

COINTELPRO, ANATOL RAPOPORT, AND THE CHURCH COMMITTEE:  
BALANCING SECURITY AND ACCOUNTABILITY

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## ABSTRACT

In 1975, the Senate designated a Committee, generally referred to as the Church Committee, to investigate the unlawful actions of Intelligence Community member agencies such as the FBI and the CIA. During the preceding decade, the FBI had conducted several programs that infringed on American citizens' rights, particularly in their Counterintelligence Program [COINTELPRO]. Although much research has been done into the effect that COINTELPRO had on the civil rights movement of the 1960s, the academics who were targeted due to their opposition to the Vietnam War have largely gone unnoticed. This thesis investigates the effect on those academics through the case study of the experiences of Anatol Rapoport. It goes on to trace the influence of the Church Community through time to show how their recommendations have been eroded and to illustrate their influence on life today.

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## PREFACE

### *Declining Trust in Government*

In the early 1970s, a substantial segment of the American public severely lost trust in their government. The economic boom after World War II was ending.<sup>1</sup> U.S. involvement in the Vietnam War deeply divided the nation, with some considering it to be a “crusade” seeking decisive victory over Communism, and others seeing it as a civil war with nation-building and counterinsurgency missions at its core.<sup>2</sup> Support for the war had been lagging, so military leaders chose to highlight the weakening of the opposing forces in response to American escalation.<sup>3</sup> The 1968 Tet Offensive, “a massive uprising in almost every major town and city in South Vietnam,” shattered the image of impending victory that the American public held even though U.S. forces repelled the enemy.<sup>4</sup> Although this last ditch effort by North Vietnam likely destroyed any real chance at a Viet Cong military victory and failed to remove the American forces, the people of the United States saw the war as unwinnable from that moment on at least at a price the public was willing to pay.<sup>5</sup> After the

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*Journal of Strategic Security*

<sup>1</sup> John A. Lawrence, “Cleaning House,” *Foreign Affairs* 100, no. 1, (2021): n.p., <http://search.ebscohost.com.easydb.angelo.edu/login.aspx?direct=true&db=f6h&AN=147335512&site=eds-live>.

<sup>2</sup> Dominic Tierney, “The Two Vietnam Wars: American Perceptions of the Use of Force,” *Political Science Quarterly* 133, no. 4 (2018): 641-667, <https://doi.org/10.1002/polq.12836>, 641.

<sup>3</sup> Jake Blood, *The Tet Effect: Intelligence and the Public Perception of War* (New York, NY: Routledge, 2012), 35.

<sup>4</sup> Tierney, “The Two Vietnam Wars,” 647.

<sup>5</sup> Blood, *The Tet Effect*, 16.

war, the full extent of the leaders' misleading statements was revealed. The American public felt lied to and struggled to trust their military and political leaders.

This sense of distrust extended to the Presidency when, in 1974, five individuals dressed in business suits and surgical gloves planted illegal listening devices in the Democratic Party's offices in the Watergate building in Washington, D.C.<sup>6</sup> These individuals were members of President Nixon's campaign and were revealed to be involved in an operation of political espionage and sabotage sanctioned and run by the President's top aides.<sup>7</sup> Stanley Kutler, the leading historian of the Watergate Scandal, said the incident "consumed and convulsed the nation and tested the constitutional and political system as it had not been tested since the Civil War."<sup>8</sup> Pew Center surveys measured a significant drop in the confidence that Americans had in their elected leaders from 77% in 1964 to 36% in 1974.<sup>9</sup>

Soon after the Watergate hearings set the stage for impeachment charges and President Nixon's resignation, the *New York Times* published an article which accused the Central Intelligence Agency [CIA] of being involved in assassination plots.<sup>10</sup> Not only did this report assert that the CIA had been involved in such plots around the world, but they

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<sup>6</sup> Mark Feldstein, "Watergate Revisited," *American Journalism Review* 26, no. 4 (2004): 62 <http://eds.b.ebscohost.com.easydb.angelo.edu/eds/pdfviewer/pdfviewer?vid=9&sid=327e27f2-b59d-4cc4-8ea5-7311ba34acf1%40sessionmgr101>.

<sup>7</sup> Feldstein, "Watergate Revisited," 62.

<sup>8</sup> Quoted in Feldstein, "Watergate Revisited," 62.

<sup>9</sup> Lawrence, "Cleaning House."

<sup>10</sup> Lawrence, "Cleaning House;" "C.I.A. PLOT TO KILL CASTRO DESCRIBED," *New York Times*, April 30, 1975, 9, <https://www.nytimes.com/1975/04/30/archives/cia-plot-to-kill-castro-described-agency-flew-2-assassins-to-cuba.html>.



were accused of interfering with the democratically elected Allende regime in Chile during the same time frame.<sup>11</sup> This seemed to become the final straw in the public's trust in their government, and a strong push for accountability developed throughout the nation.

In the midterm election of November 1974, a young group of idealistic reformers ran for office. These individuals, called the "Watergate babies," campaigned from the position of a dedication to "restoring public faith in government."<sup>12</sup> They filled 92 seats in the House of Representatives for the 94th Congressional Session.<sup>13</sup> Their election brought reform to the forefront of the Congressional agenda.

Less than two months into the 94th Congress, a committee was formed to investigate allegations of domestic intelligence overreach by the secret agencies of the United States as a response to the accusations in the *New York Times* article.<sup>14</sup> The Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, "mercifully known as the Church Committee" after its Chairman Senator Frank Church, came together and unearthed many violations of individuals' rights.<sup>15</sup> One such program that they exposed was the Federal Bureau of Investigation [FBI]'s Counter Intelligence Program, nicknamed

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<sup>11</sup> Loch K. Johnson, *National Security Intelligence* (Cambridge, UK: Polity, 2017), 163.

<sup>12</sup> Lawrence, "Cleaning House," n.p.

<sup>13</sup> Lawrence, "Cleaning House," n.p.

<sup>14</sup> U.S. Congress, 1976, Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee), *Final Report*, 95th Congress, 1st sess., May, S. Rept. 94-755. [Hereafter cited as Church Report, *Book II*] Senate Resolution 21, 343.

<sup>15</sup> Michael German and Frederick A.O. Schwarz, "Rethinking Intelligence: Interview with Frederick A. O. Schwarz, Jr.," Brennan Center for Justice, August 19, 2014, <https://www.brennancenter.org/our-work/research-reports/rethinking-intelligence-interview-frederick-o-schwarz-jr>.

COINTELPRO. This program violated the civil liberties of American citizens throughout the nation and across the political spectrum. Among the many groups investigated under this program was the amorphous New Left. One particular target group – the academics whose careers were forever altered if not destroyed by the covert actions of the FBI – represents a largely underresearched portion of COINTELPRO operations.<sup>16</sup> This thesis uses one particular academic, Anatol Rapoport, as a case study to explore typical actions utilized by the Bureau in support of COINTELPRO's attack on New Left campus activism and the broader Church Committee investigations into FBI activities.

### *Literature Review*

Sources such as Tim Weiner's *Enemies* and Curt Gentry's *J. Edgar Hoover: The Man and the Secrets* established the hierarchal culture of the FBI at the time, with its emphasis on conformity and preserving the image crafted by Director Hoover.<sup>17</sup> *Enemies of Intelligence* by Richard K. Betts (2007) provides context for the FBI's role within the greater Intelligence Community.<sup>18</sup> Similarly, Mark M. Lowenthal discusses the role of intelligence, oversight, and the FBI in his book *Intelligence: From Secrets to Policy* (2017).<sup>19</sup> These sources establish the framework for understanding how the agency's legitimate mission became

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<sup>16</sup> An excellent resource for further reading on the student branch of the New Left investigations is *Subversives* by Seth Rosenfeld (2012) which focuses on student radicals from UC Berkeley, Ronald Reagan, and the FBI.

<sup>17</sup> Tim Weiner, *Enemies. A History of the FBI* (New York, NY: Random House USA, 2013); Curt Gentry, *J. Edgar Hoover: the Man and the Secrets* (New York, NY: Norton, 2001).

<sup>18</sup> Richard K. Betts, *Enemies of Intelligence: Knowledge and Power in American National Security* (New York, NY: Columbia University Press, 2009).

<sup>19</sup> Mark M. Lowenthal, *Intelligence: From Secrets to Policy* (Washington, D.C.: Congressional Quarterly Press, 2017).

entwined in political agendas that fostered unwarranted intrusion in the lives of American citizens.

Michael Linfield provides a comprehensive overview of the repression of dissent in war time in his book *Freedom Under Fire: U.S. Civil Liberties in Times of War* (1990).<sup>20</sup> Scholars have written several books about the student experience with Vietnam protests; one example is *Subversives: The FBI's War on Student Radicals and Reagan's Rise to Power* (2012) by Seth Rosenfeld which focuses on the relationship between Ronald Reagan (the 40th President of the United States), Mario Savio (a student activist at the University of California, Berkeley), and Clark Kerr (the liberal President of the University of California).<sup>21</sup> Another good source for student issues and protests is *Campus Wars* by Kenneth J. Heineman (1993) which focuses on the experiences of students at state universities across the nation.<sup>22</sup> These sources provide the broad context to understand the perceived threat of campus activism and the range of FBI interventions.

*COINTELPRO: The FBI's Secret War on Political Freedom* (2018) by Nelson Blackstock gives a good overview of the FBI's program.<sup>23</sup> Historians and political scientists alike have covered COINTELPRO as it relates to the life of Martin Luther King Jr. extensively in countless papers and articles, but most of them are drawn from *The FBI*,

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<sup>20</sup> Michael Linfield, *Freedom Under Fire: U.S. Civil Liberties in Times of War* (Boston: South End Press, 1990).

<sup>21</sup> Seth Rosenfeld, *Subversives: the FBI's War on Student Radicals, and Reagan's Rise to Power* (New York, NY: Picador, 2013).

<sup>22</sup> Kenneth J. Heineman, *Campus Wars: the Peace Movement at American State Universities in the Vietnam Era* (New York, NY: Univ. Press, 2010).

<sup>23</sup> Nelson Blackstock, *Cointelpro: the FBI's Secret War on Political Freedom* (New York, NY: Monad Press, 1975).

*COINTELPRO, and Martin Luther King, Jr.* (1975), which is a report from the Church Committee.<sup>24</sup> Fewer studies have been conducted on the side of the FBI's program connected to the university professors who were working to educate the public on the history of the conflict in Vietnam. *Campus Wars* by Kenneth Heineman (1993) only mentions the FBI's actions in passing, and fleeting references occur in works by Loch Johnson and others. Johnson specifically references one particular academic, Anatol Rapoport in several works.

Anatol Rapoport, a mathematician and former Communist, was a professor at the University of Michigan at Ann Arbor involved in the anti-war movement. He wrote an autobiography called *Certainties and Doubts* (2000) that focuses more generally on his philosophy of life rather than concentrating on the details of the FBI investigations into his life.<sup>25</sup> It does, however, describe his mindset during this era and gives valuable insight into his peace research. His peace writings have been published fairly extensively. His son, Anthony, has released many of Rapoport's writings and speeches on [anatolrapoport.net](http://anatolrapoport.net). There is no biography and only limited mentions of his experience with the FBI's investigation by Johnson in his book *Secret Agencies* (1998).<sup>26</sup> He mentions the case briefly but does not focus significantly on the specific details of the investigation. *An American Ordeal: The Antiwar Movement of the Vietnam Era* (1989) also briefly documents

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<sup>24</sup> Church Report, *Book II*; Tim Weiner, *Enemies. A History of the FBI* (New York, NY: Random House USA, 2013).

<sup>25</sup> Anatol Rapoport, *Certainties and Doubts: a Philosophy of Life* (Montréal, Canada: Black Rose Books, 2000).

<sup>26</sup> Loch K. Johnson, "Congressional Supervision of America's Secret Agencies: The Experience and Legacy of the Church Committee," *Public Administration Review* 64, no. 1 (2004): 3-14, <https://doi.org/10.1111/j.1540-6210.2004.00342.x>

Rapoport's involvement in the anti-Vietnam movement.<sup>27</sup> These sources serve to set the stage for the FBI's investigation into Rapoport and, by extension, the broader academic community in the absence of the actual case files. A Freedom Of Information Act request for the case files regarding Rapoport was approved but delayed due to the closure of the Library of Congress due to the Covid-19 Pandemic. Case files from the FBI's online vault from the Detroit Field Office written during the Rapoport investigation, however, illustrate the types of abuses of power that were being conducted at the time in Rapoport's area.<sup>28</sup> Anthony Rapoport, Anatol Rapoport's son, agreed to give an interview on his perspective on his father's life and work to assist in answering any questions.

For the actual Church Committee, this thesis relies heavily on the actual Church Committee report, specifically Book II: *Intelligence Activities and the Rights of Americans* (1976) in relation to the specific targeting of Rapoport and analyzing the implications of the FBI and their investigations.<sup>29</sup> Dr. Loch K. Johnson, a staff member for the Church Committee, has written prolifically about the Committee and their report. Many of his books, like *A Season of Inquiry* (1985), center generally on the role of Congress in the oversight of federal agencies.<sup>30</sup> The recommendations of the Church Committee continue to echo in today's Intelligence Community. Efforts of future administrations to implement or alter Church Committee recommendations are documented in Natsu Saito's "Whose Liberty?"

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<sup>27</sup> Charles DeBenedetti and Charles Chatfield, *An American Ordeal: the Antiwar Movement of the Vietnam War* (Syracuse, NY: Syracuse University Press, 1989), 29, 107-109.

<sup>28</sup> "COINTELPRO New Left Detroit Part 01 of 01," FBI (FBI, May 5, 2011), <https://vault.fbi.gov/cointel-pro/new-left/cointel-pro-new-left-detroit-part-01-of-01/view>

<sup>29</sup> Church Report, *Book II*.

<sup>30</sup> Loch K. Johnson, *Season of Inquiry Revisited* (Kansas City, Kansas: University Press of Kansas, 2016).

Whose Security.”<sup>31</sup> Additionally, Fritz A.O. Schwarz, the Chief Counsel of the Church Committee, wrote *Unchecked and Unbalanced* (2007) – a critique of the Bush White House’s handling of the war on terror as illustrated by the subtitle, “Presidential Power in a Time of Terror.”<sup>32</sup> This book utilizes the framework developed by the Church Committee to judge the power accumulated after the tragic events of September 11, 2001.

### *Structure of this Thesis*

The preface briefly explores the existing literature on the topic to establish a gap that this thesis seeks to fill. Chapter one explores the FBI’s COINTELPRO from its establishment in the 1950s to its expansion into most facets of American life, including academic life, until its end in the early 1970s. The second chapter delves deeply into Anatol Rapoport’s life and experience with the FBI. It considers the political and academic beliefs which led him to be a target of the FBI, the range of FBI activities against him, and his response to the harassment. Chapter three establishes the founding of the Church Committee and its members and methods. The fourth chapter explores the findings and subsequent recommendations that the Church Committee published in their report. The conclusion examines the long-term effects of the Committee’s recommendations and considers the relevance of those guidelines for the current Intelligence Community.

This work strives to widen academic research into the effect of FBI overreach on the educators whose lives were systematically torn apart by the covert actions of FBI agents.

