

THE NATIONWIDE DRIVE AGAINST LAW ENFORCEMENT INTELLIGENCE OPERATIONS

HEARING BEFORE THE SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE NINETY-FOURTH CONGRESS FIRST SESSION

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(II)

THE NATIONWIDE DRIVE AGAINST LAW ENFORCEMENT INTELLIGENCE OPERATIONS

THURSDAY, SEPTEMBER 18, 1975

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY ACT
AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 11 a.m., pursuant to notice, in room 457, Russell Senate Office Building, Senator Strom Thurmond presiding. Present: Senators Thurmond and William L. Scott.

Also present: J. G. Sourwine, chief counsel; Alfonso Tarabochia, chief investigator; Mary E. Dooley, director of research; and David Martin, senior analyst.

Senator THURMOND. The subcommittee will come to order.

The Senate Internal Security Subcommittee has received information from sources in many parts of the country pointing to the conclusion that there has been a highly organized and highly effective drive, on a national scale, against law enforcement intelligence operations. The scale of the operation may be gleaned from the fact that some 75 separate suits have been filed against law enforcement agencies, ranging from the FBI to the local police departments, seeking to compel them to divulge sensitive intelligence gathered on extremist groups, or to divest themselves entirely of their intelligence files and intelligence operations.

The legal harassment has been compounded by the apparent willingness of many people in our media to regard our law enforcement agencies as the prime enemy of our freedoms rather than as their protector, and to disregard or minimize the danger posed to our freedoms by the scores of extremist organizations openly committed to terrorist activities or to the violent overthrow of our form of government.

The organizations of the far left, needless to say, have been major and enthusiastic participants in the national drive against law enforcement intelligence. In this, regretfully, they have been abetted by organizations and individuals whose primary concern is the protection of civil liberties. For example, the American Civil Liberties Union, which has been instrumental in the filing of some 30-odd suits against local, State, and Federal enforcement authorities, had this to say in its 1970-71 annual report:

The ACLU has made the dissolution of the Nation's vast surveillance network a top priority. * * * The ACLU's attack on the political surveillance is being pressed simultaneously through a research project, litigation, and legislative action.

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Unsure of their own rights, and understandably fearful that they might be found in violation of the Constitution, and anxious to disengage from the pressure of legal harassment, some of our law enforcement agencies have completely disbanded the special intelligence units they previously maintained to monitor extremist groups of the left and right, while other law enforcement agencies have destroyed the intelligence files laboriously built up through many years of effort.

Only last year, the State of Texas Public Safety Division wiped out all of its files on subversives and subversive organizations, salvaging from them only those items which directly pertained to criminal violations of the law. These items of information were transferred to the criminal intelligence files.

In some of our major cities, 90 percent or more of the intelligence files have been purged to make them accord with new and highly restrictive standards. Under these standards membership in organizations like the Communist Party, the Trotskyist Party and the Maoist movement does not qualify a person for an entry in the intelligence files. To qualify for such an entry, there must be a record of conviction or an indictment.

The massive destruction of law enforcement intelligence files, in my opinion, poses a serious danger to the internal security of our country. The need for law enforcement intelligence is greater today than it has ever been. In the old days, the task was essentially one of monitoring the activities of the Moscow-dominated U.S. Communist Party. But in recent years there has been a proliferation of violent and extremist groups, mostly of the far left but some of the far right. Not only does law enforcement intelligence have to keep up with the activities of the Communist Party and its members and its many front organizations, but it also has to keep an eye on the activities of the two other orthodox Leninist trends, the Maoists and the Trotskyists, both of which now have sizable followings in our country. On top of this, it must seek to keep abreast of the activities of numerous, small, tight-knit terrorist organizations like the Weathermen, the Symbionese Liberation Army, and the Manson Group.

I do not say that there have not been some excesses and errors by our law enforcement intelligence units. The scale of the operation, nationally, would make a small quota of errors in judgment almost unavoidable. But the answer to such errors is not the abolition of our law enforcement intelligence files and law enforcement intelligence units—this would invite the destruction of our society. The answer lies, rather, in establishing carefully defined standards governing the operations of law enforcement intelligence, so that the officers involved will know what kinds of organizations and individuals require surveillance, and what methods are proper and what methods improper.

We have to strike a balance between protecting our constitutional liberties and protecting our society against those who would destroy it. On this point, I concur in the wise opinion expressed by former Supreme Court Justice Jackson some time before his death:

The Court's day-to-day task is to reject as false, claims in the name of civil liberty which, if granted, would paralyze or impair authority to defend the existence of our society, and to reject as false claims in the name of security which would undermine our freedoms and open the way to oppression.

Our witness today, Mr. Frank J. McNamara, is a distinguished American who has served his country in several different capacities.

Most recently he has served as executive secretary of the Subversive Activities Control Board. Prior to that, he served as staff director of the House Un-American Activities Committee. It is my understanding that Mr. McNamara has done major research on the national drive against law enforcement intelligence, and that, on the opposite side, he has researched the views expressed by seven successive Presidential commissions that have dealt with the problems of violence and civil disorder, and that he has further researched the decisions of our higher courts bearing on the propriety and constitutionality of domestic intelligence-gathering activities.

The subcommittee is grateful to you for coming here today, Mr. McNamara, and I am confident that the information you have to present will give us all a better understanding of the problems we are up against.

Mr. McNamara, will you stand and be sworn?

[Witness sworn.]

Senator THURMOND. To give you more time for your presentation, Mr. McNamara, instead of asking you to state your background and qualifications, we shall, with your permission, simply insert a biographical note at this point in the record.

Mr. McNAMARA. That would be agreeable.

BIOGRAPHICAL NOTE ON FRANCIS J. McNAMARA

Francis J. McNamara was born in Brooklyn, N.Y., on November 19, 1915. He was educated at St. John's University in Jamaica, N.Y., where he was a member of the Senior Honor Society, and he took his M.A. degree from Niagara University in 1939. He served in the U.S. Army from 1941 to 1946, rising from the rank of private to major. His major assignments were in the field of intelligence, in which connection he took courses at the Military Intelligence School of Berkeley University in the Chinese language and Chinese history. He served as Intelligence Officer and Adjutant with the First Provisional Tank Group (Chinese-American) in the northern and central Burma campaigns, and he later served as Chief Liaison Officer with the Chinese Tank Training Center in India.

After World War II, he worked for a period of time for UNRRA in Jehol and Hopeh Provinces in China. From 1950 to 1958, he held a number of assignments as a research analyst and editor; from 1954 to 1960, he was the editor of two publications put out by the Veterans of Foreign Wars—"Guardpost for Freedom" and "American Security Reporter." He also served as National Director of the VFW Anti-Communist Program for most of this period.

Mr. McNamara joined the staff of the House Committee on Un-American Activities (which later became the House Committee on Internal Security) in August 1958, becoming Research Director in June 1961, and Staff Director in June of 1962. He served in this position until the beginning of 1969. From 1970 to 1973, he was Executive Secretary and Chief Clerk of the Subversive Activities Control Board.

Mr. McNamara commands a national reputation as a careful scholar and researcher in matters relating to communism, extremist activities in general, and internal security. He has written and lectured extensively on these problems. He is the author of a number of major reports published by HUAC, including "The Erica Wallach Story" and "Patterns of Communist Espionage."

Senator THURMOND. You may proceed if you have a statement you want to make first and then we have some questions that we will propound.

TESTIMONY OF FRANK J. McNAMARA

Mr. McNAMARA. I do not have a prepared introductory statement, Mr. Chairman, but I am prepared to answer a series of questions which I understand the committee would like to ask.

Senator THURMOND. Mr. McNamara, do you consider terrorism a serious problem in this country?

Mr. McNAMARA. I do, Mr. Chairman. I will not attempt to cite all the facts which indicate this, but I would like to indicate a few which I think demonstrate it, something that warrants the concern of this committee and the American people.

Just a few months ago in Windsor, Ontario, Canada, in June as a matter of fact, there was a meeting called the Continental Action Assembly of Christians and Jews. This was called for the purpose of discussing the following subject: Violence, terrorism, and the death of dialog.

Now, when the leaders of the Christian and Jewish faiths in this country and in Canada feel that the subject of terrorism is so important that it merits an international meeting, I think it is a subject that deserves our attention as well.

Terrorism, of course, has been debated in the United Nations, without—as might be expected—any effective action coming out of its deliberations. A few years ago this country passed a law to protect foreign diplomats in this country and certain other people from terrorist activity.

I read recently where Hong Kong had set up a special unit to combat terrorist activity. It is my understanding from a report of the Institute for the Study of Conflict in London that practically every nation in Western Europe has established special antiterrorist units.

After what happened at the last Olympics in Munich, when terrorists attacked the Israeli delegation, special security steps are being taken for the 1976 Olympics in Montreal. It was recently announced that the estimated minimum cost of these security measures against terrorism for the 1976 Olympics will be \$90 million.

Four months ago, two bombs exploded near the reactor building of a nuclear power plant under construction in Fessenheim, France. Terrorists claimed credit for the bombing. Of course, the plant has not been completed yet. It was not active and security will be tighter when it is in operation. But the fact that this happened is an indication of what some terrorist groups, at least, are thinking about and the danger their activities might pose.

In the spring of 1973 both the Atomic Energy Commission and the Department of Defense issued shoot-to-kill orders to all their guards handling nuclear materials and weapons. This step was taken because of the concern of both agencies about the possible theft of nuclear material by terrorist organizations.

As this committee I am sure knows, the Symbionese Liberation Army, kidnappers of Patricia Hearst, had a target list of 900 persons who were potential victims of their operations.

The FBI estimates that there are over 15,000 terrorists organized in 21 groups in this country.

Last year there were 2,041 bombing incidents in the United States, not all, but many of them terrorist in origin. They killed 24 people and injured 206.

So far this year, the rate is higher than the total number last year.

In the bay area of San Francisco, there was one bombing every 24 days last year. These were terrorist bombings. This year there has been one terrorist bombing every 7 days in the area. So far this year terrorists claim that they have inflicted over \$500,000 property damage

in 13 actions in that area. That is more than they inflicted in all of last year.

We have it from reliable authorities that terrorists may obtain nuclear, biological, and chemical mass-killing weapons that they could use for blackmail purposes or to actually end the lives of many people. The homemade nuclear bomb, the basement nuclear bomb as it has been called, depending on where it is exploded, could kill up to 50,000 people.

In recent years over 60 U.S. officials abroad have been subjected to terrorist attacks, at least 28 kidnapped and 15 murdered. According to the Department of State, cooperation and collaboration among foreign terrorist groups is increasing and they are moving closer to the United States in their activities.

The FBI's latest annual report points out that foreign influence on U.S. terrorist groups is increasing and Director Kelley has referred to the real threat of violence by terrorists as a major internal security problem.

These are some of the general indicators that terrorism does represent a very real problem to this country.

Senator THURMOND. Mr. McNamara, how do we cope with terrorism?

Mr. McNAMARA. I would not try to give a complete answer to that question. But I would like to stress one very important element and that is intelligence. I believe that it is a first line of defense in trying to cope with terrorism. This country and its States and cities could spend huge sums of money educating, training, and equipping all kinds of special forces to deal with terrorists, but if these forces have no intelligence or inadequate intelligence, they will be incapable of preventing terrorist acts. This is the important thing because, once the bomb goes off, it is too late to save lives.

Many police forces have formed SWAT teams in recent years, special weapons and tactics units. These are good but have limited utility and, again, if they have no intelligence or poor intelligence they cannot prevent covert terrorist acts. They can only catch and stop terrorists—or kill them if it is necessary—when they happen to be caught in the open before they have completed one of their actions.

They are an emergency, a kind of crisis operational unit, with limited though real value. The record, unfortunately, indicates that very few terrorists are seen or apprehended in the middle of an act. We learn about it after their bombing or whatever activity they have undertaken is completed and, at that point in time, of course, it is too late for a SWAT team to be of any use.

In April of 1974, the Joint Committee on Atomic Energy released a special safeguards study that had been prepared for the Atomic Energy Commission. This study, made by a group of scientists and law enforcement and security specialists—including William Sullivan who had been Assistant Director of the FBI for many years—found that the safeguards surrounding our nuclear plants were “entirely inadequate” from the viewpoint of protection against terrorist theft or sabotage. The study made this statement:

“The first and one of the most important lines of defense against groups which might attempt to illegally acquire special nuclear materials to make a weapon, is timely and in-depth intelligence.”

By "special nuclear materials" they meant plutonium or uranium 235 in sufficient quantities to make a basement bomb.

