

Agency Report/FBI nears end of Hoover era lacking blueprint for transition

by Richard S. Frank

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J. Edgar Hoover, who is not known to take criticism lightly, was in a jovial mood recently when he took note of the increasingly frequent demands for his retirement after more than 47 years as director of the Federal Bureau of Investigation.

Speaking Oct. 22 at a dinner of the Washington chapter of the Society of Former Special Agents of the FBI, Hoover spoke of the delays which have pushed back the scheduled completion of the new FBI building to late 1974 or early 1975. (Completion was originally scheduled for 1968.)

"There are some who maintain that the only reason I am staying on as director of the FBI is to be present at the dedication," Hoover said.

"This is absolute nonsense. At the rate the building is going up, none of us will be around by the time it is completed."

Hoover may have been joking, but the general expectation in Administration and congressional circles is that someone else will be moving into the executive suite when the mammoth FBI structure on Pennsylvania Avenue—the most expensive government building ever erected in the capital—is finally occupied.

No transition plans: Hoover is 76 years old. He will be 77 on New Year's Day. It would therefore come as no great surprise if he were to step down inside of a few months. Many in and out of government who admire him or fear him are already looking ahead to the time when there will be an FBI without a J. Edgar Hoover.

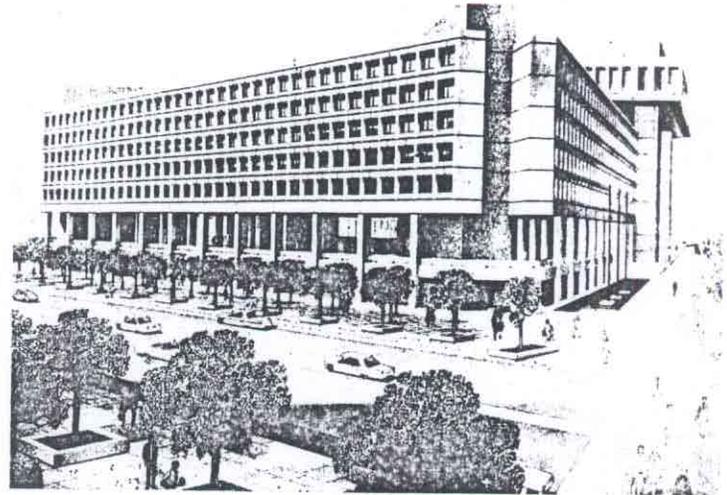
Some see his prospective departure as an opportunity to institute the changes—in structure, in duties, in operating methods—that they believe are desirable but that cannot be accomplished while Hoover sits in the director's chair.

Others look to his retirement with concern, fearing that the man who replaces Hoover will almost inevitably find it more difficult to insulate the bureau from political interference.

"When he goes," a congressional aide said, "the wolves will come in."

Despite this mixture of anticipation and apprehension, however, there is no evidence that any hard plans are being developed in the Justice Department, in the White House or in Congress to prepare for that day.

There is, on the contrary, every indication that nothing will be done until Hoover's retirement is actually announced and the search for his suc-



New FBI building in Washington

cessor has begun. Despite the rumors and reports of Hoover's imminent retirement, the wait could stretch well beyond a few months.

Old rumors: Hoover retirement rumors are nothing new. As far back as the beginning of the Eisenhower Administration in 1953, there was talk of the FBI director stepping down.

The rumors recurred when John F. Kennedy was elected President in November 1960, but the announcement that Hoover would remain at his post was almost the first act of the President-elect (as it was of President-elect Richard Nixon in 1968).

Hoover's 70th birthday and the age of compulsory retirement came on Jan. 1, 1965, and Kennedy, so the reports had it, was prepared to choose a new director, once his own reelection was a fact.

But Kennedy had been dead six months when President Lyndon B. Johnson, on May 8, 1964, signed an order (ExecOrder 11154) exempting Hoover from the automatic retirement rule, telling Hoover that "the nation cannot afford to lose you."

Year of outcry

The talk of imminent departure was renewed vigorously in the past year as Hoover was subjected to a steady barrage of criticism and complaint.

Ironically, the criticism may have served to prolong the director's stay in office. President Nixon made this point before the American Society of Newspaper Editors last April 16, when he suggested that the criticism of

Hoover would not lead to his retirement but "would tend to have exactly the opposite effect: not to hasten his retirement but to have him dig in."

Critical barrage: The extent and the intensity of the criticism are unparalleled in the 47-year career of Hoover as head of the FBI.

Since the beginning of 1971:

- Hoover's resignation has been demanded by two potential Democratic Presidential candidates, Sens. Edmund S. Muskie of Maine and George S. McGovern of South Dakota.

- The FBI director was accused by McGovern of trying to destroy the career of an airline pilot who had criticized the bureau for its handling of the hijacking of a plane he was piloting.

- The bureau was reported to have cut its direct liaison with the Central Intelligence Agency because the CIA refused to tell Hoover who in the FBI had leaked information to the CIA.

- The American Civil Liberties Union went to court to demand an end to FBI surveillance of "lawful political and social activity" on the part of American citizens.

- The FBI was accused of engaging in widespread surveillance of anti-pollution rallies on Earth Day in 1970, including one in Washington attended by Muskie.

- House Majority Leader Hale Boggs, D-La., said the FBI had tapped the telephones of Members of Congress.

- More than 1,000 documents were stolen from an FBI office in Media, Pa., and some of them were selectively

released over the next few months, embarrassing the bureau and revealing some details—perhaps distorted—of the FBI's domestic intelligence activities.

- Critics continued to blame Hoover for announcing, in advance of an indictment, that the FBI had uncovered a plot to blow up underground electrical and steam systems in the capital and to kidnap a high government official.

- The government agreed to an out-of-court settlement with an FBI agent, John F. Shaw, who said he was forced out of the bureau by Hoover after writing an academic paper critical of Hoover's administration of the FBI.

- A flurry of high-level retirements and resignations in the bureau, including one by an official considered by some to be a leading candidate to succeed Hoover as director, gave rise to speculation that Hoover was attempting to eliminate internal dissent. **Ambivalent support:** Hoover could draw comfort from a Gallup Poll conducted for *Newsweek* during the height of the criticism last spring.

The poll showed that 70 per cent of the sample believed Hoover had done a good or excellent job as head of the FBI and rated his agency favorably.

But the 76-year-old director may have been less pleased by the same poll's revelation that 51 per cent of the cross section felt that the time had come for him to retire.

Attorney General John N. Mitchell, as recently as this month, repeated the official Administration position: that Hoover could remain as director as long as he wanted to and as long as he continued in good health. Hoover himself has said his health is excellent.

Whether this represents Mitchell's own view is another question.

Richard W. Kurrus, who served as the first chief counsel to the House Select Committee on Crime, recalled recently that he and Rep. Claude Pepper, D-Fla., the committee chairman, called on Mitchell at the Justice Department shortly after the committee was established in the early summer of 1969.

In talking about the Justice Department, Kurrus said, "Mitchell told us the real problem he had in the department was J. Edgar Hoover, and that Hoover was more of a detriment than a help."

Kurrus, now in private law practice, said, "Mitchell indicated that Hoover would shortly be phased out. He told us the department had no control over Hoover and that Hoover had been sanctified and that he couldn't direct him and couldn't gain his cooperation."

The Attorney General turned down a request for an interview on the subject, his press spokesman telling *National Journal* that "the Attorney General doesn't consider it very productive to sit there and defend the FBI."



John N. Mitchell

FBI studies: At a conference Oct. 29 and 30 on the campus of Princeton University, most of the same complaints about the FBI were sounded again, along with some proposals to alter the legal responsibilities of the bureau, change its structure or institute new controls over its operations. (*For a report on the conference, see No. 45, p. 2228.*)

A few weeks later, a group called Friends of the FBI, calling the Princeton conference biased against the FBI, commissioned a study of the bureau by the Chicago-based Americans for Effective Law Enforcement in an effort to redress the balance.

Whatever their differences over the merits of the FBI, the sponsors of the conference and of the new study share this goal: to have an impact on whatever studies Congress may undertake on the present and future activities of the bureau.

On the Hill: Of the various committees and subcommittees with the appropriate jurisdiction, however, not one has any plans to take on such a study.

Nor do committee aides expect that

any comprehensive studies will be undertaken while Hoover continues to serve as director.

