

Domestic Spying Laid to System, Rather Than Individuals

Reforms? Might Legitimize Controversial CIA Acts

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The Rockefeller commission's report on the Central Intelligence Agency's domestic misdeeds sidesteps some crucial questions about who's to blame and will probably provoke new debate over how to control the secret agency.

The investigation compiled and analyzed a mountain of previously secret data, made public yesterday, on the domestic activities which got the CIA in trouble last winter when they were first revealed. The commission concludes that many of these—spying on political dissidents, mail openings, keeping secret files on American citizens—went beyond the proper limits of the CIA's charter, if not beyond the law itself.

But the findings get fuzzy when it comes to resolving the conflicting testimony of high officials over who authorized these enterprises. The blame falls more on the system, less on individuals, some of whom are still in government. In short, the report did not answer the question: who is lying?

Second, while the commission recommends that a wide variety of CIA practices, from burglary to mail opening, should be perma-

nently forbidden, its recommendations for "reforms" may also be read as legitimizing some of the CIA's controversial surveillance activities inside the United States.

The eight-member commission, chaired by the Vice President, was born six months ago amid widespread skepticism because its membership was dominated by cold warriors long associated with the "intelligence community." Now that the commission's report is public, questions seem likely to continue.

The commission proposed amendments to the National Security Act of 1947 to eliminate "ambiguities" about what the CIA can and cannot do, but the clarifications in some cases might actually strengthen the agency's ability to participate in domestic security cases.

The proposed amendments, for instance, would say explicitly what many people assumed was already in the law—that the CIA activities must concentrate on "foreign intelligence" only. Yet they would also grant the agency explicit authority for providing guidance and technical assistance to other agency and department heads in protecting against

unauthorized disclosures within their own agencies and departments."

Language such as "guidance and technical assistance" is subject to stretching when a bureaucracy seeks to expand its role. Would "technical assistance" cover the red wig and spy camera which the CIA provided to the White House "plumbers"? Could the CIA assign undercover agents for "guidance" to another federal agency that is chasing domestic suspects?

Likewise, the commission called on President Ford to issue an executive order defining more narrowly what domestic surveillance activities the CIA can properly undertake on American citizens. It is at least arguable that the proposed limits might authorize some of the very spying on domestic political dissidents which provoked the current controversy.

The executive order, for instance, would permit surveillance on anyone associated with the CIA, past or present, for security purposes. That means the agency could barge author and ex-agency official Victor Marchetti, which it did in 1971.

The agency would be permitted to collect informa-

tion, secretly or otherwise, on any "person or activities" that pose a clear threat to CIA facilities — "Provided that proper coordination with the FBI is accomplished." Who would determine if an individual or organization is a threat? The director of central intelligence.

That is the same rationale that the CIA used to justify

News Analysis

placing at least 12 infiltrators in Washington area antiwar groups—Women's Strike for Peace, the Washington Peace Center, Congress on Racial Equality and the Student Nonviolent Coordinating Committee, among others. Those particular activities went too far, the commission concluded, but the basic rationale was accepted.

"The CIA should not infiltrate dissident groups or other organizations of Americans," the commission said, "in the absence of a written determination by the director of central intelligence that such action is necessary to meet a clear danger to agency facilities, operations or personnel and that adequate coverage by

law enforcement agencies is unavailable."

If you turn that proposal inside out, it says the CIA can infiltrate those political groups if its director says it's okay and the FBI isn't doing the job—which is approximately the situation which government officials claimed in 1967 when that surveillance was begun.

The proposed executive order would also allow the CIA to investigate anyone "suspected of espionage or other illegal activities relating to foreign intelligence," provided again that it coordinates its operation with the FBI.

In the past, while the limits were vague, and ill-defined, the general assumption was that the FBI had sole jurisdiction for investigating espionage cases. This new language could be interpreted as actually expanding the CIA's right to probe these matters [while still barring it from law-enforcement functions]. Further, the commission endorsed the CIA's efforts to get new legislation imposing criminal penalties on any of its employees, past or present, who divulge classified information.

Among the 30 recommendations, many are designed

to tighten control over the agency's far-flung operations, both from outside and from within. The Rockefeller commission wants Congress to create a new joint committee on intelligence. It wants the White House to strengthen the oversight functions of the Foreign Intelligence Advisory Board and to make sure that White House instructions go to the CIA through only one recognized channel.

The President, the report said, should make clear that the agency has no authority to open mail or commit burglaries or do some of the other practices which the investigation found were illegal. If the CIA needs to examine income-tax returns, it should follow the established legal procedures. If the agency needs electronic surveillance, it should leave that job to the FBI.

Inside the intelligence agency, the commission saw need for restructuring—strengthening the inspector general's office and bringing outside talent into the legal counsel's office, which rules on the propriety of activities. The director, the report suggests, ought to be an outsider too—someone with status of his own.