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62-KX-1109

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RE:

Date 12/30/75

DIRECTORS APPEARANCE BEFORE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES, DECEMBER 10, 1975

- [ ] For information
- [ ] Retention optional
- [ ] For appropriate action
- [ ] Surep, by _____

- [ ] The enclosed is for your information. If used in a future report, [ ] conceal all sources, [ ] paraphrase contents.
- [ ] Enclosed are corrected pages from report of SA _____ dated _____.

Remarks:

ReButel to all SACs and Legats, 12/10/75.

Enclosed for each Office and Legat is one copy of the transcript of questions which were asked Mr. Kelley during captioned appearance, along with Mr. Kelley's answers to those questions.

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Vol. 20

The United States Senate

Report of Proceedings

Hearing held before

Select Committee to Study Governmental Operations

With Respect to Intelligence Activities

INTELLIGENCE INVESTIGATION

Wednesday, December 10, 1975

Washington, D. C.

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NW 55187 DocId:32989769 Page 3

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1 C O N T E N T

2 STATEMENT OF: PAGE

3

4 The Honorable Clarence M. Kelley, Direcotor, Federal Bureau of Investigation 2451

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INTELLIGENCE INVESTIGATION

- - -

Wednesday, December 10, 1975

- - -

United States Senate,
Select Committee to Study Governmental
Operations with Respect to
Intelligence Activities,
Washington, D. C.

The Committee met, pursuant to notice, at 10:10 o'clock a.m., in Room 318, Russell Senate Office Building, the honorable Frank Church (Chairman of the Committee) presiding.

Present: Senators Church (presiding), Hart of Michigan, Mondale, Huddleston, Hart of Colorado, Baker, Goldwater and Mathias.

Also present: William G. Miller, Staff Director; Frederick A. O. Schwarz, Jr., Chief Counsel; Curtis R. Smothers, Minority Counsel; Paul Michel, Joseph diGenova, Barbara Banoff, Frederick Baron, Mark Gitenstein, Loch Johnson, David Bushong, Charles Lombard, John Bayly, Charles Kirbow, Michael Madigan, Bob Kelley, John Elliff, Elliot Maxwell, Andy Postal, Pat Shea, Michael Epstein and Burt Wides, Professional Staff Members.

- - -

The Chairman. The Committee's witness this morning is

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1 the Honorable Clarence M. Kelley, the Director of the Federal
2 Bureau of Investigation.
3 Mr. Kelley was appointed Director in July of 1973 in a
4 troubled time for the FBI. His experience as an innovative
5 law enforcement administrator in charge of the Kansas City
6 Police Department for over ten years, and his previous work as
7 a Special Agent of the FBI have made him uniquely qualified
8 to lead the Bureau.
9 The Select Committee is grateful for the cooperation
10 extended by Director Kelley in the course of its inquiry over
11 the past months. The Committee is also impressed by the
12 openness of the FBI's witnesses before this Committee, and
13 their willingness to consider the need for legislation to
14 clarify the Bureau's intelligence responsibility.
15 It is important to remember from the outset that this
16 Committee is examining only a small portion of the FBI's
17 activities. Our hearings have concentrated on FBI domestic
18 intelligence operations. We have consistently expressed our
19 admiration and support for the Bureau's criminal investigative
20 and law enforcement work, and we recognize the vital importance
21 of counterespionage in the modern world. But domestic
22 intelligence has raised many difficult questions.
23 The Committee has also concentrated on the past rather
24 than on present FBI activities. The abuses brought to light
25 in our hearings occurred years and even decades before Director

Kelley took charge.

The Staff has advised the Committee that under Director Kelley the FBI has taken significant steps to rethink previous policies and to establish new safeguards against abuse. The FBI is now placing greater emphasis on foreign related intelligence operations, and less on purely domestic surveillance. The FBI is working more closely with the Justice Department in developing policies and standards for intelligence. These are welcome developments.

Nevertheless, many important issues remain unresolved. Therefore, we have invited Director Kelley to share with the Committee his views on some of the considerations the Congress should take into account in thinking about the future of FBI intelligence. Among these issues are whether FBI surveillance should extend beyond the investigation of persons likely to commit specific crimes; whether there should be outside supervision or approval before the FBI conducts certain types of investigations or uses certain surveillance techniques; whether foreign related intelligence activities should be strictly separated from the FBI's domestic law enforcement functions, and what should be done to the information already in the FBI files and that which may go into those files in the future.

The Committee looks forward to a constructive exchange of views with Director Kelley this morning, with Attorney

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General Levi tomorrow, and with both the FBI and the Justice Department in the next months as the Committee considers recommendations that will strengthen the American people's confidence in the Federal Bureau of Investigation. That confidence is vital for the effective enforcement of Federal law and for the security of the nation against foreign espionage.

Director Kelley, we are pleased to welcome you, and if you would have a prepared statement you would like to lead off with, please proceed.

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1 STATEMENT OF THE HONORABLE CLARENCE M. KELLEY,
2 DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
3 Mr. Kelley. Thank you very much, Senator Church and
4 gentlemen.
5 I welcome the interest which this Committee has shown in
6 the FBI and most particularly in our operations in the intelli-
7 gence and internal security fields.
8 I share your high regard for the rights guaranteed by the
9 Constitution and laws of the United States. Throughout my
10 35 year career in law enforcement you will find the same insis-
11 tence, as has been expressed by this Committee, upon programs
12 of law enforcement that are themselves fully consistent with
13 law.
14 I also have strongly supported the concept of legislative
15 oversight. In fact, at the time my appointment as Director of
16 the FBI and was being considered by the Senate Judiciary
17 Committee two and one half years ago, I told the members of
18 that Committee of my firm belief in Congressional oversight.
19 This Committee has completed the most exhaustive study
20 of our intelligence and security operations that has ever been
21 undertaken by anyone outside the FBI other than the present
22 Attorney General. At the outset, we pledged our fullest
23 cooperation and promised to be as candid and forthright as
24 possible in responding to your questions and complying with your
25 requests.

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1 I believe we have lived up to those promises.

2 The members and staff of this Committee have had unprece-
3 dented access to FBI information.

4 You have talked to the personnel who conduct security-type
5 investigations and who are personally involved in every facet
6 of our day-to-day intelligence operations.

7 You have attended numerous briefings by FBI officials who
8 have sought to familiarize the Committee and its staff with
9 all major areas of our activities and operations in the national
10 security and intelligence fields.

11 In brief, you have had firsthand examination of these
12 matters that is unmatched at any time in the history of the
13 Congress.

14 As this Committee has stated, these hearings have, of
15 necessity, forcused largely on certain errors and abuses. I
16 credit this Committee for its forthright recognition that the
17 hearings do not give a full or balanced account of the FBI's
18 record of performance.

19 It is perhaps in the nature of such hearings to focus
20 on abuses to the exclusion of positive accomplishments of the
21 organization.

22 The Counterintelligence Programs which have received the
23 lion's share of public attention and critical comment constituted
24 an infinitesimal portion of our overall work.

25 A Justice Department Committee which was formed last year

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1 to conduct a thorough study of the FBI's Counterintelligence
2 Programs has reported that in the five basic ones it found
3 3,247 Counterintelligence Programs were submitted to FBI
4 Headquarters from 1956 to 1971. Of this total, 2,370,
5 less than three fourths, were approved.
6 I repeat, the vast majority of those 3,247 proposals were
7 being devised, considered, and many were rejected, in an era
8 when the FBI was handling an average of 700,000 investigative
9 matters per year.
10 Nonetheless, the criticism which has been expressed
11 regarding the Counterintelligence Programs is most legitimate
12 and understandable.
13 The question might well be asked what I had in mind when
14 I stated last year that for the FBI to have done less than it
15 did under the circumstances then existing would have been an
16 abdication of its responsibilities to the American people..
17 What I said then, in 1974, and what I believe today, is
18 that the FBI employees involved in these programs did what they
19 felt was expected of them by the President, the Attorney General,
20 the Congress, and the people of the United States.
21 Bomb explosions rocked public and private offices and
22 buildings; rioters led by revolutionary extremists laid seige
23 to military, industrial, and educational facilities; and
24 killings, maimings, and other atrocities accompanied such
25 acts of violence from New England to California.

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1 The victims of these acts were human beings, men, women,
2 and children. As is the case in time of peril, whether real or
3 perceived, they looked to their Government, their elected and
4 appointed leadership, and to the FBI and other law enforcement
5 agencies to protect their lives, their property, and their
6 rights.
7 There were many calls for action from Members of Congress
8 and others, but few guidelines were furnished. The FBI and other
9 law enforcement agencies were besieged by demands, impatient
10 demands, for immediate action.
11 FBI employees recognized the danger; felt they had a
12 responsibility to respond; and in good faith initiated actions
13 designed to counter conspiratorial efforts of self-proclaimed
14 revolutionary groups, and to neutralize violent activities.
15 In the development and execution of these programs,
16 mistakes of judgment admittedly were made.
17 Our concern over whatever abuses occurred in the Counter-
18 intelligence Programs, and there were some substantial ones,
19 should not obscure the underlying purpose of those programs.
20 We must recognize that situations have occurred in the
21 past and will arise in the future where the Government may well
22 be expected to depart from its traditional role, in the FBI's
23 case, as an investigative and intelligence-gathering
24 agency, and take affirmative steps which are needed to meet
25 an imminent threat to human life or property.

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1 In short, if we learn a murder or bombing is to be carried
2 out now, can we truly meet our responsibilities by investigating
3 only after the crime has occurred, or should we have the
4 ability to prevent? I refer to those instances where there is
5 a strong sense of urgency because of an imminent threat to
6 human life.
7 Where there exists the potential to penetrate and disrupt,
8 the Congress must consider the question of whether or not such
9 preventive action should be available to the FBI.
10 These matters are currently being addressed by a task
11 force in the Justice Department, including the FBI,
12 and I am confident that Departmental guidelines and controls can
13 be developed in cooperation with pertinent Committees of Congress
14 to insure that such measures are used in an entirely responsible
15 manner.
16 Probably the most important question here today is what
17 assurances I can give that the errors and abuses which arose
18 under the Counterintelligence Programs will not occur again?
19 First, let me assure the Committee that some very sub-
20 stantial changes have been made in key areas of the FBI's
21 methods of operations since I took the oath of office as
22 Director on July 9, 1973.
23 Today we place a high premium on openness, openness
24 both within and without the service.
25 I have instituted a program of open, frank discussion

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1 in the decision-making process which insures that no future
2 program or major policy decision will ever be adopted without a
3 full and critical review of its propriety.
4 Participatory management has become a fact in the FBI.
5 I have made it known throughout our Headquarters and
6 Field Divisions that I welcome all employees, regardless of
7 position or degree of experience, to contribute their thoughts
8 and suggestions, and to voice whatever criticisms or
9 reservations they may have concerning any area of our operations.
10 The ultimate decisions in the Bureau are mine, and I take
11 full responsibility for them. My goal is to achieve maximum
12 critical analysis among our personnel without in any manner
13 weakening or undermining our basic command structure.
14 The results of this program have been most beneficial, to
15 me personally, to the FBI's disciplined performance, and to
16 the morale of our employees.
17 In addition, since some of the mistakes of the past
18 were occasioned by direct orders from higher authorities outside
19 the FBI, we have welcomed Attorney General Edward Levi's
20 guidance, counsel, and his continuous availability, in his
21 own words, "as a 'lightning rod' to deflect improper requests."
22 Within days after taking office, Attorney General Levi
23 instructed that I immediately report to him any requests
24 or practices which, in my judgment, were improper or which,
25 considering the context of the request, I believed presented

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1 the appearances of impropriety.

2 I am pleased to report to this Committee as I have to the
3 Attorney General that during my nearly two and one half years as
4 Director under two Presidents and three Attorneys General, no
5 one has approached me or made overtures, directly or otherwise,
6 to use the FBI for partisan political or other improper
7 purposes.

8 I can assure you that I would not for a moment consider
9 honoring any such request.

10 I can assure you, too, in my administration of the FBI
11 I routinely bring to the attention of the Attorney General and
12 the Deputy Attorney General major policy questions, including
13 those which arise in my continuing review of our operations and
14 practices. These are discussed openly and candidly in order
15 that the Attorney General can exercise his responsibilities
16 over the FBI.

17 I am convinced that the basic structure of the FBI today
18 is sound. But it would be a mistake to think that integrity
19 can be assured only through institutional means.

20 Integrity is a human quality. It depends upon the
21 character of the person who occupies the office of the
22 Director and every member of the FBI under him.

23 I am proud of the 19,000 men and women with whom it is
24 my honor to serve today. Their dedication, their professionalism,
25 their standards, and the self-discipline which they personally

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1 demand of themselves and expect of their associates are the
2 nation's ultimate assurance of proper and responsible conduct
3 at all times by the FBI.
4 The Congress and the members of this Committee in
5 particular have gained a great insight into the problems
6 confronting the FBI in the security and intelligence fields,
7 problems which all too often we have left to resolve without
8 sufficient guidance from the Executive Branch or the Congress
9 itself.
10 As in all human endeavors, errors of judgment have been
11 made. But no one who is looking for the cause of our
12 failures should confine his search solely to the FBI, or even
13 to the Executive Branch.
14 The Congress itself has long possessed the mechanism for
15 FBI oversight; yet, seldom has it been exercised.
16 An initial step was taken in the Senate in 1973 when the
17 Committee on the Judiciary established a Subcommittee on FBI
18 Oversight. Hearings had been commenced, and we were fully
19 committed to maximum participation with the members of that
20 Subcommittee.
21 I laud their efforts. However, those efforts are of very
22 recent origin in terms of the FBI's history.
23 One of the greatest benefits of the study this Committee
24 has made is the expert knowledge you have gained of the complex
25 problems confronting the FBI. But I respectfully submit that

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1 those benefits are wasted if they do not lead to the next step,
2 a step that I believe is absolutely essential, a legislative
3 charter, expressing Congressional determination of intelligence
4 jurisdiction for the FBI.

5 Action to resolve the problems confronting us in the
6 security and intelligence fields is urgently needed; and it
7 must be undertaken in a forthright manner. Neither the Congress
8 nor the public can afford to look the other way, leaving it to
9 the FBI to do what must be done, as too often has occurred in
10 the past.

11 This means too that Congress must assume a continuing role
12 not in the initial decision-making process but in the review of
13 our performance.

14 I would caution against a too-ready reliance upon the
15 courts to do our tough thinking for us. Some proposals that
16 have been advanced during these hearings would extend the role
17 of the courts into the early stages of the investigative
18 process and, thereby, would take over what historically have
19 been Executive Branch decisions.

20 I frankly feel that such a trend, if unchecked, would
21 seriously undermine the independence of the Judiciary and cast
22 them in a role not contemplated by the authors of our
23 Constitution. Judicial review cannot be a substitute for Con-
24 gressional oversight or Executive decision.

25 The FBI urgently needs a clear and workable determination

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1 of our jurisdiction in the intelligence field, a jurisdictional
2 statement that the Congress finds to be responsive to both
3 the will and the needs of the American people.
4 Senators, first and foremost, I am a police officer, a
5 career police officer. In my police experience, the must
6 frustrating of all problems that I have discovered facing
7 law enforcement in this country, Federal, state, and local, is
8 when demands are made of them to perform their traditional
9 role as protector of life and property without clear and
10 understandable legal bases to do so.
11 I recognize that the formulation of such a legislative
12 charter will be a most precise and demanding task.
13 It must be sufficiently flexible that it does not stifle
14 the FBI's effectiveness in combating the growing incidence
15 of crime and violence across the United States. That charter
16 must clearly address the demonstrated problems of the past;
17 yet, it must amply recognize the fact that times change and
18 so also do the nature and thrust of our criminal and subversive
19 challenges.
20 The fact that the Department of Justice has commenced
21 the formulation of operational guidelines governing our
22 intelligence activities does not in any manner diminish the need
23 for legislation. The responsibility for conferring juris-
24 diction resides with the Congress.
25 In this regard, I am troubled by some proposals which

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1 question the need for intelligence gathering, suggesting that
2 information needed for the prevention of violence can be
3 acquired in the normal course of criminal investigations.
4 As a practical matter, the line between intelligence
5 work and regular criminal investigations is often difficult
6 to describe. What begins as an intelligence investigation may
7 well end in arrest and prosecution of the subject. But there
8 are some fundamental differences between these investigations
9 that should be recognized, differences in scope, in objective
10 and in the time of initiation. In the usual criminal case, a
11 crime has occurred and it remains only for the Government to
12 identify the perpetrator and to collect sufficient evidence
13 for prosecution. Since the investigation normally follows
14 the elements of the crime, the scope of the inquiry is
15 limited and fairly well defined.
16 By contrast, intelligence work involves the gathering of
17 information, not necessarily evidence. The purpose may well be
18 not to prosecute, but to thwart crime or to insure that the
19 Government has enough information to meet any future crisis
20 or emergency. The inquiry is necessarily broad because it
21 must tell us not only the nature of the threat, but also whether
22 the threat is imminent, the persons involved, and the
23 means by which the threat will be carried out. The ability
24 of the Government to prevent criminal acts is dependent on
25 our anticipation of those criminal acts. Anticipation,

