

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

HEARINGS ON S. 2318

MILITARY SURVEILLANCE

Witness List

April 9, 1974 -- 10:00 a.m., Room 2228, Dirksen Senate Office Building

Mr. Robert Jordan, attorney, former General Counsel,  
Department of the Army

Mr. David E. McGiffert, attorney, former Under Secretary of the Army

Colonel John W. Downie, U.S. Army, Ret., former Director of  
Counterintelligence and Security, Department of the Army;  
accompanied by Mr. William J. Bowe, attorney, former domestic  
intelligence analyst, Department of the Army

Mr. John H. F. Shattuck, Staff Counsel, American Civil Liberties  
Union

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April 10, 1974 -- 10:00 a.m., Room 2228, Dirksen Senate Office Building

Mr. David O. Cooke, Chairman, Defense Investigative Review  
Council, Department of Defense; and Robert Andrews, Office  
of the General Counsel, Department of Defense

Statement of Mr. Cyrus R. Vance, former Deputy Secretary of  
Defense and President-elect of the Association of the Bar of  
the City of New York, delivered by Mr. Eastman Birkett,  
attorney, Association of the Bar of the City of New York;  
accompanied by Mr. Barry Mahoney, attorney, Association of  
the Bar of the City of New York

STATEMENT OF WILLIAM J. BOWE, ESQ. BEFORE THE  
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE  
COMMITTEE ON THE JUDICIARY OF THE UNITED STATES SENATE

April 9, 1974

Mr. Chairman and members of the Committee. I appreciate the opportunity to address you today. My name is William J. Bowe. I am a practicing attorney and a partner in the Chicago law firm of Roan & Grossman. I received an undergraduate degree from Yale University in 1964 and a law degree from the University of Chicago Law School in 1967. In 1968 I enlisted in the United States Army. Following training in the United States Army Intelligence School at Fort Holabird, Maryland, I was assigned to the Counter-Intelligence Analysis Branch of the 902nd Military Intelligence Group in the Washington, D.C. area.

The Counter-Intelligence Analysis Branch (later the Counter-Intelligence Analysis Division or CIAD) was comprised of both civilian and military intelligence analysts, and among its functions was the duty to respond to intelligence requirements levied by the Office of the Assistant Chief of Staff for Intelligence of the Army at the Pentagon. As a result, from the Fall of 1968 until I was honorably discharged with an award

for Meritorious Service in the Spring of 1971, I had the opportunity to work closely with Col. John Downie, Chief of the Directorate for Counter-Intelligence in the Office of the Assistant Chief of Staff for Intelligence.

Reflecting the turmoil of the period, I was engaged in the preparation of intelligence estimates on the necessity for deploying or employing Regular Army troops for use in the control of civil disturbances unable to be handled by State National Guards and local security forces. In addition to briefing White House and Department of Justice officials at various times, I was regularly engaged in the briefing of high-ranking military and civilian authorities of the Army, Navy, Air Force and Department of Defense. My security clearance was top secret and in addition, I held a series of more restricted access compartmentalized clearances.

In connection with the preparation of estimates relating to the commitment of Regular Army troops, I was engaged in the analysis of raw intelligence data produced by or disseminated to the Departments of the Army, Navy and Air Force, State National Guards, the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency and the National Security Agency, the Community Relations

Division of the Department of Justice, the Law Enforcement Assistance Administration, and city and state police agencies. I also regularly prepared Fact Sheets and so-called Black Book Items dealing with civil disorders for the Secretary of the Army, the Chief of Staff, the Assistant Chief of Staff for Intelligence as well as the heads of major commands and staff agencies of the Army.

In the Winter of 1971, I served as a member of a special investigating group established by the Secretary of the Army for the purpose of determining the full nature, extent and scope of the Army's domestic intelligence activities. Data on computerized and manual counter-intelligence retrieval systems of the Army and the interface between such systems and other intelligence bureaucracies was developed by the special working group for use by the General Counsel of the Department of Defense and the Secretary of the Army in hearings into military surveillance of civilians conducted by this Subcommittee at that time. In connection with those hearings, I also conducted research into the legal basis of the Army's domestic intelligence program and the implications which these and related activities had on the privacy and First Amendment rights of Army personnel and the public generally.

As a result of the foregoing, I believe I am in a fair position to evaluate the need for legislation restricting the Army's ability to conduct domestic intelligence activities of the nature and extent conducted in the 1960's and early 1970's.

There is no doubt in my mind that it is essential that a Bill along the lines of Senate Bill 2318 be enacted into law. In the absence of restrictive legislation, the Army has twice in our history become deeply enmeshed in developing national intelligence networks aimed at the compilation of political data concerning civilians. The first period began during the First World War and continued through roughly 1924. The second period occurred during the 1960's, particularly 1967 through 1971. The unsupervised application of computers to domestic intelligence activities in this latter period, by major and minor Army commands alike, proved an enormous stimulus to the collection of personal information relating to individuals guilty of no violations of law.

With the vast potential for abuse inherent in the new technology and with the twice proven tendency of the military to unnecessarily expand domestic intelligence functions in a period of severe civil disorder, the Congress would be shirking its responsibility, in my opinion, if it did not pass legislation defining clear limitations on the domestic intelligence functions of the military. Department of Defense and Armed Forces regulations alone will not be a sufficient safeguard against the dangers inherent in coupling military surveillance of civilians with the new computer technology.

The key difficulties in the proper drafting of such necessary legislation are: (1) to permit the Armed Forces and the State Militia to carry out innocent housekeeping functions related to their presence in and around civilian communities; and (2) to permit the military to carry out effectively their missions under law to restore domestic order, without having either of these two functions improperly expanded in a period of upheaval and civil dislocation into a broad warrant to intrude into what must remain, essentially, the civil realm.

In my view, the Bill before us today does not fully surmount these difficulties. Therefore, I respectfully offer the following suggestions for amending Senate Bill 2318.

First, the proposed new subsection 1386(b)(4) of Chapter 67, Title 18, United States Code, found on page 3, lines 10 to 12 of the Bill, should be deleted in its entirety. This subsection, as presently drafted, provides an escape hatch whereby state militia are excepted from the limitations of the Bill whenever such militia are under other than federal control. This is virtually all of the time. It seems to me that the restrictions imposed by the Bill are not unreasonable and to permit state militia units to compile otherwise prohibited information, except during the very limited periods when they are subject to federal control, would be to open a back door through which federal Armed Forces could gain access to otherwise proscribed information.

