

4/20/71

Mr. Alan Barth
The Washington Post
1515 L St., NW
Washington, D.C.

Dear Mr. Barth,

Two quotes from your excellent editorial article in today's paper prompt this letter. One is the FBI statement in the Coplon case that its agents "had no knowledge of" the widespread wiretapping. The other is your reference to their hoodwinking a judge.

The first reminds me of one of the products of my successful Freedom of Information Act suit for that part of the suppressed evidence I could "identify" (the requirement of the law) in the Martin Luther King assassination. It is the affidavit of FBI firearms expert Robert A. Frazier, used to get Ray extradited (and thus not subject to cross-examination) and in the Memphis "minitrial". Unable to connect what he called "the bullet" (but only a fragment, for he knew it had exploded) with the so-called Ray rifle, Frazier said instead, "As a result of my examination of the submitted rifle, I determined that it produces general rifling impressions on bullets having the physical characteristics of those of the submitted bullet."

Based on this, the prosecutor said it was "consistent" with having been fired ~~from~~ this ~~make~~ rifle. I add also consistent with millions of others. Fred Cook picked up what I should never have missed in his Saturday Review piece on my FRANK-UP, that this is precisely what was alleged in the Sadco-Vanzetti case, where it was known that the shot has not been fired from the weapon in question. I enclose a marked copy of Cook's review.

In order to cover himself and the FBI, Frazier followed this with the statement that he "could draw no conclusion" enabling him to say the shot had been fired from that rifle. Which means there was no proof it had been, but that is not what was wanted believed. I print this paragraph on p. 506.

I filed a similar suit for the suppressed spectrographic analysis of the ballistics evidence in the JFK case. Incredible as it may seem, it was never in the possession of the Warren Commission and is not now in their files. Here Justice filed what is at least a "hoodwinking" affidavit, again with the agent not subject to cross-examination. I enclose my copy. I'd appreciate its return. You will note that the agent Williams does not qualify as an expert on spectrography; that it alleges "law-enforcement purposes" when the Warren Commission and the FBI (no federal crime) had none; that the file was "compiled solely for official use of U.S. Government personnel" (but it was published by the Warren Commission with this analysis omitted and replaced by a paraphrase, also given to the Dallas police chief, who also published it privately); that this is described as "new data" and "investigative file" whereas it was a scientific test, no more, no less, not an investigative report; the false re-emphasis of "law enforcement responsibilities" when none are involved; that "it would open the door to unwarranted invasions of privacy", which is completely impossible and no less irrelevant; that "It could lead, for example, to exposure of confidential informants" (a simple, non-secret laboratory comparison?); "the disclosure out of context of the names of innocent parties, such as witnesses" (ditto comment, in spades!); and a little more just as bad that follows.

And bracketing this, in court, Assistant U.S. Attorney Robert Werdig told Judge Sirica (who needed little telling) that the Attorney General had determined that the national interest required the withholding of this simple, scientific test. Do you suppose for a minute, let me interject, there would be all this secrecy if it supported the FBI representation? Now it happens that the Attorney General is empowered to make such determination. No such determination was presented to the court. And the Law was passed, in part, to eliminate that traditional dodge for suppression. The House Report (I have it) could not be more explicit and is repetitious on this very point.

Nor is the FBI accurate. Justice Warren was among its victims. In connection with Oswald's handbills, it interviewed the two people at the printing plant. They told the FBI it was not Oswald who had gotten that handbill. One of these reports is printed in Volume 22, p. 796. Even in the FBI semantics it does not say it was Oswald. I have both witnesses on tape, and both are quite explicit, it was not Oswald. But when these two field reports reached Washington, they were rewritten and a summary report was sent to the Commission. Its third paragraph says the opposite of what the field reports said, saying that Oswald, "Under the name OSBORNE", had the printing done. If you will look at p. 407 of the Warren Report, you will find precisely these false words used. Need I suggest the importance of this misrepresentation when there was the question of conspiracy, was Oswald alone. (And I have an enormous amount more on this.) I enclose a file including this rewritten report, the return of which I'd appreciate. I'd assembled these pages for a different purpose. Some may interest you, though.

One shows that Oswald used (and the FBI hid from the Commission) the address 544 Camp Street. That was the address of the Cuban Revolutionary Council, the CIA front. Hardly real pro-Castro activity by Oswald, this. Do you suppose they had to interview Bartes to learn that the CRC was "an anti-Castro organization"? The CIA organized it. From the Benistar report, you'd never know he had been an FBI agent with a spectacular career, and that he had obtained this 544 Camp space for the CRC. Or that 531 Lafayette Street, the address given for Benistar, is the side door to that identical 544 building!

