

B. THE OVERBREADTH OF DOMESTIC INTELLIGENCE ACTIVITY

MAJOR FINDING

The Committee finds that domestic intelligence activity has been overbroad in that (1) many Americans and domestic groups have been subjected to investigation who were not suspected of criminal activity and (2) the intelligence agencies have regularly collected information about personal and political activities irrelevant to any legitimate governmental interest.

Subfindings

(a) Large numbers of law-abiding Americans and lawful domestic groups have been subjected to extensive intelligence investigation and surveillance.

(b) The absence of precise standards for intelligence investigations of Americans contributed to overbreadth. Congress did not enact statutes precisely delineating the authority of the intelligence agencies or defining the purpose and scope of domestic intelligence activity. The executive branch abandoned the standard set by Attorney General Stone—that the government's concern was not with political opinions but with “such conduct as is forbidden by the laws of the United States.” Intelligence agencies' superiors issued over-inclusive directives to investigate “subversion” (a term that was never defined in presidential directives) and “potential” rather than actual or likely criminal conduct, as well as to collect general intelligence on lawful political and social dissent.

(c) The intelligence agencies themselves used imprecise and over-inclusive criteria in their conduct of intelligence investigations. Intelligence investigations extended beyond “subversive” or violent targets to additional groups and individuals subject to minimal “subversive influence” or having little or no “potential” for violence.

(d) Intelligence agencies pursued a “vacuum cleaner” approach to intelligence collection—drawing in all available information about groups and individuals, including their lawful political activity and details of their personal lives.

(e) Intelligence investigations in many cases continued for excessively long periods of time, resulting in sustained governmental monitoring of political activity in the absence of any indication of criminal conduct or “subversion.”

Elaboration of Findings

The central problem posed by domestic intelligence activity has been its departure from the standards of the law. This departure from law has meant not only the violation of constitutional prohibitions and explicit statutes, but also the adoption of criteria unrelated to the law as the basis for extensive investigations of Americans.

In 1917–1924, the federal government, often assisted by the private vigilante American Protective League, conducted sweeping investigations of dissenters, war protesters, labor organizers, and alleged “anarchists” and “revolutionaries.” These investigations led to mass arrests of thousands of persons in the 1920 “Palmer raids.” Reacting to these and other abuses of investigative power, Attorney General Harlan Fiske Stone in 1924 confined the Bureau of Investigation in the Justice Department to the investigation of federal crimes. Attorney General Stone articulated a clear and workable standard:

The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only such conduct as is forbidden by the laws of the United States.¹

Nevertheless, his restriction lasted for little more than a decade.

In the mid-1930s the FBI resumed domestic intelligence functions, carrying out President Roosevelt’s vague order to investigate “subversive activities.” The President and the Attorney General authorized FBI and military intelligence investigations of conduct explicitly recognized as “not within the specific provisions of prevailing statutes.” As a result, ideas and associations, rather than suspicion of criminal offenses, once again became the focus of federal investigations.

The scope of domestic intelligence investigations consistently widened in the decades after the 1930s, reaching its greatest extent in the late 1960s and early 1970s.

Domestic intelligence investigations were permitted under criteria which more nearly resembled political or social labels than standards for governmental action. Rather than Attorney General Stone’s standard of investigating “only such conduct as is forbidden by the laws of the United States,” domestic intelligence used such labels as the following to target intelligence investigations:

- “rightist” or “extremist” groups in the “anticommunist field
- persons with “anarchistic or revolutionary beliefs” or who were “espousing the line of revolutionary movements”
- “general racial matters”
- “hate organizations”
- “rabble rousers”
- “key activists”
- “black nationalists”
- “white supremacists”
- “agitators”
- “key black extremists”

These broad and imprecise labels reflect the ill-defined mission of domestic intelligence, which resulted from recurring demands for progressively wider investigations of Americans. Without the firm

¹ *New York Times*, 5/10/24. Attorney General Stone implemented this policy by issuing a directive to Acting Director J. Edgar Hoover of the Bureau of Investigation: “The activities of the Bureau are to be limited strictly to investigations of violations of law, under my direction or under the direction of an Assistant Attorney General regularly conducting the work of the Department of Justice.” (Memorandum from Attorney General Stone to J. Edgar Hoover, 5/13/24, cited in Alpheus Thomas Mason, *Harlan Fiske Stone: Pillar of the Law* [New York: Viking Press, 1956], p. 151.)

guidance provided by law, intelligence activities intruded into areas of American life which are protected from governmental inquiry by the constitutional guarantees of personal privacy and free speech and assembly.

Subfnding (a)

Large numbers of law-abiding Americans and lawful domestic groups have been subjected to extensive intelligence investigation and surveillance.

Some domestic intelligence activity has focused on specific illegal conduct or on instances where there was tangible evidence that illegal conduct was likely to occur. But domestic intelligence has gone far beyond such matters in collecting massive amounts of data on Americans. For example:

FBI Domestic Intelligence.—The FBI has compiled at its headquarters over 480,000 files on its "subversion" investigations and over 33,000 files on its "extremism" investigations.² During the twenty years from 1955 to 1975, the FBI conducted 740,000 investigations of "subversive matters" and 190,000 investigations of "extremist matters."³ The targets for FBI intelligence collection have included:

- the Women's Liberation Movement;
- the conservative Christian Front and Christian Mobilizers of Father Coughlin;
- the conservative American Christian Action Council of Rev. Carl McIntyre;
- a wide variety of university, church and political groups opposed to the Vietnam war;
- those in the non-violent civil rights movement, such as Martin Luther King's Southern Christian Leadership Council, the National Association for the Advancement of Colored People (NAACP), and the Council on Racial Equality (CORE).

