

WEDNESDAY, DECEMBER 3, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS,
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:22 a.m., in room 318, Russell Senate Office Building, Senator John Tower (presiding).

Present: Senators Tower, Hart of Michigan, Mondale, Morgan, Hart of Colorado, and Schweiker.

Also present: Frederick A. O. Schwarz, Jr., chief counsel; Curtis R. Smothers, counsel to the minority; and John Elliff, professional staff member.

Senator Tower. The committee will come to order.

I should first like to apologize to the witnesses for the late start. The Senate is in the process of a record vote and other members of the committee will assemble as they have completed voting on the Senate floor.

Our hearings today provide the committee with its most important opportunity thus far to examine the question of authorization of domestic intelligence activity. Yesterday, and in earlier sessions, we looked at the methods and techniques employed by the Federal Bureau of Investigation in conducting investigations, particularly in gathering general intelligence information. The testimony has revealed many instances in which the FBI has applied legitimate investigative and intelligence techniques broadly. The situations in which their use was overly broad in its scope are wholly inappropriate under the American view of civil liberties.

We have been told of distressing and dangerous abuses of freedom of speech, freedom of assembly, the right of privacy and other constitutional guarantees so essential to our way of life and system of government. The FBI is regarded by many as the very best investigative organization in the world. Its law enforcement techniques and standards are cited as the fairest and most efficient anywhere. That reputation was earned over the years by the hard work and dedication of thousands of loyal employees and agents, and their sincere efforts do make these current revelations of abuses and overzealous programs especially painful.

The FBI, of course, does not exist in a vacuum. Its operations fall within the purview of the Department of Justice, and the President does, often, direct the Bureau to investigate certain matters. One of the most disturbing aspects to surface during our investigation is the use of FBI resources by various Presidents for their own political purposes. The committee counsel touched on the history of political use and abuse by Presidents.

Today we seek additional testimony on this point, and on the question of whether Justice Department officials were aware of, and exercised proper supervision over, the Bureau's activities. We are also concerned about the Department's role in authorizing, encouraging, or condoning these improper FBI activities, and the degree to which Attorneys General may have discouraged, prevented, or prohibited such activities. The witnesses today will address these issues.

There is one important point that I would like to make and that I would like to stress, and I ask members of the committee as well as the staff and the witnesses to give this point special attention as we proceed this morning. Investigations which are designed to determine whether governmental agencies are infringing on the rights of citizens run the risk themselves of injuring private citizens' rights, unless great care is taken. Disclosure of the contents of raw FBI files, Bureau characterizations, or other derogatory information obtained in the course of this investigation should be avoided at all costs by the committee, the staff, and the witnesses. For that reason I want to instruct the staff to refrain from mentioning the names of private citizens unless permission has been given in advance by that person, or unless the information is already in the public domain.

The documents the committee is releasing have already been carefully excised, and I hope the committee members in their questions will exercise the same care. And I may say too, that this injunction applies to the witnesses.

First, we will have a presentation of background on this matter by Mr. John Elliff of the staff of the select committee.

Mr. Elliff.

**STATEMENT OF JOHN ELLIFF, PROFESSIONAL STAFF MEMBER,
SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES**

Mr. ELLIFF. Thank you, Senator Tower.

The political abuse of the FBI and by the FBI did not begin in the 1960's. Although this committee has concentrated its investigations on the events of the 1960's and 1970's, the story cannot be fully understood by looking at just the last 15 years. Therefore, the first objective of this report is to lay out some of the historical context for more recent political abuses of the FBI.

The second objective is to describe some of the results of our investigation which show the various types of political abuse to which the FBI is susceptible. Some have been in response to the desires of the Bureau's superiors. Others have been generated by the Bureau itself. And there is the added possibility, suggested by some of the documents we have seen and some of the witnesses we have interviewed, that certain political abuses resulted from the inexorable dynamics of the FBI's intelligence-gathering system itself. In other words, that the FBI intelligence system developed to a point where no one inside or outside the Bureau was willing, or able, to tell the difference between legitimate national security and law enforcement information, and purely political intelligence.

Whether any particular abuse resulted from outside demands, from the Bureau's own desires, or from the nature of the intelligence process is a question for the committee to answer when all the evidence is in.

The historical background of political abuse of the FBI involves at least three dimensions. The first is the Bureau's subservience to the Presidency, its willingness to carry out White House requests without question. When L. Patrick Gray, as Acting FBI Director, destroyed documents and gave FBI reports to Presidential aides, whom the FBI should have been investigating after the Watergate break-in, he just carried to the extreme an established practice of service to the White House. The other side of this practice was the Bureau's volunteering political intelligence to its superiors, in response to no specific request. The third historical dimension was the FBI's concerted effort to promote its public image and discredit its critics.

