INTELLIGENCE ACTIVITIES

SENATE RESOLUTION 21

HEARINGS

BEFORE THE

SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

OF THE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

VOLUME 6

FEDERAL BUREAU OF INVESTIGATION

NOVEMBER 18, 19, DECEMBER 2, 3, 9, 10, AND 11, 1975

Printed for the use of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities

U.S. GOVERNMENT PRINTING OFFICE

66-077 O WASHINGTON : 1976

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price $7.40

SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES

FRANK CHURCH, Idaho, *Chairman*
JOHN G. TOWER, Texas, *Vice Chairman*

PHILIP A. HART, Michigan
WALTER F. MONDALE, Minnesota
WALTER D. HUDDLESTON, Kentucky
ROBERT MORGAN, North Carolina
GARY HART, Colorado

HOWARD H. BAKER, JR., Tennessee
BARRY GOLDWATER, Arizona
CHARLES McC. MATHIAS, JR., Maryland
RICHARD SCHWEIKER, Pennsylvania

WILLIAM G. MILLER, *Staff Director*
FREDERICK A. O. SCHWARZ, JR., *Chief Counsel*
CURTIS R. SMOTHERS, *Counsel to the Minority*
AUDREY HATRY, *Clerk of the Committee*

CONTENTS

HEARING DAYS

	Page
Tuesday, November 18, 1975	1
Wednesday, November 19, 1975	61
Tuesday, December 2, 1975	107
Wednesday, December 3, 1975	157
Tuesday, December 9, 1975	257
Wednesday, December 10, 1975	281
Thursday, December 11, 1975	311

LIST OF WITNESSES

TUESDAY, NOVEMBER 18, 1975

Frederick A. O. Schwarz, Jr., chief counsel, Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities. 4

Curtis R. Smothers, counsel to the minority, Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities. 4

WEDNESDAY, NOVEMBER 19, 1975

James B. Adams, Deputy Associate Director, FBI Intelligence Division, and Raymond Wannall, Assistant Director, FBI Intelligence Division. 65

TUESDAY, DECEMBER 2, 1975

Mary Jo Cook, informant in Buffalo against Vietnam Veterans Against the War, 1973–74, accompanied by Allen Lenchek, counsel, and Ann Garfinkel, counsel. 110

Gary Thomas Rowe, informant against Ku Klux Klan in Birmingham, Ala., 1960–65, accompanied by Franklin Geerdes, counsel. 110

James B. Adams, Assistant to the Director, Deputy Associate Director (Investigation), Federal Bureau of Investigation; Raymond W. Wannall, Assistant Director, Intelligence Division; accompanied by John A. Mintz, Assistant Director, Legal Counsel Division; Joseph G. Deegan, Section Chief; Edward P. Grigalus, Unit Chief; and Joseph G. Kelley, Assistant Section Chief, Civil Rights Section, General Investigation Division. 132

WEDNESDAY, DECEMBER 3, 1975

John Elliff, professional staff member of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities. 158

Cartha DeLoach and Courtney Evans, former FBI officials, accompanied by Charles A. McNelis, counsel. 165

Nicholas deB. Katzenbach, former Deputy Attorney General and former Attorney General. 198

Ramsey Clark, former Attorney General. 220

TUESDAY, DECEMBER 9, 1975

William Ruckelshaus, former Acting Director, Federal Bureau of Investigation; former Deputy Attorney General. 258

Henry Petersen, former Deputy Assistant Attorney General, Criminal Division; former Assistant Attorney General, Criminal Division. 258

Norman Dorsen, professor of law, New York University. 258

WEDNESDAY, DECEMBER 10, 1975

Page

Clarence M. Kelley, Director, Federal Bureau of Investigation 282

THURSDAY, DECEMBER 11, 1975

Edward H. Levi, Attorney General of the United States 313

HEARINGS EXHIBITS[1]

Exhibit Nos.:

1—FBI Functional Organization Chart 347
2—Chart showing the structural breakdown of the Intelligence Division of the FBI 348
3—Chart of "Investigative Matters Received" indicating "Subversive Investigations" by the FBI from 1955 to 1974 349
4—Chart of "Investigative Matters Received" indicating "Extremist Investigations" from 1955 to 1974 350
5—July 16, 1975, memorandum from the Department of Justice to the Senate Select Committee re "Official and Confidential" files with attachment 351
6—July 19, 1966, memorandum from William C. Sullivan to Cartha D. DeLoach re "Black Bag" jobs 357
7—May 11, 1970, FBI investigative report re the "Women's Liberation Movement" 360
8—Chart showing the FBI's "Intelligence Collection Techniques" and their frequency 367
9—November 26, 1969, letter from FBI headquarters to all special agents in charge re "Inlet" 368
10—"COINTELPRO Composite" chart indicating target techniques 370
11—Chart indicating target techniques used for each domestic COINTELPRO program 371
12—August 28, 1956, memorandum from Alan H. Belmont to L. V. Boardman re "Communist Party, USA" 372
13—October 12, 1961, letter from FBI headquarters to special agent in charge, New York, re Socialist Workers Party 377
14—September 2, 1964, letter from FBI headquarters to special agent in charge, Atlanta re "Disruption of Hate Groups" 378
15—August 25, 1967, letter from FBI headquarters to all special agents in charge re "Black Nationalist-Hate Groups" 383
16—February 29, 1968, memorandum from G. C. Moore to William C. Sullivan with attached March, 4, 1968, letter to special agents in charge re "Black Nationalist-Hate Groups" 386
17—May 9, 1968, memorandum from Charles D. Brennan to William C. Sullivan re "Disruption of the New Left" 393
18—July 7, 1968, letter from FBI headquarters to all special agents in charge re "Disruption of the New Left" 395
19-1—January 30, 1970, memorandum from special agent in charge, St. Louis to FBI headquarters 398
19-2—February 17, 1970, memorandum from FBI headquarters to special agent in charge, St. Louis 401
20-1—August 26, 1966, memorandum from special agent in charge to FBI headquarters re "Klan" 403
20-2—September 8, 1966, memorandum from FBI headquarters to a special agent in charge 405
21—Undated letter from FBI headquarters to special agent in charge, Baltimore re "Black Panther Party" 406
22—Chart indicating COINTELPRO activity from 1956 to 1971 408
23—December 6, 1939, letter from J. Edgar Hoover to special agents in charge re Internal Security 409
24—July 16, 1943, memorandum from Francis Biddle to Hugh B. Cox and J. Edgar Hoover 412
25—August 14, 1943, letter from J. Edgar Hoover to special agents in charge 414

[1] Under criteria determined by the Committee, in consultation with the Federal Bureau of Investigation, certain materials have been deleted from these exhibits to maintain the integrity of the internal operating procedures of the FBI. Further deletions were made with respect to protecting the privacy of certain individuals and groups. These deletions do not change the material content of these exhibits.

Exhibit Nos.: Page

26-1—November 13, 1952, memorandum from D. M. Ladd to Director, FBI 416
26-2—November 25, 1952, memorandum from the Attorney General to Director, FBI re "Public Safety of the United States" 427
27—September 23, 1960, memorandum from J. Walter Yeagley to Director, FBI re "Nation of Islam" 428
28—January 30, 1969, letter from FBI headquarters to special agent in charge, Chicago re "Black Panter Party" 430
29—January 13, 1969, memorandum for special agent in charge, Chicago to FBI headquarters re "Black Panther Party" 432
30-1—June 3, 1968, memorandum from special agent in charge, Cincinnati to FBI headquarters 434
30-2—June 18, 1968, letter from FBI headquarters to special agent in charge, Cincinnati re "Disruption of the New Left" 438
31-1—Undated letter from FBI headquarters to special agents in charge, Newark and San Francisco 440
31-2—Letter from special agent in charge, Newark to FBI headquarters 441
32—August 26, 1971, memorandum from Clyde Tolson to the record re August 26, 1971 "Executives Conference" 443
33—November 25, 1975, memorandum from the FBI to the Senate Select Committee re "Request for Information Concerning The Bureau's Operation of Informants in the Internal Security Field" 444
34—Excerpts from correspondence between J. Edgar Hoover, President Roosevelt, and Stephen Early (received from the Franklin D. Roosevelt Library) 452
35-1—January 11, 1946, letter from J. Edgar Hoover to Harry Vaughan 455
35-2—January 17, 1946, letter from J. Edgar Hoover to Harry Vaughan 456
35-3—May 29, 1946, letter from J. Edgar Hoover to George E. Allen 457
35-4—December 13, 1946, letter from J. Edgar Hoover to George E. Allen 459
35-5—February 15, 1947, letter from J. Edgar Hoover to Harry Vaughan 461
35-6—June 25, 1947, letter from J. Edgar Hoover to Harry Vaughan 462
35-7—January 27, 1950, letter from J. Edgar Hoover to Matthew J. Connelly 463
35-8—April 1, 1946, memorandum from J. Edgar Hoover to the Attorney General 465
35-9—December 7, 1949, letter to the President 466
35-10—January 14, 1950, letter from J. Edgar Hoover to Harry Vaughan 469
36—A staff report titled "Political Abuse and the FBI" 470
37—July 6, 1971, letter from T. E. Bishop to John Mohr with attached news release re Leonard B. Boudin 486
38-1—May 18, 1970, memorandum from J. Edgar Hoover to Clyde Tolson, Cartha DeLoach, Alex Rosen, William C. Sullivan, and Thomas Bishop 490
38-2—May 18, 1970, memorandum from G. C. Moore to William C. Sullivan re Ralph David Abernathy 493
38-3—May 19, 1970, letter to Spiro T. Agnew 494
39—August 29, 1964, memorandum from Cartha DeLoach to John Mohr 495
40-1—January 29, 1975, memorandum from H. N. Bassett to Nicholas Callahan 503
40-2—Excerpts from January 28, 1975, memorandum from H. N. Bassett to Nicholas Callahan 507
41—September 10, 1964, letter from Cartha DeLoach to William D. Moyers 510
42—November 8, 1966, letter to Marvin Watson 511
43—September 17, 1975, letter from Allan Sharrett to the Senate Select Committee 512
44—September 2, 1965, memorandum from the Director, FBI to the Attorney General 513

Exhibit Nos.: Page

45—September 3, 1965, memorandum from Nicholas Katzenbach to J. Edgar Hoover ... 515
46—December 19, 1967, memorandum from the Director, FBI to the Attorney General ... 516
47—September 14, 1967, memorandum from Ramsey Clark to the Director, FBI ... 528
48—November 9, 1967, memorandum to Kevin Maroney, Thomas J. McTiernan, Hugh Nugent, James P. Turner, and Ramsey Clark re "Establishment of a Departmental Intelligence Unit in Relation to Civil Disorders" ... 531
49—December 18, 1967, memorandum from Ramsey Clark to John Doar, Fred M. Vinson, Jr., Roger W. Wilkins, and J. Walter Yeagley re "Creation of Inter-division Information Unit" ... 533
50—August 28, 1968, memorandum from FBI headquarters to special agent in charge, Chicago re "New Left" ... 535
51—September 3, 1968, memorandum from FBI headquarters to special agents in charge re "New Left" ... 537
52—January 31, 1975, response to the Senate Select Committee request re William C. Sullivan memorandums to John Dean ... 539
53—August 7, 1973, memorandum from the Director, FBI to the Attorney General with attached October 28, 1975, report titled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historic Perspective" ... 540
54–1—May 28, 1969, memorandum from special agent in charge, New York to FBI headquarters re "Women's Liberation Movement" ... 576
54–2—July 2, 1969, report filed by J. Robert Newton re "Women's Liberation Movement" ... 579
54–3—October 20, 1970, FBI investigative report re "Women's Liberation Movement" ... 585
55–1—Chart showing composite COINTELPRO activity from 1956 to 1971 ... 601
55–2—August 27, 1964, memorandum from F. J. Baumgardner to William C. Sullivan re "Disruption of Hate Groups" ... 602
55–3—April 27, 1971, memorandum from Charles Brennan to William C. Sullivan re "Racial Matters" ... 605
56–1—March 30, 1960, memorandum from F. J. Baumgardner to Alan Belmont re "Communist Party, USA" ... 606
56–2—March 31, 1960, memorandum from FBI headquarters to special agent in charge, New York re "Communist Party, USA" ... 607
56–3—October 1, 1964, memorandum from F. J. Baumgardner to William C. Sullivan ... 609
56–4—October 9, 1968, memorandum from FBI headquarters to all special agents in charge re "Disruption of the New Left" ... 612
57–1—August 1, 1968, memorandum from a special agent in charge, to FBI headquarters re "New Left" ... 614
57–2—February 14, 1969, memorandum from special agent in charge St. Louis to FBI headquarters re "Black Nationalist-Hate Groups" ... 617
57–3—February 28, 1969, memorandum from FBI headquarters to special agent in charge, St. Louis re "Black Nationalist-Hate Groups" ... 621
58–1—August 29, 1964, memorandum from Cartha DeLoach to John Mohr re "Democratic National Convention, August 22–28, 1964" ... 623
58–2—January 29, 1975, memorandum from H. N. Bassett to Nicholas Callahan re Democratic National Convention, Atlantic City, N.J., August 22–28, 1964 ... 631
58–3—June 4, 1965, letter from J. Edgar Hoover to Marvin Watson ... 638
58–4—July 15, 1966, letter from J. Edgar Hoover to Marvin Watson ... 639

Exhibit Nos.:

	Page
58-5—May 18, 1970, memorandum from G. C. Moore to William C. Sullivan re "Ralph David Abernathy"	640
58-6—May 19, 1970, letter to Spiro T. Agnew re Ralph David Abernathy	641
59-1—December 26, 1972, memorandum from FBI headquarters to all special agents in charge re "Inlet"	642
59-2—February 2, 1973, memorandum from T. J. Smith to E. S. Miller re "Inlet"	643
60-1—August 29, 1972, memorandum from T. J. Smith to E. S. Miller re "Administrative Index, Streamlining Measures"	645
60-2—September 30, 1971, memorandum to the Attorney General from the Director, FBI re "Emergency Detention Program"	655
60-3—October 22, 1971, memorandum from John Mitchell to Director, FBI re "Emergency Detention Program"	658
60-4—Excerpt from letter from J. Edgar Hoover to a special agent in charge (letter number 60-30)	659
60-5—"Master Warrant of Arrest" form	663
60-6—"Master Search Warrant" form	664
60-7—Excerpt from December 17, 1963, SAC letter No. 63-61	666
60-8—Excerpt from April 2, 1968, letter from J. Edgar Hoover	667
61—October 28, 1968, memorandum from FBI headquarters to all special agents in charge re "New Left Movement"	669
62—Section 87, item 4, of the FBI Manual of Instructions re "Security Investigations"	676
63-1—Excerpt from February 23, 1965, SAC letter from J. Edgar Hoover	678
63-2—Excerpt from November 10, 1969, SAC letter from J. Edgar Hoover	679
63-3—Excerpt from April 30, 1968, SAC letter	680
63-4—Excerpt from March 12, 1968, SAC letter	681
63-5—Excerpt from May 23, 1972, SAC memorandum	682
63-6—Excerpt from March 26, 1968, SAC letter	683
63-7—Excerpt from July 23, 1968, SAC letter from J. Edgar Hoover	684
63-8—Excerpt from June 25, 1974, memorandum from Clarence Kelley	686
63-9—Excerpt from October 10, 1972, memorandum	687
63-10—Excerpt from June 11, 1968, SAC letter	688
63-11—Excerpt from June 13, 1972, memorandum	689
64-1—May 22, 1969, memorandum from FBI headquarters to all special agents in charge re "Use of Concealed Recording Devices in Covering Public Appearances by Black and New Left Extremists"	693
64-2—April 24, 1964, memorandum from FBI headquarters to special agent in charge, New York	695
64-3—June 27, 1963, memorandum from FBI headquarters to all special agents in charge re "Racial Matters"	697
64-4—November 4, 1970, memorandum from FBI headquarters to all special agents in charge re "Racial Matters"	698
65—October 29, 1970, memorandum from the "Executives Conference" to Clyde Tolson	700
66-1—October 22, 1974, memorandum from Henry Petersen to Director, FBI re "Gathering and Reporting Data Regarding Civil Disturbances"	703
66-2—November 19, 1974, memorandum from Glen E. Pommerening to Clarence M. Kelley	706
67—Excerpt from January 12, 1971, memorandum re "Black Student Groups on College Campuses"	709
68-1—April 12, 1962, memorandum from J. Edgar Hoover to the Attorney General with April 12, 1962, routing slip from the Attorney General to President Kennedy	710
68-2—August 19, 1964, memorandum	713
68-3—Retyped excerpts from various August 1964 memorandums sent by Cartha DeLoach to Walter Jenkins	714
68-4—June 4, 1965, letter from J. Edgar Hoover to Marvin Watson	718
68-5—July 15, 1966, letter from J. Edgar Hoover to Marvin Watson	719

Exhibit Nos.: Page

68-6—January 31, 1975, response to the Senate Select Committee request re memorandums from William C. Sullivan to John Dean ---- 720
68-7—February 3, 1975, memorandum from Clarence Kelley to the Deputy Attorney General re "Background Information Concerning Departments' Request for Body Recorder in Bobby Baker Investigation in 1965" ---- 721
68-8—February 3, 1975, report from FBI re Bobby Baker investigation in 1965 ---- 722
68-9—January 12, 1967, letter to Marvin Watson ---- 725
68-10—January 17, 1967, memorandum from Cartha DeLoach to Clyde Tolson re Bobby Baker ---- 728
68-11—January 19, 1967, memorandum from M. A. Jones to Mr. Wick re Bobby Baker ---- 730
68-12—January 31, 1975, response to the Senate Select Committee request re William C. Sullivan memorandums to John Dean ---- 732
68-13—March 8, 1968, memorandum from Charles Brennan to William C. Sullivan ---- 740
68-14—March 11, 1968, memorandum from J. Edgar Hoover to the Attorney General ---- 742
68-15—March 21, 1968, memorandum from Charles Brennan to William C. Sullivan ---- 745
68-16—March 22, 1968, memorandum from J. Edgar Hoover to the Attorney General ---- 747
68-17—April 24, 1968, memorandum from J. Edgar Hoover to the Attorney General ---- 749
68-18—June 6, 1968, memorandum from Charles Brennan to William C. Sullivan ---- 751
68-19—June 7, 1968, memorandum from J. Edgar Hoover to the Attorney General ---- 753
68-20—March 12, 1968, memorandum from Ramsey Clark to J. Edgar Hoover ---- 755
68-21—August 7, 1968, memorandum from Cartha DeLoach to Clyde Tolson ---- 756
68-22—August 15, 1968, memorandum from J. Edgar Hoover to Clyde Tolson, Cartha DeLoach, Thomas Bishop, and William C. Sullivan ---- 758
68-23—August 22, 1968, memorandum from Cartha DeLoach to Clyde Tolson ---- 760
69-1—August 26, 1971, memorandum from Clyde Tolson re August 26, 1971 Executives Conference ---- 761
69-2—February 24, 1964, memorandum from F. J. Baumgardner to William C. Sullivan ---- 762
69-3—March 30, 1964, memorandum from F. J. Baumgardner to William C. Sullivan ---- 763
69-4—April 10, 1964, memorandum from FBI headquarters to special agent in charge, New York ---- 765
69-5—August 9, 1965, memorandum from F. J. Baumgardner to William C. Sullivan ---- 766
69-6—March 26, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 767
69-7—May 10, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 770
69-8—May 14, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 774
69-9—May 17, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 776
69-10—May 22, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 777
69-11—June 5, 1968, memorandum from G. C. Moore to William C. Sullivan ---- 779
69-12—May 21, 1969, memorandum from G. C. Moore to Willaim C. Sullivan ---- 781
69-13—September 5, 1969, memorandum from Charles Brennan to William C. Sullivan ---- 782
69-14—November 10, 1969, memorandum from FBI headquarters to legal attachés in London and Tokyo ---- 785

Exhibit Nos.: Page
69–15—April 15, 1970, memorandum from G. C. Moore to William C. Sullivan 788
69–16—February 27, 1968, memorandum from FBI headquarters to special agent in charge, Boston 791
69–17—February 9, 1968, memorandum from special agent in charge, Boston, to FBI headquarters 792
69–18—August 27, 1968, memorandum from FBI headquarters to special agent in charge, Tampa 794
69–19—August 20, 1968, memorandum from special agent in charge, Tampa, to FBI headquarters 796
69–20—February 7, 1969, memorandum from special agent in charge, Tampa, to FBI headquarters 799
69–21—October 21, 1969, memorandum from G. C. Moore to William C. Sullivan 801
69–22—January 22, 1970, memorandum from G. C. Moore to William C. Sullivan 802
69–23—February 26, 1969, memorandum from FBI headquarters to special agent in charge, Jackson 804
69–24—February 11, 1969, memorandum from special agent in charge, Jackson, to FBI headquarters 807
69–25—July 2, 1970, memorandum from FBI headquarters to special agent in charge, San Francisco 809
69–26—June 15, 1970, memorandum from special agents in charge, San Francisco, to FBI headquarters 810
69–27—October 28, 1968, memorandum from FBI headquarters to special agent in charge, New York 812
69–28—October 16, 1968, memorandum from special agent in charge, New York, to FBI headquarters 813
69–29—June 25, 1970, memorandum from FBI headquarters to special agent in charge, Los Angeles 814
69–30—June 17, 1970, memorandum from special agent in charge, Los Angeles, to FBI headquarters 815
69–31—July 6, 1971, letter from Thomas Bishop to John Mohr 817
70–1—May 8, 1958, memorandum from the Director, FBI to the Attorney General 819
70–2—January 10, 1961, letter from J. Edgar Hoover to Robert F. Kennedy 821
70–3—September 17, 1969, memorandum from J. Edgar Hoover to the Attorney General 827
71–1—October 2, 1964, memorandum from D. E. Moore to William C. Sullivan 828
71–2—February 27, 1965, memorandum from Alan Belmont to Clyde Tolson 830
71–3—March 2, 1965 memorandum from J. Edgar Hoover to Clyde Tolson, Alan Belmont, James Gale, Alex Rosen, William C. Sullivan, and Cartha DeLoach 833
72—December 2, 1975, memorandum from the FBI to Senate Select Committee re Vietnam Veterans Against the War/ Winter Soldier Organization (VVAW/WSO 836

APPENDIX A

December 15, 1975 letter from Nicholas Katzenbach to Senator Morgan, in response to questions from Senator Morgan, with attachments 841
Attachment 1—Opinion in *United States* v. *Original Knights of the Ku Klux Klan* 843
Attachment 2—September 18, 1968, statement by J. Edgar Hoover 870
Attachment 3—Excerpt from "Attack on Terror," by Don Whitehead 883
Attachment 4—"The Performance of the FBI in Investigating Violations of Federal Laws Protecting the Right to Vote—1960–1967," by John Doar and Dorothy Landsberg 888

APPENDIX B

January 12, 1976, memorandum by the Federal Bureau of Investigation in response to questions asked Director Kelley by Senators Church, Baker, and Hart of Colorado 992

INTELLIGENCE ACTIVITIES—FEDERAL BUREAU OF INVESTIGATION

TUESDAY, NOVEMBER 18, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m. in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Hart (Michigan), Mondale, Huddleston, Morgan, Hart (Colorado), Goldwater, Mathias, and Schweiker.

Also present: William G. Miller, staff director; Barbara Banoff, John Eliff, Michael Epstein, Mark Gitenstein, professional staff members.

The CHAIRMAN. The hearing will please come to order.

The subject of the hearing this morning is the domestic intelligence activities of the Federal Bureau of Investigation. The committee has adopted a different procedure for this hearing. We have directed committee counsel, Mr. Schwarz and Mr. Smothers, to present a report on our investigation of FBI domestic intelligence operations. Representatives of the FBI will appear tomorrow for a discussion of these matters.

These public hearings on the FBI concentrate on its domestic surveillance programs. The committee has also undertaken an inquiry into FBI intelligence activities relating to foreign espionage and national defense. However, the committee is conducting this latter part of its investigation in executive session, so that vital FBI operations necessary for the national defense will not be impaired. Our final report and recommendations will address both the domestic and foreign sides of FBI intelligence.

For 50 years, the Federal Bureau of Investigation has been an outstanding law enforcement agency. The Supreme Court in the landmark *Miranda* case praised the FBI for its exemplary record of effective law enforcement and respect for the rights of suspects in criminal cases. But the FBI is not only a criminal law enforcement agency. It has a domestic intelligence role which is separate from its criminal investigations.

The very nature of our democracy demands that these activities undergo periodic public scrutiny. Yet there has never been a full public accounting of FBI domestic intelligence operations. Therefore, this committee has undertaken such an investigation. Its purpose is not to impair the FBI's legitimate law enforcement and counter-

espionage functions, but rather to evaluate domestic intelligence according to the standards of the Constitution and the statutes of our land. If fault is to be found, it does not rest in the Bureau alone. It is to be found also in the long line of Attorneys General, Presidents, and Congresses who have given power and responsibility to the FBI, but have failed to give it adequate guidance, direction, and control.

Information is a powerful resource. One of the FBI's most significant features is its system for efficiently processing, filing, and retrieving the data it gathers. The potential dangers in this system are obvious. The late Francis Biddle, Attorney General in the 1940's, warned the Nation about, and I quote his words, "The future use of this great machine of detection, with its 10 million personal files, its reputation grown sacrosanct, its obvious possibilities of misusing the power it has won." Attorney General Biddle did not believe the FBI could safely continue with what he called "the virtual freedom from control." As our technological sophistication increases, the warning of Francis Biddle grows ever more urgent.

Over 4 years ago, the Senate Subcommittee on Constitutional Rights exposed the massive surveillance of Americans by the U.S. Army intelligence system. Earlier this year we learned of extensive domestic intelligence gathering by the Central Intelligence Agency. Now, we look at the FBI, the most important domestic intelligence agency of all. The Bureau's reports provided much of the raw material for both Army intelligence and CIA domestic intelligence operations. Our own hearings in September showed that FBI intelligence officers helped develop the 1970 Huston plan, with an eye toward an even greater expansion of surveillance programs directed against American citizens.

Today we are here to review the major findings of our full investigation of FBI domestic intelligence, including the COINTELPRO and other programs aimed at domestic targets, FBI surveillance of law-abiding citizens and groups, political abuses of FBI intelligence, and several specific cases of unjustified intelligence operations.

These hearings have one overriding objective: The development of sufficient information for Congress to legislate appropriate standards for the FBI. Attorney General Levi has undertaken a similar task within the Justice Department, and we intend to work with him in framing proper FBI guidelines. The Attorney General and Director Kelley of the FBI will be invited to appear before the committee in December to discuss recommendations for the future.

Now, before I turn to Senator Tower for his opening comments, there is one other important point that I would like to stress and ask members of the committee as well as the staff to give this point special attention as we proceed this morning. Investigations such as these which are designed to determine whether Government agencies are infringing on the rights of citizens run the risk themselves of injuring private citizens' rights unless great care is taken. The disclosure of the contents of raw FBI files or characterizations or other derogatory information in the course of this investigation should be avoided at all costs by this committee, its staff, and its witnesses.

For that reason, I want to instruct the staff to refrain from mentioning the names of private citizens as being the subject of FBI surveillance unless permission has been given in advance by that person or unless the information is already in the public domain. The docu-

ments the committee is releasing have already been excised, and I hope that committee members in their questions will exercise the same due care.

Now I would like to turn to the vice chairman of the committee, Senator Tower.

Senator TOWER. Thank you, Mr. Chairman.

First, at his request, I would like to explain the absence of Senator Baker. He is the ranking Republican on the Public Works Committee which is at this moment considering some very vital and critical environmental legislation, and therefore he cannot attend the hearing.

Today, in a sense, the select committee comes home. For today, the select committee begins hearings designed to shed light upon the Nation's domestic intelligence activities. Our purpose, however, is not to conduct a legislative trial. In conducting these hearings, we do not seek either to assign fault or to apportion blame. Rather, our aim is to illuminate the policies and the practices of our domestic intelligence agencies. Our hope in so doing is that a complete record and an informed public will assist the select committee in its difficult task of evaluating the important intelligence work being done by the FBI.

These matters, of course, must be seen in perspective, and we must always guard against magnifying at hearings what has been in practice only a very small segment of the undeniably valuable work done by the FBI in the vital areas of crime detection and crime prevention. While the select committee has been fully informed of those allegations which have charged the Bureau with mistakes and excesses, we are no less vividly aware of the great difficulties and the complex problems which the Bureau's intelligence arm has confronted over the years.

As the chairman's remarks have indicated, today's hearing will focus on the FBI, the most recent subject of our ongoing examination of domestic intelligence functions. As with other governmental agencies, our concern today is with the issues of authorization for domestic intelligence activities and the privacy and other civil rights considerations raised by Government intervention in the lives of citizens. It is not our contention that all invasions are unwarranted. However, our charter is to reassess current activities. To this end, the staff's presentation will touch upon such controversial topics as confidential sources, informants, indexes, general warrants, disruptive techniques, "black bag" jobs, COINTELPRO, and subversive activities. In an attempt at full disclosure, reference will be made to such widely divergent concerns as the Communist Party, Black Hate, the Ku Klux Klan, Women's Liberation, the New Left, and radical terrorism.

These next sessions will provide a full and forthright look at the domestic intelligence mission of the Bureau. By so doing, by establishing a complete and open record of Bureau activity, the select committee hopes fully to discharge its responsibilities under Senate Resolution 21, by adding to our nearly completed review of intelligence action abroad, the critical and perhaps overriding element of what happens to our citizens at home.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Tower.

Now, I have two further recommendations to make. I note by the schedule that there will be a series of Senate votes this morning, and that means that we need to come to some kind of understanding before we commence.

There is an old story told about a justice of the peace in Idaho who was a farmer, and he used to, so the story goes, get his trial going and both sides giving their testimony, and then he would say, "Now, you fellows just go ahead with your testimony while I go out and irrigate the north 40." And today we——

Senator TOWER. That is a Texas story, by the way.

The CHAIRMAN. It cannot be because you do not have water enough to irrigate 40 acres.

We may be faced with that problem with the votes today, so I would suggest that as the votes come on, Senators leave individually and return so that the hearing itself is not constantly interrupted. That way Senators will always be present. We will do that rotating, and the hearing can go forward.

The only other recommendation I have is that to the extent possible, and of course, this will not apply to the chairman and the vice chairman, but to the extent possible, other members of the committee are requested not to ask questions that will interfere too much with the continuity of the presentation, and then the questions can follow the presentation. If Senators can restrain themselves, that would be appreciated.

Now, I think that covers all of the announcements I have to make, and I believe, in accordance with the custom of the committee, Mr. Smothers and Mr. Schwarz should stand and be sworn.

Do you, the counsel of this committee, solemnly swear that all the testimony you are about to give in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SCHWARZ. I do.

Mr. SMOTHERS. I do.

TESTIMONY OF FREDERICK A. O. SCHWARZ, JR., CHIEF COUNSEL, AND CURTIS R. SMOTHERS, COUNSEL TO THE MINORITY, SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

The CHAIRMAN. Mr. Schwarz, would you please proceed?

Mr. SCHWARZ. Mr. Chairman, Mr. Vice Chairman, may I first state that Mr. Smothers and I have divided this presentation. We are entirely at one in our view as to the facts and our view as to what should be presented. It has been an entirely cooperative and helpful venture between the minority and majority staffs here.

I am going to start by outlining the subjects we are going to cover. Before I do that I want to pick up on a comment that both the chairman and the vice chairman made about the objective of this set of hearings being to develop the facts upon which decisions can be made as to what should be done, and go back to 1938 when this whole program of domestic surveillance started, for the second time in this country, and put into the record what Director Hoover, the Attorney General, and the President of the United States said to each other at that time about the necessity to keep secret from the American people the facts as to domestic surveillance by the FBI. This was written in 1938 and it reads as follows:

In considering the steps to be taken for the expansion which then occurred "of the present structure of intelligence work, it is believed imperative that it be proceeded with the utmost degree of secrecy in order to avoid criticism or objections which might be raised to such an expansion by either ill-informed persons or individuals having some ulterior motive." . . . "Consequently, it would seem undesirable to seek special legislation which would draw attention to the fact of what is being done."

And as you know, no legislation, no special legislation relating to the subject of the FBI and its domestic surveillance, has been sought or enacted since that time.

Now, we intend this morning to cover six broad subjects. Mr. Smothers will follow and deal with the size and the scope of FBI's domestic intelligence activity. In essence, the proof will establish that the targeted investigations directed specifically at American citizens and groups have numbered in the hundreds of thousands, that general intelligence, that is, the simple collection of information about Americans and what they are doing and what they are thinking, is infinitely bigger than that, and that the requests, the annual requests to the FBI for intelligence data on Americans, number in the millions.

Mr. Smothers will also briefly cover the history of the FBI intelligence program and demonstrate how there have been periodic changes since the 1920's, periods when people have believed this kind of activity is improper, and other periods where people have believed this kind of activity is essential, albeit kept secret.

We will then briefly discuss what the FBI collects and what the grist is for the mill of the Intelligence Division. There we will make points about the extraordinary breadth of the desire for data and the vagueness of the requirements by which the agents are instructed to collect this extraordinary mass of data: for example, all information on racial matters, whatever that may be.

We will put before you the fact that there have been repeated examples of the actual collection of personal data about the private lives of American citizens, that that has not only been done, but that has been done pursuant to instructions, and that there have been instructions to use that material to specifically injure particular American citizens or groups.

Now, we will also put before you the fact that there have been instructions to collect the views of people on issues, the views of groups on issues. This part of the hearing will also demonstrate that the intelligence investigation, once started, may just go on and on like a river without stop, and without regard to whether or not information has been collected which is of any use whatsoever to a purpose of looking for a criminal violation, or for dealing with any purpose concerning which one would have thought the Federal Government ought to be collecting information.

For example, we will cite the case of Women's Liberation and will read to you from a document in which the agent, based on several informants, collects information about the Women's Liberation movement, concludes women are interested in liberating themselves and improving their lives and wish to be freed from the humdrum existence of being only a wife and mother, and what conclusion is reached after that valuable information is delivered to the Bureau? "Continue to investigate."

We will demonstrate that in the case of a particular person, in this case Martin Luther King, the Bureau continued for 7 years to have

the most intensive possible investigation into him and his organization. We will have another example of a religious group, not the Southern Christian Leadership Conference, but another religious group, where for 20 years the Bureau continued to collect information on the group, hoping and hoping that it might find at some time that it was genuinely a danger, and finding that it was not. The Justice Department also instructed the Bureau to keep collecting information in this case, so that it just never stops.

We will put before you information on an attitude which is prevalent in the intelligence field, that in effect indicates that a subject for surveillance is to be regarded as guilty until proven innocent. For example, I will read a quote relating to a civil rights leader in New York where the New York office reported to the Bureau that the man was not sympathetic to Communist causes, and the response from the Bureau was as follows:

> The Bureau does not agree with the expressed belief of the New York Office that Mr. X is not sympathetic to the Party cause. While there may not be any direct evidence that Mr. X is a Communist, neither is there any direct substantial evidence that he is anti-Communist.

Therefore, the instruction is keep going, keep going, and hope to find it.

That gentleman was subjected in the months surrounding that document to three COINTELPRO actions designed to discredit and destroy him on the basis of a record where they said they could not say he was a Communist, but the instructions were to keep going, you might find that he is, and it has not been proven that he is not.

We will then turn to the subject of how the Bureau collects information. We will tick off some of the particularly invasive techniques that have been used, and pay special attention to the subject of informants, which turns out to be by far the greatest source of information. We will identify some of the key problems in the informants area for which there is a whole day's hearing scheduled after Thanksgiving.

We will then turn, Mr. Chairman, to the question of dissemination and use, talk about official dissemination to agencies ranging from local law enforcement to Presidents, and then we will talk about unofficial dissemination, whereby the Bureau uses what they call friendly or cooperative news media to put out stories from their files based upon information which they regard as harmful to the individuals whom they wish to injure.

We will then turn to certain examples of particularly troublesome programs and incidents, programs to disrupt, discredit and destroy groups and individuals, examples of the use of what is called misinformation to prevent dissenters from meeting or engaging in protest activity, examples of efforts to neutralize people by breaking up their marriages or ruining their jobs, examples of where decisions have been made to risk the death of suspect individuals by intentionally exacerbating tensions between groups known to be violence prone and known to have a desire to injure each other, where there were intentional acts taken by the Bureau, with full authority, to exacerbate that tension. We will give you some examples of the Bureau's electing to, in effect, enter into the political arena—I mean political with a small "p" and not party politics, but political arena in the sense of the

great social issues of this country. For example, in the instance of the civil rights area, the Bureau at one point had a plan to select a leader who they thought ought to lead the blacks in this country, and at the same time to depose Martin Luther King, against whom they ran their most sustained and toughest program of any that we have seen.

As another example of choosing sides on issues of importance to society, we will show you that after the 1968 Democratic Convention, the instructions went out to Bureau officials to collect evidence to disprove any allegations that police had mistreated demonstrators.

Finally, in the area of troublesome problems, we will identify for you instances where the Bureau had been misused politically by higher authority, selecting some examples of the Bureau's having been asked to intercede and to spy on people for directly political reasons, and where higher authority has used the Bureau's information-gathering resources to collect material on newsmen.

If we have time, Mr. Chairman, after that litany of facts, we will discuss serious problems with respect to oversight and serious problems with respect to control, that are illustrated by such matters as the plan to lock up dissenters. For 20 years there was a plan to lock up dissenters, for 15 years perhaps, and it was a different plan than the plan that Congress had approved. And the Justice Department and the Bureau agreed to go ahead with their plan, a broader plan to lock people up beyond that time which the Congress had approved in the Internal Security Act of 1950.

That is a broad outline of the subjects we are going to cover. Mr. Smothers is going to discuss the history and the size and the scope of these operations.

Mr. SMOTHERS. Thank you, Fritz.

Mr. Chairman, our discussion of domestic intelligence has been and will be very largely limited to the FBI and those executive agencies charged with its supervision, largely because these agencies, the Attorney General, and the White House, together with the FBI, have the primary responsibility for the domestic intelligence in this country.

Now, there are some activities undertaken by other agencies. Our own investigation indicates that those raise identical issues, or are rather minimal, conducted in cooperation with the Bureau.

Now, the issues that we will not cover in detail in this presentation are really those that have been previously examined in our look at the Huston plan, CIA domestic operations, and of course, the use of the IRS for nontax purposes.

I think that it might be helpful, before a detailed examination of some of the points Fritz has mentioned, for us to present a very brief overview of how the FBI is organized—the nature, if you will, of the animal which we are discussing here today. The functional organization chart, which is exhibit 1,[1] indicates that the headquarters of the Bureau is organized primarily in three divisions. As with many governmental entities, you will see it is heavily weighted in the area of administration; the second division engages planning, evaluation, and inspection; and the third division is the one with which we will be primarily concerned today, the so-called investigation division. Actually our concern will be with a small component of the Intelligence Division.

[1] See p. 347.

The general Intelligence Division is really organized into two basic elements. You will see to the right of the chart which is exhibit 2[1] the denomination "Counterintelligence." Now, we will not be discussing the counterintelligence method today. This involves primarily the FBI's efforts to deal with the activities of unfriendly foreign governments in the United States, largely counterespionage.

In looking to the internal security functions, the remainder of the Intelligence Division outlined on the chart, we see that the FBI has taken the approach that there are really two primary areas of concern, in addition to an item appearing as IS–3, which is largely the research effort in the intelligence organization.

The first organization you see as IS–1 concerns itself with the so-called extremists, and we see here the so-called black nationalist groups, the white hate groups, the other groups promoting civil disorder.

And then we turn to IS–2, the unit concerned with another kind of extremist activity, largely the so-called subversive activity, the preoccupation with the Communists, the Trotskyites, and other people believed to be motivated primarily by foreign nationals.

It should be pointed out that the Intelligence Division really represents a small share of the investigative effort of the FBI. The General Investigative Division that we saw on the larger chart deals with many of the traditional law enforcement issues. We're talking here about bank robbery, kidnapping, civil rights violations, mail frauds. The minority of issues dealt with by the Intelligence Division really does not amount to an even near majority of the allocation of the FBI's resources. In fiscal 1975, approximately 18 percent of the $440 million budget, approximately $82 million, was devoted to the entire intelligence effort.

Now, any breakdown between counterespionage and domestic intelligence becomes extremely difficult for two reasons.

First, the manner of the FBI's recordkeeping in terms of costs has not been very defined or precise; and second, the FBI has indicated to us, and we are impressed by the fact, that a further breakdown would really result in a significant revelation of how much is going into counterintelligence, and we feel that revelation of that would serve no useful purpose and indeed might do a significant harm.

In looking at the headquarters operation, I think it is important that we not lose sight of the assets, the capabilities employed by the Agency in the total organization, the resources it brings to bear in the carrying out of any policies developed at headquarters level. The Bureau, with its 59 field offices staffed by more than 9,500 special agents, maintains a data bank on citizens which includes criminal information, and this investigative data bank contains more than 50 million cards. The resource of the bank grows daily, as the FBI conducts more than 2 million of the name-check kind of investigations that we will talk about later, more than 2 million name checks annually.

Since 1939 the Bureau has compiled more than 500,000 dossiers on American citizens, adding 65,000 to this total in 1972 alone. This bank of information is constantly fueled by arrest records, fingerprint files, taps, information of informants, and a myriad of other sources we will discuss a little later. And I think when we talk about the tremen-

[1] See p. 348.

dous capability, we ought to have some concern for the fact that we are not raising what is essentially new business. The debate on the propriety of this effort has really gone on for some time. In fact, it might be helpful to take just a brief look at the evolution of the intelligence function.

In 1919 the then-Director J. W. Flynn decided that the Bureau, and I quote, "required a vigorous and comprehensive investigation of anarchists and Bolshevists, along with kindred agitations advocating change in the present form of government."

He took the position at that time that the FBI's effort should not be limited to investigations of violations of existing law, but indeed, could extend to investigations of legislation that may be enacted in the future.

This is an important determination, because in 1919 the general intelligence effort was then vested in the office of the Attorney General. Mr. Hoover was then in charge of that effort and it was the Flynn endorsement that led to the development, or the first development, of an indexing system for information retrieval on the activities of these radicals and activists and other persons of a revolutionary character.

It was after objection to this kind of collection by such legal scholars as Roscoe Pound, Felix Frankfurter, and Charles Evans Hughes, that we begin to see the first debate on the question. The debate, of course, was speeded by actions that the FBI was involved in such as the famous Palmer Red raids.

In 1924, Harlan Fiske Stone became Attorney General of the United States and took the position that the Bureau's activities in this regard should become more circumspect. He raised the danger of a police state and indicated that the business of inquiring into political or other opinions was to be avoided by the agency.

At this time Mr. Hoover readily agreed with Mr. Stone and indicated that except for investigations of matters concerning penal statutes or the violation of penal statutes, such investigations would not cease, and our records and investigation indicate that they probably did cease until we become concerned later in the developing political atmosphere, raising the specter of Fascism and Communism.

In 1936, coincidentally, the then-Attorney General was away from Washington. Mr. Roosevelt became very concerned about what we were doing about the Fascists and Communists in this country and invited Mr. Hoover to come over and discuss the matter with him. Mr. Hoover did, and indicated that indeed we could be concerned about the business of domestic intelligence. There was some problem with authorization, but it was resolved that it would not be difficult to seize upon a little-noticed provision in the FBI's appropriation allowing the FBI to conduct domestic intelligence when requested to do so by the Department of State. Our research does not indicate that this was a budgetary problem, but largely one of finding some authorization for the agency to hang its hat on.

We get a second authorization of this in 1939 when we involve the military, again pursuant to an F. D. R. direction, in the business of assisting the FBI on matters of espionage, counterespionage, and sabotage.

The next significant development of the process comes in 1962 when we recognize that the function has not only becomes somewhat bifurcated, but maybe difficult to be controlled centrally. The then-President Kennedy transfers the oversight authority with respect to this function to the Attorney General.

While some specific programs that we will talk about later have been discontinued, the Intelligence Division remains essentially intact and the intelligence effort does go on.

In a general sense, it is important that we have some feeling for the nature and form of this effort. Basically, intelligence conducted by the Bureau breaks down into two forms: so-called general intelligence, which is a collection of information regarding groups, movements, or categories of individuals, which is basically trend and development-kind of reporting; the second category is the so-called targeted investigation or targeted intelligence, which is designed to determine whether an individual or a group is in fact subversive, extremist, or otherwise objectionable.

Now to get a feeling for what general intelligence has meant to the Bureau, it is useful to note some of the matters that have been looked into under the mandate to conduct general intelligence. In a memo of November 1970 the FBI noted that it was conducting general intelligence investigations of all black student unions and similar campus groups. In 1968, the same kind of standard was applied to any demonstrations by persons opposing intervention in Vietnam. A 1972 memo points to the need to identify and report back to headquarters on the identities of organizations and speakers, together with any leading activists involved in any protest demonstrations, without further defining protest demonstrations. They seem to conduct the general intelligence with a fairly even hand.

In 1968, the issue of busing was already alive and the FBI determined that there was a need to investigate neighborhood groups known to sponsor demonstrations against integration or busing.

New Left organizations entered the general investigation spectrum in 1970, when all individuals belonging to whatever was to be defined as "New Left" were to be investigated as a part of the general intelligence effort.

Now, the problem with the distinction offered here is that when one tends to look at the effect of this investigative effort, it is virtually impossible to assess the impact of general intelligence. We have some data on the business of targeted investigations. The targeted figures, though, also are of fairly limited value because they only tell us what has been targeted by the headquarters of the Bureau. We do not know, for example, the targets identified in the field. We are unable to determine in terms of any cause-effect analysis, any first amendment impact, any chilling effect that may simply result from knowledge of the target. Keeping this in mind, it may be helpful, though, to look at the process of targeting investigation, as we have been able to find it.

We will begin with the investigation of the so-called subversive investigations. You will note that on the investigation of subversives, and we will talk a little further about the question of definitions here, largely we are talking about Communists, Communist-infiltrated organizations, organizations or persons involved in the overthrow or perceived overthrow efforts against the Government. As we see from ex-

hibit 3,[1] we go through a series of ups and downs after the late fifties, a period of relative dormancy through the sixties, until we get to the 1971–72 time frame where we see a new emergence of interest.

Now the labels here are exceedingly dangerous because, as we will develop later on, the labeling of subversive activities was often used as a basis to investigate organizations which did not, at least publicly, advocate a subversive purpose. The subversives are largely a forerunner effort.

About 1959 we introduced a new category of dangerous persons to be investigated, the so-called extremists.

Exhibit 4 [2] is a chart depicting investigations of extremists. Until the termination of some of these significant programs about 1973 and 1974, we see a fairly steady climb in the investigation of extremist activities. We are in, and moving relatively rapidly through, a period of the development of the so-called New Left, of the emergence of the so-called Black Nationalists, and the Bureau decision to concentrate on the so-called White Hate groups, the Klan and kindred kinds of organizations.

An interesting observation from a look at both the subversive and the extremists charts, though, is a coming together in the 1971–72 time frame, the highlight of this aggressive investigation technique.

Now again, in any attempt to say "what did it all add up to?" or "was it really worth the effort?"—I think even a mild view of the situation would reflect that we are really trying to analyze what amounted to a kind of vacuum-cleaner approach to the area of investigation. We see here a move into the views on politics and personal life. When we add that kind of complicating data to the raw information of whether an individual belongs to a certain group or espouses certain views, it becomes difficult to make any significant kind of cost-benefit analysis.

As we will see later on, this matter is further skewed by the Bureau's own meddling in the areas that it was investigating, the so-called COINTELPRO efforts, which may have indeed changed the results of some of the facts found as a result of the investigations.

But one attempt that has been made with respect to the issue of assessment was attempted by the General Accounting Office earlier this year after a review of FBI efforts. Taking the approach of looking at the prosecution's or law enforcement initiatives resulting from the FBI efforts, GAO, in looking at 675 cases studied, identified 16 of them that had been referred for prosecution, less than 3 percent, 7 prosecutions actually initiated, and a total of 4 convictions.

If we look at it as a purely intelligence effort, the results are not significantly more impressive. In fact, one could argue that they are less impressive. In only 12 instances of the cases looked at did the FBI gain any advance knowledge of planned activities, and 51 percent of those cases revealed no association with objectionable organizations or no illegal objectionable activities.

I guess the bottom line comes very close to raising questions of why we should do this if we are faced with, one, a paucity of prosecutions and, two, no indication of a preventive effectiveness, no indication that this effort is going to assist the FBI in stopping the commission of illegal or subversive activities.

---

[1] See p. 349.
[2] See p. 350.

With that overview of where we have been and what the result has been from it, I think it might be helpful if we could turn our attention back to a point that Fritz had mentioned earlier and look at the mentality, the theme, the approach of the Bureau with respect to what it was going to go after, and who were going to be its targets.

Senator TOWER [presiding]. Mr. Schwarz?

Mr. SCHWARZ. Mr. Chairman, before turning to that, let me make one observation about the exceeding danger of these labels that the Bureau throws into its programs: subversive, extremist, dangerous persons, violent revolutionary. Let me just give two examples.

The Southern Christian Leadership Conference is a group of ministers, nonviolent—no doubt about that in our history, and we all know that. But they were labeled by the Bureau, assigned the label of "Black Hate group," for the purpose of an attack against them, designed to destroy and disrupt them. They were characterized as being among the groups having violent leaders. So we have to be extremely careful of these labels. A language has lost its meaning if groups like the SCLC become labeled as Black Hate groups or as violence-prone.

Second, let us remember the danger of the attitude that says the facts don't matter, and my example of Mr. X, where the New York office of the Bureau came in and said "there's no evidence that he supports the Communists," and the Bureau said, "well, keep going because there is no clear evidence that he doesn't."

And finally, picking up on that point, Justice Jackson, when he was Attorney General, spoke of the terrific problems in the past and today that result from using these labels like "subversive" and "extremist," saying, "Some of our soundest constitutional doctrines were once punished as subversive. We must not forget that it was not so long ago that both the term republican and the term democrat were epithets with sinister meaning to denote persons of radical tendencies that were subversive of the order of things then dominant."

I see Senator Tower there laughing, and you always have a better quote when we give one.

Senator TOWER. That suspicion may linger in some minds yet.

Mr. SCHWARZ. Before turning to the subject of overbreadth, I want to add a comment about the material made available to us by the Bureau. The Bureau, commencing in July, when we reached an agreement with the Attorney General, has been exceedingly cooperative. We had great difficulties before then, but after that point, once there was an agreement with the Attorney General, they were indeed very cooperative, and we did see the full files, absent only the names of informants.

However, this staff, in the course of the past few weeks, has made an analysis, prepared by Mark Gitenstein, which indicates very strongly that after the death of Director Hoover, substantial numbers of relevant, highly pertinent, and sensitive Bureau documents were destroyed. This came to our attention first in the spring when the Attorney General revealed that there was something called the Official and Confidential files of the Director himself.

The Attorney General, then, on his own motion, and at our request, had an investigation of another kind of file which had come to our attention called the personal file, and an extensive investigation was undertaken by the Attorney General, and the results [exhibit 5 [1]]

[1] See p. 351.

were furnished to us a couple of months ago.

Now, you all will remember the "black bag" job memo with the "Do Not File" procedure. In the course of examining that document very closely, it became clear to us that in a very dim handwritten indication in the upper right hand-corner——

Senator TOWER. Mr. Schwarz, would you yield at that point?

Mr. SCHWARZ. Yes.

Senator TOWER. On the matter of destruction of documents, is it correct that the responsibility for the destruction has not been pinpointed on any specific basis?

Mr. SCHWARZ. That is correct. We are not going to allege responsibility or knowing destruction. We are going to describe the facts as to what we have now discovered and deduce from the indicia on these documents. Yes, indeed, it could have happened before his death, Senator.

In handwritten form there is the notation "PF" in the upper right hand corner of the "black bag" job memorandum, and we determined that PF meant personal file. But this document [exhibit 6 [1]] was found in the O. & C. file. Then, pursuing the investigation, we determined that what had happened is that before his death Mr. Hoover had the opportunity to go through at least letters A through C on the so-called personal files, and transfer certain official documents into the so-called Official and Confidential files, but that that effort was not continued for the files, after letter D, and all of the personal files, the so-called personal files were destroyed after Mr. Hoover's death, and therefore, what was lost to the ability to assess what happened in the past we cannot know. We can only guess that there may well have been documents like the "black bag" job, "Do Not File" documents, which happened to be at letter B, in letters D through Z that are now lost to scrutiny. We do not know that, but that is a surmise.

The CHAIRMAN [presiding]. Now, the Department undertook its own investigation as to why the personal files of Mr. Hoover were destroyed, did it not?

Mr. SCHWARZ. Yes, it did, Senator.

The CHAIRMAN. And have you testified while I was voting that the investigation of the Department, a copy of which was furnished to this committee, turns out to be incomplete?

Mr. SCHWARZ. Well, I wouldn't want to——

The CHAIRMAN. I want to ask you about that because I wanted it to be fairly stated.

Mr. SCHWARZ. We have been able, Senator, to go further than they have because of the hint that was given by that PF initial up in the upper right-hand corner of the "black bag" job document. We have no reason to think that they intentionally failed to find that. They just did not.

The CHAIRMAN. In other words, you are not charging the FBI with having furnished the Attorney General with an incomplete report out of any intention to deceive him.

Mr. SCHWARZ. No, sir.

The CHAIRMAN. And the only reason it turned out to be incomplete was because of later information that was turned up by the committee staff.

---

[1] See p. 357.

Mr. SCHWARZ. Turned up by our staff people, who then analyzed the matter further.

The CHAIRMAN. It was turned up initially by our staff, then it was analyzed further by the Bureau and now it has been turned over to the Attorney General.

Mr. SCHWARZ. Well, I assume it has been turned over to the Attorney General. I do not think I have said anything he does not know, Senator. Yes; I am correct.

The CHAIRMAN. Very well, thank you.

Mr. SCHWARZ. Now, getting back to this problem of the extraordinary breadth of the investigative activity, I read a portion to you of the document concerning Mr. X, where despite the finding and the suggestion from New York that he was not a Communist, the instruction was "continue, continue until you have been proven negative." That document went forward to set forth the standard in that case, but it appears to be the generally applicable standard within the Bureau as to the kind of coverage that is necessary on any matter in which they are interested. And reading into the record what was said, "The Bureau cannot adjudge as adequate any coverage which does not positively provide to the Bureau 100 percent of the intelligence relating to the Communist influence in racial matters."

Now, in fact, the Bureau not only sought 100 percent of the evidence with respect to that matter, but simply 100 percent of the information that could be obtained with respect to racial matters generally. Every demonstration, every protest was to be reported to the Bureau.

In the area of what they characterize as the New Left, an example of the overbreadth of the requirements for information laid on the field can be found in the document that is exhibit 17 [1], and in this document the Director of the FBI issued an instruction to all special agents of the Bureau as to the kind of information that he wanted them to collect and report on.

Now, the number of items in the report are in letters from A through R, and numbers under each one of those entries. I will just refer to a couple of the specific examples of what the FBI agents are required to report in from the field.

In the area of finances, it sought the so-called angels for the group. In the area of publications, describe all the publications. In the area of religion, the policy of the organization relating to its approach to religion, and any vehement statements made against religious bodies by leaders; conversely, any statements of support for the movement by religious groups or individuals. In the area of political activities, any and all political activities in which so-called New Left leaders are involved, and details relating to their position taken on political matters, including efforts to influence public opinion, the electorate and government bodies. In the area of education, all information concerning courses given, together with any educational outline, and together with what is the assigned or suggested reading. In the area of so-called social reform, all information on activities in connection with demontrations aimed at social reform, whatever that may be. In the area of labor, all information including all activity in the labor field. With respect to the public appearance of leaders, the identity of any leader

[1] See p. 393.

who makes a public appearance on radio and television and who appears before groups; for example, labor, church and minority groups. And in connection with such appearances, the identity of the group sponsoring the speaker and a succinct summary of the subject matter discussed. In the area of mass media, influence of the New Left on mass media and any indication of support of the New Left by the mass media, a wholly comprehensive listing of everything those people thought or did on any subject you can imagine their having a concern with.

As the next example of how the FBI seeks out information scarcely relevant to subjects that we had thought the Bureau was concerned with, as in the area of Women's Liberation, there is report after report about meetings of women who got together to talk about their problems. Now, how the Bureau got this information is not entirely clear, but it is apparently by informants. So we have informants running all over the country checking up about what housewives are talking about in their efforts to decide whether women should have a different role in this society; reports on particular women who said why they had come to the meeting and how they felt oppressed sexually or otherwise; reports on such important matters as the release of white mice by women at a protest demonstration; reports on such other important matters as the interest of the Women's Liberation movement in zapping the Miss America Pageant in Atlantic City by protesting the standards and whatever else they protested in Atlantic City.

And my favorite example concerning the Baltimore Women's Liberation movement is a document, exhibit 7 [1], which was sent not only to the FBI, but to three military agencies for some reason; a document in which there is a long discussion of the origins, aims and purposes of the group, its location, its pamphlets, and in concluding on the purposes of the group, it comes up with such important findings as that women that wanted a purpose, and that was to free them from the humdrum existence of being only a wife and mother. They wanted equal opportunities that men have in the working society and so forth, nothing to do with violence, nothing to do with these labels of subversion and extremism. And what is the conclusion on the document? "We will continue to follow and report the activities of the Women's Liberation movement."

The CHAIRMAN. How did they find any time to investigate crime?

Mr. SCHWARZ. I don't know, Senator. I don't know. There is a lot of effort going into this stuff. There is a lot of effort going into it. There is paper after paper. We see tracks of informants and what does it all do? What is it worth?

I have talked already about those labels, "subversive" and "extremist" and how loose they are and how they are applied. They say "violence" for nonviolent groups. Under subversive and extremist subjects, they are instructed again to look at all of the ideas, all of the associations, women's matters and groups, farmers' matters and groups, youth matters and groups, the "Negro question," legislative activities, third party movements. I am reading from the instructions to the Bureau in the manual in 1960. "Candidates for public office, veterans matters, religion and religious bodies, bookstores, education, mass organizations, industry, including labor unions," again the most

[1] See p. 360.

wide catalog that could be imagined of the affairs of American citizens. I have nothing further on the subject of the breadth of these activities, these investigations. I have made the point previously that they go on and on and on, 7 years for King, 15 years for a religious group which they couldn't prove was subversive or not, but the instruction was to keep trying.

Mr. Smothers has the subject now of the gathering techniques, the ways in which the FBI collects information.

Mr. SMOTHERS. In looking at the question of how they gather information, we begin to focus on perhaps the most serious problem before this committee and the most serious issues faced by the staff, and that is the question of control, and indeed what should be controlled.

The easier questions, although they have been the subject of some of the more extensive invasions, center around control of the machines: the wiretaps, the bugs. We have had an example of Attorney General approval of wiretapping. We have, indeed, court procedures for the approval of such efforts. The situations with the bugs has become a more refined problem and one that has gone with much less regulation, indeed, for a very long time with the belief that the Bureau could do it when appropriate, particularly in cases that would be labeled counterespionage efforts.

We do not have a lot of data on the machines. We know that with regard to the electronic surveillance conducted without a warrant, the number probably never exceeded 100 in any given year and that this kind of invasion was for all practical purposes stopped in 1972.

While we were focusing, though, on the machines in much of the legal discussion, the investigative effort, the intelligence effort of the Bureau was gradually stepping up the use of the so-called human resources. Of course the primary example of human resources is the so-called informant.

We are going to talk a little bit about the kinds of informants later, but we should be particularly aware of the fact that unlike the activities conducted with machines, no warrant was required to use an informant as the basis for invasion into an individual's privacy.

If you would look to the chart which is exhibit 8,[1] we see a survey conducted by the GAO to try to trace for us the sources of the information gathered by the Bureau. Up in the No. 1 position we have the use of informants, the warrantless invasion in one person's affairs by another, ranking 83 percent; police confidential sources account for 74 percent of techniques employed by the Bureau to gather intelligence. We get a little bit away now from law enforcement and we get into things like motor vehicle departments of the various States, the utilities companies. They are great for locating people for determining matters such as the expenditures of individuals or organizations. Educational records and State employment agencies also help to locate individuals.

Fifty percent of the time this kind of source was utilized, according to GAO. I must say "according to," as we are now under oath, and relying upon somebody else's research with respect to these areas. In fact, when we get to electronic surveillance here, we find that it accounts for only 5 percent, and that other kinds of human efforts, like

[1] See p. 367.

surreptitious entry and mail openings, which we discussed earlier, account for a mere 1 percent of what is gained in the way of information. And this chart tells a part of the story and gives us some idea of where the Bureau might reach for information . .

What it leaves out and what I think we must spend just a moment on here is how we define some of these categories. Let us take our informants, for example. In examining the FBI's approach to the question of informants we found that we were looking at a fairly structured program in terms of gaining information from individuals who may have had contact with subjects. Perhaps one of the largest programs was the so-called ghetto informant program. The FBI pointed out that it was necessary in situations of potential violence to gain information from laborers, clerks, housewives, businessmen, anybody.

In August 1968, we had 3,248 racial ghetto-type informants, as they were called, in this country. The number goes to 4,500 in March of 1970. By October we were at 6,000. It reached its peak in 1972 with 7,500 ghetto informants spread across the country, the FBI sort of encouraging, and even some indication of enforcing, a kind of quota program with respect to the development of ghetto informants.

This rather terse definition here as to why the ghetto informant was necessary and what he was supposed to do, is merely a reflection of the fact that we could use persons outside of the groups in question to provide the kind of general intelligence information that was necessary for the FBI to gather.

In addition to the ghetto informants, we found that there was a separate and rather structured informant program aimed directly at extremists. This was kind of a successor effort after we abandoned the ghetto informants in 1973 and the target now is to get information on extremists.

By an FBI memorandum of March 1973, we find the development of a new category—actually three new categories of informants—and here the rigidity of bureaucracy helps us explain to the field the purpose of our efforts. The first category is the potential extremist informant, a person who might be in a position to know something. They weren't terribly sure about him. He was to be taken on a 1-year trial. After 6 months, the potential extremist informant would be evaluated. If he was not producing anything, they would consider whether or not to get rid of him. If he did not get elevated to the level of extremist informant within a period of 1 year, then he was to be eliminated.

Extremist informants have obtained a new status, a special kind of qualification under the Bureau's guidance. It took at least 6 months to move from potential extremist informant to full blown extremist informant. Then to be sure they had covered the neighborhood, the confidential sources extremist informant was developed, and he is defined by the Bureau as "an individual who is willing to cooperate with the Bureau by furnishing extremist information brought to his attention by virtue of his position in the community, his employment, or in view of his background in extremist activities."

I guess the shorthand for that would be the turncoats. We discovered still another source of human information or human source information with the Bureau's development of what we have loosely labeled "notionals" and what I call fake or quasi-fake organizations.

One such effort is noted in a letter from an internal FBI memorandum, calling the Director's attention in 1967 to the fact that the Bureau had set up an entire klavern of the Klan composed of Bureau informants, and that they paid the expenses of setting up the organization. And apparently at its height, this group of informants was designed to attract membership from one of the main Klan groups.

Now in paying the expenses of the new person, if you will, the purpose was to develop here a separate source of information. The idea with respect to the Klan did not involve an entire group of Klansmen. This was a core group developed and based on informants and expanded later to 250 members. The entire group development was done with respect to the W.E.B. Dubois clubs, which had in its rolls an entire group of Bureau informants and fictitious individuals. The purpose of this chapter was to really frustrate the efforts of the American Communist Party by causing the Party the additional expense of sending organizers into an area and funding the organization's effort, mediums, and literature.

Another effort that has become a product of the human sources and which was used as a kind of spur to spark the surfacing of additional information was the use of fake correspondence or fake newsletter-kind of information, which by virtue of the articles presented therein would cause other persons to come forth and either challenge or supplement material.

Now we have talked a bit about the use of State agencies and other police agencies that would provide the FBI with information.

I think we have talked previously to the fact that the FBI also relied upon the efforts and assistance of the Internal Revenue Service from time to time as a source of information gathering.

We will talk a little more on this later on when we come to the COINTELPRO but we must be aware of the fact that this information gathering was closely allied to the use of this very same information as a basis for spurring agencies to create problems for the individual or to conduct investigations, or in the case of IRS, to conduct audits or other efforts that would detract from the person's organizational activity or protest efforts.

In addition to IRS, our investigation reveals that other sources were indeed, the Postal Service, the Passport Agency, Immigration and Naturalization, the CIA, of course, and to some limited extent, the Customs officials.

After the Bureau gathered this tremendous reservoir of information utilizing the various techniques, one of the things we found important to track was what happened to the information. We know that on these 15 million data cards and the tremendous files we have up there, there is information as to what the Bureau is doing, who gets the intelligence data, and under what circumstances.

Fritz will start with a review of the official dissemination of that information.

Mr. SCHWARZ. I want to add one further example of another kind of problem.

In 1965 and running for at least 3 years, the Bureau created a fictional organization called the Committee for Expansion of Socialist Thought in America, which was set up to publish a newspaper purporting to be from genuine persons and which newspaper was designed to attack

the Communist Party, U.S.A. from the so-called Marxist right. This was a wholly fictional organization which was presented to the American public as if it were a real publication by real people, instead of being a pseudopublication by members of the FBI.

Mr. SMOTHERS. Fritz, we might add, too, to that information on sources that during much of the period, we looked at the FBI's access to banking records which appeared to be fairly extensive, particularly when the investigation was initiated by the indication that it had to do with the investigation of subversives, as opposed to extremists.

Mr. SCHWARZ. Now the gamut of official distribution runs, as we said earlier, from the local police to the President of the United States.

I call your attention to a memorandum which is exhibit 9,[1] which deals with the so-called FBI intelligence letter for the President, a program that commenced in 1969. The document sets out the kind of information which the Bureau instructed its agents to collect and send in to headquarters for transmission by the Bureau to the President of the United States. It was initially sent only to the President and the Attorney General. At some point the name of the Vice President was added to the list of persons who received this special letter, known as the "Inlet" letter. The kind of information which is called for is set forth. I call your attention to item 6, in which the agents were instructed to collect and the Bureau intended to disseminate to the President "items with an unusual twist or concerning prominent personalities which may be of special interest to the President or the Attorney General."

The Inlet program was stopped as a particular program in December of 1972. The document which suspended the particular program, however, instructed the field to continue to collect the information and noted that changes in communications capability, including the ability to afford immediate teletype disseminations of such data to the White House, made the special letter on that necessary.

In connection with other examples of official dissemination, we have called to your attention previously a case prior to the Democratic Convention in 1968 in which the FBI obtained information which they believe to be used to neutralize a professor who sought to go to the Democratic Convention, and the FBI field office proposed, and the Director approved, that that information be sent to the IRS for the express purpose of seeking to induce an investigation of this professor's tax matters for the express purpose of making it harder for him to go to the Democratic 1968 convention.

Curt Smothers is going to deal now with the general subject of unofficial dissemination.

Mr. SMOTHERS. A use or a dissemination of information which has often been referred to as an illegal use of the Bureau—at the 1964 Democratic Convention—showed how information which may have indeed been relevant to law enforcement or had a basis in law enforcement was used as a start and then simply expanded. There was an indication in the 1964 Democratic Convention that violence may erupt and the Bureau was called upon to supply information regarding the potential for violence—I am assuming both on a Federal level and to assist local law enforcement officials.

[1] See p. 368.

In addition to that, after infiltration of various groups, the challenged plan to the Mississippi convention, the plans of those who challenged the official delegation, were developed by the FBI and submitted to the White House through the White House staff. The plans of Dr. King, the plans of CORE, the plans of SNCC with respect to activities at the convention were also communicated both as they related to efforts to disrupt, as well as general political strategy at the convention.

This was accomplished really through a complete infiltration of these groups, and when it became apparent, as in the case of the Mississippi challenge, that it might be politically expedient to have some information to discredit the group, the FBI provided that also by providing some bookkeeping data on the organization and its funding sources.

We see this same kind of unofficial dissemination occur after the critics of the Warren Commission began to surface, and the White House was a bit concerned about these persons who were criticizing the Warren Commission. The FBI is directed here to gather information on those persons, information which extended to their personal lives, indeed, down to their sex activities.

The name-check process was often used as a basis of getting a clearer fix on people who had begun to criticize the administration.

In several cases we have identified news correspondents of major networks who apparently at one point or another earned the White House's ire and were the subject of name checks. The names of a number of reporters from major newspapers pop up immediately after revelations or accusations about misconduct or activities of the White House.

We even got to the point where the name-check process was used as a basis to gather the views or information on private citizens that objected to Vietnam policy, and this information was subsequently distributed to persons who may be in a position to point up adverse information in the individual's background.

This took the form, for example, of going to political figures and saying to those figures, "If you have an occasion to comment on so and so, you might want to have this information."

We will talk a little more about that when we come to COINTEL PRO activities. The use, though, in the political arena virtually covered the spectrum. In one case we adduced information regarding the FBI's reporting efforts to influence the Speaker of the House regarding a prominent civil rights figure using information that had been gained through various investigative techniques and accomplishing this unofficial over-lunch kind of dissemination.

Another kind of dissemination that was particularly troublesome was the dissemination of information gained to the enemies of individuals or organizations. Again, when we come to COINTELPRO, we will see examples of this use and how it was used as a means of promoting factionalization and in some cases, even promoting violence.

Some of the information communicated was true. Other information was purely false. One of the favorite tactics was to communicate or disseminate information that so-and-so was a Bureau informant, immediately calling his existence or role in an organization into suspicion and creating internal dissension in the organization. The dissemi-

nation of information was also used as a basis to attack family situations, to which Mr. Schwarz alluded earlier.

When we talk about dissemination, we come very close to the so-called COINTELPRO, or the COINTEL Program, because it is the active use of the product of investigative technique together with false information and other investigative tactics. The use of this in a manner which goes beyond collection, beyond law enforcement, and into an active attempt by the FBI to right perceived wrongs begins to create a program that has been of particular concern to many in this area.

Fritz, do you want to cover the aims of the COINTEL Program?

Mr. SCHWARZ. I thought of two things, Curt, before doing that, that I would like to put on the record.[1] This all-pervasive desire for information concerning political matters—Mr. Smothers mentioned the 1964 Democratic Convention and the information that was gathered there. The same thing was done at the Republican Convention in 1964 and again, Dr. King was one of the targets of the Bureau and the Bureau put both the tap and the bug on Dr. King's phone when he was out at the Republican Convention, having stated prior to that that

> it would be desirable to reflect as much technical coverage that could be safely done to cover King's activities on the West Coast. He undoubtedly will attempt to inject himself into the convention proceedings.

And then they instruct people not only to find out information about the convention, but about the current Mississippi situation, the current St. Augustine, Fla. situation, where there were demonstrations going on at that time, and in general, they said to get all of the information you can on the man because he is out in Los Angeles on a political convention. They did it, they put on a tap, and they put on a bug.

Second, a footnote on the 1964 Democratic Convention: a technique which was used there was the furnishing to the FBI of false press credentials by one of the major networks, which the FBI then used in order to insert an agent as a bogus newsman into legitimate discussions of political persons and protest groups and acquire information concerning their plans, pretending to be a reporter and in fact acquiring it for the purposes of the Bureau and transmission to higher authority.

Now turning to COINTELPRO, CONTELPRO is an abbreviation of the words "counterintelligence program." COINTELPRO is the name for the effort by the Bureau to destroy people and to destroy organizations, or as they used the words, "disrupt and neutralize."

May I call your attention to exhibits 10[2] and 11.[3] Remember the slipperiness of these labels, which we have talked about before. But the five labels were the Communist Party, U.S.A.; the Socialist Workers Party; White Hate groups, including the Klan; persons labeled as Black Nationalists and Black Hate groups; and the so-called New Left.

The rhetoric of the Bureau—as these programs advanced from the initial program relating to the Communist Party, U.S.A. to the ultimate programs of Black Nationalist and New Left—became tougher

---

[1] The Select Committee decided not to publish documents concerning the FBI and Dr. Martin Luther King with these hearings out of consideration for the privacy of Dr. King's family. Pertinent materials will be included in the Select Committee's report to the Senate.
[2] See p. 370.
[3] See p. 371.

and tougher, and what began as efforts to disrupt—the word used for the Communist Party, and in the case of the Klan some indication that they genuinely were looking after violence and not simply to destroy the groups—became in the case of Black Nationalists and New Left, as we will illustrate copiously, the most extreme rhetoric of a plan to destroy political protest groups that you could imagine.

For example, from the Black Nationalist-initiated document in 1967, agents of the FBI were instructed to "expose, disrupt, misdirect, discredit, or otherwise neutralize." Then when they got along to the New Left they added "misinform," and we are going to come to a series of actual instances where efforts were made to misinform and thereby prevent protest activities from taking place.

The CHAIRMAN. Does that category "New Left" mainly refer to the protest groups that opposed the war?

Mr. SCHWARZ. One of the Bureau witnesses was asked what the term "New Left" meant. It has never been defined. It was defined in practice as being largely students and people opposing the war. You will notice in the New Left chart on the kind of activity undertaken, that there is by far the largest amount there, percentagewise, of No. 1-type activity.

No. 1-type activity is the effort to prevent people from teaching and meeting and speaking, and a large number of the New Left targets were professors and instructors at universities.

What we are going to try to do now is to just briefly touch on each of the programs and then concentrate on certain of the techniques.

Mr. SCHWARZ. Yes. The only point about exhibit 11 [1] is that its techniques kind of vary. The black nationalists get hit in the family and sectionalization, where the New Left gets hit more in the campuses, as far as meetings go. But this shows the aggregate of the COINTELPRO activities.

Now, we are going to briefly, as I say, go through what the programs were, and then we are going to come back to particular techniques.

Mr. SMOTHERS. The first effort, or the forerunner for the so-called COINTELPRO effort, began with the decision to initiate an effort against the Communist Party, U.S.A. The decision grew largely out of frustrations with the lack of success in attempts to enforce the Smith Act, and the FBI's determination that law enforcement in a traditional sense was simply not enough to neutralize or discredit the Communist Party.

So, in 1956 the Bureau directs a counterintelligence program against the Communist Party, U.S.A., designed to—

capitalize on incidents involving the party and its leaders in order to foster factionalization, bring the Communist Party and its leaders into disrepute before the American public, and cause confusion and dissatisfaction among rank and file members.

[Exhibit 12.[2]]

Now, they indicate that prior to this time their action had really constituted more harrassment than disruption, but that it was time to move on a positive initiative on the broader scale, "a program that not only will harass from the outside but will work from within, 'by feeding and fostering from within the internal fight currently raging.' "

[1] See p. 371.
[2] See p. 372.

He said, "This is a common practice, rough, tough, dirty business, Whether or not we should be in it or not, that is for you folks to decide. We are in it. To repeat, it is a rough, tough, dirty business, and dangerous. It was dangerous at times"—that is, dangerous to the persons who are being affected, not to the Bureau persons—when you are trying to disrupt someone's family life. "It was dangerous at times, no holds were barred. We have used that technique against foreign espionage agents, and they have used it against us."

"Question: The same methods were brought home?"

And then he answered, "Yes; brought home against any organization against which we were targeting. We did not differentiate. This is a rough, tough business."

And then the Senator who was presiding on that occasion said this: "Would it be safe to say that the techniques we learned in fighting Bundists and Silver Shirters, true espionage in World War II, came to be used, the techniques came to be used against some of our own American citizens?"

And Mr. Sullivan answered, "That would be a correct deduction." So the war was brought home, and the techniques of destruction that had become involved in the fight against Communist intelligence services or Nazi intelligence services overseas were, by the admission of the man who was in charge of these programs, brought home and used against the American citizens, and there is no better example of that than the language and the activity used against the so-called Black Nationalist Hate groups, which I remind you again included such nonviolent and gentle movements as the Southern Christian Leadership Conference and the New Left.

The program against the so-called Black Nationalist Hate group was started in August of 1967 [exhibit 15].[1] And now there was not, as with the Klan, merely an effort to go after the group that were most violent, or the persons who had the greatest propensity for violence, but the instruction was to go after the leadership, the spokesmen, the membership, and the supporters of these groups. The instruction again—now concentrating hard on the vulnerability of individuals as far as their personal lives are concerned—the instruction was that the agents were to collect personal information concerning so-called Black Nationalist Hate groups and then use it against them.

In a document dated February 1968 [exhibit 16],[2] where the Black Nationalist program was expanded, instead of it being directed against some, it was expanded to greater groups and more groups and more FBI offices, and again let me concentrate on the attitude expressed in this document. I have already pointed out that they label groups like the SCLC as violence prone, and in the objectives, what the Bureau trying to do as it attacked these black groups, here is what they were instructed to do: "Prevent the rise of the 'messiah' who could unify, and electrify, the militant black nationalist group."

Here is what they said about Martin Luther King in that connection: "Martin Luther King * * * aspires to this position * * * King could be a very real pretender for this position should he abandon his supposed 'obedience' to 'white, liberal doctrines', (nonviolence) and embrace black nationalism." So the theory as expressed

[1] See p. 383.
[2] See p. 386.

He said, "This is a common practice, rough, tough, dirty business, Whether or not we should be in it or not, that is for you folks to decide. We are in it. To repeat, it is a rough, tough, dirty business, and dangerous. It was dangerous at times"—that is, dangerous to the persons who are being affected, not to the Bureau persons—when you are trying to disrupt someone's family life. "It was dangerous at times, no holds were barred. We have used that technique against foreign espionage agents, and they have used it against us."

"Question: The same methods were brought home?"

And then he answered, "Yes; brought home against any organization against which we were targeting. We did not differentiate. This is a rough, tough business."

And then the Senator who was presiding on that occasion said this: "Would it be safe to say that the techniques we learned in fighting Bundists and Silver Shirters, true espionage in World War II, came to be used, the techniques came to be used against some of our own American citizens?"

And Mr. Sullivan answered, "That would be a correct deduction." So the war was brought home, and the techniques of destruction that had become involved in the fight against Communist intelligence services or Nazi intelligence services overseas were, by the admission of the man who was in charge of these programs, brought home and used against the American citizens, and there is no better example of that than the language and the activity used against the so-called Black Nationalist Hate groups, which I remind you again included such nonviolent and gentle movements as the Southern Christian Leadership Conference and the New Left.

The program against the so-called Black Nationalist Hate group was started in August of 1967 [exhibit 15].[1] And now there was not, as with the Klan, merely an effort to go after the group that were most violent, or the persons who had the greatest propensity for violence, but the instruction was to go after the leadership, the spokesmen, the membership, and the supporters of these groups. The instruction again—now concentrating hard on the vulnerability of individuals as far as their personal lives are concerned—the instruction was that the agents were to collect personal information concerning so-called Black Nationalist Hate groups and then use it against them.

In a document dated February 1968 [exhibit 16],[2] where the Black Nationalist program was expanded, instead of it being directed against some, it was expanded to greater groups and more groups and more FBI offices, and again let me concentrate on the attitude expressed in this document. I have already pointed out that they label groups like the SCLC as violence prone, and in the objectives, what the Bureau trying to do as it attacked these black groups, here is what they were instructed to do: "Prevent the rise of the 'messiah' who could unify, and electrify, the militant black nationalist group."

Here is what they said about Martin Luther King in that connection: "Martin Luther King * * * aspires to this position * * * King could be a very real pretender for this position should he abandon his supposed 'obedience' to 'white liberal doctrines', (nonviolence) and embrace black nationalism." So the theory as expressed

[1] See p. 383.
[2] See p. 386.

in this document [see footnote page 21] was that a man recognized in the document as being someone who supported nonviolence ought to be destroyed because someday he might abandon nonviolence and become thereby what they regarded as a greater threat as a messiah.

In this same document the Bureau praises activities which have already taken place under COINTELPRO, giving as an example of an apparently highly desirable activity the fact that the Washington field office had furnished information about a Nation of Islam, as the Black Muslim movement grade school, to appropriate authorities in the District of Columbia who were induced to investigate the school to determine if it conformed to the District regulations for private schools. And again, praising that effort, it was noted that in the process the Washington field office obtained background information on the parents of every single pupil in that school. What possible bearing does that activity have upon the activities which the FBI seeks legitimately to do? Is that within the legitimate sphere?

They said that our job in the Bureau is to prevent the long-range growth of these movements, especially among youth, so they should be targeted—they should be destroyed so they no longer appeal to young people in this country.

Now, we are going to cover similar attitudes as displayed in the New Left initiating documents, and then turn to certain of the techniques.

Mr. SMOTHERS. Perhaps the most dangerous aspect of the New Left initiative involved the failure really to define what New Left was, and the kind of no-holds-barred approach in terms of techniques that the Bureau authorized.

In 1968, we see the initiating document, and it is interesting to note some of the reasons why the New Left is identified as a problem. Quoting from the document, exhibit 17,[1] dated May 1968, "Some of these activitists urge revolution in America and call for defeat of the United States in Vietnam. They continually and falsely allege police brutality and do not hesitate to utilize unlawful acts to further their so-called causes. The New Left has on many occasions viciously and scurrilously attacked the Director and the Bureau in an attempt to hamper our investigation of it and to drive us off the college campuses." "Trying to drive us off college campuses," refers to the Bureau.

With this initiation came some subsequent requests for ideas and the development of guidance kind of memoranda. One such appears in your books as exhibit 18 [2] and we see in the catalog of things which are permitted or should be attempted against the New Left perhaps the most open or wholesale authorization for attacks under the COINTELPRO label. The field is advised that they should do such things as prepare leaflets designed to dispel the impression that Students for a Democratic Society and other groups speak for a majority of the students, and the leaflet campaign is to try to include "the most obnoxious pictures" one can find with respect to the activities of the membership of these groups.

The use of pictures was also to be a ploy in the anonymous sending of letters or other information to the parents and employers of New Left people, again to try to depict them in the most obnoxious light.

[1] See p. 393.
[2] See p. 395.

That was the direction. Whenever you can, bolster your assertion with a picture.

Another technique adopted was to try to create the impression that any of the New Left leaders were in fact informants and wherever one could, the field was directed to implant that impression. The direction included taking advantage of any personal conflicts known to exist among New Left personalities. They were told to plant newspaper articles. They identified specific hostilities, such as the one between the SDS and the Socialist Workers Party, and they were told to promote that hostility, and of course, were told that whenever—and this is the first time this one appears—whenever the Bureau received information of a disruptive or immoral activity, the first action to be taken was to notify the media, not the law enforcement officials but the media, and hope that they could promote some coverage, and indeed, if pictures came out of this effort, to get some of those to use for further dissemination.

It is perhaps the most broad-ranging attack, and really reflects a kind of cataloging of the various techniques that had been gained, and the view in the Bureau at least that a certain level of expertise in the business of discrediting, disrupting, and neutralizing was being achieved.

In talking about many of the techniques—we have alluded to many of them as we have gone—we have talked about the business of misinformation. One of the other techniques utilized was to destroy the job or family life, and family life was a particularly opportune target in the Bureau's view, and played on some fairly tender sensitivities.

Without mention of the name reflected therein, if you look at exhibit 19 [1] you will see the Bureau's report on a COINTELPRO effort against a white female who was involved as an officer in what was resolved as a local black activist group. The way to discredit or neutralize this leader was to take attention away from activities of the group by creating another kind of distraction. The distraction read as follows: "Dear Mr. [deleted] Look man I guess your old lady doesn't get enough at home or she wouldn't be shucking and jiving with our black man in ACTION, you dig? Like all she wants to integrate is the bedroom, and us black sisters ain't gonna take no second best from our men. So lay it on her, man—or get her the hell out of [deleted]." It is signed "a Soul Sister."

A particularly effective technique as reflected by the memorandum. It did succeed in distracting her.

Mr. SCHWARZ. The same techniques were used against members of the Klan. You will see in your books [exhibit 20] [2] the instructions from the headquarters of the Bureau about how to prepare letters with spelling mistakes and so forth so that they would look credible.

On the New Left, I mentioned in my opening statement what was done by the Bureau immediately following the Democratic Convention in Chicago in 1968, and you will all remember that there were great incidents between the local police and demonstrators, and charges made of excessive action by the police.

---

[1] See pp. 398 through 402.
[2] See pp. 403 through 405.

Now, what did the Bureau do after those charges were made? We have been given documents which have the curious heading, COIN TELPRO—New Left, dealing with the subject of how to investigate the charges of police brutality in the Chicago 1968 Democratic Convention, and here is the instruction by telegram from the Director to all agents in all major Bureau cities:

"In view of recent accusations against Chicago authorities relating to their handling of demonstrations at the Democratic National Convention, the Bureau desires to collect all possible information regarding provocations of the police by the demonstrators."

And then it goes on to indicate that what the Bureau desired its agents to collect in that telegram and in the preceding memo of August 20, 1968, was the following: "The Bureau should be alert to this situation and be in a position to refute the allegations. Along these same lines, you should also consider measures by which so-called cooperative news media may be used to counteract these allegations."

Now, turning to the technique of misinformation or disinformation, which at paragraph 12 of the instructions on the New Left from which Mr. Smothers was reading, Bureau agents were told to attack the New Left by disinformation and misinformation, and I will give you six quick examples of what was done pursuant to that program.

There was a body called the National Mobilization Committee To End the War in Vietnam. At the time of the Democratic National Convention in 1968, that body attempted to obtain housing in Chicago for demonstrators who had come to the convention. The FBI local office in Chicago obtained 217 of those forms and filled them out with fictitious names and addresses of persons who purported falsely to have houses in which the demonstrators could stay. The tactic had its designed effect because, according to FBI documents, the persons who went out to look for these houses made "long and useless journeys to locate the addresses and the efforts to find housing were canceled."

What effect that had upon the attitude of the persons who were there in Chicago, and what contribution that made to what happened thereafter, I suppose we will never know.

Precisely the same tactic and program was carried out by the Bureau with respect to the 1969 Presidential Inauguration where they again filled out false housing forms to confuse and disrupt efforts by persons coming to Washington to find places to stay.

During those 1969 inauguration ceremonies, the Washington field offices of the FBI discovered persons who were attempting to coordinate and control the demonstrations, or marshals. And this committee has examined in executive session Mr. Egil Krogh, who was responsible for coordinating law enforcement at that demonstration, and he has told us that the marshals of the demonstrations were a very useful and very helpful group of persons in order to keep the demonstration orderly.

Now, what did the FBI do? They found out what citizen band was being used for walkie-talkies, and they used that citizen band to supply the marshals with misinformation, and, pretending to be a unit of the National Mobilization To End the War in Vietnam, recountermanded the orders issued by the movement.

In 1967 there was a rally in Washington protesting the Vietnam war. A newspaper in New York City indicated that its contribution to this rally was to be the symbolic act of dropping flowers on the meeting, and the newspaper put an ad in the newspaper asking for a pilot who could help them do that. The Federal Bureau of Investigation answered the ad, and it kept up the pretense that it was a genuine pilot up to the point when the publisher of the newspaper showed up with 200 pounds of flowers and there was no one there to fly the plane.

In these two examples I am now going to give, the files that have been produced demonstrate a field suggestion and demonstrate no disapproval from headquarters when the proposal was made to headquarters. However, the Bureau has been unable to determine whether the next two activities took place actually as compared to the ones I have already given you.

The New York office of the FBI proposed that it sabotage a printing press which was being imported to be used by the Communist Party of the United States. The documents we have indicate that this request was handled by telephone. There is no indication of disapproval. The Bureau, however, is unable to tell us whether it actually occurred.

Similarly, with another publishing organization in Detroit, called the Radical Education Project, which published pamphlets and papers, the Detroit office of the FBI asked the headquarters lab to prepare a quart of a solution "capable of duplicating a scent of the most foul-smelling feces available." The Bureau is unable to tell us whether that was done, but the paper record indicates clearly that that was not disapproved.

Now, Mr. Smothers, I guess, is going to deal with violence and factionalism.

Mr. SMOTHERS. We talked a little bit about factionalism earlier and a little bit about the increasing development, or honing, of various techniques. Perhaps the culmination of the ability to apply certain kinds of techniques that have been learned in the early efforts against the Communists and the Socialist Workers took place when the Bureau looked at the competing efforts of groups they defined as Black Nationalists and thought of ways to neutralize or destroy those groups.

Exhibit 21 [1] is a correspondence from 1968, a Bureau document indicating just how far the Bureau had departed from its law enforcement mission. It is shown on the chart at your left.

Reading from that document, the Bureau pointed out that a serious struggle was taking place between the Black Panther Party and another west coast organization known as US: "The struggle has reached such proportions that it is taking on the aura of gang warfare with attendant threats of murder and reprisals."

Recognizing these threats of murder and reprisals and the clear threat of violence, the FBI does not talk about law enforcement, but talks about initiating COINTELPRO activities designed "to fully capitalize upon Black Panther Party and US differences as well as to exploit all avenues of creating further dissention in the ranks of the BPP, recipient offices are instructed to submit imaginative and hard-hitting counterintelligence measures aimed at crippling the BPP (Black Panther Party)."

[1] See p. 406.

What we see here is the Bureau deciding that not only is law enforcement an adequate tool, but indeed, that violence now, or the promotion of violence, becomes an acceptable technique as a basis for doing away with objectionable groups and organizations.

A chart [exhibit 22] [1] that may help us some if we like bright colors represents our attempt, and the attempt of our staff here, to translate our rather vague directions and do a composite picture of COINTELPRO activity.

I think the chart is particularly helpful because what it does is indicate to us what was happening in terms of frequency from the period of 1956 up through about 1966.

We see very intensive activity against the Communist Party. With the involvement of the Socialist Workers who are viewed by the documents as a minor element, we see really a kind of trickling curve that hovers along the bottom of the graph, as shown there in black.

As the social issues began to change, the Bureau's efforts and intensity changed. The first is the effort here against the Klan, which reaches its peak in 1966. They are immediately followed by a literal preoccupation with the activities of the New Left and blacks.

In 1968 that activity is at its peak. The initiatives against the New Left began to drop off, as we see some change in the war sentiment in this country. However, either there was no perceived sentiment or the FBI did not get the message in terms of Black Nationalists because the intensity of that effort is shown to continue right through the last showing of the chart in the 1971 time frame.

Now one of the questions that emerges when we examine all of this activity is certainly the obvious one of who told them they could do it. And with respect to who told them they could do it, the answer is largely one of the Bureau deciding that it was a good idea.

However, this should not be taken to mean that there was no communication and no attempt to advise important officials of at least some of the Bureau's efforts. It is pretty clear from our look at this area that with respect to efforts against the Communist Party and efforts against the Klan, Mr. Hoover sent letters to Attorneys General, including Rogers, Kennedy, Katzenbach, Clark, and Mitchell, which he believed constituted a notification of the existence of these efforts against the Communist Party and the so-called White Hate organizations.

There is some indication that the Cabinet was briefed in 1958 regarding the Communist Party COINTELPRO efforts and that a House Appropriations Subcommittee was given information on both the Communist Party and White Hate COINTELPRO.

What we have been unable to find are disclosures relating to the Bureau's efforts against the New Left, against Black Nationalists.

The issue of authorization then seems to be one of the FBI assuming the authority and the need to take on certain actions, and then a subsequent communication of what had been done to the Attorney General and to officials in the White House—one can only assume relying upon the do-not-do-it-again, or the failure of a do-not-do-it-again directive as the basis for continuing the action.

Now in discussing whether many of these efforts are continuing today, I believe Fritz has looked at the terminating documents with

[1] See p. 408.

respect to COINTELPRO and has some observations in that regard, before we turn our attention to what we have found in our estimation to be probably the best example of COINTELPRO in action, the effort against Martin Luther King.

Mr. SCHWARZ. First, let me observe that whatever effort there was to turn off COINTELPRO occurred only after it had been exposed, exposed by the theft of documents from the Media, Pennsylvania, office of the FBI, and exposed in the press, pursuant to a Freedom of Information Act lawsuit.

In April of 1971, a notice was sent out that the extant COINTEL PROs, naming five domestic COINTELPROs there—since that it has been discovered that there were more, but that apparently headquarters had forgotten about—that those COINTELPRO operations should be discontinued. However, the document goes on to indicate: "In exceptional instances where it is considered counterintelligence action is warranted, recommendation should be submitted to the Bureau under the individual case caption."

We have determined through testimony, moreover, that the line between so-called COINTELPRO operations and intensive investigation—another term used within the Bureau—is one which is exceedingly fuzzy and that the same kind of activity which was carried in some cases under COINTELPRO has been carried in other cases under the label of intensive investigation.

Senator MONDALE [presiding]. In fact, the evidence we are about to hear on the Martin Luther King case occurred under a title other than COINTELPRO, did it not?

Mr. SCHWARZ. Yes. the most vicious kinds of acts that we have discovered occurred under a label which was not even called counterintelligence.

Now finally, the current leadership of the FBI has declined in its testimony before Congress in situations where the evidence that we have was not available to Congress. Indeed, until we got this evidence, not even the Justice Department, in their review of the so-called COINTELPRO, saw what actually existed in the documents. But the current leadership of the FBI has taken the position in defense of COINTELPRO that "for the FBI to have done less under the circumstances would have been an abdication of its responsibilities to the American people," and has declined to condemn the programs or, to date, the kind of activity which we have been discussing.

Of course the Bureau witnesses are going to be coming in beginning tomorrow and we shall see what their position is in light of the evidence as to the actual activity which has been put forward to this committee.

Now on King, Mr. Smothers is going to start with respect to the aims as they appear from the documents.

Mr. SMOTHERS. It appears that the Bureau's effort against Dr. King starts with a response to the perceived dissatisfaction or complaints raised by Dr. King against the Bureau. There is the early suggestion that they should look at him because SCLC or the movement had been infiltrated by Communists. [See footnote page 21.]

A total examination of the record, though, indicates a very limited kind of almost nonexistent concern of the Communist issue except as it related to trying to get information on this point regarding people with whom King spoke.

But in the period from 1956 when King begins his emergence, we begin to see developing, if not a dispute, certainly no love lost between Dr. King and Mr. Hoover. In fact, by January of 1962, Mr. Hoover has already typed Dr. King as "no good." Hoover is particularly disturbed after 1963 when it became clear that the concept of nonviolence was gaining adherence, adherence to be made even more clear by the time the march on Washington came around.

This development of a concept of nonviolent confrontation or nonviolent protest was seen as a threat to law enforcement, and something the Bureau was indeed unhappy about. This was aided apparently by what the Bureau regarded as Dr. King's direct attacks on Mr. Hoover and the Bureau and the public controversy was pretty much full blown at the time in 1963 when Mr. Sullivan, who should be able to give us some assistance on this matter, communicates to Mr. Hoover a plan for dealing with Dr. Martin Luther King.

Quoting from a memorandum, the plan here is to completely discredit Dr. King by "taking him off his pedestal and to reduce him completely in influence."

In its effort to reduce Dr. King's influence, to take him off his pedestal and to change, if you will, his image before the masses, we begin to get some insight into the thought process of the FBI at this time. The thinking was that this would not be a terribly difficult task. The memo indicated, for example, that this can be done and will be done:

"Obviously, confusion will reign, particularly among the Negro people. The Negroes will be left without a national leader of sufficiently compelling personality to steer them in the proper direction."

So the FBI decided that if they were going to take King off his pedestal, it was a part of their task to find and bring into prominence a new national Negro leader.

To this end the FBI did research and identify a personality, a person, not a civil rights leader incidentally, whom the Bureau believed would qualify and should be promoted as the new national Negro leader.

In addition to the efforts to discredit King and to knock King off his pedestal, if you will, the FBI felt that it had a need to gain as much information as possible regarding every aspect of the activities of Dr. King and of the Southern Christian Leadership Conference.

To this end, the FBI set about a path of authorizing some 16 wiretaps against Dr. King, microphone bugs, if you will, in addition to wiretaps, which were also planted. The bugs were to be used for the most complete surveillance imaginable. That is to get everything we can on Dr. King.

I think when we look at or attempt to evaluate the purpose here, what we really see is that not only are the attacks on or the dispute against King a part of the Bureau's concern at this point, but the whole concept of civil disobedience, as the Bureau thought was personified by Dr. King, is getting to be a problem. The FBI sees no alternative to doing away with the growing adherence to civil disobedience as a means of redressing grievances, no alternative other than beginning or embarking upon a rather presumptuous course of replacing Dr. King and establishing a new national Negro leader.

Fritz, I believe you have some information on some of the things that they attempted in that regard.

Mr. SCHWARZ. Yes; the extraordinary thing is to look at the timing of the effort the Bureau made to discredit and destroy Dr. King. They come to crescendos at every single point where Dr. King touched the issues in this country. After the march on Washington there was an acceleration. He was defined, because of his speech in that demonstration in Washington, as the most dangerous and effective leader in the country and there was a paper battle within the Bureau as to how best to attack him. He was attacked after Time magazine named him as the Man of the Year. Again, the Bureau finds that reprehensible, believes it must attack and destroy. When he was given the Nobel Prize, again, they seek to discredit Dr. King with the persons who welcomed him back from that award. When he began to speak out against the Vietnam War, there was a new crescendo of efforts by the Bureau to discredit and destroy Dr. King. When the Poor People's Campaign took place, once again they go after Dr. King. And their activity to go after Dr. King did not even cease when he died, because as Congress began to consider the question of whether or not Dr. King's birthday should be made a national holiday, the Bureau developed plans to call in friendly Congressmen for off-the-record briefings concerning King in the hopes that those Congressmen could keep any such bill from being reported out of committee.

The period surrounding the march on Washington and immediately following is particularly revealing. A report is written for the Director by his chief intelligence officer reporting that the Communist Party, in fact, for 40 years had been trying to control the Negro movement and that it had always failed and that its efforts in connection with the march on Washington were infinitesimal. This was not accepted by the Director of the FBI. He found that thinking wrong, unacceptable, and said that it must be changed. And it was changed and then we find paper coming in in which the lower level people in the FBI apologized for having misunderstood matters and on they go with this effort to discredit and start the bugs on Dr. King.

The efforts to discredit him range from political people to foundations to universities. A particular university was selected as a target because it was thought unseemly that, since it had once granted an honorary degree to the Director of the FBI, for it to grant one to Dr. Martin Luther King. The FBI sought to prevent the Pope from meeting with Dr. King. It intervened with a Cardinal.

The CHAIRMAN. To prevent the Pope from meeting with Dr. King?

Mr. SCHWARZ. Yes; the Pope. And when the Pope, despite that effort, did meet with Dr. King, the FBI documents record the adverb "astounding."

The CHAIRMAN. It must have been Pope John, was it?

Mr. SCHWARZ. It was in 1964. Someone has got to help me on that. Who was the Pope? Pope Paul.

But in any event, that effort did not work. The paranoia, the belief that American citizens could not deal, themselves, with Dr. King is indicated by this story. At one point Governor Rockefeller was planning a trip to Latin America and the Bureau felt that it had to approach Governor Rockefeller so he could be—he was planning to see Dr. King before going—so that he could be warned of what a great

danger Dr. King was. This effort went on and on and on. Each time he was doing something important there was an effort to discredit him. Each person he met who the Bureau felt could give further credit, further recognition to Dr. King, an effort was made to stop that from happening. The Bureau went so far as to mail an anonymous letter to Dr. King and his wife shortly before he was awarded the Nobel Peace Prize, and it finishes with this suggestion: [See footnote page 21.] "King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do it. This exact number has been selected for a specific reason. It has definite practical significance." It was 34 days before the award. "You are done."

Senator MONDALE. That was taken by Dr. King to mean a suggestion for suicide, was it not?

Mr. SCHWARZ. That is our understanding, Senator.

The CHAIRMAN. Who wrote the letter?

Mr. SCHWARZ. That is a matter of dispute. It was found in the files of Mr. Sullivan who was the Assistant Director of the FBI and was heavily involved in these programs. He claims that it is a plant in his files and that someone else in the Bureau, in fact, wrote the document. The document which was found is a draft of the letter, the anonymous letter which was actually sent.

The CHAIRMAN. Is there any dispute that the letter did in fact come from the FBI?

Mr. SCHWARZ. We have heard no dispute of that.

Mr. SMOTHERS. One thing that is very clear as we examine the King information is that the FBI is not only presumed to know an awful lot about the movement which Dr. King headed, but that many of its fumbling efforts, many of its failures to convince people that Dr. King should be discredited, were born out of the ignorance and, if you will, the very clear racism at large then in the Bureau.

A particularly revealing aspect of the Bureau's approach to the question, even at a time when they were examining the so-called Negro question, is evidenced by the response to a memorandum which then Attorney General Kennedy wrote to Mr. Hoover. Mr. Kennedy wrote a memorandum asking Mr. Hoover how many Negro special agents he had. Mr. Hoover wrote back, "We do not catalog people by race, creed, or color," and now, reading from Mr. Sullivan's transcript on the point, "It was assumed by Mr. Hoover that this would take care of Mr. Kennedy. Mr. Kennedy came back with another very nice letter, that's a laudatory attitude, you are commended to have it, but I still want to know how many Negro special agents do you have." So we were in trouble.

"It so happened that during the war he had five Negro chauffeurs, so he automatically made them special agents. It did not matter whether they finished college or high school or grammar school or had a law degree. So now we wrote back and said we had five. Then Mr. Kennedy came back and said this was atrocious." At the time, according to Mr. Sullivan, the FBI had 5,500 special agents. "Out of that number 5,500, and you only have five Negro agents."

Mr. Sullivan again, "Of course, we did not say in that memorandum that none of them conducted investigations; they were just drivers."

This is 1961. Is it any wonder that the FBI was later presumptuous enough to feel that it could determine the next new national Negro leader? A part of their problem is that they attempted to translate the tactics first used against the Communist Party against virtually every perceived enemy; as they looked across the landscape and decided who should be neutralized, discredited, or destroyed.

The CHAIRMAN. I think this is a time when the committee might consider breaking. We have a cloture vote coming up now. We will be coming back this afternoon as we examine by what legal authority the FBI presumed to conduct operations directed toward discrediting, even endangering American citizens, and that hearing will commence at 2 o'clock this afternoon.

Immediately following the conclusion of the staff presentations, members of the committee will then address questions to the staff. So we are adjourned until 2 o'clock this afternoon.

[Whereupon, at 12:28 p.m., the committee recessed, to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

The CHAIRMAN. The hearing will please come back to order.

Mr. Schwarz, you and Mr. Smothers had not yet completed your presentation to the committee when we had to break for votes and for lunch. I suggest that you proceed now to complete that presentation before we go to questions.

Mr. SCHWARZ. Mr. Smothers has a historical note he wants to make first, and then I'm going to return to the subject.

Mr. SMOTHERS. I have a historical note because you told me you were going to talk about indexing.

Mr. SCHWARZ. You're right.

Mr. SMOTHERS. And I think it is worth noting that at the time we talked about the very beginnings, when Mr. Hoover was then in charge of the Intelligence Division of the FBI, we see the starting of the first indexing system, the system being established there as the basis to insure the ability for retrieval of information against the anarchists and Communists and other kinds of revolutionaries, if you will, that Mr. Hoover identified. And he considered the indexing system to be a valuable aid in the efforts to link radicals to the steel and coal strikes in 1919 and 1920 and the railroad strikes.

The CHAIRMAN. In other words, you are talking about the origins of this indexing system going back to 1918, 1919, 1920, right?

Mr. SMOTHERS. I think, Mr. Chairman, it would be fair to say that in terms of the techniques we have talked about, what we have really seen as we have looked at the development of this thing is that not very much is terribly new. It changes in intensity, it changes in targets, but the origins have been with us a long time.

Mr. SCHWARZ. The issue of indices and how they came to be used as devices to plan to lock up American citizens in a kind of emergency evolved from the initial start that Mr. Smothers referred to, to a plan that lasted from at least 1939 until the 1970's—if it is indeed gone now—to prepare lists of American citizens who would be locked up, in effect, on the order of the President or the Attorney General and without the intervention of the court at a time of emergency.

I want to tell that story briefly, for the purpose of illustrating some of the problems of oversight and relationships between the FBI and on the one hand the Justice Department, and the FBI and the Congress, because in the course of telling the story, all of the types of relationships come out. We get the situation of the FBI complying with the orders of Attorneys General. We get situations where the FBI secretly defied orders of the Attorneys General. We get situations where the FBI is complying with the Congress, and we get times where the FBI, in coordination with an Attorney General, is planning to secretly defy the orders of Congress on the subject of indices for times of national emergency.

In 1939 the FBI established an index called the Security Index, which was a list of individuals, both aliens and citizens—I am now quoting from exhibit 23:[1]

> On whom there is information available to indicate that their presence at liberty in this country in time of war or national emergency would be dangerous to the public peace and safety of the United States Government.

The documents which notified all FBI offices of such lists and notified them to prepare names, indicated that the Bureau should make certain that the fact that it was making such investigations does not become known to individuals outside of the Bureau. Nevertheless, the Department of Justice was then informed, and in 1941, the Department of Justice commenced to work with the Bureau on classifying persons as to degree of dangerousness.

In 1943, however, the Attorney General then in office, Mr. Biddle, wrote a memorandum for J. Edgar Hoover [exhibit 24] [2] in which he instructed J. Edgar Hoover to get rid of the lists and to stamp on each document in which a person had been given a classification for the purpose of being locked up, the following legend: "This classification is unreliable. It is hereby canceled, and should not be used as a determination of dangerousness or of any other fact." Attorney General Biddle told J. Edgar Hoover that after full reconsideration of these individual danger classifications:

> I am satisfied that they serve no useful purpose. . . . There is no statutory authorization or other present authorization for keeping a "custodial detention" list of citizens. The Department fulfills its proper functions by investigating the activities of persons who may have violated the law. It is not aimed in this work as to classifying persons as to dangerousness.

Within a few days of that very flat instruction from the Attorney General, the Director of the FBI indicated to all FBI agents that the instruction, in effect, should not be carried out. He told them that what they should do is simply to change the label on the files to "Security Matter" from "Custodial Detention" and instructed the agents of the FBI that the Bureau "will also continue to prepare and maintain security index cards" [exhibit 25.] [3] This was for the same purpose of knowing who the Bureau might lock up. And he further instructed them, "The fact that the Security Index and Security Index Cards are prepared and maintained should be considered as strictly confidential, and should at no time be alluded to in investigative reports or discussed with agencies or individuals outside the Bureau" other than

[1] See p. 409.
[2] See p. 412.
[3] See p. 414.

representatives of the military intelligence agencies who were going to be let in on the secret.

In 1948 there was a new Attorney General in office, and he, contrary to Attorney General Biddle, who instructed that this be turned off, instructed the FBI to prepare an emergency detention program following something called the Attorney General's Portfolio. This included plans to suspend the writ of habeas corpus. It ultimately included plans for a master warrant of arrests whereby, on a signature of the Attorney General, and only that signature, without reference to the courts, thousands of people could be locked up.

The CHAIRMAN. What Attorney General was this who succeeded Mr. Biddle?

Mr. SCHWARZ. In 1948 it was Attorney General Clark.

In 1950 the Congress passed the Internal Security Act. That act also provided for an emergency detention system but it was far more restrictive. It gave less power to the Government than the Attorney General's program. It did not provide for the suspension of the writ of habeas corpus. It was more restrictive in its standards as to who could be apprehended. It did not permit apprehending people on a master warrant, but rather it had to be an individual warrant based upon probable cause. It provided for hearings, and hearings in courts within 48 hours, instead of under the plan of the Justice Department no hearings in court, and no hearing at all for up to 45 days.

There then ensued, after the passage of the Internal Security Act, a lengthy exchange of correspondence.

The CHAIRMAN. The Internal Security Act was passed in 1950?

Mr. SCHWARZ. 1950.

A lengthy exchange of correspondence in which the Bureau and the Department were discussing whether they should comply with the Internal Security Act, and change the custodial detention program, to which they previously agreed, to comply with its standards, or whether they should, despite the passage by the Congress of the Internal Security Act, stick to their tougher standards that let them lock up more people and kept the courts out of it.

So the decision was made in 1952, November of 1952, and the Department, in the person of the Attorney General, decided to notify the Director of the Federal Bureau of Investigation that the Bureau should continue the plan to proceed under the Department's own portfolio instead of proceeding under the Internal Security Act. [Exhibit 26.] [1]

The CHAIRMAN. Under what claim of authority?

Mr. SCHWARZ. Inherent executive power, I suppose. These authority matters are ones which it seems have been focused on more, in retrospect, in the last couple of years, as opposed to things that were thought about at the time, and the legal authority issue does not seem to have been discussed at all as far as the FBI's right to pursue any of these programs until the summer of 1973.

The list which was prepared under the stricter Justice Department's FBI program, called at one time for the locking up of 19,436 Americans. By the time of the repeal of the Internal Security Act it numbered, in 1971, approximately 12,000 persons.

---

[1] See pp. 416 through 427.

The CHAIRMAN. Since the repeal of the Internal Security Act, have they continued to maintain these files for lockup purposes?

Mr. SCHWARZ. Your key question is your last three words, Senator. They have continued, upon the agreement of the Department of Justice, to maintain the same files. The numbers have now been reduced to 1,200 persons. The name has been changed to something called the Administrative Index. What purpose that serves and whether it still is used as a reserve list of persons to lock up, I think we are going to ask the Bureau. I cannot give you a definitive answer.

Now, in addition to the so-called Security Index, there was, throughout this period of the fifties and sixties, also a reserve index. As to this we have not been able to discover any notification to the Department of Justice about the reserve index. The reserve index was composed of persons who did not meet the criteria of the Security Index but whom the Bureau felt should have special attention in a time of national emergency.

In 1962 there were approximately 10,000 names on the reserve index. A special section of that list was reserved for educators, labor union organizers and leaders, media personnel, lawyers, doctors, scientists, and other potentially influential people. And the point I make in connection with these lists is not only their existence, but the problems, as revealed by the different areas, of times when the Bureau appears to be acting without anybody knowing it, times when the Bureau is acting pursuant to coordination with the Department of Justice, and times when the Bureau and the Department appear to be acting beyond the authorization of the Congress.

Mr. Smothers has another case study of the problem of oversight.

Mr. SMOTHERS. Yes. I think as we have gone through the materials today, there might be some suggestion that the Bureau did not make an effort to secure guidance from the Department of Justice. While I think that may be true in some cases, we have others in which the effort was made, and which the Department is either unresponsive or merely takes a see no evil, hear no evil kind of approach, and at the same time nods to the Bureau, go ahead, or at least, go ahead if you wish to.

The case in point is the effort initiated against the Nation of Islam, the so-called Black Muslims. At least as far back as World War II, the FBI had been keeping track of the Nation of Islam, and on a number of occasions—we can only document a 20-year period—had gone to the Department of Justice seeking guidance in its efforts.

If I might, just a bit of that 20-year chronology that we have, to see that even when the Bureau attempted to gain guidance and clarification, there were some who thought that it was in the best interests of the Government to leave them unadvised.

In 1952 the Department of Justice was advised that the Nation of Islam may be "a fit group for the Attorney General's list." Here they were operating under the Federal employee loyalty program. In May of 1952 that information is communicated. In 1953 the Department of Justice says, we will not prosecute this group under the Smith Act, but "the group would under certain circumstances represent a serious threat to our national security." This is February 9, 1953.

The CHAIRMAN. Can you give us a word of description of the group?

Mr. SMOTHERS. The Nation of Islam? Well, not having had first hand experience with it, the Nation of Islam, formerly led by Elijah Muhammed, claims to be and was operated as a religious group. The thing generating concern here was apparently the group's rhetoric regarding its dislike for white persons and its belief that the war of Armageddon was near, that the time of the dominance, if you will, of the white race is about to come to an end, and in preaching this philosophy, it certainly soon came to the attention of the FBI. And I will come to what happened with the FBI's efforts, Mr. Chairman.

Senator TOWER. Mr. Smothers, hasn't that group somewhat moderated its, or at least deescalated the rhetoric?

Mr. SMOTHERS. Well, the latest information I have, Senator, is it would be true. In fact, I understand that breaking with all precedent in a recent social gathering some white persons were invited. So I think that the history of the group certainly was not different or changing during most of the time that the FBI sat in on it. And the concern was that there was some kind of very softly expressed danger to the national security, a concept expressed both by the FBI and by the Department of Justice.

For example, there was a question regarding the refusal to participate in the draft under the claim, which many of you may recall that led to a prosecution of Muhammed Ali, the claim being that every member was, in fact, a minister of the church of the religion.

In 1954 the Department of Justice advised the group would not be prosecuted for any conspiracy to violate the Selective Service Act. They continued their efforts with respect to some individual violations.

In 1955 the FBI goes to the Department of Justice and says, "review the file of the group and advise us whether the 150 most active members should continue on the Security Index," which Fritz has just mentioned. Avoiding the question, the Department, 5 months later, comes back noting only that a potentially dangerous instrumentality is represented here in the event of a national emergency.

The next entry we have is 1959. There the Department indicated that the group would not be prosecuted or designated for the Attorney General's list, and Hoover, upon receiving this communication said, in essence, "they always come up with excuses for not doing anything," and he asked or noted that they should take a constructive approach. He was asking them for advice.

In 1960 the Department gave the same advice, saying that the group was not subversive as defined by the employee security program. However, the FBI was requested to continue its investigation of the group.

Hoover noted on the bottom of that memorandum, after he received it, that Justice was "just stalling." It is interesting to take a look at that particular memo [exhibit 27],[1] that one of September 23, 1960. Walter Yeagley, then Assistant Attorney General of Internal Security Division, in a fairly clear discussion, notes that the first amendment requires something more than language of prophesy and prediction and implied threats against the Government to establish the existence of a clear and present danger. He further notes in the memorandum that the evidence is insufficient to meet the criterion of advocating the overthrow of the Government, but then he apparently comes

[1] See p. 428.

to the same bottom line that the FBI had reached. "Because of the semisecret and violent nature of this organization and the continuing tendency on the part of some of its members to use language of implied threats against the Government, it is requested that the Bureau continue its investigation of the Nation of Islam and its leaders."

In 1962, we are on the same merry-go-round. The Department repeats the advice and says, "Continue to investigate."

In 1963, the Department said there would not be a prosecution and did not request further investigation, but in 1964 the members are still on the list, the investigation is continuing. The Department is advised of that. In its response to the FBI, the Department does not even mention the fact the investigation is continuing.

For 7 years, from 1966 to 1973, there are no further instructions to the Department, and the FBI did not ask.

In 1973, the FBI comes up again and asks the Department of Justice if they should continue. It took the Department nearly a year to answer them. At that point the Department replied that the investigation should continue because the group represented "a potential threat to the public safety."

The FBI was asked to consult the Department if the group "changed its tactics and objectives." And the Department the next time advised that another reason for continuing the investigation might be the antiriot law. The employment security program comes up again.

Finally, after 20 years of exchange with the Department of Justice, late in 1974, the FBI decided that it would not bother investigating any more. In this 20 years of back and forth, reading the correspondence, the memorandums, it is virtually impossible to decipher anything that approaches the decision, guidance, firmness, or direction. So it is not all the Bureau run wild. There was some very clear advice here as to at least some of what was going on, and this is a good case in point.

Mr. SCHWARZ. The final part, Mr. Chairman, is the lack of legal authority and the ambiguity, the uncertainty. This has troubled the FBI and the Attorney General's office seriously since 1972. Prior to that time there is no evidence that consideration was given to issues of whether there is legal authority except the kind of hint you get in that 1938 memo where they say "Let us not go to Congress, because if we seek a statute, people are going to get upset about this kind of spying on Americans."

But in 1972 and 1973, the Bureau did focus on the problem. They wrote in 1973 to the then Attorney General saying, "We are very concerned about whether we have legal authority to act in these intelligence areas." They indicated then that the theory which had been used for the 30 years, which were the rather ambiguous and vague Executive orders, many of which were secret, from Presidents Roosevelt and Truman, and Eisenhower, at least. Those had been the bases on which the Bureau said they can go ahead and spy on the people. Really, those orders just said to look at subversives. They had no real content to them. They had certainly nothing about tactics and activities, no specificity.

By the summer of 1972 and 1973, the Bureau was very concerned, and concluded internally that they probably did not support its intelligence activities and asked the Attorney General to please help get a statute passed and get some Executive orders passed.

66-077 O - 76 - 4

The CHAIRMAN. Which Attorney General? We had three in 19——

Mr. SCHWARZ. That was Attorney General Elliot Richardson. I think he left fairly soon after that request was made, and in any event, statutes have not been sought. The current Attorney General has been very diligently at work thinking about the issue of guidelines, at least internal guidelines. We have not seen any proposed statutes, but perhaps that is the work of this committee.

But the FBI and the Attorney General are now, it appears, genuinely concerned about the issue of legal authority.

Mr. SMOTHERS. Mr. Chairman, it is not clear in terms of the chain of that motivation. I do not think there is doubt that some of it is being actively considered now, but unless we focus it on an isolated case and point out that the volume, the sheer volume of information being received by the Department of Justice from the FBI, appears to have been sufficient to put the Attorney General, the various Attorneys General on notice that an awful lot of information was coming in from somewhere.

For example, in 1967, the Internal Security Division received periodic reports on approximately 400 organizations, an annual total of about 14,000 memorandums, about 150 reports a day. And yet we see little evidence that anybody asked "Where are you getting this stuff from? What is the source of all of this?"

I think that is a question, the real legal authority's point, that is now beginning to focus.

The CHAIRMAN. How much of that enormous volume of information ever meant anything to the Government? How many man-days, how much money was spent in such a massive and continuing effort of surveillance through the years?

These are questions that occur to me as we watch the organized crime in this country, the general level of crime that keeps rising from year to year.

Is it any wonder that we are not dealing effectively with it if so much of our attention and resources are diverted into activities of this kind? That bothers me very much.

Mr. SMOTHERS. Mr. Chairman, that is a hard question to get at in terms of the complete answer. I think it might be a question we could raise with the Bureau.

You recall earlier we talked about the combination of the intelligence functions, both counterespionage and domestic intelligence. What we get is a lumped figure, fiscal 1975, of about $82 million. That includes both our foreign and domestic effort. The Bureau does not wish to break it out further, and I think for some good reason—e.g. because it would tend to disclose the amount of the counterintelligence budget. That figure lumped together is about 18 percent of the resources. The actual resource application though, in terms of man-hours, one, records that the Bureau did not keep; and two, if you look at the memorandums, you see designations of half an agent's time, designate an agent to do this. We saw the peaks and valleys in the activity. It is anybody's guess as to how much of personnel costs has to be outlined in this.

The CHAIRMAN. Before I am going to pursue my own questions I would like to recognize after some weeks of absence that we have Senator Phil Hart back with us and we are so pleased that he is back, that he is here today participating at this hearing, and all the members of the committee feel that way.

So I thought it would be entirely appropriate, Senator Hart, to turn to you first with whatever questions you would like to ask.

Senator HART of Michigan. I do not recommend that others pursue the course I took in order to get this advantage, but thank you very much.

Having the benefit of not having heard anything until yesterday for all of these months, I would just react very generally to what you have told me today.

As I'm sure others have, I have been told for years by, among others, some of my own family, that this is exactly what the Bureau was doing all of the time, and in my great wisdom and high office, I assured them that they were—it just wasn't true. It couldn't happen. They wouldn't do it.

What you have described is a series of illegal actions intended squarely to deny first amendment rights to some Americans. That is what my children have told me was going on. Now I did not believe it.

The trick now, as I see it, Mr. Chairman, is for this committee to be able to figure out how to persuade the people of this country that indeed it did go on. And how shall we insure that it will never happen again? But it will happen repeatedly unless we can bring ourselves to understand and accept that it did go on.

And now my last note. Over the years we have been warned about the danger of subversive organizations, organizations that would threaten our liberties, subvert our system, would encourage its members to take further illegal action to advance their views, organizations that would incite and promote violence, pitting one American group against another.

And I think the story you have told us today shows us that there is an organization that does fit those descriptions and it is the organization, the leadership of which has been most constant in its warning to us to be on guard against such harm. The Bureau did all of those things.

And I say that as one who worked as a U.S. attorney with the Bureau. I have enormous respect for its capacities in the field of kidnapping, bank robbery, and a lot of other things, but am appalled to learn, if that is correct, of the intelligence side that the Bureau has been up to for so long.

I am glad I got back in time to be persuaded of what my own family had not been able to persuade me of.

Thank you.

Mr. SCHWARZ. Of course there are actually violent groups. There are people who do act violently in the country and there is a role to be played there. The problem is the process, no check, no control, no neutral person checking how they draw the line, and no apparent effort to balance with the values of the first amendment.

The CHAIRMAN. I would like to recognize Senator Mondale next.

Senator MONDALE. Thank you very much, Mr. Chairman.

I think we all on this committee join with Senator Hart in expressing our admiration for the FBI and the conduct of its criminal investigating and prosecutorial functions. I just do not think there is any professional law-enforcement organization in the world that perhaps equals the FBI in its ability and its training in that field.

As an old law-enforcement officer myself, I wanted the point made clear. What we are confronting here, however, is another matter beyond the law, which is called counterintelligence or internal security. And it is a matter which strangely has troubled the FBI in the past. In fact, the abuse of that internal security function by the old Bureau of Intelligence so led to its disgrace that a new organization, known as the FBI, was created precisely for the purpose of staying out of this dirty work in the future.

So here we are again. The case of Martin Luther King strikes me as being the central case to demonstrate precisely what was involved and the profoundly serious danger of those tactics.

I would like to ask a few questions about it which, I think, demonstrate the elements of that matter.

What was the threat that the FBI believed that Martin Luther King posed to this country?

Mr. SCHWARZ. You get different feelings on that, Senator, from the documents, but it is a threat of change. There is a flavor running in there of an assertion that he was influenced by Communists, but that does never seem to be followed through on or proven what his actions were. It was the threat of change, I would say.

Senator MONDALE. Was there any evidence at any time that they were suspicious that he was about to or had committed a crime?

Mr. SCHWARZ. None that we have seen.

Mr. SMOTHERS. I think it is easy to underestimate the impact the concept of civil disobedience had on the Bureau in general and Mr. Hoover in particular.

Senator MONDALE. I want to get into the flavor of that later.

Mr. SMOTHERS. It was a big part.

Senator MONDALE. But I'm trying to find out what it was that impelled some part of the FBI to pursue Martin Luther King with such an obsession, and what I understood that answer to be was, first of all, it was not any suspicion of the commission of a Federal crime. None of the literature showed up a single suggestion that Martin Luther King had committed or was about to commit a crime.

Is that correct?

Mr. SCHWARZ. That is correct.

Mr. SMOTHERS. Yes, sir, but at this point much of what was being done did involve challenges to local laws, and there is a very strong suggestion that King was seen as rallying the lawbreakers and would-be lawbreakers, albeit for a cause that sounded pure, looking now in terms of—if you look at what might have gotten the Bureau started, remember at the same time he is extremely critical of the Bureau's own law-enforcement efforts.

We see throughout these documents, the New Left documents, it is taboo to criticize the Bureau and particularly the Director.

Senator MONDALE. Was he ever charged with fomenting violence? Did he ever participate in violence? Was it ever alleged that he was about to be violent?

Mr. SCHWARZ. That was the very opposite of his philosophy, Senator.

Sentaor MONDALE. So it was neither the fear of commission of a crime nor the commission of violence?

Was there any serious charge that he himself was a Communist?

Mr. SCHWARZ. No such charge whatever.

Senator MONDALE. So that what was left was the decision on the part of some persons or person within the FBI that he should nevertheless be pursued. The basis for that decision apparently was political, the decision that he was dangerous or potentially dangerous to someone's notion of what this country should be doing and a theory that the FBI possessed the ability to enter into this field and to investigate and to intimidate and seek to neutralize, and indeed replace, a civil rights leader whom they thought to be politically unacceptable.

Is that correct?

Mr. SCHWARZ. Yes.

Mr. SMOTHERS. That is correct.

Senator MONDALE. All right. And the tactics they used apparently had no end. They did not, however, include direct physical violence. They did not include incarceration. But they included practically everything else, did they not?

Mr. SCHWARZ. Yes.

Senator MONDALE. They included wiretapping. They included microphonic surveillance of hotel rooms. They included informants. They included sponsoring of letters signed by phony names to relatives and friends and organizers. They involved even plans to replace him with someone else whom the FBI was to select as a national civil rights leader. Is that correct?

Mr. SCHWARZ. Yes; that plan did not get very far; but they had that plan.

Senator MONDALE. Yes; it was seriously considered, and Mr. Hoover pinned a note to that suggestion commending its authors, did he not?

Mr. SCHWARZ. Yes.

Senator MONDALE. It also included an indirect attempt to persuade the Pope not to see him.

Mr. SCHWARZ. And many other people.

Senator MONDALE. It directed him to persuade one of our major universities not to grant him a doctorate degree.

Mr. SCHWARZ. That is correct. I think there were two universities.

Senator MONDALE. It included an attempt to send him a letter prior to the time he received the Nobel Peace Prize, which Dr. Martin Luther King and close associates interpreted to mean a suggestion that King should attempt suicide.

Mr. SCHWARZ. That's right. Included in that were materials which the Bureau had gathered illegally or improperly through taps and bugs and so forth.

Senator MONDALE. Well, I must conclude that apart from direct physical violence and apart from illegal incarceration, there is nothing in this case that distinguishes that particular action much from what the KGB does with dissenters in that country.

I think it is a road map to the destruction of American democracy, and I would hope, as we lead to the strengthening of the FBI in the criminal field, we impose very clear and unquestioned limits, so that this kind of unrestrained, illegal, secret intimidation and harassment of the essential ability of Americans to participate freely in the American political life shall never happen again.

One final question. What is the position of the FBI now as to whether it continues to have the authority to pursue tactics such as this against someone like Dr. King?

Mr. SCHWARZ. Of course the FBI witnesses are now commencing to come, Senator. There is, on the COINTELPRO subject, which is related to the testimony of the current director in effect defending that program as appropriate for the times in which it took place.

Whether he gave that testimony after knowing the fullness of what was done or not, I don't know.

Senator MONDALE. Thank you very much, Mr. Chairman.

Senator TOWER [presiding]. Senator Huddleston?

Senator HUDDLESTON. Thank you, Mr. Chairman.

First, I too would like to say that I think all of us are well aware of the outstanding work that the Federal Bureau of Investigation does in many areas and that they do have a large number of diligent and dedicated agents who are doing outstanding work in the field of crime and in protecting this country against our foreign enemies.

I think it probably is unfortunate but the fact of the matter is it is not what they are doing right and correct that is of major interest to this committee. Our major interest, first of all, is to discover and identify what is not correct, not right, and to take whatever action may seem to be necessary in order to correct those abuses.

So the fact that we dwell on incorrect actions and abuses should not in itself indicate that the entire Bureau is guilty of gross impropriety in the performance of its duty. But we are in an area here that must concern all of us and all of the citizens of this country.

It seems to me that we have moved away from concern by the Bureau for actual actions that might be violent or might be criminal toward action toward ideas that might be unpopular or may not be acceptable to some people.

But within the Bureau, within the administration, would it be accurate to say on the basis of the information you have presented at this time that, in fact, the motivating factor behind much of the FBI's concern in this area was not that there was likely to be some direct violent action taken by some individual or some crime committed, but simply that ideas were being expressed that were not acceptable to the Bureau?

Is that a correct inference from the information you have given us?

Mr. SMOTHERS. Yes, sir. I believe that is an accurate summary. I believe it is particularly true when we look at the subversive investigations.

Senator HUDDLESTON. Now where is there any mandate for the FBI, or Executive order or any other authority, to move in this particular direction?

Mr. SCHWARZ. Well, there are claims of authority. For example, title XXVIII, section 533 of the United States Code permits the Attorney General to appoint officials to detect and prosecute crimes.

Now that is read as implying the authority to pry into these matters. Whether that is a correct reading or not, I suppose other people should judge.

Senator HUDDLESTON. But in case after case, and in particular, the Martin Luther King case, there was certainly no direct evidence that there was about to be a crime committed that could be identified as a specific crime.

Is that correct?

Mr. SCHWARZ. Certainly not. You are certainly correct.

Senator HUDDLESTON. We have talked some this morning when you gave the presentation of the various targets that had been selected, and one relating to the New Left seems to be a particularly nebulous-type target.

Was there ever any written description or any kind of understanding on the part of the agents that you talked to or those who were enforcing the program that would indicate that they had a very definite, clear understanding of just what this was?

Mr. SCHWARZ. It was a loose term that started and it appears to remain a loose term in its application.

Senator HUDDLESTON. It would be very difficult then to identify very clearly just what the threat of a so-called New Left would be to the security of the United States.

Mr. SMOTHERS. That is correct, Senator. Some of the guidelines provided, and it changed from time to time, included everything from opposing the war to saying bad things about the Director of the Bureau, and it just started to be a catchall.

Senator HUDDLESTON. Did you in fact find officials or agents who indicated that they had no clear understanding as to what it meant?

Mr. SCHWARZ. Yes; we did. Of course some of them might have said, as one Supreme Court Justice said about obscenity, you can tell it when you see it but they couldn't describe it.

Senator HUDDLESTON. Now this information, the files that were built upon all of these individuals, aside from the manner in which it was disseminated, which you have reported in great detail, what was finally done with this evidence? Was it left in a file within the Bureau?

Mr. SCHWARZ. It is still there.

Senator HUDDLESTON. It's still there now?

Mr. SCHWARZ. It does not matter how it was obtained. Even the material, for example, obtained through illegal mail openings is still there and still usable. If the Government asks for a name check on somebody, they would get back information from those sources.

Senator HUDDLESTON. Does the Bureau have a clearly defined policy on how long it should stay there or what would be done with it?

Mr. SCHWARZ. I think we ought to turn to some of our staff experts on that one.

Mr. GITENSTEIN. The basic investigative files remain in the files forever, as far as we know.

Senator HUDDLESTON. No matter how the material was gained, no matter whether or not it was accurate or true or how damaging to an individual it might be, it rests there to be plucked out at someone's whim to be disseminated in whatever way they might want to disseminate it?

Mr. GITENSTEIN. In fairness to the Bureau, in recent months the Bureau has talked about a destruction program based on age.

Senator HUDDLESTON. They are talking about a destruction program but so far as you know, they have not put it into effect?

Mr. SCHWARZ. There is a great problem along that line, Senator. Even if you are willing to assume some right to collect some information, that is a very doubtful assumption, the Bureau collects all information. Let us say a wiretap was authorized in order to check if someone was likely to commit some kind of an act. They do not limit the information which is obtained to that. There are some

efforts now to say, do not listen in when lawyers are talking on the phone, for example, but by and large once you target on the individual or group, you get all of the information.

Senator HUDDLESTON. That would certainly be a broad application of the search and seizure warrant requirement that requires a specifying of, first of all, where you are going to search and what you are searching for.

Mr. SCHWARZ. Yes, and do you remember on the chart which showed that 80 percent of the information comes from informants? Of course there is no warrant procedure whatsoever for the use of informants to infiltrate groups.

Senator HUDDLESTON. Did you find any report within the FBI or any assertion by them that they were in fact able to prevent violent acts or criminal acts because of the information they had gathered?

Mr. SCHWARZ. Yes, and I'm sure it is true there have been instances. That GAO study, however, indicated they were a very small percentage. But of course they undoubtedly have managed to deal with some violent acts in the course of this work and I'm sure the witnesses that come in tomorrow will have samples where they have in fact done it.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Senator TOWER. Senator Hart.

Senator HART of Colorado. Thank you, Mr. Chairman.

Gentlemen, would you discuss an incident which reportedly happened in the closing days of Dr. King's life in Memphis when he had gone to the marches in connection with the sanitation workers strike, and which related to the Bureau's involvement in the question of what hotel he may have been staying at in Memphis?

Mr. SCHWARZ. Yes, Senator, I would like to ask Mr. Epstein of our staff, who has conducted the main investigation of the Dr. King matter, to answer the question.

Mr. EPSTEIN. This is a document dated March 29, 1968. [See footnote page 21.] It is an internal Bureau memorandum. The caption on it is Counterintelligence Program, Black Nationalists, Hate Groups, Racial Intelligence, Martin Luther King.

The purpose is to publicize hypocrisy on the part of Martin Luther King. Background: Martin Luther King has urged Negroes in Memphis, Tenn., to boycott white merchants in order to force compliance with Negro demands in the sanitation workers strike in Memphis. Violence broke out during the march King led in Memphis. On March 28, 1968, King disappeared. There is a first-class Negro hotel in Memphis, the Hotel Lorraine, but King chose to hide out at the white-owned and operated Holiday Inn Motel.

Recommendation: The above facts have been included in the attached blind memorandum, and it is recommended it be furnished to a cooperative news media source by the Crimes Records Division for items showing King is a hypocrite. This will be done on a highly confidential basis.

The attachment reads as follows, and March 29, 1968, is the date at the top of it: "Martin Luther King, during the sanitation workers strike in Memphis, Tennessee"—and by the way, this is headed, "do as I say, not as I do," and this apparently is the item that was recommended to be distributed.

Martin Luther King, during the sanitation workers strike in Memphis, Tennessee, has urged Negroes to boycott downtown white merchants to achieve Negro demands.

On March 29, 1968, King led a march for the sanitation workers. Like Julius leading lambs to slaughter. King led the marchers to violence and when the violence broke out, King disappeared. The fine Hotel Lorraine in Memphis is owned and patronized exclusively by Negroes, but King did not go there from his hasty exit. Instead, King decided a plush Holiday Inn Motel, white-owned, operated, and almost exclusively white patronized, was the place to "cool it." There will be no boycott of white merchants for King, only for his followers.

Senator HART of Colorado. Mr. Epstein, do you know for a fact whether the Bureau distributed that information to members of the press?

Mr. EPSTEIN. The only notation that would shed any light on that, on this document, is as follows: There is a notation that says, "OK, H," which is the usual OK that Mr. Hoover signed on various FBI documents. And then there is a notation also on the document which says, "handled," and there is a date next to it, which has been illegible for us. We have inquired of the Bureau as to what that date is, and the Bureau maintains that it is April 3, 1968. We have not yet seen the original of the document.

The FBI also asserts that Martin Luther King, Jr. had already moved into the Lorraine Hotel prior to April 3, 1968.

Senator HART of Colorado. He did change hotels?

Mr. EPSTEIN. That is correct.

Senator HART of Colorado. Did we ask the Bureau whether or not they distributed that information?

Mr. EPSTEIN. We did not discover anything additional with respect to this incident. There apparently were newspapers at the time that stated that Dr. King was staying in the Holiday Inn motel, I think described as a "plush" Holiday Inn motel in a couple of newspaper articles. There was no indication that those particular articles were written as the result of this particular COINTELPRO recommendation. There is no proof one way or the other.

Senator HART of Colorado. Are there date coincidences between the memo dates and the dates of the stories?

Mr. EPSTEIN. Other than the same 5- or 6-day time-period, I do not have any additional facts.

Senator HART of Colorado. What day was Dr. King killed? On April the 4th?

Mr. EPSTEIN. The chain of events, as I understand it, was he was in Memphis for a period of several days, left Memphis apparently and went back to Atlanta for a weekend, or for a couple of days. And it was when he returned to Memphis that he checked into the Lorraine Hotel.

Senator HART of Colorado. And that was where he was killed?

Mr. EPSTEIN. That is correct.

Senator HART of Colorado. Thank you very much.

Mr. Schwarz, I would like to ask you about the tangible results of the entire COINTEL Programs.

Do we have specific instances where the programs "succeeded"?

Mr. SCHWARZ. Yes. Out of some 2,600 COINTELPROs——

Ms. BANOFF. Twenty-two percent of them have results.

Mr. SCHWARZ. Can I ask Ms. Banoff of our staff to deal with that question?

Senator HART of Colorado. Yes.

Ms. BANOFF. The Bureau did not define success; it defined result. The Bureau agents, field agents, were also instructed from the very beginning to resolve any doubts in their favor, and, in fact, our investigation in some instances showed the result that was claimed was not, in fact, produced by the counterintelligence action.

Senator HART of Colorado. What was the result?

Ms. BANOFF. Some concrete thing that happened supposedly as a result of the Bureau action, Bureau counterintelligence action that fulfilled the purpose of the action.

For instance, Senator, in the dissemination act, it is one of the letters to wives. In fact, to husbands. One that Mr. Smothers showed, shows as a result in the status letter, and this is how it was shown to reporters, that the husband and wife separated. This was claimed as a tangible result.

Senator HART of Colorado. You have all indicated that the Bureau began concentration on COINTELPRO as a result of the Smith Act convictions being overturned and the Bureau's feelings that it was impossible to use ordinary law enforcement techniques against Communist Party members.

What indications are there in the records or your interviews with Bureau personnel that the Justice Department or the Bureau itself ever addressed themselves to the legality of the techniques that were being used in the program?

Mr. SCHWARZ. No evidence that any produced, any theory under which those programs were legal.

Senator HART of Colorado. Was it discussed within the Bureau or between the Bureau and the Department?

Mr. SCHWARZ. No.

Mr. SMOTHERS. There were after the fact notifications of the activities against the Communist Party and against the Klan. The Bureau sent over a memorandum after the fact. In some cases it said, there apparently were some brief intelligence activities.

Mr. SCHWARZ. It does not make it legal.

Senator MONDALE. Would the Senator yield?

Senator HART of Colorado. I yield.

Senator MONDALE. We interrogated a very prominent high-level FBI official who had been in a top role throughout all of this period, and he was asked whether anyone had questioned the legality or constitutionality of these actions. He said no one. I never heard anyone raise the question of legality or constitutionality. Never.

Mr. SMOTHERS. And yet they were going to Justice daily with information, not COINTELPRO but information, and the product of information was coming over.

Senator HART of Colorado. Did the Bureau ever actively conceal from the Justice Department the techniques it was using in these programs?

Mr. SMOTHERS. I think so. The general prohibition on all the COINTELPRO activities was there should be no disclosure outside the Bureau.

Now the subsequent or after-the-fact notification on the Communist Party, the plan, it appears that the Bureau felt a little safer about. There is no indication that the Bureau ever believed information against the other groups would be discussed, and there is no indication that we found that they disclosed the background.

Senator HART of Colorado. With respect to COINTELPRO specifically, is it your respective or collective judgments that the Bureau was operating under the control of the Department of Justice or out of control of the Department of Justice?

Mr. SMOTHERS. I do not see how one can charge the Department with control at least outside the Communist Party plan area. I think there may have been sufficient evidence, some evidence of a pattern where they could have at least said don't do it again. But no advance notice. And with respect to the other activities, I think the record is very clear that they did not with Justice, or anyone else.

Senator HART of Colorado. So I take it your answer is that there was not sufficient control of the COINTELPRO?

Mr. SMOTHERS. No question.

Senator HART of Colorado. Mr. Schwarz, do you agree with that?

Mr. SCHWARZ. Yes, I do.

Senator HART of Colorado. Thank you very much, Mr. Chairman.

Senator TOWER. Senator Hart?

Senator HART of Michigan. No; I have no questions.

Senator TOWER. No questions.

Senator Mondale?

Senator MONDALE. Would it be fair to say that the tactics used against Dr. King had been borrowed from tactics used against foreign risks, spies, agents, and the rest, who could and did pose a threat?

Mr. SCHWARZ. Mr. Mondale, your own examination of Mr. Sullivan seems to me brought home that point as clear as it could be.

Senator MONDALE. So that the techniques which were used were techniques that we knew about through experience against foreign enemies. So that for all practical purposes, Dr. King was treated as though he were one of them?

Mr. SCHWARZ. I do not think he was the only person, but that is certainly accurate.

Senator MONDALE. I raised the Dr. King example because I think that is the classic example which shows all of the elements and the dangers involved in this tactic.

When did counterintelligence programs stop?

Mr. SCHWARZ. Well, that is in question.

In 1971, after they had been exposed through the media, there was an instruction that they should stop. The instruction says, however, "If anything like this is really important, please advise headquarters." And as I think some of the witnesses indicated, the line between counterintelligence and intensive investigation is one that really cannot be drawn and has not been drawn.

Senator MONDALE. So are you saying we cannot be sure that COINTELPRO, in all of is elements, has been terminated?

Mr. SCHWARZ. I would not want to use that label, Senator, and I think that is a matter better directed to the FBI witnesses. But it is a problem when you have a Director of the FBI who declines to say that the activities were improper, as he did when he testified in 1973.

Senator MONDALE. To provide some of the flavor of the kind of concentration that was directed against Dr. King, do you have available an agenda that was prepared for a meeting of FBI officials to decide how to deal with Dr. King?

Mr. SCHWARZ. I think Mr. Epstein, who has 2 feet of documents, Senator, ought to be able to pull that one out.

Senator MONDALE. Maybe Mike Epstein could testify directly on this, because I think he went through this with us.

Could you tell us about this meeting? Who came? What was the purpose of the meeting? What was discussed there?

Mr. EPSTEIN. Senator, apparently there was a meeting convened at FBI headquarters in December 1963. The memorandum recommending the meeting recommended that it be convened in order to explore fully the Communist influence in racial matters as it pertained to Martin Luther King, Jr.

The summary memo with respect to the meeting itself was written afterward.

Senator MONDALE. As I recall, there was an agenda or a memo written about tactics that could be used against him.

Mr. EPSTEIN. That's right.

Senator MONDALE. Can you list some of the tactics that were discussed?

Mr. EPSTEIN. "Can colored agents be of any assistance to us in the Atlanta area, and if so, how many would be needed? Possibilities of contacting anonymous sources at the home of King and/or SCLC" is a tactic that was also discussed. "Would tesur's or misur's on King's associates help to set up a counterintelligence move?"

Senator MONDALE. What does that mean?

Mr. EPSTEIN. Tesur's means telephone surveillance and misur's means microphone surveillance.

What are the possibilities of using Mrs. King? Are there any disgruntled employees at SCLC and/or former employees who may be disgruntled or disgruntled acquaintances? Does the office have any contacts among ministers, both colored and white, who are in a position to be of assistance, and if so, in what manner could we use them?

Do we have any information concerning any shady financial dealings of King which could be explored to our advantage? Has this point ever been explored before? And what are the possibilities of placing a good-looking female plant in King's office?

Senator MONDALE. So, this meeting was called to bring together FBI agents to explore every possibility of spying upon and intimidating Dr. Martin Luther King.

Is that right?

Mr. EPSTEIN. There are a total of 21 different ideas that are on this document, which is headed: "Questions To Be Explored at Conference." [See footnote, page 21.]

Senator MONDALE. Thank you, Mr. Chairman.

The CHAIRMAN [presiding]. Senator Schweiker, I believe, has not questioned yet.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Mr. Smothers, earlier in your presentation, when talking about activities of the FBI against people and targets, you mentioned that Warren Commission critics were singled out for some kind of special treatment. I wonder if you would just elaborate a little bit more on what kind of special attention people who criticized the Warren Commission Report got?

Mr. SMOTHERS. Special attention started with a request for information on them and the information requests were made by the then Special Assistant to the President, and we must assume that the requests were at the President's direction, or maybe at the initiative of

the Special Assistant. We do not know, but our evidence tends to show that it reflects a Presidential concern. What came back were a series of monographs or biographical statements.

Senator SCHWEIKER. Would this be raw file material, probably?

Mr. SMOTHERS. Yes, it appears to reflect all of what the FBI had on that individual. Some of them are very brief. One person in question is described as "a person who thrives on dissension and causes much local dissension and arguments in his community." They talk about his educational background, the marital status, and that is a one-pager. The next one is a one-pager. We have not contacted these people, Senator.

Senator SCHWEIKER. I understand there were some derogatory material also included in some of this. Without getting into specifics——

Mr. SMOTHERS. Yes, there is one that reflects a morals arrest. It appears again to be a vaccuum cleaner situation though, because in the same discussion of the alleged morals violation, in two preceding paragraphs, they note traffic fines imposed by a municipality.

Senator SCHWEIKER. And this was an attempt then on the part of the White House in this case, a request to the FBI, so we set the record straight, to discredit people who disagreed with the findings of the Warren Commission or to use material against them in some way or to be knowledgeable about the material in the raw files, any derogatory information on critics of the Warren Commission.

Mr. SMOTHERS. To be fair, Senator, I do not think they were asked to make use of it. It was certainly asked to provide it, and every indication that we have is that the FBI merely provided it. They took no further steps to disseminate it. Now what the White House did with it, we do not know.

Senator SCHWEIKER. So that the request initiated from the White House. It was not an internal FBI request.

Mr. SMOTHERS. That is correct.

Senator SCHWEIKER. I think that is very interesting because it indicates that to some extent you became an intelligence target of somebody's, or interest certainly, if you disagreed strongly with the Warren Commission.

I think we do have to ascertain, if the material was used in some way. There certainly had been some allegations that this material was in fact used in some way. Whether it was in fact used by the White House or by somebody else, I do not know. But I think this is the first time we have an indication that the White House requested such derogatory or personal material.

Mr. Smothers, what in your judgment could have been the purpose of fermenting antagonism between the Black Panther Party and the Black Nationalist group, United Slaves?

Mr. SMOTHERS. Well, it apppears to me at this point what we see with the Black Panther Party-United Slaves (US) dispute is the FBI's taking the concept of neutralization, the concept they have used earlier with the Communists and the Socialist Worker Party one step further.

It is really an indication, I believe, and we see some from the other documents not insensitivity, but outright racism on the part of the Bureau. I think they view it as another neutralization effort, except when it came to blacks, the most violent kinds of techniques were accepted.

I think they proceeded with the assumption that we would sure like to be rid of both of them. They appear to have a little bit more antagonism against the Black Panthers. But if they were going to have gang fights, if they were going to kill each other, then it appeared to be a wonderful opportunity for the Bureau to promote.

Senator SCHWEIKER. So in this case, instead of acting to calm the violence and to actually have it subside, they really were inciting it and encouraging it and confronting it and causing it. Is that a fair summation?

Mr. SMOTHERS. I think that would be a fair statement, Senator. The memo urges the aggressive kinds of efforts, the coming up with creative ideas as to how one might fuel the fires, if you will.

This is not the only incident where I think the FBI got in the middle of a situation when they saw that violence was apparent. The Blackstone Ranger-Panther conflict in Chicago had shades of the same problem. The resolution therefore, when they couldn't find a rival group, as the experience was with the revolutionary action movement in Philadelphia, they simply worked on the local police as a means of taking them out of existence.

On one occasion a series of memos and communications reflected that any charge whatsoever was to be utilized by the Philadelphia police to get these people off the streets prior to a planned activity. And they then commend the Philadelphia operation for being successful in defeating this demonstration by putting them all in jail on one charge or another.

Senator SCHWEIKER. Mr. Schwarz, you described one of the purposes of the Inlet letter, which is exhibit 9[1], as reporting items with an unusual twist or concerning prominent personalities. The letter was discontinued. Do we have any knowledge or information as to whether that kind of reporting was discontinued?

Mr. SCHWARZ. Well, the discontinuing letter says in effect it is not necessary any longer to have the Inlet letter because we now have better means of communicating, and it instructs the agents to continue to refer to headquarters the same kind of information. What has in fact been furnished I cannot answer for you, Senator.

Senator SCHWEIKER. Does this particular situation indicate that it would vary on the particular personalities of the issuing, of the authoritative people, as to what kind of material would be of interest, or what kind of material would particularly be looked for that would sort of win their fancy of whoever was requesting it?

Mr. SCHWARZ. There were no standards, Senator.

Senator SCHWEIKER. And how, Mr. Schwarz, do we prevent this kind of thing from happening? In other words, I think it is interesting to note that it happened, but the question in my mind is how do we stop this abuse of power where a person may get a kick out of reading about somebody else's human failures, and may or may not pass these human failures on to other people? What is your surmise as to how we might proceed to stop this in the future?

Mr. SCHWARZ. Less secrecy and tougher laws, Senator, which I am sure are going to come.

Mr. Elliff, do you have a comment on the Inlet letter?

[1] See p. 368.

Mr. ELLIFF. Senator Schweiker, I did have an opportunity at the Bureau to review the Inlet letters. I did not have an opportunity to review everything that has gone on since that program was discontinued by teletype to the White House. The definition of items with an unusual twist appears, from my review of these documents, to be information that otherwise came to the Bureau in the course of its intelligence activities. The Bureau did not go out and look for items to put in the Inlet letter but if they did happen to, in the course of their ordinary activities, come across such items on prominent persons, in one instance I recall an actress, the Bureau did learn through its intelligence coverage of an extremist organization of something as to the personal life of that actress, and that was indeed disseminated to the White House in the Inlet letter.

Senator SCHWEIKER. And once again, in fairness to the Bureau, this was originated in the White House in terms of the use and procedure. It was collected and gathered in the normal course of their activities, but the focusing and whatever use was or was not made, or the receipt of it was initiated by the White House?

Mr. ELLIFF. That is not clear. The Bureau memoranda indicate that this had gone on for several administrations, and indeed, we have letters from J. Edgar Hoover to President Truman and Presidents since then in which he volunteers similar information saying, we thought this might be of interest to the President.

Senator SCHWEIKER. That is one of the prerogatives of the Presidency?

In fiscal year 1974 the FBI received requests for name checks on more than 2 million cases. Over the years the Bureau has maintained actual intelligence files for more than 500.000 U.S. citizens and organizations. I think my question here is, obviously a lot of the material is pure raw file material, some of it uncorroborated, some of it allegations, some of it sources of questionable reliability, and I am sure some of it is quite accurate.

My question is, has the FBI taken any steps to destroy files of persons who never should have been subjected to surveillance at all, and what procedure for cleaning out past errors of judgment exists, or do these files just go on in perpetuity when you have situations of this kind? Can anyone shed any light on that?

Mr. SMOTHERS. As to what the Bureau is doing now, Senator?

The best information we have is that a system for cleaning out the files or a system for retiring information or determining what should be held is at this time being worked on between the Department of Justice and the Bureau. I do not know of any prior efforts to purge or update the files.

Mr. SCHWARZ. Senator, in your question about name checks, I think the record should be supplemented with this fact, that in 1967 name check information was sent to the White House on seven Senators who I am not going to name because we have not spoken to them, but I can see from looking at them that they are all antiwar Senators.

Senator SCHWEIKER. In the area of inspection I would like to ask, in the military they have an Inspector General system whose job is to ferret out allegations of improper actions on the part of people within that particular unit or that particular function.

I wonder what you can tell us in terms of how the Inspection Division operates, and what we might learn from comparing that, say, to an Inspector General system.

Mr. SCHWARZ. I think Mr. Gitenstein is our expert on that.

Mr. GITENSTEIN. There is a separate division within the FBI called the Inspection Division. It conducts annual inspections of all of the other divisions of the FBI as well as all of the field offices. It also responds to allegations of abuse within the FBI, but the inspections are all conducted internally by FBI agents and rarely, if ever, are there inspections or investigations by other personnel within the Department of Justice of what the FBI does, although in recent months there have been investigations of allegations of illegality by the Criminal Division of the Justice Department concerning mail opening and other allegations.

Senator SCHWEIKER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Schweiker.

Senator Tower, do you have any questions?

Senator Huddleston, did you have some further questions?

Senator HUDDLESTON. Just one quick question or two on the matter of oversight. Was the Congress, or were Members of Congress or appropriate committees, informed by the Bureau of the COINTEL program?

Mr. SCHWARZ. The evidence on that as provided to us by the Bureau is that the House Appropriations Committee—I've got to be very careful how I put this—there are documents which indicate remarks were prepared for off-the-record comments to the House Appropriations Committee. Whether in fact those comments were delivered is not revealed by any record. Moreover, it is perfectly clear that those comments concerned only the CPUSA and the Klan COIN TELPRO's. and did not concern the others.

Senator HUDDLESTON. The other three were not mentioned at all?

Mr. SCHWARZ. And they were scanty on the details with which the individual techniques were disclosed.

Mr. SMOTHERS. To supplement that, I think it should be pointed out that the Bureau claims that this kind of briefing occurred on six separate occasions.

Senator HUDDLESTON. There were briefings on six separate occasions?

Mr. SMOTHERS. Yes; beginning, apparently in 1958, and ending apparently in 1966.

Senator HUDDLESTON. No indication that they touched on any except the first two COINTELPRO targets, and no indication as to what degree of completeness was in the testimony, as to the techniques used or the objectives or what was accomplished.

Mr. SCHWARZ. Well, there was an indication that if the testimony was given, that it was not at least as detailed as what we have brought before you today, Senator.

Senator HUDDLESTON. Did the Bureau make any explanation or any assertion as to why more thorough briefings or more thorough information was not given to the proper congressional committees?

Mr. SCHWARZ. The person who gave those briefings is no longer alive.

Senator HUDDLESTON. Thank you.

The CHAIRMAN. Senator Mondale?

Senator MONDALE. I would like to put a few more questions to Mr. Epstein. Since this is the first time we have ever had a good look at this COINTEL Program and the so-called internal security program, I think it is important to review briefly how the risk of so-called Communist influence in the direction of the civil rights movement was arrived at.

And perhaps you can testify about that peculiar set of memos which began with one memo saying that Communist influence was infinitesimal and was unimportant, and within a month resulted in a final memo saying that it was terribly dangerous and threatened to subvert the civil rights movement. [See footnote, p. 21.]

What kind of steps led to that remarkable change in assessment?

Mr. EPSTEIN. Senator, shortly before the Poor People's March, which was in late August of 1963, the Domestic Intelligence Division of the Bureau prepared a detailed memorandum concerning the efforts of the Communist Party, U.S.A., to exploit the American Negro, and that included a conclusion which stated, "The Communist Party in the next few years may fail dismally with the American Negro. It has in the past. Time alone will tell." And a note was inscribed on the end of it——

Senator MONDALE. But wait. Was that the one in which they said the influence of the Communist Party is infinitesimal?

Mr. EPSTEIN. I believe that was another memorandum in which the Director noted something next to the fact that there were only 200 members of the party in attendance at the march, which had 200,000.

Senator MONDALE. All right. Proceed.

Mr. EPSTEIN. The note that the Director inscribed on this memo, which also detailed the history of the party's efforts in the past to infiltrate the Negro movement, "This memo reminds me vividly of those I received when Castro took over Cuba. You contended then that Castro and his cohorts were not Communists and not influenced by Communists. Time alone proved you wrong. I for one can't ignore memos about [various people] as having only an infinitesimal effect on the efforts to exploit the American Negro by the Communists."

Senator MONDALE. So the first memo from the Intelligence Division told the Director that the Communist influence was very speculative and minor.

Mr. EPSTEIN. That's right.

Senator MONDALE. Hoover then, in that memo, said "That is not right, this is just like you told me about Castro." Then what happended?

Mr. EPSTEIN. The context of these, of course, is the fact that the Director of the Domestic Intelligence Division expected that this was what was going to happen. His testimony to us has been that when they were asked to put this document together, informing the Director as to how substantial the Communist influence problem was, that they were concerned that the facts were not going to add up to what the Director expected to hear.

Senator MONDALE. All right.

So he got this memo he did not like, and he sent it back. So then what happened?

Mr. EPSTEIN. That's right.

Now, there was a response to that several days later which, by then, was after the march which referenced that note from the Director which had said "this memo reminds me vividly of those I received when Castro took over Cuba", and then said "the Director is correct. When investigating and writing about communism and the American Negro, we had better remember this and profit by the lessons that it should teach us," meaning Cuba. He concluded with comments such as, "It may be unrealistic to limit ourselves, as we have been doing, to legalistic proof, or definitely conclusive evidence that would stand up in testimony in court or before congressional committees that the Communist Party, U.S.A., does wield substantial influence over Negroes which one day could become decisive."

"The memorandum which the Director questioned while showing the details of the Communist impact on Negroes, did safer from such limitations," and at the end he wrote, "We regret greatly that the memorandum did not measure up to what the Director has a right to expect from our analysis."

Senator MONDALE. What did he say about that?

Mr. EPSTEIN. There was no response at all, and what the Director of the Domestic Intelligence Division apparently interpreted by the silence was that action was desired, because that was the next thing that happened.

Senator MONDALE. Did Hoover write another memo saying I cannot understand you, you just said the Communist Party wasn't influential, and now I get another memo saying it is influential. Have you got that memo?

Mr. EPSTEIN. Following that apologetic memo, which is my characterization of it, a recommendation went in——

The CHAIRMAN. That's not apologetic. It is simply a recognition that intuition is one of those sources for investigative information that ought not be ignored.

Senator MONDALE. I think it is a source of survival. I think this is very interesting because this led to the official determination by all hands that the Communists were a very serious influence in the civil rights movement. In fact, the department which was in charge of inspecting it did not think so at all.

Mr. EPSTEIN. The memo I am about to read [see footnote, p. 21], which was in mid-September of 1963, the Director of Domestic Intelligence Division informed us he wrote because he believed that he, at that point, had to give the Director words he believed the Director wanted to hear, and he wrote a memorandum recommending "increased coverage of Communist influence on the Negro":

> The field is being instructed to intensify our coverage. We are stressing the urgent need for imaginative and aggressive tactics to be utilized through our counterintelligence program,

and recommending that such instructions be sent out to the field.

This is the memorandum on which the Director inscribed the following note.

Senator MONDALE. What did Hoover say? In other words, this is the memo in which the Department said yes, you're right, Mr. Director, let us get going.

What did he say?

Mr. EPSTEIN [reading]:

No. I cannot understand how you can so agilely switch your thinking and evaluation. Just a few weeks ago you contended that the Communist influence in the racial movement was ineffective and infinitesimal. This notwithstanding many memos of specific instances of infiltration. Now you want to load the field down with more coverage, in spite of your recent memo deprecating CP influence in racial movement. I do not intend to waste time and money until you can make up your mind what the situation really is.

Senator MONDALE. All right. What then happened?

Mr. EPSTEIN. Ten days later this memorandum, again from Mr. Sullivan——

Senator MONDALE. To the Director?

Mr. EPSTEIN. To the No. 3 man in the Bureau, Mr. Belmont, stated—it is prepared not on an official office memorandum but rather on plain bond—"believing that this discussion need not be a matter of official record":

On returning from a few days leave I have been advised of the Director's continued dissatisfaction with the manner in which we prepared a brief on the above-captioned subject, and subsequent memoranda on the same subject matter. In this memorandum, I seriously and sincerely try to clarify a most regrettable situation.

The essence of the situation seems to be this. We presented what facts there are in our files in the Brief in question and I know the Director certainly would not want us to do other than this. It is obvious to us now that we did not put the proper interpretation upon the facts which we gave to the Director.

And then again he reiterates, the recommendation that was made to intensify coverage and states again, which in his testimony he has informed us that this is what he believed the Director wanted to hear, as we stated before in a memorandum: [see footnote, p. 21.]

We regard Martin Luther King to be the most dangerous and effective Negro leader in the country. May I repeat that our failure to measure up to what the Director expected of us in the area of Communist-Negro relations is a subject of very deep concern to us. We are disturbed by this and ought to be. I want him to know that we will do everything that is humanly possible to develop all of the facts.

It was 3 months after this memorandum that the December conference was convened, and it was 1 month after that, in January of 1964, that the first microphone was installed.

Senator MONDALE. In other words, the first factual summary of the risk of Communist influence and control over Dr. King and the civil rights movement reported that there was a very small risk indeed. Didn't the Assistant Director also testify that the role of the Communists in the civil rights rally of 1963 was practically nil?

Mr. EPSTEIN. That's right.

Senator MONDALE. That there were about 250,000 people and only about 190, as best they could count, Communists around, and they had no role to play at that rally.

Mr. EPSTEIN. I think he added that his recollection was that there was some leader from the Party that they had to get on a fishing boat.

Senator MONDALE. They had to plead with him to leave a fishing trip, and he stayed an hour and left. Then this memo went to the Director saying that it's not much of a risk. The Director got mad

and responded that he rejected that advice, and then they began to try to change their position in accord with the Director's expectations.

Is that right? And it took two memos of that kind in which they disregarded the facts, pumped up the fear, before they finally persuaded the Director that they accepted his point of view. Is that right? And didn't testimony suggest that the person who wrote that memo, those memos, did not believe them, but in fact was only doing what he thought he had to do in order to keep his job?

Mr. EPSTEIN. That's right.

Senator MONDALE. Then it was on the basis of this pressured assessment of the threat of Communist control of the civil rights movement that they then proceeded to pursue these COINTEL Programs of harrassment, neutralization, spying and intimidation against Dr. Martin Luther King. Is that correct?

Mr. EPSTEIN. That appears to be the period of time when it began. And it was at that time the recommendation went to the Attorney General requesting his authorization for wiretap, and then 3 months later was the December conference, and in January the microphones were put in use.

Senator MONDALE. Do you have the quotation from that testimony about the fear that the agents had toward the protection of their jobs?

Mr. EPSTEIN. I do not have it tabbed, Senator, but if you like I will find it and when I locate it I will read it in.

Senator MONDALE. You do not have that?

Perhaps you could summarize, based on your recollection of what we were told about why they reacted as they did.

Mr. EPSTEIN. I think he said if they didn't they would be transferred.

Senator MONDALE. And that they knew what they were doing, which was, namely, just writing a memorandum to please the Director, is that right?

If I may ask one other question, did this same Assistant Director also testify about the FBI official estimates on the number of Communist members in the United States?

Mr. EPSTEIN. Yes; he did.

Senator MONDALE. What did he say?

Mr. EPSTEIN. It was my recollection that he said that for years they submitted the total number of members of the Communist Party who were in the United States—I do not remember the exact totals——

Senator MONDALE. Something like 80,000.

Mr. EPSTEIN. When it started, in the first report, but that fact was reported each year to the Department, and that when the numbers began to diminish, as the years went along, and when it reached some level, very, very few in the thousands, very few thousand, the Director instructed at that point that the figures should no longer be revealed to the Department, and the Bureau should hereafter take the position that that information was classified.

Senator MONDALE. So that what happened for years, when the public would write in and say how many Communist Party members are there, the answer would come back, about 80,000 members in the United

States. But slowly the number of members in the United States dropped down to half of that, or less than that. Then, according to this Director, a teacher wrote in and said, what is this about the membership of the CPUSA? It stays 80,000 every year. It does not go up, it does not go down. Why does it stay so constant? They did not know how to answer that teacher because membership was then about 30,000, so they finally decided it was a matter of such high classification that they should not talk to the public about it. Is that correct?

Mr. EPSTEIN. That is right.

Senator MONDALE. So the public was left with the impression then, uncorrected, that there were about 80,000 members in the country.

Mr. EPSTEIN. And, in addition, refused thereafter to provide the figures to the Department of Justice.

Senator MONDALE. Refused to provide to the public the revised figures indicating a much lesser Communist Party membership in this country.

Is that correct?

Mr. EPSTEIN. That is right.

Senator MONDALE. Thank you, Mr. Chairman.

Mr. EPSTEIN. I might add, Mr. Chairman, I do not have the document in front of me, but the document that recommended the discrediting of Dr. King and the appointing of a new leader which was in January of 1964, which was the recommendation from Mr. Sullivan, and he was soliciting in that memorandum the Director's authorization to pursue that possibility further, a recommendation that approval be given for him to explore this whole matter in greater detail as set forth above, and underneath it is "OK, H." And then there is the note from the Director which says, "I am glad to see that light has finally, though dismally delayed, come to the Domestic Intelligence Division. I struggled for months to get over the fact that the Communists were taking over the racial movement, but our experts here couldn't or wouldn't see it, H."

Senator MONDALE. That was the memo in which it was proposed that King be destroyed as a civil rights leader, and that the FBI ought to sponsor his replacement by another person not in the civil rights movement.

Mr. EPSTEIN. That is correct.

Senator MONDALE. And Hoover personally appreciated that suggestion; is that correct?

Mr. EPSTEIN. He OK'd it.

Senator MONDALE. Thank you, Mr. Chairman.

The CHAIRMAN. Any questions, Senator Tower?

Senator TOWER. No questions.

The CHAIRMAN. I think I might point out in concluding the hearing that staff has reviewed the question of legal authority of what we have been discussing today and has concluded that there is not and never has been specific statutory authority for the FBI's internal security intelligence program. The only statute which the Bureau cites as authority is section 533 of title XXVIII of the United States Code, which reads as follows:

"The Attorney General may appoint officials to detect and prosecute crimes against the United States."

Now, we have had in the course of the hearings today a long recital of crimes that have in fact been undertaken by the FBI itself. That is a very sad proposition, as the distinguished Senator from Michigan, Phil Hart, pointed out, when it comes from a Bureau that has received as much applause, that has been held in as much esteem, that has rightly been regarded as a prestigious law enforcement agency for the many things that it has done in its efforts to track down major criminals throughout what has often been an illustrious past.

But the FBI has never had any statute clearly defining its authority and after all of these many years, this is the first serious congressional investigation of its activities, and we have seen today the dark side of those activities, where many Americans who were not even suspected of crime were not only spied upon but they were harassed, they were discredited, and at times endangered through the covert operations of the Federal Bureau of Investigation.

Such revelations place serious responsibility upon this committee to see to it that that cannot happen again. I think there are many lessons to be drawn from the testimony today, but chief among them is the necessity to draw the lines much more carefully in the statutes that this committee should recommend, and to subject the counterintelligence activities and other internal security activities of the FBI to the same kind of congressional oversight to which others have suggested that the CIA and the NSA and other foreign intelligence agencies of this country should be subject to.

And I hope that the committee, in the light of these revelations, will give very serious consideration to that whole problem area.

I want to thank the members of the staff for the excellent presentation that you have made today, and tomorrow the FBI, of course, will be here to reply to these disclosures, and respond to questions of the committee.

Senator MONDALE. Mr. Chairman, I would just like to join with you in commending the staff for, I would say, an almost historic presentation. These materials are new; they were hard to find; and I think we have now got a record that will help us move toward reform, and I want to thank the staff.

The CHAIRMAN. Senator Tower?

Senator TOWER. Mr. Chairman, I would like to join with you and others in commending the staff for I think an excellent job, done in a cooperative and bipartisan spirit, one that is characterized by energy and objectivity and by the most comprehensive work of this kind that has been done I suppose in this body, especially to Mr. Schwarz, Mr. Smothers, but not to overlook the excellent work done by the people back in the trenches who I suspect might have even done more work than they have done.

Mr. SMOTHERS. Your suspicion is correct.

The CHAIRMAN. Thank you very much, gentlemen.

This hearing is adjourned until 10 o'clock tomorow morning.

[Whereupon, at 3:55 p.m., the committee recessed to reconvene at 10 a.m., Wednesday, November 19, 1975.]

WEDNESDAY, NOVEMBER 19, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (Chairman) presiding.

Present: Senators Church, Tower, Hart of Michigan, Mondale, Huddleston, Hart of Colorado, Baker, Goldwater, Mathias and Schweiker.

Also present: Frederick A. O. Schwarz, Jr., chief counsel and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing will please come to order.

Our witnesses today are Mr. James B. Adams, the Deputy Associate Director of the FBI, and Mr. Raymond Wannall, who is the Assistant Director in charge of the Intelligence Division of the FBI.

Before I swear the witnesses, Senator Mondale has asked if he might make an opening statement. And for that purpose the Chair recognizes the distinguished Senator from Minnesota.

Senator MONDALE. Thank you very much, Mr. Chairman. I have always supported the FBI. It is clearly the finest, most professional law enforcement agency in the Nation and probably in the world. In apprehending robbers, foiling kidnappers, catching fugitives, the FBI has an outstanding record. This is based on my own experience with the FBI in my own state, where I served as attorney general. The vast bulk of its work is devoted to law enforcement and legitimate counterespionage.

In these fields the FBI deserves fully the admiration and respect which Americans traditionally held for the Bureau and its personnel. But in one area, domestic intelligence, the FBI, in my opinion, has clearly gone astray. It now appears that there was an underworld within the FBI which took the tools, techniques and zeal which was so effective against the real foreign threats and turned them in upon some of the American people.

Yesterday, this committee heard some of the most disturbing testimony that can be imagined in a free society. We heard evidence that for decades the institutions designed to enforce the laws and Constitution of our country have been engaging in conduct that violates the law and the Constitution. We heard that the FBI, which is part of the Department of Justice, took justice into its own hands by seeking to punish those with unpopular ideas. We learned that the chief law

enforcement agency in the Federal Government decided that it did not need laws to investigate and suppress the peaceful and constitutional activities of those whom it disapproved.

We heard testimony that the FBI, to protect the country against those it believed had totalitarian political views, employed the tactics of totalitarian societies against American citizens. We heard that the FBI attempted to destroy one of our greatest leaders in the field of civil rights, and then replace him with someone of the FBI's choosing.

From the evidence the committee has obtained, it is clear that the FBI for decades has conducted surveillance over the personal and political activities of millions of Americans. Evidently, no meeting was too small, no group too insignificant to escape their attention. It did not seem to matter whether the politics of these Americans were legal or radical or whether the participants were well known or obscure. It did not matter whether the information was intimate and personal. The FBI created indexes, more commonly called enemy lists, of thousands of Americans and targeted many of the Americans on these lists for special harassment. Hundreds of thousands of Americans were victims of this surveillance program. Most of this was done in secret. Much of it was kept from Congress and the Justice Department and all of it from the American people. No one outside the FBI has ever had an opportunity to know and appreciate the full extent of the domestic surveillance program that was then being conducted.

Thus we see that just as in the case of the CIA, the key issue was accountability; how we can assure that the secret instruments of government are accountable to the people, the Congress, and the law.

It is clear that the FBI's authority for these programs is essentially nonexistent. I am not persuaded that the secret Presidential orders of President Roosevelt support the domestic intelligence program, and even if they did, I do not believe that any President has the authority to order the FBI or anyone else to spy on Americans, to burgle their homes, to wiretap them, to open their mail, or to blackmail them.

One of the most disturbing aspects of this affair is that the FBI never paid very much attention to whether their activities were authorized or not, or whether they were legal and constitutional. One former senior intelligence officer has testified that he never once heard a discussion about legality or constitutionality. Most governments in history have relied on some form of police power to determine what views would prevail in their society. However, America was based on the revolutionary concept that the people should decide what is right and what is wrong, what is acceptable and what is not.

That is what we meant by a free government, and our forefathers were convinced that it can exist only through the greatest tolerance of speech and opinion. They placed their faith in the people to remain alert to encroachments on their liberty.

The founders of our country knew that the greatest danger to freedom comes from the efforts of government to suppress the opinions of its opponents. They set up a system which limited the powers of government, bound it in the contraints of the law, and prohibited it from infringing on the rights of people to free expression. And through the separation of power, the system of checks and balances, they tried to assure that the Executive would be accountable to the people through the Congress.

For the 200 years of our existence as a nation, the preservation of liberty has been a constant struggle. Whether it has been the Alien and Sedition Acts during the French Revolution, the Red Scare and the Palmer Raids of World War I, McCarthyism after World War II, or Army spying during the Vietnam war; the Government has let a fear of unorthodox opinion lead it into the trap of infringing upon the Constitution in the name of internal security.

The issues we confront today are a part of a continuing drama of American democracy. It is proof, if we ever needed it, that the price of liberty is eternal vigilance.

Revelations of abuse of power do not threaten domestic security. These hearings do not weaken the FBI. What weakens it is its failure to adhere to the proper role of law enforcement. Somehow it forgot that this was its job. It began to use its energy to spy on Americans whose only offense was in expressing opinions that some in the FBI did not like. It confused talk of violence with acts of violence, and all too often paid more attention to the talk than to the act.

The answer, of course, is that violence justifies prosecution, not surveillance. Our security is not improved by watching those who commit crimes. Security from violence lies in active and vigorous law enforcement against those who are committing crimes. Security from dangerous ideas, if we need any security, should come not from the FBI but from the merit of better ideas, and the good sense of the American people.

Our liberty is best protected by scrupulous adherence to the law and the Constitution by the agencies of Government. No Government agency likes to be the subject of public scrutiny. I know these have been difficult times for the present leadership of the FBI, many of whom were not involved in these programs at all. But if they have been spending a lot of time responding to congressional investigations, they cannot forget that this is the first time in 50 years that the FBI has been subjected to public scrutiny.

As painful as this process is, I hope the FBI itself would welcome the opportunity to let in some fresh air and come to grips with the problems in candor and not retreat into past patterns of stirring up public fears to distract our attention from the necessity of reform.

Mr. Chairman, may I say that yesterday, I am told, following our hearing, the FBI responded exactly in the spirit that I had hoped it would. If they can take this constructive approach, I have no doubt that the FBI will benefit from this attention. I want to see a strong FBI, an FBI strong in law enforcement, in the detection of crime, and in gathering of legal evidence for prosecution and conviction, but an FBI without abuses.

As we proceed with these hearings today, we should also bear in mind that the responsibility for the abuses we have uncovered does not rest on the FBI alone. We in the Congress have been derelict. It should not have taken until this date for us to discharge our responsibility for investigating the FBI and other domestic intelligence.

We should also realize that the FBI has been performing a function which many Americans, and at times the vast majority of Americans, have wanted to see undertaken. When popular opinion brands a group un-American and subversive merely because of its political views, all too often the FBI has responded to public expectations and from pressure from a higher authority in government.

While this does not excuse what happened, we should temper our criticism of the FBI's excesses by understanding that, in large part, it was only the instrument of our own intolerance. Indeed, I believe that is why our laws and the charter of the FBI must be carefully redrawn to protect the FBI's integrity from political pressures and hysteria.

Finally, it would be a mistake to regard the abuses of the FBI as those of evil men. The FBI has always been composed of dedicated and hard-working public servants who seek to do their jobs as best they can. The lesson we learn from this history is that we cannot keep our liberty secure by relying alone on the good faith of men with great power.

As Mr. Justice Brandeis once wrote:

> Experience should teach us to be most on guard to protect liberty when government's purposes are beneficient. The greatest dangers to liberty lurk in the insidious encroachment of men of zeal, well-meaning but without understanding.

It is my hope that the FBI witnesses we will hear today can enlighten us as to how it can conduct internal security surveillance programs which do not infringe on our constitutional liberties. I hope they can suggest ironclad assurances that the abuses of the past will not be repeated. We need more protection than promises of self-restraint by men of good will.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Mondale. That is an excellent statement with which I would like to be fully associated.

Senator HART of Michigan. I would, Mr. Chairman, also, except that I want to make clear my family certainly did not support, encourage, or by its vocal position give any indication to the Bureau that they could do what they did. I don't want to go too far in suggesting that what we heard yesterday was simply responding by the Bureau to the mood of those years. In those years if we had known what you were doing, I lay dough, most families would have said stop it.

Senator MONDALE. That is true. I think one of the points that we might aver to is the Huston plan and the tremendous pressure the FBI was placed under to again resume techniques that it had abandoned in 1966. There is no question that they were getting private pressure from higher authority to do things. In that instance, they didn't want it.

The CHAIRMAN. Well, I was struck with the fact that the Huston plan, as illegal as it was, was limited to techniques far more restrictive than the far-reaching methods that were employed by the FBI during the years that we have reviewed in yesterday's hearings. They led beyond anything that was ever contained in any official document requesting additional authority from the President.

Now I think, Mr. Adams, Mr. Wannall, in addition to swearing you both, if you are going to have occasion to ask others who are with you to testify in response to certain questions, that it would be well at this time to swear them also. So if that is the case, anyone who anticipates that the may be testifying in this morning's hearing in response to questions, if you will all stand and take the oath at this time.

Do you and each of you solemnly swear that all of the testimony that you will give in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ADAMS. I do.

Mr. WANNALL. I do.

The CHAIRMAN. After yesterday's hearing I asked the staff to furnish me with the statutory authority that presently exists that could be said to relate to the FBI's intelligence activities, which was of course the subject of yesterday's hearings. And I am furnished in response to that request title XVIII, section 533, of the United States Code, which reads as follows:

> The Attorney General may appoint officials: 1. to detect and prosecute crimes aganist the United States; 2. to assist in the protection of the person of the President; and 3. to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

Now yesterday, Mr. Wannall, we were told about a series of activities that were undertaken by the FBI, and indeed, initiated within the FBI, the purpose of which was to harass and discredit Dr. Martin Luther King. I am not referring to the results of any FBI investigative activity, but rather, I am referring to these kinds of initiatives that were undertaken for the purpose of either harassing or embarrassing or otherwise discrediting Dr. King himself. My first question is: was Dr. King, in his advocacy of equal rights for black citizens, advocating a course of action that in the opinion of the FBI constituted a crime?

TESTIMONY OF JAMES B. ADAMS, DEPUTY ASSOCIATE DIRECTOR OF THE FBI, AND RAYMOND WANNALL, ASSISTANT DIRECTOR, FBI INTELLIGENCE DIVISION

Mr. ADAMS. No, sir.

The CHAIRMAN. So he was not then thought to be engaged in any criminal activity. In fact, he was preaching, as I remember those days, nonviolence, was he not, as a method of achieving equal rights for black citizens?

Mr. ADAMS. That's right, his advocacy for civil rights.

The CHAIRMAN. His advocacy of civil rights was nonviolent and therefore legal in character.

Mr. ADAMS. That was not the basis of our investigation of him.

The CHAIRMAN. But as you have said, he was not engaging in any unlawful activity in connection with his advocacy of equal rights for black citizens. Is that correct?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. Well, is it true that at one time the FBI undertook to discourage an American college from conferring an honorary degree on Dr. King?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. On what legal basis does the FBI have a right to interfere, in an effort to discourage a college from conferring an honorary degree upon a man like Dr. Martin Luther King, who was not engaging in or suspected of engaging in criminal activity?

Mr. ADAMS. I know of no basis.

The CHAIRMAN. Why did the FBI do it?

Mr. ADAMS. Well, we have to approach two parts, in my estimation, Senator Church. One, the basis for our investigation of Martin Luther King, which was to determine Communist influence on him, my hands are tied in discussing that, somewhat on the basis that there is certain information which today, from an ongoing operation is sensitive and which, of course, we have made known to you and certain staff members. I would like to say on the basis that from our review we feel that we initially had a basis for investigating Martin Luther King. Now as far as the activities which you are asking about, the discrediting, I know of no basis for that and I will not attempt to justify it.

The CHAIRMAN. You never made a finding, did you, that Martin Luther King was a Communist?

Mr. ADAMS. No, sir, we did not. We were investigating Communist influence and the possible effect on him. We never made such a determination.

The CHAIRMAN. Very well. Then there was no justification for the FBI to interfere?

Mr. ADAMS. To discredit him.

The CHAIRMAN. In conferring an honorary degree upon him?

Mr. ADAMS. I cannot find any justification for that.

The CHAIRMAN. Is it true that the FBI on another occasion intervened in an attempt to prevent Dr. Martin Luther King from seeing the Pope?

Mr. ADAMS. I believe that is correct, sir. There were approximately 25 incidents, I believe, of actions taken in this regard. I think Mr. Schwarz has those available, that I would lump basically all of them into the same situation of I see no statutory basis or no basis of justification for the activity.

The CHAIRMAN. But what was the motive, there being no statutory or other valid basis? What was the motive for attempting to prevent Dr. Martin Luther King from visiting with the Pope?

Mr. ADAMS. In looking at absolute motive, I don't think the files which we have reviewed and made available to the committee, give me a clear picture of what the motive was. I think that there were, the motive was certainly known to Mr. Hoover. It was known to one top official who is no longer with the Bureau and maybe known to others, all of whom have been interviewed by the committee. Matters bearing on what might have been the real motive or the possible motive, I again feel, because of reasons of privacy and delicacy, are not a proper subject of discussion at a public hearing. I think we know what could have influenced this, but one, the primary individual, Mr. Hoover, is not with us. Individuals who were closest to him in this effort are not with us. And the committee itself has interviewed them. So I really am not in a position to discuss this motive issue.

The CHAIRMAN. Nevertheless, you would agree that whatever the motive, it was a very improper thing to do.

Mr. ADAMS. I cannot find any justification, no, sir.

The CHAIRMAN. Is it true that after Dr. Martin Luther King had been nominated for the Nobel Peace Prize, that an anonymous letter was sent to him and to Coretta King, his wife, 34 days before he was to receive the Nobel Peace Prize? [See footnote p. 21.]

Mr. ADAMS. I do not think those dates are correct.

The CHAIRMAN. Well, it was sent——

Mr. ADAMS. It was before he was to receive it. I think 34 days—upon reconstruction by one of the members of my staff, 34 days would have been Christmas Day, and whether that 34 days——

The CHAIRMAN. It is hard to believe that such a letter would be written on Christmas Day.

Mr. ADAMS. It was not written on Christmas Day, but 34 days—the Nobel Peace Prize I think was on December 10, the letter—34 days from the date of the mailing of the letter as has been reconstructed, as best as possible, would have been Christmas Day.

The CHAIRMAN. Was the letter written and sent by the FBI?

Mr. ADAMS. We have no information to that effect. All we know is that the draft, or original, of what may have been the letter was found in papers of the FBI left after a former official departed the FBI. We know that based upon inquiries that we have conducted and you have conducted, we know that the letter was not—I mean it was in connection with other material. So I think we can assume——

The CHAIRMAN. Other materials which were sent.

Mr. ADAMS. That's right. So I can assume that the letter was sent. I have determined nothing from my review of the files, and neither has your staff, to my knowledge, or has been reported back to me which would indicate that this action was duly recorded in any file or was a part of any authorized program or anything else. This is a void that I do not think any of us has been satisfactorily able to resolve.

The CHAIRMAN. We know the letter appeared in the files. We know that the letter was received. We know it was associated with other matters that were sent by the FBI to Dr. Martin Luther King.

Mr. ADAMS. The letter was never in our files in the sense that it was entered into the official files of the FBI. It was among papers——

The CHAIRMAN. It was among papers.

Mr. ADAMS. Left by an individual who had departed.

The CHAIRMAN. That individual being Mr. Sullivan?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. The letter read: "King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do it, this exact number has been selected for a specific reason. It has definite practical significance. You are done. There is but one way out for you."

Now, if you had received such a letter, how would you have interpreted it? What would you have thought it meant?

Mr. ADAMS. I have read that statement. I have heard the conclusions of your staff that it was a suicide urging. I can't find any basis upon which they drew that conclusion. I think that, approaching it from an objective standpoint, as I read it. I don't know what it means. I think rather than a conclusion it should be a speculation in a realm of possibilities as to what was intended, but I cannot—I don't understand the basis for it. It is a possibility, but I certainly would not reach such a conclusion from my reading of that statement.

The CHAIRMAN. Now, if you had received a letter of this kind and it had been directed to you, and you were in Dr. King's position and you read, "King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do it." Now, that hap-

pened to correspond to the time before which he was to receive the Nobel Peace Prize. What would you think that it meant?

Mr. ADAMS. I would have to consider what I was being accused of. I would have to consider what the facts were. I would have to consider what the intent was of the person writing such a note, coming just before Christmas. I don't know if it means, it is an urging to repent from something this person, whoever he was, that had sent it, I have no idea what it meant.

The CHAIRMAN. It is certainly no Christmas card, is it?

Mr. ADAMS. It is certainly no Christmas card.

The CHAIRMAN. It reads, "You are done. There is but one way out for you." What does that mean?

Mr. ADAMS. I don't know. I don't know if it means confession. I don't know if it means suicide, as has been raised. I have no idea. You have the statement. I am not in a position to say. I haven't interviewed anyone that was with him at the time he received it.

The CHAIRMAN. Would you disown this statement and say that any connection the FBI had with it was utterly improper and grotesque?

Mr. ADAMS. I certainly would say it was improper, and I can't justify its being prepared or sent, yes, sir.

Senator MONDALE. Mr. Chairman, if I might just interrupt.

The CHAIRMAN. Senator Mondale.

Senator MONDALE. What I asked the staff yesterday was what Dr. King took it to mean. I have no knowledge of what those who framed this letter intended, and those who were with him at the time he read it, including Congressman Young who was one of his assistants at the time, said that they took it to mean a suggestion that he take his own life.

Mr. ADAMS. I am not in possession of that information. I am being put in a position, I don't know what the staff determined. They did not report back to me on their findings.

The CHAIRMAN. The letter will speak for itself. You personally have disowned it.

Mr. ADAMS. Absolutely.

The CHAIRMAN. It was a highly improper thing for the FBI to be connected with in any way. Do you agree with that?

Mr. ADAMS. Yes, sir; yes, sir.

The CHAIRMAN. Now, without going through the many different and specific undertakings that were intended to publicly discredit Dr. King, because my time will not permit that, and others will want to question you on other specific matters, I have just one further question to put to you. Yesterday there was a document of the FBI which suggested that in the opinion of the Bureau, Dr. King was an unsuitable leader for the civil rights movement, and that another man should be looked for, and indeed, another candidate was actually suggested to Mr. Hoover as one who should be promoted in various ways so that he might assume the leadership of this movement.

Now, can you tell me of anything in the law, or any other justification, given the mission of the FBI, that would entitle it to decide who should lead political movements in this country or to undertake to degrade a man who had fought and won such leadership and had the support of a great many black people in this country, and white

people as well, and to substitute in his place someone of the FBI's selection or someone who stood in the FBI's favor? Can you think of any justification for such activity on the part of a law enforcement agency?

Mr. ADAMS. I can't think of any offhand; no, sir.

The CHAIRMAN. Neither can I. Senator Tower?

Senator TOWER. Thank you, Mr. Chairman.

What is your understanding of the underlying causes of the feud between Mr. Hoover and Dr. King?

Mr. ADAMS. Senator Tower, I feel if we got into any discussion of that, I think we would have to take into consideration certain material which I feel should not be disclosed publicly, and I would respectfully ask that a question of motive of Mr. Hoover and the spat with Mr. King should be discussed in executive session, if at all.

Senator TOWER. In 1965, Attorney General Katzenbach was informed by Mr. Hoover of the Bureau's surveillance of Dr. King. What was the Attorney General's reaction? What was his position once he was informed by Mr. Hoover of this surveillance?

Mr. ADAMS. I don't recall having seen it.

Senator TOWER. In other words, did the Attorney General give any direction to the Bureau in the matter that you know of?

Mr. ADAMS. Yes, sir. I know that, of course, on the wiretapping on Martin Luther King, it was approved by the Attorney General. I know that the President of the United States and the Attorney General specifically discussed their concern with Dr. King over Communist influence on him. I do know there was concern, but I don't tie in this date, 1965.

Senator TOWER. Do you know whether or not Mr. Hoover ever sought direct authorization from Mr. Katzenbach for this very sensitive surveillance of Dr. King?

Mr. ADAMS. I don't know. Attorney General Kennedy approved the actual surveillance that was instituted on Dr. King. I don't know of any correspondence between Attorney General Katzenbach——

Senator TOWER. Or any personal communication between them that would have indicated the level of the Attorney General's involvement?

Mr. ADAMS. No. If my recollection serves me correctly, as far as Attorney General Kennedy was concerned, he requested coverage on Dr. King. The Bureau responded with a request in writing, which is our normal procedure. He declined to approve that request, and then we came back later, a few months later, and requested it again, at which time he did approve. That is my recollection of that.

Senator TOWER. Why did the Attorney General change his mind? Do you have any idea, or is that again a matter of sensitivity?

Mr. ADAMS. I don't know why he actually changed his mind from originally requesting, then declining when it was submitted, and then approving it on the second go-round. It may be in the files. If it is, I would be glad to see what I could determine.

Senator TOWER. If you could, we would like to have that. [See footnote, p. 21.]

Mr. ADAMS. Yes, sir.

Senator TOWER. Mr. Adams, you have been familiar with the Bureau's domestic intelligence work for many years. How did the Bureau come to launch the COINTELPRO, and what in essence did COINTELPRO accomplish?

Mr. ADAMS. Well, the program as such, as I can reconstruct from the files, was indicated as concern over conspiratorial efforts of certain groups, and a decision made that perhaps more affirmative action should be taken to neutralize violence which was becoming of more concern to the FBI in that regard. I believe these are some of the basic considerations that went into the launching of the COINTELPRO.

Now, as far as the first one, which was the Communist Party, of course, there was the concern here to neutralize the effectiveness of the Communist Party in the United States. In fact, out of all of the COINTELPRO operations that were approved, 59 percent of them were directed at the Communist Party. The bulk of the concern initially was with the Communist Party, and it was a desire to create factionalism within the Communist Party and try to neutralize its efforts. The Communist Party—Congress itself still has a determination on the record as to the threat of the Communist Party in a statute. The Supreme Court has held that the Communist Party is an instrument of the Soviet Union. The Soviet Union certainly has not relinquished its interest in the United States as a target. All of these considerations went into should we do something not only to follow the activities of the Communist Party, but should we destroy its effectiveness in the United States. That was the first program, I believe, that was initiated.

Senator TOWER. Now, did the Bureau ever seek direction and counsel from the Attorney General on any of its COINTELPRO efforts or specific programs?

Mr. ADAMS. As best as I can reconstruct, Senator, there was no direct authority requested from any Attorney General for the initiation of these programs, and it is only a question, as your staff presented yesterday, that the Attorneys General, Presidents, Congress, had been made aware of certain aspects of programs after the fact and those were primarily concerned with the Communist Party, and on one other organization but not the New Left and these other types. So I cannot find any evidence, and I have no reason to believe, that there would be any evidence that the Bureau initiated these programs other than as an internal decision.

Senator TOWER. Were reports on these programs made to the Attorney General? Was he informed of them? Was he kept informed on a continuing basis?

Mr. ADAMS. He was kept informed by letters, which again the staff has alluded to, letters reporting certain developments. For instance, one of them that went to one Attorney General, reading of that letter outlined almost in complete detail Klan activities, activities taken to disrupt the Klan. It used terms of neutralize, disrupt. There were a clear explanation of what we were doing against the Klan in that regard.

Senator TOWER. How is it that you came to believe that you had the authority to neutralize or disrupt these organizations rather than proceed against them frontally through prosecuting them for violations of the law?

Mr. ADAMS. I guess you would have to say, in a position like this, that it is just the Smith Act of 1940, which is designed to prevent revolutionary groups from advocating the overthrow of the Government, and then subsequent interpretations as to the constitutionality

of it leaves us with a statute still on the books that proscribes certain actions, but yet the degree of proof necessary to operate under the few remaining areas is such that there was no satisfactory way to proceed, and it was an area where——

The CHAIRMAN. Will the Senator yield at that point, please? What you are saying, Mr. Adams, is that you did not operate within the law because the law didn't give you sufficient latitude. Therefore, you undertook direct action to disrupt and otherwise undermine these organizations.

Senator TOWER. Did you proceed on the assumption that these organizations would eventually break the law, and therefore you sought to neutralize and disrupt them before they did?

Mr. ADAMS. I can't say that, sir. I think that the investigations of them were based on this belief, that they might break the law or they were breaking the law. The disruptive activities, I can't find where we were able to relate to that. What it boils down to is what we have gotten into a question on before: in our review of the situation we see men of the FBI recognizing or having a good-faith belief that there was immediate danger to the United States.

Senator TOWER. All right, but to repair to Senator Church's question, you don't say that you really had specific legal authority?

Mr. ADAMS. No. And this is the hang-up with the whole program, and which we are not trying to justify, that there is some statutory basis. I would not make that effort whatsoever. All I'm trying to do is say that at the time it was initiated, we had men who felt that there was an immediate danger to the country. They felt they had a responsibility to act, and having felt this responsibility, did act. And this is the whole problem we have at the present time, because we do have one, we can see good evidence of their belief there was a threat. We had cities being burned; we had educational institutions being bombed. We had deaths occurring from all of these activities. We had a situation that we didn't know what the end was going to be.

We never can look around the corner in intelligence operations. We don't know if ultimately this might bring the destruction of the country. All we know is we had an extremely violent time. So I don't find any basis in my mind to argue with their good-faith belief they were faced with a danger.

Now, when they move over to the second area of responsibility, here is where we have the problem, and I think it is the whole purpose of this committee, the Attorney General, Mr. Kelley, all of us realizing we can't operate in these areas where we feel responsibility, but we don't have a mandate by Congress. So in that area, this feeling of responsibility I feel came from the fact that Presidents, as your staff said yesterday, Presidents, Congressmen, the Attorney General, no one really provided direction and guidance or instructions don't do this, do this, don't do that, or what are you doing and how are you doing it.

For instance, there is some feeling on the part of some that our whole domestic intelligence operations was secret. The COINTELPRO operation was. I mean, I think we all agree that this was, to be effective, they felt it should be secret. But back in our—this is printed appropriation testimony which went to the members of the committee. It was mailed out to newspapers, friends, anyone that was interested in it,

back in 1967 talking about Internal Security's operations, the New Left movement, Young Socialist Alliance, Chicago trial, nationwide demonstrations, student agitation, antiwar activities, the Committee of Returned Volunteers, Communist Party, U.S.A., Progressive Party, Socialist Party, extreme organizations, Black Panther Party.

All of these items and statements about extremists, white extremists and hate-type groups, the Republic of New Africa, Minuteman, our coverage of subversive organizations—there are several groups, organizations, and movements which I discussed showed the wide coverage we must maintain to follow on their activities and changing tactics, and in spite of the proliferation of these organizations, our informant coverage at all levels has been of great value and assistance, enabling us to keep abreast of our investigative responsibilities. This is the same way through all of our public appropriation testimony. We have told the world we are investigating black hate groups, New Left groups. So, I merely mention this to try to put in the frame of reference of these men, feeling, they know we are investigating them. They didn't tell them, though, in sufficient detail other than scantily before the Appropriations Committee, what we were doing to disrupt these activities, and my feeling is that the men recognized the danger, they pointed out the danger to the world. They said, we are investigating these organizations, and they felt then that the comfortable climate of leave it up to the FBI, we should do something more. And that is what we are looking for guidelines on, the Attorney General, Mr. Kelley, you, to give us the guidelines under which we should operate.

Now, there are certain guidelines that we don't need to be given, we shouldn't do this. We don't have such activities today, programs designed to disrupt and neutralize in the domestic intelligence field. But beyond that, we need guidelines on what does the whole of Congress, representative of the people, by passing of legislation say this is the FBI's role in domestic intelligence.

Senator TOWER. Mr. Chairman, my time has long since expired. But I would like to note that I saw Mr. Kelley on the "Today Show" this morning indicating strong support for a response to congressional oversight, and that is a healthy attitude.

The CHAIRMAN. Well, I think it must come because, as you have conceded, you shouldn't have ever had to have had the guidelines that the Federal Government's chief law enforcement agency ought not to disobey the law, and really, you don't need explicit guidelines to tell you that, or you shouldn't. Wouldn't you agree?

Mr. ADAMS. I would say that looking at it today, we should have looked at it that way yesterday, but I do feel, I don't have any doubt about the good faith of people recognizing the danger, feeling they had a responsibility, no matter whose fault it was, our's internally or because we weren't given the supervision we should have been given, and taking what they considered to be appropriate action.

The CHAIRMAN. Senator Hart.

Senator HART of Michigan. I should apologize both to witnesses and my colleagues on the committee for scrambling around loosely, but in explanation to the witnesses, I have not been able to give attention to the evolution of the files that are now at hand until the last couple of days, and I am not sure what is in the files for the public

record, and which of the materials I have been shown in the last couple of days are still under seal. So just out of memory I am going to summarize certain activities which have been acknowledged that the Bureau undertook, but without being specific with respect to location and names. I do it for this reason: it is right that the committee and the press be worried about the treatment of a Nobel Prize winner, Dr. King; but there are an awful lot of people who never got close to a Nobel Prize whose names are Jones and Smith, that my review of the files show had violence done to their first amendment rights. Nobel Prize winners will always get protection, but Joe Potatoes doesn't, and the Committee should focus on him, too.

Included in these COINTELPRO activities were, anonymous letters, drafted by Bureau offices in the field, sent to headquarters in Washington, approved, and then put in the mail, intended to break up marriages, not of Dr. King but of Mary and John Jones because one or the other was thought to be a dissenter, might have dressed strangely or showed up at meetings in company of others who dressed strangely. Anonymous letters were sent to university officials and to the several newspapers in that city to prevent university facilities from being made available to a speaker of whom the Bureau disapproved, and it was not a topflight, bigname speaker.

In that case, an anonymous letter was sent to me making protest. Being an anonymous letter, it never occurred to me that it came from the Federal Bureau of Investigation. The series of anonymous letters, one with the spelling very poor, the grammar sloppy, and another more sophisticated; protesting the employment of a man by a city, alleging that he was a Communist or came from a Communist family, and there are loyal Americans out of work, what are you doing, mayor. And to the press, isn't this an outrage. And again the letter, the anonymous letter sent to me saying what are you going to do about this. There are loyal Democrats in this town who need work. And in that case I happened to have known the man about whom the protest was made, and the Bureau's facts were wrong as hell on that man's loyalty. He was as loyal as you or I. Now, yes or no, are those actions regarded now by the Bureau as within bounds?

Mr. ADAMS. No, sir.

Senator HART of Michigan. Why were they regarded as within bounds when they were approved by the Bureau?

Mr. ADAMS. Well, I think even under the guidelines of COINTEL PRO, as established, the programs were not designed for the purpose of harassment of an individual. The memorandums indicate they were designed to disrupt the organizations. Some of the turndowns were turned down on this specific wording. This is mere harassment.

The rationale would have been—and of course, here, I say some of these you mentioned wouldn't even appear to me to meet the criteria of the program and should have been disavowed, even under the existence of the program. However, in the total context of the program, activities were to be directed toward the organization itself, but we do not do that at the present time.

Senator HART of Michigan. Yes. But everything I have summarized rather poorly, was approved by the Bureau at the time by headquarters, not by the field office agents.

Mr. ADAMS. I do not think that there were improper actions taken under the program, even under the program as it existed. Mr. Kelley has so stated his recognition of that fact. The Attorney General certainly has. Yet the majority of the actions taken, even the Department concluded were lawful and legal, proper investigation activities, but are——

Senator HART of Michigan. You see, my feeling is that it isn't a question of techniques that are bad. The concept of the program seems to do violence to the first amendment because everything you did sought to silence someone or threaten someone to silence, or deny someone a platform, or create an atmosphere in which people were in fact afraid to assemble. Now, sometimes law enforcement, legitimate law enforcement, has what we call this chilling effect, when it is legitimate law enforcement. Oftentimes that chilling effect is a necessary, though regretable, side effect. But what I am talking about, and what these files are full of, are actions the only purpose of which is to chill. It isn't in pursuit of any crime at all. Indeed, when a court of general jurisdiction approved the use of that university premise by the speaker, the Bureau had stirred so much controversy with its anonymous letters, when that judge wrote an order, after the sponsoring group went to court, what was the Bureau's reaction from headquarters? Investigate the judge.

Mr. ADAMS. I'm not familiar with that fact.

Senator HART of Michigan. Well, neither was I until last night.

Mr. ADAMS. The instruction was to investigate the judge?

Senator HART of Michigan. This is the sort of thing that I came out of the hospital to find, and it is the sort of thing, as I said yesterday, that my children have been telling me for years you were busy doing, and I simply didn't believe them. And they were right and I was wrong.

Mr. ADAMS. Well, there were about 3,200 activities, and about 2,300 I believe or so were approved under the COINTELPRO, and over 59 percent were addressed to the Communist Party. That leaves 1,000. And out of 1,000, perhaps, I don't know what the actual figure was of ones that just clearly stand out as improprietous under the program, even as it existed at the time, but I do feel that—well, it is a very difficult area.

Senator HART of Michigan. My time is up, too, I am sure, but regarding the Communist Party, if your theory continues to be that any socially active group of citizens who organize, whether women's libbers or fight the bomb or anything else, might be a target for infiltration by the Communist Party and therefore you can move in your agents. That means, almost not as an overstatement, that any and every citizen's activity could be made the target of the kind of activity that I have just described, because every individual is apt, during his lifetime, to engage in violence. If that is justification, then you are justified in running surveillance on everybody.

Mr. ADAMS. Well, that was not——

Senator HART of Michigan. Everybody has that privilege, and that clearly is a police-state concept.

Mr. ADAMS. That is not our criteria.

Senator HART of Michigan. All right, but if the criteria is three or four of us get together and we have a sort of nutty idea, just the kind of thing the Communists would like to exploit, and therefore you

seek to justify shutting off the forum for that group or to survey it, the potential for Communist infiltration, then, if that continues to be your theory, then I say you are going to pursue the same wretched road that these files show you have been pursuing before. If that is the predicate, the fact that a Soviet or Marxist or Maoist Hottentot is liable to think there is an idea that we can exploit, then you people are going to be spending how many man-hours, how many tax dollars doing the kind of things that I summarized so briefly here? That, in my book, is the 20th century version of what the Founding Fathers intended to prevent when they wrote the first amendment. Is it the position of the Bureau when a Communist participates, associates with, and promotes an idea, that this justifies you trying to figure out if you can bust up a marriage if two of the people are in the group?

Mr. ADAMS. It does not, and it is not our criteria; no, sir.

Senator HART of Michigan. What does it justify?

Mr. ADAMS It justifies our doing nothing in the way of COIN TELPRO activities. I still feel it has a justification, that you agree with, to investigate the Communist Party. It is when you get into the disruptive areas, where the program does beyond investigation, that we have no statutory authority.

Senator HART of Michigan. Well, we have been emphasizing COINTELPRO. Would it justify tailing these people?

Mr. ADAMS. What, just a——

Senator HART of Michigan. Or putting an informant into the group?

Mr. ADAMS. If it is a Communist group?

Senator HART of Michigan. No, if it's me and somebody else that thinks we oughtn't to have something that a majority of people think we should. We organize and you people say, "Well, there is something the Communists can take and run with."

Mr. ADAMS. No, sir.

Senator HART of Michigan. Does that justify a surveillance of them?

Mr. ADAMS. It does not, and we would not. Before we would even open a preliminary inquiry, we should have an indication that the Communist Party has attempted to infiltrate or is infiltrating. In other words, where you have some evidence of a subversive group participating in the functions of that organization, and there are grey areas here, in the spectrum of anything where I am sure we have opened investigations where we should not because there has been scant evidence of such infiltration. And this is a supervisory problem. It is a criteria problem. And it is also an oversight problem which we are responding to.

Senator HART of Michigan. My time is up and I haven't gotten into some of the other material.

The CHAIRMAN. Well, Senator, you have not been with us——

Senator HART of Michigan. No, no, I just——

The CHAIRMAN. If you want more time, you have a lot of time stored up. If you want to use it now, go right ahead.

Senator HART of Michigan. Well, let me ask the justification for this sort of business. I have been talking about the things I have seen in the files that bear on direct denial of first amendment rights, and again, this does not deal with the treatment of a distinguished American. Indeed, it involves groups that are generally viewed with very

sharp disapproval. The ground rules for the treatment should be precisely the same, whether he is a good, popular guy, or a dirty, smelly guy. What was the purpose of the Bureau in trying to stir up strife—perhaps I shouldn't say what was the purpose—what possible justification for the Bureau trying to sic the Black Panthers on that outfit out in California, or between the Black Panthers and the Blackstone Rangers in Chicago? Was it with the hope that by fomenting it they would kill each other off?

Mr. ADAMS. Absolutely not, and I think the committee staff can inform you that during their review of all of these matters they haven't come up with one instance of violence resulting from any of these actions. In that particular case there was a communication in the same file, which I believe the staff had access to, which showed that we did get information that one of these groups was going to put out a contract on one of the others, and we notified the police and the individual of the fact that their life was in danger. None of our programs have contemplated violence, and the instructions prohibited it, and the record of turndowns of recommended actions in some instances specifically say that we do not approve this action because if we take it, it could result in harm to the individual. So, I think this is one charge—and the staff did not make such a charge, I might add, when they presented the picture—but I think any inference that we were trying to result in violence is wrong.

Senator HART of Michigan. Let me explain for the record why I reached the conclusion I did.

Mr. ADAMS. The wording of that memorandum——

Senator HART of Michigan. And why I continue to hold to that conclusion.

On January 30, 1969, the Bureau headquarters in Washington approved sending an anonymous letter to the leader of the Blackstone Rangers, Jeff Fort, which indicated that the Black Panthers had put a contract out on his life as a result of conflicts between the two organizations [exhibit 28 [1]]. Now, you say that was to warn him. I ask, wasn't the principal purpose of the letter to encourage the Rangers to shoot some or all of the leadership of the Panthers? Otherwise, what does this quote mean, and I will read it. It is from a memorandum from the Chicago office of the FBI asking approval to undertake this. Here is the way it reads: "It is believed that the above" this anonymous tip that a contract is out on you. "It is believed that the above may intensify the degree of animosity between the two groups and occasion Fort to take retaliatory actions which could disrupt the BBP," the Black Panthers "or lead to reprisals against its leadership. Consideration has been given to a similar letter to the Panthers alleging a Ranger plot against Panther leadership. However, it is not felt that this will be productive, principally because the Panthers at present is not believed as violence prone at the Rangers, to whom violent type activity, shooting and the like, are second nature." [Exhibit 29.[2]]

Now, how can you reach any conclusion other than a purpose was to generate the kind of friction that would induce the killing——

[1] See p. 430.
[2] See p. 432.

Mr. ADAMS. Well, if that purpose was for that rather than generating factionalism, disagreements, disrupting it, it would be contrary to the communication I referred to in the other file, the Black Panthers versus Ellis, where we notified the police of the contract, we notified the individuals of the contract and took every action at our command to prevent direct violence, and also the fact that the files showed that we turned down these situations where violence was involved.

Senator HART of Michigan. Well, we have differing views with respect to motives and the purpose of the Panther situtaion in Chicago. I still do not understand why we sought to set the Panthers and this US group in California against each other as they were. Also, I don't know whether it is in the record, open or not, what purpose other than to occasion violence moved the Bureau to approve of forged signatures of Communist Party personnel on letters addressed to Mafia-owned businesses attacking the employment practices of those businesses? Why would the Bureau think there was any value to be served in concocting a forged letter? Let us assume Phil Hart is a local Communist in this city. The Bureau forges Phil Hart's name to a racket-owned business, notorious for using muscle, protesting that fellow's business practices. Certainly it was not intended to improve the employment practices.

Mr. ADAMS. I think if the full communication were available, it did show a purpose unrelated to violence. I don't recall the exact wording now, but I think it was to create a lack of support or something like that. This was part of that HOODWINK program, I believe, that was one of four actions that were involved in HOODWINK, and I think there have been some public descriptions of that program that indicate that it was not the greatest thing coming down the pike.

Senator HART of Michigan. Well, that is the sort of thing I found that persuaded me to say very openly that I do not buy the idea that the American people ultimately are responsible for that kind of nonsense because I am certain that virtually every family in the country would have screamed in protest no matter how much they disliked Dr. King or the Panthers or the Communists.

Mr. ADAMS. Sir——

Senator HART of Michigan. If they had known that tax money and Federal personnel were busy around the country, notwithstanding bank robberies that were going on at the same time, pounding out that kind of correspondence and inciting that kind of conflict and curbing speech.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Hart.

Senator Mondale is next.

Senator MONDALE. Mr. Adams, I realize that you were not a part of this particular event. But being an experienced FBI hand, I wonder if you could help us understand the psychology that led to this kind of memorandum.

Mr. ADAMS. I feel it coming, but go ahead.

Senator MONDALE. This is a memorandum to the Director. It has been referred to before. It calls for removing King from his pedestal and replacing him by someone else. The memo is dated January 8, 1964, and was written a week following the time that King was named man of the year by Time Magazine. [See footnote p. 21.]

This memo, as you know, received the following comment from Mr. Hoover: "I am glad to see that light, though it has been delayed, has come to the Domestic Intelligence Division," and so on. I would just quote part of the language and maybe you can help us understand the psychology that led to it. The first part of the memo says: "We have got to remove King from his pedestal." Then it says:

The Negroes will be left without a national leader of sufficiently compelling personality to steer it in a proper direction. This is what could happen but need not happen if the right kind of national negro leader could at this time be gradually developed so as to overthrow Dr. King and be in the position to assume the role of leadership of the Negro people when King has been completely discredited.

For some months I have been thinking about this matter. One day I had an opportunity to explore this from a philosophical and sociological standpoint with X [the name of the leader] whom I have known for some years. As I previously reported, he is a very able fellow and one on whom I can rely. I asked him to give the matter some attention, and if he knew any Negro of outstanding intelligence or ability, let me know and we would have a discussion.

He has submitted to me the name of the above-named person. Enclosed with this memorandum is an outline of X's biography, which is truly remarkable. In scanning this biography, it will be seen that X does have all of the qualifications of the kind of a Negro I have in mind to advance to positions of national leadership.

And skipping:

I want to make it clear at once that I don't propose that the FBI in any way become involved openly as the sponsor of a Negro leader to overshadow Martin Luther King. If this thing can be set up properly without the Bureau in any way becoming directly involved, I think it would be not only a great help to the FBI, but would be a fine thing for the country at large.

While I'm not specifying at this moment, there are various ways in which the FBI could give this entire matter the proper direction and development. There are highly placed contacts at the FBI who it might be very helpful to further such a step. This can be discussed at a later date when I have probed more fully into the possibilities and this recommendation is that approval be given for me to explore the whole matter as set forth above.

And to that Mr. Hoover says:

I'm glad to see the light has finally come. I have struggled for months to get over the fact that the communists were taking over the racial movements but our experts here couldn't or wouldn't see it.

Now I think you testified earlier that you do not accept this as proper FBI activity, but can you help us understand how at one point in American history someone thought it was proper, apparently including the Director?

Mr. ADAMS. I would have to say for one thing that this gets into the real motive of the discrediting of Martin Luther King, which I don't feel can be fully explored. I think that the people most directly involved in that are not available, because I don't know from my experience what they had in mind in this regard. I have no doubt from this memorandum and other memorandums that the two individuals involved felt very strongly that Martin Luther King was a threat to the success of the Negro movement and that steps should be taken to get him out of that—what the reason for it was or the motivation, I am just not in a position to say. I do say it is improper to inject yourself into that type of activity, but I don't know what the real motive was.

Senator MONDALE. Dr. King was investigated, as I think you testified earlier, because of fears of Communist influence upon him?

Mr. ADAMS. Yes.

Senator MONDALE. Is that a proper basis for investigating Dr. King or anyone else?

Mr. ADAMS. It is, where you have information indicating that the Communist Party is and has made efforts to try to influence an individual. I would say that that would normally be considered within the current criteria.

Senator MONDALE. You would consider that to be a valid basis for investigating today?

Mr. ADAMS. The movement itself, but not the individual.

Senator MONDALE. How do you investigate a movement without investigating individuals?

Mr. ADAMS. You do get into a gray area. The main thing would be if we had an organization today that we saw the Communist Party gravitating to, trying to work in positions of leadership, we would be interested in opening an investigation on Communist infiltration of that organization to see if it was affecting it.

Senator MONDALE. All right, now let's go back specifically. I gather there never was any question raised about whether Dr. King was a Communist. That was never charged.

Mr. ADAMS. Not as a Communist Party member, no, sir.

Senator MONDALE. That's right. Or that he was about to commit, or had committed acts of violence?

Mr. ADAMS. No.

Senator MONDALE. But the reason for investigating him apparently was that he was subject to Communist influence. Now what makes that a justified reason for investigating him? Is it a crime to be approached by someone who is a Communist?

Mr. ADAMS. No.

Senator MONDALE. What is the legal basis for that investigation?

Mr. ADAMS. The basis would be the Communist influence on him and the effect it would have on the organization. It would be in connection with our basic investigation of the Communist Party.

Senator MONDALE. Well, as I understand the law to read, it is not a crime to be a member of the Communist Party.

Mr. ADAMS. That is correct.

Senator MONDALE. How can it be a crime to know someone who is a member of the Communist Party?

Mr. ADAMS. It is not.

Senator MONDALE. How do you investigate something as tenuous as that? What is the basis for it legally?

Mr. ADAMS. Well, it falls into the area of, one, the intelligence jurisdiction of the activities of the Communist Party to have a situation where an individual in an organization, a leader of an organization, efforts are being made to influence him and to achieve control over the organization, and it is part of the overall investigation of the party trying to exert this influence as to are they successful, are they taking over the black movement or the civil rights movement. It is just like we tried to make clear in investigations that were more prevalent years ago but still occur on the Communist influence in labor unions. We tried to tell everybody we interview we are not interested in labor matters. We are not trying to inquire into that. We are interested in the effect of the Communist Party on this union.

Senator MONDALE. Mr. Adams, I am trying to get at the legal basis in this particular case for investigating Dr. King on the grounds that he might be subject to Communist influence. Can you cite any legal basis for that, or is it based entirely upon a generalized authority thought to exist in the FBI to investigate internal security matters?

Mr. ADAMS. It would fall also in the Presidential directives of investigating subversive activities.

Senator MONDALE. Then the question would return to what authority the President had.

Mr. ADAMS. That's right.

Senator MONDALE. Now Dr. King was investigated, among other things, for matters of, I think you call it delicacy. Would that be a basis for investigating an American citizen by the FBI?

Mr. ADAMS. No.

Senator MONDALE. Would you say then that those investigations were improper?

Mr. ADAMS. I don't believe that there is an allegation that we investigated him for that. I think there were certain by-products of information that developed and I think at a point you had a situation where the tail was wagging the dog, perhaps, but I don't see any basis for such investigation. And I find it very difficult to get into a discussion of this in view of the prohibitions that I think——

Senator MONDALE. You answered my question. That by itself would not be a basis for investigation.

Mr. ADAMS. No, sir.

Senator MONDALE. Would you agree with me, Mr. Adams, that this area of the assignment that the FBI had been tasked, which they thought they possessed or could use to investigate Americans; is an exceedingly vague, difficult, if not impossible, area to define? It is not an area where there were allegations of crime or suspicion that crimes were about to be committed, or that violence was about to be committed, but rather this whole generalized area, to investigate Americans in terms of ideas that they have or might be persuaded to have, ideas that might hold potential for danger to this country. This vague area has got the FBI into an awful lot of trouble, including today's hearings.

Mr. ADAMS. Yes, sir.

Senator MONDALE. And because of that, there is a very important need to sit down and redefine the guidelines, and have those guidelines known specifically by all, so that the FBI can know precisely what it can do and what it cannot do.

Mr. ADAMS. I think this is why the country is fortunate in this particular time to have an Attorney General who is a legal scholar and a lawyer of unquestioned repute who has indicated a willingness to address these problems, which, as the staff has determined, was not always the case over the years. But we have an Attorney General, we have a Director, who has offered his complete cooperation, just as he has to the committee in this inquiry, that we are not trying to avoid embarrassment. The only thing we are trying to hold back are identities of informants and sensitive, ongoing operations that we have, a concern on the part of Congress that not only recognizes there have been abuses, but recognizes that there still always has to be some degree of flexibility.

