

The Justice Department and the FBI

ATTORNEY GENERAL Edward H. Levi's speech to the American Bar Association in Montreal last week is an encouraging progress report on his important effort to develop guidelines for future investigative operations by the FBI. Given the range and complexity of this work, it is not surprising that the Justice Department's task force has not found all the answers yet. What is impressive is the department's willingness to address the hard questions of governmental conduct and control in a very sensitive field where conflicts between individual liberties and public protection are inevitable.

For one thing, the Attorney General seems to be contemplating a sharp cutback in domestic intelligence-gathering and FBI intervention in the affairs of dissident groups. Though the guidelines are still incomplete and tentative, Mr. Levi's remarks indicate that he wishes to end the vacuum-cleaner approach to intelligence that has led to the collection and retention of so many files on law-abiding citizens and groups. Under the guidelines, for instance, the FBI would be required to throw away unsolicited derogatory information that does not bear on possible serious criminal conduct. This in itself would be a great departure from present practices, under which the Bureau has been keeping everything that comes in—including nasty letters about public officials—because it might have some future use.

More important, the guidelines would restrict domestic intelligence activities, including electronic surveillance, to the collection of information about activities that may involve the use of force or violence in violation of federal law. The kinds of harassment and manipulation of domestic groups employed in the Cointel program

would be even more sharply curtailed. The exact language of the guidelines has not been set, and it will no doubt be intensely debated. But the thrust of these proposals is clearly toward a far more precise, discriminating program of preventing or investigating specific crimes, rather than probing into the business of any person or organization that seems to be, by someone's gauge, radical or obstreperous or vaguely threatening. At the same time, the department is trying to devise new rules for foreign intelligence operations, including wiretapping, break-ins and other activities undertaken for the sake of national security—as properly and narrowly defined. In this acutely sensitive area, Mr. Levi last week seemed somewhat more receptive to congressional and judicial involvement than he has been in the past.

No matter what guidelines may be developed, their success will hinge on establishing and maintaining a more reliable system of oversight and accountability. In the past, many unlawful and questionable FBI operations have been launched on the say-so of one man—whether a White House aide or an agent in the field—and have been perpetuated because senior officials failed to notice and call a halt. As outlined last week, the guidelines would generally call for much closer review of FBI activities by the Attorney General. While this is highly desirable, it will work only to the extent that the Attorney General and his staff carry out their responsibilities. As the records of the Cointel program show, breakdowns of management often occurred not because the FBI failed to report its practices, but because top Justice Department officials did not really read the reports.