

THE WATCHDOG BARKS AT SNOOPING: ARMY POLITICAL SPYING FROM  
1967 TO 1970 AND THE MEDIA THAT OPPOSED IT

by

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## ABSTRACT

When a former Army Intelligence captain, Christopher H. Pyle, published an article in The Washington Monthly in January, 1970, concerning Army Intelligence's spying on civilian domestic political activities, it touched off a controversy that lasted thirteen months. This thesis examines the history of Army Intelligence, how it became involved with civil disturbances, how it began spying on civilians in the United States in 1967, and how extensive this spy network became by early 1970. It also examines the Army's and the government's chief antagonist in the controversy, The New York Times, the newspaper of record that published more and longer articles on the dispute than any other media form. The Times' historical skepticism toward power and the government is traced in addition to the editorial comments of the paper concerning Army spying. Although it is purely speculative to say The New York Times changed domestic intelligence with its editorials, the fact is that the controversy spurred two major reforms--intelligence reorganization and tighter civilian control of the military--and these were the things The Times advocated. But they were also the reforms most often discussed within the Army and the government. So The New York Times played catalyst in the controversy, not solely causing domestic intelligence changes, but rather helping spur, through press pressure, the implementation of frequently debated reforms.

## CHAPTER 1

### INTRODUCTION

Newspapermen say it all the time with pride. Presidents and many government officials acknowledge it grudgingly. Ordinary citizens rarely think about it but when they do they admit it is probably good it is there. "It" is the American press's self-appointed duty as government's watchdog.

The watchdog has done a lot of barking through a lot of years. In fact, this standing battle between government and the press has been going on for so long that it has grown into history's classic confrontation.

Hillier Krieghbaum, in his book Pressures on the Press, theorizes the confrontation will linger in America (Krieghbaum 1972): "If there were no frictions between newsmen and politicians, it would indicate either a breakdown in the media's long-time role as watchdog or the widespread selection of angels for jobs in both groups" (p. 2).

Supreme Court Justice Potter Stewart thinks the press justifiedly plays the watchdog role. In a concurring opinion in the 1971 Pentagon Papers case involving The New York Times Company and the government (U.S. Supreme Court 1971), Justice Stewart wrote:

In the absence of the governmental checks and balances present in other areas of our national life, the only effective restraint upon executive policy and power in the area of national defense and international affairs may lie in an enlightened citizenry--in an informed and critical public opinion which alone can here protect the values of democratic

government. For this reason, it is perhaps here that a press that is alert, aware, and free most vitally serves the basic purpose of the First Amendment. For without an informed and free press there cannot be an enlightened people (p. B3419).

The press has been around quite a while and has served many masters. In early 1970, a former Army Intelligence captain named Christopher H. Pyle played Pavlov with the watchdog.

Pyle (1970), at that time a Columbian University Ph. D. candidate, told his country through the press that "for the past four years, the U.S. Army has been closely watching civilian political activity within the United States" (p. 4). Pyle asked Congress in January, 1970, to withhold the Army's operating funds until this wrong, as he saw it, was righted. Newspapers and other media forms duly noted Pyle's position, but their treatment of this mid-winter story was not spectacular.

It was not until additional former Army Intelligence agents stepped forward and agreed with Pyle that they too had snooped on civilians not connected with the Defense Department; not until the American Civil Liberties Union initiated court cases alleging violations of lawful dissenters' civil rights; and not until a full-scale investigation headed by Senator Sam J. Ervin, Jr., was pending that the watchdog started barking with all its strength.

Before the dust settled in early 1971, the administrations of two presidents had come under fire, the intelligence activities of the military had slipped further under civilian control, and a reorganization of America's domestic intelligence structure was under way.

Certainly the Army's gathering of information on civilians will be remembered as more than the media screaming at the government to cease collecting, to desist from ever again collecting, and to destroy whatever had been collected. Undoubtedly another chapter in the continuing clash between the press and government had been written.

The watchdog barked at Army snooping and all across America's sleeping neighborhoods, eyes opened. What they saw when they opened was history's classic confrontation: a powerful government on the one hand and its censor, the press, on the other.

## CHAPTER 2

### THE MEDIA FORMS

One thing was clear concerning the media reaction to Army spying: the print forms spearheaded the attack. Newspaper and magazine articles stay around longer than transitory radio and television news broadcasts. A further point can be made that newspapers led all other print forms in upbraiding the government. There are simply more newspapers with more viewpoints than there are news magazines or journals. These points are significant for this study because they narrow the media field to a single strong representative, newspapers.

As indicated, "media" covers a vast area and as used here refers to newspapers, radio news, news magazines, and television news. Newspapers were chosen because of their middle-ground news presentation approach: they are slower than the broadcast media but faster than news magazines.

Newspapers cannot hope to supply news to people as quickly as radio or television. The mere fact that they must be printed obviates instant distribution. Despite the slowness of newspaper news delivery when compared to radio and television, news nevertheless does not stagnate in the composing room. No more than twenty-four hours elapse between fresh editions.

This is not so with news magazines. News has a decided chance of going stale in news magazines because of the elaborate weekly printing and distribution chores involved. So with respect to news delivery speed, newspapers stand in the middle. They are not nearly as rapid as radio and television news, but they are certainly faster than news magazines.

Speed raises another area where newspapers stand in good stead. Radio and television admittedly get the word, in one case, and the word and picture, in the other case, to people faster than any other communicative vehicle. But the news dosage these two dispense may not be adequate. For the most part, radio and television are primarily in the entertainment business and news comes as a five-minute spot or a thirty-minute wrapup several times a day. The best they can hope to do with late-breaking stories is provide truncated, hard-hitting, who-what-where-when versions. As a result, when someone asks, "Did you hear about such-and-such?" the radio-television news watcher responds "Yes," because that is all he knows, that he heard about it. The story's how and why are generally left hanging.

Not so with newspapers. Except in instances where news breaks as the pressman presses the start button, newspapers fill in the how and why for most stories. They can hit just as hard as radio and television, yet they can also treat most subjects in depth. They can lend understanding and background to the flashing event.

News magazines certainly come off as well as, if not better, than newspapers in lending understanding. In fact, news magazines hang their hats on the understanding-background-interpretation peg. It

would be a waste and news magazine editors know it, to publish the bulletin-type stories that dot newspaper front pages or explode across television screens. Most people would look at such items and say, "That's not a bulletin, I read it two days ago in the newspaper." But people read news magazines for analyses of events. They search for a story's meaning and find it in news magazines...

Because of this newspapers again emerge near the center. They have pretty well clobbered radio and television with their sometimes-bulletin, sometimes-interpretive approach. If the story is hot enough, newspaper readers can dwell on hard facts--the who, what, when, and where they will get through radio and television news. But in addition, if they want to go beyond the headlines, they can usually read about why and how an event occurred. Newspapers' striving for interpretation has grown so dramatically in recent years that sometimes the how and why are the headlines.

At the other end of the spectrum again are news magazines with their how-and-why emphasis. A reader will not learn what his favorite professional football team did in that big one last night, but he might find out how the team did last weekend and what its coach thought of the defense.

#### Newspaper as Media Spokesman

So newspapers have just enough time between editions, with a little luck, to put together rather well-reasoned interpretive pieces as main story sidebars. This way they give the depth missing on television and radio along with the hard-hitting stories, while

simultaneously avoiding the sameness of news magazines' strict interpretation.

Newspapers also emerge ahead of radio and television because their staffs can basically devote themselves to one thing--gathering and reporting news for the sake of news. In radio and television, news programs do not attract audiences. Entertainment shows do. With few exceptions, radio and television are entertainment-oriented and secondarily news-oriented.

The opposite is true with newspapers. To be sure, newspapers run comics and feature sections, but rarely are these a paper's main selling point. There is also advertising which often crowds news. But it is probably safe to say those people who disregard newspaper advertising and comics for the news columns far outweigh those people who disregard radio and television music, comedy, and drama for their news broadcasts.

In this area news magazines run alongside newspapers because they devote most of their space, with the exception of advertising, to news at entertainment's expense.

#### The Press as a Government Skeptic

Besides this, newspapers have opposed government on many issues almost from the time Benjamin Harris published America's first newspaper. Americans have come to expect newspapers to voice opposition. James Reston of The New York Times characterized the press's attitude toward government (Berdes 1969) by saying, "The press was always skeptical of power; the press always tended to follow Mencken's idea

that there was only one way to look at a politician, and that's down" (p. 88).

Tom Wicker, also of The New York Times, supports the idea that the public needs newspapers for explanation: "The press . . . has the function . . . to interpret the government to the people, to explain the actions of the government to the people, to put in proper perspective for the people the actions of the government" (Berdes 1969, p. 108).

Harris saw America's first newspaper suppressed and destroyed because he had published it without government authorization. Wicker thinks newspapers have done more than oppose government publishing rules. He thinks newspapers have become a legitimate check and balance on government:

Government operates in many ways through the power of the press and the government is restrained in many ways through the power of the press. Perhaps we're less a fourth branch of government than another one of the checks and balances we talk about so much. Maybe that's the same thing. But it's quite obvious to me that the power of the press, which is only to say the power of public opinion or, again, the atmosphere of events, can be a substantial check upon government (Berdes 1969, p. 109).

Indeed, as Reston said, newsmen have always been skeptical. They ask government the probing questions because they know the large public behind them is asking the same questions. Newsweek's military affairs reporter Lloyd Norman said "I'd rather see suspicion than just assuming everything the government does is good, Uncle knows best, and if Uncle Sam says so we have to accept it" (Berdes 1969, pp. 142-43).

So the argument is back at the watchdog concept. Radio news, newspapers, television news, and news magazines all bark a bit here and

there. They each have individual gripes yet express them differently. Newspapers, however, ride the middle ground, the approach with the best balance. And it is newspapers that stand as government's most effective extra-legal check and balance.

## CHAPTER 3

### THE NEW YORK TIMES, A CHECK AND BALANCE

Discussions about newspapers and governmental checks and balances usually bring a mention of The New York Times: one of America's best checkers and balancers.

The New York Times today stands near the forefront of the American newspaper industry and its challenges to government have contributed to its lofty position. The Times' editorial policies and its staff's reportorial expertise have gained for the paper widespread acceptance by and influence over the American public.

In the context of this work, The Times was selected as media representative primarily because it is a newspaper of record. Gay Talese (1969), in his book on The Times, explains the paper's policy:

The Times is expected to cover this kind of story, the single spectacular event, as no other newspaper in the world. This expectation is partly based on The Times' traditional commitment to being the paper of record, and partly on the fact that The Times has the facilities for meeting any emergency--its large reportorial staff with supernumeraries waiting in the wings; its many deskmen, rewrite men, and clerks in the infinite morgue, a combination that permits large volumes of copy to be quickly processed, checked, and fortified by background or sidebar material; its financial wealth that will support any expense in communications and travel; its echelons of editors who, while they sometimes seem to get into one another's way during those days when the news is normal, nevertheless can transform themselves into a remarkably well-coordinated team during a crisis. And finally, mixed in with this melange, is the unseen force of the ruling family, the ghost of Ochs.

Many years ago, after a task force of Timesmen had acquitted themselves very well on a big story, the editors sat

around at conference the following day extending congratulations to one another; but Adolph Ochs, who had been sitting silently among them, then said he had read in another newspaper a fact that seemed to be missing from The Times' coverage. One editor answered that this fact was minor, and added that The Times had printed several important facts that had not appeared in the other newspaper. To which Ochs replied, glaring, "I want it all." (p. 29).

The New York Times and other newspapers have not slackened in efforts to get what Ochs wanted and clashes between newspapers and government have resulted. These clashes have occurred not only because newspapermen believe the whole truth to be sacred, but also because government has tried to manipulate news to suit its own ends. Tebbel (1969) makes this point in his The Compact History of the American Newspaper: "The history of the American newspaper is a record of the Establishment's effort to control the news and of private individuals to disclose it without restriction" (p. 11).

Despite the fact that American newspaper history, as Tebbel sees it, has been a struggle of newsmen to disclose facts with no strings attached does not necessarily make these disclosures legitimate per se. Persons in and out of government have often raised claims of "bad publicity" or a "biased press." During 1970, when The New York Times was carrying the flag of Pyle's crusade against the Army for allegedly spying on civilians, government officials were frankly dismayed by the press's handling of certain stories.

One such instance occurred in December, 1970. Eleven months after Pyle's article was published Army officials tried to soothe critics who charged military intelligence operations aimed at civilians had become a threat to political liberty. On December 6, 1970, Army

General Counsel Robert E. Jordan, III, issued a statement (U.S. Congress 1971) that said in part: "Army intelligence is not authorized to gather information on political activities, or on the activities of political leaders. Intelligence personnel are restricted to normal personnel-security activities and to certain activities related to direct threats against Federal property or personnel" (p. 1299). The next day, Secretary of the Army Stanley R. Resor affirmed Jordan's statement.

Not long after those denials, however, The New York Times published an editorial calling them and Defense Secretary Melvin R. Laird's announcement that he intended to bring domestic military intelligence operations under tight civilian control "another unconvincing chapter in a now familiar script." The editorial (The New York Times December 26, 1970) continued: "The pattern usually starts with Congressional or press disclosures of spying by military investigators on a wide range of civilian and political activities. These are followed by instantaneous official denials. Then, as evidence piles up, a high-ranking Administration spokesman pledges that there will positively be no recurrence of what only the day before was said never to have happened" (p. 16).

#### Why the Press Checks on the Government

What is it that obligates the press to stand as a governmental check and balance? National Broadcasting Company commentator Edwin Newman has part of the answer. He said on April 25, 1972, that often government officials chastise the press because it reports unpleasant

facts. He used the Vietnam War (The Allentown Morning Call, April 26, 1972) as his example: "The war has proven a mistake. Its day-by-day, repetitive . . . coverage . . . has brought home its horrors. In the process, . . . reporting the fact the war is still there has discredited those in authority. . . . They have turned on the media for reporting unpleasant facts" (p. 6).

Syndicated columnist Ernest B. Furgurson supplies another part of the answer (The Allentown Morning Call, April 24, 1972): "The press's problems with government are the public's own problems" (p. 6). He added government officials often try to convince the public the press prints unpleasant facts about them to advance its own mysterious aims.

But Furgurson (The Allentown Morning Call, April 24, 1972) concluded, "Whenever the words censorship, secret, trust, and responsibility are used in anger, the ordinary citizen should merely ask himself: Who has the motivation to cover up, to lie, to mislead--the press, or the politician scrambling to stay in office? The answer is a permanent truth" (p. 6).

If Furgurson's contention is a permanent truth, then so is the fact that The New York Times has a powerful influence on American citizens and their government.

#### The Times Through History

It has been that way for some time. History indicates "there was not a major paper [President Abraham] Lincoln could depend on, except The New York Times" (Tebbel 1969, p. 117). Even today, The Times is viewed in much the same way:

They regarded The Times as one of the few predictable things left in modern America and they accepted this fact with degrees of admiration and cynicism, seeing The Times with a varying vision: it was a daily miracle, it was a formula factory. But no matter. It was The Times. And each day, barring labor strikes or hydrogen bombs, it would appear in 11,464 cities around the nation and in all the capitals of the world, fifty copies going to the White House, thirty-nine copies to Moscow, a few smuggled into Peking, and a thick Sunday edition flown each weekend to a foreign minister in Taiwan, for which he would each time pay \$16.40. He would pay this because, with thousands of other isolated men in all corners of the earth, he required The Times as necessary proof of the world's existence, a barometer of its pressures, an assessor of its sanity. If the world did indeed still exist, he knew, it would be duly recorded each day in The Times . . . (Talese 1969, pp. 72-73).

Talese may have overstated somewhat, but Times editors view their worldly role in similar fashion. That role is also stated simply in The Times Credo: "To give the news impartially, without fear or favor, regardless of party, sect or interests involved" (The New York Times June 11, 1972, p. 65).

The Credo harks back to the central issue between government and the press--the reporting of facts, be they pleasant or unpleasant. However, government has become so complex that reporting and even determining fact is sometimes difficult. Talese (1969) looks at the problem:

. . . in Washington . . . some journalists have been known to write speeches for their favorite senators and to serve as unofficial advisors on policy, and . . . a large portion of the press corps's identity with the national interest had become so deep-rooted during and just after World War II . . . that it is now often impossible to see a sharp line of demarcation between the role of the press and that of the government. In a capital where there were more journalists, about 1,400, than Congressmen, and where the columnists may remain in power for decades while the politicians come and go, there is an understandable desire on the part of politicians to cooperate with the press, to flatter and possibly confuse

with confidence those journalists who are the most important or critical--but one result of close cooperation between the press and the government is that they often end up protecting the interests of one another, and not of the public that they presume to represent (p. 478).