In 1968, as part of the Omnibus Crime Control and Safe Streets Act, Congress adopted a provision (82 Stat 236) which shifted the power to appoint an FBI director from the Attorney General to the President and required that the Senate give its advice and consent to such appointments.

"That's the best toehold Congress has to look at bureau policy," said a committee aide.

In the meantime, however, proposals for meaningful congressional studies of the FBI—its procedures, its relations with the Attorney General, with the President and with the Congress—have been put on the shelf.

Status at Justice

The FBI has prepared a 26-page booklet, *99 Facts*, which sets out the bureau's official positions in the form of questions and answers. The booklet asks: "What safeguards are there against abuses of authority by the FBI and its director?"

The official answer: "The FBI's activities and operations are under constant scrutiny and review by the Attorney General, committees of Congress, the Bureau of the Budget (now the Office of Management and Budget), the courts and the nation's press."

Just how extensive this oversight is has long been a matter of considerable dispute.

On the official organizational charts, the FBI has a clearly subordinate status within the Justice Department, ranking below the legal and administrative divisions, each of which is headed by an assistant attorney general.

The bureau is no more important—on the charts—than the Bureau of Prisons or the Immigration and Naturalization Service, for example.

It is, in short, part of the department (the largest single part in terms of employees) and not an independent nor even a quasi-independent agency.

That this is sometimes forgotten, even by Justice Department officials, was made evident by the testimony of Assistant Attorney General Robert C. Mardian, head of the Internal Security Division, before the Senate Judiciary Subcommittee on Constitutional Rights last March 17.

Sen. Edward M. Kennedy, D-Mass., was pressing Mardian about

the department's role in conducting surveillance of private individuals, and wanted to know if the department had formal guidelines to limit its activities in this field.

"We do not engage in... surveillance ourselves," Mardian responded. "The only information we have available to us comes in the form of FBI reports of actions, civil disorders."

William H. Rehnquist, the assistant attorney general who has since been appointed to the Supreme Court, was sitting next to Mardian, and leaned over and whispered to him.

"Well," Mardian continued, "Mr. Rehnquist reminds me that the FBI is a part of the Justice Department."

When Kennedy asked him for an explanation of the FBI's guidelines for surveillance, Mardian replied: "I think it would be more appropriate to direct that inquiry to the bureau."

Uncharted status: As the Mardian testimony demonstrated, the FBI's true status cannot be determined by its place on the organizational chart. Its status is a function of the unique influence in Washington of its director. And the exact source of Hoover's influence—although a frequent subject of speculation—is elusive. An important ingredient is that he is a recognized master of bureaucratic infighting. Another, perhaps, is simply that he has survived so long. Mr. Nixon is the eighth President Hoover has served and Mitchell the 16th Attorney General since Harlan F. Stone (1924-25) appointed him director in 1924.

In any event, Hoover has managed to defy the wishes of Attorneys General and to thwart their programs from time to time with impunity, or at least without any visible scars.

Former Attorney General (1967-69) Ramsey Clark thinks that part of the reason is that "the bureau, after all, tends to run itself, and the Attorney General is busy, typically is inexperienced in this area and very much impressed with Mr. Hoover's status."

Clark, in a recent interview, said that "in most parts of the department, when the signal is finally called, everyone will do his job." This is not necessarily so with the FBI, Clark said.

Inhibiting force: Even when the bureau offers no resistance to an Attorney General's initiatives, the possibility of resistance can be inhibiting,

the former Justice Department chief said.

During his term as Attorney General, said Clark, "ideas were questioned before they really got started, in anticipation of FBI resistance."

"I think there's a psychological analogy to self-censorship there. You don't want to take on fights that would be difficult and harmful unless they're quite important."

Even when change was achieved, it came slowly because of FBI reluctance, said Clark. "You never felt you had a firm hand on the wheel."

Ideology gap: Almost two years after Clark left office, he was described by Hoover as "like a jellyfish... a softie," and called the worst Attorney General Hoover had ever served under, "worse than Bobby Kennedy."

In part, this was Hoover's reaction to Clark's book, *Crime in America* (Simon and Schuster, 1970), which had just been published, and contained some equally harsh words about Hoover.

But it was also a reflection of the wide ideological gap between Hoover and Clark, a gap which may also have accounted for at least some of the problems the former Attorney General had with the FBI director.

Biddle—One of Clark's predecessors as Attorney General, Francis Biddle (1941-45), tells of his own efforts to win the cooperation of Hoover, who by that time—1941—had already held his office for 17 years.

In his second volume of reminiscences, *In Brief Authority* (Doubleday, 1962), Biddle says that Harlan Stone, who had appointed Hoover FBI chief, "gave me a key to Hoover's complex character: if Hoover trusted you he would be absolutely loyal; if he did not, you had better look out; and he had to get used to his new chief each time."

Biddle writes that he came into the Attorney General's office "with the stamp of a 'liberal,' and Hoover must have suspected that I would be too soft, particularly now that a war was on...."

"Temperamentally Hoover was a conservative," writes Biddle, "although such an easy classification hardly describes a temperament which was clearly not reflective or philosophic. Edgar Hoover was primarily a man of immediate action."

Biddle relates that "I sought to invite his confidence, and before long, lurching alone with me in a room ad-

joining my office, he began to recipitate by sharing some of his extraordinarily broad knowledge of the intimate details of what my associates in the Cabinet did and said, of their likes and dislikes, their weaknesses and their associations."

Kennedy—Hoover's relations with Attorney General Robert F. Kennedy (1961-64) were often stormy, and the loyalty which Biddle believed was important for a smooth relationship was never, apparently, established.

An official in the Criminal Division of the Justice Department, those years said recently that "you had to negotiate with the FBI. You couldn't order them to do something. Well, you could, but you usually didn't."

Hoover himself has confirmed a report that he had resisted Kennedy's pleas to recruit more black agents for the FBI.

"He wanted me to lower our qualifications and to hire more Negro agents," Hoover told *Time* last December.

"I said 'Bobby, that's not going to be done as long as I'm director of this bureau.' He said, 'I don't think you're being cooperative.' And I said 'why don't you get a new director'."

"I went over to see President Johnson," Hoover continued, "and he told me to 'stick to your guns.'"

Mitchell: For his present Attorney General, Hoover has nothing but kind words.

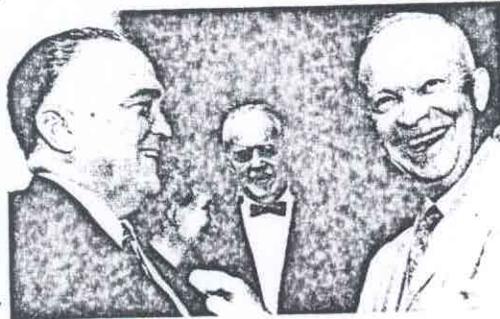
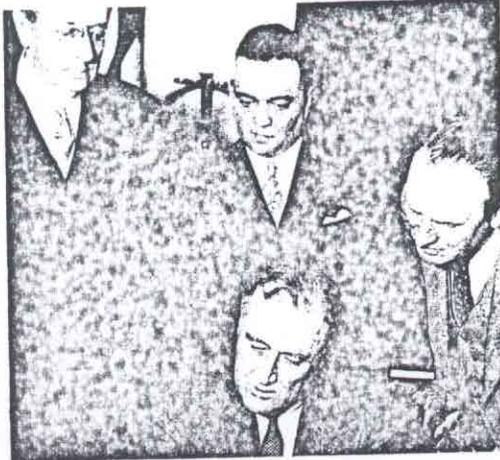
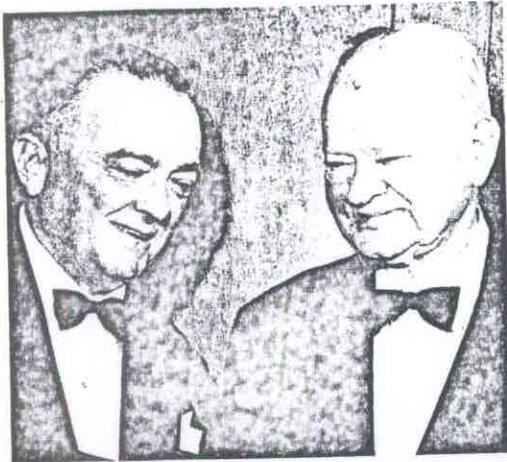
"There has never been an Attorney General for whom I've had higher regard," Hoover said last year of Mitchell, whom he also described as "a honest, sincere and very human man."