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1 in turn, is dependent on advance information, that is, intelli-
2 gence.
3 Certainly, reasonable people can differ on these issues.
4 Given the opportunity, I am confident that the continuing need
5 for intelligence work can be documented to the full satisfaction
6 of the Congress. We recognize that what is at stake here is not
7 the interests of the FBI, but rather the interests of every
8 citizen of this country. We recognize also that the resolution
9 of these matters will demand extensive and thoughtful
10 deliberation by the Congress. To this end, I pledge the
11 complete cooperation of the Bureau with this Committee or
12 its successors in this important task.
13 In any event, you have my unqualified assurance as
14 Director that we will carry out both the letter and the spirit
15 of such legislation as the Congress may enact.
16 That is the substance of my prepared statement.
17 I would also like to say extemporaneously that I note
18 that on this panel are some gentlemen who were on the Judiciary
19 Committee which heard my testimony at the time I was presented
20 to them for candidacy as Director of the FBI. At that time
21 I took very seriously the charge which may possibly result
22 in the deliberation of this Committee and of the full Senate.
23 I have been well aware of the problems of the FBI since that
24 time. I have also been well aware of the capabilities of
25 the FBI to discharge those responsibilities. I don't take

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1 them lightly. I am of sufficient experience and age that I
2 have pledged myself to do what is good and proper. I say this
3 not as a self-serving statement but in order that we might
4 place in context my position within the FBI. I could seek
5 sanctuary and perhaps a safe sanctuary by saying during the
6 period these things occurred I was with the local police
7 department in Kansas City, Missouri. Prior to that time,
8 however, I was in the FBI.
9 During the time I was with the FBI, during the time I
10 was with the police department, I continued throughout that
11 period a close acquaintance with and a strong affection for
12 the FBI.
13 I only want to point out that based on those years, based
14 on those observations, we have here a very fine and very
15 sensitive and a very capable organization. I feel that there
16 is much that can still be done. I know that we are not without
17 fault. I know that from those experiences I have had. We
18 will not be completely without fault in the future. But I
19 assure you that we look upon this inquiry, we look upon any
20 mandate which you may feel you have, that you should look at --
21 this is good and proper, and we do not intend -- I only want
22 to place in your thinking the fact that you have here a
23 matchless organization, one which I continue to say was
24 not motivated in some of these instances, and in most of
25 them, and I cannot justify some, that the motivation was of the

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1 best. I am not pleading, as does a defense attorney. I am
2 only putting in your thinking my objective observations as
3 a citizen who is somewhat concerned about the future of this
4 organization. It is too precious for us to have it in
5 a condition of jeopardy.
6 Thank you very much.
7 The Chairman. Thank you, Director Kelley.
8 I want to turn first to Senator Hart who won't be able
9 to remain through the whole morning. I think he has one
end t. 1 10 question he would like to ask.
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1 Senator Hart of Michigan. Thank you, Mr. Chairman.
2 Senator Mathias and I have Judiciary Committee hearings at 10:30.
3 Iahve several questions, and I'm sure they'll be
4 covered by others, but the ones that I have is a result of
5 reading your testimony and listening to it this morning, and
6 it relates to your comment at the foot of page 10 and at the
7 top of 11.
8 There you are indicating that you caution us about
9 extending the court's role in the early stages of investigations
10 suggesting that this might take us beyound the role comtemplated
11 for the courts under the Constututution.
12 Now as you have said, aside from the so-called national
13 security wiretap problem, the main focus of our discussions
14 and concern has been on the possibility requiring court
15 approval for the use of informants, informants directed to
16 penetrate and report on some group.
17 And one of the witnesses yesterday, Professor Dorsen,
18 pointed our that really those informants are the most pervasive
19 type of an eavesdropping device. It is a human device. It's
20 really, an informant is really more intrusive on my privacy
21 than a bug or a tap because he can follow me anywhere. He
22 can ask me questions to get information the government would
23 like to have.
24 Now we certainly involve the courts in approval of the
25 wiretaps for physical searches with the intent of the drafters

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1 of the Constitution to have a neutral third party magistrate
2 screen use of certain investigative techniques. And the
3 informant is such a technique. He functions sort of like a
4 general warrant, and I don't see why requiring court approval
5 would violate the role envisaged for the courts.
6 And as I leave, I would like to get your reactions to
7 my feelings.
8 Mr. Kelley. I do not feel that there is any use of the
9 informant in intrusion, which is to this extent objectionable.
10 It has of course been approved, the concept of the informant,
11 by numerous court decisions.
12 Let us go down not to the moral connotation of the use
13 of the informant.
14 I think, as in many cases, that is a matter of balance.
15 You have only very few ways of solving crimes. You have
16 basically in the use of the informant, I think, the protection
17 of the right of the victim to be victimized. You have within
18 the Constitution certain grants that are under ordinary
19 circumstances abrogation of rights. The right of search and
20 seizure, which, of course, can't be unreasonable, but none-
21 theless, you have the right.
22 I think that were we to lose the right of the informant,
23 we would lose to a great measure our capability of doing our
24 job.
25 Now I'm not arguing with you, Senator, that it is not an

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unusual procedure. I'm not even going to say that it is not an intrusion, because it is. But it has to be one. I think that is by virtue of the benefits must be counted.

We don't like to use it. We don't like the problems that are attendant. We take great care.

Now you say about the court having possibility taking jurisdiction over them and guiding. I think that possibly we could present the matter to the court but what are they going to do insofar as monitoring their effort? Are they going to have to follow it all the way through?

Also, there is, of course, urgency in the other contacts. Must the court be contacted for each and approval of the court given for each contact?

There are a great many problems insofar as administration of it.

I frankly feel, and again, all I can do is give you my idea -- I frankly feel that there is a satisfactory control over the informants as we now exercise it today. Yes, there are going to be some who will get beyond our control, but this is going to happen no matter what you do.

Senator Hart of Michigan. Well, I appreciate your reaction.

I was not suggesting that there is consideration here to prohibit informants. I was reflecting a view that I felt and hold that the use of an informant does require some balance, as

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1 you yourself said, and I would be more comfortable with a
2 third party making a judgment as to whether the intrusion is
3 warranted by the particular circumstance. But I do understand
4 your position.
5 Thank you, Mr. Chairman.
6 The Chairman. Thank you, Senator Hart.
7 (Senator Hart leaves the hearing room.)
8 The Chairman. Senator Baker, do you have questions?
9 Senator Baker. Mr. Chairman, thank you very much.
10 Mr. Kelley, I have a great respect for you and your
11 organization and I personally regret that the organization is
12 in political distress, but we've both got to recognize that
13 it is, along with other agencies and departments of the
14 government.
15 I think you probably would agree with me that even though
16 that is extraordinarily unpleasant and in many respects
17 unfortunate, that it also has a plus side. That is, it gives
18 us an indication of our future direction and the opportunity,
19 at least, to improve the level of competency and service of
20 the government itself.
21 With that hopeful note, would you be agreeable then to
22 volunteering for me any suggestions you have on how to improve
23 the responsiveness of the Federal Bureau of Investigation, or
24 indeed, for any other law enforcement agencies of the government,
25 to the Congress, to the Attorney General, to the President, and

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1 beyond that, would you give me any suggestions you have on
2 how you would provide the methods, the access, the documents,
3 the records, the authority, for the Congress to perform its
4 essential, I believe, essential oversight responsibility to
5 see that these functions, these delicate functions are being
6 undertaken properly?
7 And before you answer, let me tell you two or three things
8 I am concerned about.
9 It hasn't been long ago that the FBI Director was not
10 even confirmed by the Senate of the United States. I believe
11 you are the first one to be confirmed by the Senate of the
12 United States. I think that is a movement in the right
13 direction. I think the FBI has taken on a stature that, an
14 additional importance that requires it to have closer supervision
15 and scrutiny by us.
16 At the same time I rather doubt that we can become
17 involved in the daily relationship between you and the Attorney
18 General.
19 Therefore, I tend to believe that the Attorney General
20 needs to be more directly involved in the operations of the
21 FBI.
22 I would appreciate any comments on that.
23 Second, I rather believe that major decisions of the
24 intelligence community and the FBI ought to be in writing, so
25 that the Congress can, if it needs to in the future, take a

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1 look at these decisions and the process by which they were
2 made to decide that you are or you are not performing your
3 services diligently.
4 I don't think you can have oversight unless you have
5 access to records, and in many cases records don't exist
6 and in some cases the people who made those decisions are now
7 departed and in other cases you have conflicts.
8 How would you suggest then that you improve the quality
9 of service of your agency? How would you propose that you
10 increase the opportunity for oversight of the Congress of the
11 United States? What other suggestions do you have for improving
12 the level of law enforcement in the essential activity that
13 is required?
14 Mr. Kelley. I would possibly be repetitious in answering
15 this Senator, but I get a great deal of pleasure from telling
16 what I think is necessary and what I hope that I have followed,
17 one which is beyond my control, but which I think is very
18 important is that the position of Director, the one to which
19 great attention should be paid in choosing the man who will
20 properly acquit himself.
21 I feel that the Judiciary Committee, at least in going
22 over me, did a pretty good job. I feel that it is most
23 necessary that care be taken that his philosophy, his means
24 of management, his facility to adapt to change, his tendency
25 toward consulting with other members of the official family,

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1 that he be willing to, for example, go through oversight with
2 no reticence, and that I think that he should be chosen very
3 carefully.
4 I think further that he should be responsible for those
5 matters which indicate impropriety or illegality.
6 Senator Baker. Could you stop for just a second? Who
7 does he work for? Does the Director, in your view, work for
8 the President of the United States, for the Attorney General,
9 for the Justice Department, for the Executive Branch?
10 Who does the executive of the FBI, the Director of the
11 FBI, be responsible to, who should he be responsible to?
12 Mr. Kelley. Jurisdictionally, to the Attorney General,
13 but I think this is such an important field of influence that
14 it is not at all unlikely that we can expand it to the
15 judiciary, the legislative, and of course, we are under the
16 Attorney General.
17 Senator Baker. Do you have any problems with the idea
18 of the President of the United States calling the Director of
19 the FBI and asking for performance of a particular task?
20 Does that give you any difficulty? Or do you think that
21 the relationship between the FBI Director and the President
22 is such that that is desirable, or should it be conduited
23 through the Attorney General?
24 Mr. Kelley. I think it should be in the great majority
25 of the cases conduited through the Attorney General. There

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1 has been traditionally some acceptance of the fact that if
2 the President wants to see and talk with the Director, he
3 may do so, call him directly.
4 It has been my practice in such an event to thereafter
5 report to the Attorney General, whoever it might be, that I
6 have been called over and I discussed and was told. And this
7 was revealed in full to them.
8 Senator Baker. I suppose we could pass a statute that
9 says the President has to go through the Attorney General,
10 although I rather suspect it would be a little presumptuous.
11 But to go the next step, do you think it is necessary
12 for the pursuit of effective oversight on the part of the
13 Congress, to have some sort of document written, or at least
14 some sort of account of a Presidential order or an order of
15 the Attorney General given to a Director of the FBI?
16 Do you think that these things need to be handled in
17 a more formal way?
18 Mr. Kelley. Personally, it would be my practice in
19 the event I receive such an order, to request that it be
20 documented. This is a protection as well as a clarification
21 as to whether or not it should be placed as part of legislation.
22 I frankly would like to reserve that for some more considera-
23 tion.
24 I don't know whether it would be, but I think that it
25 can be worked very easily.

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Senator Baker. Mr. Kelley, Attorney General Levi, I believe, has already established some sort of agency or function within the Department that is serving as the equivalent, I suppose, of an Inspector General of the Justice Department, including the FBI.

Are you familiar with the steps that Mr. Levi has taken in that respect? I think he calls it the Office of Professional Responsibility.

Mr. Kelley. Yes, sir, I'm familiar with it.

Senator Baker. Do you have any comment on that? Will you give us any observations as to whether you think that will be useful, helpful, or whether it will not be useful or helpful, how it affects the FBI, how you visualize your relationship to it in the future?

Mr. Kelley. I don't object to this, which is to some extent an oversight within the Department of Justice under the Attorney General.

Frankly, it just came out. I have not considered it completely, but to the general concept, yes, I very definitely subscribe.

Senator Baker. How would you feel about extending that concept of government-wide operation, a national Inspector General who is involved with an oversight of all of the agencies of government as they interface with the Constitutionally protected rights of the individual citizen? Would you care

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to comment on that, or would you rather save that for a while?

Mr. Kelley. I would like to reserve that one.

Senator Baker. I'm not surprised. Would you think about it and let us know what you think about it?

Mr. Kelley. I will.

Senator Baker. All right. Mr. Chairman, thank you very much.

The Chairman. Senator Huddleston.

Senator Huddleston. Thank you, Mr. Chairman.

Mr. Kelley, you describe on page 4 the conditions that existed when much of the abuse that we have talked about during this inquiry occurred, indicating that the people within the Bureau felt like they were doing what was expected of them by the President, by the Attorney General, the Congress and the people of the United States.

Does not this suggest that there has been a reaction there to prevailing attitudes that might have existed in the country because of certain circumstances rather than any clear and specific direct instructions that might have been received from proper authorities? And if that is the case, is it possible in developing this charter, this guideline, to provide for that kind of specific instruction?

Mr. Kelley. I think so, yes. I think that they can logically be incorporated and that --

Senator Huddleston. You can see there would be a continuing

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1 danger if any agency is left to simply react to whatever the
2 attitudes may be at a specific time in this country because --
3 Mr. Kelley. Senator, I don't contemplate it might be
4 a continuing danger, but it certainly would be a very acceptable
5 guidepost whereby we can, in the event such a need seems
6 to arise, know what we can do.
7 Senator Huddleston. Well, in pursuing the area which
8 Senator Hart was discussing, that is whether or not we can
9 provide sufficient guidelines would replace a decision by the
10 court in determining what action might be proper and specific-
11 ally in protecting individual's rights, can't we also
12 provide the restrictions and guidelines and the various
13 techniques that might be used?
14 For instance, supposing we do establish the fact, as
15 has already been done, that informants are necessary and
16 desirable. How do we keep that informant operating within the
17 proper limits so that he in fact is not violating individual
18 rights?
19 Mr. Kelley. Well, of course, much of the reliance must
20 be placed on the agent and the supervision of the FBI to assure
21 that there is no infringement of rights.
22 Senator Huddleston. But this is an aware we've gotten
23 into some difficulty in the past. We have assumed that the
24 particular action was necessary, that there was a present
25 threat that some intelligence programs should be initiated, but

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in many cases it has gone beyond what would appear to have been necessary to have addressed the original threat.

How do we keep within the proper balance there?

Mr. Kelley. Well, actually, it's just about like any other offense. It is an invasion of the other individual's right and it is by an officer and an FBI agent is an officer. There's the possibility of criminal prosecution against him.

This is one which I think might flow if he counsels the informant.

Now insofar as his inability to control the informant, I don't suppose that would warrant prosecution, but there is still supervisory control over that agent and over that informant by insisting that control is exercised on a continuing basis.

Senator Huddleston. It brings up an interesting point as to whether or not a law enforcement agency ought to be very alert to any law violations of its own members or anyone else.

If a White House official asks the FBI or someone to do something unlawful, the question seems to me to occur as to whether or not that is not a violation that should be reported by the FBI.

Mr. Kelley. I think that any violation which comes to our attention should either be handled by us or the proper authority.

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Senator Huddleston. But that hasn't been the case in the past.

Mr. Kelley. Well, I don't know what you're referring to but I would think your statement is proper.

Senator Huddleston. Well, we certainly have evidence of unlawful activity taking place in various projects that have been undertaken, which certainly were not brought to light willingly by the FBI or by other law enforcement agencies.

The question that I'm really concerned about is as we attempt to draw a guideline and charters that would give the Agency the best flexibility that they may need, a wide range of threats, how do we control what happens within each of those actions to keep them from going beyond what was intended to begin with?

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1 Mr. Kelley. You're still speaking of informants.

2 Senator Huddleston. Not only informants but the agents

3 themselves as they go into surveillance, wiretaps, or whatever

4 intelligence gathering techniques.

5 The original thrust of my question was, even though we

6 may be able to provide guidelines of a broad nature, how do

7 we control the techniques that might be used, that in themselves

8 might be used, that in themselves might be a serious violation

9 of the rights.

10 Mr. Kelley. Well, first, I don't know whether it's

11 germane to your question but I do feel that it should be pointed

12 out that the association to, the relationship between the

13 informant and his agent handler is a very confidential one,

14 and I doubt very seriously whether we could have any guide-

15 lines, where there might be an extension of any monitors here

16 because thereby you do have a destruction of that relationship.

17 Insofar as the activities of agents, informants or others

18 which may be illegal, we have on many occasions learned of

19 violations of the law on the part of informants, and either

20 prosecuted ourselves, through the reporting of it to the

21 United States Attorney, or turned it over to the local authority.

22 We have done this on many a time, many occasions. Insofar

23 as our own personnel, we have an internal organization, the

24 Inspection Division, which reviews this type of activity, and

25 if there be any violation, yes, no question about it, we would

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1 pursue it to the point of prosecution.

2 Senator Huddleston. But it could be helped by periodic
3 review.

4 Mr. Kelley. We do, on an annual basis, review the
5 activities of our 59 offices through that same Inspection
6 Division, and they have a clear charge to go over this as well
7 as other matters.

8 Senator Huddleston. Mr. Kelley, you pointed out the
9 difference in the approaches when gathering intelligence, in
10 gathering evidence after a crime has been committed.

11 Would there be any advantage, or would it be feasible to
12 attempt to separate these functions within the Agency, in the
13 departments, for instance, with not having a mixing of
14 gathering intelligence and gathering evidence? Are the techniques
15 definable and different?

16 Mr. Kelley. Senator, I think they are compatible. I
17 see no objection to the way that they are now being handled
18 on a management basis. I think, as a matter of fact, it is
19 a very fine association whereby the intelligence, stemming as
20 it does from a substantive violation, is a natural complement.

