agency. The word came down at that conference: Terrorism is on the march and you'd better get hip to it. "That made our hair stand on end," says Harvey Latham, Oregon's director of Emergency Management, "but we

*Please turn to page 7*

## A Riot Going On

*Continued from 1*

couldn't see what our role would be." What's more, coping with high water at Garibaldi and "911" was a lot more attractive to Latham — and probably most of his peers — than settling the score with some creep with a ski mask and a machine gun.

But terrorism it would be, and Latham organized a workshop for his division last year that included an overview of terrorism, provided by a speaker from the California Specialized Training Institute, a state-run school in San Luis Obispo, which runs workshops on emergency management and criminal justice. The terrorism talk went over "with a bang," Latham recalls; when the second big conference rolled around, his agency decided to make terrorism and the institute its centerpieces.

Western Oregon State gets involved in these things through the back door: its self-supporting Division of Continuing Education organizes workshops and classes either on request or if they are likely to have an audience. "Let's face it, we're a service institution," says college Director of Public Affairs Dennis Lavery. "It's an entrepreneurial thing, what the marketplace requests. Some of our workshops, like this terrorism one, and ones we'll be doing on air evacuation and creationism, seem to have nothing to do with the college. But if we can serve the public, we'll do it." Also worth noting is that, because the state's police training academy is on campus, Western has a special chumminess with the law-enforcement world. Part of the deal when the conference was arranged was that participants could get either one unit of undergraduate college credit or accreditation from the Fire Standards Board or the Board on Police Standards and Training (although Board Section Chief Bill Bell says he was surprised and curious that the school would offer the course, because he thought it the kind of training "normally sponsored by a law-enforcement agency or by us"). The Western Oregon social-science professor who set up the conference, Dr. Ronald Chatham, also does a hefty amount of outside work for law enforcement



agencies — he runs fire service programs in all the Western states for the National Fire Academy, a branch of the Federal Emergency Management Agency.

Latham recommended to Chatham that they once again use the instructors at the California Specialized Training Institute for the terrorism presentations. The institute is a singular establishment. It was founded in 1971 by Louis Giuffrida, whose pal, Edwin Meese, was serving as an assistant to then-Gov. Ronald Reagan. Giuffrida had all the super-cop credentials — Army War College, Advanced Industrial Security Training, U.S.A. Military Police Advanced Course, member of the American Society for Industrial Security. Meese had a flair for funneling law-enforcement monies into the state of California. With Giuffrida named as "The Commandment," the institute was set up with funds from the Law Enforcement Assistance Agency. Its purpose was to provide middle- and upper-level management training for officials and private citizens charged with seeing us through emergencies, according to the institute's Academic Division chief, Robert Wyngard. Institute literature spells it out further: "From its inception, the institute has pioneered 'hands on' training in such areas as Civil Emergency Management, Officer Safety, Terrorism, Hazardous Materials, Corrections, School Violence, and Prison Gangs."

That may sound alarming, but the fact is, the institute has proved as popular as *Patterson*. Wyngard points out proudly that there have been 26,000 graduates of the tax-funded institute, representing every state and American protectorate and nearly 20 foreign countries. And the school's directors, selected by the California governor and the commanding general of the state Military Department, which administers it, have outlasted every political wind that's whipped through the state.

Outlasted, and then some. Giuffrida headed the institute until a year ago, when he took off for Washington, D.C. (with Meese and Reagan) for a job as top dog at the Federal Emergency Management Agency. Shortly thereafter, that agency acquired a new branch, the Disorder Consequences Division, at the National Fire Academy in Virginia. It was headed by Fred Villella, former chief of the Academic Division of the California Specialized Training Institute. According to an article by Washington journalist Jeff Stein, the combined powers of the

FOR THE WEEK OF FEBRUARY 2-8, 1982

William Miller 7



"Revolutionists . . . coming from wealthy homes . . . championing any cause for excitement."

Federal Emergency Management Agency and its new division to collect information on citizens now outstrip that of the Federal Bureau of Investigation and the Central Intelligence Agency combined.