Early examples of the Bureau's willingness to do the Presidents' bidding occur under Franklin D. Roosevelt. Materials here are found in exhibit 34.¹ In 1940, the Bureau complied with a request to run name checks, open files, and make reports on hundreds of persons who sent telegrams to the President that were—to quote the letter from the President's secretary to J. Edgar Hoover—"all more or less in opposition to national defense," or that expressed approval of Col. Charles Lindbergh's criticism of the President.

Another example, from the Truman period, came to light in recent years when Maj. Gen. Harry Vaughn, President Truman's military aide, disclosed that President Roosevelt had ordered wiretaps on the home telephones of his closest aides. Shortly after Mr. Truman had taken office, someone had presented General Vaughn with transcripts of the wiretaps. He took them to President Truman who said, according to General Vaughn, "I don't have time for that foolishness." This story is generally confirmed by the committee staff's examination of J. Edgar Hoover's "Official and Confidential" files, where an index to the logs of these wiretaps on President Roosevelt's aides was located.

Historical illustrations of the FBI's practice of volunteering political intelligence to its superiors appear in virtually every administration. President Roosevelt's Attorney General, Francis Biddle, recalled in his autobiography how J. Edgar Hoover shared with him some of the "intimate details" of what his fellow Cabinet members did and said, "their likes and dislikes, their weaknesses and their associations." Attorney General Biddle confessed that he enjoyed hearing these derogatory and sometimes "embarrassing" stories and that Director Hoover "knew how to flatter his superior."

President Truman and his aides received regular letters from Hoover, labeled "Personal and Confidential" and containing tidbits of political intelligence. Copies of many of these letters which the committee obtained from the Truman Library, are contained in exhibit 35.² These letters sometimes reported on possible Communist influence behind various lobbying efforts, such as activities in support of civil rights legislation. They reported allegations that a Communist sympathizer had helped write a Senator's speech. Some of the letters were undoubtedly of political value to the President. For example, one related the activities of a former Roosevelt aide who was trying to

¹ See p. 452.

² See p. 455 through 469.

influence the Truman administration's appointments. Another advised that the FBI had learned from a confidential source that a "scandal" was brewing and that it would be "very embarrassing to the Democratic administration." A third contained the report of a "very confidential source" on a meeting of newspaper representatives in Chicago to plan publication of a series of stories exposing organized crime and corrupt politicians, stories which were going to be critical of the Attorney General and the President. The Truman White House also received a copy of an FBI memorandum reporting the contents of an in-house communication from Newsweek magazine reporters to their editors about a story they had obtained from the State Department.

An example from the Eisenhower administration shows how White House requests and FBI initiative were sometimes mixed together. President Eisenhower asked Director Hoover to brief the Cabinet on racial tensions in early 1956. What the Cabinet received was a report not only on incidents of violence, but also on the activities of Southern Governors and Congressmen who were members of groups opposed to integration, the NAACP's plans to push for civil rights legislation, and the role of Communists in civil rights lobbying efforts. No one appears to have questioned the propriety of the FBI reporting such political intelligence, or Director Hoover's competence to do so.

The third source of abuse throughout the Bureau's history was its concern for its image and hostility to its critics. An example from the Truman years shows how the Bureau checked and reported on its critics. In 1949, the National Lawyers Guild planned to issue a report denouncing FBI surveillance activities which had been revealed in a court case. The FBI provided the Attorney General with advance information from its sources about the Lawyers Guild plans, as well as a full report on everything concerning that group in Bureau files. Attorney General Howard McGrath passed the reports on to the President, and J. Edgar Hoover advised the White House directly of last-minute changes in the Guild's plans. The FBI's inside information allowed the Attorney General to prepare a rebuttal well in advance of the expected criticism.

