

DOMESTIC CIA AND FBI MAIL OPENING PROGRAMS

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DOMESTIC CIA AND FBI MAIL OPENING PROGRAMS

PART I: SUMMARY AND PRINCIPAL CONCLUSIONS

Between 1940 and 1973, two agencies of the federal government—the CIA and the FBI—covertly and illegally opened and photographed first class letter mail within the United States. These agencies conducted a total of twelve mail opening programs for lengths of time varying from three weeks to twenty-six years. In a single program alone, more than 215,000 communications were intercepted, opened, and photographed; the photographic copies of these letters, some dated as early as 1955, were indexed, filed, and are retained even today. Information from this and other mail opening programs—“sanitized” to disguise its true source—was disseminated within the federal establishment to other members of the intelligence community, the Attorney General, and to the President of the United States.

The stated objective of the CIA programs was the collection of foreign intelligence and counterintelligence information; that of the FBI programs was the collection of counterespionage information. In terms of their respective purposes, seven of the twelve mail opening programs were considered to have been successful by Agency and Bureau officials. One CIA project and three of the FBI programs concededly failed to obtain any significant relevant information. Another CIA operation—clearly the most massive of all the programs in terms of numbers of letters opened—was believed to have been of value to the Agency by some officials, but was criticized by many others as having produced only minimally useful foreign intelligence. Despite two unfavorable internal reviews, this program nonetheless continued unabated for twenty years.

While all of these programs responded to the felt intelligence needs of the CIA and the FBI during the “cold war” of the 1950’s and early 1960’s, once in place they could be—and sometimes were—directed against the citizens of this country for the collection of essentially domestic intelligence. In the 1960’s and early 1970’s, large numbers of American dissidents, including those who challenged the condition of racial minorities and those who opposed the war in Vietnam, were specifically targeted for mail opening by both agencies. In one program, selection of mail on the basis of “personal taste” by agents untrained in foreign intelligence objectives resulted in the interception and opening of the mail of Senators, Congressmen, journalists, businessmen, and even a Presidential candidate.

The first mail opening program began shortly before the United States entered World War II, when representatives of an allied country’s censorship agency taught six FBI agents the techniques of “chamfering” (mail opening) for use against Axis diplomatic establishments in Washington, D.C. The program was suspended after the war but reinstituted during the “cold war” in the early 1950’s; the method was similar but the targets new. Shortly after this program

was reinstituted, the CIA entered the field with a mail opening project in New York designed to intercept mail to and from the Soviet Union. Between 1954 and 1957, the FBI and the CIA each developed second programs, in response to post-war events in Asia, to monitor mail entering the United States from that continent; and the CIA briefly conducted a third operation in New Orleans to intercept Latin and Central American mail as well. The technique of chamfering was most widely used by the FBI during the period 1959 to 1966: in these years the Bureau operated no fewer than six programs in a total of eight cities in the United States. In July 1966, J. Edgar Hoover ordered an end to all FBI programs, but the Bureau continued to cooperate with the CIA, which acted under no such self-restriction, in connection with the Agency's New York project. In 1969, a fourth CIA program was established in San Francisco and was conducted intermittently until 1971. The era of warrantless mail opening was not ended until 1973, when, in the changed political climate of the times, the political risk—"flap potential"—of continuing the CIA's New York project was seen to outweigh its avowed minimal benefit to the Agency.

All of these mail opening programs were initiated by agency officials acting without prior authorization from a President, Attorney General, or Postmaster General; some of them were initiated without prior authorization by the Directors or other senior officials within the agencies themselves. Once initiated, they were carefully guarded and protected from exposure. The record indicates that during the thirty-three years of mail opening, fewer than seven Cabinet level officers were briefed about even one of the projects; only one President may have been informed; and there is no conclusive evidence any Cabinet officer or any President had contemporaneous knowledge that this coverage involved the actual opening—as opposed to the exterior examination—of mail. The postal officials whose cooperation was necessary to implement these programs were purposefully not informed of the true nature of the programs; in some cases, it appears that they were deliberately misled. Congressional inquiry was perceived by both CIA and FBI officials as a threat to the security of their programs; during one period of active investigation both agencies contemplated additional security measures to mislead the investigators and protect their programs against disclosure to Congress. Only in rare cases did the CIA and the FBI even inform one another about their programs.

Many of the major participants in these mail opening programs, including senior officials in policy-making positions, believed that their activities were unlawful. Yet the projects were considered to be so sensitive that no definitive legal opinions were ever sought from either the CIA's General Counsel or the Attorney General. The record is clear, in fact, that the perceived illegality of mail opening was a primary reason for closely guarding knowledge of the programs from ranking officials in both the executive and legislative branches of the government.

The legal fears of CIA and FBI officials were firmly based, for sanctity of the mail has been a long-established principle in American jurisprudence. Fourth Amendment restrictions on first class mail

opening were recognized as early as 1878, when the Supreme Court wrote in *Ex Parte Jackson*, 96 U.S. 727, 733 (1878) :

Letters and sealed packages of this kind in the mail are as fully guarded from examination and inspection, except as to their outward form and weight, as if they were retained by the parties forwarding them in their own domiciles. The constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers, thus closed against inspection, wherever they may be. Whilst in the mail, they can only be opened and examined under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the postal service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment of the Constitution.

This principle was re-affirmed as recently as 1970 in *United States v. Van Leeuwen*, 397 U.S. 249, 251 (1970) : "It has long been held," the Supreme Court there wrote, "that first-class mail such as letters and sealed packages subject to letter postage—as distinguished from newspapers, magazines, pamphlets and other printed matter—is free from inspection by postal authorities, except in the manner provided by the Fourth Amendment."

Not only the Fourth Amendment's prohibition against unreasonable searches and seizures, but First Amendment values of free speech are involved in the opening of first class mail. As Justice Holmes stated in 1921, in a dissent now embraced by prevailing legal opinion : "The use of the mails is almost as much a part of free speech as the right to use our tongues." *Milwaukee Pub. Co. v. Burleson*, 255 U.S. 407, 437 (1921). Justice William O. Douglas quoted this passage with approval in a 1965 decision which invalidated a procedure whereby incoming third and fourth class propaganda could be indefinitely detained by Postal and Customs officials—a procedure, incidentally, which had provided cover for three CIA and FBI mail opening programs.¹ *Lamont v. Postmaster General*, 381 U.S. 301, 305 (1965). In 1974, in a case involving censorship of prisoner mail, the Supreme Court also noted that "the addressee as well as the sender of direct personal correspondence derives from the First and Fourteenth Amendments a protection against unjustified governmental interference with the intended communication." *Procunier v. Martinez*, 416 U.S. 396, 408–409 (1974).

Statutory as well as constitutional protection has traditionally been accorded first class letter mail. Throughout the entire postwar period in which FBI and CIA mail opening programs were conducted, the statutory framework of legal prohibitions against the unauthorized opening of mail have remained essentially constant. The pertinent statutes, enacted in 1948 and substantially unchanged since then, are set forth below :

¹ See pp. 620–623, 643–644.

1. 18 U.S.C. Sec. 1701:

Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined not more than \$100 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, 62 Stat. 778.)

2. 18 U.S.C. Sec. 1702:

Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, 62 Stat. 778.)

3. 18 U.S.C. Sec. 1703(b):

Whoever, without authority, opens, or destroys any mail or package of newspapers not directed to him, shall be fined not more than \$100 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 778; May 24, 1949, ch. 139, § 37, 63 Stat. 95; Aug. 12, 1970, Pub. L. 91-375, § 6(j) (16), 84 Stat. 778.)

The issue of proper authority for the opening of mail, which is raised by 18 U.S.C. Sec. 1703(b) above, was, until 1960, dealt with in 18 U.S.C. Sec. 1717(c): "No person other than a duly authorized employee of the Dead Letter office, or other person upon a search warrant authorized by law, shall open any letter not addressed to himself." This section was repealed in 1960 and recodified in essentially similar form at 39 U.S.C. 4057. When the Postal Service was reorganized in 1970, Section 4057 was in turn repealed and substantially recodified at 39 U.S.C. 3623(d), which provides in part:

No letter of such a class [i.e., first class] of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

The only persons who can lawfully open first class mail without a warrant, in short, are employees of the Postal Service for a very limited purpose—not agents of the CIA or FBI.

In the face of the Constitution and these statutes, mail was surreptitiously opened for more than three decades—without warrant; without Congressional or clear Presidential authority; frequently without approval by senior agency officials; and, in the case of the most massive program, despite critical internal evaluations as well. Seasoned intelligence officers in both agencies genuinely believed that this activity was important to safeguard the country from foreign adversaries. But to defend the national security, they chose to employ a technique that was neither sanctioned by the laws nor authorized

by the elected leaders of the country they sought to protect. And since they defined the nature of our enemies, this technique came to be directed against American dissidents as well as foreigners.

PART II: CIA DOMESTIC MAIL OPENING

I. INTRODUCTION AND MAJOR FACTS

The CIA conducted four mail opening programs within the United States, the longest of which lasted for twenty years. These programs resulted in the opening and photographing of nearly a quarter of a million items of correspondence, the vast majority of which were to or from American residents. While the programs were ostensibly conducted for foreign intelligence and counterintelligence purposes, one former high-ranking CIA official characterized the Agency's use of this technique as a "shotgun" approach to intelligence collection;² neither Congressmen, journalists, nor businessmen were immune from mail interception. With cooperation from the FBI, domestic "dissidents" were directly targeted in one of the programs.

The major facts regarding CIA domestic mail opening may be summarized as follows:

a. The CIA conducted four mail opening programs in four cities within the United States for varying lengths of time between 1953 and 1973: New York (1953-1973); San Francisco (four separate occasions, each of one to three weeks duration, between 1969 and 1971); New Orleans (three weeks in 1957); and Hawaii (late 1954-late 1955). The mail of twelve individuals in the United States, some of whom were American citizens unconnected with the Agency, was also opened by the CIA in regard to particular cases.

b. The stated purpose of all of the mail opening programs was to obtain useful foreign intelligence and counterintelligence information. At least one of the programs produced no such information, however, and the continuing value of the major program in New York was discounted by many Agency officials.

c. Despite the stated purpose of the programs, numerous domestic dissidents, including peace and civil rights activists, were specifically targeted for mail opening.

d. The random selection of mail for opening, by CIA employees untrained in foreign intelligence objectives and without substantial guidance from their superiors, also resulted in the interception of communications to or from high-ranking United States government officials, as well as journalists, authors, educators, and businessmen.

e. All of the mail opening programs were initiated without the prior approval of any government official outside of the Agency.

f. Only five Cabinet level officials, and possibly one President, were briefed in varying degrees of detail about the New York program during the twenty years it continued, and there is no conclusive evidence that any of these officials ever authorized—or knew of—the mail opening aspect of the project. The evidence suggests that in the cases

² James Angleton testimony, 9/17/75, p. 28.

of some of these officials, their professed lack of knowledge about mail opening was due to a stated desire to remain ignorant of the details of the program.

g. No high-ranking government official was ever briefed about three of the four mail opening programs.

h. Postal officials whose cooperation was necessary to effect the programs were purposefully misled as to the purpose of the projects, the question of custody of the letters, and the fact of mail opening itself.

i. One President of the United States, whether through design or negligence, was given false and misleading information about the existence of CIA mail opening programs. In 1970, the Director of Central Intelligence signed a document for submission to the President which stated that all mail opening programs by federal agencies had been discontinued. This Director knew that at that time the most extensive CIA mail opening program continued to operate in New York.

j. Within the Agency itself, two former Directors of Central Intelligence did not authorize and apparently did not even know about any of the mail opening programs that were conducted during their tenure. Another former Director was unaware of at least one mail opening project during his term.

k. Some senior Agency officials whose approvals were sought in connection to one mail opening program were apparently deceived as to its true nature by middle-level officers. The senior officials were requested to authorize a mail cover operation only, but mail opening was both contemplated at the time of the requests and did in fact occur.

l. None of the programs was ever subjected to formal internal evaluation. Such review as did occur concluded that the largest of the programs were poorly administered and without substantial benefit to the CIA. These conclusions were ignored and the project continued.

m. Because of the extreme sensitivity of the projects and the internal pattern of compartmentation, many of those CIA components which could have derived the greatest foreign intelligence value from the product were not even aware of the mail opening programs.

n. Most of the major participants in the mail opening programs believed that the Agency's activities in this area were unlawful. No definitive legal opinion was ever sought from the CIA's General Counsel, and the evidence suggests that knowledge of the programs was purposefully withheld from him for security reasons.

o. The general reaction among Agency officials to the perceived illegality of mail opening was to fabricate "cover stories" for public consumption and to agree on a public denial of CIA domestic mail opening activity in the event such activity were exposed.

p. During periods of active Congressional investigation into invasions of privacy by federal agencies, and when persons knowledgeable of CIA mail openings were in a position to be called to testify before Congress, security precautions for mail opening programs were tightened to reduce the risk of exposure.

q. In part because of his "secrecy agreement" with the Agency, a former CIA employee who was in a position at the Postal Service to force the termination of a mail opening program was inhibited from doing so for several years. His loyalty to the CIA, even after he

left its service, prevented him from informing the Postmaster General of its existence.

r. The largest of the mail opening projects was not terminated until 1973, when, in the charged political climate of the times, it was considered too great a "political risk" to continue. It was not terminated because it was perceived to be illegal *per se*.

II. NEW YORK CITY MAIL INTERCEPT PROJECT

The CIA's New York mail intercept project, encrypted HTLIN GUAL by the Counterintelligence Staff and SRPOINTER by the Office of Security, was the most extensive of all the CIA's mail intercept programs, both in terms of the volume of mail that was opened and in terms of duration. Over the twenty year course of mail openings, more than 215,000 letters to and from the Soviet Union were opened and photographed by CIA agents in New York. Copies of more than 57,000 of these letters were also disseminated to the FBI, which learned of this operation in 1958, levied requirements on it, and received the fruits of the coverage until the project was terminated.

Despite the absence of clear authorization outside the CIA, despite the generally unfavorable internal reviews of the project in 1960 and 1969, and despite the facts that it was generally seen as illegal and that its primary value was believed by many agency officials to accrue to the FBI in the area of domestic intelligence, the momentum generated by this project from its inception in the early 1950's continued unchecked until February of 1973.

A. Operation of the Program

1. The Initial Phase: Mail Covers

The Original Proposal.—The New York mail project originated in the spring of 1952 with a proposal by the Soviet (SR) Division, supported by the Chief of the Operations Staff (now the Deputy Director for Operations) and the Office of Security, to scan exteriors of all letters to the Soviet Union and to record, by hand, the names and addresses of the correspondents. While the original plan did not contemplate the opening of mail immediately, it was recognized that "[o]nce our unit was in position, its activities and influence could be extended gradually, so as to secure from this source every drop of potential intelligence information available."³ Specifically, it was believed that such a project could:

- “furnish much live ammunition for psychological warfare;
- “produce subjects, who if proven loyal to the United States, might be good agent material because of their contacts within the Soviet Union;
- “offer documentary material for reproduction and subsequent use by our own agents;
- “produce intelligence information when read in the light of other known factors and events; and

³ Memorandum from Chief, Special Security Division to Security Officer/CIA, 7/1/52. Thus, one can even at the initial stage the desire to exploit the anticipated cooperation of the Post Office Department.

—“create a channel for sending communications to American agents inside the Soviet Union.”⁴

Feasibility Study.—On July 1, 1952, the Chief of the Special Security Division recommended that “[a]s an initial step . . . we should make contact in the Post Office Department at a very high level, pleading relative ignorance of the situation and asking that we, with their cooperation, make a thorough study of the volume of such mail, the channels through which it passes and particularly, the bottle necks within the United States in which we might place our survey teams.”⁵ He advised against informing Post Office officials about the ultimate purposes of the project, however, noting that “[a]t the outset . . . as far as the Post Office Department is concerned, our main target could be the securing of names and addresses for investigation and possible future contact.”⁷

Two CIA officers from the Office of Security and the SR Division met with a representative of the International Division of the Post Office on the very day the Chief of the Special Security Division submitted the above recommendation. At this meeting, the Post Office official agreed to provide the Agency with a complete statement of “U.S.-U.S.S.R. postal accounting.”⁸

Clifton C. Garner, then Postal Inspector of the Post Office Department, was subsequently contacted by Agency personnel in the Offices of Operations and Security. It had been determined that most mail between the United States and the Soviet Union passed through the Port of New York, and on November 6, 1952, Garner was requested in writing to make arrangements for “one or two designated employees of this organization [i.e., CIA] to work with an inspector of your Department, under conditions determined by you to examine a portion of this mail traffic.”⁹ While Garner cannot recall receiving this letter,¹⁰ he apparently agreed to make the necessary arrangements: one month later, Henry Montague, then Postal Inspector in Charge of the New York Division, approved the implementation of such an examination.¹¹

Commencement of the Project.—The results of the initial survey were felt to be positive, and the project commenced on a full-time basis in February 1953. Henry Montague recalls that shortly prior to the commencement of the project, he had received a telephone call from David Stephens, who replaced Garner as Chief Postal Inspector under President Eisenhower, informing him that CIA agents would come to his office within the next few days to request his cooperation.¹² According to Montague, Stephens instructed him to assist the Agency but warned him that there was to be no tampering with the mail beyond the minimum handling necessary for an exterior examination. When the agents visited Montague shortly there-

⁴ Memorandum from Chief, Special Security Division to Security Officer/CIA, 7/1/52.

⁵ *Ibid.*

⁷ *Ibid.*

⁸ Memorandum “for the record” from Edward E. Smith, 7/14/52.

⁹ Letter from George C. Carey, Assistant Director, Office of Operations to Clifton Garner, Chief Postal Inspector, Post Office Department, 11/8/52.

¹⁰ Staff summary of Clifton Garner interview, 8/22/75.

¹¹ Blind CIA memorandum, 12/18/52.

¹² Henry Montague testimony, 6/12/75, pp. 13, 14.

after, he specifically told the agents—and, according to Montague, the agents agreed—that mail should not be opened.¹³ Montague then requested a subordinate in the New York Division to make the necessary arrangements and the CIA representatives were installed in a room in the New York General Post Office.

Briefing the Postmaster General.—By September 1953, after seven months of operation, the project was considered to be sufficiently productive to merit expansion beyond hand-copying information from the outside of envelopes. A CIA officer of the Soviet Division proposed “the complete photographic coverage of the cover information on all letters posted from the Soviet Union to the U.S. and vice versa.”¹⁴ Plans were made within the Agency to effect this type of coverage, but the postal officials who had cooperated thus far balked. It was noted in a January 4, 1954 internal CIA memorandum that “[f]or understandable reasons, postal authorities, at the level of our present dealings, are reluctant to extend that degree of cooperation without orders from above.”¹⁵ This memorandum recommended that the Director of Central Intelligence brief both Postmaster General Arthur E. Summerfield and President Eisenhower on the project, and secure the oral approval of the President for photographing the exteriors of letters.

Director Allen Dulles and Richard Helms, then Chief of Operations in the Plans Directorate, met with the Postmaster General and the Chief Postal Inspector, David Stephens, on May 17, 1954. Dulles told Summerfield that the New York project had proven to be very valuable and that the Agency now desired to photograph the exteriors of letter mail from the Soviet Union. No mention was apparently made of mail opening. According to Helms’ notes of the meeting, the Postmaster General “did not comment specifically” on the project but seemed receptive.¹⁶ Helms continued: “When the conference broke up, I spoke to David Stevens [sic] privately and asked him if he now had all the authorization he felt he needed. He replied in the affirmative.”¹⁷ The second phase of the New York operation—photographing the exteriors of letters between the United States and the Soviet Union—began shortly after the Dulles-Summerfield meeting.¹⁸

2. Subsequent Evolution of the Project

The CI Staff Take-Over: “More” Mail Opening.—In November 1955, James Angleton, the Chief of the Counterintelligence (CI) Staff, submitted a proposal to Richard Helms for the further expansion of the New York mail intercept project. Until then, the CIA was only receiving access to a portion of the United States-Soviet Union mail in its New York facility; Angleton recommended that “we gain access to all mail traffic to and from the U.S.S.R. which enters, departs, or

¹³ Montague, 6/12/75, p. 15.

¹⁴ Memorandum from CIA officer, SR/OPS to Chief, I&S, 9/23/53.

¹⁵ Memorandum from Sheffield Edwards, Director of Security, to Director of Central Intelligence, 1/4/54.

¹⁶ Memorandum from Richard Helms, Chief of Operations, DD/P to Director of Security, 5/17/54.

¹⁷ *Ibid.*

¹⁸ There is no clear evidence that President Eisenhower’s approval was ever sought for photographing envelope exteriors. See pp. 594–595.

transits the United States through the Port of New York.”¹⁹ He also suggested that the “raw information acquired be recorded, indexed and analyzed and various components of the Agency furnished items of information which would appear to be helpful to their respective missions.”²⁰ Perhaps most significantly, he recommended a shift in the focus of the project from photographing the mail to opening it. Even prior to the date this proposal was submitted, some mail opening had occurred “without the knowledge of the Post Office Department on a completely surreptitious basis . . . [by] swiping a letter, processing it at night and returning it the next day.”²¹ This method, however, permitted agents to open a very limited number of items. Angleton proposed that “more [letters] could be opened”^{21a} if the Agency acquired a separate room which would be off limits to postal employees and which would house special processing equipment. Because he realized that the Office of Security, which had been running the program to date, did not have sufficient manpower for the proposed expansion, Angleton also recommended that primary responsibility for the project be transferred within the Plans Directorate from O/S to the CI Staff.

This proposal was approved by Helms on December 7,²² and funds were authorized by the Acting Deputy Director for Plans on March 3, 1956.²³ They were implemented later in 1956 when the intercept location was moved from the General Post Office in Manhattan to a secure room at LaGuardia Airport. While postal officials cooperated to the extent of providing the CIA with the room, their approval was apparently not sought for the opening of mail.²⁴

FBI “Discovery” of the Project.—The next significant expansion of the program occurred in January 1958 when the Federal Bureau of Investigation learned of its existence and shortly thereafter began to share in the fruits of the coverage. As early as January 1954 the CIA had contemplated informing the FBI about the project, because it was recognized that “outside of its definite foreign intelligence value . . . there will be produced information affecting Internal Security.”²⁵ Possibly because relations between the CIA and the FBI were strained during the mid-1950’s,²⁶ however, the Bureau was not officially informed about the project until Bureau inquiries relative to a proposed mail intercept program of its own uncovered the existence of the CIA project. Although the FBI never contributed any resources, either human or financial, to the operation of HTLINGUAL, it did levy requirements on the project and received copies of intercepted

¹⁹ Memorandum from James Angleton, Chief, Counterintelligence Staff to Chief of Operations, 11/21/55 (Attachment).

²⁰ *Ibid.*

²¹ *Ibid.*

²² Letter from CIA to the Rockefeller Commission, attachment entitled “New York Mail Intercept Program,” 4/10/75.

²³ Memorandum from James Angleton, Chief, Counterintelligence Staff to Acting Deputy Director (Plans), 3/3/56.

²⁴ The CIA makes no claim that Post Office approval for mail opening was secured at this stage of the project.

²⁵ Memorandum from Edwards to DCI, 1/4/54.

²⁶ According to James Angleton, former Chief of the Counterintelligence Staff, the FBI participation was not sought prior to 1958 because the CIA’s “relations with the FBI were very spotty . . . [I]t wasn’t the best of relations.” (Angleton, 9/17/75, p. 27.)

letters on a regular basis until the project was terminated in 1973. This aspect of the New York mail intercept project is treated in greater detail in Part III below.

The TSD Laboratory.—The final stage in the evolution of the project occurred in 1960 and 1961. By memorandum of February 25, 1960, James Angleton advised Richard Helms, now Acting Deputy Director for Plans, that the project would benefit from the establishment of a laboratory to examine a selected portion of the opened letters.²⁷ He noted that at the present time there is no capability for “searching for secret writing and/or microdots; determination as to whether items have been previously opened and technically examined . . . , [or] opening items sealed with the more difficult and sophisticated adhesives.”²⁸ A laboratory, he argued, would make these activities feasible as well as enable the project staff “to increase our production about 20 percent.” Helms approved the establishment of the laboratory,²⁹ and it opened, under the direction of the Technical Services Division (TSD), about one year later in March 1961.

3. Full Operation of the Program

Volume of Mail Intercepted.—According to CIA records, a total of 28,322,796 letters were made available to CIA agents in New York during the twenty year course of the project.³⁰ Of these, the exteriors of 2,705,706 letters were photographed, and 215,820 letters were actually opened.³¹ Mail opening had begun on a relatively small scale. In 1956, for example, only 832 letters were opened. But momentum developed quickly: two years later more than 8,000 letters were opened and by 1961, when the TSD laboratory was established, in excess of 14,000 letters were being opened annually. The height of the project in terms of volume was 1967, when a total of 23,617 letters were opened and analyzed.

Mechanics.—Mail was physically intercepted at LaGuardia Airport from 1956 until 1962, when the project moved to Idlewild (Kennedy) Airport. At both locations, the mechanics were essentially the same: mail to and from the Soviet Union was delivered each day by a postal clerk to a secure room in which the agents worked. Five days a week, a team of about four Office of Security personnel screened and photographed this mail. The clerk, who received an annual bonus of \$500 from the Agency for his efforts,³² also helped to sort the mail according to region within the Soviet Union, but he was never informed that selected items would be opened. According to one of the agents who processed the mail, approximately two to six bags, containing a total of 5,000 to 15,000 items of correspondence, would be delivered and sorted each day.³³ The exteriors of as many of these

²⁷ Memorandum from James Angleton, Chief, Counterintelligence Staff to Acting Deputy Director (Plans), 2/25/60.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Blind memorandum “for the record”. Subject: “Approximate Statistics on CI Staff Project/HTLINGUAL Material”, 1/23/75.

³¹ *Ibid.*

³² Agency records show that the clerk received this bonus for six of the years he was involved with the projects. (Letter from CIA Review Staff to Senate Select Committee, 3/3/76.)

³³ CIA officer testimony, 9/30/75, pp. 39, 40.

items as possible were photographed with a Diebold machine, and from 35 to 75 letters would be selected for opening daily.^{33a} Prior to 1969, the agents "swiped"³⁴ the letters that had been selected for opening from the room by placing them in their pockets or an attache case, and hand carried them to the Office of Security's Manhattan Field Office for opening and photographing. From 1969 to 1973, opening and photographing were conducted at the intercept location itself.

The agents who opened the mail all attended a one-week course called "flaps and seals" (mail opening techniques), which was run by TSD at CIA Headquarters. The basic method of opening the mail was extremely simple, however: the glue on the envelopes was softened by steam from a kettle, and with the aid of a narrow stick the flap was pried open and the letter removed. One of the agents who opened the mail testified that "[y]ou could do it with your own teapot at home."³⁵ It took approximately five to fifteen seconds to open a single letter. At one point in the 1960's, the CIA developed a type of steam "oven" that was capable of handling about one hundred letters simultaneously, but its performance was judged inadequate and the agents soon returned to the kettle and stick method.

The TSD laboratory, which became operative in 1961, was originally located in the Office of Security's Manhattan Field Office and subsequently transferred to Kennedy Airport. The Office of Security personnel who opened the mail brought it to this laboratory where it was subjected to further chemical and other technical examination for secret writing and censorship techniques by the two or three TSD agents permanently assigned to the project. Because examination was time consuming, it was only possible to test a small portion of those letters which had been opened and photographed.

The original letters, which had been opened, photographed, and possibly subjected to the TSD examination, were re-sealed and returned the next morning to the airport, at which point they would be re-inserted into the mail stream. Total delay time, therefore, averaged one day. The photographic copies were then bundled and sent by registered mail or courier on a near daily basis from the Manhattan Field Office to the Office of Security at CIA Headquarters, which would forward them to CI Staff analysts. These analysts, whose number varied from a minimum of two to a maximum of six, reviewed the contents of the letters and, on the basis of their knowledge of the requirements levied by various CIA components and the FBI, either fully translated or summarized each item of correspondence. The copies of the letters were indexed and retained in the CI Staff project room at Headquarters (where they are still on file), and appropriate translations and summaries were disseminated within the Agency to the SR Division, the Office of Security, and the CI Staff itself, as well as to the FBI.

B. Nature and Value of the Product

1. Selection Criteria

Letters were selected for opening by two basic methods: (1) on the basis of a list of names known as the "Watch List," and (2) randomly,

^{33a} CIA officer testimony, 9/30/75, p. 40.

³⁴ Memorandum from Angleton to Chief of Operations, 11/21/55.

³⁵ CIA officer, 9/30/75, p. 40

By one CIA estimate, the "Watch List" accounted for approximately 25% of the total volume of mail that was opened; random selection for 75%.³⁶

The Watch List.—The Watch List originated in the mid-1950's, at which time it consisted of only ten to twenty names. With the SR Division, the CI Staff, the Office of Security, and the FBI all contributing names to the list it grew rapidly, however: by the end of the project the Watch List totaled about 600 names. One reason for the growth of the Watch List is that the categories into which these individuals or organizations fell were progressively broadened over the years. In April 1957, for example, a CIA memorandum suggested five narrow categories of names:

(1) former agents or covert contract personnel who originally came from "the Denied Area" in Europe, were utilized by the Agency, and have now been resettled in the United States or Canada;

(2) defectors from "the Denied Area" in Europe who were under the control or auspices of the Agency and who have now been resettled in the United States or Canada;

(3) repatriates from the United States or Canada who were originally brought to the United States or Canada under the auspices of the Agency and who have now returned or will return to the USSR;

(4) suspected Soviet agents or other individuals either temporarily or permanently residing in the United States, who are known or suspected of being engaged in counterespionage or counterintelligence activities on behalf of the USSR; and

(5) foreign nationals, originally from the USSR and satellite countries, now residing in the United States and presently being utilized by the Agency in any capacity.³⁷

Within a short time, the Watch List had expanded far beyond these relatively narrow and well-defined categories. The names of individuals who were in contact with Watch Listed persons and organizations were frequently added to the list themselves,³⁸ and, as an August 1961 memorandum points out, a very large percentage of the names on the list were placed there because of "leads which came about through the random selection."³⁹

The focus of the Watch List also changed as it grew. In the early years of the project the names on the list might reasonably have been expected to lead to genuine foreign intelligence or counterintelligence information, but as the project evolved many of the names that were added to the list were far more likely to generate essentially domestic, rather than foreign, intelligence information. In 1969, for example, Richard Ober of the CIA solicited the FBI for names of domestic political radicals and black militants to include on the list. An FBI memorandum states that he "suggested to the Liaison Agent that the Bureau should not overlook the utilization of the agency's Hunter [New York mail opening] project for the development of leads in the New Left

³⁶ Memorandum from Thomas B. Abernathy "for the record", 8/21/61.

³⁷ Memorandum from Chief CI/SIU/PROJECT to Deputy Chief, CI Staff, 4/24/57.

³⁸ Staff summary of briefing by CIA Officers, 6/4/75.

³⁹ Memorandum from Abernathy for the record, 8/21/61.

and Black Nationalist fields. Ober admitted that traffic involving individuals in these areas might be light but that the Bureau might wish to give consideration to placing stops on certain key personalities." ⁴⁰ A handwritten notation at the bottom of this memorandum indicated that "stops . . . on black extremists" were not felt to be "warranted . . . at this time" by the Bureau, but the names of a significant number of anti-war activists and groups were submitted to the CIA, as were the names of several "black extremists" at a later date. ⁴¹ From 1958 to 1973, in fact, the FBI alone contributed a total of 286 names to the Watch List. ⁴²

While Bureau requirements clearly augmented the emerging "domestic intelligence" nature of the Watch List, CIA components also contributed generously to this trend. Among the individuals and organizations who came to be placed on the Watch List by the CIA were numerous domestic peace organizations, such as the American Friends Service Committee; political activists; scientists and scientific organizations, such as the Federation of American Scientists; academics with a special interest in the Soviet Union; authors, such as Edward Albee and John Steinbeck; businesses, such as Fred A. Praeger Publishers; and Americans who frequently travelled to or corresponded with the Soviet Union, including one member of the Rockefeller family. ⁴³

The Watch List, in short, originated with a relatively few names which might reasonably be expected to lead to genuine foreign intelligence or counterintelligence information, but soon expanded well beyond the initial guidelines into the area of essentially domestic intelligence.

Random Selection.—The documentary record of the CIA suggests that a very large percentage of the letters that were opened in the course of the New York project were to or from individuals who were not on the Watch List at all. One CIA memorandum points out that the "New York Security officers who opened the mail selected about 75 percent at random, and the remaining 25 percent was on the basis of a watchlist compiled by the CI Staff." ⁴⁴ While there is some evidence that the percentage of random openings may have decreased in the later years of the project, it always represented a significant proportion of the mail that was opened.

The CIA mail "interceptors" were not foreign intelligence or counterintelligence experts. One of the CIA agents who opened the mail in this project testified that other than memorizing the Watch List, he received no instruction at all as to what categories of mail to select. ⁴⁵ When asked the basis for opening mail to or from people who were not on the Watch List, this agent replied: "It might be according to individual taste, if you will, your own reading about current events. . . . I personally used to like to do Central and South America items

⁴⁰ Memorandum from S. J. Papich to Mr. D. J. Brennan, 1/16/69.

⁴¹ Staff summary of HTLINGUAL file review, 9/5/75; Staff summary of Project Hunter file review, 10/21/75. See p. 631 for a description of the FBI's contributions to the Watch List.

⁴² See p. 631.

⁴³ Staff summary of "Watch List" review, 9/5/75. At least one attorney specializing in civil liberties litigation—Leonard Boudin—was also placed on the Watch List by the CIA.

⁴⁴ Memorandum from Abernathy for the record, 8/21/61.

⁴⁵ CIA Officer, 9/30/75, p. 9.

[that were missent by the Post Office]. . . . [Y]ou never knew what you would hit.”⁴⁶ He added: “We would try to get a smattering of everything, maybe the academic field or travel agencies or something. . . . I don’t recall a specific instruction. I kind of place that under our individual tastes.”⁴⁷

Indeed, this lack of instruction appears to have been a conscious policy of the Office of Security. A CIA memorandum states that the Inspector General’s Office, in its review of the New York project in the early 1960’s,⁴⁸ “took the position that the security officers who were selecting the mail to be opened should have some understanding of headquarters requirements so that their selection could be halfway informed on the basis of areas of interest. . . . [But the Office of Security] had a paper by [a CIA officer] which said, in effect, that the present system of purely random selection was best and that it wasn’t necessary to develop any sort of coordinated approach. . . . The Office of Security apparently sees no reason why they should have their personnel trained in intelligence objectives.”⁴⁸

The large random element in the selection process and the lack of formal intelligence training on the part of the agents who opened the mail combined with the “domestic” evolution of the Watch List to push the project even further from the original foreign intelligence and counterintelligence goals articulated in 1952. Over the twenty-year course of mail opening, the mail that was intercepted included that of many prominent Americans, including at least three United States Senators and a Congressman, one Presidential candidate and numerous educational, business, and civil rights leaders.⁴⁹

The “Special-Category Items” File.—The occasional random interception of politicians’ mail created a situation for the CIA which was potentially very embarrassing. In August 1971, the selection and opening of a letter from United States Senator Frank Church so concerned a new chief of the CI Staff “Project” that he wrote the Deputy Chief of Counterintelligence, Raymond Rocca: “In order to avoid possible accusations that the CIA engages in the monitoring of the mail of members of the U.S. government, the C/CI may wish to consider the advisability of (a) purging such mail from the files and machine records of the Project, and (b) authorizing the issuance of instructions to the ‘collectors’ to cease the acquisition of such materials.”⁵⁰ He added: “Instructions would have to define in specific terms what categories of elected or appointed personnel were to be encompassed, and whether they extended to private mail communications.”⁵¹ Several months later, in December 1971, a new policy for the handling of such mail was confirmed. An internal CIA memorandum dated December 22, 1971, reads in part:

In accordance with a new policy confirmed yesterday . . . ,
Project HTLINGUAL will handle henceforth as follows
items originated by or addressed to Elected or Appointed

⁴⁶ CIA Officer, 9/30/75, pp. 9, 14–15.

⁴⁷ CIA Officer, 9/30/75, p. 15.

⁴⁸ This review did not constitute a formal project evaluation. See pp. 582–583.

⁴⁹ Memorandum from Abernathy for “the record,” 8/21/61.

⁵⁰ Staff summary of “Master Index” review, 9/5/75.

⁵¹ Memorandum from Chief, CI/Project to DC/CI, 8/30/71.

⁵² *Ibid.*

Federal and Senior State Officials (e.g. Governor, Lt. Governor, etc) :

a. No officials in above categories are to be watchlisted ;
 b. No instructions to be issued to interceptors specifically requesting or forbidding the acquisition of items in cited categories; thus acquisition will be left entirely to chance;

d. No special-category items shall be carded for inclusion in the HTLINGUAL Machine Records System;

e. *Dissemination of special-category items will be at the discretion of DC/CI (and/or C/CI) only;*

f. All special-category items will be filed in a separate file titled "SPECIAL-CATEGORY ITEMS", which will be kept in C/CI/Project's safe. . .⁵² (emphasis in original)

The new policy, therefore, did not prohibit the opening of letters to or from political figures; it simply created a special filing system for their mail. By the end of the project in 1973, the "Special-Category Items" file contained approximately ten photographs or summaries of correspondence to or from Senators Church and Edward M. Kennedy, one Congressman, and one Governor of an American territory.⁵³ Because the master index was on microfilm, the analysts were unable to purge all references to those politicians whose correspondence had been opened prior to December 1971.

