

74 MOVE TO SCRAP C.I.A. DATA IS SEEN

Officials Reportedly Asked for Authority to Destroy Records on U.S. Citizens

By SEYMOUR M. HERSH

Special to The New York Times

WASHINGTON, Jan. 9—Officials of the Central Intelligence Agency's Counterintelligence Division unsuccessfully sought authority last fall to destroy illegal domestic files on nearly 10,000 American citizens because they feared the newly liberalized Freedom of Information Act, well-placed sources said today.

The sources said that the effort to gain official sanction for the destruction of the files was a direct result of Congress's amending the act to permit judicial review of secret documents.

Well-placed sources were quoted by The New York Times on Dec. 22 as reporting the existence of the illegal domestic files on nearly 10,000 American citizens. Today, The Washington Post and Jack Anderson, the columnist, reported that the names of 9,000 Americans were submitted in 1970 to the C.I.A. by a Justice Department unit in an effort to coordinate overseas surveillance of these persons, a legal activity.

Justice Department officials said this evening that they had been informed the C.I.A. had made no use of the 1970 files and had destroyed them. The Times's sources said that the C.I.A.'s Counterintelligence Division had maintained its own file system on American citizens separate from that of the Justice Department.

The sources said that the C.I.A. request for permission to destroy the documents was made by a low-eschelon employee who had direct control over the domestic file system. The request was made to the C.I.A. legal office, the sources

Continued From Page 1, Col. 1

said, which reviewed the matter and determined that the files had to be maintained.

The person who initiated the request did not do so on his own, one well-informed source said, but had been told to find ways to destroy the files.

No past or present C.I.A. official could be found today who would discuss the concern within the agency last fall about its domestic files on Americans.

But a source close to James J. Angleton, the former chief of counterintelligence whose retirement became known on Dec. 23, said that the whole question of files was examined late last year. This source said that concern about the files arose inside the counterintelligence Division because of the amendment to the Freedom of Information Act.

The legislation, first approved in 1966, authorized persons to file a complaint in a Federal court to force a Government agency to produce information that it was withholding. Specifically exempted from the provisions, however, was any national security information.

Last Oct. 7, Congress approved changes that, among other things, provided for judicial review of classified national security information to determine whether it could be withheld. Both the Pentagon and the C.I.A. opposed the legislation. The bill was vetoed Oct. 17 by President Ford, but the House and Senate overrode the veto a month later.

The New York Times, quoting well-placed Government sources, reported on Dec. 22 that the C.I.A. had maintained domestic intelligence files on nearly 10,

000 American citizens. The sources were also quoted as saying that the files showed that domestic C.I.A. agents had been authorized to follow and photograph participants in antiwar and other demonstrations. At least one member of Congress was placed under surveillance, the sources said.

The sources also said that the domestic C.I.A. operation had been so secret that senior officials in the Federal Bureau of Investigation and the Justice Department had not known about the activity.

On Jan. 1, well-placed sources were quoted as saying that William E. Colby, Director of Central Intelligence, had confirmed in a report to President Ford that domestic files were maintained on more than 9,000 American citizens. Mr. Colby's report, the sources said also confirmed that the intelligence agency had conducted break-ins and wiretaps and surreptitiously opened mail as part of its illegal domestic activity.

The Washington Post and the columnist Jack Anderson reported today that the names of 9,000 Americans were submitted in 1970 to the C.I.A. by the Justice Department's civil disturbance unit. A computer printout, said to include the names of "antiwar agitators" and "ghetto militants," was turned over to the C.I.A.'s Counterintelligence Division in an effort to coordinate overseas surveillance of the citizens, The Post and Mr. Anderson said.

James Devine, then head of the civil disturbance unit, was quoted as saying, "I hate to see the C.I.A. accused of developing a list that we developed ourselves. It would be a bum ray."

Both The Post article and Mr. Anderson's column noted

the similarity between reports of 9,000 names turned over to the C.I.A. by the Justice Department in 1970 and nearly 10,000 names allegedly contained in the C.I.A.'s domestic intelligence files.

The Associated Press later quoted Mr. Devine, now the inspector general of the Law Enforcement Assistance Administration, as saying that he was reasonably sure that the Justice Department's computer printout list was the same list referred to in The New York Times account.

Justice Department officials confirmed this evening that Mr. Devine had sent a computerized printout to the C.I.A. in 1970 but said the printout contained between 10,000 and 12,000 names.

One official, saying that there was "nothing illegal" in such transfers of information, later told The Times, "We've been advised that the C.I.A. never put the tape to use, and it was destroyed." The destruction apparently took place last year, the official said.

The official added that he had good reason to believe that the list supplied by the Justice Department in 1970 was not the same list that was being maintained amid great secrecy by the counterintelligence unit of the C.I.A. He would not elaborate, but said that the Justice Department might issue a formal statement tomorrow.

Another source with firsthand knowledge of the C.I.A.'s domestic files said in an inter-departmental file and the Counterintelligence Division wanted to get rid of them, all it would have had to do was send them back.

In a telephone interview this afternoon, Mr. Devine acknowledged that he had no factual basis for assuming that the files he sent to the C.I.A. in

1970 were the same files that have emerged as a focal point in the current dispute over domestic C.I.A. spying. "You know I don't have any knowledge, or I would say I had knowledge," he said.

He added that he was sorry he had suggested that the C.I.A. might be receiving "a bum rap" because of its receipt of the Justice Department files. "It's something that just slipped out," he said. "I'm sorry I said it."

Additional sources with firsthand knowledge of the Colby report said that the C.I.A. director had not suggested in that document that the disputed files were, in fact, a computer printout list supplied by the

Justice Department in 1970.

These sources did say, however, that the C.I.A.'s domestic dossiers apparently included a number of F.B.I. reports and documents from other domestic intelligence agencies. Some of the files, one source said, apparently has as many as 15 or more entries in them.

"As with most things in the Colby report," the source added, "it's not clear how much surveillance was done by the C.I.A. and how much by the F.B.I. and other agencies." The source cautioned, however, "it would be wrong to make an assumption" that the vast majority of the C.I.A. files reflect active surveillance by that agency.

Under the 1947 National

Security Act setting up the agency, the C.I.A. is barred from any domestic police or internal security functions. A number of legal experts have said that even the maintenance of files by the agency—whether the information came from the C.I.A. or F.B.I.—would be illegal.

One well-informed source expressed concern, however, over what he described as an effort by defenders of the C.I.A. to invent justifications for the maintenance of the files.

The agency is not barred from maintaining files on Amer-

ican citizens who have had contact with foreign agents or foreign intelligence officials. It was to determine whether a foreign connection existed, sources said, that the Justice Department supplied its computer printout in 1970.

The problem, one source said, is that it is possible to draw up a foreign connection for almost anyone.

The source added that he was concerned because, he said, people are now saying that if there is even a remote foreign connection, it justifies the file.

In a related development, Senator John J. Sparkman, acting chairman of the Senate Foreign Relations Committee, announced today that the committee would question Richard Helms, former C.I.A. director who is now Ambassador to Iran, about the domestic spying allegations at a closed committee meeting on Jan. 22.

It was during Mr. Helms' service as director from 1966 to 1973 that the bulk of the C.I.A.'s domestic spying and file-keeping took place, sources have said.