

Americans at Home, Abroad

U.S. Backs Off on Easing Spy Rules

By Mary Thornton
Washington Post Staff Writer

The Reagan administration has backed off significantly from plans, leaked earlier this year, to ease restrictions greatly on spying on Americans here and abroad.

In a speech this week to the New York City Bar Association, Richard Willard, intelligence adviser to Attorney General William French Smith, said the administration is continuing to revise executive orders and regulations governing intelligence activities to make them "simpler, easier to apply and less restrictive of lawful intelligence practices."

Willard's speech made clear that the administration no longer supports a draft executive order, obtained in March by *The Washington Post*, that would have sanctioned covert CIA operations in this country.

In addition, the order would have eliminated the Carter administration's standard of using the "least intrusive means possible" to collect information, and would have restricted the attorney general's veto over such controversial investigative techniques as break-ins, mail opening, bugging and photographing.

Willard, who serves on the interagency task force drafting the new executive order, said yesterday that the original draft was never intended to be policy. He said it was put together by "middle-level people," not policymaking executives.

"One of the problems with the draft was that the wording was not as precise as it should have been . . . It made it look as if the CIA was going to get more involved in domestic spying . . . The language made things look worse than they really were," Willard said. "No one contemplates any changes such as getting the CIA involved in domestic spying."

However, intelligence community

sources say that the draft proposal carried a cover letter signed by CIA Director William J. Casey when it was circulated internally.

In his speech, Willard said, "We are committed to the principle that intelligence agencies are subject to the rule of law and that all intelligence activities must be conducted in a lawful manner."

On the question of using the controversial investigative techniques without a judicial warrant, Willard said the administration had decided to continue the Carter policy.

That means the president must approve the type of surveillance and the attorney general then must approve the activity case by case after determining probable cause to believe the subject of the surveillance is an agent of a foreign power.

Willard indicated that the administration was going a step further in explicitly defining who can be considered an agent of a foreign power, a change the American Civil Liberties Union immediately praised.

Those who can be so classified will be officers or employes of foreign governments who are not U.S. citizens or permanent resident aliens, and any person who "knowingly engages in illegal clandestine intelligence activities, sabotage or international terrorism on behalf of a foreign power."

Willard said that, although the executive order would probably be more in line with Carter's regulations than first assumed, the final order and regulations will show changes.

"After the scandals . . . of the mid-1970s, it was thought that it was necessary to put the intelligence agencies on a tighter leash," he said. "We think it went much too far and limited the effectiveness of the intelligence agencies by subjecting them to a lot of bureaucratic regulations."

Willard said the administration also will propose legislation to tighten the Freedom of Information Act and will push existing legislation that would make it a crime to reveal the identity of a covert U.S. intelligence agent.

CIA Seeks to Shield Files From Public Disclosure

3/26/81
By George Lardner Jr.
Washington Post Staff Writer

The CIA apparently has decided the time is ripe for an all-out assault on the Freedom of Information Act.

Repeatedly attacking the law in a letter accompanying its annual freedom-of-information report to Congress, the agency is asking for a complete exemption for all of its records.

Max Hugel, CIA's deputy director for administration who submitted the report, contended that the law has hindered the agency's "ability to perform its vital mission" while only rarely producing information of public interest.

Critics of the CIA sharply dispute both contentions. The Freedom of Information Act has brought to light activities such as the CIA's domestic spying on the Rev. Martin Luther King Jr., and the scope of the agency's secret behavior control and drug testing programs.

For the last two years, CIA officials have been seeking a broad exemption for operational and technical files, while always insisting that the agency was not seeking to escape the law entirely.

Hugel voiced no such reservations, declaring: "While we do not question the principle that U. S. citizens should have the right to know what their government is doing and has done in the past, we firmly believe that an exception should be made in the case of the CIA."

According to the accompanying report, submitted this month, the CIA calculated its personnel expenditures in administering the Freedom of Information Act in calendar 1980 at \$1,735,000. This is substantially less

than other government agencies and departments such as Treasury, Justice and Defense.

