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HOUSE OF REPRESENTATIVES

HEARINGS

BEFORE THE COMMITTEE

ON

SELECT COMMITTEE ON INTELLIGENCE

Staff Interview

Wednesday, November 5, 1975

Washington, D. C.

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Official Reporters to Committees

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STAFF INTERVIEW

Wednesday, November 5, 1975

House of Representatives
Select Committee on Intelligence,
Washington, D. C.

The staff interview began at 2:00 o'clock p.m., in Room
B-316, Rayburn House Office Building,

Present: James Oliphant, John Atkisson, and Richard
Vermeire, Committee Counsel.

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1 Mr. Field. Do you solemnly swear the testimony you
2 are about to give to the House Select Committee on Intelligence
3 will be the truth, the whole truth, so help you God?

4 Mr. Wannall. Yes.

5 Mr. Ryan. Yes.

6 Mr. Shackelford. Yes.

7 TESTIMONY OF W. RAYMOND WANNALL, ASSISTANT DIRECTOR,
8 INTELLIGENCE DIVISION, FBI; DAVID RYAN, SUPERVISOR,
9 INTELLIGENCE DIVISION, FBI, AND ROBERT L. SHACKELFORD,
10 SECTION CHIEF, INTELLIGENCE DIVISION, FBI

11 Mr. Field. Will you please state your names?

12 Mr. Wannall. W. Raymond Wannall, Assistant Director,
13 Intelligence Division, FBI.

14 Mr. Ryan. David Ryan, Supervisor, Intelligence
15 Division, FBI.

16 Mr. Shackelford, Robert L. Shackelford, Section
17 Chief, Intelligence Division, FBI.

18 Mr. Wannall. May I ask if this will be a classified
19 hearing?

20 Mr. Oliphant. The information will be classified and
21 will not be released publicly without a vote of the
22 committee.

23 The Bureau will have a chance to take a look at the
24 testimony that comes in. If there is something that you
25 feel should be classified, not released, certainly you

1 will be given an opportunity to make your feelings known.
2 There is a procedure worked out where if there is
3 severe breakdown in communications or at least on getting
4 together on what is or what is not classified, that will be
5 submitted all the way up to the President.

6 Mr. Wannall. Thank you. I appreciate that.

7 Mr. Vermeire. I will start the questioning off.

8 I will address my first questions to Mr. Wannall.

9 Mr. Wannall, is there now or has there ever been any elec-
10 tronic surveillance of Congressmen?

11 Mr. Wannall. There has never, to my knowledge, been in
12 the national security area, and that is the area in which I
13 do have knowledge, a wiretap of any Members of Congress.

14 Mr. Vermeire. More specifically, do you know of any time
15 there was any wiretap or microphonic surveillance or any
16 electronic surveillance in general ever targeted at a
17 Congressman Cooley?

18 Mr. Wannall. I am aware of the fact that several years
19 ago there was a microphone surveillance in a hotel room
20 in New York City which was occupied, as I recall, by officials
21 of a foreign government, or at least persons connected
22 with a foreign government. Congressman Cooley called at
23 that room and was overheard as a result of that microphone
24 surveillance.

25 Mr. Vermeire. Was this fact ever made known to

1 the Director, who I believe was Mr. Hoover at the time?

2 Mr. Wannall. Yes, it was.

3 Mr. Vermeire. It was made known to him?

4 Mr. Wannall. Yes.

5 Mr. Vermeire. By whom?

6 Mr. Wannall. Not by myself. I was not in a position
7 to do it. I recall seeing memoranda indicating Mr. Hoover
8 was aware of it. I would only be speculating as to who
9 might have sent the memorandum to him. I assume it would have
10 gone through channels, through the Assistant Director, through
11 the Assistant to the Director, the Associate Director,
12 and Mr. Hoover.

13 Mr. Vermeire. Did you have any conversations at any
14 time with respect to this matter with Mr. William Sullivan,
15 formerly with the FBI?

16 Mr. Wannall. Mr. Sullivan was the Assistant Director
17 at the time I think because this had to be sometime in the
18 early '60s. He became Assistant Director, as I recall,
19 about early 1961, so I would certainly have had conversations
20 with him about it.

