

POLITICAL MISUSE OF DOMESTIC INTELLIGENCE:

A CASE STUDY ON THE FBI

Mehmet Pacci, B.A.

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APPROVED:

Eric J. Fritsch, Major Professor and Chair  
Tory J. Caeti, Committee Member  
Peggy M. Tobolowsky, Committee Member  
Robert W. Taylor, Chair of the Department  
of Criminal Justice  
David W. Hartman, Dean of the School of  
Community Service  
C. Neal Tate, Dean of the Robert B.  
Toulouse School of Graduate Studies

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Domestic intelligence is very important in preventing disorder while ensuring unity and security during a time of national crisis. However, if uncontrolled, domestic intelligence can be subject to political misuse, which causes serious damage both to individuals and to democratic institutions.

There are various theoretical explanations for political misuse of domestic intelligence. The political use of domestic intelligence is best explained by the sociological theory of unfulfilled needs. On the other hand, political counterintelligence can be best explained by Threat Theory. In order for a domestic intelligence organization to be effective, its organizational discretion must be limited by establishing clear legislation that is not secret, on the focus, limits, and techniques of domestic intelligence. This system must be supported by a multi-level control mechanism.

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## CHAPTER 1

### INTRODUCTION

The terrorist attacks on September 11, 2001 have demonstrated that the most common response to threats to domestic security, be it in the United States or any other nation-state, is an expansion of the power of domestic intelligence agencies (Hoffman, 2001; Coggins, 2001). By expanding the power of its domestic intelligence, a country simply aims to prevent disorder while ensuring unity and security during a time of national crisis (Keller, 1989; Oseth, 1985).

Indeed, domestic intelligence involves the secret collection and maintenance of information in advance about the individuals and organizations who are thought to pose a threat to internal security. When this information is used effectively, it provides a warning, allowing time to take counter measures to avoid potential danger or even disaster (Morgan, 1980).

However, uncontrolled, domestic intelligence has the potential to cause serious damage both to individuals and to democratic institutions (Elliff, 1979). It may even

encourage social polarization and disunity when it is prejudicially used against minorities in the society.

It must be noted that the nature of intelligence work is distinguished from other functions of the state in that intelligence activities are carried out in secrecy. Targeted suspects are often observed without their knowledge. In fact, secrecy is a tool vital to intelligence operations.

Despite its benefits, secrecy is also a detriment to intelligence work. That is, secrecy may prevent the effective control of intelligence organizations. This lack of effective control may allow, if not encourage, the misuse of intelligence. This misuse may occur in various forms. Those who are in power may use their intelligence to promote their own individual interests instead of the public good (Morgan, 1980; Theoharis, 1978). On the other hand, domestic intelligence may be used to repress those with political views that lawfully challenge the socio-economic status quo (Marx, 1988; Theoharis, 1978).

For example, intelligence may be used against the political opponents of government officials. In such a case, innocent people may be wiretapped or surveilled. Their private secrets and relationships may be discovered, and used as blackmail.

Intelligence may be used to prevent the expansion of political movements that threaten majority politics.

Derogatory information about the leaders of these movements may be obtained and released, or they may be harassed and made painfully aware that they are under surveillance.

On the other hand, intelligence activities that involve a misuse of power are often difficult to detect. Secrecy poses an important obstacle against disclosure of such a misuse. Further, the termination of misuse becomes more difficult due to lack of public knowledge. Intelligence regulation is often sparked by the general public. Their ignorance generally means that reform does not take place (Schmidt, 2000; Johnson, 1996; Donner, 1980; Poveda, 1990; Elliff, 1979).

These potential hazards, the absence of regulation or internal and external control, contribute to the transformation of domestic intelligence into a dangerous instrument of political misuse, oppression and intimidation (Elliff, 1971).

This project involves a case study of the political misuse of domestic intelligence by the Federal Bureau of Investigations (FBI). This study will attempt to:

- 1-Analyze the different forms of political misuse of



domestic intelligence;

2-Find out theoretical explanations of the misuse and discover any contributing factors;

3-Examine the consequences of the misuse;

4-Explore the countermeasures to prevent future misuse.

#### Research Questions

It must be noted here that secret nature of intelligence poses an important threat preventing scholarly research from uncovering all relevant official or unofficial records on the relationship between domestic intelligence and politics. Therefore, the focus of this study is limited with the publicly available information on the issue.

In accordance with the objectives of the study, the following research questions are proposed:

1-In what way was FBI domestic intelligence misused for political gain?

2-Why was FBI intelligence misused for political reasons and what factors contributed to this process?

3-What were the consequences of the political misuse of FBI domestic intelligence?

4-What can be done to prevent the political misuse of domestic intelligence?

## Significance of the Study

Domestic intelligence has vital importance in providing domestic security since it detects and prevents potential internal security threats. However, if uncontrolled, domestic intelligence has potential to turn into a dangerous instrument of political misuse, which has to be prevented for effective use of domestic intelligence. The purpose of this study, within the given limitations and publicly available information, is to find out forms of political misuse, its theoretical explanations. Moreover, this study makes some policy recommendations to prevent future misuse.

## Methodology

This study is an analysis of the political misuse of FBI domestic intelligence. This analysis will use several tools to dissect, organize, assess, and analyze FBI policy. Also, the researcher will approach this material using in-depth comprehensive case study techniques to provide a broader perspective covering not only the facts but also the overall conditions related to the use of FBI intelligence.

In order to identify variables and get a general outline of the study, a preliminary literature review was done. In this phase of the study, three of the most prominent books in the field were used, namely, *The Reform*

*of the FBI Intelligence Operations* (Elliff, 1979), *Lawlessness and Reform, The FBI in Transition*, (Poveda, 1990), and *A Brief History of the FBI's Role and Powers* (Theoharis, 1999). As a result, three major variables were defined in accordance with the research objectives and questions. They are:

1-Domestic Intelligence: Domestic intelligence involves the secret collection and maintenance of information about the individuals or organizations that are thought to threaten the internal security of a state.

2-Political misuse of intelligence: Political misuse of intelligence refers to the illegitimate use of intelligence to influence the redistribution of national resources in favor of those who are in power, instead of public good.

Political misuse of intelligence has two forms: (a)political use of intelligence and (b)political counterintelligence. The political use of intelligence involves the promotion of the particular interests of the government officials over the public good, namely domestic security. The term political counterintelligence refers to the use of intelligence to repress those who are lawful but have political views that challenge the socio-economic status quo.

3-Prevention of political misuse of domestic intelligence: This term refers to the establishment of countermeasures to protect the public against the misuse of domestic intelligence.

To address all of the variables and questions involved in this research, a literature review was conducted. In addition to library research, the Internet was used to acquire the most recent information available. In all searches, "domestic intelligence", "political intelligence", "political counterintelligence", "cointelpro", and "abuse of FBI" were used as key words.

First, the University of North Texas (UNT) library card catalog and electronic research database were searched for books and articles on the subject. While searching UNT electronic sources, JSTOR -an engine that provides access to journals in the Arts and Science- was used along with the Criminal Justice Abstracts which provides access to data in criminology and related disciplines, a virtual warehouse of journals, books, and reports.

The found materials were examined carefully and those related to the variables of the study were selected for primary examination. Of those books and articles that had the same topic, the more recent ones were selected in order

to take advantage of updated information in the study.

While searching the Internet, Yahoo, AltaVista, and Google search engines were used. The documents found within each search engine were examined carefully to see whether they were suitable for this study. Approximately 650 articles were found in these searches.

Once all the information was obtained from these searches, it was categorized in accordance with the research questions, considering that each research question applies to a different component of the study. At the end of this step, four categories of data were defined. This data was analyzed starting from the category that relates to the first research question, continuing respectively.

During the course of the data analysis, follow-up searches were conducted to locate specific articles or books that were deemed to be important for the study. For example when a source stated that Congress had published a particularly prominent report on the misuse of intelligence, the researcher located this report in the UNT library catalog and included it in the study.

It must be noted that, the interpretation of political events is often naturally biased. People of different political ideologies or social contexts might have different

explanations for the same issue. This may influence the researcher's impartiality, if the researcher focuses on the sources that are of same or similar political ideologies or social context only, which may pose a validity problem for the study. Therefore, a neutral and valid study of such an issue requires the inclusion of multiple sources whenever possible. Based on this rationale, the researcher has paid careful attention to the use of multiple sources, including official documents such as FBI reports, memorandums, legislative oversight reports, and Congressional hearings when applicable to verify the obtained information. This method of verifying information through the use of multiple sources enables the researcher to build a cross validation of the study.

As for validity, data collection from multiple sources provides a broader range of perspectives and attitudes about the issues involved. Since there is only one researcher, a reliability problem is not expected.

#### Limitations

This study, in essence, provides an in-depth analysis of the FBI's politically motivated domestic intelligence activities dating back to the year 1917 when the Bureau was first established. Although the cases are here presented in

chronological order, this study is not meant to be a full historical analysis of the FBI's political agenda. Therefore, historically speaking, only the most noteworthy of these cases are referred to insofar as they provide insight into an exploration of the various forms of politically motivated domestic intelligence abuse.

It must be noted that the findings of FBI investigations generally are not publicly available. For example, as discussed in chapter two of this study, although many authors report that the FBI was directed to collect and disseminate critical information about Senator Martin Dies of Texas, Chairman of the House Special Committee to Investigate Un-American Activities and Propaganda, the conclusion or results of these activities are not mentioned.

Additionally, this study does not aim to discover guilt or innocence. Rather, it aims to determine what caused the abuse of domestic intelligence and what can be done to prevent this abuse in terms of establishing effective command and control of domestic intelligence.

On the other hand, one may question validity of this research. Indeed, the secret nature of intelligence poses an important validity threat. That is, due to official secrecy, scholarly research focusing on the relationship between

domestic intelligence and politics cannot possibly uncover all relevant official and unofficial records. Some aspects of certain incidents may never be revealed.

Though the Freedom of information Act enables interested parties to request official documents and information from the FBI, one cannot know to what degree these requests are honored. Therefore, it seems hardly possible to reach any legitimate conclusion about the full extent of relations between the FBI and politics. Most of the cases reported here take their roots from secret authorizations and directives that are originally disclosed solely on a need-to-know basis. Furthermore, some cases may be kept outside of the normal records system. These complications essentially cripple not only the researcher of this study but also any other researchers in the field. However, multiple sources will be used to minimize this validity threat.

Legal issues regarding the use of intelligence techniques and tactics like wiretapping, bugging, informant infiltration, mail recovery, and surveillance are so broad that each one of them can be a separate topic for an in-depth study. Therefore, the legal aspects of intelligence are beyond the focus of this study.



Finally, as with all case studies, the reader must exercise caution before attempting to generalize the findings of this study. The situations found herein are unique and may not be applicable to other countries and organizations. Specifically, the FBI and the United States are the focus of this study. In order to be able to generalize the findings of this study, further research is required within other countries and organizations.

#### Overview of the Forthcoming Chapters

This study is composed of five chapters including this first one.

In Chapter 2, intelligence is defined and three main operational functions of intelligence (information gathering, covert actions, counterintelligence), and the difference between criminal investigations and intelligence investigations are touched upon. A brief overview of the FBI domestic intelligence is also given to provide background information to the reader.

The third chapter discusses the term political misuse and introduces its forms (political use and political counterintelligence) looking at the FBI domestic intelligence. Each form of misuse is given examples from the publicly known historical events.

In the fourth chapter, theoretical explanations of the misuse are done taking advantage of "corruption" theories, and the "Threat theory." Consequences of the misuse are also included in this section of the study.

The last chapter is devoted to policy recommendations to prevent political misuse of domestic intelligence in the future. The need for establishing clear legislations on the scope, and limitations of domestic intelligence investigations, as well as effective control mechanisms are also included in this chapter.

## CHAPTER 2

### DOMESTIC INTELLIGENCE AND THE FBI

Intelligence can be described as the secret collection, analysis, and dissemination of information in advance, about key events, circumstances and personalities of interest (Johnson 1996). It has three unique operational functions. The first of these functions, information gathering, consists of four stages. In the "targeting" stage, the individuals, organizations, and events of interest are defined. The "gathering" stage involves the collection of desired information through overt or covert sources and may include the practice of informant infiltration, technical or physical surveillance, or the interception of communication. In the "analysis" stage, collected information is evaluated in an attempt to interpret what it really means. The "dissemination" stage involves deciding where to send which information. All four of these stages are isolated from the environment outside the intelligence organization by secrecy (Richelson, 1999; Gill, 1998; Johnson, 1996; Ransom, 1970).

Covert actions are the second operational function of intelligence agencies. They are designed to promote the

interests of one nation by influencing the events and politics of other nations, without disclosing official involvement (Borosage, 1976).

