

SURVEILLANCE IN AMERICA

CRITICAL ANALYSIS OF THE FBI, 1920 TO THE PRESENT

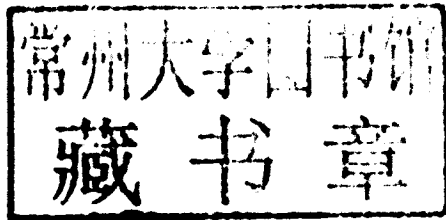
IVAN GREENBERG



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1920 to the Present**

Ivan Greenberg



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SURVEILLANCE IN AMERICA

To critics of government abuse of power, who
risk a lot by asserting their voices.

Acknowledgments

I began writing this book as my previous study, *The Dangers of Dissent*, was in press. It took less time to write the second book than the first. Conversant in the historical literature, and skilled at obtaining FBI files under the Freedom of Information Act, I wrote the essays here without many obstacles in writing and research. Other obstacles were overcome with determination and perseverance. Several people read the work at different stages and made perceptive comments. Michael Ravnitzky read the manuscript and pointed me to some important spy documents he helped obtain and has put online. Dolores Greenberg, my mother and a historian, read several chapters and lent an ear as I discussed ideas for the study. The artist Dean Haspiel did the cover. This is the second cover he has done for me and I appreciate his vision interpreting the subject matter. At Lexington Books, a special thanks to my editor, Erin Walpole, who has remained very supportive.

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Introduction

In 1953, the American government learned that some offices of U.S. diplomats in the Soviet bloc had been bugged with electronic listening devices. This revelation was not completely a surprise. Since 1940, the Federal Bureau of Investigation (FBI) had also bugged several foreign embassies in Washington, DC. As a result of the surveillance against U.S. diplomats, the Radio-Electrical Section of the FBI for the first time obtained the necessary technological capability to detect secret listening devices. The bureau began to conduct regular sweeps of its offices, as well as those at the White House and in Congress, as a precautionary counterintelligence measure.¹ The technology was rather primitive. It could take at least two days to fully sweep one room and was not fail-proof, as one official reported:

As previously pointed out by me, the “room search” approach will not as a practical matter insure 100 percent against the presence of microphones since it is entirely possible to conceal microphones in such a way that they cannot be detected with present day equipment without substantial damage to wall surfaces, and, of course, the destruction of wall surfaces is not a practical approach.²

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Special attention was directed to secure the office of the FBI director. We have this technical account of the first check of J. Edgar Hoover's work quarters.

Accordingly, beginning on 4-6-53 and on such occasions thereafter as the Director's office space was available during the normal work day, listening tests were conducted to determine whether any radio beams could be detected as activating sources for listening devices. You will recall that the limitation to the normal work day arises from the fact that such activating radio beams would not be expected to be in operation after hours.

Moreover, the sweep included an "exhaustive search of all wall, ceiling, and floor space in the Director's immediate offices. No clandestine listening devices of any kind were found." Indeed, in early 1953 the FBI reported that no known bugs had been planted within the nation by foreign intelligence agencies.³

The FBI's attention also turned to detecting the potential wiretapping of its telephones. Hoover acknowledged in a memo: "Since it appears to be open season for wire tapping, I think regular checks should be made of office and home phones of Ex-Conf. [Executives Conference] & a Sac [Special Agent in Charge] & a Sac of Wash. Field. [Washington Field Office]"⁴ The office and home phones of 13 top FBI officials immediately were inspected and no wiretaps ("resonant listening devices") were discovered. Hoover instructed subordinates to supervise these checks monthly. However, the inspections should not be predictable so a potential enemy could successfully adapt and adjust. "That the times of these checks be staggered in such a way that no definite pattern can be established on a recheck of the facilities."⁵

U.S. government leaders never before conducted regular anti-spying sweeps of their offices. Anxiety about surveillance now reached the inner circles of power. With the McCarthy-era Red Scare at its height, fear of surveillance could generate paranoia. While institutional leaders feared monitoring by overseas nation states, Americans began to fear surveillance at the hands of their own government. There was good reason for such fear.

The FBI engaged in massive domestic surveillance of Americans during the 20th century.