2. Value of the Product

Foreign Intelligence and Counterintelligence.—There has been considerable debate among CIA officials over the value of the product from the New York operation to the Agency's foreign intelligence and counterintelligence mission.^{53a} James Angleton, who as Chief of the CI Staff was in charge of the project, was one of its most vocal supporters. He has testified that the New York project "was probably the most important overview [of Soviet intelligence activities] that counterintelligence had."⁵⁴ In a February 1973 memorandum for Director Schlesinger, Angleton, contending against termination, summarized some of the benefits to the CIA which resulted from the New York project as follows:

A. The mail intercept Project . . . provides information about Soviet-American contacts and insight into Soviet realities and the scope of Soviet interests in the academic, economic, scientific and governmental fields unavailable from any other source. The Project adds a dimension and a perspective to Soviet interests and activities which cannot be obtained from the limited resources available to this Agency and the FBI.

B. The Project is particularly productive in supporting both the Agency and the FBI in pursuing investigative and

⁵² Memorandum from Chief/CI/Project "for the record", 12/22/71.

⁵³ Letter from CIA to Senate Select Committee (Attachment), 9/23/75.

^{53a} The discussion in this sub-section relates only to the primary intelligence and counterintelligence value of the contents of the letters. As a by-product of the operation, TSD received a technical benefit from the opportunity to observe foreign censorship rates. (Letter from CIA to Senate Select Committee, 3/3/76.)

⁵⁴ Angleton, 9/17/75, p. 45.

operational leads to visiting Soviet students, exchange scientists, academicians and intellectuals, trade specialists and experts from organizations such as . . .

C. In many instances the Project provides the only means of detecting continuing contact between [Soviet] controlled exchange students and Americans.

D. The Project provides information otherwise unavailable about the Soviet contacts and travel of Americans to the Soviet Union. . . .

E. Project material recorded for 18 years gives basic information about Soviet individuals and institutions useful to the analyst looking for specific leads and in gauging trends in Soviet interests and policies.⁵⁵

This highly favorable assessment of the value of the product from HTLINGUAL contrasts sharply with the views of many other CIA officers. In a 1961 review of the project by the Inspector General's Office, for example it was written:

The SR (Soviet Union) Division is the project's largest customer in the Agency. Information from the CI Staff flows to the SR Support Branch and from there to the operational branches. It may include operational leads, such as the identities of individuals planning to work or reside in the USSR, or items of interest on conditions inside the country. In our interviews we received the impression that few of the operational leads have ever been converted into operations, and that no tangible operational benefits had accrued to SR Division as a result of this project. We have noted elsewhere that the project should be carefully evaluated, and the value of the product to SR Division should be one of the primary considerations.⁵⁶

A second internal review eight years later, in 1969, was no more enthusiastic. John Glennon, a former member of the Inspector General's staff which conducted this review, wrote:

. . . Although at one time this material was useful in Soviet legal travel operations and as positive information on Soviet internal economic and political matters, we find that the Clandestine Service has little interest in it now. Most of the officers we spoke to find it occasionally helpful, but there is no recent evidence of it having provided significant leads or information which have had positive operational results. The Office of Security has found the material to be of very little value. The positive intelligence from this source is meager.⁵⁷

In general, he noted that "the take from this program . . . is of little value to this Agency . . ." ^{57a} When Mr. Glennon was asked in recent public hearings whether he still agreed with this basic conclusion, he responded that, if anything, the product was probably even less valu-

⁵⁵ Memorandum from William E. Colby "for the record" (Attachment), 2/15/73.

⁵⁶ Memorandum from L. K. White, Deputy Director (Support) to Acting Inspector General (IG) (Attachment), 3/9/62.

⁵⁷ Blind memorandum, Subject: "Special Investigations Group/Project," undated.

^{57a} *Ibid.*

able than he indicated in 1969.⁵⁸ Howard Osborn, who was Director of Security from 1964 to 1974, and therefore responsible for the role played by the Office of Security during those years, agreed that his office received no value from the product. He publicly testified that "[w]e got no benefit from it at all. . . . The product was worthless."⁵⁹

Even Richard Helms, who was personally involved with the New York mail project on a decisional level from mid-1954 through the days immediately prior to the 1973 termination, was tepid in his evaluation of the project's value to the Agency. Of the product from 215,820 opened letters and nearly three million photographed envelopes, he said: ". . . I thought from time to time that the Agency got useful information out of it."⁶⁰

Domestic Intelligence.—Given the nature of the selection criteria, it is not surprising that a significant—perhaps the primary—portion of the product related to domestic, rather than foreign, intelligence concerns. The 1961 review of the project, for example, characterized the product as "largely domestic CI/CE [counterintelligence and counterespionage]."⁶¹ This representation was repeated in the 1969 Inspector General's report⁶² and, as developed more fully below, by numerous senior Agency officials in the early 1970's.⁶³

Only to the extent that the CIA's mission was perceived as encompassing "domestic CI/CE" matters could the Agency itself benefit from this type of information. Thus, Gordon Stewart, the Inspector General whose staff reviewed the New York project and found its positive intelligence value "meager," conceded that the project in 1969 may logically have been valuable in terms of the domestic surveillance activities the Agency was then conducting. He testified that in the late 1960's and early 1970's:

. . . we were involved in compiling files on subversives in this country, the youth, and so on. And there was an enormous amount of pressure being placed on the Agency by the White House to develop, if possible, a connection between subversive organizations in this country and some external groups, say the Communists or Moscow or something of that sort. It would seem to me to be logical that if that is what you were doing, maybe at one phase this project had been regarded as useful to the Agency.⁶⁴

But it is questionable whether analysis of foreign influence on domestic political activity is within the CIA's mandate at all. Such domestic counterintelligence concerns are an aspect of internal security, which is the responsibility of the FBI, not the CIA.^{64a}

⁵⁸ John Glennon, 10/21/75, Hearings, Vol. 4, p. 20.

⁵⁹ Howard J. Osborn, 10/21/75, Hearings, Vol. 4, pp. 30, 31.

⁶⁰ Richard Helms, 10/22/75, Hearings, Vol. 4, pp. 102, 103.

⁶¹ Memorandum from L. K. White, Deputy Director (Support) to Acting Inspector General (Attachment), 3/9/62.

⁶² Blind memorandum, Subject: "Special Investigations Group/Project," undated.

⁶³ See e.g., p. 601.

⁶⁴ Gordon Stewart testimony, 9/30/75, pp. 45, 46.

^{64a} There is no documentary or testimonial evidence by CIA personnel connected with the New York project, moreover, that the project did in fact establish any significant pattern of foreign influence in domestic "subversive organizations."

Value to the FBI.—The Bureau did in fact receive a great deal of product from the New York operation: for all but three years between 1958 and 1973 the FBI actually received more copies or summaries of opened letters than did any single component of the CIA.⁶⁵ In view of the large quantity of disseminations to the Bureau and the largely domestic nature of the product generally, it is understandable that CIA officials assumed that the Bureau benefited significantly from the Agency's coverage. Angleton stressed the importance of this project to the Bureau's operations when he summarized its value for Director Schlesinger in 1973;⁶⁶ this point was noted in both of the Inspector General staff's reviews⁶⁷ and in the testimony of Howard Osborn⁶⁸ and Richard Helms.⁶⁹ Several CIA officials, convinced that the project was more valuable to the FBI than to the Agency itself, even recommended that the Bureau should assume operational responsibility for it.⁷⁰

Ironically, however, the testimony of Bureau officials suggests that the CIA may have mistaken quantity of product for quality. It is undeniable that the FBI received some benefit from HTLINGUAL.^{70a} But one senior Bureau official declared that any benefit received by the FBI had to be evaluated in light of the fact that the product was received gratuitously, with the expenditure of neither money nor manpower.⁷¹ He stated that the project did not provide leads to the identification of a single foreign illegal agent and that much of the product received by the FBI was worthless.⁷²

In short, it is not clear that HTLINGUAL made any substantial contribution to the CIA's legitimate foreign intelligence and counter-intelligence mission or even to its questionable domestic intelligence activities; and while Agency officials assumed that the FBI benefitted greatly from their coverage, this assumption probably overestimated the actual value to the Bureau.

C. Internal Authorization and Controls

Unlike the FBI mail opening programs, the CIA's New York project was extremely de-centralized. It germinated and evolved without the prior approval of the Director of Central Intelligence at critical stages.^{72a} It continued through the tenure of at least two Directors who were apparently not even informed of its existence. Because it had been exempted from the usual approval system, many of the division heads who would normally have to approve any proposed project of this scope were also never briefed and consequently had no opportunity to challenge the necessity or wisdom of the project. It was

⁶⁵ See table, p. 632.

⁶⁶ Memorandum from Colby "for the record" (attachment), 2/15/73.

⁶⁷ Memorandum from L. K. White to Acting Inspector General (attachment), 3/9/62; Blind memorandum, Subject: "Special Investigations Group/Project", undated.

⁶⁸ Howard J. Osborn testimony, 8/28/75, p. 33.

⁶⁹ Helms, 10/22/75, Hearings, vol. 4, pp. 102, 103.

⁷⁰ See pp. 601, 603.

^{70a} See pp. 632-634.

⁷¹ Staff summary of William A. Branigan interview, 9/11/75.

⁷² William A. Branigan, 10/24/75, Hearings, vol. 4, p. 168.

^{72a} Allen Dulles, who was Director when the project was initiated, apparently did know about it. But there is no indication that he was informed about its mail opening aspect until May 1956, well after openings began. See pp. 580-581.

reviewed by disinterested agency components only twice during its twenty year history, in neither case extensively, and although both these reviews concluded that the operation was seriously flawed it continued until 1973, when largely external events forced its continuance.

1. Authorizations by Directors of Central Intelligence

Allen Dulles.—The New York mail project was initiated, and the first contact with the Post Office made, without the apparent authorization—or even the knowledge—of Director Allen Dulles. As noted above, two CIA officers of the Office of Security and the SR Division met with a representative of the International Division of the Post Office in July 1952 to secure statistics on the mail flow between the United States and the Soviet Union. It was largely on the basis of this overview that the Office of Security and the SR Division determined that further contact with Postal officials were desirable. CIA documents relating to the early stages of the project, however, make no reference to informing Director Dulles until September 30 of that year. In a memorandum on that date, the Chief of the SR Division wrote the Deputy Director for Plans that “[i]t is requested . . . that DCI be informed of I&S and SR Division intention to initiate action looking toward the most expeditious accumulation of information on all letter envelopes or covers passing through the New York City Post Office originating in the Soviet Union or destined for the Soviet Union.”⁷³

While subsequent documents reflect no explicit authorization from the DCI—nor even whether or not the DCI was informed of the mail cover operation as per the September 30 request of the Chief of the SR Division—further contacts were made with the Post Office and the first phase of the project became operational in February 1953.

The first unambiguous documentary indication that the DCI was advised of what was then referred to as SRPOINTER is not found until January 4, 1954. On that date Sheffield Edwards, the Director of Security, wrote to Director Dulles to summarize the anticipated value of the project, to explain the problem regarding the reluctance of postal officials to cooperate with the planned expansion of the project, and to request the Director to meet with the Postmaster General and the President to secure their approval for photographing the exteriors of the envelopes.⁷⁴ At this stage, the project was essentially a mail cover operation. No reference was made in that or a subsequent January 1954 memorandum⁷⁵ to Director Dulles to the possibility of actually opening the mail.

The only written approvals for the project as it subsequently developed during Dulles' tenure appear to be those of Richard Helms and the Acting Deputy Director for Plans. In December 1955, Helms approved the concept as outlined by James Angleton;⁷⁶ in February 1960, he approved establishment of the TSD laboratory.⁷⁷ The ap-

⁷³ Memorandum from Chief, SR to Deputy Director, Plans, 9/30/52.

⁷⁴ Memorandum from Edwards to DCI, 1/4/54.

⁷⁵ Memorandum from Sheffield Edwards, Director of Security of Central Intelligence, (DCI, 1/12/54.

⁷⁶ Letter from CIA to the Rockefeller Commission, Attachment entitled “New York Mail Intercept Program,” 4/10/75.

⁷⁷ Memorandum from Angleton to Acting Deputy Director (Plans), 2/25/60.

proval of the Acting Deputy Director for Plans was obtained for funding in March 1956.⁷⁸

While it is unclear whether Dulles was ever informed about the laboratory, he was apparently at least made aware of the fact that mail was being opened. In May 1956, he received a memorandum from James Angleton in which Angleton noted that "for some time selected openings have been conducted and the contents examined."⁷⁹

John McCone.—CIA documents do not show that Director John McCone was ever informed about the project. McCone himself testified that he was unaware of it,⁸⁰ and his testimony is consistent with that of James Angleton⁸¹ and Howard Osborn.⁸²

Admiral Raborn.—There is no evidence that indicates Director Admiral Raborn was ever made aware of the New York project.

Richard Helms.—The next Director who clearly knew about the New York mail opening project was Richard Helms, who became Acting Director in 1965 and Director in 1966. Helms had been involved with the project since 1954, and, as noted above, had personally approved the expansion of the project to include larger scale mail openings in December 1955 and a laboratory in February 1960. Numerous CIA documents reflect his continuing knowledge of and concern about the project during his tenure as Director.

James Schlesinger.—James Schlesinger, who succeeded Helms as Director in 1973, also was aware of the project. It was his order in February 1973 that led to its termination after two decades of operation.^{82a}

2. Exemption from Normal Approval System

The New York mail opening project was initially approved by Helms and the ADD/P outside—and it remained outside—the normal channels for approval and review of CIA projects. As stated in the 1961 Inspector General's report:

The activity cannot be called a "project" in the usual sense, because it was never processed through the approval system and has no separate funds. The various components involved have been carrying out their responsibilities as part of their normal staff functions. Specific DD/P approval was obtained for certain budgetary practices in 1956 and for the establishment of a TSD lab in 1960, but the normal programming procedures have not been followed for the project as a whole. . . .⁸³

When the first request for formal approval had been submitted to Helms in November 1955, a branch chief of the CI staff suggested to James Angleton that "in view of the sensitivity of this project, steps should be taken to have this proposed project approved by the Direc-

⁷⁸ Memorandum from Angleton to Acting Deputy Director (Plans), 3/3/56.

⁷⁹ Memorandum from James Angleton, Chief, Counterintelligence Staff, DD/P to Director of Central Intelligence, 5/4/56.

⁸⁰ John A. McCone testimony, 10/9/75, pp. 3, 4.

⁸¹ Angleton, 9/17/75, p. 20.

⁸² Osborn, 10/21/75, Hearings, vol. 4, p. 38.

^{82a} See pp. 603-604.

⁸³ Memorandum from L. K. White to Acting Inspector General (attachment), 3/9/62.

tor without recourse to the normal channels for presentation of projects.”⁸⁴ The Director himself apparently never formally authorized the project,^{84a} but the thrust of the branch chief’s recommendation was followed. As Angleton later explained, when a typical project “is conceived, it might cut across many jurisdictions to begin with, . . . different geographic divisions and so on, so there would have to be a signoff by the various components, and then it would go before a project review board [whose] members would be drawn from many parts of the clandestine services, and . . . you would have this tremendous opening up of the activity to a great number of people. . . . That is the reason why I think it was excepted from [the usual approval system], and that way it shortcircuited the normal project approval process.”⁸⁵

Because of the perceived sensitivity of the project, in short, the CI Staff did not want those Agency components with no “need to know” to become aware of it. The security of the operation was enhanced by this exemption but the opportunity for critical evaluation by disinterested division heads was lost.

3. Administrative Controls

Internal Review and Evaluation.—In part because of its exemption from the normal approval system, administrative control over the New York project was lax. It was not a project at all in the formal sense, so there was no mechanism for periodic internal review to determine whether or not its goals were being achieved. During its twenty-year history, the project was reviewed by disinterested Agency components only twice—in 1961, and again in 1969. Both of these reviews were limited: the first review was part of an evaluation of Office of Security Operations, and so did not encompass the roles played by the CI Staff and TSD; the second review encompassed only the role of the CI Staff.

The Inspector General’s staff, which conducted both reviews, concluded that if the project was to continue at all, a more complete evaluation or a mechanism for periodic evaluation of the project was crucial. Specifically, the 1961 study recommended that: “The DD/P and the DD/S direct a coordinated evaluation of this project, with particular emphasis on costs, potential and substantive contributions to the Agency’s mission.”⁸⁶ And in 1969 the Inspector General’s staff wrote that “[f]inally—and most important—a schedule for regular re-examination and re-evaluation of the product of the project and of its management, especially with respect to its security, should be established and adhered to.”⁸⁷

⁸⁴ Memorandum from Branch Chief to Chief, Counterintelligence Staff, 11/4/55.

^{84a} As noted above, there is no clear evidence that Dulles learned about the mail opening aspects of the project until May 1956. Even after he learned of it, he apparently never gave formal authorization but his “approval [was] inferred” from his knowledge of it. (Memorandum from L. K. White to Acting Inspector General, 3/9/62.)

⁸⁵ Angleton, 9/17/75, pp. 53, 54.

⁸⁶ Memorandum from L. K. White to Acting Inspector General (attachment), 3/9/62.

⁸⁷ Blind memorandum, Subject: “Special Investigations Group/Project”, undated.

Neither of these recommendations was implemented. The only response to the 1961 recommendation was a five-page summary of the project's mechanics and results by the Director of Security.⁸⁸ This summary was apparently felt to constitute a sufficient evaluation, although there is no evidence that the Soviet Division or the FBI—the entities that were the primary recipients of the project's product—were ever asked to contribute their respective evaluations. In the case of the 1969 review, the Inspector General did discuss the study's major findings with then-Director Richard Helms, who, according to the Inspector General, “listened intently, as I recall, and that was it.”⁸⁹ The system of regular re-evaluation which had been recommended was not adopted.

Administrative Problems.—The primary reason that these two studies concluded that an improved system for evaluation of the project was so essential was their common finding that, in the words of the Inspector General's staff member who conducted the 1969 review, the project “was poorly handled . . . administratively and operationally.”⁹⁰ The 1961 study determined, for example, that it was impossible to analyze the project in terms of costs versus benefits to the Agency because costs were unknown: “The annual cost of this activity cannot be estimated accurately because both administration and operations have always been decentralized. The costs are budgeted by the contributing components as a part of their regular operating programs.”⁹¹ It therefore recommended “that exact cost figures be developed to permit the Agency management to evaluate the activity.”

In addition, these studies found that the decentralization and limited knowledge of the project within the Agency inhibited maximum exploitation of the product that was generated. The 1961 study noted that “[t]here is no coordinated procedure for processing information received through the program; each component has its own system. . . . The same material could thus be recorded in several different indices, but there is no assurance that specific items would be caught in ordinary name traces.”⁹² In the 1969 review, it was suggested that the product might be useful to some Agency components that did not even know about the project.

Even among those components that did receive product from the New York project, there was no procedure for regular feedback to the CI Staff analysts as to what types of product were considered to be valuable.^{92a} The CI Staff project chief has testified that he may have received a “chance comment” from people in consumer components, but he was not regularly informed about which kinds of material were or were not useful.⁹³

⁸⁸ Memorandum from Director of Security to Deputy Director of Support, 12/20/62.

⁸⁹ Stewart, 9/30/75, p. 34.

⁹⁰ John Glennon, 9/25/75, p. 59.

⁹¹ Memorandum from L. K. White to Acting Inspector General (attachment), 3/9/62.

⁹² *Ibid.*

^{92a} Such feedback was apparently precluded by CIA compartmentation. (Letter from CIA Review Staff to Senate Select Committee, 3/3/76.)

⁹³ CIA Officer deposition, 9/16/75, p. 47. The member of the Inspector General's staff who conducted the 1969 review testified that he believed the analysts “probably did not get any feedback because there was not any value.” (Glennon deposition, 9/25/75, p. 59.)

One of the most serious administrative problems was that no single person with a knowledge of the CIA's intelligence and counterintelligence requirements was in direct control of the project. As the Inspector General's staff wrote in 1961:

Probably the most obvious characteristic of the project is the diffusion of authority. Each unit is responsible for its own interests and in some areas there is little coordination. . . . There is no single point in the Agency to which one might look for policy and operational guidance on the project as a whole. Contributing to this situation is the fact that all of the units involved are basically staff rather than command units, and they are accustomed to working in environments somewhat detached from the operational front lines. . . . The greatest disadvantages are (a) there can be no effective evaluation of the project if no officer is concerned with all its aspects, and (b) there is no central source of policy guidance in a potentially embarrassing situation.⁹⁴

This theme was reiterated in the 1969 report:

If it is decided that CIA should continue to operate the mail intercept project, we believe that several steps should be taken to improve the management of the program and its effectiveness. Among these is the eventual assignment of a chief to the project who has some depth of experience in operations, especially counterintelligence operations, in order to bring to bear on the analysis of the material more seasoned judgment of its intelligence and counterintelligence value.⁹⁵

Despite these recommendations for more centralized control over the project by more experienced personnel, the project remained diffuse and informed guidance was almost non-existent.

Mail was opened and the contents analyzed and disseminated, five days a week for nearly twenty years, without a structure for the systematic evaluation of the project, without its true cost being known, without the effective exploitation of potential intelligence and counterintelligence benefits, and without any centralized coordination or guidance by a single officer trained in intelligence and counterintelligence operations. It is at least reasonable to suggest that if prior approval—and periodic reapproval—at the highest level of the Agency had been required, its defects would have been recognized and its momentum checked before 1973.

D. External Authorizations

The New York project lacked a formal structure for authorization by government officials outside as well as inside the CIA: it was never authorized in writing by any such official and the pattern of oral approval is both capricious and obscure. Placed in the light most favorable to the Agency, the CIA obtained the prior oral approval of a Postmaster General for the photographing of envelope exteriors in

⁹⁴ Memorandum from L. K. White to Acting Inspector General (Attachments), 3/9/62.

⁹⁵ Blind memorandum, Subject: "Special Investigative Group/Project", undated.

1954, and the implied, post facto permission of two Postmasters General, one Attorney General, and one President for both the mail opening and the mail cover aspects of the operation.^{95a} But the Cabinet officers who were allegedly informed of the mail openings deny such knowledge—in one case because the official acknowledged that he did not want to know and did not believe that he could or should control Agency projects that affected his own Department. In the case of the President, no documentary record of the briefing exists and the CIA official who allegedly informed him concedes that there is only a “possibility” that he “mentioned” it.

Even by its own accounting, the CIA supplied no information about this project to four Postmasters General, seven Attorneys General, and three Presidents under whom it continued. In at least one instance, knowledge of the project was consciously withheld from a Postmaster General; in another instance, a President, whether knowingly or negligently, was misled about the Agency’s mail opening activities, and his apparent refusal to authorize use of this technique went unheeded.

1. Postmasters General

Arthur E. Summerfield.—Arthur Summerfield, Postmaster General during the Eisenhower Administration, was informed of the New York mail project in 1954, and, according to CIA memoranda, assented to the photographing of mail by CIA agents in connection with this project. There is no indication, however, that he approved, or was even advised of, the actual opening of mail by the Agency after that became the primary objective of the project in 1955.

As discussed in the project summary above, the first phase of the mail opening program—hand-copying information from envelope exteriors—had begun in February 1953 with cooperation from two Chief Postal Inspectors, Clifton Garner and David Stephens. But when Agency officials recommended in late 1953 that the use of photography rather than hand-copying would enable a greater volume of mail to be covered, postal authorities refused to cooperate without the express approval of the Postmaster General. A January 1954 memorandum, from Director of Security Sheffield Edwards to DCI Dulles, suggested that a meeting between Director Dulles and Summerfield was necessary to resolve the problem.⁹⁶

The meeting between Dulles and Postmaster General Summerfield finally occurred about five months later, on May 17, 1954. Richard Helms, then Chief of Operations in the Plans Directorate, as well as Chief Postal Inspector Stephens and two other postal officials, were also in attendance. The only record of this meeting, a contemporaneous memorandum to Sheffield Edwards from Helms, reads in part:

... As regards SRPOINTER, the Director told the group how valuable we had found efforts in this field. He then went on to say that we would like to photograph the backs and fronts of first-class mail from the Soviet and satellite areas.

^{95a} Another President stated that he was “generally aware” that the CIA conducted “mail covers” of mail to the Soviet Union or Asia, but that he was unaware of CIA mail openings. Neither the documentary record nor the testimony of CIA officials suggests that Agency officers informed him of the covers or that he ever indicated his approval of the covers to them. See pp. 597–598.

⁹⁶ Memorandum from Edwards to DCL, 1/4/54.

... (When he had finished his exposition, the Postmaster General did not comment specifically but it was clear that he was in favor of giving us any assistance which he could) ...⁹⁷

The Postmaster General's implied approval was apparently for photographing mail only. Richard Helms, moreover, has recently testified that: "It is my opinion today from reading the records that [Summerfield] was not told the mail was being opened or would be opened."⁹⁸ Nor is there any documentary or testimonial evidence that suggests that Summerfield was ever advised of mail openings at any time after that became the primary objective of the project in late 1955.

J. Edward Day.—J. Edward Day, who was Postmaster General under President Kennedy, from January 1961 to August 1963, also met with Director Dulles and others in regard to the New York mail intercept project. The evidence as to whether or not he was informed that mail was actually opened, however, tends to be contradictory.

In January 1961 a new administration was installed in Washington. As Mr. Helms explained:

President Kennedy had just been sworn in. It was also a new party. The Republicans had had the White House and the executive branch before, and now the Democratic Party had it, and I think Mr. Dulles felt under the circumstances that it was desirable to speak to the Postmaster General because if [the New York project] was to go forward, we needed some support for it.⁹⁹

On January 27, 1961, less than one week after Day assumed the position of Postmaster General, the Deputy Chief of the Counterintelligence Staff wrote to Richard Helms to give him general background information for a proposed briefing of the Postmaster General and to advise him that:

There is no record in any conversation with any official of the Post Office Department that we have admitted opening mail. All conversations have involved examination of exteriors. It seems to us quite apparent that they must feel sure that we are opening mail. . . .

It is suggested that if the new Postmaster General asks if we open any mail, we confirm that some mail is opened. He should be informed, however, that no other person in the Post Office Department has been so informed. The reasons for this suggestion are (a) Despite all of our care in the selection and clearance of personnel for a knowledge of this project, at some point, someone is likely to blow it. (b) The Postmaster General will have a better understanding of the importance of the project in the event we desire to expand it. . . .¹⁰⁰

On February 15, 1961, Director Allen Dulles, Richard Helms, and Cornelius Roosevelt, then Chief of TSD, met with the new Postmaster

⁹⁷ Memorandum from Helms to Director of Security, 5/17/54.

⁹⁸ Helms, 10/22/75, Hearings, Vol. 4, p. 84.

⁹⁹ Helms, 10/22/75, Hearings, Vol. 4, p. 91.

¹⁰⁰ Memorandum from Deputy Chief, Counterintelligence Staff to Chief of Operations, DD/P, 1/27/61.

General in his office. What transpired at that meeting is a subject of controversy. The only contemporaneous written record is a memorandum dated February 16, one day after the meeting, from Richard Helms back to the Deputy Chief of the Counterintelligence Staff. Helms wrote:

We gave him [Day] the background, development, and current status, withholding no relevant details.

After we had made our presentation, the Postmaster General requested that we be joined by the Chief Postal Inspector, Mr. Henry Montague. This gentleman confirmed what we had had to say about the project and assured the Postmaster General that the matter had been handled securely, quietly, and that there had been no "reverberations." The meeting ended with the Postmaster General expressing the opinion that the project should be allowed to continue and that he did not want to be informed in any greater detail on its handling. He agreed that the fewer people who knew about it, the better.¹⁰¹

While Helms cannot specifically recall now whether Day was informed of the fact of mail openings, he strongly suggests that Day must have been so informed. Helms recently testified as follows:

As I say, "withholding no relevant details." I assume when I wrote that I meant what I wrote. . . . I cannot imagine what the point of holding it back from him would have been. We were going down to get his permission to continue the operation, and after all, it was his Post Office, if we had lied to him, and then he had discovered through his Chief Postal Inspector that something else was going on, that would not have been a very wise way to behave, it seems to me.¹⁰²

Day's version of these events differs from Helms. Apparently Day did not believe that it was entirely "his Post Office," for in regard to sensitive CIA operations, even those that touched on postal matters, he testified: "It wasn't my responsibility. The CIA had an entirely different kind of responsibility than I did. And what they had to do, they had to do. And I had no control over them."¹⁰³ Because of this perception of the role of the Postmaster General vis-a-vis the Agency, he did not wish to know the details of the New York project. According to his account of the meeting, he interrupted Mr. Dulles before being informed that the project involved the opening of mail. Day stated:

. . . Mr. Dulles, after some preliminary visiting and so on, said that he wanted to tell me something very secret, and I said, "do I have to know about it?" And he said, "No."

I said, "My experience is that where there is something that is very secret, it is likely to leak out, and anybody that knew about it is likely to be suspected of having been part of leaking it out, so I would rather not know anything about it."

¹⁰¹ Memorandum from Helms to Deputy Chief, CI, re: HTLINGUAL, 2/16/61. Henry Montague was aware of the New York operation but did not believe that it involved the opening of mail. See p. 592.

¹⁰² Richard Helms, 9/10/75, pp. 101-102.

¹⁰³ J. Edward Day, 10/22/75, Hearings, vol. 4, p. 49.

What additional things were said in connection with him building up to that, I don't know. But I am sure . . . that I was not told anything about opening mail.¹⁰⁴

Day's general recollection is given some support by an internal CIA memorandum written more than a decade later by the Chief of the CI Staff Project (HTLINGUAL). This memorandum, written in August 1971 and attached to Helms' February 16, 1961 summary, reads:

The wording of this memo leaves some doubt as to the degree to which Day was made witting. I tend to feel that he was briefed on the "mail surveillance" aspect and NOT the clandestine opening. I find some confirmation in the sentence in para. 2 "This gentleman (i.e. the Inspector Montague) confirmed what we had to say about the Project . . ." Montague was NOTWITTING [sic] OF THE clandestine opening and therefore the subject of the briefing of Day must have been mail surveillance only.¹⁰⁵ [Emphasis in original.]

Thus, it cannot be definitely said that Day knew—or did not know—of the mail openings. All that is clear is that an Agency memorandum suggests that the CIA was prepared to inform the Postmaster General of this activity; that Helms at the time believed Day had been provided with enough of the "relevant details" to interpret his reaction as generally approving the continuance of the project; and that Day's general belief was that the Postmaster General had no control over and should defer to the Agency's covert operations, even those which might involve the United States mails—he "would rather not know anything about it."^{105a}

John A. Gronouski.—There is no claim by the CIA that Mr. Gronouski, who was Postmaster General from August 1963 until November 1965, was ever informed of the CIA's New York mail intercept project. According to one internal CIA document, consideration was given to the idea of informing him in 1965 at the time of the hearings of the Senate Judiciary Subcommittee on Administrative Practice and Procedure. This subcommittee, chaired by Senator Edward V. Long of Missouri, was investigating the use of mail covers and various other techniques by federal agencies, and CIA officials were seriously concerned about "the dangers inherent in Long's subcommittee activities to the security of the Project's operations . . ." ¹⁰⁶ The idea of informing Gronouski was quickly rejected, however, "in view of various statements by Gronouski before the Long subcommittee." ¹⁰⁷ Since Gronouski had agreed with the Subcommittee that tighter administrative controls on mail covers were necessary and generally supported the principle of the sanctity of the mail, it is reasonable to infer that CIA officials assumed he would not be sympathetic to the technique of mail opening. Such an inference is supported by the next sentence in the memorandum which reflects this conversation: "[Thomas] Karamessines agreed with this thought and suggested that, in his opinion, the President would be more inclined to go along with the idea of the operation."

¹⁰⁴ J. Edward Day, 10/22/75, Hearings, vol. 4, p. 45.

¹⁰⁵ Unaddressed memorandum from the C/CI/Project, dated "August 1970."

^{105a} J. Edward Day, 10/25/75, Hearings, vol. 4, p. 45.

¹⁰⁶ Memorandum from "CIA Officer" to "the Files," 4/23/65.

¹⁰⁷ *Ibid.*

Lawrence F. O'Brien.—There is no claim by the CIA that Mr. O'Brien, who was Postmaster General from 1965 to 1968, was ever informed of the project.

W. Marvin Watson.—Similarly, there is no suggestion that Mr. Watson, who held the office of Postmaster General in 1968 and 1969, was ever told of the project. Richard Helms has testified that he “never felt any need or compulsion to talk to Gronouski or O'Brien or Watson.”¹⁰⁸

Winton M. Blount.—The next Postmaster General briefed about the New York mail intercept project was Winton Blount, who served in that office from the first days of the Nixon Administration in 1969 until October 1971. As with the CIA's briefing of Edward Day, however, it is not clear whether Blount was specifically informed about the mail opening aspect of the operation.

At least two reasons appear to have motivated Richard Helms, now Director of Central Intelligence, to seek a meeting with Postmaster General Blount about the New York project. First, he was strongly urged to do so by William Cotter, a former CIA employee who had been appointed Chief Postal Inspector in April 1969. In Cotter's capacity as Assistant Special Agent in Charge of the Office of Security's Manhattan Field Office during the mid-1950's, he had become aware of the Agency's mail opening project, and although he had no direct connection with the project he knew it continued during the 1960's. As Chief Postal Inspector, he was the only postal official who was aware of the CIA's mail openings, and since his responsibilities included guaranteeing the sanctity of the mail, he was uncomfortable with his knowledge.^{108a} Partly because Cotter felt bound by his secrecy agreement with the Agency,¹⁰⁹ however, he did not inform the Postmaster General about HTLINGUAL, nor did he initially take any steps to terminate the project.^{109a}

Cotter's discomfort increased in January 1971 when he received a letter from Dr. Jeremy Stone, Director of the Federation of American Scientists, in which Stone inquired whether the Post Office ever permitted any federal agency to open first class letter mail.¹¹⁰ Recognizing one of the names on the association's letterhead to be another former CIA employee who was also knowledgeable about the project, Cotter feared that Stone's inquiry may have been based on information supplied by this former agent. He forwarded a copy of the letter to Howard Osborn, then the CIA's Director of Security, and requested a meeting with Helms to discuss his concern about embarrassment to the Agency and to himself if the project were publicly revealed. Helms subsequently did meet with Cotter, who urged him to discuss the project with the Postmaster General. As Cotter later testified:

I felt . . . by getting the Postmaster General briefed by the CIA, the most senior people in the project, appropriate legal guidance could be obtained from the chief law officer, the At-

¹⁰⁸ Richard Helms testimony, 10/23/75, p. 28.

^{108a} See p. 602.

¹⁰⁹ See p. 602.

^{109a} See pp. 601-603.

¹¹⁰ Letter from Jeremy J. Stone to Mr. W. J. Cotter, 1/31/71.

torney General, and by pushing up to that arena if the project were unlawful I presumed it would have been stopped. But my concern was to get the top people aware of the project.¹¹¹

In addition to pressure from Cotter, the imminent reorganization of the Post Office also motivated Helms to arrange a briefing of Postmaster General Blount. In mid-1971, the Post Office was to become the Postal Service, and he felt that the consequent organization changes might have an adverse effect on the security of the New York operation.¹¹²

Before meeting with the Postmaster General, Helms first spoke with Attorney General Mitchell. At this meeting, which is discussed in greater detail below, Helms recalls that he requested Mitchell's advice "as to whether this thing should be taken up with Mr. Blount because of [the Post Office reorganization]." ¹¹³ According to Helms, Mitchell encouraged him to brief the Postmaster General, and a meeting was set up between Mr. Blount and Mr. Helms for June 2, 1971.

The written record of the Blount-Helms meeting on June 2 consists of a "Memorandum for the Record" written by James Angleton which described Helms' comments to top level CIA officials, including Angleton, about his recent briefings of the Attorney General and the Postmaster General. In regard to the Blount briefing, this memorandum reads as follows:

The DCI then indicated that yesterday, 2 June 1971, he had seen Postmaster General Blount. Mr. Blount's reaction . . . was entirely positive regarding the operation and its continuation. He opined that "nothing needed to be done," and rejected a momentarily held thought of his to have someone review the legality of the operation as such a review would, of necessity, widen the circle of witting persons. Mr. Helms explained to the PMG that Mr. Cotter, then Chief Postal Inspector, has been aware of the operation for a considerable period of time by virtue of having been on the staff of CIA's New York Field Office. Mr. Helms showed the Postmaster General a few selected examples of the operation's product, including an item relating to Eldridge Cleaver, which attracted the PM's special interest.¹¹⁴

Helms' subsequent testimony generally supports the accuracy of this memorandum. On the question of whether or not Blount was informed that the New York project involved mail opening, he testified that "[i]t is my recollection that I told him we were opening mail in New York." ¹¹⁵

¹¹¹ William J. Cotter testimony, 8/7/75, pp. 51-52.

¹¹² Helms, 9/10/75, pp. 117-118.

¹¹³ Helms, 9/10/75, pp. 118-119.

¹¹⁴ Blind memorandum "for the record," 6/3/71.

¹¹⁵ Helms, 9/10/75, p. 120.

Blount recalls the meeting with Helms, but does not believe that he was informed about the mail opening aspects of the project. In public session, Mr. Blount testified:

Well, as I recall, Mr. Helms explained to me about a project that he told me had been going on for a great number of years. I don't know whether he said 15 years or what, but there was some indication in my mind that this had been going on for at least 15 years, that it was an ongoing project. It was a project of great sensitivity and great importance to the national security of this country and that he wanted to inform me about it.