When Attorney General Younger of California testified before this committee, he stated, "Our most important tool in combating terrorism is intelligence."

Some FBI officials who have special responsibilities in this area testified as follows before the House last year:

"These problems"—that is, problems of terrorism—"are of such magnitude that there must be maximum cooperative effort on the part of the FBI and local and Federal law enforcement officials in exchanging such information"—that is, information about terrorists—"and in the training area * * *. Without cooperative efforts * * * this terrorist activity could go unabated."

Mr. Brian Crozier, Director of London's Institute for the Study of Conflict, emphasized this same point when he appeared before this committee.

He said: "Intelligence is of the utmost importance. It is necessary to collect and collate the intelligence which is available normally to a wide variety of agencies * * *. All these forms of intelligence must be centrally collated and there must be a coordination of the anti-terrorist effort."

When Mr. Kissinger's special assistant on terrorist matters testified, Mr. Robert Fearey, he agreed in response to questions asked by Mr. Sourwine that intelligence "is extremely important * * * a sine qua non of any effective action," and that we must have "adequate intelligence about existing terrorist groups and individuals, their present and past activities, methods of operation, and all contacts among them."

Not long ago the Institute for the Study of Conflict prepared a special study entitled "New Dimensions of Security in Europe." Part IV of that study dealt with terrorism and there was a section in it entitled, "The Response to Terrorism." Under this there were subsections on both "Internal Action" and "International Action."

On the subject of internal action, the study concluded that the aims of counteraction must include three points, all of which involved intelligence gathering:

To penetrate the terrorist organisation or in other ways secure intelligence about its plans.

To prevent terrorism by discovering and isolating the centres of terrorist action, denying essential aids (e.g. food, shelter, money and medical treatment) and forcing the terrorists into the open.

To eliminate the leaders, by capture and detention * * *

It also treated intelligence in a separate paragraph, saying:

(ii) Intelligence.—Most European countries have several intelligence-gathering services: foreign intelligence, internal security, police (special branch), armed services. Intelligence gathered by these separate organisations should be pooled and centrally assessed.

Three separate processes are involved in intelligence-gathering: (a) establishing detailed background dossiers on active and potential terrorists and those who might lend them support and compiling organisation charts to show the command structures of underground organisation; (b) creating an efficient retrieval system so that this information can be passed on swiftly to the men in the field as they need it; and (c) developing "strategic intelligence" into "operational intelligence" through local contacts that will make it possible to lay hands on the right man at the right time.

On the subject of intelligence, it said in its section on international action:

Each country's police accumulates a mass of data, including statistics on terrorism. Much of it can be computerised. All European countries should compile profiles of terrorist groups and individuals. This information should be pooled or at all events made readily available to other police forces needing information.

Finally, I would like to point out, Senator, on this issue of intelligence and its importance, that at least seven U.S. national commissions agree with this idea. All of them, in reports published in the last 10 years have emphasized the vital role intelligence plays in all angles of law enforcement, whether we are dealing with organized crime, ordinary crime, or subversive activities.

Senator THURMOND. Off the record.

[Discussion off the record.]

Senator THURMOND. Back on the record. Mr. McNamara, you spoke about there being seven national commissions, I believe. Would you tell us what seven national commissions you referred to?

Mr. McNAMARA. Yes, Senator.

Senator THURMOND. Do they support police collection of what is called political intelligence?

Mr. McNAMARA. They do. I would like to point out that terrorism was not a significant problem in this country when some of these commissions were functioning and issued their reports. Some of them were concerned primarily with organized or ordinary crime, although one was established for the specific purpose of studying civil disorders, another violence in general and practically all of them touched on demonstrations, riots and subversion—which have a relationship to terrorism—in their reports.

The first was the President's Commission on the Assassination of President John F. Kennedy, which was appointed by President Johnson on November 29, 1963, and issued its report on September 24, 1964.

The Commission made about a dozen recommendations to improve the security of Presidents of the United States. A number of these, not surprisingly, concerned intelligence. For example, its third recommendation was that the Secretary of the Treasury appoint a special assistant to supervise the operations of the Secret Service. And it stated that this special assistant must have stature and experience in the field of intelligence, among other things. Its fourth recommendation read:

"The Commission recommends that the Secret Service completely overhaul its facilities devoted to the advance detection of potential threats against the President . . ."

That is purely an intelligence operation—advanced detection of potential threats.

There were three subparagraphs to recommendation No. 4, all of them having to do with intelligence gathering.

Its sixth recommendation:

"The Commission recommends that the Secret Service continue its recent efforts to improve and formalize its relationships with local police departments in areas to be visited by the President."

Now, clearly the context of this recommendation was that the Secret Service is going to be getting intelligence from the local police about

potential threats or dangers to the President. In other words, the police should be collecting intelligence on this subject.

I might add that Lynette Fromme, who recently tried to assassinate President Ford, is a so-called political activist, as was Arthur Bremer, Sirhan Sirhan and Lee Harvey Oswald.

Next, President Johnson, like some of his predecessors, was concerned about the high crime rate here in the Nation's Capital and the fact that the Metropolitan Police Department did not enjoy too good a reputation. He determined that he would try to make it a model for the Nation.

In July 1965 he created the President's Commission on Crime in the District of Columbia, which employed the International Association of Chiefs of Police to make an in-depth study of the police department. The association, a nonpartisan professional organization, had made analyses at that time of over 120 police departments in this country. The International Association of Chiefs of Police's report of over 450 pages was submitted to the Commission in April 1966.

It was critical of the department and called for a major overhaul, recommending more than 500 changes. It found, among other things, that the Metropolitan Police Department did not have an intelligence unit and in its new organizational chart provided for one.

The Commission completely endorsed the report of the IACP and over \$1 million in Federal funds was later appropriated to the District of Columbia to implement the recommendations in this report.

The IACP, backed by the Commission, recommended the establishment of a 14-man intelligence division in the Metropolitan Police Department, divided into three sections—subversive, organized crime and rackets.

Speaking of the subversive section, it said:

This section is responsible for collection and appropriate dissemination of information about groups and individuals that threaten the security of national and local government. Members should develop information concerning structure, membership, and plans of organizations engaged in subversive activities, including those which have the intent to create religious and racial prejudices and those which advocate disturbances and violence.

In this report, in addition, there was a section on "Youth Operations"—and even here the Commission recommended that the Metropolitan Police Department undertake intelligence operations. In a subdivision in the "Youth Operations" chapter, it provided for an "Intelligence Unit" whose function was to "keep informed of the activities and the membership of youth gangs and disseminate information concerning gangs to the field units of the division and the department and to other appropriate agencies."

Third, the President's Commission on Law Enforcement and Administration of Justice, chaired by former Attorney General Nicholas de B. Katzenbach, in its 1967 general report, "The Challenge of Crime in a Free Society" and in its separate task force reports on "Police" and "Organized Crime" urged the establishment of Federal, regional, State, and local police intelligence units, all of which "must share information and coordinate their plans."

Mr. SOURWINE. May I interrupt? I have two questions, one with respect to the recommendations concerning the District of Columbia. Do you know to what extent it was carried out?

Mr. McNAMARA. I know that, as a result of those recommendations, an intelligence unit was established along the lines outlined in the report. You may recall that when the Rockefeller Commission issued its report on the CIA a few months ago, it pointed out that the CIA had undertaken certain domestic intelligence gathering activities here in the District of Columbia. This was during the major antiwar demonstrations of 1967. It did this because it feared attacks on CIA installations and the Metropolitan Police Department, not having an intelligence unit, was unable to provide it with any information about these dangers or threats. So it was in a spot where the Director of the CIA, to carry out his statutory duty to protect CIA facilities and functions, had to direct CIA officials themselves to become involved in domestic intelligence gathering. The Rockefeller Commission supported its action in this instance.

Mr. SOURWINE. Getting back to the District—but if you are not through, go ahead.

Mr. McNAMARA. I was going to add the fact that the Rockefeller report pointed out that after the police intelligence unit was established in 1968 and the Metropolitan Police could then furnish the CIA information of this type, the CIA abandoned its domestic intelligence activities in this area.

Mr. SOURWINE. Do you know if this intelligence agency in the District Police Department still exists?

Mr. McNAMARA. It still exists and it is one of those police intelligence agencies that is under attack today. The City Council, or one of its committees, has been holding hearings on it. And one member of the City Council has introduced a bill to bar the Metropolitan Police Departments intelligence unit from collecting any so-called political information.

Mr. SOURWINE. Does this intelligence unit in the Metropolitan Police in the District still maintain all of the records which it put together since 1968?

Mr. McNAMARA. I am not certain whether they have all of those reports or not.

Mr. SOURWINE. I do not expect you necessarily to know.

Now, the question was what is happening to the intelligence network that was set up in part pursuant to the recommendations of the Katzenbach Commission? Do you know? The recommendations you spoke of in your testimony.

Mr. McNAMARA. The Metropolitan Police Department intelligence unit is still functioning and, in the hearings I have referred to officials of the intelligence unit and the police chief here have defended the operations of its intelligence unit.

Former Police Chief Jerry Wilson made an interesting and telling comment in one of the columns he is now writing for the Washington Post. Commenting on the attacks being made on the Department's collecting political information, he pointed out that a few years ago the Black United Front here in Washington—which he said would be classified as a political organization, and whose leaders were political figures; in fact, some of them sit on the City Council today—but the Black United Front a few years ago was saying it was perfectly OK to murder policemen. Perfectly OK.

Mr. SOURWINE. Perfectly OK to murder a policeman?

Mr. McNAMARA. Perfectly OK and Wilson's comment in his column was to the effect that under these circumstances the police certainly were justified in having an intelligence interest in the Black United Front and in keeping files on it.

I might point out that Stokely Carmichael was one of the key organizers of the Black United Front and just a few months ago he was here in Washington, again, addressing students at Howard University, urging them to engage in revolutionary activity. He was calling for revolution in the United States.

Mr. SOUTHWINE. I will pursue the question no further. Go ahead, sir.

Mr. McNAMARA. The next Commission was as I said, the President's Commission on Law Enforcement and Administration of Justice, which was appointed on July 23, 1965. It found, for example, that the fight against organized crime had been hindered by a general failure to develop and disseminate intelligence. Touching on the subject of so-called political activity, it said on the subject of "Riot Control."

"Procedures for the acquisition and channeling of intelligence must be established so that information is centralized and disseminated to those who need it."

It also recommended that the Federal Government create a centralized computer index into which all Federal agencies would feed information. It even recommended that the CIA provide information experts to work with the FBI and the Secret Service in setting up this computerized crime and intelligence index.

I would just like to quote one other statement from the report of this Commission.

Here it was discussing organized crime, but this statement certainly is relevant to the type information the police should also be gathering in the field of subversive activities. "Much of the information in intelligence unit files on individuals relates to organized crimes 'legitimate' business enterprises, meeting places, personal data, and other information which may be widely disseminated."

So this commission, when it was talking about organized crime--and it was chaired by a former attorney general of the United States--found nothing wrong with wide dissemination of personal data and the so-called legitimate business activities of people engaged in organized crime.

Under the circumstances, I don't quite see why we should differentiate between organized crime and subversive activities. I think the same principles should apply for the simple reason that subversive activities in general pose a much greater danger to this country than organized crime does.

Next, the National Advisory Commission on Civil Disorders, appointed on July 29, 1967. It had a "Supplement on the Control of Disorder" in its report of March 1, 1968. I quote from page 269 of that report.

Intelligence--The absence of accurate information both before and during a disorder has created special control problems for police. Police departments must develop means to obtain adequate intelligence for planning purposes, as well as on-the-scene information for use in police operations during a disorder.

An intelligence unit staffed with full-time personnel should be established to gather, evaluate, analyze, and disseminate information on potential as well as actual civil disorders. It should provide police administrators and commanders

with reliable information essential for assessment and decision-making. It should use undercover police personnel and informants but it should also draw on community leaders, agencies, and organizations in the ghetto.

Mr. McNAMARA. Next, the National Commission on the Causes and Prevention of Violence, appointed by President Johnson on June 10, 1968, which had its life extended by President Nixon in May 1969.

Its general report, "To Establish Justice, To Insure Domestic Tranquility," issued on December 10, 1969, stated: "We urge police departments throughout the Nation to improve their preparations for anticipating, preventing and controlling group disorders."

In other words, improve their intelligence--because their ability to anticipate or prevent a riot is completely dependent on intelligence and specifically what is called "political" intelligence.