But there has been some minor friction between the Attorney General and the director, such as the time last spring when Hoover turned down Mitchell's request for him to speak at a meeting in Washington on criminal control, presumably because Hoover objected to some of the participants at the meeting.

More recently, the department's Office of Public Information, which is responsible directly to Mitchell, began editing FBI crime reports and news releases prepared by the bureau's crime records division, which handles FBI public relations.

As one result, the reports on national crime trends, as interpreted by Mitchell's press staff, have been more encouraging than those released directly by the FBI.

The Director and His Presidents



J. Edgar Hoover with, top to bottom, Presidents Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Johnson and Nixon. There was no available picture of Hoover with President Coolidge, Hoover's first President.



News policy: During the Clark regime at Justice, FBI releases were routinely cleared through the office of the department's information director, according to Clifton F. Sessions, who held that post.

Sessions said in an interview that he never turned down an FBI release, although he sometimes suggested changes with which the bureau went along.

"But I've always had the feeling that if I turned one down, they'd get their story out anyway."

Ray arrest: Sessions recalled one instance when the FBI issued a news release without clearance from his office and aroused Clark's ire.

It was on June 8, 1968, the day of Robert Kennedy's funeral, and James Earl Ray had been arrested in London, several hours before the funeral, on a charge of shooting the Rev. Martin Luther King Jr.

While the funeral service was in progress in New York City, the FBI in Washington issued a release announcing Ray's capture.

Before the release was handed out, Sessions learned it was coming; he informed Clark's deputy, Warren Christopher, who called the FBI about it.

"They wouldn't tell him anything," Sessions said, "and that's what got Clark mad. He rarely gets mad. I've seen him that way two or three times—and that was one of them."

Hoover and the White House

In an interview last year, Hoover said that he had not spoken to Attorney General Kennedy for the last six months of Kennedy's tenure at the Justice Department.

That this period began shortly after the death of Kennedy's brother, the President, is no coincidence, but rather a demonstration that Hoover knows where the power lies—in the White House.

Robert Kennedy was still Attorney General after Nov. 22, 1963, but his brother was no longer President, and his power and influence over the FBI was no longer what it had been.

Direct lines: During Ramsey Clark's term as Attorney General, according to Sessions, "the FBI maintained direct relations with the White House."

Sessions recalled that he once asked Clark, at a time when Clark was particularly disturbed over an incident with Hoover, why he didn't fire the director.



Ramsey Clark

"Clark said he could do that if he wanted, and he was sure he would be fired by the President in five minutes and Hoover would be rehired."

Nixon—Under President Nixon, the personal relationship between the FBI director and the chief executive continues to exist.

But Attorney General Mitchell has much the same kind of relationship with the President as Robert Kennedy had with John Kennedy: he is the President's chief political adviser and is intimately involved in domestic and foreign policy decisions which go far beyond the scope of his Justice Department office.

Thus, Mr. Nixon has reportedly let it be known that he expects the FBI to subordinate itself to the Attorney General and to take his problems and complaints to Mitchell, not to the White House.

Appointees—The White House does deal directly with the FBI on the investigations it requires before it appoints someone to a federal office.

One recent FBI check, run on CBS News correspondent Daniel Schorr, caused a minor furor when it was revealed that Schorr knew nothing about the investigation or about the job he was ostensibly being considered for.

What concerned some people was the fact that Schorr was considered an Administration critic, and the fear that the FBI might have been used to intimidate him.

"The use of the FBI for political purposes is reminiscent of the use of arbitrary police power to intimidate and throttle the free press" in Nazi

Germany and the Soviet Union, Rep. James H. Scheuer, D-N.Y., said after the Schorr investigation became public.

Scheuer was critical of the White House, not the FBI. Ramsey Clark, however, questioned whether the bureau did not have "an obligation to stand up and question this—to ask, is it a real job check or not."

Independence: What troubles some of the FBI's critics is the thought that another director, lacking Hoover's independence and prestige, might find it hard to stand up to an improper request from the President.

On the other hand, the Schorr investigation may be a sign that Hoover himself—his once broad reservoir of public and political support diminishing—is less able to withstand such a request. Hoover clearly is more dependent on keeping the favor of the President and the Attorney General now than he has been at any time in his long career.

Victor S. Navasky, in his recent book on the Robert Kennedy years in the Justice Department, *Kennedy Justice* (Atheneum, 1971), writes that with all the difficulties of an independent FBI, "the virtue of an independent intelligence operation is that it cannot be used for 'political' purposes—a Gestapo to carry out night raids on behalf of the Administration in power."

Priorities and performance

"It doesn't do much good to order the FBI to do something, to shout and push and bang your head on the table," Ramsey Clark said. "You've got to make them want to do it."

Clark described his frustrated effort, during his term of office, to reduce what he considered the bureau's undue emphasis on investigating interstate car thefts.

"I felt very strongly that this was a waste, a deception and a harm, and that a good deal of case time for agents was wasted on this kind of thing."

Dyer Act: The Dyer Act of 1919 (18 USC 2311) makes it a federal crime to transport stolen vehicles across state lines, and each year the FBI points proudly to its record of recoveries of stolen cars, noting in its budget presentations to Congress that the number of recoveries has again risen to an all-time high.

In fiscal 1970, for example, 30,599 stolen vehicles which had been moved interstate were recovered in FBI-in-

vestigated cases, Hoover told the House appropriations subcommittee which handles his budget.

These recoveries figure prominently in a chart labeled "FBI Accomplishments and Appropriations," which the director presents to Congress each year and which compares the bureau's spending to the money it brings to the federal treasury as a result of fines, savings and recoveries.

Each year, the latter is greater than the former. Thus, last March, Hoover could tell the subcommittee that the bureau brought in \$410,974,099 as compared with an appropriation of \$256,857,292, or "an average return of \$1.60 for each \$1 of direct funds appropriated to the FBI in the 1970 fiscal year."

Clark, however, insists that the statistics on recovered cars are "a deception because it is represented that the bureau is making the arrests when actually the local police have."

Convinced that Congress, in passing the Dyer Act, was concerned about interstate car-theft rings, not joyriding youngsters who steal cars and drive them into another state, Clark attempted to get the FBI to devote less of its time and energies to car thefts and more to areas which he believed deserved higher priorities.

"But it's a part of their budget-justifying process," Clark said. "It's important with them on the Hill, and it has the appearance of high productivity."

The FBI resisted and, as a result, Clark said, he was unable to accomplish the shift in priorities which he, as the nominal Justice Department policy maker, felt was desirable.

FBI position: The bureau's answer, supplied by a spokesman for Hoover, is that "if the American public doesn't want the FBI to enforce that law (the Dyer Act), all it has to do is repeal the statute. But as long as the Act is on the books we will enforce it."

The FBI spokesman (Hoover turned down a request for an interview) asked rhetorically, "Wouldn't we be subject to criticism if we turned down a case referred by a local police department, if we decided which cases we will and will not accept for investigation?" The FBI, he said, "made its reputation as an impartial investigator of federal offenses. But now we're being criticized for enforcing a law."

Clark, however, insists that "priorities must be set," and that the FBI could properly spend less of its

Hoover's Far-Flung Domain

With 21 percent of the budget and 45 percent of the personnel, the Federal Bureau of Investigation is the single largest unit within the Justice Department.

Its current appropriation of \$334.5 million is surpassed only by the \$698.9-million aid program administered by the Law Enforcement Assistance Administration, and its staff of some 8,900 agents and almost 12,000 clerks dwarfs LEAA's roster of barely 500 employees.

About one third of the FBI's staff works at what bureau Director J. Edgar Hoover refers to as the seat of government: FBI headquarters in the Justice Department building in Washington and scattered offices in the capital.

The bulk of its employees work out of 59 field offices across the country, at the FBI Academy in Quantico, Va.; at liaison posts in 17 foreign countries, and in several hundred resident agencies in smaller towns.

Centralized control: Direction and control of the bureau are centralized in Washington, with Hoover sitting at the top of the pyramid.

Under Hoover is his long-time associate director, Clyde A. Tolson. Directly below Tolson is the recently created post of assistant director-deputy associate director (all one title), held by W. Mark Felt.