### Cuban Independence and The Times

History, however, is full of instances of The Times fighting the government. In fact, it started with The Times' first issue on September 18, 1851.

The newspaper carried an editorial on the Cuban independence question. A Cuban uprising at that time failed to marshal support for independence and The Times concluded Cubans did not want their freedom. In the same breath, the paper opposed talk of the United States annexing the island.

The issue lingered for four decades until a revolution started in 1895. The Cuban people supported this one. By 1898, The Times was saying editorially the island's disorders must be stopped and if Spain could not do it, America should intervene.

History of the New York Times, 1851-1921 (Davis 1921) picks up the story:

As the situation became more critical The Times editorial page discussed the right of intervention according to international law, coming to the conclusion that the United States Government would undoubtedly be justified in taking that step, should it prove impossible to settle the Cuban question by other means, on the ground of safeguarding the peace and safety of our own people who could not be persuaded to sit quietly by while the Cubans were fighting for freedom. President McKinley afterward acknowledged that these articles had been of great value in helping him to clarify his own views about the rights and duties of our Government in the crisis (p. 226).

Another Times-government clash occurred in 1857 when Washington correspondent James W. Simonton uncovered what he thought was a land-stealing operation connected with a Minnesota railroad project. He charged that four members of the House of Representatives were involved. Simonton was called before a Congressional committee to testify about his charges. His facts were such that the committee admitted he was right and subsequently recommended expulsion of the four representatives Simonton said were involved. No further action was taken against the four, however.

#### The Star Route Mail Frauds

The scandal that came to be known as the Star Route mail frauds was uncovered in 1881 by Frank D. Root, another Washington correspondent for The Times. It involved the postal department's Star Routes, or those to small villages far distant from railroad and steamboat lines. Root alleged that senators and former senators were encouraging overcharges by Star Route contractors and sub-contractors for mail delivery when often mail was never even delivered.

Berger (1951) discusses the extent of the frauds in his book, The Story of The New York Times, 1851-1951: "Root had learned that the contractors had used padded petitions as a lever for appropriations; that in many cases there were more petitioners' names than the total route population. It was thorough reporting, and the consensus . . . was that the racketeers would end up in the penitentiary. The frauds totalled from \$4,000,000 to \$10,000,000" (p. 55).

Indictments were handed down in the District of Columbia and after numerous delays, the contractors finally came to trial in 1882 and 1883. Their defense was handled by a group of lawyers, led by Colonel Robert C. Ingersoll. The contractors were judged innocent of all charges. The government spent more than \$500,000 prosecuting the contractors and their Senate friends.

It was an insidious type of confrontation that occurred between the government and The New York Times just prior to World War I. During early 1915, The Times saw German aggression as a menace to the entire world and urged editorially that the American people not let Germany win the war. What happened in March of that year brought the issue to a boil. Davis (1921) describes it:

The culmination of these attacks upon The Times came in March, 1915 . . . before a committee of the United States Senate . . . .

. . . . .  
Because the editors of The Times had expressed their opinions on some questions of public policy, opinions not altogether in agreement with those of the Senators on the committee, they were summoned to Washington and asked if anybody was paying them for those opinions, and if so, who. The pretext for this inquisition . . . was The Times's opposition to the administration bill for the purchase of foreign ships interned in American harbors. The paper opposed this because it opposed the intrusion of the government into business, and because it had its doubts whether the purchase in time of war of ships interned to escape capture by the enemy was valid in international law. . . . The possibility that there might be room for two honest opinions on the subject did not seem to occur to the Senators (pp. 345-46).

What made the questioning so insidious was the senators straying from the committee's original intent and questioning Timesmen about their paper's policies. The issue took years to die out but not before The Times, and other newspapers, had their editorial say: "This is not

a personal issue. It is a question of the extent to which a government's machinery may be privately misused to annoy and attempt to discredit a newspaper whose editorial attitude has become distasteful and embarrassing" (Davis 1921, p. 350).

#### The Eastland Committee

A similar incident involving the Senate Internal Security Subcommittee headed by Senator James Eastland started in 1955. In that case, the subcommittee held public hearings concerning Communists working for American newspapers and centered the investigation on The New York Times. The subcommittee called thirty-eight witnesses, twenty-five of whom were from The Times.

The hearings ended in early 1956 after which several Timesmen either resigned or were fired for Communist affiliations. But in an editorial, The Times looked beyond the Eastland investigations:

We cannot speak unequivocally for the long future. But we can have faith. And our faith is strong that long after Senator Eastland and his present subcommittee are forgotten, long after segregation has lost its final battle in the South, long after all that was known as McCarthyism is a dim, unwelcome memory, long after the last Congressional committee has learned that it cannot tamper successfully with a free press, The New York Times will be speaking for the men who make it, and only for the men who make it, and speaking, without fear or favor, the truth as it sees it (The New York Times January 5, 1956, p. 32).

#### The Bay of Pigs Invasion

That was not the first time, nor would it be the last, that The Times spoke for the men who made it. The future would provide other examples in Tad Szulc and the Bay of Pigs invasion, Tom Wicker and the CIA story, David Halberstam in Vietnam, and Harrison Salisbury in Hanoi.

Szulc was The Times reporter who accidentally discovered the Cuban invasion plan in early April, 1961, while visiting friends in Florida. He immediately began work on a story. Despite specific denials by CIA Director Allen Dulles that an invasion was planned, The Times continued gathering facts and on April 6 carried Szulc's story. It was printed only after much internal debate and alteration.

Szulc's original story said the invasion was imminent and mentioned CIA sponsorship. Both points were toned down in the paper's final story, as was the headline which was chopped from four columns to one. These changes were precipitated largely by Reston, in conjunction with Times publisher Orvil Dryfoos, who feared the story might go against the national interest.

The invasion followed The Times story by ten days and was a disaster. Several days later President John F. Kennedy acknowledged that The Times might possess more influence than many people think. He told Turner Catledge, Times managing editor "Maybe if you had printed more about the operation you would have saved us from a colossal mistake" (Catledge 1971, p. 264).

#### The 1965 CIA Series

The CIA was involved in another government-Times confrontation in 1965. A CIA agent offered the Singapore Prime Minister a bribe to cover an unsuccessful 1960 CIA operation and when The Times heard about the bribe it started digging. Wicker was assigned to do a lengthy CIA series.

Word of the series eventually filtered through to Secretary of State Dean Rusk, who called Times publisher Arthur Ochs Sulzberger and Catledge. Rusk "did not suggest, specifically, that we kill the series. But he did make it clear that he believed publication of the series might upset delicate U.S. intelligence efforts all over the world, might endanger agents, might offend allies, encourage enemies, and otherwise harm the national interests and perhaps the national security" (Catledge 1971, p. 289).

After Rusk's telephone call, The Times asked former CIA Director John McCone to read the series. He made some corrections and suggested others to The Times. When the series finally ran, the results were startling: "Even with the degree of self-censorship we exercised, the fact remained that we had published the most revealing mass-circulation account ever written about the CIA and the agency was far from happy about our disclosures" (Catledge 1971, p. 290).

The CIA story was tame compared with Salisbury's foray into Hanoi in 1967. Salisbury's North Vietnam reporting in The Times was a bitter blow to an administration which had publicly maintained the war was going well.

Times dispatches often criticized the administration's war handling and frequently embarrassed and angered Presidents Johnson and Kennedy. Halberstam was The Times' South Vietnam correspondent during this turbulent period and he refused to believe the glowing, optimistic American military reports which predicted imminently the war's end. Halberstam saw the handwriting on the wall, that the war effort was doomed and continued reporting the war as he saw it.

President Kennedy even suggested to The Times publisher that the paper withdraw Halberstam from Vietnam. The Times, however, refused and stood by Halberstam. It was a worthwhile move for in 1964 his reporting won a Pulitzer prize.

Salisbury's reporting, on the contrary, failed to win the coveted Pulitzer, but it certainly disrupted the war picture the administration was feeding the American public. Salisbury was an assistant managing editor in 1966 when he first sought a visa to North Vietnam. His efforts continually met with failure through the summer and fall of that year.

On December 14, 1966, Washington reporters began asking whether American bombing of Hanoi was killing innocent civilians. Their interests were stirred by Hanoi radio broadcasts saying American planes had bombed residential sections of North Vietnam's capital and an American admission for the first time that U.S. warplanes had raided military targets inside Hanoi's city limits.

The time was ripe with speculation and the following day Salisbury received a cable from Hanoi telling him his visa request was approved. He went to Paris for his visa, then rode an International Control Commission plane into Hanoi. What followed was an uproar Washington had not experienced in some time. In a lengthy passage from The Kingdom and the Power Salisbury's reporting is discussed:

Harrison Salisbury's stories from North Vietnam began to appear in The Times during the last week of December, and they landed like bombs on Washington. In his first, after inspecting the damage in Hanoi and talking to the people, Salisbury reported:

"Contrary to the impression given by United States communiques, on-the-spot inspection indicates that American bombing has been inflicting considerable civilian casualties in Hanoi and its environs for some time past. . . . It is fair to say that, based on evidence of their own eyes, Hanoi residents do not find much credibility in United States bombing communiques . . . ."

Now in Washington, for the first time, American officials conceded to the press that American pilots had accidentally struck civilian areas in North Vietnam while attempting to bomb military targets. And a quiet bitterness and even an open hostility began to develop between some government officials and Timesmen in the Washington bureau.

"Here come the men from the Hanoi Times," said one official to two Times reporters from Wicker's bureau, one of whom liked Salisbury no more than the government spokesman. Secretary of State Dean Rusk, in a television appearance at the CBS studio, became aggressive with another Washington bureauman after the show; drinking his third Scotch, Rusk looked hard into the Timesman's eyes and asked, "Why don't you tell your editors to ask Mr. Salisbury to go down and visit the North Vietnamese in South Vietnam?"

A few nights before, as Punch Sulzberger slept in his apartment on Fifth Avenue, he was awakened by a telephone call from Washington. It was Secretary Rusk. It was around 10 p.m., and though not fully awake, Sulzberger thought he heard Dean Rusk saying apologetically, "I hope I haven't taken you away from the dinner table."

Sulzberger, forty-one years old, was too embarrassed to admit that he had gone to bed so early. But he was alert enough to know that Rusk was surely calling about Salisbury.

"What were his instructions?" Rusk asked Sulzberger.

"He had no instructions," Sulzberger said.

"When is he coming out?"

"I guess I'll have to amend that, sir--he did have instructions to stay as long as he could with the proviso that he not become the resident correspondent of The Times in Hanoi."

"Is Mr. Salisbury asking the right questions?"

"I hope so," Sulzberger said.

There was no hardness in Rusk's voice--none of the tension that Sulzberger remembered of his talk with John Kennedy when the President wished to have The Times replace Halberstam in Vietnam. After Rusk had hung up, Sulzberger called Clifton Daniel and asked him to call the Secretary of State back and get from him any questions that Rusk might wish to have Salisbury ask the North Vietnamese. Daniel did, but Rusk had no questions (Talese 1969, pp. 446-448).

The clash over Salisbury's reporting would not be the last between the government and The Times. The late 1960's brought Army spying on civilians and the early 1970's brought the celebrated Pentagon Papers case. Nor was it the first: ". . . the most important inhibition of truth in political reporting can be charged to government. And it always could be. Nothing is more absurd than thinking of news control by government as a modern phenomenon" (Lee 1970, p. 48).

#### Presidential Manipulation of News

Lee (1970) claims government has managed news throughout history. In his Politics and the Press he adds: "Public officials, believing in their plans and programs, have always sought to shape the news, to manage it, to twist it to their advantage" (p. 53).

Reston (1966) says much the same thing in his book, The Artillery of the Press: "The President's attitude toward the press sets the pattern for the rest of his Administration" (p. 67). Whatever you choose to call it--news management, manipulation, beating reporters--it is a part of history. It is still the government putting itself in the best possible light. Keogh (1972) furnishes an interesting story from his book, President Nixon and the Press:

The President was angry. He complained bitterly that the press was printing lies about his Administration and attempting to ruin almost everything that it was trying to do. These

attacks by journalists, he said, were "outrages on common decency." Members of the Cabinet felt that the press literally was making the President ill. He told his associates that if disregard for "truth and fairness" and "willful and malignant misrepresentation" continued, it might become nearly impossible to govern the country. And he brooded about finding some way to give the people "a clear and comprehensive view of the facts."

Was that President Nixon? No, it was George Washington (p. 16).

What Keogh is saying is that it all started in the beginning. Washington was not alone in his feelings. Most presidents depart office feeling mistreated by the news media.

The alien and sedition acts were aimed, in part, at the press in that the sedition act pertained to dissenting journalists. However, few persons were prosecuted under the act and journalists continued their criticism of government unabated.

It was not until Abraham Lincoln took office that the press confronted a skilled public relations man in the White House. The press condemned Lincoln for the censorship imposed during the Civil War, yet he took journalists under his wing, sought their advice, and often took it. Even under attack, Lincoln was appealing. He once asked a New York World reporter:

Do you gentlemen who control so largely public opinion, do you ever think how much you might lighten the burdens of men in power--those poor unfortunates weighed down with care, anxieties, and responsibilities? If you would only give them a consistent and hearty support, bearing patiently with them while they seem to be making mistakes and giving them credit at least for good intentions, when these seem not to be clear, what comfort you could bestow! (Keogh 1972, p. 23).

Few presidents after Lincoln used that approach. They decided it was better to accept press criticism with official silence.

That is, until Grover Cleveland came along. Cleveland instituted regular press meetings, a presidential first, but he also made it clear how he felt about journalists at those meetings. He rarely had a kind word for newspapermen.

It was William McKinley who allowed reporters into the White House lobby and who sent his secretary to meet reporters each night to discuss the day's happenings. Even then, The Times' influence was strong. The Story of The New York Times, 1851-1951 (Berger 1951) tells of an Ochs White House visit several weeks before McKinley was shot:

As he waited for President McKinley he noticed a copy of The New York Times open on the Chief Executive's desk. He said to the President's secretary, "I guess this would be the equivalent of putting out the visiting relative's own picture when the relative is expected." The secretary assured him the open Times was no social prop. He said: "It is the first newspaper Mr. McKinley reads each morning. It would have been there whether you had come or not" (p. 137).

McKinley laid the groundwork for a regular press relationship and Theodore Roosevelt carried it further. He held regular personal meetings with reporters. Roosevelt was colorful, as Jefferson, and made strong copy. Despite his appeal, he made certain all reporters knew they would get nothing were they to publish anything he thought should be suppressed.

Roosevelt proved a tough act to follow and William Howard Taft's performance for the press was anti-climactic. But his successor, Woodrow Wilson, dramatically established press conferences with large numbers of correspondents. There was probably only one other way, after Wilson's initiative, to bring the press closer to the president, and that was to put a newspaperman in the White House, Warren G. Harding

was that newspaperman. He was a publisher and owned the Marion, Ohio, Star. Understandably, his rapport with the press was probably better than any president in history.

Franklin D. Roosevelt also established strong rapport with the press. He succeeded primarily because most White House reporters were emotionally in his camp. He generally held news conferences in his office and reporters could use nothing without his express permission. Conference transcripts were also prohibited. But he tried to meet with reporters as often as possible during his three full administrations and part of a fourth. In that time, Roosevelt held 998 press conferences, an average of about 83 a year. This is not to say he never differed with the press, but when he did his criticism was usually directed at the owners and publishers of newspapers and only infrequently at reporters.

Dwight D. Eisenhower picked up where Wilson left off. It was Wilson who established the press conferences with great numbers of reporters and it was Eisenhower who allowed reporters to quote directly from conferences. He also allowed radio and television to tape his conferences.

John F. Kennedy introduced live telecasting of press conferences and was initially close to the press. However, in the years following his death he came to be labeled as a news manager. How this came about is explained in President Nixon and the Press: "Arthur Krock, who had been reporting on Presidents for half a century, wrote that Kennedy's deliberate management of the news, by both direct and indirect methods, was 'enforced more cynically and boldly than by any

previous administration.' There was only one reason why Kennedy could go as far as he did with this: the newsmen were for him" (Keogh 1972, p. 34).

President Lyndon Johnson was also well-liked by the press because his anecdotal approach to the issues and his lively humor made good copy for reporters. The press, however, turned against him as evidence of his lying to the American people over the Vietnam War surfaced.

