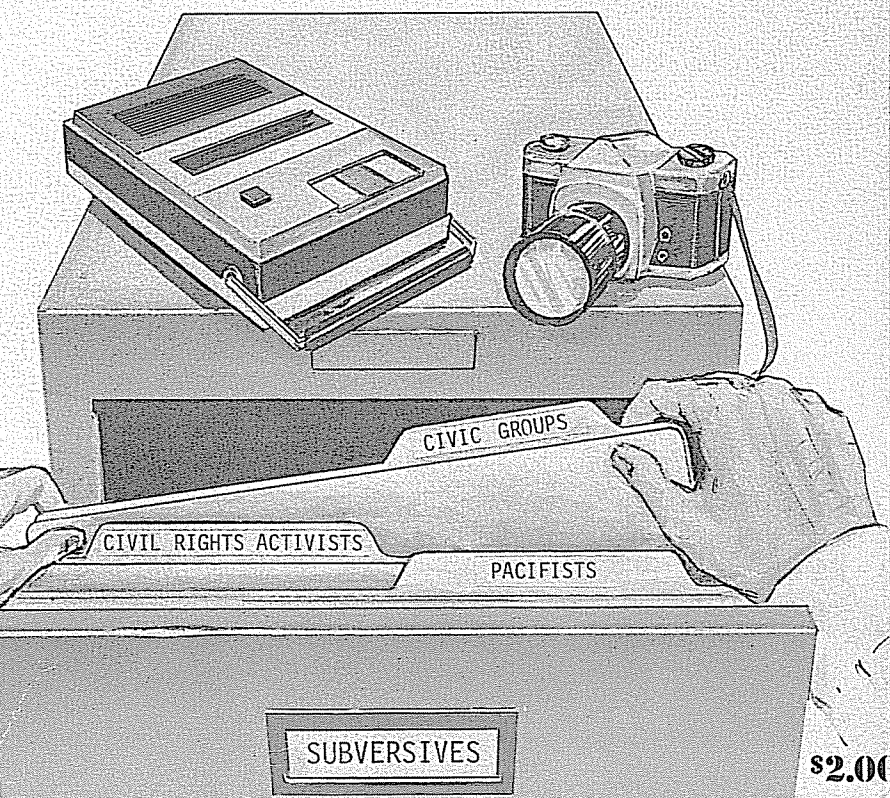


AMERICAN FRIENDS SERVICE COMMITTEE

THE POLICE 'THREAT' TO POLITICAL LIBERTY



\$2.00

The following projects, which contributed to this report, are continuing work against government surveillance of political activities:

Mississippi Surveillance Project
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THE POLICE THREAT TO POLITICAL LIBERTY

DISCOVERIES AND ACTIONS

of the

AMERICAN FRIENDS SERVICE COMMITTEE
PROGRAM ON GOVERNMENT SURVEILLANCE
AND CITIZENS' RIGHTS

1979

THE POLICE THREAT TO POLITICAL LIBERTY

REPORT

Program on Government Surveillance and Citizens' Rights of the
American Friends Service Committee

Bill of Rights

Article I. Congress shall make no law respecting an establishment of Religion, or prohibiting the free exercise thereof; or abridging the freedom of Speech or of the Press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

Article IV. The right of the 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 supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The authors of this report conclude that police surveillance and record keeping for political reasons exist on a vast scale. Local, state and federal agencies, joined by private and quasi-private groups, coordinate their surveillance and share information, misinformation, and opinions. This "intelligence" activity remains largely uncontrolled, and poses a grave threat to constitutional rights of freedom of expression, due process, and privacy. Police surveillance and dossier-keeping have had a serious impact upon the poor, upon Blacks, Hispanic people, and other ethnic and cultural minorities. Surveillance indeed has been used to inhibit or stifle lawful attempts to seek redress for grievances or to effect social change.

A report to the AFSC Board of Directors
Approved by the Executive Committee of the Board, March 16, 1979

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Library of Congress Catalogue Card Number 79-64537

Printed in house by American Friends Service Committee
1501 Cherry Street
Philadelphia, Pennsylvania 19102
April 1979

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Preface

WHY WE ARE CONCERNED

Since the Society of Friends began in England in the 1600s, the traditional peace stand of Friends (Quakers) has moved beyond opposing war to undertaking positive actions for ameliorating or changing the conditions causing war and violent conflict. In turbulent times, and particularly in wartime, individuals and groups with these concerns are subject to suspicion, and often overt repression, by dominant groups which attempt through force to "bring peace," "restore law and order," or simply "win." The violence unleashed against an external enemy through war is often the excuse for muzzling and spying on dissident groups at home, and sometimes unleashing violence against them as well.

Historically, Quakers have been the subject of suspicion and at times of repression and violence because of their refusal to condone or participate in war or preparations for war, and often for having come to the aid of others suffering from hostilities, persecutions and injustices. From the time of its founding by Friends in 1917 to provide wartime service alternatives for conscientious objectors, the American Friends Service Committee (AFSC) expanded its work to include postwar relief and rehabilitation, aid to refugees, peace education and international reconciliation, community service and work with disadvantaged groups.

In recent times, Friends have worked with Black and Native Americans, Chicanos and Puerto Ricans, in their efforts to gain rights and opportunities, and to have their grievances heard and compensated. Most such efforts, open and nonviolent, have been under police surveillance at one time or another. Often these groups have been impeded or assaulted by "right-wing" or violent groups working with or unhindered by police.

During the Vietnam war, AFSC cooperated with other peace and anti-war groups in an effort to stop the killing and bring an end to the conflict. As is the tradition and belief of Friends, AFSC also provided medical aid to Vietnamese on both sides of the conflict.

Many anti-war groups during the Vietnam war assumed that they were under observation by government intelligence agencies such as the Federal Bureau of Investigation (FBI) and local police units. It was only in the early Seventies that there was public exposure of the Media, Pa., FBI files, the Pentagon papers, the Watergate burglaries, and "intelligence" files opened up by the amended Freedom of Information Act. Not until then did the

public glimpse the vast extent of surveillance, recordkeeping, and disruptive (and sometime lethal) activity carried on by government intelligence agencies, from the CIA and FBI down to local police, against large numbers of American citizens and others (e.g. Mexicans, Iranians). AFSC and other Friends' groups were among these.

With this background, AFSC consulted Friends Meetings, civil liberties specialists and others to determine what role it might best fill in minimizing these threats to traditional American liberties. In the fall of 1975, AFSC's program on Government Surveillance and Citizens' Rights was initiated. Its purpose was to engage in research, education and community action and, where warranted, litigation to uncover and curtail government surveillance and intimidation of citizens and groups seeking justice or redress of grievances. The nearly four years in which this program operated has provided knowledge and experience, particularly regarding police intelligence activities on local and state levels, which we have tried to convey in this report.

A first step in the program was to request files relating to AFSC through the Freedom of Information Act from sixteen government bodies which engage in intelligence-gathering. From 1975 to early 1979 we received over 13,000 pages of documents and more are still coming in on appeal. These files revealed that the FBI has been keeping records on the activities of AFSC and many of its personnel for more than five decades.

In providing assistance to countries torn by war and other disasters, especially countries or individuals considered to be Communist, AFSC was watched closely and was at times under secret investigation by the FBI. Work with minority groups, especially with Black Americans in their struggle for civil rights, was reported under the headings "Internal Security" and "Racial Matters" to numerous government intelligence agencies. As AFSC's peace education, anti-war and draft counseling activities increased with each war—World War II, the Korean war, the Vietnam war—so did government surveillance of AFSC and other anti-war groups.

Although government surveillance after World War I had focused mainly on the Communist Party and other political groups deemed "subversive," it soon extended to all groups or individuals whose views or activities seemed to coincide in any way at any time with those of the U.S. Communist Party, which has been subject for decades to harassment and disruption under the earliest Counter-Intelligence Program (COINTELPRO) of the FBI. At the end of the Sixties, one of the "Key Activists" listed for possible COINTELPRO disruption by the FBI was the peace education secretary of the American Friends Service Committee.

First they put the Communists and Jehovah's Witnesses in Concentration camps, but I was not a Communist or Jehovah's Witness so I did nothing . . . Then they arrested the Jews, and again I did nothing because I was not Jewish. Then they came for the Catholics, but I was not a Catholic so I did nothing again. At last they came and arrested me, but by then it was too late. These words attributed to Pastor Martin Niemoller, incarcerated by the Nazis in wartime Germany, are a powerful reminder of the inter-relatedness of all human beings, and of the steps by which liberties can be lost if their erosion is not stopped at an early stage.

Introduction

SCOPE OF AFSC'S PROGRAM ON GOVERNMENT SURVEILLANCE AND CITIZENS' RIGHTS

This report documents the discoveries made and activities launched in the mid-1970s by the American Friends Service Committee's program on Government Surveillance and Citizens' Rights. Our work has confirmed that to a disturbing extent there has developed within our democracy a "secret police" often used for political surveillance and lacking accountability to the public. This widespread police intelligence network has federal, state, local, quasi-public and private components which are interconnected and functioning today.

Despite extensive revelations of illegalities on the part of police and other intelligence agencies, citizens may not yet have grasped the full dimensions of these activities, or the chilling implications of a far-reaching police surveillance apparatus for the future of a democracy. Some police agencies have publicly stated that they will cease, or have ceased, illegal surveillance; yet our findings indicate that it continues. In most states, no comprehensive guidelines or limits have yet been set for police intelligence activities, and public disclosure laws exclude public access to police records.

In Part One we review the background of these ominous developments, from their origins largely in World War I through the revelations in recent years which expose unconstitutional actions taken by government agencies. Part Two consists of reports based on specific experience and research of the American Friends Service Committee in five cities across the country. Part Three discusses and further documents police intelligence abuses, and efforts to seek redress and set guidelines through lawsuits and legislation. Part Four describes the quasi-private and private intelligence networks, unaccountable to the public, which cooperate with and are used by government agencies.

The AFSC selected intelligence operations of local and state police for special attention at the urging of groups working in the areas of civil rights and liberties, community relations, minority and "Third World" concerns.

Full-time projects were carried out since 1978 in Seattle, Washington; Baltimore, Maryland; Los Angeles, California; Jackson, Mississippi; and Philadelphia, Pennsylvania (where there were two projects; on surveillance/rights, and on police abuse). Short-term projects were initiated in Chicago, Illinois; in Minneapolis, Minnesota; and in Denver, Colorado. In addition, AFSC staff in Providence, Rhode Island; Detroit, Michigan; St. Louis, Missouri; San

Francisco, California; and Honolulu, Hawaii, shared relevant information on their local situations with the national office.

POLICE HOSTILITY TO DISSENT

Public protest is often viewed by police as an unwelcome and potentially dangerous disruption of the public order. It is understandable that police felt concerned for public safety and personally threatened by name-calling, physical disruption, riots, bomb threats, and actual bombings when these occurred in the late Sixties (and at other times in history when there has been dissatisfaction on the part of large sectors of the public or of particular groups). Police are often the unfortunate middlemen or targets of hostility which is actually felt against officials or institutions they are considered to represent.

As evidenced in response to the civil rights and anti-war movements, however, even peaceful dissent is often treated in a hostile fashion by police who see themselves as beleaguered and patriotic defenders of traditional systems or values. Intelligence units, by the largely clandestine nature of their work, have often pursued to illegal and dangerous extremes their surveillance and harassment of groups challenging established practices and institutions. By magnifying threats to internal security as they perceive it, police departments are often able to gain public and government support for increased funding and expanded activities.

Government intelligence agencies are proud of efficient nationwide systems of instantly-available information on individuals and groups with criminal records or under any suspicion. While this computerization of data may effectively track down criminal activity and sometimes save lives, errors can be compounded through it, and people or groups not criminally involved may often be widely and permanently stigmatized. Particularly in the case of politically active groups and individuals, such gathering and dissemination of intelligence is dangerous to free association.

Although efforts to control federal intelligence activities have been delayed in Congress, in some cities AFSC has worked with other groups to develop comprehensive ordinances to control and provide guidelines for police intelligence units. Facilitated by the AFSC Baltimore Surveillance Project, a precedent-setting state public information law was enacted in 1978 by the General Assembly of the Maryland legislature. This is an important step in opening up police files to the public and establishing clear limits on intelligence activities.

Working along similar lines, members of the Seattle Coalition on Government spying—with representatives from the police department, the mayor's office, the prosecuting attorney, the city attorney, the Office of Police Planning, and the Office of Management and Budget—have been developing a surveillance ordinance for Seattle (see p. 33). Both the Maryland and the Seattle laws might serve as models for other areas (see also Appendices 1 and 2, pp. 119 and 123).

Following public exposure in recent years of government-sponsored or -condoned infiltration, wiretapping, burglaries, provocations and in some cases violence against dissenting groups, some intelligence agencies have responded by destroying their files or making them inaccessible to the public and press, even to the courts. The AFSC program has noted this process in several cities (see p. 78). There is a growing concern that destruction of files will conceal illegal acts committed by the police and the FBI. Exposure of official wrongdoing and possible means of redress are available to the public mainly through the legal system and the news media. When these channels are impeded—though they too must be accountable—citizens' rights are further endangered.

In a time of relative peace, it is especially urgent for Americans to take stock of and strengthen our freedoms before a new crisis or military mobilization again moves our government further toward totalitarian practices. By assuring and extending these liberties now, by setting clear limits and guidelines, we may also help prevent such crises from arising. As the Seventies draw to a close we must ask ourselves to what extent government excesses and abuses have been swept under the rug and forgotten, to what extent they continue. It is the purpose of this report to help concerned citizens deal with these questions.

Part One

How We Got Where We Are

I. Before Vietnam

While public awareness of illegal intelligence has no doubt increased since Watergate and subsequent revelations, such activities have been burgeoning through this century. The final report (April 1976) of the U.S. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee," headed by Senator Frank Church), reminds us that the development of today's complex intelligence apparatus can be largely traced to its beginnings in the first World War.

"During and after the First World War," the report states, "intelligence agencies, including the predecessor of the FBI, engaged in repressive activity." This included a mass round-up ("slacker raids") of some 50,000 people in order to find draft evaders, nearly 2,000 prosecutions for "disloyal utterances and activities" during World War I, and the notorious "Palmer Raids" in 1919 and 1920 in which some 10,000 people thought to be "anarchists" or "revolutionary" aliens were rounded up.¹

The words of Attorney General Harlan Fiske Stone, as he took office in 1924, seem prophetic in light of subsequent FBI and police abuses, and continuing resistance to legislative control. Stone, expressing the fear that Bureau investigative activities could invade privacy and inhibit political freedoms, wrote:

There is always the possibility that a secret police may become a menace to free government and free institutions, because it carries with it the possibility of abuses of power which are not always quickly apprehended or understood... It is important that its activities be strictly limited to the performance of those functions for which it was created and that its agents themselves be not above the law or beyond its reach... *The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States* (emphasis added). When a police system passes beyond these limits, it is dangerous to the proper administration of justice and to human liberty, which it should become our first concern to cherish² (see Appendix 4, p. 136).

Appointing J. Edgar Hoover as acting director of the Bureau of Investigation, Stone ordered that the bureau be strictly limited to investigation of violations of law under the direction of the attorney general or assistant attorney general.

The Church Committee asserts that beginning in the mid-Thirties, despite Stone's admonition and at times with White House direction, the FBI entered the realm of systematic intelligence collection on political ideologies and associations.

Federal domestic intelligence programs were officially established in 1936 and police intelligence units popularly known as "red squads" pursued leftist political groups and "labor agitators" through the late Thirties.

During this time, Congress as well as state and local governments were partners in ignoring responsibility for clear legislative guidelines. The desire to avoid legislative oversight appears to have been a conscious one on the part of FBI Director Hoover, who explained his rationale to President Roosevelt in a 1938 memorandum summarized by the Church Committee:

It is believed imperative that the (intelligence structure) be proceeded with the utmost degree of secrecy in order to avoid criticism or objections which might be raised to such an expansion by either ill-informed persons or individuals having some ulterior motive. Consequently, it would not be desirable to seek any special legislation which would draw attention to the fact that it proposed to develop a counter-espionage drive of any great magnitude because the FBI's intelligence activity was already "much broader than espionage or counter-espionage."³

The FBI and other intelligence agencies were temporarily diverted by World War II from their pursuit of "reds" and others to ferreting out German, Italian and Japanese sympathizers. AFSC was often among "suspicious" groups who—having provided aid "without regard to political considerations" to Russians, Spanish Loyalists and Jews—then began to assist German refugees, prisoners of war, and Japanese-Americans who had been interned by the U.S. government.

Following World War II, the US-USSR alliance was finally sun-dered by the Korean War, the anti-communist investigations of Senator McCarthy, and the execution of the Rosenbergs. During the Fifties, AFSC and other groups involved in anti-war, anti-draft, anti-racist activities, or who supported the right of Communists and others to express their views or associate politically, were again suspect. Opposition to nuclear bomb testing also increased the volumes of FBI and presumably local police files. It was not until the civil rights movement became powerfully visible and vocal, and opposition to the Vietnam war began to form, that the intelligence apparatus began to mobilize almost as an internal army against large parts of its own citizenry.

II. Rebellions and Repressions of the Sixties

During the turmoil of the Sixties, intelligence agencies on all levels began to consolidate. While their efficiency may have increased in some respects, the effect was also to cast their nets more widely, overlapping and duplicating efforts and entangling large sections of the public in their webbing.

INTERDIVISIONAL INTELLIGENCE UNIT (IDIU)

In its review of intelligence agency abuse, the Church Committee cited the Interdivisional Intelligence Unit (IDIU), created by the Justice Department under Attorney General Ramsey Clark in 1967. Established on the recommendation of Assistant Attorney General John Doar, its purpose was to review and reduce to retrievable form "all information that may come to the Department relating to organizations and individuals who may play a role, whether purposefully or not, either in instigating or spreading civil disorders or in preventing or checking them."¹

Included in the proposal for IDIU was a suggestion that the following agencies be utilized to gather information as part of their normal functioning:

- Community Relations Service
- Poverty programs
- Neighborhood Legal Services
- Labor Department programs
- Intelligence Unit of Internal Revenue Service
- Alcohol, Tobacco and Firearms Division of Treasury Department
- Post Office Department

Based on its review, the Church Committee concluded:

...beginning in 1967-68, the IDIU was the focal point of a massive domestic intelligence apparatus established in response to ghetto riots, militant black rhetoric, anti-war protest and campus disruptions. Through IDIU the Attorney General received the benefits of information gathered by numerous agencies, without setting limits to intelligence reporting or providing clear policy guidance. Each component of the structure—FBI, Army, IDIU, local police and many others—set its own generalized standards and priorities, resulting in excessive collection of information about law abiding citizens.²

A recent (December 20, 1978) letter from former Attorney General Ramsey Clark to AFSC's John A. Sullivan, Associate Executive Secretary for Information and Interpretation, further suggests the atmosphere in which the IDIU was created:

After the riots at Newark and Detroit in the summer of 1967 the country was awash with fear and racial hatred. Many believed the riots were caused by conspirators deliberately fomenting violence. Congressional hearings were held on the subject. Magazines and newspapers carried stories purporting to document such conspiracies. I never believed them and said so. I also condemned the shooting of looters and excessive police violence.

The interdivisional intelligence unit was, as I remember, my idea. It was an effort to know all we know; that is to centralize and organize information we possessed so we could quickly gather all knowledge bearing on the risk of riot in a particular place or illegal conduct by a particular group. It further sought an increase in knowledge particularly beyond police data which is so often biased. It was publicly announced in January 1968. We never authorized any illegal fact gathering. No wiretap or bugging was ever authorized against any domestic group or individual.

We thought we did pretty well. Others try to say all in government were the same. They ignore the vast lawless invasion of right by the FBI and the Nixon Department of Justice.

It is important to recognize the sincere concern with which the IDIU structure was established by the Justice Department, but also to recognize that it ultimately and perhaps inevitably led to violations of citizens' rights due to lack of police accountability and clear guidelines.

THE SPREADING NETWORK

Other federal commissions and agencies added to the momentum for increasing secret intelligence and centralization. The President's Commission on Law Enforcement and Administration of Justice (1966), the National Advisory Commission on Civil Disorders (1968), and the Justice Department urged during this period that local police develop intelligence units.³ A major concern was that these agencies lacked information and knowledge about Black communities in the big cities.

The National Advisory commission on Civil Disorders suggested that these units use "undercover police personnel and informants," and draw on "community leaders, agencies, and organizations in

the ghetto." The commission also urged that these units be linked to "a national center and clearing house" in the Justice Department.⁴

As a result of these recommendations, the FBI increased its existing liaison with police in collecting and exchanging intelligence data. FBI field officers were instructed in a Hoover memorandum of 8/19/69 "that one way to continue obtaining intelligence on 'situations having a potential for violence'" was to develop "in-depth liaison with local law enforcement agencies."⁵ The Church Committee report asserts that use of local police was also a convenient way for the FBI to avoid criticism for using covert techniques and informants. It was around this time that the FBI's Counter-Intelligence Program (COINTELPRO) was intensified against anti-war and "New Left" groups.

INACCURACIES COMPILED AND DISSEMINATED

Citing the findings of the Cook County Grand Jury, which in 1975 investigated police intelligence activities in Chicago, the Church Committee pointed out that federal intelligence became contaminated by "inherently inaccurate and distortive data" and quoted the conclusion of the Grand Jury:

Since federal agencies accepted data from the Security Section without questioning the procedures followed, or methods used to gain information, the federal government cannot escape responsibility for the harm done to untold numbers of innocent persons.⁶

The Cook County Grand Jury cites another example of unauthorized local police intelligence activities and unsubstantiated reports making their way into federal files:

One police officer testified that he listed any person who attended two public meetings of a group as a member. This conclusion was forwarded as a fact to the FBI. Subsequently, an agency seeking background information on that person from the Bureau in an employment investigation or for other purposes would be told that the individual was a member.⁷

(In this connection it is interesting to note that a Friend and former AFSC Peace Education staff member was repeatedly identified in FBI files as once having attended a Communist Party conference as an observer, and as having chaired a meeting at which a Communist was among the speakers. As these files—obtained from the FBI by the Friends Peace Committee—progressed, the Friend at one point, in a document where his name was listed, was falsely labeled "CP member.")

GUILT BY IMPLICATION

Characteristic of directives that led local police to overstep First and Fourth Amendment boundaries is a statement made in a 1968 International Association of Chiefs of Police (IACP) survey of the Seattle Police Department:

... The typical police intelligence operation is *designed to investigate individuals rather than specific offenses* (emphasis added.) The intelligence function is heavily dependent on contributions of information received from a variety of sources inside and outside the department.⁸

Urban intelligence units have been able to use their own discretion in making their activities public, since state and local public disclosure laws are either non-existent or automatically exempt police intelligence files from public access. (See Seattle and Baltimore pp. 33 & 54 for exceptions, also Appendices 1, p. 119 and 2, p. 123.)

On an NBC national telecast of "First Tuesday" on June 2, 1970, then Philadelphia Police Commissioner Frank Rizzo and Civil Affairs Unit head George Fencil identified participants in a peaceful demonstration which had been photographed by police cameras. After naming several of the protesters and showing dissenters' file cards with names visible on the video screen, Inspector Fencil stated:

We have made a record of every demonstration that we've handled in the city of Philadelphia and reduced this to writing, first by report and then taking out the names of persons connected with the different movements. We have some 18,000 names and we've made what we call an alphabetical file. We made a 5 x 8 card on each demonstrator that we know the name and so forth that we handle. This card shows such information as the name, address, picture if possible, and a little run down on the person... on the back of the card, we show the different demonstrations, the date, time, and location and the groups that the person has picketed with. We have some 600 different organizations that we've encountered in the Philadelphia area. We have such organizations as the Ku Klux Klan... all the way over to the other extreme, the left organizations such as the SDS... both the Labor Committee, the Weatherman organizations and a lot of the peace groups are extremely active at this time... the Student Mobilization Committee, the New Mobilization Committee, the Friend's Peace Committee, Quaker Action Groups and so forth.

This nationwide exposure on television of surveillance of lawful activity conveyed the impression that these groups and individuals were legitimate targets of such surveillance. Without their consent, this public exposure disregarded their privacy and right to dissent, further creating a climate conducive to public condemnation by implying that illegal activities were being carried out (see p. 76).

(The news media, although sometimes manipulated by sources in the intelligence agencies, can also be a major source of information and advocacy for citizens' rights, exposing official abuses, crimes and misdemeanors in its traditional adversary role as a free press vis-a-vis the government. Exposés of the My Lai massacre, of FBI activities as revealed in the Media, Pennsylvania files, of top-level military chicanery revealed in the Pentagon papers, of political crimes emanating from the Nixon White House, of CIA assassination plots—all were results of relentless investigative reporting and editors willing to take risks for the public's right to know.)

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (LEAA)

The role of the federal bureaucracy in the development of urban intelligence units has been considerable. As a result of the massive urban unrest and protest against the Vietnam war in the Sixties, this role took on new dimensions. The creation of the IDIU and the National Commission on Civil Disorders has already been mentioned. Another agency developed around the same time has had significant impact on urban intelligence units is the Law Enforcement Assistance Administration (LEAA).

LEAA was established by Title I of the Omnibus Crime Control and Safe Streets Act of 1968, a "law and order" bill developed in response to the crises of the Sixties. The reason given for setting up LEAA was that:

Congress finds that the high incidence of crime in the United States threatens the peace, security and general welfare of the nation and its citizens. To reduce and prevent crime and juvenile delinquency and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified and made more effective at all levels of government.⁹

LEAA was to be, among other things, a funding mechanism for local police to acquire crime prevention hardware and techniques. According to FBI statistics, crime rates had increased during the Sixties (with similar increases and fluctuations now recorded by the FBI in the Seventies).¹⁰ But the underlying reasons—growing

numbers of unemployed, especially of youth (among whom crime rates are greatest), and the disruptive effects of war and conscription, among others—were hardly addressed appropriately with increased technical equipment.¹¹ Nor was it against delinquent youth that much of this new technology was directed.

LEAA funding for urban intelligence units has been a significant factor in the accelerated growth of local police surveillance. U.S. General Accounting Office reports and documents described below show that LEAA has provided substantial support funding for local police departments to set up and operate intelligence divisions, grants for surveillance equipment, computerization of subversive files, and intelligence training.

A memorandum prepared by staff of the Center for National Security Studies in 1977 cites the District of Columbia, Chicago, and Michigan as having issued official reports documenting massive local police surveillance. In each case the LEAA connection was made:

Police Chief Maurice Cullinane of the Metropolitan Police Department (District of Columbia) in his official report to Mayor Walter Washington states that "with the exception of (\$150,000) supplied by the Department of the Army, intelligence operations have been entirely supported from appropriated funds or LEAA grant awards."

The Cook County Grand Jury Report states that "as much as \$779,000 in federal funds was given to the Chicago Police Department Intelligence Division between 1972 and 1974."

In Michigan, the Staff Study of the House Civil Rights Committee of the State of Michigan documents that LEAA, through the State Office of Criminal Justice Planning, funded, in separate grants, (1) the computerization of all subversive files into a "Rapid Retrieval Microfilm System," (2) the conduct of Michigan Intelligence Network (MIN) schools for officers who were trained in the use of surveillance equipment, the control and deployment of informants, and the internal security threat, . . . and (3) the establishment of a State Police Civil Disturbance Planning Section to "combat the threat of militant activities that have been directed toward the violent overthrow of the democratic process in the State."¹²

A summary of hearings held by Congressman John Conyers' Subcommittee on Crime (August 17, 1978) on a proposed restructuring of LEAA stated that LEAA spent nearly 6 billion dollars in ten years with "little or no impact on the rate of crime, the fear of victimization, or the sense of injustice experienced by persons—

especially minorities and the poor—who come into contact with the criminal justice system.”

Typically, Conyers reported, LEAA-funded programs consist of hiring more police, building detention centers, conducting police training and public relations, and purchasing communications and computer equipment. Conyers concluded that an entirely new policy direction is needed for the federal role in financing the state and local criminal justice planning.¹³

MINORITIES AND DISSIDENTS TARGETED

During the Sixties, minorities and especially Black groups became particular targets of FBI and local police intelligence surveillance and disruption. In a memo to FBI field offices in August 1967, FBI Director Hoover wrote that the primary goal of the Counter-Intelligence Program (COINTELPRO) at that time was “to expose, disrupt, misdirect, discredit or otherwise neutralize the activities of black nationalist, hate-type organizations and groupings... and to counter their propensity for violence and civil disorder.”¹⁴

Hoover expanded further on this theme in a 1968 memo which stated that one of his goals was to “prevent the rise of a ‘messiah’ who could unify and electrify the militant black nationalist movement.”¹⁵

The FBI’s harassment of Martin Luther King, Jr., before his assassination in 1968, is public knowledge. The Chicago police raid (planned in coordination with the FBI) on the Black Panther apartment in Chicago resulted in the killing of Fred Hampton and Mark Clark (December 1969). An FBI informant was also implicated, as we now know, in the 1965 shooting of civil rights worker Viola Liuzzo and in other acts of violence in the South (see p. 18).

During the period 1969-71, the FBI’s active disruption of dissenting groups was expanded through COINTELPRO. Whereas such political groups as the Communist Party and the Socialist Workers Party (whose lawsuit in the Seventies has revealed nearly 100 burglaries of its offices by the FBI) had long been targeted, “New Left” and anti-war groups and individuals—including “key activists” such as Stewart Meacham, at that time AFSC’s Peace Education Secretary—were now listed for “neutralization.”¹⁶

AFSC’s Chicago office was “bugged” in 1969 when defense for the “Chicago 8” was discussed there. This was accomplished by a right-wing group called the “Legion of Justice” with the knowledge and cooperation of local police and Army Intelligence (see p. 99).

During these war years many anti-war offices were raided—War Resisters League and Liberation News Service in New York among

others—and the Jane Addams building in Philadelphia (which housed the Women’s International League for Peace and Freedom, the Philadelphia Resistance, and other groups) was burned out. AFSC offices were also burglarized.¹⁷ In most cases files were removed. FBI and local police have not found the culprits.

Included in nearly 53,000 documents on COINTELPRO, released to the public by the FBI in early 1978 through the Freedom of Information Act, is a memorandum detailing plans to sow seeds of discontent among Southern Christian Leadership Conference (SCLC) and AFSC workers involved in planning the Poor People’s March on Washington. The FBI suggested that rumors be spread that Martin Luther King, Jr. was getting the lion’s share of the march’s funding, and that AFSC was trying to dominate planning for the march.

Tagging the civil rights and anti-war movements as potential national security threats, FBI and local police spent a great deal of time attempting to find “foreign connections” of many domestic groups. The Church Committee reported that some 500,000 domestic intelligence files had been opened at FBI headquarters, augmented by additional files at field offices; 65,000 files had been opened in 1972 alone.¹⁸

Press coverage of trials, police raids, and demonstrations focused on the more sensational aspects of other prosecutions, conveying the impression that activists generally were violence-prone, anti-American, etc. This helped create a climate in which police and politicians shaped public disapproval of political activities without regard for the right to free speech or the validity of the issues raised.

FEARS OF VIOLENCE

In assessing the value of domestic security investigations, the Church Committee heard from local police officials such as James Ahern of the New Haven Police Department, who stated that FBI reports which led to the positioning of federal troops near his city in the late Sixties were “...almost completely composed of unsorted and unevaluated stories, threats, and rumors that had crossed my desk in New Haven. Many of these had long been discounted by our Intelligence Division. But they had made their way from New Haven to Washington, had gained completely unwarranted credibility, and had been submitted by the Director of the FBI to the President of the United States. They seemed to present a convincing picture of impending holocaust.”¹⁹

Public and police fears of bombing and riots were certainly real, but exaggerated the dangers. In January 1978 the following exchange occurred between Seattle City Council Member Michael Hildt and Major Ray Connery of the Seattle Police Department:

Major Connery: I think it would be important . . . to point out that during those same years, Seattle was the bombing capitol of the U.S. We had more bombs going off per capita in this city than anywhere else in the entire United States. Now very few of those explosions have really been solved. Ever. It's all well and good to talk about excessive paranoia on the part of the police department but we feel responsibility when people start setting off explosions around town.

Councilman Hildt: I don't want to be bombed either, but I don't think that we have to face a choice realistically between being bombed and having intelligence activity that is not justified on the basis of . . . reasonable grounds of evidence. *I don't think we have (to make) the choice between political intelligence-gathering and being bombed (emphasis added).*²⁰

Yet in several notable instances, FBI and police were aware of violence that was planned and did not prevent it.

One FBI-paid provocateur, Gary Thomas Rowe, told the Church Committee that he was with the Ku Klux Klan when they committed acts of violence. These included the murder of civil rights worker Viola Liuzzo in 1965, the bombing of a Birmingham church in which four black children were killed in 1963, and the killing of a Black man during a racial disturbance in Birmingham also in 1963.²¹

The FBI did not intervene in the above acts of terror, or when Rowe reported that the Klan was planning to attack black people at a county fair. Nor did they intervene in 1961 when Rowe reported three weeks in advance that Freedom Riders arriving in Birmingham would be greeted by local Klan members, who Rowe said had assurances that they could beat the civil rights workers for fifteen minutes before the police would intervene.²²

Reviewing the disturbance known as "Days of Rage" in Chicago in October 1969, the Cook County Grand Jury pointed out a significant contradiction between what police say and what they sometimes actually do. The Grand Jury reported:

The Weatherman faction of the Students for a Democratic Society had publicly announced their intention to commit acts of violence in the City of Chicago. This announcement together with their past history of violence placed that group within the scope of legitimate police infiltration and surveillance.

