

POWER TO PREVENT DOMESTIC THREATS SOUGHT FOR F.B.I.

A Justice Department Draft
Asks Authority to Act
in Advance of Crime

LEVI DESCRIBES PLAN

Tells Senators That Bureau
Would Be Limited in Use
of Added Function

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WASHINGTON, Dec. 11—

The Department of Justice proposed today that the Federal Bureau of Investigation be permitted to "obstruct or prevent" groups that were plotting to use force or violence that might pose a threat to life or "interfere substantially" with the "essential functioning of government."

The proposal was among a series of draft "guidelines" prepared by a Justice Department study group designed to place controls over the bureau's domestic security activities.

It was the first time, several senior Congressional aides said, that a proposal had been made that the F.B.I. be permitted legally to act against a group or individual before a crime had been committed.

Edward H. Levi, the Attorney General, testified today on the proposed guidelines before the Senate Select Committee on Intelligence. He said the F.B.I. would be able to open full domestic security investigations only where there was a "likelihood" that the activities of an individual or a group would involve illegal violence or that the subjects were supported by a foreign government or foreign-based political

group.

Exchange Over Data

Senator Walter F. Mondale, Democrat of Wisconsin, strongly criticized the proposed guidelines as "vague" and said they would not help future directors of the F.B.I. withstand any direct orders by Presidents or Attorneys General to engage in improper conduct.

Without strong law, he said, the guidelines "would be swept away as quickly as a sand castle is overrun by a hurricane."

A few moments later the Senator and the Attorney General entered into an angry exchange over whether the committee could obtain from Clarence M. Kelley, director of the bureau, further documents on the disruption program known as Cointelpro, which the F.B.I. operated from 1956 to 1971.

Mr. Mondale said the com-

Continued on Page 17, Column 1

Continued From Page 1, Col. 8

mittee had received similar materials from the Central Intelligence Agency.

"I'm not in the C.I.A., have never been, and don't care to be," Mr. Levi snapped angrily.

"Do you consider that a good answer?" Mr. Mondale asked, his face flushed.

"I consider that as good an answer as the question," Mr. Levi said.

Senator Mondale, turning to Senator Frank Church, the committee chairman, said:

"Mr. Chairman, I think that kind of arrogance is why we have trouble with the executive branch [of Government]."

"I apologize to Senator Mondale if I appeared arrogant," Mr. Levi said in carefully controlled tones. "I thought somebody else was appearing arrogant."

An Example Cited

In another portion of his testimony, Mr. Levi disclosed that the F.B.I. once sent him an anonymous letter at the University of Chicago in an apparent attempt to discredit another professor by labeling him a Communist.

He said that he did not recall receiving the letter and that it would have "gone in the wastebasket." He said he learned of the mailing after he became Attorney General.

Mr. Levi said that another

feature of the draft guidelines would place "strict controls" on any technique "by the F.B.I. which goes beyond the gathering of information." He said "some activities in Cointelpro were outrageous and the others were foolish."

"Nonetheless," Mr. Levi said, "there may be circumstances involving an immediate risk to human life or to extraordinarily important Government functions that could only be countered by some sort of preventive action."

Mr. Church asked the Attorney General what might be involved in "preventive action." Mr. Levi gave an example of two violence-prone columns of marchers heading toward one another with the potential for a confrontation. He said the bureau might block streets or change direction signs. "I take it that is a preventive action," Mr. Levi said.

Mr. Church offered a counter example of motor caravans and asked whether such a tactic as putting sand in the gasoline tanks would be acceptable.

"The answer is no, certainly not," Mr. Levi said. He said the guidelines did not spell out preventive action techniques. It is "all very vague," Mr. Church said.

The draft guidelines said that preventive actions "may not involve the commission of a crime, the origination of an idea for a crime or inducing others to carry out such ideas" and would be conducted so as not to limit the civil rights of individuals.

In a note, the draft report adds, "this scheme for preventive action is based on variables of danger and time. The nature and objective of preventive action . . . vary with the potential harm and the proximity of planned violence. The greater the danger or the more imminent the violence, the more direct the preventive action allowed."

First-Time Proposal

F.B.I. officials, including Mr. Kelley, have strongly urged that the bureau be given authority to deal with political violence such as airline hijackings and terrorist kidnappings.

The preventive action methods would have to be approved by the Attorney General or his designate and would have to be taken within specific time periods.

The draft guidelines are the first set of controls over F.B.I. domestic security operations ever proposed by the Department of Justice. They were prepared by a committee, headed by Mary Lawton, Deputy Assistant Attorney General in the

legal counsel's office, that included F.B.I. officials. It worked eight months reviewing F.B.I. operations, Mr. Levi said.

Mr. Levi described some aspects of the controls in an address to the American Bar Association last August.

The committee asked for the guidelines as it began to prepare its proposals for controlling domestic security operations.

The committee ended today the investigative aspects of its public hearings and is expected to complete its report early in February.

Two Varieties

In general the Justice Department draft would establish a role for the bureau to investigate threats to domestic security where the backing came from foreign intelligence services or groups or where violence was contemplated. The guidelines attempt to bar instances such as those uncovered by the committee where the bureau investigated individuals and groups that disagree peacefully with the Government.

The guidelines suggest two types of investigations. One, a preliminary inquiry could be instituted by bureau field offices to discover whether an individual or group contemplated violence or was backed by foreign powers.

In the preliminary investigation the bureau could not place a new informant in the group or conduct physical or electronic surveillance.