21 Senator Huddleston. Now, another area, the FBI furnishes
22 information to numerous government agencies.

23 Is this properly restricted and controlled at the present
24 time in your judgment as to just who can ask the FBI for
25 information, what kind of information they can ask for, and

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1 who might also be inclined to call the Director and ask him
2 to do specific things?
3 Could there be some clearcut understanding as to whether
4 or not the Director would be obligated to undertake any such
5 project, that just anybody at the White House might suggest?
6 Mr. Kelley. It's very clear to me that any request must
7 come from Mr. Buchen's office, and that it be, in any case,
8 wherein it is a request for action, that it be followed with
9 a letter so requesting.
10 This has come up before during the Watergate hearings, as
11 I think it has been placed very vividly in our minds, in
12 take care that you just don't follow the request of some
13 underling who does not truly reflect the desire of the President.
14 Senator Huddleston. Just one more question about
15 techniques, aside from the guidelines of authority on broad
16 projects undertaken.
17 Would it be feasible from time to time in a Congressional
18 oversight committee, would be able to discuss with the Department,
19 with the Bureau various techniques so that they could have
20 some input as to whether or not these actions are consistent
21 with the overall guidelines, to start with, and consistent
22 with the very protections?
23 Mr. Kelley. Senator, I have already said to the
24 oversight committee of the Senate that so far as I can now
25 see, the only thing that would be withheld is the identity of

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1 probably even more importantly, what restrictions can be put
2 on the use of that information once it has been supplied by
3 the FBI?
4 Mr. Kelley. I think so, Senator.
5 Senator Huddleston. You think there are proper restrictions
6 now?
7 Mr. Kelley. I don't know that we can ourselves judge
8 in all cases whether or not there is good and sufficient reason
9 for an Agency to inquiry. I think that there should be a
10 very close delineation by the agencies as to what they're
11 going to ask for, but I think that we do have sufficient rules
12 that at least to us we are satisfied.
13 Senator Huddleston. You're confident that the information
14 your agency supplies is not being misused, to the detriment
15 of the rights of any individuals.
16 Mr. Kelley. Senator, I'm only confident in what I
17 do myself. I would say that I am satisfied.
18 Senator Huddleston. I was wondering whether some
19 inclusion ought to be made in whatever charter is made as to
20 who specifically can request, what limits ought to be placed
21 on what the request, and what they can do with it after they
22 get it.
23 Mr. Kelley. Yes.
24 Senator Huddleston. I have some concern about the fact
25 that in intelligence gathering, you gather, you are just

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1 bound to gather a great deal of information about some
2 individual that is useless as far as the intent of the intelli-
3 gence gathering is concerned, but might be in some way embarras-
4 sing or harmful to the individual, whether or not there's any
5 effort to separate this kind of information out of a person's
6 file that is really initiated for a purpose, for a specific
7 purpose unrelated to this information.
8 Is there any effort, or could any direction be given to
9 doing that?
10 Mr. Kelley. We would be very happy to work under the
11 guidelines or rules or anything else to purge material which
12 is extraneous, irrelevant, or for any other reason objection-
13 able.
14 Senator Huddleston. And how about the length of time
15 that these files are kept in the agency?
16 Mr. Kelley. We are willing to work within that framework,
17 too.
18 Senator Huddleston. I think that might be done.
19 Now, I think in developing the chain of command, so to
20 speak, it certainly would be very difficult to prevent the
21 President of the United States from calling up the head of
22 the FBI or anyone else and discussing any law enforcement
23 problem he might so desire, and perhaps even give direction
24 to the agency.
25 But how about that? What about White House personnel

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1 informants. We'll discuss techniques, we'll discuss our
2 present activities. I think this is the only way that we can
3 exchange our opinions and get accomplished what you want to
4 accomplish and what I want to accomplish.
5 Senator Huddleston. I feel that is an important aspect
6 of it because even though you have a charter which gives broad
7 direction for all the guidelines and to the types of projects
8 that enter into it, if we don't get down to specifics, such
9 things as how intelligence is to be collected, how evidence
10 is to be collected, what is done after it is collected, this
11 type of thing, it seems to me we are leaving a wide gap
12 again for the Bureau to assume that it has total instruction
13 and total permission to move in a certain direction and go
14 beyond what is intended or what was authorized.
15 Thank you, Mr. Chairman, and Mr. Director.
16 The Chairman. Senator Goldwater?
17 Senator Goldwater. Mr. Kelley, as part of the FBI
18 electronic surveillance of Dr. King, several tapes of
19 specific conversations, and later a composite King tape were
20 produced.
21 Are these tapes still in the possession of the FBI?
22 Mr. Kelley. Yes, sir.
23 Senator Goldwater. Have they been reviewed by you?
24 Mr. Kelley. No, sir.
25 Senator Goldwater. Have they been reviewed by any of your

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1 staff, to your knowledge?

2 Mr. Kelley. Senator, I think that they have been reviewed.

3 I know that at least some have reviewed it within the area of

4 this particular section. There has been no review of them

5 since I came to the FBI, I can tell you that.

6 Senator Goldwater. Would these tapes be available to

7 the Committee if the Committee felt they would like to hear

8 them?

9 Mr. Kelley. This, Senator Goldwater, is a matter which is

10 of, as I said before, some delicacy, and there would have to

11 be a discussion of this in an executive session.

12 The Chairman. I might say in that connection that the

13 Committee staff gave some consideration to this matter and

14 decided that it would compound the original error for the

15 staff to review the tapes, because that would be a still

16 further invasion of privacy, and so the staff refrained from

17 insisting on obtaining the tapes, believing that it was

18 unnecessary, and quite possibly improper, in order to get at

19 what we needed to know about the King case.

20 So the staff did refrain, and for that reason the issue

21 never came to a head. I just wanted to lay that information

22 before the Senator.

23 Senator Goldwater. I realize that's a prerogative of

24 the staff, but it's also the prerogative of the Committee if,

25 and I'm not advocating it, if we wanted to hear them to

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1 ourselves whether Mr. Hoover was off on a wild goose chase
2 or whether there was, in effect, some reason. Again, I am
3 not advocating it, I am merely asking a question. They would
4 be available if the Committee took a vote to hear them and
5 decided on it.
6 Mr. Kelley. I don't think it would be within my juris-
7 diction to respond to this, Senator. It would have to be the
8 Attorney General.
9 Senator Goldwater. I see.
10 Now, are these tapes and other products of surveillance
11 routinely retained even after an individual ceased to be a
12 target of inquiry?
13 Mr. Kelley. They are retained usually for ten years.
14 Senator Goldwater. Ten years.
15 Mr. Kelley. Yes, sir.
16 Senator Goldwater. What is the future value, if any,
17 to the Bureau of retaining such information?
18 Mr. Kelley. If there be guidelines that set out a
19 destruction or erasure,we will abide by it. We will, on those
20 occasions where we think that matters might come up within
21 that period of time which may need the retention of them, we
22 will express our opinion at that time, but other than that
23 we would be guided by guidelines.
24 Senator Goldwater. Is it your view that legitimate
25 law enforcement needs should outweigh privacy considerations

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with respect to retention of such information, or do we need the clear guidelines on the destruction of these materials when the investigation purposes for which they were collected have been served?

Mr. Kelley. We feel that there should be a good close look at the retention of material, and we would of course like to have an input. But we welcome consideration of this.

Senator Goldwater. That is all I have, Mr. Chairman. Thank you very much.

The Chairman. Thank you, Senator.

Senator Mondale?

Senator Mondale. Mr. Director, it seems to me that the most crucial question before the Congress is to accept the invitation of the FBI to draw Congressionally imposed lines, limits of authority so the FBI will know clearly what you can and cannot do, so you will not be subject to later judgments, and the question is, where should that line be drawn?

As you know, in 1924 when the FBI was created, and Mr. Stone later became the Chief Justice, he drew the line at criminal law enforcement. He said that never again will we go beyond the authority imposed upon us to get into political ideas. We will stay in the area of law enforcement.

Would you not think it makes a good deal of sense to draw the guidelines in a way that your activities are restricted to the enforcement of the law, investigations of

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1 crime, investigations of conspiracies to commit crime rather
2 than to leave this very difficult to define and control area
3 of political ideas?
4 Mr. Kelley. I don't know whether I understand your last
5 statement of involving the area of political ideas. I say that
6 I feel that certainly we should be vested and should continue
7 in the field of criminal investigations as an investigatory
8 objective. These are conclusions, of course, which are based
9 on statutes in the so-called security field, national or
10 foreign.
11 These are criminal violations. I feel that they should
12 be in tandem. I feel, having worked many years in this
13 atmosphere, that you have more ears and eyes and you have
14 more personnel working together, covering the same fields.
15 I do not think there should be a separation of the intelligence
16 matters, because it is a concomitant. It naturally flows
17 from the investigation of the security matters and the
18 criminal.
19 Senator Mondale. Mr. Kelley, what Mr. Stone said was
20 this, that the Bureau of investigation is not concerned
21 with political or other opinions of individuals. It is
22 concerned only with such conduct as is forbidden by the laws
23 of the United States. When the police system goes beyond
24 these limits, it is dangerous to proper administration of
25 justice and human liberty.

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1 Do you object to that definition?

2 Mr. Kelley. I think that life has become much more
3 sophisticated and we have added to the so-called policeman's
4 area of concern some matters which were probably not as important
5 at that time. I think that the fact that the FBI has been in
6 touch with the security investigations and the gathering of
7 intelligence is something which has proved to be at times
8 troublesome and given us great concern, but it is a viable,
9 productive procedure.

10 I don't know what Mr. Stone was thinking of entirely
11 of this course, but I can tell you about the procedure today.

12 Senator Mondale. You see, I think you recognize, if
13 that further step is taken, as you're recommending here, that
14 at that point it becomes so difficult to guarantee, and in
15 fact, in my opinion, impossible to guarantee that we won't
16 see a recurrence of some of the abuses that we've seen in
17 the past, and I don't know how you establish any kind of
18 meaningful oversight on a function as nebulous as the one
19 you've just defined.

20 If the FBI possesses the authority to investigate
21 ideas that they consider to be threats to this nation's
22 security, particularly in the light of the record that we have
23 seen how that definition can be stretched to include practi-
24 cally everybody, including moderate civil rights leaders,
25 war dissenters and so on, how on earth can standards be developed

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1 that would provide any basis for oversight?

2 How can you, from among other things, be protected from

3 criticism later on that you exceeded your authority or didn't

4 do something that some politician tried to pressure you into

5 doing?

6 Mr. Kelley. It might well be, Senator, that ten years

7 from now a Director of the FBI will be seated here and will be

8 criticized for doing that which today is construed as very

9 acceptable.

10 Senator Mondale. Correct. And I have great sympathy

11 for the predicament the FBI finds itself in.

12 Mr. Kelley. And the Director.

13 Senator Mondale. And the Director especially, and that is

14 why I think it's in the interest of the FBI to get these lines

15 as sharply defined as possible, so that when you are pressured

16 to do things, or when, after the fact, people with good 20/20

17 hindsight can criticize you or the Bureau, that you can say

18 well, here are the standards that you gave us, and they specific-

19 ally say this, and that is your answer. We have to live by

20 the law. If we don't define it specifically,it seems to me

21 that these excesses could reoccur, because I don't think it's

22 possible to define them, and the FBI is inevitably going to

23 be kicked back and forth, depending on personal notions of what

24 you should have done.

25 Don't you fear that?

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1 Mr. Kelley. Not too much, Senator. I think we learned a
2 great lesson by virtue of Watergate, the revelations that have
3 come up as a result of this Committee's inquiries, the fact
4 that I think that we have a different type of spirit today
5 in the Bureau, the fact that, as I said before you came in,
6 that I think the Bureau is a matchless organization, and they
7 are eager to do that which is vital and proper, and the fact
8 that we are getting a number of very fine young people in the
9 organization, people of the other ethnic backgrounds than we
10 had years ago. I think there is a greater understanding in
11 the Bureau today of what is the proper type of conduct.
12 We may not be able to project this on all occasions,
13 because we must equate this with the need and with our
14 experience, but if the precise guidelines be the goal, you're
15 going to have trouble. If, on the other hand, there be a
16 flexibility, I think that we can work very well within those
17 guidelines.
18 Senator Mondale. I think, as you know, I don't think
19 there is a better trained or higher professionally qualified
20 law enforcement organization in the world than the FBI. I
21 think we all agree it is superb. But the problem has been,
22 from time to time, that when you go beyond the area of
23 enforcing the law into the area of political ideas, that you
24 are subject to and in fact you leave the criminal field, you
25 get into politics. And that is where, it seems to me, that the

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1 great controversy exists, and where you are almost inevitably
2 going to be subjected to fierce criticism in the future, no
3 matter how you do it. Once you get into politics, you get
4 into trouble.
5 Mr. Kelley. I agree to that, and I point out that in almost
6 every branch of the government and in every part, as a matter
7 of fact, every segment of our society, there are some who deviate
8 from the normal course. I feel that within the Bureau there is
9 less likelihood of this to happen, and I think that working
10 with you we can at least make some achievements that will be
11 significant.
12 Now, whether it be lasting, I don't think so, but I
13 think we've made a good start.
14 Senator Mondale. In your speech in Montreal on August
15 9th, you said we must be willing to surrender a small measure
16 of our liberties to preserve the great bulk of them.
17 Which liberties did you have in mind?
18 Mr. Kelley. Well, of course, this speech has been mis-
19 understood many, many times.
20 Senator Mondale. Well, I want you to have a chance to
21 clear it up.
22 Mr. Kelley. All that was intended here was a restatement
23 of the approach which the courts historically have used in
24 resolving most issues of Constitutional importance, and its
25 recognition that rights are not susceptible to absolute

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1 protection. It's a matter of balance. Even in the Fourth
2 Amendment, for example, which protects the right of privacy, it
3 does not prohibit searches and seizures. I mention, it only
4 refers to those that are unreasonable.
5 I came from the police field. What is more restrictive
6 to more people than traffic regulation? But what would be
7 more chaotic is of you did not have traffic regulation. We
8 do have to , in order to love in the complexities and
9 intricacies of today's life, have to give up some of our
10 rights.
11 Some may construe this as an extravagant statement. If it
12 is os, I wish to say that I only was pointing out that there
13 has to be a balance.
14 Senator Mondale. So that when you say we have to give
15 up some liberties, or as you just said, some rights, what you
16 mean -- let me ask. Let me scratch that and ask again, you
17 have to give up some tights. Which rights would you have us
18 give up?
19 Mr. Kelly. Well, under the Fourth Amendment you would
20 have the right for search and seizure.
21 Senator Mondale. You wouldn't give up the Fourth Amend-
22 ment right.
23 Mr. Kelley. Oh, no not the right.
24 Senator Mondale. What right do you have in mind?
25 Mr. Kelley. The right to be free from search and seizure.

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1 Senator Mondale. There's no such right in the Consti-
2 tution. You can have such seizures, but they must be reasonable,
3 under court warrant.
4 Did you mean to go beyond that?
5 Mr. Kelley. That's right.
6 Senator Mondale. That you should be able to go beyond
7 that?
8 Mr. Kelley. No, no. I do not mean that we should ever
9 go beyond a Constitutional right guarantee.
10 Senator Mondale. Well, would you say, Mr. Kelley, that
11 that sentence might have been inartful in your speech?
12 Mr. Kelley. I said that if it was misunderstood, I
13 made a mistake, because I should never make a statement which --
14 yes, it was inartful.
15 Senator Mondale. I think I know about your record in
16 law enforcement well enough to tell you that I think you were
17 saying something different, that it was taken to mean something
18 different than I think you intended.
19 What you are saying is that in the exercise of your law
20 enforcement powers, the rights of individuals is determined
21 by the laws and the courts, but the courts, in the handling
22 of those issues, have to balance rights and other values.
23 That's what you're essentially saying, is that correct?
24 Mr. Kelley. Senator, I ought to have you write my
25 speeches so that I don't have any misunderstandings. I didn't

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1 understand that to be at the time anything that was unusual.
2 I have to admit that maybe I made a mistake.
3 Senator Mondale. What you are saying in effect is that
4 in effect, the rights of the American people can be determined
5 not by the Director of the FBI but by the courts and by the
6 law.
7 You meant that.
8 Mr. Kelley. Indeed, yes, sir.
9 Senator Mondale. All right.
end t. 3 10 Thank you.
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The Chairman. Senator Hart.

Senator of Colorado. Mr. Kelley, in response to a question by Senaotr Mondale, one of his first questions about laying down guidelines, it seems to me what you were saying was we could work together. That is to say the Bureau and the Congress, lay down guidelines that would not unreasonably hamper you from investigations of crime control in the country.

But I think implicit in his question was also an area that you didn't respond to, and that is how do you, what kind of guidelines do you lay down to protect you and the Bureau from political pressure, the misuse of the Bureau by political figures, particularly in the White House?

And we've had indications that at least two of your predecessors, if not more, obviously were corrupted and Mr. Gray was under great pressure from the White House to use the facilities of the Bureau and their capabilities to accomplish some plititcal end.

Well, it seems to me you were arguing in favor of fewer restrictions so you could get on with your job, but that is not what Senator Mondale and the rest of us are interested in.

What kind of restrictions can we lay down to protect you from political pressures? I'd be interested in that sign of the coin, if you would.

Mr. Kelley. I would welcome any guidelines which would

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protect me or any successor from this type of thing. I think that would be splendid. I have not reviewed the guidelines as prepared to the present date by the Department. It might be that they are well defined in there. But I welcome any consideration of such directives.

Senator Hart of Colorado. Do you think this is a problem?

Mr. Kelley. No, sir, not with me.

Senator Hart of Colorado. Do you think that it has been a problem for the people that preceded you?

Mr. Kelley. I think so.

Senator Hart of Colorado. And that's a problem the Congress ought to address?

Mr. Kelley. I think so.