Two assistants to the director, John P. Mohr, who supervises the administrative branches of the bureau, and Alex Rosen, who heads the investigative divisions, rank next in the chain of command.

Ten divisions and an office of legal counsel are each headed by an assistant director, the next step down the ladder. The 59 field offices are each under the command of a special agent in charge.

Jurisdiction: The FBI has investigative jurisdiction over all federal criminal statutes except those specifically assigned to other federal agencies. Among these the most significant are narcotics matters, which are handled by the Justice Department's Bureau of Narcotics and Dangerous Drugs, and tax violations, which are handled by the Treasury Department.

In testimony before a congressional committee earlier this year, Hoover submitted a list of some of the 185 investigative classifications under which the bureau operates, including in the criminal and civil fields:

Admiralty Matters	Interstate Transportation of Ob-scene Matter
Antiracketeering	Interstate Transportation of Motor Vehicles
Antiriot Laws	Interstate Transportation of Stolen Property
Antitrust	Irregularities in Penal Institutions
Assaulting or Killing a Federal Of-ficer	Kidnapping
Atomic Energy Act—Applicants for Sensitive Positions	Labor-Management Reporting and Disclosure Act
Bank Robbery	National Bankruptcy Act
Bribery and Conflict of Interest	Obstruction of Justice
Civil Rights	Selective Service Act
Crime Aboard Aircraft—Including Hijackings	Theft from Interstate Shipment
Crimes on the High Seas	Theft of Government Property
Departmental Applicants	Unlawful Flight to Avoid Prosecu-tion, Confinement or Giving Testimony
Deserters, Harboring Deserters	White Slave Traffic Act
Destruction of Aircraft	
Election Laws	In the security field:
Escaped Federal Prisoners; Parole, Probation and Conditional Re-lease Violators	Espionage
Explosives and Incendiary Devices	Internal Security
Extortion	Black Panther Party
Federal Train Wreck Statute	Sabotage
Fraud Against the Government	Security of Government Employees
Illegal Gambling Business	Sedition
Interstate Transmission of Wager-ing Information	Treason

The Bureau Before Hoover

J. Edgar Hoover and the FBI have been synonymous for so many decades that it is a little hard to remember there was a Bureau of Investigation (the "F" for Federal wasn't added until 1935) long before Hoover came along.

The Department of Justice had no organized investigative unit until the bureau was created in 1908. Until then, the department hired private detectives for specific investigations or borrowed Secret Service agents from the Treasury Department for general investigative work.

Small start: In 1908, at the request of Attorney General (1906-09) Charles J. Bonaparte, Congress appropriated funds for a small but permanent detective force for the department.

With the money, Bonaparte hired nine Secret Service agents away from Treasury, combined them with 14 examiners and agents already on the Justice payroll, and set up a permanent unit under Chief Examiner Stanley W. Finch.

J. Edgar Hoover: In 1917, Hoover, a recent graduate in law from George Washington University, joined the Department of Justice. He was 22 at the time.

Starting as a clerk, Hoover by 1921 had been appointed an assistant director of the Bureau of Investigation.

In 1924, with the Justice Department reeling in the aftermath of the Harding-era scandals, a new President, Calvin Coolidge (1923-29), and a new Attorney General, Harlan Fiske Stone (1924-25), looked about for someone to revitalize the bureau. Their choice was the 29-year-old Hoover.

That was more than 47 years ago, and Hoover has held the post ever since. During the same period, the bureau's budget has climbed from \$2,245,000 in 1924 to \$334,486,000 in the current fiscal year.

time on stolen vehicle cases and more, for example, on civil rights violations.

Civil rights: In defending itself against charges that it has been less than energetic in the field of civil rights enforcement, the FBI takes the opposite tack, contending that it cannot investigate civil rights cases unless instructed to do so by the Justice Department.

"If there's any failure to act in civil rights cases," the FBI spokesman said in an interview, "they'll have to take it up with the Department of Justice, not the FBI. We can't drag our feet. If they (Civil Rights Division officials) ask us, we do it. The division sets policy, not us."

Doar—But John Doar, a key Civil Rights Division aide during the early days of the civil rights struggle in the South, recalls that the FBI did, in fact, resist the initiatives of the Civil Rights Division in the first few years of the last decade.

Doar, who served in the division from 1960 through 1967, most of that time as the No. 2 man in the division, summed up the bureau's performance in that early period at the recent Princeton conference on the FBI:

"The bureau didn't know the first thing about its job and didn't do any-

thing to learn it. The division had to teach the bureau."

"Why didn't we get tough with the FBI," Doar asked, "just give them the job and make them do it?"

"We knew," he said in answer to his own question, "that if the bureau didn't want to do the work, it wouldn't do a good job."

Beginning in 1964, however, the FBI's performance began to pick up significantly, and "from that time on," Doar says now, "the FBI really performed."

In the spring and summer of 1961, the Civil Rights Division called on the FBI to investigate allegations of voting discrimination in 34 Southern counties.

The bureau did the work, but Doar pointed out at Princeton that in each of the reports, "we got exactly the information we asked for—no more, no less."

If the division failed to anticipate particular kinds of discriminatory practices, then "the bureau's investigation would fail to bring out those practices." Further, while the bureau had no problem getting whites to talk to its agents, the division's own attorneys had to conduct most of the interviewing of black witnesses.

The treaty—In fact, in what Doar has described as a "treaty" between the division and the FBI, division lawyers had to act as investigators as well as attorneys in voting cases in the South.

It was also necessary for division attorneys to draft their requests for FBI interviews "in the most minute detail," according to Doar, who cites one request in 1962 which ran 17 pages, "explaining, anticipating, cautioning and coaching the bureau agents."

In another group of cases, Doar said, "the FBI produced voluminous reports . . . and numerous agents conducted interviews. But the investigation was superficial. There is no other way to describe it."

From 1961 to 1963, the FBI investigated many cases of voter intimidation, and the fact that it had conducted an investigation "did some good but it made few, if any cases," said Doar "and its performance—for the bureau was far from adequate."

This was partly because the bureau was understaffed in the South, especially in Mississippi, said Doar, partly because its resident agents in that state shared the attitudes of their fellow Southerners and partly because the FBI in Washington did not understand the problems in the field.

FBI shift—The big change came in the spring and summer of 1964, beginning with a memo from Attorney General Kennedy to President Johnson describing the problem in Mississippi proposing that the FBI expand its role in that state and telling the President he was dispatching a crack team of organized-crime investigators to Mississippi to investigate terrorist activities.

Two weeks later, the President sent the late Allen W. Dulles, retired director (1953-61) of the Central Intelligence Agency, to Mississippi to survey the scene.

Dulles returned with a recommendation that the FBI force in that state be substantially expanded. On that same day, Hoover decided to open an FBI field office in Jackson, and Doar is convinced "that Mr. Dulles' recommendation was the proximate cause in changing the bureau's operation in the South."

Doar also suggests that the competitive threat from the special investigating team which Kennedy sent to Mississippi helped to bring about the accelerated FBI role in that state.

It was, said Doar, one of the factors which "combined to produce a magnificent change in the bureau's performance in Mississippi."

In 1964, Doar added, "when a deep-seated change came upon America, . . . the bureau changed as well."

From then on, he said the FBI showed "exactly how and why it had earned its reputation for thoroughness, persistence and toughmindedness in responsible law enforcement."

In a lengthy paper on the FBI's civil rights performance prepared for the conference at Princeton, Doar concluded:

"Perhaps in retrospect there were ways to have made the bureau do better. But in evaluating the FBI's performance in protecting the right to vote, let us be sure we do not transfer our impatience with America itself onto the FBI simply because of its visibility—or our prejudices—or because we feel more comfortable criticizing a bureaucracy than criticizing ourselves."

Organized crime: FBI critics point to the field of organized-crime investigations as another area where the FBI followed the lead of the Attorney General only with great reluctance.

Hoover, interviewed by *Time* last year, said flatly of his relations with Robert Kennedy: "There was no disagreement about organized crime."

Navasky: In his book on the Kennedy years in the Justice Department, Victor Navasky says that the FBI came late to the fight against organized crime, denying even the existence of organized criminal groups long after the leadership of the department made the breakup of organized crime one of its major goals.

