

Dear Mr. Greider,

5/6/79

Your Against the Grain piece today is excellent if of less length and detail than the subject justifies.

From my own work I know that there is no protection in the supposed need for the Attorney General's approval. What AG stands against the FBI or CIA? Who knows what NSA is doing and has done? Where does any AG get the information he needs for decision?

I have and have studied a number of such records. The FBI tells the AG only what it wants him to know and if necessary on a basis that amounts to political blackmail, leaving him virtually no real alternative.

Domestic intelligence operations do not really depend on the intrusions that would be sanctified by the charter. They have been going on for years, with cozy deals with the local authorities, phone companies, banks, postal employees, etc.

What is not realized is the extent to which this snooping has interfered with the lives and futures of many ordinary people whose beliefs were outside official approval. Or the misuses made of the "information," not uncommonly greatly distorted if not as is within my experience actually fabricated.

Does anyone really believe that there now is any control on what can be included in what is claimed to be a criminal investigation? Or what then happens? There are, for example, not fewer than five FBI files in three different places in which I am filed under bank robberies. This came about from some form of telephone intrusion that had nothing at all to do with any bank robbery.

Do you know of any present check against what the CIA did to Dr. King within the U.S., getting messages given to him, apparently from his own pockets, names of persons he was to phone and their numbers, even an address he was to go to in Washington? And secretly spreading the word that he was "Chicom" of all things!

The problem is much more serious than your excellent piece says.

These dedicated people who do wrong believe it is right and urgently required by what they regard as "national security." They really do fear, and no triviality like a Constitution is going to impede what they regard as patriotic duty.

A little more reporting of these abuses would make for a lot more real security.

Sincerely,



Harold Weisberg

Part 5/6/79



Again, government claims the power to snoop

By William Greider

IN THE NOISE and confusion of today's problems it sometimes helps to look ahead and savor tomorrow's. I have selected a few headlines from sometime in the 1980s which tell us something about what's happening in the present:

- FBI Infiltrates Anti-Draft Group**
- CIA Wiretaps Anti-Nuke Leaders**
- Federal Burglars Caught In Dupont Circle Office**
- Post Office Opens Jane Fonda's Mail**
- See GRAIN, Page B4**

William Greider, whose column appears weekly, is the editor of Outlook

Carter Claims the Power to Snoop

GRAIN, From Page B1

Now here is my favorite headline from the future:

Wiretaps, Break-ins, Spies Preserve Liberty, Carter Says

If he is lucky, and Jimmy Carter is a lucky politician, he will no longer be in the White House when these headlines appear someday. Still, I think he will be called on for explanations because of lot of shocked citizens will look back and discover, too late, that the Carter administration made it possible to continue these outrages against civil liberties.

Wearing the white robe of reformer, with a flourish of self-contradiction, President Carter announced new rules and regulations restricting the behavior of government agencies which gather intelligence. I am not questioning the president's good intentions or the reasonableness of Attorney General Griffin Bell. But their new rules are so loose the Gestapo could drive a Volkswagen through them. Or a Mercedes staff car.

Back in 1973, when the public first learned about Nixon's infamous Huston Plan, people were understandably shocked. Here was a president and his advisers, meeting in secret, authorizing themselves to use tactics which would otherwise be illegal — mail openings, burglary, wiretaps without warrants. Their only justification was that the federal government was surrounded, threatened by alien political forces which might be in the service of a

independent scrutiny by a neutral party like a federal judge.

This is approximately what the Nixon people did, only they were less bureaucratic about it. They kept it secret, in part, because they knew the public would be shocked by revelations of spying on domestic political opposition. The Carter rules operate in secret too.

So far, according to the Justice Department, President Carter has authorized electronic surveillance, monitoring by TV cameras and other techniques, physical searches and mail openings against "agents" of a foreign power. His orders are classified.

The attorney general decides, more specifically, who gets watched.



That is secret, naturally. He has guidelines for making these judgments. The guidelines are classified. How many "foreign agents" are on the attorney general's list? That is a secret too.

I am being moderately unfair to Carter's good intentions. The administration claims that its charters for the FBI and CIA will require "judicial involvement" in these decisions. That means a federal judge gets to look too. But the ACLU fears the charter language will be worse than the executive order.