Covert actions may take various forms. Political advice and counsel may be provided to leaders and influential individuals in foreign states, encouraging them to act as desired. Intelligence organizations may tend to develop contacts with those who might hold leadership positions in the future. Political parties may be helped financially to influence the politics of a country. Finally, covert propaganda activities may be conducted in cooperation with foreign media and journalists to influence public opinion (Oseth, 1985).

Covert actions are normally carried out in foreign territories, but there is always the potential that they might turn inward. However, domestic arena is ordinarily not considered appropriate for covert actions (Oseth, 1985). It is generally seen as harmful to the democratic nature of a state when one of its own offices tries to influence domestic politics.

The third function of intelligence work is counterintelligence. This involves all activities to detect, lawfully counter and neutralize the activities of foreign

and/or hostile intelligence organizations that may adversely influence national interests (Oseth, 1985; US Senate Select Committee, 1976, vol.1; Ransom, 1970).

Counterintelligence activities are of two types: passive (defensive) or active (offensive). Passive activities are designed to improve security. They may involve careful screening and regulation of personnel who have access to sensitive information. This screening may utilize security authorizations, polygraph examinations, procedures and rules for handling classified materials, or encryption techniques. Physical security measures are passive as well, and may include the installation of badge and pass systems, alarms, surveillance and warning devices, or fence or other barriers. Finally, passive counterintelligence may consist of area control techniques including curfews, checkpoints, and border control regulations.

Active (offensive) counterintelligence measures may take the form of covert surveillance methods, such as informant infiltration, physical and technical surveillance, and record keeping. This may also consist of intrusive techniques designed to manipulate ongoing hostile activities. It has been argued that offensive

counterintelligence must be allowed to operate beyond the legal standards of the criminal justice system because it addresses the high purpose of preventing possible national security disasters. For example, it is argued that intelligence investigations should be allowed even when there is no evidence that a crime has been committed (Oseth, 1985).

#### The Difference Between Criminal Investigations and Intelligence Investigations

Criminal and intelligence investigations both exist for the purpose of collecting information to discover the truth. Some of their investigative techniques are quite similar if not identical. For example, both may use interviews, wiretaps, or physical surveillance to collect information.

It must be noted, however, that there are differences between intelligence investigations and criminal investigations. First and foremost, they have different purposes. While the information obtained in a criminal investigation is used for prosecution, the goal of domestic intelligence investigations is not always prosecution. It may be to discover potential threats to national security and help policy makers formulate policies to counter these dangers (Ransom, 1970).

Secondly, the initiation of a criminal investigation requires some evidence of the commission of a crime or evidence at least showing a preparation for the commission of a crime. Furthermore, the evidence collected in a criminal investigation often must be evidence related to a specific crime. On the other hand, a domestic intelligence investigation may be opened in the absence of a crime, to collect background information on the activities of targets (US General Accounting Office, 1977).

#### Domestic Intelligence and The FBI

Intelligence can be divided into two separate categories based on geography and the intended target. Foreign intelligence works on an international level, keeping tabs on the workings of other countries and their people. On the other hand, domestic intelligence is primarily confined within the national boundaries and citizenry of a country. While these two are perceptibly opposites, overlap of these jurisdictions is possible.

Traditionally, both types of intelligence activities are subject to different rules and standards of suitability. Domestic intelligence is expected to obey constitutional prohibitions against governmental invasion of individual rights and privacies. In foreign intelligence activities,

though similar or even identical operational techniques are used, more discretion and broader operational autonomy is granted (Oseth, 1985).

The FBI's domestic intelligence function is carried out within the boundaries of the United States. It focuses on the "enemy within," namely individuals or organizations that are thought to threaten internal security. The FBI compiles information about these individuals and organizations for future reference, even if they are not necessarily connected to a known crime (Morgan, 1980).

It must be noted once more that the major focus of this study is the abuse of domestic intelligence by the FBI. Though some example cases are presented for analysis in Chapter 3, it is essential at this point that one have understanding of how the FBI became established as a political machine over the course of time. A brief historical overview follows outlining six critical periods in FBI history. They are: World War I and the Red Scare Era (1917-1920), the World War II Era (1934-1945), the Cold War Era (1948-1955), the Law and Order Crisis of the 1960s, the 1980s, and the FBI Today.

#### World War I and Red Scare Era (1917-1920)

During and after World War I (WWI), the Bureau of



Intelligence, a forerunner of the FBI, was tasked to deal with national security matters such as espionage, and sabotage. This move was sparked by concern over one of the largest waves of alien immigration in US history, a wave predominantly Eastern European in origin. Immigrants came from Italy, Austria, Hungary, Russia, and the Balkan and Baltic states. Their new language and customs made them immediately suspicious. US involvement in WWI only increased that suspicion, so the Bureau of Intelligence was developed to counter the fear that these groups might cripple the US government (Theoharis, 1999; McLemore & Komo 1998).

The Bolshevik Revolution in 1917 only added to concern about the new wave of immigrants. It was feared that local groups might organize a coup in the US or otherwise move to overthrow the US government in the name of socialism (Schmidt, 2000).

These concerns seemed justified after terrorist attacks took place in 1919. In addition to an attack against the Attorney General Palmer, postal authorities captured thirty-six packages containing bombs addressed to prominent politicians, judges and other state officials. In response to this, the Radical Division was established in the Bureau of Investigation to deal with radical political activities.

This division was subsequently renamed the General Intelligence Division (Powers, 1987; Morgan, 1980; US Senate Select Committee, 1976, vol.4).

The FBI authorization for non-criminal investigations in these years originated from a 1916 statute. This statute empowered the FBI to conduct non-criminal investigations concerning the activities of foreign governments when requested by the State Department. It should be noted that the FBI's domestic intelligence function was created with the sole intention of monitoring alien activities within the US borders (Donner, 1980).

In 1918, the authority of the Bureau was strengthened with the enactment of two laws: The Sedition Act of 1918, and the Immigration Act of 1918. The Sedition Act banned oral or written critics of the US government, the constitution, or the armed services. It also banned the use of any *language* intended to encourage resistance to the United States, or to support the enemies of the US. The Immigration Act required the deportation of aliens who were members of organizations that encouraged disorder or the removal of the US government from power by force (Morgan, 1980; Theoharis, 1999).

In 1924, the first one of the Attorney General

Guidelines were issued to regulate the Bureau's activities. These guidelines became known as the Stone Guidelines, and linked the Bureau investigations to violation of law. These guidelines were prepared in response to two incidents: the Palmer Raids of 1919 and 1920, and the Teapot Dome scandal of 1923-1924. These are discussed in greater detail in Chapter 3. Suffice it to say, the Bureau ceased its intelligence functions and operated solely as a law enforcement agency until the 1930s (Williams, 1981; Poveda, 1990).

#### The World War II Era (1934-1945)

During this time frame, the FBI began to view those who claimed affiliation with fascist and communist groups as internal security threats in addition to still-prevalent concerns about foreign immigrants. This concern over these new political groups was based on several factors. First of all, these two movements were inspired by the economic crisis brought about by the Great Depression (1929-1939). This complete failure of the US economic system resulted in the loss of public confidence in the government.

Secondly, fascist and communist movements were thought to have been influenced by Nazi Germany and Soviet Russia, and members of these movements were seen as possible

recruits of the enemy.

Because of these and other concerns, the US administration felt it necessary to take measures to prevent any potential danger. In 1934, President Roosevelt reinstated the intelligence function of the FBI gradually, ordering it to investigate whether communist and Nazi sympathizers posed any potential threat to the economic and social well-being of the United States. Also, the FBI was ordered to investigate whether these groups were subject to foreign direction and control, especially by the Germans.

In 1936, President Roosevelt ordered the FBI Director to gather general intelligence information concerning subversive activities in the US, particularly focusing on Fascists and Communists (O'Reilly, 1982; Schmidt, 2000; Stephan, 2000; Poveda, 1990). This order was used for justification of all domestic intelligence operations until the 1970s when a series of incidents led to the discovery of the misuse of intelligence by the FBI. These incidents and the reform that resulted from them are discussed later in this chapter.

The office which was tasked with the investigation of perceived national security threats became the National Defense Division in 1941. It was renamed the Security

Division in 1943 (Rosenfeld, 1999).

In response to the same perceived threats, Congress passed new laws. In 1939, Congress enacted the Hatch Act, which ceased federal employment for anyone who was a member of any organization advocating removal of the government from power by force. That same year, the Foreign Agents Registration Act of 1938 required the registration of foreign agents with the Justice Department. In 1940, the Alien Registration Act (or Smith Act) was enacted, requiring that alien residents had to be fingerprinted. This act also banned teaching subjects that include examples of overthrowing the government by force (Donner, 1980; Theoharis, 1999).

These acts opened the door to the principle of guilt by association. That is, members of the Communist party were automatically suspected of being agents of the enemy, and therefore, were considered to be dangerous to national security (Buranelli & Buranelli, 1982; Stephan, 2000). With the outbreak of WWII in 1939, the fact that communists-led unions had called a number of strikes against key defense suppliers (such as North American Aviation) further increased concerns that these groups might be recruits for the enemy (Stephan, 2000; Leab, 2000).

The FBI's political role was institutionalized during WWII with the initiation of the Federal Loyalty Program in 1943 to prevent the penetration of subversive or disloyal persons into the government. This program empowered the FBI to decide who was or was not dangerous (Schmidt, 2000).

In 1946, the Custodial Detention Program was started without legal authorization. The purpose of this program was to compile a list of "dangerous" individuals who were likely enemy sympathizers working for the Germans, Italians, or Communists. The only legal source of this program, the Emergency Detention Act of 1950 was passed after the initiation of the program (Theoharis, 1999).

This practice of collecting information about individuals and organizations emerged in response to the need to detect possible agents of enemies in war-time (Powers, 1987; Schmidt, 2000; Rosenfeld, 1999; Morgan, 1980). However, in later years, it will be argued that this information was used for purposes other than security, for example, for harassment of these groups. This issue is largely discussed in Chapter 3 of the study.

In the WWII era, the FBI's domestic intelligence function was initiated to prevent the manipulation of domestic political groups by foreign enemies (Hearing Before

the Civil Rights and Constitutional Rights Subcommittee, 1974). Its major function was to gather information and to provide the executive branch with preventive intelligence needed to make decisions about internal security threats. These threats were labeled as subversives and included communists, extremists, and dissents (Keller, 1989; Davis, 1997; Powers, 1987; Morgan, 1980).

#### The Cold War and McCarthyism Era (1948-1955)

The McCarthy Era of the early 1950s was characterized by alarm about the growing influence of communism in the US. This period takes its name from a US Senator, Joseph McCarthy, who had made communism a political issue in his first campaign for the Wisconsin Senate seat. In this period, the FBI targeted mainly the enemy within, the US communists (Keller, 1989).

In response to perceived treats, Congress passed two laws in this era. The Internal Security Act of 1950 (The McCarran Act) authorized the deportation of alien radicals, banned the employment of communists in defense industries, forbade issuing passports for communists, and required communist, communist-front, and communist-action organizations to register as foreign agents with the Subversive Activities Control Board (SACB). It further

required communist organizations to submit a list of their members to the SACB, and authorized the detention of "dangerous radicals" during a national state of emergency (Theoharis, 1999).

The Communist Control Act of 1954 extended the McCarran Act's registration requirements to include "Communist-infiltrated" organizations (Powers, 1987, p.340). The basic rationale behind this act was that the Communist Party of the US was assumed to be foreign manipulated (Morgan, 1980).

#### The Law and Order Crisis of the 1960s

This era is well known as a period of civil unrest due to Civil Rights Movement, student anti-war demonstrations, and the assassinations of prominent public figures, including President John F. Kennedy and Civil Rights leader Dr. Martin Luther King, Jr. In response to the public disorder of this period, the FBI conducted five disruptive counterintelligence operations against domestic targets, for which it has received much criticism (Donner, 1980; Davis, 1997). The FBI's operations were centered around the Communist Party-U.S.A, the Socialist Workers Party, White Hate Groups, Black Extremists, and the New Left. These operations are discussed in Chapter 3 of this study. Suffice it to say that within this period, it is argued that the FBI



did not hesitate to use clearly illegal and aggressive techniques to investigate and neutralize political extremists who opposed the state including civil rights activists, racists, and anti-war demonstrators (Keller, 1989).

### Characteristics of the Eras

All of these eras have some common characteristics that arguably provoked governmental reaction. A broad overview of the commonalities of each era will be discussed in Chapter 4 of this study.

During the Red Scare Era, there were a number of labor strikes that received considerable national attention, namely the Seattle general strike, the Boston Police strike, and the nationwide steel and coal strikes. In addition, there was a series of bombing incidents in at least eight different cities that targeted prominent political figures including US Attorney General Palmer. The Bolshevik Revolution of 1917 raised the public's fear of revolution and socio-economic instability (Poveda, 1990; Theoharis, 1999).

