

Hoover Kept Secret Files on 17 Hill Figures

Improper Use of FBI Described

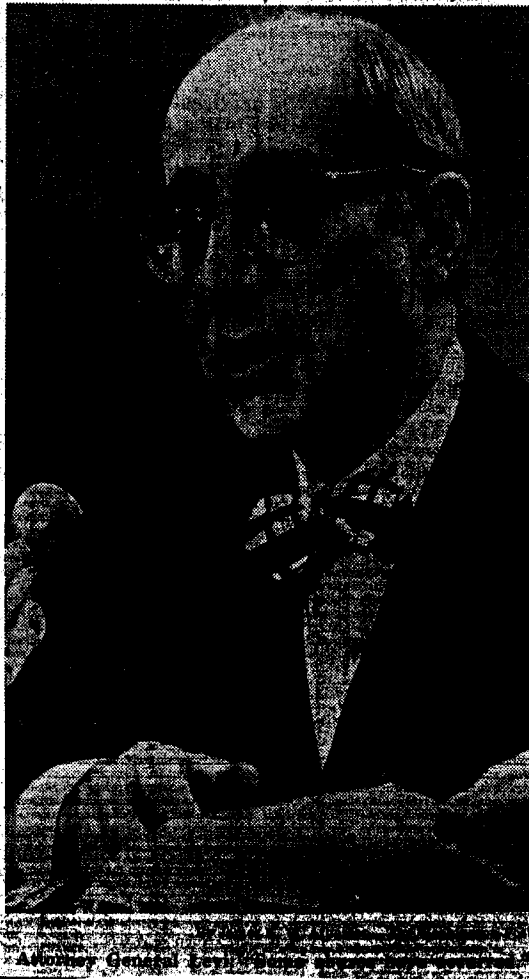
By Lawrence Meyer
Washington Post Staff Writer

Attorney General Edward H. Levi testified yesterday that J. Edgar Hoover kept files with derogatory information about 17 members of Congress in his private FBI office. Levi said that he and FBI Director Clarence M. Kelley agree that such files should not be held by Kelley and that they are not.

Levi, appearing with Kelley before a House Judiciary subcommittee, also cited a number of instances spanning three different administrations where Presidents directly or indirectly had made improper requests of the FBI.

Acknowledging that "some abuses have occurred," Levi said that he has begun the process of formulating guidelines to prevent improper activities by the FBI and misuse of the FBI by persons outside of it.

Levi said he had directed Kelley to report to him "immediately any requests or practices which in his judgment are improper or which, considering the context of the request, he believes present the appearance of impropriety." Levi said Kelley has issued similar instructions to the FBI. In his first appearance before a congressional committee since assuming office earlier



this month, Levi described five instances of "misuse of the resources" of the FBI. Although Levi did not name the Presidents under whose authority the improper requests were allegedly made — and committee members did not ask — Deputy Attorney General Laurence H. Silberman readily supplied names in several instances when questioned by reporters after the hearing.

Most of the instances described by Levi, according to information supplied by Silberman and Justice Department sources, occurred under the administration of Lyndon B. Johnson. Two other incidents were cited by Levi involving the Nixon and Kennedy administrations.

The instances cited by Levi included:

- "A check of FBI files on the staff of a campaign opponent." According to Silberman, this instance involved a request from President Johnson, made through White House aide Bill Moyers, apparently about Johnson's 1964 presidential opponent, Sen. Barry M. Goldwater (R-Ariz.).

- Improper use of the FBI in connection with the political process. An incumbent President, identified by Silberman as Johnson, "caused the FBI to gather intelligence relating to a political convention under circumstances that, although cast in legitimate law enforcement terms, could — and some would say should — have been suspected of being politically motivated," Levi said.

Silberman identified the in-

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stances as previously reported orders from Johnson involving the 1964 Democratic National Convention and an incident in 1968 two weeks before the election that Silberman declined to describe.