Now, I might point out that there is also a paragraph in its Staff Report "Crimes of Violence," volume 12, in which it recommends that a National Criminal Justice Statistics Center be established and computerized. It specifies the data that should be fed into this center and also disseminated by the center. Under a subhead entitled "Data on Groups and Mass Protests," it states on page 831:

The Center should initiate a section of its publication devoted to information on any civil disorders, student protest groups, etc., which may have occurred over the reporting period. The Center should deploy a specially-trained fact-finding team during all such events to construct (via interviews, pictures, and other means) as complete and objective a picture as possible.

Senator THURMOND. Proceed now.

Mr. McNAMARA. The report of the Violence Commission's Task Force on Law and Law Enforcement also stated:

A major weakness of many police departments is the absence of a reliable intelligence system. This absence has gravely handicapped police and public officials in anticipating and preventing trouble, and in minimizing and controlling a disorder that has broken out.

It added that this happens because of failure "to develop reliable information concerning community organizations and leaders," (among other things) and said that intelligence failure is one of "the major problems facing control forces in subduing mass disorders."

Reviewing and endorsing the recommendations and findings of the Kerner (Civil Disorders) Commission, the Task Force on Law and Law Enforcement noted that Commission's position that the "best and most obvious approach" to a riot was to prevent it, that this hinged on the handling of the initial incident which depended, in turn, on "good intelligence." As one indicator of progress since release of the Kerner Commission report, it noted that intelligence had improved on both the Federal and local level. At the same time, it warned:

* * * we must anticipate other acts of lawlessness and terrorism to occur in various parts of our country which the radical extremists on both sides will try to exploit to their own advantage and objective. The immediate security problem will require necessary measures that will enable the police and civil authorities to distinguish among those who seriously wish violently to disrupt, those who engage in disruptive conduct out of fear and frustration, and those who wish to participate in peaceful protest and demonstration.

A critical ingredient to the success and effectiveness in coping with these control problems is good intelligence. It is essential that the police possess an intelligence system which enables them to measure with precision the real threat to the community posed by individuals and groups.

Mr. McNAMARA. Next, the President's Commission on Campus Unrest, appointed June 30, 1970. Its report was issued in September 1970. There are a number of quotes from that report I would like to have inserted in the record, Senator. I will read one or two sentences here and then indicate which others should be quoted.

Discussing violence and terrorist acts on the campus, the Commission said:

"The best and sometimes the only means the police have to effect these purposes"—that is, apprehend those guilty of bombing, maiming and killing, especially the preventive one—"is by clandestine intelligence work."

And while it urges the police not to engage in such work on campus except when it is necessary, it completely and strongly defends police intelligence operations including the use of undercover informants, even on the campuses of this Nation's colleges and universities.

Senator THURMOND. Is there anything else you wanted to add to that?

Mr. McNAMARA. Yes; there are additional excerpts that I will submit for inclusion in the record.

Senator THURMOND. Without objection, they will be received.

[The information referred to is as follows:]

"We especially condemn bombing and political terrorism. The full resources of society must be employed to bring to justice those who commit terroristic acts. Anyone who aids or protects terrorists, on or off campus, must share the moral and legal responsibilities for the crimes they commit . . . (pp. 2, 3)

"Police cannot be barred from university campuses. The police are dutybound to enforce the law on the campus as well as elsewhere within their jurisdiction. When there is personal injury or serious property damage on the campus, the police must enforce the criminal law.

The university has no capacity to deal with bombing, arson, and similar acts of violence or terrorism. It must call the police. Such criminal acts put the entire community in such obvious and immediate danger that the police are obliged not only to discover their perpetrators, but also to take all reasonable steps to prevent their occurrence." (pp. 150, 151)

"Covert crimes of violence. Bombing and arson have increased alarmingly on campuses. This sort of covert and terrorist crime by individuals or small groups presents an extremely difficult police problem. Often it cannot be countered without imposing severe restrictions upon movement and other individual liberties—restrictions particularly alien to an academic community. Expanding police patrols, guarding buildings, inspecting packages brought into buildings, and admitting only persons with identification cards are possible responses to the threat of bombing and arson. But the problem also necessarily involves the police in extensive intelligence-gathering activities.

Intelligence. If the police are to do their job of law enforcement on the campus properly, they need accurate, up-to-date information. Only if they are well-informed can the police know how and when to react and, equally important, when not to react. (p. 171)

"*** there are cases where the decision whether to use informers and undercover agents is not difficult at all. It is an undoubted fact that on some campuses there are men and women who plot, all too often successfully, to burn and bomb, and sometimes to maim and kill.

The police must attempt to determine whether or not such a plot is in progress, and if it is, they must attempt to thwart it. If they are unable to prevent it, they must seek to identify, locate, and apprehend the participants after the fact. The best, and sometimes the only, means the police have to effect these purposes, especially the preventive one, is by clandestine intelligence work." (p. 172)

Mr. McNAMARA. The Commission on Campus Unrest also made another important statement in its report. That statement reads as follows:

"* * * the continued effectiveness of an informer or undercover agent may well depend on his willingness to participate in unlawful activity." (p. 173)

Finally, Mr. Chairman, there is the National Advisory Commission on Criminal Justice Standards and Goals which was appointed on October 20, 1971, and issued its general summary report, "A National Strategy to Reduce Crime" on January 23, 1973.

In addition to the general report it issued five separate, detailed reports on specific elements of the criminal justice system, including one on "The Police."

The goal of this Commission was "to formulate for the first time national criminal justice standards and goals for crime reduction and prevention at the State and local levels." This is just what it did. It set certain standards which it said every police unit and agency in this Nation should try to reach in their operations.

On that subject, Mr. Chairman, I request that there be entered in the record at this point its Standard 9.11, found on page 250 of its "Report on Police," the first paragraph of which reads:

Every police agency and every State immediately should establish and maintain the capability to gather and evaluate information and to disseminate intelligence in a manner which protects every individual's right to privacy while it curtails organized crime and public disorder.

I might mention that this standard covers the subject of so-called political activities.

Senator THURMOND. Without objection, it will be inserted at this point in the record.

[The information referred to is as follows:]

STANDARD 9.11—INTELLIGENCE OPERATIONS

Every police agency and every State immediately should establish and maintain the capability to gather and evaluate information and to disseminate intelligence in a manner which protects every individual's right to privacy while it curtails organized crime and public disorder.

1. Every State should establish a central gathering, analysis, and storage capability, and intelligence dissemination system.

a. Every police agency should actively participate in providing information and receiving intelligence from this system.

b. Every police agency should designate at least one person to be responsible for liaison with the State intelligence system.

c. Every State intelligence system should disseminate specific intelligence to local agencies according to local needs and should disseminate general information throughout the State.

2. Every local agency should participate, where appropriate, in the establishment of regional intelligence systems. Every regional intelligence system should participate actively in the State system.

3. Every police agency with more than 75 personnel should have a full-time intelligence capability.

a. The number of personnel assigned to this operation should be based on local conditions.

b. The intelligence operation should be centralized; however, intelligence specialists may be assigned, where appropriate, to major transportation centers.

c. When the size of the intelligence operation permits, organized crime intelligence should be separate from civil disorder intelligence.

d. In smaller agencies the intelligence specialist should be required to take direct enforcement action only where limited agency resources make it absolutely

necessary. In larger agencies the intelligence specialist should be required to take direct enforcement action only where a serious threat to life or property makes it absolutely necessary.

e. The intelligence operation should include an independent and well-secured reporting and record system.

4. Every police agency should insure exchange of information and coordination between the intelligence operation and all other operational entities of the agency and with other government agencies.

5. Every police agency should supply its intelligence operation with the funds, vehicles, vision devices, and other specialized equipment necessary to implement an effective intelligence operation.

Mr. McNAMARA. There were several pages of commentary on Standard 9.11 "Intelligence Operations". Relevant excerpts from those pages follow:

"Informants should be secure in their anonymity and should be assured that their covert contributions will not be revealed. . . .

"Intelligence activities must be continual, and they must constitute a system. When the system is effective, it always produces action programs. . . .

"Operations may be concentrated on organized predatory criminal groups, or other groups that are violence-oriented or inclined toward activity that unlawfully disrupts the community and its citizens. The principal areas of concern are organized syndicated crime and public disorder. . . .

"Because of the nature of organized criminal activity and the problems involving civil disorder today, every police agency should develop and maintain the capability to gather and evaluate information and to disseminate intelligence to the proper sources. . . .

". . . every agency with over 75 personnel should have a full-time intelligence capability. . . .

"The management, personnel, records, and operations of the organized crime intelligence organization should be separate from those of the civil disorder intelligence operation. Staff and records should be separate to assure the proper emphasis and integrity of each. Both intelligence operations should include a fixed staff element to provide for rapid analysis of important issues. . . .

"Two current philosophies of intelligence operations exist. Under the first, which is enforcement oriented, the intelligence operation develops the case, makes the arrest, and follows through on the prosecution. Under the other, which stresses 'pure' intelligence, the information is developed, evaluated, and delivered to the appropriate enforcement element of the agency.

"In the intelligence survey cited above, 31 of the 38 respondents recommended that members assigned to intelligence operations not take part in direct enforcement activities except in situations involving a serious threat to life or property. In smaller agencies, this policy may not be feasible. However, to protect the identity of intelligence personnel and the integrity of the unit's techniques, direct enforcement action should be undertaken only when absolutely necessary. . . .

"It is frequently charged, sometimes justifiably, that intelligence elements neglect to pass along information that could be valuable to other elements, particularly the patrol force. . . .

". . . Too often intelligence operations become so enmeshed in the information gathering process that they omit evaluation and dissemination."

Mr. McNAMARA. In summary, Mr. Chairman, the findings, recommendations and standards proposed by these seven national commissions represent almost 9 years of concentrated study by hundreds of highly qualified persons who served as commission members, advisors, consultants and staff—leaders from all levels of government, the clergy, doctors, psychologists, historians, sociologists, lawyers, prosecutors, psychiatrists, as well as professional law enforcement personnel. Just about every intellectual discipline, every field of learning was represented on these commissions. Their work product represents—I think we can say—the best thinking available to this Nation on police operations and it is highly significant that they were unanimous and

unqualified in their endorsement of police intelligence activity, including intelligence in the so-called political area.

Senator THURMOND. Have you completed naming the seven national commissions that you referred to?

Mr. McNAMARA. Yes, Senator.

Senator THURMOND. And quoting abstracts from it.

Now, do other authorities take the same view?

Mr. McNAMARA. They do, Senator. A short while ago I saw a computer printout from the National Criminal Justice Reference Service. The printout was on the subject of "intelligence acquisition." Of course it was prepared for police. This listed almost 40 titles. A few of them were published in Canada and Great Britain, but most of them in the United States. All had to do with police intelligence gathering. I would just like to list a few of the sources of these studies, books, articles, and so on.

The American Criminal Law Review; the Journal of Police Science and Administration; the Oregon Board on Police Standards and Training; the Law Enforcement Assistance Administration; the Journal of Criminal Law, Criminology, and Police Science; International Research and Technology Corporation; the police departments of several States—they included basic textbooks on criminology, works by the International Association of Chiefs of Police and the National Association of Attorneys General.

Publishers included the American Bar Association, University of California, Davis; Northwestern University School of Law, and so on.

In other words, no matter where you go on this subject, no matter what authorities you research, you find that they are unanimous on the subject. I have never heard, I have never found, a single reference to any person who is recognized as having any competence in the law enforcement field who has ever taken the position that the police should not, or need not, be deeply involved in intelligence activities.

Senator THURMOND. How does this country shape up today from the intelligence collection viewpoint?

Mr. McNAMARA. Senator, I am afraid we are not in very good shape. Basically, from the viewpoint of terrorism we have three lines of defense on the intelligence level.

First is the CIA, our first line of defense as far as international terrorists are concerned. I think all of us who have been involved in security and intelligence know that what has been happening the last year or so has damaged the CIA and its intelligence gathering activities.

Testifying before the Senate Appropriations Committee on January 15 of this year, Director Colby stated that the false charges about the agency in the New York Times "damaged the credibility of the CIA at home and its effectiveness abroad."

He pointed out a short while later, on February 20 to the House Appropriations Committee, Defense Subcommittee, that the accusations and the misrepresentations being spread all over this country about the CIA "can do irreparable harm to our national intelligence apparatus."

When he addressed the Associated Press at its annual meeting in New Orleans in April, he made this specific statement:

Our agents abroad are questioning our ability to keep their work for us secret. Cooperative foreign officials have expressed great concern to me as to whether they can safely continue to pass sensitive information to us in this climate of exposure.