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<sup>31</sup> Natsu Taylor Saito, “Whose Liberty? Whose Security? The USA PATRIOT Act in the Context of COINTELPRO and the Unlawful Repression of Political Dissent,” *Oregon Law Review* 81 (September 30, 2003).

<sup>32</sup> Frederic A.O. Schwarz and Aziz Z. Huq, *Unchecked and Unbalanced: Presidential Power in a Time of Terror* (New York, NY: New Press, 2008).

Anatol Rapoport's case is utilized as one example of their overreach and a cautionary tale to highlight parallels between the government's power in the '60s due to the civil rights and anti-war activism and the current state of the government's legal intrusion into American's lives with the PATRIOT ACT and those challenges to privacy. It also examines how the oversight recommended by the Church Committee affects current guidelines.

## COINTELPRO

### *Culture of the FBI*

During the 1950s, the government gave the Federal Bureau of Investigation [FBI] the impossible task of predicting and preventing violence.<sup>33</sup> In 1950 and 1953 respectively, Presidents Truman and Eisenhower authorized the FBI to investigate “subversive activity” which was an incredibly broad and vague term that greatly expanded the Bureau’s responsibility.<sup>34</sup> As tensions rose throughout the 1960s over racial conflict at home and the Vietnam War abroad, they received increasingly comprehensive requests from the Department of Justice [DOJ] and the White House for information on issues concerning racial and urban unrest.<sup>35</sup> To give just one example, the DOJ asked for and received photographs of a civil rights protest scheduled on the 100th anniversary of the Emancipation Proclamation.<sup>36</sup>

The combination of expanded responsibility and increased requests for information connected with political ideology rather than criminal activity directly opposed the Supreme Court and judicial system’s intentions. Restrictions on repercussions for individuals legally exercising their freedom of speech accompanied and directly contradicted these requests for expanded collection and surveillance of individuals who did not fit the mold of “typical”

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<sup>33</sup> U.S. Congress, 1976, Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee), *Final Report*, 95th Congress, 1st sess., May, S. Rept. 94-755. [Hereafter cited as Church Report, *Book II*], 82.

<sup>34</sup> Church Report, *Book II*, 45.

<sup>35</sup> Church Report, *Book II*, 82.

<sup>36</sup> Church Report, *Book II*, 82.



Americans.<sup>37</sup> The Supreme Court greatly lessened the parameters for criminal prosecution of individuals involved in the Communist Party USA, one of the first domestic groups targeted by the FBI. This incentivized the Bureau to find alternate ways “to contain the threat” posed by such atypical citizens.<sup>38</sup>

FBI Director J. Edgar Hoover called individuals of interest in the agency’s domestic intelligence investigations “vociferous rabble rousers” which led to the creation of the Rabble Rouser Index containing information on individuals who “tr[y] to arouse people to violent action by appealing to their emotions, prejudices, et cetera; a demagogue.”<sup>39</sup> This tasking led to excessive and unwarranted collection of information about all facets of life and on anyone even vaguely related to groups of concern like the Communist Party USA. The FBI, while acting within their parameters to conduct investigations into many of these areas, committed numerous improper acts during their pursuit of the eradication of violence that were certainly not warranted.<sup>40</sup>

In order to contain these perceived threats to the status quo, the FBI enacted several programs during the 1950s and 60s. Covert techniques such as electronic surveillance which included warrantless wiretaps and “bugging” – the act of placing microphones through trespassing without authorization of a judge or the knowledge or consent of the individual whose space was bugged – dominated the concerning programs carried out by the Bureau

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<sup>37</sup> Saito, “Whose Liberty? Whose Security,” 1080.

<sup>38</sup> Church Report, *Book II*, 67.

<sup>39</sup> Church Report, *Book II*, 90.

<sup>40</sup> Church Report, *Book II*, 270.

during this era.<sup>41</sup> The FBI filed “black bag jobs,” which were “surreptitious entries conducted for purposes other than installing a ‘bug,’” under their “Do Not File” program which was designed to limit the possibility of an outside agency discovering their actions. Though these entries required approval from Hoover or his assistant Clyde Tolson, there was likely no oversight from even the Executive Branch as there is no record of any Attorney General being informed of these jobs. FBI personnel destroyed any documentation of these actions at the end of an internal inspection each year.<sup>42</sup> Internal memos, the only surviving physical evidence that this program existed, provide damning evidence that, even internally, these jobs were considered “clearly illegal.”<sup>43</sup> These tactics are just a few examples of the illegal activities engaged in by the FBI during this era.

The culture of the FBI flowed from the top down. An Assistant Director, William Sullivan, quoted Ralph Waldo Emerson when talking about his training and indoctrination into the FBI: “An institution is the lengthened shadow of one man.”<sup>44</sup> The culture of the Bureau was such that the hierarchy encouraged agents out in the field to investigate cases to confirm headquarters’ priorities rather than their parameters being informed by the trends found out in the field.<sup>45</sup> While many of the ideas for programs came from subordinates like Sullivan, Hoover’s signature could be found on every memo communicating the decisions

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<sup>41</sup> Church Report, *Book II*, 60.

<sup>42</sup> Church Report, *Book II*, 62.

<sup>43</sup> Church Report, *Book II*, 62.

<sup>44</sup> Tim Weiner, *Enemies. A History of the FBI* (New York, NY: Random House USA, 2013), 196.

<sup>45</sup> David Cunningham and Barb Browning, “The Emergence of Worthy Targets: Official Frames and Deviance Narratives Within the FBI,” *Sociological Forum* 19, no. 3 (September 2004): 349, <https://doi.org/10.1023/b:sofo.0000042553.21098.f6>.

that led to illegal actions often saying “I concur” or “O.K. H.”<sup>46</sup> Hoover’s power and influence cannot be understated when considering the actions of the FBI during his tenure as director of the FBI.

When Hoover first ascended to the position of Bureau Director, it was meant to be a temporary position.<sup>47</sup> During his first few weeks, however, he “rebuilt the Bureau of Investigation from top to bottom.” He established six separate branches with unique areas of responsibility. He also instituted a system of hierarchical memo writing. This ensured that any information of interest would make its way to the upper leadership.<sup>48</sup> One of his greatest contributions to the FBI was standardization. Likely as a carry over from his time as a clerk at the Library of Congress, he designed a system of filing so that “[a]n agent reassigned from... Jacksonville, Florida, to Seattle, Washington, could on his first day walk right in and begin using the files.”<sup>49</sup>

Director Hoover exercised an incredible amount of power over the entire culture of the Bureau. By virtue of being in that position for decades, he accumulated quite a bit of influence within Washington, D.C. and across the country. One of his biographers, Curt Gentry, discussed Hoover’s secret dossiers of blackmail information which afforded him power over individuals throughout the country.<sup>50</sup> This allowed him to control the FBI the way that he found most appropriate without much input from outside agencies.

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<sup>46</sup> Curt Gentry, *J. Edgar Hoover: the Man and the Secrets* (New York, NY: Norton, 2001), 445.

<sup>47</sup> Gentry, *J. Edgar Hoover*, 127.

<sup>48</sup> Gentry, *J. Edgar Hoover*, 129.

<sup>49</sup> Gentry, *J. Edgar Hoover*, 130.

<sup>50</sup> Gentry, *J. Edgar Hoover*, 51.

While he did have official say and a huge hand into the culture of the Bureau, he was not the only individual involved in the creation of this program and cannot be blamed for all of the incorrect things being done within the FBI at that time. One key program – the Counter Intelligence Program, shortened to COINTELPRO – which he did approve, actually came from the ideas of agents out in the field and other members of the Bureau’s leadership.<sup>51</sup>

#### *Foundation of COINTELPRO*

The FBI created COINTELPRO in 1956. This branch investigated domestic intelligence issues and aimed to “‘disrupt’ groups and ‘neutralize’ individuals deemed to be threats to domestic security.”<sup>52</sup> COINTELPRO was the brainchild of William Sullivan, who, at its inception, was the aide to the chief of the FBI’s Intelligence Division.<sup>53</sup> His involvement in the program led to a ten-year membership on the U.S. Intelligence Board and an eventual promotion to Assistant Director over domestic intelligence. Sullivan later stated that the general focus of the program was “will this course of action work, will it get us what we want, will it reach the objective we desire to reach?” rather than any consideration of the legality, morals, or ethics of their programs.<sup>54</sup>

Simply put, counterintelligence is “the work of preventing spies from stealing your secrets.”<sup>55</sup> Originally, the FBI focused on the Communist Party USA, but the targets slowly

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<sup>51</sup> “COINTELPRO,” FBI (FBI, May 5, 2011), <https://vault.fbi.gov/cointel-pro>.

<sup>52</sup> Church Report, *Book II*, 10.

<sup>53</sup> Weiner, *Enemies*, 195.

<sup>54</sup> David Cunningham, “The Patterning of Repression: FBI Counterintelligence and the New Left,” *Social Forces* 82, no. 1 (September 1, 2003): 214, <https://doi.org/10.1353/sof.2003.0079>.

<sup>55</sup> Weiner, *Enemies*, 195.

expanded to include groups that might have been infiltrated by Communists such as “Parent-Teacher Associations, civil organizations, and racial and religious groups.”<sup>56</sup> This grew into the five separate initiatives created within the program — Communist Party USA, Socialist Workers Party, White Hate Groups, Black Nationalist/Hate Groups, and the New Left.<sup>57</sup>

During the 1960s, COINTELPRO agents were very busy. They searched for “subversive ‘influence’” in groups at the extreme ends of both the left and right political spectrum.<sup>58</sup> Individuals later investigating this program stated: “[t]he government could have set an example for the nation’s citizens and prevented spiraling lawlessness by respecting the law as it took steps to predict or prevent violence. But agencies of the United States, sometimes abetted by public opinion and government officials, all too often disregarded the Constitutional rights of American [*sic*] in their conduct of domestic intelligence operations.”<sup>59</sup> The limitations placed on Communist convictions by the Supreme Court led to this more secret and illegal way that the FBI devised to take down those they perceived to be enemies to the American way of life.<sup>60</sup>

Agents used many different tactics such as exploiting local news agencies to actively disrupt the legal actions of these groups.<sup>61</sup> These strategies were often “sharpened at the suggestion of agents in the field, toughened by Sullivan, and ultimately approved by

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<sup>56</sup> Church Report, *Book II*, 65, 67.

<sup>57</sup> Cunningham and Browning, *The Emergence of Worthy Targets*, 351.

<sup>58</sup> Church Report, *Book II*, 33.

<sup>59</sup> Church Report, *Book II*, 68.

<sup>60</sup> Church Report, *Book II*, 67.

<sup>61</sup> Nelson Blackstock, *Cointelpro: the FBI's Secret War on Political Freedom* (New York, NY: Monad Press, 1975), 14.

Hoover.”<sup>62</sup> Many of these tactics had been in use since the 1940s, but Hoover “now felt so secure in his power that he could grant official sanction to actions which went well beyond the law.”<sup>63</sup> The FBI instructed their agents that “Every avenue of possible embarrassment must be vigorously and enthusiastically explored.”<sup>64</sup>

Activities within COINTELPRO, even at its height in the late 1960s, consisted of a “small fraction of agents’ activities.”<sup>65</sup> However, the pressure to continue and even ramp up efforts from headquarters to field offices attempting to close their COINTELPRO investigations indicated a worrying trend in domestic subversion investigations and the culture of the FBI at large. For example, the Knoxville Field Office attempted to close their investigation into the New Left because of the successful efforts of local university officials to limit activities by student activist groups. They had not experienced any serious violence on local campuses; however, headquarters argued that, because of national potential for violence, the local “benign” chapters’ existence in their area was enough impetus for Knoxville to continue their investigations.<sup>66</sup> This interplay between the national priorities and locally observed threats showed a worrying divide. This encouraged a trend of overcollection rather than undercollection in investigations.

This type of attitude led to warranted commentary from Tom Huston, a witness to this type of overcollection before the Church Committee Hearings of 1975 due to his earlier

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<sup>62</sup> Weiner, *Enemies*, 195.

<sup>63</sup> Gentry, *J. Edgar Hoover*, 442.

<sup>64</sup> Church Report, *Book II*, 243.

<sup>65</sup> Cunningham, “Patterning of Repression,” 212.

<sup>66</sup> Cunningham, “Patterning of Repression,” 225.

involvement in gathering authority for expanded domestic investigative parameters. He opined that this power was dangerous because of the potential to “construe political considerations to be national security considerations” which would lead to the same tactics used against the “kid with the bomb” also being brought against “the kid with the bumper sticker of the opposing candidate.” He warned that it would be all too easy to keep a cycle going in that direction without any external consideration of the true threat posed by the individual being investigated.<sup>67</sup>

*COINTELPRO New Left Investigations*

New Left groups, including the “civil-rights movement, free speech movement, anti-war movement, and the women’s liberation movement,” made up an entire subsection of the groups that the FBI investigated under COINTELPRO, even though only a small portion of groups dedicated to social change deliberately used violence to effect change.<sup>68</sup> The New Left was incredibly difficult to define. As one agent put it, “It has never been strictly defined, as far as I know... It’s more or less an attitude, I would think.”<sup>69</sup> The lack of clear definition allowed the term to be applied indiscriminately to individuals involved in demonstrations against American involvement in Vietnam as well as student groups who generally disagreed with the government.

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<sup>67</sup> Church Report, *Book II*, 4.

<sup>68</sup> Dimitrios I. Roussopoulos, *The New Left: Legacy and Continuity* (Montréal, Canada: Black Rose Books, 2007), 8, <http://search.ebscohost.com.easydb.angelo.edu/login.aspx?direct=true&db=e864sww&AN=1464400&site=eds-live>; Church Report, *Book II*, 68.

<sup>69</sup> Church Report, *Book II*, 72.

Much has been written about covert investigations of key civil rights activists, most notably Martin Luther King, Jr. He was targeted by the Bureau because of his civil rights activism under COINTELPRO's civil rights and black nationalist investigative branch.<sup>70</sup> The absolutely shocking actions taken against him have been well documented through many articles and books, including a separate report from the Church Committee.<sup>71</sup>

King's antiwar activities are less well-known, but just as subversive in the FBI's eyes. In 1967, in support of his vocal opposition to the Vietnam War, he wrote a rousing "Declaration of Independence from the War in Vietnam." He expounded on "the cruel irony of watching Negro [*sic*] and white boys on TV screens as they kill and die together for a nation that has been unable to seat them together in the same schools."<sup>72</sup> He argued that the "brotherhood of man" extended past an individual's skin color or their national allegiance to their humanity. King further criticized the United States' involvement in the Vietnam War because of Vietnam's proclamation of independence in 1945 which the U.S. ignored at the time in order to support France.<sup>73</sup> He called for compassion and non-violence in order to help "us to see the enemy's point of view, to hear his questions to know his assessment of ourselves... if we are mature, we may learn and grow and profit from the wisdom of the brothers who are called the opposition."<sup>74</sup> FBI Director J. Edgar Hoover saw King's

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<sup>70</sup> Church Report, *Book II*, 7-8.

<sup>71</sup> Church Report, *The FBI, COINTELPRO, And Martin Luther King, Jr.: Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities*.

<sup>72</sup> Martin Luther King, Jr. "Declaration of Independence from the War in Vietnam (April 1967)," in Russell A. Miller, *US National Security, Intelligence and Democracy: from the Church Committee to the War on Terror* (New York, NY: Routledge, 2009), 101.