Army Surveillance of Civilians.—The Army's nationwide intelligence surveillance program created files on some 100,000 Americans and an equally large number of domestic organizations, encompassing virtually every group seeking peaceful change in the United States including:

- the John Birch Society;
- Young Americans for Freedom;
- the National Organization of Women;
- the NAACP;
- the Urban League;
- the Anti-Defamation League of B'nai B'irth; and
- Business Executives to End the War in Vietnam.⁴

CIA's CHAOS Program.—The CIA's extensive CHAOS program—which compiled intelligence on domestic groups and individuals protesting the Vietnam war and racial conditions—amassed some

² Memorandum from FBI to Select Committee, 10/6/75.

³ Memorandum from FBI to Select Committee, Re: Investigative Matters, received 11/12/75. These statistics include as separate "matters" investigative leads pursued by different FBI offices in the same case.

⁴ Senate Judiciary Subcommittee on Constitutional Rights, "Federal Data Banks, Computers, and Bill of Rights," 1971. p. 264.

10,000 intelligence files on American citizens and groups and indexed 300,000 names of Americans in CIA computer records.⁵

IRS Selective Tax Investigations of Dissenters.—Between 1969 and 1973, the Internal Revenue Service, through a secret “Special Service Staff” (SSS), targeted more than 10,000 individuals and groups for tax examinations because of their political activity.⁶ The FBI and the Internal Security Division of the Justice Department gave SSS lists of taxpayers deemed to be “activists” or “ideological organizations;” the FBI, in providing SSS with a list of over 2,000 groups and individuals classified as “Right Wing,” “New Left,” and “Old Left,” expressed its hope that SSS tax examinations would “deal a blow to dissident elements.”⁷ A smaller though more intensive selective enforcement program, the “Ideological Organization Project,” was established in November 1961 in response to White House criticism of “right-wing extremist” groups.⁸ On the basis of such political criteria, 18 organizations were selected for special audit although there was no evidence of tax violation.⁹ In 1964, the IRS proposed to expand its program to make “10,000 examinations of [tax] exempt organizations of all types including the extremist groups.”¹⁰ Although this program never fully materialized, the “Ideological Organizations Project” can be viewed as a precursor to SSS.

CIA and FBI Mail Opening.—The 12 mail opening programs conducted by the CIA and FBI between 1940 and 1973 resulted in the illegal opening of hundreds of thousands of first-class letters. In the 1960s and early 1970s, the international correspondence of large numbers of Americans who challenged the condition of racial minorities or who opposed the war in Vietnam was specifically targeted for mail opening by both the CIA and FBI.

The overbreadth of the longest CIA mail opening program—the 20 year (1953–1973) program in New York City—is shown by the fact that of the more than 28 million letters screened by the CIA, the exteriors of 2.7 million were photographed and 214,820 letters were opened.¹¹ This is further shown by the fact that American groups and individuals placed on the Watch List for the project included:

- The Federation of American Scientists;
- authors such as John Steinbeck and Edward Albee;
- numerous American peace groups such as the American Friends Service Committee and Women’s Strike for Peace;
- and
- businesses, such as Praeger Publishers.¹²

By one CIA estimate, random selection accounted for 75 percent of the 200,000 letters opened, including letters to or from American political figures, such as Richard Nixon, while a presidential candidate in 1968, and Senators Frank Church and Edward Kennedy.¹³

⁵ See CHAOS Report: Sec. II D, “Operation of the CHAOS Program and Related CIA Projects.”

⁶ See IRS Report: Part II, Sec. II, “Special Service Staff.”

⁷ Memorandum from D. J. Brennan to W. C. Sullivan, 8/15/69.

⁸ Memorandum from William Loeb to Dean Barron, 11/30/61.

⁹ Memorandum from Mitchell Rogovin to Dean Barron, 12/20/61.

¹⁰ Memorandum from Commissioner, IRS to Myer Feldman, 7/11/63.

¹¹ See Mail Report: Part I, “Domestic CIA and FBI Mail Opening Programs.”

¹² See Mail Report: Part II, Sec. II B(1), “Selection Criteria.”

¹³ See Mail Report: Part II, Sec. II B(1), “Selection Criteria.”

NSA's Watch List and SHAMROCK Programs.—The National Security Agency's SHAMROCK program, by which copies of millions of telegrams sent to, from, or through the United States were obtained between 1947 and 1973, involved the use of a Watch List from 1967–1973. The watch list included groups and individuals selected by the FBI for its domestic intelligence investigations and by the CIA for its Operation CHAOS program. In addition, the SHAMROCK Program resulted in NSA's obtaining not only telegrams to and from certain foreign targets, but countless telegrams between Americans in the United States and American or foreign parties abroad.¹⁴

In short, virtually every element of our society has been subjected to excessive government-ordered intelligence inquiries. Opposition to government policy or the expression of controversial views was frequently considered sufficient for collecting data on Americans.

The committee finds that this extreme breadth of intelligence activity is inconsistent with the principles of our Constitution which protect the rights of speech, political activity, and privacy against unjustified governmental intrusion.

Subfinding (b)

The absence of precise standards for intelligence investigations of Americans contributed to overbreadth. Congress did not enact statutes precisely delineating the authority of the intelligence agencies or defining the purpose and scope of domestic intelligence activity. The Executive branch abandoned the standard set by Attorney General Stone—that the government's concern was not with political opinions but with “such conduct as is forbidden by the laws of the United States.” Intelligence agencies' superiors issued overinclusive directives to investigate “subversion” (a term that was never defined in presidential directives) and “potential” rather than actual or likely criminal conduct, as well as to collect general intelligence on lawful political and social dissent.

Congress has never set out a specific statutory charter for FBI domestic intelligence activity delineating the standards for opening intelligence investigations or defining the purpose and scope of domestic intelligence activity.¹⁵

Nor have the charters for foreign intelligence agencies—the Central Intelligence Agency and the National Security Agency—articulated adequate standards to insure that those agencies did not become involved in domestic intelligence activity. While the 1947 National Security Act provided that the CIA shall have no “police, subpoena, law enforcement powers or internal security functions,”¹⁶

¹⁴ See “National Security Agency Surveillance Affecting Americans”, NSA Report: Sec. II A, “Summary of NSA Watch List Activity”.