All of this--the recounting of the prominent clashes between The Times and government and the brief summary of presidential press relations--is meant to show that little is unique or unusual about The New York Times confronting the government. In a way, it is almost inevitable, given The Times' outlook. It is a newspaper of record, people expect it to pay attention to its world and a lot of people expect the world to pay attention to The Times. That The Times clashes with government is also almost inevitable, given the way presidents have tried to manipulate news. This is emphasized in Politics and the Press (Lee 1970):

It is the myth that there can somehow be a neutral relationship between a politician or public official and the reporter or the press. That relationship can be good or bad, it can be tense or relaxed, it can be smooth and workable or angry and contentious. It can be all of those different things, but whatever it is, it can never be a neutral relationship. And the reason . . . why it cannot is that the process of news dissemination, as the politician would view it, is inextricably involved with the whole process and the competition for power that is at the very essence of the governing process (p. 63).

The press is saying, "We're here so things don't get too far out of hand." In this line, Cater (1959) tells an enlightening story in his book, The Fourth Branch of Government;

A more contemporary horror story concerns an American engineer, untrained in intelligence methods, who decided to learn what he could about the U.S. guided missile program while waiting for government security clearance. By diligent reading in his public library, he compiled a forty-five-page report giving information on our arsenal of missiles--name, model designation, manufacturer, guidance system, method of propulsion, length, diameter, range, and altitudes. The report was so accurate that it was promptly classified (p. 119).

With power like that it is easy to see why the press feels compelled to serve as a governmental check and balance. And with power like that, it is easy to see why that Army captain waited for his discharge to spill his story in The Washington Monthly instead of approaching his commanding officer and saying, "Sir, I've come across something a bit amiss in our intelligence operations these days."

## CHAPTER 4

### THE START OF ARMY CIVILIAN SPYING

The Army's civilian spying involvement and the progression that would lead to Pyle's charges started long before the summer of 1967, the period during which the Army began blatantly overstepping its domestic intelligence-gathering bounds. It all started when the Army assumed the role of civil disturbance peacekeeper. It was then the Army decided it had to be aware of factors in civilian communities that could come into play during civil disorder.

The Army's civil disturbance role can legitimately be traced to America's earliest days. Article IV of the Constitution includes a clause binding the national government to protect its citizens from domestic violence. Congress passed laws to enforce this clause in 1795, but they were seldom used.

In fact, federal forces were called upon to quell civil disturbances only thirty times between 1786 and 1921. Seven of these disturbances broke out immediately following the Civil War. In addition, until the mid-1950's civil disturbances never achieved the magnitude or regularity necessary for government contingency planning.

The year 1957 was the turning point. History changed in Little Rock, Arkansas, where public school integration flared into a national issue. It is generally agreed Army Intelligence got its fingers into the civil disturbance picture at this point. On September 24 of that

year, President Eisenhower sent the 1st Airborne Brigade, 327th Infantry, 101st Airborne Division, to Little Rock to help integrate Central High School. Ten Army Intelligence agents assigned to that airborne brigade went along to Arkansas (U.S. Congress 1971, p. 1291).

Little Rock, nonetheless, was an isolated case because five years elapsed before the Army deployed again for a civil disturbance. However, this time things went less smoothly. The scene was the University of Mississippi in Oxford and again the problem was integration. When the situation worsened and federal troops were called, the Justice Department found it lacked full situational information and sent too few troops. Two persons were killed and 250 injured.

The Oxford experience made the Justice Department increasingly aware of the need for current intelligence during civil disturbance situations. The Federal Bureau of Investigation was collecting this information, but apparently Justice Department officials thought it inadequate.

#### The Bureau of Investigation's Role

The FBI inherited this collection role in 1949. Prior to that time the Bureau had argued periodically with the Army, Navy, and Air Force about jurisdictions so the Delimitations Agreement of 1949 was prepared. This document clearly delineated which domestic intelligence missions belonged to which service. The Army's portion of the agreement was published as Army Regulation 381-115.

The FBI's role expanded in the early 1950's and has changed little since that time. Its authority (U.S. Congress 1971) for

intelligence gathering is derived from six sources:

(1) formal and informal presidential directives dating back to 1936 ordering it to gather information "concerning subversive activities being conducted in the United States by . . . organizations or groups advocating the overthrow or replacement of the Government of the United States by illegal means."

(2) criminal statutes, such as the espionage, sedition, selective service, and anti-riot acts, which authorize the Bureau to investigate political activities which may involve violations of Federal law.

(3) the Emergency Detention Act of 1950 under which the FBI has authority to assemble lists of persons to be rounded up and confined in detention camps should the President declare an "Internal Security Emergency."

(4) The Internal Security Act of 1950 which authorizes the FBI to gather information to be used by the Attorney General or the Subversive Activities Control Board in designating "subversive" groups.

(5) Executive Order 10450 authorizing Federal agencies to investigate the loyalty and suitability of persons being considered for sensitive Government positions.

(6) Presidential requests for investigations into the backgrounds of persons being considered for political appointment to high Government positions (pp. 177-78).

The fine line of difference between what the FBI was doing and supposed to be doing about domestic intelligence gathering and what Army Intelligence was doing would become a major issue in the late 1960's and early 1970's.

But in the early 1960's after the Oxford, Mississippi, deployment, things began to heat up. Civil disturbances occurred with greater frequency as troops were again deployed in Oxford in 1963. The military began centralized civil disturbance planning in May, 1963, when the Joint Chiefs of Staff instructed Strike Command to prepare control plans.

Strike Command was established in 1961, growing out of the 1958 Lebanon crisis. The United States sent a task force there to restore peace then quickly withdrew it, but that experience revealed two weaknesses in its operations. First, task force troops had to be drawn from existing units which were subsequently weakened. And second, the task force lacked comprehensive and decisive command and control. Strike Command was created to overcome these difficulties. Its fundamental purpose was "to furnish rapidly deployable, combat-ready forces in an emergency situation calling for a response on a scale less than all-out nuclear war" (Pizer 1967, p. 127).

This delegation of responsibility for future Federal troop use in civil disturbance situations came shortly after troops were committed in Tuscaloosa, Birmingham, and Huntsville, Alabama, in June, 1963, and were deployed though not committed in Washington, D.C., in August of that year. The Joint Chiefs of Staff made Strike Command's Commander-in-Chief responsible for selecting, moving, and pre-positioning Federal forces following Department of Defense direction. The Army's Chief of Staff was selected to command Federal troops either personally or through his designated representative whenever they were committed during a civil disturbance.

The year 1964 passed without incident and 1965 saw troops committed only once--in Selma, Alabama. However, twenty-one major civil disorders erupted during 1966 (U.S. Congress 1968, p. 18). That number increased to 83 major civil disturbances in 1967 and resulted in 83 deaths and 1,991 injuries.

### Army Intelligence Command Composition

It also resulted in deepening Army Intelligence involvement in civil disorder planning. The U.S. Army Intelligence Command existed in 1967 when the Army needed it most. Formed January 1, 1965, the Command consists of seven geographic areas known as groups. These areas correspond essentially to those of the Continental Army Command.

The 115th Military Intelligence (MI) Group, headquartered in San Francisco, includes the states of California, Oregon, Washington, Montana, Idaho, Nevada, Arizona, and Utah, while the 112th MI Group, headquartered at Fort Sam Houston, Texas, includes Texas, New Mexico, Oklahoma, Louisiana, and Arkansas.

The 113th MI Group, with its headquarters in Fort Sheridan, Illinois, is by far the largest in terms of area. It includes Wyoming, Colorado, Kansas, Missouri, Nebraska, North and South Dakota, Minnesota, Wisconsin, Iowa, Michigan, Indiana, and Illinois.

The 111th MI Group is headquartered in Fort McPherson, Georgia, and controls Tennessee, North and South Carolina, Georgia, Florida, Mississippi, and Alabama.

The 109th MI Group covers Kentucky, Ohio, Virginia, West Virginia, Maryland, Pennsylvania, and Delaware from its headquarters at Fort Meade, Maryland; while the 108th MI Group covers all of New England plus New York and New Jersey from its headquarters in Fort Devens, Massachusetts. The 116th MI Group is a special unit covering just Washington, D.C. There is also a special mobile unit, the 902nd, operating out of the nation's capital.

Prior to the Intelligence Command's formation, intelligence activities were performed by trained personnel attached or assigned to the continental armies. The Intelligence Command changed all that. It removed nearly 400 men from each area commander's control and transferred them to the Command. It established its own offices, its own operating procedures, and its own group designations. It was a bold but necessary move, said Army planners. Their reasoning was that these intelligence-trained personnel would handle their basic jobs better were they independent of the area commanders. Once established in the group configuration, intelligence agents settled down to conducting counter-intelligence activities and investigations of Army personnel desiring security clearances. And that was all.

The late 1966 and early 1967 rioting failed to make the Army fully realize it needed basic information about cities should it be called upon to quell civil disorders. The Intelligence Command realized this but minimized its importance. The attitude at the time was one of hope that civil disorders would cease to trouble America.

As a result, little was done in collecting city information and ". . . in 1967, the Army was caught unprepared when racial riots broke out in Newark and Detroit. Army troops called in to help restore order had little more than Esso road maps to guide them in both cities" (The New York Times January 18, 1971, p. 22).

The Newark and Detroit riots marked a turning point for Army Intelligence. Following Detroit, Cyrus Vance, the President's personal representative in that city during the disturbance, filed a riot report that said it part:

In order to overcome the initial unfamiliarity of the Federal troops with the area of operations it would be desirable if the several Continental Armies were tasked with reconnoitering the major cities of the United States in which it appears possible that riots may occur. Folders could then be prepared for those cities listing bivouac areas and possible headquarters locations, and providing police data, and other information needed to make an intelligent assessment of the optimum employment of Federal troops when committed (U.S. Congress 1971, pp. 378-79).

The Army read Vance's report, looked around and saw riots occurring more frequently, thought back to the Esso road maps in Detroit, and decided to re-evaluate its civil disturbance role. It established the Army Civil Disturbance Committee for this purpose.

#### Civil Disturbance Early Warning System

Simultaneously, the Intelligence Command was ordered to set up a nationwide civil disturbance early warning system. Major General William P. Yarborough, the Army's chief intelligence officer, complied by establishing a Continental United States (CONUS) intelligence communications center at Baltimore's Fort Holabird. It was linked to the Command's intelligence groups via a nationwide teletype system.

The center was designated CONUS Intelligence Section Operations IV or "CONUS Intel Ops IV." The nationwide teletype system began operating in late 1967 and connected all group offices to Ops IV and Ops IV to the Pentagon operations center and all standby riot units.

In addition to the Army Civil Disturbance Committee, another civil disorder study group convened following the Detroit riot (The New York Times January 18, 1971, p. 22). Undersecretary of the Army David E. McGiffert called together this group of Justice Department, White House, Army, FBI, Secret Service, and police officials. The meeting

turned into a pep talk. He knew a march on the Pentagon was scheduled for October 21, 1967, and McGiffert wanted a good showing should a disturbance erupt.

When the march took place, it represented an Army Intelligence milestone. It marked the first time Army Intelligence agents were employed covertly to gain information on a domestic demonstration. The agents operated in two-man teams and were secretly inserted into groups of demonstrators entering Washington for the rally. In addition, members of the 902nd MI Group photographed demonstrators (U.S. Congress 1971, p. 1292).

Despite these unusual preparations, the Army still underestimated how many people would show up, how long they would stay, and the amount of violence they would attempt. As a result, General Yarborough undertook a massive effort to keep tabs on individuals and groups suspected of being riot agitators.

#### Blacklist, City Packets, and the Compendium

Army Intelligence stormed ahead, getting further involved with each new step. During the fall and winter of 1967 and early 1968, the Intelligence Command began compiling the Identities List or "blacklist" and city packets, while the Counterintelligence Analyst Branch of the Office of the Assistant Chief of Staff for Intelligence produced the Compendium.

The blacklist was exactly what its name implied--a mug book, in pure and simple terms, containing pictures and descriptions of those the Army considered potential troublemakers. It was distributed

throughout the Intelligence Command and despite its unimposing nature in late 1967, grew to six large volumes by 1969.

Prior to the city packet effort, 150 cities were selected as potential civil disturbance areas (U.S. Congress 1971, p. 193). Intelligence agents sent to these cities gathered information for the packets. This information was primarily tactical in nature and included places troops would arrive and stay if deployed, police and fire station locations, and suspected trouble points. Upon completion, the packets were distributed to all Army Intelligence units, Army commands responsible for the cities, local, county, and state police, and National Guard units.

The Compendium was a short title for Counterintelligence Research Project: Individuals and Organizations of Interest and Cities of Interest. This divided groups and individuals into categories the Army labeled left-wing, right-wing, or racial. It went to the same people who received the city packets, in addition to the FBI, CIA, and U.S. embassies in Canada and West Germany.

During this collection phase, Army personnel slipped into the political field by requesting from police officials names and photographs of possible riot agitators (The New York Times January 18, 1971, p. 22). These data were relayed to Washington and combined with similar FBI and Secret Service information. McGiffert then told the intelligence community to predict when and where civil disorders might occur.

That order not only deepened Army Intelligence involvement in essentially civilian matters, but also proved nearly impossible to fulfill. The Army even issued a comprehensive civil disturbance plan in

January, 1968, to assist prediction. An intelligence annex was added to the plan further detailing intelligence's disturbance planning role.

But it was of little use. The Army was indeed better prepared than ever before for the rioting following the Reverend Dr. Martin Luther King's assassination. Yet no intelligence organization predicted rioting would occur in nearly 100 cities. Nor could any intelligence organization have predicted that by April, 1968, just under 69,000 soldiers would have been called to riot duty. One thing was certain, however, as Pyle pointed out: during these riots, military intelligence agents were "the eyes and ears of the Army Operations Center at the Pentagon" (U.S. Congress 1971, p. 194).

Despite Pyle's claim, there was still a fair amount of dissatisfaction with intelligence reporting. McGiffert was in the Pentagon's war room during the King rioting and "during the space of 30 to 40 minutes we got six reports on the whereabouts of Stokley Carmichael. The reports on him . . . were divided on whether he was a calming or provocative influence . . . I believe two said he was in Georgetown, two or three said various parts of black neighborhoods, one said Baltimore, and one said Richmond" (U.S. Congress 1971, p. 195).

Reporting like this precipitated further action. On April 12, 1968, McGiffert sent a letter to Warren Christopher, Deputy Attorney General, wherein he discussed reporting procedures as they existed at that time, then added:

Without criticizing any of these efforts, which seem to me admirable, I nevertheless believe that we should consider establishing some kind of domestic civil disturbance intelligence board--with representation from Justice, Defense, and other appropriate agencies--which could explore from a high

level means for improving the collection, production, and dissemination of intelligence information relevant to civil disturbance. In particular we need to see whether we are doing the best we can in regard to the kind of intelligence which might give us reliable warning of civil unrest (U.S. Congress 1971, p. 1282).

The following day the Army's Chief of Staff set up a Directorate for Civil Disturbance Planning and Operations and Army Intelligence activities intensified. On May 2 an Intelligence Command operations plan gave its agents additional collection requirements. Agents were covertly inserted into Washington Spring Project March groups heading for the nation's capital. Their job was clear--provide information on the capabilities and intent of the protest groups.

The jobs of other intelligence agents covered in the May 2 operations plan were not as clear. They were instructed to report anything with even the slightest civil disturbance connection. The directive was vague, but that was not uncommon. In retrospect, the unclear nature of civil disturbance operations plans probably contributed greatly to the Army's heavy involvement in civilian spying.

Strike Command did it back in the late 1950's by allowing local commanders to decide when to start collecting civil disturbance information. The only restriction was that they not begin collecting such information until an outbreak of violence became probable. That word "probable" was evidently interpreted many different ways and the Army became a little more involved.

In May, 1968, another vague order emerged. Report on anything with even the slightest civil disturbance connection, it said. Obviously some agents saw certain things connected to civil disturbance

planning while others did not. The Intelligence Command, therefore, received spotty and inconsistent reports.

The civil disorder situation deteriorated during the Poor People's Campaign and following Senator Robert F. Kennedy's assassination in June, 1968. On June 8, Deputy Secretary of Defense Paul Nitze gave the Secretary of the Army responsibility for planning and providing operational and intelligence data to higher commands. By the time the Secretary of the Army's information requirements filtered down to intelligence groups it was another vague request.