The undercover officers who penetrated the group testified that they submitted reports detailing accounts of the meetings in which SDS leaders agreed to commit acts of violence. These officers also witnessed acts in furtherance of this conspiracy including the gathering of weapons, the drawing of maps, and preparations for escape.

Armed with this information, the police could have arrested the leadership of the Weatherman faction of the SDS, and prevented the riots, but they did not. The Grand Jury asked Chicago police officials why they did not prevent the riots and the resulting destruction of property and physical harm, even though they possessed detailed, corroborated evidence. Their reply was that the acts of violence must actually occur before any charges can be brought to the State's Attorney's office.

This, of course, is absurd and totally wrong. In Illinois, it is a crime to conspire to commit an offense if a step in furtherance of the agreement is committed. In this case, weapons were gathered, maps were drawn, escape routes established, and so forth.

The callous disregard for the health and property of those harmed during the "Days of Rage" is characteristic of the entire police spying operation. Peaceful groups were spied upon and disrupted for apparently political reasons while a violent group was permitted to carry out their intended plan of violence.²³

Whether or not the purpose of this dereliction on the part of the police was to create more public fear and justification for repression of all dissent, it is clear that the Vietnam war was a war that was being fought not just abroad, but also at home against a wide range of dissenting citizens. Although not all police, of course, were caught up in the excesses, harassments, and sometimes criminal activities of many "overzealous" agents, the prevailing political climate of the time and the absence of clear limitations resulted in police assumptions and actions that are with us still.

III. Some Revelations of the Seventies

THE MEDIA FBI FILES

One of the first exposures of the FBI's escalated program of surveillance and disruption of dissident groups was the publicizing of the Media, Pennsylvania, FBI files which were taken in March 1971 by a still-unidentified group, the "Citizens' Commission to Investigate the FBI." A research division within AFSC, National Action/Research on the Military-Industrial Complex (NARMIC), was anonymously sent copies of some of these files, particularly relating to FBI and police surveillance techniques and tactics. Other organizations in various parts of the country also reported receiving copied portions of the files, and *WIN* magazine, a weekly publication supported by the War Resisters League, anonymously received copies of the full politically-relevant files which it then published. Parts were also published in major newspapers throughout the country.

All this led to a bizarre and revealing series of events. A NARMIC staff member working on a booklet about police operations incorporated some of this material, which she worked on at home and also took to a printer. At either place the material may have been seen, but it was in any case reported to the FBI, leading to a break-in at her apartment by a dozen FBI agents and seizure of various possessions. The entire West Philadelphia area where she lived, Powelton Village, was meanwhile placed under heavy surveillance by numerous FBI agents who, over a period of months, recorded license numbers and took many photographs of activists, particularly in the anti-draft Philadelphia Resistance. Another AFSC employee, who had mentioned the Media burglary in an intercepted letter to a friend in prison, was questioned at length by the FBI. (An item that shows the wide sweep of the FBI investigation was sent out by the Associated Press on 4/16/71: "Rochester, N.Y. — Xerox Corporation says it has supplied a list of all its Model 660 copying machines to the FBI at the agency's request.")

Finally AFSC joined with the Philadelphia Resistance and various individuals in a lawsuit against Attorney General John Mitchell, FBI Director J. Edgar Hoover, and others in order to expose and terminate harassment.¹ In pursuing "Medburg," as the Media burglary investigation was coded by the FBI, government agents had again indulged in "overkill," with no substantial evidence that any of those followed and harassed had taken any part in the theft.

Four years later, in 1975, with the indictment of Attorney General Mitchell and the death of FBI Director Hoover, a settlement

was reached in which the FBI agreed to pay costs to plaintiffs, and not to subject them to photographic and physical surveillance without reasonable cause. The FBI also agreed not to subject the plaintiffs to interviews not agreed on in advance, not to undertake electronic surveillance without court order, and not to enter homes or offices or limit their freedom of movement without a warrant.

In the course of this suit, further information was revealed relating to the FBI's COINTELPRO, to which one plaintiff had been subjected. In May 1968 FBI Director Hoover had sent out a memo broadening the disruption program to include the "New Left," defined by some agents as those connected with protests or an anti-war philosophy. The order was to "expose, disrupt, and otherwise neutralize" the activities of such organizations, with particular attention to key activists.²

FURTHER REVELATIONS

Publication in 1971 of the Pentagon Papers was further enlightening to the public. Daniel Ellsberg, who had worked for the government in the State Department and then for the government-consulted Rand Corporation, released documents to the press which revealed discrepancies between the private and publicly-stated aims and operations of the government and the Pentagon in escalating the Vietnam war.

Then, in 1973, came the investigative reporting of Woodward and Bernstein and the *Washington Post*, uncovering the machinations of the Nixon government in the burglary of the Democratic headquarters at its Watergate offices in Washington. In the wake of this came revelations of wiretapping, "dirty tricks," and a range of financial and political maneuverings which discredited Richard Nixon and many who had worked closely with him.

The lawsuit brought by the Socialist Workers Party against the FBI has probably been the most revealing event of the Seventies regarding the extent of illegal FBI activities. A recent report in the *Los Angeles Times* (Feb. 2, 1979) provides additional insight. The report states that an affidavit, filed in conjunction with the Chicago "red squad" suits by former FBI agent M. Wesley Swearingen, charged that the Chicago FBI office alone had conducted thousands of break-ins. Special "bag squads" had also operated in Los Angeles, San Francisco, Washington and Newark since the Fifties. According to the *L.A. Times* article, Swearingen testified under oath that Los Angeles area break-ins had continued into the Seventies even after a squad numbering thirty-five agents had been disbanded.

Extensive exposures have also been made of CIA activities against the governments of other countries, against their nationals within the United States, and against American citizens. While details of these activities are not within the purview of this report, CIA files received by AFSC's Surveillance/Rights Program show that AFSC and its staff were among unknown numbers whose foreign mail was opened and whose foreign contacts were scrutinized.³ (Seventy documents were totally or partially withheld by the CIA under exemptions provided by the Freedom of Information Act. The National Security Agency, from which AFSC also sought files, would release no documents at all.)

While such revelations have caused these national agencies to proceed publicly with more apparent caution, and the Senate to conduct investigations which produced the extensive Church Committee findings often quoted in this report, reactions have begun to set in during the late Seventies. The large numbers of people and groups sending for their files under the Freedom of Information Act have caused the FBI and other intelligence agencies to complain of excessive paperwork (originally, one must note, of their own making). Further, right-wing groups accuse civil liberties and other concerned groups of obstructing criminal justice and of trying to cripple and dismantle all intelligence agencies.

PROPOSALS TO CURTAIL POLITICAL INTELLIGENCE-GATHERING

Proposed federal legislation purporting to curtail political intelligence activities has been under criticism from those who want no restrictions as well as from those who think political freedom requires more restrictions on intelligence agencies. In 1976 AFSC called for the abolition of the CIA and the Internal Security Division of the FBI, and an end to clandestine political intelligence activities here and abroad (see Appendix 6, p. 144 for full text). In 1978 AFSC gave public testimony pointing out pitfalls of the proposed legislation for reform of the CIA and FBI. AFSC cautioned against the vagueness of sections of S. 2525 (the National Intelligence Act of 1978) which would make such organizations as AFSC legitimate targets of intelligence activity.

Only now, in 1979, are basic legislative restrictions being proposed for the FBI. The Church Committee summary of the growth of domestic intelligence (Appendix 4, p. 136) illustrates the lack of such restrictions as does on the local police level the New York State Assembly Special Task Force on State Police Non-Criminal

Files Recommendations (Appendix 3, p. 133). In late 1977, reporting on non-criminal files, the New York State Task Force concluded:

Unfortunately, the extent of information necessary to predict with accuracy any event with the remotest possibility of creating disorder, led the police to develop an intelligence system which basically surveilled political and social ideas. The ideology and membership of groups became extremely important to the police who were attempting to know what people were thinking in order to connect this with a potential for violence, disorder or subversion.⁴

FINANCIAL COSTS OF POLITICAL SURVEILLANCE

Domestic intelligence takes its toll not only on constitutional rights but on tax dollars as well. The Church Committee found that the FBI's budget for 1976 projected spending \$7 million for their "domestic security" informant program. This was more than twice the amount to be spent on informants against organized crime.⁵ FBI and LEAA budgets have been cut in the 1979 federal budget, and specific limits on intelligence activities are now being formulated.

In local police departments, however, there are few signs of similar controls. In order to perpetuate an expanding bureaucracy, police officials still tend to dwell on the unforeseeable but ever-present threat of subversion and domestic violence. They continue to engage in surveillance and to build files in order to justify their financial needs to city and state officials charged with approving budget items.

At a time when cutting back on government programs is the order of the day, the vast police and intelligence bureaucracies might well be subjected to particular scrutiny.

PART TWO

Digging Into The Cities

The details of AFSC's findings on the political aspect of police activities came from five cities: Seattle, Los Angeles, Baltimore, Jackson, and Philadelphia. AFSC staff provided additional information from Denver, Minneapolis, and Chicago. There has been cooperation with other concerned groups; coalitions have been formed and monitoring of the political activities of the police continues independent of AFSC support. We assume that what we have been able to ascertain and document is only a small part of the picture. It remains for all of us as responsible citizens to discover what improper political surveillance local and state police are conducting on law-abiding citizens and how widely they are spreading the "information" they develop.

IV. Seattle

COALITION ON GOVERNMENT SPYING

Representatives of the Seattle affiliates of the American Friends Service Committee, the American Civil Liberties Union and the National Lawyers Guild joined efforts in late 1976 to abolish police spying in Seattle. Named the Coalition on Government Spying, and funded by the AFSC Surveillance/Rights Program, it has made major progress in exposing political surveillance by local police, documenting their national connections, and, we hope, checking abusive activities.

In 1976 a small group of Asian and Black Americans met in Seattle to make some plans. The Seattle Police Intelligence Unit kept notes about the meeting, its participants and their activities. A ring of illegal gamblers? Narcotics pushers? No, they "were planning a demonstration at the Domed Stadium on Saturday, 2-27-76, due to their fear that Chinatown would be torn down and replaced with parking lots."¹

A Black man from Seattle flew to Philadelphia in May, 1975. The Seattle Police Department (SPD) knew what flights he took, whom he lunched with, the length of his meeting and other information only obtainable through a tail.² Who was he to draw such interest? He was an AFSC employee who was trying to open trade unions to Black construction workers.

Chicanos and Native Americans from Seattle traveled across country to participate in the Bicentennial Indian caravan in the summer of 1976. The Seattle Police Department kept track of their movements through communications with the Wyoming Attorney General, the Philadelphia Police Intelligence Unit, and the Colorado Bureau of Investigation of the U.S. Park Police.³

Documents describing these and other incidents of political surveillance by the local police were revealed through a public disclosure lawsuit filed by the Coalition on Government Spying (COGS) on behalf of 42 individuals and organizations requesting access to their police files. They were the first intelligence files ever to be gained from the Seattle Police Department.

The plaintiffs were successful in obtaining the political intelligence documents because the police department could not support its claim that secrecy of the files was "essential to effective law enforcement," an exemption to disclosure allowed under the Washington State Public Disclosure Law. In fact, the files are notable for their obvious lack of information connecting the subjects with criminal activity. A file was opened on one individual because political posters were seen in the back seat of his car. A file was

opened on a group of phone company employees because of an informer's report that some "very militant people" were involved in the group. The "intelligence" the police collect includes descriptions of political meetings, benefits, demonstrations, newspaper articles written by and about the subjects, lists of alleged associates, travel plans and other lawful activity.

The files received by the 42 plaintiffs generally span the years 1975 through 1977. Some of the 42 had been included among 150 names which news reporters uncovered in November 1975—a list of people whose intelligence files had been destroyed by the police. Among them were American Civil Liberties Union members, several present, past and future city officials, school board members, and organizations such as the Washington State Democratic Council, the Seattle Church Council and the Seattle Crime Prevention Commission.

Subsequently (in 1975) the chief of police ordered an additional 600 files destroyed.⁴ The chief then declared that all political files had been purged and that "such files are not now maintained nor will be in the future." The 1975-77 documents brought to light in the current lawsuit stand in sharp contradiction to that statement.

MAJOR ABUSES OF SEATTLE POLICE INTELLIGENCE UNIT

It is safe to assume that documentation of any major abuses by the police was destroyed when the files were purged in 1975. Allegations that agents provocateurs helped plant bombs and "fixed" a Black Panther's rifle so that it exploded in his hands during target practice can probably never be proved or disproved without those purged files. The documents that were not purged, however, do give a glimpse into the activities of an unfettered "intelligence unit."

It is difficult to assess which practices of the intelligence unit are most damning. Even beyond the collection of information on political activities, the documents show that local police sometimes disseminated false information about citizens, failed to verify the accuracy of informant reports, and were unable to distinguish between political advocacy and threats to public safety.

A serious example of inaccurate information involved the American Friends Service Committee and the leader of a local Chicano service organization. In a summary document, which nowhere indicates the source or reliability of the information, the SPD Intelligence Section states: "On 12/18/75 it was reported that (a local Chicano activist) was still trying to get some bombs made by an unknown University of Washington student and has the promise of AFSC to pay for the costs involved."⁵ Although files on both AFSC

and the activist mention the reported information, neither file gives any indication of a basis for this false allegation, nor of any action taken by the police. Neither AFSC nor the activist was questioned about the report, which presumably remains in the intelligence file for further misuse.

In 1973 an intelligence section card was developed on another Chicano activist. It began: "Modus Operandi—participant in demonstrations, supporting UFW x Safeway (sic), establishment of El Centro."⁶ His only police record is for failure to disperse during a demonstration. By 1976, however, in describing him to the Portland Police Intelligence Division, Seattle police stated, "M.O. Chicano activist—advocates terrorist acts."⁷ There is no information in the SPD intelligence files to support such a defamatory and damaging claim. We do not know who else received this baseless report or who else may have been described as an advocate of terrorism for engaging in lawful social advocacy.

Other documents indicate a special police interest in the leadership of political organizations and show that police informers participate covertly in elections of the political groups they infiltrate.

In June, 1975, the Seattle Police Department used intelligence information about a Seattle group to block plans for a Black Liberation Day meeting at Walla Walla prison. Members of the group had planned to travel to Walla Walla to talk with prisoners and help them organize to reform conditions at the prison. The police document states, "We will supply as many names as possible... they will be denied visitation rights to the prison."⁸ Thus the judgment of the police, based on secret political files, impeded the right to assemble, talk and organize.

"CHICANO COUP"

Documents as recent as 1977 obtained from Seattle police through public disclosure indicate that the police ignored a crime that was attempted against a local Chicano organization, El Centro de la Raza. According to an intelligence memo dated April 1977 and entitled "Chicano Coup," police department detectives met with a person who informed them of his group's plan to occupy and take over El Centro in the early hours before dawn.

According to the document, the planners of the take-over believed that there was a 24 hour armed guard at El Centro. The man, concerned that there might be injuries, was advised by police that "we could not take sides in the matter, but that we would probably have officers in the area in case there was any trouble... he has not advised anyone that he had contacted the police, and does not want anyone to know that he is talking with us..." The

informant also felt "that the action may prompt a civil war between the two factions."⁹

Thus, when a group of persons planned secretly to break into and enter a building to "take over" an established organization in a manner that might endanger people, the police agreed to stand by. What actually ensued was a stand-off, since El Centro also learned of the plan. Lights were kept on and supporters of El Centro were present in the building. The police evidently did not tell the informer that breaking and entering is against the law.

This was a case where distorted reports from informers and political biases reinforced the police assumption that people who engage in lawful social advocacy efforts are inherently suspect. The informer justified the attempted break-in by suggesting that most "legitimate" Chicanos supported the action and opposed the "Marxist philosophy" of El Centro's leaders. The police seemed to accept this as reasonable.

TERRORISM AS A POLICE RATIONALE

The most recent method for discrediting political or social advocacy is to link it with terrorism. We have seen this effort in the bogus Seattle police reference to AFSC's "promise" to pay for bombs, and in the letter to Portland police about a Chicano activist. The intelligence file on a Seattle woman contains the most explicit example of the local police linking of advocacy and terrorism.

The woman first came to the intelligence unit's attention through a newspaper article. The woman, a Jew, had held a press conference with the Radical Arab Jewish Alliance (RAJA) charging the press with bias against Arabs in its reporting on the Middle East.¹⁰ RAJA attacked press innuendos that all Arabs are terrorists. The woman said that Israeli fighters are considered heroes by the U.S. press, while Arab fighters are called terrorists.

From the news article the intelligence unit concluded that the woman supported Arab terrorism. She was further viewed with suspicion because her house is set in the woods and she was living with a Black man ("hiding a Negro male"). The reports in her file were a mix of fact and fiction, tied together with innuendo, allowing the intelligence unit to build theories of terrorism around an activist who had committed no crime.

The same kind of logic led the police to assume that the National Lawyers Guild was "heavily involved and supportive of the George Jackson Brigade."¹¹ The Guild was active in protesting abuses in the grand jury system which was being used at the time to investigate the George Jackson Brigade (which had claimed to carry out

certain bombings) and a large section of the left community in Seattle. Because the Guild opposed abusive investigative techniques by the grand jury, the police concluded that the Guild supported the Brigade itself. A local attorney also became the subject of an intelligence file because his card was found in the wallet of a suspect accused of painting slogans of the Symbionese Liberation Army on public walls.¹²

Bombings, a legitimate subject of police concern, occurred in various cities as the Vietnam war intensified. In 1975, "additional Intelligence Section resources were assigned to terroristic activity," according to an SPD "Advocacy Report."¹³ But how reliable were sources and handed-down assumptions about terrorists? In 1973 a Seattle officer published an article on "urban terrorists" markedly similar to one published the year before by the FBI.¹⁴ SPD files include a draft report on the National Lawyers Guild prepared in 1977 with information provided by the House Committee on Internal Security and material inserted in the *Congressional Record* by Representative Larry McDonald (D. Georgia), an officer of the John Birch Society who frequently makes false and inflammatory allegations about political groups.¹⁵

A recent example of dubious police sources regarding terrorism emerged in 1978 when a reporter asked Major Ray Connery, head of the Inspectional Services Division of the SPD which includes the intelligence unit, for background about political files that had been disclosed. Major Connery provided the reporter with an article, "Terrorism in America: The Developing Internal Security Crisis," published June 2, 1978 by the conservative Heritage Foundation. The slant of the article was similar to other background material used by the SPD to justify continued alarm about terrorist threats.

THE FBI CONNECTION

FBI surveillance and infiltration of political groups were as extensive in Seattle as elsewhere. Numerous FBI files received by AFSC through the Freedom of Information Act relate to Seattle, where there was extensive informer activity especially during the Vietnam war. In one of many reports sent from the FBI Seattle office to the FBI Director in Washington about the weekly silent vigils against the Vietnam war which were held at the Seattle Public Library (dated 9/2/67, received by AFSC on appeal in January 1979), the agent notes that the report must be "classified" because the informant's continuing value might be compromised if his/her identity were disclosed.

One tactic of the FBI was to manipulate the news media to further the FBI's political views. FBI COINTELPRO documents note that a Seattle television contact "and his news associates previously conducted a very highly successful COINTELPRO operation against the Seattle Black Panther Party, involving a series of TV news programs which the FBI helped write and produce."¹⁶

Other more recent documents show how the FBI used network and wireservice photographs and a local radio reporter to gather information about Seattle participants at Wounded Knee in March 1973. The FBI teletype explains that the reporter "is unaware that his stories are not being publicized in full or that the intelligence information and his tapes are being furnished to the FBI." The teletype describes how requests for "specific information" would be passed along as a normal duty assignment, including a request for a "special story on Seattle area participants."¹⁷

THE LAW ENFORCEMENT INTELLIGENCE UNIT (LEIU) CONNECTION

In February and March of 1956, the Law Enforcement Intelligence Unit (see p. 81) was organized on the West Coast as a quasi-private network. Seattle became a charter member, and in that year the Seattle police created their own "Subversive Activities Unit," forerunner of the present intelligence section. The nationwide political interest of these intelligence units has now been clearly documented. LEIU files obtained in 1978 through a Chicago lawsuit prove that Seattle police provided political information to LEIU in 1971 which was distributed to LEIU members across the country. Seattle received similar information from police in other cities through LEIU (see page 83).

Seattle participated in LEIU's annual meetings and was represented on LEIU's Executive and Technical Operations Committees over the years. Seattle, in fact, had one of the original sixteen terminals in LEIU's national Interstate Organized Crime Index (IOCI) computer. The sophisticated system, in effect from 1972 to 1974, provided high speed on-line inquiry and exchange of information through unrestricted "administrative messages" which could be sent from each terminal. Because LEIU's systems are not accessible to the public, we have no way of knowing what percentage of their total files is political.

During the late Sixties and early Seventies, Seattle developed additional computerized links with other regional and national networks of law enforcement agencies. Sea-King Alert, a regional computer system, was established. The SPD gained access to the FBI's National Crime Information Center computer (NCIC) which

includes criminal history records that often contain inaccurate data (see p. 12). Seattle was linked with all other law enforcement agencies through the National Law Enforcement Telecommunications System (NLETS), a sophisticated computerized message switching system like IOCI's earlier system, with the capacity to transmit unrestricted "administrative messages."

How much was this technology used to combat crime and how much was it used to assist in police political espionage on citizens?

THE LACK OF OVERSIGHT

While some of the network systems were limited by conditions imposed by federal funding, LEIU has continued to demand allegiance to LEIU security and secrecy, even in opposition to the lawful oversight responsibilities of elected officials. Research in early 1978 by the Seattle Coalition on Government Spying exposed this lack of accountability in the LEIU system.

In February 1978 the Coalition requested documents about LEIU under the state public disclosure law. The Seattle police did not respond. Then on April 10, the Coalition for the first time released to the newspapers SPD political intelligence files that had been obtained through the lawsuit described earlier. That same day, Lt. V.L. Bartley, head of the Seattle intelligence unit, called the Northwest Zone chairman of LEIU, Captain Stan Carey of the Santa Clara Police Department. No log was kept of the phone call, but the police later admitted that Bartley and Carey agreed to remove the LEIU files from Seattle. Following that call, Bartley transferred Seattle's LEIU intelligence file cards, bulletins and other materials to California "for safekeeping."¹⁸ (Other LEIU material had already been destroyed.)

The cover letter that accompanied the materials expressed fear that the court would order disclosure of the files, and concern over legislation presented by the mayor to stop political spying. "It would not surprise me if the mayor seized our files at any time," Bartley wrote. (The Seattle city charter establishes the mayor as the city's chief law enforcement officer.)

In his letter to Carey Bartley clearly indicated his allegiance to LEIU. Bartley wrote, "... I am forwarding our LEIU cards to you since I can no longer assure their security. Please retain the cards until the situation here improves or until we are forced to resign from LEIU membership..." LEIU shared Bartley's concern and suspended Seattle's membership.¹⁹

Bartley was removed from the intelligence unit following a month-long investigation within the police department. (See

pp. 85, 86.) The Chief of Police said that Bartley had "failed to exercise good judgment" and would be "scheduled for appropriate training sessions and seminars in management skills and processes."²⁰

Further Coalition research has exposed additional evidence of the lack of accountability in LEIU. In January 1978, according to the Seattle Police Department, the Executive Committee of IOCI dissolved itself and turned control and operation of the newly redesigned IOCI "mini-computer" system over to LEIU (see p. 85). Although originally an outgrowth of LEIU, IOCI always had its own executive committee and constitution, and had been subject to federal restrictions through Law Enforcement Assistance Administration (LEAA) funding. The incorporation of IOCI into LEIU removes the computer from federal oversight, and may allow LEIU to lift any limitations formerly placed on the use of this computer.

Many local police departments have shown little concern for procedures or controls in disseminating information through LEIU. Seattle police have never kept a log on use of the toll-free WATS telephone line that links Seattle with other LEIU members and the IOCI computer. King County, Washington, police, who joined LEIU in 1975, admitted to the Coalition that they have little knowledge about regulations, operations, by-laws or policies for IOCI. The only instructions they claim to have received were in a two-page brochure explaining how to use the system but not containing "any guidelines or control as to who may use the system or under what circumstances it may be used."²¹ King County police also indicate they do not know what is meant by "public record information," despite the fact that federal funding had supposedly limited the computer to public record information.²²

In response to a recent request to the King County Department of Public Safety for LEIU documents, the King County police responded that LEIU refused to allow them to release the materials. Because the documents should be available to citizens requesting them under the state public disclosure law, the Coalition went to court again. But since LEIU is not subject to state or federal disclosure laws, the extent of political surveillance on both the local and national levels could not be documented.

Even when the news media, in November 1975, first disclosed the existence of extensive political files in Seattle, the public learned very little. At that time the Chief of Police established a "blue ribbon" panel to review police intelligence policies, but many prominent citizens refused to sit on the panel because the chief had limited the scope of the investigation.²³ A city report based on

the panel's investigation pointed out that since no one was allowed access to the intelligence files, they could not tell how the intelligence unit operates on a day-to-day basis, how informants are developed, how information is processed, or whether the unit may go outside the law in its activities. They could not determine whether the unit is effective or "if what it does in all cases makes a great deal of sense."²⁴

Clearly, there has been a lack of effective oversight. The City Council also began a review of police intelligence practices, but it was the Coalition's lawsuit that finally opened the files.

SEATTLE'S SURVEILLANCE ORDINANCE

The first public release of the information gained through the lawsuit in April 1978 was a 78-page file on the National Lawyers Guild. Front pageheadlines read: "Long Secret Spy Files Revealed." Pressure mounted for the city to do something about the accumulation of such files. Four days after the front-page story, while reverberations were still in the air, the mayor adopted the Coalition's proposed legislation to stop political spying and introduced it to the City Council.

The City Council met to consider the mayor's proposal and to outline its concerns. Realizing the complexity of the needed ordinance, the Council appointed a drafting team to hammer out the specifics of the bill based on its guidelines.

Coalition on Government Spying members as well as representatives for the Police Department, prosecuting attorney, city attorney, the mayor, Office of Policy Planning and the Office of Management and Budget met all summer and fall to design a workable draft.

The Coalition's position was strengthened by the endorsement of its *Principles for Effective Legislation* by more than 50 community groups. Support for effective intelligence controls was broad—from the League of Women Voters to Radical Women, from the Boilermakers Union to the King County Bar Association. The legislative principles included a ban on political surveillance, harassment and agents provocateurs; strict limitations on the use of informants; a narrow focus for intelligence activities; procedures for closing and sealing files; access to files by targets of investigations; independent audit and supervision procedures; provisions for record keeping and public reporting; and realistic criminal and civil penalties.

Although the committee draft was weak in some areas, the ordinance was conceptually sound. The Council was to take final action on the ordinance early in 1979. Briefly, the ordinance bans

the collection of political, religious and certain sexual information defined as "restricted" or "sensitive" information. It then identifies several specific "incidental references" to sensitive information which are exempt from the ban.

To collect political information related to a legitimate criminal investigation, a specific and detailed authorization must be obtained. An auditor appointed by the mayor will conduct random audits of all police files and make public reports about the Police Department's compliance with the ordinance. Whenever the chief or the auditor finds information that has been improperly collected, s/he must notify the subject of the information. The bill also spells out the proper functions of a criminal intelligence unit and sets forth civil penalties for willful and malicious violations.

The first year of the ordinance will be crucial. The Coalition will monitor the law to ensure its proper implementation, assess its effectiveness in stopping abuses, and suggest any necessary amendments. Information will be shared with people in other cities seeking to control police intelligence practices. (For summary of draft ordinance, see Appendix 1, p. 119.)

FUTURE COALITION PLANS

Although the lawsuit through which the Coalition gained access to the police intelligence files is not yet completed, it has had far-reaching significance. The Police Department has had to comply with the Washington State Public Disclosure Act by providing the plaintiffs with their files. The public exposure of abusive intelligence practices increased the cry for intelligence controls. Most significantly, perhaps, the Police Department is beginning to comply with requests from individuals who are not a part of the suit. Anyone who simply writes for his/her local file can gain access to it.

Now that the right of citizen access to political intelligence files under the State law has been established, citizens need to be informed of their rights. The Coalition is developing written materials about how to obtain a personal file under the state disclosure law (which may temporarily and regrettably increase police paper work, but may ultimately decrease it). The Coalition is prepared to assist other Washington communities in urging their police departments to develop procedures complying with the state law.

In the Washington State Legislature an effort is afoot to increase the size and authority of the Organized Crime Intelligence Unit (OCIU) of the Washington State Police. It is part of a move to change the State Patrol, essentially a traffic patrol, into a State Police. The effort to expand OCIU is ominous since there are presently no effective controls on its activities.

Although an OCIU oversight board exists, it has never complied with its legal responsibility to submit findings and appraisals to the governor. This, combined with its very broad definition of organized crime, could easily lead to overzealous political surveillance practices. The Coalition will urge the enactment of an intelligence control ordinance similar to the Seattle proposal.

One important step has been taken by the LEAA. In 1978 LEAA enacted regulations which prohibit political intelligence-gathering by local and state agencies which receive LEAA funds (*Federal Register*, June 30, 1978).²⁵ Earlier the Coalition had urged groups throughout the country to write LEAA supporting letters, which LEAA credits for its regulations to protect political rights. The Coalition will urge that state legislation be enacted to bring the State Patrol into compliance with the new LEAA regulations.

CONCLUSION

Many of the problems cited in this Seattle report were summed up by a local police officer who explained, "Intelligence officers become isolated from the rest of the department with nothing to do but dream up suspicions. As they repeat rumors back and forth to each other they begin to believe them and they are reported as facts." The Seattle Coalition contends that if the intelligence unit is isolated from the rest of the police department, it is even more isolated from the community, and thus its dangerous and unwarranted political surveillance of citizens' activities is made even more dangerous by its inept mixing of fiction with fact.

V. Los Angeles

THE PUBLIC DISORDER INTELLIGENCE DIVISION OF THE LAPD

On April 10, 1975, the five members of the Los Angeles Police Department's (LAPD) Board of Commissioners made a startling disclosure: between January 1974 and January 1975, the Department's Public Disorder Intelligence Division (PDID) had destroyed nearly 2,000,000 "out-dated and irrelevant" file cards on "potentially disruptive" political groups and individuals. Some of the file cards had been maintained by the department for as long as fifty years. With this announcement, the Police Commission proposed formal guidelines for the Public Disorder Intelligence Division.

The guidelines were intended by the Police Commission to clarify the procedures by which the PDID collects, stores and utilizes intelligence information relating to groups or individuals who perform or threaten to perform criminally disruptive acts. It was also intended that the guidelines would safeguard the First Amendment rights of those merely voicing unpopular views.

The political activists and civil libertarians in the community did not agree that the proposed guidelines would provide such protection, however. In a series of public hearings held by the Police Commission, citizens and organizations expressed their doubts as to the propriety of the intelligence-gathering function.

Ramona Ripston, executive director of the American Civil Liberties Union of Southern California, summarized the community's misgivings:

...we remain of the view that the maintenance by police departments of 'files' (aside from those of present on-going investigations for commission of crime) on organizations and individuals... is a dangerous and unnecessary concept in a free society and repugnant to its principles... a chilling effect on the exercise of First Amendment rights (is) inherent in the maintenance of governmental 'listing' of its citizens...

Despite considerable opposition to the guidelines, they were adopted by the Police Commission on December 16, 1976. The effect of the guidelines was to legitimize acts by the Police Department which are clearly unconstitutional. The PDID, under the guidelines, can maintain files on those who "threaten, attempt, plan or perform acts disruptive of the public order." Maintenance of files on those who may *threaten* disruptive acts is highly questionable. The United States Supreme Court has drawn a clear distinction between speech which merely advocates a particular point

of view and speech which incites illegal acts. To approve keeping files on citizens who advocate an unpopular point of view is to threaten the basic right of citizens to speak, to assemble peaceably, and to organize action around issues of concern to their community.

Further, the guidelines operate on the basis of "reasonable expectation" that some disruptive act *may* occur. In order to protect the right to due process, any such investigations should be based on probable cause to believe that an illegal act has been or is being committed, or that such an act is imminent.

Finally, the guidelines provide for no independent oversight of the PDID. All oversight is internal to the Department and the Commission. Certainly, the lesson of Watergate should not be lost to us: there is an inherent danger of cover-up in any system which allows a branch of government, when charged with official misconduct, to investigate and pass judgment on itself.

CITIZENS ORGANIZE

The passage of the PDID guidelines, along with continued charges of police spying on groups and individuals not involved in illegal activities, led the American Friends Service Committee, with support from the American Civil Liberties Union, to institute a program on police surveillance. The program has been instrumental in organizing broad-based opposition to the activities of the Public Disorder Intelligence Division.

The program goals are:

1. to develop a coalition of groups affected by police surveillance activities;
2. to research and document specific instances of spying and disruption by the LAPD's Public Disorder Intelligence Division;
3. to educate the public about the problem of police spying and its potential for repression;
4. to research the operations of the Law Enforcement Intelligence Unit and its connections to local, state and federal intelligence units;
5. to provide support for litigation to open police intelligence files to victims of illegal police spying, and to prohibit the collection of information on citizens engaged in lawful political activity;
6. to promote discussion of legislation at the state and local levels limiting police intelligence operations and providing for freedom of information review procedures.

The program started in August 1977 and a coalition of civil liberties, civil rights, legal and political groups was organized. The Citizens' Commission on Police Repression (CCOPR) includes the AFSC, the ACLU, the Southern Christian Leadership Conference, Americans for Democratic Action, the First Unitarian Church and thirty-five other community groups. The Citizens' Commission adopted as its statement of purpose a pledge to investigate police spying, infiltration, electronic surveillance, political harassment, brutality, use of excessive force and other types of police misconduct. The Citizens' Commission provides a clearinghouse for information and research, and coordination for community action, public education, litigation, and legislative reform.