<sup>73</sup> King, "Declaration of Independence," 102-103.

<sup>74</sup> King, "Declaration of Independence," 105.



influence and point of view as a victory for the Communists and believed that the black nationalist movement provided “real opportunities for foreign exploitation” because their challenge to the status quo might encourage foreign governments to try to use the movement for their own purposes.<sup>75</sup>

### Teach-Ins

Less well-documented are the FBI’s investigations into academicians involved in the antiwar movement. Much has been written about the overall movement, but the influential individuals involved in changing students' minds all over the country have been looked at much less. Similarly to the spirit of education and growth espoused by King, the concept of teach-ins were developed by faculty members of the New Left. At the University of Michigan, forty to fifty faculty members organized a *teach-in* to show their disgust and concern with the American involvement in the Vietnam War.<sup>76</sup> The concept was “an analogue of a sit-in strike.”<sup>77</sup> In those situations, American workers would occupy the working space instead of forming a picket line. This posed a more serious challenge to the bosses who wanted them removed so that work could resume.

Similarly, organizers designed the teach-in to avoid such pitfalls as breaching contract by not teaching or attempting to have non-expert faculty use their class time (for which they

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<sup>75</sup> Gentry, *J. Edgar Hoover*, 603.

<sup>76</sup> Rapoport, *Certainties and Doubts*, 115, 117, 136; “Various Professors Listen to the First Teach-in on March 24th, 1965,” *Resistance and Revolution: the Anti-Vietnam War Movement at the University of Michigan, 1965-1972 (Michigan in the World)*, accessed February 8, 2021, <http://michiganintheworld.history.lsa.umich.edu/antivietnamwar/items/show/31>; DeBenedetti and Chatfield, *An American Ordeal*, 107-109.

<sup>77</sup> Rapoport, *Certainties and Doubts*, 136.

were being paid) to explain the complicated and long history of the conflict in Vietnam.<sup>78</sup>

The teach-in also took place after teaching hours which would negate the argument that it was disturbing their contracted schedule.<sup>79</sup> The first event in Michigan spanned from 8 P.M. to 9 A.M. the night between March 24 and 25, 1965. The program consisted of various mass meetings and seminars with free sandwiches and coffee provided in between the sessions.

This concept of a teach-in expanded across campuses throughout the United States and Canada. The topics varied depending on the speakers, but they all focused on educating the American public openly and freely about the true nature of the conflict in Vietnam in order to encourage public debate and civic involvement.<sup>80</sup> This all culminated in a massive teach-in in Washington, D.C., on May 15, 1965, which was broadcast across the nation to an estimated fifty campuses.<sup>81</sup> This was planned to be a great debate between civilian and Presidential experts on America's involvement in Vietnam to allow for the American public to receive a comprehensive view of the pros and cons of this conflict.<sup>82</sup>

Because of their focus on all anti-war movements, especially those with reach and influence, the FBI became interested in the teach-ins and kept track of those who had been involved. In an anonymous letter sent to various community leaders in Ann Arbor, Michigan, an FBI agent wrote about several faculty members at the University of Michigan in regards to their participation in such political activities as the teach-in and formerly being members

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<sup>78</sup> Heineman, *Campus Wars*, 131.

<sup>79</sup> DeBenedetti, *An American Ordeal*, 109.

<sup>80</sup> Rapoport, *Certainties and Doubts*, 136.

<sup>81</sup> Heineman *Campus Wars*, 131.

<sup>82</sup> Rapoport, *Certainties and Doubts*, 137.

of the Communist Party.<sup>83</sup> As all of the names in the report documenting this action are redacted, the identity of the individual faculty members cannot be determined from this source; however, it is reasonable to assume that Rapoport would have been among those identified.

Similar memos, however, later indicate the Bureau's perceived success through the result of several faculty members losing their jobs.<sup>84</sup> Such anonymous letters often found their way into the press as the FBI used their privilege with news agencies to spread information that they desired to be made public. In the records of their actions against faculty at the University of Michigan, the FBI listed several news organizations including student newspapers and local news agencies as recipients of the harmful letters.<sup>85</sup> They used their contacts at news agencies big and small to anonymously influence the American public and to subtly apply pressure against individuals and institutions.

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<sup>83</sup> "COINTELPRO New Left Detroit Part 01 of 01," FBI (FBI, May 5, 2011), 94, <https://vault.fbi.gov/cointel-pro/new-left/cointel-pro-new-left-detroit-part-01-of-01/view>.

<sup>84</sup> Cointelpro, Detroit, 32.

<sup>85</sup> Cointelpro, Detroit, 93.

## ANATOL RAPOPORT

Anatol Rapoport was one of the faculty member at the University of Michigan who came under investigation from the FBI. He was a founder of the original *teach-in* in Michigan and helped organize the Washington, D.C. meeting.<sup>86</sup> His experience with harassment from the FBI encapsulated many of the tactics often used in the New Left investigations. A case study of his life and background illustrates the difficulty faced by the Bureau in attempting to establish the innocence of an individual as opposed to their guilt and gives perspective to the lasting impact that the FBI's actions had on the lives of the individuals they targeted.

### *Overview*

According to the Federal Bureau of Investigation [FBI], Anatol Rapoport, a Russian-born professor at the University of Michigan, posed a threat to American democracy and had to be silenced. His crime was his often stated opinion that the United States should not be involved in the Vietnam War and his possible influence from his position as a professor at the University of Michigan who helped create the *teach-in* which became a national phenomenon across college campuses in the United States and Canada.<sup>87</sup> The FBI's strategy to neutralize him included sending letters anonymously to the university president, the governor of Michigan, and other officials to attempt to discredit and remove Rapoport from his position.<sup>88</sup> The FBI utilized this tactic along with several others until he left the country,

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<sup>86</sup> Rapoport, *Certainties and Doubts*, 137.

<sup>87</sup> Rapoport, *Certainties and Doubts*, 136.

<sup>88</sup> Loch K. Johnson, *Spy Watching: Intelligence Accountability in the United States* (New York, NY: Oxford University Press, 2018), 121,

eventually relocating to Toronto, Canada, where he served as a professor at the University of Toronto and a guest lecturer around the world.<sup>89</sup> Rapoport's case, and many like it involving antiwar and civil rights activists, reflects the type of agency overreach and questionable tactics engaged in by the FBI in the 1960s that belatedly caught the attention of Congress and led to Senate hearings and recommendations for reform.

#### *Anatol Rapoport's Background*

Anatol Rapoport's presumed danger originated in part from his birth in Lozovaya, Ukraine in 1911.<sup>90</sup> Through his experience growing up in Russia and Chicago, studying music in America and Vienna before the Second World War, studying mathematical physics at the University of Chicago, and serving in the United States Army Air Corps during the war, Rapoport had developed a pacifistic world view.<sup>91</sup> He believed in the concepts of Communism that he had learned as a child through the Social-Democratic Bolsheviks' 1917 motto of "Down with the War."<sup>92</sup> He was a member of the Communist Party from November, 1938 until he enlisted in the Army Air Corps in December, 1941.<sup>93</sup> While he had been losing faith in the Party for a while, he resigned due to the Party's request that all

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<http://search.ebscohost.com.easydb.angelo.edu/login.aspx?direct=true&db=nlebk&AN=1643144&site=eds-live>.

<sup>89</sup> Loch K. Johnson, "Congressional Supervision of America's Secret Agencies: The Experience and Legacy of the Church Committee," *Public Administration Review* 64, no. 1 (2004): 7, <https://doi.org/10.1111/j.1540-6210.2004.00342.x>.

<sup>90</sup> Rapoport, *Certainties and Doubts*, 9-10.

<sup>91</sup> Rapoport, *Certainties and Doubts*, 65.

<sup>92</sup> Anatol Rapoport, "My Commitment to Peace," ed. Anthony Rapoport, Anatol Rapoport (Anthony Rapoport, May 30, 2020), <http://anatolrapoport.net/2020/05/30/my-commitment-to-peace/>.

<sup>93</sup> Rapoport, *Certainties and Doubts*, 102.

members who enlisted quit the Party to ensure that there was “no basis for suspecting Communists of divided loyalty.”<sup>94</sup> Clearly, this did not keep the FBI from being suspicious of him later in life.

### *World War II Service*

His clear anti-war stance in the 1960s kept him in the sights of the FBI agents who were focusing on “neutralizing” the Communist threat. Still, it was not the first time that the U.S. government investigated him because of his political opinions, nor was it the first time his career prospects were hampered by his unapologetic conversations. While he served in the Army Air Corp during World War II, he worked as a Russian translator in Alaska for the pilots who flew across the Bering Strait for supplies and facilitated American and Russian cooperation. Being fluent in Russian, he enjoyed spending time with the Russian pilots who were members of the project. He also was occasionally invited to dinner with a local banker who was the richest man in Nome. One evening after the meal, his conversation with the banker, the commanding general of the infantry brigade, and the commander of the air base turned to politics. Those three despaired of the New Deal and the “erosion of American values.” Rapoport was “rather outspoken in expressing [his] views” to the contrary.<sup>95</sup>

After the war, the banker met him in Chicago during one of his trips. He surprised him by bringing along Rapoport’s old commanding officer, who informed him that a civilian who had spoken with Rapoport to “inspect the security provisions at the base” was actually there to conduct an investigation into him. A promotion to major that his commanding officer

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<sup>94</sup> Rapoport, *Certainties and Doubts*, 69.

<sup>95</sup> Rapoport, *Certainties and Doubts*, 76-77.

had recommended him for was blocked because of that investigator's report.<sup>96</sup> Even before the Cold War, Rapoport's political views and Russian background put him in the crosshairs for the United States government. However, it was his more recent actions that led to direct investigation and harassment from the FBI.

### *Life in Academia*

Rapoport took his first job as a college teacher at the University of Chicago after choosing to leave the Army. While there, he studied the relativity of values, publishing his thoughts in his book *Science and the Goals of Man*. This work stated many of his foundational thoughts on the conflicts among people on the earth. For example, he developed a theory about the relativity of values among people from different cultures. These unique backgrounds would make individuals perceive the concepts of truth, good, and pleasant differently, contributing to the clashes between ideologies that cause so much pain and strife among peoples and cultures.<sup>97</sup> He taught there until the McCarthy investigations in the 1950s. He expected to be called and made to answer for his involvement in the Communist Party, but he was never asked to testify.<sup>98</sup> When the University dismissed several of his colleagues who were called to testify, he resigned in protest and found a new position in California.<sup>99</sup>

Despite the dangers exposed through the McCarthy hearings, Rapoport continued to speak openly about his convictions and political opinions. While Associate Professor of

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<sup>96</sup> Rapoport, *Certainties and Doubts*, 77.

<sup>97</sup> Rapoport, *Certainties and Doubts*, 88, 97, 100.

<sup>98</sup> Rapoport, *Certainties and Doubts*, 106.

<sup>99</sup> Anthony Rapoport, interviewed by the author over Zoom, March 24, 2021.

Mathematical Biology at the Mental Health Research Institute at the University of Michigan, he joined other faculty members in organizing a teach-in to protest American involvement in the Vietnam War.<sup>100</sup> Rapoport helped to organize the national teach-in in Washington, D.C., for May 15, 1965, that was broadcast across the nation to an estimated fifty campuses. Rapoport's work at both teach-ins contributed to his three-pronged theory of peace: peace research for acquiring relevant knowledge, peace education for disseminating it, and peace activism for applying it.<sup>101</sup> Given Rapoport's former association with the Communist Party and his role in organizing the first teach-in, it is not surprising that he would be among those identified by the FBI as dangerous or, at the very least, interesting.

#### *Rapoport's Peace Research*

In 1966, soon after the start of the teach-ins, Rapoport wrote thirty papers, sixteen of which were on the themes of “war or peace, [and] conflict or conflict resolution.”<sup>102</sup> Alongside Kenneth Boulding, a University of Michigan colleague who had helped to organize the teach-in, he founded the *Journal of Conflict Resolution* which “open[ed] a new field of peace research that would focus social scientific inquiry upon ‘the greatest problem of our time — the prevention of war.’”<sup>103</sup> This type of activity expanded his influence and increased the likelihood of the FBI's interest in him. While they were concerned that he

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<sup>100</sup> Rapoport, *Certainties and Doubts*, 115, 117, 136-137; “Various Professors Listen to the First Teach-in on March 24th, 1965,” *Resistance and Revolution: the Anti-Vietnam War Movement at the University of Michigan, 1965-1972 (Michigan in the World)*, accessed February 8, 2021, <http://michiganintheworld.history.lsa.umich.edu/antivietnamwar/items/show/31>; DeBenedetti and Chatfield, *An American Ordeal*, 107-109.

<sup>101</sup> Rapoport, *Certainties and Doubts*, 138.

<sup>102</sup> Rapoport, *Certainties and Doubts*, 138.

<sup>103</sup> DeBenedetti, *An American Ordeal*, 29.



would lead others into violence which would threaten the United States, he was developing his concept of peace research as an “analogue of medical research.” Just as medical research had eradicated several diseases and prolonged general life expectancy through scientific evidence and research focused on the cause of diseases, he focused on the “necessary conditions of war” such as weapons in order to attempt to create a “cure” for war.<sup>104</sup>

Another influential area of his research during his time in Michigan was his contribution to game theory with the Prisoner’s Dilemma. This non-zero sum game consists of two people answering a simple question, “given a choice between two alternatives what will a person do?”<sup>105</sup> Two individuals who are strangers to each other are given two choices — cooperation with one another or noncooperation. If both choose cooperation, they get a reward. If only one chooses cooperation and the other chooses noncooperation, either the non-cooperating player or the cooperating player gets the reward all to themselves. If both choose noncooperation, their payoff was a “punishment.” Along with Albert Chammah, he conducted three hundred rounds each between all types of people in order to gauge individuals’ reactions. In this research, he discovered one of his most influential concepts — TIT FOR TAT, which is a style of play in which the player responds to a move by playing the same move the next round or “an eye for an eye.”<sup>106</sup>

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<sup>104</sup> Rapoport, *Certainties and Doubts*, 140-141.

<sup>105</sup> Anatol Rapoport and Albert Chammah, *The Prisoner's Dilemma: A Study in Conflict and Cooperation* (Ann Arbor , Michigan: The Ann Arbor Press, 2009), vii.

<sup>106</sup> Rapoport, *Certainties and Doubts*, 126-127. For further reading on the Prisoner’s Dilemma in layman's terms, Shirli Kopelman’s article “Tit for Tat and Beyond: The Legendary Work of Anatol Rapoport published in the February 2020 volume of *Negotiation and Conflict Management Research* gives further information in very understandable terms.

His research partner, Chammah, later discovered that “TIT FOR TAT tends to elicit more cooperation from the co-player than any other strategy.”<sup>107</sup> Rapoport translated this into a computer strategy that won two separate tournaments testing out the Prisoner’s Dilemma.<sup>108</sup> The takeaway from this discovery was a theory of strategic negotiation in which the negotiator “learns to utilize the common interests of antagonists to his own advantage so as to get his own way without risking outcomes disastrous for both.”<sup>109</sup> His son Anthony recalls that Rapoport dedicated his life to researching those concepts and developing a strategy to further peace research.<sup>110</sup>

### *The FBI’s Involvement in Rapoport Life*

A memo from June 1968 likely marks one of the FBI’s attempts to discredit Anatol Rapoport and harm his career. It requests permission to send letters to a list of many influential community leaders and groups such as the University of Michigan Alumni Association, the local state senator, the local state representative, the regents of the University of Michigan, and the local newspaper *The Ann Arbor News*. A list of individuals of concern, including several professors and reverends whose names are all redacted, were specified as subjects of dissemination of public records through anonymous letters designed to strike fear into the reader and discredit the individuals mentioned.<sup>111</sup> Because of the

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<sup>107</sup> Rapoport, *Certainties and Doubts*, 127.