A second example of the Bureau's reporting occurred during the Eisenhower administration, in 1960. The Tennessee Advisory Committee to the U.S. Civil Rights Commission had announced it would investigate charges by the Knoxville Area Human Relations Council that Federal agencies, including the FBI, were practicing racial discrimination. The Bureau conducted name checks on all 11 members of the Council's board of directors and forwarded the results to Attorney General William Rogers, Deputy Attorney General Lawrence Walsh, and Special Assistant to the Attorney General Harold R. Tyler, Jr. Derogatory information developed on four of these individuals included allegations of subversive connections from as far back as the late 1930's and early 1940's, an allegation that one board member had "corrupt political associates" in 1946, and the characterization of another as having "unorthodox attitudes" and sending flowers and "mash" notes to a woman in his church. The FBI's report also made the flat statement, "As you know, this Bureau does not practice racial segregation or discrimination." The committee will recall that it has

previously received information as to the number of black FBI agents in the early 1960's. Thus, the Bureau's early history shows the development of its political services for higher authorities and its concern for its own political position.

The staff's investigation of alleged abuses in the 1960's and 1970's discloses a wide variety of questionable name checks, sometimes for Presidents and sometimes in the Bureau's own interest. An examination of these name check reports shows the peculiarly damaging nature of this practice. No new investigation was done to verify allegations stored away for years in FBI files. Anything anyone ever told the FBI about the individual was pulled together, including charges that the Bureau may have never substantiated. FBI files inevitably include misinformation because people bear grudges or make mistakes. Sometimes the Bureau verifies the charge; but frequently there is no reason to do so, and it is just recorded in the files. Such charges can be retrieved by a name check and reported without further substantiation.

A request by the Nixon White House for a name check on CBS news correspondent Daniel Schorr, which the FBI turned into a full field investigation, has been extensively examined elsewhere. The staff has determined that President Johnson asked for similar name check reports on at least seven other journalists, including NBC commentator David Brinkley; Associated Press reporter Peter Arnett, who at about that time won a Pulitzer Prize for his reporting on Vietnam; and columnist Joseph Kraft.

Another political abuse of FBI name checks occurred in the closing days of the 1964 Presidential election campaign, when Johnson aide Bill Moyers asked the Bureau to report on all persons employed in Senator Goldwater's office. Moyers has publicly recounted his role in the incident, and his account is confirmed by FBI documents. The committee may be interested in questioning Mr. DeLoach later today about this incident.

Some of President Johnson's requests parallel those of President Roosevelt 25 years earlier. In 1965, for example, the FBI complied with White House requests for name checks on dozens of persons who signed telegrams critical of U.S. Vietnam policy. The names of other Presidential critics were also sent to the Bureau to be checked and reported on, as were names of critics of the Warren Commission. The FBI has also volunteered reports on Presidential critics. Once again, Mr. DeLoach might be questioned on the practice of volunteering such information to the White House.

The White House requests for name checks are episodic in comparison to name checks conducted as a matter of systematic Bureau policy for the use of FBI Director Hoover. The Crime Records Division, which was headed for a long period of time by Mr. DeLoach, prepared name check memorandums for Director Hoover regularly on Congressmen, other public officials, and prominent persons of interest to the Director. Many of these special memorandums were filed by the Crime Records Division. Others found their way into Director Hoover's "Official and Confidential" files. The committee staff has located in these "O and C" files such special memorandums on the author of a book critical of the FBI, and on all members of the Senate

subcommittee, chaired by Senator Long, which threatened to investigate the FBI in the mid-1960's. Some of these name check reports and special memorandums contained derogatory information and, in the case of the author, information about his income tax returns and personal information about his wife. The reports on members of the Long subcommittee were compiled in a briefing book, with tabs on each Senator.

These incidents demonstrate the inherent potential for abuse in the Bureau's unregulated name check procedure. White House requests bypassed the Attorney General, and the FBI Director's own requests took place totally within the Bureau. The real meaning of the long-standing fear that the FBI had so-called dossiers on Congressmen and other prominent persons, was the FBI officials could have name check reports prepared for their use on anyone about whom they desired to know more.

The next category of abuse involves the Bureau's investigative powers. A vivid example of this type of abuse occurred during the Kennedy administration, when the FBI conducted late night and early morning interviews of a steel company executive, and several reporters who had written stories about that steel executive. Former Assistant FBI Director Courtney Evans, who will testify later this morning, may be questioned about this case.

Another example arises out of the Bobby Baker case. In 1965, the FBI declined a request of the Criminal Division, Justice Department to wire a witness in the investigation of former Johnson Senate aide Bobby Baker. Although the FBI refused on grounds that there was not adequate security, the Criminal Division had the Bureau of Narcotics in the Treasury Department wire the witness as a legitimate alternative. These events were revealed in 1967 when the Baker trial began. Presidential aide Marvin Watson informed the FBI that President Johnson was quite "exercised" and, in 1965, the Bureau was ordered to conduct a discrete rundown on the head of the Criminal Division and four persons in Treasury and the Narcotics Bureau. These rundowns were specifically to include any associations with former Attorney General Robert Kennedy. Once again, Mr. DeLoach may be questioned on these matters.