CCOPR research on the Public Disorder Intelligence Division initially involved sifting through old newspaper files, court transcripts and federal intelligence files obtained through Freedom of Information Act requests. Through these sources the history of the LAPD "red squad" was traced from its role as an anti-labor unit in the early 1900s to its surveillance of anti-war and civil rights groups in the Sixties and Seventies.

The PDID guidelines adopted in 1976 provided for a semiannual audit of the files by two members of the Police Commission. Two audits should have taken place in 1977. Numerous inquiries were made to the Police Commission in an effort to establish whether the audits had, in fact, taken place, and to obtain any written reports detailing the audits' conclusions. After two months without a response, CCOPR concluded that the Police Commission had not fulfilled its responsibility to oversee the PDID operations, and that the audits had never been conducted. In February 1978 CCOPR requested permission to make a presentation on this issue to the Police Commission at one of its weekly meetings. There was continued resistance to the requests.

POLICE PHOTOGRAPH DISSIDENTS

On February 28, 1978, the Los Angeles Police Department made what proved to be a serious mistake, providing the Citizens' Commission with a dramatic illustration of police spying. That afternoon the Los Angeles City Council had scheduled a public hearing to consider a motion in support of construction of the Sundesert Nuclear Power Plant. The hearing attracted many anti-nuclear activists, including the Alliance for Survival, a Southern California coalition of anti-nuclear groups. Part way through the hearing, two reporters for the local PBS station noticed an unidentified video tape crew and a still photographer operating from the press gallery. The reporters, Tom Thompson and David Lindorff, were

well acquainted with police intelligence tactics. In 1976 they had published an alternative newspaper which was infiltrated by a PDID undercover officer. Thompson and Lindorff questioned the crew, which admitted that it worked for the LAPD.

The reporters informed Councilman David Cunningham of the film crew's presence in the Council chambers. Cunningham, in turn, publicly asked for an explanation from the Council president, John Ferraro. Ferraro stated that he knew of the crew's presence, that they had asked his permission to make a training film for the police academy. The anti-nuclear groups joined with several of the Council members to protest the photography, and the crew was asked to leave. The Council sent word to the Police Commission, which was meeting simultaneously across the street at Parker Center, that they expected a full explanation of the incident.

The Police Commission stated that the department had received an intelligence report which indicated that a violent disruption was planned for the Council meeting. They stated that the department's policy called for a film crew to photograph any such disturbance for the purpose of prosecution. According to then Acting Chief Daryl Gates, the entire incident was "an unfortunate mistake." Gates claimed that the still photographer had acted prematurely in taking three pictures, but that the video-tape crew had not actually filmed anyone. (They had, however, been observed panning the audience for well over an hour.) Gates promised that such an incident "would never happen again."

There remained, however, many unanswered questions. CCOPR again requested a hearing before the Police Commission to raise questions about the photography and the non-existent PDID audit, and were promised a place on the agenda for the meeting of March 7th. On March 4th, CCOPR was informed that they had been removed from the agenda and rescheduled for March 14th. On March 10th, they were again informed that they would not be heard. They contacted the president of the Police Commission, attorney Marianna Pfaelzer, who informed CCOPR rather testily that the Police Commission considered the case closed, and that they had no time to hear complaints from the Citizens' Commission.

PUBLIC HEARING DEMANDS

CCOPR quickly organized a press conference for the 14th, which was held outside the department's headquarters at Parker Center just prior to the Police Commission's scheduled meeting. CCOPR publicized their demands for a public hearing on police intelligence activities and marched into the meeting with the media in tow.

The Police Commission responded by scheduling a full hearing on March 28th.

The Citizens' Commission organized testimony from a wide range of community organizations, in which the following questions were raised:

1. Specifically, what divisions and individuals were involved in the decision-making process that resulted in the camera crew's presence at the Council meeting? Who gave final approval?
2. What was the source of the "intelligence report" the LAPD claims to have received? Was it a phone call, confidential report of an informant or some sort of written material?
3. How is such information evaluated by the Department? What are the criteria for judging the report as reliable? According to Section VI of the Public Disorder Intelligence Division Guidelines, there should be some written documentation of the intelligence report. We request to see that written documentation, with names of confidential sources deleted, if necessary.
4. If the photographic crew had not been discovered, what would have been done with the film taken that day? Does the Department have any set procedure for the destruction of such film? How many times have photographs or video tapes been used in the prosecution of lawbreakers?
5. What is the LAPD's policy (referred to as a "standing rule" on page 2 of Chief Gates' report) on filming meetings of official agencies or other public assemblies?
6. How many times and on what specific dates has the LAPD filmed participants in meetings of official agencies?

In addition, CCOPR made three demands related to LAPD intelligence operations in general:

1. that the Commission's semi-annual audit of the Public Disorder Intelligence Division be conducted publicly, and that the report of the audit be made a public document, that organizations and individuals included in the PDID be informed that they have been the subjects of investigation;
2. that the Police Commission sponsor open hearings in each council district to provide an opportunity for citizens to testify and document specific instances of LAPD intelligence abuses;
3. that the Commission hold a public review of the PDID guidelines, and that those guidelines be re-written to prevent any surveillance of political groups or activists unless

there is probable cause to believe that they had committed or are committing criminal acts.

The Police Commission promised to conduct a more thorough investigation, and also promised to begin the PDID audit. They responded two months later with the same explanation and failed to answer questions from the Citizens' Commission. Despite renewed protests, the Police Commission considered the case closed. Seventeen anti-nuclear activists who had been present in the Council chambers subsequently filed suit against the LAPD. The suit, filed by a volunteer attorney and funded by the ACLU, seeks a permanent injunction to prevent the LAPD from photographing any peaceful public assembly. The AFSC staff and the Citizens' Commission assisted in the preparation of the suit.

POLICE INFILTRATORS

In March 1978 one of the organizations in the Citizens' Commission found that it had been infiltrated by an LAPD undercover officer. This organization, the Coalition Against Police Abuse (CAPA), had obtained a partial list of LAPD officers, and the name of CAPA's secretary, Georgia Odom, was on the list. CAPA and the Citizens' Commission decided to investigate the matter further, and after obtaining Odom's voter registration affidavit and other public documents, concluded that she was, in fact, a police officer. Odom had belonged to CAPA for over two years. She had worked quietly in the background, and had slowly risen to a position of trust and leadership. As secretary of the organization she had access to membership lists and was responsible for the minutes of the meetings. Odom also involved herself in numerous demonstrations against officer-involved shootings. In 1977, she attended several demonstrations organized by the Friends of Ron Burkholder, a group which was seeking an investigation into a fatal shooting of a Los Angeles man by an LAPD officer. Odom attempted to disrupt the protests by chanting anti-police slogans. This created dissension among members of the group, most of whom preferred silent vigils to rancorous demonstrations. She also attended at least one meeting where political and legal strategy was discussed in the home of the victim's common-law wife.

The Citizens' Commission and CAPA began quietly to circulate the list among progressive and liberal groups in Los Angeles. Two more names surfaced. Eddie Solomon, another member of CAPA and office manager for the National Alliance Against Racist and Political Repression, was one of the suspected undercover officers. Solomon had been active in progressive groups, including the Young Workers Liberation League, for almost three years. He was

a quiet, diligent man who tended to steer clear of internal political disputes. An investigation revealed that Solomon, too, was a police officer.

Cheryl Bell, a young women active in the anti-nuclear movement, was the third suspect. Another quiet, "background" person, Bell had participated in the Alliance for Survival for a little more than a year. She was also active in the Committee on Nuclear Information at California State University at Los Angeles, where she was ostensibly attending classes as a full-time student. Bell's identity was not confirmed until the following August.

Odom, Solomon and Bell all subsequently dropped out of sight when their covers were blown. Odom is now working in the South-Central Division as a "community relations officer." Solomon is working in uniform in the North Hollywood Division. Bell's status is not known.

These were not the first of the LAPD's undercover officers to surface. In August, 1977, Constance Marie Milazzo revealed in court that she was a PDID officer. Milazzo had been arrested in a June 17 demonstration sponsored by the Progressive Labor Party. In the two years prior to her arrest she had managed to infiltrate the Campaign for Democratic Freedoms (an educational group which organized forums and conferences on FBI and CIA abuses), the *LA Vanguard* newspaper, the Democratic Socialist Organizing Committee, the Coalition Against Police Abuse, and the Los Angeles Women's Liberation Union. Milazzo's roommate, Jon Dial, in the early Seventies was a well-known leftist activist who had worked as Jane Fonda's bodyguard on occasion, and provided "security" at rallies and demonstrations. Milazzo and Dial married shortly after her courtroom exposure, and Dial, too, was later exposed as an LAPD officer.

CITIZEN RESPONSE TO DISCLOSURES

Several of the organizations infiltrated by these five officers decided to file suit against the LAPD for illegal spying and invasion of privacy. The American Civil Liberties Union of Southern California is representing the plaintiffs. AFSC staff assisted in the preparation of the suit.

In July 1978 the Citizens' Commission organized a protest before the Los Angeles City Council appealing for an investigation of charges of political spying, demanding the completion of the still-overdue PDID audit, and insisting that the Police Commission answer the questions raised in March, when CCOPR released to the media an official police list of nearly 200 organizations which

had been under LAPD surveillance through 1975. Media and public response to the list was overwhelming. As a result of this response and of several months of consultation with AFSC staff, City Councilman Zev Yaroslavsky introduced three measures designed to curtail LAPD political spying. The first was a motion to restrict police photography in the Council chambers. The second calls for a full Council investigation of CCOPR's charges. The third would enact a local freedom of information ordinance which would provide access to LAPD political intelligence files.

Hearings on these motions before the City Council's Police, Fire and Public Safety Committee began in August 1978 and are still in progress. None of the motions has yet come before the full Council for a vote. The Citizens' Commission has undertaken a petition drive in support of the local FOI ordinance.

In October 1978 Commissioner Pfaelzer completed the long-awaited audit of the PDID. As expected, the audit was a whitewash in which the commissioner claimed that the Division was innocent of any wrongdoing. Despite continued documentation of LAPD intelligence abuses, the Police Commission has maintained the Department's innocence. It is anticipated that discovery in the lawsuits will prove the contrary.

In addition to work around LAPD intelligence abuses, CCOPR has been engaged in investigating the Law Enforcement Intelligence Unit (see p. 81). AFSC staff researched the LEIU's operations and helped organize a network of other researchers in California and across the country. The Citizens' Commission has acted as a clearinghouse for information on LEIU and has also raised the issue of LEIU membership with the LAPD and the California Department of Justice. In August 1978, CCOPR asked the City Council's Police, Fire and Public Safety Committee to clarify the relationship between the LAPD and the LEIU. The Committee ordered an investigation by the city legislative analyst. The LAPD again proved uncooperative when it came to answering questions. AFSC staff has also worked with the State Senate Judiciary Subcommittee on Privacy and Government Recordkeeping, which scheduled hearings on LEIU for April 1979.

Future plans include:

1. promoting discussion of state legislation to amend the California Public Records Act to allow for access to state and local law enforcement intelligence files;
2. challenging that portion of the State Department of Justice budget which finances LEIU and political surveillance activities;

3. continuing pressure on the City Council to investigate the PDID and to pass a local freedom of information law;
4. rewriting the PDID guidelines in order to abolish political spying;
5. publishing a history of the LAPD Red Squad;
6. continuing to provide assistance in the litigation;
7. continuing CCOPR's program of public education through media appearances and public speaking engagements.

Ultimately, the Citizens' Commission sees that the problems of police spying, brutality, and abuse of power are all related in that they reflect a lack of accountability and citizen oversight. They believe that the proper remedy for all of these problems is a Los Angeles Citizen Review Board with an independent investigative staff, subpoena power and a special prosecutor. The Citizens' Commission intends to build support for this proposal and will attempt to put the issue on the ballot.

VI. Philadelphia

THE CIVIL DISOBEDIENCE UNIT OF THE PHILADELPHIA POLICE DEPARTMENT

On June 2, 1970, Frank Rizzo (then police commissioner and now mayor) and George Fencel, Commander of the Police Department's Civil Disobedience Unit, boasted on NBC's "First Tuesday" television program of their "anti-subversion" files. They had some 18,000 names in an alphabetical file, and 600 organizations, including "...the Student Mobilization Committee, the Friends Peace Committee, Quaker Action Groups and so forth."

Philadelphia's police photographers were among the country's busiest and most efficient, covering more than 1000 demonstrations every year. The police knew who showed up at demonstrations "even when there is no action." Fencel named six demonstrators during the TV documentary and showed file cards with names clearly visible. He expressed no qualms about privacy or First Amendment rights.¹

The Pennsylvania Crime Commission Report of March 1974, analyzing the structure of the Philadelphia Police Department, listed the Labor Squad; the Civil Disobedience Unit, which "handles demonstrations and monitors groups which engage in public protest activities;" the Intelligence Unit, which "compiles intelligence data on persons and organizations, both criminal and subversive;" and a "stakeout" unit.²

The Civil Disobedience Unit had been formed in 1963 as "a liaison with protest groups." The CD squad, as it was popularly known, covered the whole city with its 24 members. Inspector George Fencel, who had helped found it, became its commanding officer in 1966. In 1976, renamed the Civil Affairs Unit, it consisted of about 50 people, still headed by Inspector Fencel.³ It absorbed the Labor Unit in November 1976.⁴ During Frank Rizzo's terms as police commissioner and as mayor there were surveillance, harassment and police raids on Black groups, political groups and, during the Vietnam war, peace and anti-war groups. The AFSC opened its Philadelphia Surveillance Project in early 1977.

CONNECTIONS WITH THE FBI

As in other cities the Philadelphia police intelligence unit is in close touch with the FBI and other intelligence agencies, although its files are not accessible to the public. Its relationship to the quasi-private Law Enforcement Intelligence Unit (LEIU) is not clear. An FBI report states that the LEIU considered the Philadelphia Police Department for membership in 1964, but decided

against it because of information about corruption within the department.⁵ The Philadelphia district attorney's office currently holds membership in LEIU.

Documents received from the FBI under the Freedom of Information Act indicate regular communication between George Fencel's Civil Disobedience (now Civil Affairs) unit and the FBI. (The Freedom of Information Act applies only to federal agencies, which delete a great deal, including evidences of the sources of information, before releasing materials.) Information about local police tends to come out only through lawsuits, by accident, or by mistake. For example, we know from files received by the Friends Peace Committee that the FBI advised the Philadelphia police of expected demonstrations against the draft in February 1965.⁶ Among the files stolen from the Media FBI office and anonymously made public is a report from Fencel's suit detailing an anti-war demonstration in April 1968.⁷

Similarly, the FBI received a report from the Civil Disobedience Unit on a demonstration in February 1970 which named 79 people alleged to have been present, each with an organizational listing. Burton Caine, professor at Temple University Law School and attorney for numerous causes, received the list in 1977 as part of his FBI file under FOI, with his name included.⁸

Inspector Fencel has refused to give Burton Caine any information about his local police file, except a copy of an index card with his name and those of several organizations. He claims that the CD political files were destroyed up to and including 1975—a year in which “red squads” in various cities apparently decided to get rid of their files.⁹

A number of people named in the Caine file, together with concerned activists and AFSC's Surveillance Project, started a Coalition Against Government Spying in mid-1978. The group drafted an ordinance to stop political intelligence activities and guarantee the right of privacy and political freedom. Several Philadelphia City Council members have indicated support for the principles involved, and the Coalition hopes for introduction of such an ordinance in 1979.

In a deposition made in August 1976, Inspector Fencel stated that he attends every demonstration in the city, unless several are taking place at once; and that he checks the written report of almost every demonstration before it is typed and filed.¹⁰ We do not know what happens to those reports, nor what else is reported by the Civil Affairs unit. There is no freedom of information law in Philadelphia or Pennsylvania which would enable citizens to discover whether the police had them under surveillance, and filed and shared information or misinformation about them.

PRIVATE SPYING

The police are not the only ones to collect political intelligence in Philadelphia. The Philadelphia Electric Company (PECO), like many utilities around the country with nuclear power installations, has a security operation which keeps tabs on people who demonstrate against nuclear power. PECO's security unit has routinely photographed anti-nuclear and Consumers Party demonstrators, and recorded license numbers of cars seen at demonstrations at its Limerick, Pennsylvania, nuclear plant or Philadelphia headquarters.¹¹

On February 15, 1978, Channel 6 aired a story about a “security force” employed by PECO to watch and compile intelligence data concerning persons and groups opposed to PECO's policies regarding nuclear power. Photographs of William Moyer, formerly AFSC Chicago staff, who has actively opposed nuclear power, were given to Channel 6 by PECO. Moyer is currently associated with a Philadelphia anti-nuclear organization, the Keystone Alliance. PECO initiated the dissemination of this information and alluded to a supposed danger of violence, in an apparent attempt to smear people who openly and non-violently oppose nuclear power on principled grounds.¹² PECO's director of security is Robert J. Deneen, formerly with the Philadelphia office of the FBI; a PECO spokesman has stated that other PECO security employees have local law-enforcement backgrounds.¹³

On June 23, 1978, the AFSC Board Executive Committee agreed to join Moyer, the Keystone Alliance, and others in a complaint to the Pennsylvania Public Utility Commission calling for an end to PECO spying, and for access to its files on demonstrators. The Pennsylvania State Consumer Advocate expressed surprise that PECO was spending ratepayers' money for surveillance. The complaint is an effort to obtain documentation on utility company spying, since corporations are not subject to the Freedom of Information Act, and may not be covered by public disclosure laws despite their quasi-public functions. PECO has denied that it has any such files and has asked for dismissal of the suit.¹⁴

The *Daily Pennsylvanian*, student newspaper at the University of Pennsylvania, discovered in March 1977 that the university's Department of Security and Safety was engaged in political spying on the campus, using federally-funded work-study students as informers covering meetings of campus organizations. Colonel Donald C. Shultis, Director of Security, said his purpose in instituting the spy program was to find out in advance if political dissidents at Penn were planning “to take over College Hall, the campus, the world or whatever.” Students and faculty organized to demand an end to such political information-gathering and the

opening of the files to their subjects. The university administration asked its Committee on Open Expression to investigate and report, and announced a moratorium on the use of students for political surveillance.

On April 28, 1977, the Committee on Open Expression issued its report: "violations of the Guidelines on Open Expression have occurred as a result of certain actions of the Office of Security and Safety...other actions...are to be condemned as unworthy and improper for members of the University community." It found that pairs of students had been asked to attend meetings without identifying themselves as employees of the Security Office, to appear sympathetic to the views of those holding the meetings, to write reports of discussion, and list names of participants. Information had been given to the Philadelphia police and, the Committee believed, to federal police officials.¹⁵ The AFSC Surveillance Project facilitated a consultation of students on several campuses who were concerned that their constitutional rights not be abused by university surveillance.

POLICE ABUSE OF CITIZENS

The efforts of the AFSC Philadelphia Surveillance Project to uncover the closely guarded secrets of the practices and political intelligence files of the Philadelphia Police Department were constantly being diverted to the more widely-publicized and dramatic subject of physical abusiveness by some Philadelphia police. A Philadelphia Police Abuse Project was instituted by AFSC, principally to give staff support to a coalition of community and civic organizations. This coalition undertook a campaign of public education about police abuse in Philadelphia. It also assisted the ACLU and others in preparing a draft ordinance to provide "regularized, accessible and fair procedures to be followed by the Police Department in investigating and evaluating civilian complaints, and in meting out appropriate discipline." This ordinance is still under consideration in the Philadelphia City Council (see p. 73).¹⁶

THE MOVE CONFRONTATION

A major police confrontation occurred during 1977-78 involving a group called MOVE. Primarily a Black group, MOVE members called for revolution, used rhetoric about stealing the atom bomb, and in various ways upset their neighbors. On May 20, 1977, MOVE members appeared on the street in uniform brandishing automatic weapons; this precipitated a police watch around their residence that was to last until March 15, 1978, when the city set up a complete blockade of a four block area, initially with 1000

police, designed to starve MOVE out. Eight-foot-high snow fences were erected around the area. Powelton residents who lived inside the blockade were subjected to constant harassment: they were stopped, required to show identification, escorted to their homes; friends and family members had to be listed for the police, who computerized the lists and sometimes "lost" them; some people were arrested for trying to go into the area who had a right to be there. Traffic was cut off on several blocks. Residents had to get police permission to cross the street to visit neighbors. In their surveillance of the entire Powelton community, the police exceeded their authority to maintain law and order and further divided the general community.

AFSC's Surveillance Project staff monitored the situation, advised neighborhood residents of their rights, and assisted in a non-violent public vigil held by local Friends and others concerned for a peaceful solution and an avoidance of force and violence. In the end there were negotiations that lifted the blockade, but MOVE reneged on a promise to vacate its premises. A shoot-out ensued. A policeman was killed; others were wounded, some persons were beaten. When the house was empty, the police demolished it. MOVE was gone and the mayor congratulated the police, as did numerous citizens. But there remained bitterness and regret on all sides at the loss of life, the indignities of the blockade, and the realization that superior force may end an intolerable situation but cannot heal a community that is divided.

VII. Baltimore

POLICE FILES AND INFILTRATORS

In December of 1974, when the country was agog over Watergate, articles appeared in the *Baltimore News American* and the *Sunpapers*, alleging that Baltimore police were spying and accumulating files on citizens not suspected of any criminal acts. In January 1975 a former member of the Baltimore police department's Inspectional Services Division (ISD) gave the press a list of 125 organizations on which the ISD had filed information.

The list was divided into categories: subversive, extremist, civil rights, left-wing, pacifist, miscellaneous, and civic. Three of the 125 were listed as right wing. Groups on the list included tenants' organizations, a tutoring program, "Operation Breadbasket" (operated by the Southern Christian Leadership Conference), the National Association for the Advancement of Colored People (NAACP), American Civil Liberties Union (ACLU) and the American Friends Service Committee (AFSC).¹

In February, 1975, newspapers reported that in 1973 an ISD agent, John F. Lewis, had infiltrated the Military Law Project (a group of Vietnam veterans organized to counsel military dissidents, originally sponsored largely by AFSC). In January 1974, posing as a member of Vietnam Veterans Against the War, Lewis had infiltrated a citizens' group protesting gas and electric rate hikes. It was reported that Lewis was at "one moment a pacifist and the next a revolutionary."²

MARYLAND STATE SENATE INVESTIGATION

Largely as a result of the newspaper stories, the General Assembly of Maryland established a Senate Investigating Committee in January 1975 "to investigate allegations of unwarranted surveillance of citizens by law enforcement personnel within the state."³ At the time the Baltimore Police Department was directly under the jurisdiction of the state government. The Committee began hearings in February, with testimony on the surveillance by ISD of unions, of AFSC, of campaign activities of a U.S. congressman, of a state legislator, and of the former director of the Baltimore Community Relations Commission. Testimony was also given on illegal wiretaps made through cooperation between the police Vice Squad and personnel of the Chesapeake & Potomac (C&P) Telephone Company, and on information obtained illegally from credit bureaus.

Baltimore Police Commissioner Donald D. Pomerleau initially had urged full examination of the issue by the Senate Investigating

Committee in order to "re-establish credibility in government."⁴ However, Pomerleau and his counsel, George L. Russell, were most uncooperative throughout the investigation; when they did testify it was to deny that ISD had taken part in any illegal or improper surveillance activities.⁵

HOW THE ISD WORKED

The Maryland Senate Investigating Committee traced the history of ISD from its establishment in July 1966 to January 1975. According to the Committee's report, unlike other executives in the police department, ISD's chief officer reports directly to the Police Commissioner. Its chief officer in 1975, like his predecessor, had previously worked with the FBI. ISD had two sections, an Inspections Section in charge of various stores and equipment, and an Intelligence Section divided into two subsections, Subversives and Organized Crime. The Intelligence Section started small but later averaged between fifteen and twenty-two sworn members. It operated without written orders or guidelines, essentially on oral direction. It owned sophisticated cameras and electronic surveillance devices, and was responsible for the safekeeping of all police electronic eavesdropping devices. At least five ISD officers had been trained at the Army Intelligence School at Fort Holabird during the late Sixties.⁶

A majority of ISD intelligence personnel was allocated to "subversives" and a smaller group to organized crime.⁷

In addition to its own sworn staff, ISD made use of paid and volunteer informants, perhaps as many as 100, to infiltrate organizations, attend meetings and report. There were no criteria to evaluate the reliability of informants or the data they supplied. A former ISD member testified, "If there was a meeting in Baltimore City, we (ISD) were there." All strikes were covered and information, including photographs, was obtained on pickets. ISD even monitored meetings of City Council, the School Board etc., sometimes using concealed recording devices. ISD personnel attending meetings were required to submit written reports; certain reports, (unspecified by the Committee) were distributed to the FBI, Army Intelligence, the mayor's office and the Maryland attorney general's office.

The name of every individual or organization mentioned in a report went onto a file card. Information from cards was transcribed to files—"activity folders" and "dossiers." The latter included a background report with as much information as possible, with no limits on personal and sensitive information. "The more

information you could gather, this, in the sight of your superiors, made you a better officer," reported one former ISD member.⁸

ISD developed sources within the phone company, FBI, National Security Agency, credit bureaus, the liquor board and various state agencies. Most sources supplied information upon informal oral request, and were not identified in reports. Local and regional newspapers were clipped and certain radio and television broadcasts monitored; of special interest were any comments on or criticisms of the police.⁹

INTIMIDATION OF DISSENTERS

Witnesses before the Senate Investigating Committee, among them elected officials, testified that Police Commissioner Pomerleau tried to impress upon them that he knew everything about everybody, and that he was overbearing, especially with anyone who questioned or disagreed with him.¹⁰ The primary concerns of ISD reports appeared to be "the type of political function, the identity of the participants, the political views of the candidates, whether Commissioner Pomerleau was mentioned. The report did not mention whether it was a peaceful gathering or if there were interruptions during or after the meeting... The feeling seemed to prevail in ISD that persons who deviated from the norm, who were outspoken or criticized the status quo, members of organized labor, picketers, and protesters, these people were 'potential threats' and society must be protected against them."¹¹

ISD gave information from its files to local, state and federal agencies about prospective employees, where the mere fact of being "mentioned" in the files may well have carried negative implications.¹²

THE STRANGE HISTORY OF TERRY JOSEPHSON

According to the State Senate Investigating Committee report, the federal Fair Credit Reporting Act allows consumer credit bureaus to disclose only minimal information, with a few exceptions, to governmental agencies. Normally they are confined to giving the consumer's name, current and former addresses, and places of employment. This law took effect in May of 1971. For many years prior to this date, Baltimore police employees had routinely obtained from the Credit Bureau of Baltimore, Inc., records of divorces, bankruptcy, debts and other personal information.¹³

On December 3, 1971, Terry Josephson, a member of the Intelligence Unit of ISD with an annual salary of \$9,084, resigned to accept a position as vice-president of one of the largest independent consumer credit agencies in the country, with files on most citizens

of Baltimore and of Maryland, including data on character, reputation, and living habits obtained from background investigations. Josephson had unlimited access to these credit files. The Investigating Committee reported strong evidence that he disseminated personal information from those files to members of ISD, with full knowledge of ISD supervisors.

On January 3, 1974, Josephson filed for personal bankruptcy, though he was receiving a salary in excess of \$20,000 a year. In early January 1975, an article appeared in the *News American* alleging that Josephson was supplying information from consumer files to ISD. On January 31, 1975, Josephson resigned from the credit bureau; one month later he was re-appointed an officer in the police department at a salary of \$9,100 a year. In testimony before the Investigating Committee he claimed it was merely a coincidence that he resigned shortly after the story broke and the Senate investigation was proposed; he had been "unhappy" at the credit bureau. The Investigating Committee found several discrepancies in Josephson's testimony and stated that his "credibility remained doubtful."¹⁴

On June 18, 1978, Officer Josephson shot and killed 20-year-old William Patrick "Paddy" Meyers, a retarded member of the Community Survival Center, a grassroots group in the white working-class Remington area of Baltimore. Despite community protests Josephson remains on the police force. (See p. 56 for more on this.)

THE TELEPHONE COMPANY

The Investigating Committee's major concern was the improper surveillance of individuals not suspected of criminal activity; but it also discovered that the police department's Vice Squad had monitored telephone conversations with cooperation from the Chesapeake and Potomac (C&P) Telephone Company without proper legal authorization. The information so obtained was used as a basis for affidavits for court-authorized warrants to search various premises in Baltimore.

Staff of the C&P Security Office provided members of local and state law enforcement agencies with non-published telephone listings upon oral request until October 10, 1973. The company changed its procedure and began requiring a subpoena which would authorize the divulgence of such information.

Commissioner Pomerleau and other police officials denied that the police department or any of its members had anything to do with illegal wiretapping, or had received from C&P anything but names, addresses, locations, and toll charges of subscribers.¹⁵

SENATE INVESTIGATING COMMITTEE CONCLUSIONS

The Investigating Committee, noting the efforts of Pomerleau and his counsel "to intimidate and frustrate the Committee in their lawful endeavors," recommended legislative action to prevent the recurrence of illegal and improper police investigations.¹⁶ It urged legislation similar to federal law on credit agency reporting and the use of eavesdropping equipment,¹⁷ and removal of control of the Baltimore police from the state government to the city "to inculcate in the Department the necessary responsiveness to those who are served by and subject to its police powers."¹⁸ Believing it "an impossible task to define areas of legitimate police concern for surveillance and information-gathering practices without adversely affecting proper law enforcement activities," the committee recommended amendments to the state laws to provide for access to records, limitation of files on individuals to what is relevant to law enforcement, and the provision of civil remedies for violations (a state freedom of information law).¹⁹ In addition it urged that all law enforcement agencies in the state with intelligence units promulgate written guidelines, along the lines of those prepared by New York City's police Intelligence Division, and undertake periodic review of these guidelines.²⁰

MARYLAND'S PUBLIC INFORMATION LAW

Following the issuance of the Investigating Committee's report in December 1975, bills were introduced into both houses of the Maryland State Assembly limiting the information on an individual which legally could be collected, and giving the subject access to the information, with the right to sue for damages if access were denied. Maryland organizations urged passage and both houses passed the bill overwhelmingly in 1977, only to have it vetoed by Governor Marvin Mandel just before he was forced to leave office on corruption charges.²¹ (On January 11, 1979, a U.S. Court of Appeals overturned Mandel's August 1977 conviction for mail fraud and bribery because of trial errors.)

A stronger bill was developed, passed, and signed into law on May 29, 1978 by Acting Governor Blair Lee. This means that Maryland residents legally have access to files kept on them by the police (see Appendix 2, p. 123). AFSC staff, who helped coordinate these efforts, organized meetings and prepared educational materials about the new law.

WHAT HAPPENED TO ISD'S FILES?

Pomerleau testified before the Investigating Committee that ISD files on non-criminal activities were destroyed in 1974, before the

Senate started its investigation. The Committee independently verified that the files were destroyed, denying the Committee a valuable source of information.²² However, the Committee determined that information had been routinely shared with the FBI, Army Intelligence and others.²³ The Baltimore police department (like the Maryland State Police) is a member of the Law Enforcement Intelligence Unit (LEIU) which shares information with police departments throughout the country. Information in files destroyed in Baltimore may continue to exist in the files of agencies with which Baltimore police cooperated.

ARE THE POLICE STILL WATCHING?

Has ISD collected information on legitimate activities of Baltimore citizens since it destroyed its files in 1974? ISD's activities were always secret, as the Investigating Committee noted:

ISD, unlike other units in the Police Department, was, to a great extent, operated on a "need to know" basis, meaning that when an individual was given a task, he was not made aware of why the order was given or for what purpose the information he obtained would be used. Furthermore, only those individuals directly involved in an assigned task were generally aware of its existence. . . . Of the forty officers (who were privy to *some* sensitive aspects of the operation of ISD), a great majority are still in the department with many of the remaining officers receiving departmental pensions or holding other law enforcement or related jobs. Considering this along with the attitude of the Commissioner and his attorney toward the investigation, one can appreciate the reluctance which was consistently shown by members and former members of the Baltimore City Police Department to become involved in the controversy or to be open and candid. . . . It is interesting that many members of the Baltimore City Police Department were, until many years after ISD was established, unaware of the existence of the unit, since ISD is not within the normal chain of command and answers only to the Commissioner. Until recently, most Department personnel, if aware of the unit's existence, had little if any actual knowledge of its functions and activities.²⁴

Baltimore citizens who have asked for access to their police files under the new state FOI law have been told there are no files on them. ACLU and AFSC have queried the 125 organizations named on the ISD list to determine whether they believe they are currently under surveillance; none of the 65 groups responding had any evidence of current surveillance, though many remain wary.

LACK OF POLICE ACCOUNTABILITY

There has been no change in the leadership of the police. Pomerleau was reappointed in 1978 to a second six-year term, this time by Baltimore City Council instead of the governor; he continues to exhibit contempt and anger toward anyone who questions police activities. Police influence continues to be strong in city and state agencies.

The director of the Community Survival Center and AFSC's surveillance staff met with the acting executive director of the Maryland Commission on Human Relations on August 30, 1978, seeking an investigation into police officer Josephson's killing of Paddy Meyers. The acting director, Eurphan McLaughlin, is a former ISD member. (During the course of the interview McLaughlin took off his coat, revealing that he was wearing a gun, as is his custom.) McLaughlin listened to the report (recorded in the files of the state's attorney's office) of three eyewitnesses who testified that Meyers had been backing away with his hands in the air when Josephson shot him in the stomach. McLaughlin said nothing could be done about what had happened; but maybe, since he had been a policeman, he could mediate between the community and the Northern District of the police to improve relations.