Second, in order not to interfere with normal house-keeping functions of the military, naturally incident to the military's presence in civilian communities, I would add in lieu of the deleted subsection a new subsection 1386(b)(4), as follows:

(b) The provisions of this section shall not apply to the use of the Armed Forces of the United States or the militia of any State . . .

(4) to collect, maintain, store or disseminate information relating to liaison with local, state and federal officials or community organizations and groups for the purpose of establishing and maintaining community relations in the vicinity of military installations or defense facilities.

It seems to me that a new subsection drafted along the lines outlined above would permit existing levels of contact with local, state and federal officials to continue on an uninterrupted basis and would insure that the intercourse essential between representatives of the Armed Forces at various facilities and residents of surrounding communities will not be impaired.

Third, it would be my suggestion to add a new subsection titled 1386(c) to the Bill in order to expand authorized surveillance activities to permit the maintenance of limited but proper data bases essential for the efficient conduct of military operations undertaken pursuant to Title 10, United States Code, Sections 331, 332 and 333. It seemed quite clear to me during my work with Col. Downie that there was absolutely no question but that there was a broad educating function to be played within the Army and the other services in order to give commanders at all levels an accurate and undistorted view of their missions in periods of civil dislocation. Also, there clearly was a need to collect and disseminate general planning data without which military operations could not be effectively conducted. Therefore, I suggest that a new subsection 1386(c) be added to the Bill, reading as follows:



(c) Nothing in this section shall be construed to prohibit the collection, maintenance, storage, dissemination or development of:

- (1) strategic and tactical information reasonably required for adequate preparation for operations undertaken pursuant to Title 10, United States Code, Sections 331, 332 and 333, including, but not limited to, identification of bivouac locations, preparation of maps, development of logistics data, ground and air reconnaissance and such other general planning and operational information as the Secretary of Defense, by regulation, may provide;
- (2) liaison information related to local, state and federal officials and non-governmental persons and organizations useful in the support of military operations undertaken pursuant to Title 10, United States Code, Sections 331, 332 and 333; or
- (3) estimates as to the likelihood of deployment or employment of military forces in connection with military operations undertaken pursuant to Title 10, United States Code, Sections 331, 332 and 333, prepared through the analysis of non-classified sources of information generally available to the public or other sources of information received through liaison with local, state and federal agencies.

provided, however, that nothing in this subsection 1386(c) shall be construed to permit the maintenance, storage or dissemination of extensive files and records, whether manual or computerized, relating to individuals or organizations; and provided, further, that all information permitted to be collected pursuant to this section which relates to the political, social or religious beliefs, associations or activities of individuals or organizations which is not transferred to civilian authorities for law enforcement purposes, shall be

destroyed within sixty days following the completion of military operations conducted pursuant to Title 10, United States Code, Sections 331, 332 and 333.

It is felt that the foregoing section would be a useful addition to the Bill in that it would more precisely strike a proper balance between the legitimate needs of military forces in preparing for civil disturbance activities and the illegitimate collection, storage and dissemination of information on individuals and organizations beyond the limits of strict military necessity. It is further believed that a section along these lines would be in keeping with the recommendations made by Cyrus Vance in his after-action report prepared following his service as a special representative of the President in Detroit during the riots in that city in July, 1967.

While it is always possible that individual commanders may attempt to broadly construe their permitted activities under this legislation in a way not intended, it is my feeling that if Senate Bill 2318 is enacted into law, such activities will never get out of hand in the way they did two other times in this century when no legislation existed and there was no legislative history offering guidelines for proper domestic military intelligence activities.

This concludes my remarks, Mr. Chairman, and I would like to thank both you and the other members of this Committee for the opportunity to speak to you today concerning Senate Bill 2318.

JAMES O. EASTLAND, MISS., CHAIRMAN

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CHIEF COUNSEL AND STAFF DIRECTOR

## United States Senate

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

(PURSUANT TO SEC. 6, S. RES. 236, 92D CONGRESS)

WASHINGTON, D.C. 20510

April 16, 1974

Mr. William J. Bowe  
c/o Roan & Grossman  
120 South La Salle St.  
Chicago, Ill. 60603

Dear Mr. Bowe:

It is the practice of the Senate Constitutional Rights Subcommittee--and of other Congressional Committees-- to provide an opportunity for witnesses, who have testified in a public hearing, to edit their remarks before sending the transcripts to the government printer, so that the printed record will accurately report the statements made.

Therefore, enclosed are transcript pages of your testimony, upon which you should indicate any corrections you deem appropriate.

It will be appreciated if this material is returned to our office as soon as possible so that there will be no unnecessary delay in delivering the copy to the printer.

The material should be mailed to:

Lawrence M. Baskir  
Chief Counsel and Staff Director  
Constitutional Rights Subcommittee  
102-B Russell Building  
Washington, D. C. 20510

20 Mr. Baskir. Mr. Bowe, you have a statement, also?

21 Mr. Bowe. Yes, I have a statement which I have submitted  
22 to the staff, and I would like to make a few comments from the  
23 statement with respect to the bill.

24 Mr. Chairman, I appreciate the opportunity to make a few  
25 comments today concerning the Senate bill before the Committee.

1 I was assigned, when I entered the Army in 1968, to the  
2 Counterintelligence Analysis Branch, which was the branch of  
3 the 902nd military intelligence group stationed here in  
4 Washington.

5 Among the functions our branch was to respond to were  
6 intelligence and analytical requirements from the office of the  
7 Assistant Chief of Staff for Intelligence of the Army at the  
8 Pentagon. It is in this connection that I had the opportunity  
9 to work with Colonel Downie, and through which I received a  
10 great deal of familiarity with the issues that have been under  
11 discussion here today.

12 Reflecting the turmoil of the period, 1968 to 1971, I was  
13 engaged in the preparation of intelligence estimates on the  
14 necessity for deploying or employing Regular Army troops for  
15 use in the control of civil disturbances unable to be handled  
16 by State National Guards and local security forces.