We are going to have situations where you have a "Weatherman" working for the waterworks, and in college he was a scientific student, and he makes a comment to a fellow employee that there is going to be some spectacular event that is going to bring the attention of the world on this city.

Senator MONDALE. Wouldn't you have probable cause then to investigate the commission of a crime?

Mr. ADAMS. We might have to investigate, but to disrupt, we have the authority to tell the supervisor of the waterworks, you had better get him out of there before the city water is poisoned and 100,000 people die, and I think the committee is going to find the same problems we do in coping with that situation, and even the Attorney General in his speech in Ottawa pointed out that there is still possibly a necessity for some flexibility to take appropriate action under extreme conditions. But it should be controlled. It is like Mr. Kelley says, go to the Attorney General, explore the legal issues, lay the problem up there. It should not be handled internally in the FBI.

Senator MONDALE. But do you also agree that the Congress ought to redefine the rules legislatively?

Mr. ADAMS. Yes; because the problem I have with it is we talk about oversight, and Mr. Kelley and the Attorney General and I believe this committee agrees that we should have joint oversight which would avoid the proliferation of hearings and the sensitive knowledge among many people which always poses the risk of an inadvertent leak of information. But yet even with oversight, under the plan you discussed yesterday, or some of the observations that were discussed yesterday, having people, conservative, liberal, black, and the other qualifications you put in, can a committee speak for the will of Congress? At one time we had Congressmen making speeches all over the country, if we don't stop these bombings, if somebody doesn't do something about it this country is in trouble. Is that the will of Congress?

Until it is embodied in legislation where the whole will of Congress is expressed, we are going to have problems.

Senator MONDALE. I am glad to hear that, because there is a way Congress speaks. It is not through the buddy system or a person. It speaks through the law.

Mr. ADAMS. That's right.

Senator MONDALE. And now for the first time we have this whole issue; it is not denied by the FBI. The elements are known. What I hear you saying is that you would like the Congress now to define, and redefine specifically and carefully, what it is we expect the FBI to do, and what it is we wish to prevent the FBI and will prohibit the FBI from doing.

Mr. ADAMS. Right. What is our role in society? After World War II, if you'll remember, a congressional committee met and raised all sorts of storm over the fact that there was not enough in the way of intelligence investigations. Never again should it happen in the United States that we be caught with our pants down. After the Kennedy assassination, if you recall, the FBI was properly criticized for having too restrictive dissemination policies in connection with Secret Service because they depend upon us for the intelligence necessary to provide protection for the President against extremist groups. We did that, but just before the recent incidents in California, there was going

to be committee concern, not this committee, over has there been too much dissemination.

So the FBI is in the position of, at different times in our history, being damned for doing too much and damned for doing too little. And it is because of reacting to what we try to judge is what they want us to do, and this is what we are not in a position to do. We need the will of Congress expressed in some definitive measure, yet providing the latitude, because as you have seen from these problems, there are many that there are no black and white answers to. There have to be occasions where, when you are confronted with an extreme emergency, someone can act, and I don't think you or anyone else wants to tie the hands of law enforcement when today we have over 10 million serious crimes in the United States. We have 1 million crimes a year involving violence, and there has to be a capability to react. But we need to know in better terms what is our role in this, especially in domestic intelligence.

Senator MONDALE. Thank you, Mr. Chairman.

Senator TOWER [presiding]. Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman. Mr. Adams, in 1966 a letter written by the Bureau to Marvin Watson, Special Assistant to the President at the White House, and the gist of this letter was, in reference to his request, and I want to make it clear it was his request, not the Bureau's, authors of books that were critical of the Warren Commission report on the assassination of President Kennedy, were requested to file any pertinent personal data information, dossiers, et cetera, on seven individuals whose names I will not discuss.

Do you have any knowledge as to why the White House requested this kind of material on the Warren Commission critics?

Mr. ADAMS. I don't recall. I am familiar with the material. I did review it some time ago when we were testifying before the House Committee in February, but I don't recall that I saw in there any specific motivation on the part of the White House group requesting this information.

Senator SCHWEIKER. Now, in the same letter it also says a copy of this communication has not been sent to the Acting Attorney General.

Mr. ADAMS. Yes.

Senator SCHWEIKER. Number one, is that a normal procedure, when you get requests of this kind that the Acting Attorney General is bypassed, and why was the Attorney General bypassed in this instance?

Mr. ADAMS. This is not a normal procedure. It is not the procedure followed today. There was a period of time where, at the President's directions, Mr. Hoover reported more directly to him in certain areas, and it was apparently a feeling that he did not want the Attorney General to know certain things.

Senator SCHWEIKER. One of the dossiers specifically included photographs of sexual activities.

Mr. ADAMS. Yes, sir.

Senator SCHWEIKER. And my question is, how is that relevant to being a critic of the Warren Commission? What standard do we use when we just pass photographs of sexual activities to the White House? Is this a normal proceeding when a dossier is requested? Is this normally included, or did they specifically request photographs of this kind, or what light can you shed on this?

Mr. ADAMS. I can't shed much. I know they requested information on him. I think there was other material concerning that individual of a security nature that was included. Why the information in that respect was submitted I am unable to answer. I do know at the time there was a lot of concern following the Warren Commission report. Had all the answers been explored? Was the Soviet Union involved? Was Cuba involved? And who were the critics who now are attacking this? But I have seen nothing which would explain the rationale for requesting the material.

Senator SCHWEIKER. I think what concerns the committee is, that whenever you get to the nitty-gritty of investigations—and it doesn't relate to the Warren Commission, I will leave that alone—we get back to something like a photograph or a tape recording or some letter referring to some kind of human weakness or failing that is really very irrelevant to the investigation, is sandwiched in here. It just seems to me that it was a tactic. This just happens to be the Warren Commission I singled out, but it was a tactic that was used rather frequently as a lever, or for reasons which I am trying to discover, as an instrument of investigative policy. Would you differ with that or dispute that? What rationale would you use? Do we use sexual activities as a standard criterion for investigations?

Mr. ADAMS. We do not use sexual activities as a criterion, but during the course of our investigation—we did have an investigation on that individual at one time—and during the course of the investigation, in checking the records of a local police department or a district attorney's office, they had conducted an investigation for a criminal act involving these photographs, and they made that available to us. So it went into our files. Now, the request of the President, he is the Chief Executive of the United States. He in effect has custody of everything. There are problems involved when the man who is in charge of everything requests information. I would like to add, however, that following the cleansing effect of Watergate that I don't know of any such requests coming over to the FBI anymore. There is a direct line between the Attorney General and the Director, and the Director certainly recognizes that in a case of extreme disagreement he would have the alternative to tell the Attorney General, I need to go directly to the President, or feel I should, but we do not have this line of communication at the present time.

Senator SCHWEIKER. It seems that if they had just listed what was alleged in the other investigation, that certainly would have sufficed for whatever purpose. But it seems to me that when you enclose living photographs, you are really attempting to discredit these critics. What other purpose would a photograph of this nature have, other than to discredit critics?

Mr. ADAMS. I can't answer that.

Senator SCHWEIKER. One area that I think this gets into, which we really touched on in the assassination probe Mr. Adams, is where the Bureau stops when they get some of these requests. You touched on it a moment ago. The President asked for something. I don't know in this case whether or not the President asked to see photographs of this nature, but the point is, nobody said no and he got them. So the question is, where do you see the Bureau's responsibility, and

what can this committee do to insure that there is some kind of a test, that we either put in the law or that the FBI applies, that prevents the White House from using police power in this way?

Mr. ADAMS. I don't think Congress can ever fill the responsibility of trying to draw up guidelines, even in conjunction with the executive branch, to guarantee that all abuses won't take place. The organization is made up of human beings, and these things occur. Certain corrective actions are self-initiated, such as this. The President, for instance, you know we had an incident a few years ago about investigating a newsman, where we were requested, and if I recall from our information, we thought he was being considered for an appointed position which would have been a logical basis. As facts turned out, that was not the purpose that the information was requested. To stem or stop abuses like that, the President, the current administration, has issued instructions that any requests for investigations under the special inquiry or White House investigation such as for appointment must clear through the office of his counsel, in other words, not let the lower line people come over and say we need this information or we need this request. They come through the office of Phil Buchen through an employee that is assigned to that office with responsibility.

Now, we do still make certain name check requests for the White House, and those, too, have to clear through his office. So we do have that. Then we have the responsibility, if we get something which on its face appears political or improper, then our responsibility under that would be to go to the Attorney General and ask him to intercede by finding out is this a proper request on the Bureau. And I can assure you, that as Mr. Kelley has testified and has made it perfectly clear, he has not had any such improper requests and he would go right to the Attorney General if it was necessary. Otherwise he would reject the request.

Senator SCHWEIKER. What steps are you taking to make sure that we catch some of these things in the present that maybe we either overlooked or did not catch or somehow got sidetracked in the past?

Mr. ADAMS. We have been working with the Attorney General and his staff. It started even when Attorney General Saxbe was there, to look at all of our procedures, all of our investigative operations. Are they proper? Do they fit criteria? Do we have a legal basis for them? And we have guidelines, committees which have been established in the Department, that meet every day on questions of the overwhelming problem of collection and maintenance of information. What do we get? Why do we get it? What should we do with it?

I feel there is a very active program going on in that regard, and I feel certain that it will continue to make sure that we are aware of everything and take appropriate action.

Senator SCHWEIKER. I wonder if you might share some of these with the staff so that we may have the advantage of taking a look at those, too.

Mr. ADAMS. I would have to secure the approval of the Attorney General on the guidelines. He did tell the House committee which originally raised the question on maintenance of information, that once we get something and they are nearing completion in the Department, that he does intend to take it up with Congress. So I am sure there would be no problem at that point in bringing it to this committee as well.

Senator SCHWEIKER. It seems to me that the problems in the past have arisen, in not having clearly defined standards. I think this is the crux of it.

Mr. ADAMS. That is true.

Senator SCHWEIKER. That's all I have, Mr. Chairman.

Senator TOWER. Mr. Adams, what use does the Bureau presently make of its intelligence informants, and have they ever been used as provocateurs or as magnets for action?

Mr. ADAMS. No, sir.

Well, you asked two questions.

Senator TOWER. Yes.

Mr. ADAMS. Let me take the last one first, provocateurs. Our policy has not—or our policy has been to discourage any activities which in any way might involve an informant doing something that an agent cannot do, which would be in the area of being a provocateur, which basically is entrapment. And we have had some allegations of entrapment come up. We feel we have satisfactorily answered them. This is a very technical legal field which boils down, of course, to the fact that if a person is willing to do something, and the Government merely provides the opportunity, that is not legally entrapment. So if a person comes to us and says, "I have been asked to participate in a break-in of a Federal building, I would like to help you," then the law basically would indicate we have the authority to continue to let him operate. The question comes up if he assumes the whole direction and causes people to do something which they would not otherwise have done. That is the entrapment issue. So we are very alert to this. We have instructions, clear guidelines, instructions to our field offices that they are not to use an informant for anything that an agent cannot legally do. I don't say there haven't been some mistakes in that regard, but I don't know of any at the present time.

Senator TOWER. Senator Huddleston?

Senator HUDDLESTON. Thank you, Mr. Chairman.

First, I think to keep this activity in proper perspective, it might be well to remember that even though a great deal of the testimony and the questioning has been relating to the question of Dr. King, this is by no means an isolated situation. Dr. King's case is indeed a classic example, utilizing all of the various techniques of the Bureau, both in intelligence gathering, and action against an individual in order to discredit him or embarrass him, and indeed destroy him. But the record is replete, and indeed, here is an entire sheaf of similar targets who are certainly not as well known. Some of them are high school students, some of them are high school teachers, college students, college teachers, broadcasters and journalists, people whose names would be almost totally unfamiliar to the vast majority of Americans. So the activity was not confined to those that are immediately recognizable public figures.

I want to just proceed along the question of informants that Senator Tower just raised for just a moment or two. You say that your informants are not expected to do anything that an agent himself could not do. In the gathering of information do you have any safeguard at all, any rule as to how the informant proceeds in order to gather the information you are looking for?

Mr. ADAMS. Only that he proceed through legal means.

Senator HUDDLESTON. Is that specifically stated to him when he is employed?

Mr. ADAMS. Yes, sir.

Senator HUDDLESTON. Are most informers paid on the basis of a regular fee or regular salary, or are they paid on the basis of the information they gather?

Mr. ADAMS. Even those who are paid on what you could say a salary, that salary is determined on a COD basis as to the value of the information furnished. In other words, in a criminal case for instance, you could have a person come in and give you the identity of three individuals who just robbed a bank. You might pay him a lump sum amount, and never go back to him. In the security field where informants do finally manage to work into a revolutionary type organization, their continued activities on our behalf do set up more of a program for payment.

Senator HUDDLESTON. If information that may be supplied to you happens to be of a sensational nature or of a surprising nature, do you ever question the informer on how he obtained it?

Mr. ADAMS. I am sure this takes place. In any handling of an informant over a sustained period of time, you do have a rapport which they don't just come in and say Joe Blow said this, Joe Blow did that. There is a conversation that goes through, which I feel certain would, if it looked like he had something that came from some improper source, I think the agent would say, "Where did you get this?"

Senator HUDDLESTON. If you found it had been taken improperly or if some improper action had been taken, would it be put in the files?

Mr. ADAMS. If he violated the law, we would have an open investigation if it were within our jurisdiction.

Senator HUDDLESTON. Now the Bureau disseminates this information on individuals that is collected in various ways. How many other agencies can request, for instance, an individual check that would result in your supplying to it information from these personal intelligence files?

Mr. ADAMS. Every agent in the Federal Government under the employee security program has an obligation to check with the FBI; doing name check search of our files to see if there is any subversive, derogatory information which might militate against appointing that individual to a Federal position.

Senator HUDDLESTON. Do you take any precautions as to how they will use that information once it is supplied to them by your agents?

Mr. ADAMS. All we do is indicate to them on the report that it is the property of the FBI and is not to be disseminated outside their agency.

Senator HUDDLESTON. You have no way of knowing whether or not indeed it is?

Mr. ADAMS. No, sir, we do not.

Senator HUDDLESTON. What internal precautions do you have against the Bureau itself misusing information that it gains from other agencies?

Mr. ADAMS. Strong prohibitions. First, we don't allow access to files except on a need-to-know basis. Any employee of the FBI knows that if he improperly divulges information or leaks information out of the files, he will be subject to administrative action. We had a case where an agent obtained an identification record and made it out

improperly, and I think that agent was separated from the rolls. But we had asked, and of course we share in CIA's request to this extent, that there be a criminal penalty attached to misuse of information and leaking it or making it available outside of an agency. This is another issue before Congress.

Senator HUDDLESTON. There is also an instance that the committee has evidence of, where the Bureau at least proposed taking information gained from the Internal Revenue Service and drafting a letter, a fraudulent letter, over a forged signature of a civil rights leader, mailing it to the contributors of that organization indicating that there was some tax problem and hoping to discourage further contributions. Did this in fact happen, to your knowledge?

Mr. ADAMS. I am not familiar with that case. I can easily say it would not be proper.

Senator HUDDLESTON. But you don't know whether it happened or whether the act was carried out?

Mr. ADAMS. I do not know.

Senator HUDDLESTON. Mr. Adams, getting on to another subject, one of the techniques used very frequently by the Bureau in its attempt to discredit individuals was to utilize the press. It was customary to send anonymous letters on many occasions to editors, broadcasters, commentators, and columnists around the country containing information, or suggesting information, about an individual that the Bureau wanted to discredit in some way. There is also some evidence that the Bureau utilized within the press itself, on a regular contact basis, certain columnists or broadcasters for the purpose of disseminating information that the FBI wanted to get out about individuals. How extensively was this utilized?

Mr. ADAMS. I don't believe it was very extensive. In fact, I think there were probably very few incidents where untrue information was put out. That is my recollection. On disseminating public source information there were a number of instances of that which is still proper to date under our guidelines. I just don't know of many instances where untrue information was used, and I do not know of too many instances overall where that was done.

Senator HUDDLESTON. Do you know of any instances—how many actual journalists or practitioners were regular disseminators of FBI information?

Mr. ADAMS. I don't know of any today that are, in that regard. I know there have been situations where it happened and people still do. They come to us and say, we would like to do an article on organized crime. Can you be of assistance? And if we can be of assistance within the guidelines established by the Attorney General, we do assist. We have a pull and a tug over privacy acts and freedom of information and also the need to know, but we try to satisfy.

Senator HUDDLESTON. Do you know of any at the present time or in the past who have been paid by the FBI for their services?

Mr. ADAMS. Not personally. I don't know of any.

Senator HUDDLESTON. Not personally? Do you know of any evidence that indicates that?

Mr. ADAMS. That's what I mean. I don't have any evidence that indicates that.

66-077 O - 76 - 7

Senator HUDDLESTON. I think it would be helpful to our inquiry if we could review, or you would review, the files and make a determination as to whether or not it might be the case, that the FBI has paid journalists who are amenable to disseminating information supplied by the FBI.

Mr. ADAMS. I am told we have. I don't know what files we have reviewed, but we have reviewed them and we haven't found any.

Senator HUDDLESTON. You haven't found any. What is the mass media program of the FBI?

Mr. ADAMS. To try to get the truth out, to get a proper picture of the FBI's jurisdiction, its activities.

Senator HUDDLESTON. Is it also to suppress other publications or other commentators or journalists who might be disseminating other views?

Mr. ADAMS. No.

Senator HUDDLESTON. Did the FBI not take some action against a number of newspapers, most of them student newspapers that they thought should be suppressed?

Mr. ADAMS. We may have in the past. I don't recall any specific case. You are talking about some of the "Weatherman" support papers or Black Panther paper. I don't know of any in that regard, but I'm not saying that such action was not taken.

Senator HUDDLESTON. Are you familiar with the special correspondence list?

Mr. ADAMS. Yes.

Senator HUDDLESTON. What is this list?

Mr. ADAMS. My recollection is that the special correspondence list was a list of individuals that had requested from time to time various Bureau publications and were kept on a continuing list and such communications were mailed to them.

Senator HUDDLESTON. It was a list that was considered to be friendly towards the FBI view?

Mr. ADAMS. Yes. I would say anyone on that list would normally be friendly.

Senator HUDDLESTON. Do you have knowledge of a number of instances in which the Bureau carrying out its COINTELPRO activities utilized the existing press in order to attempt to discredit some individual?

Mr. ADAMS. I don't have an idea of the number, but I don't think there were very many.

Senator HUDDLESTON. Do you have a list of the instances in which the Bureau attempted to discredit other publications?

Mr. ADAMS. No; I don't know.

Senator HUDDLESTON. Do you know that they did occur?

Mr. ADAMS. I can ask. I get, "No," as far as any knowledge in that regard.

Senator HUDDLESTON. As far as knowledge.

Mr. ADAMS. That means knowledge of what we have come up with in our current review, I would assume.

Senator HUDDLESTON. It seems to me that this is an area in which we are particularly troubled and rightly should be. If there is any right that is specifically called for in our Constitution, and has been upheld and reaffirmed in court decision after court decision, it is the

right to publish in this country. The first amendment speaks not only of freedom of speech, but also freedom of the press. And yet it seems that we have a pattern here of the chief law enforcement agency of the country attempting to suppress that very right.

Mr. ADAMS. I haven't seen—I think any effort to manipulate the press of this country, I just don't see any possibility in that regard, and I don't see the logic of anyone even attempting such.

Senator HUDDLESTON. But it did happen.

Mr. ADAMS. It may have happened in——

Senator HUDDLESTON. In a rather extensive field.

Mr. ADAMS. I disagree with that rather extensive field. I just don't know the extent that you are talking to here.

Senator HUDDLESTON. We are talking about the cases where——

Mr. ADAMS. Are you lumping in cases where we disseminated public source information? Are you lumping in a case where we may have gone to a——

Senator HUDDLESTON. I think disseminating public source information is somewhat different from furnishing a TV commentator with derrogatory information about a specific individual, who has been targeted as one that apparently the Bureau thinks is dangerous or that his ideas ought to be suppressed.

Mr. ADAMS. Is that manipulating the press, though? Here you have a situation where an individual is going around the country advocating off-the-pig or kill-the-police or something like that. And a newspaperman was furnished, say some background information on him which would have been in the area of public source material which he could use in an article. Are we really, if the information is true, the final decision, it would seem to me, would be the newspaperman as to whether he would use any such information.

I think if we concealed our motives from the newspaperman, or furnished false information, which I think we did in one anonymous letter or something that I saw in all of this, I would say that was improper.

Senator HUDDLESTON. Or——

Mr. ADAMS. I think newsmen have sources. I think——

Senator HUDDLESTON. Or convincing a cartoonist, for instance, to draw a derogatory cartoon about a college professor who certainly did not constitute a threat to the violent overthrow of the Government.

Mr. ADAMS. If anyone accuses us of having any great success in trying to influence the press, I think that their objectivity stands very high.

Senator HUDDLESTON. I think the point is not whether there was success or not, there was an effort made. I'm glad to hear you acknowledge now that it is almost an impossibility. But more than that it seems to me at the beginning when these type of techniques were used, it seemed to indicate a lack of confidence, or faith in the American people to believe that they could not hear ideas that might be contrary to their own without being seriously damaged. One of the great freedoms we have is the freedom of hearing other ideas, whether we agree with them or not. I think this is an area that we are concerned with and one technique which I hope is being discontinued and one that will be, by the time these hearings conclude, and by the time proper legislation is drawn.

Mr. ADAMS. Well, I think you can be assured that any such techniques in that area died with COINTELPRO in 1971.

Senator HUDDLESTON. That is comforting.

Mr. ADAMS. Yes.

The CHAIRMAN [presiding]. Thank you, Senator. I have been forced in and out by virtue of votes and other committee business. I am not sure which Senators have had their opportunity to question and which have not.

Senator Goldwater, were you next?

Senator GOLDWATER. I will not take much time. I apologize for not having been here in the last 2 days. It is going well, I have heard. We have heard testimony regarding the voluminous records, I believe 500,000, maintained by the Bureau. How in your view have these records come to be kept? For what purpose have they been kept, and has the Bureau ever undertaken to destroy or prune down any of these records?

Mr. ADAMS. We have a number of records. We are a businesslike organization. We record our activities. And as the staff knows, they had access to a lot of recorded material that is the product of what the FBI has done over the years. When we conduct an investigation, we maintain the results. We do have destruction procedures where, after the passage of certain time limits approved by the Archives authority, we are allowed to destroy certain files. Other information we are required to put on microfilm. There is a regular standard procedure for the destruction of FBI files. This has been suspended, of course, during the initiation of these hearings and our files probably have increased considerably during this period because we are not allowed to destroy anything since the committee commenced its hearings. But we do have procedures for destruction of files. They are approved by the Archives. A problem inherent in that is maintaining information. What should we keep? What should we obtain during an investigation? What should we record? In the past we have been pretty consistent in recording everything we thought was relevant to the investigation. The passage of the Privacy Act put certain restrictions in. We cannot collect or maintain anything unless it is relevant to an ongoing matter of which we have investigative jurisdiction.

But beyond even the Privacy Act, the Attorney General instituted a guidelines committee in this area that we have been meeting diligently with every day and hopefully have tried to avoid this idea that we are for no good reason maintaining gossip, scandal, unnecessary, and irrelevant material. So once these guidelines are in some sort of final form, not to be adopted, then the Attorney General has indicated that he is going to take it up with the various congressional committees to get their input into it, after which they will be published.

Senator GOLDWATER. Well, now these dossiers, I think you can call them that probably.

Mr. ADAMS. I prefer not to, but I accept the fact that that is how they are referred to.

Senator GOLDWATER. What do you call them?

Mr. ADAMS. I call them files. To me, I guess we all have our little hang-ups, but to me that is usually used in some sinister connotation. It is probably not to you. But I will use whatever terminology you want to use on this.

Senator GOLDWATER. I hope what you have on me is not called a dossier.

Mr. ADAMS. No, sir; it's a collection of material.

[General laughter.]

Mr. ADAMS. Of which you are aware.

Senator GOLDWATER. That's right. Now let me ask you, the information you have would probably be on computer tape?

Mr. ADAMS. No, sir.

Senator GOLDWATER. It's not. Information that IRS would have, is that computerized?

Mr. ADAMS. It may be. I'm not familiar with the extent of theirs. We do have certain computer activities, such as the National Crime Information Center, or we have, I guess, 7 or 8 million records. This is not the usual file material. This consists of individuals concerning whom a warrant is outstanding, stolen property, material such as this, and also some documented criminal history information in the nature of prior arrest history, but not what I think you are referring to in the way of file material, reports, intelligence, this type of information.

Senator GOLDWATER. What I am trying to get at, is there a central source of computerized material that would include your information, the information that IRS may have gathered, information that had been gathered off of personnel records of the Pentagon?

Mr. ADAMS. No, sir.

Senator GOLDWATER. There's no such list that you know of?

Mr. ADAMS. I don't know what other agencies have, but the FBI does not have such a list, does not have such capability to interface with such a list, if such a list exists.

Senator GOLDWATER. Do you feel rather safe in saying then that no agency of Government has put together such a computerized total of all the information on the people that you have surveilled?

Mr. ADAMS. Oh, I think it is safe to say I don't know of any. Today I am not saying what does exist or doesn't exist elsewhere.

Senator GOLDWATER. In addition to the 500,000 records that you have, would I be correct in saying that you have 50 million data cards and that there's $82 million spent on intelligence in the fiscal year 1975 to maintain this library?

Mr. ADAMS. No; I don't think that is correct. I think the figure of $82 million is what our budget people have drawn up as being the total cost in a given year of our intelligence operations, security, criminal, organized crime, the whole intelligence field. But I don't relate it to the maintenance of any data cards.

Senator GOLDWATER. Now one other area, and I think it probably, according to the records, goes back to 1970. How did the Bureau come to place the so-called Women's Lib movement under surveillance, and I say so-called because I think we discovered that there was no such organized movement.

Mr. ADAMS. There were a lot of movements. It is my recollection—I have not reviewed the file in detail, but it is my recollection that the case was originally opened because of indications that certain groups were attempting to infiltrate or control the Women's Liberation movement. The investigation was conducted and was terminated several years ago, as far as I know.

Senator GOLDWATER. Do you know of any actions that were taken by the Bureau as to the women's liberation movement except to monitor it?

Mr. ADAMS. No. And the monitoring was for the purpose of determining the infiltration, and I don't know of any actions taken against them.

Senator GOLDWATER. That's all I have, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you, Senator Goldwater.

Senator Hart, have you had an opportunity to question?

Senator HART of Colorado. No; I have not.

The CHAIRMAN. Senator Hart.

Senator HART of Colorado. Thank you, Mr. Chairman. In the testimony yesterday developed by the staff concerning the last few days of Martin Luther King's life, we learned that the Bureau in March of 1968 developed information to be given to the press criticizing Dr. King for staying in a white-owned and operated hotel, the Holiday Inn in Memphis, instead of the Lorraine.

At some point during Dr. King's stay in Memphis, he moved from the Holiday Inn to Lorraine. To your knowledge, Mr. Adams, was that information ever given to the press? [See footnote p. 21.]

Mr. ADAMS. I have been unable to determine that. This question was raised to me by the Civil Rights Division of the Department. Apparently, they had had some inquiry along the same lines several months ago. But my recollection of it at the time, we saw that this action had been proposed and the memorandum bore the initials, I believe it was the initials, statement handled, and the initials of the agent in the external affairs division who assumed the responsibility of saying handle it and initiated it. They contacted him and he said that he had no recollection of the matter but the fact that he did say, "handled" didn't mean that he was able to do anything with it. He was just clearing that memorandum so it would show action was taken, and he doesn't know if he gave it to anyone or not.

Senator HART of Colorado. Well, suffice it to say that the facts are that subsequent to the time the Bureau developed this information to pass on to the press, it did appear in the local papers in Memphis.

Mr. ADAMS. There was some statement in the local papers, not according to the terminology of the proposed statement that was to be given to him. There was some comment made, if I recall, that Martin Luther King gave a press conference following the riots that followed one of his appearances, and that he gave that press conference in a hotel, the Holiday Inn Hotel. But it didn't have any, at least the newspaper article itself didn't have any direct relation to acts taken.

Senator HART of Colorado. Well, according to some historians and people who have commented on the circumstances, they were fairly explicit in stating that the local press was critical of him during that period of staying in the white hotel, but I don't want to make a big issue out of that. What was the name of the agent that you talked to?

Mr. ADAMS. I didn't talk to him personally. People in the Bureau that were working on this did and I believe his name was Linbaugh.

Senator HART of Colorado. If you could provide that name to us, I would appreciate it.

Mr. ADAMS. I would be glad to.

Senator HART of Colorado. Mr. Adams, was any effort made during this entire COINTELPRO period to objectively define what the "New Left" meant? What was your understanding of the "New Left."

Mr. ADAMS. They did have a definition of the New Left distinguishing it from the Old Left. It was primarily to distinguish it in the area that the New Left was trying to separate itself from the old hidebound policies of the Communist Party or some of its links to the Communist Party. Perhaps Mr. Wannall has a better definition of that.

Senator HART of Colorado. It very definitely included those who were opposed to the war, organized groups that opposed the war and felt strongly about racial injustice in this country, leaving the Communist Party aside.

Mr. ADAMS. People involved in the New Left movement were, of course, also involved in the anti-Vietnam war effort.

Senator HART of Colorado. What do you mean also? That's what I'm trying to get out. What was the New Left? If you didn't oppose the war and you weren't involved in civil rights groups, who else might you have been?

Mr. ADAMS. Well, the New Left did involve a revolutionary philosophy. It wasn't related solely to the anti-Vietnam effort.

Senator HART of Colorado. Thomas Jefferson embodied a revolutionary philosophy.

Mr. ADAMS. That's right. And the New Left activity exceeded Thomas Jefferson's philosophy in that it did fit in with the basic Communist philosophy.

Senator HART of Colorado. Every group that was placed under the efforts of the COINTELPRO supported the violent overthrow of this country?

Mr. ADAMS. The concept of COINTELPRO was directed toward those organizations. I would have to refresh my memory on each one of the organizations that were targets of it, but they were basically New Left, Communist Party, Social Workers Party, black extremists, white hate groups, those were the five basics.

Senator HART of Colorado. The Southern Christian Leadership Conference?

Mr. ADAMS. The Southern Christian Leadership Conference, I don't know if it was involved specifically in COINTELPRO. Three minor actions were taken against the Southern Christian Leadership Conference.

Senator HART of Colorado. Well, its leader, I think you could say, for 8 years was subject to a lot more than three minor actions.

Mr. ADAMS. That's right, and that gets into the other area that the activities taken against him were primarily COINTELPRO-type activities but weren't really under the control of——

Senator HART of Colorado. You're saying that basically every organization and individual that was swept into the five COINTELPRO nets supported the violent overthrow of this country?

Mr. ADAMS. Well, not just the violent overthrow of the Government. It would have been organizations that were threatening and fomenting violence. I don't believe it had to be related to the actual overthrow of the Government.

Senator HART of Colorado. Is a street demonstration violent?

Mr. ADAMS. It depends on where you are in relation to what is taking place. If there are a lot of activities in connection with street demonstrations that are not violent, and there are a lot of street demonstrations that have resulted in deaths, so it just depends on the activity taking place and the circumstances. Our problem is we are given the responsibility by the Attorney General to monitor demonstrations which have the potential of violence. The question is, how do you find out, at what point do you get in any monitor demonstrations to determine if that has a potential violence?

Senator HART of Colorado. Well, obviously we have received testimony to the effect that the FBI went out of its way to foment violence itself, to encourage disruptions internally, to encourage hostilities and conflict between and among these groups in the hope that violence would occur. Therefore you could go back to the Director or the press or whomever and say, look, this is a violent group.

Mr. ADAMS. I accept the allegation but I don't accept the fact. The conclusion, from what I have seen in reviewing these files in connection with our investigations, is that we don't foment violence. We don't permit as a matter of policy our informants to act as provocateurs to engage in violence. I am not denying it may have happened, but the FBI does not foment violence, and the FBI, you know, has no——

Senator HART of Colorado. You are using present tense verbs.

Mr. ADAMS. We didn't then. I don't agree that our actions in any event were designed to foment violence.

Senator HART of Colorado. I think there is plenty of documentation of the attempt to set the Black Panthers against the Blackstone Rangers in Chicago.

Mr. ADAMS. Well, I don't consider that plenty of evidence. I think the evidence to the contrary is that one of the organizations, when we got word that the Black Panthers versus United Slaves, we notified the local police that this activity was going to take place, and the individual, so that we would prevent the killing, which had come to our attention and was going to take place, and then the turndowns of various COINTELPRO actions, there were specific statements made, that this action will not be approved because it might result in harm to an individual, physical harm, and we have no indication from any of these actions under COINTELPRO that any violent act occurred, and I have not been presented with any by the staff from their far more extensive inquiry.

Senator HART of Colorado. June 3, 1968, a memorandum from the special agent in charge of Cincinnati to the Director of the FBI, captioned Counterintelligence Program, Disruption of the New Left, a five-page memorandum having to do with Antioch College in Ohio [exhibit 30[1]]. It is a long description of the college and background. There is a recommendation on page 3: "Cincinatti recommends that counterintelligence action be taken to expose the pseudointellectual image of Antioch," and it gives specific ways of doing that, then the next page, page 4, the desired result of action, "force Antioch to defend itself as an educational institution." Where in the laws of this country or the charter of the Federal Bureau of

[1] See pp. 434 through 438.

Investigation does it say that that agency should be forcing any educational institution to defend itself?

Mr. ADAMS. I know of none.

Senator HART of Colorado. You would say this is stepping beyond the bounds of your authority?

Mr. ADAMS. I would say—I'm not familiar with the total action of what was there, but just on the surface I don't see any basis for it.

Senator HART of Colorado. It is my understanding that field officers participating in COINTELPRO activities were required to send results in status letters and in annual reports. Is that correct?

Mr. ADAMS. Yes.

Senator HART of Colorado. What kind of results generally were you looking for? What was considered success?

Mr. ADAMS. Well, it would be considered success, if in one instance an action was taken to create factionalism in the highest level of the Communist Party, and the results were that we were advised that the Communist Party influence declined appreciably as a direct result of factionalism created at that level. That to us was a concrete result. We had other results that you get in various degrees. The above is an extremely favorable degree. We had others, I think one was alluded to yesterday or today where a letter went out setting up marital strife on the part of someone. I don't see any basis or justification for that. I think that is the other extreme. I think in the middle there were ones that fell into a different degree. The only thing that I feel is we had 3,000 actions recommended. I don't know if the document shows whether this Antioch one was approved or not. I doubt that it was approved.

Senator HART of Colorado. I believe it was. We can document that.

Mr. ADAMS. OK. Because there would be one. I would say that the judgment in approving is in question. But out of 3,000 recommended, the fact that 2,000 approved shows that there was some concern to try to keep these to a proper level, and I think the actual number of grossly improper activities fortunately is rather small. I think there are a lot in there. The whole program, we feel, should have been discontinued, and we don't have a program like it now, and we wouldn't institute a program like it now.

Senator HART of Colorado. It would be helpful to us if now or in the future you could recommend what steps we should take, both as the committee and this Congress, to make sure that doesn't happen, aside from just the assurances we are being given here.

Mr. ADAMS. Well, the main recommendation I make is that we don't wind up on the point we have been on in the past years, that one time in our history Congress is saying we ought to be doing something to stop violence in the streets, murders, blowing up of buildings; and at another time they are saying you shouldn't have done what you did, and that we make a mistake when we react and try to identify one area and say that is the voice of the people. What we need is a legislative mandate which is the will of Congress in order to tell us what our role should be in this area. I think that the main thing that would come out of all of this, I hope, is some more definitive guideline where we all know what the will of the people is as expressed by Congress.

Senator HART of Colorado. I believe my time is up.

Senator TOWER [presiding]. Mr. Adams, to return to the business of informants which I initiated and was interrupted by a vote, who selects an informant?

Mr. ADAMS. The basic responsibility is on our special agent personnel who develop informants, the agent on the street.

Senator TOWER. Does the special agent in charge in a given area have control over the activities of an informant or a veto on the use of a particular informant?

Mr. ADAMS. Not only the special agent in charge, but FBI headquarters. We maintain the tightest possible control of the utilization of informants. We require Bureau approval to utilize a person as an informant.

Senator TOWER. The special agent in charge has the power to veto the use of an informant?

Mr. ADAMS. Yes, sir.

Senator TOWER. Does headquarters know who all the informants are?

Mr. ADAMS. Absolutely. We do not allow hip-pocket informants. We require——

Senator TOWER. You don't have the agents informed by their own special informants?

Mr. ADAMS. Absolutely not.

Senator TOWER. Are the criteria different for paid and for nonpaid informers?

Mr. ADAMS. We have some informants over the years that have refused to accept payment, but generally the criteria for both, I mean for ones that are paid, is that it must be on a c.o.d. basis, evaluated as to the value of the information.

Senator TOWER. What protections are afforded to informants?

Mr. ADAMS. Protections afforded them individually?

Senator TOWER. Yes.

Mr. ADAMS. The greatest protection in the world we can afford them is to maintain the confidential relationship which they have adopted with the FBI, and the fact that those citizens of the United States who, for whatever reason, decide to cooperate with the FBI and cooperate with their Government in the criminal and security field, have that confidentialitv maintained. Beyond that confidentiality we are unable to afford them any protection, any physical protection. We have had informants murdered through disclosure. We have had them subjected to other violence and criminal activities, and the only protection beyond maintaining the confidentiality is once we have used them or had to expose them for some purpose, we do have procedures for relocation and maintenance of them, which is utilized quite frequently in the top hoodlum and the Cosa Nostra-type investigations.

Senator TOWER. It is my understanding now that 83 percent of all cases involve some use of informants, so that means that the use is pretty widespread and apparently very essential. What kind of guidance does the FBI give to these informants? Do you give them any special training? Could you describe that kind of relationship in terms of guidelines, control, authority that you have?

Mr. ADAMS. Well, when an individual is being developed as an informant, our main concern is whether he provides reliable information and that the information he collects is collected by legal means. We don't permit an informant to engage in any activity that an agent couldn't do legally himself. In other words, you can't have an extension of the agent out here engaging in illegal acts, and the agent saying I abide by the law. This creates some problems, of course, in the criminal field where you don't recruit informants from Sunday schools. You recruit informants in areas where they do have knowledge of criminal activities. But we even had to open investigations and prosecute some of our informants, because we do not bend from this, that they are not going to enjoy favorite status as a result of their relationship with us. So the agent covers all of this with an informant during the discussions.

We secure background information on the informants. We do this to insure, as best as possible, we are dealing with a reliable, stable individual even though he may be engaged in an unstable activity. We go through this period and consider them more or less, in different terminology, probationary, potential, verifying information that he furnishes us, and everytime when they report on the status of an informant, they have to tell us what percentage of his information has been verified by other means, by other informants or sources. So we do have a continuing indoctrination, which is supervised at FBI headquarters.

Senator TOWER. You said you don't recruit your informants from Sunday school class. Being an ex-Sunday school teacher, I resent that, but——

Mr. ADAMS. I am talking in the criminal field. Many of our security informants come from a very fine background.

Senator TOWER. But this leads me into this. Sometimes, then, you might recruit people that you know have committed criminal acts.

Mr. ADAMS. That's true.

Senator TOWER. Do you promise him immunity from future prosecution in many instances to secure their cooperation?

Mr. ADAMS. No. Now, the only exception to that would be we may have an ongoing, it is what you call an informant—I believe your question is addressed to someone that we are actually considering in an informant status.

Senator TOWER. Yes.

Mr. ADAMS. We do have situations where during an investigation we target on one individual, the lower rung, and the U.S. Attorney and the Department offer immunity. We don't. And say, you cooperate, and we go up the ladder to the next level, and in some of these cases we have gone up through successive stages until we get the main honcho who we feel is the proper target of our investigation.

Senator TOWER. Getting on another subject, does the FBI still request bank audits?

Mr. ADAMS. Bank audits? Do you mean do we still have access to bank records?

Senator TOWER. Yes.

Mr. ADAMS. Yes, sir, we do.

Senator TOWER. And do you obtain access with or without warrants?

Mr. ADAMS. We obtain access without warrants.

Senator TOWER. Without warrants?

Mr. ADAMS. Yes, sir.

Senator TOWER. Is the subject notified in advance by the FBI when you obtain one without a warrant?

Mr. ADAMS. No, sir.

Senator TOWER. Are they notified by the bank, or is he notified subsequently by the FBI?

Mr. ADAMS. No. We do get subpenas in many cases, not warrants, but we do get subpenas in many cases, but in some cases a bank will make available to us records without subpena. When it comes time for utilizing that information we do issue a subpena for the information.

Senator TOWER. Do you have legal authority to gain access to these records?

Mr. ADAMS. Yes, sir, we do.

Senator TOWER. Without a subpena, without a court document?

Mr. ADAMS. There is no law that I know of that forbids us access. There have been several court decisions, including some circuit courts that disagree with each other, but I think the current finding is that the bank records are the records of the bank and this does not violate any first amendment or other amendments in connection with it.

Senator TOWER. Do you make similar requests of S. & L.'s and others, and credit unions and other financial institutions?

Mr. ADAMS. I would assume the same would provide there.

The CHAIRMAN [presiding]. Thank you, Senator Tower.

I just have a question or two. We are going to try to conclude this morning because the committee has a hearing, a business meeting at 2 o'clock this afternoon and for the information of the members, that meeting will take place in room 3110 of the Dirksen Senate Office Building. And while I am making announcements, I think I should say that tomorrow between the hours of 9 o'clock in the morning and 1 o'clock in the afternoon, the committee will report its findings and make its recommendations to the Senate in connection with our investigation into alleged involvement of the United States in certain assassination plots, and attempts directed against foreign leaders.

The committee, as you know, has made an exhaustive investigation of this issue. It has taken some 6 months, 75 witnesses have been interrogated, over 8,000 pages of testimony have been taken, mountains of documents have been analyzed and digested, and the report will be a detailed accounting to the American people of that evidence, together with the findings and recommendations of the committee. Initially these disclosures will be made to the Senate in secret session, after which the report will be made public as previously approved by committee vote. Therefore, it is anticipated that at 2:30 tomorrow afternoon in this room, the caucus room, following that secret session of the Senate, the committee will meet with the press for the purpose of answering such questions as the press may wish to address to the committee on the assassination report.

Now, the last few questions I would like to put to you, Mr. Adams, have to do with some confusion in my mind concerning the purpose of the FBI in monitoring the women's liberation movement. What was the purpose of that surveillance? Why were you involved in monitoring that movement?

Mr. ADAMS. It was basically, as I recall, I have not reviewed the files, but from the information that I have acquired, it would indicate there were groups that were believed to be infiltrating and attempting to exert control over it. That investigation was based or initiated on this fact.

The CHAIRMAN. But you never found, did you, that the Women's Liberation Movement was seriously infiltrated, influenced, or controlled by Communists.

Mr. ADAMS. No, and the case was closed. I would put them in the position of comments we have made earlier about the press, that I don't think anyone is going to dominate or control. That is a very independent group.

The CHAIRMAN. Well, we are trying to keep the country that way.

Mr. ADAMS. That's right.

The CHAIRMAN. And the kind of thing that disturbs me is what the documents reveal. If you will turn to exhibit 7.[1]

Mr. ADAMS. Yes.

The CHAIRMAN. Then, if you will turn to where you find the caption "Origin, Aims, and Purposes," a description of the Women's Liberation Movement in Baltimore, Md. I call your attention to this because it seems to typify the whole problem of this generalized kind of surveillance over the activities of American citizens. Here is the report. If you will read with me this paragraph:

> The women's liberation movement in Baltimore, Md. began during the summer of 1968. There was no structure or a parent organization. There were no rules or plans to go by. It started out as a group therapy session with young women who were either lonely or confined to the home with small children, getting together to talk out their problems. Along with this they wanted a purpose and that was to be free women from the humdrum existence of being only a wife and mother. They wanted equal opportunities that men have in work and in society. They wanted their husbands to share in the housework and in rearing their children. They also wanted to go out and work in whatever kind of jobs they wanted, and not be discriminated against as women.

Now, can you find anything in that report that in any way suggests that these women were engaged in improper or unlawful activity?

Mr. ADAMS. Not in that one. I believe there was another report, though, giving the origin of it, which went into a little more description of what our basic interest was.

The CHAIRMAN. Can you tell me, because this is the report I have.

Mr. ADAMS. Well, I am given here——

The CHAIRMAN. What other, if there was some sinister activity connected with this group that isn't laid out in the document——

Mr. ADAMS. I was given a workpaper here which read:

> Women's Liberation Movement. Investigation of captioned movement was initated by our New York Office in April 1969, as the Women's Libber movement is described as a loosely structured women's movement comprised of individuals with varying ideologies from liberal to New Left persuasion, some of whom had exhibited an affiliation with and/or sympathy for several organizations of investigative interest to this Bureau; namely, the Students for a Democratic Society, Black Panther Party, the Vietnam Peace Parade Committee, Venceremos Brigade, the Socialist Workers Party, with its youth group the Young Socialist Alliance.

The CHAIRMAN. May I stop you at this point?

Mr. ADAMS. Yes.

[1] See p. 360.

The CHAIRMAN. You are reading from a paper which has to do with the origination of an investigation coming out of New York, are you not?

Mr. ADAMS. Yes.

The CHAIRMAN. I am reading from a document that relates to the Women's Liberation Movement in Baltimore, and the findings concerning it in the summer of 1968. My question hasn't to do with whatever original purpose the FBI sought by initiating this kind of surveillance in New York, but with a finding made concerning the Women's Liberation Movement in Baltimore which I have just read to you. I think you would agree with me that women do have the right to get together to talk about humdrum existence and equal opportunities with men and equal opportunities for work in our society, don't they? That is not a subversive activity.

Mr. ADAMS. Well, but what you have here is the set up of our investigative activity. We had New York, which was the office of origin of the investigation. You have other offices that were checking to determine what influence there was. In addition, in New York—to the New York office, lay the fact that interwoven with the Women's Liberation Movement goal for equal rights for women, there was an advocacy certainly of militancy and violence in achieving their goals. Now, Baltimore is one office, and I believe that even there in one of the reports——

The CHAIRMAN. You keep taking me back to New York.

Mr. ADAMS. Right.

The CHAIRMAN. And I keep taking you back to Baltimore. And the reason I do that is because if you turn 2 pages back from this particular report, which has to do with the Baltimore organization, the question is whether based upon that finding the investigation should continue of the Baltimore group, and the decision is that you will continue to follow and report on the activities of the group. And I just wondered why?

Mr. ADAMS. This is a problem that we have, that we do have organizations where sometimes the—the Women's Liberation group is not a good example because that was washed out, but we do have organizations where——

The CHAIRMAN. What was washed out? Not the Women's Liberation Movement?

Mr. ADAMS. No, the investigation indicated there was no concern or no reason to be concerned about it. But where you do have an organization that has branches in many areas of the country, and you start with one place and it looks like you have a subversive organization, you do have to see, well, is this carried out throughout the organization or is it just one chapter or one group? In other words, not even an organizational problem.

The CHAIRMAN. But you see, the trouble with that is in this Baltimore organization you say in your own report that it was independent, there was no structure or parent organization, no rules or plans, so it isn't a part of a nationally controlled and directed organization by your own admission.

Mr. ADAMS. I believe this report had some subsequent pages that aren't included in here that did show some additional activity or influence.

The CHAIRMAN. I am told by the staff that this summary is accurate, and the only other thing contained was that these women had affiliations with an organization that had protested the war in Baltimore.

Mr. ADAMS. I think there were some other items.

The CHAIRMAN. That is the only other association that we have been able to determine. Apparently the women's liberation movement is no longer under suspicion by the FBI and the case has been closed. What happens when the case is closed? Are those women's names still left in the files? Are they forevermore contained?

Mr. ADAMS. Yes.

The CHAIRMAN. In the system?

Mr. ADAMS. Yes.

The CHAIRMAN. Pretty soon you will have us all in the system. If there is no way, even after surveillance has been terminated, to eliminate the references of individuals through the files of the system, you will one day have us all, won't you?

Mr. ADAMS. Well, I would say as part of a normal business record, when we do make a judgment that an organization should be investigated and we investigate it, and then we find activities but we make a conclusion that there is no additional problem here, this is a record of our official action. Now, if we destroy it, at what point do we get into a situation of being accused of doing things and then destroying things to keep from showing what we do? The critical thing is whether we are able, and we do set up safeguards, where information in our files is not misused at a later date, and that is what these guideline committees are all about.

The CHAIRMAN. Do you have any idea of how many names of Americans you keep in your files all as a result of the cumulative effect of all these surveillances in all of these cases?

Mr. ADAMS. No; I don't.

The CHAIRMAN. It's in the millions, isn't it?

Mr. ADAMS. We have 6½ million files.

The CHAIRMAN. You have 6½ million files?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. And there are surely names of more than one person typically in a file, aren't there?

Mr. ADAMS. But it is a rather large country.

The CHAIRMAN. That's a large number of files to start with, and if you have multiple names in them, you are quickly up into 20, 30, 40 million.

Mr. ADAMS. Right. But many of these files are applicant files. They are not all subversive files. They are not all criminal files. We have a million crimes of violence each year. There is a million people.

The CHAIRMAN. I wish you had more time to spend on those crimes of violence.

Mr. ADAMS. I do, too.

The CHAIRMAN. There we agree.

Mr. ADAMS. Right.

The CHAIRMAN. What I worry about is this. You say there's no way to know when to close a file. These were surveillance files, originally opened to determine whether organizations might have subversive connections. There are names in these files, so some demagogue comes along and says that the name of some public figure is contained in a

certain file to be found in the subversive files of the FBI, and there it is. He has not made a misstatement at all. But to the American people that man's name and reputation have been scarred.

Mr. ADAMS. And I hope this committee recognizes that and recommends legislation that would enforce strong punitive or criminal violations against misuse of information in the files. We feel this way, CIA feels this way. We recognize we have a lot of sensitive information in it. We fire our employees if we find them misusing information. We feel we need additional sanctions in this area. I don't think we can ever stop the accumulation of information. I don't know an investigative agency in the world, a law enforcement agency, that does not have to accumulate information. And we are working on guidelines as to how to get rid of the irrelevant information, how to eliminate material that really does not need to be kept. We hope we will be able to come to Congress with these guidelines before too long, which will help address itself to just some of these problems.

The CHAIRMAN. Well, you may be assured that the committee shares your objective in this regard and we will be working with you and the Department of Justice and others to try and change the laws to give a greater measure of protection to the first amendment rights of the American people.

I have no further questions. Are there any other questions?

Senator Mondale?

Senator MONDALE. Mr. Adams, earlier, in inquiring about the basis for investigating Dr. King, I thought I heard two basic justifications. One was suspicion and fear of Communist influence or infiltration. The second was, "that he constituted a threat to the success of the Negro movement." Did I understand that second basis?

Mr. ADAMS. No. The first I was talking about was not suspicion but information indicating Communist influence. The second was on this question of motivation that you have raised. I don't know what their motive was to get to some of these other activities in order to discredit and remove him, but it was a question. Apparently they must have felt that he was a threat to either, as shown in the files the President and Attorney General expressed concern about the civil rights movement and his continued affiliation with some of these people.

Senator MONDALE. Would you agree that it would not be a proper basis for an investigation for the FBI or any other Government official to be concerned about the success of the negro movement?

Mr. ADAMS. I have no problem.

Senator MONDALE. All right. So let us take the one ground that appears to have justified the investigation of Dr. King and the investigation of the women's liberation movement—the fear that "dangerous influence might infiltrate these organizations." Suppose it is true. Suppose that a Communist did have influence over Dr. King, or suppose an SDS member infiltrated and became a dominant influence in a chapter of the women's liberation movement and you established it as a fact. What would you do? Assuming that we can't get into this harassing and so on, you agree that that no longer has any validity. What do you have?

Mr. ADAMS. We have potential violations which might arise, which rarely come to fruition and haven't for many years, but we do have an intelligence responsibility under the directives from the President

and the Attorney General. That is, when a revolutionary group, like the Communist Party, has taken over control of a domestic group and the Communist Party is operated by the Soviet Union. We would furnish that information as we do. Every copy of our reports goes to the Department of Justice.

Senator MONDALE. Right; but I just want to use the King case because, as I understood, he was being investigated for the reason that it was feared that a Communist or those who were suspected of being Communists, or known to be Communists, were gaining influence over him. Suppose you established that. What present use or need is there for that information?

Mr. ADAMS. I feel that the President, the Attorney General, the executive branch, needs to know the extent of a foreign-directed Communist organization, its influence and effect on the United States of America.

Senator MONDALE. All right; so if such information is valid, and an investigation to seek it is necessary, is there any limit on the investigative authority of the FBI?

We have just heard about the women's liberation movement where we were fearful that New Left, SDS types might have an influence. That justified that investigation. We now have your statement that we were fearful that some Communists might have influence over Dr. King, and therefore, he was thoroughly investigated. Are there any limits then on who can be investigated?

Mr. ADAMS. Well, the only limits are that we must relate it to a statutory basis of one of the Presidential guidelines we have or the criteria we have, which criteria are receiving scrutiny at the present time by Congress. They have in the past by the Department of Justice, and this is the area of guidelines. This whole area of domestic scrutiny is what we need guidelines in.

Senator MONDALE. Right; and you would agree, we talked about this earlier, that being a Communist is not a crime.

Mr. ADAMS. No, it has not been a crime.

Senator MONDALE. So that the whole basis for this has to apparently stem from a Presidential directive which you think has tasked you to do this.

Mr. ADAMS. Yes.

Senator MONDALE. Just a few other points. In 1970, November 6, 1970, a telegram from Newark to the Director went forth proposing that the following telegram be sent: [Exhibit 31.[1]]

Word received food donated to party by anti-liberation white pigs contains poison. Symptoms cramps, diarrhea, severe stomach pains. Destroy all food donated for convention suspected of poison, however, still required to meet quota. Signed, Ministry of Information.

This was a telegram that was to be sent from Oakland, Calif., to the Jersey City, N.J., headquarters. The telegram went on further.

It is suggested that the Bureau then consider having the laboratory treat fruit, such as oranges with mild laxative-type drug by hypodermic needle or other appropriate method, and ship fruit as a donation from a fictitious person in Miami to the Jersey City headquarters.

The answer then from the Director of the FBI—

[1] See pp. 440 through 442.

The Bureau cannot authorize the treating of fruit to be shipped to Jersey City because of lack of control over the treated fruit in transit. However, Newark's proposed telegram regarding food collected for the Revolutionary People's Constitutional Convention has merit.

How did you ever get to a point like that?

Mr. ADAMS. I don't know. What was the response from Newark and then the final answer taken?

Senator MONDALE. It was turned down because they couldn't control transit, but they thought it was a good idea. Do you think that's a good idea?

Mr. ADAMS. No; I don't. I think that——

Senator MONDALE. How did we ever get to the point that this kind of insane suggestion was considered, a suggestion which violated everyone's civil liberties and was based on Government-sponsored fraud? How does anyone ever consider something like that?

Mr. ADAMS. I don't know.

Senator MONDALE. One final point. When we interviewed one of your former employees, he referred to something I never heard of before called a no-contact list. He did it jokingly, because he said, when the Pope agreed to see Martin Luther King, he was sure he would be put on the no-contact list thereafter. Can you tell me what this list is?

Mr. ADAMS. Not in any specific detail. I know that at one time there was a, there would be a list that if an agent interviewed an individual and this individual created a storm or a ruckus and we didn't want some other agent stumbling out there and interviewing the same person, that we would make sure that they were aware of the fact that further contacts of this individual would result in a problem.

Senator MONDALE. All right. Now in a memo to Clyde Tolson, it refers to a conference on August 26, 1971, with certain—it looks like about 10 members of the FBI. And this is what it says: [Exhibit 32.[1]]

Pursuant to your instruction, members of the conference were briefed concerning recent attempts by various newspapers and reporters to obtain information about or from FBI personnel. Members were specifically advised that there would be absolutely no conversations with or answers from any of the representatives of the Washington Post, New York Times, Los Angeles Times, CBS and NBC. The only acceptable answer to such inquiries is no comment.

Now Senator Huddleston earlier asked about efforts to influence newspapers and media outlet. Does a decision not to answer questions from certain selected media outlets trouble you?

Mr. ADAMS. It is not the policy today. I think this has been aired in the past. There was a period of time wherein Mr. Hoover, in reacting to criticism from some of these newspaper men, where he felt he hadn't been given a fair shake, or for some other reason, that he felt that they should be told no comment, and he instructed they be told no comment. The motivations I am not in a position to discuss, but I can tell you that there has been no such policy in the last several years that I know of.

Senator MONDALE. If you could submit the no-contact list for us, if you can find it, I would appreciate it.

I have some other questions I will submit for the record, Mr. Chairman.

The CHAIRMAN. Very well. I just have one final follow-up question on Senator Mondale's interrogation. I continue to be somewhat fas-

[1] See p. 443.

cinated by how long these investigations go, and when, if ever, they are stopped. Apparently they never come out of the files, whatever is found. But Senator Mondale raised the point of a suspicion that in the Martin Luther King case, that he was getting advice from a person who had or was thought to have Communist leanings. And so without using the name, because we are trying to protect privacy as we conduct this investigation——

Mr. ADAMS. I think we have a little more problem than that, too, Senator.

The CHAIRMAN. I am using a Mister X in place of the name. What I am trying to get at is what the criteria is for pursuing an investigation, and this is the kind of a statement that leaves me so perplexed. This has to do with a reply to the New York office by headquarters here in Washington. The part I read to you is as follows:

> The Bureau does not agree with the expressed belief of the New York office that Mr. X is not sympathetic to the party cause. While there may not be any direct evidence that Mr. X is a Communist, neither is there any substantial evidence that he is anti-Communist.

And so the directions are to continue the investigation of this matter. In cases of this kind, do you pursue the investigation until you prove the negative?

Mr. ADAMS. No. I believe in that particular case, if it is the one I am thinking about, that there was evidence that at one time he had been a Communist and that there was a question of whether the office felt—well, it's like we have had some situations where a person comes out and publicly disavows their former leanings. Do you take them at words right away after they have been engaged in violent activities, or do you wait until you determine that they really have carried through the disavowed practice? That's a gray area. This one seems that on the wording itself, would seem like an extreme philosophy, leaning toward everyone has to prove in the United States they are not a Communist, and I can assure that is not a policy of the Bureau and does not fit into the criteria of our general investigative matters.

I just feel that there is more to it than just that brief paragraph.

The CHAIRMAN. That particular kind of philosophy has come up in our life from time to time. I remember during the days of McCarthyism in this country, we came very close to the point where people had to prove that they were not now nor ever been a Communist in order to establish themselves as patriotic citizens.

Mr. ADAMS. That's right. That's true.

The CHAIRMAN. And when I see standards of this kind or criteria of this kind emerging, it worries me very much.

I have no further questions. I want to thank you both. If there are no further questions, I want to thank you both for your testimony this morning. It has been very helpful to the committee, and the committee will stand adjourned until 2 p.m.

We will stand adjourned in public session. Our next public session will be 2:30 tomorrow afternoon for purposes of press questioning on the assassination report.

[Whereupon, at 1:07 p.m., the committee adjourned, to reconvene at 2:30 p.m., Thursday, November 20, 1975.]

TUESDAY, DECEMBER 2, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 318, Russell Senate Office Building, Senator John Tower presiding.

Present: Senators Tower, Hart of Michigan, Mondale, Huddleston, Morgan, Hart of Colorado, Goldwater, and Schweiker.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel; and Curtis R. Smothers, counsel to the minority.

Senator TOWER. The committee will come to order.

Senator Church, is unavoidably detained today, and therefore I will preside.

Today and tomorrow we shall continue our examination of domestic intelligence activities. Our focus should continue to be the activities of the Federal Bureau of Investigation because of the Bureau's preeminent role in domestic law enforcement and intelligence gathering.

Again I must emphasize the limited scope of the committee's charter, and therefore, today's inquiry insofar as its impact upon the Bureau. For example, in previous sessions we examined the Bureau's use of mail openings, electronic, and other means of surveillance, surreptitious entry, individual and organizational bank records, income tax returns, and other sources of intelligence information.

It is clear that under proper judicial scrutiny, as mandated by the Congress and the courts, limited invasions of individual privacy involving any or all of the foregoing could be properly undertaken in aiding the Bureau's law enforcement commission.

The focus of our inquiry has been and will continue to be the use of these and other techniques without the sanction of judicial authority, and for purposes often unrelated to law enforcement, as it has been traditionally defined in our country. I stress that the mandate of this committee is to examine the intelligence-gathering activities of governmental agencies and does not in any way encompass an assessment of the overall FBI law enforcement effort. We make no attempt at overall assessment.

With respect to those FBI activities that have come to be known as domestic intelligence, our inquiry has revealed a further bifurcation of the Bureau's areas of concern. As previously discussed by the committee's counsel in our last session, approximately 20 percent of the Bureau's budget is devoted to intelligence activities. This is divided between so-called domestic intelligence and counterespionage activities.

We have accepted and we support the Bureau's position that a further budgetary breakdown, detailing precise expenditures for each category, might adversely affect the national interest by revealing the exact amount of expenditures for counterespionage. Therefore, while the nature and extent of these activities is less than precise from a budgetary standpoint, this inquiry nevertheless represents a critical area of our investigation.

Testimony and other evidence received by the committee to date indicate that a variety of techniques, not limited to those just cited, were employed against individuals and organizations without even the cover of legislative or judicial authority. The impact of these abuses on individuals and on legitimate political, social, religious, and philosophical interests represents a dangerous corrosion of our constitutional guarantees.

In counsels' survey of this issue during our last session, we examined a range of activities extending from information gathering to disruption of the lives of individuals and organizations. We witnessed intelligence functions at their admitted worst, and a few of the so-called Counterintelligence Programs against Dr. Martin Luther King.

Today we turn to an in-depth review of intelligence methods, through an examination of the Bureau's most widely used technique, informants. The concept of informing is usually distasteful. However, the informant technique is a valid and recognized one in the intelligence field, and often leads to very solid results. Additionally, the Bureau's use and employment of this technique and its abuse, is partially due to the absence of clear guidelines concerning intelligence informants, and the lack of appropriate constitutional guarantees.

The legitimate concern of the FBI in investigating criminal conduct and preventing criminal activities can never justify an informant's or law enforcement agent's operating outside of the law, without regard to the rights of others. When an informant is used to penetrate an organization to provide intelligence information, the possible impact of this influence, or his influence on that organization, cannot be ignored. Surely the infiltration of informants into groups and organizations who seek to bring about political, socio-economic, or other changes in our society represents, at the very least, a chilling effect upon the freedom of citizens to gather and to debate and to work for such changes.

The fact that an informant, in carrying out his role, may hinder or alter the advancement of legitimate objectives sought by members of organizations, is a matter with which we must all be concerned.

Furthermore, the Bureau's use of informants in large numbers and in circumstances where the propriety of having an informant is dubious in the first place, poses an additional item of concern. As I have already noted, the Bureau's use of the informant is part of the FBI's catalogue of techniques for carrying out its work.

Our hearing today will focus first on the roles actally played by two informants, one who infiltrated the Ku Klux Klan, another who infiltrated Vietnam Veterans Against the War. The other witnesses from the Bureau are here to discuss the policy considerations presented by the need for informants and the proper role of informants in the FBI's mandated investigative and intelligence functions.

The first witnesses today, and will the staff bring them forward, please and have them seated at the witness table—the first witnesses today will be Mary Jo Cook and Gary Thomas Rowe. Mr. Rowe will be wearing a hood so that he cannot be physically identified. He believes that physical identification will be inimical to his personal safety. He now resides at a location not to be disclosed, under an alias, which has been given to him by the government. It was at his request that we allow him to testify today hooded so that he cannot be physically identified.

Now for some preliminary matters to be entered into the record.

I recognize the chief counsel of the committee, Mr. Schwarz.

Mr. SCHWARZ. Mr. Chairman, just before the witnesses, I would like to put in some general facts. First the chart, which is exhibit 8,[1] indicates statistically how absolutely essential the use of informants is to the Bureau's intelligence activities. Based upon a representative sample of cases collected this spring by the General Accounting Office, it was found that in 83 percent of the cases, intelligence cases, informants were a prime source of information. You can contrast that with the findings that in only 5 percent of the cases was any form of electronic surveillance used, and in only 1 percent of the cases were surreptitious entry or mail openings used. That contrast demonstrates how absolutely vital to the Bureau's intelligence activities the informant program is.

The second group of statistics I would like to enter into the record relates to the number of informants, first, today, and through time in the past. As of June 30, 1975, there were 1,040 domestic intelligence informants. That is not to include persons who are informants in connection with criminal matters. That 1,040 can be further subdivided into so-called subversive informants and so-called extremist informants, the definitions of which were discussed before. In essence, extremists are persons in the racial area, blacks, Klan, American Indian, and subversives are everybody else who are pursued in the intelligence field.

In addition to actual informants, of whom there are 1,040, there are today 554 potential informants.

In the past these figures have been higher. For example, in 1971 there were, instead of today's 1,040, 1,731 actual informants, and of course, as we brought out in the hearing 2 weeks ago, there were in the early seventies up to 7,000 so-called ghetto informants.

The final clarification before hearing from the witnesses is that in addition to informants, there are, in Bureau terminology, confidential sources. The difference, as I understand it, between an informant and a confidential source is that an informant is paid and directed by the Bureau, whereas a confidential source is not paid and is either not directed, or directed to a lesser extent.

Some examples in the Bureau manual of confidential sources, specific examples, are bank officers and telephone company employees. Obviously there are others, and the numbers of those are great.

I have no further opening statistics, Mr. Chairman.

Senator TOWER. Thank you, Mr. Schwarz.

---

[1] See p. 367.

Ms. Cook and Mr. Rowe, will you rise and be sworn, please?

Do you solemnly swear that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROWE. I do.

Ms. COOK. I do.

Senator TOWER. The witnesses are represented by counsel today.

Would counsels please identify themselves for the record?

Mr. GEERDES. Franklin Geerdes for Mr. Rowe.

Mr. LENCHEK. Allen Lenchek for Ms. Cook. Ms. Cook is also represented by Ms. Ann Garfinkel.

Senator TOWER. The Chair now recognizes the counsel to the minority of the committee to pursue a line of questioning.

TESTIMONY OF MARY JO COOK, INFORMANT AGAINST VIETNAM VETERANS AGAINST THE WAR IN BUFFALO, 1973–74; ACCOMPANIED BY ALLEN LENCHEK, COUNSEL, AND ANN GARFINKEL, COUNSEL; AND TESTIMONY OF GARY THOMAS ROWE, INFORMANT AGAINST KU KLUX KLAN IN BIRMINGHAM, ALA., 1960–65, ACCOMPANIED BY FRANKLIN GEERDES, COUNSEL

Mr. SMOTHERS. Thank you.

I will begin the inquiry with examination of Ms. Cook; and Ms. Cook, if you will, I would like to begin by starting with your first affiliation with the Federal Bureau of Investigation.

It is my understanding that your contact began in the summer of 1973. If you could just briefly, for the committee, explain how that contact came about.

Ms. COOK. Yes. I was living with a man who was working for the Bureau and had been working for the Bureau for about a couple of months as an informant. He asked me—I observed his activities, we discussed his activities, and then he subsequently asked me if I would consider becoming an informant.

Mr. SMOTHERS. Which group was he informing for?

Ms. COOK. He was informing for the FBI.

Mr. SMOTHERS. And on whom was he informing?

Ms. COOK. The Vietnam Veterans Against the War, Winter Soldiers Organization (VVAW–WSO).

He took me to a meeting. After we returned from the meeting, we discussed in more detail how he felt about being an informant, what he did, why he did it; and when I said that I would be open to talking about being an informant with the FBI, he set up a meeting, and then the FBI came to my house to discuss it with me.

Mr. SMOTHERS. An agent came to visit you to discuss your becoming an informant?

Ms. COOK. Yes.

Mr. SMOTHERS. What was the nature of that discussion?

What were you asked to do, if anything?

Ms. COOK. The major understanding that I got from the meeting was that VVAW–WSO was an organization primarily of veterans who were possible victims of manipulation. They had been through the Vietnam war. They had legitimate readjustment needs, and the

Bureau was afraid that they could become violent or could become manipulated in a cause or social concern, and they wanted me to go in there and participate in the organization and make sure that the veterans didn't get ripped off.

So I was to be, you know—they used words like, "be a voice of reason, be a big sister, be sort of a guiding force in the organization and keep things calm, cool, and collected." That sounded like a legitimate thing to do, so I agreed to work for the FBI.

Mr. SMOTHERS. In addition to maintaining reason and keeping things calm and cool, what other functions were you assigned by the FBI?

Ms. COOK. Well this whole scenario that was presented was called being an informant, so I was to go to meetings, write up reports or phone in reports on what happened, who was there, in some way to try to totally identify the background of every person there, what their relationships were, who they were living with, who they were sleeping with, to try to get some sense of the local structure and the local relationships among the people in the organization.

So I'd go to a meeting, identify the people who were present and identify them as individuals, and then identify the substance of the meeting.

Mr. SMOTHERS. You identified the attendees by name?

Ms. COOK. Yes; or by physical description if I didn't know the name.

Mr. SMOTHERS. Did you identify friends of persons who were associated with the organization?

Ms. COOK. Yes; I did.

Mr. SMOTHERS. Did you provide information on these persons' places of employment?

Ms. COOK. Yes; I did.

Mr. SMOTHERS. And you said you provided information on their personal relationships.

Ms. COOK. Yes; I did.

Mr. SMOTHERS. How did you come to gain this kind of information?

Ms. COOK. Much of it would be initially, it would be gathered at a meeting. People would joke and in personal conversations they would drop information about themselves. As I got to know them as personal friends later, then much more information—I had access to much more information.

Mr. SMOTHERS. Did you report back to the Bureau all the information gained?

Ms. COOK. No; I did not report back to the Bureau all information gained. Initially when I worked for the Bureau, I did. I had little say; I was alien to the situation. They said "go into this," so I had no way of really knowing what was important and what wasn't important, so in a sense I was a vacuum cleaner for information, just gathering it. And as I became more familiar with the context within which I was working, I was able to make decisions about what was important information and what was not.

Mr. SMOTHERS. Was this on your initiative, or were you given guidance as to what to exclude?

Ms. COOK. This was on my own initiative.

Mr. SMOTHERS. Did you report information on the political views of these persons?

Ms. COOK. Yes; I did.

Mr. SMOTHERS. Ms. Cook, how many people were involved in this reporting process? How many people did you report on?

Ms. COOK. I figured that there were about 50 core people in the organization in the local chapter in Buffalo, and if you look at it in concentric circles, there were perhaps 250 people in the Buffalo community whose names I identified as being leadership one way or the other in the social issues that they were active in, and then perhaps 400 people nationally when you take a look at the national VVAW–WSO and all the organizations that I came into contact with, and then when you add to that the mailing lists that I turned over and the names that came into my hands as being active or interested members of VVAW–WSO, that may be as many as 1,000 names.

Mr. SMOTHERS. With respect to the value of what you have given the Bureau, was there any formal process of identifying what was important, as opposed to the trivia or end result of your communications?

Ms. COOK. Could you repeat the question?

Mr. SMOTHERS. What I'm really asking is what system, if any, was communicated to you regarding the importance of certain kinds of information? Was it determined on the basis of some guidance by the Bureau? Was it determined based on the amount of information you got? Was there any way that was described to you as to what was important?

Ms. COOK. OK. Beyond the general guidelines, identifying people who were present and being aware of people with a propensity for violence, there were no guidelines as to what information was important or wasn't important. My financial arrangement with them was on the basis that I would turn over all information gathered. They would think it over; they would decide what was of value to them and what wasn't of value to them and pay me accordingly, but not necessarily identifying what they considered essential. They rarely gave me information. They didn't define my context and then ask me to go into it. They just said, "We want you to go in there. We're not going to tell you anything about it. You figure it out."

I figured that was fair.

Mr. SMOTHERS. And your pay was based on the Bureau's assessment of the value of the information which you turned over?

Ms. COOK. Yes.

Mr. SMOTHERS. How long were you involved in the effort of informing against the Veterans Against the War?

Ms. COOK. From June 1973 through November 1974. That's approximately 1½ years.

Mr. SMOTHERS. Did there come a time when you were either dissatisfied with or raised questions about your activities as an informant?

Ms. COOK. Yes.

Mr. SMOTHERS. When did this occur?

Ms. COOK. This occurred very, very much so after July of 1974. I had come here to Washington, attended the only large demonstration I've ever been in. The Bureau had asked me not to go. It advised me not to go. I came and I saw people, people I had met in the course of my activities, with blood running down their heads.

I came back from Washington very upset and I started talking with the FBI about all of the contradictions that I was starting to see. I

didn't understand what my involvement was any more. So I started asking them: "I don't see the reason for my continuance. It seems to me that you don't understand what I'm telling you. These people don't need me functioning in their midst, and if you can't give me assurances that the information that I'm giving you which you seem to strip the context away from isn't going to be used against these people, then I cannot continue." And they couldn't. They tried to give me assurances. They brought someone from Washington to talk to me and he talked to me in humanist philosophical terms about why I should continue and about how everything was fine and good, but I was very dissatisfied with those conversations and I insisted on quitting. I gave them a month's notice and I quit.

Mr. SMOTHERS. This person from Washington who talked to you in philosophical terms, do you recall the substance of that conversation? In his efforts to get you to remain as an informant, what kinds of reasons were advanced?

Ms. COOK. Mostly they were trying to assure me that the FBI was part of—our conversations were really far-ranging. We discussed all sorts of social issues, from poverty to the space program to ecology. They tried to assure me that things were going fine, that the status quo was really fine.

I was involved with a group of people who had really bad, really desperate needs as veterans, who didn't have social programs that were sufficient for them. I was also involved in welfare rights and I was constantly meeting people who lived with a degree of poverty that provoked them and irritated and frustrated them, and they turned to self-help programs.

So here I have on one hand a man telling me that things are fine and that my work for the Bureau is part of making sure that dissidents—they had no sympathy for the poverty and the consequences of that poverty that I was viewing firsthand and living with day to day.

So that we were really very much miles apart in our discussions about what was fine and what was not fine in America. And they could not give me any assurances that this information would not be used against people. I could no longer trust that their interest in these people—they were just not sensitive to what the real needs of these people were.

Mr. SMOTHERS. And wasn't it shortly after this that your role as an informant was terminated, that you indicated that you no longer desired to work in this capacity?

Ms. COOK. Yes.

Mr. SMOTHERS. Let me just raise one final area of inquiry with you.

In our previous discussion, you indicated that there came a time when you had become involved in the Attica Defense Project, representing the Vietnam Veterans Against the War. And as a part of that you had become involved in things like the jury survey effort. My question is, did you communicate to the Bureau any of your efforts in this regard as they related to the Attica Defense Effort?

Ms. COOK. Yes, I did. I was put in the position, I was told not to bring to the FBI's attention any information that legally they shouldn't have. But I'm not a lawyer and most average citizens cannot make decisions about what is legally significant and what is not legally significant. There are many instances where I passed information

thinking that I could legitimately pass that information, and I now understand that that information—legally the FBI should not have had that information, and I feel badly about that, but I also know that I was put in the kind of position where I was required to make professional decisions and I could not make a professional decision.

Mr. SMOTHERS. Ms. Cook, did the information passed include correspondence between you and Attica defendants?

Ms. COOK. Yes.

Mr. SMOTHERS. Mr. Chairman, that concludes my examination of the witness at this point. I would like to put into the record at the witness' request, the witness' statement, four pages, dated today's date, and that will be a part of the record of these proceedings.

Senator TOWER. Without objection, it is so ordered.

[The statement of Mary Jo Cook follows:]

STATEMENT OF MARY JO COOK

In June 1973, I agreed to work in a program for veterans. A flexible apprenticeship in social work developed that finally paid, from month to month, as much as my 1972 State University teaching fellowship. As the first-born in a family of fourteen people, a "big sister" program appealed to me. The outline of the job included evaluating emotional stability, rationally defusing hair-brained schemes, and protecting potential victims of manipulation. My assignment was Vietnam Veterans Against the War/Winter Soldier Organization (VVAW/WSO), the Buffalo chapter.

I became an informer not fully realizing what that meant. In 1975, I feel bitterly the mockery that has been made of my values and the idealistic commitment I made. A 1984 female Big Brother is a monstrous violation of my identity as a sister.

Being an informant was a serious exploitation of my familial identity. I grew up in a very large and very Catholic family. I am a big sister to my eight brothers and three sisters. A big sister sets an example, assumes adult responsibility at an early age, and is allowed the freedom and duty of constructive criticism. I was trained to be a leader both in my community and in my home. This was a collective decision which met the needs of my family and tried not to be insensitive to my needs as a person. In my family, being a sister is a serious and loving commitment to other human beings. I made this commitment to VVAW/WSO unaware that the FBI had no intentions of honoring it.

The more I understood and defined VVAW/WSO as a process, the more I became aware that the FBI's response to this process was inimical. The picture painted for me by the FBI of a group of "crazies" was replaced by my experience of VVAW/WSO as an extended family, a community of people engaged democratically in a self-help program. I became confused and then alarmed that a real involvement in the democratic process was not regarded as a positive thing. I resigned from the FBI in November 1974 certain that VVAW/WSO was a legitimate and valid organization. This resignation was a matter of moral principles and patriotic duty.

Perhaps the most exciting thing about VVAW/WSO as an organization was that it gave people a real feel for democracy. It was a place where people developed their ideas by putting them into practice. Your voice, your vote and your hands made a difference as you sought with others to find new and better ways of solving problems. This process was a bulwark against violence, the legacy to which the nation in its silence has abandoned veterans.

Veterans have always been a group with special needs; for those needs there should be programs. If the self-interest of the individual and the mutual interest of a community have a meeting point, then a program is both possible and necessary. A program is a volunteer activity; only input from veterans can determine the exact nature of the readjustment needs at this time. The special program that I worked in did not concern itself with the consent of the participants; it was a secret program for their own good. But the fact that Big Brother was keeping a eye on things did not result in more concrete programs based on real needs. The program was itself a recognition of special needs *and* a refusal to search for answers, because real programs are too costly an investment in some-

thing as unpredictable and fragile as a human being. The idea was to contain the problem, not solve it.

Containment is certainly less embarrassing than programs which would become an open forum on military conduct in Vietnam. If such programs do not take place, then both the American people and the veterans that have served them will suffer, one from ignorance, and the other from isolation.

The Vietnam veterans that I know are interested in changes in the military, changes in their communities, and special programs for those among themselves who need help in rebuilding a life that is honestly worth living. My father's readjustment as a veteran who had not seen combat, but had lived through the depression hand-to-mouth, was accomplished because he believed that his hard work in the pursuit of happiness would be fruitful. My father's vision and experience of America was exciting, and his children grew up believing that America was a magic land in which all good things were possible. For Vietnam veterans, vision and experience have also united: the nightmare that began for them halfway around the world is found deeply rooted at home.

The nightmare that many veterans weave of the American Dream is a very intense part of their experience as Americans. In a genocidal war which deprived them of heroism with honor, they came to grips with the inherent fascism of a war of containment which would subject a civilian populace of color to years of death and terror—all in the name of democracy. It is our national dishonor that democracy can inspire death, but not the average citizen to vote with an educated interest.

Senator TOWER. Gentlemen, I would remind you that we operate under the 5-minute rule for questioning of these two witnesses and the Chair recognizes Senator Hart. If you will suspend, Senator Hart, I think we will go ahead and hear from Mr. Rowe, and then proceed with the Senator's questions.

Mr. SCHWARZ. Mr. Rowe, were you an informant in the Klan?

Mr. ROWE. Yes; I was.

Mr. SCHWARZ. From when to when?

Mr. ROWE. From approximately 1959 to 1965.

Mr. SCHWARZ. In 1955 did you surface in connection with a murder case?

Mr. ROWE. Yes; I did.

Mr. SCHWARZ. Whose murder and what role did you play in that case?

Mr. ROWE. I was in the automobile the evening that Mrs. Viola Liuzzo was killed by a Klansman.

Mr. SCHWARZ. And this was the situation in connection with the Selma march where a woman from Detroit was killed while she was riding in a car after the march?

Mr. ROWE. Correct.

Mr. SCHWARZ. And you surfaced and testified at pretrial which ultimately resulted in the conviction of the persons who had committed that murder.

Is that right?

Mr. ROWE. That is correct, sir.

Mr. SCHWARZ. Now I want to go back, Mr. Rowe, to how you came to that point and what you did as an informant before performing that service. Had you served in the Government prior to being a Klan informer, in military service?

Mr. ROWE. Yes.

Mr. SCHWARZ. You had been a marine?

Mr. ROWE. Yes.

Mr. SCHWARZ. How old were you when you became a marine?

Mr. ROWE. I joined the Marine Reserves at 14½ years of age.

Mr. SCHWARZ. And the FBI recruited you to infiltrate the Klan? Is that right?

Mr. ROWE. That is correct, sir.

Mr. SCHWARZ. What kind of information did you report back to the FBI about the Klan?

Mr. ROWE. Any and everything that I observed or heard pertaining to any Klansmen.

Mr. SCHWARZ. Now did that include information relating to Klan planned violence or actual violence?

Mr. ROWE. Yes, sir.

Mr. SCHWARZ. Did it also include information relating to political matters?

Mr. ROWE. Yes, sir.

Mr. SCHWARZ. What is an example of that?

Mr. ROWE. Sir, an example of that is that we had a former FBI agent running for mayor of Birmingham. I was instructed to attend meetings, observe who was there, whether the people were Republicans or Democrats, as I could best describe them and give their names, and if they were in fact active political people.

Mr. SCHWARZ. Now in addition to reporting back political information relating to violence, did you report back information relating to the social life of the members of the Klan?

Mr. ROWE. Yes, I did.

Mr. SCHWARZ. Including the most intimate details of their social life, their personal life?

Mr. ROWE. That's what I was instructed to do, sir.

Mr. SCHWARZ. You were instructed to do that by the Bureau and you did that?

Mr. ROWE. That is correct, sir.

Mr. SCHWARZ. Did you also go to meetings of civil rights organizations and report back what was being said at those meetings?

Mr. ROWE. Yes, I did.

Mr. SCHWARZ. Did you report the same information to the Bureau and to the Klan about the civil rights organizations?

Mr. ROWE. Basically the same information, yes.

Mr. SCHWARZ. You were a member of something called the KBI, or the Klan Bureau of Investigation. Is that right?

Mr. ROWE. That's correct.

Mr. SCHWARZ. So you were, in effect, informing on the civil rights organizations to both the Bureau and the Klan?

Mr. ROWE. That is correct.

Mr. SCHWARZ. Turning to the subject of violence, what instructions, if any, were you given at the outset of your employment by the FBI with respect to participation in violent activity?

Mr. ROWE. Sir, I was instructed under no conditions should I participate in any violence whatsoever.

Mr. SCHWARZ. Now did those instructions subsequently change?

Mr. ROWE. Yes, they did.

Mr. SCHWARZ. Describe the change, will you, please?

Mr. ROWE. Sir, I was contacted by my contact agent and he stated to me, he says, "I know there's a lot of crap going on that you aren't reporting." He says, "I know what's happening. I don't understand why you don't see it." I said, "Well, it isn't happening in the open

meetings. I can tell you that. I give you every night a written report of our meetings." And I said, "There's absolutely nothing pertaining to violence discussed in these open meetings. However, I see a group that stayed after the meeting's over. I see a certain group remaining, and they don't come out when we do."

The agent stated that I should try to get closer to members of this certain group and find out who they were and try to get closer to them.

Mr. SCHWARZ. Did you do that?

Mr. ROWE. Yes; I did.

Mr. SCHWARZ. And then did you begin to participate yourself in the violent acts?

Mr. ROWE. Yes, I did.

Mr. SCHWARZ. And did you tell the FBI that you would participate in violent acts?

Mr. ROWE. Before I participated in the acts, yes; I did.

Mr. SCHWARZ. What were some of the acts that you participated in, the violent acts?

Mr. ROWE. Sir, the major one was the Birmingham Freedom Ride.

Mr. SCHWARZ. I'll come to that in a moment, but did you also participate in acts of beating people with chains at a county fair?

Mr. ROWE. Yes. There was a county fair in Alabama and I personally gave the FBI several days' notice, a good week notice, that this was going to occur. My instructions were to hang in, to go and see what happened.

Mr. SCHWARZ. Did the FBI ever tell you when you went to these violent events that you should stand back and not participate, or did they say you were on your own and do whatever you think is necessary?

Mr. ROWE. Sir, they said, "We have to by law instruct you that you are not to participate in any violence. However, I know you have to do this. We know it's something that you have to do and we understand it, and we need the information. That's the important thing: get the information."

Mr. SCHWARZ. To get the information was it necessary, in your judgment, to participate in the violent acts themselves?

Mr. ROWE. Some of the information, I think, yes, and some of it I would say, no, sir.

Mr. SCHWARZ. In connection with the Freedom Riders incident that you mentioned, did you inform the FBI about planned violence prior to that incident?

Mr. ROWE. I gave the FBI information pertaining to the Freedom Riders approximately 3 weeks before it happened.

Mr. SCHWARZ. What did you tell them?

Mr. ROWE. I stated to him I had been contacted by a Birmingham city detective who in turn wanted me to meet with a high ranking officer of the Birmingham Police Department to have a reception for the Freedom Riders.

Mr. SCHWARZ. You mean the Birmingham policemen set up the meeting of the Freedom Riders and you told the FBI that?

Mr. ROWE. Yes.

Mr. SCHWARZ. And then they were beaten?

Mr. ROWE. They were beaten very badly, yes.

Mr. SCHWARZ. Did the Birmingham police give you the time that they promised to give you, to perform the beating?

Mr. ROWE. We were promised 15 minutes with absolutely no intervention from any police officer whatsoever. The information was passed on to the Bureau. We had our 15 minutes. Approximately 15 minutes after the Freedom Riders were attacked, a police officer ran over to me and stated, "Godammit, godammit, get out of there. Get 'em out of here. Your 15 minutes are up and we're sending the crew."

Mr. SCHAWRZ. In that fight did you have your neck cut?

Mr. ROWE. Yes, sir, my throat was cut very severely.

Mr. SCHWARZ. Were any arrests made?

Mr. ROWE. Absolutely none, sir.

Mr. SCHWARZ. Did you ever ask the Bureau why no arrest was made?

Mr. ROWE. Yes. As a matter of fact, I quit very shortly after working of the Freedom Riders, right up and own city hall. You could wasn't something done?" There were 1,000 men at least on that morning of the Freedom Riders, right up and down city hall. You would look over from the bus station and see city hall and you would see as many as 100 police officers walking. They couldn't help but see us. We had baseball bats, we had clubs, we had chains, we had pistols sticking out of our belts. It was just unbelievable. Not one officer in the Birmingham Police Department asked us what was going on.

Mr. SCHWARZ. But that was the problem with the Birmingham Police Department. What about the FBI? Did you ever discuss with them why they didn't do anything?

Mr. ROWE. Yes, sir. I was told by the FBI—they said: "Well, who the hell are we going to report it to? The police department was involved in it. The police department helped set it up. We are an investigating agency, not an enforcement agency. All we do is gather information." Thas was my answer.

Mr. SCHWARZ. Now sometime after that were you told that the FBI had declared war on the Klan, and given the name of something called COINTELPRO.

Mr. ROWE. That is correct, sir.

Mr. SCHWARZ. And what were you told to do under the COINTEL PRO?

Mr. ROWE. Sir, under COINTELPRO I had been instructed to disrupt, discredit, or disorganize that organization, to the best of my knowledge.

Mr. SCHWARZ. What did you do in that connection?

Mr. ROWE. I was instructed to give information if I found out who was sleeping with who, if someone was sleeping with another Klansman's wife. I was trying to pass the word around to the different people so as to cause dissension in their homes, try to break up their homes. I was also instructed to attend church services in the regular church services and see if any political activities were going on, or mention the church services as opposed to the Klan meetings. Many Klan meetings were held in churches.

Mr. SCHWARZ. You were also instructed personally yourself to attempt to break up marriages by sleeping with wives of members of the Klan?

Mr. ROWE. Yes, I was. My instructions were to try to sleep with as many wives as I could. That's probably the best information we could gather.

Mr. SCHWARZ. That's all I have, Mr. Chairman, except that thereafter you did help solve the Liuzzo murder by providing information to the FBI as to the solution of that crime?

Mr. ROWE. Yes; I did pass information.

Senator TOWER. Senator Hart?

Senator HART of Michigan. I'd better confess that when you were inside the Klan, I was one among many who had praise of Mr. Hoover and the Bureau because they seemed to know every Communist cell and half a dozen agents, and why weren't they doing the same thing about the Klan?

Now in their defense, my notion was that they would have somebody in a crowd in order to be able to report planned violence, and as a result, prevent the violence which was occurring. I was too dumb to realize that your presence in there did not prevent violence, and indeed, maybe contributed to it.

Ms. Cook, as I get it, you concluded that the aims of this Buffalo chapter of Vietnam Veterans Against the War had as its aim the ending of our involvement in Vietnam?

Ms. COOK. Yes.

Senator HART of Michigan. Amnesty for resistors, upgrading certain military discharges, and getting better health care and drug treatment for Vietnam veterans. Is that right?

Ms. COOK. Yes, that's right.

Senator HART of Michigan. Did you ever see, and if you did, did you ever report to the Bureau, any activities or efforts by that chapter or other Vietnam veterans to overthrow or destroy our Government by force or violence?

Ms. COOK. No, sir.

Senator HART of Michigan. And you said that as a lay person you were not in a position to judge what information appropriately could be passed on to the FBI, and as a result you passed on whatever and all that you got, leaving it up to the Bureau to make the judgment as to what was and wasn't appropriate?

Ms. COOK. Yes, sir.

Senator HART of Michigan. Did anyone ever indicate that they only wanted information about violence, or the threat of violence?

Ms. COOK. Did anyone ever indicate that they only wanted information about violence?

Senator HART of Michigan. Yes.

Ms. COOK. No. Violence was definitely the priority, but they would never say, "only gather information about violence."

Senator HART of Michigan. And in the period of a year, or a year and a half in your service as an informant, you provided the Bureau with about 1,000 names of various members?

Ms. COOK. That's my estimate.

Senator HART of Michigan. During this period in which you were an informant, did you also report on groups and individuals outside the Vietnam Veterans, such as other peace groups or individuals—not members of Veterans Against the War, but individuals who were opposed to the war—with whom you came into contact because they were cooperating with the Vietnam Veterans Against the War in connection with protest demonstrations and petitions?

Ms. COOK. There were a lot of groups that were very sympathetic to the aims of the Vietnam Veterans Against the War, Winter Soldier Organization. So that I ended up reporting on groups like the United Church of Christ, the American Civil Liberties Union, lawyers—the National Lawyers Guild, and liberal church organizations. Many groups went into coalition with Vietnam Veterans Against the War.

Those people were reported on as part of the normal course of my work.

Senator HART of Michigan. So as the expression goes, you were looking out, not just inward, at the veterans. You were looking outward, and included in that estimate of 1,000 names were some of those names, individuals associated with these outside groups who were associated in concert with the effort to end the war?

Ms. COOK. Yes. If I understand the question correctly, yes.

Senator HART of Michigan. Let me make it clear. You mentioned the ACLU and clergy groups and so on associated with the efforts to end the war. Were some of the 1,000 names that you submitted to the Bureau members of those other groups, the ACLU and clergymen?

Ms. COOK. Yes.

Senator TOWER. Senator Goldwater?

Senator GOLDWATER. Yes, Ms. Cook. I think the answer you gave to Senator Hart's last question might be the answer I'm seeking. You turned in information on about 1,000 names. How many of those did you identify as actual veterans?

Ms. COOK. I had a running proportional estimate of how many veterans there were per chapter or per meeting that I would go to. It's easy to identify when the subject is veterans' concerns, how many people are veterans. But as to estimating how many of those thousand, that ballpark figure of veterans themselves, I would say probably under 50 percent. Perhaps 35 to 40 percent might be veterans, but that's off the top of my head.

Senator GOLDWATER. During the meetings that you attended, was there any discussion of how the group was financed?

Ms. COOK. Yes. There would be financial reports given as the normal course of the general membership meeting. All finances came as donations from the individuals involved out of their paychecks, and that information was something that the FBI wanted. They wanted to know if there was any foreign money coming into the organization and there was no evidence whatsoever of foreign money.

Senator GOLDWATER. No evidence of money coming from other organizations like the ACLU and so forth?

Ms. COOK. The only time I ever heard of any money coming into the organization from an outside source was that I understood that back before I joined the organization in 1973, that there were some liberal movie stars or organizations that donated money for either discharge and upgrading projects or something along that line. There was one detail like that that I heard as part of a speech at an April 1974 meeting, but the context of that remark was that all funding from other American sources had ended because money was drying up rapidly, so that the organization had to fund itself very definitely out of the pockets of its membership.

Senator GOLDWATER. That's all I have, Mr. Chairman. Thank you.

Senator TOWER. Senator Mondale.

Senator MONDALE. Ms. Cook, you indicated that you would be paid by the FBI based upon their evaluation of the value of the information that you submitted.

Ms. COOK. Yes.

Senator MONDALE. Approximately how much money did you receive from the FBI during that period in which you informed?

Ms. COOK. Approximately $300 a month, which is the same amount of money that I received from a teaching fellowship at the university.

I understood that that was—$300 was the limit for a category, for my category of informant.

Senator MONDALE. What was your category?

Ms. COOK. They told me I existed in a category but they never defined what that was.

Senator MONDALE. Approximately how much did you receive totally from the FBI?

Ms. COOK. I would think totally I received something like $5,000 during the time that I worked for them. I think that's a good approximate figure.

Senator MONDALE. Can you tell from how you were paid what kinds of information were preferred?

Ms. COOK. I could tell sometimes. Like, for instance, when I was attempting to become a full-time operator and only on a partial basis for the FBI, I quickly learned that by moving away from the community of VVAW–WSO, to do support work, that I would be paid less, and that that information was considered less significant.

There was one point in the summer where I attempted to stay on the committee that did political defense work to work on a local welfare fraud case. That summer, that month, I got paid less money, so I had to go back doing the active Attica work to in fact get the full amount of money.

Senator MONDALE. So when they made this contact with you and asked you to help guide the Vietnam Veterans Against the War into a sort of peaceful way, as well as informing, when you did try to participate in that way, you received very little. When you informed, you received up to your quota.

Ms. COOK. You can't really separate them off. There was no way that—like one of the things I was supposed to do was go to as many regional and national meetings as possible to be able to get a good sense of how the local chapter fit into the national context of the national organization. You went to such meetings as an elected representative. It was a very democratic process, so that there was no way that I could go to the national meeting and fulfill the request of the FBI to go to regional or national meetings without actually becoming part of the elected leadership of the chapter.

Senator MONDALE. But did they pay your expenses?

Ms. COOK. They would pay my expenses.

Senator MONDALE. Was that over the $300?

Ms. COOK. I would think the actual limit was $325, so the expenses would have to fit within the $325.

Senator MONDALE. Did I hear you say that you were attempting at one time to be taken on full-time?

Ms. COOK. At one time earlier when I was first approached I did.

Senator MONDALE. But you wanted to be full-time?

Ms. Cook. I preferred working—it was more exciting working as an informant than working as a teller in a bank, yes. I was working as a teller in a bank, and I found working as an informant a much more satisfying lifestyle and involvement than working as a teller in a bank.

Senator Mondale. But you couldn't do that on $300 a month?

Ms. Cook. I'm personally bankrupt, so no, you can't do it on $300 a month. I'm in debt up to my ears.

Senator Mondale. But I thought you said earlier you were trying to get into some kind of full-time, permanent status from the FBI.

Ms. Cook. I preferred working for them. I had a teaching fellowship in 1972 with the State University of New York, and I taught composition and attended graduate school there.

That was the amount they paid to graduate students, $300 a month. You are expected to live on that. I thought I could live on that. As inflation kept going, I found that I could not live on that. But most graduate students are expected to live on $300 a month.

Senator Mondale. Were there other informants whom you were aware of?

Ms. Cook. The man that I had been living with was an informant.

Senator Mondale. Did he inform on the veterans?

Ms. Cook. Partially. He had connections with the veterans club on the campus who had many members of VVAW–WSO but he gradually moved into different areas.

Senator Mondale. Were there other informants in this veterans group of whom you were aware?

Ms. Cook. No.

Senator Mondale. Were they aware at all or suspicious of you, that you might be an informant at these meetings?

Ms. Cook. They constantly talked about harassment, feeling that, you know, some of their mail had been opened. They thought that they were being followed, that their lines were being tapped.

The FBI occasionally would go to people and talk to them, talk to their employer. One man that happened to work at a place where the FBI met was fired 3 weeks after I told the FBI that he had to change our meeting place because it wasn't secure.

Could you restate your question?

Senator Mondale. I was just wondering to what extent they were suspicious that there might be informers around, and what effect that may have had on their activities.

Ms. Cook. They were generally suspicious, they were generally worried. But they didn't ever indicate that they thought that I was an informant, and I never told them I was an informant, and when I finally did tell them I was an informant, they were almost in a state of shock. There was a kind of confusion.

I was a trusted person. I was someone who had developed, you know, pretty human relationships with them, and I was a friend. They considered me a friend and I quit the FBI because I became a friend and had come to like those people very much.

Senator Tower. Senator Schweiker?

Senator Schweiker. Thank you, Mr. Chairman.

Ms. Cook, what kind of information did the FBI pay the most for? In other words, since it was some kind of a scale of value, what was worth the most to them, what kind of information?

Ms. COOK. I can only make general conclusions about that. I know that the work that I did in political defense earned me a full-time living, and that that work in political defense was fully within my participation in VVAW–WSO as an organization. But beyond trying to pinpoint the exact information, it was more or less—all I can say is it was political information and I would never be able to tell if information given by the individuals was particularly significant to them because they would never tell me something like that.

Senator SCHWEIKER. When you were working as an informant, and would work with groups or people that interacted with the Vietnam Veterans Against the War who weren't members of that specific group, such as some of the church groups that you mentioned, were you to report on their activities and political views as well as people in the outside groups that interacted with the VVAW or not?

Ms. COOK. If they were agreeing to work with VVAW–WSO on a common project, then the kind of positions and the way in which they would vote on a particular issue would be very relevant.

Senator SCHWEIKER. So if the United Church of Christ were to agree to a joint project of some kind or work with them, then they would be fair game too?

Ms. COOK. The United Church of Christ's position on unconditional amnesty was of interest to the FBI, yes.

Senator SCHWEIKER. Mr. Rowe, in your job, were you to determine and report on the positions on the issues of candidates for public office? Was it part of your job or part of the information that you supplied to include where candidates for political office stood on issues?

Mr. ROWE. Yes, that is correct. I was instructed to do this, and I did do it.

Senator SCHWEIKER. Was this a matter of all the positions that candidates took or just positions that relate to civil rights?

How would you define the kind of information that they were interested in on political candidates?

Mr. ROWE. Sir, I was instructed to obtain information of any description that I could report. I had no boundary line. I was instructed to cover and monitor everything.

Senator SCHWEIKER. On a political candidate? All of his views?

Mr. ROWE. Yes, sir, that's correct.

Senator SCHWEIKER. In previous questioning, you have cited one or two cases where you had warned that violence was about to occur and nothing was done, and you felt that something should have been done. Were there other instances where you knew from what you had heard or told the FBI that violence was about to occur, and that you were trying to not only inform them, but warn them to seek to prevent it in some way? Were there other instances besides the one or two you mentioned?

Mr. ROWE. Yes, sir, there were several of them.

Senator SCHWEIKER. In view of that, what did you feel their purpose was in terms of violence? In other words, what do you infer from the fact they let the violence proceed anyway? What really was their objective, as you saw it?

Mr. ROWE. Sir, that's a question that's very difficult for me to answer because I really don't know at this time. I had that question myself and I asked that question but all my reply was I was serving my country well and it was information that had to be obtained or they wouldn't be there.

That was my reply to that.

I think that myself, I have the greatest respect for the field agents in the FBI. I think that the problems that you're trying to find out and I'm trying to help you with come up from higher echelons.

I think that they were just telling me something that someone else told them to do. I think they were simply following instructions.

Senator SCHWEIKER. On the matter of intervening before violent activities, did you feel that what you reported pretty well went on up the chain of command, that it did not just stop with your contact officer? Did you get the feeling that it went pretty well up into the hierarchy in terms of that policy?

Mr. ROWE. Certainly. Up until yesterday I had no way of knowing. I briefly saw several reports that I had turned in through the years indicating that they did in fact get back here to Washington in ample time to have these things stopped, and apparently nothing was done about them.

Senator SCHWEIKER. So it raised the question, and I gathered this is part of the reason that you decided to not continue your activities, of what the real purpose of your activity was when you saw violence that might have been prevented by some kind of action by someone in the Department. When it wasn't done, you felt that actually violence and stopping violence really wasn't part of the function that you were engaged in, even though that's what you thought you were engaged in. Is that about right?

Mr. ROWE. That's basically the answer, sir.

Senator SCHWEIKER. Do you think that informants, if used properly, can prevent violence, if people want to prevent violence? In other words, given what you know now, would it be possible to prevent violence if the policies of the FBI would be toward preventing violence?

Mr. ROWE. Sir, if I may explain to you, I obtained the name of a preacher during my 5 years in the Klan organization because I would see things that I felt they were fixing to go on and I would say, "come on, it's not worth the hassle. We can do it another time. Don't get involved because we're going to blow the damn thing open," and all this type of information.

I was just simply trying to deter these things. I had met with some of the higher echelons of the Jefferson County Sheriff's Department, the Birmingham Police Department, and movements of violence with 2, 3, several days' notice, and I was just concerned. I would say, "look, you really think this is the answer?" And they would say, "this is what we need to get done. We've got to stop this right now. American people have to keep these people out of here."

Senator SCHWEIKER. I just have one quick question. As I understand it, because you were with the Klan and wanted to keep people in the Klan, the Birmingham Police Department gave you complete access to the intelligence files of the police department. You were pretty well allowed to see what you needed to see to promote the Klan's activities by the Birmingham Police Department. Is that correct?

Mr. ROWE. That is correct, sir.

Senator SCHWEIKER. That's all I have, Mr. Chairman.

Senator TOWER. Senator Huddleston.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Ms. Cook, what instructions were you given by the FBI relative to the secrecy of your mission as to how you were supposed to keep from the public or other individuals that you were in fact an informant?

Ms. COOK. I think I was generally instructed that I was not to tell anybody. I didn't take it that seriously because I went home and I told my eleven brothers and sisters, I told my parents, and I told a few girl friends. I did not tell anyone in the political organization that I infiltrated.

Senator HUDDLESTON. But that would have been a violation of instructions you received?

Ms. COOK. I was told that the reason for me to remain in secret, the reason why I was supposed to keep my work secret, was for my own protection. I didn't see that telling my family about the work that I was doing for the FBI was going to be any violation of my protection or any danger to me.

Senator HUDDLESTON. Would that same attitude have prevailed during discussions between your friend and yourself about his involvement as an informant, assuming that he had the same instructions?

Ms. COOK. You mean did our instructions mean that we shouldn't mutually discuss our work?

Senator HUDDLESTON. Right. Or his work prior to your becoming an informant. You apparently discussed your friend's role, which led you to become an informant.

Ms. COOK. I suppose he shouldn't have discussed it with me except that he trained me. He constantly talked with me about the activity, the work that I was doing, what his perspective was on it, and then we came to really severely disagree about what we were supposed to be doing.

Senator HUDDLESTON. Now, you indicated that you became quite disenchanted with your role after your Washington experience. Prior to that instance in Washington, had any of the information that you had furnished the FBI been of such a nature that would have led them to believe that there would be violence at that particular demonstration?

Ms. COOK. Although I was finally disenchanted with the FBI, none of the information that I provided the FBI about the coming demonstrations for universal unconditional amnesty or ending the war, none of that information suggested that there would be violence.

Senator HUDDLESTON. Did any of it suggest that this organization was in fact being manipulated by Communist influences?

Ms. COOK. No.

None of it suggested there was any manipulation of any kind.

Senator HUDDLESTON. Did any information suggest that they were engaging in illegal or violent operations?

Ms. COOK. No.

Senator HUDDLESTON. You indicated that part of your disenchantment, too, was that information you furnished was being used against these people.

What did you mean by that?

Ms. COOK. I mean going to someone's employer and telling them that the person that is working with them is a Communist and a dangerous person and ought not to be employed, and people being fired. People were very afraid that the FBI was watching them because the FBI did not agree with their policies, and when the FBI would come to their door to talk to them, they didn't want to talk with the FBI. The fact that their employers were being talked to and that their political views were being discussed with their employer with an eye toward terminating their employment—that worried them, it upset them.

Senator HUDDLESTON. You did not feel it was justified on the basis of their participation or activity in the Vietnam Veterans Against the War?

Ms. COOK. Definitely not.

Senator HUDDLESTON. In your judgment, did the FBI have an exaggerated concern about this organization as far as it being a threat to the United States?

Ms. COOK. Yes; and nothing I could say could change that.

Senator HUDDLESTON. They persisted in that attitude, despite the fact that the information you had given them tended to lead in the other direction.

Ms. COOK. Yes.

Senator HUDDLESTON. Do you have any idea what happened to the information they collected on the 1,000 persons you estimate you supplied to them? Was it set up in files? Is it still maintained?

Ms. COOK. My information was that they say that most of the information I gave them was going to be kept at the local level, except that I got several telephone calls relayed to me through Gary from Washington, based on the reports I was turning in, so that I knew that information wasn't just remaining at the local level. It was going to Washington, and decisions were coming from Washington. Other than that, I don't know where the information went.

Senator HUDLESTON. Mr. Rowe, certainly on the event of Mother's Day, 1961, there was complicity with the Birmingham police officials in the violent actions that occurred. Were there ever instances in your experiences where police officials collaborated in or were accomplices to violent and illegal acts?

Mr. ROWE. Absolutely, sir. We on several occasions rode around in Birmingham police automobiles surveilling some of the churches.

Senator HUDDLESTON. Rode around in the automobiles?

Mr. ROWE. In the automobiles; yes, sir. There were as many as three to five Klansmen on the police department.

Senator HUDDLESTON. Was the FBI made aware of this?

Mr. ROWE. Yes, sir, absolutely, on many occasions.

Senator HUDDLESTON. Were there any instances where the FBI reported that fact to the Attorney General or any other legal official with the U.S. Government?

Mr. ROWE. Sir, I really wouldn't know. I wouldn't be in a position to answer that. I really don't know. I was just involved with my contact agent.

Senator HUDDLESTON. You didn't see the result of any action along that line?

Mr. ROWE. Absolutely none.

Senator HUDDLESTON. Just one other question.

You switched from being a nonparticipant in violent actions in the Klan, to a participant when the FBI changed to so-called COINTEL PRO which involved disruption. During this phase of your participation, were there serious efforts to prevent violent actions from occurring?

Mr. ROWE. Sir, to the best of my personal knowledge, only in one or possibly two instances. I know of one incident that they did prevent violence, but that was the only one. There were many that they could have prevented, but they did not.

Senator HUDDLESTON. In the May 21 incident, the FBI did send additional agents into Birmingham prior to that march, did they not?

Mr. ROWE. That is correct.

Senator HUDDLESTON. But as far as you know, none of them made any efforts to prevent the violence from occurring?

Mr. ROWE. Sir, if I may, at the time of the incident itself, along with the Birmingham incident I observed, I observed several FBI, in fact, taking movies of the beatings at the bus station.

Senator HUDDLESTON. And they did nothing to stop it?

Mr. ROWE. No.

Senator TOWER. Senator Hart of Colorado.

Senator HART of Colorado. Mr. Rowe, during the period we are discussing here, you attended a number of civil rights rallies or meetings. Is that correct?

Mr. ROWE. Yes, sir.

Senator HART of Colorado. And at the time that you were gathering information for the FBI about Klan activities, you were also in effect gathering information for the Klan about civil rights activities; is that correct?

Mr. ROWE. That is correct, sir.

Senator HART of Colorado. Were there ever occasions in this double agent capacity when information you gathered in your capacity as an FBI informant, information that had to do with civil rights groups or activities, was passed on to the Klan to the detriment of those civil rights groups?

Mr. ROWE. Sir, I don't believe I understand the question, but if I understand it correctly, I at no time used any information that I knew of or was aware of and passed it on to the Klan; absolutely not.

Senator HART of Colorado. I'm sorry, I missed the last part of that. You didn't use that information in what way?

Mr. ROWE. I passed on absolutely nothing to the Klan that I learned or obtained from various agents in the Bureau. I'm not sure what you are asking.

Senator HART of Colorado. I'm merely trying to find out if in covering or attending the civil rights meetings on the one hand for the FBI as a Klan informant, were you also gathering information about the civil rights activities for the Klan in a way that would encourage the Klan to act adversely to those civil rights groups?

Mr. ROWE. No, sir.

Senator HART of Colorado. One other question.

We've had considerable testimony in the last few weeks about the Federal Bureau of Investigation in relationship to Dr. King. [See

footnote, p. 21.] Part of their animosity to Dr. King sprang originally from late 1962 in which he gave an interview critical of the FBI, and I think that interview appeared in the Atlanta Constitution in November of 1962. He said, among other things, agents of the FBI in Albany, Ga., are siding with segregationists. This apparently agitated the Bureau considerably, and in early 1963, Bureau memorandums indicate that at the direction of Mr. Hoover, Mr. DeLoach and Mr. Sullivan tried to contact Dr. King to set him straight about the fact that the Bureau is not siding with segregationists and so on.

In one memorandum, January 15, 1963, when their attention to Dr. King first began, a DeLoach memorandum says, "It would appear obvious"—after Dr. King refused to talk to him—"It would appear obvious that Reverend King does not desire to be told the true facts. He obviously uses deceit, lies, and treachery as propaganda to further his own cause."

This memorandum and other memorandums go ahead to indicate Dr. King didn't know what he was talking about, that he was lying about the Bureau's involvement with the Klan and other groups.

Now, from that began the Bureau's harassment, if you will, of Dr. King that continued for a number of years, ending only with his death. It seems to me that from what you have told us here today and from other information gathered by the staff, that in fact Dr. King was right and the Bureau was either deceiving itself or just not telling the truth internally when it indicated that Dr. King was lying about the Bureau's own involvement with Klan activities. Is that correct?

Mr. ROWE. Sir, that's very difficult to answer, but I believe that you're on the right track; yes.

Senator HART of Colorado. Thank you very much.

Senator TOWER. I should inform my colleagues that there is a record vote in progress on the Senate floor.

Ms. Cook, you have testified that the FBI urged you to remain as an informant after you had informed them of your decision to terminate. Did they at any subsequent time ask you to return to your role as an informant?

Ms. COOK. I believe that the telephone call that I received in February 1974 was that kind of a telephone call. I had been working in a plant for 3 months. I had been fired twice. Within 2 days of my second firing at that plant, the FBI called and asked me a couple of questions as to whether or not the local chapter would be leaving the national organization, indicated that if the chapter would resign, that there would be no longer any necessity for an informant, and I refused to tell them the political position that I was going to take in relationship to that, and I said, "I don't want to talk to you any more," and I hung up.

It was my feeling that the coincidence of my losing my job and their calling me was perhaps more than a coincidence.

Senator TOWER. Ms. Cook, in addition to the $300 or $400 a month that the FBI paid you, did they provide you with any other financial incentives to perform as an informant, any other kind of assistance, job assistance or anything?

Ms. COOK. Well, they did get me a job. They got me the job at M. & T. Bank. They also got the man that I was living with a job at a gun supply store where the agents bought their guns. As part of work-

ing for M. & T. Bank, I went into teller training, and part of that training taught me how to identify weapons, how to identify a person who just walks in and leaves. I didn't see the significance of that kind of training—I mean, I see the significance for a bank, but I would assume that my getting a teller's position when I went through that kind of training also did not hurt the purposes of the Bureau in hiring me also.

Senator TOWER. Mr. Rowe, how often did you report to the FBI? Was it once or twice a week or daily or what?

Mr. ROWE. Certainly when I first entered the organization, I was reporting on an average of one to three times a week. Just prior to leaving the organization, I was reporting as many as seven times a day.

Senator TOWER. Seven times a day?

Mr. ROWE. Yes; telephonically.

Senator TOWER. Mr. Rowe, in 1961, Dr. Martin Luther King charged that the FBI was cooperating with violence-prone local police. Mr. Hoover strongly challenged this allegation. In your view, did the Freedom Riders incident represent an aberration, or was it indicative of the general policy of refusing to prevent violence, even when the FBI was warned or advised in advance of the occurrence?

Mr. ROWE. I believe my answer to that would be that there were a couple of times that violence was prolonged. I can't say it was stopped, it was prolonged, but in general, the Birmingham Police Department and the sheriff's office of Jefferson County were definitely involved in the violence. I was there and I was a witness to it, and nothing was done about it.

Senator TOWER. Are you aware of any other similar instances in which the local police were involved?

Mr. ROWE. Yes, sir; I am.

Senator TOWER. So this was indicative of something that occurred fairly generally, then, and the Freedom Riders is not an isolated incident?

Mr. ROWE. No, sir, it's definitely not isolated.

Senator TOWER. Thank you, Mr. Rowe.

Senator Hart?

Senator HART of Michigan. On this business, I'm still not sure what benefit could accrue to the FBI, with its informants contributing to violence. There were instances where you advised the FBI in advance of planned violent activity by the Klan, right?

Mr. ROWE. Yes, sir.

Senator HART of Michigan. How many times would that advance information prevent the anticipated violence? Anytime?

Mr. ROWE. Yes, sir. Actually——

Senator HART of Michigan. Usually?

Mr. ROWE. Not normally, but on several occasions it did, yes, sir. But not as often as they could have, in my belief. I believe that each and every instance that I reported to the Bureau, with the advance knowledge that they had, someone in this country could have been there to prevent that. I believe that. That's all I can say.

Senator HART of Michigan. Can you give us an estimate as to how many such reports of anticipated violence you gave the Bureau?

Mr. ROWE. Sir, well in the high dozens.

Senator HART of Michigan. In the high dozens. How many times were those planned violent activities prevented?

Mr. ROWE. Two to my knowledge that I can actually testify to, and I understand from another agent, one other time. But I can testify as to two times.

Senator HART of Michigan. Was there any difference in the type of report that you made in those two cases and the several dozen other cases?

Mr. ROWE. No, sir; absolutely not.

Senator HART of Michigan. And were the two cases where your report did result in the prevention of violence toward the end of your association with the Bureau?

Mr. ROWE. No, sir. I would have to say along the middle, almost in the middle of the time.

Senator TOWER. You have testified that there were several instances in which local police were cooperating with the Klan in acts of violence.

Mr. ROWE. That's correct, sir.

Senator TOWER. And the FBI had been forewarned of some of these instances that this violence would occur, and that they would occur at a certain time.

Mr. ROWE. In every instance that I was aware of, yes.

Senator TOWER. To your knowledge, did the FBI do anything to circumvent the local police in an effort to prevent this violence from occurring?

Mr. ROWE. Sir, I think maybe I should just state it briefly and see if I can answer the question. On one occasion, the Klan was on the way to Tuscaloosa, to the university, at a time when Governor Wallace was going to have his stand in the doorway to prevent integration of the university, I along with several other Klansmen were arrested outside of Tuscaloosa, Ala. by the highway patrol and elements of the FBI. They seized various types of weapons from us. We were incarcerated that afternoon in the Tuscaloosa County Jail. We remained in jail throughout the evening until Bobby Shelton came down and arranged the release for approximately 35 of us. The weapons were confiscated, and the release was on our own recognizance, but we would have to have a hearing on it. The next morning I received a call from Robert Thomas who was the Exalted Cyclops, like the president of the Klan, and he said to me that he wanted me to go to Tuscaloosa with him. I went to Tuscaloosa, went to the courthouse. We spoke with the judge. The judge took us over to the district attorney. The district attorney says, "is it all right if we release the boys' weapons to them now," and the judge says yeah. He slapped me on the shoulder personally, and then he turned around and shook my hand, and he said, "I want to congratulate you for being an outstanding goddam American. We need some more people down here like that. But I want you to be careful because somewhere in your group you have a goddam snitch." That's exactly what the judge said to me, he said, "because I had to put you boys in jail last night. If I didn't the troops would probably come into Alabama, and I don't want that." He says, "take your weapons and use them well." He returned our weapons to us. I then returned to Birmingham, advised the agents what had

transpired, that I had the weapons back in my possession, and the agents were aghast. They said, you can't have these weapons back in your possession. They are locked in our vault. And I said, "well, you'd better come down and look because in the trunk of my automobile—" the agents came out, took the serial numbers of the weapons to confirm the fact that we had been given our weapons back, and that's the last of the incident I ever heard.

Senator TOWER. So the FBI then apparently went to the State police to try to prevent this violence.

Mr. ROWE. That's what I believe, yes.

Senator TOWER. So there was a level of cooperation there.

Mr. ROWE. Limited, yes, sir.

Senator TOWER. And what other instances were there of local police cooperation? What others specifically can you name that you know of?

Mr. ROWE. Sir, on the same occasion when we were incarcerated in Tuscaloosa, there was a State investigator. A couple of Klansmen were very upset, very nervous, highly nervous during interrogation, and they gave us a quick interrogation as to why we were coming up to Tuscaloosa with all these weapons. A State investigator called me outside the room and said, "go back in there and tell that goddamn Klansman to keep his mouth shut, that something may come up about the bombing and you tell him to shut up. I may have to ask him some questions." I related this information to the Bureau the same night.

On another occasion, the chief deputy of the Jefferson County Sheriff's Department contacted me, and I in turn, on each occasion, contacted higher authorities of the Klan when they wanted something done. I at no time left this to my discretion. I left it to the higher echelon of the Klan. The agreement was set up with the cooperation of the Jefferson County Sheriff's Department. There was a country club on the outskirts of Birmingham called the Sand Ridge Country Club. This country club was set up where the Klansmen were—there were approximately 35 Klansmen involved, along with approximately 20 county deputies, and the chief deputy. We went out to this club on Saturday night. We were supplied evidence to place in this club. They told us, all you do at a quarter to midnight, you get this stuff in the various places, and they described where the various places were. We left the merchandise. At 12 o'clock the prearranged agreement was that they had two female deputies there also. When the female deputy got up to dance with her escort, that was the signal for the raid. At that point, everybody participated in the raid. They arrested several people that night, took them away, and subsequently padlocked the country club. That is the last time we heard of this. This was reported to the FBI approximately a week and a half, two weeks prior to its taking place.

Senator TOWER. Thank you, Mr. Rowe. I believe there are no further questions.

I want to thank you, Ms. Cook, and you, Mr. Rowe, for your cooperation with the committee, and your very significant and helpful testimony.

Thank you very much.

The committee will stand in recess for 3 minutes while we bring forth the other witness.

[A brief recess was taken.]

Senator TOWER. The next witnesses to appear before the committee are Mr. James Adams, Assistant to the Director-Deputy Associate Director (Investigation), responsible for all investigative operations; Mr. W. Raymond Wannall, Assistant Director, Intelligence Division, responsible for internal security and foreign counterintelligence investigations; Mr. John A. Mintz, Assistant Director, Legal Counsel Division; Joseph G. Deegan, section chief, extremist investigations; Mr. Robert L. Shackelford, section chief, subversive investigations; Mr. Homer A. Newman, Jr., assistant to section chief, supervises extremist informants; Mr. Edward P. Grigalus, unit chief, supervises subversive informants; Joseph G. Kelley, assistant section chief, civil rights section, General Investigative Division.

Gentlemen, will you all rise and be sworn?

Do you solemnly swear the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ADAMS. I do.

Mr. WANNALL. I do.

Mr. MINTZ. I do.

Mr. DEEGAN. I do.

Mr. SCHACKELFORD. I do.

Mr. NEWMAN. I do.

Mr. GRIGALUS. I do.

Mr. KELLEY. I do.

Senator TOWER. It is intended that Mr. Wannall will be the principal witness, and we will call on others as questioning might require, and I would direct each of you when you do respond, to identify yourselves, please, for the record.

I think that we will spend just a few more minutes to allow the members of the committee to return from the floor.

[A brief recess was taken.]

Senator TOWER. The committee will come to order.

Mr. Wannall, according to data, informants provide 83 percent of your intelligence information. Now, will you provide the committee with some information on the criteria for the selection of informants?

TESTIMONY OF JAMES B. ADAMS, ASSISTANT TO THE DIRECTOR—DEPUTY ASSOCIATE DIRECTOR (INVESTIGATION) FEDERAL BUREAU OF INVESTIGATION; W. RAYMOND WANNALL, ASSISTANT DIRECTOR, INTELLIGENCE DIVISION; ACCOMPANIED BY JOHN A. MINTZ, ASSISTANT DIRECTOR, LEGAL COUNSEL DIVISION; JOSEPH G. DEEGAN, SECTION CHIEF; ROBERT L. SHACKLEFORD, SECTION CHIEF; HOMER A. NEWMAN, JR., ASSISTANT TO SECTION CHIEF; EDWARD P. GRIGALUS, UNIT CHIEF; AND JOSEPH G. KELLEY, ASSISTANT SECTION CHIEF, CIVIL RIGHTS SECTION, GENERAL INVESTIGATIVE DIVISION

Mr. WANNALL. Mr. Chairman, that is not FBI data that you have quoted. That was prepared by the General Accounting Office.

Senator TOWER. That is GAO.

Mr. WANNALL. Based on a sampling of about 900 cases.

Senator TOWER. Would that appear to be a fairly accurate figure?

Mr. WANNALL. I have not seen any survey which the FBI itself has conducted that would confirm that, but I think that we do get the principal portion of our information from live sources.

Senator TOWER. It would be a relatively high percentage then?

Mr. WANNALL. I would say yes. And your question is, what criteria?

Senator TOWER. What criteria do you use in the selection of informants?

Mr. WANNALL. Well, the criteria vary with the needs. In our cases relating to extremist matters, surely in order to get an informant who can meld into a group which is engaged in a criminal-type activity, you're going to have a different set of criteria. If you're talking about our internal security matters, I think we set rather high standards. We do require that a preliminary inquiry be conducted which would consist principally of checks of our headquarters indexes, our field office indexes, checks with other informants who are operating in the same area, and in various established sources such as local police departments.

Following this, if it appears that the person is the type who has credibility, can be depended upon to be reliable, we would interview the individual in order to make a determination as to whether or not he will be willing to assist the FBI in discharging its responsibilities in that field.

Following that, assuming that the answer is positive, we would conduct a rather indepth investigation for the purpose of further attempting to establish credibility and reliability.

Senator TOWER. How does the Bureau distinguish between the use of informants for law enforcement as opposed to intelligence collection? Is the guidance different, or is it the same?

Mr. WANNALL. Well, Mr. Adams can probably best address the use of informants on criminal matters since he heads the operational division on that.

Mr. ADAMS. You do have somewhat of a difference in the fact that with a criminal informant in a law-enforcement function, you are trying to develop evidence which will be admissible in court for prosecution, whereas with intelligence, the informant alone, your purpose could either be prosecution or it could be just for the purposes of pure intelligence.

The difficulty in both is retaining the confidentiality of the individual and protecting the individual, and trying, through use of the informant, to obtain evidence which could be used independently of the testimony of the informant so that he can continue operating as a criminal informant.

Senator TOWER. Are these informants ever authorized to function as provocateurs?

Mr. ADAMS. No, sir, they're not. We have strict regulations against using informants as provocateurs. This gets into that delicate area of entrapment which has been addressed by the courts on many occasions and has been concluded by the courts that providing an individual has a willingness to engage in an activity, the Government has the right to provide him the opportunity. This does not mean, of course, that mistakes don't occur in this area, but we take whatever steps we can to avoid this. Even the law has recognized that informants can engage in criminal activity, and the courts have held that, espe-

cially the Supreme Court in the *Newark County* case, that the very difficulty of penetrating an ongoing operation, that an informant himself can engage in criminal activity, but because there is lacking this criminal intent to violate a law, we stay away from that. Our regulations fall short of that.

If we have a situation where we felt that an informant has to become involved in some activity in order to protect or conceal his use as an informant, we go right to the U.S. attorney or to the Attorney General to try to make sure we are not stepping out of bounds insofar as the use of our informants.

Senator TOWER. But you do use these informants and do instruct them to spread dissension among certain groups that they are informing on, do you not?

Mr. ADAMS. We did when we had the COINTELPRO, which were discontinued in 1971, and I think the Klan is probably one of the best examples of a situation where the law was in effect at the time. We heard the term "states rights" used much more then than we hear it today. We saw in the Little Rock situation the President of the United States, in sending in the troops, pointing out the necessity to use local law enforcement. We must have local law enforcement, to use the troops only as a last resort.

And then you have a situation like this where you do try to preserve the respective roles in law enforcement. You have historical problems with the Klan coming along. We had situations where the FBI and the Federal Government were almost powerless to act. We had local law enforcement officers in some areas participating in Klan violence.

The instances mentioned by Mr. Rowe, every one of those, he saw them from the lowest level of the informant. He didn't see what action was taken with that information, as he pointed out in his testimony. Our files show that this information was reported to the police departments in every instance. We also knew that in certain instances the information, upon being received, was not being acted upon. We also disseminated simultaneously through letterhead memorandums to the Department of Justice the problem, and here, here we were, the FBI, in a position where we had no authority in the absence of instruction from the Department of Justice, to make an arrest.

Sections 241 and 242 do not cover it because you don't have evidence of a conspiracy, and it ultimately resulted in a situation where the Department called in U.S. marshals who do have authority similar to local law enforcement officials. So, historically, in those days, we were just as frustrated as anyone else was, and when we got information from someone like Mr. Rowe, good information, reliable information, and it was passed on to those who had the responsibility to do something about it, it was not always acted upon, as he indicated.

Senator TOWER. In none of these cases, then, was there adequate evidence of conspiracy to give you jurisdiction to act?

Mr. ADAMS. The departmental rules at that time required, and still require, departmental approval where you have a conspiracy. Under 241, it takes two or more persons acting together. You can have a mob scene, and you can have blacks and whites belting each other, but unless you can show that those that initiated the action acted in concert in a conspiracy, you have no violation.

Congress recognized this, and it wasn't until 1968 that they came along and added section 245 to the civil rights statute, which added punitive measures against an individual that didn't have to be a conspiracy. But this was a problem that the whole country was grappling with; the President of the United States, Attorney General. We were in a situation where we had rank lawlessness taking place, as you know from a memorandum we sent you that we sent to the Attorney General. The accomplishments we were able to obtain in preventing violence and in neutralizing the Klan—and that was one of the reasons.

Senator TOWER. What was the Bureau's purpose in continuing or urging the continued surveillance of the Vietnam Veterans Against the War? Was there a legitimate law enforcement purpose, or was the intent to halter political expression?

Mr. ADAMS. We had information on the Vietnam Veterans Against the War that indicated that there were subversive groups involved. They were going to North Vietnam and meeting with the Communist forces. They were going to Paris, attending meetings paid for and sponsored by the Communist Party, the International Communist Party. We feel that we had a very valid basis to direct our attention to the VVAW.

It started out, of course, with Gus Hall in 1967, who was head of the Communist Party, USA, and the comments he made, and what it finally boiled down to was a situation where it split off into the Revolutionary Union, which was a Maoist group, and the hardline Communist group, and at that point factionalism developed in many of the chapters, and they closed those cases where there was no longer any intent to follow the national organization.

But we had a valid basis for investigating it, and we investigated chapters to determine if there was affiliation and subservience to the national office.

Senator TOWER. Mr. Hart.

Senator HART of Michigan. But in the process of chasing after the Veterans Against the War, you got a lot of information that clearly has no relationship to any Federal criminal statute.

Mr. ADAMS. I agree, Senator.

Senator HART of Michigan. Why don't you try to shut that stuff off by simply telling the agent, or your informant?

Mr. ADAMS. Here is the problem that you have with that. When you're looking at an organization, do you report only the violent statements made by the group or do you also show that you may have one or two violent individuals, but you have some of these church groups that were mentioned, and others, that the whole intent of the group is not in violation of the statutes. You have to report the good, the favorable along with the unfavorable, and this is a problem. We wind up with information in our files. We are accused of being vacuum cleaners, and you are a vacuum cleaner. If you want to know the real purpose of an organization, do you only report the violent statements made and the fact that it is by a small minority, or do you also show the broad base of the organization and what it really is?

And within that is where we have to have the guidelines we have talked about before. We have to narrow down, because we recognize that we do wind up with too much information in our files.

66-077 O - 76 - 10

Senator HART of Michigan. But in that vacuuming process, you are feeding into departmental files the names of people who are—who have been engaged in basic first amendment exercises, and this is what hangs some of us up.

Mr. ADAMS. It hangs me up. But in the same files I imagine everyone of you has been interviewed by the FBI, either asking you about the qualifications of some other Senator being considered for a Presidential appointment, being interviewed concerning some friend who is applying for a job.

Were you embarrassed to have that in the files of the FBI?

Now, someone can say, as reported at our last session, that this is an indication, the mere fact that we have a name in our files has an onerous impression, a chilling effect. I agree. It can have, if someone wants to distort what we have in our files, but if they recognize that we interviewed you because of considering a man for the Supreme Court of the United States, and that isn't distorted or improperly used, I don't see where any harm is served by having that in our files.

Senator HART of Michigan. But if I am Reverend Smith and the vacuum cleaner picked up the fact that I was helping the veterans, Vietnam Veterans Against the War, and 2 years later a name check is asked on Reverend Smith and all your file shows is that he was associated 2 years ago with a group, that was enough, if you believed them to be of doubtful patriotism, to justify turning loose a lot of your energy in pursuit of them.

Mr. ADAMS. This is a problem.

Senator HART of Michigan. This is what should require us to rethink this whole business.

Mr. ADAMS. Absolutely. And this is what I hope the guidelines committees as well as the congressional input are going to address themselves to.

Senator HART of Michigan. We've talked about a wide range of groups which the Bureau can and has had informant penetration and report on. Your manual, the Bureau manual's definition of when an extremist or security investigation may be undertaken, refers to groups whose activity either involves violation of certain specified laws, or which may result in the violation of such law, and when such an investigation is opened, then informants may be used.

Another guideline says that domestic intelligence investigations now must be predicated on criminal violations. The agent need only cite a statute suggesting an investigation relevant to a potential violation. Even now, with an improved, upgraded effort to avoid some of these problems, we are back again in a world of possible violations or activities which may result in illegal acts.

Now, any constitutionally protected exercise of the right to demonstrate, to assemble, to protest, to petition, conceivably may result in violence or disruption of a local town meeting, when a controversial social issue might result in disruption. It might be by hecklers rather than those holding the meeting. Does this mean that the Bureau should investigate all groups organizing or participating in such a meeting because they may result in violence, disruption?

Mr. ADAMS. No, sir.

Senator HART of Michigan. Isn't that how you justify spying on almost every aspect of the peace movement?

Mr. ADAMS. No, sir. When we monitor demonstrations, we monitor demonstrations where we have an indication that the demonstration itself is sponsored by a group that we have an investigative interest in, a valid investigative interest in, or where members of one of these groups are participating where there is a potential that they might change the peaceful nature of the demonstration.

But this is our closest question of trying to draw guidelines to avoid getting into an area of infringing on the first amendment rights of people, yet at the same time being aware of groups such as we have had in greater numbers in the past than we do at the present time. But we have had periods where the demonstrations have been rather severe, and the courts have said that the FBI has a right, and indeed a duty, to keep itself informed with respect to the possible commission of crime. It is not obliged to wear blinders until it may be too late for prevention.

And that's a good statement if applied in a clear-cut case. Our problem is where we have a demonstration and we have to make a judgment call as to whether it is one that clearly fits the criteria of enabling us to monitor the activities, and that's where I think most of our disagreements fall.

Senator HART of Michigan. Let's assume that the rule for opening an investigation on a group is narrowly drawn. The Bureau manual states that informants investigating a subversive organization should not only report on what that group is doing but should look at and report on activities in which the group is participating.

There is a section 873B dealing with reporting on connections with other groups. That section says that the field office shall "determine and report on any significant connection or cooperation with nonsubversive groups." Any significant connection or cooperation with nonsubversive groups.

Now let's look at this in practice. In the spring of 1969 there was a rather heated national debate over the installation of the antiballistic missile system. Some of us remember that. An FBI informant and two FBI confidential sources reported on the plan's participants and activities of the Washington Area Citizens Coalition Against the ABM, particularly in open public debate in a high school auditorium, which included speakers from the Defense Department for the ABM and a scientist and defense analyst against the ABM.

The informants reported on the planning for the meeting, the distribution of materials to churches and schools, participation by local clergy, plans to seek resolution on the ABM from nearby town councils. There was also information on plans for a subsequent town meeting in Washington with the names of local political leaders who would attend.

Now the information, the informant information, came as part of an investigation of an allegedly subversive group participating in that coalition. Yet the information dealt with all aspects and all participants. The reports on the plans for the meeting and on the meeting itself were disseminated to the State Department, to military intelligence, and to the White House.

How do we get into all of that?

Mr. ADAMS. Well——

Senator HART of Michigan. Or if you were to rerun it, would you do it again?

Mr. ADAMS. Well, not in 1975, compared to what 1969 was. The problem we had at the time was where we had an informant who had reported that this group, this meeting was going to take place and it was going to be the Daily Worker, which was the east coast Communist newspaper that made comments about it. They formed an organizational meeting. We took a quick look at it. The case apparently was opened on May 28, 1969, and closed June 5, saying there was no problem with this organization.

Now the problem we get into is if we take a quick look and get out, fine. We've had cases, though, where we have stayed in too long. When you're dealing with security it is like Soviet espionage where they can put one person in this country, and they supported him with total resources of the Soviet Union, false identification, all the money he needs, communications networks, satellite assistance, and everything, and you're working with a paucity of information.

The same problem exists to a certain extent in domestic security. You don't have a lot of black and white situations. So someone reports something to you which you feel, you take a quick look at, and there's nothing to it, and I think that's what they did.

Senator HART of Michigan. You said that was 1969. Let me bring you up to date, closer to current—a current place on the calendar. This one is the fall of last year, 1974. President Ford announced his new program with respect to amnesty, as he described it, for draft resistors. Following that there were several national conferences involving all the groups and individuals interested in unconditional amnesty.

Now parenthetically, while unconditional amnesty is not yet the law, we agreed that advocating it is not against the law either.

Mr. ADAMS. That's right.

Senator HART of Michigan. Some of the sponsors were umbrella organizations involving about 50 diverse groups around the country. FBI informants provided advance information on plans for the meeting and apparently attended and reported on the conference. The Bureau's own reports described the participants as having represented diverse perspectives on the issue of amnesty, including civil liberties and human rights groups, GI rights spokesman, parents of men killed in Vietnam, wives of expatriates in Canada, experts on draft counseling, religious groups interested in peace issues, delegates from student organizations, and aids of House and Senate Members; drafting legislation on amnesty.

The informant apparently was attending in his role as a member of a group under investigation as allegedly subversive, and it described the topics of the workshop.

Ironically, the Bureau office report before them noted that in view of the location of the conference at a theological seminary, the FBI would use restraint and limit its coverage to informant reports.

Now this isn't 5 or 10 years ago. This is last fall. And this is a conference of people who have the point of view that I share, that the sooner we have unconditional amnesty, the better for the soul of the country.

Now what reason is it for a vacuum cleaner approach on a thing like that? Don't these instances illustrate how broad informant intel-

ligence really is, that would cause these groups in that setting having contact with other groups, all and everybody is drawn into the vacuum and many names go into the Bureau files.

Is this what we want?

Mr. ADAMS. I'll let Mr. Wannall address himself to this. He is particularly knowledgeable as to this operation.

Mr. WANNALL. Senator Hart, that was a case that was opened on November 14 and closed November 20, and the information which caused us to be interested in it were really two particular items. One was that a member of the steering committee, there was a three-man steering committee, and one of those members of the national conference was, in fact, a national officer of the VVAW in whom we had suggested before we did have a legitimate investigative interest.

Senator HART of Michigan. Well, I would almost say, so what, at that point.

Mr. WANNALL. The second report we had was that the VVAW would actively participate in an attempt to pack the conference to take it over. And the third report we had——

Senator HART of Michigan. And incidentally, all of the information that your Buffalo informant had given you with respect to the goals and aims of the VVAW, gave you a list of goals which were completely within constitutionally protected objectives. There wasn't a single item out of that VVAW that jeopardizes the security of this country at all.

Mr. WANNALL. Well, of course, we did not rely entirely on the Buffalo informant, but even there we did receive from that informant information which I considered to be significant.

The Buffalo chapter of the VVAW was the regional office covering New York and northern New Jersey. It was one of the five most active VVAW chapters in the country and at a national conference, or at the regional conference, this informant reported information back to us that an attendee at the conference announced that he had run guns into Cuba prior to the Castro takeover. He himself said that he, during the Cuban crisis, had been under 24-hour surveillance. There was also discussion at the conference of subjugating the VVAW to the Revolutionary Union. There were some individuals in the chapter or the regional conference who were not in agreement with us, but Mr. Adams has addressed himself to the interest of the Revolutionary Union.

So all of the information that we had on the VVAW did not come from that source but even that particular source did give us information which we considered to be of some significance in our appraisal of the need for continuing the investigation of that particular chapter of the VVAW.

Senator HART of Michigan. But does it give you the right or does it create the need to go to a conference, even if it is a conference that might be taken over by the VVAW, when the subject matter is how and by what means shall we seek to achieve unconditional amnesty? What threat?

Mr. WANNALL. Our interest, of course, was the VVAW influence on a particular meeting, if you ever happened to be holding a meeting, or whatever subject it was.

Senator HART of Michigan. What if it was a meeting to seek to make more effective the food stamp system in this country?

Mr. WANNALL. Well, of course there had been some organizations.

Senator HART of Michigan. Would the same logic follow?

Mr. WANNALL. I think that if we found that if the Communist Party, U.S.A., was going to take over the meeting and use it as a front for its own purposes, there would be a logic in doing that. You have a whole scope here and it's a matter of where you do and where you don't, and hopefully, as we've said before, we will have some guidance, not only from this committee, but from the guidelines that are being developed. But within the rationale of what we're doing today, I was explaining to you our interest not in going to this thing and not gathering everything there was about it.

In fact, only one individual attended and reported to us, and that was the person who had—who was not developed for this reason, an informant who had been reporting on other matters for some period of time.

And as soon as we got the report of the outcome of the meeting and the fact that in the period of some 6 days, we discontinued any further interest.

Senator HART of Michigan. Well, my time has expired but even this brief exchange, I think, indicates that if we really want to control the dangers to our society of using informants to gather domestic political intelligence, we have to restrict sharply domestic intelligence investigations. And that gets us into what I would like to raise with you when my turn comes around again, and that's the use of warrants, obliging the Bureau to obtain a warrant before a full-fledged informant can be directed by the Bureau against a group or individuals.

I know you have objections to that and I would like to review that with you.

Senator MONDALE. Pursue that question.

Senator HART of Michigan. I am talking now about an obligation to obtain a warrant before you turn loose a full-fledged informant. I'm not talking about tipsters that run into you or you run into, or who walk in as information sources. The Bureau has raised some objections in this memorandum to the committee, exhibit 33.[1] The Bureau argues that such a warrant requirement might be unconstitutional because it would violate the first amendment rights of FBI informants to communicate with their Government.

Now that's a concern for first amendment rights that ought to hearten all the civil libertarians.

But why would that vary, why would a warrant requirement raise a serious constitutional question?

Mr. ADAMS. Well, for one thing it's the practicability of it or the impracticability of getting a warrant which ordinarily involves probable cause to show that a crime has been or is about to be committed.

In the intelligence field, we are not dealing necessarily with an imminent criminal action. We're dealing with activities such as with the Socialist Workers Party, which we have discussed before, where they say publicly we're not to engage in any violent activity today, but we guarantee you we still subscribe to the tenets of Communism and that when the time is ripe, we're going to rise up and help overthrow the United States.

[1] See p. 444.

Well, now, you can't show probable cause if they're about to do it because they're telling you they're not going to do it and you know they're not going to do it at this particular moment.

It's just the mixture somewhat of trying to mix a criminal procedure with an intelligence-gathering function, and we can't find any practical way of doing it. We have a particular organization. We may have an informant that not only belongs to the Communist Party, but belongs to several other organizations and as part of his function he may be sent out by the Communist Party to try to infiltrate one of these clean organizations.

We don't have probable cause for him to target against that organization, but yet we should be able to receive information from him that he, as a Communist Party member, even though in an informant status, is going to that organization and don't worry about it. We're making no headway on it. It's just not feasible from our standpoint—an impossibility to obtain warrants to use informants. The Supreme Court has held that informants *per se* do not violate the first, fourth, or fifth amendments. They have recognized the necessity that the Government has to have individuals who will assist them in carrying out their governmental duties.

Senator HART of Michigan. I'm not sure I've heard anything yet in response to the constitutional question, the very practical question that you addressed.

Quickly, you are right that the Court has said that the use of the informant *per se* is not a violation of constitutional rights of the subject under investigation. But Congress can prescribe some safeguards, some rules and some standards, just as we have with respect to your use of electronic surveillance, and could do it with respect to informants.

That's quite different from saying that the warrant procedure itself would be unconstitutional.

But with respect to the fact that you couldn't show probable cause, and therefore, you couldn't get a warrant, therefore you oppose the proposal to require you to get a warrant. It seems to beg the question.

Assuming you say that, since we use informants and investigate groups which may only engage in lawful activities but which might also engage in activities that can result in violence or illegal acts, you can't use the warrant. But Congress could say that the use of informants is subject to such abuse and poses such a threat to legitimate activity, including the willingness of people to assemble and discuss the antiballistic missile system, that we don't want you to use them unless you have indication of criminal activity or unless you present your request to a magistrate in the same fashion as you are required to do with respect to, in most cases, wiretaps.

This is an option available to Congress.

Senator TOWER. Senator Schweiker.

Senator SCHWEIKER. Thank you very much.

Mr. Wannall, what's the difference between a potential security informant and a security informant?

Mr. WANNALL. I mentioned earlier, Senator Schweiker, that in developing an informant we do a preliminary check on him before talking with him and then we do a further in-depth background check.

A potential security informant is someone who is under consideration before he is approved by headquarters for use as an informant. He is someone who is under current consideration. On some occasions that person will have been developed to a point where he is in fact furnishing information and we are engaged in checking upon his reliability.

In some instances he may be paid for information furnished, but it has not gotten to the point yet where we have satisfied ourselves that he meets all of our criteria. When he does, the field must submit its recommendations to headquarters, and headquarters will pass upon whether that individual is an approved FBI informant.

Senator SCHWEIKER. So it's really the first step of being an informant, I guess.

Mr. WANNALL. It is a preliminary step, one of the preliminary steps.

Senator SCHWEIKER. In the testimony by Rowe that we just heard, what was the rationale again for not intervening when violence was known?

I know we asked you several times but I'm still having trouble understanding what the rationale, Mr. Wannall, was in not intervening in the Rowe situation when violence was known?

Mr. WANNALL. Senator Schweiker, Mr. Adams did address himself to that. If you have no objection, I'll ask him to answer that.

Senator SCHWEIKER. All right.

Mr. ADAMS. The problem we had at the time, and it's the problem today, is that we are an investigative agency. We do not have police powers like the U.S. marshals do. Since about 1795, I guess, or some period like that, marshals have had the authority that almost borders on what a sheriff has. We are the investigative agency of the Department of Justice and during these times the Department of Justice had us maintain the role of an investigative agency. We were to report on activities and we furnished the information to the local police, who had an obligation to act. We furnished it to the Department of Justice.

In those areas where the local police did not act, it resulted finally in the Attorney General sending 500 U.S. marshals down to guarantee the safety of people who were trying to march in protest of their civil rights.

This was an extraordinary measure because it came at a time of civil rights versus Federal rights, and yet there was a breakdown in law enforcement in certain areas of the country.

This doesn't mean to indict all law enforcement agencies in itself at the time either because many of them did act upon the information that was furnished to them. But we have no authority to make an arrest on the spot because we would not have had evidence that there was a conspiracy available. We can do absolutely nothing in that regard.

In Little Rock, the decision was made, for instance, that if any arrests need to be made, the Army should make them and next to the Army, the U.S. marshals should make them, not the FBI, even though we developed the violations. And over the years, as you know, at the time there were many questions raised. Why doesn't the FBI stop this? Why don't you do something about it?

Well, we took the other route and effectively destroyed the Klan as far as committing acts of violence, and of course we exceeded statutory guidelines in that area.

Senator SCHWEIKER. What would be wrong, just following up your point there, Mr. Adams, with setting up a program since it's obvious to me that a lot of informers are going to have foreknowledge of violence of using U.S. marshals on some kind of a long-range basis to prevent violence?

Mr. ADAMS. We do. We have them in Boston in connection with the busing incident. We are investigating the violations under the Civil Right Act. But the marshals are in Boston, they are in Louisville, I believe at the same time, and this is the approach, that the Federal Government finally recognized was the solution to the problem where you had to have added Federal import.

Senator SCHWEIKER. But instead of waiting until the state of affairs reaches the point it has in Boston, which is obviously a pretty advanced confrontation, shouldn't we have a coordinated program so that when you go up the ladder of command in the FBI, that on an immediate and fairly contemporary basis, that kind of help can be sought instantly instead of waiting until it gets to a Boston state? I realize it's a departure from the past. I'm not saying it isn't. But it seems to me we need a better remedy than we have.

Mr. ADAMS. Well, fortunately, we're at a time where conditions have subsided in the country, even from the sixties and the seventies and periods—or fifties and sixties. We report to the Department of Justice on potential troublespots around the country as we learn of them so that the Department will be aware of them. The planning for Boston, for instance took place a year in advance with State officials, city officials, the Department of Justice, and the FBI sitting down together saying, "how are we going to protect the situation in Boston?"

I think we've learned a lot from the days back in the early sixties. But the Government had no mechanics which protected people at that time.

Senator SCHWEIKER. I'd like to go, if I may, to the Robert Hardy case. I know he is not a witness but he was a witness before the House Select Committee. But since this affects my State, I'd like to ask Mr. Wannall. Mr. Hardy, of course, was the FBI informer who ultimately led, planned, and organized a raid on the Camden draft board. And according to Mr. Hardy's testimony before our committee, he said that in advance of the raid someone in the Department had even acknowledged the fact that they had all the information they needed to clamp down on the conspiracy and could arrest people at that point in time, and yet no arrests were made. Why, Mr. Wannall, was this true?

Mr. WANNALL. Well, I can answer that based only on the material that I have reviewed, Senator Schweiker. It was not a case handled in my division but I think I can answer your question.

There was, in fact, a representative of the Department of Justice on the spot counseling and advising continuously as that case progressed as to what point the arrest should be made and we were being guided by those to our mentors, the ones who are responsible for making decisions of that sort.

So I think that Mr. Hardy's statement to the effect that there was someone in the Department there is perfectly true.

Senator SCHWEIKER. That responsibility rests with who under your procedures?

Mr. WANNALL. We investigate decisions on making arrests, when they should be made, and decisions with regard to prosecutions are made either by the U.S. attorneys or by Federals in the Department.

Mr. ADAMS. At this time that particular case did have a departmental attorney on the scene because there are questions of conspiracy. Conspiracy is a tough violation to prove and sometimes a question of whether you have the added value of catching someone in the commission of the crime as further proof, rather than relying on one informant and some circumstantial evidence to prove the violation.

Senator SCHWEIKER. Well, in this case, though, they even had a dry run. They could have arrested them on the dry run. That's getting pretty close to conspiracy, it seems to me. They had a dry run and they could have arrested them on the dry run.

I'd like to know why they didn't arrest them on the dry run. Who was this Department of Justice official who made that decision?

Mr. ADAMS. Guy Goodwin was the department official.

Senator SCHWEIKER. Next I'd like to ask, back in 1965, during the height of the effort to destroy the Klan, as you put it a few moments ago, I believe the FBI has released figures that we had something like 2,000 informers of some kind or another infiltrating the Klan out of roughly 10,000 estimated membership. I believe these are either FBI figures or estimates. That would mean that one out of every five members of the Klan at that point was an informant paid by the Government. And I believe the figure goes on to indicate that 70 percent of the new members of the Klan that year were FBI informants.

Isn't this an awfully overwhelming quantity of people to put in an effort such as that? I'm not criticizing that you shouldn't have informants in the Klan to know about the potential for violence, but it seems to me that this is the tail wagging the dog.

For example, today we supposedly have only 1,594 total informants for both domestic informants and potential informants, and that here we had 2,000 just in the Klan alone.

Mr. ADAMS. Well, this number 2,000 did include all racial matters, informants at that particular time, and I think the figures we tried to reconstruct as to the actual number of Klan informants in relation to Klan members was around 6 percent, I think, after we had read some of the testimony.

Now the problem we had on the Klan is the Klan had a group called the Action Group. This was the group, if you remember from Mr. Rowe's testimony, that he was left out of at the meeting. He attended the open meetings and heard all of the hurrahs and this type of thing, but he never knew what was going on because each one had an action group that went out and considered themselves in the missionary field.

Theirs was the violence.

In order to penetrate those, you have to direct as many informants as you possibly can against it. Bear in mind that I think the newspapers, the President, and Congress, and everyone was concerned about the murder of the civil rights workers, the Lemuel Penn case, the Viola Liuzzo case, the bombings of the church in Birmingham. We were faced with one tremendous problem at that time.

Senator SCHWEIKER. I acknowledge that.

Mr. ADAMS. Our only approach was through informants. Through the use of informants we solved these cases, the ones that were solved. Some of the bombing cases we have never solved. They are extremely difficult.

These informants, as we told the Attorney General, and as we told the President that we had moved informants like Mr. Rowe up to the top leadership. He was the bodyguard to the head man. He was in a position where he could forewarn us of violence, could help us on cases that had transpired, and yet we knew and conceived that this could continue forever unless we could create enough disruption that these members will realize that if they go out and murder three civil rights workers, even though the sheriff and other law enforcement officers are in on it, if that were the case and with some of them it was the case, that they would be caught. And that's what we did and that's why violence stopped, because the Klan was insecure and just like you say, 20 percent, they thought 50 percent of their members ultimately were Klan informants and they didn't dare engage in these acts of violence because they knew they couldn't control the conspiracy any longer.

Senator SCHWEIKER. My time is expired. I just have one quick question. Is it correct that in 1971 you were using around 6,500 informers for black ghetto situations?

Mr. ADAMS. I'm not sure if that's the year. We did have one year where we had a number like that which probably had been around 6,000, and that was the time when the cities were being burned, Detroit, Washington, areas like this. We were given a mandate to know what the situation was, where was violence going to break out, what next? They weren't informants like an individual penetrating an organization. They were listening posts in the community that would help tell us that we have a group here that's getting ready to start another firefight or something.

Senator TOWER. At this point, there are three more Senators remaining for questioning. If we can try to get everything in in the first round, we will not have a second round and I think we can finish around 1 o'clock, and we can go on and terminate the proceedings.

However, if anyone feels that they have another question that they want to return to, we come back here by 2 o'clock.

Senator Mondale?

Senator MONDALE. Mr. Adams, it seems to me that the record is now fairly clear that when the FBI operates in the field of crime investigation and prosecution, it may be the best professional organization of its kind in the world. But when the FBI acts in the field of political ideas, it has bungled its job, it has interfered with the civil liberties, and finally, in the last month or two, through its public disclosures, heaped shame upon itself and really led toward an undermining of the crucial public confidence in an essential law enforcement agency of this country.

In a real sense, history has repeated itself because it was precisely that problem that led to the creation of the FBI in 1924.

In World War I, the Bureau of Investigation strayed from its law enforcement functions and became an arbiter and protector of political ideas. And through the interference of civil liberties and Palmer raids

and the rest, the public became so offended that later through Mr. Justice Stone and Mr. Hoover, the FBI was created. And the first statement by Mr. Stone was that never again will this Justice Department get involved in political ideas.

And yet here we are again, looking at a record where with Martin Luther King, with antiwar resisters—we even had testimony this morning of meetings with the Council of Churches. Secretly we are investigating this vague, ill-defined, impossible to define area of investigating dangerous ideas.

It seems to be the basis of the strategy that people can't protect themselves, that you somehow need to use the tools of law enforcement to protect people from subversive or dangerous ideas, which I find strange and quite profoundly at odds with the philosophy of American government.

I started in politics years ago and the first thing we had to do was to get the Communists out of our party and out of the union. We did a very fine job. I'm beginning to wonder, but as far as I know, we had no help from the FBI or the CIA. We just ran them out of the meetings on the grounds that they weren't Democrats and they weren't good union leaders, and we didn't want anything to do with them. Yet, we see time and time again that we're going to protect the blacks from Martin Luther King because he's dangerous, that we're going to protect veterans from whatever it is, and we're going to protect the Council of Churches from the veterans, and so on, and it just gets so gummy and confused and ill-defined and dangerous. Don't you agree with me that we have to control this, to restrain it, so that precisely what is expected of the FBI is known by you, by the public, and that you can justify your actions when we ask you?

Mr. ADAMS. I agree with that, Senator, and I would like to point out that when the Attorney General made his statement Mr. Hoover subscribed to it, we followed that policy for about 10 years until the President of the United States said that we should investigate the Nazi Party.

I for one feel that we should have investigated the Nazi Party. I feel that our investigation of the Nazi Party resulted in the fact that in World War II, as contrasted with World War I, there wasn't one single incident of foreign directed sabotage which took place in the United States.

Senator MONDALE. And under the criminal law you could have investigated these issues of sabotage. Isn't sabotage a crime?

Mr. ADAMS. Sabotage is a crime.

Senator MONDALE. Could you have investigated that?

Mr. ADAMS. After it happened.

Senator MONDALE. You see, every time we get involved in political ideas, you defend yourself on the basis of crimes that could have been committed. It's very interesting.

In my opinion, you have to stand here if you're going to continue what you're now doing and as I understand it, you still insist that you did the right thing with the Vietnam Veterans Against the War, and investigating the Council of Churches, and this can still go on. This can still go on under your interpretation of your present powers, what you try to justify on the grounds of your law enforcement activities in terms of criminal matters.

Mr. ADAMS. The law does not say we have to wait until we have been murdered before we can——

Senator MONDALE. Absolutely, but that's the field of law again. You're trying to defend apples with oranges. That's the law. You can do that.

Mr. ADAMS. That's right, but how do you find out which of the 20,000 Bund members might have been a saboteur. You don't have probable cause to investigate anyone, but you can direct an intelligence operation against the German-American Bund, the same thing we did after Congress said—

Senator MONDALE. Couldn't you get a warrant for that? Why did you object to going to court for authority for that?

Mr. ADAMS. Because we don't have probable cause to go against an individual and the law doesn't provide for probable cause to investigate an organization.

There were activities which did take place, like one time they were going to outlaw the Communist Party——

Senator MONDALE. What I don't understand is why it wouldn't be better for the FBI for us to define authority which you could use in the kind of Bund situation where under court authority you can investigate where there is probable cause or reasonable cause to suspect sabotage and the rest.

Wouldn't that make a lot more sense than just making these decisions on your own?

Mr. ADAMS. We have expressed complete concurrence in that. We feel that we're going to get beat to death in the next 100 years, you're damned if you do, and damned if you don't when we don't have a delineation of our responsibility in this area. But I won't agree with you, Senator, that we have bungled the intelligence operations in the United States. I agree with you that we have made some mistakes. Mr. Kelley has set a pattern of being as forthright as any Director of the FBI in acknowledging mistakes that had been made, but I think that as you said, and I believe Senator Tower said, and Senator Church, that we have to watch these hearings because of the necessity that we must concentrate on these areas of abuse. We must not lose sight of the overall good of the law enforcement and intelligence community, and I still feel that this is the freest country in the world. I've traveled much, as I'm sure you have, and I know we have made some mistakes, but I feel that the people in the United States are less chilled by the mistakes we have made than they are by the fact that there are 20,000 murders a year in the United States and they can't walk out of their houses at night and feel safe.

Senator MONDALE. That's correct, and isn't that an argument then, Mr. Adams, for strengthening our powers to go after those who commit crimes, rather than strengthening or continuing a policy which we now see undermines the public confidence you need to do your job.

Mr. ADAMS. Absolutely. The mistakes we have made are what have brought on this embarrassment to us.

I'm not blaming the committee. I'm saying we made some mistakes and in doing so have hurt the FBI. But at the same time I don't feel that a balanced picture comes out, as you have said yourselves, because of the necessity of zeroing in on abuses.

I think that we have done one tremendous job. I think the accomplishments in the Klan was the finest hour of the FBI and yet, I'm sure in dealing with the Klan that we made some mistakes. But I just don't agree we bungled.

Senator MONDALE. I don't want to argue over terms, but I think I sense an agreement that the FBI has gotten into trouble over its involvement in political ideas, and that that's where we need to have new legal standards.

Mr. ADAMS. Yes, I agree with that.

Senator TOWER. Senator Huddleston.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Mr. Adams, with these two instances we have studied at some length there seems to have been an inclination on the part of the Bureau to establish a notion about an individual or a group which seems to be very hard to ever change or dislodge. In the case of Dr. King, where the supposition was that he was being influenced by Communist individuals, extensive investigation and surveillance was undertaken, and reports came back indicating that this in fact was not true, and directions continued to go out to intensify the investigation. There never seemed to be a willingness on the part of the Bureau to accept its own facts.

Ms. Cook testified this morning that something similar to that happened with the Vietnam Veterans Against the War, that every piece of information that she supplied to the Bureau seemed to indicate that the Bureau was not correct in its assumption that this organization planned to commit violence, or that it was being manipulated, and yet you seemed to insist that this investigation go on, and this information was used against the individuals.

Now, are there instances where the Bureau has admitted that its first assumptions were wrong and they have changed their course?

Mr. ADAMS. We have admitted that. We have also shown from one of the cases that Senator Hart brought up, that after 5 days we closed the case. We were told something by an individual that there was a concern of an adverse influence in it, and we looked into it. On the Martin Luther King situation there was no testimony to the effect that we just dragged on and on, or admitted that we dragged on and on and on, ad infinitum. The wiretaps on Martin Luther King were all approved by the Attorney General. Microphones on Martin Luther King were approved by another Attorney General. This wasn't only the FBI, and the reason they were approved was that there was a basis to continue the investigation up to a point.

What I testified to was that we were improper in discrediting Dr. King, but it's just like——

Senator HUDDLESTON. The committee has before it memorandums written by high officials of the Bureau indicating that the information they were receiving from the field, from these surveillance methods, did not confirm their supposition.

Mr. ADAMS. That memorandum was not on Dr. King. That was on another individual who I think somehow got mixed up in the discussion, one where the issue was do we make people prove they aren't a Communist before we will agree not to investigate them.

But the young lady appearing this morning making the comment that she never knew of anything wrong, told us that she considers herself a true member of the VVAW–WSO inasmuch as she feels in

general agreement with the principles of it, and agreed to cooperate with the FBI in providing information regarding the organization to aid in preventing violent individuals from associating themselves with the VVAW–WSO. She is most concerned about efforts by the Revolutionary Union to take over the VVAW–WSO, and she is working actively to prevent this.

I think that we have a basis for investigating the VVAW–WSO in certain areas today. In other areas we have stopped the investigation. They don't agree with these principles laid down by the ——

Senator HUDDLESTON. That report was the basis of your continuing to pay informants and continuing to utilize that information against members who certainly had not been involved in violence, and apparently to get them fired from their job or whatever?

Mr. ADAMS. It all gets back to the fact that even in the criminal law field, you have to detect crime, and you have to prevent crime, and you can't wait until something happens. The Attorney General has clearly spoken in that area, and even our statutory jurisdiction provides that we don't have to wait.

Senator HUDDLESTON. Well, of course we've had considerable evidence this morning where no attempt was made to prevent crime, when you had information that it was going to occur. But I'm sure there are instances where you have.

Mr. ADAMS. We disseminated every single item which he reported to us.

Senator HUDDLESTON. To a police department which you knew was an accomplice to the crime.

Mr. ADAMS. Not necessarily.

Senator HUDDLESTON. Your informant had told you that, hadn't he?

Mr. ADAMS. Well, the informant is on one level. We have other informants, and we have other information.

Senator HUDDLESTON. Yes, but you were aware that he had worked with certain members of the Birmingham police in order to——

Mr. ADAMS. Yes. He furnished many other instances also.

Senator HUDDLESTON. So you weren't really doing a whole lot to prevent that incident by telling the people who were already part of it.

Mr. ADAMS. We were doing everything we could lawfully do at the time, and finally the situation was corrected, so that the Department, agreeing that we had no further jurisdiction, could send the U.S. marshal down to perform certain law enforcement functions.

Senator HUDDLESTON. Now, the committee has received documents which indicated that in one situation the FBI assisted an informant who had been established in a white hate group, to establish a rival white hate group, and that the Bureau paid his expenses in setting up this rival organization.

Now, does this not put the Bureau in a position of being responsible for what actions the rival white hate group might have undertaken?

Mr. ADAMS. I'd like to see if one of the other gentlemen knows that specific case, because I don't think we set up a specific group.

This is Joe Deegan.

Mr. DEEGAN. Senator, it's my understanding that the informant we're talking about decided to break off from the group he was with. He was with the major Klan group of the United Klans of America,

and he decided to break off. This was in compliance with our regulations. We did not pay him to set up the organization, he did it on his own. We paid him for the information he furnished us concerning the operation. We did not sponsor the organization.

Senator HUDDLESTON. Concerning the new organization that he set up, he continued to advise you of the activities of that organization?

Mr. DEEGAN. He continued to advise us of that organization and other organizations. He would advise us of Klan activities.

Senator HUDDLESTON. The new organization that he formed, did it operate in a very similar manner to the previous one?

Mr. DEEGAN. No, it did not, and it did not last that long.

Senator HUDDLESTON. There's also evidence of an FBI informant in the Black Panther Party who had a position of responsibility within the party who with the knowledge of his FBI contact, was supplying members with weapons and instructing them in how to use those weapons. Presumably this was in the knowledge of the Bureau, and he later became—came in contact with the group that was contracting for murder, and he participated in this group with the knowledge of the FBI agent, and this group did in fact stalk a victim who was later killed with the weapon supplied by this individual, presumably all with the knowledge of the FBI. How does this square with your enforcement and crime prevention responsibilities?

Mr. DEEGAN. Senator, I'm not familiar with that particular case. It does not square with our policy in all respects, and I would have to look at that particular case you're talking about to give you an answer.

Senator HUDDLESTON. I don't have the documentation on that particular case, but it brings up the point as to what kind of control you exercised over this kind of informant, in this kind of an organization, and to what extent an effort is made to prevent these informants from engaging in the kind of thing that you are supposedly trying to prevent.

Mr. ADAMS. A good example of this was Mr. Rowe, who became active in an action group, and we told him to get out or we would no longer use him as an informant, in spite of the information he had furnished in the past. We have had cases, Senator, where we have had——

Senator HUDDLESTON. But you also told him to participate in violent activities.

Mr. ADAMS. We did not tell him to participate in violent activities.

Senator HUDDLESTON. That's what he said.

Mr. ADAMS. I know that's what he said. But that's what lawsuits are all about, is that there are two sides to the issue, and our agents handling this have advised us, and I believe have advised your staff, that at no time did they advise him to engage in violence.

Senator HUDDLESTON. Just to do what was necessary to get the information, I believe maybe might have been his instructions.

Mr. ADAMS. I don't think they made any such statement to him along that line, and we have informants, we have informants who have gotten involved in the violation of the law, and we have immediately converted their status from an informant to the subject, and have prosecuted I would say, offhand, I can think of around 20 informants

that we have prosecuted for violating the laws, once it came to our attention, and even to show you our policy of disseminating information on violence in this case, during the review of the matter, the agents told me that they found one case where their agent had been working 24 hours a day, and he was a little late in disseminating the information to the police department. No violence occurred, but it showed up in a file review, and he was censured for his delay in properly notifying local authorities.

So we not only have a policy, I feel that we do follow reasonable safeguards in order to carry it out, including periodic review of all informant files.

Senator HUDDLESTON. Well, Mr. Rowe's statement is substantiated to some extent with an acknowledgment by the agent in charge that if you're going to be a Klansman and you happen to be with someone and they decide to do something, that he couldn't be an angel. These were the words of the agent—be a good informant. He wouldn't take the lead, but the implication is that he would have to go along and would have to be involved if he was going to maintain his credibility.

Mr. ADAMS. There's no question but that an informant at times will have to be present during demonstrations, riots, fistfights that take place, but I believe his statement was to the effect that—and I was sitting in the back of the room and I don't recall it exactly, but some of them were beat with chains, and I didn't hear whether he said he beat someone with a chain or not, but I rather doubt that he did because it's one thing to be present, and it's another thing taking an active part in criminal actions.

Senator HUDDLESTON. He was close enough to get his throat cut. How does the gathering of information——

Senator TOWER. Senator Mathias is here, and I think that we probably should recess a few minutes.

Could we have Senator Mathias' questions and then should reconvene this afternoon?

Senator HUDDLESTON. I'm finished. I just had one more question.

Senator TOWER. Go ahead.

Senator HUDDLESTON. I wanted to ask how the selection of information about an individual's personal life, social, sex life, and becoming involved in that sex life or social life, is a requirement for law enforcement or crime prevention.

Mr. ADAMS. Our agent handlers have advised us on Mr. Rowe, that they gave him no such instruction, they had no such knowledge concerning it, and I can't see where it would be of any value whatsoever.

Senator HUDDLESTON. You aren't aware of any case where these instructions were given to an agent or an informant?

Mr. ADAMS. To get involved in sexual activity? No, sir.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Senator TOWER. Senator Mathias.

Senator MATHIAS. Thank you, Mr. Chairman.

I would like to come back very briefly to the fourth amendment considerations in connection with the use of informants and in posing these questions we're not thinking of the one-time volunteer who walks in to an FBI office and says I have a story I want to tell you and that's the only time that you may see him. I'm thinking of the

kind of situations in which there is a more extended relationship which could be of varying degrees. It might be in one case that the same individual will have some usefulness in a number of situations. But when the FBI orders a regular agent to engage in a search, the first test is a judicial warrant, and what I would like to explore with you is the difference between a one time search which requires a warrant, and which you get when you make that search, and a continuous search which uses an informant, or the case of a continuous search which uses a regular undercover agent, someone who is totally under your control, and is in a slightly different category than an informant.

Mr. ADAMS. Well, here we get into the fact that the Supreme Court has held that the use of informants does not invade any of these constitutionally protected areas, and if a person wants to tell an informant something, that isn't protected by the Supreme Court.

An actual search for legal evidence, that is a protected item, but information and the use of informants have been consistently held as not posing any constitutional problems.

Senator MATHIAS. I would agree, if you're talking about the fellow who walks in off the street, as I said earlier, but is it true that under existing procedures informants are given background checks?

Mr. ADAMS. Yes, sir.

Senator MATHIAS. And they are subject to a testing period.

Mr. ADAMS. That's right, to verify and make sure they are providing us with reliable information.

Senator MATHIAS. And during the period that the relationship continues, they are rather closely controlled by the handling agents.

Mr. ADAMS. That's true.

Senator MATHIAS. So in effect they can come in a very practical way agents themselves to the FBI.

Mr. ADAMS. They can do nothing——

Senator MATHIAS. Certainly agents in the common law use of the word.

Mr. ADAMS. That's right, they can do nothing, and we instruct our agents that an informant can do nothing that the agent himself cannot do, and if the agent can work himself into an organization in an undercover capacity, he can sit there and glean all the information that he wants, and that is not in the Constitution as a protected area. But we do have this problem.

Senator MATHIAS. But if a regular agent who is a member of the FBI attempted to enter these premises, he would require a warrant?

Mr. ADAMS. No, sir—it depends on the purpose for which he is entering. If a regular agent by concealing his identity was admitted as a member of the Communist Party, he can attend Community Party meetings, and he can enter the premises, he can enter the building, and there's no constitutionally invaded area there.

Senator MATHIAS. And so you feel that anyone who has a less formal relationship with the Bureau than a regular agent, who can undertake a continuous surveillance operation as an undercover agent or as an informant——

Mr. ADAMS. As long as he commits no illegal acts.

Senator MATHIAS. Let me ask you why you feel that it is impractical to require a warrant since, as I understand it, headquarters must approve the use of an informant. Is that degree of formal action required?

Mr. ADAMS. The main difficulty is the particularity which has to be shown in obtaining a search warrant. You have to go after particular evidence. You have to specify what you're going after, and an informant operates in an area that you just cannot specify. He doesn't know what's going to be discussed at that meeting. It may be a plot to blow up the Capitol again or it may be a plot to blow up the State Department building.

Senator MATHIAS. If it were a criminal investigation, you would have little difficulty with probable cause, wouldn't you?

Mr. ADAMS. We would have difficulty in obtaining probable cause for a warrant to use someone as an informant in that area because the same difficulty of particularity exists. We can't specify.

Senator MATHIAS. I understand the problem because it's very similar to one that we discussed earlier in connection with wiretaps on a national security problem.

Mr. ADAMS. That's it, and there we face the problem of where the Soviet, an individual identified as a Soviet spy in a friendly country and they tell us he's been a Soviet spy there and now he's coming to the United States, and if we can't show under a probable cause warrant, if we couldn't show that he was actually engaging in espionage in the United States, we couldn't get a wiretap under the probable cause requirements which have been discussed. If the good fairy didn't drop the evidence in our hands that this individual is here conducting espionage, we again would fall short of this, and that's why we're still groping with it.

Senator MATHIAS. When you say fall short, you really, you would be falling short of the requirements of the fourth amendment.

Mr. ADAMS. That's right, except for the fact that the President, under his constitutional powers, to protect this Nation and make sure that it survives first, first of all national survival, and these are the areas that not only the President but the Attorney General are concerned in and we're all hoping that somehow we can reach a legislative middle ground in here.

Senator MATHIAS. Which we discussed in the other national security area as to curtailing a warrant to that particular need.

Mr. ADAMS. And if you could get away from probable cause and get some degree of reasonable cause and get some method of sealing indefinitely your interest, say, in an ongoing espionage case and can work out those difficulties, we may get there yet.

Senator MATHIAS. And you don't despair of finding that middle ground?

Mr. ADAMS. I don't because I think that today there's more of an open mind between Congress and the executive branch and the FBI and everyone concerning the need to get these areas resolved.

Senator MATHIAS. And you believe that the Department, if we could come together, would support, would agree to that kind of a warrant requirement if we could agree on the language?

Mr. ADAMS. If we can work out the problems—the Attorney General is personally interested in that also.

Senator MATHIAS. Do you think that this agreement might extend to some of those other areas that we talked about?

Mr. ADAMS. I think that that would be a much greater difficulty in an area of domestic intelligence informant who reports on many dif-

ferent operations and different types of activities that might come up rather than say in a Soviet espionage or a foreign espionage case where you do have a little more degree of specificity to deal with.

Senator MATHIAS. I suggest that we arrange to get together and try out some drafts with each other, but in the meantime, of course, there's another alternative and that would be the use of the wiretap procedure by which the Attorney General must approve a wiretap before it is placed, and the same general process could be used for informants, since you come to headquarters any way.

Mr. ADAMS. That could be an alternative. I think it would be a very burdensome alternative and I think at some point after we attack the major abuses—or what are considered major abuses of Congress—and get over this hurdle, I think we're still going to have to recognize that heads of agencies have to accept the responsibility for managing that agency and we can't just keep pushing every operational problem up to the top because there just aren't enough hours in the day.

Senator MATHIAS. But the reason that parallel suggests itself is, of course, the fact that the wiretap deals generally with one level of information in one sense of gathering information. You hear what you hear from the tap.

Mr. ADAMS. But you're dealing in a much smaller number also.

Senator MATHIAS. Smaller number, but that's all the more reason. When an informant goes in, he has all of his senses. He's gathering all of the information a human being can acquire from a situation and has access to more information than the average wiretap.

And it would seem to me that for that reason a parallel process might be useful and in order.

Mr. ADAMS. Mr. Mintz pointed out one other main distinction to me which I had overlooked from our prior discussions, which is the fact that with an informant he is more in the position of being a consential monitor in that one of the two parties to the conversation agrees, such as like consential monitoring of telephones and microphones and anything else versus the wiretap itself where the individual whose telephone is being tapped is not aware and neither of the two parties talking had agreed that their conversation could be monitored.

Senator MATHIAS. I find that one difficult to accept. If I'm the third party overhearing a conversation that is taking place in a room where I am, and my true character isn't perceived by the two people who are talking, in effect they haven't consented to my overhearing their conversation. They may consent if they believe that I am their friend or a partisan of theirs. But if they knew in fact that I was an informant for someone else, they would not consent.

Mr. ADAMS. Well, that's what I believe Senator Hart raised earlier, that the courts thus far have made this distinction with no difficulty, but that doesn't mean that there may not be some legislative compromise which might be addressed.

Senator MATHIAS. Well, I particularly appreciate your attitude in being willing to work on these problems because I think that's the most important thing that can evolve from these hearings, so that we can actually look at the fourth amendment as the standard that we have to achieve. But the way we get there is obviously going to be a lot easier if we can work toward them together.

I just have one final question, Mr. Chairman, and that deals with whether or not we should impose a standard of probable cause that a crime has been committed as a means of controlling the use of informants and the kind of information that they collect.

Do you feel that this would be too restrictive?

Mr. ADAMS. Yes, sir, I do.

When I look at informants and I see that each year informants locate 5,000 fugitives, they locate subjects in 2,000 more cases, they recover $86 million in stolen property and contraband, and that's irrespective of what we give the local law enforcement and other Federal agencies, which is almost a comparable figure, we have almost reached a point in the criminal law where we don't have much left. And in the intelligence field, when we carve all of the problems away, we still have to make sure that we have the means to gather information which will permit us to be aware of the identity of individuals and organizations that are acting to overthrow the Government of the United States. And I think we still have some areas to look hard at as we have discussed, but I think informants are here to stay. They are absolutely essential to law enforcement. Everyone uses informants. The press has informants, Congress has informants, you have individuals in your community that you rely on, not for ulterior purposes, but to let you know what's the feel of the people—am I serving them properly, am I carrying out this?

It's here to stay. It's been here throughout history and there will always be informants. And the thing we want to avoid is abuses like provocateurs, criminal activities, and to insure that we have safeguards that will prevent that. But we do need informants.

Senator TOWER. Senator Hart, do you have any further questions?

Senator HART of Michigan. The groups that we have discussed this morning into which the Bureau has put informants are, in popular language, liberal groups. To give balance to the record, I would ask unanimous consent that there be printed in the record the summary of the opening of the headquarters file by the Bureau on Dr. Carl McIntyre when he announced that he was organizing a group to counter the American Civil Liberties Union and other "liberal and communist groups." This is not only a preoccupation with the Left.

Senator TOWER. Without objection, so ordered.

[The material referred to follows:]

STAFF SUMMARY OF FBI ACTIONS WITH REGARD TO DR. CARL MCINTYRE'S AMERICAN CHRISTIAN ACTION COUNCIL (1971)

The FBI relied on a confidential source and an informant for information about the formation of this group by Dr. McIntyre to act as a counter group to the American Civil Liberties Union and other "liberal and communist groups" and to the Clergy and Laymen Concerned About Vietnam. The initial report from a confidential source mentioned plans to picket NBC–TV studios in Philadelphia, Baltimore, and Washington, D.C. and named all the members of the Board of Directors. But the report makes no mention of potential for violence. Subsequent reports from an informant described the group's plans to oppose the President's trip to China and to support prayer in the public schools. The informant also reported on the group's convention held jointly with Dr. McIntyre's missionary group and on plans for the groups future organization and activities.

The FBI apparently had this confidential source and this informant watch and report on the group under a "civil disturbance" theory. It must have been

assumed, although there was no indication of potential violence, that the group might provoke an "incident." On that theory the FBI Manual today would permit the same use of informants and sources to watch and report on the plans, leadership, and organization of a similar group.

Senator TOWER. Any more questions?

Then the committee will have an executive session this afternoon in room 3110 in the Dirksen Building at 3 p.m., and I hope everyone will be in attendance.

Tomorrow morning we will hear from Courtney Evans, and Cartha DeLoach. Tomorrow afternoon, former Attorneys General Ramsey Clark and Edward Katzenbach.

The committee, the hearings are recessed until 10 a.m. tomorrow.

[Whereupon, at 1:10 p.m., the hearing in the above-mentioned matter was concluded, to reconvene on Wednesday, December 3, 1975, at 10 a.m.]

WEDNESDAY, DECEMBER 3, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS,
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:22 a.m., in room 318, Russell Senate Office Building, Senator John Tower (presiding).

Present: Senators Tower, Hart of Michigan, Mondale, Morgan, Hart of Colorado, and Schweiker.

Also present: Frederick A. O. Schwarz, Jr., chief counsel; Curtis R. Smothers, counsel to the minority; and John Elliff, professional staff member.

Senator TOWER. The committee will come to order.

I should first like to apologize to the witnesses for the late start. The Senate is in the process of a record vote and other members of the committee will assemble as they have completed voting on the Senate floor.

Our hearings today provide the committee with its most important opportunity thus far to examine the question of authorization of domestic intelligence activity. Yesterday, and in earlier sessions, we looked at the methods and techniques employed by the Federal Bureau of Investigation in conducting investigations, particularly in gathering general intelligence information. The testimony has revealed many instances in which the FBI has applied legitimate investigative and intelligence techniques broadly. The situations in which their use was overly broad in its scope are wholly inappropriate under the American view of civil liberties.

We have been told of distressing and dangerous abuses of freedom of speech, freedom of assembly, the right of privacy and other constitutional guarantees so essential to our way of life and system of government. The FBI is regarded by many as the very best investigative organization in the world. Its law enforcement techniques and standards are cited as the fairest and most efficient anywhere. That reputation was earned over the years by the hard work and dedication of thousands of loyal employees and agents, and their sincere efforts do make these current revelations of abuses and overzealous programs especially painful.

The FBI, of course, does not exist in a vacuum. Its operations fall within the purview of the Department of Justice, and the President does, often, direct the Bureau to investigate certain matters. One of the most disturbing aspects to surface during our investigation is the use of FBI resources by various Presidents for their own political purposes. The committee counsel touched on the history of political use and abuse by Presidents.

Today we seek additional testimony on this point, and on the question of whether Justice Department officials were aware of, and exercised proper supervision over, the Bureau's activities. We are also concerned about the Department's role in authorizing, encouraging, or condoning these improper FBI activities, and the degree to which Attorneys General may have discouraged, prevented, or prohibited such activities. The witnesses today will address these issues.

There is one important point that I would like to make and that I would like to stress, and I ask members of the committee as well as the staff and the witnesses to give this point special attention as we proceed this morning. Investigations which are designed to determine whether governmental agencies are infringing on the rights of citizens run the risk themselves of injuring private citizens' rights, unless great care is taken. Disclosure of the contents of raw FBI files, Bureau characterizations, or other derogatory information obtained in the course of this investigation should be avoided at all costs by the committee, the staff, and the witnesses. For that reason I want to instruct the staff to refrain from mentioning the names of private citizens unless permission has been given in advance by that person, or unless the information is already in the public domain.

The documents the committee is releasing have already been carefully excised, and I hope the committee members in their questions will exercise the same care. And I may say too, that this injunction applies to the witnesses.

First, we will have a presentation of background on this matter by Mr. John Elliff of the staff of the select committee.

Mr. Elliff.

STATEMENT OF JOHN ELLIFF, PROFESSIONAL STAFF MEMBER, SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

Mr. ELLIFF. Thank you, Senator Tower.

The political abuse of the FBI and by the FBI did not begin in the 1960's. Although this committee has concentrated its investigations on the events of the 1960's and 1970's, the story cannot be fully understood by looking at just the last 15 years. Therefore, the first objective of this report is to lay out some of the historical context for more recent political abuses of the FBI.

The second objective is to describe some of the results of our investigation which show the various types of political abuse to which the FBI is susceptible. Some have been in response to the desires of the Bureau's superiors. Others have been generated by the Bureau itself. And there is the added possibility, suggested by some of the documents we have seen and some of the witnesses we have interviewed, that certain political abuses resulted from the inexorable dynamics of the FBI's intelligence-gathering system itself. In other words, that the FBI intelligence system developed to a point where no one inside or outside the Bureau was willing, or able, to tell the difference between legitimate national security and law enforcement information, and purely political intelligence.

Whether any particular abuse resulted from outside demands, from the Bureau's own desires, or from the nature of the intelligence process is a question for the committee to answer when all the evidence is in.

The historical background of political abuse of the FBI involves at least three dimensions. The first is the Bureau's subservience to the Presidency, its willingness to carry out White House requests without question. When L. Patrick Gray, as Acting FBI Director, destroyed documents and gave FBI reports to Presidential aides, whom the FBI should have been investigating after the Watergate break-in, he just carried to the extreme an established practice of service to the White House. The other side of this practice was the Bureau's volunteering political intelligence to its superiors, in response to no specific request. The third historical dimension was the FBI's concerted effort to promote its public image and discredit its critics.

Early examples of the Bureau's willingness to do the Presidents' bidding occur under Franklin D. Roosevelt. Materials here are found in exhibit 34.[1] In 1940, the Bureau complied with a request to run name checks, open files, and make reports on hundreds of persons who sent telegrams to the President that were—to quote the letter from the President's secretary to J. Edgar Hoover—"all more or less in opposition to national defense," or that expressed approval of Col. Charles Lindbergh's criticism of the President.

Another example, from the Truman period, came to light in recent years when Maj. Gen. Harry Vaughn, President Truman's military aide, disclosed that President Roosevelt had ordered wiretaps on the home telephones of his closest aides. Shortly after Mr. Truman had taken office, someone had presented General Vaughn with transcripts of the wiretaps. He took them to President Truman who said, according to General Vaughn, "I don't have time for that foolishness." This story is generally confirmed by the committee staff's examination of J. Edgar Hoover's "Official and Confidential" files, where an index to the logs of these wiretaps on President Roosevelt's aides was located.

Historical illustrations of the FBI's practice of volunteering political intelligence to its superiors appear in virtually every administration. President Roosevelt's Attorney General, Francis Biddle, recalled in his autobiography how J. Edgar Hoover shared with him some of the "intimate details" of what his fellow Cabinet members did and said, "their likes and dislikes, their weaknesses and their associations." Attorney General Biddle confessed that he enjoyed hearing these derogatory and sometimes "embarrassing" stories and that Director Hoover "knew how to flatter his superior."

President Truman and his aides received regular letters from Hoover, labeled "Personal and Confidential" and containing tidbits of political intelligence. Copies of many of these letters which the committee obtained from the Truman Library, are contained in exhibit 35.[2] These letters sometimes reported on possible Communist influence behind various lobbying efforts, such as activities in support of civil rights legislation. They reported allegations that a Communist sympathizer had helped write a Senator's speech. Some of the letters were undoubtedly of political value to the President. For example, one related the activities of a former Roosevelt aide who was trying to

[1] See p. 452.
[2] See p. 455 through 469.

influence the Truman administration's appointments. Another advised that the FBI had learned from a confidential source that a "scandal" was brewing and that it would be "very embarrassing to the Democratic administration." A third contained the report of a "very confidential source" on a meeting of newspaper representatives in Chicago to plan publication of a series of stories exposing organized crime and corrupt politicians, stories which were going to be critical of the Attorney General and the President. The Truman White House also received a copy of an FBI memorandum reporting the contents of an in-house communication from Newsweek magazine reporters to their editors about a story they had obtained from the State Department.

An example from the Eisenhower administration shows how White House requests and FBI initiative were sometimes mixed together. President Eisenhower asked Director Hoover to brief the Cabinet on racial tensions in early 1956. What the Cabinet received was a report not only on incidents of violence, but also on the activities of Southern Governors and Congressmen who were members of groups opposed to integration, the NAACP's plans to push for civil rights legislation, and the role of Communists in civil rights lobbying efforts. No one appears to have questioned the propriety of the FBI reporting such political intelligence, or Director Hoover's competence to do so.

The third source of abuse throughout the Bureau's history was its concern for its image and hostility to its critics. An example from the Truman years shows how the Bureau checked and reported on its critics. In 1949, the National Lawyers Guild planned to issue a report denouncing FBI surveillance activities which had been revealed in a court case. The FBI provided the Attorney General with advance information from its sources about the Lawyers Guild plans, as well as a full report on everything concerning that group in Bureau files. Attorney General Howard McGrath passed the reports on to the President, and J. Edgar Hoover advised the White House directly of last-minute changes in the Guild's plans. The FBI's inside information allowed the Attorney General to prepare a rebuttal well in advance of the expected criticism.

A second example of the Bureau's reporting occurred during the Eisenhower administration, in 1960. The Tennessee Advisory Committee to the U.S. Civil Rights Commission had announced it would investigate charges by the Knoxville Area Human Relations Council that Federal agencies, including the FBI, were practicing racial discrimination. The Bureau conducted name checks on all 11 members of the Council's board of directors and forwarded the results to Attorney General William Rogers, Deputy Attorney General Lawrence Walsh, and Special Assistant to the Attorney General Harold R. Tyler, Jr. Derogatory information developed on four of these individuals included allegations of subversive connections from as far back as the late 1930's and early 1940's, an allegation that one board member had "corrupt political associates" in 1946, and the characterization of another as having "unorthodox attitudes" and sending flowers and "mash" notes to a woman in his church. The FBI's report also made the flat statement, "As you know, this Bureau does not practice racial segregation or discrimination." The committee will recall that it has

previously received information as to the number of black FBI agents in the early 1960's. Thus, the Bureau's early history shows the development of its political services for higher authorities and its concern for its own political position.

The staff's investigation of alleged abuses in the 1960's and 1970's discloses a wide variety of questionable name checks, sometimes for Presidents and sometimes in the Bureau's own interest. An examination of these name check reports shows the peculiarly damaging nature of this practice. No new investigation was done to verify allegations stored away for years in FBI files. Anything anyone ever told the FBI about the individual was pulled together, including charges that the Bureau may have never substantiated. FBI files inevitably include misinformation because people bear grudges or make mistakes. Sometimes the Bureau verifies the charge; but frequently there is no reason to do so, and it is just recorded in the files. Such charges can be retrieved by a name check and reported without further substantiation.

A request by the Nixon White House for a name check on CBS news correspondent Daniel Schorr, which the FBI turned into a full field investigation, has been extensively examined elsewhere. The staff has determined that President Johnson asked for similar name check reports on at least seven other journalists, including NBC commentator David Brinkley; Associated Press reporter Peter Arnett, who at about that time won a Pulitzer Prize for his reporting on Vietnam; and columnist Joseph Kraft.

Another political abuse of FBI name checks occurred in the closing days of the 1964 Presidential election campaign, when Johnson aide Bill Moyers asked the Bureau to report on all persons employed in Senator Goldwater's office. Moyers has publicly recounted his role in the incident, and his account is confirmed by FBI documents. The committee may be interested in questioning Mr. DeLoach later today about this incident.

Some of President Johnson's requests parallel those of President Roosevelt 25 years earlier. In 1965, for example, the FBI complied with White House requests for name checks on dozens of persons who signed telegrams critical of U.S. Vietnam policy. The names of other Presidential critics were also sent to the Bureau to be checked and reported on, as were names of critics of the Warren Commission. The FBI has also volunteered reports on Presidential critics. Once again, Mr. DeLoach might be questioned on the practice of volunteering such information to the White House.

The White House requests for name checks are episodic in comparison to name checks conducted as a matter of systematic Bureau policy for the use of FBI Director Hoover. The Crime Records Division, which was headed for a long period of time by Mr. DeLoach, prepared name check memorandums for Director Hoover regularly on Congressmen, other public officials, and prominent persons of interest to the Director. Many of these special memorandums were filed by the Crime Records Division. Others found their way into Director Hoover's "Official and Confidential" files. The committee staff has located in these "O and C" files such special memorandums on the author of a book critical of the FBI, and on all members of the Senate

subcommittee, chaired by Senator Long, which threatened to investigate the FBI in the mid-1960's. Some of these name check reports and special memorandums contained derogatory information and, in the case of the author, information about his income tax returns and personal information about his wife. The reports on members of the Long subcommittee were compiled in a briefing book, with tabs on each Senator.

These incidents demonstrate the inherent potential for abuse in the Bureau's unregulated name check procedure. White House requests bypassed the Attorney General, and the FBI Director's own requests took place totally within the Bureau. The real meaning of the long-standing fear that the FBI had so-called dossiers on Congressmen and other prominent persons, was the FBI officials could have name check reports prepared for their use on anyone about whom they desired to know more.

The next category of abuse involves the Bureau's investigative powers. A vivid example of this type of abuse occurred during the Kennedy administration, when the FBI conducted late night and early morning interviews of a steel company executive, and several reporters who had written stories about that steel executive. Former Assistant FBI Director Courtney Evans, who will testify later this morning, may be questioned about this case.

Another example arises out of the Bobby Baker case. In 1965, the FBI declined a request of the Criminal Division, Justice Department to wire a witness in the investigation of former Johnson Senate aide Bobby Baker. Although the FBI refused on grounds that there was not adequate security, the Criminal Division had the Bureau of Narcotics in the Treasury Department wire the witness as a legitimate alternative. These events were revealed in 1967 when the Baker trial began. Presidential aide Marvin Watson informed the FBI that President Johnson was quite "exercised" and, in 1965, the Bureau was ordered to conduct a discrete rundown on the head of the Criminal Division and four persons in Treasury and the Narcotics Bureau. These rundowns were specifically to include any associations with former Attorney General Robert Kennedy. Once again, Mr. DeLoach may be questioned on these matters.

Another incident occurred in 1966 when Mr. Watson requested that the FBI monitor the televised hearings of the Senate Foreign Relations Committee on Vietnam and prepare a memorandum comparing the statements of Senators Fulbright and Morse with "the Communist Party line." Once again, the documents in the committee's possession indicate Mr. DeLoach was involved in these activities.

At the direct request of President Johnson to FBI executive Cartha DeLoach, the Bureau passed purely political intelligence about U.S. Senators to the White House which was obtained as a byproduct of otherwise legitimate national security electronic surveillance of foreign intelligence targets. This practice also continued under the Nixon administration at the request of Mr. H. R. Haldeman. This mattter cannot be explored further in public session and must be reviewed in executive session because the details remain classified.

It is more difficult to automatically place the label "abuse" on Presidential requests for electronic surveillance to investigate leaks of classified information. In 1962, Attorney General Robert Kennedy

authorized wiretaps on New York Times reporter Hanson Baldwin and his secretary. These wiretaps lasted for about 1 month. I would ask the Senators to turn to exhibit 36.[1] In addition to the 1962 wiretap on Hanson Baldwin, the committee has just received materials from the FBI reflecting authorization by Attorney General Robert Kennedy of a wiretap on a reporter for Newsweek magazine in 1961 as part of the investigation of another leak of classified information. Further materials provided only last night by the FBI and the Justice Department reflect authorization by Attorney General Nicholas Katzenbach of a wiretap on the editor of an anti-Communist newsletter in 1965, again during the investigation of a leak of classified information.

The committee has received materials from the FBI reflecting authorization by Attorney General Robert F. Kennedy of wiretaps on at least six American citizens, including three executive branch officials, a congressional staff member, and two registered lobbying agents for foreign interests. The materials also reflect that these wiretaps related to an investigation of efforts by foreign interests to influence U.S. economic policies. The FBI has asked me to stress that the wiretap on the congressional staff member was not placed on a Capitol Hill office, but was rather placed on the residence, so that the FBI was not wiretapping on Capitol Hill.

The wiretaps under the Nixon administration of journalists and current or former White House and other executive officials have been widely publicized. The staff's inquiry into this matter has determined that, according to available records, at least one of these wiretaps had nothing to do with leaks and was conducted solely for personal information about the target. Nevertheless, the wiretapping Attorney General Kennedy authorized to investigate leaks and the taps of President Roosevelt's aides were undoubtedly precedents J. Edgar Hoover had in mind when he told President Nixon and Dr. Kissinger in 1969 that wiretaps had been used for these purposes in the past.

Another abuse of FBI investigative powers under the Johnson administration was the surveillance conducted at the 1964 Democratic National Convention in Atlantic City. This will be explored later with Mr. DeLoach. The most sensitive details of the plans and tactics of persons supporting the Mississippi Freedom Democratic Party delegate challenge were reported to the White House from the FBI's wiretap on Dr. King, and other types of FBI surveillance. The responsible White House official at the time, Mr. Walter Jenkins, has told the committee that he can recall no political use made of these reports. Nevertheless, an unsigned document has been located at the Johnson Library recording at least one political use of Mr. DeLoach's phone reports.

As Theodore H. White's account of the 1964 campaign makes clear, the most important single issue that might have disturbed President Johnson at the Atlantic City Convention was the Mississippi challenge. And the FBI's own inquiry into the Atlantic City events reports several FBI agents' recollection that one purpose of the Bureau operation was to help avoid "embarrassment to the President." The committee must weigh all the evidence in deciding whether this abuse of the FBI resulted from a White House request, from FBI officials vol-

[1] See p. 470.

unteering information to serve and please the President, or from a legitimate civil disorders intelligence operation which got out of hand because no one was willing to shut off the political intelligence by-product.

It should also be noted that an aide to Vice President Hubert Humphrey contacted the FBI to request assistance at the 1968 Chicago convention. Nothing appears to have come of this, largely because Attorney General Ramsey Clark turned down FBI requests for authorization to wiretap protest demonstration leaders at the Chicago convention. An additional instruction recorded in Bureau files from J. Edgar Hoover to the field office in Chicago prior to the Democratic convention directed that none of its activities should involve political intelligence.

I would like now to turn to the first addendum of the staff report, exhibit 36. According to materials provided to the committee by the FBI, President Johnson asked the Bureau to conduct physical surveillance of Mrs. Anna Chennault, a prominent woman Republican leader, on October 30, 1968, in the final days of the election campaign. The FBI instituted this surveillance to cover her activities in Washington, D.C and New York City. The results of this physical surveillance were disseminated to J. Bromley Smith, Executive Secretary of the National Security Council, who had conveyed Johnson's request to Cartha DeLoach of the FBI. On November 7, 1968, Smith called DeLoach and stated that President Johnson wanted the FBI to abandon its physical surveillance of Mrs. Chennault. On November 13, 1968, at the instruction of President Johnson, the FBI checked the toll call telephone records in Albuquerque, N. Mex., to determine if Vice Presidential Candidate Spiro Agnew had called Mrs. Chennault or the South Vietnamese Embassy during his November 2, 1968, visit to Albuquerque. No such records were located. President Johnson was furnished this information on November 13, 1968. Agnew's arrival and departure time to Albuquerque on November 2, 1968 were also verified at the request of the White House. The FBI has reviewed its files on this matter and has advised that the apparent reason the White House was interested in the activities of Mrs. Chennault and Spiro Agnew was to determine whether the South Vietnamese had secretly been in touch with supporters of Presidential Candidate Nixon, possibly through Mrs. Chennault. President Johnson apparently was suspicious that the South Vietnamese were trying to sabotage his peace negotiations in the hope that Nixon would win the election and then take a harder line toward North Vietnam. The FBI also states that physical surveillance of Mrs. Chennault was consistent with FBI responsibilities to determine if her activities were in violation of certain provisions of the Foreign Agents Registration Act and of the Neutrality Act.

The committee has also inspected copies of reports to the White House of the physical surveillance of Mrs. Anna Chennault. These include her leaving the Watergate apartments, leaving her residence, proceeding to New York, visiting the Embassy of Vietnam, traveling again to the Embassy of Vietnam, and being transported by cab from the vicinity of the Vietnamese Embassy to the Investment Build-

ing on K Street in Northwest Washington, D.C. Further details of these events involving electronic surveillance remain classified "Top secret."

Finally, there are two additional examples of political abuse of or by the FBI in the seventies. In July 1971, 3 months after the supposed end of FBI COINTELPRO operations, the FBI leaked to a newsman derogatory public record information about Daniel Ellsberg's lawyer [exhibit 37].[1] Copies of the article were sent to the Attorney General, the Deputy Attorney General, and Presidential Aide H. R. Haldeman with the specific approval of Director Hoover, with no indication it was generated by the FBI. Nevertheless, the committee should note that Charles Colson, who pleaded guilty to a civil rights offense for leaking information about Daniel Ellsberg's lawyer to a journalist, had said that he believed that the FBI was doing the same thing.

In May of 1970, the FBI provided derogatory public record information and other allegations about the Reverend Ralph David Abernathy, president of the Southern Christian Leadership Conference, to Vice President Agnew at his request [exhibit 38].[2] This occurred following a telephone conversation between FBI Director Hoover and Mr. Agnew during which, according to Bureau records, the Vice President "said he thought he was going to have to start destroying Abernathy's credibility."

In summary, political abuse of the FBI and by the FBI has extended over the years through administrations of both parties.

Senator TOWER. Thank you, Mr. Elliff.

Our witnesses this morning are Mr. Cartha DeLoach and Mr. Courtney Evans, former special agents of the FBI.

Mr. Evans and Mr. DeLoach, would you please seat yourselves at the witness table.

Senator TOWER. Gentlemen, would you please rise and raise your right hand?

Do you solemnly swear that the testimony you present before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EVANS. I do.

Mr. DELOACH. I do.

Senator TOWER. Will your counsel please identify himself?

Mr. MCNELIS. Charles A. McNelis, Washington, D.C., attorney with the firm of Welsh & Morgan.

Senator TOWER. And who are you counsel for?

Mr. MCNELIS. Mr. DeLoach, Mr. Tower.

TESTIMONY OF COURTNEY EVANS AND CARTHA DeLOACH, FORMER FBI OFFICIALS ACCOMPANIED BY CHARLES A. McNELIS, COUNSEL

Senator TOWER. Gentlemen, I understand you have no statements to make. Proceeding with the questioning will be the chief counsel of the committee, Mr. Schwarz.

Mr. SCHWARZ. Mr. Chairman, I am going to attempt, and Mr. Smothers is going to attempt, to get out of the way certain facts re-

[1] See p. 486.
[2] See pp. 490 through 494.

lating to authorization, or lack of authorization, in the King matters. So we're not going to pursue the political abuse and propaganda areas which Mr. Elliff covered and to which these witnesses are here to respond. I'm going to deal with Mr. Evans and Mr. Smothers is going to deal with Mr. DeLoach.

Mr. Evans, beginning at the time of the commencement of the Kennedy administration, what was your job at the FBI?

Mr. EVANS. I was Assistant Director in charge of the Special Investigative Division.

Mr. SCHWARZ. Did you have an informal function as liaison to the Justice Department?

Mr. EVANS. Yes. Since I had known the new Attorney General as Chief Counsel for a Senate Select Committee, he called upon me from time to time after he became Attorney General for certain information. And the liaison relationship developed at this time.

Mr. SCHWARZ. Now before we get into specifics on the King matter, I would like to have you state for the record your understanding of the sorts of information you were authorized to provide to the Attorney General or other persons in the Department of Justice.

Mr. EVANS. The procedure was very definite, in line with Mr. Hoover's request, in that if a request was received from the Attorney General, or if information was received from him, this was put in memorandum form and presented to Mr. Hoover with some kind of recommendation as to action that should be taken; other times, just for his information. But action was taken only after that procedure was followed.

Mr. SCHWARZ. So the substance of that answer is that you are not authorized to provide information to an Attorney General without the specific permission of Mr. Hoover?

Mr. EVANS. Yes, that is correct.

Mr. SCHWARZ. Now was it your general understanding that Mr. Hoover believed that confidential matters, particularly relating to investigative techniques, ought not generally to be disclosed outside of the Federal Bureau of Investigation?

Mr. EVANS. I understood this policy to be very firm in that these matters were confidential within the Bureau itself.

Mr. SCHWARZ. And that meant confidential even with respect to the Department of Justice, which had nominal charge of the FBI.

Is that correct?

Mr. EVANS. That is correct insofar as my actions were concerned.

Mr. SCHWARZ. All right. Now, again before turning to specifics on the King matter, in the early sixties, the time when you served in the liaison role, what was your understanding of whether or not authorization was required from the Attorney General with respect first to taps, and second to bugs?

Mr. EVANS. It was my understanding at the time that any tap required the written authorization of the Attorney General, but that no such authorization was required for the use of microphone surveillances.

Mr. SCHWARZ. And when you say microphone surveillance, that's what the ordinary citizen calls a bug?

Mr. EVANS. Yes.

Mr. SCHWARZ. Now turning then to the taps on Dr. King, without getting to details on authorization, did Robert Kennedy at some point authorize placing a tap upon the home phone of Dr. King, upon the office of the SCLC in Atlanta, and upon the office of the SCLC in New York?

Mr. EVANS. I have no specific recollection. My memory has been refreshed by the record and I understand this is true. He did so approve them.

Mr. SCHWARZ. And in referring to the record, do you mean the documents dated October 7, 1963, and October 21, 1963, which are in the documents you have furnished previously?

Mr. EVANS. That is correct.

Mr. SCHWARZ. Now I'm going to come back to the details on those documents in a moment, but before doing so I would ask you some questions about July 1963, and whether or not Robert Kennedy suggested in July 1963 that the Bureau put a tap on Martin Luther King.

Mr. EVANS. These are events that occurred 12 years ago and my recollection is necessarily very dim with regard to them.

On the basis of documents that have been shown to me, however, my memory has been refreshed to some extent and it is my recollection that at that period of time in early 1963 there had been a rather frequent exchange of information between the Bureau and the Attorney General. The Bureau had frequently furnished information to the Attorney General with regard to the background and activity of certain associates of Dr. King, and it is my recollection that the action taken with regard to wiretaps resulted from this information.

Mr. SCHWARZ. All right. Now let's look at the documents that were shown to you to refresh your recollection, starting with the document dated July 16, 1963. [See footnote, p. 21.]

This is a document from you to Mr. Belmont reporting on a conversation with Robert Kennedy.

Is that correct?

Mr. EVANS. That's correct.

Mr. SCHWARZ. Would you either read into the record or summarize paragraphs 2 and 3?

Mr. EVANS [reading]. "The purpose of this contact with the Attorney General related to the possibility of effecting technical coverage on both——

Mr. SCHWARZ. Let's use the name of Mr. Y.

Mr. EVANS [continuing]. On Mr. Y and Martin Luther King. And on that occasion * * *." The memorandum reflects I told the Attorney General that I wasn't acquainted with the activities of Mr. Y, but that insofar as Dr. King was concerned, he traveled a great deal and I doubted for that reason whether surveillance of his home or office would be very productive. The memorandum reflects that I also raised the question as to the repercussions should it ever become known that a surveillance had been put on Dr. King. It was the Attorney General's view according to the memorandum that this did not concern him.

Mr. SCHWARZ. You might read into the record precisely the language of that third paragraph.

Mr. EVANS [reading]. "The AG said this did not concern him at all; that in view of the possible Communist influence in the racial situation, he thought it advisable to have as complete coverage as possible. I told him, under the circumstances, that we would check into the matter to see if coverage was feasible, and if so, would submit an appropriate recommendation to him."

Mr. SCHWARZ. Now within a week of that document, turning to a document dated June 25, 1963, in other words 9 days later, did the Attorney General tell you he had concluded that there should not be a wiretap placed upon Dr. King?

Mr. EVANS. That is correct.

And for the record, my memorandum was apparently misdated June 25; it should have been July 25.

Mr. SCHWARZ. All right. What was the reason for your offering testimony about the prior history of memos from the Bureau to the Attorney General, which had been pressuring him to do something about looking into allegations of Communist connections between certain persons and Dr. King? Why did you offer that testimony?

Mr. EVANS. I offered that testimony because I had no specific recollection of exactly what was said at the time with regard to the installations, and to try to put into perspective the conditions that existed at the time.

Mr. SCHWARZ. So even though the first of those documents can directly indicate that the Attorney General suggested the coverage on Dr. King, are you stating that there is a background to that which is inconsistent with the document? What are you stating, Mr. Evans?

Mr. EVANS. I am saying generally that there is a background that throws some question as to the exact nature of the request and the motivation for it, and to point out that the memorandum does not purport to be a complete story of all of the facts.

Mr. SCHWARZ. All right. Now turning to the terms under which the taps were actually put on in October, or authorized in October, would you turn to the document dated October 10, 1963, and read into the record the first sentence of the fourth paragraph, please.

Mr. EVANS [reading]. "After this discussion, the Attorney General said he thought we should go ahead with the technical coverage on King on a trial basis, and to continue it if productive results were forthcoming."

Mr. SCHWARZ. Now turning to the document of October 21, 1963, did the Attorney General in that document make more specific what he meant by a trial basis?

Mr. EVANS. Yes. He pointed out that by trial basis he was referring to 30 days.

Mr. SCHWARZ. Will you read into the record the fourth paragraph of the document dated October 21, 1963?

Mr. EVANS [reading]:

> The Attorney General advised that he was approving the October 18, 1963, memorandum, but asked that this coverage and that on King's residence be evaluated at the end of 30 days in light of the results secured so that the continuance of these surveillances could be determined at that time. This will be done.

Mr. SCHWARZ. To your knowledge, was any evaluation of the taps authorized in October furnished to Robert Kennedy within 30 days, or at any time?

Mr. EVANS. I have no personal knowledge in this regard, but I would point out for the information of the committee that the assassination of President Kennedy occurred within that 30-day period, and that this had a great effect on what Robert Kennedy was doing.

Mr. SCHWARZ. Yes; but why didn't the Bureau furnish the evaluation to the Attorney General within the 30-day period as he requested in the document of October 21? Is that connected with the assassination?

Mr. EVANS. I don't know that. It was not a matter within my jurisdiction. I just don't know.

Mr. SCHWARZ. Turning to the bugs, with Robert Kennedy as Attorney General, was any authorization sought for the bugs that were placed on Dr. Martin Luther King from Robert Kennedy?

Mr. EVANS. Not to my knowledge.

Mr. SCHWARZ. And to your knowledge, was Robert Kennedy told about the bugs that were placed upon Martin Luther King?

Mr. EVANS. Not to my knowledge.

Mr. SCHWARZ. Finally, would you turn to the document dated March 4th, 1964. [See footnote p. 21.]

Mr. EVANS. Yes, this is the memorandum from Mr. Baumgardner to Mr. Sullivan.

Mr. SCHWARZ. Yes. Are certain instructions directed to you in that memorandum regarding Dr. King and the Attorney General?

Mr. EVANS. Yes.

Mr. SCHWARZ. And were you instructed to deliver something to the Attorney General?

Mr. EVANS. Yes, I was.

Mr. SCHWARZ. And was that a memorandum containing information derogatory to Dr. King?

Mr. EVANS. That is my understanding.

Mr. SCHWARZ. And did you deliver that memorandum to Robert Kennedy?

Mr. EVANS. I have no specific recollection that I did so. I noted on the memorandum I took the action I was instructed to take and therefore on the basis of that handwritten notation, I assume today that I did follow those instructions.

Mr. SCHWARZ. Well, let me put in the record that the handwritten notation says, "done 3/10/64," and that's in your handwriting.

Mr. EVANS. It is.

Mr. SCHWARZ. Were you given a second instruction in the memorandum of March 4, 1964, the second one in addition to the instruction to deliver material to Robert Kennedy?

Mr. EVANS. Yes, I was.

Mr. SCHWARZ. Would you read into the record the second sentence of the paragraph No. 2 at the bottom of page 2 of the March 4 memo.

Mr. EVANS.

It is also believed Mr. Evans should indicate to the Attorney General that if King was to become aware of our coverage of him, it is highly probable that we will no longer be able to develop such information through the means employed to date, that we, of course, are still desirous of continuing to develop such information.

Mr. SCHWARZ. Now did you carry out that belief as it is expressed in the document, the belief that you should make such an indication to the Attorney General?

Mr. EVANS. The answer to that question is identical to the answer as to whether or not I delivered it; namely that I have no present recollection that I did, but I interpret the notation in my handwriting, "done" to mean I followed explicitly the instructions that were given to me.

Mr. SCHWARZ. One final question, Mr. Chairman. Mr. Evans, would you examine the document dated April 14, 1964, which I have previously shown to you, and turn to the fourth page of it. [See footnote p. 21.] Senators, this is the document that led up to the Mr. X exchange we had 2 weeks ago, the report from New York that Mr. X was not proven to be a Communist to which the Director responds, "well, Mr. X is not proven not to be a Communist, so continue to investigate him."

On page 4, a reference is made to a man that we have agreed to call Mr. A. Was Mr. A the principal alleged Communist connection with Dr. King?

Mr. EVANS. That is my understanding.

Mr. SCHWARZ. I will now read into the record what is said about Mr. A and the report from the New York field office to the Director. [reading]

Mr. A is not now under CP discipline in the civil rights field. There has been no indication, however, that Mr. A has not continued his ideological adherence to communism.

Were you told, and to your knowledge was the Attorney General told, at any time by the FBI that Mr. A, whose alleged connection and control by the Communists had been the justification put forward for the tap of Dr. King, was found by the New York office to "not be now under a CP discipline in the civil rights field?"

Mr. EVANS. Not to my knowledge.

Mr. SCHWARZ. Nothing further, Mr. Chairman.

Senator TOWER. The next line of questioning will be directed to Mr. DeLoach. The Chair recognizes the counsel to the minority, Mr. Smothers.

Mr. SMOTHERS. Thank you, Mr. Chairman.

Mr. DeLoach, I would like, before turning directly to the King matters, to examine with you the role of the Crime Records Division, and your role personally as head of the Crime Records Division. Then, upon completion of the King matters, I would like to turn briefly to your knowledge of the FBI's activities regarding the 1964 Atlantic City Democratic Convention. Beginning with the Crime Records Division, Mr. DeLoach, when did you become head of the Crime Records Division of the FBI?

Mr. DELOACH. I believe, Mr. Smothers, that was 1959, sir.

Mr. SMOTHERS. And how long did you serve in that capacity?

Mr. DELOACH. Until December 1965, when I became Assistant to the Director.

Mr. SMOTHERS. What was the function of the Crime Records Division during your tenure?

Mr. DELOACH. Liaison with the Congress, Mr. Smothers, the handling of the Top 10 Fugitive Program, dealing with the communications media of the United States, preparation of memorandum for Mr. Hoover and other Bureau officials, matters of that nature.

Mr. SMOTHERS. Would it be an incorrect characterization to say that the Crime Records Division handled much of the Bureau's public relations effort?

Mr. DELOACH. That was part of it, sir.

Mr. SMOTHERS. With respect to that public relations effort, was it a part of your job to insure that stories or television programs were reviewed, and to make sure you were constantly in touch with information regarding the Bureau that was reaching the public?

Mr. DELOACH. That is correct, sir.

Mr. SMOTHERS. Was part of your responsibility also related to the use of liaison with the media, in connection with the Bureau's CO INTELPRO activities?

Mr. DELOACH. I can't satisfactorily answer the question specifically, Mr. Smothers. I do recall after my mind being refreshed by a memorandum you have shown me that part of the COINTELPRO, or Counterintelligence Program, the Domestic Intelligence Division did have a segment or phase of it called the mass media program, and from time to time the Domestic Intelligence Division would prepare memoranda and send to Mr. Hoover for his approval and then over to me information which was to be given to newspapers in connection with that program.

Mr. SMOTHERS. Then would it be fair to say, Mr. DeLoach, that if the Domestic Intelligence Division wished to have a story planted against a COINTELPRO target, that it would have been your responsibility and the responsibility of the Crime Records Division to facilitate this?

Mr. DELOACH. Only if it pertains to the communications media.

Mr. SMOTHERS. You're talking about press and television.

Mr. DELOACH. That would have been the only part of it.

Mr. SMOTHERS. Did the Crime Records Division also have responsibility for the name checks program?

Mr. DELOACH. No sir, that would have been in the General Investigative Division, I believe, Mr. Smothers. The Crime Records Division did have responsibility for preparing summaries of information for Mr. Hoover whenever he instructed that it be done, and also, for those individuals that were requesting appointments with Mr. Hoover from time to time. But that was the only responsibility they had with respect to name checks. Name checks *per se* were over in another division of the FBI.

Mr. SMOTHERS. Did you have any contact, Mr. DeLoach, with the White House in connection with requests for information on individuals, members of the press, or public personalities?

Mr. DELOACH. After the assassination of President John F. Kennedy, Mr. Smothers, Mr. Johnson became President and requested Mr. Hoover, through Mr. Hoover, that I assume the responsibility of liaison with the White House in addition to my other duties. From time to time we did receive extensive requests for name checks from the Secret Service and from White House personnel concerning those individuals that the President desired to appoint to jobs or committees or commissions, or those individuals who were being invited to go to state functions at the White House and matters of that nature.

Mr. SMOTHERS. In this connection——

Mr. DeLoach. And incidentally, Mr. Smothers, that would not have been handled by the Crime Records Division as such. It would have been handled by the name check section, which would have been in another division.

Mr. Smothers. But to the best of your knowledge, there is some blurring of the lines here, isn't there? Didn't you have frequent contact with Mr. Jenkins, Mr. Moyers, Mr. Watson, at the White House in connection with these kinds of requests?

Mr. DeLoach. I would say rather infrequent contact, Mr. Smothers. I did have contact with them from time to time. They would call me from time to time. It was rather infrequent. The greater majority of that would be handled by straight requests from the Secret Service to the name check section of the FBI.

Mr. Smothers. If we were trying to establish the point of contact in the Bureau for political matters, liaison information regarding political groups, and information regarding individuals and their political positions, where would the point of contact have been during your tenure? Would it have been you, Mr. DeLoach?

Mr. DeLoach. Well, what you term "political information," Mr. Smothers, was not exactly political information to us. I was an investigator, not a politician, and information was brought to my attention. I didn't know whether it was political or not. We didn't know what was in the minds of the White House personnel or the President of the United States requesting such information. But with Mr. Hoover's instructions we followed it.