On April 4, he told the House Select Committee on Intelligence: "We have lost intelligence opportunities through exposure already."

Of course, this all began, I think, with the Pentagon Papers, their theft and their publication by newspapers here. This was the beginning of the injury that has been done recently to the CIA, because that incident certainly undermined the confidence of many foreign sources of information in the ability of our intelligence community to keep their identity secret.

The FBI has also been under wide attack. I don't think it is necessary to go into the details. Anyone who reads the news and hears the news is very much aware of that fact that in the last 2 years or so, 3 years, there has been an unusual and unprecedented campaign to undercut the effectiveness of the FBI which has so important an intelligence role on the domestic front.

Senator THURMOND. If you have any information on that that is written out to follow your statement you just made, you might insert it in the record.

Mr. McNAMARA. On that point, Senator, I have no detail.

Now, Mr. Younger, when he testified before this committee, stated, on the question of intelligence preparedness that "law enforcement in general has not really attained a desired level of efficiency" and that it must become "more proficient in our intelligence gathering and reporting activities."

A moment ago I quoted the Violence Commission which said that a major weakness of many departments was the lack of a reliable intelligence system.

The February 1973 issue of "Defense/Foreign Affairs Digest" published an article "Coping with Terrorism" by Dr. Stefan T. Possony. In his article he recommended that a number of measures be taken to improve our defenses against terrorism. The sixth measure concerned police effectiveness.

He wrote that:

The enhancement of police effectiveness and efficiency is the most urgent task * * * American police forces, as set up today, lack the capability to fight terrorism effectively.

Dr. Possony, I might point out, is a senior fellow at the Hoover Institution on War, Revolution and Peace, has taught international politics at Georgetown University, served as a special adviser to the U.S. Air Force and as a psychological warfare specialist with the Office of Naval Intelligence, and earlier, as a psychological warfare officer with the French Foreign Office and adviser to the French Air Ministry.

Mr. SOURWINE. Mr. Chairman, Dr. Possony's works in this area have been referred to before in this committee. The Chair ordered the staff to procure a copy of Dr. Possony's piece referred to, and that the portions which Mr. McNamara deem pertinent be inserted in the record as a part of the appendix.

Senator THURMOND. Without objection, it is so ordered.

[The material referred to will be found in the appendix, p. 39.]

Mr. McNAMARA. Director Kelley of the FBI referred just about a year ago, in October 1974, to "The inability of authorized law enforcement agencies to cope with terrorist acts."

This has been primarily due to a lack of adequate intelligence. There is a \$100,000 reward for anyone who can provide information about those who bombed the Capitol 4 or 5 years ago. Those people still have not been caught. The same is true of those who bombed the Pentagon, the State Department, and Fraunces Tavern in New York City earlier this year, and many other installations.

At the end of fiscal year 1974, 24 members of the Weather Underground, who have been fugitives for several years, were still at large. Intelligence has not been adequate to apprehend them even long after they committed their terrorist acts.

Senator THURMOND. How important is police intelligence-gathering to our security against terrorism?

Mr. McNAMARA. In reference to their importance to our intelligence operations as a protection against the terrorism, I might point out that while the FBI has a vital role to play in this area, there are less than 8,500 FBI agents in this country, managing 59 field offices in the various States, the FBI headquarters, and also some installations abroad. The FBI has zero representation in most cities of this country and it has jurisdiction, of course, only in Federal matters.

The police, on the other hand, number close to 450,000 men in some 40,000 separate systems in this country. They cover every town and city in the Nation and our rural areas as well. They cover every street in every city. They are much closer to crime on a day-to-day basis than the FBI can possibly be. And terrorist crime is their responsibility just as much as ordinary crime is.

While the FBI has general intelligence responsibility in this area, it is involved from the prosecution viewpoint only when there is a violation of a Federal statute. It does not have jurisdiction in violations of local and State laws.

Just as the CIA is our first line of defense against terrorism on the international front, the police departments are our first line of defense domestically and if they have no intelligence, or inadequate intelligence, then the American people basically have no security against terrorism.

Mr. Chairman, I have a few statements I will request be inserted in the record at this point indicating the vital role the police play in the area of intelligence and terrorism.

Senator THURMOND. Without objection.

Mr. McNAMARA. Writing in the FBI Law Enforcement Bulletin, issue of December 1972, on the subject of terrorism and police, L. Patrick Gray, Acting FBI Director, stated:

The energy and devotion they display in fulfilling their manifold duties are the best means of detecting and deterring terrorists in our midst.

Addressing the National Conference on Criminal Justice in January 1973, Mr. Gray said:

Recent events (of the last 12 months) indicate all too clearly that our police forces have some new missions * * *

The sniper and the terrorist appear to be a part of the criminal scene today and for the foreseeable future.

No other forces are volunteering to handle such situations and I don't expect to see any volunteers. This appears to be another tough job that will have to be handled by the police.

And to do the job will require more than just more of the same.

The special study prepared by the Institute for the Study of Conflict, to which I have already referred, in speaking on internal action against terrorism, stated:

(*tit*) *The Police*.—The police (with the intelligence services) will inevitably find themselves thrust into the front-line. The number of police available in a given country is nearly always less significant than their preparedness to deal with political violence, which is bound to involve special training—in an intellectual as well as a technical sense.

Senator THURMOND. Now, Mr. McNamara, did you cover fully the question of the importance of intelligence gathering by local police in combating terrorism?

Mr. McNAMARA. Yes, I think with the quotes that will be placed in the record, Mr. Chairman, that that will be covered.

Senator THURMOND. You have indicated that police intelligence work is not what it should be. Why is that?

Mr. McNAMARA. I believe there are several reasons for it.

I would list them as, first, media criticism. It seems there has been a concerted campaign in the media, in recent years, against intelligence collection on all levels and certainly on the police level as well. I think that on this issue the media has failed the American people.

As I have indicated, these seven national commissions and all authorities agree that police should be involved deeply in intelligence work. Yet, during recent years while numerous attacks on police intelligence have been made—so many that the American people are led to believe, I fear, that the police are engaging in illegal and unconstitutional activity when they collect intelligence information and that they should stop doing it—during all this period the media has failed to inform the American people about the findings, the recommendations of these national commissions.

The media reported the creation of these commissions. It reported their public hearings when they were held. It publicized, in some cases highly, their reports when they were issued. I am sure that there are copies of the reports of these commissions in the libraries of every wire service, every major newspaper and magazine in this Nation. Yet by and large, the American people remain ignorant of the position of these commissions on police intelligence gathering because the media has failed to tell them about it.

The American people cannot be expected to have these reports in their own homes. Some are technical, heavy reading. One of them is a 12-volume set. We hear much from the media about how much it does to guard the interests and civil liberties of the American people, and gives background information so that current news can be seen in perspective, but here is one area in which I believe it has let the American people down.

There are also political figures in the executive departments of the Government, on both the State and municipal level, attacking police for their intelligence gathering, and the same is true of certain members of our legislatures.

As mentioned in your statement, Mr. Chairman—and as I previously informed your staff—the American Civil Liberties Union initiated a campaign of lawsuits and other action against all Government surveillance and intelligence gathering activities 5 years ago. It has been pressing that campaign in the courts and elsewhere.

I think that in this situation the police, if I might paraphrase an old song, are to be both pitied and censured. They are standing alone here. They are being hit on every side. They are being hit unjustly in most cases. And no one is standing up for them. No one is speaking out defending them. They feel alone. In some cases they have stopped gathering intelligence on directions from above. They have been told by the Mayor or City Council to cut it out and to destroy part or all of their intelligence files. In other cases, with all these attacks going on, they have a great fear that they are going to be next and to protect themselves they are, on their own initiative, curtailing their investigations.

Now, in the city of Baltimore, for example, there were press charges made late last year, in December, about police intelligence operations. A grand jury was formed and conducted an investigation at the same time a committee of the legislature started looking into the matter.

The prosecutor who handled the grand jury made a statement after it had been in session over a period of 4 to 5 months—had been in session for well over 100 hours—he stated that in all these proceedings the grand jury had not been able to find one iota of evidence that the police intelligence squad had done anything illegal.

In spite of his statement to that effect, a State legislative committee up there in the Maryland Legislature in Annapolis, is still going after the police.

It is hard for me to understand this. It certainly is hard to justify. And the Baltimore police, I might add, in 1973 destroyed all their intelligence files on so-called activist groups.

The Texas Department of Public Safety, as you mentioned, has destroyed all intelligence files developed from noncriminal investigations.

The mayor of Los Angeles recently announced that in what he described as a move for "positive social change," the police of that city's intelligence unit had destroyed almost 2 million entry items in their intelligence files.

In early 1973, New York's police commissioner announced that 80 percent of the intelligence units files relating to "public security matters," that is over 1 million names of individuals and organizations, have been purged from its records.

So what has happened since the time some of these commissions issued their reports is that we are finding inadequate and poor police intelligence work and a situation that is actually deteriorating badly.

Senator THURMOND. I just want to say that it is very difficult to understand the position taken by some of the officials in this country at the local, State, and National level, toward the police and law enforcement agencies. If it were not for the police and law enforcement people the citizens would have no protection. And when the police risk their lives and stick their necks out to catch these criminals and

subversives, it is a downright shame that public opinion does not back them up in every case.

As you said some of the media criticize the police for having intelligence activities. They have had trouble in Chicago as you know and they are having trouble in other places.

But I would think a responsible official elected by the people like mayors and Governors and Congressmen and the President and everybody like that would back up the police of this Nation and the law enforcement people including the FBI and the CIA.

Mr. McNAMARA. This is certainly true, Senator, because the police are being hit in all parts of the Nation and from all sides for doing what every national and Presidential commission, for doing what every authority in the area, says they should be doing.

Senator THURMOND. I would like the police in this country to know they have a few friends here in the Congress anyway and there are a few of us here who stand up and stick our necks out for them regardless of what newspaper or what individual criticizes them.

I just feel it is our duty to stand by the police and the law enforcement people and I am hoping we can get some change in this country. But I realize with subversives here who would like to destroy this Government—and you go into the courts and it is our form of government that they keep on boring and boring, trying to accomplish their goal—but if necessary the Congress ought to take action to prevent this. After all the Congress can take action. They can even amend the Constitution, submit amendments if necessary to give the power to the authorities to control these subversives and take other steps to protect the citizens of this Nation.

Did you finish now with what you have?

Mr. McNAMARA. I have on that topic, Senator, yes.

Senator THURMOND. Now, do the courts support the police intelligence gathering or do they share the view of ACLU and the media, as you have described it?

Mr. McNAMARA. Overwhelmingly.

Senator THURMOND. When I say the media, of course that is some of the media.

Mr. McNAMARA. Yes.

Senator THURMOND. Some of the media do back law enforcement people and we commend them, but the media who do not back the law enforcement people are not worthy to be called the media.

Go ahead.

Mr. McNAMARA. Overwhelmingly, Senator, the courts support the police and the national commissions I have quoted on this subject. I have here summaries of various court decisions on the issue.

Senator THURMOND. You may proceed.

Mr. McNAMARA. Just to give specific details on this, Senator. When I say the courts support the police, I am referring, for example, to the Supreme Court decision in *Laird v. Tatum*, a decision, by the way, which has guided, since it was handed down in June 1972, many State and U.S. district court and court of appeals decisions on this issue. It is a complete defense of police intelligence gathering and, even in the case of civil disorders, the intelligence gathering by the U.S. Army which was so controversial and so widely attacked a few years ago.

There is a case—

Senator THURMOND. Are you referring to a Supreme Court decision now?

Mr. McNAMARA. Yes; that is the Supreme Court.

Senator THURMOND. What is the name of it?

Mr. McNAMARA. *Laird v. Tatum*.

Then there is *Socialist Workers Party v. Attorney General*. There is *Anderson v. Sills*, a decision of the New Jersey Supreme Court. *Handschu v. Special Services Division*, a court of appeals decision. *Donohoe v. Dufing*, another court of appeals decision, again upholding police intelligence gathering. *Aronson v. Gianrusso*, again a court of appeals decision upholding police intelligence gathering.

I might point out, Mr. Chairman, that every one of these decisions grew out of suits initiated by the American Civil Liberties Union in its campaign to undermine and weaken the intelligence gathering and surveillance activities of official agencies on all levels of the U.S. Government.

There are additional suits besides these seven or eight I have mentioned here. I have not as yet had time to research them and excerpt relevant quotes.

Mr. SOWRINE. Could these summaries be inserted in the record?