17 The estimate which was submitted for the record, I think,  
18 extends for the proposition that no large collection mechanism  
19 of the Army or any of the other services was required in order  
20 for the Army to prepare reasonable threat estimates which are  
21 an essential guide to training functions related to this most  
22 sensitive of Army missions, control of civil disturbances  
23 involving citizens of the country.

24 I analyzed and was familiar with raw intelligence data  
25 disseminated to the Departments of Army, Navy and Air Force,

1 State National Guard, FBI, CIA, DIA, the National Security  
2 Agency, Community Relations Division of the Department of  
3 Justice, Law Enforcement Assistance Administration and city and  
4 state police agencies.

5 In the winter of 1971, during earlier hearings conducted  
6 by this Committee, I served as a member of the special task  
7 force that was established by the Secretary of the Army in  
8 order to collect information to respond to the questions raised  
9 by the hearings of this Committee at that time. Data on  
10 computerized and manual counterintelligence retrieval systems  
11 of the Army and the interface between such systems and other  
12 intelligence bureaucracies was developed by the special working  
13 group for use by the General Counsel of the Department of  
14 Defense and the Secretary of the Army in hearings into military  
15 surveillance of civilians conducted by this Subcommittee at  
16 that time.

17 As a result of the foregoing, I believe I am in a fair  
18 position to evaluate the need for legislation restricting the  
19 Army's ability to conduct domestic intelligence activities of  
20 the nature and extent conducted in the 1960's and early 1970's.

21 There is no doubt in my mind that it is essential that a  
22 bill along the lines of Senate bill 2318 be enacted into law.  
23 In the absence of restrictive legislation, the Army has become  
24 twice deeply enmeshed in developing national intelligence  
25 networks aimed at the compilation of political data concerning

1 civilians. The first period began during the First World War  
2 and continued through roughly 1924. The second period occurred  
3 during the 1960's. The unsupervised application of computers  
4 to domestic intelligence activities in this latter period by  
5 major and minor Army commands alike proved an enormous stimulus  
6 to the collection of personal information relating to indivi-  
7 duals guilty of no violations of law.

8 With the vast potential for abuse inherent in the new  
9 technology and with the twice proven tendence of the military  
10 to unnecessarily expand domestic intelligence functions in a  
11 period of severe civil disorder, the Congress would be shirking  
12 its responsibility, in my opinion, if it did not pass legisla-  
13 tion defining clear limitations on the domestic intelligence  
14 functions of the military. Department of Defense and Armed  
15 Forces regulations alone will not be a sufficient safeguard  
16 against the dangers inherent in coupling military surveillance  
17 of civilians with the new computer technology.

18 The key difficulties in the proper drafting of such  
19 necessary legislation are: (1) to permit the Armed Forces and  
20 the State Militia to carry out innocent housekeeping functions  
21 related to their presence in and around civilian communities;  
22 and (2) to permit the military to carry out effectively their  
23 missions under law to restore domestic order, without having  
24 either of these two functions improperly expanded in a period  
25 of upheaval and civil dislocation into a broad warrant to



1 intrude into what must remain, essentially, the civil realm.

2 In my view, the Bill before us today does not fully  
3 surmount these two difficulties. Therefore, I respectfully  
4 offer the following suggestions for amending Senate Bill 2318.

5 First, the proposed new subsection 1386(b)(4) of Chapter  
6 67, Title 18, United States Code, found on page 3, lines 10  
7 to 12 of the Bill, should be deleted in its entirety in my  
8 view. This subsection, as presently drafted, provides an  
9 escape hatch whereby state militia are excepted from the  
10 limitations of the Bill whenever such militia are under other  
11 than federal control. This is virtually all of the time. It  
12 seems to me that the restrictions imposed by the Bill are not  
13 unreasonable and to permit state militia units to compile  
14 otherwise prohibited information, except during the very  
15 limited period when they are subject to federal control, would  
16 be to open a back door through which federal Armed Forces  
17 could gain access to otherwise proscribed information.

18 Second, I would recommend a section in lieu of the  
19 deleted section, and you will find the text of that proposed  
20 drafted statement I have submitted to your Committee, and I  
21 believe this makes clear that contacts with civilians which  
22 are usual and ordinary around military installations and which  
23 are inevitable contacts arising out of the presence of military  
24 installations.

25 Senator Ervin. What relation does this bill have to those

1 contacts? I can't see it. This bill is very narrow.

2 Mr. Bowe. I can see speech requests coming in for military  
3 people. I believe Colonel Downie mentioned that there are  
4 inevitably -- there is inevitably information collected pursuant  
5 to the sale and disposal of certain surplus military equipment.  
6 Since I don't feel that a myriad activity --

7 Senator Ervin. There is nothing in this bill that would  
8 affect the sale of surplus military property. It doesn't even  
9 touch the subject. The only thing this prevents would be  
10 prevented under the normal circumstances, the collection or  
11 the acquisition of information by the use of military as a  
12 detective force relating to beliefs, the associations and  
13 political activities of people having a relation to Armed  
14 Forces.

15 Mr. Bowe. Query whether the possession of Congressional  
16 Directory by a member of the Armed Forces would involve a  
17 proscribed activity under this legislation in that it would  
18 pinpoint information on the political beliefs of civilians?

19 Senator Ervin. I can't concede that. I can see a thing  
20 that this would affect the relationship between the military  
21 and civilians or their ordinary contacts. I am at a total loss  
22 to understand that. I am willing to receive information and  
23 suggestions on it, but I can't see it. It doesn't undertake  
24 to regulate this. This just undertakes to regulate the use  
25 of the military to spy on civilians for the purpose of obtaining

1 information about their beliefs or their associations or their  
2 political activities. It doesn't affect any man or some good-  
3 looking girl he wants to date or something like that.

4 Pardon the interruption.

5 I will say this, I don't think Congress ought to regulate  
6 the militia as a state military force, and this is called into  
7 service for the federal government or into training, and I  
8 don't think Congress ought to undertake to regulate what the  
9 government or state, as the Commander in Chief of a militia  
10 outfit as in federal service or in training can't do.

11 Mr. Bowe. I suppose if you fail to treat the state  
12 militia in the same way you treat federal armed forces, you  
13 run a clear likelihood in a period of disruption that the state  
14 militia will have collected a vast amount of information  
15 concerning political information of citizens and spread in  
16 files up and down the units of command and the militia will be  
17 called into service.