Keep in mind, we are not talking here about catching Russian spies. Espionage is a crime under the law and the government can use these surveillance techniques lawfully.

ies, suggests that the anti-nuclear movement, if it gathers strength in the 1980s, will be a natural target for federal spies — especially if the demonstrators against nuclear power plants align more closely with the campaign against nuclear bombs. Anti-nuke is already an international movement and, if the government feels threatened by it, there will be plenty of random evidence in the files to convince a nervous attorney general that these nasty demons are somehow linked to a foreign conspiracy.

Or here is another old favorite — the draft resistance movement. If Congress brings back the draft, there will be an anti-draft movement, count on it. The politicians are sneaking up on this one, but antiwar groups on the left and libertarians on the right are already talking up a national campaign of resistance. (Speaking of sneaky, this week's prize for spineless politics goes to the House Armed Services subcommittee which voted to bring back draft registration — but not until after the 1980 election.)

It is easy to rely on Griffin Bell's decency in these tranquil times. As a federal judge Bell was not exactly a titan of civil liberties; his appreciation of the First Amendment is sufficiently narrow that he found it okay for the Georgia legislature to expel Rep. Julian Bond for expressing antiwar opinions. But the question is: How would Griffin Bell behave when he is scared?

To understand this point pit aside the dark memories of John Mitchell's criticism as attorney general and consider instead the idealism of Ramsey Clark, who was attorney general when Lyndon Johnson felt threatened surrounded. Ramsey Clark cares deeply about civil liberties.

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Nobody was shocked on Jan. 24 last year when Carter, with ceremonial pride, issued his executive order on "U.S. Intelligence Activities." It looks like a lengthy statement of "shall nots" for the CIA and FBI until you examine it closely. Then you discover that wonderful magic phrase of the national security state, the one that suspends an individual's constitutional rights: "an agent of a foreign power."

The president, it says, may personally authorize certain sensitive types of tactics for intelligence-gathering and the attorney general may personally approve each tactic for use when the attorney general has decided there is "probable cause" that a specific person or group is "an agent of a foreign power."

Once the attorney general has made that finding about someone, then the FBI can spy on them or burglarize their offices. The Post Office can secretly open their mail and pass on the contents to the FBI. The CIA can pick up the case and do the same thing if the people travel abroad. No warrant is required, no

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Keep in mind, we are not talking here about catching Russian spies. Espionage is a crime under the law and the government can use these surveillance techniques lawfully, with court approval, in the investigation of illegal activities. That ought to be the limits of government power. If it is not investigating a crime, it has no business spying on citizens.

For 20 years, the rationale of "national security" has been consistently abused, yet the Carter administration wants us to accept on faith that these same national-security bureaucracies will sin no more, once the procedures are formalized.

The trouble is that the Carter administration naively presumes, in these quiet times, that "national security" watchdogs will obey rules in good faith. We have 30 years of history which argues the opposite. Time after time, in moments of crisis when the White House has felt threatened, surrounded, the spy agencies faithfully abused the Constitution in order to watch or disrupt the president's political opposition. Sooner or later, divisive politics will return and Carter's "reforms" will be tested.

Nobody can predict when or how that will develop, but there are plenty of possibilities on the horizon. Morton Halperin, director of the Center for National Security Stud-

subcommittee which voted to bring back draft registration — but not until after the 1980 election.)

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To understand this point put aside the dark memories of John Mitchell's cynicism as attorney general and consider instead the idealism of Ramsey Clark, who was attorney general when Lyndon Johnson felt threatened, surrounded. Ramsey Clark cares deeply about civil liberties (we know this because he tells us so often). Yet some of the most flagrant abuses of civil rights occurred under Clark's stewardship — wholesale domestic spying by Army intelligence units, political wiretaps by the FBI, the CIA penetration of local antiwar groups. No doubt, Ramsey Clark was deeply troubled by all this, but the only relevant point is that given the political fever of that period, he did not stop it, he did not raise his voice against it, not where any of us could hear him.

The rationale in the Sixties, for those who have forgotten, was Lyndon Johnson's obsessed conviction — evidently sincere — that the Reds were somehow fomenting all this trouble for him. Those couldn't be true-blue Americans out for him. If they aren't spies, exactly what shall we call them? How about "agents of a foreign power?"

Some citizens will continue to insist that the Bill of Rights protects them against these government intrusions, without a warrant, without a reasonable cause for criminal investigation. Some of us will continue to believe that the Fourth Amendment is not subject to exceptions, made in secret, whether they are made by Richard Nixon or by Jimmy Carter.