Senator THURMOND. They will be received.

[The information referred to follows:]

SUMMARIES

Laird v. Tatum (408 U.S. 1) June 26, 1972

Local law enforcement agencies were sometimes unable to cope with the mass "anti-war" demonstrations of the 1960's, a considerable number of which were marked by large-scale violence. President Johnson therefore assigned the Army to on-going riot prevention and control duty. To assist in the effective execution of this assignment, the Army initiated an intelligence-gathering program on the so-called anti-war movement.

One Arlo Tatum and a number of other anti-war activists filed a suit against the Army on February 17, 1970. They charged that the Army "surveillance of lawful civilian political activity" violated their rights under the 1st, 4th, 5th, and 9th Amendments and also their right of privacy. They asked for a declaratory and injunctive relief, a finding that the Army intelligence program was illegal and unconstitutional, a ban on continuation of the program and an order that the intelligence collected be destroyed.

The U.S. District denied the requested relief on April 22, 1970. This decision was appealed to the Court of Appeals for the District of Columbia Circuit which, on April 27, 1971, reversed the District Court. The Department of Defense then took the case to the Supreme Court which, on June 26, 1972, reversed the Court of Appeals and upheld the constitutionality of the Army intelligence-gathering program.

The Supreme Court in so doing, quoted a number of excerpts from the Court of Appeals decision:

"In performing this type function the Army is essentially a police force or the back-up of a local police force. To quell disturbances or to prevent further disturbances the Army needs the same tools and, most importantly, the same information to which local police forces have access. Since the Army is sent into territory almost invariably unfamiliar to most soldiers and their commanders, their need for information is likely to be greater than that of the hometown policeman.

"No logical argument can be made for compelling the military to use blind force. When force is employed it should be intelligently directed, and this depends on having reliable information—in time . . . As Chief Justice John Marshall said of Washington, 'A general must be governed by his intelligence and must regulate his measures by his information . . . So we take it as undeniable that

the military, i.e., the Army, need a certain amount of information in order to perform their constitutional and statutory missions . . ."

"The information gathered is nothing more than a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand."

The Supreme Court also stated in its decision:

"One of the functions of a civilian investigative agency, such as the Federal Bureau of Investigation, is to compile information on law violators, agitators of violence, and possible subversives."

It also noted that the military, unlike a police force, was not concerned with violations of law and that it had the power to act on its own (and therefore posed a greater danger to civil liberties). It then commented:

"The compilation of data by a civilian investigative agency is thus not the threat to civil liberties or the deterrent on the exercise of the constitutional right of free speech that such action by the military is, because a civil investigative agency has not inherent power to act against an individual, that power always being subject to the well-defined restrictions of law and approval of the courts."

Judge McKinnon concurred in part and dissented in part with the majority of the Court of Appeals on its decision. The following excerpt from his opinion is relative to intelligence-gathering by the police for purposes of preventing and controlling public disorders, as well as deterring and apprehending ordinary criminals.

"(The Army) gathered this information from public sources and open meetings in much the same manner that newspapers cull information. However, there is one difference, i.e., the newspapers publish much of the information they obtain, whereas the Army merely retains it for possible use by it in the future and this may not necessarily include any publication of the information. Such information is intended to be used to help suppress civil disorders in the event the military are called out in conformance with statute for that purpose. Other obvious proper uses by the Army for such information may be judicially noticed from public incidents of the period and would include helping prevent and solve crimes involving destruction, threat of destruction, or theft of military draft records, military supplies, military research and other Government property and facilities at draft centers, armories, military bases, forts, arsenals, military training centers and military suppliers and research centers operating under military contract."

Judge McKinnon also quoted the trial court which had stated:

"The Court holds that what in effect the plaintiffs are complaining of here is that the Army is keeping the type of information that is available to all news media in this country, covered by all news media in this country, and which is in the morgues of the newspapers in this country and magazines, and the Court holds that they state no cause of action; they show no unconstitutional action on the part of the Army; they show no threats to their rights."

Socialist Workers Party v. Attorney General, December 24, 1974

The Socialist Workers Party, a Trotskyist Communist organization, has been under F.B.I. surveillance for many years. Eighteen of its leaders were convicted in 1941 for violating the Smith Act and it was cited as subversive by the Attorney General in 1948.

On October 25, 1974, the Socialist Workers Party (SWP) filed suit in the Southern District of New York asking the Court to enjoin the F.B.I. from surveilling the convention of its youth organization, the Young Socialist Alliance (YSA) which was to be held in St. Louis, Missouri from December 28, 1974 to January 1, 1975.

Judge Griesa of the District Court granted their requested injunction on December 13, 1974, holding that the Young Socialist Alliance's "rhetoric of revolution" did not justify the F.B.I. surveillance. The Attorney General appealed this decision to the Court of Appeals for the 2nd Circuit which reversed the trial court, criticizing Judge Griesa for his "rush to judgment" on an "inadequate record" and for "an abuse of discretion" in issuing his injunction.

The Socialist Workers Party appealed to Supreme Court Justice Marshall for a stay of the Court of Appeals order. He denied their appeal, saying in reference to the F.B.I. surveillance of the SWP and its youth group, "the conduct is entirely legal." The Socialist Worker Party then appealed to Justice Powell, who also denied a stay of the Court of Appeals order.

The Court of Appeals, in its decision maintaining the right of the F.B.I. to have undercover informants attend the convention of the Young Socialist Alliance, quoted from a 1972 Supreme Court decision on wiretapping (*U.S. v. District Court*, 407 U.S. 297):

"Unless Government safeguards its own capacity to function and to preserve the security of its people, society itself could become so disordered that all rights and liberties would be endangered."

It also noted that in that same decision, the Supreme Court had quoted Chief Justice Holmes in *Cox v. New Hampshire*:

"Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses."

The Court of Appeals then stated:

"The F.B.I. has a right, indeed a duty, to keep itself informed with respect to the possible commission of crimes; it is not obliged to wear blinders until it may be too late for prevention."

It also quoted Judge Weinfeld in *Handschu*:¹

"The use of informers and infiltrators by itself does not give rise to any claim of violation of constitutional rights."

Finally, in pinpointing the issue before it and indicating the care with which it was ruling, it quoted Justice Jackson's concurring and dissenting opinion in *American Communications Association v. Douds* (339 U.S. 382):

"The Court's day-to-day task is to reject as false, claims in the name of civil liberty which, if granted, would paralyze or impair authority to defend existence of our society, and to reject as false claims in the name of security that would undermine our freedoms and open the way to oppression."

The issue of terrorism was brought up in this case. The Socialist Workers Party is associated with the Fourth International, an international organization of Trotskyist Communist parties which has its headquarters in Paris and which has officially endorsed terrorism with the result that Trotskyist Communist parties in other nations have undertaken campaigns of terrorist activities. A minority in the Socialist Workers Party, which calls itself the Internationalist Tendency, supports the Fourth International position on terrorism, although the Socialist Workers Party itself disapproves of them, at least for the present time.

The Court noted the Socialist Workers Party's admitted "sympathetic, fraternal relationship" with the Fourth International and the fact that the internationalist Tendency considers as its "most important priority" an "interventionist" role in the Young Socialist Alliance, which will lead the SWP youth organization to adopt its revolutionary aims.

Anderson v. Sills (56 N.J. 210), June 1, 1970

As a result of the Newark riot of June 1, 1967, the Governor of New Jersey met with the mayors of the State to consider what steps could be taken to prevent further massive outbreaks. Following this meeting, the Attorney General, in April 1968, distributed a memorandum "Civil Disorders--The Role of Local, County and State Government", to local law enforcement units, asking their cooperation in helping the State prevent or control public disorders by supplying his office with information outlined in two forms, one of which concerned incidents (past, in progress, or planned), and the other, individuals, (including data on associations, organizational affiliations, etc.).

A number of people, including some leaders of SDS at St. Peters College in Jersey City and the Jersey City branch of the NAACP, subsequently filed a class action suit against the Attorney General, the Jersey City Police Chief and Police Director, and the Sheriff of Hudson County. They claimed that the intelligence-gathering plan violated their First Amendment rights of free speech and association, and asked for an injunction against it.

The trial court granted a summary judgment. Its decision was appealed to the State Supreme Court which, on June 1, 1970, reversed the trial court.

The Supreme Court pointed out that the Attorney General's memorandum to the local police contained the following statement:

"Our State Police have been working closely with local police in various communities throughout the State in a continuing effort to keep abreast of potential civil disorder problems. In that respect, therefore, we are already familiar

¹ See page 25.

generally with basic problems in these communities. However, these problems change and we should never become over confident to the end that we lose sight of the cause, as well as the effect of civil disturbances. . . .

"It is necessary that these reports be used routinely to inform the State Police of the situation in your community. We urge you to see that this vital intelligence is communicated to this central bureau for evaluation and dissemination."

The Court also stated:

"When the Memorandum and forms 420 and 421 [concerning incidents and individuals] are read without strain, the common sense of the situation readily emerges. There have been serious disorders involving heavy losses of life and property. The police function is pervasive. It is not limited to the detection of past criminal events. Of at least equal importance is the responsibility to prevent crime. State v. Dilley, 40 N.J. 460, 464, 231 A.2d 353 (1967). In the current scene, the preventive role requires an awareness of group tensions and preparations to head off disasters as well as to deal with them if they appear. To that end the police must know what forces exist, what groups or organizations could be enmeshed in public disorders. This is not to ask the police to decide which are "good" and which are "bad". In terms of civil disorders, their respective virtues are irrelevant, for a group is of equal concern to the police whether it is potentially the victim or the aggressor. The police interest is in the explosive possibilities and not in the merits of the colliding philosophies. And it must be evident that a riot or the threat of one may best be ended with the aid of private citizens who because of their connections with the discordant groups can persuade them from a course of violence. Hence a police force would fail in its obligation if it did not know who could be called upon to help put out the burning fuse or the fire."

It then quoted in part the testimony of a State Police Lieutenant concerning the reasons for the intelligence-gathering:

"Specifically, some of the past and present reasons for the accumulation of information by the State Police are: (a) to aid in the evaluation and determination of the probability of unlawful disorders, large-scale violence, and potential riots; (b) to aid in the determination of supplemental police manpower needs; (c) to facilitate decisions and planning for coping with disorders anticipated or in progress; (d) to aid in the assessment of tension within communities and possible causes of unrest; (e) to aid in familiarization with the past activities of professional agitators, their tactics and control over their followings; and (f) to furnish information for meetings of the Governor with officials of various State Departments. . . ."

Relevant excerpts from the State Supreme Court decision follow:

"Here we are dealing with the critical power of government to gather intelligence to enable it to satisfy the very reason for its being—to protect the individual in his person and things."

"The investigatory obligation of the police is surely no less extensive than the grand jury's. Indeed, the preventive role of the police necessarily implies a duty to gather data along a still wider range."

"The basic approach must be that the executive branch may gather whatever information it reasonably believes to be necessary to enable it to perform the police roles, detectional and preventive. A court should not interfere in the absence of proof of bad faith or arbitrariness."

"The police have a preventive role; its intelligence may not be confined to past criminal events, and even there the police may not be limited to information which constitutes the basis of the criminal charge itself."

"To strike from the files information the State Police should have, merely because other information ought not to be there, can serve only to deny the citizens the police protection due them."

Aronson v. Giarrusso (436 F.2d 955), January 15, 1971

The New Orleans police, in their efforts to prevent public disorder, surveilled and photographed participants in demonstrations staged to oppose the war in Vietnam, the draft, and for similar reasons.

One Richard Anderson and three other persons, with two more who were granted leave to intervene as plaintiffs, filed a suit against the New Orleans Police Chief and the Chief of the Department Intelligence Division, claiming the surveillance and photography violated their constitutional rights.

The Trial Court, after hearing the evidence, granted the defendants a motion that the case be dismissed.

Appeal was taken to the U.S. Court of Appeals, 5th Circuit, which upheld the Trial Court. In doing so, the Court of Appeals noted that the plaintiffs witnesses—

"Uniformly testified that the police photographers were polite, in fact cordial, and did not in any way abuse, insult or harass any demonstrator in the exercise of their expression."

"The defendants showed that pictorial evidence of the participants in particular and the demonstration in general was secured with the least amount of interference by the use of plain clothes police photographers and, when feasible, by stationing the photographers in automobiles a fair distance away from the demonstrations."

The Court then ruled:

"The state police authority has a rightful interest in the protection of life and property of all citizens. The right of freedom of expression is . . . subject to reasonable regulation . . ."

