

## EXECUTIVE SUMMARY

### Introduction

For many years the New York State Police maintained files on persons and organizations involved in non-criminal activities. In 1975, the new Superintendent, William G. Connelie, ordered that this activity be halted and ordered these materials purged from the files.

In the fall of 1975, the New York State Assembly established a Task Force on State Police Non-Criminal Files, chaired by Assemblyman Mark Alan Siegel, to determine the nature and scope of this information collection and to recommend remedial legislation to properly limit such collection in the future.

The Task Force examined the files and also conducted interviews of past and current State Police personnel. Since the State Police took the position that to protect the privacy of individuals, proper names would have to be deleted from the files made available to us for review, the Task Force was prevented from conducting follow-up investigations on information contained in the files.

### The Nature of the Files

The files were assembled by the Special Service Unit of the State Police (known before 1970 as the Criminal and Subversives Section). This Unit was charged with keeping Troop Commanders aware of potential threats to public order. These included both criminal activities such as bombings, assassination threats, rioting, and other disorders as well as large marches and demonstrations which would require police presence to insure proper public safety and order.

The files consists of State Police investigative reports, press clippings, petitions, etc. and alphabetical index cards. In total, 417 boxes of materials were purged containing from 600,000 to 1,000,000 index cards on several hundred thousand individuals.

Although the State Police had been monitoring what they considered criminal and subversive since the second World War, the focus of the report is on files maintained since 1962. A substantial amount of these materials deal with actual or potential criminal activity or large public gatherings where police presence might be required. However, much of the materials apparently deals with a desire by the State Police to be cognizant of all developments in the area of political protest. The files contain investigations of both "right-wing" and "left-wing" political activity although there is a preponderance of files on "left-wing" activity (perhaps reflecting their greater volume of activity.) Additionally there are files on "moderate" groups such as the NAACP.

The State Police attempted to be present at every public demonstration of a political or social action group and at as many public meetings of the above described groups as possible, often in plain clothes and often only to gather information. They would collect fliers and handouts, describe in detail the content of ideas expressed at the meetings, identify speakers and group leaders, take photographs or obtain them from the news media and record license plate numbers of automobiles at the gathering.

The Task Force has selected examples of investigations of groups where a threat to public order appears remote. Such groups or activities included, among others:

- a group protesting State Police harassment of "longhairs"
- an attempt to organize bank employees
- a civil rights fund-raising picnic
- an abortion action group
- a group protesting the high cost of food

Individuals were also investigated. Many files involve persons engaging in criminal activity but others do not appear to relate to actual or suspected criminal activities. For example, the following individuals were investigated:

- a teacher who refused to lead her class in the pledge of allegiance
- a teacher who took her students to hear a Labor Party speech
- a college student, investigated because college officials had received an anonymous letter claiming that he was a Socialist organizer
- a teacher who distributed Tolstoi's "Advice to a Draftee" to his high school class
- an individual who wrote a letter to a local paper advocating a non-physical civil disobedience type of "violence"
- an artist who had painted murals for the post office and was suspected of having subversive affiliations

The State Police kept press clippings on political figures and their activities. When State Police personnel were in attendance to provide security at speeches or rallies they filed reports often setting forth the content of public presentations by political figures. They also created and filed index cards on individuals who had signed Third Party political petitions and anti-war petitions.

On a number of occasions State Police surveillance was directed at the media:

- an investigation of the staff of and contributors to a new underground newspaper
- noted on index cards the names of authors of articles in The Nation and those who wrote letters to the editor
- an investigation of a local journalist who had written controversial articles about U. S. intervention in foreign countries and other topics.
- an investigation of a Black radio station scheduled to broadcast a tribute to radical black leaders

The Police conducted an extensive investigation of several schools using an unorthodox educational philosophy. Although there may have been a proper concern initially for the health, welfare and safety of the students, the State Police appear to have been at least equally interested in the philosophy of the school since they thoroughly investigated the political beliefs and activities of its teaching staff. This caused the investigation of the school to be continued and intensified beyond the level necessitated by a concern over the quality of the school's care.

The files indicate that the State Police appeared interested in ideas, to the extent that they would expend time and energy to investigate various expressions of controversial ideas even when no illegal conduct was apparent.

### Methods of Investigation

Special Services Investigators would either receive orders to commence an investigation or they could commence one at their own initiative. The system may have encouraged such local initiative without proper supervision. Criminal investigative techniques would be used even when the activities involved were non-criminal.

Although the State Police do not appear to have either used police as undercover agents or to have paid informants, they would solicit volunteers in the community to obtain information. They worked very closely with administrative officials at local colleges. They established a network of contacts within charter bus companies, searched refuse left on buses and collected any lists of demonstrators left behind after peace demonstrations. They would use the cover of an unrelated criminal investigation to solicit information on a peace activity or would pose as newsmen. In the field, investigators would interview an individual's employer, the local credit bureau, bank officials, professional associates, town officials, local police and neighbors to gather information on a group or individual.

In many instances, the Police obtained lists, of phone numbers called, of a group's or individual's phone calls from the telephone company, ran credit checks with the cooperation of credit bureaus, and conducted mail covers (both in conformance with and in violation of postal regulations) to determine who was corresponding with such groups. Physical surveillance was also used.

The Task Force has observed a pattern of securing private membership and contributors lists by encouraging volunteer informants to obtain them by "covert" and "devious" means without the permission of the group or organization. The files also contain photocopies of private letters and diaries.

All information collected in the course of an investigation was routinely filed. The failure of the Police to adequately

review the files for usefulness or relevance resulted in an enormous volume of files which contained much information of no use to law enforcement.

Dissemination

The Task Force has found no pattern of dissemination to other than law enforcement agencies. However, the Police did not make a distinction between criminal and non-criminal information and thus non-criminal information appears to have been freely disseminated among Police agencies around the United States.

Conclusions

The collection and maintenance of these files were undertaken by the State Police to enable them to preserve public order but they have exaggerated the need for information on many kinds of political activities and have overzealously interpreted their legal mandate. Because they failed to draw clear lines between criminal and non-criminal behavior they developed a system of intelligence that essentially surveilled ideas.

Although we have found several apparent violations of law, we have found no pattern of illegal acts in the conduct of their intelligence operations. However, the State Police were overzealous in some of the methods used. The files do not indicate any attempt to harass individuals or use derogatory information adversely but we reach no definite conclusion because of our inability to conduct follow-up investigations.

There was a lack of guidance from the Executive and Legislative branches, and legislation is needed for improved oversight. The State Police themselves did not properly supervise their intelligence operations. The amount of time and money expended on the operations were not justified by the law enforcement function it served.

This system presented great potential for abuse or misuse of information and under present law the self-discipline of the State Police appears to be the only restraint. The methods that were used could have resulted in invasions of privacy, infringements of constitutional rights and "chilling" effects on free speech. The Police were not sufficiently cognizant of the possible adverse consequences of their activities.

The Task Force therefore recommends improved oversight, both internal and external, both executive and legislative. Individuals should have access to their files when the investigation was not based on and did not result in criminal activity. Individuals should be able to bring civil actions for violations of constitutional rights and Police should be required to obtain search warrants for confidential material needed in their investigations and such need should be limited to criminal investigations.