Surveillance in America builds on my previous book, *The Dangers of Dissent* (2010), which studied FBI conduct since 1965 through a prism of political policing. It continues a historical exploration of the FBI's attack on political speech and social action. I address surveillance as it is used by government for political purposes and as it is experienced by subjects. In recent years, the new field of surveillance studies explores many other dimensions, but it is well to remember, as David Lyon suggests, that "surveillance is always hinged to some specific purpose" and "usually involves relations of power in which watchers are privileged."⁶ With the aid of government spy files, we can view the activity of top FBI officials as they develop surveillance practices and maneuver to implement them. In this sense, the book is an expose: It makes visible what previously was hidden. A critical scholarly gaze is cast on official power, which for years trampled on the rights of innocent people.

Several chapters engage questions about government power and the production and distribution of information, and more broadly, of culture. This includes efforts to manipulate the media and to impose a "terrorism" framework as the legal basis of domestic security investigations. Almost all the subjects of FBI watch considered here—political radicals, trade unionists, immigrants, African Americans, organizers of the unemployed, anti-war protestors, journalists, and American historians—were defined as enemies and viewed as contributing nothing to society. Their experiences under surveillance are explored from 1920 to the present using primary research materials obtained under the Freedom of Information Act (FOIA). I cite material from 59 declassified FBI files. These documents, despite some limitations due to official redactions, can serve as an extraordinary source for illuminating government misconduct.

The G-men depicted in these pages are not heroes but rather are closer to villains who abused power to fight change in society. The bureau was not a renegade agency or a "rogue elephant" functioning without support from the leaders of the two-party system. The federal government under both Republican

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and Democratic control fought political formations that challenged its supremacy. But, critically, much of this surveillance was done secretly, beyond the knowledge of the general population which did not have the opportunity to express approval or disapproval of political spying. In a democracy, is it possible for popular democratic governance of surveillance systems? Who gets to define the nature of political threats? The working definitions developed by J. Edgar Hoover (and his successors as director) were based on very narrow political views. During the Cold War, the FBI directed efforts to contain a broad range of political expression, not just groups and individuals associated with Communism. After the Cold War, the federal role to limit political expression continued under the banner of fighting terrorism. Generally, the creation of a “culture of insecurity” helped limit what was considered acceptable and possible in the society.⁷ While a small segment of the public engaged in alternative politics, the rest of the populace seemed to be influenced negatively by scare tactics that shuttered popular dialogue and deliberation.⁸

Over the last decade, the rapid expansion of the national surveillance state has threatened civil liberties in ways never before anticipated. The administrations of George W. Bush and Barack Obama, with congressional backing, sanctioned broad spying on Americans using advanced technology which intruded on privacy in deleterious ways. How did it get this bad? Historical study can help frame an understanding of how the U.S. over time transformed into its current condition. I focus on the FBI because while it is not the sole entity comprising the surveillance state, it is the oldest and most important agency to patrol the domestic political sphere. My critical analysis of the FBI over more than 90 years challenges many popular perceptions about the relationship between dissent and the state in the U.S. For example, was speech and protest “protected” by the Constitution if government, through the FBI, extensively surveilled it? How free were Americans to criticize and assemble in opposition to their government? Is the state a repressive social actor that discriminated against people who espoused unpopular views?

Answers to these questions can be framed after rigorous study of FBI practices. It is my contention that relatively little political expression outside the mainstream of American politics truly was protected. Americans who challenged their leaders often faced sanctions. The American state actively fought movements for social change employing methods that are not permissible under the law and find no support in the American constitution. The state worked outside the “rule of law.” For some people, who are conditioned to accept whatever their rulers say and do, these conclusions will appear shocking. But for many others these conclusions merely will confirm their existing beliefs. My contribution is to ground these conclusions with historical evidence gathered through extensive research in recently declassified spy files. These government documents demonstrate in new ways not only the nature of surveillance but also that its scope has been far greater than most people recognize. To be sure, at different times the government faced select internal threats, but how it defined these threats and responded to them remains a subject of intense debate. Massive domestic surveillance only can undermine the functioning of a robust democracy.

The Beginning of Political Spying

In 1908, the U.S. Department of Justice established the Bureau of Investigation (renamed the Federal Bureau of Investigation in 1935). President Theodore Roosevelt hoped the new bureau would enforce the law against powerful corporate interests and work to end political corruption in government. In its initial formation, the BOI spent most of its time on interstate commerce crimes as well as “moral” crimes such as prostitution.⁹ While this new federal detective force was conceived as Progressive reform, it changed its focus with the outbreak of World War I (WWI) in Europe in 1914 and the success of the Bolshevik Revolution in 1917. These two events brought loyalty, political ideology, and security issues to the forefront, and the bureau began

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to view itself as the chief protector against crimes directed at the United States.

