

The Army 'Snooping' Puzzle

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When a Senate subcommittee opens hearings next month into alleged Army snooping on civilians, it will have a tough time figuring out where to lay the blame.

In the surveillance activities that began after the burning and rioting in American cities in 1967 and 1968, was the Army merely following orders issued, implicitly or explicitly, by civilian higher-ups? Or did

military commanders on their own overstep the traditional bounds, thinking it was the only way to prevent the nation from exploding?

The questions reach to the root of America's tradition of civilian control of the military. And the search for an answer is viewed as vital in preventing a free society from subverting its own freedom, perhaps unintentionally.

The search for a more precise answer than has been

forthcoming thus far will be pressed by Sen. Sam J. Ervin (D-N.C.), chairman of the Senate Subcommittee on Constitutional Rights and tenacious guardian of individual liberties. He will look into charges of Army spying on hundreds of individual citizens, politicians, civil rights and antiwar groups.

But interviews with several past and present defense officials, plus a reading of Pentagon directives on military intelligence authority, indicate Ervin may find it difficult to trace responsibility.

For example, at a press conference last Monday, Defense Secretary Melvin R. Laird, referring to alleged surveillance of "civilians not connected with the Department of Defense," said that after he took office in 1969 "a personal friend of mine, Fred Vinson, who was an assistant attorney general serving in the Justice Department, called on me and gave me certain information that the Department of Defense had been called upon to perform certain civil disturbance surveys at a time by a previous administration."

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Laird made it clear that he felt those activities could be more properly performed by Justice, but at the time "that assignment was made to the Department of Defense."

In an interview, however, Vinson, who says he is indeed a personal friend of the Defense chief, describes the conversation in a different way.

"I had heard stories of military computer operations which recorded data on civilians," Vinson says. "This concerned me even though I assumed the source of the data was non-military agencies, like the FBI. It was this general concern that I communicated to Secretary Laird.

"My reason for telling him," the former official says, "was because I knew it

would concern him as a responsible citizen."

But, Vinson states, "I did not know of, nor did I tell the Secretary that I had ever heard of any government authorization for the military to conduct surveillance of civilians in connection with their planning for civil disturbance missions."

Vinson, now a partner in a Washington law firm, served in Justice from 1965 through early 1969.

Privately, some other officials of the Johnson administration Justice Department, while applauding Laird's recent efforts to ban such spying activities in the future, complain that he is "fuzzing up" the already confusing question of responsibility, for political reasons.

Moreover, former Defense Secretary Clark Clifford, who held office in 1968, said in a telephone interview, "I had no knowledge of any such alleged activities being conducted by the Army until I read about it recently in the public press."

Former Army Under Secretary David McGiffert, a key figure in Army civil disturbances planning in the last administration, said in an interview, "I know of no orders issued by any responsible official for the Army to undertake surveillance of civilians."

It was on June 8, 1968, that Paul H. Nitze, Clifford's deputy, signed a lengthy Pentagon directive setting up policies and responsibilities for use of the armed forces in support of civil authorities during civil disturbances.

The Army was assigned the key role in a new Civil Disturbance Directorate, set up in the Pentagon basement.

The service's most crucial mission was to make sure it had enough men and Air Force transports on hand to move 10,000 troops on rapid notice into each of 24 different cities plus about 30,000 into Washington. Violence had erupted in the Capital in April after the slaying of the Rev. Dr. Martin Luther King Jr. in Memphis.

But among the other Army duties spelled out in the directive was "providing essential planning, operational and intelligence data to the National Military

Command Center . . ." There was no explanation of what kind of intelligence data was to be provided, or by whom.

The next paragraph charged the Army with "keeping the Secretary of Defense informed of unusual military resource requirements (actual or potential); and other significant developments in connection with civil disturbance planning and operations."

Today, critics ask whether this opened the door legally to keeping track of who was at antiwar or black-militant rallies, and entering that information into newly created computer files being developed on potential trouble spots and trouble makers.

At the time, Defense officials now say, no one was thinking much about those questions. What was on everyone's mind was whether the cities might go up in flames again.

It was normal, officials explain, for the Army to gather certain kinds of intelligence about any place they might have to go into — locations and size of police forces, names of local leaders who might be engaged to help quell disorders. Any more sensitive information would normally come from the vast FBI agent network.

It was not unusual at the time, officials say, for the Secretary of Defense not to have much direct contact with the individual services' intelligence branches.

Discussions with past and present Pentagon officials reveal that some people in the Johnson-era Pentagon felt military intelligence was going beyond traditional bounds and tried to stop it. It also appears that the Nixon Administration let pass some early opportunities to do the same.

Late in 1968, Pentagon officials say, McGiffert felt the ring of truth in a report

that Army intelligence agents had operated in a bogus TV news van outside Democratic Convention Headquarters in Chicago to watch goings-on.

