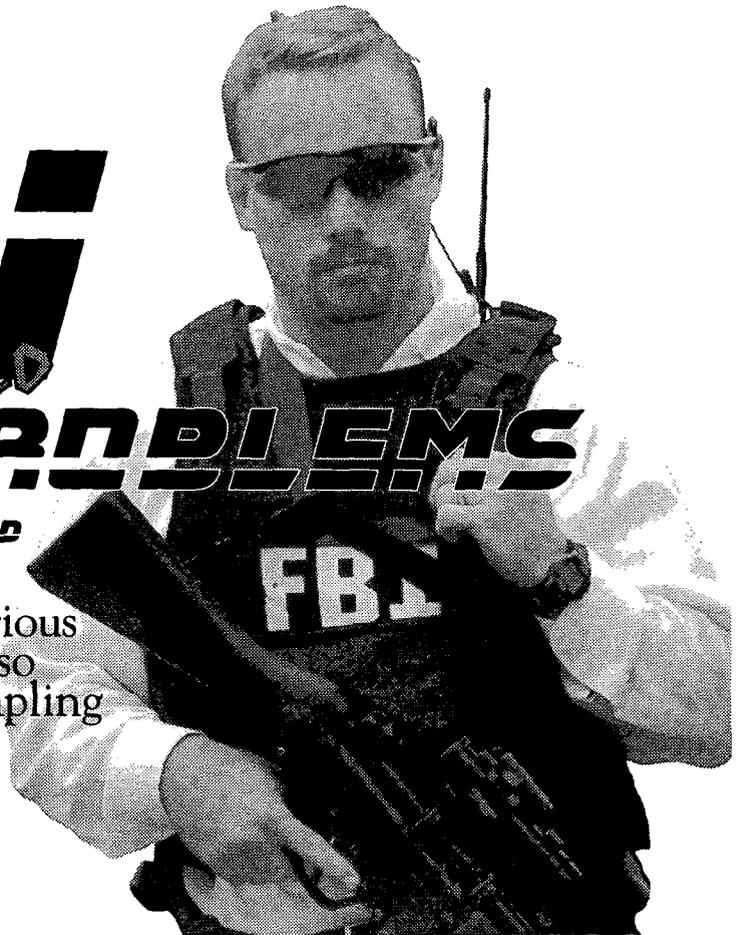


'NEW' FBI SAME OLD PROBLEMS

BY DOUG IRELAND



What do you do with a federal agency of notorious incompetence that is also famous for regularly trampling on the Constitution?

If you're George W. Bush, you give it more money and power.

That's exactly what happened when the "reorganization" of the FBI was announced on May 29 by Attorney General John Ashcroft. By giving the FBI *carte blanche* to spy on speech and ideas—from libraries to the Internet, from religious groups to political meetings—and by opening its files and agents to unprecedented levels of cooperation with the CIA (heretofore prohibited from domestic spying), the Bush administration has taken another giant step toward turning this nation into a garrison state.

Legal wiretap spying on Americans had already increased in the first year of the Bush administration by 25 percent, according to the annual report of the federal court system. Federal and state police legally intercepted approximately 2.3 million conversations and pager communications in 2001 (and this number does not include all U.S. Customs surveillance—many of its records were lost in the destruction of the World Trade Center—or the secret investigations done under the Foreign Intelligence Surveillance Act).

Now, under the new Ashcroft guidelines, FBI agents will be able to monitor what you say in Web chatrooms, or in religious and political meetings, without any court order, without any evidence of a potential crime, even without approval from FBI headquarters. For the first time, the FBI also will be able to use commercial databases to monitor the books you buy, the publications you subscribe to, where you travel, your credit profile, and a wide swath of other data.

Even medical privacy is no longer sacrosanct—under new regulations to be promulgated in October by Bush's Department of Health and Human Services, doctors and hospitals will be required to open medical records to HHS and other government agencies (including the FBI) any time they ask, without so much as a court order. It will also be illegal to enter into a contract with your doctor to protect your health information from the feds, and HHS will create a database for every possible ailment, coded down to your individual visits.

This awesome aggregation of new surveillance powers, rivaling those of the Soviet KGB at its height, is all the more disturbing because the FBI has long been the federal government's version of the Keystone Kops. Remember Richard Jewell, the security guard falsely accused by the FBI—in deliberate press leaks—of the bombing at the Atlanta Summer Olympics? Then FBI director Louis Freeh, in his grudging public apology to the innocent Jewell, blamed FBI field agents for "a major error in judgment."