The agency received 1,212 freedom of information requests last year and another 1,614 under the Privacy Act. A total of 2,348 other inquiries was carried over from 1979.

The report showed that the CIA also "canceled" 353 requests last year after seeking and failing to get "fee deposits" — written promises that all reasonable search fees would be paid — notarized releases from third parties, or other "clarification." Some of these devices have been assailed as bureaucratic efforts to frustrate the law's purpose.

At the same time, the CIA said it had approved, in whole or in part, 681 Freedom of Information and Privacy Act requests. The biggest number of inquiries, 976, was listed under the heading: "No records found."

Retain Domestic Spying Curb, Senate Panel Urges Reagan

10/28/81
By George Lardner Jr.
Washington Post Staff Writer

The Senate Intelligence Committee recommended yesterday that President Reagan reject proposals to give the CIA wide-ranging authority to infiltrate and influence the activities of domestic organizations.

Sen. Barry Goldwater (R-Ariz.), the committee chairman, said the seven Republicans and two Democrats present at a session yesterday morning all agreed to ask the White House to maintain the current restrictions that were imposed in 1978.

Under a proposed new executive order for the intelligence communi-

ty, the Central Intelligence Agency would be officially authorized for the first time to penetrate purely domestic organizations for any purpose that the CIA director or his designee determined to be lawful.

The infiltration could even be for the purpose of "influencing the activity of the organization or its members" so long as the attorney general was satisfied that this would not interfere with anyone's legal or constitutional rights.

Speaking after a closed, hour-long meeting of the committee, Goldwater indicated that the rest of the 23-
See INTELLIGENCE, A10, Col. 1

Panel Backs Domestic Spying Curb

INTELLIGENCE, From A1

page draft had been acceptable to the committee at large although individual members wanted other revisions as well. He said they would be free to express their concerns to the White House.

Goldwater also announced that the committee has now completed its investigation into CIA Director William J. Casey's business dealings in recent years and still sees "no basis... for concluding that Mr. Casey is unfit to serve as director of central intelligence."

The committee's vice chairman, Sen. Daniel Patrick Moynihan (D-N.Y.), suggested, however, that the panel may still have some critical observations to make when it issues its final report on the matter, perhaps by the end of November.

It also appeared that the senators have yet to complete their study of the administration's proposed new executive order despite Goldwater's remarks. The committee is still waiting for some additional information about it, including details about the guidelines the Justice Department will have to issue to implement it.

"We didn't decide anything finally," Moynihan stressed following yesterday's session.

The New York Democrat, who

has been much more critical of the order than Goldwater, will take charge of the committee later this week, probably for the rest of the year. Goldwater is leaving for Arizona Thursday where he faces hip surgery in early November and then a prolonged recuperation period.

Moynihan has protested that the draft order virtually guarantees that the CIA and the rest of the U.S. intelligence community would "suddenly be revived as a threat to liberties internally."

The president is free to ignore the advice from Capitol Hill and promulgate the order as it stands, but administration officials have suggested at least some changes are in store to allay fears about a new era of domestic spywork.

One revision may involve what some critics view as a blank check for any undercover operations the president might deem necessary. The draft order, a copy of which was obtained by The Washington Post, has a catchall sanction for "such other intelligence activities as the president may direct from time to time." It then defines "intelligence activities" as "all activities... authorized... pursuant to this order."

The current rules for undisclosed

participation in domestic organizations were promulgated by President Carter in January of 1978. They give the FBI broad authority to infiltrate domestic groups "in the course of a lawful investigation," but the CIA and other U.S. intelligence agencies are subject to two main limitations.

Unless the organization is composed primarily of foreigners and is reasonably believed to be acting on behalf of a foreign power, the CIA can penetrate it only if:

- The infiltration comports with publicly announced standards approved by the attorney general and:

- The infiltration is not undertaken for the purpose of influencing the activity of the organization or its members.