"The police activity here of photographing persons at demonstrations appears reasonably relevant to the rightful interest of the state police authority to protect the life and property of all citizens."

Donohoe v. Daling (465 F.2d 196), August 1, 1972

This was another class action suit against police surveillance and photography of participants in demonstrations and public meetings and also retention of photographs in police files.

It was filed against the Chief of Police and Director of the Department of Public Safety of Richmond, Virginia, by a former Virginia Commonwealth University student and others. The student was the only plaintiff who testified and, in the words of the Court of Appeals, he "had no complaint against the defendants" because he had never been surveilled or photographed by them, although campus security police had once taken pictures of him.

The claim was that the police intelligence-gathering violated First Amendment rights and the right to privacy. Complainants asked for a declaratory judgment that the intelligence-gathering was illegal and an injunction against its continuation.

The trial court denied the relief requested (330 F. Supp. 308) and they took the case to the Court of Appeals, 4th Circuit.

The Court of Appeals upheld the District Court.

It stated that the Supreme Court's decision in *Laird v. Tatum* was applicable to this case and noted that the Army surveillance at issue in that case went far beyond the surveillance in the case before it:

" . . . the right of the Army to engage in domestic surveillance was considerably less clear than that of the local police authorities . . . on whom there is a specific obligation to maintain domestic law and order."

It is interesting to note that the plaintiffs in this case, like those in some of the other suits brought against police surveillance, admitted that the challenged intelligence-gathering in no way deterred them from exercising their First Amendment rights. Speaking of those who had filed the suit, the Court noted:

"They frankly conceded that nothing the Richmond police authorities did induced them to desist from their prominent roles in public demonstrations or meetings. They did not object to being photographed; to the contrary, they solicited publicity both for their meetings and for themselves by inviting representatives of the news media, including photographers, to be present and to report, with photographs, the demonstrations and meetings. Their only complaint was that others were not as forthright or courageous as they; they claimed the right to speak for these more timorous individuals."

Haudschu v. Special Services Division (349 F. Supp. 766), October 24, 1972

A number of "activists" filed suit against the Mayor, Police Commissioner, and other police officials of New York City, including the head of the Security and Investigation Division because of that Division's infiltration and surveillance of certain "political action groups."

Filed under the Civil Rights Act, this class action suit claimed that the police infiltrators encouraged the groups to commit illegal acts and claimed that the

police intelligence-gathering had a chilling effect on the exercise of their First Amendment rights.

The defendants moved to dismiss the suit on the basis of an affidavit submitted to the Court by the Police Commissioner in response to the charges made in the complaint. This motion was denied by District Court Judge Edward Weinfeld on the grounds that the Commissioner's affidavit did not conclusively refute all the allegations in the complaint.

This suit is still pending and this decision does not dispose of the issue before the Court. Significantly, however, Judge Weinfeld noted that the complaint concerned the following alleged police activities: informers, infiltration, interrogation, overt surveillance, summary punishment, intelligence gathering, electronic surveillance.

He stated that "some of the activities complained of are clearly proper enforcement practices . . ." and added:

"The use of secret informers or undercover agents is a legitimate and proper practice of law enforcement and justified in the public interest—indeed, without the use of such agents many crimes would go unpunished and wrongdoers escape prosecution. It is a technique that has frequently been used to prevent serious crimes of a cataclysmic nature. The use of informers and infiltrators by itself does not give rise to any claim of violation of constitutional rights."

Fifth Avenue Peace Parade Committee v. L. Patrick Gray (480 F.2d 326),
June 12, 1973

Prior to the November 1969 Washington, D.C. demonstration against the Vietnam War sponsored by the New Mobilization Committee (probably the largest mass protest in U.S. history), the F.B.I. in New York City conducted an investigation of the Fifth Avenue Peace Parade Committee. The investigation included examination of its special bank account set up to pay for transportation, the number of busses hired; and observation of the departure of these busses for Washington.

According to an F.B.I. witness in the suit, the purpose of this investigation—which was part of a more general one undertaken by the F.B.I.'s Washington headquarters—was:

"To know who was coming, how many were coming, mode of transportation, arrival, when they expected to leave Washington, any individuals that had a potential record of violence, or who might threaten the President's life, or a Cabinet member, or anything of that nature."

The New York City F.B.I. investigation revealed that the Fifth Avenue Peace Parade Committee (which was affiliated with the New Mobilization Committee and served during the Vietnam War period, as the major organizer of anti-war demonstrations in New York City), hired about 600 busses, as well as 4 trains, to transport people to Washington. Fifty-six F.B.I. agents watched the busses leave for Washington on November 15 and their information was immediately sent to Washington, where it was disseminated to various Federal and local agencies.

On June 22, 1970, the Fifth Avenue Parade Committee filed a class action suit against the F.B.I., claiming that its investigation was an invasion of their constitutional right of privacy, that it comprised unlawful search and seizure, and had a chilling effect on the rights of the organization and the class of people it represented.

In addition to seeking a declaration that the investigation violated their constitutional rights, they asked the Court to order that the information gathered be surrendered or destroyed and never be used in any way.

The U.S. District Court, after a 5-day trial, dismissed the complaint, holding that the plaintiffs had failed to show any specific harm, real or threatened.

The Court of Appeals, 2nd Circuit, affirmed the holding of the trial court, saying that this case, too, was governed by *Tatum* and that the Fifth Avenue Peace Parade Committee's case was "considerably weaker" and *Tatum's* because a civilian agency (the F.B.I.) rather than the Army was involved. The Court stated:

"Beyond any reasonable doubt the F.B.I. had a legitimate interest in and responsibility for the maintenance of public safety and order during the gigantic demonstration planned for Washington, D.C. In fact, had it been ignored the agency would be properly chargeable with neglect of duty . . . the assemblage of the vast throng . . . presented an obvious potential for violence and the reaction of the Government was entirely justifiable."

" . . . it is indeed difficult to imagine in the light of subsequent historic events what misuse intelligence agencies might possibly make of whatever data was collected which might harm the plaintiffs."

Significantly, the trial disproved the claim made in the suit that the F.B.I. had compiled a list of those in the delegation to Washington, had photographed them, and had duplicated the checks in the committee's bank account.

Senator THURMOND, Mr. McNamara, does the Communist Party pose a terrorist threat?

Mr. McNAMARA. Not immediately, but it could. The reason is the party's doctrine on the subject of terrorism. Let me quote from Khrushchev's famous secret speech on February 24, 1956, when he was addressing the 20th Congress of the Communist Party of the Soviet Union. He denounced Stalin and many people have misleading ideas about that speech. They think that Khrushchev was a great reformer in that he denounced all the horrors committed by Stalin. This was not true. He did not criticize Stalin for anything he did to non-communists, but just for his excesses, his extreme "personality cult" within the Soviet Union, which he saw as a concentration of power in the hands of one person that violated the teachings of Lenin.

At one point in his speech, he said this:

The questioning of Stalin's terror, in turn, may lead to the questioning of terror in general. But Bolshevism believes in the use of terror. Lenin held that no one was worthy of the name of Communist who did not believe in terror * * *.

Now, supporting Khrushchev, if I may, on this one point, he was telling the truth. On May 7, 1922, for example, Lenin, in outlining a criminal code for the new Communist government of Russia after the revolution, stated:

The courts must not ban terror * * * but must formulate the motives underlying it, legalize it as a principle, plainly, without any make-believe or embellishment.

Of course, in some of his earlier works, Lenin made statements such as—there is just one I would like to quote here—"We have never rejected terror on principle, nor can we do so."

Now, to get down to the U.S. Communist Party. I would like to quote briefly from a speech made by the present party leader, Gus Hall, just 5 years ago, because it illustrates the party position on terror. He was the main speaker addressing the founding convention of the Young Workers Liberation League, which is the party's youth group today. This was in Chicago in February 1970. He said:

In the movement, there has been some discussion about the use of guns and the willingness to use guns. I agree with those who say it is a tactical question. Like all tactical questions, it must be measured by how it affects masses in struggle. It seems to me that whether the people have guns in their homes is not the issue. I think most Americans do. Also, the right of self-defense is not the issue here. * * * But the advocacy of the slogan "Picking Up the Gun" is another matter.

At this stage of struggle, what would be the result of such a tactical slogan? What would be the effect on the masses? Would it get a response from the people? I don't think so. * * *

Would it be a tactic that would alienate those who are moving into struggle? I think it would.

In an explosive period like this, this reality could change and so tactics would change. But for all those reasons it is not a correct tactical concept for today's reality. It would not advance the struggle.

The basic doctrine of the Communist Party is that while, for the moment, they reject terror by party members, their rejection is purely

a matter of tactics. Will it help us or harm us? Any time it will help us, we will engage in terror. The leaders of the party will call on every party member in the country to undertake terrorist actions whenever they determine it will be helpful to their cause, or when Moscow tells them to do so.

They believe in terror, as Lenin did, as Khrushchev did, as all Soviet leaders have. They teach it to their members, but it is always to them a tactical question. Right as of now, today, will it help us, or hurt our cause? If it helps, we will do it.

Senator THURMOND. What you are saying is the Communists would not hesitate to use terror if they felt it would help their overall cause.

Mr. McNAMARA. Yes. Now, for instance, talking about communism outside the United States and terrorism, it was in 1970 that Fidel Castro distributed and sent into the United States Carlos Marighella's "Minimannual of the Urban Guerrilla," a terrorist's guide to action.

In December of last year, Mun Se-Kwang was executed in South Korea. Why? Because on orders of North Korean and Japanese Communist agents, he had attempted to assassinate President Park of South Korea. In August 1974 he ran toward him at a public gathering, fired five shots, missed the president, but killed his wife, killed Mrs. Park. That terrorist assassination attempt was carried out by a Communist on orders of Communists.

These are just two examples of many that could be given of current Communist use and advocacy of terror. So it is just a question of their deciding on the basis of current events, OK; terror is the thing for us to engage in today. But I should point out, make it explicit, that as of now the Communist Party has taken a stand against terror by its own members.

At the same time, however, it is encouraging and aiding others who believe in terror. And I am referring specifically to the Puerto Rican Socialist Party, a Marxist-Leninist revolutionary group which believes in the use of terror and has supported it.

Senator THURMOND. Mr. McNamara, is the Communist Party a legitimate political party?

Mr. McNAMARA. No, it is not, Senator. I have an exhibit prepared here. Let me read just one court decision and then submit the rest of these for inclusion in the record.

These are findings by the Supreme Court, the court of appeals, Subversive Activities Control Board, Congress itself and its various committees, including this committee. This is what the Supreme Court said in *Barenblatt v. United States*, 360, U.S. 109, a 1959 decision:

"This Court in its constitutional adjudications has consistently refused to view the Communist Party as an ordinary political party * * *"

[The information is as follows:]

DETERMINATIONS THAT COMMUNIST PARTY IS NOT A POLITICAL PARTY

U.S. Supreme Court

Barenblatt v. United States (360 U.S. 109), June 8, 1959

"* * * this Court in its constitutional adjudications has consistently refused to view the Communist Party as an ordinary political party . . . this Court

has recognized the close nexus between the Communist Party and violent overthrow of government. . . . To suggest that . . . the Communist Party . . . should now be judged as if that Party were just an ordinary political party from the standpoint of national security, is to ask this Court to blind itself to world affairs which have determined the whole course of our national policy since the close of World War II . . . and to the vast burdens which these conditions have entailed for the entire Nation." (pp. 18, 19)

Scales v. United States (367 U.S. 203), June 3, 1961

It was settled in *Dennis* that advocacy of violent overthrow is not protected speech even under the aegis of—

"* * * a combination . . . [that] purports to be a political party" (i.e., the Communist Party)

Dennis v. United States (341 U.S. 494)

Chief Justice Vinson, in his majority opinion, referred to the Communist Party as:

"* * * a highly organized conspiracy, with rigidly disciplined members subject to call when the leaders . . . felt that the time had come for action."

"* * * an apparatus designed and dedicated to the overthrow of the Government."

Justice Frankfurter, concurring opinion:

"The Communist Party was not designed by these defendants as an ordinary political party. . . . The jury found that the Party rejects the basic premise of our political system—that change is to be brought about by nonviolent constitutional process."

Justice Jackson, concurring opinion:

"The Communist Party realistically is a state within a state, and authoritarian dictatorship within a republic."