Mr. Smothers. After your review of some of the information this committee has provided you, have you now concluded that some of those requests were indeed political?

Mr. DeLoach. Well, again Mr. Smothers, I'm not a politician, and I did not know what was on the minds of the White House personnel, or the President, so I cannot answer your question.

Mr. Smothers. Let's move on then to the King matter. We had previously called your attention to a memorandum originated by you dated November 27, 1964. The memorandum reports on a meeting with Mr. Roy Wilkins, the Executive Secretary of the National Association for the Advancement of Colored People, and the subject matter of the conversation was apparently Dr. King. Let me read from that memorandum for you just two brief excerpts, and then I will ask several questions regarding the state of your knowledge of these matters.

Mr. DeLoach. Certainly, sir.

Mr. Smothers. The first on page 2, and you are writing this:

> I told him [Mr. Wilkins] that the Director, of course, did not have in mind the destruction of the civil rights movement as a whole. I told him the Director sympathized with the civil rights movement as exemplified by the Director's provision of the FBI's many brilliant accomplishments in this field. I added, however, that we deeply and bitterly resented the lies and falsehoods told by King and that if King wanted war, we certainly would give it to him.

Later in the memorandum you report:

> I want to reiterate once again less strongly that if King wanted war, we were prepared to give it to him and let the chips fall where they may.
>
> Wilkins stated that this would be most disastrous, particularly to the Negro movement, and that he hoped this would never come about. I told him that the monkey was on his back and that of the other Negro leaders. He stated he realized this, we shook hands and he returned to New York.

Mr. DeLoach, what was the nature of this war or threatened war between the Bureau and Dr. King as you understood it?

Mr. DeLoach. I will be glad to relate that to the best of my recollection, Mr. Smothers. As well as I can remember, Dr. King in Albany, Ga., while there was considerable rape, strife, and violence going on at that particular time, made the statement publicly that Southern born, reared and educated FBI agents were not to be trusted, were biased and could not properly conduct civil rights investigations. Mr. Hoover, to the best of my knowledge, became very resentful of this, as did personnel of the FBI, because they felt it was extremely difficult under conditions at that particular time to conduct civil rights investigations, very difficult to get information from all parties, all sources. You're damned if you do and damned if you don't in conducting such investigations. However, Mr. Hoover also felt that this cast a slur, it was an aspersion upon the integrity of FBI agents. So, consequently, Mr. Hoover, later on—I'm trying to recollect to the best of my memory—had a press conference with about approximately 22 women, I think the National Capital Press Club at that time, and made the statement that he considered Dr. King to be a notorious liar.

I was with Mr. Hoover at the time, as I believe was Inspector Robert E. Wick. I passed Mr. Hoover a note indicating that in my opinion he should either retract that statement or indicate that it was off-the-record. He threw the note in the trash. I sent him another note. He threw that in the trash. I sent a third note, and at that time he told me to mind my own business. However, the statement was made at that time.

Following that statement, when it became public, the girls could hardly wait to leave to get to the telephone. Dr. King made the statement publicly that Mr. Hoover, apparently bowing under the pressure of his work, had become senile. This further angered Mr. Hoover and at that time we had a full-scale feud going on with many pawns in between two men of great stature: Dr. King on the one hand, who was the symbol of leadership of 12 million blacks in the United States; and Mr. Hoover on the other hand, who, in my opinion, had built the greatest investigative agency in the world. I personally considered it—while the facts were somewhat objective in saying that Dr. King was wrong about Southern born, reared, and educated agents, because I have yet to have anyone show me any investigative case in which the FBI has shirked a civil rights investigation or any other investigation whether they were Southern born, Eastern, or what have you. But I considered this to be unfortunate in the public relations image of the FBI because you cannot win in such a feud.

I was responsible for recommending to Mr. Hoover that he have a meeting with Dr. King and that we try to settle the situation, and Dr. King would not return my telephone calls. I did talk personally with Mr. Andrew Young, who I believe is now a Congressman. We agreed to a mutual informal meeting between Mr. Hoover and Dr. King. There was a meeting in Mr. Hoover's office which was attended by Reverend Abernathy, Congressman Young, one other individual, and Dr. King, Mr. Hoover, and myself. It was more of a love feast; it was not a confrontation. It was a very amicable meeting, a pleasant meeting between two great symbols of leadership; Mr. Hoover, on

the one hand, telling Dr. King that, in view of your stature and reputation and your leadership with the black community, you should do everything possible to be careful of your associates and be careful of your personal life, so that no question will be raised concerning your character at any time. Dr. King on the other hand told Mr. Hoover that he would attempt to cooperate with the FBI in civil rights investigations in the future, and that there would be no difficulty involved. Dr. King left Mr. Hoover's office after approximately 1 hour and 17 minutes and issued a press release more or less concerning the peaceful meeting between Dr. King and Mr. Hoover. That, in essence, Mr. Smothers, was the situation. I would like to repeat, it was a love feast more or less, rather than a bitter confrontation between these individuals.

Mr. SMOTHERS. Is it your testimony and your belief then, Mr. DeLoach, that this dispute between King and Hoover culminating in the Bureau's determination to remove Dr. King as a leader in the civil rights movement was the result of some unfortunate, and maybe childish, reaction to who said what about whom? Is that all there is to it?

Mr. DELOACH. Well, I think unfortunately, Mr. Smothers, there was a very unfortunate feud that went on, and I hope as Assistant Director, the head of the Crime Records Division in charge of the Bureau's public image, that it had not occurred in the least, but it did and it went on.

Mr. SMOTHERS. Was this feud, this alleged telling of lies, the basis for the wiretaps on Dr. King?

Mr. DELOACH. I was not in the Domestic Intelligence Division at the time, Mr. Smothers. I was not on the operational side of the FBI. I was strictly in the administrative side, the Crime Records Division, and it would be difficult for me to answer that question. I can only speculate, as Mr. Evans has previously testified, as shown by the record, and as indicated by Mr. Schwarz, that the reason for the electronic surveillance was brought about by a simple intelligence operation rather than any feud or personal pettiness.

Mr. SMOTHERS. Do you have any knowledge of the involvement of Mr. Walter Jenkins in the approval of these wiretaps, or did you ever discuss them with him?

Mr. DELOACH. I don't recall discussing with Mr. Jenkins the approval or disapproval of wiretaps, Mr. Smothers.

Mr. SMOTHERS. To the best of your knowledge, was he involved in or knowledgeable of the taps?

Mr. DELOACH. Would you repeat the question?

Mr. SMOTHERS. To the best of your knowledge, was Mr. Jenkins either involved in, or knowledgeable of, the taps against Dr. King and the authorization of these taps?

Mr. DELOACH. Mr. Smothers, you have refreshed my memory by showing me memoranda several days ago showing that on one occasion, Mr. Hoover instructed me to take written information, prepared by the Domestic Intelligence Division, over to Mr. Jenkins for the information of the President concerning the fruits of, I believe, one or two of those surveillances.

Mr. SMOTHERS. Just passing briefly, then, to the 1964 Democratic Convention, were you in charge of, or responsible for, coordination of surveillance at that convention?

Mr. DeLoach. Well, the word "surveillance" connotes a rather unsavory term, Mr. Smothers. That's not a correct term.

Mr. Smothers. Investigation of individual groups participating in the convention?

Mr. DeLoach. Well, to relate to you, as refreshed again by the memoranda you have shown me, and my recollection of the situation 12 years ago, over 12 years ago; Mr. Jenkins called one day, called me, and asked if the FBI would send a team of men to Atlantic City during the convention. I told him in my opinion that this was something that he or the President should discuss with Mr. Hoover. Mr. Jenkins or the President, to the best of my recollection, later called Mr. Hoover and asked that this be done. Mr. Hoover then gave me instructions to proceed to Atlantic City and to gather a team of men to go there to assist in gathering intelligence concerning matters of strife, violence, et cetera.

Mr. Smothers. Did your investigation go beyond matters of strife and violence? Did you in fact report on political matters as a result of your investigation of the 1964 convention?

Mr. DeLoach. Mr. Smothers, we passed on to the Secret Service, we passed on to Mr. Jenkins and Mr. Moyers. Those are the only individuals I recall that we did pass information to, all information that we received. Again, I am not a politician. I was an investigator.

Mr. Smothers. I have nothing further at this time, Mr. Chairman.

Senator Tower. I would urge my colleagues to adhere to the 10-minute rule because of the lateness of the hour. The questions will begin at the end of the table with Senator Hart of Colorado.

Senator Hart of Colorado. Thank you, Mr. Chairman.

Mr. DeLoach, I would like to confine my questions to the period Mr. Smothers touched on, August 22 through August 28, 1964, at Atlantic City. It is my understanding that the special squad, as you described, was established at the request of Mr. Jenkins. Is that correct?

Mr. DeLoach. Either at Mr. Jenkins' request, or if the President called Mr. Hoover later on, it would have been the President's specific request. But I told Mr. Jenkins that either he or the President should call Mr. Hoover concerning the matter.

Senator Hart of Colorado. Was there any written request from the White House about this operation?

Mr. DeLoach. Senator, I do not recall any written request.

Senator Hart of Colorado. What was the purpose, as Mr. Jenkins outlined it to you, of this operation?

Mr. DeLoach. He gave me no specifics, as I recall, Senator. He just indicated he wanted a team of men there because the President might have expected violence, or strife, or something of that nature.

Senator Hart of Colorado. That latter part is your speculation, or what he said?

Mr. DeLoach. Senator, I do not recall. It has been 12 years ago, but let me put it in this perspective. The President of the United States, following the assassination of President John F. Kennedy, became somewhat obsessed with the fact that he himself might be assassinated. As a matter of fact, strangely enough to the FBI, the President would call from time to time, as would his assistants, and indicate that an FBI agent should be on Air Force One when Air Force One would take off for foreign countries or would take off for

distant cities in the United States. FBI agents, for the first time in the history of the FBI—we have never served as bodyguards, we were investigators, we determined facts, we do not offer bodyguard assistance—found themselves on street corners with Secret Service agents that the President's line of motorcade would come through on that particular street. This became somewhat of a lengthy practice, Senator. So it was very apparent to personnel of the FBI that the President was obsessed with fear concerning possible assassination, and he therefore was asking the FBI to supplement Secret Service. Now, to further that, before leaving for Atlantic City, I called the Director of the Secret Service, Mr. James Rowley, and told him of the President's request, and told him that we would be there to assist his men in reporting information to them concerning possible violence.

Senator HART of Colorado. Did you and Mr. Jenkins talk about the flow of political information?

Mr. DELOACH. I have never talked with anyone at the White House, to the best of my knowledge, concerning the fact that the FBI should furnish political information, Senator.

Senator HART of Colorado. Did you discuss with Mr. Jenkins the Mississippi Freedom Party delegation and the credentials dispute?

Mr. DELOACH. Senator, I've been shown no memorandums, and I know nothing—I recall nothing which would point out that Mr. Jenkins had mentioned this specific group to me prior to leaving for Atlantic City. I do recall, and I have here certain memorandums, which the committee has shown me, which showed that while at Atlantic City, there were definite potential indications of strife and violence. These were reported to Mr. Jenkins.

Senator HART of Colorado. Well, we'll get to that in a minute.

To whom did you report while you were in Atlantic City?

Mr. DELOACH. Senator, the committee reported, at least the group of men that I had, the special agents, reported matters to Mr. Jenkins and Mr. Moyers, and they also reported to the Secret Service. They reported some parts of it to the State police.

Senator HART of Colorado. Well, I meant specifically in the White House. Did you have a direct telephone line in your residence to the White House, to Mr. Johnson's office?

Mr. DELOACH. I'd be glad to explain that, Senator. At one time, to the best of my recollection, Mr. Johnson instructed that about 65 telephones be placed around Washington to people he would try to contact from time to time. I have seven children, Senator, and it was necessary for me to put a rule in my own home that no child could talk on the phone for over 3 minutes; but in most families that have children of that nature, particularly teenagers, those rules are often broken. I had a teenager who talked one night for 18 minutes to one of her friends. The President was trying to get me to discuss a matter concerning an applicant type investigation, concerning an appointment he wanted to make. He became very irate. The next morning when my family and I were trying to go to church, we were met in the driveway of my home by two men from the White House. They told me they had instructions from the President to put a direct line in my home. I told them to go ahead and put it in the den, and they said no, the President said put it in your bedroom. [General laughter.]

Senator HART of Colorado. Did you have any direct contact with President Johnson while you were in Atlantic City?

Mr. DELOACH. No, sir, not to the best of my knowledge, and I had no direct line from Atlantic City to the White House.

Senator HART of Colorado. All right. On August 29, 1964, immediately after the close of the convention, you wrote a summary memorandum for Mr. Mohr [exhibit 39 [1]]. The lead paragraph goes as follows: "In connection with the assignment of the special squad to Atlantic City, N.J.," it gives the dates, "at the direction of the President, I wish to report the successful completion of this assignment. By means of informant coverage, by use of various confidential techniques, by infiltration of key groups through use of undercover agents, and through utilization of agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments during the convention's course." About those techniques, did you use wiretaps?

Mr. DELOACH. Senator, to the best of my recollection, there was one electronic surveillance, an ongoing surveillance which would have been in Atlantic City or any other city where Dr. King might have been, if domestic intelligence had recommended it and Mr. Hoover had approved it. There was an electronic surveillance at that time on Dr. King, and now that you've refreshed my memory from showing me memorandums of 12 years ago, there was an additional electronic surveillance on the Student Nonviolent Coordinating Committee I believe, sir. Let me make it very clear, Senator, that I did not place either one of those electronic surveillances, but I was aware that they were there.

Senator HART of Colorado. Who placed them?

Mr. DELOACH. That would have been the Domestic Intelligence Division, the Newark office, following the instructions of the Domestic Intelligence Division.

Senator HART of Colorado. So there was more than one ongoing operation. That is to say, you had the special squad and you were using other resources of the Department as well.

Mr. DELOACH. Both were ongoing surveillances, electronic surveillances, as far as I can recall, Senator.

Senator HART of Colorado. Not by this special squad, but were operating out of another Bureau office?

Mr. DELOACH. They were operating at the instructions of FBI headquarters, the Domestic Intelligence Division, but were not part of the responsibilities of the special squad, Senator.

Senator HART of Colorado. They were not operating under your supervision?

Mr. DELOACH. No, sir, they were not, but we did get the fruits of those particular surveillances, Senator.

Senator HART of Colorado. On the second page of that memorandum it says additionally, "We utilized highly successful covers with cooperation of" blank, and then it goes on to say, "furnishing us credentials." What is the name that goes in that blank?

Mr. DELOACH. Senator, I'd be glad to answer that question if the chairman insists upon it. I want to cooperate to the fullest extent with the Committee.

[1] See p. 495.

Senator HART of Colorado. Well, Mr. Chairman, I'll read in the blank if you like.

Senator TOWER. I'm informed that's already in the record.

Senator HART of Colorado. In a wrap-up memorandum to Callahan on this whole operation, dated January 28, 1975, based upon interviews with you and others, they talk about coverage of CORE and SNCC and so forth, and say "the cooperation of management of NBC News, our agents were furnished NBC press credentials" [exhibit 40].[1] Is that correct?

Mr. DELOACH. Senator, that is correct to some extent. But let's put it in a very objective light. There was one agent that accompanied me to Atlantic City from FBI headquarters, who had a friend among the employees of NBC who were attending the convention. On one occasion this agent expressed to the friend, that he saw from time to time during the 6 days that we were in Atlantic City, the fact that it was difficult to obtain sufficient information to report to the White House on Secret Service matters concerning violence and strife. The agent was given, whether at his request or not, or whether it was voluntarily given, a couple of pieces of cardboard where you filled in your own name, and as to the uses of these, the extent of the usage, I don't know, Senator.

Senator HART of Colorado. You don't know how many of your agents used bogus press credentials?

Mr. DELOACH. I do not, sir.

Senator HART of Colorado. Well, at the same time it says one of our "reporters," so there must have been several.

Mr. DELOACH. There could have been, Senator, but I have no recollection of that.

Senator HART of Colorado. Well, were you aware of the fact that this was going on?

Mr. DELOACH. Senator, the memorandum clearly reflects that, so I must have been.

Senator HART of Colorado. Let me go very briefly into this matter of whether you were a politician or an investigator. In your memorandum you say, during our convention coverage we disseminated 44 pages of intelligence to Walter Jenkins, and you attached those to Mr. Mohr.

Additionally, I kept Jenkins and Moyers constantly advised by telephone of minute by minute developments. This enabled them to make spot decisions and could adjust convention plans to meet potential problems before serious trouble developed.

We have no way of knowing, of course, whether that was political trouble or some other kind of trouble.

"We also prepared thumbnail sketches on all key dissident groups"—one might ask how you qualify to be a dissident group—

. . . expected at the convention, and we maintained separate files on the activities of King, Communist Party Groups, area hoodlums, informants, the Mississippi Freedom Democratic Party and other groups. We alerted White House representatives regarding compromise proposals proceeding of the MFDP. Through a highly confidential source we learned that CORE and SNCC had been advised that the President was bringing pressure to bear on the delegates of 15 states to preclude their support of a move to bring the Mississippi Delegates to the floor of the convention. We advised Jenkins that the MFDP delegates flatly rejected the compromise proposal to seat the MFDP delegation.

[1] See pp. 503 and 509.

It goes on and on like that, and there are a couple of more quotes from the summary done by the Bureau in 1975 of this effort.

Mr. DeLoach. I believe you mean 1964, Senator, instead of 1975?

Senator Hart. I'm sorry. No, it's a January 1975 study done by Mr. Bassett for Mr. Callahan. The Bureau files reflect a memorandum from Mr. Hoover wherein Walter Jenkins, Special Assistant to the President, called and stated the President wanted him to call the Director to say that the job that the Bureau had done in Atlantic City was the finest the President had ever seen. In discussions with you, presumably by the authors of the memorandum, and this is a quote from a special agent in charge, "It was obvious that DeLoach wanted to impress Jenkins and Moyers with the Bureau's ability to develop information which would be of interest to them." The author denies that this was for political reasons, but states: "I do recall, however, on one occasion I was present when DeLoach was on a lengthy telephone conversation with Walter Jenkins. They appeared to be discussing the President's 'image.' At the end of the conversation DeLoach told him something to the effect, 'that man sounded a little political to you, but this doesn't do the Bureau any harm.' "

One final quotation, Mr. Chairman, and I'll be done. A letter from Mr. DeLoach to Mr. Moyers, addressed, Dear "Bishop", which I assume is either a nickname or a code name, "Thank you for your very thoughtful and generous note concerning our operation in Atlantic City. Please be assured that it was a pleasure to be able to be of assistance to the President, and all the boys that were with me felt honored in being selected for the assignment. I think everything worked out well, and I'm certainly glad that we were able to come through with vital tidbits from time to time which were of assistance to you and Walter," etc., etc., Signed, C. D. DeLoach [exhibit 41].[1] That's all.

Senator Tower. Senator Schweiker?

Mr. DeLoach. Senator, may I inject just one note here, if I may, please?

Senator Tower. All right.

Mr. DeLoach. I'd like to answer a few of those statements, if I may, Senator, with due respect. You're talking about tidbits of information. First, let me say that the name Bishop given to Moyers, because of his ministerial background. He was called that, I called him that, and so did a number of other people. But with respect to tidbits of information and the information furnished to Mr. Moyers and to Mr. Jenkins, let me give you several examples. One example was—and this was the coverage on the Student Nonviolent Coordinating Committee Headquarters, "While I don't want any killing, I don't mind if someone gets a little scorched. I do not want any more killing." Another quote, "If the Mississippi Freedom Democratic Party is not seated, the Independent Citizens Committee will rush a motorcade from Philadelphia to assert pressure on the convention." Another one, "If the Mississippi Freedom Democratic Party is not seated by the Democratic Credentials Committee, the leadership of CORE and the Student Nonviolent Coordinating Committee will abandon their vigil and resort to direct action."

[1] See p. 510.

There was an instance where information was picked up and passed on that an Atlantic City hoodlum who requested that a strong arm man come to Atlantic City from New Jersey for the purpose of taking care of a few people who needed to have their skulls cracked. One individual in CORE was quoted as stating, "that if all persons arrested in civil rights riots were not given amnesty, then direct action would be taken to dramatize the cause of racial strife." Another one, "Seven to thirteen busloads of demonstrators are coming in tonight, the night of the 9th, a do or die effort."

We reported to Mr. Jenkins and to Mr. Moyers and to the Secret Service, of course. "Banning the most unusual circumstances," this is on August 27, 1964, and was taken from the memorandum which you have shown me, which came originally from FBI files, "Banning the most unusual circumstances, the FBI feels the potential for difficulties is considerably less than there was the previous 2 days." Another report was that was passed on, "Apprehension concerning personal safety continues to be expressed by members of the Mississippi Freedom Democratic Party."

Senator, the only thing I'm trying to point out is we passed on all information. We did not decide what was political or what represented potential strife and violence. Not being politicians, we let other people decide that. We were an investigative agency and we passed on all data.

Senator HART of Colorado. To that I can only respond, here I have copies of 44 reports that went up; if they are not political documents, I don't know what are.

Senator TOWER. Senator Schweiker?

Senator SCHWEIKER. Thank you very much, Mr. Chairman.

Mr. DeLoach, I want to read from a memorandum. This is a memorandum that you addressed to Mr. Hoover. I don't want to mention the name of the political leader involved for obvious reasons. I will read aloud just a paragraph. This is forwarding some personal and derogatory material relating to a political leader. You were writing a memorandum from Mr. DeLoach to Mr. Hoover. The last part of this reads, "I told Jenkins," that is, Walter Jenkins of the White House,

that Director Hoover indicated I should leave this attachment with him if he desired, to let the President personally read it. Jenkins mentioned he was sufficiently aware of the facts that he could verbally advise the President of the matter. Jenkins was of the opinion that the FBI could perform a good service to the country if this matter could somehow be confidentially given to members of the press. I told him the Director had this in mind, however also believed we should obtain additional information prior to discussing it with certain friends.

Have you had a chance to see that paragraph?

Mr. DELOACH. Yes, sir; Senator.

Senator SCHWEIKER. Obviously it's personal and derogatory material. My question to you is, as a matter of policy and procedure, how often was this kind of personal discrediting of a political figure used? How would you describe that particular memorandum and its significance?

Mr. DELOACH. Senator, to the best of my knowledge, this is the only time that the White House refers to such a possibility insofar as Dr. King was concerned. The only other possible recollection I could have after 12 years would be the previous reference of the counterintelligence program, where the Domestic Intelligence Division would prepare a memorandum under the mass media category of that program

and send it to Mr. Hoover for approval, suggesting that someone in the various organizations which were promoting strife and violence, something of that nature be given to the press. That is my only recollection, Senator.

Senator SCHWEIKER. In the deposition you were shown the letter to Marvin Watson from J. Edgar Hoover, dated November 8, 1966 [exhibit 42 [1]]. "Reference is made to your request regarding authors of books dealing with the assassination of President Kennedy. Attached are summary memoranda setting forth pertinent information contained in the FBI files concerning the following individuals." Then seven individuals are listed, some of their files, of course, not only included derogatory information, but sex pictures to boot. It also says, a copy of this communication has not been sent to the Acting Attorney General.

Certainly here is some kind of a pattern; whenever somebody was in disagreement or in political difference, first the name check, then derogatory material, and then photographs, were sent out. I know specifically that Congressman Boggs' son has testified that the White House passed material of this nature to him that was being received here from the FBI. As you recall, we came across another letter several months later on another of the critics' personal files. I think it is January 30, 1967. Here, almost 3 months apart, is an ongoing campaign to personally derogate people who differed politically. In this case it was the Warren Commission. This wasn't a pattern to you? Wasn't this standard operating procedure when they were out to get somebody politically?

Mr. DELOACH. No. Senator, I recall no specific pattern in that regard. You have shown me the memoranda concerning the request on the part of the President of the United States for the FBI to furnish name checks concerning critics of the Kennedy assassination. Those instructions, after being shown to Mr. Hoover, and Mr. Hoover instructed that it be done, were complied with. What the White House did with those, I don't know.

Senator SCHWEIKER. Well, the question is what does a name check normally include? Does it normally include all of the adverse material that is in the files on a particular person, whether it's substantiated or unsubstantiated? What in general does a name check include?

Mr. DELOACH. It would include information in a file concerning the individual, the subject of the inquiry, Senator. If there was no information, it simply would be stamped and sent back to the White House. As I say, at that particular time, I was not in charge of the name-check section. I'm not totally familiar with what all it did include. But that is my understanding.

Senator SCHWEIKER. Well, it's true you were not in charge, but on these carbon copies it was marked "Sent direct to Mr. DeLoach."

Mr. DELOACH. Strictly in a liaison capacity, Senator.

Senator SCHWEIKER. You were passing it on. I recognize that.

Mr. DELOACH. Certainly.

Senator SCHWEIKER. So that you were a conduit in this case, and that is why I'm asking you in these terms. Did it also normally include sexual activities of the person involved, as we've twice seen evidence that it did?

[1] See p. 511.

Mr. DeLoach. Senator, I did not prepare the name-check memorandum, as I testified previously, and I'm not aware of the fact of what information was contained in those memorandums.

Senator Schweiker. Here's another memorandum that I had a chance to review just briefly with you during the deposition. I'll just briefly read from it. It's a memorandum from you to Mr. Tolson, dated April 4, 1967, and it says: "In this connection, Marvin Watson called me"—that's you—"late last night and stated the President"—President Johnson—"had told him in an off moment that he was now convinced that there was a plot in connection with the assassination"—this is the Kennedy assassination. You go on to say, "Watson requested that any further information that we could furnish in this connection would be most appreciated by him," the President. Then you say, "I reminded Watson that the Director had sent over to the White House some weeks back all of the information in our possession in connection with the CIA's attempts to use former agent Robert Maheu and his private detective outfit, in contacts with Sam Giancana and other hoodlums relative to fostering a plot to assassinate Castro." The interesting thing to me is, why did you at that time, and why did the White House, consistently link the Kennedy assassination to the attempts against Castro? Here they are both discussed in the same paragraph. They are hooked together in the same paragraph.

I note that at the time of your deposition, you said you could not recall. I just wondered if, since we had our deposition hearing, anything might have come to light which would refresh your memory or help reconstruct why the White House, you, or Watson might have thought there was a link between the Kennedy assassination and attempts to kill Castro?

Mr. DeLoach. Well, Senator, you have shown me that memorandum, and I appreciate being allowed to be refreshed concerning the matter. The only possible reason it could have been brought up is because of Mr. Watson's remark quoting the President, that the President felt that a certain agency may have been involved in a conspiracy. I felt this to be sheer speculation, and Mr. Watson did not follow up, neither was any information furnished to the FBI to follow up, the sheer speculation. That's the only reason why I can think I brought up the name of the Agency.

Senator Schweiker. You testified that the FBI was asked to put out a statement saying Lee Harvey Oswald acted in a singular capacity—without any plot involved. Is that correct?

Mr. DeLoach. That's absolutely correct, sir, and it should be a matter of record in the FBI files.

Senator Schweiker. The White House was asking the FBI to put out this statement. Is that not correct?

Mr. DeLoach. That's correct, Senator.

Senator Schweiker. Do you have any recollection about the time frame during which the White House asked the FBI to put out that statement?

Mr. DeLoach. Senator, I don't. But out of sheer speculation, it would have to be, I think, 1966, 1967, 1968.

Senator Schweiker. You don't know whether it comes before or after, this memorandum here that I just read?

Mr. DeLoach. I do not, sir.

Senator SCHWEIKER. Mr. DeLoach, did you brief Attorney General Ramsey Clark on the COINTELPRO activities?

Mr. DELOACH. Shortly after Mr. Clark became Attorney General or Acting Attorney General, Mr. Clark instructed me on one occasion to brief him, to assist him in his knowledge concerning FBI activities to brief him concerning all ongoing programs. I do distinctly recall that on one occasion briefing Mr. Clark concerning programs of the FBI; I did generally brief him concerning COINTELPRO, or the Counterintelligence Program; yes, sir.

Senator SCHWEIKER. How would you describe the extent and the depth of the briefing in terms of his fully understanding what was going on? Not necessarily all the specific details, the names or places; but in terms of the import, the thrust, the purpose, the objectives of it—how do you feel the briefing conveyed that?

Mr. DELOACH. Senator, I can't fully answer that question because nothing's been shown to me to refresh my memory concerning a conversation that took place 7, 8, 9 years ago. However, I do recall that at the same time, I do specifically recall that, again at Mr. Clark's instruction, I briefed him concerning electronic surveillances that had been previously authorized by Attorneys General and were on at the time that he was to take office. At that specific time, I believe it was Mr. Clark that laid down the policy that we were to keep the Attorney General's office advised more frequently concerning justification of such surveillances.

Senator SCHWEIKER. Thank you, Mr. Chairman. My time is up.

Senator TOWER. Senator Morgan?

Senator MORGAN. Mr. Evans, I believe you testified that you were the liaison officer with the Attorney General throughout most of the Kennedy administration.

Mr. EVANS. Yes, sir.

Senator MORGAN. And you testified in response to Mr. Schwarz's question, that you did confer with the Attorney General in July of 1963 with regard to some wiretaps and technical surveillance of Martin Luther King.

Mr. Evans. Yes, sir.

Senator MORGAN. But up until that time, for nearly 3 years or 2½ years, you had regularly briefed the Attorney General on the FBI. had you not?

Mr. EVANS. No; that is not a correct characterization.

Senator MORGAN. How often did you brief him?

Mr. EVANS. I never briefed him with reference to the activities of the FBI as a whole. Mr. Hoover ordinarily met with the Attorney General and I assume for that purpose. My role was to respond to a specific request from the Attorney General for action by the FBI, or to supplement a written record that the FBI had sent to the Attorney General where some action was necessary.

Senator MORGAN. To put it your way, during that period of time you had responded to his request on numerous occasions prior to July 1963, had you not?

Mr. EVANS. That is correct.

Senator MORGAN. Had you ever, at any time, declined to furnish the Attorney General any information that he requested?

Mr. EVANS. I never did, after I cleared it with Mr. Hoover.

66-077 O - 76 - 13

Senator MORGAN. Did you misinform the Attorney General of any activities of the FBI of which he had inquired?

Mr. EVANS. Not to my recollection.

Senator MORGAN. On July 16, 1963, according to your memorandum, at his request you contacted him. Is that correct?

Mr. EVANS. That is correct.

Senator MORGAN. During that time he told you that Mr. Burke Marshall was concerned about some of the activities of Martin Luther King, with regard to possible Communist influence of the civil rights movement.

Mr. EVANS. That is my recollection.

Senator MORGAN. Was Mr. Burke Marshall present?

Mr. EVANS. I don't remember.

Senator MORGAN. Do you have any recollection as to who was present?

Mr. EVANS. No; I do not. My memorandum doesn't reflect. I assume it was only the Attorney General.

Senator MORGAN. The fact is at that time there had been little or no evidence of Communist involvement with Martin Luther King's activities, had there?

Mr. EVANS. Senator, I can respond to you by saying that my knowledge in this area was necessarily very limited. My jurisdiction within the FBI had nothing to do with internal security matters. Consequently, the only knowledge I had in that area was when a particular incident or situation would arise wherein I was requested to take action either by the FBI or by the Attorney General. So I am not knowledgeable enough to characterize that.

Senator MORGAN. Mr. Evans, I find it hard to believe that a man who occupied the very important position of liaison between Mr. Hoover and the Attorney General would not be knowledgeable, at least generally, about what was going on. It is true that never more than two or three known Communists were ever involved with Martin Luther King's operation. Is that not true?

Mr. EVANS. That is the extent of the information that was called to my attention, yes.

Senator MORGAN. You never received any information that their involvement was to any extent further than occasional moral encouragement?

Mr. EVANS. I don't know that I am qualified to characterize it in that manner.

Senator MORGAN. Well, to your knowledge, those two or three that you did know about were not leaders in the Martin Luther King movement, were they?

Mr. EVANS. They were leaders to the extent that it was my understanding that they exercised great influence with Dr. King.

Senator MORGAN. Isn't it true that the records reflect, and you've reviewed these records, that the extent of their involvement was conversations with Martin Luther King by telephone, and maybe one or two meetings with him?

Mr. EVANS. I think generally that is it, although I don't know that one or two meetings is necessarily correct.

Senator MORGAN. But at any rate, in July of 1963, the Attorney General asked you, or asked the Bureau, to engage in a technical surveillance of Dr. King, did he not?

Mr. EVANS. That is correct.

Senator MORGAN. And you advised them at that time you didn't think that was practical or feasible, because he was traveling a great deal and due to possible repercussions if their surveillance were discovered?

Mr. EVANS. The record so reflects; yes, sir.

Senator MORGAN. The Attorney General responded that he was not afraid of the repercussions, because he feared the dangers of Communist influence?

Mr. EVANS. Yes, sir.

Senator MORGAN. So thereafter, acting on his directions, you did submit a request for approval for wiretaps, did you not, or the Bureau did?

Mr. EVANS. The Bureau did, yes. I had no personal involvement.

Senator MORGAN. When that request was submitted, Mr. Schwarz asked you if the Attorney General did not turn it down. He did turn it down, didn't he?

Mr. EVANS. That is my understanding.

Senator MORGAN. But according to your memorandum of October 10, 1963, he turned it down because of the reason you had stated to him previously: the difficulty in obtaining or following through on such technical surveillance, and the possible repercussions.

Mr. EVANS. It was just my understanding that he had second thoughts about this matter, and was not going to approve it.

Senator MORGAN. He noted that the last thing we could afford was to have a discovery of a wiretap on King. You stated that in your memorandum of October 10, 1963?

Mr. EVANS. Yes, sir, that is correct.

Senator MORGAN. And in one other place you stated that his reasons were substantially those that you had given to him in the beginning?

Mr. EVANS. I assume that to be true; yes, sir.

Senator MORGAN. All right, but later on he did approve technical surveillance of Dr. King in a number of places.

Mr. EVANS. That is my understanding.

Senator MORGAN. And you testified that you did not advise the Attorney General of the bugs that were placed in his hotel rooms and around the country.

Mr. EVANS. I did not.

Senator MORGAN. Do you know whether he was advised of that fact?

Mr. EVANS. No; I do not.

Senator MORGAN. Do you not know if he was given information obtained by this type of surveillance?

Mr. EVANS. On the basis of the memorandums that have been shown to me, it appears that one or more documents were transmitted to him which logically could have arisen from such sources. But I have no personal knowledge that he was ever told specifically the identity of the source.

Senator MORGAN. You say you have no personal knowledge, but logically it could have been concluded that it came from such sources. And the truth is that it could only come from such sources. Isn't it, Mr. Evans?

Mr. EVANS. Not necessarily.

Senator MORGAN. From where else could it have come?

Mr. EVANS. It could well have come from a live individual present at the time.

Senator MORGAN. How long did you continue in your role of briefing the Attorney General?

Mr. EVANS. Until December 1964.

Senator MORGAN. After December, what role did you assume? Did you retire from the Bureau then?

Mr. EVANS. I retired from the Bureau.

Senator MORGAN. I have a few questions for Mr. DeLoach.

Mr. DeLoach, I believe you testified that you knew nothing about the name-check business.

Mr. DELOACH. That's not exactly correct, sir. I said it was not under my jurisdiction at the particular time the questions were concerned.

Senator MORGAN. Well, whether or not it was under your supervision, you knew about it and your successor, Mr. Bishop, was responsible for it? Didn't Mr. Bishop succeed you in that role?

Mr. DELOACH. No, sir. Mr. Wick succeeded me as Assistant Director in charge of the Crime Records Division. Mr. Bishop came later, after Mr. Wick retired.

Senator MORGAN. But the name-check system was a system whereby the names of individuals could be pulled out of all of their criminal records files, and put together, wasn't it?

Mr. DELOACH. Senator, I believe that I testified that the Crime Records Division had only certain minor responsibilities with respect to preparing memorandums, in-house for the most part, concerning name checks. The name-check section was over in one of the investigative divisions of the FBI.

Senator MORGAN. But you were familiar with that; were you not?

Mr. DELOACH. Basically, Senator, I knew what was going on, yes, sir.

Senator MORGAN. It was often used against defense attorneys by a prosecuting attorney who would call for a name check against a defense attorney; wasn't it?

Mr. DELOACH. I have no knowledge of that, Senator.

Senator MORGAN. Do you know that it's not true?

Mr. DELOACH. I am not aware of what you're talking about, Senator. I am sorry.

Senator MORGAN. Isn't it a fact when U.S. attorneys would be involved in litigation and defense attorneys would be defending individuals of some repute, quite often you would conduct a name check on the defense attorney to find what information you could about him, at the request of U.S. attorneys?

Mr. DELOACH. That may have happened in the field, Senator. I don't have any specific recollections of it happening at the seat of government, at FBI headquarters. However, if the Attorney General requested such information, we would furnish it to him. Here again, this would be handled by the name-check section and most probably not by the Crime Records Division.

Senator MORGAN. The truth is that you did a full background memo on Leonard Bodine, who was attorney for Dr. Spock in 1968.

Mr. DELOACH. The Crime Records Division?

Senator MORGAN. Yes. Was it Crime or the Federal Bureau of Investigation? Don't pin it down.

Mr. DeLoach. Senator, I don't recall any specific memorandum on Mr. Bodine. It may have been prepared but I don't recall it.

Senator Morgan. You're not in a position to say that it didn't happen?

Mr. DeLoach. I don't recall any such memorandum, Senator. It may have been shown to me, but I don't recall it at this time, Senator.

Senator Morgan. It was shown to you in your deposition; wasn't it?

Mr. DeLoach. It could have been. I had approximately 750 or over 700 memorandums shown to me, Senator.

Senator Morgan. You just don't recall that one at all.

Mr. DeLoach. That's correct, sir.

Senator Morgan. Let me go on, Mr. Chairman, if I could have a minute or two. Mr. DeLoach, is it a matter of routine for the Bureau to do a background check, or to gather information, on all candidates who vie for the U.S. Congress or the U.S. Senate?

Mr. DeLoach. Senator, to the best of my recollection there was such a program where information was furnished to Mr. Hoover concerning candidates for the Congress, and if such a candidate were elected, Mr. Hoover would send him a note of congratulations.

Senator Morgan. The information sent Mr. Hoover also contained summaries of the candidate's background, personal habits, and whether or not he might be friendly toward the Bureau; did it not?

Mr. DeLoach. I recall specifically that it contained a paragraph or a statement or a sentence, what have you, as to whether or not they were friendly to the Bureau, yes, sir.

Senator Morgan. They were also used in your lobbying with Congressmen on the Hill. One of the purposes of having this information was that it might be helpful in dealing with the Congress. Is that correct?

Mr. DeLoach. I am certain that's correct, sir.

Senator Morgan. That practice not only extended to members of the Congress but to candidates for State office, did it not, such as candidates running for attorney general of a State, or even Governors?

Mr. DeLoach. I don't recall that, Senator.

Senator Morgan. Well, I'll ask you, sir, if you didn't do one on me in 1968 when I filed for the office of the attorney general of the State of North Carolina?

Mr. DeLoach. I don't recall that specifically, but I'm sure if it was done, I'm sure there was no derogatory information.

Senator Morgan. You are sure that it was done on me and other candidates because it was the practice at that time; wasn't it?

Mr. DeLoach. I can't state that, Senator, because I cannot recall such a practice concerning State officers.

Senator Morgan. You followed it up by sending so-called liaison agents to various conferences of State officials. Liaison agents who submitted memorandums to the criminal records file concerning the activities of those officials at these national conferences; didn't they?

Mr. DeLoach. Senator, I do not recall such a program concerning State officials. To me that would be a considerable waste of time. It may have been done in some minor instances, but I do not recall it and I say again I'd like to reiterate it would be a considerable waste of time considering the backbreaking responsibilities of the FBI.

Senator MORGAN. I'll agree with you that it would be a considerable waste of time and a contemptible action, but I will also state to you that you did it, and you made memorandums as to whether or not the officials were considered friendly or unfriendly to the Bureau. Thank you.

Mr. DELOACH. You have information I do not have.

Senator MORGAN. It is in my file.

Senator TOWER. Senator Baker?

Senator BAKER. Mr. Chairman, thank you very much. I am sorry I haven't been here for the entire testimony of these witnesses, because I am sure it has been very helpful. This is not my first opportunity to question Mr. DeLoach. I remember previously in 1973 in the Watergate inquiry, that we had an opportunity to interview him, and I have here with me an abstract of the substance of that interview at that time. Mr. DeLoach, do you remember that interview?

Mr. DELOACH. I do.

Senator BAKER. Do you remember what response you gave me, at the time, as to whether you had any telephonic link or communication between the Democratic National Convention in 1964 and the White House?

Mr. DELOACH. Senator, I believe you asked me the question whether I had a direct telephone to the White House from Atlantic City, and I believe I answered in the negative. That would be my answer today again, sir.

Senator BAKER. I don't have the full transcript here. I'm not trying to trap you.

Mr. DELOACH. Certainly. I understand, Senator.

Senator BAKER. But do you remember whether you indicated there was effective communication link between the FBI observation post at that convention and the White House?

Mr. DELOACH. There was a definite effective link between the office maintained by the special squad in Atlantic City and those individuals, Mr. Jenkins and Mr. Moyers, as assigned by the President to their offices, Senator.

Senator BAKER. Do you recall telling me at that time that your contacts with the White House were Mr. Jenkins, Mr. Califano, Mr. Moyers, and Mr. Marvin Watson?

Mr. DELOACH. I do not remember saying Mr. Califano. I could have, Senator, and I do not remember saying Mr. Watson. To my knowledge, to the best of my recollection, I met Mr. Watson only once in Atlantic City and I don't recall any contacts with him.

Senator BAKER. The information I have here is not the original transcript. The staff memorandum is that your reply in that respect was on page 9, line 21 of your testimony. Your contacts at that time in the White House were Walter Jenkins, Joe Califano, William Moyers, and Marvin Watson. Do you know anything now that would dispute that in your mind or contradict that in your mind?

Mr. DELOACH. I distinctly recall communicating and the agents on the squad being in communication with Mr. Jenkins and Mr. Moyers.

But Senator, may I say when you interrogated me approximately 2 years ago, 10 years had elapsed since the Democratic National Convention in 1964. I had been shown no memorandums whatsoever to refresh

my memory and I was testifying strictly on recollection of another era 10 years ago.

Senator BAKER. And your memory and recollection has been refreshed now.

Mr. DELOACH. To the extent of what you just read to me and it's entirely possible that I did talk to Mr. Califano and Mr. Watson. I do recall meeting Mr. Watson on one occasion at the convention, but I do not recall transmitting anything to him and I do not recall transmitting anything to Mr. Califano.

Senator BAKER. Do you know whether or not the FBI had made a practice of similar observation at other political conventions in the past, or was this unique in the 1964 Democratic National Convention?

Mr. DELOACH. Senator, I think the FBI historically has attempted to maintain its intelligence responsibilities as laid down in the Executive order of 1939 with respect to any matter concerning strife or violence that would interrupt a convention, or any other time and possibly information previous to that. Now to go further, the FBI covered the 1968 Democratic convention from a local standpoint, a local field office standpoint in Chicago because they anticipated such massive amounts of violence which actually did occur. The FBI, as I recall, and although I was not in the Bureau, I left the Bureau as you recall, in July 1970, which has been almost 6 years; but I do know that the FBI covered the convention, the Republican convention in 1972 in Miami, because, again, I understand there was a potential for considerable violence and strife.

Senator BAKER. Without trying to differentiate between the coverage of the several conventions, haven't they covered virtually every Republican and Democratic convention since 1936?

Mr. DELOACH. Senator, I can't answer that.

Senator BAKER. To your knowledge?

Mr. DELOACH. To my knowledge I do not know, sir, and I would say that so far as I know, the 1964 convention was the first time that the special squad was sent to a convention. Otherwise, it had been handled by the local field office.

Senator BAKER. One other question on the telephone link in 1964. I have here a letter from A.T. & T. dated September 17, 1975 [see exhibit 43 [1]], addressed to this committee saying in part that, "private lines for security purposes were established from the FBI and Secret Service temporary communications center, Atlantic City to FBI headquarters in the District of Columbia and to the White House PBX." Does that conform with your understanding? Was there, in fact, an FBI line directly to the White House PBX?

Mr. DELOACH. Not to my mind, Senator. We had a direct line to the Washington, to the FBI headquarters.

Senator BAKER. Well, the letter is unclear. It says, it was established to the FBI headquarters and to the White House, PBX for the FBI and the Secret Service. I don't know if that means they were done for the FBI at both places, or to just one. You have no recollection?

Mr. DELOACH. Senator, I do not recall any specific instance where we had a direct line to the White House from Atlantic City. We did have a direct line between Atlantic City and FBI headquarters in Washington.

[1] See p. 512.

Senator BAKER. Do you know anything about an FBI surveillance of Senator Goldwater and his staff during the time of the 1964 Convention?

Mr. DELOACH. Would you repeat that?

Senator BAKER. Yes, sir. Do you have any personal knowledge of FBI surveillance of Senator Goldwater or his staff during the 1964 Convention?

Mr. DELOACH. I have no personal recollection whatsoever and I would doubt seriously whether such thing ever happened. I would have known about it if it had happened. Let me go one step further, if I may, Senator.

The statement has been made here today concerning name checks, or investigations, so to speak. I forgot whether they said name checks or investigations concerning Senator Goldwater's staff, and I believe that occurred in 1963 or 1964, the request was made of me to make so-called name checks of Senator Goldwater's staff. I came back and told Mr. Hoover about it and Mr. Hoover said, what do you recommend, and I told him I recommended we do nothing, and he said, I agree with you. And that's exactly what we did, nothing. I told the White House nothing.

Senator BAKER. Mr. DeLoach, for my own personal information, tell me in a general way how you received authorization at the FBI to install technical surveillance, a telephone tap? What procedure did you go through?

Mr. DELOACH. Senator to the best of my recollection, as I say most of my experience was in the Crime Records Division which has been previously described to you as the public relations arm of the Bureau, but later on I became Assistant to the Director. An interested division, say the Domestic Intelligence Division, for example, would receive a communication from a field office of the FBI indicating a recommendation that a wiretap be placed on a specific individual, and containing justification in that communication. Now, the Domestic Intelligence Division would then prepare a memorandum to Mr. Hoover where they would reflect fully the name of the individual and the proposed justification. It would go up the line, through the various officials to Mr. Hoover's office, and attached to that communication would be a letter of communication to the Attorney General requesting his approval and setting forth the so-called justification.

Senator BAKER. From Hoover to the Attorney General?

Mr. DELOACH. Yes, sir, that is correct, sir. Mr. Hoover, if he approved it, I would then ask one of his secretaries. I believe it was Ms. Edna Holmes for the most part, to take this communication to the Attorney General's office and to wait there for the answer—or to go back after it personally for personal delivery and personal return to Mr. Hoover's office regarding the wishes of the Attorney General concerning the matter. When she received a telephone call, or when she was given the approval by the Attorney General, she would bring that communication back to Mr. Hoover and he would route it back to the interested division.

Senator BAKER. Generally the memorandum from Hoover to the Attorney General would carry an approval space for the Attorney General's name or initials on the bottom, is that correct?

Mr. DELOACH. I believe so, sir. Let me say that he always either gave approval or disapproval of such a matter on a personal basis.

Senator BAKER. And the FBI never did wiretaps, to your knowledge, without the approval of the Attorney General?

Mr. DELOACH. I can't recall any instances, Senator, no. It was a very established policy, I believe Mr. Evans will agree with me here, that you must have the agreement of the Attorney General to establish an electronic surveillance.

Senator BAKER. As far as you know, that was adhered to strictly?

Mr. DELOACH. So far as I know; yes, sir.

Senator BAKER. I take it that on occasion there may have been requests by Attorneys General to the Bureau to initiate technical surveillance?

Mr. DELOACH. Yes; I believe there have been such instances.

Senator BAKER. Do you know of any such instances related to newsmen or radio or television personalities which involved wiretaps?

Mr. DELOACH. Senator, the only recollection I could have was with respect to the Nixon administration where the Attorney General, Mr. Mitchell, called over to FBI headquarters on one occasion and indicated, or instructed, that the President wanted this done and it should be done.

Senator BAKER. Who was that about?

Mr. DELOACH. I don't recall that, sir.

Senator BAKER. I've just been notified that my time has expired. I would like to pursue that line of questioning further, but Mr. Chairman, if I may, I would ask instead that the witness provide us with a list of newsmen or women who may have been wiretapped by the Bureau during the time that he was there.

Mr. DELOACH. Senator, with due respect to that and in complete courtesy to you and the committee, again reasserting my desire to be of complete cooperation, I have been out of the FBI for many years now. It would be better if that request could be directed to FBI headquarters, I believe, sir.

Senator BAKER. Well, I think we could help you with that. We'll show you a memorandum and ask you if you can verify it.

Mr. DELOACH. Yes, sir.

Senator BAKER. Thank you.

Senator TOWER. Senator Hart of Michigan.

Senator HART of Michigan. Mr. Chairman, I am developing a dilemma this morning. I thought, with a deep conviction, that the worst thing we could have at the FBI would be a politician. Now I'm beginning to wonder if that isn't what we need, more than anything else, someplace along the line. As I hear you, your statement to us is that because you're a policeman, you can't make any judgment as to the propriety of if a request comes to you from the White House or the Attorney General.

Mr. DELOACH. Senator, may I say something there, please?

Senator HART of Michigan. Sure.

Mr. DELOACH. The FBI has always been established as simply an investigative agency. The FBI does not make recommendations, has never made recommendations, insofar as investigative activities are concerned, and in my opinion in the future should not make recommendations; but it should simply investigate, determine the facts, and furnish the facts to the Attorney General and/or the Department of Justice, including the U.S. attorneys, where the final approval should

be given as to prosecution or not. Under no circumstances, in my opinion, should the FBI ever become a determining factor whether there should be prosecution or action taken concerning a specific matter. They should simply ascertain the facts. They should pass on all data.

Senator HART of Michigan. Yes. But if the White House calls you and asks you to do a check on a critic, is there any hope that somebody in the Bureau would be willing at least to question, or second-guess the White House, as to whether this relates to national security or the enforcement of criminal laws, or if it really is a misuse of the FBI?

Mr. DELOACH. Senator, I think there are several things that need to be done here, if I may say so, sir, if you'll allow me to. First, the guidelines, as laid down in the Executive order for domestic intelligence jurisdiction in 1939 by President Roosevelt, and later reiterated by President Truman, represents strictly an Executive order. The FBI has been operating in the domestic intelligence field without any guidelines or statutory authority from the Congress for many, many years. This needs to be done, and this should be the responsibility of this committee with respect to those recommendations. I am not trying to throw this off on the committee. I am simply stating facts. But I strongly feel that this committee should take that responsibility and should lay down definite guidelines for the FBI, not only pertaining to domestic intelligence jurisdiction, Senator, but also with respect to the questions being asked of us as witnesses today.

Senator HART of Michigan. Were you aware of any instances where requests to the FBI made by the White House, or by other administration officials in the executive branch, were rebuffed by Mr. Hoover, by yourself, or anybody else in the Bureau, on the basis that the request was an improper use of the FBI?

Mr. DELOACH. Senator, I do not recall any specific instances. I'm sure there have been. I do know that on occasion requests from the Department of Justice were considered by Mr. Hoover to be not within the jurisdiction of the FBI, and he sent one of us lesser lights over to discuss the matter with the appropriate Assistant Attorney General, and/or the Attorney General and either the request was withdrawn or the Department insisted upon it and we did it. But information from the White House, I am sure, was rebuffed by Mr. Hoover from time to time, too. But I have no specific recollection.

Senator HART of Michigan. I think the record is left hanging a little with respect to the Bureau's reactions to requests made by the White House for name checks on Senator Goldwater's staff. It is my impression——

Mr. DELOACH. Well, Senator, we felt that to be purely political and that's why I made the recommendation to Mr. Hoover.

Senator HART of Michigan. I'm told the next day he went ahead and did it.

Mr. DELOACH. We did no name checks, Senator. We furnished no information, as far as I know, to the best of my recollection.

Senator HART of Michigan. I stand corrected. You are correct.

Mr. DELOACH. Thank you, sir.

Senator HART of Michigan. That is an instance where the Bureau rebuffed a request as inappropriate.

Mr. DeLoach. Thank you, sir.

Senator Hart of Michigan. Now, the incident I had in mind bore on another public figure, Spiro Agnew. A request was made to get telephone records of candidate Agnew. What happened on that request?

Mr. DeLoach. I received a call from Mr. James Jones, who was the top assistant to the President at the time, Senator, to the best of my recollection, late one evening, and he indicated the President wanted information concerning either Mr. Nixon or Mr. Agnew insofar as toll calls being made from Albuquerque, N.Mex. were concerned. I told Mr. Jones I felt this was not a correct thing to do, particularly at this time of night, and while we would try to comply with the President's specific request, we would not do it that night. The President then called me personally in my office late that night and indicated that did he understand my refusal to Mr. Jones correctly, and I said, yes, he did. I said, I thought that it would be wrong for us to try to obtain such information that late at night. The President then proceeded to tell me that he was the Commander in Chief and that when he needed information of that nature, he should get it. However, the conversation ensued that I reiterated my objections to it, and the President indicated all right, try to get it the following day. The Domestic Intelligence Division did get in touch with Albuquerque, and did obtain toll call slips. Now, this was no electronic surveillance, Senator. This was merely a matter of going to the telephone company and getting the results of toll calls made from a certain number several days prior to that to Washington, D.C. I believe there were five all total and this has been made a matter of record in FBI files.

Senator Hart of Michigan. I thought I was throwing you a slow ball. I thought that was a case where you did reject the request. Apparently the rejection hinged on, it is too late at night, we'll do it in the morning.

Mr. DeLoach. You're absolutely right, Senator.

Senator Hart of Michigan. There was the period when, as opposition to Vietnam mounted in this country, the Senate Committee on Foreign Relations under Chairman Fulbright, prepared for public hearings.

Do you recall the incident involving the White House request that the Bureau monitor statements by the Senate Foreign Relations Committee members in those television hearings?

Mr. DeLoach. Yes, Senator, my memory's been refreshed by committee staff showing me memorandums in that regard. That was a specific request from the White House? As I recall, sir, it was not a request to monitor the television program. It was a request to have an agent present at the hearings. We refused to do that. We had agents sit by a television set and monitor the hearings and then later furnished reports to the White House in that regard.

Senator Hart of Michigan: Whether it was an agent present in a hearing room or sitting elsewhere in front of a television set, the request was that the Bureau monitor a legislative hearing, a congressional hearing. The Bureau was then to analyze statements by members of that committee questioning our Vietnam involvement to see if parallels could be found between them and statements by Communists.

Mr. DeLoach. Senator, I believe those were the expressed instructions by the White House as given to the FBI.

Senator Hart of Michigan. How did you hear those instructions? Were they instructions of a neutral sort to see whether such parallels exist, or to see if you can't find some parallels?

Mr. DeLoach. I don't recall specifically, Senator. I received the instructions I believe, or Mr. Hoover received them and gave them to the Domestic Intelligence Division, but as to the philosophy there, I don't recall.

Senator Hart of Michigan. Do you recall any discussion as to the propriety of responding to that request?

Mr. DeLoach. Well, I think we were somewhat upset by it, but again we complied with the instructions of the White House.

Senator Hart of Michigan. Did you resolve your upset by concluding that maybe some of the Senators or witnesses were acting as agents of the international Communist conspiracy?

Mr. DeLoach. I would doubt that very seriously, Senator. I was not aware of what was thought at the White House, but I would doubt that very seriously.

Senator Hart of Michigan. You were upset but you went ahead, why, just because the White House asked you?

Mr. DeLoach. We complied with the instructions of the President of the United States, Senator. Mr. Hoover approved it, after getting the instruction from the President, and we followed our orders.

Here again, Senator——

Senator Hart of Michigan. I pause only because I suspect this isn't the kind of exciting action we associate with Dr. King's experience with the Bureau. But to me, this one is equally bad. Communists and I espouse many similar goals. I hope they are sincere and I hope I am sincere. But if you get up to make a speech advocating improvements in civil rights or the elimination of hunger, I am sure some Communist is making the same speech somewhere else.

Mr. DeLoach. That could be, sir.

Senator Hart of Michigan. I would hope that the Bureau is not viewing somebody like me as a potential threat just because somebody like that other fellow is saying the same thing. That is my concern here.

For the record, Mr. Chairman, I think, and in fairness to the Bureau, we should invite the Bureau to furnish specific instances where requests have been made by Presidents of the United States or persons acting in their behalf—requests to undertake an investigation or some activity which the Bureau has declined and continues to decline on the grounds that it involved neither national security, nor the enforcement of the Federal criminal laws.

Senator Tower. The staff will be so directed.

Senator Hart of Michigan. Let me tell you what my very able staff man is telling me in this memo. Let me return to the question regarding the name checks on the staff of Senator Goldwater in 1964. You said no information was provided. Was that because you refused or because you did the check and found nothing? Let me read from an FBI memorandum indicating the check was done and you reported back to Mr. Moyers the negative results. This is dated January 31, 1975, "A record copy of a letter to Mr. Moyers dated October 27, 1964,

is in the file and was hand delivered by Mr. DeLoach on October 28, 1964. This letter advised that there was no derogatory information in our files on 13 of the individuals mentioned." I assume those 13 were Goldwater staffers. "But on two others there was, and those two and the information bearing on them were furnished the White House." [Exhibit 52].[1] Does that refresh your recollection?

Mr. DeLoach. To the best of my recollection, Senator, as I recall the incident, no information was given to the White House concerning Senator Goldwater's staff. Not because of the fact that we did not have information in the Bureau's files, but simply because the Bureau did not desire to be involved in such a request.

Senator Hart of Michigan. We will put this in the record. Somebody is marching out of step here, somebody is clearly out of step. This memorandum says that there were two individuals, whose names I won't state.

Mr. DeLoach. Were those members of the Senator's staff, sir?

Senator Hart of Michigan. Yes.

Mr. DeLoach. I can only recall, to the best of my recollection, sir.

Senator Hart of Michigan. I would ask that with the deletion of the names that would be made part of the record, and your clarification will be welcome.

Senator Tower. Without objection, that will be made part of the record at exhibit 52.

Mr. DeLoach, did the FBI institute physical surveillance of Mrs. Claire Chennault on October 30, 1968, at the direction of the President of the United States?

Mr. DeLoach. Senator, to the best of my recollection on that specific case, the Executive Director, I believe the Executive Secretary of the National Security Council, Mr. J. Bromley Smith, called me on one occasion and indicated the President of the United States wanted this done. I told Mr. Smith that I thought what he should do is call the Attorney General concerning this matter, and I believe either Mr. Hoover or I later received a call from the Attorney General indicating that this should be done.

Senator Tower. Was it done?

Mr. DeLoach. There was a physical surveillance on Mrs. Chennault, yes, sir.

Senator Tower. What did it include?

Mr. DeLoach. The usual physical surveillance, as I recall, Senator, following her to places where she went in the city of Washington, and as I recall a statement made this morning, also a trip that she made to New York.

Senator Tower. Did it involve the constant monitoring of any and all of her incoming and outgoing telephone calls?

Mr. DeLoach. I believe the instructions of the President and the specific instruction and approval of the Attorney General, that a wiretap was placed on her telephone, sir.

Senator Tower. So during the period of time between October 30, and November 7, all of her telephonic communications were monitored by the Bureau?

[1] See p. 539.

Mr. DeLoach. I don't recall the specific dates, Senator, but I do know that such surveillance was established.

Senator Tower. Who was the Attorney General at the time?

Mr. DeLoach. In 1968, sir?

Senator Tower. Yes, sir.

Mr. DeLoach. I believe that would have been Mr. Clark.

Senator Tower. Would the FBI have undertaken this surveillance on its own initiative had they not been directed by the Attorney General to do so?

Mr. DeLoach. That was the reason I referred Mr. Smith to the Attorney General. I felt that we should have the Attorney General's concurrence, and as I testified earlier, to my knowledge the FBI did not place wiretaps on individuals unless it had the approval of the Attorney General. The answer therefore would be "no."

Senator Tower. Turning to Dr. King, was Attorney General Katzenbach ever informed of the Bureau's surveillance on Dr. King?

Mr. DeLoach. Senator, I cannot answer that. I did not maintain liaison with Attorney General Katzenbach, and I was not on the operational side of the house at the time, side of the FBI. Consequently, I cannot answer that.

Senator Tower. Did the White House, did the President or anyone acting in his behalf at any time request or receive political intelligence on Members of the U.S. Senate?

Mr. DeLoach. Senator, there may have been such instances on the part of the White House, requests from them. I don't recall specific instances, but there could have been.

Senator Tower. Was such intelligence gathering ever undertaken?

Mr. DeLoach. I don't recall any instance where the President of the United States requested the FBI to specifically investigate a Senator or a Member of the Congress unless that person was being considered for an appointment to a commission or a committee. Now, I do recall one specific instance where the White House specifically requested the FBI, they made the request, I believe, of Mr. Hoover, that Senators or Members of the Congress entering a certain establishment, diplomatic establishment, that those matters be brought to the attention of the President.

Senator Tower. Mr. Evans.

Mr. Evans. Yes, sir.

Senator Tower. During your tenure as the liaison with Attorney General Kennedy, did he direct you to place Hanson Baldwin of the New York Times under surveillance?

Mr. Evans. I believe, Senator, on the basis of the record that has been exhibited to me, that this was a request from the Attorney General to Mr. Hoover. It did not come to me personally.

Senator Tower. Who implemented that? Was that under your——

Mr. Evans. That was not under my jurisdiction. I would be glad to explain the very limited knowledge I had of the whole affair, if you like.

Senator Tower. I would like to know why he was placed under surveillance.

Mr. Evans. That, sir, I cannot answer for you. My knowledge does not go to that area.

Senator TOWER. Were any other journalists or personalities in the mass media placed under surveillance by orders of the Attorney General or the President, to your knowledge?

Mr. EVANS. The only other example that I might cite is that in connection with the Baldwin coverage there was also coverage of one of his assistants.

Senator TOWER. Thank you, Mr. Evans. Do counsel have any questions? Mr. Schwarz.

Mr. SCHWARZ. Mr. DeLoach, we've been talking largely about requests from the White House for name check information or information about critics. Has the Bureau, in your experience, volunteered to the White House information about persons believed to be critical of the White House?

Mr. DELOACH. Mr. Schwarz, I've been gone from the FBI for approximately not quite 6 years, and my recollection therefore is somewhat hazy concerning the matter, but I don't recall any specific memorandums. It may have happened, but I don't recall.

Mr. SCHWARZ. Didn't we show you a memorandum which showed you precisely that, relating to a person who had written a play critical of President Lyndon Johnson?

Mr. DELOACH. Mr. Schwarz, the committee staff has showed me over 700 memorandums. I do not recall the specific memorandum.

Mr. SCHWARZ. All right. There is such a memorandum, but you turned it over and it was volunteered.

Senator TOWER. Do you have any questions, Mr. Smothers?

Mr. SMOTHERS Nothing, Mr. Chairman.

Senator TOWER. Thank you, Mr. DeLoach and Mr. Evans.

Mr. DELOACH. Senator, I would like, if I may, to say one thing. Senator Morgan in his remarks or closing comments made it appear somewhat that I personally was responsible for keeping tabs on him. I would like the record to reflect that I have never met Senator Morgan, I knew nothing about him, and I certainly did not keep any tabs on him.

Senator TOWER. I don't think he intended to mean that you had done so personally, but that the Bureau had and it was in his file. So that is an established fact. Thank you very much, gentlemen, for appearing and cooperating with the committee.

The witnesses this afternoon—let's have order please—the witnesses this afternoon will be former Attorney General Katzenbach and former Attorney General Clark. The committee will stand in recess until 2 p.m. this afternoon.

[Whereupon, at 12:45 p.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

Senator TOWER. Will the committee please come to order. Our witnesses this afternoon are former Attorneys General Nicholas Katzenbach and Ramsey Clark. They are here not only to provide us with factual information, but I believe they have some views which we should value considering their experience on reform measures that the committee might consider.

I have been asked to announce that the general counsel of the committee, Mr. Schwarz, has disqualified himself from participating in

the questioning of Mr. Katzenbach and has disqualified himself from any preparation in the questioning of Mr. Katzenbach, in that he has represented Mr. Katzenbach on occasion in a legal connection.

Gentlemen, would you rise and be sworn, please? Do you solemnly swear that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CLARK. I do.

Mr. KATZENBACH. I do.

Senator TOWER. Do you gentlemen have counsel with you?

Mr. KATZENBACH. No. I have friends who are lawyers here, but I'm not being represented by counsel.

Senator TOWER. And you, Mr. Clark?

Mr. CLARK. No, I'm here by myself.

Senator TOWER. We will first hear opening statements by the witnesses. Mr. Katzenbach, you may proceed if you wish.

TESTIMONY OF NICHOLAS deB. KATZENBACH

Mr. KATZENBACH. Thank you, Mr. Chairman. As you know, I have submitted a long statement to the committee and I would like now just to read a brief summary of it.

Senator TOWER. Your full statement will be printed in the record and you may summarize if you like.

Mr. KATZENBACH. Thank you, Mr. Chairman.

[The prepared statement of Nicholas deB. Katzenbach follows:]

STATEMENT OF NICHOLAS deB. KATZENBACH, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Mr. Chairman and members of the select committee, this committee has uncovered and publicly exposed activities of the Federal Bureau of Investigation which were unlawful, grossly improper and a clear abuse of governmental authority. According to the testimony before this committee, some of those activities took place while I was Attorney General or Deputy Attorney General.

Some of those revelations have surprised me greatly. Some, such as the extent of the FBI's attempt to intimidate, to harass and to discredit Dr. Martin Luther King have shocked and appalled me. Those activities were unlawful and reprehensible. They served no public purposes. They should be condemned by this Committee.

My surprise and shock stem more from the fact that these activities occurred with the apparent knowledge and approval of J. Edgar Hoover than from the fact that I, as Attorney General or Deputy Attorney General, was unaware of them. Mr. Hoover dedicated his life to building a Federal Bureau of Investigation which enjoyed a great and deserved reputation for integrity, efficiency and dedication to public service. Even in a world which he believed was questioning and rejecting some of the values which Mr. Hoover so esteemed—patriotism, respect for law, sexual mores grounded in marriage and family, the work ethic, I would not have expected him to risk the Bureau's reputation—his life's work—by resorting to unlawful or improper tactics.

I was aware of the fact that the Director held political views far more conservative than my own or those of the administrations which I served. I knew that on occasion he promoted those views on the Hill, without consultation with me and sometimes in opposition to administration policy. I knew the intensity of his views on the dangers of communism, on the decline of moral standards, on the evils of permissiveness, on the lack of respect for law and order. I knew that as Mr. Hoover grew older and the country changed—for the worse, in his view—the intensity of those feelings and his frustration at what was taking place grew. I knew that Mr. Hoover was extremely sensitive to any criticism whatsoever and that he deeply and personally resented public criticism by civil rights leaders, and especially that made by Dr. King.

I knew all these things, and so, I believe, did the Congress, the press and much of the public at large.

As background, I think that it is important that I recall that some of the Bureau's activities being investigated by this committee have long been a matter of public record. Many of them are well known to any schoolboy. Others were discussed in executive session every year in the Director's annual appearance before the House Appropriations Committee. Much of what apparently constituted the concern and focus of the so-called COINTEL Program was discussed by Mr. Hoover in testimony before the Violence Commission in 1968. Still other activities have been written about in books and periodical literature and have long been the subject of public comment and interest.

For example:

1. Domestic Intelligence Activities

The Bureau's responsibility includes domestic intelligence activities. Mr. Hoover annually described those activities to the House Appropriations Committee. The bulk of that testimony was off the record. Nevertheless, it is clear that each year at budget time, the Congress had ample opportunity to explore those activities in some depth with Mr. Hoover.

2. Use of Confidential Informants

It has never been a secret that the FBI has used a substantial number of confidential informants to assist in its criminal and subversive activities investigations. Mr. Hoover annually disclosed that fact to Congress. In 1959, for example, Hoover testified that "it is obvious that maximum results cannot be obtained without informants in the criminal and subversive fields. The record shows the value of these informants in bringing to justice the criminal and the subversive." (Testimony of J. Edgar Hoover before House Appropriations Committee, February 5, 1959, p. 271.) In 1960, Hoover testified that the Bureau's confidential informants supplied information that led to the arrest of over 1,800 suspects and the recovery of more than $2 million in contraband and stolen property in just one fiscal year alone. In addition, information obtained by the Bureau from its confidential informants led directly to the arrest of more than 2,000 suspects by state, local and other law enforcement organizations. (Testimony of J. Edgar Hoover before House Appropriations Committee, February 8, 1960, pp. 339–40.) Ever since the publication of *I Led Three Lives*, it has been common knowledge that much of the Bureau's knowledge of Communist Party activities came from inside information. Indeed, Art Buchwald wrote a brilliant parody of the extent of this activity in one of his more famous columns.

3. Files

The fact that the FBI maintained extensive files on individuals has also been well known. For example, Mr. Hoover informed Congress in 1960 that the FBI maintained, in its central record file, over five million files and over 47 million index cards. Those files, according to Hoover's testimony, were kept pursuant to the Bureau's "responsibility of coordinating and disseminating security and intelligence data. . . ." (Testimony of J. Edgar Hoover before House Appropriations Committee, February 8, 1960, p. 369.)

4. Wiretaps and Electronic Surveillances

(a) Wiretaps

Ever since FDR's claim of a governmental right to tap telephone conversations, the fact of governmental use of this technique, at least in internal security matters, has been known to the Congress and to the public. Congressional Committees have often inquired as to the number of taps, and Mr. Hoover regularly gave this information to the House Appropriations Committee. It was also public information that the Department's procedures required that all wiretaps be personally approved by the Attorney General, and this was in fact the practice. There was not, however, any procedure for following up on authorizations until March 30, 1965, when I established a new procedure requiring re-authorization every six months and notice to the Attorney General of any termination. Nor, until President Johnson's directive of June 30, 1965, was there any similar control over wiretaps by agencies other than the FBI. That directive required all federal departments and agencies to obtain the written authorization of the Attorney General for any wiretap.

(b) Electronic Surveillances

Curiously, "bugs," which in my judgment are far more serious invasions of privacy than are taps, were not subject to the same authorization procedure in the Department of Justice until I so directed on March 30, 1965. Theretofore, the Bureau had claimed an authority to install bugs at its sole discretion under a memorandum from then Attorney General Brownell dated May 20, 1954. I thought the claim that Attorney General Brownell's memorandum authorized the widespread use of bugs was extremely tenuous. The Attorney General's personal approval was not sought nor was he even directly advised of any microphone surveillance despite their increased use through the late 1950's and early 1960's. Neither Mr. Kennedy nor I was aware of their use by the Bureau until just before Mr. Kennedy resigned his office in September 1964, though in retrospect it may be fair to say that we probably should have inferred its existence from memoranda we received, and Mr. Hoover may have believe we did in fact know. Unlike wiretaps, the Congress and the public were not, so far as I know, generally aware of this practice.

5. Use of Mail Covers

A mail cover is a procedure by which information on the outside of mail, such as the address of the sender, is recorded. It is a well-known procedure, and has been approved by the courts when carried out in compliance with postal regulations on a limited and selective basis. The use of such an investigative technique was fully disclosed by the Long Committee hearings in 1965 and indeed that Committee published the numbers of requests made to the Post Office Department by the FBI as well as by other Federal agencies.

6. Investigation of the Ku Klux Klan

The Bureau's intensive investigation of the Klan's criminal activities in the South in the mid-1960's has also been well-known and widely reported. Indeed, the fact that 153 FBI agents were thrown into the successful Goodman, Chaney, Schwerner murder investigation in 1964, the fact that that investigation had the Klan as its principal focus and the fact that most of those ultimately convicted were associated with the Ku Klux Klan are all facts that have been fully disclosed not only in the press, but even in books and movies. Don Whitehead's book, *Attack on Terror*, published in 1970, contains a thorough description of the FBI's extensive use of confidential informants inside the Klan as an integral part of that investigation.

Being in the Department of Justice I was, perhaps, more aware of and conscious of the above practices and some of the problems they raised than others may have been. There was, especially in the area of civil rights, a good deal of tension between the Director on one hand and the Attorney General and his principal assistants on the other. I was very conscious of the fact that there was often a lack of candor in relationships between the Bureau and the Department; that Mr. Hoover was opposed to many of the views of Mr. Kennedy, Mr. Clark and myself, and that he expressed his views privately, and occasionally publicly; that the Bureau leaked stories to the press which were embarrassing to me and to my predecessor. I did occasionally pursue those leaks but the Bureau invariably denied that it was the source.

Having said that, let me say that I did respect the Bureau's reputation for integrity and propriety in law enforcement matters and that it never occurred to me that the Bureau would engage in the sort of sustained improper activity which it apparently did.

Moreover, given these excesses, I am not surprised that I and others were unaware of them. Would it have made sense for the FBI to seek approval for activities of this nature—especially from Attorneys General who did not share Mr. Hoover's political views, who would not have been in sympathy with the purpose of these attacks, and who would not have condoned the methods?

The Director of the FBI is a subordinate of the Attorney General. In the 1960's J. Edgar Hoover was formally my subordinate; indeed, I had the formal power to fire him. Mr. Hoover was also a national hero, and had been for 30 years or more. I doubt that any Attorney General after Harlan Fiske Stone could or did fully exercise the control over the Bureau implied in that formal relationship. It is also important to note that Mr. Hoover had great "clout" in the Congress and with the Presidents he served. That position resulted naturally from his great public reputation and the respect which members of Congress and Presidents had for him and for the Bureau. I do not think the practices this Committee has

brought to light could have been exposed other than by Congressional investigation. It is also true, I suggest to the committee, that a Congressional investigation of the Federal Bureau of Investigation was not a political possibility during Mr. Hoover's tenure as Director, not simply because of his enormous and unique public prestige and power, but also because of the Bureau's reputation for total integrity. Certainly, no such investigation was conducted during Mr. Hoover's tenure.

Anyone contemplating an investigation of Mr. Hoover's Bureau would have had to face the strong likelihood that Mr. Hoover would have vigorously resisted. At least he would have asserted that the investigation was unnecessary, unwise and politically motivated. At worst he would have denounced the investigation as undermining law and order and inspired by Communist ideology. No one risked that confrontation during his lifetime.

Those points are key to understanding the role of the Attorney General in "supervising" Mr. Hoover and the Bureau. I can think of no career public servant who even approached Mr. Hoover's stature in the public eye or with the Congress. Under Mr. Hoover, the FBI became the finest investigative agency in the world. Absent strong and unequivocal proof of the greatest impropriety on the part of the Director, no Attorney General could have conceived that he could possibly win a fight with Mr. Hoover in the eyes of the public, the Congress, or the President. Moreover, to the extent proof of any such impropriety existed, it would almost by definition have been in the Bureau's possession and control—unreachable except with Bureau cooperation. This Committee has heard testimony that the Director ordered that certain files were not to be released outside the Bureau, and that certain others were kept personally by Mr. Hoover and were destroyed at his death.

Let me emphasize briefly some further considerations. Mr. Hoover exercised total control over the Bureau and its personnel and brooked no interference with that process. He demanded total loyalty and enforced total dedication to the Bureau and to himself as Director. Agents had no job protection from Civil Service or otherwise: they were reprimanded, demoted, reassigned, and dismissed at his direction. Complaints by the agents—and certainly public complaints or complaints to the Attorney General—were not tolerated, and given Mr. Hoover's political position would have had little prospect for success.

Mr. Hoover's total control over personnel and management was reenforced by encouraging predominantly formal relationships with those outside the Bureau, including the Attorney General and his principal subordinates. Mr. Hoover normally dealt with the Attorney General in writing, personally, or through a designated liaison officer. He maintained discipline and control by actively discouraging efforts by the Attorney General to deal directly with agents in the field or anyone in the Bureau other than himself and his principal assistants.

Mr. Hoover was proud of the absence of partisan political interference in the work of the FBI. His absolute control was in fact a protection against politically motivated investigations by a politically minded Attorney General or a politically appointed United States Attorney. At the same time, keeping the Bureau free from political interference was a powerful argument against efforts by politically appointed officials, whatever their motivation, to gain a greater measure of control over operations of the Bureau.

The Committee should remember also that the Bureau is an extremely important resource of the Department and key to its success. No Attorney General can carry on the work of the Department without the full cooperation and support of the FBI. Animosity between an Attorney General and the Director was a losing proposition for the work of the Department and for the success of the Administration—as well as for the Attorney General involved. Certainly I sought in many ways to avoid, wherever possible, too direct a confrontation.

Whenever the Bureau came in for public criticism, as it occasionally did, Mr. Hoover could count on a defense and expression of confidence by the Attorney General. He found great value in his formal position as subordinate to the Attorney General and the fact that the FBI was a part of the Department of Justice. He was very conscious of the fact that an independent Federal Bureau of Investigation would be far more vulnerable to public suspicion and public criticism than one formally under the control of the Attorney General. In effect, he was uniquely successful in having it both ways: he was protected from public criticism by having a theoretical superior who took responsibility for his work, and was protected from his superior by his public reputation.

Mr. Hoover was a permanent fixture in government; Attorneys General came and went. Surely he must have, with some justification, regarded Attorneys General as rank amateurs in the investigative techniques in which the Bureau was so expert. While he accepted their view of the law with respect to prosecutions, he controlled both the resources and the methods of investigation. While he was enormously sensitive to any accusation that a particular activity was not authorized by the Department, this did not mean that the incumbent Attorney General or any of his principal subordinates knew of the activity. As far as Mr. Hoover was concerned, it was sufficient for the Bureau if at any time any Attorney General had authorized that activity in any circumstance. In fact, it was often sufficient if any Attorney General had written something which could be construed to authorize it or had been informed in some one of hundreds of memoranda of some facts from which he could conceivably have inferred the possibility of such an activity. Perhaps to a permanent head of a large bureaucracy this seems a reasonable way of proceeding. However, there is simply no way an incoming Cabinet officer can or should be charged with endorsing every decision of every predecessor, and particularly those decisions which even the predecessor did not know he was making.

Let me briefly cite an example. The Bureau used terms of art, or euphemisms, without informing the Attorney General that they were terms of art. I do not think it is excessively naive to assume that a "highly reliable informant" was precisely that, and not a "bug". Why were such euphemisms used? I don't know, but one of the results of their use was to make precise communication difficult. The extremes to which the FBI would go in charging an Attorney General with knowledge of its activities based on the use of such euphemisms came most dramatically to my attention in connection with papers filed in the Supreme Court in the *Black* case in 1966. That case involved the use of a "bug" and I strongly urge the Committee to review my correspondence with the Director on that occasion—a correspondence which, incidentally, led to precisely the kind of confrontation which persuaded me I could no longer effectively serve as Attorney General because of Mr. Hoover's resentment towards me.

I do not think informing the head of a Department is or ought to be a guessing game. Responsible subordinates know or ought to know when a particular policy or practice is, in the circumstances, questionable, and should seek guidance from their superiors. The process of government should not depend on guess or inference when it is easily open to the process of inquiry, recommendation and decision. It was not my practice, and I believe not the practice of others in the Department of Justice, to avoid difficult decisions by looking the other way or by using ambiguous language which left subordinates free to act as they chose. I did not seek to be left with a "plausible denial".

But perhaps more important than all the foregoing was the simple fact that while I did not in all respects share the public adulation of Mr. Hoover, I did respect the Bureau's reputation for integrity and propriety.

I would like to turn to three areas in which, I understand, the Committee has particular interest: the opening of mail; the so-called COINTEL program, particularly regarding the Klan and the Communist Party; and the FBI's activities with respect to Dr. King, including wiretaps and bugs. In this connection I am sure that the Committee appreciates that I have had to depend largely upon my recollection of events taking place some ten years ago. To assist this recollection I have had access to my own calendars, to the recollection of a few colleagues, and to the few documents provided to me by the Committee staff. I have spent some substantial time trying to reconstruct events and to refresh my recollection, but obviously I make no claim that my recollection is complete or in all cases precisely accurate. It is simply my best recollection.

I. OPENING OF MAIL

The press, and perhaps the Committee staff, have drawn an inference from certain internal FBI memoranda (not previously available to me) that I was aware of the FBI's program with respect to mail opening in violation of law. That is not the fact. I do not recall any such program and had I been made aware of such a program, I am sure that I would recall it since I would not have tolerated it.

Let me discuss the documents involved and the surrounding circumstances: The first document is an internal Bureau memorandum from Mr. D. E. Moore to Mr. W. C. Sullivan, apparently viewed by Mr. Hoover, and dated October 2,

1964 [see Exhibit 71[1]]. That memorandum discusses the case of *USA* v. *Baltch*, an espionage case then going to trial on October 2, 1964—the date of the memorandum—in the Eastern District of New York. It reveals that a "mail intercept"—an FBI euphemism that the Committee staff tells me meant an unlawful mail opening[2]—had been utilized in the case; that Department lawyers had not theretofore been informed of the fact of this tainted evidence; and that the Bureau would rather drop the case than to admit to the existence of the "intercept". The case was in fact dropped that day, at my direction, on the ground that it could not be further prosecuted without revealing national security information. From those facts the inference is drawn that I was personally aware of the opening of mail, and directed that the case be dropped for that reason. That inference is not correct.

I was not aware of any mail opening in connection with this case. I do recall that prosecuting the case raised two problems: (1) the repatriation of certain alleged co-conspirators virtually destroyed the case against the Baltches; and (2) there was a bug and, I believe, an unlawful entry into the Baltch apartment. The United States Attorney had not been informed of the bug, despite his inquiries of the FBI, and in fact he had denied its existence in open court on September 28. The next day, the United States Attorney again advised the court that he had checked with the Department of Justice and stated that no leads had been secured from eavesdropping or any other illegal activity. It was not until October 2 that the United States Attorney was advised that there had in fact been a microphone in the apartment. Although he had been assured that no tainted evidence resulted from the bug, when I was informed of the bug and his statements to the court, I directed that the United States Attorney advise the court immediately that his earlier representations had been incorrect. I did this without knowing anything about mail being opened in the investigation.

To understand this sequence of events it is necessary to read Mr. Moore's memorandum carefully, to note that it reports three separate conversations, and to focus carefully on their order. Having done this, it is obvious to me that the first of these conversations, between Mr. Hall and me (reported third hand in the memorandum), took place in the morning of October 2, before the United States Attorney or anyone outside the Bureau was aware of the so-called "mail intercept", and before any decision had been made to drop the case. Thereafter, Mr. Hall apparently told Mr. Moore that he would pass whatever information he in fact received about the "mail intercept" on to Mr. Yeagley and Mr. Hoey in New York, not to me in Washington. Both of these facts are confirmed by my own calendar, because the only time that I talked with Mr. Hall on October 2 was at 9 a.m. for no more than ten minutes—clearly before he could have received an answer to the inquiry about the "mail intercept". In other words, I was quite aware of difficulties in pursuing the prosecution—though the Bureau was pushing it and I hoped it could be done—quite apart from, and indeed before I could possibly have known of, the additional problems raised by the so-called "mail intercept".

My calendar reflects that I talked with Mr. Hoey twice on October 2, and that accords with my recollection. The first time was, on his recommendation, to authorize him to dismiss the crucial counts in the indictment; the second time was to find out how this had been received by the Judge, and what publicity we were likely to get.

If I learned about any mail opening in this case on October 2 I had to learn about it from the United States Attorney because my calendar reflects that he is the only person I talked with who was knowledgeable about the case after my early morning discussion with Mr. Hall. Neither he nor the Assistant Attorney General, both of whom were familiar with the case in a detail that I was not, have any recollection of being told about mail opening in connection with this matter on that date or previously. Their recollection accords with my own. Mr. Moore, as I read his testimony, believes that he did tell Mr. Yeagley about a "mail intercept" but does not know if Mr. Yeagley knew that that term meant mail opening. Given all the circumstances of that case, I frankly doubt that Department lawyers were in fact advised about mail opening. It would have been sufficient for the Bureau to have told them that there were problems in the case

[1] See pp. 828 through 835.

[2] I do not recall ever having previously heard the term "mail intercept" and certainly not its use in connection with any mail opening. In this statement I accept the staff's definition although I query whether "mail intercept" was used only to describe mail openings.

arising from an unlawful entry and an unlawful search and seizure and that, under the circumstances, the Bureau recommended dropping the case. That would be far more consistent, in my judgment, with the Bureau's prior refusal to acknowledge the bug or that there was tainted evidence of any kind in the case. And it would clearly have both satisfied and relieved the United States Attorney who was anything but enamored of the case and its prospects for success.[1]

The other incident concerns the investigation by Senator Edward Long of activities conducted by the Post Office Department, the Internal Revenue Service, and others—not including the FBI. Here, again, there are two internal FBI memoranda that have led to some speculation that I might have been aware of the Bureau's opening of mail. I believe that a little background may be helpful to the Committee in evaluating that correspondence.

Rightly or wrongly, I and my colleagues perceived the investigation by Senator Long as an effort to discredit the Organized Crime Program and the prosecution of James Hoffa, while not taking on the FBI directly. This view is consistent with a handwritten note which appears on Mr. Belmont's memorandum to Mr. Tolson of February 27, in Mr. Hoover's handwriting [see Exhibit 71[2]].

Since 1962 Senator Long had been making inquiries of the Post Office Department about the use of "mail covers". Late in 1964 Senator Long requested that the Post Office Department supply him with a list of names and addresses of all persons on whom mail covers were placed after January 1, 1963. The Postmaster General contacted the Department in this regard, and Assistant Attorney General Herbert J. Miller, wrote him on December 22 that it was inadvisable to disclose such information to the Senator. I discussed this personally with both Mr. Miller and with the Postmaster General.

In January 1965, Senator Long and his staff continued to press for this information, particularly as it involved IRS investigations. During this period[3] I had a number of conversations with the Postmaster General, members of my staff and members of his as to whether the Postmaster General would provide a list of the persons on whom mail covers had been requested. On February 19, in response to a request by the Senator for such a list, the Postmaster General formally declined, stating that "many of the mail covers include names of persons who are being investigated for *national security* reasons or because of their affiliation with syndicated crime. Release of these names would seriously impair the effectiveness of such investigations and could in some cases be inimical to our *national security*." (Emphasis added).

Mr. Montague, the Chief Postal Inspector, testified before Senator Long's Committee on February 23 and 24 regarding mail covers. During the course of that testimony Senator Long directed Mr. Montague to prepare a list of all mail covers in the past two years, and further stated that he would not commit to keep that list confidential. This raised obvious questions of executive privilege (as well as national security), and it is my recollection that it was for that reason President Johnson asked me to coordinate all matters before the Long Committee, as reflected in Mr. Belmont's memorandum to Mr. Tolson of February 27.

During that testimony Mr. Montague stated that mail being covered was never opened or examined, and that such mail was never permitted to be taken out of the post office facility.

On February 27, a Saturday, I met with Mr. Belmont and Mr. Evans. I have no precise recollection of that meeting nor do I recall that Mr. Moore was present. I am, however, content to accept his recollection that he was, as well as his recollection of the meeting. His specific recollection of the meeting is not different from my general recollection of the subject matter. It is Mr. Moore's testimony before this Committee that he has no recollection that "mail openings" were discussed, and that is confirmed by Mr. Evans. Indeed, I am confident that they

---

[1] Even if one were to conclude that the Bureau did in fact reveal that mail had been opened and that this fact was relayed by the lawyers involved in the case to me, I am certain that that fact would have been revealed by the FBI—and I would have accepted it—as an unfortunate aberration, just then discovered in the context of a Soviet espionage investigation, not as a massive mail-opening program. In that event, nothing would have led me to deduce that the Bureau was, as a matter of policy and practice, opening letters.

[2] See pp. 828 through 835.

[3] I would not wish the Committee to conclude that the Long investigation was the principal focus of my attention at that time. This was the period of voting rights demonstrations in the South, in Washington, and in the Department of Justice building itself. The beatings in Montgomery, the conduct of Governor Wallace, Sheriff Clark and others led to Congressional demands and public demonstrations for troops. It was an extraordinarily tense period—especially for an Attorney General sworn in on February 13.

were never discussed at any meeting I ever attended. I do recall that Mr. Belmont raised a question about the technical accuracy of Mr. Montague's testimony, and I believe that Mr. Moore is correct in his recollection that it did not concern mail openings, but the question of custody. It is my recollection that in some cases the outside of mail might have been examined or even photographed by persons other than Post Office employees. (Indeed, I believe that the *Baltch* case involved a microdot under a postage stamp.) I also recall that in his first testimony before the Committee, Mr. Montague did not mention the fact that certain Internal Revenue Service mail levies resulted in the transfer of mail from the Post Office to the IRS. I have a clear recollection that my evaluation of Montague's testimony was that it was essentially truthful. I could not have arrived at this conclusion if I were aware that mail was being opened by the Bureau.

It seems to me that Mr. Hoover's handwritten note on Mr. Belmont's memorandum strongly confirms the fact that I was not told about the Bureau's extensive program of opening mail which has since been revealed by the Committee. If I had been so informed, it is impossible to imagine Mr. Hoover writing: "I don't see what all the excitement is about."

On March 1, the Postmaster General wrote to Senator Long, again declining to turn over a list of mail covers. Senator Long responded by asking whether executive privilege was being claimed. My diary for that day indicates that I talked with Mr. Hoover, the Postmaster General, personnel on my own staff, saw Senator Long in the late afternoon, talked again with the Postmaster General, and saw his General Counsel that evening. My recollection—confirmed by my dairy—is that all of this was on the subject of "mail covers" and Senator Long's demand for the names of those people subject to them. My diary for March 3 reflects that I again spoke to the Postmaster General, Senator Long, and personnel in the Criminal Division about this problem, and that on March 5 I saw Senator Long's committee counsel in the company of Justice Department personnel. My diary again confirms that the subject was "mail covers".

There is nothing in Mr. Hoover's memorandum of March 2 which differs in any way from my recollection. [see Exhibit 71 [1]] That memorandum refers to "mail coverage, et cetera". Although the addressees of that memorandum, I would think, were familiar with the Department's mail opening program, there is no reference in that memo to such a program, or to the fact that I was aware of it. Had I been aware of it, I am sure that such a reference would have been made. Indeed, Mr. Hoover refers to his conversation with me about laxity in the use of mail covers—scarcely the conversation to be expected if it were between two people aware of the Bureau's illegal program with respect to mail openings.

There are two points in Mr. Hoover's March 2 memorandum from which an inference that I knew about mail openings could be taken. The first is to treat the words "et cetera" in the phrase "mail coverage, et cetera" as a code word or euphemism for "mail openings". No one could reasonably suggest such a meaning and certainly it has no such meaning to me. The second is the following passage:

"The Attorney General stated that Mr. Fensterwald [Senator Long's counsel] was present for part of the meeting and Fensterwald had said that he had some possible witnesses who are former Bureau agents and if they were asked if mail was opened, they would take the Fifth Amendment. The Attorney General stated that before they are called, he would like to know who they are and whether they were ever involved in any program touching on national security and, if not, it is their own business, but if they were, we would want to know."

I generally recall the conversation described by Mr. Hoover, but, as is the case with all internal memoranda, it is hard to know whether I concurred in a suggestion made by him or whether I initiated the suggestion, and whether it is accurate in other ways. In addition, it is important to remember that he was writing to people who were privy to information that I was not.

But assuming the accuracy of the memo, it is not consistent with my being aware of the Bureau's mail opening program. Had I been aware of that program, I naturally would have assumed that the agents had been involved in that program, and I would scarcely have been content to leave them to their own devices before Senator Long's Committee. Moreover, it would have been extremely unusual for ex-FBI agents to be interviewed by the Senate Committee staff without revealing that fact to the Bureau. In those circumstances both the Director and I would have been concerned as to the scope of their knowledge

[1] See pp. 828 through 835.

with respect to the very information about mail covers which the Senator was demanding and which we were refusing, as well as about any other matters of a national security nature. If the witnesses in fact existed (which I doubted strongly), then both the Director and I wanted to know the extent of their knowledge about Bureau programs, and the extent of their hostility towards the FBI. That is a normal concern that we would have had anytime any ex-FBI agent testified before any Congressional committee on any subject.

I do not wish to belabor the point. To infer knowledge on my part is to assume that I was prepared to deceive many of my closest advisers within the Department with respect to the Bureau's mail opening program, to enter into an unlawful conspiracy with the Director and to deny knowledge to the Postmaster General and his staff, to the head of the Criminal Division and his First Assistant, to my own Executive Assistant, and to many others. It also assumes that I was unconcerned about what I would have known to be a flatly untrue statement under oath by the Chief Postal Inspector before a Congressional committee. And at the very moment that I was attempting to bring order into the FBI's program with respect to electronic surveillance, it assumes that I was prepared to condone the opening of mail in flat violation of the statutes. Such a far reaching set of assumptions is to me obvious nonsense. I did none of those things and there seems to me to be no reason to suggest that I did.

One final point. It would be my conclusion from some experience with the FBI's practices that no subordinate of Mr. Hoover's would have told me about the mail opening program without the express authority of the Director himself. That would almost certainly appear in written memoranda. In addition, if I had condoned this practice, I feel confident there would be a memorandum in the Bureau's files expressing my approval in no uncertain terms, pointing out that the Attorney General had "authorized" the mail opening program. Finally, there would be a memorandum in the Bureau files telling me that the program which I had "authorized" had been discontinued, as I understand it was, in 1966. I understand that no such memoranda exist.

II. THE KU KLUX KLAN AND THE COMMUNIST PARTY

Let me state at the outset that during my term in the Department, to the best of my recollection, I never heard the terms "COINTEL" or "COINTEL PRO". I was, of course, familiar with the fact that the FBI had responsibility within the United States for counterintelligence and investigation of subversive activities. That the Bureau gathered intelligence with respect to the Communist Party and other organizations deemed to be "subversive", or potentially so, was throughout this period very well known to the Congress and to the general public. That it engaged in the extensive use of informers in this regard, and employed wiretaps, was also very well-known and had been known and repeatedly described to the Congress by the Director for many years. That it gathered such intelligence, and that in accordance with Executive Orders it disseminated such information to interested government agencies, was also very well-known. In addition to these intelligence activities, and to a degree as part of them, the FBI also had domestic responsibilities for enforcement of espionage statutes and related laws. Indeed, the Bureau's activities in this area were generously publicized by the Bureau itself and were the subject of books, television programs and movies and were undoubtedly a reason for Mr. Hoover's great public acclaim.

Certainly, as Attorney General, I was aware of Mr. Hoover's strong feelings about Communism and subversive activities. So, also, were the Congress and the general public. Mr. Hoover testified annually before the House Appropriations Committee about the success of the FBI's counterintelligence operations against the Communist Party. He made innumerable public speeches and wrote articles and a book on those subjects.

I think it fair to assume that the facts I knew, as did the Congress and the public, were about activities that unquestionably had a disruptive effect upon the Communist Party and splinter organizations. I think it was a matter of public knowledge that membership in the Communist Party would likely to be known to the FBI, and that this constituted an employment risk—certainly with the Federal Government and defense contractors and perhaps with other organizations.

It is not my purpose here to either attack or defend this program of the Bureau, in so far as I was aware of it. My point is simply that it was not a secret. Indeed there were many of us in the Department who thought that

in view of the Smith Act cases, and in view of the changing nature of the Communist Party of the United States, the intelligence program was excessive, wasteful and, perhaps, unwarranted. But it continued to have strong support in Congress and from the Director himself.

Indeed, after I left the Department, Mr. Hoover went even further—again with full public knowledge—and related the activities of the Communist Party with those of many other organizations including the following: the Students for a Democratic Society, the Nation of Islam or Black Muslims, the Student Nonviolent Coordinating Committee, the Black Panthers, and groups which came to be called the "New Left". To Mr. Hoover and the Bureau, these groups all advocated violent overthrow of our government and were hence subject to scrutiny. These attitudes were publicly known and supported by large segments of the public and the Congress.

Leaving aside the propriety of Mr. Hoover's preoccupation with such organizations, some of which were not even in existence when I was in the Department, I did not then, and do not now, regard the Bureau's program with respect to the Ku Klux Klan as in any sense comparable to these programs as I have heard them described. I did not think of the Bureau's Klan effort in any meaningful sense, as involved with "counterintelligence".

The Klan program involved the investigation and prosecution of persons who had engaged in and who were committed to the violent deprivation of constitutionally guaranteed rights of others through murder, kidnappings, beatings and threats of violence—all in contravention of Federal and State laws.

If you will remember for a moment the names of Lemuel Penn, Viola Liuzzo, Vernon Dahmer, Medgar Evers, James Chaney, Andrew Goodman, Michael Schwerner, and the bombings and beatings so frequent in the mid-1960's, you may perceive the differences as clearly as I did then. The FBI did a magnificent job in Mississippi and parts of Alabama and Louisiana in bringing to justice the perpetrators of those acts. The Bureau was investigating and attempting to prevent violence. To equate such efforts with surveillance or harassment of persons exercising constitutionally guaranteed rights is in my view unmitigated nonsense.

I have previously, in Executive Session, described at some length the program of the FBI in the South as I understood it. I see no need to repeat that testimoney here, and I am attaching it to this testimony. (See p. 213)

The central point of that testimony and my testimony here is that some Klan members in those states, using the Klan as a vehicle, were engaged in repeated acts of criminal violence. It had nothing to do with preaching a social point of view: it had to do with proven acts of violence. The investigation by the FBI was hard, tough, and outstandingly successful.

It is true that the FBI program with respect to the Klan made extensive use of informers. That is true of virtually every criminal investigation with which I am familiar. In an effort to detect, prevent, and prosecute acts of violence, President Johnson, Attorney General Kennedy, Mr. Allen Dulles, myself and others urged the Bureau to develop an effective informant program, similar to that which they had developed with respect to the Communist Party.

It is true that these techniques did in fact disrupt Klan activities, sowed deep mistrust among the Klan members, and made Klan members aware of the extensive informant system of the FBI and the fact that they were under constant observation. Klan members were interviewed and reinterviewed openly—a fact which appeared in the public press at the time. They were openly surveilled. These techniques were designed to deter violence—to prevent murder, bombings and beatings. In my judgment, they were successful. I was aware of them and I authorized them. In the same circumstances I would do so again today.

I was not, to the best of my recollection, aware of any activities which I regarded as improper. I did not, for example, know of the use of anonymous letters to wives of Klan members suggesting their infidelity, or practices of that kind. Even in the context of the Klan I do not regard this technique as proper. There may have been other overreaching by Bureau agents; in an investigation of this size, that is always possible. But I continue to believe that, taken as a whole, the Bureau did an exceptional job in that investigation, a job which was important and essential to the restoration of law in the South and to the welfare of this country. Again, I say I would authorize that type of action where necessary again today.

I hope this Committee will do nothing which would prevent or inhibit such proper conduct.

III. MARTIN LUTHER KING

The Committee's investigation has revealed some grossly improper acts with respect to Dr. Martin Luther King, Jr. I am appalled by the impropriety of some of those acts. But beyond impropriety, they suggest an irrationality which I did not believe the FBI, or the Director, was capable of endorsing. I certainly was unaware of them at the time, but I cannot claim ignorance of at least a part of the motivation and of one instance of highly improper conduct.

In order to focus on this situation, some background is necessary.

Dr. King emerged as the most influential Civil Rights leader in this country at a crucial time in our history. There is no doubt that the Kennedy administration (both the President and the Attorney General) sympathized with and supported Dr. King's dramatic efforts to demonstrate the extent of discrimination in this country and to right those wrongs. By and large, Dr. King sought only to establish constitutional rights, and so long as he adhered to that objective it was right and proper that the Attorney General supported the efforts that he made to achieve equality. Mr. Kennedy clearly did so. He did so with courage and conviction.

The leadership and support of Dr. King for civil rights for all citizens was an essential ingredient in the Kennedy administration and its dedication to that objective. That basic identity of constitutional and political interest between Dr. King and the Kennedy and Johnson administrations is the necessary predicate of all subsequent events. Anything which discredited Dr. King, or his non-violent Civil Rights movement, would have been a disaster to the Kennedy administration, and after President Kennedy's death, to the Johnson administration. More importantly, it would have been a disaster to the country.

This Committee, with its political experience, can understand what I mean when I say that in the United States in the early and middle 60s a Governmental effort to discredit Martin Luther King, Jr., could have led to civil strife of an incredibly serious nature. As it was, this country came through an extraordinarily difficult period. In my judgment, it could not have done so without the leadership of Dr. King and his dedication to non-violence.

These points underline the problem presented by Mr. Hoover's vendetta against Dr. King. That vendetta had the very real potential of causing civil strife in this country infinitely greater than that which we suffered in our attempts to bring equal rights to black citizens.

Mr. Hoover's capitulation to his personal pique was irresponsible, and clearly contrary to the interests of Presidents Kennedy and Johnson, constitutional government, and the Nation.

From the outset Mr. Hoover had little sympathy with Dr. King's movement and with sit-ins, marches, and other demonstrations which were part of that movement. This may have represented nothing more than the typical distaste of law enforcement officials for situations which, however peaceful their intention and however constitutionally protected, can lead to violence; it may also have been a reflection of the fact that no law enforcement officials at that time really knew how to cope with acts of civil disobedience. Surely Mr. Hoover found it distasteful to investigate local law enforcement officials, as the Civil Rights Division occasionally asked the FBI to do. Clearly, those investigations strained relationships between local FBI agents and local law enforcement. It is a fair statement that those Bureau investigations did not approach the quality of the normal Bureau excellence.

Throughout Mr. Kennedy's administration of the Department of Justice and mine there was considerable tension between the FBI and the Department on civil rights matters. In voting rights matters much of the work which should have been done by the Bureau ended up being done by young civil rights lawyers. The quality of Bureau investigations again was not up to its standards of excellence, and repeatedly the Civil Rights Division had to give the most detailed instructions to the FBI as to what the Division wished done—instructions almost unheard of in any other context in terms of their detail. While the Department as a whole was heavily and enthusiastically involved in such matters as the Montgomery busing, the integration of the Universities of Mississippi and Alabama, and similar events, the role of the FBI was, by comparison, marginal and somewhat grudging.

In part, I believe the Bureau's attitude was grounded in the difficult problem of what the proper role for the Bureau in such unprecedented situations really was. The Bureau did not, in principle, wish to involve itself in those law enforce-

ment responsibilities which were the obligations of local law enforcement, whether or not those obligations were being effectively or constitutionally carried out. In a sense the Bureau performed its normal functions in a situation which was anything but normal. This continued to be largely the case until mid-1964 when the Bureau made its massive effort with respect to the violence initiated by the Klan and its members.

This tension between the Bureau and the Department, and between the Bureau and the Civil Rights Movement, increased as the Department's activities increased and as the Civil Rights movement grew in its intensity. It was greatly aggravated when Civil Rights leaders, and particularly Dr. King, increasingly voiced public criticism of the FBI. That criticism was bitterly resented by the Director.

It is almost impossible to overestimate Mr. Hoover's sensitivity to criticism of himself or the FBI. It went far beyond the bounds of natural resentment to criticism one feels unfair. The most casual statement, the most strained implication, was sufficient cause for Mr. Hoover to write a memorandum to the Attorney General complaining about the criticism, explaining why it was unjustified, and impugning the integrity of its author.

In a very real sense there was no greater crime in Mr. Hoover's eyes than public criticism of the Bureau and Dr. King's repeated criticisms made him a Bureau enemy. Not only his criticisms, but also his character and reputation became subject to attack. Mr. Hoover frequently viewed such criticism as and probably believed it to be, Communist or Communist-inspired. All public critics of the Bureau, if they persisted, were treated in this fashion. The only thing unique about Dr. King was the intensity of the feeling and the apparent extremes to which the Bureau went in seeking to destroy the critic.

Nobody in the Department of Justice connected with Civil Rights could possibly have been unaware of the intensity of Mr. Hoover's feelings. Nobody could have been unaware of the potential for disaster which those feelings embodied. But, given the realities of the situation, I do not believe one could have anticipated the extremes to which it was apparently carried.

Apart from the general concern I have already expressed about Mr. Hoover's attitude towards Dr. King and his Civil Rights movement, I cannot speak in great detail of what occurred when I was Deputy Attorney General to Mr. Kennedy, either because I did not know or I do not now recollect. Mr. Kennedy worked directly with Mr. Marshall and Mr. Doar on Civil Rights matters, and less often with me. I do recall seeing in 1962 (I believe) one or more memoranda stating, in substance, that an important secret member of the Communist Party, known to be such to the FBI, was in close contact with Dr. King and might be influencing the actions of Dr. King's movement in ways amicable to the interests of the Soviet Union and contrary to those of the United States. It is my impression that at this time the Bureau asked for authorization to tap the phones of Dr. King, and that Mr. Kennedy turned that request down. My recollection is that Mr. Kennedy at that time had a representative of the Civil Rights Division call upon Dr. King and suggest strongly to him that it was not in his interest nor in the interest of his movement to have further contact with this person. Mr. Hoover knew of this call.

I believe that for a period of time Dr. King did follow this suggestion, but subsequently the contacts were resumed, and the Bureau informed the Attorney General of this fact in one or more memoranda. I believe there were subsequent cautions in this regard to Dr. King. In any event, the contacts did continue, the Bureau again recommended a wiretap be placed on the phone of Dr. King, and ultimately Mr. Kennedy approved that wiretap.

I associate in my mind the approval of this wiretap with another event, although I cannot clearly recollect the timing. At one point, I believe in 1963, Mr. Hoover prepared a detailed memorandum about Dr. King, referring to the fact of Communist infiltration into the movement and discussing questions of moral character. Initially, he gave that memorandum wide circulation in the Government. Upon hearing of this fact, Mr. Kennedy was furious; and directed Mr. Hoover to withdraw all copies of the memorandum to other Departments of the Government and not to circulate it further.

Mr. Kennedy resigned as Attorney General on September 3, 1964, and I served as Acting Attorney General from that date until my confirmation as Attorney General on February 13, 1965. Throughout this period I did not, of course, know from day to day whether or not President Johnson would nominate me or someone else to be Mr. Kennedy's successor. Obviously, my authority might be temporary, and for this reason I did not take certain actions, particularly with re-

spect to clarifying the Bureau's procedures on electronic surveillance, until after my nomination and confirmation. I felt this was a matter of important policy for a new Attorney General to determine.

During this interim period, on November 10, 1964, Mr. Hoover held an unprecedented press conference with some women reporters. In response to a question at that press conference Mr. Hoover called Dr. King the "most notorious liar in the country". That comment received extensive publicity. The reference, as the Committee may remember, was to the criticisms that Dr. King had made of the FBI.

I spoke to Mr. Hoover in connection with that press conference. He told me that it was not his practice to have press conferences, had not done so in the past, and would not do so again in the future. Perhaps the depth of his feeling with respect to Dr. King was revealed to me by his statement that he did not understand all the publicity which the remark had attracted because he had been asked a simple question and given a simple truthful answer.

Late on the afternoon of Wednesday, November 25, 1964 (the day before Thanksgiving), I was informed by the head of the Washington bureau of an important news publication that one of his reporters covering the Justice Department had been approached by the FBI and told that he could, if he wished, listen to some interesting tapes involving Dr. King. The nature of the tapes was described. The reporter, after consulting his boss, declined.

I was shocked by this revelation, and felt that the President should be advised immediately. On November 28, I flew, with Mr. Burke Marshall, the retiring head of the Civil Rights Division, to the LBJ Ranch. On that occasion he and I informed the President of our conversation with the news editor and expressed in very strong terms our view that this was shocking conduct and politically extremely dangerous to the Presidency. I told the President my view that it should be stopped immediately and that he should personally contact Mr. Hoover. I received the impression that President Johnson took the matter very seriously and that he would do as I recommended.

On the following Monday I was informed by at least one other reporter, and perhaps two, of similar offers made to them the prior week. I spoke to the Bureau official who had been identified as having made the offer and asked him about it. He flatly denied that any such offer had been made or that the FBI would engage in any such activity. Thereupon I asked at least one of the reporters—perhaps all of them—whether they would join me in confronting the Bureau on this issue. They declined to do so.

I do not know whether President Johnson discussed this matter with Mr. Hoover, or what, if anything, was said. However, I was quite confident that that particular activity ceased at that time, and I attributed it to Mr. Johnson's intervention. From that time until I left the Justice Department I never heard from any person of subsequent similar activity by the Bureau, and I assumed it had ceased. I should add only this: I believed that the tapes in question were not tapes resulting from Bureau surveillance but tapes acquired from State law enforcement authorities, and that such a representation was made to the reporter at the time.

While I have no specific recollection, I am sure that I received many memoranda concerning Dr. King and his activities during this period, and I am sure many of those were highly critical of Dr. King's conduct, his reputation and his morals. I am sure similar memoranda went to the White House.

Let me turn now to how I dealt with electronic surveillance after I was confirmed as Attorney General. On March 30, 1965, after extensive discussions and negotiations with the FBI, I introduced, with Mr. Hoover's acquiescence, new procedures with respect to electronic surveillance, which required the Bureau to treat bugs and taps in the same way, that is, to secure the prior written approval of the Attorney General in each instance. I also directed the Bureau to notify me whenever an approved device had been discontinued, and to seek my approval on any device which had been in existence for six months, and to seek a renewed approval every six months thereafter.

In late April 1965, in accordance with this program, I received a request from the Bureau to continue a tap on Dr. King's personal phone. I ordered it discontinued. It is, however, possible that a request for a continuation of a pre-existing tap on the headquarters of the Southern Christian Leadership Conference was made about the same time, and I may have approved that tap. I do not recall the date or the circumstances which would have led me to do so.

Subsequently, on June 30, the President issued a memorandum confining taps solely to national security matters, and requiring that all taps, and practices re-

lating to electronic surveillances, be reviewed with and approved by the Attorney General. He did that at my insistence.

I think it is important for the Committee to recall the racial tensions and demonstrations which were going on during this period of time and which ultimately led to the President's introducing the Voting Rights Act and to its Congressional approval. These events included Dr. King's demonstration in Birmingham, the beating of Civil Rights demonstrators by Sheriff Clark, demonstrations by Civil Rights sympathizers in Washington and repeated Congressional demands upon me to send troops to the South for the protection of Civil Rights workers. The Committee will also recall that Governor Wallace called upon President Johnson, and that President Johnson and I had numerous meetings with Dr. King and other Civil Rights leaders during this period of time. I wish to remind the Committee of those events because there was nothing in this period of time of more concern to me, which occupied more of my time and energies, or which I regarded as more serious for this country.

The Committee staff has shown me four pieces of paper from the Bureau's files which are of major concern to me because they are inconsistent with my policies. Three of these are information memoranda from the FBI, dated I believe, in May (three weeks after I had disapproved a tap on Dr. King's telephone), October, and December 1965 [see footnote p. 21]. Each of these purports to have informed me that without prior authorization a bug had been put in a hotel room occupied by Dr. King in New York City and removed within 24 hours. Each of these bears my initials in what appears to be my handwriting in the place where I customarily initialed Bureau memoranda. I have no recollection of reading or receiving these memoranda, and given the circumstances I have described in this statement, I strongly believe that I would have such a recollection.

Further, in view of the circumstances which I have discussed above, I find it virtually inconceivable that I could have received these memoranda at that time and not written or discussed the matter with the Bureau.

The fourth document is a note in my handwriting, addressed to Mr. Hoover and dated December 10, 1965. I am informed by the Committee staff that that note was attached in the Bureau files to the memorandum from the Bureau dated December 1, which also bears the handwritten date 12/10/65 in what I do not believe is my handwriting. That note comments on the sensitivity of surveillances and the importance of not involving persons other than the Bureau agents in their installation. I recall writing that note. I do not recall the circumstances, and nothing in my possession, including my calendar, has refreshed my recollection on that point.[1]

I am puzzled by the fact that the handwritten note, if related to the December 1 memorandum from the Director, is written on a separate piece of paper. It was then, and is now, my consistent practice to write notes of that kind on the incoming piece of paper, provided there is room to do so.

These memoranda do not indicate on their face the Bureau sought any prior authorization, or state any reasons why it was not sought. They appear to present me with information after the fact and request no authority to perform similar surveillances in the future. I believe the Bureau knew full well that I would not authorize the surveillances in question, not only because of the circumstances surrounding Dr. King, but particularly because the bugs were to be placed in a hotel room. That is among the worst possible invasions of privacy and would demand the strongest conceivable justification. Indeed, I believe this position had been made clear in written memoranda to the Bureau dating back to the 1950's, and I have a clear recollection of being critical of the Bureau for installing a bug in the bedroom of a leading member of the Mafia. I reaffirmed this position to the Bureau sometime in 1965 or 1966, but that reaffirmation may have postdated these memoranda.

Finally, I cannot recall any memoranda at any time informing me that the Bureau had installed a tap or a bug without my prior authorization. While I authorized Mr. Hoover to do so in emergency circumstances in a memorandum written in the summer of 1965, not only does the May memorandum predate that authorization, but there is nothing in the memoranda which suggests that on any of these occasions was there an "emergency".

[1] My calendar does show that on that date I had a meeting alone with the Deputy Director of the CIA, Mr. Helms, which he had requested the previous afternoon. The meeting was a brief one and would be consistent with a request by the CIA for domestic surveillances by the FBI. I rarely saw Mr. Helms alone, and he did on one or two occasions make such a request. But I have no recollection of the subject matter of that particular meeting and cannot therefore say that this handwritten note is related to it.

Further, my calendars, which are in the possession of the Committee, indicate my general availability[1] to the Bureau on two occasions involving these memoranda, and my total availability to the Bureau on the third. Nor do I have any recollection that the "emergency" procedure was ever invoked by the Bureau during my term in office.

Obviously I do not believe that I received these memoranda. Equally obvious is the fact that if I initialed them, I am mistaken in my belief.

Whatever the explanation for these memoranda, it is undisputed that the Bureau never sought my authorization to bug Dr. King at any place and at any time for any purpose, and that in these three instances they did not comply with the procedures I had directed. Not only was I available, but there could have been no conceivable "emergency" on any of these three isolated occasions which would have justified the Bureau proceeding on its own authority. The memoranda state none.

It seems to me clear that the Bureau did not seek my authorization on these three occasions because Mr. Hoover knew it would not be given. And he was absolutely correct in that conclusion.

CONCLUSION

Revelations of improper conduct as dramatic as those uncovered by this Committee would seem to demand equally dramatic recommendations to prevent their future recurrence.

The Committee could recommend legislation in a number of areas.

It could recommend that certain methods be forbidden entirely to the Bureau. For example, use of all electronic devices could be banned and their sale or transportation in interstate commerce prohibited or their use could be severely restricted or limited by strict safeguards.

The Committee could recommend greater accountability of the Bureau within the executive branch or oversight by the Congress. It could also limit the tenure of any Bureau director or make his reappointment subject to substantial scrutiny by the Senate through its right to Advise and Consent.

I hope the Committee will not recommend Draconian measures. They are not necessary; they would not work.

The nub of the problems you have disclosed as I see it, is the historical accident of J. Edgar Hoover—a man of great dedication and great talent who built an insignificant law enforcement agency into the powerful Federal Bureau of Investigation. He was able to do this not only because of his unquestioned abilities, but also because he became Director at the threshold of the explosive growth of federal government; because of prohibition; because of World War II with its internal security demands; and because the Cold War continued and expanded those demands vis-a-vis the Communist Party. For almost half a century marked by increasing demands on federal law enforcement, Mr. Hoover headed the FBI. In doing so he became one of the most respected and feared men in American history.

Thus, my view is that even if this Committee did nothing beyond what it has already done through public exposure, the odds against any future Director achieving the political power and political autonomy of Mr. Hoover are overwhelming. In demonstrating the dangers of permitting that power and prestige over such an extended period even to a principled man—and Mr. Hoover was—the Committee has performed a significant public service.

My own philosophy of government is to place responsibility for the faithful execution of the laws squarely where the Constitution places it—on the President. This principle is promoted when the President is responsible for the conduct of Executive Departments and Agencies through his appointments and through the ability of Department heads to run and control their Departments. The more Congress intrudes on Executive decision in non-legislative ways, the more it not only destroys the Executive's ability to faithfully carry out the laws but also diffuses governmental responsibility.

In short, I believe—despite the events of recent years—in a strong Executive. I believe our political system has—and has demonstrated—the capability to hold him responsible for the performance of his Constitutional duties.

---

[1] For communications purposes, it was my consistent practice to be met by Bureau agents whenever I traveled. In addition, I kept the White House operator informed of how to reach me at all times. On the first occasion, I left my office for a flight to Chicago at 2:30 p.m. and was, as a practical matter, unavailable to the Bureau only during the two-hour flight. On the second occasion, I left my office at 12:35 p.m. for a one-hour flight to New York, and was similarly unavailable only during the flight. On the third occasion, I was in my Washington office all day, and was thus always available to the Bureau.

In the final analysis, I hope the Committee will recognize that decent law enforcement is almost always less a matter of legislative proscription than the judgment—right or wrong in retrospect—of people. It is extraordinarily hard to legislate judgment; it is not so hard to legislate responsibility.

I have said some harsh things about Mr. Hoover. There are many more good things that could be said about him personally and about the remarkable service he gave to this nation. He did build from modest beginnings the best and most principled law enforcement agency in the world. I will accept every wart the committee has uncovered and without condoning those activities—and accepting that there may be more—feel that the positive achievements of Mr. Hoover and the FBI should endure.

There is, I think, a note of sadness on which I should conclude. Mr. Hoover served with distinction, but he served too long. That was the fault of others and of circumstance. Certainly those who had recent contact with him knew that age increasingly impacted his judgment. We all—the Presidents, the Congress, the Attorneys General, the press and many segments of the public—knew that and yet he stayed on struggling against change and the future.

I hope the Committee will weigh the great service he gave this Nation and the great institution he created and dedicated to the public interest favorably against what I regard as largely the transgressions of an elderly man who served with great distinction; but too long.

STATEMENT OF NICHOLAS DEB. KATZENBACH IN EXECUTIVE SESSION, NOVEMBER 12, 1975

Mr. Chairman and members of the committee, I understand that my testimony today is to deal primarily with the investigation by the FBI of the Ku Klux Klan. Since the only investigations with which I am familiar occurred about 10 years ago, I think that a brief statement putting those investigations into the context of that time would be useful to the Committee. In my opinion they have nothing to do with any abuse of governmental power.

Let me say at the outset that the Bureau did, to my certain knowledge, investigate, penetrate and disrupt activities of the Ku Klux Klan. It did so vigorously, actively, overtly and with outstanding success. In fact, I believe that the Bureau's thorough and unceasing investigation, and the Department's prosecution of Klan activities, was one of the major factors in bringing to an end the Klan's criminal conspiracy of violence that scourged the South, especially Mississippi, in the middle 1960's. Let me also say as emphatically as I can that our concern about the Klan was not related to its political activities or its social action programs, distasteful as they were to those of us who believe in racial equality. Our concern was with the Klan as a secret criminal conspiracy with enormous power, especially in rural areas of the South, that both advocated and employed violent methods. Its members have been tried and convicted for such atrocities as murder, arson, felonious assault and kidnapping.

Its violence was far from anything "theoretical" protected by the First Amendment. It was actual, real, brutal and would have been—but for the FBI and the Department of Justice—effective in its denial of constitutional rights through violence and intimidation.

The Committee will recall that in the early 1960's the Civil Rights Division of the Department of Justice was actively engaged in efforts to secure compliance with the Civil Rights Acts of 1957 and 1960, paying special attention to voter registration activities.

Voter registration activities were then relatively new to the Department, and of course were uncharted waters to the FBI. In retrospect, I believe that for some time the FBI failed to devote sufficient resources to that effort, and jurisdictional friction between the Department and the Bureau rendered our efforts less effective than they might have been. Such activities were, however, not only new to the Bureau, but they were quite different from typical criminal investigations in which the Bureau excelled.

As a consequence, neither the Department nor the Bureau fully appreciated the significance or indeed the genesis of the repeated acts of violence and bloodshed being committed ever more frequently throughout the South on blacks and civil rights workers. As the activities of civil rights groups increased, so too did opposition to them. One was lawful; one was unlawful; one was peaceful; one was violent.

The Bureau was badly understaffed in the South, and much of its information about the ever increasing violent episodes in the South came from indirect sources, such as clergy, educators, students and the like. Moreover, because local law enforcement organizations—the traditional first line of defense against (and the Bureau's primary source of information about) such violence—were infiltrated by the very persons who were responsible for much of the

violence, the net effect was that there was in many sections of the South a total absence of any law enforcement whatsoever.

By the Spring of 1964, incidents of violence in Mississippi, parts of Georgia, Alabama and Louisiana reached truly alarming proportions. In Mississippi alone there were more than 50 fire bombings, shootings, beatings and killings—all aimed at lawful Civil Rights activities—in the first few months of 1964. Local law enforcement officials were powerless—or unwilling—to stop the bloodletting.

Two things became apparent to us in those months. First, the episodes were not random. They were part of a conscious campaign—a criminal conspiracy, and our information pointed directly to the Klan. Second, they were directed almost entirely at black citizens and civil rights workers whose goal was to exercise the rights guaranteed to them by the Constitution and the laws of this country. Thus, the jurisdiction to investigate and prosecute these wanton violations of civil rights fell squarely to the FBI and to the Department, under 18 U.S.C., Section 241 and Section 242. (In addition, the "Summer Project"—the influx of young people into the South—was a tremendous concern to all of us in the Department.)

Federal efforts, already under way, did not crystallize until June 21, 1964, the day that three young civil rights workers, Goodman, Chaney and Schwerner, were brutally murdered in Neshoba County, Mississippi. Those murders, later characterized by a Federal Court of Appeals as a "calculated, cold-blooded, merciless plot", shocked the nation. They also sent the Department of Justice into action in an investigation that I think was probably unparalleled for its thoroughness, vigor and success.

The murders were traced to an organization known as the White Knights of the Ku Klux Klan of Mississippi. The White Knights, organized just five months earlier, had as their stated goal, to protect and promote white supremacy and segregation of races, with violence if necessary. In the months between February and June 1964, Klaverns were established in at least 29 Mississippi counties, and repeated acts of violence, including other murders, were traced to the White Knights during that period.

The situation seemed uncontrollable, and it deteriorated daily. In early June, 1964—before the murders—Attorney General Kennedy had written to President Johnson about the Mississippi situation:

"In addition, it seems to me that consideration should be given by the Federal Bureau of Investigation to a new procedure for identification of the individuals who may be or have been involved in acts of terrorism, and of the possible participation in such acts by law enforcement officials or at least their toleration of terrorist activities. In the past the procedures used by the Bureau for gaining information on known local Klan groups have been successful in many places, and the information gathering techniques used by the Bureau on Communists or Communist related organizations have of course been spectacularly efficient.

"The unique difficulty as it seems to me to be presented by the situation in Mississippi (which is duplicated in parts of Alabama and Louisiana at least) is in gathering information on fundamentally lawless activities which have the sanction of local law enforcement agencies, political officials and a substantial segment of the white population. The techniques followed in the use of specially trained, special assignment agents in the infiltration of Communist groups should be of value. If you approve, it might be desirable to take up with the Bureau the possibility of developing a similar effort to meet this new problem."

Acting on his own, Kennedy sent a team of experienced criminal lawyers from the Department of Justice to Mississippi for a first-hand report on the growing violence. The President, in total agreement with the Attorney General, directed a full-scale FBI investigation of the murders of Goodman, Chaney and Schwerner. Working closely with Mr. Kennedy, and using all the powers of his office, he asked Allen Dulles to confer immediately with Mississippi officials as his personal emissary. On June 23, Mr. Hoover sent Inspector Joseph Sullivan, one of the toughest and most experienced agents in the Bureau, to Mississippi, and the next day, sent Assistant Director Al Rosen to join him.

When Mr. Dulles returned to Washington two or three days later, he recommended a far greater Federal law enforcement presence in Mississippi. It is also my belief, and that of my colleagues in the Department, that Inspector Sullivan made a similar recommendation to the Director, and that he was highly critical of the Bureau's performance to date in Mississippi. In any event, at the direct request of President Johnson, Mr. Hoover flew to Mississippi on July 10, opened an FBI field office in Jackson, Mississippi, and announced that the number of

FBI agents in Mississippi had been increased from a very few—less than ten—to over 150. Most of those agents worked around the clock on the Neshoba County case. Hoover also appointed Roy Moore, another experienced, tough, top-flight agent, as special agent in charge of the Jackson office. Because of the Bureau's typical passion for individual anonymity, those two gentlemen—Sullivan and Moore—have never been accorded the recognition due them.

The Bureau did in fact crack the case. The Committee will undoubtedly recall the grisly details of the discovery of the burned-out station wagon, the decomposed bodies buried under an earthen dam, and the arrest and conviction of those responsible, including a deputy sheriff and ultimately the Imperial Wizard of the White Knights.

I refer to that case in some detail not because it represented a high mark in the Bureau's long list of outstanding criminal investigations—which it did—but because it commenced and typified, I believe, the Bureau's successful "war" against the criminal elements of the Ku Klux Klan.

During that investigation, because of that investigation and as an integral part of that investigation, the criminal conspiracy was indeed penetrated and disrupted. Because there was so little physical evidence—for months we could not even find the bodies—a full scale investigation of the Klan was mandated. Agents of the FBI interrogated and reinterrogated every known member of the Klan in Mississippi. Many were openly followed, using surveillance techniques that the Bureau had developed in connection with organized crime cases. We learned more about the Klan activities in those months than we had known in years. I have no doubt that as an integral part of that investigation, members of the Klan on whom we were focusing our efforts became disoriented, distrustful of other members, and ultimately persuaded that cooperation with the ubiquitous FBI agents was the only safe recourse.

That case could not have been solved without acquiring informants who were highly placed members of the Klan. Whereas before the murder, the Bureau had few such informants, as the conspiracy began to fall apart, due to FBI pressure, many Klansmen became frightened and began to pass on valuable information to the FBI. This took time; in fact Imperial Wizard Sam Bowers, who was sentenced to ten years in prison for his role in the killing, was not even indicted until February, 1967—2½ years after the bodies had been discovered.

Let me be quite direct. I have no doubt that the Bureau's investigation of the criminal activities of the Klan was tough, intensive, harassing and thorough. I expected no less, the President asked for no less, and the Nation deserved no less.

But let me also distinguish as forcefully as I can the Bureau's efforts against the Klan from any disruption of groups composed of ordinary citizens seeking only to exercise their Constitutional rights. This situation was the precise opposite of that situation.

Klansmen in Mississippi—the Klan leadership—were not ordinary citizens. They were lawbreakers of the most vicious sort—terrorists who intimidated, bombed, burned and killed, often under the watchful and protective eyes of their brethren in the local law enforcement agencies. In the words of Judge John Minor Wisdom, for a three judge Federal Court:

"The compulsion within the Klan to engage in this unlawful conduct is inherent in the nature of the Klan. This is its ineradicable evil.

"We find that to attain its ends, the Klan exploits the forces of hate, prejudice and ignorance. We find that the Klan relies on systematic economic coercion, varieties of intimidation, and physical violence in attempting to frustrate the national policy expressed in civil rights legislation. We find that the Klansmen, whether cloaked and hooded as members of the Original Knights of the Ku Klux Klan, or sulking in anonymity as members of a sham organization, 'The Anti-Communist Christian Association,' or brazenly resorting to violence on the open streets of Bogalusa, are a 'fearful conspiracy against society * * *[holding] men silent by the terror of [their acts] and [their] power for evil'." *United States* v. *Original Knights of the Ku Klux Klan*, 250 F. Supp. 330 (E. D. La. 1965)

We should be justly proud of the Bureau's efforts in smashing the Klan's criminal conspiracy of terror and violence and bringing so many of its members to the bar of justice.

This Bureau presence and Bureau activities—and Department prosecutions—did not, by any means, put an end to violence. That took time. But it did solve the Schwerner, Chaney, Goodman murder case; it did result in the quick appre-

hension of the murderers of Mrs. Liuzzo in the fall of 1964, and those of Vernon Dehmer and others later; as the pace of violence in Forest County, Pike County, Greenwood, McComb, Bogalusa and innumerable other places picked up, so too did the Bureau activity. Acts of violence and terror by the Klan were seen and exposed to legal process for what they were, raw criminal conduct. Massive investigations by the FBI, resulting in arrests and convictions by the score throughout the South, was an important event in our history. It was, as I have said, a magnificent performance and one the Bureau should be proud of. I certainly am.

Mr. KATZENBACH. This committee has publicly exposed activities of the FBI which were unlawful, grossly improper, and a clear abuse of governmental authority. According to the testimony before this committee, some of those activities took place while I was Attorney General or Deputy Attorney General. I am surprised and shocked by some of these activities, particularly those which reflect an effort to discredit Dr. Martin Luther King, Jr. Those activities were unlawful and reprehensible and should be condemned by this committee. My surprise and shock stems from the fact that these activites occurred with the apparent knowledge and approval of J. Edgar Hoover rather than from the fact that I, as Attorney General or Deputy Attorney General, was unaware of them. Mr. Hoover dedicated his life to building a Federal Bureau of Investigation which enjoyed a great and deserved reputation for integrity, efficiency, and dedication to public service. I would not have expected him to risk the Bureau's reputation—his life's work—by resorting to unlawful or improper tactics.

I was aware of the fact that the Director held political views far more conservative than my own or those of the administrations which I served. I knew that on occasion he promoted those views on the Hill without consultation with me, and sometimes in opposition to administration policy. I knew the intensity of his views on the dangers of Communism, on the decline of moral standards, on the evils of permissiveness, on the lack of respect for law and order. I knew also that as Mr. Hoover grew older and the country changed—for the worse, in his view—the intensity of those feelings and his frustration at what was taking place grew. I knew too that Mr. Hoover was extremely sensitive to any criticism whatsoever, and that he deeply and personally resented public criticism by civil rights leaders, and especially that made by Dr. King. I knew all these things, and so, I believe, did the Congress, the press, and much of the public at large.

When you look at these activities from the perspective of 1975, I am surprised at how much was public information. If one rereads Mr. Hoover's testimony in 1968 before the Violence Commission, one sees what appears to be almost an outline of the COINTEL Program. I do not suggest, of course, that he revealed publicly those activities which the committee has uncovered. But I respectfully suggest that not only Attorneys General, but the Congress and the general public were on notice as to the general thrust of these activities. In my more detailed statement I point out the extent of congressional and public knowledge with respect to: domestic intelligence activities, the use of confidential informants, the extent of FBI files, public knowledge with respect to wiretaps and electronic surveillances, the use of mail covers, the intensity of the investigation of the Ku Klux Klan, and other matters. The general thrust of the Bureau interests, and the reasons therefore, were not in any sense secret.

Being in the Department of Justice I was, perhaps, more aware of and conscious of those facts and some of the problems they raised than others may have been. There was, especially in the area of civil rights, a good deal of tension between the Director on the one hand and the Attorney General and his principal assistants on the other. I was very conscious of the fact that there was often a lack of candor in relationships between the Bureau and the Department; that the Bureau was opposed to many of the views of Mr. Kennedy, Mr. Clark, and myself; that Mr. Hoover expressed views privately, and occasionally publicly, that were at odds with those of the administration; that the Bureau leaked stories to the press which were embarrassing to me and to my predecessor. I did occasionally pursue those leaks but the Bureau invariably denied that it was the source. Having said that, let me say that I did respect the Bureau's reputation for integrity and propriety in law enforcement matters, and that it never occurred to me that the Bureau would engage in the sort of sustained improper activity which it apparently did. Moreover, given these excesses, I am not surprised that I and others were unaware of them. Would it have made sense for the FBI to seek approval for activities of this nature; especially from Attorneys General who did not share Mr. Hoover's political views, who would not have been in sympathy with the purpose of these attacks, and who would not have condoned the methods?

Mr. Hoover was a national hero. I doubt that any Attorney General after Harlan Fiske Stone could or did fully exercise the control over the Bureau implied in the formal relationship which made him subordinate to Attorneys General. Mr. Hoover had great "clout" in Congress and with Presidents. That position resulted naturally from his great public reputation and the respect which Members of Congress and Presidents had for him and the Bureau. I do not think the practices this committee has brought to light could have been exposed other than by congressional investigation. And I suggest that a congressional investigation of the FBI was not a political possibility during Mr. Hoover's tenure as Director. Mr. Hoover exercised total control over the Bureau and its personnel and brooked no interference with that process. Neither the Congress, which always voted the appropriations he asked, and sometimes more, questioned that control; no more did his nominal superior in the Department of Justice. Exercising that control, Mr. Hoover built the FBI into the finest investigative agency in the world.

I think the Congress and the general public probably viewed Mr. Hoover's control over the Bureau as a protection against a politically motivated Attorney General or a politically appointed U.S. Attorney. What may have been less appreciated is the fact that the Bureau was an extremely important and necessary resource of the Department and the key to its success at any time. No Attorney General can carry on the work of the Department without the full cooperation and support of the FBI. Animosity between an Attorney General and the Director was a losing proposition for the work of the Department and for the success of any administration, as well as for the Attorney General involved. Certainly I sought in many ways to avoid, wherever possible, too direct a confrontation. Mr. Hoover was very conscious of the fact that an independent FBI would be far more vulnerable to public suspicion and public criticism than one formally under the control of the

Attorney General. He would always count on a defense and expression of confidence by his formal superior. In effect, he was uniquely successful in having it both ways: He was protected from public criticism by having a theoretical superior who took responsibility for his work, and was protected from that superior by his public reputation.

Mr. Hoover was a permanent fixture in the Government; Attorneys General, in fact 18 of them, came and went. Surely he must, with some justification, have regarded Attorneys General as rank amateurs in the investigative techniques in which the Bureau was so expert. While he was enormously sensitive to any accusation that a particular investigative activity was not authorized by the Department, this did not mean the incumbent Attorney General or any of his principal subordinates knew of that activity. Mr. Hoover was satisfied if the Bureau at any time had been authorized by any Attorney General to conduct a particular activity in any circumstance whatsoever. Perhaps to the head of a large bureaucracy in which Attorneys General come and go this is a reasonable way of proceeding. But there is simply no way an incoming Attorney General can or should be charged with endorsing every decision of every predecessor, and particularly those decisions which even the predecessor did not know he was making. And, as the committee has discovered, Mr. Hoover, especially in later years, went beyond any semblance of authorization. The Bureau constantly resorted to terms of art, or euphemisms, without bothering to inform the Attorney General that they were terms of art. I don't think it is excessively naive to assume that a "highly reliable informant" is precisely that, and not a microphone surveillance. I don't think that the Nation's chief law enforcement officer is or ought to be involved in a guessing game, particularly without being told the rules.

I don't wish to belabor this point, but I most strongly urge that the committee review my correspondence with the Director on the occasion of the Justice Department's filings in the Supreme Court in the *Black* case in 1966. It was at that time that I became dramatically aware of the lengths to which the Bureau would go in trying to justify its authority. My correspondence with Mr. Hoover at that time unavoidably became a bitter one, and it persuaded me that I could no longer effectively serve as Attorney General because of Mr. Hoover's obvious resentment toward me.

My prepared statement then turns to the three subjects in which the committee has expressed a particular interest. I have discussed these in considerable detail, and I have made every effort to insure my recollection is as accurate as it can be. But, despite the effort and time involved in trying to reconstruct events of 10 years ago from very limited resources, I can make no claim that my recollection is complete or in all cases precisely accurate. It is simply my best recollection.

I discuss first the opening of mail, a program as to which, I am virtually certain, I had no knowledge. The press, and perhaps the committee staff, has mistakenly drawn the inference from certain internal memorandums of the FBI that I was aware of this program. My statement discusses these memorandums in detail. I do not recall any such program and had I been aware of it, I am sure that I would recall it since I would not have tolerated it.

The second subject I discuss in some detail is the Ku Klux Klan and the outstandingly successful investigation which the Bureau conducted

in that regard. I say that I did not then and do not now regard the Bureau's program with respect to the Klan as in any sense comparable to so-called "counterintelligence" programs. The Klan program involved the investigation and prosecution of members of organizations who had engaged in and who were committed to the violent deprivation of constitutionally guaranteed rights of others through murder, kidnappings, beatings, and threats of violence—all in contravention of Federal and State laws. If you will remember for a moment the names of Lemuel Penn, Viola Liuzzo, Vernon Dahmer, Medgar Evers, James Chaney, Andrew Goodman, Michael Schwerner, and the bombings and beatings that became so frequent in the mid-1960's, you may perceive the differences as clearly as I did then. The FBI did a magnificent job in Mississippi and parts of Alabama and Louisiana in bringing to justice the perpetrators of those acts. To equate such efforts with surveillance or harassment of persons exercising constitutionally guaranteed rights is, in my view, unmitigated nonsense.

Third, I discuss what I knew about the wiretaps, bugs, and other surveillance with respect to Dr. Martin Luther King, Jr. I point out the tension between the Department and the Bureau with respect to the civil rights movement, a tension which increased as civil rights leaders, especially Dr. King, were publicly critical of Mr. Hoover and the Bureau. I have tried to describe fully all my knowledge about taps and bugs on Dr. King, including my order to terminate a tap on his home phone and the Bureau's alleged after-the-fact advices about three subsequent overnight bugs of Dr. King's hotel rooms, without prior authorization. It is important here, as with the Klan investigation, for the committee to recall the events of that time and the tremendous stake the Nation had in preventing civil strife and Dr. King's important contribution through his commitment to nonviolence. In this context, Mr. Hoover's capitulation to personal pique stemming from public criticism of the FBI was particularly reprehensible, and clearly contrary to the interest of Presidents Kennedy and Johnson, constitutional government, and the Nation. His vendetta against Dr. King, if successful, could have led to civil strife of frightening magnitude.

My conclusion, after hearing what information I have and that revealed by the committee hearings to date, is that the problems which the committee has disclosed rest more with the historical accident of J. Edgar Hoover—a man of great dedication and great talent who built an insignificant law enforcement agency into the powerful Federal Bureau of Investigation—than they do with the need for much legislation to prevent future abuses. It is my view that if the committee did nothing more than it has already done through public exposure, the odds against any future Director achieving the political power and political autonomy of Mr. Hoover are overwhelming. In demonstrating the dangers of permitting that power and prestige over such an extended period of time even for a principled man, and Mr. Hoover was, the committee has performed a significant public service.

Mr. Hoover built from modest beginning the best and most principled law enforcement agency in the world. That should not be forgotten. Therefore, I conclude with a note of sadness. I believe that Mr. Hoover served with distinction but he served too long. That was the fault of others and of circumstance. Certainly those who had

recent contact with him knew that age increasingly impacted his judgment. We all—the Presidents, the Congress, the Attorneys General, the press and many segments of the public—knew that, and yet he stayed on struggling against change and the future. I hope the committee will weigh the great service he gave this Nation and the great institution he created and dedicated to the public interest favorably against what I regard as largely the transgressions of an elderly man who served with distinction, but too long.

Senator TOWER. Thank you, Mr. Katzenbach. Mr. Clark, we have your complete statement. You may summarize it or read it in its entirety as you choose. In any case, it will be printed in full in the record.

TESTIMONY OF RAMSEY CLARK

Mr. CLARK. Thank you, Mr. Chairman.

I ask that my 7-page statement be put into the record and I make a few comments so we can get on with the questioning.

It seems like we have been through an intolerable series of revelations of Government misconduct. As we approach our 200th anniversary, I hope we will remember that freedom made this country possible, and freedom has been our credo, and that we will act with strength and determination now to see that we can begin our third century in freedom. It has been imperiled, I believe, by Government misconduct.

I served 8 years in the Department of Justice, beginning with the Kennedy administration and ending at the end of the Johnson administration. I was no stranger to the Department. When I first officially entered there, I padded the halls as a 9-year-old kid beside my father. I love the place. I believe its importance in our social fabric is enormous. I believe it is a durable institution, but I believe it needs help, and I think the Congress must be a principal source of that help.

I have sadly come to the conclusion that the revelations regarding the FBI and other governmental activities concerning Dr. Martin Luther King, Jr., require the creation of a national commission, not legislative, not executive, although it certainly could contain members of both of those branches, but involving the people.

I think we have a crisis, among other things, in credibility. I would like to see people on this commission who were close to Dr. King, who believed in his moral leadership and participated in his movement, lawyers from his past, people who worked with him, like Congressman Andy Young, many others, broad based.

I think the commission should have the power to compel testimony to subpena witnesses and documents. I do not believe we can afford to leave a stone unturned in exposing for the scrutiny of a democratic society every activity of government that related to Dr. King, to his friends, his associates, his church, the Southern Christian Leadership Conference, any of his activities, to his work.

That is a sad thing for me to have to recommend. I was Attorney General when Dr. King was murdered. I followed that investigation more carefully than any investigation while I was Attorney General. I had confidence at the time that we were doing everything that could be done to determine the facts. But my confidence and my judgment don't matter. The confidence and the judgment of the people is imperative.

Beyond the revelations concerning Dr. King—we've had so many that required drastic action—I listed again a number of recommendations that I've made from time to time here before, discussions with staff here this morning. I realize I left some out. I think, for instance, the Director of the FBI should be limited to a term of 4 years. I suggested this before. I think the term ought to begin at the end of the second year of the Presidency, so that a President would serve a Director appointed before his term for 2 years and then 2 years with someone that he appointed. I don't think that's extreme. I think it's essential. In fact, I think we have many analogies to indicate the desirability. Take the Chief of Staff in the military and things like that. We are considering our freedom here. I believe that a society committed to democratic institutions, aspiring to freedom and hope and to live under the rule of law, must have faith in its agents, can fully protect their interest and serve their needs by fair conduct, by honorable conduct.

The Congress will have the courage to come to grips and enact laws to prohibit investigative and enforcement activities that are unacceptable to the moral standards of the American people. I think we need as a first requisite specific statutes that address every form of investigative and enforcement activity prohibiting those that are judged unacceptable, and I would hope that would be a long list, attaching criminal sanction to their violation. I would hope that conduct that is permitted would be specifically authorized in statute, so that no agent on the street would ever wonder what he is authorized to do. And if Congress determines there is a twilight zone, that it would vigorously regulate that twilight zone. Some consider the use of electronic surveillance to be such a zone. I don't. I think it ought to be prohibited, as I said when I was Attorney General. If it is permitted, I think it would require rigorous regulation well beyond what we have considered in the title III of the Omnibus Crime Control Act. That shows the concern of Congress and it shows, I think, the potential of law to protect the people from abuse of governmental powers.

I think that any disruptive activities such as those that you reveal, regarding the COINTEL Program and the Ku Klux Klan, should be absolutely prohibited and subjected to criminal prosecution. I believe the police investigation, the criminal investigation and accumulation of data files or dossiers should be prohibited, except in actual ongoing criminal investigations initiated where there was probable cause to believe the crimes have been committed, or is about to be committed.

I think information obtained by police, by agents of the FBI or other Federal bureaus, from public sources for general informational purposes—and I am not a know-nothing—I think that those who have the duty to protect us must know public information about the society in which they live. I think that should be made available always to the public and to the press in the form in which it is received.

Where techniques inherently inimical to freedom, such as paid informants, which I oppose, are authorized by law; they should be stringently regulated. I think the standards should exceed those that the courts have now imposed upon fourth amendment procedure regarding search and seizure. I think vigorous internal compliance should be required, regular inspection and reporting to the highest

authorities within the executive, congressional oversight and regular public reporting with the times, number, and duration of all such activities. Every individual or organization should be entitled to notice of, and on demand to review, any information possessed by any investigative or enforcement agency concerning him, her or it, unless that information is part of an ongoing criminal investigation, and in those circumstances it be subject to judicial rules of discovery. I believe it will better serve the public safety and the freedom of the people, and under any circumstances I think there should be full disclosure not less than 2 years after the date of the receipt of the information.

When Government agencies act unlawfully, I think responsible persons should be subject to criminal sanction, civil damages, and injunction. I think the law should strictly prohibit unauthorized public agencies, or private persons, from engaging in authorized criminal investigations assigned to another jurisdiction. Illustrations that explain what I'm talking about are such things as the plumbers, as they were called; the use of IRS agents to engage in general criminal investigation, which can destroy the confidence in the integrity of the taxing power that is essential to any Government. I think the law should prohibit and punish leaks of information from Government investigations which can either damage reputations, or prejudice fair trials, and I think we need to be rigorous about that. I guess I need only note some of the revelations regarding Martin Luther King to suggest to the Department what I'm talking about.

We need far more effective Freedom of Information Acts, and both Mr. Katzenbach and I were deeply involved in the formulation of the existing basic statute that exists today. I think we both had higher hopes for it. I know I did. I was deeply disappointed when I argued the first case under it in the Supreme Court to find that the exceptions which had been created by the Congress were as great as they were. I think democracy is premised upon an informed public.

Secrecy in Government is one of the great perils to the continuation of democracy and freedom in this society. I think that only rights of privacy and the integrity of ongoing criminal investigations should exempt information from disclosure. I think civilian review boards comprised of the broadest citizen representation with the power to subpena witnesses and documents, compel testimony, should be created for all police departments and investigative agencies by the appropriate legislative bodies, Federal, State, and local. They should have the power to oversee, to check, to initiate studies, to review and determine complaints of wrongful conduct, and report regularly to legislative, the executive, the judiciary, the public, and the fourth estate.

If this sounds burdensome, it is in my judgment a small price to pay and I would like to end with the words of a great man and a uniquely free American, William O. Douglas, on the subject of discretion, because I think they tell us what we risk if we continue to permit unbridled discretion in Federal investigative agencies, or for that matter, those at State and local levels. He said:

> Law has reached its finest moments when it has freed from unlimited discretion some ruler, some civil or some military official, some bureaucrat. Where discretion is absolute, man has always suffered. At times it has been his property that has been invaded, at times his privacy, at times his liberty of movement, at times his freedom of thought, at times his life. Absolute discretion is a ruthless master. It is more destructive of freedom than any of man's other inventions.

I urge you to enact laws that will inform every agent investigating or enforcing for the Federal establishment of the limits of that discretion.

Thank you.

[Prepared statement of Ramsey Clark follows:]

STATEMENT OF RAMSEY CLARK, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Must we remind ourselves? This is America. Freedom is our credo. Because we overcame fear and live free, our imagination and energy burst across the continent and built this incredible place. Fulfillment is the flower of freedom, born of no other tree. Freedom is the child of Mother Courage.

What utter outrage that as we approach our two hundredth anniversary of the quest for freedom striving still to "secure the blessings of liberty to ourselves and our posterity" we should turn, frightened, careless or unscrupulous, to police state tactics. Have we forgotten who we are and what we stand for?

Recent years have seemed a constant revelation of growing abuses of freedom. Frightened, hateful, insecure, craving power, a thousand ignoble emotions have justified means to obtain ends. We have felt the hot breath of tyranny in America. Many have found it comforting.

Some seeming paralysis grips us. Raised to believe the truth will set you free, we are told the truth is too dangerous and not for the people to know. A year in the wake of Watergate, the Congress has not enacted a single law to prevent its recurrence, while Senate Bill 1 from the Committee on the Judiciary imperils freedom.

If we love freedom, we will demand a full accounting by government, federal, state and local, of past conduct threatening liberty.

Your partial disclosures about FBI efforts to destroy the desperately needed moral leadership of Martin Luther King, Jr. are an important first service. We need to know more. For years I have pleaded for full disclosure. Five years ago, writing in *Crime in America*, I observed:

"There have been repeated allegations that the FBI placed bugs in hotel rooms occupied by Dr. Martin Luther King, Jr., and subsequently played the tapes of conversations recorded in the room for various editors, Senators and opinion-makers. The course of the civil rights movement may have been altered by a prejudice caused by such a practice. The prejudice may have reached men who might otherwise have given great support—including even the President of the United States. The public has a right to know whether this is true. If it is, those responsible should be held fully accountable. A free society cannot endure where such police tactics are permitted. Today they may be used only against political enemies or unpopular persons. Tomorrow you may be the victim. Whoever the subject, the practice is intolerable."

What you have now revealed demands the creation of a national commission, empowered to investigate thoroughly all governmental activity relating to Martin Luther King, Jr., his movement, family, friends, associates, church, the Southern Christian Leadership Conference, his activities and his murder. The commission, broad based and fully financed, with the power to subpoena documents and compel testimony, should report to the Congress, the President and the People. When the evidence warrants it, a special grand jury should consider its findings. The commission should develop, draft and present legislation, regulations and review procedures to prevent recurrences of wrongful conduct it uncovers.

We must recognize the far greater danger and injury flowing from government misconduct than from any threat claimed to justify it. Government can only be effective with the support of the people. The people will only support government which earns its respect. People do not respect "a dirty business."

Law enforcement will not long respect itself when it engages in wrongdoing: Integrity will be destroyed. Good people drawn to public service will abandon it. A mystique of cunning and surreptition will drive out objective, lawful investigative priorities and practices. America, too, can be a police state. The only special immunity we have known has been our commitment to freedom.

The notion that moderate Machiavellian means are required by dangerous conditions and can prevail over a radical Machiavelli is twice wrong. An unbridled discretion in police power is the sure road to despotism. We should learn from the words of a great and uniquely free man, William O. Douglas:

"Law has reached its finest moments when it has freed from the unlimited discretion of some ruler, some civil or military official, some bureaucrat. Where discretion is absolute man has always suffered. At times it has been his property that has been invaded; at times, his privacy; at times his liberty of movement; at times his freedom of thought; at times his life. Absolute discretion is a ruthless master. It is more destructive of freedom than any of man's other inventions."

The only acceptable course is constitutional principle.

Now, as Lincoln urged at Cooper Union in the darkening year before the Civil War, "Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it."

A society aspiring to freedom, to the rule of law and democratic institutions, can prevent domestic insurrection, crime and wrongdoing within its own borders by fair, lawful, honorable means. To adopt lesser means is to kill the American Dream.

We gave some cause to the Soviet newspaper Tass to report as it did in January of this year with regard to CIA–FBI activities "And now it is obvious that fundamental rights of citizens are flouted in the leading country of the 'free world.'" It is for you and me now to redeem our pledge to freedom for humanity. And we must begin at home.

From a larger number of recommendations, I will outline nine proposals I have urged to control domestic surveillance, preserve freedom and protect society. I urge the enactment of laws implementing them.

1. Specific statutes should authorize, prohibit or regulate every investigative and enforcement practice for federal, state and local government. Obviously, disruptive government activities such as those revealed in Cointelpro or against the Ku Klux Klan should be subjected to criminal sanction. Every authorized act must be founded in law. Government agents should not have to guess what is permitted.

2. Police investigation and accumulation of data, files or dossiers should be prohibited except in criminal investigations initiated only where there is probable cause to believe a crime has been committed. Information retained by police from public sources for general informational purposes, such as newspapers, should be kept equally available in its original form to the public and the press.

3. Where techniques inherently inimical to freedom such as paid informants or electronic surveillances (I oppose both) are authorized by law, they should be stringently regulated. Court orders meeting Fourth Amendment standards should be required. Internal compliance, inspection and reporting to the highest authority should be rigorous and regular public reporting of times, numbers and duration required.

4. Every individual and organization should be entitled to notice of, and on demand to review, any information possessed by any investigative or enforcement agency concerning him, her, or it, unless that information is part of an ongoing criminal investigation where it should be subject to judicial rules of discovery and full disclosure not more than two years after receipt.

5. When government agencies act unlawfully, responsible persons should be subjected to criminal sanctions, civil damages and injunction.

6. Law should strictly prohibit unauthorized public agencies or private persons from engaging in authorized criminal investigation.

7. Law should prohibit and punish leaks of information from government investigations which can either damage reputations or prejudice fair trials.

8. Freedom of Information Acts at all levels of government should open investigative agencies to public scrutiny. Democracy is premised on an informed public. Only rights of privacy and the integrity of ongoing criminal investigations should exempt information from disclosure.

9. Civilian Review Boards comprised of the broadest citizen representation, with power to subpoena witnesses and documents and compel testimony should be created for all police departments and investigative agencies. They should oversee, check, initiate studies, review and determine complaints of wrongful conduct and report regularly to the legislature, executive, judiciary, the public and the Fourth Estate.

If this sounds burdensome, it is a small price to pay for freedom. Without such safeguards we will enter our third century with liberty exposed to clear and present danger. We must ask ourselves, in the words of Justice Hugo Black "whether we as a people will try fearfully and futilely to preserve democracy by adopting totalitarian methods, or whether in accordance with our traditions and our Constitution will have the confidence and courage to be free."

Senator TOWER. Thank you, Mr. Clark.

Before we proceed with the questions I would like to instruct the witnesses to refrain from mentioning the names of private citizens unless permission has been given in advance by that person, or unless the information is already in the public domain. This is, of course, designed to protect people who may appear in raw FBI data files and that sort of thing. We don't want ourselves unwittingly to infringe on anybody's rights here, and we are investigating the fact that it has been done by Government agencies.

The questioning of Mr. Katzenbach will be initiated by the counsel for the minority, Mr. Smothers.

Mr. SMOTHERS. Thank you, Mr. Chairman.

Mr. Katzenbach, your statement suggests that, for much of the activities we reviewed, or much of the activities of the FBI, these represented matters that started with Mr. Hoover and were pursued without opposition, certainly without opposition at the Attorney General's level. I think it would be fair to say that from some of the documents which you have been shown, there is at least a suggestion that Hoover did communicate some information regarding his activities and may have believed that there was some authority based on those communications.

What I would like to do briefly with you is to concentrate first on the area of electronic surveillance, beginning with your own attention to the area of bugs or regulation of those, and then to move briefly to the three matters we have indicating surveillance of Dr. King and then to the information regarding your knowledge on those, and then finally with regard to asking information regarding the COINTELPRO activities of the Bureau during this time. In the interest of saving time, let me just briefly indicate what our record reveals with regard to the regulation of electronic surveillance, the bugs here as distinguished from the wiretaps.

We know that wiretapping had required the prior approval of the Attorney General. Without respect to bugs, the Bureau apparently relied upon a 1954 memorandum by Brownell, when he was Attorney General, indicating either inherent or delegated authority by the Bureau to plant electronic bugging devices.

On March 30, 1965, you indicated dissatisfaction with this and established a rule essentially requiring the Bureau to conform to the wiretap procedure, that is, come to the Attorney General for permission to use any such devices.

I see an amendment to that in 1965, where you indicate in emergency situations the Bureau could indeed plant such devices, but that notice would immediately follow, notice to the Attorney General.

Is that account substantially correct?

Mr. KATZENBACH. Yes, it is, Mr. Smothers, except that I did a good deal more than just put bugs on the same basis as taps, because taps were not on a very good basis at that time either. So that my procedures did equate the two, but they in addition required formal notice to the Attorney General of any discontinuance, and they required a formal re-permission for anything that had been on 6 months.

Mr. SMOTHERS. To the best of your knowledge, did the Bureau comply with those procedures?

Mr. KATZENBACH. To the best of knowledge, it complied with those procedures. I don't recollect ever having any occasion of seeing the emergency power that you referred to used by the Bureau.

Mr. SMOTHERS. All right. In your statement you referred to three alleged incidents of after the fact advices regarding electronic bugging. I have a memorandum dated May 17, 1965, entitled "Memorandum for the Attorney General, Re: Martin Luther King, Jr." [See footnote, page 21.]

Reading from the first paragraph of that memorandum, the memorandum is signed by Mr. Hoover, Mr. Hoover reports to you that, "This Bureau's investigation of the Communist influence in racial matters has developed considerable information indicating the influence upon Martin Luther King, Jr." It then proceeds to name individuals previously discussed; individuals which the chief counsel indicated, in his discussion this morning, had been shown at least by reporting from the Bureau to not be directly under the control of the Communist Party. Further down in the memorandum, the end of the first paragraph, Mr. Hoover reports the purpose of the surveillance activity, or the purpose of the FBI in looking at King here. He indicated that, "results in obtaining evidence of influences upon King," I continued to quote, "as well as information concerning the tactics and plans of King and his organization and the civil rights movement."

Mr. Katzenbach, there are initials on this document in the upper right hand corners. Are those your initials?

Mr. KATZENBACH. Yes; those are my initials.

Mr. SMOTHERS. Do you recall this information received by Mr. Hoover?

Mr. KATZENBACH. No, I do not, and I do not know whether I wrote those initials or not.

Mr. SMOTHERS. I don't understand.

Are they your initials?

Mr. KATZENBACH. Yes; my initials are N. deB. K., and that's N. deB. K., as I customarily write, in the place where I would customarily write it.

Mr. SMOTHERS. Does that look like your handwriting?

Mr. KATZENBACH. It looks like it.

Mr. SMOTHERS. Do you believe it to be your handwriting?

Mr. KATZENBACH. I don't have any recollection of ever receiving this memorandum or the two subsequent memorandums, or the same memorandums of the same kind, Mr. Smothers. I have no recollection of that, and I very strongly believe that I would have recollected it.

Mr. SMOTHERS. Mr. Katzenbach, if we can stay with my question, please.

That is, does this look like your handwriting?

Mr. KATZENBACH. Yes; it looks like my handwriting.

Mr. SMOTHERS. Do you have any reason to believe that you did not initial this document?

Mr. KATZENBACH. Yes; because I do not recollect the document and I believe very strongly that I would recall this document.

Mr. SMOTHERS. Can we turn to the next document, please; the document dated October 19, 1965, stating substantially the same information as was in the first paragraph of the May 17 document, looking again to the upper right-hand corner.

Are those your initials?

Mr. KATZENBACH. Yes, they are, and the same situation as before.

Mr. SMOTHERS. Do they appear to be in anyone's hand other than your own?

Mr. KATZENBACH. No. That is the way I would write initials.

Mr. SMOTHERS. Will you turn to the document dated December 1, 1965.

Again, going to the upper right-hand corner, do those appear to be your initials there?

Mr. KATZENBACH. Yes, the initials appear to be mine. The handwriting immediately underneath that does not appear to be mine.

Mr. SMOTHERS. Mr. Katzenbach, in the normal course of events, would one be reasonable in assuming that these three documents, separated by some months in time from the Bureau's files, with initials that you indicated appear to be yours, reflect the fact that you had seen and initialled these documents?

Mr. KATZENBACH. In the normal course of events?

Mr. SMOTHERS. What is wrong with that assumption?

We are talking about three documents months apart that appear to be your initials, according to your testimony. Is there anything that would suggest that someone else had initialled these documents?

Mr. KATZENBACH. The only thing that would suggest that anybody else could have initialled these documents are a series of reasons that I have set forth in some length in my prepared statement that I think you are familiar with, Mr. Smothers, as to why I am confident that I would have recollected these memorandums.

It is also, to my mind, I don't understand, and I never saw any memorandums, to the best of my recollection, where the Bureau had put a microphone surveillance in anyplace and notified me afterward.

Mr. SMOTHERS. I'll come to the substance of the documents in a moment, Mr. Katzenbach, but let's be very clear on the record in this matter.

Are you suggesting that what appears to be your initials on these documents in fact represent forgeries?

Mr. KATZENBACH. Let me be just as clear about that as I can. I have no recollection of receiving these documents, and I seriously believe that I would have recollected them had I received them. If they are my initials and if I put them on, then I am clearly mistaken in that recollection.

Mr. SMOTHERS. Very well.

May we go to the substance of the documents for a moment, and we'll turn to the document of May 17. [See footnote, p. 21].

Senator MATHIAS. Mr. Chairman, if counsel would suspend for just a minute, there is no doubt in your mind that you would have remembered that document if you had seen it.

Mr. KATZENBACH. I have no doubt in my mind that I would have remembered it, Senator. On the other hand, if that in fact are my initials, then for reasons that I cannot now explain to the committee, and which I find difficult to conceive, the memorandum must have been seen by me and initialled by me.

Senator MATHIAS. But you wouldn't have considered it routine memorandum, passing over it?

Mr. KATZENBACH. I would have considered it anything but a routine memorandum.

Mr. SMOTHERS. In that connection, Mr. Katzenbach, is it your testimony then that you would not have approved of an objective of the Bureau as stated in the May 17 memorandum, to gain information concerning the tactics and plans of Dr. King and the civil rights movement? Would you have considered this an improper objective on the part of the FBI?

Mr. KATZENBACH. Yes, I would have considered that an improper objective. The Communist influence is another question, and if I might just go back to something you said a minute ago, Mr. Smothers, I think it was not my information. You said the Bureau and all of these people had said that they were not under Communist influence. If my understanding of that is correct, then I believe your statement is not correct. At least, I do not believe it ever came to my attention that one of these individuals was not still believed to be a secret and important member of the Communist Party as far as information coming to me was concerned.

Mr. SMOTHERS. That may well be. There is a matter of some dispute there. We talked about information coming from the New York office in regard to that individual. I do not wish to pursue that at the moment. I grant you that certainly information which may have been received by the Bureau would indicate there was Communist influence.

My question regarding the Communist influence, though, is rather, assuming again that you received this memorandum, it would not have raised questions in your mind as to the nature of this information, this considerable information which the Bureau had developed.

Would this have, in the ordinary course of things, sparked a request from you to Mr. Hoover about the nature of this considerable information, the same language which appears in three memoranda?

Mr. KATZENBACH. I think I can best answer that question, Mr. Smothers, to say that to gain that kind of information through a microphone surveillance, and particularly one in a hotel seems to me a crazy way to try to get that information in the first place, but to gain it in that way, I would have thought was wrong.

Now, for the Bureau or the Attorney General to be interested in information concerning the tactics and plans of Dr. King's movement in those times, I am sure would have been something that I would have been interested in. Indeed, we talked to him often about——

Mr. SMOTHERS. According to the May 17 memorandum, wouldn't the action have been in violation of your own instructions regarding the use of these devices? They are reporting to you after the fact regarding a microphone placement, and they tell you "because of the importance of the meeting," the meeting between King and these other persons, "and the urgency of the situation, a microphone surveillance was effected."

Mr. KATZENBACH. Yes, that would have been in violation. I cannot see this as an emergency. There's nothing in the memo to suggest that it's an emergency. It comes to me some days afterward. I was virtually available to the Bureau every minute prior to the time this was put in. My conclusion is that the reason they didn't ask for my authorization is that they knew they wouldn't get it.

Mr. SMOTHERS. Mr. Katzenbach, the exact same language, except for a change in date, appears in the October 19 memorandum and in the December 1 memorandum, all reporting after the fact.

Now, I am a little puzzled by the fact that none of this information, three occasions of reporting here, came to your attention, or at least no recollection came to your attention. Are we suggesting that these memoranda were not forwarded to the Office of the Attorney General?

Mr. KATZENBACH. I don't know the answer to that question, Mr. Smothers, and I assure you that I am much more puzzled than you are, and much more concerned.

Mr. SMOTHERS. Let me turn to the last document. [See footnote p. 21]. That one is also the source of some concern. This document is on stationery indicating Office of the Attorney General. The document is handwritten and reads as follows:

> Mr. Hoover: Obviously these are particularly delicate surveillances and we should be very cautious in terms of the non-FBI people who may from time to time necessarily be involved in some aspect of installation.

There are initials at the bottom. Are those your initials or signatures, Mr. Katzenbach?

Mr. KATZENBACH. Yes.

Mr. SMOTHERS. Is this note in your hand?

Mr. KATZENBACH. It is in my hand and I recall writing it.

Mr. SMOTHERS. The date of the note is December 10, 1965, 9 days after the last memorandum regarding the surveillances of Dr. King. You will also note, written across and apparently not in your hand, printed, are the words Martin Luther King, Jr.

This document was found in the Bureau's King file. Do you remember writing this note? Do you remember what surveillances you were making references to, what delicate surveillances?

Mr. KATZENBACH. I don't recall, and I have nothing in my possession that has served to refresh my recollection, and nothing has been shown to me by the committee staff that serves to refresh my recollection.

Mr. SMOTHERS. In your opinion, could this note have referred to the three mentioned electronic surveillances against Dr. King?

Mr. KATZENBACH. On its face it says that it did. If I remember any recollection whatsoever of the first three documents, then it would seem to me that would be a possibility. I point out that it could refer to almost anything.

My opinion is obviously, since I don't recall getting the first three, that this was not associated with it, and I really don't have enough recollection of what was assoicated with it to say, I do, or I did see Mr. Helms on that date. Whether it relates to something he asked for, I don't know.

Mr. SMOTHERS. Let me raise this question, Mr. Katzenbach.

Had these memoranda come to the Office of the Attorney General, would your immediate staff or those persons in your office who would have been receiving these memoranda, without regard to whether you actually initiated them, would these persons have called these matters to your atteniton?

Mr. KATZENBACH. If they had seen them, yes, they would. I would certainly assume so, yes.

Mr. SMOTHERS. Was your immediate staff aware of the disagreement you alluded to earlier between Mr. Hoover and the Attorneys General, including yourself, on the question of civil rights?

Mr. KATZENBACH. Oh, yes, certainly.

Mr. SMOTHERS. Then unless we are willing to assume that these documents never reached the Office of Attorney General, we have a true puzzle.

Mr. KATZENBACH. Yes, I am very puzzled.

Mr. SMOTHERS. Let me just raise a question about one bit of information concerning Dr. King which may have come to your attention.

Do you recall in 1964 information coming to you regarding a reporter who had been offered access to certain information regarding Dr. King, certain information that would assist in the ruin of Dr. King?

Mr. KATZENBACH. Yes, I do. I covered that incident in much detail as I can presently recollect in the longer, prepared statement.

Mr. SMOTHERS. So that you did, as early as 1964, have some information to suggest that the FBI may have been interested in an attack on Dr. King?

Mr. KATZENBACH. Oh, yes.

If your question is did I know the animosity between Mr. Hoover and Dr. King, absolutely, yes, sir, and I knew that this one incident had taken place.

Mr. SMOTHERS. Would you agree then, that with this information in your mind, it would have been a clear dereliction to merely initial or approve the matters—not approve, to initial without taking further action on the matters mentioned in the memoranda that we have just been talking about?

Mr. KATZENBACH. I would certainly expect that if I read the memorandums, then I would have done something about it.

Mr. SMOTHERS. Let me move along very briefly to one matter, Mr. Katzenbach.

Mr. KATZENBACH. I would point out that the action in each case was completely finished and done, but I would have done something about it. I did do something about the other, Mr. Smothers [see p. 210.] I did. I went to the President with that.

Mr. SMOTHERS. That's correct, and the record does reflect that.

Do you recall receiving information in September of 1965 in memorandum form [exhibit 44 [1]] from the Bureau directed to the Attorney General indicating that the Bureau was about the business of disruptive activities against the Klan?

Mr. KATZENBACH. I recall a memorandum the committee showed me which speaks for itself. I wouldn't characterize it that way Mr. Smothers.

Mr. SMOTHERS. Do you recall a memorandum [exhibit 45 [2]] originating from you back to Mr. Hoover indicating your satisfaction with the Bureau's efforts against the Klan as reflected by that memorandum?

Mr. KATZENBACH. Yes, sir, I do, and they were magnificent.

---

[1] See p. 513.
[2] See p. 515.

Mr. SMOTHERS. Did you approve the Bureau's COINTELPRO effort against the Klan?

Mr. KATZENBACH. I never heard the word COINTELPRO as such. I certainly approved everything described to me in that memorandum.

Mr. SMOTHERS. You approved the disruption?

Mr. KATZENBACH. I approved—I think there's a terribly important distinction for this committee to make. There was a great deal of evidence with respect to the Klan's being investigated that they had engaged and they were the instrumentality of violence, and I would have approved of activities not only to punish that violence, but activities within the law to do everything that they could to prevent violence in those situations. The situation in 1964 in Mississippi was a desperate one. There was no law enforcement agency in Mississippi that was worth a damn, and none would protect the rights of clients. It wasn't until the Bureau went in there, and went in with a massive investigation under one of its most able inspectors, Joe Sullivan, after the Chaney, Goodman, Schwerner murders, and I think the committee basically has to understand the difference between that situation and the Communist Party or the New Left or something else.

If you can't make that distinction, then I despair. I think that is an extremely important distinction.

Senator MONDALE. In fairness to the committee, we're not arguing at all. As a matter of fact, we are fully supporting the FBI in the discharge of its essential traditional responsibilities to enforce the law. The matters you are talking about are all clearly and classically law violations, and insofar as the FBI went down there and investigated those who committed or were about to commit crimes of violence, I don't think there is a person on this committee who would not but say hurrah.

But we are talking about matters that went clearly beyond this, and that's what concerns us.

Mr. KATZENBACH. Those matters are not contained in that memorandum.

Senator MONDALE. But I thought I heard in your lecture to us that you didn't see a difference.

Mr. KATZENBACH. Because of that memorandum. That memorandum is the basis, because it uses the word "disruption." You cannot do a criminal investigation of any organization properly without having some disruptive influence, where you have reason to know that that organization and its members are engaged in acts of violence, then by George, you want to disrupt those acts of violence. And part of the disruption of those acts is to create open surveillance. We did that with the Klan, openly surveyed them, followed them around all day.

Senator MORGAN. Did you break into their headquarters in Louisiana in 1962?

Mr. KATZENBACH. Not to the best of my knowledge.

Senator MORGAN. Were you in the Department of Justice in 1962? Weren't you involved in civil rights activities in 1962?

Mr. KATZENBACH. Certainly I was, Senator.

Senator MORGAN. Well, do you recall, or did in fact the Department of Justice instruct the FBI or did they break into the Klan headquarters and steal the roster of the membership?

Mr. KATZENBACH. I don't have any recollection.

Senator MORGAN. Would that be within your definition of disruption?

Mr. KATZENBACH. Breaking and entering? No, sir.

Senator MORGAN. Did the Bureau with your knowledge do any breaking and entering in any of these matters?

Mr. KATZENBACH. No, sir.

Senator MORGAN. Are you sure?

Mr. KATZENBACH. I am sure about my knowledge, Senator.

Senator MORGAN. Are you saying that it did not happen or you just don't recall?

Mr. KATZENBACH. I am saying that I had no recollection of that event. I don't know whether it happened and I have no recollection.

Senator MORGAN. While you headed the Department of Justice were instructions given to keep under surveillance all members of the black student activist organizations regardless of whether they had been involved in disruptions or not?

Mr. KATZENBACH. Keep under surveillance all members of black——

Senator MORGAN. Student organizations, regardless of whether they had been involved in disruptions or not and surveillance should include a number of things which were enumerated, including taxes, checking audits of their taxes.

You know nothing of that?

Mr. KATZENBACH. I don't know what you're talking about, Senator.

Senator MORGAN. You have no knowledge of it?

Mr. KATZENBACH. I have no knowledge of it. Is there a document on that subject? I'd like to see it.

Senator TOWER. I wonder if we might withhold the production of that document until such time as the question evolves to the Senator.

The questioning of Mr. Clark will be initiated by the chief counsel of the committee, Mr. Schwarz.

Mr. SCHWARZ. Mr. Clark, sir, has someone put in front of you Mr. DeLoach's testimony from this morning?

Mr. CLARK. I have a page clipped on top of another page.

Mr. SCHWARZ. Well, I don't know if you were here then, but he testified as follows. He was asked did you brief Attorney General Ramsay Clark on the COINTELPRO activities? And reading his full answer:

> Shortly after Mr. Clark became Attorney General, or Acting Attorney General, Mr. Clark instructed me on one occasion to brief him, to assist him in his knowledge concerning FBI activities, to brief him concerning all ongoing programs.
>
> I do distinctly recall that on one occasion briefing Mr. Clark concerning programs of the FBI, that I did generally brief him concerning COINTELPRO or the counterintelligence program, yes, sir.

Now was that testimony of Mr. DeLoach's true and accurate to the best of your knowledge?

Mr. CLARK. No.

Mr. SCHWARZ. And in what respects is it inaccurate?

Mr. CLARK. I do not believe that he briefed me on anything, even, as he says, generally concerning COINTELPRO, whatever that means.

The next question as you see there, Senator Schweiker asked for some specification of what he was talking about and he said nothing has

been shown to me to refresh my memory. This is DeLoach talking. I briefed him concerning electronic surveillance that had been previously authorized by the Attorney General.

Well, I don't know what that is supposed to mean. It is certainly a *non sequitur* from the question.

I had been in the Department for 5½ years or longer when I became Acting Attorney General in September, roughly of 1966. I don't recall being briefed about any activity in the Department. Ordinarily, when a new Attorney General comes in, there are big books that they bring around and tell you what everything was supposed to be. But I guess the assumption was that I had been around for a while and I'd been Deputy Attorney General for a couple of years and I was supposed to know by now.

I noticed in the morning that Mr. DeLoach said that I asked him to instruct me, but I believe I saw in a document that was handed me this afternoon that he earlier said that Mr. Hoover asked him to give me those instructions.

I had difficulty with Mr. DeLoach. It finally resulted in a discontinuation of our relationship, an unhappy event, but I think they knew my disposition. When I became Acting Attorney General, I had already opposed the death penalty officially. I had already opposed wiretapping and other things, and the probability that they were going to be briefing me very much about something that had I heard of, I would have stopped, is not high.

Mr. SCHWARZ. Is it your testimony then that you had no knowledge concerning COINTELPRO from Mr. DeLoach or any other source?

Mr. CLARK. I never heard the word, as far as I know, until the last couple of years. It came out in the press.

Mr. SCHWARZ. Apart from the word, did you have any knowledge of Bureau programs to disrupt or neutralize any of the five target groups, the Communist Party, the Socialist Workers Party, the Klan, the Black Nationalists, or the New Left?

Mr. CLARK. Well, cases would arise. It's hard to think of the best illustration.

I will recall, I had been sent to Selma to enforce Johnson's court order protecting the marchers from Selma to Montgomery and that Friday night I was flying back and got a radio message that Mrs. Viola Liuzzo had been murdered. And I well remember my dismay and I believe it was Monday—perhaps Nick can recall—lo and behold the FBI had solved the case, so to speak. And it seemed like a wizardly piece of investigative work. But it turned out, from what I understand, that actually there was a paid FBI informer in the murder car. Certainly I knew about that. I remember being deeply concerned at the time. I remember discussions in the Department whether there was any possibility that that murder could have been prevented; and that is something that will always haunt me. Certainly law enforcement has as its first responsibility the prevention of crime.

Mr. SCHWARZ. Did you have from the Bureau any knowledge that the Bureau had a program to disrupt the Ku Klux Klan?

Mr. CLARK. I had no knowledge. You all showed me a memo of December 1967, I believe, that indicates I had a conversation with Mr. DeLoach in which I asked him apparently for a briefing on what is going on with the Klan.

When I was interviewed by your staff people I couldn't recall why I asked him about the Klan at that time because that was really well after the Department focus on the Klan as a major enforcement problem.

My assumption now is it must have been related to the Neshoba County prosecution, which was just about wrapping up at that time. This comes not from any recollection I had, but from a conversation with the subsequent Assistant Attorney General in charge of the Civil Rights Division and that perhaps John Doar or others in the prosecution in the case put the idea in my head because the Klan is not something that we were focusing on. We had bad riots that summer. We were deeply concerned about what would happen the following year. We had riots now three or four summers in a row.

Mr. SCHWARZ. Could you just look at the document and we'll go through a couple of words in it. It is a memorandum dated December 19, 1967 [exhibit 46] [1]

Now, let me just take you through a couple of the words in it, the language, and ask you after doing that whether you recollect receiving the information and whether you now read the document as putting in a notice of a program to disrupt the Klan?

The cover sheet describes the conversation as a request for FBI coverage and penetration of the Klan. Then in the attachment under FBI responsibility, Mr. Clark, the second page of the attachment, it talks of the objectives as including, "second, we conduct intelligence investigations with the view toward infiltrating the Ku Klux Klan with informants, neutralizing it as a terrorist organization, and deterring violence."

And then starting on the sixth page, under "Special Projects," they describe various States, and I am picking out just particular examples. And the other material in the document has no connection with CO INTELPRO type activity, so I'm just picking little excerpts and asking whether they put you on notice.

Under Florida, it states that the Bureau had made an effort to bring personal misconduct to the attention of the Klan rank and file of a certain leader. And then on the next page, also under Florida, we found that by the removal of top Klan officers and provoking scandals within the State Klan organization through informants, the Klan in a particular area can be rendered ineffective.

And then under Mississippi, a leader of the Klan has been removed and discredited. Then under Louisiana, referring to some other leader, this action contributed to the organization and disruption of the United Klans in Louisiana. And then under Virginia, an effort is described to contain the growth of the Klan.

Now in a sense what I've done is a little unfair to you, because I have taken isolated words in the document. But given those words, why didn't they put you on notice, or in fact, inform you that the Bureau was engaged, not merely in seeking to prosecute crime and not merely seeking to deter violence, but also on attempting to neutralize, disrupt, through tactics such as causing scandal?

Mr. CLARK. I don't think it's unfair. I don't know how else you would get at a document like this.

---

[1] See p. 516.

Did they put me on notice? No. Why? I either did not read them, or if I read them, didn't read them carefully.

You know I grew up in the South, and the Klan wasn't any outfit I ever cared about. I don't recall concern or focus on Klan activities.

Even things like the Neshoba case were just late coming to trial. There was something that they're as anguished as we had all been. It was 4 years before it came to trial. Or 3 years, I guess.

I had long since discovered that the Bureau's investigative capacity in many types of southern criminal activities that they had jurisdiction over were inadequate and we had, on occasion, to preempt their function often with young attorneys who had no significant investigative experience.

So I guess I think I didn't read this. I think perhaps I had asked for it for someone else, and either bucked it on to them or I never saw it.

I haven't found anybody in the Civil Rights Division who was aware, and these were people who worked in the South intimately. I had been down there virtually every year after I came into office. By that I mean as Assistant Attorney General. We were aware of programs that were disruptive and other than prevention of threat of crime, in a sense, and I guess that's all I can tell you about that.

Mr. SCHWARZ. We'll come back to some other subjects, Mr. Clark, if you want.

Senator TOWER. Senator Mondale?

Senator MONDALE. Mr. Katzenbach, I read your full statement. It was placed in the record. In the recommendations section there are many observations with which I agree. You have to understand the times during which these occurred. You have to understand some of Hoover's predispositions. You have to understand the enormous popularity he enjoyed with the American people, with the Congress, everywhere. You have to understand the risk and fears that Americans felt deeply during much of this. I buy that.

Yet my problem with your recommendations is that you indicate there isn't much we need to do about it except make certain we have good oversight and that we never again let someone stay there too long; and this recommendation seems to flow from what you say was a general awareness of what Hoover was up to and Hoover's eccentricities in later life.

I have a good deal of difficulty with that analysis. First of all, while many may have been aware of Mr. Hoover's prejudices, I think very few, apparently from your testimony even the Attorneys General, were unaware of some of the excesses that go beyond the law, beyond constitutional rights that were being practiced.

Of course the classic case is Dr. King, which occurred while you were Attorney General, while both of you served under the then Attorney General, and during which almost a classic KGB type of harassment program was going on against a major moderate civil rights leader. How then can we say that this agency was accountable in the light of this record?

Mr. KATZENBACH. I don't think that you can.

Senator MONDALE. Did I misunderstand what you were saying?

Mr. KATZENBACH. No. I think you characterized it slightly different than I would have characterized it, Senator. I believe, as I said, that

simply exposing this gets you a long way toward solving it and makes it much more difficult for it to re-occur with the gentleman serving almost half a century in that job with his own views.

If we have similar problems, the Congress ought to think of them in other agencies. I didn't mean to say that that was the end of what the Congress could do. I think you can certainly do things, tighten up the wiretapping legislation. I have no problem with doing something on surveillances. I think we have got a problem in terms of being sure that you can hold the Attorney General responsible.

I would think, for example, that an Attorney General ought to have access to Bureau files. If he wants them and wants to put people in for a particular access that I don't think even the staff of this committee has, and I don't think the Attorney General has it today.

Senator MONDALE. Well, I think many of them disappeared in smoke. The OC files just disappeared one day.

Mr. KATZENBACH. I think an attorney trying the case, the principal trial attorney, ought to have full access to all Bureau files in that case. I think procedures of that kind which you could prescribe by legislation or which an Attorney General can prescribe, help to hold him responsible for what's going on.

Senator MONDALE. In order to have responsibility, you have to have standards to judge them by.

Mr. KATZENBACH. Yes.

Senator MONDALE. One of the problems here is to define what are those standards. But our failure to have them specifically defined has brought us to a point where these agencies have been in disgrace and where even the spokesman for the FBI yesterday was pleading for a definition of their authority so they wouldn't continue to be kicked around the way they are.

Your second point was that a good deal of this was simply traceable to Mr. Hoover. But how do you explain that while this was going on, we had Operation CHAOS in the CIA, which was just about as bad, maybe just as bad. You had the IRS freely participating in CO INTELPRO using the IRS, in my opinion illegally, for general investigative and surveillance purposes. You had another agency of Government freely tapping the international lines of communications. You had the postal department opening up thousands of letters illegally. You had all of these agencies participating directly and indirectly, not only on illegal intelligence gathering, but harassment, neutralization, and all of the rest.

Then, of course, you had the creation of such things as the plumbers, and the infamous Huston plan, about which, for, I think, irrelevant reasons, Mr. Hoover was the only one to say no. Everyone else said yes, including the former Attorney General and the generals in the services, everybody liked it except Mr. Hoover. He didn't like it.

So how can we be content with the notion that we've solved this problem when we've carefully analyzed Hoover's historic role in the FBI and we never should let anybody get in that position again?

Mr. KATZENBACH. I don't think we can, Senator.

Senator MONDALE. Then you've written inartfully.

Mr. KATZENBACH. Can I urge you to think of two buckets. One is what kind of rules ought to be legislated, what kinds of rules, what

can you do, things, what procedures you're going to set up by legislation. Go to it. Make them as clear as they can be made. Fine.

The other side of the problem is administration, and that is the side I was directing it to. Make that responsive not merely because you prescribe the rules, but because they're going to be carried out. Because Senator, the Bureau's rules, the Bureau's manual with respect to informants are pretty good rules. There may be areas that ought to be covered more, but they're pretty good—they weren't followed.

So you have to have the two. You have to insure that you're not going to have an administrative system—if you had an agency as not as severely controlled as the FBI by Mr. Hoover or the Attorney General, you would have heard about that because one of the agents would have told him or if they were scared to tell him, would have told the press and it would have come out in almost any agency of the Government. It seems to me those kinds of activities would have been leaked to someone.

Senator MONDALE. You talked of Hoover's popularity. There's no question about that. He also had a tremendous power of fear over everybody, including Presidents. What he knew, how he could embarrass them, gave him his chance. I think Stalin used to shoot his KGB agents every 3 years to take care of that problem. I don't think that remedy is available. But it's almost similar to trying to get civilian control of the military. You need civilian control of the investigative agencies to keep them in a place where they are responsive, accountable and must comply with the law.

Mr. KATZENBACH. I agree with that and I don't think—it's the sort of thing that Mr. Clark is talking about the committee ought to seriously consider. I think they ought to be looked at and examined to see what you can do by legislation. I don't have any problems with that.

Senator MONDALE. Then I misread your statement. I thought you were saying we just made a mistake in letting one man stay on too long. I remember you said, "I believe in a strong executive." Do you see anything inconsistent in believing in a strong executive and insisting that the executive restrain its activities to those permitted by the law?

Mr. KATZENBACH. Absolutely not and I think that the major function the Congress can perform and perform well is to lay down the rules and then see, through the kind of investigation that you're doing now, whether they are being complied with.

Senator MONDALE. Well, I am past my time. I'll ask one question and I'll ask both of you to respond to it.

The history of the FBI is that it was created under the leadership of Mr. Justice Stone for the precise purpose of getting it out of politics and restraining it to the role of law enforcement to enforce crimes, to enforce the civil laws of the land.

Then as the years went on and the fears of the Nazis developed and of the Communists in the 1930's, World War II, the cold war, civil strife here at home, they forgot that charter and increasingly went beyond the law into a new role of one imposing political and moral orthodoxy upon the American people. I don't know how else you could describe it. It was this crucial and fateful step beyond the law enforcement role that in my opinion turned the FBI to the same kind of posture of embarrassment that finally led to the termination of its predecessor, the Bureau of Investigation.

Would you agree with me that one of the essential and crucial steps to be taken if we're going to prevent the recurrence of this problem is to somehow very carefully and effectively restrain all of these organizations from ever again getting into the so-called political ideological roles that we have seen?

Mr. KATZENBACH. Yes; I do agree with that, Senator. I think you'll have to face the problem in the future that will not be the problem of the Communist Party. I will make it somewhat simpler. You will have to face the problem of political ideological groups who are going to be engaged in acts of violence. Violence is getting easier and easier, and you're going to have to face the problem and set up procedures to determine not on the political beliefs, but that will permit an investigation where there is some reason to believe the group might actually be engaged in violence. And I think it's important to concentrate on that.

Senator MONDALE. That could be defined, couldn't it?

Mr. KATZENBACH. At least you could define the procedure and you could define some standard. You cannot get rid of all discretion.

Senator MONDALE. You could make it subject to a warrant, couldn't you?

Mr. KATZENBACH. No, I don't think so.

Senator MONDALE. Why not?

Mr. KATZENBACH. Well, you could. Obviously you could. Congress can legislate anything that's not unconstitutional. I don't think a warrant would be the proper way to go about it. It might be for what—depending upon what technique you're talking about.

I would concentrate on the question of who is going to be investigating as a more important question than the means of investigation. If you're talking in the political area, the standards are the who, not the how.

Mr. CLARK. Senator, I agree with your statement of the historical development. It is as perceptive and brief a statement as could have been made on the situation as I see it. I agree that the failure was that the Bureau became ideological and that is the antithesis of the uninhibited investigator who has to follow any fact, any place it leads him.

I think the solution is to limit investigations to criminal matters defined by statute. I believe it is improper to use public funds to gather information about people we don't like or we are afraid of. I think if we continue to permit that, not only will we inhibit the discovery of truth and the testing of unpopular ideas and personalities in the marketplace of public opinion, but that we will risk a police state because we have seen pervasive police activities and we shouldn't blink at it. I think the investigator must not be a know-nothing, but that the information that he has generally about activities and people and ideas should come from public sources and be publically available when you get to the place of assembly, and if you do that, then I don't think that we need to fear, except by violation of the law, abuse of investigative power that can get us back into the situation we've just been through.

Senator MONDALE. I just want to conclude that I talked to an old high-level, retired FBI agent and he put it simply. He said we were a great organization until we got into politics and politics ruined us.

Senator TOWER. Senator Mathias?

Senator MATHIAS. Thank you, Mr. Chairman.

I basically have one comprehensive question which I would address first to Mr. Katzenbach. The committee's investigation of the domestic intelligence function, in a very real sense, is a historical study. And history can be nothing more than an afternoon's amusement, if you can call it that, unless we make some use of it. And it is in that spirit that I would like to explore what I think is one of the fundamental issues now on the record: first, that everything we've talked about, mail openings, COINTELPRO, informants, bugs, wiretaps, whatever the technique may be, is always preceded by one conscious, deliberate human act, and that is the decision to undertake domestic intelligence investigation of a group or of any individual. Some human being has to make that decision, or some group of human beings.

In the past that decision has been primarily within the sole discretion, or largely in the sole discretion of the Bureau, and I think it is fair to the Bureau to say that in the overwhelming number of cases it has been a discretion that has been exercised soundly and properly.

But the Constitution recognizes that whether it's the Congress that's involved, or whether it's the Presidency that's involved, or whether it's the courts that are involved, you have to have some check and balance in the exercise of discretion.

Now, you have said in your statement that decent law enforcement is always less a matter of legislative prescription than the judgment of people. I would set up against that the man who appears to be the favorite source of quotations for this committee to date, and that's James Madison, who said that if men were angels, no government would be necessary, and although a dependence on the people is no doubt the primary control on the government, experience has taught mankind the necessity of auxiliary precaution. So I suppose, to use that phrase from Madison, what kind of auxiliary precautions do you, and, I hope, that Mr. Clark would address himself to the same question, what kind of precautions would you suggest to us in the light of your experience as Attorney General?

Mr. KATZENBACH. I think you're quite right in saying that in the sort of a political area, it spilled over when the Communist Party, perhaps the Nazi party a little bit, but primarily the Communist Party and into the cold war period and so forth, it just spilled over into other radical groups. That's an awful standard. The Communist Party itself, I still don't know if faced with that situation really how to deal with—if you assume the Communist Party is a disciplined organization operating under the control of a foreign power, that is a very difficult problem to know how you deal with it. It shouldn't spill over into other ideological groups.

I think today the point I was trying to make, in a way, with Senator Mondale, you can proscribe certain techniques, but I think the problem of who is investigated is a difficult one. I agree with Mr. Clark, it should be today, when you have reason to believe that crimes are committed or are about to be committed, then investigate. I think when you're talking about political groups—and some political groups will resort to violent activities—an open investigation into that group to determine which members are spawning violence—I think that procedures should be set up which puts that decision squarely in the hands

of the Attorney General with a written memorandum which he preserves as to what facts were presented to him.

Senator MATHIAS. Could you analogize what you are suggesting to the Attorney General's fourth amendment role, in wiretaps, for example, under the present practice?

Mr. KATZENBACH. Well, I wouldn't want to because I think the present statute goes further and probably requires less because it uses national security, a term I think virtually is undefined, and is virtually undefinable. I think I would limit it to today. I would limit it to reason to believe that crimes have been committed or are going to be committed.

But, because it's a political organization, I think particular care should be taken in terms of opening up an investigation for the reason that I think any investigation is obviously an invasion of privacy otherwise enjoyed, obviously can have some disruptive effects. And then I think I would concentrate some on the techniques that ought to be permitted and the procedures there.

Senator MATHIAS. Mr. Clark, would you like to comment on that?

Mr. CLARK. I think you have asked the most critical question, and I guess I think this is the question that my paper basically addressed, certainly the nine points that I made.

You have an assumption, however, that I have to disagree with. I don't believe that ordinarily these things begin with a conscious, deliberate decision that there's nothing that's gone before, and suddenly there's a decision and everything flows after it. I think when I try to analyze my experience with different investigations, what I see is a long preliminary period where there are beginnings and there's information coming in.

Senator MATHIAS. You find a bottlecap manufacturer who hasn't paid his sales tax, and it leads you to a bootlegger sooner or later.

Mr. CLARK. Well, you take the slow development of the FBI's addressing the phenomenon of organized crime. I think as late as the mid-1950s Mr. Hoover was saying organized crime or the Mafia didn't exist, but finally there was an accumulation of both FBI cases and investigations and a bunch of little statutes that gave them very little reach into it, of knowledge that—to challenge that assumption.

The very thing with wiretaps. Mr. Hoover opposed the use of wiretaps late into the 1930's, 1937, 1938 as I recall. So I think those things go slowly.

I believe if we are going to be a Government of laws, that we have to have regular procedures, that we have to inform agents of activities that are permitted. I really do not believe that group investigations unrelated to facts and acts pertain to every member of the group. In other words, I don't think the group can be larger than the number of people that you have probable cause are acting or are about to act. In other words, inevitably you're getting into the Boy Scouts and everybody in the Boy Scouts is going to be involved. In the Ku Klux Klan, everybody in the Ku Klux Klan was suddenly involved. That's a dangerous way to address the problems of crime and antisocial conduct by people who want to live in freedom. They ought to be based on acts and individuals, and not organizations or beliefs.

Senator MATHIAS. Thank you very much, Mr. Chairman.

Senator TOWER. Senator Morgan?

Senator MORGAN. Mr. Clark, would you go a little further?

Did I understand from your last statement that you thought the investigation should be based on acts of individuals rather than necessarily their views?

Am I following you correctly?

Mr. CLARK. Yes.

I even believe that—and I have for many years, Senator—our conspiracy law, I think the body of conspiracy law, so to speak, has developed to such a state that it is inherently unfair. We ought to get away from it and address acts. The law should address acts individually.

Senator MORGAN. Mr. Clark, I certainly agree with you that the conspiracy law constitutes one of the greatest threats to our freedom of any law that I know of.

Now, Mr. Katzenbach, am I correct in my recollection that somewhere along the way you did know that bugs were being placed in Dr. Martin Luther King's offices or hotel rooms or someplace that he was?

Mr. KATZENBACH. I have no recollection of that. I do have a recollection of a wiretap in the SCLC office. I do have a recollection of the wiretap that I took off from Dr. King's home phone.

Senator MORGAN. I think I remember some other document that we had.

Mr. KATZENBACH. There were three documents, and we discussed them earlier, Senator, where I said I had no recollection, and I strongly believed I would have a recollection of them if I had seen them. They do bear my initials in what appears to be my handwriting, and that is a problem for me because clearly if I did initial them, I did see them. And they did constitute notice after the fact of installation for less than 24 hours on three separate occasions, installation without my prior authorization, and installation not in accordance, in my judgment, with the practices that I had laid down. And I believe if they had been presented to me in advance, and I assume in fact, they occurred from these documents.

Senator MORGAN. Well, one of the things I find in your statement and I heard that interests me—on page 42,[1] you state that you were informed by a reporter that the reporter had been offered a tape by a member of the FBI which contained derogatory materials concerning Dr. Martin Luther King, which I believe he said—I can't find the exact statement—"that came from bugs or tapes," and you went to the President, but you never at any time asked Mr. Hoover where the tape was, whether there was such a tape in existence.

Did you pursue that in any way?

Mr. KATZENBACH. I did not pursue that with Mr. Hoover myself. I did pursue it with the Bureau agent involved. The reporter, in my recollection, Senator, the reporter identified the Bureau agent involved and identified that tape as a Georgia Bureau of Investigation tape, not as a Bureau tape.

Senator MORGAN. Mr. Katzenbach, I don't quite understand, unless I take your statement on the whole that you frankly were afraid to deal with Mr. Hoover.

Mr. KATZENBACH. No, sir, frankly I felt that the President would deal with Mr. Hoover, and I believed that he did.

---

[1] See p. 210.

Senator MORGAN. But you went to the President. You didn't go to Mr. Hoover about this tape, and I assume that's why the President had appointed you as Attorney General.

Mr. KATZENBACH. I wasn't at that time Attorney General. I was acting.

Senator MORGAN. You were Acting Attorney General?

Mr. KATZENBACH. I was acting.

Senator MORGAN. But you still had the responsibility for the direction of the Federal Bureau of Investigation, didn't you?

Mr. KATZENBACH. Yes, sir, I certainly did.

Senator MORGAN. And you did not inquire of Mr. Hoover or any other high official if such a tape existed in the Georgia office or anywhere else?

Mr. KATZENBACH. It was denied to me, Senator.

Senator MORGAN. By whom?

Mr. KATZENBACH. By the agent who did it.

Senator MORGAN. You didn't pursue it any further than that?

Mr. KATZENBACH. I certainly did. I went to the President.

Senator MORGAN. You're implying, Mr. Katzenbach, in your statement, that you resigned over a disagreement, or because of the bitterness that had grown up between you and Mr. Hoover.

Mr. KATZENBACH. That was certainly a factor, Senator.

Senator MORGAN. Was any such reference made to that point when you resigned, and did you warn the public about what you conceived to be a threat from the Federal Bureau of Investigation?

Mr. KATZENBACH. No, I certainly didn't, Senator. I didn't conceive it to be that threat at that time.

Senator MORGAN. Well, did you not conceive the situation in which the Attorney General, who had responsibility over the conduct of the Bureau, the Federal Bureau of Investigation—you didn't conceive of that relationship as being a threat to the orderly operation of the Department of Justice over the Bureau?

Mr. KATZENBACH. Oh, I felt that it was. I didn't think that fact was secret, Senator. I think Mr. Hoover's reputation and knowledge and power were known to the public, on the Hill, everywhere. I don't think anybody in either House of Congress thought that any Attorney General could exercise the theoretical power he had in firing Mr. Hoover.

Senator MORGAN. Did you ever ask Mr. Hoover for any information that he refused to furnish you?

Mr. KATZENBACH. I don't recall ever asking for any information that he refused to furnish to me. Whether the information I got was accurate or not, I don't know, or whether it was all the information in the files, but I don't recall him ever saying "you have asked me for this and I will not give you that information."

Senator MORGAN. Well, did he ever fail to satisfy you with regard to any requests to the extent that you went back and asked for more information?

Mr. KATZENBACH. Well, there were a number of occasions where I wanted the Bureau to get into something and they didn't want to get into it. I guess that's really what you're talking about.

Senator MORGAN. Did he ever fail to carry out any instructions or orders that you gave him?

Mr. KATZENBACH. It seems clear to me that if he installed these three bugs, he failed to carry out the orders and instructions that I gave him, but I did not know that, or I have no recollection of knowing that at the time.

Senator MORGAN. Now, earlier you made the statement that in light of the horrible experiences and crimes that were committed, you thought that anything you could do to disrupt the Klan was justifiable. Do you place all Klan members all across the country in that category?

Mr. KATZENBACH. Senator, I never said that or even made a statement like that, and I don't think that kind of characterization of my testimony is a worthy one.

Senator MORGAN. Well, Mr. Katzenbach, you did make it a little earlier. You even said, "not like the Communist Party." We'll ask the reporter to read it back.

Mr. KATZENBACH. All right, sir. On what I said about the Klan on disruption, if I said anything at all, which is what you just now said, of course I didn't say that, Senator.

Senator MORGAN. Well, if you did not, I misunderstood you. But you said that—you cited a number of crimes that had been committed which we all applauded. You said, as I understood you to say, "we're not dealing with anything like the Communist Party," and you named some other organizations, the Southern Christian Leadership Conference, but you're dealing with—I forgot exactly how you characterized it, but would you now subscribe to Mr. Clark's theory that you must deal with individuals and investigate individuals and not characterize a whole group?

Mr. KATZENBACH. I don't think that I would, Senator, because if we'd have been dealing with individuals, we would have been dealing with the members of that group.

Senator MORGAN. All of them?

Mr. KATZENBACH. Well, you'd want to find out which ones, and the way you would find out would be through informants within the group, and indeed, that is what happened; in the case of the White Knights, that's exactly what happened. I think you have justice—I don't see the distinction. I hate to disagree with Ramsey, because he's often right, and I'm wrong, but I don't see any distinction to go after the six top members of the group, that it's any different from going after the group.

Senator MORGAN. Well, because there were some in the group, do you justify discrediting all of the members of the group?

Mr. KATZENBACH. We were not talking about all Klans, Senator, but we were talking about certain segments of the Klan in certain places. We were talking primarily about the White Knights. I believe that all of the members of that group were dedicated to and preached violence and other unlawful deprivations of the rights of individuals.

Now, members went to different extremes as to what they did, but I believe that they were all dedicated to an unlawful purpose, to be carried out by unlawful means.

Senator MORGAN. So, by your belief that they were all—then you were willing to disrupt their activities whether you had evidence on those individuals or not.

Mr. KATZENBACH. Senator, I described this in my opening statement. I say that I was not, to the best of my recollection, aware of any activities that I regarded as improper, and then I name them.

Now, even in that context——

Senator MORGAN. I'm sorry. I can't hear you, Mr. Katzenbach.

Mr. KATZENBACH. I'm sorry. Previously, I described what I regarded as the Klan investigation,[1] an investigation of their violent acts to be, and I don't see anyplace on there where I say what you characterize as my testimony.

Senator MORGAN. Well, didn't you just say a moment ago that all members of the White Knights were dedicated to violence? You said that just a moment ago.

Mr. KATZENBACH. Yes, sir, I said criminal deprivations, and I think that they were. And if saying all is too broad a statement, let's take 98 percent. They talked at their meetings, they took credit at their meetings for the murders of Chaney and Schwerner and Goodman, open, at their meetings.

Senator TOWER. All right. Now you've made a broad statement. Document it. When?

Mr. KATZENBACH. Yes, sir, I will. I would be happy to supply documentation. [See Appendix A, page 841].

Senator MORGAN. All right. Would you please supply it, and let's go on to something else.

We talked about Mr. Hoover. I want to ask you if you didn't testify informally yesterday afternoon before some staff members that you personally asked Hoover to float a false rumor that James Meredith was going to register at the University of Mississippi and that Mr. Hoover refused, because you wanted to see what the KKK's reaction was.

Mr. KATZENBACH. That is substantially correct, sir.

Senator MORGAN. So you did?

Mr. KATZENBACH. I didn't say the KKK part of it was not correct. We had information at the time of the integration of the University of Mississippi that there were many persons who were going to come to that campus, and come with guns and prepared to commit violence. We got information—it was Bureau intelligence—they expected people from as far as Texas and Florida and other States. I suggested at that time, and I suggested it to the Assistant Director, Al Rosen, I said, "since Meredith is going to go on Sunday, why don't we float the rumor that the university will be integrated on Wednesday, and see what happens. See where there is a lot of convergence of traffic, the preceding Wednesday, to see what would happen." And Mr. Rosen talked to Mr. Hoover and said Mr. Hoover declined to do it because the Bureau would not be involved in the spreading of any false information. So I dropped it.

To this day I think that would have been a useful thing, and a lot of people who got hurt would not have been hurt if we had had that much intelligence in advance. Maybe I was wrong or unethical, but I'd do it again.

Senator MORGAN. In other words, in your mind, the ends justify the means?

Mr. KATZENBACH. Well, I think there are times when the ends justify the means, and it depends on what the means are and the ends are.

Senator MORGAN. Well, you were Attorney General in September 1964.

---

[1] See p. 207.

Mr. KATZENBACH. Yes, sir, I was Attorney General, Acting Attorney General, from September 4, 1964 on.

Senator MORGAN. And Mr. Clark, you were Attorney General in August of 1967?

Mr. CLARK. Yes, sir.

Senator MORGAN. I want to read to both of you a comparison of two memorandums that went out from the Federal Bureau of Investigation while both of you—while both of you were Attorney General. It was under your direction, even though you may not have exercised that direction.

One was a letter dated September 2, 1964, to the Georgia office concerning White Hate groups, under your administration.

Mr. KATZENBACH. Not technically, it wasn't under mine.

Senator MORGAN. Why wasn't it under your administration?

Mr. KATZENBACH. Because Mr. Kennedy resigned September 3——

Senator TOWER. Would the Senator suspend for a moment? These gentlemen appear to be coaching the witness. If they are acting as counsel, they are acting *pro bono*. Would you please identify yourselves?

Mr. CUTLER. My name is Lloyd Cutler, Senator. I'm a friend of Mr. Katzenbach.

Mr. BARR. My name is Thomas Barr, Senator, and I'm also a friend of Mr. Katzenbach.

Senator MORGAN. Were these gentlemen associated with you in the Department of Justice?

Mr. KATZENBACH. No, sir.

Senator MORGAN. Do they have any personal knowledge of the matters that we're talking about?

Mr. KATZENBACH. No, sir.

Senator MORGAN. I believe you said Mr. Kennedy resigned 1 day later.

Mr. KATZENBACH. Yes.

Senator MORGAN. The letter to the——

Mr. KATZENBACH. I don't mean to make a point of that, though.

Senator MORGAN. Well, at this point what I'm trying to do is to show that the tactics used by the Bureau went from one side of the spectrum to the other. One went to Atlanta with regard to White Hate groups under your administration or Mr. Kennedy's. The other went to Albany, N.Y., to the Black Nationalist under Mr. Clark, and I don't mean to say that either one of you had personal knowledge of it.

The first one on the White Hate groups, the purpose, to "expose, disrupt, and otherwise neutralize." With regard to the Black Nationalists, the purpose, "to expose, disrupt, misdirect, discredit, or otherwise neutralize." No distinction made as to what activities, just Black Nationalists.

The second, No. 2, with White Hate groups, there were no individuals targeted. With the Black Nationalists, they were instructed to target Stokely Carmichael, H. Rap Brown, Elijah Muhammad, Maxwell Stanford.

Three, the White Hate group was instructed to concentrate; that is, "subject to continuing counterintelligence" on "action groups", "the

relatively few individuals in each organizations who use strong-arm tactics to achieve their ends. Often these groups act without the approval of the Klan organization or membership." With regard to the Black Nationalists, no similar distinction was made between violent and nonviolent. Instructions to "counter their propensity for violence and civil disorder."

With the White Hate, No. 4 target was "various Klans and hate organizations, their leadership and adherents." With Black Nationalists, target "black nationalist, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters."

Five, with the White Hate, the "devious maneuvers and duplicity of these groups must be exposed to public scrutiny." Black Nationalists, the "pernicious background of such groups, their duplicity, and devious maneuvers must be exposed to public scrutiny."

Six, with regard to both groups, we must frustrate any effort of the groups to consolidate their forces or to recruit new and youthful adherents."

Seven, with White Hate, "capitalize upon organizational and personal conflicts of their leadership." Seven, with Black Nationalist, "exploit organizational and personal conflicts of the leaderships, and where possible, capitalize upon existing conflicts between competing black nationalist organizations."

With the White Hate, when using media, "furnish assurances the source will not reveal the Bureau's interest or betray our confidence." With the Blacks, "insure the targeted group is disrupted, ridiculed, or discredited through the publicity and not merely publicized."

I think both of you all have already heard testimony or read documents where false press releases were used.

With White Hate groups, list of targets, 17 Klan organizations, 9 hate organizations: Alabama States' Right Party, American Nazi Party, Council for Statehood (also known as Freemen), Fighting American Nationalists, National States' Rights Party, National Renaissance Party, United Freemen, Viking Youth of America, White Youth Corps. Black targets—Student Nonviolent Coordinating Committee, Southern Christian Leadership Conference, Revolutionary Action Movement, Deacons for Defense and Justice, Congress of Racial Equality, and Nation of Islam.

Ten, on both sides, "The agent must be alert for information which has a disruptive potential. The information will not come to him, he must look for it."

With regard to the Black Nationalists [reading]:

Many individuals currently active in black nationalist organizations have backgrounds of immorality, subversive activity, and criminal records. Through your investigation of key agitators, you should endeavor to establish their unsavory backgrounds. Be alert to determine evidence of misappropriation of funds or other types of personal misconduct on the part of militant nationalist leaders so any practical or warranted counterintelligence may be instituted.

With regard to the Black Nationalists [reading]:

Consideration is to be given to techniques to preclude violence prone or rabble rousing leaders of hate groups from spreading their philosophy publicly or for various mass media.

You are urged to take an enthusiastic and imaginative approach to this new counterintelligence endeavor and the Bureau will be pleased to entertain any suggestions or techniques you may recommend.

I think it's true that the Bureau is interested in whole groups and not just individuals who were subject to this kind of harrassment.

I'm sorry, Mr. Chairman. I went over my time.

Senator TOWER. That's quite all right. You can thank your colleague from Colorado, Mr. Hart.

Senator HART of Colorado. Gentlemen, as with our investigation of the subject of assassination attempts on foreign leaders, in this whole area there is a constant tension between the theory—the runaway agency, in this case the Federal Bureau of Investigation—versus the theory all the Bureau was doing in any of these periods was what they thought the political leadership of the country wanted them to do. This was, as I'm sure you are aware, a very difficult problem for this committee to try to pin down, not only responsibility, but also to identify how these institutions can prevent some of these abuses in the future, and I think that second goal is more the purpose of this committee than to try to pin blame for the past.

And in that connection, I would specifically like to ask Mr. Clark a question or two about a specific case in point that I think he was involved in in the fall of 1967. And that was the establishment of something called the Interdivision Information Unit within the Department of Justice. And there are several documents in the period from September to December 1967 that I think came from the Attorney General himself with regard to the establishment of this unit.

I'd like to quote you some very brief portions from these documents and then ask a couple of questions along with the institutional lines that I started out with.

In a memorandum dated September 14, 1967, signed by you, Mr. Clark [exhibit 47 [1]]:

"In view of the seriousness"—all of these relate to riot activities and I'm sure you can recall some of this:

> In view of the seriousness of the riot activity across the country, it is most important that you use the maximum available resources, investigative and intelligence, to collect and report all facts bearing upon the question as to whether there has been or is a scheme or conspiracy by any group of whatever size, effectiveness or affiliation, to plan, promote or aggravate riot activity.

In the last paragraph of that same memo:

> Moreover, sources or informants in black nationalist organizations, SNCC and other less publicized groups, should be developed and expanded to determine the size and purpose of these groups and their relationship to other groups and also to determine the whereabouts of persons who might be involved in instigating riot activity in violation of federal law.

And then in the confidential memorandum that follows, it is dated November 9, 1967—relating to the establishment of this unit [exhibit 48 [2]]:

> To carry out these responsibilities we must make full use of and constantly endeavor to increase and refine, the intelligence available to us, both from internal and external sources concerning organizations and individuals throughout the country who may play a role either in instigating or spreading disorder or in preventing or checking them.

The last paragraph of the memo: "You are free to talk with the FBI and other intelligence agencies"—this is the establishment of a

[1] See p. 528.
[2] See p. 531.

special unit inside Justice—"in the Government to draw on their experience in maintaining similar units, in exploring possibilities of obtaining information we do not now receive, and to carry out other purposes relative to this assignment."

And then, finally, in a memo from the Attorney General to several other people involved on December 18, 1967 [exhibit 49 [1]]:

> It shall be the responsibility of this unit for reviewing and reducing to quickly retrievable form all information that may come to this Department relating to organizations and individuals throughout the country who may play a role, whether purposefully or not, either in instigating or spreading civil disorders, or in preventing or checking them.

Well, I think that nobody, including the members of this committee, are in favor of riots or civil disorders, and I don't think the line of questioning should suggest that anybody condones that. The questioning, I think, as to Mr. Clark should be obvious; how do you carry out your functions as the principal law enforcement officer, using the devices at hand, and at the same time do so without establishing or suggesting a mandate to agencies like the FBI that can be used to infringe upon people's constitutional rights?

So is it more caution in use of language? What is it? What is it that can be done to prevent this intelligence unit from, as apparently it did, being the focal point of the computer list that made its way to the IRS, and became their special list of people in the tens of thousands to watch?

What can we do in retrospect, in your experience, to prevent riots, to prevent the breaking of law, but not to give institutions like the FBI the kind of running room that apparently they used to violate people's constitutional rights?

Mr. CLARK. Well, I think the best answer that I can give is contained in Nos. 1 and 2 of the nine recommendations that I have made, and what they basically do is to divide your knowledge into that accumulated in the course of the criminal investigation, based upon probable cause, to believe that a crime has been or is about to be committed, based upon, obviously, statutory authorization, and hopefully, very soon based upon a legislative prescription prohibited, prohibitive and regulated investigative techniques, and a method of publicly acumulating knowledge that is essential to be aware, simply be aware of what's going on in your own country and your own town and your own part of town where there may be trouble.

What we found—I should say something about IDIU. Of course, I was deeply involved in its creation, and it began shortly, the ideas that led to it, began shortly after the Detroit riots where we found an unacceptable ignorance of basic data.

The Army, for instance, having to stop at filling stations to get roadmaps to know which way town was and things like that, not knowing who the Attorney General or the mayor's assistant was. Public information. It's a big country, and it wasn't accumulated. Also, not knowing what was going on locally, even though it's public information reported on the radio there, reported in the press. You didn't know where there was a raid on cars that led to the riot. Now, I think you cannot function with a know-nothing philosophy in our complex society, and you have to be able to accumulate knowledge

[1] See p. 533.

that you need to know. You have to have quick call on that knowledge. We found many Federal agencies with knowledge. We found three divisions of the Department of Justice with knowledge that other divisions didn't have what they needed to know to enforce the statutes that they had responsibility over. The IDIU was initially an effort to bring together, to coordinate, to analyze, the data that was available and to hopefully stimulate more information. And the three divisions were the Criminal Division, the Civil Rights Division, and the Internal Security Division, which had responsibility primarily because they have all the manpower and nothing to do, which should have been abolished, and I recommended that, a couple of years ago, but they were still there, and we needed the help and we called on them.

We started out with one young woman, a very able young woman, but that was the dimension. She couldn't even keep up with the memos that were coming in from all these agencies. I couldn't keep up with the ones that were coming in to me alone. Of course, there were many more going to the Assistant Attorneys General than I ever saw. A total of 700,000 investigations, FBI investigations. You heard about that time. What we were trying to do was get our knowledge together where we could use it. I believe in a bureaucracy. I think it's essential in mass society. But I find it frequently a very unresponsive phenomenon. You have to prod. And I think that language was using some of their terms to get them to move.

Senator HART of Colorado. You think that language was too broad, in retrospect?

Mr. CLARK. I don't like the language, and I think it should be, you know, a much—in the best of all worlds it would be much cooler language, if you will, but we would be way beyond where we are now. We would have not just a law and a guidance, but a practice and procedure that would tell us, you know, what is permissible and what is impermissible in that area.

I don't think the unit ever had investigative capacity. It had no manpower to investigate. It never had the capacity to even organize the information it got by the time we left, as far as I know; and what happened later, I can't say for sure. I think the idea was right. It does not always help to recall the past, but in August of that year, or perhaps early September, there was, for instance, an article in Life magazine with pictures of people with rifles on tops of buildings saying that the same groups are causing riots throughout the cities. The then Governor of Maryland was quoted on the front page of the Washington Post one morning saying that he had information that the same people—it was Mr. Agnew—had caused the riot in Newark and Detroit, and we tried to find out how come he knew so much more about it than we did.

That was the temper of the country. There was a real belief, as there always is when you're afraid, that there were some evil conspirators out there that are causing all of your problems. And I think that needed to be addressed. And the idea that this was done secretly is wrong. The information, you know, was publicly announced. The White House referred to it on a number of occasions. It was something that we felt essential and was not a secret operation at all.

Senator HART of Colorado. Well, I don't believe I suggested it was.

Mr. CLARK. Well, you said a confidential document, and it may have been a confidential document in the formulative stage, but we announced it.

Senator HART of Colorado. Well, the November document says that, "Planning and creation of the unit must be kept in strictest confidence."

But I think you said in a passing phrase—it was quite a comment, that you said, "I don't know what happened to it after I left." That is part of the problem. People with good intentions often leave, and they are replaced with people whose intentions are not the same as theirs.

It is the capability of computer lists and enemies of the state that bothers all, and I think any help that you can give us on the guidelines, however beneficial and helpful and necessary such an operation may have been at that time, what can be done to head it about so that it isn't used by someone who doesn't have the same constitutional ideals as someone who put it together.

Mr. CLARK. Well, we never know what happens when we leave. We have to operate on faith, finally, don't we, the assumption that our successors will act in as good faith as we do.