On October 19 and 20, 1978, the Baltimore City Community Relations Commission held hearings, postponed from September due to police pressure. Some fifty witnesses testified to instances of police abuse, including the killing of Paddy Meyers. The hearings were broadcast live over a local radio station. No report has been issued at this writing.

No matter what is ultimately reported, disciplinary matters are strictly confined to the police department by a state law, the Law Enforcement Officers' Bill of Rights, which supersedes any other laws to the contrary and has been upheld by the courts.

CONCLUSION

The Maryland Senate Investigating Committee in its report noted:

It must be kept in mind that those who are given the duty to collect intelligence information are imbued with the police power of the State. This is a power which gives an extraordinary license to a few to do what the many cannot. Those who exercise it are, for the most part, appointed officials, and unlike our elected leaders, are not directly accountable to the citizenry they serve...²⁵

The genius of the democratic institutions is founded, at least in part, on the realization that persons with unchecked power and unquestioned trust too often come to embrace the belief that their own perceptions of the common good coincide with the will of the people.²⁶

Three years after the issuance of the report, it is impossible to state with assurance that police surveillance of constitutionally protected citizen activities has ended in Baltimore.

VIII. Jackson, Mississippi

There is a notorious history of human rights violations in Mississippi, especially against its large Black population. This sad heritage is shared with other states of the deep South, but Mississippi's record has not been matched by any other state. In the area of political surveillance and repression, Mississippi pioneered methods which were copied elsewhere in the South during the Sixties and are still in use today.

To a certain extent, Mississippi presents a paradox: the backwardness of the state has contributed to making its secret police operations among the most advanced, in the Orwellian sense, in the entire United States. Because it is still essentially a rural state (its largest city, Jackson, has fewer than 200,000 people, and the entire state has only about two million), political intelligence work, even when operationally conducted by local agencies, has always been centralized and coordinated on the state level. Because sophisticated surveillance technology has been employed only recently, it is among the most modern anywhere. Upon completion of the Mississippi Information and Statistics System, every county but one (Issaquena, the least populated) will have its police files linked by computer through the highway patrol headquarters in Jackson.¹

MISSISSIPPI STATE SOVEREIGNTY COMMISSION

The State Sovereignty Commission was founded in 1956 to "resist the usurpation . . . by the Federal government" of the state's rights. In effect its purpose was to counter the civil rights movement and every manifestation of Black political activity. It did not confine itself to surveillance. The Sovereignty Commission channeled hundreds of thousands of taxpayers' dollars to the (white) Citizens Council to produce radio and television programs promoting segregation; sent segregationist speakers all over the country; hired informants to infiltrate, inform on, and disrupt the civil rights movement; and attempted to smear the reputations of its political opponents. These activities are referred to in the Commission's report (1964-67) and are described in newspaper accounts during this period.²

When Governor William Waller vetoed the Sovereignty Commission's appropriation in 1973, he wrote in his veto message, "its investigative work can and should be done by either the Department of Public Safety or the Attorney General's office. Both departments now perform services overlapping the scope of this agency." After that the Commission was given no additional funds,

and in 1977 it was formally abolished by the legislature. As Governor Waller indicated, statewide political surveillance has continued under the jurisdiction of the highway patrol and the state attorney general (both LEIU members), while municipal police and county sheriffs' have expanded their intelligence-gathering abilities, largely through LEAA grants.

TARGETED BLACK GROUPS

Research to document the scope of political surveillance and disruption by state and local police agencies began in earnest in 1975, at the suggestion of lawyers involved in two cases of political repression. In the case of the Republic of New Afrika (RNA), a Black separatist group, it was known that the RNA had been an FBI COINTELPRO target (though the FBI denied this until mid-1976), and it was assumed that FBI activities were coordinated with state and local police. The nearly 53,000 pages of FOI documents released by the FBI to the public in 1978 have shown this to be the case. The attacks on the RNA are similar to those carried out against the Black Panther Party, the Revolutionary Action Movement, Martin Luther King, Jr., and others. Eleven RNA citizens were arrested after a joint FBI-Jackson police raid on August 18, 1971 in which shots were exchanged and a policeman killed. Convicted for "conspiracy to assault federal officers," five are still in prison. Imari Obadele, the group's leader, who was not present at the shootout but was arrested shortly after, has been adopted as a prisoner of conscience by Amnesty International because of evidence revealed in FBI documents that the conviction was politically motivated, as Obadele had long been targeted by the FBI.

The other case for which intensive research was undertaken by the Jackson project involved the United League of Marshall County (today extended to United League of Mississippi). The United League became the target of joint state/federal surveillance and repression in the wake of its successful boycott of Byhalia, Mississippi, merchants, following the police killing there of a Black youth, Butler Young, Jr., in 1974. Surveillance was conducted by agencies not usually thought to be involved in police work. Documents obtained in a Legal Services suit (Robinson v. Ensley, dropped in 1977) revealed that the Community Relations Services (CRS) of the U.S. Justice Department (see p. 13) and the Mississippi Governor's Office of Human Resources and Community Services conducted surveillance of the United League as well as attempts to disrupt its activities and discredit its leadership. (Recent newspaper accounts of the United League's activities in Tupelo and other North Mississippi towns state that the CRS is still the federal

agency involved. According to United League officials, local surveillance is now conducted by the highway patrol, sheriffs, and local police, while violence has come from the resurgent Ku Klux Klan, some of whose members are policemen.)

The research on these two cases quickly revealed political surveillance to be a much larger problem than anyone had realized. The Sovereignty Commission claimed to have files on 250 organizations and 10,000 individuals in its 1964-67 report, while the Highway Safety Patrol's Fifteenth Biennial Report (July 1, 1967 - June 30, 1969) claimed an unspecified number of files that were "unquestionably the most complete in Mississippi," and included "all known racial agitators in the State, as well as those coming into the State, and files on all subversive organizations. Intensive reports are kept on each agitator as to party affiliation, the position he holds with any known organization, and all other pertinent information that can be compiled."

AFSC'S MISSISSIPPI SURVEILLANCE PROJECT

In 1976 the American civil Liberties Union of Mississippi (ACLU/M) established a subcommittee of its Committee on Police Abuse to take up the problem of political spying. Early in 1977 ACLU/M filed a class action civil rights lawsuit for damages and injunctive relief against the state agencies and officials known to have engaged in these activities; that suit is still in court. In June 1977 the American Friends Service Committee established the Mississippi Surveillance Project to expand on the work that the ACLU/M subcommittee had begun, to stimulate public discussion of the issue throughout the state, and to consolidate opposition to government spying.

From the outset the issue evoked widespread concern, and representatives from the NAACP, Mississippi Council on Human Relations, ACLU/M, Emergency Land Fund, Mississippi Federation of Child Development Centers, Mississippi Gay Alliance, United League, and Delta Ministry, including two Black elected officials, agreed to participate on the AFSC Program Committee. All had themselves been targets of surveillance.

News media around the state began to take an interest in the issue when the United League and ACLU/M lawsuits were filed, and coverage has continued. Another lawsuit, filed by the Rev. Muhammed Kenyatta, has also focused press attention on the issue; Kenyatta, a civil rights worker, left the state after being shot at and otherwise harassed. Among other things he received an anonymous threatening letter in 1969 which was later revealed to be part of the FBI's COINTELPRO operation. (It was from the

purloined Media FBI files that Kenyatta first learned of nearly 400 entries on activities of his that were watched—and affected—by the FBI.)³

The Mississippi Surveillance Project has also stimulated press and public attention—one of the program's goals. Newspapers in several cities carried stories based on disclosures that the FBI forged RNA President Obadele's signature to a letter attacking the Black Panther Party in a COINTELPRO effort to sow dissension between the two groups.⁴

A *Los Angeles Times* story (August 2, 1978) about FBI infiltration of the Mississippi delegation to the 1968 Democratic National Convention, based on FBI documents released through FOIA, was carried in papers across the country. A booklet published by the Mississippi Surveillance Project, "J. Edgar Hoover's Detention Plan: the Politics of Repression in the United States, 1939-1976," received considerable media coverage in this country and abroad. (The booklet is now in its second printing.)

Other activities include issuance of a newsletter, public meetings and film showings, distribution of literature, and assistance to researchers and concerned citizens in Mississippi and other states. Many people active in movements for social change during the past forty years have been assisted in requesting their files from the FBI and other federal agencies under the Freedom of Information Act. (The state has no similar law.) Many disclosures have been publicized in the press, so that the public has become better informed and more critical of government intrusions into political matters.

The Surveillance Project has obtained copies of all the FBI COINTELPRO documents relating to Mississippi that have been released so far. Staff has begun to contact as many of the victims as can be located, but no report is possible at this time. It is significant, though, that none of those contacted so far had been informed that they were targets (even those who have requested their files under the Freedom of Information Act), despite the attorney general's promise on April 1, 1976 that victims would be notified.

GOVERNMENT AGENCY TIES TO RACIST GROUPS

The Surveillance Project files contain a great deal of documentation showing ties between racist organizations, such as the (white) Citizens Council and the Ku Klux Klan, and the state government. The KKK publicly revealed its penetration of police departments in North Mississippi during an ABC national broadcast in September of 1978. These connections are especially significant considering a sharp increase in racist violence in the state: United League leader Dr. Howard Gunn was shot at in Okolona; KKK grand dragon Bill

Wilkinson claimed at a rally that his men were responsible.

Shots were fired into two Black churches and a synagogue in Jackson in November, 1978. Following a United League demonstration in Tupelo on November 25, 1978, two demonstrators were beaten and hospitalized on their drive home, and according to the personal accounts of those present a bus full of United League members and supporters narrowly escaped injury or death when the bus's steering was sabotaged. The victims of such violence point out that they remain the targets of police surveillance while all too often the perpetrators go untouched.

PART THREE

Abuse and Redress

The term "police abuse" arouses strong emotions on all sides. Police intimidation and physical assaults on individuals or groups are abuses of power, and have direct and indirect political implications. Social change movements as well as illegal activities frequently arise from conditions of poverty and oppression. Poor people and minorities, often identical, are particularly subject to surveillance and sometimes intimidation and brutality by police, whether they are suspected of criminal activity or are legitimately organized to redress grievances.

This section, drawn from our experiences in the cities and from related studies, discusses and documents the proposition that police abuse, especially when directed against people working in open and legitimate ways to effect social or political change, dangerously subverts the political process. The section concludes with illustrations of ways in which concerned groups have attempted to remedy and restrict such abuses through the courts.

IX. Economic and Political Intimidation

Political espionage and intimidation which go under the name of "intelligence" can cause economic and political damage to a wide range of groups and individuals engaged in legitimate and often socially useful activities. In a number of cities police have attempted to subvert the work of social programs and political groups by getting to their funding sources.

THREATS TO FUNDING OF SPECIFIC GROUPS

Seattle police files released in a public disclosure suit in 1978 show that in November, 1972, the Seattle City Council approved a lease-option plan with El Centro de la Raza, a Chicano-run community organization, leaving final negotiations to the mayor. A document in the police file released to El Centro's director states:

On January 15, 1973, Mayor Uhlman was briefed by the Intelligence Section on (the director's) background. This briefing was relative to the appropriation voted by the City Council for El Centro de la Raza.¹

The mayor subsequently refused to sign the lease, ostensibly because of insurance problems. It is not clear that the intelligence briefing led to the Mayor's decision, as there was nothing in the file indicating any criminal activity. The fact that a file was kept and shown at this time, however, was evidently intended to influence the decision.

Threats to cut off Legal Services funding have been made because of individual attorneys' involvements in controversial cases. For example, North Mississippi Rural Legal Services (NMRLS) is under financial pressure as a result of employees' support of business boycotts and demonstrations organized by the United League of Mississippi in Tupelo, Mississippi. Charged by Tupelo officials with financing United League activities and encouraging their boycott, NMRLS attorneys have been diverted from aiding poor and Black clients in order to prepare responses to these charges to the Legal Services Corporation in Washington.²

As part of its campaign to affect the funding base of the Child Development Group of Mississippi (CDGM) during the mid-Sixties, the State Sovereignty Commission furnished Senator John Stennis with information about the activities and personnel associated with CDGM. Senator Stennis utilized this information in speeches about the irregularities and fiscal irresponsibility of CDGM leading to

an investigation by the Office of Economic Opportunity (OEO). Sovereignty Commission members urged the OEO investigators not to give a new grant to CDGM. The Sovereignty Commission provided similar information on other civil rights groups with the same goal in mind.³

"CHILLING" EFFECTS

Groups and individuals who are "non-targeted"—i.e. not originally targets of intelligence surveillance—are also caught up in the spreading nets. Some of the intimidating practices of intelligence agencies have already been suggested, and are corroborated in the report of the Cook County Grand Jury on "Improper Police Intelligence Activities."

The report describes a common practice of police officers reporting license numbers of all automobiles in the vicinity of a targeted meeting. Even though the owner of a car had not attended the meeting, his or her name would nevertheless be included in the surveillance report.⁴

In accordance with policy at that time, a copy of the report naming the car owner was later forwarded to federal intelligence agencies. During the Grand Jury hearings, one officer testified that a person would be considered a member of a group if his/her car was found parked more than once in the vicinity of meetings which were under surveillance.

The Cook County Grand Jury Report noted the effect of police spying on community groups as follows:

The open presence of police officers, recording names and taking notes at public functions sponsored by a community group, has an obvious detrimental effect on that group.

The mere presence of these officers inhibits individuals from exercising their right of free speech. The fact that a community group may be under investigation fosters the conclusion that the group has broken or is breaking the law. Such a conclusion, even though erroneous, tends to drive away members and financial contributors.

The use of undercover agents and informants to obtain lists of members and financial contributors is a flagrant violation of constitutional rights. The freedom of persons to associate for the advancement of beliefs and ideas is a fundamental aspect of liberty. Unless a compelling governmental interest can be demonstrated, a community group has a constitutional right to keep its membership confidential.

Similarly, the mere presence of undercover agents and informants at private meetings infringes upon constitutional rights. Citizens not only have the right to associate freely but they are entitled to a reasonable expectation of privacy in their association with one another.

When engaged in constitutionally protected activity, citizens must be free to exercise these rights without fear that their activities will be recorded in governmental files.

A program in which a police agency surreptitiously seeks to obtain control over a community group's policies and goals is intolerable in a free society. It is neither the right nor the responsibility of the police to determine whether a community group is to grow or wither.

Finally, political spying by police lowers the community's respect for law enforcement. Without the respect and support of the community, law enforcement agencies cannot operate effectively. The decision by high police officials to infiltrate community groups makes the difficult job of responsible law enforcement officers even more difficult.⁵

In Seattle, a public disclosure suit in 1978 revealed that police files included organizational membership lists and letters to editors from citizens criticizing government programs. The Seattle Police Department's Profile of miscellaneous Indicators (PMI) contains a wide range of newspaper clippings with any mention of activist groups or individuals underlined, and names indexed and filed on 3 x 5 cards. The Coalition on Government Spying reported that PMI includes clippings such as "FBI Caught Spying on Feminist Group," "Film on Apartheid Scheduled," "Inmates Not Satisfied, Despite Pledge for Change," "Women Garment Workers Poorly Paid Here, in Asia."

In testimony May 18, 1978 before the Senate Select Committee on Intelligence, Yale University Law Professor Thomas Emerson clearly summed up the "chilling" effect that political intelligence gathering may have on citizens:

The First Amendment guarantees freedom of political expression, including the right of political association. Clearly the collection, storage and dissemination of data about political beliefs, opinions, associations and activities of American citizens can abridge First Amendment rights. The very process of investigating political activities, involving the questioning of friends, neighbors, employers and other government agents, is intimidating. The compiling of dossiers, which may be the basis of internment in the event of emergency or of other reprisals, is threatening. The very existence of agents, informers,

and possibly agents provocateurs is chilling. Opportunities for partisan abuse of intelligence powers become available and tempting. Freedom of expression cannot exist under these conditions.⁶

There is indeed no way to gauge the numbers of citizens who may have given up their First Amendment rights by default, out of fear that their names would end up in a police file or they would lose jobs.

In 1978 it was learned that the Los Angeles Police Department had undercover agents in at least seven community organizations. One of these was the Coalition Against Police Abuse (CAPA), a predominantly Black organization that has been working with the L.A. City Council on the issue of police brutality (see p. 41).

USE OF SURVEILLANCE TO PRESERVE POLITICAL POWER

The political process itself has been tainted by these activities, which reveal that police intelligence has been used by city officials and intelligence officers for their own ends. When U.S. Attorney Stan Pitkin began a federal probe into corruption in the Seattle Police Department in 1970, Seattle police put his private life under surveillance.⁷

Philadelphia's former Police Commissioner Rizzo, now mayor, set up a specially constituted 33-member police unit to spy on two of his political opponents, Democratic City Committee Chairman Peter J. Camiel, and George X. Schwartz, City Council President.⁸ Chicago's Mayor Daley used the "red squad" to spy on his opponents, particularly those who criticized the Chicago Police Department.⁹ In Baltimore, Congressman Parren Mitchell and State Senator Clarence Mitchell, 3rd had their political campaigns watched and at times infiltrated by the Baltimore Inspectional Services Division.¹⁰

Sometimes the intimidation of adversaries, activists, and dissidents takes a "passive" form: an intelligence operative drops information to let targets know they are being watched. In the Maryland State Senate Investigation, several persons testified that Commissioner Pomerleau, when meeting with citizens and government representatives about legitimate matters concerning the department, told them threateningly: "I know where you meet, where you are going to meet before you meet, what you do..."

"FRIENDLY" EXCHANGES

In a more jovial fashion, Philadelphia Civil Affairs Unit's George Fencil often greets demonstrators by name, makes inquiries as to the health of members of their families, and in other ways gives the

impression that he has full knowledge of all their activities and associations.

Friendly exchanges between demonstrators and police officers assigned to demonstrations are not, of course, to be discouraged. There is a distinction to be made, however, between friendly civility and the kind of "palsiness" that can make the motives of both police and demonstrators suspect.

Many veteran activists know this and are neither hostile to nor intimidated by police. Such advocacy groups as the anti-nuclear Clamshell and Keystone Alliances conduct nonviolent training for demonstrators in the context not only of tactics but of broader issues. Police departments might do well to develop similar programs, changing the role of the policeman from political spy or gun-wielder who forcibly "keeps the peace" to a trusted community-related officer who helps create it. At the least, s/he must be made fully aware of citizens' rights, and the specific limits within which police may function.

X. Physical Intimidation

Just as the dissemination of political intelligence information is part of the larger problem of inadequate supervision of the use of *all* police records, so uncontrolled intelligence activities themselves are only a portion of the vast problem of police abuse. Those concerned over political misuse of police resources must heed the larger problem of making police operations as a whole accountable to civilian authority and to the law. This subject, like the topic of police records, is beyond the scope of our report, and we must restrict ourselves to a few general observations.

Physical assault on citizens by police as a mechanism of social control is a widespread problem in the United States, as in many countries. Unfortunately, police departments have been too often characterized by those officers who, out of their own biases, ignorance, and fears, have attacked or abused people they see as threatening or inferior. Too often these attitudes and actions have been shared, condoned, covered up and defended by police hierarchies and local administrations.

The traditional reformist prescription for curbing police abuse is twofold. First is the improvement of the calibre of the force by better selection and more adequate training, particularly training in psychology and intergroup relations. Second is the establishment of an outside review board to hear citizen complaints and recommend appropriate discipline. This prescription rests upon the perception that police abuse is essentially the misbehavior of a handful (large or small) of abuse-prone officers, who must be weeded out, or whose behavior the command must correct by training or discipline.

We think this perception is inadequate.

COMMAND RESPONSIBILITY

It is the command, not the rogue officer, who is fundamentally responsible for abuse. Police abuse has its roots not only in the shortcomings of individual officers, but in the system of which the police are a part. The police, indeed, are usually co-opted by their superiors to do political surveillance and "keep the lid" on the ghettos. The facts set forth in this report demonstrate the connection between police intelligence and political repression, and we contend that other oppressive police activities are also reflections of what the police command sees the police role to be.

This is not to say that we completely discount the bad effects of improper selection of police officers, or oppose efforts to train them

more adequately for their difficult, sensitive and thankless work. But we argue that the role of the police, and indeed of the criminal justice system, needs redefining if the police are to escape being cast in the part of oppressors and lawbreakers. Indeed, we have sympathy with those individual officers who are ordered to break up or spy upon peaceful demonstrations, or who are commanded in the course of their criminal investigative duties to violate citizens' rights against unreasonable search. The individual officer, rather than the police command, bears the brunt of public ill-will generated by oppressive acts, and is caught in the middle between citizen outrage and command orders. Faced with this dilemma, as part of a quasi-military organization, he has little choice but to obey orders and close ranks with the department. In so doing, he also closes a vicious circle.

POLICE ATTITUDES

While "street crime" is endemic to poverty areas and gives rise to greater police action as well as abuse, no racial or class sector of society seems to be totally immune. It is clearly observable, however, that minority populations bear the brunt of police lawlessness, against which they usually feel they have no legal recourse or socio-economic "clout." Also, the extent to which city administrations, police officials, and dominant groups allow or condone police biases and improper behavior relates clearly to the extent of police abuse.

A number of studies of police attitudes and public responses are cited in *Vigilante Politics* (University of Pennsylvania Press, 1976). One writer quotes a governmental report which found that police (predominantly white across the nation) are generally hostile toward Blacks, practice widespread brutality, and have little understanding of the constructive role of dissent in a democracy.¹ Too often they lack understanding of the reasons for hostilities which pervade many minority groups and ghettos—frequently expressed as much against one another as against dominant groups or the police who are seen as representing them.

Increasingly the "cop on the beat" (more likely these days to be in a car than on foot) feels threatened and besieged, especially in strange territory. He often feels himself isolated in unfamiliar areas, confused by conflicting attitudes and directives. Perceiving his role to be that of a defender of public safety, he becomes angered to find that some people seem to take the side of those whom he sees as threatening. More often, however, he is supported not only by his command but by those among the public who share his fears and tend to overlook his transgressions.

"SOCIAL GROUP CONTROL" AND PUBLIC SUPPORT

Police violence thus becomes a legitimate tactic in the name of crime control or social group control, backed by public attitudes of the moment. A study of police violence cited in *Vigilante Politics* states that "... Extralegal police actions directed against unpopular targets are unlikely to draw censure or even disapproval from those substantial segments of the American public for whom police are the good guys."² The essay in which this is quoted also discusses police over-reaction which was often triggered during protests of the Sixties, notably around the Democratic Convention in Chicago:

Perhaps no single event more graphically illustrates the extent of extralegal violence used as a form of social-group-control than the Chicago Police riot of August 1968 during the Democratic National Convention. Police, exceeding any possible bounds of legal authority, ran amok and violently attacked civilians, including hundreds of innocent bystanders. All told, more than eleven hundred civilians were injured...³

The public role in permitting and condoning this kind of police response is confirmed in another study cited by the author, who states:

... of more than one thousand respondents to a questionnaire dealing with extralegal violence used by police at the 1968 Democratic Convention, only 19 percent thought that the police had used too much force, while 25 percent thought they had not used enough. The rest were satisfied that the proper amount had been used or expressed no opinion.⁴

There is no doubt that violence is latent on both sides in protests, especially in groups not specifically committed to nonviolent philosophy or tactics. Just as those with grievances feel that some violence has been done to them, so do police (and behind them other segments of society) often feel that a kind of violence is also being done to them and to the public order by demonstrations and protests, whether violent or peaceful. Any display of hostility, therefore, can easily set off vindictive anger or a show of force by police if they are not adequately trained to head off violence and if they believe their actions will be sustained by their command and by the public.

POLICE VIOLENCE AGAINST BLACK AMERICANS

Entirely nonviolent and even friendly demonstrations, however, can sometimes end in a degree of police brutality if sit-ins or non-cooperation are part of the nonviolent tactics used by demonstra-

tors to convey the strength of their convictions. Such tactics were particularly upsetting to white police when used by civil rights workers and by Black Americans from whom they had long expected compliance and obedience.

In the collection of studies mentioned above, *The Mississippi Black Paper* is cited as illustrative of police brutality and the corruption of justice. This book is a compilation of affidavits by people who were victims of police abuse during the influx of civil rights workers to Mississippi in the summer of 1965. In the book's introductory comments, Hodding Carter wrote: "Segregation was unquestioned publicly by all but a few whites and the use of almost any device to preserve (it) was sanctioned by businessmen as well as rednecks." Actions and failures to act by various police forces were done in the name of "preserving a way of life."⁵

Elsewhere in this report we have indicated the lengths to which official violence against Black Americans and their sympathizers has gone—and the lengths to which it still goes (see pp. 18 and 59). Daily news accounts illustrate that other racial and cultural groups have also been subjected to such treatment.

HISPANIC VICTIMS

Recent examples of police violence against "Third World" people in Philadelphia and Houston, the two cities chosen for the 1979 U.S. Civil Rights Commission hearings, further document the selectivity of police brutality. According to a 1977 report of the Public Interest Law Center of Philadelphia (PILCOP—now called the Law Center), 58% of those reporting police brutality were Black and Puerto Rican.⁶

A four-part Pulitzer Prize-winning series in the *Philadelphia Inquirer* details stories about Black, white and Hispanic men and women who have been subjected to abuse by the Philadelphia police.⁷

Denver, the northernmost city with a large concentration of Chicanos, was the scene of an apparently gratuitous killing of two Mexican-Americans by police in the summer of 1977. The police killing of a young Chicano laborer in Houston, also in 1977, caused widespread protest in the Mexican-American community.

In a 1977 study of the police situation in Texas done by *Texas Monthly*, criminal lawyer Percy Foreman called Houston a "police state," asserting that its officers are more violent and unchecked than any comparable police force in the country. (Foreman has defended scores of police charged with brutality.) Foreman blames the justice administration and the district attorney's office which he says "have white-washed every charge against policemen,"

thereby encouraging more police violence by letting police know that they are free from sanctions of law.⁸

A Houston assistant city attorney told the *Texas Monthly* that events leading to the killing of the young Chicano worker would never have happened had not a long string of earlier incidents been tolerated and even ignored by official indifference, and had not excessive force been allowed to become a way of life for Houston policemen.⁹

Early in 1978, Vilma Martinez, president of the Mexican-American Legal Defense and Education Fund, entered a plea with the Justice Department to intervene in thirty well-publicized cases of possible police misconduct in the Southwest, some of which the Justice Department says it never heard of. Quoted in a March 28, 1977 *Washington Post* article, Assistant Attorney General Drew S. Days III said: "On some of these cases we have no record, we have never received any kind of complaint, we never got the FBI report, nothing from the U.S. Attorneys."

ATTEMPTS TO CURB ABUSE

In many cities the patterns persist and citizens who attempt to alleviate such situations meet official resistance. In Philadelphia a bill to establish a fair (and public) police complaint procedure has been stalled in committee for over a year (see p. 48). In late 1978, hearings were finally held when it became politically opportune for the chairman of the committee to schedule them.

In Denver, a grassroots citizens' effort to establish a civilian police commission was swamped by police opposition, which included a well-financed media campaign.¹⁰ In Baltimore, police have attempted to avoid testifying publicly regarding the circumstances under which a twenty-year-old retarded white male was killed by an officer (see pp. 53 and 56).

Civilian review boards—appointed or elected citizen groups which have been attempted in a few cities—are designed to play an ombudsman role between the police and the community with regard to police misconduct. The handicap of the typical review board structure is its lack of power to discipline police, and therefore its dependence on the cooperation of the police department head and elected officials to resolve problems. In Philadelphia the review board was dismantled due to lack of cooperation by city officials; in Denver a citizens' initiative to establish a review mechanism was defeated, largely because of police opposition; and in New York City the review board was dismantled as the result of a voter referendum. A civilian review board continues to exist in

Berkeley, California despite major problems with lack of official cooperation.

In essence, critics of review boards contend they channel citizen concerns into new bureaucracies lacking the power to make police accountable, while the elected officials charged with this responsibility are removed one step further from the process.

Abuses will no doubt continue as long as police know that their illegal acts will be ignored, denied or condoned by those in a position to put a stop to them. Concern about police violence has been expressed over the years by the President's Commission on Law Enforcement and the Administration of Justice (1965), the National Advisory Commission on Civil Disorders (1967), the National Commission on the Causes and Prevention of Violence (1968), and the President's Commission on Campus Disorders (1970), among others.¹¹ The solutions they and others have suggested range from changing recruitment and training patterns for police to more far-reaching suggestions regarding eradication of the fundamental problems of poverty and racism.

As a result of the turmoil and disorder of the Sixties, official bodies such as the National Advisory Commission on Civil Disorders recommended that police departments establish police community relations programs. Although such programs seem necessary and potentially beneficial, results have been disappointing. For example, in Detroit the National Advisory Commission found minimum participation by ghetto residents, infrequent meetings, lack of involvement by patrolmen, inattention to youth programs, and lack of coordination by police leadership, indicating that such programs can become merely public relations efforts designed to improve the image of the police department.¹² There is also the potential for them to become spying programs, in the manner that the IDIU structure was misused (see p. 10).

However, such programs can be useful in developing understanding of community problems by the police and confidence on the part of citizens that police are worthy of trust and cooperation. Apparently a major obstacle has been the failure of police officials and policy makers to assign high priority to such programs.

The fact that the U.S. Civil Rights Commission is holding hearings on police brutality in 1979 suggests that the problems are far from being solved.

XI. Seeking Redress Through The Courts

The courts have provided an important forum for exposing excessive, illegal and sometimes violent "intelligence" and other police activities. The courts can also prohibit or set limits on these. Litigation against the police intelligence units in Chicago, Seattle, Los Angeles, Detroit, Jackson and Houston, among other cities, has been geared towards revealing (and notifying targets of) intelligence investigations, the use of informants, and the extent of coordination between federal, state and local agencies. It also seeks to establish legal precedents to prevent extra legal activities from recurring. Discovery materials released through litigation have provided valuable insight into the operations of the intelligence agencies at many levels.

Litigation is often regarded as a last resort by Friends, including many within AFSC. In the interests of disclosing documents and activities which should be known to the public in an open and free society, however, AFSC has joined with other groups in several court efforts to expose and curb harmful activities.

PHILADELPHIA RESISTANCE v. MITCHELL

The suit brought in 1971 by AFSC, Philadelphia Resistance, et al. v. Attorney General John Mitchell, FBI Director Hoover, et al. (see p. 20) reveal excessive and harassing surveillance, to which the FBI never specifically admitted, and produced presumably binding assurances that these would not occur in the future.

AFSC NEW ORLEANS CASE

Some lawsuits, such as the one involving an AFSC staff member in Louisiana in 1961, brought no specific results other than to expose illegal activities supported or not hindered by local authorities. In this case, phone conversations occurred between the AFSC representative, a local rabbi, and a Baptist minister about a statement of principles against racial segregation. Tapes of these conversations were reported to have been played to some members of the minister's congregation who disapproved his position. The AFSC staff member reported this obvious wiretapping to the FBI, whose elaborate investigations led to a state senator active in the State Sovereignty Commission, a private investigator with embezzlement in his background, and a businessman.

In the ensuing litigation, a former FBI agent who had played the tapes to church members and others disappeared from view and was not named in the indictments. In one FBI document (found in the FBI files received by AFSC) a former FBI special agent who had become district attorney in Louisiana was reported to have called the FBI director to threaten to reveal that the FBI tapped phones all the time. A handwritten entry was inserted, presumably by the person receiving the report: "We are not going to be blackmailed and certainly not by some punk ex-agent."

When the trial finally occurred, in 1966, the jury was all white and all male. The files received by AFSC reveal FBI records of investigations on long lists of potential jurors, including their credit ratings, as well as on others involved in the case. (For example, the kind and cost of dental service to the rabbi was recorded.)¹ A mistrial was declared because the jury was deadlocked on four of the five counts. The Assistant U.S. Attorney advised no further prosecution, and the judge dismissed the case.

PHILADELPHIA YEARLY MEETING v. TATE

More recent cases, however, of particular importance with regard to police operations have resulted in significant revelations and in some cases favorable rulings. A suit was brought in 1970 against Philadelphia's Mayor Tate by the Philadelphia Yearly Meeting following Police Commissioner Rizzo's exposure of surveillance targets on NBC's "First Tuesday" telecast in 1970 (see pp. 13 & 45).² In 1975 the Third Circuit Court, although affirming the right of the Philadelphia police to photograph demonstrators and gather data, ruled that dissemination of such information must be limited to other law enforcement agencies.

HONEYWELL CORPORATION

AFSC officially became a co-plaintiff in a suit against Honeywell, Inc. and the FBI, filed by the ACLU in Minneapolis in April of 1977. Together with other plaintiffs AFSC charged that Honeywell worked with the FBI in its Counter-Intelligence Program (COINTELPRO) to prevent the plaintiffs from protesting Honeywell's production of anti-personnel weapons during the Vietnam war. This is the only COINTELPRO suit in the country linking a corporation with a federal intelligence agency.³ In October 1978 the court decided to hear arguments on class action certification. The suit is still pending.

CHICAGO LITIGATION

In Chicago, two suits are pending at this writing, one brought in 1975 by the ACLU (with AFSC as one of the plaintiffs) against the City of Chicago, et al., for electronic and other illegal surveillance (see p. 16). The other suit was filed in 1974 by the Alliance to End Repression when it was learned that members of the Chicago Police Department had infiltrated that group. This suit alleges widespread illegal activity by the Chicago police, including intimidation, surveillance, harassment, and wiretapping against citizens engaged in legal and constitutionally protected activities. The court, the ACLU and the Alliance joined the suits for the purpose of discovery of relevant documents.