I used this and much more on the FBI in my OSWALD IN NEW ORLEANS, but then, as with my other books, nobody in the press was interested in the FBI. One of my books has more than 100 pages of this kind of thing in facsimile. I have thousands of pages of FBI reports.

In the appendix of FRAPS-UP I have some FBI reports you might find relevant. This part begins on p. 468 and is titled "The Military Documents". The tape transcript that follows was withheld from the Warren Commission by the FBI. The FBI reports that follow are in the Commission files, but until we dug them out, the Archives claimed not to have them (a friend and I worked on this together). You will note that what the FBI still withholds may be the clue to the solution of the Birmingham Church bombing (p. 478), discussed in the tape in a manner that suggests that if the FBI feared it could not get a conviction for murder, it might at least have tried for one on perjury.

That to which you refer in your today's piece is and has been the norm with the FBI. Paul Valentine has a copy of FRAPS-UP. I hope you can find time to read it. You'll find quite a story on the FBI. Note what the Publisher's Weekly reviewer said of this (marked, enclosed)....No free society can long remain free with this kind of national police, which Hoover denies he is...I'd welcome a chance to discuss this whole matter with you sometime. I have an enormous amount of material. The FBI must be close to the least dependable source of information. And even their JFK files on fascists are listed under "Oswald-Cuba-USSR"! Page after page of them. Hoover's Imprint. And politics.

Sincerely,

Harold Weisberg

Bureau Lost Some Files 22 Years Ago

PM 1/20/71

The Judith Coplon Case and the Embarrassed FBI

By Alan Barth

THE MISHAP at Media, Pa., which has caused the FBI so much embarrassment was not the first occasion of its kind. Twenty-two years ago some FBI files came to light after they had been stolen by a young woman named Judith Coplon, an employee of the Department of Justice. Disclosure of the contents of these stolen files gave to the American public for the first time an insight into the way the FBI works and into the quality and character of the material it collects. That was what proved so embarrassing.

Miss Coplon was prosecuted in the summer of 1949 for attempting to transmit to a

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Soviet agent certain classified documents allegedly vital to the security of the United States. The Department of Justice tried to bring about her conviction without disclosing the contents of these documents. But the late U.S. District Court Judge Albert Reeves, who presided over her first trial in Washington and who died at the age of 97 just about a fortnight ago, ruled that the documents had to be shown to the jury in order to let it determine whether they were really vital to security. “If it turns out that the government has come into court exposing itself,” the judge said, “then it will have to take the peril.”

The government—or at least the FBI—undoubtedly exposed itself, although it is hard to see what possible interest the Russians could have had in the exposure. Surely Miss Coplon duped them as much as she duped the FBI. Most of the stuff so painstakingly collected in the stolen files should have been filed in the most convenient trash bin. Nevertheless it is interesting and useful to recall some of this material for the similarity it bears to the material stolen recently from the Media, Pa., office of the FBI.

THE MOST significant similarity between the FBI papers stolen 22 years ago and those stolen last month is that, then as now, they show the FBI shadowing people who are not charged with, or even suspected of, crime, who are not employees of the government and who do not occupy positions in any way affecting national security.

For example, the papers stolen by Miss Coplon reported that “Confidential Inform-

ant ND-305 advised December 25, 1945, that the subject (Fredric March) partook in the entertainment program at a meeting sponsored by the American Society for Russian Relief held at Madison Square Garden, New York City, December 8, 1945. The informant, who was one of about 13,000 attending the meeting, stated that Helen Hayes, a noted actress, and the subject portrayed a Russian schoolteacher and a Soviet soldier, respectively, in a skit, whereby they described the devastation of Russia by the Nazis at the battles of Stalingrad and Leningrad.”

This event seems to have been about as covert and surreptitious as the recent observance of “Earth Day” at rallies all over the United States—rallies at which Sen. Edmund Muskie, himself a speaker at one of



Judith Coplon at the time of her trial in 1949.

them, says that the FBI conducted "general political surveillance." Owing perhaps to a slight semantic confusion, conservation instead of communism seems to have become the bugbear of the seventies.

Another example: A file disclosed at the Coplon trial furnished the information that one of President Roosevelt's assistants had given some help in obtaining a passport for a trip to Mexico to a friend with whose wife, according to an informant, the presidential aide had once been in love.