Senator HART of Colorado. No.

Mr. CLARK. Well, above all, you can't refuse to do anything out of fear that someone won't later fulfill their responsibility, and the idea that I could bind some subsequent Attorney General—see, I didn't know that Mr. Mitchell was going to replace me at the time. In fact, I didn't know who he was until several years after he was Attorney General.

Mr. KATZENBACH. Well you did know he wasn't going to use you.

Senator HART of Colorado. Well, I would quarrel with you. I think that is why we have laws. I think we can use the laws and the regulations that spring from it to prevent the kind of abuses that we've had in the last few years. But I do think that you have to take the worst case assumption about human nature sometimes, particularly with the kind of power that we're talking about here, to see what can be done to regulate and control them, and not just say that I hope the fellow that follows me is as good as I am.

Mr. CLARK. Well, I hoped that he was better, but I am not sure that we really disagree. I believe the checks are central. I have gone beyond what I have ever believed the Congress would do in checks. It's all there. But with all those, the idea that you can proceed finally other than with faith, with cautions and prudence but faith, is wrong. You have to believe finally in the good will of the people and the good will of future administrations, and the idea that you can bind them now and watch the night watchman is wrong. There are 7,700 FBI agents, and how I could ever hope to know of their individual activities is beyond, I think, the capacity of technology or humanity. You have to believe that they care. You have to believe that they know what their duty is, and you have to believe that in the main they will do their duty, and then you have to have systems that will hopefully reveal their failure.

Senator HART of Colorado. Well, I share your faith in the people of this country, perhaps less in future administrations. Thank you.

Senator TOWER. Mr. Clark, in your printed statement that you submitted for the record, you said where techniques inherently limited

freedom, "such as paid informants or electronic surveillance—I oppose both—are authorized by law, they should be stringently regulated." I believe that in your oral statement you did say you felt they should be outlawed.

Mr. CLARK. That is correct.

Senator TOWER. Or that electronic surveillance should be outlawed?

Mr. CLARK. I would outlaw both.

Senator TOWER. You'd outlaw both?

Mr. CLARK. Yes; I think that paid informants finally destroy the faith I was talking about earlier, and when you meet some of the paid informants on the other side of the counsel table in cases that I've met in the last 5 years, you don't like what our Government has been doing. It is an inherently corrupting phenomenon, and it is not necessary to effective investigation, and the sooner we break away from that, the sooner we will be more effective and freer.

Senator TOWER. According to documents in the possession of the committee, and according to the testimony of Mr. DeLoach this morning, you, on October 29, 1966, ordered the physical surveillance of Mrs. Anna Chennault which included electronic surveillance, is that correct?

Mr. CLARK. That's ridiculous, Senator. I don't think I ever heard anything like that before in my life. Absolutely false. I don't know what you're reading from—that I ordered it?

Senator TOWER. Let me read Mr. DeLoach's testimony.

To the best of my recollection on that specific case, the Executive Director, I believe, the Executive Secretary of the National Security Council, Mr. J. Bromley Smith, called me on one occasion and indicated the President of the United States wanted this done. I told Mr. Smith that I thought what he should do is call the Attorney General concerning this matter, and I believe either Mr. Hoover or I later received a call from the Attorney General indicating that this should be done.

Mr. CLARK. I never heard of it.

Senator TOWER. We have in hand an FBI document, a memorandum from Mr. Sullivan to Mr. John Dean in the White House dated February 1, 1975. It's——

Mr. CLARK. 1975?

Senator TOWER. Yes. This is a recent investigation. It says, on October 29, 1968, Mr. J. Bromley Smith on the White House staff, the Executive Secretary of the National Security Council, was in telephone contact with Cartha D. DeLoach, former assistant to the Director of the Federal Bureau of Investigation. Smith advised that he was speaking on behalf of President Lyndon B. Johnson, requested a telephone surveillance be installed on the Embassy of South Vietnam. He stated there was urgent need for the White House to know the identity of every individual going into the South Vietnamese Embassy for a 3-day period. Physical surveillance of the embassy was instituted immediately. Director Hoover sent in a written request to then Attorney General Ramsey Clark on October 29, 1968. The Attorney General authorized the installation.

Another reference to the South Vietnamese Embassy installation, and then, on October 30, 1968, Smith advised that President Johnson desired immediate physical surveillance of Mrs. Anna Chennault, the widow of Gen. Claire Chennault of Flying Tiger fame. Physical surveillance was instituted on Mrs. Chennault to cover her activities in Washington, D.C.

So you had no knowledge of that?

Mr. CLARK. Senator, you didn't ask me about the Vietnamese Embassy, did you?

Senator TOWER. No; I did not. That was just included in here.

Mr. CLARK. I authorized electronic surveillance on a good many embassies in the national security field.

Senator TOWER. I understand that. That's not part of my reasons.

Mr. CLARK. But the rest I never heard of.

Senator TOWER. You did not authorize electronic surveillance on Mrs. Chennault?

Mr. CLARK. Or physical surveillance.

Senator TOWER. DeLoach testified to our committee earlier, "The usual physical surveillance, as I recall, Senator, following her to places where she went in the city of Washington, and as I recall a statement made this morning, also a trip that she made to New York."

I then asked DeLoach, "Did it involve the constant monitoring of any and all of her incoming and outgoing telephone calls?"

Mr. DeLoach replied, "I believe the instructions of the President and at the instruction and approval of the Attorney General, that a wiretap was placed on her telephone, sir."

Mr. CLARK. Well, he believed wrong.

Senator TOWER. So you never authorized that?

Mr. CLARK. Never authorized it, never heard of it until this moment.

Senator TOWER. Do you think Mr. DeLoach perjured himself before this committee?

Mr. CLARK. Well, I can't read his mind. You'll have to examine him to determine that.

Senator TOWER. Well, apparently the FBI did do it. You will not state that the FBI did not do it?

Mr. CLARK. I don't know whether the FBI did it. I know that I had never heard of it until this moment.

Senator TOWER. Well, there were a lot of reports on Mrs. Chennault's comings and goings also included here in memorandums that were sent to the White House on the surveillance of Mrs. Chennault.

Mr. CLARK. Do any of them show a copy going to the Attorney General?

Senator TOWER. No. This is directly from the FBI to the White House. These reports of Mrs. Chennault's movements, they do not indicate anything to the Attorney General.

Mr. CLARK. I never heard of them.

Senator TOWER. You were not aware this was going on?

Mr. CLARK. I never heard of them. I turned down scores of requests.

Senator TOWER. If you had been aware of it, would you have ordered it stopped or suggested to the White House?

Mr. CLARK. Well, I would have to know what the grounds for it were.

Senator TOWER. But you were not aware that it was occurring?

Mr. CLARK. I never heard of it. I never heard anything about it. I didn't know what the grounds were. How could I——

Senator TOWER. The FBI resisted it originally on the grounds that, according to the testimony and according to this document, the FBI

insisted that the order come from the Attorney General because the FBI apparently reasoned that this was a political surveillance.

Mr. CLARK. Well, the President's Executive order. Perhaps it wasn't done on Executive order, at least a memo from the President instructed to all agencies that there be no electronic surveillance without the approval of the Attorney General, so it would—I guess he could countermand his own order, but it would be required by his own order. But there is no—I never heard of it.

Senator TOWER. Well, in the absence of any grounds of suspected criminal activity, would you suspect that that would be a violation of Mrs. Chennault's rights?

Mr. CLARK. Certainly.

Senator TOWER. Thank you.

Mr. Katzenbach, you've indicated that if the documents mentioned by Mr. Smothers were in fact initialed by you, that they would constitute some evidence of dereliction of your duty as Attorney General. Now, you've further indicated that although the initials on these documents appear to be in your hand, you would remember these documents if you had seen them. Is there any plausible reason or any rationale which comes to your mind which should lead the committee to conclude that these documents, and your handwritten note of December 10 of the same year, are anything other than genuine?

Mr. KATZENBACH. The handwritten note is genuine. I testified to that. I think that "dereliction of duties" was Mr. Smothers words, not my own. I think I would have certainly remembered if I had seen them.

Senator TOWER. You're suggesting, then, that your initials are forged.

Mr. KATZENBACH. I suppose that has to be a possibility. The other possibility, Senator, is that for some reason on three separate occasions these documents came to my office, I saw them, I initialled them, and in some way was careless about the reading of them, because against all of the facts I put in my statement, I believe very strongly that I would have recollected it. It is hard for me to see how I could have—on one occasion, sure. I might have missed a sentence at the end and thought it was just another information memo on Martin Luther King. It's hard for me to believe that I could miss that on three. And of course, if the December 10 note in fact refers to the December 1 memorandum, then clearly I read that one.

Senator TOWER. Thank you, Mr. Katzenbach.

Mr. Schwarz?

Mr. SCHWARZ. Mr. Clark, I want to discuss a remedy problem that you haven't gotten into, and get your views on it.

Does the FBI frequently rely on local police to provide them with information?

Mr. CLARK. Yes, a great deal of information, more than that; literally, cases are turned over to the FBI by the local police.

Mr. SCHWARZ. And that's a relationship which is, of course, important for the FBI carrying out its investigative activities.

Mr. CLARK. I think it is essential to effective investigation in the Federal system.

Mr. SCHWARZ. Now, I asked one of the associate counsel to show you two documents from Director Hoover, written shortly after the Democratic Convention in 1968.

Have you got those?

Mr. CLARK. Well, it looks like I'm about to have them.

Mr. SCHWARZ. Well, before I question you about the documents, did you, in your capacity as Attorney General, look into the beating of demonstrators that occurred at that convention?

Mr. CLARK. Oh, yeah; you see, I had sent Roger Wilkins, who was head of the Community Relations Service, out there a month before. I sent out Wes Pomeroy, who was special assistant for the law enforcement experience. The Deputy Attorney General went out at the time. Bob Owen, from the Civil Rights Division, was out there. We had urged the city to give permits to demonstrate, to give a permit to take the stadium over where Lakeshore Drive is. We had an investigation underway—I think by the Saturday, a formal investigation. I was working with the principal people involved by that weekend.

Mr. SCHWARZ. The weekend after the convention?

Mr. CLARK. At the end of the convention.

Mr. SCHWARZ. And did you involve the Bureau in the events which had taken place in Chicago?

Mr. CLARK. Well, I'm sure we did.

Mr. SCHWARZ. There's no evidence you ever got these documents, and I'm not in any way suggesting that you did, but I'd like to read into the record what Director Hoover instructed his Bureau chiefs to do in connection with that investigation. First, from the document of August 28, 1968. [Exhibit 50] [1] He refers in the first paragraph to the fact that the police had been criticized for using undue force, and then in the next paragraph instructs the agent in charge in Chicago as follows: "The Bureau should be alert to the situation and be in a position to refute unfounded allegations whenever possible."

And then in the telegram of September 3 to about 14 Bureau offices, he instructed them as follows: [exhibit 51] [2]

In view of recent accusations against Chicago authorities relating to their handling of demonstrators at the Democratic National Convention, the Bureau desires to collect all possible information regarding provocations of police by demonstrators, and the reactions of the police thereto.

Those excerpts indicate that what Director Hoover was interested in, was refuting the charge that the local police had beaten the demonstrators, and the question first, did you know that Director Hoover had issued those instructions?

Mr. CLARK. No. That's contrary to anything I ever heard.

Mr. SCHWARZ. Would you regard those instructions as proper?

Mr. CLARK. No, they are highly improper.

Mr. SCHWARZ. Now the problem or remedy I'd like you to focus on is, given the fact that the Bureau must necessarily depend upon good, close relationships with local police, and given this instance of attempting to disprove allegations against local police, what if anything should the committee focus on as far as that relationship and that problem?

Mr. CLARK. Well, the question raises all the issues that cause me to place as the number one civil rights enforcement priority official misconduct. In the Orangeburg massacre, for instance, we finally had to

[1] See p. 535.
[2] See p. 537.

take the investigation essentially away from the FBI. In this Chicago situation I sent two teams out, one from the Civil Rights Division with its statutes to enforce, and one from the Criminal Division with its statutes to enforce, and eight police officers had true bills returned against them while I was Attorney General, had true bills voted against them. They were not formally returned until later.

This is the problem that we had throughout the South, particularly while the so-called resident agent policy was in operation, where an agent could opt out of promotion or opt out of promotion possibilities and remain as a resident agent, and soon came to identify more closely with the local sheriff's office and the local police department than he did with his own superiors because that's where he lived and that's where he operated every day. And I guess the operational solution that we found was the general intercession in these critically important cases, because they really test the integrity of governments, and they will act to redress wrongful conduct by their own at some other level, or other levels of government.

I guess we found it necessary to use the Civil Rights Division, and that is basically what we did.

Now, what can be done better than that? I hope we can find something better than that to do. That is awfully hard. I think rotation of personnel. I think interchange of personnel, for instance, I think you could enact into law, or you can see that the offices of investigation have a policy, if there are charges of police misconduct against the sheriff's office in Los Angeles, for instance, that agents will be used for investigation from Chicago or someplace else. But there's that sort of problem, or that sort of possible technique.

I would be inclined against the establishment of an investigative agency exclusively for this purpose. Those, too, get out of hand. You need to have an institution with overall integrity that can function that way, but I think there are techniques that can reduce the problem.

At Orangeburg it took us weeks to discover that the Special Agent in Charge was sharing a hotel room with the head of the State police who had been at the scene of the killings, and those are hard lessons to learn. We just pre-empted the FBI in those cases. I guess I think that's something that really requires some legislative evaluation and perhaps resource because it is imperative that official misconduct be the highest priority in Federal enforcement.

Senator TOWER. Senator Morgan, do you have any more questions?

Senator MORGAN. No.

Senator TOWER. Gentlemen, thank you for appearing today and thank you for your cooperation with the committee.

Tomorrow afternoon the committee will reassemble at 2 o'clock. The witnesses will be Mr. Corey and Mr. Dungan, former Ambassadors to Chile, preceded by a staff briefing.

The committee will stand in recess until 2 p.m. tomorrow afternoon.

[Whereupon, at 4:40 p.m., the committee recessed, to reconvene at 2 p.m., Thursday, December 4, 1975.]

TUESDAY, DECEMBER 9, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 11:05 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church and Schweiker.

Also present: William Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel; and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing this morning marks a transition in the work of the committee. Heretofore we have been focusing on abuses, unlawful conduct, wrongdoing, which together have constituted the investigative phase of the committee's work.

Today and in future public hearings of the committee we shall be concentrating on remedies.

We have three witnesses this morning. Our first witness is William Ruckelshaus, who under the Nixon administration served as Assistant Attorney General for the Civil Division in the Justice Department, and then as head of the Environmental Protection Administration. Following the resignation of L. Patrick Gray in 1973, Mr. Ruckelshaus was appointed Acting FBI Director for several months, until the nomination of Director Kelley. He then was appointed Deputy Attorney General under Elliot Richardson, and began a full-scale study of the FBI. This was interrupted by his departure in October of 1973 which is sometimes referred to as the Saturday Night Massacre. He is currently in the private practice of law.

Our second witness is Mr. Henry Petersen. He was appointed head of the Criminal Division's Organized Crime Section in the mid-1960's. He served as Deputy Assistant Attorney General in 1969, and Assistant Attorney General in 1972. Attorney General Saxbe directed him in 1974 to head an interdepartmental committee to study FBI COINTELPRO activities that have been heretofore disclosed by the committee in its investigatory work. The Justice Department's Internal Security Division was a bold issue and its function transferred to the Criminal Division under Assistant Attorney General Petersen. He retired from the Department in early 1975 and he is currently in the private practice of law.

Our third witness is Mr. Norman Dorsen who will be here shortly. He is currently a professor of law at New York University and Gen-

eral Counsel of the American Civil Liberties Union, and president of the Society of American Law Teachers. He has written extensively on Government secrecy, executive and legislative powers and their relationship to individual rights under the Constitution.

Mr. Ruckelshaus, I know that you have an opening statement you would like to make at this time. I wonder if you will proceed with your statement and then we will go to questions.

TESTIMONY OF WILLIAM RUCKELSHAUS, FORMER ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION; FORMER ACTING DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; FORMER DEPUTY ATTORNEY GENERAL; HENRY PETERSEN, FORMER DEPUTY ASSISTANT ATTORNEY GENERAL AND ASSISTANT ATTORNEY GENERAL; AND NORMAN DORSEN, PROFESSOR OF LAW, NEW YORK UNIVERSITY, AND GENERAL COUNSEL, AMERICAN CIVIL LIBERTIES UNION

Mr. RUCKELSHAUS. Mr. Chairman, I have a short opening statement that I would like to make in order to set the framework for an approach to the problems that the committee is addressing. In the first place, I do appreciate the opportunity to appear before this committee. The approach I would like to take in testifying is not to contribute to the litany of condemnation of past abuses by the FBI. I think, given the committee's investigation to date, we are in a position to stipulate abuse. The question really is what should be done about the abuse now so as to avoid it in the future.

The nature of the problem facing the committee is, I believe, inherent in any free society. It is an examination of tension that exists between individual rights and the common good and it calls for Government to strike a balance between them. How that balance is struck depends among other things on our Constitution, the will of Congress, the individual making the decision, and the historical moment in which the decision is made. These hearings have focused attention on how the FBI has for decades failed to weigh properly individual rights in seeking to protect their perception of the common good. To attempt to place all of the blame for the abuse on the FBI or on J. Edgar Hoover is in my opinion to fail to face the fact that both the Congress and the executive branch ignored a fundamental concern of the Founding Fathers of this country and permitted too much unchecked power to accumulate in one man's hands.

I think the fact that Hoover greatly abused his power is true. But to paraphrase the old adage, when we consider his opportunities we must marvel at this moderation. For more than 40 years he reigned supreme, virtually unchecked by either the executive or legislative branches. This much power must never be permitted again to be possessed by one man in our society. And I am sure that this committee is attempting to act wisely to prevent its reoccurrence. I believe that whatever power we gave to the FBI or any agency to detect and prevent internal subversion must be carefully controlled, monitored, and checked by all three branches of Government. There should be clear statutory authority for the FBI to investigate individuals or groups who may through violence present a threat to other individuals or groups in the society.

The FBI's power, while necessarily general, should be spelled out as carefully as possible in a statute. The statute should provide for the Justice Department to issue guidelines as to how this power will be implemented. These guidelines should be subject to congressional and public review and comment. The guidelines will deal, I think necessarily, primarily with the processes by which individual freedom will be protected as the FBI seeks to protect the common good. The FBI should be under the control and supervision of the Attorney General. The Director should be appointed for a term of years. Eight or 9 years I think is long enough. His appointment should be subject to congressional approval. He should communicate with the President only through the Attorney General.

The Congress itself needs to establish a strong responsible and responsive oversight committee, preferably a joint committee, to review all activity of the FBI, including ahead of time, before the fact, investigative techniques the FBI intends to use in a given class of cases. I am not talking about the specific application of one of these techniques in a given case, but the technique should be reviewed ahead of time as to their application to a general class of cases.

Assuming adequate safeguards to individual rights, and assuming the protection of material the publication of which could adversely affect the internal security of the country, the committee should be privy to all information the FBI has relating to any specific investigation for the purpose of reviewing the general discharge by the FBI of its responsibilities. This extraordinary power of the committee must be very cautiously and selectively exercised for the above purpose alone. And the committee must seek to avoid merely nitpicking or second guessing a given investigation. I think further the committee should avoid injecting itself into an investigation while it is ongoing if at all possible. The committee should operate as openly as possible, given the strictures above mentioned.

It is my judgment that all wiretaps should be subject to court order. The standards for so-called foreign wiretaps will be different from the probable cause standards that apply to criminal wiretaps. But these standards can be developed.

Mr. Chairman, these process changes are not impossible nor overly complicated. They will not insure the total elimination of abuse by the FBI or any agent given the nature of the power. Granted, they will only lessen the likelihood of abuse. We must remember that whenever we are dealing with the grant of power to institutions created and run by human beings, we are subjecting that power to potential abuse. All a free society can do is attempt to create processes to minimize that potential, or in the alternative, not locate the power anywhere.

I believe we have an obligation to the common good in this country to protect the public against violence. This necessitates the careful placing of that protective power and subjecting its exercise to rigorous control and review. That is this committee's charge. As a citizen I certainly wish you well.

Mr. Chairman, one final word. As you mentioned in your opening statement, I spent 80 days as an Acting Director of the FBI. And I left the FBI with two dominant impressions: one, that the Director possessed too much unchecked power. Your committee is attempting

to help the country and the executive branch in remedying this problem. The second impression that I left the FBI with was the incredible dedication and devotion to duty that the individual agent of the FBI has. It is in my experience unmatched in any other institution in this country. And I think that properly channeled and controlled this *esprit de corps* that the FBI has is a priceless asset of our country, and we ought not to fritter it away if we can avoid it. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Ruckelshaus. We have a vote. Mr. Petersen, do you have an opening statement of any kind?

Mr. PETERSEN. No, I do not, Senator.

The CHAIRMAN. All right, since we have a vote on at the moment and we are waiting for Mr. Dorsen, why don't we take a brief recess so that the committee can vote.

[Recess.]

The CHAIRMAN. The hearing will please come back to order. Another vote is anticipated in a few minutes. So we will move along in between. Mr. Norman Dorsen has arrived since the hearing began. I understand, Mr. Dorsen, you have an opening statement you would like to make.

Mr. DORSEN. I do. It will be very brief. I don't know if you introduced me before. I would like to say that I am general counsel to the American Civil Liberties Union and president of the Society of American Law Teachers, but I am speaking here as an individual and expressing my own personal views.

This committee, of course, is very familiar with the widespread evidence of systematic interference with constitutional rights under the first and fourth amendments that has occurred pursuant to the program of domestic surveillance. There are three broad questions. First, should such domestic surveillance be carried out at all? Second, if so, to what extent, in what way, pursuant to what guidelines? And third, what control can Congress provide, what oversight, and what other forms of maintenance of public control are there over this important and dangerous activity?

I will make just two preliminary comments before getting to these issues specifically. One is that the aspect of domestic surveillance that disturbs me the most is that since the public and the Congress are frequently unaware of what is being done in the people's name, there is no opportunity for public discussion, there is no opportunity for public debate. Certain activities are conducted which I am sure many members of Congress were appalled at when they became publicly known. What I infer from those facts are, (*a*) to the greatest extent possible there must be public discussion and open government on these issues; and (*b*) in a sense even more important, the ultimate power to control must be in the Congress, and Members of Congress must not be timid or they must not be fearful or they must not be apologetic in exercising this responsibility. Second, on a much more detailed level, most of the public debate in this area has centered around wiretapping an eavesdropping and other forms of electronic or mechanical surveillance.

Personally, I am much more concerned about informers and informants who are infiltrated into private groups, frequently without any control, and certainly without any knowledge of these groups,

in a way that is bound to interfere with their rights of association. I will refer to only one decision of the Supreme Court that is very important in evaluating and appraising those activities, *NAACP* v. *Alabama*, where the court in 1958 unanimously held that the State of Alabama did not have the constitutional right to acquire the private membership lists of the NAACP. Now, if one has informants, secret informants in organizations all over this country, one of the obvious purposes is to acquire those membership lists. This is a way, very simply, of evading a clear, unanimous decision of the U.S. Supreme Court, written by Mr. Justice Harlan, and carefully considered within the court itself. I don't think it is telling tales out of school, because I was a law clerk to Mr. Justice Harlan that year, to say that this was regarded as one of the Court's most important decisions in that year.

The vacuum cleaner of informants picking up all kinds of information is not only inconsistent with the decision of the Supreme Court but is inconsistent with the very power of the fourth amendment. A major purpose of the fourth amendment, with precedent going all the way back to the British Lilburne case, is to deal with what is known as general warrant. General warrants do not identify specifically what the seeker after information wants. It permits the seeker after information to roam at large, pick up any kind of information that he or she can acquire, and then do what he wants with that information. An informant is the modern equivalent of the general warrant. I believe it is vital that that particular form of infiltration be given careful scrutiny and controlled by the Congress.

Let us turn now to what I suppose may be a key question before the committee—should covert domestic infiltration and surveillance be conducted at all? The very easy answer to that question, and I am sure it is an answer that many people will express is—well, this is a very bad idea in general, constitutional rights are involved, but constitutional rights are not absolute, and it is very important to the security of the country that certain types of information be obtained. We want to be very careful in the way we go about it; we therefore must use the kind of balancing test that the Supreme Court has said is relevant to some other first amendment and fourth amendment cases, we therefore must have guidelines and we must have some specific form of control. But—here is the key—we don't want to abolish covert activities and domestic surveillance of the kind that has been conducted in the past.

If I may say so, that sounds like a very reasonable position. It is a very easy position to take. But I question whether it is the correct position. At the very least it seems to me that a heavy burden of proof should be placed upon those who want to conduct anticonstitutional surveillance in the future. The reasons for this are very simple, stemming from the record as I understand the record to be. That record shows one important thing—large scale violations of constitutional rights. It does not show another thing. It does not show what the value of the infiltration has been, what crimes have been prevented, the nature of the success that the Bureau and other law enforcement officials have obtained. In other words, one side of the balance is completely empty as far as the public record is concerned, and the other side of the balance shows severe restrictions on constitutional rights.

What does that mean? In answering this question, I recognize I am not privy, as my colleagues in the panel have been, to some of the secret information which might explain what has happened in the past. But there are two inferences that I think can be drawn. One is that there is a heavy burden of proof on anyone who wants to justify any kind of surveillance of this character. This burden of proof is the product of a constitutional mandate, not only the constitutional mandate that I have already expressed, the fact that there has been admitted violations of individual rights, but a constitutional mandate as recently and frequently expressed by the U.S. Supreme Court in some of the most conspicuous decisions of the past generation.

I will mention several right now. One is *Youngstown Sheet & Tool* in which the Supreme Court rejected President Truman's claim of inherent power to seize the steel mills during a time of hostility in the Korean war. President Truman argued that his action was necessary to protect national security. Here we had an opponent with which we were at all but formal war. The Supreme Court rejected that line of argument, and rejected quite decisively the claims of inherent authority. A second aspect of that case is this. Whatever one may think about the validity of certain forms of covert action, whether domestic or foreign, that opinion, I think, almost unanimously had been read to mean that the Congress has the ultimate authority to decide how much of it to permit and how much not to permit, and that ultimate power is not in the executive branch but in the Congress. The key opinion in that case, although not the formal opinion of the Court, was by Mr. Justice Jackson. He pointed out that congressional power is at its lowest ebb when Congress has acted inconsistently with what the executive wants to do. A very recent decision is the *Keith* case, a unanimous decision of the Supreme Court rejecting a claim of implied power to wiretap domestic groups thought to be a threat to national security. Once again the Court has made it very clear that not only is there a heavy burden, a compelling burden on the executive, but in that case although the executive claimed that the wiretapping was essential, the Court unanimously rejected the claim.

In *United States* v. *Nixon*, the *Pentagon Papers* case, and in other decisions, the Court has refused to buy diehard executive claims. I participated as *amicus curiae* in both the *Pentagon Papers* case and *United States* v. *Nixon*. The executive said in briefs and oral argument, in both cases, that the power was essential for national security. The Court, as we all know, rejected the claims.

I have discussed the first inference I draw from the proven record. And that is the heavy burden of proof on the Government. The second inference I draw is that whatever is allowed, whatever types of covert domestic surveillance are ultimately approved, if any, they must be tied as tightly as possible to specific violations of law, and that broad mandates to infiltrate particular groups, whether they are the Weathermen or the Minutemen, are no substitute for explicit relationships to particular crimes that individuals are accused of performing. We cannot allow the kind of limitless infiltration of groups that are in politicel disfavor or labeled as extremists. I don't have to repeat now what the consequences of such infiltration have been, and what injustices have been done in the Government's name.

Another aspect of this point is that whatever infiltration, whatever surveillance may ultimately be approved, it must be strictly limited in time or place. It is not enough to say that if we have a tip that somebody is going to assassinate the President and blow up the Statue of Liberty, and that that person is a member of the Weathermen, we should use that as a formula for infiltrating the organization on a permanent and widespread scale. There must be tight time deadlines, they must be reviewed within the Department of Justice, and there must be a clear commitment to a refusal to go beyond what is absolutely necessary to investigate a crime or the likelihood of a crime. Once again there is a constitutional doctrine that is relevant. You are all familiar with the rule that the Supreme Court has stated on many occasions, that if the Government is trying to achieve a lawful objective by impinging on constitutional rights in some way, the Constitution requires that this be done with the least possible infringement on those rights. Therefore, even those who support domestic infiltration of the kind that has now come to light are bound by Supreme Court decisions, such as *Aptheka* and *Shelton*, that that power must be limited to the narrowest possible means of achieving a governmental end. It is very important also in this connection to realize that criminal laws are not fungible. There are differences in criminal laws. Some criminal laws prohibit acts of violence against property or persons.

Other criminal laws prohibit speech. The most conspicuous of these of course is the Smith Act, which prohibits the advocacy of the overthrow of the Government by force and violence. That law has not only been applied in its own terms, but it has also been applied in tandem with the conspiracy laws. In other words, people have been indicted, convicted and sent to jail for conspiracies to advocate the overthrow of the Government by force or violence—two steps prior to action. Now, if informants and undercover agents and wiretaps and other forms of domestic infiltration can be used against people who are accused of "conspiring to advocate the overthrow of the Government," that would bring the constitutional intrusion three steps before any possible acts to violate the law. Parenthetically, I might say that some of the troubles many of us are having with the pending S.1 legislation is that it does not give adequate countenance to these constitutional fears, and to the constitutional rights of individuals who would be subject to that law.

When we get to the question of oversight and control, one argument that is made is that no system is any better than the individuals who run it, that ultimately we must rely on the good faith, the intelligence and the honor of the Attorney General, the Director of the Federal Bureau of Investigation, and other law enforcement officers. The danger with that argument is that, if it is carried to its logical extremity, those people would not be subject to controls at all. Therefore, although I agree in part with the assertion, that while the honor of these people, the ability of these people, and the sensitivity of these people to constitutional concerns is vital, it is not all that this country has a right to rely on. We have a right also to rely on explicit controls, explicitly stated deadlines, making sure that particular actions by the Attorney General and the Director of the FBI are subject to review.

66-077 O - 76 - 18

What should those controls be? I understand that one of the other members of the panel suggested that proposed guidelines by the Attorney General should be sent to the Congress for comment. I think that is an excellent idea. I think consideration ought also to be given to require the guidelines to be approved by the Congress, as in certain other circumstances—specifically, regulations of the executive branch which must be approved.

I know there will be some questions, so I don't want to go on too much longer. I do want to make one other point that I think is very important—well, two other points. I want to emphasize as explicitly as I can that one cannot accept on faith or syllogistically the argument that the information acquired by domestic surveillance is necessary, important or even valuable. That is a proposition not to be accepted on faith, but a proposition to be proven. I understand that the GAO has filed a study which casts some doubt on the degree to which this information helps our law enforcement officers. I urge the committee not to take anybody's word for it. I remember a meeting with one of the former Directors of the FBI, Patrick Gray, in his office 2 or 3 years ago. Several of us went down to discuss certain problems with him. And he said, I can assure you, there is no such thing as a central file or secret file in the Bureau, there is just no such thing. Well, it would have been very hard at the time to call him either a fool or a knave. But we now know the record. And therefore I urge the committee not to accept the word of anybody that this information is useful and necessary for national security or any other purpose of government.

Finally, I would like to close on this note. I do not know, but I assume that Mr. Kelley, Mr. Levi, and others will be able to show specific cases where covert surveillance has helped law enforcement. I do not think that their ability to do this is the last word on this issue. Even assuming there is a certain value that could be proven for this information, the ultimate question is whether the value is enough to counterbalance the cost in terms of individual rights, in terms of constitutional values. What this means at the bottom, I think, is that the country has to be a little courageous, and the Congress has to be courageous, willing to accept the fact that we are not going to have total security in this country. The best expression I know of that philosophy, which I think should guide this committee, is a concurring opinion by Justice Brandeis in the case called *Whitney* v. *California*, decided in 1927. This is what he said:

> Those who won our independence believed that the final end of the State was to make men free to develop their faculties, and that in its Government that the liberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and happiness the secret of liberty. They recognized the risk to which all human institutions are subject.

There is a risk in anything less than total security. But those are the very risks that the founders of this country—and Mr. Brandeis was not the only one that took this position—accepted in terms of the overriding value of liberty. I, therefore, urge the committee not to permit even confirmed examples of cases in which national security of some kind has been aided by covert means to be the end of the discussion. It seems to me that that is the beginning of discussion. I hope

that this committee will do what it can to limit unconstitutional interferences with the rights of individuals to the greatest extent possible. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Dorsen.

Beginning with you first on questions, you have indicated that the committee ought not to overlook the importance of dealing with the whole problem of informants, and not to develop any myopic tendencies to consider only electronic devices, wiretaps, and bugs, so-called. I think that is a very valid position, since 85 percent of the cases involve the use of informants, as compared to only 5 percent of the cases that involve any kind of electronic device. But it isn't as clear to me just what you mean when you say that at the very least a much heavier burden of proof should be required before either informants or wiretaps, I suppose, are used. What burden of proof would you suggest? Do you make a distinction between so-called national security cases and ordinary criminal cases? Is the standard that normally applies in criminal cases; that is, probable cause to believe that crime may be or is being committed, a different standard than that should apply to national security cases? And in addition, I would like you to comment on to whom such a heavier burden of proof needs to be presented. In ordinary criminal cases it is necessary to secure the consent of the court—in order to use wiretaps, at least a warrant has to be issued. Now, would you handle national security cases in the same way? I wonder if you could be a little more specific in connection with that general argument?

Mr. DORSEN. When I used burden of proof, I used it in two senses: first, burden of proof to conduct any kind, to justify any kind of program of infiltration of any sort, the general burden of proof; and, second, as you point out, Mr. Chairman, the burden of proof in a particular case.

Now, first, what should be the standard? The standard should be probable cause, to the greatest extent possible. That is the conventional criminal standard, and it should apply in national security cases as well as in all other cases. The court of appeals in the *Zweiban* case said that no warrant is needed or no warrant may be needed if an individual is an agent or collaborator of a foreign power. It seems to suggest, although this was dictum, that the usual rules would not apply in such cases. It seems to me that, at a minimum, there should be probable cause before that rule is invoked, that a particular person is an agent or a collaborator of a foreign power. One cannot accept that as such. Second, the case itself may even be wrong in drawing that distinction. I want to litigate that issue now. The Supreme Court hasn't spoken on that issue. Third, to whom the showing must be made. My strong preference is that it must be a court—the court is where warrants are approved. The problem with that, of course, is logistic.

There may be tens of thousands of such cases, and it may not be possible to get more than a *pro forma* approval which would have the consequence of legitimating—in other words, if there were an *ex parte*, almost automatic, approval of a surveillance of the kind we are talking about, that would have the effect of a later court decision perhaps legitimating the kind of surveillance that took place. Therefore I am unclear in my own mind about whether to invoke a court at the early stages of an infiltration if an infiltration is to take place. The Attorney General certainly must approve such an infiltration.

But to try to deal with all your questions at once, the national security label should not itself be an excuse for an exception. There must be some concrete—whether one calls it probable cause or not—concrete evidence that a crime has occurred, or that there is a substantial likelihood of a crime.

The CHAIRMAN. Under existing practices, as they have been explained to this committee, any wiretap or any electronic bugging devices in the so-called national security area needs the approval of the Attorney General. Now, that doesn't apply so far as I know to informants in the national security field or in any other field. Neither a court order nor the approval of the Attorney General is required in connection with the use of informants, whether they are used in criminal cases or in national security cases. I believe that is the present state of the law and practice. How would you alter the practice?

Mr. DORSEN. I certainly would require the Attorney General's approval of the informants in both national security and non-national security cases. I am inclined to think, subject to a comment I will make in a moment, that I would also require a court approval of informants, and treat the informants just like what they are. They are eavesdropping through human means. The only question I have about that is that if the situation deteriorated to the point where the volume was so great in terms of requests that the approval would become automatic by courts, it would thereby tend to legitimate the process and diffuse the responsibility. But I think, in principle, there is no doubt in my mind that the use of informants in these situations is equivalent, as I said before, to a general warrant. And for general warrants, you need court approval.

The CHAIRMAN. I wonder if either Mr. Ruckelshaus or Mr. Petersen have any response to the same question?

Mr. PETERSEN. I think, first of all, that the problem of being an informant is indeed a difficult one. I think most people in law enforcement recognize that. And the immediate question at the outset is, can the informant be corroborated to determine whether or not Government action should or should not be taken on the information. But I think first of all you have to distinguish. Informant is a very, very general category. It includes all of us. It includes every citizen of the United States. It is a process that the citizenry should be encouraged to participate in. Support your local police. Call us if you see a suspicious act in your neighborhood. We have to be careful what we are about. So let's distinguish between the unpaid and the paid informant.

The CHAIRMAN. That is what I was going to suggest, that I believe our concern relates to the paid informant who is actually a target to penetrate a given group.

Mr. PETERSEN. I share Mr. Dorsen's concerns in this area. And I think most people in law enforcement do. As soon as you pay an informant for information you open up questions as to his credibility. It is all the more important that he be corroborated and documented. It is an area of widespread abuse. There are two controls there. First, there are the budgetary controls that ought to be imposed, and, frankly, have not been imposed by the Budget Bureau of the Federal Bureau of Investigation. Second, there is control by the criminal

process itself. The lawyers that I know in the Federal system are professionally concerned lest those payments impair the credibility of the witness and jeopardize the Government's cases. And we have seen ample instances of that in the recent past.

Now, those things, I think, are built-in restraints, not only the expenditure of money, but the criminal process itself. Do I go so far as to suggest that there should never be paid informants? No, I do not. The reason is that in many instances there is a great risk involved. And that risk is purchaseable. In many cases there is no other way to obtain the information. The risks are so high in an assassination attempt or threat, the risks are very high in terms of economic impact. I refer you to the recent truckers strike, the wildcat strike, where literally the Congress was up in arms to do something about it, infiltrate, use informants. And the Bureau was subjected to a great deal of pressure. I think it is perfectly justifiable to use paid informants provided those controls are intelligently exercised by the supervisory people in the Bureau, in the Department of Justice, and ultimately in the courtroom when the case comes to trial.

The CHAIRMAN. Do you think it would be impractical to require some kind of court approval before informants were used?

Mr. PETERSEN. Yes, I do.

The CHAIRMAN. Do you think that the restraint is going to have to be exercised within the Bureau or mainly within the Department of Justice?

Mr. PETERSEN. Yes. But I am not satisfied with the way that restraint has been exercised in the past. And I think that this committee's insistence that further oversight within the Justice Department and within the Congress is necessary.

The CHAIRMAN. Do you think that an oversight committee properly empowered to supervise the operations of the FBI and the CIA and other intelligence agencies would be helpful?

Mr. PETERSEN. I recommend it now, and I have recommended it in the past. But I do think, Senator, that it ought to be a single oversight committee. Nothing is more debilitating from a law enforcement and efficiency standpoint than to have the agency responsible responding to the same charges time and time again. It is inefficient. And Congress has the responsibility to be efficient, too.

The CHAIRMAN. Yes. Mr. Ruckelshaus.

Mr. RUCKELSHAUS. Let me try to comment on one aspect of informants that I think could provide an added check. I think that we should look ahead of time, both in the executive branch and in the Congress, at the nature of the individual or group against whom informants might be used, and that the burden of proof should be directed to those who would use informants to show the likelihood of the individual or the group to commit violence of some kind. We could greatly restrict the use of informants simply by restricting the targeted individuals or groups. What we have seen in the past over and over again is that organizations and individuals were targeted with informants who really had nothing but peaceful aims and entirely proper goals in mind. So that if ahead of time, either by statute, but probably more by the use of guidelines and congressional oversight, we could carefully restrict the kinds of organizations and the process

by which a decision was made that there was a likelihood that there would be violence, we could greatly restrict the use of informants.

I think at that point you then look to the techniques, not only of informants, but others that can be used that should be permitted. And again, as I said in my statement, there is no reason that in given classes of cases these techniques should not be discussed and agreed upon with the Congress prior to their use by the FBI, or any other intelligence gathering agency of the Government.

Then I think we need to look at the function that the informant himself plays. What kind of information are we really seeking, what kind of restrictions should be placed on the information that the informant gathers and brings back to the FBI? Then if the informant brings back certain information to the FBI or any other agency of that kind, what should the FBI do with it? Should it be disregarded, should it be stored, or what kind of restriction should be placed on its dissemination? All those kinds of questions can be answered, I think, through the use of guidelines and very careful coordination with the Congress.

I think then we should also look at the distinction between the preliminary investigation between an individual and a group to determine whether or not what they are saying and whether what others have said about them turns out to be true in terms of their being violence prone, and distinguish that from an ongoing investigation. If the FBI decides that because of the evidence of the violent nature of an individual or group that an ongoing investigation is necessary, there must be built into the process a review. Because organizations evolve, they change over time. And again we have seen this happen where once an investigation is launched against a given group in the society, there is no mechanism built in to stop that investigation. All of those things I think can greatly increase the likelihood of better controls being placed over informants, and greatly minimize the potential for abuse, and at the same time adequately protect the society.

Mr. PETERSEN. Mr. Chairman, may I suggest that while I agree with Mr. Ruckelshaus, and I applaud the Attorney General's attempt to draw guidelines with respect to types of investigation—from what I have seen I think it is really quite good, but that is an extraordinarily difficult task, to draw guidelines that are sufficiently broad to encompass all that needs to be investigated and yet sufficiently narrow to exclude that which should not be investigated. And while I would hope that that process would continue, I think it is a step in the right direction. The greatest restraint is going to come in the course of ongoing review of the investigations being conducted by the Federal Bureau of Investigation by an outside force, that is, lawyers in the Justice Department. You see, there is always the problem—perhaps you see it in this committee, I certainly saw it with lawyers—when people get immersed in an investigation they take on its coloration, however fine they may be, and however bright, they begin to lose their perspective and they see that which they want to see. Once you step aside and submit that product to someone who is not so immersed, all sorts of problems evolve. Why are you doing this, why are you paying that informant, why are you in this case at all, who said this is an organized crime case or an espionage case, aren't you wasting your time—all

those questions arise. And they are difficult questions and they are curative questions. I think that that is the type of process that is going to have to be employed rather than any total reliance on guidelines or statutory guidelines.

The CHAIRMAN. Before I turn to Senator Schweiker, let me just ask you this. Is there any review mechanism in the Department of Justice today, or was there when you were there, any of you, that filled the role of overseeing ongoing investigations by the FBI in the way that you have described?

Mr. PETERSEN. Certainly in organized crime investigations there is such a program. There certainly is in the run-of-the-mill criminal case where the case is submitted for the approval of an Assistant United States Attorney. But in the security area, no.

The CHAIRMAN. In the security area, no?

Mr. PETERSEN. In the security area, no. The internal security division historically has been a reactive force. They were called upon literally only when the Bureau wanted them. And that is, I think, a difficult thing.

Mr. DORSEN. May I just make one very brief comment?

The CHAIRMAN. Yes sir.

Mr. DORSEN. I think that Mr. Petersen's penultimate comment about taking on the coloration of an investigation is a very important and valid one. But it also relates to a point on which I disagree with him—that there should be only one committee. I think there should be two committees. I think, sure, it would be more efficient to have one committee, but I don't think efficiency is the highest goal here. We are dealing here with the very collection process in which many wrongs have been committed. And I think it is very important that the committee, if there is one committee, not also take on the coloration of the people that they are investigating. And I think it would be a very useful thing in this field to have two different groups reporting to two somewhat different constituencies looking into this matter.

The other thing relates to a comment of Mr. Ruckelshaus. And that has to do with the guidelines, and as he pointed out, the difficulty of setting down precise guidelines. This issue of investigating individuals as distinguished from investigating groups is a very tricky business. Groups do not act. Individuals act. Now, obviously if a lot of people in one group are accused, or in fact are doing something unlawful or improper, it is very easy to say that the group is doing it. But a group does not act. And therefore it is very difficult, it seems to me, to try to come to grips—and it is not an easy assignment, and I would hate to have to do the drafting right here—with this problem and not allow an easy movement away from what people are doing to what people who are in a group, but may not be aware of or part of any particular activity. And finally, very quickly, the guidelines that Mr. Levi is proposing—I was just told about them in a very general way, I think it may be deficient, and if I am wrong about this of course I will stand corrected by the record—are not clear that crimes which are being investigated are crimes that are alleged to be imminent in some way, that you can't or shouldn't be able to infiltrate, and the thought that sometime in the far future a particular individual or group is likely to conduct an illegal activity—the essence of mediocracy, of the clear

and present danger ideal which the Supreme Court on many occasions, most recently in *Brandenburg* v. *Ohio*, has relied on, is one that I think should not be lost sight of.

The CHAIRMAN. I think that an illustration is that in the Socialist Workers investigation there was no case of violence or tendency toward violence, but there was a thought that maybe 5, 6 or 7 or 8 or 10 years down the track the organization might grow violent.

Mr. DORSEN. That is exactly what I am talking about, Senator.

Mr. PETERSEN. Senator, may I suggest, in fairness to the Bureau, I think it is fair to say that they were ambiguously charged with a responsibility. Their charter, if you like, was, I would suppose, a historically drafted memorandum for the President of the United States in the late thirties.

The CHAIRMAN. That brings up of course the point that there is no generic law where the FBI is concerned. Its authority rests on Presidential directives. And it seems to me that at the very least we ought to establish some basic statutory law for the FBI which will be much more explicit in connection with powers and procedures.

Mr. PETERSEN. I don't really disagree with much of what Mr. Dorsen said. But I do disagree with the implication, if it is there, that that responsibility for nonfeasance, if you like, or inaction, in affairs which touch upon the security of the United States should rest upon the Federal Bureau of Investigation. That ought to rest with the Congress of the United States. If it does not want an organization investigated that says today, in the year 2000 we are going to overthrow the Government, then the Congress of the United States ought to say that and not leave the responsibility to the Director of the FBI or Attorney General, for that matter.

The CHAIRMAN. Yes. Which brings up another question that I would like to pursue. But I have taken my time and I want to turn to Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman. Mr. Petersen, when you were head of the interdepartmental committee to study the FBI COINTELPRO activities, were you given full access to the FBI files in that capacity?

Mr. PETERSEN. That is not an easy question to answer yes or no. Let me trace the development of that. Attorney General Saxbe called and said, this is one of the things that Bill Ruckelshaus suggested be done. It hasn't been done. Would you do it? And with a modesty that is unbecoming, I said, why me? Why not Kelley? He is head of the FBI. He is new there, he ought to undertake this responsibility. Well, Saxbe said, he is busy, he doesn't know what is going on over there either, and I would like you to do it for both of us. I said, fine. Since I couldn't wiggle out, I agreed. But I said, call Director Kelley and tell him what you have told me and tell him that there is no way that I can do this without access. And I am going to need your help and assistance to do it. He did indeed do that, I know, because thereafter Mr. Kelley called me. And I reiterated to him what I had said to the Attorney General.

Mr. Kelley assigned a number of people. And because I and nobody else in the Department of Justice had any idea where the information was and because I reasoned that if the Federal Bureau of Investigation were part of it—when you give them a responsibility they dis-

charge it to the best of their ability—if they were part of the inquiry it would tend to guarantee the integrity of the inquiry.

So, the summaries were prepared by Bureau personnel at my direction. The summaries were spot checked by representatives of the Criminal Division of the Department of Justice for accuracy. We did not examine all underlying documents. It was not part of the task to conduct an investigation in the sense a criminal investigation is conducted. The task was to advise the Attorney General of the nature of the problem so that he, as Attorney General, could determine what action ought to be taken. And it was for that reason that we gave two legal opinions, not because we are trying to carry water on both shoulders, but because the committee, while it as a committee, did not feel the agents who did these things ought to be investigated, recognized that they could possibly be charged criminally. Nonetheless, that was a decision for the Attorney General, and we pointed out the law with respect to it and the contrary point of view, in the event he decided to take further action. That was the nature of the study.

When the Attorney General, Mr. Saxbe, got it, he determined that the best thing that he could do to curtail it would be to publicize it. And as a consequence he made a decision to make it available to the Congress, to the oversight committee, and ultimately to the Congress generally, and to the press. And that was the sum and substance of the entire proceeding.

Senator SCHWEIKER. You were given summaries of the FBI files, and the raw files were spot checked for accuracy as to the summaries by whom again?

Mr. PETERSEN. By the attorneys on the group who were assigned to the Criminal Division. It was not done by FBI personnel, that is what I am saying.

Senator SCHWEIKER. And what was the rationale for not giving you people the raw files?

Mr. PETERSEN. I don't think there was any rationale. We are doing a survey rather than conducting an investigation. One of the things that was involved—I mentioned the responsibility for participation—the other was available manpower.

Senator SCHWEIKER. Did your survey uncover the kind of things that this committee just uncovered in terms of COINTELPRO activities. Were you aware of the things that had been going on that this committee just recently disclosed?

Mr. PETERSEN. Senator, I am not sure that I can answer that. The summaries were prepared without respect to the name of an individual. So that I can't tell you at this moment whether X or Y was or was not included. I am aware, from the newspapers since I have left there, that subsequently the Bureau turned over additional information.

Senator SCHWEIKER. One of the informants, for example, in CO INTELPRO said that part of his job was to sleep with the wives of the Klan leaders. Was that the kind of thing that was deleted from the summaries, or were you aware of that kind of thing?

Mr. PETERSEN. I don't recall that, to be perfectly honest with you.

Senator SCHWEIKER. I respect what you said. But I don't see how anyone can properly oversee it or approve it or rectify it in some way without getting the flavor of some of the things that come out here.

I guess it leads me to my next question——

Mr. PETERSEN. May I interject, Senator. I think the flavor was there. I think the report pointed out that there were apparent violations of first amendment rights, that there was conduct that the committee found abhorrent. The recommendation was that it should be absolutely prohibited, and standards and guidelines set up. There was not, if you are suggesting such, any rationalization for the Bureau's conduct.

Senator SCHWEIKER. The other part, for example—which wasn't brought out—was that there were a number of cases where material about possible violence came to the attention of someone further down the chain of command and no action was taken, and that informers alerted the fact that action could be taken to prevent it, but no action was taken. Did you get into the summaries?

Mr. PETERSEN. I am not sure, Senator. I can't answer that.

Senator SCHWEIKER. It leads me to my next question about setting up an inspector general for the FBI. I know you are on record, and I even have a memo here indicating that you strongly favor an inspector general procedure. Is that still your position?

Mr. PETERSEN. Yes, sir, I do, Senator. But may I add that I am not sure, at least in my concept of an inspector general's responsibilities, that this type of detail would be picked up. I think that that type of detail has to be picked up in a more routine fashion, if you like, by day-to-day supervision, bring attorneys in the Department of Justice, into ongoing investigation, so that actions which appear questionable can either be curtailed or justified.

Senator SCHWEIKER. But if access to the raw files isn't given, and if that isn't a standard situation, then they wouldn't have that opportunity?

Mr. PETERSEN. Senator, it is also my opinion that in the course of their duties, contrary to the practice in the past, that attorneys of the Department of Justice, in the discharge of their responsibilities, ought to have access to the raw files. And there are instances when, frankly, one of your staff, while employed in the Department of Justice, was embarrassed by what the Bureau said was an oversight. Now, that oversight would not have occurred had the attorney had access to the entire file.

Senator SCHWEIKER. I think you also went on to recommend that the Inspector General's office shouldn't be limited just to the FBI—I believe you suggested that it should cover the whole range of activities.

Mr. PETERSEN. I think it ought to cover the whole range of the activity of the Department of Justice, for this reason, first of all, that is an ongoing responsibility of the Attorney General and the Deputy Attorney General at this time. And second, either the Attorney General or the Deputy Attorney General really have the opportunity to give that task the time and attention that is needed. So they need some sort of a staff.

On the other hand, the staff should not be so large that it becomes a bureaucracy that has to feed upon itself. That staff I think ought to be relatively small, so that it can accept the responsibility with manpower drawn from whatever investigative agency seems appropriate at the time to conduct the necessary investigations. I do not think that that Inspector General's responsibility ought to entail administrative review of the manner in which responsible officials discharged their functions.

In other words, I don't think you ought to go in and say, well, Mr. Director, we have bought too many pencils. That is a function of internal management and perhaps a function of the Budget Committee. But I don't think that that type of responsibility ought to be assigned to the Inspector General.

Senator SCHWEIKER. Mr. Ruckelshaus, what is your position on an Inspector General, from your experience?

Mr. RUCKELSHAUS. Senator, I was in charge of that committee that was investigating the setting up of the Inspector General when I left the Government. My own feeling is that you have got to again be careful about what functions you are giving the Inspector, what is it that you want him to do. The idea of the establishment of the Inspector General when Elliot Richardson was the Attorney General was to provide within the Department the capacity to look into outside allegations of corruption within the Department itself, and set the Inspector General's office apart from the Department, so as to insure that whatever investigation took place had public credibility, that the public would believe there was a complete and thorough investigation, and particularly if the allegations proved to be false.

This was the result of many, many charges that had been brought against the Department of Justice during the preceding several months before Mr. Richardson was appointed Attorney General. And I think there is an example within the Department of Justice of a first-rate inspection division that is as good as any I have ever seen at investigating its own agency, and that is the Inspection Division in the FBI. When I was the Director of the FBI I gave them the charge to find out what happened to the records involving the 17 wiretaps of newsmen and public officials. They launched a complete, thorough and highly professional investigation, and found the records eventually in the White House. I think that if that division is given a clear charge by the Director, and given the kind of authority to discover derelictions within the Bureau, without any restraints being put on it it discharges its function well. There are a number of restraints set up within the Inspection Division to insure its objectivity, and to insure that the functions assigned to it are properly carried out.

Senator SCHWEIKER. You have a lot more faith in it, you might say, Mr. Ruckelshaus, than I as a member of this committee have. Just a week or so ago we came across wording in the FBI manual to proceed on an investigation unless it was embarrassing to the Bureau, and then some other procedure was automatically set up, which the FBI explained as something different than how I would have read it, but that was the fairness in this recommendation, that the criteria—proceed unless it would embarrass the Bureau.

Second, I guess you are not familiar with the "black bag" memorandum in which the Inspection Division was instructed during its annual inspection procedure to go into a safe of a special agent in charge and destroy any legal memos that the special agent might have filed about "black bag" jobs.

So, I have a hard time comprehending how you can say that they have done that kind of job or should be utilized in this job when the evidence we found is just the contrary. Maybe this wasn't available to you in the position you held, and if it wasn't, that is the fault of the system.

Mr. RUCKELSHAUS. Senator, you misunderstood what I said. What I said was that we have an excellent example of an Inspection Division in terms of the process by which it works. I also said that if it were given clear instructions it would carry them out. And that includes wrong instructions as well as proper instructions. That Division was very responsive to the Director, and if the Director told them to do something wrong, they were just as inclined to do that as something else. And the examples you cite were those of such instructions being given. When I was there, in the example I gave you, they were instructed to find out what those wiretap records were and find out what had happened to them. And they did it thoroughly and professionally. And I think that what we need is to distinguish between bad processes and bad people not only running those processes, but giving instructions to those who do.

Senator SCHWEIKER. But don't we have institutionalized safeguards so that if we get a bad process or a bad situation or a poor administrator in this regard, that we have some checks and balances? And to leave it all to the FBI after what we have seen in 30 years I think would be the wrong way to proceed. I understand FBI agents knew about COINTELPRO. And yet we used agents to do more than that.

Mr. RUCKELSHAUS. Senator, I did not suggest that we make the inspection function internal to the FBI. I said we had an example of a good process established in the FBI that could be used by the Department as a whole. Even the Department as a whole might get some bad instructions from the Attorney General, which is where the Congress comes in in terms of its oversight responsibility. There is no process that I can think of that we can set up that will avoid human nature, that will avoid every bad person that comes along to be in charge of it. And what I am suggesting is that the model, if properly used, in the FBI is not a bad one.

Mr. DORSEN. May I comment just very briefly on that?

There is another model—I spent 2 years in the Office of the Secretary of the Army, and I thought that the Inspector General model in the Army had at least one advantage over what I understand to be the process that Mr. Ruckelshaus was describing, and that was, complete independence from orders of the kind that led to the misfortunes that he and you were just discussing. I think it is very important, whoever is the Inspector General, that that person be given broad and independent authority of the kind that Mr. Petersen was describing, and not be subject to "bad orders." Now, obviously there has got to be one person at the top, and that is the Attorney General. But I would hate to see any Inspector General set up in the subject of the direction of the Director of the FBI. I think the person has to be independent and able to get access to raw files and be able to do the job untrammeled by "bad orders".

Senator SCHWEIKER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Schweiker. Mr. Schwarz, do you have questions?

Mr. SCHWARZ. I would like to pick up on something Mr. Dorsen said and ask both Mr. Ruckelshaus and Mr. Petersen about it. And this goes to the issue of the value of domestic intelligence. And if you would, leave out the consideration of catching Soviet spies and just concentrate on the domestic intelligence function of the Bureau. Can

you from your experience come up with any cases where clearly useful results were obtained through a domestic intelligence investigation that could not have been obtained by investigating an actual criminal act or a planned criminal act?

Mr. RUCKELSHAUS. Henry, you may have more examples than I do. I am not sure I understand your distinction. If there was an informant system set up on an organization, say, the Weathermen or something of that nature, and out of that informant system came information in the possession of the FBI or the Justice Department that certain crimes were planned short of that kind of avenue of information, I don't know where else the information would come from. It may well come from some voluntary disclosure by an individual concerned about the crime that was planned.

Mr. SCHWARZ. I am not thinking of technique. But the justification put forward by the Bureau for general intelligence doesn't turn on a predicate of a crime having been committed or planned. And, they say, there is a necessity to have general intelligence about subjects with broad labels like subversion and extremists. What I am driving at is whether, from the experience of either of you, you know of any instances where useful information relating, for example, to violence was obtained from a domestic intelligence investigation that could not have been obtained if the standard for such investigations was actual cause or probable cause that a crime had been committed or was being attempted.

Mr. PETERSEN. First of all, I have to say—and I think in this respect I speak for Mr. Ruckelshaus, too—we in the Justice Department, and perhaps he in his brief tenure as Acting Director of the FBI, did not have an opportunity to scrutinize the domestic intelligence investigations. Only when they were developed to the point of probable cause was the Department of Justice prosecutorial force brought in. So we speak not as experts. But I do suggest, Mr. Schwarz, that the Weathermen is a classic example. If you speak about a reasonable basis for suspicion to initiate an investigation, or a more stringent standard, which I happen to think is unreasonable as a predicate for initiating an investigation of probable cause, you would have to wait until the laboratory at the University of Wisconsin was blown up. Now, it is true enough that the Bureau's actions in investigating the Weathermen could not prevent that any more than they could prevent the bomb being placed in the Capitol. But they did not start the investigation at that point with the explosion, they started with the self-proclaimed intention of a group and the members of that group, and they further determined what members of that group espoused acts of violence, and they determined from their infiltration where members of the group happened to be at the time. So there was a process of elimination as a process of focus. And I think the Weathermen is a classic example of an instance where you cannot rely wholly upon the act itself. There has to be—and it is indeed being very shortsighted if there is not—some responsibility to look forward, particularly when you deal with crimes of violence.

Mr. SCHWARZ. It seems to me, though, that you haven't answered the question of whether you can think of an example where some useful result was in fact obtained that you couldn't have obtained by using as a predicate the likelihood of violence.

Mr. PETERSEN. I am suggesting the Weathermen indictment.

Mr. RUCKELSHAUS. What do you mean by that?

Mr. SCHWARZ. Preventing something from happening. How about you, Mr. Ruckelshaus, can you think of an example where something was prevented as a result of a domestic intelligence investigation that could not have been prevented by having as a predicate not only a bomb going off, but some predicate that says, picking up Mr. Dorsen's concept, present and clear likelihood that the group is going to engage in such conduct, criminal conduct?

Mr. PETERSEN. I can cite you two instances which I have informed about in the organized crime program where x was targeted for a killing. And the Bureau's response was to go 1, to the individual, and 2, to the local police, and suggest that preventive action might be taken, stationing guards around the man's house, or forcing the man to move, or something of that nature.

Mr. SCHWARZ. But what was the predicate for the investigation? Was the predicate not in that case the likelihood of violent action?

Mr. PETERSEN. The predicate was the existence of a group who earned for themselves the right to be called members of organized crime who were engaged in all types of illegal activity. But the significant thing is, it is not illegal to be a member of an organized crime group, it is only illegal when they do something in violation of a specific statute.

Mr. RUCKELSHAUS. I think your question is difficult to answer. And that doesn't mean it isn't a good one. I think what you are driving at is that there ought to be a very strong standard burden of proof on the individual or the person in the Government who would suggest that certain investigative techniques be used. And I am questioning that the validity of the assumptions behind the use of the given techniques is something that very much needs to be determined. And that is one of the chief functions, I think, that an investigative oversight committee of the Congress could perform, and that is, where the FBI would say, we need x number of agents to engage in surveillance of group A or group B of these individuals. There should be systematic—if you assume at the outset that this investigation is undertaken pursuant to investigative techniques approved by the Congress—there ought to be a review of the results of that investigation. Are you really getting something for that invasion of individual liberty? Because there is an invasion of time it takes place. And so I think that the difficulty in answering your question is that in our minds there are organizations like the Weathermen and so many groups that existed in the late sixties and the early seventies who used the rhetoric of violence and often didn't carry it out, and how you distinguished between those who are simply talking about it and those who intend to do something about it in some form of surveillance.

Mr. SCHWARZ. Mr. Chairman, there are in the books nine examples of real cases or hypothetical cases which are susceptible of reaction. And rather than putting the nine cases to the witnesses, I would like with your permission to ask the witnesses to respond in writing to these nine cases and give their reactions on whether the predicate in the cases was sufficient to open an investigation.

The CHAIRMAN. Very well. Are you gentlemen willing to do that, to respond in writing?

Mr. RUCKELSHAUS. Yes.

Mr. PETERSEN. Yes.

Mr. DORSEN. May I make one comment on an aspect of the answer Mr. Ruckelshaus gave which I thought was correct in connection with the oversight? Once again I think it is very important to button these things down. And it has been suggested that this committee ought to recommend to the Congress as a whole that it be a crime for a Government official willfully to deceive Congress and the public about activities which violate the kind of rules that are set up, because one thing we have learned is that not everybody has told the truth, and sometimes it has not been under oath. And there is another, which has been one step further, and that is, it should be a crime for a public official not to report violations of law that he or she may have seen in the course of this area.

Mr. RUCKELSHAUS. Not to be an informant?

Mr. DORSEN. Yes; that is right. The problem, of course, is how do you get into the process. And as Mr. Petersen and also Mr. Ruckelshaus I suppose have both explained, even though they were senior officials, it was hard for them even to get into it in detail and in depth. And, therefore, there has got to be some pressure put on people not to close one eye or both eyes to things that are being done, and not to deceive Members of Congress and the public about some of these matters.

The CHAIRMAN. Your suggestion might be, make a report to a court of crime. To whom is the report to be made?

Mr. DORSEN. That could be part of the investigation.

The CHAIRMAN. To the New York Times?

Mr. DORSEN. That would certainly do the job.

The CHAIRMAN. To your immediate superior?

Mr. DORSEN. Certainly that. It is admittedly a remedy that has problems with it. But at the same time the difficulty of getting these things out into the open is clear.

The CHAIRMAN. What about if this Office of Inspector General would be created, let's say, in the Justice Department, would that be the logical place to put——

Mr. DORSEN. That is the idea, of course.

The CHAIRMAN [continuing]. Unlawful activities by the FBI and other subsidiaries in the Department? What do you think about that?

Mr. RUCKELSHAUS. Aren't we by law, Mr. Chairman, establishing a system of informants in the Federal Government if we do that?

The CHAIRMAN. I am not endorsing it, I am just trying to figure out what it is that is being recommended.

Mr. PETERSEN. May I suggest something—I don't mean to be unduly elementary, but times have changed—and may I suggest that in whatever procedure this committee decides to set up by statute they incorporate a provision for ratification contemporaneous, a reasonably contemporaneous ratification. With all deference to this committee, I charge the committee with no more than I, myself, have indulged in as a result of all these exposures. I am sometimes fearful that there is a touch of revisionism involved in all this. Perhaps not. But the only

way that criticism could have been answered is if these matters in which the Bureau took action, which now all think to be immoral, had been submitted to a ratifying group at or about the time. And I suggest, Senator, that in many instances their conduct might have been approved by the Congress. And there are some who suggest that the oversight committee did indeed approve it. But whether they did or did not it would certainly prevent an agent who acts in good faith from being charged 10 years hence with covering up an illegal activity.

Now, that is, I think, a terribly important point. And, of course, from the viewpoint of the Federal Bureau of Investigation they feel, I think, badly put upon, because they feel that they were doing what they were charged to do, what nobody else was interested in doing.

The CHAIRMAN. I take it what you really suggest, Mr. Petersen, is that had there been an adequate congressional surveillance at the time it would have acted to protect those engaged in those activities if they had been thought by such a committee at the time to be necessary and proper.

Mr. PETERSEN. I don't want to point the finger at Congress, Senator. No President ever supported any Attorney General up until 2 years ago with respect to supervision of the Federal Bureau of Investigation.

The CHAIRMAN. I think that the remarkable thing is that this committee has conducted the only serious investigation of either the FBI or the CIA since their creation, one-half a century ago, and the other one 30 years ago. And we ought not to be astonished that abuses have crept into the system when no one has been looking at it. And I think that it might even be said that in the Department of Justice itself there was precious little oversight of the FBI.

Mr. PETERSEN. That is right.

The CHAIRMAN. So that everyone stands guilty, looking back over the years, of a failure to do the proper supervisory work. But for the free press we would never have had this investigation, because it was the direct result of the charges that were surfaced in the press, following Watergate, that the Congress finally decided that the time had come to investigate the FBI, the CIA, and these other highly prestigious agencies. I suppose I am agreeing with you that there has been a failure of proper oversight in the executive branch at the White House, at the Justice Department, and in the Congress.

Mr. PETERSEN. Let me add one thing more. And it is an endorsement of what Mr. Ruckelshaus said earlier. Even if this committee enacts a statute in its wisdom which is capable of imposing the necessary restraints, unless the political base, which in my judgment stems from the activities of the Federal Bureau of Investigation with the White House, unless that is curtailed, it will build up again. It is awfully awkward for an apparent superior to be unwilling to take on his subordinate because he knows he will not be supported by the President of the United States. And I am sure it is very unlikely that you will have former Attorneys General coming up and saying, the FBI was beyond my control. But that was the fact. It seems to me to be improper for the Congress to mandate by statute that type of administrative control. But it certainly has to be imposed in some fashion.

The CHAIRMAN. I just have one further question for Mr. Dorsen. He first brought up the importance of informants, and the danger of

abuses with respect to the overuse of informants. Has this question ever been tested against the fourth amendment in the courts?

Mr. DORSEN. Mr. Petersen says that the consentual cases are the only ones. There are cases, for example—the Panther 21 case in New York—where there were informants in the Black Panther organization, which was a case where I think it was raised. That case involved an acquittal, and, therefore, it never got to a judicial opinion.

The CHAIRMAN. In other words, you are telling me that as far as judicial review of the use of informants is concerned, as a possible violation of the fourth amendment of the Constitution, the question has hardly been raised, nor has it been tested adequately. There are cases going back to the early thirties, involving entrapment, involving people sometimes who were closely associated with groups allegedly leading individuals or groups to commit a crime, and there has been a very sharp division in the U.S. Supreme Court about what the correct standard is to determine whether people voluntarily committed a crime or whether they were led to do it by someone they were relying on who was secretly a Government informant. But the fact is that the law is not at all developed in this area.

Perhaps one of the reasons is that the national court cases never get into court.

Mr. DORSEN. Right.

Mr. PETERSEN. May I add that in the consentual cases the Court was led to the conclusion that a listening device worn by one of the participants in the conversation was not impermissible, it was predicated on the fact that eavesdropping, unadorned eavesdropping, was not a constitutional violation. So there is some authority in the Supreme Court decisions for that proposition.

Mr. DORSEN. Incidentally, however—this, of course, is a very tough question—Congress, of course, has not attempted to deal with this. If Congress attempted to deal with it the court would then be responding to a specific legislative act, and I would think to a large extent be guided by that, because the words of the fourth amendment, unlike the first amendment, talk about unreasonable searches and seizures, and what Congress decides are unreasonable.

The CHAIRMAN. Congress has never really attempted to define that by statute.

Mr. DORSEN. Exactly. That is correct.

The CHAIRMAN. Well, this has been very helpful to the committee, gentlemen. And I appreciate your appearance this morning. And also we will look forward to the written answers you supply. This hearing is adjourned.

[Whereupon, at 1:05 p.m., the hearing was adjourned subject to call of the Chair.]

66-077 O - 76 - 19

WEDNESDAY, DECEMBER 10, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m. in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Hart of Michigan, Mondale, Huddleston, Hart of Colorado, Baker, Goldwater, and Mathias.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel; and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The committee's witness this morning is the Honorable Clarence M. Kelley, the Director of the Federal Bureau of Investigation.

Mr. Kelley was appointed Director in July of 1973 in a troubled time for the FBI. His experience as an innovative law enforcement administrator in charge of the Kansas City Police Department for over 10 years, and his previous work as a special agent of the FBI, have made him uniquely qualified to lead the Bureau.

The select committee is grateful for the cooperation extended by Director Kelley in the course of its inquiry over the past months. The committee is also impressed by the openness of the FBI's witnesses before this committee, and their willingness to consider the need for legislation to clarify the Bureau's intelligence responsibility.

It is important to remember from the outset that this committee is examining only a small portion of the FBI's activities. Our hearings have concentrated on FBI domestic intelligence operations. We have consistently expressed our admiration and support for the Bureau's criminal investigative and law enforcement work, and we recognize the vital importance of counterespionage in the modern world. But domestic intelligence has raised many difficult questions.

The committee has also concentrated on the past rather than on present FBI activities. The abuses brought to light in our hearings occurred years and even decades before Director Kelley took charge.

The staff has advised the committee that under Director Kelley, the FBI has taken significant steps to rethink previous policies and to establish new safeguards against abuse. The FBI is now placing greater emphasis on foreign-related intelligence operations, and less on purely domestic surveillance. The FBI is working more closely with the Justice Department in developing policies and standards for intelligence. These are welcome developments.

Nevertheless, many important issues remain unresolved. Therefore, we have invited Director Kelley to share with the committee his views on some of the considerations the Congress should take into account in thinking about the future of FBI intelligence. Among these issues are whether FBI surveillance should extend beyond the investigation of persons likely to commit specific crimes, whether there should be outside supervision or approval before the FBI conducts certain types of investigations or uses certain surveillance techniques, whether foreign-related intelligence activities should be strictly separated from the FBI's domestic law enforcement functions, and what should be done to the information already in the FBI files and that which may go into those files in the future.

The committee looks forward to a constructive exchange of views with Director Kelley this morning, with Attorney General Levi tomorrow, and with both the FBI and the Justice Department in the next months as the committee considers recommendations that will strengthen the American people's confidence in the Federal Bureau of Investigation. That confidence is vital for the effective enforcement of Federal law and for the security of the Nation against foreign espionage.

Director Kelley, we are pleased to welcome you; and if you would have a prepared statement you would like to lead off with, please proceed.

TESTIMONY OF HON. CLARENCE M. KELLEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. KELLEY. Thank you very much, Senator Church and gentlemen.

I welcome the interest which this committee has shown in the FBI and most particularly in our operations in the intelligence and internal security fields.

I share your high regard for the rights guaranteed by the Constitution and laws of the United States. Throughout my 35-year career in law enforcement, you will find the same insistence, as has been expressed by this committee, on programs of law enforcement that are themselves fully consistent with law.

I also have strongly supported the concept of legislative oversight. In fact, at the time my appointment as Director of the FBI was being considered by the Senate Judiciary Committee 2½ years ago, I told the members of that committee of my firm belief in congressional oversight.

This committee has completed the most exhaustive study of our intelligence and security operations that has ever been undertaken by anyone outside the FBI other than the present Attorney General. At the outset, we pledged our fullest cooperation and promised to be as candid and forthright as possible in responding to your questions and complying with your requests.

I believe we have lived up to those promises.

The members and staff of this committee have had unprecedented access to FBI information.

You have talked to the personnel who conduct security-type investigations and who are personally involved in every facet of our day-to-day intelligence operations.

You have attended numerous briefings by FBI officials who have sought to familiarize the committee and its staff with all major areas of our activities and operations in the national security and intelligence fields.

In brief, you have had firsthand examination of these matters that is unmatched at any time in the history of the Congress.

As this committee has stated, these hearings have, of necessity, focused largely on certain errors and abuses. I credit this committee for its forthright recognition that the hearings do not give a full or balanced account of the FBI's record of performance.

It is perhaps in the nature of such hearings to focus on abuses to the exclusion of positive accomplishments of the organization.

The counterintelligence programs which have received the lion's share of public attention and critical comment, constituted an infinitesimal portion of our overall work.

A Justice Department committee which was formed last year to conduct a thorough study of the FBI's counterintelligence programs has reported that in the five basic ones it found 3,247 counterintelligence programs were submitted to the FBI headquarters from 1956 to 1971. Of this total, 2,370, less than three-fourths were approved.

I repeat, the vast majority of those 3,247 proposals were being devised, considered, and many were rejected, in an era when the FBI was handling an average of 700,000 investigative matters per year.

Nonetheless, the criticism which has been expressed regarding the counterintelligence programs is most legitimate and understandable.

The question might well be asked what I had in mind when I stated last year that for the FBI to have done less than it did under the circumstances then existing would have been an abdication of its responsibilities to the American people.

What I said then, in 1974, and what I believe today, is that the FBI employees involved in these programs did what they felt was expected of them by the President, the Attorney General, the Congress, and the people of the United States.

Bomb explosions rocked public and private offices and buildings; rioters led by revolutionary extremists laid seige to military, industrial, and educational facilities; and killings, maimings, and other atrocities accompanied such acts of violence from New England to California.

The victims of these acts were human beings, men, women, and children. As is the case in time of peril, whether real or perceived, they looked to their Government, their elected and appointed leadership, and to the FBI and other law enforcement agencies to protect their lives, their property, and their rights.

There were many calls for action from Members of Congress and others, but few guidelines were furnished. The FBI and other law enforcement agencies were besieged by demands, impatient demands, for immediate action.

FBI employees recognized the danger, felt they had a responsibility to respond, and in good faith initiated actions designed to counter conspiratorial efforts of self-proclaimed revolutionary groups, and to neutralize violent activities.

In the development and execution of these programs, mistakes of judgment admittedly were made.

Our concern over whatever abuses occurred in the counterintelligence programs, and there were some substantial ones, should not obscure the underlying purpose of those programs.

We must recognize that situations have occurred in the past and will arise in the future where the Government may well be expected to depart from its traditional role, in the FBI's case, as an investigative and intelligence-gathering agency, and take affirmative steps which are needed to meet an imminent threat to human life or property.

In short, if we learn a murder or bombing is to be carried out now, can we truly meet our responsibilities by investigating only after the crime has occurred, or should we have the ability to prevent? I refer to those instances where there is a strong sense of urgency because of an imminent threat to human life.

Where there exists the potential to penetrate and disrupt, the Congress must consider the question of whether or not such preventive action should be available to the FBI.

These matters are currently being addressed by a task force in the Justice Department, including the FBI, and I am confident that Departmental guidelines and controls can be developed in cooperation with pertinent committees of Congress to insure that such measures are used in an entirely responsible manner.

Probably the most important question here today is what assurances I can give that the errors and abuses which arose under the counterintelligence programs will not occur again. First, let me assure the committee that some very substantial changes have been made in key areas of the FBI's methods of operations since I took the oath of office as Director on July 9, 1973. Today we place a high premium on openness, openness both within and without the service.

I have instituted a program of open, frank discussion in the decision-making process which insures that no future program or major policy decision will ever be adopted without a full and critical review of its propriety.

Participatory management has become a fact in the FBI.

I have made it known throughout our headquarters and field divisions that I welcome all employees, regardless of position or degree of experience, to contribute their thoughts and suggestions, and to voice whatever criticisms or reservations they may have concerning any area of our operations.

The ultimate decisions in the Bureau are mine, and I take full responsibility for them. My goal is to achieve maximum critical analysis among our personnel without in any manner weakening or undermining our basic command structure.

The results of this program have been most beneficial to me personally, to the FBI's disciplined performance, and to the morale of our employees.

In addition, since some of the mistakes of the past were occasioned by direct orders from higher authorities outside the FBI, we have welcomed Attorney General Edward Levi's guidance, counsel, and his continuous availability, in his own words, "as a 'lightning rod' to deflect improper requests."

Within days after taking office, Attorney General Levi instructed that I immediately report to him any requests or practices which, in

my judgment, were improper or which, considering the context of the request, I believed presented the apprearances of impropriety.

I am pleased to report to this committee, as I have to the Attorney General, that during my nearly 2½ years as Director under two Presidents and three Attorneys General, no one has approached me or made overtures, directly or otherwise, to use the FBI for partisan, political or other improper purposes.

I can assure you that I would not for a moment consider honoring any such request.

I can assure you, too, in my administration of the FBI, I routinely bring to the attention of the Attorney General and the Deputy Attorney General major policy questions, including those which arise in my continuing review of our operations and practices. These are discussed openly and candidly in order that the Attorney General can exercise his responsibilities over the FBI.

I am convinced that the basic structure of the FBI today is sound. But it would be a mistake to think that integrity can be assured only through institutional means.

Integrity is a human quality. It depends upon the character of the person who occupies the office of the Director and every member of the FBI under him.

I am proud of the 19,000 men and women with whom it is my honor to serve today. Their dedication, their professionalism, their standards, and the self-discipline which they personally demand of themselves and expect of their associates are the Nation's ultimate assurance of proper and responsible conduct at all times by the FBI.

The Congress and the members of this committee in particular have gained a great insight into the problems confronting the FBI in the security and intelligence fields—problems which all too often we have been left to resolve without sufficient guidance from the executive branch or the Congress itself.

As in all human endeavors, errors of judgment have been made. But no one who is looking for the cause of our failures should confine his search solely to the FBI, or even to the executive branch.

The Congress itself has long possessed the mechanism for FBI oversight; yet, seldom has it been exercised.

An initial step was taken in the Senate in 1973 when the Committee on the Judiciary established a Subcommittee on FBI Oversight. Hearings had been commenced, and we were fully committed to maximum participation with the members of that subcommittee.

I laud their efforts. However, those efforts are of very recent origin in terms of the FBI's history.

One of the greatest benefits of the study this committee has made is the expert knowledge you have gained of the complex problems confronting the FBI. But I respectfully submit that those benefits are wasted if they do not lead to the next step, a step that I believe is absolutely essential, a legislative charter, expressing congressional determination of intelligence jurisdiction for the FBI.

Action to resolve the problems confronting us in the security and intelligence fields is urgently needed; and it must be undertaken in a forthright manner. Neither the Congress nor the public can afford to look the other way, leaving it to the FBI to do what must be done, as too often has occurred in the past.

This means too that Congress must assume a continuing role not in the initial decisionmaking process but in the review of our performance.

I would caution against a too-ready reliance upon the courts to do our tough thinking for us. Some proposals that have been advanced during these hearings would extend the role of the courts into the early stages of the investigative process and, thereby, would take over what historically have been executive branch decisions.

I frankly feel that such a trend, if unchecked, would seriously undermine the independence of the judiciary and cast them in a role not contemplated by the authors of our Constitution. Judicial review cannot be a substitute for congressional oversight or executive decision.

The FBI urgently needs a clear and workable determination of our jurisdiction in the intelligence field, a jurisdictional statement that the Congress finds to be responsive to both the will and the needs of the American people.

Senators, first and foremost, I am a police officer, a career police officer. In my police experience, the most frustrating of all problems that I have discovered facing law enforcement in this country—Federal, State, and local—are when demands are made of them to perform their traditional role as protector of life and property without a clear and understandable legal bases to do so.

I recognize that the formulation of such a legislative charter will be a most precise and demanding task.

It must be sufficiently flexible that it does not stifle the FBI's effectiveness in combating the growing incidence of crime and violence across the United States. That charter must clearly address the demonstrated problems of the past; yet, it must amply recognize the fact that times change and so also do the nature and thrust of our criminal and subversive challenges.

The fact that the Department of Justice has commenced the formulation of operational guidelines governing our intelligence activities does not in any manner diminish the need for legislation. The responsibility for conferring jurisdiction resides with the Congress.

In this regard, I am troubled by some proposals which question the need for intelligence gathering and suggest that information needed for the prevention of violence can be acquired in the normal course of criminal investigations.

As a practical matter, the line between intelligence work and regular criminal investigations is often difficult to describe. What begins as an intelligence investigation may well end in arrest and prosecution of the subject. But there are some fundamental differences between these investigations that should be recognized—differences in scope, in objective and in the time of initiation. In the usual criminal case, a crime has occurred and it remains only for the Government to identify the perpetrator and to collect sufficient evidence for prosecution. Since the investigation normally follows the elements of the crime, the scope of the inquiry is limited and fairly well defined.

By contrast, intelligence work involves the gathering of information, not necessarily evidence. The purpose may well be not to prosecute, but to thwart crime or to insure that the Government has enough information to meet any future crisis or emergency. The inquiry is necessarily

broad because it must tell us not only the nature of the threat, but also whether the threat is imminent, the persons involved, and the means by which the threat will be carried out. The ability of the Government to prevent criminal acts is dependent on our anticipation of those criminal acts. Anticipation, in turn, is dependent on advance information, that is, intelligence.

Certainly, reasonable people can differ on these issues. Given the opportunity, I am confident that the continuing need for intelligence work can be documented to the full satisfaction of the Congress. We recognize that what is at stake here is not the interests of the FBI, but rather the interests of every citizen of this country. We recognize also that the resolution of these matters will demand extensive and thoughtful deliberation by the Congress. To this end, I pledge the complete cooperation of the Bureau with this committee or its successors in this important task.

In any event, you have my unqualified assurance as Director that we will carry out both the letter and the spirit of such legislation as the Congress may enact.

That is the substance of my prepared statement.

I would also like to say extemporaneously that I note that on this panel are some gentlemen who were on the Judiciary Committee which heard my testimony at the time I was presented to them for candidacy as Director of the FBI. At that time I took very seriously the charge which may possibly result in the deliberation of this committee and of the full Senate. I have been well aware of the problems of the FBI since that time. I have also been well aware of the capabilities of the FBI to discharge those responsibilities. I don't take them lightly. I am of sufficient experience and age that I have pledged myself to do what is good and proper. I say this not as a self-serving statement but in order that we might place in context my position within the FBI. I could seek sanctuary and perhaps a safe sanctuary by saying during the period these things occurred I was with the local police department in Kansas City, Mo. Prior to that time, however, I was in the FBI.

During the time I was with the FBI and during the time I was with the police department, I continued throughout that period a close acquaintance with, and a strong affection for the FBI.

I only want to point out that based on those years, based on those observations, we have a very fine and very sensitive and a very capable organization. I feel that there is much that can still be done. I know that we are not without fault. I know that from experiences I have had. We will not be completely without fault in the future. But I assure you that we look upon this inquiry, we look upon any mandate which you may feel you have as good and proper. I only want to place in your thinking the fact that you have here a matchless organization, one which, I continue to say, was motivated in most of these instances, I cannot justify some, but the motivation was of the best. I am not pleading, as does a defense attorney. I am only putting in your thinking my objective observations as a citizen who is somewhat concerned about the future of this organization. It is too precious for us to have it in a condition of jeopardy.

Thank you very much.

The CHAIRMAN. Thank you, Director Kelley.

I want to turn first to Senator Hart who won't be able to remain through the whole morning. I think he has one question he would like to ask.

Senator HART of Michigan. Thank you, Mr. Chairman. Senator Mathias and I have Judiciary Committee hearings at 10:30.

I have several questions, and I'm sure they'll be covered by others, but the one that I have as a result of reading your testimony and listening to it this morning relates to your comment at the foot of page 10 and at the top of 11.

There you indicate that you caution us about extending the court's role in the early stages of investigations, suggesting that this might take us beyond the role contemplated for the courts under the Constitution.

Now as you have said, aside from the so-called national security wiretap problem, the main focus of our discussions and concern has been on the possibility of requiring court approval for the use of informants, informants directed to penetrate and report on some group.

One of the witnesses yesterday, Professor Dorsen, pointed out that really those informants are the most pervasive type of an eavesdropping device. It is a human device. An informant is really more intrusive on my privacy than a bug or a tap because he can follow me anywhere. He can ask me questions to get information the Government would like to have.

Now we certainly involve the courts in approval of the wiretaps for physical searches with the intent of the drafters of the Constitution to have a neutral third party magistrate screen use of certain investigative techniques. And the informant is such a technique. He functions sort of like a general warrant, and I don't see why requiring court approval would violate the role envisaged for the courts.

And as I leave, I would like to get your reactions to my feelings.

Mr. KELLEY. I do not feel that there is any use of the informant in intrusion, which is to this extent objectionable. The concept of the informant has been approved by numerous court decisions. Let us now go to the moral connotation of the use of the informant.

I think, as in many cases, it is a matter of balance. You have only very few ways of solving crimes, one of which is the use of the informant, I think, the protection of the right of the victim to be victimized. You have within the Constitution certain grants that are under ordinary circumstances abrogation of rights. The right to search and seize, which, of course, can't be unreasonable, but nonetheless, you have the right.

I think that were we to lose the right of the informant, we would lose to a great measure our capability of doing our job.

Now, I'm not arguing with you, Senator, that it is not an unusual procedure. I'm not even going to say that it is not an intrusion, because it is. But it has to be one, I think, in which virtue of the benefits must be counted.

We don't like to use it. We don't like the problems that are attendant. We take great care.

Now you mention the court possibly having jurisdiction over them. I think that possibly we could present the matter to the court, but

what are they going to do insofar as monitoring their effort? Are they going to have to follow it all the way through?

Also, there is, of course, urgency in the other contacts. Must the court be contacted for each and approval of the court given for each contact?

There are a great many problems insofar as administration of it.

I frankly feel, and again, all I can do is give you my idea—that there is a satisfactory control over the informants as we now exercise it today. Yes, there are going to be some who will get beyond our control, but this is going to happen no matter what you do.

Senator HART of Michigan. I appreciate your reaction. I was not suggesting that there is consideration here to prohibit informants. I was reflecting a view that I felt and hold that the use of an informant does require some balance, as you yourself said, and I would be more comfortable with a third party making a judgment as to whether the intrusion is warranted by the particular circumstance. But I do understand your position.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hart.

[Senator Hart of Michigan leaves the hearing room.]

The CHAIRMAN. Senator Baker, do you have questions?

Senator BAKER. Mr. Chairman, thank you very much.

Mr. Kelley, I have a great respect for you and your organization and I personally regret that the organization is in political distress, but we've both got to recognize that it is, along with other agencies and departments of the Government.

I think you probably would agree with me that even though that is extraordinarily unpleasant and in many respects unfortunate, it also has a plus side. That is, it gives us an indication of our future direction and the opportunity, at least, to improve the level of competency and service of the Government itself.

With that hopeful note, would you be agreeable then to volunteering for me any suggestions you have on how to improve the responsiveness of the FBI, or indeed, for any other law enforcement agencies of the Government, to the Congress, to the Attorney General, to the President? Beyond that, would you give me any suggestions you have on how you would provide the methods, the access, the documents, the records, the authority, for the Congress to perform its essential, I believe, essential oversight responsibility to see that these functions, these delicate functions are being undertaken properly?

And before you answer, let me tell you two or three things I am concerned about.

It hasn't been long ago that the FBI Director was not even confirmed by the Senate of the United States. I believe you are the first one to be confirmed by the Senate of the United States. I think that is a movement in the right direction. I think the FBI has taken on a stature and additional importance that requires it to have closer supervision and scrutiny by us. At the same time I rather doubt that we can become involved in the daily relationship between you and the Attorney General. Therefore, I tend to believe that the Attorney General needs to be more directly involved in the operations of the FBI. I would appreciate any comments on that.

Second, I rather believe that major decisions of the intelligence community and the FBI ought to be in writing, so that the Congress can, if it needs to in the future, take a look at these decisions and the process by which they were made to decide that you are or you are not performing your services diligently.

I don't think you can have oversight unless you have access to records, and in many cases records don't exist and in some cases the people who made those decisions are now departed and in other cases you have conflicts.

How would you suggest then that you improve the quality of service of your agency? How would you propose that you increase the opportunity for oversight by the Congress of the United States? What other suggestions do you have for improving the level of law enforcement in the essential activity that is required?

Mr. KELLEY. I would possibly be repetitious in answering this Senator, but I get a great deal of pleasure from telling what I think is necessary and what I hope that I have followed. One, which is beyond my control, but which I think is very important, is that the position of Director, is one to which great attention should be paid in choosing the man who will properly acquit himself.

I feel that the Judiciary Committee, at least in going over me, did a pretty good job. I feel that it is most necessary that care be taken that his philosophy, his means of management, his facility to adapt to change, his tendency toward consulting with other members of the official family, that he be willing to, for example, go through oversight with no reticence, and that I think that he should be chosen very carefully.

I think further that he should be responsible for those matters which indicate impropriety or illegality.

Senator BAKER. Could you stop for just a second? Who does he work for? Does the Director, in your view, work for the President of the United States, for the Attorney General, for the Justice Department, for the executive branch?

Who is the executive of the FBI, the Director of the FBI, responsible to? Who should he be responsible to?

Mr. KELLEY. Jurisdictionally, to the Attorney General, but I think this is such an important field of influence that it is not at all unlikely that we can expand it to the judiciary, the legislature, and of course, we are under the Attorney General.

Senator BAKER. Do you have any problems with the idea of the President of the United States calling the Director of the FBI and asking for performance of a particular task? Does that give you any difficulty? Or do you think that the relationship between the FBI Director and the President is such that that is desirable, or should it be conduited through the Attorney General?

Mr. KELLEY. I think it should be in the great majority of the cases conduited through the Attorney General. There has been traditionally some acceptance of the fact that if the President wants to see and talk with the Director, he may call him directly.

It has been my practice in such an event to thereafter report to the Attorney General, whoever it might be, that I have been called over and what I discussed and was told. And this was revealed in full to them.

Senator BAKER. I suppose we could pass a statute that says the President has to go through the Attorney General, although I rather suspect it would be a little presumptuous.

But to go the next step, do you think it is necessary for the pursuit of effective oversight on the part of the Congress, to have some sort of document written, or at least some sort of account of a Presidential order or an order of the Attorney General given to a Director of the FBI?

Do you think that these things need to be handled in a more formal way?

Mr. KELLEY. Personally, it would be my practice in the event I receive such an order, to request that it be documented. This is a protection as well as a clarification as to whether or not it should be placed as part of legislation. I, frankly, would like to reserve that for some more consideration. I don't know whether it would be, but I think that it can be worked very easily.

Senator BAKER. Mr. Kelley, Attorney General Levi, I believe, has already established some sort of agency or function within the Department that is serving as the equivalent, I suppose, of an Inspector General of the Justice Department, including the FBI. Are you familiar with the steps that Mr. Levi has taken in that respect? I think he calls it the Office of Professional Responsibility.

Mr. KELLEY. Yes, sir, I'm familiar with it.

Senator BAKER. Do you have any comment on that? Will you give us any observations as to whether you think that will be useful, helpful, or whether it will not be useful or helpful, how it affects the FBI, how you visualize your relationship to it in the future?

Mr. KELLEY. I don't object to this, which is to some extent an oversight within the Department of Justice under the Attorney General.

Frankly, it just came out. I have not considered it completely, but to the general concept, yes, I very definitely subscribe.

Senator BAKER. How would you feel about extending that concept of government-wide operation, a national Inspector General who is involved with an oversight of all of the agencies of Government as they interface with the constitutionally protected rights of the individual citizen? Would you care to comment on that, or would you rather save that for a while?

Mr. KELLEY. I would like to reserve that one.

Senator BAKER. I'm not surprised. Would you think about it and let us know what you think about it?

Mr. KELLEY. I will. [See Appendix B, p. 992.]

Senator BAKER. All right. Mr. Chairman, thank you very much.

The CHAIRMAN. Senator Huddleston.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Mr. Kelley, in your statement you describe the conditions that existed when much of the abuse that we have talked about during this inquiry occurred, indicating that the people within the Bureau felt like they were doing what was expected of them by the President, by the Attorney General, the Congress and the people of the United States.

Does not this suggest that there has been a reaction there to prevailing attitudes that might have existed in the country because of certain circumstances rather than any clear and specific direct in-

structions that might have been received from proper authorities? And if that is the case, is it possible in developing this charter, this guideline, to provide for that kind of specific instruction?

Mr. KELLEY. I think so, yes. I think that they can logically be incorporated and that——

Senator HUDDLESTON. You can see there would be a continuing danger if any agency is left to simply react to whatever the attitudes may be at a specific time in this country because——

Mr. KELLEY. Senator, I don't contemplate it being a continuing danger, but there certainly could be a very acceptable guidepost whereby we can, in the event such a need seems to arise, know what we can do.

Senator HUDDLESTON. Well, in pursuing the area which Senator Hart was discussing—whether or not we can provide sufficient guidelines which would replace a decision by the court in determining what action might be proper and specific in protecting individual's rights, can't we also provide the restrictions and guidelines and the various techniques that might be used?

For instance, supposing we do establish the fact, as has already been done, that informants are necessary and desirable. How do we keep that informant operating within the proper limits so that he in fact is not violating individual rights?

Mr. KELLEY. Well, of course, much of the reliance must be placed on the agent and the supervision of the FBI to assure that there is no infringement of rights.

Senator HUDDLESTON. But this is an area with which we've had some difficulty in the past. We have assumed that a particular action was necessary, that there was a present threat that some intelligence programs should be initiated, but in many cases it has gone beyond what would appear to have been necessary to have addressed the original threat. How do we keep within the proper balance there?

Mr. KELLEY. Well, actually, it's just about like any other offense. It is an invasion of the other individual's right and it is by an officer and an FBI agent is an officer. There's the possibility of criminal prosecution against him. This is one which I think might flow if he counsels the informant.

Now insofar as his inability to control the informant, I don't suppose that would warrant prosecution, but there is still supervisory control over that agent and over that informant by insisting that control is exercised on a continuing basis.

Senator HUDDLESTON. It brings up an interesting point as to whether or not a law enforcement agency ought to be very alert to any law violations of its own members or anyone else.

If a White House official asks the FBI or someone to do something unlawful, the question seems to me to be whether or not that is a violation that should be reported by the FBI.

Mr. KELLEY. I think that any violation which comes to our attention should either be handled by us or the proper authority.

Senator HUDDLESTON. But that hasn't been the case in the past.

Mr. KELLEY. Well, I don't know what you're referring to but I would think your statement is proper.

Senator HUDDLESTON. Well, we certainly have evidence of unlawful activity taking place in various projects that have been undertaken,

which certainly were not brought to light willingly by the FBI or by other law enforcement agencies.

The question that I'm really concerned about, as we attempt to draw guidelines and charters that would give the agency the best flexibility that they may need against a wide range of threats, is how we control what happens within each of those actions to keep them from going beyond what was intended to begin with?

Mr. KELLEY. You're still speaking of informants?

Senator HUDDLESTON. Not only informants but the agents themselves as they go into surveillance, wiretaps, or other intelligence-gathering techniques.

The original thrust of my question was, even though we may be able to provide guidelines of a broad nature, how do we control the techniques that might be used, that in themselves might be a serious violation of the rights?

Mr. KELLEY. Well, first, I don't know whether it's germane to your question but I do feel that it should be pointed out that the association to, the relationship between the informant and his agent handler is a very confidential one, and I doubt very seriously whether we could have any guidelines, where there might be an extension of any monitors here because thereby you do have a destruction of that relationship. Insofar as the activities of agents, informants or others which may be illegal, we have on many occasions learned of violations of the law on the part of informants, and either prosecuted ourselves, through the reporting of it to the U.S. attorney, or turned it over to the local authority. We have done this on many occasions. Insofar as our own personnel, we have an internal organization, the Inspection Division, which reviews this type of activity, and if there be any violation—yes, no question about it, we would pursue it to the point of prosecution.

Senator HUDDLESTON. But it could be helped by periodic review.

Mr. KELLEY. We do, on an annual basis, review the activities of our 59 offices through that same Inspection Division, and they have a clear charge to go over this as well as other matters.

Senator HUDDLESTON. Mr. Kelley, you pointed out the difference in the approaches in gathering evidence after a crime has been committed.

Would there be any advantage, or would it be feasible to attempt to separate these functions within the Agency, in the departments, for instance, without mixing gathering intelligence and gathering evidence? Are the techniques definable and different?

Mr. KELLEY. Senator, I think they are compatible. I see no objection to the way that they are now being handled on a management basis. I think, as a matter of fact, it is a very fine association whereby the intelligence, stemming as it does from a substantive violation, is a natural complement.

Senator HUDDLESTON. Now, another area, the FBI furnishes information to numerous government agencies. Is this properly restricted and controlled at the present time, in your judgment, as to just who can ask the FBI for information, what kind of information they can ask for, and probably even more important, what restrictions can be put on the use of that information once it has been supplied by the FBI?

Mr. KELLEY. I think so, Senator.

Senator HUDDLESTON. You think there are proper restrictions now?

Mr. KELLEY. I don't know that we can ourselves judge in all cases whether or not there is good and sufficient reason for an agency to inquire. I think that there should be a very close delineation by the agencies as to what they're going to ask for, but I think that we do have sufficient rules that are satisfactory to us.

Senator HUDDLESTON. You're confident that the information your agency supplies is not being misused, to the detriment of the rights of any individuals.

Mr. KELLY. Senator, I'm only confident in what I do myself. I would say that I am satisfied.

Senator HUDDLESTON. I was wondering whether some inclusion ought to be made in whatever charter is made as to who specifically can request, what limits ought to be placed on the request, and what they can do with it after they get it.

Mr. KELLEY. Yes.

Senator HUDDLESTON. I have some concern about the fact that in intelligence gathering, one is bound to gather a great deal of information about some individual that is useless as far as the intent of the intelligence gathering is concerned, but might be in some way embarrassing or harmful to the individual, whether or not there's any effort to separate this kind of information out of a person's file that is really initiated for a purpose, for a specific purpose unrelated to this information.

Is there any effort, or could any direction be given to doing that?

Mr. KELLEY. We would be very happy to work under the guidelines or rules or anything else to purge material which is extraneous, irrelevant, or for any other reason objectionable.

Senator HUDDLESTON. And how about the length of time that these files are kept in the agency?

Mr. KELLEY. We are willing to work within that framework, too.

Senator HUDDLESTON. I think that might be done.

I think in developing the chain of command, so to speak, it certainly would be very difficult to prevent the President of the United States from calling up the head of the FBI or anyone else and discussing any law enforcement problem he might so desire, and perhaps even give direction to the agency.

But how about that? What about White House personnel who might also be inclined to call the Director and ask him to do specific things? Could there be some clear-cut understanding as to whether or not the Director would be obligated to undertake any such project, that just anybody at the White House might suggest?

Mr. KELLEY. It's very clear to me that any request must come from Mr. Buchen's office, and that it be, in any case, wherein it is a request for action, followed with a letter so requesting.

This has come up before during the Watergate hearings, and I think it has been placed very vividly in our minds; that is, take care that you just don't follow the request of some underling who does not truly reflect the desire of the President.

Senator HUDDLESTON. Just one more question about techniques, aside from the guidelines of authority on broad projects undertaken.

Would it be feasible from time to time in a congressional oversight committee to discuss with the Department and with the Bureau various techniques so that they could have some input as to whether or not these actions are consistent with the overall guidelines, to start with, and consistent with the very protections?

Mr. KELLEY. Senator, I have already said to the Oversight Committee of the Senate that so far as I can now see, the only thing that would be withheld is the identity of informants. We'll discuss techniques, we'll discuss our present activities. I think this is the only way that we can exchange our opinions and get accomplished what you want to accomplish and what I want to accomplish.

Senator HUDDLESTON. I feel that is an important aspect of it because even though you have a charter which gives broad direction for all the guidelines and to the types of projects that you enter into it, if we don't get down to specifics, such things as how intelligence is to be collected, how evidence is to be collected, what is done after it is collected, that type of thing, it seems to me we are leaving a wide gap again for the Bureau to assume that it has total instruction and total permission to move in a certain direction and go beyond what is intended or what was authorized.

Thank you, Mr. Chairman, and Mr. Director.

The CHAIRMAN. Senator Goldwater?

Senator GOLDWATER. Mr. Kelley, as part of the FBI electronic surveillance of Dr. King, several tapes of specific conversations, and later a composite King tape were produced. Are these tapes still in the possession of the FBI?

Mr. KELLEY. Yes, sir.

Senator GOLDWATER. Have they been reviewed by you?

Mr. KELLEY. No, sir.

Senator GOLDWATER. Have they been reviewed by any of your staff, to your knowledge?

Mr. KELLEY. Senator, I think that they have been reviewed. I know that at least some have reviewed it within the area of this particular section. There has been no review of them since I came to the FBI, I can tell you that.

Senator GOLDWATER. Would these tapes be available to the committee if the committee felt they would like to hear them?

Mr. KELLEY. This, Senator Goldwater, is a matter which is of, as I said before, some delicacy, and there would have to be a discussion of this in an executive session.

The CHAIRMAN. I might say in that connection that the committee staff gave some consideration to this matter and decided that it would compound the original error for the staff to review the tapes, because that would be a still further invasion of privacy, and so the staff refrained from insisting on obtaining the tapes, believing that it was unnecessary, and quite possibly improper, in order to get at what we needed to know about the King case.

So the staff did refrain, and for that reason the issue never came to a head. I just wanted to lay that information before the Senator.

Senator GOLDWATER. I realize that's a prerogative of the staff, but it's also the prerogative of the committee if, and I'm not advocating it, if we wanted to hear them ourselves to determine whether Mr. Hoover

was off on a wild goose chase or whether there was, in effect, some reason. Again, I am not advocating it I am merely asking a question. They would be available if the committee took a vote to hear them and decided on it.

Mr. KELLEY. I don't think it would be within my jurisdiction to respond to this, Senator. It would have to be the Attorney General.

Senator GOLDWATER. I see. Now, are these tapes and other products of surveillance routinely retained even after an individual ceased to be a target of inquiry?

Mr. KELLEY. They are retained usually for 10 years.

Senator GOLDWATER. Ten years.

Mr. KELLEY. Yes, sir.

Senator GOLDWATER. What is the future value, if any, to the Bureau of retaining such information?

Mr. KELLEY. If there be guidelines that set out a destruction or erasure, we will abide by it. We will, on those occasions where we think that matters might come up within that period of time which may need the retention of them, we will express our opinion at that time, but other than that we would be guided by guidelines.

Senator GOLDWATER. Is it your view that legitimate law enforcement needs should outweigh privacy considerations with respect to retention of such information, or do we need the clear guidelines on the destruction of these materials when the investigative purposes for which they were collected have been served?

Mr. KELLEY. We feel that there should be a good close look at the retention of material, and we would, of course, like to have an input. But we welcome consideration of this.

Senator GOLDWATER. That is all I have, Mr. Chairman. Thank you very much.

The CHAIRMAN. Thank you, Senator.

Senator Mondale?

Senator MONDALE. Mr. Director, it seems to me that the most crucial question before the Congress is to accept the invitation of the FBI to draw congressionally imposed lines, limits of authority so the FBI will know clearly what you can and cannot do, so you will not be subject to later judgments. The question is, where should that line be drawn?

As you know, in 1924 when the FBI was created, and Mr. Stone later became the Chief Justice, he drew the line at criminal law enforcement. He said that never again would we go beyond the authority imposed upon us to get into political ideas. We would stay in the area of law enforcement.

Would you not think it makes a good deal of sense to draw the guidelines in a way that your activities are restricted to the enforcement of the law, investigations of crime, investigations of conspiracies to commit crime, rather than to leave this very difficult to define and control area of political ideas?

Mr. KELLEY. I don't know whether I understand your last statement of involving the area of political ideas. I say that I feel that certainly we should be vested and should continue in the field of criminal investigations as an investigatory objective. These are conclusions, of course, which are based on statutes in the so-called security field, national or foreign.

These are criminal violations. I feel that they should be in tandem. I feel, having worked many years in this atmosphere, that you have more ears and eyes and you have more personnel working together, covering the same fields. I do not think there should be a separation of the intelligence matters, because it is a concomitant. It naturally flows from the investigation of the security matters and the criminal.

Senator MONDALE. Mr. Kelley, what Mr. Stone said was that the Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with such conduct as is forbidden by the laws of the United States. When the police system goes beyond these limits, it is dangerous to proper administration of justice and human liberty.

Do you object to that definition?

Mr. KELLEY. I think that life has become much more sophisticated and we have added to the so-called policeman's area of concern some matters which were probably not as important at that time. I think that the fact that the FBI has been in touch with the security investigations and the gathering of intelligence is something which has proved to be at times troublesome and given us great concern, but it is a viable, productive procedure.

I don't know what Mr. Stone was thinking of entirely of this course, but I can tell you about the procedure today.

Senator MONDALE. I think you recognize, if that further step is taken, as you're recommending here, at that point it becomes so difficult to guarantee. In fact, in my opinion, it becomes impossible to guarantee that we won't see a recurrence of some of the abuses that we've seen in the past, and I don't know how you establish any kind of meaningful oversight on a function as nebulous as the one you've just defined.

If the FBI possesses the authority to investigate ideas that they consider to be threats to this Nation's security, how on earth can standards be developed that would provide any basis for oversight? We have seen how that definition can be stretched to include practically everybody, including moderate civil rights leaders, war dissenters and so on.

How can you, from among other things, be protected from criticism later on that you exceeded your authority or didn't do something that some politician tried to pressure you into doing?

Mr. KELLEY. It might well be, Senator, that 10 years from now a Director of the FBI will be seated here and will be criticized for doing that which today is construed as very acceptable.

Senator MONDALE. Correct. And I have great sympathy for the predicament in which the FBI finds itself.

Mr. KELLEY. And the Director.

Senator MONDALE. And the Director especially. That is why I think it's in the interest of the FBI to get these lines as sharply defined as possible, so that when you are pressured to do things, or when, after the fact, people with good 20/20 hindsight can criticize you or the Bureau, you can say, here are the standards that you gave us, and they specifically say this, and that is your answer. We have to live by the law. If we don't define it specifically, it seems to me that these excesses could reoccur, because I don't think it's possible to define them, and the

FBI is inevitably going to be kicked back and forth, depending on personal notions of what you should have done. Don't you fear that?

Mr. KELLEY. Not too much, Senator. I think we learned a great lesson by virtue of Watergate, the revelations that have come up as a result of this committee's inquiries, the fact that I think that we have a different type of spirit today in the Bureau, the fact that, as I said before, you came in, that I think the Bureau is a matchless organization, and they are eager to do that which is vital and proper, and the fact that we are getting a number of very fine young people in the organization, people of the other ethnic backgrounds than we had years ago. I think there is a greater understanding in the Bureau today of what is the proper type of conduct.

We may not be able to project this on all occasions, because we must equate this with the need and with our experience, but if precise guidelines are the goal, you're going to have trouble. If, on the other hand, there is flexibility, I think that we can work very well within those guidelines.

Senator MONDALE. As you know, I don't think there is a better trained or professionally higher qualified law enforcement organization in the world than the FBI. I think we all agree it is superb. But the problem has been, from time to time, that when you go beyond the area of enforcing the law into the area of political ideas, in fact, you leave the criminal field, you get into politics. That is where, it seems to me, the great controversy exists, and where you are almost inevitably going to be subjected to fierce criticism in the future, no matter how you do it. Once you get into politics, you get into trouble.

Mr. KELLEY. I agree to that, and I point out that in almost every branch of the Government and in every part, as a matter of fact, every segment of our society, there are some who deviate from the normal course. I feel that within the Bureau there is less likelihood of this happening, and I think that working with you, we can at least make some achievements that will be significant.

Now, whether it will be lasting, I don't know, but I think we've made a good start.

Senator MONDALE. In your speech in Montreal on August 9, you said we must be willing to surrender a small measure of our liberties to preserve the great bulk of them. Which liberties did you have in mind?

Mr. KELLEY. Well, of course, this speech has been misunderstood many, many times.

Senator MONDALE. Well, I want you to have a chance to clear it up.

Mr. KELLEY. All that was intended here was a restatement of the approach which the courts historically have used in resolving most issues of constitutional importance, and its recognition that rights are not susceptible to absolute protection. It's a matter of balance. Even in the fourth amendment, for example, which protects the right of privacy, it does not prohibit searches and seizures. As I mentioned, it only refers to those that are unreasonable.

I came from the police field. What is more restrictive to more people than traffic regulation? But what would be more chaotic is if you did not have traffic regulation. We do, in order to live in the complexities and intricacies of today's life, have to give up some of our rights. Some may construe this as an extravagant statement. If it is so, I wish to say that I was only pointing out that there has to be a balance.

Senator MONDALE. So when you say we have to give up some liberties, or as you just said, some rights, which rights would you have us give up?

Mr. KELLEY. Under the fourth amendment, you would have the right for search and seizure.

Senator MONDALE. You wouldn't give up the fourth amendment, right?

Mr. KELLEY. Oh, no, not the right.

Senator MONDALE. What right do you have in mind?

Mr. KELLEY. The right to be free from search and seizure.

Senator MONDALE. There's no such right in the Constitution. You can have such seizures, but they must be reasonable, under court warrant. Did you mean to go beyond that?

Mr. KELLEY. That's right.

Senator MONDALE. You should be able to go beyond that?

Mr. KELLEY. No, no. I do not mean that we should ever go beyond a constitutional right guarantee.

Senator MONDALE. Well, would you say, Mr. Kelley, that that sentence might have been inartful in your speech?

Mr. KELLEY. I said that if it was misunderstood, I made a mistake, because I should never make a statement which—yes, it was inartful.

Senator MONDALE. I think I know about your record in law enforcement well enough to tell you that I think you were saying something different, that it was taken to mean something different than I think you intended.

What you are saying is that, in the exercise of your law enforcement powers, the rights of individuals are determined by the laws and the courts, but the courts, in the handling of those issues, have to balance rights and other values.

That's what you're essentially saying, is that correct?

Mr. KELLEY. Senator, I ought to have you write my speeches so that I don't have any misunderstandings. I didn't intend that to be at the time anything that was unusual. I have to admit that maybe I made a mistake.

Senator MONDALE. What you are saying in effect is that the rights of the American people can be determined not by the Director of the FBI but by the courts and by the law. You meant that?

Mr. KELLEY. Indeed, yes, sir.

Senator MONDALE. All right. Thank you.

The CHAIRMAN. Senator Hart?

Senator HART of Colorado. Mr. Kelley, in response to a question by Senator Mondale, one of his first questions about laying down guidelines, it seems to me what you were saying was we could work together. That is to say the Bureau and the Congress lay down guidelines that would not unreasonably hamper you from investigations of crime control in the country.

But I think implicit in his question was also an area that you didn't respond to, and that is, what kind of guidelines do you lay down to protect you and the Bureau from political pressure, the misuse of the Bureau by political figures, particularly in the White House?

And we've had indications that at least two of your predecessors, if not more, obviously were corrupted and Mr. Gray was under great pressure from the White House to use the facilities of the Bureau and their capabilities to accomplish some political end.

It seems to me you were arguing in favor of fewer restrictions so you could get on with your job, but that is not what Senator Mondale and the rest of us are interested in.

What kind of restrictions can we lay down to protect you from political pressures? I'd be interested in that side of the coin, if you would.

Mr. KELLEY. I would welcome any guidelines which would protect me or any successor from this type of thing. I think that would be splendid. I have not reviewed the guidelines as prepared to the present date by the Department. It might be that they are well defined in there. But I welcome any consideration of such directives.

Senator HART of Colorado. Do you think this is a problem?

Mr. KELLEY. No, sir, not with me.

Senator HART of Colorado. Do you think that it has been a problem for the people that preceded you?

Mr. KELLEY. I think so.

Senator HART of Colorado. And that's a problem the Congress ought to address?

Mr. KELLEY. I think so.

Senator HART of Colorado. The committee received a letter from the Department of Justice a couple of days ago, in which the Assistant Attorney General asked our cooperation in carrying out the investigation, or their efforts to review the investigation, conducted by the FBI into the death of Martin Luther King, Jr., in order to determine whether that investigation should be reopened. They asked our cooperation, they asked for our transcripts, the testimony before the committee, all material provided to the committee by the FBI which relates to Dr. King and the Southern Christian Leadership Conference.

I guess my question is this: Why is the Justice Department asking this committee for FBI files?

Mr. KELLEY. I don't think they're asking for files. I think they're asking for what testimony was given by witnesses whose testimony has not been given up. I don't know.

Senator HART of Colorado. I'll quote it. "And all material provided to the committee by the FBI which relates to Dr. King and the Southern Christian Leadership Conference."

I repeat the question. Why is the Justice Department asking this committee for material provided to us by the FBI?

Mr. KELLEY. Frankly, I don't know. Do you mind if I just ask——

[Pause.]

Mr. KELLEY [continued]. I am informed, and I knew this one. Everything that was sent to you was sent through them. Did they have a copy also? Yes, they had a retained copy. I don't know why.

Senator HART of Colorado. So there's nothing you provided us that's not available to the Justice Department?

Mr. KELLEY. That's right.

Senator HART of Colorado. And you can't account for why an official of the Justice Department would ask this committee for your records?

Mr. KELLEY. No, sir.

Senator HART of Colorado. You released a statement on November 18, 1974, regarding the FBI's counterintelligence program and you said you made a detailed study of COINTELPRO activities and reached the following conclusions, and I quote:

"The purpose of these counterintelligence programs was to prevent dangerously and potentially deadly acts against individuals, organizations and, institutions, both public and private, across the United States."

We had an FBI informant before this committee and he stated he told the FBI on a number of occasions that he planned violent acts against black people in groups. And yet, he said there were few, if any, instances in which the FBI actually prevented violence from taking place. How does his testimony square with your statement that I have quoted?

Mr. KELLEY. It doesn't, and I don't know if any of his statements contrary to what we have said are the truth. We don't subscribe to what he said. We have checked into it and we know of no instances where, for example, the 15 minutes story and that type of thing has been substantiated.

Senator HART of Colorado. You're saying the testimony he gave us under oath was not accurate?

Mr. KELLEY. Right.

Senator HART of Colorado. You also said in that statement, and I quote:

> I want to assure you that Director Hoover did not conceal from superior authorities the fact that the FBI was engaged in neutralizing and disruptive tactics against revolutionary and violence-prone groups.

Now the committee has received testimony that higher authorities, the Attorney General and Congress, were not informed of New Left COINTELPRO activities. Do you have any information in this regard?

I know in that statement you cite one or two instances, but in terms of the bulk of COINTELPRO activities, the record seems to indicate that there was not systematic information flowing upward through the chain of command to Director Hoover's superiors.

Mr. KELLEY. May I ask that I be given the opportunity to substantiate that with documentation?

Senator HART of Colorado. Sure.

Mr. KELLEY. Or respond to it. [See Appendix B, p. 992.]

Senator HART of Colorado. Director Kelley, just in passing, do you agree with the statement made by President Ford that those responsible for harassing and trying to destroy Dr. King should be brought to justice?

Mr. KELLEY. Those who were directly responsible and upon whose orders the activities were taken are responsible. I don't know if he intended to say that, but if he did not, I would say that it would be more proper. Insofar as my own opinion is concerned, that it should be centered on those who said to do it, those who are responsible.

I took the responsibility for any such program and I don't expect that those under me would be not acting in accordance with what they think is proper and may even have some reservation, but they do it on my orders. I accept that responsibility. I think that it should rest on those who instructed that that be done.

Senator HART of Colorado. But you agree that the people who give the orders should be brought to justice.

Mr. KELLEY. I do.

The CHAIRMAN. Aren't they all dead?

Mr. KELLEY. No.

The CHAIRMAN. Not quite?

Mr. KELLEY. Not quite.

Senator HART of Colorado. That's all, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Director Kelly, in the committee's review of COINTELPRO and other political involvements of the FBI, it seems to me that we have encountered two or three basic questions.

Since the investigation is over insofar as the committee is concerned, we're now turning our attention to remedies for the future, what I would think would be our constructive legislative work. It is very important that we focus on what we learned in that investigation.

One thing that we have learned is that Presidents of the United States have from time to time ordered the FBI to obtain for them certain kinds of information by exercising the necessary surveillance to obtain and to have a purely political character, that they simply wanted to have for their own personal purposes. I think that you would agree that that is not a proper function of the FBI.

Yet it's awfully difficult for anyone in the FBI, including the Director, to turn down a President of the United States if he receives a direct order from the President. It is always possible, of course, to say no, and if you insist, I will resign. But that puts a very hard burden on any man serving in your position, particularly if the President puts a good face on the request and makes it sound plausible or even invents some excuse. It is always easy for him to say, you know, I am considering Senator White for an important position in my administration, and I need to know more about his activities, particularly of late. I've had some cause for concern and I want to be certain that there is nothing in his record that would later embarrass me, and I just want you to keep careful track of him and report to me on what he's been doing lately.

It's difficult for you to reply to the President: "Mr. President, that's a very questionable activity for the FBI, and I frankly don't believe that you've given me the real reason why you want this man followed. I think his opposition to your current policy is politically embarrassing to you and you want to get something on him."

I mean, you know, the Director can hardly talk back that way, and I'm wondering what we could do in the way of protecting your office and the FBI from political exploitation in this basic charter that we write.

I want your suggestions, but let's begin with one or two of mine. I would like your response.

If we were to write into the law that any order given you either by the President or by the Attorney General should be transmitted in writing and should clearly state the objective and purpose of the request and that the FBI would maintain those written orders and that furthermore they would be available to any oversight committee of the Congress. If the Joint Committee on Intelligence is established, that committee would have access to such a file.

So that the committee itself would be satisfied that orders were not being given to the FBI that were improper or unlawful. What would you think of writing a provision of that kind into a charter for the FBI?

Mr. KELLEY. I would say writing into the law any order issued by the President that is a request for action by the Attorney General should be in writing, is certainly, in my opinion, a very plausible solution. I'm sure that in contemplation of this there would be some that will say yes or some that will say no, but I think we could define an area where you are trying to cure the abuses and we could do that.

Now as to the availability to any oversight committee of Congress, I would say generally that I certainly would have no objection to this but again, there may be some request for something of high confidentiality that the President might put in writing such as some national or foreign security matter.

I would like to have such a consideration be given a great deal of thought and that the oversight committee review be conditioned with that possibility. I don't think it would present a problem.

I have said previously that I feel I can discuss everything except the identity of the informants to the oversight committee. I welcome that.

The CHAIRMAN. Well, that has been of course the way we proceeded with this committee. It has worked pretty well, I think.

Now, Senator Goldwater brought up a question on the Martin Luther King tapes. I would like to pursue that question. If these tapes do not contain any evidence that needs to be preserved for ongoing criminal investigations, and since Dr. King has long since been violently removed from the scene, why are they preserved? Why aren't they simply destroyed? Is there a problem that we can help through new law to enable the FBI to remove from its files so much of this information that it has collected that is no longer needed or may never have connected the person with any criminal activity? And yet, all of that information just stays there in the files year after year.

What can we do? How can a law be changed? If that's not the problem, then what is? Why are these tapes still down there at the FBI?

Mr. KELLEY. Well, of course, we do have the rule that they are maintained 10 years. Now, why the rule is your question and why, right now, are they maintained? Since we do maintain everything since the inquiry has started and until that's lifted, we can't destroy anything.

I would say that this is a proper area for guidelines or legislation and again, as I have said, there should be some flexibility and I know that's a broad statement but there might be some areas wherein that the subject of the investigation himself may want them retained because it shows his innocence. I think you have to deliberate this very carefully, but it can be done and we are willing to be guided by those rules.

The CHAIRMAN. Let me ask you this. The FBI is conducting thousands of investigations every year on possible appointees to Federal position. As a matter of fact, the only time I ever see an FBI agent is when he comes around and flashes his badge and asks me a question or two about what I know of Mr. so and so, who's being considered for an executive office. And we have a very brief conversation in which I tell him that as far as I know, he's a loyal and patriotic citizen, and that is about the extent of it.

Then when this file is completed and the person involved is either appointed or not appointed, what happens to that file? I know it's full of all kinds of gossip because it is in the nature of the investigation to go out to his old neighborhoods and talk to everybody who might have known him? What happens to the file? Is that just retained forever?

Mr. KELLEY. We have some capability of destroying some files and they are rather lengthy insofar as retention. We have some archival rules which govern the retention of material which is developed in cases involving certain members of the executive branch of the Government. I see no reason why this would not be a proper area for consideration of legislation.

The CHAIRMAN. Can you give me any idea of how much—do you have records that would tell us how much time and money is being spent by the FBI just in conducting these thousands of routine investigations on possible Presidential appointments to Federal offices?

Mr. KELLEY. I feel confident we can get it. I do not have it now, but if you would like to have the annual cost for the investigation of Federal appointees——

The CHAIRMAN. Yes. Plus any other information that would indicate to us what proportion of the time and effort of the FBI was absorbed in this kind of activity.

Mr. KELLEY. I can tell you it is relatively small, but I can get you, I think, the exact amount of time and the approximate expense.

The CHAIRMAN. I wish you would do that because this is a matter we need more information about. And when you supply those data to the committee, would you also supply the number of such investigations each year? You know, I don't expect you to go back 20 or 25 years, but give us a good idea of the last few years. For example, enough to give us an idea of how much time and how broad the reach of these investigations may be.

Mr. KELLEY. Through 1970?

The CHAIRMAN. That would be sufficient, I would think.

The other matter that is connected to this same subject that I would like your best judgment on is whether these investigations could not be limited to offices of sensitivity. That is to say, where legitimate national security interest might be involved so that there is a reason to make a close check on past associations, attitudes and expressions of belief.

I have often wondered whether we couldn't elminate routine Federal offices that are not particularly sensitive in the national security sense from the reach of these FBI checks. And so when you respond to the series of questions, I wish you would include the offices that are now covered by such checks and give us an idea of how far down into the Federal bureaucracy this extends. Could you do that?

Mr. KELLEY. Yes, sir. [See Appendix B, p. 992.]

The CHAIRMAN. Fine. Now there is a vote. The vote always comes just at the wrong time, but Mr. Schwarz wants to ask you some additional questions for the record, and there may be other questions that would be posed by the staff, after which I will ask Mr. Schwarz to adjourn the hearings. It looks like we're going to be tied up on the floor with votes.

But, before I leave, I want to thank you for your testimony, Mr. Kelley, and to express my appreciation to you for the way you have cooperated with the committee in the course of its investigation during the past months.

Mr. KELLEY. Thank you.

The CHAIRMAN. And I hope, as you do, that as a result of the work of the committee we can write a generic law for the FBI that will help to remedy many of the problems we'll encounter in the future.

Thank you.

Mr. SCHWARZ. Mr. Kelley, I'll try to be very brief.

In your statement, you said the following, and I would like then to question about what you said:

> We must recognize that situations have occurred in the past and will arise in the future where the Government may well be expected to depart from its traditional role, in the FBI's case, as an investigative and intelligence-gathering agency, and take affirmative steps which are needed to meet an imminent threat to human life or property.

Now, by that you mean to take what kind of steps in what kind of situation? And can you give some concrete examples under your general principles statement?

Mr. KELLEY. I think that Mr. Adams addressed himself to that the other day, where you have an extremist who is an employee at the waterworks, and he makes a statement that he's going to do something which is devastating to the city, and you have no way to attack this under the ordinary procedures, and so therefore you must take some steps to meet that imminent threat to human life or property.

Mr. SCHWARZ. So let us take that case as a test of the principle. You are saying the extremist has said he is going to do something to the waterworks, poison it or something, and he is on the way down there with the poison in his car. Is that the presumption?

Mr. KELLEY. We hadn't gone that far, but all right, you can extend it.

Mr. SCHWARZ. All right, now, in that case you have the traditional law enforcement tool, which is the power of arrest.

Mr. KELLEY. Not under probable cause where he has not gone down there. The hypothetical we gave was one where he had not taken any overt acts in perpetration of this.

Mr. SCHWARZ. If he hasn't taken any overt acts, are you then in what you would call an imminent threat of human life or property?

Mr. KELLEY. I think so.

Mr. SCHWARZ. How so? Unless he has taken an overt act to buy the poison or to get in the car with the poison, there is not by definition any threat to life or property.

Mr. KELLEY. Mr. Schwarz, I've been around in this business a long time. I've heard a number of threats which were issued, and they thereafter materialized into actions. I don't take these threats as being empty ones, because so many times they have been acted upon.

I was criticized one time when there was a threat made to kill me, and it was said later on, it's not rhetoric, it's not rhetoric to me, because when they say they're going to kill me, that just means one thing.

Mr. SCHWARZ. But I'm not disagreeing with you.

Mr. KELLEY. But you are disagreeing with me. You're saying on the basis of experience that you cannot detect a possible threat. That's the whole area of concern that we have here—losing the capability of doing something. We don't say we should initiate it ourselves. We say that we should go to the Attorney General. We do not

subscribe to the idea that we should act independently because maybe we don't have the judicial review—the capability of determining, but we do think that we should report it and thereafter see what can be done.

Mr. SCHWARZ. Have you changed in the course of our discussion the standard you refer to in your opening statement,[1] where you're talking about an imminent threat.

Mr. KELLEY. Yes.

Mr. SCHWARZ. And I hear you now as saying a possible threat.

Mr. KELLEY. An imminent possible threat.

Mr. SCHWARZ. An imminent possible threat.

Would that be a fair standard for either action, other than arrest? I don't know what you have in mind, but something to prevent the person from carrying out his activities, other than arrest, for instance, what is an example of what you have in mind?

Mr. KELLEY. Removing him from his position or whatever is necessary in order to make it impossible, or at least as impossible as possible, to perpetuate this thing.

Mr. SCHWARZ. You mean have him lose his job or——

Mr. KELLEY. I don't know what it would be.

Mr. SCHWARZ. Isolate him in some fashion?

Mr. KELLEY. In some fashion perhaps.

Mr. SCHWARZ. Now, for such activity and for opening an investigation into a domestic group, could you live with a standard which said you would have to have an immediate threat that someone was likely to commit a serious Federal crime involving violence?

Mr. KELLEY. I think that this thing could be worked out so that there could be an adequate basis for an evaluation.

Mr. SCHWARZ. So those words, without trying to commit you entirely to them, do not seem to you to depart far from what you think would be an acceptable standard.

Mr. KELLEY. Well, an imminent, immediate threat might be, by virtue of the word "immediate", that he's going to do it the next minute. In that case it may be necessary for you to, not with the presence or the possibility, not be able to do anything except put him under arrest.

Mr. SCHWARZ. Of course, of course. And nobody would at all disagree with that kind of action.

Mr. KELLEY. I don't think they would either.

Mr. SCHWARZ. But on the question, let's take the opening of an investigation into a domestic group. Is it basically consistent with practicality to make the test immediate threat of a serious Federal crime involving violence?

Mr. KELLEY. To open a domestic security case?

Mr. SCHWARZ. Yes.

Mr. KELLEY. It appears to me that this is a terrorist activity, in effect. We certainly have terrorist activities under our jurisdiction as a threat against the United States.

Mr. SCHWARZ. Now, are there other circumstances where it is justifiable to open an investigation of the domestic group where you do not have an immediate threat of serious Federal crime involving violence?

Mr. KELLEY. Oh, I think there are other criteria, and they have been well defined as to what is the possible opening, the basis for a possible

[1] See p. 284.

opening. We haven't been discussing that, we have been discussing particular instances, but there are other criteria that are used, yes.

Mr. SCHWARZ. What would the other criteria be?

Mr. KELLEY. Well, the possible statutory violations over which we have jurisdiction are, generally speaking, the most used of the bases. And then you have, of course, some intelligence investigations which should, of course, be of short duration if there is no showing of this leading to action or a viable intent.

Mr. SCHWARZ. So that's what you're looking for in the intelligence investigation?

Mr. KELLEY. By intelligence investigation, yes, you are looking to prevent.

Mr. SCHWARZ. What you are looking to prevent, and what you're looking to find, is a likelihood of action combined with an intent to take an issue?

Mr. KELLEY. And the capability.

Mr. SCHWARZ. And the capability. I just have two other lines, Mr. Kelley, and I appreciate very much your time.

Mr. KELLEY. That's all right.

Mr. SCHWARZ. Assuming a legitimate investigation has been started into a domestic intelligence matter, is it legitimate for the FBI, in addition to obtaining information that relates to what we've just been talking about, the likelihood of violent action, is it also legitimate for the FBI to collect, retain, and disseminate information concerning on the one hand the sex life of a person and the political views of a person on the other?

Mr. KELLEY. I think, Mr. Schwarz, that this is just what many of our problems are—perhaps the guidelines can define this type of thing. I think probably you will agree that within the determination of the deviations possibly of sex lives, there might be something that is relevant. I would say ordinarily it's not. And so far as political views, yes, I think that this could be, if he is espousing some cause or some view that advocates violence or the overthrow of the government.

Mr. SCHWARZ. Would those be the only limits on political views that you think are OK to collect, advocates of violence or of overthrow?

Mr. KELLEY. Well, I don't think because he's a Democrat or a Republican it would be anything that would be damaging, but it might on the other hand counter the report that he's a member of some other organization.

Mr. SCHWARZ. Is the standard you used on collection of sex life information relevant? I suppose anything might be relevant, but don't you think that as a function of balance, it has to have a high degree of relevance before it's justifiable to collect that kind of information on American citizens who are not suspected of having committed crimes?

Mr. KELLEY. Insofar as doing it presently, it has been included in some reports as a result of the requirement that that is what is required by our rules, that when a person reports something to us, we do a report of the complaint. Insofar as a determination by guidelines that might be prepared later, I think that we can certainly deliberate on this to see whether or not this is something we should retain, and we would not object to anything reasonable in that regard.

Mr. SCHWARZ. I just have one final question.

Taking the current manual and trying to understand its applicability laid against the facts in the Martin Luther King case, under section 87, permission is granted to open investigations of the infiltration of nonsubversive groups, and the first sentence reads: "When information is received indicating that a subversive group is seeking to systematically infiltrate and control a nonsubversive group or organization, an investigation can be opened."

Now, I take it that is the same standard that was used in opening the investigation of the Southern Christian Leadership Conference in the 1960's, so that investigation could still be open today under the current FBI manual.

Mr. KELLEY. We are interested in the infiltration of clearly subversive groups into nonsubversive groups inasmuch as this is a ploy that is used many times, and having infiltrated, they then get control, and they have a self-laundered organization which they can use, and not, certainly, to the benefit of the country.

Mr. SCHWARZ. But is the answer to my question yes, that under that standard, the SCLC investigation could still be opened today?

Mr. KELLEY. I think so.

Mr. SCHWARZ. All right, then, just one final question.

Do you agree that special care needs to be taken not only of the standards for initially opening an investigation of a group, but perhaps extra care needs to be taken when the investigation goes beyond the initial target group to individuals or people who come into contact with it?

Mr. KELLEY. I don't know if I agree with that entirely. If you mean that we go into the nonsubversive group—that we then investigate people in that nonsubversive group, not the infiltrators, but the noninfiltrators, that we conduct a lengthy investigation of them without any basis for doing so other than that they are in an infiltrated group, I would say probably that's not necessary.

Mr. SCHWARZ. Thank you very much.

Mr. SMOTHERS. Just a couple of very brief lines of inquiry, Mr. Kelley. I think that one of the questions that the chief counsel was raising is one that goes further into your statement, when you talk about the difficulty of setting out the line between intelligence gathering and law enforcement kinds of functions. Nevertheless, though, I think that you have made an effort, indeed, the Bureau's organizational scheme reflects an effort to distinguish some of this.

Putting aside for one moment the counterespionage effort, and looking strictly at what we have been calling domestic intelligence, is it your view that the retention of this function in the Bureau is critical to the Bureau's law enforcement position?

Mr. KELLEY. My personal opinion is that the Bureau does a splendid job in this area. I feel further that the background of criminal investigatory activities and experiences which all counterintelligence people have is very helpful. It is helpful not only in gathering knowledge and the experience; it also enters in the field so that you have a person with a broad understanding of rights and privileges, and you don't have so much that spy or cloak-and-dagger type, that very, very secret type of operation.

I subscribe to the present system heartily.

Mr. SMOTHERS. Would it be of assistance to your mission if, within the Bureau, guidelines were established that effectively limited access or controlled dissemination of the intelligence product? In other words, if we had a situation where the intelligence product is critical to assist the law enforcement effort, I don't think there's any question that there should be access to it.

Isn't our problem one of controlling the use of that intelligence product and preventing the kind of murky crossing of lines there with the information legitimately needed for law enforcement?

Mr. KELLEY. There is always a problem when there is wide dissemination, because that just numerically increases the possibility of misuse, abuse or slander, libel, or anything of that matter, and I think that it would be well worthwhile to review the dissemination rules to make them subject to close guidance in the guidelines that we're speaking of.

Mr. SMOTHERS. Let me just raise one final area with you. A question was raised about the investigation now being conducted by the Justice Department regarding the improper actions of COINTELPRO, and the King case in particular. As we look at allegations of impropriety by your personnel, I think it would be helpful for our record here to have some insight into the procedure the Bureau would normally follow. What does the Bureau do when it gets an allegation that an agent or administrative official in the Bureau has behaved improperly? Is an investigation conducted internally, or is it routinely referred to the Justice Department?

Mr. KELLY. There may be a revision in this type of procedure as a result of the establishment of the Council for Professional Responsibility. At present it would be in the great majority of the cases turned over to our Inspection Division for investigation. There might be, on some unusual occasion, a designation of a special task force made up, perhaps, of division heads. That is most unlikely, but it is handled internally at present.

Mr. SMOTHERS. Would these internal determinations be reviewed by the Justice Department, or do you think that is a necessary step?

I guess what we are searching for here is, first, to what extent does the Bureau police itself; and second, is the Department of Justice involved in the policy determinations? For instance, what if the Attorney General disagreed with the assertion that only the higher-up officials who ordered the action against King should be the subject of investigation and maybe prosecution? How does the interplay work there between you and Justice?

Mr. KELLEY. We do report to the Attorney General those activities which we construe as improper or possibly illegal. There is a possibility that the Department, having been advised of the situation, might take it on their own to do their own investigating, and this is something that we feel is a decision to be made only rather rarely, because we feel we have within our own organization sufficient capability to handle that. But we do not protest it. It is handled independently of us.

Mr. SMOTHERS. Thank you.

Mr. SCHWARZ. Thank you.

[Whereupon, at 12:12 p.m., the committee recessed subject to the call of the Chair.]

THURSDAY, DECEMBER 11, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in Room 318, Russell Senate Office Building, Senator Frank Church (Chairman), presiding.

Present: Senators Church, Hart of Michigan, Mondale, Morgan, Hart of Colorado, Baker, Mathias, and Schweiker.

Also present: William Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel; Curtis Smothers, counsel to the minority.

The CHAIRMAN. Our witness this morning is the Honorable Edward H. Levi, Attorney General of the United States. Mr. Levi has appeared before this committee on previous occasions and this committee is most happy to welcome him back again this morning.

He has been asked to testify today about the future of the Federal Bureau of Investigation, and especially its domestic intelligence operations.

This morning's hearing marks both an end and a beginning for the select committee. It is the end of a series of hearings on domestic intelligence which began in September with an examination of the so-called Huston plan. Those original hearings explored the relationship of the White House to the FBI and other intelligence agencies in the development of a specific plan for using illegal techniques against domestic groups.

At that time the committee learned the details of FBI "black bag" jobs against domestic targets which continued at least until 1968. We learned of a "do not file" procedure in the FBI for destroying the records of these operations and the committee was told that the FBI expanded its intelligence investigations along the lines of the Huston plan, even after the President withdrew his approval.

Our next hearings in this area dealt with improper activities that overlapped foreign and domestic intelligence operations. The Director of the National Security Agency testified that the sophisticated surveillance operations of that Agency had been targeted against the international communications of American citizens for domestic intelligence purposes. This was done in direct cooperation with the FBI, which supplied names of citizens for the NSA watchlist. Present and

66-077 O - 76 - 21

former FBI officials also testified that until 1966 the Bureau undertook programs for illegally opening the mail of innocent citizens in the search for espionage agents and foreign intelligence. The FBI used the CIA's mail opening program after 1966 for domestic intelligence purposes, again sending over lists of names of American citizens who were to be watched.

The committee's recent hearings on the FBI itself have raised some of the most fundamental questions that any democracy must face. We have placed on the record deeply disturbing information about the FBI's COINTELPRO activities over a period of 15 years, the attempts to discredit Dr. Martin Luther King, Jr., the broad surveillance of law-abiding citizens and lawful activities, the practices of infiltration and disruption by informants, and the political use of FBI resources by Presidents of both parties.

The committee's work in this area has been aided substantially by the cooperation of the Justice Department. I would like to take this opportunity, Mr. Attorney General, to express the appreciation of the entire committee and the staff for your assistance in making available the materials needed for this investigation. Our experience has demonstrated that the constitutional principle of separation of powers has enough flexibility to allow close cooperation between the Congress and the Executive in a matter of the greatest public concern.

While our investigation is coming to an end, the task of making constructive recommendations is beginning. We have heard this week from former officials and from Director Kelley. We are exploring a wide range of proposals, including those being developed by the Justice Department. And we look forward to working closely with you on these issues.

One of the best statements of the problems we confront was made last summer by Philip Kurland, professor of constitutional law at the University of Chicago. Professor Kurland spoke of the threats to an open, democratic society from what he called the perversion of our intelligence agencies into political police forces. He rejected the proposition that we should be satisfied that these agencies will exercise self-restraint. Professor Kurland did not deny the importance of the individual qualities of the officeholder. But he stressed the greater importance of confining our intelligence and counterintelligence agencies to the limited functions they were created to deal with.

The crucial responsibility lies with the Congress. "If oversight by Congress is not to be the answer," Professor Kurland declared, "it is hard to conceive of an answer." The essential requirement for congressional oversight is information about intelligence operations, and the greatest barrier is executive secrecy. Consequently, Professor Kurland and others have urged that we establish procedures which require the Executive to provide this information to the Congress. This may be the only way to insure the responsibility of the executive branch to the people through the Congress.

Therefore, we especially hope that you, Mr. Attorney General, can help this committee and the Congress develop not only standards for the FBI, but also procedures for effective congressional oversight to assure regular accountability.

TESTIMONY OF HON. EDWARD H. LEVI, ATTORNEY GENERAL OF THE UNITED STATES

Attorney General LEVI. Thank you, Mr. Chairman.

Before I begin, let me say that I don't suppose that your statement is meant to indicate that I am committed to agree with my friend, Professor Kurland, who may not be wrong as often as many people are, but occasionally is not correct.

The CHAIRMAN. No, it was only meant that I agree with him.

Attorney General LEVI. Then I hope the matter can be explored in more depth.

Senator MATHIAS. Mr. Chairman, I think that's one of the most graceful declarations of independence I have ever heard.

Attorney General LEVI. Mr. Chairman, the committee has asked me to talk with you today about the future of the FBI. I thought it might be helpful if I outline quite briefly some of the points I would like to make, some of the problems I think ought to be considered, and some of the steps we have taken.

The first point is that the statutory base for the operations of the Bureau cannot be said to be fully satisfactory. The basic statutory provision is 28 U.S.C. 533 which provides that the Attorney General may appoint officials:

> (1) to detect and prosecute crimes against the United States; (2) to assist in the protection of the President; and (3) to conduct such investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

There are other statutes, such as the Congressional Assassination, Kidnapping, and Assault Act, which vest in the Bureau special responsibilities to investigate criminal violations. In addition, there are Executive orders and Presidential statements or directives which place investigatory responsibilities upon the Bureau.

A number of questions are often asked about this statutory base. It has the virtue of simplicity, but the Executive orders which deal with Government employee investigations are complicated and confusing, and Presidential memoranda, or, perhaps, oral instructions from a President may be difficult to collate. I think it is important, in any case, to separate out the kinds of questions which are asked about the Bureau's authority base. Some questions are constitutional in nature, relating to the inherent power of the President; others go to the interpretation of the statutes and the relationship between the statues and Presidential directives; others go to the failure of the statutes to define sufficiently the areas of the Bureau's jurisdiction or to spell out sufficiently—and this is partly constitutional—the means and methods which the Bureau is permitted to use in carrying out its assigned tasks.

The second point, related to the first, is a continuing discussion of the role of the Bureau in intelligence investigations or domestic security investigations. The argument is sometimes made that the Bureau's proper role, at least in purely domestic matters, should be limited to investigations of committed crimes. The basic statute for the Bureau is broader than this, as have been Executive orders and Presidential

mandates to the Bureau. The basic statute is broader since it refers to investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General. A disparity is sometimes seen among the different roles of the Bureau in crime detection, in ongoing domestic security matters, and in foreign intelligence or foreign counterintelligence matters.

In recent days a statement by then Attorney General Harlan Fiske Stone, who reorganized the Bureau and chose J. Edgar Hoover as its Director, has been quoted as a relevant warning. Stone warned:

> There is always the possibility that a secret police may become a menace to free government and free institutions, because it carries with it the possibility of abuses of power which are not always quickly apprehended or understood. It is important that its activities be strictly limited to the performance of those functions for which it was created and that its agents themselves be not above the law or beyond its reach. The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States. When a police system passes beyond these limits, it is dangerous to the proper administration of justice and to human liberty, which it should be our first concern to cherish.

I should like to suggest that Stone's warning always must be considered relevant to the proper conduct of the Bureau's duties, but it does not necessarily follow that domestic security investigations are, therefore, outside the Bureau's proper functions. The detection of crime in some areas requires preparation and at least some knowledge of what is likely to be going on. What is at issue, I think, is the proper scope, the means and methods used, the attention paid to conduct and not views, and the closeness of the relationship of the conduct and that which is forbidden by the laws of the United States.

Third, I realize that some proposals, since I was asked about this when I last appeared before this committee, might separate out in some fashion domestic and foreign intelligence functions from the FBI or from one another within the FBI. This is, of course, an issue to be looked at. I assume it is recognized that there may be some relationship between that intelligence which is involved in foreign counterintelligence work. One may lead to the other. And there may be a relationship between foreign counterintelligence and foreign intelligence. If the work were separated out into different agencies, I do not know if the decision about when an investigation should pass from one agency to another always could be made easily. Moreover, even so, information presumably would pass from one agency to the other. I know that one consideration has been that it might be decided that information collected by some permitted means in intelligence investigations under some circumstances should not be used in criminal prosecutions. But if there is an exchange of information, this must always be a consideration, whether there are separate agencies or not, and the basic question then is one of use and not organization. The more active concern, I believe, is that there is a risk that conduct proper for one area may be improper for another, and that the combination can work a contamination. My view on this is that in any case we must decide what conduct is appropriate and is inappropriate for each of the areas, and we must take steps to make sure that proper conduct is lived up to. My hope is that the fact that the FBI has

criminal investigative responsibilities, which must be conducted within the confines of constitutional protections strictly enforced by the courts, gives the organization an awareness of the interests of individual liberties that might be missing in an agency devoted solely to intelligence work. I know the argument can be run the other way. I believe the dangers are greater if there is separation.

Fourth, there is a question as to the proper role of the FBI in crime prevention and whether or not it should be considered authorized to take steps under some circumstances to reduce the likelihood that crimes will be committed or that serious injury to persons or property will occur. Preventive action has raised serious questions and these must be dealt with. I suppose an initial question is whether it should be allowed at all. Yet, I believe under special circumstances and with proper controls, most would believe this to be a proper function.

Fifth, the problem of proper controls, supervision and accountability is all-embracing. By statute the FBI is in the Department of Justice, and also by statute the Attorney General is the head of the Department of Justice. The history is mixed, of course, and we all have a tendency to oversimplify, but it is a fair statement that there have been times in the past when the supervision by Attorneys General, granted that the Bureau must have considerable autonomy, has been sporadic, practically nonexistent, or ineffective.

I hope that is not the case now. The responsibility is a heavy one.

But in any event the problem of proper controls, supervision and accountability goes beyond the Director of the Bureau and the Attorney General. I have already mentioned that in my view the statutory base for the operations of the Bureau cannot be said to be fully satisfactory. I think that better controls and performance can be achieved through statutory means, Executive orders, guidelines, and reporting to appropriate congressional committees.

Sixth, before I come to a résumé of some of the steps which have been taken, let me say I know we all realize that in the past there have been grave abuses. I am uncomfortable with a kind of writing of history, however, which sees it only in terms of the abuses and not in terms of past and present strength. It is very difficult to be fair to the past in which many institutions of government carried a share of responsibility. But more than unfairness is involved; if we are not careful, we will turn to solutions of the moment which a better reading of history might indicate are not the best solutions.

I know we must seize the moment, if I may use such a phrase in this setting. I know also that this committee realizes that a very important agency with dedicated, highly professional, greatly disciplined Government servants is involved. The importance is to the security and domestic tranquility of the United States. Stone's warning was given in an act of creation. He was proud of his creation. In spite of the abuses, there is a proper place for pride. I take it our mutual work should be to nurture that pride and the conditions which justify it.

I turn now to a review of some of the steps which have been taken or are in progress. We have tried most diligently, under safeguards to protect the privacy of individuals and with an awareness of the unfairness of instant history, to give a great deal of information to congressional committees.

Attorney General Saxbe made public and Deputy Attorney General Silberman and Director Kelley testified about the so-called COINTELPRO. When the FBI discovered evidence of several more COINTELPRO projects after I became Attorney General, these were revealed. One of my first acts as Attorney General, my third week in office, was to testify before a congressional committee about possible incidents of political misuse of the FBI by the White House in the past and about the nature of FBI filekeeping systems, particularly the files kept by Director Hoover in his office suite.

Director Kelley has spoken publicly and before congressional committees about incidents in the past in which FBI agents engaged in break-ins to gather or photograph physical evidence in intelligence investigations. On a number of occasions, most recently in testimony before this committee, I have described the history of the use of electronic surveillance by the FBI. We have welcomed such opportunities.

On February 26, 1975, I instructed Director Kelley to report to me any requests made of the Bureau or practices within the Bureau which he deems improper or which present the appearance of impropriety. On February 28, 1975, Director Kelley ordered FBI personnel to report such requests or practices to him. In July 1975, I reaffirmed my February directive and also asked for a report of all sensitive investigative practices.

The Director promptly complied. Director Kelley has regularly provided information on conduct by Bureau agents and programs underway within the Bureau that could raise questions. These matters have been reviewed and discussed with the Department so that a consistent and appropriate policy can be achieved.

This is a continuing process. I do not assert that we are aware of everything about the Bureau. Nor do I suggest that we ought to know everything. Appropriate communication, consultation and supervision at this level has to be selective. I make this point, which I think may sound disconcerting, not in any way to minimize the responsibility of the Bureau to keep the Department informed nor to minimize the Department's duty to find out. Rather I want to be realistic about a learning and organization problem which requires realism if it is to be understood and perfected.

With respect to possible legislation, the Department has in preparation various drafts of possible bills which may be of assistance in the area of what is now warrantless electronic surveillance. Although obtaining a judicial warrant does not automatically eradicate the possibility of abuse, it is perceived to be an important safeguard of individual privacy interests, and we are exploring, as we said we would do, various possibilities and alternatives.

Finally, a committee within the Department of Justice, chaired by Mary Lawton, Deputy Assistant Attorney General in the Office of Legal Counsel, and composed of representatives of my office, the Criminal and Civil Rights Divisions, the Office of Policy and Planning, and the FBI, has been working for 8 months reviewing FBI procedures in many areas and drafting guidelines to govern those procedures in the future. The committee has produced draft guidelines covering White House inquiries, congressional and judicial staff appointment investigations, unsolicited mail, and domestic security

investigations. It is currently at work on guidelines covering counterespionage investigations and will later consider the use of informants, the employee loyalty program, organized crime intelligence investigations, criminal investigations, and other aspects of FBI practice. The committee's work has been extensive and time-consuming. It has involved not only questions of proper safeguards but also of efficiency in the proper functioning of the Bureau. It has been an effort to translate into words the complicated and important mechanisms for controlling the FBI. I hope the committee's efforts at articulation will be of use to this committee and others as it considers drafting legislation.

You have received copies of the latest drafts of the guidelines that have been substantially completed by the committee. These guidelines do not yet represent Department policy. There is disagreement within the Department on some aspects of these guidelines. I have disagreed with the committee recommendations from time to time, and the FBI has raised substantial questions about other recommendations, particularly with respect to the treatment of unsolicited mail. Some of the proposals in the guidelines could be promulgated as departmental regulations. Congress may feel some ought to be enacted into statutory law. Other provisions would require implementation by executive order.

I would be glad to discuss these draft guidelines with you in detail in response to your questions, but a brief discussion of the guidelines on domestic security may be useful at the outset.

The guidelines begin by attempting to impose some order and definiteness to the domestic security field. To begin with, these guidelines do not deal with FBI efforts to counteract the work of foreign intelligence services operating within the United States. Standards for determining when there is foreign involvement sufficient to place a subject in the category of foreign counterintelligence investigation are now being debated within the guidelines committee. The domestic security guidelines also are not meant to cover security or background investigations of Federal appointees or investigations of ordinary crimes. Under the draft guidelines, domestic security investigations are only to be authorized when there is a likelihood that the activities of individuals or groups involve or will involve the use of force or violence in violation of Federal law. Domestic security investigations are to be limited to activities of individuals or groups intended to accomplish one of five purposes: overthrowing the Government of the United States or of a State; interfering with the activities within the United States of foreign governments or their representatives; influencing Government policies by interfering by force or violence with Government functions or interstate commerce; depriving individuals of their civil rights; and creating domestic violence or rioting when such violence or rioting would necessitate as a countermeasure the use of Federal armed forces. There is also a provision for limited investigation when there is a clear and immediate threat of domestic violence which is likely to result in a request by a State for Federal armed assistance.

Currently there is no procedure requiring the review outside the FBI of all domestic intelligence investigations conducted by the FBI, though the FBI has a long-standing policy of reporting its investiga-

tive findings to the Criminal Division. Under the draft guidelines there would be a comprehensive program of reporting to the Attorney General or his designee of all preliminary and full domestic intelligence investigations. The Attorney General would be required under the draft guidelines to put a stop to any full investigation whose justification did not meet an established standard. The standard would be that there must be specific and articulable facts giving reason to believe that the individual or group under investigation is engaged in the activities I have just listed.

Another feature of the draft guidelines is to place strict controls upon the use of any technique by the FBI which goes beyond the gathering of information. COINTELPRO was the name given the use of some such techniques. As I have said before, some of the activities in COINTELPRO were outrageous and the others were foolish. Nonetheless, there may be circumstances involving an immediate risk to human life or to extraordinarily important Government functions that could only be countered by some sort of preventive action. The guidelines require that any such preventive action proposal be submitted to the Attorney General. He could authorize the preventive action only when there is probable cause to believe that the violence is imminent and when such measures are necessary to minimize the danger to life or property. The preventive action would in all cases have to be nonviolent. The Attorney General would be required to report to Congress periodically and no less often than once a year on the use of preventive action by the FBI.

I make no claim that during this rather difficult but interesting and, I must trust, promising period, we have achieved all that might have been possible. In many ways the work has been disappointingly slow. But I do think we have made advances in nurturing and helping to improve a structure which will be supportive of the best efforts of the men and women in the Department of Justice and in the FBI. No procedures are fail-safe against abuse. The best protection remains the quality and professionalism of the members of the Bureau and of the Department.

The CHAIRMAN. Thank you very much, Mr. Attorney General. It's a very helpful statement, and does summarize the efforts that you are making to give greater, put greater order into the work of the FBI.

One thing that leaves me somewhat baffled is the difference between domestic security action, for which you have set forth the proposed guidelines, which seem to me to be good ones, and what you call preventive action. You state, "Nonetheless, there may be circumstances involving an immediate risk to human life or to extraordinarily important government functions that could only be countered by some sort of preventive action." In that case, why can't the preventive action take the form of an arrest if there are circumstances involving immediate risk to human life or to extraordinarily important government functions?

Attorney General LEVI. If it can, then that would have to be done because the guidelines specifically require that the preventive action is necessary and it can't otherwise be handled.

Now, one can think of incidents——

The CHAIRMAN. Can you give us some incidents?

Attorney General LEVI. If there is the likelihood of a violent confrontation between two marching groups on a State capitol, it is conceivable that blocking off some streets, or directing signs to some other direction in an emergency situation of that kind might be useful, and I take it that is a preventive action, and I would not think unusual, by the way, for people who are properly trained in work of that kind.

The CHAIRMAN. That is a good kind of preventive action.

Suppose that there were two caravans instead of two marching groups, and that you had reason to believe that they were headed toward one another and there would be a violent confrontation once they met. Would permissible preventive action in those circumstances permit putting sand in the gas tanks of the automobiles so that neither caravan could move? I have to ask that kind of a question after what we found out what the FBI was up to in the COINTELPRO.

Attorney General LEVI. The answer is "No." Certainly there's no intention to permit that. Although the guidelines do not spell it out, and we have had discussions about what kind of precise preventive action might be possible or might not be possible under special circumstances.

The CHAIRMAN. This is all very vague, and suppose you had reason to believe that a prominent figure of some kind in a movement was about to or of a mind to incite his followers to violence. Then in that case could you undertake to give him a drug that would prevent him from speaking for 3 weeks?

Attorney General LEVI. No, of course not, but I have to add that what the guidelines do say is that the Attorney General has to give permission, not only does he have to give permission, but he will have to report to the Congress, and since quite naturally this committee believes that reports to the Congress are the most important thing that any agency can do, then it seems to me you must also agree that that is some safeguard.

The CHAIRMAN. Well, that depends upon your view as to the kind of committee that can do the job of surveillance.

Attorney General LEVI. Well, I don't think—this really was my suggestion before. It takes a combination of control, and what we have attempted to do here is to have a guideline which strictly limits—maybe it should limit more—preventive action, but admits that there is an area for it. Now, maybe we should not admit.

The CHAIRMAN. Why couldn't you do it this way, Mr. Attorney General? Why couldn't you say that when preventive action is necessary, it must be an open and public kind of action.

Attorney General LEVI. I don't think that telling people——

The CHAIRMAN. Now, understand what I mean. You gave an open, public way of preventing two groups from meeting and clashing. Well, when that is the case, the means used are likely to be reasonable ones. But when there are secret methods of preventive action undertaken, that's when you get into potential problems, real troubles that we have seen.

Attorney General LEVI. Well, we have to talk that through. It may very well be that no secret ones at least beyond the immediate moment of doing would be required. It may be that one can put it that way, but I think one of the virtues of guidelines should be that they are

sufficiently realistic so that they don't have to be violated under emergency circumstances.

There is a question, then, of how detailed one can make them, but it may be that the line about secrecy beyond a certain point would be good.

I should also say that the Privacy Act would itself prohibit dissemination of lies and deception, I think, to a considerable extent, if one goes back to the old COINTELPRO. So I think we are in somewhat of a different statutory situation for the moment anyway. But we have tried, in the guidelines, in any event, to very much limit the field. Now, whether we have limited it enough, I'm not sure.

The CHAIRMAN. Did you say that with respect to the domestic security activities of the FBI, that before such a project is undertaken, the Attorney General must give his consent, or that he might be informed of prospective ongoing projects in order that he can call a given project that he doesn't find fully justified to a halt?

I didn't quite understand your question.

Attorney General LEVI. Well, he has to give, he has to be informed of, I think, of all the investigations. He can terminate them all. The problem is whether he—he doesn't have to authorize the full investigation, but he has to be informed about it and he can terminate it.

The CHAIRMAN. Now, well, you have to authorize wiretaps and electronic devices in such cases. Why shouldn't—why wouldn't it be well for the Attorney General to authorize the initiation of programs in this particular field, new investigatory programs?

Attorney General LEVI. Well, I'm trying to protect, if not myself, at least my successors. I'm not sure that it makes much difference. It makes some difference. If the Attorney General has to authorize all full investigations, he will have quite a lot of work to do. If he has to authorize all of the preliminary investigations, his desk is going to be covered with a great many things which he doesn't know a great deal about.

The CHAIRMAN. Don't you think there should be some outside check in this area, particularly where we are not dealing with criminal law enforcement as such, but we are dealing with potential violence which you referred to as surveillance of citizens and groups of citizens for purposes of domestic security. That's a pretty fuzzy field, and we have seen how great the abuses were for a long period of time, and don't you think there should be some outside check, perhaps not with every case the Attorney General himself, but some outside check on the agency in this general field to be sure that they are following these guidelines?

Attorney General LEVI. But I've already said that I think that there ought to be reports to Congress. I don't want to word the scope of the domestic security investigations, however, quite the way you have worded them, because these guidelines which could be in part put into statute, strictly limit them. For preliminary investigations they limit them to where there is a likelihood that the individuals and groups involved would use force and violence in violation of laws in particular areas.

They are to be authorized for 90 days, and then perhaps another 90 days, and the kind of investigation which can be done in a preliminary investigation is also restricted. When you go beyond that to the full investigation, then we really have the stop-and-frisk standard, so

that we really have come, I think, as close as is feasible. And maybe it is too restrictive; in any event, as close as is feasible to the violation of law kind of penumbra, so that it would seem to me that that was some safeguard.

Now, whether that is sufficient, I don't suppose anything is fully sufficient, but I would assume that in addition, there can be reports to Congress, and there will have to be reports to the Attorney General, and I would think that that and the lessons of history would provide quite a lot of safeguards. If the suggestion is that one should go to a commission or to a court, I must say that I have grave doubts as to whether that is the proper solution, but if that were the case, it would be a statutory matter, and I would hope that my participation in making that decision would not be viewed as having as heavy responsibilities as those who would have to vote for it.

The CHAIRMAN. Don't you think, given the past history you have referred to, that it might be a very good idea to take these guidelines, which represent to me a good faith effort on your part to bring order into this general chaos and write them into the law?

Attorney General LEVI. I think that undoubtedly parts of the guidelines should be made statutory. I think that the problem is, and I am sorry for this, that it has taken so long to draft these guidelines, although I think it has been an extraordinary effort. And the way the guidelines are written one has to—at least it is better to see them all at once because they do relate to each other. But there may not be time for that.

As I said, I know we have to seize the moment, but I do not know how long the moment is. In any event, I agree that part of the guidelines, at least, ought to be in statutory form.

The CHAIRMAN. Well, at the moment, this committee has until February 29, 1976. And we would solicit from you as much cooperation as I know you will give, based upon your willingness in the past, to see what kind of recommendations the committee can make, because clearly the FBI does need a generic statute which it has lacked through the years and that would be the appropriate place for guidelines at this time.

Senator Hart, do you have questions?

Senator HART of Michigan. Mr. Attorney General, good morning.

First, for a number of years in the Judiciary Committee, we have been huffing and puffing with a whole line of Attorneys General in an effort to catch them, and it is against that long period of effort that I want this morning to first of all thank you for developing to the degree that you now have, exactly the kind of thing we have been talking about. And even as we on the committee in those days were urging guidelines and while we might not have sounded it, we understood how incredibly difficult it is to put down in black and white, chapter and verse, how you respond to a whole variety of problems. And for the first time, the Attorney General has come in with a very solid piece of work that all of us appreciate.

Now, in your statement, you indicate that you are working on guidelines as they relate specifically to informants, and you relate that to the Department's general guidelines on intelligence that permit the use of this. Now yesterday, as you know, we discussed with the FBI Director, the possibility of getting judicial approval for informants by you.

I think all of us understand the importance in an investigation of informants. But we have heard some stories, some hair-raising stories, about the way that technique can be abused. And I, and I am sure others, suggested informants are an extremely intrusive form of eavesdropping in terms of what can be reported. I know that the Supreme Court has not said that informants are unconstitutional per se under the fourth and first amendments, unless you get a court warrant, but that does not prevent Congress from requiring that kind of procedure, in order to fully safeguard the rights of privacy and expression. Now, what are your thoughts on such a requirement, the requirement of a neutral, detached third party, rather than the investigating branch of the Government deciding when to use targeted informants?

Attorney General LEVI. Well, I am sorry to say, Senator Hart, that I do not think that the suggestion, on balance, is a good one. And that does not mean that I have a better suggestion. There is no doubt that informants or paid informants can be misused, because there is an area where, if that is done, the courts can step in; and one can have guidelines or statutory restrictions on that if you think of, again, reporting. But the notion that a court would have to authorize the use of each informant and how the informant was to be used, to continue to pass on that, I think would make for maladministration. It would impose an enormous burden on the court, and while I think we always keep looking these days for a third impartial objective person, I do not really believe that it can be the court.

Now, one could think of a board or a committee. After all, the Congress set up, I think, a Subversive Activities Board, did you not? So I suppose you might set up an Informers Permission Board. But my impression is that you would not get very good people to be on that board, and that it would not really provide the kind of knowledgeable review that you would want.

So I recognize the problem, and I recognize why one might turn to that suggested solution. I do not want to take away from your time, but it is sort of interesting that special devices and protections were developed for electronic surveillance because they were said to be different from the use of informants. And now we are running the argument in the other direction and saying, well, they are even more dangerous than electronic surveillance because you have the human ear right there.

So it is just an interesting point.

Senator HART of Michigan. Well, maybe in defense of our earlier attitude, we did not know about the abuse with respect to the human technique, the number of occasions on which it has been used.

Attorney General LEVI. I rather think that the fourth amendment knew more about that than it did about electronic surveillance.

Senator HART of Michigan. The fourth amendment drafters did. But people around now——

Attorney General LEVI. I feel for the objective, but I do not think—I just think it would not work.

Senator HART of Michigan. We are agreed that it is a difficult balance. The national security concern here and the individual's civil liberties there—and to balance these claims is tough. You say you think the court is inappropriate.

Attorney General LEVI. I think that would be a mistake. I think it would also be a mistake to have the court pass on the activities of the agents, of the Bureau's own agents, who have ears and listen and so on. I think we have to trust someone.

Senator HART of Michigan. But is the Director of the FBI the fellow to trust?

Attorney General LEVI. He is certainly one of the persons that has to be trusted very much, and he has to be put in a position where it is known that he is being trusted and what his obligations are.

And I think if the congressional mandate and the guidelines and whatever else are clear enough, I have enough faith in human nature to think that that would be abided by. I do not think the history of the abuses shows that that kind of a thing really was abused. There was not that kind of spelling out. There was not that kind of direction. There were directions in the other way really; so that I do not think the problem—while I do not mean to minimize the prior abuses which were terrible—but I do not think the problem requires the solution of the interposition at every stage.

Senator HART of Michigan. If we leave the discretion with the Director of the Bureau, you would agree that there should be—we always use the word effective even though we cannot define how you make it effective—an effective system under which somebody other than the Bureau's Director would be reviewing the decisions he is making, as he affects this balance.

Attorney General LEVI. I think there have to be frequent reviews and I think one has to have a situation in the Department of Justice where the Attorney General, or his designee, can be in a position to make that review. I think one also would hope and require that there be adequate presentation to congressional committees. You do not want to impose so many duties on the Attorney General so that he is—so that he loses some sense of distance and objectivity on the Bureau. That is one reason I said one has to realize that there is not full knowledge and they are different offices. But I do think the Attorney General, I hope, is some protection and the Department is, and congressional committees would be too.

Senator HART of Michigan. The earlier hearings, which reviewed some of the excesses, found some citing in the FBI handbook regulations which directs field offices and their informants to find out and report all contacts and cooperation between a group under investigation and other groups, even if the other groups are not suspected of being either extremists or subversives.

Now, suppose we have a standard for investigating a group using informants, and suppose a particular group meets the test and the FBI does penetrate. Now that targeted group begins to participate in conferences that we have heard on amnesty, ABM, women's rights, and other things. How would you suggest controlling the traditional vacuum cleaner approach of the informant reporting on the activities of the other groups of participants, and the plans of the coalition, the conference or the association of groups seeking to prevent the ABM? How do you safeguard against them being drawn in?

Attorney General LEVI. Well, assuming that one has met the requirements of the guidelines, either do a preliminary investigation—one would have to go beyond that to really go to the full investiga-

tion—so that one does have facts which give you a reason to think that there are violations involving force and violence. That is when the informants are going to be there, or the infiltrators, as you call them.

If the activities, if the sole activities, are those that you describe, I do not think he belongs there and I do not think the investigation is appropriate. I have worried about the more difficult aspect of the problem, namely, that if you have an organization which is really properly investigated because of its intention and ability to use force and violence in violation of the law, and one has reason to think that they are deliberately using their influence to co-opt other groups, I would think that part of the investigation would be to put that down. And that is really what you are talking about. And I do not know that one should want to limit that.

Senator HART of Michigan. Well, maybe there is not any happy solution to this, but what we would be doing would be reporting on first amendment activities of the other groups that would not be eligible to be targeted.

Attorney General LEVI. I think the report should not be on that. It should be rather on the effort of the group properly being investigated to gain control. And we do have a problem as to what one does with the dissemination or keeping of information, and the guidelines attempt to address that question, whether they have done so sufficiently or not.

One reason the guidelines are not all finished is that when one gets to the counter- or foreign-intelligence guidelines and has to deal with organizations which are under active collaboration with foreign governments, and the question is whether they have extended their influence in such a way as to impose a real threat of force and violence, I do not know how effectively one can impose restrictions. We try to do it. The proposed guidelines have not been worked out. One has to remember that if one goes back to the period when I was first in the Department of Justice, there was considerable concern as to the ability of the Japanese and the Nazis to gain control, beyond those agencies which were clearly collaborating with them, of other agencies. And I just do not know that I want to say to the United States Government that that is the kind of information that you may not get.

The CHAIRMAN. Senator Mathias?

Senator MATHIAS. If Senator Hart has any question which follows right along at this point, I would be glad to yield.

Senator HART of Michigan. No.

Senator MATHIAS. Thank you, Mr. Chairman. I want to join with Senator Hart in thanking the Attorney General for all the help he gives to this committee. Whether we call on him for philosophical treatises or for practical advice, he is always available. I think that is a very real contribution. And the way in which he helps us leads me almost to regret that I did not go to the University of Chicago law school.

Attorney General LEVI. Senator, you are going to go far.

Senator MATHIAS. You have talked a little about the Smith Act, and about the seditious conspiracy clause in connection with the responsibilities of the FBI. And I wonder if you think there is sort of a dated aspect to these.

Attorney General LEVI. Oh, of course there is, and I want to say that when one talks about the looseness of the guidelines, one ought to read the statutes which came out of Congress. That is why I say that it is sort of amusing as we go around flattering each other, we all bear—I mean all of the institutions bear—responsibility.

Senator MATHIAS. I could not agree with you more, and I think I have said repeatedly that I think a lot of the problems that are dumped in the courts and a lot of the burdens that the courts bear have begun right here on Capitol Hill because we have not carefully sculpted the laws to make it clear what the legislative intent was. And in fact, perhaps they have been carefully sculpted to obscure the legislative intent in some cases. And the courts then are left with the burden of finally administering the law rather than either the legislature prescribing it, or the executive enforcing it.

Attorney General LEVI. Not only that, you draft statutes that quite clearly say one thing and the Attorney General is then asked for his opinion which he is required to give as to what it means to a Government department. He gives it. Another House of this Congress then proceeds to make motions to hold the man in contempt for following the opinion of the Attorney General. And Professor Kurland, my good friend, says do not listen to the Attorney General, he is only a lawyer.

There is a responsibility in Congress for having statutes clear and for abiding by what they say, and if they do not like them, change them. I agree with you.

Senator MATHIAS. I would hope that with all the admonitions that we are giving to other people these days that we take that one ourselves, that the laws need to be more carefully written.

Attorney General LEVI. Yes, it is easier to see abuses by others, I know.

Senator MATHIAS. Let me say that I think we need some help in this endeavor, that there are many cases in which the actions taken by Congress are criticized later when the errors might have been avoided by some cooperative action in the process.

Attorney General LEVI. I meant that to be clear when I was referring to all parts of the Government.

Senator MATHIAS. But, specifically in relation to the seditious conspiracy laws in the Smith Act, the courts have talked about the advocacy provisions of the law so strictly as to require incitement of imminent lawless action as a test and I think that does really date these acts.

Attorney General LEVI. I think so. And while I want to say that in the guidelines we tried to emphasize that there is a question of how much one ought to spell out the nature of the evidence, in part, because I think that even spelling it out might have a chilling effect.

Senator MATHIAS. Now you have led me right to my next question, which is whether we should put any limitations on the type of information that is to be gathered in a purely domestic intelligence investigation.

Attorney General LEVI. Well it may be that one has to try one's hand at drafting them. I have.

Senator MATHIAS. It is a tough one, I think, but we have seen as a result of this, investigation of family matters. Is that proper? Can

you prescribe it in a general way that sexual activities, purely legal activities, but perhaps not within the mainstream of what most Americans are thinking of doing, personal relationships, all of this kind of thing——

Attorney General LEVI. Well, one can try. What we did was, as I say, to provide a very tough and maybe too tough standard, because it is specific. And articulable facts, giving reason to believe that an individual is engaged in activities described in the paragraph which is force and violence to do the following things.

Now, that may be too restrictive. Now, if one starts to say what kind of things can one look at which might suggest and lead you to see these things, I do not know. And I suppose we all have to admit that public attitudes about activities and therefore, maybe the activities themselves mean different things at different times. And maybe one has to have a different set of rules created from time to time and one of the notions of the guideline would be, I think, to do that.

I am not in favor of Congress every year deciding whether it is against homosexuality or particular other aberrant sexual conduct. And therefore this can be included or not included as the winds blow. I think that would be probably not legislatively very desirable.

Senator MATHIAS. Let us suppose, however, just for the sake of discussion, that these activities are the proper scope of a domestic intelligence investigation and that that investigation is conducted and its object is obtained and the investigation is closed, then what should happen to this material, given the infinite capacity of the Government today to store and retrieve information?

Attorney General LEVI. Well, the guidelines attempt to go in the direction that, after a period of time, material should be done away with.

Senator, you have often posed questions for me to think about and this is another one that I think we ought to think about together: that is the destruction of information. It is also the destruction of evidence which might be used to show abuses by the Bureau.

Senator MATHIAS. If I knew the answer I would not ask the question.

Attorney General LEVI. If I knew the answer I would give it.

But, I am saying, because I think it is a very important question——

Senator MATHIAS. I think what you suggest is a very pertinent, very current consideration, that if you destroy all the files, you can do more than all the perfumes of Araby in washing out the blood.

Attorney General LEVI. The guidelines do move in that direction. There is an argument about the time for the destruction of information.

Senator MATHIAS. There is a concurrent question: If files are retained for any period of time, are they open for the purpose of name checks during that period, which is a related but really a separate question, for background checks, for employment checks, that kind of thing.

Attorney General LEVI. Well you could have selective sealing of files and I suppose selective destruction of items. But it is a very difficult thing.

Senator MATHIAS. I would like to explore briefly your thoughts on a subject we have discussed with other witnesses at some length. And

that is whether you believe that a warrant requirement for beginning a domestic intelligence investigation would meet the standards in the fourth amendment if it required less than probable cause for the issuance of a warrant, probable cause to believe that a crime has been or was about to occur.

Attorney General LEVI. I think the question really would be what the warrant would enable the obtainer to do.

Under the guidelines, just opening a preliminary investigation, what can be done is not very much. It is so much less than a full investigation. So, I think I would turn the question around.

I think the court would really wonder why you want the warrant. And it certainly would clog the courts.

Senator MATHIAS. The intrusion of an informant, for example, into a political discussion, or any other activities is a much greater intrusion than a bug or a wiretap in that same conversation.

Now, would this be, would the placement of an informant be that kind of activity?

Attorney General LEVI. Well, you see, the preliminary investigation does not really allow new informants; so, as I say, it is quite limited.

And I did respond that I understand there is a problem about the human ear, the human eye, which we discussed last time. But, I doubt that going for a warrant in each of those cases is feasible.

And I think we have to be grown up enough not to feel that we always have to go to the courts. Now, that may make us feel that there is a lack of protection. But I think a greater protection is to curtail the scope of the investigations to make sure that they are held to a high standard and to control dissemination of the information.

Senator MATHIAS. Well, I think that is the proper test: whether you can embark upon what are obviously immature reactions to events. I do not think the fourth amendment itself is subject to a test of maturity or immaturity, but——

Attorney General LEVI. No, I do not think the fourth amendment requires a warrant.

But I understand the argument that it is better, it is sometimes better to put a man on the Moon, because he will know more than a machine. So you are saying the same thing in terms of informers.

Senator MATHIAS. Finally, let me just return to the Smith Act for a minute, which, as I understand it, requires incitement to imminent action to overthrow the Government by violence. If a domestic intelligence investigation can begin with far less, only a theoretical advocacy of some change——

Attorney General LEVI. I do not think it should begin with a theoretical advocacy of change. Now, if you asked me whether it ever does, my answer is I do not know. But I do not think it should begin with that.

Senator MATHIAS. Well, I think that between those two positions, there is a danger of first amendment violations. And I like your position. I am not arguing with you——

Attorney General LEVI. Well, we rewrote this domestic security investigation guideline because I was disturbed by the prior draft as not being tough enough and I think that I may now have come out

with something that is too restrictive. I am not sure. And this is a proper process of discussion back and forth, not only here but with the Bureau and I hope that one can get something from it that is useful.

Senator MATHIAS. Thank you very much.

The CHAIRMAN. Senator Mondale.

Senator MONDALE. Thank you, Mr. Chairman.

Mr. Levi, I think the most fateful question that this committee, our Congress and our Government must face is whether we are going to step beyond the Stone line and permit investigative agencies to go beyond matters of law enforcement, matters of so-called "internal security."

If we decide that we must, then I am persuaded we should only do so based upon unarguable evidence that an exception is needed and then to grant such an exception only under the severest and most closely defined standards, and, if possible, under court supervision.

If we fail to do that, I am convinced that this committee has failed and that in another 50 years, there will be hearings just like this in which the excesses that we have uncovered will have been repeated.

I say that because I think anything we do has to stand the test of what we have learned. And what we have learned is that the power to use the police for politics is a seductive and irresistible one. No President, no Attorney General can resist it. Few have.

But we have now found that it is not a partisan issue. The Presidents of both political parties and a Director who served under Presidents of both political parties were absolutely unable to resist the right to snoop into the private affairs of Americans, not to enforce the law, but in order to gain some political advantage. If you look at human history, this has happened everywhere, which is why we adopted the Bill of Rights. The FBI was set up precisely because it happened in World War I and we had the scandal of the Palmer Raids and all the rest.

When I look at these vaguely defined guidelines, I have to ask, would they stand up under the direct orders to the contrary from a President of the United States? Would they stand up in the face of a willful Director who is angry or hostile or suspicious about some of these political ideas, or about the next Martin Luther King? My feeling is that based upon what we have learned, without any doubt, they would be swept away, as quickly as a sand castle being overrun by a hurricane, they would mean nothing.

What we decide to do cannot be tested by the words, but by our notions of how human nature works when empowered in this way to play God with the American people. That is the test and it has got to be tested by what happens when the Nation is in frenzy and in fear, and it has got to be tested by what people do when they do not think they are going to be caught. And, for that reason, I see the step beyond the Stone line, namely beyond the enforcement of the criminal law, as not a step forward, but a step off a cliff, right back into the morass that we find ourselves in today.

If you look at this record, it is a horrible one. The way Martin Luther King was hounded and harassed is a disgrace to every American. That this country once took all the Japanese and put them in internment camps we now know is one of the blackest pages in American history. It is that kind of record that whatever we do has to be tested against.

For that reason I think we have to draw a line, the line that Judge Stone suggested. If we do grant exceptions, they have to be specifically and rigidly and unquestionably drawn, because there is no point in talking about oversight if the standards are not understandable. And these laws have to be so clear that the Attorney General and the Director of the FBI would have to say when the President calls, "I am sorry, Mr. President, but we cannot do it, it is against the law." If they are not able to say that, I am convinced we will be right back here, someone will, those who follow us, 50 years from now, holding hearings similar to these.

Would you respond to that?

Attorney General LEVI. Well, I think, like the Stone statement, it is a good admonition. As I tried to say in my statement, I do not think the Stone standards indicate that there should not be domestic security investigations because the Stone standard talks about items within the proper jurisdiction of the Bureau and violations of law and if you are going to have an investigating agency which is going to be at all responsible in those areas, they have to know some things which are related, closely related to violations of particular kinds of law. And I do not believe that the standards that have been drawn up are as vague as your statement, perhaps, suggests, because, when one uses the standard of the stop and frisk case, that is the standard, very close and perhaps too close.

So, I think in terms of the Stone standard, it probably meets it. I am not sure that there is this big gap, because this says specifically, "specific and articulate facts giving reason to believe that an individual or individuals acting in concert are engaged in activities" described in that paragraph. Those are activities of force and violence in violation of the criminal statutes.

So—and I should remind you, as I know I do not have to, that, as we said before, Congress has passed some rather broad criminal statutes.

Senator MONDALE. Oh, yes.

Attorney General LEVI. And the Stone standard is not very meaningful if you do that.

Senator MONDALE. The question now is once we know what has happened, and we know the abuse that arises when people have this unlimited, ill-defined power, what do we do, if possible, to try to prevent its recurrence? That is the issue that faces you. That is the issue that faces me, and I am convinced that guidelines written by the executive can be rewritten by the executive, and if not by you, by those who follow. And they will mean absolutely nothing against the will of a willing President, a willing Attorney General, or a willing Director—absolutely nothing, because they do not have the force of law.

Attorney General LEVI. There's no disagreement. I don't think I should apologize for having ventured into the drafting, into having the guidelines drafted. It seems to me that that had to be done. I certainly do not take the position that parts of them should not be put in statutory form, and I certainly do not take the position that some of them should not be put in Executive order form. I think we ought to use all the devices, those devices where more permanence is wanted and those devices where there might have to be changes from time to time.

Senator MONDALE. Now, Mr. Levi, are you persuaded that you have personally reviewed the specific instances of abuses by enforcement agencies, particularly the FBI? Are you personally confident that your guidelines fit and meet and prevent a recurrence of those abuses?

Attorney General LEVI. The guidelines are not completed.

Senator MONDALE. Have you personally looked through those materials?

Attorney General LEVI. At all the abuses? Certainly not.

Senator MONDALE. Well, certainly not, you say. Mr. Schlesinger, confronted with a similar problem, sent a wire to all of his CIA facilities and said, "Give us all the examples that you know of in which our laws and our authority have been abused." Have you done anything like that?

Attorney General LEVI. I have done several things.

Senator MONDALE. Have you done anything like that?

Attorney General LEVI. I am trying to answer.

Senator MONDALE. All right, proceed.

Attorney General LEVI. We have an investigation going on of the COINTELPRO and COINTELPRO-like activities. We have several communications from me to the Director, directing that he report to me what he thinks are sensitive or irregular requests or practices. So that I think that we have done both things that were done by Mr. Schlesinger.

I assume that Mr. Schlesinger's behavior has purified the CIA. I really do not know.

Senator MONDALE. Well, let us take the most celebrated case of abuse, Dr. King. Has someone in your Department read the FBI's whole file on this?

Attorney General LEVI. I cannot answer that question. Three people now are going through the entire file.

Senator MONDALE. FBI file?

Attorney General LEVI. Yes.

Senator MONDALE. The entire FBI file?

Attorney General LEVI. So far as I know; yes.

Senator MONDALE. Are you sure of that?

Attorney General LEVI. So far as I know, yes. If the question suggests that they cannot get at the file, that is really not the problem. The problem might be that there are so many files which may be in a variety of other files and references that it may be difficult, but there is not a problem about their getting access to the files, and they tell me they are doing it. I have not myself done it.

I have some feeling myself that I do not want to read the Martin Luther King file. I wanted to regard it, in fact, out of the sense of proprieties and privacy as sealed because it seems to me that it was appropriate for the sake of the privacy of Dr. King to have that material disposed of, and I saw no point in my personally reading it.

Senator MONDALE. In other words, you are of the understanding that all of the FBI and other investigative Justice Department files of Dr. King have been reviewed?

Attorney General LEVI. No. I am saying that I was sufficiently disturbed about it so that I am having them all reviewed.

Senator MONDALE. You said you asked the Director of the FBI, Mr. Kelley, for improprieties. Have you gotten a report on that?

Attorney General LEVI. We have had some reports on where he thinks there are sensitive matters.

Senator MONDALE. Do you have a complete report on improprieties?

Attorney General LEVI. I do not know that I would put it that way because there is a problem of what is an impropriety; where there are sensitive issues which he thinks may raise a question, my belief is that he now brings them to me.

Senator MONDALE. What was your request to him?

Attorney General LEVI. Well, I do not have the precise statement.

Senator MONDALE. I mean, what were you trying to get from him? Evidence of FBI improprieties? A record of what had happened?

Attorney General LEVI. Well, there are problems of misbehavior, of what I would regard as misbehavior, or might regard as misbehavior, and when one deals with matters of this kind, it is a learning process because the words do not always carry the same meaning.

I was told when I came to the Department that the COINTELPRO project had been completely reviewed and exposed. After I was in the Department, I discovered—and I think partly as a result of miscommunication to the Director—that they had found other items in the COINTELPRO project, and those were reported to this committee and to other committees, but the point is that you might have projects which go beyond the confines of COINTELPRO, which might still involve similar behavior.

Senator MONDALE. Was it your testimony, if I heard you correctly just now, that this committee has received the reports given you by Director Kelley in response to your request?

Attorney General LEVI. No; I did not say that. I said that this committee received, I believe, a letter from me describing the additional COINTELPRO projects.

Senator MONDALE. Not just COINTELPRO. As I understand your statement, "I instructed Director Kelley to report to me any requests made of the Bureau or practices within the Bureau which he deems improper or which present the appearance of impropriety," and then, "on February 28, Director Kelley ordered FBI personnel to report such requests or practices to him," and I think you indicated that you have received some in response to that inquiry.

Attorney General LEVI. I say here, the Director promptly replied he has regularly provided information on programs underway within the Bureau which could raise questions.

Senator MONDALE. Did you get a report to him in response to that request?

Attorney General LEVI. I have gotten reports from him. That is what this sentence says. He has provided information on conduct that could raise questions.

Senator MONDALE. Ordered FBI personnel to report such requests or practices to him. Now, has that been done?

Attorney General LEVI. Yes; he did report them.

Senator MONDALE. He ordered it? Did he get the report?

Attorney General LEVI. Well, I believe he did because I think that was one of the reasons that the additional COINTELPRO items surfaced.

Senator MONDALE. Was this just limited to COINTELPRO?

Attorney General LEVI. No.

Senator MONDALE. Can we have those reports?

Attorney General LEVI. I do not think there are very many of them, but I assume you can have them. The only thing is that it is hard to, it is a continuing process, and there are—I would probably not think they would raise questions of misconduct but more be a matter of sensitive questions.

Senator MONDALE. Well, I would like to have the reports that came to Director Kelley in response.

Attorney General LEVI. Well, that I do not know about.

Senator MONDALE. I am asking you, as the head of the Justice Department, if we could get those reports?

Attorney General LEVI. Well, I do not know if you can or not, but we will certainly consider it.

Senator MONDALE. Why not?

Attorney General LEVI. Because I think that it is one thing to give reports of that kind in confidence to a committee of this kind and another thing to make them public.

Senator MONDALE. The CIA gave theirs to us. Why can't you?

Attorney General LEVI. Well, I am not in the CIA. I do not care to be. I do not wish to be.

Senator MONDALE. Do you consider that a good answer?

Attorney General LEVI. I—yes; I consider the answer as good as the question.

Senator MONDALE. Well, I think that kind of arrogance is why we have trouble between the executive and the legislative branch. Thank you, Mr. Chairman.

The CHAIRMAN. I understood Senator Mondale's question to be whether you would furnish certain documents to the committee, not if you wished them to be made public or not that he was asking that the committee make them public. I do not know that we had any problem in the past with the Department in getting information of this kind.

Attorney General LEVI. I apologize to Senator Mondale if I appeared arrogant. I thought that somebody else was appearing arrogant, but I apologize.

The point is that if you ask agents to report on what they may think is misconduct, if they think that that is going to be made public, that would, I believe, be very chilling. I, personally, have no reason to not want to give it to a committee if it is to be kept in confidence. I do not know what the Bureau's position on that would be, and my relationship with the Bureau is that I like to discuss these matters with them before giving a definitive answer because I am not that arrogant.

The CHAIRMAN. Well, leaving all personal references aside, I think that you know that when this committee has asked and received information in confidence, it has kept the confidence.

Attorney General LEVI. And we have tried very hard to give you information.

The CHAIRMAN. So that ought not to be any problem, and I would appreciate your following up Senator Mondale's request because I regard it as an important one and not a frivolous one, and in that

connection let me say, just before we move on to further questions, that some time ago, in early August, you sent a letter to me in which you requested from the committee—this seems appropriate now because it is a request in reverse—you requested of the committee information that was contained in our files, transcripts, and testimony which might bear upon investigations currently being conducted by this Department. You did not get a written reply to that letter, but, as I think you will recall, we met shortly later—and I think Judge Tyler was present, and I was present at the time—and this subject was touched upon, and I said that the committee wanted to cooperate in making available whatever information we could that would be helpful to the Department and that there would be a followup in which Mr. Schwarz and Mr. Smothers would collaborate with representatives of your Department to find out the best way for proceeding to implement the Justice Department's request.

Since then you have sent several more letters. Just recently we have received more letters relating to more targeted matters, including the Dr. Martin Luther King matter and the Chilean matter.

I simply want to assure you, as a matter of public record, that the committee, having considered this earlier request, is fully willing to cooperate in any way, and we will see to it that procedures are now worked out so that there will be no further delay. Our preoccupation with the assassination investigation and the issuance of the committee's report has preempted our time, but we think that these requests are important, and we stand ready to work with the Justice Department in making all relevant information available.

Attorney General LEVI. I am delighted to have that assurance.

The CHAIRMAN. Now, Senator Schweiker.

Senator SCHWEIKER. Thank you very much, Mr. Chairman.

Attorney General Levi, I am pleased to see that you have announced this week the establishment of the Office of Professional Responsibility to aid in the oversight of the investigations or allegations of misconduct by different employees within the Department of Justice. I have been interested in something along this line for some time, and I commend you for taking the lead in this area. I would just like to really ask you a few questions about the kind of concept that this is.

Originally, Attorney General Saxbe had something that, at one point, was labeled the Office of Special Review. I just wonder briefly how it differs and what the difference might be in terms of structure or organization?

Attorney General LEVI. Well, the differences may not be as great as I thought they were when I drafted out this new order, but there are, I think, these differences. In the first place the Counsel would be in the Office of Special Responsibility and, unlike the person who would be in the Office of Special Review, he would be in a position to directly receive complaints and then to directly refer them or to make a recommendation to me about them.

As I read the Office of Special Review, the holder of that office would not have been in a position to receive complaints unless the complaint was given to him by the Attorney General or the Deputy Attorney General.

Now, I thought that additional channel, while I hope it will not be the major channel, was an important thing to keep open, and, there-

fore, I wanted to make that clear. I also wanted to embody in this new order the experience that we have had. We have called in special groups to do investigating as we did with the DEA when we organized a special team, and I wanted to reflect in this order that there would be occasions when the ordinary investigative practices would not be sufficient. I wanted to have the Counsel put in the position where he could recommend that a special kind of review would be necessary through a different kind of a group, perhaps through a group assembled by him, perhaps going outside of the Department.

I think this spells it out better, although my belief now is that one could have found that probably in the prior order. It was not as clear to me.

Finally, I wanted to be sure that there was a memory in the Department and a continuation and a continual review of practices and procedures and ability to get the material from any part of the Department. I wanted to spell that out and frequent reporting, and I also wanted to have an advisory committee from the whole Department to this Counsel.

Now, as I say, as I have thought about it since, I wonder, is it that different? I think it is different. In some respects it is stronger, and I felt we should make it stronger.

Senator SCHWEIKER. Will this office have the authority to go into a program review like the GAO program audit, or will it be primarily focused on allegations of misconduct or both?

Attorney General LEVI. Well, I think it will be focused on allegations of misconduct and it will also focus on the procedures and effectiveness of review, but it is set up so that it can recommend beyond that, and if it wishes to recommend for the Department such other kinds of review then it is within the Counsel's prerogative to do that.

Senator SCHWEIKER. And what kind of staffing is anticipated?

Attorney General LEVI. I anticipate a small staff because I do not want to build up another bureaucracy with a large investigative staff. I think that, by and large, if the Counsel makes such suggestions we will then have to find out where to go and how to deal with it. I do not want to set up another large investigating staff, which will have to be investigated.

Senator SCHWEIKER. One of the things that came out this week—and I am not sure that this would be subject to this new committee or office procedure or not—but there has been a lot of discussion about the personal files of Mr. Hoover that Helen Gandy had, and I would just like to read one paragraph from the latest issue of Time magazine that seems to show a little bit of a twist, if I understood it, because up until now there were mainly personal files that Miss Gandy went through. This latest edition says:

> Before secretary Gandy could look at Mr. Hoover's office, the files, the most sensitive papers were carried off in an FBI truck to West Virginia's Blue Ridge Mountain Club, a Shenandoah Mountain hideaway used by innermost FBI officials for regular poker games with the CIA and other cronies. The papers were burned in the club's large fireplace. Precisely who ordered this destruction and carried it out has not been disclosed. The three-story club worth $300,000, was burned down in a fire of unknown cause December 23. No evidence of arson has been discovered.

This indicates to me, if it is true, and I do not know if it is true at all, some FBI participation in terms of separating out files so that even Miss Gandy could not see some of these files and obviously, if the

story is accurate, they were destroyed. Can you shed any light on that, and is this something that the Office of Professional Conduct would be looking into?

Attorney General LEVI. I have asked the Criminal Division to investigate any and all of the items relating to the Department of Justice which have come before this committee. And, of course, they are rather anxious to get this material, and this certainly will be part of it.

Senator SCHWEIKER. Can you give us any indication whether this account is accurate at this point?

Attorney General LEVI. Well, I really cannot because I have to say that it does not—it does not conform to my memory of the documents that I have seen. But I cannot really answer that question.

Senator SCHWEIKER. On the matter of the Office of Professional Conduct, will it have the right to go in anywhere it feels it should go, in terms of pursuing its job, as I understood what you said? Would there be any restraints?

Attorney General LEVI. I think it will not be subject to restraints. I think it may have to be subject to negotiation.

Senator SCHWEIKER. And it would have access to all of the material in its original form, if need be?

Attorney General LEVI. I think the negotiation might be whether, if need be. I can understand that there might be some sensitive information which there would be resistance to giving and so on. But I think that anything it needed it would get.

Senator SCHWEIKER. Would you envision that a new joint committee of Congress charged with overseeing intelligence activities might have access to information such as their reports?

Attorney General LEVI. Well, I think that is going to be dependent—that is a touchy subject because if it is going to be public, then the way the material is obtained and the way it is written about will be in a certain way. If it is going to be kept confidential, and we know it is going to be confidential, then there are less problems. I am not sure.

Senator SCHWEIKER. So as far as you are concerned, that is open to negotiation at this point in terms of working something out that would meet the guidelines you have in mind?

Attorney General LEVI. Well, I think so. There is no joint committee at present, and of course, that is one of the problems. Certainly one would hope that a reasonable exposure to what was being done would be available. But I do not really believe—I do not really think that it is appropriate for a joint committee to be on top of exploring the files of the Bureau.

Now I know there is a great difference of opinion between some members of the committee at least on that. I think that is close to the line of managing the Bureau and I think its management really is not a legislative function. But certainly to be advised, to have that kind of appropriate oversight to be helpful on that, I think would be fine.

The CHAIRMAN. Would the Senator yield?

Of course it is not an appropriate function of the Congress to mandate the FBI or to second guess their investigation of ongoing cases. But assuredly, it is part of the responsibility of the Congress to investigate wrongdoing and if we have reason to believe that there is wrongdoing, within the Bureau, it may be necessary to get to the raw files in order to ascertain that. If that does not go to the heart of the oversight function, I do not know what does.

Attorney General LEVI. Well it is like many of the questions that we have discussed earlier. One has to be very sensitive to the limitations because if you have an open investigation and there is the possibility of any political influence, either to act or not act, then I get very upset at the notion of those going to a congressional committee.

And I think everyone can understand that kind of problem. So it has to be balanced.

Senator SCHWEIKER. Well, Mr. Attorney General, I can understand protecting informants and protecting raw files. I think that is legitimate. That is something that we would have a responsibility in the Congress to do. But I do have trouble, assuming that can be worked out, and I think that is a very important point, particularly from the administration of the Department of Justice and the FBI. But assuming that can be worked out, I do not see how you can possibly be protected; that what we just saw happen in the last 30 years will not happen again, and that your inspection force will work, or that any oversight committee will work unless we do have that kind of prerogative.

On the basis that I outlined, it just seems to me we are sort of deluding ourselves in view of what has happened, not to have that access, first for you, but secondarily for some responsible element of the Congress that would be guided by certain restrictions protecting that.

Attorney General LEVI. My only suggestion is that it may be that the Attorney General should be able to see things which the congressional committee ought not to see. And I just think we have to think that through. There are stages. They are all problems of privacy. They are all problems of exposing individuals to obloquy. I think we have to take all that into consideration.

Senator SCHWEIKER. That is all I have.

The CHAIRMAN. If we had not had access to the raw files, we would never have discovered the FBI's plan to discredit Dr. King and pick his successor. And you recognize the responsibility of this committee and we have worked out procedures which have enabled us to reach this basic evidence in ways that did not reveal informants or did not reveal agents. And I think that guidelines of this kind could be worked out between a permanent oversight committee and Attorneys General so that the committee could get its job done. So I really do not believe that the problem is insuperable, and the fact that we have been able to get to the raw files when we needed to demonstrate that it can be done.

Senator Hart?

Senator HART of Colorado. Mr. Attorney General, I would like to pursue this last question 1 minute further, and that has to do with raw files. It is my understanding that in the recent GAO inquiry into Bureau activities, they worked almost exclusively, if not totally exclusvely, from Bureau or Departmental summaries. Is that correct, in their investigation?

Attorney General LEVI. Well, that is what I understand.

Senator HART of Colorado. And what you are saying here today is that in the future, if there is established an oversight, a permanent oversight congressional committee, that your recommendation would be that raw files, reporting under some restrictions, would be available:

that it would be the same guidelines and the same kinds of investigation that the GAO does.

Attorney General LEVI. I did not mean to assert that it would have to be based on summaries. No, I did not. I just think we have a problem as to the proprieties of what the joint committee—if there is a joint committee—would want, and what we should appropriately give.

I have to say that there might be a temptation on the part of our Department of Justice to give more than it wanted to, and in later years that might be a problem. So one has to balance that.

Your committee, this committee did not ask for all of the King files. And I rather suspect that this committee had the same, to some extent at least, the same feelings of sensitivity and propriety which I had when I said I did not want to look at them because there are materials there which I really think should be regarded as secret. And that is the kind of problem one has to get into.

Senator HART of Colorado. But as a basic proposition, you are willing to go beyond that to some degree?

Attorney General LEVI. Yes; I am. Of course the Bureau might not like the idea.

Senator HART of Colorado. Oh, I am sure they will not.

Yesterday I asked Director Kelley about the letter we received from one of your assistants, Mr. Pottinger, in connection with investigation of the King case internally. And he asked us for FBI records and documents; "all materials" was the phrase I think he used. The Director seemed somewhat puzzled by that, but I guess my question is: Why is the Justice Department contacting this committee for FBI records?

Attorney General LEVI. Well, I cannot imagine why, unless you were given the only copies.

Senator HART of Colorado. I would be surprised if that happened.

Attorney General LEVI. But if the suggestion is that he can only get them that way, and not directly from the Bureau, I think that is really incorrect because it just happens that I have specifically asked Mr. Pottinger whether he had access to all the materials and he said yes. But it may be that our form of record keeping is such that you have things where we do not know where the copies are, and you have a great deal of material.

Senator HART of Colorado. But you have no doubt that you will get everything the FBI has on this matter?

Attorney General LEVI. I have no doubt that people investigating it for me will get everything the FBI knows that it has. As you know, it is possible that there are materials in other files somewhere.

Senator HART of Colorado. Well, I am talking about conscious withholding.

Attorney General LEVI. I do not believe there will be conscious withholding.

Senator HART of Colorado. If or when you depart from the Department of Justice, will you so do with any degree of fear of an overly independent FBI in the future? Leaving aside the question of the relationship that exists now, but is it a matter of concern to you about your successors; that the Bureau is too independent of the Attorney General?

Attorney General LEVI. Well, I have already said that I think that there is a certain amount of distance and independence. It is probably desirable. But, of course I am concerned, of course I am concerned. I am concerned not only about the future but of today.

Senator HART of Colorado. And therefore you would suggest that Congress ought to also be concerned about that?

Attorney General LEVI. I have said so. I agree.

Senator HART of Colorado. In connection with these guidelines that we are talking about, one of the very puzzling areas that this committee is engaged is the Huston plan, Operation CHAOS and so on, back in the 1960's and early 1970's; the tendency on the part of both the Department and the Bureau and many in the White House to fear that domestic protest groups, particularly in connection with matters of race or the Vietnam war, had some outside or foreign domination or guidance or direction or support.

What do you think these guidelines should say for the future about separating genuine domestic, domestically oriented and controlled protest that is legitimate and constitutional, from the kind of official governmental harrassment that did in fact go on with very, very little substantial support for the proposition that it was foreign dominated? What can be done about that in the future?

Attorney General LEVI. It is terribly difficult for the very reason of your last phrase, in which you correctly emphasized that we do not have the guidelines on the foreign dominated organizations. The question is how close one can come to barring evidence of that domination when the purpose of the investigation in some sense has to be to obtain that very data. So I suppose what one would try to do is to use some kind of a likely standard or something of that sort as one approaches it and then a reason to believe or some such thing which we have come to temporarily on the domestic security ones, the stop and frisk standard which is a pretty stringent standard for investigation.

But I think there is a problem.

Senator HART of Colorado. But not with judicial approval; I think that is your strong recommendation?

Attorney General LEVI. I do not know whether it is strong or not.

Senator HART of Colorado. It is consistent.

Attorney General LEVI. I just do not think that is the most desirable path. I think it puts an enormous burden on the court. I do not know how the court will exercise it. I doubt if it is the best way. But it may be one way.

Senator HART of Colorado. In a hypothetical situation, where you are the ultimate decision-maker as to whether a wiretap should be implanted, and the rights of the individual would be jeopardized, the constitutional rights of that individual or that group would be clearly jeopardized by the proposed surveillance, wiretapping or whatever, what would be your own personal judgment on that, where there was an absolutely even question; there was no question constitutional rights would be infringed upon, and yet the balancing consideration was that there might be some evidence of criminal activity or subversion or whatever?

Would you come down on the individual or group's side, or the other way?

Attorney General LEVI. Well, I must believe that there is a misunderstanding between us because I do not authorize anything where I think there is a violation of constitutional rights. So I think I must be misunderstanding.

Senator HART of Colorado. Well, I am trying to get inside the mind of an individual who is going to have this authority; that you do not want an officer of the court to have, about what outweighs what, where you do not know what information you are looking for, and the Bureau agent is recommending a wiretap or a mail search and he is just saying I think there may be some evidence here that we might need, and so on and so forth.

So I have to put it in a hypothetical——

Attorney General LEVI. You see——

Senator HART of Colorado. Do you resolve differences in favor of the individual?

Attorney General LEVI. I do want to say something about the hypothetical. In this first place, under title III, the wiretaps require judicial approval and the legislation that we are drafting concerns electronic surveillance which is not a title III matter. We are suggesting because of reasons which I think I stated before to the committee, our view that judicial approval might be desirable.

As to mail openings, it seems to me that, at the present time at least, that would require a warrant so that——

Senator HART of Colorado. Well, I am talking about a national security area where there is no judicial——

Attorney General LEVI. I do not know of any national security authorization. I do not want to get into that area. But I do not know of a present authorization which would permit me to, without a warrant, authorize the opening of mail. So I think one has to weigh the individual rights very seriously and obviously give them emphasis. But I do not like to be suggesting by my answer that in those particular hypotheticals that the decision would be made without—or could be made or would be made without judicial review because I think in those particular examples there would be a warrant—there would have to be a warrant.

Senator HART of Colorado. Well, I am talking about the area where there are no warrants. But I cannot frame the hypothetical clearly enough.

Attorney General LEVI. Well, it has been framed in terms of the use of informants; and where I do not think there should be a warrant, and there is not a warrant, as far as I know, and there does not have to be, in terms of constitutional requirements, at least at the present time. I think one does have to be very sensitive. I think Stone was correct and if you are going to have an agency of this kind, and it is going to survive with the proper discipline and so on, it has to be extremely sensitive to individual rights.

The CHAIRMAN. Senator Hart, do you have further questions?

Senator HART of Michigan. Yes, Mr. Chairman, on specifics really.

On this business of congressional oversight, we have been going back and forth with you and with others earlier on the standards and guidelines of investigations. This morning you indicated that some of the guidelines might well be in statute and others in regulation, and you suggested executive orders, and that gets to the point that

even in the area where statutory definition of guidelines is appropriate, no matter how skilled the drafter, it will leave unanswered certain things. So it also will have to be implemented by departmental orders and guidelines, making even more explicit the do's and dont's and safeguards.

Should not those regulations, which you, or you and the Bureau, or the Bureau issue to implement or elaborate on whatever we do by statute, be subject to debate and approval, at least by the Oversight Committee, which everybody assumes we will have, if not by the Congress? Is not that really the starting point for a useful oversight?

Attorney General LEVI. Well, I think a useful oversight can involve debate and, hopefully, it will involve approval, but if you mean by that, formal approval by a committee as a new form of additional legislation, I think it raises constitutional questions, and I really do not know why one would want to raise those questions because it does not seem to me essential.

Senator HART of Michigan. Well, it may be unconstitutional to require the elections commission to come in and tell us what they propose to do to implement the rules of criminal procedure.

Attorney General LEVI. Well, Senator Hart, I had been asked how constitutional I am in various ways, and I think the Constitution applies and should be followed, and I think there is a constitutional question. It may be that we should change the Constitution and have a form of subsequent legislation through congressional committees.

I think there is a problem. There is an abuse. I happen to think that the affirmative action legislation, if you trace affirmative action legislation by the Congress to Executive orders and then to the Labor Department, you have a horror story. It happens to be a horror story that some people like, but I regard it as a horror story because the deviations are quite great. So, it is possible that here, if you have very general legislation and then you have Executive orders and then you have other orders, the deviation may be very great. I understand the problem, and I would hope that an oversight committee could look at it, but to have the oversight committee then have a veto power or a new subsequent enactment power seems to me to be a strange creation of a subhouse of, I do not know what, the Congress, and I regard it as probably not legislation, but rather an Executive function.

If it is going to be legislation, I think it should be legislation.

Senator HART of Michigan. I am not wise, but I am wise enough not to pursue a constitutional issue with you. I am almost tempted to have you ask the Department and the Bureau who does those things to give us a memo on why it might be unconstitutional with respect to the point I am suggesting, reviewing and approving guidelines, interpreting statutory direction with respect to the Bureau, but not unconstitutional for us to claim, as we do and have, the right to veto rules of criminal procedure, but the Director has been burdened enough.

Attorney General LEVI. We could put it back and require enactment. You could have a procedure in which after the statute, the regulations would be put before the Congress and require enactment in order to be effective.

Senator HART of Michigan. That would certainly be oversight. This follows up an earlier point of discussion. When we do pass a statute, we can see how the courts and the agencies are applying them because of the agencies' actions and the courts' decisions are public. It would not really affect safeguards in this area, require that the oversight committee be able to see the kind of documentation that had been given to you, or if it is a case of going to a court, seeking a warrant, that underlying material really would be the best basis for an oversight committee making the judgment as to whether the Attorney General appropriately was supplying what was intended.

Do you agree that oversight, how the statute or your guidelines or others' guidelines requires that kind of access? I know this looks way down the road.

Attorney General LEVI. Yes, I think it does. Well, the facts of life are that you cannot look much because you will not have the time, and the facts of life are that at least I do not think it is good administration to have congressional investigators plowing through an agency. So I think one has to think about those questions. I do believe that with proper safeguards of confidentiality a committee could get such material.

Senator HART of Michigan. As my question implied, it would seem to me that unless we knew the kind of argument and evidence that an Attorney General is finding adequate to meet that standard, we would not know whether our standards were——

Attorney General LEVI. That is right. There might be some problems. Every once in awhile there is something of such sensitivity that it might be in a special category, I am sure.

Senator HART of Michigan. On the matter of electronic surveillance you said some weeks ago the standards to be used with a citizen, with an American citizen, would be, would depend on whether he is here or overseas. Perhaps that does not fairly summarize what you said.

Attorney General LEVI. No, it does not.

Senator HART of Michigan. All right. I will be a little bit more fair. You said the different standards would apply when the citizen was an agent of a foreign power, which is what you said. Is it your view that the same standard which really is to say does the fourth amendment apply equally to an American citizen, whether he is operating at home or abroad, in terms of the electronic surveillance that can be used by our Government, or at the request of our Government?

Attorney General LEVI. I do not think it is absolutely clear, but my answer would be yes, but I do not think it is clear in the decisions.

Senator HART of Michigan. What are the present policies regarding dissemination of the product of electronic surveillance when it is targeted on an embassy or a foreign diplomat, but the device picks up noncriminal communications as to Americans? Specifically, suppose an American is talking on the phone to an embassy of a Middle Eastern country, and he is discussing plans for political activities to lobby Congress for support of action which he and other Americans plan. They might even be discussing legislative plans of Senators who disagree with the administration.

If you have a national security tap on an embassy and pick up that conversation, is that fair game for sending to the White House simply because the tap was legal?

Attorney General LEVI. The answer is no.

Senator HART of Michigan. On the matter of future deterrence of unauthorized activity, we have been talking about what should be authorized and how to set up procedures. No matter how brilliantly we draft our statutes and guidelines, the problem of human frailty will be there. The best system will not eliminate temptation or occassional succumbing to temptation or transgression. Should there be specific criminal penalties for Government officers who take or approve unauthorized action in this area?

Attorney General LEVI. In the areas of what?

Senator HART of Michigan. A Government official who ignores, averts, or violates a guideline.

Attorney General LEVI. Well, there are all kinds of penalties now, and all kinds of threats of damage suits, and whatnot. I think it is a question of how serious the violation is, how willful it is. I think I would have to know more about it.

Senator HART of Michigan. Would a good stiff penalty on the books serve as a deterrent for possible abuse?

Attorney General LEVI. It depends upon the kind of abuse one is talking about, and, as I indicated before, the privacy statute in itself imposes penalties now. If we are talking about the grosser acts of some Presidents, let us say, or others making illegal, unauthorized operations or uses, well, I do not know what the penalty would be on the President, and somehow or other I have a feeling that I am not sure that is where a great penalty would make a difference.

Senator HART of Michigan. Let us look at it from the point of view of the fellow whose privacy has been invaded, and violations notwithstanding, statutory or guideline rule, should he be given standing to sue for damages?

Attorney General LEVI. Well, as to whether he has standing and should be able to sue, where the conduct is illicit, there is no doubt that there will be suits. There are suits.

Senator HART of Michigan. But my notes say that the court has held that unless you can show specific damages, which is a tough thing under the first amendment, that you are barred from challenging investigation.

Attorney General LEVI. But I think that were there is not, really is not, any real damage, I am not sure that damages should be given. I really do not think that is the way one can——

Senator HART of Michigan. How about standing to seek an injunction? Even though there is not reason for damages?

Attorney General LEVI. An injunction so that the court would be operating that segment? I would think that would be another problem as to the separation of powers, really; an injunction related to that particular person maybe. I do not think a class action telling the Department of Justice that they could never use this, that or the other device toward this group——

Senator HART of Michigan. Well, there is nothing novel about seeking injunctions against the Attorney General or other departments from doing something, so I am curious about what we do about someone who is being tailed.

Attorney General LEVI. Well, I thought that you were not thinking about the problem of damages so much, as to the problem of controls

on the operation of the Department, and I was looking at it from that standpoint. I think there is a problem about damages. There is a problem about the rights of people who may have been injured and whether they should be notified, and I, frankly, do not know the answer to that question.

Senator HART of Michigan. And you do not know the answer yet on that one?

Attorney General LEVI. I think it is a very mixed question, and it may be that they should be notified. I do not know how they would be notified, what the basis would be. It is not something about which I care to express myself.

Senator HART of Michigan. Well, the mechanics of notifying somebody whose mail has been opened, that is not complicated.

Attorney General LEVI. I am not talking about mail openings. I am talking about such things as in the COINTELPRO, possibly.

Senator HART of Michigan. Let me read you the full question to make sure we have covered this. I really thought that you had under study methods which might respond to the abuses in terms of, at least alerting American citizens whose privacy had been invaded upon.

Attorney General LEVI. We do, but I am just saying that I do not know what the answer is.

Senator HART of Michigan. You are studying and seeking the right answer?

Attorney General LEVI. Yes.

Senator HART of Michigan. Well, why is there a problem? Why is the search for the right answer so complicated in terms of those who have the subject of COINTELPRO files? Now, maybe they will read about it through these hearings, but there are a whole slew of them.

Attorney General LEVI. There has been a lot of reading about it. There are Freedom of Information Act requests which, obviously, reflect a knowledge on the part of some people, but all I am really saying is that that is one of those matters which I think one has to explore. The first reaction, and certainly my reaction, is that in some way they should be notified. Then I come to the question of how do we know who they are. Suppose nothing actually occurred. Is then the person to be notified? Or suppose it is the kind of case where if the person is notified, there might be embarrassment to the person, which is conceivable, and so on? Is it appropriate for the Department, itself, to make a tentative judgment as to whether there was any injury or not, or is that inappropriate?

There are lots of questions in there, and my own inclination is that they should be notified in some way, but I think it is worth some thought.

Senator HART of Michigan. And that thought is being given?

Attorney General LEVI. Oh, yes.

Senator HART of Michigan. So that Martin Luther King, who would have known about a lot of things that were going on, and a lot of people whose names will never surface in connection with this committee, who have had similar—well, not similar, but experiences which might very well give rise to a claim—how soon do you have to be able to figure out what, if anything, the Department's obligation is toward them?

Attorney General LEVI. Senator, I really do not know. I have called together a group on that, in fact, two groups. I think whatever answer is given by the Department may well have to be the same answer that is given by other parts of the Government. That seems to me to require some further discussion. And one has to try to think through, as I say, the consequences. To notify a person that he or she was the subject of COINTELPRO at this time many years later may actually cause, perhaps, it is strange to think this, but it might actually cause embarrassment to that person now who would rather not know it, and if they had no consequence, if it had no consequence, is that a good thing to do?

Let me tell you, I was told when I came down to the Department—I do not know if you believe this or not—but I was the recipient of a COINTELPRO letter, but more recently, since I have ordered a review of all the COINTELPRO files, I have had this letter confirmed to me.

When I was president of the University of Chicago, apparently an anonymous letter was written, I gather, claiming that some professor was a Communist, and I do not know what was supposed to follow from that, but, in any event, there was, and I do not know whether the letter was anonymous, but it probably was. If I got the letter, I would have thrown it away. It would have had no consequence, and I have no recollection of it. Now, if there is such a letter and persons exist, then notification of that person, is that desirable? I just do not know.

Senator HART of Michigan. I would suggest that the Department ought not to make the judgment as to whether, to use your expression it had no consequence to the subject. I think that that would be a decision that more correctly should be made by the subject in his mind, and not the Department of Justice, as you go through that file.

I would hope there could be a resolution of which you would say to be the right answer.

Attorney General LEVI. I have thought of suggesting the Congress establish some kind of a claims division. But, in any event, it is something we are thinking about.

Senator HART of Michigan. Well, I hope we can come out of this with some teeth in what we do because you suggested perhaps criminal penalties would not be very effective, and you describe the difficulties that attach to civil remedies, and you suggest that no matter how carefully drafted——

Attorney General LEVI. Well, there are civil penalties now, but I hate to think that, if guidelines are drafted and if there is a violation of one of the guidelines, that the consequence is a criminal penalty. Somehow or other that seems to me an inappropriate way.

Senator HART of Michigan. It would not be a criminal penalty unless the person knowingly took action in violation of the guidelines. And if you are paid by the taxpayer, why should you not be subject to sanctions of that kind?

Attorney General LEVI. I do not really see why payment by the taxpayer——

Senator HART of Michigan. Well, why should you not be subject to sanctions if you knowingly break the rule?

Attorney General LEVI. I think my problem is that I think you have problems of discipline in any organization, and I think one ought to be careful not to cover the field of administrative discipline in a gov-

ernment with criminal penalties which I think is self-defeating. So, that is the only reason.

The CHAIRMAN. Just two subjects, Mr. Attorney General, and then I am finished, and I will conclude the hearing.

Yesterday I asked Director Kelley about the amount of time and money and general imposition on the overall resources of the FBI that was represented in the many investigations they routinely make that deal with appointees or nominees, and people being considered for Federal employment. And he said he would supply those figures and give us some idea of how much of the workload this represented.

It is my understanding that the FBI does these investigations only for sensitive civilian jobs, and wherever a name check digs up information from FBI files indicating a possible security risk. In other words, the FBI name check is there if there is an allegation in the FBI files that a person might have once been associated with a subversive or extremist organization or something like that, or if the position to which the nominee is to be appointed is regarded as sensitive. Then the FBI does the investigation of the nominee. Otherwise, it is done by the Civil Service Commission.

I am wondering if when it comes to guidelines, that not ought to be a good place to look pretty carefully to see how much of this is really necessary. My impression in the past has been that there are many FBI checks being done for positions that could not possibly be regarded as sensitive as far as national security is concerned, and maybe we just have overdone this back in the period when we were terribly frightened, in the McCarthy years, and it has never been looked at sufficiently since to see if it still is all that necessary.