Senator Hart of Colorado. The Committee received a letter from the Department of Justice a couple of days, the Assistant Attorney General asking our cooperation in carrying out the investigation or their efforts to review the investigation conducted by the FBI into the death of Martin Luther King, Jr., in order to determine whether that investigation should be re-opened. They asked our cooperation, they asked for our transcripts, the testimony before the Committee, all material provided to the Committee by the FBI which relates to Dr. King and the Southern Christian Leadership Conference.

I guess my question is this: Why is the Justice Department asking this Committee for FBI files?

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Mr. Kelley. I don't think they're asking for files. I think they're asking for what testimony was given by witnesses whose testimony has not been given up. I don't know.

Senator Hart of Colorado. I'll quote it. "And all material provided to the Committee by the FBI which relates to Dr. King and the Southern Christian Leadership Conference."

I repeat the question. Why is the Justice Department asking this Committee for material provided to us by the FBI?

Mr. Kelley. Frankly, I don't know. Do you mind if I just ask --

(Pause)

Mr. Kelley. I am informed, and I knew this one. Everything that was sent to you was sent through them. Did they have a copy also? Yes, they had a retained copy. I don't know why.

Senator Hart of Colorado. So there's nothing you provided us that's not available to the Justice Department?

Mr. Kelley. That's right.

Senator Hart of Colorado. And you can't account for why an official of the Justice Department would ask this Committee for your records?

Mr. Kelley. No, sir.

Senator Hart of Colorado. You released a statement on November the 18th of '74 regarding the FBI's counter-intelligence

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program and you said you made a detailed study of COINTELPRO activities and reached the following conclusions, and I quote:

"The purpose of these counter-intelligence programs was to prevent dangerously and potentially deadly acts against individuals, organizations and institutions both public and private across the United States."

Now we had an FBI informant in the other day before this Committee and he stated he told the FBI on a number of occasions he planned violent acts against black people in groups. And yet, he said few, if any, instances in which the FBI actually prevented violence from taking place.

How does his testimony square with your statement that I have quoted?

Mr. Kelley. It doesn't, and I don't know if any of his statements contrary to what we have said is the truth. We don't subscribe to what he said. We have checked into it and we know of no instances where, for example, 15 minutes and that type of thing has been substantiated.

Senator Hart of Colorado. You're saying the testimony he gave us under oath was not accurate?

Mr. Kelley. Right.

Senator Hart of Colorado. You also said in that statement, and I quote: "I want to assure you that Director Hoover did not conceal from superior authorities the fact that the FBI was engaged in neutralizing and disruptive tactics against

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1 revolutionary and violence-prone groups.

2 Now the Committee has received testimony that the New

3 Left COINTELPRO programs was not in fact told to higher

4 authorities, the Attorney General and Congress.

5 Do you have any information in this regard?

6 I know in that statement you cite onw or two instances,

7 but in terms of the bulk of COINTEL programs, the record

8 seems to date at least to be clear that there was not systematic

9 information flowing upward through the chain of command to

10 Director Hoover's superiors?

11 Mr. Kelley. May I ask that I be given the opportunity

12 to substantiate that with documentation?

13 Senator Hart of Colorado. Sure.

14 Mr. Kelley. Or respond to it.

15 Senator Hart of Colorado. Dorector Kelley, just in

16 passing, do you agree with the statement made by President

17 Ford that those responsible for harassing and trying to destroy

18 Dr. King should be brought to justice.

19 Mr. Kelley. Those who directly responsible and upon whcse orders

20 the activities were taken responsible. I don't know if he intended to say

21 that, but if he did not, I would say that it would be more proper. Insofar

22 as my own opinion is concerned, that it be centered on those who said

23 to do it and those who are responsible.

24 I took the responsibility for any such program and I

25 don't expect that those under me would be not acting in

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1 accordance with what they think is proper and may even have
2 some reservation, but they do it on my orders. I accept that
3 responsibility.
4 I think that it should rest on those who instructed that
5 that be done.
6 Senator Hart of Colorado. But you agree that the people
7 who give the orders should be brought to justice.
8 Mr. Kelley. I do.
9 The Chairman. Aren't they all dead?
10 Mr. Kelley. No.
11 The Chairman. Not quite?
12 Mr. Kelley. Not quite.
13 Senator Hart of Colorado. That's all, Mr. Chairman.
14 The Chairman. Thank you, Senator.
15 Director Kelley, in the Committee's review of the
16 COINTELPRO program and other political involvements of the
17 FBI, it seems to me that we have encountered two or three
18 basic questions.
19 Since the investigation is over insofar as the Committee
20 is concerned, we're now turning our attention to remedies for
21 the future, what I would think would be our constructive
22 legislative work, it is very important that we focus on what
23 we learned in that investigation.
24 And one thing that we have learned is that Presidents of
25 the United States have from time to time ordered the FBI to

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1 obtain for them certain kinds of information by exercising the
2 necessary surveillance to obtain and to have a purely
3 political character, that they simply wanted to have for their
4 own personal purposes.
5 I think that you would agree that that is not a proper
6 function of the FBI, and you agree.
7 Yet it's awfully difficult for anyone in the FBI,
8 including the Director, to turn down a President of the United
9 States if he receives a direct order from the President. It
10 is always possible, of course, to say no, and if you insist,
11 I will resign. But that puts a very hard burden on any man
12 serving in your position, particularly if the President puts
13 a good face on the request and makes it sound plausible or
14 even invents some excuse. It is always easy for him to say,
15 you know, I am considering Senator White for an important
16 position in my administration, and I need to know more about
17 his activities, particularly of late. I've had some cause
18 for concern and I want to be certain that there is nothing in
19 his record that would later embarrass me, and I just want you
20 to keep careful track of him and report to me on what he's
21 been doing lately.
22 It's difficult for you to say back to the President, Mr.
23 President, that's a very questionable activity for the FBI,
24 and I frankly don't believe that you've given me the real
25 reason why you want this man followed. I think his opposition

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1 to your current policy is politically embarrassing to you and
2 you want to get something on him.
3 I mean, you know, the Director can hardly talk back that
4 way, and I'm wondering what we could do in the way of protecting
5 your office and the FBI from political exploitation in this
6 basic charter that we write.
7 Now, I want your suggestions, but let's begin with one
8 or two of mine. I would like your response.
9 If we were to write into the law that any order given you
10 either by the President or by the Attorney General should be
11 transmitted in writing and should clearly state the objective
12 and purpose of the request and that the FBI would maintain
13 those written orders and that furthermore they would be
14 available to any oversight committee of the Congress. If the
15 joint committee on intelligence is established, that committee
16 would have access to such a file.
17 So that the committee itself would be satisfied that
18 orders were not being given to the FBI that were improper or
19 unlawful.
20 What would you think of writing a provision of that kind
21 into a charter for the FBI?
22 Mr. Kelley. I would say writing into the law any order
23 issued by the President that is a request for action by the
24 Attorney General should be in writing, is certainly, in my
25 opinion, is a very plausible solution. I'm sure that in

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contemplation of this there would be some that will say yes or some that will say no, but I think we could define an area where you are trying to cure the abuses and we could do that.

Now as to the availability to any oversight committee of Congress, I would say generally that I certainly would have no objection to this, but I again, there may be some request for something of high confidentiality that the President might put in writing such as some national or foreign security matter.

I would like to have such a consideration be given a great deal of thought and that the oversight committee review be conditioned with that possibility. I don't think it would present a problem.

I have said previously that I feel I can discuss everything except the identity of the informants to the oversight committee. I welcome that.

The Chairman. Well, that has been of course the way we proceeded with this Committee. It has worked pretty well, I think.

Now Senator Goldwater brought up a question on the Martin Luther King tapes. I would like to pursue that question.

If these tapes do not contain any evidence that needs to be preserved for ongoing criminal investigations, and since Dr. King has long since been violently removed from the scene,

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10 why are they preserved? Why aren't they simply destroyed? Is there a problem that we can help through new law to enable the FBI to remove from its files so much of this information that is has collected that it is no longer needed or may never have connected the person with any criminal activity? And yet, all of that information just stays there in the files year after year.

What can we do? How can a law be changed? If that's not the problem, then what is? Why are these tapes still down there at the FBI?

Mr. Kelley. Well, of course, we do have the rule that they are maintained ten years. Now why the rule is your question and why right now are they maintained? Since we do maintain everything since the inquiry has started and until that's lifted, we can't destroy anything.

I would say that this is a proper area for guidelines or legislation and again, as I have said, there should be some flexibility and I know that's a broad statement but there might be some areas wherein that the subject of the investigation himself may want them retained because it shows his innocence.

I think you have to deliberate this very carefully, but it can be done and we are willing to be guided by those rules.

The Chairman. Let me ask you this. The FBI is conducting thousands of investigations every year on possible appointees

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g 11 to Federal positions. As a matter of fact, the only time I ever see an FBI agent is when he comes around and flashes his badge and asks me a question or two about what I know of Mr. so and so, who's being considered for an executive office. And we have a very brief conversation in which I tell him that as far as I know, he's a loyal and patriotic citizen, and that is about the extent of it.

Then when this file is completed and the person involved is either appointed or not appointed, what happens to that file? I know it's full of all kinds of gossip because it is in the nature of the investigation to go out to his old neighborhoods and talk to everybody who might have known him.

What happens to the file? Is that just retained forever?

Mr. Kelley. We have some capability of destroying some files and they are rather lengthy insofar as retention. We have some archival rules which govern the retention of mateial and is developed in cases involving certain members of the Executive Branch of the government.

I see no reason why this would not be a proper area for consideration of legislation.

The Chairman. Can you give me any idea of how much -- do you have records that would tell us how much time and money is being spent by the FBI just in conducting these thousands of routine investigations on possible Presidential appointments to Federal offices?

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Mr. Kelley. I feel confident we can get it. I do not have it now, but if you would like to have the annual cost for the investigation of Federal appointees --

The Chairman. Yes. Plus, you know, plus any other information that would indicate to us what proportion of the time and effort of the FBI was absorbed in this kind of activity.

Mr. Kelley. I can tell you it is relatively small, but I can get you, I think, the exact amount of time and the approximate expense.

The Chairman. I wish you would do that because this is a matter we need more information about. And when you supply that data to the Committee, would you also supply the number of such investigations each year?

You know, I don't expect you to go back 20 or 25 years, but give us a good idea of the last few years. For example, enough to give us an idea of how much time and how broad the reach of these investigations may be.

Mr. Kelley. Through '70?

The Chairman. That would be sufficient, I would think.

The other matter that is connected to this same subject that I would like your best judgment on is whether these investigations could not be limited to offices of sensitivity. That is to say where legitimate national security interest might be involved so that there is a reason to make a close check on

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1 past associations, attitudes and expressions of belief.

2 I have often wondered whether we couldn't eliminate

3 routine Federal offices that are not particularly sensitive

4 in the national security sense from the reach of these FBI

5 checks.

6 And so when you respond to the series of questions, I

7 wish you would include the offices that are now covered by

8 such checks and give us an idea of how far down into the

9 Federal bureaucracy this extends.

10 Could you do that?

11 Mr. Kelley. Yes, sir.

12 The Chairman. Fine.

13 Now there is a vote. The vote always comes just at

14 the wrong time, but Mr. Schwarz wants to ask you some additional

15 questions for the record, and there may be other questions,

16 too that would be posed by the staff, after which I will ask

17 Mr. Schwarz to adjourn the hearings. It looks like we're going

18 to be tied up on the floor with votes.

19 But before I leave I want to thank you for your testimony,

20 Mr. Kelley, and to express my appreciation to you for the

21 way you have cooperated with the Committee in the course of

22 its investigation during the past months.

23 Mr. Kelley. Thank you.

24 The Chairman. And I hope, as you do, that as a result

25 of the work of the Committee we can write a generic law for

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the FBI that will help to remedy many of the problems we'll encounter in the future.

Thank you.

End Tape 4

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1 Mr. Schwarz. Mr. Kelley, I'll try to be very brief.
2 On page 5 of your statement --
3 Mr. Kelley. What?
4 Mr. Schwarz. On page 5 of your statement, the third
5 full paragraph, you said the following, and I would like then
6 to question about what you said. "We must recognize that
7 situations have occurred in the past and will arise in the
8 future where the Government may well be expected to depart from
9 its traditional role, in the FBI's case, as an investigative
10 and intelligence-gathering agency, and take affirmative steps
11 which are needed to meet an imminent threat to human life or
12 property."
13 Now, by that you mean to take what kind of steps in what
14 kind of situation?
15 And can you give some concrete examples under your general
16 principles statement?
17 Mr. Kelley. I think that Mr. Adams addressed himself to
18 that the other day, where you have an extremist who is an
19 employee at the waterworks, and he makes a statement that he's
20 going to do something which is devastating to the city, and you
21 have no way to attack this under the ordinary procedures, and
22 so therefore you must take some steps to meet that imminent
23 threat to human life or property.
24 Mr. Schwarz. So let us take that case as a test of the
25 principle. You are saying the extremist has said he is going

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1 to do something to the waterworks, poison it or something, and
2 he is on the way down there with the poison in his car.
3 Is that the presumption?
4 Mr. Kelley. We hadn't gone that far, but all right, you
5 can extent it.
6 Mr. Schwarz. All right, now, in that case you have the
7 traditional law enforcement tool, which is the power of arrest.
8 Mr. Kelley. Not under probable cause where he has not
9 gone down there. The hypothetical we gave was one where he had
10 not taken any overt acts in perpetration of this.
11 Mr. Schwarz. Well, if he hasn't taken any overt acts,
12 are you then in what you would call in imminent threat of
13 human life or property?
14 Mr. Kelley. I think so.
15 Mr. Schwarz. How so? Unless he has taken an overt act
16 to buy the poison or to get in the car with the poison, there
17 is not by definition any threat to life or property.
18 Mr. Kelley. Mr. Schwarz, I've been around in this business
19 a long time. I've heard a number of threats which were issued,
20 and they thereafter materialized into actions. I don't think --
21 take these threats as being empty ones, because so many times
22 they have been acted upon.
23 I was criticized one time when there was a threat made to
24 kill me, and it was said later on, it's not rhetoric, it's
25 not rhetoric to me, because when they say they're going to

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1 kill me, that just means one thing.

2 Mr. Schwarz. But I'm not disagreeing with you.

3 Mr. Kelley. But you are disagreeing with me. You're saying

4 on the basis of experience that you cannot detect a possible

5 threat. That's the whole area of concern that we have here, where

6 we don't lose the capability of doing something. We don't

7 say we should initiate ourselves. We say that we should go to

8 the Attorney General. We do not subscribe to the idea that

9 we should act independently because maybe we don't have the

10 judicial review, the capability of determining, but we do

11 think that we should report it and thereafter see what can

12 be done.

13 Mr. Schwarz. Well, have you changed in the course of

14 our discussion the standard on page 5.

15 On page 5 you're talking about an imminent threat.

16 Mr. Kelley. Yes.

17 Mr. Schwarz. And I hear you now as saying a possible

18 threat.

19 Mr. Kelley. An imminent possible threat.

20 Mr. Schwarz. An imminent possible threat. All right.

21 Now, would a fair standard for either action, other than

22 arrest, I don't know what you have in mind, but something to

23 prevent the person from carrying out his activities, other

24 than arrest, for instance, what is an example of what you have

25 in mind?

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1 Mr. Kelley. Removing him from his position or whatever
2 is necessary in order to make it impossible or at least as
3 impossible as possible to perpetuate this thing.
4 Mr. Schwarz. You mean have him lose his job or --
5 Mr. Kelley. I don't know what it would be.
6 Mr. Schwarz. Isolate him in some fashion.
7 Mr. Kelley. In some fashion perhaps.
8 Mr. Schwarz. Now, for such activity and for opening
9 an investigation into a domestic group, could you live with
10 a standard which said you would have to have an immediate
11 threat that someone was likely to commit a serious federal
12 crime involving violence?
13 Mr. Kelley. I think that this thing could be worked out
14 so that there could be an adequate basis for an evaluation.
15 Mr. Schwarz. So those words, without trying to commit
16 you entirely to them, do not seem to you to depart far from
17 what you think would be an acceptable standard.
18 Mr. Kelley. Well, an imminent, immediate threat might
19 be, by virtue of the word "immediate" that he's going to
20 do it the next minute. In that case it may be necessary for
21 you to, not with the presence or the possibility, not able
22 to do anything except put him under arrest or anything.
23 Mr. Schwarz. Of course, of course.
24 And nobody would at all disagree with that kind of action.
25 Mr. Kelley. I don't think they would either.

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1 Mr. Schwarz. But on the question, let's take the opening
2 of an investigation into a domestic group.
3 Is it basically consistent with practicality to make the
4 test immediate threat of a serious Federal crime involving
5 violence?
6 Mr.Kelley. To open a domestic security case.
7 Mr. Schwarz. Yes.
8 Mr. Kelley. It appears to me that this is a terrorist
9 activity, in effect. We certainly have terrorist activities
10 under our jurisdiction as a threat against the United States.
11 Mr. Schwarz. Now, are there other circumstances where
12 it is justifiable to open an investigation of the domestic
13 group where you do not have an immediate threat of serious
14 federal crime involving violence?
15 Mr. Kelley. Oh, I think there are other criteria, and
16 they have been well defined as to what is the possible
17 opening, the basis for a possible opening. We haven't been
18 discussing that, we have been discussing particular instances,
19 but there are other criteria that are used, yes.
20 Mr. Schwarz. What would the other criteria be?
21 Mr. Kelley. Well, the possible statutory violations
22 over which we have jurisdiction are, generally speaking, the
23 most used of the basis, and then you have, of course, some
24 intelligence investigations which should, of course, be of
25 short duration. If there is no showing of this into action

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1 or a viable intent.