Information deluged the Intelligence Command as field commanders having difficulty interpreting their collection requirements figured it best to send everything forward instead of being accused of shirking their duty. Computers were installed at Fort Holabird, Fort Monroe, Virginia; and Fort Hood, Texas, to catalogue and collate civil disturbance information.

#### CONUS Intelligence in Full Stride

By the end of 1968 CONUS Intel Ops IV had been shortened to simply CONUS Intelligence, and it was racing along at top speed. The Intelligence Command had used agents posing as civilians to record videotape interviews with dissidents at the Democratic National Convention in Chicago in August. Videotape interviews were also made with dissidents in San Francisco and Baltimore during October and November (U.S. Congress 1971, p. 1293).

Until early 1969 Intelligence Command units sent forward an average of 400 spot reports (high priority messages sent via teletype) a

month on potential civil disorders. In addition, the Undersecretary of the Army was briefed on this material three times a week and the Assistant Chief of Staff for Intelligence published a monthly civil disturbance report.

The extent of computerized files accumulated at that time is difficult to determine. But considering the wholesale collection effort that took place, certainly Army Intelligence gathered political information outside the military realm. And there appeared little chance of slowing the CONUS Intelligence operation. At least not after Brigadier General William H. Blakefield, head of the Intelligence Command, told his agents concerning their reporting tasks to "beat the AP" (U.S. Congress 1971, p. 196).

## CHAPTER 5

### CONUS INTELLIGENCE UNCONTROLLED

CONUS Intelligence was out of hand in early 1969, but people within the government had already begun realizing this. One of the first to notice it was Major General Joseph A. McChristian. He took over as Assistant Chief of Staff for Intelligence for Major General Yarborough in August, 1968, and routinely received a CONUS Intelligence briefing. Having just returned from Vietnam, McChristian was unaware of stateside intelligence activities. But when he heard what Army agents were doing, he ordered a curtailment of the operation because he believed it took too much time from other military intelligence tasks (The New York Times January 18, 1971, p. 22).

He had the right idea in late August, 1968, but the Justice Department had other ideas. A stumbling block was thrown in McChristian's path mainly by the Justice Department, because it was benefitting from Army-supplied information. Justice and other departments found their work loads minimized when the Army collected these data.

The Federal Bureau of Investigation was a classic example. The Army became so deeply involved in civilian matters in the first place partly because of the FBI's stance. Imprecise collection plans and orders the Army issued of course played a major role, but the FBI was important too. When Washington screamed for more information and better

civil disorder predictions, the FBI screamed back it did not have the manpower for the job. Recruiting and training new agents was too expensive and time-consuming. So the FBI looked around, saw Army Intelligence beginning its collection activities, and asked, "Why not?" The Bureau elected to allow the Army free rein even though to do so meant the Army would assume FBI areas of responsibility.

There was much close coordination between Army Intelligence and the FBI in cities where demonstrations or rallies were scheduled. In many cases the two agencies discussed rallies beforehand. If the Army expressed an interest in surveilling, the FBI would give the go-ahead. In this sense, both the Army and the FBI were abiding by the Delimitations Agreement. Civil disturbance reporting was the FBI's responsibility under this agreement, but there was nothing forbidding the FBI from delegating its responsibility here and there. Following any rally, the two agencies would meet again, discuss the incident, and send reports through both military intelligence and FBI channels.

The Justice Department proved a strong lobby against the Army's collection curtailment. But McChristian's move was still significant because it raised doubts over the propriety of CONUS Intelligence and marked the first attempt to stop the program.

#### Chicago and the Army Security Agency

McGiffert discovered what McChristian tried to do and soon began having nagging doubts also. For him the issue crystallized in October, 1968, when he discovered what Army agents had done at the Democratic National Convention.

The unit employed in Chicago was the Army Security Agency (ASA), normally involved only in electronic surveillance of foreign countries and in detecting Army electronic security breaches. Stout (1970), investigative reporter for Washington's Newhouse News Service, tells the story:

ASA men reportedly eavesdropped on protestors and politicians, and at one point intercepted a message from Sen. Eugene J. McCarthy (D., Minn.), offering medical aid for injured protestors.

.....  
 Convention leaders and such party officials as the then national chairman . . . John M. Bailey . . . were never told that military agents were on the floor. A Bailey aide and key convention planner, John Meek, said: "If it had been brought up to me, I would have opposed their use on the floor." Nor were any of these officials told either about the extent and purpose of the ASA's electronic surveillance activities.

Although the Secret Service denied that military agents had orders to spy, each intelligence unit filed a detailed report after the convention. Former intelligence analysts said the reports included the identities of persons deemed worthy of future watching (p. 681).

McGiffert learned of the Army's Chicago presence when the Justice Department requested the Army's convention videotapes for possible use in the Chicago Seven conspiracy trial. After some personal investigation McGiffert issued a February 5, 1969, memorandum in which he said possibly military intelligence had exceeded its authority and from that day forward, no covert operations would be conducted. McGiffert left his post as Undersecretary of the Army shortly thereafter.

Seeing McGiffert's investigation as support for his position, McChristian repeated his restrictions in late 1969. The Justice Department balked again but McChristian persevered and instructed Army

agents to spend more time on security clearance investigations and less on CONUS Intelligence.

Christopher Pyle Tells All

McChristian's order preceded Pyle's Washington Monthly expose by only a few weeks. Once Pyle's story was printed, the lid blew off CONUS Intelligence (Appendix A).

In the article titled "CONUS Intelligence: The Army Watches Civilian Politics," Pyle (1970) acknowledged that when CONUS Intelligence began its purpose was legitimate--to provide early warning of civil disturbances the Army might be called upon to quell.

But he added he thought the operation had slipped out of control:

Today, the Army maintains files on the membership, ideology, programs, and practices of virtually every activist political group in the country. These include not only such violence-prone organizations as the Minutemen and the Revolutionary Action Movement (RAM), but such non-violent groups as the Southern Christian Leadership Conference, Clergy and Laymen United Against the War in Vietnam, the American Civil Liberties Union, Women's Strike For Peace, and the National Association for the Advancement of Colored People. (p. 5).

Pyle disputed the justification for Fort Holabird's computer which he said differed from other computers used by national law enforcement agencies. The nature of CONUS Intelligence information made it different. It was not restricted to information on persons arrested for or convicted of crimes as other law enforcement agency computers. Instead the Fort Holabird computer specialized in data on persons engaged in lawful political activity.

Pyle realized the Army needed domestic intelligence information. Otherwise Army personnel would not be familiar with cities prior to deployment during civil disorders or national disasters. But Pyle refused to classify personality files of politically active civilians as domestic intelligence information. Furthermore, he said files like these could easily be converted to arrest lists containing persons considered insurgents by the Army.

His argument was that the United States was far from an insurgency environment. And even if such a condition developed ". . . the Army has no authority to round up suspects the moment civilians take up arms. The seizure of civilians on suspicion of conspiring or attempting to overthrow the government by unlawful means or of inciting people to crime is, and continues to be, the responsibility of local and state police and of the FBI" (Pyle, 1970, p. 8).

Although he never mentioned it specifically, Pyle hit upon a vital part of the Army's involvement in civilian political data collection--the fact that the FBI suffered a manpower shortage and Army Intelligence relieved that shortage.

In his article, Pyle expressed concern over CONUS Intelligence's public impact. He said it was having a dramatic effect on individual rights, the democratic process, and the nation's security. The Constitution granted people the right to free speech and assembly yet Pyle said Army Intelligence now infringed on these basic rights. As for damaging the democratic process, he said if politically active civilians knew the Army was watching them and collecting detailed information

about them, they might be dissuaded from participating in the nation's political processes.

Pyle (1970) also maintained CONUS Intelligence was affecting national security in two ways:

First, by increasing the "cost" of lawful political activity, it tends to force extremist groups to go underground, there to act out their us-versus-them view of politics by criminal means. Second, by intruding too closely into the lives of government employees (or prospective employees), it tends to inhibit them from applying for jobs requiring security clearances or from exercising initiative and imagination in those jobs (p. 13).

To right the wrongs Pyle advocated a court challenge of the Army's authority to possess data for which he claimed it had no need. Pyle added legal proceedings could also challenge CONUS Intelligence's very existence which he claimed inhibited First Amendment rights. He asked Congress for open hearings on the program.

. . . not only to inform itself and the public, but to remind the intelligence community . . . that their authority to spy on civilian politics must be construed strictly, in accordance with such established principles as civilian control of the military, . . . state and civilian primacy in law enforcement, compartmentalization and decentralization of intelligence, and obedience to law (p. 15).

Pyle may not have realized it in 1970, but he had captured the trend of the future by insisting on further civilian control of the military. Less than a year later, Secretary of Defense Laird would affirm this principle with respect to the domestic intelligence community.

In addition to seeking court challenges and Congressional hearings, Pyle asked that Congress withhold funds for the computer operation as a means of encouraging Army reform. He requested Congress

relinquish no money until the Army limited CONUS Intelligence to incident reporting, prohibited Command from converting incident reports to personality reports, established safeguards against the abuse of individual rights, and established a civilian advisory board to review the sufficiency of these safeguards.

Pyle (1970) concluded:

The United States may be able to survive the centralization of intelligence files without becoming totalitarian, but it most certainly cannot become totalitarian without centralized intelligence files . . . . The fact that we may trust the current heads of our investigative agencies is no guarantee that these agencies will not one day come under the control of men for whom the investigatory power is a weapon to be wielded against political and personal foes (p. 16).

So the story made its way from the Intelligence Command's inner workings to the media and the watchdog press was aroused. Newspapers, led by The New York Times which would publish more on the spying controversy than any of its competitors, began digging. What they discovered and revealed made life uncomfortable for government officials for a year to come.

#### Pyle's Expose Triggers More Revelations

The natural outgrowth of Pyle's expose was more information, in more detail, on the Army's intelligence activities. Before the controversy died down, several other former Army intelligence agents told much about CONUS Intelligence.

It was a startling story. The American public discovered that "About 1,000 agents have been used to monitor disturbances, rallies, even high school demonstrations. . . . Two Keystone Korporals were

flushed out of the bushes in a Chicago park as they watched a Yippie love festival ("Armed Forces: Spying On Civilians" 1970, p. 17).

Hanlon (1970), a staff writer for Computerworld, a computer trade newspaper, revealed that agents microfilmed civil disturbance data in Alexandria, Virginia, and put this information into a computerized file;

This is the file that contains dossiers on Julian Bond, Coretta King, Pete Seeger, and Judy Collins. Jane Fonda joined the select group . . . apparently because she was with a group of 100 Indians . . . when they attempted to liberate Fort Lawton, Wash., to set up an Indian cultural center. Statements in support of the Panthers may also have fattened her file (p. 306).

John M. O'Brien, a former Army Intelligence staff sergeant, fueled the controversy by accusing the Army of spying on at least 800 Illinois civilians including Adlai E. Stevenson, III, the Democratic Senator; Democratic Congressman Abner Mikva; and former Governor Otto Kerner.

O'Brien, who worked one year until June, 1970, for the 113th MI Group, said he had:

. . . amassed a row of manila folders 120 feet long containing dossiers on individuals and organizations "decreed by the Army to be subversive."

Subversive turned out to be an enormously broad category. In addition to the high-ranking government officials, other Illinois "subversives," O'Brien said, included the Rev. Jesse Jackson, the civil rights leader; Morton Kondracke, Chicago Sun-Times correspondent who had written articles critical of the Army; several members of the Daughters of the American Revolution; and W. Clement Stone, the multimillionaire backer of Republican causes who was targeted after he floated a loan to a Chicago street gang. As an example of his unit's work, O'Brien cited a political picnic at Stevenson's family farm . . . at which Jackson was a guest. At one point, O'Brien said, Jackson whispered something in

Stevenson's ear. An Army agent--who was tailing Jackson--photographed the scene, O'Brien recalled, and filed a report that a "new relationship" had developed between the two men ("Eyes Left" 1970, p. 18).

One O'Brien disclosure concerned Jon R. Waltz, a Northwestern University law professor. O'Brien revealed Waltz had become a surveillance subject. Waltz (1971) speculated on the reasons:

The answer, I knew, was simple. I'd qualified for my very own army dossier in a quite passive fashion. I'd gotten it because William M. Kunstler and Leonard Weinglass had conferred with me about some technical evidentiary problems prior to the Chicago 7 conspiracy trial. Sure enough, as agent O'Brien revealed . . . , "When it was learned that Professor Waltz was assisting in the Chicago 7 defense, I was assigned to learn what I could about his political views." O'Brien's investigative efforts included the questioning of at least one of my students (p. 113).

There were other interesting disclosures. Laurence F. Lane, another former Army agent, said individual commanders tried so hard to do their jobs well that they unknowingly spied on one another. He said that "At one demonstration outside a gate at Fort Carson, Colo., . . . 53 of the 119 'demonstrators' were either undercover agents or newsmen" ("Congress: Surveillance Surveyed" 1971, p. 54).

Despite the seriousness of the charges leveled against Army Intelligence, many disclosures were humorous. When Army Intelligence made assignments they were serious affairs, but in retrospect some appear comical. Life uncovered some Army Intelligence assignments:

--Attend and report on 1968 Washington, D.C. meeting of Catholic priests who had gathered to express their opposition to their cardinal's and the Church's renewed stance against practice of birth control and the use of the Pill.

--Watch the activities of the "Crazies," a loose-knit group of leftists best known for their theory that they could "freak out" the Establishment by mouthing absurdities. A

straight-faced intelligence report stated that the Crazies planned to hijack a Staten Island ferry to Cuba.

--Follow the 1968 Poor People's Campaign mule train marching from Georgia to Washington, D.C. Count the mules and photograph their rumps for possible sores or abrasions which would indicate that the mules were being mistreated.

--Report on Moratorium Day activities at Wisconsin colleges in October, 1969. Newspaper pictures were clipped for identification of participants, including Wisconsin State student John Laird, son of Secretary of Defense Melvin Laird.

--Find out location, breed and activities of Hippie presidential candidate, Pigasus the Pig, during Nixon's inauguration in 1969. The report noted that the pig was "allowed to move among persons sleeping on floor but not permitted to leave building for fear of being seen."

--Remain at gravesite of Martin Luther King, Jr., and listen to what mourners say. When Mrs. King made a speech . . . recalling that her husband had "had a dream," an agent was asked to find out what dream she was referring to ("Persons of Interest" 1971, pp. 22-23).

Obviously something had gone wrong with the CONUS Intelligence operation. The information collected was often clearly not pertinent to the Army's mission. Life even went so far as to create its own Army-like dossier. It contained these items on a particular person of interest:

--He has traveled extensively in foreign countries and has been photographed with known Communists.

--He made a recent speech which called for a "New American Revolution."

--He is a known member of the Society of Friends.

--He has been active in a movement to withdraw American troops from South Vietnam.

--He has embarrassed high government officials (Secretary of the Interior Walter Hickel) and duly elected congressmen (Senator Charles Goodell of New York).

--He attended the funeral of Martin Luther King, Jr., and has been observed in the company of such black leaders as Richard Hatcher, the late Whitney Young, Jr., and other known "persons of interest."

--He characterized the U.S. Army actions at Mylai as a "massacre" and furthermore has stated, in the presence of witnesses, that he believes there should be no more wars.

--He has said that the President's comments on the Manson trial were out of order and should not have been made.

--He was seen talking with radical youth groups at pre-dawn during the 1970 post-Cambodia rally in Washington.

--He maintains an unlisted telephone number.

--His hair and sideburns have become progressively longer over the past two years.

--He surrounds himself at all times with armed and stone-faced men.

--Finally, his general stability is suspect: he has changed his job--and even his residence--four times in the last 10 years ("Persons of Interest" 1971, p. 27).

Beneath the dossier Life published a photograph of its person of interest: President Richard Nixon.

## CHAPTER 6

### THE ARMY REACTS

The damning evidence against Army Intelligence given by former agents took a while to surface after Pyle's article appeared. By early February, 1970, all the American public had was Pyle's story. Internally, the Army had that plus the outgoing Undersecretary's memorandum.

After Pyle's article, reaction was immediate. The Pentagon's office of public information refused to comment on it. The Intelligence Command forbade agents to talk with newsmen and warned of prosecution for national security breaches if they did. Congress inquired about the article's content but Army General Counsel Jordan at first refused to answer, then refused to even acknowledge he had received inquiries (U.S. Congress 1971, p. 1693).

By late January, however, information requests could not be ignored. On January 26, the Army partially admitted spying for the first time. It acknowledged the existence of a nationwide intelligence effort, the teletype system, and the computers that catalogued civil disturbance information. It also admitted publishing a riot agitators' identification list and infiltrating some civilian political groups (U.S. Congress 1971, p. 1693).