Attorney General LEVI. Well, I agree, and a good place to begin is with executive order that has been modified many times on suitability for employment.

The CHAIRMAN. I do not know whether it is feasible to try to legislate here, or whether there could be a way that legislation might be helpful as a part of the basic or generic FBI law that we hope to draw up concerning this phase of the FBI's activities. But I wish you would give some thought to that, would you please?

Attorney General LEVI. Surely.

The CHAIRMAN. The other matter that I want to deal with is that time and time again in our investigation of the intelligence agencies, including the intelligence aspect of the FBI's work and the counterintelligence aspects, we are up against the problem of accountability. And with the FBI, of course, we have had the additional question of the President putting the agency to his personal or political use; and a difficulty which I think Senator Mondale rightly referred to—the difficulty, no matter what the regulations may be, and even perhaps contrary to positions of the law, of refusing to do the President's bidding. You know, the order of the President or the desire of the President can be easily rationalized or some kind of plausible excuse can be given for it that sounds like it might fall within the purview of the law. And neither an Attorney General or a Director of the FBI is in very much of a position to argue with the President. And then there is a feeling of who is going to find out about it anyway.

I asked Director Kelley yesterday if he thought that orders should be transmitted to him from the President through the Attorney General; and second, if orders are transmitted to him to undertake an

investigation in which the President has expressed some interest, they ought to come in writing and a permanent file be kept so that the accountability is there for review of a congressional committee or for whatever.

He said that he thought that such directives should be in writing and that a file, a permanent file of them should be kept. I would like to ask you how you would respond to those questions. And I put the questions in this order: First, do you think that if the President wants the FBI to go out and make an investigation for him and report back to him, that that order should be transmitted through the Attorney General? And second, whether you think orders of that character coming from the President should take the form of a written order and permanently maintained in the files of the Bureau?

Attorney General LEVI. Well, I think the orders probably should be written. Now as to the first part of your question, the hypothetical case might be that the President has decided that he wishes to appoint a certain person to the Cabinet and he wishes a full field investigation. Under the guidelines, the President, the counsel to the President or associate counsel could ask the Bureau to do that. I would think, unless there is some particular reason, that the Attorney General should be notified as to what is going on. I think any suggestion of any other kind of investigation of an organization or something of that sort, which I thought you were suggesting, should not come from the President to the Director, in any case, and if it did come, it certainly should come in writing and the Attorney General should be notified.

I certainly do not want to say that the President cannot speak to anybody he wants to speak to and there is no reason why he should not be talking to members of the Department of Justice. I do think it is a desirable thing when that occurs, unless it is discussing the criminal activity of the Attorney General, that the Attorney General be notified.

Now I think in fact, at the present time, and maybe I would be the last one to know, but I think the communications are through the Attorney General, except for the kind of investigations for appointments which might or might not come to me.

The CHAIRMAN. But it is possible that that too might be the subject of that kind of procedure, the very kind you have outlined can be the subject of a statute. And if it were, do you think the President would be bound by it?

Attorney General LEVI. Oh, he might not be, but in fact he would, I would think, wish to adhere to it and it would make it easier for others to suggest that there was kind of a propriety about it.

The CHAIRMAN. Before you leave, and I want to express the gratitude of the committee for your testimony today and for your continued cooperation in this joint endeavor, but I also want to say that Michael E. Shaheen, Jr., who has been the liaison with the committee staff, has done an excellent piece of work and the staff wishes for me to express its appreciation to him.

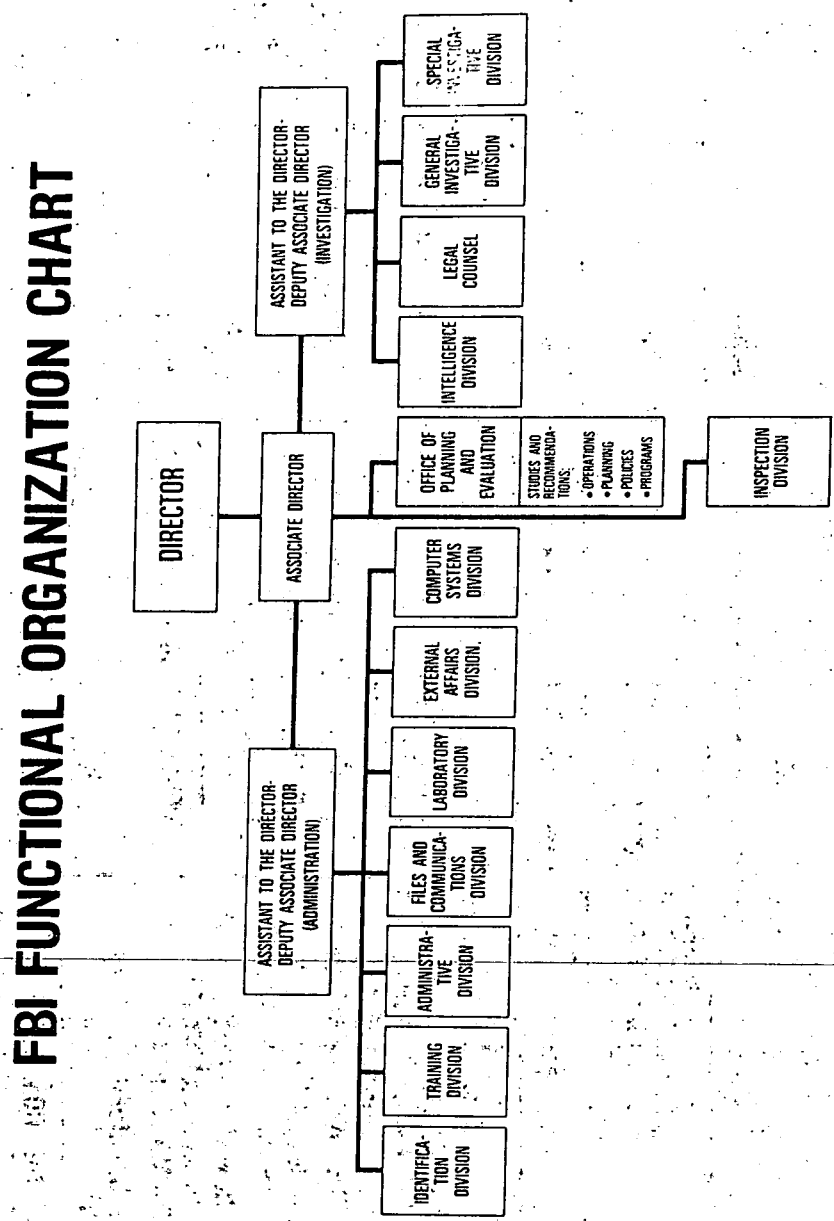
Attorney General LEVI. I would thank the committee and thank you, and I hope that—you can tell Senator Mondale that I am not half as arrogant as he thinks I am.

The CHAIRMAN. Thank you, Mr. Levi.

[Whereupon, at 1 p.m., the committee adjourned, subject to the call of the Chair.]

HEARINGS EXHIBITS[1]

EXHIBIT 1



[1] Under criteria determined by the Committee, in consultation with the Federal Bureau of Investigation, certain materials have been deleted from these exhibits, some of which were previously classified, to maintain the integrity of the internal operating procedures of the FBI. Further deletions were made with respect to protecting the privacy of certain individuals and groups. These deletions do not change the material content of these exhibits.

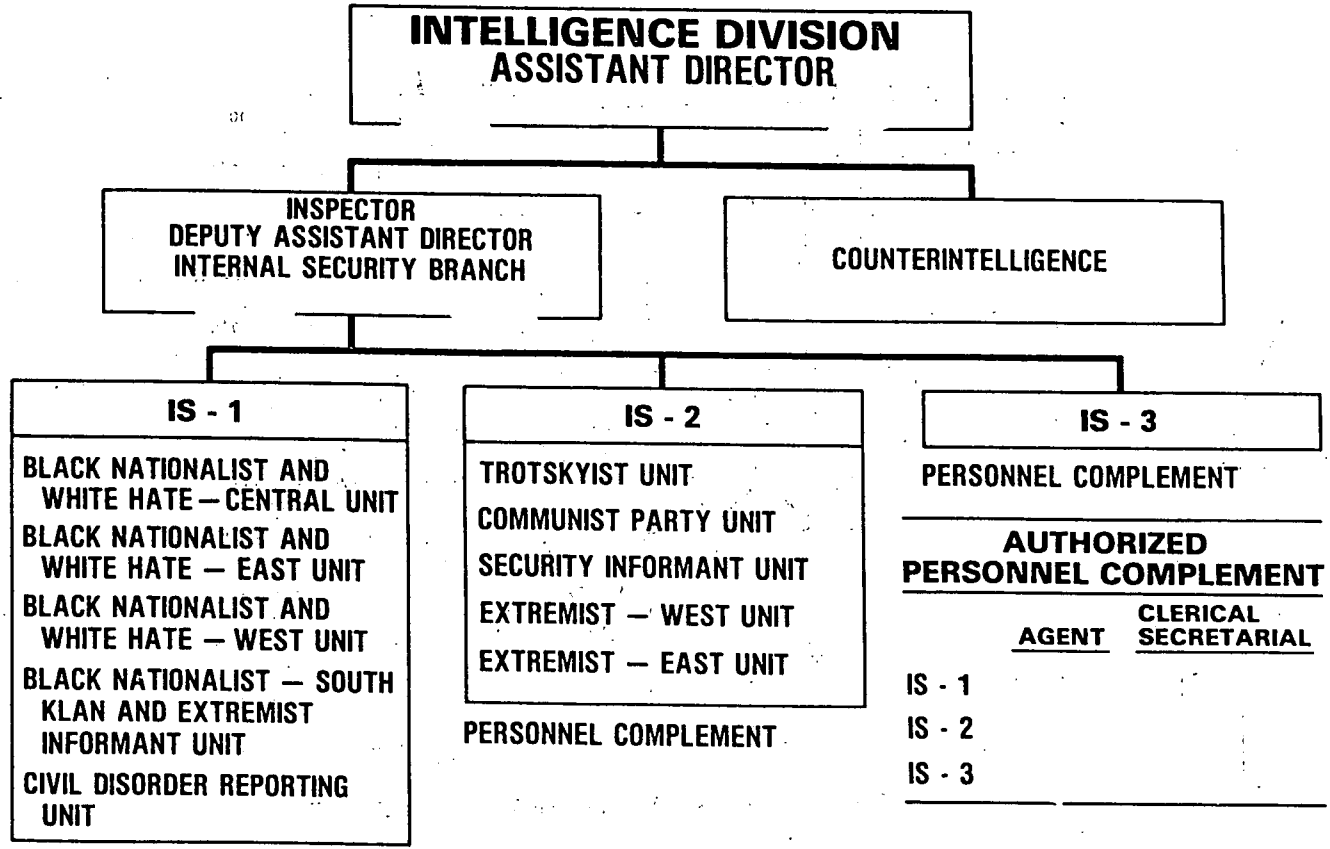

INTELLIGENCE DIVISION
ASSISTANT DIRECTOR
INSPECTOR
DEPUTY ASSISTANT DIRECTOR
INTERNAL SECURITY BRANCH
COUNTERINTELLIGENCE
IS - 1
BLACK NATIONALIST AND WHITE HATE—CENTRAL UNIT
BLACK NATIONALIST AND WHITE HATE — EAST UNIT
BLACK NATIONALIST AND WHITE HATE — WEST UNIT
BLACK NATIONALIST — SOUTH KLAN AND EXTREMIST INFORMANT UNIT
CIVIL DISORDER REPORTING UNIT
PERSONNEL COMPLEMENT
IS - 2
TROTSKYIST UNIT
COMMUNIST PARTY UNIT
SECURITY INFORMANT UNIT
EXTREMIST — WEST UNIT
EXTREMIST — EAST UNIT
PERSONNEL COMPLEMENT
IS - 3
PERSONNEL COMPLEMENT
AUTHORIZED PERSONNEL COMPLEMENT
AGENT
CLERICAL SECRETARIAL
IS - 1
IS - 2
IS - 3
NOVEMBER 6, 1975

EXHIBIT 2

INVESTIGATIVE MATTERS RECEIVED

SUBVERSIVE INVESTIGATIONS

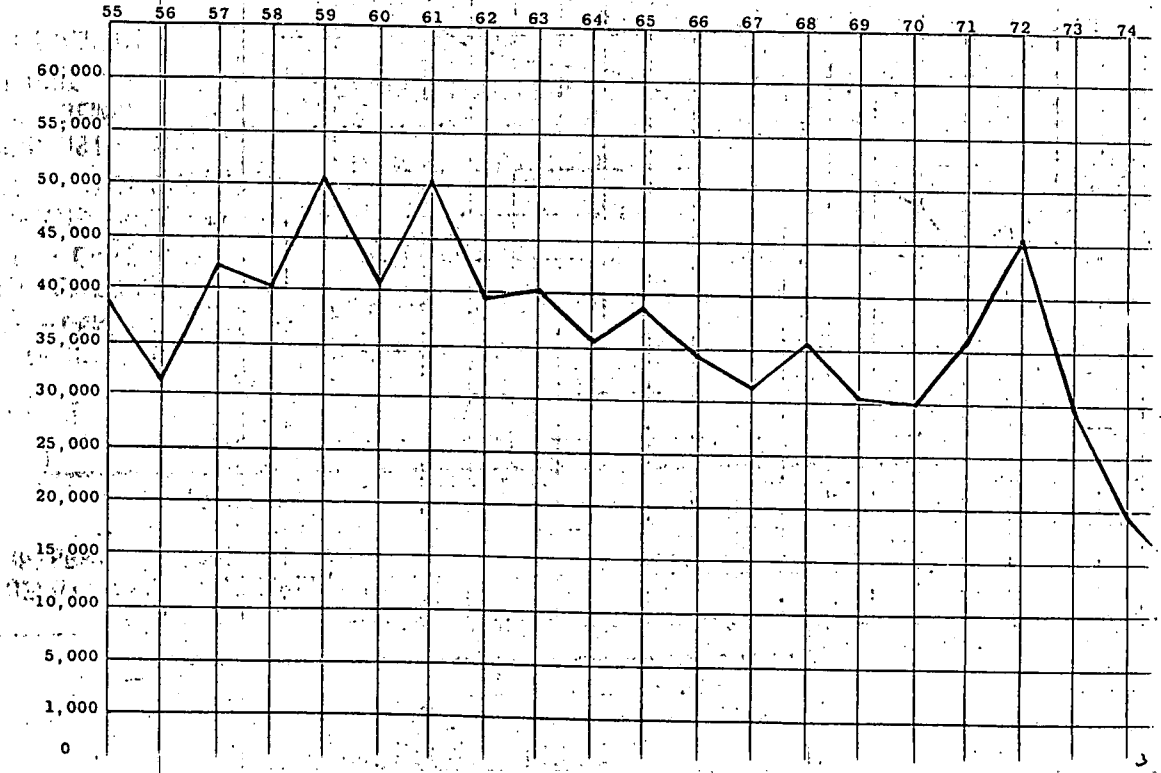


EXHIBIT 3

EXHIBIT 4

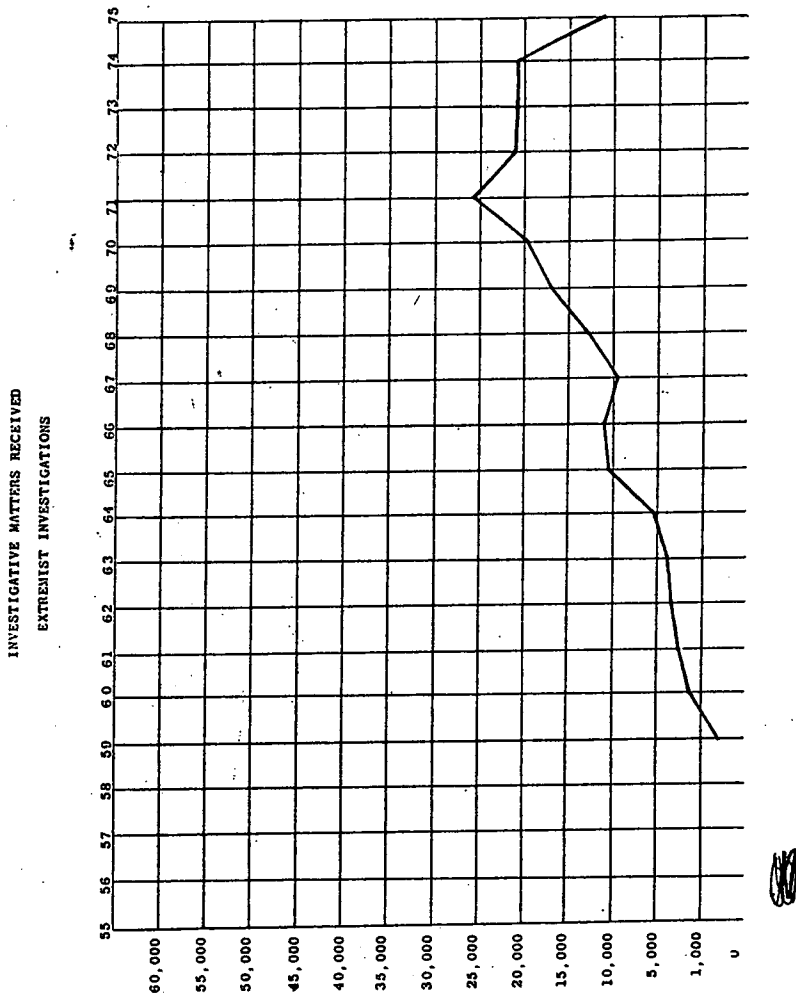

INVESTIGATIVE MATTERS RECEIVED
EXTREMIST INVESTIGATIONS
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
60,000
55,000
50,000
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
1,000
0

EXHIBIT 5

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

July 16, 1975

UNITED STATES SENATE SELECT COMMITTEE
TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES

RE: "OFFICIAL AND CONFIDENTIAL" FILES

Reference is made to memorandum from captioned Committee dated May 14, 1975, and the request of staff member Mark Gitenstein on June 5, 1975, requesting certain information pertaining to the "official and confidential" files.

In response to the aforementioned request, we are attaching a copy of the results of an FBI Inspection Division inquiry into the "official and confidential" files matter entitled, "Inquiry Into Disposition of Files Maintained in the Office of Former Director J. Edgar Hoover," dated July 3, 1975.

A list of individuals who were contacted during this inquiry and have some knowledge relating to this matter has been prepared and is available for review by staff members of the Senate Select Committee in FBI space.

Enclosure

JUL 22 1975

FBI

July 3, 1975

INQUIRY INTO DISPOSITION OF FILES MAINTAINED IN THE OFFICE OF FORMER DIRECTOR J. EDGAR HOOVER

On June 4, 1975, Mr. Douglas R. Marvin, Special Assistant to the Attorney General, telephonically contacted Mr. J. B. Adams, Deputy Associate Director, FBI, stating that the Attorney General desired that active inquiries be conducted as to whether any official files were removed from Mr. Hoover's office to his residence following his death and may have been subsequently removed from that address following the death of Clyde A. Tolson. Upon receipt of this request the Inspection Division initiated an immediate inquiry under the direction of Deputy Assistant Directors [redacted] and [redacted]

This inquiry, which was concluded on June 27, 1975, involved interviews with over 160 individuals. Among those interviewed were former Assistant to the Director John P. Mohr; Miss Helen W. Gandy, who was Mr. Hoover's Executive Assistant; and all other personnel assigned to Mr. Hoover's office at the time of his death. Included in these interviews were over 50 individuals who were in any way involved in packing and moving material from Mr. Hoover's office to his residence subsequent to his death.

The inquiry developed no information to show that any official files were removed from Mr. Hoover's office to his residence following his death.

In summary, our inquiry developed the following information:

Mr. Hoover's "Official - Confidential" or "OC" files together with some official Bureau files maintained in Miss Gandy's office were transferred very shortly after his death to the office of Assistant Director - Deputy Associate Director W. Mark Felt. We located a [redacted]

JUL 3 1975

FBI

typewritten note dated May 5, 1972, prepared by Mrs. Erma Metcalf, Mr. Hoover's Administrative Assistant, which includes information indicating that the "Official - Confidential" files had been turned over to Mr. Felt on May 4, 1972, two days after the death of Mr. Hoover. Mr. Felt has confirmed receipt of these files.

Also located was a "List Of Official - Confidential Files In Director's Office," dated October 20, 1971, which was prepared by Mrs. Metcalf. When the "Official - Confidential" files were inventoried by the Inspection Staff in January, 1975, all of the folders listed on the October 20, 1971, inventory prepared by Mrs. Metcalf were physically located with the exception of three folders captioned with the names of three present or former FBI officials. We have been unable to account for the disposition of these three folders. It can be speculated that these folders may have contained copies of communications, the originals of which were maintained in the normal personnel files of these individuals, and which may have been of particular interest to Mr. Hoover. The reason these folders were removed from the "Official - Confidential" files could not be determined.

The "Official - Confidential" files listed on the October 20, 1971, inventory with the exception of the three folders, mentioned above, continue to be maintained at FBI Headquarters.

Since their inception, the maintenance of the "Official - Confidential" files was the responsibility of either Miss Gandy or Mrs. Metcalf. Mrs. Metcalf has stated that these files were "very inactive" and it was "very very seldom" that anyone needed anything from them. Miss Gandy described these files as "not active" and stated they were referred to only on rare occasions. Both stated that to their knowledge these files were never used for other than official purposes.

Miss Gandy advised that Mr. Hoover told her the "Official - Confidential" files should be turned over to whoever was running the Bureau when he left.

She stated that she alone was responsible for designating material to be removed from Mr. Hoover's office after his death and nothing of an official nature, Bureau files or otherwise, was sent to Mr. Hoover's house

REC
JUL 22 1975
FBI

or elsewhere outside the Bureau. To emphasize this she said, "not even his badge."

According to Miss Gandy, there were about 35 file cabinet drawers of Mr. Hoover's personal correspondence which were packed in cardboard boxes and moved to his home shortly after his death. After her retirement Miss Gandy spent about two months reviewing this personal correspondence for subsequent destruction. She reviewed each item and said she found nothing of an official Bureau nature contained therein.

In addition to the personal correspondence, two 3-drawer and two 2-drawer file cabinets containing folders of material pertaining to Mr. Hoover's personal business affairs were removed from his office and moved to the recreation room in the basement of his home. The material in these file cabinets included such things as copies of every income tax return filed by Mr. Hoover and separate folders on each of his stock and oil well investments. These file cabinets, with their contents, are still at Mr. Hoover's residence, plus two other file cabinets containing similar material relative to the personal business affairs of Clyde A. Tolson, which were also brought to Mr. Hoover's residence shortly after Mr. Hoover's death.

Mr. John P. Mohr stated, "There were never any Bureau files taken to Mr. Hoover's house after Hoover's death." He participated in an inventory for tax purposes of the entire contents of Mr. Hoover's home in July, 1972, and pointed out that if there had been such files there he would have seen them and he observed none.

During this inquiry we interviewed over 20 persons who had been at Mr. Hoover's house within a short time after his death. None of the persons could furnish any information indicating the presence of any official Bureau files at his residence.

It was the recollection of [redacted] a Bureau truck driver, that shortly after Mr. Hoover's death he delivered a total of 20 to 25 file cabinets to Mr. Hoover's home and placed them in the recreation room

RECEIVED FROM
JUL 22 1975

in the basement. He said these cabinets were full and that during the moving a drawer came open on one of the cabinets and he observed light colored folders inside with the contents of each folder roughly one inch thick. He is unable to say where these file cabinets came from as they were already on his truck when he received his instructions to take them to Mr. Hoover's residence. Inasmuch as no other persons interviewed could corroborate that such a large number of file cabinets were delivered to Mr. Hoover's house, was reinterviewed on two further occasions in an effort to develop anything which would assist in substantiating or disproving that this occurred. At this point Smith remains adamant that he did, in fact, bring 20 to 25 file cabinets to the house.

Of more than 20 persons interviewed who were at Mr. Hoover's house subsequent to his death none ever recall seeing such a large number of file cabinets. the caretaker at Mr. Hoover's house for many years, and his cook and maid, who were at the house daily are emphatic that there were never more than six file cabinets in the recreation room of Mr. Hoover's house at any time and that Smith has to be wrong.

It is the feeling of those who have interviewed that he believes he actually did deliver as many file cabinets as he has indicated, but he is in fact confusing a number of instances. We have determined that a large number of cardboard boxes containing Mr. Hoover's personal effects and memorabilia were taken to Mr. Hoover's residence from his office within about one week after his death. participated on a number of occasions in hauling this material to the house and into the recreation room where most of it was stored. We have also determined that he was present and assisted in moving some of the six file cabinets, previously mentioned, and have determined that at the time they were moved some of these cabinets did contain light colored folders, the contents of which are approximately one inch thick.

Of the nearly 40 persons interviewed who were involved in moving material, none has any recollection of participating in the movement of 20 to 25 file cabinets to Mr. Hoover's residence or of seeing such a number there. We can only conclude that while honest in his belief Smith has a jumbled recollection of the facts due to the passage of over three years since Mr. Hoover's death.

JUL 30 1975

Inquiry into Disposition of Files Maintained in the Office of Former Director H. Edgar Hoover

Part of the request of the Attorney General was to determine whether any official files had been removed from Mr. Hoover's residence following the death of Mr. Tolson. Inasmuch as our inquiry has shown that there were no such files at Mr. Hoover's home it follows that none were removed after Mr. Tolson's death. However, we did make inquiry into the movement of anything which might be construed to be files from Mr. Hoover's house after Mr. Tolson's death on April 14, 1975, and found no such evidence.

It was determined, however, that shortly after Mr. Tolson's death a number of empty cardboard boxes were taken to Mr. Hoover's residence by a Bureau employee. These boxes were utilized by the caretaker, to pack pictures which had been laying loose in the attic and also to dispose of some old canned goods. The boxes with the canned goods were placed in the garbage outside.

In connection with the removal of material from Mr. Hoover's home, it was determined that during the period of approximately the middle of May to the middle of July, 1972, cardboard boxes containing the personal correspondence of Mr. Hoover, which had been reviewed by Miss Gandy at his residence, were picked up at the house on several occasions and destroyed by personnel of the Washington Field Office.

Also in connection with the removal of material from Mr. Hoover's house, it was determined that on two occasions in 1974 numerous cardboard boxes containing books were removed from Mr. Hoover's home, loaded onto trucks and delivered to the library at the FBI Academy, Quantico, Virginia. These books had been purchased by the J. Edgar Hoover Foundation and donated to the library.

RECEIVED
JUL 22 1975
FBI

EXHIBIT 6

UNITED STATES GOVERNMENT ROUTE IN ENVELOPE

Memorandum

TO : Mr. C. D. DeLoach DATE: July 19, 1966

FROM : W. C. Sullivan

DO NOT FILE

SUBJECT: "BLACK BAG" JOBS

The following is set forth in regard to your request concerning what authority we have for "black bag" jobs and for the background of our policy and procedures in such matters.

We do not obtain authorization for "black bag" jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, "black bag" jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation.

The present procedure followed in the use of this technique calls for the Special Agent in Charge of a field office to make his request for the use of the technique to the appropriate Assistant Director. The Special Agent in Charge must completely justify the need for the use of the technique and at the same time assure that it can be safely used without any danger or embarrassment to the Bureau. The facts are incorporated in a memorandum which, in accordance with the Director's instructions, is sent to Mr. Tolson or to the Director for approval. Subsequently this memorandum is filed in the Assistant Director's office under a "Do Not File" procedure.

In the field the Special Agent in Charge prepares an informal memorandum showing that he obtained Bureau authority and this memorandum is filed in his safe until the next inspection by Bureau Inspectors, at which time it is destroyed.

CONTINUED -- OVER

Memorandum to Mr. C. D. DeLoach
Re: "BLACK BAG" JOBS

We have used this technique on a highly selective basis, but with wide-range effectiveness, in our operations. We have several cases in the espionage field [redacted].

Also through the use of this technique we have on numerous occasions been able to obtain material held highly secret and closely guarded by subversive groups and organizations which consisted of membership lists and mailing lists of these organizations.

This applies even to our investigation of the [redacted]. You may recall that recently through a "black bag" job we obtained the records in the possession of three high-ranking officials of a [redacted] organization in [redacted]. These records gave us the complete membership and financial information concerning the [redacted] operation which we have been using most effectively to disrupt the organization and, in fact, to bring about its near disintegration.

CONTINUED -- OVER

operation, the disclosure of which could
2
reveal sensitive coverage [redacted] in intelligence

12

Memorandum to Mr. C. D. DeLoach
re: "BLACK BAG" JOBS

In short, it is a very valuable weapon which we have used to combat the highly clandestine efforts of subversive elements seeking to undermine our Nation.

RECOMMENDATION:

For your information.

EXHIBIT 7

Reporting Office	Office of Origin	Date	Investigative Period

Title of Case	Report made by	Typed by

Character of Case

IS - MISC

SUMMARY

- [illegible] -

Approved	Special Agent in Charge	Do not write in spaces below

(5)-

1 - [illegible] (100-[illegible])
1 - [illegible]
4 - [illegible]
1 - [illegible]

Remarks:

[illegible] NOV 6 1915

FBI

[illegible]

BA 100-25323

the United States. was not recommended for the AI or SI in Baltimore report dated 8/21/69.

The SA who observed the WLM demonstration on 8/1/69 was

INFORMANT DATA:

Identity of Source	Location
INFORMANT	
INFORMANT	
INFORMANT	
SOURCE	[redacted]
INFORMANT	

LEAD:

BALTIMORE DIVISION

At Baltimore, Maryland

Will continue to follow and report the activities of the Women's Liberation Movement.

B*
COVER PAGE

FD-306 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 - OSI, Baltimore (REGIS. MAIL)
1 - NISO, Baltimore (REGIS. MAIL)
4 - 109th MI GP, Baltimore (REGIS. MAIL)

Report of: SA Office: BALTIMORE
Date: May 11, 1970

Field Office File #: BA Bureau File #:

Title: WOMEN'S LIBERATION MOVEMENT

Character: INTERNAL SECURITY - MISCELLANEOUS

Synopsis: The Women's Liberation Movement (WLM), in Baltimore, Maryland, began during the summer of 1968, with a group of women affiliated with the Baltimore Defense Committee (BDC), a Baltimore based anti-war, anti-draft organization, meeting to discuss various aspects of women's liberation. Meetings are generally held in the homes of those active in the WLM. The WLM has an office at BDC Headquarters, 2525 Maryland Avenue, Baltimore, where literature is available. The WLM receives aid and support from the BDC. In 3/70, a mailing of pledge letters for funds was made by the WLM. The WLM publishes a magazine quarterly, which is self-supporting from subscriptions. The WLM has conducted demonstrations and held meetings on behalf of women's rights. Since 2/70 the WLM, in conjunction with the BDC, has been attempting to establish a free medical clinic in Baltimore. Information concerning leadership, finances and activities set forth.

- P* -

RECEIVED FROM
NOV 6 1975

DETAILS: PREDICATION:

Information was received from on 1968 indicating that a group of women affiliated with the Baltimore Defense Committee, (BDC) had recently been meeting to discuss various aspects of women's liberation.

A characterization of the BDC is appended.

GROUP 1
Excluded from automatic downgrading and declassification

This document contains neither recommendations nor conclusions of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

BA 100-25323

I. ORIGIN, AIMS AND PURPOSES

The Women's Liberation Movement (WLM), in Baltimore, Maryland, began during the summer of 1968. There was no structure or parent organization. There were no rules or plans to go by. It started out as a group therapy session with young women who were either lonely or confined to the home with small children, getting together to talk out their problems. Along with this, they wanted a purpose and that was to free women from the hum-drum existence of being only a wife and mother. They wanted equal opportunities that men have in work and in society. They wanted their husbands to share in the housework and in rearing their children. They also wanted to go out and work in whatever kind of jobs they wanted and not be discriminated against as women. All of the women participating in these first sessions were affiliated with the BDC.

on 70)

A leaflet dated February 6, 1969 issued by the BDC contained the following paragraph:

> "WOMEN'S LIBERATION MOVEMENT" - The Women's Liberation group in Baltimore aims to free women from traditional ideas of their roles as self-sacrificing wives and mothers, and raises in women consciousness of male supremacy as it exists in our society and in everyday life. We discuss radical alternatives women can demand now for themselves, and changes in human relationships which must come with a new society. An action program is projected. The group meets every other Thursday and is planning a weekend retreat at Camp Catoctin on March 14-16."

on 70)

A leaflet issued by the BDC contains the following paragraph:

BA 100-25323

"WOMEN'S LIBERATION MOVEMENT" - While distinct from the BDC, the WLM was organized by women who work also in the Defense Committee. The aim of the group is to examine the subordinate role of women in our society and try to change the stereotypes that both men and women have about females. Our group is open to any women interested in examining this problem with us".

on 70)

II. LOCATION

Meetings are generally held in the various homes of those active in the WLM. The WLM has an office at BDC Headquarters, 2525 Maryland Avenue, Baltimore, Maryland, where literature is available.

on 70)

III. LEADERSHIP

The WLM has no officers. Some of those present at the initial meetings and who are considered leaders are:

MD

ADMINISTRATIVE MATTERS TO DISCUSS

All of the above are also affiliated with the BDC.

on 70)

IV. FINANCES

Originally, there was no plan for dues or regular contributions. However, in February, 1970, the WLM decided to collect bi-monthly pledges of $1 from those with the ability to contribute.

RECEIVED FROM on 70)

NOV 6 1975

FBI 3

BA 100-25323

[redacted]

on [redacted] 70)

V. PAMPHLETS AND PUBLICATIONS

During March, 1970 the WLM of Baltimore distributed a leaflet describing the WLM publication, "WOMEN: A JOURNAL OF LIBERATION".

[redacted] on [redacted] 70)

The leaflet mentioned above is as follows:

RECEIVED FROM
DEC 6 1975
FBI

WOMEN: A JOURNAL OF LIBERATION
3011 Guilford
Baltimore, Md. 21218

SCRIPTION: WOMEN: A JOURNAL OF LIBERATION is a quarterly magazine olished by a group of women in Baltimore, Maryland. Subscription is $5 per year. The newsstand price is $1.25. The journal is intended to be of use to women engaged in struggle: struggle for greater awareness and struggle to change conditions. The journal serves as a forum of opinion and expression vital to a growing women's liberation movement. The magazine attempts to push beneath the generalizations and to foster the creation of an ideology. Each issue centers on a specific theme relevant to the movement. We solicit articles as well as poetry, short stories and art which relates to the specific theme. In moving beyond the general descriptions of problems, we have tried to establish new approaches to the many intellectual disciplines and to find new approaches to action.

Subscription to WOMEN: A JOURNAL OF LIBERATION is slightly different from most magazines. Subscriptions are for the full year. This means that you will receive back issues if you subscribe in the middle of the year. This is necessary because we cannot afford to handle subscriptions by a subscription fulfillment house. This makes it possible to serve our readers without going bankrupt

THEMES: We are part of a movement of women who have become aware of our oppression at the same time time that we have, as Americans, become conscious through the war in Vietnam of the realities of American power at home and abroad. We find our government and its economic system guilty of exploiting us at home and and desecrating the peoples of the third world for the economic benefit of the few. We know that in this tainted context we can never be free. Marxism shows how an exploitive economic system arises out of the family structure; the suppression of women is necessary to the maintenance of such a system. As women, we are a key group in the crises of exploited peoples.

Through the use of a separate theme for each issue of the magazine, a deeper exploration of the ideas within the women's movement has been possible.
Fall 1969 "Women: Inherent Nature or Cultural Conditioning" Through an exploration of biological data, the magazine shows there is no basis in fact for a theory about the "inherent nature" of women. The issue then goes on to explore how women have been conditioned to accept a secondary role by schools, books and society.
Winter 1970 "What is Liberation?" Through a consideration of the issues of birth control, education, day care, jobs and family, the question of what women's liberation involves is discussed.
Spring 1970 "Women in History: a Recreation of Our Past" Through a consideration of outstanding women like Margaret Sanger and Harriet Tubman, the issue points to the necessity for gathering the materials of women in history.
Summer 1970 (deadline for articles May 1) "Women and Revolution" Socialist revolutions are a necessary prerequisite for the liberation of women. But full liberation does not automatically come with revolution. We want to study the role that organizations of women have played in revolutions. We also want to study the condition of women in existing socialist countries. What mistakes have been made? What positive achievements have been accomplished?

We plan to publish the journal for another year and we have selected the theme for the first issue: "The Image of Women in the Arts." The deadline for articles is August 1. If you have ideas for the remaining three themes, please send them. The themes for all issues of next year will be decided by June.

RECEIVED FROM
JUL 28 1970
FBI

EXHIBIT 8

INTELLIGENCE COLLECTION TECHNIQUES

	FREQUENCY
Informants	83%
Police Confidential Sources	74%
State Motor Vehicles Division Confidential sources in utilities, educational institutions, and State employment agencies	50%
One or more interviews	40%
Subject interviewed	20%
Physical surveillance and pretext contacts	18%
Electronic surveillance	5%
Surreptitious entry or mail openings	1%

* * *

Source: Report by General Accounting Office to House Judiciary Committee

EXHIBIT 9

SAC, Albany

November 26, 1969

Director, FBI

FBI, INTELLIGENCE LETTER
FOR THE PRESIDENT
CODE NAME "[illegible]"
RESEARCH-SATELLITE MATTER

Captioned letter has been initiated at the Bureau to furnish high-level intelligence data in the security field to the President and the Attorney General on a continuing basis. This letter will not be a vehicle for routine dissemination; rather it will be comprised of information obtained in connection with our investigations which has the qualities of importance and timeliness necessary to secure the President's interest and to provide him with meaningful intelligence for his guidance. Mere rumors or nebulous information will have no place in this letter.

It will be the responsibility of each field office to furnish the Bureau on a continuing basis intelligence items suitable for this letter. Each office must, in the course of its normal business and submissions of information to the Bureau, be alert to flag specific items for this purpose. For your guidance the following are suggested types of information (not all-inclusive) that would be appropriate for this intelligence letter:

(1) Information of national or international significance which is security related.

(2) Important current or pending developments in major security cases.

(3) Current information which is representative of or calls attention to a significant developing intelligence trend.

(4) Material which has a bearing on national security, particularly that from sensitive and/or penetrative coverage of foreign establishments, which could affect American relations with foreign countries, or assist in formulating United States policy.

2 - All other Offices

[illegible]

Letter to Albany
FBI INTELLIGENCE LETTER
FOR THE PRESIDENT
CODE NAME "INLET"
RADIATION-SATELLITE MATTER

(5) "Inside" information concerning demonstrations, disorders or other civil disruptions which is of more than local significance.

(6) Items with an unusual twist or concerning prominent personalities which may be of special interest to the President or the Attorney General.

All information submitted to the Bureau by your office in investigations concerning old-line subversive organizations, New Left groups, racial matters, hate groups, and espionage and counterintelligence matters should be carefully reviewed daily for any items deemed pertinent to this intelligence letter. Communications containing such items should be submitted by the most expeditious means warranted and should be flagged with the code name "Inlet" after the title and character. In those instances where an airtel or letter is used, an additional copy should be furnished the Bureau.

These instructions are to be implemented immediately. It is absolutely essential that a steady flow of quality intelligence data be received from all field offices to make this letter a success. Your submissions will be closely followed at the Bureau to insure this matter is receiving proper emphasis and attention.

RECD.

JUL

DOJ

COINTELPRO COMPOSITE

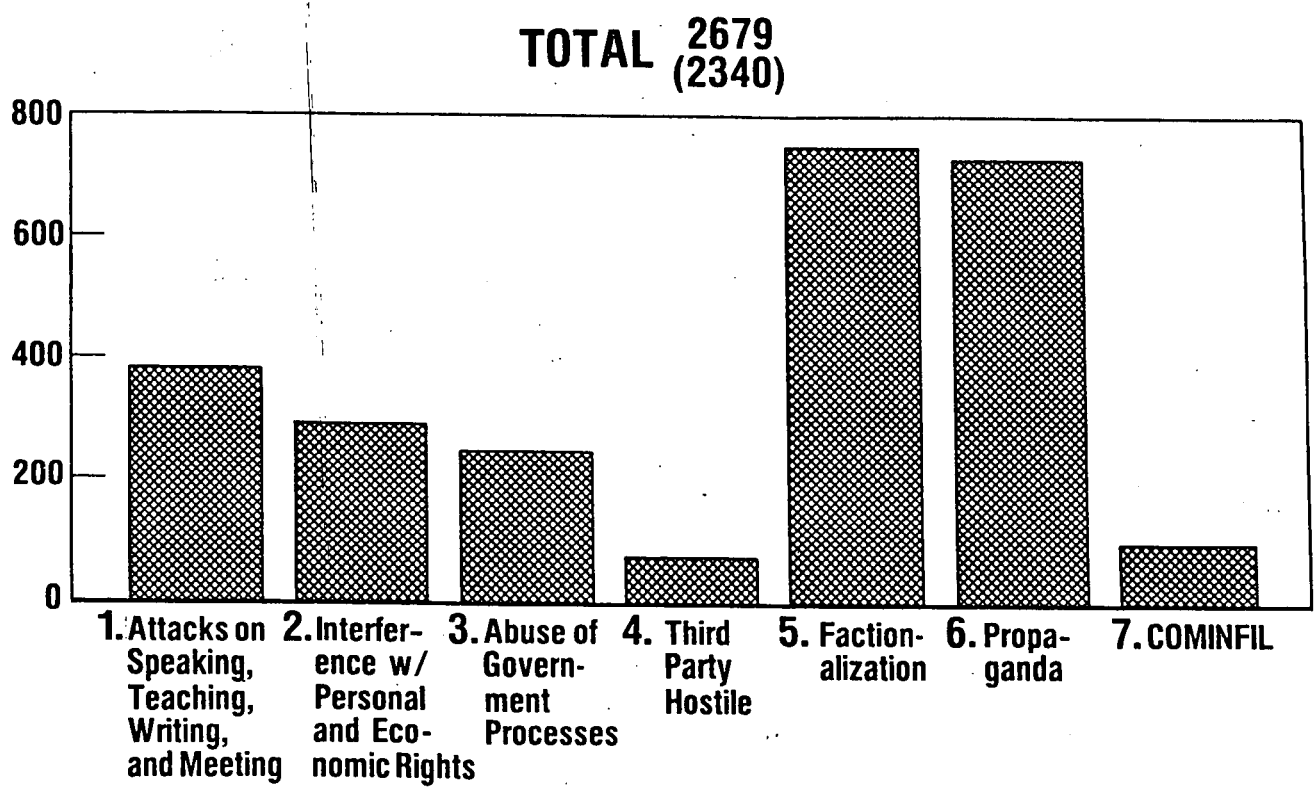


EXHIBIT 10

EXHIBIT 11

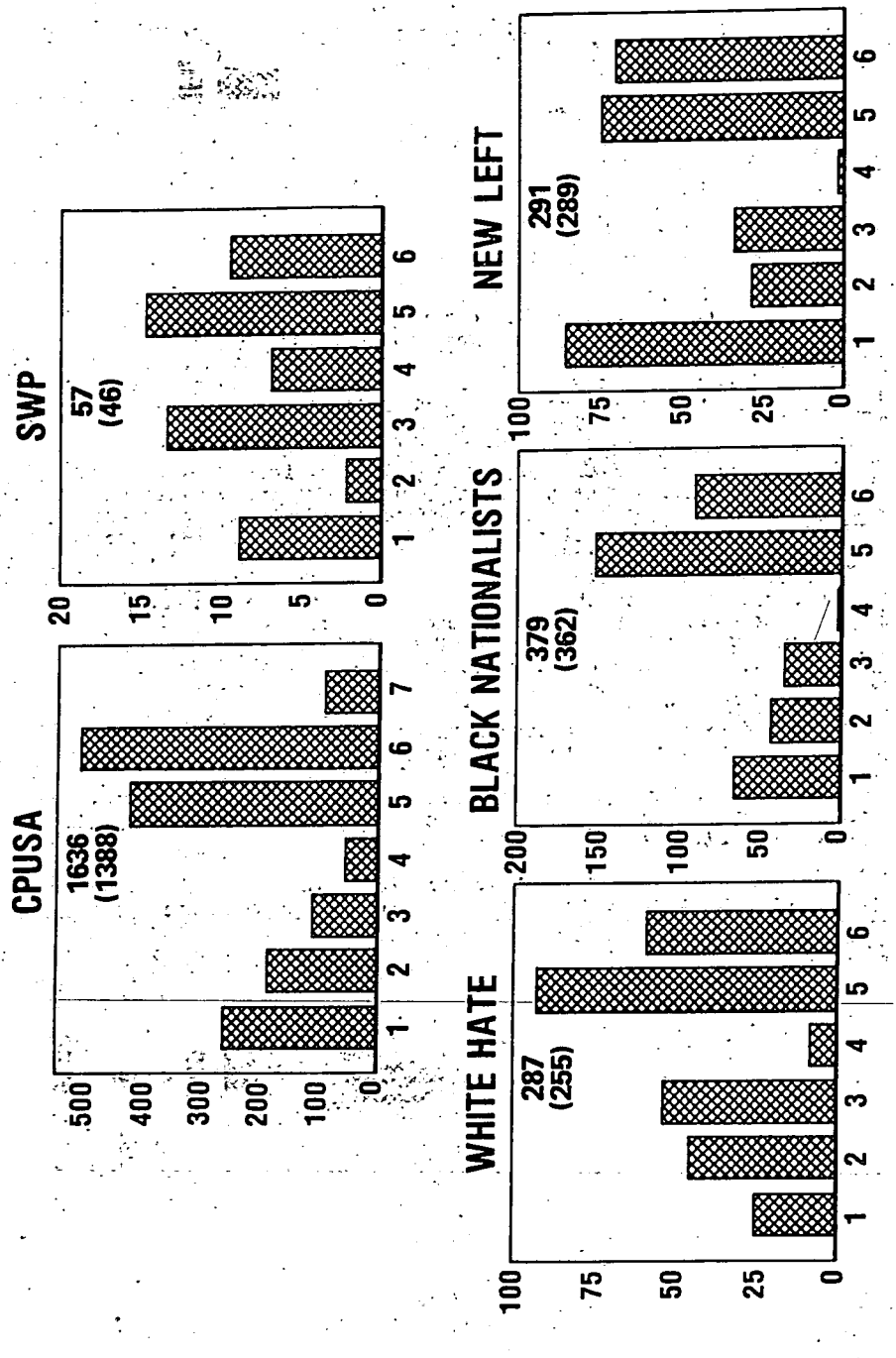

CPUSA
1636
(1388)
SWP
57
(46)
WHITE HATE
287
(255)
BLACK NATIONALISTS
379
(362)
NEW LEFT
291
(289)

EXHIBIT 12

Office Memorandum · UNITED STATES GOVERNMENT

TO : Mr. L. V. Boardman DATE: August 28, 1956

FROM : Mr. A. H. Belmont

SUBJECT: CP, USA - COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C

During its investigation of the Communist Party, USA, the Bureau has sought to capitalize on incidents involving the Party and its leaders in order to foster factionalism, bring the Communist Party (CP) and its leaders into disrepute before the American public and cause confusion and dissatisfaction among rank-and-file members of the CP.

Generally, the above action has constituted harrassment rather than disruption, since, for the most part, the Bureau has set up particular incidents, and the attack has been from the outside. At the present time, however, there is existing within the CP a situation resulting from the developments at the 20th Congress of the CP of the Soviet Union and the Government's attack on the Party principally through prosecutions under the Smith Act of 1940 and the Internal Security Act of 1950 which is made to order for an all-out disruptive attack against the CP from within. In other words, the Bureau is in a position to initiate, on a broader scale than heretofore attempted, a counterintelligence program against the CP, not by harrassment from the outside, which might only serve to bring the various factions together, but by feeding and fostering from within the internal fight currently raging.

We have been considering possible courses to implement such a program and, at the present time, we are actively working on the following four:

1) The Socialist Workers Party (SWP) is making an all-out effort to win over CP members who have become disillusioned with Stalinist communism. SWP members are distributing copies of "The Militant" (SWP publication) at CP rallies and meetings and are contacting individual CP members in an attempt to sell

Enclosures

Memorandum for Mr. Boardman

them the SWP philosophy. This SWP program could very definitely benefit the Bureau provided we can achieve through our informant coverage in the SWP some degree of control and direction over it. The ultimate goal would be to continue and intensify pressure on the CP from the left. Since the Party is already under pressure from the right, the combined pressure would contribute materially to distracting the CP from its primary goals.

ACTION: A memorandum, together with a letter to the 15 offices having SWP activity in the U. S., is attached, sounding out these offices through their SWP informants as to the possibility of initiating several specific steps aimed at the Bureau's furthering, assisting and possibly *adding to* the current SWP disruptive program.

2) The CP national convention is scheduled to be held during February 1957. At the present time there appear to be 4 separate views within the CP leadership as to the degree of change to be made in the organization and program of the CP, USA. The Party has publicly announced that the theory of democratic centralism has been modified and that each CP member has the right to express his views as to the past mistakes and future path of communism in the U. S. Preliminary material for the draft resolution for the national convention has been prepared and is being discussed on a national level prior to being sent to the various districts for preconvention discussions on a local level.

ACTION: A memorandum, together with a letter to 12 key offices is being prepared, requesting these offices to submit to the Bureau the identities of certain informants who will be briefed and instructed to embark on a disruptive program within their own clubs, sections, districts or even on a national level. Those informants will raise objections and doubts as to the success of any proposed plan of action by the CP leadership. They will seize every opportunity to carry out the disruptive activity not only at meetings, conventions, et cetera, but also during social and other contacts with CP members and leaders. It is noted that

Memorandum for Mr. Boardman

a letter has been sent to 12 key offices (dated August 27, 1956) requesting information as to the view points of the national and district leaders relative to the faction within the CP that each appears to favor. This information can be used by the various offices in briefing the informants who will carry out the disruptive program. It is pointed out that the informants chosen and approved for this program should not be endangered, since, as pointed out above, the Party has publicly encouraged all members to participate in the current discussions.

3) Recently, [redacted] a national CP leader and convicted Smith Act subject, was assigned by the Party to contact [redacted] of the Fellowship of Reconciliation; a semireligious socialist-pacifist organization. [redacted] suggested that [redacted] prepare and distribute a document calling for an exchange of opinions by individuals interested in forming a new socialist organization. This is the first step taken by the CP in forming a new socialist coalition in which it hopes to participate. [redacted] has prepared a document which criticizes the absence of [illegible] liberties, free trade unions and outlets for dissenting opinions in the Soviet Union. It further urges that European satellite nations be free from Soviet domination. The CP hopes to persuade [redacted] to mollify his criticism of the Soviet Union before the document is released. At the same time the CP feels that some mild criticism of the Soviet Union and the CP, USA, will be beneficial in gaining noncommunist support for [redacted] proposal.

ACTION: This plan of the CP may create a situation which would lend itself to a disruptive operation by the Bureau. It appears that it is too early to actually make a move, but we are alerting certain offices to this plan of the CP and are instructing that this operation be closely watched so that if a situation does present itself we will be in a position to make any move which appears logical and workable.

Memorandum for Mr. Boardman

4) When the CP underground was put in operation on a large scale in 1951, CP leaders decided after extensive study, that underground personnel should either disregard their tax obligations or file under false names.

ACTION: We have obtained from the field, the names and current addresses of former underground leaders with a view toward furnishing them to the Internal Revenue Service (IRS) for appropriate action. A memorandum has gone through (August 28, 1956) recommending that the names and current address of 102 such leaders, all of whom have Smith Act ramifications, be transmitted to the Department and the Department be requested to advise if there is any objection to the Bureau furnishing this material to IRS. If there is no objection, the Bureau proposes to transmit the names and addresses to IRS via Liaison for appropriate action. We will then follow IRS very closely since IRS action should: (1) uncover the aliases and whereabouts, from 1951 to 1954, of these subjects who actually filed returns under aliases and admit such action, or (2) result in possible prosecution of those subjects who did not file returns or who refuse to furnish details if they did file. It is believed that action by IRS at this time would deal a further devastating blow at the CP and would certainly reflect very unfavorably on the Party leadership for the instructions issued in 1951.

OBSERVATIONS:

We are going ahead with the 4 courses of action listed in this memorandum. A detailed memorandum is attached covering the SWP angle; a memorandum has gone through separately covering the first phase of the IRS angle, and a detailed memorandum covering the disruptive program by confidential informants is being prepared as is a memorandum covering the phase.

For the present, our disruptive tactics will, of necessity, be general in nature, that is, along the line of "keeping the pot boiling." The time may come, however, when it will be desirable to direct our disruptive tactics toward a

66-077 O - 76 - 25

Memorandum for Mr. Boardman

specific goal. A national committee has been set up to work exclusively on the resolution for the forthcoming CP national convention. This resolution may be that the CP be dissolved and reconstituted under a new name; a coalition be effected with certain liberal and right-wing elements or that the CP remain as constituted but that several drastic changes be made in its constitution. When this resolution has been drawn up and the Bureau receives a copy of it, serious consideration will be given as to whether it will be of benefit to the Bureau's operations and to the security of the country for us to set a specific goal in this disruptive program.

The Internal Security Section is giving this program continuous thought and attention and we are remaining alert for situations which might afford additional opportunities for further disruption of the CP, USA.

ACTION:

This memorandum has been prepared for your information and to advise you of the initiation of this program.

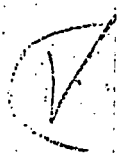


EXHIBIT 13

SAC, New York

October 12, 1961

Director, FBI

SOCIALIST WORKERS PARTY
INTERNAL SECURITY - SWP
DISRUPTION PROGRAM

The Socialist Workers Party (SWP) has, over the past several years, been openly espousing its line on a local and national basis through running candidates for public office and strongly directing and/or supporting such causes as Castro's Cuba and integration problems arising in the South. The SWP has also been in frequent contact with international Trotskyite groups stopping short of open and direct contact with these groups. The youth group of the SWP has also been operating on this basis in connection with SWP policies.

Offices receiving copies of this letter are participating in the Bureau's Communist Party, USA, Counterintelligence Program. It is felt that a disruption program along similar lines could be initiated against the SWP on a very selective basis. One of the purposes of this program would be to alert the public to the fact that the SWP is not just another socialist group but follows the revolutionary principles of Marx, Lenin and Engels as interpreted by Leon Trotsky.

It is pointed out, however, that this program is not intended to be a "crash" program. Only carefully thought-out operations with the widest possible effect and benefit to the nation should be submitted. It may be desirable to expand the program after the effects have been evaluated.

100-[illegible]-[illegible]
NOT-43
REC-39

Each office is, therefore, requested to carefully evaluate such a program and submit their views to the Bureau regarding initiating a SWP disruption program on a limited basis.

2 - Chicago
2 - Detroit
2 - Los Angeles
2 - Newark

12) [illegible]

MAIL ROOM

RECEIVED FBI

10 OCT 12 1961

EXHIBIT 14

BAC, Atlanta

September 2, 1964

Director, FBI

PERSONAL AND CONFIDENTIAL

COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

Effective immediately, the Bureau is instituting a coordinated Counterintelligence Program (Cointelpro) directed against Klan-type and hate organizations. Offices receiving copies of this letter are instructed to immediately open an active control file, captioned as above, and to assign responsibility for this program to an experienced and imaginative Special Agent who is well versed in investigation of hate and racist-type organizations and their membership.

The purpose of this program is to expose, disrupt and otherwise neutralize the activities of the various Klans and hate organizations, their leadership and adherents. The activities of these groups must be followed on a continuous basis so we may take advantage of all opportunities for counterintelligence and also inspire action in instances where circumstances warrant. The devious maneuvers and duplicity of these groups must be exposed to public scrutiny through the cooperation of reliable news media sources, both locally and at the Seat of Government. We must frustrate any effort of the groups to consolidate their forces or to recruit new or youthful adherents. In every instance, consideration should be given to disrupting the organized activity of these groups and no opportunity should be missed to capitalize upon organizational and personal conflicts of their leadership.

2 - Baltimore
2 - Birmingham
2 - Charlotte
2 - Chicago
2 - Jacksonville
2 - Jackson
2 - Knoxville
2 - Little Rock
2 - Memphis
2 - Miami
2 - Mobile
2 - New Orleans
2 - New York
2 - Richmond
2 - Savannah
2 - Tampa

MAILED 9
SEP 3 - 1964
COMM-FBI

10 SEP 4 1964

1 - (CPUSA, Cointelpro)

NOTE: See memo Baumgardner to Sullivan, 8/27/64, same caption,

Letter to Atlanta
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

The following Klan organizations, currently under active investigation, should be considered for counterintelligence action:

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.

The following hate organizations currently being afforded active investigation are included in this program.

1.
2.

Letter to Atlanta
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

4.

5.

6.

7.
8.
9.

On or before 10/15/64, participating offices are instructed to submit to the Bureau a detailed analysis of potential counterintelligence action against pertinent organizations and individuals active within their respective territories and specific recommendations should be included for any logical immediate counterintelligence action. Recommendations submitted under this program must include all necessary facts to enable the Bureau to intelligently pass upon the feasibility of the proposed action. In instances where a reliable and cooperative news media representative or other source outside the Bureau is to be contacted or utilized in connection with a proposed counterintelligence operation, it will be incumbent upon the recommending office to furnish assurances the source will not reveal the Bureau's interest or betray our confidence.

Offices participating in this program who have investigative responsibility for Klan organizations should specifically comment in the initial letter to the Bureau regarding "Action Groups." As these offices are aware, these groups have been described as the relatively few individuals in each organization who use strong-arm tactics and violent actions to achieve their ends. Often these groups act without the approval of the Klan organization

Letter to Atlanta
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

or membership. The Bureau considers it vital that we expose the identities and activities of such groups and where possible disrupt their efforts. These groups should be subjected to continuing counterintelligence action.

No counterintelligence action may be initiated by the field without specific Bureau authorization.

Commencing 1/1/65 and every 3 months thereafter, each participating office should submit to the Bureau a status letter covering the prior 3-month period, including comments under the following captions:

2. Potential Counterintelligence Action

3. Pending Counterintelligence Action

4. Tangible Results

If necessary, a 4th caption "Miscellaneous" may be utilized for additional comments.

Recommendations for counterintelligence action should not be included in 90-day status letters to the Bureau, but following the initial analysis due 10/15/64, should be submitted individually by separate letter.

All Special Agent personnel responsible for the investigation of Klan-type and hate organizations and their membership should be alerted to our counterintelligence plans relating to these groups. Counterintelligence action directed at these groups is intended to complement and stimulate our accelerated intelligence investigations. Each investigative Agent has a responsibility to call to the attention of the counterintelligence coordinator suggestions and possibilities for implementing the program. You are cautioned that the nature of this new endeavor is such that under no circumstances should the existence of the program be made known outside the Bureau and appropriate within-office security should be afforded this sensitive operation.

Lettor to Atlanta
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

The Bureau is pleased with past successes achieved by our counterintelligence efforts in other phases of our investigative responsibilities. To insure our success in this new endeavor, the Agent to whom the program is assigned in each office must have a detailed knowledge of the activities of the racist groups in the territory and that knowledge must be coupled with interest, initiative and imagination. The Agent must be alert for information which has a disruptive potential. The information will not come to him - - he must look for it. The most effective way of being assured of keeping on top of the situation is to maintain close contact with those Agents who handle the investigation of the racial and hate groups and their membership and also to periodically review relevant files.

If an enthusiastic approach is made to this new endeavor, there is no reason why the results achieved under this program will not equal or surpass our achievements in similar-type programs directed against subversives.

EXHIBIT 15

SAC, Albany

August 25, 1967

PERSONAL ATTENTION TO ALL OFFICES

Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
INTERNAL SECURITY

Offices receiving copies of this letter are instructed to immediately establish a control file, captioned as above, and to assign responsibility for following and coordinating this new counterintelligence program to an experienced and imaginative Special Agent well versed in investigations relating to black nationalist, hate-type organizations. The field office control file used under this program may be maintained in a pending inactive status until such time as a specific operation or technique is placed under consideration for implementation.

The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, discredit, or otherwise neutralize the activities of black nationalist, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and civil disorder. The activities of all such groups of intelligence interest to this Bureau must be followed on a continuous basis so we will be in a position to promptly take advantage of all opportunities for counterintelligence and to inspire action in instances where circumstances warrant. The pernicious background of such groups, their duplicity, and devious maneuvers must be exposed to public scrutiny where such publicity will have a neutralizing effect. Efforts of the various groups

2 - Atlanta
2 - Baltimore
2 - Boston
3 - Buffalo
2 - Charlotte
2 - Chicago
2 - Cincinnati
2 - Cleveland
2 - Detroit
2 - Jackson
2 - Los Angeles
2 - Memphis
2 - Newark
2 - New Orleans
2 - New York
2 - Philadelphia
2 - Phoenix
2 - Pittsburgh
2 - Richmond
2 - St. Louis
2 - San Francisco
2 - Washington Field Office

(53)

MCI-34
DEC 30 1967
X 106

AUG 29 1967

59 3
AUG 28 1967
COMM-FBI

Letter to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS

to consolidate their forces or to recruit new or youthful adherents must be frustrated. No opportunity should be missed to exploit through counterintelligence techniques the organizational and personal conflicts of the leaderships of the groups and where possible an effort should be made to capitalize upon existing conflicts between competing black nationalist organizations. When an opportunity is apparent to disrupt or neutralize black nationalist, hate-type organizations through the cooperation of established local news media contacts or through such contact with sources available to the Seat of Government, in every instance careful attention must be given to the proposal to insure the targeted group is disrupted, ridiculed, or discredited through the publicity and not merely publicized. Consideration should be given to techniques to preclude violence-prone or rabble-rouser leaders of hate groups from spreading their philosophy publicly or through various mass communication media.

Many individuals currently active in black nationalist organizations have backgrounds of immorality, subversive activity, and criminal records. Through your investigation of key agitators, you should endeavor to establish their unsavory backgrounds. Be alert to determine evidence of misappropriation of funds or other types of personal misconduct on the part of militant nationalist leaders so any practical or warranted counter-intelligence may be instituted.

Intensified attention under this program should be afforded to the activities of such groups as the

[redacted]. Particular emphasis should be given to extremists who direct the activities and policies of revolutionary or militant groups such as [redacted] and

At this time the Bureau is setting up no requirement for status letters to be periodically submitted under this program. It will be incumbent upon you to insure the program is being afforded necessary and continuing attention and that no opportunities will be overlooked for counterintelligence action.

This program should not be confused with the program entitled "Communist Party, USA, Counterintelligence Program, Internal Security - C," which is directed

Letter to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS

against the Communist Party and related organizations, or the program entitled "Counterintelligence Program, Internal Security, Disruption of Hate Groups," which is directed against Klan and hate-type groups primarily consisting of white memberships.

All Special Agent personnel responsible for the investigation of black nationalist, hate-type organizations and their memberships should be alerted to our counterintelligence interest and each investigative Agent has a responsibility to call to the attention of the counterintelligence coordinator suggestions and possibilities for implementing the program. You are also cautioned that the nature of this new endeavor is such that under no circumstances should the existence of the program be made known outside the Bureau and appropriate within-office security should be afforded to sensitive operations and techniques considered under the program.

No counterintelligence action under this program may be initiated by the field without securing prior Bureau authorization.

You are urged to take an enthusiastic and imaginative approach to this new counterintelligence endeavor and the Bureau will be pleased to entertain any suggestions or techniques you may recommend.

-3-

EXHIBIT 16

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: February 29, 1968

FROM : G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS
RACIAL INTELLIGENCE

PURPOSE:

To expand the Counterintelligence Program designed to neutralize militant black nationalist groups from 23 41 field divisions so as to cover the great majority of black nationalist activity in this country.

BACKGROUND:

By letter dated August 25, 1967, 23 field offices were advised of a new Counterintelligence Program designed to neutralize militant black nationalists and prevent violence on their part. Goals of this program are to prevent the coalition of militant black nationalist groups, prevent the rise of a leader who might unify and electrify these violence-prone elements, prevent these militants from gaining respectability and prevent the growth of these groups among America's youth.

CURRENT DEVELOPMENTS:

In view of the tremendous increase in black nationalist activity, and the approach of summer, this program should be expanded and these goals should be reiterated to the field. Attached airtel also instructs the field to submit periodic progress letters to stimulate thinking in this area.

REC 18

Attached airtel also reminds the field that counterintelligence suggestions to expose these militants or neutralize them must be approved by the Bureau.

8 MAR 11 1968

ACTION:

That attached airtel expanding this program, defining goals and instructing periodic progress letters be submitted be sent Albany and the other listed field offices.

Enclosure

FBI

Date: 3/4/68

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

To: SAC, Albany PERSONAL ATTENTION

From: Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS
RACIAL INTELLIGENCE

Title is changed to substitute Racial Intelligence for Internal Security for Bureau routing purposes.

PERSONAL ATTENTION FOR ALL THE FOLLOWING SACs

2 - Atlanta
2 - Baltimore
2 - Birmingham
2 - Boston
2 - Buffalo
2 - Charlotte
2 - Chicago
2 - Cincinnati
2 - Cleveland
2 - Denver
2 - Detroit
2 - Houston
2 - Indianapolis
2 - Jackson
2 - Jacksonville
2 - Kansas City
2 - Los Angeles
2 - Memphis
2 - Miami
2 - Milwaukee
2 - Minneapolis
2 - Mobile
2 - Newark
2 - New Haven
2 - New Orleans
2 - New York
2 - Omaha
2 - Philadelphia
2 - Phoenix
2 - Pittsburgh
2 - Portland
2 - Richmond
2 - Sacramento
2 - San Diego
2 - San Francisco
2 - Seattle
2 - Springfield
2 - St. Louis
2 - Tampa
2 - WFO

RECEIVED FROM

Airtel to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS

BACKGROUND

By letter dated 8/25/67 the following offices were advised of the beginning of a Counterintelligence Program against militant Black Nationalist-Hate Groups:

Albany	Memphis
Atlanta	Newark
Baltimore	New Orleans
Boston	New York
Buffalo	Philadelphia
Charlotte	Phoenix
Chicago	Pittsburgh
Cincinnati	Richmond
Cleveland	St. Louis
Detroit	San Francisco
Jackson	Washington Field
Los Angeles	

Each of the above offices was to designate a Special Agent to coordinate this program. Replies to this letter indicated an interest in counterintelligence against militant black nationalist groups that foment violence and several offices outlined procedures which had been effective in the past. For example, Washington Field Office had furnished information about a grade school to appropriate authorities in the District of Columbia who investigated to determine if the school conformed to District regulations for private schools. In the process WFO obtained background information on the parents of each pupil.

The a pro-Chinese communist group, was active in Philadelphia, Pa., in the summer of 1967. The Philadelphia Office alerted local police, who then put leaders under close scrutiny. They were arrested on every possible charge until they could no longer make bail. As a result, leaders spent most of the summer in jail and no violence traceable to took place.

The Counterintelligence Program is now being expanded to include all offices. Each of the offices added to this program should designate an Agent familiar with black

Airtel to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS

nationalist activity, and interested in counterintelligence, to coordinate this program. This Agent will be responsible for the periodic progress letters being requested, but each Agent working this type of case should participate in the formulation of counterintelligence operations.

GOALS

For maximum effectiveness of the Counterintelligence Program, and to prevent wasted effort, long-range goals are being set.

1. Prevent the coalition of militant black nationalist groups. In unity there is strength; a truism that is no less valid for all its triteness. An effective coalition of black nationalist groups might be the first step toward a real "Mau Mau" in America, the beginning of a true black revolution.

2. Prevent the rise of a "messiah" who could unify, and electrify, the militant black nationalist movement. might have been such a "messiah;" he is the martyr of the movement today. and all aspire to this position. is less of a threat because of his age. could be a very real contender for this position should he abandon his supposed "obedience" to "white, liberal doctrines" (nonviolence) and embrace black nationalism. has the necessary charisma to be a real threat in this way.

3. Prevent violence on the part of black nationalist groups. This is of primary importance, and is, of course, a goal of our investigative activity; it should also be a goal of the Counterintelligence Program. Through counterintelligence it should be possible to pinpoint potential troublemakers and neutralize them before they exercise their potential for violence.

4. Prevent militant black nationalist groups and leaders from gaining respectability, by discrediting them to three separate segments of the community. The goal of discrediting black nationalists must be handled tactically in three ways. You must discredit these groups and individuals to, first, the responsible Negro community. Second, they must be discredited to the white community,

both the responsible community and to "liberals" who have vestiges of sympathy for militant black nationalist simply because they are Negroes. Third, these groups must be discredited in the eyes of Negro radicals, the followers of the movement. This last area requires entirely different tactics from the first two. Publicity about violent tendencies and radical statements merely enhances black nationalists to the last group; it adds "respectability" in a different way.

5. A final goal should be to prevent the long-range growth of militant black nationalist organizations, especially among youth. Specific tactics to prevent these groups from converting young people must be developed.

Besides these five goals counterintelligence is a valuable part of our regular investigative program as it often produces positive information.

TARGETS

Primary targets of the Counterintelligence Program, Black Nationalist-Hate Groups, should be the most violent and radical groups and their leaders. We should emphasize those leaders and organizations that are nationwide in scope and are most capable of disrupting this country. These targets should include the radical and violence-prone leaders, members, and followers of the:

Offices handling these cases and those of

and of

should be alert for counterintelligence suggestions.

INSTRUCTIONS

Within 30 days of the date of this letter each office should:

1. Advise the Bureau of the identity of the Special Agent assigned to coordinate this program.

SEP 21 19

Airtel to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
-BLACK NATIONALIST-HATE GROUPS

2. Submit a very succinct summary of the black nationalist movement in the field office territory. Include name, number of members and degree of activity of each black nationalist group. Also state your estimate of each group's propensity for violence. This is for target evaluation only, not for record purposes. Second, list Rabble-Rouser Index subjects who are militant black nationalists and any other militant black nationalist leaders who might be future targets of counterintelligence action because of their propensity for violence. Include a minimum of background information on each person listed; a few descriptive sentences should suffice.

3. List those organizations and individuals you consider of such potential danger as to be considered for current counterintelligence action. Briefly justify each target.

4. Submit any suggestion you have for overall counterintelligence action or the administration of this program. Suggestions for action against any specific target should be submitted by separate letter.

5. Submit, by separate letter, suggestions for counterintelligence action against the targets previously listed as field-wide. These should not be general, such as "publicize travel to communist countries," but should be specific as to target, what is to be done, what contacts are to be used, and all other information needed for the Bureau to approve a counterintelligence operation.

Thereafter, on a ninety-day basis, each office is to submit a progress letter summarizing counterintelligence operations proposed during the period, operations effected, and tangible results. Any changes in the overall black nationalist movement should be summarized in this letter. This should include new organizations, new leaders, and any changes in data listed under number two above. Suggestions for counterintelligence operations should not be set out in this progress letter. Use the following captions:

1. Operations Under Consideration, 2. Operations Being Effected, 3. Tangible Results, and 4. Developments of Counterintelligence Interest. These 90-day progress letters are due at the Bureau the first day of March, June, September, and December, excepting March, 1968.

- 5 -

Airtel to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS

The effectiveness of counterintelligence depends on the quality and quantity of positive information available regarding the target and on the imagination and initiative of Agents working the program. The response of the field to the Counterintelligence Program against the Communist Party, USA, indicates that a superb job can be done by the field on counterintelligence.

Counterintelligence operations must be approved by the Bureau. Because of the nature of this program each operation must be designed to protect the Bureau's interest so that there is no possibility of embarrassment to the Bureau. Beyond this the Bureau will give every possible consideration to your proposals.

EXHIBIT 17

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 5/9/68

FROM : C. D. Brennan

SUBJECT: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF THE NEW LEFT

Our Nation is undergoing an era of disruption and violence caused to a large extent by various individuals generally connected with the New Left. Some of these activists urge revolution in America and call for the defeat of the United States in Vietnam. They continually and falsely allege police brutality and do not hesitate to utilize unlawful acts to further their so-called causes. The New Left has on many occasions viciously and scurrilously attacked the Director and the Bureau in an attempt to hamper our investigation of it and to drive us off the college campuses. With this in mind, it is our recommendation that a new Counterintelligence Program be designed to neutralize the New Left and the Key Activists. The Key Activists are those individuals who are the moving forces behind the New Left and on whom we have intensified our investigations.

The purpose of this program is to expose, disrupt and otherwise neutralize the activities of this group and persons connected with it. It is hoped that with this new program their violent and illegal activities may be reduced if not curtailed.

General instructions are being furnished to all offices relating to the purpose and administration of this new program. Briefly, these instructions require all offices to submit an analysis of possible counterintelligence operations on the New Left and on the Key Activists on or before 6/1/68, including any specific recommendations for action. Thereafter, all offices will submit a 90-day status letter setting forth a summary of their accomplishments and future plans. Each office will maintain a pending case and assign experienced

Enclosure

5-10-68

MAY-15

REC-2

MAY 21 1968

(9)
1 -
1 -
1 -
1 -
1 -
1 -

CONTINUED OVER

5

49

Memo to Mr. Sullivan
Re: COUNTERINTELLIGENCE PROGRAM

personnel to this program. All proposed counterintelligence action must be approved at the Seat of Government prior to instituting it. This new program will be supervised at the Seat of Government by a Special Agent supervisor in the Internal Security Section.

RECOMMENDATIONS:

1) That the Domestic Intelligence Division be authorized to immediately initiate a coordinated Counter-intelligence Program directed at exposing, disrupting, and otherwise neutralizing the New Left and Key Activists.

2) That the attached letter setting forth instructions for the administration and immediate enactment of the program be forwarded to all offices.

EXHIBIT 18

SAC, Albany

Director, FBI

COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF THE NEW LEFT
(COINTELPRO - NEW LEFT)

Bulet 5/10/68 requested suggestions for counterintelligence action against the New Left. The replies to the Bureau's request have been analyzed and it is felt that the following suggestions for counterintelligence action can be utilized by all offices:

1. Preparation of a leaflet designed to counteract the impression that Students for a Democratic Society (SDS) and other minority groups speak for the majority of students at universities. The leaflet should contain photographs of New Left leadership at the respective university. Naturally, the most obnoxious pictures should be used.

2. The instigating of or the taking advantage of personal conflicts or animosities existing between New Left leaders.

3. The creating of impressions that certain New Left leaders are informants for the Bureau or other law enforcement agencies.

4. The use of articles from student newspapers and/or the "underground press" to show the depravity of New Left leaders and members. In this connection, articles showing advocation of the use of narcotics and free sex are ideal to send to university officials, wealthy donors, members of the legislature and parents of students who are active in New Left matters.

5. Since the use of marijuana and other narcotics is widespread among members of the New Left, you should be alert to opportunities to have them arrested by local authorities on drug charges. Any information concerning the

2 - All Field Offices

SEP 5 1968

FBI

SEE NOTE PAGE THREE

Letter to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
100-448906

fact that individuals have marijuana or are engaging in a narcotics party should be immediately furnished to local authorities and they should be encouraged to take action.

6. The drawing up of anonymous letters regarding individuals active in the New Left. These letters should set out the activities and should be sent to their parents, neighbors and the parents' employers. This could have the effect of forcing the parents to take action.

7. Anonymous letters or leaflets describing faculty members and graduate assistants in the various institutions of learning who are active in New Left matters. The activities and associations of the individual should be set out. Anonymous mailings should be made to university officials, members of the state legislature, Board of Regents, and to the press. Such letters could be signed "A Concerned Alumni" or "A Concerned Taxpayer."

8. Whenever New Left groups engage in disruptive activities on college campuses, cooperative press contacts should be encouraged to emphasize that the disruptive elements constitute a minority of the students and do not represent the conviction of the majority. The press should demand an immediate student referendum on the issue in question. Inasmuch as the overwhelming majority of students is not active in New Left matters, it is felt that this technique, used in carefully selected cases, could put an end to lengthy demonstrations and could cause embarrassment to New Left elements.

9. There is a definite hostility among SDS and other New Left groups toward the Socialist Workers Party (SWP), the Young Socialist Alliance (YSA), and the Progressive Labor Party (PLP). This hostility should be exploited wherever possible.

10. The field was previously advised that New Left groups are attempting to open coffeehouses near military bases in order to influence members of the Armed Forces. Wherever these coffeehouses are, friendly news media should be alerted to them and their purpose. In addition, various

FBI

Letter to SAC, Albany
RE: COUNTERINTELLIGENCE PROGRAM
100-449698

drugs, such as marijuana, will probably be utilized by individuals running the coffeehouses or frequenting them. Local law enforcement authorities should be promptly advised whenever you receive an indication that this is being done.

11. Consider the use of cartoons, photographs, and anonymous letters which will have the effect of ridiculing the New Left. Ridicule is one of the most potent weapons which we can use against it.

12. Be alert for opportunities to confuse and disrupt New Left activities by misinformation. For example, when events are planned, notification that the event has been cancelled or postponed could be sent to various individuals.

You are reminded that no counterintelligence action is to be taken without Bureau approval. Insure that this program is assigned to an Agent with an excellent knowledge of both New Left groups and individuals. It must be approached with imagination and enthusiasm if it is to be successful.

As an economy measure the caption "COINTELPRO - NEW LEFT" should be used on all communications concerning this Program.

NOTE:

See memo C.D. Brennan to W.C. Sullivan dated 7/3/68, captioned as above, prepared by.

RECEIVED FROM
SEP 5 1968
FBI

EXHIBIT 19-1

DIRECTOR, FBI — DATE: 1/30/70

FROM: SAC, ST. LOUIS

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUP
NEW LEFT
RACIAL INTELLIGENCE

Enclosed for the Bureau are two Xerox copies of a letter prepared by the St. Louis Division.

BACKGROUND

local New Left figure who is an officer in is a local Black activist group whose members have engaged in numerous acts of civil disruption and disobedience, and a leader in the local branch of the which group is active in draft resistance, anti-war rallies, and New Left activity. Husband , remains aloof from her racial and New Left activities and is suspicious of her relationship with the Negro males in

Recently advised that complained about her husband's suspicions and was afraid he might severely restrict her activities. On 1/27/70, reported that had been discreetly inquiring as to whether his wife might be being unfaithful to him by sleeping with Negro males in

RECOMMENDATION

St. Louis proposes to anonymously send a copy of the enclosed letter in commercial envelope, which would confirm Mr. suspicions about his wife. The resulting marital tempest could well result in ACTION losing their

2 - St. Louis
1 -
1

(4)

ENCLOSURE

2

FEB 2 1970

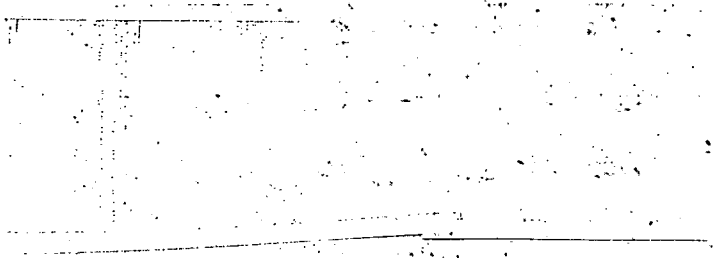
RACIAL INTEL. SECT.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

SL 157-5818

Corresponding Secretary and the _____ losing a valuable leader, thus striking a major blow against both organizations.

Bureau authority is requested to initiate this activity.



Dear Mr.

Look man I guess your old lady doesn't get enough at home or she wouldn't be shacking and jiving with our Black Men in ACTION, you dig? Like all she wants to integrate is the bed room and as Black Sisters ain't gonna take no second best from our men. So lay it on her, man- or get her the hell off Montreal.

A Soul Sister

EXHIBIT 19-2

SAC, St. Louis 2/17/70

REC-126 1603
Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUP
NEW LEFT
RACIAL INTELLIGENCE

Reurlet 1/30/70.

Provided such action will in no way jeopardize , you are authorized to prepare and anonymously mail the letter as suggested in relet.

In making this mailing, take all steps necessary to protect the Bureau as its source.

(5)

NOTE:
Mrs. a white female and New Left figure, is an officer in a local black activist group. She is also a leader of the local branch of the Women's International League for Peace and Freedom. Her husband remains aloof from her racial and New Left activities and is suspicious of her relationship with Negro males in ACTION. Her husband has become suspicious and has complained he may restrict her activities. St. Louis suggests an anonymous letter be sent to Mr. indicating to him that his suspicions are well founded. Such a letter would be purportedly from a Negro female. Since it might result in being restricted from future activity, it is being authorized.

MAILED 4
FEB 17 1970
COMM-FBI

FEB 26 1970

UNITED STATES GOVERNMENT

Memorandum

TO: DIRECTOR, FBI DATE: 6-19-70

FROM: SAC, ST. LOUIS

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE

The following information is submitted regarding the counterintelligence activities (Black Extremists) by the St. Louis Division in the past 90 days.

1. OPERATIONS UNDER CONSIDERATION

None

2. OPERATIONS BEING EFFECTED

None

3. TANGIBLE RESULTS

By letter dated 2-17-70, the Bureau authorized the anonymous mailing of a letter from a "soul sister" to the husband of She is an officer in ACTION, a bi-racial Black Extremist group. The letter accused her of infidelity.

On 6-12-70, advised that and her husband had recently separated, following a series of marital arguments. has taken an apartment during this separation, which might become a permanent arrangement. This matrimonial stress and strain should cause her to function much less effectively in ACTION.

While the letter sent by the St. Louis Division was probably not the sole cause of this separation, it certainly contributed very strongly.

Exempt from GDS, Category 2
Date of Declassification Indefinite
11/6/75

4. DEVELOPMENTS OF COUNTERINTELLIGENCE INTEREST

Factionalism has developed within the organization called Black Nationalism. When the best way to capitalize on this friction is determined, separate Bureau authority will be requested for such a counterintelligence operation.

3 - Bureau (RM) 100-436161
2 - St. Louis

REC-109

EXHIBIT 20-1

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 8/26/66

FROM : SAC,

SUBJECT: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS
RM (KLAN)

The following letter is being submitted to the Bureau for their consideration concerning counterintelligence action against , Grand Dragon of the UKA, Realm. The information in this letter would be mailed to and three other selected klan leaders in . The communication would be typed on plain paper in an amateurish fashion and mailed from , the situs of klan activity in .

Copies of this communication being furnished Charlotte for the purpose of their posing any objections they feel warranted.

The letter reads as follows and would be mailed to 's wife, Mrs.

"My Dear Mrs.

"I write this letter to you only after a long period of praying to God. I must cleanse my soul of these thoughts. I certainly do not want to create problems inside a family but I owe a duty to the klans and its principles as well as to my own menfolk who have cast their divine lot with the klans.

"Your husband came to about a year ago and my menfolk blindly followed his leadership, believing him to be the saviour of this country. They never believed the

2-Bureau (REGIS. MAIL)

REC-48

AUG 29

RH 157-846

"stories that he stole money from the klans in or that he is now making over $25,000 a year. They never believed the stories that your house in has a new refrigerator, washer, dryer and yet one year ago, was threadbare. They refuse to believe that your husband now owns three cars and a truck, including that new white car. But I believe all these things and I can forgive them for a man wants to do for his family in the best way he can.

"I don't have any of these things and I don't grudge you any of them neither. But your husband has been committing the greatest of the sins of our Lord for many years. He has taken the flesh of another unto himself.

"Yes, Mrs. , he has been committing adultery. My menfolk say they don't believe this but I think they do. I feel like crying. I saw her with my own eyes. They call her Ruby. Her last name is something like and she lives in the 700 block of Street in . I know this. I saw her strut around at a rally with her lust-filled eyes and smart aleck figure.

"I cannot stand for this. I will not let my husband and two brothers stand side by side with your husband and this woman in the glorious robes of the klan. I am typing this because I am going to send copys to Mr. and some of the klans leaders that I have faith in. I will not stop until your husband is driven from and back into the flesh-pots from wherein he came.

"I am a loyal klanswoman and a good churchgoer. I feel this problem affects the future of our great country. I hope I do not cause you harm by this and if you believe in the Good Book as I do, you may soon receive your husband back into the fold. I pray for you and your beautiful little children and only wish I could tell you who I am. I will soon, but I am afraid my own men would be harmed if I do.

"A God-fearing klanswoman"

EXHIBIT 20-2

SAC, 9/8/66

Director, FBI

REC-128

EX-104

254

Reurlet 9/6/66 recommending an anonymous letter be forwarded to Mrs. , wife of the Grand Dragon of the United Klans of America, Realm, exposing the immoral activity of her husband.

Authority is granted for you to prepare and mail your proposed anonymous letter to Mrs. . The letter should be prepared on inexpensive, commercially purchased stationery, using a manual typewriter, and should include a liberal number of grammatical and typing errors. It should be posted from . Carbon copies of the letter should be forwarded from , to [illegible] and three other selected Klan leaders who reside in .

Advise the Bureau of any tangible results of this action and be alert to recommend follow-up counterintelligence action.

(5)

NOTE: , the key Klan leader in where Klan activity has recently increased, has been advocating a program of violence against FBI Agents. The anonymous letter, which will be sent to his wife who resides in , points out the high living and immorality of . The letter will be forwarded to United Klans of America Imperial Wizard in an effort to discredit in the eyes of his leader.

MAILED 3
SEP 8 - 1966
COMM-FBI

SEP 13 1966

EXHIBIT 21

1 -
1 -

SAC, Baltimore

Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE (BLACK PANTHER PARTY)
(BUDED 12/2/68)

For the information of recipient offices a serious struggle is taking place between the Black Panther Party (BPP) and the US organization. The struggle has reached such proportions that it is taking on the aura of gang warfare with attendant threats of murder and reprisals.

In order to fully capitalize upon BPP and US differences as well as to exploit all avenues of creating further dissension in the ranks of the BPP, recipient offices are instructed to submit imaginative and hard-hitting counterintelligence measures aimed at crippling the BPP.

Commencing December 2, 1968, and every two-week period thereafter, each office is instructed to submit a letter under this caption containing counterintelligence measures aimed against the BPP. The bi-weekly letter should also contain accomplishments obtained during the previous two-week period under captioned program.

All counterintelligence actions must be approved at the Bureau prior to taking steps to implement them.

2 - Boston
2 - Chicago
2 - Cleveland
2 - Denver
2 - Indianapolis
2 - Los Angeles
2 - Newark
2 - New York
2 - Omaha
2 - Sacramento
2 - San Diego
2 - San Francisco
2 - Seattle

MAILED 2
NOV 25 1968
COMM-FBI

MAIL ROOM

Letter to SAC, Baltimore
RE: COUNTERINTELLIGENCE PROGRAM
100-448006

NOTE:

See memorandum G. C. Moore to Mr. W. C. Sullivan captioned as above, dated 11/22/68, prepared by

66-077 O - 76 - 27

EXHIBIT 22

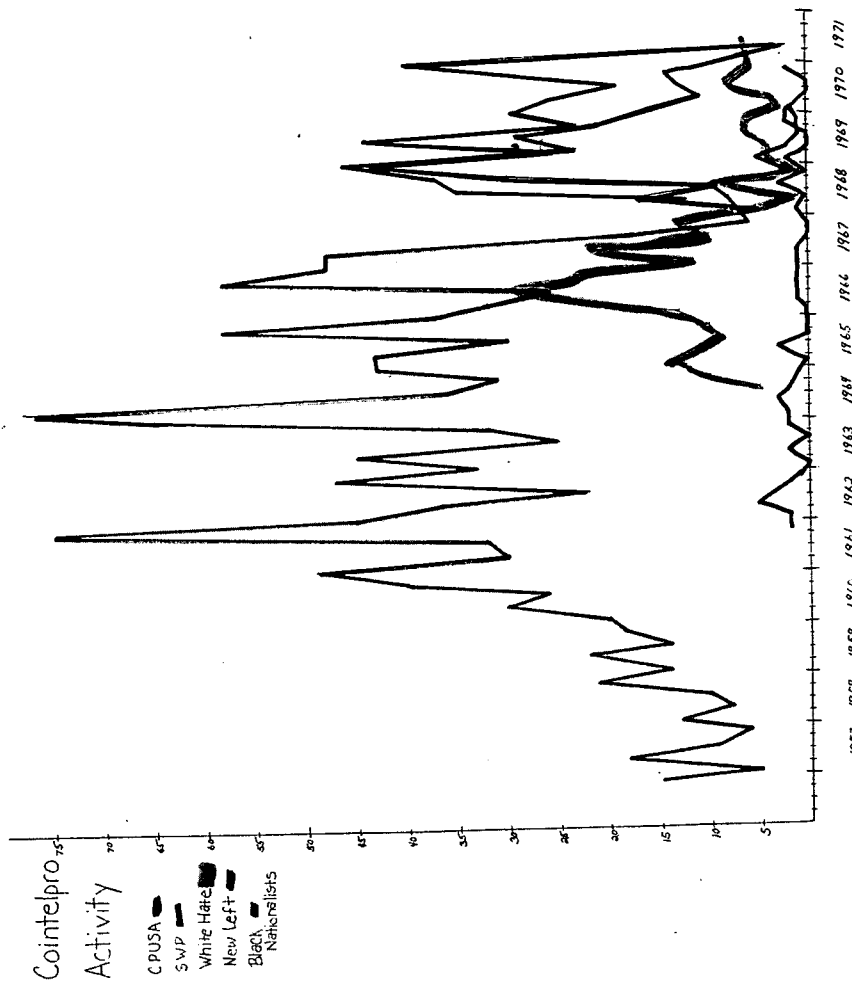

Cointelpro
Activity
CPUSA
SWP
White Hate
New Left
Black Nationalists
75
70
65
60
55
50
45
40
35
30
25
20
15
10
5
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971

EXHIBIT 23

SECRET AND CONFIDENTIAL December 6, 1939

SAC ATLANTA	DES MOINES	LOUISVILLE	PORTLAND	
BIRMINGHAM	DETROIT	MEMPHIS	RICHMOND	
BOSTON	EL PASO	MIAMI	SALT LAKE CITY	
BUFFALO	GRAND RAPIDS	MILWAUKEE	SAN ANTONIO	
BUTTE	HONOLULU	NEWARK	SAN DIEGO	
CANAL ZONE	HUNTINGTON	NEW ORLEANS	SAN FRANCISCO	
CHARLOTTE	INDIANAPOLIS	NEW YORK	SAN JUAN	
CHICAGO	JUNEAU	OKLAHOMA CITY	SEATTLE	
CINCINNATI	KANSAS CITY	OMAHA	SIOUX FALLS	
CLEVELAND	KNOXVILLE	PHILADELPHIA	SPRINGFIELD	
DALLAS	LITTLE ROCK	PHOENIX	ST. LOUIS	
DENVER	LOS ANGELES	PITTSBURGH	ST. PAUL	
			WASHINGTON, D. C.	

RE: INTERNAL SECURITY

Dear Sir:

The Bureau is, at the present time, preparing a list of individuals, both aliens and citizens of the United States, on whom there is information available to indicate that their presence at liberty in this country in time of war or national emergency would be dangerous to the public peace and the safety of the United States Government. The information now available relative to these individuals is, however, incomplete in most instances and it will be necessary to obtain additional information relative to the affiliations, business interests, activities, present address, age, and citizenship status of each.

The Bureau will, therefore, in the near future commence referring cases to you by letter, requesting an appropriate confidential investigation to develop from confidential sources and in a discreet manner the necessary information to enable the rendering of a decision as to the action to be taken relative to the individuals concerned in the event of the outbreak of hostilities between the United States Government and any other nation or nations.

It will be incumbent upon you to initiate the appropriate investigation immediately upon receipt of the letters referred to, and to issue appropriate instructions to the employees assigned to your Field Division to make certain the fact that the Bureau is making such investigations does not become known to individuals outside of the Bureau.

U. S. DEPARTMENT OF JUSTICE

You are advised that it will be necessary, in all instances, to definitely determine whether the individual about whom inquiry is being made is a citizen of the United States or an alien and, if an alien, it should be determined, if possible, whether he has taken out his first papers unless the letter from the Bureau clearly

FILED FROM SEP 6 19

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

FBI

reflects that his citizenship status is known. This information is essential in each case because in time of war alien enemies are placed in a status differing entirely from that of citizens of the United States, and the cases would be handled differently.

With reference to the investigation to be conducted, as previously stated, the purpose should be entirely confidential and it should be handled in the same manner as any investigation for the purpose of determining if the individual involved has violated the Registration Act or is engaged in subversive activities. The color of authority under which these matters are handled is, of course, the Registration Act and, if necessary, inquiries as to the reason for the investigation should be answered by reference to the Registration Act requiring agents of foreign principals to register with the State Department. It is pointed out, however, that the classification "Registration Act" still exists and investigations conducted under that classification should not be confused with those conducted under the classification "Internal Security."

It is believed that most of the information necessary about each individual may be obtained from sources already known to the Bureau, such as public and private records, confidential sources of information, confidential informants, newspaper morgues, public libraries, employment records, school records, et cetera but in cases where these sources are unavailing, the investigation must be complete but confidential. It will be necessary for you to supervise the investigation of these cases very carefully to make certain that complete information is obtained because, obviously, a decision cannot be rendered as to the action to be taken in each case unless full and complete information, upon which a decision can be based, is made available.

You should ascertain the present home and business address of the subject and all information which would indicate the advisability of including him on the list referred to, such as current or past activities, affiliation with organizations engaged in activities in behalf of a foreign nation, participation in dangerous subversive movements, advocacy of the overthrow of Government by force and violence, et cetera. It is deemed inadvisable to set forth specific rules as to the investigation to be conducted in all of these cases because the facts will differ in each case, but if you will bear in mind the purpose for which these investigations are being conducted, it is believed that little difficulty should be experienced in determining what investigation is to be made in each case.

The title of the case should reflect the name of the subject and all aliases, and when it has been definitely determined that he is an alien, the word "alien" should follow the name. Example - John Doe - Alien. When the status of the subject is determined at a time subsequent to the initial report, the title should be marked "changed" and the word "alien" added. If the subject becomes a citizen subsequent to the initial report, the title of the next report submitted should be marked "changed" to show the dropping of the word "alien" therefrom. The character of the case is in all instances, as previously indicated, "Internal Security."

RECEIVED - DIVISION
SEP 26 1975
FBI

For your information, in cases where it is indicated that the individual may be an alien, a check will be made with the Bureau of Immigration and Naturalization to determine if naturalization papers have been issued before the case is referred to the Field for investigation. If, however, information is developed during the course of the investigation which indicates the possibility of the subject being an alien and a check has not been made by the Bureau, a lead may be directed to the Washington Field Office to check the records of the Bureau of Immigration and Naturalization.

These cases have been assigned Classification

Very truly yours,

J. Edgar Hoover

John Edgar Hoover
Director

RECEIVED FROM
SEP 26 1975
FBI

EXHIBIT 24

Office of the Attorney General
Washington, D.C.

July 16, 1943

MEMORANDUM FOR
HUGH B. COX, ASSISTANT ATTORNEY GENERAL
AND
J. EDGAR HOOVER, DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

I refer to Mr. memorandum to me dated June 28, 1943, which reviews the history, development, and meaning of the Special Case work and of the danger classifications that were made as a part of that work.

After full re-consideration of these individual danger classifications, I am satisfied that they serve no useful purpose. The detention of alien enemies is being dealt with under the procedures established by the Alien Enemy Control Unit. The Special Case procedure has been found to be valueless and is not used in that connection. There is no statutory authorization or other present justification for keeping a "custodial detention" list of citizens. The Department fulfills its proper functions by investigating the activities of persons who may have violated the law. It is not aided in this work by classifying persons as to dangerousness.

Apart from these general considerations, it is now clear to me that this classification system is inherently unreliable. The evidence used for the purpose of making the classifications was inadequate; the standards applied to the evidence for the purpose of making the classifications were defective; and finally, the notion that it is possible to make a valid determination as to how dangerous a person is in the abstract and without reference to time, environment, and other relevant circumstances, is impractical, unwise, and dangerous.

EIVED FROM
S 2
61

For the foregoing reasons I am satisfied that the adoption of this classification system was a mistake that should be rectified for the future. Accordingly, I direct that the classifications heretofore made should not be regarded as classifications of dangerousness or as a

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI .

determination of fact in any sense. In the future, they should not be used for any purpose whatsoever. Questions raised as to the status or activities of a particular person should be disposed of by consideration of all available information, but without reference to any classification heretofore made.

A copy of this memorandum should be placed in the file of each person who has hitherto been given a classification. In addition, each card upon which a classification appears should be stamped with the following language:

"THIS CLASSIFICATION IS UNRELIABLE. IT IS HEREBY CANCELLED, AND SHOULD NOT BE USED AS A DETERMINATION OF DANGEROUSNESS OR OF ANY OTHER FACT. (SEE MEMORANDUM OF JULY 16, 1943 FROM THE ATTORNEY GENERAL TO HUGH B. COX AND J. EDGAR HOOVER)."

Attorney General

RECEIVED FROM
SEP 26 1975
FBI

EXHIBIT 25

PERSONAL ATTENTION
STRICTLY CONFIDENTIAL

NO. 336
SERIES 1943

August 14, 1943

SAC	ALBANY	DETROIT	MEMPHIS	PROVIDENCE
	ATLANTA	EL PASO	MIAMI	RICHMOND
	BALTIMORE	GRAND RAPIDS	MILWAUKEE	ST. LOUIS
	BIRMINGHAM	HONOLULU	NEWARK	ST. PAUL
	BOSTON	HOUSTON	NEW HAVEN	SALT LAKE CITY
	BUFFALO	HUNTINGTON	NEW ORLEANS	SAN ANTONIO
	BUTTE	INDIANAPOLIS	NEW YORK	SAN DIEGO
	CHARLOTTE	JACKSON	NORFOLK	SAN FRANCISCO
	CHICAGO	JUNEAU	OKLAHOMA CITY	SAN JUAN
	CINCINNATI	KANSAS CITY	OMAHA	SAVANNAH
	CLEVELAND	KNOXVILLE	PHILADELPHIA	SEATTLE
	DALLAS	LITTLE ROCK	PHOENIX	SIOUX FALLS
	DENVER	LOS ANGELES	PITTSBURGH	SPRINGFIELD
	DES MOINES	LOUISVILLE	PORTLAND	WASHINGTON, D. C.
				QUANTICO

Re: DANGEROUSNESS CLASSIFICATION
CHANGE OF CHARACTER
CUSTODIAL DETENTION

Effective immediately, the character of investigations of individuals (other than alien enemies) who may be dangerous or potentially dangerous to the public safety or internal security of the United States shall be "Security Matter" and not "Custodial Detention." The phraseology, "Custodial Detention," shall no longer be used to designate the character of any investigation, nor shall it be used for any purpose in reports or other communications. Investigations involving organizations or "key figures" in the Communist Party will continue to bear the character, "Internal Security," as in the past, but the dual character of "Custodial Detention" will be eliminated.

Henceforth, the cards previously known as Custodial Detention Cards will be known and referred to as Security Index Cards, and the list composed of such cards will be known as the Security Index.

For your information, the Attorney General, on July 16, 1943, ordered that the dangerousness classifications previously made by the Special Defense Unit and its successor, the Special War Policies Unit, be not used in the future for any purpose whatsoever.

The Bureau will continue to investigate dangerous and potentially dangerous other than alien enemies under the characters of Security matter and Internal Security. It will also continue to prepare and maintain Security Index cards. The fact that the Security Index and Security Index cards are prepared and maintained should be considered as strictly confi-

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the permission of the FBI.

tial, and should at no time be mentioned or alluded to in investigative reports. or discussed with agencies or individuals outside the Bureau other than duly qualified representa tives of the Office of Naval Intelligence and the Military Intelligence Service, and then only on a strictly confidential basis.

A revised Section of the National Defense Manual to replace the current Section 16 is being prepared and will be available in the immediate future. It is desired that you discuss the contents of this letter with all investigative personnel under your supervision.

Very truly yours,

J. Edgar Hoover

John Edgar Hoover
Director

RECEIVED FROM
SEP 26 1975
FBI

EXHIBIT 26-1

Office Memorandum • UNITED STATES GOVERNMENT

TO : THE DIRECTOR

DATE: November 13, 195

FROM : D. M. LADD

SUBJECT: PROGRAM FOR APPREHENSION AND DETENTION OF PERSONS CONSIDERED POTENTIALLY DANGEROUS TO THE NATIONAL DEFENSE AND PUBLIC SAFETY OF THE UNITED STATES

SYNOPSIS:

At a staff meeting on November 6, 1952, Deputy Attorney General Malone brought up a memorandum from the Bureau which inquired as to whether the "Security Portfolio" still controls our activities in the event of a national emergency. At the meeting it was decided that you and Mr. Murray would look into the matter to see whether any changes should be effected.

Our entire Security Index program and our plans for the detention of dangerous individuals in the time of an emergency have been set up in compliance with instructions furnished to the Bureau in a plan drawn up by the Department and furnished to the Bureau on August 3, 1948. After the passage of the Internal Security Act of 1950 on September 23, 1950, the Bureau felt that the Department would have to make a decision as to whether we should continue our plans to operate under the Department's Portfolio or to change our plans in order to meet the provisions of the Internal Security Act of 1950. This Act differs from the Department's Portfolio on several major points among which are the following:

(1) It does not provide for suspension of the Writ of Habeas Corpus.

(2) It is more restrictive in the standards set up for determining who shall be apprehended.

(3) It does not provide for apprehension of dangerous individuals at a time of threatened invasion.

(4) It provides for apprehension under individual warrants obtained only upon probable cause supported by oath or affirmation.

(5) It apparently does not provide for searches or confiscation of contraband.

(6) It provides that preliminary hearings are to be held within 48 hours or as soon thereafter

RECORDED - 65

NOV 19 1952

21

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

as provision for such hearings may be made.

(7) It appears that the rules of evidence shall apply under the Act.

(8) Persons apprehended shall be entitled to judicial review in the courts.

The Bureau can discharge its responsibilities more effectively under our present plan than under the Internal Security Act. In view of the differences it is imperative that we have a definite commitment from the Department as to whether the Department will follow its own Portfolio or the provisions of the Internal Security Act. Since the passage of the Internal Security Act, the Department has consistently hedged on whether the Act can be ignored completely and the Bureau can proceed under the plans set forth in the Department's Portfolio.

The memorandum brought to your attention by Mr. Malone was our memorandum to the Attorney General dated October 15, 1952, which requested advice in this matter. It is not deemed advisable that the Bureau make recommendations to the Department concerning this matter inasmuch as the highly controversial question involving the suspension of the Writ of Habeas Corpus is included in the Department's Portfolio. Also, in the event the Department elects to proceed under the Internal Security Act in addition to revising all of our plans many people whom we feel constitute a danger to the internal security of the country will be dropped from our Security Index in view of the more limited provisions for apprehension set forth in the Internal Security Act of 1950.

Nonetheless in view of the questions which will be raised as to the necessity of the Department proceeding under a plan of its own device contrary to an existing law, it is not felt we should make any recommendations to the Department with respect to this matter since the decision is one which is solely the responsibility of the Department to make. There is attached a letter to Deputy Attorney General Malone requesting an early decision in view of the urgency of this matter.

PURPOSE:

To set forth the differences between the Department's plan for the apprehension of dangerous individuals in the time of an emergency as contrasted with Title II of the Internal Security Act of 1950, and to advise you regarding the status

EVED FROM
SEP 26 1975
FBI

of our request that the Department make a decision as to whether we will proceed under the Department's plan or under the provisions of the Internal Security Act in the event of an emergency.

DETAILS:

In your memorandum of November 6, 1952, recording the Advisory Staff Meeting which took place on that date in the Attorney General's Office you advised that Mr. Malone brought up a memorandum which the Bureau directed to him inquiring as to whether the "Security Portfolio" still controls our activity in the event of a national emergency. At the meeting it was decided that you and Mr. Murray would look into the matter to see whether there should be any changes effected. You stated that you would like to be advised as to the status of this matter together with a memorandum to Mr. Malone as to our views.

As early as March 8, 1946, you suggested to the Attorney General that he might desire to initiate a study to determine what legislation was available or what should be sought to authorize effective action of a general and precautionary nature in the event of a serious emergency. After your original memorandum to the Attorney General on March 8, 1946, regarding this matter, we continued to follow the Department.

After a number of conferences held between Bureau representatives with Department attorneys they drew up a plan with complete instructions from the Attorney General to the Bureau, a proposed Presidential Proclamation and a proposed Joint Resolution to be passed by Congress in support of the President's Proclamation. This plan is generally referred to as the Department's Portfolio. There are only three copies of this plan in existence. The Bureau has two, one maintained at the Seat of Government and one in the Omaha Field Division, and the Attorney General maintains the third copy. The Portfolio was submitted to the Bureau by the Department on August 3, 1948. Since that time our entire planning and operational procedure to apprehend individuals contained in our Security Index has been based on the Department's Portfolio and not upon the detention provisions of Title II of the Internal Security Act of 1950, which became law on September 23, 1950.

At the time the Department's Portfolio was furnished to the Bureau on August 3, 1948, there was no law in existence

RECEIVED FBI
SEP 26 1915
FBI

which provided for the detention of dangerous individuals at the time of an emergency. After the passage of the Internal Security Act of 1950, which did provide for such action, the Bureau felt the Department would have to make a decision as to whether we should continue our plans to operate under the Department's Portfolio or to change our plans in order to meet the provisions of the Internal Security Act of 1950.

Major Differences Between the Department's Portfolio and the Internal Security Act of 1950

The reason that it is imperative that the Department make this decision is because of the differences between the Department's Portfolio under which we are now operating and the provisions of Title II of the Internal Security Act of 1950. Some of the major points of difference are:

(1) Under the Department's Portfolio the Writ of Habeas Corpus will be suspended. The Internal Security Act of 1950 does not provide for the suspension of the Writ of Habeas Corpus.

(2) The current standards we use in determining the names of individuals to be placed in the Security Index are based on the provisions for apprehension in time of an emergency as set forth in the Department's Portfolio. The provisions set forth in the Internal Security Act of 1950 for the detention of dangerous individuals in time of an emergency are more restricted than those contained in the Department's Portfolio. Basically, the Internal Security Act of 1950 provides for the detention of individuals who have been active in subversive organizations since January 1, 1949. Under the provisions contained in the Department's Portfolio we have included in our Security Index individuals who have not been known to be actively engaged in any subversive activities subsequent to January 1, 1949 but were active previous to that date.

(3) The Portfolio provides for apprehension of dangerous individuals at a time of threatened invasion. The Internal Security Act of 1950 restricts this to actual invasion, insurrection or declaration of war.

(4) The Portfolio provides for the apprehension of all subjects in the Security Index at the time of an emergency under one master warrant of arrest executed by the Attorney General. Under the Act apprehension

RECEIVED FBI
SEP 26 1975
FBI

of subjects will be effected by individual warrants obtained only upon probable cause supported by oath or affirmation.

(5) The Portfolio provides for searches and confiscation of contraband, whereas, the Act apparently does not contain such provisions.

(6) The Portfolio provides that hearings are to be held within 45 days after the apprehension of the subjects, whereas, the Act provides that preliminary hearings will be held within 48 hours or as soon thereafter as provision for such hearings may be made.

(7) Under the Portfolio the Boards of Review to be set up to hear the cases shall not be bound by the rules of evidence. It appears that the rules of evidence shall apply under the Internal Security Act.

(8) Under the Portfolio persons apprehended will have the right of appeal only to the President. Under the Act they shall be entitled to judicial review in any U. S. Court of Appeals.

There is no question but that the Bureau could discharge its responsibilities much more effectively under the Department's Portfolio than under the Internal Security Act of 1950. As can be seen by the major points of difference between the Portfolio and the Act, it is imperative that we know as soon as possible in the event the Department decides that it will be necessary to follow the provisions of the Internal Security Act. Our entire planning and procedure relative to preparation for an emergency has been directed by the instructions contained in the Department's Portfolio. Our planning has been set up in detail for action to be taken in accordance with the Portfolio. We cannot afford to wait until an emergency is upon us and then have the Department decide that we would have to move against dangerous subversives under the Internal Security Act of 1950 rather than under the Department's Portfolio. Should this occur our entire operation would break down inasmuch as it would mean that our entire procedure would have to be altered.

Correspondence With and Advice Received From the Department Concerning This Matter

RECEIVED
SEP 25 1975
FBI

It was with these facts in mind that we called this

matter to the Department's attention at the time of the passage of the Internal Security Act of 1950. On September 25, 1950, we directed a memorandum to the Attorney General requesting to be advised whether the detention provisions of Title II of the Internal Security Act of 1950 would affect the detention plans previously prepared by the Department. We also requested that the Attorney General advise whether he contemplated making any changes in the program as previously planned by the Department.

At a conference between yourself and former Attorney General J. Howard McGrath on the morning of September 27, 1950, he informed you that he had received a memorandum from the Bureau inquiring as to whether the Internal Security Act of 1950 affected in any way the Department's detention program under which the Bureau had been working in conjunction with the Department. Mr. McGrath advised you that he did not believe that the passage of the bill should in any way interfere with the Department's detention program and that he desired the Bureau to proceed with the program as outlined in the Department's Portfolio. By memorandum dated October 9, 1950, Mr. James M. McInerney, former Assistant Attorney General in charge of the Criminal Division, replied to our memorandum. He stated that Title II of the Internal Security Act of 1950 undoubtedly is in conflict with the Department's proposed detention program. He said that if Title II remains in effect at such time as initiation of the program becomes necessary, appropriate provisions for its repeal will be introduced in Congress along with the proposed joint resolution inasmuch as the Internal Security Act of 1950 as enacted contains many provisions which would be unworkable in the event of an emergency or outbreak of hostilities and that it was not anticipated that Title II will permanently supersede the Department's Portfolio.

In response to an inquiry by the Bureau of December 5, 1950, as to the progress made by the Department in reviewing our Security Index cases, Deputy Attorney General Peyton Ford advised on December 7, 1950, that "in the event of occurrence of an emergency which requires the use of the detention program, all of the persons now or hereafter included by the Bureau on the Security Index should be considered subjects for immediate apprehension thus resolving any possible doubtful cases in favor of the Government in the interests of the national security."

RECEIVED FROM
SEP 26 1975
FBI

At the concluding session of the U. S. Attorneys' Conference on May 25, 1951, which was attended by Mr. Belmont, Mr. Raymond P. Whearty of the Department outlined the detention provisions of the Internal Security Act of 1950. At that time he pointed out that the Act is unwieldly and unworkable.

On May 31, 1951, Mr. Whearty, in conference with Mr. Belmont and Section Chief Baumgardner, orally advised that the standards being drawn up by the Department at that time for persons to be apprehended in an emergency were to be based principally on the Internal Security Act of 1950 but that leeway had been added to the standards specified by the Act to include persons we have on our Security Index who will meet the requirements of the Act. He stated that the Department does not consider the detention provisions of the Internal Security Act of 1950 as workable and will continue to operate under the Emergency Detention Program as drawn up by the Department.

On March 14, 1952, Mr. Whearty was informed in conference with Mr. Belmont and Mr. Baumgardner that it was apparent that the Department was attempting to interpret the provisions of the Internal Security Act of 1950 through the drawing up of the Department's proposed standards for individuals to be included in the Security Index to bring them within the provisions of the Internal Security Act. Mr. Whearty was informed that from the Bureau's standpoint it would appear that the Department is hedging on its previous stand that apprehensions would be made under the Emergency Detention Program of the Department rather than the Internal Security Act of 1950 and any attempt to bring the Department's program within the provisions of the Internal Security Act would require extremely broad interpretation of the Act. He was advised that our position is that we must be ready from an operative standpoint to implement the apprehension program under clear authority from the Attorney General and there can be no question of doubt as to whether we are operating under standards specifically authorized by the Attorney General. It was pointed out that the broad interpretation by the Department of the provisions of the Act may not stand up in the event the apprehension program is launched under the Act and that the Department's interpretation of the Act is a matter of opinion and not of fact. At this conference Mr. Whearty stated that it is the definite intent of the Department to proceed under its program rather than under the Internal Security Act of 1950. He said that if an emergency occurs, the Presidential Proclamation

RECEIVED
SEP 26 1975
FBI

will be issued and brought immediately before Congress for ratification. He said that at that time, if it has not been accomplished before that time, repeal of the Act will be sought in order that the Department's program can be instituted. He stated that at that time the unworkability of the Act will again be brought to the attention of Congress.

On July 9, 1952, at which time Mr. Belmont and Mr. Hennrich were in conference with Mr. McInerney of the Department regarding getting approval by the Department of the standards used by us for placing persons in the Security Index and having them review our Security Index cases, Mr. McInerney stated that the Department had already given the Bureau written authority to apprehend anyone on the Security Index pending the Department's decision with regard to the standards. The Bureau representatives insisted on the Attorney General's specific approval of the standards under which we are operating, inasmuch as we are an investigative agency, and the policy as to whom should be apprehended under any detention program must rest with the Attorney General.

From time to time the Department, while maintaining that the plan as set forth in the Department's Portfolio will be used in the event of an emergency, has intimated that the Internal Security Act of 1950 cannot be ignored. The Department last brought this fact to the Bureau's attention in a memorandum dated October 8, 1952, which stated in part that while it is contemplated that in the event of war other legislation relating to the apprehension and detention of potentially dangerous persons will be speedily sought, nonetheless so long as the standard provided in the Internal Security Act of 1950 remains the guiding legislative principle for apprehension and detention of potentially dangerous individuals, the Department must consider this standard in reviewing the files of individuals who may be subject to apprehension and detention.

We replied to this memorandum in a letter to the Attorney General dated October 15, 1952, and pointed out, among other things, that all authority for our Security Index program including all preparations and plans made by the Bureau to effect the apprehensions are based solely upon the planning and instructions contained in the Department's Portfolio. We requested, in order that there will be a complete understanding, that the Attorney General give us his assurance at this time that he intends to proceed in an emergency under the program as outlined in the Department's Portfolio and that the standards to be used are those we are now using. We requested advice of

ECE
FBI

66-077 O - 76 - 28

the Attorney General as to whether he is in agreement with the Bureau's concepts of the detention program and Security Index standards as outlined in our memorandum to Mr. Peyton Ford dated June 28, 1951. The memorandum of October 15, 1952, is the memorandum which Mr. Malone brought up at the staff meeting in the Attorney General's Office on November 6, 1952.

OBSERVATION:

All of our plans for an emergency, which are extensive, in connection with the detention of dangerous individuals in time of an emergency are based upon instructions contained in the Department's Portfolio. There are contained among the 19,577 individuals listed in our Security Index the names of many persons whom we consider dangerous but who do not fall within the standards set forth in the Internal Security Act of 1950. If the Department should elect to proceed under this Act it would mean that in revising our plans many people who are now included in our Security Index as potentially dangerous to the internal security would necessarily have to be excluded therefrom.

The fact that the Internal Security Act of 1950 does not provide for suspension of the Writ of Habeas Corpus would prove a definite hindrance to the execution of necessary measures to be taken in the event of an emergency because of lengthy litigation which would no doubt result and presents the possibility that dangerous individuals might obtain release from confinement pending hearings in their cases. The Department's Portfolio provides that these persons shall be continued in detention until their cases are decided by the Boards of Review.

The lack of provision in the Act for measures to be taken in the event of threatened invasion precludes the President from taking action against potentially dangerous persons prior to an actual invasion, insurrection or declaration of war.

The provision in the Act for apprehension of subjects by individual warrants is a factor which would be a detrimental, time-consuming procedure as compared to the use of one master warrant of arrest for all subjects apprehended as provided in the Department's Portfolio.

RECEIVED FROM
SEP 26 1975
FBI

The apparent lack of provision in the Act for searches and for confiscation of contraband would be a definite deterrent to our operations in that we would be unable to search the headquarters of subversive organizations as well as premises of dangerous individuals for contraband. Such contraband would, under the Act, apparently be left in the control and custody of persons who could use it against the interests of the Government.

The provision in the Act that preliminary hearings are to be held within 48 hours after the subjects' apprehension or as soon thereafter as provisions for such hearings may be made could place a restrictive time element upon the Government which would interfere with our apprehension efforts.

The fact that subjects apprehended under the Act would have the right of appeal to the courts and since it appears that the rules of evidence would apply creates another obstacle in the Government's way in that in order to obtain continued detention of persons considered dangerous we may, in many instances, have to disclose the identities of our informants and confidential techniques. This, of course, would be a fatal blow to our subsequent efforts to maintain coverage of subversive activities during the emergency.

While, for the reasons outlined above, I firmly believe that the internal security of the country could best be protected in the time of an emergency if we proceed under the plans set forth in the Department's Portfolio, I do not believe that it is desirable that the Bureau go on record with recommendations to the Department concerning this matter. The Department's Portfolio contains a plan for the suspension of the Writ of Habeas Corpus which without question will be a highly controversial subject and will undoubtedly cause considerable debate in the event it is ever openly proposed. Other questions will be raised as to why it is necessary to proceed under a plan devised by the Department of Justice when there is a law on the statute books which ostensibly covers the purpose for which the Department's plan was set up to handle. A decision as to procedure in the event of an emergency is clearly the responsibility of the Department. The Department's Portfolio has been devised by the Department and we have operated under those instructions to date. Any decision as to a method of operation whether it be under the Department's Portfolio or under the Internal Security Act of 1950 is clearly a matter to be decided by the Attorney General because it is concerned with high Government policy.

Obviously the Department does not want to be placed in a position of having stated that it is not going to pay attention to the Internal Security Act of 1950. They have hedged in this matter in the past and it is to our interest that we receive from them a positive expression of approval of our concepts of the Emergency Detention Program and our concepts of the standards for including individuals in the Security Index which is tantamount to scheduling these persons for apprehension. I believe that we should continue to call for a positive statement from the Department and that we should under no circumstances make any commitments regarding the desirability of proceeding under the Emergency Detention Program or under the Internal Security Act of 1950.

ACTION:

If you agree, there is attached hereto a memorandum to Deputy Attorney General Ross L. Malone, Jr., stating our position and requesting that the Bureau be advised of the Department's decision in this matter.

While I have sent memo forward I do think we are hedging in mind at least I am on record as to what is best for the internal security of the country then leaving it to AG to decide with this & other

11-14

RECEIVED FROM
SEP 26 1975
FBI

- 11 -

EXHIBIT 26-2

Office Memorandum • UNITED

TO : The Director, Federal Bureau of Investigation DATE: November 25, 1952

FROM : The Attorney General

SUBJECT: PROGRAM FOR APPREHENSION AND DETENTION OF PERSONS CONSIDERED POTENTIALLY DANGEROUS TO THE NATIONAL DEFENSE AND PUBLIC SAFETY OF THE UNITED STATES.

Reference is made to my memorandum of October 8, 1952, approving the standards used by your Bureau for the listing of names of individuals in the Security Index, and to your subsequent memorandum of October 15.

Pursuant to the questions which you have raised in the latter memorandum, I wish to assure you that it is the Department's intention in the event of emergency to proceed under the program as outlined in the Department's Portfolio invoking the standards now used. This approval, of course, indicates agreement with your Bureau's concepts of the Detention Program and the Security Index standards as outlined in your memorandum of June 28, 1951, to former Deputy Attorney General .

RECEIVED FROM
SEP 26 1975
FBI

EXHIBIT 27

TO : Director, Federal Bureau of Investigation DATE: September

FROM : J. Walter Yeagley, Assistant Attorney General
Internal Security Division

SUBJECT: NATION OF ISLAM
INTERNAL SECURITY - NOI

CONFIDENTIAL

This is in reply to your memorandum to the Attorney General dated September 9, 1960, inquiring about the possibility of prosecutive action against the leaders or designation of the captioned organization under provisions of Executive Order No. 10450.

The available evidence concerning the activities of the leaders and members of this organization falls far short of the evidentiary requirements sufficient to meet the standards set forth in the Yates decision. While the leaders of the NOI at times resort to the use of virulent and vicious language which would incite the members to individual acts of violence against the white race, it is more calculated and designed to arouse hatred and antipathy against the white race as a race, rather than against the Government. There is evidence of language which speaks of the destruction of America, but is couched more in terms of prophecy and prediction, often referring to the "War of Armageddon," than in terms of incitement to action. Moreover, the First Amendment would require something more than language of prophecy and prediction and implied threats against the Government to establish the existence of a clear and present danger to the nation and its citizens.

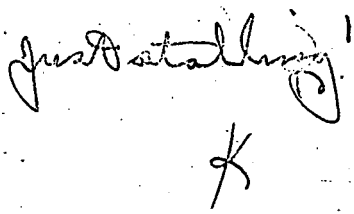
Regarding designation of the NOI pursuant to the provision of Executive Order 10450, it is our opinion that hate-language employed by the organization's leaders is not probative of the criteria of "subversive" nor is it sufficient to establish the NOI to be an organization ". . . seeking to alter the form of government by unconstitutional means." Although there is substantial evidence of NOI's advocacy of future violent reprisals for alleged wrongs committed against one or more of its members, the evidence is insufficient at this time to meet the criterion that it has adopted a policy of advocating or approving the commission of such acts of violence to deny others their constitutional rights.

REC- 30

11 SEP 26 1960

CONFIDENTIAL

Review and evaluation of the information furnished by the Bureau is being continued with a view toward prosecution or designation. Moreover, because of the semi-secret and violent nature of this organization, and the continuing tendency on the part of some of its leaders to use language of implied threats against the Government, it is requested that the Bureau continue its investigation of the Nation of Islam and its leaders.



CONFIDENTIAL

EXHIBIT 28

1 - [illegible]

[illegible], Chicago 1/30/69

Director, FBI

[illegible]
BLACKSTONE RANGERS - RACIAL MATTERS
RACIAL MATTERS
BLACK PANTHER PARTY

Reurlet 1/13/69.

Authority is granted to mail anonymous letter to [illegible] as suggested in reurlet, in case of the First Presbyterian Church, 6400 South Kimbark, Chicago, Illinois.

Utilize a commercially purchased envelope for this letter and insure that the mailing is not traced to the source.

Advise the Bureau of any results obtained by the above mailing.

WDL:mas
(4)

NOTE:

JAN 29 1969 COMM-FBI

[illegible] is the leader of the Blackstone Rangers, a black extremist organization. Chicago advises that so long as Fort continues as the leader of the Rangers, a working arrangement between the BPP and the Rangers may be effected on Ranger terms. Chicago has recommended the anonymous mailing of the following letter in anticipation that its receipt by [illegible] will intensify the degree of animosity existing between these two black extremist organizations:

"Brother [illegible]

"I've spent some time with some Panther friends on the west side lately and I know what's been going on. The Brothers that run the Panthers blame you for blocking

NOTE CONTINUED PAGE 431

FEB 11 1969 [illegible] FIELD OFFICE UNIT

Letter to SAC, Chicago
Re: COUNTERINTELLIGENCE [illegible]
BLACK NATIONALIST - [illegible]

NOTE CONTINUED:

their thing and there's supposed to be a hit out for you. I'm not a Panther, or a Ranger, just Black. From what I see these Panthers are out for themselves not black people. I think you ought to know what their up to, I know what I'd do if I was you. You might hear from me again."

"A black brother you don't know"

EXHIBIT 29

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI DATE: 1/13/69

FROM : SAC, CHICAGO

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(BLACK PANTHER PARTY) (BPP)

Re Bureau letter, 1/6/69; Chicago letter, 12/16/68; and Chicago airtel and LHM, 1/7/69.

The first two of the above communications were captioned as above, the latter under the BPP caption.

In the Chicago letter of December 16, 1968, a suggestion was made that an anonymous mailing be sent leader of the Blackstone Rangers, advising of BPP efforts to discredit him, and in effect to "take over" the Rangers. As events have subsequently developed, as set forth in referenced Chicago airtel and LHM, the Rangers and the BPP have not only not been able to form any alliance, but enmity and distrust have arisen, to the point where each have been ordered to stay out of the others territory. The BPP has since decided to conduct no activity or attempt to do any recruiting in Ranger territory.

It appears therefore that the letter as originally intended at this point would serve no useful purpose. The end in view appears to have been very quickly arrived at, in great measure by virtue of the inherent inability of two such volatile and power conscious groups to derogate any of their status or assumed authority to the other.

From information recently received, it appears, however, that the BPP has not entirely abandoned all hope of utilizing the Rangers for their own purposes. Some feeling has been evident that may not continue indefinitely in his position of leadership with the Rangers, most probably a reference to various criminal charges facing him. It is clear, however, that so long as he is in this position, any working arrangement between the two groups will be on Ranger terms.

2 - Bureau (RM)
2 - Chicago
(1 - (BPP)

REC 11

12 JAN 16 1969

(4) FROM

SEP 16 1965

FBI

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

CG

Consequently, Chicago now recommends the following letter be sent handwritten, on plain paper:

"Brother

"I've spent some time with some Panther friends on the west side lately and I know what's been going on. The brothers that run the Panthers blame you for blocking their thing and there's supposed to be a hit out for you. I'm not a Panther, or a Ranger, just black. From what I see these Panthers are out for themselves not black people. I think you ought to know what their up to, I know what I'd do if I was you. You might hear from me again."

"A black brother you don't know"

The above would be sent to in care of the First Presbyterian Church, 6401 South Kimbark, the widely publicized headquarters of the Rangers.

It is believed the above may intensify the degree of animosity between the two groups and occasion to take retaliatory action which could disrupt the BPP or lead to reprisals against its leadership.

Consideration has been given to a similar letter to the BPP, alleging a Ranger plot against the BPP leadership, however, it is not felt this would be productive, principally since the BPP at present is not believed as violence-prone as the Rangers, to whom violent type activity, shooting, and the like, are second nature. There is also the possibility that if a future contact between the two were to take place, and it became apparent that both had received such communications, then an outside interest would be somewhat obvious.

Chicago will take no action regarding the above, pending Bureau authorization.

SEP 16 1975

FBI

EXHIBIT 30-1

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 6/3/68

RECEIVED FBI

FROM : SAC, CINCINNATI (P)

SEP 5 1968

SUBJECT: COUNTERINTELLIGENCE PROGRAM
IS - DISRUPTION OF THE NEW LEFT

Re Bulet to Albany, 5/10/68.

All SA personnel responsible for the investigation of the New Left and Key Activists in the Cincinnati Division have been alerted to the Bureau's Counterintelligence plans relating to these groups and individuals.

Detailed analysis of potential Counterintelligence action against New Left organizations and key figures in the Cincinnati Division has been initiated with the following results:

Primary areas of New Left activity in the Cincinnati Division territory are Antioch College, Yellow Springs, Ohio; Ohio State University (OSU), Columbus, Ohio; and through the Cincinnati Committee To End the War in Vietnam and Cincinnati Action for Peace at Cincinnati, Ohio.

ANTIOCH COLLEGE
YELLOW SPRINGS, OHIO

The center for New Left activity in the Cincinnati Division area is believed to be Antioch College, Yellow Springs, Ohio, and the community of Yellow Springs itself. For a number of years individuals from the college and the town have been a part of the New Left vanguard.

MCT

Antioch was among the first colleges to have a CP, USA speaker on campus shortly after the party started this program. Other speakers have appeared on campus on behalf

(2) 1-20?
2 - Bureau (RM)
2 - Cincinnati

REC 5

(4)

12 JUN 7 1968

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

RECEIVED FROM
SEP 8 1975
FBI

CI

of the Socialist Workers Party (SWP), Young Socialist Alliance (YSA), Fair Play For Cuba Committee (FPCC), Students For A Democratic Society (SDS), as well as Black Power. Antioch students organized a draft resistance protest group following SDS leadership. This group led a demonstration at Cincinnati, Ohio, on 12/7/67, during which large numbers of participants brazenly defied law and order, resulting in the arrest of over 85 of their number, and causing the disruption of the orderly activities of the city for several days. In other protest-type demonstrations of a national character, Antioch and Yellow Springs have been represented by numbers exceeding their enrollment and population.

Antioch is a small, privately endowed liberal arts and science college, with a total average enrollment of about 1,800. Yellow Springs, home of the college, is a village of about 4,200 people, 18 miles east of Dayton, Ohio, on Highway 42.

Antioch College is operated on a co-operative basis. Students attend college for three months, after which they leave the campus to work at one of a large number of agencies and companies which cooperate with Antioch in this program. The student body is purposely diverse. In 1964 - 1965, students came from 49 states, Washington, D.C., and 18 foreign countries. The current president of Antioch is JAMES PAYSON DIXON, JR., born 3/15/17, at Portsmouth, New Hampshire. He is a medical doctor, receiving his degree in 1939 from Harvard, and in 1943 an M.S. degree at Columbia. He interned at Boston City Hospital during 1944, and for the most part since that time has held administrative-type positions. He has been connected with the Rockefeller Foundation. He served from surgeon to medical director, U.S. Public Health Service, 1952 to 1954, and was a member of the National Advisory Council in 1960. He has been president of Antioch College since 1959.

As an example of DIXON's attitude, during 1967, two Antioch College students were arrested attempting to smuggle marijuana into the U.S. On public disclosure of these facts, DIXON held a convocation at the college during which as a medical doctor, he attacked narcotics control laws in general, and challenged the idea that use of marijuana was harmful.

RECEIVED FROM
SEP » 1975
FBI

CI .

Antioch prides itself greatly on a "highly intellectual" and "academic, scholarly environment."

Actually the campus is most often run by a small group of militants that are permitted by college authorities to attack every segment of American society under the semblance of being "highly intellectual."

Anyone visiting the campus doubts its "academic, scholarly environment" because of the dirty anti-social appearance, and behavior of a large number of students can be seen to have the fullest "beatnik image."

Yellow Springs follows the lead of Antioch. It has an overabundance of self-declared "intellectuals," whose morals and habits are also anti-social.

The college and Yellow Springs have been virtually sealed off from scrutiny by others. Students demonstrate, and the college newspaper protests the appearance on campus of a representative of any investigative agency or military agency. Local newspaper editorializes against any logical support or police agencies.

RECOMMENDATION:

Cincinnati recommends that Counterintelligence action be taken to expose the pseudo intellectual image of Antioch by the following:

1. Review files at Cincinnati to identify 30 to 40 former students who were militant campus leaders.

2. Set out leads to other offices to discreetly determine the achievement of these individuals since leaving Antioch.

3. Continuing this method, identify a significant number who have attended Antioch, and have a low achievement record as shown by public source material.

4. Furnish results to "Cincinnati Enquirer," a newspaper of

RECEIVED FROM
SEP 5 1975
FBI

CI

general circulation at Cincinnati, Ohio. is also an SAC contact. Agreement would be made with to use this material in n article questioning whether Antioch is in fact "highly inte lectual" and whether students are actually receiving a quality education there.

Following publishing of the article, give wide anonym us circulation of copies to parents of current students identified from student directories. Also circulate copies of the article to members of the Board of Directors of Antioch and to the personnel directors of all businesses that are a part of the Antioch co-op plan.

DESIRED RESULT OF ACTION:

Force Antioch to defend itself as an educational institution. Force attention on activities on the Antioch campus by the parents who are sending their children to the college for an education. Force the Antioch administrators to curtail the activities of those students who spend most of their time engaging in anti-social activity, protest demonstrations, and affiliation with subversive groups.

Cincinnati will take no action on this recommendation until it has been reviewed at the Bureau, and authorization is received.

EXHIBIT 30-2

RECEIVED FROM
SEP 5 1968
FBI

SAC, Cincinnati

6/13/68

Director, FBI

1 -
1 -

REC-52

COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF THE NEW LEFT

Reurlet 6/3/68.

Authority is granted for you to discreetly determine the present whereabouts and accomplishments of individuals who were militant leaders during their college days at Antioch. After this has been determined, you should submit the material which you wish to furnish friendly news media to the Bureau for approval.

MAILED 24
JUN 18 1968
COMM-FBI

(6)

NOTE:

Bulet 5/10/68 instructed all offices to submit suggestions regarding potential counterintelligence action against the New Left. CI Office suggested that it do a study on former militant students leaders who are now no longer in college to determine whether these students have

12 5 1968

NOTE CONTINUED PAGE TWO

RECEIVED FROM
SEP 5 1975
FBI

Letter to SAC, Cincinnati
RE: COUNTERINTELLIGENCE PROGRAM

NOTE CONTINUED:

done better than ordinary students. If, as a group, their achievements are low, CI proposes that this information be furnished to friendly news media.

EXHIBIT 31-1

Airtel

To: SACs, Newark
San Francisco

RFC-57

From: Director, FBI

COINTELPRO - BLACK EXTREMIST
RACIAL MATTERS

Re Airtel 11/6/70.

The Bureau cannot authorize the treating of fruit to be shipped to Jersey City, New Jersey, because of the lack of control over the treated fruit in transit.

However, Newark's proposed telegram regarding food collected for the Revolutionary People's Constitutional Convention has merit.

San Francisco's observations are requested concerning this proposal.

NOTE:

Newark suggested counterintelligence operation to cause confusion, distrust, and suspicion within the BPP by indicating in a telegram allegedly from BPP headquarters that some food collected from the Revolutionary People's Constitutional Convention had been poisoned and should be destroyed. It suggested that the Laboratory treat food using a mild laxative and that the food be shipped to BPP headquarters in Jersey City, New Jersey.

RECEIVED FBI

1970

TELETYPE UNIT

EXHIBIT 31-2

Use the following in _____ (Type in plaintext or code)

AIRTEL _____ (Priority)

TO: DIRECTOR, FBI

FROM: SAC, NEWARK

SUBJ: COINTELPRO -
BLACK EXTREMIST
RM

The following counterintelligence proposal is submitted for consideration.

It is proposed that a telegram be sent from Oakland, California to the Jersey City, NJ, BPP Headquarters, 93 Summit Ave., (and to all BPP Headquarters). The text of the telegram should read similar to the following:

"Word received food donated to Party by anti-Liberation white pigs contains poison. Symptoms cramps, diarrhea, severe stomach pain. Destroy all food donated for convention suspected of poison, however, still required you meet quota."

"Ministry of Information"

It is suggested that the Bureau then consider having the Laboratory treat fruit such as oranges with a mild laxative-type drug by hypodermic needle or other appropriate method, and ship fruit as a donation from a fictitious person in Miami, Florida, to Jersey City headquarters.

2-Bureau (RM)
1-San Francisco (INFO)(RM)
1-MFO (INFO)
4-Newark

(1-S-2 DESK)

(5)

REC 57 EX-105

Approved: _____ Sent _____ M _____
Special Agent in Charge

U. S. GOVERNMENT PRINTING OFFICE

This plan will at first cause confusion and suspicion within the BPP and will cause a time-consuming search for the sender of the telegram. Even after Oakland denies sending the telegram, some BPP members will fear poisoning by donated food and the Jersey City Headquarters will be hardpressed to make sure donated food is not poisoned. When some Jersey City members react to the laxative and suspect poisoning, Oakland will suspect that someone at Jersey City is a spy since obviously some foreknowledge of the event was present at Jersey City but not at Oakland. Confusion, intra-BPP distrust and hunger at the upcoming convention would be the results. It is noted the Jersey City Headquarters has been given some responsibility for food collection in connection with the convention.

2

RECEIVED FROM
SEP 9 1969
FBI

EXHIBIT 32

THE DIRECTOR

CLYDE TOLSON

EXECUTIVES CONFERENCE

In attendance at the Conference on 8-26-71 were Messrs. Mohr, Sullivan, Bland (for Bishop), Cooper, Cleveland, Conrad, Gale, Kendrick (for Walters), Miller (for Bowden), Mintz (for Dalbey), Rosen, Shaw (for Bowman), Soyars, Tavel, Walsh (for Callahan) and Felt.

Pursuant to your instructions, members of the Conference were briefed concerning recent attempts by various newspapers and reporters to obtain information about or from FBI personnel. Members were specifically advised that there should be absolutely no conversations with or answers of any sort to representatives of the Washington Post, New York Times, Los Angeles Times, Columbia Broadcasting System, and National Broadcasting Company. The only acceptable answer to such inquiries is "No Comment."

It was emphasized that these instructions applied equally to the field and to telephonic conversations with the field concerning cases likely to result in press inquiries, precautionary reminders concerning the above representatives of the news media should be given.

For information.

REC-24

(4)

1 -

ST-103

5 SEP 3 1971

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the contents may not be disclosed to unauthorized personnel without the express approval of the FBI.

7-SEP 0 1971

EXHIBIT 33

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116395 November 25, 1975

U. S. SENATE SELECT COMMITTEE TO STUDY
GOVERNMENTAL OPERATIONS WITH RESPECT
TO INTELLIGENCE ACTIVITIES (SSC)

RE: REQUEST FOR INFORMATION CONCERNING
THIS BUREAU'S OPERATION OF INFORMANTS
IN THE INTERNAL SECURITY FIELD

Reference is made to SSC letter dated November 7, 1975, requesting a memorandum on this Bureau's operation of informants in the internal security field.

An informant, according to the dictionary, is "one who gives information." In light of this definition, it is clear that very few persons, if any, have not at one time or another been informants. To give information is an inseparable part of life. To give accurate, sound and helpful information for a worthy cause is to make one's life more useful and valuable to society.

Informants of the FBI are persons who furnish necessary and vital information--information which is used as a means of attaining justice. Informants clear the innocent as well as convict the guilty. They serve of their own free will. None are forced. Informants are as old as the human race. Their use is international. History is studded with many and varied examples of the uses of informants. No government or organized society has been without them.

Informants provide one of the best and most complete forms of coverage to the law enforcement officer. Sometimes they are the only means of penetrating subversive or extremist organizations. Informants are valuable because they obtain information more directly and thus save time and money; they are useful in checking on the accuracy of information from other informants and have been used to help develop other informants; they give a better understanding of the motives, objectives and intentions of subjects which allows law enforcement to plan its investigative operations; they prevent or minimize damage to property and injury to law enforcement officers and innocent persons; they further the development of independent evidence to corroborate informants' testimony or alleviate the need for informants' testimony and they become witnesses when necessary.

U. S. SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES (SSC)

The development of informants is one of the most difficult, unique and specialized assignments. Despite the obstacles encountered in informant development, Bureau Agents have met and are continuing to meet with steady and remarkable successes. They regularly demonstrate vision, daring and commendable resourcefulness in this work. The Bureau today we believe has the best informant coverage in its history.

When information is received or developed that a person has background qualifications indicative of informant potential, in an area where coverage is needed, a case is opened. Office and Headquarters indices are reviewed and other logical discreet checks are made, including canvass of logical sources, to preliminarily establish the individual's background, reliability, stability and integrity. If the preliminary checks are favorable, the individual would be interviewed to establish a personal assessment by a Special Agent as to the person's qualifications, potential, and willingness to assist this Bureau. If the interview is positive, additional background investigation is conducted to establish the person's reliability, stability, and integrity. Upon satisfactory completion of this investigation, the individual begins a development period with the handling Agent and after establishing a proven record of reliability, stability and productiveness, becomes a Headquarters approved informant.

The Bureau's informants, particularly in the internal security field, have many restrictions imposed upon their relationship with the Bureau. For example, they are impressed with the confidential nature of their relationship with the FBI, that their actions are strictly voluntary and that they are not employees. If they are connected in any way with a labor union, they are informed that the Bureau is not interested in an employee-employer relationship or if connected with an institution of learning, they are specifically advised that the Bureau is not interested in the legitimate activities of educational institutions. In particular, all informants are instructed to avoid knowledge of defense plans and strategy or discussion thereof with attorneys, subjects or other individuals in any prosecution arising from intelligence or criminal investigations. In the event an informant is unable to avoid obtaining such information, this information

is not to be reported to the FBI. A signed statement, if possible, is obtained from each informant so that the informant is aware of the Bureau's position in these matters. (A copy of the signed statement appears herein as Attachment number one.)

From the time Special Agents enter New Agent's Class they are indoctrinated and trained in the legal aspects of the Bureau's work as well as the scope and limits of their authority. The Manual of Rules and Regulations specifically addresses the conduct of Special Agents in their investigative duties. (See Manual of Rules and Regulations Attachment number two.) Training continues in their offices of assignment, each office having a Legal Officer available for training, consultation and guidance. Frequent, extensive In-Service retraining programs further bolster the Special Agents' knowledge and utilization of the law in the conduct of their official duties. Specifically, informant development and handling are extensively discussed in the FBI's training programs and there is no question as to Special Agents being aware that informants cannot be directed to perform a function that the Special Agent may not legally perform. Special Agents are particularly reminded of the need to be alert to plants, potential agent provocateurs to be used against law enforcement in a variety of ways, so as to avoid unfounded allegations of impropriety which may jeopardize investigations or prosecutions as well as result in highly publicized contrived incidents reflecting adversely on law enforcement.

Many of our informants furnish needed and valuable information on a gratuitous basis. Many are also paid for their services. Payments to informants are one of the most highly supervised areas within Bureau operations. When a payment is made to an informant, the handling Agent must make a realistic determination as to the value of the services performed by the informant. Established Bureau procedure requires that payments made to informants, upon recommendation of handling Agent and approval of appropriate supervisory personnel, originate from the office Field Support Account and are drawn from this account by check made out to the handling Agent for the amount authorized. The handling

Agent cashes the check at a local bank and then pays the informant the authorized amount in cash for which a receipt is received from the informant and maintained in FBI files. Although there is no overall memorandum of instruction or document dealing with cost effectiveness as it relates to informants, this factor is considered by the Special Agent handling the informant, his supervisor, and the Special Agent in Charge. [Payments to informants for services are made commensurate with the value of information furnished and for actual expenses incurred in connection with obtaining information for the FBI.] Recommendations concerning payments to informants on a regular basis receive careful consideration at Headquarters level. After analysis and comparison with payments currently being made to other informants operated under similar circumstances and providing similar-type information, authority is extended at Headquarters to pay informants for services and expenses within prescribed limits. When payments are authorized by Headquarters, it is the personal responsibility of each Special Agent in Charge to definitely assure that full value is being received. His review is on an individual basis wherein he evaluates the information received and the amount being recommended by the handling Agent for payment for this specific information. Additionally, instructions provide that each Special Agent in Charge is to insure that all pending informant files are reviewed personally by appropriate supervisory personnel on a regular periodic basis not to exceed a period of 60 days. This review includes, but is not limited to, assurance that full value has been received for all payments made to informants. Also the entire informant program is subject to annual review by our Inspection Staff which physically examines informant files to assure that they are being handled properly and that payments are being made commensurate with the value of information received.

[In addition to the above controls and restrictions, information furnished from informants is constantly sifted, analyzed, recorded and disseminated.] The information is verified where possible through other sources and individual investigation. A system of checks is constantly involved to prevent an informant from producing erroneous information by accident or design.

Concerning warrants, a warrant requirement for the use of informants appears impractical and may be unconstitutional. It is impractical because probable cause usually is not available when the informant technique is initiated and the submission of an affidavit in application for a warrant would increase the hazard of exposure of the informant's identity. Such a limitation might be unconstitutional because it would limit the First Amendment rights of the informant to communicate with the Government. Existing legal restrictions require guided informants to recognize the same legal limitations as would be applicable, in the same circumstances, to those directing the informants. An informant can legally do no more than an Agent is permitted to do.

The Bureau in the domestic intelligence area has under investigation organizations, most of which have numerous districts, regions, offices, sections, chapters and clubs. These organizations and their subdivisions total over 1100, which receive investigative attention to some extent. These investigations are afforded coverage by less than 1100 internal security informants. It must be recognized, however, that there are other individuals who are in various stages of development in this field. Concerning payments, one-half of one percent (.5%) of the Bureau's budget (fiscal 1975) was utilized to pay all types of security informants including those in the foreign counterintelligence field.

As noted, the Bureau's utilization of informants involves a high degree of care and supervision. It is a specific Bureau policy that an informant may only be targeted against individuals or organizations of investigative interest to the FBI. It must be recognized, however, informants furnish a wealth of related information which comes to their attention during the course of their assigned duties. While operating against assigned targets, the associations necessary to maintain credibility may lead to information concerning proposed or actual bombings, arsons, violent demonstrations, assassination plots, a variety of criminal activities and even location of fugitives. They also serve as listening posts in high crime and violence-prone areas and have contributed information directly responsible for the arrests of 176 persons during fiscal year 1975. Of this number, 61 individuals were arrested by FBI Agents and 47 FBI fugitives were located and

apprehended. Additionally the FBI located 442 persons and other federal agencies located 21 individuals. Local and state law enforcement authorities located 94 persons. During the same time frame, internal security informants provided information which led directly to the recovery of property valued at approximately one-half million dollars. It must be further recognized that a warrant requirement for use of informants would virtually eliminate access of law enforcement to this collateral information resulting in many crimes going unsolved or not prevented.

The FBI believes the elements of close supervision, restraint, latitude and judgment are essential in an informant program and it is further believed that the proper balance of these elements is being utilized by the FBI successfully in the operation of informants in the security field.

Enclosures - 2

FD-480 (7-11-75)

ATTACHMENT NO. 1

I, _____, have voluntarily agreed to cooperate with the Federal Bureau of Investigation in a matter affecting the security of the United States. I consider it a patriotic duty to so cooperate and agree to maintain this relationship in strict confidence. I understand that I am not a Federal employee and will not represent myself as such. I further agree not to make any disclosure or exploit in any way information which I may obtain or any activity in which I may engage on behalf of the Federal Bureau of Investigation, both while I am actively associated with the Federal Bureau of Investigation and thereafter, unless authorized to do so by the Bureau. Also, I have been instructed and understand that, consistent with the necessity to maintain the confidentiality of my relationship with the FBI, I should avoid knowledge of defense plans or strategy, or discussion thereof, with attorneys, subjects, or other individuals in any prosecution arising from intelligence or criminal investigations. In the event that I am unable to avoid such discussion or obtaining such information, I will not report it to the FBI.

(Signed) _____

Witnessed: _____

SECTION 1. CONDUCT AND ACTIVITIES OF EMPLOYEES

ATTACHMENT NO. 2

3. Illegal Activities

Illegal activities on the part of any employee, in addition to being unlawful, reflect on the integrity of the FBI and betray the trust and confidence placed in it by the American people. Furthermore, unlawful activities can disqualify him for employment by the Government of the United States. It is, therefore, expected that employees will obey not only the letter of the law but the spirit of the law as well whether they be engaged in transactions of a personal or official nature. With respect to investigative activities, this admonition particularly applies to entrapment or the use of any other improper, illegal, or unethical tactics in the procurement of evidence. In this regard, it should be especially noted that, in securing information concerning mail matter, the Bureau will not tolerate a violation of law (Title 18, USC, §§ 1702, 1703, 1708, and 1709). Furthermore, employees must not tamper with, interfere with, or open mail in violation of law nor aid, abet or condone the opening of mail illegally by any employee of the U. S. Postal Service.

As members of a Federal investigative agency, FBI employees must at all times zealously guard and defend the rights and liberties guaranteed to all individuals by the Constitution. Therefore, FBI employees must not engage in any investigative activity which could abridge in any way the rights guaranteed to a citizen of the United States by the Constitution and under no circumstances shall employees of the FBI engage in any conduct which may result in defaming the character, reputation, integrity, or dignity of any citizen or organization of citizens of the United States.

Employees must not install secret telephone systems or microphones without Bureau authority.

No brutality, physical violence, duress or intimidation of individuals by our employees will be countenanced nor will force be used greater than that necessary to effect arrest or for self-defense.

EXHIBIT 34

FRANKLIN D. ROOSEVELT LIBRARY

Official File 10-B, Box 14

5/21/40 Memorandum For J. Edgar Hoover, from Stephen Early, Secretary to the President

"Dear Mr. Hoover:

On May 18th, at the President's suggestion, I forwarded to you a number of telegrams which came to him following the delivery of his address on the subject of national defense before the joint session of the Congress. As the telegrams all were more or less in opposition to national defense, the President thought you might like to look them over, noting the names and addresses of the senders.

The attached telegrams are forwarded to you for the same reason. Will you please return them to this office when you have finished with them."

"Enclosure" [Numerous telegrams opposing the President's request for additional defense.]

5/18/40 Memorandum for J. Edgar Hoover, from Stephen Early, Secretary to the President

"I am sending you, at the President's direction, a number of telegrams he has received since the delivery of his address on the subject of national defense before the joint session of the Congress yesterday. These telegrams are all more or less in opposition to national defense.

"It was the President's idea that you might like to go over these, noting the names and addresses of the senders.

" When you have done this will you kindly return the original messages to the White House."

5/21/40 "Memorandum for S.T. E."

"Here are some more telegrams to send to Edgar Hoover.

F. D. R."

[Attached is the following, mimeographed:]

"May 23, 1940

"Memorandum for Honorable J. Edgar Hoover:

The President asked me to show the attached telegrams to you.

Rudolph Forster
Executive Clerk

Telegrams from the following protesting armament defense program, etc: [list of 30 names and addresses]

5/29/40 "Respectfully referred to Honorable J. Edgar Hoover....

Stephen Early, Secretary to the President

[5 names and addresses]

5/31/40 [Mimeographed -- 38 names and cities] [Library reference]

"The following people sent telegrams to the President more or less in opposition to national defense as presented by President to the Congress 5/16/40. The telegrams were referred to J. Edgar Hoover, FBI, 5/18/40 for his information and were returned 5/25/40 with comment, and reports."

5/31/40 [same -- 35 names]

5/31/40 [same -- 41 names]

5/31/40 [same -- 17 names]

8/20/40 Personal and Confidential J. Edgar Hoover to Earl
By Special Messenger

"I am returning herewith various telegrams forwarded by you during the months of May and June which were received by the President in response to his radio address on the matter of the nation's defense.

"The contents thereof have been noted with interest, and I desire to thank you for forwarding these telegrams to me for the information of this Bureau."

6/12/40 "Memorandum for General Watson

Will you prepare a nice letter to Edgar Hoover thanking him for all the reports on investigations he has made and tell him I appreciate the fine job he is doing.

F.D.R."

6/14/40 "Dear Edgar:

I have intended writing you for some time to thank you for the many interesting and valuable reports that you have made to me regarding the fast moving situations of the last few months.

"You have done and are doing a wonderful job, and I want you to know of my gratification and appreciation."

6/17/50 "Memorandum for J. Edgar Hoover

The attached telegrams are referred to you for your information.

Stephen Early, Secretary to the President"

[36 telegrams expressing approval of Col. Lindbergh's address]

EXHIBIT 35-1

Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.

January 11, 1946

PERSONAL AND CONFIDENTIAL

Brigadier General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General Vaughan:

I wanted to inform the President and you of a report that the United People's Action Committee of Philadelphia, Pennsylvania, has agreed with two other organizations in Philadelphia to "march on" the Capitol in Washington, D. C., and to take part in a mass demonstration in Washington on January 17, 1946. The purpose of these activities is to agitate for the passage of a bill establishing a permanent Fair Employment Practice Committee.

The other two organizations involved are the Bi-Partisan Committee for a FEPC and the Philadelphia Chapter of the National Association for the Advancement of Colored People. It might be noted that the United People's Action Committee is reported to have Communist influence in it.

With regard to the agitation for the passage of a bill establishing a permanent Fair Employment Practice Committee, information has been received from various parts of the country where the Communist Party is active, that Communist elements are actively engaged in agitating pressure campaigns to have such a bill enacted.

In the event additional pertinent details are received in this regard, they will be brought to the President's and your attention.

With assurances of my highest esteem and best regards,

Sincerely yours,

J. Edgar Hoover

66-077 O - 76 - 30

EXHIBIT 35-2

JOHN EDGAR HOOVER
DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.
January 17, 1946

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

Brigadier General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General:

I wanted to furnish the President and you with information which I have received that a delegation of the National Association for the Advancement of Colored People plans to visit the White House on January 18, 1946, for the purpose of presenting ideas and requests to the President.

It is said that the delegation will be composed of persons attending a national meeting of the National Association for the Advancement of Colored People in Washington, D. C., on January 17 and 18, 1946. The meeting is scheduled to discuss the establishment of a permanent Fair Employment Practices Committee and methods of obtaining additional recognition of Negro war veterans. In at least one area information has been received that Communist elements are interested in attending the national meeting and desire to send a delegate to it.

In the event additional pertinent details are received in this regard, I shall bring them to the President's and your attention.

With expressions of my highest esteem and best regards,

Sincerely yours,

J. Edgar Hoover

EXHIBIT 35-3

OFFICE OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

OFFICE OF GEORGE E. ALLEN RECEIVED MAY 31 1946

May 29, 1946

PERSONAL AND CONFIDENTIAL

SPECIAL MESSENGER

Honorable George E. Allen
Director
Reconstruction Finance Corporation
Washington, D. C.

Dear George:

I wanted to inform the President and you of the following information received from a reliable source concerning a meeting held by the Philadelphia Chapter of the Independent Citizens Committee of the Arts, Sciences and Professions and the Philadelphia Citizens Political Action Committee at the Academy of Music in Philadelphia on May 26, 1946.

It is reported that Benjamin Papell, Executive Secretary of the Philadelphia Chapter of the Independent Citizens Committee of the Arts, Sciences and Professions, originally desired to have A. F. Whitney as speaker for this meeting but that Senator Claude Pepper was subsequently chosen as the speaker. Papell is alleged to have edited the speech of Senator Pepper made at the meeting. Papell is alleged to be closely affiliated with the Communist Party.

At the meeting in question, it is reported that Senator Pepper stated that the stubborn attitude of management and of the Government was at fault in the railroad strike crises and further that the Government had not met the union half way. He declared, according to the report, that the proposed legislation gave the power of life or death over everyone in the United States and that under it business, the union or the union leaders could be ruined. He called the proposed legislation not only an anti-strike, but an anti-liberal, anti-labor and anti-civil rights type of bill. He alleged it is part of a pattern of reaction and intolerance which is sweeping the country and he reportedly expressed the hope that if the Senate could hold up the bill until the middle of the week May 26 - June 1, 1946, it would be defeated by the assertion of the people's desires. He said that labor was the greatest organized militant movement in existence and he expressed great approval of it.

With regard to foreign policy, Senator Pepper is said to have declared that the United States is drifting toward war and that the United States and British coalition against the Soviet Union has resulted in Russia not being given access to the rest of the world and in being given improper consideration. He claimed there will be a war sooner than the time which elapsed between World War I and World War II if something is not done to break the present "impasse".

Honorable George E. Allen

Senator Pepper is said to have claimed that the foreign policy of this country is not expressive of American feeling and the present battle for power in Germany is strengthening that country's position until it will again be a dangerous power in Europe. He advocated a division of Germany.

Senator Pepper is reported to have stated that the Soviet Union should have a $2,000,000,000 loan regardless of the type of government in that country so long as there is a probability of repayment and peaceful purpose. He said that this country must endeavor to see the Soviet point of view and show the Soviet Union we are its friend and not its enemy and, further, not to operate diplomacy as if it were a chess game.

Representative Hugh DeLacy of Washington also spoke at the above described meeting, discussing the proposed labor legislation and the present Government attitude, claiming it comparable to the attitude in Germany, Italy and Spain at the time of the ascension of "Fascists" to power. He said the present bill is the longest step taken in any country toward militant Fascism since the era of Hitler. Liberals, he claimed, must organize and fight on a national scale. He said, according to the report, that the present United States policy is being dictated by Hoover, Vandenberg, Byrnes and Churchill.

Orson Wells also spoke, declaring that strike breaking is the beginning of the road to Fascism and the only defense against it is to organize around labor. He stated that the meeting in question was an "anti-Fascist" meeting and that "Fascism" may come to America, not because reaction is so strong but because progressives are so weak.

The meeting is said to have been endorsed by Senator Joseph Guffey and Congressman William Green of Philadelphia. A motion was passed that each person present wire or write their Congressman and Senators to wipe out "the plot against Democracy." It was also recommended that wires be sent to the President expressing such sentiments concerning him as would be permitted by the telegraph office.

I thought the foregoing information would be of interest in view of the reliable report to the effect that the Independent Citizens Committee of the Arts, Sciences and Professions is looked upon by the Communist Party as one of its successful organizational attempts.

Sincerely yours,

Edgar

EXHIBIT 35-4

OFFICE OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

OFFICE OF GEORGE E. ALLEN
RECEIVED
DEC 17 1946

December 13, 1946

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

Honorable George E. Allen
Director
Reconstruction Finance Corporation
Washington, D. C.

Dear George:

As a matter of interest, I felt the President and you would want to know that information has been received by this Bureau concerning a threatened nation-wide strike by members of the National Federation of Telephone Workers (NFTW), scheduled to begin at 6:00 AM April 7, 1947. A reliable confidential informant has furnished the following information regarding this threatened strike.

On November 4, 1946 at a meeting of the NFTW in Denver, Colorado, all affiliated unions agreed to a national bargaining program which would embrace the majority of telephone workers presently operating under thirty-three separate contracts, mainly in the Bell Telephone system. This national bargaining program purportedly will be inaugurated about January 1, 1947, with the submission of written demands by member unions of the NFTW addressed to the management of telephone companies throughout the United States.

Actual negotiations are scheduled to begin approximately February 1, 1947, with the American Telephone and Telegraph Company and large independent telephone groups, such as the General Telephone System. These negotiations will be undertaken on behalf of the NFTW by a newly created seven-member Coordinated Bargaining Committee. The demands, which will include ten national bargaining items, are:

1. Union shop and check-off of union dues.
2. General wage increases, which will depend on the wage-price relationship existing next spring when the contracts expire and how far out of line telephone workers' wages are with wages in other industries.
3. Area differentials, disparities in wages in different regions of the country, particularly in the case of transferred employees.
4. Length of progression schedules.
5. Town wage differentials, where an effort will be made to formulate a uniform wage structure on the basis of population levels of cities and towns.
6. Job descriptions for service assistants, such as was achieved for traffic operators acting as supervisors in Washington and Indiana.
7. A uniform jurisdiction clause in contracts to formulate a Bell System policy on preventing cable pulling and telephone wiring of new buildings by the International Brotherhood of Electrical Workers (AFL) on the principle of "telephone work for telephone men."

8. Leaves of absence for union officers.
9. Improved vacations for all employees, particularly for those with longer service.
10. Pensions.

In the event the union fails in its negotiations to effectuate the above program, its leaders will call upon member unions approximately the first of March, 1947 to file strike intent notices with the Labor Department in compliance with the War Labor Disputes Act's 30-day "cooling-off" period. At this point a referendum will be taken through the entire membership of the NFTW unions which have filed such notices with the Labor Department and if a vote favorable to a walkout is returned, the NFTW has already appointed a fifty-member policy committee to have full and sole power to call a nation-wide strike at 6:00 AM on April 7, 1947, or at a later date if deemed more desirable. This policy committee is composed of one representative from each member union.

The informant stated that in the event this contemplated strike actually takes place it would, in his opinion, cause a nation-wide tie-up of all communication facilities. He based his statement on the fact that practically all telephone unions have affiliated with the NFTW. He indicated that the notable exceptions are the United Telephone Operators of New York, an independent union; the Chicago-Loop Telephone Workers, an affiliate of the International Brotherhood of Electrical Workers, AFL; the telephone workers of the State of Montana who are affiliated with the International Brotherhood of Electrical Workers, AFL; and about 10,000 telephone workers on the West Coast who have been organized by the CIO.

I will immediately forward to you any additional information which is received concerning this situation.

Sincerely yours,

EXHIBIT 35-5

OFFICE OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.
February 15, 1947

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

Major General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General Vaughan:

I thought you would be interested in the following information which has been received from a highly confidential source with which you are familiar.

Thomas Corcoran is actively engaged in a program to effect the appointment of former United States Senator Robert LaFollette as the Chairman of the Atomic Energy Commission. Corcoran is predicating his action upon the senatorial opposition to Mr. Lilienthal's approval and has proposed through various channels that LaFollette be named as the Chairman of the Commission, suggesting that Mr. Lilienthal might be approved as a member, even though he could not be approved as Chairman.

Mr. Corcoran has also been suggesting the designation of Mr. Bernard Baruch as Ambassador to London and is also endeavoring to secure the appointment of one Vince Lanahan (phonetic) to a vacancy currently existing on the United States Court of Claims.

Detailed information concerning these items will be furnished to you in the near future, but I thought you would be interested in a prompt report on these three situations.

With expressions of my highest esteem,

Sincerely yours,

J. Edgar Hoover

EXHIBIT 35-6

'E OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

June 25, 1947

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

Major General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General Vaughan:

As of possible interest to the President and you, information has come to the attention of this Bureau from a confidential source, indicating that a scandal pertaining to sugar is brewing and undoubtedly will become public in the near future. Our informant expressed the opinion that this scandal will be very embarrassing to the Democratic Administration.

With expressions of my highest esteem and best regards,

Sincerely yours,

J. Edgar Hoover

EXHIBIT 35-7

OFFICE OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

January 27, 1950

Honorable Matthew J. Connelly
Secretary to the President
The White House
Washington, D. C.

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

My dear Mr. Connelly:

I thought you would like to have the following information received by this Bureau from a very confidential source regarding a recent meeting of newspaper representatives at Chicago, Illinois, held to formulate plans for a publicity campaign against organized gambling.

According to this Bureau's source, this meeting, which was held several days ago, was attended by representatives of several independent newspapers, and at the meeting plans were reportedly made to publish a series of copyrighted stories pertaining to organized gambling and other racketeering activities. A considerable number of undercover men are reported to have been employed by the newspapers represented at the conference for the purpose of securing data to be used in these stories. These undercover men are to work with the Chicago Crime Commission and will be sent to various cities throughout the country to develop information for these stories. Strong emphasis was placed on the importance of developing information showing the connection of racketeers with corrupt politicians in each of the cities to be treated in this series of stories.

The first of these stories is reported to be scheduled for release February 12 or 13, 1950. It will deal with organized gambling and its connection with corrupt politicians and, according to the Bureau's informant, it will be critical of the Attorney General and will include information relating to his supposed association and contacts with members of the underworld, particularly in Kansas City, Missouri, and with the President's supposed association with these individuals and their contributions to the Presidential campaign.

From the above source it has also been learned that the newspaper representatives who attended the above meeting had information that the American Municipal Association had exerted pressure on the Attorney General to bring about the issuance of invitations to its representatives to attend the Attorney General's conference in Washington next month and that the American Municipal Association intends to give publicity to the former associates of the President and of the Attorney General and to publicize the supposed foothold of organized crime in national politics.

Honorable Matthew J. Connelly
Secretary to the President

This information is being made available to you as a matter of interest. It is also being furnished to the Attorney General.

With assurances of my highest regards,

Sincerely yours,

J. Edgar Hoover

EXHIBIT 35-8

The Attorney General April 1, 1946

John Edgar Hoover - Director, Federal Bureau of Investigation

NICOLAI G. REDIN

I have recently been advised in connection with the Nicolai G. Redin investigation that the State Department representatives of the "News Week" magazine have prepared a memorandum to their editors in New York based upon information received at the State Department. The memorandum is as follows:

"The specific charge against Lieutenant Redin is that he was purchasing the blueprints of the destroyer tender 'Yellowstone.' He paid $100 for one set and $200 for another. The young and obviously inexperienced lieutenant failed to ascertain the identity of the seller, an officer in Naval Intelligence.

"Two days before the arrest was made the Justice Department asked the State Department whether there would be any diplomatic objections to the arrest. The Justice Department was told, in effect: Arrest him by all means if you have the goods on him; if he is convicted on strong evidence the Russians will disown him and there will be no international repercussions. If, on the other hand, he is acquitted, the Russians will charge a frame-up and begin arresting Americans in Russia on similar charges. The Justice Department thinks they have an air-tight case against Redin, but the Attorney General's confidence is not shared by other Government departments.

"That Redin was spying is obvious, but if all he was able to obtain were blueprints of the 'Yellowstone,' his lawyers might well plead that destroyer tenders of the Yellowstone type had been fully described in published and unrestricted manuals, and that his offense was technical rather than real. There is also a chance that with one or two Communist sympathizers on the jury he might be acquitted altogether.

"I believe that Redin's case is unique in that it is the first arrest in the U. S. or possibly anywhere else of a uniformed officer of a friendly power on an espionage charge....."

The memorandum also contains information to the effect that the Attorney General had conferred with Dean Acheson of the State Department who authorized the prosecution.

EXHIBIT 35-9

My dear Mr. President:

It has come to my attention that the National Lawyers Guild is preparing a report attacking the Administration, and the Department of Justice in particular, on the basis of the reports of the Federal Bureau of Investigation made public at the espionage trial of Judith Coplon in Washington, D.C., in May and June of 1949.

The proposed report will attack certain alleged practices of the Federal Bureau of Investigation and will recommend that you issue immediately a directive ordering the Federal Bureau of Investigation to cease wiretapping, mail opening, and illegal searches in which, according to the report, the Bureau engages. The proposed directive would limit the jurisdiction of the FBI in internal security cases and will request that you direct a thorough investigation of the programs, practices, policies and personnel of the FBI. The report will suggest that this investigation be conducted by a group of disinterested private citizens having by executive authority full access to the files of the Federal Bureau of Investigation and plenary powers of interrogation.

It has been learned that the National Lawyers Guild contemplates a national publicity campaign in behalf of the report. It has been suggested that the release of the report should follow its delivery to you and to me and that an attempt will be made to arrange a conference with both of us. The National Lawyers Guild will seek the cooperation of other bar groups and will attempt to enlist the support of several well-known names in the legal field. A recommendation has also been made within the National Lawyers Guild to consider the possibility of judicial proceedings to stop the alleged illegal and improper practices of the Federal Bureau of Investigation.

In connection with this proposal of the National Lawyers Guild, you will recall that on May 21, 1940, President Roosevelt directed the Attorney General to authorize agents of the Federal

Bureau of Investigation to secure information by means of wiretapping in limited types of cases relating to the national defense. This directive reads:

> "You are, therefore, authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigating agents that they are at liberty to secure information by listening devices direct to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies. You are requested furthermore to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens."

A year later in writing to Congressman T. H. Eliot at a time when Congress was considering legislation regarding wiretapping, President Roosevelt stated that it is the duty of our people to take every single step to protect themselves, and he added:

> "I have no compunction in saying that wiretapping should be used against those persons, not citizens of the United States, and those few citizens who are traitors to their country, who today are engaged in espionage or sabotage against the United States."

In replying to a recent attack upon the Federal Bureau of Investigation and the employee loyalty program in the Federal Government in general, Mr. J. Edgar Hoover, writing in the Yale Law Journal, denied that wiretapping was used in the employee loyalty program and asserted that while it is no secret that the Bureau does tap telephones in a limited type of case, this is done only with the express approval in each instance of the Attorney General and only in cases involving espionage, sabotage, grave risks to the internal security of the nation, or cases in which human lives are in jeopardy. In the few cases which have arisen in these categories my predecessors have from time to time authorized the installation of technical interception devices. This fact has been freely acknowledged by the several Attorneys General and by the Director of the Federal Bureau of Investigation. It is the invariable practice, of course, in accordance with Section 605 of the Communications Act to make no prohibited disclosure of such intercepted information.

The report of the National Lawyers Guild will purportedly criticize the practice of the Federal Bureau of Investigation in opening mail. It has been the long standing practice of investigative agencies to utilize mail covers. This is entirely authorized by law.

Regarding the criticism of the Bureau in respect to the alleged illegal searches, it is the practice of the FBI, whenever possible, to procure warrants in advance of arrest. It is only in the unusual cases, such as the Coplon case, that an individual is apprehended and searched in advance of procuring a warrant. This power is granted by statute.

In view of the fact that representatives of the National Lawyers Guild or certain persons speaking in their behalf will undoubtedly attempt to confer with you in the near future in regard to the proposed investigation of the practices of the Federal Bureau of Investigation, I thought you should have the benefit of the facts set forth in this letter.

Respectfully,

The President
The White House

EXHIBIT 35-10

OFFICE OF THE DIRECTOR

Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

January 14, 1950

PERSONAL & CONFIDENTIAL
BY SPECIAL MESSENGER

Major General Harry Hawkins Vaughan
Military Aide to the President
The White House
Washington, D. C.

Dear General Vaughan:

I believe that the President and you will be interested in the following information concerning the proposed activities of the National Lawyers Guild.

You will recall that by letter dated December 7, 1949, the Attorney General advised the President that the National Lawyers Guild was preparing a report attacking the Administration, and the Department of Justice in particular, on the basis of the reports of this Bureau made public at the Espionage trial of Judith Coplon in Washington, D. C. in May and June, 1949. In his letter of December 7, 1949, the Attorney General also advised the President that the Guild would possibly make an attempt to arrange a conference with the President and the Attorney General following which the report of the Guild would be released.

A confidential source has now advised that the report of the National Lawyers Guild has been practically completed and that Mr. Robert Silberstein of the Guild had scheduled a press conference on January 13, 1950, in connection with the Guild's report but had changed his mind and is now attempting to arrange an appointment with the President. This source reported that in the event that Mr. Silberstein does not obtain an appointment with the President by Tuesday, January 17, 1950, he plans to arrange a press conference to be held on January 20, 1950, at which time the National Lawyers Guild report will be released.

With expressions of my highest esteem,

Sincerely yours,

J. Edgar Hoover

EXHIBIT 36

POLITICAL ABUSE AND THE FBI:

STAFF REPORT

Introduction

The political abuse of the FBI did not begin in the 1960's. Although this Committee has concentrated its investigations on the events of the 60's and 70's, the story cannot be fully understood by looking at just the last fifteen years. Therefore, the first objective of this report is to lay out some of the historical context for more recent political abuses of the Bureau.

The second objective is to describe some of the results of our investigation which show the various types of political abuse to which the FBI is susceptible. Some have been in response to the desires of the Bureau's superiors. Others have been generated by the Bureau itself. And there is the added possibility, suggested by some of the documents we have seen and some of the witnesses we have interviewed, that certain political abuses resulted from the inexorable dynamics of the FBI's intelligence gathering process itself. In other words, that the FBI intelligence system developed to a point where no one inside or outside the Bureau was willing or able to tell the difference between legitimate national security or law enforcement information and purely political intelligence.

Whether any particular abuse resulted from outside demands, from the FBI's own desires, or from the nature of the intelligence process is a question for the Committee to answer when all the evidence is in.

Historical Background

The historical background of political abuse of the FBI involves at least three dimensions. The first is the Bureau's subsurvience to the Presidency, its willingness to carry out White House requests without question. When L. Patrick Gray as Acting FBI Director destroyed documents and gave FBI reports to Presidential aides whom the FBI should have been investigating after the Watergate break-in, he just carried to the extreme an established practice of service to the White House. The other side of this practice was the Bureau's volunteering political intelligence to its superiors, not in response to any specific request. And the third historical dimension was the FBI's concerted effort to promote its public image and discredit its critics.

Early examples of the Bureau's willingness to do the President's bidding occur under Franklin D. Roosevelt. In 1940 it complied with a request to run name checks, open files, and make reports on hundreds of persons who sent telegrams to the President that were -- to quote the letter from the President's secretary to J. Edgar Hoover -- "all more or less in opposition to national defense," or that expressed approval of Colonel Charles Lindbergh's criticism of the President.

Another example came to light in recent years when Major General Harry Vaughn, who was President Truman's military aide, disclosed that President Roosevelt had ordered wiretaps on the

home telephones of his closest aides. Shortly after Mr. Truman had taken office, someone had presented General Vaughn with transcripts of the wiretaps. He took them to President Truman who said, according to General Vaughn, "I don't have time for that foolishness." This story is generally confirmed by the Committee staff's inquiry into J. Edgar Hoover's "Official and Confidential Files," where an index to the logs of these wiretaps was located.

Historical illustrations of the FBI's practice of volunteering political intelligence to its superiors appear in virtually every Administration. President Roosevelt's Attorney General Francis Biddle recalled in his autobiography how J. Edgar Hoover shared with him some of the "intimate details" of what his fellow Cabinet members did and said, "their likes and dislikes, their weaknesses and their associations." Attorney General Biddle confessed that he enjoyed hearing these derogatory and sometimes "embarrassing" stories and that Director Hoover "knew how to flatter his superior."

President Truman and his aides received regular letters from Hoover labeled "Personal and Confidential" and containing tid-bits of political intelligence. Sometimes they reported on possible Communist influence behind various lobbying efforts, such as activities in support of civil rights legislation. On other occasions they reported allegations that a Communist sympathizer had helped write a Senator's speech and inside

information about the negotiating position of a non-communist labor union. Some of the letters were undoubtedly of political value to the President. One related the activities of a former Roosevelt aide who was trying to influence the Truman Administration's appointments. Another advised that the FBI had learned from a confidential source that a "scandal" was brewing and that it would be "very embarrassing to the Democratic Administration." A third contained the report of a "very confidential source" about a meeting of newspaper representatives in Chicago to plan publication of a series of stories exposing organized crime and corrupt politicians. The stories were going to be critical of the Attorney General and the President. The Truman White House also received a copy of an FBI memorandum reporting the contents of an in-house communication from Newsweek magazine reporters to their editors about a story they had obtained from the State Department.

An example from the Eisenhower Administration shows how White House requests and FBI initiative were sometimes mixed together. President Eisenhower asked Director Hoover to brief the Cabinet on racial tensions in early 1956. What the Cabinet received was a report not only on incidents of violence, but also on the activities of Southern Governors and Congressmen in groups opposing integration, as well as the role of Communists in civil rights lobbying efforts and the NAACP's plans to push for legislation. No one appears to have questioned the propriety

of the FBI reporting such political intelligence, or Director Hoover's competence to do so.

The third source of abuse throughout the Bureau's history was its concern for its image and hostility to any critics. One example each from the Truman and Eisenhower years shows how the Bureau checked and reported on its critics. In 1949 the National Lawyers Guild planned to issue a report denouncing FBI surveillance activities revealed in a court case. The FBI provided the Attorney General advance information from its sources about the Lawyers Guild plans, as well as a full report on everything about the group in Bureau files. Attorney General Howard McGrath passed the reports on to the President, and J. Edgar Hoover advised the White House directly about last-minute changes in the Guild's plans. The FBI's inside information gave the Attorney General the opportunity to prepare a rebuttal well in advance of the expected criticism.

The second instance took place in 1960, when the Tennessee Advisory Committee to the U.S. Civil Rights Commission announced it would investigate charges by the Knoxville Area Human Relations Council that federal agencies, including the FBI, were practicing racial discrimination. The FBI conducted name checks on the eleven members of the Council's board of directors. The results were sent to Attorney General William Rogers, Deputy Attorney General Lawrence Walsh, and Special Assistant to the Attorney General Harold R. Tyler, Jr. Derogatory

information on four of these individuals included allegations of subversive connections from as far back as the late 30's and early 40's, an allegation that one board member had "corrupt political associates" in 1946, and the characterization of another as having "unorthodox attitudes" and sending flowers and "mash" notes to a woman in his church. The FBI's report also made the flat statement, "As you know, this Bureau does not practice racial segregation or discrimination." (The Committee will recall that it has previously received information as to the number of black FBI agents in the early 1960's.)

Thus, the Bureau's more distant history shows the development of its political services for higher authorities and its concern for its own political position.

2. "Name Check" Abuses

The staff's investigation of alleged abuses in the 1960's and 70's discloses a wide variety of questionable "name checks", sometimes for Presidents and sometimes in the Bureau's own interest.

An examination of these "name check" reports shows the peculiarly damaging nature of the Bureau's practice. No new investigation was done to verify the allegations stored away for years in FBI files. Anything anyone ever told the FBI about the individual was pulled together, including charges that the Bureau may never have substantiated. FBI files inevitably include misinformation because people bear grudges

or make mistakes. Sometimes the Bureau verifies the charge; but frequently there is no reason to do so, and it is just recorded in the files. Such charges can be retrieved by a "name check" and reported without further substantiation.

The request by the Nixon White House for a "name check" on CBS correspondent Daniel Schorr, which the FBI turned into a full field investigation, has been examined extensively elsewhere. The staff has determined that President Johnson asked for "name check" reports on at least seven other journalists, including NBC commentator David Brinkley, Associated Press reporter Peter Arnett, and columnist Joseph Kraft.

Another political abuse of FBI "name checks" occurred in the closing days of the 1964 Presidential election campaign, when Johnson aide Bill Moyers asked the Bureau to report on all person's employed in Senator Goldwater's office. Moyers has publicly recounted his role in the incident, and his account is confirmed by FBI documents.

Some of President Johnson's requests parallel those of President Roosevelt twenty-five years earlier. The FBI complied with White House requests for name checks on dozens of persons who signed telegrams critical of U.S. Vietnam policy in 1965. The names of other Presidential critics were also sent to the Bureau to be checked and reported on, as were the names of

critics of the Warren Commission. The FBI also volunteered reports on Presidential critics.

The White House requests for "name checks" are episodic in comparison to the "name checks" conducted as a matter of systematic Bureau policy for the use of FBI Director Hoover. The Crime Records Division prepared "name check" memoranda for Director Hoover regularly on Congressmen, other public officials, and prominent persons of interest to the Director. Many of these special memoranda were filed by the Crime Records Division. Others found their way into Director Hoover's "Official and Confidential Files." The Committee staff has located in these "O and C files" such special memoranda on the author of a critical book about the FBI, and on all the members of the Senate Subcommittee chaired by Senator Long which threatened to investigate the FBI in the mid-1960's. Some of these "name check" reports and special memoranda contained derogatory information, and in the case of the author, information from his income tax returns and personal information about his wife. The reports on members of the Long Committee were compiled in a briefing book, with tabs on each Senator.

Therefore, these incidents demonstrate the potential for abuse inherent in the Bureau's unregulated "name check" procedure. White House requests by-passed the Attorney General, and the FBI Director's own requests took place totally within the Bureau. The real meaning of the long-standing fear that the FBI had

so-called "dossiers" on Congressmen and other prominent persons was that FBI officials could have "name check" reports prepared for his use on anyone he desired to know more about.

3. Abuse of FBI Investigative Powers

The next category is abuse of the FBI's investigative powers. There is a vivid example under the Kennedy Administration involving the FBI's late night and early morning interviews of a Steel Company executive and several reporters who had written stories about the Steel executive. Former Assistant FBI Director Courtney Evans, who was informal liaison with Attorney General Kennedy, has told the Committee that he was given no reason for the request.

Another example arises out of the Bobby Baker case. In 1965 the FBI declined a request of the Justice Department Criminal Division to "wire" a witness in the investigation of former Johnson Senate aide Bobby Baker. Although the FBI refused on grounds that there was not adequate security, the Criminal Division had the Bureau of Narcotics in the Treasury Department "wire" the witness as a legitimate alternative. When the Baker trial began in 1967 this became known. Presidential aide Marvin Watson told the FBI that President Johnson was quite "exercised", and the FBI was ordered to conduct a discrete "run-down" on the head of the Criminal Division in 1965 and four persons in Treasury and the Narcotics Bureau, including specifically any associations with former Attorney General Robert Kennedy.

Another incident occurred in 1966 when Mr. Watson re-

quested that the FBI monitor the televised hearings of the Senate Foreign Relations Committee on Vietnam and prepare a memorandum comparing statements of Senators Fulbright and Morse with "the Communist Party Line."

At the request of President Johnson made directly to FBI executive Cartha DeLoach, the FBI passed purely political intelligence about United States Senators to the White House which was obtained as a by-product of otherwise legitimate national security electronic surveillance of foreign intelligence targets. This practice also continued under the Nixon Administration at the request of Mr. H. R. Haldeman.

It is more difficult to place the label "abuse" automatically on Presidential requests for electronic surveillance to investigate leaks of classified information. Attorney General Kennedy authorized wiretaps in 1962 on New York Times reporter Hanson Baldwin and his secretary, and they lasted for about one month. The wiretaps under the Nixon Administration of journalists and current or former White House and other Executive officials have been widely publicized. The staff's inquiry into this matter has determined that, according to available records, at least one of these wiretaps had nothing to do with "leaks" and was conducted solely for personal information about the target. Nevertheless, the wiretapping to investigate "leaks" under Attorney General Kennedy and KATZENBACH and of President Roosevelt's aides were undoubtedly precedents J. Edgar

Hoover had in mind when he told President Nixon and Dr. Kissinger in 1969 that wiretaps had been used for these purposes in the past.

Another abuse of FBI investigative powers under the Johnson Administration was the surveillance conducted at the 1964 Democratic National Convention in Atlantic City. The most sensitive details of the plans and tactics of persons supporting the Mississippi Freedom Democratic Party delegate challenge went to the White House from the FBI's wiretap on Dr. King, and other types of FBI surveillance. The responsible White House official at the time, Mr. Walter Jenkins, has told the Committee that he can recall no political use made of these reports. Nevertheless, an unsigned document has been located at the Johnson Library recording at least one political use of Mr. DeLoach's phone reports.

As Theodore H. White's account of the 1964 campaign makes clear, the most important single issue that might have disturbed President Johnson at the Atlantic City Convention was the Mississippi challenge. And the FBI's own inquiry into the Atlantic City events reports several FBI agents' recollection that one purpose of the Bureau operation was to help avoid "embarrassment to the President." The Committee must weigh all the evidence in deciding whether this abuse of the FBI resulted from a White House request, from FBI officials volunteering information to serve and please the President, or from a legitimate civil disorders intelligence operation which got out of hand

because no one was willing to shut off the political intelligence by-product.

It should also be noted that an aide to Vice President Hubert Humphrey contacted the FBI to request assistance at the 1968 Chicago convention. Nothing appears to have come of this request, largely because Attorney General Ramsey Clark turned down FBI requests for authorization to wiretap protest demonstration leaders at the Chicago convention.

Finally, there are two additional examples of political abuse of the FBI or by the FBI in the 1970's. In July 1971, three months after the supposed end of FBI COINTELPRO operations, the FBI leaked to a newsman derogatory public record information about Daniel Ellsberg's lawyer. Copies of the article were sent to the Attorney General, the Deputy Attorney General, and Presidential aide H. R. Haldeman, with the specific approval of Director Hoover, with no indication it was generated by the FBI. In May 1970, the FBI provided Vice President Agnew at his request with derogatory public record information and other allegations about Rev. Ralph David Abernathy, the President of the Southern Christian Leadership Conference. This occurred following a telephone conversation between Director Hoover and Mr. Agnew during which, according to FBI records, the Vice President "said he thought he was going

to have to start destroying Abernathy's credibility."

Thus, in summary, political abuse of the FBI and by the FBI has extended over the years through Administrations of both parties.

ADDENDUM TO STAFF REPORT ON POLITICAL ABUSE AND THE FBI: The Johnson Administration and Mrs. Anna Chennault

According to materials provided to the Committee by the FBI, President Johnson asked the FBI to conduct physical surveillance of Mrs. Anna Chennault/PROMINENT REPUBLICAN WOMAN LEADER on October 30, 1968 in the final days of the election campaign. The FBI instituted this surveillance to cover her activities in Washington, D.C., and New York City. The results of this physical surveillance were disseminated to J. Bromley Smith, Executive Secretary of the National Security Council, who had conveyed Johnson's request to Cartha DeLoach of the FBI. On November 7, 1968, Smith called DeLoach and stated that President Johnson wanted the FBI to abandon its physical surveillance of Mrs. Chennault.

On November 13, 1968, at the instruction of President Johnson, the FBI checked the toll call telephone records in Albuquerque, New Mexico, to determine if Vice Presidential candidate Spiro Agnew had called Mrs. Chennault or the South Vietnamese Embassy on November 2, 1968, when he was in Albuquerque. No such records were located. President Johnson was furnished with this information on November 13, 1968. Also, the arrival and departure times of Agnew in and out of Albuquerque on November 2, 1968, were verified at the request of the White House.

The FBI has reviewed its files on this matter and has advised that the apparent reason the White House was interested in the activities of Mrs. Chennault and Spiro Agnew was to determine whether the South Vietnamese had secretly been in touch with supporters of Presidential candidate Nixon, possibly through Mrs. Chennault, as President Johnson was apparently suspicious that the South Vietnamese were trying to sabotage his peace negotiations in the hope that Nixon would win the election and then take a harder line towards North Vietnam.

The FBI also states that physical surveillance of Mrs. Chennault was consistent with FBI responsibilities to determine if her activities were in violation of certain provisions of the Foreign Agents Registration Act (Section 601, et seq., Title 22, USC) and of the Neutrality Act (Section 953, Title 18, USC).

(Further details of these events involving electronic surveillance remain classified "Top Secret".)

SECOND ADDENDUM TO STAFF REPORT ON POLITICAL ABUSE AND THE FBI:

Additional Electronic Surveillance

In addition to the wiretap on New York Times reporter Hanson Baldwin in 1962, the Committee has received materials from the FBI reflecting authorization by Attorney General Robert Kennedy of a wiretap on a reporter for Newsweek magazine in 1961 during the investigation of another leak of classified information. Further materials reflect authorization by Attorney General Nicholas Katzenbach of a wiretap on the editor of an anti-Communist newsletter in 1965, also during the investigation of a leak of classified information.

The Committee has received materials from the FBI reflecting authorization by Attorney General Robert F. Kennedy of wiretaps on at least six American citizens, including three Executive Branch officials, a Congressional staff member, and two registered lobbying agents for foreign interests. The materials also reflect that these wiretaps related to an investigation of efforts by foreign interests to influence United States economic policies.

EXHIBIT 37

July 6, 1971

Mr. Mohr:

Re: LEONARD B. BOUDIN
ATTORNEY FOR DANIEL ELLSBERG

By memorandum R. D. Cotter to C. D. Brennan dated June 28, 1971, it was recommended and approved that pertinent information concerning Boudin's sympathy for communist causes be used in connection with the Mass Media Program.

Information concerning the sympathy of Boudin for communist causes, his legal services in behalf of an accused soviet espionage agent and his position as legal representative of the Castro Cuban Government in this country for a decade, was called to the attention of Ray McHugh, Chief of the Washington Bureau, Copley News Service, by the Crime Records Division. Attached is a copy of a release prepared by McHugh dated July 1, 1971, concerning Boudin. This news release certainly puts Boudin in his proper light as a communist and soviet apologist.

ACTION

REC-33

For information.

Enc.

T. E. Bishop

22 JUL 14 1971

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI

Send copies of attached to Haldeman, A.G. & Deputy.

(7)

JUL 12

Ltr to Haldeman

A.G Memo

7-9-71

7-9-71

COUNSEL-NATIONAL

BY RAY MCHUGH

CHIEF, WASHINGTON BUREAU

COPLEY NEWS SERVICE

WASHINGTON--THE ATTORNEY FOR DAVID ELLSBERG IN THE CASE OF THE PURLOINED PENTAGON PAPERS HAS FIGURED FOR MORE THAN 30 YEARS IN GOVERNMENT INVESTIGATIONS OF ALLEGED COMMUNIST AND COMMUNIST-FRONT ORGANIZATIONS.

NOW A VISITING PROFESSOR ON CONSTITUTIONAL LAW AT HARVARD UNIVERSITY, LEONARD B. BOUDIN FOR 20 YEARS HAS BEEN GENERAL COUNSEL --BUT NOT A MEMBER--OF THE EMERGENCY CIVIL LIBERTIES COMMITTEE THAT HAS BEEN CITED AS A COMMUNIST FRONT ORGANIZATION BY THE HOUSE COMMITTEE ON UNAMERICAN ACTIVITIES, THE SENATE INTERNAL SECURITY SUBCOMMITTEE AND BY FBI DIRECTOR J. EDGAR HOOVER.

BOUDIN'S DAUGHTER KATHY IS WANTED ON AN FBI WARRANT IN CONNECTION WITH INVESTIGATION OF THE ACTIVITIES OF THE WEATHERMAN FACTION OF THE RADICAL STUDENTS FOR A DEMOCRATIC SOCIETY. SHE WAS ARRESTED DURING DISTURBANCES AT THE DEMOCRATIC CONVENTION IN CHICAGO IN 1968, AGAIN DURING WEATHERMEN'S "DAYS OF RAGE" IN CHICAGO IN OCTOBER OF 1969. SHE HAS BEEN MISSING SINCE THE MARCH 6, 1970, BOMB EXPLOSION IN A GREENWICH VILLAGE TOWNHOUSE IN WHICH THREE WEATHERMEN MEMBERS DIED.

HIS DAUGHTER ALSO IS ONE OF THE CO-AUTHORS OF THE "BUST BOOK," A LEGAL HANDBOOK DESIGNED TO HELP NEW LEFT ACTIVISTS.

BOUDIN'S NEW YORK CITY LAW FIRM REPRESENTS FIDEL CASTRO AND THE CUBAN GOVERNMENT IN ALL LITIGATION AND LEGAL PROBLEMS INSIDE THE UNITED STATES AND BOUDIN HAS MADE SEVERAL TRIPS TO CUBA.

HE HAS DENIED UNDER OATH IN A CONGRESSIONAL HEARING THAT HE IS A MEMBER OF THE COMMUNIST PARTY.

IN HIS BOOK "MASTERS OF DECEIT," FBI DIRECTOR J. EDGAR HOOVER SAYS THE EMERGENCY CIVIL LIBERTIES COMMITTEE TOOK OVER THE WORK OF THE OLD CIVIL RIGHTS CONGRESS, "A WELL-KNOWN FRONT."

"IN OCTOBER, 1951, THE DAILY WORKER ANNOUNCED THE FORMATION OF THE EMERGENCY CIVIL LIBERTIES COMMITTEE WITH 150 FOUNDERS (FROM [illegible] STATES), INCLUDING 50 WHO WERE EDUCATORS, CLERGYMEN AND PROFESSIONALS," HOOVER WROTE.

"ONE OF THE COMMITTEES' FIRST OFFICIAL MOVES WAS TO PETITION THE NEW YORK STATE COMMISSIONER OF EDUCATION TO 'FORBID THE NEW YORK CITY BOARD OF EDUCATION FROM ENFORCING ITS NEWLY ENACTED BAN ON

This document is prepared in response to your request and is not for dissemination outside your Committee. Its contents may not be disclosed to unauthorized persons without the express approval of the FBI.

FBI
NOV 10 1975

SUSPECTED COMMUNIST TEACHERS....

"IN 1956 THE SENATE INTERNAL SECURITY SUBCOMMITTEE AFTER IDENTIFYING THE EMERGENCY CIVIL LIBERTIES COMMITTEE, STATED, 'WHEN THE COMMUNIST PARTY ITSELF IS UNDER FIRE THESE FRONTS OFFER A BULWARK OF PROTECTION.'

"THE NAMES OF THE GROUP'S 150 FOUNDERS HAVE BEEN EXPLOITED BY THE PARTY TO FIGHT ITS BATTLES."

BOUDIN WAS DEFENSE ATTORNEY IN THE 1950 ESPIONAGE TRIAL OF JUDITH COPLON. THE "DAILY WORKER," A COMMUNIST NEWSPAPER, IDENTIFIED HIM AS ONE OF THE ATTORNEYS FOR PAUL ROBESON IN THE SINGER'S 1955 BID FOR A PASSPORT. ROBESON WAS LONG REGARDED AS A COMMUNIST SYMPATHIZER.

BOUDIN ALSO WAS AN ATTORNEY FOR THE VETERANS OF THE ABRAHAM LINCOLN BRIGADE IN AN UNSUCCESSFUL EFFORT TO HAVE THAT GROUP REMOVED FROM THE ATTORNEY'S GENERAL'S LIST OF SUBVERSIVE ORGANIZATIONS.

HIS NAME ALSO HAS BEEN CONNECTED WITH A NUMBER OF OTHER ALLEGED COMMUNIST FRONT GROUPS INCLUDING THE AMERICAN COMMITTEE FOR THE FOREIGN BORN, 1956; THE AMERICA RUSSIA INSTITUTE, 1944; THE JEFFERSON SCHOOL OF SOCIAL SCIENCE; THE NATIONAL COUNCIL AMERICAN-SOVIET FRIENDSHIP AND THE NATIONAL COUNCIL OF THE ARTS, SCIENCES AND PROFESSIONS.

ON SEVERAL OCCASIONS BOUDIN HAS BEEN PUBLICLY IDENTIFIED AS AN OFFICIAL OF THE NATIONAL LAWYERS GUILD. THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES IN 1950 CALLED THE GUILD "THE FOREMOST LEGAL BULWARK OF THE COMMUNIST PARTY, ITS FRONT ORGANIZATIONS AND THE CONTROLLED UNIONS."

IN 1968 HIS NAME APPEARED AS A SPONSOR OF AN AD IN THE NEW YORK TIMES SOLICITATING CONTRIBUTIONS FOR THE LEGAL EXPENSES OF BLACK PANTHER LEADER ELDRIDGE CLEAVER.

ACCORDING TO WASHINGTON SOURCES, HIS FIRST IDENTIFICATION WITH LEFTIST CAUSES CAME IN 1938 WHEN HE PUBLISHED AN ARTICLE IN "NEW MASSES." IN 1941 HIS NAME APPEARED AS A SIGNER OF A PETITION TO PRESIDENT FRANKLIN D. ROOSEVELT SUPPORTING AND DEFENDING THE COMMUNIST PARTY USA.

NOV 19 1975

7/1/71-RM(2H)--7:31PM EDT

SA LA??

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bishop

DATE: 2/26/68

FROM : M. A. Jones

SUBJECT: LEONARD B. BOUDIN
ATTORNEY FOR DR. BENJAMIN SPOCK
INFORMATION CONCERNING

Leonard B. Boudin of the firm of Rabinowitz and Boudin, New York City, is listed as Spock's Attorney of Record in connection with Spock's recent indictment for conspiring to violate the Selective Service Act.

Leonard Boudin is well-known to the Bureau. He is

Attached is a memorandum setting forth public source information concerning Boudin's activities over the years. The White House and Attorney General have been advised.

RECOMMENDATION:

That approval be given to furnishing the attached information to one of our friendly newspaper contacts.

REC-19

1 - Mr. DeLoach - Enclosure
1 - Mr. Bishop - Enclosure
1 - Mr. Gale - Enclosure
1 - Mr. Sullivan - Enclosure

SEP 9 1968

MADE COPY AND PUT IN FILE

EXHIBIT 38-1

9:49 AM May 18, 1970

MEMORANDUM FOR MR. TOLSON
MR. DE LOACH
MR. MOHR
MR. SULLIVAN
MR. BISHOP

Vice President Spiro Agnew called. He said he wanted to talk to me about something to see whether I could be of some assistance. He said he was really concerned about the continuing inflammatory pronouncements of Ralph D. Abernathy. I commented that he is one of the worst. The Vice President said he has seen some of the background material on him and he knows what that is, but it is beyond the pale as far as executive use is concerned. He said in view of what went on in Augusta and other places it is important to have the information that revolved around this; the involvement of these people, what information we have, whether fleeing from looting or what is going on. He asked if there is any information available.

I told him we are working on these at the present time, both in Augusta, Atlanta, and Jackson, where the recent demonstrations have taken place. DELETED AS PERTAINS TO DISCUSSION NOT RELATED TO RACIAL DISTURBANCES IN MISSISSIPPI AND GEORGIA.

I said the same is true at Jackson as there are allegations of shooting at the troops before they fired and denials. We are interviewing all the individuals who had any knowledge, students, et cetera. DELETED AS PERTAINS TO DISCUSSION NOT RELATED TO RACIAL DISTURBANCES IN MISSISSIPPI AND GEORGIA.

While at Atlanta, Augusta, and Jackson, it will probably be another week before we will have the preliminary reports. DELETED AS PERTAINS TO DISCUSSION NOT RELATED TO RACIAL DISTURBANCES IN MISSISSIPPI AND GEORGIA.

MAY 20 1970

JEH:edm (9)

REC- 98

SENT FROM D. O.
TIME 12 PM
DATE 5-18-70
BY

MAY 20 1970

67 MAY 22 1970 RETYPE UNIT

May 18, 1970

Memorandum for Messrs. Tolson, DeLoach, Rosen, Sullivan, Bishop

DELETED AS PERTAINS TO DISCUSSION NOT RELATED TO RACIAL DISTURBANCES IN MISSISSIPPI AND GEORGIA.

The Vice President said what he wants to be able to do is bring out some facts the media conveniently overlooked. I said they never give the things that are being done constructively, many times by students, to try to prevent this, but they emphasize all the things these jerks are doing.

The Vice President said he saw a picture about Augusta showing some of the Negroes jumping out of store windows with loot and booty and fleeing and you never hear anything about that. He said whatever I can give him that can ameliorate some of the impact; that he understands some of these things are wrong and we are probably going to find some of the shootings showed too much force, but none the less, the people have to understand the very thrust of the newspaper articles is that a bunch of police shot down six Negroes and what happened before -- why did they shoot at them -- not just because they felt like killing people. I said they were severely provoked * . and we will finish Augusta, Atlanta, and Jackson this week.

DELETED AS PERTAINS TO DISCUSSION NOT RELATED TO RACIAL DISTURBANCES IN MISSISSIPPI AND GEORGIA.

* PLACE NAME DELETED FOR SAME REASON.

The Vice President said he thought he was going to have to start destroying Abernathy's credibility, so anything I can give him would be appreciated. I told him I would be glad to. DELETED AS RELATES TO DISCUSSION OF PRODUCT OF ELECTRONIC SURVEILLANCE ON MARTIN LUTHER KING JR.

May 18, 1970

Memorandum for Messrs. Tolson, DeLoach, Rosen, Sullivan, Bishop

Deleted as relates to discussion of product of electronic surveillance on Martin Luther King, Jr.

The Vice President said he would like to be thoroughly conversant with all of that because if the crisis comes where we need to throw it, he will. I told him I would get it over in the next 24 to 48 hours as to the highlights. The Vice President thanked me.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

EXHIBIT 38-2

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 5/18/70

FROM : G. C. Moore

SUBJECT: RALPH DAVID ABERNATHY
RACIAL MATTERS

Pursuant to the request made by the Director today (5/18/70), there is attached information for the Vice President regarding militant statements by Ralph David Abernathy, the President of the Southern Christian Leadership Conference, which statements invite violence.

Information is also included to the Vice President regarding an incident involving [derogatory public record information.]

On 5/18/70, Abernathy announced a march against violence, brutality, and killing at Atlanta, Georgia, on Saturday, 5/23/70. At this march, the names of the Nation's "Ten Most Unwanted Politicians" will be revealed.

ACTION:

If you approve, the attached letter will be sent to the Vice President.

Enclosures 5-19-70

OK. This has been prepared in an excellent manner

ST-105

REC 32

F424

70 JUN 3 1970

EXHIBIT 38-3

May 19, 1970

BY LIAISON

Honorable Spiro T. Agnew
The Vice President
Washington, D. C.

Dear Mr. Vice President:

In response to your request, there is attached information regarding militant statements by Ralph David Abernathy who, although he advocates nonviolence, has invited violence by some of his statements. The material also includes information about [his private life], [derogatory public record information], and his support of the Black Panther Party.

For your information, Abernathy on May 18, 1970, announced a march against violence, brutality, and killing to be held in Atlanta, Georgia, on Saturday, May 23, 1970. Abernathy said that the names of the Nation's "Ten Most Unwanted Politicians" will be revealed during this march.

Sincerely yours,

ENCLOSURE

REC-93

2 MAY 20 1970

Enclosure

(8)

NOTE:

See memorandum G. C. Moore to W. C. Sullivan dated 5/18/70, captioned "Ralph David Abernathy, Racial Matters," prepared by

4 MAY 26 1970

EXHIBIT 39

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr DATE: August 29, 1964

FROM : C. D. DeLoach

SUBJECT: SPECIAL SQUAD
ATLANTIC CITY, NEW JERSEY
DEMOCRATIC NATIONAL CONVENTION
AUGUST 22 - AUGUST 28, 1964

MAJOR ACCOMPLISHMENTS:

In connection with the assignment of the special squad to Atlantic City, New Jersey, 8/22-23/64 at the direction of the President, I wish to report the successful completion of this assignment. By means of informant coverage, by use of various confidential techniques, by infiltration of key groups through use of undercover agents, and through utilization of agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments during the Convention's course.

For example, through informant coverage and by controlling the situation, we were able to prevent a potentially explosive stall-in and sit-in demonstration planned by ACT and . By counseling Messrs. Jenkins, Carter and Moyers, we convinced them that they must make major changes in controlling admissions into the Convention Hall and thereby preclude infiltration of the illegal Mississippi Freedom Democratic Party (MFDP) delegates in large numbers into the space reserved for the regular Mississippi delegates. Through our counterintelligence efforts, Jenkins, et al., were able to advise the President in advance regarding major plans of the MFDP delegates. The White House considered this of prime importance.

Through our highly confidential coverage of Martin Luther King together with similar coverage we established on the headquarters of , CORE-SNCC, we were in a position to advise the White House in advance of all plans made by these two sources in an effort to disrupt the orderly progress of the Convention. This coverage was highly effective.

COVERAGE HIGHLIGHTS:

I feel this squad operated very effectively. Squad members averaged in excess of eight hours overtime daily. They approached each assignment as a

FBI

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

CONTINUED-OVER

DeLoach to Mohr
Re: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

challenge and with enthusiasm. The Agents were constantly alert to exploit opportunities for penetration of key dissident groups in Atlantic City and to suggest counter measures for any plans to disrupt the Convention.

Our informant coverage worked particularly well. With Bureau approval I instituted coverage similar to that on Kin on CORE-SNCC headquarters at their Atlantic Avenue meeting hall. Our successfully penetrated the headquarters of the MFPD delegation at the Gem Motel and the headquarters for their strategy meetings, which was located in the basement of the Union Baptist Temple Church.

Additionally, we utilized a highly successful cover through cooperation of the furnished us credentials. I selected several of the members of the squad to utilize this cover As an example, one of our "reporters" was able to gain the confidence

Our "reporter" was so successful, in fact, that r "off the record information" for background purposes, which he requested our "Lorter" not to print.

One of our successfully established contact with Saturday night, August 22nd, and maintained this relationship throughout the course of the entire Convention. By midweek, he had become one of confidants. This, of course, proved to be a highly valuable source of intelligence since was constantly trying to incite racial groups to violence.

DISSEMINATION OF INFORMATION:

During our Convention coverage, we disseminated 44 pages of intelligence data to Walter Jenkins. Attached for your information is a copy of these daily summaries. Additionally, I kept Jenkins and Moyers constantly advised by telephone of minute by minute developments. This enabled them to make spot decisions and to adjust Convention plans to meet potential problems before serious trouble developed.

In connection with communications, as you know, we arranged for a leased line between the Bureau and our control post in Atlantic City. We also established a private line for exclusive use by our informants. W informants dispatched from other cities and Newark informants used th phone to submit their oral reports. This post was, of course, manned on a 24-hour basis.

 CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

During the period when the Convention was actually in progress, we established a secondary command post at the Convention Hall Rotunda operated by an Agent using his "reporter" cover. As you know, the boardwalk was the center of agitation by dissident elements. Throughout the course of the Convention, pickets were active in the area immediately in front of the Convention Hall entrance. We necessarily kept these people under close observation.

PRELIMINARY PREPARATION:

Prior to the squad's departure for Atlantic City, we secured all available pertinent background information on the dissident groups and their leaders who were expected to be present. In addition, we took blind memoranda with us which were prepared and approved prior to our departure. This proved most helpful. On Wednesday morning, Mr. Jenkins urgently requested background information on [redacted] who had [redacted] within the MFDP delegation. The White House also requested a blind memorandum on [redacted] Within 15 minutes of the request, the desired blind memoranda were furnished to Jenkins. He was highly pleased and said this was of vital importance to their operation. [redacted] as you will recall has an arrest record [redacted]

We also prepared thumbnail sketches on all key dissident groups expected at the Convention and we maintained separate files on the activities of King, Communist Party groups, area hoodlums, informants, the MFDP and other groups. This was done in order that we could maintain separate running accounts on each major disruptive organization which was present.

LIAISON:

On arrival in Atlantic City we immediately established necessary liaison with the Secret Service, Atlantic City Police Department, New Jersey State Highway Patrol and with the men directing Convention activities. We also established contacts with [redacted] to arrange for courier service between the Seat of Government and our headquarters in Atlantic City.

DAILY COUNTER MEASURES BY SPECIAL SQUAD:

As an example of the type of problems encountered by this special squad in Atlantic City, following is a brief resume of some of the situations which developed during the Convention:

FBI

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

Monday, August 24, 1964

On Sunday morning, August 23, 1964, we located a truck on Pacific Avenue carrying a burned-out car, a huge burlap-wrapped cross and a large church bell. Rumors swept Atlantic City that the car was actually the one used by Schwerner, Goodman and Chaney. Shortly after its appearance this truck was placed on a parking lot close by Convention Hall. We quickly established the fraudulency of these rumors and through police contacts we thwarted the racial group's plans to parade this burned car through Atlantic City streets.

On Monday, we furnished Mr. Jenkins details regarding the plans of CORE, the American Nazi Party, the Student Non-violent Coordinating Committee and initial plans of the MFDP.

Appropriate officials were notified of the intention of the Negro racial groups to establish a silent vigil on the boardwalk at the main entrance to Convention Hall. This vigil was to be maintained until a report was issued by the Credentials Committee regarding the seating of the MFDP delegates.

Tuesday, August 25, 1964

Jenkins was advised that Martin Luther King had prevailed upon to come to Atlantic City that day. We alerted White House representatives regarding compromise proposals for seating of the MFDP and furnished them information regarding plans of the Progressive Labor Movement groups, ACT and other dissident organizations. Martin Luther King attempted to arrange a rendezvous with a of Philadelphia. Our sources reported that SNCC and CORE were attempting to secure tickets to gain entrance to Convention Hall. Through a highly confidential source, it was learned that CORE and SNCC had been advised that the President was bringing pressure to bear on the delegates of 15 states to preclude their support of a move to bring the Mississippi delegates issue to the floor of the Convention.

Wednesday, August 26, 1964

We submitted reports reflecting that the militant members of MFDP under the leadership of were revolting against the leadership of Martin Luther King and We advised Jenkins that the MFDP delegates had flatly rejected the compromise proposal to seat the MFDP delegation. We reported that

OCT 1 1965
FBI

CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

/as attempting to promote a stall-in to block access to Convention Hall. was instructed by to plan this demonstration and through our control of him we were able to completely thwart

We also alerted the White House in advance regarding the telegram prepared by ACT demanding amnesty for Harlem rioters and for Federal registrars to police Negro voting in the South.

In consultation with Convention planners, we pointed out serious gaps in controlling admission to Convention Hall which had permitted entrance of dissident elements on the Convention floor. Jenkins immediately placed these recommendations into effect.

Thursday, August 27, 1964

We determined Martin Luther King and his staff were departing from Atlantic City early Thursday morning, and appropriate officials were advised of this. We also reported efforts of CORE-SNCC leaders to secure uniforms of the Young Citizens for Johnson groups and to utilize them for gaining entrance into Convention Hall. We were able to report that the number of participants of the silent vigil would dwindle rapidly. Although the demonstrations quieted down Thursday night, we were heavily involved in checking out the reports that a four-man group of Puerto Rican terrorists from New York were in Atlantic City in an attempt to assassinate the President.

MISCELLANEOUS:

For the benefit of the Domestic Intelligence and General Investigative Divisions, separate memoranda are being submitted regarding informant coverage. I am also recommending letters of appreciation to cooperative individuals whose efforts facilitated the squad's work in Atlantic City.

INFORMANT ACTIVITIES:

In connection with our Convention coverage, the special squad utilized the following sources:

symbol number informants from other offices;
confidential sources from other offices;
liaison source

RECEIVED FROM
OCT 1 1965
FBI

CONTINUED-OVER

:Loach to Mohr
E: ecial Squad, Atlantic City, New Jersey
emocratic National Convention
August 22-28, 1964

technical sources
special agents working in an undercover capacity
Negro informants
established sources in the Atlantic City area
Atlantic City informant extremist
Atlantic City Security informants

Our source from was in the inner planning circles
Another source the Progressive Labor Movement delegates to
tlantic City. Although the organization was inactive, we had sources in the
roups. A Newark informant served of SNCC-CORE.

RGANIZATIONS IN ATLANTIC CITY:

There was coverage on 15 separate organizations who were active in tlantic City during the course of the Convention. The leading groups included:

Mississippi Freedom Democratic Party (MFDP)
Council of Federated Organizations (COFO)
Congress of Racial Equality (CORE)
Student Non-violent Coordinating Committee (SNCC)
ACT
Independent Citizens Committee
American Nazi Party
White Party of America
W. E. B. Du Bois Clubs
Communist Party, USA
Women's International League for Peace and Freedom
The Progressive Labor Movement

ECOMMENDATIONS:

(1) The majority of the following personnel averaged over eight hours per ay during the five days the special squad was handling its responsibilities. They perated in a very competent fashion and it is, therefore, recommended that letters of ommendation over the Director's signature be considered for them. If approved, these ettes will be prepared by the Administrative Division. (A separate memorandum i

SECRET FBI
OCT 1 1975
FBI

RECOMMENDATIONS CONTINUED

being furnished the Administrative Division regarding the specific duties handled by these employees.)

(2) A number of the following employees had only minor duties inasmuch as they were not used full-time on the special squad, however, in view of the quiet and efficient manner in which they handled their responsibilities, letters are believed deserved.

RECEIVED FROM
OCT 1 1975
FBI

 RECOMMENDATIONS CONTINUED

Lynch to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

(3) It is recommended that letters from the Director be given to the following personnel who assisted materially in the success of this operation:

Dr. Kinsolving should receive a miniature award

CK

RECEIVED FROM
OCT 1 1975
FBI

EXHIBIT 40-1

UNITED STATES GOVERNMENT

Memorandum

TO : MR. CALLAHAN DATE: January 29, 1975

FROM : H. N. BASSETT

SUBJECT: SPECIAL SQUAD AT DEMOCRATIC NATIONAL CONVENTION ATLANTIC CITY, NEW JERSEY, 8/22 - 28/64

Reference is made to my previous memorandum captioned as above, dated 1/28/75 (copy attached). That which follows elaborates somewhat on various elements of our special coverage of the 1964 Democratic National Convention (DNC) and amplifies certain aspects of our operations therein.

A review of Bureau file on the Mississippi Freedom Democratic Party (MFDP) indicates the file was opened to reply to a request from Walter Jenkins, Special Assistant to President Johnson, for a name check on MFDP and certain persons connected therewith. He was advised, "FBI has never conducted an investigation of the MFDP and its files contain no record of it." Results of name checks on certain individuals were set forth together with public source data from the 7/21/64 edition of the Washington Post and ~~an inquiry made by the Washington Field Office~~ on 7/21/64 at the local office of the MFDP on general information on its objectives and identity of its staff members. This information was set forth in a blind memorandum to Mr. Jenkins dated 7/22/64.

On 8/21/64, responding to a request dated 8/19/64 from Mr. John Doar of the Civil Rights Division of the Department, memoranda were sent to Deputy Attorney General Katzenbach. Doar had requested name checks on 40 persons in the MFDP leadership and convention delegation members. The memoranda stated, "This Bureau has not conducted any investigation concerning the Mississippi Freedom Democratic Party nor has it taken any steps to identify party members."

It should be noted that three civil rights workers who traveled to Mississippi were discovered missing on 6/22/64 and their automobile found burned on 6/23/64. On 6/23/64 President Johnson was advised of these facts and requested to be kept aware of all aspects of the investigation which had been requested by the Civil Rights Division of the Department of Justice of the FBI. The three bodies of these workers were found thereafter on 8/4/64. On 8/23/64 a flat-bed truck with a burned car on it appeared in Atlantic City, New Jersey, and it was alleged to be the automobile of the three murdered

Enclosure
1 - Messrs.

(7)

CONTINUED - OVER

civil rights workers in Mississippi. Furthermore, information was received that the parents of one of these individuals would appear at a rally during the DNC.

On 8/25/64 Assistant Director Cartha DeLoach telephoned a memorandum to Mr. Mohr from Atlantic City to the effect information from Walter Jenkins and informants indicated the question of seating the MFDP delegates was expected to reach the floor of the DNC the evening of 8/25/64. He said "The crucial point of the convention in so far as possible violence is concerned will occur between 4:30 p.m. and 6:30 p.m. this afternoon. If the Mississippi Freedom Democratic Party is not seated then the unruly elements within the Negro group will possibly attempt to demonstrate." DeLoach indicated that every effort was being extended to cover developments pertinent to this possible violent situation.

There follows under appropriate caption in summary form information relative to our coverage at the DNC.

COVERAGE RELATIVE TO POTENTIAL CIVIL UNREST, DEMONSTRATIONS AND POSSIBLE VIOLENCE

A review of the summaries furnished to Walter Jenkins by Mr. DeLoach during the DNC indicates over 25 separate entries dealing with demonstrations insofar as their times, places, groups involved, number of participants, and general nature thereof were concerned. A great majority of the Bureau personnel still on active duty who were assigned to this special squad in Atlantic City have indicated that the attaining of intelligence information relative to possible violent civil disorders was the primary purpose of their efforts during the DNC.

Our coverage in this regard was handled through extensive informant coverage at Atlantic City and as a result of information received from informants in other parts of the country as well. Additionally, we utilized Agents in various undercover capacities to develop such information. Furthermore, a great deal of information in this regard was, in fact, received as a result of the technical coverage utilized. Where appropriate, the information obtained was disseminated to the U. S. Secret Service and other interested law enforcement agencies as well.

ACTIVITIES RELATIVE TO THE PROTECTION OF THE PRESIDENT

A review of the interviews of the previously mentioned special squad personnel still on active duty has indicated that a majority of them felt that their

 CONTINUED - OVER

assignment in part was related to the augmenting of the U. S. Secret Service insofar as the protection of the President was concerned. One Agent indicated that Bureau personnel did, in fact, actively assist in the protection of the President and his family while they were at the DNC.

A review of Bureau file captioned "Disruption of Democratic National Convention, Information Concerning (Internal Security)" did not reveal any information directly relating to the protection of the President.

A review of the DeLoach summaries to Mr. Jenkins indicated one instance where a demonstration was planned to take place upon the President's arrival at convention hall and another incident which revealed a breach of security which allowed an individual to enter the convention hall and proceed directly to the podium area. This information was furnished immediately to the U. S. Secret Service.

Information is contained in the interviews of the former special squad personnel that FBI Agents were utilized in supplementing U. S. Secret Service personnel on the convention hall floor.

~~INFORMATION DEVELOPED~~ OF POSSIBLE POLITICAL SIGNIFICANCE

A further review of the DeLoach summaries revealed approximately 20 separate items which do not appear to relate directly with possible civil unrest - demonstrations or with the protection of the President. These items were developed as a result of the various types of coverage we had at the DNC but a great number thereof were obtained through our technical coverage. A sampling of these items includes the following:

1.

