

Out of the Shadows

Proposals Clarify CIA's Role

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"The American intelligence service", former Director William E. Colby of the Central Intelligence Agency said in a speech last week, "will now come out of the shadows on the edge of the law."

The shadows were cast by the National Security Act of 1947. It established the CIA and forbade it to exercise "police, subpoena or law-enforcement powers or internal security functions."

At the same time, however, it provided that the CIA director "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

The shadowy area was thus created. What actions could a CIA director take in the United States to protect his agency's sources and methods, without undertaking police and internal security functions from which he is legally barred?

President Ford attempted last Wednesday to remove

the law's ambiguity by an executive order.

Sen. Frank Church (D-Idaho), chairman of the Senate intelligence committee, said of the Ford action: "I think the President reaches beyond his powers . . . you cannot change law by executive order."

Church's committee immediately began to plan hearings for early March to review the Ford order.

The public, and most members of Congress before December, 1974, believed that the CIA did not operate inside the United States.

Presidents and intelligence officials knew otherwise, but because they had doubts about how far the agency could go, they wrapped CIA domestic operations in a cloak of secrecy.

On Dec. 22, 1974, The New York Times published a story describing "a massive, illegal domestic operation" against the antiwar movement and other dissident

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groups. Among the operations described were the maintaining of files on 10,000 U.S. citizens, break-ins, wiretapping, covert mail openings, physical surveillances and infiltrations of dissident groups.

Public concern sparked immediate action. The President appointed a commission headed by Vice President Rockefeller to look into the charges. The Senate and later the House organized intelligence investigating committees.

The Rockefeller Commission's report confirmed that illegal mail openings had taken place, and that the CIA violated its own charter in a six-year program called Operation CHAOS, a project "to collect, coordinate, evaluate and report on foreign contacts with American dissidents.

CIA's massing of 7,200 files on Americans, infiltration of domestic groups, wiretapping, bugging, break-ins, and using reviews of tax returns all were listed by the Rockefeller panel as being outside the CIA charter.

Indicative of the CIA's own concerns were several actions described in the Rockefeller report.

In November, 1974, according to the report, the CIA "turned to the National Security Agency 1100 pages of reports of interceptions of international communications of Americans "because a review of the materials had apparently raised a question of as to the legality of their being held by CIA."

In a footnote, the Rockefeller report noted that the CIA's security director in the early 1970s warned at

meetings that "surveillance of newsmen was improper" though surveillances were being carried out in 1971 and 1972 at the direction of then CIA Director Richard Helms, in an attempt to track down news leaks.

The Rockefeller commission found, "a great majority" of CIA's domestic activities permissible under the ambiguous law. It noted, however, that by giving the CIA the task of determining foreign influence on domestic groups, the agency inevitably "on some occasions (would) exceed the legislative restrictions."

The commission recommended that the CIA destroy files "which have no foreign intelligence value" from programs such as CHAOS and its own security office's infiltration of dissident groups.

President Ford's order dealing with the issues raised by news reports and the Rockefeller commission about spying on Americans has the following effects:

Wiretaps. The CIA is barred from any wiretapping inside the United States except to test equipment under procedures approved by the Attorney General.

NSA and CIA, however, are still permitted to intercept international communications to or from the United States and of Americans abroad, though only under new procedures approved by the Attorney General. A Justice Department official said these procedures are classified.

Within the United States, according to the Justice spokesman, only the FBI is permitted to carry on foreign-intelligence wiretaps. The President will seek leg-

islation to require warrants for such taps. In the interim, a procedure has been established by Attorney General Edward H. Levi that requires written requests and approval by an advisory panel as well as the Attorney General.

• Break-ins. The order bars all break-ins within the United States. However, it permits break-ins "directed against United States person abroad" by the CIA under "procedures approved by the Attorney General." Those procedures, according to a Justice spokesman, are classified.

• Physical surveillance. Such surveillances can be undertaken in the United States without warrant by CIA against present or former agency employees, and present or former contractors but only for the purpose of preventing unauthorized disclosure of "foreign intelligence, or counterintelligence sources or methods or national security information." The last category includes almost all classified material.

The agency is also permitted to maintain surveillance of U.S. citizens "who contact" present and former CIA personnel or foreigners who are the subject of CIA investigations. A limitation is that the surveillance may continue "only to the extent necessary to identify such U.S. person."