MICHIGAN STATE POLICE

In Michigan, a suit was filed in 1974 (Benkert v. Michigan State Police) following disclosures that the state police had investigated a consumer group which had been active in lobbying the state legislature.⁴ Discovery in this suit has revealed that the Michigan State Police kept files on over 50,000 groups and citizens, and have given information to private corporations resulting in the harassment and discharging of some workers.

MEMPHIS CONSENT DECREE

In Memphis, Tennessee, in 1978, following a suit brought by the ACLU, police officials signed a court order which prohibits police spying on political groups. While officials denied any illegal activities on the part of the intelligence unit, they agreed not to engage in any form of political intelligence-gathering in the future, such as using informers and taking photos or license numbers of participants at public meetings. To ensure that such activities may not be shifted to another department or agency, the city agreed to review each criminal investigation that might touch on First Amendment rights.⁵

E.W. "Buddy" Chapman, former executive assistant to the mayor of Memphis and now civilian director of police in Memphis, admits that the original suit against the police had merit. But he also believes the consent decree will not affect the way the department is run: "Since I've been here (Chapman has been director of police since late 1976) I have insisted that any surveillance be done in connection with an ongoing investigation. They (the ACLU) wrote the decree around the way I operate the department and I don't think it will change our present mode of operations."⁶

DESTRUCTION OF FILES

An aspect of concern to litigants is that police agencies which have become involved in litigation because of alleged illegal activity have seen fit to destroy files rather than expose them to public view. This occurred in the Memphis case cited above, when (following the filing of the suit in 1976 requesting city police files on political activists) ACLU found "that the files had been hurriedly destroyed," according to a story in the *Washington Post*, Sept. 14, 1978.

In Seattle, in a public disclosure lawsuit, the Coalition on Government Spying confirmed that large numbers of files up to 1975 had been destroyed. The Coalition also requested LEIU documents (under the state public disclosure law) from Seattle police who forthwith removed these to "safekeeping" at LEIU's California headquarters (see p. 31).

The commissioner of the Mississippi Highway Patrol testified that its files were destroyed prior to ACLU/M's lawsuit. However, attorneys representing the state had previously opposed ACLU/M's request for an injunction against file destruction on the ground that destruction of files was contrary to policy and therefore no injunction was needed.

In the suit of the Alliance to End Repression, the Chicago police revealed that a massive destruction of files began when informers reported in 1973 that a lawsuit was imminent. According to the documentation, hundreds of volumes of surveillance data as well as files identifying informers were purportedly incinerated.

"LOUDMOUTHS" DO HAVE RIGHTS

In the midst of anti-war protests and other civil disturbances of the Sixties, Frank Rizzo, then police commissioner of Philadelphia and at this writing its mayor, expressed the classic justification for police excesses. In an interview with the *Philadelphia Inquirer* (August 1967) he was quoted as saying:

... many of the movements and many of the actions that are taken... are by people who have other motives in mind... I'm certain that if police respond and respond in force and use the force that's necessary, taking these people into custody... this is where we've backed off too much! You know, what do we mean by democracy? Do we mean that only the loudmouths, the people who want to violate our laws, these anarchists have all the rights?

Contending that "loudmouths" and "anarchists" do have rights, and that law-violators are also to be found among those supposed to defend the law, citizens' coalitions have been forming in many cities to seek redress through the law and to prevent further erosion of citizens' rights by police surveillance, intimidation and abuse.

PART FOUR

The Old Boy Network

The Law Enforcement Intelligence Unit has been a major focus of AFSC's staff research and investigation in various parts of the country. Our staff, in cooperation with others in the field, have pooled information about LEIU which has now been assembled by Linda Valentino, AFSC staff in Los Angeles, in a copyright publication of the Center for National Securities, called *First Principles*, (January 1979). The report is reproduced here with their permission. The last section, Other Investigations of LEIU, is our addendum, not included in the Valentino report.

XII. The Law Enforcement Intelligence Unit

(The LEIU: Part of the Political Intelligence Network©)

During the revelations of the past few years about the American intelligence community, the public has gradually become aware of the existence of the Law Enforcement Intelligence Unit, or LEIU.¹ This organization has insisted that it had no part in the discredited operations which had been mounted against political dissent. By its own description, LEIU is a private organization whose members happen to be intelligence officers in state and local law enforcement agencies, and its purpose is said to consist solely of combating organized crime.

From the beginning, there have been allegations that LEIU's description of itself has not been accurate, and critics of intelligence operations have speculated that LEIU has probably been the chief mechanism through which derogatory, inaccurate and irrelevant information about political activists was spread from one police agency to another.

Now, a number of separate inquiries have uncovered different pieces of the LEIU puzzle, and it is no longer necessary to speculate about the group's political interests.

Last September the Campaign for Political Rights made public several intelligence "face cards" and over 1000 secret documents pulled from the FBI's files on LEIU which dramatically illustrate that organization's role in domestic political intelligence. The LEIU intelligence cards were disseminated by attorney Richard Gutman; they had been obtained through consolidated discovery in three lawsuits against the Chicago Police's "red squad" by the Alliance to End Repression, the ACLU of Illinois, and the Chicago Lawyers Committee for Civil Rights.² The FBI documents on LEIU resulted from a Freedom of Information Act request filed by David F. Power, a researcher and student at Temple University School of Law, and former intern at the Center for National Security Studies.*

LEIU—STRUCTURE AND PURPOSE

To fully understand the ramifications of the documents, it is necessary to backtrack a moment and clarify exactly what LEIU is—and isn't. The LEIU describes itself as a growing network linking together the intelligence squads of almost 250 state and local

*These documents are available from Center for National Security Studies, 122 Maryland Avenue, NE, Washington DC 20002.

law enforcement agencies. Its purpose is to "promote the gathering, recording, investigating and exchange of confidential information not available through regular police channels, concerning organized crime." The LEIU employs no investigators; indeed it has no investigative capability independent of its member agencies. The single most important function of the organization is to provide a clearinghouse for intelligence information.³

Local police officials saw the need for such a clearinghouse as a result of the FBI's reluctance to share intelligence information with other police agencies. Captain James Hamilton, then the commander of the Los Angeles Police Department's Criminal Intelligence Division, called a meeting of western states law enforcement agencies in March 1956. Representatives of 26 agencies devised the Law Enforcement Intelligence Unit as a means of improving communication and cooperation between local and state jurisdictions.

The structure of the organization combines aspects of the professional association, the fraternal society, and the private country club. Membership is fairly difficult to obtain, and is limited to local or state law enforcement agencies of general jurisdiction, all of which must have functional intelligence divisions. An agency applying for membership must be sponsored by one member agency and endorsed by three others. The application is first screened by the LEIU Executive Board, which consists of a national Chairman, Vice Chairman, and Secretary-Treasurer, and the Chairmen of the four LEIU regional zones: Eastern, Central, Northwestern and Southwestern. The Executive Board then initiates an investigation of the applying agency, its leadership and all officers working within the intelligence division. Other members are encouraged to supply any information which might be relevant to the investigation, particularly any information linking the agency with organized crime or indicating that the department is "on the take." The Executive Board votes on whether or not to admit the agency. An agency cannot be admitted if there is more than one negative vote cast by the Board. The Board can also suspend or terminate membership for a variety of reasons: non-payment of dues, change in a department's leadership, breach of security, or when the agency's membership "no longer benefits the organization."⁴

Upon admission to this exclusive "club," the agency pays an annual membership fee of \$50.00, and appoints one representative to the LEIU. The representative participates in LEIU zone meetings and yearly national conferences, and is the department's contact for the exchange of intelligence information.⁵

LEIU INFORMATION SYSTEM—SUBJECTS, CARDS, AND COMPUTERS

LEIU maintains two separate systems for intelligence exchange. The manual system consists of over 4200 five-by-eight face cards on "organized crime principal" subjects. The face cards list the subject's name, aliases, if any, current and past addresses, "organized crime associates," record of past arrests, modus operandi, and miscellaneous information. The card also includes the subject's fingerprints and a recent photograph, if available.⁶ A cumulative list of LEIU subjects is made available to member agencies, from which they can select those subjects in whom they have an interest. The agency then "rents" those cards at a cost of 15¢ each, or can receive all the cards at a one-time cost of \$300.00.⁷ The cards are printed by the Organized Crime and Criminal Intelligence Branch (OCCIB) of the California Department of Justice, which serves as the LEIU's Central Coordinating Agency (CCA). The OCCIB performs all administrative functions for the LEIU.⁸

To enter a subject in the LEIU system, a member submits the required information on an official form, indicating what type of organized crime activity the subject is alleged to be involved in. Possible categories range from the more traditional organized crime strongholds—gambling, loan sharking, murder, narcotics, fraud—to "white collar crimes" and "impersonating police officers;" but some of the categories have no direct tie to any crime. LEIU has also categorized a subject who has "electronics capabilities," "travels extensively," or fits into the subject group of all "others of interest to law enforcement." No actual proof of a person's involvement in crimes—no records of arrests, indictments or convictions—is needed for a person to become an LEIU subject. He may simply be an "associate" (a friend, a relative, a lawyer, a business contact) of such "organized crime" targets.⁹

The form is then forwarded to the member's zone chairman, who either approves or disapproves the subject and then sends it to the CCA. The CCA makes the final decision on whether or not to add the subject to the LEIU file.¹⁰

In the late 1960's, LEIU officials began to explore the possibility of automating the card file system, which had become too cumbersome to research manually. In 1971, under a grant from the Federal Law Enforcement Assistance Administration (LEAA), the first phase of the computerized Interstate Organized Crime Index (IOCI) was initiated. This "prototype" system consisted of a computerized central index, located in the headquarters of the Michigan State Police in East Lansing, Michigan, and 14 (later 30) regional computer terminals. The terminals were equipped with

on-line communication capability and message switching capacity. This system speeded up considerably the time it took to respond to requests for information on the nearly 3,000 organized crime principals and 20,000 organized crime associates then contained in the files.¹¹

The prototype system existed until 1974 when the LEAA grant terminated. A separate grant was made for LEIU to commission an independent evaluation of the system. The evaluation concluded that the system could be much more efficient if every member agency installed a terminal with message switching on-line capacity. This proposal was deemed unfeasible due to the cost involved. An alternative plan was devised which involved the use of a mini computer to be installed in the California Department of Justice office in Sacramento. The computer would be staffed by OCCIB employees. LEIU member agencies would have access to the computerized records through a toll-free "WATS line" telephone hookup. This system, again funded by LEAA, became fully operational as of January 1978. Now a representative of the inquiring agency calls the OCCIB on the toll-free WATS line number, identifies himself as an LEIU representative, and requests information. The mini computer is used to scan the files and the information is then relayed to the requester by phone or by mail. Due to restrictions imposed by LEAA, the IOCI contains only "public records information."¹²

The IOCI added an important feature to the LEIU's information exchange system. The "coordination function" kept track of every member agency which possessed information on a given subject. It also listed every member agency which had previously requested information on that subject. This allowed any subsequent inquiring agency to contact the others and request additional information from the files of those departments.¹³

Perhaps the most sinister aspect of the IOCI system is the "no-hit" file, another coordination function it provides for its members. When a department requests information on "John Brown," for instance, and there is no information on John Brown contained in the active file, then that name and whatever identifying information the requester may possess is inserted into the "no-hit" file. Both the active file and the "no-hit" file are checked whenever a request is made. If subsequent requests on John Brown are received, then whatever bits of information the next requester has are also added to the file. Eventually the no-hit file can be converted to an active file. The danger is obvious: numerous active files can be created, essentially on the basis of nothing more than the fact that someone made a request for information.¹⁴

LEIU—PRIVATE STATUS, PUBLIC FUNDING

Although the LEIU purports to be a private association (it is registered in California Registry of Charitable Trusts as a private, non-profit organization) and has federal tax-exempt status, it is clear that all of its activities are financed with public money.

Beginning with the Nixon administration, federal tax dollars began to play a large part in LEIU operations. LEAA grants to the California Department of Justice for the automation of the LEIU intelligence records totaled almost two million dollars between 1971 and 1978.¹⁵

However, LEAA funding of the IOCI was terminated on June 30, 1978 and the system is now funded by a combination of California state funds and local funds. According to a letter from the Seattle Chief of Police, R.L. Hanson, to the Seattle Office of Management and Budget, LEIU member agencies are now being assessed \$300 annually for the use of the IOCI.¹⁶ In addition, the California Department of Justice OCCIB retains at least one professional and two clerical workers in its Field Operations Bureau/Coordinating Section. The section performs all administrative functions for the LEIU. LEIU face cards, intelligence bulletins and other publications are also printed at state expense.¹⁷ According to an investigation of the Michigan State Legislature, additional local funds have been used to send LEIU representatives to zone meetings and annual conferences, and "LEIU requires all member agencies to maintain files on government property and to perform LEIU tasks while on the government's payroll." This report concluded, "it appears that the LEIU would not in fact exist, were it not for taxpayer support. Yet the LEIU and its members have resisted all taxpayer attempts to in any way control their operation."¹⁸

A controversy took place in Seattle early in 1978 which shows the organization's attitude toward outside scrutiny by courts and elected officials. The Seattle Coalition on Government Spying revealed that the head of the Seattle Police Department Intelligence Unit had, in anticipation of a possible court order, sent his LEIU cards back to the zone chairman. In a letter of transmittal to Stan Carey of the Santa Clara, California, Police Department, V.L. Bartley concluded that:

The National Lawyers Guild, the ACLU and the American Friends Service Committee have initiated legal action to force us to disclose our files . . . The City Council has been reviewing our intelligence practices for over two and a half years . . . It would not surprise me if the Mayor seized our files at any time

... I am forwarding our LEIU files to you since I can no longer assure their security. Please retain the cards until the situation here improves or until we are forced to resign from LEIU membership.¹⁹

Bartley was subsequently removed from the intelligence division, and a Seattle judge ordered the return of the LEIU cards.

With this combination of an elaborate private structure, ample public funding, absence of outside accountability, and generalized notions of keeping track of people "of interest to law enforcement," it should be clear that the LEIU system could easily lend itself to targeting innocent people, often for purely political reasons. And indeed, allegations that the organization was involved in the unfolding record of political intelligence abuses are not new.

In 1975 a former police intelligence officer told the Select Committee on Intelligence that he had supplied LEIU members with information on political activists, including attorneys for the American Civil Liberties Union. The officer claimed that the targets of the surveillance were not connected to any criminal investigation.²⁰ The testimony was affirmed by the LEIU representative for the Hayward, California Police Department, who admitted that LEIU files contained information on Hayward citizens who were members of "political protest" groups.²¹

The Houston Police Department also confirmed these allegations. Houston dropped out of LEIU in 1974, supposedly because LEIU members had repeatedly requested information on political activists. (It must be pointed out, however, that the Houston Police Department was at that time trying to cope with a major scandal regarding intelligence abuses, which had developed when it was revealed that the department had spied on Mayor Fred Hofheinz, Congressperson Barbara Jordan, and others. LEIU officials also tried to turn the tables on Houston by claiming that Houston had actually been "kicked out" of LEIU because of the spying scandal.)²²

The reaction of LEIU officials to the various allegations has been to deny any wrongdoing. Past general chairman Ray Henry, of the Long Beach Police Department, has maintained throughout that LEIU possessed no information on political dissidents. Henry has said that LEIU has "nothing to do with investigating political figures, churches, Blacks, or anything of that type." He added that "information on anyone who is not an organized crime figure is screened out of the files by the LEIU zone chairman."²³

Charles Casey, Chief of the California Department of Justice OCCIB, has also denied that political information is included in LEIU files. Casey was questioned in a California State Assembly

Judiciary Committee Hearing in 1976 by Assemblyman Art Torres and Committee Chairman Sieroty, who asked about the allegation that files were maintained on private citizens merely because of their political positions.

Throughout the session, Casey insisted that Communists, subversives and political protest organizations were all clearly outside of LEIU's jurisdiction.²⁴ He maintained that, though the subject had been raised, LEIU's Board had staunchly resisted attempts to enter such subjects into the files.²⁵

One wonders how Henry and Casey will explain the discrepancy between their public statements and the documents which have since come to light, for it is now clearly established that LEIU has a long history of actively targeting legitimate political activities.

THE POLITICAL DATA ON THE LEIU FACE CARDS

The face cards obtained in the Chicago suits are the most revealing of the documents.²⁶ According to Gutman, who examined about 300 to 400 LEIU cards in the possession of the Chicago Police Department Subversive Squad, about 10% could be classified as political. (There is no assurance, however, that the Chicago cards are a representative sampling.)

Among the political subjects is a former professor at the University of Washington. Michael Phillip Lerner is characterized as a "Marxist scholar, political activist, leader within the Seattle Liberation Front, present at many demonstrations in Seattle." Another subject, Lee Lubinski, was noted as a leader in peace movements, who "has connections in several states... has operated draft evasion counselling and peace demonstrations." (Draft counselling, of course, is not a crime.) Lubinski's card revealed that he had no record of arrests. Other cards concern subjects Imari Obadele ("President of the Republic of New Africa"), well-known civil rights advocate Ann Braden ("long-time Communist Party member"), American Indian Movement leaders Clyde and Vernon Bellecourt and others.

The cards also show the problems with accuracy which have been a characteristic of intelligence data. One of the subjects, former Black Panther Party member and community organizer Michael Zinzun, is said to have been involved with a "Trident Development Group (real estate) in Alta Dena, California." Not only had Zinzun never been involved with such an organization, he had never even heard of it. No trace of it could be found in area phone books or other records. Another interesting notation on Zinzun's card asserted that one of his "organized crime associates" was one Nathan

Holden. Holden is a former California State Senator and is currently a candidate for the Los Angeles City Council. The only "association" between the two is the fact that Holden, at one point, was Zinzun's landlord.

In addition, the LEIU cards, although they list a record of arrests, do not indicate the disposition of those cases. As a result, there is the implication that the subjects were guilty of the alleged crimes. In fact, at least two of the charges on Zinzun's card were dismissed.

THE FBI RECORDS ON LEIU

The FBI documents on LEIU provide a good deal of interesting historical background on LEIU. At least 100 of the documents clearly support the picture of LEIU as a political intelligence clearinghouse; they also show the rivalry and antagonism that the federal and non-federal law enforcement agencies have felt for each other.

As early as 1962, one of the major topics of discussion at the LEIU Northwestern Zone meeting was "police intelligence units' role in securing information concerning protest groups, demonstrations and mob violence."²⁷ The following year at the Eastern Regional Conference held in Chicago, on October 31-November 2, 1963, Lt. Frank J. Heimoski of the Chicago Police Department delivered an address entitled "Investigation of Subversives—An Intelligence Task?" Heimoski asserted that the investigation of subversives is indeed an important priority for police intelligence squads. He stated that it could prevent "agitation" around such issues as "labor, wages, working hours, strikes, peace, housing, education, social welfare, race, religion, disarmament and anti-militarization." He also emphasized the role that the Chicago Police Department's Subversive Squad had played in assisting the FBI, the Dies Committee, HUAC and the Senate Internal Security Committee in their investigation of radicals and subversives.²⁸

In April 1965, at the LEIU conference in Las Vegas, a representative of the Immigration and Naturalization Service "offered his help to LEIU members, touching briefly on the central index in Washington, D.C. containing the names of 33 million people. He stressed the information in their files is not that which can be used as evidence in criminal prosecution, but that it can give the police officer many new leads on investigation of foreign born persons involved in subversive activities."²⁹ At the same meeting National Chairman Thomas F. Fitzpatrick, Director of San Francisco Police Department Intelligence Unit, made many references to the college students' free speech demonstrations and other "subversive movements."³⁰

The previous year Fitzpatrick had emphasized the role of the police department intelligence squad in gathering information on proposed demonstrations. A topic of discussion was "Civil Rights Movements and Their Effect on Criminal Intelligence Operations."

(It was indicated that the LEIU effort should be limited to the identity of the professional agitator and stated work toward preventing these individuals from becoming associated with civil rights movements.³¹

The 1966 annual LEIU conference in Detroit, Michigan included a workshop on civil disobedience where Fitzpatrick showed a film of "A Peaceful Demonstration in San Francisco which was Participated in by the W.E.B. DuBois Clubs and Members of the Communist Party."³² At the Northwestern Conference held later that year, a main topic of discussion was the "Criminal Conspiracy of the Communist Movement."³³

The agenda of the 1968 combined Central and Eastern Zone Meeting reveals that one of the guest speakers, Al Tarabochia (an investigator for the Senate Internal Security Subcommittee), addressed LEIU members on "Castro's Influence on Student Uprisings."³⁴

The LEIU's emphasis on political intelligence seems to have reached its culmination at the 1969 National Conference in Palm Springs, California. The theme of the conference was "Revolution 1969" and it focused exclusively on the investigation of radical and militant groups. Guest speakers included then Attorney General John M. Mitchell, who spoke about "Organized Crime and Disturbances;" then California Governor Ronald Reagan, who posed the question, "Will campus disturbances shut down our schools?"; a member of the McClelland Investigating Committee ("International Influences on Current Disorders"); and Sgt. Robert Thoms of the Los Angeles Police Department who gave a lecture on "Dissident and Militant Funding."

The high point of the conference was the "Intelligence Briefing Reference Revolution 1969 to cover names of local militant organizations, top leadership, identifying traveling members, financial support, and sources of other support and influence." The briefing was conducted by a seven member panel of police officers and the agenda encouraged "audience participation."³⁵

Reaction to the conference, however, was mixed—one FBI member notes that "some (sources) expressed disappointment that more topics were not included pertaining to the current activities of top hoodlums."³⁶

The following year's conference was titled "The Organized Destruction of America," and featured a keynote speech by Senator

Barry Goldwater ("Revolution in the Streets—Intelligence Aspects").³⁷

As reflected in the FBI documents, in 1971 LEIU's primary emphasis seemed to shift back to more traditional organized crime areas. But the 1971 conference still included a panel "Discussion of the New Left and Black Panthers' Recent Activities, Trends, etc."³⁸

In 1974, however, there may have been an upsurge in the LEIU's involvement in political intelligence. A January 9, 1974 FBI memorandum from W.R. Wannall to E.S. Miller reveals that a meeting took place on January 8 between FBI and LEAA officials. The major topic of discussion was potential "cooperative activities concerning extremist and terrorist matters." During the discussion it was suggested by Victor Velde (then LEAA Assistant Administrator), that a "duplicate LEIU network" could be established with LEAA funds. The duplicate network could then be used to disseminate information on "terrorist and extremist groups who might be planning action around the 1976 bicentennial."

But the FBI representatives disapproved of expanding LEIU's role, and offered a number of arguments against it: "much (of the information) is sensitive data from highly placed live informants whose identities must be afforded maximum protection and consequently such data could not be spread out on a national basis at random, but must be handled on a special need-to-know basis." They also pointed out that the storage of such data in computer banks could be questionable from a legal standpoint, and that the "political climate" was not conducive to wide-spread dissemination of that type of data. Velde then put forth the counterproposal—a joint FBI/LEIU national communications network. The FBI opposed this also, claiming that the LEIU had too loose a structure to undertake that type of responsibility. The FBI opted instead for directing a training program for local police agencies on how to deal with extremist and terrorist problems.³⁹

Quite aside from the reasons given, it is likely that the FBI opposed the plans for expanding the LEIU's role simply because Hoover's Bureau saw the LEIU as more of a competitor than a helpmate. Numerous FBI memoranda illustrate the strains in the Bureau/LEIU relationship, and they are worth describing because they reveal a seldom understood aspect of the intelligence community. It has been too easy for outside critics to see the different components as a closely coordinated and monolithic network, but the FBI documents show that the network, such as it is, has plenty of internal conflict.

The Bureau was well aware that its own refusal to act as a national clearinghouse for intelligence information had resulted in the

formation of LEIU.⁴⁰ This, and the fact that LEIU's initial booster had been Hamilton of the LAPD (Hamilton's boss, Chief Parker, had a long and stormy feud with J. Edgar Hoover), apparently led the FBI to view the organization as a bitter rival.

Although the two organizations attempted to maintain a courteous (albeit cool) relationship on the surface, the documents reveal backstage machinations, suspicions, and distrust on both sides. A heavily deleted July 27, 1962 memo from M.A. Jones to Cartha DeLoach indicates that the Bureau had apparently been furnished some very damaging information on LEIU from a highly placed informant. The memo concludes with this cryptic paragraph:

This is indeed an outstanding example of one of the worst features of any kind of a national clearinghouse, as such, for criminal information. It would also seem to be an indictment of the LEIU and the high sounding purposes promoted for this organization by individuals such as Chief of Police William Parker of Los Angeles and his underling Captain James Hamilton. Certainly the interest of the Chicago Police Department in the LEIU is obvious.⁴¹

Other memos indicate the Bureau's attempts to monitor LEIU's activities to see "that it doesn't get out of hand." The FBI made sure that it had representatives at all the LEIU national conferences and most zone meetings. The LEIU invited the FBI's participation, probably as a courtesy, but certain parts of the conferences (such as intelligence groupings) were limited to members only. Following a national or zone conference, an FBI memo would usually be prepared noting the topic of the conference, participants, and whether any negative remarks were uttered against the Bureau.

The rather quiet, behind-scenes struggle between the two agencies developed into a bitter feud in 1966. The Bureau discovered that Captain Harold Yarnell, Secretary Treasurer of the LEIU (and Commander of the LAPD Intelligence Division), had received a Xerox copy of a Bureau report on members of La Cosa Nostra, "and was uncooperative with our Los Angeles office and critical of the report and the Bureau."

Yarnell had apparently received the report from Lt. Jack Revill of the Dallas, Texas Police Department and the Vice-Chairman of the LEIU Eastern Zone. The FBI memo does not make clear how Revill obtained the report, but it is strongly implied that he did so surreptitiously. The actions of both Revill and Yarnell are characterized as "atrocious and unscrupulous" throughout numerous Bureau memos. Revill was ultimately removed from his position as chief of the Dallas Intelligence Unit and assigned to Routine

Personnel Investigations. J. Edgar Hoover responded to the dispute by issuing a directive to all Special Agents in Charge of Bureau Field Offices, ordering them to be circumspect and discreet in dealings with all members of LEIU. He also ordered all SACs (Special Agents in Charge) to "keep the Bureau completely advised of developments concerning the activities of this organization that would be against the best interests of the Bureau."⁴²

In other words, the two political intelligence organizations expanded their scope beyond organized crime and political activists: ultimately they targeted each other.

LEIU—THE FUTURE

Despite the level of public funding, LEIU is still largely unaccountable to the courts, elected officials, or the public. As yet there is no oversight by any authority other than the LEIU Executive Board or the California Department of Justice. Because LEIU claims to be an unofficial, private association, it is not subject to requests under the federal Freedom of Information Act. Requests under the California Public Records Act are also useless, as the Act specifically exempts intelligence records and other information maintained by state or local law enforcement agencies. Without significant changes in the law, LEIU could continue to successfully insulate itself from any type of meaningful reform.

What can be done about the LEIU? Certainly, it should not be allowed to continue as is. Perhaps it could be a viable law enforcement organization if proper oversight and accountability were established, and if those with the responsibility for oversight could insure that all political information would be purged from the files, and the subjects notified of their right to sue.

But there is also some question as to whether the LEIU is at all effective in terms of aiding the investigation of real "organized crime." The California State Legislative Analyst has called for the termination of the Organized Crime and Criminal Intelligence Branch of the State Department of Justice, because the OCCIB has not been responsible for the arrest or conviction of even *one* major organized crime figure.⁴³ Obviously, the LEIU system which it shepherds is not doing the OCCIB any good.

The solution to the LEIU problem may soon be forthcoming. The far-reaching implications of these documents have sparked a renewed interest in the LEIU, and have triggered a series of events which could lead to the end of the organization's privileged position as a private police force.

Currently, investigators for the Detroit Board of Police Commissioners are completing an extensive report on their examination of LEIU and the charges of political spying. According to Tom

Eder, acting chief investigator for the Board, his office will recommend that the Board of Commissioners, which has policy-making authority over the Detroit Police Department, demand the Department's withdrawal from the group. Such a move would mark the first time any law enforcement agency has been forced to relinquish its membership in LEIU by any authority other than the LEIU's own Executive Board.

In California, State Senator David Roberti heard testimony on LEIU presented to his Senate Judiciary Subcommittee on Privacy and Government Record Keeping on October 23rd of last year. Roberti was so disturbed by the allegations of political spying that he plans to schedule a special hearing of the subcommittee for some time this winter. It is expected that LEIU officials will have a lot of questions to answer.

In Flint, Michigan, the American Civil Liberties Union has filed a suit⁴⁴ against both the LEIU and the Flint Police Department. The suit is based on the sworn statements of the city ombudsman, a former Flint police officer, who claims to have seen LEIU and other intelligence records on some of the city's political activists during the years he served with the department.

Last year in the Michigan House of Representatives, a bill was introduced to outlaw the State's membership in LEIU; a final vote was never reached, and it is expected to be reintroduced this year.⁴⁵

In California, Assemblyman Mel Levine (D-Beverly Hills) is planning to introduce a similar bill. That may be the key. If LEIU loses its free ride on the taxpayers of California, it just might spell an end to this system of political surveillance that is funded by the public but sees itself as being outside the civilian chain of command.

OTHER INVESTIGATIONS OF LEIU

A number of lawsuits and investigations have asserted that LEIU is not a private entity as it has publicly stated, and therefore should be accountable to federal and state authority. A report adopted by the Michigan State House Subcommittee on Privacy (September 1978), perhaps the most thorough examination available to date, supports this position.

The Michigan investigation found that LEIU would not exist in its current form if its files did not contain certain information acquired by law enforcement personnel in the normal process of government investigations. It can be assumed that LEIU operatives would not readily perform extensive and difficult LEIU responsibilities, such as making arrangements for an LEIU national or zone conference, if they were not permitted to do such work while on the public payroll. It is doubtful that LEIU would exist at all if it weren't allowed to store all its files securely in the intelligence division offices of its member agencies.

The Michigan investigation also determined that LEIU is significantly subsidized by the taxpayer: it requires member agencies to maintain LEIU files on government-owned property and to perform extensive LEIU duties during the regular (normal) work week; it has received direct funding from LEAA (Law Enforcement Assistance Administration);¹ cities such as Detroit and Flint, Michigan pay LEIU dues for members.

The conclusion of the Michigan House Committee was that its voluntary formation is about as far as LEIU's private status extends. As LEIU does not operate as a private business, on private property, with private employees and private funds, it is significantly financed by the taxpayer.

The Michigan investigation also found ample evidence that LEIU has resisted attempts to review its files. It instructs members to avoid making any reference to criminal history records in LEIU files, telling members that such references could make files "subject to inspection". The LEIU has revoked an agency's membership or the member has voluntarily withdrawn when it appeared that files might become subject to inspection by a non-LEIU member.

The commander of the Detroit Police Department told the Detroit City Council that he had secretly sent LEIU files back to California (in concurrence with the LEIU Executive Board); he apparently feared that either the City of Detroit or the State Circuit Court might attempt to seize the files. LEIU files maintained by the Flint, Michigan Police Department were intentionally destroyed after a request had been made by the city ombudsman to see the city's intelligence files in order to justify the police department's membership in LEIU. In April of 1978, the commander of the

Seattle intelligence unit sent the city's LEIU files back to California when they were sought under the state public disclosure law (see p. 42).

The Michigan House study concludes:

For too long the LEIU has operated in Michigan and throughout the United States in virtual secrecy. Also, the LEIU and its member agencies have not always been totally forthcoming and cooperative when legislative bodies have attempted to learn about its operation. It is the conclusion of this Committee that the LEIU must be investigated further. Moreover, the existence of the LEIU and recent disclosures about its activities raise certain questions which must necessarily be resolved in an open and public debate which will include the full participation of the LEIU and its member agencies in this state. In order to facilitate such action, *this Committee will introduce legislation which will make it illegal for a law enforcement agency or police officer of this state to be a member of the LEIU.* (Emphasis added).²

Congress has requested an audit of the LEIU's federally funded computer system, the Interstate Organized Crime Index (IOCI). Since the Government Accounting Office contends that it is not authorized to inspect the LEIU face cards in the possession of member agencies because LEAA did not fund the card index, most of the network's political information may be beyond the reach of the federal audit. (Rep. Conyer's Subcommittee on Crime reported March 12, 1979 that the audit of LEIU is in its final draft and is expected to be released in April of 1979.)

XIII. Collusion Among Government and Private Organizations

Private security and investigative agencies have existed in this country since the nineteenth century. Like government intelligence agencies, they have expanded in scope and sophistication in recent years as technology has developed. Similarly, large corporations have expanded their intelligence activities as their concern has grown regarding terrorism or, more usually, public criticism and demonstrations against their operations and products. The ties maintained by former police or FBI agents as they move into positions with many of these private companies are comparable to the connections that military officers keep as they move into the corporate sphere.

SOCIETY OF FORMER SPECIAL AGENTS OF THE FBI

In his book *The Private Sector*, George O'Toole traces the interconnections of some 6600 ex-FBI agents who form the membership of the Society of Former Special Agents of the FBI.¹ With the help of the Society's executive committee, many of these ex-agents are now working in powerful security positions in both the private and public sectors.

Former FBI agents who are members of the Society hold senior executive positions with almost every large private employer in the country, according to O'Toole. They are to be found in airline companies, the automobile industry, financial concerns, oil companies, the aerospace and electronic industries, the telephone companies. The Ford Motor Company is cited as having twenty-four ex-FBI agents on its payroll. Private security firms such as Wackenhut and Pinkerton (the nation's oldest private security firm, founded in the late 1800s) are often staffed by former FBI agents.