Between 1934 and 1945, World War II became the major concern of the US administrations. In order to prevent the manipulation of American communists and fascists by Nazi

Germany and Soviet Russia, these groups became the focus of security organizations.

The McCarthy Era of the early 1950s was characterized by alarm over the influence of communism in the US. The Russian occupation of Eastern Europe after WWII, the Cold War, the Chinese Revolution in 1949, the North Korean invasion of South Korea, and atomic espionage all signaled the rise of Soviet expansionism (Poveda, 1990; Schmidt, 2000; Stephan, 2000).

The 1960's are well known as a time of civil disorder characterized by civil rights activism, anti-war demonstrations, and a violent racist backlash. US involvement in the Vietnam War greatly influenced this era. During this time frame, there were over 300 arsons or attempted arsons, and fourteen destructive bombings throughout the nation. In 1968-1969, material damage caused by incidents on college campuses alone reached a total of 12.5 million (Hearing Before the Civil Rights and Constitutional Rights Subcommittee, 1974; Poveda, 1999).

In sum, within all these eras, the country experienced intense disorder caused by both internal and international events. This intense social unrest led to state reaction.

Disclosure of Misuse and Reform in  
Domestic Intelligence

The decade of the 1970's is very important in the history of the FBI. It was during this decade that the misuse of the FBI came to light. The first incident on record was uncovered by a break-in at the FBI's Media office in March 1971 in Pennsylvania, by a group that called itself the "Citizens' Commission to Investigate the FBI". During this break-in, several FBI files were stolen and distributed to the media, showing the misuse. The second important incident was the disclosure of the FBI illegal break-ins by President Nixon in 1973. Nixon said in response to questions on the matter that the FBI break ins had taken place during the Kennedy and Johnson Administrations. The third incident was the 1975 release of FBI Director's "secret files," a mass of private information collected through the investigation of several prominent and influential people. The fourth incident on record was suit of the Socialist Workers Party (SWP) in 1976. This party had sued the FBI in 1973. During the trial, the use of illegal intelligence methods, including break-ins, were revealed (Poveda, 1990).

After these disclosures, a reform activity was started to set standards for FBI intelligence investigations for the

first time. In 1976, the Attorney General's Guidelines for FBI Domestic Security Investigations (Levi Guidelines) were issued. These guidelines did away with domestic intelligence replacing them with the more palatable task of "Domestic Security Investigation." Investigations were now required to have specific and articulable facts that indicate a violation of law before they may initiate a domestic security investigation (Oseth, 1985; Elliff, 1979).

Additionally, the task of foreign intelligence was given to a newly created Intelligence Division. Domestic intelligence became the responsibility of another division, namely the General Investigative Division, later was renamed the Criminal Investigation Division in 1977 (Rosenfeld, 1999; Elliff, 1979).

To regulate the collection, maintenance, use and dissemination of personal information by the government, the Privacy Act of 1974 was enacted. The Freedom of Information Act of 1966 was amended in 1974 to give citizens the right to gain access to any information that federal agencies may collect about them. These acts were passed with the belief that citizens themselves were the protection against unlawful investigations.

In the 1980s, concerns arose that the stricter

limitations placed on FBI investigations might potentially cripple the FBI's ability to counter terrorist activities. For example, the FBI had to disclose the identification of its confidential informants in order to comply with the Freedom of Information Act. This disclosure requirement, it was believed, scared off key sources who now could not remain anonymous. However, a counter argument states that the decline in FBI domestic intelligence investigations after the 1970's was due to a simultaneous decline in number of the incidents that required FBI response. Nevertheless, the Reagan administration revised the Levi Guidelines in the 1980's (Elliff, 1979).

#### The 1980's

In 1983, "The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations" (Smith Guidelines) were issued (Electronic Privacy Information Center 1995). These guidelines granted the FBI greater liberty to initiate domestic security and terrorism investigations (Poveda, 1990). Namely, the Smith Guidelines provided that in order for the FBI to initiate an investigation, it must now have a "reasonable indication" that a federal law has been violated, rather than the previous, harsher standard

requiring "specific articulable facts." Now the guidelines allowed the initiation of an investigation "when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals wholly or in part through activities that involve force or violence and a violation of criminal laws." The new standard is even lower than the Fourth Amendment standard of probable cause (Banks & Bowman, 2000).

Additionally, the use of the Freedom of Information Act was limited against the security organizations in these years. This practice is also argued to have removed one of the external control mechanisms for intelligence investigations (Charns, 1992).

Naturally, the lessening of investigative restrictions gave rise to arguments. Critics of the new policy argued innocent American citizens were more vulnerable to domestic security investigations.

#### The FBI and Domestic Intelligence Today

In the 1990s, the fear of international and domestic terrorism as a result of the Persian Gulf War led to increased FBI counter-terrorist efforts (Charns, 1992). Successful terrorist attacks during this time frame,

including the bombing of the World Trade Center in New York City in February 1993 and the bombing of the federal building in Oklahoma City in April 1995 led to questions about the adequacy of the FBI's domestic intelligence efforts (Poveda, 1999).

In 1993, the FBI National Security Division was established. It was tasked with collecting intelligence and carrying out counterintelligence measures related to national security and international terrorism. Domestic intelligence investigations were transferred to this division from the Criminal Investigation Division. Until 1999, domestic intelligence as well as foreign counterintelligence activities, were carried out by this division (Rosenfeld, 1999).

In 1999, a new FBI Counterterrorism division was founded and the FBI counterterrorism initiatives were transferred from the National Security Division to this new division. Upon this reorganization, the National Security Division's jurisdiction was limited to foreign counterintelligence (Hedges, 1999).

After the September 11 terrorist attacks, a new plan was formed to reunite the functions of counterterrorism and counterintelligence, into one

Counterterrorism/Counterintelligence Division. This was, in fact, partly a wartime reorganization of the Justice Department. It was also a response to severe congressional criticism of the FBI's mishandling of several high profile cases as well as the misplacing of thousands of pages of evidence in the Oklahoma City Bombing investigation.

#### Conclusion

Domestic intelligence involves the secret collection and maintenance of information regarding possible national security threats. The FBI's domestic intelligence function began as a response to fears that foreign immigrants, mostly Eastern European in origin, presented a threat to national security in the first decade of the 20<sup>th</sup> century. During the World War I, FBI intelligence work focused on alien immigrants to the US. These efforts were supported by the enactment of two laws: The Sedition Act of 1918, and the Immigration Act of 1918. However, because of the Red Scare and the Teapot Dome Scandals, the Attorney General's office issued guidelines to stop non-intelligence investigations in 1924.

Intelligence work was resumed in 1934 before World War II. In that year, the President ordered the FBI to investigate whether American communists and fascists could



be internal security threats, and whether these groups were foreign directed. The Foreign Agents Registration Act of 1938 and the Alien Act of 1940 provided a legal basis for these investigations.

In the Cold War era, FBI intelligence efforts started to go beyond security related information gathering. The primary rationale behind this deviation was to protect national security.

The law and order crisis of the 1960's is now infamous. It is also a time of no fewer than five disruptive counterintelligence operations that utilized illegal techniques.

These illegal practices were discovered in the 1970's, and consequently intelligence reform was initiated. This reform mainly intended to provide guidelines for the initiation, limits and techniques of intelligence operations. The first of these regulations were the 1976 Levi Guidelines. They required that specific and articulable facts that a violation of federal law had occurred must be present for domestic security investigations to be initiated.

These standards were weakened by the Smith Guidelines and later revisions. The FBI was steadily given broader

guidelines and less restriction in order to combat increasing national security threats. It must be noted, however, that this broad autonomy is argued to have increased the potential for misuse of domestic intelligence as explained in the next chapter.

## CHAPTER 3

### THE POLITICAL MISUSE OF DOMESTIC INTELLIGENCE

Domestic intelligence is a process of information gathering and record keeping about individuals or organizations, who are thought to be dangerous to national security. The FBI's domestic intelligence initiative was established to prevent the manipulation of domestic political groups by foreign enemies. The FBI was associated with counter-subversive, and counterterrorist activities in an effort to provide the government with information necessary for the preservation of national security and to obtain preventive intelligence information for future use. Any deviation from these initial functions constitutes the misuse.

In this chapter, various forms of the political misuse of domestic intelligence are explored, paying particular attention to select sample cases in the eras that are discussed in the previous chapter. However, while the second chapter provides a brief overview of the roots of the FBI's domestic intelligence function, this chapter of the study provides an in-depth analysis of the most well known

incidents in these eras in an attempt to explore the different forms of political misuse of domestic intelligence.

### The Forms of Political Misuse of Domestic Intelligence

Politics can be defined as "deciding who gets what, when, and how. It is an activity by which people try to get more of whatever there is to get money, prestige, jobs, respect and power" (Dye, 2002, p.1).

Based on this definition, politics can be said to relate to all aspects of the redistribution of national resources to the population. Political misuse of intelligence then may be defined as an interference with the normal flow of this redistribution process. For example, influential government officials may order intelligence organizations to obtain critical information about their political opponents so that they can be easily neutralized politically. On the other hand, intelligence can be used to intimidate otherwise lawful citizens who hold political views that go against the current status quo. For example, in a dictatorship state, the party in power will attempt to prevent the rise of any political party that is in favor of the establishment of a democratic administration. It will

put forth a negative image of this party and its members through covert campaigns.

In sum, the political misuse of intelligence relates to the use of intelligence to influence the redistribution of national resources in favor of those who are in power.

Accordingly, the political misuse of the FBI's domestic intelligence is classified into one of two categories in the literature. The first category relates to the information-gathering function of intelligence to promote the political interests of government officials, instead of promoting the public good or ensuring domestic security. This activity is referred to as the political use of intelligence. The Second form consists of using the covert capabilities or counterintelligence and counterterrorist functions of the domestic intelligence agency to repress those who are lawful but who challenge the status quo. This activity is referred to as political counterintelligence or political intelligence (Theoharis, 1978; Donner, 1980; Churchill & Wall, 1990; Schmidt, 2000; Poveda, 1990; Morgan, 1980).

The political use of domestic intelligence represents a deviation from legitimate domestic intelligence duties with the intention of furthering the personal political interests of political administrators. The political use of

intelligence may then be seen as one type of corruption.

On the other hand, political counterintelligence may be associated with political prejudice and intolerance, and used as a tool of oppression against those who are lawful but who have challenging views.

### The Political Use of Intelligence

The political use of intelligence involves gathering critical information about, and political plans of, the various political opponents of government officials. It also involves the selective abuse of these secrets to further political interests of these officials, essentially neutralizing their opponents through threat of disclosure (Theoharis, 1991; Oseth, 1985).

In order to effectively gather and store personal information, the FBI must maintain a high level of secrecy. This secretive nature, an indispensable part of intelligence work, allowed, if not encouraged, political abuse. It was seen as beneficial not only for the political administrators but also for the FBI itself. The Bureau greatly needed political support to expand its own power as an agency (US Senate Select Committee, 1976, vol.2).

Influential politicians may use the FBI's resources in one of two ways. First they may take advantage of any FBI

information already on-file by running "name checks" (Theoharis, 1991). The Misuse of name-checks involves searching FBI files for critical information on the subjects and using this information against them unlawfully.

On the other hand, influential persons may initiate a new domestic intelligence investigation to uncover private information, as well as their political strategies, thus illegally taking advantage of all available intelligence techniques such as open sources, informant infiltration, technical and physical surveillance, and the interception of communication (Theoharis, 1991).

Although intelligence investigations may take advantage of previously collected information about a target, they are different from name checks in the sense that an intelligence investigation involves obtaining information through a new investigation that is undertaken solely at the direction of the interested political figures.

The political use of domestic intelligence goes back to the beginning of the 1920's when the Bureau of Investigation, the forerunner of the FBI, advised the President on social conflicts. This task was firmly established as a formal job description of the Bureau's Director in 1929. At this time, the Bureau was also ordered

to carry out certain investigations requested by the White House (Schmidt, 2000; Morgan, 1980).

### 1. The Misuse of Name-Checks

Senator Barry Goldwater was the Republican party's presidential candidate in 1964. In his election campaign, Goldwater pledged to reduce increasing crime and social disorder. He also criticized the Johnson Administration for not being able to effectively combat crime (Rosch, 1985).

To neutralize these efforts, the FBI conducted a name check and initiated an investigation into Goldwater's campaign staff to obtain critical information (Theoharis, 1991; O'Reilly, 1988; Powers, 1987).

Although name checks were performed at the request of FBI higher-ups, they were also run by the Crime Records Division of the FBI, as a routine matter of national security, to keep the FBI Director informed regarding prominent personalities such as Congressmen and other high ranking public officials (Select Committee to Study Governmental Operations, 1975).

The most recent example of name check abuse is commonly known as the "Filegate Scandal," which occurred during the Clinton Administration. This scandal involved allegations that White House security officials acquired nine hundred



confidential FBI files. Some of these files were on the prominent political figures that had served in the Bush and Reagan administrations. It is alleged that this action intended to get critical information about the subject people.