21 Mr. Vermeire. Do you recall any of the specifics
22 of those conversations?

23 Mr. Wannall. It is difficult to recall specifics.
24 I am certain that discussion was had as to the advisability
25 of putting a microphone coverage on. I cannot recall whether

1 this was in the nature of conversations or memoranda
2 which were submitted by the section with which I was connected
3 at the time.

4 Mr. Vermeire. Do you recall a conversation more
5 specifically to the effect that--to Mr. Sullivan--that you had
6 advised Mr. Hoover incorrectly that no electronic surveillance
7 was done on any Congressman and the name of Congressman
8 Cooley came to your mind and you were concerned about Mr.
9 Hoover not having correct information at his command?

10 Do you recall any conversation to that effect?

11 Mr. Wannall. Yes, I not only recall the conversation,
12 if I'm not mistaken, sometime in the late '60s a memorandum
13 was prepared, or perhaps two, in connection with that.

14 At the time there were charges, I think, being made by a
15 Member of Congress regarding wire taps made extensively
16 of members of Congress. Mr. Hoover made a statement to the
17 effect there had never been any electronic surveillances,
18 which is a broader term than wiretap. I recalled not having
19 called it to Mr. Hoover's attention. I didn't personally
20 do that. I think I probably called it to Mr. Sullivan's
21 attention at the time.

22 Mr. Vermeire. Did you at any time ever call it to
23 Mr. Hoover's attention after talking to Mr. Sullivan?

24 Mr. Wannall. Personally, ~~no~~, sir.

25 Mr. Vermeire. You say there was a memorandum. Did

1 the memorandum you are speaking of refer specifically
2 to your conversations with Mr. Sullivan in this respect
3 or is the memorandum referring to electronic surveillance
4 of Congressmen in general?

5 Mr. Wannall. The memorandum I am referring to, and
6 I think there were two, I think I perhaps participated in
7 preparing one and another was prepared by someone working under
8 me.

9 It related to the fact that there has been an overhearing
10 of Congressman Cooley as a result of a microphone surveillance.
11 Just what triggered that, I cannot recall. I probably
12 could if I could review my files and refresh my recollection
13 about it.

14 Mr. Vermeire. That is all I have in that area. Do
15 you want to ask any questions with regard to that? I
16 can continue on another line of questioning unless you
17 have something you want to ask him.

18 Mr. Oliphant. Not with regard to that specific area,
19 no.

20 Mr. Vermeire. This will again be directed to Mr.
21 Wannall. Mr. Wannall is there now within the FBI any
22 procedure for describing or delineating subversive organiza-
23 tions or what organizations may be termed subversive or
24 is there any expertise, if you will, within the
25 FBI at this time for determining what particular organizations

1 or persons might be considered subversive?

2 Mr. Wannall. We have guidelines in the form of manual
3 sections. I think the sections have been made available to the
4 committee staff, Section 87 of our Manual of Instructions,
5 Section 122 of our Manual of Instructions. I think those
6 guidelines are the basis on which determinations are made.

7 If determinations are originated in the field with
8 respect to an organization, for example, the field will
9 submit what is called a characterization writeup. That must
10 come into Headquarters. It must be approved for utilization
11 in documenting an organization if it is referred to in
12 a subsequent investigative report.

13 Mr. Vermeire. With what frequency are these evaluations
14 updated?

15 Mr. Wannall. They must be reviewed once a year.

16 The instructions are: If the structure and/or
17 character, of the organization undergoes any significant
18 changes in the interim, they must be updated at that time.

19 Mr. Vermeire. What persons within the FBI would have
20 charge of updating this?

21 Whose responsibility would this be?

22 Mr. Wannall, the responsibility originally rests
23 on the field. However, each of the characterizations is
24 reviewed at Headquarters and a tickler is maintained at
25 Headquarters to assure that at least once every year

1 all characterizations are approved and approval granted
2 at Headquarters.

3 Mr. Vermeire. What I was driving at is not the characteriza-
4 tions of whether X organization meets the criteria for a
5 subversive organization; what I was aiming at is who at
6 Headquarters, if anyone, reviews more or less the principles
7 or the ideology behind various theories of whether an
8 organization is subversive or not. In other words, do you
9 still follow principles or theories as to whether an organiza-
10 tion is a subversive one which, say, were propounded back
11 in 1940 or are you continually revising your own information
12 in this area, your own education, if you will?

