

File #:

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62-116395-1474

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Original 2/3/76

The Attorney General

U. S. SENATE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES
(SSC)

Re SSC let 1/7/76 reqst certain materials from
FBI. Enclosed for ur approval & forwarding to SSC
is original of memo which constitutes Bu response
to reqst for material set forth in paragraphs two
of let. 3 copy of this memo is being furnished
for ur records, along with set of materials to be
delivered to SSC with memo.

62-116395-1474

ENC 2
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original 2/3/76

The Attorney General

U. S. SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES (SSC)

Re SSC let 1/7/76 request certain materials from FBI. Enclosed for your approval & forwarding to SSC is original of memo which constitutes BA response to request for material set forth in paragraph two of said let. A copy of this memo is being furnished for your records, along with set of materials to be delivered to SSC with memo.

SSC request 1/7/76
re changing of Section 87, MOI

Retain for file

1474

UNITED STATES GOVERNMENT

Memorandum

Tolson	_____
Sullivan	_____
Mohr	_____
Bishop	_____
Brennan, C.D.	_____
Callahan	_____
Casper	_____
Conrad	_____
Dalbey	_____
Felt	_____
Gale	_____
Rosen	_____
Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

3/18/71

date not received

TO : Mr. C. D. Brennan

DATE: 3/18/71

FROM : R. D. Cotter *rcotter Security jurisdiction*

SUBJECT: DEPARTMENT OF JUSTICE GUIDELINES ON INTELLIGENCE GATHERING ACTIVITIES

Article in the New York "Daily News," attached, reported that a top Justice Department official had admitted that FBI Agents follow no "specific, published, or regular guidelines when they spy on civilians they suspect of being trouble makers." This refers to inquiries being conducted by the Senate Constitutional Rights Subcommittee. The article further reports that "the gathering of intelligence on civilians" was turned over to the Justice Department, particularly the FBI, following revelations that the Army had "overstepped its bounds" in gathering intelligence on civilians. It is further reported that Senator Ted Kennedy was told that the FBI did not have any specific regular guidelines to follow, only "some internal working papers." Kennedy then told a Justice representative that Justice efforts fall short in protecting the rights and liberties of the American people.

The Director inquired "What about this? H."

In the first place, FBI Agents do follow specific published guidelines in conducting investigations. Our investigations are based on Executive Orders issued by the President and on specific statutes passed by Congress. We do not conduct random "spying" on civilians. As a matter of fact, our investigations are controlled to insure we do not invade the constitutional rights of citizens. For example, in the field of technical surveillances no installation of technical devices can be made until approved by the Attorney General. We neither investigate nor report on legitimate activities of any group.

what are they? 2/19

Enclosure
BAW:ekn
(13)

REC-27 62-607-7-1811

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to any other personnel without the express approval of the FBI.

- 1 - Mr. W. C. Sullivan
- 1 - Mr. J. P. Mohr
- 1 - Mr. Bishop
- 1 - Mr. Rosen
- 1 - Mr. Gale
- 1 - Mr. Dalbey

- 1 - Mr. C. D. Brennan
- 1 - Mr. Shackelford
- 1 - Mr. G. C. Moore
- 1 - Mr. Gray
- 1 - Mr. R. D. Cotter
- 1 - Mr. Wells

5-D

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CONTINUED - OVER

ORIGINAL COPY FILED IN

Memorandum to Mr. C. D. Brennan
RE: DEPARTMENT OF JUSTICE GUIDELINES
ON INTELLIGENCE GATHERING ACTIVITIES

Concerning the allegation that the FBI assumed Army's "function" of "spying on civilians," this is not true. You will recall that the military received wide criticism for their activities in investigating and compiling files on civilians. As a result, the Defense Department sharply curtailed military intelligence gathering activities. This did not increase the Bureau's responsibilities or activities. We assumed no Army function. As set out above, our responsibilities are based on Executive Orders and statutes.

While it is true that the Department of Justice does not furnish specific published general guidelines to the Bureau, it is also true that the Department does review this Bureau's work. In all cases information developed by our investigations is furnished to the Department for its consideration as to violation of Federal statutes and possible prosecution.

Senator Kennedy's statement shows his animosity to the Bureau. It implies that the Bureau is "violating the civil rights of the American people." This, of course, is utterly without foundation.

ACTION:

For information.

[Handwritten initials: B, JAB, W, W, WPS]

- Tolson _____
- Sullivan _____
- Mohr _____
- Bishop _____
- DeLoach _____
- Callahan _____
- Casper _____
- Conrad _____
- Malone _____
- Rosen _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

*** Special FBI's
Snoops Carry
No Guidelines**

BY FRANK VAN RIPER

Washington, March 17 (News Bureau) — A top Justice Department official admitted today that FBI agents follow no "specific, published, or regular guidelines" when they spy on civilians they suspect of being troublemakers.