¹⁵ The FBI's statutory authority provides that the Attorney General may appoint officials: “(1) to detect and prosecute crimes against the United States; (2) to assist in the protection of the President; and (3) to conduct such investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.” (28 U.S.C. 533.)

Attorney General Edward H. Levi told the Select Committee “that the statutory basis for the operations of the Bureau cannot be said to be fully satisfactory.” (Edward H. Levi testimony, 12/11/75, Hearings, Vol. 6, p. 313.)

¹⁶ 50 U.S.C. 403 (d) (3).

the Act was silent concerning whether the CIA was authorized to target Americans abroad or to gather intelligence in the United States on Americans or foreign nationals in connection with its foreign intelligence responsibilities. By classified presidential directive, the CIA was authorized to conduct counterintelligence operations abroad and to maintain central counterintelligence files for the intelligence community.¹⁷ Counterintelligence activity was defined in the directive to include protection of the nation against "subversion," a term which, as in the directives authorizing FBI domestic intelligence activity, was not defined.

In the absence of specific standards for CIA activity and given the susceptibility of the term "subversion" to broad interpretation, the CIA conducted Operation CHAOS—a large scale intelligence program involving the gathering of data on thousands of Americans and domestic groups to determine if they had "subversive connections"—and illegally opened the mail of hundreds of thousands of Americans.

Moreover, the Act does not define the scope of the authority granted to CIA's Director to protect intelligence "sources and methods."¹⁸ This authority has been broadly interpreted to permit surveillance of present and former CIA employees in the United States as well as domestic groups thought to be a threat to CIA installations in the United States.

No statute at all deals with the National Security Agency. That Agency—one of the largest of the intelligence agencies—was created by Executive Order in 1952. Although NSA's mission is to obtain foreign intelligence from "foreign" communications, this has been interpreted to permit NSA to intercept communications where one terminal—the sender or receiver—was in the United States. Consequently when an American has used telephone or telegraph facilities between this country and overseas, his message has been subject to interception by NSA. NSA obtained copies of millions of private telegrams sent from, to or through the United States in its SHAM-ROCK program and complied with requests to target the international communications of specific Americans through the use of a watch list.

In addition to the failure of Congress to enact precise statutory standards, members of Congress have put pressure on the intelligence agencies for the collection of domestic intelligence without adequate regard to constitutional interests.¹⁹ Moreover, Congress has passed statutes, such as the Smith Act, which, although not directly authorizing domestic intelligence collection, had the effect of contributing to the excessive collection of intelligence about Americans.

Three functional policies, established by the Executive branch and acquiesced in by Congress, were the basis for the overbreadth of intelligence investigations directed at Americans. These policies centered on (1) so-called "subversion investigations" of attempts by hostile foreign governments and their agents in this country to influence the course of American life; (2) the investigation of persons and groups thought to have a "potential" for violating the law or committing violence; and (3) the collection of general intelligence on political and social movements in the interest of predicting and controlling civil disturbances.

¹⁷ National Security Intelligence Directive No. 5.

¹⁸ 50 U.S.C. 403 (d) (3).

¹⁹ See Finding on Deficiencies in Control and Accountability, pp. 277-279.

Each of these policies grew out of a legitimate concern. Nazi Germany, Japan and the Soviet Union mounted intelligence efforts in this country before World War II; and Soviet operations continued after the war. In the 1960s and early 1970s, racist groups used force to deprive Americans of their civil rights, some American dissidents engaged in violence as a form of political protest, and there were large-scale protest demonstrations and major civil disorders in cities stemming from minority frustrations.

The Committee recognizes that the government had a responsibility to act in the face of the very real dangers presented by these developments. But appropriate restraints, controls, and prohibitions on intelligence collection were not devised; distinctions between legitimate targets of investigations and innocent citizens were forgotten; and the Government's actions were never examined for their effects on the constitutional rights of Americans, either when programs originated or as they continued over the years.

The policies of investigating Americans thought to have a "potential" for violence and the collection of general intelligence on political and social movements inevitably resulted in the surveillance of American citizens and domestic groups engaged in lawful political activity. "Subversive" was never defined in the presidential directives from Presidents Roosevelt to Kennedy authorizing FBI domestic intelligence activity. Consequently, "subversive" investigations did not focus solely on the activities of hostile foreign governments in this country. Rather, they targeted Americans who dissented from administration positions or whose political positions were thought to resemble those of "subversive" groups. An example of the ultimate result of accepting the concept of "subversive" investigations is the Johnson White House instruction to the FBI to monitor public hearings on Vietnam policy and compare the extent to which Senators' views "followed the Communist Party line."²⁰

Similarly, investigations of those thought to have the "potential" for violating laws or committing violence and the collection of general intelligence to prepare for civil disturbances resulted in the surveillance of Americans where there was not reasonable suspicion to believe crime or violence were likely to occur. Broad categories of American society—conservatives, liberals, blacks, women, young people and churches—were targeted for intelligence collection.

Domestic intelligence expanded to cover widespread political protest movements in the late 1960s and early 1970s. For example, in September 1967, Attorney General Ramsey Clark called for a "new area of investigation and intelligence reporting" by the FBI regarding the possibility of "an organized pattern of violence" by groups in the "urban ghetto." He instructed FBI Director Hoover:

... we must make certain that every attempt is being made to get all information bearing upon these problems; to take every step possible to determine whether the rioting is pre-planned or organized. . . . As a part of the broad investigation which must be conducted . . . sources or informants in black nationalist organizations, SNCC and other less publicized groups should be developed and expanded to determine the

²⁰ FBI summary memorandum, 1/31/75.

size and purpose of these groups and their relationship to other groups.²¹

Such instructions did not limit investigation to facts pointing to particular criminal or violent activity but called for intensive intelligence surveillance of a broad category of black groups (and their connections with other groups) to determine their "size and purpose."