13 Mr. Wannall. Well, our characterizations are not
14 based on any ideology or philosophy. ^{The FBI} It is based on the nature
15 of the activities in which the members are engaged.

16 Our characterizations, therefore, are based upon
17 investigative results as opposed to ideologies.

18 Mr. Vermeire. What kind of activities, for example,
19 would fit that criteria?

20 Mr. Wannall. You always have a judgment situation.
21 I can give you some theoretical ideas. If we should be
22 investigating an organization and determine that it is
23 stockpiling weapons and at the same ^{time} time it is advocating
24 overthrow by violence of the government, the advocacy would
25 only be relative insofar as bearing upon the activities.

1 Stockpiling weapons is indicative in my mind of an
2 activity on the part of a group leading toward attaining a
3 pronounced objective.

4 Mr. Atkisson. May I interject a question? Are you
5 saying that advocacy alone of anything is not sufficient
6 grounds for classifying a group as subversive?

7 Mr. Wannall. I am saying that without reservation.

8 Mr. Ryan. Could I add to Mr. Wannall's comment?
9 A very important consideration is evidence of foreign
10 influence or control or funding.

11 Mr. Vermeire. The committee is very concerned with the
12 FBI's classification of various things having to do with
13 national security. What would your definition of a national
14 security interest be?

15 Mr. Wannall. The definition of national security to
16 my knowledge has never been put down anywhere so I can only
17 give you my concept within the framework you are speaking
18 of, our domestic operations.

19 Mr. Vermeire. Yes.

20 Mr. Wannall. Activities which, if uninterrupted, could
21 lead to the overthrow of the government or violation of
22 statutes relating to that type of activity.

23 For example, our principal statutory basis, and we
24 do have all of our investigations based on statutes, would be
25 under the Criminal Code, Title XVIII, Section 2383, which

1 relates to rebellion and insurrection, 2384, which
2 relates to seditious conspiracy; and 2385, the Smith Act,
3 which relates to advocating the overthrow of the government
4 by unlawful means.

5 However, case law has certainly affected the terms used
6 in the Smith Act, and we must, of course, take into account
7 such decisions as in Brandenburg versus Ohio, where the
8 state law on criminal syndicalism was declared to be
9 unconstitutional because it related only to advocacy. But
10 we are basing it on the statutes and take cognizance of
11 the ^{CASE LAW,} ~~statutes.~~

12 Mr. Vermeire. What command and control within the FBI makes
13 the determination that something is in the interest of
14 national security?

15 Who would make that determination presently?

16 Mr. Wannall. We are getting into the area of classifying
17 information. Is this what you mean by that?

18 I am trying to fix on the question.

19 Mr. Vermeire. In the respect that something is
20 classified in the national security interests, obviously, yes,
21 I'm dealing with classifications.

22 I don't want to go beyond that particular aspect of it,
23 though.

24 Mr. Wannall. We, of course, are guided by the

25 Executive Order on classification. We have a certain number

1 of individuals who are authorized to classify. If a
2 document is classified for national security purposes, a
3 classification officer must pass upon it.

4 Mr. Vermeire. How many such classification officers
5 are there now within the FBI?

6 Mr. Wannall. I can get you the precise figure.
7 Perhaps I can more readily describe who might be a classifying
8 officer. Within our division I would have classification
9 authority. My deputy assistant directors would have classifi-
10 cation authority and the section chiefs in the operational
11 sections would have classification authority.

12 Bob, are there any others?

13 Mr. Shackelford. Yes, the unit chiefs in certain
14 sections where they handle a lot of classified work have
15 some classification authority, only in certain sections,
16 though.

17 Mr. Vermeire. I know this next question is a little
18 beyond your bailiwick, but would that same principle hold
19 for sections and units within the other divisions?

20 Mr. Shackelford. No.

21 Mr. Vermeire. That is just within the Intelligence
22 Division?

23 Mr. Shackelford. As far as I am aware, because we
24 handle the bulk of the classified information.

25 It is based on a need. The general criminal division,

1 for example, handles little, if any, classified information.
2 I don't know for sure. They may have maybe one man who can
3 classify documents. I can't say positively, I'm not
4 sure.