## 2. Misuse of Investigative Powers

One of the criticisms brought against the FBI is that many prominent political figures became the target of politically motivated, non-criminal investigations that delved into their political beliefs and private lives (Williams, 1981).

One of the earliest example of the political use of intelligence occurred in 1920. Adversaries of the Assistant Secretary of Labor dug up information to discredit him because he was opposed to the deportation of immigrants who were members of the Communist Party. In order to be able to connect him to radicalism, the Bureau started an investigation to acquire critical information on his political background. However, these efforts backfired. Instead of discrediting the Secretary, abusive use of the Justice Department and the Bureau were revealed (Schmidt, 2000).

The Teapot Dome Scandal is another example of the

political misuse of intelligence. It took place in 1923-1924, when two influential US Senators began an investigation of some questionable rental rates for several oil reserves in Teapot Dome, WY, and Elk Hills, CA. The investigation uncovered the possible bribery of the Secretary of the Interior and the failure of the Attorney General to start an investigation into this issue. In response, the Bureau started its own investigation about the persistent senators, and monitored them closely to uncover any derogatory information about them. Their wires were tapped, their mail was opened and their homes were entered surreptitiously (Theoharis, 1999).

In November 1929, the Bureau was asked by the Administration to investigate the Sentinels of the Republic, organization which opposed the growth of the federal government, and the Navy League, an organization that lobbied for a big US Navy and opposed the arms reductions (Schmidt, 2000).

The political use of the FBI expanded during World War II when the Roosevelt administration came under heavy domestic criticism (Theoharis, 1978; O'Reilly, 1982). The House Special Committee to Investigate Un-American Activities and Propaganda was established in 1934 to

investigate domestic Nazi and Fascist groups. It became another political target of the FBI after 1940 when it criticized the Roosevelt Administration for not prosecuting so-called subversives. To avoid possible negative fall-out, the US Government is said to have used the FBI's resources to discredit this Committee. Beginning in July 1940, the FBI focused its attention on the head of this Committee, Representative Martin Dies of Texas, and informed the Justice Department and the White House of his activities. The FBI was also asked to investigate rumors that Dies' father was pro-German during World War I, and that the committee was infiltrated by Communists (Stephan, 2000; Donner, 1980; Schmidt, 2000; O'Reilly, 1982).

During the investigations of the House Special Committee, the Bureau did not hesitate to wiretap phones, open mail, and break into the offices and homes of committee members to gather information. However, during subsequent congressional hearings, the illegal use of the Bureau was disclosed and the Attorney General was forced to resign from office. Also, the director of the Bureau was fired by the new Attorney General (Theoharis, 1999).

In 1941, the FBI forwarded to the White House a broad report on the actions of the US Government's right-wing

critics, namely the Christian Front and Mobilizers, the American Destiny Party, the American National party, the American Nationalist Party, and the America First Committee (Theoharis, 1978).

During the Truman Administration, from 1945 to 1948, the FBI surveilled a former Roosevelt White House assistant, reporting his activities back to the White House (Theoharis, 1978). Later on, the White House ordered the FBI to collect information on other White House employees. This order was originally intended to uncover those who were leaking secret information. However, it went beyond these intentions. Wiretaps carried out under this order provided the White House with information about the political plans of prominent national figures who conversed with the employees under surveillance (Theoharis, 1991).

During this period, the FBI regularly provided information to the White House about critics of the President's administration. For example, the FBI informed White House about a meeting of several newspaper representatives in Chicago. The papers planned to publish a series of articles exposing corrupt politicians, articles that were critical of the Attorney General and the President (Staff Report, 1975).

## Political Intelligence/Counterintelligence

The second form of intelligence abuse is associated with misuse of the covert action or counterintelligence and counterterrorist capabilities. These types of misuse are known as political intelligence, political counterintelligence or political covert actions.

As discussed earlier, counterintelligence involves all activities that are intended to detect, lawfully counter and neutralize the activities of foreign or hostile intelligence organizations that may present a threat to national security (Oseth, 1985; US Senate Select Committee, 1976, vol.1; Ransom, 1970). Covert actions are designed to manipulate a foreign nation's interests by influencing the events and politics of that nation in a clandestine way, i.e. without revealing official involvement (Borosage, 1976).

Covert actions and counterintelligence are misused in various ways depending on the goals of the person or office that is misusing them. However, as a general rule, when they are misused, it is to oppress otherwise lawful citizens who wish to overturn the status quo (Theoharis, 1978; Donner, 1980; Churchill & Wall, 1990; Schmidt, 2000; Poveda, 1990; Morgan, 1980). It is not the covert actions or counterintelligence functions themselves that are

criticized. Rather, it is the fact that these intelligence tools are being wielded against non-violent domestic political and social protest groups indiscriminately because of their challenging ideologies (US Senate Select Committee, 1976, vol.2).

The focus of the FBI's political counterintelligence activities changed overtime in response to changing perceptions of what constitutes a security threat. During World War I, the focus was on communist immigrants who were members of radical labor unions. During and after World War II, American communists and fascists were targeted. In the 1960's, civil rights activists, student anti-war demonstrators and white hate groups were targeted.

#### 1. World War I and Red Scare Era (1917-1921)

The most prominent example of political intelligence in this period is found in the Palmer Raids of 1919 and 1920. In these raids, the Bureau of Investigations, a forerunner of the FBI, indiscriminately arrested over 10,000 immigrants in 33 cities, claiming that they posed an internal security threat because they were members of the Communist and Communist Labor Parties.

Critics of the Palmer Raids argued that the Bureau lacked any authority in immigration matters. Additionally,

arrests were based solely on intelligence information allegedly showing them as being members of the Communist Party, not on any evidence of actual participation in violence, espionage or sabotage. It is also argued that the Bureau interfered with the trial process by convincing immigration authorities to set bails high enough to keep the immigrants in custody as long as possible (Poveda, 1990; Williams, 1981).

A second criticism of the Red Scare Era is the widespread use of illegal intelligence techniques. Letters and telegrams were intercepted, break-ins were conducted, buggings were carried out without warrants. Bureau agents sometimes made their presence felt in public meetings so that their targets were well aware of the fact that they were under surveillance. Additionally, agents sometimes directly interviewed suspected radicals thereby implying that they were under investigation (Schmidt, 2000).

## 2. The Cold War and The Era of McCarthyism (1948-1955)

This era takes its name from Joseph McCarthy, a US Senator from Wisconsin, who conducted an all-out political crusade against communism from 1949 to 1953. It is a well-known fact that FBI intelligence activities went beyond information gathering in this era. It carried out systematic

counterpropaganda campaigns against its targets, mainly US citizens who were suspected members of the Communist Party (Keller, 1989).

The House Committee on Un-American Activities (HUAC) hearings in 1949-50, made public the FBI information on the American Communists. The HUAC's activities were made public in nationally televised hearings that resulted in the blacklisting or incarceration of many prominent Hollywood actors and artisans. The HUAC hearings were also argued to reduce the number of Communist Party members from 40,000 to 12,000 (Churchill & Wall, 1990).

During this era, the FBI tried to disgrace and discredit many highly visible public figures by secretly releasing derogatory information about them to the media, governmental agencies, civic organizations, and members of congress. These programs were called Mass Media Campaigns. (Redden, 2000; Schmidt, 2000; Theoharis, 1999, 1991).

In 1951, the FBI instituted a secret liaison program with the Senate Internal Security Subcommittee (SISS). FBI officials processed "name check" requests submitted by the SISS and provided background information on public and private organizations.

Between 1953 and 1954, the Senate Permanent



Investigations Subcommittee hearings were chaired by McCarthy. Senator McCarthy was privy to the FBI's counterpropaganda campaign. As a right wing conservative and a friend to Herbert Hoover, he was given a list of political figures (perhaps compiled from the SISS's name checks) who were suspected to have communist ties or be otherwise engaged in "Un-American" activities. His fervent and very public attacks on alleged communists have since been dubbed "McCarthyism." These attacks ended the career of many prominent so-called left-wing politicians, including perhaps even President Truman (Redden, 2000; Schmidt, 2000; Theoharis, 1999, 1991).

In sum, in this era there arose a general hysteria that the communists had taken over the entertainment industry, the government, and even military. Because of this hysteria, many people were suspected of being a communist due to their associations. They were automatically seen as national security threats. Solely relying on intelligence information, many people were harassed for being agents of the enemy. The open harassment of these people arguably caused the decrease in the number of the Communist Party members.

### Other Efforts

In 1951, another information-dissemination program, known as the Responsibilities Program, was initiated. The purpose of this program was to inform state governors and civic leaders regarding suspected subversives employed in state agencies, including public or private schools (Theoharis, 1999).

Civic leaders and organizations, employers and landlords, credit bureaus and even interested businesses had access to the targeted suspect's private information. In fact, family members, church groups, and anyone who had economic relations with the suspect could potentially be given this information (Hearing Before the Civil and Constitutional Rights Subcommittee, 1974).

Based on this information, government offices went out of their way to create problems for the individual on the grounds that these problems might detract him or her from alleged subversive activities (the Select Committee, 1975; Donner, 1980). For example, the Internal Revenue Service targeted for audit and special treatment the returns of thousands of individuals because of their suspected political activities (Hudson, 2001).

The use of "file" information against individuals was

highly supported by the Crime Records Office, the FBI's top executives, and the field offices that were trained to work with the local media to develop anti-communist public opinion (Donner, 1980; Theoharis, 1999; Schmidt, 2000; Powers, 1987). This system of counterpropagandizing was set in motion to influence the political choices and social values of citizens by promoting a negative image of the target group (Charns, 1992). One expected result of this negative image building was to drive the potential recruits away, and thereby reduce the size of the movement (Marx 1979). Another reason for this propagandist activity was to gain public support and prevent any opposition in the fight against subversion (Powers, 1987).

However, it is argued these initiatives of the FBI had no law enforcement purpose and information was spread well beyond the need to know from a law enforcement standpoint (Theoharis, 1999). Also, having critical information on files often automatically criminalized the target individuals (Potter, 1998). Furthermore, those who were subject to this filing of political or personal information, permanently had a "record" of his or her political life that could never be changed (Donner, 1980).

### 3. Law and Order Crisis of the 1960s

This era is well known as a period of internal unrest due to actions of civil rights movements, white hate groups, student anti-war activists, and the assassinations of very prominent people, including President John F. Kennedy and civil Rights leader Dr. Martin Luther King, Jr.

In response to the public disorder of the time, the FBI conducted five counterintelligence programs (COINTELPRO) against domestic targets between 1956-1971 (Donner, 1980; Davis, 1997). It has since run into much criticism for these programs.

The COINTELPRO's were directed at disrupting and preventing the long-range growth of the domestic political or protest organizations that were perceived to be threatening to domestic security. Among these were the Communist Party, U.S.A (1956-1971); the Socialist Workers Party (1961-1970); the White Hate Groups (1964-1971); the Black Extremists (1967-1971); and the New Left (1968-1971) (Hearings Before the Select Committee, 1975; Jeffreys, 1995; Donner, 1980).

The Communist Party USA counterintelligence program was designed to "bring the Communist Party and its leaders into disrepute before the American public, and cause confusion

and dissatisfaction among rank and file members" (Hearings Before the Select Committee, 1975).

The Socialist Workers Party counterintelligence program began in October 1961. Although this program originally targeted the Socialist Workers Party, it eventually spread its focus to other organizations that co-sponsored events with this party. These events included, for example, several peace marches during the Vietnam War (Hearings Before the Select Committee, 1975; Redden, 2000).

The White Hate Groups' counterintelligence program was authorized in September of 1964. This program grew out of the violently disruptive and harassing activities of these groups in their attempt to undermine the civil rights movement. The activities of these groups included "lynchings, burnings, bombings, and similarly violent activities" (Hearings Before the Select Committee, 1975; Hearing Before the Civil and Constitutional Rights Subcommittee, 1974, p.11).

The Black Extremists counterintelligence program was launched in August of 1967. It targeted a wide range of black organizations, from the militant Black Panther Party to non-violent Southern Christian Leadership Conference (SCLC) as well as most of the African-American student

organizations found on college campuses (Redden, 2000). The aim of this program was to "expose, disrupt, misdirect, discredit, or otherwise neutralize" the Black Nationalist movement. Additionally, this program tried to prevent the rise of a leader who might unify and electrify these elements, tried to keep the groups from gaining respectability, and attempted to prevent the growth of these groups among youth (Hearings Before the Select Committee, 1975).

The New Left counterintelligence program was launched in May, 1968, in reaction to student protests against the Vietnam War. The aim of this program was to expose, disrupt, misdirect, discredit, or otherwise neutralize the activities of this group and persons connected to it (Hearings Before the Select Committee, 1975).