<sup>108</sup> Shirli Kopelman, “Tit for Tat and Beyond: The Legendary Work of Anatol Rapoport,” *Negotiation and Conflict Management Research* 13, no. 1 (February 18, 2019): n.p., <https://doi.org/10.1111/ncmr.12172>.

<sup>109</sup> Rapoport, *Certainties and Doubts*, pg. 127.

<sup>110</sup> Anthony Rapoport interview, March 24, 2021.

<sup>111</sup> Cointelpro, Detroit, 90.

ensorship, it cannot be confirmed that he was one of those individuals specifically attacked in this memo; the tactics, however, line up well with those identified to have been used against Rapoport.<sup>112</sup>

Around the same time, a government agent met Rapoport outside his house and asked him to come into the government office for a talk. He described the agents as “annoyingly polite and friendly.” They spoke with him about his ties to the Communist Party, which he gladly explained. He had felt that he had escaped persecution in Chicago and wanted a chance to stand up for his beliefs.<sup>113</sup> The agents who spoke to him explained that “they were neither interested nor empowered to intimidate any one, that to do their job properly (guarding the internal security of the country) they had to be informed about everything that was going on.”<sup>114</sup> They discussed his political beliefs, with the agents “asking intelligent questions and offering mild counter-arguments.” While he never specified what government agency these agents were from, the tactics and job description line up almost perfectly with COINTELPRO and recorded tactics from the FBI at the time. Rapoport said of the meeting, “I enjoyed myself” which seemed to both annoy and calm him.<sup>115</sup>

He enjoyed a meeting with a member of the university administration much less. The administrator confronted him with information claiming that he had associated with “subversives” in the 1930s, citing several Communist fundraising events where Rapoport played piano. Rapoport asked “defiantly” what the administrator was going to do to which he

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<sup>112</sup> See Johnson, *Spy Watching*, 121, for tactics used against Rapoport.

<sup>113</sup> Rapoport, *Certainties and Doubts*, 141-142.

<sup>114</sup> Rapoport, *Certainties and Doubts*, 142.

<sup>115</sup> Rapoport, *Certainties and Doubts*, 142.

replied “nothing.” In both of these meetings he described being disarmed and feeling that becoming self-righteous would not be appropriate in the face of very little hostility.<sup>116</sup> He survived this attack that was likely orchestrated by the FBI, but other colleagues did not as, two years later, the “termination” of several faculty members is listed under significant accomplishments of the COINTELPRO program in the Detroit Field Office.<sup>117</sup>

There are only a few tactics which can be definitively confirmed to have been used against Rapoport. Malicious letters were certainly sent to his colleagues, as was confirmed by Rapoport’s dealings with his administrator. These letters, signed “a concerned citizen” or “a concerned taxpayer” also went to prominent citizens throughout the state in order to ruin his reputation. Additionally, an FBI agent tasked a source with reporting on Rapoport’s “subversive” activities and sent them to his classes to report on his teachings.<sup>118</sup> They placed an incredible amount of pressure on Rapoport in an attempt to limit his sphere of influence.

#### *Life after the FBI*

In 1970, Rapoport moved to a new position as a faculty member in Canada. His son, Anthony, recalls several reasons that Rapoport chose to leave the United States, not least of which was the approaching draft age of his sons. He also had a sense that things could become much worse in the United States, both generally and personally. Additionally, he disliked feeling a responsibility to engage in American politics if he stayed along with the salesmanship that seemed necessary in order to have any influence. This led directly into the final reason, which consisted of his feeling that he would likely never be able to change the

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<sup>116</sup> Rapoport, *Certainties and Doubts*, 142.

<sup>117</sup> Cointelpro, Detroit, 32.

<sup>118</sup> Johnson, “Congressional Supervision of America’s Secret Agencies,” 5.

commitment of those in power to secret activities and the institution of war.<sup>119</sup> In this Canadian professorship in both the psychology and mathematics departments, Rapoport lived a satisfying life. His reputation in the fields of game theory and conflict resolution continued to expand, and he used his writings to continue to press for peace and cooperative engagement among people. He was able to travel the world as a guest lecturer, write four additional books, and spend quality time with his family.<sup>120</sup>

### *Conclusion*

Anatol Rapoport was overall quite fortunate. While he was targeted for his beliefs and opinions, he maintained his professional reputation and made a satisfying life for himself and his family.<sup>121</sup> Many of his friends were not as fortunate. The Bureau notes that some of them were able to find other positions after they were let go from their professorships. Still, not all individuals they targeted were able to move on and successfully continue their lives.<sup>122</sup>

Anatol Rapoport left the University of Chicago and was able to find another position when several of his colleagues were investigated and harassed by the McCarthy investigations of the 1950s.<sup>123</sup> Several of his peers at the University of Michigan were targeted and removed from their professional positions. At the same time, he was able to leave the country and find a fulfilling job in Canada. This should not, however, be interpreted as doing no harm to Rapoport since being essentially forced out of his adopted homeland to preserve his

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<sup>119</sup> Anthony Rapoport interview, March 24, 2021.

<sup>120</sup> Rapoport, *Certainties and Doubts*, 149.

<sup>121</sup> Anthony Rapoport interview, March 24, 2021.

<sup>122</sup> "COINTELPRO New Left Detroit Part 01 of 01," FBI (FBI, May 5, 2011), 32, <https://vault.fbi.gov/cointel-pro/new-left/cointel-pro-new-left-detroit-part-01-of-01/view>.

<sup>123</sup> Anthony Rapoport, interview, March 24, 2021.

livelihood and ensure the safety of his family is an action he cannot have taken lightly. While he was largely unaware of the extent of the FBI's actions to discredit him, knowing that he could not fully express his convictions without repercussions to his career had to weigh heavily on a man of his integrity. The FBI's targeting and intense program of being judge, jury, and (career) executioner was highly illegal and deserved all of the critiques and recommendations made by the Church Committee.

## THE CHURCH COMMITTEE

### *Establishment*

By the 1970s, American citizens were greatly suspicious of the intentions and actions of their government. This came from their experiences with events like the Tet Offensive and the Watergate Scandal discussed in the preface. They learned to be wary of government officials and to consider if they were truly acting in their best interests or even telling the truth. This distrust led to the election of many young, reform-minded individuals to the Senate in 1974.

Not surprisingly, with these individuals in office, the discovery of overreach within the Intelligence Community led to heated debates. Historically, the Central Intelligence Agency [CIA] or Federal Bureau of Investigation [FBI] lacked involvement or challenges to their practices by Congress.<sup>124</sup> On January 21, 1975, Senator John Pastore (D-RI), an influential senator, sponsored the Resolution to establish an investigative committee into the illegal actions of the CIA and FBI which had been alleged in newspapers. He opened the debate by saying:

In recent weeks and in recent months, there have been charges and counter charges spelled out on the front page of every newspaper in this country... The people of America... are asking themselves, ‘what is actually happening to those organizations which are essential for the security and the survival of our great Nation?’ In order to clear the air, in order to cleanse whatever abuses there have been in the past, so that we can recite, once and for all, the proper parameters within which they can function [*sic*]<sup>125</sup>

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<sup>124</sup> Johnson, *A Season of Inquiry Revisited*, 2. A helpful definition of Congressional oversight from this same source is “the monitoring of executive branch conduct by Congress.

<sup>125</sup> *Congressional Record*, 21 January 1975, S524-S529 cited in Johnson, *A Season of Inquiry Revisited*, 8; Pastore was a prominent member of Congress for almost thirty years from 1949-1977. One of his most famous and notable actions was his interaction with Mr. Fred Rogers in 1969 over budget cuts to the Corporation of Public Broadcasting which is a masterclass in

The Resolution was placed on the calendar, and the Senate unanimously consented to hold two hours of debate followed by a vote on the passing of the Resolution which would create an investigative committee.<sup>126</sup> The debate was split between two camps, those who subscribed to the concept of honorable men and women doing their best who should be left to their own devices and those who believed that the potential for abuse was too great and necessitated more thorough checks and balances. Senator Barry Goldwater (R-AZ) argued that, similarly to military operations, the President of the United States is the individual responsible for agencies “getting into fields... they did not want to get into.”<sup>127</sup> Pastore responded, “The important thing here is to restore public confidence so that these agencies, in the final analysis, will be responsive. That is what this is all about.”<sup>128</sup> Despite the apparent division, the Resolution passed with eighty-two yeas and only four nays.<sup>129</sup>

The formation of the Church Committee began with Senate Resolution 21 which states:

*Resolved*, To establish a select committee of the Senate to conduct an investigation and study of governmental operations

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negotiation and open dialogue between individuals holding opposing viewpoints. This illustrates the culture of reform that had spread through all of Congress from the freshmen Senators to some of the most senior. For further information see Mark Patinkin’s article “Recalling when Mister Rogers softened a tough Rhode Island senator” in the *Providence Journal*. <https://www.providencejournal.com/news/20170531/mark-patinkin-recalling-when-mister-rogers-softened-tough-rhode-island-senator>.

<sup>126</sup> *Congressional Record*, “Volume 121, Part 34 (January 14, 1975 to December 19, 1975),” Gov Info (94th Congress, 1st Session, December 19, 1975), D9, <https://www.govinfo.gov/app/details/GPO-CRECB-1975-pt34/GPO-CRECB-1975-pt34-1/summary>.

<sup>127</sup> Johnson, *A Season of Inquiry Revisited*, 8.

<sup>128</sup> Johnson, *A Season of Inquiry Revisited*, 9.

<sup>129</sup> Johnson, *A Season of Inquiry Revisited*, 9.



with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons acting individually or in combination with others, with respect to any intelligence activity carried out by or on behalf of the Federal Government.<sup>130</sup>

The Resolution continued to establish the makeup of the Select Committee To Study Governmental Operations with Respect to Intelligence Activities. The eleven members of the Committee were to consist of six Senators appointed by the President of the Senate from the Democratic majority and five Senators from the Republican minority.<sup>131</sup> The majority members of the Committee would select the Chairman and the minority members would select the Vice Chairman.<sup>132</sup>

#### *Members of the Committee*

Senator Pastore desired to see “new blood and faces” on this committee.<sup>133</sup> Michael “Mitch” Mansfield, the leader of the Democratic majority from 1961 to 1977, said of the Democratic members, “What I tried to do was bring about a mix based on philosophy, geography, and the like.”<sup>134</sup> Even though seven of the eleven committee members were over the age of fifty, they were relatively young when considering the Senate as a whole at the time.<sup>135</sup> Many of these distinguished senators on the Church Committee were strong,

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<sup>130</sup> Senate Resolution 21, (94th Congress 1st Session) January 21, 1975. 1. <https://www.senate.gov/about/resources/pdf/church-committee-sres21.pdf>.

<sup>131</sup> SR 21, 2.

<sup>132</sup> SR 21, 2; Johnson, *A Season of Inquiry Revisited*, 10.

<sup>133</sup> Johnson, *A Season of Inquiry Revisited*, 13.

<sup>134</sup> Senate Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, 21 January 1976, 17-18.

<sup>135</sup> Johnson, *A Season of Inquiry Revisited*, 13.

opinionated individuals who dedicated themselves to ensuring the fairness and accuracy of their own reports as well as those from the opposing party.

The following Senators were selected to serve for the Democratic Party: Frank Church (Idaho), Philip A. Hart (Michigan), Walter F. Mondale (Minnesota), Walter D. Huddleston (Kentucky), Robert Morgan (North Carolina) and Gary Hart (Colorado).<sup>136</sup> Republican Senators selected were: Howard Baker (Tennessee), Barry Goldwater (Arizona), John Tower (Texas), Charles Mathias (Maryland), and Richard Schweiker (Pennsylvania).<sup>137</sup> Of these individuals, the Democratic members of the Committee selected Frank Church to serve as the Chairman, and the minority members selected John Tower to serve as the Vice Chairman. The selection of the Committee members reflected both the gravity of the situation and the desire to provide a representative cross-section of the respective parties.

Originally, Mitch Mansfield wanted to back Philip Hart for the position of Chairman, but Hart's poor health led to Frank Church lobbying for the position.<sup>138</sup> According to friends, Church "almost knocked down Mansfield's door to get it."<sup>139</sup> Church was profiled as a

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<sup>136</sup> Johnson, *A Season of Inquiry Revisited*, 10-11.

<sup>137</sup> Senate Historical Office, Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, <https://www.senate.gov/about/powers-procedures/investigations/church-committee.htm>.

<sup>138</sup> Johnson, *A Season of Inquiry Revisited*, 10; "Mansfield, Michael Johnson 'Mike'" Biographical Directory of the United States Congress, accessed March 31, 2021, <https://bioguide.congress.gov/search/bio/M000113>.

<sup>139</sup> Johnson, *A Season of Inquiry Revisited*, 10. While this wording suggests that Mansfield appointed the committee head, the rules state that it is selected by members of the committee in the same party. This attitude seems to reflect the power that the party leader had over the choices made by their fellow members at the time.

“moral lightning rod.”<sup>140</sup> In some eyes, he was a strong candidate for the position because of his status as newly elected to a fourth term.<sup>141</sup> He vocally questioned America’s involvement in Vietnam in the 1960s and called America “the principal arms dispenser of the world.” In the mid-1970s, he opposed enhanced presidential powers when then-Secretary of Defense Melvin Laird argued that the Feed and Forage Act of 1861, an act allowing for the purchase of feed for cavalry horses after the allocated funds ran out if Congress was not in session, allowed President Nixon to keep U.S. troops in Cambodia even after Congress cut off the budget.<sup>142</sup> Church also co-chaired the Special Committee on National Emergencies, “a major effort to rein in the national security state with its expansive presidential authority.”<sup>143</sup> All of this experience uniquely qualified Church to take on possible overreach by secret agencies as well as presidents.

Philip Hart was another particularly prominent member on the Democratic side. Even though Hart declined to become the chairman of the Committee due to the cancer that would claim his life in 1976, Mansfield wanted his expertise on the team. Hart had served in the United States Army during the Second World War and was injured on D-Day during the assault on Normandy. He had been a Senator for Michigan since 1959 and had been an influential individual throughout his tenure.<sup>144</sup> Hart was particularly noted for his advocacy

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<sup>140</sup> Aiken, “Senator Church and His Constituents,” in Miller, *US National Security, Intelligence and Democracy*, 77.

<sup>141</sup> Ashby, “The Church Committee’s history and relevance,” in Miller, *US National Security, Intelligence and Democracy*, 59.

<sup>142</sup> Ashby, “The Church Committee’s history and relevance,” 59.

<sup>143</sup> Ashby, “The Church Committee’s history and relevance,” 59.