2 Mr. Schwarz. So that's what you're looking for in the

3 intelligence investigation?

4 Mr. Kelley. By intelligence investigation, yes, you

5 are looking to prevent.

6 Mr. Schwarz. And what you are looking to prevent, and

7 what you're looking to find is a likelihood of action combined

8 with an intent to take an issue?

9 Mr. Kelley. And the capability.

10 Mr. Schwarz. And the capability.

11 All right. I just have two other lines, Mr. Kelley, and

12 I appreciate very much your time.

13 Mr. Kelley. That's all right.

14 Mr. Schwarz. Assuming a legitimate investigation has

15 been started into a domestic intelligence matter, is it legiti-

16 mate for the FBI, in addition to obtaining information that

17 relates to what we've just been talking about, the likelihood

18 of violent action, is it also legitimate for the FBI to

19 collect, A, retain, B, disseminate, C, information concerning

20 let's say the sex life of a person on the one hand, and the

21 political views of a person on the other?

22 Mr. Kelley. I think, Mr. Schwarz, that this is just what

23 many of our problems and perhaps the guidelines can define

24 this type of thing. I think probably you will agree that

25 within the determination of the deviations possibly of sex

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1 lives, there might be something that is relevant. I would say
2 ordinarily it's not. And so far as political views, yes, I
3 think that this could be, if he is espousing some cause or
4 some view that advocates violence or the overthrow of the
5 government.
6 Mr. Schwarz. Would those be the two limits on political
7 views?
8 Mr. Kelley. What?
9 Mr. Schwarz. Would those be the only limits on political
10 views that you think are okay to collect, advocants of violence
11 or advocants of overthrow?
12 Mr. Kelley. Well, I don't think because he's a Democrat
13 or a Republican it would be anything that would be damaging,
14 but it might on the other hand counter the report that he's
15 a member of some other organization.
16 Mr. Schwarz. Is the standard you used on collection of
17 sex life information, might be relevant? I suppose anything
18 might be relevant, but don't you think that as a function of
19 balance, it has to have a high degree of relevance before it's
20 justifiable to collect that kind of information on American
21 citizens who are not suspected of having committed crimes?
22 Mr. Kelley. Insofar as doing it presently, it has been
23 included in some reports as a result of the requirement that
24 that is what is required by our rules, that when a person
25 reports something to us, we do a report of the complaint. Insofar

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1 as a determination by guidelines that might be prepared later,
2 I think that we can certainly deliberate on this to see whether
3 or not this is something we should retain, and we would not
4 object to anything reasonable in that regard.
5 Mr. Schwarz. I just have one final question.
6 Taking the current manual and trying to understand its
7 applicability laid against the facts in the Martin Luther King
8 case, under Section 87 there is a -- permission is granted to
9 open investigations of the infiltration of non-subversive
10 groups, and the first sentence reads: "When information is
11 received indicating that a subversive group is seeking to
12 systematically infiltrate and control a non-subversive group
13 or organization, an investigation can be opened."
14 Now, I take it that is the same standard that was used
15 in opening the investigation of the Southern Christian Leadership
16 Conference in the 1960s, so that investigation could still be
17 open today under the FBI manual, the current FBI manual.
18 Mr. Kelley. We are interested in the infiltration of
19 clearly subversive groups into non-subversive groups inasmuch
20 as this is a ploy that is used many times, and having infil-
21 trated, they then get control, and they have a self-laundered
22 organization which they can use, and not, certainly, to the
23 benefit of the country.
24 Mr. Schwarz. But is the answer to my question yes, that
25 under that standard, the SCLC investigation could still be

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1 opened today?

2 Mr. Kelley. I think so.

3 Mr. Schwarz. All right, then, just one final question.

4 Do you agree that special care needs to be taken not only

5 of the standards for initially opening an investigation of a

6 group, but perhaps extra care needs to be taken when the investi-

7 gation goes beyond the initial target group to individuals

8 or people who come into contact with it?

9 Mr. Kelley. I don't know if I agree with that entirely. If

10 you mean that we go into the non-subversive group, that we

11 then investigate people in that non-subversive group, not the

12 infiltrators, but the non, that we conduct a lengthy investigation

13 of them without any basis for doing so other than that they

14 are in an infiltrated group, I would likely have said -- but

15 off the top of my head I would say probably that's not necessary.

16 Mr. Schwarz. Thank you very much.

17 Mr. Smothers. Just a couple of very brief lines of

18 inquiry, Mr. Kelley.

19 I think that the questions of the Chief Counsel was

20 raising is one that goes further into your statement, when you

21 talk about the difficulty of setting out the line between

22 intelligence gathering and law enforcement kinds of functions.

23 Nevertheless, though, I think that you have made an effort,

24 indeed, the Bureau's organizational scheme reflects an effort

25 to distinguish some of this has been made.

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Putting aside for one moment the counterespionage effort, and looking strictly at what we have been calling the Domestic Intelligence, is it your view that the retention of this function in the Bureau is critical to the Bureau's law enforcement position?

Mr. Kelley. My personal opinion is that the Bureau does a splendid job in this area. I feel further that the background of criminal investigatory activities and experiences which all counterintelligence people have is very helpful. It is helpful not only in gathering knowledge and experience, it also enters into this field, a person with a broad understanding of the rights and privileges, and you don't have so much that spy type, that cloak and dagger, that very, very secret type of an operation.

I subscribe to the present system heartily.

Mr. Smothers. Would it be of assistance to your mission if within the Bureau guidelines were established that effectively limited access or controlled dissemination of the intelligence product? In other words, if we had a situation where the intelligence product is critical to assist the law enforcement effort, I don't think there's any question that there should be access to it.

Isn't our problem one of controlling the use of that intelligence product and preventing the kind of murky crossing of lines there with the information legitimately needed for

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1 law enforcement?

2 Mr. Kelley. There is always a problem when there is wide
3 dissemination, because that just numerically increases the
4 possibility of misuse, abuse or slander, libel, or anything
5 of that matter, and I think that it would be well worthwhile
6 to review the dissemination rules to make them subject to
7 close guidance in the guidelines that we're speaking of.

8 Mr. Smothers. Let me just raise one final area with you.

9 We talked a little bit about, or a question was raised about
10 the investigation now being conducted by the Justice Department
11 regarding the improper actions on the COINTELPRO, and the
12 King case in particular.

13 As we look at allegations of impropriety by your personnel,
14 I think it would be helpful for our record here to have some
15 insight into the procedure the Bureau would normally follow.

16 What does the Bureau do when you get an allegation that
17 an agent or administrative official in the Bureau has behaved
18 improperly?

19 Is an investigation conducted internally, or is it
20 routinely referred to the Justice Department?

21 Mr. Kelley. There may be a revision in this type of
22 procedure as a result of the establishment of the Council for
23 Professional Responsibility. At present it would be in the
24 great majority of the cases turned over to our Investigative
25 Division for investigation. There might, on some unusual

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1 occasion, be a designation of a special task force made up,
2 perhaps, of division heads. That is most unlikely, but it is
3 handled internally at present.
4 Mr. Smothers. Would these internal determinations be
5 reviewed by Justice, or do you think that is a necessary
6 step?
7 I guess what we are searching for here is, first of all,
8 I think you answered that, well, to what extent does the
9 Bureau police itself, and then secondly, is the Department of
10 Justice involved in the police determinations?
11 For instance, what if the Attorney General disagreed with
12 the assertion that only the higher up officials who ordered
13 the action against King should be the subject of investigation
14 and maybe prosecution?
15 How does the interplay work there between you and Justice?
16 Mr. Kelley. We do report to the Attorney General those
17 activities which we construe as improper or possibly illegal.
18 There is a possibility that the Department, having been advised
19 of the situation, might take it on their own to do their own
20 investigating, and this is something that we feel is a
21 decision to be made only rather rarely, because we feel we
22 have within our own organization sufficient capability to
23 handle that. But we do not protest it. It is handled
24 independently of us.
25 Mr. Smothers. Thank you.

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1 That is all I have.

2 Mr. Schwarz. Thank you.

3 (Whereupon, at 12:12 o'clock p.m., the Committee recessed

4 subject to the call of the Chair.)

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OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : ALL EMPLOYEES DATE: 12/11/75

FROM : SAC, KNOXVILLE OFFICE MEMO NO. 47

SUBJECT: (A) DIRECTOR'S APPEARANCE BEFORE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES, DECEMBER 10, 1975 (62-1109) - A copy of the Director's statement delivered before the Senate Select Committee on Intelligence Activities is being forwarded to all offices and will be made available to interested employees on receipt.

(B) SOCIAL SECURITY EMPLOYMENT RECORDS (BALTIMORE SOURCE 4) (80-248) - You are reminded that since 9/30/75, when making requests for checks with Baltimore Source 4, using form FD-266, this communication must contain the following certification: "The information requested is required in an investigation of major importance to enable this Bureau to meet its responsibility for protecting the national security."

(C) SPEEDY RECOVERY WISHES - PAT LENNON, Cleveland RA, has been hospitalized in Room 208, Bradley County Memorial Hospital, Cleveland, Tennessee, telephone 472-5411. He is suffering from a peptic ulcer. Last word from PAT and his doctor is that no operation will be necessary, and he hopes to be out of the hospital in 3 or 4 days. We all wish PAT a speedy recovery.

PATRICIA JONES has been hospitalized recently in Knoxville, and there is no set date for PAT'S return to the Knoxville Office. We all wish PAT a speedy recovery.

(D) CHILDREN'S CHRISTMAS PARTY, DECEMBER 19 - There will be a Christmas party for children of employees here in the office on December 19, beginning at 4:00 PM. Santa Claus will make his annual appearance. Cost is $1.50 per child, payable to JEAN COX.

(E) ANNUAL CHRISTMAS COVERED-DISH LUNCHEON, DECEMBER 22 - All employees are urged to mark their calendar for December 22 at 12:00 Noon, which is the time set for our annual Christmas dinner. Agents who are planning to eat lunch with us that day will contribute money toward the cost of the meat, and the girls in the office will bring vegetables, salads, and desserts. No calorie-counting that day!

(F) BIRTHDAYS - No birthdays this week - sorry.

62-1109-12

1 - Each employee
1 - 66-3B
1 - 62-1109
1 - 80-248
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Date 1/5/76

RE: DIRECTOR'S APPEARANCE
BEFORE SENATE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES
DECEMBER 10, 1975

[x] For information [ ] Retention optional [ ] For appropriate action [ ] Surep, by _____

[ ] The enclosed is for your information. If used in a future report, [ ] conceal all sources, [ ] paraphrase contents.

[ ] Enclosed are corrected pages from report of SA _____ dated _____.

Remarks: By routing slip dated 12/30/75 and captioned as above, all SACs and Legats were furnished a copy of the transcript of Mr. Kelley's 12/10/75 appearance before the Senate Select Committee on Intelligence Activities. Although the data contained in the transcript may be made available to news media representatives, used in answering questions received from citizens, and otherwise treated as being of a public-source nature, the transcript itself should not be reproduced for, or given to, anyone outside the FBI.

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ASAC #3 Jan Schultz

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FBI — KNOXVILLE

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

FOR RELEASE
10 A.M., EST
WEDNESDAY, DECEMBER 10, 1975

STATEMENT OF

CLARENCE M. KELLEY

DIRECTOR

FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES

U. S. SENATE

WASHINGTON, D. C.

DECEMBER 10, 1975

62-1109-12

ASAC #3 Jim
S Smith

I welcome the interest which this Committee has shown in the FBI and most particularly in our operations in the intelligence and internal security fields.

I share your high regard for the rights guaranteed by the Constitution and laws of the United States. Throughout my 35-year career in law enforcement you will find the same insistence, as has been expressed by this Committee, upon programs of law enforcement that are themselves fully consistent with law.

I also have strongly supported the concept of legislative oversight. In fact, at the time my appointment as Director of the FBI was being considered by the Senate Judiciary Committee two and one-half years ago, I told the members of that Committee of my firm belief in Congressional oversight.

This Committee has completed the most exhaustive study of our intelligence and security operations that has ever been undertaken by anyone

outside the FBI other than the present Attorney General. At the outset, we pledged our fullest cooperation and promised to be as candid and forthright as possible in responding to your questions and complying with your requests.

I believe we have lived up to those promises.

The members and staff of this Committee have had unprecedented access to FBI information.

You have talked to the personnel who conduct security-type investigations and who are personally involved in every facet of our day-to-day intelligence operations.

You have attended numerous briefings by FBI officials who have sought to familiarize the Committee and its staff with all major areas of our activities and operations in the national security and intelligence fields.

In brief, you have had a firsthand examination of these matters that is unmatched at any time in the history of the Congress.

As this Committee has stated, these hearings have, of necessity, focused largely on certain errors and abuses. I credit this Committee for its forthright recognition that the hearings do not give a full or balanced account of the FBI's record of performance.

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It is, perhaps, in the nature of such hearings to focus on abuses to the exclusion of positive accomplishments of the organization.

The Counterintelligence Programs which have received the lion's share of public attention and critical comment constituted an infinitesimal portion of our overall work.

A Justice Department Committee which was formed last year to conduct a thorough study of the FBI's Counterintelligence Programs has reported that in the five basic ones it found 3,247 Counterintelligence proposals were submitted to FBI Headquarters from 1956 to 1971. Of this total, 2,370 -- less than three-fourths -- were approved.

I repeat, the vast majority of those 3,247 proposals were being devised, considered, and many were rejected, in an era when the FBI was handling an average of 700,000 investigative matters per year.

Nonetheless, the criticism which has been expressed regarding the Counterintelligence Programs is most legitimate and understandable.

The question might well be asked what I had in mind when I stated last year that for the FBI to have done less than it did under the circumstances then existing would have been an abdication of its responsibilities to the American people.

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What I said then -- in 1974 -- and what I believe today, is that the FBI employees involved in these programs did what they felt was expected of them by the President, the Attorney General, the Congress, and the people of the United States.

Bomb explosions rocked public and private offices and buildings; rioters led by revolutionary extremists laid siege to military, industrial, and educational facilities; and killings, maimings, and other atrocities accompanied such acts of violence from New England to California.

The victims of these acts were human beings -- men, women, and children. As is the case in time of peril -- whether real or perceived -- they looked to their Government, their elected and appointed leadership, and to the FBI and other law enforcement agencies to protect their lives, their property, and their rights.

There were many calls for action from Members of Congress and others, but few guidelines were furnished. The FBI and other law enforcement agencies were besieged by demands...impatient demands...for <u>immediate</u> action.

FBI employees recognized the danger; felt they had a responsibility to respond; and, in good faith,

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initiated actions designed to counter conspiratorial efforts of self-proclaimed revolutionary groups, and to neutralize violent activities.

In the development and execution of these programs, mistakes of judgment admittedly were made.

Our concern over whatever abuses occurred in the Counterintelligence Programs -- and there were some substantial ones -- should not obscure the underlying purpose of those programs.

We must recognize that situations have occurred in the past and will arise in the future where the Government may well be expected to depart from its traditional role -- in the FBI's case, as an investigative and intelligence-gathering agency -- and take affirmative steps which are needed to meet an imminent threat to human life or property.

In short, if we learn a murder or bombing is to be carried out NOW, can we truly meet our responsibilities by investigating only after the crime has occurred, or should we have the ability to prevent? I refer to those instances where there is a strong sense of urgency because of an imminent threat to human life.

Where there exists the potential to penetrate and disrupt, the Congress must consider the question of

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whether or not such preventive action should be available to the FBI.

These matters are currently being addressed by a task force in the Justice Department, including the FBI, and I am confident that Departmental guidelines and controls can be developed in cooperation with pertinent Committees of Congress to insure that such measures are used in an entirely responsible manner.

Probably the most important question here today is what assurances can I give that the errors and abuses which arose under the Counterintelligence Programs will not occur again?

First, let me assure the Committee that some very substantial changes have been made in key areas of the FBI's methods of operations since I took the oath of office as Director on July 9, 1973.

Today we place a high premium on openness -- openness both within and without the service.

I have instituted a program of open, frank discussion in the decision-making process which insures that no future program or major policy decision will ever be adopted without a full and critical review of its propriety.

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Participatory management has become a fact in the FBI.

I have made it known throughout our Headquarters and Field Divisions that I welcome all employees, regardless of position or degree of experience, to contribute their thoughts and suggestions, and to voice whatever criticisms or reservations they may have concerning any area of our operations.

The ultimate decisions in the Bureau are mine, and I take full responsibility for them. My goal is to achieve maximum critical analysis among our personnel without in any manner weakening or undermining our basic command structure.

The results of this program have been most beneficial...to me personally...to the FBI's disciplined performance...and to the morale of our employees.

In addition, since some of the mistakes of the past were occasioned by direct orders from higher authorities outside the FBI, we have welcomed Attorney General Edward Levi's guidance, counsel, and his continuous availability -- in his own words -- "as a 'lightning rod' to deflect improper requests."

Within days after taking office, Attorney General Levi instructed that I immediately report to him any

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requests or practices which, in my judgment, were improper or which, considering the context of the request, I believed presented the appearance of impropriety.

I am pleased to report to this Committee as I have to the Attorney General that during my nearly two and one-half years as Director under two Presidents and three Attorneys General, no one has approached me or made overtures -- directly or otherwise -- to use the FBI for partisan political or other improper purposes.

I can assure you that I would not for a moment consider honoring any such request.

I can assure you, too, in my administration of the FBI I routinely bring to the attention of the Attorney General and the Deputy Attorney General major policy questions, including those which arise in my continuing review of our operations and practices. These are discussed openly and candidly in order that the Attorney General can exercise his responsibilities over the FBI.