Another tidbit brought to light by the Coplon case was a statement by an unidentified informant that she had seen her neighbors "moving around the house (their house) in a nude state" and that her 11-year-old boy said he saw one of these neighbors go out on the porch, without any clothes on, to get the morning paper.

Even when one acknowledges that intelligence or counter-intelligence activity involves the collection and collation of seemingly trivial and irrelevant bits of information, one can hardly help regarding this sort

of pot pourri as anything more than backstairs gossip.

WHAT THE revelations from Media, Pa., indicate is that the level of FBI intelligence gathering has not been raised appreciably in the intervening two decades. The files purloined from the Media office of the FBI disclose that the agency was keeping a sharp eye on the teen-age daughter of a distinguished congressman, that it was full of concern about the activities of black student unions on college campuses, that it had mobilized an intricate network of undercover operatives—including telephone operators, letter carriers and the like—to maintain a continuing surveillance on the behavior of a professor who was characterized as "radical."

The FBI can say about these disclosures—as, indeed, it has said currently and also

about the Coplon files—that they are not typical of the bureau's work, that they were selected with a view toward ridiculing rather than extolling the bureau. There is doubtless truth in this defense. But FBI reports are hard to come by. Critics must base their criticism on what, by hook or by crook, they can lay their hands on. Perhaps a full-scale congressional investigation of the FBI's work would show a much higher level of competence and insight. It ought to be undertaken.

But these stolen dossier are all that have been granted to the public as a basis for judging the FBI's performance. And they suggest that the bureau is not looking for espionage, sabotage and crime so much as it is looking for political non-conformity and opposition to official policy. That is at once dangerous to the country's safety and dangerous to its liberty.

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THE Coplon case disclosed something else about the FBI's conduct which deserves to

be recalled in the light of contemporary criticism of the bureau.

At the first trial of Miss Coplon in Washington, her lawyers made a charge that the government's case against her was based on evidence obtained through wiretapping—evidence not then admissible in a federal court. That charge was indignantly denounced by the U.S. Attorney prosecuting the case as a "fishing expedition." Judge Reeves, accepting the government's word, declined to hold a pretrial hearing to determine whether wire-tapping had taken place.

Judge Sylvester Ryan, who conducted the second Coplon trial in New York, did hold such a hearing. The inquiry revealed that no fewer than 30 FBI agents had monitored tapped telephone wires leading to the home of Miss Coplon's parents. The judge required the government to produce about 150 discs on which tapped conversations involving the defendant had been recorded.

There were, however, additional recordings made by the FBI which could not be produced in court because they had been destroyed—destroyed in obedience to a specific FBI directive to get rid of them "in view of the imminency of her trial." The directive, contained a notation, reading, "This memorandum is for administrative purposes. To be destroyed after action is taken and not sent to files." The directive itself was not destroyed and was read into the court record.

Throughout the hearing, FBI agents sat silent while the prosecutor expressed outrage at the defense contention that wiretapping had been used by the government, and several agents said they "had no knowledge of wiretapping." Judge Ryan called these statements evasions.

Partly as a result of the wiretapping and partly because the FBI had not bothered to get a warrant for the arrest of Miss Coplon in the first place, the defendant's convictions were reversed, and she went scot free.

More serious than the bungling of the case, however, was the hoodwinking of a court and of the public. The bureau had systematically and deliberately violated the law in making use of information obtained by wiretapping and then had systematically and deliberately sought to disguise its misconduct.

How history repeats itself! The FBI appears currently to be involved in a lot of

semantic convolutions about what constitutes surveillance or electronic eavesdropping designed to conceal what it is doing. "If we record a conversation and it is directed to us, we do not consider it as surveillance as such," an FBI spokesman said on Friday.

It is impossible to escape a fear that, in the 1970s as in the 1940s, the FBI is engaged in widespread

invasions of privacy and in a lordly disregard for the limitations imposed upon it by law and by American traditions. The incumbent attorney general claims for the bureau an unlimited power, whenever he gives his approval, to tap or bug the homes and offices of American citizens in the name of national security — and to do it without judicial authorization of any kind.

Perhaps the most devastating comment on the bureau's conduct was made by J. Edgar Hoover himself. Writing on "Law Enforcement and the Democratic Tradition" in the bulletin "onfidential—from Washington," issued by the George Washington University in December 1949, Mr. Hoover said: "The law enforcement agency in a democracy has limited powers, powers specifically defined by the Constitution, judicial decisions and acts passed by legislative bodies. Totalitarian law enforcement, on the other hand, has unlimited power! The secret police, responsive only to the will of the ruling elite, creates, defines, interprets, and reviews its own activities."
