



Exorcising the ghosts of COINTELPRO: Bobby Rush Edition

Patrick G. Eddington

May 7, 2021

On May 4, former Black Panther and long-time Rep. Bobby Rush (D-Ill.) introduced the COINTELPRO Full Disclosure Act — legislation designed to make public any remaining records about the FBI’s most infamous, but hardly exclusive, domestic surveillance and political repression program.

As the former co-founder of the Illinois chapter of the Black Panthers, Rush has personally been on the receiving end of unwanted and unwelcome FBI attention during the Vietnam era, when COINTELPRO was at its height. Rush has long believed that the Bureau played a role in the killing of his friend and chairman of the Illinois Black Panthers, Fred Hampton. Rush is to be commended for trying to discover what else the Bureau might know about, or have been involved with, concerning Hampton’s killing. But his bill represents a major missed opportunity on several counts.

As written, the bill confines itself to just FBI COINTELPRO records. But as I’ve previously noted, there are literally millions of pages of historical FBI records on the Bureau’s domestic surveillance and political repression activities that have yet to see the light of day. Rush’s bill would not surface those.

I also worry that Rush’s bill might contribute to the false impression that improper FBI domestic surveillance or related actions are a thing of the distant past. They’re not.

Indeed, less than a decade after the Church Committee released its report on FBI, CIA, NSA, and military domestic spying and political chicanery, the Bureau was back in the same business.

During the Reagan administration, the Bureau targeted the Committee in Solidarity with the People of El Salvador (CISPES), which was opposed to Reagan’s foreign policy in Central America. The subsequent Senate Intelligence Committee report on the FBI’s surveillance and related activities targeting CISPES was damning, and should’ve been a wakeup for Congress to put real legal restrictions on FBI domestic activity. It didn’t happen.

A surge in Palestine Liberation Organization (PLO) and related offshoot group terrorism in the Middle East, followed by the first World Trade Center attack in 1993, led to Arab and Muslim Americans becoming key targets. From the mid-1990s through at least the first Bush 43 term, the FBI conducted an investigation into Chicago area Muslim Americans called VULGAR BETRAYAL that would eventually encompass nearly every FBI field office and impact the lives of hundreds of innocent American citizens or legal permanent residents.

The FBI secured exactly one conviction in the case — not on terrorism but alleged obstruction of justice. More than 32,000 pages of VULGAR BETRAYAL records received by the Cato Institute as a result of a FOIA lawsuit clearly show the overall investigation was never properly predicated. In fact, the VULGAR BETRAYAL investigation may have been improperly influenced by information provided by the government of Israel, according to a Feb. 19, 1998 heavily redacted, previously SECRET level FBI memo reviewed by the author.

Allowing secret information from a foreign government with its own political agenda to influence a Justice Department investigation of one or more American citizens is, to put it mildly, a grave cause for concern and a congressional inquiry.

More recently, the FBI has been involved in surveilling Jordan Cove liquid natural gas (LNG) pipeline opponents in Oregon, according to another FBI document obtained by Cato via the Freedom of Information Act (FOIA).

Exactly why a kayaking trip by a bunch of University of Oregon students should be a concern for FBI agents is not simply baffling, it's wrong. Their recreational and educational activities should never have made it into a Bureau memo. That their activities did get recorded by the FBI was made possible by a change in the Attorney General Guidelines for Domestic FBI Operations instituted by then-Attorney General Michael Mukasey in December 2008.

The key alteration Mukasey made was in authorizing an entirely new category of FBI inquiry known as an Assessment — a de facto form of investigation that requires no criminal predicate to initiate. By opening an Assessment on an individual or group, an FBI agent can recruit and run confidential sources targeting the subject of an Assessment, monitor social media activity, and query commercial and classified databases for information on the target.

Ten years ago, a very limited FOIA response from the Justice Department to the New York Times showed that during the period 2009-2011, the FBI opened over 82,000 such Assessments. How many more Assessments have been opened during the intervening decade is unknown, but the Cato Institute currently has a federal FOIA lawsuit underway seeking the disclosure of such Assessments to answer that very question.

All of these episodes serve to highlight the core problem with the Rush bill: it's a selective look backwards that also fails to address the present problems of FBI domestic surveillance.

I agree with Rush's objectives, which are entirely laudable. But with the 20th anniversary of the 9/11 attacks only months away — and shortly thereafter, the 20-year mark since the passage of the PATRIOT Act — the country needs a comprehensive examination of federal surveillance

practices and related activities, past and present. The last such effort was the Church Committee almost 50 years ago. A fresh reckoning for America's Surveillance State bureaucrats is long overdue.

Former CIA analyst and ex-House senior policy advisor Patrick G. Eddington is a Senior Fellow at the Cato Institute.