The decade of the 1960's is also known as the "lawless years" of the FBI. During this period, it is argued that the FBI's domestic intelligence methods abandoned entirely the legal pathways to justice. Instead, the FBI used clearly illegal techniques to disrupt or neutralize targeted individuals and groups. These targets were thought to present a danger to national security because they held ideas that challenged the existing acceptable political

views (Davis, 1997, Powers, 1987; Morgan, 1980; Keller, 1989).

These COINTELPRO's were harshly criticized for preventing political diversity in the US. Their sole purpose was to destroy or neutralize these movements politically rather than investigate on-going criminal activities (Churchill & Wall, 1990).

The influences of the 1960's were unique in that in previous Eras, it was suspected that foreign governments were influencing local groups. Now, for the first time, political intelligence investigations were initiated against wholly domestic political groups (Elliff, 1979).

#### The Critics of Counterintelligence Programs

The Critics of FBI counterintelligence programs focus on two major issues: the targets and purposes of the operations, and the intelligence methods employed (Keller, 1989; Morgan, 1980).

##### a. The Targets and Purposes of FBI Operations

FBI counterintelligence activities were started for the purpose of preventing "foreign influence and control" on domestic political groups (Hearing Before the Civil and Constitutional Rights Subcommittee, 1974). This is a perfectly legitimate area for counterintelligence,

centered on the detection and prevention of the hostile activities of foreign intelligence (Morgan, 1980).

After the 1950's, however, FBI programs are widely criticized for taking up the practice of disrupting and discrediting non-violent domestic political and protest groups, simply because of ideological differences, even though these groups were neither suspected nor convicted of any crime nor any connection to a foreign power (Powers, 1987; Donner, 1980; Morgan, 1980).

In the search for potentially violent or foreign directed protest activities, law-abiding citizens were targeted for investigations of their private lives and personal beliefs (Elliff, 1979).

For example, The Black Nationalist program included the nonviolent Southern Christian Leadership Conference, Dr. Martin Luther King, Jr., and black student organizations. The Communist Party USA counterintelligence program not only covered Party members, it also investigated sponsors of the National Committee to Abolish the House Un-American Activities Committee as well as civil rights leaders who were supposedly influenced by communists (US Senate Select Committee, 1976, vol.3; Redden, 2000; Hudson, 2001).

Some critics argue that the CP-USA was on the decline



after 1945 and by the 1950's it was not an organization that was capable of espionage or subversion. It was already disabled. Additionally, counterintelligence was extended to targets who were not even communists, including groups that had no connection whatsoever to a foreign power (Morgan, 1980; Keller, 1989).

The choice of counterintelligence targets was slanted, with hostility and prejudice toward those who challenged the predominant conservative political ideology (Donner, 1980; Williams, 1981). These leftist elements were thought to be easy targets for foreign influence (Morgan, 1980).

Many Americans were considered dangerous just because of their controversial views, views, which fell outside of conventional politics (Churchill & Wall, 1990; Schmidt, 2000; Davis, 1997). From the perspective of those Americans, FBI counterintelligence was seen as an unwarranted violation of their First Amendment rights of free speech and free association (Elliff, 1979).

Political counterintelligence activities aim to incapacitate political or social protest groups that are seen to be potentially subversive by reducing their ability to function effectively or to recruit new members (Schmidt, 2000; Jeffrey, 1995; Theoharis, 1978). Political

counterintelligence programs went beyond mere surveillance, and they did not intend the prosecution of an illegal act. Rather, they intended to "disrupt, misdirect or neutralize the target movements or groups" (Churchill & Wall, 1990, p.39; Keller, 1989, p.158). These programs put the FBI into a position in which it became at the same time policeman, prosecutor, judge, and jury (Hearing Before the Civil Rights and Constitutional Rights Subcommittee, 1974).

Since COINTELPRO targets were US citizens rather than foreign intelligence agents, they were more accurately described as covert actions intended to influence political choices and social values (Charns, 1992).

#### b. Counterintelligence Techniques

One of the most critical points regarding these programs is that they employed wartime intelligence methods against domestic targets. Collecting and aggressively using information to harass and discredit individuals and groups is a wartime propaganda tactic that has often been used to effectively unify the controlling group and its allies against a common enemy (Keller, 1989; Bayley, 1985; Morgan, 1980; Hearing Before the Civil and Constitutional Rights Subcommittee, 1974).

The controlling group furthers its own interests by

painting a terrible picture of its adversary. For example, in an FBI memorandum, the field offices were directed to conduct the following activities against the anti-war activists:

- 1-prepare leaflets using the most obnoxious pictures of New Left leaders at various universities
- 2-instigate personal conflicts or animosities between new left leaders
- 3-create the impression that leaders are informants for the Bureau or other law enforcement agencies (the snitch jacket technique)
- 4-send articles from student or "underground" newspapers which show depravity "use of narcotics and free sex" of new left leaders to university officials, donors, legislators, and parents
- 5-have members arrested on marijuana charges
- 6-send anonymous letters about a student's activities to parents, neighbors, and the parents' employers
- 7-send anonymous letters about New Left

faculty members (signed "a concerned"  
alumni)

8-use "cooperative" press contacts

9-exploit the hostility between new left and  
old left groups

10-disrupt new left coffee houses near  
military bases, which are attempting to  
influence members of the armed forces

11-use cartoons, photographs, and anonymous  
letters to ridicule the New Left

12-use misinformation to confuse and disrupt  
new left activities, for example, notify  
members that events have been called off (US  
Senate Select Committee, 1976, vol.2, p.80).

Information on groups such as the New Left was  
collected through the use of intelligence techniques such as  
informant infiltration, mail openings, physical surveillance  
(direct observation of subjects) and technical surveillance,  
wiretapping, bugging, and open sources like newspapers, and  
public meetings (Marx, 1979; Buranelli & Buranelli, 1982;  
Stephan, 2000).

It is criticized that little or no attention was paid  
to the legality of the intelligence techniques employed in

counterintelligence programs. Consequently, from 1955 to 1978, the FBI ran 930,000 surveillance cases. Between 1940 and 1970, it conducted 13,500 illegal buggings, and 7,500 illegal break-ins (Schmidt, 2000). It conducted approximately 58,000 illegal mail openings between 1958 and 1974 (Churchill & Wall, 1990), and it carried out at least 238 burglaries from 1942 until 1968 (Donner, 1980).

#### 4. The 1980s

In the 1980's, the most important example of the abuse of domestic intelligence can be seen in the FBI's investigation of the Committee in Solidarity with the People of El Salvador (CISPES). This investigation was initiated in 1981-1982 based on the suspicion that CISPES was an agent of a foreign government. Since this allegation could not be proved, the FBI stopped its investigation. However, the investigation was reopened in 1983 labeling the group as either a foreign counterintelligence operation or an international terrorist group. This investigation was stopped in 1985, and no criminal charges were brought against CISPES or any of its members. One possible thought is that the investigation was a political, rather than a criminal, investigation, since this organization was against the Reagan administration's foreign policy on El Salvador.

This incident proves that it is always possible for the FBI to increase its domestic intelligence activities by claiming that they are providing foreign counterintelligence and combating international terrorism. This shift permits the FBI to use a different set of investigative guidelines, a set that is much less restrictive and more classified (Hudson, 2001; Rosenfeld, 1999; Poveda, 1990).

#### Conclusion

The political misuse of domestic intelligence refers to use of intelligence in an effort to influence the flow of redistribution of national sources in favor of those who are in the power.

There are two types of political misuse of intelligence. Political use of intelligence refers to the use of intelligence to promote the political interests of high-ranking government officials. On the other hand, political intelligence/counterintelligence refers to the repression of lawful groups that challenge the status quo.

The political use of intelligence can either be based on previously obtained intelligence information, or on new intelligence investigations that are launched for the specific purpose of satisfying the high-ranking government officials.

The targets of FBI political intelligence have changed throughout history based on changes in threats to the US. In the 1920's, alien immigrant communists who were members of radical labor unions were targeted. During and after World War II, American communists and fascists were focused on. The 1960s is well known for its five counterintelligence operations conducted against the US Communist Party, Socialist Workers Party, Black Extremists, and White Hate Groups.

In the 1980s, the most important incident was the FBI actions against the Committee in Solidarity with the People of El Salvador (CISPES).

As accepted by many scholars, effective use of domestic intelligence relies on prevention of its misuse. It is essential that its consequences and theoretical explanations be known before a prevention mechanism is recommended.

CHAPTER 4  
THEORETICAL EXPLANATIONS AND CONSEQUENCES  
OF THE MISUSE

Domestic intelligence is comprised of gathering and maintaining information about individuals or organizations who are thought to be dangerous to national security. This function is an important tool that secures a nation's future. However, there is always the potential for the misuse of domestic intelligence.

In the current literature available on domestic intelligence, there are predominantly two categories of misuse. First, the political use of intelligence relates to the use of information gathering function of intelligence to promote the partisan interests of political administrators, instead of preserving domestic security and the public good. The second form of misuse is associated with the misuse of covert action or the counterintelligence and counterterrorist capabilities of the intelligence organization. That is, domestic intelligence may aim at, or result in, the repression of lawful people who have political views that challenge the status quo. This type of



activity is referred to as political counterintelligence or political intelligence (Schmidt, 2000; Churchill & Wall, 1990; Poveda, 1990; Donner, 1980; Morgan, 1980; Theoharis, 1978).

In this section of the study, the causes and consequences of misuse of domestic intelligence will be examined.

### Theoretical Explanations

#### Political Use of Domestic Intelligence

The political use of domestic intelligence refers to the use of intelligence for private gains. In essence, it is a version of corruption. A closer look at the term "corruption" is helpful in understanding the motivations behind the political use of domestic intelligence.

There are various definitions for corruption. The public office school of thought considers corruption to be a deviation from legal obligations and public duty for private gain. On the other hand, from a market system perspective, corruption is seen as a behavior undertaken by public officials to maximize their own benefit. Public interest scholars view corruption as a disloyalty to public interest.

While corrupted officials may be responsible for the abuse of domestic intelligence, what causes these officials

to become corrupt? The economic theory of corruption argues that corruption originates from rapid social and economic changes. These changes generate new dominant groups that make new demands on the government. If these demands cannot be satisfied in legitimate ways, dominant group leaders may tend to use different corrupt tactics such as bribery, to get what they want (Meier & Holbrook, 1992).

On the other hand, the sociological theory of unfulfilled needs argues that corruption arises as an alternative way of expanding personal powers, privileges, and interests (Benson, 1978).

When considering these two theories, the sociological theory of unfulfilled needs can be best applied to the misuse of domestic intelligence. The main rationale behind the misuse of domestic intelligence was the expansion of the personal powers of the political administrators illegitimately. When they could find no legitimate methods to overcome those who opposed them, they turned to illegitimate means.

It must be noted here that in order for a public official to tend toward corruption, he or she must believe that the potential benefits of corruption exceed its potential costs (Meier & Holbrook, 1992).

Based on these theoretical explanations, the misuse of FBI domestic intelligence can be said to have begun when the partisan political aims of governmental higher-ups sought to secure their interests by investigating the strategies of their opponents and otherwise obtaining critical information about them through the illegitimate use of the FBI.

The potential cost of the misuse of domestic intelligence was never thought to be more than its benefits simply because secrecy prevented disclosure. Only if the public figure were caught would the cost of corruption be higher than the benefits, and the very power and influence that put that public figure in a position to be able to wield the FBI's resources could be used to protect him or her from discovery. For example, it was not only until the Watergate Scandal of 1972 that the American public became aware of the misuse of intelligence by the Presidency.

Watergate involved Nixon's attempts to collect political intelligence on the Democratic Party. He wanted to learn the Party's campaign strategy for the 1972 presidential election. Five men were sent to break into the Democratic Party Headquarters at the Watergate Hotel, including the security director for the President's re-election campaign. The five were arrested. Once President

Nixon's involvement was uncovered, he was forced to resign from office or face impeachment (Williams, 1998; Poveda, 1990).

### Political Counterintelligence

The second form of the misuse of domestic intelligence, political counterintelligence is explained by "threat theory." Threat theory states that political counterintelligence operations were conducted in response to changing domestic threats (Poveda, 1990; Morgan, 1980).

### Threat Theory

Threat theory argues that those who challenge the socio-economic status quo are seen as threats to the existence of the state. When political authorities confront these threats, they frequently use repression as a means to control or eliminate them (Poe, Tate, Keith, & Lanier, 2000; Davenport, 2000; Mahoney-Norris, 2000). These authorities may tend to use state power in a way that goes beyond constitutional limits. This is basically because national security is given priority over individual rights (Fielding, 1991; Poveda, 1990).

It is argued that the US response directly after World War II to perceived international and domestic threats resulted in a "National Security State." The possible growth

of communism, especially after the establishment of communist governments in Eastern Europe, China, and North Korea kept Americans in fear of revolution, economic instability, and a military dominance of the enemy in the world. The creation of a national security state was a reaction to these fears. It was seen as essential to protect the US and its interests (Hudson, 2001, p.232, 237).