. . . [M]y best recollection is, he told me this was a project in which the Post Office was cooperating with the CIA, that there were a couple of postal employees in New York City that I believe he told me were the only ones who really were involved or knew about this project, that the way in which it operated was that the postal employee would remove from the mail stream letters going to the Soviet Union and give it to two or three CIA employees, and whatever they did with it, it was reintroduced into the mail stream the next day. That's about the ending of my recollection.¹¹⁶

He added that he did not recall either asking Helms what was done with the mail or being informed by him that the mail was opened by CIA agents.¹¹⁷ While he did recall that Eldridge Cleaver's name was "mentioned," he did not believe that he was shown samples of Cleaver's opened mail or that Helms indicated in any way that Cleaver's mail had been opened.¹¹⁸

On the statement in Angleton's memorandum that he "rejected a momentarily held thought of his to have someone review the legality of the operation", Blount agreed that he considered asking the General Counsel of that Post Office for a legal opinion, but insisted that this consideration was not based on his knowledge or assumption that mail was being opened.¹¹⁹ Whatever doubts he had about the legality of the operation described by Helms were assuaged when Helms informed him that he had seen or was about to see the Attorney General on this matter.¹²⁰ Blount does not recall, however, ever discussing the legality—or any other aspect of the project—with the Attorney General personally; he accepted Helms' statement that Mitchell was knowledgeable about the project and "decided to let the Attorney General handle the legality of it."¹²¹

Blount does not recall taking any action on the basis of his briefing by Helms; he made no further inquiries of the CIA or within his own Department about the conduct of the mail project and did not raise the matter with any other Cabinet officer or the President. As he later testified, "[M]y attitude was that if it is legal, I wanted to do what we could do to cooperate with the Central Intelligence Agency on a

¹¹⁶ Winton M. Blount, 10/22/75, Hearings, Vol. 4, pp. 46, 47.

¹¹⁷ Blount, 10/22/75, Hearings, Vol. 4, p. 47.

¹¹⁸ Blount, 10/22/75, Hearings, Vol. 4, p. 49.

¹¹⁹ Blount, 10/22/75, Hearings, Vol. 4, p. 47.

¹²⁰ Blount, 10/22/75, Hearings, Vol. 4, p. 50.

¹²¹ Blount, 10/22/75, Hearings, Vol. 4, p. 50.

matter they considered of highest priority to this country and that dealt with national security.”¹²²

Elmer T. Klassen.—There is no evidence that Elmer Klassen, who succeeded Blount as Postmaster General in 1971 and remained in that position through the termination of the project in 1973, was ever briefed on any aspect of the New York project.

2. Chief Postal Inspectors

The various roles of the Chief Postal Inspectors in regard to the New York mail intercept operation have been alluded to above. It is sufficient here to note that while all of the men who held this office during the course of the project—Clifton Garner (until 1953); David Stephens (1953 to 1961); Henry Montague (1961 to 1969); William Cotter (1969 to 1975)—were apparently aware of the mail cover aspects, only one—William Cotter—clearly knew that mail was also being opened by the CIA.

Garner had initially been contacted in November 1952 by CIA officials in the Offices of Operations and Security and apparently consented to the first survey of mail between the United States and the Soviet Union in New York.^{122a} Montague helped implement this survey and the early operation of the project in 1953 in his position as Postal Inspector in Charge of the New York Region.^{122b} As Chief Postal Inspector in 1961, he also attended part of the briefing of Edward Day by Allen Dulles, Richard Helms, and Cornelius Roosevelt.^{122c} Stephens instructed Montague to cooperate with the CIA in regard to the project in 1953 and was present at the Summerfield briefing in May 1954.^{122d} There is no evidence (or claim by the CIA) that any of these three men knew that the CIA project involved the opening of mail, however. As noted above, Montague has also testified that Stephens instructed him, and he in turn instructed the CIA agents who visited him in 1953, that mail opening would not be permitted.

William Cotter was therefore the first Chief Postal Inspector who was clearly aware of all aspects of the mail project. Despite his initial reluctance to take any action on the basis of his knowledge, Cotter was instrumental in arranging the Helms-Blount briefing in 1971 and ultimately in the termination of the project in 1973. His role in the project's termination is discussed below.^{122e}

3. Attorneys General

There is no evidence in the record that any Attorney General before or after John Mitchell was ever informed about the CIA's New York project. At a minimum, Mitchell was briefed about certain CIA mail covers by Richard Helms on June 1, 1971, but as with the Day and Blount briefings, the evidence about Mitchell's knowledge of mail opening and the New York project specifically, tends to be contradictory.

¹²² Winton M. Blount, 8/13/75, p. 24.

^{122a} See p. 568.

^{122b} See pp. 568–569.

^{122c} See pp. 586–588.

^{122d} See pp. 568–569.

^{122e} See pp. 500–604.

The background for the Mitchell briefing has been described above: William Cotter, concerned about the letter he had received from Jeremy Stone and uncomfortable with his knowledge of the mail openings in New York, urged Richard Helms to discuss the operation with the Postmaster General; in addition, the imminent reorganization of the Post Office cast the future security of the project in doubt. Rather than go to the Postmaster General directly, Helms chose to consult first with the Attorney General, in part to seek Mitchell's opinion as to whether or not Mr. Blount should be informed. As Mr. Helms publicly explained,

... it was quite clear that [Mitchell] had a particular role for the President in sort of keeping an eye on intelligence matters and on covert action matters. . . . He was sort of, I think, a watchdog for the President, so I have consulted with Mr. Mitchell on a variety of the problems affecting the Agency over time that I would not have gone to the normal Attorney General about, nor would the normal Attorney General have been necessarily privy to these things.¹²³

According to a CIA memorandum dated June 3, 1971, two days after the June 1 meeting between the Director and the Attorney General, Helms told a group of ranking CIA officials that he had briefed Mitchell about the operation and "Mr. Mitchell fully concurred in the value of the operation and had no 'hang-ups' concerning it."¹²⁴ Helms elaborated on this meeting with Mitchell in his recent public testimony, stating that he

told him [Mitchell] about this operation, what it was doing for us, that it had been producing some information on foreign connections, dissidents, and terrorists, a subject in which he was intensely interested, and that we might have a problem when the U.S. Postal Service was founded. And I asked if it wouldn't be a good idea that I go and see the Postmaster General, Mr. Blount, and talk with him about this and see how he felt about it and to get some advice from him. And, it was my recollection that Mr. Mitchell acquiesced in this and said, "Go ahead and talk to Mr. Blount."¹²⁵

When asked whether or not he told Mitchell that the project involved the opening of mail, Helms replied: "... I don't recall whether I said specifically we are opening X numbers of letters. But the burden of my discussion with him, I don't see how it could have left any alternative in his mind because how do you find out what somebody is saying to another correspondent unless you have opened the letter?"¹²⁶

John Mitchell has acknowledged meeting with Helms on June 1, 1971, and recalls a discussion of "mail covers," but on the basis of his recollection denies that Helms told him mail was opened.¹²⁷ He does not remember being informed of any of the details of the New York operation, and believes that even the discussion of mail covers was in

¹²³ Helms, 10/22/75, Hearings, vol. 4, p. 87.

¹²⁴ Blind memorandum "for the record," 6/3/71.

¹²⁵ John Mitchell testimony, 10/2/75, pp. 13-14.

¹²⁶ Helms, 10/22/75, Hearings, vol. 4, pp. 87, 88.

¹²⁷ John Mitchell, 10/2/75, pp. 13-14.

relation to an intelligence operation distinct from one that would fit the description of the New York project.¹²⁸ The former Attorney General testified that, as he recalled, "the discussion of the mail was ancillary to another discussion that was not extensive, and . . . it had to do with mail covers, or at least I assumed it [did] . . ." ¹²⁹ He added that he had no recollection of Helms' asking his advice as to whether or not the Postmaster General should be briefed on any CIA project,¹³⁰ and that the first time he became aware that the CIA had opened mail in the United States was when these operations were publicly revealed in 1974 and 1975.¹³¹

James Angleton testified that he also met with John Mitchell during Mitchell's tenure as Attorney General, described the New York project to him, and showed him some samples of the product, specifically, a copy of a letter from Kathy Boudin.¹³² Angleton does not recall the possible date of such a meeting, however.

Mitchell does not recall ever having met with Angleton, or even having heard his name until recently.¹³³

4. Presidents

There is no documentary evidence that any President ever authorized the CIA's New York mail opening project. With the possible exception of Lyndon Johnson in 1967 or 1968, there is no CIA claim that any President was even informed of it.¹³⁴ While proposals were made by CIA officials in 1954 and again in 1965 to advise the President of the existence of HTLINGUAL, it does not appear that these proposals were implemented. In the context of the so-called "Huston Plan" deliberations, moreover, CIA officials actually withheld knowledge of the ongoing New York project from the President's representative and from President Nixon himself. And despite President Nixon's eventual refusal to authorize the use of "covert mail coverage" (mail opening) as an intelligence collection technique (after a brief period of approval), the CIA project continued without interruption for another two years.

1954 Proposals to Seek the Approval of President Eisenhower.— In a January 4, 1954 memorandum from Sheffield Edwards, then Director of Security, to Allen Dulles, Director of Central Intelligence, it

¹²⁸ Mitchell, 10/2/75, p. 12.

¹²⁹ Mitchell, 10/2/75, p. 12.

¹³⁰ Mitchell, 10/2/75, p. 13.

¹³¹ Mitchell, 10/2/75, p. 13. It should also be noted that John Mitchell was not involved in the preparation of the so-called "Huston Report," which is discussed at pp. 596-597. The "Huston Report" made no reference to continuing CIA mail opening programs. It did, however, state that federal agencies had employed this technique in the past and that its use had been discontinued—a description which accurately fit only the FBI mail opening programs. When Mitchell learned of the proposal to sanction mail opening on a Presidential level, he urged President Nixon to withdraw his support for the plan. See Senate Select Committee Report on the Huston Plan.

¹³² Angleton, 9/17/75, pp. 105-107.

¹³³ Mitchell, 10/2/75, p. 9.

¹³⁴ As noted below, President Nixon stated that he was aware of CIA mail covers on mail to the Soviet Union or Asia, although he was unaware of mail openings. The CIA makes no claim that he was directly advised by Agency officers of the mail covers or that he indicated his approval of the mail covers to the Agency. See pp. 597-598.

was recommended that the Director and the Postmaster General (after having been himself briefed) meet with "and then seek oral approval of [the] President."¹³⁴ This recommendation was reiterated in a second memorandum from Edwards to Dulles eight days later.¹³⁵

In later years, it was assumed by some CIA officers that Dulles had in fact briefed President Eisenhower on the program. The 1969 review of the project by the Inspector General's staff, simply states, without citation: "It is believed that Mr. Dulles briefed President Eisenhower on this subject."¹³⁶ Richard Helms has also testified that "I always assumed that Mr. Dulles, before we went to see Mr. Summerfield, had checked this out with President Eisenhower. I do not recall his ever specifically saying [that] to me, that was sort of an assumption on my part, that something of this importance he would have checked out and he would have proceeded on to his appointed task of speaking to the Postmaster General."¹³⁷

Summerfield himself had only been informed of the mail cover aspects of the project in 1954, however; the Agency apparently never returned to inform him that mail opening later became the primary program objective. Helms added, moreover, that he had never seen any documentary confirmation of a meeting between Director Dulles and the President in regard to the project.¹³⁸ Beyond the proposals themselves and the later undocumented assumptions by CIA officials, there is no evidence that President Eisenhower was ever informed about any aspect of the New York operation.

1965 Proposal to Inform President Johnson.—In 1965, the Long Subcommittee hearings on the use of mail covers and other investigative techniques by federal agencies caused the Agency serious concern about possible Congressional discovery and revelation of the project. It is noted above that in September 1965, as a result of this concern, CIA officials briefly considered informing Postmaster General Gronouski of the project. When this proposal was rejected, presumably because Gronouski had cooperated extensively with the Subcommittee, Thomas Karamessines, then Acting Deputy Director for Plans, "suggested that, in his opinion, the President would be more inclined to go along with the idea of the operation."¹³⁹ Karamessines "gave instructions that steps should be taken to arrange to pass through McGeorge Bundy to the President after the subcommittee has completed its investigation."¹⁴⁰ Apparently, however, this was not done. Mr. Bundy does not recall ever having been informed of the project;^{140a} neither Thomas Karamessines nor Richard Helms knew of any attempt to inform Bundy so that he could in turn inform the President;¹⁴¹ and there is no documentary record of such an attempt.

¹³⁴ Memorandum from Edwards to DCI, 1/4/54.

¹³⁵ Memorandum from Edwards to DCI, 1/12/54.

¹³⁶ Blind memorandum, Subject: "Special Investigations Group/Project," undated.

¹³⁷ Helms, 9/10/75, p. 116.

¹³⁸ *Ibid.*

¹³⁹ Memorandum from "CIA Officer" to "the Files," 4/23/65.

¹⁴⁰ *Ibid.*

^{140a} Staff summary of McGeorge Bundy interview, 4/19/76.

¹⁴¹ Helms 10/22/75, Hearings, Vol. 4, p. 115; Thomas Karamessines testimony, 10/8/75, p. 7.

The Helms-Johnson Meeting: 1967-1968.—Although it does not appear that President Johnson was contemporaneously informed about the mail project after the 1965 recommendation to do so, Richard Helms claims that he may have advised him about it in 1967 or 1968. Toward the end of President Johnson's term in office, the President instructed Helms to prepare a report detailing the truth or falsity of columnist Drew Pearson's allegation about CIA assassination attempts. Helms recalls that the President also asked him whether the CIA was engaged in any other operations that "might be regarded as sensitive."¹⁴² It is Helms' belief that they then "discussed two or three items, . . . [and] it was at that time that I think I mentioned [the New York project]."¹⁴³ When asked whether or not he indicated to the President that mail was opened in connection with the project, Helms said that "[i]f I discussed this with President Johnson I would not have deluded him by using one terminology to convey something else. I would have said, 'We are getting into Russian mail,' or something. I was not that kind of fellow with people."¹⁴⁴ There are no CIA documents relating to this discussion, however, and Helms himself is not positive that it in fact occurred, only that "there was a possibility that I discussed . . . this letter opening thing on that occasion."¹⁴⁵

Huston Plan: 1970.—During the summer of 1970, the so-called "Huston Plan" meetings and report presented the CIA with a clear opportunity to inform the President of their mail opening project.¹⁴⁶ But this opportunity was apparently never taken.

As a result of his perceived need for more effective domestic intelligence, Richard Nixon instructed representatives of the major federal intelligence agencies to meet under the guidance of Tom Charles Huston and to prepare a series of options designed to achieve this goal. One of the options subsequently discussed at the four meetings that summer was the use of "covert mail coverage" (i.e. mail opening) directed against both foreign and domestic targets. Although the CIA's New York project was ongoing at the time, the CIA representatives at these meetings, James Angleton and Richard Ober, did not advise this group of intelligence experts about its existence, and the final report—to which Angleton and Ober contributed and which Richard Helms signed—was submitted to the President containing the statement that "covert coverage has been discontinued."¹⁴⁷ At no time was either Huston, the President's representative, or the President himself informed that the CIA was then opening mail.

According to Angleton, the New York project was not revealed to the group because it was considered to be compartmented knowledge and such a revelation would serve "no useful purpose," especially in light of the security considerations which had been articulated by the National Security Agency's representative.¹⁴⁸ But he also conceded

¹⁴² *Ibid.*

¹⁴³ Helms, 10/23/75, p. 28.

¹⁴⁴ Helms, 10/23/75, p. 30.

¹⁴⁵ Helms, 10/23/75, pp. 30, 31.

¹⁴⁶ See Senate Select Committee Report on the Huston Plan.

¹⁴⁷ *Special Report: Interagency Committee on Intelligence (Ad Hoc)* (the "Huston Report"), June 1970, p. 29.

¹⁴⁸ Angleton, 9/17/75, p. 107.

that neither Huston nor the President himself were told about the project in private.¹⁴⁹

Of the statement in the final report that all covert mail coverage had been discontinued, Richard Helms said:

. . . the only explanation I have for it was that this applied entirely to the FBI and had nothing to do with the CIA, that we never advertised to this Committee or told this Committee that this mail operation was going on, and there was no intention of attesting to a lie . . .

And if I signed this thing, then maybe I didn't read it carefully enough.

There was no intention to mislead or lie to the President.¹⁵⁰

Helms agreed, however, that on the face of the report the President could not have known that covert mail coverage in fact continued,¹⁵¹ and he stated that at no time did he personally ever inform President Nixon about the CIA's use of this technique in the New York project.^{151a} The President, in short, was given a report—signed by Helms—which explicitly said mail opening had been discontinued when it had not.

On July 23, 1970, Tom Charles Huston wrote Director Helms that the President had approved the relaxation of restrictions on a number of the investigative techniques discussed in the final report.¹⁵² For the first time in the history of the CIA's mail project, the Agency had what appeared to be Presidential authorization for "covert mail coverage," although not specifically for the New York program, about which the President remained ignorant.^{152a} But five days after Huston informed Helms of the President's approval, the authorization was withdrawn and Helms was asked to return the memorandum reflecting the original approval.¹⁵³ Now the situation was reversed: a President had addressed the issue of the use of mail opening as an investigative technique and ultimately refused to endorse it. Despite the withdrawal of Presidential approval, however, the CIA did not terminate the New York project. The project continued for nearly three years after these events, and the CIA continued to open mail within the United States in the face of an apparent Presidential prohibition of this technique.

President Nixon's "General Awareness" of CIA Mail Covers but Not of Mail Openings.—Former President Nixon recently stated that he was aware of the CIA's use of mail covers but not of its mail opening operations. He explained:

While President, I remember being generally aware of the fact that the Central Intelligence Agency, acting without a warrant, both during and prior to my Administration, conducted mail covers of mail sent from within the United States to:

A. The Soviet Union; or

¹⁴⁹ Angleton, 9/17/75, p. 114.

¹⁵⁰ Helms, 10/22/75, Hearings, vol. 4, p. 95.

¹⁵¹ Helms, 10/22/75, Hearings, vol. 4, p. 95.

^{151a} Helms, 10/22/75, Hearings, vol. 4, p. 89.

¹⁵² Memorandum from Tom Charles Huston to Richard Helms, 7/23/70.

^{152a} See p. 598.

¹⁵³ See the Senate Committee Report on the Huston Plan.

B. The People's Republic of China.

However, I do not remember being informed that such mail covers included unauthorized mail openings.^{153a}

He also noted that he did "not recall receiving information, while President, that any agency or employee of the United States Government, acting without a warrant, opened mail" in any program that would fit the description of the CIA's New York mail opening project or any other CIA or FBI mail opening project.^{153b}

There is no claim in the documentary record or in the testimony of any CIA official that the Agency ever informed President Nixon about any aspect of the New York project. Nor is there any claim that the President ever indicated to the CIA his approval of any aspect of this particular project, even the use of mail covers. Richard Helms, for example, testified in 1975 that he "never recall[ed] discussing [the New York mail opening project] with President Nixon,"^{153c} and added (before the former President made the comments quoted above) that "What President Nixon knew about it, I don't know to this day."^{153d}

Dissemination of Information to the White House.—According to a March 1971 CIA memorandum, sanitized information generated by the New York mail opening project was disseminated to the White House even after the President's July 1970 rejection of the use of this technique. This memorandum lists the types of information accumulated through the project, including data about "peace activists, anti-government groups, black radicals and other militant dissidents."¹⁵⁴ It continues: "In all the above, HTLINGUAL provides the White House . . . coverage of overseas contacts and activity of persons within the United States who are of critical concern from the viewpoint of internal national security, including bombing and terrorism."¹⁵⁵

At least one former White House official—John D. Ehrlichman—has testified that from his reading of the intelligence reports provided to the White House he was able to determine that mail was being intercepted. When asked whether he knew of a program of intercepting mail between the United States and Communist countries, Ehrlichman replied: "I knew that was going on because I had seen reports that cited those kinds of sources in connection with this, the bombings, the dissident activities"¹⁵⁶ He stated that he "assumed,"¹⁵⁷ but was not positive, that this was a CIA operation: "Maybe the way the things is [sic] couched, it is always obscurely put as to what the sources are, but it could have been the FBI for all I know."¹⁵⁸ He did not know

^{153a} Responses of Richard Nixon to Senate Select Committee Interrogatories, 3/9/76, pp. 4, 5. Neither the documentary nor the testimonial record provide a clear explanation of how Mr. Nixon learned of CIA mail covers.

^{153b} Response of Richard Nixon to Senate Select Committee Interrogatories, 3/9/76, p. 1.

^{153c} Richard Helms, 10/22/75, Hearings, vol. 4, p. 89.

^{153d} *Ibid.*

¹⁵⁴ Blind memorandum "for the record," Subject: "Value of HTLINGUAL Operation." 3/29/71.

¹⁵⁵ *Ibid.*

¹⁵⁶ John Ehrlichman deposition, President's Commission on CIA Activities, 4/17/75, p. 98.

¹⁵⁷ Ehrlichman deposition, 4/17/75, p. 98.

¹⁵⁸ Ehrlichman deposition, 4/17/75, p. 98.

whether the President was aware of this program,¹⁵⁹ however, and could not recall ever personally discussing the matter with him.¹⁶⁰

Ehrlichman added that he did not know of any conversation within the White House about the legality or propriety of such a program nor of any inquiry made by the White House.¹⁶²

The lack of a formal approval structure for HTLINGUAL outside, as well as inside the CIA, is plain: Cabinet officers were sometimes briefed, but much more frequently ignored (sometimes consciously so); no documentary record reflects the one possible "mention" of the project to a President; another President was misled; and the closest resemblance to a Presidential policy directive prohibiting mail opening went unheeded.

It is difficult to generalize from an inconsistent record, but these are among the conclusions that may be tentatively offered in regard to external authorization for the project: the agency desired external authority but was reluctant to ask for it, either for fear of refusal, out of concern with security, or simply because it was less complicated to maintain the status quo. If Cabinet officers were informed of mail openings, it was done so circuitously; only the minimum knowledge necessary to secure their approval was imparted. The officers who were briefed, for their part, apparently did not want to know the details, did not want to be held accountable, and deferred to the Agency on national security matters.

E. Termination of the Project

1. Proposed Termination: The 1969 Inspector General's Report

Four years before the actual termination of the project, the Inspector General's staff formally recommended that consideration be given to discontinuance. Its 1969 survey of HTLINGUAL had revealed that:

The principal customer is and has been the FBI . . . [which] several years ago initiated a similar program to cover mail to and from Bloc countries. It discontinued the program because of the inherent sensitivity, but would dislike having us discontinue a similar one. We are sympathetic to the Bureau's position, but question whether their interest is sufficient justification for our assuming risk of most serious embarrassment.¹⁶³

¹⁵⁹ Ehrlichman deposition, 4/17/75, p. 98.

¹⁶⁰ Ehrlichman deposition, 4/17/75, p. 99. When asked about Ehrlichman's testimony, former President Nixon responded as follows:

"I do not recall John Ehrlichman ever informing me that he knew, or suspected, that some of the information in intelligence reports received by the White House was derived by means of mail openings. I do not know of course what intelligence reports Mr. Ehrlichman was referring to in his testimony. However, with regard to intelligence reports which I may have reviewed, I do not recall concluding or suspecting that the information—or any part thereof—was derived by means of mail openings."

(Response of Richard Nixon to Senate Select Committee Interrogatories, 3/9/76, p. 5.)

¹⁶² Ehrlichman deposition, 4/17/75, p. 99.

¹⁶³ Blind memorandum, Subject: "Special Investigations Group/Project," undated.

This finding, coupled with the conclusion that the project was "of little value to this Agency,"¹⁶⁴ led the Inspector General's staff to recommend that the Director should negotiate with the FBI to take over the project or, in the event that the FBI should decline to assume responsibility, he should discontinue it.

Informally, the author of the 1969 report, John Glennon, had already discussed the possibility of an FBI takeover of the project with Sam Papich, Bureau liaison to the FBI, and he knew that there was virtually no chance the FBI would assume responsibility for it. According to Glennon, Papich told him "that the Bureau would not run it . . . and he implied that they just would not want to be involved in opening mail. I suppose because of the flap potential."¹⁶⁵ Glennon was not surprised by the Bureau's attitude. He testified:

[I]t was fine of the Bureau not to take it over because we should not be doing it in the first place. If somebody else is foolish enough to do it, I can see the Bureau wanting to take advantage of it . . . [and] if the Agency got egg on its face, the Bureau would not get egg on its face."¹⁶⁶

Because he knew the FBI would not take over the project, Glennon acknowledged that the recommendation in the 1969 report was, in effect, a straight recommendation to abandon HTLINGUAL.¹⁶⁷

When the 1969 report was presented to the Director, however, Helms did not attempt to engage the FBI in negotiations over responsibility for the project. Rather, he "asked to have the FBI contacted to find out their feeling about the value of this operation [and was] told that they thought it was valuable and would hate to see it terminated."¹⁶⁸ In balancing the perceived value to the FBI on the one hand, and the stated lack of value to several Agency components on the other, Helms decided in favor of continuing the project.¹⁶⁹

2. Increasing Security Risks: 1971

The question of terminating or turning over the project to the FBI came to the fore again in the spring of 1971, after Chief Postal Inspector William Cotter had received the letter from Dr. Jeremy Stone on behalf of the Federation of American Scientists inquiring whether the Post Office permitted any federal agencies to open mail. For reasons described above, Cotter viewed the letter as a genuine threat to the security of the New York project and believed his own position as Chief Postal Inspector would be seriously compromised if knowledge of the project were publicized. When he communicated his concern to Director of Security Howard Osborn, Osborn relayed it to Helms. Prompted by this new security risk, and possibly by additional security problems inherent in the imminent reorganization of the Post Office, Helms convened a meeting of top CIA officials on May 19, 1971, to discuss the future of HTLINGUAL.

On the agenda were such security problems as the Stone letter, the postal clerk who brought the mail to the CIA's "interceptors" at JFK

¹⁶⁴ *Ibid.*

¹⁶⁵ Glennon, 9/25/75, pp. 61, 62.

¹⁶⁶ Glennon, 9/25/75, p. 66.

¹⁶⁷ John Glennon, 10/21/75, Hearings, Vol. 4, p. 23.

¹⁶⁸ Helms, 10/22/75, Hearings, Vol. 4, p. 103.

¹⁶⁹ *Ibid.*

Airport, and Cotter's inability to testify truthfully before a Congressional committee that he had no knowledge of CIA mail opening. The subject of FBI exploitation of the project was also discussed.¹⁷⁰ Thomas Karamessines, the Deputy Director for Plans, forcefully argued that in light of these security risks CIA involvement in the project should cease, and the FBI should assume responsibility for it. According to the minutes of the meeting:

On the question of continuance, the DDP [Karamessines] stated that he is gravely concerned, for any flap would cause the CIA the worst possible publicity and embarrassment. He opined that the operation should be done by the FBI because they could better withstand such publicity, inasmuch as it is a type of domestic surveillance. The D/S [Howard Osborn] stated that he thought the operation served mainly a Bureau requirement.¹⁷¹

James Angleton contended that the project should be continued by the Agency: "The C/CI [Angleton] countered that the Bureau would not take over the operation now, and could not serve essential CIA requirements as we have served theirs; that, moreover, CI Staff sees this operation as *foreign* surveillance."¹⁷² When Helms asked whether or not the project should be continued "in view of the known risks," Angleton replied "that we can and should continue to live with them."¹⁷³

Apparently Helms was not entirely convinced by Angleton's arguments. At one point during the meeting, according to Howard Osborn, he turned to Angleton and asked, "If this project is so . . . important to the FBI, why . . . don't they take it over?"¹⁷⁴ Osborn testified that Angleton responded by noting that the FBI could not do so under the stringent limitations on investigative techniques imposed by J. Edgar Hoover.¹⁷⁵

The course of action that Helms finally decided upon has been recited above: he met with Cotter personally and was urged to inform the Postmaster General; before informing Mr. Blount, he also called on Attorney General Mitchell. Since Helms believed that both of these Cabinet officers had assented to the mail opening operation, he again supported its continuance. When he reported the favorable results of these briefings to the same group of CIA officials at a subsequent meeting on June 3, the minutes of that meeting show that "all present were gratified."¹⁷⁶ The only instruction Helms gave to those in charge of the project was to tighten security measures, and the project continued.

3. William Cotter's Continuing Concern

The Secrecy Agreement and Cotter's Dilemma.—After Helms briefed Blount on the New York project, William Cotter recalls that

¹⁷⁰ Blind memorandum, "for the Record," Subject: "DCI's Meeting Concerning HTLINGUAL," 5/19/71.

¹⁷¹ Blind memorandum, "for the Record," Subject: "DCI's Meeting Concerning HTLINGUAL," 5/19/71.

¹⁷² *Ibid.* [Emphasis in original].

¹⁷³ *Ibid.*

¹⁷⁴ Osborn, 8/28/75, p. 69.

¹⁷⁵ *Ibid.*

¹⁷⁶ Blind memorandum "for the Record", Subject: "Meeting at DCI's Office Concerning HTLINGUAL", 6/3/71.

he received a telephone call from Blount, who informed him that the briefing had occurred and instructed him, in effect, to "carry on with the project."¹⁷⁷ He was informed that the Attorney General had been advised of the project as well. Cotter's anxiety decreased with the knowledge that Blount and Mitchell had been briefed and apparently supported the project,¹⁷⁸ but his peace of mind proved to be short-lived: in the latter part of 1971, Blount resigned as Postmaster General, and Mitchell stepped down as Attorney General shortly thereafter. Cotter was again the highest ranking Government official outside of the CIA and FBI who knew of the CIA's mail opening project.

From the first days of his tenure as Chief Postal Inspector, Cotter had been concerned about the New York mail project. He testified:

I was aware that when I assumed the capacity of Chief Postal Inspector I became responsible for enforcing the Postal laws, [and I also] became aware of the high, high sensitivity of Postal Inspectors with regard to violations of Section 1702 [of Title 18 of the United States Code, which prohibits tampering with the mail]. We arrest people every day for . . . opening mail, stealing, and so forth, and so I was very, very uncomfortable with [knowledge of this] project.¹⁷⁹

Entrusted with this responsibility, Cotter had felt constrained by the letter and the spirit of the secrecy oath, which he had signed when he left the CIA in 1969, "attesting to the fact that I would not divulge secret information that came into my possession during the time that I was with the CIA."¹⁸⁰ "After-coming from eighteen years in the CIA," Cotter said, "I was hypersensitive, perhaps, to the protection of what I believed to be a most sensitive project . . ."¹⁸¹ For this reason, he had written a response to the Jeremy Stone letter that by his own admission was untrue, explaining later that, "If I responded . . . accurately to Mr. Stone, it would have blown the whole operation for the CIA . . ."¹⁸² For the same reason, he had never informed Postmaster General Blount about the project, although, as noted above, he encouraged Helms to do so after he had been Chief Postal Inspector for two years. The minutes of the May 19, 1971, meeting in Director Helms' office aptly summarized Cotter's situation: ". . . in an exchange between the DCI and the DDP it was observed that while Mr. Cotter's loyalty to the CIA could be assumed, his dilemma is that he owes loyalty now to the Postmaster General."¹⁸³

When Blount resigned, Cotter did not know whether the project had ever been described to Blount's former deputy and successor as Postmaster General, Elmer Klassen. He again chose not to raise the matter with the new Postmaster General directly, but began communicating his concern to Howard Osborn and Thomas Karamessines at the Agency.¹⁸⁴

¹⁷⁷ William Cotter testimony, 8/7/75, p. 69.

¹⁷⁸ Cotter, 8/7/75, p. 107.

¹⁷⁹ Cotter, 8/7/75, p. 45.

¹⁸⁰ Cotter, 10/22/75, Hearings, vol. 4, p. 74.

¹⁸¹ *Ibid.*

¹⁸² Cotter, 8/7/75, p. 98.

¹⁸³ Blind memorandum, "for the record," 5/19/71.

¹⁸⁴ Cotter, 8/7/75, p. 107.

Cotter's Ultimatum.—Although Osborn and Karamessines were sympathetic to his position and were themselves convinced that the project should be stopped. Cotter's periodic expressions of concern resulted in neither a briefing of Postmaster General Klassen nor a termination of HTLINGUAL. "Since I wasn't getting any action on the part of the CIA," Cotter testified, "I suggested to Mr. Osborn that unless I received some indication that this project had been approved at an exceedingly high level in the United States Government, I was going to withdraw the Postal Service support."¹⁸⁵ Osborn recalls that Cotter specifically referred to authorization at the Presidential level—he would no longer be satisfied by the Postmaster General's approval—and that he set a deadline of February 15, 1973.¹⁸⁶

Effect of Watergate.—By the time Cotter presented the CIA with his ultimatum, the Watergate revelations had contributed to the creation of a national political climate vastly different from that during the project's infancy and growth. An increasing number of CIA officials connected with the New York operation believed that the time was ripe for its termination and welcomed Cotter's position as an opportunity to force the reexamination of its relative advantages and disadvantages. Howard Osborn testified that he "shared [Cotter's] concern. I thought it was illegal and in the Watergate climate we had absolutely no business doing this."¹⁸⁷ He discussed the matter with William Colby, newly appointed DDP, who, according to Osborn, agreed that the project was illegal and should not be continued, "particularly in a climate of that type."¹⁸⁸

4. Schlesinger's Decision to Suspend the Project

When James Schlesinger, who had succeeded Richard Helms as Director of Intelligence, learned of Cotter's ultimatum, he scheduled briefings by Colby and James Angleton about the future of HTLINGUAL. Colby argued that the "substantial . . . political risk [of revelation was] not justified by the operation's contribution to foreign intelligence and counterintelligence collection."¹⁸⁹ Angleton, a strong supporter of the project in the past, attempted to persuade the new Director that the operation was valuable and still merited continuance.¹⁹⁰

According to a contemporaneous memorandum by William Colby, Schlesinger was unconvinced that "the product to the CIA [was] worth the risk of CIA involvement."¹⁹¹ The Director decided on a two-pronged course of action. First, he "directed the DDCI [Deputy Director Vernon Walters] to discuss the activity with the Acting Director, FBI [L. Patrick Gray], with a view to offering the FBI the opportunity to take over the project, including the offer to detailing the CIA personnel involved to the FBI to implement it under FBI direction and responsibility."¹⁹² Second, Schlesinger agreed, in

¹⁸⁵ Cotter, 8/7/75, p. 109.

¹⁸⁶ Osborn, 8/28/75, pp. 86, 87.

¹⁸⁷ Osborn, 8/28/75, p. 90.

¹⁸⁸ *Ibid.*

¹⁸⁹ Blind memorandum, Subject: "Mail Intercept Program," 2/14/73.

¹⁹⁰ James Angleton, 9/17/75, pp. 80, 81.

¹⁹¹ Memorandum from W. E. Colby "for the Record," 2/15/73.

¹⁹² *Ibid.*

light of Cotter's ultimatum, to suspend the operation "unless Mr. Cotter would accept its continuance for the time being under our assurances that the matter is being prosecuted at a very high level."¹⁹³

Cotter refused to extend his deadline, and William Colby authorized the suspension of the project on February 15, 1973. Colby notified Howard Osborn of the suspension and Osborn instructed the Office of Security's Manhattan Field Office to shut down the operation that afternoon. There is no evidence that any attempt was subsequently made to secure Presidential approval, and when the FBI refused to assume operational responsibility (for reasons discussed below), the suspension proved to be permanent.

F. Legal Considerations and the "Flap Potential"

Within the Agency, the legality of the New York mail opening project was perceived to be dubious at best. Among those agents and officers connected with it who considered it legal implications at all, some believed that the project would have been illegal but for the internal and external approvals which they assumed—sometimes erroneously—had been granted. Most simply recognized HTLINGUAL to be illegal but rationalized it nonetheless. The general reaction to the questionable legality of the project was neither to stop it nor to seek a definitive opinion as to its legal status; it was to tighten security in order to reduce the risk of exposure to Congress and the general public. The evidence regarding its termination, moreover, suggests that it was finally discontinued not so much because it was thought to be illegal *per se*, as because the so-called "flap potential"—the risk of embarrassment to the CIA that stemmed from its dubious legality—was seen to outweigh its foreign intelligence and counterintelligence value to the Agency.

1. Perceptions of Legal Issues Within the Agency

Generally, those agents who served on the "front lines" of the New York project, the interceptors and the analysts, did not concern themselves with legal issues at all; they did not ask if what they were doing was within or outside the law, and they were not told. As one of the agents who opened the mail in the New York facility said, "We would speculate when an Attorney General or a Postmaster would change, or even a President, if they would be briefed, [but] this would be knowledge which would never concern us. We would never be told . . . [Our work] was something that one entered into and did."¹⁹⁴

Among those Agency officials in a policymaking position, a few have testified that while they knew the legality of the project to be questionable, they believed that prior approvals internally and externally made it at least arguably lawful. Thomas Karamessines, former Deputy Director for Plans, for example, stated that because he believed the project had been discussed with a Postmaster General and Chief Postal Inspector, both of whom, he understood, had approved of it, the project must have fallen within an exception of the general statutory prohibition against mail opening.¹⁹⁵ His belief was buttressed by the participation of the FBI, the chief law enforcement agency in the country, and by the fact that he was told—erroneously—that Post

¹⁹³ *Ibid.*

¹⁹⁴ CIA Officer, 9/30/75, pp. 35, 36.

¹⁹⁵ Thomas Karamessines testimony, 10/8/75, p. 22.

Office Department lawyers had participated in the briefings of Postal officials and that at least one President had approved it.¹⁹⁶ Richard Helms also testified that he did not assume the project was necessarily illegal. Since Allen Dulles, a former Director and eminent lawyer, knew of the project and presumably had "made his legal peace with [it]," Helms said that he never seriously questioned its legal status while it continued under his own tenure.¹⁹⁷ This testimony is partially contradicted, however, by the fact that in 1970 Helms signed the Huston Report, in which covert mail coverage (mail opening) was specifically described as illegal and without the "sanction of law."¹⁹⁸ Helms and the other signers of the Report presented the President of the United States with the option of authorizing a technique which they themselves characterized as unlawful.