Another incident occurred in 1966 when Mr. Watson requested that the FBI monitor the televised hearings of the Senate Foreign Relations Committee on Vietnam and prepare a memorandum comparing the statements of Senators Fulbright and Morse with "the Communist Party line." Once again, the documents in the committee's possession indicate Mr. DeLoach was involved in these activities.

At the direct request of President Johnson to FBI executive Cartha DeLoach, the Bureau passed purely political intelligence about U.S. Senators to the White House which was obtained as a byproduct of otherwise legitimate national security electronic surveillance of foreign intelligence targets. This practice also continued under the Nixon administration at the request of Mr. H. R. Haldeman. This matter cannot be explored further in public session and must be reviewed in executive session because the details remain classified.

It is more difficult to automatically place the label "abuse" on Presidential requests for electronic surveillance to investigate leaks of classified information. In 1962, Attorney General Robert Kennedy

authorized wiretaps on New York Times reporter Hanson Baldwin and his secretary. These wiretaps lasted for about 1 month. I would ask the Senators to turn to exhibit 36.¹ In addition to the 1962 wiretap on Hanson Baldwin, the committee has just received materials from the FBI reflecting authorization by Attorney General Robert Kennedy of a wiretap on a reporter for Newsweek magazine in 1961 as part of the investigation of another leak of classified information. Further materials provided only last night by the FBI and the Justice Department reflect authorization by Attorney General Nicholas Katzenbach of a wiretap on the editor of an anti-Communist newsletter in 1965, again during the investigation of a leak of classified information.

The committee has received materials from the FBI reflecting authorization by Attorney General Robert F. Kennedy of wiretaps on at least six American citizens, including three executive branch officials, a congressional staff member, and two registered lobbying agents for foreign interests. The materials also reflect that these wiretaps related to an investigation of efforts by foreign interests to influence U.S. economic policies. The FBI has asked me to stress that the wiretap on the congressional staff member was not placed on a Capitol Hill office, but was rather placed on the residence, so that the FBI was not wiretapping on Capitol Hill.

The wiretaps under the Nixon administration of journalists and current or former White House and other executive officials have been widely publicized. The staff's inquiry into this matter has determined that, according to available records, at least one of these wiretaps had nothing to do with leaks and was conducted solely for personal information about the target. Nevertheless, the wiretapping Attorney General Kennedy authorized to investigate leaks and the taps of President Roosevelt's aides were undoubtedly precedents J. Edgar Hoover had in mind when he told President Nixon and Dr. Kissinger in 1969 that wiretaps had been used for these purposes in the past.

Another abuse of FBI investigative powers under the Johnson administration was the surveillance conducted at the 1964 Democratic National Convention in Atlantic City. This will be explored later with Mr. DeLoach. The most sensitive details of the plans and tactics of persons supporting the Mississippi Freedom Democratic Party delegate challenge were reported to the White House from the FBI's wiretap on Dr. King, and other types of FBI surveillance. The responsible White House official at the time, Mr. Walter Jenkins, has told the committee that he can recall no political use made of these reports. Nevertheless, an unsigned document has been located at the Johnson Library recording at least one political use of Mr. DeLoach's phone reports.

As Theodore H. White's account of the 1964 campaign makes clear, the most important single issue that might have disturbed President Johnson at the Atlantic City Convention was the Mississippi challenge. And the FBI's own inquiry into the Atlantic City events reports several FBI agents' recollection that one purpose of the Bureau operation was to help avoid "embarrassment to the President." The committee must weigh all the evidence in deciding whether this abuse of the FBI resulted from a White House request, from FBI officials vol-

¹ See p. 470.

unteering information to serve and please the President, or from a legitimate civil disorders intelligence operation which got out of hand because no one was willing to shut off the political intelligence by-product.

It should also be noted that an aide to Vice President Hubert Humphrey contacted the FBI to request assistance at the 1968 Chicago convention. Nothing appears to have come of this, largely because Attorney General Ramsey Clark turned down FBI requests for authorization to wiretap protest demonstration leaders at the Chicago convention. An additional instruction recorded in Bureau files from J. Edgar Hoover to the field office in Chicago prior to the Democratic convention directed that none of its activities should involve political intelligence.

