

Justice Quashes Panther Indictment, Decrying Secret Infiltration by Police

By MARCIA CHAMBERS

An Acting Supreme Court justice yesterday denounced a special Police Department intelligence unit for mounting what he said was a "broad and penetrating" secret infiltration that violated the constitutional liberties of the people of the Lower East Side for over two years.

The sweeping denunciation of the police unit, then known as the Bureau of Special Services (BOSS) came as Justice Peter J. McQuillan granted a

defense motion to dismiss the state's two-year-old indictment against Robert Steele Collier, who a decade ago was convicted of conspiring with others to blow up national monuments, including the Statue of Liberty.

Infiltration Reported

"A police agency does not have unlimited power to plant a spy within a community," Justice McQuillan wrote in a strongly worded 56-page decision. "Such unbridled power

clashes with the values of an open society."

Justice McQuillan said that five days after Mr. Collier and 12 other "Panther 13" defendants had been acquitted of alleged conspiracy to bomb police stations and other public buildings, BOSS sent an undercover detective named Oswaldo Alvarez to infiltrate the Lower East Side community where Mr. Collier lived.

At the time—May 18, 1971—there was "no probable cause" that a crime had taken place. In fact, the justice noted, the evidence that led to Mr. Collier's conspiracy and gun indictment was developed some 18 months after the infiltration began.

During the two years that Detective Alvarez engaged in "spy activities," he made duplicate keys of apartments and community offices and forwarded them to BOSS officials, according to Justice McQuillan.

The detective also searched the apartments of certain people, occasionally confiscating their photographs and papers, the justice said, and surreptitiously took samples from Mr. Collier's typewriter.

On Feb. 8, 1973, five months before Detective Alvarez concluded his undercover activities, Patrick V. Murphy, then Police Commissioner, ordered the names of more than one million people and organizations purged from the intelligence files of the Police Department.

Mr. Murphy also promulgated new guidelines aimed at tightening controls over the collection and dissemination of intelligence.

Actions 'Frighten' Justice

At a hearing in State Supreme court three months ago, Gerald B. Lefcourt, Mr. Collier's lawyer, asked a BOSS official if he had reassessed Detective Alvarez's activities in light of those guidelines.

"I don't recall, sir. I don't think so," the official replied.

Justice McQuillan said he also had been appalled and "frightened" that, "without any guidelines," Detective Alvarez had attended and monitored community meetings involving school boards, housing associations, health centers and youth groups.

"The chilling effect of such police conduct upon freedom of speech and association is crystal clear," the justice de-

clared. "Many persons may hesitate to attend controversial meetings—in which rhetoric often exceeds intent—if their attendance and comments will be reported and permanently recorded in a police dossier. Since we are not a 'dossier society,' such a state of affairs is intolerable."

To curb what he described as an "open ended, free wheeling people mission," the justice urged the Legislature to act. "There is a compelling need for legislation to govern covert police activity," he said.

A Limited Curb

Justice McQuillan said his decision was not intended to hamper traditional undercover infiltration prompted by some evidence of criminal activity. But, he said in an interview, the police went "too far in this case."

The justice said that his decision to suppress the evidence gathered during the operation and to dismiss the indictment "constitutes partial reparation for the unwarranted ruptured privacy of the defendant's person, home, papers and effects."

Mr. Collier, 38, had been free on \$15,000 bail following his arrest with four others on July 5, 1973. Previously he had served 21 months of a five-year sentence on his conviction in the Statue of Liberty case.

Three of the four persons arrested with Mr. Collier, in what the police then described as a weapons and hand-grenade ring, pleaded guilty to some of the charges and were sentenced to prison last year by Supreme Court Justice Burton B. Roberts. The indictment against the fourth person was dismissed.

Robert M. Morgenthau, the Manhattan District Attorney, said yesterday he would decide whether to appeal Justice McQuillan's ruling after he read the opinion.