These acknowledgments simply stirred up curiosity. Additional inquiries from individual Congressmen flowed into Secretary of the Army Resor's office. The Army stalled for time because its civilian

hierarchy finally concluded something might be wrong with its operations. Apparently no one noticed McGiffert's February, 1969, memorandum, or if they noticed it, they showed little interest.

McGiffert had made his position clear to the Army's Vice Chief of Staff: "I have been concerned that the Army might gradually develop intelligence activities related to civil disturbance problems which exceed our strict requirements based upon our primary responsibility for providing Federal armed forces in response to Presidential orders" (U.S. Congress 1971, p. 1139).

#### The Army Investigates Itself

Apparently no one caught McGiffert's meaning until a year later when Pyle's article hit the newsstands. So while the Army stalled for time, government officials conducted their own inquiry. They went to Fort Holabird to see how far CONUS Intelligence had gone. They were startled. Jordan was there and watched the computer easily reference, by name, Mrs. Martin Luther King, Jr., and produce her lengthy dossier. He did not consider Mrs. King dissident (U.S. Congress 1971, p. 1694).

Jordan, in conjunction with General McChristian, ordered the Fort Holabird computerized files destroyed on February 19 and six days later formally responded to more than thirty Congressional critics. He said the Army possibly had engaged in activities outside its civil disorder area, but he assured congressmen the data banks had been ordered destroyed.

Most congressmen accepted the announcement as a victory for their side. Many failed to realize that stopping the program or

destroying its gatherings was only part of the answer. The more significant aspect concerned what the program accomplished while operating.

Senator Sam J. Ervin, Jr., and the American Civil Liberties Union (ACLU) decided independently to challenge the Army on this count. Ervin called Jordan's assurances inadequate and vowed to convene his Constitutional Rights Subcommittee of the Judiciary Committee to investigate Army operations. The press of other matters prevented his doing this immediately. The ACLU filed suit in Federal District Court against the Secretary of Defense, Secretary of the Army, Army Chief of Staff, and the head of the Intelligence Command. The suit on behalf of thirteen individuals and organizations allegedly spied upon by the Army charged surveillance had a chilling effect on citizens.

As yet the press was nowhere to be found. It had missed the real story. Admittedly, it gave ample coverage to Pyle's story but was apparently unprepared for what Pyle would say. There was nothing explosive about two agents checking a demonstration, but there was something explosive about thousands of agents doing it nationwide. When Pyle blew the whistle, the press was caught napping. As a result, very little was done to counter Army denials. They were duly reported but went largely unquestioned.

Spying had gone on for so long so well concealed that digging it out was indeed difficult. Now that the press had been aroused, research was beginning. Meanwhile, The New York Times began speaking out on domestic spying. In an editorial titled "The Army's Indiscretion," The Times said, "Monitoring of ideologies smacks more of thought control than national security. If allowed to go unchecked, it could open the

door to politico-military control over civilian government. The political dossier on civilians is not a legitimate weapon in the Army's arsenal" (April 1, 1970, p. 44).

Apparently The Times objected to spying but had neither formulated a solution nor prepared itself to recommend changes in domestic intelligence. It looked like a reflex movement to Pyle's article.

The Times showed refinement of its ideas in early June when the ACLU suit against the Army was dismissed in Washington, D.C. The judge in that case said the Army's maintaining intelligence was analogous to a newspaper's morgue. The New York Times attacked the decision editorially. It said, "But the fundamental question concerns the right of the Army to set up a domestic secret service. We were under the impression that the F.B.I. was already engaged in this activity as provided by law. The implications are ominous in a country where the military is supposed to be subservient to civilian authority" (June 6, 1970, p. 30).

#### The New York Times Investigates

That editorial made first mention of one of The Times' key ideas in future editorializing against the government. Greater civilian control of the military would be emphasized until the early months of 1971. Later in June, The Times' research effort paid off when it published a lengthy story by Ben A. Franklin on Army Intelligence activities. The headline read: "Federal Computers Amass Files on Suspect Citizens--Many Among Hundreds of Thousands Listed Have No Criminal Records--Critics See Invasion of Privacy" (June 28, 1970, p. 1). The Times' effort had finally begun.

Meanwhile, under McChristian's encouragement, the Army acted to halt CONUS Intelligence. After the Fort Holabird data bank was destroyed, he directed destruction of similar banks at Fort Monroe and Fort Hood. One printout from each computer was retained for possible later court proceedings.

McChristian's orders significantly slowed down the CONUS Intelligence operation. By this time--the summer of 1970--officials had come to realize fully the Army's troubles and knew changes were needed to pull Army Intelligence from the civilian spying quagmire in which it had become lodged.

What top government officials said was that domestic intelligence needed more central direction and control. Had there been more effective control in 1965, the Army might have never started collecting information on civilians. Rather, the task might have been given to the FBI where it belonged.

In mid-1971, the FBI increased its force by 3,600 agents. Had this increase been spread over several years starting in 1965, the FBI might have been able to handle the increased intelligence effort brought on by civil disorders. In reality, the manpower increase was delayed until 1971 and the Army's cause was lost.

Army and government officials also saw a vast duplication of effort. What was the purpose, they asked themselves, of having Army, Navy, and Air Force counterintelligence units in the same city, often in the same building, all performing the same basic mission of personnel security investigations. The Delimitations Agreement necessitated this by stipulating each service would take care of its own. Those

personnel wanting Army clearances were investigated by Army Intelligence and so on.

The question many people asked was why not combine the three service agencies into one master counterintelligence outfit with uniform directives, report formats, and control.

This never happened largely because of inter-service power struggles. Various service members demanded answers to certain questions before they would seriously consider a merger. If this master organization came about, who would command it and from which service would this man come? Or would a civilian guide the whole operation? Which service's report formats and directives would be used? Which service would operate a central command facility? Would these problems of report format, directives, and central command facility operation be solved by using facets and people of all three services? And were these really solutions or invitations to further problems?

Evidence of the duplication of counterintelligence effort brought a trend toward consolidation, but a concern for service identity, possibly a lack of money for implementing a consolidation, and a more prevalent desire to maintain the present system effectively killed the trend. An impetus was needed to push a consolidation plan over the top. Once it discovered the extent of the Army's civilian spying, the press provided that final push.

Evidence mounted during the summer and fall of 1970 as the press launched a campaign against the Army and government. The New York Times discussed each citizen's inalienable rights in an editorial then concluded: "If Americans still cherish the Declaration of Independence and

the rights we celebrate today, they will insist that their representatives in Congress support Senator Ervin's efforts to place strict legal limits on Federal collection and dissemination of information on the activities of private citizens" (July 4, 1970, p. 14).

Tom Wicker of The Times questioned in his July 7 column "Do you have a right not to be stored in a computer where you can be called upon for instant investigation by any bureaucrat or law officer who considers you a 'person of interest' or who may want to provide someone else--maybe your employer--with 'facts' about you? If you haven't thought about that, it's high time you did" (July 7, 1970, p. 38).

He recounted some things The Times had discovered about Army Intelligence operations, then concluded: "As data banks proliferate, so will the indiscriminate use of the material they contain. And that raises the question whether an American citizen has a constitutional or legal right not to be data-banked, computerized, stored, exchanged and possibly damaged--materially or in reputation--by the process" (July 7, 1970, p. 38).

As evidence and press criticism mounted, the Army took further steps to disengage itself from snooping activity and to prevent further occurrences of it. McChristian's early reorientation order to Army counterintelligence units and his computer data bank destruction were two important moves. Others included published directives increasingly restricting collecting and reporting information on civilians; prohibition on computer use to store this material (U.S. Congress 1971, p. 1698); and visits by Colonel John W. Downie, the Pentagon's counterintelligence chief, during 1970 to many group headquarters and field

offices to insure civilian files maintained at these locations had been destroyed (The New York Times January 18, 1971, p. 22).

The directive that restricted most severely Army Intelligence was issued on December 15, 1970. Titled "Counterintelligence Activities Concerning Civilians Not Affiliated With the Department of Defense," and signed by Major General Kenneth G. Wickham, the Army's Adjutant General, the directive stipulated:

This policy does not apply to relevant information from published sources retained by public information officers solely for the purpose of preparing responses to public inquiries. However, such information is not to be retained for the purpose of providing an Army element with background information about the activities, associations, or beliefs of individuals (U.S. Congress 1971, p. 1142).

By the time that directive came out the Army's future looked bright. It was nearly 1971, the CONUS Intelligence program had effectively halted, and it appeared the changes in domestic intelligence the press sought would not come about. The status quo appeared saved.

#### John O'Brien Fuels the Controversy

But two days after the directive was issued, the Army's position took another dramatic turn for the worse. John O'Brien, the former Illinois-based agent, contacted Senator Ervin and told him the Army had spied on those 800 Illinois civilians and high elected officials.

Army Secretary Resor immediately denied O'Brien's charges:

On the basis of information I have received, I can state that neither Senator Stevenson, Representative Mikva nor former Governor Kerner are or ever have been the subject of military intelligence activities or investigations related to political activities. Allegations to the contrary are without foundation in fact.

I want to emphasize that had any such alleged activities been conducted, they would have been in violation of Army policy (U.S. Congress 1971, p. 1299).

#### Intelligence Reorganization Ordered

The controversy flared into the open again. Now there was rampant speculation as to just how far into the political structure the surveillance extended. It was clear the status quo could not remain constant much longer and under the pressure of press criticism, Defense Secretary Laird made an important move two days before Christmas, 1970.

He issued a directive aimed at strengthening his direct control over military intelligence activities, particularly investigations within the United States. He said:

I want to be certain that Department of Defense intelligence and counterintelligence activities are completely consistent with constitutional rights, all other legal provisions, and national security needs. These activities must be conducted in a manner which recognizes and preserves individual human rights. Policy determinations governing such activities must be retained under civilian cognizance and control (U.S. Congress 1971, p. 1299).

The directive ordered a sweeping Defense Department intelligence reorganization by February 1, 1971. The directive placed all domestic intelligence gathering under the policy control of Laird and Defense Intelligence Agency Director Lieutenant General Donald V. Bennett. (The Defense Intelligence Agency supports the intelligence requirements of the Joint Chiefs of Staff.) Intelligence policy control had now been effectively removed from the service secretaries and their intelligence branches.

The position of The New York Times, meanwhile had finally crystallized. In response to Laird's announcement it published an editorial:

A memorandum of governmental reorganization is not an adequate answer. The remedy is not in a shakeup but in the elimination of an abuse that subverts the Constitution by giving the the military a range of powers unprecedented in American history.

The dangers implicit in such an extension and perversion of military power are compounded by the fact that modern information storage and retrieval technology makes it almost impossible to destroy the improperly gathered data . . . .

Secretary Laird can best allay the nation's rising fears of military thought-control and possible political blackmail by addressing himself not to bureaucratic procedures but to stouter defenses for the principles of a free society (The New York Times December 26, 1970, p. 16).

The New York Times saw things it wanted coming true and accorded the controversy unequalled coverage. Between December 23, 1970, and February 19, 1971, The Times published twenty-two articles, three syndicated columns, three letters, and two editorials on the controversy --thirty pieces in fifty-eight days. By far, the heaviest volume came in December's final week when The Times printed eight articles, two syndicated columns, and one editorial.

The issue had finally been joined.

## CHAPTER 7

### THE CONTROVERSY COOLS

The New York Times wasted little time in advancing ideas for improving domestic intelligence. On December 27, 1970, Ben A. Franklin wrote a News of the Week in Review column (The New York Times December 27, 1970) advocating a domestic intelligence reorganization. He said too many things were happening that too many people knew nothing about. The Times wanted a new system with built-in assurances against another uncontrolled CONUS Intelligence program. Franklin said: "For about a year, the Army has more or less denied that it was spying now on civilian political activity. But civilian officials of the Army have admitted privately that they, themselves, have never been sure what their own military intelligence subordinates were up to" (p. 8).

In addition to a new system, The Times sought outright civilian control of Army Intelligence. The newspaper said:

Because America's highest government officials do not adequately monitor secret operations, the intelligence establishment exerts undue influence on policy. A vast bureaucracy has grown up in great confusion over its purpose and functions. The effect is that the government does not know what it is doing in the intelligence field. Duplication is rampant. Opportunities abound for bureaucratic self-serving.

.....  
Serious attention must be given . . . to problems of intelligence policy, organization and control . . . .  
Meanwhile, the President, Congress and State Department must supervise more effectively the . . . intelligence establishment (The New York Times December 26, 1970, p. 17).

The New York Times editorialized in favor of a domestic intelligence reorganization and tighter civilian control of intelligence through early January, 1971. On January 18, The Times published a lengthy Richard Halloran article describing the CONUS Intelligence operation from summer, 1967, to fall, 1969.

Following Halloran's article, Tom Wicker discussed the two changes The Times had called for editorially. In a column titled "Conus Intel Unleashed" he wrote:

. . . the high civilian and military officials who ordered this program apparently failed to make clear its limited intent, exercised only the most lax control over the execution of their policy, and did not at first perceive either its grave dangers or the extent to which the monster began to run wild.

What happened is a classic example of powerful bureaucracy set loose from necessary restraints. First, each descending level of authority expanded zealously on its orders and scope of responsibility in an effort to please the level just above.

Then the limited . . . step that had been taken into political surveillance of American citizens rapidly became a long leap; with its manpower and its mission and the zeal of its operatives, the Army was quickly scraping up every bit of information it could get on anyone remotely connected with political activity.

.....  
 Thus a program originated by honorable men for supportable motives became, in almost no time, a vast apparatus for political surveillance of the American people (The New York Times January 19, 1971, p. 37).

Concurrent with The Times' intense activity on the spying controversy, Defense Secretary Laird's intelligence structure review was completed as he had requested in late December, 1970. He studied the review report for several weeks and on February 17 he acted,

Laird issued Department of Defense Directive 5200.26 designed to reorganize investigative activities to such an extent that it effectively reversed his December 23 action. In that action, Laird placed intelligence-gathering responsibility under the Defense Intelligence Agency.

#### Defense Investigative Program Established

Directive 5200.26 changed everything. It established an overall defense investigative program (U.S. Congress 1971) and designated "the Assistant Secretary of Defense (Administration) . . . to act for the Secretary of Defense for all investigative program matters" (p. 395). In addition, the directive did the following:

It requires the Assistant Secretary of Defense (Administration) to direct and manage the defense investigative program and to conduct or provide the inspections for program activities and to monitor program accomplishments within established policy. Within each military department, responsibilities for investigative activities are vested in the Undersecretary or a designated Assistant Secretary (p. 395).

#### Defense Investigative Review Council Formed

The shift toward stronger civilian control of domestic intelligence-gathering was apparent. But Directive 5200.26 made the shift complete by creating the Defense Investigative Review Council which, according to Assistant Secretary of Defense Robert F. Froehlke, was to "direct, manage and inspect all domestic intelligence by the military" (The New York Times February 19, 1971, p. 1).

According to Froehlke:

This council is chaired by the Assistant Secretary of Defense (Administration), and its membership consists of the General

Counsel for the Department of Defense, the Undersecretary of each military department and the Director, Defense Intelligence Agency. The Council is charged with responsibilities to assist the Assistant Secretary of Defense (Administration) in preparation of policy guidance and the development or review of recommended changes in procedures or practices for the defense investigative program. It is also to review standards, criteria, and scope as appropriate of investigations and related counterintelligence activities (U.S. Congress 1971, pp. 395-96).

The Defense Investigative Review Council effectively brought domestic military intelligence under tight civilian control. Laird simultaneously moved to prevent another possible CONUS Intelligence runaway by issuing quite specific guidelines for conducting the defense investigative program. These guidelines, under Defense Directive 5200.27, which Laird issued on March 1, 1971, established the program's general policies, limitations, and procedures.

Specifically and most importantly, Directive 5200.27 addressed itself to the collecting, processing, storing, and disseminating of information concerning persons not affiliated with the Defense Department. It flatly prohibited certain activities:

No information shall be acquired about a person or organization solely because of lawful advocacy of measures in opposition to Government policy.

There shall be no physical or electronic surveillance of Federal, state, or local officials or of candidates for such offices.

There shall be no electronic surveillance of any individual or organization except as authorized by law.

There shall be no covert or otherwise deceptive surveillance or penetration of civilian organizations unless specifically authorized by the Secretary of Defense or his designee.