As a result of WWI, the FBI began to investigate the loyalty of recent immigrants, especially those from the Axis Power nations (Germany and Austria-Hungary) and their sympathizers (Ireland). The Woodrow Wilson administration feared enemy recruitment for espionage and sabotage within America's immigrant communities. Moreover, once the U.S. entered the European conflict Congress passed the Espionage Act (1917) and Sedition Act (1918) criminalizing anti-war speech and resulting in more than 2,000 convictions. The emerging Red Scare also received congressional sanction with passage of the Immigration Act (1918) authorizing the deportation of immigrants ("aliens") who were members of anarchist or other revolutionary groups. By 1919, FBI files listed about 80,000 people or groups as threats. More than 6,000 radicals were arrested during the notorious Palmer Raids; 556 people were deported.¹⁰

The focus on national security "government protection," instead of government corruption, constituted a major shift. And, instead of investigating corporate antitrust crimes, the bureau began to act against working-class movements and labor unions, such as the Industrial Workers of the World (IWW). A wave of political violence in 1919 (led by anarchists) prompted the Justice Department to consolidate its spying activities into a special Radical Division headed by the young J. Edgar Hoover, which functioned as an interdivisional task force within the bureau.¹¹ Hoover, thus, came to head the government's anti-radical campaign, a responsibility he assumed until his death in 1972. Hoover changed the name of the Radical Division to the General Intelligence Division (GID) in 1920 to conceal its political ideology. The designation "general intelligence" suggested neutrality—spying without bias. Fighting radicals no longer was official state policy.

Spying became a permanent condition rather than merely periodic. Record keeping, as well as disruptive "counter-intelligence" tactics, focused not only on American communists and anarchists but also extended over time to many other radicals as well as liberals. It seems rather obvious, though as yet not fully

appreciated, that the emergence of political intelligence monitoring occurred within the context of the rise of the American industrial economy. Scholars have suggested several other motives to explain why the FBI turned its attention to containing radicalism: anxiety and insecurity about social mobility; nativism and ethnocentrism; and popular obsession with irrational conspiracy theories. It is argued that government Red Scares were a response to calm public hysteria rather than a creation largely of the government itself to advance a conservative political agenda. I adopt a different view by extending the interpretation of Regin Schmidt, who sees the origins of the political intelligence system as part of the centralization of power in the federal government. He believes "the role of the state was to support, stabilize and defend the emerging corporate order against 'irresponsible' competition, economic waste and inefficiency as well as social unrest and threats to the status quo." He refers to the bureau's conduct after 1919 as "part of the federalization of social control in the form of political surveillance."¹²

During the early 1920s, surveillance focused on many groups with special attention to organizing by the working class. As historian Richard Gid Powers writes, "During the [Warren] Harding Administration the bureau became even more aggressive in working against labor in its struggles with capital, and it regularly engaged in red-smearing to brand the labor disturbances of the early 1920s as communist-inspired."¹³ By 1923, an estimated 450,000 people were included in spy files. Although an official list of subjects of investigation does not exist in the public domain, the net was cast wide with a bias against the Left and minority groups, especially African Americans.¹⁴

In 1924, the Justice Department "reformed" the FBI to reduce political spying. Attorney General Harlan Stone, a critic of the Palmer Raids, instructed Hoover, who just had been named head of the bureau, that the BOI should "not be concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States."¹⁵ However, this change was not written into formal guidelines and did not involve congressional action. While the bureau scaled back some anti-labor

and anti-radical surveillance, the government still engaged in control of social movements. As Athan G. Theoharis concludes in *The FBI and American Democracy* (2004): “Bureau agents continued to monitor radical activists and organizations but disguised their sources reporting that the information that they had collected had been volunteered by patriotic citizens or provided by ‘confidential informants.’”¹⁶ Progressive historians are correct to minimize the degree of FBI reform during the 1920s and early 1930s. Powers describes the contours of this historiographical debate:

Was Hoover telling the truth? Did he really end the Bureau’s intelligence gathering on radical groups and individuals? Later historians, incensed at Hoover’s repressive campaigns against radicals during the Cold War and Vietnam eras and his sorry record on civil rights, have poured [sic] over the files of the Bureau during the twenties, looking for evidence that Hoover disobeyed [Attorney General] Stone’s edicts, secretly continuing to gather information on radicals. They have been able to find some instances, triumphantly trumpeted as proof that the Bureau was forever and always bent on political repression, in the twenties as well as later. But while the Bureau did, in a handful of cases, gather information on individuals not under any investigation for federal offenses, it was always when ordered to do so by the White House.¹⁷

It seems irrelevant whether the impetus for spying derived from the White House or the FBI. In either case, the American government still engaged in policing to contain movements for social change.