In the end, the FBI bowed to Kennedy's demands and increased its activities in this field, although Navasky says that "Mr. Hoover had won by losing," that the FBI had increased its independence and power by taking on the added assignments.

Navasky speculates that the FBI was reluctant to get involved in the organized-crime fight for fear that its statistical batting average of convictions would drop if it took on the necessarily lengthy organized-crime investigations.

Hundley: William G. Hundley, who headed the organized crime section of the Criminal Division under Kennedy, recalled recently that "it was like pulling teeth" to gain the cooperation of the FBI.

Hundley had previously worked in the Internal Security Division, where the relationship with the FBI was "close and intimate and cooperative."

Apparently, he said, Hoover felt that the organized-crime program was not as popular as "communist hunting."

Eventually, he said, the FBI began to perform effectively in this field, except where interagency cooperation was required. There, he said, "the bureau just would not play that game."

Clark: Ramsey Clark, who was an assistant attorney general under Kennedy, said recently that the FBI's hesitancy to enter the organized-crime field was, in part, the result of a "personality clash" between Hoover and Kennedy, "the director not being willing to play second fiddle to Bob Kennedy."

By the time Clark himself became Attorney General in 1967, "the FBI seemed to be ready to make a record" in the organized-crime field.

Strike forces: Clark's principal contribution to the federal government's war on organized crime was the institution of the strike-force program, which brings to each section of the country with an organized-crime problem a team of specialists from the major federal agencies with jurisdiction in the subject. (*For a report on the program, see No. 43, p. 2131.*)

The FBI, of course, is one of these agencies, but from the beginning it refused to join the interagency teams.

Clark said the FBI's reason for declining to participate—that it did not want to lose control and direction of its own agents—made some sense.

But he suggested that the main reason the bureau did not join in was that

"they wanted the credit to be the FBI's and not someone else's."

Under Mitchell, the picture has improved, and the FBI is now cooperating in, although still not participating in, the work of the strike forces.

Jurisdiction: The bureau's response to the criticism is that it had no effective jurisdiction against organized crime at the time Kennedy became Attorney General and decided to move extensively into that field.

"We couldn't go out and investigate people when there's no federal law," an FBI spokesman said.

The first of the organized-crime laws which gave the bureau the required authority, he said, were not enacted until 1961.

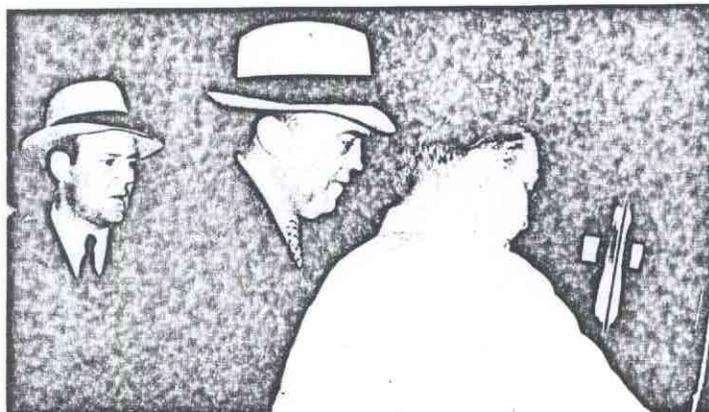
"Look at the statistics beginning in 1963, after these laws had been on the books long enough to produce some convictions," he said.

The statistics, as presented to congressional committees this year, show that FBI investigations resulted in the convictions of 64 "organized-crime and gambling figures" in fiscal 1964, 281 by fiscal 1968 and 461 in fiscal 1970, the last year for which data were published.

Intelligence: In no area has the FBI been more roundly denounced nor more strongly defended than in that of intelligence gathering, a function which was not among the bureau's original responsibilities when it was established more than 60 years ago.

Since World War II, however, it has become an important—some say the most important—part of the FBI's assignment.

Shortly before the outbreak of the war, the bureau was handed the job



Hoover takes charge at kidnapping scene

of coordinating the gathering of information on the activities of alleged or potential subversives and spies.

It is an assignment which has never been revoked, and it involves such sensitive and controversial techniques as the surveillance of individuals and groups, the compiling of dossiers and files and the use of telephone taps and other forms of electronic bugging.

Complaints—Critics have complained that the bureau has been too free in disseminating information from its files, that it has been indiscriminate in its tapping and bugging and that, in general, its intelligence-gathering role is a threat to free expression.

There have been charges that Hoover has shared information from its files with Members of Congress, and, in fact, those who sit on the House Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, which processes the FBI budget, acknowledge that the director tells them things in confidence about pending cases and individuals and groups under surveillance that could not be told in public.

Expressions of concern about the extent of FBI bugging and tapping are widespread, and Hoover himself, testifying before a Senate Appropriations subcommittee last June, used the term "tap-mania" to describe the state of those who believe their phones are tapped.

President Nixon, at a news conference in May, called it "hysteria," and pointed out that the taps "are always approved by the Attorney General."

Wiretapping—In a long letter declining an invitation to have an FBI representative at the Princeton conference last October, Hoover defended the bureau from criticism that it was acting without proper authority.

"Some critics would have the public believe that the FBI has acted totally outside the law," Hoover wrote, "when the fact is that we simply followed the legal advice given to us by the Attorney General."

A former Justice Department attorney familiar with organized-crime taps, however, said recently that the approval of a tap by the Attorney General doesn't necessarily assure its desirability. And, because of the historically unequal relationship between Hoover and his nominal superiors at Justice, it doesn't assure that the real initiative has rested with the Attorney General.

Congress

Congress, say critics of the FBI, has failed in its responsibility to oversee the activities of the bureau.

Its legislative committees are reluctant to look at the bureau's practices, its appropriations committees are distracted by the FBI's dazzling display of facts and statistics and fail to ask the proper questions, its critics charge.

An aide to a House committee which shares jurisdiction over the Justice Department, and therefore over the FBI, said recently that "no one in Congress was questioning the FBI about some things it should be asked about."

But his committee, he said, had no hold over the bureau, no real way of getting at the policy issues involving the FBI.

Leverage: "The place where leverage can be applied," he said, "is in the appropriations process."

Here is where Hoover could be made to account for his bureau's actions and inactions, the committee aide suggested.

As for his own committee, he said, the members feel obliged to deal on policy issues with Hoover's superior, the Attorney General.

"If it's a policy matter, it's an insult to the head man if you don't go to him. It's the boss Congress should be aiming at."

This is an argument which Hoover readily endorses. It is the bureau's position that it is an investigative agency, which neither makes nor comments on policy. This, however, is a position which is not always strictly adhered to.

Testimony—As a general rule, Hoover will testify only before an appropriations committee. When asked by a legislative committee, he will usually respond that the request for testimony should properly be addressed to the Attorney General.

In 1969, for example, the newly established House Select Committee on Crime invited the FBI director to appear before it to answer questions about how much of its annual budget was used to fight crime and how much to maintain internal security.

The word came back by telephone from one of Hoover's assistants that Hoover testified only before the appropriations panels, and then only in closed sessions.

Try the Criminal Division of the

Justice Department for the information, the committee was told.

Rep. Pepper, the committee chairman, angered by the refusal, warned he could subpoena Hoover, but said he would not because he didn't want to embarrass the director.

Exceptions—Hoover's rule has been bent from time to time, however. The most famous instance was the director's testimony, on Nov. 17, 1953, before the Senate Judiciary Internal Security Subcommittee at his own request.

Hoover told the committee, the former President (1945-53) Harry Truman's promotion of Harry Dexter White, a Treasury official accused of being a member of a Soviet spy ring, had hampered the work of the FBI.

Hoover testified, an FBI spokesman said recently, because "his integrity had been questioned and he wanted to set the record straight."

Whatever the reason, Hoover's testimony on what was then such a sensitive subject caused a storm of controversy.

Policy: Hoover has also not hesitated to discuss policy during his sessions with the House and Senate subcommittees which process his budget. These hearings are invariably closed to press and public, but a transcript is later published, excluding the off-the-record exchanges of Hoover and the committee members.

The FBI director tries to avoid commenting on specific legislation—at least during the on-the-record portions of the hearings—but even in this there are exceptions.

Consular offices—In March 1965 in testimony before a House appropriations subcommittee, Hoover responded to a request to comment on a treaty then pending in the Senate which would authorize the exchange of consulates between the Soviet Union and the United States.