No DoD personnel will be assigned to attend public or private meetings, demonstrations, or other similar activities

for the purpose of acquiring information the collection of which is authorized by this Directive without specific prior approval by the Secretary of Defense or his designee . . . .

No computerized data banks shall be maintained relating to individuals or organizations not affiliated with the Department of Defense, unless authorized by the Secretary of Defense or his designee (U.S. Congress 1971, p. 1254).

Laird apparently saw civilian control of the military as his primary concern and addressed himself to that issue initially with the Review Council. Also of apparent immediate importance to Laird was insuring against another CONUS Intelligence-type operation. He therefore issued Directive 5200.27. But these were not his only concerns. Obviously the spying controversy had convinced him a wholesale domestic intelligence reorganization was needed. He assigned this reorganization to the Defense Investigative Review Council.

The Review Council labored with the problem through most of 1971. In November, the Defense Department issued further guidance after Laird reviewed the Council's progress. The Assistant Secretary of Defense told the Review Council to create a body that would "provide Department of Defense components and other U.S. government activities when authorized by the Secretary of Defense, with a single centrally-directed personnel security investigative service" (Memorandum 1971, p. 3).

#### Defense Investigative Service Established

The Council completed work in December, 1971, and on the 29th a Laird memorandum established the Defense Investigative Service (DIS). The memorandum said DIS would form on January 1, 1972, as a planning group and make arrangements for actual operations by April 1, 1972. On

that date, all Army, Navy, and Air Force personnel security investigations would be consolidated under DIS. The investigators would remain with their military departments until October 1, 1972, but then be transferred to DIS.

The Defense Investigative Service thus brought together the three services' domestic intelligence activities and fulfilled the vision of government officials who several years earlier theorized a similar unified organization might have prevented Army involvement in civilian spying. More importantly, the existence of DIS further strengthened civilian control of the military. Laird and his civilian-dominated Defense Investigative Review Council established DIS with a design to staff it entirely with civilian investigators.

By the time DIS was created, The New York Times and the rest of the media had fallen silent. The watchdog had finally stopped barking. Except for several lingering court cases over alleged civil rights violations by the Army during its wholesale civilian spying, the controversy suddenly dropped from the American scene. It is preserved on Times microfilm but it is otherwise only vaguely remembered or discussed by Americans.

#### Controversy's Aftereffects Still Linger

However, for people associated with Army Intelligence during the tumultuous years of 1967 to 1970, the memories are much more vivid. And the changes precipitated by the clash with The New York Times and the media are poignant reminders of how things used to be.

The reminders are everywhere.

First is the Defense Department's much closer scrutiny of domestic intelligence operations. Evidently many government officials are set against letting future intelligence operations get out of control as Army CONUS Intelligence did in the late 1960's. Several directives were issued in 1971 governing information collection on non-Defense Department civilians. Defense Secretary Laird's Directive 5200.27 was the most important. However, another came out on July 2, 1971, and made clear government officials' concern for preventing rampant intelligence operations. This directive is still required reading for all military intelligence personnel. It includes a certificate to be signed by all personnel affirming that Department of the Army policy is fully understood and will be adhered to as long as the signatory serves in an official Army capacity.

Second is the domestic intelligence reorganization featuring the Defense Investigative Service. DIS obviously consolidated the three services' intelligence forces and created a less-complicated operation. Some people thought a consolidated operation was an ideal solution even before the Army's involvement with civilian spying became widely known. The formation of DIS also further affirmed civilian dominance over the military.

Third is the uncertainty in Army Intelligence ranks over civilian spying and the subsequent reorganization. Although the uncertainty was more widespread and pronounced shortly after DIS was formed than it is today, it is still prevalent. Many think DIS's formation will rob Army Intelligence of the manpower it would need to attain the stature it once had. Rumors still circulate within the

Army that its counterintelligence jobs including personnel security investigations are headed for extinction. Although consistently contradicted by figures from Washington's Office of Personnel Operations, these rumors persist and many believe the future for Army investigators means resigning from the service and taking civilian jobs with DIS.

Finally is the evidence that American citizens might always wonder about domestic intelligence in general and Army Intelligence in particular. Undoubtedly the citizenry's confidence in its government was shaken by the spying controversy revelations. But even more important is what effect knowledge of military spying by one's own government on one's own neighbors had on American citizens.

Who knows how many names filtered through the Fort Holabird, Fort Monroe, or Fort Hood computers? Who knows for sure those data banks were destroyed? And if they were destroyed, who knows only one information printout was retained?

The Christian Century magazine, in an editorial, said a lot about what was still running through peoples' minds months after the controversy died down: "The precise mix of political and military responsibility for army spying on civilians is not yet very clear to the public, even to the well informed attentive public" ("The Ervin Brief" 1972, p. 295).

Perhaps Senator Ervin's comment said a little more: "When people fear surveillance, whether it exists or not, when they grow afraid to speak their minds freely, to their government or anyone else, then we shall cease to be a free society" (U.S. Congress 1971, p. 54).

Or how about the comment of Waltz (1971), the Northwestern University law professor and spy victim: "I turned over in my mind the proposition that no Army that gets caught spying on its own people should be conducting warfare anywhere in the world" (p. 114).

Peter Schrag added in an editorial:

We have--at least in theory--never had a national secret police. It would be fatally ironic if we were to create its equivalent in hundreds of different agencies playing espionage. It would be even more ironic if Constitutional liberties--which we once assumed would stand against any attempt at tyranny--were replaced not by demagogues or dictators but by technicians "preserving order" with machines ("The Invisible Intruders" 1971, p. 21).

Some people simply refused to believe the Army: ". . . the Army's widely announced dismantling of its data bank is to a considerable degree an exercise in semantics and the status of its surveillance activities is very much in doubt" (Miller 1971, p. 41).

The controversy was insidious in nature. It involved something quite close to Americans--freedom of speech and legitimate dissent. The spying story showed many citizens that possibly their government was not standing firm on the Constitution. And this bothered people. How long it will continue to do so is probably unanswerable. But the controversy clearly affected different people in different ways, some quite strangely.

Pyle (1970) theorized people might stop reading political literature fearing the government might find out and disapprove. He said that ". . . an adjudicator of security clearances once asked me if she could lose her clearance if she allowed her daughter to subscribe

to The National Observer," (p. 13). After that, one wonders just how far afield some thinking may have gone, or still goes.

## CHAPTER 8

### THE STRUGGLE ENDS

So the dust finally settled on the Army civilian spying controversy. But it did so only after thirteen months of struggle between the government, The New York Times, and other media representatives. Clearly, the confrontation was long in coming. The Army has been in and out of civilian disturbances almost from the country's beginning. By 1957, it was "in" more disturbances than it was "out" and ten years later was almost solely responsible for gathering civilian disturbance information by virtue of the FBI's abdication of its legitimate role. By 1967, the Army had created CONUS Intelligence and three years later the American public discovered the Army was watching many people with only a peripheral military connection; i.e., they might get involved in a civil disturbance the Army might be forced to quell.

When the American public found out about Army spying, The New York Times and all those other newspapers, news magazines, radio, and television news outlets lumped under the heading "media" found out about it also. The New York Times brought a long history of government confrontation into the controversy and ended up as the most eloquent spokesman among newspapers and possibly among all other media forms in the fight for domestic intelligence reforms. The Times, after taking its lead from Pyle's Washington Monthly expose, crusaded against the Army and government. The crusade lasted thirteen months and fluctuated

from mild antagonism to outright indignation over government actions. The most contentious time was during December, 1970, and January and February, 1971, when it appeared the government wanted the controversy swept under the carpet. It failed to do so because of further startling revelations by former intelligence agents and constant press hounding.

#### The Changes That Resulted

This hounding produced changes. Essentially there are four: (1) the Department of Defense has tightened the reins on previously independently functioning military services and is exercising much closer scrutiny of domestic intelligence operations, (2) domestic intelligence underwent a sweeping reorganization highlighted by stronger civilian control of the military and featuring the formation of the Defense Investigative Review Council and the Defense Investigative Service, (3) domestic Army Intelligence lost much of the stature it once enjoyed, and (4) American citizens have had their confidence in government shaken somewhat and one can only speculate what affect Army spying had on citizens' thinking.

#### The Part The Times Played

The reaction of The New York Times and other media forms to Army civilian spying was by no means solely responsible for these four things. This raises the fundamental question of what impact The Times did have. To answer, one should also answer these questions: Could The New York Times have overlooked Pyle's charges? Did The New York Times over-react in criticising the government over CONUS Intelligence? And

did the government, in turn, over-react to media criticism and change its domestic intelligence structure too much?

Apparently The New York Times thought it had to pay attention to Pyle's charges because it devoted coverage beyond what could be expected from the newspaper of record. So did a lot of other newspapers. In addition, the issue was not dropped after reporting Pyle's claims. Instead it was followed up, expanded, and brought vividly to the public's attention.

#### The Part the Army Played

On this last point, however, it could be charged a wild-eyed expose was just what The Times was seeking because the paper would never miss an opportunity to chastize the government. Still a charge of over-reaction by The Times is unfounded for there were government officials who wanted the same changes The Times advocated and who believed CONUS Intelligence should be controlled. Major General McChristian and Undersecretary of the Army McGiffert are prime examples. McChristian redirected Army efforts back into the more legitimate realm of personnel security investigations and away from civil disturbance prediction and civilian spying. McGiffert published the memorandum that prohibited covert intelligence actions and brought CONUS Intelligence vividly before the eyes of other government officials.

There is also evidence that Army personnel running CONUS Intelligence were uncomfortable in their roles but continued because of Justice Department pressure to gather information. There is evidence that when given the opportunity Army personnel cast off CONUS

Intelligence's illegitimate side without hesitation. Pyle, in Senate testimony stated:

Despite its evasiveness with Congress and the public, the Army's civilian hierarchy has demonstrated a genuine intention to achieve substantial reforms . . . . In particular, . . . the Army General Counsel and his staff now know what the military's domestic intelligence needs are, and have been able to formulate that knowledge into a binding directive.

To assure compliance with destruction orders, persons on the staff of the Secretary of the Army and in the office of the Assistant Chief of Staff for Intelligence have actually left Washington to inspect files . . . .

Information received from agents recently discharged from Army Intelligence indicates that many records on civilians and civilian organizations unaffiliated with the armed forces have been destroyed. Records destruction appears to have occurred in waves; . . . just prior to announced inspections, and immediately after the disclosures by John O'Brien (U.S. Congress 1971, pp. 224-25).

#### The New York Times as Catalyst

Neither did the government over-react to The Times and other media forms and change too much. This is not to say the changes were undramatic. They might have occurred more rapidly than the government desired. But it seems apparent from discussions of certain government officials in the early years of CONUS Intelligence that tighter civilian control of the military and a domestic intelligence reorganization were being planned. When they would have been implemented is anyone's guess. CONUS Intelligence out of control gave the government the chance to change.

Neither The New York Times nor the government over-reacted in the civilian spying controversy. The Times simply asked editorially for things the government was considering doing all along. Consequently,

the impact of The Times on the government and domestic intelligence was decisive and catalytic. It showed Americans a government injustice-- Army Intelligence overstepping its bounds, collecting political information on civilians not affiliated with the Defense Department. It stated its case, called for specific reforms and spurned silence until the reforms were instituted.

The key thing to remember, however, is that The New York Times and its media partners did not change the system alone, but instead helped change it.

Judge Learned Hand once said: "The First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues than through any kind of authoritative selection. To many this is, and will always be, folly; but we have staked upon it our all" (Hohenberg 1971, p. 498).

Was the watchdog justified in barking? The answer lies in the results of its protest.

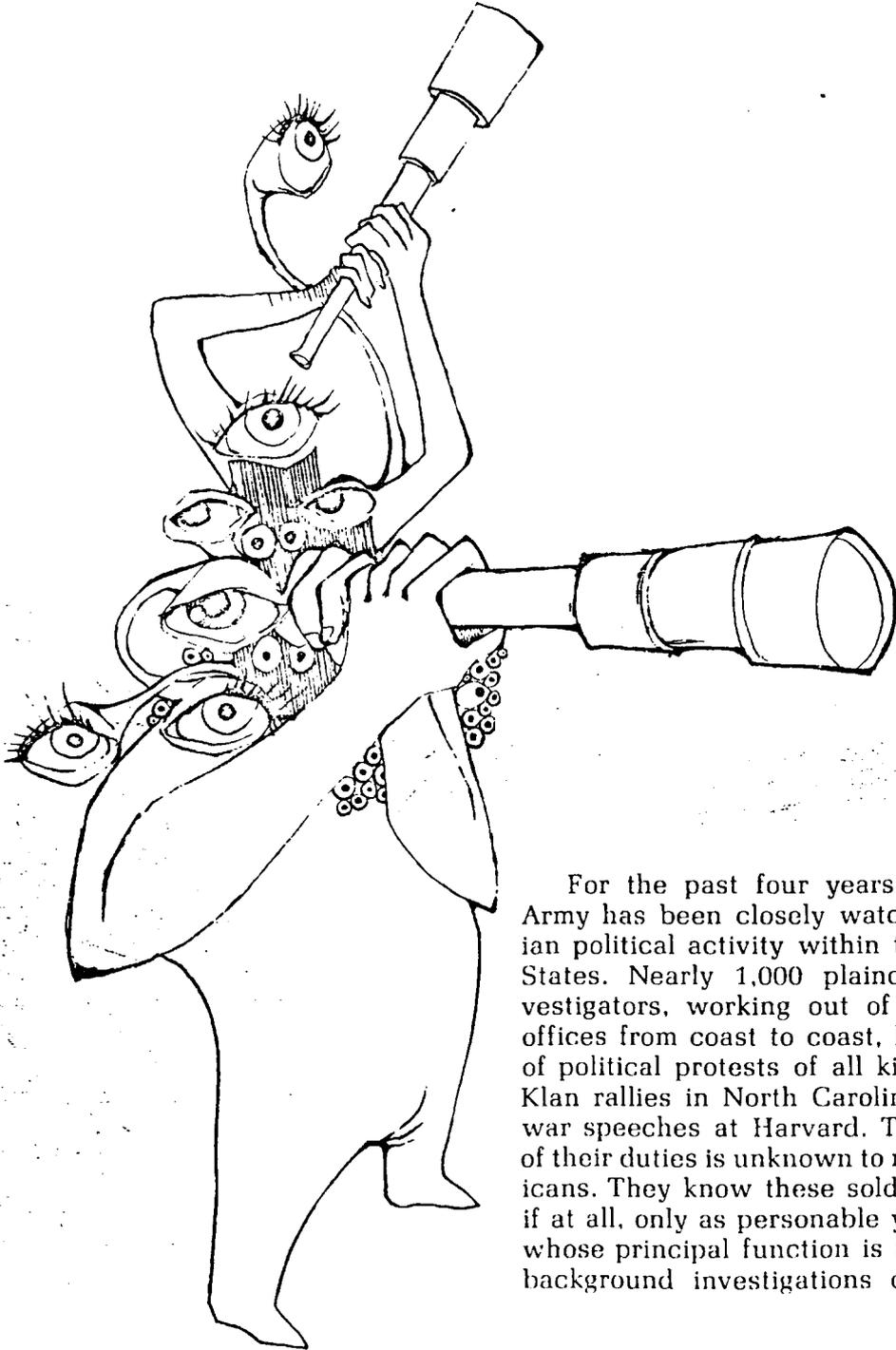
APPENDIX A

COPY OF CHRISTOPHER H. PYLE'S WASHINGTON MONTHLY ARTICLE<sup>1</sup>

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# CONUS Intelligence:



For the past four years, the U.S. Army has been closely watching civilian political activity within the United States. Nearly 1,000 plainclothes investigators, working out of some 300 offices from coast to coast, keep track of political protests of all kinds—from Klan rallies in North Carolina to anti-war speeches at Harvard. This aspect of their duties is unknown to most Americans. They know these soldier-agents, if at all, only as personable young men whose principal function is to conduct background investigations of persons

*Christopher H. Pyle, a Ph.D. candidate at Columbia University, has recently completed two years service as a captain in Army Intelligence. The information in this article comes from briefings he received at the headquarters of the U.S. Army Intelligence Command, and from the observations of friends and acquaintances who served in intelligence units throughout the United States and Europe. None of it carries a security classification of any kind.*

# The Army Watches Civilian Politics

by Christopher H. Pyle

being considered for security clearances.