In 1936, Hoover urged President Franklin D. Roosevelt to authorize new political intelligence gathering on subversive threats, especially organizations associated with Fascism, Communism, and organized labor. Investigations should identify threats in key areas such as industry, governmental affairs, the armed forces, and educational institutions. Theoharis refers to the New Deal’s initiation of a “new intelligence paradigm” that transformed the FBI into a proactive “intelligence agency that would seek to acquire advance information” on noncriminal threats.¹⁸ While

Roosevelt initiated historic social programs helping to establish a safety net for the “forgotten man” and the “one-third of a nation” suffering distress, his FBI aggressively monitored collective organizing by this segment of the population. Roosevelt and Hoover apparently formed a “close partnership” and Roosevelt expressed “unwavering support” for the bureau.¹⁹

Why a liberal president supported the expansion of FBI spying is not entirely clear. Generally, American presidents seemed to develop uneven relationships with Hoover. On the one hand, intimidation played a factor: Hoover secretly collected information on presidents and other leaders in the executive branch and many feared to challenge his power, let alone fire him. During the New Deal, for example, the FBI started intelligence files on leading liberals such as Labor Secretary Frances Perkins and First Lady Eleanor Roosevelt.²⁰ But apart from intimidation, modern presidents supported many of the goals of FBI policing in order to reduce the power and influence of radicals even though presidents may have been unaware of the excessive methods employed by the bureau to achieve these ends.

The expansion of surveillance during the Second New Deal proved lasting, leading by World War II to the use of wiretaps, break-ins, and mail-opening. Electronic surveillance often required break-ins to plant listening devices. In 1940, the FBI began to wiretap the German, Japanese, Italian, and Soviet embassies. But the targets were not limited to foreign entities on U.S. soil. “The shift in FBI wiretapping from national defense to political surveillance began within a year after Franklin Roosevelt issued his secret wiretapping directive in May 1940,” notes Theoharis. While Roosevelt had required prior review and approval of all wiretaps by the attorney general, the FBI did not follow this process in political surveillance cases.²¹ (The FBI’s Electronic Surveillance Card file, an index of wiretaps and bugs carried out under Hoover, contains at least 13,500 entries.²²)

The FBI’s expansion included the development in 1939 of plans for the indefinite detention of thousands of “subversives” during a national emergency. FBI officials assembled the so-called Custodial Detention List without outside supervision. During World War II, the agency’s size also grew: The number

of special agents tripled from 1,596 in 1941 to 4,886 in 1944. They undertook extensive loyalty investigations of German Americans and Italian Americans.²³ A special program named RACON focused on the wartime loyalty of African Americans.²⁴ Additionally, in 1940 the FBI initiated the large Plant Informant Program to surveil labor and radical activities in the industrial work sector. Surveillance conducted in conjunction with thousands of American Legion members focused as well on draft evasion. Historian James T. Sparrow writes, "Without the mass surveillance of everyday life instilled by government to safeguard morale, the job of policing draft compliance would have been far more difficult."²⁵ Bureau eyes (and ears) also turned to the Hollywood motion-picture industry to identify communist influence. In 1942, the establishment of the program named COMPIC, which lasted until 1956, formed an integral part of broader bureau efforts to combat left-wing influence on public opinion and culture.²⁶

As the nation faced the postwar period, the FBI broadened its autonomy by conducting intelligence operations no one else in government knew existed. The bureau's supremacy in the areas of both domestic law enforcement and national security became evident with the revival of a public Red Scare during the early Cold War years. While the FBI played a leading role in promoting the Scare, it, of course, was not the only government actor: Members of Congress (such as Senator Joseph McCarthy of Wisconsin and Representative Richard Nixon of California), as well as officials at all levels of government, touted the grave danger posed by the Red Menace. The FBI fed information to the House UnAmerican Activities Committee (HUAC) during the late 1940s and throughout the early 1950s, although it sometimes set conditions for its cooperation. In this sense, it became complicit in the domestic blacklist against alleged communists. Loyalty investigations of federal employees also occupied its time. As one indication of its large surveillance and intelligence-gathering capacity, in 1950 the FBI prepared about 6,500 index cards daily from their reports on liberal and radical political activity.²⁷

Since the mid-1940s, the FBI began collecting intelligence on the sexual orientation and affairs of elected leaders and other