This disclosure from Robert Mardian, assistant attorney general for internal security, brought a series of angry charges from Sens. Sam J. Ervin (D-N.C.) and Edward M. Kennedy (D-Mass.).

Mardian appeared before Ervin's constitutional rights subcommittee along with William H. Rehnquist, assistant attorney general in the Justice Department's office of legal counsel. Mardian was questioned sharply about the procedures followed by the department to gather intelligence on civilians. That function has been handed over to the Justice Department—the FBI in particular—following revelations that the government's previous civilian snoopers, Army intelligence, allegedly overstepping its bounds in putting together dossiers on suspected troublemakers.

Rehnquist, who during his last appearance before Ervin's panel maintained that the government has the right to spy on anybody it wants to whenever it wants to, conceded that some spying by government agents was "reprehensible" and "illgitimate."

"But I don't think it violates constitutional rights," Rehnquist said.

Ervin Disagrees

Ervin, generally acknowledged by his Senate colleagues as an expert on constitutional law, didn't agree.

"There isn't a syllable (in the Constitution) that gives the government the right to spy on civilians," he said, proceeding to give Rehnquist a lecture he apparently had been saving since the official's last appearance.

"If I understand your position, the Government could put a tail on me, follow me everywhere I went and would have no legal remedy," Ervin said.

"I don't think the President has the power to use the military to perform the function of a national police force," Ervin went on, alluding to previous testimony from former Army intelligence agents that they spied on hundreds of individuals including public figures like then-senatorial candidate Adlai Stevenson 3d.

Kennedy questioned Mardian on how the Justice Department hoped to avoid the "abuses" attributed to the Army now that it has the responsibility of keeping tabs on civilians.

When Kennedy was told that the FBI did not have any "specific, published, regular guidelines" to follow — only "some internal working papers" and "the same judgmental factors of any reasonable human being," the Senator declared:

"It appears you are just washing your hands of any responsibility for the surveillance that has taken place in the Justice Department . . . your efforts fall woefully short in protecting the rights and liberties which the American people believe are theirs."



Sen. Sam Ervin Sen. Edward Kennedy
Question Justice aide on spying

[Handwritten signature]

What about this?

- The Washington Post _____
- Times Herald _____
- The Washington Daily News _____
- The Evening Star (Washington) _____
- The Sunday Star (Washington) _____
- Daily News (New York) FE
- Sunday News (New York) _____
- New York Post _____
- The New York Times _____
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date Mar 18 1971

[Stamp: COMMUNICATIONS SECTION]

REC-21 67-467-1819

UNITED STATES GOVERNMENT

Memorandum

- 1 - Mr. W. C. Sullivan
- 1 - Mr. J. P. Mohr
- 1 - Mr. T. E. Bishop

- Tolson _____
- Sullivan _____
- Mohr _____
- Bishop _____
- Brennan, C.D. _____
- Callahan _____
- Casper _____
- Conrad _____
- Dalbey _____
- Felt _____
- Gale _____
- Rosen _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

TO : Mr. C. D. Brennan

DATE: March 20, 1970

FROM : Mr. R. D. Cotter

- 1 - Mr. A. Rosen
- 1 - Mr. Gale
- 1 - Mr. Dalbey
- 1 - Mr. Brennan

SUBJECT: GUIDELINES FOR FBI INVESTIGATIONS

- 1 - Mr. Shackelford
- 1 - Mr. G.C. Moore

My memorandum 3/18/71 stated that FBI Agents follow specific published guidelines in conducting investigations. Mr. Tolson inquired "What are they?"

Guidelines in conducting investigations are furnished to the field in the "Manual of Instructions," the "F.B.I. Handbook," and in letters to All Special Agents in Charge. In addition, guidance is also given the field in Bureau communications on specific cases.

The "Manual of Instructions" sets out specific guidelines for all matters investigated by the Bureau. For example, Section 122 covers investigation of racial matters, including the investigation of Klan and white hate groups. Section 87 furnishes specific guidelines for the security investigation of groups and individuals. In addition to setting out desired investigation on these matters, the "Manual of Instructions," also sets out restrictions on investigations. For example, in regard to white hate groups and Klan matters it is specifically pointed out that extreme care must be exercised to insure that no investigation is conducted of groups or individuals who merely support unpopular causes and that no investigation must be conducted which will infringe on the Constitutional freedoms of speech, press or assembly. Investigation is confined to organizations and individuals actually or allegedly using force or violence to deny others their Constitutional rights.

Security investigations contain many restrictions. For example, sources and informants connected with an institution of learning cannot be contacted on campus. Bureau authority is required prior to developing such sources. Photographic surveillances in security matters must receive Bureau approval.