Sen. Patrick J. Leahy (D-Vt.) said the committee is likely to make additional recommendations before it sends its views to the White House Friday. He told a reporter that he wants to make sure that nothing in the implementing guidelines—some of which will be secret—will be "contradictory to the order."

"Nobody seemed overly eager to send down a blanket approval at today's meeting," Leahy added. He said he considered this "a good sign" since the panel's advice is likely to carry more weight if it is unanimous.

Ex-Sen Church Testifies

Proposed Executive Order on CIA Is Faulted at Capitol Hill Hearing

11/13/87
By George Lardner Jr.
Washington Post Staff Writer

The first chairman of the Senate Intelligence Committee, former senator Frank Church, said yesterday that the Reagan administration's proposed executive order on intelligence is "as unwise as it is unwarranted."

Testifying before a House Judiciary subcommittee, Church said the latest version of the proposal to surface publicly was "plainly designed to enlarge the role of the CIA inside the United States, with respect to spying on American citizens and conducting covert operations in our own country while diluting the role of the Justice Department as a check on the legality of these activities."

Church, an Idaho Democrat who headed the Senate investigation of CIA and FBI excesses and illegalities in the mid 1970s, said it was a misfortune that that inquiry did not lead to enactment of a legislative charter for the intelligence community.

The result, he said, has been to make the rules subject to change every four years, dependent "on the accusations made, and promises given, in the heat of the most recent presidential campaign."

"Our civil liberties are too precious to be toyed with in this man-

ner," Church protested at a public hearing before the House civil rights subcommittee headed by Rep. Don Edwards (D-Calif.).

There have been reports that the White House is revising the proposal again in light of congressional criticisms and that it may remove at least one major bone of contention: language giving the CIA authority to infiltrate and under some circumstances influence the activities of purely domestic organizations in this country.

Church, however, said that change alone would not be sufficient in his view. Other provisions of the proposed order, he said, would still permit the CIA to conduct covert actions and to use intrusive methods in order to "collect information" from law-abiding Americans in this country, even if they are not suspected of acting on behalf of a foreign power.

"I would leave the line where it is now drawn in the existing order" issued by President Carter in 1978, Church said. He said the FBI was much better equipped to carry out whatever operations are needed in this country since its agents are attuned to law enforcement.

By contrast, Church said, "the CIA in its normal work, operates in utter disregard of the consequences of the law" of other countries. "Its people are trained to break the law



FRANK CHURCH

... "as unwise as it is unwarranted"

[abroad] . . . or they would get precious little intelligence . . . When you bring those people home, you invite trouble, serious trouble."

Chairman Edwards said he was also concerned with other aspects of the draft executive order that would drop restrictions on CIA funding of local and state police agencies and could allow the resumption of old and controversial relationships. Edwards said he feared this could allow the CIA to "use local police in situations it would be prohibited from getting involved in" on its own.

Turner Cites 'Intrusion' Risk Ex-CIA Director Faults New Intelligence Order

12/9/81
By George Lardner Jr.
Washington Post Staff Writer

Former Central Intelligence Agency director Stansfield Turner said yesterday that President Reagan's new executive order for the intelligence community raises the danger of excessive spying on Americans and invites renewed public suspicion of the CIA.

He said the new decree signed by Reagan last Friday deserved praise for its positive tone and emphasis on good intelligence. But Turner said the easing of various restrictions imposed by the Ford and Carter administrations poses too many risks, both of unwarranted "intrusion into the lives of Americans" and of bad blood with the FBI.

The former CIA director told reporters at a breakfast meeting that last December, before leaving the agency, he had officials there prepare a list of typical operations that might be undertaken "if there were no restrictions" on the clandestine service.

Turner would give no details, but he said there was only one item, out of about 15 suggestions, that struck him as worthwhile.

The Reagan order, which replaces one that Carter promulgated in January of 1978, allows the CIA to use secret means to collect "significant" foreign intelligence from unsuspecting Americans here and abroad.