5 Mr. Vermeire. Is the judgment as to classification
6 made by anyone other than yourself reviewed by anyone else?

7 Mr. Wannall. Every classified document that goes out
8 of the Bureau in the form of a piece of signature mail has to
9 go through channels above the level of the Assistant Director.
10 His initialing a letter would certainly indicate that he
11 also agrees with the classification assigned to it.

12 Not every document goes through such channels.

13 Mr. Vermeire. Does the occasion ever arise that
14 a determination or decision by someone that, anyone
15 who has the power to make a decision obviously, that something
16 is classified as national security, is that ever refuted
17 by anybody?

18 Mr. Wannall. Frequently, yes, because the classification
19 authority must rest also in some of our field offices.
20 The material that is reviewed at Headquarters is reviewed
21 not only from the standpoint of its substance, but also
22 from the standpoint of its classification. There are many
23 occasions where the classification is overruled. We do not
24 consider, really, a document classified until it is to be
25 disseminated, the ultimate classification. When the

1 document is disseminated, the person who makes that
2 dissemination makes the ultimate final determination on
3 any classification.

4 Mr. Vermeire. So there is authority within the field
5 office level for classification?

6 Mr. Wannall. That is right.

7 Mr. Vermeire. Who does that rest with in each particular
8 field office?

9 Mr. Wannall. I would anticipate that each SAC would have
10 authority, but I'm not certain. For the most part it is
11 with the supervisors of those squads handling work related
12 to it.

13 By the way, I might add that we are required to furnish
14 a complete list of our classification officers, and
15 keep it updated, to the Department of Justice which has
16 a Classification Review Committee. The function of that
17 committee principally is to make the ultimate determination
18 on classification if a document is to be released in
19 connection with an FOIA request, in connection with pending
20 litigation. So there is an ultimate authority vested in a
21 committee that functions directly under the Attorney General
22 within the Department of Justice.

23 The FBI has one member on that committee and his title
24 is Document Classification Officer of the FBI. He functions
25 within our Inspection Division.

1 Mr. Vermeire. My next question is really a definitional
2 one because many times we get into semantical problems
3 with the Bureau and what you mean and what we think you mean.

4 Do you equate internal security with national
5 security?

6 Mr. Wannall. No, I don't. I think there are phases
7 of internal security which have a bearing on national
8 security. But I don't call domestic intelligence the same
9 as foreign counterintelligence.

10 Mr. Vermeire. Many of these questions I know you may
11 have covered in briefings with us or may have been answered
12 in documents you sent to us. But obviously now we are on
13 the record and I want to put it on the record. So excuse
14 it if you feel it is repetitious. It may be, but I am
15 sure you understand the reasons for it.

16 Mr. Oliphant. Let me ask you this: Within the
17 Internal Security Division, or the Internal Security
18 Investigations certain groups are designated as subversive,
19 is that correct?

20 Shall I say classified, or designated? What would
21 be your terminology?

22 Mr. Wannall. Well, I hesitate because I don't think we
23 ever attach labels as such.

24 Mr. Oliphant. What criteria are exercised before
25 an investigation of a group is undertaken?

1 Mr. Wannall. The criteria are in the manual. If the
2 activities of the group fit within that criteria, that is a
3 basis for an active investigation.

4 Mr. Oliphant. Understanding that you are referring
5 to the manual, could you just on the record give us a
6 synopsis of what that criteria would be?

7 Mr. Hackelford. Do you mean a synopsis of 87?

8 Mr. Oliphant. A synopsis of the criteria you would need
9 before you opened an internal security investigation on a
10 group.

11 Mr. Wannall. 87 is a long thing. Let's see if I can
12 satisfy your question.

13 Our manual sets forth that the FBI investigations ^{ES} violate ^{OUS}
14 certain statutes and conducts investigations under orders
15 of the Attorney General. It then cites the principal statutes
16 which relate to our internal security operations. I have
17 referred to three of them before. There are others.

18 The Internal Security Act of 1950 could come into play,
19 sabotage, espionage, protection of foreign officials.
20 We could furnish a listing of statutes if you would like
21 to have that.