Former agents are found among local police in New York, Chicago, Los Angeles and other cities. An ex-FBI agent, Evelle Younger, became attorney general of California. Members of the Society have also included a Boston police Commissioner, a New York City deputy police commissioner, a New York State police superintendent, the directors of the Secret Service, the Defense Intelligence Agency, and the National Security Agency. These former agents constitute an informal network through which the FBI can gain access to information they are technically constrained from obtaining themselves.

A significant example of the relationship between former agents and the FBI may be seen in the Honeywell Corporation. Honeywell became a particular target of antiwar demonstrators during the Vietnam war because it supplied cluster bombs used against civilians in Vietnam. Honeywell protesters were nonviolent; nevertheless, at the request of Honeywell's management, the FBI turned its attention toward anti-Honeywell groups, employing informants to gather information about planned demonstrations and turning its information over to Honeywell officials. In essence, Honeywell used the FBI as an extension of its own security force. Both the president of Honeywell and its head of security were members of the Society of Former Special Agents.²

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

The International Association of Chiefs of Police (IACP), like LEIU, is a private association described in *The Private Sector* as linking municipal and state police departments. Founded in 1893, IACP has no official powers, but wields considerable influence over police policy matters at both federal and local levels, especially in relation to personnel selection and training procedures.

IACP helped to establish the State Department's International Police Academy, which has trained foreign police (including the Iranian secret police SAVAK) in intelligence methods and interrogation techniques. IACP also provides consulting services to police departments, serves as an executive recruiting agency for state and local governments, and publishes *Police Chief* magazine. While IACP has provided constructive leadership on police policy questions, it is yet another aggregate of police power beyond the constraints of the legislative process.³

WESTERN STATES CRIME INTELLIGENCE SEMINAR (WSCIS)

Police in the West have been active in developing intelligence cooperation. Again from *The Private Sector*:

In May of 1977 a group of some 200 law enforcement officers from twelve Western states and Canada met secretly at the Hyatt House Motel in Seattle, Washington...they were told by Captain Richard Clark of the Yakima Police Department that the group was called the "Western States Crime Seminar," and that it was holding a three-day meeting to learn "how we can better improve our expertise."

... However, invitations to the meeting signed by Chief Robert L. Hanson of the Seattle Police Department, and Sheriff

Lawrence G. Waldt of the King County, Washington Department of Public Safety referred to the meeting as the Western State Crime *Intelligence* Seminar (emphasis added). A confidential report issued by the Western States Crime Intelligence Seminar after its meeting in Billings, Montana, the year before, contains a list of the participants. Most are from local law enforcement agencies in the Western states, but the list also includes representatives of the FBI, the Secret Service, IRS Intelligence Division, the Treasury Department's Alcohol, Tobacco and Firearms Division, the U.S. Border Patrol, the Postal Inspection Service, and the Royal Canadian Mounted Police. The campus police of several local colleges were included, as were Mr. Richard L. Ryman of the General Telephone Company in Edmonds, Washington, and Mr. Tom Strong, a special agent of the Exxon Corporation in Denver, Colorado.⁴

Documents obtained by the Seattle Coalition on Government Spying show that WSCIS is funded through private donations and registration fees paid by local police departments. A flyer published for the May 1977 meeting lists both police guilds and private corporations such as Safeway Inc. and General Telephone as contributors.

The Seattle Police Department paid for travel, lodging, food and registration for several officers to attend WSCIS meetings; five SPD officers attending the 1977 seminar had been members of the Seattle intelligence unit since 1974; an officer who attended three seminars in a row was also SPD's alternate representative to LEIU in 1974. WSCIS publishes a transcript each year with information about "travelling criminals," with photographs, modus operandi, descriptions and other relevant information. The Seattle police maintain that these meetings are not really "intelligence" seminars.

MISSISSIPPI STATE SOVEREIGNTY COMMISSION

The Mississippi State Sovereignty Commission during the early Sixties provided local, state and federal law enforcement authorities with derogatory personal information on civil rights activists. Ostensibly set up to resist federal usurpation of states' rights and to reduce "racial agitation," it held a public court hearing in 1964 and utilized House UnAmerican Activities Committee information to discredit the Mississippi civil rights movement by associating it with the Communist Party. According to a 1967 report by its director, the Commission "helped to finance a responsible Negro group in obtaining thousands of Negro signatures on a petition opposing

the Civil Rights Act of 1964. The petition was sent to Washington for consideration."⁵

The Sovereignty Commission ran its own COINTELPRO-type operation. It created factionalism, planted rumors in the press, disseminated derogatory information to employers, and attempted to undermine financial support of organizations. It was unwilling to recognize that the efforts of civil rights workers in the South were geared toward gaining constitutionally guaranteed rights for Blacks. In order to discredit civil rights work, it made charges of subversion, outside agitation and communist influence. (The Louisiana State Sovereignty Commission operated in a similar fashion, as has been seen in the AFSC wiretap case—see p. 75.)

RNA AND THE INTELLIGENCE AGENCIES

With the racial situation polarized in Mississippi, the intelligence bureaucracy combined full force against "extremists" which the polarization helped create. When the Republic of New Afrika trials were starting, a meeting of intelligence agents was held at the Jackson, Mississippi Police Intelligence Division to share information about the people expected to attend the trials as observers. These agents included the Jackson police chief and two members of the Intelligence Unit, the head of the Organized Crime Intelligence Unit, two highway patrol investigators, the director of the Sovereignty Commission, an FBI agent, and representatives of the U.S. marshal's office, the sheriff's office, the Alcohol, Tobacco and Firearms Bureau of the Treasury Department, and the Chicago "red squad." (This was revealed in Chicago police documents obtained by lawyers in the Alliance v. Rochford/ACLU v. Chicago lawsuits. Other documents also reveal that the FBI was giving political information to the Sovereignty Commission and the Jackson Police Intelligence Unit.)

FBI files obtained in 1978 under the Freedom of Information Act revealed that as the Republic of New Afrika case was going to trial in 1973 (see p. 59) the Justice Department had been considering withdrawing the charges. A July 12, 1973 memo from the Jackson FBI to Washington FBI stated that unnamed officials felt there might not be sufficient evidence to prosecute. But after the Jackson FBI sent a representative to Senators Eastland and Stennis to argue for prosecution, the trial resumed.

CHICAGO POLICE DEPARTMENT

The Iron Fist and the Velvet Glove, by the Center for Research on Criminal Justice, Berkeley, California, 1975 (p. 119), describes the activities of the Chicago Police Department's Security Section

in conjunction with the FBI, CIA, U.S. Army Intelligence, and the Legion of Justice:

Between 1967 and 1972, then Superintendent of Police James Conlisk met several times with the CIA for the purpose of strengthening the Department's political intelligence work. During this time, he also attended, along with other Chicago police, weapons demonstrations and training sessions on the CIA's Virginia "farm." Chicago police received training, along with police from other departments, in clandestine operations, intelligence theory, explosive detection and disarmament, lock picking, and electronic surveillance and counter-surveillance...

The Chicago police then launched a massive intelligence gathering operation, infiltrating 57 Black, anti-repression, civil liberties and community organizations. These included the ACLU, Southern Christian Leadership Conference, People United to Save Humanity, Alliance to End Repression, and, on orders from the FBI, the Afro-American Patrolman's League.

The Chicago police also worked with right wing private groups in pursuing its political ends. This pattern has occurred in many cities, as testimony before the Church Committee has corroborated. Although groups such as the Ku Klux Klan have been the target of government intelligence agencies when their violent activities have brought public pressure to bear, historically such groups have been allowed to carry out their harassment activities and have at times operated in collusion with the law enforcement agencies.⁶

In 1970, a right wing terrorist group called the *Legion of Justice* installed an electronic eavesdropping device, supplied by the U.S. 113th Military Intelligence Group, in the offices of the AFSC in Chicago.⁷ Lawyers were at that time meeting in these offices to prepare defense for the Chicago Eight (charged by the government as being leaders of the disturbances which occurred around the Democratic National Convention). Other activities of police and government agencies and the Legion for Justice are described in *The Iron Fist and the Velvet Glove* (pp. 119, 120):

The Legion first surfaced in 1969 under the leadership of an attorney, S. Thomas Sutton, a local right wing activist previously involved in the segregationist movement. Over the next three years, the Legion carried out a number of operations, including:

—raids on the offices of, theft of files from, arson, and beating and gassing of members of the Young Socialist Alliance and Socialist Workers Party

—theft of records of the Chicago Seven (sic) defense committee
—burglary of the office of Newsreel, a radical film distributor, to steal a Vietnamese film for the Pentagon
—tear-gassing of a Soviet ballet performance and a performance of the Chinese acrobatic group.

These operations were financed, directed and equipped by the SS (Security Section of the Chicago police) and the 113th Military Intelligence Group. Tear gas, mace, electronic surveillance devices, false identification, and expense money were all provided for Legion members. On a number of occasions the police also stood guard to make sure that other police did not arrest Legion burglars.

BALTIMORE POLICE DEPARTMENT

Another example of collusion between government and private agencies persisted in Maryland up to the mid-Seventies. According to the Maryland State Senate Report (see p. 50) the Baltimore Inspectional Services Division (ISD) developed sources within the Chesapeake and Potomac Telephone Company, Bureau of Vital Statistics, FBI, National Security Agency, credit bureaus, Baltimore City Liquor Board, State Real Estate Commission, Department of Education, Baltimore City Bureau of Water Supply and the State Department of Assessments and Taxation. Most sources supplied information upon informal oral request; subpoenas were rarely if ever used. Sources were not identified in reports, and the subject was unaware of the informant's activities.

Members of the Baltimore Vice Squad, in cooperation with personnel from the Chesapeake and Potomac Telephone Company, monitored telephone conversations without proper legal authorization. The information obtained from intercepting the conversations was used as the basis for affidavits for court-authorized warrants to search various premises in Baltimore (see p. 53).

The Maryland investigation also revealed that after passage of the 1971 Fair Credit Reporting Act, the Baltimore Inspectional Services Division (ISD) found that a most important source of local information had dried up the Credit Bureau of Baltimore, Inc. Officer Terry Josephson of the ISD then left the police department to become vice-president of a large credit bureau and provided data to police without court orders. Although Josephson denied that he was serving as an undercover operative for the Baltimore Intelligence Squad, he resigned his post and returned to the police department shortly after his role was publicized (see p. 52).

THE COMPUTER CONNECTION

State, regional and national computer networks provide local police with a flexible communications system. Two key components are: the National Law Enforcement Telecommunications System (NLETS), and the FBI's National Crime Information Center (NCIC). NLETS is a state-by-state telecommunications system which is tied together by the same terminals as those used for the states' link-up with NCIC. Thus, NLETS links law enforcement agencies in every state to terminals in such federal agencies as the Department of Justice, the Naval Investigative Service, the Drug Enforcement Agency, the Postal Inspection Service, the Treasury Enforcement Computer System (which also has international computer links), and the State Department.

NLETS also provides a storage and retrieval feature for users, which has stunning implications regarding the assertions of police departments that they have destroyed their files. It is therefore possible for police departments to transmit the contents of any paper files they wish to conceal, destroy the paper, and then later request an "all points" search to "locate messages" previously transmitted.

NCIC hooks into state and regional computer terminals which are entire systems in themselves. Other federal agencies which contribute and receive information from NCIC include the Secret Service; the Internal Revenue Service; the Bureau of Alcohol, Tobacco and Firearms; Immigration and Naturalization Service; U.S. Courts, Attorneys and Marshals; and the Bureau of Prisons.⁸

Computer link-ups for police exchange of information are typified by the Seattle system in which the Sea-King Alert computer system is linked to Washington State's Access computer (*Seattle Times*, June 7, 1978). This computer in turn serves as the point of entry into the state for both the FBI's NCIC and for NLETS.

These overlapping computer networks provide an extensive storage and transmission capacity and heighten the danger that inaccurate information may be transmitted throughout a nationwide network. If used for political intelligence, this is especially threatening to a free society.

PRIVATE SECURITY AND INTELLIGENCE GROUPS

Private intelligence-gathering groups include the American Security Council, the Church League of America, National Goals, Inc., Research West, Wackenhut and Pinkerton, among others. *The Private Sector*, pp. 160-164, describes how these organizations operate.

The *American Security Council* was established in the mid-Fifties, with a former FBI agent as its first director. Initiated to assist member corporations in weeding out "subversives," its dossier collection required an index of six million cards by the early Seventies. The dossiers are compiled from reports made by security departments of more than 3000 member firms, in addition to names gleaned from Congressional "internal security" investigations. Among its subscribers are Honeywell Corporation, U.S. Steel, Lockheed, Sears Roebuck and Company, and other companies whose security staffs include members of the Society of Former Special Agents.

The *Church League of America* was started in 1937 by a group of right-wing Chicagoans to combat the communist influence they perceived among the American clergy. In 1950 its directorship was taken over by a former Air Force Intelligence officer. It boasts that its research Library contains "the largest and most comprehensive files on subversive activity, with the single exception of the FBI." A Church League brochure states that in addition to a clipping and indexing service the organization uses "undercover operatives" to sit in on leftist meetings. An official of the Wackenhut Corporation (founded in 1954) stated in testimony before the Privacy Protection Study Commission in 1977 that Wackenhut sometimes uses the Church League files in background investigations for corporate clients.

National Goals, Inc., was founded by John and Louise Rees in 1968 to "provide an investigative service for various branches of government, state, federal and local, and to prepare memoranda, reports, books, pamphlets, and bulletins with respect thereto." (John Rees had been editor of the Church League's *National Layman's Digest*.)

Information Digest, a newsletter concerning the activities of the New Left, civil rights and other movements, has been published under the aegis of National Goals, Inc. This newsletter was initially distributed by the Church League; the Reeses began in 1971 to distribute it by subscription to police intelligence units and other interested agencies around the country, including the New York State Police, the National Security Agency and the CIA.

The New York State Assembly's Office of Legislative Oversight issued a report in 1977 which included an investigation of the Reeses and *Information Digest*. The Office's staff investigator, William F. Haddad, reported that Rees and his wife, Louise, appear to have been two "undercover sources" for *Information Digest*. Using the pseudonyms John Seeley and Sheila O'Connor, they opened a leftist book store in Washington, D.C. and founded an

organization called the Coordinating Center for Education in Repression and the Law. Louise Rees also infiltrated the National Lawyers Guild by obtaining a part-time job with the Guild. According to Haddad, the couple was publishing *Information Digest* and sending it to a restricted "red squad" mailing list. One example of the Reeses' cooperation with local police was revealed in interrogatories in a suit filed by the National Lawyers Guild in 1977, which showed that the Maryland State Police had access to the post office box used by the Reeses' newsletter.

As of this writing Louise Rees is employed as a researcher in the Office of Georgia Congressman Larry McDonald, who is a member of the National Council of the John Birch Society. With the benefit of congressional immunity, McDonald frequently inserts in the *Congressional Record* charges against progressive organizations, prominent citizens and political activists, mixing together all shades of political and other views "left" of his own. His accusatory comments have targeted the AFSC, among many other organizations. *Information Digest* repeats McDonald's charges, removing itself from the risk of litigation by virtue of McDonald's immunity as a congressman. The Reeses have used the First Amendment privilege of journalists to avoid answering interrogatories in both the National Lawyers Guild suit cited above and the infiltration suit filed by the Institute for Policy Studies in 1974.

The Georgia Power and Light Company provides an outstanding example of a private company which has kept files on citizens and groups considered to be opponents of the firm's interests. A Washington researcher, Richard P. Pollock, described some of Georgia Power's practices in his article "The Shifty Eye of Reddy Kilo-watt," published in May 1978 in the magazine *Mother Jones*. Georgia Power's security department, called Risk Management, put under surveillance a number of its critics, including the director of the Georgia American Civil Liberties Union and public advocate Ralph Nader.

Georgia Power also received information from law enforcement agencies. A former Georgia Power security operative told NBC news correspondent Paul Altmeyer in December 1977, "I could get anything I wanted on your background by going directly to a sheriff or possibly a chief of police in this state—or anything that had been fed into the national computer . . ." (*Mother Jones*).

Both Georgia Power and the *Pacific Gas and Electric Company* have acknowledged using private security firms such as San Francisco-based *Research West* to collect information on their critics. Researcher Pollock's article on the Georgia Power Company, referred to above, cites a revealing 1978 study by his group, The Critical Mass Energy Project. Pacific Gas and Electric of California

reported expenditures of some \$90,000 for *Research West's* services from 1971 to 1976; \$25,000 was spent in 1976 alone, during the year that the Nuclear Safeguards Referendum passed by statewide vote. Further, 2.8 billion dollars were spent in 1976 for outside security expenditures by the 58 electric utilities that now operate nuclear power plants. Of the 60 non-nuclear utilities, only one found it necessary to use outside security services.

The complaint filed with the Pennsylvania Public Utility Commission (PUC) against the *Philadelphia Electric company* (PECO) on behalf of a local anti-nuclear activist, William Moyer, has already been described (see p. 47). Moyer, a member of the anti-nuclear Keystone Alliance and long committed to nonviolence, alleges that PECO's surveillance and intelligence activities are geared towards suppressing and smearing those who disagree with PECO's policies, and are a misuse of ratepayers' funds.

In Detroit, a lawsuit (*Benkert v. Michigan*) was filed in 1974 by a consumer group against the governor and the state police when they learned that they had been under surveillance (see p. 77). This resulted in police admissions that they had maintained files on over 50,000 citizens. Discovery in the suit revealed that the Detroit Intelligence Unit provided *Chrysler Corporation* with membership lists and other information on organizations which they had under surveillance, and in some cases recommended firing workers on the basis of their political opinions. In return, Chrysler reported on the political activities of its workers to the police, the FBI and other agencies involved in illegal covert surveillance, and cooperated with police to place informers among Chrysler workers on the job.

The Private Sector details (pp. 65-68) how *Southwestern Bell Telephone Company* set up a special service called "Law Enforcement Liaison" which provides police with information about subscribers. In addition to matching customer names and addresses to telephone numbers turned up by police investigation, this service also releases unlisted numbers and toll record information on police request. Despite denials by Southwestern Bell, there is considerable evidence that this service also gives police "cable-and-pair" data, which is essential to installing an illegal wiretap.

An internal probe of the Houston Police Department in 1973 revealed that sixty-two Houston police officers had conducted more than a thousand illegal wiretaps during a seven-year period; 200 Southwestern Bell employees had cooperated with police in the illegal wiretapping. Bell System and independent phone companies also have their own security systems, many staffed by former FBI agents. Representatives of telephone companies have also attended

LEIU meetings and thus have become part of the informal network for information exchange that LEIU fosters.

The Campaign to Stop Government Spying (now Campaign for Political Rights) in its *Organizing Notes*, August/September 1978, p. 14, describes surveillance of the New England anti-nuclear organization, Clamshell Alliance:

In early June, several New England newspapers reported on claims that: *Operations Systems, Inc.*, a private security firm hired by the utility owning the Seabrook nuclear facility site, was wiretapping the Clamshell Alliance, a group opposing construction of the plant; that the right-wing militant Continental Line (a group which includes, allegedly, a substantial number of law-enforcement officers) boasted of infiltrating the Clamshell; and that the New Hampshire State Police was monitoring people entering and leaving the Clamshell office. Members of the Alliance received, just after the 1977 occupation of the Seabrook site, copies of documents from the State Police file on their group. The documents showed that the US Labor Party, a strong supporter of nuclear power, had provided information to the State Police including slanderous accusations that the group included "terrorists."

Founded in 1969 in San Francisco, *Research West* grew out of Western Research Foundation, an organization which investigated labor organizers for corporations. According to an article in *The Nation*, by the mid-Sixties Western Research had become a major clearinghouse for intelligence on a wide variety of "security problems," including community organizations, anti-war and labor activists and even the editors of *Ramparts* magazine.⁸ Jerome Ducote, a former Santa Clara County California Sheriff's deputy, reports that *Research West's* files include material from more than 17 "black bag" jobs that he admits to having committed in the mid-Sixties.⁹

Research West was subpoenaed on March 18, 1978 by the House Committee on Interstate and Foreign Commerce Subcommittee on Oversight and Investigations, chaired by California Congressman John E. Moss. In question was its role in providing the Georgia Power and Light Company and Pacific Gas and Electric with information on their critics.

Citing First Amendment journalistic privileges—in that they collect, evaluate, and disseminate research material to clients who pay for the service and that a logical outgrowth of their research is investigative reporting for newspapers, journals and trade publications — *Research West* refused to comply with the subcommittee's subpoena and risked being found in contempt of Congress.

The contempt citation was not voted on before Congress adjourned for 1978. The entire investigation is in danger of evaporating with the retirement of Chairman Moss, as it is unclear whether the incoming chair will decide that it is important to pursue the investigation.

Conclusion

We conclude that police surveillance and record-keeping for political reasons exist on a large scale. Local, state and federal agencies, joined by private and quasi-private groups, coordinate their surveillance and share information, misinformation, and opinions. This "intelligence" activity remains largely uncontrolled, and poses a grave threat to constitutional rights of freedom of expression, due process, and privacy. Police surveillance and dossier-keeping have been used to inhibit dissent, and have had especially serious impact on the poor, on Black and Hispanic people, and on other ethnic and cultural minorities. The effect of such surveillance has often been to thwart lawful attempts to seek redress of grievances or to effect social change.

Recommendations

In 1976 the American Friends Service Committee, in response to revelations about the misdeeds of the FBI and the CIA, issued a public statement calling for the abolition of the CIA and the Internal Security Division of the FBI.

It also called for elimination of "illegal wiretapping, mail interception, burglaries, cover-ups, surveillance and infiltration of lawful groups, use of agents provocateurs, investigations of dissent and dissenters. . . and the maintenance of political dossiers on citizens and groups exercising legitimate rights." We repeat that call now, and assert that it is equally applicable to state and local law enforcement agencies which, as this report demonstrates, are an integral part of the intelligence network. (See Appendix 6, p. 144 for full text of statement.)

The pervasive spy system documented in this report has fastened itself upon the country under cover of darkness. By its nature, "intelligence" is covert, and those responsible have made sure that the public has found out as little as possible about the extent and nature of their operations. Watergate and attendant scandals involving the FBI and the CIA demonstrated in extreme form the tendency of officialdom to cover up and deny espionage and "dirty tricks." It was only when exposures occurred of the excesses of the federal government that serious efforts to control the intelligence

agencies could begin. The AFSC hopes that this report will help prepare the way for efforts to control intelligence agencies on the local and state level as well.

The initiative must come from the citizens. The bureaucracy will resist; the legislatures and courts will respond only as they are pressed or required to do so.* In the following pages some practical steps are suggested for bringing the system under control. Most of these steps require citizen initiative and the use of the standard techniques of education, legislation, and litigation.

1. *CONTINUED FACT-FINDING*

Local projects such as those described in the foregoing pages could be undertaken in other cities and states. When local police departments resist revealing their intelligence activities, citizens could enlist the help of sympathetic members of city councils who may have the capacity to require the police to answer questions. At election times, candidates for municipal office, city councils, and state legislatures could be asked to declare support for appropriate legislation (described below).

2. *FREEDOM OF INFORMATION ACT*

We recommend that citizens avail themselves of the provisions in the Federal Freedom of Information Act which creates the right to obtain certain materials relating to themselves from the FBI, the CIA, military intelligence, and other federal bodies. In this way, people will be helping to document — for themselves and others — the extent of the intelligence files. It is also salutary to remind the intelligence-gathering agencies, through a large volume of requests, of public concern. (See Appendix 5, p. 141 for information about using the Freedom of Information Act.)

Materials obtained pursuant to the federal laws have sometimes provided glimpses into the role of the urban intelligence units at the base of the intelligence pyramid. However, materials from local and state files cannot be obtained through the federal statutes, and are unavailable unless there is specific local or state legislation creating the right of access. We therefore urge the enactment of counterpart state and local laws giving citizens access to information about police intelligence work. (Model legislation is set forth in Appendix 2, p. 123, the text of the new Maryland Public Information Act. See also Appendix 1, p. 119, summary of draft Seattle surveillance ordinance.)

*It is noteworthy that President Carter, who campaigned on a platform of openness in government, since assuming the presidency has been lukewarm and sometimes resistant to demands for curbing federal intelligence activities. "Reasons of state" have a way of becoming persuasive to those in power.

3. LIMITING THE SCOPE OF INTELLIGENCE COLLECTION, STORAGE, AND DISSEMINATION

Legislation is needed at the local and state level spelling out in detail the limits on the type of information-gathering and surveillance permitted to the police.* Substantively such legislation should require that:

- intelligence-gathering on the beliefs, opinions and ideologies of individuals be banned;
- any investigations should follow the traditional criminal standard that there is a "reasonable suspicion" that a crime has been committed, or is about to be committed. The investigation may focus only on the person or persons involved in the crime.
- a time limit should be imposed upon investigations, pursuant to the issuance of a court order, with judicial review for extensions and for insuring that standards are being met;
- covert and intrusive investigative techniques should be minimally used, and only when specifically authorized by a court and subject to rigorous judicial review.

Further, the law should require that all old intelligence files be sealed; that all subjects should be notified, be given ample time to inspect their own files, and have the right to order the destruction of those files if they so desire.

Procedurally, legislation should provide for:

- executive review boards consisting of local and state elected officials and representatives of the public, for the purpose of overseeing all intelligence activities;
- financial audits of intelligence units as a means of spotting inappropriate activities. This should include the monitoring of LEAA grants awarded to state and local police agencies;
- the right to sue for damages if the provisions of the law are violated.

Since some police forces may continue to collect political intelligence despite statutory prohibitions, those concerned with political freedom should support legislation to control the storage and dissemination of *all* police data. Such measures are being promoted by the ACLU and other groups concerned with police abuse generally and with the massive harm done by misuse of criminal

*There is not yet adequate federal statutory control over the FBI, the CIA and other intelligence-gathering agencies. But since this report focuses on the local and state situations, we do not include recommendations for further federal legislation.

records. This complicated issue is beyond the scope of our report; we can do no more than express our support of (a) rigorous safeguards on the storage of data, and (b) a total prohibition of dissemination of such data except to the individual or to other law-enforcement authorities.

4. LITIGATION

In a lamentable 5-4 decision (*Laird v. Tatum*) the United States Supreme Court repudiated the argument that political intelligence gathering by federal agencies is a violation of constitutional rights and an unwarranted extension of government power. But that decision did not preclude — and other court rulings have indeed established — the enjoining of unauthorized divulgence, and the award of damages when it occurs. We recommend that citizens believing themselves aggrieved by intelligence-gathering and divulgence seek legal counsel from the ACLU or other sources, to determine whether or not legal action is appropriate.

If and when other jurisdictions follow the lead of Seattle and Maryland, persons should be ready to use the courts to vindicate rights created by new statutes. Court orders may also be invoked to enforce rights under the federal Freedom of Information Act.

5. LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Under enabling legislation, most LEAA grants to local and state law enforcement agencies must be discussed and voted upon by local "regional planning councils." The meetings of these councils are by law open to the public, as are the meetings of the councils' various committees. Few citizens avail themselves of their right to attend these meetings, where recommendations for the disposition of millions of their dollars are discussed. Experience in Philadelphia has shown that organized groups of citizens have been able to block the allocation of LEAA funds for oppressive or wasteful projects by appearing at council meetings, by testifying, and by drawing public attention to projects that would otherwise be adopted without public knowledge.

Currently there are LEAA regulations prohibiting political spying by state and local agencies receiving LEAA discretionary grants. Citizens can do three things: monitor compliance by local agencies with LEAA regulations; use the LEAA regulations as a means to encourage state and local agencies to draft guidelines to ensure compliance; and encourage LEAA to expand those guidelines to block grants.

As we have already suggested, citizens should monitor the use of LEAA funds in their communities. They should also press for reorganization of the LEAA so that its funding priorities are

less on technical process and devices, and more on imaginative fresh approaches to the crime problem. LEAA funds should be used to explore the social and economic causes of crime. LEAA should stop pouring money into traditional law enforcement efforts that have not proved effective, and in particular move away from providing the police with sophisticated new weaponry and gadgetry, much of which they tend to use, once it is available, in excessive, inappropriate, and sometimes illegal ways. Above all, the revamping of LEAA should rule out once and for all its role as banker for urban political intelligence units. Instead, it should fund neighborhood-based anti-crime efforts, alternatives to traditional incarceration, and community programs to prevent juvenile delinquency.

6. PRIVATE INTELLIGENCE GROUPS

Private intelligence-gathering agencies and security firms or guards are not subject to the same limits as are governmental agencies. The most effective curb on these private groups is to cut them off by law from access to official information, as we have suggested above. We also propose the following additional actions:

- investigation by the Congress, and possibly by appropriate state legislatures, to determine whether or not the Law Enforcement Intelligence Unit (LEIU) is in fact "private." If it is private, it should be made to relinquish its access to government subsidy. If it is in fact public, it should be made accountable in the ways we have suggested for other public agencies.
- consideration of state licensing of corporate or private groups involved in intelligence-gathering. A licensing statute could be the means of regulating and limiting the dissemination of privately-gathered intelligence. We say "consideration" because we recognize dangers inherent in the governmental regulation of information-gathering and dissemination, dangers that must be carefully weighed against the harms we seek to prevent.

7. POLICING THE POLICE

Since adequate control of police surveillance is but one aspect of the larger problem of police accountability, persons concerned with surveillance must address the overall problem as well. We believe that police must be accountable primarily to elected public servants, namely mayors, governors, district attorneys and state legislators. Thus the voters must make police abuse an issue in electoral politics.

In addition to this political approach, many citizens believe they should press for the establishment of civilian review boards, operating with as much independence of police departments, and as much power to prescribe discipline, as may be consistent with basic law. We recommend that communities adopt either or both of these systems as appropriate to their needs.

8. THE MISUSE OF CRIMINAL LAW

We have seen in the foregoing pages that the practitioners of surveillance tend to equate political dissent with crime, and have sought to persuade the public that challenge to the status quo is at least potentially criminal and thus deserving of scrutiny.

This perception has so infected the criminal justice system that the police, the prosecutors, and the courts tend (with notable and honorable exceptions) to invoke criminal law selectively against members of more militant groups such as the American Indian Movement, the Black Panther Party, and the Republic of New Afrika. Members of such groups validly convicted of crime will usually be sentenced much more severely than nonideological persons convicted of the same crimes, or of crimes in fact far more detrimental. AFSC deplors this double standard.

Most Friends recognize the necessity — at least at this stage of society — for criminal law in dealing with intolerable behavior.

AFSC encourages fellow-citizens to recognize that many of those called to account by the criminal justice system have legitimate grievances and aspirations which must be dealt with for reasons of pragmatism as well as principle. Specifically, we urge now that:

- those imprisoned for acts resulting from political persecution or ambush be granted special review by appropriate authorities, to determine whether their sentences constitute proper punishment, or vindictive retribution for political dissent.
- guidelines be set for federal negotiations, beyond the influence of regional conditions and local biases, with militant political groups and their leaders before or in place of raids, sieges, or other measures likely to result in bloodshed.

When liberties are jeopardized, we believe that citizens and their representatives, armed with the knowledge and determination that efforts such as this limited AFSC program may have helped provide, will find the courage to maintain their rights. People engaged in peaceful activities aimed at social change and progress, as they see it, must be assured of their freedom to live and work without

being victims of secret police or secret intelligence-gathering devices operated by any branch of government.

It is not citizens who should be under the surveillance of the government, but the government which should be under the surveillance of its citizens.

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Appendices

Appendix 1

Summary of Seattle City Council's Draft Police Intelligence Ordinance — March 1979

(The final version of the Ordinance is expected in May or June 1979.)

I. PURPOSES AND GENERAL PRINCIPLES

Collection and recording of information by the Police Department must not infringe upon individual liberties or privacy rights. Information collected must be relevant to a criminal investigation. Investigative techniques must insure a minimal degree of intrusion. Information must be reviewed and purged periodically. Dissemination is limited.

II. DEFINITIONS, EXCEPTIONS, AND EXCLUSIONS

Definitions include

Restricted information — that which concerns a person's political or religious activities, beliefs, opinions (including membership lists, participation in demonstrations, etc.)

Sensitive information — Private sexual information and restricted information.

Exceptions:

Incidental references to sensitive information are described and exempted from the controls of the Ordinance (such as, information on an unknown suspect, information volunteered by the subject, relevant information collected pursuant to the city's Departments of Human Rights or Women's Rights, relevant information collected about a job applicant or an informant, provided consent has been given).

Exclusions

The Ordinance shall not restrict or forbid confidential communications between department personnel and a psychologist, legal adviser, medical personnel, or chaplain; or information collected at the request of a prosecuting attorney about a subject on trial.

The Ordinance shall not restrict or forbid the collection of information about parades, processions, rallies, etc. pursuant to Seattle Traffic Code so long as the information is open to public inspection and indexing is limited to material on the permit application.

The police department may maintain a library containing literature from criminal justice agencies which must be open to the public.

Nothing in the Ordinance shall restrict or forbid the department from complying with a valid court order, collecting information about police department personnel pursuant to a police department Internal Investigation.

III. HANDLING OF PRIVATE SEXUAL INFORMATION

Private sexual information shall not be collected or recorded unless the information involves a sex crime, a felony where motivation for the crime may reasonably be suspected to be sexual, a violation of the law that by its nature is related to sexual activity (e.g., prostitution or pronography). The private sexual information collected shall appear reasonably relevant to the investigation of the unlawful activity.

Private sexual information shall be returned or destroyed within seven days of collection and before it is co-mingled with other departmental files, is placed in an investigatory file or is indexed.

An independent record shall be maintained of all transfers of private sexual information.

