

FBI Can Continue Probe of Communists, Levi Decides After a Secret Review

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Attorney General Edward H. Levi has decided that the FBI can continue its 38-year pursuit of the Communist Party, despite a finding that the party's activities do not fit Levi's guidelines for the conduct of domestic security investigations.

Informed sources said yesterday that a secret Justice Department review had concluded that the 4,000-member Communist Party-USA is not engaged in activities likely to result in violence — the requirement stipulated by the guidelines for continuing a domestic security probe of an organization or its members.

However, the sources continued, the review found evidence of close contact between the party and agents of the Soviet Union. On that basis, they said, Levi ruled that the FBI can continue its surveillance of the party under separate top-secret Justice Department rules for the combatting of foreign intelligence activities.

Levi's decision is expected to have an important impact on FBI morale. Bureau executives are known to have been concerned that an order to terminate the Communist Party investigation would have dealt a blow to the FBI's already tattered prestige.

Although the FBI investigation began in 1938, it acquired tremendous symbolic importance following World War II. For 30 years the Communist Party has headed the list of those organizations marked by the FBI for the priority attention of its vast investigative resources, although there have been no successful prosecutions of American Communist Party members since several were convicted on conspiracy charges in the early 1950s.

Initially, the late FBI Director J.

Edgar Hoover, seeking to portray the bureau as the ultimate guardian of democracy against Communist spies and subversives, called the party the foremost symbol of the "Red Menace" within the United States.

More recently, the party has figured prominently in revelations about how Hoover's crusades against political unorthodoxy led the FBI into abusing its powers through so-called counter-intelligence programs (Cointelpro) of harassment and intimidation of alleged radicals.

These abuses led Levi last spring to issue his guidelines prohibiting domestic security investigations based on vague or arbitrary suspicions. Instead, the guidelines specified that the FBI must have evidence of actual or potential violence before probing a domestic political group's activities.

In September, Levi applied the guidelines to order a halt to the FBI's probe of the Socialist Workers Party — a small Trotskyite party that had been under investigation by the bureau for 38 years. That probe had failed to turn up any evidence of wrongdoing by the SWP or its members.

The parallels between the SWP and the Communist Party had led to speculation that an even-handed application of the guidelines would also require Levi to call off the Communist Party investigation.

According to the sources, the Justice Department review, conducted by a special guidelines committee appointed by Levi, established that the FBI has no evidence that the Communist Party is now involved in violent or illegal activities.

The bureau's most recent public description of party activities included such things as supporting detente, "taking advantage of the present economic situation to attack capitalism publicly," trying to influence workers through distribution of publications and "endeavoring to gain public recognition as a legitimate political party"—all of which are legal.

As a result, the sources said, continued surveillance of the party could be justified only if the FBI were able to offer convincing evidence that the party is closely allied with a potentially hostile foreign power and might act to further its aims.

While the SWP case was under review by Levi, the FBI is known to have offered evidence that the SWP had been in contact with foreign radical groups of a violent type and had contributed small amounts of money to some of them.

However, Levi ruled that the FBI had failed to provide proof that these foreign groups had controlled the SWP or had influenced it in a way

that would lead the SWP into violent activities. Accordingly, he decided that there was no justification for continuing surveillance of the SWP under the Justice Department's foreign intelligence guidelines.

Although officials of the American Communist Party could not be reached yesterday for comment, the party consistently has denied that it is controlled by Moscow or that it has any formal ties to the Soviet Union beyond the fraternal bond of a common political ideology.

That contention, the sources said, was contradicted by evidence the FBI offered to Levi's review group. And, even though the FBI admits that the party has not served as a vehicle for recruiting Soviet intelligence agents since the 1950s, the sources added that Levi interpreted the evidence as justifying a conclusion that the party's alleged Soviet connection falls within the Justice Department's foreign intelligence guidelines.

Unlike the department's domestic security guidelines, those covering foreign intelligence have never been made public. But, they are believed to say that clandestine foreign intelligence includes not only the gathering and transmitting of intelligence, but such other covert actions on behalf of a foreign power as the spreading of propaganda and trying to influence government officials through bribery, blackmail and recruitment.

Under a recent internal FBI reorganization, responsibility for domestic security investigations was transferred from the intelligence division to the general investigative division. Levi's decision, the sources said, will require the FBI to move the Communist Party file back to the intelligence division, which retains responsibility for foreign counterintelligence.