I am convinced that the basic structure of the FBI today is sound. But it would be a mistake to think that integrity can be assured only through institutional means.

Integrity is a human quality. It depends upon the character of the person who occupies the office of Director and every member of the FBI under him.

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I am proud of the 19,000 men and women with whom it is my honor to serve today. Their dedication, their professionalism, their standards, and the self-discipline which they personally demand of themselves and expect of their associates are the Nation's ultimate assurance of proper and responsible conduct at all times by the FBI.

The Congress and the members of this Committee in particular have gained a great insight into the problems confronting the FBI in the security and intelligence fields -- problems which all too often we have been left to resolve without sufficient guidance from the Executive Branch or the Congress itself.

As in all human endeavors, errors of judgment have been made. But no one who is looking for the cause of our failures should confine his search solely to the FBI, or even to the Executive Branch.

The Congress itself has long possessed the mechanism for FBI oversight; yet, seldom has it been exercised.

An initial step was taken in the Senate in 1973 when the Committee on the Judiciary established a Subcommittee on FBI Oversight. Hearings had been

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commenced, and we were fully committed to maximum participation with the members of that Subcommittee.

I laud their efforts. However, those efforts are of very recent origin in terms of the FBI's history.

One of the greatest benefits of the study this Committee has made is the expert knowledge you have gained of the complex problems confronting the FBI. But I respectfully submit that those benefits are wasted if they do not lead to the next step -- a step that I believe is absolutely essential -- a legislative charter, expressing Congressional determination of intelligence jurisdiction for the FBI.

Action to resolve the problems confronting us in the security and intelligence fields is urgently needed; and it must be undertaken in a forthright manner. Neither the Congress nor the public can afford to look the other way, leaving it to the FBI to do what must be done, as too often has occurred in the past.

This means too that Congress must assume a continuing role, not in the initial decision-making process but in the review of our performance.

I would caution against a too-ready reliance upon the Courts to do our tough thinking for us. Some proposals that have been advanced during these hearings would extend the role of the Courts into the early stages

of the investigative process and, thereby, would take over what historically have been Executive Branch decisions.

I frankly feel that such a trend, if unchecked, would seriously undermine the independence of the Judiciary and cast them in a role not contemplated by the authors of our Constitution. Judicial review cannot be a substitute for Congressional oversight or Executive decision.

The FBI urgently needs a clear and workable determination of our jurisdiction in the intelligence field, a jurisdictional statement that the Congress finds to be responsive to both the will and the needs of the American people.

Senators, first and foremost, I am a police officer -- a career police officer. In my police experience, the most frustrating of all problems that I have discovered facing law enforcement in this country -- Federal, state, or local -- is when demands are made of them to perform their traditional role as protector of life and property without clear and understandable legal bases to do so.

I recognize that the formulation of such a legislative charter will be a most precise and demanding task.

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It must be sufficiently flexible that it does not stifle FBI effectiveness in combating the growing incidence of crime and violence across the United States. That charter must clearly address the demonstrated problems of the past; yet, it must amply recognize the fact that times change and so also do the nature and thrust of our criminal and subversive challenges.

The fact that the Department of Justice has commenced the formulation of operational guidelines governing our intelligence activities does not in any manner diminish the need for legislation. The responsibility for conferring jurisdiction resides with the Congress.

In this regard, I am troubled by some proposals which question the need for intelligence gathering, suggesting that information needed for the prevention of violence can be acquired in the normal course of criminal investigations.

As a practical matter, the line between intelligence work and regular criminal investigations is often difficult to describe. What begins as an intelligence investigation may well end in arrest and prosecution of the subject. But there are some fundamental differences between these

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investigations that should be recognized -- differences in scope, in objective and in the time of initiation. In the usual criminal case, a crime has occurred and it remains only for the Government to identify the perpetrator and to collect sufficient evidence for prosecution. Since the investigation normally follows the elements of the crime, the scope of the inquiry is limited and fairly well defined.

By contrast, intelligence work involves the gathering of information, not necessarily evidence. The purpose may well be not to prosecute, but rather to thwart crime or to insure that the Government has enough information to meet any future crisis or emergency. The inquiry is necessarily broad because it must tell us not only the nature of the threat, but also whether the threat is imminent, the persons involved, and the means by which the threat will be carried out. The ability of the Government to prevent criminal acts is dependent on our anticipation of those unlawful acts. Anticipation, in turn, is dependent on advance information -- that is intelligence.

Certainly, reasonable people can differ on these issues. Given the opportunity, I am confident that the continuing need for intelligence work can be documented to the full satisfaction of the Congress. We

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recognize that what is at stake here is not the interests of the FBI, but rather the interests of every citizen of this country. We recognize also that the resolution of these matters will demand extensive and thoughtful deliberation by the Congress. To this end, I pledge the complete cooperation of the Bureau with this Committee or its successor in this important task.

In any event, you have my unqualified assurance as Director that we will carry out both the letter and the spirit of such legislation as the Congress may enact.

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WR050 WA PLAIN

9:40PM NITEL 12/10/75 GHS

TO ALL SACS

FROM DIRECTOR

DIRECTOR'S APPEARANCE BEFORE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES, DECEMBER 10, 1975

A COPY OF THE STATEMENT I DELIVERED BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES TODAY HAS BEEN SENT ALL OFFICES. FOR YOUR INFORMATION, THERE FOLLOWS A SYNOPSIZED ACCOUNT OF THE MAJOR AREAS OF THE COMMITTEE'S QUESTIONS TO ME, TOGETHER WITH MY RESPONSES:

(1) REGARDING FBI INFORMANTS, QUESTIONS WERE ASKED WHETHER COURT APPROVAL SHOULD BE REQUIRED FOR FBI USE OF INFORMANTS IN INVESTIGATIONS OF ORGANIZATIONS (MY RESPONSE WAS THAT THE CONTROLS WHICH EXIST TODAY OVER USE OF INFORMANTS ARE SATISFACTORY); HOW CAN FBI KEEP INFORMANTS OPERATING WITHIN PROPER LIMITS SO THEY DO NOT INVADE RIGHTS OF OTHER PERSONS (MY RESPONSE WAS THAT RELIANCE MUST BE PLACED ON THE INDIVIDUAL AGENTS HANDLING INFORMANTS AND THOSE SUPERVISING THE AGENTS' WORK, THAT INFORMANTS WHO VIOLATE THE LAW CAN BE

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DEC 10 1975
FBI—KNOXVILLE

62-1109-11

PROSECUTED -- AS CAN ANY AGENT WHO COUNSELS AN INFORMANT TO COMMIT VIOLATIONS); AND DID FORMER KLAN INFORMANT GARY ROWE TESTIFY ACCURATELY WHEN HE TOLD THE COMMITTEE ON DECEMBER 2 THAT HE INFORMED FBI OF PLANNED ACTS OF VIOLENCE BUT FBI DID NOT ACT TO PREVENT THEM (MY RESPONSE WAS THAT ROWE'S TESTIMONY WAS NOT ACCURATE).

(2) IN RESPONSE TO QUESTIONS REGARDING IMPROPER CONDUCT BY FBI EMPLOYEES, I STATED THAT ALLEGED VIOLATIONS OF LAW BY FBI PERSONNEL SHOULD BE INVESTIGATED BY THE FBI OR OTHER APPROPRIATE AGENCY; THAT THE INSPECTION DIVISION HAS CONDUCTED INQUIRIES REGARDING ALLEGATIONS OF MISCONDUCT; THAT AN OFFICE OF PROFESSIONAL RESPONSIBILITY HAS JUST BEEN ESTABLISHED IN THE JUSTICE DEPARTMENT, AND WE WILL ADVISE THAT OFFICE OF OUR MAJOR INVESTIGATIONS OF DEPARTMENTAL PERSONNEL, INCLUDING FBI EMPLOYEES, FOR ALLEGED VIOLATIONS OF LAW, REGULATIONS, OR STANDARDS OF CONDUCT; THAT I WOULD RESERVE COMMENT REGARDING POSSIBLE CREATION OF A NATIONAL INSPECTOR GENERAL TO CONSIDER MATTERS OF MISCONDUCT BY EMPLOYEES OF ANY FEDERAL AGENCY.

(3) IN RESPONSE TO QUESTIONS CONCERNING HARASSMENT OF MARTIN LUTHER KING, JR., I STATED THAT THE PERSONS WHO ISSUED THE ORDERS WHICH RESULTED IN SUCH HARASSMENT SHOULD FACE THE RESPONSIBILITY FOR IT, RATHER THAN THOSE UNDER THEM WHO CARRIED OUT SUCH ORDERS IN GOOD FAITH; THAT THE FBI STILL HAS RECORDINGS RESULTING FROM ELECTRONIC SURVEILLANCES OF KING; THAT WE RETAIN RECORDINGS FOR TEN YEARS BUT WE ALSO HAVE AGREED TO A REQUEST FROM THE SENATE NOT TO DESTROY INFORMATION IN OUR FILES WHILE CONGRESSIONAL INQUIRIES ARE BEING CONDUCTED; THAT I HAVE NOT REVIEWED THE KING TAPES; THAT IF THE COMMITTEE REQUESTED TO REVIEW THE KING TAPES, THE REQUEST WOULD BE REFERRED TO THE ATTORNEY GENERAL.

(4) IN RESPONSE TO QUESTIONS REGARDING WHETHER IT WOULD BE ADVANTAGEOUS TO SEPARATE THE FBI CRIMINAL INVESTIGATIVE RESPONSIBILITIES AND OUR INTELLIGENCE FUNCTIONS, I STATED THAT WE HAVE FOUND THE TWO AREAS TO BE COMPATIBLE, AND I FEEL THE FBI IS DOING A SPLENDID JOB IN BOTH AREAS.

(5) IN RESPONSE TO QUESTIONS CONCERNING THE ADEQUACY OF CONTROLS ON REQUESTS FROM THE WHITE HOUSE AND FROM OTHER GOVERNMENT AGENCIES FOR FBI INVESTIGATIONS OR FOR INFORMATION

FROM OUR FILES, I STATED THAT WHEN SUCH REQUESTS ARE MADE ORALLY, THEY SHOULD BE CONFIRMED IN WRITING; THAT WE WOULD WELCOME ANY LEGISLATIVE GUIDELINES THE CONGRESS FEELS WOULD PROTECT THE FBI FROM THE POSSIBILITY OF PARTISAN MISUSE.

A FULL TRANSCRIPT OF THE QUESTIONS AND ANSWERS WILL BE FURNISHED TO EACH OFFICE AS SOON AS IT IS AVAILABLE.

ALL LEGATS ADVISED SEPARATELY.

END

HOLD

NR050 WA PLAIN

9:40PM NITEL 12/10/75 GHS

TO ALL SACS

FROM DIRECTOR

DIRECTOR'S APPEARANCE BEFORE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES, DECEMBER 10, 1975

A COPY OF THE STATEMENT I DELIVERED BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES TODAY HAS BEEN SENT ALL OFFICES. FOR YOUR INFORMATION, THERE FOLLOWS A SYNOPSIZED ACCOUNT OF THE MAJOR AREAS OF THE COMMITTEE'S QUESTIONS TO ME, TOGETHER WITH MY RESPONSES:

(1) REGARDING FBI INFORMANTS, QUESTIONS WERE ASKED WHETHER COURT APPROVAL SHOULD BE REQUIRED FOR FBI USE OF INFORMANTS IN INVESTIGATIONS OF ORGANIZATIONS (MY RESPONSE WAS THAT THE CONTROLS WHICH EXIST TODAY OVER USE OF INFORMANTS ARE SATISFACTORY); HOW CAN FBI KEEP INFORMANTS OPERATING WITHIN PROPER LIMITS SO THEY DO NOT INVADE RIGHTS OF OTHER PERSONS (MY RESPONSE WAS THAT RELIANCE MUST BE PLACED ON THE INDIVIDUAL AGENTS HANDLING INFORMANTS AND THOSE SUPERVISING THE AGENTS' WORK, THAT INFORMANTS WHO VIOLATE THE LAW CAN BE

62-109-11

SEARCHED INDEXED
SERIALIZED FILED
DEC 19 1975
FBI—KNOXVILLE

PROSECUTED -- AS CAN ANY AGENT WHO COUNSELS AN INFORMANT TO COMMIT VIOLATIONS); AND DID FORMER KLAN INFORMANT GARY ROWE TESTIFY ACCURATELY WHEN HE TOLD THE COMMITTEE ON DECEMBER 2 THAT HE INFORMED FBI OF PLANNED ACTS OF VIOLENCE BUT FBI DID NOT ACT TO PREVENT THEM (MY RESPONSE WAS THAT ROWE'S TESTIMONY WAS NOT ACCURATE).

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A FULL TRANSCRIPT OF THE QUESTIONS AND ANSWERS WILL BE FURNISHED TO EACH OFFICE AS SOON AS IT IS AVAILABLE.

ALL LEGATS ADVISED SEPARATELY.

END

HOLD

NR009 KX PLAIN

5:36 PM NITEL 9-18-75 RCC

TO: DIRECTOR (62-116395) JAC

T ATLANTA (62-2854)

(ATTN: INTD; W. O. GREGAR)

FROM: KNOXVILLE (62-1109)

SENSTUDY 75

RE BUREAU NITEL SEPT. 17, 1975, AND ATLANTA TEL SEPT. 18, 1975

FORMER SA CARL E. CLAIRBORNE WAS CONTACTED THIS AFTERNOON AND ADVISED OF INFORMATION SET FORTH IN REFERENCED TEL. MR. CLAIRBORNE'S INITIAL REACTION WAS QUITE STRONG AND HE INDICATED THAT IF CONTACTED BY THE SENATE SELECT COMMITTEE STAFF FOR INTERVIEW HE WOULD HESITATE TO TELL THEM ANYTHING. HE STATED THAT HIS POSTURE IN THIS REGARD WAS BASED ON THE FACT THAT HE DID NOT WANT TO TELL THEM ANYTHING THAT WOULD HURT THE BUREAU. HE INDICATED THAT HIS FEELING AT THIS TIME WAS THAT HE WOULD NOT SUBMIT TO INTERVIEW UNLESS SUBPOENAED; HOWEVER, MR. CLAIRBORNE STATED THAT IF HE WAS CONTACTED BY THE COMMITTEE STAFF HE WOULD IMMEDIATELY ADVISE ME AND THEREAFTER CONTACT THE LEGAL COUNSEL DIVISION OF THE BUREAU FOR FURTHER ADVICE.

END.

ACK FOR TWO TELS

SSP FBI ATLANTA

TKS/CLR

62-1109-10

FD-36 (Rev. 5-22-64)

FBI

Date: 9/18/75

Transmit the following in PLAINTEXT
(Type in plaintext or code)

TELETYPE NITEL

Via _____ _____
(Priority)

TO: DIRECTOR (62-]]6395)

ATLANTA (62-2854)

(ATTN: INTD, W. O. GREGAR)

FROM: KNOXVILLE (62-]]09)

SENSTUDY 75

RE BUREAU NITEL SEPT.]7,]975, AND ATLANTA TEL SEPT.]8,]975

FORMER SA CARL E. CLAIRBORNE WAS CONTACTED THIS AFTERNOON AND ADVISED OF INFORMATION SET FORTH IN REFERENCED TEL. MR. CLAIRBORNE'S INITIAL REACTION WAS QUITE STRONG AND HE INDICATED THAT IF CONTACTED BY THE SENATE SELECT COMMITTEE STAFF FOR INTERVIEW HE WOULD HESITATE TO TELL THEM ANYTHING. HE STATED THAT HIS POSTURE IN THIS REGARD WAS BASED ON THE FACT THAT HE DID NOT WANT TO TELL THEM ANYTHING THAT WOULD HURT THE BUREAU. HE INDICATED THAT HIS FEELING AT THIS TIME WAS THAT HE WOULD NOT SUBMIT TO INTERVIEW UNLESS SUBPOENAED; HOWEVER, MR. CLAIRBORNE STATED THAT IF HE WAS CONTACTED BY THE COMMITTEE STAFF HE WOULD IMMEDIATELY ADVISE ME AND THEREAFTER CONTACT THE LEGAL COUNSEL DIVISION OF THE BUREAU FOR FURTHER ADVICE.

END.

HCS/kmw

(1)

Approved: _____ Sent AT 5:36 PM Per _____
Special Agent in Charge

* U. S. GOVERNMENT PRINTING OFFICE : 1969 O - 346-090 (11)

62-1109-10

NR007 AT CODE

3:15 PM URGENT SEPTEMBER 18, 1975 LMM

TO DIRECTOR (62-116395)

KNOXVILLE

FROM ATLANTA (62-2854)

ATTN: INTD, W. O. CREGAR

SENSTUDY 75

RE BUREAU NITEL TO ATLANTA, KNOXVILLE, AND OTHER OFFICES, SEPTEMBER 17, 1975.

FORMER SPECIAL AGENT, CARL E. CLAIRBORNE, MOVED FROM ATLANTA, GEORGIA, TO KNOXVILLE, TENNESSEE, APRIL, 1975, AND CAN BE LOCATED THROUGH HIS PARENTS AT 7840 CEDAR CREST ROAD, KNOXVILLE TENNESSEE 37918.

KNOXVILLE CONTACT CLAIRBORNE IN ACCORDANCE WITH INSTRUCTIONS IN REFERENCED BUREAU TELETYPE.

END

WFH FBI KX CLR FOR ONE

TKS

7840 - Relocated. 37918
947-9184

Contacted Carl Clairborne 3 3F 4/11/75

62-1109-9

SEARCHED ... INDEXED
SERIALIZED ... FILED
SEP 18 1975
FBI — KNOXVILLE

NRØØ7 AT CODE

3:15 PM URGENT SEPTEMBER 18, 1975 LMM

TO DIRECTOR (62-116395).