2. Informant information received that Congressman Adam Clayton Powell was carrying a revolver.

3. Informant information relative to National Association for the Advancement of Colored People planning a meeting at a church.

4. Informant relative to King's speaking before various state delegations.

FBI

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

5. Information that the Congress of Racial Equality headquarters in Atlantic City was attempting to have Congressman Charles Diggs' office in Detroit, Michigan, picketed, claiming he was "shakey."

Allegations in the press that the coverage of the FBI was used to follow the activities of Attorney General Robert F. Kennedy were not substantiated in any way by file reviews.

A review of the statements furnished by the special squad personnel includes various instances where they relate a portion of their overall purpose was to insure that there was nothing which would "embarrass the President." One Agent indicated that DeLoach placed emphasis on the fact that the President did not wish to be embarrassed in any way and that information was to be gathered which would assure that there would be no such embarrassment.

Two statements were furnished by in this regard. One states "I would like to state that at no time did I ever consider the above to be a political operation but it was obvious that DeLoach wanted to impress Jenkins and Moyers with the Bureau's ability to develop information which would be of interest to them" Furthermore, in response to a question as to whether the Bureau's services were being utilized for political reasons, answered, "No. I do recall, however, that on one occasion I was present when DeLoach held a lengthy telephone conversation with Walter Jenkins. They appeared to be discussing the President's 'image.'

EXHIBIT 40-2

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

At the end of the conversation DeLoach told us something to the effect, 'that may have sounded a little political to you but this doesn't do the Bureau any harm.'"

Other Agent personnel on the special squad indicated in the negative insofar as the above question is concerned.

DISSEMINATION

In addition to the summary memoranda furnished by DeLoach to Mr. Jenkins, information is contained in Bureau file 100-442527, cited above, that some of the same information was included in daily letters to the White House and the Attorney General on current Racial Developments. There was similar dissemination made to U. S. Secret Service, military intelligence agencies and local authorities on a selected basis.

RECOMMENDED ACTION

For information. It should be noted the information contained herein setting forth that the White House and the Department made requests in 1964 for information from Bureau files concerning the MFDP has been incorporated into a separate LHM being prepared for the Deputy Attorney General.

OCT 30 1975

FBI

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

The only information located in Bureau files concerning the special squad in Atlantic City was an eight-page memorandum (copy attached) with enclosure located in the file of DeLoach. This is a memorandum from DeLoach to Mohr dated 8/29/64 which sets forth that in connection with the assignment of the special squad in Atlantic City at the direction of the President, DeLoach wished to report the successful completion of this assignment. He states that by means of informant coverage, use of various confidential techniques, infiltration of key groups through use of undercover agents and through utilization of Agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments. DeLoach also advised that immediate liaison was established in Atlantic City with Secret Service as well as state and local police.

This memorandum refers to highly confidential coverage of Martin Luther King and Bayard Rustin, along with similar coverage established on the headquarters of the Congress of Racial Equality (CORE) - Student Nonviolent Coordinating Committee (SNCC). DeLoach states he was able to advise the White House in advance of all plans made by these two sources and coverage was highly effective. DeLoach advises "with Bureau approval" he instituted coverage on CORE - SNCC headquarters at their meeting hall and our [illegible] penetrated the headquarters of the Mississippi Freedom Democratic Party (two separate factions were contesting seats for the Mississippi delegation and was a highlight of the convention) and through cooperation with the management of news our Agents were furnished press credentials. DeLoach reported that 44 pages of intelligence data was disseminated to Walter Jenkins at the White House and to his memorandum he attached a copy of these daily summaries dated 8/24, 25, 26, 27/64. These summaries are in effect a running log of developments which took place at the convention. DeLoach also states he arranged for a lease line between the control post at Atlantic City and the Bureau. He concludes the memorandum by making recommendations that personnel involved, namely 27 Agents, one radio maintenance technician and two stenographers of the Newark Office be commended. Mr. Hoover noted DeLoach should receive a meritorious award.

Bureau file , serial , reflects a memorandum from Mr. Hoover wherein Walter W. Jenkins, Special Assistant to the President, called and stated the President wanted Jenkins to call the Director to express the

OCT 30 1975
FBI

CONTINUED - OVER

thought the job the Bureau had done in Atlantic City was one of the finest the President had ever seen. According to this memorandum, Jenkins told Mr. Hoover there were a lot of bad elements up there and because of the work some of the Bureau people did they knew exactly where they were and what they were doing and consequently they were not able to be very effective

A thorough review of Bureau records, including a review of abstracts of Mr. Hoover, Mr. Tolson, Mr. Mohr,* as well as Mr. DeLoach, failed to locate any memorandum or other document pertaining to a request having been received from President Johnson or anyone at the White House instructing that the FBI afford special coverage at the convention. It should be noted that at this time DeLoach was responsible for liaison with the White House and had a direct line at his residence to the President so it well may be that this request was made directly to DeLoach who in turn discussed it orally with Mr. Hoover or Mr. Tolson but for one reason or another the request was never put in writing.

STATEMENTS OF SPECIAL SQUAD PERSONNEL STILL ON ACTIVE DUTY

On 1/28/75 the Inspection Division directed a teletype incorporating 12 questions to the 19 Agents and one radio maintenance technician who are still on active duty and were with DeLoach at Atlantic City. These questions were designed to have the participating personnel furnish us with their recollection as to their duties and involvement at Atlantic City. Detailed responses were promptly received and all personnel acknowledged their participation on the special squad under DeLoach's leadership at the convention. All responded there was no question in their mind at the time but that they were in Atlantic City to fulfill the FBI's jurisdictional responsibilities and they did not feel that the purpose of the special squad was political in nature. Basically, the instructions to the Agents were to develop advance information regarding any acts or intended acts of violence pertaining to civil disturbances that could arise during

OCT 30 1975
FBI

 CONTINUED - OVER

*Mr. Belmont, Mr. W. C. Sullivan

EXHIBIT 41

September 10, 1964

PERSONAL

Honorable William D. Moyers
Special Assistant to the President
The White House
Washington, D. C. 20501

Dear "Bishop:"

Thank you for your very thoughtful and generous note concerning our operation in Atlantic City. Please be assured that it was a pleasure and privilege to be able to be of assistance to the President, and all the boys that were with me felt honored in being selected for the assignment.

I think everything worked out well, and I'm certainly glad that we were able to come through with vital tidbits from time to time which were of assistance to you and Walter. You know you have only to call on us when a similar situation arises.

Thank you again for taking time out of your busy day to write to me, and I hope we can get together soon.

Sincerely,

C. D. DeLoach

Nothing else sent to General Files as of

COPY
LYNDON BAINES JOHNSON LIBRA

EXHIBIT 42

#2

November 8, 1966

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C.

Dear Mr. Watson:

Reference is made to your request regarding the authors of books dealing with the assassination of President Kennedy.

Attached are summary memoranda setting forth pertinent information contained in FBI files concerning the following individuals:

The files of the FBI contain no pertinent data with respect to [illegible]

A copy of this communication has not been sent to the Acting Attorney General.

Sincerely yours,

REC 20

10 NOV 9 1966

Enclosures (11)

(8)

EXHIBIT 43

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
2000 L STREET, NORTHWEST
WASHINGTON, D. C. 20036

ALLAN C. SHARRETT
EXECUTIVE ASSISTANT

202 466-5600

'75 SEP 24 AM 11:57
SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES

September 17, 1975

Mr. Mike Epstein
Staff Member
Senate Select Committee
on Intelligence Operations
308 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mike:

This is in response to your inquiry regarding the installation of private lines from Atlantic City, New Jersey to the White House during the August, 1964 Democratic National Convention.

Private lines for security purposes were established from the F. B. I. and Secret Service temporary communication's center in Atlantic City to the F. B. I. Headquarters in Washington, D. C. and to the White House P. B. X. We had no indication of any improper or unlawful use of such service.

Sincerely,

Allan Sharrett

EXHIBIT 44

The Attorney General

September 2, 1965

Director, FBI

PENETRATION AND DISRUPTION
OF [illegible] ORGANIZATIONS
RACIAL MATTERS

As you know, this Bureau has solved a number of cases involving racial violence in the South. In this regard, public attention particularly was focused on the FBI's role in the solution of the brutal murders of Mrs. Viola Liuzzo, Lieutenant Colonel Lemuel A. Penn, and the three civil rights workers in Mississippi. However, we have achieved a number of other tangible accomplishments, most of which are not publicly known, and I thought you might be interested in them.

At the present time, for example, nearly [illegible] of our informants and sources are being operated to obtain up-to-date intelligence data concerning racial matters which we disseminate on a continuing basis. Of these, [illegible] have been developed in just the past year--an average of more than [illegible] for every day in the past twelve months.

Particularly significant has been the high-level penetration we have achieved of Klan organizations. At the present time, there are 14 Klan groups in existence. We have penetrated every one of them through informants and currently are operating informants in top-level positions of leadership in [illegible] of them.

Through such coverage, much valuable information relating to a variety of cases of violence and planned violence in the civil rights field has been obtained. Just recently, for example, an informant secured and furnished to us the weapon used in a civil rights shooting incident in North Carolina. Another informant provided the information which led to the recovery of a large volume of hand grenades, ammunition, dynamite, and other explosives which had been stolen from Fort McClellan in Alabama. Still another strategically placed informant enabled us to identify the Klansmen responsible for the bombing of two automobiles and a Negro mortuary in New Bern, North Carolina.

The Attorney General

The solution to the series of bombings and burnings of some 20 to 25 homes in the McComb, Mississippi, area last year similarly was based on information supplied by [redacted] of our informants.

Equally important, and something of which the public is totally unaware, is the extent to which we have been able to forestall violence in certain racially explosive areas. In one southern state, for example, the governor, on one occasion, expressed his great concern and fear of an outbreak of racial violence because of the tense situation.

As a result, we have been successful to date in [redacted] Klan violence in the entire state to an absolute minimum.

We also are seizing every opportunity to disrupt the activities of Klan organizations. Typical is the manner in which we exposed and thwarted a "kick back" scheme a Klan group was using in one southern state to help finance its activities. One member of the group was selling insurance to other Klan members and would deposit a generous portion of the premium refunds in the Klan treasury. As a result of action we took, the insurance company learned of the scheme and cancelled all the policies held by Klan members, thereby cutting off a sizable source of revenue which had been used to finance Klan activities.

I have furnished these examples to illustrate to you the approach this Bureau is taking to meet the challenge of racial lawlessness in certain areas today.

The above information has also been furnished to Honorable Marvin Watson, Special Assistant to the President.

[redacted]

JUL [redacted] 1965

FBI

EXHIBIT 45

Office of the Attorney General
Washington, D. C.

September 3, 1965

MEMORANDUM FOR

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation

Re: Your memorandum of September 2, regarding penetration and disruption of Klan Organizations

I have been aware in a general way of the accomplishments of the Bureau in the area of Klan penetration, but I appreciate having the benefit of detailed information on this subject, and I hope you will continue to keep me up to date on it.

May I take this opportunity to congratulate you on the development of your informant system in the Klan organizations and on the results you have obtained through it. It is unfortunate that the value of these activities would in most cases be lost if too extensive publicity were given to them; however, perhaps at some point it may be possible to place these achievements on the public record, so that the Bureau can receive its due credit.

RECT

Nicholas deB. Katzenbach
Attorney General

EXHIBIT 46

The Attorney General

December 19, 1967

Director, FBI

KU KLUX KLAN INVESTIGATIONS
FBI ACCOMPLISHMENTS

Pursuant to your conversation with Mr. C. D. DeLoach of this Bureau concerning FBI coverage and penetration of the Ku Klux Klan, we have prepared the attached memorandum. Also attached are copies of my statements and publications regarding the Ku Klux Klan in the United States and the FBI's role in investigating Klan matters.

While some of the information contained in the attached memorandum is already a matter of public record, there are matters dealing with extremely sensitive operations of this Bureau and it is suggested that this be handled on a strict need-to-know basis.

Enclosures - 7

1 - The Deputy Attorney General (Enclosures - 7)

Attached copies of statements and publications regarding the Ku Klux Klan in the United States and the FBI's role in investigating Klan matters consist of:

The Attorney General

NOTE CONTINUED:

(1) "The Resurgent Klan," by J. Edgar Hoover--Reprint from July, 1966, American Bar Association Journal.

(2) "The FBI's Secret War," Remarks of Senator Karl Mundt before U. S. Senate, January 14, 1966--reprint from 1/14/66 "Congressional Record."

(3) Page 28 of 1967 FBI Annual Report--Deals with Klan investigations.

(4) Portion of Director's Appropriations Testimony, 2/16/67, dealing with Klan-type investigations.

(5) Remarks of Hon. George W. Grider of Tennessee dealing with investigation of Klan--taken from "Congressional Record," 5/3/65.

(6) Remarks of Hon. George W. Grider of Tennessee dealing with investigations of Klan--taken from "Congressional Record," 5/4/65.

December 19, 1967

KU KLUX KLAN INVESTIGATIONS
FBI ACCOMPLISHMENTS

BACKGROUND

Historically, the problem of the Ku Klux Klan in the United States has existed since the days of Reconstruction following the Civil War. The Invisible Empire is well known for its terrorist, nightriding activities and has been responsible since its inception for numerous racial atrocities throughout the country. The Klan reached its peak during the 1920s when it claimed millions of members and it became almost defunct during World War II. In 1954, with the historic Supreme Court decision regarding desegregation of public schools, it became revitalized. In 1964, with the passage of civil rights legislation by the Congress, the Klan recruited thousands of persons who feared the rise of the Negro and the threat to the "Southern way of life."

The Klan has usually been located in the South although there have been attempts to organize it in the North, Midwest, and far West. The Klan attracts individuals in the rural areas who are poorly educated with limited incomes. The Klan exploits the fears, hatred, and ignorance of people who feel they are threatened by the Negro, the Jew, the Catholic, and the immigrant.

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure
Subject to Criminal Sanctions

PRESENT STATUS

Presently there are 14 Klan organizations under investigation with a membership of approximately 14,000. The largest of these groups, the United Klans of America, Inc., Knights of the Ku Klux Klan, with Headquarters in Tuscaloosa, Alabama, has an estimated membership of about 10,000.

FBI

Ku Klux Klan Investigations

Since 1964 Klan membership has declined in Mississippi, Alabama, and Louisiana and increased in North and South Carolina and Virginia. The North Carolina Klan has the largest membership of any state in the Union under the leadership of

The most secretive and vicious Klan organization in recent years has been the White Knights of the Ku Klux Klan of Mississippi under the leadership of of Laurel, Mississippi, who was recently convicted in connection with the murder of

FBI RESPONSIBILITY

This Bureau has a three-fold purpose in investigating the Ku Klux Klan and individuals associated with Klan organizations. First, we investigate violations of Federal law committed by the Klan with the view toward prosecution in Federal court. Second, we conduct intelligence investigations with the view toward infiltrating the Ku Klux Klan with informants, neutralizing it as a terrorist organization, and deterring violence. Third, we provide the Department with the results of our investigations for possible designation of Klan organizations under Executive Order 10450.

RECE
FBI

MAJOR CASES

Murder of Three Civil Rights Workers

In June, 1964, three civil rights workers were murdered in Neshoba County, Mississippi, setting off an intensive FBI investigation. In October, 1967, 7 of 18 defendants were convicted in Federal court in Meridian, Mississippi, for violation of the victims' civil rights. An 8th defendant pleaded guilty and a mistrial was declared as to three other defendants. Our investigations revealed that there was a broad Ku Klux Klan plot behind the abduction and murder of the victims.

Klan informants were used as witnesses in this trial and they unfolded a story of Klan violence and terrorism rarely presented in any court.

Murder of Vernon Dahmer

In January, 1966, Vernon F. Dahmer, a leader of the National Association for the Advancement of Colored People in Hattiesburg, Mississippi, died as a result of wounds received when his home was burned and shot into by the Ku Klux Klan. Twelve klansmen have been indicted by the Federal Grand Jury and the case is presently pending in United States District Court at Hattiesburg. FBI informants were instrumental in determining in the early stages of the investigation that and the members of the White Knights of the Ku Klux Klan of Mississippi were responsible for Dahmer's death.

Murder of Lemuel Penn

In July, 1964, Lemuel Penn, an Army Reserve Lieutenant Colonel and Negro educator from Washington, D. C., was killed by shotgun blasts near Colbert, Georgia. An exhaustive investigation by this Bureau resulted in the arrest of four members of the Ku Klux Klan. Informants also played a major role in this case. In October, 1964, a Federal Grand Jury returned an indictment charging six men, including the four arrested for Penn's murder, with conspiracy to injure, oppress, and threaten to intimidate Negro citizens in the free exercise of their Constitutional rights. Two of the defendants were convicted and four were acquitted.

Murder of Viola Liuzzo

In March, 1965, Mrs. Viola Liuzzo was killed by gun blasts near Selma, Alabama, and three members of the Ku Klux

REC
JUL
FBI

Klan were arrested and charged with her slaying. Gary Thomas Rowe, who subsequently testified against these defendants, was present at the time Mrs. Liuzzo was murdered. This case dramatically emphasized our penetration of the Klan when it was publically disclosed that Rowe was an FBI informant. The three defendants were indicted by a Federal Grand Jury and convicted in Federal court for conspiracy.

McComb, Mississippi, Bombings

From June through September, 1964, a series of bombings occurred in McComb, Mississippi. After intensive FBI investigation, nine members of the Ku Klux Klan were arrested and charged with bombing homes and churches at McComb. These nine klansmen entered pleas of guilty and nolo contendere in local court. FBI informants were instrumental in uncovering the plot and identifying suspects.

New Bern, North Carolina, Bombings

In early 1965, a strategically placed informant enabled us to identify klansmen responsible for the bombing of two automobiles and a Negro mortuary in New Bern, North Carolina. This information was turned over to local authorities. Three defendants were convicted in State court.

Bogalusa Injunction

In Bogalusa, Louisiana, during the height of the racial disorder in that community in 1965, FBI investigation led to the obtaining of an injunction against the Anti-communist Christian Association also known as Original Knights of the Ku Klux Klan. This was a major deterrent to further Klan violence in that community.

Klan Terrorism, Rowan and Cabarrus Counties, North Carolina

In July, 1967, FBI investigations led to the arrest and indictment of 12 men in Rowan County, North Carolina.

for numerous acts of racial intimidation and violence.

INFORMANTS

Informant coverage in Klan groups has been an important part of our program and our coverage is aimed at both high-level and low-level penetration. For example, recently the United Klans of America held its National Klonvocation in Tuscaloosa, Alabama, to elect members of the Imperial Board. PORTION DELETED AS IT CAN IDENTIFY SOURCES

Perhaps one of the most difficult of our assignments is the penetration of Klan "action squads." An action squad is a small group of klansmen, within a klavern or acting independently, whose purpose is to commit acts of terrorism and violence. We have penetrated a number of these groups and among the most notorious are DELETED AS IT IDENTIFIES KLAVERNS AND RELEASE OF INFORMATION COULD JEOPARDIZE SOURCES.

SPECIAL PROJECTS

Florida

Through an intensive effort by Bureau Agents in our Florida offices handling intelligence information and Bureau informants within the Florida Ku Klux Klan, we were able to effect the removal of of the United Klans of America, Realm of Florida. Through Bureau informants, misuse of Klan funds; mismanagement of Klan affairs; and personal misconduct were brought to the attention of the Klan rank and file and was deposed as Grand Leader. There has been no replacement and the Florida

1975

Klan has been slowly deteriorating. We have found that by the removal of top Klan officers and provoking scandal within the state Klan organization through our informants, the Klan in a particular area can be rendered ineffective.
is attempting to reorganize the Florida Klan and we are following it closely.

Mississippi

Through our informant operations, A Leader of the United Klans of America the State of Mississippi has been removed and discredited. Further attempts by the United Klans to expand in Mississippi have been deterred.

Tennessee

In the early stages of Klan growth in the State of Tennessee, we were able to develop as a Bureau informant A member of the United Klans of America, Realm of Tennessee. Through this source we were able to control the expansion of the Klan. More importantly, we were able to discourage violence throughout the state. The Klan in Tennessee has not expanded to the proportions it has in other states and its lack of success can be attributed to our highly placed informant.

Louisiana

In March of 1966, high-level informants in the Louisiana Klan were responsible for the defeat of notoriously militant incumbent Klan leaders. Subsequently, A LEADER of the United Klans of America, removed A KLAN OFFICIAL and to this date, this office has not been replaced. This action contributed to the disorganization and disruption of the United Klans in Louisiana.

JUN 1965

FBI

Ku Klux Klan Investigations

Illinois

Attempts were made to organize the Ku Klux Klan in the States of Illinois and Wisconsin. DELETED AS IDENTIFIES A STATE KLAN OFFICIAL. In August, 1966, a series of bombings occurred in Milwaukee, Wisconsin. Through a high-level Klan source of our Chicago Office we learned that A KLAN OFFICIAL was responsible for these bombings. The Department ruled that there was no prosecutable Federal violation. However, we pursued an intelligence-type investigation and furnished local authorities in Milwaukee with complete information coming from our Chicago Klan informants. THIS OFFICIAL was subsequently convicted and sentenced to 15 years. The result has been that the Klan in Illinois and Wisconsin has not been able to effectively organize and its expansion in the Midwest has been halted.

Virginia

In the Fall of 1965 the United Klans of America began an intensive organizational effort in the State of Virginia. We immediately began an all-out effort to penetrate the Virginia Klan, contain its growth, and deter violence. Working closely with local and state authorities we were able to disseminate information on contemplated cross burnings. Several arrests were made based on FBI information furnished to local police and in one situation, a Klansman was sentenced to three years in local court for burning crosses, a felony under Virginia law. While conducting official investigations, two Agents of this Bureau were assaulted by klansmen who were later convicted on charges of Assault of a Federal Officer and Obstruction of Justice in Federal Court in Richmond, Virginia.

In December, 1966, the Special Agent in Charge of our Richmond Office contacted Virginia Governor Mills Godwin to intensify cooperation between the Virginia State Police

and the FBI in Klan matters. We provided the Governor with information regarding Klan activities in his state. As a result, Governor Godwin pressed for more effective enforcement of Virginia cross burning laws, and publically repudiated the Ku Klux Klan. Shortly after the Governor's public repudiation, the Klan attempted to retaliate and we learned of plans to burn crosses in the City of Richmond in defiance of the Governor. We furnished this data to local authorities who arrested five klansmen, thus seriously dampening Klan enthusiasm for such projects.

In May, 1966, we learned of Klan plans to "arrange an accident" for a civil rights worker working in the State of Virginia. We advised and local authorities of the plot against her life and alerted our informants to follow the plot closely. To this date, the Klan has taken no action against This is just one of many examples of our notifying authorities and intended victims of racial violence in order that they could take appropriate protective measures.

LIAISON WITH LOCAL AUTHORITIES

When we receive intelligence information concerning violations of local laws such as cross burnings, bombings, or shootings, we notify local authorities. For example, in April of 1966, the Louisiana Klan planned to burn crosses throughout the state. We furnished this data to local authorities and arrests were effected thus deterring further acts of harassment, intimidation, and violence. This is another example of incidents which are handled in our day-to-day contacts with local police.

REC'
JUL 1965
FBI

Ku Klux Klan Investigations

KLAN INFILTRATION OF LAW ENFORCEMENT

We are constantly alert for information concerning klansmen who become members of local and state police agencies and Klan attempts to infiltrate law enforcement. Law enforcement agencies have always been a prime target of the Ku Klux Klan. In 1964, we furnished information to Governor Paul Johnson of Mississippi concerning klansmen who were members of the Mississippi Highway Patrol. These men were subsequently fired. Since that time relations have greatly improved, rendering more effective the fair exercise of local law enforcement responsibilities in Mississippi. It has been part of our established policy to notify the head of the law enforcement agency involved of any member of his organization who has been sworn into the Ku Klux Klan. In addition, the Governor of the state is notified.

ACQUISITION OF WEAPONS AND DYNAMITE OF THE KU KLUX KLAN

As part of our investigation of Klan groups, we determine the extent to which they are acquiring and stockpiling weapons, ammunition, and dynamite. During our investigations we always endeavor to determine the numbers and types of weapons and the amount of dynamite possessed by klansmen. In 1964, for example,
, was arrested by FBI Agents and local authorities for possession of dynamite which, according to our Klan sources, he intended to use for bombing purposes.

If it is determined that illegal weapons such as automatic machine guns, illegal rifles and shotguns, are being held by klansmen, appropriate investigations under the National and/or Federal Firearms Act are instituted.

JUL 1965
FBI

INTERVIEWS OF KLANSMEN

One of the greatest attractions for klansmen is the alleged cloak of secrecy which surrounds their Klan membership. We have found that a program of seledtive interviews of klansmen, where they are made aware of our knowledge of their Klan affiliation, has done much to cause disillusionment of the members and disruption of the organization. In some instances klansmen volunteer information about the organization and its activities. These interviews also put us in a position to assess eachmember with regard to his potential as an informant. Although our Agents in conducting their interviews are frequently met with hostility and threats by militant klansmen, our Klan interview program has been most effective in deterring violence and developing informants.

RECENT DEVELOPMENTS

On December 7, 1967, an informant of our Mobile Division learned of Klan plans to burn crosses in Montgomery, Alabama. This information was disseminated to appropriate local authorities in an effort to effect arrests during the commission of these illegal acts.

Only within the last week an informant of our Jackson Office obtained information concerning possession of 105 sticks of dynamite by This information was given to local authorities who arrested and confiscated the dynamite. was charged with illegal possession of dynamite, a felony in the State of Mississippi.

REC
JUL
FBI

EXHIBIT 47

Office of the Attorney General
Washington, D. C.

September 14, 1967

MEMORANDUM FOR THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Although the bulk of criminal offenses occurring in the course of recent riots have been local rather than federal in nature, the question as to whether there was an organization which (a) had made advanced plans for, and (b) was active during any of the riots in the summer of 1967 is one that cannot always be readily resolved by local authorities. In view of the seriousness of the riot activity across the country, it is most important that you use the maximum available resources, investigative and intelligence, to collect and report all facts bearing upon the question as to whether there has been or is a scheme or conspiracy by any group of whatever size, effectiveness or affiliation, to plan, promote or aggravate riot activity.

In this connection the following federal statutes could be applicable depending, of course, upon the factual situation that develops:

Title 18, USC, Section 2383, which proscribes the inciting or engaging in any rebellion or insurrection against the authority of the United States.

Title 18, USC, Section 2384, which proscribes conspiring to overthrow or to destroy by force the Government of the United States or to oppose by force the authority thereof or by force to prevent, hinder or delay the execution of any law of the United States.

Title 18, USC, Section 2385, which proscribes inter alia, advocacy of overthrowing the Government of the United States or the Government of any state, territory, District or possession thereof, or the Government of any political subdivision therein by force or violence.

Activities Affecting Armed Forces, 18 USC 2388

Selective Service, 50 USC (App.) 462

Travel and Interstate Transportation,
18 USC 1952 (Arson)
18 USC 831-33 (Explosive)

Assault and Killing of Federal Officers and Employees, 18 USC 111, 114 and 2231

Destruction of Government Property, 18 USC 1361 et al.

Federal Firearms Act, 15 USC 901-909

Crimes on Federal Reservations, 18 USC 13, 81 et al.

I appreciate that the Bureau has constantly been alert to this problem and is currently submitting intelligence reports to us about riots and about the activity of certain groups and individuals before, during and after a riot. Indeed, the President has said both publicly and privately that the FBI is conducting extensive and comprehensive investigations of these matters.

There persists, however, a widespread belief that there is more organized activity in the riots than we presently know about. We must recognize, I believe, that this is a relatively new area of investigation and intelligence reporting for the FBI and the Department of Justice. We have not heretofore had to deal with the possibility of an organized pattern of violence, constituting a violation of federal law, by a group of persons who make the urban ghetto their base of operation and whose activities may not have been regularly monitored by existing intelligence sources.

In these circumstances, we must be certain that every attempt is being made to get all information bearing upon these problems; to take every step possible

to determine whether the rioting is pre-planned or organized; and, if so, to determine the identity of the people and interests involved; and to deter this activity by prompt and vigorous legal action.

As a part of the broad investigation which must necessarily be conducted, it is requested that all available information be reported and analyzed regarding each sniper caught in any riot or extremist activity and regarding those arrested during the course of a riot or significant racial disturbances who were not residents of the general area. Moreover, sources or informants in black nationalist organizations, SNCC and other less publicized groups should be developed and expanded to determine the size and purpose of these groups and their relationship to other groups, and also to determine the whereabouts of persons who might be involved in instigating riot activity in violation of federal law. Further, we need to investigate fully allegations of conspiratorial activity that come to our attention from outside sources such as those reported regarding Newark in Life Magazine for July 28, 1967, and those regarding the Detroit riot which were furnished to the Department by Walter Sheridan of the National Broadcasting Company (summary of latter is attached).

Ramsey Clark

RAMSEY CLARK
Attorney General

EXHIBIT 48

Kevin T. Maroney
Thomas J. McTiernan
Hugh Nugent
James P. Turner
The Attorney General

November 5, 1

Establishment of a departmental intelligence unit in relation to civil disorders

It is imperative that the Department seek and obtain the most comprehensive intelligence possible regarding organized or other purposeful stimulation of domestic dissension, civil disorders, and riots. To carry out these responsibilities we must make full use of, and constantly endeavor to increase and refine, the intelligence available to us, both from internal and external sources, concerning organizations and individuals throughout the country who may play a role either in instigating or spreading disorders or in preventing or checking them. However, we do not now adequately use such intelligence or develop and implement methods of improving intelligence. Thus, we do not have any systematic means at present of compiling and analyzing the voluminous information about various persons or organizations furnished to us by the FBI, and we make very little effort to obtain information elsewhere.

For a more extensive discussion of this subject, I refer you to a memorandum written to me on September 27, 1967, by Assistant Attorney General John Doar. Mr. Doar, with the concurrence of Messrs. Vinson and Yeagley, there recommended the establishment of an intelligence unit within the Department to assimilate and analyze the information presently at hand, as well as that coming to the Department in the future from the FBI and other sources. I have approved the recommendation.

My purpose in this memorandum is to constitute the four of you as a committee, with Mr. Maroney acting as chairman, to accomplish the following, among other things:

1. Make recommendations as to the location of the Intelligence Unit within the Departmental organization and the officer or officers to which it shall be immediately responsible.

CONFIDENTIAL

2. Recommend the best means of collating and indexing relevant information presently in the Department.

3. Designate sources outside the Department, both in and out of the Government, that may provide useful information to the Unit and methods for developing and obtaining such information.

4. Recommend the types of summaries and reports the Unit shall make and the distribution thereof in and out of the Department; and

5. Recommend the extent to which the Unit shall draw conclusions from the material it processes and make proposals for intelligence, investigation or other action by the Department or others.

You are free to consult with the FBI and other intelligence agencies in the Government to draw on their experience in maintaining similar units, to explore the possibilities of obtaining information we do not now receive and to carry out other purposes relevant to this assignment. Planning and creation of the unit must be kept in strictest confidence. You should call on me or Sol Lindenbaum for any assistance you need.

Please submit your report and recommendations to me by December 1, 1967.

EXHIBIT 49

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : John Doar
Fred M. Vinson, Jr.
Roger W. Wilkins
J. Walter Yeagley

DATE: December 18, 1967

FROM : The Attorney General

SUBJECT: Creation of Interdivision Information Unit

After consideration of the report of December 6, 1967, submitted by Kevin T. Maroney, Thomas J. McTiernan, Hugh Nugent and James P. Turner pursuant to my memorandum of November 9, 1967, I have determined to establish a permanent unit, staffed with full-time personnel, to take over and extend the activities of the so-called Summer Project of the past two years. The new organization shall be known as the Interdivision Information Unit.

The Unit shall function for the purposes and within the guidelines expressed in my memorandum of November 9 and the report of December 6, 1967. It is enough to state here that, in the main, it shall be responsible for reviewing and reducing to quickly retrievable form all information that may come to this Department relating to organizations and individuals throughout the country who may play a role, whether purposefully or not, either in instigating or spreading civil disorders, or in preventing or checking them.

The Director of the Community Relations Service and the Assistant Attorneys General in charge of the Civil Rights, Criminal and Internal Security Divisions, with the last named acting as chairman and principal overseer, shall constitute a Supervisory Committee to guide the Unit in carrying out its functions.

Pending the selection of a head of the Unit, Kevin T. Maroney shall serve as acting head and, with the assistance of the Supervisory Committee and Messrs. McTiernan, Nugent and Turner, take action to bring it into operation as soon as possible. Necessary personnel shall be obtained from within the Department of Justice and arrangements for office space, supplies and equipment coordinated with the Administrative Division.

The Supervisory Committee and Unit shall coordinate the Unit's activities with related activities carried on elsewhere in the Department of Justice to avoid unnecessary duplication of effort.

The Supervisory Committee shall meet at least biweekly.

EXHIBIT 50

8/30/68 8-4

airtel

To: SAC, Chicago

From: Director, FBI

COINTELPRO - NEW LEFT

Several news releases have appeared in the local press regarding demonstrations in Chicago during the Democratic National Convention in which the police have been criticized by using undue force. Already, charges of police brutality are being made and it can be anticipated that charges of this nature will grow.

The Bureau should be alert to this situation and be in a position to refute unfounded allegations whenever possible. Chicago should, therefore, obtain all possible evidence that would disprove these charges and promptly submit it to the Bureau under the above caption.

REC-65

As an example of the type of evidence that is needed, the "Washington Post," 8/27/68 edition on page three, carried an article in which a staff reporter, David Cutter, quoted U.S. Attorney Thomas Foran as praising the police and stating that some photographs showing alleged police brutality were posed by photographers.

AUG 29 1968

You should interview U.S. Attorney Foran concerning the incident to which he refers and include it with other information developed. Bear in mind that public rumor material will be particularly useful in refuting these charges and you should be alert to this type of information.

Along this same line, you should also consider measures by which cooperative news media may be used to counteract these allegations. Take no steps in this regard without prior Bureau authority.

RECEIVED FBI

(5)

SEE NOTE PAGE TWO

AUG 2 8 1968

66-077 O - 76 - 35

Airtel to SAC, Chicago
Cairo - [illegible]
100-[illegible]

NOTE:

Once again, the liberal press and the bleeding hearts and the Forces on the left are taking advantage of the situation in Chicago surrounding the Democratic National Convention to attack the police and organized law enforcement agencies. When actual evidence of police brutality is not available, it can be expected that these elements will stretch the truth and even manufacture incidents to indict law enforcement agencies. We should be mindful of this situation and develop all possible evidence to expose this activity and to refute these false allegations.

66-077 1196

RECEIVED FROM

EXHIBIT 51

9/3/68

TELETYPE URGENT

SENT BY GOLD TELETYPE

TO SACS BALTIMORE
BUFFALO
CHARLOTTE
CHICAGO
CINCINNATI
CLEVELAND
DENVER
JACKSON
KANSAS CITY
LOS ANGELES
MILWAUKEE
NEW YORK
PHILADELPHIA
SAN FRANCISCO
WFO

FROM DIRECTOR FBI

COINTELPRO - NEW LEFT.

IN VIEW OF RECENT ACCUSATIONS AGAINST CHICAGO AUTHORITIES RELATING TO THEIR HANDLING OF DEMONSTRATORS AT THE DEMOCRATIC NATIONAL CONVENTION, THE BUREAU DESIRES TO COLLECT ALL POSSIBLE INFORMATION REGARDING PROVOCATIONS OF POLICE BY DEMONSTRATORS AND THE REACTION OF POLICE THERETO. RECIPIENT OFFICES IMMEDIATELY DEBRIEF SOURCES WHO COVERED DEMONSTRATIONS AT THE CONVENTION TO OBTAIN ALL INFORMATION WHICH WOULD BEAR ON THESE ACTIVITIES. INCLUDE IN DEBRIEFING, ALL INFORMATION INDICATING INCIDENTS WERE STAGED TO SHOW POLICE REACTED WITH

REC 5

NOTE PAGE TWO

19 SEP 5 1968

TELETYPE TO SAC BALTIMORE, ET AL
CONTINGENCY - NEW LEFT

UNDUE FORCE AND ANY INFORMATION THAT AUTHORITIES WERE BAITED BY MILITANTS INTO USING FORCE. ALSO OBTAIN ANY EVIDENCE OF POSSIBLE VIOLATIONS OF ANTIRIOT LAWS. IDENTIFY LEADERS OF ALL AGITATIONAL ACTIVITIES, INCLUDING INSTRUCTIONS ISSUED BY THEM. CITE ALL INSTANCES WHERE ORGANIZATIONS OR INDIVIDUALS DISTRIBUTED INFLAMMATORY INFORMATION OR LITERATURE.

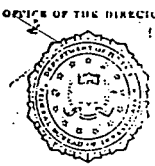
SUTEL BY CLOSE OF BUSINESS SEPTEMBER FOUR NEXT.

NOTE:

During the Convention, news media made a great deal concerning police reaction to the behavior of demonstrators. We authorized recipient offices, exclusive of Chicago, to send informants to Chicago to cover demonstrations at this Convention. These sources should have considerable information relating to the activities of demonstrators in confronting the police reaction to the demonstrators, and information which may constitute violations of recently enacted antiriot laws. These sources are being debriefed expeditiously in order that we might prepare an informative paper on this subject.

Teletype used in view of urgent need of this information.

EXHIBIT 52



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 31, 1975

SULLIVAN MEMORANDA TO JOHN DEAN
(SENATOR BARRY GOLDWATER)

Reference is made to my letter of January 30, 1975, setting forth information in the "Sullivan memoranda." Your attention is invited to specifically Item 9 of this letter. This item is made up of two paragraphs. The first paragraph states that President Johnson asked the FBI to look into members of Senator Goldwater's staff and give him the results. A review was made and results furnished some of which contains derogatory information. We have located a work copy of a memorandum to Mr. DeLoach dated October 26, 1964, captioned "NAME CHECK REQUEST FOR WHITE HOUSE." This copy states that Bill Moyers, Special Assistant to the President, requested a special check of the Bureau's files concerning persons employed in Senator Goldwater's office. Using the United States Senate telephone directory, 15 individuals were listed and a memorandum was attached reflecting the results of the check. The recommendation was that Mr. DeLoach furnish the memorandum to Mr. Moyers.

We are unable to locate a record copy of the above-described memoranda.

A record copy of a letter to Mr. Moyers dated October 27, 1964, is in file and was hand delivered by Mr. DeLoach on October 28, 1964. This letter advised that there was no derogatory information in our files on 13 of the individuals mentioned.

EXHIBIT 53

The Attorney General

August 7, 1973

Director, FBI

RECEIVED FROM
APR 25 1975
FBI

SCOPE OF FBI JURISDICTION
AND AUTHORITY IN DOMESTIC
INTELLIGENCE INVESTIGATIONS

During our meeting on July 26, 1973, you referred to a discussion you had with Senator Charles McC. Mathias, Jr., of Maryland during your confirmation hearings as to the statutory authority of the FBI and the Department of Justice in the field of domestic intelligence investigations. You then asked Mr. William D. Ruckelshaus to work with the FBI in weighing the pros and cons with regard to statutory authority in this area. I mentioned that research was being conducted on this subject at the present time and that we would be in touch with Mr. Ruckelshaus with regard to this matter when we have completed the results of our consideration and findings within the FBI.

Actually, a study has been going on in the FBI for more than two years as to the scope of FBI jurisdiction and authority in domestic intelligence investigations. When Mr. L. Patrick Gray, III, was designated as Acting Director of the FBI, he instructed that a position paper be prepared concerning the jurisdiction and authority of the FBI to conduct domestic intelligence investigations. A position paper was prepared which in essence stated that authority of the FBI in this field is based on legislative enactments, even though we may have publicly relied heavily on Presidential directives as the basis for such authority. Mr. Gray ordered an in-depth study made of the position and in August, 1972, a detailed report was furnished to him. The following is a summary of that report.

Over a period of several months there were a number of public statements questioning authority and jurisdiction of the FBI to conduct domestic intelligence-type investigations, particularly where there is no clear-cut legislative authority apparent. One of the most searching inquiries was contained in a paper presented by Professor John T. Elliff at a two-day conference at Princeton University in October, 1971, sponsored by the Committee for Public Justice.

The Attorney General

A major thrust of Professor Elliff's paper concerned FBI authority derived from legislative enactments as opposed to that derived from Presidential directives, beginning with a directive issued by President Roosevelt in September, 1939. Professor Elliff is of the opinion that the 1939 directive, which was reiterated on three subsequent occasions, was magnified by the FBI from its original purpose to a definitive order to conduct intelligence-type investigations.

Senator Sam J. Ervin, as you know, had been probing into the nature and extent of FBI intelligence-type investigations. Senator Ervin had even announced that he intended to propose legislation to prohibit the FBI from investigating any person without that individual's consent, unless the Government has reason to believe that person has committed a crime or is about to commit a crime. Other Congressmen indicated a similar interest in FBI investigative activities.

Our study revealed that the FBI had declared publicly over a long period of time that its responsibilities in the domestic intelligence field are authorized under legislative enactments, Presidential directives, and instructions of the Attorney General. The Presidential directives are obviously the 1) directive dated September 6, 1939, and reiterated January 8, 1943; July 24, 1950; and December 15, 1953, and 2) Executive Order 10450 dated April 27, 1953 (and amended but not yet implemented by Executive Order 11605 dated July 2, 1971).

In carefully analyzing the language of the first directive, dated September 6, 1939, and considering that the subsequent directives are all hinged on that one, we believe that there is a misconception as to the extent of jurisdiction or authority conveyed to the FBI by these directives. It appears that while the 1939 directive fixed responsibility on the FBI to handle espionage, sabotage, and neutrality matters, it did not convey any authority or jurisdiction which the FBI did not already have from legislative enactments. It is difficult to read into this directive or in any of those which followed any authority to conduct intelligence-type investigations which would or could not be conducted under an umbrella of legislative enactments.

The Attorney General

As a matter of historical fact, President Roosevelt in August, 1936, did request former Director J. Edgar Hoover to conduct investigations of subversive activities in this country, including communism and fascism. This request, however, was a confidential oral request and there is doubt that any record of it was made outside the FBI. This request, or Presidential mandate, was based, incidentally, on the fact that the law provided that the FBI could conduct such investigations if the Secretary of State should so request.

The study revealed that while the 1939 et seq. directives did not grant any special intelligence-gathering authority to the FBI, we were responsible under those directives to collect all intelligence information furnished by local, state, and Federal law enforcement agencies and patriotic citizens and to sift and coordinate all such information for indications of subversive activity covered by Federal statutes.

The study concluded that the FBI has the responsibility to conduct whatever investigations are necessary to determine if statutes relating to espionage, sabotage, insurrection or rebellion, sedition, seditious conspiracy, advocacy of overthrowing the Government, and other such crimes affecting the national security have been violated. In this connection we note that in a letter dated September 14, 1967, the Department of Justice advised that the FBI is continually alert to the problem of recurring riots and is submitting intelligence reports to the Department of Justice concerning such activity. This letter enumerated several Federal statutes and stated these could be applicable in using maximum available resources, investigative and intelligence, to collect and report all facts bearing on the question of schemes or conspiracies to plan, promote or aggravate riot activity.

In other words, the Department was requesting all possible intelligence-type investigative activity based on the existence of certain statutes. We see this as being no different from our intelligence-type investigations relating to plans of groups or individuals to overthrow, destroy, interfere with or threaten the survival of effective operation of national, state, and local governments.

The Attorney General

Based on this study, we believe that had there never been a single one of the Presidential directives in question the FBI would have conducted and will, through necessity, continue to conduct the same intelligence-type investigations as were conducted from 1939 to the present date. We also believe, however, that in order to counter the criticism and skepticism of such individuals as Professor Elliff and Senator Sam J. Ervin that an up-to-date Executive order should be issued clearly establishing a need for intelligence-type investigations and delineating a clear authority for the FBI to conduct such investigations based on guidelines established by the Attorney General and adhering to constitutional principles.

The study concluded with two basic recommendations. 1) That the Department of Justice be requested to sponsor comprehensive legislation spelling out the FBI's investigative authority in the collection of intelligence information relating to the national security and; 2) that the Department of Justice be requested to seek a comprehensive Executive order which would cover any possible gap between statutory authority and Executive necessity in protection of the national security.

At first glance these recommendations may appear to contradict our position that we already have statutory authority to conduct security-type investigations; that this being the case we do not need additional legislative enactments, nor do we need an Executive order. But being realistic we think that the basic statutes upon which we rely for our authority to conduct domestic intelligence investigations need to be updated to fit 1973 needs. Title 18 U.S.C. Sections 2384, 2384, and 2385 relate to the national security, but the legislative history of 2383 and 2384 indicates that they were designed for the Civil War era, not the Twentieth Century, and Section 2385 has been reduced to a fragile shell by the Supreme Court. These statutes are unquestionably still valid, but updating is certainly indicated. The bills introduced as H.R. 6046 and S. 1400 in the 93rd Congress appear to contain language which should fill our statutory needs, except perhaps for those groups, such as the Ku Klux Klan, which do not seek to overthrow the Government, but nevertheless are totalitarian in nature and seek to deprive constitutionally guaranteed rights.

The Attorney General

As to the need for an Executive order, we think that two issues are involved. We have statutory authority, but what we need is a definitive requirement from the President as to the nature and type of intelligence data he requires in the pursuit of his responsibilities based on our statutory authority. In other words, there is a need, from our standpoint, for both authoritative and definitive guidelines. The statutes give us the authority. The Executive order would define our national security objectives.

Members of Congress, including such men as Senator Robert C. Byrd of West Virginia, have proposed legislation to spell out jurisdiction and authority of the FBI in this field. It would appear that the President would rather spell out his own requirements in an Executive order instead of having Congress tell him what the FBI might do to help him fulfill his obligations and responsibilities as President.

The political climate of suspicion and distrust resulting from disclosures coming out of the Watergate hearings could present an obstacle to getting any such Executive order signed in the immediate future. However, the rationale is nevertheless valid and when scrutinized closely, the language in the Executive order we hereinafter propose establishes definitive guidelines which have heretofore been unclear. It is my belief that we should go forward with this.

We therefore propose and recommend that an Executive order along the following lines be submitted to the White House with a strong recommendation for approval. The language which follows is merely to illustrate the type of Executive order which we think would be appropriate and does not necessarily represent an ideal format or style which should be submitted to the White House.

EXECUTIVE ORDER

"Whereas the Constitution of the United States was established to insure, among other things, domestic tranquility; to provide for the common defense; and to promote the general welfare for the people of the United States; and

The Attorney General

"Whereas the President of the United States has the constitutionally imposed responsibility of defending the Constitution and the existence of the Government thereunder; and

"Whereas there have been continuing unlawful acts of violence perpetrated against the Government of the United States or against citizens of the United States or against persons entitled to the protection of the United States thereby endangering the domestic tranquility, threatening the common defense, and jeopardizing the general welfare of the people of the United States; and

"Whereas the Congress has enacted laws prohibiting acts such as treason, sedition, sabotage, espionage, insurrection and rebellion, seditious conspiracy, civil disobedience, rioting, assassination, kidnaping, deprival of civil rights, and conspiracies to commit such acts; and

"Whereas the President of the United States as Chief Executive in the maintenance of the Government thereunder must have intelligence information for appropriate decisions in the discharge of his constitutionally imposed responsibilities;

"Now by authority vested in me by the Constitution and statutes of the United States and in the interest of orderly operation of this Government and in furtherance of the domestic tranquility, common defense, and general welfare of the people of the United States it is ordered that;

"The Attorney General prepare and issue guidelines, conforming to the principles of the Constitution and the Bill of Rights, and outlining the necessary direction, coordination, and guidance of investigations to assure that the Federal Bureau of Investigation provides on a continuing basis intelligence information essential to the execution of laws pertaining to subversive activity and other such activity affecting the national security, domestic tranquility, and general welfare of the United States."

The Nation has been going through a time of terror. The concept of urban guerrilla terrorism has been adopted by various extremist elements in the United States. Bombings of public buildings and national institutions;

killing of police officers who, by their uniform, are a symbol of the democratic establishment; hijacking of aircraft in furtherance of revolutionary movements; terrorist assaults on foreign diplomatic personnel and establishments; and open declaration of war on our form of government are only a few of the violent acts which have been perpetrated by domestic subversives who seek to destroy or seriously cripple our Government. Terrorist guerrilla attacks which were once confined to far away places and related to problems of no immediate concern of ours are now possible in this country. Foreign terrorist groups in collusion with domestic terrorists have laid plans for an airport massacre of the type which recently occurred in Israel. Other foreign terrorist elements have laid plans for terrorist attacks on American soil. Already one foreign official has been assassinated, possibly by terrorists.

It would be folly to adopt an investigative policy based on the concept of investigation only when there is reason to believe a crime involving the national security has been committed. The FBI must obviously anticipate the crimes described above. We believe that in order for the Government to be in position to defend itself against revolutionary and terrorist efforts to destroy it, the FBI must have sufficient investigative authority to conduct intelligence-type investigations not normally associated with enforcement of the statutes. In other words we think the President has the inherent Executive power to expand by further defining the FBI's investigative authority to enable it to develop advance information concerning the plans and aspirations of terrorists and revolutionaries who seek to overthrow or destroy the Government. However, we also believe that such expanded authority must be formally set forth in an Executive order and that this recommendation is responsive to the Attorney General's expressed interest in laying more formal guidelines to our work in areas where definition is not now clear.

We consider the issuance of a new Executive order delineating our jurisdiction, authority, and responsibility to gather and report intelligence information relating to the national security to be a very important and high priority matter. We believe the issuance of guidelines by the Attorney General under Title 28, Section 533, United States Code, to be equally important.

AN ANALYSIS OF FBI DOMESTIC SECURITY INTELLIGENCE INVESTIGATIONS: AUTHORITY, OFFICIAL ATTITUDES, AND ACTIVITIES IN HISTORIC PERSPECTIVE

JM

October 28, 1975

AN ANALYSIS OF FBI DOMESTIC SECURITY INTELLIGENCE INVESTIGATIONS: AUTHORITY, OFFICIAL ATTITUDES, AND ACTIVITIES IN HISTORIC PERSPECTIVE

Many persons who are currently examining the FBI's domestic security intelligence authority and the parameters of this jurisdiction begin their analysis at a mid-point in the history of this Nation's struggle against the forces of subversion. This approach tends to result in a mechanical examination of the subject without the benefit of an understanding of the historical forces and necessities which brought about the need to conduct domestic security intelligence investigations. In an effort to clarify the role the FBI has played in this field, it is deemed appropriate to submit this concise review of historic events illustrating the evolution of the problem of domestic subversion, attitudes of Government officials towards the problem, and how, against this historic backdrop, the FBI, came to be assigned domestic security intelligence responsibilities.

On September 24, 1789, the Office of Attorney General of the United States was created by Act of Congress. Not until March 3, 1871, was there an effort to create an investigative force for the use of the Attorney General in fulfilling his duties. In that year, Congress appropriated $50,000 for the use of the Attorney General "in the detection and prosecution of crimes against the United States." From 1871 to 1909, the various Attorneys General appointed "Special Agents," "General Agents" and "Examiners" to assist him in the detection of crimes. In some instances, investigative personnel from other Federal agencies were borrowed for this purpose. Their numbers were few, and administration of their efforts was primitive. In an effort to create an effective investigative force, Attorneys General Charles J. Bonaparte and George W. Wickersham, in 1908 and 1909, issued orders which resulted in the creation of the "Bureau of Investigation," a division of the Department, which, in March, 1909, was ordered to be a separate unit of the Department under the control and supervision of the "Chief of the Bureau of Investigation." This Bureau, by 1916, was being referred for investigation all Federal crimes not specifically assigned to other Federal agencies.

Many today assume incorrectly that the FBI commenced domestic security intelligence investigations within the last several years. In fact, the Bureau of Investigation, the predecessor of the modern FBI, was given

JM

NOV 5 1975

[illegible]

foreign and domestic security responsibilities during World War I (WW I), 1917-1918. It will be made more apparent on review of the following material that many problems and questions concerning domestic security investigations of that era parallel the problems and questions of today.

With the outbreak of hostilities in Europe in 1914, and this Nation's participation commencing in 1917, a flood of new responsibilities faced the 300 or so Agents of the Bureau of Investigation. Previously, their responsibilities were limited to investigations of crimes on Government lands, bank and bankruptcy frauds, forgery matters, bribery, and kindred offenses. With the coming of war, concern over potential sabotage activities and alien propaganda grew within the Nation, and the Bureau was assigned a new role. No longer were the Bureau's interests limited to the traditional areas of criminal investigation but were now broadened to encompass matters concerning internal security and national defense. In 1917, Congress enacted the Selective Service and Training Act, the Espionage Act, and the Trading with the Enemy Act, followed in 1918, by the Sabotage and Deportation Acts. Enforcement responsibilities for the most part fell on the Bureau of Investigation. To meet the added burdens, the Bureau was increased to approximately 400 Agents, but, nonetheless, these were insufficient to handle the task.

To respond to the problem, Attorney General Thomas W. Gregory and then Bureau Chief, A. Bruce Bielaski, conceived what they felt might suffice to answer the problem. The American Protective League (APL), composed of well-meaning private individuals, was formed as a citizens auxiliary to "assist" the Bureau of Investigation. In addition to the authorized auxiliary, ad hoc groups took it upon themselves to "investigate" what they felt were un-American activities. Though the intentions of both groups were undoubtedly patriotic and in some instances beneficial, the overall result was the denial of constitutional safeguards and administrative confusion. To see the problem, one need only consider the mass deprivation of rights incident to the deserter and selective service violator raids in New York and New Jersey in 1918, wherein 35 Agents assisted by 2,000 APL operatives, 2,350 military personnel, and several hundred police rounded up some 50,000 men without warrants or sufficient probable cause for arrest. Of the 50,000 arrestees, approximately 1,500 were inducted into the military service and 15,000 were referred to draft boards.

It became clear that using citizen auxiliary personnel was not the answer to national defense manpower problems.

NOV 5 1975

Secondly, it was realized that there was no central control of authorized agencies for coordinating such investigations and correlating the resultant prosecutive and intelligence information. An Agent when asked in 1938, what problems were experienced during investigations in WW I, stated:

> "How did we function with relation to other agencies, both federal and state? In answering this query, I might say that while our relationship with the Army and Navy Departments, was extremely cordial at all times, nevertheless there was at all times an enormous overlapping of investigative activities among the various agencies charged with the winning of the war. There were probably seven or eight such active organizations operating at full force during war days and it was not an uncommon experience for an Agent of this Bureau to call upon an individual in the course of his investigation, to find out that six or seven other Government agents representing as many other investigative agencies had been around to interview the party about the same matter. ... The experience had in those days was so convincing in the lesson it taught, as to make it certain that in the event of another World War, some central control should exist to correct the old evils."

Two primary lessons were thus learned concerning investigations of internal security matters which would play a great part in considerations for such investigatons when the threat or potential of World War loomed in the 1930's. It was evident that unprofessional and untrained citizens groups, authorized or vigilante, could not be used as an official, functioning auxiliary to established investigative agencies. Secondly, even among trained, established agencies there was a necessity for centralized assignment and control of investigation and correlation of the investigative product.

The great "Red-Radical Scare" followed closely on the heels of WW I, apparently the social reaction to the aftermath of the War and the Russian Revolution of 1917. The violence and anarchism associated with the activities of such "radicals" were of concern to the Government and public alike. In an effort to counter the radicals and anarchists, the Department and Bureau, in conjunction with the Department of Labor, which had primary jurisdiction

NCM

... 5 1975

FBI

over immigration matters, used the provisions of the "Deportation Statute" as an answer. The following excerpts are from a confidential letter to "all Special Agents and Employees" from Director W. J. Flynn, dated August 12, 1919:

> "The Bureau requires a vigorous and comprehensive investigation of Anarchistic and similar classes, Bolshevism, and kindred agitations advocating change in the present form of Government by force or violence, the promotion of sedition and revolution, bomb throwing, and similar activities. In the present state of the federal law this investigation should be particularly directed to persons not citizens of the United States, with a view of obtaining deportation cases. ...
>
> "While you are required to investigate particularly with regard to aliens, you should also make full investigation of similar activities of citizens of the United States with a view to securing evidence which may be of use in prosecutions under the present existing state or federal laws or under legislation of that nature which may hereinafter be enacted. ..."

These investigations resulted in the much criticized "Palmer Red Raids" of 1919 and 1920.

In 1919, J. Edgar Hoover, a Departmental Attorney since 1917, was placed in charge of the General Intelligence Division, Department of Justice. The Division had the responsibility of correlating information obtained by the Bureau for the purpose of preparing material for deportation proceedings. As a Departmental attorney, Mr. Hoover not only observed the wartime problems but experienced the difficulties associated with intelligence-type investigations while with the Division.

On October 5, 1920, he prepared a report on the General Intelligence Division, which read in part:

> "Following the mailing of bombs to prominent government officers in May, 1919, and the bomb outrages of June 2, 1919, it became apparent that there must be established a systematic and thorough

66-077 O - 76 - 36

> supervision over the unlawful activities of certain persons and organizations in the United States whose sole purposes were to commit acts of terrorism and to advocate by word of mouth and by the circulation of literature the overthrow of the Government of the United States by force and violence. On August 1, 1919, there was formed as a part of the Department of Justice, a GENERAL INTELLIGENCE DIVISION to handle the investigations connected with the radical activities in the United States: ... While the work of the General Intelligence Division was at first confined solely to the investigations of the radical movement, it has now expanded to cover more general intelligence work, including not only the radical activities in the United States and abroad, but also the studying of matters of an international nature, as well as economic and industrial disturbances incident thereto. ...it was soon found that the federal statutes were inadequate to properly handle the radical situation from a criminal prosecution standpoint. As is already mentioned in this report, there is need in the absence of legislation to enable the federal government adequately to defend and protect itself and its institutions of not only aliens within the borders of the United States, but also of American citizens who are engaged in unlawful agitation. Consequently, the efforts of the Bureau became centered upon the activities of alien agitators, with the object of securing deportation of such of these persons as were violating the provisions of the Act of October 16, 1918, familiarly known as the "deportation statute."

Mr. Hoover further reported that within the overall operation an indexing system was established for the retrieval of information, that anarchist societies other than pure communist were investigated for "revolutionary character," that evidence was discovered linking radicals to the Steel and Coal Strikes of 1919, and Railroad Strikes, 1920, that their propaganda had been infiltrated into the labor movement, that radical propaganda was directed at the Negro to foster racial unrest, that there were anarchists of various ideologies practicing within the United States, that various states had gained convictions under local criminal syndicalism statutes and others, and that the General Intelligence Division, of necessity, had generated a library of radical publications to study the various overall theories and histories of the radicals and anarchists.

NOV 5 1975

FBI

In summarizing, Mr. Hoover noted in the report:

> "Much of the work of the General Intelligence Division has been cumulative in nature; and the collection of information has enabled this department not only to achieve results in the more practical application of the federal statutes to the unlawful activities of the radicals in the United States, but has enabled the government to study the situation from a more intelligent and broader view-point."

Mr. Hoover, in his summation, stated very clearly that information which the Bureau was collecting was being used by the General Intelligence Division as pure and valuable intelligence information to assess internal domestic radical activity as early as 1919.

The "Red Raids" generated a storm of criticism from such legal scholars as Dean Roscoe Pound of Harvard, Felix Frankfurter, later Associate Justice of the Supreme Court, Charles Evans Hughes and Harlan Fiske Stone, both subsequently Chief Justices. In addition, the Senate Judiciary Committee launched an investigation of such practices.

In 1924, Harlan Fiske Stone was appointed Attorney General of the United States, and his concept as to the Bureau's role was quite clear:

> "The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with such conduct as is forbidden by the laws of the United States. When a police system goes beyond these limits it is dangerous to the proper administration of justice and to human liberty...."

J. Edgar Hoover, who was appointed Director of the Bureau of Investigation by Attorney General Stone in 1924, followed this policy from its inception. In a letter of May 14, 1925, he responded to an inquiry in point by stating:

> "...you are advised that from time to time information concerning communist activities in the United States is voluntarily furnished to field offices of the Bureau by parties not connected therewith, the information is forwarded to this office. However, the Bureau is making no investigations of such activities, inasmuch as it does not appear that there is any violation of a Federal Penal Statute involved."

ROM

1975

FBI

Again, on October 7, 1925, he responded to Colonel James H. Reeves, General Staff, War Department, as follows:

> "In reply thereto I beg to state that general investigations into radical activities by our various field offices were discontinued some time ago by reason of certain changes in policy, program procedure, etc., instituted upon instructions from the Department. Such investigations as are now made are only inaugurated upon specific instructions from the Bureau and are directed upon definite reports of activities which may involve violations of Federal laws or statutes."

To complete the picture of official FBI policy and attitude regarding investigation of radical activities during the 1920's and early 1930's, it must be noted that intelligence-type investigations were conducted on a very limited basis and for specific purposes when requested by the Attorney General and Secretary of State under the provisions of the Appropriations Act, 28 U.S.C. 533(3).

For example, on December 31, 1931, James G. Rogers, Assistant Secretary of State, telephonically contacted an Assistant Director to inquire as to whether the FBI had entered the investigation of the Cleveland, Ohio, and Easton, Pennsylvania, bomb "outrages" as an inquiry had been directed to State from the Italian Ambassador regarding protection of the Italian Consuls. He was advised the matter violated postal laws and no investigation was underway by the Bureau. By letter of the same day, the Assistant Secretary formally requested the Department to direct the FBI to "cooperate to the fullest possible extent with the Post Office Department" as the "occurrence so soon after the outrages in Easton indicates the possibility that a widespread plot against Italian officials and subjects may exist." By January 2, 1932, after conferring with the Assistant Attorney General, Mr. Hoover had directed the initiation of such investigation.

It is apparent that the FBI from 1924 to 1934, conducted general domestic radical investigations where the activity indicated a violation of Federal laws, where investigations were specifically requested by State Department through the Attorney General, and otherwise obtained such intelligence-type information only when volunteered by some outside source. Thus, as of 1924, the Bureau had been changed from a small force of criminal investigators and, because of duties performed regarding radical activities during and shortly after WW I, had become the recognized instrument of the Federal Government for the investigation of such matters.

NJM
5 1975
FBI

Even though general domestic security intelligence investigations were not being conducted during this period, other developments occurred within the organization which made the later assignment of that responsibility logical.

Between 1923 and 1935, the FBI became the repository for identification records and fingerprints, thus creating an Identification Division. A compact was formed to exchange fingerprints with major nations, uniform reporting rules were made applicable to all personnel in FBI field offices which were strategically placed across the country, an organized program was initiated to train new Agent personnel and was thereafter extended to other law officers, and the FBI Laboratory was created. These and other growth factors greatly broadened the FBI's inherent capability to perform future intelligence assignments.

Of equal significance was the passage by Congress in May and June, 1934, of numerous Federal crime bills which enlarged the FBI's responsibilities in the criminal field to include among other things investigations of bank robberies, extortions, kidnapping matters, Fugitive Felon Act cases, Interstate Transportation of Stolen Property cases, and assaults on Federal officers.

These factors, of course, created no explicit authority in the FBI to conduct domestic security intelligence investigations but they most definitely created an organization with all the assets, composition, and capabilities for conducting such investigations if so directed.

Though the Departmental and Bureau policy from 1924 to 1934 was to not engage in general domestic security intelligence investigations, the communist-anarchist problem was ever present and of great concern to the public, the Executive, and Congress. The "red radicals" and anarchists were no longer alone in the field; however, for in the early 1930's, National Socialism, the Nazi party ideology of Adolf Hitler, grew to power in Germany and anti-Semitic, anti-racial propaganda was being peddled by Nazi operatives, aliens and pro-German Americans in the United States.

During the early 1930's, various elements in Congress were anxious for the FBI to enter domestic intelligence investigations against both communist radicals and the Nazi movement.

Commencing in 1930, Hamilton Fish, Jr., then Chairman of a House Committee investigating communist and radical activities, contacted and corresponded with the Department and the Bureau regarding proposed

NOV 5 1975

FBI

legislation which would allow the FBI blanket authority to investigate "Communist and revolutionary activity." On December 17, 1931, House Bill 5659, was introduced which read in part,

> "(The FBI) is hereby authorized and empowered to investigate the revolutionary propaganda and activities of communists in the United States, and of all entities, groups or individuals who teach or advocate the overthrow by force and violence the republican form of government--(the FBI) is hereby also authorized to cooperate in its investigation with the other departments of the Government and with various state and municipal authorities."

The Bureau's position in response to all inquiries and requests through this period, however, can be summarized in Mr. Hoover's comments made January 19, 1931, wherein he advised the Congressman that he "thought it better not to expand the power of the (FBI), since the Bureau has never been established by legislation, but operates solely on an appropriation bill" and further, that "it would be better to make it a crime to participate in such activities He continued, "the Bureau operates under an appropriation act, 'Detection and Prosecution of Crime,' and all the Bureau would need would be legislation making it a crime to participate in certain activities." He stated, "If the Bureau is given special power to investigate (activities not subject to the penal law) it would be in the position of having a mass of material with which nothing could be done, because there is no legislation to take care of it." On January 2, 1932, Mr. Hoover directed a memorandum to the Attorney General in regard to the proposed legislation and noted:

> "The conditions (relative to investigations for the purpose of prosecution) will materially differ were the Bureau to embark upon a policy of investigative activity into conditions which, from a Federal standpoint, have not been declared illegal and in connection with which no prosecution might be instituted. The Department and the Bureau would undoubtedly be subject to charges in the matter of alleged secret and undesirable methods in connection with investigative activities, as well as to allegations involving charges of the use of 'Agents Provocateur.'"

In October, 1933, Director Hoover submitted a memorandum to William Stanley, Assistant to the Attorney General, to advise of a meeting with Immigration Service personnel representing the Commissioner General of

NOV 5 1975

FBI

Immigration wherein Hoover was told by these persons that "the President had indicated a desire that a joint investigation be made by the Immigration authorities and by this Division of the Nazi propaganda in this country." Hoover advised that he responded:

> "I informed (the meeting) that we had received in this Department a number of requests for investigations of this character from outside parties, but that to date no violations of a Federal criminal statute had been submitted, and consequently no investigation had been initiated. I stated further that I had not received any word from the Attorney General indicating that any action should be taken in this matter."

On October 7, 1933, Congressman Samuel Dickstein called a subcommittee of the Committee on Immigration to investigate the Nazi movement and requested Agents from the Bureau to assist in the investigation. The request was denied through the Attorney General. On the other hand, when a warrant was issued for Heinz Spanknoebel, a German operative, for violation of Section 233 of Title 22, and Congressman Dickstein requested assistance in locating the fugitive, the Director's note on a memorandum of November 20, 1933, reads, "See that every effort is made to effect Spanknoebel's arrest if he is still in U. S., 12/5/33, J.E.H." Where laws were violated, there was no hesitancy to enter an investigation of Nazi or communist activity.

On March 28, 1934, Mr. Hoover attended an executive meeting with the House Committee on Accounts, Congressman Warren, Chairman, wherein he was queried as to what investigation the Bureau had conducted regarding "Nazi activities, Communist activities, and other subversive movements, and further, whether the carrying on of an investigation by the Congressional Committee under the Dickstein Resolution (would interfere)." He reported to the Attorney General that his response was that no such investigations were being conducted as no laws had been violated, save in the Spanknoebel case. He further reported to the Attorney General that a request had also been made by the Committee for Agent assistance in the congressional investigation and he had spoken against this procedure as it was not a "fact-finding investigation" for the purpose of prosecution.

It would appear that the policy of the Department and the Bureau would preclude entry into any general or intelligence-type investigations of the Nazi or radical movements. However, events were soon to transpire which

NOV 5 1975
FBI

were to cause a departure from previous policy restricting investigations to potential violations of laws relating to domestic security. Direct instructions from the President formed the basis for limited intelligence-type investigation of the Nazi movement in 1934 and, in 1936, for broader investigation of subversive activities in the United States, particularly Fascism and communism. The following material will explain this departure from previous policy, predicated upon the issuance of Presidential instructions directly relating to the Chief Executive's constitutional responsibilities.

On May 8, 1934, Mr. Hoover appeared at a conference at The White House attended by President Franklin D. Roosevelt, the Attorney General, the Secretary of the Treasury, the Secretary of Labor, and the Chief of the Secret Service. The topic of concern was the Nazi movement in the United States. As a result of the conference, Hoover recorded on May 10, 1934:

> "...it is desired that a very careful and searching investigation be made of this movement, with particular attention to be given to activities indicating that either the German Embassy or the German Consulates throughout the United States may have connection with this movement."

Mr. Hoover continued,

> "It was agreed that it would be desirable to have one clearing house for information upon this activity, and since the only Federal law that might be applicable to it at the present time would be the Immigration Law, it was decided by the President that Colonel MacCormack, Commissioner of Immigration and Naturalization, would confer with Mr. Moran, Chief of the Secret Service, and myself at an early date, for the purpose of working out the details of this investigative activity.
>
> "I am desirous that you immediately prepare confidential instructions to all of our field offices, directing them to initiate an intensive investigation of activities of the Nazi group, with particular reference to the anti-racial activities and any anti-American activities having any possible connection with official representatives of the German government in the United States:

NOV 5 1975

FBI

* * *

> "The investigation should be considered as a so-called intelligence investigation, that is to say, the reports should be prepared in one general summary at specified intervals in order that the Attorney General may have them made available, and in turn make them available to the President."

On May 10, 1934, instructions went to all field offices to conduct an intensive investigation of the Nazi movement with particular reference to anti-racial and anti-American activities having any possible connection with official representatives of the German Government in the United States.

It is readily recognized that this Presidential instruction was not a sweeping and general assignment to conduct domestic security intelligence investigations, but rather to conduct an intelligence investigation within specified guidelines. Nonetheless, here, based upon a Presidential Directive, the Bureau departed from past statutory policy and immediately initiated an intelligence investigation, which by necessity, involved aliens and United States citizens and was conducted for the primary purpose of informing the Attorney General and the President as to the general activities of the movement.

This investigation of the Nazi movement, conducted along the specified guidelines set by the President, was not expanded to include investigation of such communist or radical movements whose purpose it was to overthrow the Government. In a memorandum dated October 9, 1935, for the Acting Attorney General, the Director noted in his response to a State Department inquiry as to the feasibility of exchanging radical information with foreign police sources:

> "At the present time the investigative activity of this Bureau is restricted, in matters of this kind (communist and radical matters) to those activities which constitute a violation of some Federal statute. The only Federal statutes generally considered as applicable to such matters are those relating to treason, sabotage, espionage, and the transportation of munitions of warfare to those nations which are the subject of a Presidential proclamation prohibiting such shipment of munitions of war. In the absence of any Federal statute specifically penalizing the

NOV 5 1975

FBI

> Communistic or other radical activities aimed at the overthrow of the Government, no investigation is conducted into such matters, in view of the absence of the necessary elements to establish a violation of the Treason statute.
>
> "Very little information is obtained by this Bureau relating to the activities of these radical organizations, which advocate the overthrow of the United States Government. It follows, of course, that information of this kind is of no value when existing laws do not permit a prosecution of the persons engaged in advocating the overthrow of the Government, and consequently, if information is received in foreign countries concerning organizations having for their purpose the overthrow of the Federal Government and this information is transmitted to this Bureau, the Bureau would, of course, be powerless to act upon the information furnished, unless it constituted some violation of a Federal statute within the Bureau's jurisdiction. I will, however, be glad to receive at any time, information from any foreign police department, which pertains to organizations established for the purpose of attempting to overthrow this Government, and will in the event the Bureau can take no action upon the information furnished transmit the information to those Governmental agencies who may be interested in the material obtained."

As late as July 13, 1936, correspondence with various parties reveals that the Bureau was conducting no general intelligence investigations concerning communism and radicals.

Once again, however, as in 1934, a specific Directive from the President changed the investigative policy towards conducting intelligence investigations of communist and radical activities. On August 24, 1936, Director Hoover, representing the Department in the Attorney General's absence, was summoned to The White House by President Roosevelt. As reflected in two memoranda by Mr. Hoover, dated August 24 and August 25, 1936, the President "was desirous of discussing the question of the subversive activities in the United States, particularly Fascism and Communism." Hoover recorded that the President stated he had been concerned about the communist

[illegible] FBI/DOJ

Dec 5 1975

FBI

and fascist movements and "what he was interested in was obtaining a broad picture of the general movement and its activities as may affect the economic and political life of the country as a whole." Hoover continued, "I told him that there is at the present time no governmental organization which is getting any so-called 'general intelligence information' upon this subject. He inquired what suggestions I might offer relative to this matter." Hoover recorded that he responded to the President as follows:

> "I told him that the appropriation of the Federal Bureau of Investigation contains a provision that it might investigate any matters referred to it by the Department of State and that if the State Department should ask for us to conduct such an investigation we could do so under our present authority in the appropriation already granted." (Emphasis Added)

Many who have quickly read through this sentence and compared it to the overall subject matter of the conference draw the immediate conclusion that since the provisions of the Appropriations Act were relied on, and since the Secretary of State made the request, it naturally followed that State and the President were interested in only foreign or foreign-controlled subversion. On careful reading, and examination in light of the historic setting, it is apparent that the President and Hoover were talking about money, not jurisdictional limits. The President wanted a broad intelligence investigation conducted not for purposes of prosecution and inquired of Hoover if the FBI could supply the product. Hoover responded by informing the President that money had been appropriated by Congress under the Appropriations Act and to activate the provisions for justifiably using the funds would require a request from the Secretary of State. The FBI could, of course, conduct no investigations for which Congress had not provided appropriations. The final topic discussed at the August 24, 1936, meeting was the President's desire that Hoover coordinate the investigation with the "Military and Naval Intelligence Services."

On August 25, the President, Secretary of State and the Director met at The White House. The President related his concern over communist and fascist activities and, according to Hoover, stated that he was "very desirous of having a survey made of these conditions and informed the Secretary of State that this survey could be made by the Department of Justice if the Secretary of State requested the Department to conduct the inquiry under the FBI Appropriations Act." He further recorded that such a

request from State would be fully justifiable and logical as these movements, particularly communism, were international in scope and, therefore, fell within the interests of foreign affairs "over which the State Department would have a right to request an inquiry to be made."

It is clear that the involvement of the State Department in the initial arrangement did not serve in some way to limit the scope of the investigation to foreign or foreign-controlled activities to the exclusion of domestic. The President desired "a broad picture of the general movement and its activities as may affect the economic and political life of the country as a whole," and there is nothing contained in his request to suggest the intent to exclude domestic security intelligence coverage.

Mr. Hoover's understanding of his assignment is illustrated in a memorandum to one of his assistants dated September 10, 1936, wherein he stated he discussed the President's orders "to have investigation made of the subversive activities in this country, including Communism and Fascism" with the Attorney General and was given his concurrence. The former Director's understanding as to the scope of the President's instruction is further reflected in a memorandum to FBI field offices, dated September 5, 1936, which states in part:

> "The Bureau desires to obtain from all possible sources information concerning subversive activities being conducted in the United States by Communists, Fascisti, and representatives or advocates of other organizations or groups advocating the overthrow or replacement of the Government of the United States by illegal methods. No investigation should be initiated into cases of this kind in the absence of specific authorization from the Bureau, but you should forward to the Bureau information obtained from all sources, and in those cases in which investigation is desired the Bureau will issue appropriate instructions to you. It is desired, accordingly, that you immediately transmit to the Bureau any information relating to subversive activities on the part of any individual or organization, regardless of the source from which this information is received."

The entry of the Bureau into the new field of domestic security intelligence investigations necessitated the creation of administrative procedures to handle the incoming information. By memorandum dated August 28, 1936,

MAY 5 1975
FBI

an assistant submitted a tentative outline for the manner in which it was recommended information concerning subversive activities be maintained at Headquarters. He outlined the following "general classifications": Maritime Industry, Government affairs, steel industry, coal industry, newspaper field, clothing, garment and fur industry, general strike activities, Armed Forces, educational institutions, general activities--Communist and Affiliated Organizations, Fascisti, Anti-Fascisti movements, and activities in Organized Labor organizations. Mr. Hoover noted on the memorandum that this was a good beginning.

In this manner then, the Bureau entered fully into the field of domestic security intelligence investigations.

By letter of October 20, 1938, Attorney General Homer Cummings forwarded to the President a memorandum from Director Hoover wherein Hoover outlined for the President the general scope of the FBI intelligence effort and the areas of coverage being afforded. This memorandum reads in part:

> "The purpose of this memorandum will be to present the present purposes and scope of the three phases of domestic intelligence handled by the three intelligence services of the United States Government, namely, the Military Intelligence Division; the Office of Naval Intelligence; and the Federal Bureau of Investigation, together with suggestions for expansion and such further coordination as may be effected along this general line.
>
> "Section I
>
> "The Present Set-Up and Purposes
>
> "Federal Bureau of Investigation:
>
> "In the Federal Bureau of Investigation as a part of its Investigative Division there is a General Intelligence Section. The function of the General Intelligence Section is to collect through investigative activity and other contact and to correlate for ready reference information dealing with various forms of activities of either a subversive or a so-called intelligence type. In addition to the limited

NOV 5 1975

personnel of the Bureau giving their full time to this work, each of the forty-five field divisions has developed contact with various persons in professional, business, and law enforcement fields for the purpose of obtaining information along the lines above indicated.

"In order that there may be a clear view of the detailed information covered, there is set forth the following break-up of the various subjects that appear in the files of the Intelligence Section; Maritime; government; industry (steel, automobile, coal mining, and miscellaneous); general strike; armed forces; educational institutions; Fascisti; Nazi; organized labor; Negroes, youth; strikes; newspaper field; and miscellaneous. Any information of a subversive or general intelligence character pertaining to any of the above is received at the FBI headquarters at the Seat of Government and is reviewed, summarized, and placed upon editorial cards which are filed by name of the subject matter, as well as by name of the individual, so that it is entirely possible to find in the index the collection of names of individuals engaged in any particular activity, either in any section of the country or in a particular industry or movement. Indicative of the present size of this index, there are approximately 2,500 names now in the index of the various types of individuals engaged in activities of Communism, Nazism, and various types of foreign espionage.

"In addition to the above information that has been collected, the FBI has developed a rather extensive library of general intelligence matters, including sixty-five daily, weekly, and monthly publications, as well as many pamphlets and volumes dealing with general intelligence activities. All of these have been indexed not only as to title and author, but have been classified as to name and subject, and supply a fertile field of information on the subject of general intelligence activities in this country.

"From the material collected, both from an investigative point of view as well as from the research angle of the library, various charts are prepared from time to time to show the growth and extent of certain activities.

* * *

"Section II

"Proposed Expansions

"At the present time the three intelligence services, namely, the Military Intelligence, Office of Naval Intelligence, and the FBI, have developed a close and coordinated plan of cooperation, not only at the headquarters in Washington, but in many of their Corps areas, Naval Districts, and Field Divisions within the limitations of such personnel as is now available. . . . Likewise, information that is received by any one of the three branches of the intelligence service of interest to any of the other branches, is made immediately available, so that there does exist today a structure of coordination and cooperation that has been in operation for many years and has been working as satisfactorily as could be expected under the limitations of personnel and appropriations as have existed in the past.

* * *

"(B) Law and Funds

"Such expansion in the FBI as may be desired and may become necessary can be covered, it is believed, under present provisions existing in the annual appropriations bill of the Federal Bureau of Investigation, in which the following language appears: '. . . for such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.' Under this provision investigations have been conducted in years past for the State Department of matters which do not in themselves constitute a specific violation of a Federal Criminal Statute, such as

NOV 5 1975

FBI

subversive activities. Consequently, this provision is believed to be sufficiently broad to cover any expansion of the present intelligence and counter-espionage work which it may be deemed necessary to carry on.

* * *

"In considering the steps to be taken for the expansion of the present structure of intelligence work, it is believed imperative that it be proceeded with the utmost degree of secrecy in order to avoid criticism or objections which might be raised to such an expansion by either ill-informed persons or individuals having some ulterior motive. The word 'espionage' has long been a word that has been repugnant to the American people and it is believed that the structure which is already in existence is much broader than espionage or counter-espionage, but covers in a true sense real intelligence values to the three services interested, namely, the Navy, the Army, and the civilian branch of the Government--the Department of Justice. Consequently, it would seem undesirable to seek only special legislation which would draw attention to the fact that it was proposed to develop a special counter-espionage drive of any great magnitude."

Hoover thus confirmed in detailed and ostensive manner not only the mechanics and procedures established to comply with the President's instructions, but also revealed in his memorandum a clear insight into his understanding of the scope of the investigation ordered by the Chief Executive. President Roosevelt, on November 2, 1938, personally advised the former Director that he approved of Hoover's plan, thus confirming that there was a meeting of the minds among the primary participants. Mr. Hoover recorded on November 7, 1938, that on November 1, 1938, he was called by Mr. Early, Secretary to the President, who told Hoover that the President desired that he board the Presidential Special Train on November 2, 1938, for a conference with President Roosevelt. Mr. Early was unaware of the topic to be discussed or whether Mr. Hoover was to accompany the President to Hyde Park. Mr. Hoover's memorandum recording this conference reads in part:

NOV 5 1975

"Secondly, the President advised me that he had that day communicated with the Director of the Budget, Mr. Bell, and instructed him to include in the Appropriation estimates $50,000 for Military Intelligence, $50,000 for Naval Intelligence, and $150,000 for the Federal Bureau of Investigation to handle counter-espionage activities. He stated that he had approved the plan which I had prepared and which had been sent to him by the Attorney General, except that he had not been able to grant the entire amount of money indicated as necessary for each of the three agencies, but had authorized the amount which he stated he advised Mr. Bell to include. . . . The special train was held until the conference with the President was concluded and I left the train at New York."

The world situation steadily worsened during the 1930's. Adolf Hitler rose to power in Germany; Italy turned to Fascism; Russian communism was threatening; and Japan made overtures of imperialistic expansion. Austria joined the Third Reich in March, 1938, and Czechoslovakia was occupied on September 30. The Moscow-Berlin Non-Aggression Pact of August 23, 1939, aligned both the Nazi and communist forces and on September 1, 1939, Poland was attacked by Germany. Britain and France, allied against Germany, declared war and on September 17, Russia also invaded Polish soil. Border nations toppled to either Russia or Germany in succession. Amid this chaotic world situation the United States attempted to stand neutral; nevertheless, the danger of potential espionage, sabotage, and subversion was of paramount concern.

As the intelligence and law enforcement agencies, both Federal and state, geared to meet the anticipated sabotage and subversive threats, it soon became apparent that the lessons of World War I were not well learned by most. Various Federal investigative agencies commenced uncoordinated and decentralized investigation of reports of subversion. Some even prompted local citizens' groups to assist their efforts, much reminiscent of the American Protective League and various ad hoc groups formed for that same purpose during World War I. In response to this growing problem, the Bureau recommended remedial action through the Attorney General which resulted in a letter dated February 7, 1939, being directed to various Federal department heads from Joseph B. Keenan, Assistant to the Attorney General, which stated in part:

ROM

5 1975

FBI

66-077 O - 76 - 37

"I take pleasure in informing you that in cooperation with the Military Intelligence Division of the War Department, the Federal Bureau of Investigation of the Department of Justice has undertaken to investigate matters relating to espionage and subversive activities.

"In order that such matters be handled expeditiously, it will be appreciated if you will instruct your personnel that in case any information is received concerning the above-mentioned matters such information should be promptly forwarded to the nearest field office of the Federal Bureau of Investigation."

Here is the first effort of the Department and the FBI to prevent the confusion, delays, and violation of personal rights incident to such investigations during the previous war. The Department and the Bureau saw cold logic in this approach as, since WW I, the FBI had been the prime mechanism for the investigation of espionage, sabotage, and related statutory violations and, since 1936, in conjunction with the military and naval intelligence services, had been conducting domestic intelligence investigations. Secondly, the Department was responsible for prosecutions of such statutory violations and the Attorney General had been working closely in the field of intelligence investigations. Thirdly, the FBI's internal composition, administrative structure, and capabilities were such as to make it the logical agency to conduct nationwide, effective, centralized investigation of such matters.

Nevertheless, the letter of February 7, 1939, was virtually ignored by other agencies, and a cumbersome committee system, under the direction of the Undersecretary of State, was inaugurated. The committee was composed of representatives of the War, Navy, Treasury, Post Office, and Justice Departments, in addition to the State Department, whose function it was to receive information of a subversive nature, make an analysis, and then forward the matter to the agency deemed most suited to handle the investigation. The bulk of the matters were referred to the FBI and the military and naval intelligence services. The previous arrangement, based on the President's desires of 1936, was completely ignored, causing a waste of prior efforts and accumulated information, delays in referral of cases, and general confusion.

The Department and Bureau prepared a memorandum dated June 5, 1939, containing ideas and recommendations to be presented to the President in an effort to resolve the controversy.

NOV 5 1975

1-121

"For the reasons outlined above it is recommended that two definite steps be taken--first, that the inter-departmental committee described in the first paragraph of this memorandum be abandoned and that in its place the investigation of all espionage, counter-espionage and sabotage cases be controlled in the Intelligence Divisions of the War and Navy Departments and the Federal Bureau of Investigation and that the directors of these three agencies function in the capacity of a committee to coordinate the activities of the three agencies named. Second, that confidential instructions should be issued by the President to the heads of all government departments except War, Navy, and Justice, instructing that absolutely no investigations shall be conducted by the investigative agencies of those departments into cases involving actually or potentially espionage, counter-espionage or sabotage. The heads of all government departments should be instructed in this order to refer immediately through existing channels direct to the nearest office of the Federal Bureau of Investigation any data, information or material pertaining to cases of this type. Formal order on the part of the President would hardly be needed in order to accomplish this result. All that would be required from him would be a letter to each department head.

"If the above outlined plan is viewed with favor; it will mean that all intelligence work within the armed forces will be handled by the G-2 Section of the War Department and the Office of Naval Intelligence of the Navy Department and that all investigative work in espionage, counter-espionage and sabotage cases involving civilians will be centralized in the Federal Bureau of Investigation. This arrangement will continue the closely coordinated method of operation now in existence and will enable the Federal Bureau of Investigation to continue its work in this field with continued intensity."
(Emphasis Added)

This recommended procedure, concurred in by President Roosevelt, resulted in the confidential Presidential Directive of June 26, 1939, which reads:

"It is my desire that the investigation of all espionage, counterespionage, and sabotage matters be controlled and handled by the Federal Bureau of Investigation of the Department of Justice, the Military Intelligence Division of the War Department, and the Office of Naval Intelligence of the Navy Department. The directors of these three agencies are to function as a committee to coordinate their activities.

"No investigations should be conducted by any investigative agency of the Government into matters involving actually or potentially any espionage, counterespionage, or sabotage, except by the three agencies mentioned above.

"I shall be glad if you will instruct the heads of of all other investigative agencies than the three named, to refer immediately to the nearest office of the Federal Bureau of Investigation any data, information, or material that may come to their notice bearing directly or indirectly on espionage, counterespionage, or sabotage."

The overall problem was not, however, totally resolved with the Directive of June 26, 1939. Reports were frequently received in Washington indicating that various local police authorities were forming "sabotage squads" and the like and, therefore, further clarification was deemed necessary.

The Department and FBI again went to the President to resolve the question. By memorandum to the Attorney General dated September 6, 1939, former Director Hoover stated:

"Confirming the suggestion which I transmitted to you by telephone recently through Mr. Tamm I believe it would be well if the President would issue a statement or request addressed to all police officials in the United States and instructing them to turn over to the nearest representative of the Federal Bureau of Investigation any information obtained pertaining to espionage, counterespionage, sabotage, subversive activities and neutrality regulations. I

NOV 5 1975

cannot urge affirmative action upon this suggestion too strongly at this time. I have learned today that Commissioner Valentine of the New York City Police Department has created a special sabotage squad of fifty detectives of the New York City Police Department and that this squad will be augmented in the rather near future to comprise 150 men. Of course, as a result of the creation of this squad considerable publicity has appeared in the New York City newspapers and consequently much information in the hands of private citizens concerning sabotage and saboteurs will be transmitted to the New York City Police Department rather than to the FBI. In order for intelligence work in this field to be carried on in a comprehensive manner on a national basis all information must be carefully correlated in order to avoid confusion and chaos. Consequently, I believe it is highly desirable for you to take the necessary steps to have such an order issued by the President at the earliest possible moment."

At 6:20 p.m. on September 6, 1939, the Attorney General reached Mr. E. A. Tamm, Assistant Director, and advised him as is reflected in Mr. Tamm's memorandum dated September 6, 1939.

"The Attorney General called and stated that the President issued the order today. He stated it reads, in part, as follows:

"'President Roosevelt today requested all local law enforcement officers to cooperate with the FBI in the drive against espionage, sabotage, subversive activities, and violation of the neutrality laws. Mr. Roosevelt issued a formal statement requesting all police officers, sheriffs, and other law enforcement officers to transmit to the G-Men all information bearing on such cases. This task must be conducted in a comprehensive and effective manner on a national basis and all information must be carefully sifted out and co-related in order to avoid confusion and irresponsibility. To this end I request

JM

NOV 5 1975

all police officers, sheriffs, and all other law enforcement officers in the United States promptly to turn over to the nearest representative of the Federal Bureau of Investigation any information obtained by them relating to espionage, counter-espionage, sabotage, subversive activities, and violation of the neutrality laws.'

"Mr. Murphy stated that when he was preparing this he tried to make it as strong as possible. He requested that I relay this to Mr. Hoover as soon as possible and stated he knew the Director would be very glad to hear this. Mr. Murphy stated he prepared this on the basis of the memorandum which the Director forwarded to him."

The Presidential Directives of June 26 and September 6, 1939, were apparently not issued for the sole purpose of fully describing the scope of FBI domestic and foreign security intelligence investigative jurisdiction, but rather were issued to place and finalize investigative authority in the FBI and the military intelligence services over those areas of jurisdiction where conflicts were developing. It should be noted, however, the subject matter of the President's instructions regarding domestic security intelligence investigations of 1936, as reaffirmed in 1938, is also addressed in the Directive of September 6, 1939, thus tending to confirm the President's intent that the FBI and military services handle all matters relating to foreign and domestic security intelligence investigations. To coordinate their efforts, the FBI and the military intelligence services formed the Interdepartmental Intelligence Conference (IIC). Regular meetings were held to discuss and resolve administrative problems, disseminate information, and formulate plans both on headquarters and operational levels.

The manner in which the FBI and the military intelligence services delineated their respective responsibilities is reflected in a series of Delimitation Agreements of June 5, 1940, February 9, 1942, and February 23, 1949. Each of these Delimitations Agreements generally cites in the preamble that in conformity with the Presidential Directive of June 26, 1939, as augmented by the Directive of September 6, 1939, investigation of all "espionage, counter-espionage, sabotage, and subversive activities (or subversion) will be delimited" as therein described.

NOM

1975

BI

The Delimitations Agreements of 1940, 1942, and 1949, state that the FBI shall investigate those matters involving citizens and foreign nationals or foreign-directed activity in certain geographic areas, including the United States, and, among other duties, shall advise the military of "cases of actual or strongly presumptive espionage or sabotage, including the names of individuals definitely known to be connected with subversive activities" (1940 and 1942) or "developments concerning the strength, composition, and intentions of civilian groups within its cognizance which are classed as subversive and whose activities are a potential danger to the security of the United States" (1949).

The IIC as an independent committee ceased to exist, as pursuant to the National Security Act of 1947, which formed the National Security Council (NSC), it was absorbed and chartered by the NSC, presided over by the President. The IIC charter issued by NSC dated July 18, 1949, reads in part:

> "Pursuant to the provisions of Section 101 of the National Security Act and NSC 17/4 as approved by the President, the National Security Council hereby authorizes and directs that the Interdepartmental Intelligence Conference effect the coordination of all investigation of domestic espionage, counterespionage, sabotage, subversion, and other related intelligence matters affecting internal security.
>
> * * *
>
> "(1) The Interdepartmental Intelligence Conference shall be constituted as set forth in the Presidential Directive of June 26, 1939, that is, the Director of the Federal Bureau of Investigation, the Director of the Intelligence Division of the Army, the Director of Naval Intelligence, and in addition, the Director, Office of Special Investigations, U. S. Air Force, which office has been created since the issuance of the original Presidential Directive.
>
> * * *
>
> "D. Nothing herein shall be construed as modifying or affecting the Presidential Directives issued to the members of the IIC relating to their individual responsi-

NOV 5 1975

FBI

> bilities and duties. The Delimitations Agreement among the members of the IIC relating to the investigative responsibilities and duties of the individual members and other agreements among these members relating to the same matters shall remain in full force and effect and shall continue to be amended, changed, and supplemented at the discretion of the IIC."

Thus, it was reaffirmed on Presidential authority through the charter of the IIC that the Presidential Directives of June 26, 1939, as mentioned in the charter and the Delimitations Agreement, and the Directive of September 6, 1939, as contained in the Delimitations Agreement, were not to be modified or affected and, through the agreement, were to remain in full force and effect.

The Presidential intent has also been manifested and reaffirmed through the issuance of subsequent Directives by President Roosevelt on January 8, 1943, President Truman on July 24, 1950, and President Eisenhower on December 15, 1953. Such reissuances appear to occur to reinforce and remind interested parties of this intent during times of national peril--1943, during the height of WW II; 1950, during the Korean conflict; and 1953, during the Cold War era and enactment of the Atomic Energy Act.

On June 9, 1962, President John F. Kennedy executed National Security Action Memorandum 161, wherein he stated in part:

> "2. Accordingly, I have directed that the two interdepartmental committees concerned with internal security--the Interdepartmental Intelligence Conference (IIC) and the Interdepartmental Committee on Internal Security (ICIS)--which have been under the supervision of the National Security Council, will be transferred to the supervision of the Attorney General. The continuing need for these committees and their relationship to the Attorney General will be matters for the Attorney General to determine."

On March 5, 1964, a time in conjunction with the expiration of the IIC charter issued by the NSC, the Attorney General directed a charter to the IIC which is identical to the charter issued by the NSC in 1949, save for the issuing authority being the Attorney General in place of the NSC. Since that time, the FBI has operated in the field of foreign counterintelligence and domestic security investigations under the overall supervision of the Attorney General.

NOV 0 1975

FBI

In addition to the reaffirmation of the Presidential intent, the Attorney General has codified his instructions that the FBI handle such matters in 28 CFR, Section 0.85(d):

> "Carry out the Presidential directive of September 6, 1939, as reaffirmed by Presidential directives of January 8, 1943, July 24, 1950, and December 15, 1953, designating the (FBI) to take charge of investigative work in matters relating to espionage, sabotage, subversive activities, and related matters."

The FBI, in addition, is responsible for the investigation of numerous Federal statutory violations, many inherently addressing the field of domestic subversion and extremist activities, as well as for retaining material and conducting such investigations as are necessary and proper under the Federal Employee Loyalty Program.

As has been illustrated, the FBI, since World War I, has been the recognized Federal agency to conduct investigations of a national security nature, and, since 1936, has been authorized to engage in domestic security intelligence investigations through a series of Presidential Directives, as reaffirmed, Executive Branch charters, and through the parallel interest generated in the duty to investigate statutory violations in the field.

EXHIBIT 54-1

UNITED STATES GOVERNMENT

Memorandum

DIRECTOR, FBI

DATE: MAY 2 8 1969

FROM : SAC, NEW YORK

ST-101 REC-3

SUBJECT: WOMEN'S LIBERATION MOVEMENT
INFORMATION CONCERNING - MISCELLANEOUS

ReNYlet to Bureau and Chicago, dated 4/4/69.

On 69, who has furnished reliable information in the past, advised that the Women's Liberation Movement (WLM), so far as the informant is aware, is not an organization as such but rather a cause and philosophy. She stated she knows of no formal headquarters or officers on a local or national basis. She has no information concerning the finances within the movement but from her observation their financial needs are small and she feels that the individuals within the separate groups are able to supply the necessary funds.

INFORMANT stated that the philosophy of the WLM is for complete equality in all facets of the socio political and economic life for all women. Basically, the movement is made up of liberal groups of women and radical groups of women. The liberal group preaches the necessity of doing away with male chauvinism and the complete equality of women, but they feel that this should be done within the framework of existing institutions. The basic difference between them and the radical group is that the radicals state that male chauvinism is a direct result of "the establishment" and existing institutions and that these must be torn down before women will have their equality. INFORMANT stated that in the New York area the Women's International Terrorist Conspiracy From Hell (WITCHES) is a radical group active for Women's Liberation. Another group which is an offshoot of the WITCHES in the New York area is the "Red Stockings"

cc 9465-D

REC-10 NOV 6 1975

RECEIVED FROM JUN 2 1969

(6)

59 JUN 27 1969

59 JUN 26 1969

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

NY

and they are considered to have split off from the WITCHES because of a more radical approach to the problem. Another group believed to be forming in the New York area is the "Molly Maguires."

According to the informant, although there are other WITCH groups throughout the country, there is no centralized leadership and they with other groups maintain a loose connection via correspondence. The informant stated that within the radical groups in the WLM the members eschew positions of leadership and avoid elections or appointments of people with titles or to fill specific posts on committees because this type of thing is representative of the establishment, to the destruction of which they are dedicated. From time to time individuals are chosen to lead a meeting or perform a specific function such as taking up a collection or writing letters.

On 69, INFORMANT who has furnished reliable information in the past, advised that a WLM meeting was held on 69, at New York City. Each woman at this meeting stated why she had come to the meeting and how she felt oppressed, sexually or otherwise.

According to this informant, these women are mostly concerned with liberating women from this "oppressive society." They are mostly against marriage, children, and other states of oppression caused by men. Few of them, according to the informant, have had political backgrounds. The informant stated that a mailing list was passed around at this meeting for WLM and the "Red Stockings," another women's group.

On 69, INFORMANT advised that WLM is only interested in changing abortion laws and birth control. They advocate free abortions for everyone and widespread information on birth control. According to the informant women at this meeting on 69, stated they are not revolutionaries and would not help anyone in a revolution until the oppression of women was solved first and completely.

RECEIVED FBI NOV 2 -2-

NY

The same informant advised on 69, that a meeting of WLM was held at New York City on 69. Again, as in the previous meeting set out above, each woman present discussed her personal problems. One girl from the "Red Stockings" said her group will now be attacking prostitution and pornography.

The "Guardian" issue of 5/10/69, page five, contained an article entitled "Reading About Women" by CINDY CISLER. This article contains a section headed: "Write For ....Cindy Cisler's "Women: A Bibliography" which lists a number of "Today's Women's Writings."

For the assistance of Chicago, it is noted that one item therein is as follows:

BROWN, JUDITH; and JONES, BEVERLY. "Toward A Female Liberation Movement, 40-pages." The "Florida Paper" 50 cents from Voice of Women's Liberation Movement, 1940 Bissell, Chicago, Illinois 60614. A second item in this list of writings is the "Voice of the Women's Liberation" Movement Newsletter, $3 a year from WWLM, 1940, Bissell, Chicago, Illinois 60614.

In view of the information from established sources as set out in this and referenced communication that WITCH and other women's groups such as the "Red Stockings" and the "Molly Maguires" appear to be splinter groups of the WLM, activity of these groups will be reported under the caption "Women's Liberation Movement, Information Concerning - Miscellaneous" and the WITCH case in the New York Office is being placed in a closed status.

LEADS:

CHICAGO

AT CHICAGO, ILLINOIS. Will cover leads set forth in referenced New York letter and other logical investigation concerning WLM.

NEW YORK

AT NEW YORK, NEW YORK. Will follow and report on activities of captioned group and sub groups.

EXHIBIT 54-2

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 4 - 108th MI Group, NYC (RM)
1 - NISO, NYC (RM)
1 - OSI, 2nd Air Force, NYC (RM)

Report of: Office: New York, New York
Date: 7/2/69

Field Office File #: Bureau File #:

Title: WOMEN'S LIBERATION MOVEMENT

Character: INFORMATION CONCERNING - MISCELLANEOUS

Synopsis: Women's Liberation Movement (WLM) reported to have formed within the last two and a half years, with loose confederation of about 75 "sister chapters" spread across the US and Canada. It has no national structure but publishes a newsletter "Voice of the Women's Liberation Movement" from Chicago, Illinois. WLM described as a "cause and philosophy". WLM aim is to gain complete equality and liberation for women. Meetings and activities of WLM and affiliated groups set forth. Names of affiliated groups set forth; list of writings set forth as reflected in the "Guardian". There are no known elected officials and financial needs are met through collections.

-P*-

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

NY 100-164665

TABLE OF CONTENTS

		Page
I.	ORIGIN	3
II.	PROGRAM, AIMS AND PURPOSES	4
III.	LEADERSHIP AND FINANCES OF WLM	11
IV.	MEETINGS AND ACTIVITIES OF WLM	12
V.	NEW YORK CITY AFFILIATES OF WLM	16
VI.	WLM GROUPS OUTSIDE NEW YORK CITY AREA	21
VII.	LITERATURE	24
VIII.	CHARACTERIZATIONS OF INDIVIDUALS	25

DETAILS:

For the purpose of clarity, persons mentioned in this report will be described in Section VIII where characterizations are available.

This investigation was predicated upon information reflecting that the Women's International Terrorist Conspiracy from Hell (WITCHes), a splinter group of Women's Liberation Movement (WLM), held a picket line demonstration at Felt Forum, Madison Square Garden, New York, New York, February, 1969.

I. ORIGIN

"The Nation" issue of February 24, 1969, Pages 241-244, contained an article by JO FREEMAN (described in article as "a free-lance writer and photographer, is currently compiling a book of readings on the women's liberation movement"). This article entitled "The New Feminists", (dateline Chicago), states in part as follows:

"And like the Negro, women have once again begun to revolt. Two major feminist organizations have formed within the last two and a half years. In 1966, the National Organization for Women (NOW) was created under the slogan 'full equality for women in truly equal partnership with men.' It is a top-down structure with an office in Washington. Its some 2,500 members are primarily career women, women whose families are grown and no longer occupy most of their time, and some sympathetic men.

"The second feminist group is not exactly an organization, but a loose confederation of about seventy-five 'sister chapters' spread across most of the United States and Canada. It has no national structure but does mail a newsletter from Chicago....

RECEIVED FROM
NOV 3 1969
-3-

NY

According to there is no information available concerning the finances within the movement, however, from the informant's observation their financial needs are small and it is felt that the individuals within the separate groups are able to supply the necessary funds.

IV. MEETINGS AND ACTIVITIES OF WLM

An article in "WIN", supra issue of February 15, 1969, Page 11, which article is entitled, "Women's Liberation" reflects in part as follows:

"Last September, Women's Liberation was ready for its first major action, zapping the Miss America Pageant at Atlantic City. About 200 women descended on this Wallace-country Tacky Town, and staged an all-day demonstration on the Boardwalk in front of Convention Hall (Where the Pageant was taking place), singing, chanting, and performing guerilla theater (they crowned a live sheep as Miss America; flung bras, girdles, steno pads, and dishcloths into a Freedom Trash Can; and mockauctioned off a dummy of Miss America). Picket signs proclaimed solidarity with the Pageant contestants ('sister-victims') while condemning the Pageant itself as racist (there has never been a black finalist), militaristic (Miss America tours the troops in Vietnam each year), commercial (the million-dollar Pageant Corporation is one Big Sell for the sponsoring products), and degrading to women (for propagating the Mindless Sex Object Image). At night, an 'inside squad' of 20 women disrupted the live telecast of the Pageant, yodeling the eerie Berber Yell (from Battle of Algiers), shouting 'Freedom for Women,' and hanging a huge banner reading Women's Liberation from the balcony rail. One woman was arrested for 'emitting a noxious odor'--spraying Toni Hair Conditioner (a sponsor of the Pageant) near the Mayor's box, and rumor has it that the shuffling of Bert Park's cue cards was engineered by a sister-traveler among the contestants."

NY

Square Garden, NY, NY, on February 15, 1969. The purpose of this demonstration according to was to protest women's roll of submissiveness in the institution of marriage. The demonstration was held in connection with a Bridal Show being held at Felt Forum, on February 15, 1969.

"WIN", supra, issue of February 15, 1969, in an article entitled, "Women's Liberation", on page 12, states in part as follows:

"Not resting on any laurels after Atlantic City, Women's Liberation gave birth to W.I.T.C.H. (Women's International Terrorist Conspiracy from Hell), which first manifested itself, appropriately enough, at the HUAC witch-hunt hearings about Chicago. The W.I.T.C.H. action there was led by Nancy Kurshan. Aware that witches were the original guerilla fighters against oppression, and that any woman who was intelligent, articulate, non-conformist, aggressive, or sexually liberated was usually burned at the stake, W.I.T.C.H. then performed its second action--on, of course, Halloween. Costumed as High Priestesses, Guerilla Witches (complete with broom and toy? machine guns), Gypsies, and Mediums (hence, Messages), a Coven of witches hit Wall Street at noon, casting curses on the New York Stock Exchange (the market promptly went down five points), demanding to see Satan at various banks (since the witches know they "Had a Fiend at Chase Manhattan"), leaving the dread letters W.I.T.C.H. stenciled in soot on the carpets of investment-brokerage houses, and generally freaking out the Daytime Ghetto of the Financial District. At dusk, the procession alighted on the Lower East Side, rapping with the natives about witches as the first scientists, birth-control purveyers, abortionists, heads, trippers, and general bringers of freedom and delight."

17

RECEIVED FROM
NOV 6 1975
FBI

NY

" 'Here come the slaves, off to their graves', the WITCHES sang, to the tune of the traditional wedding march. Then the picketers--both men and women---stood in a circle and pledged themselves to each other, but without the traditional promise to obey.

"Audience Keeps Calm

"A few minutes later, several WITCHES who managed to sneak past the guards let loose 100 white mice in the Felt Forum before the bridal show began. But the girls in the audience, instead of screaming and panicking, seemed sorry for the mice and tried to gather them up so they wouldn't be stepped on.

B. ARROW

, a former child actress who helped organize the demonstration and who took part in the picketing of the Miss America Pageant last September in Atlantic City, said the protest was aimed at 'the commerciality of the Bridal Fair and the institution of marriage as it exists in this culture to dehumanize both parties--but especially, to oppress women'.

who prefers to use her maiden name, is married and expects her first child in July.

on 1969, furnished information to the effect that was in the forefront of the principal organizers of WITCHes and was very instrumental in its success.

The June 1, 1969, "The New York Times" magazine section, page 14, contains an article entitled, "There's A New-Time Religion on Campus", which states, in part, as follows:

"During a recent unpleasantness between the University of Chicago and its Students for a Democratic Society the normal, decorous quiet of the Social Science Building was rent one fine afternoon by ear-piercing sounds.---WITCH (Women's International Terrorist Corps from hell) had come to put a curse on the Sociology Department.---

RECEIVED
NOV 19 -
SEC

EXHIBIT 54-3

FD-263 (Rev. 12-19-67)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE	OFFICE OF ORIGIN	DATE	INVESTIGATIVE PERIOD
KANSAS CITY	NEW YORK	10/20/70	4/20/70 - 10/16/70

TITLE OF CASE	REPORT MADE BY	TYPED
WOMEN'S LIBERATION MOVEMENT		JEO

CHARACTER OF CASE

IS - MISCELLANEOUS

REFERENCE: Report of SA _____, 4/20/70, at Kansas City.

P*

ADMINISTRATIVE:

Copies of this report are being furnished to MIG, NIS, OSI, Secret Service, locally, for their information.

_____ aka, and _____ mentioned in report, are Security Index subjects.

_____ is Source.

ACCOMPLISHMENTS CLAIMED	NONE				ACQUITTALS
AUTO.	FUG.	FINES	SAVINGS	RECOVERIES	

CASE HAS BEEN:
PENDING OVER ONE YEAR ☐ YES ☒ NO
PENDING PROSECUTION OVER SIX MONTHS ☐ YES ☒ NO

VED _____ SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

94 DEC-62

ST-117

6 OCT 22 1970

MADE:
Bureau (RM)
New York (RM)
MIG, Kansas City, Missouri (RM)
NIS, Kansas City, Missouri (RM)
OSI, Richards-Gebaur AFB (RM)
Secret Service, Kansas City, Missouri
Kansas City

2-D 2-destroyed

Dissemination Record of Attached Report

	Agency				
Request Recd.					
Date Fwd.	10/25/70				
How Fwd.	RIS				
By					

Notations

53 NOV 3 1970

GOVERNMENT PRINTING OFFICE

is INFORMANT

is THIRD AGENCY

is INFORMANT nstant file.

is INFORMANT instant file.

is INFORMANT

is INFORMANT instant file.

is INFORMANT instant file.

is SOURCE.

is INFORMANT.

is SOURCE

is INFORMANT
instant file.

is SOURCE.

X LEADS

KANSAS CITY

AT COLUMBIA, MISSOURI

Will follow and report activities, if any, of subject organization, particularly based on information herein.

AT LAWRENCE, KANSAS

Will follow and report activities, if any, of subject organization, particularly based on information herein.

AT KANSAS CITY, MISSOURI

Will follow and report activities, if any, of subject nization, particularly based on information herein.

B*
COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 MIG, Kansas City, Missouri
1 NIS, Kansas City, Missouri
1 OSI, Richards-Gebaur AFB, Missouri
1 Secret Service, Kansas City, Missouri

Report of: Office: KANSAS CITY
Date: 10/20/70

Field Office File #: KC Bureau File #:

Title: WOMEN'S LIBERATION MOVEMENT

Character: INTERNAL SECURITY - MISCELLANEOUS

Synopsis: An inactive Women's Liberation Movement (WLM) group is indicated as a campus organization at University of Missouri at Kansas City (UMKC); however, no campus or other significant activities were reported by sources from 4/20/70 to October, 1970. No WLM group identified elsewhere or on college campuses at Columbia, Missouri, and Lawrence, Kansas.

p*

DETAILS:

I. WOMEN'S LIBERATION MOVEMENT (WLM), KANSAS CITY, MISSOURI (GREATER KANSAS CITY)

A. Origin and Purpose

The Kansas City Times (daily Kansas City, Missouri, newspaper), news article, dated November 12, 1969, announced the holding of an organizational meeting November 11, 1969, at University of Missouri at Kansas City (UMKC) to form a "Women's Liberation Front" (WLM). The article named [redacted] students at UMKC, respectively, as discussion leader and organizer. The article also named [redacted] a faculty member of UMKC attending the meeting, as the President of the Greater Kansas City Chapter of the National Organization of Women (NOW).

[redacted]

document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

KC

Thereafter, until the Summer of 1970, stated that four students at UMKC were indicated as WLM members in the campus group, namely,
and

On 1970, exhibited the following undated copy of "Constitution of the Women's Liberation Movement" at UMKC, together with a petition by five students filed with Student Activities authority at UMKC, to recognize WLM as a campus organization:

CONSTITUTION OF E WOMEN'S LIBERATION MOVEMENT

ARTICLE I NAME

The name of the organization shall be the Women's liberation Movement
U.M.K.C.

ARTICLE II PURPOSE

The purpose of the organization shall be to seek solutions to the problems women face due to sexual discrimination. At the meetings members will be able to discuss the problems they face as students. The W.L.M. will provide literare + sponsor speakers, films + discussions to educate other women + interested men about the meaning of women's liberation.

ARTICLE III MEMBERSHIP

Membership is open to all women.

ARTICLE IV MEETINGS

Meetings will be held every two weeks at a time convenient to most members.

ARTICLE V OFFICERS

A chairman will be ~~x~~ elected every 6 months. All members ~~are~~ eligible. who are full time students in good standing are eligible.

ARTICLE VI FACULTY ADVISORS

faculty member will be selected by majority vote. She will serve as visor to the group whenever necessary.

ARTICLE VII FINANCES

No dues will be charged. If money is needed, members will be asked to donate, or the members will select some project for raising funds.

ARTICLE VIII SPECIAL FINANCES

1. This organization agrees to comply with all provisionsof the Student Activities Fund Act.

2. The books of the accounts will b e kept up to date, and they will be open to the inspection of the Student Auditor at all times.

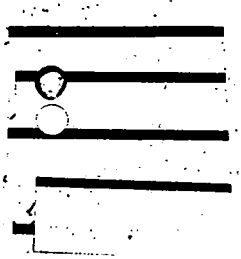
3. It is further understood that if this organization desires at any time in the future to change in any way, the provisions of this charter, that before such action is taken, the organization will submit to the Student Council and the Dean of Students every detail and containing the desired changes to be made. This new charter, when accepted, will take precedence over the former charter and the former charter shall be void.

4. This charter, or any subsequent charter, may be revoked if any of the provisions of the existing charter are not fulfilled, or if in the opinion of the proper authorities it is of the advantage of the entire student body that the charter be revoked and the organization dissolved.

5. The provisions set forth in this charter shall be binding upon all officers, present and future, and all officers will hold office subject to the provisions herein contained.

RECEIVED FBI
NOV 4 1975
FBI

as a campus organizatio:



KC

According to the above Constitution informed on , 1970, that because of the constitution filed with Student Activities authority at UMKC, the WLM campus group is apparently considered a legitimate campus group and is, therefore, eligible to receive money from Students Activity Fees as well as to hold meetings, if desired, at the Student Union Building free of charge, however, no such WLM activity has been indicated to date.

B. Location and Meetings

informed that there has been no known or indicated meeting location or actual meeting since the organizational meeting in November, 1969, indicates members of WLM campus group who are nowenrolled as students at UMKC in the Fall term of 1970 are

Of these five said are indicated to be at least potential "New Left Radicals". noted that and not currently students on the UMKC campus, are reportedly roommates at Kansas City, Missouri. a graduate student in indicated as having moved from to Kansas City, Missouri.

C. Possible Leadership and Membership and Related Matters

Although any current actual officers and members, if any, are unknown and probably few in number, and have been indicated as the potential leaders or spokesmen. Other possible or potential members are previously named as current UMKC students: according to

noted that is an Assistant Professor of at UMKC, but no campus organization known as NOW has ever existed or been approved on the UMKC campus. informed that NOW and WLM have reportedly exchanged literature in the past but NOW is reputed to be a more moderate group in their views on equal rights for women than WLM.

informed on , 1970, that was a member of Young Socialist Alliance (YSA) in the Kansas City area.

KC

informed in October, 1968, that was a member and officer of Students for a Democratic Society (SDS) at the University of Missouri at Columbia, Missouri (UMC) during the academic school year of 1967-1968.

SDS and YSA are characterized in Appendix pages.

On 1970, informed that UMKC student, had not recently been observed at YSA activities. She was known to still be in favor of YSA and probably continued to be a member of YSA.

A throwaway in Kansas City, Missouri, during September, 1970, purportedly a letter of the "Ecstatic Umbrella committee for legal defense, 3800 McGee, Kansas City, Missouri, telephone 561-4524" appeals for contributions for legal defense fund, for political prisoners, and specifically for the defense of Executive Director of the Ecstatic Umbrella" charged with assaulting a federal officer (FBI Agent).

Among nine typed named committeemen listed at the bottom of the letter were:

and informed from time to time during 1970 that the Ecstatic Umbrella, 3800 McGee, Kansas City, Missouri, has in recent years been supported by some leaders or agencies, including "Young Adult Projects" of the United Methodist Church, to reach and assist hippies and drug types, among others.

KC 1

described as a middle class housewife, not further identified, was named in January, 1970, as a Kansas City contributor of literature or material related to WLM according to

Another throwaway in Kansas City, Missouri, during September, 1970, listed Kansas City, Missouri as a spokesman for the local chapter of NOW.

On 1970, informed that and that are neither currently enrolled students or employees of UMKC.

On 1970, informed that the following named persons have been indicated as associated with WLM in Kansas City, Missouri, but no additional information has been received to date concerning the nature of their association:

D. Group Activities

informed on 1970, that no known WLM group activity has actually occurred on or off campus at UMKC since the so called "organizational meeting" on the campus in November, 1969.

Articles in the Kansas City Star (daily Kansas City, Missouri newspaper), dated August 26, 1970, reflect that representatives of NOW and WLM celebrated on August 26, 1970, in Kansas City, Missouri, the 50th Anniversary of women's suffrage in the United States. The celebration consisted of setting up nondisruptive discussion booths on the steps of City Hall and peacefully picketing Macy's Cafeteria, a downtown Kansas City, Missouri, department store for barring women diners unaccompanied by men. The article identified only one person as a member or spokesman for WLM, namely, reportedly stated that the equal rights amendment, which had just past the U. S House of Representatives, has opened avenues to true equality of women for the first time in the nation's history. identified Vietnam and race problems as important issues. She said she favored

KC

complete eradication of abortion laws. One was identified in the news article as spokesman and acting chairman for NOW.

II. WOMEN'S LIBERATION MOVEMENT (WLM) AT COLUMBIA, MISSOURI

informed on 1970, that there has been no WLM group activity on the campus of the University of Missouri at Columbia (UMC) during the current 1970-1971 school year; and no such activity has been indicated elsewhere at Columbia. further stated that there is no indications past WLM leader or member is presently attending UMC since moved some months ago from Columbia, Missouri, to the state of Wisconsin.

and informed on 1970, that no WLM group or activity is indicated as currently existing at Columbia, Missouri, on or off college campus.

III. WOMEN'S LIBERATION MOVEMENT (WLM) AT LAWRENCE, KANSAS

informed on 1970, that no known WLM group or activity has been indicated on the University of Kansas (KU) campus at Lawrence, Kansas, during 1970-1971 school year.

said no such group has requested recognition by KU authorities on the campus.

informed that an off campus group in Lawrence, Kansas, appears to have a philosophy similar to that of the WLM. This group is not known as a Women's Liberation Movement but is referred to as WOMEN'S COALITION (WC). WC reportedly works out of LAWRENCE LIBERATION FRONT (LLF), also a group that is not recognized by KU as a campus organization. observed that LLF is described as a Revolutionary Community group, consisting of a number of collectives and committees whose function is to serve the people of Lawrence, Kansas, through various programs and sponsors of cultural activities.

YOUNG SOCIALIST ALLIANCE

A source advised on May 15, 1969, that the Young Socialist Alliance (YSA) maintains its national headquarters at 41 Union Square West, New York, New York, and has as its official publication the "Young Socialist." The YSA is the youth organization of the Socialist Workers Party (SWP) and has been described by the SWP as the main recruiting ground for the SWP.

The SWP has been designated by the Attorney General of the United States pursuant to Executive Order No. 10450.

APPENDIX

APPENDIX

STUDENTS FOR A DEMOCRATIC SOCIETY

A source has advised that the Students for a Democratic Society (SDS), as presently regarded, came into being at a founding convention held June, 1962, at Port Huron, Michigan. From an initial posture of "participatory democracy" the line of the national leadership has revealed a growing Marxist-Leninist adherence which currently calls for the building of a revolutionary youth movement. Concurrently, the program of SDS has evolved from civil rights struggles to an anti-Vietnam war stance to an advocacy of a militant anti-imperialist position. China, Vietnam and Cuba are regarded as the leaders of worldwide struggles against United States imperialism whereas the Soviet Union is held to be revisionist and also imperialist.

At the June, 1969, SDS National Convention, Progressive Labor Party (PLP) forces in the organization were expelled. As a result, the National Office (NO) group maintained its National Headquarters at 1608 West Madison Street, Chicago, and the PLP faction set up headquarters in Cambridge, Massachusetts. This headquarters subsequently moved to Boston. Each group elected its own national officers, which include three national secretaries and a National Interim Committee of eight. Both the NO forces and the PLP forces claim to be the true SDS. Both groups also print their versions of "New Left Notes" which sets forth the line and the program of the particular faction. The NO version of "New Left Notes" was recently printed under the title "The Fire Next Time" to achieve a broader mass appeal.

Two major factions have developed internally within the NO group, namely, the Weatherman or Revolutionary Youth Movement (RYM) I faction, and the RYM II faction. Weatherman is action-oriented upholding Castro's position that the duty of revolutionaries is to make revolution. Weatherman is regarded by RYM II as an adventuristic, elitist faction which denies the historical role of the working class as the base for revolution. RYM II maintains that revolution, although desired, is not possible under present conditions, hence emphasizes organizing and raising the political consciousness of the working class upon whom they feel successful revolution depends. Although disclaiming control and domination by the Communist Party, USA, leaders in these two factions have in the past proclaimed themselves to be communists and to follow the precepts of a Marxist-Leninist philosophy, along pro-Chinese communist lines.

APPENDIX

A second source has advised that the PLP faction which is more commonly known as the Worker Student Alliance is dominated and controlled by members of the PLP, who are required to identify themselves with the pro-Chinese Marxist-Leninist philosophy of the PLP. They advocate that an alliance between workers and students is vital to the bringing about of a revolution in the United States.

SDS regions and university and college chapters, although operating under the outlines of the SDS National Constitution, are autonomous in nature and free to carry out independent policy reflective of local conditions. Because of this autonomy internal struggles reflecting the major factional interests of SDS have occurred at the chapter level since the beginning of the 1969-70 school year.

APPENDIX

PROGRESSIVE LABOR PARTY (PLP)

"The New York Times", city edition, Tuesday, April 20, 1965, page [illegible] reported that a new party of "revolutionary socialism" was formally founded on April 18, 1965, under the name of the [illegible] which had been known as the Progressive Labor Movement.

According to the article, "The Progressive Labor Movement was founded in 1962, by Milton Rosen and Mortimer Scheer after they were expelled from the Communist Party of the United States for what they [illegible] following the Chinese Communist line."

A source advised on June [illegible], 1966, that the PLP held its second National Convention in New York City, May 31 to June 2, 1966, at which time the PLP reasserted its objective of the establishment of a militant working class movement based on Marxism-Leninism. This is to be accomplished through the Party's internal [illegible] every strategy of raising the consciousness of the people and acting to provide ideological leadership in the working class struggle for state power.

The source also advised that at the Second National Convention, Milton Rosen was unanimously reelected National Chairman of the PLP and Levi Laub, Fred Jerome, Jarel Israel, William Epton, Jack Rosen, Jeffrey Gordon and Walter Linder were elected as the National Committee to lead the PLP until the next convention.

The PLP published "Progressive Labor," a bimonthly magazine, "World Revolution," a quarterly periodical; and "Challenge-Desafio," a monthly newspaper.

The April 1969 issue of "Challenge-Desafio" sets forth that "Challenge is [illegible] to the people's fight for a new way of life--where the working men and women control their own homes and factories, [illegible] themselves make up the entire government [illegible] and [illegible] control the schools, courts, police and all [illegible] used to oppress them."

[illegible] advised on May 6, 1971, that the PLP utilizes an address of [illegible] Brooklyn, New York, and also utilizes [illegible] in New York City, One [illegible] Square West, New York, New [illegible]

FBI/DOJ
NOV 6 1975

66-077 O - 76 - 39

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Kansas City, Missouri

October 20, 1970

Title WOMEN'S LIBERATION MOVEMENT

Character

Reference Kansas City report of SA dated and captioned as above.

All sources (except any listed below) whose identities are concealed in referenced communication have furnished reliable information in the past.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

EXHIBIT 55-1

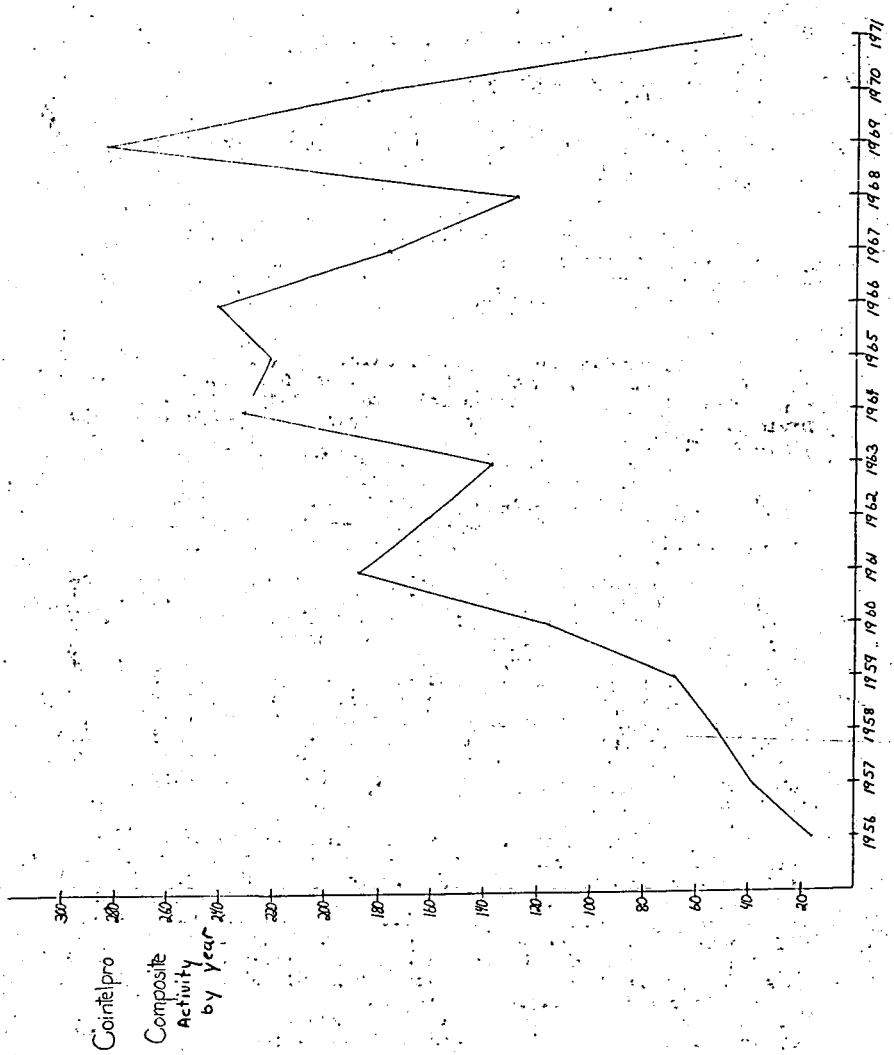

Cointelpro
Composite Activity by year
300
280
260
240
220
200
180
160
140
120
100
80
60
40
20
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971

EXHIBIT 55-2

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: August 27, 1964

FROM Mr. F. J. Baumgardner

SUBJECT: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

Memorandum from Mr. J. H. Gale to Mr. Tolson dated 7/30/64 captioned "Investigation of Ku Klux Klan and other Hate Groups" was approved by the Director authorizing the Domestic Intelligence Division to give consideration to the application of counterinte ligence and disruptive tactics to hate groups and to thereafter make appropriate recommendations. It is our recommendation that we immediately initiate a hard-hitting, closely supervised, coordinated counterintelligence program to expose, disrupt and otherwise neutralize the Ku Klux Klan (KKK) and specified other hate groups.

This new counterintelligence effort will take advantage of our experience with a variety of sophisticated techniques successfully applied against the Communist Party, USA, and related organizations since 1956. Primarily, we intend to expose to public scrutiny the devious maneuvers and duplicity of the hate groups; to frustrate any efforts or plans they may have to consolidate their forces; to discourage their recruitment of new or youthful adherents; and to disrupt or eliminate their efforts to circumvent or violate the law. Our counterintelligence efforts against hate groups will be closely supervised and coordinated to complement our expanded intelligence investigations directed at these organizations.

We are furnishing general instructions to 17 field offices (14 Southern offices responsible for active investigation of 17 Klan groups and 6 hate organizations, and New York, Chicago and Baltimore, who have active investigative responsibilities for one hate organization each) relating to the administration and prompt enactment of this new counterintelligence program. Briefly, these instructions require the 17 participating offices to submit to the Bureau on or before 10/15/64 an analysis of possible counterintelligence operations, including any specific recommendations for action. Thereafter (commencing 1/1/65) the participating offices will submit a 90-day status letter setting

Enc. 9-3-64 Main
1 - 100-3-104-Main (CPUSA, Cointelpro)

REC 20 SEP 24 1964

Memorandum to Mr. Sullivan
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

forth a summary of current, possible, and successfully achieved counterintelligence activity during the prior 3-month period. Each office will be instructed to open and maintain a pending investigation relating to this program and to assign a Special Agent on a part-time basis as the program coordinator responsible for following and initiating counterintelligence action.

As is the instance in our established counterintelligence program against the Communist Party, USA, and all recommended counterintelligence action against Klan-type and hate organizations will be required to be approved at the Seat of Government.

This new counterintelligence program directed at Klan and hate organizations will be supervised at the Seat of Government by the Special Agent supervisor responsible for our similar programs directed against the Communist Party, USA, and his efforts will be closely coordinated with supervisory personnel responsible for the intelligence investigations of the Klans and hate organizations and their membership. An annual memorandum justifying continuance of the program will be submitted and the participating field offices will be periodically apprised of techniques which have been found to be most successful. At such time as the program is considered to be successfully under way, a status memorandum will be submitted which will include any additional recommendations relating to manpower or other administrative requirements.

RECOMMENDATIONS:

1. That the Domestic Intelligence Division be authorized to immediately initiate a coordinated counterintelligence program directed at exposing, disrupting and otherwise neutralizing the 17 active Klan organizations and 9 active racial hate organizations.

Portions in brackets classified secret

Memorandum to Mr. Sullivan
RE: COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF HATE GROUPS

2. That the attached letter be forwarded to the 17 field offices slated to participate in this new counterintelligence program setting forth instructions for the administration and immediate enactment of the program.

OK

EXHIBIT 55-3

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 4/27/71

FROM : Mr. C. D. Brennan

SUBJECT: COUNTERINTELLIGENCE PROGRAMS (COINTELPROS)
INTERNAL SECURITY - RACIAL MATTERS

To afford additional security to our sensitive techniques and operations, it is recommended the COINTELPROS operated by the Domestic Intelligence Division be discontinued.

At the present time this Division operates seven COINTELPROS as follows:

COINTELPRO - Espionage
COINTELPRO - New Left
COINTELPRO - Disruption of White Hate Groups
COINTELPRO - Communist Party, USA
Counterintelligence and Special Operations
COINTELPRO - Black Extremists
Socialist Workers Party - Disruption Program

These programs involve a variety of sensitive intelligence techniques and disruptive activities which are afforded close supervision at the Seat of Government. They have been carefully supervised with all actions being afforded prior Bureau approval and an effort has been made to avoid engaging in harassment. Although successful over the years, it is felt they should now be discontinued for security reasons because of their sensitivity.

In exceptional instances where counterintelligence action is warranted, it will be considered on a highly selective individual basis with tight procedures to insure absolute security.

ACTION: REC-39

If approved, attached airtel will be sent to all field offices discontinuing our COINTELPROS.

Enclosure

EXHIBIT 56-1

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. A. H. Belmont

DATE: March 30, 1960

FROM : F. J. Baumgardner

SUBJECT: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C

There is every indication that the Communist Party (CP), USA, under the optimistic leadership will attempt to increase its activities in the mass organization field.

The February, 1960, issue of "Political Affairs," monthly theoretical publication of the CP, USA, carries an article entitled "On the Fight for Peace and the Struggle Against the Monopolies." This article mentions the following as one of the central political tasks confronting the labor, peace and democratic forces: "To bring the fight for peace up to the pace demanded by current developments, it is urgent to bring such issues as disarmament and peaceful coexistence before every community, church, labor union and other organization of the people."

It is felt we should take appropriate steps to disrupt the plans of the CP, USA, to infiltrate legitimate mass organizations wherever possible.

RECOMMENDATION

It is recommended the attached letter to the New York Office (original on plastiplate) with copies to the 15 other offices engaged in our Counterintelligence Program be approved. This letter establishes a new phase of counterintelligence activity designed to expose concealed communists working in legitimate mass organizations so they will be unable to continue to espouse communist propaganda in a subtle manner. This new technique is another counterintelligence weapon directed against the CP, USA, and should result in reducing the over-all effectiveness of the Party in the mass organization field.

APR 4 1960

EXHIBIT 56-2

SAC, New York March 31, 1960

Director, FBI

COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C

Each office is instructed to adopt the following new technique as a regular phase of its Counterintelligence Program.

Discreditation of Communist Activities in These Organizations

Each office should be alert to the desirability of taking steps to have communists ousted from legitimate mass organizations, such as, Parent-Teacher Associations, civic organizations, and racial and religious groups, which they have successfully infiltrated. Whenever information is received that an active communist has joined a legitimate organization concealing his communist background with the objective of disseminating communist propaganda in a subtle manner, the following steps should be taken:

1. Review the file on such individual very carefully in order to determine if there is any public source or other similar-type material identifying this individual with the communist movement.

2. Discreetly ascertain the identity of the most logical officer or prominent person in the organization on whom there is no derogatory information who could be expected to take, or cause to be taken, action to remove the communist from the organization.

RECEIVED
APR 1 - 1960
FBI - NEW YORK

2 - Boston
2 - Buffalo
2 - Chicago
2 - Cleveland
2 - Detroit
2 - Los Angeles
2 - Milwaukee
2 - Minneapolis
2 - New Haven
2 - Newark
2 - Philadelphia
2 - Pittsburgh
2 - St. Louis
2 - San Francisco
2 - Seattle

(37)

SEE NOTE ON YELLOW, PAGE TWO

APR 1 3 1960 TELETYPE UNIT

Letter to SAC, New York
RE: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM

3. Advise the Bureau of the pertinent facts and request Bureau authority to make such information discreetly available by anonymous communications, appropriate pretext telephone calls or some other effective means. Keep in mind that no action should be recommended which could embarrass the Bureau or jeopardize the security of our informants, sources of information or special investigative techniques.

In order to qualify for this counterintelligence operation, the active communist must be connected in some manner with the organization and not just speculating about joining. The organization should be a legitimate mass organization and not a communist front or left-wing type organization. The individual communist involved should be one whose presence in the organization and suspected operations are a definite threat.

Since it is rather difficult to draw up all-inclusive criteria for every case, no office should hesitate to submit its recommendation if it has a case it feels falls within the approximate criteria set forth above.

The regular monthly letters setting forth the operations of the counterintelligence operations in each office should in the future contain a section setting forth any tangible results obtained through this new counterintelligence operation.

NOTE ON YELLOW:

See memorandum Baumgardner to Belmont captioned "Communist Party, USA, Counterintelligence Program, IS-C" dated 3/30/60. Original prepared on plastiplate.

EXHIBIT 56-3

8-2

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: October 1, 1964

FROM : Mr. F. J. Baumgardner 1 1 1 1

SUBJECT: INTERNAL SECURITY SECTION 1
DOMESTIC INTELLIGENCE DIVISION
ADMINISTRATIVE MATTER

SYNOPSIS

In June, 1964, a new special Desk was created in the Internal Security Section, Domestic Intelligence Division, as a result of my memorandum to you 5/20/64, to concentrate on the investigation into the communist influence in racial matters. This investigation was to be handled by two Supervisors, one being separated from the Communist Party-Unit and one from the Communist Front Unit. To assimilate the other work being left by those Supervisors, it was necessary to obtain an additional Supervisor. This matter was looked into by the Inspection Division which recommended, and it was approved, that an additional Supervisor, Special Agent be assigned on a temporary basis, with the thought that as soon as we could safely do so, the two Supervisors would be sent back to their respective Units. The necessity for our intensification of the investigation of communist influence in racial matters has not abated, but has increased. There is no sign of a letup. The Communist Front Unit, where the temporary Supervisor assigned, has also shown an increase in its case load. The "temporary" nature of the situation is now believed to be "permanent."

OBSERVATIONS:

The necessity for the temporary Supervisor whom we obtained in early June, 1964, is more than ever present. Our work load in the communist influence in racial matters which generated the necessity for a temporary Supervisor has been steadily increasing, with no sign of a letup; the work in the Communist Front Unit where the temporary Supervisor has been assigned has also increased. The "temporary" nature of the situation is now believed to be "permanent."

RECOMMENDATION: REC 4

That the one Special Agent, who was assigned to the Internal Security Section, Domestic Intelligence Division, on a temporary basis, be considered as permanently assigned.

FJB:
(8

CONTINUED - OVER

69 OCT 23 1964

Memorandum to Mr Sullivan
RE: INTERNAL SECURITY SECTION
DOMESTIC INTELLIGENCE DIVISION
ADMINISTRATIVE MATTER

DETAILS

Background

My memorandum to you 5/20/64 pointed out the increasing workload growing out of our investigation of the communist influence into the racial movement and the importance of this problem to the Bureau. It was recommended, and approved, that two Supervisors be separated from their current assignments, one in the Communist Party Unit and the other in the Communist Front Unit, and that they be attached to a newly created special desk to concentrate on the investigation into the communist influence in racial matters. To assimilate the other work being left by these two Supervisors it was necessary to obtain an additional Supervisor. It was requested that the additional Supervisor be assigned on a temporary basis with the thought that as soon as we could safely do so, the two Supervisors concentrating on the communist influence in racial matters would be sent back to their respective Units. This matter was looked into by the Inspection Division, which recommended, and it was approved, that an additional Supervisor be assigned on a temporary basis. It was also recommended and approved that this situation be re-evaluated 10/1/64 and a memorandum submitted by the Domestic Intelligence Division regarding the temporary Supervisor. The temporary Supervisor who has been serving is Special Agent assigned to the Communist Front Unit.

Current Situation

The necessity for our intensification of investigation of the communist influence in racial matters has not abated; rather, it has increased. We have been handling a high volume of priority work in this area dealing with such major projects as the racial disorders and demonstrations in New York City and the Mississippi Summer Project (MSP). There have also been racial disturbances in Philadelphia, Pennsylvania; Rochester, New York; and New Jersey, all requiring investigative effort relative to possible subversive influences. The MSP work was originally handled in the Communist Influence in Racial Matters (CIRM) Unit only as respects subversive ramifications. However, with the transfer of certain of the Civil Rights Section work from the General Investigative Division to the Domestic Intelligence Division, we now have absorbed all aspects of the MSP in the CIRM Unit. This is presently taking the full time of one Supervisor, in addition to a full-time clerical employee. In this regard, it should be noted that whereas we originally started this special Unit with two Supervisors, we now have three. When the new Unit was created, there were assigned to it approximately 120 cases. As of 10/1/64, this figure has increased to 134 cases. All indicators point to a continued heavy

Memorandum to Mr. Sullivan
RE: INTERNAL SECURITY SECTION
DOMESTIC INTELLIGENCE DIVISION
ADMINISTRATIVE MATTER

work load relative to the communist influence in racial matters. This has become a big factor relative to the forthcoming national elections and, in addition, there are definite indications that the MSP will be a continuing thing. There have also been some indications that activities such as the MSP will extend into other states. In addition, under date of 8/28/64, a letter was submitted to all offices instructing a broadening of our investigation into the communist influence in racial matters and the setting up of a new and more intensified reporting procedure. Due 11/1/64 are comprehensive investigative reports from all field offices which will provide centralized reporting on this matter.

The Communist Front Unit, which is where the temporary Supervisor is assigned, has also shown an increase in its case load. As of 10/1/64 the Communist Front Unit had 392 pending investigations as compared to 375 pending investigations as of 7/1/64. The recent Supreme Court decisions favorable to the Party under various facets of the Internal Security Act of 1950 have breathed new life into the Party. The Party is now taking bolder steps to carry on its work in mass organizations, as well as creating new front organizations. One case in point is that dealing with the W. E. B. DuBois Clubs of America, Inc., the new national Party youth organization. The formation of this youth group was finalized at a National Convention in June, 1964, which was held in San Francisco, California, and was attended by approximately 450 youths. Since that time several affiliates of this group have come into existence. One of the plans for action decided upon by the group was to have affiliates of the group formed on college campuses throughout the United States; therefore, it can be expected that in the immediate future after these various youths have returned to their college campuses, they will form such campus groups. This will represent not only an increase in case load, but will also increase the work of the field in penetrating and following the activities of such groups. This will call for close supervision of these groups due to the nature of the make-up of the clubs and the fact that they are located on college campuses in order to avoid any embarrassment to the Bureau. It is also anticipated that with the advent of the fall and winter seasons, the Party will step up its activities in attempting to penetrate legitimate mass organizations and in establishing new front groups to carry on the Party's work on issues in which the Party will have an interest.

8-6

EXHIBIT 56-4

10/9/68

airtel

To: SAC, Albany

From: Director, FBI

COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY
DISRUPTION OF THE NEW LEFT

ReBulotn 5/10/68 and 5/23/68.

The above communications advised of the necessity of taking immediate action to expose, disrupt, and otherwise neutralize the activities of the New Left. As a part of this program, you were instructed to remain alert for and to seek specific data depicting the depraved nature and moral looseness of the New Left. You were further instructed to consider ways to use this material in a vigorous and enthusiastic approach to neutralizing them.

Despite these instructions and in the face of mounting evidence of their moral depravity, little evidence has reached the Bureau to indicate field offices are using this information to best advantage.

To make this program more effective in this regard, each office is instructed to be particularly alert for this type of data. Where a student is arrested during a demonstration or his participation in a demonstration is accompanied by the use of or engagement in an obscene display, this information is to be promptly incorporated into an anonymous letter which can be directed to his parents. Where a photograph or other evidence is available to substantiate information in the letter, it should be made a part of the mailing. You should also search for additional ways to bring the student's activities

2 - All Offices

EX 110 REC-130

SEE NOTE PAGE TWO OCT 11 1968

COPIES DESTROYED

942 JUN 3

OCT 9 - 19

to the attention of his parents. When appropriate, ways should be developed to also get this information into the hands of school authorities and the local press. In this regard you should consider giving the press anonymous advance information concerning planned activity which might be immoral or obscene in nature. Of course all mailings under this program are to receive prior Bureau authority.

It is not the objective of this letter to restrict this program to the above suggested activities. The foregoing is intended to draw your attention to one phase which can be used to our advantage in neutralizing the New Left.

As the current school year commences, it can be expected that the New Left with its antiwar and anti-draft entourage will make every effort to confront college authorities, stifle military recruiting, and frustrate the Selective Service System. Each office will be expected, therefore, to afford this program continuous effective attention in order that no opportunity will be missed to destroy this insidious movement.

NOTE:

See memorandum C. D. Brennan to Mr. W. C. Sullivan captioned as above, dated 10/7/68, prepared by

REC
SE
FBI

EXHIBIT 57-1

9-1

FBI

Date: 8/1/68

Transmit following in _____ (Type in plaintext or code)

AIRTEL _____ (Priority)

TO: DIRECTOR, FBI

FROM: SAC, Midwest City

RE: COINTELPRO - NEW LEFT,
IS

By routing slip, 7/11/68 the Bureau forwarded to Midwest City copies of the income tax returns of Professor X (Security Index - Key Activist) for the years of 1966 and 1967. An examination of these returns reflects that Professor X claimed deductions which, at the very least, provide a basis for questioning by IRS. For example, in the year 1967 he claimed total deductions of $6,565 from a total adjusted income of $16,689, or over one-third of his adjusted gross income. Included in these deductions were automobile expenses, other travel expenses, maintenance of office space in his home even though he has office space at A Midwest University and the GROUP A and GROUP B and charitable contributions. Included in the latter item were contributions to the SPOCK Peace Fund, HALL's Counseling Service (an anti-draft operation [redacted]), Student Non-Violent Coordinating Committee and SDS.

Bureau authority is requested to call Prof X's returns for 1966 and 1967 to the attention of local IRS officials with the view of suggesting that that Service may wish to afford his returns further auditing and examination. In so doing, Midwest City further suggests that local IRS be advised of public source material concerning Prof X activities in the National Mobilization Committee, of which he is a high official, and the anti-draft movement with which he has been publicly identified on numerous occasions. If the Bureau concurs

3 - Bureau (RM)
2 -

(5)

EX-100

Sent _____ M Per _____

Special Agent in Charge

with this recommendation it is contemplated that information concerning Prof X would be called to the attention of _____ of the IRS office in Midwest City Inspector _____ has worked closely with the Midwest FBI office in relation to other matters and he has been extremely cooperative, discreet and reliable during the course of these relationships.

In the event IRS deems it feasible to proceed with further examination of Prof X's returns, the following benefits could be expected to accrue therefrom:

1. Due to the burden upon the taxpayer of proving deductions claimed, Prof X could be required to produce documentary evidence supporting his claims. This could prove to be both difficult and embarrassing particularly with respect to validating the claim for home maintenance deductions when, in fact, he doubtless has only the usual type of study found in many homes rather than actual office space. Validations of contributions to SNCC, SDS and the Hall Counseling Service may also be productive of embarrassing consequences.

2. If Prof X is unable to substantiate his claims in the face of detailed scrutiny by IRS, it could, of course, result in financial loss to him.

3. Most importantly, if IRS contact with Prof X can be arranged within the next two weeks their demands upon him may be a source of distraction during the critical period when he is engaged in meetings and plans for disruption of the Democratic National Convention. Any drain upon the time and concentration which Prof X, a leading figure in Demcon planning, can bring to bear upon this activity can only accrue to the benefit of the Government and general public.

The Bureau is requested to consider this suggestion and afford Mid West City the benefit of its comments at the earliest possible time. No action will be taken by this office pending receipt of the Bureau's response to this COINTELPRO recommendation.

- 2 -

DIRECTOR, FBI, DATED APRIL 14, 1964)

It is believed that donors and creditors of SCLC present two important areas for counter-intelligence activities. In regard to the donors it is suggested that official SCLC stationery bearing KING's signature, copies of which are available to the Atlanta office and will be furnished by separate communication to the Bureau laboratory for reproduction purposes, be utilized in advising the donors that Internal Revenue Service is currently checking tax records of SCLC and that KING through this phony correspondence wants to advise the donor inasmuch that he reported his gifts in accordance with Internal Revenue requirements so that he will not become involved in a tax investigation. It is believed such a letter of this type from SCLC may cause considerable concern and eliminate future contributions. From available information it is apparent that many of these contributors to SCLC are doing so in order to claim tax deductions and in order to be eligible for such deductions, the contribution is being made to the (privacy deleted) Church, which in turn is forwarded to KING or the Southern Christian Leadership Conference.

RECEIVED FROM
SEP 8 1975
DOJ

EXHIBIT 57-2

UNITED STATES GOVERNMENT

Memorandum

DIRECTOR, FBI

DATE: 2-14-69

SAC, ST. LOUIS

SUBJECT: COUNTER-INTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
(BLACK LIBERATORS)

Enclosed for the Bureau are two copies and for Springfield one copy of a letter to "SISTER

The following counter-intelligence activity is being proposed by the St. Louis Division to be directed against He is former of the BLACK LIBERATORS (Bufile 157-10356), The activity attempts to alienate him from his wife and cause suspicion among the BLACK LIBERATORS that they have a dangerous troublemaker in their midst.

BACKGROUND:

is currently separated from his wife, who lives with their two daughters in He occasionally sends her money and she appears to be a faithful, loving wife, who is apparently convinced that her husband is performing a vital service to the Black world and, therefore, she must endure this separation without bothering him. She is, to all indications, an intelligent, respectable young mother, who is active in the AME Methodist Church in

2 - Bureau (Encl. 2) RM
2 - Springfield (Encl. 1) RM
1 - St. Louis
(5)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXPLANATION OF LETTER:

The enclosed letter was prepared from a penmanship, spelling, and vocabulary style to imitate that of the average Black Liberator member. It contains several accusations which should cause wife great concern. The letter is to be mailed in a cheap, unmarked envelope with no return address and sent from St. Louis to Since her letters to are usually sent via the Black Liberator Headquarters, any member would have access to getting her address from one of her envelopes. This address is available to the St. Louis Division.

Her response, upon receipt of this letter, is difficult to predict and the counter-intelligence effect will be nullified if she does not discuss it with him. Therefore, to insure tha and the Black Liberators are made aware that the letter was sent, the below follow-up action is necessary:

St. Louis will furnish with a machine copy of the actual letter that is sent. Attached to this copy will be a neat typed note saying:

"A mutual friend made this available without knowledge. I understand she recently recieved this letter from St. Louis. I suggest you look into this matter.

God Bless You! "

This note would give the impression that somehow one of close friends, probably a minister, obtained a copy of the letter and made it available to The above material is to be mailed by the Division at anonymously in a suitable envelope with no return address to:

ANTICIPATED RESULTS:

The following results are anticipated following the execution of the above-counter-intelligence activity:

1. Ill feeling and possibly a lasting distrust will be brought about between and his wife. The concern over what to do about it may detract from his time spent in the plots and plans of He may even decide to spend more time with his wife and children and less time in Black Nationalist activity.

2. The Black Liberators will waste a great deal of time trying to discover the writer of the letter. It is possible that their not-too subtle investigation will lose present members and alienate potential ones.

3. Inasmuch as Black Liberator strength is ebbing at its lowest level, this action may well be the "death-blow."

RECOMMENDATION:

Bureau authority is requested to initiate the above-described activity.

Sister ,

Us Black Liberators are trained to respect Black Women and special are wifes and girals. Brother keeps tellen the Brothers this but he dont treat you that way. I only been in the organisatoin 2 months but been maken it here with Sister Marva Bass & Sista Tony and than he gines this jive bout their better in bed then you and how he keeps you off his back , y senden you a little dollah over now an then - He says he gotta send you money the Draft boards gonna chuck him in the army sometheu. This aint rite and were sayen that is treaten you wrong -

A Black Liberator

EXHIBIT 57-3

SAC, St. Louis 2/23/69

REC 44

Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(BLACK LIBERATORS)

Reurlet 2/14/69.

St. Louis is authorized to send anonymous letter set out in relet and is authorized to send the second anonymous letter proposed in relet. Use commercially purchased stationery and take the other precautions set out to insure this cannot be traced to this Bureau.

The Bureau feels there should be an interval between the two letters of at least ten days. St. Louis should advise of date second letter should be mailed.

St. Louis and should advise the Bureau of any results.

2 -

(8)

PLEASE CONTINUED PAGE TWO

Letter to St. Louis
RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(BLACK LIBERATORS)

EXHIBIT 58-1

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr DATE: August 29, 1964

FROM : C. D. DeLoach

SUBJECT: SPECIAL SQUAD
ATLANTIC CITY, NEW JERSEY
DEMOCRATIC NATIONAL CONVENTION
AUGUST 22 - AUGUST 28, 1964

MAJOR ACCOMPLISHMENTS:

In connection with the assignment of the special squad to Atlantic City, New Jersey, 8/22-23/64 at the direction of the President, I wish to report the successful completion of this assignment. By means of informant coverage, by use of various confidential techniques, by infiltration of key groups through use of undercover agents, and through utilization of agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments during the Convention's course.

For example, through informant coverage and by controlling the situation, we were able to prevent a potentially explosive stall-in and sit-in demonstration planned by ACT and By counseling Messrs. Jenkins, Carter and Moyers, we convinced them that they must make major changes in controlling admissions into the Convention Hall and thereby preclude infiltration of the illegal Mississippi Freedom Democratic Party (MFDP) delegates in large numbers into the space reserved for the regular Mississippi delegates. Through our counterintelligence efforts, Jenkins, et al., were able to advise the President in advance regarding major plans of the MFDP delegates. The White House considered this of prime importance.

Through our highly confidential coverage of Martin Luther King together with similar coverage we established on the headquarters of CORE-SNCC, we were in a position to advise the White House in advance of all plans made by these two sources in an effort to disrupt the orderly progress of the Convention. This coverage was highly effective.

COVERAGE HIGHLIGHTS:

I feel this squad operated very effectively. Squad members averaged in excess of eight hours overtime daily. They approached each assignment as a

CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

challenge and with enthusiasm. The Agents were constantly alert to exploit opportunities for penetration of key dissident groups in Atlantic City and to suggest counter measures for any plans to disrupt the Convention.

Our informant coverage worked particularly well. With Bureau approval I instituted coverage similar to that on King on CORE-SNCC headquarters at their Atlantic Avenue meeting hall. Our successfully penetrated the headquarters of the MFPD delegation at the Gem Motel and the headquarters for their strategy meetings, which was located in the basement of the Union Baptist Temple Church.

Additionally, we utilized a highly successful cover through cooperation of the furnished us credentials. I selected several of the members of the squad to utilize this cover. As an example, one of our "reporters" was able to gain the confidence of

Our "reporter" was so successful, in fact, that was giving him "off the record information" for background purposes, which he requested our "reporter" not to print.

One of our successfully established contact with Saturday night, August 22nd, and maintained this relationship throughout the course of the entire Convention. By midweek, he had become one of confidants. This, of course, proved to be a highly valuable source of intelligence since was constantly trying to incite racial groups to violence.

DISSEMINATION OF INFORMATION:

During our Convention coverage, we disseminated 44 pages of intelligence data to Walter Jenkins. Attached for your information is a copy of these daily summaries. Additionally, I kept Jenkins and Moyers constantly advised by telephone of minute by minute developments. This enabled them to make spot decisions and to adjust Convention plans to meet potential problems before serious trouble developed.

In connection with communications, as you know, we arranged for a leased line between the Bureau and our control post in Atlantic City. We also established a private line for exclusive use by our informants. informants dispatched from other cities and Newark informants used the phone to submit their oral reports. This post was, of course, manned on a 24-hour basis.

 CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

During the period when the Convention was actually in progress, we established a secondary command post at the Convention Hall Rotunda operated by an Agent using his "reporter" cover. As you know, the boardwalk was the center of agitation by dissident elements. Throughout the course of the Convention, pickets were active in the area immediately in front of the Convention Hall entrance. We necessarily kept these people under close observation.

PRELIMINARY PREPARATION:

Prior to the squad's departure for Atlantic City, we secured all available pertinent background information on the dissident groups and their leaders who were expected to be present. In addition, we took blind memoranda with us which were prepared and approved prior to our departure. This proved most helpful. On Wednesday morning, Mr. Jenkins urgently requested background information on [redacted] who had [redacted] within the MFDP delegation. The White House also requested a blind memorandum on [redacted] Within 15 minutes of the request, the desired blind memoranda were furnished to Jenkins. He was highly pleased and said this was of vital importance to their operation. [redacted] as you will recall has an arrest record.

We also prepared thumbnail sketches on all key dissident groups expected at the Convention and we maintained separate files on the activities of King, Communist Party groups, area hoodlums, informants, the MFDP and other groups. This was done in order that we could maintain separate running accounts on each major disruptive organization which was present.

LIAISON:

On arrival in Atlantic City we immediately established necessary liaison with the Secret Service, Atlantic City Police Department, New Jersey State Highway Patrol and with the men directing Convention activities. We also established contacts with [redacted] to arrange for courier service between the Seat of Government and our headquarters in Atlantic City.

DAILY COUNTER MEASURES BY SPECIAL SQUAD:

As an example of the type of problems encountered by this special squad in Atlantic City, following is a brief resume of some of the situations which developed during the Convention:

FBI

 CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

Monday, August 24, 1964

On Sunday morning, August 23, 1964, we located a truck on Pacific Avenue carrying a burned-out car, a huge burlap-wrapped cross and a large church bell. Rumors swept Atlantic City that the car was actually the one used by Schwerner Goodman and Chaney. Shortly after its appearance this truck was placed on a parking lot close by Convention Hall. We quickly established the fraudulency of these rumors and through police contacts we thwarted the racial group's plans to parade this burned car through Atlantic City streets.

On Monday, we furnished Mr. Jenkins details regarding the plans of CORE, the American Nazi Party, the Student Non-violent Coordinating Committee and initial plans of the MFDP.

Appropriate officials were notified of the intention of the Negro racial groups to establish a silent vigil on the boardwalk at the main entrance to Convention Hall. This vigil was to be maintained until a report was issued by the Credentials Committee ~~regarding~~ the seating of the MFDP delegates.

Tuesday, August 25, 1964

Jenkins was advised that Martin Luther King had prevailed upon to come to Atlantic City that day. We alerted White House representatives regarding compromise proposals for seating of the MFDP and furnished them information regarding plans of the Progressive Labor Movement groups, ACT and other dissident organizations. Martin Luther King attempted to arrange a rendezvous with a of Philadelphia. Our sources reported that SNCC and CORE were attempting to secure tickets to gain entrance to Convention Hall. Through a highly confidential source, it was learned that CORE and SNCC had been advised that the President was bringing pressure to bear on the delegates of 15 states to preclude their support of a move to bring the Mississippi delegates issue to the floor of the Convention.

Wednesday, August 26, 1964

We submitted reports reflecting that the militant members of MFDP under the leadership of were revolting against the leadership of Martin Luther King and We advised Jenkins that the MFDP delegates had flatly rejected the compromise proposal to seat the MFDP delegation. We reported that

OCT 1 1975
FBI

CONTINUED-OVER

DeLoach to Mohr
RE: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

as attempting to promote a stall-in to block access to Convention Hall. was instructed by to plan this demonstration and through our control of him we were able to completely thwart We also alerted the White House in advance regarding the telegram prepared by ACT demanding amnesty for Harlem rioters and for Federal registrars to police Negro voting in the South.

In consultation with Convention planners, we pointed out serious gaps in controlling admission to Convention Hall which had permitted entrance of dissident elements on the Convention floor. Jenkins immediately placed these recommendations into effect.

Thursday, August 27, 1964

We determined Martin Luther King and his staff were departing from Atlantic City early Thursday morning, and appropriate officials were advised of this. We also reported efforts of CORE-SNCC leaders to secure uniforms of the Young Citizens for Johnson groups and to utilize them for gaining entrance into Convention Hall. We were able to report that the number of participants of the silent vigil would dwindle rapidly. Although the demonstrations quieted down Thursday night, we were heavily involved in checking out the reports that a four-man group of Puerto Rican terrorists from New York were in Atlantic City in an attempt to assassinate the President.

MISCELLANEOUS:

For the benefit of the Domestic Intelligence and General Investigative Divisions, separate memoranda are being submitted regarding infomant coverage. I am also recommending letters of appreciation to cooperative individuals whose efforts facilitated the squad's work in Atlantic City.

INFORMANT ACTIVITIES:

In connection with our Convention coverage, the special squad utilized the following sources:

symbol number informants from other offices;
confidential sources from other offices;
liaison source

RECEIVED FROM
OCT 1 1965
F.B.I.

CONTINUED-OVER

:Loach to Mohr
E: ecial Squad, Atlantic City, New Jersey
emocratic National Convention
August 22-28, 1964

technical sources
special agents working in an undercover capacity
Negro informants
established sources in the Atlantic City area
Atlantic City informant extremist
Atlantic City Security informants

Our source from was in the inner planning circles. Another source the Progressive Labor Movement delegates to tlantic City. Although the organization was inactive, we had sources in the roups. A Newark informant served of SNCC-CORE.

RGANIZATIONS IN ATLANTIC CITY:

There was coverage on 15 separate organizations who were active in tlantic City during the course of the Convention. The leading groups included:

Mississippi Freedom Democratic Party (MFDP)
Council of Federated Organizations (COFO)
Congress of Racial Equality (CORE)
Student Non-violent Coordinating Committee (SNCC)
ACT
Independent Citizens Committee
American Nazi Party
White Party of America
W. E. B. Du Bois Clubs
Communist Party, USA
Women's International League for Peace and Freedom
The Progressive Labor Movement

ECOMMENDATIONS:

(1) The majority of the following personnel averaged over eight hours per ay during the five days the special squad was handling its responsibilities. They perated in a very competent fashion and it is, therefore, recommended that letters of ommendation over the Director's signature be considered for them. If approved, these etters will be prepared by the Administrative Division. (A separate memorandum is

RECEIVED FBI
OCT 1 1975
FBI

RECOMMENDATIONS CONTINUED

being furnished the Administrative Division regarding the specific duties handled by these employees.)

(2) A number of the following employees had only minor duties inasmuch as they were not used full-time on the special squad, however, in view of the quiet and efficient manner in which they handled their responsibilities, letters are believed deserved.

RECEIVED FROM
OCT 1 1975
FBI

 RECOMMENDATIONS CONTINUED

eLe h to Mohr
E: Special Squad, Atlantic City, New Jersey
Democratic National Convention
August 22-28, 1964

(3) It is recommended that letters from the Director be given to the following personnel who assisted materially in the success of this operation:

Dr. Conlon should receive a minitorious award

OK

RECEIVED FROM
OCT 1 1965
FBI

EXHIBIT 58-2

UNITED STATES GOVERNMENT

Memorandum

MR. CALLAHAN DATE: January 29, 1975

FROM : H. N. BASSETT

SUBJECT: SPECIAL SQUAD AT DEMOCRATIC NATIONAL CONVENTION ATLANTIC CITY, NEW JERSEY, 8/22 - 28/64

Reference is made to my previous memorandum captioned as above, dated 1/28/75 (copy attached). That which follows elaborates somewhat on various elements of our special coverage of the 1964 Democratic National Convention (DNC) and amplifies certain aspects of our operations therein.

A review of Bureau file on the Mississippi Freedom Democratic Party (MFDP) indicates the file was opened to reply to a request from Walter Jenkins, Special Assistant to President Johnson, for a name check on the MFDP and certain persons connected therewith. He was advised, "FBI has never conducted an investigation of the MFDP and its files contain no record of it." Results of name checks on certain individuals were set forth together with public source data from the 7/21/64 edition of the Washington Post and an inquiry made by the Washington Field Office on 7/21/64 at the local office of the MFDP on general information on its objectives and identity of its staff members. This information was set forth in a blind memorandum to Mr. Jenkins dated 7/22/64.

On 8/21/64, responding to a request dated 8/19/64 from Mr. John Doar of the Civil Rights Division of the Department, memoranda were sent to Deputy Attorney General Katzenbach. Doar had requested name checks on 40 persons in the MFDP leadership and convention delegation members. The memoranda stated, "This Bureau has not conducted any investigation concerning the Mississippi Freedom Democratic Party nor has it taken any steps to identify party members."

It should be noted that three civil rights workers who traveled to Mississippi were discovered missing on 6/22/64 and their automobile found burned on 6/23/64. On 6/23/64 President Johnson was advised of these facts and requested to be kept aware of all aspects of the investigation which had been requested by the Civil Rights Division of the Department of Justice of the FBI. The three bodies of these workers were found thereafter on 8/4/64. On 8/23/64, a flat-bed truck with a burned car on it appeared in Atlantic City, New Jersey, and it was falsely alleged to be the automobile of the three murdered

FBI

Enclosure
1 - Messrs.

(7)

CONTINUED - OVER

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized persons without the express approval of the FBI.

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

civil rights workers in Mississippi. Furthermore, information was received that the parents of one of these individuals would appear at a rally during the DNC.

On 8/25/64 Assistant Director Cartha DeLoach telephoned a memorandum to Mr. Mohr from Atlantic City to the effect information from Walter Jenkins and informants indicated the question of seating the MFDP delegates was expected to reach the floor of the DNC the evening of 8/25/64. He said "The crucial point of the convention in so far as possible violence is concerned will occur between 4:30 p.m. and 6:30 p.m. this afternoon. If the Mississippi Freedom Democratic Party is not seated then the unruly elements within the Negro group will possibly attempt to demonstrate." DeLoach indicated that every effort was being extended to cover developments pertinent to this possible violent situation.

There follows under appropriate caption in summary form information relative to our coverage at the DNC.

COVERAGE RELATIVE TO POTENTIAL CIVIL UNREST, DEMONSTRATIONS AND POSSIBLE VIOLENCE

A review of the summaries furnished to Walter Jenkins by Mr. DeLoach during the DNC indicates over 25 separate entries dealing with demonstrations insofar as their times, places, groups involved, number of participants, and general nature thereof were concerned. A great majority of the Bureau personnel still on active duty who were assigned to this special squad in Atlantic City have indicated that the attaining of intelligence information relative to possible violent civil disorders was the primary purpose of their efforts during the DNC.

Our coverage in this regard was handled through extensive informant coverage at Atlantic City and as a result of information received from informants in other parts of the country as well. Additionally, we utilized Agents in various undercover capacities to develop such information. Furthermore, a great deal of information in this regard was, in fact, received as a result of the technical coverage utilized. Where appropriate, the information obtained was disseminated to the U. S. Secret Service and other interested law enforcement agencies as well.

ACTIVITIES RELATIVE TO THE PROTECTION OF THE PRESIDENT

A review of the interviews of the previously mentioned special squad personnel still on active duty has indicated that a majority of them felt that their

 CONTINUED - OVER

assignment in part was related to the augmenting of the U. S. Secret Service insofar as the protection of the President was concerned. One Agent indicated that Bureau personnel did, in fact, actively assist in the protection of the President and his family while they were at the DNC.

A review of Bureau file captioned "Disruption of Democratic National Convention, Information Concerning (Internal Security)" did not reveal any information directly relating to the protection of the President.

A review of the DeLoach summaries to Mr. Jenkins indicated one instance where a demonstration was planned to take place upon the President's arrival at convention hall and another incident which revealed a breach of security which allowed an individual to enter the convention hall and proceed directly to the podium area. This information was furnished immediately to the U. S. Secret Service.

Information is contained in the interviews of the former special squad personnel that FBI Agents were utilized in supplementing U. S. Secret Service personnel on the convention hall floor.

~~INFORMATION DEVELOPED~~ OF POSSIBLE POLITICAL SIGNIFICANCE

A further review of the DeLoach summaries revealed approximately 20 separate items which do not appear to relate directly with possible civil unrest - demonstrations or with the protection of the President. These items were developed as a result of the various types of coverage we had at the DNC but a great number thereof were obtained through our technical coverage. A sampling of these items includes the following:

1.

2. Informant information received that Congressman Adam Clayton Powell was carrying a revolver.

3. Informant information relative to National Association for the Advancement of Colored People planning a meeting at a church.

4. Informant relative to King's speaking before various state delegations.

F.B.I.

5. Information that the Congress of Racial Equality headquarters in Atlantic City was attempting to have Congressman office in Detroit, Michigan, picketed, claiming he was "shakey."

Allegations in the press that the coverage of the FBI was used to follow the activities of Attorney General Robert F. Kennedy were not substantiated in any way by file reviews.

A review of the statements furnished by the special squad personnel includes various instances where they relate a portion of their overall purpose was to insure that there was nothing which would "embarrass the President." One Agent indicated that DeLoach placed emphasis on the fact that the President did not wish to be embarrassed in any way and that information was to be gathered which would assure that there would be no such embarrassment.

Two statements were furnished by in this regard. One states "I would like to state that at no time did I ever consider the above to be a political operation but it was obvious that DeLoach wanted to impress Jenkins and Moyers with the Bureau's ability to develop information which would be of interest to them" Furthermore, in response to a question as to whether the Bureau's services were being utilized for political reasons, Williams answered, "No. I do recall, however, that on one occasion I was present when DeLoach held a lengthy telephone conversation with Walter Jenkins. They appeared to be discussing the President's 'image.

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

At the end of the conversation DeLoach told us something to the effect, 'that may have sounded a little political to you but this doesn't do the Bureau any harm.'"

Other Agent personnel on the special squad indicated in the negative insofar as the above question is concerned.

DISSEMINATION

In addition to the summary memoranda furnished by DeLoach to Mr. Jenkins, information is contained in Bureau file , cited above, that some of the same information was included in daily letters to the White House and the Attorney General on current Racial Developments. There was similar dissemination made to U. S. Secret Service, military intelligence agencies and local authorities on a selected basis.

RECOMMENDED ACTION

For information. It should be noted the information contained herein setting forth that the White House and the Department made requests in 1964 for information from Bureau files concerning the MFDP has been incorporated into a separate LHM being prepared for the Deputy Attorney General.

OCT 30 1965

FBI

Memorandum to Mr. Callahan
Re: Special Squad at Democratic National Convention
Atlantic City, New Jersey, 8/22 - 28/64

The only information located in Bureau files concerning the special squad in Atlantic City was an eight-page memorandum (copy attached) with enclosure located in the file of DeLoach. This is a memorandum from DeLoach to Mohr dated 8/29/64 which sets forth that in connection with the assignment of the special squad in Atlantic City at the direction of the President, DeLoach wished to report the successful completion of this assignment. He states that by means of informant coverage, use of various confidential techniques, infiltration of key groups through use of undercover agents and through utilization of Agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments. DeLoach also advised that immediate liaison was established in Atlantic City with Secret Service as well as state and local police.

This memorandum refers to highly confidential coverage of Martin Luther King and Bayard Rustin, along with similar coverage established on the headquarters of the Congress of Racial Equality (CORE) - Student Nonviolent Coordinating Committee (SNCC). DeLoach states he was able to advise the White House in advance of all plans made by these two sources and coverage was highly effective. DeLoach advises "with Bureau approval" he instituted coverage on CORE - SNCC headquarters at their meeting hall and our [illegible] penetrated the headquarters of the Mississippi Freedom Democratic Party (two separate factions were contesting seats for the Mississippi delegation and was a highlight of the convention) and through cooperation with the management of NBC news our Agents were furnished NBC press credentials. DeLoach reported that 44 pages of intelligence data was disseminated to Walter Jenkins at the White House and to his memorandum he attached a copy of these daily summaries dated 8/24, 25, 26, 27/64. These summaries are in effect a running log of developments which took place at the convention. DeLoach also states he arranged for a lease line between the control post at Atlantic City and the Bureau. He concludes the memorandum by making recommendations that personnel involved, namely 27 Agents, one radio maintenance technician and two stenographers of the Newark Office be commended. Mr. Hoover noted DeLoach should receive a meritorious award.

Bureau file 62-48771, serial 218, reflects a memorandum from Mr. Hoover wherein Walter W. Jenkins, Special Assistant to the President, called and stated the President wanted Jenkins to call the Director to express the

OCT 30 1975

CONTINUED - OVER

FBI

thought the job the Bureau had done in Atlantic City was one of the finest the President had ever seen. According to this memorandum, Jenkins told Mr. Hoover there were a lot of bad elements up there and because of the work some of the Bureau people did they knew exactly where they were and what they were doing and consequently they were not able to be very effective.

A thorough review of Bureau records, including a review of abstracts of Mr. Hoover, Mr. Tolson, Mr. Mohr, as well as Mr. DeLoach, failed to locate any memorandum or other document pertaining to a request having been received from President Johnson or anyone at the White House instructing that the FBI afford special coverage at the convention. It should be noted that at this time DeLoach was responsible for liaison with the White House and had a direct line at his residence to the President so it well may be that this request was made directly to DeLoach who in turn discussed it orally with Mr. Hoover or Mr. Tolson but for one reason or another the request was never put in writing.

STATEMENTS OF SPECIAL SQUAD PERSONNEL STILL ON ACTIVE DUTY

On 1/26/75 the Inspection Division directed a teletype incorporating 12 questions to the 19 Agents and one radio maintenance technician who are still on active duty and were with DeLoach at Atlantic City. These questions were designed to have the participating personnel furnish us with their recollection as to their duties and involvement at Atlantic City. Detailed responses were promptly received and all personnel acknowledged their participation on the special squad under DeLoach's leadership at the convention. All responded there was no question in their mind at the time but that they were in Atlantic City to fulfill the FBI's jurisdictional responsibilities and they did not feel that the purpose of the special squad was political in nature. Basically, the instructions to the Agents were to develop advance information regarding any acts or intended acts of violence pertaining to civil disturbances that could arise during

OCT 30 1975
FBI

 CONTINUED - OVER

EXHIBIT 58-3

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

June 4, 1965

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C.

Dear Mr. Watson:

Reference is made to the President's request to me earlier today while I was at the White House with respect to the telegram he received from the artists. Accordingly, attached are memoranda containing the results of an FBI name check of Hannah Arendt and twenty other individuals mentioned in that telegram.

When this letter of transmittal is detached from its enclosures bearing a security classification, this letter can be declassified.

Sincerely yours,

J. Edgar Hoover

Enclosures (18)

EXHIBIT 58-4

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

July 15, 1966

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C.

Dear Mr. Watson:

On July 12, 1966, Mr. Jake Jacobsen, Legislative Counsel to the President, requested name checks on individuals whose names appeared in the "Congressional Record" as signers of letters to United States Senator Wayne Morse, expressing support for Senator Morse's criticism of United States policy toward Vietnam.

There are enclosed eleven memoranda concerning individuals who may be identical with certain of the individuals whose letters to Senator Morse were printed in the "Congressional Record" of July 11, 1966.

Based on the identifying information available, our files contain no identifiable pertinent information concerning the remainder of the individuals whose letters appeared in that issue of the "Congressional Record."

Sincerely yours,

J. Edgar Hoover

Enclosures - 11

EXHIBIT 58-5

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 5/18/70

FROM : G. C. Moore

SUBJECT: RALPH DAVID ABERNATHY
RACIAL MATTERS

Pursuant to the request made by the Director today (5/18/70), there is attached information for the Vice President regarding militant statements by Ralph David Abernathy, the President of the Southern Christian Leadership Conference, which statements invite violence.

Information is also included to the Vice President regarding an incident involving [derogatory public record information.]

On 5/18/70, Abernathy announced a march against violence, brutality, and killing at Atlanta, Georgia, on Saturday, 5/23/70. At this march, the names of the Nation's "Ten Most Unwanted Politicians" will be revealed.

ACTION:

If you approve, the attached letter will be sent to the Vice President.

Enclosures - 5-19-70
1
1
1
1
1

O.K. This should be prepared in an excellent manner

ST-105

(6)

REC 33

EXHIBIT 58-6

May 19, 1970

BY LIAISON

Honorable Spiro T. Agnew
The Vice President
Washington, D. C.

Dear Mr. Vice President:

In response to your request, there is attached information regarding militant statements by Ralph David Abernathy who, although he advocates nonviolence, has invited violence by some of his statements. The material also includes information about [his private life], [derogatory public record information], and his support of the Black Panther Party.

For your information, Abernathy on May 18, 1970, announced a march against violence, brutality, and killing to be held in Atlanta, Georgia, on Saturday, May 23, 1970. Abernathy said that the names of the Nation's "Ten Most Unwanted Politicians" will be revealed during this march.

Sincerely yours,

ENCLOSURE REC-93 2 MAY 20 1970

Enclosure

(8)

NOTE:

See memorandum G. C. Moore to W. C. Sullivan dated 5/18/70, captioned "Ralph David Abernathy, Racial Matters," prepared by

54 MAY 26 1970

MAIL ROOM TELETYPE UNIT

EXHIBIT 59-1

12/26/72

SAC, Albany

For the Acting Director, FBI
W. Mark Felt
Acting Associate Director

FBI INTELLIGENCE LETTER
FOR THE PRESIDENT
CODE NAME "INLET"
RESEARCH MATTER

ReBulet 11/26/69.

Referenced letter instructed all field offices to furnish the Bureau high-level intelligence data in the security field which was to be furnished to the President and the Attorney General on a continuing basis. All such communications were to be flagged with the code name "Inlet" in the caption.

Since the inception of this program an evolution in policies and practices has occurred and, currently, the information specified in referenced letter is furnished by each field office in form suitable for teletype dissemination to The White House and the Attorney General as well as other interested agencies of the Government. Accordingly, the "Inlet" program has, for all practical purposes, been rendered obsolete and the Bureau is now formally rescinding instructions set forth in referenced letter.

The termination of the "Inlet" program does not relieve the responsibility of all offices to be alert for the intelligence data specified in referenced letter and to submit this information in a timely manner by teletype and in a form suitable for dissemination.

2 - All Field Offices

[illegible]

[illegible]

DOJ

EXHIBIT 59-2

UNITED STATES GOVERNMENT

Memorandum

: Mr. E. S. Miller DATE: 2/2/73

M : T. J. Smith

JECT: FBI INTELLIGENCE LETTER FOR THE PRESIDENT CODE NAME "INLET" RESEARCH MATTER

The FBI Intelligence Letter for the President was instituted in November, 1969, pursuant to then FBI Director J. Edgar Hoover's instructions to keep the President fully informed of significant intelligence developments within the purview of the Bureau's security responsibilities. Dissemination was restricted to the President, the Attorney General, and later, the Vice President.

By letter dated November 26, 1969, all FBI field offices were advised to flag information obtained in our investigations important enough for the President's interest with the code word "INLET." This was to include:

1) Information of national or international significance which is security related.

2) Important current or pending developments in major security cases.

3) Current information which is representative of or calls attention to a significant developing intelligence trend.

4) Material which has a bearing on national security, particularly that from sensitive and/or penetrative coverage of foreign establishments, which could affect American relations with foreign countries, or assist in formulating United States policy.

5 FEB 16 1973

5) "Inside" information concerning demonstrations, disorders, or other civil disruptions which is of more than local significance.

6) Items with an unusual twist or concerning prominent personalities which may be of special interest to the President or the Attorney General.

Memorandum to Mr. E. S. Miller
Re: FBI Intelligence Letter for the President Code Name "INLET"

The FBI had, through several Administrations, furnished various Presidents and Attorneys General important intelligence matters on an individual basis. The Intelligence Letter served to consolidate this information into one document. By August, 1970, changes in our communications capability, including the ability to afford immediate teletype dissemination of intelligence data to The White House and the development of other reporting procedures such as the Summary of Extremist Activities, made the Intelligence Letter no longer necessary. Items submitted for this Letter by the field were disseminated in these other ways. In December, 1972, the use of the code word "INLET" was discontinued and field offices so advised. The field was also advised, however, they had the responsibility to be alert for this type intelligence data.

ACTION:

For information.

EXHIBIT 60-1

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller

DATE: 8/29/72

FROM : T. J. Smith TJS

SUBJECT: ADMINISTRATIVE INDEX
STREAMLINING MEASURES
190-12

T. J. Smith to Mr. E. S. Miller memorandum dated 8/11/72 captioned "Fiscal Year 1974 Budget Policy Guidance," referred to the fact that we have been conducting a seven-month's analysis of the Bureau's Administrative Index (ADEX) and that it appears that by implementing certain streamlining measures and altering requirements for reporting and periodic verification of information, some manpower might be available for reassignment to one of the other critical areas of our work. In this connection the same memorandum pointed out that the Domestic Intelligence Division has an urgent need for in excess of 500 Special Agents to handle several areas of national security work which are not receiving attention deserved.

TJS

BACKGROUND

By way of background, the ADEX is an outgrowth of the old Security Index program which in itself was an integral part of the Emergency Detention Program. The Emergency Detention Program in latter years derived its authority from Title II of the Internal Security Act of 1950 (better known as the Emergency Detention Act). In the Fall of 1971 the Emergency Detention Act was repealed by Congress and we, of course, immediately discontinued the Emergency Detention Program. Since the Security Index was in actuality an extension of an integral part of the Emergency Detention Program, it was believed that the Security Index as it was structured should also be discontinued.

REC-19

From an administrative standpoint, however, it was believed that the Bureau should be able to immediately identify individuals who constitute a threat to the national security, particularly during time of national emergency. The Security Index enabled us to retrieve information pinpointing such individuals. Representatives of the Department, during a meeting following repeal of the Emergency Detention Act, pointed out that even though Congress has now prohibited a program for emergency apprehension and detention, circumstances might someday be such

SEP 25 1972

TJS
(14)

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

CONTINUED OVER

Inspector's addendum page 8

that the Government might have to defend itself from attack and that it would be necessary at such time to quickly identify persons who were a threat to the national security so that investigation could be intensified and if necessary the President could go to a joint session of Congress and ask for emergency legislation permitting apprehension and detention of persons who threaten existence of the Government.

The Department advised after consultation that the FBI's authority to investigate individuals engaged in subversive activity had not been eroded by repeal of the Emergency Detention Act, and that further repeal of this Act did not in any way prohibit the FBI from maintaining an administrative index of individuals who were under investigation for subversive activity. Accordingly, we devised the Administrative Index for the purpose of being able to quickly identify persons representing a threat to the national security. Since we already had the identities of such persons contained in the Security Index, we used the Security Index as a basis for setting up the Administrative Index. The major difference, of course, was that whereas persons listed in Security Index had been listed with a view of possible apprehension and detention, the persons being listed in ADEX would not be subject to detention, but would be listed for ready identification purposes.

Since persons listed in ADEX would not be subject to apprehension and detention, the requirement for Departmental concurrence in listing no longer existed. Also, since the detention factor was no longer a major issue, persons could be listed irrespective of degree of threat they may represent to the national security.

Criteria for listing in ADEX were broken down into four categories. Each category, beginning with Category I, contained a listing of persons and Category I listed those considered most dangerous to the national security, while Category IV listed those least dangerous. As of July 15, 1972, there were 15,259 individuals listed in ADEX. Of this total 1,334 were Category I; 3,452 were Category II; 8,560 were Category III; and 1,913 were Category IV.

 CONTINUED - OVER

SEC
FBI

Memorandum to Mr. E. S. Miller
Re: Administrative Index
Streamlining Measures

ASSESSMENT OF ADEX

ADEX has now been in operation about 8 months and we have had a chance to evaluate its operation and effectiveness. Based on discussions with field personnel as well as our own observations, we believe that several major changes should be made at this time.

(1) While ADEX has not been intended as an investigative program, it is somewhat of an extension of Security Index which was an integral part of an investigative program, and there are vestiges of the investigative program apparent in our operation of ADEX. ADEX must be clearly separated from investigative criteria and policy so that it represents a mere by-product or administrative supplement to our investigations and not as a guideline or controlling factor in the investigation itself. The very nature of the criteria for inclusion of individuals in ADEX are such to generate investigative activity which may not be necessary were it not for ADEX. Reporting procedures for a great bulk of our security cases are based on the category of ADEX or the fact that the subject is listed in ADEX. A great deal of investigative activity is created because of the requirement of periodic verification of residence and employment addresses. In other words, existence of ADEX creates investigative and reporting activity which might not be necessary otherwise.

(2) It is believed that ADEX is needlessly complex, particularly from the standpoint of criteria for inclusion of an individual in the ADEX, and is administratively cumbersome.

(3) Most important, it is believed that in light of the conditions existing today, particularly with respect to emphasis on invasion of privacy and other First and Fourth Amendment rights, the current criteria for designating individuals for ADEX are too broad and all-encompassing. As a result, there are some individuals now included in ADEX even though they do not realistically pose a threat to the national security. For example, present ADEX guidelines cover individuals who are not members of subversive or revolutionary groups but who have "exhibited a revolutionary ideology" and are likely to seize upon the opportunity presented by a national emergency to commit acts of espionage," etc. No time factor is included and, as can be seen, the language is subject to considerable interpretation. It is

FBI

 CONTINUED - OVER

66-077 O - 76 - 42

believed that such broad terminology would leave us in a vulnerable position if our guidelines were to be scrutinized by interested Congressional committees, which has been threatened.

PROPOSED NEW ADEX CRITERIA

If for no other reason but practicality, it is believed that ADEX should be a list of individuals who realistically represent an immediate threat to the national security, as opposed to individuals who might theoretically pose a threat in the future under a given set of circumstances. We recognize that anyone who has embraced a philosophy that includes an overthrow of the American form of government is a potential enemy of the Government. However, in many such instances, an individual may believe in some other form of government but would be unwilling to engage in activity more violent than philosophical discussions.

On the other side of the coin is an individual who not only embraces the philosophy of overthrow of the Government, but is actually engaged in some form of activity designed to bring about that overthrow by force or violence or other unconstitutional means. It is this latter individual who would seize upon any type of national emergency to exploit a weakness in Governmental functions in an effort to wrest control, or who would commit violent acts such as bombings of public buildings which are symbolic of our national institutions; ambush killings of police officers who are the visible symbol of our democratic system; attack water supplies, power systems, or transportation facilities in an effort to create a chaotic void into which a revolutionary force might be able to supplant the Government. This is the type of individual who should be listed in the ADEX.

It is therefore proposed that the existing ADEX with four categories representing an unrealistic concept of individuals constituting a threat to the national security be revised so that it will include only one category. This would be a list of individuals who represent an actual danger now to the national security. It is believed that such a list would embrace most of the individuals currently listed in Categories I and II of ADEX, or a total as of 7/15/72 of 4,786 individuals.

 CONTINUED - OVER

Memorandum to Mr. E. S. Miller
Re: Administrative Index
Streamlining Measures

To do this the criteria would be changed to read as follows:

"ADEX should be limited to those individuals whose actions or statements have clearly established that they represent a current threat to the national security.

"Included are individuals, whether affiliated with organized groups or not, who have shown a willingness and capability for engaging in treason, rebellion or insurrection, seditious conspiracy, sabotage, espionage, terrorism, guerrilla warfare, assassination of Government officials or leaders, or other such acts which would result in interference with or a threat to the survival and effective operation of national, state, or local government.

"The foregoing would include leaders of organization whose aims include the overthrow or destruction of the United States or the government of any State, Territory, district, or possession thereof, or the government of any political subdivision therein, by unlawful means. Individuals affiliated with such organizations who have demonstrated a willingness and capability of activity set forth under criteria set forth above would be included, but mere membership in such organization is not sufficient to justify inclusion in ADEX.

"Individuals should be considered a 'current threat' to the national security when reliable information has been developed that they have engaged in activity falling within the above-described criteria during the past two years and there is no indication that they have given up or ceased to engage in such activity."

Adoption of these new criteria will probably result in deletion from ADEX of numerous individuals who are connected with subversive organizations. For example, there were 4501 Communists in Categories III and IV of ADEX as of 7/15/72. Additionally there are members of Socialist Workers Party, Progressive Labor Party, etc. who will not meet the revised criteria of being dangerous now. It is believed that the Bureau should maintain a list of such individuals aside from ADEX in the event we had to quickly identify known subversives throughout the country. We will therefore submit a separate proposal to establish a "Communist Index" which will require a modicum of effort on the part of the field and Bureau Headquarters.

 CONTINUED - OVER

Such a list would also be advantageous in quickly identifying extremists, who though not posing a threat to the national security, do seek to deny constitutional rights of others, or are white or black chauvinists or nationalists who thrive on race hatreds and ethnic discord. We will also propose that a counterpart to the "Communist Index" be established to be known as the "Extremist Index." Neither of these indexes will constitute a program but will merely be a listing which will be computerized for ready retrieval at any time we need to quickly identify persons of this type who were involved in activity inimical to the national interest. Details concerning these indexes will be included in the separate proposal.

MANPOWER SAVINGS

It is difficult if not impossible to estimate a manpower savings as result of redefining ADEX and streamlining its operation. However, based on the premise that the revised ADEX would contain primarily what is now Categories I & II, this would mean that about 10,473 individuals would be dropped. If these remained on ADEX, this many cases would be opened during a twelve-month period due to necessity to verify employment and residence addresses and to report any pertinent data developed to date. These cases would be in a closed status in the field and would be reopened on a regular staggered basis.

A canvass of ten field offices including New York, Newark, Cincinnati, Cleveland, Milwaukee, Minneapolis, San Francisco, Los Angeles, Chicago and Philadelphia resulted in an estimate that roughly 89% of the above-described total of 10,473 cases would be affected. These offices could not give any realistic estimate of manpower involved. However, using purely a caseload average of 40 cases per Agents as a guide; using the 89% estimate of the offices canvassed, there would be 9,311 cases opened over a 12-month period or about 776 cases per month. When revision of ADEX has been approved and the new criteria have been furnished to the field, Domestic Intelligence Division will canvass each Special Agent in Charge to determine specifically, on the basis of the revised criteria, the manpower savings which can be directed to higher priority security work. The Inspection Division, of course, will be in the best position to evaluate the impact of the revisions in their field audits of ADEX.

 CONTINUED- OVER

Memorandum to Mr. E. S. Miller
Re: Administrative Index
Streamlining Measures

It is important to note that there will be no immediate manpower savings realized since it is anticipated that necessary review of ADEX cases will not be completed for at least 12 months. To avoid creating a sudden increase in workload in the field, instructions are being issued to review existing ADEX cases as the would normally come up on tickler during the next 12 months under the old ADEX rules. In this manner all cases now listed in ADEX can be reviewed without creating an undue burden on the field. We will know on a month-to-month basis at Headquarters from computer print-outs as to progress being made.

RECOMMENDATIONS:

(1) Attached for approval are detailed instructions in memorandum for all Special Agents in Charge. Revisions will be made in Manual of Instructions and submitted separately.

(2) If proposed revision is approved, investigative and reporting requirements now interconnected with ADEX or dependent on the existence of ADEX criteria will be revised.

(3) If proposed revision of ADEX is approved, we will furnish details to the Attorney General who has been kept informed regarding our ADEX.

ADDENDUM: INSPECTOR 8/30/72

During the inspection, the ADEX Program was thoroughly studied and Inspector concurs in this revision and in the recommendation of the Assistant Director.

IV. Changes, additions, and deletions of data appearing in section A of reserve index cards
(A) Changes in data appearing on section A reserve index cards should be submitted to the Bureau by form FD-122a.
(B) Deletions from section A of the reserve index should be recommended by letter. The letter should set forth the basis for the recommendation.
(C) Changes in office of origin are to be handled by submission of form FD-128a. Forward section A cards to new office of origin.

(b) Section B
I. This section is to contain the names of all other individuals included in the reserve index. This section is to be maintained only in the field office.
II. Changes in office of origin are to be handled by submission of form FD-128a. Forward section B cards to new office of origin.

(4) Content
(a) Each card in section A and section B should contain, as a minimum, the following:
I. Name and aliases
II. Race
III. Sex
IV. Organizational affiliation or nationalistic tendency
V. Citizenship
VI. Residence
VII. Employment
VIII. Birth data
IX. Office file number
[X. The letters "SS" if dissemination has been made to Secret Service in accordance with instructions in section 63K, item 2, volume III, of this manual]
(b) In addition, membership and position or association in a subversive group or groups, together with the source and date of the information, may be added.

(5) Removal and deletion of cards
(a) Destroy cards on individuals who subsequently become security informants or sources or who subsequently become subjects of security index cards.
(b) Advise the Bureau of the destruction only in the case of section A cards.

Security index
(1) Purpose
(a) Security index cards are prepared and maintained by the Bureau to serve as operational guide for apprehension of persons deemed dangerous or potentially dangerous to the internal security of the country in the event of a national emergency.
(b) It shall contain the names of all persons who have been determined through investigation to be dangerous or potentially dangerous because of their membership in or affiliation with or espousal of doctrines of basic revolutionary organizations and/or front organizations and who will be apprehended upon receipt of instructions from the Attorney General.
(c) It shall include subjects of espionage investigations and any other type of Bureau investigation provided their activities bring them within the scope of the security index criteria.
(d) Action shall be taken against individuals included in the security index only upon authorization of warrants of arrest by the Attorney General. However, in preparing and maintaining the security index, to all practical effects, the Bureau is making the decision as to those persons who will be apprehended in the event of an emergency, inasmuch as the Attorney General has advised that he does not have funds or

manpower to review security index cases.

(e) Names shall be included in the security index only when investigation has established and reports[show] sufficient facts and evidence to justify the inclusion of each subject in the security index.

(f) The contents of the security index must be accurate and correct at all times. Matters pertaining to its preparation and maintenance must be given preferred, expeditious, continuous, and detailed attention.

(g) Matters pertaining to the security index are strictly confidential and are not to be mentioned or alluded to in investigative reports.

(h) The general operation and content of the security index must not be discussed by field personnel of the Bureau without prior Bureau authority.

(i) Matters pertaining to the security index may be discussed with duly qualified representatives of other Federal intelligence agencies only on a strictly confidential basis and only in instances in which an individual subject of prime interest to one of these services is involved.

(2) Determination of dangerousness of an individual

(a) The dangerousness of a member or affiliate of a subversive organization does not necessarily depend entirely upon his personal characteristics, such as aggressiveness or a disposition to violence. Although these factors must be taken into consideration in evaluating an individual's potential dangerousness, other factors are essential in making this determination. An individual's dangerousness also depends upon the contribution he has made or is making in the advancement of the principles and aims of the subversive movement with which he is connected or his subversive potentialities in the event of a national emergency. Bear in mind that a subject active in a subversive organization is not merely an isolated individual but is a part of an organization of which the purposes are opposed to the best interests of the U. S. An individual's loyalty to a subversive organization and the principles thereof is a primary factor to take into consideration in evaluating his potential dangerousness;[however, regardless of evidence of subversive affiliation, all evidence developed during the course of a security investigation must be carefully weighed for the purpose of determining whether the subject's activities depict him as a potentially dangerous individual in time of a national emergency. Factors having a bearing upon an individual's potential dangerousness are numerous and will vary in each case in degree.] Among such factors are:

I. Long continued membership in a subversive organization
II. Affiliation with or attendance at training schools, especially leadership schools
III. Frequent or regular attendance at organizational meetings and functions
IV. Subscriptions to publications of a subversive organization
V. Possession of or continued study of revolutionary literature
VI. Preparation or distribution of subversive propaganda and/or literature
VII. Holding positions in the subversive organization or in other organizations of a front character which indicate confidence of such organizations in his loyalty
VIII. Espousal of a subversive doctrine exemplified in his acts and utterances

EXHIBIT 60-2

The Attorney General

September 30, 1971

Director, FBI

EMERGENCY DETENTION PROGRAM

In view of the fact the President has signed the Act repealing Title II of the Internal Security Act of 1950, which was commonly referred to as the Emergency Detention Act of 1950, your views are being solicited concerning FBI authority to continue investigations of subversive activity covered, in part, by this Act.

We have discontinued all planning for emergency apprehension and detention of those subjects listed in the Security Index, which is a list of individuals whose histories show they might engage in or conspire to engage in acts of espionage, or sabotage during a national emergency. We have likewise discontinued operation of the Security Index, which was an integral part of implementation of emergency apprehension.

EX-102 DEC 25

In addition to statutory authority provided in the Smith Act of 1940, Title I of the Internal Security Act of 1950, the Communist Control Act of 1954, and statutes relating to espionage, sabotage, rebellion and insurrection, sedition and seditious conspiracy, we feel that authority for the FBI to conduct investigations of subversive activity and related activity is clearly set forth in certain Presidential Directives. For example, on June 26, 1939, the President issued a confidential directive to the heads of various Government Departments which stated: "It is my desire that the investigation of all espionage, and sabotage matters be controlled and handled by the Federal Bureau of Investigation of the Department of Justice...." On September 6, 1939, the President issued a Directive as follows: "The Attorney General has been requested by me to instruct the Federal Bureau of Investigation of the Department of Justice to take charge of investigative matters relating to espionage, sabotage, subversive activities and violations of neutrality regulations." This Directive also pointed out that "the investigations" (by the FBI) "must be conducted in a comprehensive and effective manner, on a national basis, and all information carefully sifted out and correlated in order to avoid confusion and irresponsibility."

NOTE: See memo Cotter to Miller 9/29/71 re "Emergency Detention Act--Repeal, Security Index Program," prepared by TJS:mea.

Classified "Secret" as Emergency Detention Program (17) so classified by Department

OCT 4 1971

FBI

MAIL ROOM TELETYPE UNIT

Tolson, Felt, Sullivan, Mohr, Bishop, Miller, E.S., Callahan, Casper, Conrad, Dalbey, Cleveland, Ponder, Soyars, Tavel, Walters, Tele. Room, Holmes, Gandy

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

The Attorney General

On January 8, 1943, the President issued a Directive reiterating his previous Directive of September 6, 1939, and subsequently on July 24, 1950, the President issued a third Directive, reiterating previous Directives of September 6, 1939, and January 8, 1943, and broadened the scope of investigative activity by the FBI to include "subversive activities and related matters" as well as the specific matters involving espionage and sabotage. On December 15, 1953, the President issued a statement in which he set forth the language contained in the combined Presidential Directives dated September 6, 1939, January 8, 1943, and July 24, 1950, concerning the investigative responsibility of the FBI in matters relating to "espionage, sabotage, subversive activities and related matters." The statement then pointed out the FBI is also charged with investigating all violations of the Atomic Energy Act and requested cooperation of all enforcement officers, as in the previous Directives, in reporting all information relating to violations of the Atomic Energy Act to the nearest representative of the FBI.

Based on interpretation of existing statutes and the language set forth in the various Presidential Directives cited above, we feel that the repeal of the Emergency Detention Act of 1950 has not eroded the FBI's authority and responsibility to conduct investigation of subversive activities and related matters. Likewise, we feel that the repeal of this Act does not limit the FBI's authority and responsibility to keep and maintain administrative records, including various indices, which may be necessary in fulfilling such responsibility and authority.

I strongly feel that irrespective of the repeal of the Emergency Detention Act, the Federal Government must take whatever steps are necessary, within the law, to protect itself from all hostile forces bent on its destruction. We, therefore, feel that it is absolutely incumbent upon the FBI to continue investigations of those who pose a threat to the internal security of the country and to maintain an administrative index of such individuals as an essential part of our investigative responsibility. Such an index not only enables the FBI to pinpoint individuals who have exhibited a propensity to conduct acts inimical to national security, but also serves as an extremely valuable list of individuals who pose a continuing threat to the safety of the President and thereby enables us to provide current data to U. S. Secret Service concerning backgrounds and whereabouts of such individuals.

CEIVED FROM
FBI

The Attorney General

You are therefore requested to advise whether you concur in our opinion that the FBI's authority and responsibility to investigate subversive activities and related matters has not been eroded by repeal of the Emergency Detention Act. You are further requested to advise if you concur in our opinion that the repeal of the Emergency Detention Act does not prohibit or limit the FBI's authority and responsibility to keep and maintain administrative records, including an administrative index of individuals under investigation in connection with subversive activities and related matters, which are necessary in fulfilling our investigative authority and responsibility.

In the past we have furnished the Internal Security Division on a monthly basis a current list of individuals listed on the Security Index. This has been discontinued. However, in the event you approve of our maintaining an administrative index, as described above, please advise whether the Internal Security Division desires a copy of any current list we might prepare in this regard.

You are also requested to advise what disposition should be made of warrants, sealed envelopes captioned "Department of Justice Instructions to United States Attorneys" and "Department of Justice Instructions to United States Marshals" which have been maintained in each of our field offices in connection with the Emergency Detention Program.

In view of the urgency of the matter and the critical need to continue an uninterrupted program of investigating subversive activities and related matters, you are requested to furnish a reply to the foregoing questions at the earliest possible time.

1 - The Deputy Attorney General

1 - Assistant Attorney General
Internal Security Division

RECEIVED FROM
FBI

EXHIBIT 60-3

UNITED STATES GOVERNMENT

DEPARTM

Memorandum

10/22/71

DATE:

TO : Director
Federal Bureau of Investigation

FROM : The Attorney General

SUBJECT: EMERGENCY DETENTION PROGRAM

This will acknowledge your memorandum of September 30, 1971 regarding the effect that the repeal of Title II of the Internal Security Act of 1950, as amended, has on the FBI's authority "to investigate subversive activities and related matters."

With respect to your initial inquiry, I wish to advise you that the FBI's authority to investigate violations of the espionage, sabotage, Smith Act, Atomic Energy Act and related statutes, as well as subversive activities and related matters in accordance with its statutory responsibilities and the Presidential directives, cited in your memorandum, remains unaffected by the repeal of the Emergency Detention Act.

Furthermore, the repeal of the aforementioned Act does not alter or limit the FBI's authority and responsibility to record, file and index information secured pursuant to its statutory and Presidential authority. An FBI administrative index compiled and maintained to assist the Bureau in making readily retrievable and available the results of its investigations into subversive activities and related matters is not prohibited by the repeal of the Emergency Detention Act.

EX-115 REC-60

While the Department does not desire a copy of any lists that you may compile on the basis of such records or indices, the Internal Security Division should be furnished a monthly memorandum reflecting the identity of government employees who by significant acts or membership in subversive organizations, have demonstrated a propensity to commit acts inimical to our national security.

2 OCT 26 1971

With regard to Department instructions to the United States Attorneys and Marshals and related materials maintained in sealed envelopes in each of the Bureau's field offices, it is noted that such emergency documents were prepared on the basis of authority other than the Emergency Detention Act. A study is being undertaken within the Department as to the disposition to be made of those pre-positioned sealed instructions. When such a review has been completed you will be appropriately

EXP. PROC

36 OCT 26 1971

FBI NOV 29

RESEARCH SECTION

This document is prepared in response to your request and is for dissemination outside the Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

EXHIBIT 60-4

(C) SECURITY INVESTIGATIONS OF INDIVIDUALS - RESERVE INDEX -- The presently constituted Communist Index will henceforth be known as the "Reserve Index."

Institute a review of the Reserve Index. In conducting this review the following minimum steps are to be taken in all instances.

1. Verify residence and employment.

2. Conduct an indices search and file review to determine whether investigation is warranted at this time or whether an interview with the individual is deemed desirable. Interviews with the individuals will be handled in accordance with current Bureau instructions set forth in Section 87D of the Manual of Instructions.

3. If additional investigation is conducted or if there is unreported information of a subversive nature contained in the files, a report must be submitted.

The re-examination of the Reserve Index may be made in equal monthly divisions for one year. Advise the Bureau quarterly of your progress.

Recognizing that some individuals included in the Reserve Index represent a greater potential threat in time of an emergency than do others, this Reserve Index is being divided into two sections, Section A and Section B. Each is discussed separately herein.

SECTION A

Section A of the Reserve Index is designed to represent a special group of individuals who should receive priority consideration with respect to investigation and/or other action following the apprehension of our Security Index subjects.

Section A of the Reserve Index should include those individuals whose subversive activities do not bring them within the Security Index criteria, but who, in a time of national emergency, are in a position to influence others against the national interest or are likely to furnish material financial aid to subversive elements due to their subversive associations and ideology. Included in Section A will be those individuals falling within the following categories:

1. Professors, teachers and educators.
2. Labor union organizers or leaders.
3. Writers, lecturers, newsmen, entertainers and others in the mass media field.
4. Lawyers, doctors and scientists.
5. Other potentially influential persons on a local or national level.
6. Individuals who could potentially furnish material financial aid.

During the course of the re-examination of the Reserve Index, those individuals falling within the above criteria for inclusion in Section A should be selected therefrom, handled in accordance with the above instructions and, thereafter, nominated for inclusion in Section A of the Reserve Index. Appropriate forms for this purpose will be forwarded all offices in the immediate future. Attached to the form recommending the inclusion of the individual's name in Section A of the Reserve Index should be a succinct summary setting forth the basis for your recommendation. If no further investigation is warranted in the case at this time or if no report is accompanying the recommendation, a statement to that effect should appear on the page containing the succinct summary.

Investigations of individuals listed in Section A of the Reserve Index are to be brought up to date annually, and they are to be considered for Security Index status or retention in the Reserve Index. As a minimum, the previously mentioned investigative steps will be taken, including the submission of reports in the event additional subversive data is developed. Changes in residence and/or employment should be submitted to the Bureau on forms to be furnished the field in the immediate future. The administrative handling of the reopening of these cases should be similar to that in the case of annual reports in Security Index cases.

Section A of the Reserve Index will be maintained in the field and at the Seat of Government in the same manner as our Security Index except that this Index will be maintained only alphabetically.

To avoid confusion with the Security Index, however, distinctive colored cards and forms used in connection therewith will be utilized.

SECTION B

Section B, containing the names of the remaining individuals included in the Reserve Index, will be maintained in the field in the same manner in which the Communist Index is now being maintained.

Upon the deletion of a subject's name from the Security Index based upon the application of the Security Index criteria, it will be necessary to consider whether his name should then be placed in Section A of the Reserve Index. If his name should so be included, submit an appropriate recommendation. If the facts do not justify the inclusion of his name in Section A, the canceled Security Index card should be filed in Section B in accordance with current practice.

Standards for Inclusion of Names in the Reserve Index

The standards for inclusion of individual's names in the Reserve Index were discussed at the Internal Security - Espionage Conference composed of representatives from certain field offices and Bureau supervisors and officials held at the Bureau on June 9-10, 1960. The Conference recommended revision of our present standards for the inclusion of individual's names in the Reserve Index to insure that it fully represents a list of individuals who should be considered for investigation and/or other action following apprehension of our Security Index subjects. The revised standards follow:

1. Membership in a basic revolutionary organization subsequent to January 1, 1949, together with some indication of sympathy or association with such an organization or a subversive front organization subsequent to the reported membership and no reliable evidence of defection.

2. Investigation has failed to substantiate allegations of membership in a revolutionary organization within the past five years, coupled with some evidence or information indicating activity, association or sympathy for the subversive cause within the same period, and no reliable evidence of defection.

3. The individual, within the past five years, by his associations, writings, financial support or conduct in relation to and support of subversive organizations or the international communist movement is in a position to influence others at the time of a national emergency and no reliable evidence of defection.

4. Leadership or substantial activities in a major subversive front group over three years ago, together with some evidence of continuing activity, association or sympathy for the subversive cause within three years and no reliable evidence of defection.

5. Membership in a subversive front organization within the past three years and no reliable evidence of defection.

It is not desired that a wholesale review of closed security cases be conducted in efforts to identify additional individuals whose names should be included in the Reserve Index under the revised standards. However, such names should be added as the cases come to the attention of Agents handling security work.

Very truly yours,

John Edgar Hoover

Director

EXHIBIT 60-5

Master Warrant of Arrest

WARRANT

TO THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION:

In pursuance of authority delegated to the Attorney General of the United States by Proclamation of the President of the United States, dated _____, 19 _____, I hereby authorize and direct you and your duly authorized agents to arrest or to cause the arrest of the persons whose names are set forth on the attached list and whom I deem dangerous to the public peace and safety of the United States.

These persons are to be detained and confined until further order.

I further authorize and direct you and your duly authorized agents, upon or subsequent to the arrest of any person set forth on the attached list and without regard to the place where such arrest may be made, to search any and all premises owned, occupied or controlled by such person, as well as any and all premises where such person is, or during the preceding twelve months period has been, employed or engaged in any regular activity, wherein it is believed that there may be found contraband, prohibited articles, or other materials in violation of the Proclamation of the President of the United States, dated _____, 19 _____, and as set forth in the Regulations issued pursuant thereto, and to seize and hold any such articles which you may find and make return thereof to the Attorney General.

I further authorize and direct that this warrant may be executed at any hour of the day or night.

By order of the President:

_____
Attorney General

Dated:

EXHIBIT 60-6

Master Search Warrant

WARRANT

TO THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION:

In pursuance of authority delegated to the Attorney General of the United States, by Proclamation of the President of the United States, dated _____, 19 _____, I hereby authorize and direct you and your duly authorized agents to make immediate search of certain premises located and described on the attached list wherein it is believed that there may be found contraband, prohibited articles, or other materials in violation of the Proclamation of the President of the United States, dated _____, 19 _____, and as set forth in the Regulations issued pursuant thereto, namely, firearms, weapons or implements of war or component parts thereof, ammunition, bombs, explosives or material used in the manufacture of explosives, short-wave radio receiving sets, transmitting sets, signal devices, codes or ciphers, cameras, means for promoting biological warfare, radioactive materials, atomic devices, or component parts thereof, propaganda material of the enemy or insurgents, propaganda material which fosters, encourages or promotes the policies, programs or objectives of the enemy or insurgents, printing presses, mimeograph machines, or other reproducing media on which such propaganda aforementioned has been or is being prepared, records, including membership and financial records, of organizations or groups that have been declared subversive or may hereafter be declared subversive by the Attorney General, cash funds either in currency or coin, promissory notes or checks, securities of any nature, papers, documents, writings, code books, signal books, sketches, photographs, photograph negatives, blue prints, plans, maps, models, instruments, appliances, graphic representations, papers, documents, or books on which there may be invisible writing relating to or concerning any military, naval, or air, post,

camp, station or installation or equipment or of any arms, ammunition, implements of war, devices or things used or intended to be used in the combat equipment of the land, naval or air forces of the United States or of any military, naval, or air, post, camp, station or installation, and any and all files, dossiers, records, documents or papers of any kind which relate in any way to the identity, activities or operations of any person who is or may be engaged in espionage or sabotage against the interests of the United States.

I further authorize and direct you to seize and hold any such articles which you may find and make return thereof to the Attorney General.

I further authorize and direct that this warrant may be execut at any hour of the day or night.

By order of the President:

_____
Attorney General

Dated:

EXHIBIT 60-7

12/17/63
SAC LETTER NO. 63-61

(F) SECURITY INDEX -- In connection with all security investigations in the case of individual subjects, the essential question for determination is whether the subject's activities are such as to depict him to be a potential danger to the national security of the United States in time of an emergency. In the event such a determination is made, his name should be included in the Security Index.

The Security Index criteria have been found to afford practical and workable guidelines in arriving at a conclusion as to whether a subject represents a potential danger and are sufficiently elastic so that when applied with the necessary judgment, the complex questions which may arise in connection with these cases can be resolved.

EXHIBIT 60-8

II - M 12-13

(C) SECURITY INVESTIGATIONS OF INDIVIDUALS -- The emergence of the new left movement as a subversive force dedicated to the complete destruction of the traditional values of our democratic society presents the Bureau with an unprecedented challenge in the security field. Although the new left has no definable ideology of its own, it does have strong Marxist, existentialist, nihilist and anarchist overtones. While mere membership in a new left group is not sufficient to establish that an individual is a potential threat to the internal security of the United States, it must be recognized that many individuals affiliated with the new left movement do, in fact, engage in violence or unlawful activities, and their potential dangerousness is clearly demonstrated by their statements, conduct and actions.

The Bureau has recently noted that in many instances security investigations of these individuals are not being initiated. In some cases, subjects are not being recommended for inclusion on the Security Index merely because no membership in a basic revolutionary organization could be established. Since the new left is basically anarchist, many of the leading activists in it are not members of any basic revolutionary group. It should be borne in mind that even if a subject's membership in a subversive organization cannot be proven, his inclusion on the Security Index may often be justified because of activities which establish his anarchistic tendencies. In this regard, you should constantly bear in mind that the public statements, the writings and the leadership activities of subjects of security investigations which establish them as anarchists are proper areas of inquiry. Such activity should be actively pursued through investigation with the ultimate view of including them on the Security Index. It is entirely possible, therefore, that a subject without any organizational affiliation can qualify for the Security Index by virtue of his public pronouncements and activities which establish his rejection of law and order and reveal him to be a potential threat to the security of the United States.

It is equally important to understand that mere dissent and opposition to Governmental policies pursued in a legal constitutional manner are not sufficient to warrant inclusion in the Security Index. You are reminded that one of the four criteria in Section 87D, Manual of Instructions, must apply. Further, in those cases requiring Bureau

authority to initiate investigations, your requests must summarize information available to show the potential threat and not merely show anti-Vietnam or peace group sentiments without also revealing advocacy of violence or unlawful action which would justify an investigation.

Very truly yours,

John Edgar Hoover

Director

Enclosures for (B)

EXHIBIT 61

10/28/68

Airtel

To: SAC, Albany

From: Director, FBI

NEW LEFT MOVEMENT
INTERNAL SECURITY - MISCELLANEOUS

The Bureau has noted increasing evidence of a continuing upsurge on the part of militant individuals and organizations to separate themselves from legitimate protest activities and to adopt a strong, anti-United States, violent, revolutionary position. These activities are commonly referred to as the New Left movement. The term "New Left" does not refer to a definite organization, but to a movement which is providing ideologies or platforms alternate to those of existing communist and other basic revolutionary organizations, the so-called "Old Left." The New Left movement is a loosely-bound, free-wheeling, college-oriented movement spearheaded by the Students for a Democratic Society and includes the more extreme and militant anti-Vietnam war and antidraft protest organizations. The militant leadership of these organizations appears determined to continue to stage militant demonstration activities designed primarily to effect confrontation with authority, particularly with the Federal Government.

Although the field has conducted, or is conducting, investigations of these individuals and organizations, there is a need to compile in a single investigative report a clear-cut picture of the entire New Left movement which will identify its leaders, sources of funds and propaganda outlets, and will show the extent to which the New Left movement has been influenced by domestic and foreign subversive elements.

EX 110 REC 26

The ready availability of such information in brief, topical form will enable the field and the Bureau as well to make a self-analysis of all facets of our investigation of the

Enclosures - 9

2 - All Offices (Enclosures - 3)

19 OCT 28 1968

(131)

SEE NOTE PAGE 3

MAIL ROOM [X] TELETYPE UNIT [ ]

Airtel to SAC, Albany et al
RE: NEW LEFT MOVEMENT

New Left movement so that we may expand and intensify our investigation of those phases indicating a need thereof. It will also serve to alert Government officials concerning the nature and extent of this aspect of subversive activities and will provide a comprehensive study of the whole movement from which its dangerousness to the national security can be assessed.

In order to obtain this picture, a program is being instituted immediately to prepare quarterly reports on the over-all New Left movement throughout the United States. Chicago is being designated office of origin and seven copies of all reports should be submitted by each field office. The initial report, which should be submitted to reach the Bureau by 12/1/68, will cover approximately the past two years of the New Left movement. It will include information heretofore reported under various titles and, of course, there will continue to be a reporting of this type of information under various other titles. After submission of the initial report, future reports will be submitted on a quarterly basis according to the enclosed schedule.

The initial report in this matter and succeeding reports will be designed to precisely spell out the full extent of the New Left movement. It will separate words and intentions from actions, mere participation from direct influence and the bona fide activist from the mere "do-gooder." Offices which have absolutely no information to report, either in the initial report or the quarterly reports thereafter, will be permitted to so advise the Bureau by letter in lieu of a report.

The enclosed report outline should be followed as to the numbered and lettered items. Where further breakdowns by numbers and letters are practical, it will be permissible to do so. The synopsis should be prepared for the purpose of providing a complete summary from which the strength of the movement in each field office territory can be quickly determined and a conclusion drawn by the reader as to the movement's over-all militancy and potential for violence. Make certain the synopsis is factual and supported by data in the details.

Subfiles have been opened for each office and for each topic. All communications and sections of the report should refer to the appropriate subfiles which are shown in the enclosed subfile breakdown.

Airtel to SAC, Albany et al
RE: NEW LEFT MOVEMENT -

NOTE:

See memorandum C. D. Brennan to W. C. Sullivan dated 10/23/68 captioned as above as prepared by

NEW LEFT MOVEMENT - REPORT OUTLINE

To accurately and clearly show the true nature of the New Left movement, data concerning the following topics must be fully developed and reported. When material contains information which would be logically reported under more than one topic heading but to do so would make the separate accounts unintelligible, report all the material under the main heading and only refer to the information under the other breakdown. Do not repeat the same data under separate headings. All offices are to utilize the following breakdown in preparing quarterly reports on the New Left movement. Each subfile caption must start on a separate page.

