

Panel Clears I.R.S. on Miami Inquiry

NYTimes

By SEYMOUR M. HERSH

JAN 6 1977

A Federal grand jury has reported that intelligence agents of the Internal Revenue Service did not violate the civil rights of taxpayers during a highly publicized "sex and drinking" investigation in Miami known as Operation Leprechaun.

The grand jury, in concluding an 18-month investigation of the alleged revenue service spying, sharply criticized the press for not exercising greater care in printing a series of exposés in early 1975 that led to Congressional hearings and a cutback by Donald C. Alexander, the I.R.S. head, on intelligence activities.

The grand jury report specifically accused The Miami News, which first disclosed details of Operation Leprechaun, of "knowingly publishing false information" about the I.R.S.'s intelligence activities.

The report, which did not hand up indictments, was to have been made public yesterday by Judge C. Clyde Atkins of the United States District Court in Miami. The judge delayed its release, however, after the Cox newspaper chain, owners of The Miami News, filed notice

Continued on Page 13, Column 1

Continued From Page 1

that it would appeal to the United States Court of Appeals for the Fifth Circuit in New Orleans in an attempt to suppress the report.

Senior editors of the newspaper refused to discuss the matter yesterday, and the newspaper's attorney, Daniel N. Heller of Miami, denied that the publication had appealed.

In his order, Judge Atkins gave the newspaper until Friday to formally file its appeal papers.

In telephone interviews yesterday, a number of attorneys described the grand jury's volunteered report on newspaper conduct as "unprecedented."

Eugene R. Scheiman, a press law specialist here with Cahill, Gordon & Reindel, added, "What strikes me as even more strange is that a newspaper would go into court to seek a denial of access."

The detailed grand jury report, some of whose findings became known in Washington and elsewhere in recent days, was viewed by Congressional investigators and I.R.S. intelligence agents not only as a rebuke to the press but also as a sharp setback to Mr. Alexander, who has been accused by some Congressmen of using the press disclosures about the alleged abuses in a controversial campaign to severely restrict intelligence programs.

The grand jury did not specifically address itself to that controversy in its report, but it did note that it had heard "no evidence" suggesting that there had been improper conduct by Mr. Alexander.

After his initial attempt to limit I.R.S. intelligence division inquiries early in 1975, Mr. Alexander was accused of improperly interfering with a tax investiga-

tion in the Caribbean. He was cleared of any wrongdoing after another Federal inquiry last year.

The bulk of the grand jury report dealt with various published allegations stemming from Operation Leprechaun, an I.R.S. intelligence division operation in the early 1970's aimed at gathering tax information on a group of 30 prominent Miamians, including city officials and Federal and state judges.

The first newspaper accounts of the program, in The Miami News and elsewhere, were based on interviews with Elsa Gutierrez, who had served in 1972 as a paid informant for the revenue service.

"Much of the difficulty encountered in the press reporting" on Operation Leprechaun, the grand jury report said, "was caused by the repeated use of the catch phrase 'sex and drinking habits,' which was extensively used but was never clearly defined, except as a convenient label for Leprechaun."

While the grand jury concluded that Mrs. Gutierrez had been recruited to spy on the personal lives of the 30 prominent officials, it added, "There was no evidence that the civil rights of any taxpayer were violated by any of the Internal Revenue Service employees carrying out their duties." The grand jury also found that there was no evidence that the agents involved were gathering information for political purposes.

In addition, the grand jury reported, "A significant portion of the information catalogued [by the I.R.S. in its files] consisted of newspaper clippings about the individuals and businesses who were the alleged targets of Operation Leprechaun."

Revenue service agents are known to collect information routinely about the personal spending and living habits of suspected income tax violators to determine whether a suspect was not reporting all of his income prior to paying taxes.

The grand jury, in its report, cited more than a dozen specific 1975 newspaper allegations about the activities of the I.R.S. in the Miami area, including reports that the revenue service was using illegal wiretaps, had illegally photographed bank records, and had threatened a businessman in order to encourage him to spy on the sex lives of his customers.

All of these allegations, which were treated as headlined exposés by the press, were not true, the grand jury reported.

In addition, the grand jury found that Chris Sanson, a Miami News reporter who was responsible for many of that newspaper's exposés, had acknowledged in her testimony that she had fraudulently helped to create an I.R.S. document that showed that she was to be audited by the revenue service in retaliation for her reporting.

The grand jury recommended that the Government further investigate Miss Sanson's activities for possible violations of law. Miss Sanson, who was dismissed by The Miami News in late April 1975, could not be located.

Although Mrs. Gutierrez was correct in her statements that she did work as an informant for the revenue service, the grand jury said, much of her other assertions—as published—were false.

Specifically, the grand jury depicted as untrue Mrs. Gutierrez's allegations that she and her family had received death threats, that she was threatened with an auto accident, and that she was threatened with income tax prosecution—all because of her cooperation with the newspapers.

After citing these and other incorrect newspaper accounts of the activities of the I.R.S. intelligence division, the grand jury concluded that the "news media, and specifically The Miami News, in the exercise of their responsibilities, should have exercised greater care in placing reliance upon sources for their news stories as well as in the verification of the credibility of their sources and the accuracy of the information provided."

"It is the further conclusion," the grand jury report said, "that The Miami News should have exercised closer supervision over certain of its reporters."

"Based upon the evidence presented to the grand jury, it would appear that The Miami News knowingly published false information in its stories, causing serious embarrassment to many innocent persons," the report states.

The published newspaper articles eventually led to hearings by two House panels, the Ways and Means Oversight Subcommittee, whose chairman is Representative Charles A. Vanik, Democrat of Ohio, and a Government operations subcommittee, headed by Representative Benjamin S. Rosenthal, Democrat of Queens.

Both subcommittees, after full investigations, eventually concluded that the press allegations were overblown and both groups have since criticized Mr. Alexander for his seeming eagerness to curtail the activities of the 2,800 agents of the I.R.S. intelligence division.