22 Mr. Oliphant. I understand.

23 Mr. Wannall. We do then cite statutes as a predication
24 for any investigation in our internal security field.

25 The manual then instructs that if information is received

1 or developed indicating a group is engaging in activities
2 which, if uninterrupted, could lead to a violation of that
3 statute, that is a basis for investigating the group.

4 Mr. Oliphant. All right, Mr. Wannall.

5 My question to you is: Who within the FBI is tasked with
6 designating which groups fit that criteria?

7 Who is designated with looking at the allegations,
8 looking at the substance of the intelligence developed,
9 to see whether these groups merit a continuing investigation?

10 Mr. Wannall. In the field, if an allegation is received
11 indicating the group may be subject to investigation, pro-
12 vision is made in the manual for a preliminary inquiry which
13 is limited to checks of indices, checks with established
14 sources, informants; in other words, a gathering of information
15 available through already established sources or records.

16 It precludes any active investigation in the sense
17 that you go out and ask questions, in the sense that you
18 try to target an informant against the group, in the
19 sense that it would be considered for any active investigative
20 technique. Within a 90-day period, if the field determines
21 through preliminary checks that there is no basis to the
22 allegation, the authority not to investigate rests with the
23 field. It makes the determination. It closes the matter and
24 there is not necessarily any record at Headquarters.

25 If a determination is made that it is felt that there

1 is a basis for an on-going investigation, the entire results
2 must be furnished to Headquarters with a recommendation
3 that an on-going or active investigation be instituted.

4 A determination is then made at the headquarters level
5 as to whether an investigation should be pursued.

6 In other words, the field has the right to say no,
7 but not to say yes. That rests with headquarters.

8 At headquarters we have supervisors assigned to specify
9 areas of our work, each of whom operates under a supervisor
10 in charge. It may be a group of from three to five or six
11 or seven men.

12 The determination is made within that group unless
13 there is some question as to whether the guidelines are
14 being followed, in which case it would go to the section
15 chief for determination. He has the opportunity, if he does
16 not feel he should make the determination, to go to a branch
17 chief which is a deputy assistant director. We have two,
18 one of whom concentrates in the internal security area.

19 The determination is then made at that level.

20 If there is any question that it should go higher, normally
21 the facts are reduced to a memorandum for consideration
22 on higher levels. There have been occasions, and I can think
23 of several during the last couple of years, where we have
24 gone to the Criminal Division of the Department of Justice
25 and the decision is made by the Chief of the Internal Security

1 Section there.

2 Mr. Oliphant. Is this in fact followed with regard
3 to all groups on which investigations of internal security
4 are conducted?

5 Mr. Wannall. It is followed. It can be cut off at the
6 various levels I have explained but there is no determination
7 made on the field level for an on-going investigation of
8 a group.

9 Mr. Oliphant. Are you familiar with the Institute for Policy
10 Studies?

11 Mr. Wannall. Yes, sir.

12 Mr. Oliphant. Was such a procedure as you have just
13 outlined followed with regard to that group?

14 Mr. Wannall. When was the investigation on IPS opened,
15 Bob, can you say approximately?

16 Mr. Schackelford. That is an older investigation.
17 It would go back probably into the late '60s, at least.

18 Mr. Wannall. I would say there are manual provisions
19 which are available to you. The manual is frequently revised.
20 It was rather extensively revised in August of 1973.

21 The procedures in the manual prior to that time would
22 still require review at a headquarters level.

23 Mr. Oliphant. Would this review that you have
24 laid out be memorialized in writing? Would there be a
25 record of all the steps of this?

1 Mr. Wannall. In our case files, yes, I think so.

2 Mr. Oliphant. There would be a review of this with
3 regard to the Institute for Policy Studies, correct?

4 Mr. Wannall. That is right.

5 Mr. Oliphant. Do you know, or are any of you gentlemen
6 familiar with IPS?

7 Mr. Wannall. I have never handled it. It was
8 handled in a branch of which I was chief a couple of years
9 ago. I have some general knowledge with respect to it.
10 But I do not have detailed knowledge.