Most of the Agency officials who have testified on this subject simply assumed that mail opening was illegal. Gordon Stewart, who was appointed Inspector General by Richard Helms in 1968 and reviewed the Staff's role in the project in 1969, said flatly, "[O]f course we knew that this was illegal."¹⁹⁹ When he discussed the 1969 report with Helms, he believed it was "unnecessary" to raise the matter of its illegality "since everybody knew that it was [illegal] and it didn't seem to me that I would be telling Mr. Helms anything that he didn't know."²⁰⁰ Howard Osborn agreed with this characterization of the project's legal status. He testified that at one point in the early 1970's, he approached Karamessines and "said this thing is illegal as hell."²⁰¹ Even James Angleton, the project's strongest supporter and, as Chief of the CI Staff, the official most directly responsible for its operation, testified that his understanding of its legality was simply: "That it was illegal."²⁰² When asked how he could rationalize conducting a program he believed to be illegal, he answered that in his opinion, the project's benefit to the national security outweighed legal considerations.²⁰³

The documentary record of the project supports the views of those officials who testified that within the Agency the project was perceived as illegal. References to the lack of legal authority for mail opening in peacetime are found in internal memoranda written as early as 1955²⁰⁴ and 1962.²⁰⁵ An internal document dated September 26, 1963, explicitly states: "There is no legal basis for monitoring postal communications in the United States except during time of war or national emergency when the President creates an independent government agency called the Office of Censorship . . ." ²⁰⁶ It notes that "for

¹⁹⁶ Karamessines testimony, 10/8/75, pp. 22, 23. Karamessines stated that ". . . I have gathered since that this may have been erroneous information given to me or a misunderstanding on my part." (Karamessines, 10/8/75, p. 23.)

¹⁹⁷ Richard Helms, 10/22/75, Hearings, vol. 4, p. 94.

¹⁹⁸ Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 30.

¹⁹⁹ Gordon Stewart testimony, 9/30/75, p. 28.

²⁰⁰ Stewart, 9/30/75, p. 32.

²⁰¹ Osborn, 8/28/75, p. 39.

²⁰² Angleton, 9/24/75, Hearings, vol. 2, p. 88.

²⁰³ *Ibid.*

²⁰⁴ Blind memorandum "for the Record", Subject: "HTLINGUAL," 11/7/55.

²⁰⁵ Memorandum from Deputy Chief, Counterintelligence Staff to Director, Office of Security, 2/1/62; Memorandum from Sheffield Edwards, Director of Security to Deputy Director (Support), 2/21/62.

the purposes of the above statement, the word monitoring is given the meaning of examining the contents of postal communications without necessarily notifying addressee or sender that this is being done."

During the course of the project, there was only one documented attempt to develop a legal theory on which mail opening could be predicated; paradoxically, it was presented in the context of an argument for terminating, not continuing, the project. In the paper which William Colby used to brief James Schlesinger about the project in its final days, Colby wrote:

While the recording of the addresses and return address is totally legal, the opening of first-class mail is in conflict with 39 U.S. Code Section 4057. A contention can be made that the operation is nonetheless within the Constitutional powers of the President to obtain foreign intelligence information or to protect against foreign intelligence activities (powers statutorily recognized in 18 U.S.C. Section 119 [sic], with respect to bugging and wiretapping).²⁰⁷

Two Postmasters General who were briefed on at least some aspects of the New York project—Edward Day and Winton Blount—testified that such an argument may have merit; for this reason, neither was certain that the CIA's New York project was plainly illegal.²⁰⁸

The United States Supreme Court held in *United States v. United States District Court*, 407 U.S. 297 (1972), however, that the statutory section to which Colby apparently referred does not represent an affirmative recognition by Congress of Presidential power with regard to foreign intelligence and counterintelligence; it is, in effect, a statement of Congressional neutrality and deference to the judiciary in defining the scope of the President's power if any in this area. This section, moreover, relates to electronic surveillance only; those statutes which prohibit warrantless mail opening²⁰⁹ contain no analogous "ex-

²⁰⁶ Memorandum from Chief, CI Project to Chief, Division 9/26/63.

²⁰⁷ Blind memorandum, Subject: "Mail Intercept Program," 2/14/73. From the context of the second sentence, it appears that the correct statutory citation should be Title 18, Chapter 119, Sections 2510-20, rather than 18 U.S.C. Section 119. The specific section to which Mr. Colby apparently refers is 18 U.S.C. 2511(3).

²⁰⁸ Edward Day, 10/22/75, Hearings, p. 53; Blount, 10/22/75, Hearings, p. 52. Day added that:

"If the CIA lawyers concluded that the CIA could not open mail to and from Communist countries in the early 1960's without violating the law, I think the CIA needs better lawyers.

"One can't answer such a unique legal question merely by reading from various postal statutes and citing court decisions relating to warrantless mail openings from the 19th century, which did not involve spying, cold war or subversive activities. A less simplistic approach to the problem is required.

"For example, statutes clearly say it is a crime to kill or attempt to kill someone with premeditation. These statutes, and others making felonies of arson, kidnapping, etc., do not say 'except in time of war.' But we all know that exception is read into these laws (even if the killing or arson was in a 'war' of doubtful legality ordered by Lyndon Johnson and Richard Nixon).

"In my opinion, the statutes relating to opening of mail must similarly have read into them an exception for opening mail to and from Communist countries by the CIA in time of cold war."

(Letter from J. Edward Day to the Chief Counsel, Senate Select Committee, 10/24/75.)

²⁰⁹ See p. 564.

ception.” Furthermore, even if the President may constitutionally authorize warrantless mail opening for national security reasons, no President ever clearly authorized this program specifically or (with one five-day exception in 1970^{209a}) the use of mail opening as an investigative technique generally.

Regardless of its merits, this first attempt at developing a legal theory to justify HTLINGUAL was not even set forth until February 14, 1973—one day before the suspension of the project. For twenty years prior to this date, the New York project had continued without the benefit of any perceived legal support.

2. Role of the General Counsel

The CIA’s General Counsel was not asked for a legal opinion on Colby’s theory. At no time, in fact, was the General Counsel ever requested to evaluate the legal aspects of the New York project; all the evidence, including the statement of the holder of this office himself,^{209b} suggests that the General Counsel was never even aware of the project’s existence.

Thomas Abernathy, who, as a member of the Inspector General’s staff in the early 1960s had been in charge of the first review of the New York project, conceded that his review did not include consultations with the General Counsel, because legal matters were a matter for “top management.”²¹⁰ The 1969 review, headed by Inspector General Gordon Stewart, also bypassed the Office of the General Counsel. Stewart testified to at least two reasons why the General Counsel had no input into the project evaluation. First, the Inspector General’s line of authority ran only to the Director of Central Intelligence; he had no independent authority to consult the General Counsel directly.²¹¹ Second, he believed that the security of the project precluded his broadening the circle of witting persons, even when the person to be included would be the Agency’s own General Counsel.²¹² He testified:

Well, I am sure that it was held back from him [the General Counsel] on purpose. An operation of this sort in the CIA is run—if it is closely held, it is run by those people immediately concerned, and to the extent that it is really possible, according to the practices that we had in the fifties and sixties, those persons not immediately concerned were supposed to be ignorant of it.²¹³

Richard Helms also testified that he never consulted the General Counsel with regard to the legality of the operation, nor did he know of any attempt by anyone else to do so.²¹⁴ He stated that in general, “sometimes we did [consult the General Counsel for statutory interpretations]; sometimes we did not. I think the record on that is rather spotty, quite frankly.”²¹⁵

^{209a} See p. 597.

^{209b} Staff summary of Lawrence Houston interview, 10/15/75.

²¹⁰ Thomas Abernathy testimony, 9/29/75, p. 47.

²¹¹ Stewart, 9/30/75, p. 30.

²¹² *Ibid.*

²¹³ Stewart, 9/30/75, p. 29.

²¹⁴ Helms, 9/10/75, p. 58.

²¹⁵ Helms, 9/10/75, p. 59.

3. The "Flap Potential"

Because many Agency officials connected with the project viewed it as illegal, and because many of these officials also saw it as essentially domestic surveillance and therefore outside the CIA's jurisdiction in any event, there was general concern over the project's so-called "flap potential." This term was used by Agency officials to describe the risk of embarrassment to the CIA that would result from the revelation of such a project to the general public and to Congress. It was this concern over the project's flap potential that led to a general tightening of security, to the creation of "cover stories," and other strategies in case of exposure, and, ultimately, to the termination of the project.

In the CI Staff's original proposal in November 1955 to expand the New York project to include large-scale mail opening, James Angleton recognized that "[t]here is no overt, authorized or legal censorship or monitoring of first class mails which enter, depart or transit the United States at the present time."²¹⁶ He noted, therefore, that "[i]n the event of compromise of the aspect of the project involving internal monitoring of the mails, serious public reaction in the United States would probably occur. Conceivably, pressures would be placed on Congress to inquire into such allegation . . ." At this point, however, he was confident that such inquiries could be thwarted. He continued: "... but it is believed that any problems arising could be satisfactorily handled."²¹⁷ He wrote that the "cover story" was that the CIA interceptors were in fact "doing certain research work on foreign mail..."²¹⁸

The review of the Office of Security's role in the project in the early 1960s raised the "flap potential" problem again. The Inspector General's report formally recommended that: "An emergency plan and cover story be prepared for the possibility that the operation might be blown."²¹⁹ In response to this recommendation, the Deputy Director of Security suggested that in case of a local compromise in New York, the "Office of Security would utilize its official cover to explain any difficulties," and noted that "high-level police contacts with the New York City Police Department are enjoyed, which would preclude any uncontrolled inquiry in the event police action was indicated."²²⁰ If citizens complained about lost mail, he suggested that the proper course should be "referral to the Post Office Department for a normal official inquiry into lost registered mail."²²¹ Finally, if the project was revealed by a disgruntled Agency employee, the Deputy Director of Security wrote that the charge "may be answered by complete denial of the activity."²²²

The Deputy Chief of the Counterintelligence Staff also responded to the Inspector General's recommendation for a cover story. He wrote that "a 'flap' will put us 'out of business' immediately and may give

²¹⁶ Blind memorandum "for the Record", Subject: "HTLINGUAL," 11/7/55.

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*

²¹⁹ Memorandum from L. K. White to Acting Inspector General (Attachment), 3/9/62.

²²⁰ Memorandum from Deputy Director of Security to Chief, CI Staff, 1/11/62.

²²¹ Memorandum from Deputy Director of Security to Chief, CI Staff, 1/11/62.

²²² *Ibid.*

rise to grave charges of criminal misuse of the mails by government agencies,"²²³ and argued:

Since no good purpose can be served by an official admission of the violation, and existing Federal statutes preclude the concoction of any legal excuse for the violation, it must be recognized that no cover story is available to any Government Agency. Therefore, it is important that all Federal law enforcement and U.S. Intelligence Agencies vigorously deny any association, direct or indirect, with any such activity as charged . . .

. . . Unless the charge is supported by the presentation of interior items from the Project, it should be relatively easy to "hush up" the entire affair, or to explain that it consists of legal mail cover activities conducted by the Post Office at the request of authorized Federal agencies. Under the most unfavorable circumstances, . . . it might be necessary after the matter has cooled off during an extended period of investigation, to find a scapegoat to blame for unauthorized tampering with the mails. Such cases by their very nature do not have much appeal to the imagination of the public, and this would be an effective way to resolve the initial charge of censorship of the mails.²²⁴

The views of the Deputy Chief of the CI Staff were adopted by the Director of Security Sheffield Edwards in February 1962.²²⁵

Three years later, the Long Subcommittee's investigation was believed to increase the risk of project exposure. An internal CIA memorandum dated April 23, 1965, states:

Mr. Karamessines [Assistant Deputy Director for Plans] felt that the dangers inherent in Long's subcommittee activities to the security of the Project's operations in New York should be thoroughly studied in order that a determination can be made as to whether these operations should be partially or fully suspended until the subcommittee's investigations are completed.²²⁶

When it was learned that Chief Postal Inspector Henry Montague had been contacted about the Long investigation and believed that it would "soon cool off," however, it was decided to continue the operation.²²⁷ No security changes were made, but Karamessines recommended that the program should be brought to the attention of President Johnson.

Although the Long subcommittee investigation did indeed "cool off" in 1966, the elevation of William Cotter to the position of Chief Postal Inspector in 1969 again raised the specter of discovery by Congress. A CIA internal memorandum written on the day that Cotter was sworn in shows that both Agency officials

²²³ Memorandum from Deputy Chief, Counterintelligence Staff, to Director, Office of Security, 2/1/62.

²²⁴ *Ibid.*

²²⁵ Memorandum from Sheffield Edwards, Director of Security, to Deputy Director (Support), 2/21/62.

²²⁶ Memorandum from "CIA Officer" to "the Files", 4/23/65.

²²⁷ *Ibid.*

and Cotter himself recognized that whereas Henry Montague did not know of the mail opening aspects of the project and, therefore, could "testify under oath on the Hill in such a way as to—in effect—protect HTLINGUAL[,] Cotter will not be in such a position and will be particularly vulnerable in the event of a flap in view of his own past affiliation with the Agency." ²²⁸ The minutes of the meeting of top Agency officials in the Director's office on May 19, 1971, also make clear that their concern over the Jeremy Stone letter focused largely on the fact that Cotter "would be unable to [deny knowledge of mail opening] under oath" ²²⁹ before a congressional committee, as Mr. Montague had been able to do, if the letter created adverse publicity.

The various recommendations for terminating the project before 1973 were predicated not on the perceived illegality of the operation *per se*; but, to the extent legal factors were present at all, they were based on the "flap potential" stemming from its questionable legal status. The 1969 Inspector General's report, for example, cited lack of value to the Agency and "the continued flap potential inherent in this program" ²³⁰ as grounds for its formal recommendation to request the FBI to assume responsibility for the project or, if the Bureau refused, to consider its discontinuance. The report did not raise legal questions directly, even though the then-Inspector General testified that he believed the project to be illegal at the time. At the May 1971 meeting of Agency officials concerning the security of HTLINGUAL, Deputy Director for Plans Thomas Karamessines also recommended that CIA involvement be discontinued because "any flap would cause the CIA the worst possible publicity and embarrassment" ²³¹—not because of the illegality of the project itself.

When the project was finally terminated in 1973, the evidence suggests that the decision did not turn on a determination that it was illegal—indeed, for the first time it was suggested that it might be legal. Rather, Director James Schlesinger accepted William Colby's evaluation that "[t]he political risk of revelation of CIA's involvement in this project is in any case substantial . . . [and] is not justified by the operation's contribution to foreign intelligence and counterintelligence collection." ²³²

In short, many of its major participants saw the New York project as illegal. While a few CIA officials believed that it was lawful, neither the General Counsel nor the Attorney General ^{232a} was ever consulted for a legal opinion. Agency officials reacted to the project's generally

²²⁸ Memorandum from SA/C/CI "for the Record," 4/7/69.

²²⁹ Blind memorandum, Subject: "DCI's Meeting Concerning HTLINGUAL," 5/19/71.

²³⁰ Blind memorandum, Subject: "Special Investigations Group Project," undated.

²³¹ Blind memorandum, Subject: "DCI's Meeting Concerning HTLINGUAL," 5/19/71.

²³² Blind memorandum, Subject: "Mail Intercept Program," 2/14/73.

^{232a} When Richard Helms was asked in public session whether, during his meeting with Attorney General John Mitchell in 1971, Mr. Mitchell expressed an opinion as to the legality of the project, he replied that Mitchell had not, and added, "I went to see him for a purpose . . . [a]nd my purpose was to get his advice as to whether it was desirable to see Mr. Blount, the Postmaster General, on this mail operation." (Helms, 10/22/75, Hearings, vol. 4, p. 99). As noted above, Mr. Mitchell does not recall being informed of the New York mail opening project at all and there is no indication in the record that any other Attorney General was ever so informed.

perceived illegality, especially when it was threatened by congressional investigations, by focusing even more closely on the security precautions necessary to prevent exposure. Cover stories, designed to obscure the CIA's true activities, were fabricated, and, in recognition of the absence of any "legal excuse," it was ultimately agreed that the project's very existence should be flatly denied in the event of a serious "flap." "Admission" was a strategy that apparently was never considered. The project was finally terminated when, in a new political climate created by Watergate, it was decided that the political risk inherent in conducting such an operation clearly outweighed the project's minimal value to the Agency.

III. OTHER CIA DOMESTIC MAIL OPENING PROJECTS

While the New York project was clearly the most massive one, the CIA also conducted at least three other domestic mail opening projects: in San Francisco, on four separate occasions between 1969 and 1971; in New Orleans, for three weeks in 1957; and in Hawaii, for approximately one year in 1954 and 1955. In addition, the domestic mail of twelve foreign nationals, CIA employees, and American citizens unconnected with the Agency was also opened during particular investigations.

These mail opening projects present many of the major themes of the New York project: the lack of authorization, both internal and external; the deception of postal officials; the random selection of mail for opening; the attention to the correspondence of American "dissidents", despite the stated foreign intelligence and counter-intelligence purposes; and the lack of formal review and evaluation. Some of these other programs were more tightly administered than the New York projects, and others more successful in achieving their goals, but taken as a whole the same patterns emerge. In several cases—such as the San Francisco mail project, for which internal approvals were secured through misrepresentation of its true nature; and the Hawaiian project, which was initiated by a sole field agent without any authorization from Headquarters—these themes are even more clearly defined.

A. The San Francisco Mail Intercept Project

The San Francisco mail intercept project, known as WEST-POINTER by the Office of Security and KMSOURDOUGH within the Plans Directorate, involved the exterior examination and opening of mail from an East Asian country to the United States. It was conducted jointly by the Far East Division (FE) and TSD, with the Office of Security providing cover and support. While referred to as a single project, it actually involved four separate trips, each of one to three weeks duration, by CIA personnel from Headquarters to the San Francisco area, in September 1969, February and May 1970, and October 1971. Only envelope exteriors were inspected on the first trip, but mail was both opened and subjected to chemical tests on the latter three. Although authorizations were obtained from the Director and from the Deputy Director of Plans and the Director of Security, the record suggests that these authorizations were for a mail cover opera-

tion only—not for mail opening. There is no evidence that any approval by Cabinet level officials or the President was ever secured for this project.

1. Operation of the Project

The Initial Phase.—In mid-1969, TSD personnel requested the Asian operations unit to assist them in determining the validity of TSD's assumption that mail from an East Asian country to the United States was subjected to intensive censorship. Originally, the mail stream was to be intercepted abroad: the CIA's East Asian stations undertook a survey of mail from the Asian country to the United States and conducted "dry runs" of possibilities for its interception. Because of the inherent risk and expense of an operation in Asia, however, and in light of TSD's experience with the New York project, it was decided that the project should be conducted in the United States after the mail had arrived but prior to its sorting and delivery.

In late August 1969, two TSD officers met with James Conway, Deputy Chief Postal Inspector in Washington, for the dual purpose of requesting information on mail entering the United States from this Asian country and to secure his permission for the exterior examination of such mail by CIA agents. Conway's response was favorable,²³³ and, at a subsequent meeting in September, the mechanical details for the operation were arranged.

In late September, two agents from TSD traveled to California for a visual examination of incoming mail from this Asian country in the air mail facility at the San Francisco International Airport. In the company of a Postal Inspector, they received access to and examined approximately 1,600 letters in five days before returning to Washington. This trip constituted only a feasibility study to assess the potential of a full-scale operation prior to the commitment of Agency funds and personnel; no mail was opened.

The Second Trip.—The results of the first trip were apparently successful, and in early October the Chief of TSD approved a second, larger scale survey of mail for the purpose of examining it for censorship techniques.²³⁴ The Far East Division, recognizing the foreign intelligence potential of the project, also became involved in order to collect postal intelligence and positive intelligence. During the next two months, approvals for a joint TSD/FE operation in San Francisco were obtained from the Deputy Director for Plans, Thomas Karamessines; the Director of Security, Howard Osborn; and the Director, Richard Helms.²³⁵

The Deputy Chief Postal Inspector was again contacted and, in January 1970, granted his permission for a second session of CIA access to incoming Asian mail.²³⁶ Two TSD and two FE officers then flew to San Francisco and met with the Regional Postal Inspector in Charge, who had been notified of their appearance by Conway, to arrange for the mechanical details. Mail processing on this trip commenced on February 5, 1970, and continued for one week only, until

²³³ See pp. 618–619.

²³⁴ Blind memorandum, Subject: "Chronology of Authority for MKSOUR DOUGH", undated.

²³⁵ *Ibid.*

²³⁶ See pp. 618–619.

February 12. The mail was picked up by a Postal Inspector at the San Francisco airport and delivered—in the company of an armed Office of Security agent—to a second Postal Inspector and the four TSD and FE personnel at a local Post Office. It was screened and the exteriors photographed during non-working hours at the Post Office, in the presence of the Postal Inspector. From 5 to 80 letters per day were selected for opening by the CIA agents and “lifted”²³⁷ by surreptitiously placing them in their pockets while the Inspector was temporarily out of the room or had his back turned. These letters were taken, at the end of each day, to a TSD laboratory in a CIA facility nearby for opening and chemical testing. The opened letters would then be resealed and returned by the CIA agents to the mail stream within 48 hours. During the one week of operation, a total of 7,014 letters were screened and 133 opened.²³⁸ The majority of these letters were incoming from the Asian country to the United States, but a CIA memorandum indicates that at least one bag of outgoing mail to that country was also made available to the agents.²³⁹

The Third Trip.—CIA records pertaining to the third trip to San Francisco are fragmentary. A handwritten “dairy” of a TSD officer, however, contains an entry on April 4, 1970, to the effect that a memorandum written (for planned destruction) about the second trip “justifies further such trips, both on FI [foreign intelligence] and CI [counterintelligence] grounds as well as TSD technical needs.”²⁴⁰ On April 28, this officer noted that the “next phase will include re-run of phase two, presumably in the same format. . . .”²⁴¹ He also noted that the random selection of a female TSD agent for the project was the “only significant flaw” of the planned trip, since some of the other agents felt that “the presence [of a female] on the team is inappropriate and that things of this sort have caused trouble in the past. . . .”

James Conway was contacted and approved the operation for a third time in early May 1970,²⁴² and TSD and FE representatives again traveled to San Francisco to process mail between May 4 and May 27. During these three weeks, a total of 2,800 letters were screened. While Agency memoranda show that a portion of these letters were surreptitiously removed “to the TSD laboratory for opening and testing (with the assistance of a large handbag of the female team member”;²⁴³ who apparently did make the trip), there are no precise figures as to the number of letters opened. In addition to airmail, some surface mail was also made available to CIA agents on this trip.

The Fourth Trip.—A fourth trip was proposed in August 1971, in part “to take advantage of the impending visit of the President of the United States to Asia.”²⁴⁴ In addition to examination for

²³⁷ Memorandum form “Identity #4”, Subject: Sourdough Capsule Summary, 10/15/71.

²³⁸ Blind memorandum, Subject: “Summary of the February 1970 San Francisco Mail Intercept Operation,” undated.

²³⁹ Memorandum from Identity #4, Identity #5, and Identity #6 “for the Record,” 2/20/75.

²⁴⁰ Blind “notes by CIA officer”, undated.

²⁴¹ *Ibid.*

²⁴² See pp. 618–619.

²⁴³ Memorandum from Identity #4, Identity #5 and Identity #6, “for the Record,” 2/20/75.

²⁴⁴ Memorandum from CIA officer to Chief, Technical Services Division, 8/17/71.

censorship techniques and the collection of positive intelligence, which had been the purpose of the last two trips, it was anticipated that this fourth operation could also determine the "attitudes of Asians toward the present discussion between Mao and Nixon as expressed to close friends and relatives."²⁴⁵ Internal authorizations were obtained in September from the Deputy Director for Plans, the Chief of the Far East Division, the Director of Security, and the Director, although Helms noted that the operation should be limited to two weeks. William Cotter, the Chief Postal Inspector, was contacted about the project but he referred the Agency to Conway, who was now the Regional Inspector in Charge in San Francisco. Conway approved the San Francisco operation for a fourth time²⁴⁶ and screening and opening commenced on October 1, 1971. Between October 1 and October 15, when the fourth trip was terminated, three FE and two TSD agents processed a total of 4,500 items.

Although Agency documents state that mail opening did occur, it cannot be determined how many of the processed letters were actually opened.

2. Nature and Value of the Product

Selection Criteria.—According to an internal CIA memorandum, letters were selected for opening and testing on the basis of indications of censorship or operational interest: "Some [letters] would be chosen by the TSD team chief based upon heavy censorship or indicators that the letter should be more thoroughly examined at the Lab. Some would be chosen by CIA officers based on certain locations of mailings or possibly the individual to whom the letter was addressed or the kind of stationery that had been used."²⁴⁷ As was the case in New York, there was a Watch List for the San Francisco project. While this list was destroyed after the fourth and final trip, it is possible to partially reconstruct the categories of persons of interest from the project justification sent to Thomas Karamessines in September 1971 and from the "Sourdough Capsule Summary" prepared after the last trip.

The former memorandum refers to the goal of intercepting mail from former residents of the United States who had been approached by the Agency while residing in the United States and who had since returned to Asia.²⁴⁸ The "Sourdough Capsule Summary" reveals that among the persons whose mail was intercepted were many Americans living in an Asian country, including expatriots and former missionaries. It was also stated that the agents "saw several items" from a member of the Southern Christian Leadership Conference, and noted, "Black Panthers—we saw nothing from this group."²⁴⁹

Foreign Intelligence and Technical Value.—The documentary record suggests that the San Francisco project was considered to be successful in achieving its foreign intelligence and technical objectives. The 1971 project justification sent to Thomas Karamessines by FE, for example, noted that "[t]he primary purpose of previous . . .

²⁴⁵ Memorandum from Acting Chief FE/DPA to Chief, FE Division, 9/13/71.

²⁴⁶ See pp. 618–619.

²⁴⁷ Memorandum from Identity #4, Identity #5, and Identity #6, "for the Record", 2/20/75.

²⁴⁸ Memorandum from Acting Chief, FE/DTA to Chief, Far East Division (approved by Thomas Karamessines), 9/13/71.

²⁴⁹ Memorandum from "Identity #4," Subject: "SOURDOUGH CAPSULE SUMMARY," 10/15/71.

SOURDOUGH efforts was the collection of [the Asian country's] postal intelligence but each effort produced useful positive intelligence [such as] background information used as a basis for recruitment attempts and risk assessment of using U.S. letter drops for [foreign-based] agents." ²⁵⁰ The subsequent report on the fourth trip to San Francisco described it as a "highly successful mission" also. ²⁵¹

According to the "Sourdough Capsule Summary," the positive intelligence collected during the final trip included information on such topics as the health and activities of the Asian country's leaders and its internal events. ²⁵² TSD also considered the technical results of their examination for censorship techniques to be valuable because, as stated in a 1970 memorandum, "this was the first time it was possible to exert some measure of scientific control" in testing for the presence of censorship techniques. ²⁵³

Domestic Intelligence Value.—In contrast to the New York project, the primary value of the San Francisco project does not appear to have been in the area of domestic intelligence or counterintelligence. Some essentially domestic intelligence information was nonetheless collected, however, as evidenced by the reference in the project summary to the "several items" of correspondence from a member of SCLC that the Agency personnel "saw." The project justification for the fourth trip also noted that the two SOURDOUGH operations in 1970 had provided "leads for domestic operations (Asian operations) and the FBI." ²⁵⁴

There is no evidence that the FBI levied any requests on—or even knew of—the San Francisco project. The Bureau apparently received sanitized domestic intelligence leads from Sourdough, but there was no formalized procedure for requesting or receiving such information from it. One of the agents involved in the project speculated that the strained relations between the FBI and the Agency during this period may have inhibited the CIA from advising the Bureau of SOURDOUGH's existence. ²⁵⁵

3. Termination of the Project

The fourth trip to San Francisco in October 1971 proved to be the final visit, but exactly how the project was formally terminated is unclear. A December 1974 memorandum reads in part: "There is no information in the Office of Security's file on Project WESTPOINT ER concerning when or by whom the decision was made to terminate the project." ²⁵⁶ No other memoranda regarding the project shed any light on this question.

²⁵⁰ Memorandum from Acting Chief, FE/DTA to Chief, Far East Division, 9/13/71.

²⁵¹ Memorandum from "Identity # 15," "for the Record," 10/19/71.

²⁵² Memorandum from "Identity #4," "for the Record," Subject: SOURDOUGH CAPSULE SUMMARY," 10/15/71.

²⁵³ Blind memorandum, Subject: "Summary of the February 1970 San Francisco Mail Intercept Operations," undated.

²⁵⁴ Memorandum from Acting Chief, FE/DTA to Chief, Far East Division, 9/13/71.

²⁵⁵ President's Commission on CIA Activities Within the United States, staff summary of CIA officer interview, 3/17/75.

²⁵⁶ Memorandum from Deputy Chief, Security Support Division to Deputy Director of Security, 12/24/74.

The reason for the termination is more apparent, however. According to a June 1973 memorandum to the Chief, East Asia Division (formerly the Far East Division) :

The operation achieved the objectives of (a) determining the extent of [an Asian country's] censorship of mail to the USA and (b) the nature of the mail itself. It was terminated since the risk factor outweighed continuing an activity which had already achieved its objectives.

Thus, the "risk factor" or "flap potential" was again a crucial factor in the decision to terminate a mail opening program.

4. Internal Authorizations and Controls

Authorizations.—The lax pattern of internal authorization that characterized the New York mail project was repeated in the San Francisco project. There is no documentary evidence of any authorization—even by the Chief of TSD—prior to the initial contact with the Post Office in August 1969 or the first San Francisco trip in September. On October 6, 1969, the TSD Chief gave his approval for the formalized institution of the project, but according to the handwritten "diary" of a TSD agent, the Chief of TSD insisted that at least Thomas Karamessines, and "possibly [the] Attorney General or even the President," must concur before the project could be fully implemented.²⁵⁸

Superficially, the subsequent internal chain of oral approvals was complete, if somewhat complex. The TSD Chief personally contacted Karamessines, who "agreed in principle" but requested TSD to secure concurrences from the CI Staff and Howard Osborn (Director of Security) before he would approach the Director on this matter. The Deputy Chief of the CI Staff was briefed and concurred. (Despite a statement in the "diary" that the Deputy Chief of the CI Staff "will clear with C/CI [the Chief of the CI Staff]," this apparently was never done: James Angleton cannot recall ever having been informed about this project.²⁵⁹) On October 23, Osborn was also briefed by TSD and FE personnel; he approved, but conditioned his approval on clearance from the Director. Karamessines was told of Osborn's position on October 27, and together they briefed the Director. Helms reacted favorably and, on November 4, 1969, TSD was advised to proceed with the project.²⁶⁰

The record does not reveal any specific authorization for the third trip, but a project justification memorandum for the fourth trip was signed by Thomas Karamessines on September 20, 1971. He recalled that this written authorization—unique for SOURDOUGH—was necessary to except the project from the suspension of certain types of Agency activities with respect to an Asian country during the President's Asian trip, which had been requested by the State Department to avoid possible embarrassment to the United States.²⁶¹ According to

²⁵⁸ Blind memorandum, Subject: "Chronology of Authority for MKSOUR DOUGH," undated.

²⁵⁹ Angleton, 9/17/75, p. 101.

²⁶⁰ Blind memorandum, Subject: "Chronology of Authority for MKSOUR DOUGH", undated.

²⁶¹ Thomas Karamessines testimony, 10/8/75, pp. 14–16; CIA officer, (President's Commission staff summary), 3/17/75.

an October 1971 memorandum written shortly after the final trip, approvals had also been secured from Howard Osborn and Richard Helms.²⁶²

Although the authorization chain appears to be relatively complete, the testimonial evidence suggests that in 1969, when Karamessines, Osborn, and Helms approved phase two of the project, all three of these officials believed they were approving a mail cover—not a mail opening—operation. Osborn testified that the TSD and FE personnel who briefed him on the project presented it as an operation “whereby they could inspect the exterior of envelopes to and from [an Asian country].”²⁶³ He continued: “. . . I did not know that they were going to open it; I had no idea they opened the mail. And I found out socially and personally from one of the people involved about a year ago [i.e., 1974] that they opened the mail.”²⁶⁴

When asked whether or not he was misled in order to secure his approval, Osborn stated:

Yes, indeed—I wasn’t misled but perhaps it seemed when [they] got out there and found out how easy it was to get it—but I don’t know, I wasn’t told that they were to open mail. That isn’t the circumstances under which I briefed Mr. Helms. . . . [If I had known it involved mail opening] I would not have approved it. The Director might have approved it, but it wasn’t the way I briefed it. . . .²⁶⁵

Karamessines stated that the first time he can recall knowing that the project involved mail opening rather than a mail cover was in September 1971, when he signed the written authorization for the fourth San Francisco trip. He testified that when he approved the project in 1969 he, too, had been led to believe that it was simply a mail cover operation.²⁶⁶

Richard Helms cannot recall whether he understood the project to involve mail opening or not, but stated that it is probable, in light of the testimony of Osborn and Karamessines, who were his only sources of information about SOURDOUGH, that he was unaware of its mail opening aspects.²⁶⁷

Thus, after the initial phase of the operation was completed, approvals were secured from the Deputy Director of Plans, the Director of Security, and the Director, but it appears that these approvals, whether purposefully or inadvertently, were based on a fundamental misunderstanding about the nature of the project.

Administrative Controls.—The documentary record reveals that five justification or summary memoranda were written for the project, four of which pertained to the last trip only. It is possible that more would have been written but for Howard Osborn’s October 1969 admonition, reflected in the TSD agent’s “diary,” “to avoid preparing or exchanging any formal communications in writing re project.”²⁶⁸

²⁶² Memorandum from Identity No. 15 “for the record,” 10/19/71.

²⁶³ Osborn, 8/28/75, pp. 58, 59.

²⁶⁴ Osborn, 8/28/75, p. 59.

²⁶⁵ Osborn, 8/28/75, pp. 60, 64–65.

²⁶⁶ Karamessines, 10/8/75, p. 12.

²⁶⁷ Helms, 9/10/75, p. 127.

²⁶⁸ Blind memorandum, Subject: “Chronology of Authority for MKSOUR DOUGH,” undated.

There is no indication in the record that the San Francisco project was ever evaluated by the Inspector General's office.

5. *External Authorizations*

The pattern of external authorizations, or, more accurately, of the relative absence of external authorizations, also parallels that of the New York project. Those postal officials whose cooperation was necessary to implement SOURDOUGH were briefed, but none was told the true nature of the project. Although there are some suggestions in the record that the Attorney General and the President should be informed, and that the Postmaster General had been informed, there is no direct evidence that any of these briefings ever occurred.

Postal Officials.—James Conway, Deputy Chief Postal Inspector during the first three trips and Regional Postal Inspector in Charge during the fourth trip, was contacted by CIA agents about, and subsequently approved, all four of these operations. His uncontradicted testimony, however, is that he was never informed that the project involved mail opening and, in fact, that he explicitly instructed the agents not to open mail or remove it from postal facilities.²⁶⁹

At the first meeting between TSD personnel and Conway about the project on August 26, 1969, the Deputy Chief Postal Inspector was told that the CIA's "interest lay in the possible use of international mail channels from [an Asian country] for private correspondence involving secret writing."²⁷⁰ According to an internal Agency memorandum prepared shortly after this meeting, however, it had been explained to him that "the survey we hoped to be able to conduct did not involve opening envelopes or photographing letters, but the possibility that this might become desirable in the future, though not mentioned, was not foreclosed."²⁷¹ At the subsequent meeting in September between Conway and these officers, one of the officers "brought up the question of broadening the scope of the survey to be performed in San Francisco to include chemical testing of the mail . . ."²⁷² The memorandum on this meeting reads in part: ". . . he [Conway] acquiesced after brief deliberation when [the CIA officer] asked whether we could include this testing as part of the survey without going out of bounds. It was clear that the key factor in this decision was the fact that the envelopes would not be opened."²⁷³ Conway agrees with this characterization of the basis of his decision, and testified that he explicitly instructed these agents that no mail should be opened.²⁷⁴

Conway approved the second stage of the project on January 13, 1970, after another meeting with Agency officials. In order to ensure his approval, these officials presented him with "an imaginative cover story"²⁷⁵ to the effect that the project was necessary for certain scientific reasons.²⁷⁶ Conway nonetheless conditioned his approval on

²⁶⁹ James Conway testimony, 8/8/75, p. 30.

²⁷⁰ Memorandum from C/TSD/CCG/CRB to "the File," 8/26/69.

²⁷¹ *Ibid.*

²⁷² Memorandum from C/TSD/CCG/CRB "for the File," 9/15/69.

²⁷³ *Ibid.*

²⁷⁴ Conway, 8/8/75, p. 30.

²⁷⁵ Deputy Chief, Security Support Division memorandum, 12/24/74.

²⁷⁶ Blind memorandum, Subject: "Chronology of Authority for MKSOURDOUGH," undated.

total Post Office control of the operations. According to the January 13 entry in the TSD "diary," Conway "approved in principal 'processing' of material but on P. O. premises and under P. O. control . . . Opening has not been mentioned."²⁷⁷ In fact, the cover story was inaccurate, letters were surreptitiously removed from postal premises, and mail was opened. While Conway's approval was sought and received for the final two operations as well, all of the evidence, including his own testimony, suggests that he never learned of the mail opening aspect of the project.

It is also the claim of the Regional Postal Inspector in Charge who worked out the local arrangements for the first three trips, that he was informed neither of the purpose of the project nor of the planned or actual mail openings.²⁷⁸ This claim is supported by the agency's own documents.^{278a}

Chief Postal Inspector William Cotter, who played a central role in the story of the New York project, was also aware of SOUR DOUGH, but, like Conway and the Regional Inspector, he has testified that he had no knowledge that it involved mail opening.^{278b} In November 1969, Howard Osborn spoke to Cotter about the San Francisco project. Osborn, who stated that he did not know that mail opening was contemplated himself, assured the Chief Postal Inspector that for the Agency's purposes exterior testing and surveying was sufficient and that mail would not be opened.^{278c} Cotter was not un-receptive but, according to an agency document explained that he wanted the project "to go slowly and develop gradually."²⁷⁹ Because of his past CIA affiliation, Cotter also insisted that his assistant, Conway, should ultimately determine the degree of Postal Service Cooperation.²⁸⁰ He testified that he did not alert Conway to the possibility that the CIA agents may attempt to open the mail because mail opening was not an aspect of the project as he understood it and because "one doesn't have to tell or admonish a seasoned Postal Inspector what his responsibilities are . . ."²⁸¹

Cotter apparently had no further contact with the San Francisco project until the fall of 1971, when he was contacted about the planned fourth trip. According to an Office of Security trip report prepared in October 1971:

The Assistant Postmaster General for Inspection [Cotter] was contacted for his approval. He firmly indicated he did not know anything about the project, nor did he want to know. He stated, however, that he would advise James Conway, [now the] Regional Inspector in San Francisco, that I would be in touch with him on 27 September 1971, and that we should be guided by Conway's decision.²⁸²

²⁷⁷ *Ibid.*

²⁷⁸ Staff summary of Earl Ingebright interview, 5/30/75.