<sup>144</sup> “Hart, Philip Aloysius,” - Retro Member details, accessed April 5, 2021, <https://bioguideretro.congress.gov/Home/MemberDetails?memIndex=H000291>; Michigan in the World and Environmental Justice HistoryLab, “Senator Philip A. Hart,” Omeka RSS

of civil rights and consumer protection. He chaired the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee and played a significant role in the passing of the Voting Rights Act of 1965. Before his death, his fellow Congressmen honored Hart by naming the new Senate building after him.<sup>145</sup>

Walter Mondale, Democratic Senator from Minnesota, also had strong credentials for membership on the Church Committee. He shored up his opinions on the investigations by writing his book *The Accountability of Power* (1975) which dealt with the things that “we as Americans must do to protect our system and our liberties from the encroachment of an unaccountable presidency.”<sup>146</sup> He explored running for President in 1976; in fact, his declaration that he would not seek the Democratic nomination in 1974 surprised even his wife. He chose to withdraw to ensure that he did not lose his individuality and identity. To him, this endeavor would include having to sell himself which he did not want to do. This choice, however, raised his profile throughout the nation. His membership on both the Finance Committee and the Budget Committee point to his leadership within the Senate.<sup>147</sup> Of particular note for this project, Mondale was the individual most interested in the domestic spying issues, while others were more focused on the Intelligence Community’s actions with regard to foreign affairs. Because of this, Church asked him to lead the subcommittee investigating allegations of domestic spying under which the FBI’s

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(University of Michigan History Department), accessed April 6, 2021, [http://michiganintheworld.history.lsa.umich.edu/environmentalism/exhibits/show/main\\_exhibit/origins/wilderness-act/sleeping-bear](http://michiganintheworld.history.lsa.umich.edu/environmentalism/exhibits/show/main_exhibit/origins/wilderness-act/sleeping-bear).

<sup>145</sup> Michael O'Brien and William B. Pickett, “Book Review: Philip Hart: The Conscience of the Senate,” *Indiana Magazine of History* 92, no. 4 (December 1996): 377.

<sup>146</sup> Lewis, *Mondale*, 226.

<sup>147</sup> Lewis, *Mondale*, 206, 212, 218, 221.

COINTELPRO falls.<sup>148</sup> His experience and opinions made him a good fit for working with the Committee.

Gary Hart, a first-time Senator from Colorado, was appointed to the Committee three weeks after his election to Congress. He credits the experience as a steep learning curve and important education that he had not expected to receive from the Senate.<sup>149</sup> Prior to becoming a senator, he earned a law degree from Yale University and served as an attorney for the Department of Justice from 1964-1965 and for the Interior Department from 1965-1967.<sup>150</sup> While this prior experience could have encouraged Mansfield to put him on the Committee, his selection most likely represents an appeasement of the new reform faction within the party and an attempt to bring in a representative from the western states.

Republican choices also signify the commitment to the investigation of the issue at hand. Texas Senator John Tower brought gravitas and experience to the team. After Lyndon B. Johnson vacated his position to become the Vice President, Tower became the first state-wide elected Republican in Texas since Reconstruction. The fact that he retained his position after that first election shows his ability to communicate both across the political aisle and with his constituents in Texas. During his tenure in the Senate, he became the father of the modern Republican party in Texas.<sup>151</sup> This influence and longevity is just one example of his ability to lead in difficult situations. Hugh Scott, the leader of the Senate Republicans,

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<sup>148</sup> Johnson, *Congressional Supervision of America's Secret Agencies*, 3.

<sup>149</sup> Gary Hart, "Liberty and Security," in Miller, *US National Security, Intelligence and Democracy*, 15.

<sup>150</sup> "Hart Gary Warren," Biographical Directory of the U.S. Congress - Retro Member details, accessed April 5, 2021, <https://bioguideretro.congress.gov/Home/MemberDetails?memIndex=h000287>.

<sup>151</sup> Riddlesperger and Champagne, *Lone Star Leaders*, 159.

designated Tower to become the “damage control officer” when he assigned him to the Church Committee. Tower saw the investigation as “an extension of the Watergate hearings.” His schedule already included being the chairman of the Republican Policy Committee and a ranking member of the Committee on Banking, Housing, and Urban Affairs.<sup>152</sup> He also served on the Armed Services Committee for the last twenty years of his career, including during the Church Committee’s investigations.<sup>153</sup> His abilities as a “people manager” and his impressive history of fourteen years in the Senate led to his position as the vice chairman of the Committee.<sup>154</sup>

Joining Tower on the Republican side was Barry Goldwater (R-AZ), who was already well-known throughout the nation due to his ill-fated Presidential campaign in 1964.<sup>155</sup> Fearmongering, detailed in Lionel Lokos’ book *Hysteria 1964*, plagued his campaign. Goldwater is often quoted as saying, “Extremism in defense of liberty is no vice; moderation in the pursuit of justice is no virtue.”<sup>156</sup> This quote, derived from Cicero, is strong, divisive, and memorable. It describes what many credited as his downfall - namely that he did not publicly distance himself from the extremists at the Right, which made some constituents believe that he stood by assertions made by these groups. One such group, the John Birch society, stated that Eisenhower was “the most completely opportunistic and unprincipled

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<sup>152</sup> Tower, *Consequences*, 132-133.

<sup>153</sup> Riddlesperger and Champagne, *Lone Star Leaders*, 165.

<sup>154</sup> Tower, *Consequences*, 33; Johnson, *A Season of Inquiry Revisited*, 13.

<sup>155</sup> Lokos, *Hysteria 1964*, 14.

<sup>156</sup> Cook, *Barry Goldwater*, 7.

politician America has ever raised to high office.”<sup>157</sup> This exemplified the type of beliefs that his opponents accused him of holding. His condemnation of “moderation in the pursuit of justice” opened his beliefs to ridicule by his political enemies. Because extremist groups supported his candidacy, some believed that he did not deserve to be nominated.<sup>158</sup> However, he also said, “if a man told the truth, that if a man acted according to his honest convictions and the feelings of his heart, that man, even though defeated, would be a man who could live with himself in the years to come.”<sup>159</sup>

After his defeat, he returned to service within the Senate. His ability to return to the Senate shows his tenacity. He ran on his reputation as “honest, sincere, saying what he thinks” which allowed him to be a divisive but strong Senator in his various roles on committees.<sup>160</sup> At the time of the investigation, he served on the Armed Services Committee with Tower and had experience in intelligence oversight.<sup>161</sup> His perspective and willingness to speak his mind made him an invaluable asset to Tower in their participation in the investigation.<sup>162</sup>

#### *Procedures of the Committee*

One of the first orders of business after the resolution to create the investigation passed was the formation of the Committee’s procedures and specific goals. The Committee

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<sup>157</sup> Quoted in Cook, *Barry Goldwater*, 131.

<sup>158</sup> Cook, *Barry Goldwater*, 169.

<sup>159</sup> Quoted in Peter Iverson, *Barry Goldwater: Native Arizonan* (Norman, OK: Univ Of Oklahoma Press, 1998), 66.

<sup>160</sup> Iverson, *Barry Goldwater: Native Arizonan*, 130.

<sup>161</sup> Johnson, *A Season of Inquiry Revisited*, 14.

<sup>162</sup> Tower, *Consequences*, 133.

created twelve rules. These rules set the foundation for the progress of the Committee. They established the path that the Congressmen intended to follow. They wanted to hold the Intelligence Community accountable for their actions in front of the public. The first rule dealt with the parameters for calling meetings of the Committee. Not only were regular meetings scheduled but special meetings could be called by either the Chairman or by the written request of six or more members of the Committee. The second rule dealt with the conduct of those meetings. As much as possible, they were to be open to the public. They also allowed for the possibility of closed hearings for more sensitive information, but they remained firm to ensure that for the most part officials came and justified their decisions in front of them and the nation. Rule three established that any meeting open to the public would be subject to photographic, radio, television, or any other media coverage.<sup>163</sup> Establishing within the rules that their hearings could be covered by the media showed their commitment to accountability and honoring the public's right to know.

Rule four stated that investigations into any facet of the Intelligence Community could only be initiated if a majority of the members of the Committee specifically authorized it; however, a specific member could pursue any inquiry individually unless a majority vote of the members of the Committee prohibited it specifically.<sup>164</sup> This established that individuals from either side of the political aisle would be able to focus their inquiry in the direction that they found the most important and impactful. This doubled down on their commitment to bipartisanship.

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<sup>163</sup> Church Report, "Rules and Procedures," 1-2.

<sup>164</sup> Church Report, "Rules and Procedures," 2.



Rule five gave the Chairman the power to issue subpoenas for witnesses, memoranda, documents, records, or any other material. The Chairman, in conjunction with the Vice Chairman, could also delegate other members this authority. Finally, the fifth rule stipulated that each subpoena had to include a copy of Senate Resolution 21, 94th Congress, 1st Session. Rule six established the following standards for taking testimony: the witness must be given prior notice and an oath of affirmation; they could bring or be provided counsel; they could make a statement at the beginning and closing of their testimony; and they would be given the opportunity to inspect and correct their statements.<sup>165</sup> This final commitment to allowing individuals to check the voracity of their statements, including giving them the opportunity to see how they were understood by their listeners, likely greatly assured potential witnesses of the Committee's intention to truthfully portray the material they gathered rather than twisting the facts to fit their agenda.

The seventh rule created Procedures for Handling Classified or Sensitive Material. These established security precautions for the staff offices such as a security guard and identification protocols as well as creating secure reading facilities for sensitive or classified documents and materials and reiterating the need for adherence to the protection rule of "need-to-know" to prevent the spread of classified materials.<sup>166</sup> Developing this culture of respect for the sensitive material in the official Rules of Procedure likely helped to convince the intelligence agencies of the Committee's commitment to treating the subject of their investigation carefully. Rule eight provided guidelines to ensure that Committee members

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<sup>165</sup> Church Report, "Rules and Procedures," 2-4.

<sup>166</sup> Church Report, "Rules and Procedures," 4.

had ample time to prepare for meetings.<sup>167</sup> This shows respect for the busy lives that all of the Committee members led and discouraged partisan manipulation of the meeting time in an attempt to sway the investigation in a particular direction.

Rule nine stated that staff members and consultants had to be appointed and confirmed by the vote of the Committee. It authorized the Chief Counsel and Staff Director to oversee the day-to-day running of the staff and investigation. This sensible establishment of dedicated individuals to run interference between the mammoth staff and the incredibly busy Committee members allowed for quite a bit of stability within the investigation so that progress would continue even when the Senators were traveling or unavailable due to their other commitments. Rule ten bestowed the Chairman with the authority to discover locations and experts to ensure that the investigation could proceed at a reasonable pace. Rule eleven provided for recommendations by the Committee as a whole and separate opinions of individual Committee members.<sup>168</sup> Once again, this signals the intention of bipartisanship even in their final report. Not requiring that such disparate minds come to a single conclusion allowed for a consensus to be reached without any person being required to sign off on a concept with which they did not agree. Finally, the twelfth rule allowed for amendments to the rules.<sup>169</sup> They acknowledged the possible fluidity of their situation by establishing ways in which they could change their rules.

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<sup>167</sup> Church Report, “Rules and Procedures,” 5.

<sup>168</sup> Church Report, “Rules and Procedures,” 5-6.

<sup>169</sup> Church Report, “Rules and Procedures,” 6.

The progress made by establishment of these rules was bolstered by the creation of task forces to tackle different issues.<sup>170</sup> Staff members were split up to cover the following areas: military intelligence, domestic intelligence, foreign intelligence, and the relationship between the White House and the Intelligence Community which the investigators called Command and Control.<sup>171</sup> These task forces were manned by fifty-three investigators and the Senate allocated enough funds to hire 135 staff members in order to conduct a thorough investigation.<sup>172</sup> Congress conferred security clearances on those staff members after the FBI conducted background checks on them. They did not have to take polygraph tests because of the general attitude within the Senate that they were “twentieth-century witchcraft.”<sup>173</sup> This expedited the process and allowed the team to come together quickly in order to begin investigating the various charges.

Frederick A. O. Schwarz Jr. was hired as the Chief Counsel or head lawyer of the Congressional inquiry. Schwarz made the judgment call early on that “The best we could do was to pick out ten, fifteen, maybe even twenty subjects and get really into depth.”<sup>174</sup> He focused on the chronology of alleged abuses to get the investigation started in an orderly manner. Schwarz then created a discovery plan to identify records necessary from each agency and established a fact-finding strategy. This strategy allowed for focused requests for

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<sup>170</sup> German and Schwarz, “Rethinking Intelligence: Interview with Frederick A. O. Schwarz, Jr.”

<sup>171</sup> Johnson, *A Season of Inquiry Revisited*, 19-20.

<sup>172</sup> Marc B. Langston, “Rediscovering Congressional Intelligence Oversight: Is Another Church Committee Possible Without Frank Church?,” *Texas A&M Law Review* 2, no. 3 (2015): 455, <https://doi.org/10.37419/lr.v2.i3.3>; Johnson, *A Season of Inquiry Revisited*, 20.

<sup>173</sup> Langston, “Rediscovering Congressional Intelligence Oversight,” 455.

<sup>174</sup> Quoted in Johnson, *A Season of Inquiry Revisited*, 22.

documents from the White House and the intelligence agencies and ensured a limited scope of requests. Then, based on these documents, staffers prepared initial questions to investigate and requested follow-up documentation. Finally, a preliminary list of key witnesses was created using the information gathered in discovery.<sup>175</sup>

In his article for the *Washington Post*, Harry Rositzke, who retired from the CIA after twenty-seven years of service, commented that the scope and responsibilities of the Committee were “to establish facts, judge their legality or illegality, and recommend executive or legislative remedies if they are needed.”<sup>176</sup> This succinctly defined the huge challenge facing the Committee and their staff. First, they planned to hold hearings with key witnesses, heads of agencies and departments in March, which would be followed by testimony about key cases throughout May and June. The following two months were set aside to create the reforms, leaving September to wrap up their report.<sup>177</sup> In reality, the Committee found the process to be much more complicated and time consuming than their estimate. The investigation and reports were finalized April 26, 1967, seven months after their original deadline.<sup>178</sup>

Although tension definitely existed between the two political parties involved in the Committee, an impressive level of bi-partisanship prevailed, especially between the Chairman and Vice Chairman of the Committee. According to Schwarz, the typical ratio of

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<sup>175</sup> Johnson, *A Season of Inquiry Revisited*, 23.

<sup>176</sup> Harry Rositzke, “The Names in CIA Files: Some Belong, Some Don't,” *Washington Post*, February 2, 1975, <http://jfk.hood.edu/Collection/White%20Materials/Security-CIA/CIA%201018.pdf>.

<sup>177</sup> Johnson, *A Season of Inquiry Revisited*, 23.