18 Senator Ervin. I think the right of the government to  
19 use the military is much broader than the right of the  
20 President to use the Army, because most state laws provide  
21 that the government in its discretion can use the militia for  
22 the purpose of assisting the civilian authorities when the  
23 civilian authorities are unable to cope with the situation.  
24 That is quite broader than the Posse Comitatus Act.

25 Mr. Bowe. Except it seems to me that whether or not a

1 state militia, in collecting information, is legal or not  
2 depends upon a presidential proclamation, and following the  
3 giving of that a state militia could find it was in violation  
4 of a law and on their way into control of a civil disturbance  
5 situation they would be destroying the very information under  
6 this law they had collected through the exception.

7 I believe that is a technical problem which should be  
8 addressed.

9 Finally, I would like to suggest that a section be added  
10 to the bill which would specifically authorize the maintenance  
11 of limited, but a proper data base essential for the efficient  
12 conduct of military operations undertaken pursuant to section  
13 10, sections 331 through 333.

14 It seems quite clear to me during my work with Colonel  
15 Downie that there was absolutely no question but that there was  
16 a broad education function to be played within the Army and  
17 the other services in order to give commanders at all levels  
18 an accurate and undistorted view of their missions in periods  
19 of civil dislocation.

20 If you do not properly back down alarmist opinions, which  
21 are very easily -- become very widespread in a period of  
22 unrest, then you run another risk that troops, when they  
23 finally are committed to a situation, and commanders will be  
24 unfamiliar with in fact the nature of the threat that they are  
25 addressing, and since the commitment of armed forces to control

1 disorder involves the use of a blunt instrument to begin with,  
2 to send in people with an improper perspective of what actually  
3 they are facing can lead to the kinds of tragedies that  
4 occurred at Kent State.

5 So it would be my recommendation that some estimating  
6 function at the departmental level be authorized to serve the  
7 training and information purposes essential to prevent  
8 unnecessary loss of life and also to insure that the Army has  
9 a clear idea of whether or not there is in fact a military  
10 necessity for it to be committed to a particular situation or  
11 not. There is a long tradition in this country to keep regular  
12 armed forces from being committed to civil disturbances, and I  
13 think it is important that the commitment of federal armed  
14 forces never be made on political grounds, but rather only on  
15 military grounds, and with the departmental level estimating  
16 function that I suggest be retained. I think you would permit  
17 the operation of officers to be placed in proper perspective  
18 and you also insulate the Army somewhat from political  
19 pressures that might improperly intrude into the question of  
20 whether or not federal forces should be committed.

21 Senator Ervin. That is one of the purposes of this bill,  
22 to keep the Army out of political affairs, in other words,  
23 that is the very use of the words, "political activity" which  
24 I don't think it is any business of the Army to collect  
25 information concerning political activities of people with no

1 connection with the Army.

2 What are alarmist opinions?

3 Mr. Bowe. One thing that I encountered as an analyst in  
4 the latter part of the 1960's was very often you have people  
5 assigned to the operational arm that is established to  
6 coordinate federal troops once they had actually been committed.  
7 You had a three-star Army general and a two-star Air Force  
8 general in command of 180 officers and enlisted men, which is  
9 not a large command normally associated with officers of that  
10 rank whose only opportunity to exercise the functions that they  
11 were charged with was when in fact there were civil disturban-  
12 ces which might require their intervention, at which time, of  
13 course, task forces would be mobilized which they would be  
14 directly in command of. Inevitably, in a period of declining  
15 civil disorders, if you have a large organization searching  
16 for a mission there will be a tendency to, I think, a perfectly  
17 innocent one, to perhaps inflate the likelihood that federal  
18 troops will be committed. As I say, it seems to me that it  
19 is in the interests of the citizenry and the Army in particular  
20 to have somewhere within that organization an element charged  
21 with an independent analysis of the situations that are likely  
22 to involve the Army.

23 Senator Ervin. There is nothing in this bill that would  
24 interfere with that, unless they send out part of the military  
25 to get information by collecting evidence about the beliefs

1 and associations and views of political activities. This bill  
2 wouldn't affect that at all.

3 Mr. Bowe. Well, I am pleased to hear that is your view.

4 Senator Ervin. I don't think you can draw a bill and  
5 say -- if you draw a bill and say everything doesn't apply to  
6 it and say it has no relation to the bill, you have to draw a  
7 bill as long as the U.S. Code, I am afraid.

8 I think the bill only applies to the things it applies to,  
9 what it says it applies to.

10 Any questions?

11 Mr. Baskir. No.

12 Senator Ervin. Thank you very much. I appreciate it.

13 Mr. Downie. Thank you.

14 Mr. Bowe. Thank you.

15 Mr. Baskir. Mr. Chairman, our final witness this morning  
16 is Mr. John Shattuck, Staff Counsel for the American Civil  
17 Liberties Union.

18 Senator Ervin. Welcome to the Committee. I appreciate  
19 your appearance.

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POSSIBLE REVISIONS OF S. 2318

The Prohibition

"Except as provided in subsection (b) of this section or expressly authorized by Act of Congress, whoever being a civil officer of the United States or a member of the Armed Forces of the United States or of the militia of any State while in federal service conducts or causes any person to conduct investigations into, maintain surveillance over, or record or maintain information regarding the political, social, or religious beliefs, actions, or affiliations, or the private affairs of any person [not a member of the Armed Forces of the United States or of the militia of any State while in federal service], or the leadership, membership, organization, financing, ideology, programs, practices, or objectives of any political, social, or religious group or organization, shall be fined not more than \$10,000, or imprisoned more than two years, or both."



ations

"The provisions of this section shall not be construed to limit or to provide additional authority for the Armed Forces or Militia when in federal service to:

(1) collect or receive information relevant to criminal personnel security investigations.

(2) receive information from civilian law enforcement agencies relevant to circumstances which may lead to the disruption of military installations or activities, damage to military property, interference with the flow of military supplies, transportation, or communications, or harm to military personnel, provided, however, that such information shall be periodically reviewed and destroyed when no longer relevant to these military needs.

(3) receive information from the Department of Justice relating to circumstances which may require the deployment of federal troops pursuant to title 10, United States Code, sections 331, 332, or 333, and

(4) to provide observers, when requested by the Attorney General, to the scene of a civil disturbance to assist with the determination whether and how federal troops should be deployed pursuant to title 10, United States Code, sections 331, 332, or 333, and 334.