Hoover stated that this would "make our work more difficult." So influential is Hoover with Congress on the subject of subversive activities that this remark was sufficient to put the treaty into serious trouble in the Senate, despite the fact that the President and the Attorney General were on record as favoring it.

The treaty was finally approved after Secretary of State (1961-69) Dean Rusk wrote to Hoover, saying that he did not agree with the general interpretation of Hoover's statement as one of opposition to the treaty.

Rusk said he thought Hoover only

meant that such a treaty would complicate the problem of internal security "without, of course, implying that the problem could not be handled by the FBI."

Hoover could not easily disavow Rusk's flattering interpretation, and wrote back to the Secretary that his interpretation was indeed correct.

Repeaters—Even in the routine course of budget hearings, Hoover's views on crime and the law are solicited and given.

Last June, for example, during his appearance before the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, which processes his budget, Hoover was asked for his recommendation on what to do with criminal repeaters.

"The difficulty," said the director, "is with district attorneys who make deals and judges who are too soft.

"Some are bleeding hearts. In some big cities, it is like a revolving door. They go in and come right out again.

"Then last, but not by any means least, you have the abuse of parole and probation."

Drug addicts—In the same hearing, Hoover was asked how he would cope with hard-drug addicts. His reply:

"Enforce the laws that are on the books at the present time, particularly those aimed at the pushers, who sell the drugs. I am not particularly in favor of reducing the penalties in regard to the possession of marijuana and hard drugs."

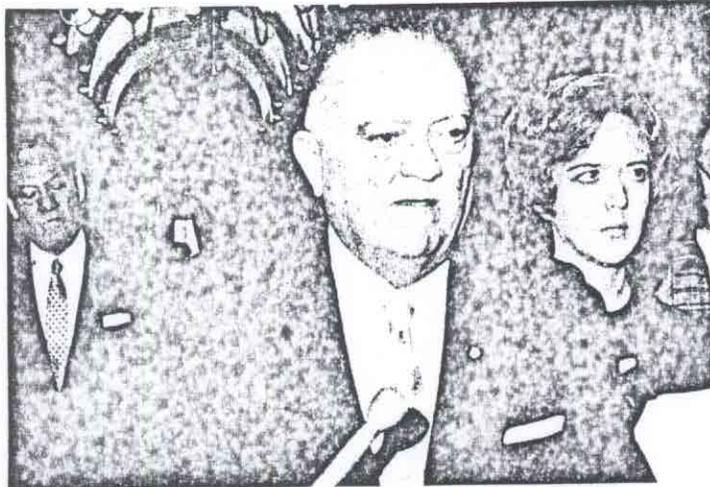
It is the congressional legislative committees, incidentally, not the appropriations panels, which process bills on drug pushing or on criminal recidivism.

Privacy—As a general rule, however, the appropriations committees do not—on the record, at least—spend much time quizzing Hoover on policy questions.

The director, for example, appeared before the House appropriations subcommittee on the morning of March 17 this year to testify on his budget request, while assigning one of his assistants to go to a nearby hearing room and read a Hoover statement to the Senate Judiciary Subcommittee on Constitutional Rights, which was holding hearings on the invasion of privacy by government.

Hoover presented the House subcommittee with what amounted to a briefer version of that statement.

Not a single question was asked of him on the record nor, so far as the



Hoover talks to newsmen outside Senate hearing room after testifying on FBI budget

printed transcript indicates, off the record.

Off the record: The parenthetical phrase "discussion held off the record" dots the published versions of Hoover's closed-door committee testimony.

What is said off the record is, of course, intended only for the ears of the committee members, who are proud of their ability to keep what they hear to themselves.

Hints—Nevertheless, the general nature of the off-the-record discussions are hinted at and even described by members of the two panels.

Rep. John J. Rooney, D-N.Y., who has chaired the House Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary for 21 of the last 23 years, said in an interview that the committee finds out what it needs to know to process the FBI budget during the off-the-record-phase of the hearings.

"You must imagine this is a very interesting part of the day," Rooney said. "We get information no other committee of Congress gets... and it's never divulged."

Rooney's Republican counterpart, Rep. Frank T. Bow of Ohio, who is also the ranking Republican in the full House Appropriations Committee, said "you do find some sharp questioning" in the closed sessions.

Other committee members have similar reports.

"Anything we want to hear," said Rep. Neal Smith, D-Iowa, "he'll tell us

about," including cases pending in court. "It gives us an idea of what they're up against in the coming year."

Hoover, said Rep. Mark N. Andrews, D-N.D., "has to be frank with us so we know how much money he needs to run his shop and to anticipate problems."

"Most of the probing questions we ask come up when we are off the record."

Berrigans—Hoover got himself into hot water and simultaneously gave the public a rare glimpse of the kind of information given out during off-the-record committee sessions when he appeared before a Senate appropriations subcommittee Nov. 27, 1970 to request supplemental budget money.

An FBI spokesman said Hoover did not realize the committee intended to release copies of his statement; others say the FBI itself made copies available in advance of the testimony.

In any case, Hoover made headlines that day by telling the subcommittee of "an incipient plot" by the East Coast Conspiracy to Save Lives to blow up underground conduits and steam pipes in Washington "to disrupt federal government operations" and to kidnap a high government official and hold him for political ransom.

The leaders of the east coast conspiracy group, said Hoover, were the Revs. Philip and Daniel Berrigan; the high official was later identified as Henry A. Kissinger, President Nixon's

assistant for national security affairs.

For publicly revealing details of an FBI investigation in advance of grand jury action, Hoover was sharply criticized.

Participants in appropriations committee hearings say Hoover privately gives out this kind of information on a regular basis during off-the-record sessions. In November 1970, he did it on the record.

Fears: There is a widespread feeling on Capitol Hill that the FBI's vast files contain folders on each Member of Congress, and that the potential for abuse of the files exists.

Dossiers—At the Princeton conference in October, Bernard Fensterwald Jr., former counsel to the Senate Judiciary Subcommittee on Administrative Practice and Procedure, explained why he believed Congress would never investigate the FBI:

"Hoover's got a dossier on everyone on the Hill, and they know it."

While many share Fensterwald's suspicions, others are convinced that even if there are dossiers, the FBI would never use them for fear of arousing the enmity of the entire Congress.

Taps—The recently voiced suspicions on the part of some Members of Congress that their office phones were being tapped has put Hoover on the defensive.

When questioned last March by a House subcommittee member about fingerprint records of Members of Congress, Hoover volunteered: "I would like to add, also, we have never tapped a telephone of any Congressman or any Senator since I have been director of the bureau."

In June, before the Senate subcommittee, Hoover said, "I want to take this opportunity to reiterate what I told the members of the House subcommittee on appropriations last March, that the FBI has not tapped the telephone of any Congressman or any Senator since I became director in 1924."

The suspicions remain, however, and they were not dispelled by recent court testimony that the FBI had bugged the office (though not tapped the phone) of Robert T. Carson, administrative assistant to Sen. Hiram L. Fong, R-Hawaii, in the course of investigating a bribery charge against Carson and that the telephone of a man calling Rep. John Dowdy, D-Tex., at his Capitol office had been tapped during a probe of a similar charge against Dowdy.

Accountability: Despite his relative freedom from close congressional supervision, "Hoover is accountable up here," a Senate aide, who did not wish to be identified, said: "not day to day, year by year, line-item by line-item, but he knows what Congress wants and doesn't want."

The aide said there are a series of "informal checks and balances, and these are what keep the bureau in line." When Hoover is finally replaced, he said, "the new man will have to learn this."

Budget

The FBI asked for \$334,486,000 for the current fiscal year, and as is usually the case, got every penny of it.

In the past 23 years at least, the FBI has gotten all it asked—and in two of those years, more than it asked.

This is true not only of what the bureau gets from Congress but of what it is authorized to request by its superiors in the Justice Department and in the Executive Office of the President.

Justice: Leo M. Pellerzi, the assistant attorney general in charge of Justice's Administrative Division, said in a recent interview that historically the FBI's budgeting procedures have been "much better than the rest of the department" and that for this reason the bureau has been treated differently from all other units of the department in the preparation and processing of its spending requests.

The FBI, for example, does not participate in the internal review process within the department which precedes the formal submission of budget requests by the department's subdivisions.