I. NEW LEFT MOVEMENT

A. Organizations

(1) Organizations to be covered are those which are anti-United States and whose leaders have either expressed or implied the use of civil disobedience, anarchy, unlawful activity and/or violence in bringing about the overthrow of our political and economic system, abandoning our moral institutions and who have disclaimed loyalty to the United States. This would include Students for a Democratic Society and the more militant anti-Vietnam war and antidraft protest organizations.

(2) Under each organization include a paragraph covering the following points: when organized, objectives, locality in which active, whether part of a national organization. Include under each organization information as to officers and others in position of influence who have present or past subversive connections.

B. Membership (Bureau file

(1) Estimated number of members and sympathizers. In preparing estimates, best available informants and sources should be used. Explain in cover pages reason for any substantial increase or decrease in membership figures previously submitted. The number of members nationally and locally should be indicated.

ENCLOSURE

(2) Recruiting activities. Results of membership drives.

(3) Membership requirements.

C. Finances (Bureau file

(1) Income and expenditures.

(2) Plans and results of fund drives.

(3) Large contributions from known subversive groups.

(4) Identity of "angels."

(5) Receipt of funds from foreign sources.

D. Communist Influence (Bureau file

(1) Domestic (ties with Communist Party, USA, and other basic revolutionary groups). Policy concerning communist participation in organization's activities and use and distribution of communist propaganda.

(2) Foreign (include ties with foreign revolutionary centers as indicated by travel abroad, contacts with foreign embassies or other evidence).

E. Publications (Bureau file

(1) Offices covering place of publication should describe publication, show circulation and principal members of editorial staff. Auxiliary offices need only to refer to the fact that the publication is circulated in its territory and describe method of circulation.

(2) Description of New Left publications published abroad and circulated in the United States.

F. Violence (Bureau file

(1) Acts of violence or plans to commit same, identities of leaders and participants.

(2) Possession of weapons and instruments of destruction.

(3) Statements advocating use of violence.

G. Religion (Bureau file

(1) Policy relating to approach to religion.

(2) Vehement statements made against religious bodies by leaders.

(3) Support of movement by religious groups or individuals.

H. Race Relations (Bureau file

(1) Show if organization was involved in racial disturbances and any prosecutive action taken as a result.

(2) Show extent of cooperation with militant racial groups.

I. Political Activities (Bureau file

(1) Political activities in which New Left leaders are involved.

(2) Details relating to position taken on political matters including efforts to influence public opinion, the electorate and Government bodies.

J. Ideology (Bureau file

(1) Statement of leaders attacking United States policies, including civil disturbances, affinity for the aims and purposes of revolutionary groups and show support for Marxism-Leninism.

K. Education (Bureau file

(1) Information relating to material furnished membership which advocates use of violence in obtaining objectives.

(2) Information relating to education of both new and experienced members.

(3) Courses given together with any educational outlines and assigned or suggested reading.

L. Social Reform (Bureau file

(1) Activities in connection with demonstrations aimed at social reform. Include organization's over-all policy.

M. Labor (Bureau file

(1) Information including all activity in the labor field.

N. Public Appearances of Leaders (Bureau file

(1) Identity of leader who makes public appearance on radio and television and who appears before groups, such as labor, church and minority groups.

(2) Date and place of such appearance, identity of group sponsoring speaker and succinct summary of subject matter discussed.

O. Factionalism (Bureau file

(1) Any unusual disputes or arguments between leaders.

P. Security Measures

(1) Unusual security measures taken by organization to protect identity of leaders and members.

Q. International Relations (Bureau file

(1) Information relating to communication or contact between New Left organizations in the United States and New Left organizations in foreign countries.

(2) Identities of New Left leaders who plan to travel in foreign countries, including the reason for their travel.

(3) Identities of New Left leaders from foreign countries who travel in the United States, including the purpose of their travel.

(4) New Left movement strategy and tactics directed to attacks on United States foreign policy and support of Soviet and satellite foreign policy.

R. Mass Media (Bureau file

(1) Influence of New Left on mass media.

(2) Indications of support of New Left by mass media.

EXHIBIT 62

(7)

4. Individuals to be investigated

It is not possible to formulate any hard-and-fast standards by which the dangerousness of individual members or affiliates of revolutionary organizations may be automatically measured because of manner revolutionary organizations function and great scope and variety of activities. Exercise sound judgment and discretion in evaluating importance and dangerousness of individual members or affiliates.

As a general policy, investigate the activities of any individual falling within one or more of the following categories who does not come within one of the restrictions on investigations listed under 87D, 5, below:

a. Membership in basic revolutionary organizations subsequent to 1-1-49

b. Espousing line of revolutionary movements

(1) Any individual who, since the outbreak of hostilities in Korea (6-25-50), continued to espouse the line of one or more of the above-mentioned revolutionary organizations or related groups thereby defining his or her adherence to policies opposed to best interests of the U. S.

(2) Espousal mentioned above encompasses a wide variety and range of activities. Membership in one or more of the basic revolutionary organizations is not a prerequisite to the institution of an investigation of an individual within this category.

(3) Espousal expressed by membership or active participation in subversive front groups (whether or not cited by the Attorney General) must be evaluated in each case. Consider nature and type of front organization, as well as extent of individual's activities on behalf of the front organization or in support of the basic revolutionary organization. Open investigation in every instance in which information available indicates a subject is actively engaged in the affairs of a subversive front organization in a leadership capacity or by active participation in the furtherance of the aims and purposes of the front organization.

(4) Do not open an investigation on mere membership alone in a front organization in the absence of allegations of active participation or leadership in the group unless information is available indicating past membership at any time in a basic revolutionary organization or sufficient other derogatory information is known.

(5) In evaluating this type of case, carefully consider the nature and activities of the front organization in behalf of the Communist Party or other revolutionary organizations throughout the country or in a certain area.

c. Special training in a subversive movement
(1) Training in the Lenin School or in a subversive movement abroad
(2) Leadership training in one of the basic revolutionary organizations mentioned above.

d. Military service
(1) Service in the Abraham Lincoln Brigade. Membership in one of the basic revolutionary organizations is not a prerequisite to initiating investigations in this category.
(2) Service in the military forces of any country, including the U. S. armed forces or the Office of Strategic Services whenever there is an allegation that an individual has been a member of one of the basic revolutionary organizations at any time

f. Other individuals with revolutionary beliefs
Individuals who, because of anarchist or revolutionary beliefs, are likely to seize upon the opportunity presented by a national emergency to endanger the public safety and welfare. Membership or affiliation in basic revolutionary or front groups is not a prerequisite to initiating investigations of this type. Use sound judgment and discretion in this evaluation.

Falling within the above category are members of the When it is known or becomes known that this organization is active in the field office territory, a security-type investigation of all individuals who are reported to be (1) functionaries or leaders of the or (2) active participants in carrying out fanatical and disloyal aims of the organization should be initiated. Investigations should not be initiated based on mere membership alone.

During the course of security investigations of individuals affiliated with the be alert for any information indicating a possible violation of the Selective Service Act.

The above standards for institutions of investigations of individuals are not to be interpreted as all-inclusive. Where there is doubt an individual may be a current threat to the internal security of the nation, the question should be resolved in the interest of security and investigation conducted.

The categories specified as a through f above are to be distinguished from

EXHIBIT 63-1

(G) DEVELOPMENT OF SOURCES IN RACIAL MATTERS - AMERICAN LEGION CONTACT PROGRAM - PLANT INFORMANT PROGRAM -- In our over-all current efforts to increase the quantity and quality of coverage of racial matters, the use of the American Legion Contact and Plant Informant Programs has been given serious consideration. The selfish utilization of the current Negro struggle for civil rights is not restricted to those individuals described as subversive because of affiliation with the Communist Party, USA, or other left groups. As an example, hate groups such as the Klans, are exploiting the tension developed in the South as the result of the passage of the Civil Rights Act of 1964. Appealing to prejudice and bigotry, the promotion of "white supremacy" is the primary goal of these right extremists with specific targets including the foreign-born, Catholics and Jews. Bearing in mind our responsibilities in this field, not only to get evidence and intelligence data, but to be aware of all related data on which preventive measures may be taken, you should take the following steps:

Where feasible and you consider it to the Bureau's advantage, contacts and informants included in these two programs should be advised of the Bureau's interest and responsibility in covering activities which may be considered racial in nature. This should be done during the next scheduled meeting. A prerequisite to initiating this program is a thorough knowledge of current instructions pertaining to racial matters, sources and informants, particularly those specific instructions concerning acts of violence. The individuals contacted should be made sufficiently familiar with the Bureau's desires in this matter so as to avoid the receipt of nebulous information. Along this line, you should take no steps that might diminish our efforts of gathering intelligence data, even though there is no immediate and apparent Federal violation. We have a definite responsibility of advising appropriate governmental agencies on both a national and local level of information relating to racial incidents. Extreme care must be exercised to insure there is no misunderstanding of the Bureau's position and goal in the racial field. Of particular importance is the insurance that there is no basis for misinterpretation resulting in a false impression that our action infringes upon the freedoms of speech and assemblage of a person or group. To the contrary, our concern includes the guarantee of civil rights and equality under law for all.

Very truly yours,

John Edgar Hoover
Director

Enclosure for (A)

EXHIBIT 63-2

(C) INVESTIGATION OF UNAFFILIATED WHITE RACIAL EXTREMISTS - RACIAL MATTERS -- Under existing instructions, investigation of white extremists is restricted to those individuals who are associated with the Klan or other white hate-type organizations. In view of the recent marked increase in violent acts throughout the United States on the part of individuals who are not affiliated with the Klan or other white hate-type organizations, it is necessary to modify existing instructions to broaden the scope of our investigative responsibilities to include these unaffiliated individuals.

Investigation has established that many of the individuals involved in these recent acts of violence, although not currently members of the Klan or other white hate-type groups, did have previous affiliation with such groups and still maintain their extremist tendencies.

Hereafter, investigation must be promptly instituted on these unaffiliated white racial extremists and their activities closely followed.

In conducting these investigations, you should be guided by instructions set out in Section 122A, Volume IV, Manual of Instructions, which apply to investigations of the Klan and white hate-type organizations and associated individuals. Appropriate manual and handbook revisions will be forthcoming.

Very truly yours,

John Edgar Hoover

Director

66-077 O - 76 - 44

EXHIBIT 63-3

(B) WHITE MILITANT GROUPS - RACIAL MATTERS (ORGANIZATION) -- In view of increasing militancy in the racial field, neighborhood groups whose members are of the white race, have been springing up throughout the United States. Some of these groups appear to be militant in nature and some urge the white man to arm himself as a means of protection against racial violence. Some of these groups are known to sponsor demonstrations against integration and against the bussing of Negro students to white schools. Others appear to advocate more violent methods of opposition to integration. The appearance of these groups is noted mostly in the white ghetto areas of the large cities which border on minority group living areas.

In order to fulfill our responsibilities in the racial intelligence field we must be cognizant of the groups and their aims and purposes. Upon receipt of information as to the formation or existence of such a group, a preliminary investigation should be immediately initiated to determine the aims and purposes of the organization, its leaders, approximate membership, as well as any pertinent background data which will assist in determining the militancy of the group.

From information presently available, it appears that many of these organizations have been founded on principles of fear rather than hate and as such, they cannot be classified as hate groups. Your investigations should, therefore, be discreet and most circumspect. You should limit your inquiries to a review of Bureau files, contacts with Bureau informants, and established sources, and the use of public source information.

Upon completion of your investigations, a communication in form suitable for dissemination should be forwarded to the Bureau together with a recommendation as to whether additional investigation is warranted under Section 122A of the Manual of Instructions as it pertains to the investigation of Klan and white hate groups.

In addition to the above, I wish to point out to you the possibility of reactions by the Klan, white hate groups, and residents of white ghetto areas to the recent wave of racial disorders resulting from the assassination of Martin Luther King, Jr. You should remain alert to this possibility. Informant coverage of the Klan, white hate groups, and white ghetto areas must be intensified so that plans of retaliation or overt action are known to the Bureau prior to their taking place.

EXHIBIT 63-4

(F) COMMUNIST INFILTRATION OF THE CONGRESS OF RACIAL EQUALITY -- The Congress of Racial Equality under the leadership of Floyd McKissick has steadily moved away from a legitimate civil rights organization in recent months and is assuming a militant black nationalist posture with some leaders in their public statements condoning acts of violence as a means of attaining Negro rights. It is moving toward the exclusion of members of the white race from its ranks. Communist infiltration at this point is negligible. In view of the above, this organization should be investigated in the future under the Racial Matters character rather than under the Communist Infiltration character.

You should, of course, in your continuing investigation of the Congress of Racial Equality be alert to the participation of Communist Party members in the organization or communist influence therein. However, your investigation should be directed toward developing in detail intelligence information regarding the basic aims and objectives of the organization, its activities and programs on a current basis, and any information indicating that members thereof advocate violence as a means of attaining their objectives or participate in actual violence.

EXHIBIT 63-5

(B) REPORTING OF PROTEST DEMONSTRATIONS --. The Bureau has noted a trend toward incomplete and nonspecific reporting of disruptive, anti-Government demonstrations and protest rallies. It is often necessary to go back to the reporting office for pertinent details concerning these disorders, which results in delayed dissemination. Details which have been neglected include failure to report number of protesters present, identities of organizations, and identities of speakers and leading activists.

The necessity for full and complete reporting must be impressed on all personnel handling these matters. Existing instructions require that communications reporting such incidents are to be submitted under a substantive case caption with a brief, accurate description of the event; for example, Students for a Democratic Society - Demonstration Against ROTC, University of Wisconsin, 4/25/72. Where multiple organizations are involved, the group primarily responsible for organizing the demonstration should be utilized in the caption.

When your original communication concerning a disruptive demonstration does not contain all pertinent details, you should set forth what steps you are taking to obtain this information. Make certain that you submit recommendations for initiating investigation of sponsoring organizations, if warranted, under criteria set forth in Section 87B, Manual of Instructions. For proper routing of information at the Bureau continue to use code words "VIDEM" (Vietnam Demonstration) and "STAG" (Student Agitation). Persons arrested should be identified, since circumstances of an arrest, in some cases, may indicate a propensity for violence. In considering whether a security investigation of an individual is warranted, it should be noted that a mere arrest in connection with a demonstration is insufficient basis in itself for investigation. The arrest must be coupled with a demonstrated propensity for violence or with subversive or revolutionary activity on the part of the individual arrested.

The above guidelines are intended to reiterate and clarify existing instructions and you must insure that in reporting these matters you adhere to Bureau requirements.

EXHIBIT 63-6

(C) DEMONSTRATIONS PROTESTING UNITED STATES INTERVENTION IN VIETNAM (VIDEM) -- Current Bureau instructions require that all information developed regarding such demonstrations be submitted to the Bureau by teletype for immediate dissemination to the White House and other interested Government agencies, followed by a letterhead memorandum for routine dissemination to the intelligence community. In addition, certain offices submit quarterly reports concerning demonstrations which have occurred during the previous three months.

Continue to submit teletypes as instructed; however, effective immediately, a separate letterhead memorandum regarding each routine demonstration should be discontinued. In the future each office should transmit to the Bureau by the close of business each Monday a letterhead memorandum reporting on demonstrations during the past week.

Offices submitting quarterly reports are to discontinue them. In order to facilitate handling at the Seat of Government, all communications reporting on antiwar demonstrations are to be furnished the Bureau under the VIDEM caption. Discontinue the use of organizational captions. Continue to include pertinent information concerning activity in demonstrations in organizational and individual reports where applicable.

During your coverage of demonstrations you should be particularly alert to violations of various federal laws such as the Selective Service Act. All criminal violations should be reported under the appropriate caption.

The Bureau will issue separate instructions concerning the coverage of and the reporting on major demonstrations.

EXHIBIT 63-7

(H) INVESTIGATION OF THE NEW LEFT -- There has been a marked increase in recent months of bombings and burnings of public buildings and other acts of terrorism which could logically have been perpetrated by extremist elements of the New Left. New Left leaders have constantly exhorted their followers to abandon their traditional role of "passive dissent" and resort to acts of violence and terrorism as a means of disrupting the defense effort and opposing established authority. Publications of the New Left are replete with articles proposing the bombings of draft boards and other Government installations, and literature containing detailed diagrams and instructions for making incendiary devices has been widely disseminated among New Left groups.

I have been appalled by the reaction of some of our field offices to some of the acts of violence and terrorism which have occurred, such as those which have recently taken place in certain college towns and in some instances on college campuses. While it is recognized that many of these acts do not constitute violations of law within the primary investigative jurisdiction of the Bureau, it is essential, where the strong presumption exists that acts of violence have been perpetrated by New Leftists or other subversive elements under investigation by the Bureau, that every logical effort should be made to resolve through contact with established sources whether these elements are in fact responsible for such acts. Of course, good judgment and extreme caution must be utilized in this connection so as not to convey the impression to the public or other investigative agencies that we are assuming jurisdiction in those instances where there are not facts which would establish FBI jurisdiction.

It cannot be too strongly emphasized that positive results can be achieved only through the development of adequate high quality informants who are in a position to obtain detailed information regarding the activities and future plans of individuals and organizations affiliated with the New Left movement.

When terroristic acts occur which by reason of the target of the act or by reason of the locale would appear to fit into the objectives of or could have been motivated by subversive elements, particularly New Leftists, I expect an immediate and aggressive response from you

in the form of alerting and directing all logical sources and informants into activity to determine if subversive groups could have been responsible.

I have reminded you time and again that the militancy of the New Left is escalating daily. Unless you recognize this and move in a more positive manner to identify subversive elements responsible so that appropriate prosecutive action, whether federally or locally initiated, can be taken, this type of activity can be expected to mount in intensity and to spread to college campuses across the country. This must not be allowed to happen and I am going to hold each Special Agent in Charge personally responsible to insure that the Bureau's responsibilities in this area are completely met and fulfilled.

Very truly yours,

John Edgar Hoover

Director

EXHIBIT 63-8

(B) SECURITY AND EXTREMIST INFORMANT PAYMENTS - SUBMISSION OF JUSTIFICATION LETTERS -- As you are aware, all security and extremist informants receiving compensation from the Bureau are paid on the basis of the value of information furnished, services rendered, and expenses incurred.

It is the responsibility of each Special Agent in Charge to insure all expenditures for information are on a strict c.o.d. basis commensurate with the value of the information furnished. In this regard, it has recently been noted that some justification letters do not contain a complete detailed justification for monies paid to informants. In the future, assure that these letters contain a complete detailed justification in order that FBIHQ can make a reasonable determination as to whether or not full value is being received for all monies expended for payments to informants.

In submitting your justification, avoid using generalities and in each instance set out, under the summary of information furnished, specific details of significant information furnished, including examples. In other words, in addition to setting forth such information as the number of meetings attended and/or the number of individuals reported on, you must set forth specific information being reported by the informant regarding activities of the organization and/or individual which would warrant the payments recommended.

This matter will continue to receive careful attention at FBIHQ and you will be held personally accountable to insure that all payments are fully justified. These instructions should be called to the attention of all Special Agents in your office handling informants and sources.

Clarence M. Kelley
Director

EXHIBIT 63-9

(B) INFORMANTS AND SOURCES - PAYMENTS -- As you are aware informants and sources receiving compensation from the Bureau are reimbursed on the basis of the value of the information reported, services performed and expenses incurred. An increasing tendency has been observed in field submissions to request special payments or justify regular payments for informants or sources seemingly based on personal needs of the informant as distinct from the value of information furnished and legitimate and related expenses incurred. The personal needs of an informant, such as repair of a vehicle, illness or other pressing necessity for funds, do not meet the basic criteria of information furnished or related expenses. Informants should not be influenced to believe we will pay for such personal needs. The basic concept that the informant is selling information of value on a c.o.d. basis, much as an independent contractor, and is not an employee must be adhered to and understood by contacting Agents and the informants.

This does not, however, preclude use of imagination and innovation when a source of considerable potential value needs financial inducement to engage in gathering of information under conditions which will take time to reach fruition and may involve considerable risk and hardship. In such instances you should fully develop the facts and present them to FBIHQ for approval prior to making any commitment.

This matter will continue to receive careful attention at FBIHQ and you will be held accountable to insure that payments are for value received. These instructions should be called to the attention of all Special Agents in your office handling informants and sources.

EXHIBIT 63-10

6-11-68
SAC LETTER 68-34

(D) SECURITY INFORMANTS AND SOURCES - PAYMENTS -- As you are aware, all security informants and sources receiving compensation from the Bureau are paid on the basis of the value of information furnished, services rendered and incurred expenses. Recently, it has been noted that some informants and sources have been paid consistently the same amount each month with no variation in payments during periods when the informants or sources were less productive, which leads to the illogical implication that information furnished or expenses incurred or both seldom, if ever, vary. This practice must be discontinued. Your informants and sources must understand they are independent contractors remunerated on a C.O.D. basis, and they must never be led to believe they are recipients of a fixed salary.

This matter will continue to receive careful consideration at the Seat of Government and you will be held accountable to insure that payments are for value received and no fixed patterns continue to develop. These instructions should be called to the attention of all Special Agents in your office handling security informants and sources.

EXHIBIT 63-11

(D) ACCESS TO RECORDS MAINTAINED BY BANKING INSTITUTIONS - The following legal analysis is being provided for guidance in responding to inquiries concerning FBI access to records maintained by banking institutions.

Bank records generally are available in response to the auth of a Grand Jury subpoena or other appropriate order of a court. In the absence of such authority, access to records upon request may be appro by the courts depending upon the nature of the investigation and the scop of the request.

Generally, the case decisions have divided on the distinctio between requests for information needed to establish the elements of a criminal offense or to aid in discharging essential governmental responsibilities and requests having no such basis. Access to records based on a request in the first category has been approved due to the reasonableness of the bank's response to a public duty to disclose the information. Requests of the latter type may be prompted by an agency desire simply to monitor the existence and degree of association of individuals or groups. Such review of bank records for intelligence gathering per se may be difficult, if not impossible, to defend against claim of First Amendment violation.

For example, in Pollard v. Roberts, 283 F. Supp. 248 (ED Ark. 1968), affirmed 393 U.S. 14, a prosecutor, conducting an investigation of allegations of vote buying, sought access to the bank account of the political group named. The account data would have sho not only payments made by drafts upon the account but also the amount of political contributions to the account and the identities of the contri The court enjoined production of the account data except for the record expenditures and expressed the opinion that the information regarding upon the account was appropriately available to the prosecutor looking alleged vote buying but that the other records of contributors' account protected by the First Amendment.

The theory at work here is that the right of people to asso in groups to advocate and promote legitimate political, social or econ action is protected even though such action may be controversial. If associated groups or their objectives are unpopular, revelation of the

identities of members may provoke reprisals from those opposed and fear of such reprisals may discourage the free exercise of constitutional rights. Therefore, governmental action which has the effect of impairing enjoyment of the First Amendment is carefully limited by the courts.

The court noted that disclosure of the bank records identifying the contributors to a political association might be approved only where there is a showing of a rational connection between the disclosure of such information and a legitimate government end and that the government interest is cogent and compelling. Moreover, even when disclosure would be approved under such conditions, a sweeping and indiscriminate disclosu in excess of the legitimate need would not be approved.

A similar result occurred in The Fifth Avenue Peace Parade Committee, et al. v. J. Edgar Hoover, et al., 70 Civ. 2646, SDNY (1972), (unreported)(appeal pending) where the plaintiffs sought an injunction prohibiting access to account information in the absence of a subpoena. The court dismissed the suit on the grounds that the governme interests were legitimate and that the plaintiffs had not shown any basis for their claim that the information obtained from the bank interfered with the enjoyment of their First Amendment rights.

In this case, the FBI sought information concerning the numb of persons who might be expected to attend protest activities at Washingt D.C., on November 14, 15, and 16, 1969. Further, information was sought as to any indication that acts of violence might occur. One source of such information was the bank account established to provide transportation for participants from New York City. The total of the deposits would provide an indication of the extent of the transportation required a therefore the numbers of participants that could be expected.

Access to bank records in investigations of criminal offense having no First Amendment implications provides fewer legal difficultie A good example is United States v. Gross, 416 F2d 1205 (8th Cir. 1969) cert. den. 397 U.S. 1013, in which a prosecution for mail and wire fra arising out of a check kiting scheme was based on a review of bank reco The defendant claimed the records were inadmissible because they were private, were obtained without the consent of the defendant and were the product of an unlawful search and seizure. The court disagreed and hel

that such records are the property of the customer and the customer has no standing to object on Fourth or Fifth Amendment grounds. While the records in this case were obtained by subpoena, the important principle to be observed is that the records do not belong to the depositor but to the bank. Therefore, even in the absence of a subpoena, access to bank records pursuant to an official request in a criminal case would not taint the evidence.

Consistent with this result is the decision in United States v. Gerhart, 275 F. Supp. 248 (SD W. Va. 1967) in which the court approved the practice of the FBI in examining checks presented to the bank for payment by a gambler who had accepted them from patrons of his gambling establishment. The court's decision was based on the principle that once the checks had been honored at the bank they became the property of the bank and the gambler lost all legal interest in them.

General guidelines may be drawn from the above authorities to describe the limitations on FBI access and use of the information in bank records. They are available principally by subpoena but also by request where the need for them can be demonstrated in a criminal case or in a security matter involving important government interests such as those in the Fifth Avenue case. Not the Fourth or Fifth Amendments, but the First Amendment, stands in the way of unlimited review of bank records and the rights it protects may be found to be more important than the government interest behind the request even though the request is formalized in a subpoena. Only impartial judicial analysis of each case wherein such conflict occurs will resolve the issue whether disclosure by the bank is necessary or proper.

In the course of liaison contacts, bank representatives may express a different view in these matters because the banks stand in a special relationship with the account holders. Some courts have recognized an implied contractual requirement on the banks in favor of their depositors to keep account records free from outside scrutiny until disclosure is compelled by court order. Peterson v. Idaho First National Bank, 367 P2d 284 (Idaho 1961) (individual depositor); Milohnich v. First National Bank of Miami Springs, 224 So. 2d 759 (District Court of Appeal, Florida, 1969) (corporate depositor); Brex v. Smith, 146 A24 (Court of Chancery, New Jersey, 1929) (class action - depositors protected were all members of the

Newark, New Jersey, Police Department) However, it should be noted that the court in the Fifth Avenue case also dismissed the suit against the bank, from which the record information had been obtained, on the ground that by simply acceding to the FBI request the bank did nothing to intrude upon the constitutional rights of the plaintiffs.

Review of bank records should be requested only when needed to meet a legitimate investigative objective. Where such access is denie or where established policy of denial makes such request unnecessary, and the information is still desired, advise the Bureau promptly.

(Security pages attached)

EXHIBIT 64-1

1
1
1

EX-116

SAC, Albany

5/22/69

REC-20

Director, FBI

1
1
1
1
1
1

USE OF CONCEALED RECORDING DEVICES IN COVERING PUBLIC APPEARANCES BY BLACK AND NEW LEFT EXTREMISTS

Each public appearance by Black and New Left extremists represents a potential for obtaining admissible evidence for possible prosecution under Title 18, U. S. Code, Section 2383 (Rebellion and Insurrection), Section 2384 (Seditious Conspiracy), and Section 2385 (Advocating Overthrow of the Government). Since appearances by such extremists who regularly make highly inflammatory statements have substantially increased, the Bureau considers it necessary to reiterate and expand on prior instructions issued to insure that appropriate action is being taken from an evidentiary standpoint. In this connection, the use of concealed recording devices should become an integral part of overall efforts to secure the data necessary to prove a violation.

Coverage of these Black and New Left extremists must be such that an office will learn in advance of proposed public speaking engagements. The office responsible for the locale where the speech is scheduled must make immediate plans for the taping of remarks through use of a concealed recording device. By utilizing such a device a verbatim transcript will be readily available and the amount of necessary corroborating evidence will be reduced. When use of a concealed recording device appears to be warranted and can be accomplished with full security, furnish the Bureau with details pertaining to the appearance plus data which it is expected will be obtained.

Include also the recommendation of the SAC. No recording device is to be used until specific Bureau authority has been obtained.

2 - All Offices
1 - (STAG)

SEE NOTE PAGE TWO

TELETYPE UNIT

(320) JUN 10 1969

Contents not to be disseminated outside official proceedings by any agency to which loaned to unauthorized persons without the express approval of the FBI

MAILED 3
MAY 22 1969
FBI

UNRECORDED COPY FILED IN

Letter to SAC, Albany
RE: USE OF CONCEALED RECORDING DEVICES

Recordings obtained are to be handled as evidence and should be reviewed in the field office responsible for obtaining same. Inflammatory remarks are to be set forth verbatim and other pertinent data summarized in a letterhead memorandum. A copy of the tape should then be forwarded to the Bureau.

If it is not possible to cover public appearances through use of a concealed recording device, or otherwise recorded for evidentiary use, the Bureau is to be advised in the cover communication transmitting the letterhead memorandum why such action was not possible.

In those instances where copies of taped recordings of speeches by Black and New Left extremists are furnished by police departments, for example, it will be necessary to similarly review the material, report the information as outlined above, and forward a copy to the Bureau. Additionally, under these circumstances, you should advise in the cover communication of the location of the original tape and the identity of the individual who can introduce it in a court of law.

It is expected that all Agent personnel engaged in Racial and New Left investigations will be familiar with the contents of this communication.

NOTE:

See memorandum G. C. Moore to Mr. W. C. Sullivan, dated 5/21/69, captioned as above, and prepared by

EXHIBIT 64-2

SAC, New York

April 24, 1964

PERSONAL ATTENTION

Director, FBI

1 -
(Field Supervision)
1 -
1 -

COMMUNIST PARTY, USA
RACIAL MATTERS
COMMUNIST INFILTRATION OF RACIAL MATTERS
INTERNAL SECURITY - C

ReNYlet 4/14/64, copy to Atlanta, which set out an analysis and evaluation of the New York Office's aspects of captioned investigation along with certain recommendations relative to future investigative activity in this matter. Relet was in response to a solicitation made of receiving offices by Bulet 4/1/64.

Instant communication is for the purpose of commenting upon New York's analysis concerning an individual concerning whom New York is origin and who is a key figure in the racial movement today.

It is stated in referenced New York letter it is not believed that he is in contact with other CP leaders, or that he is sympathetic to the CP cause." This appears to be a conclusion of the New York Office which could dictate the course of investigation relating to Rustin as well as involvement in captioned matter. The Bureau, therefore, desires to make a number of observations to insure that there is no de-emphasis of our interest in Rustin and that he is properly evaluated in light of all we know about him. Just prior to the above quoted portion of referenced New York letter, it is stated that there has not been any indication that has contacted any Party leaders except and that asked advice as to how he could escape from speaking at a rally sponsored by the Emergency Committee for Disaster Relief to Cuba. It is elsewhere stated in referenced New York letter that in the recent past was in contact with As you are aware, is a high Party functionary and Chairman of the National Negro Commission of the Party. The fact that he is an important

Tolson
Belmont
Mohr
Casper
Callahan
Conrad
DeLoach
Evans
Gale
Rosen
Sullivan
Tavel
Trotter
Walters
Soyars
Tele. Room
Holmes
Gandy

1 - Atlanta

1 -

(3)

MAIL ROOM

RECORDED
DEC 25 1964
APR 29 1964
This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized persons without the express approval of the FBI.

Letter to New York
RE: COMMUNIST PARTY, USA
NEGRO QUESTION
COMMUNIST INFLUENCE IN RACIAL MATTERS

figure in the Party is undoubtedly known to and the fact that would seek advice is believed to be of prime significance.

The Bureau does not agree with the expressed belief of the New York Office that is not sympathetic to the Party cause. While there may not be any direct evidence that is a communist neither is there any substantial evidence that he is anticommunist. Relet pointed out, in substantiation of the belief that is not sympathetic to the Party cause, that he, as late as 4/9/64, in addressing a meeting at , New York, said he was opposed to the communist movement. This the Bureau takes as a self serving statement on the part of Rustin and it is understandable that he would make such a public statement, even without regard to his true beliefs, in light of the recent adverse publicity he received, particularly in New York City newspapers, for his involvement in the public school boycott in New York City earlier this year and subsequent exposure of his contact with the Soviet mission to the United Nations.

It is also desired to call your attention to the portion of relet dealing with your office's coverage in connection with captioned matter. It is stated at the top of page 2 of relet "It is felt that this coverage is adequate..." In light of the extreme importance which the Bureau has attached to instant matter and the ever increasing importance of the racial and civil rights issues on the national scene, the Bureau cannot adjudge as adequate any coverage which does not positively provide to the Bureau 100 per cent of the intelligence relating to the communist influence in racial matters. Obviously we are not securing all the information that is pertinent and needs to be secured. Our coverage, therefore, is not deemed as adequate.

The matters discussed above are being pointedly brought to your attention to insure that there is no stone unturned in the investigation concerning and that no stone being left unturned in your efforts to increase coverage in this area both as to quality or quantity. The Bureau expects that you will give this matter your closest personal attention to insure the necessary attention is being given by Agents and supervisory personnel.

EXHIBIT 64-3

6/27/63

Airtel

To: SAC, Albany

From: Director, FBI

RACIAL MATTERS

In order that the Bureau's information will be complete and absolutely current, it is essential that all offices promptly submit information concerning racial demonstrations, actions, arrests arising out of racial matters, results of court action, and any other pertinent information concerning racial activity. Steps should be taken to furnish pertinent information so that it will be received prior to midnight on the day of occurrence. Activities which occur after midnight should also be submitted by telephone. This will be sufficient time at the Bureau to review and coordinate the information prior to the beginning of the next regular work day. When activities continue throughout the night, the Bureau is to be telephonically advised of the current status of the activities before 7:00 a. m., Eastern Daylight Saving Time.

Each office must also assume responsibility for following up scheduled racial activity and promptly advising the Bureau of subsequent developments. Whenever the Bureau has been advised that a meeting, demonstration, or other pertinent activity will take place, coverage must be continued and the Bureau promptly informed as to whether the anticipated activity actually occurred, and pertinent details of what transpired. If a planned racial activity is cancelled or postponed, the Bureau should also be promptly advised.

2 All Continental

MAILED 25
JUN 28 1963
COMM-FBI

SEC- 18

19 JUL 1 1963

Note: See Rosen to Belmor memo 6-26-63, same capu

(4)

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized person-nel without the express approval of the FBI.

EXHIBIT 64-4

November 4, 1970

Airtel

To: SAC, Albany

From: Director, FBI

PERSONAL ATTENTION

BLACK STUDENT GROUPS ON
COLLEGE CAMPUSES
RACIAL MATTERS
BUDED: 12/4/70

Increased campus disorders involving black students pose a definite threat to the Nation's stability and security and indicate need for increase in both quality and quantity of intelligence information on Black Student Unions (BSU) and similar groups which are targets for influence and control by violence-prone Black Panther Party (BPP) and other extremists. The distribution of the BPP newspaper on college campuses and speakers of the BPP and other black extremist groups on campuses clearly indicate that campuses are targets of extremists. Advance information on disorders and violence is of prime importance. We must target informants and sources to develop information regarding these groups on a continuing basis to fulfill our responsibilities and to develop such coverage where none exists.

EW 113 REC-84

Effective immediately, all BSUs and similar organizations organized to project the demands of black students, which are not presently under investigation, are to be subjects of discreet, preliminary inquiries, limited to established sources and carefully conducted to avoid criticism, to determine the size, aims, purposes, activities, leadership, key activists, and extremist

2 - All Offices

SEE NOTE PAGE TWO

NOV 10 1970

(121)

MAIL ROOM ☐ TELETYPE UNIT ☐

Copy of this document stolen M.P.D. - Pd. 3/8/71

interest or influence in these groups. Open individual cases on officers and key activists in each group to determine background and if their activities warrant active investigation. Submit results of preliminary inquiries in form suitable for dissemination with recommendations regarding active investigations of organization, its leaders, and key activists. These investigations to be conducted in accordance with instructions in Section 87D of the Manual of Instructions regarding investigations of organizations connected with institutions of learning.

Each office submit by airtel to reach Bureau by 12/4/70, a list of BSUs and similar groups by name and school which are or will be subjects of preliminary inquiries. This program will include junior colleges and two-year colleges as well as four-year colleges. In connection with this program, there is a need for increased source coverage and we must develop network of discreet quality sources in a position to furnish required information. Bear in mind that absence of information regarding these groups in any area might be the fault of inadequate source coverage and efforts should be undertaken immediately to improve this coverage.

A prior inquiry or investigation of a group or individual is no bar to current inquiries and inquiries should not be postponed until submission of airtel due 12/4/70. Initiate inquiries immediately.

I cannot overemphasize the importance of expeditious, thorough, and discreet handling of these cases. The violence, destruction, confrontations, and disruptions on campuses make it mandatory that we utilize to its capacity our intelligence-gathering capabilities.

Above instructions supersede instructions in Bureau letter to all offices 1/31/69, same caption.

NOTE: See memorandum G. C. Moore to Mr. C. D. Brennan, dated 11/3/70, captioned "Black Student Groups on College Campuses. Racial Matters," prepared by

EXHIBIT 65

Mr. Tolson 10/29/70

The Executives Conference

EXECUTIVES CONFERENCE - 10/29/70

PROPOSED INTENSIFICATION OF CERTAIN INVESTIGATIONS IN THE SECURITY FIELD

Those in attendance at the Conference today included Messrs. Mohr, Sullivan, Bishop, Brennan, Callahan, Casper, Conrad, Felt, Gale, Rosen, Tavel, Walters and Beaver.

The Conference examined the question of whether the current situation demands intensification of certain security-type investigations. In particular, reference was made to (1) lifting of the existing moratoriums on report writing and investigation in Priority II and Priority III, Security Index cases, (2) the intensification and expansion of investigations of black, white and ethnic group extremists and (3) development of selected contacts of individuals who could be targeted against Soviet intelligence personnel [illegible]. These items are being individually considered below.

Lifting of existing moratorium on report writing and investigation in Priority II and Priority III, Security Index cases.

There are approximately 10,690 individuals currently included in Priority II and Priority III of the Security Index. Virtually no investigation has been conducted regarding approximately 6,924 of these individuals since the imposition of the moratoriums in February, 1969. Many of these individuals have changed residence and/or employment and their whereabouts are unknown. To fulfill our current responsibilities, we should know where they are.

100-93

EX-112 6 NOV 24 1970

1 -
1 -

(10)

CONTINUED - OVER

MAIL ROOM ( ) TELETYPE UNIT ( )

C2-1970

Memorandum to Mr. Tolson
RE: EXECUTIVE CONFERENCE - 10/29/70

If the moratorium is rescinded, the field will be required to reopen approximately 2,215 Priority II cases for reports and approximately 4,709 Priority III cases to verify residence and employment. Opening of these cases would be staggered with a proportionate number opened each month to insure all are reopened by June 30, 1971.

Black Student Unions and similar groups on college campuses.

In 1967, black students began forming their own groups to project their demands, many of which indicate a commitment to black nationalism. These groups are autonomous and have a strong sense of common purpose. The Black Panther Party has made open efforts to organize the Black Student Unions nationally and other black extremist groups have used these organizations to project their extremism and separatism.

Campus disorders involving black students increased 23 per cent in the 1969-70 school year over the previous year indicating that these groups represent a real potential for violence and disruption. In the past, we have opened cases on these organizations following evidence of black extremist activities; however, in view of the vast increase in violence on college campuses, it is felt that every Black Student Union and similar group, regardless of their past or present involvement in disorders, should be the subject of a discreet preliminary inquiry through established sources and informants to determine background, aims and purposes, leaders and key activists. It is estimated that this would cause the field to open approximately 4,000 cases involving organizations and the key activists and leaders connected therewith.

Students for a Democratic Society (SDS) and militant New Left campus organizations.

At the end of the 1969-70 academic year, the various factions of the SDS, excluding the Weatherman faction, which has become an organization in its own right, consisted of a membership of approximately 2,500 individuals. In addition to the SDS groups, there are about 252 totally independent groups on college campuses which are pro-communist New Left-type and are followers of the SDS ideology. It is estimated

CONTINUED - OVER

that the membership of these organizations consists of about 4,000 members. At the present time, we are conducting investigations of all of these organizations but have not, in the past, initiated investigations of the individual members of such organizations, with the exception of the key activists and individuals who are known to be violence prone.

Major campuses across the nation have been completely disrupted by violent demonstrations, bombings, arsons and other terroristic acts perpetrated by these organizations. It is, therefore, proposed that cases be opened on all individuals belonging to such organizations to determine whether they have a propensity for violence. If this proposal were implemented, it is estimated that the field would be required to open approximately 6,500 new cases.

CONTINUED - OVER

EXHIBIT 66-1

TO : Director
Federal Bureau of Investigation

DATE: October 22, 1974

FROM: Henry E. Petersen
Assistant Attorney General
Criminal Division

SUBJECT: Gathering and Reporting Data Regarding Civil Disturbances

Reference is made to your memorandum to the Attorney General dated August 6, 1974, captioned as above which enclosed a copy of a teletype dated July 31, 1974 from your Baltimore field office reporting a disturbance at the Glen Burnie Fair, Glen Burnie, Maryland, July 30-31, 1974. You requested guidelines with regard to gathering and reporting information concerning civil disturbances and suggested that your reporting be limited to those particular situations which are of such a serious nature that Federal military personnel may be called upon for assistance.

While the Department recognizes and appreciates that the FBI expends a significant amount of manpower in gathering and reporting data on civil disturbances, it also feels that the guideline suggested is not practical. If such a criterion were used, it would place the burden on the Bureau of determining, at least initially, whether military personnel may ultimately be needed in connection with a particular disorder. As you know, that responsibility legally rests with the President, not with the FBI, and is based on the advice and information he receives from the Attorney General. One source of such information would, of course, be the FBI. In only rare and extreme situations in the country's history have Federal military forces been requested to put down domestic disorders. More often, National Guard units have been activated by the state to supplement local and state police forces in handling serious disturbances.

In that regard, the Constitution, Article IV, §4 provides that the Federal government would protect the states, upon

DEC 11 74

application of the legislature or the executive, against domestic violence. On April 1, 1969, the President designated the Attorney General as chief civilian officer to coordinate the Government's response to civil disturbances. Without timely information the President, the Attorney General, and other interested Government officials and agencies could not adequately meet the constitutional responsibility to protect the nation's security. See also, 10 U.S.C. §331, et. seq. While this power is rarely used, it is incumbent upon the Federal government to remain abreast of potential situations where it may be requested or invoked.

It is our opinion that the FBI, as the investigative arm of the Department, should continue to gather and report on significant civil disorders throughout the country so that the Attorney General and appropriate Government agencies may be fully informed of all situations which may develop into major incidents of violence. This information should include all significant incidents of civil unrest and should not be restricted to situations where, in the judgment of the Bureau, military personnel eventually may be used. On the other hand, the FBI should not report every minor local disturbance where there is no apparent interest to the President, the Attorney General or other Government officials and agencies.

The Bureau should continue to report all disturbances where there are indications that extremist organizations such as the Communist Party, Ku Klux Klan, or Black Panther Party are believed to be involved in efforts to instigate or exploit them. These situations should be reported promptly and fully because of the great potential for rapid nationwide exploitation. As Deputy Assistant Attorney General Kevin T. Maroney testified before the Committee on Internal Security of the House of Representatives on February 20, 1974, the violent nature of an organization may be a sufficient basis for investigating so that the Attorney General may be apprised of potential civil disturbances. Of course, any possible violations of Federal law, such as the anti-riot statute 18 U.S.C. §2101, should be investigated fully.

Regarding coverage of potential disorders, the Bureau, through its liaison with local and state police departments and other law enforcement agencies, should be aware of disturbances and patterns of disorder which would be of interest to the President, the Attorney General, and other Government officials and agencies, and should make timely reports of significant disturbances, even when no specific violation of Federal law is indicated. Such situations would cover, but would not be limited to, cases where (1) extremist groups or individuals are involved or may attempt to exploit the situation, (2) the disorder may develop into a major disturbance, (3) it may become a matter of national attention, (4) the disturbance or disorder is of obvious interest to the President, Attorney General, or the Department, or (5) the incident is of particular interest to the Secret Service in fulfilling its protective function. You should also insure that copies of all such reports are disseminated promptly to the Department's Analysis and Evaluation Unit in the office of the Deputy Attorney General, and where appropriate, you should continue to keep local U.S. Attorneys' offices advised.

The Department recognizes that assessing the need to report information regarding civil disturbances requires some judgment in the initial stages on the part of the Bureau's field divisions and FBI Headquarters, and it is urged that whenever possible the Bureau focus its reporting efforts on those incidents and patterns of disorders which may fit the above criteria, rather than reporting each and every relatively insignificant incident of a strictly local nature coming to its attention.

RECEIVED
FBI

EXHIBIT 66-2

UNITED STATES GOVERNMENT

Memorandum

Clarence M. Kelley
Director
Federal Bureau of Investigation
John E. Pommerening
Assistant Attorney General
For Administration
Federal Employee Security Program
Executive Order 10450

DATE: NOV 19 1974

MAY 21 1975

This is in response to your memoranda, entitled as above, dated May 8, 1974 and August 19, 1974, directed to the Deputy Attorney General, Criminal Division, and referring to problems which have arisen as a result of the promulgation of Executive Order 11785 which amends Executive Order 10450. In view of the involvement of my staff in these matters, I will undertake to answer your questions with the concurrence of the Criminal Division.

As you know this matter has been under continuing review both in the Task Force, chaired by a representative of this office, of working level representatives of various agencies in the security field and is now under study to a lesser degree in Project #10 of the "Domestic Council on Privacy".

You ask that the Department; (a) provide specific instructions to the Bureau to conduct intelligence-type investigations to identify and determine the activities of organizations now described in the amended Section 8(a)(5) of Executive Order 10450; (b) furnish guidelines to be used by the Bureau in initiating investigations of individuals under the captioned matter pursuant to Executive Order 10450 and specifically, criteria to be utilized in determining whether available information is a sufficient basis for investigation.

Under the amendment to Section 8(a)(5) of Executive Order 10450, we now have only two types of organizations; (1) those which unlawfully advocate or practice the commission of acts of force or violence to prevent others from exercising their rights under the constitution or laws of the United States or

any State, (2) or which seek to overthrow the Government of the United States, or any State or subdivision thereof, by unlawful means. (Emphasis added).

Of course, the key words which are underlined indicate that the investigation should be initially based on a possible violation of a federal (such as the Smith Act) or state statute prohibiting unlawful advocacy or the commission of any unlawful act of force or violence. However, in order for the Bureau to detect organizations with a potential of the above nature, it is important that the investigation proceed on the basis of information indicating that the organization may be of the nature mentioned. It is not necessary that a crime occur before the investigation is initiated, but only that a reasonable evaluation of the available information suggests that the activities of the organization may fall within the proscription of the Order. The most recent example of the type of organization, that you have advised is becoming more prevalent, is the small but dedicated to violence, Symbionese Liberation Army (SLA). Organizations of this nature would clearly fall within the Order and should be investigated as soon as information is available indicating their potentiality for violence and of course, if possible, prior to the fulfillment of their purposes.

It is true that Executive Order 11785 eliminated the prior communist, totalitarian, fascist, and subversive characterizations and definitions, but there was no intention of restricting the investigations of such organizations if their programs call for acts of force or violence or the unlawful advocacy of the commission of acts of force or violence in furtherance of these programs.

It is not possible to set definite parameters covering the initiation of investigations of potential organizations falling within the Order but once the investigation reaches a stage that offers a basis for determining that the activities are legal in nature, then the investigation should cease, but if the investigation suggests a determination that the organization is engaged in illegal activities or potentially illegal activities it should continue.

It follows in answer to your second question that individuals who are active either as members of or as affiliates of

organizations described above should be investigated when information is received indicating their involvement. The same yardstick indicated above for organizations in determining whether the investigation should continue, should apply concerning individuals and when a determination can reasonably be made that the individuals activities, either within the organization or as an individual, do not appear to be in violation of any law, then the investigation should cease.

RECEIVED FROM
MAY 21 1975
FBI

EXHIBIT 67

BLACK STUDENT GROUPS ON COLLEGE CAMPUSES

On October 29, 1970, the Executive Conference approved a program to conduct discreet preliminary inquiries, limited to established sources, on Black Student Unions and similar groups, their leaders, and key activists to determine if the activities of these groups and individuals warrant further active investigation. On November 4, 1970, instructions were sent to the field to implement this program. The number of campuses involved is about 500, representing approximately 750 black student groups. The officers will represent about 2,500 cases and the key activists another 250. The potential for new cases in this program will approximate 3,500 cases. This program includes junior colleges and two-year colleges as well as four-year colleges.

DOMESTIC INTELLIGENCE DIVISION INSPECTION
1/12/71

(4-H)

EXHIBIT 68-1

...E OF
...NEY GENERAL

April 12, 1962

FOR: The President

FROM: The Attorney General

The Attorney General April 12, 1962

Director, FBI

INCREASE IN THE PRICE OF STEEL

In connection with your request of April 11, 1962, that this Bureau interview of Bethlehem Steel Company, and reporters concerning statement quoted in the press to the effect that there should not be any price rise in steel even after the new labor contract goes into effect on July 1, there is set forth below the result of our investigation.

recalled speaking to Associated Press, Philadelphia, Pennsylvania, and "The Wall Street Journal," Philadelphia, and possibly a reporter from Wilmington, Delaware, after a Bethlehem Steel Company stockholders' meeting in Wilmington on April 10, 1962. At the close of the meeting and spoke to him about steel prices. Mr. said that he told them "I don't wish to make a statement today about prices and I will give you the reason why. We do not have additional labor costs over what we have now until July first." He also recalled that he told them "We are doing what we can to hold the line."

Mr. advised that he did not make the statement attributed to him in the April 11, 1962 edition of "The New York Times" in an article written by Robert Metz to the effect that there should not be any price rise even after the new labor contract goes into effect on July 1. Mr. also advised that no press releases were made or considered by Bethlehem Steel Company on April 10, 1962, and that the only release made relating to this matter was made on April 11, 1962. It stated "Bethlehem Steel Company announces new prices for its rolled steel products. The new prices, which become effective April 12, represent an average increase of approximately 3-1/2 per cent."

Robert Metz, reporter for "The New York Times," advised that he was not present when Mr made the comments in question and that he prepared his column from material furnished by the Washington Bureau of the Associated Press.

66-077 O - 76 - 46

The Attorney General

of the Associated Press in Philadelphia, stated that he of "The Wilmington Evening Journal," and of "The Wall Street Journal," Philadelphia, talked to Mr. following the Bethlehem Steel Company stockholders' meeting on April 10, 1962, and asked if that company intended to raise steel prices. Mr. answered that he could not comment on that at this time and stated that the labor contract "does not go into effect until July 1. I'm not going to explain it. You can interpret it any way you want."

When questioned further Mr. remarked "We shouldn't raise prices now. We are facing stiffer competition in industry and foreign markets. What we should be doing is cutting prices."

of "The Wall Street Journal" in Philadelp declined to be interviewed on this or any other matter in the absence of a subpoena stating that this was in accordance with his company's policy.

of "The Wilmington Evening Journal" recall that Mr. did not make the statement attributed to him in the article written by Robert Metz. He said that in connection with the price of steel Mr. stated "We should be trying to reduce the price of steel if at all possible, due to intensive foreign competition." When questioned specifically as to whether Bethlehem Steel Company intended to increase the price of steel now or in the future Mr. stated "The wage increase doesn't happen till the first of July. Therefore, we will have to reserve comment on prices until then."

public relations counselor, Washington, D. C., was interviewed concerning the intended press release whic was reportedly cancelled at the last minute. advised that he had no knowledge of any press release other than the one issued on April 11, 1962, announcing new prices for Bethlehem Steel Company's rolled steel products. He said he had no knowledge of the withdrawal of any press releases.

The results of our investigation were furnished orally to Assistant Attorney General Katzenbach by Assistant Director Courtney A. Evans of this Bureau on April 12, 1962.

1 - The Deputy Attorney General

EXHIBIT 68-2

FBI/STAT
AUSTIN, TEXAS
PAGE 1 of 4
HU 2

NOTE

August 19, 1964

Mac DeLoach called me this morning to say that his information was that King had been advised by Joe Rauh that in this morning's meeting you were not going to let the group discuss seating of the "freedom party" delegation, but would take the initiative. King was, last night, pondering on whether to refuse to come to the meeting on the grounds of short notice. (Hardly a tenable position in view of the attached telegram of the day before yesterday).

Another interesting fact is that Rustin called me yesterday to ask whether he was to attend the meeting. I told him that so far as I knew it was for the leaders only and that his information of yesterday was the first I knew about his intentions to accompany MARTIN LUTHER Dr. King. He was a little unhappy, but I don't see how, under any circumstances, he could have been included.

Deach information was that if King did show (and I have no word either by telephone or by telegram as of 9:30 this morning indicating that he will not attend) he was instructed to "speak up to the President".

...Files as of 8/26/64

COPY
LYNDON BAINES JOHNSON LIB

EXHIBIT 68-3

[Retyped by SSC]

To: Mr. Walter Jenkins August 25, 1964

From: C. D. De Loach

Subject: MORNING SUMMARY OF ACTIVITIES, DEMOCRATIC NATIONAL CONVENTION, ATLANTIC CITY, NEW JERSEY AUGUST 25, 1964

The following information is a summary of data which has come to our attention during last night and early this morning, August 25, 1964:

MARTIN LUTHER KING

A highly reliable source advised at midnight, last night, that Reverend King received a call from [ ] in New York City. King said that he was very encouraged by the way things were going; that there had been no demonstrations by the Mississippi Freedom Democratic Party (MFDP) and none were expected from that source.

As you were previously advised, [ ] had indicated that he was not planning to come to Atlantic City; however, King requested last night that [ ] should come to the Convention and [ ] said that he would be down, and that he would arrive in Atlantic City sometime during the morning of August 25, 1964. King then told [ ] that there were enough minority votes to bring the seating of the MFDP to the floor of the Convention.

At 10:40 a.m., August 25, 1964, we were advised that [ ] was in Reverend King's suite in Atlantic City.

[ ] contacted [ ] of the MFDP at the Gem Hotel, and [ ] inquired whom Reverend King should talk to this morning. [ ] said she thought King should see Governor Endicott Peabody of Massachusetts, Mayor Robert Wagner of New York City, Governor Edmund G. (Pat) Brown of California, Mayor Richard Daley of Chicago, and Governor John W. King of New Hampshire. The purpose of King's seeing these individuals is to urge them to call the White House directly and put pressure on the White House in behalf of the MFDP.

MORNING SUMMARY OF ACTIVITIES, DEMOCRATIC NATIONAL CONVENTION, ATLANTIC CITY, NEW JERSEY, AUGUST 25, 1964

At this same time [ ] from Reverend King's staff spoke to [ ] of the MFDP and told her that the MFDP delegates should not think in terms of being a minority but should regard themselves as the only representatives in Mississippi. [ ] then told [ ] that, "Off the record, of course, you know we will accept the Green compromise proposed." This refers to the proposal of Congresswoman Edith Green of Oregon.

A [ ] of the Washington State Delegation then spoke to [ ] of Reverend King's staff. [ ] apologized to [ ] because she was unable to get her group to come to the forefront for the MFDP. [ ] commented that the Johnson Administration is putting pressure on everybody and that people who were previously friendly are getting harder to find.

BOARDWALK DEMONSTRATIONS

Approximately 120 demonstrators belonging to the Congress of Racial Equality (CORE) and the Student Non-Violent Coordinating Committee (SNCC) spent all night on the boardwalk in front of Convention Hall. This was a silent vigil and there were no incidents.

RALLY SCHEDULED FOR TUESDAY NIGHT, AUGUST 25, 1964, 8 P.M., PRICE MEMORIAL CHURCH, ATLANTIC CITY, N.J.

At last night's SNCC and CORE vigil outside Convention Hall handouts were being distributed announcing that a civil rights rally presenting Dick Gregory and Caleb Peterson would be held at Price Memorial A.M.E. Church, 525 Atlantic Avenue, at 8 p.m. Coverage of this rally has been arranged.

PROGRESSIVE LABOR MOVEMENT

We have been informed by reliable New York sources that a group of Progressive Labor Movement (PLM) members is traveling to Atlantic City on Wednesday, August 26, 1964. Self-admitted Communist Party (CP) member [ ] is heading this group. [ ] was the leader of the student group which spent this past summer in Cuba defying the State Department ban.

AFTERNOON SUMMARY OF ACTIVITY, DEMOCRATIC NATIONAL CONVENTION, ATLANTIC CITY, NEW JERSEY, AUGUST 25, 1964

REVEREND MARTIN LUTHER KING

Shortly before 4 p.m. this afternoon, August 25, 1964, [ ] of the California Delegation asked King to meet with the California delegates at 7 p.m. August 25, 1964. Previously King agreed to meet with the New York State delegates at 7:30 p.m. tonight.

MFDP leaders have asked Reverend King to call Governor Egan of Alaska and Governor Burns of Hawaii in an attempt to enlist their support. According to the MFDP spokesmen, the Negro Mississippi Party needs these two states plus California and New York for the roll call tonight.

Source: ELSUR

SYMPATHETIC PICKETING

FBI sources report that CORE has been undertaking picketing in several cities urging support for the MFDP. A group of 25 demonstrators in Chicago, for example, picketed the Morrison Hotel urging that the Illinois Delegation support the Negro Mississippi delegates. Similar picketing was conducted by CORE in St. Louis yesterday.

STUDENT NON-VIOLENT COORDINATING COMMITTEE (SNCC)

At 1 p.m. today the FBI office at Jackson, Mississippi, reported that eight Mississippi summer workers left Mississippi today headed for Atlantic City.

press credentials, to get into Convention Hall last night.

It was also disclosed that they are going to be watching to find out whether the staff of the Sergeant-at-Arms will be checking badge numbers with the names printed on the badges and they are going to be sure that the gatekeepers are not discriminating against Negroes. If such discrimination takes place, they plan to make a strong protest and demand that Convention officials check every individual's badge as they enter the hall.

Sometime this afternoon, [ ], et al, plan to make some sort of public announcement regarding their intentions but they were vague as to details.

Source: CONF SOURCE

MARTIN LUTHER KING - [ ]

Shortly after noon [ ] talked to a man who was trying to get in touch with Martin Luther King. This man wanted King to talk to MFDPdelegates at the Union Temple Baptist Church at 1 p.m., this afternoon. Congresswoman Green is supposed to make a talk there and [ ] and a representative of the National Council of Churches are scheduled to be present.

According to the man who talked to [ ], the MPDP delegates are standing on their decision to reject the findings of the Credentials Committee. The delegates want guidance from King.

[ ] promised that Reverend King would be at this meeting.

[ ] then spoke to a representative of the National Council of Churches and said that according to Hubert Humphrey, if the two delegates and two alternates of the MFDP would be seated elsewhere as a group on the floor. In a subsequent conversation [ ] was told that the MFDP delegates and alternates would be seated in the

EXHIBIT 68-4

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

June 4, 1965

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C.

Dear Mr. Watson:

Reference is made to the President's request to me earlier today while I was at the White House with respect to the telegram he received from the artists. Accordingly, attached are memoranda containing the results of an FBI name check of Hannah Arendt and twenty other individuals mentioned in that telegram.

When this letter of transmittal is detached from its enclosures bearing a security classification, this letter can be declassified.

Sincerely yours,

J. Edgar Hoover

Enclosures (18)

COPY
LYNDON BAINES JOHNSON L

EXHIBIT 68-5

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

July 15, 1966

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C.

Dear Mr. Watson:

On July 12, 1966, Mr. Jake Jacobsen, Legislative Counsel to the President, requested name checks on individuals whose names appeared in the "Congressional Record" as signers of letters to United States Senator Wayne Morse, expressing support for Senator Morse's criticism of United States policy toward Vietnam.

There are enclosed eleven memoranda concerning individuals who may be identical with certain of the individuals whose letters to Senator Morse were printed in the "Congressional Record" of July 11, 1966.

Based on the identifying information available, our files contain no identifiable pertinent information concerning the remainder of the individuals whose letters appeared in that issue of the "Congressional Record."

Sincerely yours,

J. Edgar Hoover

Enclosures - 11

COPY
LYNDON BAINES JOHNSON

EXHIBIT 68-6

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 31, 1975

SULLIVAN MEMORANDA TO JOHN DEAN
(COVERAGE OF TELEVISION PRESENTATION,
SENATE FOREIGN RELATIONS COMMITTEE)

Reference is made to my letter of January 30, 1975, setting forth information in the "Sullivan memoranda." Your attention is specifically invited to the allegation that on February 19, 1966, Marvin Watson called from the White House advising the President wanted the FBI to cover Senate Foreign Relations Committee television presentation with a view toward determining whether Senator Fullbright and the other Senators were receiving information from Communists.

We are unable to locate a memorandum of the telephone call referred to; however, there is a memorandum on record from Mr. William C. Sullivan to Mr. Cartha D. DeLoach which refers to a memorandum from Mr. DeLoach to Mr. Tolson on February 18, 1966. In this memorandum of Mr. Sullivan's dated February 26, 1966, he advised that the Senate Foreign Relations televised presentation of February 18, 1966, was monitored. He attaches a memorandum drawing parallels between the statements made by Senators Fullbright and Morse and statements which the Communists have been making. He points out that we have received no indication that any members of the Communist Party, USA, or any other subversive groups have furnished either of the Senators with material which prompted their statements. Mr. Sullivan recommended that this attachment be delivered to Marvin Watson. Mr. Hoover stated, "No. I want letter to Watson transmitting it."

By letter dated February 24, 1966, Marvin Watson was advised "In response to your request . . . is enclosed a memorandum which sets out the Communist Party line concerning some of the issues raised during the Senate Foreign Relations Committee hearings on U. S. policy on Vietnam."

In this memorandum dated February 24, 1966, which had originally been dated February 21, 1966, which was the memorandum accompanying the above-described Sullivan to DeLoach memorandum, parallels are drawn between the television presentation and documented Communist Party publications or statements of Communist leaders.

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI .

EXHIBIT 68-7

GSA FPMR (41 CFR) 101-11.6
UNITED STATES GOVERNMENT

Memorandum

TO : The Deputy Attorney General DATE: February 3, 1975

FROM : Director, FBI

SUBJECT: BACKGROUND INFORMATION CONCERNING DEPARTMENT'S REQUEST FOR BODY RECORDER IN BOBBY BAKER INVESTIGATION IN 1965

Pursuant to your request of January 28, 1975, for a complete report on the Bobby Baker investigation the enclosed letterhead memorandum contains background information relative to this matter.

Enclosure

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI .

5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT 68-8

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

February 3, 1975

BACKGROUND INFORMATION CONCERNING
DEPARTMENT'S REQUEST FOR BODY RECORDER
IN BOBBY BAKER INVESTIGATION IN 1965

In response to the request made by Deputy Attorney General Laurence H. Silberman for a complete report on the Bobby Baker investigation, in which it was mentioned that the FBI turned down requests for a body recorder and also for the contents of a communication from Mr. Hoover to President Johnson regarding this matter, the following is submitted.

By memorandum dated 3/25/65, Assistant Attorney General, (AAG) Criminal Division, requested that the FBI take necessary steps to place a body recorder on the person of Wayne L. Bromley to record the conversations of Bromley with Clifford L. Jones and Bobby Baker. This would have necessitated placing a recorder on the person of Bromley prior to the time he left Washington, D. C., as he was being met in Los Angeles by Jones upon his arrival. Bromley, a Washington, D. C., Attorney and close associate of Baker, was cooperating with the FBI and had testified before the Baker Grand Jury. Jones is a former Lieutenant Governor of the State of Nevada and is an Attorney as well as a member of one of the corporations which was furnishing cash to Baker for his assistance.

By letter dated 3/26/65 from the Director to Mr. Herbert J. Miller, AAG, he was informed the Department's request for the use of the body recorder on the person of Bromley was inadvisable in view of the fact that the maximum security for the equipment and Bromley's person could not be accomplished, as well as adequate security could not be accomplished at the hotels.

By letter dated 1/22/67 to the Honorable Marvin Watson, Special Assistant to the President, The White House, the President was advised of the circumstances regarding the request of the Criminal Division of the Department to place a body recorder on Bromley and the Bureau's declination to honor this request.

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI .

BACKGROUND INFORMATION CONCERNING
DEPARTMENT'S REQUEST FOR BODY RECORDER
IN BOBBY BAKER INVESTIGATION IN 1965

Included in the letter to Mr. Watson was the fact that Acting Attorney General Clark had advised an official of this Bureau on 12/23/66 that after the FBI's refusal to monitor the meeting in Los Angeles, the Immigration and Naturalization Service or the Bureau of Narcotics was contacted, and that he was certain it was the Bureau of Narcotics that handled the monitoring. No documentation of this conversation located.

A note added on page three of the letter dated 1/12/67 sets forth information that the letter was submitted to "advise the White House as to circumstances under which this Bureau tape recorded, on 3/25/65, two telephone calls (deemed to be legal by Department) involving Baker, but refused to electronically monitor a meeting in Los Angeles on 3/26/65 between Baker and two of his associates. These calls and the meeting were referred to in a 1/11/67 news article in the "Washington Evening Star" and undoubtedly will receive much publicity when results are introduced as evidence in present trial of Baker."

On 1/17/67 Assistant to the Director Cartha D. DeLoach was called to the White House by Marvin Watson and Watson referred to the Director's memorandum to the President setting forth the information that the FBI had refused a request to utilize a recording device in the Baker case. Watson furnished information that inasmuch as the Bureau of Narcotics had later handled this matter for the Department of Justice, the President had demanded a summary memorandum from the Secretary of Treasury concerning the matter. Watson also indicated the President was quite exercised about the fact the FBI had properly refused only to have the Treasury honor the request of the Department of Justice.

Mr. Watson stated that the President wanted a complete run-down on the following names, and that any inquiry should be made as discreetly as possible.

- Narcotics Bureau
- Treasury Department
- Narcotics Bureau
- Former AAG, Criminal Division
- Narcotics Bureau

BACKGROUND INFORMATION CONCERNING
DEPARTMENT'S REQUEST FOR BODY RECORDER
IN BOBBY BAKER INVESTIGATION IN 1965

He also requested that it should be specifically pointed out whether any of the aforementioned individuals were close to Bobby Kennedy. Mr. Watson further stated the President did not want any record made of this request and wanted the information furnished to him in blind memorandum form. Information was prepared in blind memorandum form regarding these individuals and furnished to the President and, with the exception of former AAG Miller, our file review and liaison representatives did not develop any information indicating any association of the individuals with Robert F. Kennedy.

EXHIBIT 68-9

January 12, 1967

BY LIAISON

Honorable Marvin Watson
Special Assistant to the President
The White House
Washington, D. C. 20500

Dear Mr. Watson:

There is attached for ready reference a news article carried in the final edition of the "Washington Evening Star," January 11, 1967, setting forth that the Government electronically monitored a meeting between Robert G. Baker, Wayne Bromley, and Clifford Jones on March 25, 1965, at the Beverly Wilshire Hotel in Los Angeles, California. This date in the news article is incorrect as the meeting actually occurred on March 26, 1965. This news article also relates to the monitoring of a telephone call preceding this meeting.

As a matter of possible interest to the President, there are set out below the circumstances under which this Bureau made a tape recording of a telephone conversation between Bromley and Jones, as well as a telephone call between Bromley and Jones on March 26, 1965. This Bureau, however, did not monitor the meeting in Los Angeles between Baker, Bromley, and Jones on March 26, 1965.

By memorandum of March 26, 1965, Mr. [illegible] Assistant Attorney General Herbert J. Miller, Jr., this Bureau was informed of an alleged attempt by Wayne Bromley to offer perjurious testimony before the Grand Jury hearing the Baker matter. Jones urged Bromley to work out arrangements with Baker for a meeting later in the week with Jones. Jones asked Bromley to call him back.

REC 52

[illegible]pab

SEE NOTE PAGE 3

Honorable Marvin Watson

Mr. Miller advised that Bromley, upon the advice of counsel, had executed a written, signed consent to have telephone conversations between himself and Baker and between himself and Jones witnessed, monitored, and tape recorded by Agents of this Bureau.

Mr. Miller asked that this Bureau record these telephone conversations and expressed the view that such action would not be violative of any Federal criminal statute, would not constitute entrapment, and would not violate any of the constitutional rights of the parties involved.

Pursuant to Mr. Miller's request, two conversations of Bromley's from Washington, D. C., on March 25, 1968, one to Baker and one to Jones, were monitored and tape recordings were made. The results were furnished to the Criminal Division, Department of Justice.

By memorandum dated March 25, 1968, Mr. Miller requested that a proposed meeting between Baker, Bromley, and Jones to be held on the evening of March 25, 1968, at Los Angeles, be monitored and tape recordings of their conversations made. It was asked that this be accomplished by means of an appropriate transmitting device attached to the person of Bromley. The FBI refused to honor this second request from the Department.

Acting Attorney General Ramsey Clark advised an official of this Bureau on December 23, 1968, that when the FBI's refusal to monitor this meeting, the Department had turned to either the Immigration and Naturalization Service or the Bureau of Narcotics and then said that he was certain it was the Bureau of Narcotics that handled the matter.

The foregoing is for your information. A copy of this letter has not been furnished to the Acting Attorney General.

Sincerely yours,

Enclosure

NOTE:

This is being submitted to advise the White House as to circumstances under which this Bureau tape recorded, on 3/25/65, two telephone calls (deemed to be legal by Department) involving Baker, but refused to electronically monitor a meeting in Los Angeles on 3/26/65 between Baker and two of his associates. These calls and the meeting were referred to in a 1/11/67 news article in the "Washington Evening Star" and undoubtedly will receive much publicity when results are introduced as evidence in present trial of Baker.

66-077 O - 76 - 47

EXHIBIT 68-10

OPTIONAL FORM NO. 10 (5010-104)
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

MR. TOLSON DATE: 1/17/67

C. D. DeLoach

#6

BOBBY BAKER case;
Refusal of FBI to honor
Departmental request for
usage of recording device
in Los Angeles;

Request for name checks by President

Marvin Watson asked that I come to the White House at 5:45 p.m., 1/17/67. Upon seeing Watson he referred to the Director's memorandum to the President setting forth the fact that the FBI, in the Baker case, had refused a request from the Department of Justice to utilize a recording device in Los Angeles. Watson stated that, inasmuch as Narcotics had later handled this matter for the Department of Justice, the President had demanded that Secretary Fowler of Treasury give him a summary memorandum concerning this matter. Watson stated the President was quite exercised about the fact that the FBI had properly refused, only to have Treasury go ahead and honor the request of the Department.

Watson, while not handing me the memorandum to read, did point out several names in the rather lengthy memorandum that Secretary Fowler had sent the President. The following names were specifically mentioned:

1. Narcotics Bureau
2. Treasury Department
3. Narcotics Bureau
4. Jack Miller, former Assistant AG, Criminal Division, Department of Justice
5. Narcotics Bureau

62 JAN 25 1967

REC-D 18 Watson told me that the President wanted a complete rundown on the listed names. He stated these checks should be made as discreetly as possible and that we should

CONTINUED---OVER

CDD: (7)

SEE NOTES TO DICK MEANS, 1/18/67, CDD-D.S. CAPTIONED AS ABOVE - C

Mr. Tolson

specifically point out whether any of these individuals were close to Bobby Kennedy. The President does not want any record made of this request. He wants the memoranda in question to be blind memoranda. He desires that they be as thorough as possible and wants this done on an expeditious basis.

The Crime Records Division will handle the coordination of this matter. The Liaison Section of the Domestic Intelligence Division (particularly the liaison agent assigned to Treasury and Narcotics) should discreetly ascertain as much information as possible and furnish such information to Crime Records so that a complete background memorandum can be prepared. It may be that we already have considerable information in Bureau files.

The memoranda being prepared should clearly reflect that Jack Miller was formerly an Assistant AG under Bobby Kennedy and is now a law partner of former Bureau employee Courtney Evans. Evans' background should be briefly set forth, insofar as his lying defense of Kennedy is concerned.

ACTION -

These memoranda will be prepared on an expeditious basis and submitted to the Director for consideration.

V

EXHIBIT 68-11

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Wick DATE: 1-19-67

FROM : M. A. Jones #7

SUBJECT: BOBBY BAKER case;
Refusal of FBI to honor
Departmental request for
usage of recording device
in Los Angeles;

Request For Name Check By President

BACKGROUND:

The President, through his Special Assistant, Marvin Watson, has requested a name check concerning the following individuals who apparently were involved in the joint decision by the Department and the Narcotics Bureau to utilize a recording device in the Baker Case:

1. Narcotics Bureau
2. Treasury Department
3. Narcotics Bureau
4. former Assistant AG, Criminal Division, Department of Justice
5. Narcotics Bureau

According to Watson, the President has specifically instructed that he wants this matter handled as discreetly as possible, that no record be made of his request, and that the results should show whether any of the above individuals were close to former Attorney General Robert F. Kennedy.

INFORMATION IN BUFILES:

All references and main files to the above individuals have been reviewed. Attached are separate blind memoranda concerning each of the above individuals. It is noted that with the exception of

Enclosures

15 JAN 25 1967

CLOSURE

FBI

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized persons

CONTINUED OVER

MAC:djr

former Assistant Attorney General Herbert J. Miller, Jr., our file review and our Liaison representative with the Narcotics Bureau, developed no information indicating association of these individuals with Robert F. Kennedy.

RECOMMENDATION:

That the attached blind memoranda be furnished by liaison to the White House for the President.

Delivered to [illegible]
on 1-20-67
RHR

OK
H

EXHIBIT 68-12

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 31, 1975

SULLIVAN MEMORANDA TO JOHN DEAN
(Democratic Convention 1968)

The Sullivan memorandum to John Dean under Part 4 captioned "Re: Democratic Convention 1968" contained the following:

> "John Criswell, National Treasurer, Democratic Party called the FBI and said he had dinner with Marvin Watson, Postmaster General and Watson had told him of the great services performed by the FBI during the last Democratic Convention in Atlantic City, New Jersey. He asked if the same services could be performed at the Democratic Convention in Chicago. Some assistance was given by the Chicago FBI Office but it was not at all of the nature and scope of the services rendered Johnson at Atlantic City."

The files of the Federal Bureau of Investigation contain a memorandum dated August 22, 1968, from C. D. De Loach to Mr. Tolson captioned "Democratic National Convention, Chicago, Illinois." A carbon copy of this memorandum was designated for Mr. Sullivan. This memorandum states:

> John Criswell, National Treasurer, Democratic Party, called this afternoon to indicate that he had had dinner with Marvin Watson, the Postmaster General, last night, and Watson had informed him of the great service performed by the FBI during the last Democratic Convention in Atlantic City, New Jersey. Criswell wanted to know if the same

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI .

services could be performed this time in Chicago. He also asked if I could personally go out and take charge, as was the case in Atlantic City.

I told Criswell that Bill Connell, Executive Assistant to the Vice President, had already called regarding this matter, and had personally discussed the entire matter with the Director. I stated the Director had made complete arrangements to have a topflight group of experienced agents, under the supervision of the Special Agent in Charge of the Chicago Office, handle this assignment. I told Criswell I felt certain these men would do an excellent job and the Vice President's office would be kept fully advised at all times of need-to-know information.

Criswell expressed appreciation and stated he did not know Connell had already made the request in question."

By memorandum from C. D. De Loach to Mr. Tolson dated August 7, 1968, captioned "Democratic National Convention, Chicago, Illinois, 8/26/68" with a copy to Mr. Sullivan, Mr. De Loach advised "Bill Connell," Executive Assistant to the Vice President, attempted to telephonically contact the Director on August 7, 1968. He was advised that the Director was in a travel status.

Sullivan Memoranda to John Dean

According to this memorandum, Mr. Connell told Mr. De Loach that the President had, some time ago, advised the Vice President that the FBI had sent a "special team" to Atlantic City during the last Democratic National Convention. The President allegedly told the Vice President that the FBI had been of great service to him and he had been given considerable information on a timely basis throughout the entire convention.

Mr. Connell stated, according to the memorandum, that while he desired to discuss this with the Director, the Vice President hoped the Director would extend to him the same service during the forthcoming Democratic National Convention in Chicago.

The memorandum further states that Mr. Connell was told that, while he desired to discuss this matter with the Director, he should know that our Chicago Office is very well prepared to gather intelligence and pass such intelligence onto appropriate authorities during the convention. Mr. Connell stated he presumed this to be true; however, he would call again next week and mention this matter to the Director. A handwritten notation by Mr. Hoover at the end of this memorandum stated "I talked to Connell. Also I talked to SAC and issued appropriate instructions." Signed "H."

A memorandum prepared by Mr. Hoover for Mr. Tolson, Mr. De Loach, Mr. Bishop, and Mr. Sullivan dated August 15, 1968, reflects that at 10:09 a.m. Mr. Hoover talked to Mr. William Connell, Executive Assistant to the Vice President.

Sullivan Memoranda to John Dean

Mr. Hoover set forth the following information regarding this conversation:

> "Mr. William Connell, Executive Assistant to the Vice President, returned my call. I told him I was out of town when he called last week and I wanted to return his call.
>
> Mr. Connell thanked me for calling and stated what he had called about was that he had talked to the Vice President about the team I sent into the convention area in 1964 that was so helpful. He stated he was hoping perhaps I might be able to do the same thing for the Vice President out in Chicago and have my men directly in contact with him (Connell).
>
> I advised Mr. Connell that I had already initiated that and that he will be supplied by Special Agent in Charge in Chicago; that any kind of assistance he wants to just let Mr. Johnson know and he will take care of it.
>
> Mr. Connell thanked me and said he will tell the Vice President."

This memorandum also reflects that at 10:13 a.m. Mr. Hoover talked to SAC in Chicago. Mr. Hoover likewise set forth the results of this conversation:

> "I called SAC in Chicago and told him I had just talked to Mr. William Connell, Executive Assistant to the Vice President, and what he wanted to have done was an operation similar to what we did down at Atlantic City at the last Democratic Convention when Mr. Johnson was running for renomination. I explained that he would like to have us furnish the same type of information and be in contact with him, Connell, on any so-called intelligence we might get. I stated I told Mr. Connell we would do that and that SAC would be in contact with Connell and anything he wanted to let know. I told Mr. Johnson we are not going to get into anything political but anything of extreme action or violence contemplated we want to let Connell know.
>
> [redacted] stated he would get in touch with Mr. Connell promptly and set it up. I told Mr. that Connell is presently in New York. Mr. Johnson said he would probably be out in Chicago early next week."

Although prior information received indicated that the Democratic National Convention to convene at Chicago,

Illinois, on August 26, 1968, offered the most potential platform for disruptive activities by racial and Viet Nam dissident groups, similar instructions were set forth for both the Miami Office in connection with the Republican National Convention (August 5-10, 1968) and for the Chicago Office in connection with the Democratic National Convention (convening August 26, 1968).

These instructions stated that we had the responsibility to keep high government officials and other interested agencies advised of developments in regard to disruptive activities and that it would be necessary for each field division of the Federal Bureau of Investigation to be acutely and continually aware of developing situations. All offices were instructed to take the necessary steps to insure that we were receiving all information available concerning plans being made to carry on protest demonstrations at the conventions or to otherwise carry on any disruptive activities.

The Federal Bureau of Investigation took the initiative in planning for possible disruptions and violence during the two national conventions. In addition to our responsibility to furnish information to local law enforcement agencies and Secret Service, we also had the responsibility to develop violations of Federal laws within our jurisdiction that might occur during the conventions. Such laws as the Federal Anti-Riot Laws, Assaulting a Federal Officer statute, Kidnapping statute, bombing and gun law violations, Presidential and Congressional

Assassination statute, and Crime Aboard Aircraft violations all come within the investigative responsibility of the Federal Bureau of Investigation.

We closely coordinated our activities regarding the conventions with Federal and state agencies which had the responsibility to keep the peace and protect life and property. We disseminated all pertinent information developed through on-the-scene observations, pertinent investigation, and through informant coverage to the appropriate agencies having an interest in the conventions.

No technical surveillances were utilized in connection with the Republican Convention in Miami Beach in 1968 or the Democratic Convention in Chicago in 1968.

In connection with the Chicago Convention because of the advanced information developed that disruptive activities were to occur, we requested Attorney General authority for the installation of technical coverage of the Mobilization Office for Demonstrations at the Democratic National Convention. This authorization was requested by our memorandum to the Attorney General dated March 11, 1968. By memorandum March 12, 1968, Attorney General Ramsey Clark declined authorization for this requested installation. By memorandum for the Attorney General dated March 22, March 24, and June 7, 1968, we renewed our previous request; however, we received no reply. The net result was that we did not have technical coverage in connection with either the Democratic or Republican Conventions in 1968.

Sullivan Memoranda to John Dean

In his March 12, 1968, memorandum declining authority for a telephonic surveillance in connection with the anticipated demonstrations, Mr. Clark stated "other investigative activities should be undertaken to provide intelligence necessary to the protection of the national interest."

Although extensive plans were made and instructions issued from the Federal Bureau of Investigation Headquarters in Washington regarding our coverage of these 1968 conventions, there were no Federal Bureau of Investigation officials on the scene at either the Republican or Democratic Convention.

In connection with the 1972 Republican and Democratic National Conventions held in Miami Beach, Florida, similar coverage was instituted and carried out by the Miami Office of the Federal Bureau of Investigation. There, likewise, was no technical coverage utilized in connection with either the Republican or Democratic National Conventions in Miami Beach in 1972.

No Federal Bureau of Investigation Headquarters officials were on the scene at either of these Conventions.

EXHIBIT 68-13

UNITED STATES GOVERNMENT

Memorandum

: Mr. W. C. Sullivan DATE: 3/8/68

: C. D. Brennan

SUBJECT: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

PURPOSE:

To recommend the installation of a telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois.

BACKGROUND:

Information has been received that has rented an office at Room 315, 407 South Dearborn Street, Chicago, Illinois, which is to be known as the National Mobilization Office for Demonstrations at the National Democratic Convention. is a former leader of the Students for a Democratic Society and is the of the Chicago, Illinois, which is a

According to our informants, the office is to be used in connection with activities aimed at influencing the course of the National Democratic Convention to be held in Chicago in August, 1968. The office is to be occupied with a full-time staff until the conclusion of the Convention.

A news release to "The New York Times" dated 12/10/67 quoted Dr. Benjamin Spock, the antiwar critic, and James Rollins as saying they were prepared to mobilize the largest demonstration this country has ever seen to descend upon the Convention as a reminder to the delegates of the strength of the opposition. Rollins is a militant member of the Congress of Racial Equality and in 1967 stated, "We have got to stop breaking into liquor stores and start breaking into gun stores to arm ourselves to stop these white hunkie cops from killing us."

Enclosure 3-11-68 REC 29

CONTINUED - OVER

Memorandum C.D. Brennan to W.C. Sullivan
RE: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION

member of the National Committee, Communist Party, USA, has been appointed by , the Party's , to coordinate activity between the Communist Party, USA, and the new left. He is to assist in setting up a coordinating office to be financed in part by the Party and to recruit full-time personnel to man it.

Other groups, including the Mississippi Freedom Democratic Party, the National Mobilization Committee to End the War in Vietnam, Students for a Democratic Society, Student Mobilization Committee, and the National Conference for New Politics, all of which are intensely anti-administration, have indicated that they intend to participate in demonstrations at the Convention.

CURRENT DEVELOPMENTS:

During the period 2/10-11/68, additional meetings between peace and civil rights militants were held in Chicago for the purpose of discussing their activities at the Convention. This group, which included , a leader of the National Conference for New Politics and , all members of the National Committee, Communist Party, USA, decided to hold a planning convention on 3/ /68. These meetings were held at the office at , Chicago, Illinois.

OBSERVATIONS:

From information received, it is apparent that the office at 407 South Dearborn Street is developing into a focal point of activity surrounding demonstrations at the Convention. Our informant coverage of these organizations gives us long-range information on their plans. To fully discharge our responsibilities, we must be in a position to have day-to-day and hour-by-hour coverage of those elements which can be expected to attempt to disrupt the Convention. A telephone surveillance of this newly-opened office will enhance our coverage and enable us to furnish the appropriate Government officials with the plans of those groups which would try to embarrass or even inflict bodily harm on the President or other high Government officials. We are submitting a request to the Attorney General for technical coverage on this office.

RECOMMENDATION:

That the attached memorandum for the Attorney General be approved and sent.

- 2

EXHIBIT 68-14

March 11, 1968

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

Dem C N

An office known as the National Mobilization Office for Demonstrations at the National Democratic Convention has been established at Room 315, 407 South Dearborn Street, Chicago, Illinois.

This office was rented by who is a former leader of the Students for a Democratic Society and is the of the Chicago, Illinois. This latter organization was formed in 1966 to

This office is to be occupied with a full-time staff until the conclusion of the Convention.

During the period February 1968, a series of meetings were held at this office between peace and civil rights militants who discussed plans for demonstrating and disrupting the Convention. Included in the participants were and , all members of the National Committee, Communist Party, USA.

has been appointed by , the of the Communist Party, USA, to coordinate the activity between the Communist Party, USA, and other new left forces. He has been active in setting up the office on South Dearborn Street. The Communist Party, USA, has agreed to partially subsidize this office.

REC 107

23

(14)

SEE NOTE PAGES 2 &

SENT FROM D. O.
TIME
DATE
BY

TELETYPE UN

MEMORANDUM FOR THE ATTORNEY GENERAL

It is apparent that this office is developing into a focal point of activity surrounding demonstrations at the Convention. It appears that most of those organizations which will be actively engaged in demonstrating during the period that the Convention is in session will use this space to plan and coordinate their activity.

A telephone surveillance on this office would provide extremely valuable information regarding the plans of these groups to disrupt the National Democratic Convention. It would also furnish advance notice of any possible activity by these groups which would endanger the safety of the President or other Government officials while in Chicago.

A surveillance of this nature would greatly enhance our coverage of those groups which join in the demonstrations at the Convention and could possibly forewarn of their future activity that may be detrimental to the Government's interests.

I recommend, therefore, the installation of a telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois, or any other address to which this office may move in the future.

Very truly yours,

John Edgar Hoover
Director

Approved _____

Date _____

NOTE:

See memorandum C.D. Brennan to W.C. Sullivan dated 3/8/68 captioned as above as prepared by

NOTE CONTINUED PAGE 3

MEMORANDUM FOR THE ATTORNEY GENERAL

NOTE CONTINUED:

This memorandum recommends the institution of a telephone surveillance in accordance with current policy, which requires approval by the Attorney General for the installation and continuation of all technical surveillances.

EXHIBIT 68-15

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 3/21/68

FROM : C. D. Brennan (Lenced)

SUBJECT: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

PURPOSE:

To recommend the resubmission of a request to the Attorney General for the installation of a telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois.

BACKGROUND:

By memorandum to the Attorney General dated 3/11/68, we requested authority to install a telephone surveillance at the above-mentioned location, which was recently opened to serve as a point of coordination for various new left, civil rights and subversive groups planning to stage massive demonstrations in Chicago during the National Democratic Convention. By letter dated 3/12/68, the Attorney General declined to authorize this installation on the basis that there has not been an adequate demonstration of a direct threat to the national interest. The Attorney General indicated that other investigative activities should be undertaken to provide intelligence necessary to the protection of the national interest.

OBSERVATIONS:

We do not concur with the Attorney General's statement that there has not been an adequate demonstration of a direct threat to the national security. Various new left, civil rights, and subversive organizations have publicly announced plans to converge on the National Democratic Convention in Chicago during August and stage massive demonstrations. Negro entertainer is being

we

3-22-68 REC-40

CONTINUED - OVER

6 MAR 27 1968

Memorandum C.D. [illegible]nnan to W.C. Sullivan
RE: DEMONSTRATIONS AT THE NATIONAL
DEMOCRATIC CONVENTION, AUGUST, 1968

quoted as saying that demonstrations will begin in Chicago at the end of May and that so many antiwar demonstrators will be put on the streets that the Government will be forced to bring the Army in.

Organizations planning to participate in these demonstrations include the Students for a Democratic Society, the National Mobilization Committee to End the War in Vietnam, the Student Mobilization Committee, and the Communist Party, USA. All of these organizations have participated in prior violent demonstrations such as the October 21-22, 1967, March On Washington, which culminated in a physical assault on the Pentagon which had to be repelled by Federal troops. There appears to be ample evidence that these demonstrations will represent a substantial threat to the national security.

ACTION TAKEN:

We have prepared a memorandum for the Attorney General in accordance with the above-mentioned observations and are resubmitting our request for authority to install a telephone surveillance at the office of the National Mobilization Office for Demonstrations at the National Democratic Convention.

RECOMMENDATION:

That the attached memorandum to the Attorney General be approved.

EXHIBIT 68-16

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

Reference is made to your memorandum dated March 12, 1968, in which you declined authorization of a requested telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois, because there has not been an adequate demonstration of a direct threat to the national security.

Information developed to date by this Bureau indicates that a massive effort is being made by various new left groups, civil rights organizations and subversive organizations to mobilize from 200,000 to 500,000 demonstrators who will converge on the National Democratic Convention in Chicago in August, 1968, with the objective of disrupting the Convention and forcing the Government to utilize Federal troops to contain the demonstrators. For example, the "Washington Post" issue of March 20, 1968, quoted Negro entertainer Dick Gregory as saying that so many antiwar demonstrators will be put on the streets of Chicago before the Convention that "the Government will be forced to bring the Army in." Gregory indicated that anti-Convention marches will begin at the end of May on a 12-hour basis and will later be conducted on a 24-hour basis.

Organizations planning to participate in these demonstrations include the Students for a Democratic Society, the National Mobilization Committee to End the War in Vietnam, the Student Mobilization Committee and the Communist Party, USA. All of these organizations have participated in prior antiwar demonstrations which resulted

SEE NOTE PAGE 2

MEMORANDUM FOR THE ATTORNEY GENERAL

in violence, such as the October 21-22, 1967, March On Washington which culminated in a physical assault on the Pentagon by several hundred demonstrators who were finally repelled by Federal troops.

While every effort is being made to establish the coverage necessary to fulfill our responsibilities to keep the intelligence community advised regarding the plans of these organizations, it is apparent that a telephone surveillance at the above-mentioned location would provide information regarding the plans and activities of the key organizers of these demonstrations which cannot be obtained from any other source.

Accordingly, I again recommend the installation of a telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois, or any other address to which this office may move in the future.

Very truly yours,

John Edgar Hoover
Director

Approved _____

Date _____

NOTE:

See memorandum C.D. Brennan to W.C. Sullivan dated 3/21/68 captioned as above as prepared by

This memorandum recommends the institution of a telephone surveillance in accordance with current policy, which requires approval by the Attorney General for the installation and continuation of all technical surveillances.

EXHIBIT 68-17

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

Reference is made to my memorandum dated March 22, 1968, captioned as above requesting authority to institute telephone surveillance coverage on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois.

In order that this Bureau may fulfill its responsibilities in this important area of our work, it is requested that you advise of your decision in this matter as promptly as possible.

Very truly yours,

EX-115

John Edgar Hoover
Director

REC-9

Approved _____

Date _____

SENT FROM D. O.
TIME 5:55PM
DATE 4-24-68
BY _____

24 APR 29 1968

CWT:jav (14)

NOTE:

By memorandum to the Attorney General dated 3/11/68, authority was requested to install a technical surveillance at the National Mobilization Office for Demonstrations at the National Democratic Convention in Chicago, Illinois, which was recently opened to serve as a point of coordination for various groups planning to stage massive demonstrations and engage in disruptive activities at the National Democratic Convention in August, 1968. This request was denied by the Attorney General on 3/12/68 on the grounds that there had not been an adequate

NOTE CONTINUED PAGE 2

MEMORANDUM FOR THE ATTORNEY GENERAL

NOTE CONTINUED:

demonstration of a direct threat to the national interest. The request was resubmitted on 3/22/68 at which time it was pointed out that militant civil rights and antiwar leaders had publicly announced plans to disrupt the National Democratic Convention and force the Government to use Federal troops. To date, the Attorney General has not responded to this request.

EXHIBIT 68-18

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 6/6/68

FROM : C. D. Brennan

SUBJECT: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

PURPOSE:

To recommend that a follow-up memorandum be sent to the Attorney General in regard to a request submitted on 3/22/68 for approval of a telephone surveillance on the National Mobilization Office for Demonstrations at the National Democratic Convention.

BACKGROUND:

By memorandum to the Attorney General dated 3/11/68, authority was requested to install a technical surveillance at the National Mobilization Office for Demonstrations at the National Democratic Convention in Chicago, Illinois, which was recently opened to serve as a point of coordination for various groups planning to stage massive demonstrations and engage in disruptive activities at the National Democratic Convention in August, 1968. This request was denied by the Attorney General on 3/12/68 on the grounds that there had not been an adequate demonstration of a direct threat to the national interest. The request was resubmitted 3/22/68 at which time it was pointed out that militant civil rights and antiwar leaders had publicly announced plans to disrupt the National Democratic Convention and force the Government to use Federal troops. On 4/24/68 a follow-up memorandum was sent to the Attorney General requesting a decision in this case and since then three general communications have been sent to the Attorney General regarding this and other cases requesting authorization for electronic surveillances. To date, the Attorney General has not responded.

Enclosure Letr 6-11-68

CONTINUED - OVER

6 JUN 12 1968

Memorandum C.D. Brennan to W.C. Sullivan
RE: DEMONSTRATIONS AT THE NATIONAL
DEMOCRATIC CONVENTION, AUGUST, 1968

OBSERVATIONS:

The assassinations of Martin Luther King, Jr., and Robert F. Kennedy serve to illustrate the ugly atmosphere of discontent which pervades the American political scene today. It is reasonable to expect that the extremist elements planning to disrupt the Democratic National Convention may resort to violent acts to draw attention to their causes and achieve their objectives at the Convention.

We are making every effort to develop adequate informant coverage to enable us to keep the intelligence community advised of the day-to-day plans and activities of the leaders of the dissident groups planning to disrupt the Convention. We cannot hope to fulfill our responsibilities as an intelligence agency, however, unless we take full advantage of all means at our disposal to develop the necessary information.

The delay on the part of the Attorney General in acting on the request for a telephone surveillance in this case is inexcusable. We have, therefore, prepared a follow-up memorandum to the Attorney General expressing concern over the delay and again requesting a decision in this matter.

RECOMMENDATION:

That the attached memorandum to the Attorney General be approved.

OK.
H

EXHIBIT 68-19

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: DEMONSTRATIONS AT THE NATIONAL DEMOCRATIC CONVENTION, AUGUST, 1968

Reference is made to my memoranda dated March 22, 1968, and April 24, 1968, captioned as above requesting authority to institute telephone surveillance coverage on the National Mobilization Office for Demonstrations at the National Democratic Convention, Room 315, 407 South Dearborn Street, Chicago, Illinois.

As you were previously advised, considerable information has been developed indicating that various subversive organizations, civil rights groups and organizations affiliated with the New Left movement plan to stage massive demonstrations at the National Democratic Convention with the objective of disrupting the Convention.

The tragic events of the past several weeks vividly illustrate the ugly atmosphere of discontent which pervades the American political scene today. There is every reason to believe that the extremist elements planning to disrupt the National Democratic Convention, inflamed by the recent assassinations of Dr. Martin Luther King, Jr., and Senator Robert Kennedy, may resort to acts of violence to achieve their objectives at the Convention.

In view of the foregoing, it is absolutely essential that we utilize every means at our disposal to effect the coverage needed to enable us to keep the intelligence community advised of the day-to-day plans and activities of the leaders of these dissident groups. I feel that I would be derelict in my duty if I did not

SENT FROM D. O.
TIME 2:00 Noon
DATE 4-17-68

SEE NOTE PAGE 2

MEMORANDUM FOR THE ATTORNEY GENERAL

express my concern over the delay encountered in connection with the request for approval of a telephone surveillance in this case. This delay has unquestionably caused a loss of valuable intelligence information in a most critical area of our operations.

Accordingly, it is again requested that you advise of your decision in regard to the aforementioned request as soon as possible.

Very truly yours,

John Edgar Hoover
Director

Approved _____

Date _____

NOTE:

See memorandum C.D. Brennan to W.C. Sullivan dated 6/6/63 captioned as above as prepared by

EXHIBIT 68-20

Office of the Attorney General
Washington, D. C. 20530

March 12, 1968

Memorandum to: Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation

From: Ramsey Clark
Attorney General

Re: Demonstrations at the National Democratic Convention, August, 1968
Your memo dated March 11, 1968

I am declining authorization of the requested installation of the above telephone surveillance at the present time. There has not been an adequate demonstration of a direct threat to the national security. Should further evidence be secured of such a threat, or re-evaluation desired, please resubmit.

Other investigative activities should be undertaken to provide intelligence necessary to the protection of the national interest.

REC-100

4 APR 3 1968

EXHIBIT 68-21

UNITED STATES GOVERNMENT

Memorandum

TO : MR. TOLSON DATE: 8/7/68

FROM : C. D. DeLoach

SUBJECT: DEMOCRATIC NATIONAL CONVENTION
Chicago, Illinois, 8/26/68

Bill Connell, Executive Assistant to the Vice President, attempted to telephonically contact the Director at 9:48 a.m., 8/7/68. He was advised the Director was in travel status and was referred to my office.

Connell told me that the President had, some time ago, advised the Vice President that the FBI had sent a "special team" to Atlantic City, during the last Democratic National Convention. The President allegedly told the Vice President that the FBI had been of great service to him and he had been given considerable information on a timely basis throughout the entire convention.

Connell stated that, while he desired to discuss this with the Director personally, the Vice President hoped the Director would extend to him the same service during the forthcoming Democratic National Convention in Chicago.

I told Connell the Director would be back in his office during the first part of the coming week. Connell stated he would attempt to contact the Director at that time.

I also told Connell that, while he desired to discuss this matter with the Director, he should know that our Chicago Office is very well prepared to gather intelligence and pass such intelligence on to appropriate authorities during the convention. Connell stated he presumed this to be true; however, he would call again next week and mention this matter to the Director.

ACTION:

SAC Marlin Johnson, Chicago, has made extensive plans regarding coverage of the convention. He has established space for lookout and intelligence purposes near the convention site space was provided by Secret Service. Rather than a

CONTINUED-----OVER

RECEIVED
EX-100
AUG 23 1968

Mr. Tolson

special squad going to Chicago, which would entail considerable funds, it is suggested the Director might desire to advise Connell, on the occasion of his calling again, that full preparations have been made by the Chicago Office to handle the matter of passing intelligence to the Vice President and his aides; consequently, there is no need for a "special team" to proceed to Chicago.

I talked to Connell. Also I talked to Isaac & issued appropriate instructions

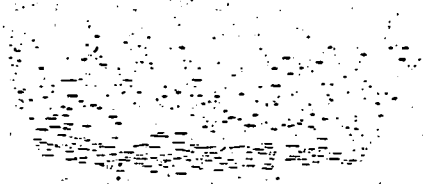


EXHIBIT 68-22

10:00 a. m. August 15, 1968

MEMORANDUM FOR MR. TOLSON
MR. DE LOACH
MR. BISHOP
MR. SULLIVAN

Mr. William Connell, Executive Assistant to the Vice President, returned my call. I told him I was out of town when he called last week and I wanted to return his call.

Mr. Connell thanked me for calling and stated what he had called about was that he had talked to the Vice President about the team I sent into the convention area in 1964 that was so helpful. He stated he was hoping perhaps I might be able to do the same thing for the Vice President out in Chicago and have my men directly in contact with him (Connell).

I advised Mr. Connell that I had already initiated that and that he will be supplied by Special Agent in Charge in Chicago; at any kind of assistance he wants to just let Mr. know and he will take care of it.

Mr. Connell thanked me and said he will tell the Vice President.

10:13 a. m.

I called SAC in Chicago and told him I had just talked to Mr. William Connell, Executive Assistant to the Vice President, and what he wanted to have done was an operation similar to what we did down at Atlantic City at the last Democratic Convention when Mr. Johnson was running for renomination. I explained that he would like to have us furnish the same type of information and be in contact with him, Connell, on any so-called intelligence we might get. I stated I told Mr. Connell we would do that and that SAC would be in contact with Connell and anything he wanted to let know. I told Mr. we are not going to get into anything political but anything of extreme action or violence-connected we want to let Connell know. (ENCLOSURE)

AUG 16 1968

Mr. Johnson stated he would get in touch with Mr. Connell promptly and set it up. I told Mr. that Connell is presently in

Memorandum for Messrs. Tolson, DeLoach, Bishop, Sullivan — August 15, 1968

New York. Mr. [redacted] said he would probably be out in Chicago early next week.

Mr. [redacted] stated that things look a little tense out there, and I said I think we are going to have some trouble. I stated we want to be thoroughly prepared that we plug every possible hole we can plug to have coverage. I said I wrote a memo to the Attorney General (Ramsey Clark) yesterday about his failure to approve wire taps out there but I didn't think it will have any effect but that we want to try to cover it as well as we can; that if anything goes wrong, we will be blamed.

Mr. [redacted] stated we have what he believes is excellent coverage of that area and he believes we will be in a position to furnish Mr. Connell, the Secret Service and local authorities [illegible] concerning the hoods coming in from outside and the troublemakers there.

I remarked that I didn't know if the President is going out there but, if he does, that will add trouble to the demonstrations. Mr. [redacted] agreed and stated the area is extremely tense.

Mr. [redacted] said he appreciated my call and that he will be in touch with Mr. Connell just as soon as he comes to Chicago.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

SENT FROM D. O.
TIME 1:20PM
DATE 8-15-68
BY [illegible]

- 2 -

EXHIBIT 68-23

UNITED STATES GOVERNMENT

Memorandum

TO : MR. TOLSON DATE: 8/22/68

FROM : C. D. DeLoach

SUBJECT: DEMOCRATIC NATIONAL CONVENTION
Chicago, Illinois

Democratic Party

John Criswell, National Treasurer, Democratic Party, called this afternoon to indicate that he had had dinner with Marvin Watson, the Postmaster General, last night, and Watson had informed him of the great service performed by the FBI during the last Democratic Convention, in Atlantic City, New Jersey. Criswell wanted to know if the same services could be performed this time in Chicago. He also asked if I could personally go out and take charge, as was the case in Atlantic City.

I told Criswell that Bill Connell, Executive Assistant to the Vice President, had already called regarding this matter, and had personally discussed the entire matter with the Director. I stated the Director had made complete arrangements to have a topflight group of experienced agents, under the supervision of the Special Agent in Charge of the Chicago Office, handle this assignment. I told Criswell I felt certain these men would do an excellent job and the Vice President's office would be kept fully advised at all times of need-to-know information.

Criswell expressed appreciation and stated he did not know Connell had already made the request in question

ACTION:

For record purposes.

EX-109

CDD: (3)

REC-34

16 AUG 26 1968

EXHIBIT 69-1

THE DIRECTOR

CLASSIFICATION

EXECUTIVE CONFERENCE

In attendance at the Conference on 8-26-71 were Messrs. Hoover, Sullivan, Bland (for Bishop), Cooper, Cleveland, Conrad, Cole, Mitchell (for Walters), Miller (for Bender), Mintz (for Bailey), Rosen, Bishop (for Brennan), Jones, Tavel, Walsh (for Callahan) and Felt.

Pursuant to your instructions, members of the Conference were briefed concerning recent attempts by various newspapers and reporters to obtain information about or from FBI personnel. Members were specifically advised that there should be absolutely no conversations with or answers of any sort to representatives of the Washington Post, New York Times, Los Angeles Times, Columbia Broadcasting System, and National Broadcasting Company. The only acceptable answer to such inquiries is "No Comment."

It was emphasized that these instructions applied equally to the field and to telephone conversations with the field concerning cases likely to result in press inquiries, precautionary reminders concerning the above representatives of the news media should be given.

For information.

REC-24

(4)

1 -

ST-102

5 SEP 3 1971

This document is prepared in response to your request and is not for dissemination outside your Committee. It is to be treated as confidential by your Committee and the contents may not be disclosed to unauthorized personnel without the express approval of the FBI.

7 SEP 8 1971

EXHIBIT 69-2

Memorandum

TO : Mr. W. C. Sullivan

DATE: 2-24-64

FROM : Mr. F. J. Baumgardner

SUBJECT: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C
(NATIONAL GUARDIAN)

On the evening of 2-18-64 the National Guardian sponsored a public meeting at the Town Hall in New York City featuring left-wing New York Attorney Mark Lane and Mrs. Marguerite Oswald, mother of the alleged assassin. At this meeting it was implied that Oswald was not responsible for the assassination and the handling of the investigation by the Government was criticized.

A reliable source of the New York Office identified Alger Hiss, convicted perjurer and identified espionage agent as present in the audience.

The New York Office proposes the following item be placed with a cooperative news media source at the Seat of Government:

"Hail, Hail, the Gang's All Here.

"Alger Hiss was with the rest of the gang at the affair held in New York City on February 18, 1964 to beatify the assassin, Lee Harvey Oswald. Hiss has already achieved sainthood among this pro-Soviet group and efforts were made to prevent giving him a standing ovation for the sake of security.

"The affair was sponsored by the National Guardian, described by the House Committee on Un-American Activities as 'a virtual official propaganda arm of Soviet Russia.'"

REC-11
EX-103
6 MAR 6 1964

RECOMMENDATION:

That this memorandum be referred to Mr. DeLoach so the item set out may be considered for release to a cooperative news media source.

57 MAR 10 1964

EXHIBIT 69-3

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan DATE: 3/30/64

FROM : Mr. F. J. Baumgardner

SUBJECT: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C
(AMERICAN INSTITUTE FOR
MARXIST STUDIES)

1 -
1 -
1 -
1 -
1 -
1 -
1 -

The New York Office has proposed that as a counterintelligence action publicity be afforded the American Institute for Marxist Studies (AIMS), a recently organized educational-propaganda arm of the Communist Party (CP), USA. AIMS is currently attempting to enlist the sympathies of students and faculty members throughout the country. Herbert Aptheker, National Committee member, CPUSA, is acting in the capacity of director of AIMS.

To expose this educational-propaganda arm of the communists, the New York Office proposes a statement such as the following be given the widest possible circulation through cooperative news media sources at the Seat of Government:

"The CPUSA, in its constant effort to woo adherents to its philosophy if not actually into its ranks, is again forming a propaganda organization, this time a very subtle one under the name of the American Institute for Marxist Studies, better known in CP circles as 'AIMS.' The CPUSA has placed enough importance in this organization to take , a leading spokesman of the CP, away from his editorship of 'Political Affairs,' the theoretical organ of the CPUSA, to work full time in setting up AIMS. has enlisted to assist in the AIMS operation on the west coast. is the ideal front man for the CP (although he is not trusted by the CP leaders) since he is an Annapolis graduate and thereby, on the surface, lends an air of respectability to AIMS. used to teach young Marxists at the University of Havana. In the October 5, 1961, issue of 'Bohemia,' a magazine of the Cuban Government, was quoted as saying:

AIMS) REC-17.

(10)

EX-101

56 APR 20 1964

Memorandum to Mr. W. C. Sullivan
RE: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM

"'The Cuban Revolution has brought forth methods of its own in the manner whereby Socialism can be arrived at. At the same time, it demonstrated that the postulates of Marxism are indisputable, scientific and social truths...I wish to let it be known that in my opinion, the Cuban Revolution is of universal importance. I believe that it will kindle and capture the enthusiasm of the masses of the United States because the Revolution's great accomplishments cannot be hidden from them forever.'

"The CP recently opened a headquarters for AIMS at 20 East 30th Street, New York, New York. Aptheker and his staff, with the assistance of communist dupes throughout the United States, are preparing to spread the germs of Marxism in an attempt to infect unsuspecting and naive Americans who are placed in contact with this communist propaganda."

Publication of the above data will not jeopardize sensitive Bureau sources.

ACTION:

That this memorandum be routed to Mr. DeLoach so information regarding AIMS may be made available to cooperative news media sources in an effort to expose this educational-propaganda effort of the CP.

Handled 1-6-64 DJ

FROM

OCT 7 1965

FBI

EXHIBIT 69-4

SAC, New York

April 10, 1964

Director, FBI

1

1354

COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C
(AMERICAN INSTITUTE FOR MARXIST STUDIES)

ReNYlet 3/20/64.

The Bureau will endeavor to obtain publication of the information submitted by you concerning the American Institute for Marxist Studies (AIMS) through cooperative news media sources at the Seat of Government. Your interest in forwarding this item is appreciated and you are encouraged to be alert for such items in the future.

Reference is made to your letter dated 3/23/64 captioned "American Institute for Marxist Studies, Internal Security - C" wherein plans for a symposium of this organization scheduled to be held at the Sheraton Atlantic Hotel in New York City on 4/23/64 are set out. You should carefully follow developments regarding this symposium and submit counterintelligence recommendations at the earliest possible date to expose the communist nature of the organization and symposium. Specifically consider releasing information to cooperative news media sources locally exposing the communist nature of AIMS.

Advise the Bureau in the event the information submitted with your letter dated 3/20/64 is published in the local press.

SEC. 38

1 - New York

19 APR 13 1964

NOTE: EX-103

The information referred to has been released by Mr. DeLoach's Office and sets forth the communist associations of AIMS, a new communist propaganda front.

(AIMS)

MAILED 25
APR - 9 1964

EXHIBIT 69-5

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W.C. Sullivan

DATE: 8/9/65

1 -
1 -
1 -
1 -
1 -

FROM : F.J. Baumgardner

SUBJECT: COMMUNIST PARTY, USA
COUNTERINTELLIGENCE PROGRAM
INTERNAL SECURITY - C

wife of Communist Party, USA, recently purchased a blue 1965 Oldsmobile 98 Holiday Sports Sedan for the use of her husband. is presently in upstate New York on his annual monthly vacation. As a disruptive tactic, it is recommended the following or a similar statement be released to a cooperative news media source, preferably a nationally syndicated columnist at the Seat of Government, to expose the high living of , the leader of the alleged "Party of the working class:"

"The top United States Red, , does not worry about the heat this summer. He is being chauffered about in his expensive new 1965 air-conditioned, high-powered blue sports sedan. Comrades of the self-proclaimed leader of the American working class should not allow this example of prosperity to discourage their continued contributions to the Party's coffers. Upon his return from his annual month's vacation, Hall very likely may require additional dues, payments and contributions to cover his tabs. After all, the of the Communist Party, USA, cannot be expected to survive on the salary he draws of $120 a week.

ACTION:

That this memorandum be routed to the Crime Records Division so the above information may be confidentially made available to a cooperative news media source, preferably a nationally syndicated columnist.

REC-59

EX-101

1 AUG 11 1965

(8)

50 AUG 17 1965

EXHIBIT 69-6

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan

DATE: March 26, 1968

FROM : G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(WASHINGTON SPRING PROJECT)

PURPOSE:

To recommend item be furnished cooperative national news media source by Crime Records, designed to curtail success of Martin Luther King's fund raising for the Washington Spring Project.

BACKGROUND:

Martin Luther King has now scheduled the Washington Spring Project, his "poor people's march on Washington, D. C.," for the latter part of April, 1968. King's organization, the Southern Christian Leadership Conference (SCLC) has sent out a mailing to 70,000 potential financial contributors. King asked these 70,000 to contribute to the Washington Spring Project for the feeding and housing of the marchers.

At the same time, churches in the Washington, D. C., area have said they will feed and house King's marchers.

SUGGESTION:

That the above facts be given a cooperative news source by the Crime Records Division so that a story could be

REC 39

REC-106

15 APR 9 1968

Enclosure

EBI

42

Memorandum to Mr. Sullivan
RE: COUNTERINTELLIGENCE PROGRAM

given nation-wide circulation that King does not need contributions from the 70,000 people he solicited. Since the churches have offered support, no more money is needed and any contributed would only be used by King for other purposes. This item would need nation-wide circulation in order to reach all the potential contributors and curtail their donations. A sample item is attached.

ACTION:

That the facts about King's solicitation of funds unnecessarily be given a cooperative news source by the Crime Records Division.

Sullivan 4/6/68

RECEIVED FROM
SEP - 5 1975
FBI

Martin Luther King, Jr., President of the Southern Christian Leadership Conference (SCLC), today finds himself in the embarrassing position of having too much money, or at least the probability of too much money. The SCLC sent out a huge mailing to its contributors pleading for funds for the Washington Spring Project, the "poor people's march on Washington." Thousands of contributors were urged to support the march financially in order to feed and house the demonstrators. But the churches in the Washington, D. C., area have offered to house and feed the demonstrators.

Now the contributions are beginning to roll in from the mailing and King doesn't need the money. An embarrassment of riches has befallen King, who will only use the money for other purposes. The churches had better come through with all the housing and support the demonstrators need, because there will be little money left for the "poor people" by the time the march rolls around.

RECEIVED FROM
SEP 5 1975
FBI

EXHIBIT 69-7

UNITED STATES GOVERNMENT

Memorandum ROUTE IN ENVELOPE

TO : Mr. W. C. Sullivan DATE: May 10, 1968

FROM : G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(POOR PEOPLE'S CAMPAIGN)

This is to recommend copy of document showing Communist Party, USA, interest in the Poor People's Campaign be furnished a cooperative news media source on a confidential basis by the Crime Records Division.

BACKGROUND:

The Poor People's Campaign (PPC) was initiated by the late Martin Luther King, Jr., as a massive civil disobedience campaign to force passage of legislation favorable to Negroes. We have just received, and disseminated to appropriate interested agencies, a Communist Party, USA, (CPUSA) document concerning the PPC. (Copy attached)

This document is signed by for the Party's Negro Work Department. It is addressed to all Districts of the Party, all National Committee (NC) members, Heads of all Negro Work Departments, and Chairmen of all commissions. The first heading in the document reads, "All-out Support to the Poor People's March."

The document calls for "mobilization in support" of the PPC. The CPUSA wants to organize the unemployed and the South as a followup to the PPC.

Enclosure

REC-116

RECEIVED FROM

68 MAY 17 1968

1 -
1 -

CONTINUED - OVER

Memorandum G.C. Moore to Mr. W.C. Sullivan
RE: COUNTERINTELLIGENCE PROGRAM
- BLACK NATIONALIST - HATE GROUPS

PROPOSAL:

To show CPUSA interest in the PPC it is suggested a copy of the attached CPUSA document be furnished a cooperative news media source on a confidential basis by the Crime Records Division.

For the background information of the news source an article in the 1/24/67 issue of "The Worker," the east coast communist newspaper, page two, identified William L. Patterson as the Chairman of the Communist Party, USA, National Negro Commission.

ACTION:

That attached copy of CPUSA document regarding PPC be furnished news source on confidential basis by Crime Records Division.

ADDENDUM: CRIME RECORDS DIVISION: TEB:jo 5/13/63

If approved, this document would be given, on a very confidential basis, to [redacted]. His attention would be drawn to the fact that in the January 24, 1967, issue of "The Worker," [redacted] who is the person who issued this document, is publicly described as Chairman of the National Negro Commission of the Communist Party, USA.

RECD. SEP 5 FBI

To all Districts and N.C. Members
Heads of all Negro Work Departments
Chairmen of all Commissions

May 1, 1968

I. All-out Support to the Poor People's March

The Poor People's March on Washington has begun. Evidence of its great power to mobilize for the fight against poverty is emerging. The evidence should be recognized and publicized.

Directed by Rev. Ralph D. Abernathy, leaders of the Southern Christian Leadership Council, local progressive black leaders and far-sighted white supporters have held meetings with President Johnson's Cabinet and Congressional leaders.

These meetings expose the hypocrisy of official governmental leadership and the role of government in maintaining millions, especially black citizens, in poverty and misery.

What becomes obvious is that if poverty is to be abolished the people must become abolitionists.

The Poor People's March can become an instrument for mobilizing and activizing millions against poverty.

Every phase of its development makes for the enlargement of struggle, the unification of the people and the loosing of creative ideas of struggle.

II. Political Significance Vital

The encampment in Washington is of historical significance, politically in awakening the American people, ideologically in revealing the role of government and the relation of forces needed to assure victory for the people organizationally and programmatically in mapping out and projecting the historically necessary follow through

The project in its many ramifications impinges on every crisis problem confronting the country, reveals the power of Negro leadership, the dire need for unity and coordination in struggle. The tragic picture of the polarization of poverty and consequent degradation alongside of uncquelled wealth, ruthless repacity and affluence is presented.

But the dominant factor of it all is: the development shows the limitless potentialities for successful struggle.

(See May Fortune Magazine for details of the polarization of wealth and usurpation of power).

III. Impact of March and the Follow Through

Reaction fears the impact of the March on labor, black citizenry, youth, women, all decent people who dare think. The impact can be strengthened by the popularization of the March everywhere, schools, churches, labor bodies, among students - everywhere. That popularization should take the form of mobilization in support. Constructive support demands discussion of the follow-up. This is the essence of the case since the March is not an end in itself.

IV. Our Tasks

The Negro Work Department calls on all district leadership to recognize and through action acknowledge possibilities for deepening and sharpening the struggle against poverty. This can lead logically to the question of the organization of the South, of the unorganized and the unemployed. This step is not only vitally important in relation to a successful fight against poverty but in relation to every major issue before the nation.

The logic of this step as a follow-up flows out of the association of the March with the strike of Memphis garbage workers and the unity of white-black workers in struggle.

Correct steps in publicizing the March and its messive ramifications can help awaken the creative imagination of black and white alike.

The people are in motion. The battle for their clarification, unification and direction is a challenge we can neither evade or avoid.

RECEIVED FROM
SEP
FBI

EXHIBIT 69-8

UNITED STATES GOVERNMENT

Memorandum

1 -
1 -
1 -

TO : Mr. W. C. Sullivan

DATE: May 14, 1968

1 -

FROM : G. C. Moore

1 (Mass Media)

1 - (Mass Media)

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS 1 -
RACIAL INTELLIGENCE
(POOR PEOPLE'S CAMPAIGN)

This is to recommend item about number of teen-agers in the Poor People's Campaign be furnished news media source on confidential basis by Crime Records Division.

BACKGROUND:

The Poor People's Campaign (PPC) is the campaign of massive civil disobedience initiated by the late Martin Luther King, Jr., to force passage of legislation favorable to Negroes. We have learned that at least two of the PPC caravans moving toward Washington, D.C., are composed largely of teen-agers and young men in their early twenties.

This is an unstable element with a real potential for violence. The recent riot in Washington started with looting by teen-agers and young men. This information has been disseminated to appropriate interested agencies and it is felt it should also be publicized by the news media. Attached is a summary of these facts which protects our sources.

ACTION:

That attached summary be given appropriate news media source by the Crime Records Division on a confidential basis to publicize the number of young people involved in the PPC.

REC 8

Enclosure

RECEIVED FBI

(8)

MAY 2

May 14, 1968

POOR PEOPLE'S CAMPAIGN
OR "CHILDREN'S CRUSADE"?

The Poor People's Campaign may be turning into a "children's Crusade" and the number of teen-agers descending on the Nation's Capital reminds officials that the recent riot in Washington began with teen-age looting. Of the 369 "poor people" in one of the caravans moving North on Washington, there are 315 of school age. Most of those in the "Midwest Caravan" are teen-agers or young men in their early twenties. Members of a teen-age group called the "Invaders" are in one caravan.

Parents of these young people have protested, knowing the potential for trouble in this situation. But the "children" come anyway and Washington, D.C., faces an explosive situation. The presence of so many teen-agers and youngsters only adds another unpredictable element to the Poor People's Campaign.

RECEIVED
SEP 5 1968
FBI

EXHIBIT 69-9

UNITED STATES GOVERNMENT

Memorandum ROUTE IN ENVELOPE

TO: Mr. W. C. Sullivan

DATE: May 17, 1968

FROM: G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(POOR PEOPLE'S CAMPAIGN)

This is to recommend photographs of demonstrators on Poor People's Campaign (PPC) be furnished cooperative news media source on a confidential basis by Crime Records Division.

Attached are six photographs of PPC participants taken by [redacted] in Cleveland, Ohio, at rally 5/14/68. These show the militant, aggressive appearance of the participants and might be of interest to a cooperative news source. Furnishing the pictures to a news source will not jeopardize our source.

ACTION:

That attached photos of PPC be furnished cooperative news media source on confidential basis by Crime Records Division.

Enclosures - 6

(8)

1 -
1 -
1 -
1 -
1 -
1 - (Mass Media)
1 -

EX-111

REC- 25 1 MAY 28 1968

RECEIVED FROM

SEP

432

EXHIBIT 69-10

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan

DATE: May 22, 1968

FROM : Mr. G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS
RACIAL INTELLIGENCE
(POOR PEOPLE'S CAMPAIGN)

This is to recommend an item regarding the Poor People's Campaign be given a cooperative news media source on a confidential basis by the Crime Records Division. A source has advised that some leaders of the Poor People's Campaign (PPC) feel that the American Friends Service Committee (AFSC), a Quaker group, is trying to dominate the PPC in Washington, D. C. The AFSC has assisted the Southern Christian Leadership Conference in various phases of this campaign. This situation is so serious that Fred C. Bennette, in charge of security for the PPC, refuses to go to the campaign office in Washington because of the presence of AFSC representatives.

An item has been prepared, copy attached, to show this jealousy on the part of PPC leaders. It is felt this should be given a cooperative news media source on a confidential basis by the Crime Records Division.

ACTION:

That attached item regarding the Poor People's Campaign be furnished a cooperative news media source on a confidential basis by Crime Records.

Enclosure

REC-

JUN 5 1968

(8)

1 -
1 -
1 -
1 -
1 (Mass Media)
1 - (Mass Media)
1 -

FBI

ENCLOSURE

REC-24

"FRIENDS" TOO FRIENDLY FOR
LEADERS OF POOR PEOPLE'S CAMPAIGN

Leaders of the "Poor People's Campaign" in Washington, D. C., are not exactly grateful for the assistance of the American Friends Service Committee on the campaign. They feel this help is a subtle effort to dominate the campaign.

One campaign leader is so irritated with the "Friends" that he refuses to go to the campaign office at 1401 U Street, N. W., Washington, D. C., because of the "Friends" there. He claims the representatives of the American Friends Service Committee that are at the campaign office are uncooperative.

1 -
1 -
1 -
1 -
1 (Mass Media)
1 - Mr (Mass Media)
1 -

(9)

NOTE:

See memo G. C. Moore to Mr. W. C. Sullivan captioned as above, dated May 22, 1968, prepared by

FROM
SEP
FBI

ENCLOSURE

434

EXHIBIT 69-11

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan

DATE: 6/5/68

FROM : Mr. G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(POOR PEOPLE'S CAMPAIGN)

This is to recommend item about the large number of cars bought by the Poor People's Campaign be furnished a cooperative news media source by Crime Records on a confidential basis.

The Poor People's Campaign has purchased three buses and twelve cars to transport demonstrators and leaders. Although the campaign is to dramatize alleged poverty, the campaign has spent thousands of dollars for cars and buses.

ACTION:

That attached item about this extravagance be furnished a cooperative news media source by the Crime Records Division on a highly confidential basis.

Enclosure

(6) 1ST REC

1 -
1 -
1 -
1 -
1 - (Mass Media)
1 - (Mass Media)
1 -

6 JUN 10 1968

437

REC- 59
EX-105

NOTHING REVOLUTIONARY ABOUT THE POOR PEOPL (Mass Med
(Mass Med

The Poor People's Campaign is on the march in Washington, D.C., but not on foot. The campaign is now buying cars and buses, twelve cars and three buses so far. Who knows got great publicity for the poor people, but when it comes to the hard work of "turning the Nation's Capital upside down," in the words of Reverend Abernathy, the poor people invest in several thousand dollars worth of automotive equipment.

The three buses are being used to shuttle the demonstrators around Washington on their appointed rounds and the cars even do the job of transporting campaign leaders to Resurrection City from their quarters at the Fifth Motor Hotel. Of course, the angry demonstrators who went to the Fifth Motor Hotel to get Reverend Abernathy for a stay in the muddy camp didn't get to use these cars.

The Poor People's Campaign bought two more cars over the Memorial Day weekend, making the fleet as large as some of the car rental agencies in Washington. If the campaign leaders used commercial bus lines for their trips back and forth from their hotel, the thousands spent on cars would feed a lot of children in Resurrection City.

(10)

NOTE:

See memorandum from G.C. Moore to W.C.Sullivan, captioned "Counterintelligence Program Black Nationalist - Hate Groups, Racial Intelligence (Poor People's Campaign)," dated 6/5/68, prepared by TJD/lst.

RETURNED FROM

EXHIBIT 69-12

UNITED STATES GOVERNMENT

Memorandum

TO :Mr. W. C. Sullivan

DATE: May 21, 1969

FROM :G. C. Moore

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(BLACK PANTHER PARTY)

Attached is an article concerning the criminal activities of the Black Panther Party (BPP) for the Crime Records Division to furnish a cooperative news media source on a confidential basis.

The extremist and highly violent BPP has been involved in criminal activities since its inception. The BPP has been involved in robberies, attacks on police officers, and other serious crimes. Many individual members have long criminal records. Details of this activity have been compiled in the attached article.

Exposure of these activities by nationwide news media would show the true nature of this extremist group.

ACTION:

That attached article be furnished a cooperative news media source on a confidential basis by the Crime Records Division to expose the criminal nature of the BPP.

Enclosure

1 (Mass Media)
1 (Mass Media)

JUN 6 1969

EXHIBIT 69-13

UNITED STATES GOVERNMENT

Memorandum

1 -
1 -
1 -

TO : Mr. W. C. Sullivan

DATE: 9/5/69

FROM : C. D. Brennan

1 -
1 -
1 -
1 -

SUBJECT: COUNTERINTELLIGENCE PROGRAM
NEW LEFT

This memorandum recommends approval for distribution under the Mass Media Program of a blind memorandum revealing evidence of the growing dissatisfaction of militant blacks with the New Left.

At a recent conference of the United Front Against Fascism held in Oakland, Calif., and sponsored by the Black Panther Party (BPP), one of the resolutions adopted was that a petition for community control of police departments should be circulated in the black, brown and white communities. Students for a Democratic Society (SDS) has balked at the idea of white community control of its police force. This has resulted in vitriolic attacks on SDS by leaders of the BPP and SDS has ineffectively explained its position.

Previous information has also been developed that the New Mobilization Committee (NMC), which under the name of the National Mobilization Committee sponsored demonstrations during the Democratic National Convention and the Presidential inauguration, has made plans for a demonstration in Washington, D. C., on 11/15/69 to protest the war. The Black United Front (BUF) in Washington, D. C., has demanded of this group $25,000 in order to receive its support.

In order to further split the black militants from the New Left, it appears that should this information be publicized it will create dissension within both the New Left and black militant groups. A blind memorandum setting forth this information has been prepared which could be used by a nationally syndicated columnist to focus attention on this developing situation.

EX-103 REC-73

4 SEP 11 1969

RECOMMENDATION:

That the enclosed memorandum be approved and forwarded to the Crime Records Division for use in the Mass Media Program.

Enclosure ENCLOSURE

RECEIVED FROM
5 1975
FBI

(8)

SEP 18 1969

THE WIDENING RIFT

From all appearances, the honeymoon between the black militants and the New Leftists is about over.

An indication of this state of affairs is the recent disclosure in "New Left Notes," the Students for a Democratic Society (SDS) organ, and "The Black Panther," the official publication of the Black Panther Party (BPP), that these two organizations have fallen out over the issue of community control of the police. A decision to call for such control, reached at a recent United Front Against Fascism Conference held in Oakland, California, and sponsored by the BPP, was more of a hurdle than SDS could take. SDS balked at white community control of police. In a subsequent statement by , a BPP official, printed in the Party's newspaper, the rift between these organizations was brought into the open. Hilliard charged SDS with slogan hawking and not being revolutionaries. In the usual gutter vernacular, he berated SDS as nationally chauvinistic and nationally socialistic.

SDS subsequently answered (if that is what it could be considered) in a wishy-washy statement printed in its publication, "New Left Notes." In this statement, SDS called the whole thing a misunderstanding based on faulty information about SDS's position. It characterized itself as being dedicated to building a revolutionary youth movement among white youth of the "mother country." This latter statement has not set well with black militants.

More recent evidence of this rift is indicated by demands recently made by the Black United Front (BUF) in Washington, D. C., on the New Mobilization Committee (NMC). This latter group, under the name of National Mobilization Committee, sponsored such demonstrations as those which were held in Washington, D. C., during the inauguration of President Nixon and during the Democratic National Convention in Chicago. The NMC has been organizing a demonstration which is to be held in the Nation's capital on November 15, 1969, which will protest the war in Vietnam. The BUF first notified NMC that it would demand that NMC pay BUF $1 per head for each demonstrator coming to

RECEIVED FROM
SEP 5 1975
FBI
ENCLOSURE

Washington, D. C., for this demonstration as a price for its support of the demonstration. It later modified this demand to ask for a flat $25,000 for its support. This demand poses a real problem for NMC since that organization is still in debt from the demonstrations it has sponsored in the past. It also poses tricky ideological problems. Some Committee leaders feel this is out-and-out extortion by the blacks and that it should not be paid. Others feel that the funds should be paid if possible, but the question then arises what about other Negro organizations which might be even more deserving of the funds than BUF. For instance, such an organization as the National Welfare Rights Organization, which is composed of black welfare recipients, might have a better claim to these funds. It also poses other interesting possibilities which the New Leftists are not anxious to face. That is, will this be a recurring demand which can be expected in the future from the blacks. If such is the case, it would become an additional burden for the protest movement. It is obvious that this situation must be handled with kid gloves for if the blacks are alienated, hope for success for any protest movement in Washington, D. C., will be eliminated.

It appears, therefore, that militant blacks are becoming increasingly unwilling to accept the leadership of the white New Left movement, but are ready to strike out on their own to seek objectives which, up to now, have only been secondary in the scheme of things as far as the leftists are concerned.

RECEIVED FROM
SEP 5 1975
FBI

EXHIBIT 69-14

RECEIVED FROM
SEP 5 1969
FBI

1 -
11/10/69
1 -
1 -
1 -
1 -
1 -

Airtel

To: Legats, London (Enclosure)
Tokyo (Enclosure)

From: Director, FBI

COUNTERINTELLIGENCE PROGRAM - NEW LEFT

Bureau has received information indicating that the North Vietnamese have received reports indicating majority of Americans actively participated in antiwar demonstrations 10/15/69. Attached is a draft of an article which presents the true picture.

If possible, you should contact Press Attache in your Embassy to determine if he has suitable contacts to have article appear in local press. If this is not practical, review local press for an article which gives figures for participants closest to the actual count indicated in attached article. Cut out the article and mail it to the North Vietnam Peace Delegation in Paris, France, using a commercial-type envelope purchased locally and take every precaution to insure that the action taken cannot be traced back to you or the U.S. Government. Advise Bureau of action taken on this matter.

1 - Foreign Liaison Unite (Route through for review)

(12)

NOTE:

See memorandum C. D. Brennan to Mr. W. C. Sullivan dated 11/7/69, captioned as above, prepared by

ENCLOSURE

REC 85

NOV 12 1969

MAILED 23
NOV 12 1969
COMM-FBI

RECEIVED FROM

SEP 5 1975

DEMONSTRATION PROTESTING U.S. PARTICIPATION IN THE WAR IN VIETNAM

On October 15, 1969, an organization known as the Vietnam Moratorium Committee sponsored nation-wide demonstrations in the U.S. to protest U.S. participation in the war in Vietnam. The predominant theme of these demonstrations was to remove all U.S. troops from Vietnam immediately. Demonstrations occurred in every state and at a majority of the colleges in the U.S. There have been conflicting claims as to the number of individuals who participated in these demonstrations. In view of the fact that these claims vary greatly depending upon the political viewpoint of the individual making them, some analysis is necessary.

To begin with, figures used by individuals involved in the demonstrations and by the committee organizing it appeared to be greatly exaggerated. For example, at Washington, D. C., the figure of 50,000 demonstrators is claimed. Actually, individuals capable of estimating crowd size placed the number at not over 25,000. In addition, at many of the demonstrations it was difficult to separate the demonstrators from spectators in estimating numbers. While absenteeism ran high in colleges and high schools throughout the country, the number of demonstrators on the campuses was relatively small. Obviously many of the students took the opportunity to take the day off as most of the schools excused anyone absent so they could take part in the Moratorium if they desired.

It is also well to note that many of the demonstrators were pacifists based upon their religious belief and had as their objective peace, not the withdrawal of U.S. troops from Vietnam.

Reliable sources in the news media in the U.S. estimate the total number of demonstrators as 500,000, the majority of which were of high school and college age. Inasmuch as the population of the U.S. exceeds 200,000,000, 8,000,000 of which are college students, it is obvious that a very small part of the population took part in these demonstrations. Even utilizing the Vietnam Moratorium Committee's claims of 1,000,000 demonstrators, this would amount to only 1/200 of the population. Utilizing the more reliable estimate of 500,000, it would only amount to 1/400 of the population. Even if the entire 500,000 demonstrators were college students

ENCLOSURE

they would only amount to 1/16 of the youth presently attending colleges in the U.S.

Viewed in this light, it is obvious that the demonstrations were not a mass cry for immediate withdrawal of U.S. troops from Vietnam but rather an indication that some of the individuals who are obviously next in line for military service in Vietnam object to having their lives disrupted by participating in a war which they cannot understand.

RECEIVED FROM
SEP 5 1975
FBI

EXHIBIT 69-15

UNITED STATES GOVERNMENT

Memorandum

1 -
1 -
1 -
1 -

TO : Mr. W. C. Sullivan

DATE: 4/15/70

FROM : G. C. Moore

1 -
1 -
1 -
1 -

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(STOKELY CARMICHAEL)

To recommend that attached news media item be furnished to a cooperative news media source on a confidential basis. The item relates to open criticism by black extremist Stokely Carmichael of the Black Panther Party (BPP) organization and ideology.

Carmichael was formerly Prime Minister of the BPP. In that capacity he was a leading spokesman for the BPP and it was largely through his public statements that the BPP enjoyed such widespread success during its efforts to recruit new members and expand its chapters across the Nation.

Carmichael publicly resigned from the BPP in July, 1969, primarily because he felt that the BPP should remain an exclusively black organization whereas other leaders of the group favored cooperation with white radical groups.

Carmichael departed from the U.S. in December, 1968, and resided in Africa until his return to the U.S. on 3/18/70 for a brief stay. During his stay he has made a number of public appearances at universities and on television programs. It was during an appearance on 4/10/70 at the New Bethel Baptist Church in Washington, D. C, that he expressed his criticism of the BPP.

ACTION:

That the attached item be furnished to a cooperative news media source on a confidential basis. It is felt that publication of Carmichael's utterances against the BPP may be used in generating additional mutual animosity between him and the Panthers to the benefit of the Bureau.

Enclosure

APR 21 1970

7 MAY 4 1970

ENCLOSURE

ROUTE IN ENVELOPE

1 -
1 -
1 -
1 -

April 16, 1970

1 -
1 -
1 -
1 -

STOKELY CARMICHAEL

Vociferous Stokely Carmichael, perennial exponent of black extremism, left the United States in December, 1968, and since that time has been studying Pan-African ideology at the feet of deposed Ghanaian leader Kwame Nkrumah. Pan-Africanism stresses the unification of blacks and the establishment of a land base in Africa from which to mount black revolution against white society. The Pan-African movement under Nkrumah's leadership, and with Carmichael's most eloquent backing, does not allow for participation in any form by the hated white whether he be radical or racially moderate.

Indeed, Carmichael, as the foremost exponent of the black power movement, publicly resigned from his position of Prime Minister of the Black Panther Party in July, 1969, over the Black Panther Party's decision to enter into a coalition with elements of the radical white New Left movement.

At a public appearance at the New Bethel Baptist Church, Ninth and S Street, Northwest, Washington, D. C., on the evening of April 10, 1970, Carmichael launched a vindictive attack on the Black Panther Party organization and its black-and-white-revolution-together ideology. Carmichael labeled the Black Panther Party's ideology false and stated it is his view blacks are unable to understand or relate to it. As if fearful of what might ensue, Carmichael called for the cessation of Black Panther Party attacks on him, and in defense of his own position, stated that if the Black Panther Party organization does not want to join him, they should refrain from attacks on his ideology.

(11)

SEE NOTE PAGE TWO

armichael

See memorandum G. C. Moore to Mr. W. C. Sullivan
pril 15, 1970, captioned "Counterintelligence
, Black Nationalist - Hate Groups, Racial Intelligence
y Carmichael)," prepared by

FBI

EXHIBIT 69-16

SAC, Boston REC-123 2/27/68

Director, FBI 10

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS
RACIAL MATTERS
(NATION OF ISLAM)

1 - Mr. T.E. Bishop
1 - [redacted]
1 -

Reurlet 2/9/68.

You are authorized to furnish derogatory information about the Nation of Islam (NOI) to established source [redacted] who Bureau of Broadcasters on your contact with [redacted] and of results of any program using material you furnish.

Your suggestions concerning material to furnish are good. Emphasize to him that the NOI predilection for violence, preaching of race hatred, and hypocrisy, should be exposed. Material furnished should be either public source or known to enough people as to protect your sources.

Insure the Bureau's interest in this matter is completely protected by [redacted] Your alertness and interest in forwarding this suggestion are appreciated by the Bureau.

(6)

NOTE:

Boston notes [redacted] who is reliable, discreet, and an owner of the [redacted]. Files contain nothing derogatory about [redacted]

[redacted] covers Negro [redacted] with a Negro population of 20,000. A program exposing the NOI should be particularly valuable on this station.

EXHIBIT 69-17

Memorandum

TO : DIRECTOR, FBI DATE: 2/9/68

FROM : SAC, BOSTON

SUBJECT: COUNTER INTELLIGENCE PROGRAM
BLACK NATION LIST HATE GROUPS
INTERNAL SECURITY

ReBulet to Albany, 8/25/67.

In connection with captioned program, the Boston Division is submitting the following suggestion:

produces a radio program over , which features a controversial subject of interest to the general public. The program features a guest who is involved in some way with the topic under discussion.

the Boston Division, is thoroughly reliable and discreet and has a high regard for the FBI.

Radio Station covers the State of Rhode Island and large areas of Southern Massachusetts.

Through program, it would be possible to present the local leader of the NOI in Providence and the minister of the NOI in Boston, Mass., in a discussion of NOI activities, aims, and policies. Sufficient public source data would be furnished enable him to discuss subjects which would be embarrassing for the NOI to answer on the one hand or to avoid answering on the other.

EX-113 REC-74

2 - Bureau (RM)
2 - Boston

(4)

1 FEB 12 1968

DS

Such questions could include efforts of NOI members to stop a car in the Sumner Traffic Tunnel, Boston, Mass., on 6/14/64 under the impression that the occupant was MALCOLM X and for the purpose of assassinating him. Another subject could be the beating of [redacted] NOT member from New Haven, Conn., [redacted] subsequently died in his hotel room on [redacted] the hatred this group bears for the white man could be explored as well as questions on local administration of the Temples and their methods of financing themselves by sales of Muhammad Speaks and donations. Still another subject could be the escapades of ELIJAH MUHAMMAD with respect to his secretaries.

It is believed that this program, properly developed, could portray the NOI in its true light. It is noted that the Providence, R. I., area has a Negro population estimated at about 20,000 persons.

The Bureau can be assured o[redacted] discreetness and the fact that the Bureau's interests will be protected.

EXHIBIT 69-18

8/27/68

SAC, Tampa

Director, FBI
REC- 81

1 -
1 -

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL MATTERS
(JUNTA OF MILITANT ORGANIZATIONS)

Reurairtel 8/20/68.

Authority is granted to furnish public source data and lead material concerning extremist Black nationalist groups, including the Junta of Militant Organizations (JONO).

[illegible] a confidential basis and the Bureau cannot be revealed as the source.

For your information, Bureau files contain no information concerning [redacted] and no derogatory information concerning [redacted]. The Bureau appreciates your interest in the Counterintelligence Program directed against Black nationalist extremist groups. Keep the Bureau advised of the results of this counterintelligence action.

AUG 2 1968

(6)

NOTE:

[redacted] has expressed an interest in exposing black nationalist extremist groups, including JONO, on a television special program to be presented as a community service. [redacted] is a friend of the Special Agent in Charge, Tampa, and on many occasions has expressed his admiration for the Director. [redacted] is a respected member of the community and a check of Bureau files reveals no derogatory information concerning him or his television station. Tampa recommends he be furnished public source data and assures this will in no way cause embarrassment to the Bureau.

NOTE CONTINUED PAGE TWO

MAIL ROOM ☐ TELETYPE UNIT ☐

P 3 1968

Letter to SAC, Tampa
RE: COUNTERINTELLIGENCE PROGRAM

NOTE CONTINUED:

The organization JOIN is headed by one [redacted] who has been arrested for destroying a mural in the City Hall at St. Petersburg, Florida, and most recently arrested for spitting on a police officer. [redacted] has told our Agents that a "black revolution is imminent and all white people will die." [redacted] called the FBI director "one of the biggest racists in the United States and claimed the FBI is responsible for the death of Senator Robert Kennedy. [redacted] has said he wants to teach Negro children his philosophy of hating white people. His organization claims it has a secret "Man Man" (terror) squad. We concur with Tampa that this organization should be publicly exposed. Recently, Miami Division was authorized to assist a television station in exposing black nationalist extremists and excellent results were obtained. This operation should also serve to neutralize the activities of this extremist group.

RECEIVED FROM
SEP 9 1975
FBI

EXHIBIT 69-19

Date: 8/20/68

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL AIRMAIL (Priority)

TO: DIRECTOR, FBI

FROM: SAC, TAMPA

COUNTERINTELLIGENCE PROGRAM,
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE

ReBulet to all offices, 8/5/68.

On 8/20/68, [redacted] advised that [redacted] he is constantly on the alert for special programs to be presented as a community service at his station. [redacted] is viewed by over 500,000 persons in the Tampa, St. Petersburg area. He stated that because of the emphasis being placed on racial matters in the area at this time, he is very much interested in preparing a special program of any organizations in the field at this time. He stated that he was aware of the Junta of Militant Organizations (JOMO) and its leader [redacted] of St. Petersburg. He stated that of late there have been many programs, particularly of the news type, where WALLER has been seen agitating racial situations, particularly in St. Petersburg, Fla. [redacted] further advised that he wondered if there would be some public source material that the FBI could direct him to which would assist him in determining whether such a TV special would be informative and worthwhile for the Tampa St. Petersburg area.

EX-108 REC-97

It is to be noted that [redacted] is a friend of the SAC of the Tampa Office and several Agents of the Tampa Division. He has expressed on many occasions great

3 - Bureau (RM)
1 - Tampa

(4)

FROM

22 AUG 27 1968

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

TP

admiration for the FBI and its Director, Mr. HOOVER, and as a matter of fact, explained on 8/23/68, that when he graduated from college, he had considered applying for the FBI as a Special Agent, but when he found that it required a law degree, he went into the entertainment field instead. He stated, however, he has always been an FBI "buff" and is interested in the excellent record compiled by the FBI. It will be noted further that is a very respected member of the community and has served actively on many civic organizations in the Tampa area. He has been with and is in a pivotal position with that firm.

Tampa believes that would be an excellent source to whom to furnish source material for an expose type TV special on JOMO. It would appear that within a reasonable time such a program encompassing interviews together with news clippings that are available to already, would certainly serve the Counterintelligence Program. It may further be noted that the leaders of JOMO in St. Petersburg, particularly , have been eager to have the news media cover their activities. It is also believed that having an inflated ego, will eagerly consent to interviews and because of his emotional state, it may well be anticipated that he will make wild remarks and present JOMO in a most unfavorable light in the Negro and white communities. It may well be anticipated that since 's followers are mostly teenagers and have been prone to make wild remarks themselves, that they will likewise present themselves in a most unfavorable light. It will be noted further that has stated that in dealing with the FBI he at no time will divulge any relationship that he has with the FBI or the fact that they cooperated in any presentation that he might make. He stated that he could not bring himself to do anything to any organization such as the FBI which he has admired for so many years.

Tampa therefore feels that furnishing source material to for a special TV program will in no way cause embarrassment to the Bureau and therefore recommends to the Bureau that it authorize the Tampa Office to approach with specific information which he might utilize in any program he may prepare. If the Bureau approves

RECEIVED FROM
SEP 9 1975
FBI

TP

this suggestion, Tampa assures the Bureau that it will not furnish any information to [redacted] which could be traced to the FBI or which will compromise any live informants being operated by the Tampa Division.

RECEIVED FROM

EXHIBIT 69-20

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI DATE: 2/7/69

FROM : SAC, TAMPA

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE

Re Tplet, 1/23/69.

On 2/7/69 I personally viewed the final edited version of the one-half hour film program. This film will be shown at [redacted]

Viewing of the film by [redacted] ASAC WILLIAM S. SULLIVAN, and Special Agent Supervisor [redacted] was at invitation of [redacted] Station Manager of [redacted] Station, Tampa, Fla., who has no knowledge of Bureau's involvement in production of this film.

Also present at time of viewing were [redacted]

The film is an excellent production fully exploiting the Junta of Militant Organization, Students for a Democratic Society and Student Protest Demonstrations at Tampa-St. Petersburg, Fla. and represents maximum results of this program.

At end of viewing [redacted] was asked if he would make available the film for closer examination by Bureau representatives. He advised that he was most receptive to this idea and if the Bureau would furnish him with one-half hour of video TV tape, he would reproduce the film for the Bureau and they could retain the copy as their own.

NEC 106

2 - Bureau (RM)
3 - Tampa

Tampa believes obtaining a copy of this program will be of excellent benefit not only as an aid to Tampa investigations but as an aid to other Bureau field divisions in presenting similar type of counterintelligence programs.

In addition to showing film on 3/9/69, and at suggestion of [redacted] will rebroadcast this program once again at a later [redacted]. [redacted] was also receptive to my suggestion to make this film available to civic groups such as PTA's, American Legion, Rotary, Kiwanis, etc. by WFLA.

Bureau is requested to furnish Tampa with one-half hour of TV video tape in order same can be furnished to Mr. FAVOR in order that a copy of the [redacted] program can be obtained. If Bureau not in position to furnish, Bureau is requested to authorize Tampa Division to purchase same locally.

Subsequently on 2/7/69 [redacted] advised that he will obtain for the Bureau a copy of the film taken in preparing for this program which was not included in the program for which no video tape necessary.

Bureau will note that Bureau's participation in producing this program has not been exposed by [redacted] and there is no indication Bureau's affiliation will become known at any future date.

RECEIVED FROM
[illegible] 1969
FBI

EXHIBIT 69-21

UNITED STATES GOVERNMENT

Memorandum

1 -
1 -
1 -

TO : MR. W. C. SULLIVAN

DATE: October 21, 1969

1 -

FROM : MR. G. C. MOORE

1
1

SUBJECT: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
(NATION OF ISLAM)

1 -

This is to advise of highly successful results of counterintelligence exposing the black extremist Nation of Islam (NOI) in Miami, Florida.

We previously authorized the Miami Division to cooperate with an established source at [redacted] who was preparing a television program exposing the NOI. The NOI is a pseudo-religious organization which preaches hatred of the white race. This documentary expose of the NOI was shown at 9:30 PM 10/9/69 and the audience rating for this show was in excess or 200,000.

[redacted] was elated at the response. The station received more favorable telephone calls from viewers than the switchboard could handle. Community leaders have commented favorably on the program, three civic organizations have asked to show the film to their members as a public service, and the [redacted] County Sheriff's Office plans to show the film to its officers and in connection with its community service program.

This expose showed that NOI leaders are of questionable character and live in luxury through the large amount of money taken as contributions from their members. The extreme nature of NOI teachings was underscored. Miami sources advised the expose has caused considerable concern to local NOI leaders who have attempted to rebutt the program at each open meeting of the NOI since the program was presented. Local NOI leaders plan a rebuttal in the NOI newspaper. Attendance by visitors at weekly NOI meetings has dropped 50%. This shows the value of carefully planned counterintelligence action.

ACTION:

None. For information.

REC 18 Evidents-

[illegible] NOV 5 [illegible]

455

EXHIBIT 69-22

UNITED STATES GOVERNMENT

Memorandum

1 -
1 -

TO : Mr. W. C. Sullivan

DATE: 1/22/70

1 -
FROM : Mr. G. C. Moore
1 -
1 -
1 -

SUBJECT: COUNTERINTELLIGENCE MATTERS
BLACK PANTHER PARTY
RACIAL MATTERS

Recommended that selected offices handling major chapters of the extremist Black Panther Party (BPP) be contacted and their recommendations obtained regarding reliable and trustworthy contacts in the television and/or radio media who might be interested in the preparation of programs on the BPP

Letters to the Attorney General dated 1/15/70 and 1/20/70 advised him of adverse reaction of the BPP to the Columbia Broadcasting System television program "Sixty Minutes" which devoted a segment of its 1/6/70 program to the BPP. New York has recommended that the Bureau may wish, through its liaison with national media, to encourage programs wherein the BPP can be seen in its true light.

REC-94

The BPP has been getting support and financial contributions from misguided individuals who apparently are unaware of the true nature and motives of this violence-prone group. We have been attempting to counteract this and to expose the BPP for what it is through our mass media program in which the true facts regarding this organization are made known to selected news media contacts. In our counterintelligence program we have been very successful in the Miami, Florida, area having two television programs shown locally on the extremist Nation of Islam and on white hate groups. This was handled by our Miami Office through a reliable contact. These programs were favorably received by the viewing audience and showed the extremist groups involved in their true light.

FEB 4 1970

Rather than dealing with national media contacts, it is believed we should check with selected offices handling BPP matters and obtain their observations and recommendations regarding the preparation of television and/or radio programs on the BPP through established contacts locally. They will be instructed to make no contact at this time without prior Bureau authority. Any concrete proposals set forth by the offices will be made the subject of separate memoranda before any action is initiated.

Enclosure

CONTINUED

456

Memorandum to Mr. W. C. Sullivan
RE: COUNTERINTELLIGENCE MATTERS

ACTION:

If you approve, the attached letter will be directed to each selected office in line with the comments set forth abo

OK.

EXHIBIT 69-23

1 - Mr.

SAC, Jackson 2-26-69

Director, FBI

COINTELPRO - NEW LEFT

REC 53
EX 105
I - Airtel 2-11-69.

Referenced airtel requests authority to furnish "Jackson Daily News," with additional material on the New Left and to aid him in the preparation and writing of a pamphlet on the history, aims, and purposes of the New Left.

It is not felt desirable that you furnish any assistance to in preparing this pamphlet nor should you direct him in its preparation.

You may, however, furnish him with the additional articles included herewith relating to SDS and the New Left which he may use in the preparation of his pamphlet.

On the occasion of contacting him in this regard, you should advise of the fact that the Bureau's interest in this matter is to be maintained in the strictest confidence and that the Bureau's assistance is not to be referred to in his writings.

MAILED 6
FEB 26 1969
COMM-FBI

Enclosures - 13

(4)

NOTE:

By reairtel Jackson advised that had advised the Office that he desires to publish a pamphlet setting forth the history of the New Left. This pamphlet will be published and distributed with the assistance of the American Legion who will finance it. The pamphlet will be distributed to major colleges and a number of high schools in the State. We have previously furnished with two documents on the New Left entitled "Students for a Democratic Society, Threat Number of the New Left" and "Campus or Public Ground? Columbia is a warning to all American Universities." used these documents to write a series of articles in his paper, which was well received. Jackson suggested that

NOTE CONTINUED PAGE TWO

Letter to SAC, Jackson
RE: COINTELPRO - NEW LEFT

NOTE CONTINUED:

it be authorized to assist in the preparation and writing of a pamphlet on the New Left and that it be supplied with additional documents to be furnished to for his use in this regard. We are furnishing the Jackson Office with the below listed public source material to assist in this project with the above noted restrictions.

Jackson advises has been discreet, trustworthy and reliable in previous dealings with the Bureau and he has been contacted on many occasions in the past concerning Klan and Civil Rights matters.

1. An Analysis of the New Left: A Gospel of Nihilism
2. Message From the Director: Appearing in Sept. 1, 1968, Law Enforcement Bulletin
3. High School Reform Toward a Student Movement by Mark Kleiman (article by SDS)
4. Smash the Military Machine in the Schools (A National Winter-Spring Offensive) article by SDS
5. The Hope of Democratic Survival (A Speech by Sidney Hook - printed in The Georgia Alumni Record)
6. SDS Against the World by Jonathan Rubinstein (New York Magazine 10-14-68.)
7. The Rebel Rousers (an article by George Nobbe - New York Sunday News 5-5-68)
8. SDS Sets Out on Radical Path (article by Jack [illegible] 7-15-67 National Guardian)
9. Carl Davidson Outlines Four-pronged Strategy (article in 11-11-67 edition of National Guardian)
10. Towards a Revolutionary Youth Movement (an article appearing in the 1-18-69 Guardian)

NOTE CONTINUED PAGE [illegible]

Letter to SAC, Jackson
RE: COINTELPRO - NEW LEFT

NOTE CONTINUED:

11. Viet Vets, New Recruits Reshape SDS (an article by Carl Davidson, Guardian, 11-16-68.)

12. SDS, An Introduction (a pamphlet released by National Office SDS)

13. Don't Mourn, Don't Mourn, Organize, Organize, SDS guide to Community Organizing.

EXHIBIT 69-24

FD-36 (Rev. 5-22-64)

FBI

Date: 2/11/69

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL AIRMAIL (Priority)

TO: DIRECTOR, FBI

FROM: SAC, JACKSON

COINTELPRO - NEW LEFT

Re Jackson airtel to Bureau 10/2/68;
Bureau letter to Jackson 10/18/68.
Jackson letters to Bureau 11/21,22/68, and 12/4/68.

On 2/7/69 Jackson, Mississippi, advised that he has recently been receiving inquiries and references to the series of articles in the Jackson Daily News from 11/19/68 through 11/26/68.

advised that he desires to publish a pamphlet setting forth history, aims, purposes, et cetera, in order to ridicule the "New Left", particularly in Mississippi. In his pamphlet he intends to set forth subversive affiliations in the "New Left" and to shed an unfavorable light on "New Left" activities.

advised that the American Legion in Mississippi would be more than willing to finance and distribute the publication of any such pamphlet.

REC-20

100-902(RM)

3 - Bureau (RM)
2 - Jackson

(5)

advised that the pamphlet would be distributed to major colleges, junior colleges, and a number of high schools in Mississippi.

has been most cooperative in the past and has been contacted on many occasions by Bureau Agents regarding various matters in related investigations, primarily concerning the Ku Klux Klan and/or civil rights activities in the State of Mississippi. He is friendly, discreet, reliable and is a loyal American.

Reference is made to Bureau letter to Jackson dated October 18, 1968, in which the Bureau furnished material which was extremely valuable to in providing with background information on the New Left, in the series of articles 11/19/68 through 11/26/68.

REQUEST OF THE BUREAU:

The Jackson Division requests Bureau approval to contact , to aid him in the preparation and writing of his proposed pamphlet.

If above request approved, additional material, if available on New Left, be forwarded to Jackson.

The Jackson Division desires to know if pamphlets or other publications to ridicule the New Left have been published. If so, Bureau is requested to furnish these pamphlets and publications in order to exhibit them to to aid him in his preparation of a pamphlet.

EXHIBIT 69-25

7-2-70

SAC, San Francisco

Director, FBI

REC-21

INSTITUTE FOR POLICY STUDIES
1520 New Hampshire Avenue N.W.
Washington, D. C.
IS - MISCELLANEOUS
SF file
Bufile

COINTELPRO -
NEW LEFT
SF fil
Bufile

ReSFlet 6-15-70.

Authority is granted to contact for the purpose of furnishing him copies of the material submitted as enclosures to relet.

On the occasion of your contact with , advise him that under no circumstances is he to divulge the Bureau's interest in this matter.

Your interest in participating in the counterintelligence program is appreciated, and you should continue to give it close attention.

(7)

MAILED 8
JUL 2 1970
COMM-FBI

NOTE: By relet, San Francisco submitted copies of eight documents all of a public source nature. San Francisco recommended that this material be furnished to an established source of the San Francisco Offic , with the suggestion that he might wish to prepare an article on the activities of the a New Left-type organization located in San Francisco, and an affiliate of the Institute for Policy Studies.

372

[illegible]

EXHIBIT 69-26

Memorandum

TO : DIRECTOR, FBI DATE: 6/15/70

FROM : SAC, SAN FRANCISCO

SUBJECT: INSTITUTE FOR POLICY STUDIES
1520 New Hampshire Avenue N.W.
Washington, D.C.
IS - MISCELLANEOUS
SF file
Bufile

COINTELPRO -
NEW LEFT
SF file
Bufile

Re Report of SA at San Francisco dated 6/15/70.

Enclosed for the Bureau are the following:

(1) A copy of an article in "Barron's" weekly magazine captioned "Radical Think Tank" from the 10/6/69 issue.

(2) A copy of an article in "Barron's" captioned "Ivory Tower Activists," from the 10/13/69 issue of "Barron's".

(3) A pamphlet concerning a meeting of the Committee of Concerned Asian Scholars of Stanford University, to be held 4/3/70 at Glide Memorial Church in San Francisco.

(4) A newspaper article from the "Oregon Daily Emerald" issue of 4/10/70 captioned "Weisberg--Possible Ecology Not Effective."

ENCLOSURE

4 - Bureau (Enc. 8) (RM)
(2 -
(2
4 - San Francisco
(2
(2 -

(8)

JUN 19 1970

NOT -SINO-SATELLITE-

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

SF
SF

(5) An article from the "Daily Californian" issue of 10/19/65 "Katzenbach Protests SDS."

(6) Article from the "Daily Californian" issue of 11/4/65 captioned "VDC May Hold Legal March".

(7) An article from the "Daily Californian" issue of 2/4/66 captioned "Conelan's Office Locked".

(8) A blank page containing two typed notices of articles in the "Ann Arbor News", Ann Arbor, Michigan, dated 3/24 and 25/65, concerning ALLAN HABER.

Articles 4 through 7 contain characterizations of

It is recommended that a copy of the enclosed be furnished to who is an established source of the San Francisco Office and has been used on prior occasions under COINTEL Program, with the suggestion that may wish to write an article concerning the activities of the Bay Area Institute which is located in San Francisco.

EXHIBIT 69-27

1 -
1 -

SAC, New York 10/28/68

REC-123 1 -
Director, FBI

COINTELPRO - NEW LEFT

Reurlet 10/16/68 EX-114

Authority is granted to send a letter, signed with a fictitious name, to the editors of "Life" magazine. Furnish the Bureau the results of your action.

1 -

(7)

NOTE: is the Editor of "Realist" and is one of the moving forces behind the Youth International Party, commonly known as the Yippies. is a spokesman for the New Left. "Life" magazine recently ran an article favorable to him. New York's proposed letter takes issue with the publishing of this article and points out that the "Realist" is obscene and that is a nut. This letter could, if printed by "Life," call attention to the unsavory character of

MAILED 24
OCT 28 1968
COMM-FBI

EXHIBIT 69-28

Memorandum

TO: DIRECTOR, FBI

DATE: 10/16/68

FROM: SAC, NEW YORK (P)

SUBJECT: COINTELPRO - NEW LEFT

The 10/4/68 issue of "Life" magazine contained a three page feature on [redacted] of "Realist" and self-styled hippie". (Buffile [redacted] Nyfile [redacted] is carried on the RI of the NYO.

Bureau authority is requested to send the following letter to the editors of "Life" on an anonymous basis. It is noted that the "Life" article was favorable to [redacted]

Sirs:

Your recent issue (October 4th), which devoted three pages to the aggrandizement of underground [redacted] was too, too much. You must be hard up for material. Am I asking the impossible by requesting that [redacted] and his ilk be left in the sewers where they belong?

That a national magazine of your fine reputation (till now that is) would waste time and effort on the cuckoo editor of an unimportant, smutty little rag is incomprehensible to me. Gentlemen, you must be aware that "Realist" is nothing more than blatant obscenity.

Your feature editor would do well to read a few back issues of "Realist". Try the article in 1963 following the assassination of President Kennedy, which describes disgusting necrophilism on the part of LBJ. To classify [redacted] as some sort of "social rebel" is far too cute. He's a nut, a raving, unconfined nut. As for any possible intellectual rewards to be gleaned from "Realist" - much better prose may be found on lavatory walls.

If this article is a portent of things to come in "Life", count me out, gentlemen, count me out.

Howard Rasmussen,
Brooklyn College, School of
General Studies,

(2) - Bureau (RM)
1 - New York

(3)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT 69-29

6/25/70

1 -
1 -
1 -
1 -
1 -

Airtel

EX-110

To: SAC, Los Angeles

REC 16

From: Director, FBI

COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST - HATE GROUPS
RACIAL INTELLIGENCE
BLACK PANTHER PARTY

ReLAairtel 6/17/70.

You are authorized to prepare a letter as set forth in relet and mail to the Hollywood "gossip" columnist. Insure that mailing cannot be traced to the Bureau.

(8)

JUN 25 1970
COMM-FBI

NOTE:

Los Angeles proposed that a letter from a fictitious person be sent to Hollywood "gossip" columnist of the "Daily Variety" in connection with his column on 6/11/70 indicating Jane Fonda, noted film actress, would attend a Black Panther Party fund raising function on 6/13/70. The proposed letter states the writer attended the function and was searched upon entering, urged to contribute funds for jailed Panther leaders and to buy guns for "the coming revolution." Also, that Jane and one of the Panthers led a refrain "We will kill Richard Nixon, and any other N.... F.....who stands in our way." It can be expected that Fonda's involvement with the BPP cause could detract from her status with the general public if reported in a Hollywood 'gossip' column.

EXHIBIT 69-30

Date: 6/17/70

nsmit the following in _____
(Type in plaintext or code)

AIRTEL AIR MAIL - REGISTERED
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, LOS ANGELES (P)

RE: COUNTERINTELLIGENCE PROGRAM
BLACK NATIONALIST-HATE GROUPS
RACIAL INTELLIGENCE
BLACK PANTHER PARTY (BPP)

Re Los Angeles teletype to Bureau, 6/15/70, entitled "COMMITTEE UNITED FOR POLITICAL PRISONERS (CUPP), IS-MISCELLANEOUS, THREAT AGAINST PRESIDENT NIXON".

Bureau authority is requested in sending the following letter from a fictitious person to Hollywood "gossip" columnist for the "Daily Variety", who noted in his 6/11/70 column that JANE FONDA, noted film actress, was to be present at the 6/13/70 Black Panther Party fund raising function sponsored by CUPP in Los Angeles. It is felt that knowledge of FONDA's involvement would cause her embarrassment and detract from her status with the general public.

"Dear

I saw your article about Jane Fonda in 'Daily Variety' last Thursday and happened to be present for Vadim's 'Joan of Arc's" performance for the Black Panthers Saturday night. I hadn't been confronted with this Panther phenomena before but we were searched upon entering Embassy Auditorium, encouraged in revival-like fashion to contribute to defend jailed Panther leaders and buy guns for 'the coming revolution', and led by Jane and one of

(2) - Bureau (RM)
2 - San Francisco (RM)
2 - Los Angeles
(6)

REC 16
62-110
2 JUN 19 1970

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

SEARCH SECTION

LA 157-4054

the Panther chaps in a 'we will kill Richard Nixon, and any other M-----F----- who stands in our way' refrain (which was shocking to say the least!). I think Jane has gotten in over her head as the whole atmosphere had the 1930's Munich beer-hall aura.

"I also think my curiosity about the Panthers has been satisfied.

"Regards

/s/ "Morris"

If approved, appropriate precautions will be taken to preclude the identity of the Bureau as the source of this operation.

EXHIBIT 69-31

July 6, 1971

Mr. Mohr:

Re: LEONARD B. BOUDIN
ATTORNEY FOR DANIEL ELLSBERG

By memorandum R. D. Cotter to C. D. Brennan dated June 28, 1971, it was recommended and approved that pertinent information concerning Boudin be used in connection with the Mass Media Program.

[This paragraph indicates that information about Boudin's political and legal defense activities was "called to the attention" of a reporter for a national news service. The FBI believed this information would discredit Boudin.]

ACTION

For information.

Enc.

T. E. Bishop

REC-33

1971

1
1
1
1
1

Send copies of attached to Waldman. C.G.

JUL 12

Deputy

Your Committee and the contents may not be disclosed to unauthorized personnel without the express approval of the FBI.

Subsequent publication of the Klan's activities resulted in a number of Klan officials ceasing their activities, and no information was developed indicating the Klan was able to expose informants through the use of the polygraph.

2. On February 29, 1972, FBIHQ responded to a request of the Louisville Field Office, authorizing an anonymous letter be forwarded to a Black Panther Party (BPP) office in New York City. This anonymous letter contained a newspaper clipping discrediting one a black extremist endeavoring to affiliate with the Cleaver Faction of the BPP. Subsequently it was determined that "seeds of doubt" concerning Simmons' leadership qualities had been planted at the Cleaver Faction Headquarters.

Information relating to the above proposals and authorizations did not appear in any Cointelpro-type file of this Bureau. The proposals and authorizations were handled in substantive organizational and individual files, and no copies were placed into a Cointelpro file. The FBI communications approving the two actions were reviewed by various officials at FBIHQ. Office procedures in effect in Director J. Edgar Hoover's office at the time indicate both proposals were approved by Mr. Hoover.

EXHIBIT 70-1

THE ATTORNEY GENERAL

May 8, 1958

Director, FBI

COMMUNIST PARTY, USA
INTERNAL SECURITY - C

I thought you would be interested in the following information.

In August of 1956, this Bureau initiated a program designed to promote disruption within the ranks of the Communist Party (CP), USA. In this connection, we have since capitalized on many situations that have developed within that organization. For example, following the denunciation of Stalin by Khrushchev in February, 1956, and the revelation of widespread anti-Semitism throughout the Soviet Union, the domestic communist organization was split into divergent views which extended from the rank-and-file membership to the top leadership. Recognizing the potential offered by this situation, we attempted to perpetuate this dissension since to do so would tend to prevent the CP from concerted action in furtherance of their conspiratorial activities.

Several techniques have been utilized to accomplish our objectives. As an example, we have briefed carefully selected informants in the largest CP districts to engage in controversial discussions around such issues as Soviet intervention in the Hungarian revolution and the cult of Stalin, as well as to be critical of certain leadership factions, both locally and nationally. Acrimonious debates ensued, suspicions were aroused, and jealousies fomented. In addition, we resorted to anonymous mailings to active CP members, otherwise inaccessible, who might be affected by anticommunist material. These mailings were directed principally to those who had serious doubts regarding the competence of Party leaders and their ability to carry out the stated aims of the organization and concerning whom defection was considered a distinct possibility. When suitable anticommunist material was unavailable for the purpose, we conducted research and prepared documents to meet our immediate requirements.

THE ATTORNEY GENERAL

In recent months we have received indications of tangible accomplishments achieved by this program in the nature of disillusionment and defection among Party members and increased factionalism at all levels of the organization. The program itself has created consternation within the CP. Party leaders are unable to determine whether these operations are Government inspired or represent activities of dissident elements inside or outside the Party.

As a matter of information, there is enclosed one copy each of two pamphlets prepared by this Bureau and utilized under this program in connection with anonymous mailings. These documents have been particularly effective. To illustrate the degree of concern of the Party leadership, the most recent development is noteworthy.

THIS SENTENCE HAS BEEN EXCISED AS IT COULD IDENTIFY INFORMANTS PROVIDING COVERAGE OF FOREIGN INTELLIGENCE MATTERS.

The above data is also being made available to the Honorable Robert Cutler at the White House for the information of the President.

Enclosures (2)

EXHIBIT 70-2

January 10, 1961

Honorable Robert F. Kennedy
Room 3143
Department of Justice Building
Washington, D. C.

Dear Bob:

Enclosed for your information is a summary memorandum setting forth the over-all activities of the Communist Party, USA (CPUSA) and its threat to the internal security of the United States. This memorandum clearly reveals the CPUSA as part of the international communist conspiracy and the Party's complete domination by and subservience to the Communist Party of the Soviet Union.

Our responsibilities in the internal security field and our counterattack against the CPUSA are also set out in this memorandum. Because of the nature of some of the material contained in the enclosure, it is requested that its contents be afforded careful security and its use restricted to a need-to-know basis.

A copy of this letter and a copy of its attachment are being furnished to the Honorable Byron R. White. The information in the attachment is also being furnished to the Honorable Dean Rusk.

Sincerely,

SENT UNDER SIGNATURE
OF DIRECTOR, FBI

Enclosure

1 - Honorable Byron R. White (Enclosure)

January 10, 1961

COMMUNIST PARTY, USA

THE THREAT

The Communist Party, USA (CPUSA) presents a greater menace to the internal security of our Nation today than it ever has since it was first founded in this country in 1919. The dangerousness of the CPUSA cannot be evaluated except in the light of its relationship to the international communist conspiracy and its ties to the Soviet Union. In this regard it is well to note that the rate of progress achieved by the international communist offensive is unparalleled in history. In the past 43 years, it has advanced steadily and surely, never varying its eventual goal of dominating the world, until today its empire extends from East Germany to China. This empire is so vast and sprawling that when night settles on its western frontier, dawn already is breaking on its eastern frontier. This international communist conspiracy controls one-fourth of the land area and approximately one third of the inhabitants of the earth.

The CPUSA is a vital link in this world-wide conspiracy. It utilizes elaborate security measures to conceal its operations while vigorously promoting front groups as well as other concealed outlets in furtherance of its clandestine pursuits. It is completely dominated by and is subservient to the Communist Party (CP) of the Soviet Union. This fact has been made abundantly clear on a number of occasions, some of which are:

THIS PORTION HAS BEEN EXCISED AS IT COULD IDENTIFY SENSITIVE SOURCES PROVIDING INFORMATION CONCERNING CPUSA FUNCTIONARIES

THIS PORTION HAS BEEN EXCISED AS IT COULD IDENTIFY SENSITIVE SOURCES PROVIDING INFORMATION CONCERNING CPUSA FUNDING AND TRAVEL ABROAD BY CPUSA FUNCTIONARIES.

In light of the above, it can be readily seen that the seriousness of the domestic threat from a Soviet-dominated CP in the United States is in direct ratio to the world threat posed by its masters in the Soviet Union.

The CPUSA at its 17th National Convention held behind closed doors in New York City in December, 1959, outlined a vigorous program aimed at infiltrating every area of American life. In this respect, A CP LEADER declared, "We want to participate in, organize, and lead the broadest of united front movements--on every level--in 1,000 ways, in 10,000 places, on 100,000 issues--if possible, with 180,000,000 people." Included in the principal targets for infiltration are youth, minority groups, Negro organizations, labor unions, mass organizations, education and American politics.

Under the leadership of , a Moscow-trained LEADER , the Party is driving to increase its membership and influence on the American scene.

FBI RESPONSIBILITIES

Our responsibilities in the internal security field are twofold: (1) to collect intelligence information and disseminate it to appropriate Government agencies and (2) to obtain legally admissible evidence for prosecution under existing Federal statutes.

By Presidential Directive dated September 6, 1939, the FBI was designated as the civilian intelligence agency primarily responsible for protecting the Nation's internal security. Since that date, it has been the FBI's duty to investigate subversion within the United States and to correlate all information relating to America's internal security and disseminate those data to interested Federal agencies. Federal laws within the FBI's jurisdiction aimed primarily at the CPUSA are the Smith Act of 1940, the Internal Security Act of 1950 and the Communist Control Act of 1954.

FBI COUNTERATTACK

The FBI's counterattack against the CPUSA is many-pronged. Some of our more effective programs are: penetration of the Party at all levels with security informants; use of various techniques to keep the Party off balance and disillusion individual communists concerning communist ideology; investigation of every known member of the CPUSA in order to determine whether he should be detained in the event of a national emergency; and gathering evidence to be used in prosecutions of communists and communist organizations.

THIS PORTION HAS BEEN EXCISED AS IT COULD IDENTIFY SENSITIVE SOURCES PROVIDING INFORMATION CONCERNING CPUSA FUNDING.

THIS PORTION HAS BEEN EXCISED AS IT COULD IDENTIFY SENSITIVE SOURCES PROVIDING INFORMATION CONCERNING CPUSA FUNDING AND CONTACTS ABROAD.

As an adjunct to our regular investigative operations, we carry on a carefully planned program of counterattack against the CPUSA which keeps it off balance. Our primary purpose in this program is to bring about disillusionment on the part of individual members which is carried on from both inside and outside the Party organization.

In certain instances we have been successful in preventin communists from seizing control of legitimate mass organizations and have discredited others who were secretly operating inside such organizations. For example, during 1959 we were able to prevent the CPUSA from seizing control of the 20,000-member branch of the National Association for the Advancement of Colored People in Chicago, Illinois.

We are keeping abreast of the activity of the CPUSA, which is attempting through its programs to infiltrate American institutions and groups and to increase its influence on the American scene, by intensive investigation into every facet of its activity. Over the years we have investigated thousands of individual members of the CPUSA in order to determine whether they might constitute a potential danger to the internal security of the country in time of a national emergency. The results of these investigations are furnished various departments and agencies of the Executive Branch of the Government when information is developed during the course of the investigations of interest to them. The dissemination of this information enables these departments and agencies of the Government to take whatever action is necessary from a policy standpoint as it relates to the security of their operations.

Prosecution has been a major weapon against the CPUSA. The Department of Justice first instituted prosecution against leaders of the CPUSA in New York City in 1948. Since that time prosecution has been instituted against numerous individual communist functionaries, against the CPUSA as an organization, against communist front organizations and against labor unions controlled and dominated by communist elements. The primary evidence in all of these prosecutions was furnished by our security informants. We have made available approximately 100 security informants for testimony in these cases.

The Supreme Court of the United States is presently considering communist cases under the Internal Security Act of 1950 and the Smith Act of 1940. As was expected, CPUSA functionaries have indicated the Party will go underground if a decision is rendered against them by the Supreme Court. Should this occur, we will, of course, through our informants, attempt to go underground with them and thus keep advised of their activities and whereabouts.

EXHIBIT 70-3

The Attorney General

September 17, 1969

Director, FBI

INVESTIGATION OF KLAN ORGANIZATIONS
RACIAL MATTERS (KLAN)

Reference is made to my communication of June 13, 1969, concerning the strength of the Ku Klux Klan. (NOT PERTINENT)

I thought you would be interested in learning of the significant progress we have recently made in our investigation of the Ku Klux Klan. During the last several months, and while various national and state leaders of the United Klans of America remain in prison, we have attempted to negate the activities of the temporary leaders of the Ku Klux Klan.

By the careful use and instruction of selected racial informants we have been able to initiate a split within the United Klans of America in North Carolina. This split was evidenced by a Klan rally held in Concord, North Carolina, on September 15, 1969. Approximately 150 Klan membership cards were tacked to a cross and burned to signify this breach.

We will continue to give full attention to our responsibilities in an effort to accomplish the maximum possible neutralization of the Klan.

1 - The Deputy Attorney General

1 - Assistant Attorney General, Criminal Division

1 - Assistant Attorney General, Internal Security Division

1 - Assistant Attorney General, Civil Division

This document is prepared [illegible] and is not for dissemination outside your Committee. Its use in any proceedings, by [illegible] without the [illegible] to unauthorized person-

EXHIBIT 71-1

UNITED STATES GOVERNMENT

Memorandum

TO : MR. W. C. SULLIVAN DATE: October 2. 1964

FROM : MR. D. E. MOORE

SUBJECT: ESPIONAGE -

Prior memoranda have advised of the starting of the trial of the illegal agents in this case, Mr. and Mrs. Robert K. Baltch, in the Eastern District of New York and motions by defense counsel regarding the nature of evidence to be submitted in this case.

The Judge originally denied the motions, but Assistant Attorney General Yeagley has advised that USA Hoey in answering questions by the Judge gave answers which were too broad and which the Government cannot support and therefore it is necessary for the Government to make additional statements to Judge Dooling who is sitting in this case in the Eastern District of New York. My memorandum of September 30, 1964, advised that while we were not aware of the contents of the conversations between USA Hoey and Judge Dooling, we had no objections to Yeagley's proposed amending statement as it was correct.

Subsequently on the afternoon of 10-1-64, Departmental Attorneys Thomas K. Hall and Kevin Maroney advised Supervisor and myself that USA Hoey's statement to Judge Dooling was unfortunate because it was too broad. They believe that the Judge's query pertained to any tainted source at the Baltch residence and was confined to eavesdropping devices, but that Hoey in his answer had not confined the answer to the residence or to eavesdropping, either of which would perhaps have prevented the current problem. No information obtained from wiretaps or microphones is contemplated to be used in this case and the only tainted source is a mail intercept which did not take place anywhere near the residence.

Subsequently on the evening of 10-1-64, Mr. Hall advised that he had just learned that apparently Hoey in his discussions with the court had stated, or at least indicated, there was no microphone involved in this case and, of course, this was incorrect and the Department felt the record had to be corrected. He

SULLIVAN - MR. MOORE
JAHO: ESPIONAGE -

asked if the Bureau had any objection and was advised in the negative. This morning Mr. Hall called to advise that USA Hoey had now requested advice as to what answer could be given the court should he be asked (1) if there was a wiretap involved in this case and (2) if there was a mail intercept in this case. After checking, I called Hall back and said that we would leave the answer to #1 up to the Department, but that if the Department saw necessary, the Bureau would not object. However, with regard to #2, under no circumstances is the Bureau willing to admit that a mail intercept was utilized and Hall said he would pass this information on to Hoey and Assistant Attorney General Yeagley who is in New York.

Hall advised that he had discussed this case with Acting Attorney General Katzenbach this morning and Katzenbach was of the opinion that the Department must be candid with the Judge. He said Katzenbach recognized the problems, but felt that in view of the value of the case, an effort should be made to go ahead with the trial even if it might be necessary drop the overt act where our tainted source is involved, and proceed on a general conspiracy basis with the recognition that the verdict might be against us, but we would have revealed Soviet espionage activities to the people. Hall said he was passing on the Acting Attorney General's comments to Assistant Attorney General Yeagley. Hall said that the motions of defense counsel and the complications with regard to the answers may eventually force the Government to drop the prosecution. He said in view of the many facets involved, he did not feel there was any reason to agree to a pre-trial hearing on the issue of tainted source if this should be required by the court, and rather than do this, they are prepared to drop the espionage charges and attempt to proceed on lesser grounds.

ACTION

SAC NYO, was advised of the above developments and requested to keep in close touch with Yeagley in New York and you will be kept advised of developments.

EXHIBIT 71-2

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Tolson

DATE: 2/27/65

FROM : A. H. Belmont

SUBJECT: THE LONG COMMITTEE

The Attorney General called on the morning of February 27, 1965, to advise he wanted to consult with the Bureau on certain problems raised by the Long Committee, which is exploring the use of mail covers, et cetera. He noted there was a possible problem concerning [Chief Inspector Montague's testimony] and whether it was necessary for [Montague] to change his testimony. Also, he felt that Internal Revenue Service had been using investigative techniques which they should not use and this could pose a problem. He said that the President had asked him to coordinate with all executive agencies concerning the problems raised by the Long Committee.

Inspector Moore and I met with the Attorney General in his office this afternoon. Mr. Courtney Evans was present. I told the Attorney General that in [Montague's testimony] he was told by Attorney Fensterwald that if any of the questions had national security implications [Montague] should not answer them. Consequently, [Montague] was estopped from doing other than answering in the negative when asked questions touching on national security. With this interpretation, it was questionable whether an attempt should be made to change or explain [Montague's testimony].

I made it clear to the Attorney General that from our dealings with [Montague], he was a man of integrity and sacrificed his personal desires for the welfare of the country and had cooperated fully with us. The Attorney General said he had no intention of changing one word of [Montague's testimony], but he was considering advising Long and Fensterwald that there were extreme delicate national security matters touching on the areas being covered by the committee and there could be exceptions to the answers given in the testimony when they touched on such sensitive security matters. He said further that he contemplates seeing Senator Long and impressing on him that the committee would not want to stumble by mistake into an area of extreme interest to the national security as they nearly did in a matter

1 -
2 -
1 -
1 -

CONTINUED - OVER

AHB
(7 -

Memorandum to Mr. Tolson
Re: The Long Committee

affecting CIA. [redacted] Katzenbach contemplates asking for a list of the witnesses who will appear before the committee together with a brief summary of the expected testimony On the basis of this, he will be able to advise Senator Long when he should steer clear of a sensitive area.

I told Mr. Katzenbach that I certainly agree that this matter should be controlled at the committee level but that I felt pressure would have to be applied so that the personal interest of Senator Long became involved rather than on any ideological basis. Mr. Katzenbach said that he had already talked to Vice President Humphrey about Fensterwald, [redacted], and that Humphrey had promised to talk to Long concerning Fensterwald. Katzenbach said that in addition to the Vice President he might have to resort to pressure from the President himself, although he would prefer to work it out without resorting to the President. He indicated there was no one on the committee itself who could be helpful.

Mr. Katzenbach said that he expected trouble from the possible activities of IRS and the military in the investigative field; that if some of these matters are uncovered before the committee they will tend to undermine the restricted and tightly controlled operations of the Bureau. I told him that our operations are tightly controlled and particularly in the delicate areas of concern, we restrict ourselves to important security matters.

Mr. Katzenbach said he was going to see Senator Long on Monday and wanted to know if the Bureau would like someone to go along with him. I told him no.

ACTION:

Mr. Katzenbach said he would advise us of the results of his conversation with Long. He also asked that I advise the Director of our discussion and I told him I would.

Memorandum to Mr. Tolson
Re: The Long Committee

I called Mr. DeLoach and briefed him on this problem in order that he might contact Senator Eastland in an effort to warn the Long Committee away from those areas which would be injurious to the national defense. (Of couse I made no mention of such a contact to the Attorney General.) Mr. DeLoach advised that Senator Eastland is in Mississippi and he will contact him upon his return Monday.

Clyde
I don't see what all the excitement is about. I would have no hesitancy in discontinuing all technical techniques - technical coverages, microphones, trash covers, mail covers etc. While it might be embarrassing, nor I doubt that are as valuable as some believe & more warrant to the FBI being used to justify them.
JEH

EXHIBIT 71-3

8:40 AM

March 2, 1965

MEMORANDUM FOR MR. TOLSON
MR. BELMONT
MR. GALE
MR. ROSEN
MR. SULLIVAN
MR. DE LOACH

The Attorney General called and advised that he had talked to Senator Long last night. Senator Long's committee is looking into mail covers et cetera. The Attorney General stated he thought somebody had already spoken to Senator Long as he said he did not want to get into any national security area and was willing to take steps not to do this. The Attorney General stated that Mr. Fensterwald was present for part of the meeting and Fensterwald had said that he had some possible witnesses who are former Bureau Agents and if they were asked if mail was opened, they would take the Fifth Amendment. The Attorney General stated that before they are called, he would like to know who they are and whether they were ever involved in any program touching on national security and if not, it is their own business, but if they were, we would want to know. The Attorney General stated the Senator promised that he would have a chance to look at the names if he wanted to, personally and confidentially, and the list would have any names involving national security deleted and he would tell the Senator how many but no more.

The Attorney General stated that the Postmaster General is going down there this morning himself which he, the Attorney General, thought would be helpful to Chief Inspector Montague of the Post Office Department.

The Attorney General stated that Senator Long also said he is not going to propose legislation to abolish mail covers as he thought they served a useful purpose but he did think that control should be tightened. I stated I thought there was great laxity in the matter of mail covers and the matter of tapping telephones.

I stated I have always been of the view and recommended back when Tom Clark was Attorney General that no agency of the Government should tap a telephone except with the written approval of the Attorney General. I stated

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

XEROX JLH: (10)

MAR 3 1965

March 2, 1965

Memorandum for Messrs. Tolson, Belmont, Gale, Rosen, Sullivan, DeLoach

there would then be in one place a list of all phone taps and the purpose and reason for them. I stated that it is a fact, insofar as I am concerned, that I am the only head of an agency who does not have authority to tap telephones. I stated that I know that subordinates down the line in some agencies will tap phones without the knowledge of the chief of the agency and there is grave suspicion in Washington by some newspapermen that their phones have been tapped by agencies of the Government trying to find out where they are getting their information. I stated I have always been opposed to the law whereby it is necessary to get the authority of a court to tap phones because of the composition of some of our courts and the employees thereof, but I have always felt that the President should issue an Executive Order confidentially to all agencies that all phone tapping be discontinued except when specifically approved by the Attorney General so there would be in one place a list and then if any committee in Congress got on the warpath, the Attorney General would have a list he could vouch for as being the only phones tapped by the Government. The Attorney General stated that made sense. I stated many agencies are opposed because they realize there would be a marked restriction. I stated we only have 45 phone taps, which is a low number for a country the size of ours and the area we have to cover. The Attorney General stated no one has any idea how many phone taps the whole Government has.

I stated there is also a school being conducted in California by a private organization which instructs the Treasury Department and the Internal Revenue Service in the matter of phone tapping and they have sent their own personnel there to be trained. I stated Internal Revenue has also from time to time hired private outside phone tappers to do their tapping. I stated it is that type of thing if there were a real investigation which would come out. The Attorney General commented that he would not guarantee some of it won't come out. I stated I was amazed when I learned of the school in California as I saw a reference to it in the newspaper and wanted to know what it was and what officers attended. I stated we have our own instructors and do it ourselves.

I stated I thought the Attorney General had made good headway with Senator Long. The Attorney General stated he thought it would be helpful,

March 2, 1965

Memorandum for Messrs. Tolson, Belmont, Gale, Rosen, Sullivan, DeLoach

The Attorney General stated the Senator said he did not want to get into this and he would give him, the Attorney General, the names and a summary of the testimony and told Fensterwald to do so, but he, the Attorney General, can't say Fensterwald is going to do it; that he will on some but he did not know that he would on all. I stated I had no faith or confidence in Fensterwald and neither did Senator Eastland. The Attorney General stated that Senator Eastland may have already talked to Senator Long or else the Vice President, but somebody had waked him up. I stated Senator Eastland said he would do it Wednesday, but he may have called him.

The Attorney General stated that is where it stands now and we shall see what happens.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

EXHIBIT 72

RE: VIETNAM VETERANS AGAINST THE WAR/WINTER SOLDIER ORGANIZATION (VVAW/WSO)

In June, 1967, of the Communist Party, USA (CPUSA) commented on the forthcoming 1968 national elections. stated that the CPUSA must develop guidelines for the political campaigns and must assist in the development of any 1968 campaign which was antiwar in character and not limited to either major political party. On September 10, 1967, the CPUSA publication, "The Worker," announced that the organization VVAW had been formed in June, 1967, as a nonmembership organization made up of Vietnam veterans who were opposed to the war. This communist publication provided the purpose of VVAW as opposition to the "unjustified" war in Vietnam. It announced that VVAW had joined "the dissent of millions of Americans against the war."

An initial limited inquiry was begun by the Federal Bureau of Investigation (FBI) in September, 1967, to determine, through inquiries with established sources and public source material, if the CPUSA was directing or controlling the newly formed VVAW. This limited inquiry failed to establish that the CPUSA, or any other subversive organization, exercised direction or control over VVAW. The limited inquiry did indicate that VVAW leadership appeared before the Socialist Workers Party (SWP) sponsored Militant Labor Forum in New York City, but there was no indication of any control by the SWP. With the absence of such direction or control by any subversive organization, the limited inquiry of VVAW was closed in October, 1967. A similar limited inquiry was conducted in 1968, resulting in an updated affirmation that VVAW was not controlled or dominated by any subversive group. This second limited inquiry was closed in May, 1968. During the limited inquiries in 1967 and 1968, the National Headquarters of VVAW was located in New York City. VVAW activities were primarily devoted to participation in and organization of demonstrations opposing the war in Vietnam. No full investigation was conducted by the FBI of VVAW until August, 1971, when information from a variety of sources dictated the need to determine the extent of control

over VVAW by subversive groups and/or violence-prone elements in the antiwar movement. Sources had provided information that VVAW was stockpiling weapons, VVAW had been in contact with North Vietnam officials in Paris, France, VVAW was receiving funds from former CPUSA members and VVAW was aiding and financing U.S. military deserters. Additionally, information had been received that some individual chapters throughout the country had been infiltrated by the youth groups of the CPUSA and the SWP. A trend of increased militancy developed within the VVAW and the possibilities of violence escalated within the organization. During December, 1971, VVAW members forcibly and illegally occupied or surrounded public buildings and national monuments in New York City, Philadelphia, Austin, Texas, and Washington, D. C.

During 1972, the FBI estimated that VVAW had approximately 1,800 members and 102 chapters throughout the country. VVAW claimed 23,000 members and 283 chapters. In 1972, some leaders and activists in the VVAW made trips to Europe and Asia during which they participated in conferences with representatives and/or officials of the Soviet Bloc, North Vietnam, and the National Liberation Front (NLF) of South Vietnam. VVAW leaders informed the membership that VVAW had been asked to cooperate on an international level with many organizations, including communist or Maoist groups, describing these groups as "our friends." When reporting on trips to Paris, Moscow and Hanoi, VVAW leaders indicated the organization was dedicated to ending imperialist aggression and establishing a firm relationship with the NLF.

In June, 1972, a delegation of fifteen VVAW members and leaders attended a war crimes conference near Paris. The conference, which included representatives of North Vietnam and the NLF, was sponsored by two Trotskyist organizations in France. One of the VVAW national officers addressed this conference and it was reported that the French Communist Party had paid for the expenses of the VVAW contingent at the conference.

During October, 1972, the National Steering Committee (NSC) of VVAW met and discussed the direction of VVAW and the need to make it an anti-imperialist

political group, rather than "just another group of war veterans." Most of the speakers participating at this meeting expressed their views indicating VVAW was utilizing a Marxist-oriented analysis of world problems. Additionally, it was indicated that VVAW had established relations with the Irish Republican Army, had contact with the Angolans, and was attempting to establish liaison with the Peoples Republic of China (PRC).

In April, 1973, the organization changed its name to VVAW/Winter Soldier Organization (VVAW/WSO). The change was made in order to absorb into the organization, individuals who were not veterans of military service.

By April, 1973, VVAW/WSO leadership claimed to have connections with over 200 foreign organizations and maintained that VVAW/WSO was considered a credible organization by these organizations. In October, 1973, representatives of VVAW/WSO attended and participated in the World Peace Congress, Moscow, U.S.S.R.

In 1973, an ideological split became evident within the national leadership of VVAW/WSO. The split arose between those espousing the Marxist-Leninist doctrine and those espousing the Marxist-Leninist doctrine as interpreted by MAO Tse tung. During 1973, the anti-Maoist Marxist-Leninist group seemed to be dominant and expressed determination in educating the VVAW/WSO membership in their doctrine. By 1973, VVAW/WSO was composed of approximately 130 chapters with an estimated membership of 2,000. The National Headquarters was, and still is, located in Chicago, Illinois.

By April, 1974, the NSC devoted itself to the theme of defining VVAW/WSO as a politically oriented organization, capable of uniting with as many people as possible to combat U.S. imperialism. The hope was expressed that VVAW/WSO would become part of the vanguard of the revolution within this country. Within the NSC, dissatisfaction developed and was expressed by some of the chapters concerning the VVAW/WSO publication, "Winter Soldier." The dissatisfied members claimed the publication reflected communist propaganda rather than

chapter activities, news about the Third World, and news of activist groups. Additional disenchantment with Soviet-type communism reportedly manifest itself in the sending of a letter of censure to the Soviet Union, protesting the rape of a female VVAW/WSO delegate to the World Peace Council, held in Moscow during 1973. VVAW/WSO reportedly severed relations with the CPUSA over this incident.

In October, 1974, VVAW/WSO held a National GI Organizing Conference designed to initiate the building of a fighting, anti-imperialist movement within the U.S. military for the purpose of creating disruption and disorientation within the military when the revolution occurred.

In December, 1974, the NSC voted to align VVAW/WSO with the Revolutionary Union (RU). This changed their political position from a largely Marxist approach to one following a strict Maoist line. This alignment with RU created internal strife within VVAW/WSO. Some chapters which refused to adopt the Maoist line were severed from the national organization. In June, 1975, some of the VVAW/WSO chapters which did not support the National Office held a meeting in which they verified severance from the national organization and agreed to set up an independent organization. This rival group was intended to be anti-imperialist in nature, but, to date, its future is not certain.

The current National Office of VVAW/WSO is strongly influenced by RU and could develop into an RU front.

Throughout its history, VVAW/WSO has not been a well-disciplined, theoretically consistent organization. The various chapters never rigidly followed the dictates and policies presented by the National Office. There have been instances of rejection of the National Office concepts both on a chapter and a regional basis. The cessation of the U.S. involvement in the war in Southeast Asia substantially decreased the membership of VVAW/WSO. Numerous individuals and many chapters withdrew from the organization. Chapters and regions were dissolved or consolidated.

66-077 O - 76 - 54

In 1974, FBI field offices were instructed to analyze the chapters and regions in their respective territories. If the local organization did not subscribe to the policies of the National Office and were not Marxist-Leninist groups advocating the overthrow of the Government, the investigation of the local organization was to be terminated. Most of the local chapters and regions continued to be nominally affiliated with the nationwide VVAW/WSO, but the splintering and the internal ideological disputes demanded close examination of the local positions of each region and chapter. Many of the investigations of the various chapters were closed, not because they were no longer active, but because of their apparent failure to follow the Marxist-Leninist revolutionary posture of the National Office. No current nationwide membership figures are available for VVAW/WSO because FBI investigation is limited to specific chapters which are revolutionary in nature. Currently, the most active of these chapters exist in Chicago, Milwaukee, New York and San Diego.

APPENDIX A

Nicholas deB. Katzenbach
Old Orchard Road, Armonk, New York 10504

December 15, 1975

Dear Senator Morgan,

This letter is in response to your request for me to submit for the record documentation on several points which came up during my testimony on December 3, 1975. (See page 2133 of the transcript.)

With respect to my testimony that the Klan took credit for the murders of the three civil rights workers, Chaney, Schwerner, and Goodman, this fact was reflected in Bureau memoranda at the time. One of many memoranda received by the Department in the summer of 1965 concerning the investigation of the murders specifically reported that at a meeting of Hinds County Klaverns on June 26, 1964, Billy Buckles, the Grand Giant, referred to the disappearance of the three civil rights workers and stated, "now they know what we will do, we have shown them what we will do, and we will do it again if necessary."

With respect to whether all (or substantially all) of the members of certain Klaverns of the Klan participated in or endorsed unlawful acts, I call your attention to the following:

- The opinion of Judge Wisdom in United States v. Original Knights of the Ku Klux Klan, 250 F. Supp. 330 (E.D. La. 1965). (Attachment A)

- Statement of Mr. Hoover before the National Commission on the Causes and Prevention of Violence, September 18, 1968, especially pages 8 - 9. (Attachment B)

NOTE: The request for documentation referred to above as appearing at transcript page 2133 can be found in this volume at page 244.
The materials referred to above as attachments A, B, C, and D can be found in this volume as attachments 1, 2, 3, and 4 at pages 843, 870, 883, and 888 respectively.

- An "Imperial Executive Order" issued by Imperial Wizard Sam Bowers (who was later convicted and sentenced for criminal acts of violence) to "all officers and members" (emphasis added) instructing them on methods "for effective combat against the enemy." This was reprinted on pages 5 - 9 of Attack on Terror by Don Whitehead. (Attachment C)

- A paper written by John Doar and Dorothy Landsberg entitled, "The Performance of the FBI in Investigating Violations of Federal Laws Protecting the Right to Vote -- 1960-1967". (Attachment D)

As I am sure you appreciate, my own access to relevant documentation concerning the connection of certain Klans or Klaverns with unlawful activities is limited, but I feel sure the Committee staff could get volumes of similar information from Bureau files.

I have reviewed my testimony concerning the methods used by the Bureau to disrupt Klan acts of violence (especially pages 2099 - 2100) and am satisfied that it is accurate as reported. I believe that you misunderstood that testimony when you stated that you believed that I had testified that "anything (I) could do to disrupt the Klan was justifiable." (Page 2130) However, in responding to your question, I did not mean to imply that I thought that you had mischaracterized my testimony purposely, and to the extent my response could be so read, I apologize.

Sincerely,

Nicholas deB Katzenbach

The Hon. Robert Morgan
Room 4104
Dirksen Senate Office Building
First Street and Constitution Avenue
Washington, DC 20510

cc: Senator Frank Church, Chairman
Select Committee on Intelligence Activities

NOTE: The request of documentation referred to above as appearing at transcript page 2133 can be found in this volume at page 244.
The materials referred to above as attachments A, B, C, and D can be found in this volume as attachments 1, 2, 3, and 4 at pages 838, 865, 878, and 883 respectively.

2. Stanton Construction Company is the principal debtor and its rights will be adjudicated in the within proceedings so that it is an indispensable party plaintiff.

3. Rockwood Equipment Leasing Company is allegedly the assignor of the claims for rental of equipment to Westinghouse as assignee, and its rights will be adjudicated in the within proceedings so that it is an indispensable party plaintiff.

The wherefore clause in the motion seeks a dismissal of the complaint or, in the alternative, to compel plaintiff, Westinghouse, to delete the Borough of Nanty-Glo and Lower Yoder Municipal Authority as named plaintiffs and join Rockwood and Stanton as parties plaintiff.

No affidavits were submitted.

[1] In our opinion, Westinghouse is the real party in interest and therefore the names of the municipalities should be stricken from the caption of the case. Rules 17(a) and 21, Fed.R.Civ.P.

[2] Further, in our opinion, Stanton Construction Company is not an indispensable party plaintiff. An examination of the bonds attached to the complaint discloses that they are contracts of suretyship. We are not aware of any authority nor has the defendant brought any to our attention in which it has been held, or even contended, that the principal as a matter of law is an indispensable party plaintiff in an action against the surety.

[3] Finally, in our opinion, Rockwood Equipment Leasing Company, the assignor of the leases to Westinghouse is not an indispensable party plaintiff. An assignor is generally neither a real party in interest nor an indispensable party. 2 Barron and Holtzoff, Federal Practice and Procedure, § 482, pp. 14-19; § 512, pp. 102-104; § 513.2, p. 111; 3 Moore, Federal Practice, ¶ 17.09, p. 1339; Wright, Federal Courts, pp. 257-258 (1963).

An appropriate order will be entered.

UNITED STATES of America, by Nicholas deB. KATZENBACH, Attorney General of the United States, Plaintiff,

v.

ORIGINAL KNIGHTS OF the KU KLUX KLAN, an unincorporated Association, et al., Defendants.

Civ. A. No. 15793.

United States District Court
E. D. Louisiana,
New Orleans Division.

Dec. 1, 1965.

Action by United States against klan for injunction to protect Negro citizens seeking to assert their civil rights. The three-judge District Court, Wisdom, Circuit Judge, held that evidence established that klan relied on systematic economic coercion, intimidation, and physical violence in attempting to frustrate national policy expressed in civil rights legislation and that such conduct must be enjoined.

Order accordingly.

1. Injunction ⇐114(3)

Private organizations and private persons are not beyond reach of civil rights act authorizing Attorney General to sue for injunction. Civil Rights Act of 1957, § 131 and (a) as amended 42 U.S.C.A. § 1971 and (a) and §§ 1983, 1985 (3); 18 U.S.C.A. §§ 241, 242.

2. Injunction ⇐127

Evidence as to klan activities was admissible, in suit by United States against a klan for injunction to protect Negro citizens seeking to assert their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a-5, 2000e, 2000e-6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

3. Injunction ⇐128

Evidence established that klan and individual klansmen had adopted pattern and practice of intimidating, threaten-

ing, and coercing Negro citizens for purpose of interfering with their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

4. Injunction ⇐128

Evidence established that to attain its ends, klan exploited forces of hate, prejudice, and ignorance, relied on systematic economic coercion, varieties of intimidation and physical violence in attempting to frustrate national policy expressed in civil rights legislation. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

5. Insurrection and Sedition ⇐1

Legal tolerance of secret societies must cease at point where their members assume supra-governmental powers and take law in their own hands.

6. Courts ⇐262.3(8)

Where it appeared that defendant klan, klan members, and klan's dummy front association had interfered with Negro citizens' rights derived from or protected by Constitution and recognized in various civil rights statutes, defendants would be enjoined from interfering with court orders and with civil rights of Negro citizens. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

7. Courts ⇐262.3(8)

Federal district court had jurisdiction of action by United States against a klan for injunction to protect Negro citizens seeking to assert their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

8. Courts ⇐262.3(8)

In its sovereign capacity, the nation had proper interest in preserving integrity of its judicial system, in preventing interference with court orders, and in making meaningful both nationally created and nationally guaranteed civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

9. Injunction ⇐128

Evidence established that defendant association was not a bona fide independent organization but was the defendant klan thinly disguised under respectable title. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

10. Injunction ⇐128

Evidence established that defendant klan had appeared in action by United States for injunction to protect Negro citizens seeking to assert their civil rights contrary to contention that the klan did not exist, had ceased to exist, or had made no appearance in cause. U.S.C.A.Const. Amend. 14; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

11. Constitutional Law ⇐311

Inasmuch as defendant admitted that klan's methods were lawless, admissibili-

ty of list of officers and members of klan in action for injunction to protect Negro citizens in asserting their civil rights was not precluded on basis that rights of members of an association to pursue lawful interest privately and to associate freely with others are protected by the 14th Amendment. U.S.C.A.Const. Amend. 14; Civil Rights Act of 1957, § 131 and (a) as amended 42 U.S.C.A. § 1971 and (a) and §§ 1983, 1985(3); 18 U.S.C.A. §§ 241, 242.

12. Injunction ⇐128

Evidence established that defendants had intimidated, harassed, and otherwise interfered with Negroes exercising their civil rights, persons encouraging Negroes to assert their rights, public officials, police officers, and other persons seeking to accord Negroes their rights and that acts were part of pattern and practice of defendants to maintain total segregation of races in parish. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

13. Courts ⇐262.4(11)

Acts otherwise lawful may become unlawful and be enjoined under Civil Rights Act of 1957 if purpose and effect of acts is to interfere with right to vote. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971.

14. Civil Rights ⇐1
Elections ⇐319

Civil Rights Act of 1957 applies to private persons and applies to interfering with right to register and protects Negro citizens against coercion, intimidation and violence. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971.

15. Civil Rights ⇐3, 4

Provisions of 1964 Civil Rights Act relating to places of accommodation, equal employment opportunities, and public facilities reach any person and any action that interferes with enjoyment of civil rights secured by the Act. Civil Rights Act of 1964, §§ 203, 206(a), 301, 701 et seq., 707, 42 U.S.C.A. §§ 2000a–2, 2000a–5(a), 2000b, 2000e et seq., 2000e–6.

16. Injunction ⇐127

Defendants' interference with rights of Negroes to use public facilities was relevant to cause of action of United States against klan and its members for injunction protecting Negro citizens seeking to assert their rights, where that interference was part of pattern and practice of total resistance to Negroes' exercise of civil rights. Civil Rights Act of 1964, §§ 203, 206(a), 301, 701 et seq., 707, 42 U.S.C.A. §§ 2000a–2, 2000a–5(a), 2000b, 2000e et seq., 2000e–6.

17. Equity ⇐55

The Nation has a responsibility to supply a meaningful remedy for right it creates or guarantees.

18. Elections ⇐9

Statute that is necessary and proper legislation to carry out power of Congress to regulate elections for federal office may also be appropriate legislation to enforce provisions of 15th, 14th, and 13th Amendments. U.S.C.A.Const. Amends. 13, 14, 15.

19. Elections ⇐4

Congress has authority to legislate concerning any and all elections affecting federal officers, whether general, special or primary, as long as they are an integral part of procedure of choice or primary effectively controls their choice. U.S.C.A.Const. art. 1, § 4.

20. Constitutional Law ⇐50

Under Constitution, Congress had choice of means to execute its powers. U.S.C.A.Const. art. 1, § 8, cl. 18.

21. Elections ⇐4

Under constitutional provision granting Congress authority to regulate manner of holding federal elections, Congress was authorized to enact statutes regulating registration of voters for such elections. U.S.C.A.Const. art. 1, § 4.

22. Elections ⇐4
Statute protecting against private interference before voting stage is necessary and proper legislation under constitution whenever it is reasonably related to protection of integrity of federal electoral process. U.S.C.A.Const. art. 1, § 4.

23. Elections ⇐11
Right to vote in federal election is privilege of national citizenship derived from constitution. U.S.C.A.Const. art. 1, § 4.

24. Elections ⇐4
Congress can by law protect act of voting, place where it is done, and man who votes, from personal violence or intimidation and election itself from corruption or fraud, even though state and federal officers are elected in the same election. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971, U.S.C.A. Const. art 1, § 4.

25. Elections ⇐4
Section of Fifteenth Amendment to effect that right of citizens to vote shall not be denied or abridged by United States or by any state on account of race, color or previous condition of servitude clearly establishes constitutional basis for Congress to protect right of all citizens to vote in state elections free from discrimination on account of race. U.S.C.A.Const. Amend. 15, § 1.

26. Elections ⇐3
Protection of purity of federal political process may be extended against interference with any activity having a rational relationship with the federal political process. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; U.S.C.A.Const. art. 1, § 4.

27. Elections ⇐4
Congressional power over voting, though limited to federal elections, extends to voter registration activities, including registration rallies, voter education classes and other activities intended to encourage registration. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; U.S.C.A.Const. art. 1, § 4.

28. Elections ⇐317
Federal corrupt practice laws operate on campaigning stage rather than voting stage and apply to private persons having no part in election machinery. U.S.C.A.Const. art. 2, § 1.

29. United States ⇐25
States' power over manner of appointing presidential electors is similar to states' reserved power to establish voting qualifications. U.S.C.A.Const. art. 2, § 1.

30. Elections ⇐4
Congress has implied power to protect integrity of processes of popular election of presidential electors once that mode of selection has been chosen by the state. U.S.C.A.Const. art. 2, § 1.

31. Courts ⇐262.3(8)
Acts of defendant klan and defendant member of klan of economic coercion, intimidation and violence directed at Negro citizens in parish for purpose of deterring their registering to vote struck at integrity of federal political process and were therefore enjoinable. U.S.C.A. Const. art. 2, § 1; Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.

32. Elections ⇐98
Right to vote in federal elections, a privilege of national citizenship secured by United States Constitution, includes right to register to vote. U.S.C.A.Const. art. 2, § 1.

33. Elections ⇐98
Right to register to vote includes right to be free from public or private interference of activities rationally related to registering and to encouraging others to register. U.S.C.A.Const. art. 2, § 1.

34. Injunction ⇐114(3)
Public accommodations provisions of Civil Rights Act of 1964 may be enforced by injunctive relief against private persons seeking to frustrate statutory objective of statute. Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a-5, 2000e, 2000e-6.

35. Evidence ⇐265(2)

Defendants who admitted that they beat and threatened Negro pickets to prevent them from enjoying right of equal employment opportunity must be enjoined from such conduct. Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6.

Before WISDOM, Circuit Judge, and CHRISTENBERRY and AINSWORTH, District Judges.

WISDOM, Circuit Judge:

This is an action by the Nation against a klan.*

The United States of America asks for an injunction to protect Negro citizens in Washington Parish, Louisiana, seeking to assert their civil rights. The defendants are the "Original Knights of the Ku Klux Klan", an unincorporated association, the "Anti-Communist Christian Association," a Louisiana corporation, and certain individual klansmen, most of whom come from in and around Bogalusa, Louisiana.[1]

[1] The defendants admit most of the allegations of the complaint. Their legal position is that a private organization and private persons are beyond the reach of the civil rights acts authorizing the Attorney General to sue for an injunction. There is no merit to this contention.

[2] Seeking refuge in silence and secrecy, the defendants object to the admission of any evidence as to klan activities. We hold, however, that what the klan is and what the klan does bear significantly on the material issues and on the appropriate relief.

[3] In deciding to grant the injunction prayed for, we rest our conclusions on the finding of fact that, within the meaning of the Civil Rights Acts of 1957 and 1964, the defendants have adopted a pattern and practice of intimidating, threatening, and coercing Negro citizens in Washington Parish for the purpose of interfering with the civil rights of the Negro citizens. The compulsion within the klan to engage in this unlawful conduct is inherent in the nature of the klan. This is its ineradicable evil.

[4] We find that to attain its ends, the klan exploits the forces of hate, prejudice, and ignorance. We find that the klan relies on systematic economic coercion, varieties of intimidation, and physical violence in attempting to frustrate the national policy expressed in civil rights legislation. We find that the klansmen, whether cloaked and hooded as members of the Original Knights of the Ku Klux Klan, or skulking in anonymity as members of a sham organization, "The Anti-Communist Christian Association", or brazenly resorting to violence on the open streets of Bogalusa, are a "fearful conspiracy against society * * * [holding] men silent by the terror of [their acts] and [their] power for evil".[2]

As early as 1868 General Nathan Bedford Forrest, the first and only Grand Wizard of the original Invisible Empire, dismayed by mounting, uncontrollable violence laid to the klan, ordered the klan to disband and directed klansmen to burn their robes and hoods.[3] General Forrest was a Confederate cavalry hero, a man without fear and, certainly to most Southerners, a man beyond reproach. He an-

* Although this order is cast in the form of an opinion, it represents the Court's findings of fact and conclusions of law.

1. Counsel for the individual defendants take the position that the defendant klan does not exist. The proof shows that the klan continues to exist and to function as a klan in the benign name of the "Anti-Communist Christian Association". See Section II, A of this opinion.

2. Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States (Wash. 1872), p. 28 (Majority Report.)

3. Testimony of General Forrest before the Joint Select Committee. Note 2, p. 6–14, 449–51.

nounced that he would dissociate himself from all klansmen and cooperate with public officials and the courts in enforcing law and order. But the founders of the Invisible Empire had sown dragon's teeth.

The evil that led General Forrest to disband the original Ku Klux Klan was its perversion of purposes by undisciplined klans led by irresponsible leaders.[4] The evil we find in the Original Knights of the Ku Klux Klan is an absolute evil inherent in any secret order holding itself above the law: "the natural tendency of all such organizations * * * to violence and crime." [5] As history teaches, and as the defendants' admissions and the proof demonstrate in this case, violence and crime follow as the night the day when masked men conspire against society itself. Wrapped in myths and misbeliefs which they think relieve them of the obligations of ordinary citizens, klansmen pledge their first allegiance to their Konstitution and give their first loyalty to a cross in flames.

None of the defendant klansmen is a leader in his community. As a group, they do not appear to be representative of a cross-section of the community. Instead they appear to be ignorant bullies, callous of the harm they know they are doing and lacking in sufficient understanding to comprehend the chasm between their own twisted Konstitution and the noble charter of liberties under law that is the American Constitution.

[5, 6] Legal tolerance of secret societies must cease at the point where their members assume supra-governmental powers and take the law in their own hands. We shall not allow the misguided defendants to interfere with the rights of Negro citizens derived from or protected by the Constitution of the United States and now expressly recognized by Congress in various civil rights statutes. We enjoin the Original Knights of the Ku Klux Klan, its dummy front, the Anti-Communist Christian Association, and the individual defendants from interfering with orders of this Court and from interfering with the civil rights of Negro citizens in Washington Parish. Specifically, these rights include:

(1) the right to the equal use and enjoyment of public facilities, guaranteed by the Fourteenth Amendment;

(2) the right to the equal use and enjoyment of public accommodations, guaranteed by the Civil Rights Act, 42 U.S.C. § 2000a;

(3) the right to register to vote and to vote in all elections guaranteed by the Fifteenth Amendment, by 42 U.S.C. § 1971, and by the Voting Rights Act of 1965; and

(4) the right to equal employment opportunities, guaranteed by the Civil Rights Act, 42 U.S.C. § 2000e.

I.

[7, 8] The United States sues under authority of 42 U.S.C. § 1971; 42 U.S.C. §§ 2000a–5 and 2000e–6. Under those sections and under 28 U.S.C. § 1345, this Court has jurisdiction of the action. We resolve any doubt as to the reach of these sections in favor of the Government's standing to sue in a case of this kind. In its sovereign capacity the Nation has a

4. In January 1869 General Forrest issued an order to disband which began "Whereas, the order of the Ku Klux Klan is in some localities being perverted from its original honorable and patriotic purposes * * *" Davis, Authentic History: Ku Klux Klan, 125–28, (N.Y. 1928); Carter, The Angry Scar, 216 (N.Y.1959).

5. "There is no doubt about the fact that great outrages were committed by bands of disguised men during those years of lawlessness and oppression. The natural tendency of all such organizations is to violence and crime; hence it was that General Forrest and other men of influence in the state, by the influence of their moral power, induced them to disband." Report of the Joint Select Committee, Note 2, p. 463 (Minority Report.)

proper interest in preserving the integrity of its judicial system, in preventing klan interference with court orders, and in making meaningful both nationally created and nationally guaranteed civil rights.[6]

II.

We turn now to detailed findings of fact.

A. *Background.* The invisible realm of the Original Knights of the Ku Klux Klan coincides with the Sixth Congressional District of Louisiana. This district is composed of the "Florida" parishes, the area east of the Mississippi River and north of Lake Pontchartrain claimed by Spain until 1810.[7] The events giving rise to this action took place in Washington Parish and centered in Bogalusa, the largest municipality in the Parish. Bogalusa is on the Pearl River at a point where the river forms the boundary between Louisiana and Mississippi. It has a population of about 14,000 white persons and 7,500 Negroes.

The Grand Dragon of the Original Knights of the Ku Klux Klan and President of the Anti-Communist Christian Association is Charles Christmas of Amite in Tangipahoa Parish. Saxon Farmer, who seems to have an uncanny capacity for being present whenever there is racial trouble in Bogalusa, is the second in command of both organizations, Grand Titan of the Klan and Vice-President of the Anti-Communist Christian Association. In February 1955 he was elected to both offices simultaneously. He is also the Exalted Cyclops of one of the Bogalusa Klaverns (local units). In 1960 this Court entered an order in the case of United States v. McElveen et als. (C.A.No. 9146) against Saxon Farmer and others enjoining them from interfering with the rights of Negro citizens to vote.[8] That order restored to voter registration rolls of Washington Parish the names of 1,377 Negro citizens Farmer and others, then active in the Citizens Council, had unlawfully purged from the rolls.