<sup>178</sup> Church Report, *Book II*.

the two parties for Congressional Committees would have been seven Democrats to four Republicans as opposed to the much more similar six and five respectively that made up the Church Committee. This helped to encourage more diverse thinking rather than giving an advantage to the party beliefs of the Democrats. The role of Vice Chairman proved to be a substantive job as opposed to the titular role often given to the ranking minority member on other committees.<sup>179</sup> Tower and Church met with President Ford as a unit when they went to request forms and information from him. While the cooperation from secret agencies was not always easily achieved, the investigators for the most part worked together across the aisle to fulfill the ultimate goal of exposing and fixing the issues within intelligence agencies and their ultimate leader the White House.<sup>180</sup>

Over the course of fifteen months, the Church Committee and their staff held 126 full committee meetings and 40 subcommittee hearings, interviewed some 800 witnesses in both public and closed sessions, and analyzed 110,000 documents.<sup>181</sup> The public hearings with prominent officials within the Intelligence Community took place through September, October, November, and December. Highlights of the hearings included details of abuse by multiple agencies, including the FBI, CIA, Internal Revenue Service (IRS), and the National Security Agency.<sup>182</sup> Among the more sensational cases dealt with in public hearings were

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<sup>179</sup> Schwarz and German, “Rethinking Intelligence: Interview with Frederick A. O. Schwarz, Jr.”

<sup>180</sup> Johnson, *A Season of Inquiry Revisited*, 25-29.

<sup>181</sup> Senate Historical Office, “Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities,” U.S. Senate: Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, February 26, 2021, <https://www.senate.gov/about/powers-procedures/investigations/church-committee.htm>.

<sup>182</sup> Senate Historical Office, “Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities,” U.S. Senate: Senate Select Committee to Study

CIA assassination and biological testing programs, White House and IRS domestic surveillance activities, and FBI involvement in the Civil Rights and anti-Vietnam War movements.

The public hearings mostly consisted of interviews with officials within each agency of concern. For example, Tom Huston, of the Huston Plan which allowed for wide-scale mail opening programs for the CIA, testified before the Committee about his perspective on the threat towards the nation at the time which warranted the large scale privileges that he had argued should be allowed for intelligence agencies.<sup>183</sup> William Sullivan, an Assistant Director with the FBI, gave his testimony regarding the FBI's COINTELPRO which he had helped to create.<sup>184</sup> Several of the agency's other top officials, including the FBI's White House liaison during the Johnson Administration, Cartha "Deke" DeLoach, gave their testimony to flesh out the information that the Committee found in all of the memoranda that they collected.<sup>185</sup> CIA director William Colby was also called and questioned. Each hearing had the goal of both educating the public and holding the decision makers accountable for their actions. While these hearings did greatly exceed the time limit that had been created during the planning process, the Committee chose to proceed with hearings only when a subject was "adequately researched" rather than holding public hearings just to hold them.<sup>186</sup>

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Governmental Operations with Respect to Intelligence Activities, February 26, 2021, <https://www.senate.gov/about/powers-procedures/investigations/church-committee.htm>.

<sup>183</sup> Johnson, *A Season of Inquiry*, 82.

<sup>184</sup> Cunningham, "The Patterning of Repression," 214.

<sup>185</sup> Church Report, *Book II*, 228, 232.

<sup>186</sup> Johnson, *A Season of Inquiry*, 88.

Another element of the investigative process was the meetings between staff members and victims of the overreach of various agencies, including the FBI's COINTELPRO. Loch K. Johnson, a staff member who has written prolifically about his experience with the Church Committee, specified that these meetings were only arranged in those cases that were especially egregious.<sup>187</sup> He personally met with Anatol Rapoport and showed him the declassified FBI files enumerating the actions taken against him because of his attempts to live out the American ideals of free speech and public debate over policy.<sup>188</sup> Rapoport's son Tony recalls that his father was not surprised by the investigation — he had been through a similar investigation while applying for legal permanent residency in Canada with the Royal Canadian Mounted Police — but he was shocked by the extent of the actions taken against him.<sup>189</sup> Tony said that his father was impressed with Johnson's breadth of knowledge and was surprised by his openness.<sup>190</sup> Anatol Rapoport and his family left before his career prospects were ruined, but his meeting with Loch Johnson was able to provide closure years after his multi-layered decision to relocate.

By the end of the investigation, the Church Committee published their Final Report which consisted of seven books, all dealing with different issues that they had investigated in their different task forces. Each book ranged from 105 pages to 995 pages. Each thorough report included the background of each issue as well as the abuses that had been discovered

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<sup>187</sup> Johnson, in email communication with the author, March 22, 2021.

<sup>188</sup> Johnson, *Spy Watching*, 121.

<sup>189</sup> Anthony Rapoport interview, March 24, 2021.

<sup>190</sup> Anthony Rapoport interview, March 24, 2021.

followed by findings and recommendations in order to combat the potential abuse that was discovered by the Church Committee.<sup>191</sup>

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<sup>191</sup> Senate Historical Office, “Intelligence Related Commissions, Other Select or Special Committees and Special Reports,” Intelligence Related Commissions, Other Select or Special Committees and Special Reports | Intelligence Committee, accessed April 8, 2021, <https://www.intelligence.senate.gov/resources/intelligence-related-commissions>.



## CHURCH COMMITTEE RECOMMENDATIONS AND FINDINGS

### *Findings*

The Church Committee established seven general findings in response to the actions of the FBI and other secret agencies against United States citizens. These findings and recommendations were carefully outlined in 204 of the 341 pages of the report. They focused on the following topics: violating and ignoring the law, overreach of domestic intelligence activity, excessive use of intrusive techniques, using covert action to disrupt and discredit domestic groups, political abuse of intelligence information, inadequate controls on dissemination and retention of information, and deficiencies in control and accountability. Each finding had several subfindings to help identify and analyze the characteristics shared by intelligence programs operating in violation of the law.<sup>192</sup>

#### Violating and Ignoring the Law

The most egregious element identified by the first finding, violating and ignoring the law, can be summarized in the following sentence: “While intelligence officers on occasion failed to disclose to their superiors’ programs which were illegal or of questionable legality, the Committee finds that the most serious breaches of duty were those of senior officials, who were responsible for controlling intelligence activities and generally failed to assure compliance with the law.”<sup>193</sup>

In direct violation of Sections 1701-1703 of Title 18 of the United States Code — which prohibits the obstruction, interception, or opening of mail, the FBI and the CIA instituted 12 different covert mail opening programs between 1940 and 1973. During this

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<sup>192</sup> Church Report, *Book II*, 137.

<sup>193</sup> Church Report, *Book II*, 137.

time, they both carried out warrantless “surreptitious entries” which violated state laws pertaining to trespass and burglary. The rights of countless Americans protected by the Fourth Amendment were violated by the FBI’s electronic surveillance program that failed to meet the standard of a substantial national security predicate. COINTELPRO specifically violated federal and state statutes in regard to mail fraud, wire fraud, incitement to violence, sending obscene material through the mail, and extortion. The Committee found that “fundamentally, the harassment of innocent citizens engaged in lawful forms of political expression did serious injury to the First Amendment guarantee of freedom of speech and the right of the people to assemble peaceably and to petition the government for a redress of grievances.”<sup>194</sup> All of these programs were in direct violation of local, state or federal statutes and greatly undermined the ability of these agencies to uphold the law.

The lack of legal considerations greatly concerned the Committee. The striking testimony of William Sullivan, the Assistant Director of Intelligence in the FBI, caused much concern for many Americans for the protection offered by that agency. In reference to the FBI’s attempt to discredit Martin Luther King Jr., Sullivan said that he “never heard anyone raise the question of legality or constitutionality, never.”<sup>195</sup> He opined that “In government... the general atmosphere is one of amorality.”<sup>196</sup>

Even more concerning than that general attitude was the finding that agency officials went ahead with programs that they either assumed or were explicitly told were illegal. In 1954, FBI Director J. Edgar Hoover illustrated this attitude in a memo regarding the

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<sup>194</sup> Church Report, *Book II*, 139.

<sup>195</sup> Church Report, *Book II*, 140.

<sup>196</sup> Church Report, *Book II*, 141.

placement of an electronic listening device in a suspected Communist sympathizer's hotel room. He wrote: "Although such an installation will not be legal, it is believed that the intelligence information to be obtained will make such an installation necessary and desirable."<sup>197</sup> Regarding the FBI's "black bag jobs," Hoover said, "Such a technique involves trespass and is clearly illegal" as he allowed the program to continue.<sup>198</sup> The Church Committee Report summarized this attitude as "breaking the law, was seen as useful in combating those who threatened the legal fabric of society."<sup>199</sup>

In 1970, Hoover briefed President Nixon that "the FBI is opposed to implementing any covert mail coverage because it is clearly illegal," even though the FBI continued to receive information from the CIA's mail opening program for a further three years.<sup>200</sup> Often, intelligence officials claimed that they could not follow the law because the "enemy" did not. They sometimes justified these beliefs by holding themselves accountable to a law higher than the United States Code or Constitution — "The greater good, the national security" — as an FBI Counterintelligence Section Chief testified.<sup>201</sup>

Culturally, the FBI held its agents to a standard of never allowing or contributing to the "embarrassment of the Bureau." This allowed them to enforce the standards of tightening their internal security rather than stopping programs once their illegality came to light. In one example of this standard, the FBI required that agents write their anonymous letters on

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<sup>197</sup> Church Report, *Book II*, 141.

<sup>198</sup> Church Report, *Book II*, 142.

<sup>199</sup> Church Report, *Book II*, 142.

<sup>200</sup> Church Report, *Book II*, 143.

<sup>201</sup> Church Report, *Book II*, 145.

commercially purchased stationery to ensure that it could not be traced back to them.<sup>202</sup> All of their work had to lead back to legitimate sources outside the Bureau.

The Church Committee also found that “intelligence agencies failed to disclose candidly programs and practices to their own General Counsels, and to Attorney Generals, Presidents, and Congress.”<sup>203</sup> The FBI, specifically, did not brief any Attorney General on their black bag jobs, COINTELPRO practices, or participation in the CIA’s mail opening program.<sup>204</sup> In pursuit of this secrecy, the Bureau was willing to go to extraordinary lengths while dealing with any agency in order to ensure that their misdeeds did not become available for even their designated watch dogs.

For example, during the 1965-1966 mail covers investigation by Senator Edward Long, the FBI purposely withheld information from the investigative committee and wrote a press release for the Senator which said the subcommittee “conducted exhaustive research into the activities, procedures, and techniques of this agency [and] based upon careful study...we are fully satisfied that the FBI has not participated in highhanded or uncontrolled usage of wiretaps, microphones, or other electronic equipment.”<sup>205</sup>

This was not factual as the “exhaustive research” was actually a ninety-minute briefing from FBI officials which purposefully avoided any surveillance activities that were questionable. When asked to testify about the electronic surveillance policy of the Bureau, FBI officials declined, citing concerns about “enemies in the press.” After both of these

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<sup>202</sup> Church Report, *Book II*, 147.

<sup>203</sup> Church Report, *Book II*, 149.

<sup>204</sup> Church Report, *Book II*, 149.

<sup>205</sup> Church Report, *Book II*, 153.

investigative avenues were closed, officials informed the Associate Director that the situation had been “neutralized.”<sup>206</sup>

The Church Committee also found that the FBI’s internal inspection mechanisms were not designed to keep their actions within legal bounds. The Bureau’s Inspection Division’s Assistant Director from 1964 to 1971 W. Mark Felt described his job as ensuring that programs functioned efficiently not constitutionally. He stated that the protection of constitutional values was not included in his job instructions. Even when overseeing questionable programs, Felt’s section did not “question the propriety of the policy;” they only ensured that Hoover’s policy was properly followed.<sup>207</sup>

#### The Overreach of Domestic Intelligence Activity

The Committee’s second finding focused on the fact that “many Americans and domestic groups [had] been subjected to investigation who were not suspected of criminal activity.”<sup>208</sup> From 1955 to 1975, the FBI had opened 740,000 investigations into subversive matters and 190,000 investigations into extremist matters.<sup>209</sup> Throughout this twenty year time period, the Bureau observed and catalogued the lives of a wide variety of individuals throughout American society, most of whom posed no obvious threat.

The FBI targeted their mail opening programs on individuals who opposed the Vietnam War.<sup>210</sup> Some of this was encouraged by the pressure from members of Congress to

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<sup>206</sup> Church Report, *Book II*, 153-154.

<sup>207</sup> Church Report, *Book II*, 154-156.

<sup>208</sup> Church Report, *Book II*, 166.

<sup>209</sup> Church Report, *Book II*, 167.

<sup>210</sup> Church Report, *Book II*, 168.

collect domestic intelligence without “precise statutory standards.”<sup>211</sup> The FBI’s tasking to undertake a “comprehensive study of the whole New Left” took the agency away from their legal charge of investigating specific groups on the grounds of violations of the law. This shifted focus opened the door for such actions as collecting the Rabble Rouser Index which collected profiles of individuals who were deemed “demagogues” or effective and influential speakers who might sway others to their way of thinking.<sup>212</sup> This allowed for the investigation of individuals like Anatol Rapoport who had not broken the law but was in a position to influence the opinions of many young people.

The Committee found that “such intelligence surveillance of groups and individuals has greatly exceeded the legitimate interest of the government in law enforcement and the prevention of violence.”<sup>213</sup> The nebulous basis for their investigations into individuals of interest allowed the FBI to gather much more information and power than necessary when considering the threat posed by individuals in the New Left movement.

This overcollection was described as a “vacuum cleaner” approach — “drawing in all available information about groups and individuals including their lawful political activity and details of their personal lives.”<sup>214</sup> This encouraged monitoring of efforts to influence public opinion, voters, and government bodies which is perfectly legal and bolstered by the Constitution. The scope of subjects was expanded from individuals with “a potential for violence” to those who the Special Agents in Charge of FBI Field Offices deemed worthy of

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<sup>211</sup> Church Report, *Book II*, 170.

<sup>212</sup> Church Report, *Book II*, 173.

<sup>213</sup> Church Report, *Book II*, 177.

<sup>214</sup> Church Report, *Book II*, 178.

surveillance or monitoring “due to extremist activities.” The Committee considered this collection of private information unrelated to criminal or violent activities as “a serious misuse of governmental power.”<sup>215</sup>

#### Excessive Use of Intrusive Techniques

The techniques described earlier in this chapter as well as throughout this thesis have already been established as intrusive and excessive. The Church Committee expressed concern that the legal standards in place for the use of some of the techniques which could be appropriate under specific circumstances were insufficient.<sup>216</sup> The legal statutes which were in place were eroded by intelligence agencies and the Presidents directing them.

One example of this is wiretapping without a warrant which was limited and standardized by the Supreme Court and Congress. The Federal Communications Act of 1934 made intercepting, divulging, and publishing information gained from wire and radio transmission illegal for “any person.” The Supreme Court extended this to include federal agents and also made any information gleaned from such sources inadmissible in court. The FBI interpreted this standard as information could not be disseminated outside of the Justice Department, and wiretaps could be used as long as they were not intended for prosecution purposes. President Franklin D. Roosevelt further lessened the impact of protective efforts by proclaiming that this standard did not apply to “grave matters involving the defense of the nation.” In 1946, this was further expanded to include domestic investigations “where human

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<sup>215</sup> Church Report, *Book II*, 179.

<sup>216</sup> Church Report, *Book II*, 183.

life is in jeopardy.”<sup>217</sup> This situation is just one element in which the executive branch of the government ignored the intentions and restrictions of the legislative branch.