American Communications Association v. Douds (339 U.S. 382)

Justice Robert H. Jackson, concurring and dissenting:

"From information before its several Committees and from facts of general knowledge, Congress could rationally conclude that, behind its political party facade, the Communist Party is a conspiratorial and revolutionary junta, organized to reach ends and to use methods which are incompatible with our constitutional system. This Communist movement is a belated counterrevolution to the American Revolution, designed to undo the Declaration of Independence, the Constitution, and our Bill of Rights, and overturn our system of free, representative government."

U.S. Courts of Appeals

U.S. Court of Appeals, Briehl v. Dulles (248 F. 2d 561) 1957

Briehl's premise, * * * is that Communist membership or affiliation is a matter of politics, an issue of political affiliation, a political consideration, a political test, and thus is subject to the same rules which apply to political beliefs generally. But it is not so. The Communist organization and program have long since passed beyond the area of mere politics and political opinion. All three Branches of the federal government * * * have declared unequivocally that the Communist movement today is an international conspiracy aimed at world domination and a threat to the internal security of this Country.

U.S. Court of Appeals, Borrow v. Federal Communications Commission (285 F. 2d 666), 1960

This court has repeatedly pointed out that the President, the Congress, and the Supreme Court have declared in emphatic terms that the Communist movement is a world-wide conspiracy for power, inimical to the peace of the world and to the safety of this country. In the present state of world affairs adherence to the Communist cause is not merely a political opinion.

Subversive Activities Control Board

Herbert Brownell, Jr. v. Communist Party, Report of Board, Apr. 20, 1953

"Respondent [the Communist Party] has become increasingly diligent and resourceful in its efforts to appear as a domestic political party while continuing its subservience to the Soviet Union. . . . It is so innate in Respondent's nature that it seeks and accept Soviet Union direction and control that, in actuality, it does not function as the purely domestic political party whose role it would, de jure, assume."

The Congress

Subversive Activities Control Act of 1950:

"Although such organizations [Communist-action groups] usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves."

Note: Throughout this statute the Congress refrained from using the term "Communist Party" when referring to groups which so designate themselves.

The Supreme Court upheld this and other findings in the Act in *Communist Party*, saying—

"They are the product of extensive investigation by Committees of Congress over more than a decade and a half. . . . We certainly cannot dismiss them as unfounded or irrational imaginings."

The Communist Control Act of 1954:

The Congress hereby finds and declares that the Communist Party of the United States, *although purportedly a political party, is in fact* an instrumentality of a conspiracy to overthrow the Government of the United States. . . . *Unlike political parties*, . . . the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. . . . *Unlike members of political parties*, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. *Unlike political parties*, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. (Emphasis added.)

Based on these findings, Congress, in this Act, denied to the Communist Party "any of the rights, privileges, and immunities attendant upon" legal bodies (including political parties) created under the jurisdiction of laws of this Country, its States, or political subdivisions.

Congressional Committees

Special Committee on Un-American Activities, House Report No. 1476, 76th Congress, 3d Session, January 3, 1940:

"Hundreds of pages of testimony have established the fact that the Communist Party of the United States can make no more than a superficial claim that it is a 'political party' in the sense in which the American people understand those words. . . . the Communist Party of the United States is a foreign conspiracy masked as a political party." (p 4)

House Report No. 1, 77th Congress, 1st Session, January 3, 1941:

"For 2 years our committee piled proof upon proof that the Communist Party was nothing more or less than a foreign conspiracy masked as a political party." (p 22)

Committee on Un-American Activities, 80th Congress, 2d Session, "Investigation of Un-American Activities in the United States," December 31, 1948:

"In its annual report of January 3, 1940, the Special Committee on Un-American Activities characterized the Communist Party of the United States not as a true political party but as a conspiracy in behalf of the Soviet Union. Our investigations and hearings during the past 2 years have borne out this conclusion in the most startling fashion." (p 24)

House Report No. 209, 80th Congress, 1st Session, "The Communist Party of the United States as an Agent of a Foreign Power," April 1, 1947, preface:

The purpose of this report is to * * * dispel the idea that it [the Communist Party] is a domestic political party. . . . this report is a documented refutation of this misconception.

Internal Security Subcommittee, Senate Committee on the Judiciary Senate Document No. 117, 84th Congress, 2d Session, "The Communist Party of the United States of America: What It Is; How It Works—A Handbook for Americans," Dec. 21, 1955, p. 1:

* * * The Communist Party of the United States of America . . . is not a true political party and differs fundamentally from all political parties in this country.

Pages 8-17 of this report, subtitled "Political Party or Conspiracy," contain facts on a dozen basic points proving that the Communist Party cannot be classified as a political party.

U.S. Attorney General

On June 10, 1961, several days after the Supreme Court upheld the constitutionality of the Subversive Activities Control Act of 1950 and the SACB's finding that the Communist Party was controlled by the Soviet Union, Robert F. Kennedy, then Attorney General, released a statement which said in part:

The Communist Party of the United States has made every effort to promote a public image of a legitimate political party, sincerely interested in issues for their own sake. However, in fact, it always has been under the discipline of a foreign country and has been a tactical means of advancing both the short- and long-range interests of the Soviet Union.

It is this point which I believe is of crucial importance. The case and the evidence on this point, that was presented to the Court, should be studied by all non-Communist governments and groups, such as teachers, students and labor organizations around the world. What the Communist Party preaches and what it practices is for all to see.

It is a characteristic of the world Communist movement to permit no opposition to be voiced—even by individuals much less by an organized group. In the United States and in other free nations, dissent and opposition is not only permitted but is recognized as an important ingredient in the advancement of the national welfare and protection of the people's individual rights.

* * * * *
The Communist Party as it exists in the United States and in other countries is not a legitimate political party. It is a group whose policies, decisions and movements are directed and controlled by a foreign power. This is why the Soviet Union and the Communist Party are so inimical to the activities of free men everywhere. It is the Trojan Horse assuming the form of a so-called political party in democratic countries around the world—agrarian reformers in China, guerillas in South Viet Nam or rioters in Japan. (Emphasis added.)

Mr. McNAMARA. I have other quotes, Mr. Chairman.

Mr. THURMOND. Is there a decision later than that that would overrule that or supersede it?

Mr. McNAMARA. There is no Supreme Court decision later than this that would reverse it. What is amazing to me, Senator, is that despite all these quotations I have here by the courts, the Congress and its committees, there was a decision by the Court of Appeals of the District of Columbia circuit in which it held that the Communist Party is a legitimate political party and because of this—this was a key element in its determination—because it was a legitimate political party it did not have to register under the Subversive Activities Control Act of 1950. It was really an amazing decision when there were so many authorities which had taken a completely opposite view.

Senator THURMOND. What was the name of that case and the citation?

Mr. McNAMARA. It was *U.S.A. v. the Communist Party of the United States of America*. I could check it. I know I have notes on it here somewhere.

Senator THURMOND. If you would supply it for the record, I would appreciate it.

Mr. McNAMARA. I will do that.

[The information follows:]

Communist Party, USA v. United States of America, 384 F.2d 957, March 3, 1967. This decision reversed 2 convictions of the Party for refusing to register following the Supreme Court decision of June 5, 1961 (361 U.S. 1) upholding the registration order of the Subversive Activities Control Board.

Senator THURMOND. Was that case appealed to the Supreme Court?

Mr. McNAMARA. No. It was not.

Senator THURMOND. Now, do you feel surveillance of the Communist Party is a threat to political freedom?

Mr. McNAMARA. No. I don't, because the courts have repeatedly ruled—as the exhibits I have submitted will show—that police and the FBI, in their intelligence operations, cannot be limited to clearly criminal or clearly subversive activities.

As long as any group or individual poses the potential of a crime or of instigating civil disorder—and the Communist Party has done this over and over again—then the police have a clear right and not only a right, the courts have said, but a duty, to collect intelligence on that group. And they have supported police intelligence gathering on many organizations which, unlike the Communist Party, had never been convicted of advocating violent overthrow of the Government or of subversive activities of any kind of political groups.

The Communist Party, in my view, and in the view of most authorities, is not a lawful political party. Despite this, it can and sometimes does engage in what are normally called political activities because the word "political" in court decisions and common usage is not used in the narrow sense of genuine political party activities—that is the Republican Party, Democratic Party, and so forth—but in a broader sense, including any kind of public activity designed to influence Government policy in the field of foreign affairs, domestic matters and so on.

Senator THURMOND. What about the Socialist Workers Party?

Mr. McNAMARA. The Socialist Workers Party, at the moment, poses a greater danger of terrorist activity than the Communist Party. The Socialist Workers Party—they are the Trotskyite Communists—are affiliated with the Fourth International, which is a worldwide organization of Trotskyist Communists. The Fourth International supports terrorism, is on record as doing so, and Trotskyist Communists in many parts of the world are currently carrying out terrorist activities; Argentina is a prime example of this.

Now, within the Trotskyist Communist Party in this country, there has been a minority group called the Internationalist Tendency which has supported the position of the Fourth International on terrorism. It wants the Socialist Workers Party, as an entity, to endorse terrorism and undertake terrorist acts. Most of this dissident element within the party was expelled but, despite the fact that they have not surrendered their views, some members of it had been permitted to come back into the Socialist Workers Party.

So it is a situation where the party majority is currently rejecting terrorism, though its international brothers endorse and support it,

but it has a minority element within it which supports terrorist activity.

Whether or not the minority will sway the majority on this issue, I don't know. As a matter of fact, this development was commented on in one of the court decisions I have cited, the one in which the court upheld FBI surveillance of the young Trotskyists when they held their convention out in St. Louis, Mo., at the end of last year. [See p. 22].

That court case, by the way, elicited quite a bit of press interest and coverage. I have here several Washington Post articles on it. The late Socialist Party leader, Norman Thomas, would be spinning in his grave if he could see these articles. Each one, in its headline, uses the word "Socialists" in referring to the SWP, the Trotskyist Communist Party. Moreover, in the text of these articles, there is not a single word to indicate that the SWP is a Communist organization.

The truth, of course, is that after being expelled from the Communist Party in 1928, the Trotskyist Communists formed the Communist League of America in 1929, then they merged with the American Workers Party in 1934 to form the Workers Party of the United States and, in 1936, after negotiations, moved in the Socialist Party.

They were thrown out of the Socialist Party as too radical the very next year, 1937, however, and formed their current organization, the Socialist Workers Party, in 1938. To identify these revolutionary Trotskyists in headlines as "Socialist" is to defame all socialists. Unfortunately, however, it is quite typical of media coverage of matters concerning communism.

Senator THURMOND. Do you have any questions?

Mr. SEURWINE. Mr. Chairman, I suggest the possibility, if the Chair desires, of ordering that if questions appear desirable for clarification after the record has been returned that such questions might be posed and, with their answers, would be included in the record as corrected by the witness.

Senator THURMOND. No objection. That will be done.

The witness, of course, will be allowed to read his testimony and make corrections as are necessary to it. Such insertions will respond to the questions on the record.

Senator Scott, do you have any questions?

Senator SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, let me add my word of welcome to Mr. McNamara because knowing of his background and his expertise in this general field I am sure what he says will be most helpful to the subcommittee. What I would like to ask you, Mr. McNamara is—I am sure that this concern you have expressed about the possibility of terrorists getting bombs into the atomic bomb field is something that we should be concerned about, but I have a concern perhaps over a more basic matter. I am concerned about the general attitude that appears to be developing in this country with regard to the law enforcement officers generally with surveillance, with intelligence.

There seems to be growing a concept that is anti-law enforcement. I just wonder, the CIA is under attack and perhaps there is some justification for this, but we hear criticism of the FBI. We even hear criticism of our local police departments and this subcommittee has heard testimony of some of the difficulties some of the law enforce-

ment departments in our major cities have. Is this something that is just growing out of Watergate or is it something that—is there any sort of concerted effort being made to undermine the confidence in our law enforcement departments, whether they be national, state or local? I just would like your point of view on this general matter, if you could share it with us because I am sure none of us want to violate the civil rights, the legitimate civil rights of the individual citizen.

But it seems to me the law enforcement community should be serving the people and they should not be harassed in their efforts to protect the entire people of the country. Could you comment generally on that?

Mr. McNAMARA. Yes, Senator. I think you have summarized the unfortunate situation we face today very accurately. It is a fact, of course—although I don't claim that everyone who criticizes our intelligence agencies falls into that category—but it is a fact that Communist and other subversive groups realize that every intelligence agency in the United States, on every level of government, Federal, State and municipal, is their enemy. They have always been doing, for many years, everything they can to discredit and cripple them. They are doing it today.