It will also permit the CIA to undertake covert operations in the United States so long as they are "not intended" to influence U.S. policies, politics, or the press.

Turner said there were instances during his four-year tenure at the CIA when "it would have been convenient" to take a covert action that started abroad and continue it in the United States, but he would prefer to forgo that opportunity rather than overturn the longstanding ban against such operations at home.

"The very fact that you have now permitted it in an executive order engenders suspicions among the public," he said, especially among "the people who think the fillings in their gold teeth were put there by the CIA."

As for the possibility of missteps in the new authority to spy on Americans here and abroad in search of "significant" foreign intelligence, Turner said:

"It's not just that none of us wants to undermine the right of privacy . . . The CIA is not trained to operate within the constraints of American law. The FBI is. You are being unfair to a CIA officer when you put him in that environment where he's more likely to make a mistake."

Turner said he was also disturbed by the Reagan order's elimination of provisions requiring the director of central intelligence (DCI) to get National Security Council clearance for highly sensitive intelligence-collection operations. Turner said this would make it more difficult for the DCI, in turn, to demand to be kept informed of such undertakings himself.

As a result of the Senate investigations of the mid-1970s, Turner said, "I know that some of my predecessors did not know of sensitive operations" that subordinate units were conducting.

The Reagan order was developed after what amounted to consultations with and advice from the Senate and House Intelligence committees, but Turner said he thought this was a practice to be deplored rather than welcomed.

"The Congress is now co-opted," he said. He said if he were a member of Congress who was not a member of one of the intelligence committees, "I'd be furious. They [the committees] ought to be detached from this process."

Hearings Scheduled On Lifting CIA Ban

By George Lardner Jr.
Washington Post Staff Writer

The chairman of House Judiciary subcommittee on constitutional rights announced yesterday that it will open hearings next week on the administration's proposed order to lift restrictions on CIA domestic activities.

The controversial draft, which has been circulating on Capitol Hill since late last month, has been the subject of secret negotiations between administration officials and members of the House and Senate Intelligence committees, but yesterday's announcement represents the first attempt to debate the issues in a public forum.

Rep. Don Edwards (D-Calif.), the subcommittee chairman, said he decided to move ahead with a public hearing Wednesday despite attempts by the House Intelligence Committee to get him to hold off.

"They said that they were working it out behind closed doors with the CIA and the intelligence agencies, that concessions were being made," Edwards reported. He said he saw no justification for such secrecy.

"The public is entitled to know about what the intelligence community has in mind for activity in the United States," he said.

The proposed executive order, which has drawn sharp criticism from a number of lawmakers, would authorize the CIA to conduct covert operations in this country, to infiltrate and influence domestic organizations and to resume many of the ties it had with state and local police agencies before the congressional and executive branch investigations of the mid-1970s.

Administration officials have denied they intend to begin domestic spying on any widespread or excessive scale, but they assert at the same time, as one anonymous spokesman told the Associated Press Thursday, that "President Carter went too far in protecting civil liberties. He erred in placing too many

restrictions on the intelligence community."

Edwards said he was especially concerned by changes from the current executive order promulgated by Carter in 1978 that would:

- Eliminate restrictions on the collection and dissemination of information about U.S. citizens who are not the subject of an investigation.

- Eliminate or loosen restrictions on physical surveillance, infiltration of domestic organizations and other highly sensitive investigative techniques that can be used by the CIA on Americans here and abroad.

- Diminish the role of the attorney general in formulating, reviewing and approving intelligence policies and practices in this country.

According to a study by the Senate Intelligence Committee staff, the draft would also give the president "a sweeping grant of authority" to order the intelligence agencies to conduct any kind of operation he might want, at home or abroad.

"Currently, it is the FBI and the attorney general who are responsible for intelligence activities within the United States," Edwards said in his announcement. "I believe this is proper. There is no indication the FBI has not been doing its job."

Edwards declined to name the witnesses he intends to call, but said they would include "former public officials familiar with current intelligence policy and procedure." He said the Justice Department has also been invited to testify, but has not responded.