Although a state of national security may be necessary for survival in a hostile world, this type of militant rule presents many negative consequences. Essentially, three basic rules of law are overlooked in a national security state:

“1-The absence of arbitrary power;

2-The subjugation of the State and its officers to the ordinary law, and

3-The recognition of basic principles superior to the State itself” (Raskin, 1976, p.199).

National security states need subjective power. That is, power in the national security state does not have to be used in accordance with the public will. Since protection of the state is the first priority, administrators in a national security state assume more power, quickly deciding what is good and what is not on behalf of the public. They

may even determine which political activities are acceptable, punish those activities that are not acceptable, and even restrict people from merely associating with those who hold unfavorable or dissenting views. The national security system is also intended to protect the state from the "enemy within:" The COINTELPRO programs of 1956-1971 are good examples of how well the state protects itself from internal enemies. As stated earlier, the FBI employed a variety of techniques to disrupt or neutralize those who had unfavorable or challenging political views (Raskin, 1976, p.200).

It has been argued that corrupt behavior within national agencies takes its roots from the fact that these agencies consider themselves to be "above the law." They assume that they have the right to limit individual rights and freedoms in the interest of protecting national security (Schneider, 1996; Raskin, 1976; Hearing Before the Civil and Constitutional Rights Subcommittee, 1974, p.3).

This "above the law" attitude was clearly stated by top FBI officials when they testified before the Senate Select Committee. These officials argued "the FBI had acted on the assumption that they could disregard the normal legal rights of domestic groups because their work was so important to

national security that they were not governed by legal and constitutional standards" (Elliff, 1979, p.6).

This approach created a common tendency that intelligence was immune from some prohibitions applicable to other governmental activities, and activities were hid behind secrecy (US Senate Select Committee, 1976, vol.2).

#### Contributing Factors

According to the sociological theory of unfulfilled needs, political use of domestic intelligence is one form of corruption, which means on illegitimate use of governmental powers for private gain. On the other hand, according to the Threat Theory "Political counterintelligence" is illegitimate use of state power against those who are lawful but who hold political views that go against the status quo.

Being illegitimate, political counterintelligence, as well as political use of intelligence, cannot be openly carried out in a democratic state. However, there are certain characteristics that are particular to intelligence organizations that enable the agency to behave illegitimately. Where the FBI is concerned, they are, organizational autonomy, lack of clear legal restrictions, ineffective oversight, and excessive secrecy, and second, the subculture of the FBI. It must be noted that these

factors are not exclusive factors, and they overlap. For example, although it is a separately evaluated, the lack of clear legal restrictions also contributes to the organizational autonomy.

All of these factors, in fact, contributed the misuse by giving the FBI broader organizational discretion on the focus, limits, and methods of domestic intelligence, which has to be limited for prevention of the misuse.

#### 1. Organizational Autonomy

Until 1939, FBI intelligence investigations were conducted solely at the State Department's request, a stipulation defined by a 1916 statute. This system established an external control over the FBI. State Department officials decided who was to be made a target, when they would be targeted, and how long the investigation would last (Theoharis, 1999; Schmidt, 2000).

However, in 1939, a presidential order terminated this system. This order enabled FBI officials to independently control investigations. It also ensured that FBI officials, based on their own criteria, would determine the scope and purpose of FBI investigations (Theoharis, 1999; Poveda, 1990).

In 1967, attempting to tap the power of FBI officials,



the Attorney General created the Interdivisional Intelligence Unit (IDIU) to coordinate intelligence collected in the course of investigating the civil disorders of the time. However, the first priority of IDIU was to obtain intelligence. In the end, no efforts were made to create standards or guidelines for conducting intelligence activities (US Senate Select Committee, 1976, vol.2).

In 1970, the Huston Plan was another effort to establish an external control on FBI intelligence activities. This plan was formally known as the "Domestic Intelligence Gathering Plan." This plan, however, was aimed at not only coordinating intelligence activities, but also at loosening limits on surveillance techniques, allowing for the expansion of intensive surveillance on antiwar and civil rights activities. This was not performed due to legal concerns expressed by the Attorney General.

Shortly after the termination of the Huston Plan, the Intelligence Evaluation Committee was established within the Justice Department. However, it too did not exercise supervision over intelligence activities. Rather, it focused on the evaluation of intelligence information (Dupree, 1993; Charns, 1992; Theoharis, 1978; US Senate Select Committee, 1976, vol.2).

Organizational autonomy of the FBI was also limited with the Attorney General Guidelines after the 1970s. These guidelines are discussed later in this chapter.

## 2. Ineffective Executive Oversight

One of the most significant factors that contributed to the misuse of the FBI was the lack of effective executive oversight.

It is argued until the 1980s, Presidents tended to contact directly the FBI director bypassing entirely the Attorney General. President Roosevelt, for example, authorized the FBI to investigate subversive activities in 1936, by directly contacting the FBI director. During the Roosevelt Administration, the White House also directly contacted the FBI Director to give him the names of citizens who sent telegrams to the White House to protest the policies of the administration (Theoharis, 1999).

The practice of providing political intelligence to White House Administrators arguably increased further this FBI independence from executive oversight (Bernstein, 1976). In addition, the FBI Directors were generally close to Presidential Administrations, and established a friendship with the US presidents (Donner, 1980).

It is argued that the practice of providing the

President with intelligence gave the FBI immunity from executive oversight. For example, the Justice Department's Internal Security Division was in charge of overseeing FBI activities, but it generally failed to do so (Donner, 1980; Hearings Before the Select Committee, 1975; Theoharis, 1978; Powers, 1987; Schmidt, 2000). This was because the FBI Director's authorization came directly from the President (Elliff, 1979).

As a result of this lack of executive oversight, the FBI, even when clearly banned from doing something, could easily circumvent any red tape. For example, the Custodial Index Program was ordered to be discontinued by the Attorney General in 1943. This program used FBI resources to compile a list of "dangerous" persons who would be taken into custody in case of war.

Even though this program had no authorization, the Bureau continued it. A month after the Attorney General's order, the "Security Index," as it now was called, enabled FBI agents to continue "to investigate dangerous and potentially dangerous" citizens and aliens and to compile a list of their names (Theoharis, 1999; Theoharis, 1978, p.43).

The FBI overcame another limitation in 1976 when it was

ordered to reduce the number of domestic security informants that it used. To overcome this obstacle, instead of dismissing some of its informants, the FBI simply reclassified its domestic security informants as "foreign counterintelligence" personnel (Theoharis, 1978).

### 3. Unclear Legal Restrictions

It is argued that although the FBI was empowered to carry out domestic intelligence activities and permitted to use a wide range of intrusive investigative techniques (such as wiretaps, buggings, informant infiltration, etc.) the scope and the limits of this authority were never adequately defined until 1976 (Elliff, 1979, 1971; US Senate Select Committee, 1976, vol.2).

The lack of clear standards for the initiation, continuation and ceasing of intelligence investigations allowed, if not encouraged, misuse. The FBI was granted near-absolute discretionary power to start an intelligence investigation; it needed only to identify a target as "subversive" or "related to an organization supposedly advocating the overthrow of the government" in order to initiate an intelligence operation (Hudson, 2001, p.252).

It is argued that due to lack of legal limitations, the FBI used a "vacuum cleaner approach" in intelligence

collection. That is, they gathered all available information about groups and individuals, including their lawful political activity even though there was no indication of criminal conduct or subversion. This practice continued until 1974 when the Privacy Act was passed (Kessler, 1993; US Senate Select Committee, 1976, vol.2).

The absence of clear standards for intelligence investigations led to an ever-increasing number of investigations on law-abiding citizens and lawful domestic groups. Among these groups were the Women's Liberation Movement, the Conservative Christian Front and the Christian Mobilizers of Father Coughlin, and many university, church and political groups opposed to the Vietnam War (US Senate Select Committee, 1976, vol.2).

In 1976, for the first time, the limits of intelligence agencies were officially outlined by the Attorney General's Guidelines (Oseth, 1985; Elliff, 1979). The Attorney General's Guidelines for FBI Domestic Security Investigations (Levi Guidelines of 1976) renamed domestic intelligence work, dubbing it "Domestic Security Investigations." The initiation of a domestic security investigation now required a violent act that could be related to domestic or international terrorism. These

Guidelines categorized domestic security investigations into three types: preliminary, limited, or full investigations. The intelligence methods that can be applied in each of these types were clearly defined (Oseth, 1985; Elliff, 1979).

Additionally, foreign intelligence was given to the newly created Intelligence Division, and domestic intelligence was transferred to the General Investigative Division (GID). The GID was renamed the Criminal Investigation Division in 1977 (Elliff, 1979; Rosenfeld, 1999). However, after this period, the subdivision of intelligence investigations based on the whether the threat was domestic or international increased the potential for the misuse of intelligence. International terrorism and foreign counterintelligence investigations allowed the FBI much greater freedom in the use of intrusive investigative techniques, including warrantless searches. Furthermore, the investigation of suspected terrorists need not be preceded by criminal activity. Therefore, by labeling domestic terror as "international" the FBI could extend its investigative powers against the domestic targets (Poveda, 1990).

The Levi Guidelines were revised in March 1983 with the Attorney General's Guidelines on General Crimes,

Racketeering Enterprise and Domestic Security/Terrorism Investigations" (Smith Guidelines) (Electronic Privacy Information Center, 1995; Elliff, 1979). These guidelines granted the FBI greater liberty to initiate domestic security and terrorism investigations (Poveda, 1990).

The Levi Guidelines linked the initiation of a domestic security investigation to specific and articulable facts that indicated the violation of federal law. The Smith Guidelines lowered this standard to "reasonable indication" that a federal law had been broken. That is, the Smith Guidelines allowed the initiation of an investigation "when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals wholly or in part through activities that involve force or violence and a violation of criminal laws" (Banks & Bowman, 2000).

Additionally, while the Levi guidelines had defined three types of domestic security investigations and limited the techniques for each type of investigation, the Smith guidelines defined the two stages of investigations (Primary inquiry and investigations) and loosened the restrictions on the use of intelligence techniques. For example, while informant infiltration was not allowed during a preliminary

investigation under the Levi Guidelines (Preliminary, limited, full investigations), the Smith guidelines approved the use informants even in the early stages of an investigation (Primary inquiry).

These guidelines are still in force with minor revisions today.

#### 4. The Subculture of the FBI

As with all law enforcement agencies, it is argued that the personal ideologies of FBI officials became institutionalized, thereby affecting the FBI's activities. For example, in the Red Scare Era of 1917-1920, most Bureau and Justice Department officials were either lawyers or persons who came from very successful positions which usually produce conservatism. Most officials were personally devoted to the economic and political status quo and held "conservative ideas and values" (Schmidt, 2000, p.86, 365).

In the 1950s, the FBI agents were mostly white. By the end of 1962, there were only ten black agents (Powers, 1987). It was also seen that during the 1960's, being an Irish Catholic was a "plus" for being an FBI agent.

The FBI's conservative background arguably influenced the official approach that the FBI took towards alleged subversive matters and provided justification for the



illegal intelligence techniques against those who held political views that challenged the current order. That is, most FBI officials considered leftist social movements to be primary challenges to the authority of the existing social system. These movements were perceived to be the result of foreign influence and contrary to the American way of life. Therefore, the radical ideas were considered "poisonous theories" and "alien filth" (Schmidt, 2000, p.87-89).

#### 5. Secrecy

In intelligence work, secrecy is an operational necessity. It allows for the protection of confidentiality and prevents the exposure and subsequent failure of an operation. Because of its need for secrecy, the intelligence industry is isolated from its outer environment. The outward flow of information is heavily restricted to keep undesirables from learning about intelligence activities (Schmidt, 2000; Gill, 1998; Donner, 1980).

While secrecy does serve to protect legitimate intelligence interests, it may also lead to inadequate accountability and oversight. Secrecy makes it possible for illegitimate activities to go undetected. It also enables intelligence resources to be used for harmful ends (Gill, 1998; Marx, 1988; Donner, 1980; US Senate Select Committee,

1976, vol.1).

For the FBI, secrecy had an additional dimension until the 1970s. The FBI formulated a separate filing system in 1940, outside the regular filing system, to keep track of its illegitimate activities. By hiding all evidence that it had broken the law, the FBI could deny any wrong-doing while still keeping records of its activities (Charns, 1992). For example, it is argued that FBI Director Hoover kept secret files in his private office that contained damaging information on important personalities (including presidents, and congressmen) and on those who simply opposed the FBI or his leadership of the Bureau (Theoharis, 1978; Elliff, 1979).

It must be noted that whatever the underlying reasons may be, misuse of domestic intelligence breeds two types of unwanted consequences that should be addressed.