#### Using Covert Action to Disrupt and Discredit Domestic Groups

The Committee focused on the specific COINTELPRO covert actions which were unleashed on individual Americans. The tactics used in COINTELPRO were originally intended to be used against foreign actors but slowly transformed into American citizens being targeted with those programs.<sup>218</sup> This covert action program attempted “to discredit them, using dangerous and degrading tactics which are abhorrent in a free and decent society.”<sup>219</sup> The program was ended in 1971 due to “the threat of public exposure.” One of the most adamant proclamations of the Committee was that “[a] law enforcement agency must not secretly usurp the functions of judge and jury, even when the investigation reveals criminal activity.”<sup>220</sup>

Even though the program was justified by the Bureau through the lens of national security and violence prevention, many of the targeted individuals were “concededly nonviolent,” “not controlled by a foreign power,” and “posed no threat to the ‘national security.’”<sup>221</sup> These individuals’ First Amendment rights were violated with the program focusing on “deter[ing] citizens from joining groups, ‘neutraliz[ing]’ those who were already

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<sup>217</sup> Church Report, *Book II*, 187.

<sup>218</sup> Church Report, *Book II*, 212.

<sup>219</sup> Church Report, *Book II*, 211.

<sup>220</sup> Church Report, *Book II*, 212.

<sup>221</sup> Church Report, *Book II*, 213.



members, and prevent[ing] or inhibit[ing] the expression of ideas.”<sup>222</sup> Approximately 39% of the actions taken against New Left targets focused on stopping individuals from speaking, teaching, writing, or publishing - a clear attempt at suppression of free speech.<sup>223</sup> As exhibited in the Anatol Rapoport case study, a tactic frequently employed by the FBI was attempting to facilitate the removal of individuals of concern from their places of employment or funding.<sup>224</sup>

Headquarters carefully weighed these tactics against the “greater good” which was determined on their own scale of the value produced versus the “known or risked harm to the target.”<sup>225</sup> Because associated risks could not be determined prior to the execution of the tactics, their means of establishing the use of these measures did not reflect the true purpose of their agency which is “adherence to the rule of law mandated by the Constitution.”<sup>226</sup>

#### Political Abuse of Intelligence Information

In terms of political abuse of information, the Committee spread the fault more equally among the agencies that provided intelligence information and the administrations that requested it. The Committee’s report described the disclosures made by the FBI, sometimes requested and sometimes sent gratuitously, as politically motivated, stating that “the FBI buttressed its own position in the political structure.”<sup>227</sup> The widespread and

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<sup>222</sup> Church Report, *Book II*, 215.

<sup>223</sup> Church Report, *Book II*, 215.

<sup>224</sup> Church Report, *Book II*, 217.

<sup>225</sup> Church Report, *Book II*, 219.

<sup>226</sup> Church Report, *Book II*, 219.

<sup>227</sup> Church Report, *Book II*, 225.

somewhat justified concern that the Bureau had derogatory information on politicians and critics led Hale Boggs, the Majority Leader of the House of Representatives from 1971 until his disappearance in 1972, to say, “Freedom of speech, freedom of thought, freedom of action for men in public life can be compromised quite as effectively by the fear of surveillance as by the fact of surveillance.”<sup>228</sup>

This quote demonstrates the power consolidated by the FBI through their information collection and dissemination. Through their attempts to “protect society,” the Bureau greatly influenced the information available to those individuals who made up American society. The Church Committee recognized the right of law enforcement officials to state their opinions, but qualified that allowance by situating the problem “in the covert use of power or position of trust to influence others.”<sup>229</sup>

Particularly notable were White House requests for information, including name checks of political opponents or critics through the Bureau’s files in order to gain politically useful information.<sup>230</sup> The finding noted that this issue spanned across multiple administrations, including Roosevelt, Eisenhower, Johnson, and Nixon.<sup>231</sup> The Committee’s Chief Counsel F.A.O. Schwarz Jr. said, “our single most important finding” was that “every president — and there were six between Franklin Roosevelt and Richard Nixon — had

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<sup>228</sup> Quoted in Church Report, *Book II*, 225; “BOGGS, Thomas Hale, Sr.,” US House of Representatives: History, Art & Archives, accessed April 25, 2021, <https://history.house.gov/People/Detail/9547>. Representative Boggs was presumed dead in 1972 after he disappeared during a campaign flight from Anchorage to Juneau, Alaska.

<sup>229</sup> Church Report, *Book II*, 226.

<sup>230</sup> Church Report, *Book II*, 226.

<sup>231</sup> Church Report, *Book II*, 226-231.

abused their secret powers.”<sup>232</sup> This issue remained consistent across decades and different political leanings.

Adding to this abuse was the FBI’s claim that they “did not decide what was political or what represented potential strife and violence.” Deke DeLoach, the same Bureau official who made the above statement, qualified it by saying, “We are an investigative agency and we passed on all data.”<sup>233</sup> This general attitude meant that partisan political information was passed on to Presidents for decades alongside reports concerning potentially violent groups and individuals, with little regard for how the information might be used.<sup>234</sup>

#### Inadequate Controls on Dissemination and Retention

The lack of regulation of the information flow within the Intelligence Community led to further violations of individual rights. One example of agencies volunteering excessive amounts of information is the flow of unofficial requests on dissident Americans from the FBI to the CIA which could exceed 1,000 requests a month. Despite or perhaps because of the large flow of data between agencies, the receiving individuals described the information disseminated to them as “junk” or “irrelevant.”<sup>235</sup> Even though Bureau officials found that the information they received from the NSA had “very little in the way of good product,” their overall policy was “disseminate, disseminate, disseminate.”<sup>236</sup> This was an insurance policy against previous experiences in which Hoover had been highly criticized for not

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<sup>232</sup> Schwarz and German, “Rethinking Intelligence: Interview with Frederick A. O. Schwarz, Jr.”

<sup>233</sup> Church Report, *Book II*, 232.

<sup>234</sup> Church Report, *Book II*, 237.

<sup>235</sup> Church Report, *Book II*, 254.

<sup>236</sup> Church Report, *Book II*, 254, 256.

sharing information with the White House.<sup>237</sup> As documented in the Committee’s report, the FBI disseminated an impressive amount of information on all types of people, from political opponents to war protestors, to individuals throughout the federal government.

#### Deficiencies in Control and Accountability

The oversight bodies tasked with responsibility over the government’s intelligence agencies failed in their duty through the lack of investigations into their actions and restrictions on their power. Presidents asked for specific reports from the FBI but failed to specify their terms or limits, such as information on “subversive activities” which remained undefined until just before the Church Committee and lacked any restrictions regarding the breadth of information gathered or safeguarding the rights of American citizens.<sup>238</sup> Congress abdicated their responsibility and authority over U.S. intelligence agencies by failing to fully exercise their ability to define the jurisdiction given to those agencies and to oversee their activities.<sup>239</sup> The finding solidified the concept that the individuals in the positions of President and Attorney General “— as the chief executive and the principle law enforcement officer of the United States Government — bear ultimate responsibility for the activities of executive agencies under their command,” even when those activities were not directly authorized.<sup>240</sup>

The Church Committee exposed the greatest weakness with this system by highlighting the fact that “many illegal or abusive domestic intelligence operations were

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<sup>237</sup> Church Report, *Book II*, 256.

<sup>238</sup> Church Report, *Book II*, 265.

<sup>239</sup> Church Report, *Book II*, 266.

<sup>240</sup> Church Report, *Book II*, 267.

terminated only after they had been exposed or threatened with exposure by Congress or the news media.”<sup>241</sup> This type of defiance until the last possible moment did not bode well for the efficacy of oversight from Congress, which is the role assigned to them by the Constitution.<sup>242</sup> The fact that it took possible exposure to the American public for intelligence agencies to cease their questionable activities shows the level of disregard that those agencies held for Congress and its power over their actions.

Despite this lack of respect, “intelligence agencies cannot be left to police themselves.”<sup>243</sup> Throughout the report, examples of agencies expanding their power slowly but surely whilst ignoring criticisms or concerns brought to them by Congress abound. Even within these agencies, details of certain questionable programs were highly restricted not only to protect the tradecraft but also to hide these violations of the law from governing authorities. Such blatant abuses and disregard for the law clearly established the need for better structured oversight of agencies with secret powers.

#### *Recommendations*

Based on these findings, the Church Committee crafted recommendations to fill these holes in oversight and protect the system from further abuse. They recognized that “the power of government to conduct *proper* domestic intelligence activities under effective restraints and controls must be preserved.” Similar to other positions of power, “[i]n times of

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<sup>241</sup> Church Report, *Book II*, 284.

<sup>242</sup> Church Report, *Book II*, 280.

<sup>243</sup> Church Report, *Book II*, 288.

crisis, the Government will exercise its power to conduct domestic intelligence activities to the fullest extent.”<sup>244</sup>

The report defines three areas where the executive branch strayed from the Constitutionally established checks and balances: excessive executive power, excessive secrecy, and avoidance of the Rule of Law. These three excesses allowed abuses to occur because of their compounding power. Through Executive Orders, Presidential power permitted intelligence activities to avoid oversight from external sources. This secrecy bred abuse as it is wont to do. This set a bad example for the citizenry of the nation and allowed critics a genuine avenue through which to challenge the government’s power.<sup>245</sup>

The purpose of many of these recommendations was to force the Bureau to respect the distinction between legal dissent and criminal conduct. American citizens needed to be able to peacefully express dissenting opinions in order to preserve democratic government. The report found that personal privacy is essential to liberty and the pursuit of happiness which makes it crucial to protect.<sup>246</sup> The report stated unequivocally that “[e]xcessive intelligence activity which undermines individual rights must end.”<sup>247</sup> This principle goes even further to establish that the rights of free speech and association must be preserved and protected from governmental interference.<sup>248</sup>

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<sup>244</sup> Church Report, *Book II*, 289.

<sup>245</sup> Church Report, *Book II*, 292.

<sup>246</sup> Church Report, *Book II*, 290.

<sup>247</sup> Church Report, *Book II*, 292.

<sup>248</sup> Church Report, *Book II*, 293.

The Church Committee determined that the FBI should have jurisdiction over domestic security investigations. They admonished those agents probing into such cases to shift their focus from issues of political advocacy to dangerous actions. This established area of responsibility cleared up overlap which was occurring among several separate federal agencies to encourage efficiency and accountability.<sup>249</sup>

One important caveat established by these recommendations was that they were “to prohibit any agency from doing indirectly that which it would be prohibited from doing directly.”<sup>250</sup> This addressed many loopholes that had been exploited by federal agencies — the mail opening program by the CIA from which the FBI profited is one example of this.

#### Intelligence Agencies are Subject to the Rule of Law

The Committee proposed that a legal framework be created to ensure future oversight of the intelligence agencies. This motion established that legislation should come first and then be supported by administrative regulations. One concept which the Church Committee absolutely opposed was the theory of inherent or implied authority, which allowed agencies “to violate the Constitution” in pursuit of national security objectives.<sup>251</sup>

The goal of the recommendations was to allow criminal or counterintelligence investigations to continue unhampered while preventing the abuses which had previously occurred. One oft-mentioned strategy was to shift the focus of investigations from political rhetoric or association to criminal conduct. The Committee acknowledged the need for investigations which did not follow the traditional, and more secure, route of crimes which

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<sup>249</sup> Church Report, *Book II*, 294.

<sup>250</sup> Church Report, *Book II*, 296.

<sup>251</sup> Church Report, *Book II*, 297.

had already been committed.<sup>252</sup> This admission lends credence to their collective recommendations as they allow for situations which do not fit into a neat solution.

#### Centralization of Supervision, Investigative Responsibility, and the Use of Covert Techniques

The consolidation of certain responsibilities and techniques into the Department of Justice enabled Congress to focus their oversight on the appropriate intelligence agency. The Church Committee report gave the FBI jurisdiction over domestic security investigations which included the use of covert techniques. This centralization made the Justice Department accountable for adhering to U.S. Constitutional and legal mandates.<sup>253</sup>

This area of FBI jurisdiction was further clarified by the formation of a hierarchy during civil disturbance events. The United States Army is authorized to assist in instances of civil disturbance. However, the Church Committee removed much of the Army's investigative power and placed it under the FBI's purview. This seeming contradiction was clarified by establishing that the FBI would lead the investigations and provide necessary information to the Army in the event that their assistance was needed. The FBI's authority regarding civil disturbances was further limited to those events which require federal troops.<sup>254</sup> That standard was even further limited to ensure that the information was gathered in order to support the President in their decision making, military officials in their troop positioning, and state and local officials in their coordination with the military officials.<sup>255</sup>

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<sup>252</sup> Church Report, *Book II*, 316.

<sup>253</sup> Church Report, *Book II*, 317.

<sup>254</sup> Church Report, *Book II*, 318.

<sup>255</sup> Church Report, *Book II*, 323.



Another recommendation continues the standard of “reasonable suspicion” which is necessary in investigating criminal activity. However, the Committee specified that “[i]n no event should the FBI open a preliminary or full preventive intelligence investigation based upon information that an American is advocating political ideas or engaging in lawful political activities or is associating with others for the purpose of petitioning the government for redress of grievances or other such constitutionally protected purposes.”<sup>256</sup> They set a limit of thirty days for preliminary preventive intelligence investigations which allows for agents to look into sudden threats while preventing long-term cases without the limitations placed upon a full investigation.<sup>257</sup> This standard allows for difficult and unique situations while also setting a standard of oversight and responsibility.

The Church Committee also gave the FBI authority over background investigations necessary for prospective federal employees. This restricted collection to information necessary to establish suitability for employment, a reasonable and necessary element for the success of the Bureau within the government.<sup>258</sup>

#### Authorized Investigative Techniques

The Committee also established the following standard for tactics used by the FBI: “the more intrusive the technique, the more stringent the procedural checks that will be applied to it.”<sup>259</sup> This meant that overt techniques, such as interviews, required very little oversight as opposed to the covert techniques, which could be anything from electronic

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<sup>256</sup> Church Report, *Book II*, 320.

<sup>257</sup> Church Report, *Book II*, 320.

<sup>258</sup> Church Report, *Book II*, 324.

<sup>259</sup> Church Report, *Book II*, 324.

surveillance to a review of credit records. The three considerations which the Committee developed to establish boundaries for covert techniques were the potential for abuse, the practicability of applying the procedure to the technique, and the facts and circumstances giving rise to the request for use of the technique (whether the information would lead to a preliminary investigation or a full investigation).<sup>260</sup> The Committee strongly believed in the necessity of judicial warrants whenever dealing with electronic surveillance.<sup>261</sup> This standard of judicial warrants provided a reasonable measure of oversight to resolve the question of allowable covert techniques, including search and seizure, surreptitious entry, and mail opening.<sup>262</sup>

#### Plans for Internal Accountability

The Committee also proposed to significantly expand authority and scope of the Attorney General in order to serve the purpose of considering the morality and legality of the programs utilized by the FBI. The report proposed that the Attorney General have authority over the investigations which could arise into alleged violations of law due to these domestic intelligence recommendations.<sup>263</sup> On a more long term basis, the Committee offered the solution that: “The General Counsel of the FBI and of each other intelligence agency should review all significant proposed agency activities to determine their legality and

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<sup>260</sup> Church Report, *Book II*, 324.

<sup>261</sup> Church Report, *Book II*, 325, 327.

<sup>262</sup> Church Report, *Book II*, 327.