IV. HANDLING INFORMATION FOR PROTECTING DIGNITARIES

Restricted information pursuant to the visit of a dignitary may be collected without an authorization only from public records or by communicating with persons planning an event in connection with the visit when they are advised of the purpose of the inquiry, or if it is an unsolicited communication. The chief may authorize additional collection of restricted information if he has facts which establish a reasonable belief that the subject of the information poses a threat to the life or safety of a visiting dignitary. To do so he must submit detailed information to justify the collection. Each such authorization shall be submitted to the auditor. All information collected pursuant to this section shall be maintained separately with limited access by department personnel. It must only be collected during the dignitary's visit and must generally be destroyed within sixty days.

Detailed requirements for receipt and transfer of restricted information are established.

V. HANDLING RESTRICTED INFORMATION FOR DEPARTMENT USE

Restricted information shall not be collected or recorded unless it is pursuant to a detailed and specific authorization signed by a

unit commander and only when there is reasonable suspicion that the subject of the restricted information has engaged in, is engaging in, or is about to engage in unlawful activities and that the restricted information may reasonably lead to his or her arrest. Copies of the authorization and supporting documents shall be submitted to the auditor. Authorization shall have expired in ninety days, can be renewed only by the chief of police under the same conditions as the original authorization.

Detailed requirements for receipt and transfer of restricted information are established.

Notice to subjects of investigations involving restricted information shall be given if the auditor finds that the information was collected in violation of the Ordinance.

When time is of the essence, authorizations may be given orally and written down within 24 hours after receipt of the authorization. The official authorizing the collection of restricted information shall be responsible for the actions of subordinates.

VI. FUNCTIONS OF A CRIMINAL INTELLIGENCE UNIT

Affirmative duties of a Criminal Intelligence Unit are described in the Ordinance.

VII. POLICE OPERATIONS — PROHIBITED PRACTICES

Department personnel shall not attempt to incite any person to commit unlawful violent activity, communicate false information, disrupt any lawful activity, or communicate derogatory information to discredit a person.

VIII. ENFORCEMENT AND PENALTIES

The chief shall promulgate rules and regulations to implement the Ordinance. Within ninety days, the chief shall promulgate rules for the use of covert techniques, accessing tax, credit, health and other confidential records; for the use of physical, electronic and photographic surveillance; and for the use of informants.

Rules regarding use of informants shall include instructions that informants do not participate in unlawful acts of violence, use unlawful techniques to obtain information, or initiate plans to commit crimes. The procedures for use of covert techniques shall be designed to insure that investigations are conducted with the minimal degree of intrusion and are pursuant to this Ordinance.

The mayor shall appoint an auditor for a three year term who shall have access to all departmental records and who shall conduct random audits at least every six months to review compliance with the Ordinance. The auditor shall submit a written public report to

the mayor of each audit. Detailed statistical reports about the use of the Ordinance shall be made annually by the chief of police.

The department shall establish disciplinary proceedings for violations of the Ordinance. A civil cause of action is provided for persons injured by department personnel who violate this Ordinance.

Appendix 2
State of Maryland: Public Information Act:
House of Delegates Bill #1326, 1978

HOUSE BILL NO. 1326
(81r0219)

Introduced by Chairman, Committee on Constitutional and Administrative Law 25

Read and Examined by Proofreader: 28

Proofreader. 30
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Proofreader. 33
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Sealed with the Great Seal and presented to the Acting Governor, for his approval this _____ day of _____ 36

at _____ o'clock, _____ M. 38

APPROVED
BY THE GOVERNOR 40

CHAPTER 1006 Speaker
MAY 29 1978 42
43
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AN ACT concerning 50

Public Information Act 53

FOR the purpose of eliminating unnecessary definitions; adding and revising definitions; providing a policy statement; ~~allowing directing providing that~~ State and local governments ~~to~~ may maintain only necessary and relevant information about persons under certain conditions; providing greater access in certain circumstances to investigative, intelligence, and security records; generally revising the provisions relating to the right to inspect public records; making changes in the provisions permitting denial of public records or any portion thereof; providing an administrative review; providing for judicial enforcement; creating civil liability for violations; providing for appropriate personnel disciplinary action; providing for the removal of the subsections allowing special treatment of public records in Harford County; providing for statutory limitation on the right to bring an action; and clarifying language. 57
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BY repealing and reenacting, with amendments, 70

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.
Underlining indicates amendments to bill.
~~Strike-out~~ indicates matter stricken by amendment.

(1975 Replacement Volume and 1977 Supplement)

BY adding to

Article - Courts and Judicial Proceedings
Section 5-110
Annotated Code of Maryland
(1974 Volume and 1977 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows:

Article 76A - Public Information

1.

[As used in this article:]

(A) IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

[(a) The term "public" (B) "PUBLIC records" when not otherwise specified shall include any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing, or other WRITTEN document, regardless of physical form or characteristics, and including all copies thereof, that have been made by [the] ANY BRANCH OF THE State [and any counties, municipalities and] GOVERNMENT, INCLUDING THE LEGISLATIVE, JUDICIAL, AND EXECUTIVE BRANCHES, BY ANY BRANCH OF A political [subdivisions] SUBDIVISION, [thereof] and by any [agencies] AGENCY OR INSTRUMENTALITY of the State[, counties, municipalities, and] OR A political [subdivisions thereof] SUBDIVISION, or received by them in connection with the transaction of public business[, except those privileged or confidential by law]. The term "public records" also includes the salaries of all [State] employees OF THE STATE, OF A POLITICAL SUBDIVISION, AND ANY AGENCY OR INSTRUMENTALITY THEREOF, both in the classified and nonclassified service[, and all county and municipal employees, whether in a classified or nonclassified service].

[(b) Public records shall be classified as follows:

(i) The term "official public records" shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the State or any agency or subdivision thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the State or any agency or subdivisions thereof; all

records or documents required by law to be filed with or kept by any agency or the State;

(ii) The term "office files and memoranda" shall include all records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, or documents not above defined and classified as official public records; all duplicate copies of official public records filed with any agency of the State or subdivision thereof; all documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and all other documents or records, determined by the records committee to be office files and memoranda.]

(C) "APPLICANT" MEANS AND INCLUDES ANY PERSON REQUESTING DISCLOSURE OF PUBLIC RECORDS.

[(c) The term "writings" (D) "WRITTEN DOCUMENTS" means and includes all books, papers, maps, photographs, cards, tapes, recordings, COMPUTERIZED RECORDS, or other documentary materials, regardless of physical form or characteristics.

[(d) The term "political" (E) "POLITICAL subdivision" means and includes every county, city and county, city, incorporated and unincorporated town, school district, and special district within the State.

[(e) The term "official" (F) "OFFICIAL custodian" means and includes [any] EACH AND EVERY officer or employee of the State or any agency, institution, or political subdivision thereof, who is responsible for the maintenance, care, and keeping of public records, regardless of whether such records are in his actual personal custody and control.

[(f) The term "custodian" (G) "CUSTODIAN" means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

[(g) The term "person" (H) "PERSON" means and includes any natural person, corporation, partnership, firm [or], association, OR GOVERNMENTAL AGENCY.

[(h) The term "person" (I) "PERSON in interest" means and includes the person who is the subject of a record or any representative designated by said person, except that if the subject of the record is under legal disability, the term "person in interest" shall mean and include the parent or duly appointed legal representative.

1A.

THE STATE, COUNTIES, MUNICIPALITIES, AND POLITICAL SUBDIVISIONS, OR ANY AGENCIES THEREOF, SHALL SHOULD MAINTAIN

ONLY SUCH INFORMATION ABOUT A PERSON AS IS RELEVANT AND NECESSARY TO ACCOMPLISH A PURPOSE OF THE GOVERNMENTAL ENTITY OR AGENCY WHICH IS AUTHORIZED OR REQUIRED TO BE ACCOMPLISHED BY STATUTE, EXECUTIVE ORDER OF THE GOVERNOR OR THE CHIEF EXECUTIVE OF A LOCAL JURISDICTION, JUDICIAL RULE, OR OTHER LEGISLATIVE MANDATE. MOREOVER, ALL PERSONS ARE ENTITLED TO INFORMATION REGARDING THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF THOSE WHO REPRESENT THEM AS PUBLIC OFFICIALS AND EMPLOYEES. TO THIS END, THE PROVISIONS OF THIS ACT SHALL BE CONSTRUED IN EVERY INSTANCE WITH THE VIEW TOWARD PUBLIC ACCESS, UNLESS AN UNWARRANTED INVASION OF THE PRIVACY OF A PERSON IN INTEREST WOULD RESULT THEREFROM, AND THE MINIMIZATION OF COSTS AND TIME DELAYS TO PERSONS REQUESTING INFORMATION.

2.

(a) All public records shall be open for inspection by any person at reasonable times, except as provided in this article or as otherwise provided by law[, but the]. THE official custodian of any public [records may] RECORD SHALL make AND PUBLISH such rules and regulations with reference to the TIMELY inspection AND PRODUCTION of such [records] RECORD as shall be reasonably necessary for the protection of such [records] RECORD and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(b) If the public records requested are not in the custody or control of the person to whom WRITTEN application is made, such person shall, [forthwith] WITHIN TEN WORKING DAYS OF THE RECEIPT OF THE REQUEST, notify the applicant of this fact AND IF KNOWN, THE CUSTODIAN OF THE RECORD AND THE LOCATION OR POSSIBLE LOCATION THEREOF.

(c) If the public records requested are in the custody and control of the person to whom WRITTEN application is made but are [in active use or in storage] NOT IMMEDIATELY AVAILABLE, [and therefore not available at the time an applicant asks to examine them,] the custodian shall, [forthwith] WITHIN TEN WORKING DAYS OF THE RECEIPT OF THE REQUEST, notify the applicant of this fact and shall set forth a date and hour within a reasonable time at which time the record will be available for the exercise of the right given by this article.

[(d) All written documents presented to the County Commissioners of Harford County shall be open and available to the press and to the public of Harford County. The attorney for the county and the county director of public information shall disclose the contents of any document publicly presented to either of them upon the demand of any citizen of Harford County.

(e) (D) In Charles County, except for records kept by officials, agencies, or departments of the State of

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Maryland, public information shall be regulated by s 6 of this article.

3.

(a) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (b) or (c) of this section:

(i) Such inspection would be contrary to any State statute;

(ii) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; [or]

(iii) Such inspection is prohibited by rules promulgated by the Court of Appeals, or by the order of any court of record[.]; OR

(IV) SUCH PUBLIC RECORDS ARE PRIVILEGED OR CONFIDENTIAL BY LAW.

(b) The custodian may deny the right of inspection of the following records OR APPROPRIATE PORTIONS THEREOF, unless otherwise provided by law, [on the ground that] IF disclosure to the applicant would be contrary to the public interest[.];:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, STATE'S ATTORNEY, the Attorney General, police department, or any investigatory files compiled for any other law-enforcement, JUDICIAL, CORRECTIONAL, or prosecution purposes[.];, BUT THE RIGHT OF A PERSON ~~OF~~ IN INTEREST TO INSPECT THE RECORDS MAY BE DENIED ONLY TO THE EXTENT THAT THE PRODUCTION OF THEM WOULD (A) INTERFERE WITH VALID AND PROPER LAW-ENFORCEMENT PROCEEDINGS, (B) DEPRIVE ANOTHER PERSON OF A RIGHT TO A FAIR TRIAL OR AN IMPARTIAL ADJUDICATION, (C) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY, (D) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE, (E) DISCLOSE INVESTIGATIVE TECHNIQUES AND PROCEDURES, OR ~~(F)~~ (F) PREJUDICE ANY INVESTIGATION, OR (G) ENDANGER THE LIFE OR PHYSICAL SAFETY OF LAW ENFORCEMENT PERSONNEL ANY PERSON;

(ii) Test questions, scoring keys, and other examination data pertaining to administration of [a licensing examination, for] LICENSES OR employment or academic [examination] EXAMINATIONS, except that written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the conducting and grading of any such examination;

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(iii) The specific details of bona fide research projects being conducted by [a State] AN institution OF THE STATE OR A POLITICAL SUBDIVISION, EXCEPT THAT THE NAME, TITLE, EXPENDITURES, AND THE TIME WHEN THE FINAL PROJECT SUMMARY SHALL BE AVAILAABLE; 276
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(iv) The contents of real estate appraisals made for the State or a political subdivision thereof, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the State or political subdivision, except that the contents of such appraisal shall be available to the owner of the property at any time, and except as provided by statute. 281
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(v) Interagency or intraagency memorandums or letters which would not be available by law to a private party in litigation with the agency. 289
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(c) The custodian shall deny the right of inspection of the following records OR ANY PORTION THEREOF, unless otherwise provided by law: 292
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(i) Medical, psychological, and sociological data on individual persons, exclusive of coroners' autopsy reports; 295
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(ii) Adoptica records or welfare records on individual persons; 298

(iii) Personnel files except that such files shall be available to the PERSON IN INTEREST, AND THE duly elected and appointed officials who supervise the work of the person in interest-- Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work--]; 300
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--(iv) Letters of reference;--] 307

[(v)] (IV) Trade secrets, [privileged] information PRIVILEGED BY LAW, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person; 309
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[(vi)] (V) Library, archives, and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of such contribution; [and] 313
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[(vii)] (VI) Hospital records relating to medical administration, medical staff, personnel, medical care, and other medical information, whether on individual persons or groups, or whether of a general or specific classification; 317
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[(viii)] (VII) School district records containing information relating to the biography, family, physiology, religion, academic achievement, and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him[.]; AND 322
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[(ix)] (VIII) Circulation records maintained by public libraries showing personal transactions by those borrowing from them. 327
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(d) [If] WHENEVER the custodian denies A WRITTEN REQUEST FOR access to any public record OR ANY PORTION THEREOF UNDER THIS SECTION, THE CUSTODIAN SHALL PROVIDE the applicant [may request] WITH a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied[,] AND ALL REMEDIES FOR REVIEW OF THIS DENIAL AVAILABLE UNDER THIS ARTICLE. [and it] THE STATEMENT shall be furnished [forthwith] to the applicant WITHIN TEN WORKING DAYS OF DENIAL. IN ADDITION, ANY REASONABLY SEVERABLE PORTION OF A RECORD SHALL BE PROVIDED TO ANY PERSON REQUESTING SUCH RECORD AFTER DELETION OF THOSE PORTIONS WHICH MAY BE WITHHELD FROM DISCLOSURE. 330
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[(e) Any person denied the right to inspect any record covered by this article may apply to the circuit court of the county where the record is found for any order directing the custodian of such record to show cause why he should not permit the inspection of such record.] 342
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[(f)] (E) If, in the opinion of the official custodian of any public record WHICH IS OTHERWISE REQUIRED TO BE DISCLOSED UNDER THIS ARTICLE, disclosure of the contents of said record would do substantial injury to the public interest, [notwithstanding the fact that said record might otherwise be available to public inspection, he may apply] THE OFFICIAL CUSTODIAN MAY TEMPORARILY DENY DISCLOSURE PENDING A COURT DETERMINATION OF WHETHER DISCLOSURE WOULD DO SUBSTANTIAL INJURY TO THE PUBLIC INTEPEST PROVIDED THAT, WITHIN TEN WORKING DAYS OF THE DENIAL THE OFFICIAL CUSTODIAN APPLIES to the circuit court of the county where the record is located OR WHERE HE MAINTAINS HIS PRINCIPAL OFFICE for an order permitting him to CONTINUE TO DENY OR restrict such disclosure. THE FAILURE OF THE OFFICIAL CUSTODIAN TO APPLY FOR A COURT DETERMINATION FOLLOWING A TEMPORARY DENIAL OF INSPECTION WILL RESULT IN HIS BECOMING SUBJECT TO THE SANCTIONS PROVIDED IN THIS ARTICLE FOR FAILURE TO DISCLOSE AUTHORIZED PUBLIC RECORDS REQUIRED TO BE DISCLOSED. After hearing, the court may issue such an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of [said hearing] THE APPLICATION SENT TO THE CIRCUIT COURT served upon him in the manner provided for service of 347
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process by the MARYLAND Rules of Procedure and shall have the right to appear and be heard.

4.

(a) In all cases in which a person has the right to inspect any public records [he may request that he] SUCH PERSON SHALL HAVE THE RIGHT TO be furnished copies, printouts, or photographs for a reasonable fee to be set by the official custodian. Where fees for certified copies or other copies, printouts, or photographs of such record are specifically prescribed by law, such specific fees shall apply.

(b) If the custodian does not have the facilities for making copies, printouts, or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts, or photographs. The copies, printouts, or photographs shall be made while the records are in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of such custodian. When practical, they shall be made in the place where the records are kept, but if it is impractical to do the custodian may allow arrangements to be made for this purpose. If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the records. The official custodian may establish a reasonable schedule of times for making copies, printouts, or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printingout, or photographing as he may charge for furnishing copies under this section.

5.

(A) EXCEPT IN CASES OF TEMPORARY DENIALS UNDER SECTION 3(E) OF THIS SUBTITLE ANY APPLICANT DENIED THE RIGHT TO INSPECT PUBLIC RECORDS WHERE THE OFFICIAL CUSTODIAN OF THE RECORDS IS AN AGENCY SUBJECT TO THE PROVISIONS OF SUBTITLE 24 OF ARTICLE 41 OF THIS CODE MAY ASK FOR AN ADMINISTRATIVE REVIEW OF THIS DECISION IN ACCORDANCE WITH SECTION 251 THROUGH 254 OF ARTICLE 41 OF THIS CODE, HOWEVER, THIS REMEDY NEED NOT BE EXHAUSTED PRIOR TO FILING SUIT IN THE CIRCUIT COURT PURSUANT TO THIS ARTICLE.

(B) (1) ON COMPLAINT OF ANY PERSON DENIED THE RIGHT TO INSPECT ANY RECORD COVERED BY THIS ARTICLE, THE CIRCUIT COURT IN THE JURISDICTION IN WHICH THE COMPLAINANT RESIDES, OR HAS HIS PRINCIPAL PLACE OF BUSINESS, OR IN WHICH THE RECORDS ARE SITUATED, HAS JURISDICTION TO ENJOIN THE STATE, ANY COUNTY, MUNICIPALITY, OR POLITICAL SUBDIVISION, OR ANY AGENCY, OFFICIAL OR EMPLOYEE THEREOF, FROM WITHHOLDING RECORDS AND TO ORDER THE PRODUCTION OF ANY RECORDS IMPROPERLY WITHHELD FROM THE COMPLAINANT. IN SUCH A CASE,

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THE COURT MAY EXAMINE THE CONTENTS OF THE RECORDS IN CAMERA TO DETERMINE WHETHER THE RECORDS OR ANY PART THEREOF MAY BE WITHHELD UNDER ANY OF THE EXEMPTIONS SET FORTH IN SECTION 3, AND THE BURDEN IS ON THE DEFENDANT TO SUSTAIN ITS ACTION. IN ADVANCING THIS BURDEN THE DEFENDANT MAY SUBMIT TO THE COURT FOR REVIEW A MEMORANDUM JUSTIFYING THE WITHHOLDING OF THE RECORDS.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEFENDANT SHALL SERVE AN ANSWER OR OTHERWISE PLEAD TO ANY COMPLAINT MADE UNDER THIS SUBSECTION WITHIN 30 DAYS AFTER SERVICE UPON THE DEFENDANT OF THE PLEADING IN WHICH THE COMPLAINT IS MADE, UNLESS THE COURT OTHERWISE DIRECTS FOR GOOD CAUSE SHOWN.

(3) EXCEPT AS TO CASES THE COURT CONSIDERS OF GREATER IMPORTANCE, PROCEEDINGS BEFORE THE COURT, AS AUTHORIZED BY THIS SECTION, AND APPEALS THEREFROM SHALL TAKE PRECEDENCE ON THE DOCKET OVER ALL OTHER CASES AND SHALL BE HEARD AT THE EARLIEST PRACTICABLE DATE AND EXPEDITED IN EVERY WAY.

(4) IN ADDITION TO ANY OTHER BELIEF WHICH MAY BE GRANTED TO A COMPLAINANT, IN ANY SUIT BROUGHT UNDER THE PROVISIONS OF THIS SECTION IN WHICH THE COURT DETERMINES THAT THE DEFENDANT HAS KNOWINGLY AND WILFULLY FAILED TO DISCLOSE OR FULLY DISCLOSE RECORDS AND INFORMATION TO ANY PERSON WHO, UNDER THIS ARTICLE, IS ENTITLED TO RECEIVE IT, AND THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE PERSON WAS ENTITLED TO RECEIVE IT, ~~THE DEFENDANT JURISDICTION ANY DEFENDANT GOVERNMENTAL ENTITY OR ENTITIES SHALL BE LIABLE TO THE COMPLAINANT IN AN AMOUNT EQUAL TO THE SUM OF THE ACTUAL DAMAGES SUSTAINED BY THE INDIVIDUAL AS A RESULT OF THE REFUSAL OR FAILURE, AND IN NO CASE SHALL A PERSON BE ENTITLED TO RECOVERY LESS THAN THE SUM OF \$1,000 AND SUCH PUNITIVE DAMAGES AS THE COURT DEEMS APPROPRIATE.~~

(5) IN THE EVENT OF NONCOMPLIANCE WITH AN ORDER OF THE COURT, THE COURT MAY PUNISH THE RESPONSIBLE EMPLOYEE FOR CONTEMPT.

(6) THE COURT MAY ASSESS AGAINST THE ~~DEFENDANT JURISDICTION ANY DEFENDANT GOVERNMENTAL ENTITY OR ENTITIES~~ REASONABLE ATTORNEY FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED IN ANY CASE UNDER THIS SECTION IN WHICH THE COURT DETERMINES THAT THE APPLICANT HAS SUBSTANTIALLY PREVAILLED.

(C) WHENEVER THE COURT ORDERS THE PRODUCTION OF ANY RECORDS IMPROPERLY WITHHELD FROM THE APPLICANT, AND IN ADDITION, FINDS THAT THE CUSTODIAN ACTED ARBITRARILY OR CAPRICIOUSLY IN WITHHOLDING THE PUBLIC RECORD, THE COURT SHALL FORWARD A CERTIFIED COPY OF ITS FINDING TO THE APPOINTING AUTHORITY OF THE CUSTODIAN. UPON RECEIPT THEREOF, THE APPOINTING AUTHORITY SHALL, AFTER APPROPRIATE INVESTIGATION, TAKE SUCH DISCIPLINARY ACTION AS IS WARRANTED UNDER THE CIRCUMSTANCES.

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(D) Any person who [willfully] WILFULLY and knowingly violates the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed [one hundred dollars (\$100.00)] \$100.

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Article - Courts and Judicial Proceedings

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5-110.

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AN ACTION TO ENFORCE ANY CRIMINAL OR CIVIL LIABILITY CREATED UNDER SECTIONS 1 THROUGH 5 OF ARTICLE 76A OF THIS CODE MAY BE BROUGHT WITHIN TWO YEARS FROM THE DATE ON WHICH THE CAUSE OF ACTION ARISES, EXCEPT THAT IF THE DEFENDANT HAS MATERIALLY AND WILFULLY MISREPRESENTED ANY INFORMATION REQUIRED UNDER THOSE SECTIONS TO BE DISCLOSED TO A PERSON AND THE INFORMATION SO MISREPRESENTED IS MATERIAL TO THE ESTABLISHMENT OF LIABILITY OF THE DEFENDANT TO THE PERSON UNDER THOSE SECTIONS, THE ACTION MAY BE BROUGHT AT ANY TIME WITHIN TWO YEARS AFTER DISCOVERY BY THE PERSON OF THE MISREPRESENTATION.

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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1978.

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Approved:

Acting Governor.

Speaker of the House of Delegates.

President of the Senate.

Appendix 3

New York State Assembly Report of Special Task Force on State Police Non-Criminal Files

September 1977

RECOMMENDATIONS

This report has documented the existence of non-criminal files and has described the potential for abuse in such a system. Given the possibilities for grave infringement of civil liberties inherent in unregulated intelligence operations, we must be concerned with ensuring that the operations of all Police agencies in the State with intelligence systems are altered so as to prevent abuse from occurring without interfering with valid law enforcement responsibilities.

The following are the tentative recommendations of the Task Force to the Governmental Operations Committee. They are designed to stimulate debate on the issues. These recommendations will require thorough and comprehensive public hearings. The hearings should focus on future policy in order to determine if legislative action is necessary in the area of information gathering.

OVERSIGHT

Legislation is needed to strengthen external oversight of Police policies and procedures on a continuing basis, to ensure that the Police are properly interpreting their legal mandate, and that Police policies and procedures reflect a proper respect for civil liberties.

1. *Legislation should be enacted to limit the scope of Police power to conduct intelligence operations to matters clearly relating to the commission of criminal acts.*

2. *Legislation should be enacted to clearly define the proper methods a Police agency can use in collecting information on individuals and organizations.*

3. *Legislation is needed to regulate the maintenance of law enforcement information systems, to ensure that non-criminal information is not retained therein or disseminated.*

4. *The Assembly Governmental Operations Committee should conduct a review of State Police operations at regular intervals and issue public reports.*

The purpose of the review would be to determine if the Police are exercising restraint in their intelligence operations and if their policies are in accordance with legislative intent.

5. *Legislation should be enacted to create a review board within the Executive branch to oversee Police operations.*

The board should be given the power and duty to:

- a) inspect records
- b) work with the Police in developing viable guidelines for non-criminal Police work
- c) ensure that the collection of information on non-criminal political activities does not occur
- d) develop procedures for allowing public access to non-criminal files
- e) act as an arbiter between the public and the Police when questions arise about access to records
- f) report to the Governor and the Legislature on legislation needed to ensure the continued responsibility of the State Police.

6. *Since the lack of internal oversight within Police Administration itself has been largely corrected by the current Administration of the State Police, we make no recommendations for change in this area. External oversight, as recommended above, is needed to insure that the Police maintain their responsible position.*

The current Administration has been responsible for a purge of the Special Services files removing almost entirely the clearly non-criminal information. In addition, at the request of the Assembly, the Police are now keeping a log of all dissemination of information from these files.

In 1975, along with the reassignment of Special Services Investigators to regular duties in the troops, the Administration developed a set of guidelines on intelligence procedures.

Access to Files

The procedure by which the State Police purged the Special Services files makes retrieval of specific files virtually impossible.

One solution to this dilemma would be to mandate the reconstruction of the files in order to eventually allow individual's access to their own file. The sheer amount of expert Police man-power that this would take is enormous.

It appears that the purging of the files by the State Police, which was a discontinuation of past practices, has made access to the file collections of the past virtually impossible. Thus, our prescriptions must address themselves to the present and future.

If the Legislature does not choose to prohibit non-criminal intelligence operations, legislation is needed to insure access to the files. We feel that ensuring some kind of access to non-criminal files by the subjects of these files is one method of ensuring that the Police will be careful and cognizant of individuals' rights. Such

access can keep continuously before the public eye a record of what actions the Police have taken, and would encourage public and political discussion of the issues involved in non-criminal intelligence.

7. *The Legislature should amend the Freedom of Information Act to allow individuals access to their law enforcement files, when the investigation was based on an activity which was not a criminal act and did not result in a criminal act.*

8. *The Legislature should set up a procedure to allow individuals who are refused access, some opportunity for appeal to a neutral body, such as the review board discussed in Recommendation 5.*

9 *The Legislature should consider whether or not existing material stored at the Office of General Services Records Center should be preserved or destroyed in order to prevent any possibility of names being released in the future.*

Regulation of Investigative Activities

10. *The Legislature should enact statutes which would recognize an individual's right to privacy and create a cause for civil action for violation of this right. This right could also be extended to prohibit purely political surveillance, harassment, provocation and selective law enforcement in this area.*

Penal law prohibitions of these activities can also be enacted. However, civil sanctions might suffice to induce a Police agency to reach the proper balance between valid and necessary intelligence and overly broad activities that would violate rights. Additionally, the individual police officer would be protected from prosecution for other than willful and intentional violations.

11. *Legislation should be enacted to require that the Police obtain signed warrants before conducting certain intelligence activities. The warrant should require that the investigation in which the activity would be undertaken would have to be clearly related to a criminal activity.*

Our investigation has revealed that the State Police routinely investigated noncriminal groups and individuals by:

- inspection of telephone and credit records,
- conducting mail covers,
- obtaining a confidential membership or contributor's list,
- requesting an unpaid informant to gather information

There are little or no legal restrictions on the employment of such techniques at the present time. We, therefore, recommend considering legislation that would limit all or some of these techniques to actual or suspected criminal activities and requiring court ordered search warrants before they could be used.

Appendix 4
Excerpts from Church Committee Report

INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS: FINAL REPORT OF THE SELECT COMMITTEE TO STUDY GOVERNMENT OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES (UNITED STATES SENATE), BOOK II, APRIL 26, 1976

SUMMARY pp. 21, 22

1. *THE LESSON: HISTORY REPEATS ITSELF*

During and after the First World War, intelligence agencies, including the predecessor of the FBI, engaged in repressive activity. (Footnote: Repressive practices during World War I included the formation of a volunteer auxiliary force, known as the American Protective League, which assisted the Justice Department and military intelligence in the investigation of "un-American activities" and in the mass round-up of 50,000 persons to discover draft evaders. These so-called "slacker raids" of 1918 involved warrantless arrests without sufficient probable cause to believe that crime had been or was about to be committed. . .

The American Protective League also contributed to the pressures which resulted in nearly 2,000 prosecutions for disloyal utterances and activities during World War I, a policy described by John Lord O'Brien, Attorney General Gregory's Special Assistant, as one of "wholesale repression and restraint of public opinion. . .

Shortly after the war, the Justice Department and the Bureau of Investigation jointly planned the notorious "Palmer Raids", named for Attorney General A. Mitchell Palmer who ordered the overnight round-up and detention of some 10,000 persons who were thought to be "anarchist" or "revolutionary" aliens subject to deportation.)

A new Attorney General, Harlan Fiske Stone, sought to stop the investigation of "political or other opinions." This restraint was embodied only in an executive pronouncement, however, No statutes were passed to prevent the kind of improper activity which had been exposed. Thereafter, as this narrative will show, the abuses returned in a new form. It is now the responsibility of all three branches of government to ensure that the pattern of abuse of domestic intelligence activity does not recur.

2. *THE PATTERN: BROADENING THROUGH TIME*

Since the re-establishment of federal domestic intelligence programs in 1936, there has been a steady increase in the government's capability and willingness to pry into, and even disrupt, the political activities and personal lives of the people. The last forty years have witnessed a relentless expansion of domestic intelligence activity beyond investigation of criminal conduct toward the collection of political intelligence and the launching of secret offensive actions against Americans.

The initial incursions into the realm of ideas and associations were related to concerns about the influence of foreign totalitarian powers.

Ultimately, however, intelligence activity was directed against domestic groups advocating change in America, particularly those who most vigorously opposed the Vietnam war or sought to improve the conditions of racial minorities. Similarly, the targets of intelligence investigations were broadened from groups perceived to be violence prone to include groups of ordinary protesters.

3. *THREE PERIODS OF GROWTH FOR DOMESTIC INTELLIGENCE*

The expansion of domestic intelligence activity can usefully be divided into three broad periods: (a) the pre-war and World War II period; (b) the Cold War era; and (c) the period of domestic dissent beginning in the mid-sixties. The main developments in each of these stages in the evolution of domestic intelligence may be summarized as follows:

a. 1936 - 1945

By presidential directive—rather than statute—the FBI and military intelligence agencies were authorized to conduct domestic intelligence investigations. These investigations included a vaguely defined mission to collect intelligence about "subversive activities" which were sometimes unrelated to law enforcement. Wartime exigencies encouraged the unregulated use of intrusive intelligence techniques; and the FBI began to resist supervision by the Attorney General.

b. 1946 - 1963

Cold War fears and dangers nurtured the domestic intelligence programs of the FBI and military, and they became permanent features of government. Congress deferred to the executive branch in the oversight of these programs. The FBI became increasingly isolated from effective outside control, even from the Attorneys General. The scope of investigations of "subversion" widened greatly. Under the cloak of secrecy,

the FBI instituted its COINTELPRO operations to "disrupt" and "neutralize" "subversives". The National Security Agency, the FBI, and the CIA re-instituted intrusive wartime surveillance techniques in contravention of law.

c. 1964 - 1976

Intelligence techniques which previously had been concentrated upon foreign threats and domestic groups said to be under Communist influence were applied with increasing intensity to a wide range of domestic activity by American citizens. These techniques were utilized against peaceful civil rights and antiwar protest activity, and thereafter in reaction to civil unrest, often without regard for the consequences to American liberties. The intelligence agencies of the United States—sometimes abetted by public opinion and often in response to pressure from administration officials or the Congress—frequently disregarded the law in their conduct of massive surveillance and aggressive counter-intelligence operations against American citizens. In the past few years, some of these activities were curtailed, partly in response to the moderation of the domestic crisis; but all too often improper programs were terminated only in response to exposure, the threat of exposure, or a change in the climate of public opinion, such as that triggered by the Watergate affair.

Deficiencies in Accountability and Control (pp. 14, 15)

The overwhelming number of excesses continuing over a prolonged period of time were due in large measure to the fact that the system of checks and balances—created in our Constitution to limit abuse of Governmental power—was seldom applied to the intelligence community. Guidance and regulation from outside the intelligence agencies—where it has been imposed at all—has been vague. Presidents and other senior officials, particularly the Attorneys General, have virtually abdicated their Constitutional responsibility to oversee and set standards for intelligence activity. Senior government officials generally gave the agencies broad, general mandates or pressed for immediate results on pressing problems. In neither case did they provide guidance to prevent excesses and their broad mandates and pressures themselves often resulted in excessive or improper intelligence activity.

Congress has often declined to exercise meaningful oversight, and on occasion has passed laws or made statements which were taken by intelligence agencies as supporting overly-broad investigations.

