

FBI's First Charter Promises To Safeguard Civil Liberties

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After months of preparation, the Carter administration is circulating a proposed FBI charter spelling out for the first time what the nation's chief investigative agency can and cannot do.

A final draft of the proposal made available to The Washington Post establishes "principles" designed to ensure against repetition of past abuses in which the FBI spied on law-abiding citizens.

It says the FBI will focus its attention on criminal conduct, use "minimal intrusion" in investigations and steer clear of lawful religious and political groups.

Administration leaders, including Attorney General Griffin B. Bell and FBI Director William H. Webster, have endorsed the proposal as one that is balanced to permit the bureau to aggressively pursue criminal inves-

tigations while protecting civil liberties.

But at least in part because not many people participated in the drafting process, some congressional aides and outside interest groups are questioning whether the lofty principles are supported by the actual provisions.

"We are relatively hopeful, because it does articulate important principles, that an enactable charter is possible," Jerry Berman, lobbyist for the American Civil Liberties Union, said yesterday. "But we do see several problems in the proposal that need clarification."

For instance, the charter proposes an expansion of current FBI powers to permit "investigative demands" for credit and insurance records not now available.

Berman said he questions whether that new authority should be in the

See CHARTER, A8, Col. 4

CHARTER, From A1

charter, because Congress has started drafting other laws specifically to protect the privacy of financial records.

A Justice Department attorney who took part in the drafting said yesterday that the new power was needed to and the bureau's recent emphasis on sophisticated white collar and organized crime schemes.

The administration is confident, he added, that a section-by-section analysis of the charter will satisfy doubters. The drafters aren't leaving loopholes that could lead to future FBI transgressions, he said.

The FBI's current statutory authority consists of a single paragraph of federal law. The 48-page proposal is now awaiting approval at the Office of Management and Budget and is expected to be introduced in early June, officials said yesterday.

It contains broad statements of policy to be backed later by attorney general guidelines as well as detailed descriptions of informant and under-cover activities and the proposed new access to financial information.

It allows the bureau to make preliminary "inquires" to determine whether full-scale investigations are needed. And it says the FBI can start an investigation on the basis of facts "or circumstances that reasonably indicate that a person has engaged, is engaged or will engage" in criminal activity.

Berman said he had questions about such definitions and looks forward to congressional debate that will make the drafters' intent clear.

Bell spokesman Terry Adamson said the charter had been delayed while the administration sought a consensus on the main issues. "We expect more debate," he said. "And we'd never take the position of be-

ing absolutist if improvements are proposed."

Spokesman Homer Boynton said Director Webster is a strong supporter of the charter draft "in its present form."

Both Bell and Webster have said consistently that they favored a charter establishing broad operating policies while leaving specific procedures in the hands of the director and attorney general.

Webster also said in an interview a few months ago that he expects the charter to be all-inclusive. "If we can't find a basis for acting in the charter we can't do it," he said.

Last year Webster assigned John Hotis, a highly respected FBI lawyer, to work almost fulltime on the drafting.

The proposal addresses several areas that have troubled the FBI in recent months.

One provision forbids disclosing the identity of a confidential informant outside the department. Bell accepted a contempt citation from a federal judge in New York last summer rather than submit to an order to turn over confidential FBI informant files to attorneys for the Socialist Workers Party.

And Webster has proposed a 10-year moratorium on releasing certain files under the Freedom of Information Act because of fears that criminals will be able to deduce the names of informants.

The bureau's protective attitude toward its informants has clashed in recent months with Rep. Don Edwards (D-Calif.), chairman of the House Judiciary subcommittee that will handle enactment of the FBI charter.

He has proposed that the General Ac-

counting Office have access to informant files as part of his subcommittee's oversight responsibilities. Webster has resisted, even though Edwards said informants' names could be deleted.

The oversight provisions of the proposed charter do not seem to solve Edwards' problem directly. It says FBI material will be turned over to congressional committees "in accordance with provisions agreed to" by the committee chairmen and the attorney general.

Edwards was visiting his California district yesterday and could not be reached for comment. But he has said before that such GAO auditing capability would be an important part of assuring FBI compliance with any charter.

The proposed charter also spells out procedures for using undercover agents and proprietaries, for investigating terrorist groups, and for restrictions on the use of intrusive investigative techniques.

Such restrictions, for instance, make clear that an informant cannot plan or take part in crimes of violence, and can only participate in even minor crimes if it is approved as necessary to make a larger prosecution or to prevent injury or death to others.

The Justice Department's internal investigating arm is completing a report on allegedly improper activities of former FBI informant Gary Thomas Rowe, who infiltrated the Ku Klux Klan in the 1960s.

Berman said ACLU will push to require a judicial warrant for every planned infiltration of a domestic group.

"It would be an added external check," he said. "Past experience has shown we need such outside checks to guarantee the privacy of political associations."