(5) collect all information necessary and proper to the restoration of public order once the President has ordered the deployment of federal troops pursuant to title 10, United States Code, sections 331, 332, or 334, provided, however, that any information safeguarded by paragraph (a) of this section which may have been collected or received in the course of such military operations shall be turned over to the appropriate civilian agencies where relevant to law enforcement purposes within sixty days of the withdrawal of federal troops."

Civil Actions, generally

"(a) Whoever violates any provision of Section 1386 of title 18, United States Code, shall be liable to any individual, group, or organization that, as the result of such violation, has been the subject of the prohibited investigation, surveillance, or data-keeping in an amount equal to the sum of:

(1) any actual damages suffered by the plaintiff, but not less than liquidated damages at the rate of \$100 a day for each day during which the prohibited data collection and retention took place;

(2) such punitive damages as the court may allow, but not in excess of \$1,000; and

(3) the costs of any successful action for damages, together with reasonable attorney's fees as determined by the court.

(b) Any individual, group, or organization that has been the subject of the prohibited investigation, surveillance, or data-keeping may bring a civil action against the United States to secure, when appropriate, the following relief:

(1) injunctive and other relief directing the cessation of the prohibited activities;

(2) the deletion from any files kept by any department or agency of the United States of any information gathered as a result of the prohibited data collection activities;

(3) further judicial orders directing the expungement of such information from the files of state and local agencies and organizations to which it may have been communicated."

Class Action

"Any individual, group, or organization that has been the subject of any investigative, surveillance, or data-keeping activity prohibited by section 1386 of title 18, United States Code, may bring a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure for equitable and other appropriate relief, including orders requiring cessation of the prohibited activities and the destruction of all unauthorized records under supervision of the court."

Jurisdictional Amount

"No amount of money need be in controversy before a federal court may assume jurisdiction over a case brought pursuant to sections 2691 or 2692 of title 28, United States Code."

# Ervin Disputes Pentagon on Spying Curb

Special to The New York Times

WASHINGTON, April 10 — Senator Sam J. Ervin Jr. and a Defense Department official sharply disagreed today over the need for legislation to prevent a recurrence of military spying on civilians, a practice that resulted in the compiling of military files on an estimated 100,000 Americans in the late nineteen-sixties.

The disagreement came on the second and final day of hearings before the Senate Subcommittee on Constitutional Rights, which is headed by Senator Ervin. The subcommittee is considering a bill, introduced by the North Carolina Democrat and co-sponsored by 34 other Senators, to prohibit military surveillance and the gathering of information on "the beliefs, associations or political activities" of anyone not in the armed forces. Such spying would be punished if the bill becomes law, by a \$10,000 fine and two years in jail.

The defense Department ended its widespread civilian surveillance operation with a directive in March, 1971, from Melvin R. Laird, then the Secretary of Defense.

## Misgivings Remain

In his opening statement yesterday, Senator Ervin said that the Defense Department by its directive, had made "a good faith and apparently successful effort to get itself out of the business of spying on civilians." While acknowledging that the Pentagon had destroyed "most" of the intelligence reports reports on civilians, the Senators said he had "misgivings" about the department's "regulatory scheme."

Senator Ervin said that he believed a law was needed because "if the Defense Department should decide to invoke qualifications and exceptions or, even worse, violate its own

## New Defense Aide Backed

WASHINGTON, April 10 (AP) —The Senate confirmed today the nomination of John M. Maury to be Assistant Secretary of Defense for legislative affairs. Mr. Maury has been legislative counsel for the Central Intelligence Agency. In his new position he succeeds former Representative John O. Marsh Jr., Republican of Virginia, who resigned.

regulation, there is no one in a position to say 'no.'"

D. O. Cooke, Deputy Assistant Secretary of Defense, said that the proposed legislation, if enacted, would provide a "number of unintended results." Mr. Cooke is chairman of the Defense Investigative Review Council, a five-man group set up in February, 1971, to "direct, manage and inspect" all domestic military intelligence.

## 'Numerous Flaws' Cited

Mr. Cooke contended that the bill would, among other things, prohibit members of the military from obtaining copies of the Congressional Record, prohibit the conducting of security clearances and prevent the Army Corps of Engineers from filing environmental impact statements.

Because of such "numerous flaws" in the bill, Mr. Cooke said the department "must record our unqualified opposition to S. 2318."

Senator Ervin, in questioning Mr. Cooke, accused the Pentagon official of throwing up "more legal ghosts than ever existed."

"I must admit," the Senator said, "your statement is the most interesting thing I've read

since Jules Verne's '20,000 Leagues Under the Sea.'"

Under questioning by the subcommittee's counsel, Lawrence M. Baskir, Mr. Cooke said that the Defense Department had engaged in six surveillance operations was "ongoing," with infiltrators being used to keep track of a group of civilians and servicemen advocating sabotage.

Yesterday, David E. McGiffert, former Under Secretary of the Army in the Johnson Administration, cast doubt on the military's need for "political" surveillance reports in the event of urban riots. Such upheavals started the spying in the nineteen-sixties.

"The reason is simple," Mr. McGiffert said. "The information gathered is useless in terms of the military's disturbance responsibilities." Mr. McGiffert said that the names of local officials and the "physical information" of access routes and bivouac areas were the main needs for quick response to domestic violence.

A staff member of the subcommittee said a final bill would be drafted in about a month. The bill is expected to be similar to Senator Ervin's proposal despite the Pentagon's objections, the aide said.



# Army spies on civilians—Ervin

By Paul Clancy

Knight Newspapers

WASHINGTON, April 9—The military, which ordered an end to civilian intelligence gathering three years ago, is still occasionally spying on private citizens, Sen. Sam Ervin [D., N. C.] said today.

Altho the level of information-gathering is nowhere near what it was previously, Ervin cited several examples to show that the military, especially the Army, is still very much in the business.

The only cure, Ervin said, is not self-restraint by the armed

forces but legislation.

ERVIN OPENED two days of hearings on his proposed Freedom from Surveillance Act which would make it a crime for any military officer to spy on civilians or collect information about their beliefs, associations, or political activities unless ordered to do so by the President to repel invasions or suppress insurrections.