But it is involved in "the daily give and take" with departmental budget analysts, and at this stage of the process, its budget requests are treated much as those from other units of the department.

Budget cuts—The Administrative Division has, on occasion, recommended cutbacks in FBI spending. But Pellerzi said that since he joined the department in 1968—and for at least several years before that—no bureau cuts have been sustained.

"Hoover can be very persuasive with the Attorney General," who has the final word on the size of the department's budget, said Pellerzi.

"If he says he needs it to do the job, his personal stature is such that there is very little you can do to knock that down."

After Hoover—Hoover gets what he asks for, in the department at Capitol Hill, said Pellerzi, because the budget is carefully prepared and justified.

When finally a new director takes over at the FBI, "it would be a natural consequence that the budget would be looked at a lot more closely and it would be essential from the point of view of the Attorney General and the OMB (Office of Management and Budget) to do this," Pellerzi said. At OMB, the FBI budget is usually reviewed during a hearing session attended by Clyde A. Topp, Hoover's long-time associate director, by John P. Mohr, the veteran associate director, and by Nicholas Callahan, assistant director in charge of the administrative division bureau.

The FBI budget has survived OMB review without change for at least the last few years, according to Pellerzi, who added that "from your point of view you shouldn't conclude that this is cursory—you can have a very thorough review of the budget and cut it."

The FBI budget fares well a general government programs explained Mark W. Alger, chief of OMB, because "the FBI has been an agency that has consistently asked for increases in personnel in response to specific legislative and Presidential direction."

Congress: Hoover personally leads the FBI budget team before the sessions of the House appropriations subcommittee and the occasional hearings held by its Senate counterpart.

"Mr. Hoover spends more time preparing for his budget testimony," an FBI aide said, "because he knows the budget is the key to operating the bureau."

Hoover often takes the budgeting process home with him during the week-end, and the results show in the budget on the Hill.

Rooney—House subcommittee Chairman Rooney has a reputation as an impatient questioner of witnesses before his panel. He is quick to land upon a witness who is unsure of his facts.

Of Hoover, Tolson and Mohr, the trio which usually presents the budget to the subcommittee, Rooney is arrayed on one side of the long, felt-covered table in the committee room, Rooney said.

"You can ask them any

McClellan and Rooney: Friends of the FBI

If any one man can be said to dominate the relationship between Congress and the FBI, it is Sen. John L. McClellan, D-Ark., a 33-year veteran of Capitol Hill.

McClellan wears three hats while acting out this role.

He is chairman of the Senate Government Operations Committee, which is empowered to investigate and monitor the activities of the entire executive establishment. He is also chairman of the committee's Permanent Subcommittee on Investigations, the forum in which McClellan built his reputation as a stern prober of organized crime, labor corruption and government waste.

He is chairman, as well, of the Judiciary Subcommittee on Criminal Laws and Procedures, which processes most of the legislation in the field of organized crime, gambling and racketeering, with major jurisdiction over the laws which the FBI enforces.

Key post: Most important, McClellan heads the Senate Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, which passes on all budget requests from the FBI.

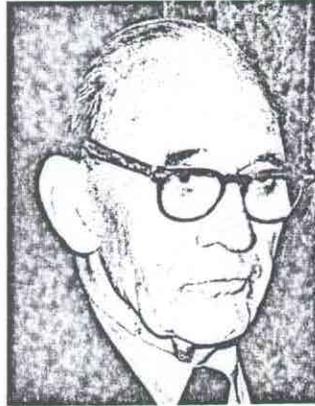
McClellan's most significant role in the future, however, may derive from his Judiciary subcommittee chairmanship if he is still in the Senate when the nomination of a new FBI director is sent up for confirmation.

That nomination will be handled by the Judiciary Committee, and McClellan, because of his subcommittee position, may be influential both in the choice of a new director and in the nominee's approval by the Senate.

McClellan, at 75, is a year younger than the FBI director. He served two terms in the House, from 1935 to 1939, and then returned to Arkansas to private law practice until 1942, when he successfully ran for election to the Senate.

He will complete his fifth term in the Senate on Jan. 3, 1973.

An aide to the Arkansas Senator, asked if McClellan's relations with Hoover and the FBI were satisfactory from McClellan's point of view, said in an interview that



John L. McClellan



John J. Rooney

the question answered itself: "McClellan can't have a bad relationship with the FBI. He has too much power over it—when he chooses to use it."

McClellan is considered ideologically to be in the same camp as Hoover, and therefore the need to use his legislative and purse-strings power over the bureau rarely arises. **Three in House:** McClellan's three hats are worn by as many men in the House.

The House Government Operations Subcommittee on Legal and Monetary Affairs, which oversees the work of the FBI, among other agencies, is headed by Rep. John S. Monagan, D-Conn., a member of the House for 13 years.

The dean of the House, 83-year-old Rep. Emanuel Celler, D-N.Y.,

who has been in the House since 1923, is chairman of the Judiciary Committee, which has general legislative jurisdiction over the FBI.

The House Member who has the most influence over the FBI, however, is Rep. John J. Rooney, like Celler a Democrat from Brooklyn, who has been in the House since 1944 and has been chairman of the House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary since 1949 (except during the two Republican years of 1953 and 1954).

Rooney's subcommittee processes the FBI's budget and is one of the very few panels to take testimony regularly from Hoover.

Approval: The full House Appropriations Committee rarely overrides the spending recommendations of its subcommittees, and the full House does not often tamper with what its Appropriations Committee proposes.

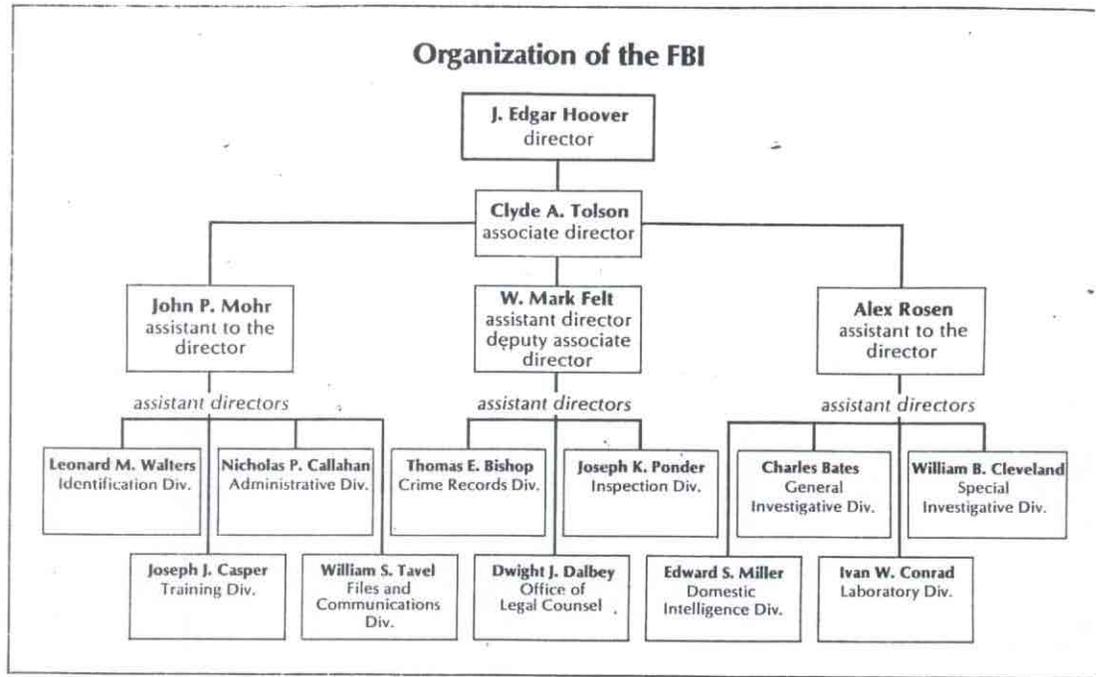
In the case of the FBI budget, the subcommittee has always approved at least as much as the bureau has asked for, and this approval has always been sustained by the full committee and by the House.

Rooney's views on the FBI are perhaps best exemplified by a statement he made on the House floor last June 14 in reaction to a television documentary critical of Hoover and the bureau.