[9] The evidence clearly establishes that the Anti-Communist Christian Association is not a bona fide, independent organization but is the defendant klan thinly disguised under a respectable title. At an earlier time, the klan's dummy organization was called the Bogalusa Gun Club. The defendants' efforts to appear respectable by association may also be reflected in the location of the klan's principal office in the Disabled American Veterans Hall.

[10] The officers, members, internal structure, and method of paying dues of the ACCA and the klan are identical. The corporate structure of the ACCA includes nothing but a charter. The governing rules and by-laws of the ACCA are the Klan Konstitution. The secret oath for admission and resignation in both organizations is the klan oath. Nothing is required of klan members to become members of the ACCA, except identifying to the secretary of the klan unit their assigned secret klan number. Klan members are then furnished a small green card with the name Anti-Communist Christian Association printed thereon. This Court finds that the defendant

6. In United States v. Raines, 1959, 362 U.S. 17, 27, 80 S.Ct. 519, 526, 4 L.Ed. 2d 524 upholding the constitutionality of the Civil Rights Act of 1957 in a suit on behalf of private persons against public officials, the Court said: "It is urged that it is beyond the power of Congress to authorize the United States to bring this action in support of private constitutional rights. But there is the highest public interest in the due observance of all the constitutional guarantees, including those that bear the most directly on private rights, and we think it perfectly competent for Congress to authorize the United States to be the guardian of that public interest in a suit for injunctive relief."

7. The parishes of Washington, Tangipahoa, St. Tammany, St. Helena, Livingston, Ascension, East Feliciana, West Feliciana, East Baton Rouge, West Baton Rouge, Pointe Coupee, and Iberville.

8. Aff'd. sub. nom. United States v. Thomas, 1962, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed.2d 535.

klan has appeared in this cause. The pretense that the klan does not exist, has ceased to exist, or has made no appearance in this cause is a sham.

Until recently Washington Parish was segregated from cradle to coffin. After Congress adopted the 1964 Civil Rights Act, however, the Negroes in Bogalusa began a broad scale campaign to gain recognition of their rights. Working through the Bogalusa Voters League, they conducted voter registration clinics, held mass meetings to call attention to their grievances, picketed places of public accommodations to protest racially discriminatory policies, and petitioned the Mayor of Bogalusa to accord equal rights in voting, public facilities, employment, and education.

The klan has been the center of unlawful activity in Washington Parish designed to interfere with the efforts of Negro citizens to gain equal rights under the law. Its objective has been to preserve total racial segregation in Bogalusa.

B. *Defendants' Admissions.* An unusual feature of this litigation is the defendants' damning admissions. The defendants *admit* that the klan's objective is to prevent Washington Parish Negroes from exercising the civil rights Congress recognized by statute. In their pleadings, the defendants concede that they further their objective by—

(a) assaulting, threatening, and harassing Negroes who seek to exercise any of their civil rights, and assaulting, threatening and harassing persons who urge that negroes should exercise or be accorded those rights;

(b) committing, threatening to commit, and urging others to commit cats of economic retaliation against Negroes who seek to exercise these rights, and against any persons who urge that Negroes should exercise or be accorded these rights, or who permit open, free and public discussion on the issue;

(c) threatening and intimidating public officials and businessmen who accord or seek to accord Negroes their rights without regard to race or color.

The reason for the admissions was evident at the trial and is evident in the defendants' brief. The United States subpoenaed over a hundred witnesses and, no doubt, was prepared to prove every allegation in the complaint. Because of the defendants' admissions, the disputed issues were few and only a few witnesses were called. As a result, the klan avoided an airing of its activities that necessarily would have occurred had a large number of witnesses testified. Not content with the success of this maneuver, the defendants objected to the introduction of "any evidence pertaining to the activities of the Ku Klux Klan" on the grounds that (a) the klan had ceased to exist and (b) "delv[ing] into these unrelated matters" was solely "to expose" the Ku Klux Klan, an invasion of the "privacy and individual freedoms of all these defendants".

As indicated earlier, however, the nature of the klan's activities bears directly on the existence of a pattern and practice of unlawful conduct and also on the sort of decree that should be issued.

The Government subpoenaed membership lists and records of the klan. The defendants failed to produce these records and at the hearing explained that all of the records of the klan had been destroyed as a matter of klan policy after suit was filed. The Court ordered Christmas, Farmer, and John Magee, the treasurer, to compile from memory lists of officers and members. Counsel for the defendants objected to the admissibility of the lists for the reasons that: (1) there were no lists and records in the custody of the defendants; (2) the requirement was an invasion of the rights of privacy and association. The defendants did not rely on the Fifth Amendment privilege against self-incrimination; they relied on NAACP v. State of Alabama, 1958, 357 U.S. 449, 78

S.Ct. 1163, 2 L.Ed.2d 1488. The Court overruled the objections.

[11] NAACP v. State of Alabama does not support the defendants' position. In that case Justice Harlan, speaking for a unanimous Court, held that the rights of the members of the NAACP to pursue their lawful interests privately and to associate freely with others were protected by the 14th Amendment. Accordingly, the NAACP was relieved of the necessity of turning over its membership list to the State of Alabama. In reaching that decision the Court distinguished People of State of New York ex rel. Bryant v. Zimmerman, 1928, 278 U.S. 63, 49 S.Ct. 61, 73 L.Ed. 184, a case involving a New York Chapter of the Ku Klux Klan. A New York statute required any unincorporated association which demanded an oath as a condition to membership to file with state officials copies of its "constitution, by-laws * * * a roster of its membership and a list of its officers". In Zimmerman the Court found that the statutory classification was reasonable, because of the "manifest tendency on the part of one class to make the secrecy surrounding its purposes and membership a cloak for acts and conduct inimical to personal rights and public welfare. * * * 'It is a matter of common knowledge that this organization [the klan] functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people' ". The Supreme Court reaffirmed this distinction in NAACP v. State of Alabama. Justice Harlan pointed out:

> "[In Zimmerman] the Court took care to emphasize the nature of the organization which New York sought to regulate. The decision was based on the particular character of the Klan's activities, involving acts of unlawful intimidation and violence * * * of which the Court itself took judicial notice."

Here the defendants admit that the klan's methods are lawless. Albertson v. Subversives Activities Board, Nov. 15, 1965, 86 S.Ct. 194 pretermits the question at issue in Zimmerman and NAACP v. State of Alabama.

C. *Out of Their Own Mouths.* (1) The Konstitution of the Original Ku Klux Klan embodies "the Supreme Law of the Realm". Article I states that one of the objects of the organization is to "protect and defend the Constitution of the United States"; but another object is to "maintain forever Segregation of the races and the Divinely directed and historically proven supremacy of the White Race". The preamble reaffirms "the principles for which our forefathers mutually pledged and freely sacrificed their lives, their fortunes, and their sacred honor two centuries ago"; but Article II limits the membership to "mature, Native-born, White, Gentile Men * * * who profess and practice the Christian Faith but who are not members of the Roman Catholic Church".

(2) Printed with the Konstitution is a Proclamation stating that it must be "STRICTLY ADHERED TO." The Proclamation states that "ALL REALM work is carried on by a chain of command"; establishes the organization along military lines, defines the duties of the various officers and committees, and describes "The Way of the Klavern".

"All Klaverns will have at least five armed guards with flashlights posted during regular meetings." However, "No one will be allowed to carry a gun inside the Klavern during regular meetings except the Knight Hawk (Keeper of the Klavern)."

A Klokan's (Klavern Investigator's) duty is "to investigate all questionable matters pertaining to the Klavern". "Any Klansman who is known to violate our rules, especially those that give information to any aliens [non-members] shall be expelled immediately, then is to be watched *and visited by the Wrecking Crew if necessary*". (Emphasis added.) Moreover, each klan unit "will set up at least *one team of six men to be used for wrecking crew.* These men should be appointed by the Klokan in secrecy". As judges charged with the duty of

drawing inferences from the demeanor of witnesses, we observed that a former klansman exhibited uneasiness for fear of klan reprisals, when questioned as to the function of the klan "wrecking crew". The defendants' testimony relating to the purpose and functions of the wrecking crew was evasive. There is no doubt however that the wrecking crew performed disciplinary functions and that the discipline could be severe.

(3) The Oath of Allegiance requires faithful obedience to the "Klan's Konstitution and Laws", regulations, "rulings and instructions of the Grand Dragon". "PROVIDENCE ALONE PREVENTING". Klansmen must swear "forever" to "keep sacredly secret . . . all . . . matters and knowledge of the . . . [one asterisk is Klanese for 'Klan'; four asterisks mean "Original Knights of the Ku Klux Klan] . . . [and] never divulge same nor even cause same to be divulged to any person in the whole world". As if this were not enough, the Oath also requires klansmen to swear that they "solemnly vow and most positively swear" never "to yield to bribe, threats, passion, punishment, persecution, persuasion, nor any intice-ments (sic) whatever . . . for the purpose of obtaining . . . a secret or secret information of the XXXX." Section IV on "XXXX ISHNESS" goes a little further. In this section of the oath the klansmen must swear to "keep secret to [himself] a secret of a man committed to him in the sacred bond of * manship. *The crime of violating this oath, treason against the United States of America, rape, and malicious murder alone excepted.*" (Emphasis added.) In pure klanese, the klansman pledges his "life, property, vote, and sacred honor" to uphold "unto death" the Constitution and "*constitutional* laws". (Emphasis added.) But he ends by swearing that he will "zealously shield and preserve * * * free segregated public schools, white SUPREMACY."

(4) The "Boycott Rules" give a good idea of the Klan's coercive tactics. For example:

> "The Boycott Committee (one member from each local unit appointed by the Exalted Cyclops) shall have exclusive investigative authority and it shall not act at any time with less than three members present. * * (1) No person or subject upon whom a boycott shall have been placed shall be patronized by any member. * * * Boycotts shall be imposed upon subjects who are found to be violating the Southern traditions. * * * Boycotts shall be placed upon all members of the Committee who publicly served with Bascom Talley in his efforts to promote the Brooks Hays meeting. Boycotts shall be placed upon any merchant using Negro employees to serve or wait upon persons of the white race. (Service Stations using Negroes to pump gas are excluded.)
>
> Boycotts shall be placed against a subject who serves Negroes and whites on an integrated basis.
>
> Boycotts shall be placed upon a subject who allows Negroes to use White rest rooms. * * *
>
> No member shall be punished for violation of the rules by a member of his family under twelve (12) years of age.
>
> Any member who shall after a hearing have been found guilty of personally patronizing a subject listed on the boycott list shall be *wrecked by the wrecking crew* who shall be appointed by the Committee. (Emphasis added.) * * *
>
> Second offense—If a member is found guilty of personally violating the boycott list he shall be wrecked and banished from the Klan."

It is not surprising that the attorneys for the United States had difficulty extracting from klansmen answers to questions.[9]

9. On two occasions, the Court found it necessary to warn the witnesses of the penalty for perjury. The Court recessed the hearing to allow time for the wit-

(5) In keeping with its false front and as bait for the devout, the Klan purports to perform its dirty work in the name of Jesus Christ. The first object stated in the "Objects and Purposes" clause of the Konstitution of this anti-Roman Catholic, anti-Semitic, hate-breeding organization is to "foster and promote the tenets of Christianity". The Proclamation requires the Kludd (Klavern Chaplain) to "open and close each meeting of the Klavern with prayer". Setting some kind of a record for sanctimonious cant, the Proclamation directs the Kludd to "study and be prepared to explain the 12th chapter of ROMANS at any time, as *this is the religious foundation of the Invisible Empire*". (Emphasis added)

Saint Paul, Apostle to the Gentiles, wrote his Epistle to the Romans in Corinth, midway between Rome and Jerusalem. Addressing himself to Jews and Gentiles, he preached the brotherhood of man: "Glory, honour, and peace, to every man that worketh good, to the Jew first, and also to the Gentile: For there is no respect of persons with God." [10] In the Twelfth Chapter of Romans, Paul makes a beautiful and moving plea for tolerance, for brotherly love, for returning good for evil:

> 9 Let love be without dissimulation. Abhor that which is evil; cleave to that which is good.
>
> 10 Be kindly affectioned one to another with brotherly love; in honour preferring one another; * * *
>
> 14 Bless them which persecute you: bless, and curse not. * * *
>
> 17 Recompense to no man evil for evil. Provide things honest in the sight of all men.
>
> 18 If it be possible, as much as lieth in you, live peaceably with all men.
>
> 19 Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord.
>
> 20 Therefore if thine enemy hunger, feed him; if he thirst, give him drink; for in so doing thou shalt heap coals of fire on his head.
>
> 21 Be not overcome of evil, but overcome evil with good."

These words must fall on stony ground in the Klaverns of a Klan.

D. *Specific Findings of Klan Intimidition and Violence.* We select the following examples of the defendants' acts of intimidation and violence.

(1) January 7, 1965, former Congressman Brooks Hays of Arkansas, at the invitation of religious, business, and civic leaders of Bogalusa, was scheduled to speak in Bogalusa at St. Matthews Episcopal Church Parish House on the subject of community relations. The meeting was to be open to both Negroes and whites and it was planned that seating would be on a racially non-segregated basis. After learning of the proposed appearance of Mr. Hays and the arrangements for an unsegregated meeting, the Klan and its members protested to the Mayor and the members of the Commission Council and, by means of threats of civil disorder and economic retaliation against local businessmen who supported the meeting, caused the withdrawal of the invitation to Mr. Hays to speak December 18, 1964, before the Hays invitation was withdrawn, the Mayor of Bogalusa and Police Commissioner Arnold Spiers, in an effort to head off possible civil disorder, appeared at a Klan meeting at the Disabled Veterans Hall. The show of force at this meeting by over 150 hooded Klansmen unquestionably intimidated public officials in Bogalusa and, later, hindered effective police action against Klan violence. On the stand, Mayor Cutrer admitted that *he*

nesses to refresh their recollection, and to find, if possible, any membership lists. On one occasion, a witness pleaded the 5th Amendment when, in a colloquy with the Court, it was apparent that he was afraid of klan reprisal for testifying as to klan records; he withdrew his plea of privilege and testified.

10. Romans, Chap. II, v. 10–11.

was "frightened when he looked into 150 pairs of eyes".

(2) Since at least January 28, 1965, the defendants, including Saxon Farmer, Russell Magee, Dewey Smith, Randle C. Pounds, Billy Alford, Charles McClendon, James Burke, and other members of the defendant Klan, have made a practice of going to places where they anticipated that Negroes would attempt to exercise civil rights, in order to harass, threaten, and intimidate the Negroes and other persons. For this purpose, members of the defendant Klan have gone to Franklinton, Louisiana, when Negro citizens of Washington Parish were expected to apply to register as voters, have gone to restaurants in Bogalusa when Negroes were seeking or were expected to seek service, and have gone to locations in downtown Bogalusa and near the Bogalusa Labor Temple when Negroes were attempting or were expected to demonstrate publicly in support of equal rights for Negroes.

(3) William Yates and Stephen Miller, two CORE workers, came to Bogalusa in January 1965. The Grand Dragon and Grand Titan of the Klan, defendants Charles Christmas and Saxon Farmer, appeared at the Mayor's office to ask the Mayor to send William Yates and Stephen Miller out of Bogalusa. Mayor Cutrer indicated that he could do nothing. The next day, February 3, 1965, three Klansmen, James Hollingsworth, Jr., James Hollingsworth, Sr., and Delos Williams, with two other persons, Doyle Tynes and Ira Dunaway, attempted to insure Yates' and Miller's departure. This group followed Yates and Miller and assaulted Yates.

(4) February 15, 1965, defendant Virgil Corkern, Klansman, and approximately 30 other white persons attacked by Negro citizens and damaged the car in which they were riding. This occurred because the Negroes had sought service at a gasoline station in Bogalusa. On that same day, Corkern and other persons gathered at Landry's Fine Foods, a restaurant in Bogalusa, to observe Negroes seeking service at the restaurant. Corkern and one other entered the restaurant brandishing clubs, ordered the Negroes to leave and threatened to kill Sam Barnes, a member of the Bogalusa Voters League, who had come to the restaurant with six Negro women.

(5) March 29, 1965, defendants Hardie Adrian Goings, Jr., Klansman, and Franklin Harris, Klansman, shortly after meetings had been held at the Bogalusa Labor Temple, threw an ignited tear gas canister at a group of Negroes standing near the Labor Temple. Goings, Jr. then tried to disguise his car by repainting it and removing the air scoop from the top to prevent detection of this crime. Goings or other Klansmen used this same car in May of 1964 to burn a cross at the home of Lou Major, editor of the Bogalusa newspaper.

(6) April 7, 1965, defendants Lattimore McNeese and E. J. (Jack) Dixon, Klansman, threatened Negro citizens during the course of a meeting at the Labor Temple by brandishing and exhibiting a gun at Negroes standing outside the Labor Temple.

(7) April 9, 1965, defendants Billy Alford, Klansman, Randle C. Pounds, Klansman, Lattimore McNeese, Charles McClendon, and James Burke, Klansman, with other persons, went to the downtown area of Bogalusa where Negro citizens were participating in a march to the Bogalusa City Hall to protest denial of equal rights. Pounds, McClendon, and Burke, in a group, moved out to attack the marchers. Pounds assaulted the leader of the march, James Farmer, with a blackjack; McClendon and Burke were temporarily deterred from the threatened assault, but immediately thereafter assaulted a newsman and an FBI agent. Alford assaulted one of the Negroes participating in the march.

(8) May 19, 1965, Virgil Corkern, Klansman, two sons of Virgil Corkern, and other white persons went to Cassidy Park, a public recreation area maintained by the City of Bogalusa, for the purpose of interfering with the enjoyment of the park by Negroes and white CORE workers who were present at the park

and using the facilities for the first time on a non-segregated basis. The Corkern group entered the park and dispersed the Negro citizens with clubs, belts, and other weapons.

(9) Negro members of the Bogalusa Voters League, unable to exercise their civil rights and also unable to obtain from police officials adequate protection from the Klan, filed suit June 25, 1965, in the case of Hicks v. Knight Civ.Ac. No. 15,727 in this Court. The complaint asks for an injunction requiring officers of the City of Bogalusa to open the public parks and to operate such parks without racial discrimination, and also requiring law enforcement officers of the City, Parish, and State to protect the Negro plaintiffs and other Negroes from physical assaults, beatings, harassment, and intimidation at the hands of white citizens. July 10, 1965, this Court issued an injunction in Hicks v. Knight enjoining certain city and parish law enforcement officers from failing to use all reasonable means to protect the Negro plaintiffs and others similarly situated from physical assaults and beatings and from harassment and intimidation preventing or discouraging the exercise of their rights to picket, assemble peaceably, and advocate equal civil rights for Negroes. The preliminary injunction is still in full force and effect. Even after this Court issued its order July 10, 1965, the defendant Klansmen continued to interfere with Negro citizens exercising civil rights and interfered with performance of the duties of law enforcement officials under the injunction in Hicks v. Knight.

(10) July 11, 1965, during a Negro march in downtown Bogalusa, defendants Randle Pounds, Klansman, H. A. Goings, Jr., Klansman, Franklin Harris, Klansman, and Milton E. Parker were present. Harris and Goings passed out 25–30 2 x 2 clubs to youths and Pounds stationed the youths along the march route. Parker was arrested by a City policeman along the route of march for disturbing the peace.

(11) Included in the exhibits are a number of handbills bearing the caption, "Published by the Original Ku Klux Klan of Louisiana". These are crude, scurrilous attacks on certain Bogalusa citizens who advocated a moderate approach to desegregation. For example, in one handbill an Episcopal minister is accused of lying for having said that he had received calls threatening to bomb his church; the minister's son is said to be an alcoholic, to have faced a morals charge in court, and to have been committed to a mental institution. The handbill adds:

> "The Ku Klux Klan is now in the process of checking on Reverend ————'s [naming him] moral standards. If he is cleared you will be so informed. If he is not cleared, you will be informed of any and all misdeeds or moral violation of his in the past."

In the same handbill the Klan announced that it was "boycotting businesses which cater to integration such as Mobile Gas Stations, etc." Mobile Gas Station is a business competitor of the defendant, Grand Titan Saxon Farmer.

All of the handbills attempt to intimidate public officials, the Governor of Louisiana, the Congressman from the Sixth District, the Mayor of Bogalusa, and federal judges (by name). Sometimes the attempted intimidation is by threat of violence, sometimes by character assassination. We quote, for example:

> (a) "On numerous occasions we have been asked by local officials to refrain from any acts of violence upon this outside *scum* that has invaded our city. Being a christian organization, we have honored these requests each time. How much longer can we continue??? Contrary to what the liberal element would have you think, this memorandum is not the work of racist and hate mongers or trouble makers, as Governor 'Big John' McKeithen calls us. We are God fearing white, southerners who believe in constitutional government and the preservation of our American heritage.

"If your governor would have done the right thing to start with, he would have refused to protect these local and outside agitators and did just what one great southern governor did. He refused to protect this outside element, (CORE, NAACP, SNICK, ETC.), at the expense of his state. He chose, instead, to let LBJ and Katzenbach protect them. Only after the city of Bogalusa had spent $96,000, did he (Big John McKeithen), make any effort to ease the situation in this city."

(b) "As the people tried to preserve our Southern way of life, the Mayor and Council were slowly selling the people out at every turn. The Mayor has repeatedly GIVEN in. James Farmer did not have the support of the local Negroes. Mayor Cutrer is not giving the city of Bogalusa to the negro citizens of Bogalusa. No. He is giving the city to James Farmer and a handful of Negro Teenagers. NO PRESSURE was put on James Farmer and Dick Gregory to keep them out of Bogalusa. Not by the Mayor, the State Representative, the State Senator, or Congressman Morrison. This was not so when the WHITE CONSERVATIVES wanted to stage a Rally. Pressure was exerted from all levels, even the invited guest speakers were 'leaned on'.

"The Governor, the Congressman, Jimmy Morrison, or his com-rats, Suksty Rayborn, and Buster Sheridan. John McKeithen asked for our vote and promised to serve the PEOPLE. We now ask, Big John, isn't this TRUE? What is happening under your administration?

"Here is the list of elected officials who COULD & AND SHOULD have helped the People of Bogalusa. All these should be tarred and feathered.

MAYOR JESSIE CUTRER
REPRESENTATIVE SHERIDAN
SENATOR SIXTY RAYBORN
SHERIFF DORMAN CROWE
CONGRESSMAN JIMMY MORRISON
GOVERNOR JOHN McKEITHEN
SENATOR RUSSELL LONG

"Now, the QUESTION. Why have these men, elected by the WHITE people turned their back on us in our time of need?

"Is Communism so close? Who bought them? Who bought their HONOR and FOR HOW MUCH?"

(c) "The Ku Klux Klan is strongly organized in Bogalusa and throughout Washington and St. Tammany Parishes. Being a secret organization, we have KLAN members in every conceivable business in this area. We will know the names of all who are invited to the Brooks Hayes meeting and we will know who did and did not attend this meeting. Accordingly, we take this means to urge all of you to refrain from attending this meeting. Those who do attend this meeting will be tagged as intergrationists and will be dealt with accordingly by the Knights of the KU KLUX KLAN."

[12] E. *Summary of the Facts.* We find that the defendants have admitted and the proof has shown that they intimidated, harassed, and otherwise interfered with (1) Negroes exercising their civil rights, (2) persons encouraging Negroes to assert their rights, and (3) public officials, police officers, and other persons seeking to accord Negroes their rights. These acts are part of a pattern and practice of the defendants to maintain total segregation of the races in Washington Parish. The pattern creates an effect extending beyond the effect of any particular act or practice. A Negro who is clubbed in a public park may fear to order coffee in a segregated sandwich shop or he may decide that it is the better part of valor not to exercise voting

rights. The owner of the sandwich shop who receives threatening calls for having served Negro patrons may conclude that taking care of his family comes ahead of hiring Negro employees. The intimidation or violence may be effective not only as to the particular individual against whom it is directed but also as to others who may be less courageous than the Negroes brave enough to parade in Bogalusa or register to vote in Franklinton. The acts of terror and intimidation admitted or proved in this case, acts characteristic of a masked, secret conspiracy, can be halted only by a broad order enjoining the defendants from unlawfully interfering with the exercise of civil rights by Negro citizens.

III.

The defendants contend that the complaint fails to state a claim upon which relief can be granted. They start with the doctrine that the 14th and 15th Amendments apply only to state action or action under color of state law. A. This moves them to conclude as a matter of statutory construction, that Congress did not purport to enforce civil rights against private persons. Moreover, so they argue, the 1957 Act applies to interference with "voting" not to interference with "registering". B. And, they say, if civil rights acts do authorize enforcement against private persons (not owners or managers of a place of public accommodation) the statutes are unconstitutional.

A.

(1) *The Civil Rights Act of 1957.* In the field of civil rights the problem of enforcement is more difficult than the problem of legislative definition. The choice of remedy determines whether an act of Congress simply declares a right or carries machinery for meaningful performance of the statutory promise. In the past, an obvious hiatus has been the lack of effective sanctions against private persons interfering with a citizen's exercise of a civil right. This lack may be explained by a number of reasons. (a) Congress has been reluctant to assert affirmatively by legislation its responsibility to protect the privileges and immunities of citizens of the United States, for fear of imperiling the balanced relationship between the states and the Nation.[11] (b) Courts have narrowly construed criminal sanctions available in Sections 241 and 242 of Title 18.[12] (c) Congress and the courts have been severely limited by the doctrine of state action, in spite of the trend toward an expansive view of what is state action.[13] (d) Congress has been wary of using an equitable remedy in civil rights legislation. The Constitution guarantees an accused in a criminal case the right to in-

11. See United States v. Cruikshank, 1875, 92 U.S. 542, 23 L.Ed. 588; Slaughter-House Cases, 1873, 16 Wall. 36, 21 L.Ed. 394.

12. In 1894 Congress repealed most of the provisions dealing with federal supervision of elections. Two general provisions for criminal sanctions were left standing: 42 U.S.C. § 241 (originally Section 6 of the Civil Rights Act of 1870, later Section 5508 of the Revised Statutes) providing criminal sanctions against conspiracies to deprive any citizen of any right secured by the Constitution and laws of the United States; and 42 U.S.C. § 242 (originally Section 2 of the Civil Rights Act of 1866, later Section 5510 of the Revised Statutes (1873), as amended in 1909, 35 Stat. 1092 by adding the word "wilfully") providing criminal sanctions against the deprivation of constitutional rights, privileges, and immunities under color of state law. See United States v. Williams, 1951, 341 U.S. 70, 71 S.Ct. 581, 95 L.Ed. 758 restricting Section 241 to those cases in which the right allegedly violated is an incident to national citizenship. See also Screws v. United States, 1945, 325 U.S. 91, 65 S.Ct. 1031, 89 L.Ed. 1495 construing Section 242 as requiring specific intent to deprive a person of the right made specific by the Constitution or laws of the United States. Sections 241 and 242 are now before the Supreme Court again. United States v. Price, Nos. 59, 60, October Term, 1965; United States v. Quest, No. 65, October Term, 1965.

13. See Civil Rights Cases, 1883, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835; United States v. Reese, 1876, 92 U.S. 214, 23 L.Ed. 563.

dictment by a grand jury and trial by a jury of the vicinage. Enforcement of civil rights through the use of an injunction and the contempt power of the courts would by-pass the jury system.[14] However, in communities hostile to civil rights and resentful against "outside", that is, federal interference, injunctive relief may be the most effective method of enforcing civil rights.

Congress considered the pros and cons of these and many other issues when the Administration submitted an omnibus civil rights bill in 1956.[15] The focal issues—the contempt power, the jury system, and the relationship of the States with the Nation—produced one of the great debates in American parliamentary hitsory. By the time the bill was cut down to a voting rights law, as the Civil Rights Act of 1957, 71 Stat. 634, Congress and the country thorougly understood the significance of the legislation.[16] Congress had opened the door, then near-

14. Hence the compromise affecting jury trials in the 1957 Act: criminal contempt cases arising under the act may be tried by district courts without juries, except where a person convicted is fined more than $300 or imprisoned for more than 6 months. 71 Stat. 638 (1957), 42 U.S.C. § 1995.

15. President Truman's Committee on Civil Rights submitted equally broad recommendations. See Report, To Secure These Rights, 151–161 (1947).

16. In a hearing before the House Judiciary Committee on the Civil Rights Bill, Attorney General Herbert Brownell explicitly explained the purposes and scope of the proposed amendments to Section 1971 of Title 42:

"The most obvious one of these defects in the law is that it does not protect the voters in Federal elections from unlawful interference with their voting rights by private persons—in other words, 1971 applies only to those who act 'under color of law' which means public officials, and the *activities of private persons and organizations designed to disenfranchise voters* in Federal or State elections on account of race or color are not covered by the present provisions of 1971. And so we say that the statute fails to afford the voters full protection from discrimination which was contemplated by the Constitution, especially the 14th and 15th amendments.

"Also this section 1971 is defective in another respect, because it fails to lodge in the Department of Justice and the Attorney General any authority to invoke civil remedies for the enforcement of voting rights. And it is particularly lacking in any provision which would authorize the Attorney General to apply to the courts for preventive relief against the violation of these voting rights.

"And we think that this is also a major defect. The ultimate goal of the Constitution and the Congress is the safeguarding of the free exercise of the voting right, acknowledging of course, the legitimate power of the State to prescribe necessary and fair voting qualifications. And we believe that civil proceedings by the Attorney General to stop any illegal interference and denial of the right to vote would be far more effective in achieving this goal than the private suits for damages which are presently authorized by the statute, and far more effective than the criminal proceedings which are authorized under other laws which, of course, can never be used until after the harm has been actually done.

"No preventive measures can be brought under the criminal statutes. So I think —and I believe you will agree with me—that Congress should now recognize that in order to properly execute the Constitution and its amendments, and in order to perfect the intended application of the statute, section 1971 of title 42, United States Code, should be amended in three respects:

"First, by the addition of a section which will prevent anyone, whether acting under color of law or not, from threatening, intimidating or coercing an individual in his right to vote in *any election*, general, special, or primary, concerning candidates for *Federal office*.

"And second, to authorize the Attorney General to bring civil proceedings on behalf of the United States or any aggrieved person for preventive or other civil relief in any case covered by the statute.

"And third, an express provision that all State administrative and judicial remedies need not be first exhausted before resort to the Federal courts." [Hearings before Subcommittee No. 5 of the Committee on the Judiciary, 85th Cong., 1st Sess., p. 570 (1957)]

ly shut, to national responsibility for protecting civil rights—created or guaranteed by the Nation—by injunction proceedings against private persons.

Part III of the Administration's bill, as originally proposed, would have authorized the Attorney General to file suit against any person who deprived or was about to deprive any citizen of any civil right. The compromise that became the Civil Rights Act of 1957 limits civil actions to protection of voting rights in special, general, or primary elections where federal officers are elected.

Before the 1957 Act, Section 1971 (now 1971(a)) was enforced either by an action for damages under 42 U.S.C. § 1983 and § 1985(3) or by a criminal action under 18 U.S.C. §§ 241, 242. The 1957 Act adds four subsections to Section 1971, including: [17]

"(b) *No person, whether acting under color of law or otherwise,* shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever *any person* has engaged or there are reasonable grounds to believe that *any person* is about to engage in *any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b),* the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person." (Emphasis added.)

The House Report on the Act—there was no Senate Report—clearly states the purpose of the amendments to 1971:

"[T]his section adds new matter. The provision is a further declaration of the right to vote for Federal offices. It states clearly that *it is unlawful for a private individual* as well as one acting under color of law to interfere or attempt to interfere with the right to vote at any general, special or primary election concerning Federal offices. This amendment, however, does not provide for a remedy. However, the succeeding subsection of the amendment, which is designated subsection (c), does provide a remedy in the form of a civil action instituted on the part of the Attorney General." House Report No. 291, to accompany H.R.6127, U.S.Code Cong. and Adm. News 1966, 1977 (1957) (Emphasis added)

Although Congress narrowed the subject matter of the statute to voting rights, there is nothing narrow about the scope of the Act as to interference with voting rights. The statute is not limited

17. Section 1971(a) derived from the Civil Rights Act of 1870, defined voting rights as follows:

"(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding".

to physical acts or to direct interference with the act of voting but applies to—

"any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) * * *."

The statute applies to "any person" who shall—

"intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce for the purpose of interfering with the right of such person to vote."

There is no doubt that this language applies to private individuals. And there is very little doubt that the Act protects the right to regiser and to engage in activities encouraging citizens to register. As discussed more fully elsewhere, registration is an integral, indispensable part of the voting process.[18] It is also a stage that is vulnerable to abuse by the registrar or to unlawful conduct by private persons. Ever since the Supreme Court outlawed the "white" primary, it has been apparent that the main battleground in the war over Negro suffrage would be the registration office.[19] See, for example, the description of the activities of the Citizens Councils and parish registrars in United States v. State of Louisiana, E.D.La.1963, 225 F.Supp. 353, 378–380. Congress was well aware that a major mischief to be combatted in the 1957 Act was economic coercion and threats of intimidation by private persons that would deny or interfere with the Negro's access to registration.[20]

More often than not, the economic coercion and intimidation by private persons are triggered by an educational campaign to encourage registration. United States v. Beaty, 6 Cir. 1961, 288 F.2d 653 is a case in point. The case arose in Haywood County, Tennessee, a county in which no Negroes were registered to vote. In the spring of 1959, a newly formed Civic and Welfare League, apparently similar to the Bogalusa Voters League, initiated a campaign in Haywood and in Fayette Counties to encourage Negroes to register. This led to the institution of a "white" primary in Fayette; later prohibited by a consent decree in April 1960. In the face of a renewed registration drive, white businessmen in both counties retaliated by circulating a "blacklist" containing the names of the Negroes who registered and white citizens who assisted them. The businessmen induced local merchants to boycott anyone whose name appeared on the list, by denying credit and the right to buy necessities through the usual business relations. White landowners evicted sharecroppers and tenant farmers who had registered or whose names appeared on the blacklist. The Attorney General sued the businessmen and landowners, under Section 1971, for immediate injunctive relief.[21] The district judge

18. See Section III, B, (1), (b) of opinion.

19. See Key, Southern Politics 555 (1949); Civil Rights Commission Report 133–38 (1961).

20. In a note, Beatty, Private Economic Coercion and the Civil Rights Act of 1957, 71 Yale L.Jour. 536, 543 (1962), the author points out:

"The Circuit Court's construction of the 1957 act to apply to *economic* coercion in general and to economic coercion involving contract and property rights in particular seems correct. In requesting legislation to protect voting rights, President Eisenhower noted: 'It is disturbing that in some localities allegations persist that Negro citizens are being deprived of their right to vote and are likewise being subjected to unwarranted economic *pressures*.' Senator Douglas, a sponsor of the bill, asserted that the legislation was directed at denials of voting rights '*by economic pressure' as well as by other means*. And Representative Celler, a House sponsor, indicated that if 'the milk dealer, the coal dealer, the butcher, the baker and the candlestick maker * * * agree * * * to boycott' persons who try to vote, the agreement would violate the proposed law."

21. The Attorney General brought a similar suit to enjoin "intimidation, threat, and coercion" in Fayette County. United States v. Atkinson, et als, Civ.Ac. 4121, 6 R.Rel.L.Rep. 200 (1962). See Mendelson, Discrimination (Pren.Hall 1962) 21. And see United States v. Ellis, W.D.S.C. 1942, 43 F.Supp. 321, 324.

granted a restraining order enjoining the businessmen from "interfering through intimidation and/or coercion", but refused to enjoin the landowners on the ground that the Civil Rights Act did not vest the court with authority "to adjudge contracts and property rights". 6 Race Rel.L.Rep. 200. The Sixth Circuit affirmed the judgment as to the businessmen and extended the injunction to the landlords.[22]

In East Carroll Parish, Louisiana, cotton growers refused to gin cotton for Negro farmers who had attempted to register to vote. The Attorney General again sued under the 1957 Act, asking for preventive relief, against owners, operators, and managers of cotton gin businesses and certain other businesses "refusing to gin * * * refusing to sell goods or services, and to conduct ordinary business transactions with, any person for the purpose of discouraging or dissuading such person from attempting to vote and * * * engaging in any attempted threats, intimidations, or coercion of any nature, whether economic or otherwise". Judge Dawkins entered an order, agreed to by the parties, staying proceedings for one year pending full compliance by the defendants with the terms of the proposed restraining order. United States v. Deal, W.D.La.1961, 6 Race Rel.L.Rep. 474.

[13] The parallel between the defendants' intimidation by economic coercion in *Beaty* and in *Deal*, and the defendants' boycott and other activities in this case is too patent to be spelled out. *Beaty* and *Deal* also illustrate a principle of enormous importance in the enforcement of civil rights: acts otherwise lawful may become unlawful and be enjoined under Section 1971, if the purpose and effect of the acts is to interfere with the right to vote.

In United States v. Board of Education of Greene County, Mississippi, 1964, 332 F.2d 40, the Fifth Circuit affirmed the holding below that the government failed to prove that the alleged intimidation was for the purpose of interfering with the right to vote. But, as Judge Tuttle explained in United States v. Bruce (decided Nov. 16, 1965, 353 F.2d 474), the Court in the *Greene County* case assumed:

> "Whereas a school board might, under the circumstances present in that case, have legally failed to renew a teacher's contract for any reason or for no reason at all, if it in fact declined to renew the [teacher's] certificate as a means of coercing or intimidating the teacher as to her right to vote, such conduct would be prohibited under the Act."

In United States v. Bruce twenty-eight white persons in Wilcox County, Alabama, notified Lonnie Brown, a Negro insurance collector, to stay off land owned or controlled by them. As a result Brown could not reach many of his policyholders. Brown had been active in urging his Negro neighbors and friends to register to vote in Wilcox County, a county where no Negroes were registered. The Court held that the trial court erred in dismissing the complaint:

> "The background allegations make a strong case upon which the trial court could infer the correctness of the conclusionary allegations that these defendants did in fact 'intimidate and coerce' the Negro citizens of Wilcox County, through the person of Lonnie Brown, for the purpose of interfering with their right to vote."[23]

22. The Sixth Circuit said:
"If sharecropper-tenants in possession of real estate under contract are threatened, intimidated or coerced by their landlords for the purpose of interfering with their rights of franchise, certainly the fact that the coercion relates to land or contracts would furnish no excuse or defense to the landowners for violating the law." 288 F.2d 653, 656.

23. Judge Tuttle added:
"Thus although the defendants here may have had an almost unrestricted right to invoke the Alabama trespass law to keep all persons from entering upon their property after warning, in

[14] We hold that the Civil Rights Act of 1957 applies to private persons, including the defendants impleaded in this case. We hold that the Act applies to interfering with the right to register as well as interfering with the right to vote; that the Act protects Negro citizens against the coercion, intimidation, and violence the defendants admitted or were proved to have committed in this case.

(2) *The Civil Rights Act of 1964.* The '64 Act creates new categories of civil rights and extends the authority of the Attorney General to protect such rights by a civil suit for injunctive relief against any person, public or private.

[15] For purposes of this proceeding, the most pertinent provisions are those relating to (a) places of public accommodation, (b) equal employment opportunities, and (c) public facilities. As clearly as words can say, these provisions reach any person and any action that interferes with the enjoyment of civil rights secured by the Act. Thus, 42 U.S.C. § 2000a–2 of Title II, is not limited to prohibiting discrimination or segregation by the owner or manager of a place of public accommodation. The section provides:

"No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 2000a or 2000a–1 of this title, or (b) *intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering* with any right or privilege secured by section 2000a or 2000a–1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a–1 of this title."

And to enforce the law, Section 2000a–5 (a) allows the Attorney General to sue "any person or group of persons":

"Whenever the Attorney General has reasonable cause to believe that *any person or group of persons* is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action * * * requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described." [Emphasis supplied.]

Section 2000e–6 of Title VII, relating to equal employment opportunities, tracks the language of Section 2000a–5(a).

[16] This suit is not one to desegregate public facilities under Title VII of the Act. However, Section 2000–b is relevant, since it demonstrates again the broad Congressional objective of authorizing the Attorney General to sue as defendants "such additional parties as are or become necessary to the grant of effective relief". The defendants' interference with the right of Negroes to use public facilities in Bogalusa is relevant to the cause of action, for that interference was part of a pattern and practice of total resistance to the Negroes' exercise of civil rights.

(3) In sum, in the Civil Rights Acts of 1957 and 1964, Congress recognized that when a Negro is clubbed or coerced for having attempted to register or for having entered a "white" restaurant, the ac-

the exercise of a desire to exercise exclusive ownership and proprietary interest in their property, they could not legally invoke the right of excluding Lonnie Brown, who had previously been given free access to the property, *as a threat or means of coercion for the purpose of interfering with his right or the right of others whom he represented in exercising their right to register and vote.*"

tion most likely to produce effective relief is not necessarily for the Negro to complain to the local police or to sue for damages or to make charges under 18 U.S.C. §§ 241, 242. The most effective relief for him and for all others affected by the intimidation may be an injunction by the Nation against the private persons responsible for interfering with his civil rights.

[17] Effectiveness of remedy is not the only reason for the Congressional grant of authority to the Attorney General of the United States. The Nation has a responsibility to supply a meaningful remedy for a right it creates or guarantees. As Justice Story wrote, in sustaining the constitutionality of the Fugitive Slave Act of 1793:

> "If, indeed, the constitution guarantees the right, and if it requires the delivery [of the fugitive slave] upon the claim of the owner * * *, the natural inference certainly is, that the national government is clothed with the appropriate authority and functions to enforce it. The fundamental principle, applicable to all cases of this sort, would seem to be, that when the end is required, the means are given. * * *". Prigg v. Com. of Pennsylvania, 1842, 41 U.S. (16 Pet.) 539, 614, 10 L.Ed. 1060.

It is one thing when acts are mere invasions of private rights; "it is quite a different matter when congress undertakes to protect the citizen in the exercise of rights conferred by the constitution of the United States, essential to the healthy organization of the government itself". Ex parte Yarbrough, 1884, 110 U.S. 651, 666, 4 S.Ct. 152, 159, 28 L.Ed. 274. We turn now to the defendants' constitutional arguments.

B.

The defendants' constitutional arguments rest on a misunderstanding of the constitutional sources for the Civil Rights Acts of 1957 and 1964.[24]

[18] (1) *The Civil Rights Act of 1957: Protection of Right to Vote From Unlawful Interference.* (a) In upholding the constitutionality of the voting provisions of the 1957 Act, we need not consider the Civil War Amendments.[25] Section 1971(b), here enforced under 1971(c), is limited to prohibiting interference with the right to vote in elections for federal office. Article I, Section 4 of the Constitution is an express grant of authority to Congress to regulate federal elections:

> "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

[19] As the House Committee pointed out in its report on the law, United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368, "establishes the authority in Congress to legislate concerning any and all elections affecting Federal officers, whether general, spe-

24. The Supreme Court has affirmed the constitutionality of various provisions of the 1957 Act on other grounds than those at issue here. United States v. Thomas, 1960, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed.2d 535; United States v. Raines, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524; Hannah v. Larche, 1960, 363 U.S. 420, 80 S.Ct. 1502, 4 L.Ed.2d 1307.

25. Although a statute that is "necessary and proper" legislation to carry out the power of Congress to regulate elections for federal office may also be "appropriate legislation" to "enforce" the provisions of the 15th, 14th, and 13th amendments. The predecessor of Section 1971 (a) withstood attack on constitutional grounds. In re Engle, C.C.D.Md.1877, 8 Fed.Cas. p. 716, No. 4,488. It was held to be a valid exercise of congressional power under the 15th Amendment. Chapman v. King, 5 Cir. 1946, 154 F.2d 460, cert. denied, 327 U.S. 800, 66 S.Ct. 905, 90 L.Ed. 1025; Kellogg v. Warmouth, C.C.D.La.1872, 14 Fed.Cas. p. 257, No. 7,667.

The Voting Rights Act of 1965 rests, in part, on Section 2 of the 15th Amendment.

cial, or primary, as long as they are 'an integral part of the procedure of choice or where in fact the primary effectively controls their choice.'" U.S.Code Cong. and Adm.News, 85 Cong.1957, p. 1977. The Supreme Court said, in *Classic:*

> "While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, [citations omitted] this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.'"

[20] (b) Under the "sweeping clause", Article I, Section 8, Clause 18, Congress may enact all laws "necessary and proper" to carry out any of its powers, including, of course, its power to regulate federal elections. This provision leaves to Congress the choice of the means to execute its powers. "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are constitutional". M'Culloch v. Maryland, 1819, 4 Wheat. 316, 421, 4 L.Ed. 579.

"There is little regarding an election that is not included in the terms, time, place, and manner of holding it". United States v. Munford, 1833, C.C.E.D.Va., 16 F. 223. The Supreme Court has said:

> "It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, *registration*, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved." Smiley v. Holm, 1932, 285 U.S. 355, 366, 52 S.Ct. 397, 399, 76 L.Ed. 795.

[21] Two facts make it appropriate for Congress to reach registration as part of the "manner of holding elections". First, registering is a prerequisite to voting. Second, registration is a process for certifying a citizen as a qualified voter in both federal and state elections. A law protecting the right to vote could hardly be appropriate unless it protected the right to register.[26] In *Classic* language, registering is a "necessary step" and "integral" in voting in "elections". In *Classic* "interference with the effective choice of the voters" in a Louisiana Democratic primary was interference "at the only stage of the election procedure when their choice is of significance". Here, in terms of a meaningful right to vote, interference with Negro citizens' registering is interference at the most critical stage of the election procedure. It is true of course that the framers of the Constitution did not know about the registration process; but neither did they have in mind the selection of sena-

26. "An abundance of judicial dicta and holdings in analogous situations make clear that the federal power to regulate elections extends equally to the registration process. Any matter affecting the character or choice of the federal electorate is so integrally related to the election ultimately held as to come within the 'holding' of the election under article I, section 4." Van Alstyne, Anti-literacy Test Legislation, 61 Mich.L.Rev. 805, 815 (1963).

tors and representatives by the direct primary. In United States v. State of Louisiana, E.D.La.1963, 225 F.Supp. 353, 359, aff'd. on other grounds, 1965, 380 U.S. 145, 85 S.Ct. 817, 13 L.Ed.2d 709 this Court said:

> "Congressional authority [under Article I, § 4] extends to registration, a phase of the electoral process unknown to the Founding Fathers but today a critical, inseparable part of the electoral process which must necessarily concern the United States, since registration to vote covers voting in federal as well as in state elections."

In United States v. Manning, W.D.La. 1963, 215 F.Supp. 272, one of the constitutional attacks on the Civil Rights Act of 1960 was directed at the provision for federal registrars. In the opinion upholding the act, the Court considered it important that—

> "For purposes of accomplishing the constitutional objective the electoral process is indivisible. The act of casting a ballot in a voting booth cannot be cut away from the rest of the process. It is the last step in a process that starts with registration. Similarly, registration is an indivisible part of elections. * * * There is no separate registration for federal elections. Any interference with the qualified voter's right to register is therefore interference with a federal election." 215 F. Supp. at 283.

[22] (c) *Classic* relied on three important cases that construe the nature and extent of the power of Congress to regulate federal elections: Ex parte Siebold, 1880, 100 U.S. 371, 25 L.Ed. 717; Ex parte Yarbrough, The Ku Klux Klan cases, 1884, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; and Burroughs v. United States, 1934, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484, 485. These cases point to the principle that a congressional statute protecting against private interference before the voting stage is necessary and proper legislation under Article I, Section 4, whenever it is reasonably related to "protection of the integrity" of the federal electoral process. *Classic*, 313 U.S. at 316, 61 S.Ct. at 1038.

Ex parte Siebold involved a conviction of state election officers for ballot-stuffing in a federal election. The Court had before it the Enforcement Act from which Section 1971 was derived. The statute contained a number of extensive voting and registration regulations, including a provision for the appointment of federal election supervisors. These supervisors were authorized "to cause such names to be registered as they may think proper to be so marked". In sustaining the validity of the legislation under Article I, Section 4, the Court commented:

> "It is the duty of the States to elect representatives to Congress. *The due and fair election of these representatives is of vital importance to the United States.* The government of the United States is no less concerned in the transaction than the State government is. *It certainly is not bound to stand by as a passive spectator, when duties are violated and outrageous frauds are committed.* It is directly interested in the faithful performance, by the officers of election, of their respective duties. Those duties are owed as well to the United States as to the State." 100 U.S. 388.

[23, 24] In *Yarbrough* the Court had before it the question whether Congress could protect civil rights against private interference, specifically klan aggression in the form of intimidation of voters. Yarbrough and eight other members of a Georgia klan were indicted for conspiring to intimidate a Negro in the exercise of his right to vote for a congressional representative. It was shown that they used physical violence and that they went in disguise upon the public highways. They were convicted under the section of the Enforcement Act of 1870, Revised Statutes Section 5508, that was the predecessor of 18 U.S.C. § 241; and also under Section 5520. These are the criminal law

counterpart to 42 U.S.C. § 1971. The Act forbade two or more persons to "conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States" or to "go in disguise on the highway, or on the premises of another, with intent to prevent or hinder [such citizen in] his free exercise or enjoyment" of any such right; or to "conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote" from voting for presidential electors or members of Congress. Justice Miller, in a powerful opinion for the Court, sustained the conviction and held the statute valid. The opinion made it clear that the right to vote in federal elections is a privilege of national citizenship derived from the Constitution. Congress therefore "can, by law, protect the act of voting, the place where it is done, and the man who votes from personal violence or intimidation, and the election itself from corruption or fraud." Nor does it matter that state and federal offices are elected in the same election. The congressional powers are not "annulled because an election for state officers is held at the same time and place". 110 U.S. at 662, 4 S.Ct. at 157.

[25–27] The heart of the *Yarbrough* decision is the Court's emphasis on the transcendent interest of the federal government.[27] The violence and intimidation to which the Negro was subjected were important because they alloyed the purity of the federal political process. The federal government "must have the power to protect the elections on which its existence depends from violence and corruption". 110 U.S. at 658, 4 S.Ct. at 155. *This* implied power arises out of governmental necessity. The Court said:

> "The power in either case arises out of the circumstance that the function in which the party is engaged or the right which he is about to exercise is dependent on the laws of the United States.
>
> "In both cases it is the duty of that government to see that he may exercise this right freely, and to protect him from violence while so doing, or on account of so doing. This duty does not arise solely from the interest of the party concerned, but from the necessity of the government itself that its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its members of congress and its president are elected shall be the *free* votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice."

Since it is the purity of the federal political process that must be protected, the protection may be extended against interference with any activity having a rational relationship with the federal political process. Thus, the "rationale of Yarbrough indicates congressional power over voting, though limited to federal elections, extends to voter registration activities", including registration rallies, voter education classes, and other

27. Our silence with respect to the 15th Amendment carries no implied comment as to the scope of that amendment. We found it unnecessary to consider the 15th Amendment because of the Nation's manifest interest in the integrity of federal elections and the Supreme Court's approval of a constitutional basis for that interest. On its face, however, Section 1 of the Fifteenth Amendment clearly establishes a constitutional basis for Congress to protect the unabridged right of all citizens to vote in state elections free from discrimination on account of race. Given that basis, a congressional statute protecting citizens from state or private interference with the right to participate in any part of the voting process (registration, primary, pre-primary, etc.) would seem to be as "appropriate" for protection of voters in state elections, under Section 2 of the 15th Amendment, as it is "necessary and proper" for protection of voters in federal elections.

activities intended to encourage registration.[28]

[28] *Burroughs* is one of a number of cases dealing with corrupt election practices which go far beyond the act of voting in an election. The Federal corrupt practice laws operate on the campaigning stage rather than the voting stage and apply to private persons having no part in the election machinery. In *Burroughs* the contention was made that under Article II, Section 1 the states control the manner of appointing presidential electors; Congress is limited to prescribing the time of choosing electors and the day on which they cast their votes. In upholding the validity of the Federal Corrupt Practices Act of 1925, the Court, relying on *Yarbrough*, said:

> "While presidential electors are not officers or agents of the federal government * * *, they exercise federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The president is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption." 290 U.S. at 545, 54 S.Ct. at 290.

[29, 30] The states' power over the manner of appointing presidential electors is similar to the states' reserved power to establish voting qualifications. Notwithstanding this unquestioned power in the states, "*Burroughs* holds that 'Congress' has the implied power to protect the integrity of the processes of popular election of presidential electors once that mode of selection has been chosen by the state." There is an obvious parallel between corruption of the federal electoral process by the use of money and corruption of the same process by acts of violence and intimidation that prevent voters from getting on the registration rolls or, indeed, from ever reaching the registration office.

Classic involved federal indictments against state election commissioners for falsely counting ballots in a Democratic party primary. The Court held that under Article I, Section 4 and the necessary and proper clause, Congress had the implied power to regulate party primaries. The "interference [was] with the effective choice of the voters at the only stage of the election procedure when their choice is of significance * * *. The primary in Louisiana is an integral part of the procedure for the popular choice of Congressmen". The right to choose is a right "secured by the Constitution". 313 U.S. at 314, 61 S.Ct. at 1037. Moreover, "since the constitutional command is without restriction or limitation, the right unlike those guaranteed by the Fourteenth and Fifteenth Amendments, *is secured against the action of individuals as well as of states.*" Ib. at 315, 61 S.Ct. at 1038 Mr. Justice Stone, for the Court, spelled out the rationale:

> "The right to participate in the choice of representatives for Congress * * * is protected just as is the right to vote at the election, where the primary is by law made an integral part of the election machinery * * *. Unless the constitutional protection of the integrity of 'elections' extends to pri-

28. Comment, Federal Civil Action Against Private Individuals for Crimes Involving Civil Rights, 74 Yale L.Jour. 1462, 1470 (1965). And see Maggs and Wallace, Congress and Literacy Tests, 27 Duke L. & Cont. Prob. 510, 517–521 (1962).

mary elections, Congress is left powerless to effect the constitutional purpose * * *." 313 U.S. at 318, 319, 61 S.Ct. at 1039.

The innumerable cases in this Circuit involving civil rights speak eloquently against the use of economic coercion, intimidation, and violence to inhibit Negroes from applying for registration. This interference with nationally guaranteed rights, whether by public officials or private persons corrupts the purity of the political process on which the existence and health of the National Government depend. No one has expressed this better than Judge Rives in United States v. Wood, 5 Cir. 1961, 295 F.2d 772, cert. denied 369 U.S. 850, 82 S.Ct. 933, 8 L.Ed.2d 9 (1962).[29] In *Wood* the interference was in the form of groundless prosecution of a Negro organizer who had set up a registration school in Walthall County, Mississippi, where no Negroes had ever registered. He was not even qualified to vote in the county where the intimidatory acts occurred; he was a resident of another county. In reversing the district judge's refusal to stay the state prosecution, the Fifth Circuit noted that the alleged coercion was of the kind the 1957 Act was intended to reach. Judge Rives, for the Court, said:

> "The foundation of our form of government is the consent of the governed. Whenever any person interferes with the right of any other person to vote or to vote as he may choose, he acts like a political termite to destroy a part of that foundation. A single termite or many termites may pass unnoticed; but each damages the foundation, and if that process is allowed to continue the whole structure may crumble and fall even before the occupants become aware of their peril. Eradication of political termites, or at least checking their activities, is necessary to prevent irreparable damage to our Government."

[31-33] *We hold that the defendants' acts of economic coercion, intimidation, and violence directed at Negro citizens in Washington Parish for the purpose of deterring their registering to vote strike at the integrity of the federal political process. The right to vote in federal elections, a privilege of national citizenship secured by the United States Constitution, includes the right to register to vote. The right to register to vote includes the right to be free from public or private interference with activities rationally related to registering and to encouraging others to register.*

(2) *The Civil Rights Act of 1964: Public Accommodation.* The Supreme Court has upheld the constitutionality of Title II as it applies to motels and restaurants. Heart of Atlanta Motel v. United States, 1964, 379 U.S. 241, 85 S.Ct. 348, 13 L.Ed.2d 258; Katzenbach v. McClung, 1964, 379 U.S. 294, 85 S.Ct. 377, 13 L.Ed. 2d 290.

[34] The defendants are left, therefore, only with the contention that the Act, for reasons not articulated, should not reach private persons.

The defendants are really arguing against the judgment of Congress in selecting injunctive relief against private persons as one method of enforcing congressional policy. Once it is conceded that Congress has the power, under the commerce clause, to forbid discrimination

29. In that case Hardy, a Negro resident of Tennessee, a member of the "Student Non-Violent Coordinating Committee", was in Walthall County, Mississippi for the purpose of organizing Negroes of that county to register and vote. Hardy engaged in an argument with the registrar. The registrar ordered him to leave the office. As he got to the door, the registrar struck him on the back of the head with a revolver. Hardy was arrested and charged with a breach of the peace. The Court handled (1) the fact that Hardy was not eligible to register and therefore *his* right to vote was not interfered with; (2) the appeal was from a denial of a request for a temporary restraining order, generally an unappealable order under 28 U.S.C. §§ 1291, 1292; (3) the prosecution was a state criminal court proceeding, protected by the doctrine of comity and Section 2283 severely restricting federal injunctions of state proceedings.

in public places, there is little doubt that injunctive relief against any person seeking to frustrate the statutory objective is appropriate.

In this Circuit, relying on In re Debs, 1895, 158 U.S. 564, 15 S.Ct. 900, 39 L.Ed. 1092, the courts have held that when private persons burden commerce to the detriment of the national interest, the Nation may enjoin such persons even without enabling legislation. On two occasions courts have issued injunctions against klans and klansmen engaged in intimidation and violence burdening commerce. United States v. U. S. Klans, M.D.Ala.1961, 194 F.Supp. 897; Plummer v. Brock, M.D.Fla.1964, 9 R.Rel.L. Rep. 1399. See also United States v. City of Jackson, 5 Cir. 1963, 318 F.2d 1.

(3) *The Civil Rights Act of 1964: Equal Employment Opportunities.* Title VII, like Title II, *is based upon the commerce clause.* The term "industry affecting commerce" used in Title VII parallels the definition of "industry affecting commerce" in the *LMRDA* (29 U.S.C. § 402(c)). This in turn incorporates the definition of "affecting commerce" in the NLRA (29 U.S.C. § 152 (7)). The National Labor Relations Act represents an exercise of congressional regulatory power to "the fullest jurisdictional breadth constitutionally permissible under the Commerce Clause," NLRB v. Reliance Fuel Oil Corp., 1963, 371 U.S. 224, 226, 83 S.Ct. 312, 313, 9 L.Ed.2d 279; Polish National Alliance of United States v. NLRB, 1944, 322 U.S. 643, 647, 64 S.Ct. 1196, 88 L.Ed. 1509, a conclusion equally applicable to Title VII.

The sweeping regulations in the NLRA and LMRDA covering the terms, conditions, and policies of hiring and bargaining do not differ in any essential respect from this legislation prohibiting discrimination in hiring practices and on the job assignments. The employer-employee relationship has, of course, direct effect upon the production of industries which are in commerce and upon the practical utilization of the labor force and the power of Congress to regulate these activities cannot be doubted. NLRB v. Jones & Laughlin Steel Corp., 1936, 301 U.S. 1, 57 S.Ct. 615, 81 L.Ed. 893; NLRB v. Fainblatt, 1939, 306 U.S. 601, 606, 307 U.S. 609, 59 S.Ct. 668, 83 L.Ed. 1014; Mabee v. White Plains Publishing Co., 1946, 327 U.S. 178, 66 S.Ct. 511, 90 L.Ed. 607.

[35] Defendants admit that they beat and threatened Negro pickets to prevent them from enjoying the right of equal employment opportunity. The effect of course is to prevent Negroes from gaining free access to potential employers. Such acts not only deter Negroes but intimidate employers who might otherwise wish to comply with the law but fear retaliation and economic loss. This is precisely what the klan's Boycott Rules are designed to do.

The United States has alleged, the defendants have admitted, and the proof has shown that the defendants have intimidated, harassed, and in other ways interfered with the civil rights of Negroes secured by the Constitution. The admission and proof show a pattern and practice of interference.

Protection against the acts of terror and intimidation committed by the Original Knights of the Ku Klux Klan and the individual defendants can be halted only by a broad injunctive decree along the lines of the order suggested by the United States. The Court will promptly issue an appropriate order.[30]

30. The Court finds that on the admissions and on the evidence adduced at the hearing, a preliminary injunction should not issue against Charles Ray Williams, Louis Applewhite, and Willis Blackwell. The Court does not enter a judgment of dismissal as to these defendants, because the United States expressly reserved the right to introduce additional evidence at the hearing for permanent relief, as to these and other defendants. At the time of the hearing, Blackwell had not been correctly served. We find that James Ellis, Sidney August Warner, and Albert Applewhite are members of the klan—ACCA or were members until recently, and therefore should be enjoined. The defendants' request for dismissal of the action as to these named defendants and their request for attorneys fees are denied.

ATTACHMENT 2

FEDERAL BUREAU OF INVESTIGATION

SUBJECT: STATEMENT OF J. EDGAR HOOVER
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
BEFORE NATIONAL COMMISSION ON THE
CAUSES AND PREVENTION OF VIOLENCE

DATE: September 18, 1968

INCREASE IN VIOLENCE

Violence is a reality in America today. In the light of events in recent years, it has become the most serious domestic problem confronting the United States.

Crimes of Violence

Every indicator available to the FBI, from its investigative responsibilities in both the criminal and security fields, emphasizes that violence is a rapidly growing malady. This is clearly shown in the statistics compiled by the FBI in its Uniform Crime Reporting program. Of an estimated 3 and 3/4 million serious crimes reported to law enforcement agencies in 1967, 484,900 were violent crimes in the classifications of murder, forcible rape, robbery, and aggravated assault. This represented a substantial increase over the 421,000 such crimes reported in 1966.

The violent crime rate in the United States for 1967 reached 250 victims per 100,000 population. This is more than double the 1940 rate, 88 per cent higher than the 1950 rate, and 57 per cent above the 1960 rate.

Over-all, crime in the United States rose 21 per cent during the first six months of 1968 over the corresponding period in 1967. The violent crimes of murder, forcible rape, robbery, and aggravated assault increased 21 per cent as a group. Armed robberies increased 34 per cent and aggravated assaults with firearms 28 per cent in the first six months of 1968 as compared to the same period of 1967.

These statistics represent an epidemic of crime and violence, which has affected virtually every segment of American society. The mugger, the rapist, the hoodlum stalk our streets in frightening numbers. Fear of venturing outside the home at night has become a fact of urban life.

Guns are far and away the most common weapon used in murders and nonnegligent homicides. Of the 12,090 murders reported in the United States in 1967, over 7,600 were committed with firearms. They were also used in over 73,000 armed robberies and over 52,000 aggravated assaults. It is significant in these times, when we know too well the tragic stories of senseless sniper killings and the shooting of innocent people by crazed gunmen, that murder by firearms has increased 47 per cent since 1964. Armed robberies and aggravated assaults with firearms have increased 58 and 76 per cent, respectively, since 1964.

66-077 O - 76 - 56

The Crime Clocks, as contained in the FBI's Uniform Crime Reports for 1967, show that last year these offenses occurred at these time rates:

Serious Crimes: 7 each minute
Violent Crimes: One each minute
Murder: One every 43 minutes
Forcible Rape: One every 19 minutes
Aggravated Assault: One every 2 minutes
Robbery: One every 2½ minutes
Burglary: One every 20 seconds
Larceny: One every 30 seconds
Auto Theft: One every 48 seconds

Violence against Law Enforcement Officers

The violence of the criminal, often cold-blooded and calculated, is especially felt by law enforcement officers. In 1967, 76 officers were killed in the United States while performing their official duties. This raised the total of these deaths to 411 for the eight-year period beginning in 1960. In 96 per cent of these murders firearms were used.

A study of the criminal histories of the 539 offenders involved in these police murders since 1960 reveals that 77 per cent had been arrested on some prior criminal charge before they took an officer's life. In fact, 54 per cent of those offenders with prior criminal arrests had been previously taken into custody for such violent crimes as murder, rape, robbery, and assault with intent to kill.

Of the offenders previously convicted, two thirds had been granted leniency in the form of parole or probation. Three of every ten of the offenders were on parole or probation when they murdered an officer.

Physical assaults against officers are also increasing. A heavy toll of injuries among police officers has resulted from enforcement action taken in connection with riots and civil disobedience. Nationally, the rate of assaults on law enforcement officers in 1967 was up 11 per cent, and assaults per 100 officers increased to 13.5 per cent from 12.2 per cent in 1966.

Youthful Criminality

A particularly tragic facet of the crime and violence problem in this country is the increasing involvement of young people. A disproportionate share of national crime is committed by persons under 18 years of age. In 1967, for example, 49 per cent of those arrested for serious crimes were in this age bracket; and arrests of persons under 18 increased a startling 69 per cent from 1960 to 1967, while the number of persons in the age group 10 through 17 increased just 22 per cent.

The majority of juvenile crimes are against property (62 per cent of all persons arrested for car theft in 1967, for example, were under 18 years of age). However, youthful violence has been steadily rising. Arrests of individuals in this age group for violent crimes showed the following percentage increases in 1967 over 1960: murder, 56 per cent; forcible rape, 38 per cent; robbery, 96 per cent; and aggravated assault, 121 per cent.

Violence is particularly prevalent today among young people in large metropolitan areas. Vicious juvenile gangs terrorize the slum sections which spawn them, using weapons easily made or come by to commit crimes of violence which all too frequently leave their victims killed or maimed. This youthful criminality too often establishes a career in crime.

Organized Crime

Although violence is an integral part of the operations of organized crime--whose major syndicate is known as La Cosa Nostra--it is a coldly calculated tactic to maintain the group's dominance over its own members and over the members of the society in which it operates rather than terror for terror's sake. The peculiar evil of this type of "corporate" violence is not the individual sadism and brutality of the "enforcers" and "strong-arm men," but the monopolistic position it enables racket leaders to gain and hold in their legitimate, as well as their illicit, activities.

Force and threats of force are employed to eliminate rivals, collect on gambling and loan-sharking debts, frighten potential witnesses, enforce internal discipline, and gain possession of various business chattels. In the greater Chicago area alone, there have been more than 1,000 gangland slayings since 1919, only 17 of which have been solved; in the greater Boston area, there have been more than 50 during the past four years, only 11 of which have been solved.

Careers in Crime

The FBI's Careers in Crime program, a study of criminal careers, made possible by the cooperative exchange of criminal fingerprint data among law enforcement agencies, has produced the following profile of 12,026 perpetrators of violent crimes who were arrested in 1966 and 1967. For the murderers, of whom there were 922, the average criminal career was 11 years and 7 arrests. For the felonious assault offenders, of whom there were 4,538, the average career was 10 years and 8 arrests. For the rapists, of whom there were 925, the average career was 8 years and 7 arrests; and for the robbers, of whom there were 5,641, the average career was 9 years with 8 arrests.

Seven per cent of the murderers had previously been charged with homicide during their criminal careers and 18 per cent of the rapists were repeaters of this violation. With respect to the felonious assault offenders, 30 per cent had previous arrests for serious assaults and 37 per cent of the robbers had repeated that crime. This is of key interest, because it shows a tendency toward the commission of violent crimes by repeaters.

Cost of Crime and Violence

The enormous cost in money and ruined lives which the statistics of American crime represent touches almost every citizen in some manner. The cost in dollars and cents is staggering--estimated at over $27 billion a year. The damage inflicted by the riots in our cities in recent years has added materially to this figure. The rioting here in Washington, D. C., following the murder of Martin Luther King on April 4, 1968, caused damage estimated at $24 million. Losses sustained during the April rioting in Baltimore amounted to $14 million.

The cost to society of the fear and anguish resulting from violence cannot be assessed monetarily. There is no way to determine accurately the damage to the Nation or to individual lives resulting from the harrowing experiences of criminal attacks which maim or mutilate, nor the price of personal grief and suffering for families of those struck down by killers. The corrosion of fear which violence brings saps our strength as a Nation and weakens the social fabric of our communities.

ORGANIZATIONS ADVOCATING VIOLENCE

There are in the United States today a number of subversive and extremist organizations which advocate force and violence. They strive in every possible way to disrupt law and order and to inculcate hatred and bigotry that breed violence.

Communist Party, USA

Prominent among these is the Communist Party, USA (CPUSA). Communist statements for public consumption to the contrary, material furnished for study within the CPUSA clearly reveals that the use of force and violence is--as it has always been--the primary technique for the communist seizure of power.

Communists are in the forefront of civil rights, antiwar, and student demonstrations, many of which ultimately become disorderly and erupt into violence. As an example, Bettina Aptheker Kurzweil, 24-year-old member of the CPUSA's National Committee, was a leading organizer of "free speech" demonstrations on the campus of the University of California at Berkeley in the Fall of 1964. There protests, culminating in the arrest of more than 800 demonstrators during a massive campus sit-in on December 3, 1964, were the forerunner of the current campus upheaval.

In a press conference on July 4, 1968, the opening day of the CPUSA's special national convention, Gus Hall, the Party's General Secretary, stated that there were communists on most of the major college campuses in the country and that they had been involved in the student protests.

Mike Zagarell, CPUSA youth leader, claimed that the Party had played a leading role in student rebellions and antidraft demonstrations across the country during the past year. For example, he claimed that 60 of the 300 marshals used during "Stop the Draft Week" demonstrations in New York City during December, 1967, were CPUSA members.

These statements are amply supported by the evidence of such communist participation in student unrest and antidraft protest demonstrations which FBI investigations have disclosed. The Students for a Democratic Society, for example, has played a key role in many of these demonstrations and some of its members, as well as some of its national leaders, have publicly admitted that they are communists. In addition, members of the CPUSA-controlled W. E. B. DuBois Clubs of America and other communist splinter youth groups, such as the Young Socialist Alliance, the Youth Against War and Fascism, and the Progressive Labor Party, have been very active in these demonstrations.

Communists labor ceaselessly to exploit the racial situation and to incite racial strife and violence in this country. They have been active in exploiting propagandawise the riots of recent years. One main communist goal is to alienate Negroes from established authority.

It has long been communist policy to charge and protest "police brutality" wherever possible--particularly in racial situations--in a calculated effort to discredit law enforcement and to accentuate racial issues. The cumulative effect of this continuing smear campaign proves that it has been immensely successful. This campaign popularized the cry of "police brutality" to the point where it has, unfortunately, been accepted by many noncommunists, especially militants among minority groups and students. The net effect of the charge of "police brutality" is to provoke and encourage mob action and violence by developing contempt for constituted authority.

Other Communist Organizations

Other communist organizations in this country dedicated to the use of force and violence include the Trotskyite Socialist Workers Party and the pro-Red Chinese Progressive Labor Party (PLP). The activities of William Epton, Negro vice president of the PLP, in connection with the 1964 Harlem riot resulted in his arrest by New York authorities. He was subsequently found guilty of conspiracy to riot, advocacy of criminal anarchy, and conspiracy to advocate criminal anarchy.

Students for a Democratic Society

The emergence of the so-called "new left" movement in this country in recent years has attracted much public attention because of its flagrant resort to civil disobedience. The new left is composed of radicals, anarchists, pacifists, crusaders, socialists, communists, idealists, and malcontents. It is predominantly a campus-oriented movement. A large proportion of the new leftists was reared in affluent homes.

This movement, which is best typified by its primary component, the Students for a Democratic Society (SDS), has an almost passionate desire to destroy the traditional values of our democratic society and the existing social order. The SDS has been described by Gus Hall, General Secretary of the CPUSA, as part of the "responsible left" which the Communist Party has "going for us."

In recent months, student disturbances have exploded on college and university campuses throughout the United States, initiated by student activists, many of whom are affiliated with the SDS or campus-based black extremist groups. The riotous activity at Columbia University was spearheaded by Mark Rudd, Chairman of the SDS Chapter at this university. In an open letter to President Kirk, which appeared in the public press in May, 1968, Rudd stated, "Your power is directly threatened, since we will have to destroy that power before we take over."

The SDS held a national convention at Michigan State University in June, 1968. At this convention, methods to disrupt selective service facilities and law enforcement were discussed in a "sabotage and explosives" workshop. Suggestions included: flushing bombs in toilets to destroy plumbing; using sharp, tripod-shaped metal instruments to halt vehicles; firing Molotov cocktails from shot guns; jamming radio equipment; and dropping "thermite bombs" down manholes to destroy communications systems.

The protest activity of the new left and the SDS, under the guise of legitimate expression of dissent, has created an insurrectionary climate which has conditioned a number of young Americans--especially college students--to resort to civil disobedience and violence. Because activists of the new left are committed to the use of direct action and violence to achieve their objectives, the new left movement is becoming more and more anarchistic, militant, and violent. As an example, a June, 1968, issue of "The Rat," a new left underground newspaper published in New York City, carried an article and diagram describing the manufacture of a homemade bomb out of ammonium nitrate and a length of pipe. This particular article concluded by noting that a subsequent issue would contain plans for making thermite bombs.

White Hate Organizations

In addition to communist and new left groups, there are a number of organizations which are basically terrorist and hoodlum by nature. These groups are chiefly of a hate or "anti" variety--anti-Negro, anti-white, anti-Semitic, or anti-minority. Their common denominator is a distrust for law and order and a belief in force and violence.

White hate groups include more than a dozen Klan organizations, lineal descendants of the Ku Klux Klan which was founded over a century ago. The Klan has a tradition of and a penchant for violence. Over the years, murder, arson, bombings, and beatings of Negroes have been perpetrated in many areas by Klansmen.

The National States Rights Party is a white hate group which is composed of former members of Klan organizations, as well as notorious anti-Semites. It, too, has consistently and pointedly advocated a policy of violence.

The National Socialist White People's Party, formerly known as the American Nazi Party, is another organization that espouses a line of hatred against Negroes and Jews.

The Minutemen is a group of "superpatriots" who ostensibly are preparing and training to engage in guerrilla warfare in the United States following a communist take-over, which they believe is inevitable. Its members have an obsession for weapons of all kinds.

Black Nationalist Organizations

The whole problem of violence in American society has been intensified by the recent growth of black extremist organizations. These organizations contain many vicious, hate-filled individuals whose objective is anarchy; whose symbol is the Molotov cocktail; whose slogan of defiance is "burn, baby, burn"; whose manifesto is Frantz Fanon's "The Wretched of the Earth"; and whose preachers of the gospel of hate include Stokely Carmichael, H. Rap Brown, and Robert Franklin Williams.

The Nation of Islam, the largest of these Negro hate organizations, is in both the extremist and the non-extremist camp. It has achieved a respectability of sorts because it has shrewdly used the shield of religion and has insisted that its members avoid racial disorders and live moderately. Nevertheless, its meetings are replete with condemnations of the white race and vague references to the physical retribution that will be meted out to oppressors.

The Student Nonviolent Coordinating Committee (SNCC), whose militant top leaders have included Stokely Carmichael and H. Rap Brown, is one of the most publicized of the black extremist groups. Carmichael, who was recently expelled from SNCC, has stated that black power signifies "bringing this country to its knees" and "using any force necessary" to attain objectives. He has also urged the blacks in this country to "prepare for a bloody revolution."

The impact of extremist spokesmen on the black community and their ability to incite the youth, in particular, cannot be underestimated. These spokesmen are extremely vocal and dedicated to the destruction of the United States. They have a large audience because of the widespread dissemination given to their inflammatory statements by the news media.

Consider the following statements. Carmichael said in Algiers in September, 1967, "Revolution is the only solution for the American Negroes." In August, 1968, he asserted that the black revolution is entering "the period of armed struggle" just before there is guerrilla warfare. Last summer in Cambridge, Maryland, H. Rap Brown reportedly said, "It's time for Cambridge to explode--black folks built America, if America don't come around, we're going to burn it." Earlier this year, Brown wrote, "We must move from resistance to aggression, from revolt to revolution.... May the deaths of '68 signal the beginning of the end of this country."

Take the violence in Cleveland, Ohio, in late July, 1968. There, members of the militant black nationalist group, New Libya, exchanged gunfire with police resulting in the deaths of three officers and eight civilians.

Representatives from several Negro universities and colleges attended a black student conference sponsored by the SNCC and held in mid-April, 1968, in a southern state. Reportedly, the majority of the men and women at this conference were armed with pistols.

Among the items discussed at a "defense workshop" at this conference were the following: preparation of maps showing the locations of the homes of mayors, chiefs of police, and similar authorities so they can be eliminated by Mau Mau-type tactics; distribution of forces in several sections of a city to prevent law enforcement agencies from concentrating in one area; location of snipers along travel routes of National Guard units and police forces; use of Vietnam War veterans to train black people in demolition, use of booby traps, location of vulnerable spots on armored vehicles, and guerrilla warfare; and use of black college students to instruct black people in adjacent communities in the care and use of firearms, preparation of Molotov cocktails, and reloading of spent cartridges.

The Revolutionary Action Movement (RAM) is a militant, black extremist, pro-Chinese communist organization dedicated to the overthrow of the United States Government by force and violence. RAM has organized rifle clubs in order to engage in firearms practice and to obtain arms and ammunition. On June 15, 1968, two RAM members were convicted in New York City of conspiring to murder Roy Wilkins and Whitney Young, Jr., two moderate Negro civil rights leaders.

The Black Panther Party is an organization which advocates the use of guerrilla tactics and guns to end the oppression of the black race and the drafting of Negroes to fight in Vietnam. On May 2, 1967, 24 members of this group invaded the California State Assembly at Sacramento while it was in session. The invaders were armed with rifles, shotguns, and pistols and claimed they were there to protest a gun registration law. On two occasions during October, 1967, and April, 1968, members of this group engaged in gun battles with the police resulting in the murder of one policeman, as well as the death of one group member and the wounding of another.

Within the past year, there have been sufficient contacts between militant black nationalists and representatives of unfriendly or hostile countries to indicate a degree of foreign involvement, participation, and influence in the activities of black extremists in the United States. These foreign contacts serve to increase the potential for violence by giving inspiration, encouragement, and support to the revolutionary aims, doctrines, and activities of black extremists in this country.

Stockpiling of Arms by Black Nationalists

Reports of the stockpiling of firearms and other weapons by black nationalist groups are of great concern to the FBI and law enforcement. Such stockpiling is, of course, a distinct possibility in view of the ease with which firearms can be obtained in this country and in the light of the inflammatory urgings of such agitators as Stokely Carmichael, H. Rap Brown, and James Forman, Director of International Relations for the Student Nonviolent Coordinating Committee.

At a meeting of black nationalists in Los Angeles in February, 1968, for instance, Forman told the audience that every Negro should be armed for the eventual revolution of the black people. Brown quoted from Mao Tse-tung that "Political power grows out of the barrel of a gun." He added that Negroes should acquire guns because America only understands force. Carmichael exclaimed that all blacks must unite militarily.

FBI investigations of black extremists have uncovered innumerable allegations that these individuals have obtained firearms and are encouraging residents of ghetto areas to procure weapons. The incidents I previously mentioned in California and Ohio are graphic examples that this is being done. Black extremists have also distributed newspapers and leaflets describing methods of making firebombs for use in riots. The "Inner City Voice," a newspaper in Detroit, with a claimed circulation of 10,000 aimed at the ghetto reader, has published such information.

CAUSES OF AND REMEDIES FOR VIOLENCE

The crime and violence that flourish in America cannot be attributed to a single cause. The causes are many and interrelated, for they are rooted in a number of conditions and influences in contemporary life.

Just as there is no one cause, there is no single remedy. Crime and violence cannot be prevented or reduced by concentrating on one or two phases of the problem to the exclusion of the others. A coordinated and many-sided effort is required if effective results are to be achieved.

Social and Economic

There are a number of vital social and economic factors--such as poverty, inequality of employment opportunities, inferior housing, inadequate education, discrimination, and breakdown of the family--which breed lawlessness and violence. I shall not dwell on them. It is sufficient to say that we must find ways to eliminate the conditions which are causing us so much grief and concern.

ATTACHMENT 3

Excerpts from an "Imperial Executive Order" issued by Imperial Wizard Sam Bowers quoted in "Attack on Terror: The FBI Against the Ku Klux Klan in Mississippi," by Don Whitehead, Funk and Wagnalls, New York, pages 5-9.

"To: All officers and members. Subject: Forthcoming enemy attack and countermeasures to be used in meeting same.

"It is absolutely necessary that each and every member of this organization stand fast and remain calm at this time, while he is working deliberately to prepare himself and his unit for effective combat against the enemy.

"The military and political situation as regards the enemy has now reached the crisis stage. Our best students of enemy strategy and technique are in almost complete agreement that the events which will occur in Mississippi this summer may well determine the fate of Christian civilization for centuries to come.

"This organization is the physical spear upon which the enemy will either impale himself and perish, or sweep

aside, then to proceed almost unhindered in his evil work of destroying civilization. The manner in which we conduct ourselves and use our strength this summer will determine which of these fates our nation will follow. . . ."

"This summer, within a very few days, the enemy will launch his final push for victory here in Mississippi. This offensive will consist of two basic salients, which have been designed to envelop and destroy our small forces in a pincer movement of agitation, force by Federal troops, and communist propaganda. The two basic salients are as follows, listed in one-two order as they will be used.

"One. Massive street demonstrations and agitation by blacks in many areas at once, designed to provoke white militants into counterdemonstrations and open, pitched street battles, resulting in civil chaos and anarchy to provide an 'excuse' for:

"Two. A decree from the communist authorities in charge of the national government, which will declare the State of Mississippi to be in a state of open revolt, with a complete breakdown of law and order; and declaring martial law, followed by a massive occupation of the state by Federal troops, with all known patriotic whites placed under military arrest. If this martial law is imposed, our homes and our lives and our arms will pass under the complete control of the enemy, and he will have won his victory. We will, of course, resist to the very end, but our chance of victory will undoubtedly end with the imposition of martial law in Mississippi by the communist masters in Washington. . . .

"When the first waves of blacks hit our streets this summer, we must avoid open daylight conflict with them, if at all possible, as private citizens, or as members of this organization. We should join with and support local police

and duly constituted law enforcement agencies with volunteer, legally deputized men from our own ranks. We must absolutely avoid the appearance of a mob going into the streets to fight the blacks. Our first contact with the troops of the enemy in the streets should be as legally-deputized law enforcement officers. It must also be understood at this point that there are many different local police situations. Where we find corrupt and cowardly mayors and police, obviously, our members can not submit to their control, but we should still try to work with them at arm's length in every reasonable way possible to avoid being labeled as outlaws.

"In all cases, however, there must be a secondary group of our members, standing back away from the main area of conflict, armed and ready to move on very short notice, who are not under the control of anyone but our own Christian officers. This secondary group must not be used except in clear cases where local law-enforcement and our own deputized, auxiliary first groups are at the point of being over-whelmed by the blacks. Only if it appears reasonably certain that control of the streets is being lost by the established forces of law can the secondary group be committed. Once committed, this secondary group must move swiftly and vigorously to attack the local headquarters of the enemy, destroy and disrupt his leadership and communications (both local and Washington) and any news communication equipment or agents in the area. The action of this secondary group must be very swift and very forceful with no holds barred. The attack on the enemy headquarters will relieve the pressure on the first group in the streets and as soon as this has been done, the second group must prepare to withdraw out of the area. They will be replaced by another secondary group standing at ready. It must be understood that the secondary group is an extremely swift and extremely violent hit and run group. They should rarely be in action for over one-half hour, and under no circumstances for over one hour. Within two hours of

their commitment they should be many miles from the scene of action. . . ."

"We must always remember that while law enforcement officials have a job to do, we, as Christians, have a responsibility and have taken an oath to preserve Christian civilization. May Almighty God grant that their job and our oath never come into conflict; but should they ever, it must be clearly understood that we can never yield our principles to anyone, regardless of his position. Respect for Christian ideals can not yield to respect for persons nor statutes and procedure which have been twisted by man away from its original Divine origin. . . .

"When the black waves hit our communities, we must remain calm and think in terms of our individual enemies rather than our mass enemy. We must roll with the mass punch which they will deliver in the streets during the day, and we must counterattack the individual leaders at night. In our night work any harrassment [*sic*] which we direct against the mass of the enemy should be of a minor nature and should be primarily against his equipment (transportation and communications), rather than the persons of the mass enemy. Any personal attacks on the enemy should be carefully planned to include *only* the leaders and prime white collaborators of the enemy forces. These attacks against these selected individual targets should, of course, be as severe as circumstances and conditions will permit. No severe attacks should be directed against the general mass of the enemy because of the danger of hurting some actually innocent person. The leaders, of course, are not innocent, and they should be our prime targets, but the innocent must be protected. . . .

"We must use all of the time which is left to us in these next few days preparing to meet this attack. Weapons and ammunition must be accumulated and stored. Squads

must drill. Propaganda equipment must be set up ready to roll. Counterattack maps, plans and information must be studied and learned. Radios and communications must be established. And a solemn, determined spirit of Christian reverence must be stimulated in all members."

ATTACHMENT 4

The Performance of the FBI
in Investigating Violations of Federal Laws
Protecting the Right to Vote -- 1960-1967

John Doar - Dorothy Landsberg

Much has been written about whether the Federal Bureau of Investigation is an investigative agency or a police force. The FBI was never a national police force, and surely did not act as such in civil rights matters. Its role was that of an investigative agency, acting for the Justice Department, required by law to serve the Civil Rights Division, which was in turn charged with the responsibility of enforcing Federal laws with respect to civil rights.

In July of 1960, the Civil Rights Division was to enforce the Civil Rights Acts of 1957 and 1960 -- a twin responsibility to go after (A) public officials who practiced racial discrimination in registration or voting, and

(B) anyone, public official or private citizen, who interfered with registration or voting by threats, intimidation, or coercion by any means.[1/]

In addition, there were two Reconstruction criminal laws in force, 18 USC 241 and 242, the first directed against private persons or public officials conspiring to deprive citizens of any rights or privileges secured by the Constitution or the laws of the United States, and the second directed against public officials and prohibiting deprivation of the same rights. The scope of both of these criminal laws had been severely limited by judicial decision, (the Williams and Screws cases). Until the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the decisions in the Price and Guest cases,[2/] protection of a citizen's civil rights through enforcement of these criminal statutes presented difficult legal obstacles.

The performance of the FBI in serving the Civil Rights Division of the Justice Department is the subject of this paper. The first section deals with voter discrimination and the second with voter intimidation. We have chosen to treat the cases involving intimidation or interference (the b cases) together with the criminal matters. Although the remedies provided were no more than civil remedies, Section (b) represented the only effective tool available against essentially criminal activity by private individuals.

We are aware of the popular notion that strained relations between the FBI and the Civil Rights Division have existed for years, and that, as a general rule, most agents considered civil rights enforcement an odious task. We have heard

it said that most Division attorneys felt the Bureau did a superficial job in interrogations and investigations on civil rights cases. There is little solid, written documentation one way or the other,[3] which may be frustrating, but is not surprising.

Those of us who worked in the Civil Rights Division during the period 1957 to 1967 remember the difficulties of law enforcement over those ten years, and the complexities of the problems we encountered. Events moved so fast, the work load was so heavy, and the demands on everyone's time were so great that no one had the opportunity to sit back and make a thorough appraisal of the FBI's performance, nor even to reflect carefully on the lessons learned from our experience.

Director Hoover, appearing before Congressman Rooney's Appropriations Subcommittee in 1965, testified that investigation of racial discrimination in voting had involved the gathering of numerous interviews, the making of nearly a million photographic copies of voting records, and had frequently made unusual demands on FBI manpower. He pointed out that investigative work by the FBI had served as the basis for seventy suits filed by the Justice Department.[4]

Our purpose now is to see if anything can be learned from those years to help establish criteria for determining FBI investigative responsibilities, and for measuring FBI investigative performance in the enforcement of federal civil rights laws.

Several things should be kept in mind. The paper is generally limited in time to the period John Doar was in the Civil Rights Division. (July 16, 1960 to December 31, 1967) It is written from the perspective of the Civil Rights Division -- without examination of internal FBI files, or of files in the Attorney General's office -and finally, the paper is based on personal recollection (no interviews have been undertaken) in conjunction with a review of files accumulated by John Doar during his years as a trial lawyer in the Department. The documentation is in no sense complete. Nevertheless, we are confident that a reliable measure can be made of the FBI's policies, procedures, and performance, in meeting its investigative responsibilities in the enforcement of federal laws protecting the right to vote.

Registration and Voting

The Civil Rights Act of 1957 created the Civil Rights Division and provided for injunctive action against public officials practicing racial discrimination in connection with voting.

When I entered the Division in July, 1960, three voter discrimination cases had been filed (Terrell County, Georgia, 9/58; Macon County, Alabama, 2/59 and Washington Parish, Louisiana, 6/59), and two of them tried. The Civil Rights Act of 1960 had just given the Division an important new tool -- authority to inspect and photograph voter registration records.

Once this statute was passed, the FBI was asked to inspect and photograph records in 16 counties.[5/] In most counties the registrars and local officials refused to cooperate. However, several counties' records were photographed. In due course, they arrived via the FBI into the offices of the Civil Rights Division. In September, 1960, for example, a dolly was wheeled into my office loaded with photostatic copies of all of the voter registration records in Leflore County, Mississippi. These records were bound in volumes and covered a space of 3 by 5 by 4 feet high.

The records had not been analyzed. All the Division had asked the FBI to do was to inspect and photograph those records, and that is what it did.

It was not surprising that the Civil Rights Division hadn't asked for an analysis. None of us knew enough about registration records, nor about the details of registration in Louisiana, Mississippi or Alabama, to direct one. No registry offices had been inspected, and we were not familiar with the many forms and books involved, nor the procedures or practices of the registrars. As far as we can tell, no one thought to ask the Bureau to master the art of records analysis. At that time we didn't suspect the romance hidden in the records.

The Bureau's photographic work was complete, utilizing the best type of photographic equipment, and the copies were superb, although the paper was on the shiny side, making it difficult to examine closely if there were 1,000 applications to examine and there were tens of thousands.

Several summer students worked in the Justice Department that summer. They were put to the task of looking at the records. Leflore's records proved to be hard to analyze. The job was too much for the summer students. We later figured out the reason. A few Negroes had been permitted to register; the registrar had not given hard sections of the Mississippi Constitution to Negroes to interpret and easy sections to whites; she had just helped the whites, and that was not as easy to detect from the records alone.

Most of our manpower was engaged in Haywood and Fayette Counties, Tennessee, working on economic intimidation cases. Aside from the

preparation, trial and post-trial work in the Terrell County, Georgia registration discrimination cases (where a little records analysis was done) nothing was accomplished until after the change of Administration in January 20, 1961.

On March 19, 1961, Assistant Attorney General Burke Marshall, several other attorneys from the Civil Rights Division and I, met with Attorney General Robert F. Kennedy and Courtney Evans of the FBI, to discuss problems of voting in the South.

At that meeting, the Attorney General instructed the Civil Rights Division to use the FBI for extensive investigation of voting cases. Evans was told to be prepared for a large number of voter investigation requests.

At this meeting there was no discussion about the importance of record analysis. No one at that time appreciated this. In Victor Navasky's recent book "Kennedy Justice" he describes the meeting, but assumes that we knew then what we learned later, after several years of hard work; that is, that "Each case depended on painstaking investigation -- analysis of voting rolls, compilation of demographic statistics, comparison of handwritings, careful interviews with registrars, and with a statistically significant sample of black and white failed registrants, successful registrants and others".

A gigantic enforcement assignment faced us in five states[6] and Attorney General Kennedy wanted to get something accomplished.

Within the next three months, the Civil Rights Division requested,

and the FBI completed voting investigations in 34 Southern counties. Each request was based on a statement by the Division that certain named Negroes had tried to register and had been refused or rejected. We asked the Bureau to get full details./7.

All but 8 of the investigations were to be handled on an expedited basis. The average time between the date of the request and the date of the first report was 15 days. Sometimes the Bureau's work was very fast. For example, in Dallas County, Alabama, the Bureau interviewed about 90 Negroes; 13 days elapsed between the date of request and the date of the receipt of the report.

The investigations in all involved interviews with 736 Negroes and 80 white persons of which 694 Negroes and 72 whites cooperated. Most of the investigations contained an expansion clause. That is, the person interviewed was asked to furnish names of others similarly situated. In some cases we put an upper limit on the number of interviews. A singular characteristic of 34 FBI reports was that we got exactly the information we asked for -- no more, no less. In conducting the interrogation, the FBI agents did not use their knowledge of the registration process, although most of them were registered voters in the states where they were conducting interviews. The specificity of the request itself, and the characteristic FBI practice of confining interviews to items requested, caused two disadvantages. First, it was impossible to predict, and therefore to specify in a request, all the types of practices which Negroes might be subjected to in a given county. In such cases the Bureau's investigation would fail to bring out those practices.

Second, often the request contained items which related (as the interviews subsequently revealed) to practice which did not exist in the given county. Yet, by following the specified request, every person interviewed was asked about those practices which a few interviews would reveal did not exist. For example, in Dallas County, Alabama, a request for one item related to whether or not the interviewee was required to have a voucher when he applied for registration. After a dozen or so interviews with persons who tried to register at different times, it became obvious that the voucher rule was not used in Dallas County. The same was true as to the Constitutional reading and writing test. Yet, because our request included it, every interview (about 90) was asked about it. In fairness, many teams of agents were assigned to complete an expedited investigation, so a great number of interviews could be built up under the Bureau procedure before the interviews were analyzed. It suggests, however, that the only supervisio of the work of the agents within the Bureau was to see if they carried out the specific assignments which we gave them in our request.

Briefly, FBI field offices were supervised by the Civil Rights Section of the Bureau, a part of the Bureau's General Investigative Division headed by Assistant Director Al Rosen and located at the seat of government. This section was created in 1939, at the same time a section for civil rights was established in the Justice Department's Criminal Division. In 1961, there were about 12 supervisors in the Bureau's Civil Rights Section led

by Clem McGowan. These men had the responsibility for supervising civil rights investigations. Requests from the Division were funneled through this office to the field offices and reports from the field containing results of the investigations were reviewed by it before submission to the Civil Rights Division.

The reports were not uniformly first class. Dallas County was excellent. Yazoo County, Mississippi was not so good. In that county the interviewing agent did not press for names, dates and facts on intimidation and made no attempt to interview one Negro who apparently was a messenger from the whites to those Negroes instructed to take their names off the rolls.

At the end of June, 1961, a summary of these investigative reports was made.

On July 11, Assistant Attorney General Burke Marshall wrote Mr. Hoover[8] and sent him this summary, saying:

> "I want to thank you for this work. We are trying to be as efficient and effective as possible without unduly burdening the manpower of the FBI. If you have any suggestions as to how the work can be improved, or how we can make your job easier, I would appreciate hearing from you."

To our knowledge, no suggestions were ever received.

At about the same time, Judge Frank Johnson determined to test the mettle of the Justice Department under Robert F. Kennedy. Early in February, 1961, he set the Macon County, Alabama case for trial for February 20th.

The registration records at the Macon County court house in Tuskegee had been photographed on a December registration day in 1960. Although countless Negroes had come that day to register, all they found was a sign on the door which read:

"Registration Office Closed invasion by Department of Injustice".

The case had been originally filed in February 1959. The Justice Department had received complaints from Tuskegee Negroes long before that, but the Civil Rights Division had refused to investigate their complaints.[9]/

Then in December 1958, the Civil Rights Commission put the Tuskegee Negroes on national television and the Justice Department sued. The pleadings were drafted right off the televised testimony. Thereafter, there was much legal maneuvering, brought about by the resignation of the registrars, which was ultimately eliminated by the 1960 Civil Rights Act. Throughout this entire period no substantial FBI investigations had been conducted. Whether the Bureau had been asked to conduct one, I don't know.

When Judge Johnson called, we found that we had no proof to present at the trial. We had the information that the Civil Rights Commission had developed; the unverified information furnished by William P. Mitchell of Tuskegee, Alabama, and the unanalyzed registration records. This was not the kind of proof that the Department of Justice needed to go to trial on the first

voting discrimination case in the Middle District of Alabama.

Instead of using the Bureau to shape up the proof, we went into the field ourselves. On February 12, another lawyer and I arrived in Tuskegee. We had with us a set of registration records which had been photographed by the Bureau in December. They were not organized or analyzed. William Mitchell, who was in charge of the Tuskegee Registration Voting League, gave us a voluntary staff of Tuskegee women to help organize and analyze the records. We started the next morning to interview Negroes -- professors, school teachers, professionals. Each had tried to register repeatedly over the years. Each had been rejected every time. The rejected applications included their literacy tests, which were beautifully written. Three volunteers and another lawyer sat in an outer office organizing and analyzing the records. The records themselves revealed that scores of barely literate whites had been registered on their first application. We had come upon a gold mine!

Using these records as a source of names of potential white witnesses, we began to use the FBI. We sent them out to interview the whites.

Between the 12th of February and the trial date, four or five young Civil Rights attorneys worked around the clock on the case questioning witnesses in the day time and analyzing records and FBI reports at night.

There was romance in the records. For example, a record

analyzed established that 40 some whites were registered on March 17, 1958 yet only 5 Negroes were permitted to apply on June 6, 1960 despite long lines of Negroes waiting. And the FBI reports revealed for the first time the tip of the iceberg. There was, regardless of literacy, or intelligence, universal white suffrage in Macon County.[10/]

At the trial, Robert Owen, one of the Civil Rights Division's young attorneys, proved that highly qualified, educated Negroes had repeatedly applied unsuccessfully to register; and that each time they wrote long sections of the Constitution. Illiterate white persons, (whose names we got from the records and who had been interrogated by the FBI) who did not even understand what the word "registration" meant, testified that the registrar came to their homes and registered them.

On March 17, 1960, Judge Johnson ordered the registration of 64 Negroes, required the registrar to file detailed monthly progress reports and fixed the standard to be followed in future registration of Negroes in Macon County as that standard which the registrars had applied to the least qualified white voter in the County. (This was the legislative standard adopted four years later when Congress passed the Voting Rights Act of 1965.)

Later Judge Ben Cameron of the 5th Circuit said that a kind providence had spared Mr. Justice Jackson from the spectacle of the invasion of the bright young men from the North -- these groups of highly trained representatives of the central Government brought from its seat of power in Washington, backing their ponderous cameras up to the county

court houses in the rural section of the South, photographing the records of the sovereign states and hauling elected officials into court to answer variegated charges.

Judge Cameron had reason to be apprehensive. We could convince anybody with the records and with unsuspecting white voters as our witnesses. But the work assignment to do this was enormous.

For the next three years, the Civil Rights Division, small as it was, refined these investigation tools. By analyzing countless records in scores of counties in Mississippi, Alabama and Louisiana, the Division uncovered every scheme practised by the resourceful Southern registrars who had spent five generations keeping Negro citizens from the vote.

In time, the Division was able to categorize these schemes in shorthand fashion as "selection", "assistance", or "grading" discrimination. As a result, the young men and women who came to work in the Division, though inexperienced as analysists of documents, were able, with diligence, to analyze superbly. They were shown in advance what to look for, in what were very complicated registration forms. In the process, however, top graduates of the prestigious law schools looked elsewhere for employment or found themselves graduated into the view box, rather than into the appelate courtroom.

One of the problems of developing proof from the records was that, in many cases, there was no race identification in the records themselves. In

order to resolve this gap in the proof, we used the Bureau. Here the Bureau was exceptionally diligent and effective, taking, on many occasions, up to 2,000 names and determining the race of each of them, so that their registration records could be used in court.[11]/

But in some cases the registrar would not surrender the records, and some federal judges would not make them do so.

Without the records, the Division had to find a way to get the names of the white persons to be interviewed by the Bureau. In Forrest County, Mississippi, Civil Rights Division attorneys went to a Catholic priest, a Jewish rabbi, and a Protestant minister for names of college students who might, away from home base, give honest recollections of their registration experience. This required a great deal of sifting. Often we would give the Bureau 200-300 names of young men and women just past the age of 21 to be interviewed.[12]/ The Bureau never objected to the numerical number of interviews requested. In most cases, when the FBI report came in, it would come back containing at least several interviews with persons who proved to be excellent government witnesses.

The Bureau had no difficulty in getting a white person to talk to them.[12a]/ The Bureau was a professional law enforcement agency, free of politics and other improper influences.

However, sometimes the interviews would be uneven and it appeared

to us that little supervision of the individual agents' work was being done in Washington. Therefore, we devised a guarantee of good performance in conducting the interviews.

We became very careful in drafting FBI memos requesting interviews with white witnesses. The Choctow County, Alabama, April 1962 FBI request went on in the most minute detail for 174 pages, explaining, anticipating, cautioning, and coaching the Bureau agents./ 13. It epitomizes the guaranteed performance technique irreverently referred to within the Civil Rights Division as the "box memo".

The Bureau did an excellent job on the Choctaw County investigation in spite of the public attempts of the probate judge in that county to stop whites from giving any information to the agents. The Bureau interviewed 64 whites and obtained statements from each. Twenty-four persons gave signed statements, and 45 -- all whom were so requested -- furnished handwriting samples.

If the Division had not been occupied with other duties as well, it might have focused earlier than the winter of 1963-64 on the fact that the FBI was not being fully utilized in its interrogation assignments, and that its agents were utilized in an almost demeaning fashion in inspecting and photographing voter registration records./[14]

In late 1963 the Division prepared detailed requests to the FBI to make a complete analysis of voter registration records in three counties in the South -- Scott County, Mississippi; Bibb County, Alabama; and East Baton Rouge Parish, Louisiana. In East Baton Rouge, the FBI was also asked to prepare copies of the registration records for use as exhibits.

These requests reflect the sophisticated techniques in analyzing records which had been developed by Division attorneys, and set out in great detail exactly what the agents were to do, attaching examples of charts, statistical analyses and control cards which had been prepared by the Division in other voting discrimination cases./[15]

Instead of sending these requests over formally, Mr. Marshall, in January 1964, sent them over informally to Al Rosen who was in charge of the General Investigations Division for the Bureau. An informal request never becomes part of an FBI file. Thus, there

was, from the standpoint of the Bureau, no effort to embarrass the Bureau. Mr. Marshall asked Mr. Rosen to look them over and see if the Bureau would have any difficulty handling them. At that time, the Bureau had about 6,000 special agents and about 8,000 clerks and technical assistants. Soon thereafter, Mr. Rosen came to see the Assistant Attorney General Marshall and said that they were not able to do this. The manpower requirements of the Bureau were such, he said, that it had no one available to take on this task.

Mr. Marshall, perhaps aware of the other struggles the Department was having with the Bureau on other types of investigations, decided not to press the point. He withdrew the investigative request and instructed the Civil Rights Division to continue their records analysis on their own.[16] There were 53 lawyers in the Civil Rights Division at that time, and another 55 clerical employees.

The Division had no difficulty in accepting Mr. Marshall's decision. If the Bureau were forced to accept the assignment it would have been a terrible risk to use the Bureau.

We were litigators, insisting that the proof be there when we entered the courtroom, stubborn and competitive enough to prove our cases ourselves. We were not "gee whiz" lawyers.

The Division was not prepared to take the terrible risk of losing a single case because of lack of proof. We faced tough judges. We wanted the proof to be so overwhelming so as to lock up the trial judge; if necessary to

persuade the Appelate Court to reverse; and to convince the whole country as well.

Mr. Marshall's decision ratified a treaty which the Division had already worked out with the Bureau. The Bureau would not have to analyze the records, but it would conduct all the interviews we requested, do it thoroughly, and if, in our judgment, necessary, on an expedited basis. For its part, the Division would analyze the records and would operate in parallel as an investigative agency in voting matters across the South.[18]/

So it continued. The Division analyzed the records, the Bureau conducted as many oral interviews as required; the Division's careful requests insured excellent performance; the Civil Rights Division lawyers continued to act as investigators as well as lawyers in the field.

The result of four years of work was a tremendous accumulation of proof of racial discrimination of voting throughout the states of Alabama, Mississippi and Louisiana. In cases like Montgomery, Dallas and Perry Counties, Alabama; Forest, Tallhatchie and Panola Counties, Mississippi; Bienville, East Carroll and Ouchita Parishes, Louisiana, the Division presented overwhelming proof of discrimination.[18a]/

In the great statewide case of U.S. v. Louisiana and U.S. v. Mississippi, the Division proved racial discrimination statewide. In U.S. v. Mississippi, among other elements of its proof, the Division itemized hundreds upon hundreds of

specific incidents of racial discrimination in voting occuring in Mississippi after March 24, 1954.

Finally, after the Selma Bridge incident, the country faced up to the need for stronger federal legislation. In July 1965, the Congress passed sweeping and radical legislation that removed, if necessary, registration for voting from the hands of local officials.[19]/

The Voting Rights Act of 1965 enacted on August 6, 1965 made a dramatic change in the methods available to the Justice Department to protect the right to vote.[20]/ It suspended the use of literacy tests and devices as qualifications for voting in Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia and 26 counties in North Carolina. It provided for the assignment of federal examiners to list voters in counties so designated by the Attorney General, and for poll watchers to observe voting and the counting of ballots. These responsibilities could have been given to the FBI, but the bill proposed by the Administration and the final Act provided that the examiners and the observers were to be appointed by the Civil Service Commission. When Attorney General Nicholas deB. Katzenbach testified on March 19, 1965 before Chairman Emanuel Celler's Judiciary Subcommittee #5, he was asked why the Civil Service Commission was selected?

"It was selected because the Civil Service Commission is a bi-partisan body and because there are employees of the Civil Service Commission in virtually every county of the country. It was hoped that if it became necessary to appoint federal examiners, that the Civil Service Commission could, in a

neutral non-political way, use employees of the Commission in those counties, or if necessary, appoint someone else. I think it was the reputation of the Civil Service Commission for its bi-partisan, fair, non-political activities that led to its choice as the appointing body."

The Voting Rights Act of 1965 produced a significant increase in black registration and resulted in substantial voluntary compliance by local officials. By June 30, 1966, local officials had registered more than a quarter of a million new Negro voters in Alabama, Georgia, Louisiana, Mississippi, and South Carolina. By June 30, 1966, 44 counties had been designated for the appointment of examiners, and more than 115,000 blacks had been listed by examiners.

The FBI had no major new responsibilities under this Act. They did agree to collect registration statistics (on a weekly basis) from local officials in the five Deep South states, and FBI offices continued to be opened on election day to receive complaints. But at the polling place, it was the Civil Service Commission, not the FBI, who, if needed, was present and protected the right to vote.

Voter Intimidation

Intimidation was one of the weapons used in the South to keep Negroes from voting. For years a partial control of racial violence in the Deep South was effected by conscious maintenance of the caste system on the part of state and local officials, who misused laws, and corrupted their authority.

As the Department of Justice began to crowd the county registrars, the inevitable consequence was an increase in the level of violence. This was especially true in Mississippi.

Control of intimidation was not an easy assignment for the Civil Rights Division, nor for the FBI. There were several problems.

First, the 18 USC 241 - 242 criminal jurisdictional basis from Reconstruction days was not solid. It never became solid against private persons. It was not until the passage of the Voting Rights Act that Congress extended the criminal law far enough to reach private lawlessness in the South, and then only in the matter of voting. (Of course, the Justice Department had an ample jurisdictional base in Section 1971 (b) but the Bureau never liked civil investigation.)

Second, the Bureau was required to prove the purpose of the person or persons who committed the act of intimidation. That is, that his purpose was to

deprive someone of due process of law or some other 14th Amendment right. This made the investigation assignment much more difficult than a straightforward criminal investigation.[21]/

Third, the territory was large, still a frontier and the Bureau was badly undermanned.

Nevertheless, the responsibility was there, and the Department undertook to perform its responsibility.

During the 50's and 60's Deep South Negroes who wanted to vote were unquestionably afraid.[22]/ They felt that any effort toward that end would be met by economic retaliation from the white community, and if retaliation were not successful, by overt violence. To overcome this fear, Negro organizations sent field workers into Mississippi to encourage registration, and to lend support to those Negroes already willing to register. These workers met adament resistence, not to say hostility, in the white community. Local officials, true to their commitment, used state criminal process to retaliate against Negro registration workers. In some counites, there was violence.

The following incidents are a few of the types of intimidation that occurred in Mississippi during the early 60's.

In Jefferson Davis County, where we brought a voter discrimination suit, a local school board decided not to rehire six school teachers whose names had been published in the local newspaper as government witnesses. We were not able to prevent thse firings.

In Greene County, Mississippi, a teacher had not been rehired after furnishing an affidavit relating her experiences attempting to register. All of our efforts to prevail upon the school board to rehire the teacher failed. A suit was brought in the Southern District which resulted in an unfavorable decision; the case was appealed and subsequently lost in the Fifth Circuit. In two other counties, Tallahatchee and Forrest, school bus drivers involved in litigation of a registration suit were not rehired.

Since relatively few Negroes were trying to register in Mississippi, where their economic life was controlled exclusively by local white persons, the bulk of the intimidation in Mississippi centered against the registration workers themselves.

Again, the principal technique was misuse of state criminal process or state authority against registration workers, for the purposes, and with the effect of intimidating unregistered Negroes. In the fall of 1961, a Negro registration worker named John Hardy accompanied two Negroes to the court house in Tylertown, Mississippi. He was ordered out of the registrar's office and, while leaving, was hit on the back of the head with a gun by the registrar. An hour later, he was arrested, confined and charged with breach of the peace.

In Sunflower County, Mississippi, five Negroes were arrested and convicted for distributing literature without a permit. In Greenwood,

Mississippi, eight registration workers were arrested while protesting the lack of proper police protection to city officials.

In addition, in Sunflower, Leflore, Amite, Rankin and Walthall Counties, Mississippi, there were extremely serious incidents of violence against Negro voters registration workers.

In examining the work of the FBI in cases of this sort, we begin[23.] with the Bureau's investigation of economic intimidation against Blacks who registered to vote, or tried to register to vote, in Haywood County, Tennessee.[23a./]

In the summer of 1959 the Haywood County Civic and Welfare League was formed to encourage black registration, and for the first time in many years, blacks in that county began to apply for registration. At first, no Blacks at all were allowed to register; they complained to the Justice Department, and the Bureau was asked to interview the unsuccessful applicants. In addition to describing their fruitless registration attempts, these Blacks told the FBI agents about economic coercion against members of the Civic and Welfare League. The allegations were specific;[24.] some were reported by several Blacks to the FBI, apparently independently of each other, and if true, were in violation of federal law. The Bureau did not pursue these possible violations but limited its investigation to interviews of the unsuccessful applicants.[25./]

After the FBI reports were received by the Civil Rights Division, the

Bureau was requested on March 31, 1960, to conduct additional investigations. The request in part, noted, that "the information contained in the reports (of 12/24/59 and 2/9/60) indicates the various Negroes in Haywood County have been subjected to economic coercion and otherwise intimidated because of their attempts to register and because of their membership in the Haywood County Civic and Welfare League. Please interview the victims named. . . for details of their experiences. Also please interview the subjects named for their version of these incidents." The FBI was also asked to interview a certain named black "for any information he had concerning a petition circulated among landowners and merchants in Haywood County." "In addition to the above requested investigation, please pursue and develop any pertinent leads provided by any persons interviewed."

On April 6 the Director sent a memo questioning aspects of the 3/31 request. Regarding the requested interviews with alleged victims of economic intimidation, the Bureau stated that "a review of the statement. . . fails to reveal any allegation that the named victims were being subjected to coercion and intimidation because of their attempts to register. The allegations are made, of course, that they were subjected to coercion and intimidation because of their membership in the Haywood County Civic and Welfare League. This is being brought to your attention for your further consideration, and no investigation will be conducted concerning this phase in the absence of a further

request from you." Regarding the petition and the list reportedly circulated, the Bureau stated that "your advice is requested as to whether such activity would come within the purview of the Civil Rights Act of 1957 or whether it constitutes a violation of any criminal statute within the jurisdiction of this Bureau."

The Civil Rights Division responded, by memo dated April 12, that the statement of one of the charter members taken by the FBI leaves little doubt that a major, if not principal, objective of the League is to secure voting rights for Blacks. "There is substantial basis, therefore, for assuming that the alleged acts of intimidation. . . related wholly, or in significant part, to the victims' efforts to register to vote in Haywood County. Please, therefore, proceed with the investigation."

.. 26.

On April 20, the FBI sent an interim report/ in response to the 3/31 request. The original black complainant was interviewed by agents about current registration attempts, and this report deals primarily with the (a) aspect of the case. The last paragraph of the Bureau's report stated:

"During this interview Boyd volunteered that Negroes of Haywood County, who are members of the Haywood County Civic and Welfare League, continue to be subjected to various forms of economic pressure in the county. He said that it is understood by him that in many instances where the Negroes operate stores, soft drink stands and similar businesses, that they cannot purchase

soft drinks or other supplies for resale except with considerable difficulty. He said the members of this League were not able, at the present time, to secure credit, particularly from the banks in Brownsville, under the same conditions as they had formerly been able to secure such credit." End of interview; end of report.

In the next three months, several additional requests were sent to the FBI by the Civil Rights Division, some dealing with the (a) aspect and some with the (b) violations. On May 18, the Civil Rights Division sent a request asking for an immediate investigation into reported discrimination in connection with the current registration in Haywood County. The next day, one of the supervisors in the Civil Rights Section in Washington headquarters called a department attorney and stated that it would be very difficult at this late date for the Bureau to make the requested investigation and that, in any event, it would not be desirable to have Bureau agents on the scene at the registration place as observers while registration was in progress. The agent calling indicated that another blow up could occur like the one in Webster Parish, Louisiana, in April, 1958.

On June 15, Mr. Rosen of the FBI called AAG Tyler and said that in light of the publicized altercation which took place the day before in Brownsville between the Deputy Sheriff and a representative of the Civil Rights Commission, the FBI was reluctant to conduct any investigation in Haywood County for the next week or so. Mr. Tyler suggested that the FBI would not be prejudiced in pursuing all

27.

lines of investigation other than interviewing the registrar immediately./

Another request to the FBI regarding Haywood County was sent out on June 13, this one specifically requesting a full invesigation. A FBI report from Memphis dated June 17th, was transmitted to the Civil Rights Division on June 23. The Division then sent out another request, on July 1, referring to the June 17 report, and asking the Bureau to pursue the leads furnished by the persons the FBI had interviewed. For instance, one black referred, in his statement to the FBI, to white landlords who wrote down names of Negroes who were waiting in line at the Courthouse. "He should be asked to supply the names of other Negroes who observed the landlords and those persons should be interviewed to ascertain the names of the white persons engaged in this activity. The white persons should be fully interviewed." Another black, in his statement to FBI agents, reported he was read "some kind of paper" by a law enforcement officer. In the 7/1 request the FBI was asked to obtain a copy of this "paper" and a copy of the "papers" he was told to sign at the Brownsville courthouse.

On July 13, another request was sent to the FBI, referring to its 7/5/60 Memphis report. The Bureau was asked to get registration statistics for the recent registration period. The last paragraph of this request is especially interesting.

"We note from the referenced report in the above case, as well as from the report. . . in the Fayette County case, reference to the current investigations as

'limited' investigations. In accordance with our previous requests, the investigation in Haywood and Fayette Counties are to be full investigations and all logical leads are to be pursued with reference to whether or not discrimination has occurred in the registration process in those two counties and whether or not Negroes who have registered or tried to register there have been subjected to intimidation."

The FBI produced voluminous reports in July and early August, and numerous agents conducted interviews. But the investigation was superficial. There is no other way to describe it. At least as early as March, 1960 there were allegations that lists were being circulated throughout Haywood County of blacks who had either lined up to register, or had registered.[28] These lists were of crucial importance in demonstrating a connection between economic intimidation and the registration activity of the Blacks, and this connection was essential to prove a violation of federal law. Two FBI agents were given two lists (which had been circulated in the county) by a sympathetic white, Mrs. Sara Lemons, on July 22, 1960. The agents returned one list to her and kept the second one in the Bureau files; they were content in their report to the Civil Rights Division to merely note the existence of the lists. The Civil Rights Division had to specifically request the Bureau to make copies of the list they had gotten, to re-contact Mrs. Lemons and get the other list and to furnish copies of any other "lists you have in your possession." Also the Bureau was told "if you have knowledge of any other lists in existence in the possession of persons interviewed, please re-contact these individuals

for the purpose of obtaining photostatic copies of the list and if possible, the lists themselves for safekeeping."[29.]/

During this same period, Attorney General William Rogers was pushing the Division. In late June he wrote, "I am anxious to move as quickly as possible in bringing a civil rights case against those who have retaliated against Negroes who have attempted to vote. Mention this again to Tyler."

So in August and September we poured through the FBI reports and developed what we could into the first 1971 (b) case. It was filed on September 13th, charging 29 defendants, including two banks, with violating the Civil Rights Act of 1957 (42 U.S.C. 1971 (b)) by using economic reprisals and threats against Negroes who registered or tried to register.

On October 23rd, Nick Flannery and I left Washington for Haywood County to take the depositions of the defendants.

Haywood County, Tennessee almost borders the Mississippi Delta. It is a county of red clay, oak trees, eroded land, cotton fields and country stores. The majority of its citizens were Negro.

We made our headquarters at Brownsville and took the depositions at the post office. All of the defendants took the Fifth Amendment.

We met a Negro school teacher named Currie Boyd and his mother and we soon learned that the economic squeeze was much worse than had been reflected in the Bureau reports.

We were asked to go to several rural churches for meetings to talk with the Negro people. I will never forget those meetings. They were held at night in Negro churches along rural back roads. We would come into the church, which would be dimly lighted, and go to the front. I would tell those poor, honest, weary rural tenant farmers that we were from the Department of Justice and were there to help them.

Out of curiosity, and without expecting what the answer would be, I asked "how many of you have received notices to get off the land?" Instantaneously the hands of almost everyone in the church went up. Upon inquiry, we learned that some of the families had lived at one place in the county all their lives and either they or some member of their family had tried to register to vote.

We obtained written affidavits from over fifty sharecroppers who had been evicted from the land. We obtained all but one or two of twenty-eight letters from their land owners dated between May 12, 1960 and September 28, 1960. Each contained a notice of eviction. Twenty-four of these letters were dated within the 22-day period between June 18th and July 9th, 1960. The letters were from 14 different land owners. Each letter gave notice to a Negro tenant, that beginning with the following year, he no longer would have the land to rent on shares. Most of the letters requested the sharecropper to move at the end of the crop year.

On the basis of our investigation, an amended complaint adding 36 defendants, including another bank and a wholesale food distributor, was filed on November 18th. On December 1, a virtually identical action was brought against 10 additional defendants and the two cases were consolidated. In December the Government moved to prevent a large scale eviction of tenant farmers, scheduled for January 1, 1961.

A hearing was held just before Christmas at the federal court house in Memphis. Our first witness was a marvelous 78-year-old white Southern landowner named Katherine Rawlins Davis. When I first saw her in October, she had already been interviewed by the Bureau two or three times. Nevertheless, she still had,and was willing to turn over to me, a document -- a copy of the charter of the Haywood County Civic and Welfare League -- which one of the defendants had brought to her in March or early April. At that time he told her some of her hands had gone to Brownsville to register. Later, she testified, another defendant came to see her with the proposal that any tenant or employee who was a member of the league, be dismissed. Mrs. Davis testified she refused to dismiss her workers -- at least one of whom, was a member of the league -- and was placed on the non-cooperative list. She also related how an attorney named Gray, another of the defendants, had spoken at a meeting of whites and said that the best thing to do with the Negro sharecroppers was to wait until later on, and then tell them they would have to move for other reasons. Little, if any,

of this testimony had been developed during the FBI investigations.

The Court of Appeals, and later the District Court, issued an injunction against the mass evictions. This case was eventually decided by a consent decree enjoining more than 50 of the defendants. Many tenants stayed on, credit channels were reopened and a school bus driver was rehired.

Another example of the Bureau's early performance occurred in Southwest Mississippi during the summer and fall of 1961. The Student Nonviolent Coordinating Committee, lead by Robert Moses, had gone to Southwest Mississippi to teach the rural Mississippi Negro about voting.

The group of civil rights workers headed by Moses began operating voter registration schools in Amite, Walthall and Pike Counties -- three rural counties in the southwest corner of Mississippi -- counties that retained the character of the 17th Century.

In a six week period, between August 15th and September 25th, five incidents took place involving these civil rights workers. On August 15, 1961, in Amite County, Mississippi, Robert Moses was arrested by a Mississippi highway patrolman (accompanied by a Liberty town marshall) after Moses had accompanied three Negroes to the Amite County courthouse in Liberty to register. On August 29, 1961 Robert Moses was beaten on the street in Liberty as he accompanied two Negroes to the courthouse to register. On September 5, 1961 Travis Britt was assaulted on the rear steps of the Liberty courthouse while he and Robert Moses waited

for four Negroes attempting to register inside.

On September 7, 1961 John Hardy was assaulted by Registrar Wood in Tylertown in Walthall County as he accompanied two Negroes to register. And on September 25, 1961 Herbert Lee was killed by a local white man at a cotton gin in Liberty.

The Bureau was asked to investigate these five incidents under 1971 (b).

At the time, there was no FBI field office in the state of Mississippi. The six[30]/ resident agencies in Northern Mississippi reported to the Memphis, Tennessee field office; the seven[30]/ resident agencies in Southern Mississippi to the New Orleans, Louisiana field office. Most of these offices were one or two-man operations; some of the resident agents worked in their home towns.

In the first investigation involving the arrest of Moses, the Bureau interviewed the three blacks whom Moses had accompanied to the registrar's office. All three stated that there was a patrolman in the registrar's office when they were filling out the registration forms. The FBI agents failed to have the three blacks identify the patrolman in the registrar's office as the same patrolman who later stopped them. This would have been important in demonstrating the connection with voter registration. It was clear from Moses' and the patrolman's statements that it was the same man, but thorough investigations would surely have gotten all of the witnesses to pin it down, if the witnesses could do so. A key role had been played by the County Attorney in the charging and conviction of Moses

for interference with an officer in the course of his duties. The FBI did not interview County Attorney Piggot,[31] although they did interview Town Marshall Bates, whom they were not specifically requested to interview.

Our attorneys later acquired additonal information from Bob Moses which confirmed the importance of Piggot's role. According to Moses, the patrolman and Piggot first prepared an affidavit charging Moses with interfering with an arrest, but this was discarded after the patrolman told the attorney no arrest had been made. The attorney then started thumbing through a book to find something to charge Moses with. He read something, but they agreed it was no good. Finally, the attorney found an entry about attempting to impede an officer doing his duties. Moses was then charged, tried and convicted of impeding, or attempting to impede, an officer in the course of his duties. The discussion between the patrolman and Piggot and the preparation and destruction of the first affidavit would be very important in showing purpose. The FBI interviews with Robert Moses did not cover this.

The second FBI investigation dealt with the beating of Moses on the street in Liberty. The Bureau interviewed Moses, as requested, but failed to note that Moses had three cuts which required a total of nine stitches, or even that Moses had been to a doctor. Furthermore, it was Bureau policy to take photographs of victims' wounds. This was not done. In early September, I interviewed Moses in McComb, Mississippi and learned the extent of his wounds.[32]

The third FBI investigation dealt with the assault of Britt. Britt and Moses were threatened by a white bald-headed man, about 5'6" or 5'7", who worked across the hall from the registrar's office. The original telephonic request and the confirming memorandum both described this man. In their statements to FBI agents, Moses and Britt mentioned the white man who threatened them and came out of his office directly across from the registrar's office. It would have been easy for the FBI to identify this man, and yet they waited two more weeks, until the Civil Rights Division made a specific request, mentioning the possible name of the man, before they identified him.

The FBI investigation in the assault on John Hardy was reasonably satisfactory. The contention with voter registration was clear, and the conduct of the officials, blatant. Hardy was assaulted by the registrar in the registrar's office, and then arrested.

The Division did not leave the investigation to the Bureau. When the civil rights organizations protested this assault by the Walthall registrar to the Department of Justice and demanded protection for registration workers, we immediately sent two young lawyers -- Bud Sather and Gerald Stern -- to that county. When they returned in four or five days, they not only had enough facts to cause the Department to sue immediately to enjoin the state criminal prosecution of John Hardy, but they reported widespread terror and intimidation of Negroes throughout Walthall, Pike and Amite Counties, Mississippi. In a

matter of days, these young attorneys recognized that the Mississippi Bureau was undermanned and that the size of the job in Southwest Mississippi demanded a far larger federal investigative effort.

The final incident which the Bureau investigated in Southwest Mississippi in 1961 was the killing of Herbert Lee on September 25, 1961 by a State Legislator named Hurst. Lee had been driving Moses around rural Mississippi in connection with his voter activity. An FBI investigation was requested the day of Lee's death, by telephone. A confirming request was sent September 26th and another on September 26th/ 33. when additional information became available to the Department. A third request was sent on October 19th.

The Bureau was asked to obtain a copy of the transcript of the coroner's jury proceedings, or to interview the presiding officer for a resume. Mr. McGowan of the Civil Rights desk phoned and objected to this request. The next day a memo appeared on my desk from the Bureau stating that "upon discussion with Mr. Doar, he advised that no effort should be made to interview the presiding officer, the county attorney or the jury members." Later, the Bureau did interview the Justice of the Peace, who was presiding officer. He revealed that he had taken notes at the inquest, but the FBI did not ask to see them, even though this was exactly what the Division wanted.

A crucial fact was whether Herbert Lee had a tire iron at the time he was shot; how the tire iron got under his body, and when it was discovered. In the third request (10/19) the FBI was asked to "Please reinterview 'Buddy Anderson'.

Other than the subject, he is the only witness to suggest that Lee raised his arm just before he was shot. Obtain full details." The Bureau did reinterview Anderson. In this second interview, Anderson said he did not actually see the iron bar prior to the time it was removed from under Lee's body. This is repeated four times in the page and a quarter interview, but at no time did the FBI ask him who removed the iron from under the body.

The October 19th request also stated that "Sheriff Caston claimed to have found the tire iron under Lee's body, after the coroner's inquest. Town Marshall Bates told Lewis Allen, before the inquest, they had found the tire iron under Lee's body./[34.] Lyman Jones says . . . that someone, whose name he does not know -- not Caston -- moved the body and picked up a tire iron when the inquest started. Please re-interview Bates, Caston, Allen and Jones to obtain full details." Thorough investigators would not have merely reported such differences, without doing some reinterviewing on their own.

We had information that Lewis Allen, an Amite County Negro operator of a logging truck had been pressured by the white law enforcers to testify as he did about the tire iron.

With respect to the gun wound in Lee's head, the second request (September 26th) to the FBI stated that "our present understanding of the assault is that Hurst struck Lee at or above the left eye with some portion of the gun.

Simultaneously, the gun fired and the bullet entered at Lee's left temple. Please examine Lee's body and photograph the wounds before burial. If possible, it should be determined on the basis of the examination and photographs whether the blow and shot occurred as described. Perhaps the angle of the bullet's entry, and the nature and location of powder burns will confirm or refute the witnesses ' descriptions." The Bureau did not report information from such an examination, if, indeed, any examination ever took place. Neither did the agents interview the doctor who had examined the body. In the third request (October 19th) the Bureau was asked to "interview Dr. Delaney of Liberty, Mississippi who arrived at the scene with Sheriff Caston and immediately examined the body. Obtain full details of his examination including the angle the bullet entered Lee's head, the extent, if any, of burns on Lee's head around the wound caused by the discharge of the weapon. . ." and "from your own examination of Lee's body, please furnish us, if possible, information as to . . the angle the shot entered the head, and the distance from which it was fired."

Neither we nor the Bureau were able to satisfactorily establish a federal criminal violation in the Herbert Lee case. We tried to develop a broad 1971 (b) complaint similar to the Haywood County case but we did not file it. It was not just the problem of proof of purpose; it was also the matter of effective relief for the Negro citizens who had to continue to live in the southwest corner of Mississippi. Several years later our failure was made all the worse

when Lewis Allen was killed in the night time by unknown assailants after being called from his house in rural Amite County.

During 1961 to 1963 the Bureau investigated many intimidation cases. The fact that it had conducted an investigation did some good but it made few, if any, cases and its performance --for the Bureau -- was far from adequate. This was due, in part, to the limited size and scale of the Bureau's operation in Mississippi; part due to the attitude of some of the Mississippi agents, and part was certainly due to the fact that the Bureau's civil rights section at the seat of government did not understand the problem of intimidation in Mississippi, nor the inefficiency and corrosion of some -- but not all -- of the Misssissippi resident agents.

During the same period in other rural areas of the South, the Division provided very limited control of intimidation through its own investigations and by filing 1971 (b) suits. We worked hard in such counties as Terrell County, Georgia, Holmes and Rankin Counties in Mississippi, Dallas and Wilcox Counites in Alabama, but it was not the kind of federal law enforcement effort required to clean out such widespread unlawful activity.

In late 1963 the black and white brthern students began to increase the pressure. Around the November elections in 1963 there were a remarkable number of violent instances when some Yale students went down to Natchez to work on that election.

By the spring of 1964, racial violence in Mississippi was assuming

alarming proportions. FBI letterhead memos began to describe these incidents. In Pike County, between April 1st and June 30th, three black homes and a barbershop were firebombed; three reporters and two local blacks were beaten. In Adams County a black church was vandalized; two civil rights workers were pursued and shot at; four blacks were whipped; another was seriously wounded by shotgun fire; and a local black man was killed. In Madison County the Freedom House in Canton was shot at twice and bombed; a black house and a black church used by civil rights workers were bombed; and a civil rights worker was assaulted. Throughout the state seven other black churches were damaged or destroyed; eight black homes or stores were bombed or shot into; numerous blacks and civil rights workers were harassed or threatened. On June 21, three civil rights workers, Schwerner, Chaney and Goodman disappeared after being held for six house in the Neshoba County jail.

Several Klan groups with headquarters in other states had been active in Mississippi. On February 15, 1964 a new Klan composed entirely of Mississippians, the White Knights of the Ku Klux Klan, was organized. The stated goal of the White Knights was to protect and promote white supremacy and segregation of the races, with violence if necessary. The new Klan group grew quickly. Four state meetings were held between February and June, 1964 with from 100 to 300 persons attending each meeting. Klaverns, or local chapters, were organized in at least 29 counties in Mississippi by June. On April 24, crosses were burned

in 61 locations across the state. Klan literature was openly distributed, and sometimes left at the scene of a racial incident. Several of the whippings of blacks noted above were administered by men in hoods. A group with similar aims, Americans for the Preservation of the White Race, was organized in Southwest Mississippi in June 1963. These matters were reported to us by the Bureau.

We believe the first FBI letterhead dealing with the White Knights was dated February 21, 1964, six days after the organization was formed. We believe the first FBI letterhead dealing with the Americans for the Preservation of the White Race was dated April 2, 1964, some months after the group was organized. Throughout the Spring of 1964, approximately 40 memoranda were sent to the Department of Justice by the FBI. Most of these were short letterhead memos describing state meetings, cross burnings, distribution of Klan literature and the activities of local chapters, especially the Laurel Klavern. About 10 memos contained the results of preliminary investigations of Klan-type incidents requested by the Division, such as beatings and damage to black homes and stores. On June 2, the Bureau submitted a summary report on the White Knights and the Americans for the Preservation of the White Race.

Civil Rights Division attorneys began to sense a build-up of Klan-type incidents in the Spring of 1964. On May 19, a report was furnished Mr. Marshall summarizing Klan-type incidents and police activity against Negroes in Mississippi

since January, 1964. On June 2-4, Mr. Marshall, Walter Sheridan and I went to Southwest Mississippi and interviewed a number of people about the increased violence. On June 5th, the Attorney General assigned a unit of nine lawyers from the Criminal Division (under Walter Sheridan's direction), to investigate terrorist activity in Southwest Mississippi. These attorneys were experienced in organized crime work, and their assignments were: 1) to verify reported acts of terrorism; 2) to determine if these acts were the work of Klan groups; 3) to determine the extent of Klan membership and its organization; 4) to determine what weapons the Klan groups had and 5) to determine the extent of Klan infiltration of law enforcement.

During that first week in June, Attorney General Kennedy sent a memorandum to the President explaining the law enforcement problem in Mississippi and suggesting that the Bureau should consider how to deal with it./ 35.

Attorneys from Sheridan's unit began to move into the field about June 11th, and soon thereafter an office was opened in Jackson.

About the middle of June, two lawyers from Sheridan's unit contacted Clarence Prospere, the respident agent in Natchez. They reported that Prospere was very uncooperative. He stated that in many matters the FBI considered the Justice Department attorneys "outsiders". He advised that no report would be sent to Sheridan's unit unless he was specifically instructed to do so from the New Orleans field office. He would not agree to telephone

if violence broke out, unless, again, he was specifically instructed from New Orleans. He would give no background information on the area and on the identity of known extremists."[36]/

On June 15, 1964, Assistant Attorney General Marshall sent a lengthy request to the FBI, attaching a list of FBI memos on the White Knights, the Americans for the Preservation of the White Race, and on Klan-type incidents. The FBI was requested to check its files and to furnish the Civil Rights Division with additional information. The request also listed a number of Klan-type incidents, which had not been previously reported on by the FBI, and asked the FBI for any information it had on these terrorist activities.

In addition, the Justice Department alerted the press in an extralegal attempt to maximize local and federal preventative law enforcement.[36a]/

About June 16, 1964, interference files for each county in Mississippi and Louisiana were established in the Civil Rights Division. Information from FBI letterheads and reports, regarding any interferences with civil rights activities was placed in each county file, in order to spotlight the trouble areas and determine if there was any pattern to the interference activity. A report on Klan groups and terrorist activity in Mississippi was prepared. Notebooks on Klan membership, organization and vigilante activity were set up for Mississippi and Louisiana. Beginning June 19, the Civil Rights Division had at least four of its experienced Mississippi lawyers traveling in the state.

On Tuesday evening, June 16, three blacks were beaten following a meeting at the Mt. Zion Church in the Longdale community of Neshoba County, and that night the church was burned. Two days later, FBI agents in Jackson and Meridian learned of the assault and burning and reported the case to the FBI in New Orleans. The FBI agents were instructed by the New Orleans office to open an investigation to determine if any Federal laws had been violated. On June 19, two agents drove to Longdale to interview the blacks who had been attacked.

On Sunday, June 21, three civil rights workers, Michael Schwerner, James Chaney and Andrew Goodman, drove from Meridian to Longdale to find out about the assault and burning. Schwerner and Chaney had been meeting with the leaders of Mt. Zion church in May and June to see if they could use it as a COFO center during the summer. They talked to the blacks in Longdale, were stopped by Deputy Sheriff Price for speeding, confined in jail in Philadelphia and held until about 10:30 P.M. when they were released. COFO workers in Meridian were worried when the three didn't return and began to call local, state and federal officials./37. The "missing persons" report reached the FBI at 10:03 P.M. Sunday evening; around 2 o'clock the next morning, I asked the FBI to notify the Mississippi Highway Patrol and Neshoba County officers of the disappearance and give them a description of their station wagon and to report back to me all the information it could develop. Some time after noon, Director

Hoover ordered the FBI office in Meridian to make a search. Resident Agent John Proctor got the names of five blacks who Schwerner said he was going to see, and Proctor and another agent went to Longdale and then to Philadelphia, Neshoba County. At 6:20 P.M., Monday, A.G. Kennedy instructed the FBI to treat the disappearance as a kidnapping.

On Tuesday, June 23, five agents and an inspector arrived in Meridian from New Orleans; and agents from other offices were sent in. Inspector Joseph Sullivan arrived to direct the search. Sullivan is a 6'2" square-jawed Irishman who joined the Bureau in 1941. He was brought into the Inspection Division in Washington in 1963 and has a well deserved reputation as a top troubleshooter for the Bureau. That day the burned out stationwagon was located by some Indians. Late the next night, Wednesday, June 24, Assistant Director Al Rosen was also sent to the scene.

On Tuesday, June 23rd, the President announced that he was sending Mr. Allen Dulles to Mississippi to confer with state officials, civic and business leaders, and black leaders about the law enforcement situation in Mississippi. After conferring with Attorney General Kennedy, Director Hoover and other Justice officials on Wednesday morning, Mr. Dulles flew to Jackson. That afternoon he met with Governor Johnson and General Birdsong, acknowledged the infiltration of local police in many counties by the Klan.

Mr. Dulles met with Jackson civic business leaders that evening; with white and black religious leaders, with black leaders and civil rights workers, and with civic leaders from other parts of the state, on Thursday. Mr. Dulles flew to Washington Thursday evening.

Following additional conferences with Department of Justice officials, he met with the President on Friday morning. He recommended that a substantial increase be made in the number of FBI agents in Mississippi. While it is reported that Mr. Hoover initially advised the President that[38] either marshals or soldiers should be sent to Mississippi to deal with the situation, (see Joseph Kraft's February 1965 article in Commentary), he finally agreed, no doubt because men whom he trusted within the Bureau, such as Joe Sullivan, had told him Mississippi was badly undermanned, and that Washington was out of touch with the resident agents in Mississippi, and that the agents there were too close to local Mississippi officials.

Mr. Hoover did, on that day, decide to open an FBI field office in Jackson.[39] I have no doubt that Mr. Dulles' recommendation was the proximate cause in changing the Bureau's operation in the South.

On July 10, Director Hoover flew to Mississippi. He announced that the number of FBI agents in Mississippi had been increased to 153 men. Obviously, a large part of those 153 agents were working on the Neshoba case.

Mr. Hoover met with Governor Johnson while he was in Jackson.

The Director gave the Governor a list of Klan members in Mississippi, including several law enforcement officials. Two of the Klansmen were State Highway Patrolmen. The Governor said they would be dismissed immediately

Roy Moore was appointed the Special Agent in Charge (SAC) of the new Jackson office.

Sheridan's unit interviewed numerous blacks and sympathetic whites, including churchmen in Southwest Mississippi. They contacted federal personnel in Southwest Mississippi and Northeast Louisiana. (For example, all Department of Agriculture personnel were alerted to report any information about suspected terrorists or terrorism to Sheridan's group.) After it was learned that the Klan was using shortwave radios, arrangements were made with the FCC to send two men to Mississippi to monitor citizens' band and amateur radio licenses. Contact was established with Defense Department intelligence agents in Mississippi and Louisiana. By early August the Bureau's force had increased to such an extent that Sheridan's operation was withdrawn.

All of these events -- the buildup of violence in Mississippi, the resurgence of the Klan, the disappearance of Schwerner, Chaney and Goodman, the competition from Sheridan's unit, Mr. Dulles' trip to Mississippi, the additional manpower of the new Jackson office, and Mr. Hoover's personal visit -- combined to produce a magnificent change in the Bureau's performance in Mississippi.

The agents who were brought into the state to investigate the Neshoba

case were appalled by the breakdown in local law enforcement and the rise in terrorist activity. They were ashamed of the Bureau's prior performance, and, I suspect, reported their dismay to Mr. Hoover. With leadership from Joe Sullivan, Roy Moore and others, the FBI in Mississippi really performed. Roy Moore undertook a speechmaking campaign across the state to alert the public to the rise of terrorist activity, and remind it of the necessity of enforcing the law. An aggressive campaign was undertaken against the Klan with the following objectives: (1) to solve the Neshoba case; (2) to identify Klan members and officers; (3) to identify Klansmen who were law enforcement officials, state and local; and (4) to obtain as much information as possible about Klan activities and plans.

This means adopted against the Klan included aggressive interviewing of known or suspected Klansmen, and infiltration of the Klan with paid informants. Throughout the long hot summer, FBI agents moved through Neshoba County, methodically interviewing and reinterviewing Klansmen and others in an effort to solve the Neshoba case. New York Times, dated December 6, 1964 reported the FBI interviewed more than 1,000 Mississippi residents including 480 KKK members in the Schwerner, Chaney and Goodman investigation.

On July 17, 1964, Mr. Hoover sent Attorney General Kennedy a memo enclosing a list of Mississippi State Highway Patrol officers, sheriffs and deputy sheriffs who were known or suspected Klansmen and a list of known Klansmen in the state, which had been furnished by Bureau informants. He noted that

"intensive active investigation is being conducted concerning all Klan groups in order to develop pertinent information concerning the identity of membership and officers, aims and purposes and possible involvement in violence in connection with racial situation in Mississippi."

Known or suspected Klansmen across the state were identified, re-interviewed and closely watched.

Informants played an important role in the FBI's solution of the Neshoba case. The bodies of the three young men were found buried in a dam on August 2, 1964 through information furnished by an informant. At the October 1967 federal conspiracy trial of the 18 Klansmen charged in connection with the death of Schwerner, Chaney and Goodman, two paid FBI informants testified. Sgt. Miller (a Meridian policeman) had joined the Klan in April 1964 and was recruited as an FBI informant in September. At the trial he testified that he had received $3,400 from the FBI for salary and travel expenses. Rev. Delman Dennis had also joined the Klan in the Spring of 1964, and in November, he began serving as an FBI informant. He testified at the trial that he had been paid $15,000 by the FBI. Miller, Dennis and other informatns were very important in identifying Klan members, activities and plans.

In my closing statement at the federal trial, I said to the jury. . .

> "... much has been and will be said about the extraordinary methods used in discovering the guilty. Should it have been otherwise? Was this a case to be forgotten? Was this not a case for the maximum effort of the FBI? Could the Federal Government have succeeded in any ... way other than rewards, payment for information tending to expose the band of murderous conspirators, the midnight killers, to bring them to the bar of justice ...?
>
> "There could be no justification for the Federal Government not having tried to solve this crime. The FBI did try. A thousand eyes explored every corner of Neshoba County.
>
> "All of you probably have an initial resentment against paid informers. But before you finally decide - examine these men. They are native sons of Mississippi. They are men of conviction, both about state's rights and about law enforcement.
>
> "These men were not criminals. They played no part in this or any other criminal conspiracy. And for the FBI, there was no other way to establish the contact they had to make before they could solve this case."

Similar methods - aggressive interviewing, obtaining two signed confessions and one oral admission of participation, and the use of informants - were used by the FBI to solve the Dahmar firebombing. Vernon Dahmar, a black farmer in Forrest County, Mississippi, a leader in the NAACP, and active in voter registration activity, was killed the night of January 9, 1966 when his house was firebombed. Roy Moore and a group of agents were on the scene quickly setting up an FBI field post in a motel in nearby Hattiesburg. Significant physical evidence was found at the scene including a revolver, a gas-filled jug, shell casing and tire tracks. An abandoned car turned up a few miles away. According to Whitehead,

within 72 hours of Dahmar's death the FBI had compiled a list of suspects, who were Klansmen. One of the Klansmen (who had been involved in planning the attack) gave the FBI a signed statement. Others who participated made oral admissions. On March 28, 1966, fourteen Klansmen were arrested on federal 241 charges growing out of the firebombing.

When an investigative agency is functioning effectively, it is hard, by specific examples, to communicate all the law enforcement work it is doing. With this in mind, other examples of superior investigative performance are the following:

On June 25, 1964 in Itta Bena, (west of Greenwood) Mississippi, three civil rights workers were distributing leaflets announcing a voter registration meeting to be held that evening at the Hopewell Baptist Church. Three local white men threatened the workers and assaulted one of them. The next day the whites were arrested by the FBI for violation of 18 USC 241.

On July 16, 1964, Silas McGee of Greenwood, black, was beaten when he tried to attend the Leflore Theatre in Greenwood. Three local white men were arrested by the FBI on July 23 under Section 241. The three were indicted by a federal grand jury on January 6, 1965.

In Pike and Adams Counties, in the fall of 1965 and in Bogalusa, Louisiana in the summer of 1965, the FBI performed a tremendous job in helping to curtail terrorist activity. This was in the Southwest Mississippi territory where the law

enforcement problems were the worst.

Violence in Pike County increased in the summer and early fall of 1964. During July, two churches were completely burned; fire damaged another; and an attempt was made to burn a fourth one. Bombs were thrown at a house owned by a black as well as at the COFO house; shots were fired into the house of a black; a COFO worker was assaulted in McComb. During August, the building where NAACP meetings were held and a Negro home were bombed; a church was burned; and a local white was whipped. In the first three weeks of September, seven Negro homes were bombed; one church was bombed and three COFO workers were asaulted in the streets of McComb. Terrorist activity included the destruction of the Society Hill Baptist Church and severe damage to the Quinn house the night of September 20th. The church had been used for voter registration classes and Mrs. Quinn's cafe was a meeting place for COFO workers. In February 1965, Sheriff Warner of Pike County testified before the Civil Rights Commission that Mississippi Highway Patrolmen and FBI agents aided in their investigation. "And about twenty or thirty FBI agents were working at all times, along with myself and my deputies and the McComb Police Department".

McComb Police Chief George Grey testified that "Well, we more or less turned the investigation part of it over to the FBI and highway patrol and Sheriff's Department. They came into McComb and set up offices there and

they had special men that know how to do it probably a lot better than my men did."

When Sheriff Warren went to investigate the Quinn bombing on September 20, he was accompanied by FBI Agent Frank Ford. Blacks in the vicinity were rioting when they arrived at the scene and according to Sheriff Warren, "Mr. Ford talked to the Negroes, tried to quiet them down. He was cursed and his flashlight knocked out of his hand by a rock." On September 30, eleven local white men were arrested by Fbi and state patrolmen, and ten of these men were indicted in October by a local grand jury for three of the bombings of Negro homes, including the Quinn house. At their trial on October 24, six of the men pleaded guilty to illegal use of explosives and all of them nolo contendere to charges of conspiracy.

In late October and early November, there were five more acts of violence against blacks. In Pike County, one was assaulted; two were shot at; and a store was vandalized. Six white men were arrested in November; five plead guilty and were sentenced to one year, with no suspended sentences.

It is clear that the FBI was the law enforcement behind these arrests.

Events in Bogalusa, Louisiana add to the picture. Bogalusa was a tough, depressed lumber and paper mill town of 22,000 people in Northeast Louisiana just below Walthall County, Mississippi. Thirty-five percent of its

population was Negro.

In April 1965, several civil rights organizations selected Bogalusa as the target for an intensive civil rights campaign to secure rights to public accommodations provided by the 1964 Civil Rights Act as well as to urge additional economic opportunities for Negroes.

This campaign led to picketing, marches, counter marches, police failure and violence.

On June 2nd, the first two Negro law enforcement officers to serve Washington Parish were ambushed while on a police car patrol northwest of Bogalusa. O'Neal Moore, a Negro deputy sheriff was killed, and another Negro deputy was wounded.

Later that night, Ernest McElveen, a white resident of Bogalusa was arrested in Tylertown, Walthall County, Mississippi and charged with murder.

Although federal jurisdiction was very questionable, the FBI immediately entered the case. At the time, Inspector Sullivan, Roy Moore and their agents, had been working hard in the area between Natchez and the Louisiana border on Klan investigations. Natchez and its environs had been an intimidation trouble spot for years.

Inspector Sullivan set up a field office in the Choctaw Motel in Bogalusa and staffed it with about twenty agents.

The demonstrations and incidents continued and conditions grew worse.

During the middle of July, I was sent to Bogalusa. An injunction had just been issued by the Federal Court in New Orleans requiring local police authorities in Bogalusa to protect civil rights demonstrators.

On July 16 and 17, pickets who appeared at the Pine Tree Plaza Shopping Center in Bogalusa were harassed and physically attacked by white bystanders. I was there on the 17th and saw it all. So did Joe Sullivan. I will never forget Inspector Sullivan moving in, dressing down the local police authorities for their failure to do their duty, and in effect, keeping the peace at the shopping center that day.

Within a matter of days, (July 19, 1965) working with the FBI, we filed an action for civil contempt against the local authorities alleging violation of the injunction.

On the same day we filed a civil suit similar to the 1971 (b) type in Federal District Court in New Orleans against the Original Knights of the Ku Klux Klan, the Anti-Communist Christian Association, and 38 individuals in and around Bogalusa, Louisiana, including top leaders of the Original Knights of the Ku Klux Klan. We sought injunctive relief to prevent the defendants from interfering with persons seeking to exercise constitutional rights.

The factual information necessary to support the suit was furnished to the Division by the FBI. The complaint was prepared in Washington by Robert Owen working from scores of FBI letterhead reports which the Division had

received from the FBI resident agents in Bogalusa and McComb over a period of many months. The complaint was refined with direct information furnished to me by Inspector Sullivan in the field.

Inspector Sullivan and his agents worked closely with us in selecting the defendants and in developing the proof required to prove the illegal actions of 37 different individuals.

On that occasion the Bureau showed it appreciated the value of a broad civil injunctive suit as one means of controlling intimidation -- especially where local law enforcement had broken down.

In preparation for the hearing of the contempt case, we had, with the help of the Bureau, collected lots of film strips of the Bogalusa demonstrations. Division Attorneys Robert Owen, Kenneth McIntyre and John Rosenberg, put together a film strip on what happened at the Plaza Shopping Center. As narrator of the film, and as the person who identified those responsible for the failure of the local police, our witness was an FBI agent. His testimony made our case. The defendant public officials were held in contempt.

Although the Bureau worked steadily into September, we were never able to get a criminal jurisdictional handle on the O'Neal Moore case. By that time we had received 25 volume-size FBI reports averaging in excess of 100 pages each. The information contained in the reports, however, was used by us to prove our civil case in Federal Court.

Again the FBI was of great help to Owen and McIntyre at the trial. We needed a witness to authenticate a copy of the rules of the Klan and a membership list. The Bureau persuaded the local county prosecutor to talk to Owen and then to appear as a Government witness. Through his testimony, we authenticated the documents.

On December 1, 1965 a three judge Federal Court issued its opinion. Fittingly, the Court began its opinion:

"This is an action by the Nation against a Klan. . . ."

The Court stated that the defendant had adopted a pattern and practice of intimidating, threatening and coercing Negro citizens in Washington Parish for the purpose of interfering with the civil rights of Negro citizens. The Court found that the Klan exploits the forces of hate, prejudice, and ignorance and relies upon systematic economic coercion, varieties of intimidation and physical violence to frustrate the national policy expressed in the civil rights legislation. The Anti Communist Christian Association was found to be only a disguise for the Klan.

The Court concluded by saying that protection agains the arts of terror and intimidation committed by the Original Knights of the Ku Klux Klan and the individual defendants could be halted only by broad injunctive decree and it issued that injunction.

During 1966 and 1967 other evidence of the Bureau's work came to

light in the successful prosecution in Federal Court in the Liuzzo and Penn cases and in the Dahmer case in the State Court of Mississippi in and for Forrest County.

In these cases, the Bureau, under the direction of the Division (no doubt impressed by the caliber and leadership of Robert Owen) performed its investigative assignments.

While some of these cases did not directly relate to voting, their successful prosecution undoubtedly led to a climate in the South which went a long way toward fully guaranteeing the right of all of our citizens to register and vote.

Conclusion

The challenge for America in 1960 was the destruction of the caste system itself. At the outset, few men had fully perceived this fact.

In the past, when a revolutionary goal was sought, revolution was necessary to achieve it. A few citizens, operating independently, undertook to eliminate the caste system within the framework of the law.

The laws of 1957 and 1960 protecting the right to vote were not aimed at the caste system -- but rather at what the majority understood at the time to be necessary -- that is, the protection of the right of certain extraordinary, intelligent Negro citizens who, under any standard, were entitled to vote. Some time during 1960 and 1961 -- it didn't happen all at once, nor did it happen to each member of the Division at the same time -- the Civil Rights Division seized these statutes as their weapon against the caste system.

It fell to the FBI, by virtue of its responsibilities as the investigative arm of the Department of Justice, to become unwitting soldiers of the Civil Rights Division. What a situation for the Bureau! It must be remembered that at the time no one was with the Division. Neither Congress, Federal Judges, United States Attorneys, the Department of Agriculture and HEW, nor indeed, the American people themselves had yet signed on, and yet the FBI had been involuntarily enlisted.

The Bureau was ill-prepared for its predicament. Is it any wonder it delivered such a lackluster performance? FBI field offices in the South were neglected and under-manned. There were no Bureau manuals on the detection of discriminatory selection of voters. Voter discrimination itself had not yet been clearly or specifically defined. The Bureau supervisors established in high posts at the seat of government, knew only the myths published by the disciples of the solid south, themselves established at the seat of government. Beyond that, the FBI's strength and virtue may have been eroded by its suspicion of the Department of Justice.

Thus, the Bureau found itself locked in a situation it did not -- could not -- understand. It knew little about the realities of life in the South. (Neither did almost anyone else.) The fact that the Bureau represented the federal government, with all its bureaucratic power, should not blind us to the very real difficulties it faced operating in the complex legal network of the caste system. These states were largely still a part of the American frontier, riddled with bewildering rural patterns of secrecy and silence, almost designed to make the work of any investigative agency difficult, if not impossible. That the FBI needed guidance, that it moved haltingly, that it faltered on many occasion between 1960 and 1964 should come

as no surprise. That it made a limited contribution in the voting cases as the professional, uncommitted, neutral, investigator, is to its credit.

In 1964, when a deep-seated change came upon America, a change brought about by many individuals, groups and forces, the Bureau changed as well.

From that time on, under the leadership of agents like Inspectors Joe Sullivan, John Proctor , and Roy Moore, the Bureau demonstrated in some of the toughest law enforcement assignments imaginable, exactly how and why it had earned its reputation for thoroughness, persistence, and toughmindedness in responsible law enforcement.

Perhaps, in retrospect, there were ways to have made the Bureau do better. But, in evaluating the FBI's performance in protecting the right to vote, let us be sure we do not transfer our impatience with America itself, onto the FBI, simply because of its visibility -- or our prejudices -- or because we feel more comfortable criticizing a bureaucracy than criticizing ourselves.

FOOTNOTES to Attachment 4

(1) 42 USC 1971 (a); 42 USC 1971 (b).

(2) In the Price and Guest opinions, the Supreme Court reversed dismissals by the District Court of indictments arising out of the killings of the three civil rights workers in Neshoba County, Mississippi and of Lt. Col. Penn in Georgia. The Guest opinion is quite technical. There are four separate opinions with six Justices concurring in part and dissenting in part for different reasons. But, in effect, these decisions gave a broad construction to Section 241. The court held that "Section 241 must be read as it is written" and that its "language include rights or privileges protected by the 14th Amendment". In the Guest case the Court found that the indictment stated a crime within the reach of 241 in alleging a conspiracy to interfere with the right on an individual to travel in interstate commerce. In the Price case the crime alleged by the indictment was "that the State, without the asemblance of due process of law, as required by the 14th Amendment, used its sovereign power and office to release the victims from jail so that they were not charged and tried as required by law, but instead could be intercepted and killed". The Supreme Court unanimously upheld the constitutional validity of the indictment. In Price the Court also held that private persons charged with acting with local police officials were acting "under color of law".

66-077 O - 76 - 61

(3) Harry Allen and Benaro Overstreet, in their very pro-FBI book The FBI in Our Open Society (1969), devoted much attention to the Bureau's performance in civil rights. Near the end of their book, they state that "to turn from a report like that of John Doar (in the Attorney General's 1965 Annual Report) to almost any one of the columns and articles which brand as deplorable the FBI's record in the civil rights field is to realize how little can be learned from the latter about the specifics of federal law. We have not found even one such piece that has based its charges on well-authenticated discrepancies between the FBI's assignment, as defined by law and departmental policy, and its performance."

(4) Each year between 1961 and 1967 Director Hoover testified before Congressman Rooney's subcommittee. In 1961, besides noting the training programs in civil rights conducted for FBI personnel for local officals and discussing the communist exploitation of the sit-ins, the Director devoted four brief paragraphs to civil rights matters. He noted there were 1,398 alleged civil rights violations during fiscal 1960 and mentioned a number of bombings, attempted bombings and bombing threats. He commented briefly on the Civil Rights Act of 1960 and the Attorney General's authority to

bring suit "when there is a pattern of events denying the right to vote because of race or color." Mr. Hoover did not describe the FBI's role in investigating these denials.

In 1962 the Director devoted three and a half pages to civil rights, setting out in some detail the procedures the Bureau follows in investigating police brutality and other complaints and also the Bureau's jurisdiction. This testimony appears to be in response to the Civil Rights Commission's 1961 Justice report which was somewhat critical of the FBI's performance. Mr. Hoover testified that 'some sources have inferred that we might be reluctant to investigate personnel of other law enforcement agencies. This assumption is completely unfounded." Mr. Hoover also asserts there was no delay in furnishing complaints directly to the Civil Rights Division, another area where the Commission found fault with the FBI's record. Mr. Hoover made no specific mention of FBI investigations of denials of the right to vote.

In 1963, the Director devotes less than a page to civil rights in his testimony, with no discussion of voting investigations. He does mention the FBI's solving of two church burnings near Albany, Georgia in the fall of 1962.

Mr. Hoover's 1964 testimony contains five pages dealing with civil rights matters including mention of several civil rights prosecutions such as the Medgar Evers case, an Indiana police brutality case, and one of the same church burning in Georgia in 1962. "Extensive work has also been carried on under the Civil Rights Act of 1960 regarding discrimination in voting matters. For example, in Bullock County, Alabama, we made

an investigation into voter registration procedures at the instruction of the Department of Justice. On September 13, 1961 a federal court order was issued to regulate registration procedures and eliminate discrimination. As a result, more than 1,000 Negroes have registered thus far.

In his 1965 testimony, nine pages of which deal with civil rights, Mr. Hoover also noted, for the first time, the intelligence activities against the Klan. "Indicative of our work in this area is the fact that we are currently investigating 14 Klan-type organizations having a membership of approximately 9,000 individuals." Mr. Hoover then went to name the major Klan groups, their leaders and estimated membership.

In 1966, the Director discussed in great detail the Bureau's successes in the big criminal cases - Penn, Neshoba and Luizzo and the FBI's response to such crises situations as Selma and Bogalusa.

(5) Shortly after the Civil Rights Act of 1960 went into effect, record demands were made for 15 counties in four states -- McCormick, Hampton and Clarendon Counties, South Carolina; Webster, Fayette and Early Counties, Georgia; Wilcox, Sumter and Montgomery Counties, Alabama; East Feliciana, Ouachita and East Carroll Parishes, Louisiana; and Boliva, Leflore, and Forrest Counties, Mississippi.

(6) In 1960 the Department of Justice believed that there was massive wide-spread racial discrimination in voting in five Deep South States (Alabama, Georgia, Louisiana, Mississippi and South Carolina) and in some counties in Florida, North Carolina and Tennessee. The Best registration statistics available for 1960 indicated that 14% of the 500,000 voting age Negroes (and 63% of the Whites) were registered to vote in Alabama; 30% of the 500,000 Negroes (and 77% of the Whites) were registered in Louisiana and 6% of 400,000 Negroes (and at least 50% of the Whites) in Mississippi were registered. We Believed there were 27 counties with substantial Black populations where no Blacks were registered. These counties were called cipher counties and were located as follows: 2 in Alabama; 6 in Georgia; 4 in Louisiana,; 14 in Mississippi and 1 in South Carolina. These five states had 98 (out of 419) counties with less than 5% of the Blacks registered.

Our conclusion after 4 years of hard work was that we had underestimated the size of the problem.

(7) A typical FBI request might read as follows:

Director
Federal Bureau of Investigation 4-6-61

John Doar
Acting Assistant Attorney General
Civil Rights Division 72-41-20

Discrimination in Registration and Voting
Jefferson Davis County, Mississippi

Listed below are the names of Negroes in Jefferson Davis County who have attempted to register to vote. Some have been successful. We do not have the addresses of some of them, but Mr. John C. Burnes, a farmer who lives approximately 6 miles north of Prentiss, will be able to help you locate the

the individuals. His house can be reached by going 5 miles north of Prentice on Highway 13 and turning west on a dirt road and following the dirt road for about a mile. The Burnes farm is on the south side of the road. Please interview these persons:

- John C. Burnes
- Jenora M. Holloway, Mt. Carnel Voting District Prentiss, Mississippi
- Caston Holloway, Prestiss, Mississippi
- Mabel W. Armstrong, Prentiss, Mississippi
- John H. Lewis, Prentiss, Mississippi
- John Harris Williams, Prentiss, Miss.
- Waddell Gray, Carson, Miss.
- J.H. Armstrong, 5 miles east of Prentiss. Miss.
- Lewis Warren Pasterling, Prentiss, Miss.
- Juanita Pasterling, Prentiss, Miss.
- Johnny Hartzog
- Jim Hartzog
- John F. Barnes
- Scott Barnes
- Johnny Goodlaw
- Mather Nerron
- Larkin Sims
- Irvin Lucas
- Cable Terroll
- Martin Sullivan

- Nallie Ward

- James Ward

- Seaulab Rose

- Rudolph Ward - Mt. Zion Community

- James Ward - Mt. Zion Community

- Fred White - Mt. Zion Community

- Bailey Jones - Mt. Zion Community

- Charlie Thompson, Route 2, Box 80 Prentiss, Miss.

- Daniel Sims Ross, Route 2, Box 137, Prentiss, Miss.

- Fred Ross, Route 2, Box 296, Prentiss, Miss.

- Sanc Phillips, Route 3, Box 122, Mt. Olive, Miss.

-Dadley Lewis Hawthorne, Route 2, Box 11, Prentiss, Miss.

- Dorothez Howthorne, Route 2, Bos 11, Prentiss, Miss.

- Willie P. White, Route 2, Box 111, Prentiss, Miss.

- Roscoe Otis - lives near Willie P. White

- C.L. Powell - Carson, Mississippi (also obtain information on Mr. Powell's son's attempts to register and his present location.)

Certain of these people were previously interviewed in March, 1958. Re-interview is requested to bring the matter up to date and to obtain the specific information requested.

In addition to obtaining the usual background information including education, business or farming experiences, property ownership, military record, arrest record, obtain the following specific information:

a. Each time he attempted to register

1. Date or dates

2. Where he attempted to register

3. What other Negroes were with him when he attempted to register.

4. Name or person or persons to whom he applied for registration. (Circuit clerk or deputy)

5. Full details of conversation with clerk.

6. Full details of any conversation with other white persons or officials when he attempted to register, such as the Sheriff or Deputy Sheriff.

7. What was required of him when he attempted to register, such as filling out the application forms, copying and interpreting a provision of the Constitution. Ascertain whether any part of the qualifying examination was oral. If he was required to copy and interpret a provision of the Constitution, ascertain what provision or what it was about and its length.

8. Whether he passed or failed. Include here any details of the conversation with the registrar.

9. Whether he received any assistance in filling out the form from the registrar and whether or not he requested such assistance.

10. Whether or not he has paid his poll tax regularly, if so, obtain all original poll tax receipts in his possession.

11. Whether any white person in the County has talked to him about registering, if so, who, when, and full details of the conversation.

Obtain from each person interviewed the names of other Negroes who have also attempted to register to vote. Interview each of these persons for full details.

Obtain from each person interviewed the names of any Negroes who have been reluctant to attempt to register because of a conversation with a white person in the community.

Interview Carl Meyers, white, who lives in Voting District 5 near Prentiss, Mississippi, and who is a registered voter for full details as to what transpired when he registered to vote, including the date, what assistance he was given either by the circuit clerk or by other persons when he attempted to register, and the length of time it took him to register. Obtain full information as to interviewee's educational background and whether interviewee can read and write.

Interview Garland Lane, a registered white voter in the County as to what transpired when he registered to vote, including the time it took him to register, and what assistance he received in completing the qualifying examination. Obtain full information as to interviewee's educational background and whether interviewee can read and write.

Kindly conduct this investigation on an expedited basis.

(8) A copy of the Mississippi summary follows on the next three pages.

(9) As an example of pre 1960 machinations, consider the following:

On May 1, 1958 Henry Putzel, Chief of the Voting and Elections section wrote the Assistant Attorney General for Civil Rights.

"At least until a final decision is made as to our course with respect to the situation in Tuskegee, I feel it is desirable to confine investigations of Mr. Gomilian's complaint to persons outside existing or previous boundaries of Tuskegee, therefore, at least for the time being, we are asking that the present or former residents of Tuskegee not be included among those to be interviewed by the FBI."

M I S S I S S I P P I

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED AND MADE		INTERVIEWS EXPANDED	RESPONSI STATEMEN
Carroll	5/19/61	6/5/61	Yes	12 N.	10 N.	9 N.	19 N.
Claiborne	4/3/61	4/21/61	Yes	19 N.	19 N.	21 N.	38 N.
Clarke	4/3/61	4/24/61	Yes	6 N.	6 N.	4 N.	10 N.
Copiah	4/27/61	5/10/61	Yes	7 N.	7 N.	1 N.	5 N.
Forrest	4/3/61	4/21/61	No	42 N.	40 N.	33 N.	70 N.
Grenada	5/19/61	6/2/61	Yes	8 N.	8 N.	0	8 N.
Holmes	4/28/61	5/10/61	Yes	4 N.	4 N.	0	4 N.
Jefferson Davis	4/3/61	4/24/61	Yes	36 N. 2 W.	35 N. 2 W.	24 N.	59 N.

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED AND MADE		INTERVIEWS EXPANDED	RESPONSI STATEMEN
Lauderdale	6/21/61	Pending	No	12 N.	Pending	Pending	Pending
LeFlore	4/28/61	5/15/61	Yes	11 N. 8 Unknown	12 N.	4 N.	16 N.
Lowndes	6/20/61	Pending	No	4 N.	Pending	Pending	Pending
Madison	4/4/61	4/21/61	Yes	6 N. 1 W.	6 N.	63 N. 1 W.	67 N. 1 W.
Marshall	4/26/61	5/11/61	Yes	12 N.	12 N.	13 N.	20 N.
Panola	4/26/61	5/11/61	Yes	9 N.	9 N.	4 N.	12 N.
Pike	5/19/61	6/2/61	Yes	7 N.	7 N.	12 N.	18 N.

M I S S I S S I P P I

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED	INTERVIEWS SPECIFICALLY MADE	INTERVIEWS EXPANDED	RESPONSIVE STATEMENTS
Simpson	5/1/61	5/10/61	Yes	19 N.	18 N.	9 N.	23 N.
Sunflower	4/3/61	4/24/61	Yes	7 N.	6 N.	12 N.	16 N.
Tallahatchie	5/1/61	5/11/61	Yes	9 N.	9 N.	6 N.	12 N.
Tunica	5/25/61	6/5/61	Yes	5 N.	5 N.	3 N.	7 N.
Walthall	4/3/61	4/24/61	Yes	10 N. 1 W.	10 N. 1 W.	3 N.	14 N.
Yazoo	5/25/61	6/13/61	No	35 N.	28 N.	4 N. 1 W.	31 N. 1 W.

Putzel continued that on July 9, 1957, Dr. Gomilian, a black Tuskegee leader, had conferred with Mr. Barett and Mr. Hubbard -- two lawyers in Civil Rights -- and since that time, no FBI investigation had been made, though the FBI had been following developments. Putzel said there would likely be a furor created by any extensive investigation in Macon County. He anticipated that State Senator Samuel Englehardt, Executive Secretary of the Alabama Association of Citizens' Councils, and the person mainly responsible for the gerrymandering of Tuskegee, and for steps toward abolition of Macon County, would be very vocal in opposition to any extensive FBI investigation.

On March 19, 1958 the Director of the FBI sent a memorandum to the Attorney General:

"In light of the recent developments in Webster Parish, Louisiana, which arose while this Bureau was conducting an investigation of the alleged denial of the right to register [local district attorney alleged that FBI agents intimidated the registrar and threatened to subpoena the agents before a local grand jury], I want to bring to your attention the following information with respect to similar cases which might arise in the State of Mississippi."

Mr. Hoover noted that a campaign had been announced by black leaders to increase black voters in Mississippi, and letters had been sent to local officials in 31 counties in the State. Mr. Mitchell of the Washington NAACP had furnished to Governor Coleman of Mississippi and to the Justice Department a list of instances in which blacks in 30 counties had been denied the right to register solely because of their race. To date the FBI has received "three requests from the Civil Rights Division requesting investigation in three different counties in the State of Mississippi based upon information originally received by the Civil Rights Division."

"In view of the feeling of the officials and people in the states involved as indicated in the Webster Parish situation and in light of the announced plans of various groups to redouble efforts to increase registration immediately, it would appear any inquiries desired should be based upon substantial merit."

(10) In U.S. v Macon County, there were 75 exhibits "Introduced Primarily for the Purpose of Establishing That A Double Standard was Used." Following are samples:

Exhibit Number

1. Five applications of Marie Williams, July 5, 1957, July 10, 1958, September 1, and September 15, and November 10, 1958.

Education - 3 1/2 years of college.

The first application contains minor errors. The second application contains a minor error in question 1 and the error, discussed below, which she repeated in her next two applications. The third and fourth applications are perfect except that in answer to the question "when did you become a bonafide resident of Macon County", she answered, "November 1948". On the 5th application, she answered, "November 15, 1948" and it is otherwise perfect.

Writing test - Article II (5 times)

Race of Applicant		Action by Board
NEGRO	1st Application	REJECTED
	2nd Application	REJECTED
	3rd Application	REJECTED
	4th Application	REJECTED
	5th Application	REJECTED

4. Five applications of Carrie E. White. May 19, June 16, July 7, August 15, and October 6, 1958.

Education - 11th grade.

The first four applications contain minor errors. The fifth application is perfect.

Writing test - Articles V, III, II, II, and II, respectively.

Race of Applicant		Action by Board
NEGRO	1st Application	REJECTED
	2nd Application	REJECTED
	3rd Application	REJECTED
	4th Application	REJECTED
	5th Application	ACCEPTED

31. Forty-eight applications of persons applying in October and November 1957.

Education -		
	7th grade	1
	8th grade	3
	9th grade	2
	10th grade	4
	11th grade	2
	High School	21
	1 year college	4
	2 years college	2
	3 years college	1
	College Degree	4
	Public School	1
	College	1
	Business College	2

Writing test - None

Race of Applicants	Action by Board
ALL WHITE	ALL ACCEPTED

42. Application of David Haywood, July 4, 1960.

Education - 3rd grade

The application was filled out by him with assistance from the registrar.

Writing test - Part of Article II

Race of Applicant	Action by Board
WHITE	ACCEPTED

There were 74 exhibits "Introduced Primarily for the Purpose of Establishing the Slowdown Procedures." Following are samples:

Exhibit Number

11. 1960 appearance sheet for courthouse registration, Beat 1. The following numbers of persons, mostly Negroes, appeared and signed up to apply for registration on the dates shown:

June 20, 1960	45
July 18, 1960	17
August 15, 1960	20
October 17, 1960	28
December 19, 1960	290

55. Two appearance sheets and four applications dated June 6, 1960, for Beat 2 (Little Texas).

Applications show that 3 white persons and 1 Negro were registered on that date.

Backlog of 15 persons, mostly Negroes.

60. Appearance sheet for Beat 6 (Hardway).

List dated October 3, 1960, has names of 21 persons.

One white person was registered and 3 Negroes applied and were rejected. Backlog of 17 Negroes.

57. Appearance sheet for Beat 9-2 (West End).

List has names of 5 white persons who applied and were registered on July 6, 1960. No backlog.

40. Appearance sheet for Beat 9-3 (Notasulga).

List has names of 8 white persons who applied for registration on July 7 and 8, 1960. No backlog.

(11) For example, in the Lynn case involving discrimination in Forrest County, Mississippi, the FBI was asked to identify the race of 387 applicants for voter registration. At least 3 other race identification requests were also sent. The information was to be established through someone's personal knowledge (such as postmasters) or through public records (such as poll tax receipts). The Bureau did a speedy, accurate job in determining the race of these applicants. This was just one of our 70 cases.

(12) On 2/18/65, Mr. Marshall testified at the Commission on Civil Rights hearings in Jackson: "Two attorneys were in Hattiesburg for almost three weeks sifting through newspapers, graduation yearbooks, city directories and other documents in order to identify and locate white persons who were placed on the rolls by the Mississippi registrars. Thereafter, other attorneys again with the help of clerical help analyzed application forms, control cards and other records during a 16-week period. Interviewing of prospective witnesses took four attorneys well over two weeks and as many as five attorneys at a time were engaged for a period of over one month in preparing proposed finding of fact and conclusions of law." The interviewing was of Negro witnesses.

(12a) However, the Division attorneys were very effective in interviewing potential black witnesses and almost all of this work was done by Civil Rights Division lawyers.

(13) What follows is a resume of the April, 1962 Choctaw County, Alabama investigation.

"The purpose of this investigation is to establish the standards, requirements and procedures which have been applied to white applicants for registration to vote in Choctaw County, Alabama since January 1960. This information sought generally related to what aid and assistance was offered

white applicants in completing their application forms, how did the white applicants learn when and where to register, where and with whom did they apply for registration, under what circumstances did they obtain their supporting witness, when and how were they notified of their registration, and whether or not they have voted since their registration.

***

This investigation is based upon an analysis of application forms submitted by white applicants. Attachment A lists prospective interviewee and it is requested that sixty responsive statements be obtained whenever possible. The interviewees should be selected from the first 65 persons listed in Attachment A and if additional interviews are needed to obtain the requisite number of responsive statements they should be taken from the Supplemental List to Attachment A in the order in which the interviewees are listed. The first 65 interviewees are grouped chronologically according to the date of their application. Where practical, the same agent should interview the persons listed as having applied for registration on the same day.

Attachment A sets forth the name and address of each interviewee and the FBI photo identification number of his application. These names are followed by comments which are based on our records analysis and are included to enable the interviewing agents to obtain specific information. The handwriting and answers on some of the applications have been compared to those found on applications filed by other applicants. The results are indicated by the comments. If it is deemed necessary in order to verify information given by interviewees, additional interviews may be made of the persons listed in the comments or whose names arise from information given by the interviewees.

In these cases the persons should be interviewed for all the information requested of the interviewees herein. Many of the comments request that hand-writing samples be obtained from the interviewees. The statements which the interviewees should write are set forth in the comments.

***

Each interview should cover the details of the procedures and requirements that these white applicants experienced. The following should be included in the information obtained.

1. Obtain background information...

2. How did the interviewee find out when and where he could apply for registration to vote. Obtain specific details as to who he talked to; where interviewee talked to this person; when interviewee talked to him and the details as to their conversation.

3. Did the interviewee have to fill out an application form. If so, from whom and where did he get the application form.

***

4. Did the interviewee have to sign the application form. (Note that on practically all of the applications there are check marks by signatures in the Oath and Supplemental Oath in page 3 of the form.)

***

5. If the interviewee did not personally fill out an application form, did he furnish any information to another person to enable the form to be completed? If another person filled out the form, obtain the specific details as to where they were and the procedures followed,

particularly whether a registrar was present or had knowledge of the procedure followed. If a registrar was present determine the proximity of the registrar to the interviewee at this time and whether any conversation were had with the registrar while the interviewee's from was being completed.

6. What conversation took place between the interviewee and the person who gave him the application, or the registrar if one was present.

   a. Was the interviewee asked any oral questions about who he was, where he worked, how long he had lived in the State or County, or whether he had ever been convicted of any crimes?

   ***

7. Who else was present when the interviewee filled out his form?

   ***

8. Prior to exhibiting the interviewee his application form, determine whether he was told that he would be required to have a supporting witness to identify the interviewee and fill out part of page 4 of the application form. If so, who told this to the interviewee.

   a. Did the interviewee ask someone to vouch for him? If so, who was this person and how long has the interviewee known him. Did this person vouch in the presence of the interviewee, and if so, what procedures were followed. (Who was present, where were they, and whether registrar witnessed the voucher's signature.)

   b. If the interviewee did not ask anyone

to vouch for him, does he know if any other person, for example, a registrar, asked someone to fill out the supporting witness portion of his form. If so, did the registrar or another person tell the interviewee who would vouch for him, did that person vouch for him in his presence, who was the voucher, and how long has the interviewee known him?

c. If the interviewee does not know who vouched for him, determine if he knows the person who signed as the supporting witness on page 4 of the form and how long he has known this person.

9. Where did the interviewee sit when his application form was filled out?

***

10. What parts of the form did the interviewee have difficulty understanding?

a. When the interviewee is shown his application if he has difficulties remembering whether he needed any help with understanding portions of the application, parts of the form should be reviewed with him to refresh his memory. For example, he may be asked what the words "bona fide" mean in question 5 or what "priority" and secular" mean in question 20a, and what he thinks question 19, referring to "aid and confort to enemies" asks and why he answered it as he did...

(14) The Bolivar County, Mississippi records deman is an example of another time consuming assignment. On August 11, 1960 the Justice Department made a formal demand, persuant to the 1960 Act, for the registration records in Bolivar County, Mississippi. The registrar refused, and the Department filed suit. On November 15, 1962, after proceedings which lasted just under two years, Judge Clayton issued an order

allowing the inspection of records relating to persons accepted for registration. However, he excluded rejected applications and limited the inspection of records received prior to the date of the demand letter. The Department immediately appealed. On December 6, 1963, the Court of Appeals modified Judge Clayton's order to allow the inspection of rejected applications and records obtained after the date of the demand. In January, 1964, Judge Clayton then issued an order granting the inspection and photographing of the records. The defendant registrar then petitioned the Supreme Court for a writ of certiorari and Judge Clayton stayed his order during the pendency of the petition. Certiorari was denied May 18, 1964. The records were inspected and photographed on June 24, 1964, almost four years after the demand letter was first filed.

(15) Scott County, Mississippi was a sparsely populated county with less than 12,000 people of voting age and an estimated 5,400 whites and 16 Negroes registered in 8/63. The FBI was requested to obtain information from the registration records in five areas: (1) ascertain race identification for all currently registered voters and rejected applicants; (2) obtain accurate registration statistics by date; (3) analysis reflecting the incidence of each section of the Constitution given to applicants to interpret; (4) analysis of application forms to determine what assistance was given applicants as applicants as demonstrated by standard or patterned answers and different ink or handwriting; and (5) standards used by the Registrar in grading the forms.

Bibb County, Alabama had less than 8,000 persons of voting age and in 6/62 an estimated 100% of the Whites and 10% of the Negroes were registered. The FBI was asked to analyze the records and obtain registration statistics and information on errors and ommissions appearing on the accepted application form.

East Baton Rouge Parish, Louisiana, has about 124,000 persons of voting age; about 65,000 whites and 10,000 Negroes were registered in 3/63. The FBI had photographed only 10% of the accepted applications forms and all the rejected forms. The FBI request dealing with East Baton Rouge Parish was extremely detailed. Much background information was set out including a detailed description of the registration procedure and what the records were used for. The FBI was asked (1) to determine the chronological periods during which each test or procedure has been used; (2) to obtain detailed statistical data; (3) to ascertain with great specificity the standards used in grading each test; (4) to compile evidence of aid and assistance to applicants, and (5) to assemble evidence of the quality of applicants who are accepted and rejected. The request concluded: "In this request we have endeavored to anticipate most of the useful data which you will find in the East Baton Rouge Parish voter registration records. However, in examining these records closely you may find other items which will require further analysis. It is not our intention to restrict the analysis to the items covered in this memorandum."

(16) In Mr. Marshall's testimony before Congressman Rooney's Subcommittee on January 28, 1964 he testified as follows:

Mr. Rooney: In connection with all of this, you have the services of the FBI, do you not?

Mr. Marshall: Mr. Chairman, in connection with this budget, I took up and discussed with the FBI whether they could relieve some of the burden on the Division involved in analyzing records. They photographed during the last year 250,000 pages of records for analysis, which is the analysis work currently done completely within the Division. I discussed with the Bureau whether they could take on that burden and they said that they did not have the personnel to do it. Of the 250,000 pages of records --

Mr. Rooney: Are you telling us that the FBI does not make the investigations for you in this area of civil rights?

Mr. Marshall: I am telling you, Mr. Chairman, that they do not make the analysis of the voting records.

Mr. Rooney: Do they make the investigation?

Mr. Marshall: They make investigations for us, yes, sir. They do, Mr. Chairman. They do a very good job of interviewing a good number of witnesses and they investigate completely criminal matters.

***

Mr. Marshall: We first determine upon the basis of the complaints received and the statistical analysis in the particular county whether or not there appears to be a problem of discrimination. If there is, then we request permission to photograph the records...either upon the basis of a voluntary compliance by the registrar, or upon the basis of a court order, we go into photograph the records. That is mechanically done by agents of the Federal Bureau of Investigation who are accompanied by a lawyer from my Division at the time. That takes maybe two or three days, depending on how large the volume of records is in the particular county, which, in turn, depends on its population.

After that, the films of the records are brought back to Washington and they are blown up and analyzed by lawyers and clerks working under lawyers in my Division.

None of the actual work of the analysis is now done by the Federal Bureau of Investigation. As I said, Mr. Chairman, an effort is being made to see if we could relieve the burden on the Division and

took it up with the Bureau the question of whether they could do that work and was informed they cound not.

***

Mr. Bow: Just a minute. "Obtaining statistics from registration books and poll books." Is that or is that not something that the FBI does by photographing?

Mr. Marshall: Congressman, if I could draw a distinction between snapping the shutter on a camera and looking at the picture that is taken, that is the distinction. The FBI snaps the shutter on the camera. That is all they do. Then somebody had to take what they photographed and draw conclusions from it. One of the things they draw from it is statistics. It is not always possible to get statistics from poll books and registration books. In some case the race of the registered voter is not shown on those books and we have, in other ways, to seek that out. That is the distinction I want to make, Congressman, that the FBI only snaps the shutter on the camera and that that is not the major effect that is involved in these matters.

***

Mr. Marshall: The FBI has the camera. We do not have the camera. The FBI has a technician who is skilled in photographing things. We do not have a technician who is skilled in photographing things. As far as the physical photographing that is done, which may take two days or so in a particular county, that is done by agents of the FBI who are skilled camermen, plus a lawyer from the Civil Rights Division that tells him what to photograph. That is a small part of the work involved. When these 30,000 photographs (in 11 Alabama counties) are taken they are put on reels and the reels are

among 20 textile companies which were referred to the Justice Department by Equal Employment Opportunity Commission on the basis of terrible statistics. Each company operated one or more plants which had less than 1% black male employees, no black female employees, or no black employees at all.

On April 29, the Bureau was asked to investigate such things as the methods of job recruitment, selection and training; accepted and rejected applicants since the effective date of Title VII; company structure and promotional policies; and whether employee facilities were desegregated.

On May 2, the Director send the Division a memo declining to conduct the investigations. His reasons were that no complaint had been received against any of these companies; that in the absence of any complaint the requested investigations amounted to "statistical surveys" which are not a proper function of the FBI. The Bureau suggested "that inquiries of this type can most appropriately be handled by the Equal Employment Opportunity Commission..."

On May 5, 1957, I sent a meno to the Director explaining our position and requesting that the investigations be conducted. I pointed out that the receipt of a complaint is not a prerequisite for investigation or suit under Title VIII; that the statistics showing virtually no blacks employed were indicative of a probable violations; and that the purpose of investigating was not a statistical survey but the development of proof for a possible suit.

On May 9, the Director again refused to conduct the investigations. He felt there was no provision in the law authorizing EEOC to refer matters to the Department for investigation, only to refer for suit, and EEOC should conduct the necessary investigations.

brought back to Washington and every one is gone over by lawyers in the Division and clerks in the Division, working the lawyers. This is the major work and I cannot accept the suggestion it is misleading.

(18) In June 1964, Mr. Mally came to see me about Sheridan's forces impersonating Bureau agents in Mississippi. During the course of the conversation, he complained that Sheridan was investigating and the FBI was the investigatory arm of the Department of Justice. To this, I replied "What are you talking about? I've been investigating in the South for years." To this Mally replied, "You don't investigate, John, people just talk to you."

(18a) To appreciate the amount of proof, (and the work required) see the answer to interrogatories filed by the Division or the Division's proposed findings of fact in any of its voting cases.

(19) In the work of the Civil Rights Commission and in the legislation hearings between 1957 and 1964 there was expressed much scholarly doubt on how far Congress could go in superceding registration process in the sovereign states. I have no doubt that the Division's monumental collection of facts is what caused Congress to go as far as it did without causing a constitutional problem. On 3/7/66 the Supreme Court in South Carolina v. Katzenbach upheld the constitutionality of the 1965 Voting Rights Act. The opinion summarizes in some detail the voluminous legal history of the Act and demonstrates that the massive record of case-by-case litigation against voting discrimination established by the Justice Department was the basis for the 1965 Act. Both the legislative history, and the Supreme Court's opinion, are filled with references to the voting cases brought by Justice. "Discriminatory application of voting qualifications has been found in all eight Alabama cases, in all 9 Louisiana cases, and in all nine Mississippi cases which have come under final judgment." This record enabled Congress to conclude that "the unsuccessful remedies which it had prescribed in the past would have to be replaced by sterner and more elaborate measures. Because of the specific knowledge of discriminatory techniques in use gained from this record, Congress was able to devise very detailed and sweeping remedies which got at the heart of the problem and which had ample precedent in the voting cases themselves. "Congress had learned that widespread and persistent discrimination in voting during recent years has typically entailed the misuse of tests and devices, and this was the evil for which the new remedies were specifically designed."

(20) This pattern may have to be repeated. In 1967 the FBI declined to conduct investigations into employment discrimination in six textile companies in North and South Carolina. These cases were

About the same time the Bureau also refused to conduct certain investigation in an employment case in Birmingham involving the H.K. Porter Company. The Division asked the FBI on May 11, to obtain information regarding the organization and internal function of 2 plants in the North which were engaged in operations similar to the Porter plant in Birmingham. The purpose was to try to show the distinction between separate departments in the Birmingham mill to be artificial and discriminatory. The Director on May 17, declined to conduct the investigation because no complaint had been received as to these Northern plants and the Birmingham plant was being investigated by EEOC.

The Division appealed to Attorney General Clark who sent a memo to the FBI again requesting them to conduct these investigations. On June 13, the Bureau finally agreed.

The oft repeated statement that the Bureau does not police elections is not adequate to explain its reluctance to fully perform in employment discrimination investigations.

(21) Attorney General Katzenbach testified in 1965 this difficulty "the litigation cases amply demonstrate the inadequacy of present statutes prohibiting voter intimidation...perhaps the most serious inadequacy result from the practice of District Courts to require the Government to carry a very onerous burden of proof of 'purpose' since many types of intimidation, particularly economic intimidation, involves subtle forms of pressure. This treatment of the purpose requirement has rendered the statute largely ineffective.

(22) But in 1961, Director Hoover write to Mr. Bernhard of the Civil Rights Commission that "we know of no instances of any individual being fearful to bring complaints to the attention of the FBI."

(23) Heywood County, Tennessee is a rural county located near the Mississippi border; its majority is black. Resgistration in Tennessee was a fairly simple matter; applicants were not required to pass a literacy test nor to interpret a section of the Constitution. But no Blacks were registered to vote in Heywood County until 1960; none had been for at least 50 years. The first attempts by qualified blacks to register began in 1958 but no Negroes was registered to vote before May 1960 because from November of 1958 to February 1960 there was no functioning election commission or register of voters in the county.

(23a) No one can overlook the Mack Charles Parker investigation. Mack Charles Parker, a black, was indicted in April 1959 by the Pearl River County grand jury and charged with raping a white woman. He was confined in the county jail in Poplarville, Mississippi on April 13 awaiting trial scheduled for April 27. During the night of April 24, a group of masked men abducted Parker from jail. They beat him, dragged him down the stairs, put him in a car and sped out of town. A nurse in the hospital next to the courthouse heard his cries for help and called local officials. Parker's body, badly beated and with bullets in it, was found in the Pearl River on May 4.

According to Time Magazine, within a few hours of the abduction Governor Coleman called the FBI and asked for their assistance. The Bureau immediately began to investigate.The investigation was extensive and a large number of agents took part, headed by the SAC from New Orleans.

Justice Department officials said the investigation was one of the most intensive in FBI history and cost about $80,000. Time 6/8/59 reported that a temporary field office was established in Poplarville, and for four weeks, a 50-man FBI task force roamed Pearl River County.

The FBI identified many of the members of the lynch mob and turned the results of their investigation over to state authorities.

Following a Justice Department ruling that the FBI investigation had clearly established that the persons responsible had not violated Federal kidnapping statutes and no other successful federal prosecution could be maintained, the Attorney General instructed the FBI to give Governor Coleman a summary of the facts and evidence.

Director Hoover announced that agents would be available to testify in state court. On November 2, a state grand jury was empaneled in Poplarville to hear the case. After three days the jury went home without returning any indictments in the Parker case. The local prosecutor refused to read the FBI report to the jury, saying it could be considered only hearsay evidence. The jury declined to hear FBI agents who offered to appear without being subpoened. Attorney General Rogers termed the handling of the case "a travesty on justice -- flagrant and calculated". A federal grand jury was empaneled to hear the case on January 4, 1960. Evidence in the FBI report was presented; FBI agents testified, and the jury was asked to return an indictment. They failed to do so.

The FBI did an excellent job on the Parker case. The Bureau carefully interviewed the other blacks in the jail, developed a white trustee who identified several of the men who entered the jail cell, learned the location of the farm where

the men gathered to plan the lynch, got admissions from three of the participants, and established that the abduction occurred with the cooperation of an official who had the duty to protect Parker. The Parker case demonstrates that the FBI was willing to commit the necessary resources to solve a civil rights case and that they could solve one with an aggressive investigation.

(24) One League charter member told the agents that five blacks who were all affiliated with the League were told by their five respective landlords that "they either had to move or withdraw their membership in the (League)" He named the five blacks and the landlords. Another black allegedly was fired when he refused to withdraw from the league; another was reportedly denied credit on account of his membership.

(25) Here the FBI was asked to investigate allegations under (a) and possible 1971 (b) violations were reported by the persons they interviewed.

(26) The cover sheet of the report notes that "the investigation is continuing and you will be furnished copies of reports as they are received."

(27) On 6/23, Mr. Tyler noted that he had a very satisfactory talk with Mr. Rosen about Heywood and Fayette Counties and "was informed that the Bureau has already started to expand its investigations back to where we requested them."

(28) See the 3/31/60 request to the FBI mentioned above.

(29) Request to the FBI, 9/14/60

(30) In January, 1962, these resident agencies existed in Mississippi:

Northern Mississippi (Reported to Memphis)	Southern Mississippi (Reported to New Orleans)
Oxford	Biloxi
Clarksdale	Gulfport
Tupelo	Hattiesburg
Greenwood	Laurel
Columbus	Meridian
Greenville	Natchez
	Jackson

(31) The Patrolman told the FBI "... I called the County Attorney, Joe Piggot and he came over. I told Piggot what had happened and he handled the matter from there".

(32) My interview of Moses conducted in September 1961 at McComb, Mississippi, states: "In McComb the doctor stitched up the wounds in my head. The big one at the top of the head near the back took five stitches. Another one behind the right eye took three stitches. Another one on my forehead took one stitch. The doctor wrote out a statement that there were multiple lacerations caused by a blunt instrument..."

(33) Or soon thereafter.

(34) On _____, 1964, Lewis Allen was gunned down in the driveway of his home in rural Amite County.

(35) "This week at my request Burke Marshall spent some time in Southwestern Mississippi and Jackson to get some first-hand impressions of the possibilities for this summer and the future. He has reported the following general conclusions to me:

1. There has unquestionably been as you know, an increase in acts of terrorism in this part of Mississippi. As a result the tensions are very great not only between whites and Negroes, but among whites. This is not as true in Jackson as in the outgoing areas.

2. Law enforcement officials, at least outside Jackson, are widely believed to be linked to extremist anti-Negro activity, or at the very least to tolerate it...For example, groups have been formed under the auspices of the Americans for the Preservation of the White Race to act as deputized law enforcement officials in some counties...These groups appear to include individuals of the type associated with Klan activities...

3. The area is characterized by fear based upon rumor. In Jackson, rumors of organized Negro attacks on whites appear to be deliberately planted to spread in organized fashion through pamphlets, leaflets and word of mouth...
It seems to me that this situation presents new and quite unprecedented problems of law enforcement.

As one step I am directing some of the personnel here in the Department who have had organized crime experience to make a more detailed survey of the area to try to substantiate the details concerning acts of terrorism which are at least

generally believed to have taken place in the last few weeks.

In addition, it seems to me that consideration should be given by the Federal Bureau of Investigation to new procedures for identification of the individuals who may be or have been involved in acts of terrorism, and to the possible participation in such acts by law enforcement officials or at least their toleration of terrorist activity. In the past the procedures used by the Bureau for gaining information on known, local Klan groups have been successful in many places, and the information gathering techniques used by the Bureau on Communist or Communist related organizations have of course been spectacularly efficient.

The unique difficulty that seems to me to be presented by the situation in Mississippi(which is duplicated in parts of Alabama and Louisiana at least) is in gathering information on fundamentally lawless activities which have the sanction of local law enforcement agencies, political officials and a substantial segment of the white population. The techniques followed in the use of specially trained, special assignment agents in the infiltration of Communist groups should be of value. If you approve, it might be desirable to take up with the Bureau the possibility of developing a similar effort to meet this new porblem.

(36) A very different reception was given Walter Sheridan when he met with Al Rosen at the FBI office in Jackson on July 2. Sheridan and Rosen discussed how Sheridan's unit and the FBI could be of mutual help. The FBI agreed to furnish copies of FBI reports; in urgent cases, Sheridan was authorized to make oral requests locally or by phone to the New Orleans office or written requests on local basis; the results would be furnished directly to Sheridan in Jackson; Sheridan agreed to furnish their intelligence information to FBI; and they would work together to obtain good prosecutable case as a starting point for calling a grand jury.

(36a) The following column by Joseph Alsop appeared in the Washington Post of June 17, 1964. It's headline read: "Murder by Night".

"A great storm is gathering -- and may break very soon indeed -- in the State of Mississippi and some other regions of the South. The southern half of Mississippi, to be specific, has now been powerfully reinvaded by the Ku Klux Klan, which was banished from the state many years ago. And the Klan groups have, in turn, merged with, or adhered to, a new and very ugly organization known as Americans for the Preservation of the White Race.

"Senator James Eastland has managed to prevent infiltration of the northern part of the state, where his influence predominates. But southern Mississippi is now known to contain no less than 60,000 armed men organized in what amounts to guerrilla units dedicated to terrorism.

"Acts of terrorism against the local Negro population are already every day occurences. Justice Department investigators believe -- but cannot absolutely prove -- that five Negroes have already been killed by terrorists to date. The most probable recent case was the death of Lewis Allen, an Amite County Negro leader, who was ambushed and shot a few nights ago.

"Allen had invited reprisals by complaining to the Justice Department that he had been beaten by one of the Deputy Sheriffs of Amite County. Shortly before he was ambushed, the wife of another Negro leader in the county, Mrs. W. R. Steptoe, warned him that he was in danger.

"'Well,' said Allen, 'if they get me, they won't get a scared man'.

"Despite the murder of Allen, Mrs. Steptoe is still preparing to give board and lodging to several of the northern students who are being sent into Mississippi by the Student Non-Violent Coordinating Committee, better known as Snick. Even though she has refused to take any but Negro students, she has already predicted that her farmhouse will be bombed.

"These vivid fragments of information reaching the Justice Department are worth setting down, because they make an important point. The point is that the local Negro leaders are not ready to yield to the

mounting campaign of intimidation.

"In Jackson, Mississippi, the offices of COFO -- the Council of Federated Organizations which includes Snick -- had their windows broken almost nightly. But now Negro armed guards are posted at the office every night. Other cases of this sort could also be cited.

"This, in Mississippi today, the two sides already confront each other gun in hand. Before long, moreover, the situation will be enormously complicated -- and envenomed -- by the arrival of several hundred Northern white and Negro students recruited by Snick to open "Freedom Schools" in Mississippi this summer.

"The first contingent of these students has now begun a training program, sponsored by the Federation Council of Churches, at the Western College for Women in Oxford, Ohio. Except for lessons in how to register and vote, the curriculum of the 'freedom school' will be the opposite of inflammatory. But the students' simple presence in Mississippi will be highly inflammatory, and it will be close to miraculous if a good many of them do not fall victim to the terrorists.

"What can be done to damp down this horrifyingly explosive situation is already being done by both state and federal authorities. The two Mississippi Senators -- Eastland and John Stennis, have thrown the whole weight of their influence against violence.

"The new Governor of Mississippi, Paul Johnson, has also let it be known that he will not tolerate violence. Since the Governor cannot depend on the Sheriffs and Deputy Sheriffs in the counties, he has powerfully reinforced his highway police and semi-alerted his National Guard. Because of Governor Johnson, another Negro student, Cleveland Donald, was just admitted to the University of Mississippi without any rioting.

"The Justice Department has also strengthened the FBI in Mississippi, by assigning to investigation of the underground terrorist groups the crack team of men who triumphantly got the facts on James Hoffa. Yet the Governor, the Senators and the Justice Department are all confronted by the same problem.

"Guerrilla war in Mississippi is no easier to win than guerilla war in South Vietnam. Guerilla war - rather than the kind of open mass outbreak that brought the troops to Little Rock, Arkansas -- is now the danger.

"The real aim of Snick and the other more extreme Negro organizations is to secure the military occupation of Mississippi by federal troops. But even if worst comes to worst, will military occupation secure the desired result? That is the problem President Johnson may have to solve before long."

The June 16, 1964 edition of the Louisville, Kentucky Courier-Journal carried a story by Richard Harwood headlined "In Mississippi: Federal Officials Face Race Crisis".

"Washington -- The Johnson Administration is filled with deep forebodings over events that will unfold in Mississippi in the weeks just ahead.

"A major racial crisis seems imminent. Arms are being shipped into the state. 'Auxiliary' police forces of white segregationists are being drilled and trained for riot duty in rural counties by the state. The Ku Klux Klan is showing surprising new strength and is rallying whites to resist 'those black savages and their communist leaders'.

"Negroes, the Justice Department has revealed, already are being stalked in the poor, piney woods section of southeastern Mississippi. There have been nearly fifty floggings, murders, and other acts of violence -- many by 'hooded men' -- since January 1.

"The spirit of violence, the Administration reports, is being fanned by inflammatory statements made by integration leaders who will move into Mississippi in force beginning Sunday. John Lewis, the national chairman of the Student Nonviolent Coordinating Committee, has predicted a crisis of such magnitude that 'the Federal Government will have to take over the state'. Lewis has said that 'some kind of conflict, some kind of violence' is inevitable.

"Another Negro student leader, Claude L. Weaver of Howard, was quoted recently as having said, 'the Negroes might start killing the white people in Mississippi very soon'.

"Statements of this sort, a Government source revealed, have been reproduced and widely circulated among the Whites in Mississippi.

"The full weight of the storm, the administration believes, could come much sooner than the public is generally aware. The catalyst may be the Mississippi summer project.

"This project will bring to Mississippi 800 to 1,000 volunteer integration workers from all sections of the United States -- students, lawyers, housewives and ministers. They will set up workshops in sixteen Mississippi communities to encourage and prepare Negroes for a massive voter registration campaign.

"The project is sponsored by all the major civil rights organizations in the country -- NAACP, CORE, SNCC and other groups. The volunteers are being trained at week long seminars at Western College for Women, Oxford, Ohio. The first class of 225 volunteers and 125 staff members from Civil Rights organizations will complete their training this week and move into Mississippi immediately.

"A second class of 350 volunteers will begin training next week and a third class of 150 the following week.

"They have been warned that violence and bloodshed may result from their work. Indeed, many believe it is inevitable.

"The Crimson, student newspaper at Harvard, where many volunteers have been recruited, said in an editorial that the summer project will be a 'massive, daring, probably bloody assault on the racial powers of Mississippi. . . .For the first time, active self-defense and actual retaliation (by Negroes), though not officially advocated, are being openly discussed. . . The (project) planners reason that massive nonviolence will precipitate a crisis of violence which they consider prerequisite for further progress.'

"Justice Department officials from Attorney General Robert Kennedy on down are more disturbed over the situation than they have stated publicly.

"Their concern is based on these considerations:

"White resistance to integration efforts in Mississippi is using and is reflected in increased activity by the Klan. The May 10th issue of The Klan Ledger, published in Mississippi, predicts a 'nerve wracking, long, hot summer' and calls for the formation of 'a large and adequate auxiliary police force or deputy sheriff force' in each community to resist these Communist-led Negro mobs'.

"Whites are urged to arm themselves, to refuse to give up their weapons. 'Do not go out looking for trouble,' The Ledger advises. 'Arm yourself well and stay at home. Do not fire unless your home, your person, or your family is attacked.'

"The 'auxiliary' police forces demanded by the Klan, it has been learned, are now being organized in several Mississippi counties, including Walthall, Clay and Pike in the southwestern part of the state.

"The Mississippi climate has been aggravated by the increasing militant posture of certain integration leaders who seem determined, one high Government official said, to precipitate violence and force the White House to order troops into the state."

(37) On July 24, 1964, I wrote Mr. Marshall as follows: "An FBI investigation into the church burning was requested by the CRD on 6/19, after the New Orleans office reported the incident. So far as we can tell, in the three days before the three civil rights workers were missing, the Bureau only interviewed the three blacks who were beaten, and, perhaps talked to a civil rights worker in Meridian. Before 6/21 the Bureau apparently made no inspection of the church for physical evidence and no contact with state or local authorities as to what investigation they were conducting."

(38) See Joseph Kraft's 2/65 article in Commentary.

(39) The following appeared in the New York Times of Saturday, June 27, 1964 headlined "Dulles Request More FBI Agents for Mississippi" -- "Urges President to expand force in state to control 'terroristic activities'"

> Allen W. Dulles recommended to President Johnson today that more agents of the Federal Bureau of Investigation be sent to Mississippi to help "control the terroristic activities."
>
> Mr. Dulles, talking to reporters after his conference with President Johnson did not specify how many more agents he thought should be assigned to Mississippi. He said that would be up to J. Edgar Hoover, Director of the Bureau.
>
> A spokesman for the Bureau declined to say how many, if any, additional agents would be sent to Mississippi. They also declined to say how many agents were already stationed there. The stepped-up FBI activity was the principal recommendation made to the President by Mr. Dulles ...
>
> ***
>
> Mr. Dulles said that the President appeared to favor his recommendation and had indicated that it would be implemented very shortly.

That same date, June 27, 1964, The Washington Post's story headlined "Dulles Sees Johnson on Racial Issue" -- "Mississippi Report Urges Bolstered FBI Force in State," included the following:

> Allen W. Dulles recommended to President Johnson yesterday that the FBI force in Mississippi be increased to help halt "terrorist activities" in that state.
>
> The former Director of the Central Intelligence Agency reported to the President for nearly two hours on his two-day fact-finding mission to Mississippi where three young civil rights workers have been missing since Sunday.
>
> ***
>
> Dulles said he had discussed with FBI Director J. Edgar Hoover his proposal to increase the FBI strength in Mississippi. He noted that the FBI had "greatly augmented its staff there to work on the case of the three missing workers and did not have a lot of extra people" easily available to move in. "But," said Dulles, "I think it will be done."
>
> A FBI spokesman said he would not comment.

APPENDIX B

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116395

January 12, 1976

U. S. SENATE SELECT COMMITTEE
TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES (SSC)

Reference is made to the testimony of FBI Director Clarence M. Kelley before the SSC on December 10, 1975. During this testimony, certain questions arose on which answers were deferred. Set forth hereinafter are the unanswered questions along with the responses thereto.

Senator Howard H. Baker, Jr., inquired as to Director Kelley's feeling concerning an Inspector General concept extending Governmentwide. Senator Baker asked the Director to think about the question and furnish his thoughts at a later date. Upon reflection and consideration of the question, Director Kelley has decided it would be inappropriate for him, as Director of the FBI, to comment concerning the need for a national Inspector General as it would affect any agency other than the FBI.

Senator Gary Hart stated that although higher authorities had been alerted to the existence of Counterintelligence Programs (COINTELPROS) in one or two instances, in terms of the bulk of the Programs there was no systematic information flowing upward through the chain of command to former Director Hoover's superiors. Specifically, Senator Hart indicated the SSC had received testimony that the existence of the COINTELPRO effort against the New Left had not been made known to higher authorities and asked if Director Kelley had any information in this regard. Director Kelley asked for an opportunity to substantiate the notification provided by former Director Hoover to higher authorities.

NOTE: The inquiry by Senator Baker referred to above can be found at page 291 of this volume. The question of Senator Hart can be found at page 301 of this volume.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

While no systematic report was made on a regular basis by former Director Hoover regarding COINTELPRO activities, information regarding the COINTELPROS was periodically provided to his superiors in the Executive and Legislative Branches. FBI files contain considerable documentation clearly establishing no effort was made by Director Hoover to conceal from superior authorities the fact the FBI was engaged in neutralizing and disruptive tactics against revolutionary and violence-prone groups. This documentation is as follows:

1. Briefing of the President. On November 6, 1958, Director Hoover presented to President Dwight Eisenhower and the Cabinet an oral briefing entitled "Current Communist Subversion and Espionage in the United States, 1958." Included in the presentation material was a description of the Bureau's effort to "intensify any confusion and dissatisfaction among its (Communist Party, USA) members." Use of informants was cited as a technique to further this goal. This particular effort was referred to as one of several programs to counteract resurgence of Communist Party influence in the United States. In November, 1974, former Assistant to the Director Cartha D. DeLoach advised he recalled very clearly briefing President Lyndon B. Johnson regarding the Bureau's activities against black militants.

2. Notification of White House. In 1958, a letter was sent to Presidential Aide Robert Cutler at the White House specifically advising that our COINTELPRO directed against the Communist Party had been initiated in August, 1956, and citing examples of techniques utilized. In 1965, a letter was directed to Presidential Aide Marvin Watson at the White House advising him this Bureau was seizing every opportunity to disrupt the Klan.

3. Notification of Secretary of State. In 1961, a letter enclosing a memorandum setting forth examples of COINTELPRO actions directed against the Communist Party was sent to Secretary of State Dean Rusk.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

4. Notification of Attorneys General. A letter was directed to Attorney General William Rogers in 1958 specifically advising him our COINTELPRO had been initiated against the Communist Party in August, 1956, and citing examples of techniques utilized. In 1961, a letter was directed to Attorney General Robert Kennedy enclosing a memorandum citing examples of COINTELPRO actions directed against the Communist Party. In 1965, a letter was sent to Attorney General Nicholas Katzenbach advising him the FBI was seizing every opportunity to disrupt the Ku Klux Klan. Attorney General Ramsey Clark was furnished, in 1967, a letter which enclosed a detailed memorandum outlining our efforts to neutralize and disrupt the Ku Klux Klan. In September, 1969, Attorney General John Mitchell was advised of our efforts to disrupt the Klan. Additionally, former Assistant to the Director DeLoach advised in November, 1974, he had briefed former Attorney General Ramsey Clark regarding the various COINTELPROS and he also expressed the opinion that former Assistant to the Director Alan H. Belmont or former Assistant to the Director William C. Sullivan had briefed Attorney General Katzenbach.

5. Notification of Congress. Bureau files reveal that detailed information concerning the COINTELPROS was prepared for off-the-record use by former Director Hoover in connection with several appearances before the House Subcommittee on Appropriations. Material concerning the COINTELPROS was prepared for the Director's use in connection with Appropriations testimony for the fiscal years 1958, 1959, 1960, 1961, 1963, 1966 and 1967. All this material was clearly marked for off-the-record discussion. Published transcripts of hearings by the House Subcommittee on Appropriations contain notations that on at least six occasions between 1958 and 1966, off-the-record discussions took place at those points in Mr. Hoover's prepared remarks dealing with the COINTELPROS. Former Assistant to the Director John P. Mohr advised in November, 1974, he recalled the Director on several occasions had furnished details to the House Subcommittee on Appropriations relating to FBI COINTELPROS. In November, 1974, Assistant to the Director Nicholas P. Callahan advised he, too, recalled several instances involving off-the-record discussion

by the Director with members of the House Subcommittee regarding this Bureau's efforts to neutralize groups and organizations involved and that there was no critical comment made in regard thereto.

An FBI Headquarters supervisor who was assigned responsibility for COINTELPRO matters during the period 1964 to 1967 recalls that on a number of occasions he was required to prepare informal memoranda and summaries relating to COINTELPRO actions. It was his understanding this material was to be utilized by Director Hoover in connection with briefings of various Government officials.

A review of FBI files has not located any document indicating higher authority was formally advised of the existence of the COINTELPRO effort directed against revolutionary New Left elements. It should be pointed out the program that targeted the New Left was only in existence during the period 1968 to 1971 (35 months) and only 285 actions were approved, which represent approximately 12 percent of all actions approved in the basic COINTELPROS. Additionally, during the time period of the New Left program this Bureau was engaged in extensive reporting and dissemination of information relating to activities and violence perpetrated by revolutionary elements, including the so-called New Left.

The Chairman, Senator Frank Church, inquired as to how much time and money is being spent by the FBI in conducting investigations on possible Presidential appointments to Federal offices, plus any other information which would indicate what proportion of the FBI's time and effort was absorbed in this kind of activity. Senator Church also asked the Director to supply the number of such investigations conducted each year beginning with 1970 and also information as to what offices are now covered by such investigations.

NOTE: The inquiry by Senator Church referred to above can be found at page 304 of this volume.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

The FBI conducts investigations under the Federal Employee Security Program pursuant to Executive Orders 10450 and 10422. Executive Order 10450 became effective May 28, 1953, and sets forth security requirements for employment in the Executive Branch. The purpose of the Federal Employee Security Program is to insure that the employment and retention in employment of any civilian in the Executive Branch is clearly consistent with the interests of the national security.

At the request of the White House, investigations are conducted concerning Presidential appointees and White House personnel. At the request of Cabinet officers, investigations are conducted concerning certain personnel.

Upon request, investigations are conducted concerning staff personnel of seven Congressional Committees. These are handled by agreement with the Department of Justice and include:

Senate Foreign Relations Committee
Senate Committee on Judiciary
House Committee on Judiciary
Joint Committee on Atomic Energy
Senate Appropriations Committee
House Appropriations Committee
Senate Armed Services Committee

At the request of the Department of Justice, investigations are conducted concerning Departmental Applicants for Presidential appointments and professional positions such as Federal Judges, United States Attorneys, and other legal positions. In addition, investigations are conducted for the Administrative Office of the United States Courts concerning applicants for the positions of United States Magistrate, Federal Public Defender, Referee in Bankruptcy, Federal Court Executive, and Probation Officer. Also investigations are conducted concerning persons who have applied for pardons after completion of sentences upon being convicted of felonies in the United States District Courts.

JAN 10 1975

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

Investigations are also conducted of personnel who have sensitive positions with the Nuclear Regulatory Commission and the Energy Research and Development Administration (formerly the Atomic Energy Commission).

In connection with all of these investigations, we report the facts developed and furnish the results to the requesting agency without any comment or recommendation or any evaluation of the facts developed.

The costs involved concerning investigations on behalf of the White House, Congressional Staff Committees, Department of Justice, and Applications for Pardon After Completion of Sentence, as well as cases referred to the FBI under various public laws, are included in the overall FBI budget. In all other investigations charges are made. The current rates for these charges, which became effective on October 12, 1975, are listed below. For Fiscal Year 1975, expenditures for these investigations amounted to approximately $6,760,000 of which slightly over $3,000,000 was reimbursed from other agencies. It is to be noted the costs of these investigations fluctuate from year to year dependent upon changes in salary, travel, and other expenses.

Atomic Energy Commission Investigation:*	New rates eff. 10/12/75
*Name changed eff. 1/20/75	$ 834.00
Energy Research and Development Administration Nuclear Regulatory Commission Library of Congress	
Full-Field Loyalty Investigations:	2,117.00
Civil Service Commission (United Nations Personnel) State Department (Ambassadorial and Ministerial Appointees) All Agencies (Administration Appointees)	

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

Preliminary Inquiries: 410.00

Civil Service Commission (CSC)
(United Nations Personnel)

There follows a tabulation listing the number of investigations conducted by the FBI for other Government agencies for the period from Fiscal Year 1970 through Fiscal Year 1975.

	1970	1971	1972	1973	1974	1975
Federal Employees Security Program-Executive Order 10450	1235	1296	993	985	943	591
United Nations Loyalty Program-Executive Order 10422	36	31	31	31	8	14
Referrals from CSC under various public laws	339	242	196	160	95	68
Energy Research and Development Administration/Nuclear Regulatory Commission (ERDA/NRC) (formerly Atomic Energy Commission)	1648	1529	1615	2083	1982	2346
Reinvestigation Program of ERDA/NRC	348	553	485	467	381	203
Departmental Applicant/U. S. Courts Applicant	4737	4964	5835	3576	1492	1224

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

	1970	1971	1972	1973	1974	1975
Special Inquiry						
a. White House and Executive Branch	892	888	1218	979	1127	1163
b. Congressional Committees	87	110	76	98	84	259
Maintenance Employees	724	775	500	767	996	947
Total	10046	10388	10949	9146	7108	6815

In early 1975, at the request of the SSC and the House Select Committee on Intelligence Activities (HSC), we began conducting applicant-type investigations of personnel assigned to these committees and also of applicants for positions with these committees. Through January 6, 1976, we have conducted 160 such investigations received from the SSC and 39 received from the HSC. Although no charges have been made, the costs involved at the current rate would be $338,720 for the SSC and $82,563 for the HSC, for a total of $421,283.

Pursuant to Constitutional Amendment 25, approved in 1967, the President requested an investigation in October of 1973, concerning Gerald R. Ford for the appointment to Vice President. Then in August, 1974, an investigation was conducted at the request of the President concerning Nelson Aldrich Rockefeller, Vice President-Designate. Thus, for the first time in the history of the United States Government, an applicant-type investigation was conducted concerning the President and Vice President. These were the most extensive investigations ever conducted by the FBI of an applicant-type nature.

The investigations handled by the FBI are limited to existing law, executive order, or by special agreement with the President and/or the Attorney General. They are not routine and it is not believed they should be or could be eliminated.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

Where possible, steps have been taken to insure that these cases are kept to an absolute minimum. It is noted prior to July, 1973, the FBI conducted investigations concerning nonprofessional positions in connection with Departmental applicant/U. S. Court applicant investigations, such as general clerical personnel. It was determined and agreed upon that these investigations could be handled by the Civil Service Commission and, therefore, they were transferred to that agency.

A manpower utilization survey conducted during March, 1975, disclosed that 2.3% of field investigative time by FBI personnel was being devoted to these applicant-type investigations conducted for other Government agencies. This low percentage is indicative of the Bureau's efforts to hold down applicant-type work to that essential and necessary to meet our various commitments in this field. We have and will continue to oppose legislation seeking to involve the FBI in routine applicant-type investigations.

○