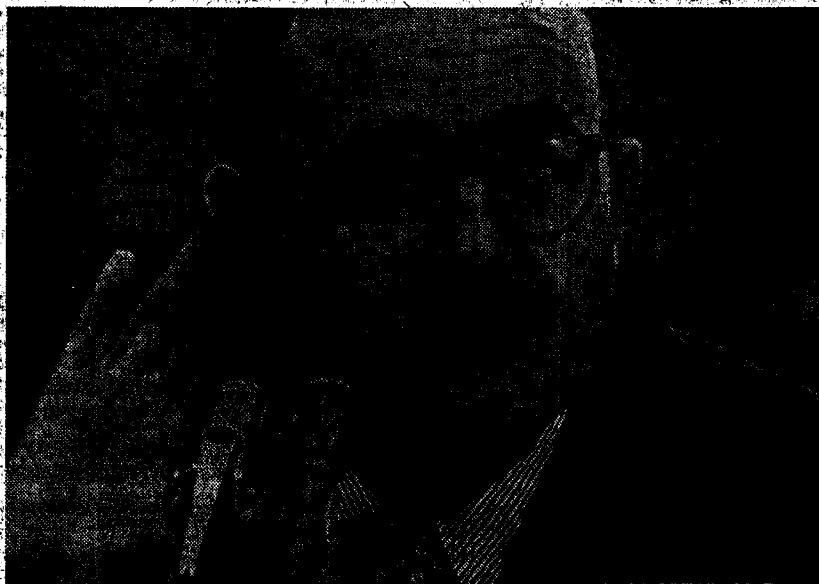
Orders to the FBI in a "few instances" to report on "certain activities" of members of Congress who opposed a President's policies.

Two instances were cited by associate Deputy Attorney General James A. Wilderotter involving Johnson in 1966 and 1967. Wilderotter cited Nixon in one 1970 instance and one for President Kennedy, through Attorney General Robert F. Kennedy, as having gathered information through the FBI on congressmen and senators critical of their policies.

Use of information in FBI files in "a very small number of instances in which derogatory information legitimately obtained by the bureau was disseminated to other members of the executive branch to enable them to discredit their critics," according to Levi. No examples were cited.

Use of the FBI in connection with other legitimate law enforcement activities. According to a Justice Department source, Johnson ordered the FBI to investigate the circumstances under which the Treasury Department was asked to use a body recorder in connection with the Robert G. (Bobby) Baker investigation, after the FBI had declined a Justice Department request. Johnson reportedly ordered a report back on whether any of those involved was "close to Bobby Kennedy."

According to this source, Johnson "made a lot of calls during the Baker investigation" to Hoover asking him "to check out all these Republicans who deal with Baker." Baker, a Johnson protege and high-ranking congressional employee, was convicted in federal court of tax evasion



Deputy Attorney General Lawrence H. Silberman listens to a question.

Levi, who suggested that an executive order be issued restricting to only a few officials the authority of the White House to ask the FBI for information, called it an "inappropriate practice" for a President to ask the FBI information on members of Congress.

Silberman, who is expected to resign soon as deputy attorney general, said "the director of the FBI and the Attorney General should refuse" if the President ask for materials from the FBI to be used for political purposes.

In discussing the files Hoover kept in his private office, Levi noted that the FBI has 6.5 million files with 55 million index cards for cross-reference purposes.

Hoover, Levi testified, had in his office 164 files that covered a period from the 1920s until shortly before his death in May 1972. Of the total, Levi said, 13 files involved such things as memoranda concerning attempts to remove Hoover

as director and 48 involved public figures or prominent persons. The other files involved security, administrative, personal and policy matters, Levi said.

Of the 48 folders on public or prominent figures, 17 were members of Congress and two are still in Congress, Levi said, without elaboration. In one instance, Levi said, a document indicates that derogatory material concerning a congressman who had attacked Hoover "was improperly disseminated."

Although Levi said that the files were taken out of the director's office when Hoover died and that he and Kelley agreed that Kelley should not have such a private file, Levi declined to commit himself to destroying any congressional files not related to the FBI's authority to investigate under federal laws or executive orders.

Levi and Kelley both indicated that under present law and procedures the FBI can

not destroy materials in its files relating to members of Congress. Even though the material is often derogatory and is not substantiated, both Levi and Kelley argued, it can be useful to the FBI to protect the members of Congress from threats or attacks. Additionally, they said, the FBI needs to keep the materials to show that, in some instances, it lacked authority to investigate the charges made.

Pressed by Reps. Herman Badillo (D-N.Y.) and Robert F. Drinan (D-Mass.) to cite the authority that permits the FBI to keep unsolicited derogatory information on members of Congress, Levi was unable to supply an answer acceptable to them.

Rep. M. Caldwell Butler (R-Va.) said that Levi, when devising guidelines for unsolicited information should "give some thought" to telling the FBI "you can take it and forget it." Kelley said he is "hopeful" that the guidelines will give the FBI "some discretion."