"As a citizen of the United States," Rooney said, "I am deeply disturbed at this continuing attempt to discredit a devoted and exemplary public servant, FBI Director J. Edgar Hoover. He has selflessly molded the FBI into perhaps the finest investigative agency in the world.

"To my mind, the FBI represents one of the best-managed and most efficient government agencies it has been my privilege to observe in more than a quarter of a century on the Hill."

"This evaluation of the FBI is not made from any infatuation with or, as some critics would maintain, a fear of Mr. Hoover. It is made from the cold, hard analysis and comparison of government operations from a vantage point few others have had."



anywhere in their budget, and you get an answer right then and there."

Rooney complained that other witnesses are inclined to dodge hard questions by promising to supply the answer later for the committee record. "Hoover never does this," he said.

Why has the FBI fared so well at the hands of the committee, Rooney was asked.

"Because it's the best-run agency in town, administratively," he said.

The bureau's budget rises each year, said Rooney, "because of additional duties given to it gratuitously—and not sought by the FBI—by the Congress itself."

When he first became subcommittee chairman, Rooney recalled, "I started out trying to trip up Mr. Hoover, and I really got frustrated.

"I never could lay a glove on him. I might be able to get his goat—he has a low boiling point, you know—but I never could get anything that would justify reducing the budget."

Rooney's predecessor, Rep. (1935-51) Karl Stefan, R-Neb., gave him some advice when he took over the subcommittee:

"He said to me, 'Consider carefully before you cut the FBI budget, because it means so much to our country.' I've taken that advice."

Bow—The senior Republican on the subcommittee, Rep. Bow, shares Rooney's attitude toward the FBI.

"The FBI always lays its cards on the table for us," he said. "They never try to put anything under the table that we can't see."

Bow, like Rooney, insisted that the committee examine the FBI budget "as closely as we do the others. It's the manner in which the FBI has handled its budget which makes it look easier."

GAO: The General Accounting Office, an arm of Congress, has general auditing authority over all agencies of the federal government.

There are some exceptions, however, for funds relating to intelligence activities, and the FBI—like the CIA—is free from GAO auditing.

"We've never set a foot inside the door of the FBI," said a GAO official who declined to be identified.

"As a practical matter, we doubt if the FBI would give us access to their records."

Reform proposals

There is no shortage of proposals to reform the FBI, to restructure it, to increase its responsiveness and accountability, to protect it from the grasp of political manipulators.

Princeton: A sheaf of suggestions emerged from the October conference at Princeton, including several calls for legislation to limit the FBI to the enforcement of criminal laws, stripping it of its intelligence-gathering function.

Emerson—Prof. Thomas I. Emerson of the Yale Law School made that proposal, and also recommended that a board of overseers be established to watch over the FBI, and an ombudsman appointed to process citizens complaints against the bureau.

Elliff—John T. Elliff, an assistant professor of politics at Brandeis University, said the FBI suffers from the fact that it has gone a half-century without a public accounting.

He proposed that a permanent domestic intelligence advisory board, a counterpart to the board which advises the President on foreign intelligence be created to give the chief executive advice in this field.

Chairman—A statement issued in the name of the three conference co-chairmen—Burke Marshall, Norman Dorsen and W. Duane Lockard—urged Congress to convene a "national commission of inquiry" that would explore some of the questions raised at the conference.

AELE: Americans for Effective Law

Enforcement, a Chicago organization created originally as a counterweight to the American Civil Liberties Union, has been given a \$70,000 grant by Friends of the FBI to make its own study of the bureau.

The Princeton conference was biased and its studies were prejudiced, Frank Carrington, executive director of AELE, told a news conference in Washington recently.

"Our study is necessary, therefore, if this nation is to have a full discussion of the FBI's role in our society," he said.

Carrington said the new study "will be prejudiced in only one respect. We will recognize the conflict between the need for a governmental institution that contends with radical and revolutionary groups, and the constitutional rights of those groups.

"We will not resolve that conflict entirely in favor of the radicals, as has been done by the ACLU and the CPJ (Committee for Public Justice, a cosponsor of the Princeton conference). In Congress: Sen. Muskie, the front-running candidate for the Democratic Presidential nomination, has called for a domestic intelligence review board, responsible to the President and Congress, that "would oversee all government surveillance activities.

Sen. Gaylord Nelson, D-Wis., has sponsored a bill to establish a legislative commission to study all domestic surveillance by government agencies, including the FBI.

In the congressional hopper but, like Nelson's bill, without any signs of hearings, are two bills which would set conditions on the selection of a successor to Hoover.

Rep. Charles H. Wilson, D-Calif., has sponsored a bill which would set a 10-year term for the director of the FBI and prevent reappointment at the end of the term. It would also let the President remove the director from office before the term is up.

Rep. Walter S. Baring, D-Nev., is the author of a bill that would require the President to appoint the next FBI director from among those who have served in the bureau for at least 10 years.

Outlook

There is little sign of any real desire—in the Justice Department, the White House or Congress—to get involved now in a full-scale study of the organization and activities of the FBI.

Administration: Wallace H. Johnson, an

associate deputy attorney general who is the Justice Department's chief legislative representative, said in a recent interview that the Administration had no plans for any legislation in this direction.

"As far as I know, there has been no legislation proposed, considered, submitted or encouraged to restrict the FBI or circumscribe the director's term," Johnson said.

Congress: A Senate committee aide who follows the legislative fortunes of the FBI closely predicted recently that "nothing will be done until Hoover actually steps down."

Staff members of other committees with jurisdiction that could permit them to embark on an investigation of the FBI were equally confident that any study of that kind would await Hoover's retirement.

Last April, the Justice Department briefly proposed and quickly rescinded an invitation for a full-scale congressional investigation of the bureau.

Nothing more has been heard of the suggestion.

There may be some committee studies and investigations which peripherally will involve the FBI.

Ervin—Sen. Sam J. Ervin Jr.'s Subcommittee on Constitutional Rights has invited two White House aides, Frederic V. Malek and Charles W. Colson, to testify on the abortive FBI check of CBS newsman Schorr early next year as part of Ervin's hearings on press freedom.

The subcommittee is currently working on a report and legislation based on this year's hearings into government surveillance which may affect the FBI, at least incidentally.

Rights panel—The Organized Crime Control Act of 1970 (84 Stat 960) established a National Commission on Individual Rights, composed of 15 members, seven named by the President and eight by Congress, to study federal laws and practices relating to wiretapping and bugging, among other things.

The commission was given authority to demand data from any federal agency as part of its determination as to whether such laws and practices "infringe upon the individual rights" of Americans.

The role of the FBI would be a logical part of such a study—if it ever comes about.

To date, the commission has not been named and money to run it has not been appropriated, even though the com-

mission was to have begun its work on Jan. 1, 1972.

Advice and consent: There is much optimism, on the part of FBI critics, about the provision of the 1968 Safe Streets Act which requires the President to submit the nomination of Hoover's successor to the Senate for confirmation.

They are hopeful that the Senate will exercise its review privilege as vigorously as it has on Supreme Court nominations during the past few years.

"I was very pleased to see the directorship put under Senate confirmation," Ramsey Clark said, "because I thought it possible the wrong man could get in."

A congressional aide who differs with Clark on many issues, shares with him his feeling that the confirmation requirement is desirable and "is likely to produce a moderate, able nominee."

Stephen Gillers, director of the Committee for Public Justice, which sponsored the Princeton conference, said a book which includes the papers prepared for the conference and much of the two-day proceedings, will be ready next fall and if the timing is right, he hopes the volume will have an impact on congressional consideration of a new director.

"We're also prepared very quickly to put together a panel of people to testify at a confirmation hearing," Gillers said.

"At the least," he added, the Princeton papers "can serve as a vehicle for a public airing and a way to put the new director on the record."

New man: That there will be a new director before too long is widely accepted.

When the new man is in office, predicted Clifton Sessions, "a lot of people will be testing to see what they can do and get away with—whether the old power still exists."

Francis Biddle, writing in 1962, drew upon his experience as Hoover's boss during the war years and asked:

"When Hoover resigns or retires or dies, what will happen—can the same freedom be given to another man, the virtual freedom from control?"

"I do not believe it can. But the tradition of good work over these long years will carry it along and perhaps hold it above the corruption and misdirection which has infested so many police forces.

"A successor to Hoover must be found who is outstandingly competent, but who is also humane."