1 - Mr. A. W. Gray

1 - Mr. R. D. Cotter

1 - Mr. Wells

BAW:as

REC-21

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Memorandum to Mr. C. D. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

Bureau authority is necessary prior to investigating communist infiltration of a political organization. In the case of the investigation of communist infiltration of a labor union, the instructions clearly point out that the Bureau is not interested in legitimate union activities.

Our instructions also contain numerous other restrictions to protect the rights of individuals. For example, no technical surveillance can be instituted without Bureau authority; Agents cannot engage in improper, illegal, or unethical tactics in developing information; Agents cannot misuse their credentials; Agents cannot visit trials or other court hearings merely for the purpose of satisfying personal curiosity; when testifying as a witness, Agents are instructed to testify clearly or without bias or exaggeration; critical complaints concerning Bureau personnel must be thoroughly investigated; and personnel cannot engage in any conduct prejudicial to the Government.

ACTION:

For information.

[Handwritten initials]

WCF ✓

[Handwritten initials]

WBS

JAM

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. C. D. Brennan

FROM : R. D. Cotter *rdcot*

SUBJECT: GUIDELINES FOR FBI INVESTIGATIONS

- 1 - Mr. W.C. Sullivan
- 1 - Mr. Mohr
- 1 - Mr. Bishop

DATE: 3/25/71

- 1 - Mr. Rosen
- 1 - Mr. Gale
- 1 - Mr. Dalbey
- 1 - Mr. C.D. Brennan
- 1 - Mr. Shackelford
- 1 - Mr. G.C. Moore
- 1 - Mr. Branigan
- 1 - Mr. Wannall
- 1 - Mr. Gray
- 1 - Mr. Cotter
- 1 - Mr. Wells

- Tolson _____
- Sullivan _____
- Mohr _____
- Bishop _____
- Brennan, C.D. _____
- Callahan _____
- Casper _____
- Conrad _____
- Dalbey *DLB*
- Felt _____
- Gale _____
- Rosen _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

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103-00
100-10
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112-9
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Security, Jurisdiction

The Director has requested a memorandum concerning guidelines for FBI investigations and, as noted on attached article from "The Washington Post," has stated we must get together all our guidelines.

Guidelines in conducting investigations are furnished to the field in a "Manual of Instructions," the "F.B.I. Handbook," and in Letters to all Special Agents in Charge. In addition, guidance is also given to the field in Bureau communications on specific cases. The Bureau's jurisdiction to conduct investigations arises from statutes and presidential directives.

There are attached memoranda from the Domestic Intelligence Division, the Special Investigative Division and the General Investigative Division setting out specific guidelines under which investigations are conducted by those Divisions. It should be noted that our guidelines on the conducting of investigations in addition to setting out the investigation desired in each matter also contains restrictions to insure that we do not violate the constitutional rights of any individual and to prevent investigations from becoming "fishing expeditions."

For example, in security investigations, no investigation is conducted merely because an individual or group supports an unpopular cause. Bureau authority is required prior to conducting a photographic surveillance, prior to investigating the communist infiltration of a political organization, and prior to developing sources connected with an institution of learning. Sources connected with an institution of learning cannot be contacted on the campus and individuals under the age of 18 cannot be developed as sources. We do not investigate ambassadors or heads of permanent

Enclosures

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REC 70

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ENCLOSURE

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Memo to Mr. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

missions to the United Nations. Department of State clearance and Bureau authority are necessary prior to the investigation of officials and diplomatic representatives of foreign countries. No surveillances are conducted at the White House, the Capitol, the Supreme Court, or the House and Senate Office Buildings. Our investigation of black nationalist groups and individuals is limited to those who take an extremist anti-U.S. Government position and whose activities have or may involve them in disturbances or subversive activities. We do not investigate individuals on the basis of their membership in organizations which do not advocate the use of force.

Concerning criminal intelligence and organized crime matters, investigations are conducted to develop and maintain current intelligence on the activities of organized crime and the development of substantive cases against individual racket figures. These investigations are highly selective and are concentrated on the leaders of organized crime and their associates. Close supervision is afforded. The use of court-approved electronic surveillances requires the approval of the Director and the Attorney General (AG) and the ultimate authorization by court order.

In the matter of applicant investigations, specific guidelines have been developed to protect the rights of individuals. Favorable information concerning an individual must be obtained, as well as unfavorable; investigation is limited to checks of pertinent records and interviews of individuals in a position to furnish relevant information; persons furnishing derogatory information are requested to furnish a signed statement; we make no evaluation or recommendation concerning the applicant.