Similarly, the Army's broad domestic surveillance program reflected administration pressure on the Army for information on groups and individuals involved in domestic dissent.²² As a former Assistant Secretary of Defense testified, the Army's sweeping collection plan "reflected the all-encompassing and uninhibited demand for information directed at the Department of the Army."²³

Presidents Johnson and Nixon subjected the CIA to intensive pressure to find foreign influence on the domestic peace movements, resulting in the establishment of Operation CHAOS.²⁴ When the Nixon Administration called for an intensification of CIA's effort, the CIA was instructed to broaden its targeting criteria and strengthen its collection efforts. CIA was told that "foreign Communist support" should be "liberally construed."²⁵ The White House stated further that "it appears our present intelligence collection capabilities in this area may be inadequate" and implied that any gaps in CIA's collection program resulting from "inadequate resources or a low priority of attention" should be corrected.²⁶

In short, having abandoned Attorney General Stone's standard that restricted Government investigations to "conduct and then only such conduct as is forbidden by the laws of the United States," the Government's far-reaching domestic intelligence policies inevitably produced investigations and surveillance of large numbers of law-abiding Americans.

Subfinding (c)

The intelligence agencies themselves used imprecise and over-inclusive criteria in their conduct of intelligence investigations. Intelligence investigations extended beyond "subversive" or violent targets to additional groups and individuals subject to minimal "subversive influence" or having little or no "potential" for violence.

Having been given vague directions by their superiors and subjected to substantial pressure to report on a broad range of matters, the intelligence agencies themselves often established overinclusive targeting criteria. The criteria followed in the major domestic intelligence programs conducted in the 1960s and 1970s illustrate the breadth of intelligence targeting:

"General Racial Matters".—The FBI gathered intelligence about proposed "civil demonstrations" and related activities of "officials, committees, legislatures, organizations, etc." in the "racial field."²⁷

²¹ Memorandum from Ramsey Clark to J. Edgar Hoover, 9/14/67.

²² See Military Surveillance Report: Sec. II C.

²³ Robert F. Froehle testimony, Senate Judiciary Subcommittee on Constitutional Rights, 1971, cited hereinafter as *1971 Hearings*.

²⁴ See pp. 99–101.

²⁵ Memorandum from Tom Charles Huston to Deputy Director of CIA, 6/20/69, p. 1.

²⁶ Memorandum from Tom Charles Huston to Deputy Director of CIA, 6/20/69, p. 1.

²⁷ 1964 FBI Manual Section 122, p. 1.

FBI Field Offices were directed to report the "general programs" of *all* "civil rights organizations" and "readily available personal background data" on leaders and individuals "in the civil rights movement," as well as any "subversive association" that might be recorded in Field Office files.²⁸ In addition, the FBI reported "the objectives sought by the minority community."²⁹

These broad criteria were also reflected in the FBI's targeting of "white militant groups" in the reporting of racial matters. Those who were "known to sponsor demonstrations against integration and against the busing of Negro students to white schools" were to be investigated.³⁰

"New Left" Intelligence.—In conducting a "comprehensive study of the whole New Left movement" (rather than investigating particular violations of law), the FBI defined its intelligence target as a "loosely-bound, free-wheeling, college-oriented movement."³¹ Organizations to be investigated were those who fit criteria phrased as the "more extreme and militant anti-Vietnam war and antidraft organizations."³²

The use of such imprecise criteria resulted in investigations of such matters as (1) two university instructors who helped support a student newspaper whose editorial policy was described by the FBI as "left-of-center, antiestablishment, and opposed to the University Administration";³³ (2) a dissident stockholder's group planning to protest a large corporation's war production at the annual stockholder's meeting;³⁴ and (3) "Free Universities" attached to college campuses, whether or not there were facts indicating any actual or potential violation of law.³⁵

"Rabble Rouser" Index.—Beginning in August 1967, the FBI conducted intensive intelligence investigations of individuals identified as "rabble rousers." The program was begun after a member of the National Advisory Commission on Civil Disorders asked the FBI at a meeting of the Commission "to identify the number of militant Negroes and Whites."³⁶ This vague reference was subsequently used by the FBI as the basis for instructions implementing a broad new program: persons were to be investigated and placed on the "rabble rouser" index who were "racial agitators who have demonstrated a potential for fomenting racial discord."³⁷

Ultimately, a "rabble rouser" was defined as:

A person who tries to arouse people to violent action by appealing to their emotions, prejudices, et cetera; a demagogue.³⁸

Thus, rather than collecting information on those who had or were likely to commit criminal or violent acts, a major intelligence program was launched to identify "demagogues."

²⁸ FBI Manual, Section 122, revised 12/13/66, p. 8-9.

²⁹ FBI Manual, Section 122, revised 12/13/66, p. 8-9.

³⁰ SAC Letter, 68-25, 4/30/68.

³¹ Memorandum from FBI Headquarters to all SAC's, 10/28/68.

³² Memorandum from FBI Headquarters to all SAC's 10/28/68.

³³ Memorandum from Mobile Field Office to FBI Headquarters, 12/9/70.

³⁴ Memorandum from FBI Headquarters to Minneapolis Field Office, 4/23/70.

³⁵ Memorandum from Detroit Field Office to FBI Headquarters, 4/15/66.

³⁶ Memorandum from Cartha DeLoach to Clyde Tolson, 8/1/67.

³⁷ Memorandum from Charles Brennan to William Sullivan, 8/3/67; SAC Letter 67-56, 9/12/67.

³⁸ SAC Letter No. 67-70, 11/28/67.

Army Domestic Surveillance of "Dissidents."—Extremely broad criteria were used in the Army's nationwide surveillance program conducted in the late 1960s. Such general terms as "the civil rights movement" and the "anti-Vietnam/anti-draft movements" were used to indicate targets for investigation.³⁹ In collecting information on these "movements" and on the "cause of civil disturbances," Army intelligence was to investigate "instigators," "group participants," and "subversive elements"—all undefined.

