

**Ashcroft Watch** Nat Hentoff  
**The Terror of Pre-Crime**  
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John Ashcroft recently released his guidelines for investigating people he suspects as terrorists, and these guidelines exceed even J. Edgar Hoover's contempt for due process.

Activists particularly -- and I expect the term applies to a good many readers of *The Progressive* -- should know what may well be in store for them. On page three of "The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations," [1] we are told: "A terrorism enterprise investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of . . . furthering political or social goals wholly or in part through activities that involve force or violence and a federal crime . . ."

Note the use of "reasonably" and "wholly or in part." These insidiously malleable guidelines for terrorism investigations could apply to political action (and the reaction) during demonstrations by environmentalists, anti-globalizationists, animal rights pickets, or union members on strike, as well as pro-lifers trying to talk, and only to talk, to women entering abortion clinics ("obstruction" at clinics can be a federal crime).

The guidelines go on to note that "the 'reasonable indication' standard for commencing a terrorism enterprise investigation is . . . substantially lower than probable cause." It is so low it could be part of the new Steven Spielberg-Tom Cruise movie, *Minority Report*, which envisions the nabbing of "pre-criminals." As *The Washington Times* puts it, such pre-criminals are convicted "before they ever act on, or, in some cases, are even aware of, their murderous designs."

On page four of the Ashcroft Guidelines: "The nature of the conduct engaged in by a [terrorist] enterprise will justify an inference that the standard [for opening a criminal intelligence investigation] is satisfied, *even if there are no known statements by participants that advocate or indicate planning for violence or other prohibited acts.*" (Emphasis added.)

The Attorney General, furthermore, extends the dragnet to make individuals in a group under suspicion responsible for what other members say or write: "A group's activities and the statements of its members may properly be considered in conjunction with each other. A combination of statements and activities may justify a determination that the threshold

standard for a terrorism investigation is satisfied, *even if the statements alone or the activities alone would not warrant such a determination.*" (Emphasis added.)

Also indicating the "pre-crime" mindset of Attorney General Ashcroft is the following paragraph. "While no particular factor or combination of factors is required, considerations that will generally be relevant whether the threshold standard for a terrorism investigation is satisfied includes as noted, a group's statements, its activities, and the nature of *potential* federal law violations *suggested* by its statements or its activities." (Emphasis added.)

Keep in mind the massive, pervasive electronic surveillance -- with minimal judicial supervision under the USA Patriot Act -- of inferential "pre-crime" conversations and messages, both sent and received. Add to that the FBI's power, under the same law, to break into your home or office, with a warrant, while you're not there, and inset "The Magic Lantern" into your computer to record every one of your keystrokes, including those not sent. Then add the Patriot Act's allowing the FBI to command bookstores and libraries to reveal the books bought or read by potential domestic terrorists.

You may now appreciate the prophecy of Senator Frank Church -- who was instrumental in exposing the constitutional crimes of J. Edgar Hoover's Cointelpro operation -- when he said in 1975 that future government intelligence capabilities could "at any time be turned around on the American people, and no American would have any privacy left -- such is the capacity to monitor everything, telephone conversations, telegrams, it doesn't matter." And that was before the omnivorous, permeable Internet. The Web can be a spider web.

Senator Church, referring to "potential" enemies of the state, warned: "There would be no way to fight back because the most careful effort to combine together resistance to the government, no matter how privately it was done, is within the reach of the government to know." [2]

There is still time to fight back.

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1. THE ATTORNEY GENERAL'S GUIDELINES ON GENERAL CRIMES, RACKETEERING ENTERPRISE AND TERRORISM ENTERPRISE INVESTIGATIONS, by John Ashcroft, 5/30/02, PDF format, 28 pages, from the U.S. Dept of Justice Office of Legal Policy
2. From the Church Committee reports, see  
**Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities of the United States Senate,**  
94th Congress, 2nd Session, 1976:
  - Intelligence Activities and the Rights of Americans, Book II
  - Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans, Book III**Hearings Before the Select Committee to Study Governmental Operations with Respect to Intelligence Activities of the United States Senate,** 94th Congress, 2nd Session, 1975:
  - Volume 5: The National Security Agency and Fourth Amendment Rights

*The COINTELPRO Papers: Documents from the FBI's Secret Wars Against Dissent in the United States,* by Ward Churchill & Jim Vander Wall, *South End Press*, updated edition 2002.

An earlier edition of the book is available in its entirety thanks to the work of Paul Wolf, at [www.cointel.org](http://www.cointel.org):

Preface -- **The Face of COINTELPRO**  
Introduction -- **A Glimpse Into the Files of America's Political Police**  
Chapter 1 -- **Understanding Deletions in FBI Documents**  
Chapter 2 -- **COINTELPRO -- CP/USA**  
Chapter 3 -- **COINTELPRO -- SWP**  
Chapter 4 -- **COINTELPRO -- Puerto Rican Independence Movement**  
Chapter 5 -- **COINTELPRO -- Black Liberation Movement**  
Chapter 6 -- **COINTELPRO -- New Left**  
Chapter 7 -- **COINTELPRO -- AIM**  
Chapter 8 -- **Conclusion: COINTELPRO Lives On**