Now field agents will be able to go on fishing expeditions of their own without seeking approval from the Washington hierarchy. Yet the FBI recently has given ample proof of its inability to carry out even the simplest of investigative and analytical tasks, let alone distinguish the guilty from the innocent. Consider everything from Waco to Wen Ho Lee, from the "missing" FBI files in the case of Oklahoma City bomber Timothy McVeigh to the failure (even after unmasking CIA traitor Aldrich Ames) to administer regular mandatory polygraph tests that could have discovered the Russian spy in the bureau's midst, Robert Hanssen.

Yet when these hydra-headed errors have been exposed, the insular, secretive and self-protective culture that characterizes the FBI has led to brazen cover-ups. Thus, when FBI scientist Frederic Whitehurst told his superiors how the bureau's own crime labs had so little quality control that hundreds of prosecutions were questionable, the denizens of the J. Edgar Hoover Building suspended and transferred Whitehurst, instead of adopting his proposed reforms.

The new FBI guidelines take us straight back to the days of domestic spying under COINTELPRO, the bureau's "counter-intelligence" program in the '50s, '60s and '70s. According to the Senate's Select Committee to Study Government Operations, COINTELPRO was "a sophisticated vigilante oper-

ation aimed squarely at preventing the exercise of First Amendment rights of speech and association."

COINTELPRO infiltrated radical and dissident groups engaged in lawful dissent; used *agents provocateurs* to push dissenters into extremist and unlawful actions; engaged in disinformation campaigns and harassment of protest organizations, including those of the civil rights movement; and in the process drove thousands of radical activists toward burnout and despair, as they blamed themselves for problems and errors that were the result of the FBI's disruptions. Given this history, the notion that the bureau will limit itself to passive domestic spying under the new guidelines stretches credulity to the breaking point.

The previous guidelines, which have now been thrown out the window by Ashcroft and FBI Director Robert Mueller—and which required the bureau to show evidence of a crime before engaging in domestic spying—were promulgated by Ford administration Attorney General Edward Levi to prevent another COINTELPRO and other abuses of civil rights and liberties. But even the Levi guidelines didn't prevent the FBI from going off on its own. In 1987, a decade after they went into effect, the Center for Constitutional Rights exposed the CISPES investigation of activists opposed to U.S. policy in Central America. The FBI had been keeping files on lawful dissenters and infiltrating peace groups to weaken opposition to U.S. government support for dictatorships and death squads in El Salvador, Guatemala and Nicaragua.

Nearly as scandalous as the new Ashcroft guidelines has been the failure of the Democrats' poll-driven congressional leadership to denounce them. (A Gallup Poll shows two-thirds of Americans view the FBI favorably—and 8 in 10 surveyed continue to approve of Bush.)

The alarm has been sounded, but, as of this writing, only by a few constitutionally minded Republicans. House Judiciary Committee Chairman James Sensenbrenner Jr. of Wisconsin told CNN's *Novak, Hunt, & Shields* show: "I get very, very queasy when federal law enforcement is effectively going back to the bad old days when the FBI was spying on Martin Luther King. ... The Levi guidelines were designed to prevent that from happening again, and nothing has told me that adherence to the Levi guidelines were what caused 9/11." (As the widely publicized Phoenix and Rowley memos revealed, the FBI could not even digest and act on the information it had accumulated on the terrorists under the Levi guidelines before 9/11.)

By contrast, neither Tom Daschle nor Dick Gephardt (mindful of their presidential ambi-

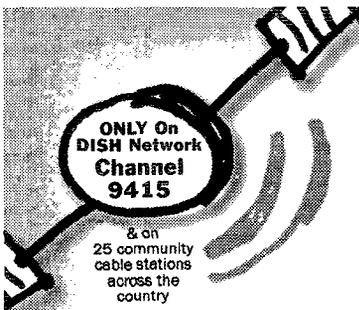
tions) has uttered a word of criticism of the Ashcroft guidelines. (Gephardt's opportunism knows no bounds: In a major foreign policy address on June 4, he even leaped on the attack-Iraq bandwagon, giving Bush a green light for this new military adventure at a time when the military has signaled its opposition.)

The Democratic chairman of the Senate Judiciary Committee, Vermont's Patrick Leahy, has given a blanket endorsement to FBI Director Mueller (who has been assiduous in courting his "oversight" as chairman); and in TV appearances after Ashcroft announced the new guidelines, Leahy showed himself as toothless as he was when he led Senate approval of the civil liberties-shredding USA Patriot Act.