^{278a} Blind notes by CIA officer, undated, "Feb. 2" entry.

^{278b} Cotter, 8/7/75, p. 113.

^{278c} Osborn, 8/28/75, pp. 60, 61, 65.

²⁷⁹ Blind memorandum, Subject: "Chronology of Authority for MKSOUR DOUGH," undated.

²⁸⁰ Cotter, 8/7/75, p. 70.

²⁸¹ Cotter, 8/7/75, p. 72.

²⁸² Memorandum from Identity No. 15, "for the Record," 10/19/71.

There is no evidence that Postmaster General Winton Blount, the only Postmaster General under whom the project was conducted, ever knew of or approved SOURDOUGH. A 1973 CIA document addressed to Howard Osborn stated that "TSD understands (but has no evidence) that Mr. Helms briefed Postmaster Blount. Is this so, do you know?"²⁸³ But Helms has made no claim that he did brief Mr. Blount about this project,²⁸⁴ and there is no testimonial or documentary indication that TSD's understanding on this matter was correct.

Attorney General and President.—As noted above, when the Chief of TSD approved the formal institution of Sourdough on October 6, 1969, he stated that concurrences from the Deputy Director for Plans and "possibly [the] Attorney General or even the President" would be necessary prior to implementation. There is no evidence, however, that either Attorney General Mitchell or President Nixon, the only holders of these offices during the course of the project, were briefed about the San Francisco mail openings either before or after they occurred. President Nixon did state that he was "generally aware" of CIA mail covers "of mail sent from within the United States to . . . the Soviet Union . . . or the People's Republic of China,"^{284a} but he disclaimed knowledge of any CIA mail opening program.^{284b}

Sourdough's record on external authorizations, in short, is even less complete than that of the New York project. Those postal officials who learned of the project in general terms were misled on the subject of opening and deceived on the subject of custody, and no Cabinet level official—or the President of the United States—apparently knew of the project at all.

B. The New Orleans Mail Intercept Project

A third CIA mail intercept project, encrypted "Project SETTER," was conducted in New Orleans for two and one-half weeks during 1957. This project, which was conducted by the CI Staff with cover and support functions provided by the Office of Security, involved the screening and opening of first class international surface mail transiting New Orleans enroute to and from South and Central America. Unlike the New York and the San Francisco projects, SETTER was operated with the cooperation of the United States Customs Service. There is no record of any internal authorization above the level of Deputy Director of Security and Deputy Chief of the CI Staff, and the only apparent external approval was by a Division head in the Customs Service, who stated that he was unaware the project involved the opening of mail. According to Agency documents, the project generated no useful intelligence information.

1. Operation of the Project

At the time of the New Orleans project, the Customs Service had Congressional authority under the Foreign Agents Registration Act,

²⁸³ Transmittal slip from CH/OCCR to Mr. Osborne (sic), 6/7/73.

²⁸⁴ Helms, 9/10/75, p. 119.

^{284a} Response of Richard Nixon to Senate Select Committee Interrogatories, 3/9/76, pp. 4, 5.

^{284b} Response of Richard Nixon to Senate Select Committee Interrogatories, 3/9/76, pp. 1, 5.

as amended by the Cunningham Act, to intercept and examine third and fourth class incoming mail from abroad which was suspected to contain Communist propaganda. In the early 1950's, Customs had established its first "control unit" designed to accomplish that purpose; additional "control units" were subsequently set up in at least nine other cities in the United States. Under pressure from certain members of Congress who were outraged at the "venomous propaganda"²⁸⁵ passing through New Orleans, the Customs Service planned a feasibility survey in August 1957 to determine whether or not it would be possible to establish a "control unit" in that city as well.

The Agency learned of the planned survey and in mid-July a meeting, attended by the Deputy Chief of the CI Staff, the Deputy Director of Security, and Soviet Bloc Division personnel, was called to discuss its possible exploitation by the CIA. "Based on experience with SRPOINTER [the New York project]," an Agency document reads, "CI Staff and O/S personnel . . . agreed that CIA personnel would participate in the survey at New Orleans."²⁸⁶

Even prior to this meeting, Irving Fishman, the head of the Customs Service's Restricted Merchandise Division, which maintained the "control units", had apparently agreed in principle to CIA participation in the survey. He was contacted in New York by the Assistant Special Agent in Charge of the Office of Security's Manhattan field office on July 18 "to discuss details of the operation."²⁸⁷

Fishman and two of his associates left New York for New Orleans at the end of July to work out the arrangements for the Customs survey with the local postmaster. They were joined by four CIA agents during the first week of August, and the operation began on August 6. Each working day for the next two and one-half weeks, one of the Customs personnel went to the New Orleans mail dock to select approximately 25 bags of surface mail from various Central and South American locations that had been unloaded in New Orleans for transshipment to other points in Central and South America. These bags were brought to an office in the Parcel Post Annex of the Federal Building each morning for Customs and CIA scrutiny. While Fishman and the other Customs Service employees searched for communist propaganda by opening third and fourth class mail in the office itself, the CIA agents screened, opened, and photographed first class mail in an adjacent walk-in vault. The agents' CIA affiliation was known to at least two of the Customs officials; postal employees who worked in the building, however, were informed that they were Customs Service personnel. At the end of each day, the mail would be re-sealed, re-bagged, and returned to the mail dock.

Between August 6 and August 23, when the project was terminated, a total of 700 items were photographed and 60 items, mainly first class letters, were opened for examination and photographic reproduction of the contents.²⁸⁸

²⁸⁵ Staff summary of Customs Agent interview, 8/19/75.

²⁸⁶ Blind memorandum. Subject: "Project SETTER," undated.

²⁸⁷ Memorandum from "Identity #13" to Deputy Director of Security, 10/9/57.

²⁸⁸ Blind memorandum, Subject: "Project SETTER," undated; Memorandum from Identity #13, to Deputy Director of Security, 10/9/57.

2. Nature and Value of the Product

Selection Criteria.—The agents who participated in the New Orleans project were furnished a “Watch List” of names by the CI Staff to aid in the selection of items for opening.²⁸⁹

Beyond the Watch List itself, however, it appears that the members of the interception team were given little guidance by their superiors. One member of this group stated that at no time was he instructed what types of items to select.²⁹⁰

According to a project summary prepared in October 1957, “. . . an effort (was) made to obtain a representative sampling from the various countries available. Both business and personal mail was examined. . . .”²⁹¹

Value of the Product.—Agency memoranda indicate that SETTER resulted in the collection of no useful intelligence information. The project summary, for example, states: “On-the-spot check of items examined against CI Staff Watch List, and subsequent CI Staff examination of the material processed to date has developed no ‘hits’ on Watch List names, and, other than propaganda, no material having an intelligence value.”²⁹²

3. Termination

The lack of any significant intelligence value, coupled with the stated impossibility of examining a representative sample of the 20,000 bags of mail that transited New Orleans weekly,^{292a} apparently led to the termination of Project SETTER. No formal termination of the project is recorded, however.

4. Authorizations

Internal Authorizations.—Both the Deputy Director of Security and the Deputy Chief of the CI Staff attended the July 1957 meeting at which CIA participation in the New Orleans survey was agreed upon. There is no evidence, however, of any internal authorization above the level of these officials. Although the CI Staff had sole operational responsibility for the project, James Angleton, the Chief of the CI Staff at the time, testified that he had no contemporaneous knowledge of it.²⁹³

External Authorizations.—The only documented approval by a government official outside the CIA was that of Irving Fishman, the head of the Restricted Merchandise Division of the Customs Service. Only through his cooperation, both before and during the period of activity, was the implementation of the project possible at all. According to the October 1957 project summary, Fishman and one of his two associates “were aware, prior to the inception of the operation, of the nature of the BANJO [mail opening] operation.”²⁹⁴ Both Fishman and the associate referred to in the memorandum, how-

²⁸⁹ Memorandum from Identity #13 to Deputy Director of Security, 10/9/57.

²⁹⁰ Staff summary of “CIA officer” interview, 6/19/75.

²⁹¹ Memorandum from Identity #13 to Deputy Director of Security, 10/9/57.

²⁹² Memorandum from Identity #13 to Deputy Director of Security, 10/9/57.

^{292a} Blind memorandum, subject: “Project SETTER,” undated.

²⁹³ Angleton, 9/17/75, p. 101.

²⁹⁴ Memorandum from Identity #13, to the Deputy Director of Security, 10/4/75.

ever, have stated that they cannot recall any opening of first class mail by the CIA agents.²⁹⁵

There is no evidence that the Postmaster of New Orleans, who arranged for the Customs survey, knew of any mail opening by the CIA in connection with the project. The Customs survey itself, of which he was evidently aware, was entirely legal at the time.

C. The Hawaiian Mail Intercept Project

A fourth CIA mail intercept project was conducted in the Territory of Hawaii for about one year during the mid-1950's.^{295a} It was initiated, without prior authorization from Headquarters, by the Agency's sole representative in Honolulu. Like the New Orleans project, it involved the cooperation of the Customs Service.

According to the agent who conducted the Hawaiian project, local personnel of the Customs Service approached him in late 1954 to request his assistance in identifying incoming political propaganda from Asia that had been intercepted by Customs officials acting under the Cunningham Act.²⁹⁶ The CIA officer agreed and, after a short period of time, noticed the presence of censorship chemicals on a portion of the mail from one of the country's being covered. Less than a week after he began to assist the Customs personnel, he started surreptitiously removing packets of mail for further exterior examination. By early 1955, without the knowledge of Customs officials, the agent was both opening and photographing items he had removed from the Customs facility.

In March 1955, he sent a formal report of these activities to CIA headquarters, noting that he had photographed the contents of approximately six hundred communications and tested four hundred. Included in the report was an evaluation of the results to date; specifically, an analysis of the Asian country's censorship techniques and other postal and positive intelligence information he had collected. According to the CIA officer, his report was very favorably received and he was encouraged to continue.

The CIA officer stated that for approximately two months in early 1955, he was joined by an FBI agent as well. A local FBI agent in Honolulu, who had received instructions to concentrate on Asian counterintelligence matters, apparently learned from Customs officials that the CIA officer participated in their examination of incoming propaganda. He contacted the CIA officer, was informed of the project, and notified Bureau Headquarters. The CIA officer stated that with his concurrence, an FBI agent trained in mail opening techniques was assigned the task of assisting him in his interception effort. The Bureau can locate no documents pertaining to this operation, however.

The CIA officer continued the project on his own after FBI participation ceased. In November 1955, he was transferred to a station in the continental United States, and the Hawaiian project was terminated.

²⁹⁵ Staff summary of Irving Fishman interview, 8/12/75; staff summary of Customs agent interview, 8/9/75.

^{295a} The description that follows is based on an interview of the participating agent by the Rockefeller Commission staff.

²⁹⁶ President's Commission on CIA Activities Within The United States' staff summary of a CIA officer interview, 3/18/75.

D. Isolated Instances of CIA Mail Opening

In addition to generalized mail intercept projects, the CIA has also targeted the mail of particular individuals within the United States. At least twelve such instances of mail opening, directed against foreign nationals, Agency employees, and American citizens unconnected with the CIA are recorded in Agency files.²⁹⁷

PART III: PROJECT HUNTER

I. INTRODUCTION AND MAJOR FACTS

"Project Hunter" was the cryptonym given by the FBI to the receipt of information from the CIA's New York mail intercept program. The FBI first became aware of this operation in January 1958, approximately three and one-half years after the CIA began opening mail between the Soviet Union and the United States. In February 1958, the Bureau began to levy requirements on the CIA's project and received product from it continually from that time until the discontinuance of the project. In total, copies or summaries of more than 57,000 items of intercepted correspondence were disseminated by the CIA to the FBI, either on the basis of general guidelines established by the Bureau or on the basis of particular names of individuals and organizations for which the Bureau desired coverage. While most of these names and categories could reasonably be expected to generate counterespionage information—which was the stated purpose of the FBI's collaboration on the project—Bureau targets also included peace organizations, antiwar leaders, black activists, and women's groups. When the New York mail intercept project was terminated in 1973 and the FBI declined the opportunity to assume responsibility for it, Project Hunter ceased after fifteen years of operation.

The most pertinent facts about Project Hunter may be summarized as follows:

(a) The FBI knew of and levied requirements on the CIA's New York mail intercept project from 1958 until the project was terminated in 1973.

(b) Although the collection of counterespionage information was the stated purpose of Project Hunter, the Bureau specifically requested information on numerous individuals and organizations in the antiwar, civil rights, and women's movements, and on such general categories as "government employees" and "protest organizations."

(c) The FBI received copies or summaries of more than 57,000 intercepted communications between 1958 and 1973. At the height of the project in 1966, the CIA disseminated 5,984 of the 15,499 items that had been opened to the Bureau—more than were disseminated to any one customer component of the CIA itself.

(d) The product was moderately valuable in terms of the FBI's counterespionage mission, but much of the correspondence has been characterized as "junk" by FBI personnel familiar with the program. It provided no leads to the identification of foreign illegal agents.

(e) No consideration was given to terminating FBI involvement in the CIA's New York intercept program when the Bureau's own proj-

²⁹⁷ Blind memorandum, Subject: "Domestic Surveillance," undated.

ects were terminated in 1966 because information from the project was received at no expense or risk to the FBI.

(f) FBI officials decided against assuming responsibility for the CIA's New York mail intercept project in 1958 and again in 1973 because of its complexity, expense, and the inherent security risks, not primarily because of legal considerations.

II. FBI "DISCOVERY" OF THE CIA'S NEW YORK MAIL INTERCEPT PROJECT: 1958

A. A Proposed FBI Mail Opening Program for United States-Soviet Union Mail

In 1957, FBI officials were extremely concerned about the presence of Soviet and other hostile illegal intelligence agents in the United States.²⁹⁸ The FBI had recently uncovered Rudolph Abel and at least three other illegal agents, yet no effective methods of locating and identifying illegal agents generally were then known. Bureau officials did not feel that they had been entirely successful in their attempts in the past, and searched for a means by which the communication links between the illegal agents and their principals could be intercepted.²⁹⁹

On January 10, 1958, an allied nation's counterintelligence agency informed the FBI that when Soviet illegal agents throughout the world wished to meet with their principals, they were under instructions to send a communication to a particular address in the Soviet Union.³⁰⁰ Against the background of the Bureau's concern for locating and identifying illegal agents, the significance of this information was readily apparent: if the FBI could screen mail between the United States and the Soviet Union, it would be possible to intercept communications bearing this particular address and, it was hoped, trace the letter back to the illegal agent.

In 1958, mail between the United States and the Soviet Union was routed through air mail facilities in New York City and Washington, D.C. On the basis of its newly-acquired information, therefore, FBI Headquarters immediately instructed the New York and Washington Field Offices "to institute confidential inquiries with appropriate Post Office officials to determine the feasibility of covering outgoing correspondence from the U.S. to the U.S.S.R., looking toward picking up a communication dispatched to the aforementioned address."³⁰¹ On January 21, 1958, the Special Agent in Charge of the New York Field Office, notified Headquarters that his preliminary inquiries indicated that covert mail coverage would be possible at LaGuardia airport.

This was not the FBI's first attempt to utilize mail opening as an investigative technique in the counterintelligence field: at the time these inquiries were being made, the Bureau was conducting two mail opening programs of its own in the cities of Washington, D.C. and San Francisco (see Part IV, p. 636), and in the case of the Washington, D.C. program, the cooperation of the Post Office Department had been enlisted in delivering mail to Bureau agents.

²⁹⁸ Donald E. Moore testimony, 10/1/75, p. 9.

²⁹⁹ *Ibid.*

³⁰⁰ Memorandum from A. H. Belmont to Mr. Boardman, 1/22/58.

³⁰¹ *Ibid.*

B. Referral to Post Office Headquarters in Washington, D.C.

After the SAC in New York had made his preliminary inquiries, which made the prospects for successful implementation of the project appear favorable, he received a telephone call from the Chief Postal Inspector, David Stephens, in Washington, D.C., who informed him that he could not authorize Post Office cooperation after all because "something had happened in Washington on a similar matter."³⁰²

He advised that FBI Headquarters should discuss the matter further with his office in Washington.

C. James Angleton's Initial Contact with Sam Papich Regarding HTLINGUAL

The SAC in New York relayed the Chief Postal Inspector's advice to FBI Headquarters, but before Headquarters was able to initiate a meeting with Postal officials in Washington, James Angleton, then Chief of the Counterintelligence Staff of the CIA, contacted Sam J. Papich, FBI Liaison to the CIA, on the matter to which Stephens had apparently referred.³⁰³ Angleton stated that it had come to his attention, through the Post Office, that the FBI was making inquiries into the possibility of covering mail between the United States and the Soviet Union, and that the CIA expected to be contacted by the FBI concerning this possibility. He then informed Papich "on a personal basis"³⁰⁴ that the CIA was already conducting an extensive operation, based in New York, which involved the opening of mail to and from the Soviet Union. He stated that this project was one of the largest and most sensitive of all CIA covert operations, and that "the sole purpose for the coverage was to identify persons behind the Iron Curtain who might have some ties in the U.S. and who could be approached in their countries as contacts and sources for the CIA."³⁰⁵

Alan Belmont, then Assistant Director for the Domestic Intelligence Division, was informed of this operation by Papich and noted in a memorandum to Mr. Boardman, then Assistant to the Director, that "[i]t would appear that our inquiries of the Post Office officials in New York have flushed out a most secret operation of the CIA."³⁰⁶

D. Decision Not to Challenge CIA Jurisdiction

Papich testified that FBI officials were greatly concerned over what was viewed as a possible intrusion by the CIA into the counterintelligence jurisdiction of the FBI, and he stated that he "anticipated all hell was going to break loose."³⁰⁷ In fact, however, the jurisdictional dispute which Papich anticipated never occurred. Rather, the FBI decided to capitalize on the situation by receiving the benefits of the program without the expense and manpower requirements which would accompany a more active role in its operation. Belmont wrote to Boardman:

The question immediately arises as to whether CIA in effecting this coverage in New York has invaded our juris-

³⁰² *Ibid.*

³⁰³ Memorandum from Belmont to Boardman, 1/22/58; Angleton, 9/17/75, p. 42.

³⁰⁴ Memorandum from Belmont to Boardman, 1/22/58.

³⁰⁵ Memorandum from Belmont to Boardman, 1/22/58: This was clearly not the sole purpose of the New York Project even in the 1950's. See pp. 567-568.

³⁰⁶ Memorandum from Belmont to Boardman, 1/22/58.

³⁰⁷ Papich, 9/22/75, p. 87.

diction. In this regard, it is believed that they have a legitimate right in the objectives for which the coverage was set up, namely, the development of contacts and sources of information behind the Iron Curtain. . . . At the same time, there is an internal security objective here in which, because of our responsibilities, we have a definite interest, namely, the identification of illegal espionage agents who may be in the United States. While recognizing this interest, it is not believed that the Bureau should assume this coverage because of the inherent dangers in the sensitive nature of it, its complexity, size, and expense. It is believed that we can capitalize on this coverage by pointing out to CIA our internal security objectives and holding them responsible to share their coverage with us.³⁰⁸

This memorandum was routed to the Director, and Hoover's approval—the phrase “OK. H.”—appears on the last page.

E. FBI Briefing at CIA

On January 24, 1958, Sam Papich met with James Angleton, Sheffield Edwards, and a third CIA officer at the Agency.³⁰⁹ Papich told the group that he had reason to believe, from the FBI inquiries of Post Office officials in New York (and without mentioning Angleton's admission two or three days earlier), that the CIA had a mail coverage project in New York. The CIA representatives then proceeded to give Papich a full briefing on the CIA's mail intercept program, and agreed to “handle leads” for the Bureau.³¹⁰ Papich was also told that Postmaster General Summerfield had approved the photographing of mail by the CIA but that the CIA did not have permission of the Post Office Department to open mail.³¹¹ In addition, the address given the Bureau by the allied counterintelligence agency was supplied to the CIA for use in the New York project.

Neither Angleton nor anyone else in the CIA was told at this time of either of the FBI's own on-going mail opening programs. According to the testimony of William Branigan, former FBI Section Chief of a section dealing with espionage matters, there was no reason to inform CIA about the Bureau's own mail opening programs since both of the programs then involved “strictly a domestic situation involving persons in the United States . . . [and] solely within the jurisdiction of the FBI.”³¹²

III. REQUESTS LEVIED BY THE FBI ON THE CIA'S NEW YORK MAIL INTERCEPT PROJECT

A. The Procedure Established

The “Hunter” procedure for requesting and receiving information was established in early February 1958. On February 6, James Angleton wrote the FBI Director to advise the Bureau of the form in which

³⁰⁸ Memorandum from Belmont to Boardman, 1/22/58.

³⁰⁹ Memorandum from A. H. Belmont to L. V. Boardman, 2/6/58.

³¹⁰ Memorandum from Belmont to Boardman, 2/6/58.

³¹¹ Papich, 9/22/75, p. 37.

³¹² William A. Branigan, 10/9/75, p. 11.

requests should be made and information would be disseminated.³¹³ Designating correspondence between the two agencies which related to the New York project as "Project Hunter", Angleton suggested that the Bureau number all requests for placing particular persons on the Watch List in consecutive order as "Hunter Request Number —." Identifying data about the requested person should be placed on a three by five card, with instructions as to the duration of the person's name on the Watch List and the type of treatment desired ("e.g., photograph exterior only; open and photograph contents as well, etc."). General requirements based on letter content or the class of the sender or addressee, could also be accommodated by the CI Staff project analysts.

Correspondence from the CIA to the FBI which contained information derived from the project was to be labeled consecutively, "Hunter Report Number —."

B. Categories of Correspondence for Requested Coverage

At least five sets of categories of correspondence for which the Bureau desired coverage were transmitted to the CIA between 1958 and 1973. The focus of the original categories was clearly counter-espionage, but subsequent general requirements became progressively more domestic in their focus and progressively broader in their scope. By the end of the project, one requirement simply asked for the intercepted correspondence of "New Left activists, extremists and other subversives."³¹⁴

The first set of categories of correspondence for which the FBI desired coverage was set forth in a memorandum from Alan Belmont to Mr. Boardman dated February 6, 1958.³¹⁵ This memorandum was approved by Hoover, and Sam Papich advised the CIA of the Bureau's interest in these categories on February 11. They were:

- (1) All correspondence of a suspicious nature, et cetera.
- (2) All correspondence indicating that the Soviets may be utilizing a hostage situation, i.e., correspondence indicating pressure being exerted on Soviet citizens who have close relatives in the U.S. or pressure being exerted on individuals in U.S.
- (3) Any information appearing in correspondence indicating weaknesses or dissatisfaction on the part of any Soviet presently in the United States so that the Bureau might give consideration to feasibility of approaching such individuals for defection or double agent purposes.
- (4) Any information appearing in correspondence indicating Soviet control of direction of the CPUSA. [Communist Party, USA.]³¹⁶

If the CI Staff analysts were not certain whether a particular letter fit into one of these four categories, they clearly gave the Bureau the benefit of their doubt. In August 1961, these categories had to be refined because of the large percentage of valueless letters (95% by one informed estimate)³¹⁷ which the CIA disseminated to the Bureau

³¹³ Memorandum from James Angleton to Director, FBI, 2/6/58.

³¹⁴ See p. 630.

³¹⁵ Memorandum from Belmont to Boardman, 2/6/58.

³¹⁶ *Ibid.*

³¹⁷ Project Supervisor #1 testimony, 10/1/75, p. 60.

in the first three and one-half years of the Hunter operation.³¹⁸ The FBI informed the CIA that it was not interested in correspondence involving general travel arrangements of Americans travelling to Russia, personal letters with no intelligence value, letters to and from exchange students, and "holiday greeting" traffic.³¹⁹ The Bureau stated, however, that it was specifically interested in receiving any correspondence in the following categories:

(1) Any traffic in the above-mentioned non-desired categories wherein the translator feels there is some intelligence significance. . . .

(2) Any traffic wherein it is revealed U.S. addressee or addressor is a U.S. Government employee or is employed in a sensitive industry, i.e., missile field.

(3) Any traffic wherein we have an obvious intelligence interest such as an open offer by an individual to assist Soviets, an indication an individual is going to Russia and wants to become a citizen or wherein an individual professes pro-Soviet or pro-communist sympathies.³²⁰

Other categories relating to particular espionage cases were also set forth.

The reference to "U.S. Government employee[s]" in category (2) was intended to be limited to employees in sensitive positions, according to one of the Bureau officials who formulated these categories.³²¹ But such limitation is not evident on the face of the request. The Bureau literally requested all intercepted correspondence to or from all federal employees, from the lowest Civil Service level to, presumably, the level of the Cabinet, the Congress, and the President.

On February 13, 1962, an additional category was requested by the FBI.³²² This request was for any correspondence from the United States to the Soviet Union which contained any of the "indicators" on the outside of the envelope which suggested that the correspondence was from an illegal agent to his principal. The Bureau had acquired knowledge of these indicators in 1959 and used this knowledge in connection with several of its own mail opening programs in the period 1959 through 1966. Dissemination by the CIA to the FBI of correspondence which was opened on the basis of these indicators was code-named "Hunter-Don."

The categories were enlarged again on October 31, 1962. Among the new categories of correspondence desired by the FBI were the following:

(1) All material emanating from Puerto Rico of an anti-U.S. nature and pro-Soviet.

(2) Data re U.S. peace groups going to Russia and while in Russia.

(3) Data indicating death of any U.S. Communist abroad.

(4) Any traffic from or to U.S. students in Moscow or to U.S. persons who were former students in Moscow.

³¹⁸ Project Supervisor #1 testimony, 10/1/75, p. 60; Branigan, 10/9/75, p. 81.

³¹⁹ Memorandum from W. A. Branigan to W. C. Sullivan (attachment), 8/21/61.

³²⁰ Memorandum from Branigan to Sullivan, (attachment), 8/21/61.

³²¹ Branigan testimony, 10/9/75, p. 70.

³²² Memorandum from W. A. Branigan to W. C. Sullivan, 2/15/62.

(5) Any traffic between U.S. persons who are with a current exposition or a previous exposition in the USSR.³²³

In addition, the CIA was informed that the FBI had no interest in the correspondence of Soviet-bloc immigrants desiring to repatriate to the Soviet Union, legitimate American tourists in the Soviet Union, and American professors in academic research who corresponded with their counterparts in the Soviet Union.

A final revision of the guidelines occurred in March 1972, when James Angleton was told that the following were among the types of traffic which continues to be of interest to the FBI:

1. Current and former Soviet exchange students, visitors, researchers and scientists.

2. Current and former Soviet official visitors.

4. U.S. exchange students, researchers, and persons who have been in the USSR with American exhibitions and delegations.

6. . . . [P]ersons on the Watch List; known communists, New Left activists, extremists and other subversives; suspected and known espionage agents; individuals known to be of interest to the Soviets because of their specialized knowledge or work on classified matters . . .

7. Communist party and front organizations . . . extremist and New Left organizations.

8. Protest and peace organizations, such as People's Coalition for Peace and Justice, National Peace Action Committee, and Women's Strike for Peace.

9. Communists, Trotskyites and members of other Marxist-Leninist, subversive and extremist groups, such as the Black Panthers, White Panthers, Black Nationalists and Liberation groups, Venceremos Brigade, Venceremos organization, Weathermen, Progressive Labor Party, Worker's Student Alliance, Students for a Democratic Society, Resist, Revolutionary Union, and other New Left groups. This would include persons sympathetic to the Soviet Union, North Korea, North Vietnam and Red China.

10. Cubans and pro-Castro individuals in the U.S.

11. Traffic to and from Puerto Rico and the Virgin Islands showing anti-U.S. or subversive sympathies.³²⁴

This final set of requirements clearly reflected the domestic turmoil of the late 1960's and early 1970's. The process that began fourteen years earlier as a means of discovering Soviet intelligence efforts in the United States had expanded to encompass detection of the activities of

³²³ *Ibid.*

³²⁴ Routing slip from J. Edgar Hoover to James Angleton (attachment), 3/10/72.

domestic dissidents of all types. Even those merely "sympathetic"—in the opinion of CI Staff analysts—to selected communist nations fell within the scope of the requirements.

C. Individuals and Organizations Placed on the Watch List

In addition to the general categories set forth above for which the FBI desired CIA mail coverage, the Bureau also submitted the names of particular individuals and organizations for inclusion on the CIA's Watch List. According to existing FBI records, "Hunter Request" numbers reached 286 by 1973, that is, the names of 286 individuals and organizations were submitted by the Bureau during the course of the Hunter Project.³²⁵

The majority of these names were clearly in the counterespionage area, but the specific requests also included: *The National Guardian*, Student Non-Violent Coordinating Committee, National Mobilization Committee to End the War in Vietnam, Students for a Democratic Society, *Ramparts*, Clergy and Laymen Concerned about Vietnam, the Liberation News Service, Jeremy J. Stone (Director of the Federation of American Scientists), Center for the Study of Public Policy, Linus Pauling, and the Institute for Policy Studies.³²⁶

Aside from the 286 "Hunter Request" names submitted by the FBI for inclusion on the Watch List, about 180 more names were provided to the CIA for use in the special Latin America mail screening operation, known as Hunter-Vince, which was run in conjunction with Hunter and which lasted for approximately one month in 1963.³²⁷ On December 12, 1962, Liaison Agent Sam Papich had been informed by the CIA that because mail from the United States to a Latin America country was temporarily discontinued, all such mail would be shipped to that country from New York City, and the CIA intended to expand their coverage to include the screening and opening of a portion of this mail.³²⁸ The FBI expressed an interest in sharing the benefits of this coverage and submitted approximately 180 names of American and foreign citizens who were on the Security Index.^{328a}

This aspect of the program, which commenced on February 21, 1963, was suspended on March 19, less than one month later.

IV. PRODUCT RECEIVED BY THE FBI FROM THE CIA'S NEW YORK MAIL INTERCEPT PROJECT

A. Volume

According to a CIA document dated January 23, 1975, a total of 57,846 separate items were disseminated to the FBI from the CIA project.³²⁹ The yearly figures, from 1958 when the first product was

³²⁵ Staff summary or Project Hunter index file review, 10/20/75.

³²⁶ Staff summary of Project Hunter file review, 10/20/75: Staff summary of HTLINGUAL file review, 9/5/75.

³²⁷ Memorandum from S. J. Papich to D. J. Brennan, 12/13/62.

³²⁸ Memorandum from S. J. Papich to D. J. Brennan, 12/13/62.

^{328a} The Security Index was a list of people to be detained in time of war or national emergency.

³²⁹ Blind CIA "Memorandum for the Record," Subject: "Approximate Statistics on CI Staff Project, HTLINGUAL Material," 1/23/75.

disseminated to the Bureau, until the termination of the project, are as follows:

Year	Total items opened	Items disseminated to FBI
1958	8,633	666
1959	13,299	1,964
1960	12,725	2,342
1961	14,025	3,520
1962	13,932	3,017
1963	16,748	4,167
1964	14,904	5,396
1965	13,309	4,503
1966	15,499	5,984
1967	23,617	5,863
1968	12,288	5,322
1969	9,821	5,384
1970	10,207	4,975
1971	9,018	2,701
1972	8,060	1,400
1973	2,273	642
Total (entire duration)	215,820	³³⁰ 57,846

³³⁰ Blind CIA memorandum "for the Record," 1/23/75.

B. Administrative Processing of the Product Received

After the FBI liaison agent picked up the Hunter reports at CIA Headquarters, he would bring them to a single desk within the Soviet Section of the Domestic Intelligence Division. The person in charge of this desk was responsible for reviewing all of the correspondence and routing it to interested supervisors in the Division. Copies of the correspondence would then be returned to the control desk and either destroyed, if deemed to be of no value, or filed in a secure area, separated from the rest of the FBI files. Due to the sensitivity of the project, copies of the correspondence never went into a case file directly, although a cross-reference in the case file allowed the retrieval of any relevant correspondence.

Knowledge of the project was limited to the operational sections within the Domestic Intelligence Division at Headquarters. Neither the Criminal Division nor any of the field officers were ever advised of the nature of the source. When significant information was developed from Hunter, it would be paraphrased to disguise the true source prior to dissemination to the field officers or other divisions: an informant symbol replaced the term "Project Hunter" on all such correspondence. Field offices would be informed that "[Informant symbol], a most sensitive and reliable source, advised that (individual or organization) of (address) was in contact with (individual or organization; address) during (month, year). . . . According to the informant. . . ." ³³² The field offices were also warned that information from this source should not be disseminated outside the Bureau nor set out in any investigative report, and that information from the informant should be utilized for lead purposes only. ³³³

C. Nature and Value of the Product Received

During the fifteen years of Hunter's operation, the Bureau received information which was considered valuable in both its counterintel-

³³² Memorandum from FBI SA #4 to W. A. Branigan, 11/26/62.

³³³ *Ibid.*

ligence and its domestic intelligence efforts; it also received a significant volume of material that was valueless. Project Hunter revealed, for example, the location and future plans of a large number of individuals of investigative interest to the FBI, and the "pro-communist sympathies" of numerous American citizens, but it did not lead to the identification of any foreign illegal agents.³³⁴

Typical counterintelligence information generated from the program, as stated in the annual FBI evaluation reports, included: "travel plans to the USSR of numerous Communist Party subjects; . . . data indicating pro-Soviet sympathies of U.S. individuals; . . . data indicating a U.S. person may be serving as a Soviet courier; . . . data indicating the existence of particular Russian social and art clubs in the U.S.; . . . data indicating a desire of U.S. students to study in USSR; . . . contacts in this country of Security Index (SI) subjects vacationing and studying abroad; . . . [d]ata regarding current and former U.S. exchange students show[ing] Soviet and U.S. contacts before and after return, romantic involvements, sympathies and difficulties encountered in Russia; . . . plans of seven individuals to repatriate to the USSR; . . . U.S. contacts with current and former known and suspected Soviet agents now in the USSR . . ." ³³⁵

In addition, essentially domestic intelligence was received "regarding persons involved in the peace movements, anti-Vietnam demonstrations, women's organizations, 'teach-ins' . . . , racial matters, Progressive Labor Party, Students for a Democratic Society, DuBois Clubs, Students Non-Violent Coordinating Committee, and other organizations." ³³⁶ The fact that an aide to a United States Senator requested a Moscow dance company to perform in the United States was discovered through Hunter and duly filed,³³⁷ as was the fact that the foreign-born wife of a man who would shortly become an aide to Secretary of Agriculture Orville Freeman expected to be in a position to become friendly with President Kennedy.³³⁸

Information such as that listed above was considered to be valuable by the Bureau.³³⁹ A 1966 evaluation of Hunter by the FBI's Domestic Intelligence Division stated that "[t]he value of this material is shown by the fact that there was an increase of 53% in the number of new cases opened on the basis of information furnished by the source. . . . More than 260 new cases were opened and 96 cases were reopened. The majority of new cases were opened on the basis of travel to the USSR and contacts of U.S. citizens, Latin Americans, and

³³⁴ Branigan, 10/24/75, Hearings, Vol. 4, p. 168. The FBI defines "illegal agent" as "a highly trained specialist in espionage tradecraft. He may be a [foreign] national and/or a professional intelligence officer dispatched to the United States under a false identity. Some illegals are trained in the scientific and technical field to permit easy access to sensitive areas of employment". (FBI Monograph, "Intelligence Activities Within the United States by Foreign Governments," 3/20/75.)

³³⁵ Memorandum from W. A. Branigan to A. H. Belmont, 12/5/60; memorandum from W. A. Branigan to W. C. Sullivan, 6/9/61; memorandum from W. A. Branigan to W. C. Sullivan 12/5/61; memorandum from Supervisor #1 to W. A. Branigan, 10/29/62; memorandum from W. A. Branigan to W. C. Sullivan, 11/2/62; memorandum from Project Supervisor #2 to W. A. Branigan, 8/21/64, 8/30/65, 8/24/66, and 8/28/69.

³³⁶ Memorandum from Project Supervisor #2 to W. A. Branigan, 8/24/66.

³³⁷ Memorandum from Branigan to Sullivan, 6/9/61.

³³⁸ *Ibid.*

³³⁹ Branigan, 10/9/75, p. 73.

Cubans in the U.S. with individuals in the USSR.”³⁴⁰ A 1973 informational memorandum routed to Acting Director Patrick Gray noted that “[w]e have always considered the product from Project Hunter as valuable to our investigative interests.”³⁴¹

As discussed in Part II above, however, this project was not as valuable to the FBI’s counterespionage mission as CIA officials assumed it to be. Large numbers of intercepted communications were received from the Agency, but many of them—95 percent according to the FBI Special Agent³⁴² who was in charge of the administrative aspects of Hunter for five years—were considered valueless, either because they contained nothing of counterintelligence value or because the information supplied merely duplicated information already in the Bureau case files.³⁴³ William A. Branigan agreed that much of the product could be characterized as “junk,”³⁴⁴ and asserted that the relative value of this project must be evaluated in light of the fact that this source cost the Bureau nothing, either in terms of dollars or in terms of manpower.³⁴⁵

V. TERMINATION OF THE PROJECT

All of the FBI’s own mail opening programs were discontinued in mid-1966,³⁴⁶ yet Bureau officials gave no thought at that time to terminating the Hunter Project. As explained by Mr. Branigan, Hunter was considered to be a CIA operation. It was operated at no cost or risk to the Bureau. There was therefore no reason to cut off this source when the Bureau’s own programs were terminated.³⁴⁷ Thus, the FBI continued to receive the fruits of mail opening long after its own agents were prohibited from opening the mail themselves.