I can recall—it was in 1960—I addressed the International Association of Chiefs of Police at their annual meeting here in Washington, urging them to establish “antisubversive” units to collect intelligence on Communist activities so they would be forewarned about any Communist-instigated violence. Mr. Hoover, Director of the FBI, and Mr. Lyman Kirkpatrick, who I believe was then Inspector General of the CIA, spoke on that same day. Mr. Kirkpatrick spoke on a subject on which he has testified some years ago before this committee. That is that the police are the target of subversives not only in this country but by all the international forces of communism. He testified, as I say, on that subject, and this was the main thrust of his address almost 15 years ago when he spoke before the IACP.

On this point, I recall writing a story at least 20 years ago when I was editor of “Counterattack,” about the exposure of a New York City police lieutenant and Communist Party member who had succeeded in getting himself appointed to the police department's anti-subversive or “Red” squad—its intelligence unit. The party had succeeded in placing one of its own men, with the rank of lieutenant, in the police unit that was watching the party—quite an achievement. He was, of course, dismissed from the force. For quite some time, however, he was in a position to advise and warn the Communist Party of everything the police department was doing to keep track of its operations.

Senator SCOTT. You are saying that communists are at least in part behind this attack on the police; are there others that for some reason are attacking the law enforcement offices unjustly other than the Communist movement?

Mr. McNAMARA. Yes; I think the media has been unfair on this and excessive in its attacks, many of which are unfounded. And, unfortunately, the same is true, I think, of some people in political life in our municipal, State, and even on the Federal level, in our legislatures.

Senator SCOTT. Thank you, Mr. Chairman.

Mr. SOUTHWINE. Might I ask a brief question to carry forward the Senator's thought? I will ask you if you consider this a true statement: There are a variety of reasons why particular groups resort to terrorism, and there are dangerous numbers of groups in this country which do use it; there is a certain cross support among these groups and individuals; and the Communist Party is supporting generally all terrorist activities and all terrorist groups, in one way or another and to one extent or another.

Mr. McNAMARA. This is true. Terrorism is a basic tenet of Marxism-Leninism. The community cannot and will not respond to it.

Mr. SOUTHWINE. Thank you.

Senator THURMOND. Thank you, Senator.

If there are no other questions, do you have anything else, Mr. McNAMARA, you want to say?

Mr. McNAMARA. No, sir, Senator, I have nothing to add to the testimony I have already given.

Senator THURMOND. I want to take this opportunity to express my sincere appreciation to you for coming here today and making such a fine contribution to this hearing.

I feel that it will be of great benefit to the Members of the Senate and to others who will read it and we appreciate your appearance.

Mr. McNAMARA. Thank you very much, Senator.

Mr. MARTIN. One question. You mentioned 30 suits that had been brought against law enforcement agencies by the American Civil Liberties Union. Is the American Civil Liberties Union the only organization engaged in this kind of activity or are there other organizations and are there other suits?

Mr. McNAMARA. I would like to point out on that score that Mr. Shattuck of the ACLU, in an article on surveillance, refers to 75 suits by “civil liberties” lawyers. I have looked at some of the suits he mentioned. When he talks about civil liberties lawyers he is talking about the National Lawyers Guild.

Twenty-five years ago that organization was cited by the Committee on Un-American Activities—and cited accurately—as the “foremost legal bulwark of the Communist Party” and its unions and fronts in this country. The nature of the guild has changed somewhat since then. The old-line Communist Party members are still in it but, in addition, you now have a lot of the new left radical lawyers—Castroites, and others.

He was also including suits brought by the Law Center for Constitutional Rights, which is an offshoot of the National Lawyers Guild, organized by William Kunstler, Arthur Kinoy and Mort Stavis.

I might point out that Mr. Kinoy who teaches constitutional law at Rutgers, was on some of these suits. He is a leader and principal organizer of a new group called the National Interim Committee for a Mass Party of the People and this group is coming out as being openly revolutionary. It is an attempt to create a new Marxist-Leninist Party in this country—openly Marxist, Leninist—which would be to the left of the Communist Party itself. This group, usually referred to as the “NIC,” says that the Chinese, Cuban and Vietnamese revolutions inspire its thinking and strategy, that it stands for “the transfer of power from the capitalist state and corporations to the people”

and that the United States is the "main enemy of millions of people engaged in life and death struggles from one end of the globe to the other."

Again speaking of the National Lawyers Guild, I would like to point out this. The "Guild Notes," an official publication of the guild, for July 1975, printed an article from one of the local guild units advocating revolutionary armed struggle in U.S. prisons.

This article, from a Bay Area unit of the guild, stated at one point, "Many people within the guild consider the strategy of armed struggle to be an integral part of any revolutionary struggle . . . the guild must make room for those who believe in revolution and armed struggle."

You could say, in one way, that that is a silly statement—because the guild has always had room for identified Communist Party members and of course, the record is very clear that the party believes in revolution and armed struggle. But the fact that the guild today will publish open statements such as this, is an indication of where it stands. Its members have joined in many of these suits.

Senator THURMOND. Is it that the guild officially joins in these suits, the organization as a whole, or is it some members of the guild?

Mr. McNAMARA. It is individual members of the guild, individual attorneys with the Law Center for Constitutional Rights, just as in many of the suits it is individual lawyers affiliated with the ACLU who represent the plaintiffs in these suits against the police, the FBI, and other Government agencies engaged in intelligence gathering.

The idea that the ACLU is protecting the civil liberties of the American people in pressing all these suits is utterly ridiculous. It is tying up with communists, radicals, openly revolutionary groups to destroy the ability of the United States Government, on all levels, to protect the people from terrorism and other subversive activities.

In no sense is the ACLU doing anything to protect yours or my or any other Americans' constitutional rights or liberties in this kind of activity. As a matter of fact, it is doing much to endanger the American people because it is weakening our vital defense, the intelligence front, in our fight against terrorism.

Senator THURMOND. Well, you feel that the guild is actively engaged in these activities, as you said the ACLU is?

Mr. McNAMARA. The Lawyers Guild is very definitely engaged in a considerable number of these suits. Members of the guild are serving as attorneys and counsel in pressing these suits.

Senator THURMOND. Are you familiar with Frank Donner?

Mr. McNAMARA. Yes, I meant to point out, Mr. Chairman—I forgot this before in my testimony—the 1971-72 report of the American Civil Liberties Union, in referring to its nationwide campaign against intelligence gathering or surveillance, stated that Frank Donner was the Research Director of the American Civil Liberties Union political surveillance project.

Frank Donner is familiar to me because, quite some years ago when I was Director of the Committee on Un-American Activities, he wrote a book entitled "The Un-Americans". It was just a smear job on the committee, packed from beginning to end with misrepresentations and falsehoods.

I would like to quote for the record here remarks made by the late Francis Walter—chairman of the committee at the time—on the floor of the House on September 12, 1961.

Referring to Donner and his book he pointed out that Donner was counsel for the United Electrical Workers Union, which was one of those unions expelled from the CIO because it was Communist dominated.

Mr. Walter then said, "Thrice identified as a Communist at hearings before this committee, Donner was described in the forward by the publisher of the book [Ballantine] as a 'constitutional lawyer' and nothing else."

The man who is research director of the ACLU project that we are discussing here, as Mr. Walter pointed out years ago, has been identified as a member of the Communist Party on three different occasions. This was years ago. I don't know whether he is a party member today, but the fact of the matter is that I have never seen in the last 15 years any indication that he has opposed the party, attacked it or anything else, and he has been a member of a group, the Communist Party, which believes in terrorism. It is on record to that effect.

In the last year or so, Donner has been active in the assault on the CIA. Last April 5, for example, he was a speaker at an anti-CIA affair at the Yale Law School, along with such as Mrs. Hortensia Allende, widow of the late Marxist president of Chile; Leonard Boudin of the National Lawyers Guild; identified Communist Party member Ernest de Maio; Victor Marchetti and John Marks, co-authors of "CIA and the Cult of Intelligence."

Senator THURMOND. Is he an instigator of some of these suits?

Mr. McNAMARA. In a certain sense you might say he is the instigator of all of them. If he is the research director of the ACLU project, he is the man who is doing all the investigative research and ground work, looking at all Government activities, trying to find every case where they might press and initiate a suit.

So, he is playing a key role in deciding what agencies are going to be attacked, CIA, FBI, State police, local police, and on what issue they are going to be attacked.

Senator THURMOND. Thank you again for your appearance here and all that you did to contribute.

Mr. McNAMARA. I just hope, Senator, I have been of some assistance.

Senator THURMOND. The subcommittee will now be recessed until the call of the Chair.

[Whereupon, at 1:01 p.m., the subcommittee was recessed, subject to the call of the Chair.]

APPENDIX

[From Defense/Foreign Affairs Digest, February 1973]

COPING WITH TERRORISM

(By Stefan T. Possony, Ph. D.)

Dr. Stefan T. Possony, Ph. D., is currently Senior Fellow at the Hoover Institution on War, Revolution and Peace, in Northern California. He was, from 1961 to 1969, Director of the International Political Studies Program at the Hoover Institution. Before that, from 1946 to 1961, he was Special Adviser to the U.S. Air Force in Washington, D.C.

At the same time, he was Professor of International Politics at Georgetown University, Washington, D.C. During the three years preceding that, Dr. Possony was Psychological Warfare Specialist at the Office of Naval Intelligence, Dept. of the Navy, Washington, and Carnegie Research Fellow, Institute for Advanced Study, Princeton, New Jersey.

During 1939 and 1940, Dr. Possony—who gained his Ph. D. at the University of Vienna in 1935—was Psychological Warfare Officer at the French Foreign Office, and Adviser to the French Air Ministry.

He has undertaken many special appointments as visiting professor to various universities and was Director of Research for Life magazine's massive Russian Revolution project from 1956 to 1958. Dr. Possony served as a member of Nelson Rockefeller's delegation to the summit meeting of 1955 in Geneva.

As an increasing number of citizens feel menaced by terrorism, they will sooner or later adopt measures of self-defense. This could have most undesirable consequences. But self-defense is a proper strategy. Not so long ago, Americans and Europeans were going around fully armed, houses were fenced in, and cities had walls and municipal defense forces. The alternative has always been: either the government is willing to protect its citizens, or the citizens protect themselves.

If the government fails in its primary function, which is that of providing safety, the government is in eclipse; and it will be replaced by a new structure which will recreate the security the citizens want and need.

True, democracy is incompatible with vigilantism and police despotism. But it is equally incompatible with terrorism. Accordingly, unless one assumes democracy is capable only of solving easy problems, the task is to find safety methods which fit the rules of constitutional government.

A switch in policy would necessitate modifications in foreign policy, military strategy and legal practices. These subjects will be ignored here, as will the multiple interdependence of drug addiction and psychological warfare with terrorism. Instead, I wish to zero in on security problems posed by *private terrorism* and suggest a few remedies that would be feasible without turning the country upside down.

* * * * *

6. *The enhancement of police effectiveness and efficiency is the most urgent task.* During the Howard Johnson Hotel incident in New Orleans in January this year, the police probably wounded three of their own men, it took six hours to get a helicopter into action, and a wounded victim spent three hours in the swimming pool before he was rescued. A 50-block area was sealed off, yet if there were three gunmen—the police don't know the exact figure—two managed to escape. How much training in anti-terrorist tactics was offered in the New Orleans police department?

The number of terroristic crimes and other crimes remains far too high, the percentage of crime solutions is far too low, and the number of convictions has sunk to the level of national scandal in the U.S. It is true that the courts have

unduly restricted police freedom in collecting evidence, but the police often fails to prepare its cases properly. Police command positions seem to be poorly staffed, and prosecuting attorneys appear to be less skillful and motivated than defense attorneys.

The basic fact is that U.S. police forces are poorly organized. There are, for example, too many "independent" police departments but too few policemen. Most police work is geared to local problems, hence local departments are needed. But these departments have common needs for efficient co-ordination mechanisms and for recruitment, intelligence work, technology, equipment, etc. Moreover, the departments need flows of information from parole officers, psychiatrists, immigration, passport offices, telephone companies, the postal service, and the like. American police forces, as set up today, lack the capability to fight terrorism effectively.

However, this deficiency is not primarily the fault of the police departments. Pressures for constructive approaches must yet be generated by the police departments, but the citizens who feel their taxes, though heavy, do not buy enough safety, must also bestir themselves. The recent growth of private police firms suggests that free enterprise has a major role to play, but demand is largely for spot and special security.

Police modernization must be instituted by political executives on the federal and state levels, in particular the U.S. Department of Justice; and such modernization needs careful intellectual preparations.

Unfortunately, leadership has failed to appear.

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