The polls also have silenced the journalistic eunuchs of the mass media, who have been remarkably quiescent on the new threat to our civil liberties (with a few notable exceptions, like conservative *New York Times* columnist William Safire). Within 36 hours after Ashcroft unveiled the seismic policy changes, the story had effectively disappeared from the radar screen.

What all this means is that we are now entering a period that Sam Smith, editor of *The Progressive Review*, rightly describes as "Post-Constitutional America." And in the present jingoistic climate, once our Bill of Rights protections against government abuse of power are given away, one by one, we won't get them back. That's arguably the terrorists' greatest victory to date. ■

For the *first time*,
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and a wide swath of other *data*.



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Back to the Brink

By Amitabh Pal

The recent tensions between India and Pakistan could be dismissed as just another round in their interminable conflict—were the potential consequences not so terrifying.

The latest crisis arises out of a number of dramatic terror incidents in India. On October 1, a suicide bombing of the Jammu and Kashmir state assembly in Srinagar killed 40 people. On December 13, a suicide squad apparently linked to the Kashmir cause (and alleged by Indian officials to be Pakistanis) attacked the Indian Parliament and killed 14 people. This prompted India to launch its ongoing buildup of hundreds of thousands of troops on the India-Pakistan border.

Then, on May 14, terrorists (whom India also accuses of being Pakistanis) attacked an Indian army camp, killing 30 people, mostly women and children. Shortly thereafter, Indian Prime Minister Atal Bihari Vajpayee told his forces in Kashmir—over which the two countries have fought three major conflicts, and where a Pakistan-backed insurgency has raged since 1989—to prepare for a “decisive victory.”

Gen. Pervez Musharraf promised in a January 12 speech to deal firmly with militant groups operating within Pakistan. At the time, this seemed like a major breakthrough. “A president of a country can’t make such a speech and then not implement it,” Pakistani journalist Ahmed Rashid said at the time. “He should be taken more seriously by India.” But Rashid writes in the May 30 issue of the *Far Eastern Economic Review* that “Musharraf’s promised crackdown was a sham. Some 2,000 militants were freed after a few weeks.”

The recent incidents in India have aroused global indignation. The chorus of voices asking Pakistan to control terrorist incursions across the Kashmir border includes President Bush, Russian President Vladimir Putin, U.N. Secretary-General Kofi Annan, E.U. foreign policy chief Javier Solana and British Foreign Secretary Jack Straw. The question now is whether all this sustained international pressure can convince Musharraf to change his regime’s policy—but could he change it, even if he wanted to?

Musharraf, for his part, made a speech on May 27 that was more belligerent than conciliatory. Although Pakistan also has gone ahead with badly timed missile tests, the bravado may just be bluster, masking a change in his Kashmir policy. “This is the kind of rhetoric that you need to make when you are covering



your tracks in retreat,” Najam Sethi, editor of Pakistan’s *Daily Times*, told the *New York Times*.

Observers disagree on the extent of the links between Pakistan and the terrorists. There is no doubt that Pakistan has hosted and trained many of these people. But it’s unclear how much control the government has over them, or how deeply it is tied in with specific incidents like the May 14 massacre. If the militants are indeed acting on direct orders from the Pakistani regime—as India often alleges—how high up do the linkages reach?

It is in India’s self-interest to allege that the entire Kashmir insurgency is directed by remote control from Pakistan, since this lends credence to its claim that the insurgents are foreign troublemakers rather than indigenous Kashmiris with genuine grievances. But the recent attacks don’t seem to serve Musharraf’s interests. “This is the work of elements linked to al-Qaeda who are bent on destroying Pakistan and destroying Musharraf,” says Ayesha Jalal, a professor of history at Tufts University and author of several books on South Asia. “The timing is completely wrong for Musharraf to indulge in this sort of thing, and the Americans are aware of that.”

Both sides seem intent on playing a chess game, with each move designed to impress domestic audiences. The domestic situation in both countries contributes to the tough posturing. Both sides need to rally their countries behind them, especially with parliamentary elections coming up in October in Pakistan and the recent losses by Vajpayee’s Bharatiya Janata Party (BJP) in key states. The questions are how far both leaders are willing to go to retain power, and whether they can back down without losing face.

Musharraf’s credibility in Pakistan has been hurt by the sham referendum he organized on April 30 and by his inability to control terrorist activity in Pakistan, from the killing of Shiite doctors to the blowing up of French workers in Karachi. Vajpayee’s government has severe credibility problems of its own, after a gov-