Project Hunter was also not terminated for approximately three years after J. Edgar Hoover wrote a footnote in the 1970 “Huston Report” which contained this language: “The FBI is opposed to implementing any covert mail coverage [i.e., mail opening] because it is clearly illegal and it is likely that, if done, information would leak out of the Post Office to the press and serious damage would be done to the intelligence community.”³⁴⁸ The FBI Director, therefore, was apparently willing to allow the Bureau to receive information from a source that he himself described as “clearly illegal” and which he believed could seriously jeopardize the American intelligence community.

Project Hunter was only terminated when the CIA itself suspended the New York operation in mid-February 1973, for reasons which are discussed in Part II above. At that time, the FBI was approached by Agency representatives to determine whether or not the Bureau wished to assume responsibility for the project, since the Bureau had been

³⁴⁰ Memorandum from Project Supervisor #2 to Branigan, 8/24/66.

³⁴¹ Memorandum from W. A. Branigan to E. S. Miller, 2/15/73.

³⁴² Project Supervisor #1, 10/1/75, p. 60.

³⁴³ Branigan, 10/9/75, p. 81; Project Supervisor #1, 10/1/75, p. 60.

³⁴⁴ Branigan, 10/24/75, Hearings, vol. 4, p. 168.

³⁴⁵ Staff summary of W. A. Branigan interview, 9/11/75.

³⁴⁶ See pp. 668–670.

³⁴⁷ Branigan, 10/9/75, p. 89.

³⁴⁸ Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970. p. 31.

the largest consumer of information developed from this source.³⁴⁹ Lieutenant General Vernon A. Walters, Deputy Director of the CIA, scheduled a meeting with Acting FBI Director Gray on February 16, 1973 to discuss this possibility.³⁵⁰ The Bureau, however, declined to assume responsibility for the project, primarily because of the attendant expense, manpower requirements, and security problems. According to William Branigan, legal considerations were not a factor in this decision; it was simply thought to be too large and risky an operation to be undertaken by Bureau agents.³⁵¹ The suspension of operations therefore proved to be permanent.

VI. INTERNAL AUTHORIZATION AND CONTROLS

A. Initial Approval by and Continuing Knowledge of the Director

It is clear that FBI Director Hoover personally approved Project Hunter from its inception. Hoover's initial and his written "OK" are signed on the first document in the Project Hunter policy file, the January 22, 1958, memorandum from A. H. Belmont to L. V. Boardman, which sets out the basic facts regarding CIA coverage and possible use of such coverage.³⁵² He also personally approved the first (1958) and the final (1972) guidelines that went to the Agency,³⁵³ the initial policy memorandum dealing with the handling of Hunter material,³⁵⁴ and informational memoranda regarding the "Hunter-Vince" (Latin American mail) aspect of the program.³⁵⁵

In March 1961, the FBI was informed by James Angleton that the CIA had developed a laboratory capability in New York City to test intercepted correspondence for microdots and other secret writing techniques.³⁵⁶ The CIA offered the use of this laboratory to the Bureau if Bureau agents should ever want to use it. (Apparently this was never used by the FBI.)³⁵⁷ Hoover was informed of the laboratory and the CIA offer in a March 10, 1961, memorandum, on which he penned the phrase "Another inroad!"³⁵⁸

Acting Director L. Patrick Gray was also made aware of Project Hunter by at least February 16, 1973, the date he initialed the February 15, 1973, memorandum from W. A. Branigan to E. S. Miller and was scheduled to meet with Lt. General Walters regarding the possible take-over of the project by the FBI.³⁵⁹ This, however, was one day after the project was actually terminated.

B. Internal Controls

Several of the internal controls which were developed for Project Hunter have already been noted. Knowledge of the true nature of

³⁴⁹ Angleton, 9/17/75, p. 42; Papich, 9/22/75, p. 79.

³⁵⁰ Memorandum from Branigan to Miller, 2/15/73.

³⁵¹ Branigan, 10/9/75, p. 89.

³⁵² Memorandum from Belmont to Boardman, 1/22/58.

³⁵³ Memorandum from Belmont to Boardman, 2/6/58; J. Edgar Hoover routing slip (attachment), 3/10/72.

³⁵⁴ Memorandum from W. A. Branigan to A. H. Belmont, 4/21/58.

³⁵⁵ Memorandum from W. R. Wannall to W. C. Sullivan, 3/27/63.

³⁵⁶ Memorandum from D. E. Moore to A. H. Belmont, 3/10/61.

³⁵⁷ Moore, 10/1/75, p. 15.

³⁵⁸ Memorandum from Moore to Belmont, 3/10/61.

³⁵⁹ Memorandum from Branigan to Miller, 2/15/73.

this source was closely held to those sections within the Domestic Intelligence Division which had a need-to-know; dissemination of information outside Headquarters was always disguised and Field Offices were cautioned that the information could be used for lead purposes only. In addition, the project was evaluated at least annually by the Project Supervisor. These evaluations, which summarized the information received from the project during the previous year, were passed up through channels and generally were reviewed by at least an Assistant to the Director.³⁶⁰

VII. EXTERNAL AUTHORIZATION

A. Attorneys General

There is no evidence that any Attorney General was ever informed by Bureau officials about the existence of Project Hunter. It was explained by one Bureau official that since the project was a CIA rather than an FBI project, there was no need to seek Justice Department approval or even to inform Justice Department officials about the fact that mail was being opened in the project.³⁶¹

B. Postmasters General

There is also no evidence that any FBI official ever informed any Postmaster General or Chief Postal Inspector about Project Hunter. The February 15, 1973 memorandum from W. A. Branigan to E. S. Miller states that "[a]rrangements for the [CIA project] were obviously worked out between the Agency and Post Office officials and we are not privy to the details".³⁶²

C. Presidents

There is similarly no evidence that any President was aware of Project Hunter.

PART IV: FBI MAIL OPENING

I. INTRODUCTION AND MAJOR FACTS

The FBI, like the CIA, conducted several mail opening programs of its own within the United States. Eight programs were conducted in as many cities between the years 1940 and 1966; the longest was operated, with one period of suspension, throughout this entire twenty-six year period; the shortest ran for less than six weeks. FBI use of this technique was initially directed against the Axis powers immediately before and during World War II, but during the decade of the 1950's and the first half of the 1960's all of the programs responded to the Bureau's concern with communism.

At least three more limited instances of FBI mail opening also occurred in relation to particular espionage cases in the early 1960's.

Significant differences may be found between the FBI mail opening programs and those of the CIA. First, the stated purposes of the two sets of program generally reflects the agencies' differing intelligence

³⁶⁰ Project Supervisor #1, 10/1/75, p. 38.

³⁶¹ Branigan, 10/9/75, p. 90.

³⁶² Memorandum from Branigan to Miller, 2/15/73.

jurisdiction: the FBI programs were, in the main, fairly narrowly directed at the detection and identification of foreign illegal agents rather than the collection of foreign positive intelligence. Thus, no premium was placed on the large-scale collection of foreign intelligence information *per se*; in theory (if not always in practice), only information that might reasonably be expected to provide leads in counterespionage cases was sought. Because of this, the total volume of mail opened in Bureau programs was less than that in the CIA programs. An equally important factor contributing to the smaller volume of opened mail lay in the selection criteria used in several of the FBI's programs. These criteria were more sophisticated than the random and Watch List methods used by the CIA; they enabled trained Bureau agents to make more reasoned determinations, on the basis of exterior examinations of the envelopes, as to whether or not the communications might be in some sense "suspect." Third, the FBI mail opening programs were much more centralized and tightly administered than the CIA programs. All but one (which resulted in a reprimand from the Director) received prior approval at the highest levels of the Bureau. They were evaluated and had to be reapproved at least annually. Several of them—unlike the CIA's New York project—were discontinued on the basis of unfavorable internal evaluations. This high degree of central control clearly mirrored the organizational differences between the FBI and the CIA, and is not limited to mail opening operations alone. Finally, there is less evidence that FBI officials considered their programs to be illegal or attempted to fabricate "cover stories" in the event of exposure. Bureau officials, for the most part, apparently did not focus on questions of legality or "flap potential" strategies; they did not necessarily consider them to be legal or without the potential for adverse public reaction, they simply did not dwell on legal issues or alternative strategies at all.

In some respects, the Bureau's mail opening programs were even more intrusive than the CIA's. At least three of them, for example, involved the interception and opening of entirely domestic mail—that is, mail sent from one point within the United States to another point within the United States. All of the CIA programs, by contrast, involved at least one foreign "terminal". The Bureau programs also highlight the problems inherent in combining criminal and intelligence functions within a single agency: the irony of the nation's chief law enforcement agency conducting systematic campaigns of mail opening is readily apparent.

Despite their differences, however, the FBI mail opening programs illustrate many of the same themes of the CIA programs. Like the CIA, the FBI did not secure the approval of any senior official outside its own organization prior to the implementation of its programs. While these programs, like the CIA's, involved the cooperation of the Post Office Department and the United States Customs Service, there is no evidence that any ranking official of either agency was ever aware that mail was actually opened by the FBI. Similarly, there is no substantial evidence that any President or Attorney General, under whose office the FBI operates, was contemporaneously informed of the programs' existence. As in the case of the CIA, efforts were also made to prevent word of the programs from reaching the

ears of Congressmen investigating possible privacy violations by federal agencies. The record, therefore, again suggests that these programs were operated covertly, by virtue of deception, or, at a minimum, lack of candor on the part of intelligence officials.

Although the FBI relied on more sophisticated selection criteria in some of their programs, moreover, one again sees the same type of "overkill" which is inherent in any mail opening operation. These criteria, while more precise than the methods used by the CIA, were never sufficiently accurate to result in the opening of correspondence to or from illegal agents alone. Indeed, even by the Bureau's own accounting of its most successful program, the mail of hundreds of American citizens was opened for every one communication that led to an illegal agent. And several of the FBI programs did not employ these refined criteria: mail in these programs was opened on the basis of methods much more reminiscent of the CIA's random and Watch List criteria.

In the FBI programs one again sees the tendency of this technique, once in place, to be used for purposes outside the agency's institutional jurisdiction. While the Bureau has no mandate to collect foreign positive intelligence, for example, several of the programs did in fact result in the gathering of this type of information. More seriously, the record reveals for a second time the ease with which these programs can be directed inward against American citizens: the Bureau programs, despite their counterespionage purpose, generated at least some information of a strictly domestic nature, about criminal activity outside the national security area, and, significantly, about antiwar organizations and their leaders.

Perhaps the most fundamental theme illustrated by both the FBI's and the CIA's programs is this: that trained intelligence officers in both agencies, honestly perceiving a foreign and domestic threat to the security of the country, believed that this threat sanctioned—even necessitated—their use of a technique that was not authorized by any President and was contrary to law. They acted to protect a country whose laws and traditions gave every indication that it was not to be "protected" in such a fashion.

The most pertinent facts regarding FBI mail opening may be summarized as follows:

(a) The FBI conducted eight mail opening programs in a total of eight cities in the United States for varying lengths of time between 1940 and 1966.

(b) The primary purpose of most of the FBI mail opening programs was the identification of foreign illegal agents; all of the programs were established to gather foreign counterintelligence information deemed by FBI officials to be important to the security of the United States.

(c) Several of these programs were successful in the identification of illegal agents and were considered by FBI officials to be one of the most effective means of locating such agents. Several of the programs also generated other types of useful counterintelligence information.

(d) In general, the administrative controls were tight. The pro-

grams were all subject to review by Headquarters semiannually or annually and some of the programs were terminated because they were not achieving the desired results in the counterintelligence field.

(e) Despite the internal FBI policy which required prior approval by Headquarters for the institution of these programs, however, at least one of them was initiated by a field office without such approval.

(f) Some of the fruits of mail openings were used for other than legitimate foreign counterintelligence purposes. For example, information about individuals who received pornographic material and about drug addicts was forwarded to appropriate FBI field offices and possibly to other federal agencies.

(g) Although on the whole these programs did not stray far from their counterespionage goals, they also generated substantial positive foreign intelligence and some essentially domestic intelligence about United States citizens. For example, information was obtained regarding two domestic anti-war organizations and government employees and other American citizens who expressed "pro-communist" sympathies.

(h) A significant proportion of the mail that was opened was entirely domestic mail, *i.e.*, the points of origin and destination were both within the United States.

(i) Some of the mail that was intercepted was entirely foreign mail, *i.e.*, it originated in a foreign country and was destined to a foreign country, and was simply routed through the United States.

(j) FBI agents opened mail in regard to particular espionage cases (as opposed to general programs) in at least three instances in the early 1960's.

(k) The legal issues raised by the use of mail opening as an investigative technique were apparently not seriously considered by FBI officials while the programs continued. In 1970, however, after the FBI mail opening programs had been terminated, J. Edgar Hoover wrote that mail opening was "clearly illegal".

(l) At least as recently as 1972, senior officials recommended the reinstitution of mail opening as an investigative technique.

(m) No attempt was made to inform any Postmaster General of the mail openings.

(n) The Post Office officials who were contacted about these programs, including the Chief Postal Inspector, were not informed of the true nature of the FBI mail surveys, *i.e.*, they were not told that the Bureau contemplated the actual opening of mail.

(o) The FBI neither sought nor received the approval of the Attorney General or the President of the United States for its mail opening programs or for the use of this technique generally.

(p) Although FBI officials might have informed Justice Department attorneys that mail was opened in two or three particular espionage cases and might have informed an Attorney General of some mail screening operations by the Bureau, no attempt was made to inform the Justice Department, including the Attorney General, of the full extent or true nature of these operations.

(q) There is no evidence that any President of the United States ever knew of any ongoing FBI mail opening program.

II. DESCRIPTION OF FBI MAIL OPENING PROGRAMS

The eight FBI mail opening programs are summarized below.

A. Z-Coverage

Z-Coverage, the first and the longest-running FBI mail opening program, originally involved the opening of mail addressed to the diplomatic establishments of Axis powers in Washington, D.C.; in later years, mail coming to similar establishments of several communist nations was targeted. The stated purpose of the program was "to detect individuals in contact with these establishments who might be attempting to make contact for espionage reasons, for purposes of defecting or who might be illegal agents."³⁶³

This program was initiated in 1940, before the United States entry into World War II, with FBI agents who had been trained in the technique of "chamfering" (mail opening by representatives of an allied country's censorship agency).³⁶⁴ It was suspended after the war but reinstituted in Washington, D.C. in the early or mid-1950's on the recommendation of the local FBI field office.³⁶⁵ For more than a decade, mail from both foreign and domestic points of origin was intercepted at the Main Post Office, brought to the FBI Laboratory for opening and photographing, and returned to the Post Office prior to delivery. In 1959, Z-Coverage was extended to New York City as well. As implemented in New York, about 30 to 60 letters addressed to various diplomatic establishments in that city were intercepted at the Grand Central and Lenox Hill Post Offices each day for opening and photographing at the New York Field Office.³⁶⁶ Some registered mail sent to these establishments was opened as well.³⁶⁷

Despite its perceived success at both locations, Z-Coverage was terminated in July 1966.

B. Survey No. 1

Survey No. 1 operated in a total of six cities for varying lengths of time between 1959 and 1966. It involved the opening of certain outgoing mail to selected cities in Europe, Asia, and the Americas, and was considered to be the most successful of all the FBI's mail opening programs. Its purposes, as summarized in a 1961 FBI memorandum, were two: "(1) to identify persons corresponding with known espionage mail drops in Europe, and (2) to identify persons in the United States who are directing letters to possible mail drops in Europe and whose letters appear to be the product of an illegal agent."³⁶⁸

Survey No. 1 was first instituted in New York City on October 1, 1959, as a direct result of knowledge the FBI had recently acquired about the means by which foreign illegal agents communicated to their principals abroad. Once in operation, Bureau agents, in a secure room

³⁶³ Letter from FBI to Senate Select Committee, 9/8/75.

³⁶⁴ Memorandum from C. E. Hennrich to A. H. Belmont, 9/7/51.

³⁶⁵ Memorandum from E. T. Turner to C. E. Hennrich, 6/25/51; FBI SA #5 testimony, 10/10/75, pp. 4, 5.

³⁶⁶ FBI Special Agent #1 statement, 9/10/75, p. 23.

³⁶⁷ FBI Special Agent #1 statement, 9/10/75, pp. 38, 39.

³⁶⁸ Memorandum from W. A. Branigan to A. H. Belmont, 5/25/61.

at Idlewild Airport's Airmail Facility screened more than 425,000 letters from the United States to points in Western Europe each week.³⁶⁹ Selected items—a total of 1,011 in seven years—³⁷⁰ were returned to the New York Field Office for opening and photographing prior to reinsertion into the mailstream. In August 1961, after nearly two years of operation in New York, FBI officials believed that Survey No. 1 was so successful that it was extended to four additional cities—Boston, Los Angeles, Seattle, and Washington, D.C.³⁷¹—where coverage included mail not only to European cities but to Asia and the Americas as well. Survey No. 1 was also extended to Detroit on a sixty-day trial basis in April 1962.³⁷²

The expanded coverage in all cities but Washington did not prove to be as successful as the original effort in New York, however. After thirteen months of operation in Los Angeles, seventeen months in Seattle, one year in Boston, and four months in Detroit, a decision was made at Headquarters to terminate the program in these cities because of “unproductivity and manpower needs.”³⁷³ After February 1963, therefore, Survey No. 1 operated only in New York and Washington. In these two cities the annual evaluations³⁷⁴ continued to praise the effectiveness of Survey No. 1 and it was continued to operate at both locations until all of the mail opening programs were terminated in mid-1966.

C. Survey No. 2

Survey No. 2 operated in New York City, Detroit, and San Francisco for varying lengths of time between March 1961 and March 1962; its purpose was again the location and identification of illegal agents.³⁷⁵ No. 2 was, in essence, an inverse No. 1: incoming mail to urban postal zones in which illegal agents were believed likely to reside was screened and opened, on the basis of the same criteria used in Survey No. 1, in an attempt to intercept the other half of the communication link between illegal agents and their principals. Since mail coming into these postal zones was screened irrespective of the point of origin, much of the mail that was opened was entirely domestic mail.³⁷⁶

Survey No. 2 originated as an outgrowth of No. 1. It was first implemented on March 8, 1961, in postal zones 23, 24, and 25 in New York City, with Post Office employees rather than Bureau agents screening the in-coming mail.³⁷⁷ The Post Office personnel were briefed by the FBI as to the selection criteria but were not informed of the true nature of the program. When they discovered a suspect commu-

³⁶⁹ Memorandum from W. A. Branigan to Mr. Sullivan, 8/31/61.

³⁷⁰ W. Raymond Wannall testimony, 10/22/75, p. 5.

³⁷¹ Memorandum from W. A. Branigan to W. C. Sullivan, 8/4/61.

³⁷² Memorandum from FBI Headquarters to Detroit Field Office, 4/13/62; Serious consideration was given by FBI officials to extending this program to five other American cities as well. Such an extension was rejected largely for security reasons. (Memorandum from W. A. Branigan to W. C. Sullivan, 8/4/61.)

³⁷³ Memorandum from W. A. Branigan to W. C. Sullivan, 4/8/64.

³⁷⁴ E.g., Memorandum from New York Field Office, to FBI Headquarters, 4/5/66.

³⁷⁵ Letter from FBI to Senate Select Committee, 9/8/75.

³⁷⁶ Branigan, 10/9/75, p. 5.

³⁷⁷ Memorandum from W. A. Branigan to Mr. Sullivan, 8/31/61.

nication, it was turned over to the FBI and, without their knowledge, opened and photographed at the field office before being returned to the mailstream. On the basis of "test" letters sent by the Bureau, however, their performance was judged inadequate and, in September 1961, FBI agents replaced the postal workers in screening the mail.³⁷⁸

In October 1961, the program was also extended to both Detroit (zone 31 and the Hamtramck area)³⁷⁹ and San Francisco (all mail sent to that city from New York and Washington) on a trial basis.³⁸⁰

Survey No. 2 was considered unsuccessful in all of these cities and was consequently discontinued in Detroit and San Francisco in February 1962, and in New York—after a total of approximately 2,350 letters had been opened—³⁸¹ on March 9, 1962.^{381a}

D. Survey No. 3

Survey No. 3 was conducted in New York City from June 1963 to June 1964, and involved the opening of mail (irrespective of point of origin) addressed to known or suspected intelligence agents employed at a diplomatic establishment. The purpose of Survey No. 3 was to detect contacts of an intelligence nature with these agents, who, FBI officials believed, received such mail using the secure cover of their diplomatic employment.³⁸²

This program was apparently an outgrowth of the Bureau's coverage of mail to various other diplomatic establishments in New York (Z-Coverage). Although its precise genesis is undocumented, one of the participants in the program recalled that the idea originated with another agent, then involved with Z-Coverage, who felt that existing coverage was inadequate and should be expanded.³⁸³ Headquarters subsequently approved the idea, and, on June 25, 1963, Survey No. 3 was instituted in New York.

Each working day for the next year, a single agent from the New York office went to the Grand Central Post Office where a postal clerk brought him all the mail that was addressed to the Post Office box of the targeted diplomatic establishment—approximately 200 letters per day, according to the agent who was assigned to this task.³⁸⁴ On the basis of a list of about thirty diplomatic officials, which was compiled from public source information, the agent segregated the mail addressed to these officials and carried the letters—estimated by him to average five or six per day—³⁸⁵ to the New York office for opening and photographing.

Survey No. 3 was not considered to be successful by the Bureau and was discontinued on June 26, 1964.

³⁷⁸ *Ibid.*

³⁷⁹ Memorandum from W. A. Branigan to W. C. Sullivan, 10/2/61.

³⁸⁰ Memorandum from FBI Headquarters to San Francisco Field Office, 10/18/61.

³⁸¹ Memorandum from Branigan to Sullivan, 8/31/61; memorandum from Mr. Branigan to Mr. Sullivan, 12/21/61; memorandum from New York Field Office to FBI Headquarters, 3/5/62.

^{381a} Memorandum from W. A. Branigan to W. C. Sullivan, 8/3/62.

³⁸² Letter from FBI to Senate Select Committee, 9/8/75.

³⁸³ Staff summary of FBI Special Agent #6 interview, 8/12/75.

³⁸⁴ *Ibid.*

³⁸⁵ *Ibid.*

E. Survey No. 4

Survey No. 4 was conducted in Miami, Florida, between January 1963 and July 1966. It involved the screening and opening of certain airmail from Miami and San Juan, Puerto Rico, to two Latin American countries for the purpose of locating clandestine communications in particular espionage cases.³⁸⁶

Survey No. 4 developed from an espionage case in which the Bureau had learned that a Latin American intelligence agent who operated in the United States but whose true identity was unknown, was under instructions to transmit material to his country's intelligence service by mail. In order to intercept this agent's written communications, Bureau officials at Headquarters formulated a plan to screen and selectively open mail from San Juan and Miami to that country utilizing their knowledge of its intelligence correspondence, and on December 21, 1962, they authorized the Miami Field Office to implement the program.³⁸⁷

While the program was initially instituted as a response to a single espionage case, it soon developed into a more generalized survey to detect clandestine communications from any suspected espionage agent working for the same country. Its scope was further broadened on December 9, 1963, when the Miami office was instructed to cover mail from that city to another Latin American country as well.³⁸⁸

Bureau agents in Survey No. 4 screened between 12,000 and 20,000 letters per day at the Biscayne Annex Post Office in Miami.³⁸⁹ A total of 400 letters were opened,³⁹⁰ either in the Post Office itself, or, when secret writing or microdots were suspected, in the FBI Laboratory in Washington, to which they were flown for more sophisticated examination before reinsertion into the mailstream.³⁹¹

Survey No. 4 was considered to be successful but was terminated along with other FBI mail opening programs, in July 1966.

F. Survey No. 5

Survey No. 5 was the first of three FBI mail opening programs which were conducted in San Francisco and directed against Asian communists and their sympathizers. It began in September 1954 and continued until January 1966. This survey originally involved the physical inspection of third and fourth class propaganda from a Far East Asian country; after August 1956, incoming first class letter mail was selectively opened and photographed as well. The stated purpose of this program was to identify individuals in the United States who, because of the nature of their foreign contacts, were believed to constitute a threat to the internal security of the United States.³⁹²

Like the CIA's New Orleans and Hawaiian mail intercept projects, Survey No. 5 was initially an extension of the Customs Service examination of propaganda material entering the United States from abroad.

³⁸⁶ W. R. Wannall, 10/13/75, p. 21.

³⁸⁷ Memorandum from FBI Headquarters to Miami Field Office, 12/21/62.

³⁸⁸ Memorandum from FBI Headquarters to Miami Field Office, 12/9/63.

³⁸⁹ Wannall, 10/13/75, p. 36.

³⁹⁰ Wannall, 10/22/75, p. 12.

³⁹¹ Memorandum from FBI Headquarters to Miami Field Office, 12/21/62.

³⁹² Memorandum from S. B. Donahoe to W. C. Sullivan, 9/15/61.

Customs Service cooperation ceased, however, on May 26, 1965, as a result of the Supreme Court's decision in *Lamont v. Postmaster General of the United States*, 381 U.S. 301 (1965), which invalidated the statutory authority under which Customs conducted its propaganda inspection.³⁹³ Contact was subsequently made with officials of the Post Office and, with their assistance, No. 5 Survey recommenced at the Rincon Annex Post Office on July 7, 1965.

Approximatey 13,500 items of mail were screened in two hour periods each day by Bureau agents who participated in this program.³⁹⁴ A daily average of 50 to 100 of these letters were returned to the San Francisco Field Office for opening and photographing prior to their reinsertion into the mailstream.³⁹⁵

Survey No. 5 was terminated on January 24, 1966, "for security reasons involving local changes in postal personnel."³⁹⁶

G. Survey No. 6

Survey No. 6 was also conducted in San Francisco, operating from January 1964 until January 1966. This program involved the screening and opening of outgoing mail from the United States to the same Far East Asian country; it was essentially an inverse Survey No. 5. The stated purposes of Survey No. 6 were to obtain foreign counter-intelligence information concerning Americans residing in the Far East Asian country; to detect efforts to persuade scientists and other persons of Asian descent residing in the United States to return to that country; to develop information concerning economic and social conditions there; and to secure information concerning subjects in the United States of a security interest to the Bureau who were corresponding with individuals in that Asian country.³⁹⁷

In June 1963, the New York Field Office had extended its Survey No. 1 coverage to include airmail destined for Asia, which was then handled at the same location where European mail was processed. When Post Office procedures changed a few months later, and the Asian mail was routed through San Francisco rather than New York, Headquarters instructed the San Francisco office to assume responsibility for this coverage. The program operated, with one period of suspension, for two years until January 24, 1966, when it was terminated for the same security reasons as the Survey No. 5.³⁹⁸ Figures as to the volume of mail screened and opened cannot be reconstructed.

H. Survey No. 7

Survey No. 7 was conducted in San Francisco from January to November 1961. It involved the screening and opening of mail be-

³⁹³ See p. 563, W. Raymond Wannall testified: "I don't think [this] decision made any difference with regard to the legality or illegality of that operation which we were conducting or the illegality of the operation which was beyond the interception of the propaganda starting in 1956." W. Raymond Wannall 10/24/75, Hearings, Vol. 4, pp. 169, 1970.

³⁹⁴ Memorandum from S. B. Donahoe to A. H. Belmont, 2/23/61.

³⁹⁵ Memorandum from Donahoe to Belmont, 2/23/61; memorandum from San Francisco Field Office to FBI Headquarters, 3/11/60.

³⁹⁶ Memorandum from San Francisco Field Office to FBI Headquarters, 5/19/66.

³⁹⁷ Letter from FBI to Senate Select Committee, 9/8/75.

³⁹⁸ Memorandum from San Francisco Field Office to FBI Headquarters, 5/19/66.

tween North Americans of Asian descent for the purpose of detecting Communist intelligence efforts directed against this country.³⁹⁹

Survey No. 7 evolved from the Survey No. 5 and particular espionage cases handled by the San Francisco Field Office. Without instructions from Headquarters, that office initiated a survey of mail between North Americans of Asian descent in January 1961, and informed Headquarters of the program shortly after it was implemented. On February 28, 1961. Headquarters officials instructed San Francisco to terminate the program because the expected benefits were not believed to justify the additional manpower required by the FBI Laboratory to translate the intercepted letters.⁴⁰⁰ The San Francisco Field Office was permitted to use this source when it was deemed necessary in connection with particular espionage cases, but even this limited use proved unproductive. It was terminated on November 20, 1961, after a total of 83 letters had been opened.⁴⁰¹

I. Typical Operational Details

The specific operational details of the eight programs described above obviously varied from program to program. The New York Field Office's conduct of Survey No. 1 represented a pattern that typified these programs, however, in terms of mechanical aspects such as the physical handling of the mail itself. In August 1961, before the extension of Survey No. 1 to Boston, Los Angeles, Seattle, and Washington, D.C., the New York Office was instructed to describe the operational details of this Survey as implemented in that city for the benefit of field offices in the four additional cities. A memorandum was subsequently prepared for distribution to these cities, pertinent portions of which are reproduced below:

[Survey No. 1] in New York is located in a secure room at the U.S. Post Office Airmail Facility, New York International Airport, Idlewild, New York. . . . This room . . . measures approximately 9 feet wide by 12 feet long and . . . is locked at all times, whether or not the room is in use . . . Postal employees have no access to this room which is known to them as the Inspector's Room.

Seven Special Agents are assigned to [Survey No. 1] on a full-time basis. The survey operates 7 days a week and personnel work on rotating 8-hour shifts . . . Personnel assigned to the survey work under the guise of Postal Inspectors and are known to Post Office personnel as Postal Inspectors working on a special assignment. . . .

. . . [B]y arrangement with the postal officials, [mail] pouches to destinations in which we have indicated interest are not sealed but are placed in front of the [Survey No. 1] room. The [Survey No. 1] personnel then take the bag into the room, open the pouch, untie the bundles, and review the

³⁹⁹ Memorandum from San Francisco Field Office to FBI Headquarters, 1/19/61; Memorandum from San Francisco Field Office to FBI Headquarters, 11/27/61.

⁴⁰⁰ Memorandum from FBI Headquarter to San Francisco Field Office 2/28/61.

⁴⁰¹ Wannall, 10/22/75, p. 16; Memorandum from San Francisco Field Office to FBI Headquarters, 11/27/61.

mail. Any suspect letters are held aside and the rest are re-bundled and returned to the pouch. The pouch is then closed and placed outside the door to the room on a mail skid. Postal employees then take that pouch, seal it with a lead seal and place it aside for, or turn it over to, the carrier. . . .

It should be noted that the mail must be turned over by the the Post Office Department to the carrier one hour before departure time . . .

. . . Each day, one of the Agents is selected as a courier, and when the opportunity presents itself, he returns to the Field Office with the suspected communications. At the Field Office, he or another Agent who has been trained by the Bureau in certain techniques opens the communications. The envelope and its contents are photographed . . . There will be instances where the Field Office, upon opening the communication, may deem it advisable to immediately notify the Bureau and possibly fly it by courier to the Bureau for examination by the Laboratory. Before making any arrangements to fly the communication to the Bureau, the Field Office should consider the time the examination will take and the time the suspected communication may be placed back in the mail without arousing any suspicion on the part of the addressee.

After the communication has been photographed and re-sealed, the courier returns to the airport and places the suspected communication in the next appropriate outgoing pouch examined in the [Survey No. 1] Room. If time permits, the pouch is held in the room until the suspected communication is returned.⁴⁰²

A device developed by the FBI Laboratory and maintained at participating field offices facilitated the opening process. While this device was relatively simple, it was not as primitive as the kettle and stick method utilized by the CIA agents who opened mail in the New York project and allowed for greater efficiency: the FBI's opening process was reported to take only a second or two for a single letter,⁴⁰³ in contrast to five to fifteen seconds for the CIA. According to one of the agents involved, special training in the use of this device was given at the field office rather than at Headquarters, and was only of one or two days duration,⁴⁰⁴ in contrast to the week-long training sessions required of CIA mail openers.

Filing and internal dissemination procedures also varied somewhat from program to program. In Z-Coverage, the negatives of the photographic copies were filed at the field offices in New York and Washington for approximately one year after interception, after which time they were destroyed.⁴⁰⁵ If the developed prints were believed to contain valuable counterintelligence information, they would be disseminated to appropriate supervisors within the field office for placement in a confidential central file or a particular case file. In the latter case,

⁴⁰² Memorandum from New York Field Office to FBI Headquarters, 8/29/61.

⁴⁰³ FBI Special Agent 1 statement, 9/10/75, p. 14.

⁴⁰⁴ FBI Special Agent 1 statement, 9/10/75, pp. 11, 12.

⁴⁰⁵ Staff summary of FBI Special Agent 7 interview, 9/15/75.

the true source would be disguised by an informant symbol, although, as one supervisor in the New York office noted, the nature of the source would be clear to those familiar with Bureau operations.⁴⁰⁶

No index was maintained of the names of all senders and/or addressees whose mail was intercepted, as was maintained by the CIA in the New York project. In rare cases when a letter was considered to be of exceptional counterintelligence value, a photograph would be sent to Headquarters as well. As a general rule, however, there was no dissemination, either of the photographs themselves or of abstracts of the letters, to other field offices.⁴⁰⁷

These procedures generally applied to Survey No. 1 and Survey No. 2 as well, but in these two surveys the photographs of intercepted letters were dated and numbered, and one copy or abstract was placed in a control file maintained by each participating field office.

In Surveys No. 5 and No. 6, the San Francisco Field Office was responsible for conducting "name checks" on all individuals sending or receiving mail that had been opened. If, on the basis of the name check or the text of the letter itself, it was determined that the intercepted letter had intelligence value, a copy of the letter (if written in English) or of the translation (if written in a foreign language) was placed in the main files of the San Francisco office. That office was also responsible for paraphrasing the contents of letters in which other field offices may have had an intelligence interest, and disseminating the information to them in a manner which would not reveal the true source of the information. Except for letters written in a foreign language, photographs of which were sent to Washington for translation, copies were not sent to Headquarters unless the letter was of particularly great intelligence value.

J. Other Instances of FBI Mail Opening

In addition to the eight mail surveys described in sections A through H above, it has also been alleged that a Bureau agent actively participated in the CIA's Hawaiian mail intercept project during the mid-1950s. The CIA representative in Honolulu who conducted this operation stated that an FBI agent assisted him in opening and photographing incoming mail from Asia for a period of two months in early 1955.⁴⁰⁸ No supporting Bureau documents could be located to confirm this participation, however.

Aside from generalized surveys of mail, several isolated instances of mail opening by FBI agents occurred in connection with particular espionage cases. It was, in fact, a standard practice to attempt to open the mail of any known illegal agent. As stated by one former Bureau intelligence officer: "... anytime . . . we identified an illegal agent . . . we would try to obtain their mail."⁴⁰⁹ FBI agents were successful in this endeavor in at least three cases, described below.

1. Washington, D.C. (1961)

One isolated instance of mail opening by FBI agents occurred in Washington, D.C., in 1961, preceding the local implementation of

⁴⁰⁶ *Ibid.*

⁴⁰⁷ *Ibid.*

⁴⁰⁸ See p. 623.

⁴⁰⁹ Moore, 10/1/75, p. 75.

Survey No. 1. This case involved the opening of several items of correspondence from a known illegal agent residing in the Washington area to a mail drop in Europe. The letters, which were returned to the FBI Laboratory for opening, were intercepted over a period in excess of six months.⁴¹⁰

2. Washington, D.C. (1963-64)

A second mail opening project in regard to a particular espionage case occurred for approximately one and one-half years in Washington, D.C., in 1963 and 1964, in connection with the FBI's investigation of known Soviet illegal agents Robert and Joy Ann Baltch. This case was subsequently prosecuted, but the prosecution was ultimately dropped, in part, according to FBI officials, because some of the evidence was tainted by use of this technique.⁴¹¹

3. Southern California

A third isolated instance of mail opening occurred in a southern California city for a one to two-month period in 1962. This project involved the opening of approximately one to six letters received each day by a suspected illegal agent who resided nearby. The suspected agent's mail was delivered on a daily basis to three FBI agents who worked out of the local resident FBI office, and was opened in a back room in that office.⁴¹²

III. NATURE AND VALUE OF THE PRODUCT

A. Selection Criteria

Those FBI mail opening programs which were designed to cover mail to or from foreign illegal agents utilized selection criteria that were more refined than the "shotgun" method⁴¹³ used by the CIA in the New York intercept project. Mail was opened on the basis of certain "indicators" on the outside of the envelopes that suggested that the communication might be to or from an illegal agent. The record reveals, however, that despite the claimed success of these "indicators" in locating such agents, they were not so precise as to eliminate individual discretion on the part of the agents who opened the mail, nor could they prevent the opening of significant volumes of mail to or from entirely innocent American citizens. Mail in those programs which were designed for purposes other than locating illegal agents, moreover, was generally opened on the basis of criteria far less narrow and even more intrusive than these "indicators."

1. The Programs Based on Indicators

Before 1959, the FBI had developed no effective means to intercept the communication link between illegal agents and their principals. In Z-Coverage, selection was originally left to the complete discretion of

⁴¹⁰ Moore, 10/1/74, pp. 72-74; Branigan 10/9/75, pp. 33, 34; memorandum from W. A. Branigan to W. C. Sullivan, 4/4/61.

⁴¹¹ Moore, 10/1/75, p. 38; Branigan, 10/9/75, pp. 34, 35. Justice Department officials have testified that the prosecution was dropped for other reasons. See pp. 664-665.

⁴¹² Postal Inspector #1 deposition, 9/16/75, pp. 23, 46; Branigan, 10/9/75, pp. 30-32.

⁴¹³ Angleton 9/17/75, p. 28.

the agents who screened the mail based on their knowledge and training in the espionage field. The focus was apparently on mail from individuals rather than organizations, and typewritten letters were considered more likely to be from foreign agents than handwritten letters.⁴¹⁴ In March 1959, however, the FBI was able to develop much more precise selection criteria through the identification and subsequent incommunicado interrogation of an illegal agent. During the course of his interrogation by Bureau agents, he informed the FBI of the instructions he and other illegal agents were given when corresponding with their principals.⁴¹⁵ Particular characteristics on the outside of the envelope, he advised them, indicated that the letter may be from such an agent.