#### The Consequences of Misuse

The misuse of domestic intelligence has two unwanted consequences that are related to public administration and public relations. First, the public loses its trust in the government and in intelligence agencies when it discovers a misuse of domestic intelligence. Secondly, the misuse of domestic intelligence may contribute to social polarization

in the community.

### Loss of Public Trust

The disclosure of illegal activities carried out by the government, particularly by intelligence agencies like the FBI, damages public trust in these institutions. Previously, the American people perceived these agencies as truthful and incorruptible. However, after the illegitimate activities were disclosed, the number of US citizens who had "highly favorable" attitude towards the FBI fell from 84 percent in 1965 to 37 percent in 1975 (Olmsted, 1996, p.16-17; Donner, 1980, p.80; Elliff, 1979, p.3).

Also, erosion of public trust threatens the FBI's ability to perform its mission. Citizens who distrust the FBI may be less likely to report a criminal activity. The testimony of FBI witnesses may be seen as untrustworthy by judiciary (Hearing on "Oversight: Restoring Confidence in the FBI, 2001).

Indeed, law enforcement organizations need information about the crimes and criminals from the public to enhance their crime-fighting capability (Culbertson, 2000).

However, "the friendship and the confidence of people can not be obtained if the police action is unfair and

unreasonable." That is why law enforcement organizations must establish a name for truth, honesty, and public service (Becker, 1970, p.232).

#### Contribution to Social Polarization

The second unwanted consequence of the misuse of domestic intelligence is the social polarization in the community. Social polarization is a potentially disastrous problem in multicultural communities. These communities house people of various origins who have very distinct social values, cultural norms, religious beliefs, and political views.

In a healthy society these varied groups should not be isolated from one another. In the interests of community peace and mutual learning, they should be encouraged to gather celebrating their differences and commonalities, both of which are protected by the state. On the other hand, in a polarized society, people are "withdrawn into their shells because of disharmony and antagonism, and pursue their own interests without considering the benefits of society in general" (Mombousse, 1967, p.16).

Government organizations in a multicultural society can contribute to the polarization process by acting in a way that favors one segment of the community over another. Such

organizations act with prejudice, encouraging "us-them, friend-enemy" separation while delivering their services (Earle, 1970, p.131; Momboisse, 1967, p.16).

It is highly possible that, although they were intended to protect the unity of the country, political counterintelligence efforts contributed to the polarization of the community. This assertion is based on the fact that the targets selected for political counterintelligence investigations were chosen based on their nationalities and political ideologies. It was believed that the people who were engaged in espionage and sabotage were influenced by their country of origin. These people were seen as a likely source of illegal activity because they were sympathetic to the designs of foreign dictators. The FBI's intelligence investigations of Communists, and Fascists, and its investigations of German immigrants and other aliens after World War II was based on the assumption that foreign rulers had influence on persons in the US (US Senate Select Committee, 1976, vol.1).

Additionally, political counterintelligence divided the world into "patriots and traitors, friends and enemies, us and them," and used its resources against the unfavorable (Donner, 1980, p.6).

Political intelligence was based on an "enemy within approach" toward its targets. To provide public support in the fight against its targets, the FBI tried to create a negative public image of these individuals or groups by disseminating derogatory information to the press, either anonymously, or through "friendly" news contacts (Morgan, 1982, p.15; Williams, 1981; Donner, 1980, p.6; US Senate Select Committee, 1976, vol.2, p.15).

These counterpropaganda activities possibly contributed to social polarization by creating social antagonism in the community between the social groups, possibly collecting the FBI and its supporters on one side, and subversives and their supporters on the other side.

#### Conclusion

In sum, the political use of the FBI is best explained with the sociological theory of unfulfilled needs. On the other hand, political intelligence/counterintelligence can be based on the threat theory. Organizational autonomy, ineffective executive oversight, subculture of the FBI, unclear legal restrictions and secrecy may be seen as the contributing factors.

The misuse of domestic intelligence breeds two types of unwanted consequences. The first is the loss of public

faith; the second is the possible contribution to social polarization in the community, both of which harm the effective use of intelligence, and national unity. In order to prevent these unwanted consequences, control and accountability mechanisms must be established.

## CHAPTER 5

### CONTROLLING DOMESTIC INTELLIGENCE

Domestic intelligence activities are defined as the gathering and storing, in advance, of information about possible internal security threats. Although it aims at a high ideal, namely, the prevention of national security threats, domestic intelligence may be subject to political exploitation. In this chapter, ways to prevent the political misuse of domestic intelligence will be discussed, and a model policy will be recommended.

#### Forms of Political Misuse

First of all, those who are in power may tend to use intelligence to promote their interests rather than promote the public good or law enforcement. They may also use intelligence on their political opponents (Morgan, 1980; Theoharis, 1978). Secondly, domestic intelligence can easily be used for, or result in, the repression of those groups in society who lawfully hold certain views that challenge the socio-economic status quo (Marx, 1988; Theoharis, 1978).

#### Problems with Past Misuses

As previously discussed in Chapter 3 of this study,



three problems related to the past political misuse of FBI domestic intelligence have presented themselves. The first problem relates to the definition of the targets and the focus of the intelligence operations. Definitions of targets that are broad or loose may cause innocent citizens to become the targets of intelligence organizations. For example, until the 1970's, domestic intelligence operations focused on "subversives" or "those who are related to an organization supposedly advocating the overthrow of the government." This broad definition has arguably given absolute discretionary power to the FBI to start an intelligence investigation (Hudson, 2001, p.252).

The second problem is the limits of these operations. More precisely, collected information does not necessarily have to be related to national security or an expected criminal act. While investigating alleged national security threats, the private secrets of individuals under investigation could be used by the FBI to degrade these individuals. For example, facts obtained about their sexual preferences, or secrets about their business could be sought after even though these facts have nothing to do with a proper national security investigation.

The third problem relates to the intelligence methods

used. It is argued that little or no attention was paid to the legality of the intelligence techniques used by the FBI. Since foreign intelligence and domestic intelligence separated or their boundaries were not clearly defined, some domestic targets became subjected to very intrusive intelligence methods that should only be used for foreign intelligence targets. For example, warrantless entries were conducted and private information was disseminated as propaganda to discredit and disrepute certain people. Some of these activities resulted in the repression of otherwise lawful citizens who simply wished to peaceably change the status quo.

#### The Consequences and Prevention of Misuse

The misuse of domestic intelligence creates two unwanted consequences that have to be prevented for intelligence work to be effective. The first of these unwanted consequences involves public relations of an intelligence organization. That is, intelligence that is used for political reasons, rather than the public good, undermines the public trust and discourages popular support of intelligence organizations.

For example, as discussed in the Chapter 4 of this study, while the American people initially perceived the FBI

as honest and incorruptible, after the 1970's favoritism towards the FBI fell from eighty-four percent in 1965 to thirty-seven percent in 1975. This loss of support occurred after the public learned that the FBI did not use its intelligence gathering resources for public gain (Olmsted, 1996; Donner, 1980; Elliff, 1979).

Domestic intelligence, when misused, may also contribute to social polarization in a multicultural society. Indeed, when a governmental agency favors one segment of the community over another one, it encourages antagonism and social isolation between the different segments of the community. That agency highlights the differences between two groups by waging what is essentially ideological warfare using propaganda as the primary weapon. In this case, the FBI and its supporters are on one side, and the alleged internal security threats and their supporters are on the other. Unrest and discord then occurs between these two social groups.

#### Reasons for the Misuse and Contributing Factors

As discussed earlier in Chapter 4 of this study, there are various theoretical explanations for the misuse of domestic intelligence. The political use of domestic intelligence is best explained by the sociological theory of

unfulfilled needs. This theory links the political use of domestic intelligence with corruption, and argues that domestic intelligence resources may be used illegitimately to expand personal powers of the political administrators. This theory also argues that in order for an individual to tend toward corruption, he or she must believe that the potential benefits of corruption exceed its potential costs.

On the other hand, political counterintelligence is associated with Threat theory. This theory argues that states view as threats those who hold political views that go against the status quo. These states then may use their powers illegitimately to counter the dissidents. "Political counterintelligence" is one type of this illegitimate use of state power.

Because it is not legitimate, the political misuse of domestic intelligence cannot be openly carried out in a democratic state. However, there are certain characteristics that are particular to intelligence organizations, including the FBI, that enable the agency to behave illegitimately. As discussed in Chapter 4 of the study, those characteristics include organizational autonomy, a lack of clear legal restrictions, ineffective oversight, and excessive secrecy. It is also worth noting that certain "subcultural" aspects

of the FBI contribute to its tendency to illegitimately use intelligence. It must be noted that these factors are not exclusive factors, rather interdependent. For example, although they are separately evaluated, a lack of clear legal restrictions contributes to organizational autonomy.

All of these factors contribute to the misuse of domestic intelligence by giving the FBI a great deal of organizational discretion concerning the focus, limits, and methods of domestic intelligence. Organizational discretion must have some bounds for the misuse of domestic intelligence to be prevented.

#### Limiting Organizational Discretion

If placing limits on the organization's discretionary abilities in terms of domestic intelligence helps to prevent misuse, how, then, can organizational discretion be limited? Scholars have defined two methods that effectively limit organizational discretion. First, define the authority, scope, limits, and methods of intelligence. Second, establish control and create accountability.

#### Defining Authority Scope, Limits and Methods of Intelligence

##### Investigations

To prevent misuse, the authority, scope, limits, and methods of domestic intelligence should be clearly defined

in legislation, which is not secret.

This legislation should outline specifically which agencies are authorized to engage in intelligence activity. It should state what kind of information agencies are and are not permitted to collect, and should specify how this information should be disseminated. Laws should be made that indicate which individuals or groups should not be placed under surveillance. Finally, the legislature should outline which techniques of surveillance are proper and improper under specified conditions (Elliff, 1971).

Legislative restrictions, where the FBI is concerned, were first imposed in the 1970's in the form of the Attorney General's Guidelines. The first of these guidelines were issued in 1976 and known as "The Attorney General's Guidelines for FBI Domestic Security Investigations" (Levi Guidelines). These guidelines were replaced with the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations" in 1983 (Smith Guidelines) (Electronic Privacy Information Center, 1995; Poveda, 1990; Elliff, 1979). Today, the guidelines of the 1983 are still in force with minor revisions.

These guidelines were important attempts at limiting

the organizational discretion that led to the misuse of domestic intelligence. These guidelines, first of all, defined the requirements for the use of different intelligence methods. The Levi Guidelines categorized domestic security investigations into three stages: preliminary, limited, or full investigations. The intelligence methods that could be applied in each of these types were clearly defined (Oseth, 1985; Elliff, 1979).

On the other hand, the Smith Guidelines defined two stages of intelligence work: the primary inquiry and the investigation. They also loosened the restrictions on the use of intelligence methods. For example, while informant infiltration was not permitted during a preliminary investigation under the Levi Guidelines, the Smith guidelines approved the use informants even in the early stages of an investigation.

These guidelines also defined the requirements for the initiation of a domestic intelligence operation. While the Levi guidelines required that a violent act related to domestic or international terrorism occur before an investigation could be initiated, the Smith Guidelines required only "reasonable indication" that a federal law had been broken. That is, the Smith Guidelines allowed the

initiation of an investigation "when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals wholly or in part through activities that involve force or violence and a violation of criminal laws". Under the Smith guidelines, then, it was necessary to simply show a reasonable indication that a federal law had been broken, whereas under the Levi guidelines, it was necessary to demonstrate specific and articulable facts that indicate a violation of the law (Banks & Bowman, 2000).

In later years, the efficiency of the FBI was questioned due to the success of terrorist attacks, such as the World Trade Center in New York City in February 1993, and the bombing of the federal building in Oklahoma City in April 1995. Therefore, these administrative guidelines were reinterpreted by the Government to enable the FBI to start an investigation without any indication of criminal act involving violence (Banks & Bowman, 2000; Poveda, 1999).

After 1995, the Administration once more reinterpreted these guidelines. The new interpretation would permit broad investigations of a "domestic terrorism group if that group advocated violence or force with respect to achieving any



political or social objectives" (Banks & Bowman, 2000, p.41).

These guidelines also separated foreign intelligence from domestic intelligence to prevent the contamination of domestic intelligence with more intrusive foreign intelligence techniques. However, in the light of the difficulty of defining the boundaries of domestic and international terrorism, these guidelines allowed the transference of foreign intelligence investigative powers and techniques to domestic intelligence investigators. In these instances, domestic terror was defined as "international" (Poveda, 1990).

It must be noted here that intelligence gathering was also limited with the enactment of the Privacy Act of 1974. This act specifically limited the collection and maintenance of personal information by federal agencies. For example, personal information concerning political religious beliefs of individuals were banned unless authorized by the subject or in connection with a criminal investigation (Kessler, 1993; Donner, 1980; US Senate Select Committee, 1976, vol.2).