When this program began in the summer of 1965, its purpose was to provide early warning of civil disorders which the Army might be called upon to quell. In the summer of 1967, however, its scope widened to include the political beliefs and actions of individuals and organizations active in the civil rights, white supremacy, black power, and anti-war movements. Today, the Army maintains files on the membership, ideology, programs, and practices of virtually every activist political group in the country. These include not only such violence-prone organizations as the Minutemen and the Revolutionary Action Movement (RAM), but such non-violent groups as the Southern Christian Leadership Conference, Clergy and Laymen United Against the War in Vietnam, the American Civil Liberties Union, Women Strike for Peace, and the National Association for the Advancement of Colored People.

The Army obtains most of its information about protest politics from the files of municipal and state police departments and of the FBI. In addition, its agents subscribe to hundreds of local and campus newspapers, monitor police and FBI radio broadcasts, and, on occasion, conduct their own undercover operations. Military undercover agents have posed as press photographers covering anti-war demonstrations, as students on college campuses, and as

"residents" of Resurrection City. They have even recruited civilians into their service—sometimes for pay but more often through appeals to patriotism. For example, when Columbia University gave its students the option of closing their academic records to routine inspection by government investigators, the 108th Military Intelligence Group in Manhattan quietly persuaded an employee of the Registrar's Office to disclose information from the closed files on the sly.

Typical of the hundreds of reports filed by Army agents each month are the following, taken from the unclassified intelligence summary for the week of March 18, 1968:

PHILADELPHIA, PA: A. THE PHILADELPHIA CHAPTER OF THE WOMEN'S STRIKE FOR PEACE SPONSORED AN ANTI-DRAFT MEETING AT THE FIRST UNITARIAN CHURCH WHICH ATTRACTED AN AUDIENCE OF ABOUT 200 PERSONS. CONRAD LYNN, AN AUTHOR OF DRAFT EVASION LITERATURE, REPLACED YALE CHAPLAIN WILLIAM SLOANE COFFIN AS THE PRINCIPAL SPEAKER AT THE MEETING. FOLLOWING A QUESTION AND ANSWER PERIOD, ROBERT EDENBAUM OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS STATED THAT MANY PHILADELPHIA LAWYERS WERE ACCEPTING DRAFT EVASION CASES. THE MEETING ENDED WITHOUT INCIDENT.

B. REV. ALBERT CLEAGE, JR., THE FOUNDER OF THE BLACK CHRISTIAN NATIONALIST MOVEMENT IN DETROIT, SPOKE TO AN ESTIMATED 100 PERSONS AT THE EMMANUEL METHODIST CHURCH. CLEAGE SPOKE ON THE TOPIC OF BLACK UNITY AND THE PROBLEMS OF THE GHETTO. THE MEETING WAS PEACEFUL AND POLICE REPORTED NO INCIDENTS.

CHICAGO, ILL.: APPROXIMATELY 300 MEMBERS OF VETERANS FOR PEACE AND WOMEN FOR PEACE HELD A PEACEFUL DEMONSTRATION AT THE MUSEUM OF SCIENCE AND INDUSTRY PROTESTING AN EXHIBIT BY THE US ARMY. SEVERAL DEMONSTRATORS ENTERED THE BUILDING IN SPITE OF WARNINGS BY MUSEUM OFFICIALS AND 6 WERE ARRESTED ON CHARGES OF DISORDERLY CONDUCT, RESISTING ARREST AND CRIMINAL TRESPASSING. FIVE OF THOSE ARRESTED WERE JUVENILES.

To assure prompt communication of these reports, the Army distributes them over a nationwide wire service. Completed in the fall of 1967, this teletype network gives every major troop command in the United States daily and weekly reports on virtually all political protests occurring anywhere in the nation.

The Army also periodically publishes an eight-by-ten-inch, glossy-cover paperback booklet known within intelligence circles as the "blacklist." The "blacklist" is an encyclopedia of profiles of people and organizations who, in the opinion of the Intelligence Command officials who compile it, might "cause trouble for the Army." Thus it is similar to less formal lists which the Department of Health, Education, and Welfare has maintained to exclude politically unpopular scientists from research contracts and consultant work.

Sometime in the near future the Army will link its teletype reporting system to a computerized data bank. This computer, to be installed at the Investigative Records Repository at Fort Holabird in Baltimore, eventually will be able to produce instant print-outs of information in 96 separate categories. The plan is to feed it both "incident reports" and "personality reports." The incident reports will relate to the Army's role in domestic disturbances and will describe such occurrences as bombings, mass violence, and arms thefts. The personality reports—to be extracted from the incident reports—will be used to supplement the Army's seven million

individual security-clearance dossiers and to generate new files on the political activities of civilians wholly unassociated with the military.

In this respect, the Army's data bank promises to be unique. Unlike similar computers now in use at the FBI's National Crime Information Center in Washington and New York State's Identification and Intelligence System in Albany, it will not be restricted to the storage of case histories of persons arrested for (or convicted of) crimes. Rather it will specialize in files devoted exclusively to descriptions of the lawful political activity of civilians. Thus an IBM card prepared many months ago for the future computer file of Arlo Tatum, executive secretary of the Central Committee of Conscientious Objectors, contains a single notation—that Mr. Tatum once delivered a speech at the University of Oklahoma on the legal rights of conscientious objectors.

Because the Investigative Records Repository is one of the federal government's main libraries for security clearance information, access to its personality files is not limited to Army officials. Other federal agencies now drawing on its memory banks include the FBI, the Secret Service, the Passport Office, the Central Intelligence Agency, the National Security Agency, the Civil Service Commission, the Atomic Energy Commission, the Defense Intelligence Agency, the Navy, and the Air Force. In short, the personality files are likely to be made available to any federal agency that issues security clearances, conducts investigations, or enforces laws.

Headquarters for the collection and coordination of this information is a wire-mesh "cage" located inside a gray metal warehouse at Fort Holabird. The official designation of the office is "CONUS Intelligence Branch, Operations IV, U.S. Army Intelligence Command." CONUS is the Army's acronym

for Continental United States. Direction of this program is in the hands of Major General William H. Blakefield, head of the U.S. Army Intelligence Command at Fort Holabird. Established in 1965, the Command coordinates the work of a number of counterintelligence "groups" formerly assigned to the G-2 offices of the major stateside Armys. Accordingly, its principal function is not to collect intelligence but to protect the Army from espionage, sabotage, and subversion. Its main job is to investigate persons being considered for security clearances and to inspect military installations for adequate physical, wire-communications, and document security.

CONUS Intelligence Branch, also known as "Ops Four," is commanded by a major and run by a civilian. They supervise the work of about a dozen persons, who work in shifts around the clock. Most are WAC typists who operate the teletype consoles that link the Intelligence Command to the Pentagon and to intelligence units around the country. It is here that reports from agents are received, sorted, and retransmitted. Because its staff is small and the volume of reports large, Ops Four rarely has the time to verify, edit, or interpret the reports before passing them on to "user organizations."

Daily recipients of this raw intelligence include all of the Army's military intelligence groups within the United States, riot-control units on stand-by alert, and the Army Operations Center at the Pentagon. The Operations Center, sometimes called the "domestic war room," is a green-carpeted suite of connecting offices, conference rooms, and cubicles from which Army and Defense Department officials dispatch and coordinate troops that deal with riots, earthquakes, and other disasters. Recipients of weekly CONUS intelligence summaries, also prepared at Fort Holabird, include not only those on the daily distribution, but such un-

likely organizations as the Army Materiel Command, the Military District of Washington, the Air Defense Command, and Army headquarters in Europe, Alaska, Hawaii, and Panama.

What is perhaps most remarkable about this domestic intelligence network is its potential for growth. Uninhibited by Congressional or Presidential oversight, it has already expanded to the point where it in some ways rivals the FBI's older internal-security program. If the Army's fascination with the collection of domestic intelligence continues to grow as it has in the recent past, the Intelligence Command could use military funds to develop one of the largest domestic intelligence operations outside of the communist world. Before this happens, the American public and its elected representatives ought to demand a say in the development of this program.

### The Army's Needs

Intentionally or not, the Army has gone far beyond the limits of its needs and authority in collecting domestic political information. It has created an activity which, by its existence alone, jeopardizes individual rights, democratic political processes, and even the national security it seeks to protect.

There is no question that the Army must have domestic intelligence. In order to assist civilian authorities, it needs maps and descriptions of potential riot or disaster areas, as well as early warning of incidents likely to provoke mass violence. Before trusting its employees or prospective employees with military secrets, it has to look into their past behavior for evidence of disloyalty or unsuitability. The Army also must investigate train wrecks, fires, and other disasters which may disrupt its lines of supply. And where ultra-militant groups seek to attack military installations, destroy files, or abuse sol-

diers, it has the right and obligation to keep informed about the groups' specific objectives, plans, and techniques.

The Army needs this kind of information so that it can fulfill long-established, legitimate responsibilities. But must it also distribute and store detailed reports on the political beliefs and actions of individuals and groups?

Officials of the Intelligence Command believe that they must. Without detailed knowledge of community "infrastructure," they argue, riot-control troops would not be able to enforce curfews or quell violence. To support this contention, they cite the usefulness of personality files and blacklists in breaking up guerrilla organizations in Malaya and South Vietnam. One early proponent of this view was the Army's Assistant Chief of Staff for Intelligence during 1967-1968, Major General William P. Yarborough. At the height of the Detroit riots of 1967 he instructed his staff in the domestic war room: "Men, get out your counterinsurgency manuals. We have an insurgency on our hands."

Of course, they did not. As one war-room officer who attempted to carry out the General's order later observed: "There we were, plotting power plants, radio stations, and armories on the situation maps when we should have been locating the liquor and color-television stores instead." A year later the National Advisory Commission on Civil Disorders reached a similar conclusion about the motives of ghetto rioters. "The urban disorders of the summer of 1967," it declared unequivocally, "were not caused by, nor were they the consequence of, any organized plan or conspiracy." After reviewing all of the federal government's intelligence reports on 23 riots, it found "no evidence that all or any of the disorders or the incidents that led to them were planned or directed by any organizations or groups, international, national, or local."

Intensive investigations subsequently conducted by local police departments, grand juries, city and state committees, and private organizations have concurred. One of the more recent, a study of 1968 "urban guerrilla" activities by the Lemberg Center for the Study of Violence at Brandeis University, is typical. It found that press and police accounts of shooting incidents were grossly exaggerated. While acknowledging that there had been "a few shoot-outs with the police" some of which "may have been planned," the Center concluded that there was "no wave of uprisings and no set pattern of murderous conflict" from which one could predict organized violence even remotely resembling guerrilla warfare.

But even if there were grounds for making such a prediction, the Army's case for personality files and blacklists would remain weak. The purpose of these records, according to counter-insurgency manuals, is to facilitate the selective arrest of guerrillas and insurgents. However, within the United States the Army has no authority to round up suspects the moment civilians take up arms. The seizure of civilians on suspicion of conspiring or attempting to overthrow the government by unlawful means or of inciting people to crime is, and continues to be, the responsibility of local and state police and of the FBI. The President may order Army units to help state or federalized National Guard troops keep the peace or fight guerrillas, but the Army does not acquire authority to arrest civilians unless and until civilian law enforcement has broken down and a declaration of martial law puts all governmental authority in the area of conflict in the hands of the military. In that highly remote circumstance, the Intelligence Command might have some need for personality files and blacklists on criminally inclined, politically motivated civilians. By then, however, it certainly would

have full access to the more extensive and up-to-date files of the civilian agencies and thus would not have had to prepare its own.

The Army's need to keep its own dossiers on the politics of law-abiding citizens and groups makes even less sense. So long as there is a possibility that peaceful protests may get out of hand, some surveillance undoubtedly is in order. But must the Army conduct it? Are its agents and record keepers more competent than those of the FBI or of the police departments of the cities in which large demonstrations typically occur? Are the civilian law enforcement agencies so uncooperative that the Army must substantially duplicate their efforts?

More extraordinary still is why the Intelligence Command each week alerts military headquarters in Alaska, Hawaii, Panama, and Europe to stateside non-events like the following:

MIAMI, FLA: A SPOKESMAN FOR THE SOUTHERN STUDENTS ORGANIZING COMMITTEE ANNOUNCED PLANS FOR A DEMONSTRATION TO BE HELD ON THE CAMPUS OF THE UNIVERSITY OF MIAMI IN THE MORNING. ACCORDING TO THE SPOKESMAN, A GROUP OF ANTI-WAR/DRAFT SUPPORTERS WILL PARTICIPATE IN THE DEMONSTRATION:

PHILADELPHIA, PA: MEMBERS OF THE VIETNAM WEEK COMMITTEE COMPOSED LARGELY OF PROFESSORS AND STUDENTS OF THE UNIVERSITY OF PENNSYLVANIA, WILL CONDUCT A "SLEEP-IN" TO PROTEST THE SCHEDULED APPEARANCE OF DOW CHEMICAL COMPANY RECRUITERS ON CAMPUS. THE NEXT DAY, 19 MARCH, THE SAME ORGANIZATION WILL SPONSOR A PROTEST RALLY ON CAMPUS.

Perhaps the best answer to all of these questions is that much of the CONUS intelligence program serves no military need at all. But if this is so, then where does the Army get the authority to run it?

### **The Army's Authority**

According to the Nixon Administration,

authority for this kind of program comes from the Constitution. So, at least, the Justice Department claimed last June in a brief defending the FBI's failure to obtain search warrants before tapping telephone calls of what were then the "Chicago Eight." The Justice Department argued that Article Two of the Constitution authorizes the President and his agents to engage in whatever "intelligence-gathering operations he believes are necessary to protect the security of the nation" and that this authority "is not dependent upon any grant of legislative authority from Congress, but rather is an inherent power of the President, derived from the Constitution itself." Thus, the Department contended, "Congress cannot tell the President what means he may employ to obtain information he needs to determine the proper deployment of his forces."

If this is so, then Army agents do have the authority to undertake any surveillance that does not run afoul of the Constitution and the courts; indeed, they can investigate anything that is normally investigated by the federal government's civilian agencies. Moreover, they do not have to obey laws like the Omnibus Crime Control Act of 1968, which forbids most wiretapping and electronic eavesdropping without prior judicial authorization in the form of a warrant.

Fortunately, the "inherent powers doctrine," as this theory is called, has few supporters. The courts have never accepted the proposition that Congress is powerless to prescribe how the President shall exercise his executive powers. Indeed, in 1952, the Supreme Court rejected President Truman's claim to inherent power to seize the nation's steel mills to avert a strike which threatened the flow of equipment and supplies to American troops fighting in Korea. If there were no constitutional Presidential power to meet that emergency, it is

unlikely that one exists to authorize the intelligence powers which the government claims today.

It is far more probable that the courts would endorse a conflicting view: that the Army's authority to collect domestic intelligence is limited by, and can only be inferred from, those laws which traditionally mark off the Army's responsibility for law enforcement from that of other agencies. These include not only the statutes which restrict the Army to a back-up function in times of riot, but the laws which assign surveillance of unlawful political activity within the United States to the FBI and the Secret Service. Other sources of the Army's authority include the Uniform Code of Military Justice, which permits investigation of unlawful political activity within the armed services, and those laws and federal-state agreements under which the Army governs many of its installations. These rules, and not the vague provisions of Article Two, are the legitimate sources of the military's domestic-intelligence powers.

Yet even if the current Administration's claim to an inherent constitutional power to watch lawful political activity were to be accepted by the courts, the surveillance itself probably would be forbidden by the Bill of Rights. The reason is the chilling effect which knowledge of surveillance has upon the willingness of citizens to exercise their freedoms of speech, press, and association, and their right to petition the government for redress of grievances.

Ten years ago the federal courts would not have accepted this contention. Then the courts were hesitant even to accept constitutional challenges to the government's collection of political information when the plaintiffs could prove that the investigators had no other purpose than to deter them from exercising their rights under the First Amendment. Recently, however, the courts have begun to accept the proposi-

tion that vague and overbroad laws and administrative actions are unconstitutional if they inhibit the exercise of those rights, regardless of whether that effect was intended.\*

### The Program's Impact

Beyond the Army's need for the present

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\* Typical of this growing body of constitutional interpretation is the 1965 case of *Lamont v. Postmaster General*. There the Supreme Court struck down a federal statute which authorized the Post Office to suspend delivery of unsolicited mail which the government agents regarded as "Communist political propaganda" until the addressee returned a reply post card declaring that he wished to receive the mail. The Court, in a unanimous opinion, held that the effect of this practice, whatever the government's purpose, was to abridge freedom of speech by inhibiting the right to read.