Who uses the California school? Law-enforcement officials, mostly, and military personnel. Another 30 per cent are fire-service employees. That makes sense. Less obvious is why a good 14 per cent of the students who are not in those fields are in education, unless they, like Wyngard, believe that, "The closest thing we've got to terrorism here is school gangs. Out-of-state students can either attend resident courses at the school in San Luis Obispo, or the institute will send a speaker out in the field. Of the 50 states and

the handful of nations that have used the institute's services, Washington ranks first and Oregon *third* in number of graduates. From this state, 161 people have participated in trainings, most probably from the Portland Police Bureau, although records of those trainings are difficult to trace. Another big participant in the institute, oddly enough, is Wyoming, where, says Wyngard, "Every sheriff in every county and the entire military command structure has been through this training." Next in line might well be oil and shipping corporations, whose officials, Wyngard adds, have recently asked for a program on maritime terrorism.

The institute's mission, according to in-

structor Gene Frice, who was the central speaker at the conference last week, is awareness. "In the '60s, we saw a considerable amount of problems occurring around the nation, predominantly on the campuses, and carrying onto the street. At that time, I don't have much problem saying most communities were ill-equipped to deal with these problems born out of Watts and disorders on campuses. We came up with the funds to find a moral, legal and effective way to combat this kind of problem." The institute quickly won a reputation as a riot school — "totally inappropriate," Frice says — and countered it in part by emphasizing its courses on emergency management. Terrorism came next. It's not only international, Frice adds, because, "We've had incidents in California when people came down from Oregon and Washington and moved to California and committed these acts."

The school keeps tabs on suspected terrorists and troublemakers, like cults and nationalistic foreigners. Frice, who proves to be an active critic of the press, says he "gathers data [about them] primarily through investigative reporting and articles that have been written. The preponderance of my files come from the press and media."

### The conference that wasn't

The publicity promised big things: Gene Frice, who set up the institute's entire terrorism program; Colonel Hussein Toga, commander of the Jordanian Royal Guard and personal security officer to King Hussein (and paid consultant to the California Specialized Training Institute); talks

Please turn to page 8

continued next pg



# A Riot Going On

Continued from 7

about "pathological politics" and "revolutionists . . . coming from wealthy homes and having extensive educational training, who will champion any cause for excitement." Welcome, read the flyer, were the full complement of state and local agencies, as well as utility companies, "the Media," and the military.

Not quite. Someone — no one recalls who it was — called the college a few days before the Jan. 25 conference to suggest that

press coverage would cramp the institute's style. Continuing Education coordinators contacted the institute and were told that, yes, press coverage would indeed cramp their style and would have to be denied. When reporters from *The Oregonian*, the *Oregon Journal*, the *Daily Columbian*, KEX radio, and this paper arrived in Vancouver Monday morning, they found a closed door, a roomful of glowering men, and Western Oregon State College representatives in a fix. College officials in Monmouth were insisting that the press be allowed in, but the heat was on at the Inn at the Quay. The college line there was that there were lots of reasons, and good ones, why the press couldn't come in after all.

"Most of these men are in law enforce-

ment, security, and riot suppression and other types of suppression," Continuing Education Director Wayne White explained. "Some of the types of things to be discussed here are involved with detection and rioting and the suppression of that. We've been told by several of the students that the presence of the press may have a chilling effect on the types of questions and answers here."

Frice was adamant: he would not speak at all if the press were allowed in the conference. "I have no secrets about what I'm doing," he explained, "but I wouldn't want to discuss it in an open meeting with the general public. The experience factor is close to me and close to them." He nodded to the room, now empty while the conference students ate lunch. A small, taut man

sporting Beatle boots and a Snoopy tielack, Frice was flat and firm about his position. "My experience is this: It's not the kind of thing I would care to share with someone who is not part of the law-enforcement family." That family, at this conference, happened to include a number of local school teachers and officials from Oregon Bank. No matter, he wasn't going to budge. In the lunchroom, conference participants waited for Col. Toga to make his presentation. When he heard that the press was within sniffing distance, he turned on his heel and left.

It's 1:30 pm and the conference has trudged to a halt. The college representatives finally realize they can't hold the conference.