KNOXVILLE

FROM ATLANTA (62-2854)

ATTN: INTD, W. O. CREGAR

SENSTUDY 75

RE BUREAU NITEL TO ATLANTA, KNOXVILLE, AND OTHER OFFICES, SEPTEMBER 17, 1975.

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KNOXVILLE CONTACT CLAIRBORNE IN ACCORDANCE WITH INSTRUCTIONS IN REFERENCED BUREAU TELETYPE.

END

WEH FBI KX CLR FOR ONE

TKS

62-1109-9

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

SEP 18 1975
FBI—KNOXVILLE

NR002 KX PLAIN

11-40 AM NITEL SEPTEMBER 18, 1975 IHC
TO DIRECTOR (62-116395)

FROM KNOXVILLE (62-1109)

ATTENTION: INTD, W. O. CREGAR
SENSTUDY 75

REBUNITEL SEPTEMBER 17, 1975.

FORMER SA IRVING R. ANDERSON WAS CONTACTED THIS A.M. AND ADVISED OF INFORMATION SET FORTH IN RETEL. SA ANDERSON'S INITIAL REACTION WAS THAT IF CONTACTED BY THE SENATE SELECT COMMITTEE STAFF FOR INTERVIEW HE WOULD LIKE TO "TELL THEM TO GO TO H ". HOWEVER, HE FELT THAT IF HE TOOK THIS STANCE, HE WOULD HURT THE BUREAU INASMUCH AS THE BUREAU HAS PLEDGED COOPERATION WITH THE SENATE SELECT COMMITTEE. HE SAID HE WOULD NOT WANT TO TAKE ANY ACTION, EVEN THOUGH NOW A FORMER EMPLOYEE, TO HURT THE BUREAU IN THE FUTURE. HE STATED THAT HE SERVED THE BUREAU FOR MANY YEARS, STILL FEELS HE IS PART OF THE BUREAU, AND IS DEDICATED TO BEING USEFUL TO THE BUREAU IN ANY MANNER WHATSOEVER.

ANDERSON STATED IF HE WAS CONTACTED BY THE SENATE SELECT COMMITTEE STAFF, HE WOULD DEFER THE INTERVIEW

62-1109-8

AND IMMEDIATELY ADVISE ME. HE ALSO STATED THAT PRIOR TO SUBMITTING TO ANY INTERVIEW WITH THEM, HE WOULD CONTACT THE BUREAU'S LEGAL COUNSEL TELEPHONICALLY FOR FURTHER ADVICE.

END.

AJN FBIHQ CLR TU

5-36 (Rev. 5-22-64)

FBI

Date: 9/18/75

Transmit the following in _____
(Type in plaintext or code)

Via TELETYPE NITEL
(Priority)

NR002

TO DIRECTOR (62-]]6395)

FROM KNOXVILLE (62-]]09)

ATTENTION: INTD, W. O. CREGAR

SENSTUDY 75

REBUNITEL SEPTEMBER]7,]975.

FORMER SA IRVING R. ANDERSON WAS CONTACTED THIS A.M. AND ADVISED OF INFORMATION SET FORTH IN RETEL. SA ANDERSON'S INITIAL REACTION WAS THAT IF CONTACTED BY THE SENATE SELECT COMMITTEE STAFF FOR INTERVIEW HE WOULD LIKE TO "TELL THEM TO GO TO H_ _ _". HOWEVER, HE FELT THAT IF HE TOOK THIS STANCE, HE WOULD HURT THE BUREAU INASMUCH AS THE BUREAU HAS PLEDGED COOPERATION WITH THE SENATE SELECT COMMITTEE. HE SAID HE WOULD NOT WANT TO TAKE ANY ACTION, EVEN THOUGH NOW A FORMER EMPLOYEE, TO HURT THE BUREAU IN THE FUTURE. HE STATED THAT HE SERVED THE BUREAU FOR MANY YEARS, STILL FEELS HE IS PART OF THE BUREAU, AND IS DEDICATED TO BEING USEFUL TO THE BUREAU IN ANY MANNER WHATSOEVER.

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HCS:at/jkb
(1)

62-1109-8

JKB

Approved: _____ Sent 11:40 AM Per _____
Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

FD-36 (Rev. 5-22-64)

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____ _____
(Priority)

KX 62-]]09 PAGE TWO

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END.

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

NR063 WA CODE

11:40 PM NITEL 9/17/75 MEB

TO ALEXANDRIA JACKSONVILLE NEW YORK
ATLANTA KNOXVILLE RICHMOND
BOSTON LOS ANGELES ST. LOUIS
DETROIT MEMPHIS SAN DIEGO
JACKSON NEWARK SEATTLE

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

REBUTELS MAY 2, 1975, AND SEPTEMBER 4, 1975, TO ALL OFFICES AND BUTELS SEPTEMBER 3, 1975, TO SELECTED OFFICES INFORMING LATTER THAT SENATE SELECT COMMITTEE (SSC) HAD REQUESTED IDENTITIES OF ALL SUPERVISORS AND COORDINATORS FOR COINTELPROS IN SELECTED OFFICES FOR (1) NEW LEFT AND BLACK EXTREMIST, 1967 THROUGH 1971, AND (2) FOR WHITE HATE, 1964 THROUGH 1971.

SSC ALSO REQUESTED LOCATIONS OF PERSONS NAMED IN FIELD RESPONSES TO REFERENCED SEPTEMBER 3, 1975, TELETYPES, AND LATEST INFORMATION IN FBIHQ FILES HAS BEEN FURNISHED TO SSC.

62-116395-7

SEARCHED INDEXED
SERIALIZED FILED
SEP 17 1975
FBI — KNOXVILLE

SSC STAFF MAY CONTACT CURRENT AND/OR FORMER EMPLOYEES NAMED, TO INTERVIEW THEM CONCERNING THEIR KNOWLEDGE OF COINTELPROS IN WHICH THEY HAD SUPERVISORY OR COORDINATING RESPONSIBILITIES.

EACH OF THE FOLLOWING FORMER EMPLOYEES EXCEPT MESSRS. CROKE AND MCMANUS IS TO BE CONTACTED IMMEDIATELY AND ALERTED THAT HE MIGHT BE APPROACHED BY THE SSC STAFF FOR INTERVIEW. THE FORMER EMPLOYEE MAY, AFTER BEING CONTACTED BY SSC STAFF, CONTACT BUREAU'S LEGAL COUNSEL DIVISION BY COLLECT CALL FOR FULL INFORMATION TO ASSISTIN INCLUDING OBLIGATIONS AS TO CONFIDENTIALITY OF INFORMATION ACQUIRED AS FBI EMPLOYEE. IT IS EMPHASIZED THAT BUREAU'S OFFER OF ASSISTANCE IS NOT INTENDED TO IMPEDE SSC WORK, BUT IS DONE AS COOPERATIVE GESTURE AND TO SAFEGUARD SENSITIVE BUREAU INFORMATION.

CONTACTS WITH THESE FORMER EMPLOYEES TO BE HANDLED PERSONALLY BY SAC OR ASAC. IN EVENT THIS IS NOT FEASIBLE FOR JUST CAUSE, TO BE HANDLED BY A SENIOR SUPERVISOR.

REGARDING FORMER SAS CROKE AND MCMANUS, SSC HAS BEEN INFORMED OF THEIR POOR PHYSICAL CONDITION AND REQUESTED TO TAKE THIS INTO CONSIDERATION IN ANY ACTION CONTEMPLATED BY SSC CONCERNING THEM. WE DO NOT, HOWEVER, KNOW THAT SSC WILL

NOT CONTACT THEM. NEW YORK OFFICE, IN COORDINATION WITH NEWARK SHOULD ARRANGE TO HAVE CONTACT MADE WITH CROKE AND MCMANUS BY A FORMER ASSOCIATE TO MAKE FRIENDLY INQUIRY AS TO THEIR CURRENT CONDITION. IT IS BEING LEFT TO DISCRETION OF SAS NEW YORK AND NEWARK, BASED ON RESULTS OF SUCH INQUIRY, WHETHER CROKE AND MCMANUS SHOULD BE INFORMED REGARDING POSSIBLE CONTACT OF THEM BY SSC. FBIHQ DOES NOT DESIRE THAT THEY BE UNDULY ALARMED, BUT WOULD NOT WANT THEM SURPRISED BY CONTACT OF SSC STAFF IF THIS COULD IMPAIR THEIR HEALTH.

IMMEDIATELY AFTER CONTACT, RESULTS SHOULD BE FURNISHED BUREAU BY NITEL IN ABOVE CAPTION, ATTENTION INTD, W. O. CREGAR, BRIEFLY INCLUDING REACTION OF FORMER EMPLOYEES CONTACTED. IF A FORMER EMPLOYEE NO LONGER IN YOUR TERRITORY OR TEMPORARILY AWAY, SET OUT LEAD TO OTHER OFFICE IMMEDIATELY WITH COPY TO FBIHQ.

ALEXANDRIA:

SETH F. EIKENBERRY, 5367 SUMMIT DRIVE, FAIRFAX, VIRGINIA

JESSE C. HALL, JR., 4535 EATEN PLACE, ALEXANDRIA, VIRGINIA

ATLANTA:

CARL E. CLAIBORNE, 1366 MARY LOU LANE, S.E., ATLANTA,

GEORGIA

RICHARD H. DAVIS, 1147 WILD CREEK TRAIL, ATLANTA, GEORGIA

CHARLES S. HARDING, 2243 PINECLIFF DRIVE, N. E., ATLANTA, GEORGIA

BOSTON:

RICHARD H. BLASSER, 129 ACADEMY AVENUE, WEYMOUTH, MASSACHUSETTS

FREDERICK M. CONNORS, 15 LONGFELLOW ROAD, MELROSE, MASSACHUSETTS

MICHAEL J. MCDONAGH, 28 SPRINGVALE ROAD, NORWOOD, MASSACHUSETTS

JOHN F. MOONAN, 122 VERNON ROAD, SCITUATE, MASSACHUSETTS

DETROIT:

ROBERT F. O'NEILL, 2551 IROQUOIS, DETROIT, MICHIGAN

JACKSON:

ROY K. MOORE, 107 SWALLOW DRIVE, BRANDON, MISSISSIPPI

JACKSONVILLE:

W. HERSHEL CAVER, 3714 NORTHWEST 40TH STREET, GAINESVILLE, FLORIDA

KNOXVILLE:

IRVING R. ANDERSON, 1029 PERCH DRIVE, CONCORD, TENNESSEE

LOS ANGELES:

JOHN KEARNEY, 4140 MAYFIELD STREET, NEWBURY PARK, CALIFORNIA

RICHARD J. STILLING, 11648 AMESTOY STREET, GRANADA HILLS, CALIFORNIA

JOHN S. TEMPLE, 2145 GRENADIER, SAN PEDRO, CALIFORNIA

MEMPHIS:

PHILIP S. ENDRES, 22 SOUTH SECOND STREET, MEMPHIS, TENNESSEE

NEWARK:

BENJAMIN P. MCMANUS, 25 MICHAEL STREET, FDS NEW JERSEY

NEW YORK:

THOMAS J. CROKE, JR, 15 HOFSTRA DRIVE, GREENLAWN, NEW YORK

JOHN J. DUNLEAVY, 10 SOUTHVIEW CT., CARLE PLACE, NEW YORK

JOSEPH H. GAMBLE, 24 GREYSTONE ROAD, ROCKVILLE CENTRE, NEW YORK

RICHMOND:

CHARLES F. HEINER, 25 TWIN LAKE LANE, RICHMOND, VIRGINIA

RANDOLPH E. TROW, 1702 RANCH DRIVE, RICHMOND, VIRGINIA

JOHN H. WAGNER, 8220 BARNINGHAM ROAD, RICHMOND, VIRGINIA

SAINT LOUIS:

JOHN J. BUCKLEY, 9469 HARALD DRIVE, WOODSON TERRACE, MISSOURI

EDMUND C. WELTON, 825 DEANDELL COURT, FERGUSON, MISSOURI

SAN DIEGO:

ROBERT S. BAKER, 4268 HORTENSIA, SAN DIEGO, CALIFORNIA

SEATTLE:

LEROY W. SHEETS, 5725 72ND STREET, N. E., MARYSVILLE, WASHINGTON

END

RCC

FBI KX CLR

NRØ63 WA CODE

11:4Ø PM NITEL 9/17/75 MEB

TO ALEXANDRIA JACKSONVILLE NEW YORK
ATLANTA KNOXVILLE RICHMOND
BOSTON LOS ANGELES ST. LOUIS
DETROIT MEMPHIS SAN DIEGO
JACKSON NEWARK SEATTLE

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

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62-1109-7
SEARCHED INDEXED
SERIALIZED FILED
SEP 17 1975
FBI—KNOXVILLE

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LOS ANGELES:

JOHN KEARNEY, 4140 MAYFIELD STREET, NEWBURY PARK, CALIFORNIA

RICHARD J. STILLING, 11648 AMESTOY STREET, GRANADA HILLS, CALIFORNIA

JOHN S. TEMPLE, 2145 GRENADIER, SAN PEDRO, CALIFORNIA

MEMPHIS:

PHILIP S. ENDRES, 22 SOUTH SECOND STREET, MEMPHIS, TENNESSEE

NEWARK:

BENJAMIN P. MCMANUS, 25 MICHAEL STREET, FDS NEW JERSEY

NEW YORK:

THOMAS J. CROKE, JR, 15 HOFSTRA DRIVE, GREENLAWN, NEW YORK

JOHN J. DUNLEAVY, 10 SOUTHVIEW CT., CARLE PLACE, NEW YORK

JOSEPH H. GAMBLE, 24 GREYSTONE ROAD, ROCKVILLE CENTRE, NEW YORK

RICHMOND:

CHARLES F. HEINER, 25 TWIN LAKE LANE, RICHMOND, VIRGINIA

RANDOLPH E. TROW, 1702 RANCH DRIVE, RICHMOND, VIRGINIA

JOHN H. WAGNER, 8220 BARNINGHAM ROAD, RICHMOND, VIRGINIA

SAINT LOUIS:

JOHN J. BUCKLEY, 9469 HARALD DRIVE, WOODSON TERRACE, MISSOURI

EDMUND C. WELTON, 825 DEANDELL COURT, FERGUSON, MISSOURI

SAN DIEGO:

ROBERT S. BAKER, 4268 HORTENSIA, SAN DIEGO, CALIFORNIA

SEATTLE:

LEROY W. SHEETS, 5725 72ND STREET, N. E., MARYSVILLE, WASHINGTON

END

RCC

FBI KX CLR

NR033 WA CODE

5:09PM 9/4/75 WITEL AJN

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

REBUTEL MAY 2, 1975.

PURPOSES OF INSTANT TELETYPE ARE TO (1) REITERATE THAT FBI HAS PLEDGED FULL COOPERATION WITH THE SENATE SELECT COMMITTEE (SSC) AND WISHES TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE SSC WITH RESPECT TO THE FBI; AND (2) SET FORTH NEW PROCEDURE RELATING TO SSC STAFF INTERVIEWS OF CURRENT AND FORMER FBI EMPLOYEES.

FOR INFORMATION OF THOSE OFFICES WHICH HAVE NOT PREVIOUSLY HAD CURRENT OR FORMER EMPLOYEES IN ITS TERRITOY INTERVIEWED BY THE SSC, THE BUREAU FREQUENTLY LEARNS FROM THE SSC OR OTHERWISE THAT FORMER EMPLOYEES ARE BEING CONSIDERED FOR INTERVIEW BY THE SSC STAFF. INSTRUCTIONS ARE ISSUED FOR THE FIELD OFFICE TO CONTACT THE FORMER EMPLOYEE TO ALERT HIM AS TO POSSIBLE INTERVIEW, REMIND HIM OF HIS CONFIDENTIALITY AGREEMENT WITH THE BUREAU AND SUGGEST THAT IF HE IS CONTACTED FOR

Joyce - find copy to each SAC to bring to attention of agents in Ro MA

Brought to attention of all Headquarters agents at Conference 9/15/75

#3 ASAC

62-609-6

SEARCHED INDEXED
SERIALIZED FILED
SEP 4 1975
FBI—KNOXVILLE

INTERVIEW, HE MAY CONTACT THE LEGAL COUNSEL DIVISION BY COLLECT CALL FOR FURTHER INFORMATION. IN THE USUAL CASE, AS CIRCUMSTANCES UNFOLD, THE FORMER EMPLOYEE IS TOLD (1) THAT HE HAS A RIGHT TO LEGAL COUNSEL, BUT THAT THE BUREAU CANNOT PROVIDE SAME; (2) THAT THE BUREAU HAS WAIVED THE CONFIDENTIALITY AGREEMENT FOR THE INTERVIEW WITHIN SPECIFIED PARAMETERS; AND (3) THAT THERE ARE FOUR PRIVILEGED AREAS IN WHICH HE IS NOT REQUIRED TO ANSWER QUESTION. THESE AREAS ARE RELATING TO INFORMATION WHICH MAY (A) IDENTIFY BUREAU SOURCES; (B) REVEAL SENSITIVE METHODS/TECHNIQUES; (C) REVEAL IDENTITIES OF THIRD AGENCIES, INCLUDING FOREIGN INTELLIGENCE AGENCIES, OR INFORMATION FROM SUCH AGENCIES; AND (D) ADVERSELY AFFECT ONGOING BUREAU INVESTIGATIONS.

