

WXPost Intelligence and the FBI

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NOW THAT SO MUCH has been disclosed about improper FBI domestic intelligence operations in the past, Congress faces the hard job of defining what, if any, future activities the bureau should be allowed to undertake in that acutely sensitive field. The General Accounting Office has just put the basic issues in perspective in a detailed report that documents the lack of focus and control not just in COINTEL and other scandalous programs, but also in the intelligence gathering activities that the FBI has presented as most routine and justified.

First, GAO found that the FBI's legal authority to carry out domestic intelligence investigations is not clear. Second, after analyzing 898 cases chosen at random, GAO concluded that these investigations are far too broad and indiscriminating, and that the FBI collects and keeps too much information on people and groups not directly involved in crimes and violence. Third, the report suggests that the bureau's elaborate efforts to keep track of alleged subversives and extremists have largely failed to prevent crimes or provide otherwise useful intelligence.

The central problem, which the report confirms, has been the failure of Congress and successive Attorneys General to set coherent policies and exercise effective control over the intelligence operations of the FBI. This has already begun to change. In marked contrast to most of his predecessors, Attorney General Edward H. Levi has not hesitated to intervene in FBI affairs. Instead, he has asserted his statutory control over the bureau in a number of ways. The most important has been the year-long effort to draft new guidelines in a number of controversial areas, including domestic intelligence.

As Mr. Levi told a House oversight panel recently, the guidelines start from the right point: "The pro-

position that government monitoring of individuals or groups because they hold unpopular or controversial political views is intolerable in our society." From there, the guidelines go on to require that all domestic security investigations must be closely tied to violations of federal law; that the more intrusive investigative methods must be most strongly justified and closely supervised, and that investigations must be stopped if people are found to be not involved in actual or likely criminal acts. The guidelines would also prohibit most, if not all, of the offensive "preventive action" techniques employed in COINTELPRO to harass and persecute dissenters and activities. Finally, the guidelines provide that at some point some FBI files should actually be destroyed. This by itself is almost revolutionary, since the bureau has tended to keep every snippet of information forever on the theory that it might turn out to have some use some day.

Although these rules are not perfect, they incorporate the proper principles and would curb many unjustified inquiries into citizens' lawful activities and beliefs. The problem is that the best guidelines in the world are only that. They may be effective as long as Mr. Levi is in office, but could be scrapped by any future Attorney General. The only long-term remedy is a new law, backed up by consistent congressional oversight. Thus the challenge for Congress is to compose a law that discourages excessive intelligence-gathering, yet leaves the Justice Department and FBI enough flexibility to undertake limited investigations where serious threats of crime and violence do exist. Drafting that kind of charter is no easy task, but the Attorney General's efforts and the GAO study — plus the forthcoming report of the Church committee — should give the Judiciary Committees ample material with which to start.