Armed with a knowledge of these "indicators," the FBI agents involved in Z-Coverage were capable of a more selective and accurate means of identifying suspect communications. Survey No. 1 and Survey No. 2 were expressly developed to exploit this knowledge.⁴¹⁶ While Survey No. 1 also utilized a Watch List which consisted of the addresses of known or suspected mail drops abroad, as well as the (generally fictitious) names of known or suspected foreign intelligence agents,⁴¹⁷ the primary selection criteria in both Surveys No. 1 and No. 2 were the "indicators" about which the Bureau learned in early 1959.⁴¹⁸

By means of the "indicators," the Bureau did, in fact, identify three illegal agents through these programs.⁴¹⁹ But even by the Bureau's own accounting of the number of letters that were opened in the programs, it is clear that the mail of hundreds of innocent American citizens was opened and read for every successful lead obtained.⁴²⁰ The random element in the selection process was never eliminated: although FBI officials at Headquarters instructed agents in the field to select only letters with multiple "indicators" on their face,⁴²¹ the field agents frequently opened letters with but one "indicator", which could often be of such a common nature that it could be found on most letters mailed in the United States.⁴²³

One of the FBI agents who opened mail stated that he was trained in counterespionage work generally, and in the identification of the indicators specifically, but he conceded that in the final analysis "it was strictly my own judgment" as to which items would be selected for opening.⁴²⁴ Perhaps as a result of such personal discretion on the part

⁴¹⁴ FBI Special Agent #1 statement, 9/10/75, p. 20.

⁴¹⁵ Wannall, 10/21/75, p. 3.

⁴¹⁶ Staff Summary of Branigan interview, 9/11/75.

⁴¹⁷ Memorandum from Washington Field Office to FBI Headquarters, 6/27/63.

⁴¹⁸ Wannall, 10/21/75, p. 3.

⁴¹⁹ Wannall, 10/21/75, p. 5.

⁴²⁰ In Z-Coverage, one participating agent testified that he opened 30 to 60 letters each day. (Note 366, *supra*.) In Survey No. 1, a total of 1,011 were opened in New York City alone; statistics on the number of letters opened in the five other cities in which this survey operated cannot be reconstructed. (Note 370, *supra*.) In Survey No. 2, 2,350 letters were opened by the New York office; statistics for the Detroit and San Francisco offices are unavailable. (Note 381, *supra*.)

⁴²¹ Branigan, 10/9/75, pp. 21, 22.

⁴²³ FBI special Agent #1 statement, 9/10/75, p. 25.

⁴²⁴ FBI Special Agent #1 statement, 9/10/75, p. 19.

of participating agents, Survey No. 1 generated essentially domestic intelligence on at least two American antiwar organizations as well as genuine counterespionage information.⁴²⁵

In short, knowledge of the indicators did enable the Bureau to be more precise in the selection of mail than was previously possible, but this knowledge was not so precise as to totally eliminate the discretion—or bias—of the agents involved.

2. The Latin American-Oriented Program

In Survey No. 4, which involved the interception of mail to two Latin American nations, letters were selected for opening on the basis of lists of (a) known fictitious names used by illegal agents to address correspondence to their principals, and (b) accommodation addresses used by a foreign intelligence service for receiving clandestine communications.⁴²⁶ The "indicators" discussed above were not utilized in this or the Asian-oriented mail opening programs.

3. The Asian-Oriented Programs

Survey No. 5 and Survey No. 6 both employed seven general categories as selection criteria:

- (a) Letters to or from a university, scientific, or technical facility;
- (b) Letters to or from a doctor;
- (c) Letters to or from selected Security Index subjects residing in the United States;
- (d) Letters to or from an Asian country where certain scientific activities were reportedly taking place;
- (e) Letters to or from individuals who were known to be "turncoats" from the Korean conflict;
- (f) Letters believed to emanate from an Asian Communist intelligence service based on covers of which the FBI was aware; and
- (g) Letters indicating illegal travel of Americans to denied areas in Asia.⁴²⁷

Even if one assumes that these guidelines were strictly observed by the agents opening the mail, (which, given some of the results of these programs as set forth below,⁴²⁸ is not necessarily as accurate assumption) there was obviously ample room for the capture of large numbers of entirely personal communications with no counterintelligence value at all.

The selection criteria utilized in Survey No. 7 cannot be reconstructed.

B. Requests by Other Intelligence Agencies

No large-scale requirements were levied upon the FBI's mail opening programs by any other intelligence agency. Bureau officials, in fact, severely restricted knowledge of their programs within the in-

⁴²⁵ See p. 655.

⁴²⁶ Wannall, 10/13/75, p. 22.

⁴²⁷ Letter from FBI to Senate Select Committee, 10/29/75. This letter also stated that no "Watch List" was maintained because "the limitations involved in reviewing over 13,000 letters a day within a two-hour period did not allow sufficient time to compare these letters with a list of names."

⁴²⁸ See pp. 654-655.

telligence community; only the CIA knew of any of the Bureau's programs, and officers of that agency were formally advised about the existence of only one of the eight, Survey No. 1.

In July 1960, Bureau Headquarters originally rejected the recommendation of the New York Field Office to inform the CIA of Survey No. 1 in order to obtain from it a list of known mail drops in Europe for use in the program.⁴²⁹ Headquarters then wrote: "Due to the extremely sensitive nature of the source . . . , the Bureau is very reluctant to make any contacts which could possibly jeopardize that source. Therefore, the Bureau will not make any contact with CIA to request from it [such a] list The Bureau will, however, continue to exert every effort to obtain from CIA the identities of all such mail drops in the normal course of operations."⁴³⁰

Within six months of this rejection, however, Headquarters officers changed their minds: Donald Moore, head of the Espionage Research Branch and Sam Papich, FBI liaison to the CIA, met with CIA representatives in January 1961 to inform them of Survey No. 1 and to exchange lists of known or suspected mail drops.⁴³¹ CIA provided the Bureau with a list of 16 mail drops and accommodation addresses and the name and address of one Communist Party member in Western Europe,⁴³² all of which were subsequently furnished the New York office for inclusion in Survey No. 1 coverage. The exchange of this information did not evolve into a reverse Project Hunter, however. While the Agency may have contributed a small number of additional addresses or names during the next five years, no large-scale levy of general categories or specific names was ever made by the CIA or solicited by the FBI. According to Donald Moore, the particularized nature and objectives of Survey No. 1, especially when contrasted with the CIA's New York project, precluded active CIA participation in the program.⁴³³

While there is no other evidence that any members of the intelligence community knew of or ever levied requests on the Bureau's mail opening programs, they did receive sanitized information from these programs when deemed relevant to their respective needs by the Bureau.⁴³⁴

C. Results of the Programs

In terms of their counterespionage and counterintelligence *raison d'être*, several of the Bureau's programs were considered to be successful by FBI officials; others were concededly ineffective and were consequently discontinued before the termination of all remaining FBI surveys in 1966. Significantly, some of the surveys also generated large amounts of "positive" foreign intelligence—the collection of which is outside the Bureau's mandate—and information regarding the domestic activities and personal beliefs of American citizens, at least some of which was disseminated within and outside the FBI. The Bureau surveys did remain more focused on their

⁴²⁹ Memorandum from Director, FBI to SAC, New York, 7/11/60.

⁴³⁰ *Ibid.*

⁴³¹ Memorandum from W. A. Branigan to A. H. Belmont, 2/28/61.

⁴³² *Ibid.*

⁴³³ Moore, 10/1/75, p. 55.

⁴³⁴ See p. 654.

original goal than did the CIA programs. But in them—whether because the selection criteria were overbroad, or because these criteria were not scrupulously adhered to, or both—one again sees the tendency of mail opening programs to produce information well beyond the type originally sought.

1. Counterintelligence Results

Five of the eight FBI mail openings programs—Z-Coverage, Surveys 1, 4, 5, and 6—were clearly seen to have contributed to the FBI's efforts in the area of counterintelligence. The relative success of these programs, in fact, led many Bureau officials to conclude that mail opening—despite its legal status—was one of the most effective counter-espionage weapons in their arsenal.⁴³⁵ The primary value of these five programs to the Bureau is summarized below:

Z-Coverage.—A lack of pertinent documentary and testimonial evidence prevents a meaningful evaluation of Z-Coverage during World War II, but a 1951 memorandum reflecting the Washington Field Office's recommendation for its reinstitution noted that "while Z-Coverage was utilized valuable information of an intelligence nature was obtained . . ."⁴³⁶

In evaluating the program during the 1950s and 1960s, Bureau officials have rated it highly in terms of the counterintelligence results it produced. W. Raymond Wannall, former Assistant Director in charge of the Domestic Intelligence Division, testified about two specific examples of mail intercepted in Z-Coverage which revealed attempts on the part of individuals in this country to offer military secrets to foreign governments.⁴³⁷ In the first case, the FBI intercepted a letter in July 1964, which was sent by an employee of an American intelligence agency to a foreign diplomatic establishment in the United States. In the letter, the employee offered to sell information relating to weapons systems to the foreign government and also expressed an interest in defecting. The Defense Department was notified, conducted a potential damage evaluation, and concluded that the potential damage could represent a cost to the United States Government of tens of millions of dollars. In the second case, which occurred in mid-1964, an individual on the West Coast offered to sell a foreign government tactical military information for \$60,000.

Survey No. 1.—Survey No. 1 was considered to be one of the most successful of all the Bureau mail opening programs. In New York and Washington, a total of three illegal agents—the identification of which has been described by one senior FBI official as the most difficult task in counterintelligence work⁴³⁸—were located through No. 1.⁴³⁹ In addition, numerous letters were discovered which contained secret writing and/or were addressed to mail drops in Western Europe. Survey No. 1 in Boston, Los Angeles, Seattle, and Detroit was not successful, however, and as noted above, was discontinued in those cities on the basis of "unproductivity and manpower needs."⁴⁴⁰

⁴³⁵ E.g., FBI Special Agent #2 deposition, 9/16/75, pp. 61, 62.

⁴³⁶ Memorandum from E. T. Turner to C. E. Hennrich, 6/25/51.

⁴³⁷ Wannall, 10/22/75, pp. 16-18.

⁴³⁸ Staff Summary of Branigan interview, 9/11/75.

⁴³⁹ Wannall, 10/21/75, p. 5.

⁴⁴⁰ Memorandum from Branigan to Sullivan, 4/8/64.

Survey No. 4.—Survey No. 4 resulted in the identification of the illegal agent whose presence in the United States had originally motivated development of the survey. In addition, this program led to the detection of a second intelligence agent operating in this country and to the discovery of approximately 60 items of correspondence which contained secret writing either on the letter itself or on the envelope containing the letter.⁴⁴¹

Survey No. 5.—FBI officials have testified that Survey No. 5 was a very valuable source of counterintelligence (and interrelated positive intelligence) information about an Asian country. W. Raymond Wannall stated that its “principal value probably related to the identification of U.S. trained scientists of [Asian] descent who were recalled or who went voluntarily back to [an Asian country].”⁴⁴² Because of this, he continued, the FBI was able to learn vital information about the progress of weapons research abroad.⁴⁴³

Survey No. 6.—Survey No. 6 was also believed to be a valuable program from the perspective of counterintelligence, although it was suspended for a nine-month period because the manpower requirements were not considered to outweigh the benefits it produced. Through this survey the FBI identified numerous American subscribers to Asian communist publications; determined instances of the collection of scientific and technical information from the United States by a foreign country; and recorded contacts between approximately fifteen Security Index subjects in the United States and Communists abroad.⁴⁴⁴

The Other Programs.—Three of the FBI’s programs were not believed to have produced any significant amount of counterintelligence information. Bureau officials testified that they “had very little success in connection with [Survey No. 3].”⁴⁴⁵ and it was consequently discontinued after one year of operation. Similarly, no positive results were obtained through Survey No. 2 in any of the three cities in which it operated. Although the San Francisco office, for example, opened approximately 85 new cases as a result of Survey No. 2, all of these cases were resolved without the identification of any illegal agents, which was the goal of the program.⁴⁴⁶ As one Bureau official stated in regard to Survey No. 2: “The indicators were good, but the results were not that good.”⁴⁴⁷ It, too, was terminated after approximately one year of operation.

Finally, the results of Survey No. 7, which was initiated without prior approval by Headquarters, were also considered to be valueless. Of the 83 letters intercepted in the program, 79 were merely exchanges of personal news between North Americans of Asian descent. The other four were letters from individuals in Asia to individuals in the United States, routed through contacts in North America, but were

⁴⁴¹ Wannall, 10/22/75, p. 12.

⁴⁴² Wannall, 10/13/75, p. 77.

⁴⁴³ Wannall, 10/13/75, pp. 77–78.

⁴⁴⁴ Memorandum from W. R. Wannall to W. C. Sullivan, 5/22/64.

⁴⁴⁵ Wannall, 10/22/75, p. 11.

⁴⁴⁶ Memorandum from W. A. Branigan to W. C. Sullivan, 8/3/62.

⁴⁴⁷ Branigan, 10/22/75, p. 9.

solely devoted to personal information.⁴⁴⁸ As noted above, Headquarters did not believe that this coverage justified the additional manpower necessary to translate the items and the San Francisco Field Office was so advised.

2. "Positive" Foreign Intelligence Results

Although the FBI has no statutory mandate to gather positive foreign intelligence, a great deal of this type of intelligence was generated as a byproduct of several of the mail opening programs and disseminated in sanitized form to interested government agencies. In an annual evaluation of Survey No. 5, for example, it was written:

This source furnishes a magnitude of vital information pertaining to activities within [an Asian country]; including its economical [sic] and industrial achievements . . . A true picture of life in that country today is also related by the information which this source furnishes reflecting life in general to be horrible due to the lack of proper food, housing, clothes, equipment, and the complete disregard for a human person's individual rights.⁴⁴⁹

Another evaluation stated that this program had developed information about such matters as the "plans and progress made in construction in railways, locations of oil deposits, as well as the location of chemical plants and hydraulic works."⁴⁵⁰ It continued: "While this is of no interest to the Bureau, the information has been disseminated to interested agencies." Survey No. 6 even identified, through the interception of South American mail routed through San Francisco to an Asian country, numerous "[Asian] Communist sympathizers" in Latin America.⁴⁵¹

W. Raymond Wannall, former head of the Bureau's Domestic Intelligence Division, explained that "as a member of the intelligence community, the FBI [was aware] of the positive intelligence requirements [which were] secularized within the community in the form of what was known as a current requirements list, delineating specific areas with regard to such countries that were needed, or information concerning which was needed by the community. So we contributed to the overall community need."⁴⁵² He conceded, however, that the FBI itself had no independent need for or requirement to collect such positive intelligence.⁴⁵³ Just as the CIA mail opening programs infringed on the intelligence jurisdiction of the FBI, therefore, so the FBI programs gathered information which was without value to the Bureau itself and of a variety that was properly within the CIA's mandate.

3. Domestic Intelligence Results

In addition to counterespionage information and positive foreign intelligence, the FBI mail opening programs also developed at least some information of an essentially domestic nature. The collection of

⁴⁴⁸ Memorandum from FBI Headquarters to San Francisco Field Office, 2/28/61.

⁴⁴⁹ Memorandum from San Francisco Field Office, to FBI Headquarters, 3/11/60.

⁴⁵⁰ Memorandum from S. B. Donahue to A. H. Belmont, 2/23/61.

⁴⁵¹ Memorandum from San Francisco Field Office, to FBI Headquarters, 4/29/64.

⁴⁵² Wannall, 10/13/75, pp. 59, 60.

⁴⁵³ Wannall, 10/13/75, p. 60.

this type of information was on a smaller scale and less direct than was the case in the CIA's New York project, for none of the FBI programs involved the wholesale targeting of large numbers of domestic political activists or the purposefully indiscriminate interception of mail. Nonetheless, the Bureau programs did produce domestic intelligence. An April 1966 evaluation of Survey No. 1, for example, noted that "organizations in the United States concerning whom informant [the survey] has furnished information include . . . [the] Lawyers Committee on American Policy towards Vietnam, Youth Against War and Fascism . . . and others."⁴⁵⁴

An evaluation of the Survey No. 5 stated that that program had developed "considerable data" about government employees and other American citizens who expressed pro-Communists sympathies, as well as information about individuals, including American citizens, who were specifically targeted as a consequence of their being on the FBI's Security Index.⁴⁵⁵ Examples of the latter type of information include their current residence and employment and "anti-U.S. statements which they have made."⁴⁵⁶

Another evaluation of a Bureau program noted that that program had identified American recipients of pornographic material and an American citizen abroad who was a drug addict in correspondence with other addicts in the New York City area;⁴⁵⁷ it indicated that information about the recipients of pornographic material was transmitted to other field offices and stated that "pertinent" information was also forwarded to other Federal agencies.⁴⁵⁸

Given the ready access which Bureau agents had to the mail for a period of years, it is hardly surprising that some domestic intelligence was collected. Indeed, both logic and the evidence support the conclusion that if any intelligence agency undertakes a program of mail opening within the United States for whatever purpose, the gathering of such information cannot be avoided.

IV. INTERNAL AUTHORIZATION AND CONTROLS

While the FBI and the CIA mail opening programs were similar in many respects, the issues of authorization and control within these agencies highlight their differences. The pattern of internal approval for the CIA mail opening programs was inconsistent at best: the New York project began without the approval of the Director of Central Intelligence; at least two Directors were apparently not even advised of its existence; and it is unclear whether any Director knew the details of the other mail opening programs.⁴⁵⁹ Administrative controls in most of the CIA projects, especially the twenty-year New York operation, were clearly lax: periodic reevaluation was non-existent and operational responsibility was diffused.⁴⁶⁰

⁴⁵⁴ Memorandum from New York Field Office, to FBI Headquarters, 4/4/66.

⁴⁵⁵ Memorandum from San Francisco Field Office to FBI Headquarters, 3/11/60.

⁴⁵⁶ *Ibid.*

⁴⁵⁷ Memorandum from S. B. Donahoe to W. C. Sullivan, 9/15/61.

⁴⁵⁸ Memorandum from Donohue to Sullivan, 9/16/61; memorandum from San Francisco Field Office, to FBI Headquarters, 7/28/61.

⁴⁵⁹ See pp. 580-581.

⁴⁶⁰ See pp. 582-584.

Probably as a function of the FBI's contrasting organizational structure, the mail opening programs conducted by the Bureau were far more centrally controlled by senior officials at Headquarters. With one significant exception, the FBI mail programs all received prior approval from the highest levels of the Bureau, up to and including J. Edgar Hoover, and the major aspects of their subsequent operation were strictly regulated by officials at or near the top of an integrated chain of command.

A. Internal Authorization

While the documentary record of FBI mail opening programs is incomplete, that evidence which does exist reveals J. Edgar Hoover's explicit authorization for the following surveys:

- The extension of Survey No. 1 to Los Angeles, Boston, Seattle, and Washington, D.C., on August 4, 1961;⁴⁶¹
- The re-authorization of Survey No. 1 in New York, on December 22, 1961;⁴⁶²
- The re-authorization of Survey No. 1 in New York and Washington, D.C., on April 15, 1966;⁴⁶³
- The extension of Survey No. 2 to three additional postal zones in New York and its implementation with FBI rather than Post Office employees, on August 31, 1961;⁴⁶⁴ and
- The institution of Survey No. 6 in San Francisco, on November 20, 1963.⁴⁶⁵

The documentary evidence also reveals authorizations from former Associate Director Clyde Tolson and/or the former Assistant Director in charge of the Domestic Intelligence Division, William C. Sullivan, for the following surveys:

- The extension of Survey No. 1 to Detroit on April 13, 1962;⁴⁶⁶
- The extension of Survey No. 2 to Detroit on October 4, 1961;⁴⁶⁷
- The re-authorization of Survey No. 2 in New York on December 26, 1961;⁴⁶⁸ and
- Administrative changes in the filing procedures for the Survey No. 5 on June 28, 1963.⁴⁶⁹

Further, unsigned memoranda and airtels from Headquarters, "Director, FBI," authorized the extension of Survey No. 2 to San Francisco on October 18, 1961,⁴⁷⁰ and the institution of Survey No. 4 on December 21, 1962.⁴⁷¹ Bureau procedures normally require that such memoranda and airtels must be seen and approved by at least an

⁴⁶¹ Memorandum from W. A. Branigan to W. C. Sullivan, 8/4/61.

⁴⁶² Memorandum from W. A. Branigan to W. C. Sullivan, 12/22/61.

⁴⁶³ Memorandum from W. A. Branigan to W. C. Sullivan, 4/15/66.

⁴⁶⁴ Memorandum from W. A. Branigan to W. C. Sullivan, 8/31/61.

⁴⁶⁵ Memorandum from W. A. Branigan to W. C. Sullivan, 8/31/61.

⁴⁶⁶ Memorandum from FBI Headquarters to Detroit Field Office, 4/13/62.

⁴⁶⁷ Memorandum from FBI Headquarters to Detroit Field Office, 10/4/61.

⁴⁶⁸ Memorandum from FBI Headquarters to New York Field Office, 12/26/61.

⁴⁶⁹ Memorandum from W. R. Wannall to W. C. Sullivan, 6/28/63.

⁴⁷⁰ Memorandum from FBI Headquarters to San Francisco Field Office, 10/18/61.

⁴⁷¹ Memorandum from FBI Headquarters to Miami Field Office, 12/21/62.

Assistant Director, and there is no reason to assume that this did not occur in these instances.

Despite the absence of some authorizing documents, witness testimony is consistent—and often emphatic—on the point that unwritten Bureau policy required J. Edgar Hoover's personal approval before the institution of a new mail opening program or even the initial use of mail opening as a technique in specific espionage cases.⁴⁷² The approval of at least the Assistant Director for the Domestic Intelligence Division, moreover, was required for the periodic re-authorization or the extensions of existing mail surveys to additional cities, as well as for their termination, upon the recommendation of the field office involved. The only surveys for which this policy was apparently violated were Survey No. 7 and possibly—though this is unclear—Survey No. 1.

The testimony of senior FBI officials conflicts on whether Hoover actually authorized the formal institution of Survey No. 1 in New York in 1959, or whether he merely approved the general concept of a mail opening program utilizing the recently acquired knowledge of the "indicators," but not Survey No. 1 in particular. The former heads of the Espionage Research Branch at Headquarters and of the Espionage Division at the New York Field Office both believe the former to be the case; ⁴⁷³ the Section Chief of the section at Headquarters out of which the program was run testified to the latter.⁴⁷⁴ Even if Hoover only approved the general concept of such a project, however, he was soon aware of the program, and, as noted above, authorized its extension to four additional cities in August 1961.

Survey No. 7 was initiated by the San Francisco Field Office on its own motion without prior approval from Washington. When Headquarters was advised of the implementation of this program,⁴⁷⁵ ranking FBI officials immediately demanded justification for it from the Field Office,⁴⁷⁶ subsequently determined the justification to be inadequate, and ordered its termination as a generalized survey.⁴⁷⁷ The last sentence of the instruction to end the program warns: "Do not initiate such general coverage without first obtaining specific Bureau authority."⁴⁷⁸

Unlike most of their CIA counterparts, then, it appears that the Bureau's mail opening programs were—with one clear exception—personally approved by the Director before their implementation, and at the highest levels of the organization before major changes in their operation. In the one certain case where prior Headquarters approval was not secured, the field office which implemented the programs was reprimanded.

B. Administrative Controls by Headquarters

FBI Headquarters exerted tight, centralized control over the mail opening programs in other ways as well. One manifestation of this control was found in the periodic evaluations of each program required of every participating field office for the benefit of Head-

⁴⁷² For example, Moore, 10/1/75, p. 60; Wannall, 10/13/75, pp. 70, 71.

⁴⁷³ Moore, 10/1/75, pp. 58-60; FBI Special Agent #2 testimony, 9/16/75, p. 18.

⁴⁷⁴ Branigan, 10/24/75, Hearings, vol. 4, p. 152.

⁴⁷⁵ Memorandum from San Francisco Field Office to FBI Headquarters, 1/19/61.

⁴⁷⁶ Memorandum from FBI Headquarters to San Francisco Field Office, 2/3/61.

⁴⁷⁷ Memorandum from FBI Headquarters to San Francisco Field Office, 2/28/61.

⁴⁷⁸ *Ibid.*

quarters. In general, written evaluations were submitted semiannually for the first few years of the operation of a program in a city; and annually thereafter.⁴⁷⁹ These evaluations frequently contained such headings as: "Origin;" "Purpose;" "Scope;" "Cost;" "Overall Value;" and "Operation of Source." Every field office was also obligated to determine whether the counterintelligence benefits from each program justified its continuation in light of manpower and security considerations; on the basis of this recommendation and other information supplied, Headquarters then decided whether to re-authorize the program until the next evaluation period or order its termination. The net effect of this system of periodic reexamination was that FBI officials were far better informed than were CIA officials of the true value of the programs to their organization. It was difficult for a program to continue unproductively without the knowledge of the highest ranking officials of the Bureau: as noted above, several programs—Surveys No. 2, 3, and 7—were in fact discontinued by Headquarters before 1966 because the results as set forth in the evaluations were felt to be outweighed by other factors.

Also in contrast to the CIA mail opening programs, the Bureau programs were conducted at the field level with Special Agents who were experienced in intelligence work and given detailed instructions regarding the "indicators" and other selection criteria.⁴⁸⁰ No control procedure could ever eliminate the individual discretion of these agents—ultimately, selection was based on their personal judgment. But Headquarters ensured through the training of these agents that their judgment was at least more informed than that of the Office of Security "interceptors" in the CIA's New York project, who were neither foreign intelligence experts nor given guidance beyond the Watch List itself as to which items to select.⁴⁸¹ At both the Field Office and the Headquarters levels, moreover, responsibility for the operation of the programs was not diffused, as it was in the CIA's New York project but was centralized in the hands of experienced senior officials within a single chain of command.

C. Knowledge of the Mail Opening Programs Within the FBI

Officials of the Domestic Intelligence Division at Headquarters carefully controlled knowledge and dissemination procedures of their mail opening programs within the FBI itself. Knowledge of the operations was strictly limited to the Domestic Intelligence Division. The Criminal Division, for example, was never advised of the existence of (and so never levied requests on) any of these programs, but an internal memorandum indicates that it may have received information generated by the programs without being advised of the true source.⁴⁸² Some FBI witnesses assigned to espionage squads which were engaged in mail opening even testified that they were unaware of other mail opening programs being conducted simultaneously by other espionage squads in the same field office.⁴⁸³

⁴⁷⁹ Wannall, 10/13/75, p. 69.

⁴⁸⁰ Branigan, 10/9/75, pp. 21, 22; FBI Special Agent #1 statement, 9/10/75, p. 24.

⁴⁸¹ See pp. 574-575.

⁴⁸² Memorandum from San Francisco Field Office to FBI Headquarters, 7/28/61; see p. 655.

⁴⁸³ Staff Summary of FBI Special Agent #6 interview, 8/21/75; staff summary of Special Agent #7 interview, 9/15/75; FBI Special Agent #1 statement, 9/10/75, p. 57.

The direct dissemination of the photographic copies of letters or abstracts between field offices was prohibited, but Headquarters avoided some of the problems caused by restricted knowledge in the CIA programs by requiring these offices to paraphrase the contents of letters in which other field offices might have an intelligence interest and disseminate the information to them in sanitized form.

Thus, control over the major aspects of the programs was concentrated at the top of the FBI hierarchy to a degree far greater than that which characterized the CIA programs. With few exceptions, senior officials at Headquarters initially authorized the programs, maximized central influence over their actual operation, restricted knowledge of their existence within the Bureau, and regulated the form in which information from them should be disseminated.

V. EXTERNAL AUTHORIZATIONS

Despite the differences between the FBI's and the CIA's mail opening programs with regard to internal authorization, the respective patterns of authorization outside the agencies were clearly parallel. There is no direct evidence that any President or Postmaster General was ever informed about any of the FBI mail opening programs until four years after they ceased. While two Attorneys General may have known about some aspect of the Bureau's mail interceptions—and the record is not even clear on this point—it does not appear that any Attorney General was ever briefed on the full scope of the programs. Thus, like the CIA mail opening programs, the Bureau programs were isolated even within the executive department. They were initiated and operated by Bureau officials alone, without the knowledge, approval, or control of the President or his cabinet.

A. Post Office Department

The FBI mail opening programs, like those of the CIA, necessitated the cooperation of the Post Office Department. But the record shows that the Bureau officials who secured this cooperation intended to and did in fact accomplish their task without revealing the FBI's true interest in obtaining access to the mail; no high ranking Postal official was apparently made aware that the FBI actually opened first class mail.

1. Postmasters General

There is no evidence that any Postmaster General was ever briefed about any of the FBI mail opening programs, either by the FBI directly or by a Chief Postal Inspector. Henry Montague, who as Chief Postal Inspector was aware of the mail cover (as opposed to the mail opening) aspect of several Bureau programs, stated that he never informed the Postmaster General because he "thought it was our duty to cooperate in this interest, and really, I did not see any reason to run to the Postmaster General with the problem. It was not through design that I kept it away from . . . the Postmaster General. . . . It was just that I did not see any reason to run to [him] because he had so many other problems."⁴⁸⁵

2. Chief Postal Inspectors

It is certain that at least one and probably two Chief Postal Inspectors were aware of the fact that Bureau agents received direct access

⁴⁸⁵ Henry Montague testimony, 10/2/75, p. 31.

to mail, and in one case permission may have been given to physically remove letters from the mailstream as well, but there is no direct evidence that any Chief Postal Inspector was ever informed that FBI agents actually opened any mail.

Clifton Garner.—Clifton Garner was Chief Postal Inspector under the Truman administration during the period when Z-Coverage may have been reinstituted in Washington, D.C. No FBI testimony or documents, however, suggest that his approval was sought prior to this reinstitution, nor can he recall being contacted by Bureau officials about such a program.⁴⁸⁶

David Stephens.—Henry Montague testified that prior to the 1959 implementation of Z-Coverage in New York, when he was Postal Inspector in Charge of that region, he was instructed by Chief Postal Inspector David Stephens to cooperate with Bureau agents in their proposed program of special "mail covers."⁴⁸⁷ As Montague recalls, Stephens approved the "mail cover" operation and left the mechanical arrangements up to him. Donald Moore has also testified that Stephens must have been contacted by Bureau officials in Washington prior to the implementation of Survey No. 1 in the same year,^{487a} although he did not participate in any such meeting himself, and no other FBI official who testified could shed any light on who might have made such contact. There is no evidence, however, that Stephens was ever informed that mail would actually be opened by Bureau agents in either program.

Henry Montague.—As Postal Inspector in Charge of the New York Region, Montague followed David Stephens' instructions to cooperate with the FBI regarding Z-Coverage and made the necessary mechanical arrangements within his office. He stated, however, that he was told by the Bureau representatives who came to see him, including Donald Moore (whose testimony is consistent),⁴⁸⁸ that this was a mail cover rather than a mail opening operation.⁴⁸⁹ He was simply informed that the Bureau had an interest in obtaining direct access to particular mail for national security reasons and that his cooperation would be appreciated. While he realized that even this type of access was highly unusual, he agreed because ". . . they knew what they were looking for; we did not. . . . [T]hey could not give any names to the Postal Service, as far as I knew, for mail to look for. . . . [P]erhaps they knew who the agent might be, or something of this sort, which knowledge was not ours and which, at that time, I did not feel was in our province to question."⁴⁹⁰ Montague also acknowledged that during his tenure as Postal Inspector in Charge of the New York Region, he may have known of an FBI operation at Idlewild Airport (Survey No. 1) as well, but stated that he had no "positive recollection" of it.⁴⁹¹

As Chief Postal Inspector from 1961 to 1969, Montague personally authorized Postal Service cooperation with the Bureau's programs in

⁴⁸⁶ Staff summary of Clifton Garner interview, 8/22/75.

⁴⁸⁷ Montague, 10/2/75, pp. 6, 8.

^{487a} Moore, 10/1/75, p. 62.

⁴⁸⁸ Moore, 10/1/75, p. 70.

⁴⁸⁹ Montague, 10/2/75, pp. 13, 15.

⁴⁹⁰ Montague, 10/2/75, p. 11.

⁴⁹¹ Montague, 10/2/75, p. 17.

at least two instances, and in one case possibly approved the removal of selected letters by Bureau agents to a point outside the postal facility in which they worked. According to a 1961 FBI memorandum, it was recommended by Bureau officials and approved by Director Hoover that Postal officials in Washington should be contacted "to explore the possibility of instituting" Survey No. 2.⁴⁹² In February of that year, Donald Moore met with Montague about this matter, explaining only—according to both Moore and Montague—that the program would involve screening the mail and that it was vital to the security of the country.⁴⁹³ The fact that the FBI intended to open selected items was apparently not mentioned. Because he "felt it was our duty to cooperate with the Agency which was responsible for the national security in espionage cases,"⁴⁹⁴ Montague agreed to assist the Bureau. On this occasion, however, he indicated that he would prefer to have postal employees rather than FBI agents conduct the "cover" since "it was our position that whenever possible . . . the mail should remain in the possession of the Postal Service."⁴⁹⁵

Less than two years later, Montague did allow Bureau agents to screen mail directly in Survey No. 4. A 1962 FBI memorandum noted that the FBI liaison to the Post Office approached him on December 19 to secure his approval for the Bureau's plan to cover mail from Miami to a Latin American country.⁴⁹⁶ According to this memorandum, Montague did approve and authorized the removal of selected letters to the FBI laboratory as well. The former Chief Postal Inspector remembers approving the screening aspects of the project and knowing that mail left the custody of postal employees,⁴⁹⁷ but cannot recall whether or not he specifically granted his permission for flying certain letters to Washington.⁴⁹⁸ He testified, in any event, that he was not informed that mail would be opened.⁴⁹⁹

In June 1965, Montague reconsidered his original approval of the project, possibly in light of Senator Edward Long's investigation into the use of mail covers and other techniques by federal agencies. A June 25, 1965, FBI airtel from the Miami office to Headquarters reads in part: "[The Assistant Postal Inspector in Charge of the Atlanta Region] said that due to investigations by Senate and Congressional committees, Mr. Montague requested he be advised of the procedures used in this operation."⁵⁰⁰ Montague had appeared before the Long Subcommittee and had testified on the subject of mail covers several times earlier that year, but he recalls that his concern in determining the procedures used in Survey No. 4 in June focused more on the new Postal regulations regarding mail covers that were issued about that time than on the Senate hearings.⁵⁰¹ Regardless of his motivation, Montague asked the Assistant Postal Inspector in Charge to ascertain the details of the Miami operation; the procedures were described

⁴⁹² Memorandum from W. A. Branigan to Mr. Sullivan, 8/31/61.

⁴⁹³ Montague, 10/2/75, p. 25; Moore, 10/1/74, p. 66.

⁴⁹⁴ Montague, 10/2/75, p. 26.

⁴⁹⁵ Montague, 10/2/75, p. 28.

⁴⁹⁶ Memorandum from FBI Headquarters to Miami Field Office, 12/21/62.

⁴⁹⁷ Montague, 10/2/75, pp. 55, 71.

⁴⁹⁸ Montague, 10/2/75, p. 60.

⁴⁹⁹ Montague, 10/2/75, p. 55.

⁵⁰⁰ Memorandum from Miami Field Office to FBI Headquarters, 6/25/65.

⁵⁰¹ Montague, 10/2/75, pp. 69, 70.

to this postal official by representatives of the Miami Field Office, apparently without mention of the fact that mail was actually opened; and the Assistant Postal Inspector reported back to Montague, who found them to be acceptable and did not withdraw his support for the survey.⁵⁰²

Montague has stated that he was never informed that FBI agents in Survey No. 4 or in any of the other Bureau programs intended to or actually did open first class mail. This testimony is supported by that of Donald Moore, who on at least two occasions was the Bureau representative who sought Montague's cooperation for the programs. Moore does not believe that he ever told Montague that mail would be opened; ⁵⁰⁴ he said, moreover, that it was "understood" within the Bureau that Postal officials should not be informed.⁵⁰⁵ Of his meeting with Montague about Z-Coverage, for example, Moore stated: "I am sure I didn't volunteer it to him and, in fact, would not volunteer it to him" because of the belief that such information should be closely held within the Bureau.⁵⁰⁶ He added that it was a general, though unwritten, policy that whenever Bureau agents contacted Postal officials concerning the mail programs "it was understood that they would not be told [that mail opening was contemplated]." ⁵⁰⁷

Montague, for his part, did not specifically warn FBI agents against tampering with the mail because they were Federal officers and he trusted them not to do so. He stated:

I do not recall that I asked [if they intended to open mail], because I never thought that would be necessary. I knew that we never opened mail in connection with a mail cover. I knew that we could not approve it, that we would not approve any opening of any mail by anybody else. Both the CIA and the FBI were Government employees the same as we were, had taken the same oath of office, so that question was really not discussed by me. . . .

With regard to the CIA when they first started [in 1953], we did put more emphasis on that point that mail could not be tampered with, that it could not be delayed, because, according to my recollection, this was the first time that we had had any working relationship with the CIA at all. With the FBI, I just did not consider that it was necessary to emphasize that point. I trusted them the same as I would trust another Inspector. I would never feel that I would have to tell a Postal person that you cannot open mail. By the same token, I would not consider it necessary to emphasize it to any great degree with the FBI.⁵⁰⁸

In short, it does not appear that any senior postal official knew that the FBI opened mail. Postal officials did cooperate extensively

⁵⁰² Memorandum from Miami Field Office to FBI Headquarters. 6/25/65; Montague, 10/2/75, p. 71.

⁵⁰⁴ Moore, 10/1/75, pp. 65, 66, 70.

⁵⁰⁵ Moore, 10/1/75, p. 79.

⁵⁰⁶ Moore, 10/1/75, p. 70.