Please turn to page 9

Continued from 8

ference as a private meeting. White chalks it up to miscommunication. Frice walks to the podium and signs off, "In this business, they say never make any apologies, but I'll have to make an exception. I just don't see how I could modify my presentation and make it worth a godd— to anyone in this room. I don't have six hours of b—s— to give you. I don't have any bones with the folks back there. I just think there's frequently less than responsible reporting in the media. I personally have been misquoted, tattooed and screwed to the wall. I'm going to leave. I'll be in room 217. Appoint a committee — for God's sake, appoint a committee. I'm not going anywhere." Some people, reporters included, leave; a number stay, and the conference continues, privately, with the law-enforcement family intact.

Officials at the California school were aghast that the issue of press coverage ever arose. "Our agreement was with the Emergency Management Division," Wyngard says. "If we'd known it was the college, we wouldn't have done it. We don't do classes in the open, controversial arena such as you find on college campuses. We don't do it on campus and we don't intend to." The conference continued, Wyngard says, with people who were appropriate, at a site with "adequate security to keep the location closed."

Although no television reporters attended the conference, Wyngard fumed over the damage they might have done. "More tactics and techniques have been negated in the

last 15 years by TV than anything else. On balance, the one or two or three people affected by a poor-performing cop versus the people who could have been helped by a cop who's had his tactics negated by TV is incredible."

There were more bogeymen around. It happens, Wyngard says, that some of the most vocal members of the media at the conference were planning to expose the material. "There were individuals pointed out by the Portland police to Mr. Frice, acknowledged members of organization who would have benefitted by the information for political purposes. Our principal is to not allow the press to sit through our trainings. For the protection of the citizens of this country, I'm not going to let myself get

sandbagged by some enterprising reporter with visions of Pulitzers dancing in their head."

We'll soon find out whether the medicine for terrorism is worse than the disease itself. So far, there are workshops and theories and some eager counterterrorists in high places. The big test, Wyngard warns, will be the '84 Olympics in Los Angeles. If it goes smoothly, he guesses we're 20 years away from full-blown domestic terrorism. If it doesn't? "There are no plans that I'm at liberty to discuss," he says. "But the Olympics have all the key ingredients for terrorism. I can assure you they're thinking about that in California, and you can bet on it that they're thinking about it right now in Washington, D.C."



ades. Its leader was Pedro Albizu Campos, a Harvard Law School graduate who became disaffected when he was assigned to a segregated Army unit during World War I.

Berrios and most independencistas reject violence. At least 90 percent of those favoring independence, observers believe, want peaceful, democratic change.

Nevertheless, there have been spectacular outbursts over the years.

On Nov. 1, 1950, two nationalists, Oscar Collazo and Griselio Torresola, tried to shoot their way into Blair House, the temporary residence of President Truman. Torresola and a guard were killed, and Truman escaped unharmed.

In 1954, three terrorists got into the gallery of the House of Representatives and fired onto the floor, wounding five congressmen.

It is shown that about one in every 20 Puerto Ricans favors independence. Students of Puerto Rican history attribute that to unrestricted emigration to the United States and a flow of American dollars that has kept the standard of living there — while well below the mainland's — ahead of all but the Bahamas and the American Virgin Islands among Caribbean islands. Recent federal budget cuts, while they will hurt Puerto Rico, are not expected to affect independence sentiment.

But anti-American terrorism in Puerto Rico has intensified in the past two years. In December 1979, terrorists calling themselves the Macheteros — the machete wielders — ambushed a bus carrying American sailors, killing two and wounding ten. Last January, they penetrated Muniz Air Force Base and blew up eight A7D Corsair II fighters and an F-104 worth an estimated \$45 million.

Authorities on the mainland feel the FALN is setting up new lines of communication that will allow the leaders to call the shots from prison while new leadership is developed. Or, alternatively, operating from new structures like the Puerto Rican Armed Resistance. But officials acknowledge that inside information is skimpy, and their breaks are often the result of luck or FALN mistakes.

Until 1976, authorities had little idea who belonged to the group. Then a drug addict sold an undercover agent some dynamite stolen from a Chicago apartment rented to Torres, hitherto known only as a quiet young man who spent much of his time translating hymns into Spanish for the Episcopal Church group.

The Evanston arrests came about only because, as one official puts it, "somebody got suspicious about eleven Hispanics in jogging suits in a fancy neighborhood." Lopez-Rivera was picked up on a traffic violation, and William Morales, the first known FALN member ever caught, was seized in 1978 because a bomb blew up as he worked on it at a house in New York City.