McGiffert, as a lame-duck holdover in the new Nixon administration, sent out a memo to Army intelligence on Feb. 5, 1969, shortly before he left the government. The memo said essentially that "domestic intelligence collection isn't the Army's business, so let's stay out of it."

Some of the memo's recommendations, such as a ban on any covert intelligence unless specifically approved by the Secretary of the Army, were accepted. But, according to a current Pentagon official, the recommendation to drop the routine collection of information—such as following Black Panther groups around—was suspended. Had it been accepted then, one official now admits, the current Laird effort to rid the services of all such roles would be about a year ahead of schedule.

Officials also revealed that in February and March, 1969, the Pentagon attempted to draw up a memo of understanding between Laird and Attorney General John Mitchell.

The Pentagon draft, according to officials close to the effort, said basically that although the Army could perform this domestic intelligence function, it would be much better to avoid any military involvement in predominately civilian concerns. The Pentagon draft version recommended that the FBI take over such chores.

This version, according to the Pentagon's explanation, met with some resistance.

Though an agreement was signed on April 1, it still left the precise intelligence responsibility "wishy-washy," as one current official describes it.

Robert E. Jordan III is the Army's 34-year-old general counsel. He was deputy to the Army general counsel in May, 1967, shortly before the Detroit riots, and has been in the top job since September, 1967, providing a link between the administra-

tions.

"I think what happened," Jordan says, "was a natural consequence of giving the Army this civil disturbance mission without imposing any particular constraints. I'm confident there was no sinister purpose. . . . The best word for what happened is bureaucracy."

It was only after the King shooting in April, 1968, that massive federal riot planning began. Only 19 times in the country's history had federal troops intervened in civil disturbances. In April, 1968, there were troops in three cities and three more seemed on the verge of major violence.

"Everyone was scared to death of what would happen if we had another thing like that," Jordan says. "We had a helluva problem with troops and getting enough airlift, and everyone thought the summer of '68 would be a terrible one."

"The attitude was don't sit back. The people expect the government to be prepared, and I think it was that attitude that led us into collection of civil disturbance information, which, by the way, no one really knew how or what to collect. There was no Army doctrine on this before, and nobody realized the trouble it could cause."

"Once the 25-city protection mission was assigned," Jordan explains, "the big question was which cities? What factors should we consider? Did certain ones have a history of disorder? What is the relationship between police and blacks? Is it always near the flash point at some places?"

"I think the military people in the field were trying very hard to be responsive to what they thought people wanted back here. They tried to anticipate the boss. We certainly knew they were collecting civil disturbance type information but it never occurred to anyone that they would spy on a politician in a political sense, and frankly I don't think much of that got done."

"I think it's fair to say," Jordan adds, "that in some cases people in the field were collecting more than we realized. Then, bureaucracy being what it is, they wanted to do something with it and it got into the files. Two days after it was

collected, most of it was garbage, but it got into the files."

Jordan and other officials admit that by late 1968 it was apparent that the material being collected was largely useless in helping predict where trouble might flare and was no better than news dispatches or normal FBI reports. Yet, a key McGriffert recommendation for stopping this practice was not accepted.

Jordan says the first directive went out in March,

1970, to the Army's field intelligence offices to destroy all so-called spot reports—basically simple descriptions even minor local flareups—after 60 days. It had been discovered that these reports were being kept indefinitely and filed.

It was also discovered, Jordan says, that four computerized data banks had been set up, unknown to any of the top Army civilian officials or to the commander of the Army Intelligence Command at Ft. Holabird, Md.

Two of the banks were at Holabird. They stored reports by the Army's network of some 1,000 to 1,200 intelligence agents about civil disturbance "incidents" and

about "personalities" involved in these incidents. At Fort Hood, Tex., was another "incident" file, and one at Ft. Monroe contained information from the FBI.

The Pentagon officials say the banks at Holabird, for example, probably were set up by "working level people"—at least one colonel and a senior civilian employee using the same computers that handle the Holabird payroll. "I think they were just trying to do their job," one official says. "I don't think there was any sinister purpose."

The Army was in the process of destroying these files, explains Jordan, but until a civil liberties suit is settled, the Justice Department has impounded them

in case they are needed as evidence.

Last June, Secretary Laird ordered an end to all but specifically approved activities and the destruction of all civil disturbance files in Army field intelligence offices. Jordan said all that is left is material involving threats against the Army—such as stealing weapons, burning government property, or counseling about defections—plus security clearance information.

At the Counter-Intelligence Analysis Division in Alexandria, the Army took a different approach to the Laird order to destroy files. Information received there for analysis from both Army and FBI agents is stored on

microfilm in continuous reels. With millions on pages filed on all sorts of Army intelligence, the service has decided to destroy the index to the civil disorder information which is mixed in with everything else.

While the film will still be there, Jordan believes it would be all but impossible for anyone to find any specific parts.