

## C.I.A. Index on Mail Opening Incomplete

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WASHINGTON, May 19—The Department of Justice has asked a Federal judge in San Francisco to set aside an order in its favor because it has learned that Central Intelligence Agency affidavits used by the Government in the case were wrong.

More important than the particular case are the possible ramifications of the Government's admission that the C.I.A.'s statements to the court were wrong.

Basically, affidavits of William E. Colby, former Director of Central Intelligence, and his aides stated that there was a microfilm index with the names of all those whose letters to or from the Soviet Union were opened or whose envelopes were photographed. The Government now says that all of the materials "not obtained under the Soviet mail intercept program were included in the microfilm program or index."

### May Have Been Misinformed

This may mean that those who have asked the agency under the Freedom of Information Act whether their mail was intercepted, and were told that it had not been, were misinformed. A C.I.A. spokesman refused to provide any information beyond the documents filed in court by the Government.

It is not clear what caused the C.I.A. to realize its error at this point, after the close of the San Francisco case.

Representative Bella S. Abzug, Democrat of Manhattan, whose mail had been opened by the agency, has been pressing the C.I.A. about discrepancies in its figures involving the mail interception program and its index.

In a news release today, Mrs. Abzug contended that what the C.I.A. called a "mistake" in record-keeping had led the agency not to check "over a million letters passing through the New York post office between 1958 and 1973 which were photographed and kept on microfilm" when it answered inquiries from people who asked for any files the C.I.A. had on them.

More than 5,000 persons have written the agency asking for records on themselves.

Mrs. Abzug said that the C.I.A. had been careful in responding to inquiries to give narrow answers stating that a search of its files disclosed no information identifiable to that person.

"Since the photographed envelopes were not indexed," she continued, "the C.I.A. simply informed people that a check of their indexes showed no information."

Mrs. Abzug, who heads the House Government Operations Committee's Subcommittee on Government Information and Individual Rights, contended that "the only fair and sensible thing is for the C.I.A. to personally notify the individuals and organizations it has found records on."

The San Francisco suit was brought by Stephanie Kipperman, who was told by the C.I.A. that it had not intercepted any of her mail because her name did not appear on its index.

Not satisfied, Mrs. Kipperman brought suit, contending in effect that some of her correspondence to and from the Soviet Union must have been inspected because of the scope of the agency's interception program.

Federal District Judge Charles B. Renfrew refused her attor-

ney's request to look at the index and granted the Government summary judgment on April 28, saying he believed that the C.I.A. "has responded in good faith and with total honesty."

In the brief it filed yesterday, the Department of Justice noted that Judge Renfrew had relied heavily on the facts set out in the affidavits of Mr. Colby and his aides. It asked that the judge vacate his judgment "until the extent to which intercepted correspondence was not incorporated into the index can be ascertained and a report made to the court."

The brief concluded by saying that the department had been told by the C.I.A. that an investigation was under way.

In his original opinion, Judge Renfrew said that he had no reason to doubt the accuracy of the C.I.A.'s affidavits.

"To be sure," the judge added, "we live in a time when many — plaintiff apparently among them — have come to react skeptically to the assurances of senior Government officials that full disclosure has been made of all facts relevant to a particular area of inquiry."

"Plaintiff's reluctance to accord total credence to the affidavits submitted by the defendants are thus understandable," the judge continued, "especially in light of the fact that we are concerned here with an agency which, from necessity, frequently operates with something less than total openness."

Renfrew added, "the court believes that in this particular case, the Central Intelligence Agency has responded in good faith and with total honesty to plaintiff's inquiries."

The judge has set May 27 for a hearing on the Government's motion.