Under later revisions, the Army collection plan extended even beyond "subversion" and "dissident groups" to "prominent persons" who were "friendly" with the "leaders of the disturbance" or "sympathetic with their plans."⁴⁰

These imprecise criteria led to the creation of intelligence files on nearly 100,000 Americans, including Dr. Martin Luther King, Major General Edwin Walker, Julian Bond, Joan Baez, Dr. Benjamin Spock, Rev. William Sloane Coffin, Congressman Abner Mikva, Senator Adlai Stevenson III,⁴¹ as well as clergymen, teachers, journalists, editors, attorneys, industrialists, a laborer, a construction worker, railroad engineers, a postal clerk, a taxi driver, a chiropractor, a doctor, a chemist, an economist, a historian, a playwright, an accountant, an entertainer, professors, a radio announcer, athletes, business executives and authors—all of whom became subjects of Army files simply because of their participation in political protests or their association with those who were engaged in such political activity.⁴²

The IRS Computerized Intelligence Index.—In 1973, IRS established a central computer index—the "Intelligence Gathering and Retrieval System"—for general intelligence data, much of it unrelated to tax law enforcement. More than 465,000 Americans were indexed in the IRS computer system, including J. Edgar Hoover and the IRS Commissioner, as well as thousands of others also not suspected of tax violation. Names in newspaper articles and other published sources were indexed wholesale into the IRS computer. Under the system, intelligence gathering preceded any specific allegation of a violation, and possible "future value" was the sole criterion for inclusion of information into the Intelligence Gathering and Retrieval System.

CIA's Operation CHAOS.—In seeking to fulfill White House requests for evidence of foreign influence on domestic dissent, the CIA gave broad instructions to its overseas stations. These directives called for reporting on the "Radical Left" which included, according to the CIA, "radical students, antiwar activists, draft resisters and deserters, black nationalists, anarchists, and assorted 'New Leftists'."⁴³ CIA built its huge CHAOS data base on the assumption that to know whether there was significant foreign involvement in a domestic group "one has to know whether each and every one of these persons has any connection to foreigners."⁴⁴ CIA instructed its stations that even "casual contacts based merely on mutual interest" between Americans opposed to the Vietnam war and "foreign elements" were deemed to

³⁹ 1971 Hearings, pp. 1120–1121.

⁴⁰ 1971 Hearings, pp. 1123–1138.

⁴¹ Stein testimony, 1971 Hearings, p. 266.

⁴² "Military Surveillance of Civilian Politics," Senate Judiciary Subcommittee on Constitutional Rights Report, 1973, p. 57, cited hereafter as 1973 Report.

⁴³ Book Cable from Thomas Karamessines to various European Stations, June 1968.

⁴⁴ Richard Ober testimony, Rockefeller Commission, 3/28/75, pp. 88–89.

"casual contacts based merely on mutual interest" between Americans opposed to the Vietnam war and "foreign elements" were deemed to constitute "subversive connections."⁴⁵ Similarly, CIA's request to NSA for materials on persons targeted by the NSA Watch List called for all information regardless of how innocuous it may seem."⁴⁶

The Committee's investigation has shown that the absence of precise statutory standards and the use of overbroad criteria for domestic intelligence activity resulted in the extension of intelligence investigations beyond their original "subversive" or violent targets. Intelligence investigations extended to those thought to be subject to "subversive influence." Moreover, those thought to have a "potential" for violence were also targeted and, in some cases, investigations extended even to those engaged in wholly non-violent lawful political expression.

FBI "COMINFIL" Investigations.—Under the FBI's COMINFIL ("communist infiltration") program, large numbers of groups and individuals engaged in lawful political activity have been subjected to informant coverage and intelligence scrutiny. Although COMINFIL investigations were supposed to focus on the Communist Party's alleged efforts to penetrate domestic groups, in practice the target often became the domestic groups themselves.

FBI COMINFIL investigations reached into domestic groups in virtually every area of American political life. The FBI conducted COMINFIL investigations in such areas as "religion," "education," "veterans' matters," "women's matters," "Negro question," and "cultural activities."⁴⁷ The "entire spectrum of the social and labor movement" was covered.⁴⁸

The overbreadth that results from the practice of investigating groups for indications of communist influence or infiltration is illustrated by the following FBI COMINFIL intelligence investigations:

NAACP.—An intensive 25 year long surveillance of the NAACP was conducted, ostensibly to determine whether there was Communist infiltration of the NAACP. This surveillance, however, produced detailed intelligence reports on NAACP activities wholly unrelated to any alleged communist "attempts" to infiltrate the NAACP, and despite the fact that no evidence was ever found to contradict the FBI's initial finding that the NAACP was opposed to communism.^{48a}

Northern Virginia Citizens Concerned About the ABM.—In 1969, the FBI conducted an intelligence investigation and used informants to report on a meeting held in a public high school auditorium at which the merits of the Anti-Ballistic Missile System were debated by, among others, Department of Defense officials. The investigation was apparently opened because a communist newspaper had commented on the fact that the meeting was to be held.⁴⁹

National Conference on Amnesty for Vietnam Veterans.—In 1974, FBI informants reported on a national conference sponsored by

⁴⁵ Cable from CIA Headquarters to field stations, November 1967, pp. 1-2.

⁴⁶ Memorandum from Richard Ober to NSA, 9/14/71.

⁴⁷ 1960 FBI Manual, Section 87, pp. 5-11.

⁴⁸ Annual Report of the Attorney General for Fiscal Year 1955, p. 195.

^{48a} See History of Domestic Intelligence, Report, Part II at note 139.

⁴⁹ James Adams testimony, 11/19/75. Hearings, Vol. 6, pp. 137-138. FBI documents indicate that another factor in the opening of the investigation was the role of the wife of a Communist in assisting in publicity work for the meeting. (Memorandum from Washington Field Office to FBI Headquarters, 5/28/69; memorandum from Alexandria Field Office to FBI Headquarters, 6/3/69) See Findings 6(a), p. 10, for the broad dissemination of reports that resulted from this inquiry.

church and civil liberties groups to support amnesty for Vietnam veterans. The investigation was based on a two-step "infiltration" theory. Other informants had reported that the Vietnam Veterans Against the War (which was itself the subject of an intelligence investigation because it was thought to be subject to communist or foreign influence) might try to "control" the conference.⁵⁰ Although the conference was thus twice removed from the original target, it was nevertheless subjected to informant surveillance.