Even more on point is the decision of a New Jersey Superior Court which last August declared most of that state's domestic intelligence system unconstitutional. In *Anderson v. Sills*, a suit filed by the America Civil Liberties Union on behalf of the Jersey City branch of the NAACP, the court held: "The secret files that would be maintained as a result of this intelligence system are inherently dangerous, and by their very existence tend to restrict those who would advocate social and political change."

Had the New Jersey authorities been able to show a more urgent need for the records, the court might not have taken such a categorical position. But the police, like the Army, had cast their net so widely that it was bringing up huge quantities of information on wholly lawful political activities. Accordingly, the court brushed aside the state's claim to good intentions and found that the program had a chilling effect upon the exercise of First Amendment rights. It ordered all forms and files destroyed, "except where such information will be used to charge persons with specifically defined criminal conduct."

If people are likely to be deterred in the exercise of their rights by state intelligence systems, they undoubtedly will be inhibited by knowledge that reports of individual participation in public demonstrations are being made daily to the Pentagon, selected troop units, and an interagency data bank at Fort Holabird. Thus, even if the Army's collection of personality files and blacklists is not limited by legislation, it still may be unlawful.

CONUS intelligence program and its authority to pursue it lies the matter of its impact upon the public interest. In particular, there is its effect upon the rights of individuals, the democratic process, and the nation's security.

The impact which the program can have upon the exercise of political rights needs no further explication. The threat it poses to job rights and privacy, however, may not be so apparent.

Like the freedom from inhibitory surveillances, the job rights threatened are rights in the making. As yet no one has established a legal right to a job that requires a security clearance or to a security clearance essential to a job. Nevertheless, in recent years the courts have begun to recognize that those who already hold federal jobs and security clearances have a right not to be deprived of either without just cause or, at the very least, without the rudiments of fairness. The impending marriage of the CONUS intelligence wire service to a computer could nullify even this protection, by filling security-clearance dossiers with unverified and potentially erroneous and irrelevant reports. These reports would then be used to determine who should, and who should not, receive security clearances.

If the men and women who adjudicate security clearance were competent to evaluate such unreliable information, its inclusion in security files might be less cause for concern. Unfortunately, they are not. The most highly trained adjudicators—civilians employed by the stateside army commands—receive only nine days of job instruction on loyalty determinations at the Army Intelligence School. Moreover, this training does not even touch upon the subject of suitability, although almost 98 per cent of all clearances denied today are ostensibly rejected on that ground. The least trained adjudicators—intelligence officers assigned to field commands—receive exactly two classroom

hours on loyalty and two on suitability while being trained to become investigators. Because of this extremely brief training, it is not unusual for an adjudicator to conclude that a person arrested in connection with a political protest is not suited for a security clearance, regardless of the circumstances of his arrest, the legality of his detention, or his innocence of the charges.

The adjudicators' lack of training is compounded by security regulations which permit—indeed, seem to require—the denial of clearances on less evidence than would support a magistrate's finding of "probable cause." In other words, it is not a question of whether reliable evidence indicates that the individual cannot be trusted with state secrets, but of whether the granting of the clearance would be "clearly consistent with the interests of national security." No one really knows what this ambiguous phrase means, but in practice it frequently is used to justify findings of guilt by association. For example, soldiers and civilian employees of the Army with foreign-born spouses are virtually blocked from jobs requiring access to especially sensitive intelligence. Their association with a spouse who once "associated with foreigners" is taken as proof of their vulnerability to recruitment by foreign agents. Moreover, in nearly all other cases, adjudicators usually have to make their decisions without knowing the source of the evidence, without hearing the accused confront his accusers, or without hearing the accused defend himself with knowledge of their identity.

Given the tenuousness of the right to due process under these conditions, the influx of CONUS intelligence reports can make the system even more unjust than it is now. At the present time, little information on political activity is developed in the course of most background investigations. Army investigations, in particular, tend to be

superficial; in some sections of the country shortages of personnel, caused by the war in Vietnam, have forced the Intelligence Command to abandon interviews of character references in favor of questionnaires-by-mail as its main means of inquiry. But if these questionnaires were to be supplemented by CONUS political reports, the number of clearances unjustly denied would skyrocket. These injustices would occur not only within the military; they would reverberate throughout all federal agencies with access to the Fort Holabird data bank.

The Army's domestic-intelligence program also imperils numerous expectations of privacy, some of which enjoy the status of legal rights. It does so by exposing Americans to governmental scrutiny, and the fear of scrutiny, to an extent to which they have never been exposed before. Even the Budget Bureau's ill-starred proposal to consolidate the federal government's statistical records into a National Data Center would not have brought together so much information about individual beliefs and actions.

The privacy of politically active citizens is especially threatened by the Army's practice of watching political protests, large and small, throughout the United States. To the potential protester, it is one thing to expect local press and police coverage; it is quite another to expect a military surveillance which specializes in keeping permanent records of lawful political activity.

What effect awareness of the CONUS intelligence program will have on the vast majority of people who are not politically active is more difficult to predict. By itself, news that the Army is watching civilian politics is not likely to cause most people to worry personally about their privacy. But it would be one more increment in a growing pattern of governmental intrusiveness that could have a significant cumulative impact.

Such a pattern is now well established. Among the more widely publicized activities in recent years have been the CIA's surreptitious financing of student groups, labor unions, and foundations (despite the territorial limits of that agency's mandate), the Post Office's use of peepholes in restroom walls, and the Defense Department's misuse of lie detectors. Others include countless illegal wiretaps by the FBI, the Internal Revenue Service, and the Department of the Interior. More recently, the publication of confidential FBI wiretap information by *Life* and *Newsweek* which linked Jets' quarterback Joe Namath to Mafia figures suggests that the FBI has now assumed responsibility for enforcing professional football's code of conduct.

The cumulative impact of such abuses of power and privacy eventually must convince even the most anonymous of individuals that the United States is moving towards a society in which no one has control over what others know about him. Public awareness of the Army's activities cannot but hasten this conviction.

The unregulated growth of CONUS intelligence machinery also threatens the country's political health. It does so both by inhibiting political participation and by enhancing the potential clout of demagogues and others who would misuse security files for partisan or personal purposes.

The most immediate risk posed, of course, is to political participation. Once citizens come to fear that government agencies will misuse information concerning their political activities, their withdrawal from politics can be expected. This withdrawal can occur in a variety of ways. Some people may decline to become involved in potentially controversial community organizations and projects. Others may go further and avoid all persons who support unpopular ideas or who criticize the govern-

ment. Some may refuse to object to the abuse of government authority, especially when the abuse is committed in the name of national security. Others may even stop reading political publications, out of fear that the government might learn of their reading habits and disapprove. Indeed, an adjudicator of security clearances once asked me if she could lose her clearance if she allowed her daughter to subscribe to *The National Observer*!

Inhibitions generated by awareness of extensive domestic surveillance are likely to be strongest at the local level. This is where most citizens participate in politics if they become involved at all. The withdrawal can be expected to occur all across the political spectrum, although the strongest objections to surveillance will undoubtedly come from the left. Those most likely to be deterred, however, are not the extremists of the right or the left, whose sense of commitment runs deep, but the moderates, who normally hold the balance of power. Depletion of their ranks would, of course, strengthen the influence of the extremists, polarize debate, increase animosities, and decrease tolerance. As political positions rigidify, compromise and flexibility would become harder to achieve. And the capacity of government to renew itself and promote responsible progress would also suffer.

A less immediate but no less serious danger lies in the potential for misuse inherent in the Army's extensive files on individuals and groups. It is frightening to imagine what could happen if a demagogue in the Martin Dies-Joseph McCarthy tradition were to gain access to the computer the Army seeks now, or if an Otto Otepka in uniform were to leak a copy of the Intelligence Command's so-called "blacklist" to friends in Congress, or if a General Edwin Walker were to take charge of the Intelligence Command.

Such speculation assumes, of course, that the Army cannot guarantee the inviolability of its files. The assumption, unfortunately, has some validity. Only last year, information from the Army's confidential service record on New Orleans District Attorney Jim Garrison was leaked to the press. Officers at the Investigative Records Repository at Fort Holabird (which functions as the Army's lending library for such files) suspected that the leak came from a civilian agency in Washington. They were helpless to do anything about it, however, because they had no system of records accountability by which they could fix responsibility. When asked why such a system did not exist, one officer told me: "We probably couldn't stop it [the leaks] if we tried."

Finally, the unregulated growth of domestic intelligence activity can have the paradoxical effect of undermining the very security it seeks to protect. It can do so in at least two ways. First, by increasing the "cost" of lawful political activity, it tends to force extremist groups to go underground, there to act out their us-versus-them view of politics by criminal means. Second, by intruding too closely into the lives of government employees (or prospective employees), it tends to inhibit them from applying for jobs requiring security clearances or from exercising initiative and imagination in those jobs. A good intelligence officer must be able to analyze and report accurately, and to do so he must feel free to immerse himself in the ideas and culture of the people he studies. A good scientist must have freedom to pursue his curiosities, or he is not likely to work for the government, which rarely pays as much as private industry. The direct consequence of programs which deny this freedom is to impair the quality of secret work and the caliber of the men who do it. As John Stuart Mill warned over a century ago:

A state which dwarfs its men, in order that they may be more docile instruments in its hands, even for beneficial purposes, will find that with small men no great thing can really be accomplished....

### What Can Be Done?

If the Army has exceeded the limits of its needs and authority to establish a domestic intelligence program which endangers numerous public interests, what steps should be taken to curb its excesses?

An obvious first step is a court challenge of the Army's authority to possess information for which it has no substantial need. The main target of such a lawsuit should be the personality files and blacklists describing the lawful political activities of individuals and groups. A second target should be the collection and storage of information on individuals and groups suspected of participating in unlawful political activity—except where that information is essential to an "early warning" system, or where the persons involved are associated with the armed forces, or where the information is collected in the course of security investigations.

The lawsuit's argument should be twofold: (1) the Army has no substantial need for either kind of information, and (2) the very existence of the program inhibits the exercise of First Amendment rights. Such a suit should seek a court order declaring the Army's possession of both kinds of information to be unconstitutional; it should also ask the court to enjoin future collection and storage of such information and to direct the destruction of all existing personality files and blacklists.

While such a lawsuit stands a good chance of success, it could take years to litigate. Moreover, a favorable decision could be ignored or evaded for many more years. Thus, while the symbolic value of such a decision would

more than justify the time and expense, an effective challenge of the intelligence program will require the development of legislative and administrative remedies as well.

Whoever attempts to devise these remedies should be prepared to undertake subtle analyses of competing interests and values, for while the excesses of the program must be permanently curbed, the Army's ability to fulfill its responsibilities must not be impaired.

Ideally, legislative and executive analyses should be based on the kinds of questions I have already asked: What are the Army's real domestic intelligence needs? What authority does it have to initiate specific activities to meet those needs? What threats to liberty does each domestic intelligence effort pose?

The analysis should begin by demanding a justification for each alleged intelligence need in terms of the Army's authority to meet such a need and its purpose in trying to do so. Each need should then be weighed against the threats it may pose to the rights of individuals, to the vitality of the political process, and to the security of the nation. Where the risk is clear and the need doubtful, the Army should be denied authority to satisfy the need. Where the threat and the Army's need are both evident, less hazardous alternatives ought to be considered. In this circumstance, the capacity of politically responsible officials to control the alternatives should be weighed. Where reliable controls cannot be devised, the intelligence effort should not be authorized—even though the denial of authority may deprive the government of useful knowledge about the domestic political scene. If the imposition of these restraints poses a risk to internal security, then we must accept that risk as the price for individual liberties and a truly democratic political system.

The Congressional power of inquiry should be exercised first. Few Americans—including most members of Congress—know anything about the activities and plans of the domestic intelligence community. Many do not even realize that the growth of formal and informal ties among law-enforcement, intelligence, and security agencies has made it necessary to think in such terms.

For maximum effectiveness, Congress should hold open hearings not only to inform itself and the public, but to remind the intelligence community in general, and the Army in particular, that their authority to spy on civilian politics must be construed strictly, in accordance with such established principles as civilian control of the military, Presidential control of the bureaucracies, state and civilian primacy in law enforcement, compartmentalization and decentralization of intelligence duties, and obedience to law. Where it is not, corrective legislation should be promised.

A special effort should be made in the course of these hearings to inform the domestic intelligence community that Congress does not accept the Justice Department's position that "Congress cannot tell the President what means he may employ to obtain the information he needs."

Congress should also exercise its appropriations power so as to encourage major reforms in the Army's program. Specifically, it should block all funds for the planned computer unless and until the Army agrees to:

(1) Instruct its agents to limit their collection of CONUS intelligence to reports of incidents, except where the reports describe violations of the Uniform Code of Military Justice or of Army regulations. This would dry up the source of most blacklists and personality files.

(2) Forbid the Intelligence Command to convert incident reports into per-

sonality reports, except where they relate to criminal or deviant activity by persons subject to military law or employed by the military. Thus storage of information about named civilians unassociated with the armed forces would be doubly foreclosed, should such information be reported by mistake or as an essential element of an incident report.

(3) Establish effective technological, legal, and administrative safeguards against the abuse of individual rights in the process of collecting, reporting, storing, and disseminating domestic intelligence or personnel security information. For example, the Army should forbid its agents to infiltrate civilian political groups. (If it fails to do so, Congress should make such infiltration a federal crime, just as it is now a crime for a local military commander to order his troops to serve in a sheriff's posse.) Computer storage systems also should be encouraged, since they can be equipped with more effective safeguards against misuse than is possible in document storage systems. However, these safeguards must be carefully designed, regularly tested, and reinforced by laws and regulations to deter those who might seek to circumvent them.

(4) Establish separate headquarters, preferably in separate cities, for the CONUS-intelligence and personnel-security staffs. So long as the two programs are located at the same headquarters (they now share the same room and some of the same personnel), the danger of informal leakage of CONUS intelligence material to the adjudicators will remain high. Establishment of physically separate headquarters would be expensive, since it would probably require two separate communications and information storage systems. Separate storage systems, however, could be more safely computerized. Thus some of the additional expense might be re-

couped through increased efficiency.

(5) Request that the United States Judicial Conference or some similar body nominate a civilian advisory board to review and report annually on the sufficiency of the Intelligence Command's procedures for safeguarding individual rights. Such a board could satisfy both the public's need for a regularized system of independent scrutiny and the Army's need for friendly critics capable of alerting it to the legal, moral, and political implications of its domestic intelligence program. How successful such a board can be is open to question; much depends upon how skillfully its members can be chosen so as to assure both military and public confidence in their capacity for balanced and constructive judgments.

(6) Improve the professional quality of Intelligence Command personnel and security-clearance adjudicators. In the final analysis, the Army must be the front-line defender against the dangerous consequences of its own actions. Thus, among other things, the Army should be encouraged to end the overcrowding and understaffing of its Intelligence School, to revise and expand the curriculum of its agents' course, and to transfer the training of security-clearance adjudicators to an accredited law school or the Practising Law Institute, a non-profit organization well known for its practical courses for lawyers and laymen on specialized legal subjects.

Needless to say, each of these reforms should be initiated by the President or the Army without waiting for Congressional encouragement. In addition, the President should appoint a panel of distinguished citizens, on the order of the Kerner Commission, to look into the conduct of all domestic intelligence activities. He should also ask an organization like the highly prestigious American Law Institute to draft a new executive order and code of regulations

to govern the granting of security clearances.

Implementation of these reforms can do much to bring the Army's domestic intelligence practices in line with its legitimate responsibilities. But it is not enough to reform the Army. The Intelligence Command is only one member of a huge, informal community of domestic intelligence agencies. Other members of the community include not only the FBI, the Secret Service, the Air Force, and the Navy, but hundreds of state and municipal police departments. Some of the latter are surprisingly large. The New York City Police Department's Bureau of Special Services, for example, employs over 120 agents and has an annual budget in excess of \$1 million.

Each of these organizations now shares with the Army the capacity to inhibit people in the exercise of their rights, even without trying. By collaborating, they could become a potent political force in their own right. Thus as the Army, the FBI, and the Justice Department strive to coordinate these agencies through the establishment of wire services, hot lines, and computerized data banks, it is essential that the American public and its representatives be equally energetic in the imposition of checks and balances. In particular, special efforts should be made to prevent needless concentrations of information. The United States may be able to survive the centralization of intelligence files without becoming totalitarian, but it most certainly cannot become totalitarian without centralized intelligence files. The checks must be designed with the most unscrupulous of administrators in mind. The fact that we may trust the current heads of our investigative agencies is no guarantee that these agencies will not one day come under the control of men for whom the investigatory power is a weapon to be wielded against political and personal foes. ■

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