Our investigative jurisdiction in criminal cases is based on specific violations of Federal laws. Investigations are conducted when information is received indicating a violation of a Federal law within our investigative jurisdiction has occurred. The results of our investigations are submitted to the United States Attorneys or the Department of Justice to determine whether prosecutive action is justified. The course of prosecutive action is determined by the United States Attorney or the Department of Justice. A decision may be made to present the case to a Federal grand jury or whether the facts justify the arrest of the subject. When the subject is arrested it is on the basis of authorized prosecution and the issuance of a warrant. When the subject is arrested he is brought before the nearest Commissioner or Magistrate or Federal Judge in accordance with established rules of Federal criminal procedure and the law.

Memo to Mr. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

Requests for FBI investigation in selected civil matters also are received from the Department and/or the United States Attorneys in cases in which the United States is a party in interest and are handled in accordance with guidelines furnished by the Department. Civil rights, election laws, and antiriot law investigations are handled in strict conformity with detailed guidelines furnished by the Department.

In addition to these, our guidelines contain numerous other restrictions which apply to all phases of our work. For example, no technical surveillance is instituted without Bureau and Departmental authority; Agents cannot engage in improper or unethical tactics; Agents must testify in court clearly and without bias and critical complaints concerning Bureau personnel must be thoroughly investigated.

Authority to arrest fugitives is statutory. U. S. Code empowers Agents to make arrests and carry firearms and the Bureau's policy is to only use that force which is absolutely necessary to affect the arrest of the person to be arrested and show due regard for the safety of the arresting officers and bystanders. Our guidelines are that Agents are not to shoot any person except for the purpose of self defense.

ACTION:

For information.

JLJ *e* *WEL* ✓ *AD5*
MBW *CB* *WSS*

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ENCLOSURE

63-106727-1816

RACIAL MATTERS

Guidelines for these investigations are set forth in Section 122 of the Manual of Instructions. This Section sets out guidelines for investigation of klan and white hate groups and individuals, the developing of intelligence concerning racial developments and disorders, and the investigation of black nationalist organizations.

Concerning the investigation of klan and white hate group matters, investigation is limited to groups and individuals who have adopted the policy or have actually or allegedly conspired or committed acts of violence to deny others their constitutional rights. We specifically point out that investigation is not to be conducted merely because a group or an individual supports unpopular causes. Officials at or above the state level of these groups cannot be interviewed without Bureau authority. Individuals employed in the news media, educational, or the radio or television industry cannot be interviewed without Bureau authority.

Our investigation of black nationalist groups and **individuals** is limited to those individuals and organizations that take an extremist anti-United States Government position and whose activities have or may involve them in disturbances and/or subversive activities. Bureau authority must be obtained prior to interviews of leaders of such groups or of individuals who are connected with civil rights organizations, educational institutions, news media, and religious groups. Bureau authority is also required prior to interview with individuals affiliated with foreign powers. Instructions in Section 87 of the Manual of Instructions dealing with the investigation of subversive organizations and individuals are also followed in these investigations.

Information does not pertain to Section 87, MOI.

DEVELOPMENT OF INFORMANTS

Development of informants in security matters is handled under Section 107 of the Manual of Instructions. Development of racial informants and sources is handled under Section 130 of the Manual of Instructions.

A discreet background inquiry is made on individuals being developed as informants. All informants are advised that they are not Bureau employees and that their assistance is strictly voluntary. It is also stressed that the informant's relationship with the Bureau is to be kept confidential. If the informant is connected with a labor union, it is stressed that the Bureau is not interested in legitimate union activities and he is not to report on them. Informants who are connected with institutions of learning, such as students, are not contacted on the campus. Individuals under the age of 18 are not developed as security informants. In addition, each informant must be approved by the Bureau.

Information does not pertain to Section 87, MOI.

INTERNAL SECURITY - NATIONALISTIC TENDENCY

Guidelines for these investigations are set out in Section 105 of the Manual of Instructions. Basically, these investigations concern foreign intelligence matters, including Soviets and Cubans. Investigations are initiated when information is received indicating subversive or intelligence activity in the United States on the part of an individual or an organization having definite foreign interests or connections.

Our guidelines provide that ambassadors and the heads of permanent missions to the United Nations are not to be investigated. Bureau authority is required to interview any individual who is employed in the news media, entertainment or religious field; is a Federal, state or local official; a labor leader; connected with a foreign government establishment, has diplomatic status, or is employed by the United Nations or other international organizations; or is employed by an institution of learning.

In addition, Department of State clearance and Bureau authority is necessary prior to interview of a diplomatic courier or the active investigation of officials and diplomatic representatives of foreign countries. Interview of students from communist countries is prohibited without Bureau authority.

Investigation is not initiated concerning contacts with communist officials if the person doing the contacting is a member of Congress or the Supreme Court, is an official representative of other countries or is a student of the high school or below level. No physical surveillances may be conducted at the White House, the Capitol, the Supreme Court, or the House and Senate Office Buildings without specific authority from the Bureau.

Information does not pertain to Section 87, M.I.