11 Do you have anything that will help you in replying
12 to questions on this, Bob?

13 Mr. Shackelford. I can talk in general terms about
14 it. I did not handle the case personally but I have a
15 fairly good working knowledge concerning the time it was
16 held. ~~handled~~.

17 Mr. Wannall. Is it still an on-going investigation?

18 Mr. Shackelford. No, it is not.

19 Mr. Oliphant. When was it terminated, if you know?

20 Mr. Shackelford. I cannot give you a termination date.
21 I don't know.

22 Mr. Wannall. I can give you an estimate because
23 the case came to my knowledge shortly after I moved into
24 the domestic area of our operations. ~~It was~~ ^p prior to May 9,
25 1972, ~~my~~ ^{my} entire career had been spent in counterintelligence.

1 Within a matter of three, four, or five months after
2 May 9, the IPS case came to my attention. I discussed it
3 with the Supervisor and issued instructions to him to have
4 the entire case reviewed on a field level to determine
5 whether the bases that existed at the outset of the investiga-
6 tion still existed. This was done and within a year
7 the investigation was terminated.

8 So I would guess it was terminated within the past year.

9 Mr. Oliphant. Why was the investigation begun?

10 Mr. Wannall. I would have to refer to the file to tell
11 you that.

12 Mr. Oliphant. Can anyone else answer the question in
13 general terms?

14 Mr. Shackelford. I cannot give you a specific answer.
15 I would prefer to give you ^{A MORE ANSWER FROM} the files.

16 Mr. Oliphant. Was it fair to indicate that the case
17 was closed because it was found there was no further
18 investigative merit pursuant to the investigation which
19 you began after you assumed duties?

20 Mr. Wannall. I would say it was fair to say that
21 the investigative steps which were logical had been completed
22 and the investigation had been terminated by a decision
23 that there was no further basis for investigation.

24 Mr. Oliphant. To your knowledge, did any indictments
25 proceed from the investigation?

1 Mr. Wannall.No, and I think this can be said for a
2 large percentage of the investigations in the domestic
3 area like this.

4 Mr. Oliphant. Were any indictments referred to the
5 Department of Justice and I mean any appropriate U. S.
6 Attorney also for prosecution?

7 Mr. Wannall.Every single report in every one of our
8 cases is furnished to the Department of Justice.

9 Mr. Oliphant. I understand, but were any of them
10 ever brought to any attorney with a request for serious
11 consideration of prosecution and then prosecution was declined?

12 Mr. Shackelford. They are presented to the
13 Department periodically.

14 Some cases come to mind immediately, the Gainesville
15 Case, the Berrigan Case, these were conspiracy cases that
16 arose--

17 Mr. Oliphant. -- out of the IPS study?

18 Mr. Shackelford. I didn't understand the restriction
19 to the question.

20 Mr. Oliphant. I'm referring to the IPS.

21 Mr. Shackelford. No.

22 Mr. Ryan. The Intelligence Division does not refer
23 its security type investigations to local U. S. Attorneys.
24 These are furnished to the Internal Security Section
25 of the Criminal Division of the Department and in every

1 instance reports are furnished and a decision regarding
2 prosecution is made by the Department.

3 Mr. Oliphant. I understand, but as a result of these
4 files being furnished, were any prosecutions ever suggested
5 or ever specifically declined?

6 Mr. Ryan. As Mr. Wannall suggested, the overwhelming
7 percentage of our investigations are not those that
8 would develop prosecution. We are looking for evidence.

9 Mr. Oliphant. Was any evidence revealed during the
10 IPS investigations ever used for any criminal trial?

11 Mr. Shackelford. Not to my recollection.

12 Mr. Atkisson. Was anything developed in the investigation
13 of IPS which led the Bureau to classify or designate
14 that organization as subversive or any other like name?

15 Mr. Wannall. I think I probably have addressed myself
16 to that, that we don't try to classify an organization as
17 subversive.

18 Mr. Atkisson. You laid out certain criteria for
19 justifying continuing investigation of an organization.
20 I thought I understood that justification to be
21 tantamount to the same thing, that the justification for
22 continuing an investigation would be that the organization
23 was potentially subversive. Am I wrong in my impression?

24 Mr. Wannall. My answers have been based on a manual
25 revision. I referred to it earlier, an extensive one made