Investigations by Ervin's constitutional rights subcommittee in early 1971 disclosed that the military was engaged in massive and unrestrained surveillance of controversial

persons and groups to keep abreast of potential urban riots and campus unrest.

The Defense Department issued a directive on March 1, 1971, ordering the dismantling of the operations and the destruction of all files and computer tapes which contained information about civilians.

BUT, DESPITE this directive, Ervin said, the subcommittee has learned that a number of activities it considers questionable have taken place. Among them:

• The participation by the

military in the Justice Department's now-defunct Intelligence Evaluation Committee, even tho the IEC had far broader interests than civil disturbances.

• The assignment of military intelligence agents to both the Republican and Democratic conventions in Miami in 1972 in the event federal troops were needed to deal with riots.

• The "loaning" of military agents to one police department to help catch members of a drug ring, even tho as it turned out, no servicemen were involved.

CHICAGO SUN-TIMES, Wed., Apr. 10, 1974

7

## Army started secret data banks in '60s, probbers told

WASHINGTON (AP) — The Army created two highly secret computerized data banks in the late 1960s to store intelligence information on U.S. citizens, a Senate subcommittee was told Tuesday.

Robert E. Jordan III, former general counsel of the Army, said the existence of the data banks at Fort Holabird, Md., and Fort Monroe, Va., was kept secret even from the Army's senior civilian officials.

The systems were "filled with a lot of unevaluated 'junk' information about individuals and incidents which had an enormous potential for abuse." Jordan told the constitutional rights subcommittee.

In addition, Jordan said, because of a passion of secrecy on the part of the Army's intelligence officers, "it also appeared that Fort Holabird, Md., was unaware of the Fort Monroe, Va., computer systems and vice versa."

"... We finally obtained a copy of the biographical bank print-out—after being assured that no such compilation existed," he said.

"I recall that in looking at the entries for only surnames beginning with 'A' and 'B' we found the name of an outstanding Special Forces colonel and a major general who was a division commander, each accompanied by an ideological code which cast doubt on his loyalty to the United States," he said.

Jordan said a reconstruction of events in-

dicated the names of the officers were put in the computer because both were on the subscription lists of an anti-war underground newspaper.

Jordan was the leadoff witness in hearings conducted by subcommittee chairman Sam J. Ervin Jr. (D-N.C.) on Ervin's proposed bill to limit by law the extent by which the military is permitted to engage in domestic intelligence.

Jordan testified he does not believe that the abuses of the past ever became so serious as they were depicted in the national press.

"But I also believe that it created severe hazards of abuse in the hands of the misguided," he said.

He said civilian officials often were too busy to find out exactly what the military intelligence establishment was doing.

"My experience has been that it is extremely difficult for appointed civilian officials to deal with middle level career military intelligence officials and get a straight story," Jordan said.

Rather than being a threat to civil liberties, he said, military intelligence activities which gained notoriety between 1969 and 1971 involved "a lot of essentially foolish and wasteful use of military intelligence resources to observe and collect information about the most trivial sort of disturbances one can imagine."

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## United States Senate

COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS  
(PURSUANT TO SEC. 6, S. RES. 56, 93D CONGRESS)  
WASHINGTON, D.C. 20510

May 15, 1974

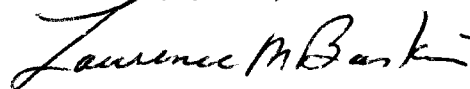
Mr. William J. Bowe  
c/o Roan & Grossman  
120 South La Salle St.  
Chicago, Ill. 60603

Dear Mr. Bowe:

Enclosed is a voucher in the amount of \$127.41.  
Would you kindly sign it on the lines designated by  
the check marks and return it to the Subcommittee  
on Constitutional Rights, 102-B Russell Senate  
Office Building, Washington, D. C. 20510.

After you return the signed voucher to us,  
payment will be made to you.

Sincerely yours,



Lawrence M. Baskir  
Chief Counsel and Staff Director

LMB:lg  
Enc.

Do not write in this space.

# The Senate of the United States

Check No. ....

Date .....

Voucher No. ....

Approp. ....

**128** Inquiries and Investigations

To William J. Bowe, c/o Roan & Grossman

Address 120 South La Salle St., Chicago, Ill. 60603

16-75321a-1 U.S. GOVERNMENT PRINTING OFFICE

1974

April 7 and  
April 9

*For attendance as a witness before the Constitutional Rights  
Subcommittee of the Committee on the Judiciary*

..... *under authority of*  
Section 6, S. Res. 255, agreed to March 1, 1974

<i>Witness fee,</i>	..... <i>days at \$</i>	<i>per day,</i>	<i>\$ waived</i>
<i>Transportation from Chicago, Ill (air)</i>			
<i>to Williams port, Pa. and return</i>			<u>127.41</u>
<i>(surface to Washington, D.C.) and Washington, D.C. to Chicago, Ill. (air)</i>			<u>\$ 127.41</u>

(4/7 lv. Chicago, Ill. 9:15 a.m.;  
arr. Williamsport, Pa. 12:05 p.m.;  
surface to D.C.; 4/9 10:00 a.m. hearing;  
4/9 lv. Washington, D.C. 9:55 p.m. via air  
arr. Chicago, Ill. 11:00 p.m.)

Correct:

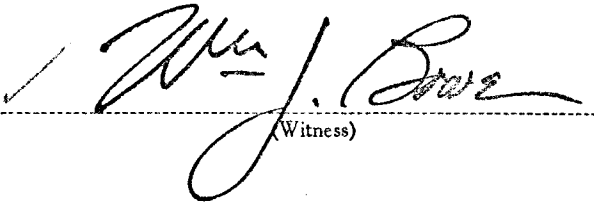
Clerk.

Approved:

Chairman.

Chairman, Constitutional  
Rights Subcommittee

Approved:

  
.....  
(Witness)

Chairman, Committee on Rules and Administration.

93<sup>d</sup> CONGRESS  
1<sup>st</sup> SESSION

# S. 2318

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## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 1973

Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BIBLE, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUE, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MANSFIELD, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        SECTION 1. This Act may be cited as the "Freedom  
4        From Surveillance Act of 1973".