I would like now to turn to the first addendum of the staff report, exhibit 36. According to materials provided to the committee by the FBI, President Johnson asked the Bureau to conduct physical surveillance of Mrs. Anna Chennault, a prominent woman Republican leader, on October 30, 1968, in the final days of the election campaign. The FBI instituted this surveillance to cover her activities in Washington, D.C and New York City. The results of this physical surveillance were disseminated to J. Bromley Smith, Executive Secretary of the National Security Council, who had conveyed Johnson's request to Cartha DeLoach of the FBI. On November 7, 1968, Smith called DeLoach and stated that President Johnson wanted the FBI to abandon its physical surveillance of Mrs. Chennault. On November 13, 1968, at the instruction of President Johnson, the FBI checked the toll call telephone records in Albuquerque, N. Mex., to determine if Vice Presidential Candidate Spiro Agnew had called Mrs. Chennault or the South Vietnamese Embassy during his November 2, 1968, visit to Albuquerque. No such records were located. President Johnson was furnished this information on November 13, 1968. Agnew's arrival and departure time to Albuquerque on November 2, 1968 were also verified at the request of the White House. The FBI has reviewed its files on this matter and has advised that the apparent reason the White House was interested in the activities of Mrs. Chennault and Spiro Agnew was to determine whether the South Vietnamese had secretly been in touch with supporters of Presidential Candidate Nixon, possibly through Mrs. Chennault. President Johnson apparently was suspicious that the South Vietnamese were trying to sabotage his peace negotiations in the hope that Nixon would win the election and then take a harder line toward North Vietnam. The FBI also states that physical surveillance of Mrs. Chennault was consistent with FBI responsibilities to determine if her activities were in violation of certain provisions of the Foreign Agents Registration Act and of the Neutrality Act.

The committee has also inspected copies of reports to the White House of the physical surveillance of Mrs. Anna Chennault. These include her leaving the Watergate apartments, leaving her residence, proceeding to New York, visiting the Embassy of Vietnam, traveling again to the Embassy of Vietnam, and being transported by cab from the vicinity of the Vietnamese Embassy to the Investment Build-

ing on K Street in Northwest Washington, D.C. Further details of these events involving electronic surveillance remain classified "Top secret."

Finally, there are two additional examples of political abuse of or by the FBI in the seventies. In July 1971, 3 months after the supposed end of FBI COINTELPRO operations, the FBI leaked to a newsman derogatory public record information about Daniel Ellsberg's lawyer [exhibit 37].¹ Copies of the article were sent to the Attorney General, the Deputy Attorney General, and Presidential Aide H. R. Haldeman with the specific approval of Director Hoover, with no indication it was generated by the FBI. Nevertheless, the committee should note that Charles Colson, who pleaded guilty to a civil rights offense for leaking information about Daniel Ellsberg's lawyer to a journalist, had said that he believed that the FBI was doing the same thing.

In May of 1970, the FBI provided derogatory public record information and other allegations about the Reverend Ralph David Abernathy, president of the Southern Christian Leadership Conference, to Vice President Agnew at his request [exhibit 38].² This occurred following a telephone conversation between FBI Director Hoover and Mr. Agnew during which, according to Bureau records, the Vice President "said he thought he was going to have to start destroying Abernathy's credibility."

In summary, political abuse of the FBI and by the FBI has extended over the years through administrations of both parties.

Senator TOWER. Thank you, Mr. Elliff.

Our witnesses this morning are Mr. Cartha DeLoach and Mr. Courtney Evans, former special agents of the FBI.

Mr. Evans and Mr. DeLoach, would you please seat yourselves at the witness table.

Senator TOWER. Gentlemen, would you please rise and raise your right hand?

Do you solemnly swear that the testimony you present before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EVANS. I do.

Mr. DELOACH. I do.

Senator TOWER. Will your counsel please identify himself?

Mr. McNELIS. Charles A. McNelis, Washington, D.C., attorney with the firm of Welsh & Morgan.

Senator TOWER. And who are you counsel for?

Mr. McNELIS. Mr. DeLoach, Mr. Tower.

TESTIMONY OF COURTNEY EVANS AND CARTHA DeLOACH, FORMER FBI OFFICIALS ACCOMPANIED BY CHARLES A. McNELIS, COUNSEL

Senator TOWER. Gentlemen, I understand you have no statements to make. Proceeding with the questioning will be the chief counsel of the committee, Mr. Schwarz.

Mr. SCHWARZ. Mr. Chairman, I am going to attempt, and Mr. Smothers is going to attempt, to get out of the way certain facts re-

¹ See p. 486.

² See pp. 490 through 494.