FBI intelligence investigations to find whether groups are subject to communist or "subversive" influence result in the collection of information on groups and individuals engaged in wholly legitimate activity. Reports on the NAACP were not limited to alleged communist infiltration. Similarly, the investigation of the National Amnesty Conference produced reports describing the topics discussed at the conference and the organization of a steering committee which would include families of men killed in Vietnam and congressional staff aides.⁵¹ The reports on the meeting concerning the ABM system covered the past and present residence of the person who applied to rent the high school auditorium, and plans for a future meeting, including the names of prominent political figures who planned to attend.⁵²

The trigger for COMINFIL-type investigations—that subversive "attempts" to infiltrate groups were a substantial threat—was greatly exaggerated. According to the testimony of FBI officials, the mention in a communist newspaper of the citizens' meeting to debate the ABM was sufficient to produce intelligence coverage of that meeting.⁵³ A large public teach-in on Vietnam, including representatives of Catholic, Episcopal, Methodist and Unitarian churches, as well as a number of spokesmen for antiwar groups, was investigated because a Communist Party official had "urged" party members to attend and one speaker representing the W. E. B. DuBois Club was identified as a communist.⁵⁴ The FBI surveillance of the teach-in resulted in a 41-page intelligence report based on coverage by 13 informants and sources.⁵⁵ And the FBI's investigation of *all* Free Universities near colleges and universities was undertaken because "several" allegedly had been formed by the Communist Party "and other subversive groups."⁵⁶

Similarly, the FBI's broad COMINFIL investigations of the civil rights movement in the South were based on the FBI's conclusion that the Communist Party had "*attempted*" to take advantage of racial unrest and had "*endeavored*" to pressure U.S. Government officials "through the press, labor unions and student groups."⁵⁷ [Emphasis

⁵⁰ Raymond W. Wannall testimony, 12/2/75, Hearings, Vol. 6, p. 139.

⁵¹ Memorandum from Louisville Field Office to FBI Headquarters, 11/21/74.

⁵² Memoranda from Alexandria Field Office to FBI Headquarters, 6/5/69.

⁵³ Adams, 11/19/75, Hearings, Vol. 6, p. 138.

⁵⁴ Memorandum from Philadelphia Field Office to FBI Headquarters, 3/2/66.

⁵⁵ Memorandum from Philadelphia Field Office to FBI Headquarters, 3/2/66.

⁵⁶ Memorandum from FBI Headquarters to Detroit Field Office, 2/17/66.

⁵⁷ Memorandum from J. Edgar Hoover, Chairman, Interdepartmental Intelligence Conference, to McGeorge Bundy, Special Assistant to the President for National Security, 7/25/61, enclosing IIC Report, Status of U.S. Internal Security Programs. See Findings on Political Abuse, p. 225 for discussion on the larger impact of such FBI terminology.

supplied.] No mention was made of the general failure of these "attempts."

The Committee finds that COMINFIL investigations have been based on an exaggerated notion of the threat posed by "subversives" and foreign influence on American political expression. There has been an unjustified belief that Americans need informants and government surveillance to protect them from "subversive" influence in their unions, churches, schools, parties and political efforts.

Investigations of Wholly Non-Violent Political Expression.—Domestic intelligence investigations have extended from those who commit or are likely to commit violent acts to those thought to have a "potential" for violence, and then to those engaged in purely peaceful political expression. This characteristic was graphically described by the White House official who coordinated the intelligence agencies' recommendations for "expanded" (and illegal) coverage in 1970. He testified that intelligence investigations risked moving

from the kid with a bomb to the kid with a picket sign, and from the kid with the picket sign to the kid with the bumper sticker of the opposing candidate. And you just keep going down the line.⁵⁸

Without precise standards to restrict their scope, intelligence investigations did move beyond those who committed or were likely to commit criminal or violent acts. For example:

—Dr. Martin Luther King, Jr., was targeted for the FBI's COIN TELPRO operations against "Black Nationalist-Hate Groups" on the theory, without factual justification, that Dr. King *might* "abandon" his adherence to nonviolence.⁵⁹

—The intensive FBI investigation of the Women's Liberation Movement was similarly predicated on the theory that the activities of women in that Movement *might* lead to demonstrations and violence.⁶⁰

—The FBI investigations of Black Student Unions proceeded from the concern of the FBI and its superiors over violence in the cities. Yet the FBI opened intelligence investigations on "every Black Student Union and similar group *regardless of their past or present involvement in disorders.*"⁶¹ [Emphasis added.]

—The nationwide Army Intelligence surveillance of civilians was conducted in connection with civil disorders. However, the Army collection plan focused not merely on those likely to commit violence but was "so comprehensive . . . that any category of information related even remotely to people or organizations active in a community in which the potential for violence was present would fall within their scope."⁶²

The Committee finds that such intelligence surveillance of groups and individuals has greatly exceeded the legitimate interest of the government in law enforcement and the prevention of violence. Where unsupported determinations as to "potential" behavior are the basis for

⁵⁸ Tom Charles Huston testimony, 9/23/75, Hearings, Vol. 2, p. 45.

⁵⁹ Memorandum from FBI Headquarters to all SAC's, 3/4/68.

⁶⁰ Memorandum from New York Field Office to FBI Headquarters, 5/28/69, (Hearings, Vol. 6, Exhibit 54.)

⁶¹ Memorandum from Executives Conference to Tolson, 10/29/70.

⁶² Froehlike, 1971 Hearings, p. 384.

surveillance of groups and individuals, no one is safe from the inquisitive eye of the intelligence agency.