1       SEC. 2. (a) Chapter 67 of title 18, United States Code,  
2 is amended by adding at the end thereof the following new  
3 sections:

4       **“§ 1386. Use of the Armed Forces of the United States for**  
5               **surveillance prohibited**

6       “(a) Except as provided in subsection (b) of this  
7 section, whoever being a civil officer of the United States  
8 or an officer of the Armed Forces of the United States em-  
9 ploys any part of the Armed Forces of the United States  
10 or the militia of any State to conduct investigations into,  
11 maintain surveillance over, or record or maintain informa-  
12 tion regarding, the beliefs, associations, or political activities  
13 of any person not a member of the Armed Forces of the  
14 United States, or of any civilian organization, shall be fined  
15 not more than \$10,000, or imprisoned not more than two  
16 years, or both.

17       “(b) The provisions of this section shall not apply to  
18 the use of the Armed Forces of the United States or the  
19 militia of any State—

20               “(1) when they have been actually and publicly  
21 assigned by the President to the task of repelling inva-  
22 sion or suppressing rebellion, insurrection, or domestic  
23 violence pursuant to the Constitution or section 331,  
24 section 332, or section 333 of title 10 of the United  
25 States Code; or

1           “(2) to investigate criminal conduct committed on  
2 a military installation or involving the destruction, dam-  
3 age, theft, unlawful seizure, or trespass of the property  
4 of the United States; or

5           “(3) to determine the suitability for employment  
6 or for retention in employment of any individual actually  
7 seeking employment or employed by the Armed Forces  
8 of the United States or by the militia of any State, or by  
9 a defense facility; or

10           “(4) whenever the militia of any State is under the  
11 command or control of the chief executive of that State  
12 or any other appropriate authorities of that State.

13           “(c) As used in this section, the term—

14           “(1) ‘Armed Forces of the United States’ means  
15 the Army, Navy, Air Force, Marine Corps, and Coast  
16 Guard;

17           “(2) ‘militia’ has the same meaning as that set  
18 forth in section 311 of title 10, United States Code;

19           “(3) ‘civil officer of the United States’ means any  
20 civilian employee of the United States;

21           “(4) ‘surveillance’ means any monitoring conducted  
22 by means which include but are not limited to wiretap-  
23 ping, electronic eavesdropping, overt and covert infiltra-  
24 tion, overt and covert observation, and civilian inform-  
25 ants;

1           “(5) ‘defense facility’ has the same meaning as that  
2           set forth in section 782 (7) of title 50, United States  
3           Code.”.

4           (b) The analysis of chapter 67 of such title is further  
5           amended by adding at the end thereof the following new  
6           item:

          “1386. Use of Armed Forces of the United States for surveillance pro-  
          hibited.”.

7           SEC. 3. (a) Title 28, United States Code, is amended by  
8           adding after chapter 171 the following new chapter:

9           **“Chapter 172.—ILLEGAL SURVEILLANCE**

          “Sec.

          “2691. Civil actions generally; illegal surveillance.

          “2692. Special class actions; illegal surveillance.

          “2693. Venue.

10          **“§ 2691. Civil actions, generally; illegal surveillance**

11          “(a) Whenever any person is aggrieved as a result of  
12          any act which is prohibited by section 1386 of title 18, United  
13          States Code, such a person may bring a civil action for dam-  
14          ages irrespective of the actuality or amount of pecuniary in-  
15          jury suffered.

16          “(b) Whenever any person is threatened with injury as  
17          a result of any act which is prohibited by section 1386 of  
18          such title, such a person may bring a civil action for such  
19          equitable relief as the court determines may be appropriate  
20          irrespective of the actuality or amount of pecuniary injury  
21          threatened.

1   **“§ 2692. Class action; illegal surveillance**

2           “Whenever any person has reason to believe that a vio-  
3 lation of section 1386 of title 18, United States Code, has  
4 occurred or is about to occur, such person may bring a civil  
5 action on behalf of himself and others similarly situated  
6 against any civil officer of the United States or any military  
7 officer of the Armed Forces of the United States to enjoin  
8 the planning or implementation of any activity in violation  
9 of that section.

10   **“§ 2693. Venue**

11           “A person may bring a civil action under this chapter in  
12 any district court of the United States for the district in which  
13 the violation occurs, or in any district court of the United  
14 States in which such person resides or conducts business, or  
15 has his principal place of business, or in the District Court  
16 of the United States for the District of Columbia.”.

17           (b) The analysis of part VI of such title 28 is amended  
18 by adding immediately after items 171 the following new  
19 item:

          “172. Illegal surveillance----- 2691”.

20           (c) Section 1343 of title 28, United States Code, is  
21 amended by redesignating paragraph (4) as paragraph (5)  
22 and by inserting immediately after paragraph (3) the fol-  
23 lowing new paragraph:

24           “(4) To recover damages or to secure equitable or  
25 other relief under chapter 172 of this title;”.

1        SEC. 4. The civil actions provided by the amendments  
2 to title 28, United States Code, made by this Act shall ap-  
3 ply only with respect to violations of section 1386 of title  
4 18, United States Code, as added by this Act, arising on or  
5 after the date of enactment of this Act.

6        SEC. 5. (a) Section 1385 of title 18, United States  
7 Code, is amended by striking out “the Army or the Air  
8 Force” and inserting in lieu thereof the following: “the  
9 Armed Forces of the United States.”

10        (b) (1) The section heading of section 1385 of such  
11 title is amended to read as follows:

12        **“§ 1385. Use of Armed Forces of the United States as posse**  
13                    **comitatus”.**

14        (2) Item 1385 of the analysis of chapter 67 is amended  
15 to read as follows:

“1385. Use of Armed Forces of the United States as posse comitatus.”.

93d CONGRESS  
1st SESSION

**S. 2318**

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**A BILL**

To enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes.

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By Mr. ERVIN, Mr. ABOUREZK, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BIBLE, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUE, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MANSFIELD, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS

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AUGUST 1, 1973

Read twice and referred to the Committee on the  
Judiciary

January 17, 1974

*Tom  
Pillars*  
*direct  
interest*  
*S. Bank  
15 Mar*  
*1997*  
*353*

Christopher Pyle, Esq.  
160 Claremont Avenue  
Apartment 11  
New York, New York 10027

Re: O'Brien Testimony

Dear Chris:

Thanks very much for bringing me up to date in your Christmas card. You asked whether the O'Brien testimony from U.S. v. Dellinger might be available.