<sup>263</sup> Church Report, *Book II*, 333.

constitutionality.”<sup>264</sup> The General Counsel was also given access to all information within the agency in order to conduct reviews of their agency’s activities.<sup>265</sup>

Another safeguard set a standard for the FBI’s Director. The Committee expressed concern that laying the blame for the COINTELPRO program, and other questionable activities, at the feet of officials “may become an excuse for inaction.”<sup>266</sup> Because of the huge influence of J. Edgar Hoover over the Bureau during his long tenure, he could easily be turned into a scapegoat, especially since he had passed away before the Committee began their investigations. They suggested, however, that the power of the director be limited by establishing the position as a Presidential appointment that can only serve for a maximum of eight years.<sup>267</sup> This acknowledges the role and influence of Hoover while also holding the agency as a whole accountable for their actions.

#### *Conclusion*

These are only a select few of the ninety-six recommendations that the Church Committee made in relation to domestic intelligence.<sup>268</sup> The overarching theme of these recommendations was allowing the agencies to do their jobs while limiting the opportunities for the abuses that the Committee documented through their research and interviews. While not all of these recommendations were put into action, many of them, such as the FBI Director’s term of eight years and the higher standard for covert techniques, remain in use

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<sup>264</sup> Church Report, *Book II*, 334.

<sup>265</sup> Church Report, *Book II*, 334.

<sup>266</sup> Church Report, *Book II*, 290.

<sup>267</sup> Church Report, *Book II*, 335.

<sup>268</sup> Church Report, *Book II*, 340.

today. The influence of the Church Committee was quickly eroded by Presidential orders, explored in the next chapter; however, their intentional allowances for the difficulties and ambiguities of the job retained the flexibility required for the Intelligence Community to respond to unanticipated threats necessary to fulfill its mission in a rapidly changing and increasingly dangerous world.

## CONCLUSION

### *Effects of Recommendations*

While some of the recommendations made by the Church Committee were incorporated into the practice of the Intelligence Community and Congressional oversight committees, the limitation on these agencies' power quickly eroded. Warnings against the consolidation of power which allowed COINTELPRO to occur remain very relevant as the executive branch has continued to attempt to shield their actions from Congress and legalize those tactics that were found so problematic.<sup>269</sup>

In 1976, the Department of Justice released the "Levi guidelines," named after then-Attorney General Edward Levi, which "prohibited investigations or operations designed to disrupt organizations based solely on unpopular opinion."<sup>270</sup> These guidelines also set limits on preliminary and full investigations inspired by the recommendations described in the earlier chapter. The preliminary investigation was allowed in order to ascertain a factual basis for opening a full investigation into engagement in unlawful activities that might involve violence. This limitation correlates with a significant drop in domestic security investigations from 4,868 in March, 1976 to 26 in December, 1981.<sup>271</sup>

In 1978, Congress passed the Foreign Intelligence Surveillance Act (FISA). This provided for rotating judges whose assignment was to approve or deny warrants for

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<sup>269</sup> Saito, "Whose Liberty? Whose Security?," 1104.

<sup>270</sup> Saito, "Whose Liberty? Whose Security?," 1105.

<sup>271</sup> Saito, "Whose Liberty? Whose Security?," 1105-1106.

surveillance in cases targeting a ‘foreign power’ or the ‘agent of a foreign power.’<sup>272</sup> These seven federal judges were appointed to the Foreign Intelligence Surveillance Court (FISC) which would oversee this program. Even though this act established a legislative check over the actions of the executive branch, subsequent Presidential administrations have consistently and persistently argued that they can approve warrantless searches without any oversight from the judicial branch.<sup>273</sup>

Even though these limitations were reasonable to ensure a secure and free society, they were quickly rolled back by Executive Order [EO] 12333 issued in 1981. President Reagan reauthorized many of the techniques which had been banned by the Levi guidelines. Shortly afterwards, he signed EO 12345 which stated that the FBI and the rest of the intelligence agencies had “legal authority” to “withhold information about their use of counterintelligence methods.”<sup>274</sup>

In 1982, FBI Director William Webster said that the Levi guidelines were “no longer adequate to guide us in dealing with the kinds of terrorist groups that we are confronted with today.”<sup>275</sup> Attorney General William Smith released his Smith guidelines in 1983 which removed the more restricted preliminary investigation step and made the standard for

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<sup>272</sup> George P. Varghese, “A Sense of Purpose: The Role of Law Enforcement in Foreign Intelligence Surveillance,” *University of Pennsylvania Law Review* 152, no. 1 (2003): 398, 400, <https://doi.org/10.2307/3313064>.

<sup>273</sup> Saito, “Whose Liberty? Whose Security?,” 1108.

<sup>274</sup> Saito, “Whose Liberty? Whose Security?,” 1106.

<sup>275</sup> Quoted in Saito, “Whose Liberty? Whose Security?,” 1106.

opening those investigations “facts of circumstances reasonably indicate” actions of force or violence in pursuit of political or social goals.<sup>276</sup>

Only two incidents of international terrorism were reported by the FBI between 1984 and 1996.<sup>277</sup> Despite this fact, Congress authorized the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) which restored the intelligence community to “almost the full range of repressive techniques which had been quietly continued after COINTELPRO was supposedly terminated.”<sup>278</sup> This Act described national security as “the national defense, foreign relations, or economic interests of the United States.”<sup>279</sup> This further opened groups to investigations as the secretary of state was empowered to accuse them of terrorist activity if their actions constituted a threat to the broadly defined national security of the United States.<sup>280</sup>

Throughout successive administrations, the Levi guidelines inspired by the recommendations of the Church Committee have routinely been weakened by small increments. Using examples of different moments of violence from individuals within the United States, successive administrations have been able to expand their power and abilities. However, the Church Committee seems to have expected this through this highly relevant

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<sup>276</sup> Quoted in Saito, “Whose Liberty? Whose Security?,” 1106.

<sup>277</sup> Saito, “Whose Liberty? Whose Security?,” 1109.

<sup>278</sup> Saito, “Whose Liberty? Whose Security?,” 1109.

<sup>279</sup> Saito, “Whose Liberty? Whose Security?,” 1109.

<sup>280</sup> Saito, “Whose Liberty? Whose Security?,” 1109.

statement: “Lawlessness by citizens does not justify lawlessness by Government.”<sup>281</sup> In this case, they argued that the ends did not and had not justified the means.

In 2001, the tragic events of September 11 seemed to obliterate the few hard-fought parameters that still existed from the Church Committee. Some critics of the Committee claimed that it “unilaterally disarm[ed] our intelligence capabilities.”<sup>282</sup> The Chief Counsel of the Church Committee, F.A.O. Schwarz, Jr., argued in his book *Unchecked and Unbalanced* that this criticism ignores the Committee’s legacy of encouraging the FBI to shift its focus from political dissent to terrorism.<sup>283</sup> Schwarz answered another criticism that the Intelligence Community was still “reeling” from the limitations of the Committee by asking how this could be true after more than a quarter of a century and the administrations of five Presidents, one of whom (Bush Sr.) had worked within the Intelligence Community and should have known about and fixed this issue if he thought it existed.<sup>284</sup> His argument is supported by all of the material differences made to most of the long-term guidelines left by the Church Committee.

Because of concerns about future attacks and American safety, the Senate passed the PATRIOT Act.<sup>285</sup> No Committee debated the terms. David Cole and James Dempsey claimed that “after three weeks of behind-the-scenes discussions between a few Senators and the administration, a bill was introduced in the Senate... that included essentially all of the

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<sup>281</sup> Church Report, *Book II*, 212.

<sup>282</sup> Schwarz and Huq, *Unchecked and Unbalanced*, 225n46.

<sup>283</sup> Schwarz and Huq, *Unchecked and Unbalanced*, 225n46.

<sup>284</sup> Schwarz and Huq, *Unchecked and Unbalanced*, 225n46.

<sup>285</sup> Varghese, *A Sense of Purpose*, 385.



administration's proposals."<sup>286</sup> Those proposals greatly increased the law enforcement and intelligence powers of the federal government while also expanding the expectations to include the prevention of terrorism rather than the investigation of the crime after the fact.<sup>287</sup> The precis of the Act states that the purpose is "[t]o deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes."<sup>288</sup> The Act increased the parameters for an FBI agent to procure a FISA warrant from the FISC. As long as criminal investigations could be expected to "significant[ly]" gather foreign intelligence information, they could now receive Foreign Intelligence surveillance warrants. While the review court was designed to be a protective measure, only eighty-five cases have been rejected in the last twenty years out of the nearly 28,000 cases presented.<sup>289</sup> This concerning low rejection percentage of about .3% is slightly mollified by the number of applications that were modified before they were approved. That number, about 45%, still does not assuage concerns that the FISC is just a rubber stamp along the path to governmental abuse.

The PATRIOT Act included broad allowances which hearken back to the expectations and vague language that preceded COINTELPRO and other broad violations of American civil rights. Congress and the FBI would be wise to remember this history and

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<sup>286</sup> Quoted in Saito, "Whose Liberty? Whose Security?," 1114.

<sup>287</sup> Saito, "Whose Liberty? Whose Security?," 1114.

<sup>288</sup> UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM (USA PATRIOT ACT) ACT OF 2001, 115 Stat. 272 § (2001), <https://www.congress.gov/107/plaws/publ56/PLAW-107publ56.pdf>, 272.

<sup>289</sup> Electronic Privacy Information Center, "EPIC - Foreign Intelligence Surveillance Act Court Orders 1979-2017," Electronic Privacy Information Center, accessed May 9, 2021, <https://epic.org/privacy/surveillance/fisa/stats/default.html>.

their shared goal to remain vigilant against excessive investigations into the lives of American citizens.

### *Conclusion*

During the FBI's just over a century existence, they have faced many challenges and protected the United States from threats both within and without. However, due to the combined circumstances of an incredibly powerful, long-term leader in J. Edgar Hoover and intense fears and expectations from the American public, they were also able to exceed their boundaries of protection in order to preserve the political and social status quo. In the pursuit of continued security and prevention of violence, the FBI's agents, officials, and director engaged in activities that violated the civil rights of American citizens and endangered their democratic way of life. Even though these violations started with good intentions and attempted to achieve the "greater good," no one agency should be allowed to decide for the nation what would be best for them without allowing others to ensure their legality.

Ironically, Rapoport himself hit the nail on the head of the Bureau's biggest issue with COINTELPRO in his book *Certainties and Doubts* when he wrote, "Just as it is easier to define disease than good health (except as absence of disease which is side-stepping the problem), so it is easier to define evil than good."<sup>290</sup> The FBI was given the directive from the Executive branch as well as members of Congress to preemptively discover and stop the activities of groups who would seek to disrupt the American way of government. The Bureau ran into the problem of the near-impossibility of proving that an individual was innocent.<sup>291</sup> The penalty for being wrong would be ridicule and blame for any incident that might happen;

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<sup>290</sup> Rapoport, *Certainties and Doubts*, 167.

<sup>291</sup> Church Report, Book II, 88-89.

whereas, there was very little motivation to stop looking into a concerning individual. That impossible standard still exists today, but it has better defined parameters from Congress because of the recommendations made by the Church Committee, which came out of cases like Rapoport's.

The FBI's mission is "to protect the American people and uphold the Constitution."<sup>292</sup> This simple motto encapsulates the goal and aim of the recommendations of the Church Committee. As Ross Wilson, an FBI Staff Operations Specialist, says, "the FBI is just ordinary people doing an extraordinary job."<sup>293</sup> This attitude is essential to ensure the continued success of the Bureau and the earned trust of the American people. It is not enough that these ordinary people succeed in their job. They must also ensure that they obey and uphold the Constitution. If each employee asks themselves both if they can and should be doing each action they undertake, the future of democracy and freedom in the United States will be secured. External oversight is one means of ensuring that the Bureau continues to fulfill its stated mission and to operate with the highest integrity.

Even beyond the FBI, the executive and legislative branches of government have a serious charge to protect and uphold the Constitution. In paraphrasing the famous story of Benjamin Franklin speaking to a woman outside of the Philadelphia Constitutional Convention, F.A.O. Schwarz, Jr. stated, "[t]he Constitution endures so long as the American people preserve it."<sup>294</sup> Because of fear and anger among the American people, the office of

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<sup>292</sup> "What Is the Mission of the FBI?," FBI (FBI, May 7, 2016), <https://www.fbi.gov/about/faqs/what-is-the-mission-of-the-fbi>.

<sup>293</sup> Ross Wilson (FBI Staff Operations Specialist), in conversation with the author, June 2020.

<sup>294</sup> Schwarz and Huq, *Unbalanced and Unchecked*, 200. The legend goes: Dr. Benjamin Franklin was asked by a woman outside of Philadelphia City Hall after the American

the President has successfully increased the power of the executive branch while lessening the oversight designed into the checks and balances of the American governmental system.<sup>295</sup> This republic that was designed for the U.S. in that hot city hall in the summer of 1787 is imperfect and has faced many challenges to its form. Its system of checks and balances, however, strengthens the entire government as it fights against abuse and lends credibility to its actions. This system is essential to the continued success of the land of the free and the home of the brave.

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Constitution was written, what kind of government do we have, a republic or a monarchy? To which he replied, a republic, if you can keep it. This article from the *Seattle Times* “‘A republic, if you can keep it.’ Did Ben Franklin really say Impeachment Day’s favorite quote?” by Gillian Brockell for *The Washington Post* does a great job of researching and debunking this quote: <https://www.seattletimes.com/nation-world/nation/a-republic-if-you-can-keep-it-did-ben-franklin-really-say-impeachment-days-favorite-quote/>

<sup>295</sup> Schwarz and Huq, *Unbalanced and Unchecked*, 200.

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## APPENDIX



3/7/2021

Dr. Shirley Eoff  
Dept. of History/Director of Honors Program  
Angelo State University  
San Angelo, TX 76909

Dear Shirley:

The project that you submitted for your student, Jane Bacon, titled, "*COINTELPRO, the FBI, and Anatol Rapoport*" was reviewed and approved by Angelo State University's Institutional Review Board for the Protection of Human Research Subjects in accordance with federal regulations 45 CFR 46.

This protocol has been approved effective March 7, 2021. If the study will continue past next year, please submit a notification of continuation at that time and allow enough time for review. Please note that any revisions to these approved materials must be approved by the IRB prior to initiation. All unanticipated problems involving risks to subjects or others, and any unexpected adverse events must be reported promptly to this office.

The approval number for your protocol is #EOF-030721. Please include this number in the subject line of in all future communications with the IRB regarding the protocol.

Sincerely,

Teresa  
(Tay) Hack

Digitally signed by  
Teresa (Tay) Hack  
Date: 2021.03.07  
09:50:29 -06'00'

Teresa (Tay) Hack, Ph.D.  
Chair, Institutional Review Board

Dr. Teresa Hack, IRB Chair | ASU Station #11025 | San Angelo, Texas 76909  
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## **BIOGRAPHY**

Jane Bacon was raised in Albuquerque, New Mexico, by her parents, Dr. Larry Bacon and Kae Bacon. Jane graduated *summa cum laude* from Angelo State University in May 2021 with a Bachelor of Security Studies in Intelligence and Analysis with minors in Russian language and viola performance. Jane was a member of the Order of the Sword and Shield homeland security honors society and the Alpha Mu Gamma foreign language honors society.

Through the Honors Program, Jane represented ASU at the West Point Student Conference on United States Affairs in the Fall of 2019 and conducted research as a Presidential Fellow with the Center for the Study of the Presidency and Congress. Following graduation, Jane will join the FBI where she has worked as an intern since 2018.