Morales, who lost parts of his hands in the blast, subsequently escaped by shimmying down a rope from a hospital prison ward and is the only known FALN leader still at large.

Authorities also point out that of the eleven arrested in Evanston, five were unknown to authorities. Nor was Morales a suspect until he blew himself up.

"You had the FBI and the New York police spending millions of dollars and thousands of man hours looking for these guys. And who gets them? The Northwestern University police," says a New York policeman who has served on the anti-terrorism task force.

"Don't let anyone tell you that hard, diligent police work will catch them. You either get them by accident or someone tells you. They blend into their neighborhoods, and you're not going to find many people there who will tell you anything. It's too dangerous."

Mendez, who was arrested in Evanston, is the sole FALN member to have turned state's evidence. "You know why he flipped?" asks the FBI's Walton. "He flipped because he was a little guy, a small fry who went along for the ride on a couple of jobs and all of a sudden he was in front of a judge getting 75 years."

He hopes to persuade more members to talk and discourage others from joining. They also hope for indirect leads, as with Torres, in the necessary preludes to terrorism-like bank robberies or break-ins at armament stores. The recent shoot-out in which Ms. Boudin was arrested came after the attempted robbery of an armored car that police now say may have been staged to finance the Weather Underground terror group. They are also re-examining a series of armored truck holdups earlier this year in which the method of operation was similar.

But waiting for those leads can be frustrating. "You've got a rash of bank robberies committed by Hispanics in the South Bronx," says Walton. "It's treated as routine. There are a half-dozen a day in New York City. It may be an FALN job or it may not be. We rarely find out until it's too late. So we're never going to catch these people until they make a mistake. We got them in Evanston when they made a mistake. And I'd rather be lucky than good any day."



# Tracing independence terrorists mostly

THE SUNDAY OREGONIAN, NOVEMBER 8, 1981

2M A19

## luck for U.S. police

*Continued from ?*  
Continued from Page A18  
the colonial complex that afflicts the Puerto Rican on the island."

Police attribute more than 100 explosions since 1974 to the FALN. The FBI puts the figure at precisely 62 bombings that caused five deaths and 81 injuries and \$3,547,494.70 in property damage.

Most of the bombs have been placed at night in unoccupied government buildings or the headquarters of major corporations. Four deaths occurred when a bomb exploded at historic Fraunces' Tavern in New York during a busy lunch hour in 1975. The fifth, for which Haydee Torres was convicted, came in a daytime explosion at New York's Mobil Oil building in 1977. One more death — not yet officially counted

by the FBI — came when a bomb the Puerto Rican Armed Resistance claims to have set exploded last May in a men's room at Kennedy Airport.

FALN members consider themselves guerrillas at war with the United States. According to law enforcement sources, they operate in cells of six to 12 and usually know only members of their own cells. Authorities say the group has no more than 100 members and probably fewer.

Little is known about their internal operation. An intensive screening process has prevented law enforcement penetration, and only Mendez among the captured members has talked. In the early years, several leaders, including Torres, were unpaid volunteers for the Episcopal Church Commission on His-

panic Affairs. In 1977, after the link was uncovered, two employees of that organization were jailed after they refused to answer a grand jury's questions about the FALN. They have never talked.

The captured leaders declared themselves "prisoners of war" and refused to acknowledge a U.S. court's right to try them on such criminal charges as weapons violations, armed robbery, seditious conspiracy and murder.

Their rhetoric is revolutionary cliché: "Puerto Rico will be free and socialist," Lopez-Rivera shouted as he was convicted of seditious conspiracy. "Our people will continue to use righteous violence. Revolutionary justice can be fierce," Carmen Valentin shouted at the judge who sentenced her to 90

years.

Puerto Rico came into the American orbit in 1898 as one of the casual prizes of the Spanish-American War and remained a relatively placid colony for three decades. In 1917, the Jones Act conferred American citizenship on Puerto Ricans, setting the stage for the migration to American cities that intensified after World War II. Until 1952, when the island became a self-governing commonwealth, Puerto Rican governors were Americans appointed by the president, usually as a reward for political favors.

The independence movement surfaced in the late 1920s but could never get more than 22 percent of the vote in any plebiscite, a figure that has shriveled to 6 percent in the last two dec-

over →