⁵⁰⁷ Moore, 10/1/75, p. 79.

⁵⁰⁸ Montague, 10/2/75, pp. 15, 16.

with the Bureau, but out of trust did not ask whether mail would be opened and because of a concern for security they were not told.

B. Department of Justice

The record presents no conclusive evidence that any Attorney General ever knew of any of the FBI mail opening programs. The evidence summarized below, does suggest that one and possibly two Attorneys General may have been informed of selected aspects of the Bureau's mail operations, but generally supports the view that no Attorney General was ever briefed on their full scope.

1. Robert F. Kennedy

New York Field Office Briefings.—On April 5, 1962, and again on November 4, 1963, Attorney General Robert F. Kennedy visited the FBI's New York field office was briefed in foreign espionage matters. The person who briefed him on these occasions, the Assistant Special Agent in Charge for the Espionage Division, testified that he may have mentioned the mail intercept projects then being conducted by the New York field office to the Attorney General, but has no definite recollection whether he did or not.⁵⁰⁹ Other participants at these briefings could not recall the technique of mail opening being discussed,⁵¹⁰ nor do the internal FBI memoranda relating to the briefings indicate that the topic arose.⁵¹¹

The Baltch Case.—It is also possible, though again the evidence is far from conclusive, that Robert Kennedy learned that mail opening was utilized in the Baltch investigation, which is described on page 648. On July 2, 1963, FBI agents arrested two alleged Soviet illegal agents who used the names Robert and Joy Ann Baltch; they were indicted for espionage on July 15. Several conferences were held between FBI representatives and Assistant Attorney General for Internal Security, J. Walter Yeagley, regarding this case and the possibility that some of the evidence was tainted.⁵¹² Yeagley subsequently briefed Kennedy on the problems involved in prosecuting the Baltchs.⁵¹³ Donald E. Moore, who was one of the FBI representatives who discussed the Baltch case with Yeagley, testified that he believed, though he had no direct knowledge, that the fact of mail opening did come to the attention of the Attorney General in this context.⁵¹⁴ Yeagley, however, cannot recall being specifically advised that mail was opened (although he knew that a "mail intercept or cover" had occurred) and stated that he did not inform Kennedy about any mail openings.⁵¹⁵

⁵⁰⁹ FBI Special Agent #2, 9/16/75, pp. 44–47.

⁵¹⁰ Staff Summary of FBI Special Agent #7 interview, 9/15/75; staff summary of Courtney A. Evans interview, 9/17/75; staff summary of FBI Special Agent #3 interview, 9/19/75.

⁵¹¹ Memorandum from New York Field Office to FBI Headquarters, 4/5/62; memorandum from New York Field Office to FBI Headquarters, 11/4/63; memorandum from C. A. Evans to Mr. Belmont, 11/4/63.

⁵¹² Memorandum from W. A. Branigan to W. C. Sullivan, 10/3/64.

⁵¹³ *Ibid.*

⁵¹⁴ Moore, 10/1/75, pp. 38, 39.

⁵¹⁵ J. Walter Yeagley statement, 10/15/75; staff summary of J. Walter Yeagley interview, 10/10/75.

Other Espionage Cases.—Internal FBI memoranda concerning at least two other espionage cases that were considered for prosecution while Kennedy was Attorney General, also raise the possibility that Justice Department attorneys, including Yeagley, may have been advised of mail openings that occurred.⁵¹⁶ Yeagley cannot recall being so advised, however, and, as noted above, stated that he never informed the Attorney General of any mail openings.⁵¹⁷ There is no indication in the memoranda, moreover, that these matters were ever raised with Kennedy.

2. *Ni holas deB. Katzenbach*

The Baltch Case.—The Baltch case did not come to trial until early October 1964, when Nicholas deB. Katzenbach was Acting Attorney General. At the time the trial commenced, FBI representatives, including Donald Moore, conferred with Thomas K. Hall, a Justice Department attorney who was assigned to the case, again on the subject of tainted evidence.⁵¹⁸ Hall then discussed the case with Katzenbach and, according to an FBI internal memorandum, “Katzenbach recognized the problems, but felt in view of the value of the case, an effort should be made to go ahead with the trial even if it might be necessary to drop the overt act where our tainted source is involved. . . .”⁵¹⁹ Because he subsequently determined that the case “could not be further prosecuted without revealing national security information,”⁵²⁰ however, Katzenbach ordered the prosecution to be dropped entirely.

In fact, there were at least two sources of tainted evidence other than mail opening involved in the Baltch case—a surreptitious entry and a microphone installation—and it is only these which Katzenbach recalls.⁵²¹ He testified that although he did discuss the taint issues with both Hall and Joseph Hoey, the United States Attorney who originally presented the government’s case, neither of them brought to his attention the fact of mail opening.⁵²² Hoey’s recollection supports this contention: a Bureau memorandum suggests that Hoey may have learned of a “mail intercept” in the case,⁵²³ but he recalls neither being informed of an actual opening nor conferring with the Acting Attorney General about any issue related to mail.⁵²⁴ Assistant Attorney General Yeagley recalls discussing the case generally with Katzenbach also, and “may have informed him of the mail intercept or cover which had occurred,” but Yeagley stated that he had no definite knowledge himself that the “intercept or cover” involved the actual opening of mail, and so would not have been in a position to advise him that it did.⁵²⁵

⁵¹⁷ Memorandum from W. A. Branigan to W. C. Sullivan, 8/11/64; memorandum from Mr. Branigan to Mr. Sullivan, 8/14/64.

⁵¹⁸ Yeagley statement, 10/15/75; Staff summary of Yeagley interview, 10/10/75.

⁵¹⁹ Memorandum from D. E. Moore to W. C. Sullivan, 10/2/64.

⁵²⁰ *Ibid.*

⁵²¹ Nicholas deB. Katzenbach statement, 12/3/75. Hearings, Vol. 6, p. 203.

⁵²² *Ibid.*

⁵²³ *Ibid.*

⁵²⁴ Memorandum from Moore to Sullivan, 10/2/64.

⁵²⁵ Staff summary of Joseph Hoey interview, 11/24/75.

⁵²⁶ Yeagley statement, 10/15/75; staff summary of Yeagley interview, 10/10/75.

Katzenbach has testified that he was never aware of the Bureau's use of mail opening in any espionage investigation.⁵²⁶ He added:

Even if one were to conclude that the Bureau did in fact reveal that mail had been opened and that this fact was relayed by lawyers in the [Baltch] case to me, I am certain that that fact would have been revealed by the FBI—and I would have accepted it—as an unfortunate aberration, just then discovered in the context of a Soviet espionage investigation, not a massive mail-opening program. In that event, nothing would have led me to deduce that the Bureau was, as a matter of policy and practice, opening letters.⁵²⁷

The Long Subcommittee Hearings.—According to Donald Moore, he and Assistant Director Alan H. Belmont did inform Mr. Katzenbach at the time of the 1965 Long Subcommittee hearings that Bureau agents screened mail both inside and outside postal facilities as a matter of practice, although he does not claim that the subject of actual opening arose.

In February of that year, the Long Subcommittee directed Chief Postal Inspector Montague to provide it with a list of all mail covers, including those in the areas of organized crime and national security, by federal agencies within the previous two years. As a result of this and other inquiries by the Subcommittee, especially regarding electronic surveillance practices, President Johnson requested Katzenbach to coordinate all executive department matters under his investigation.⁵²⁸

In executing this responsibility, Katzenbach met with Moore, Belmont, and Courtney Evans, a former FBI Assistant Director who had retired from the Bureau but was then working as a special assistant to the Attorney General, on February 27, 1965, to discuss problems raised by the Subcommittee which affected the FBI.⁵²⁹ One of the subjects discussed at that meeting was the question of Bureau access to the mail. Four days earlier, the Chief Postal Inspector had testified before the Subcommittee that he had no knowledge of any case in which mail left the custody of Postal employees during the course of a mail cover.⁵³⁰ At the time, Montague did know that this practice had occurred⁵³¹—indeed, as Chief Postal Inspector he had approved the direct screening of mail by FBI agents in Survey No. 4⁵³²—but he believed that “there was an understanding . . . that national security cases were not included within this particular part of the hearing.”⁵³³ According to Moore, Katzenbach had been made aware of the possible

⁵²⁶ Nicholas deB. Katzenbach testimony, 10/11/75, p. 35.

⁵²⁷ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 204.

⁵²⁸ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 204, memorandum from A. H. Belmont to Mr. Tolson, 2/27/65.

⁵²⁹ *Ibid.*

⁵³⁰ Henry Montague testimony, Senate Subcommittee on Administrative Practice and Procedure Hearings, 2/23/65, Part I, pp. 210–212; Montague 10/2/75, p. 66.

⁵³¹ Montague, 10/2/75, p. 71.

⁵³² Montague, 10/2/75, p. 55.

⁵³³ Montague, 10/2/75, p. 66.

inaccuracy of Montague's testimony, and the Bureau officials consequently "pointed out [to the Attorney General] that we do receive mail from the Post Office in certain sensitive areas. . . ." ⁵³⁴ Moore believes moreover, that they informed him that this custody was granted in on-going projects rather than isolated instances. ⁵³⁵

Katzenbach acknowledged that he was aware, while Attorney General, that "in some cases the outside of mail might have been examined or even photographed by persons other than Post Office employees," ⁵³⁶ but he stated that he never knew the FBI gained custody to mail on a regular basis in large-scale operations. ⁵³⁷ He also testified that the time of the February meeting he considered Montague's testimony to be "essentially truthful." ⁵³⁸ While the record shows that he spoke to Senator Long less than a week after this meeting, ⁵³⁹ Katzenbach stated that this was in regard to the requested list of all mail covers by federal agencies rather than the issue of mail custody. ⁵⁴⁰ The testimony of Courtney Evans, who was also present at the February 27 meeting, supports that of Katzenbach: at no time, Evans said, was he personally ever made aware that FBI agents received direct access to mail on an on-going basis. ⁵⁴¹

Moore does not claim that he told Katzenbach that mail was actually opened by Bureau agents. According to him, this information was volunteered by neither Belmont nor himself and Katzenbach did not inquire whether opening was involved. ⁵⁴² When asked if he felt any need to hold back from Katzenbach the fact of mail openings as opposed to the fact that Bureau agents received direct access to the mail, Moore replied: "It is perhaps difficult to answer. Perhaps I could liken it to . . . a defector in place in the KGB. You don't want to tell anybody his name, the location, the title, or anything like that. Not that you don't trust them completely, but the fact is that anytime one additional person becomes aware of it, there is a potential for the information to . . . go further." ⁵⁴³

Probably the strongest suggestion in the documentary evidence that Katzenbach may have been made aware of actual FBI mail openings at the time of the Long Subcommittee hearings is found in a memorandum from Hoover to ranking Bureau officials, dated March 2, 1965. This memorandum reads, in part:

The Attorney General called and advised that he had talked to Senator Long last night. Senator Long's committee is looking into mail covers, et cetera. The Attorney General stated he thought somebody had already spoken to Senator Long as

⁵³⁴ Moore, 10/1/75, p. 31.

⁵³⁵ Moore, 10/1/75, p. 44.

⁵³⁶ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 205.

⁵³⁷ Katzenbach testimony, 10/11/75, p. 35.

⁵³⁸ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 205.

⁵³⁹ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 205; memorandum from J. Edgar Hoover to Messrs. Tolson, Belmont, Gale, Rosen, Sullivan, and DeLoach, 3/2/65.

⁵⁴⁰ Katzenbach statement, 12/3/75, Hearings, Vol. 6, p. 205.

⁵⁴¹ Courtney A. Evans affidavit, 10/21/75.

⁵⁴² Moore, 10/1/75, p. 33.

⁵⁴³ Moore, 10/1/75, p. 48.

he said he did not want to get into any national security area and was willing to take steps not to do this. The Attorney General stated that Mr. Fensterwald [Chief counsel to the Subcommittee] was present for part of the meeting and Fensterwald had said that he had some possible witnesses who are former Bureau agents and if they were asked if mail was opened, they would take the Fifth Amendment. The Attorney General stated that before they are called, he would like to know who they are and whether they were ever involved in any program touching on national security and if not, it is their own business, but if they were, we would want to know. The Attorney General stated the Senator promised that he would have a chance to look at the names if he wanted to, personally and confidentially, and the list would have any names involving national security deleted and he would tell the Senator how many but no more.⁵⁴⁴

Katzenbach testified as follows concerning his passage:

[Even] assuming the accuracy of the memo, it is not consistent with my being aware of the Bureau's mail opening program. Had I been aware of that program, I naturally would have assumed that the agents had been involved in that program, and I would scarcely have been content to leave them to their own devices before Senator Long's committee. Moreover, it would have been extremely unusual for ex-FBI agents to be interviewed by the Senate committee staff without revealing that fact to the Bureau. In those circumstances both the Director and I would have been concerned as to the scope of their knowledge with respect to the very information about mail covers which the Senator was demanding and which we were refusing, as well as about any other matters of of a national security nature. If the witnesses in fact existed (which I doubted strongly), then both the Director and I wanted to know the extent of their knowledge about Bureau programs, and the extent of their hostility toward the FBI. That is a normal concern that we would have had anytime any ex-FBI agent testified before any Congressional committee on any subject.⁵⁴⁵

The most that can reasonably be inferred from the record on possible knowledge of FBI mail opening by Attorneys General is this: one or two Attorneys General may have known that mail was opened in connection with particular espionage investigations, and one Attorney General may have learned that the FBI regularly received mail from the Post Office and that five former FBI agents possibly opened mail. Evidence exists which casts doubt on the reasonableness of even these inferences, however. More significantly, there is no indication in either the documents or the testimony that the approval of any Attorney General was ever sought prior to the institution of any Bureau

⁵⁴⁴ Memorandum from J. Edgar Hoover to Messrs. Tolson, Belmont, Gale, Rosen, Sullivan, and DeLoach, 3/2/65.

⁵⁴⁵ Katzenbach statement, 12/3/75, Hearings, Vol. 6, pp. 205, 206.

program, and despite a clear opportunity to inform Attorney General Katzenbach of the full scope and true nature of these operations in 1965, he was intentionally not told. In the name of security, the Bureau neither sought the approval of nor even shared knowledge of its programs with the Cabinet officer who was charged with the responsibility of controlling and regulating the FBI's conduct.

The first uncontroverted evidence that any Attorney General knew of the FBI mail opening programs is not found until 1970, four years after the programs were terminated. John Mitchell, upon reading the 1970 "Huston Report", learned that the Bureau had engaged in "covert mail coverage" in the past, but that this practice had "been discontinued."⁵⁴⁶ While the report itself stated that mail opening was unlawful,⁵⁴⁷ however, Mitchell did not initiate any investigation, nor did he show much interest in the matter. He testified:

I had no consideration of that subject matter at the time. I did not focus on it and I was very happy that the plan was thrown out the window, without pursuing any of its provisions further. . . . I think if I had focused on it I might have considered [an investigation into these acts] more than I did.⁵⁴⁸

C. Presidents

There is no evidence that any President was ever contemporaneously informed about any of the FBI mail opening programs. In 1970, Bureau officials who were involved in the preparation of the "Huston Report" apparently advised Tom Charles Huston that mail opening as an investigative technique had been utilized in the past, for this fact was reflected in the report which was sent to President Nixon.⁵⁵⁰

VI. TERMINATION OF THE FBI MAIL OPENING PROGRAMS

A. Hoover's Decision to Terminate the Programs in 1966

1. Timing

By mid-1966 only three FBI mail opening programs continued to operate: Z-Coverage in New York and Washington, Survey No. 1 in those same cities, and Survey No. 4 in Miami. Three of the programs—No. 2, No. 3, and No. 7—and the extensions of Survey No. 1 to four cities other than New York and Washington had all been terminated prior to 1966 because they had produced no valuable counterintelligence information while tying up manpower needed in other areas.⁵⁵¹ Two of the programs—Surveys No. 5 and 6—had been suspended in January 1966 for security reasons involving changes in local postal personnel and never reinstituted. As the San

⁵⁴⁶ See Senate Select Committee Report on the Huston Plan, p. 61; Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 29.

⁵⁴⁷ Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 30.

⁵⁴⁸ John N. Mitchell, 10/24/75, Hearings, Vol. 4, p. 145.

⁵⁵⁰ Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 29.

⁵⁵¹ See pp. 653-654.

Francisco Field office informed Headquarters in May of that year in regard to both programs: "While it is realized that these sources furnished valuable information to the Federal Government, it is not believed the value justifies the risk involved. It is not recommended that contact with sources be re-instituted."⁵⁵²

The remaining three programs were all terminated in July 1966 at the direct instruction of J. Edgar Hoover. Apparently this instruction was delivered telephonically to the field offices;⁵⁵³ no memoranda explicitly reflect the order to terminate the programs. There is no evidence that the FBI has employed the technique of mail opening in any of its investigations since that time, although the FBI continued to receive the fruits of the CIA's mail opening program until 1973.

2. Reasons

Given the perceived success of these three programs the reasons for their termination are not entirely clear. While all FBI officials who testified on the subject were unanimous in their conclusion that the decision was Hoover's alone, none could testify as to the precise reasons for his decision.

At least three possible reasons are presented by the record. First, the Director may have believed that the benefits derived from mail opening were outweighed by the need to present espionage cases for prosecution which were untainted by use of this technique. Regardless of whether or not the mail opening in the Baltch case was actually a factor in Acting Attorney General Katzenbach's decision to drop the prosecution, for example, Bureau officials believed that their use of the technique in that case did in fact preclude prosecution.⁵⁵⁴ On a memorandum dealing with the evidentiary issues in the Baltch case, Hoover wrote the following notation: "We must immediately and materially reduce the use of techniques which 'taint' cases."⁵⁵⁵

Second, Hoover may have believed that the Attorney General and other high government officials would not support him in the FBI's use of questionable investigative practices. It is known that Hoover cut back on a number of other techniques in the mid-1960's: the use of mail covers by the FBI was suspended in 1964,⁵⁵⁶ and in July 1966—the same month which saw the end of the mail opening programs—Hoover terminated the technique of surreptitious entries by Bureau agents.⁵⁵⁷ In a revealing comment on a 1965 memorandum regarding the Long Subcommittee's investigation of such techniques as mail covers and electronic surveillance, Hoover wrote:

I don't see what all the excitement is about. I would have no hesitance in discontinuing all techniques—technical coverage [i.e. wiretapping], microphones, trash covers, mail covers, etc. While it might handicap us I doubt they are as valuable

⁵⁵² Memorandum from San Francisco Field Office to FBI Headquarters, 5/19/66.

⁵⁵³ Wannall Testimony 10/13/75, p. 45.

⁵⁵⁴ See p. 646.

⁵⁵⁵ Memorandum from W. A. Branigan to W. C. Sullivan, 9/29/64.

⁵⁵⁶ *Ibid.*

⁵⁵⁷ Memorandum from W. C. Sullivan to C. D. DeLoach, 7/19/66.

as some believe and none warrant FBI being used to justify them.⁵⁵⁸

His lack of support from above had been tentatively suggested by some witnesses as a reason for this general retrenchment. Donald Moore, for example, surmised that:

There had been several questions raised on various techniques, and some procedures had changed, and I feel that Mr. Hoover in conversation with other people, of which I am not aware, decided that he did not or would not receive backing in these procedures and he did not want them to continue until the policy question was decided at a higher level.⁵⁵⁹

While former Attorney General Katzenbach testified that he was unaware of the FBI mail openings, his views on this subject tend to support Moore's. He speculated that the reason the programs were terminated in 1966 may have related to the then-strained relations between Mr. Hoover and the Justice Department stemming from the case of *Black v. United States*^{559a} and the issue of warrantless electronic surveillance.⁵⁶⁰ Hoover had wanted the Justice Department to inform the Supreme Court, in response to an order by the Court that the type of warrantless microphone surveillance that occurred in that case had been authorized by every Attorney General since Herbert Brownell. Katzenbach, not believing this to be so, approved a Supplemental Memorandum to the Court which simply stated that microphone installations had been authorized by longstanding "practice." According to Katzenbach, "this infuriated Hoover. . . . He was very angry, [and] that may have caused him to stop everything of this kind."⁵⁶¹

A third, related reason was suggested by W. Raymond Wannall, former Assistant Director in charge of the FBI's Domestic Intelligence Division. Wannall believed that there was a genuine "question in [Hoover's] mind about the legality" of mail opening, and noted that by at least 1970, as expressed in one of the Director's footnotes in the Huston Report, Hoover clearly considered mail opening to be outside the framework of the law.⁵⁶² This footnote also suggests that, like CIA officials, Hoover was concerned that the perceived illegality of the technique would lead to an adverse public reaction damaging to the FBI and other intelligence agencies if its use were made known. His note to President Nixon read:

The FBI is opposed to implementing any covert mail coverage [i.e., mail opening] because it is clearly illegal and it is likely that, if done, information would leak out of the Post Office to the press and serious damage would be done to the intelligence community.⁵⁶³

⁵⁵⁸ Memorandum from Belmont to Tolson, 2/27/65.

⁵⁵⁹ Moore, 10/1/75, p. 29.

^{559a} 385 U.S. 26 (1966).

⁵⁶⁰ Katzenbach, 10/11/75, p. 58.

⁵⁶¹ *Ibid.*

⁵⁶² Wannall, 10/13/75, p. 79.

⁵⁶³ Special Report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 31. Hoover permitted the Bureau to receive the fruits of illegal mail opening by the CIA, however.

B. Recommended Reinstitution

1. Within the Bureau

Whatever the reasons for it, the FBI Director's decision to terminate all mail opening programs in 1966 was not favorably received by many of the participating agents in the field. As one official of the New York Field Office at the time of the termination testified:

. . . the inability of the government to pursue this type of investigative technique meant that we would no longer be able to achieve the results that I felt were necessary to protect the national security, and I did not feel that I wanted to continue in any job where you are unable to achieve the results that really your job calls for. . . . That was a big influence on my taking retirement from the FBI.⁵⁶⁴

Several recommendations came in from the field to consider the reinstitution of the mail opening programs between 1966 and the time of Hoover's death in 1972.^{564a} None of them was successful. A 1970 internal FBI memorandum, for example, reflects the recommendation of the New York office that the programs be reinstituted,⁵⁶⁵ but Headquarters suggested that this course was "not advisable at this time."⁵⁶⁶ Underlining the words "not advisable," Hoover noted: "Absolutely right."

There is no evidence that any recommendation to reinstitute these programs ever reached the desk of an Acting Director or Director of the Bureau after Hoover's death.

2. Huston Plan

The only known attempt to recommend reinstitution of FBI mail opening by officials outside the FBI is found in the Huston Report in 1970.⁵⁶⁷ The Report itself stated that mail opening did not have the "sanction of law,"⁵⁶⁸ but proceeded to note several advantages of relaxing restrictions on this technique, among them:

1. High-level postal authorities have, in the past, provided complete cooperation and have maintained full security of this program.

2. This technique involves negligible risk of compromise. Only high echelon postal authorities know of its existence, and personnel involved are highly trained, trustworthy, and under complete control of the intelligence agency.

3. This coverage has been extremely successful in producing hard-core and authentic intelligence which is not obtainable from any other source. . . .⁵⁶⁹

⁵⁶⁴ FBI Special Agent #2, 9/16/75, pp. 61, 62. It should be noted that this view ignores the availability of the warrant procedure for opening mail when there is probable cause to believe that a crime—including espionage—has occurred or is about to occur.

^{564a} Branigan, 10/9/75, p. 54.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ Memorandum from Branigan to Sullivan, 3/31/70.

⁵⁶⁷ See generally, Senate Select Committee Report on the Huston Plan.

⁵⁶⁸ Special report: Interagency Committee on Intelligence (Ad Hoc), June 1970, p. 30.

⁵⁶⁹ *Ibid.*

Primarily because of the objections Hoover expressed in the footnote he added, which are discussed above, this aspect of the Huston Plan was never implemented, however.

VII. LEGAL AND SECURITY CONSIDERATIONS WITHIN THE FBI

During the years that the FBI mail opening programs operated, Bureau officials attempted only once, in 1951, to formulate a legal theory to justify warrantless mail opening, and the evidence suggests that they never relied upon even this theory. At the same time, there is little in the record (until Hoover's comment in the 1970 Huston Report) to indicate that Bureau officials perceived mail opening to be illegal, as many CIA officials did. The FBI officials who directed the programs apparently gave little consideration to factors of law at all; ironically, it appears that of the two agencies which opened first class mail without warrants, that agency with law enforcement responsibilities and which was a part of the Justice Department gave less thought to the legal ramifications of the technique. Despite its inattentive attitude toward legal issues, the Bureau was at least as concerned as the CIA that disclosure of their programs outside the FBI—even to its own overseer, the Attorney General, and especially to Congress—would, as Hoover wrote in 1970, "leak . . . to the press and serious[ly] damage" the FBI.⁵⁷⁴ To avoid such exposure, the Bureau, like the CIA, took measures to prevent knowledge of their programs from reaching this country's elected leadership.

A. Consideration of Legal Factors by the FBI

1. Prior to the Commencement of Mail Opening Programs In the Post-War Period

In June 1951, when the Washington Field Office recommended to Headquarters that consideration should be given to the reinstitution of Z-Coverage, it was specifically suggested that Bureau officials determine whether or not Postal Inspectors have the authority to order the opening of first class mail in espionage cases.⁵⁷⁵ Headquarters conducted research on this possible legal predicate to the peacetime reinstitution of the program, and the results were summarized in a second memorandum on Z-Coverage in September 1951.⁵⁷⁶ The basic conclusion was that Postal Inspectors had no authority to open mail; only employees of the Dead Letter Office and other persons with legal search warrants had such power. It was argued, however, that Postal Inspectors may have sufficient legal authority to open even first class mail whose contents were legally non-mailable under 18 U.S.C. Section 1717. This class of non-mailable items included, and includes today, "[e]very letter . . . in violation of sections . . . 793, 794 [the espionage statutes] . . . of this title . . ." Since it was a crime to mail letters whose contents violated the espionage statutes, it was reasoned, it may not be unlawful to intercept and open such letters, despite the general prohibition against mail opening found in 18 U.S.C. Sections 1701, 1702, and 1703. The study concluded:

. . . it is believed that appropriate arrangements might be worked out on a high level between the Department and the

⁵⁷⁴ See p. 670.

⁵⁷⁵ Memorandum from E. T. Turner to C. E. Hennrich, 6/25/51.

⁵⁷⁶ Memorandum from C. E. Hennrich to A. H. Belmont, 9/7/51.

Postmaster General or between the Bureau and the appropriate Post Office officials whereby the mail of interest to the Bureau could be checked for items in violation of the espionage and other security statutes which are itemized in Title 18, U.S. Code Section. . . . It is respectfully suggested that appropriate discussions be held on this matter.⁵⁷⁷

This theory ignores the fact that the warrant procedure itself responds to the problem of non-mailable items. If, on the basis of an exterior examination of the envelope or on the basis of facts surrounding its mailing, there exists probable cause for a court to believe that the espionage statutes have been violated, a warrant may be obtained to open the correspondence. If the evidence does not rise to the level of probable cause, the law does not permit the mail to be opened. There is no indication, in any event, that discussions were ever held with any Postmaster General or Attorney General in an attempt to either test or implement this theory. While Z-Coverage was in fact reinstituted after this study was made, it was conducted with FBI personnel rather than Postal Inspectors, and its mail opening aspect was apparently unknown to any high-ranking Postal officials. In regard to the recommendation that "appropriate discussions be held on this matter," Assistant to the Director Alan Belmont penned the notation, "No action at this time. File for future reference."⁵⁷⁸

2. Post-1951

After the mail opening programs were underway, there was apparently no further consideration by FBI officials of the legal factors involved in the operations. Unlike that regarding CIA mail opening, the documentary record on the FBI programs does not contain references (until 1970, four years after the programs ceased) to the illegality of mail opening; nor does it suggest that mail opening was considered legal. At most, the record reveals the recognition by Bureau officials that evidence obtained from their surveys was tainted and, hence, inadmissible in court,⁵⁷⁹ but not the recognition that the technique was invalid *per se*. Indeed, after the Supreme Court decisions in *Nardone v. United States*, 302 U.S. 379 (1937) and 308 U.S. 338 (1939), this distinction was explicitly made in the area of electronic surveillance: while the *Nardone* decisions prohibited the admission in court of evidence obtained from wiretapping, the cases were not interpreted by the Bureau to preclude use of the technique itself, and the practice continued.⁵⁸⁰

The testimonial record, moreover, clearly suggests that legal considerations were simply not raised in contemporaneous policy decisions affecting the various mail surveys: W. Raymond Wannall, William Branigan, and others have all so testified.⁵⁸¹ None of these officials has any knowledge that any legal theory—either the one which was filed for "future reference" in 1951 or one based on a possible "national security" exception to the general prohibition against mail opening—was ever developed by Bureau officials after 1951 to justify their programs

⁵⁷⁷ *Ibid.*

⁵⁷⁸ *Ibid.*

⁵⁷⁹ Memorandum from Branigan to Sullivan, 9/29/64; memorandum from Moore to Sullivan, 10/2/64.

⁵⁸⁰ See Senate Select Committee Report on FBI Electronic Surveillance.

⁵⁸¹ Branigan, 10/9/75, pp. 13, 39, 40; Wannall, 10/24/75, Hearings, Vol. 4, p. 149.

legally, or that a legal opinion from the Attorney General was ever sought. To these officials, such justification as existed stemmed not from legal reasoning but from the end they sought to achieve and an amorphous, albeit honestly held, concept of the "greater good." As William Branigan stated: "It was my assumption that what we were doing was justified by what we had to do."⁵⁸² He added that he believed "the national security" impelled reliance on such techniques:

The greater good, the national security, this is correct. This is what I believed in. Why I thought these programs were good, it was that the national security required this, this is correct.⁵⁸³

At least some of the agents who participated in the mail opening program have testified that they believed the surveys were legal because they assumed (without being told) that the programs had been authorized by the President or Attorney General, or because they assumed (again without being told) that there was a "national security" exception to the laws prohibiting mail opening.⁵⁸⁴ Those officials in a policy-making position, however, apparently did not focus on the legal questions sufficiently to state an opinion regarding the legality or illegality of the programs, nor did they advise the field offices or participating agents about these matters.

Only in the 1970's, at least four years after the FBI mail opening programs ceased, is there any clear indication that Bureau officials, like those of the CIA, believed their programs to be illegal. As noted above, Hoover's footnote to the 1970 Huston Report described the technique as "clearly illegal;" and in the recent public hearings on FBI mail opening, W. Raymond Wannall testified that, as of 1975, "I cannot justify what happened. . . ."⁵⁸⁵

In light of the Bureau's major responsibilities in the area of law enforcement and the likelihood that some of the espionage cases in which mail opening was utilized would be prosecuted, it is ironic that FBI officials focused on these legal issues to a lesser degree than did their CIA counterparts. But the Bureau's Domestic Intelligence Division made a clear distinction between law enforcement and counterintelligence matters; what was appropriate in one area was not necessarily appropriate in the other. As William Branigan again testified:

In consideration of prosecuting a case, quite obviously [legal factors] would be of vital concern. In discharging counterintelligence responsibilities, namely to identify agents in the United States to determine the extent of damage that they are causing to the United States . . . we would not necessarily go into the legality or illegality. . . . We were trying to identify agents and we were trying to find out how this country was being hurt, and [mail opening] was a means of doing it, and it was a successful means.⁵⁸⁶

⁵⁸² Branigan, 10/9/75, p. 41.

⁵⁸³ *Ibid.*

⁵⁸⁴ FBI Special Agent #2 statement, 9/10/75, p. 10; Staff Summary of FBI Special Agent #7 interview, 9/15/75, Vincent E. Ruehl; 10/14/75, pp. 70, 72.

⁵⁸⁵ Wannall, 10/24/75, Hearings, vol. 4, p. 170.

⁵⁸⁶ Branigan, 10/9/75, pp. 40-41.

B. Concern with Exposure

Although Bureau officials apparently did not articulate the view prior to 1970 that mail opening was necessarily illegal, they did believe that their use of this technique was so sensitive that its exposure to other officials within the executive branch, the courts, Congress, and the American public generally should be effectively prevented. This fear of exposure may have resulted from a perceived though unexpressed sense that its legality was at least questionable; it was almost certainly a consequence of a very restricted, even arrogant, view of who had a "need to know" about the Bureau's operations. But whatever its source, this concern with security clearly paralleled the CIA's concern with the "flap potential" of their projects and resulted in similar efforts to block knowledge of their use of this technique from reaching the general public and its leaders.

The reluctance of FBI officials to disclose the details of their programs to other officials within the executive branch itself has been described above: there is no clear evidence that any Bureau official ever revealed the complete nature and scope of the mail surveys to any officer of the Post Office Department or Justice Department, or to any President of the United States. It was apparently a Bureau policy not to inform the Postal officials with whom they dealt of the actual intention of FBI agents in receiving the mail, and there is no indication that this policy was ever violated.⁵⁸⁷ When Attorney General Katzenbach met with Donald Moore and Alan Belmont on the subject of Bureau custody of mail, Moore testified that he did not inform the Attorney General about the mail opening aspect of the projects because of security reasons: "anytime one additional person becomes aware of it, there is a potential for the information to . . . go further."⁵⁸⁸ One Bureau agent at Headquarters who was familiar with the mail programs (but not in a policy-making position) also speculated that the questionable legal status of this technique may have been an additional reason for not seeking the Attorney General's legal advice. He testified as follows:

Q. Do you know why the opinion of the Attorney General was apparently or probably not sought?

A. Because of the security of the operation. I would imagine that would be the main reason. It was a program we were operating. We wanted to keep it within the Bureau itself—and the fact that it involved opening mail.

Q. What do you mean by the last statement, ". . . the fact that it involved opening mail"?

A. That was not legal, as far as I knew.⁵⁸⁹

With respect to the Justice Department generally, only the minimum knowledge necessary to resolve a specific prosecutive problem was imparted. Donald Moore said of his meeting with Assistant Attorney General Yeagley about the Baltch case, for example, that he did not disclose to him the FBI's general use of this technique: "I am sure it was confined to the issue at hand, which was anything at all which

⁵⁸⁷ See p. 662.

⁵⁸⁸ Moore 10/1/75, p. 48.

⁵⁸⁹ FBI Special Agent #5, 10/10/75, p. 30.

involved the prosecution of Baltch.”⁵⁹⁰ Even the term “mail opening” was avoided, and the more ambiguous term “mail intercept” was used;⁵⁹¹ while susceptible of only one meaning within the FBI, the latter term was apparently misinterpreted by Yeagley and other Justice Department officials with different assumptions about Bureau operations.⁵⁹²

The FBI’s concern with exposure extended to the courts as well. In an internal memorandum regarding the Baltch case, it was written that “under no circumstances is the Bureau willing to admit [to the court] that a mail intercept was utilized. . . .”⁵⁹³

Similarly, FBI officials, like their counterparts in the CIA, did not want their use of this technique known to Congress. One senior Bureau official testified that the FBI feared that the Long Subcommittee’s 1965 investigation could publicly expose the mail programs;⁵⁹⁴ another that such Congressional exposure could “wrack up” the Bureau.⁵⁹⁵ Attorney General Katzenbach had been requested by the President to coordinate executive branch responses to inquiries by the Subcommittee, but the FBI was apparently not content with his efforts in preventing the disclosure of “national security” information generally. To ensure that their mail surveys, as well as certain practices in the area of electronic surveillance, remained unstudied, Bureau officials themselves directly attempted to steer the Subcommittee away from probing these subjects.

Alan Belmont’s February 27, 1965, memorandum reflecting his meeting with the Attorney General about Henry Montague’s testimony on mail custody, reads in part: “I told Mr. Katzenbach that I certainly agree that this matter should be controlled at the committee level but that I felt pressure would have to be applied so that the personal interest of Senator [Edward] Long became involved rather than on any ideological basis.”⁵⁹⁶ The memorandum continues: “I called Mr. DeLoach [an Assistant Director of the FBI] and briefed him on this problem in order that he might contact Senator [James O.] Eastland in an effort to warn the Long committee away from those areas which would be injurious to the national defense. (Of course, I made no mention of such a contact to the Attorney General.)” According to an FBI memorandum, J. Edgar Hoover himself subsequently contacted Senator Eastland, who, he reported, “is going to see Senator Long not later than Wednesday morning to caution him that [the chief counsel] must not go into the kind of questioning he made of Chief Inspector Montague of the Post Office Department.”⁵⁹⁷

The strategy worked. The Subcommittee never learned of the FBI’s use of mail opening as an investigative technique. Despite the fact that in 1965 the FBI conducted a total of five mail opening programs in

⁵⁹⁰ Moore, 10/1/75, p. 49.

⁵⁹¹ Moore, 10/24/75, Hearings, Vol. 4, p. 160.

⁵⁹² Staff summary of Yeagley interview, 10/10/75; Yeagley statement, 10/15/75; Staff Summary of Hoey interview, 11/24/75.

⁵⁹³ Memorandum from Moore to Sullivan, 10/2/64.

⁵⁹⁴ Moore, 10/24/75, hearings, Vol. 4, p. 162.

⁵⁹⁵ Branigan, 10/9/75, p. 50.

⁵⁹⁶ Memorandum from Belmont to Tolson, 2/27/65.

⁵⁹⁷ Memorandum from J. Edgar Hoover to Messrs. Tolson, Belmont, Gale, Rosen, Sullivan, and DeLoach, 3/1/65.

the United States—and despite the fact that in that year alone more than 13,300 letters were opened by CIA agents in New York—the Subcommittee, the general public, the Attorney General, and apparently even Henry Montague himself accepted as true Montague's testimony that year that:

The seal on a first-class piece of mail is sacred. When a person puts first-class postage on a piece of mail and seals it, he can be sure that the contents of that piece of mail are secure against illegal search and seizure.⁵⁹⁸

⁵⁹⁸ Statement of Henry B. Montague before the Senate Subcommittee on Administrative Practice and Procedure, 2/23/65, p. 3.