HERETOFORE, BUREAU HAS OFFERED INTERVIEWEES CONSULTATION PRIVILEGES WHEREBY A BUREAU SUPERVISOR WOULD BE AVAILABLE NEARBY, ALTHOUGH NOT ACTUALLY AT INTERVIEW, SO INTERVIEWEE MIGHT CONSULT WITH HIM SHOULD QUESTIONS ARISE AS TO PARAMETERS OF INTERVIEW OR PRIVILEGED AREAS. THE CONSULTANT DID NOT ACT AS A LEGAL ADVISOR.

EFFECTIVE IMMEDIATELY, BUREAU WILL NO LONGER PROVIDE

ON-THE-SCENE PERSONNEL FOR CONSULTATION PURPOSES TO ASSIST EITHER CURRENT OF FORMER EMPLOYEES. PROSPECTIVE INTERVIEWEES SHOULD BE TOLD THAT, IF THEY DESIRE ASSISTANCE OF THIS NATURE DURING AN INTERVIEW, THEY MAY CONTACT EITHER PERSONALLY (IF INTERVIEW IS IN WASHINGTON, D. C.) OR BY COLLECT CALL, THE ASSISTANT DIRECTOR OF THE INTELLIGENCE DIVISION, MR. W. R. WANNALL, OR, IN HIS ABSENCE, SECTION CHIEF W. O. CREGAR.

THIS CHANGE IN PROCEDURE SHOULD NOT BE CONSTRUED AS LESSENING THE ASSISTANCE WE ARE FURNISHING TO CURRENT AND FORMER EMPLOYEES.

FOR YOUR ADDITIONAL INFORMATION, I AM WORKING WITH THE DEPARTMENT IN EXPLORING AVENUES TO ARRANGE LEGAL REPRESENTATION, WHEN NECESSARY, FOR CURRENT AND FORMER EMPLOYEES WITHOUT EXPENSE TO THEM. YOU WILL BE KEPT ADVISED OF DEVELOPMENTS IN THIS REGARD.

END

PLS RETURN TO TALK

NR033 WA CODE

5:09PM 9/4/75 NITEL AJN

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75.

REBUTEL MAY 2, 1975.

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62-1109-6

SEARCHED 24 INDEXED 28
SERIALIZED 2 FILED 28
SEP 4 1975
FBI—KNOXVILLE

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END

PLS RETURN TO TALK

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : FILE (62-1109) DATE: 7/18/75

FROM : SAC HAROLD C. SWANSON

SUBJECT: SENSTUDY 75

At 5:25 PM, today, Supervisor PAUL DALY of the Legal Counsel Division telephonically advised that the Senate Select Committee is to interview SA JOHN BENTON on Tuesday morning, 7/22/75. DALY stated that SA BENTON should report to the Atlanta Office by 9:00 AM, Tuesday morning, for a conference with Supervisor SEYMOUR PHILLIPS of the Intelligence Division. He stated that the Committee, in addition to interviewing SA BENTON, would interview five other Agents of the Atlanta Office. He stated that this would be a staff interview and not under oath. He stated that the interview concerned the MARTIN LUTHER KING case.

HCS/wsw
(2)

ADDENDUM: SA BENTON was telephonically advised of the above information. at ~~5:14~~ 5:40 pm 7/18/75

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
JUL 18 1975
FBI—KNOXVILLE

62-1109-5

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-110

FILE (62-1109) 7/18/75

SAC HAROLD C. SWANSON

SENSTUDY 75

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HCS/wsw
(2)

ADDENDUM: SA BENTON was telephonically advised of the above information. at 5:40pm 7/18/75

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
JUL 1 9 1975
FBI — KNOXVILLE

62-1109-5

NRØØ3 WA CODE

7:26AM NITEL 6-28-75 TJT

TO ATLANTA
BIRMINGHAM
ALBANY
JACKSONVILLE
KNOXVILLE
LOS ANGELES
TAMPA
CHICAGO

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

REBUTEL MAY 2, 1975.

INQUIRIES MADE OF BUREAU BY SENATE SELECT COMMITTEE (SSC) CONCERNING A NUMBER OF PRESENT AND FORMER FBI EMPLOYEES, INCLUDING THEIR CURRENT WHEREABOUTS, SUGGESTS THEY MAY BE INTERVIEWED BY SSC STAFF CONCERNING BUREAU'S FORMER INVESTIGATION OF MARTIN LUTHER KING, JR. SET OUT BELOW ARE NAMES AND LAST KNOWN ADDRESSES OF FORMER BUREAU EMPLOYEES AND OFFICE OF ASSIGNMENT OF INCUMBENTS, ALL OF WHOM SSC HAS INQUIRED ABOUT.

EACH OF THESE FORMER EMPLOYEES IS TO BE IMMEDIATELY CONTACTED AND ALERTED THAT HE MIGHT BE APPROACHED BY THE SSC STAFF ABOUT THE KING INVESTIGATION. THEY SHOULD BE TOLD THAT

SAC + SA Benton
Advised Jur

ASAC

62-1109-4

#3

SEARCHED INDEXED
SERIALIZED FILED
JUN 1975
FBI—KNOXVILLE
SAC

IN THE EVENT THEY ARE INTERVIEWED AND DURING THE COURSE OF SAME, QUESTIONS ARE ASKED WHICH RELATE TO SENSITIVE BUREAU OPERATIONS (SOURCES, METHODS, TECHNIQUES, THIRD AGENCY RULE AND ONGOING INVESTIGATIONS), THEY MAY REQUEST THAT AN FBI AGENT BE PRESENT. BUREAU WILL PROVIDE AGENT ON REQUEST OF INTERVIEWEE. AS A PRELUDE TO INTERVIEW, THE FORMER EMPLOYEE MAY, AFTER BEING CONTACTED BY SSC STAFF, CONTACT BUREAU'S LEGAL COUNSEL DIVISION BY COLLECT CALL FOF FULL INFORMATION TO ASSIST HIM, INCLUDING OBLIGATIONS AS TO CONFIDENTIALITY OF INFORMATION ACQUIRED AS FBI EMPLOYEE. IT IS EMPHASIZED THAT BUREAU'S OFFER OF ASSISTANCE IS NOT INTENDED TO IMPEDE SSC WORK BUT IS DONE AS COOPERATIVE GESTURE AND TO SAFEGUARD SENSITIVE BUREAU INFORMATION. CONTACTS WITH THESE FORMER EMPLOYEES TO BE HANDLED PERSONALLY BY SAC OR ASAC. IN EVENT THIS NOT FEASIBLE FOR JUST CAUSE, TO BE HANDLED BY A SENIOR SUPERVISOR.

INCUMBENT EMPLOYEES TO BE ADVISED THAT IF CONTACTED BY SSC STAFF FOR INTERVIEW, LEGAL COUNSEL DIVISION TO BE IMMEDIATELY NOTIFIED THROUGH SAC.

IMMEDIATELY AFTER CONTACT, RESULTS SHOULD BE FURNISHED

BUREAU BY TELETYPE IN ABOVE CAPTION. IF A FORMER EMPLOYEE IS NO LONGER IN YOUR TERRITORY OR TEMPORARILY AWAY, SET OUT LEAD TO OTHER OFFICE IMMEDIATELY WITH COPY TO FBI HEADQUARTERS.

ATLANTA: INCUMBENTS - DONALD P. BURGESS, RICHARD E. FUGATT, EDMUND F. HAGGERTY, O. RICHARD HAMILTON, CHARLES T. HAYNES, WILBUR W. SEITZER, ROBERT W. THOMSON. FORMER - MARION E. CHEEK, 1613 GAIL AVENUE, ALBANY, GEORGIA 31705; CHARLES T. HARDING, 2243 PINECLIFF DRIVE, NORTHEAST, ATLANTA, GEORGIA 30345.

BIRMINGHAM: LAWRENCE T. GURLEY, 1340 WESTMINISTER PLACE, BIRMINGHAM, ALABAMA 35235.

ALBANY: HENRY G. ROWSE, JR., 39 NORTH MAIN STREET, ENOSBURG FALLS, VERMONT 05450.

JACKSONVILLE: WILLIAM LEE BOLYARD - INCUMBENT.

KNOXVILLE: W. JOHN BENTON - INCUMBENT.

LOS ANGELES: JAMES M. KELLOGG - INCUMBENT.

TAMPA: JAMES E. MCMAHON, 3110 COCOS ROAD, TAMPA, FLORIDA 33618.

CHICAGO: JOHN BASSETT - INCUMBENT.

END -

ALL OFFICES PLS RETURN TO TALK

NR003 WA CODE

7:26AM NITEL 6-28-75 TJT

TO ATLANTA
BIRMINGHAM
ALBANY
JACKSONVILLE
KNOXVILLE
LOS ANGELES
TAMPA
CHICAGO

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

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62-1109-4

SEARCHED INDEXED
SERIALIZED FILED
JUN 1975
FBI—KNOXVILLE

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CHICAGO: JOHN BASSETT - INCUMBENT.

END

ALL OFFICES PLS RETURN TO TALK

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : ALL EMPLOYEES

DATE: 5/22/75

FROM : SAC, KNOXVILLE

OFFICE MEMO NO. 18

SUBJECT: (A) SENSTUDY 75 (62-1109) - In connection with the work of the Senate and House Select Committees, its representatives may try to contact our office for information. Accordingly, it is important that you be aware of the fact that in one instance, a representative of the Senate Select Committee telephonically inquired as to the identity of a SAC in a particular office during 1970. In handling such inquiries, insure establishing bona fides of representative by having him display credentials on personal contact or if telephonic contact by telephoning back to Committee. Unless information is of a public nature, as in the instance cited above, FBIHQ clearance is necessary prior to supplying any information. FBIHQ must be expeditiously advised of all information furnished. As stated in Office Memo No. 16, Item A, it is reiterated that the FBI has pledged full cooperation to assist and facilitate any investigation undertaken by the Committee concerning the FBI.

(B) ECONOMY (66-118) - In accordance with a suggestion made by the Inspection Staff, all employees are again reminded to make every effort to continue practices which enhance the economy of operations in this office. Exercise restraint in travel costs, communications, and any other phase of our operations which do not adversely affect Bureau operations. Your suggestions in this regard are solicited.

(C) FORMS AND CORRESPONDENCE - OFFICE PROCEDURE (66-647) - In my memorandum to all employees, 5/7/75, concerning this matter, I stated that the CCO is now routing FD-302's, inserts, and memos received on dictation belts and in rough draft form directly to the steno pool without being matched to the file. It was also pointed out that FD-302's, inserts, and memos pertaining to more than one file could now be placed on a single dictation belt. This new procedure would not, however, permit the incorporation of communications such as letters and reports, where the belt must be matched with the file, to be included on the same dictation belt. Recently such instances have occurred, thereby delaying the receipt of the dictation belt in the steno pool. Accordingly, in those instances where it is necessary to match dictation belt with the file, the dictation must relate to one individual file. This does not interfere with the procedure previously established, permitting FD-302's, inserts, and memos pertaining to more than one file to be on a single dictation belt.

1 - Each employee
1 - 66-3B
1 - 62-1109
1 - 66-118
1 - 66-647
1 - 66-1922
HCS/wsw

62-1109-3
SEARCHED ... INDEXED
SERIALIZED ... FILED
MAY 1975
FBI—KNOXVILLE

OVER

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-110

(D) CONDOLENCES - Our sincere condolences go out to DENNIS W. SHANAHAN and his family due to the loss of his step-father, Dr. WALTER J. BARTH, who died of natural causes in Chicago, Illinois, on 5/19/75.

(E) RETIREMENT MATTERS - SAC J. GORDON SHANKLIN, Dallas Division, retires from the Bureau, 6/27/75. A book of letters is being prepared, and anyone wishing to send him a letter may forward it to Secretary NANCY J. COLLINS, Dallas, by 6/17/75.

ALVIN A. STAFFELD, JR., Inspector - Deputy Assistant Director, Special Investigative Division, FBIHQ, retires 6/6/75, after more than 30 years of Bureau service. A book of letters is being prepared, and those desiring to send one to be included in the book should sent it to Mrs. DARLENE BELLUS, Room 1742, Justice Building, by 6/2/75.

PAUL F. O'CONNELL, JR., Inspector - Deputy Assistant Director, Files and Communications Division, Washington, D. C., will retire on 6/20/75, after more than 32 years of Bureau service. Anyone wishing to send PAUL a letter for inclusion in the book being prepared may forward it to Miss BESSIE P. ROSS, Room 5829, JEH Building, by 6/13/75.

Any letters sent to the above individuals should be unfolded and the envelope marked "Personal."

(F) FBIRA BOWLING LEAGUE (66-1922) - The kick-off bowling league finished its Spring season, Tuesday night of this week, and special honors go to Team #7, who finished first in the league, because of the outstanding performance of its members, CHARLOTTE HENRY, BOB STROM, CAROLYN FULLER, and MIKE FULLER. Additional honors go to the following individuals for individual and team cooperation:

High Individual Game: JERRY COX - 201; CAROLYN FULLER - 216
High Individual Series: JERRY COX - 512; CAROLYN FULLER - 501
High Team Game: Team #2 - 731 (LINDA SAMSON, PAUL SAMSON, RUTH BOST, and SONNY BOST)
High Team Series: Team #2 - 2073
Most Improved Bowlers: JEAN COX - raised average 28 pins.
PAUL SAMSON - raised average 15 pins.

(G) BIRTHDAY GREETINGS - To the following employees who will be celebrating their birthdays during the forthcoming week: JOE STARNES on May 24 and DEBBIE CATES on May 25.

NW 55187 DocId:32989769 Page 140

NR036 WA CODE

4:38PM NITEL 5-20-75 PAW

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY - 75.

REBUTEL MAY 2, 1975.

IN CONNECTION WITH WORK OF THE SENATE AND HOUSE SELECT COMMITTEES, ITS REPRESENTATIVES MAY CONTACT YOUR OFFICE FOR INFORMATION.

IN ONE RECENT INSTANCE, A REPRESENTATIVE OF THE SENATE SELECT COMMITTEE TELEPHONICALLY INQUIRED AS TO IDENTITY OF SAC IN A PARTICULAR OFFICE DURING 1970.

IN HANDLING SUCH INQUIRIES INSURE ESTABLISHING BONA FIDES OF REPRESENTATIVE BY SHOW OF CREDENTIALS ON PERSONAL CONTACT OR, IF TELEPHONIC CONTACT, BY TELEPHONING BACK TO COMMITTEE. UNLESS INFORMATION IS OF A PUBLIC NATURE, AS IN THE INSTANCE CITED ABOVE, OBTAIN FBIHQ CLEARANCE PRIOR TO SUPPLYING ANY INFORMATION. FBIHQ MUST BE EXPEDITIOUSLY ADVISED OF ALL INFORMATION FURNISHED.

END

PLS RETURN TO TALK

Included in office memo #18

ASAC RD

#3

62-1109-2

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
MAY 20 1975
FBI — KNOXVILLE

SAC

NR036 WA CODE

4:38PM NITEL 5-20-75 PAW

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

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END

PLS RETURN TO TALK

62-1109-2

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___
MAY 20 1975
FBI — KNOXVILLE

NR074 WA CODE

952PM NITEL 5-2-75 MSE

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

- CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY SEEK TO INTERVIEW CURRENT AND FORMER FBI EMPLOYEES.

RECENTLY, THE SENATE SELECT COMMITTEE (SSC) STAFF HAS INTERVIEWED SEVERAL FORMER EMPLOYEES AND IT IS ANTICIPATED THAT MANY MORE SUCH PERSONNEL WILL BE CONTACTED.

THE FBI HAS PLEDGED FULL COOPERATION WITH THE COMMITTEE AND WE WISH TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE COMMITTEE WITH RESPECT TO THE FBI. HOWEVER, WE DO HAVE AN OBLIGATION TO INSURE THAT SENSITIVE SOURCES AND METHODS AND ONGOING SENSITIVE INVESTIGATIONS ARE FULLY

cc Okon
62-Read
Rs

1 cc destroyed
PA

A&SAC
weekly memo
#3

62-1109
SAC

PROTECTED. SHOULD ANY FORMER EMPLOYEE CONTACT YOUR OFFICE AND HAVE ANY QUESTION REGARDING HIS OBLIGATION NOT TO DIVULGE INFORMATION OBTAINED BY VIRTUE OF HIS PAST FBI EMPLOYMENT, HE SHOULD BE INSTRUCTED TO CONTACT LEGAL COUNSEL, FBIHQ, BY COLLECT CALL. YOUR CONVERSATIONS WITH FORMER EMPLOYEES MUST BE IN KEEPING WITH OUR PLEDGE. IT IS BELIEVED SUCH A PROCEDURE WOULD INSURE PROPER PROTECTION AND ALSO FACILITATE THE WORK OF THE SSC.

THE ABOVE PROCEDURE ALSO APPLIES TO CURRENT EMPLOYEES OF YOUR OFFICE. HOWEVER, CONTACT WITH THE LEGAL COUNSEL SHOULD BE HANDLED THROUGH THE SAC.

END

RETURN TO TALK ON THE CONFERENCE

NR074 WA CODE

952PM NITEL 5-2-75 MSE

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY SEEK TO INTERVIEW CURRENT AND FORMER FBI EMPLOYEES.

RECENTLY, THE SENATE SELECT COMMITTEE (SSC) STAFF HAS INTERVIEWED SEVERAL FORMER EMPLOYEES AND IT IS ANTICIPATED THAT MANY MORE SUCH PERSONNEL WILL BE CONTACTED.

THE FBI HAS PLEDGED FULL COOPERATION WITH THE COMMITTEE AND WE WISH TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE COMMITTEE WITH RESPECT TO THE FBI. HOWEVER, WE DO HAVE AN OBLIGATION TO INSURE THAT SENSITIVE SOURCES AND METHODS AND ONGOING SENSITIVE INVESTIGATIONS ARE FULLY

62-116395-1

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