On the other hand, proponents of intelligence work argue that these limitations prevent intelligence

organizations from accessing valuable information on possible national security threats, and cripple their work delaying initiation of an investigation, which may potentially cause severe damage to the national security.

For example, as recently mentioned in the news, the letter to the FBI written by a Minnesota Director of Investigations indicates that if there had been fewer restrictions on domestic intelligence gathering techniques, 9.11.2001 might have possibly been prevented. As understood from her letter, she had a member of the Al Queda hijacking team in custody and was petitioning FBI officials to allow her to expand her investigations to the foreign intelligence investigation techniques. Her request, however, was not granted in time.

Despite its value in limiting organizational discretion, one can hardly say that legislations defining the authority, scope, and techniques of domestic intelligence are enough to ensure conformity between organizational behavior and community objectives. History has proven that official action taken to prevent improper conduct by the FBI, has little or no effect unless the insiders, the agents of the FBI voluntarily agree to follow the new rules.

For example, as discussed in Chapter 4 of this study, the Custodial Index Program was ordered to be discontinued by the Attorney General in 1943. This program used FBI resources to compile a list of "dangerous" persons who would be taken into custody in case of war.

Even though this program no longer had authorization, the Bureau continued it. A month after the Attorney General's order, the "Security Index," as it was now called, enabled FBI agents to continue "to investigate dangerous and potentially dangerous" citizens and aliens and to compile a list of their names (Theoharis, 1999; Theoharis, 1978, p.43).

The FBI overcame another limitation in 1976 when it was ordered to reduce the number of domestic security informants that it used. To overcome this obstacle, instead of dismissing some of its informants, the FBI simply reclassified its domestic security informants as "foreign counterintelligence" personnel (Theoharis, 1978).

Without any doubt, then, it is not enough to simply hand down guidelines. In order to limit the misuse of domestic intelligence, a control mechanism must be put in place. This mechanism should, in effect, alter the behavior of the individuals in the organization, encouraging them to

bring the new guidelines to life.

#### Establishing Control and Accountability Mechanisms

Intelligence organizations have unique problems when it comes to control and accountability, problems that are not found in other governmental institutions. These problems originate from the nature of intelligence work.

First of all, since they deal with national security threats, any limitation imposed on their activities, such as establishment of strict guidelines, and control and accountability mechanisms, may potentially cripple their effort to prevent these threats, which is never preferred by any state.

Also, intelligence activities are carried out under a veil of secrecy. Their finances are secret, their operations and assessments are covert. It is not easy for the public and other officials who are not a part of the intelligence organizations to find out what is being carried out by these organizations. Consequently, citizens tend to see these organizations as mysterious, and uncontrolled (General Accounting Office, 2000). This situation undermines public trust in these organizations and prevents the public from uncovering improper conduct, if there is any.

On the other hand, if an intelligence organization's

activities and techniques are disclosed they cannot be used effectively. Therefore, control and accountability mechanisms should be established that respect the need for secrecy in intelligence organizations. The disclosure of intelligence techniques or facts about ongoing intelligence operations should not be permitted.

However, allowing a domestic intelligence agency to police itself alone does not sound effective. Therefore, domestic intelligence organizations, and oversight organizations must disclose the improper actions of domestic intelligence organizations by releasing oversight reports, and informing the appropriate authorities so that counter measures can be taken.

Another aspect of enabling control mechanisms in domestic intelligence agencies, an aspect that applies to all governmental organizations, is that it may make officials feel harassed and under suspicion when control attempts are abnormally intensive and aggressive. This type of practice may make officials maintain "secrecy or decrease the level of their activity" (Bayley, 1977, p.226). Therefore, the level of oversight should not be so high that officials may adversely react to it.

However, it is essential that a control and

accountability mechanism be established for these organizations. Scholars propose a multi-level control mechanism to control law enforcement organizations. This mechanism would determine whether organizations comply with community objectives, the laws, rules, regulations and policies. This mechanism utilizes internal and external controls. External controls may be initiated in the executive, judicial, legislative or social arenas (Bayley, 1985; Stone & Heather, 2000).

Internal oversight is simply carried out by the organization itself. On the other hand, external oversight is conducted by individuals or organizations other than the particular organization itself.

Executive oversight is conducted by political executives, either directly or through organizational action on their behalf.

Judicial oversight is conducted by the courts to ensure the organization in question honors the constitution, the laws, and all applicable rules and regulations as it carries out its daily activities. The courts impose sanctions if an official is discovered to have acted unacceptably in his or her duties. Additionally, they exclude unlawfully obtained evidence from court cases.

Legislative oversight is carried out by the Congress. The most important duty of the Congress is to make laws defining the scope, limits and methods of domestic intelligence organizations. These laws are essential as means to restrict organizational discretion. Legislators also determine whether organizations carry out their duties properly through the use of oversight committees. These committees may be either temporary or permanent.

Social control is carried out by the citizens, the media, and advocacy or research organizations. Social control mechanisms ensure that organizational behavior conforms to community objectives (Stone & Ward, 2000).

Each individual control mechanism is essential. They each, in turn, fill the gaps that others leave in the imposition of control. For example, internal control may be ineffective if there is a strong subculture of solidarity among the members of the organization. Additionally, where domestic intelligence organizations are concerned, outsiders can not, and sometimes, for their own protection, should not, penetrate the organization. Consequently, it is left up to intelligence employees and officials to release information about organizational practices.

Similarly, executive control has some deficiencies. If

it is carried out in the form of direct and active political supervision, it may jeopardize the neutrality of the organizations (Bayley, 1977). For example, before the 1970s, the FBI received its authorization from, and reported directly to, the President. This practice led the use of the FBI as a mechanism that promoted the personal interest of the Presidency.

Similarly, judicial control is criticized as being reactive. That is, unless a case is brought before the court, the judges will never learn of it (Stone & Ward, 2000).

Legislative control also has some deficiencies. The members of oversight committees are often not expert on the issues they oversee. Consequently, their effectiveness is based on how well they are informed by the "experts." Temporary oversight committees have members who are less informed than permanent committees. Temporary committees are also reactive in nature. They are usually initiated after a problem has occurred.

Social control has its problems as well. Individuals or public interest groups must be *allowed* to monitor these organizations to be informed of their activities and to be aware of any misconduct. Citizens and public interest groups



may be given the right to be informed of domestic intelligence activities when certain legislation is passed such as the Freedom of Information Act. These laws may require periodic disclosures of information and the declassification of past activities. They also enable citizens to be aware of any investigations conducted by intelligence organizations regarding themselves.

The FBI has a multi-level control system, consisting of internal and external mechanisms. Some of these mechanisms have existed in the past, but they were not effective. For example, executive control was not exercised effectively during the years when the FBI directly received its authorization from, and reported political intelligence to, the President.

On the other hand, although congressional oversight commissions did exist, they were not really interested in learning what the FBI was doing because the FBI had a reputation for working for the common good.

Today, internal and external oversight mechanisms are in place. The *Internal oversight* of the FBI is conducted by the Headquarters and Inspection Unit, as well as the Office of Professional Responsibility (Theoharis, 1999).

FBI headquarters periodically review investigations to

renew or cancel their authorization. Investigations are initially approved for a period up to 180 days. Additional periods not to exceed 180 days can be designated only after that investigation is reviewed and found appropriate by a higher authority (US Department of Justice, 1989)

On the other hand, the Inspection Unit examines FBI operations to ensure compliance with objectives, governing laws, rules, regulations and policies (Headquarters and Programs, 2001). In addition, the Office of Professional Responsibility investigates claims of criminal conduct and misconduct by FBI officials (Headquarters and Programs, 2001; Elliff, 1979).

*The external oversight* of the FBI is conducted by executive organizations or boards such as the Office of the Inspector General, Intelligence Oversight Board. Legislative, Judicial, and Social Control mechanisms also provide external oversight.

The Office of the Inspector General was founded in 1988 within the Department of Justice to detect and deter abuse, and misconduct among department officials. It directly reports to the Congress and the Office of Attorney General. However, this office may not investigate the FBI unless it is authorized by the office of the Attorney General.

Normally, the FBI would carry out such investigations itself through the Office of Professional Responsibility.

The Intelligence Oversight Board consists of at least four members of the President's Foreign Intelligence Advisory Board. They review and receive regular reports from the Inspector General and the Intelligence Community about, domestic intelligence activities, at least once in a four-month period, and from time to time as needed. It reports to the President and submits violations of law to the Office of Attorney General (Elliff, 1979; Oseth, 1985).

Legislative Control is carried out by the Congress. There are two principal intelligence oversight committees that provide routine oversight in Congress: The Senate Select Committee on Intelligence and The House Permanent Select Committee on Intelligence.

In addition to these committees there are other congressional committees that become involved in oversight matters from time to time. The judiciary committee in each House is one of these committees (US General Accounting Office, 2000).

These committees carry out hearings over claims of misconduct, and over issues that are of public interest. For example, in the past, both Committees played important roles

in the intelligence reform activities of the 1970s, as previously discussed in Chapter 2 of the study.

More recently, the Senate Judiciary Committee conducted a hearing entitled "Oversight: Restoring Confidence in the FBI" on 20 June 2001. This hearing reviewed several recent cases where the FBI did not act professionally. This committee, for example, reviewed the case of an FBI agent who allegedly worked as a Russia spy. It also inquired the apparent sale of sensitive investigative information to an organized crime group. FBI behavior in the Oklahoma bombing case was also reviewed. In this case, the FBI revealed that it had violated discovery obligations. That is, it failed to turn over some documents to the defense.

On the other hand, the Senate Select Committee on Intelligence conducted a hearing on the "Oversight of the Daniel M. King Case" on 3 April 2001. The committee investigated the prosecution of a spy case. It was claimed that the confession of the defendant was forced, and there was not enough credible evidence of espionage.

These committees have to be informed in a timely manner, of the activities of intelligence organizations. It is argued that the number of people involved with these committees should be reduced in order to protect sensitive

information about intelligence activities. To achieve this reduction, it has been proposed that certain committees be combined.

It is also argued that legislative oversight is limited since the initiation of such oversight generally requires the public disclosure of common abuses. Additionally, the legislature needs insider information from the FBI to be effective.

The FBI is also controlled by the Courts who establish warrant requirements for certain intelligence techniques such as wiretapping. If it is disclosed that evidence was obtained through illegal methods, the court excludes that evidence from the case. This forces the FBI to follow proper procedures if a successful prosecution is wanted. In addition, officers who violate individual rights may be subject to civil and criminal litigation. However, as discussed previously, judicial review is reactive. The civil and criminal prosecution of an officer requires that those whose rights were violated know it. This knowledge is sometimes difficult to come by because of the secret nature of the intelligence work.

At this point, it should be mentioned that it is important for citizens and public interest groups to have

knowledge of the FBI's domestic intelligence activities. There are some laws that make FBI domestic intelligence accessible to the public. While it was once not available, individuals and public interest groups can now access to information about intelligence activities. The Freedom of Information Act is one of these laws. Based on this law, the FBI publishes annual reports regarding its activities, and replies to citizen inquiries. Similarly, Title III of the Omnibus Crime Control and Safe Street Act requires detailed annual reports to be published on the number and nature of wiretaps (Dempsey, 2000).

#### Conclusion

The misuse of domestic intelligence originates as the product of one general problem, namely overly broad organizational discretion. Defining the scope, limits and methods of intelligence, as well as establishing a multi-level control mechanism may effectively prevent the misuse of domestic intelligence.

However, there are some problems with this model. It is hardly possible, for example, to establish standards that can be valid in every situation and in every time period. Continuously changing national security threats, and the operational tactics of intelligence agencies make domestic

intelligence a metamorphic entity.

For example, no one can guarantee that today's domestic terrorism targets will remain unchanged twenty years from now. Similarly, until recently, the Internet was not thought of as a potential means of communication for terrorist organizations. Intelligence organizations today are forced to have legal and technical capability to monitor the Internet communications between terrorists. The fact that intelligence organizations are expected to react promptly to these threats forces a state to give broad autonomy to the intelligence organizations, especially during a national security crisis, as explained in the second chapter of the study.

However, once a threat is discovered by an organization, it should be able to track the threat for a temporary period of time until its action is approved or rejected by the legislature.

On the other hand, it is hardly possible to guarantee the absolute prevention of misuse, even using a multi level control mechanism, because it is always possible to detour regulations and controls. This highlights the need to create an organizational culture that promotes compliance with regulations. Such an organizational culture requires the

careful selection and training of recruits. It also requires a fair reward and promotions system based on objective standards. The selection process, in addition, should be isolated from political influence, and objective standards should be set for recruitment. This will also prevent bias or prejudice within the officials against those who are lawful but with challenging ideas.

In conclusion, control of domestic intelligence can be more easier if fair recruitment, training, and just reward systems are set up in addition to defining its scope, limits, and methods, and establishing control and accountability mechanisms.



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