

Justice Clears CIA Employees In Openings of Overseas Mail

By Mike Shanahan

Associated Press

The Justice Department said yesterday it will not prosecute Central Intelligence Agency employees who took part in a secret 1953-'73 program of opening overseas mail.

The department concluded after a lengthy investigation that convictions would be unlikely if charges were brought.

For 20 years the CIA opened letters addressed to thousands of Americans from such countries as the Soviet Union and Communist China.

In a lengthy report, the Justice Department acknowledged that the mail openings "would be unlawful if undertaken today . . ."

Nonetheless, the report said there will be no prosecutions because of the unavailability of important evidence and the "state of the law that prevailed during the course of the mail openings program."

"It would be mistaken to suppose," the report said, "that it was always clearly perceived that the particular mail opening programs of the CIA were obviously illegal."

The report said there is evidence "suggesting that President Eisenhower had knowledge of and approved" the start of the program.

In interviews, senior officials of the Eisenhower administration recalled that the mail openings were discussed at Cabinet meetings, the report said.

It is not clear, the report said, how much former Presidents Kennedy or Johnson were aware of the project, although both were briefed regularly by CIA officials on sensitive CIA operations.

Former President Nixon has said he was aware that mail from China was being monitored, but did not know any was being opened.

Thus, the department said that in a criminal trial it would be unable to prove that the CIA employees were acting without presidential knowledge or approval.

The department said its investigation showed that the CIA first monitored overseas mail of U.S. citizens in February, 1953, when envelopes to and from the Soviet Union were photographed with Post Office cooperation.

Gradually the program expanded to include opening and reading first-class mail coming through postal facilities in New York City.

The report said the CIA also ran a West Coast operation in which more than 2,100 pieces of mail from China were opened between 1969 and 1971. Any prosecution on that operation is barred by the statute of limitations, the department said.

In 1958, the report said, CIA officials asked FBI counterparts if they had any interest in the mail opening program. With the approval of the late FBI director, J. Edgar Hoover, the FBI gave the CIA names and categories of people and organizations in which it had an espionage or counter-espionage interest.

"Such lists were used as additional guides by the CIA in making selections from the United States-Soviet mail that passed through the CIA checkpoint," the report said.

Twice during the early 1960s, the Justice Department was prosecuting cases which if brought to trial would have relied upon FBI mail openings, the report said.

Both prosecutions were halted. It is not clear whether prosecutors feared that the evidence would be excluded as being illegally obtained or that the mail opening project would be exposed.

Whichever, the report said, "the effect was the same: it allowed the programs to go on as before, and it (the department) did not instruct the FBI or the CIA to cease opening mail."

Justice Department lawyers did not identify any of the CIA employees who actually opened mail. Justice officials declined to answer questions on the report.

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