

Widespread Lawbreaking Laid to Intelligence Units

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Examples Given by Senate Committee— Report Says Ultimate Responsibility Lies With Highest U.S. Officials

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WASHINGTON, April 28—In 1954, an assistant director of the Federal Bureau of Investigation sent J. Edgar Hoover a memorandum recommending that the bureau plant an electronic listening device in the hotel room of a suspected Communist sympathizer.

The memorandum said that the bug "will not be legal." It added, however, that it would be "necessary and desirable" for the information it would disclose.

Mr. Hoover, the F.B.I. director, approved the bug.

The Senate Select Committee on Intelligence cites this incident as an example of the widespread and deliberate breaking of the law by the nation's intelligence community. It also cites testimony of the F.B.I.'s director of intelligence for 10 years, William C. Sullivan, to show that illegality was often not even mentioned. Mr. Sullivan was quoted as saying:

"The one thing we were concerned about was this: Will this course of action work, will it get us what we want, will we reach the objective that we desire to reach? As far as legality is concerned, morals or ethics, [it] was never raised by myself or anyone else."

Other Examples Given

The Committee also cited other examples to show how the director of the F.B.I., the director of the F.B.I.'s intelligence activities and many others could have ignored the law.

They are examples of action and inaction by high Government officials outside the intelligence agencies.

It is the central thesis of the Senate committee's report, released today, that the high officials responsible for overseeing the agencies, including Presidents, Cabinet members and Congressmen, helped to create and bear the "ultimate responsibility" for the intelligence community's climate of lawlessness.

Among the examples were the following:

In 1954, the same year as the Hoover bugging incident, the Supreme Court issued an opinion decrying the use by the local police of warrantless microphone surveillances of a defendant's bedroom.

"Few police measures have come to our attention," the Court said, "that more flagrantly, deliberately and persistently violated the fundamental principle declared by the Fourth Amendment as a restriction on the Federal Government that the right of people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause."

Brownell Reversed Policy

A few weeks later, Attorney General Herbert Brownell reversed Justice Department policy prohibiting the F.B.I. from trespassing to install microphone surveillances. He sent a memo to Mr. Hoover giving authority to engage in bugging, saying:

"Obviously, the installation of a microphone in a bedroom or in some comparably intimate location should be avoided whenever possible. It may appear, however, that important intelligence or evidence relating to matters connected with the national security can only be obtained by the installation of a microphone in such a location."

"Considerations of internal security and national safety are paramount and, therefore, may compel the unrestricted use of this technique in the national interest."

A second example of officials ignoring the law occurred in 1961 and involved Edward J. Day, who was then Postmaster general. Mr. Day told of it himself in testimony to the Senate select committee.

As he described it, Allen W. Dulles, Director of Central Intelligence, told Mr. Day that he had something "very secret" to disclose. Mr. Day interrupted and asked, "Do I have to know about it?" Mr. Dulles replied, "No."

The committee report said that, according to Richard Helms, the C.I.A.'s deputy director for plans, who was also at the meeting, Mr. Dulles wanted to tell the Postmaster General that the C.I.A. was opening mail, a project that, the committee said, violated Federal law prohibiting obstruction, interception or opening of mail.

But the Postmaster General, by his own testimony, never heard Mr. Dulles's account, because the C.I.A. chief understood that Mr. Day did not want to know what he did not have to know.

King Inquiry Cited

The long F.B.I. investigation of the Rev. Dr. Martin Luther King Jr. provided still more examples that involved Robert F. Kennedy, Attorney General during part of the King investigation; Nicholas deB. Katzenbach, Attorney General during another part, and Burke Marshall, an Assistant Attorney General at the time.

Mr. Kennedy and Mr. Katzenbach were "aware of some aspects" of the King investiga-

tion, the report said, "yet neither ascertained the full details" of the campaign to discredit Dr. King.

Mr. Kennedy, for example, in 1963 authorized wiretaps on Dr. King's home and office telephones. He requested that an evaluation of the results be sent to him within 30 days, the report said, so he could determine whether the taps should be continued.

"But the evaluation was never delivered to him, and he did not insist on it," the report said. "Since he never ordered the termination of the wiretap, the bureau could, and did, install additional wiretaps on King by invoking the original authorization," the report said.

Johnson Told of Offer

Mr. Katzenbach and Mr. Marshall testified to the committee, the report said, that in late 1964 they learned that the F.B.I. had offered tape recordings of Dr. King to some Washington journalists. They also said that they informed President Johnson of the F.B.I.'s offer.

"The committee has discovered no evidence, however," the report said, "that the President or Justice Department officials made any further effort to halt the discrediting campaign at this time or at any other time; indeed, the bureau's campaign continued for several years after this incident."

Yet other examples occurred in the Nixon Administration, including Mr. Nixon's own temporary approval, later rescinded, of the so-called "Huston plan," which involved such things as mail openings and noted their illegality.

The committee summed up its point this way:

"When senior Administration officials with a duty to control domestic intelligence activities knew, or had a basis for suspecting, that questionable activities had occurred, they often responded with silence or approval."

"In certain cases, they were presented with a partial description of a program, but did not ask for details, thereby abdicating their responsibility."

"In other cases, they were fully aware of the nature of the practice and implicitly or explicitly approved it."

Among the reasons the committee cited was that sometimes Administration officials assumed "that an intelligence agency would not engage in lawless conduct"; sometimes, "they simply did not want to know."

Harshly Critical

The committee did not contend that these acts and omissions by high Administration officials excused the lawlessness by the intelligence agencies. It was instead harshly critical of the intelligence officials and cited numerous instances where the agencies had withheld information from both the executive branch and Congress and ignored their directives.

In one example, the bureau supplied a news release for Senator Edward V. Long of Missouri, who in 1966 was holding hearings on electronic surveillance techniques. The bureau said in the Senator's release, with his approval, that the subcommittee had "conducted exhaustive research" and was now "fully satisfied" that the F.B.I. had not participated in "High-handed or uncontrolled usage" of surveillance.

The report said that the press release was "misleading," for the committee's "exhaustive research" was apparently a 90-minute briefing on the bureau's practices in which the Senator was not told of the many improper activities.

The committee's report placed "ultimate responsibility" for the "climate of permissiveness" on the various high-ranking Government officials who were supposedly in charge of controlling the activities of the intelligence community.

"The committee's inquiry has revealed a pattern of reckless disregard of activities that threatened our constitutional system," it said.

"Improper acts were often intentionally concealed from the Government officials responsible for supervising the intelligence agencies, or undertaken without express authority. Such behavior is inexcusable. But equally inexcusable is the absence of executive and Congressional oversight that engendered an atmosphere in which the heads of those agencies believed they could conceal activities from their superiors."