On the other hand, the record reveals instances when intelligence agencies have concealed improper activities from their superiors in the Executive branch and from the Congress, or have elected to disclose only the less questionable aspects of their activities.

There has been, in short, a clear and sustained failure by those responsible to control the intelligence community and to ensure its accountability. There has been an equally clear and sustained failure by intelligence agencies to fully inform the proper authorities of their activities and to comply with directives from those authorities. . .

(From p. 20) We have found that we are in a fundamental agreement with the wisdom of Attorney General Stone's initial warning that intelligence agencies must not be "concerned with political or other opinions of individuals" and must be limited to investigating essentially only "such conduct as is forbidden by the laws of the United States." The Committee's record demonstrates that domestic intelligence which departs from this standard raises grave risks of undermining the democratic process and harming the interests of individual citizens. This danger weighs heavily against the speculative or negligible benefits of the ill-defined and over-broad investigations authorized in the past. Thus, the basic purpose of the recommendations contained in (Part IV of) this report is to limit the FBI to investigating conduct rather than ideas of associations.

The excesses of the past do not, however, justify depriving the United States of a clearly defined and effectively controlled domestic intelligence capability. The intelligence services of this nation's international adversaries continue to attempt to conduct clandestine espionage operations within the United States. Our recommendations provide for intelligence investigations of hostile foreign intelligence activity.

Moreover, terrorists have engaged in serious acts of violence which have brought death and injury to Americans and threaten further such acts. These acts, not the politics or beliefs of those who would commit them, are the proper focus for investigations to anticipate terrorist violence. Accordingly, the Committee would permit properly controlled intelligence investigations in those narrow circumstances.

Concentration on imminent violence can avoid the wasted dispersion of resources which has characterized the sweeping (and fruitless) domestic intelligence investigations of the past. But the most important reason for the fundamental change in the domestic intelligence operations which our Recommendations propose is the need to protect the constitutional rights of Americans.

In the light of the record of abuse revealed by our inquiry, the Committee is not satisfied with the position that mere exposure of

what has occurred in the past will prevent its recurrence. Clear legal standards and effective oversight and controls are necessary to ensure that domestic intelligence activity does not itself undermine the democratic system it is intended to protect.

Appendix 5 Using The Freedom of Information Act

Adapted from *How to Get Your Personal File*, Project on National Security and Civil Liberties, Center for National Security Studies and American Civil Liberties Union Foundation.

GETTING YOUR FILES FROM THE GOVERNMENT:

Under the Freedom of Information Act as amended, you can request your personal records from government agencies that conduct surveillance on American citizens and other individuals in the United States. There are over 100 government agencies which have some sort of intelligence function, and you may make requests of any of those which are federal (the amended Act does not apply to state or local agencies). Several agencies that have admitted to conducting illegal investigations of American citizens may be of particular interest. These include the CIA, the FBI, the Justice Department, the Department of Defense, the Civil Service Commission, the Secret Service, and the Internal Revenue Service.

MAKING THE REQUEST:

Using the Act is very simple. Begin by writing a letter to each agency from which you want to request your records. A list of addresses and sample letter are attached. Your letter should indicate that it is a request under the Freedom of Information Act as amended.

You should then state that you are requesting records stored under your name, or returnable by a search for documents containing your name. You should indicate your willingness to pay reasonable fees for search and copying, though you may wish to request a waiver of fees. The CIA routinely waives fees on requests for personal records, but the other agencies do not. The charges vary greatly from agency to agency, seldom less than \$10 or more than \$50.

The request letter should provide your full given name, any aliases or former names (e.g. married or maiden names), your full present address and your Social Security number (the latter is not required by the CIA). You may also want to provide your phone number so that the agency may contact you if it has questions.

All agencies now require that your signature on the request letter be notarized. This is to insure that you are who you say you are.

Many people have chosen to file their requests through attorneys in hope that it will expedite the process. This is unnecessary. Requests are processed in the order received. If you choose to use an attorney, his or her letter must be accompanied by a notarized letter from you authorizing him or her to act as your agent.

CATCH 22

Your letter will lead the agency to search its files for information about you. If you do have records, your letter will be added to them. If you do not, a file will be opened in the Freedom of Information section of the agency.

TIME LIMITS

Under the amended Act, you are entitled to a response within ten working days and your letter should request a response within that time period.

Since the amended Act went into effect on February 19, 1975, various agencies have received numerous requests for personal records. Both the FBI and CIA are now asking for an extension of time beyond the ten working days. The agencies have apparently devoted inadequate staff time to process the requests. Until they work off the back-log they now face, you can expect to receive a letter stating that your request will be answered as soon as possible. You are entitled under the Act to appeal or go to court if you do not receive a response within ten working days. If you are not prepared to sue over the issue of time, however, you should wait a somewhat longer period for agency review.

(The following is an excerpt from *The FOIA as an Organizing Tool*, Campaign for Political Rights, 201 Massachusetts Avenue, N.E., Washington, D.C. 20002, (202) 547-4705. Reprinted with their permission.

The Campaign or your nearest American Civil Liberties Union office can provide further details and assistance.)

This is a sample letter for use by groups and individuals when requesting information under the Freedom of Information or Privacy Acts.

Your address
Your phone number (optional)
Date

Agency Head or FOIA Coordinator
Agency Name
Address

RE: FOIA OR PRIVACY ACT REQUEST

Dear

Under the provisions of the Freedom of Information Act (and the Privacy Act, when requesting personal files), I am requesting access to all files indexed and maintained by your agency under my name (for personal files), OR all files relating to (describe clearly and specifically the records you seek).

If all or any part of my request is denied, please list the specific exemption(s) which you think justifies withholding the documents or information and inform me of the appeal procedures available to me under the law.

As you know, the Act permits you to reduce or waive fees when the release of information is considered "in the public interest." I believe that this request fits that category because and I therefore ask that you waive my fees.

If you rule otherwise, please inform me of fees for searching for or copying the records I have requested, before you fill the request. OR: Please provide all records without informing me of the cost if it does not exceed \$

If you have any questions regarding this request, please telephone me at the number listed above. As provided in the Act, I will expect to receive a reply within ten working days.

Your Name
Social Security Number,
Date and Place of Birth

(NOTE: All requests for personal files must now be notarized.)

Send your letter marked "FOIA Request" on bottom left corner of your envelope to:

Bureau of Alcohol, Tobacco and Firearms
U.S. Treasury Department
1200 Pennsylvania Avenue, NW
Washington, DC 20026

Central Intelligence Agency
Washington, DC 20505

U.S. Civil Service Commission
1900 E Street, NW
Washington, DC 20415

US Customs Service
1301 Constitution Avenue, NW
Washington, DC 20229

Defense Intelligence Agency
US Department of Defense

RDS - 3A, Washington, DC 20301

Federal Bureau of Investigation
Ninth and Pennsylvania Avenue, NW
Washington, DC 20535

Immigration and Naturalization Service
US Department of Justice
425 I Street, NW
Washington, DC 20536

Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

National Security Agency
Fort George Meade, Maryland 20755

US Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260

US Secret Service
1800 G Street, NW
Washington, DC 20223

Appendix 6
AFSC Statement on the CIA and FBI
April 24, 1976

The scandalous and unlawful activities of the Central Intelligence Agency and the Internal Security Division of the Federal Bureau of Investigation have shocked Americans to the point that serious and responsible voices are calling for them to be abolished.

The repeated violations of these agencies have so unmistakably compromised these two bodies that it is certain that they are beyond salvage as agencies in which Americans can confidently place their trust. Unless strong action is taken, there will always be the fear that they will again, under the cover of secrecy, resort to the kind of improper and illegal methods that have indelibly tarnished their names at home and abroad.

Believing in the Quaker ideal of an open society in which all are free to promote peace, equality and justice without fear, the American Friends Service Committee unhesitatingly adds its voice to those which say that the CIA and the Internal Security Division of the FBI must be abolished.

The elimination of the CIA and the Internal Security Division of the FBI will serve as an unmistakable warning to any successor agencies. But even so clear a warning is not enough. The practices which brought these two bodies into disrepute must be unequivocally ended, for the same methods committed by any successor agencies would be as intolerable as if they were undertaken by the CIA or FBI.

We reject and call on all others to reject clandestine U.S. activities abroad such as subverting governments by bribery and corruption, secret military action, assassinations and conspiracy.

At home we reject and call on all others to reject illegal wire-tapping, mail interception, burglaries, cover-ups, surveillance and infiltration of lawful groups, use of agents provocateurs, investigations of dissent and dissenters used by the party in power against its opponents or critics, and the maintenance of political dossiers on citizens and groups exercising legitimate rights.

We urge that such practices by the CIA, the Internal Security Division of the FBI, and by the numerous other federal, civil and military intelligence agencies be outlawed and that all government attempts to preserve these functions in any form or under any agencies be prevented.

We recognize that, sometimes in league with federal agencies and sometimes independently, state and local police forces are engaged in some of these practices. They, too, must be stopped. The

development and use of computerized information systems must not provide tools to a secretive and autocratic police. We urge the Congress to investigate rigorously the dissemination of information gathered under such systems and to enact strict detailed guidelines to prevent abuse of data systems.

We urge our government to end the practice of classifying information in its possession as a device to hide its own agents' mistakes or violations of law. We call for a system of accountability which will require all public officials to refrain from lying and deception of the American public.

We insist that those in government service who detect such transgressions and make them public shall be protected — indeed honored — rather than harassed or treated as criminals.

As for foreign intelligence activities, we do not believe that there should be one standard for American citizens and another standard for others justifying American government actions abroad which we would not tolerate at home. To those who say we must fight fire with fire by engaging in reprehensible actions at home and abroad, because others will commit such actions against us, we reply that we are not ready passively to give up our ideals ourselves out of fear of what others may do.

In this imperfect world the U.S. government will undoubtedly continue to gather foreign intelligence. Congress must fulfill its constitutional obligation to oversee this activity by prohibiting the kinds of acts which have brought the intelligence community into disrepute and by providing sanctions against those who overstep the bounds of law and decency.

Approved by the AFSC Board of Directors, April 24, 1976

Appendix 7

Other Groups Concerned with Police Surveillance

The following organizations are a few of those concerned about local police spying and intelligence activities. Contact them for information, the address of their office nearest you and for the names of other nearby organizations and groups working on this issue.

American Civil Liberties Union
22 East 40th Street
New York, N.Y. 10016
(212) 725-1222

Ira Glasser, Executive Director
Center for National Security Studies
122 Maryland Avenue, N.E.
Washington, D.C. 20002
(202) 544-5380

Morton H. Halperin, Director

National Lawyers Guild
853 Broadway
New York, N.Y. 10003
(212) 260-1360

National Committee Against
Repressive Legislation
1250 Wilshire Boulevard, Suite 501
Los Angeles, Calif. 90017
(213) 481-2435
Frank Wilkinson, Executive Director

509 C Street, N.E.
Washington, D.C. 20002
(202) 543-7659

Esther Herst, Coordinator

Campaign for Political Rights*
201 Massachusetts Avenue, N.E.
Room 112
Washington, D.C. 20002
(202) 547-4705
Peggy Shaker, National Coordinator

The Campaign for Political Rights has available the following materials:

ORGANIZING AGAINST GOVERNMENT SPYING. How to begin and sustain activities to stop political harassment in your community, including research, coalition building and publicity possibilities. 8 pages; 1977.

SPYING ON CAMPUS ORGANIZING GUIDE. Strategies, tools, and methods of organizing around the issue of political surveillance and covert recruitment by U.S. and foreign intelligence agencies on American campuses; includes advice on use of the Freedom of Information Act (FOIA) and the Buckley Amendment to obtain information. 8 pages; 1977 (updated, January, 1979)

HOW TO SCHEDULE A SPEAKING EVENT. Basic steps to plan a local event around a speaker. 2 pages; 1977.

HOW TO USE THE FREEDOM OF INFORMATION ACT TO ORGANIZE. Various ways to raise and create greater interest in the issue; materials and groups to contact for assistance. 8 pages; 1978.

MEDIA FACT SHEET. How to get media coverage; sample press releases and public service announcements (PSA's), including a listing of media directories and publications. 12 pages; 1977.

MATERIALS LIST. Prepared to facilitate the dissemination of information about surveillance and harassment for political reasons by U.S. governmental agencies. 16 pages; December 1978.

Notes

I. BEFORE VIETNAM

pp. 8, 9

- ¹ Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, United States Senate (Church Committee), Book II "Intelligence Activities and the Rights of Americans," April, 1976, p. 21, footnote.
- ² Ibid., p. 23
- ³ Ibid., p. 28. For a full discussion of the FBI's initiation of investigation into domestic communism and facism, see Frank Donner, "How J. Edgar Hoover Created his Intelligence Powers," *Civil Liberties Review*, February/March 1977

II. REBELLIONS AND REPRESSIONS OF THE SEVENTIES

pp. 10-19

- ¹ Church Committee, Book II, p. 80
- ² Ibid., p. 81
- ³ Ibid., p. 77
- ⁴ Ibid., p. 77, 78, footnote 335, SAC Letter 69-44, 8/19/69
- ⁵ Ibid., p. 78
- ⁶ Ibid., p. 78
- ⁷ A Report by the Extended March 1975 Cook County (Illinois) Grand Jury, "Improper Police Intelligence Activities," 11/10/75, p. 7
- ⁸ International Association of Chiefs of Police, "Survey of Seattle Police Department" (1968), p. 127
- ⁹ A Project of the Center for National Security Studies, *Law and Disorder IV*, A Review of the Federal Anti-Crime Program Created by Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (1976), p. 3
- ¹⁰ *Law and Disorder*, p. 7, footnote 4. The changes in the crime rates during the period 1968-1975, as reported by the FBI's Uniform Crime Rate (UCR) were as follows:
 - 1968-17 percent increase over previous year
 - 1969-10 percent increase
 - 1970- 9 percent increase
 - 1971- 6 percent increase
 - 1972- 4 percent decrease in crime, the first in 17 years
 - 1973- 6 percent increase
 - 1974-18 percent increase
 - 1975- 9 percent increase
- ¹¹ See Charles Silberman, *Criminal Violence, Criminal Justice*, Random House, 1978 for a relevant discussion of these issues
- ¹² Memo From Jerry Berman to Center for National Security Studies Staff, 4/7/77
- ¹³ *Congressional Record—Extensions of Remarks*, "The Criminal Justice Assistance Act of 1978," Hon. John Conyers, Jr., 8/18/78
- ¹⁴ Memo, Hoover to field offices, 8/25/67, published in "Counterintelligence" *An Inside Look at America's Political Police*, National Lawyers Guild Task Force on Counterintelligence and the Secret Police, August 1978, p. 14
- ¹⁵ Memo, Hoover to field offices, 3/4/68, "Counterintelligence" p. 19
- ¹⁶ AFSC/FOI materials received from the FBI on 9/22/78, pp. 227-228
- ¹⁷ Ann Morrisett Davidon, "Even the Quakers Scared the FBI," *The Nation*, 3/11/78, and *Freedom for Americans: 1976*, AFSC 1976, p. 5
- ¹⁸ Church Committee, Book II, p. 6, Memorandum from FBI to Senate Select Committee, 10/6/75: "Substantially more individuals and groups are subject to intelligence scrutiny than the number of files would appear to indicate, since each domestic intelligence file typically contains information on more than one individual or group and this information is retrievable through the FBI General Index."
- ¹⁹ Ibid., Book II, p. 19
- ²⁰ Transcript, Public Safety and Justice Committee of the Seattle City Council, 1/24/78, p. 69

- ²¹ Hearings before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Volume 6, Federal Bureau of Investigation, November/December 1975, p. 115
- ²² Ibid., pp. 117, 118
- ²³ *Improper Police Intelligence Activities*, A Report by the Extended March 1975 Cook County Grand Jury, 11/10/75, p. 12

III. SOME REVELATIONS OF THE SEVENTIES

pp. 20-23

- ¹ Philadelphia Resistance v. Mitchell, Civ. No. 71-1736 (E.D.Pa.)
- ² Church Committee, Book II, p. 88, Memorandum from FBI headquarters to all Special Agents in Charge (SAC's) 5/23/68
- ³ AFSC/FOI documents received 4/30/76 from CIA, Tab A, numbers 7, 8, 9 and 10
- ⁴ Report of the New York State Assembly Special Task Force on State Police Non-Criminal Files, "State Police Surveillance," September, 1977, p. 46
- ⁵ Church Committee, Book II, p. 18

IV. SEATTLE

pp. 25-35

- ¹ Seattle Police Department (SPD) Intelligence Section Memorandum, "Domed Stadium Demonstration," Document #76-(deleted) - 04
- ² SPD Historical File #166, 5/22/75
- ³ SPD Document #76-07-2601
- ⁴ Walter Wright, "Police Confirm 150 names in Old Files," *Seattle Post-Intelligencer*, 11/14/75. Also see Dave Birkland, "Hanson Blasts Leak of Police Files," *Seattle Times*, 11/14/75.
- ⁵ SPD Intelligence Section Memorandum, "American Friends Service Committee," Document #76-07-13-02
- ⁶ SPD Master Index Card (for a Chicago activist), August 1973
- ⁷ Letter from J. M. Andersen, Lieutenant Commander, SPD Intelligence Section to Lieutenant Commander James T. Davis, Intelligence Division, Portland Police Department, #76-88-C, 5/4/76
- ⁸ SPD Intelligence Summary, #75-(deleted)-02, 6/19/75
- ⁹ SPD Intelligence Section Memorandum, "Chicano Coup," (document number deleted), 4/4/75
- ¹⁰ SPD Intelligence Section Memorandum, "Selma Waldman," Document #77-05-27-01, 5/27/77
- ¹¹ SPD Document #75-05-27-01, "Selma Waldman," 5/27/77
- ¹² SPD Document #76-04-1201, "NLG" and "Seattle Committee to Stop the Grand Jury" (sic), 4/12/76
- ¹³ SPD Document #75-11-1201S, "Advocacy Report - September" (1975), pp. 11-17
- ¹⁴ Skip Lisenby, "Officer Survival vs. Urban Terrorists," *The Washington Policeman*, Vol. 2., No. 1, May 1973
- ¹⁵ Rough draft prepared by SPD entitled "National Lawyers Guild," 1977
- ¹⁶ Memo from SAC Seattle to Director FBI, COINTELPRO, "Black Nationalist Hate Groups-Racial Intelligence," 10/8/68
- ¹⁷ FBI teletype from Seattle to Acting Director of the FBI and Minneapolis FBI Office, File #176-2281, 3/16/73
- ¹⁸ SPD letter from V.L. Bartley, Commander of Intelligence Unit to Kathleen Taylor, Seattle Coalition on Government Spying, 4/19/78
- ¹⁹ SPD letter from V.L. Bartley, Commander of Intelligence Unit to Stan Carey, Santa Clara, California Police Department 4/11/78
- ²⁰ Marcia Friedman, "Police Intelligence Chief Exonerated and Transferred," *Seattle Post-Intelligencer*, 7/1/78
- ²¹ Letter from Darrell Syferd, Office of the Prosecuting Attorney of King County, Washington to Steven K. Strong, 8/31/78
- ²² Letter from Lawrence G. Waldt, Sheriff, Director of Department of Public Safety of King County, Washington to Kathleen Taylor, Seattle Coalition on Government Spying, 7/19/78

- 23 Walter Wright, "Three Decline to Join Panel in Police Review," *Seattle Post-Intelligencer*, 11/29/75
- 24 Memo from R. W. Wilkenson, Director Office of Public Policy to Mayor Wesley C. Uhlman, "Intelligence Functions in the Seattle Police Department," 7/15/76
- 25 *Federal Register*, "Criminal Intelligence Systems Operating Policies," 6/30/78, pp. 28572-3

V. LOS ANGELES

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VI. PHILADELPHIA

pp. 45-49

- 1 Transcript of "First Tuesday," *NBC News*, 6/2/70
- 2 Pennsylvania Crime Commission Report, March 1974, pp. 60 & 61
- 3 Fencl deposition in *Dyketactics et al. v. Fencl et al.*, 8/9/76
- 4 *Philadelphia Bulletin*, 11/7/76
- 5 Airtel to Director from SAC, Phila., 6/3/64 re LEIU
- 6 Friends Peace Committee FBI/FOI files, p. 13
- 7 *WIN: The Complete Collection of Political Documents Ripped-off from the FBI Office in Media, Pa.*, 3/8/71, p. 33
- 8 Memo to SAC, 100-51159 of 3/13/70, in Caine FBI-FOI file
- 9 Letter of Stephen Saltz, Deputy City Solicitor, to Burton Caine, 12/7/79
- 10 *Dyketactics* deposition, above
- 11 *Philadelphia Bulletin*, 8/6/78, page 1-B
- 12 Transcript of *Action News* of 2/15/78
- 13 *Philadelphia Bulletin*, 8/6/78, above
- 14 Complaint before Penna. PUC, with transcript of *Action News* story of 2/15/78
- 15 Report of the Committee on Open Expression, Univ. of Penna., Penna., 4/28/78
- 16 City Council Bill No. 1063. Intro. 12/1/77 by Dr. Ethel Allen & Lucien Blackwell

VII. BALTIMORE

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- 1 *Baltimore Sun*, 1/21/75
- 2 *Baltimore News American* 2/11/75
- 3 Report to the Senate of Maryland, Senate Investigating Committee Established Pursuant to Senate Resolutions 1 and 151 of the 1975 Maryland General Assembly, 12/31/75, p. 1
- 4 *Ibid.*, p. 13
- 5 *Ibid.*, pp. 16, 22, 58-63
- 6 *Ibid.*, pp. 24-26
- 7 *Ibid.*, p. 31
- 8 *Ibid.*, pp. 26-29
- 9 *Ibid.*, pp. 30, 31
- 10 *Ibid.*, pp. 33, 34
- 11 *Ibid.*, pp. 36, 37
- 12 *Ibid.*, pp. 39, 40
- 13 *Ibid.*, p. 43
- 14 *Ibid.*, pp. 44-47
- 15 *Ibid.*, pp. 49-55
- 16 *Ibid.*, p. 63
- 17 *Ibid.*, pp. 65-66
- 18 *Ibid.*, pp. 71, 72
- 19 *Ibid.*, pp. 73, 74
- 20 *Ibid.*, pp. 75-78
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- 22 Senate Report, pp. 9, 10
- 23 *Ibid.*, p. 9 and note
- 24 *Ibid.*, p. 9
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- 26 *Ibid.*, p. 71

VIII. JACKSON, MISSISSIPPI

pp. 58-62

- 1 Division of Law Enforcement Assistance Office of the Governor, "Mississippi Information and Statistics System: Criminal Justice Planning Information System Master Plan," 1975
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- 3 Report on Mississippi State Sovereignty Commission, 1964-67 leaked to Mississippi press in 1967, p. 8
- 4 *Improper Police Intelligence Activities*, A Report by the Extended March 1975 Cook County Grand Jury, 11/10/75, p. 5
- 5 *Ibid.*, pp. 9, 10
- 6 Hearings Before the Senate Select Committee on Intelligence, "National Intelligence Reorganization and Reform Act of 1978," April-August 1978, p. 436
- 7 "Pitkin Aware of Snooping," *Seattle Times*, 12/24/75
- 8 *Philadelphia Inquirer*, 8/5/73
- 9 *ACLU v. City of Chicago*
- 10 Maryland State Senate Report, p. 27

X. PHYSICAL INTIMIDATION

pp. 69-74

- 1 Christian Potholm, "The United States and South Africa," p. 185, in *Vigilante Politics*, edited by H. Jon Rosenbaum and Peter C. Sederberg, University of Pennsylvania Press, 1976, drawn from The President's Commission on Law Enforcement and Administration of Justice, *Task Force on the Violent Aspects of Protest and Confrontation, The Politics of Protest*, U.S. Government Printing Office, 1969
- 2 *Ibid.*, p. 181; quoted from William Gamson and James McEvoy's "Police Violence and its Public Support," *The Annals of the American Academy of Political and Social Science* 391 (September 1970)
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- 5 Kanti Kotecha and James Walker, "Vigilantism and the American Police," in *Vigilante Politics*, p. 168
- 6 2nd Annual Report on Police Abuse Complaints Received by the Police Project of the Public Interest Law Center of Philadelphia for the calendar year 1976, p. 12
- 7 Jonathan Neumann and William K. Marimow, "The Homicide Files," *Philadelphia Inquirer* 4/24-27/77
- 8 Tom Curtis, "Support your Local Police (or Else)," *Texas Monthly*, September 1977, p. 83
- 9 *Ibid.*, p. 158
- 10 Report of the Denver AFSC Police Abuse/Surveillance Project, December 1978, p. 6 (unpublished)
- 11 *Vigilante Politics*, p. 182
- 12 Report of the National Advisory Commission on Civil Disorders, pp. 319-320

XI. SEEKING REDRESS THROUGH THE COURTS

pp. 75-79

- 1 AFSC materials received from FBI 5/31/78 through the Freedom of Information Act

- 2 Philadelphia Yearly Meeting v. Tate, Civ. No. 71-849 (E.D. Pa.)
- 3 Davidov v. Honeywell, Inc., No. 4-77, Civ. 152 (D. Minn. April 21, 1977)
- 4 Benkert v. Michigan State Police, No. 74-0230934 (Wayne County Circuit Court)
- 5 *First Principles*. "Domestic Intelligence Reform: A Court Order Against A Red Squad," October 1978, P. 1-3 (Kendrick v. Chandler, Civ. No. 76-449 (W.D. Tenn.))
- 6 Andrew D. Gilman, "In Memphis a Compromise on Political Surveillance," *Police Magazine*, March 1979, p. 63

XII. THE LAW ENFORCEMENT INTELLIGENCE UNIT pp. 81-93

- 1 For general background on LEIU, see Charles Marson, "The Law Enforcement Intelligence Unit; A Fact Sheet," *First Principles*, February 1977, pp. 10-11. This report draws on *Criminal Justice Data Banks—1974*, Hearings before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, U.S. Senate, 93rd Cong., 2d Sess. on S. 2542, S. 2810, S. 2963, and S. 2964, March 5, 6, 7, 12, 13 and 14, 1974 (Two Volumes)
- 2 ACLU, et al. v. City of Chicago, et al., 431 F. Supp. 25 (N.D. Ill., 1977). For a discussion of these cases, see Robert C. Howard, "Litigation Against Intelligence Operations of Local Police and Federal Agencies in Chicago," *First Principles*, January 1977, pp. 5-8
- 3 LEIU Report to Members, April 24, 1978, p. 1
- 4 LEIU Constitution and By-Laws, April 7, 1977 Revision
- 5 LEIU Report of Members, April 24, 1978
- 6 *Criminal Justice Data Banks—1974*, Volume 1, p. 474, testimony of Donald H. Carroll; see note 1 above
- 7 LEIU Report to Members, April 24, 1978
- 8 California Department of Justice Proposed Budget, 1978-1979, pp. 47 and 49
- 9 See note 1, above
- 10 LEIU Constitution and Bylaws
- 11 Law Enforcement Assistance Administration (LEAA) Grant Award Document No. 77SS-99-6005, pp. 19-22
- 12 *Ibid.*, p. 21
- 13 IOCI (Interstate Organized Crime Index) Design Requirements, Sec. 3, p. 13, no. 10
- 14 IOCI Design Requirements, September 1977, California Department of Justice Organized Crime and Criminal Intelligence Branch, pp. 6, 9, and 64.
- 15 LEAA Discretionary Grants for the IOCI, to the California Department of Justice: 77SS990006, 73SS993305, 73SS993311, 74SS993309, 75SS996008, and 77SS996005
- 16 Letter from Robert L. Hanson, Chief, Seattle Police Department, to Office of Management and Budget, Executive Department, City of Seattle, December 22, 1977, pp. 1 and 2
- 17 California Department of Justice description of LEIU Program (undated internal memorandum); California Department of Justice proposed Budget, 1979-1980, p. 51
- 18 Michigan House of Representatives, Subcommittee on Privacy, "Report on the Law Enforcement Intelligence Unit," October 11, 1978, pp. 4-5
- 19 Letter from V.L. Bartley, Commander Intelligence section, Seattle Police Department to Stan Carey, Santa Clara Police Department, Northwestern Zone Chairman—LEIU, April 11, 1978
- 20 Associated Press Release, "Ex-Cop Spied on Non-Criminals," *San Francisco Chronicle*, May 15, 1975, p. 4
- 21 "How Crime Data Bank Works," Hayward, California *Daily Review*, May 17, 1975, p. 1
- 22 George O'Toole, *The Private Sector* (New York: Norton, 1978) pp. 127 ff
- 23 See notes 20 and 21 above
- 24 LEIU Hearing Before the Assembly Committee on Criminal Justice, Los Angeles City Assembly, October 26, 1976, pp. 34-35
- 25 *Ibid.*, pp. 55-56

- 26 Campaign for Political Rights (formerly Campaign to Stop Government Spying), September 22, 1978 News Release. Available from the Campaign, 201 Mass Av. NE, Rm. 112, Washington, DC 20002
- 27 Memo from SAC San Francisco to Director, FBI, November 7, 1962
- 28 Address given by Lt. Frank J. Heimoski, LEIU Eastern Regional Conference, Chicago, November 1, 1963, pp. 1-5. See also, *Report of the Host Committee*, Eastern Zone Regional Conference, November 2, 1963, pp. 10-11
- 29 LEIU Tenth Annual Conference, April 22-24, 1965, Las Vegas, Nevada (this document constitutes the official minutes of the Conference, prepared by LEIU)
- 30 Memo, SAC Las Vegas, to Director, FBI, May 3, 1965
- 31 Memo, SAC Tampa, to Director, FBI, November 17, 1964
- 32 Memo, SAC Detroit, to Director, FBI, Attention Training Division, May 2, 1966
- 33 Memo, SAC San Francisco, to Director, FBI, December 21, 1968
- 34 Official Agenda, LEIU Central and Eastern Zone Conference, Bar Harbor, Florida, October 2-5, 1968
- 35 Official Agenda, Fourteenth Annual LEIU Conference, Palm Springs, California, April 16-18, 1969
- 36 Memo, SAC Los Angeles, to Director FBI, May 5, 1969
- 37 Airtel, From SAC Phoenix to Director, FBI, May 24, 1970
- 38 Official Agenda, LEIU Conference, September 15 to 18, 1971
- 39 FBI Memo from W.R. Wannall to E.F. Miller, January 9, 1974
- 40 FBI Memo from Daniel M. Armstrong, III, to Mr. L. Patrick Gray, III., Acting Director, June 12, 1972
- 41 FBI Memo, From M.A. Jones to Mr. DeLoach, July 27, 1962
- 42 FBI Memo from J. Casper to Mr. Mohr, July 12, 1966; SAC Letter No. 66-42, from Director, FBI, July 13, 1966; Memo from J. Casper, to Mr. Mohr, November 2, 1966
- 43 California Legislative Analysts Report, 1973 and 1976
- 44 ACLU v. *Rutherford*, No. 78-401-46, E.D. Mich., complaint filed Dec. 1, 1978
- 45 Michigan Congress *House Bill No. 67-38*, introduced by Mary Brown (D-Kalamazoo)

OTHER INVESTIGATIONS OF LEIU pp. 94, 95

- 1 See p. 108 of this report. Available information indicates that LEAA funding went to IOCI, not directly to LEIU
- 2 Report on the Law Enforcement Intelligence Unit by the Subcommittee on Privacy of the (Michigan) House Civil Rights Committee, 10/11/78, p. 6

XIII. COLLUSION AMONG GOVERNMENT AND PRIVATE ORGANIZATIONS pp. 96-107

- 1 George O'Toole, *The Private Sector*, W.W. Norton and Company, Inc. New York, 1978, pp. 118-150
- 2 *Ibid.*, p. 48
- 3 *Ibid.*, p. 125, 126
- 4 *Ibid.*, p. 144, note
- 5 Report on the Mississippi State Sovereignty Commission, 1964-67, leaked to press in 1967; p. 7
- 6 In a reported FBI ambush of the KKK in Mississippi, bribery and violent entrapment were this time used against a right wing group. These tactics were publicly protested by AFSC and ACLU. (AFSC news release 4/7/70)
- 7 Complaint, ACLU v. City of Chicago, 1975, p. 22
- 8 For detailed descriptions of the computer networks, see: Hearings Before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, U.S. Senate, *Criminal Justice Data Banks*, 1974, Volume I, pp. 9-46 and Volume II, pp. 676-711
- 9 Bill Wallace, "The Intelligence Laundry," *The Nation*, 5/6/78
- 10 *The Private Sector*, pp. 218-220

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Errata

Inside front cover: address for Mississippi Surveillance Project is P.O. Box 3568.

P. 4, last para., line 1: date is 1977.

P. 39, para. 3, last sentence: "They contacted the president of..."

P. 46, para. 1, last sentence: "...a report from Fenc1's unit..."

P. 59, 6th line from bottom: "see p. 10."

P. 61, para. 2, line 1: date is July 2.

P. 77, para. 1, sentence 2: "The other suit was filed in 1974 by the Alliance to End Repression and 31 other individuals and organizations. After the lawsuit was filed, the Alliance learned that it had been infiltrated by members of the Chicago Police Department."

P. 87, line 1: "Committee on Criminal Justice Hearing..."

P. 90, para. 2, sentence 3: Richard Velde

P. 95, line 3: "pp. 31-32"

P. 106, para. 3: numerals denoting notes should be 9 and 10.

P. 148, caption II: "REBELLIONS AND REPRESSIONS OF THE SIXTIES"

P. 152, Note 24: "LEIU Hearing Before the California State Assembly Committee on Criminal Justice..."

P. 153, OTHER INVESTIGATIONS OF LEIU, Note 1: "See p. 85 of this report."

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