The testimony can be found in the official transcript of the trial which now resides in the office of the Clerk of the Seventh Circuit Court of Appeals here in Chicago. There are two separate volumes in which the testimony appears:

1. Volume 2, pages 2045 to 2114;
2. Volume 14, pages 2576 to 2728.

The Clerk will arrange to copy all of this at an exorbitant price of something like \$.50 a page for the 221 pages. I might be able to have the transcript released in my custody and xerox it in my office at approximately \$.10 a page.

If it all seems worth it, please let me know. In any event, keep in touch and please give my best to Cindy.

Write on,

WJB/kmf

William J. Bowe



## JOHN JAY COLLEGE OF CRIMINAL JUSTICE

*The City University of New York*

445 West 59th Street, New York, N. Y. 10019

212 489-5183

Department of Government, Room 3253

February 15, 1974

Dear Bill;

Thanks for checking on O'Brien's testimony. I hate to spend the money on it, but I think I had better have it just to be thorough and complete. Fifty cents a page is out of the question; any chance you can get it done at your office or elsewhere for less? The going rate around Columbia is five cents a page; however, I don't suppose there is any way to mail it east. Whatever you do, however, don't spend a lot of your time on it.

I have some news that may interest you. Senator Ervin is planning another set of hearings to go over the Army surveillance bill, which now has 33 co-sponsors. The tentative date is April 9-11. Do you think Colonel Downie would make a good witness?

The ACLU will file still another lawsuit against the Army on Tuesday. This one is entitled Berlin Democratic Club v. Schlesinger and it has everything Tatum did not--wiretaps, infiltrations, counter-dissidence plans--right up to August 1973.

I also have obtained copies of the summaries which Milton Hyman and Robert Jordan did of the task force documents. The Army General Counsel still hasn't granted me access to those files, but I am expecting some sort of compromise offer this week. They also have a unit which is working to declassify the 30-volume history of the CI Corps, 1917-1950.

I am writing the final chapter of the dissertation now and have seven more to go on the book. Alan Westin has read ten and wants to publish the bureaucracy chapter you read in the *Civil Liberties Review*.

John Jay is taking lots of time this semester. I'm teaching Administrative Law out of Gellhorn & Byse and am having to do a lot of



supplemental reading.

Hope all is going well with you. Sorry that it has taken me so long to write.

Best wishes,

*Chris*

P.S. Had dinner with Lt. Col. Everett Mann last week in Annandale. He wants to write a book on Army surveillance too, as a series of profiles of the key figures. He is now public information officer at the Defense Investigative Service.

Did you see in the paper that the Intelligence Command is scheduled to go out of business? They are going to turn over what remains of its mission to the 902nd. Downie's dream of a single MI Group for the country, and maybe the world, could be coming true.

March 14, 1974

Christopher Pyle, Esq.  
John Jay College of  
Criminal Justice  
The City University of New York  
445 West 59th Street  
Department of Government, Rm. 3253  
New York, New York 10019

Dear Chris:

Enclosed you will find transcripts of testimony of John O'Brien and Thomas Filkins during the U.S. v. Dellinger contempt trial this past fall. I thought I would add the Filkins testimony in view of the fact that it directly impeached O'Brien.

You asked whether Colonel Downie would be a good witness during the April 9-11 hearings which Senator Ervin is planning on the Army surveillance bill. I haven't the faintest idea as to whether he has come far enough around to feel that a flat prohibition under the circumstances specified in the bill is a good idea. It is not at all inconceivable that he might be willing to testify in favor of the bill. If so, I think he would be a terrific witness. I think the best way to proceed would be to mail him a copy of the bill feeling him out and a cover letter. You could then follow up with a telephone call.

I was pleased to hear that you can get the bureaucracy chapter published in the Civil Liberties Review. By way of promoting the book, however, you might want to give some thought to sending that or some other chapters to magazines of wider distribution i.e. New York Times Magazine, Harpers, Atlantic, Rolling Stone, Playboy or Esquire. Notice I did not include the U.S. Army Reserve News.

Christopher Pyle, Esq.  
Page Two  
March 14, 1974

I am pleased to hear the dissertation is going right along and that you're down to seven chapters to go with the book. I can't wait. No doubt by the time you get through, either in the impeachment proceedings or as a result of other Watergate-related disclosures, you may find yourself with a full range of additional information on the Houston intelligence collection plan and the circumstances surrounding it. If you haven't already seen it, you might look up the Rolling Stone interview with Houston run some time last year. It was lengthy, detailed and might be useful to you.

As you may have read, Bill Singer is hard at work running for Mayor. Do you think a Columbia Law School graduate would be qualified for such an office?

My office is charging me \$36.20 for the xeroxing of the transcripts, so at your convenience, please bail me out.

Please give my regards to Cindy.

Cordially,

William J. Bowe

WJB/kmf  
Enclosures

160 Claremont Avenue, #11  
New York, N.Y. 10027  
March 16, 1974

Mr. William J. Bowe, Esq.  
Roan & Grossman  
120 La Salle Street  
Chicago, Illinois

Dear Bill:

Sorry I haven't written sooner, but I have been swamped with work and family problems.

As you probably know by now, Senator Ervin will be holding hearings on legislation to curb Army surveillance of civilians. The Subcommittee staff asked me to recommend and recruit witnesses and statements and I have been busy doing both. Robert Jordan and Colonel Downie have both agreed to participate, possibly in a joint appearance, and I have been trying without success to persuade Cyrus Vance to serve as the lead-off witness. He has refused three separate overtures because of a trial he has in Delaware at that time, but he will submit a statement. Ralph and I will be submitting statements, but will leave the testifying to others. Would you be interested in submitting a statement too, or in helping Colonel Downie with his? The Colonel thinks that you could provide some valuable insights from the analyst's perspective and, of course, I agree.

Enclosed is a copy of a section-by-section analysis of Ervin's latest bill. As you will see, I still think it could be improved substantially. Perhaps you might have some language to suggest. My civil libertarian friends still think my concessions to the Army's legitimate needs are tactically unwise and full of loopholes. What do you think? I would like to go to the hearings armed with some watertight amendments to the bill, just in case there is anyone who will listen.

The hearings are scheduled for April 9 and 11, so we haven't got much time left. Let me know if you would like to submit a statement for the hearing record and I will arrange to have a formal invitation sent to you.

Best wishes,

*Chris Pyle*