Subfindings (d)

Intelligence agencies pursued a "vacuum cleaner" approach to intelligence collection—drawing in all available information about groups and individuals, including their lawful political activity and details of their personal lives.

Intelligence agencies collect an excessive amount of information by pursuing a "vacuum cleaner" approach that draws in all available information, including lawful political activity, personal matters, and trivia. Even where the theory of the investigation is that the subject is likely to be engaged in criminal or violent activity, the overbroad approach to intelligence collection intrudes into personal matters unrelated to such criminal or violent activity.

FBI officials conceded to the Committee that in conducting broad intelligence investigations to determine the "real purpose" of an organization, they sometimes gathered "too much information."⁶³

The FBI's intelligence investigation of the "New Left," for example, was directed towards a "comprehensive study of the whole movement" and produced intensive monitoring of such subjects as "support of movement by religious groups or individuals," "demonstrations aimed at social reform," "indications of support by mass media," "all activity in the labor field," and "efforts to influence public opinion, the electorate and Government bodies."⁶⁴

Similar overbreadth characterized the FBI's collection of intelligence on "white militant groups." In 1968 FBI field offices were instructed not to gather information solely on actual or potential violations of law or violence, but to use informants to determine the "aims and purposes of the organization, its leaders, approximate membership" and other "background data" relating to the group's "militancy."⁶⁵ In 1971 the criteria for investigating individuals were widened. Special Agents in Charge of FBI field offices were instructed to investigate not only persons with "a potential for violence," but also anyone else "who in judgment of SAC should be subject of investigation due to extremist activities."⁶⁶

Even in searching for indications of potential violence in black urban areas or in collecting information about violence-prone Ku Klux Klan chapters, there was marked overbreadth. In black urban areas, for example, FBI agents were instructed to have their informants obtain the names of "Afro-American type bookstores" and their "owners, operators and clientele."⁶⁷ The activities of civil rights and black groups as well as details of the personal lives of Klan members, were reported on by an FBI intelligence informant in the Ku Klux Klan.^{67a} Under this approach, the average citizen who merely attends a meeting, signs a petition, is placed on a mailing list, or visits a book store, is subject to being recorded in intelligence files.

A striking example of informant reporting on all they touch was provided by an FBI informant in an antiwar group with only 55

⁶³ Adams, 12/2/75, Hearings, Vol. 6, p. 135.

⁶⁴ Memorandum from FBI Headquarters to all SACs, 10/28/68.

⁶⁵ SAC Letter 68-25, 4/30/68.

⁶⁶ 1971 Manual, Section 122.

⁶⁷ Memorandum from Philadelphia Field Office to FBI Headquarters, 8/12/68.

^{67a} Rowe, 12/2/75, Hearings, Vol. 6, p. 116.

regular members and some 250 persons who gave occasional support. The informant estimated she reported nearly 1,000 names to the FBI in an 18-month period—60–70 percent of whom were members of other groups (such as the United Church of Christ and the American Civil Liberties Union) which were engaging in peaceful, lawful political activity together with the antiwar group or who were on the group's mailing list.⁶⁸ Similarly in the intelligence investigation of the Women's Liberation Movement, informants reported the identities of individual women attending meetings (as well as reporting such matters as the fact that women at meetings had stated "how they felt oppressed, sexually or otherwise.")⁶⁹

Such collection of "intelligence" unrelated to specific criminal or violent activity constitutes a serious misuse of governmental power. In reaching into the private lives of individuals and monitoring their lawful political activity—matters irrelevant to any proper governmental interest—domestic intelligence collection has been unreasonably broad.

Subfinding (e)

Intelligence investigations in many cases continued for excessively long periods of time, resulting in sustained governmental monitoring of political activity in the absence of any indication of criminal conduct or "subversion."

One of the most disturbing aspects of domestic intelligence investigations found by the Committee was their excessive length. Intelligence investigations often continued, despite the absence of facts indicating an individual or group is violating or is likely to violate the law, resulting in long-term government monitoring of lawful political activity. The following are examples:

(i) *The FBI Intelligence Investigation of the NAACP (1941–1966).*—The investigation of the NAACP began in 1941 and continued for at least 25 years. Initiated according to one FBI report as an investigation of protests by 15 black mess attendants about racial discrimination in the Navy,⁷⁰ the investigation expanded to encompass NAACP chapters in cities across the nation. Although the ostensible purpose of this investigation was to determine if there was "Communist infiltration" of the NAACP, the investigation constituted a long-term monitoring of the NAACP's wholly lawful political activity by FBI informants. Thus:

—The FBI New York Field Office submitted a 137-page report to FBI headquarters describing the national office of the NAACP, its national convention, its growth and membership, its officers and directors, and its stand against Communism.⁷¹

—An FBI informant in Seattle obtained a list of NAACP branch officers and reported on a meeting where signatures were gathered on a "petition directed to President Eisenhower" and plans for two members to go to Washington, D.C., for a "Prayer Pilgrimage."⁷²

⁶⁸ Mary Jo Cook testimony, 12/2/75. Hearings. Vol. 6, pp. 112, 120.

⁶⁹ Memorandum from Kansas City Field Office, 10/20/70; memorandum New York Field Office, 5/28/69; memorandum from Baltimore Field Office, 5/11/70 to FBI Headquarters. CIA agents in the United States also reported on Women's Liberation activities in the course of their preparation for overseas duty in Operation CHAOS. (Agent 1. Contact Report. Vol. II, Agent 1 file.)

⁷⁰ Memorandum from Washington Field Office to FBI headquarters, 3/11/41.

⁷¹ Memorandum from New York Field Office to FBI Headquarters, 2/12/57.

⁷² Memorandum from Seattle Field Office to FBI Headquarters, 6/1/57.