White House aides say that under this provision surveillance may unknowingly include a journalist, but would cease once the person under surveillance is identified as a journalist. The aides said there are classified guidelines applicable to investigations involv-

ited from covert infiltration of U.S. organizations except those "composed primarily of non-United States persons which (are) reasonably believed to be acting on behalf of a foreign power."

Domestic activities of U.S. citizens. The CIA is permitted to collect, under the umbrella of protecting classified material, information on the domestic activities of American citizens who are present or former CIA employees, contractors (including their former employees,) applicants for CIA employment and the much wider category of "persons in contact with the foregoing."

The agency is also permitted to gather such information on individuals "reasonably believed to be potential sources or contacts" for CIA, but only to determine their "suitability or credibility," apparently to work for the agency.

The CIA can also collect information on Domestic activities of Americans if it is done overseas, or if done from cooperating U.S. sources as part of foreign-intelligence gathering.

NSA is specifically authorized to collect information on domestic activities of Americans through its international communications intercepts.

CIA is permitted to gather information on Americans who "pose a clear threat" to its facilities or personnel—an authorization that could have covered questioned actions in the past, and apparently would permit inquiry into Counter-Spy, the publication that recently has listed names of CIA employees.

The President's order permits a category not publicly mentioned before. It specifically allows collection of information on the domestic activities of American corporations and other commercial organizations "which constitutes foreign intelligence or counterintelligence."

• **Maintaining files.** The CIA is permitted to maintain files on Americans — even those files developed by NSA intercepts which in 1974 were considered so problematical that they were returned to NSA.

The President's order, in the field of files, creates an ambiguity. At one point it specifically prohibits distribution of information on individuals who present "a clear threat" to a CIA facility outside the agency. But in the next section of the order, it states that nothing shall prohibit dissemination of just such information to all other agencies gathering foreign intelligence.

• **Dissemination.** Agencies are permitted to disseminate to "appropriate law enforcement agencies," information picked up "incidentally" to any operation when there may be "a violation of law."

There is no prohibition on distributing incidentally gathered information — such as political gossip.

ing journalists.

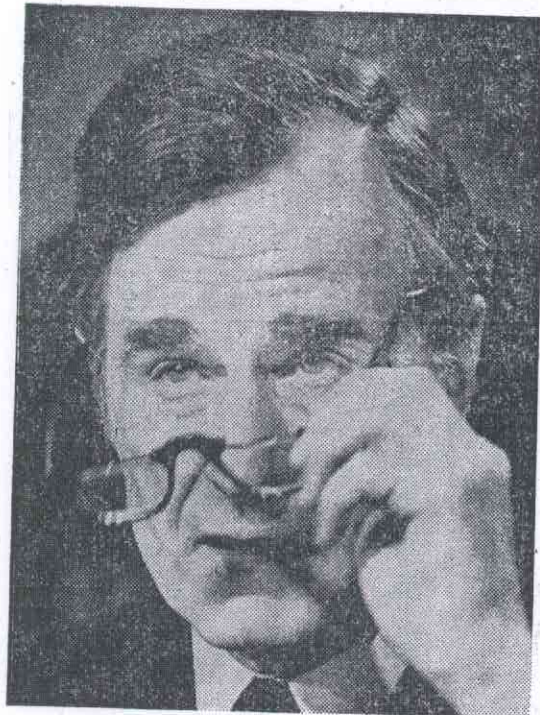
Overseas, the CIA is permitted to carry on investigations, including surveillance of Americans who are "reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening to the national security."

In the 1960s antiwar and black groups were presumed by the Johnson and Nixon administrations to have received support from North Vietnam, Cuba and other foreign sources and to be carrying on activities that threatened the security of the United States.

• **Mail openings.** The CIA is barred from opening any mail "in the United States postal channels." The order does not carry and prohibition against the CIA opening mail to or from Americans in other countries—a practice it carries out, according to intelligence sources.

Tax returns. The CIA is not allowed to inspect tax returns except with Treasury Department approval.

Infiltration of domestic groups. The CIA is prohib-



United Press International

CIA Director George Bush pauses during appearance on TV interview show "Meet the Press" (NBC, WRC) yesterday. Bush acknowledged past "abuses" by the CIA and praised President Ford's proposals for tightening oversight of U.S. intelligence agencies.