

Loophole Seen in FBI Guidelines

12/27/75

By Walter Pincus
Washington Post Staff Writer

Proposed Justice Department regulations for the FBI would not bar the bureau from sending the White House purely political information gathered during a legal domestic security investigation, according to congressional sources.

The "dissemination" section of guidelines delivered to Capitol Hill this month by Attorney General Edward H. Levi says the FBI "shall promptly refer" information not pertinent to a security or criminal investigation to "the appropriate federal

authorities if it is within their civil . . . jurisdiction."

According to congressional sources, that language would have legitimized former FBI Director J. Edgar Hoover's practice of sending political and personal tidbits gathered from wiretaps and other sources to the White House.

Though Levi has told the Senate intelligence committee that he would not permit such information to be sent to the White House, congressional hearings on the Levi guidelines in January are expected to focus on this section and other

"loopholes." Several members of Congress want these loopholes closed in legislation which will govern future operation of the FBI.

The dissemination guidelines would permit the FBI to pass on information relating to the commission of crimes to local, state and to other federal law enforcement agencies when such information "falls within their investigative jurisdiction."

They also would permit the bureau to send local and state law enforcement agencies information developed during FBI investigations which "may protect the integrity" of

the recipient agency. As an example, the Levi guidelines note it would apply "to policemen who join the Ku Klux Klan or other organizations which advocate violence."

The bureau also would be required by the guidelines to maintain its records so that all disseminations of information to other agencies outside the Justice Department are recorded.

The latter rule would have applied to the 1969-1971 Nixon wiretaps, records of which were maintained separately

See REGULATIONS, A4, Col.1

REGULATIONS, From A1

from normal FBI files. Their transfer to the White House in 1971 was never recorded.

A Justice Department spokesman said the language on dissemination of FBI non-criminal information was drawn up so as not to "inhibit its legitimate flow among agencies."

The congressional hearings likely will focus on another unpublicized portion of the Levi guidelines which deals with how the extensive FBI files are to be handled in the future.

Up to now, the bureau has been hesitant to destroy any information it collects. Former acting Director L. Patrick Gray III complained in 1973 that he could not destroy files he inherited from Hoover on members of Congress without specific direction from Congress.

Files are kept by the bureau of numerous persons, even after they have died, according to one Justice Department official, on the theory "that you never know when they might prove valuable."

Reports and files have thus accumulated on organizations and individuals, both those subject to investigations and those whose names turned up in other such inquiries.

Years after a case was closed, information developed years earlier would be forwarded in response to a requested FBI name check.

The Levi guidelines committee has noted in its

domestic security regulations that "we are not yet certain whether empirical data exist to help define a period of retention for information gathered in preliminary or full investigations."

Guideline studies in other FBI areas of operation, including general and organized crime, are also looking into the question of retention of records.

The guidelines sent Congress this month, therefore, left blank the number of years "after closing domestic security investigations" when the FBI would "destroy all information obtained during the investigation, as well as all index references thereto, or transfer all information and index references to the National Archives and Records Service."

An FBI spokesman said yesterday that some cases with "historic" value have in the past been sent to the archives. He added that now "some reports and papers" are destroyed after an average of 10 years—but his remarks excluded investigative files.

As Congress works to translate the Levi guidelines into legislative language, the section on "preventive action" also is expected to be the focus of attention. In the Levi regulations, the FBI would be permitted to engage in non-violent operations "to obstruct or prevent the use of force or violence in violation of federal law."