—In 1966, the New York Field Office reported the names of all NAACP national officers and board members, and summarized their political associations as far back as the 1940s.⁷³

—As late as 1966, the FBI was obtaining NAACP chapter membership figures by “pretext telephone call . . . utilizing the pretext of being interested in joining that branch of the NAACP.”⁷⁴

—Based on the reports of FBI informants, the FBI submitted a detailed report of a 1956 NAACP-sponsored Leadership Conference on Civil Rights and described plans for a Conference delegation to visit Senators Paul Douglas, Herbert Lehman, Wayne Morse, Hubert Humphrey, and John Bricker.⁷⁵ Later reports covered what transpired at several of these meetings with Senators.⁷⁶ Most significantly, all these reports were sent to the White House.⁷⁷

(ii) *The FBI Intelligence Investigation of the Socialist Workers Party (1940 to date).*—The FBI has investigated the Socialist Workers Party (SWP) from 1940 to the present day on the basis of that Party’s revolutionary rhetoric and alleged international links. Nevertheless, FBI officials testified that the SWP has not been responsible for any violent acts nor has it urged actions constituting an indictable incitement to violence.^{77a}

FBI informants have been reporting the political positions taken by the SWP with respect to such issues as the “Vietnam War,” “racial matters,” “U.S. involvement in Angola,” “food prices,” and any SWP efforts to support a non-SWP candidate for political office.⁷⁸

Moreover, to enable the FBI to develop “background information” on SWP leaders, informants have been reporting certain personal aspects of their lives, such as marital status.⁷⁹ The informants also have been reporting on SWP cooperation with other groups who are not the subject of separate intelligence investigations.⁸⁰

(iii) *The Effort to Prove Negatives.*—Intelligence investigations and programs have also continued for excessively long periods in efforts to prove negatives. CIA’s Operation CHAOS began in 1967. From that year until the program’s termination in 1974,⁸¹ the CIA repeatedly reached formal conclusions that there was negligible foreign influence on domestic protest activity. In 1967, the CIA concluded that Communist front groups did not control student organizations and that there were no significant links with foreign radicals;⁸² in 1968, the CIA concluded that U.S. student protest was essentially homegrown and not stimulated by an international conspiracy;⁸³ and in 1971 the CIA found “there is no evidence that foreign governments, organizations, or intelligence services now control U.S. New Left

⁷³ Memorandum from New York Field Office to FBI Headquarters, 4/15/65.

⁷⁴ Memorandum from Los Angeles Field Office to FBI Headquarters, 4/15/66.

⁷⁵ Memorandum from Hoover to Anderson, 3/5/56.

⁷⁶ Memorandum from Hoover to Anderson, 3/6/56.

⁷⁷ See Findings on “Political Abuse.”

^{77a} Robert Shackelford testimony, 2/2/76; pp. 89–90.

⁷⁸ Shackelford, 2/2/76, p. 89.

⁷⁹ Shackelford, 2/2/76; p. 90.

⁸⁰ Shackelford, 2/2/76, p. 92.

⁸¹ See Findings, “Deficiencies in Control and Accountability”, p. 265.

⁸² CIA memorandum, “Student Dissent and Its Techniques in the U.S.”, 1/5/68.

⁸³ CIA Report, “Restless Youth,” Conclusions, p. 1, 9/4/68.

Movements . . . the U.S. New Left is basically self-sufficient and moves under its own impetus.”⁸⁴

The result of these repeated findings was not the termination of CHAOS's surveillance of Americans, but its redoubling. Presidents Johnson and Nixon pressured the CIA to intensify its intelligence effort to find evidence of foreign direction of the U.S. peace movement. As Director Helms testified:

When a President keeps asking if there is any information, “how are you getting along with your examination,” “have you picked up any more information on this subject,” it isn’t a direct order to do something, but it seems to me it behooves the Director of Central Intelligence to find some way to improve his performance, or improve his Agency’s performance.⁸⁵

In an effort to prove its negative finding to a skeptical White House—and to test its validity each succeeding year—CIA expanded its program, increasing its coverage of Americans overseas and building an ever larger “data base” on domestic political activity. Intelligence was exchanged with the FBI, NSA, and other agencies, and eventually CIA agents who had infiltrated domestic organizations for other purposes supplied general information on the groups’ activities.⁸⁶ Thus, the intelligence mission became one of continued surveillance to prove a negative, with no thought to terminating the program in the face of the negative findings.

As in the CHAOS operation, FBI intelligence investigations have often continued even in the absence of any evidence of “subversive” activities merely because the subjects of the investigation have not demonstrated their innocence to the FBI’s satisfaction. The long-term investigations of the NAACP and the Socialist Workers Party described above are typical examples.

A striking illustration of FBI practice is provided by the intelligence investigation of an advisor of Dr. Martin Luther King, Jr. The advisor was investigated on the theory that he might be a communist “sympathizer.” The Bureau’s New York office concluded he was not.⁸⁷ Using a theory of “guilty until proven innocent,” FBI headquarters directed that the investigation continue:

The Bureau does not agree with the expressed belief of the New York office that []⁸⁸ is not sympathetic to the Party cause. While there may not be any evidence that [] is a Communist neither is there any substantial evidence that he is anti-Communist.⁸⁹

⁸⁴ CIA Report, “Definition and Assessment of Existing Internal Security Threat—Foreign,” 1/5/71, pp. 1-3.

⁸⁵ Richard Helms testimony, Rockefeller Commission, 4/28/75, pp. 2434-2435. Helms further testified: “President Johnson was after this all the time . . . this was something that came up almost daily and weekly.” Helms, Rockefeller Commission, 1/13/75, pp. 163-164.

⁸⁶ See CHAOS Report: Section II D, “Operations of the CHAOS Program and Related CIA Projects,” and II E, “1969 Expansion of CHAOS.”

⁸⁷ Memorandum from New York Field Office to FBI Headquarters, 4/14/64.

⁸⁸ Name deleted by Committee to protect privacy.

⁸⁹ Memorandum from FBI Headquarters to New York Field Office, 4/24/64.

Where citizens must demonstrate not simply that they have no connection with an intelligence target, but must exhibit “substantial evidence” that they are in opposition to the target, intelligence investigations are indeed open-ended.