

RESPONSE

JAY PETERZELL

A number of speakers suggested yesterday that the problem of surveillance of opponents of nuclear power was a hypothetical problem. Since this view was not really contradicted, it would be helpful to review briefly the record in this area. The fact is that there has been a consistent pattern of surveillance and attempted disruption of anti-nuclear groups since anti-nuclear protest became organized sometime in the early 1970's. How to interpret this phenomenon is an open question. Whether something intrinsic to nuclear power requires this type of surveillance or whether anti-nuclear protest is spied upon simply because it is a protest movement should be addressed by this conference.

But as a starting point it is important to recognize that there is a problem. To summarize briefly, taking 1973 as an arbitrary starting point of the organized anti-nuclear protest movement, there are five important types of entities: local police, state police, federal agencies, the utilities, and private, freelance intelligence agencies. The latter category includes, for example, Information Digest and the U.S. Labor Party which collect information on political organizations and distribute it to police departments and other interested parties. Of course, in any sort of statistical breakdown of surveillance activities there is imperfect information because a number of types of surveillance are by their very nature secret. But just in terms of the documented incidents, we at the Center found thirty-one cases in which utility companies or local or state police had photographed anti-nuclear groups or written down their license plate numbers. Although it was not demonstrated in every case, the implication is that this information is being kept in files for future use. We also found fourteen cases in which organizations kept files of non-publicly available information, excluding groups that simply collect pamphlets that are publicly distributed and so on. In eleven cases we found that organizations had secretly monitored open meetings of anti-nuclear groups by sending someone who did not identify himself. In fourteen cases we found infiltration—either the attendance at closed meetings or the joining of an organization without disclosing an affiliation with the utility company or the local police. There are four cases of proven or alleged wire-tapping and at least one burglary against anti-nuclear organizations. In eighteen cases we found attempts, some of them successful, to disrupt the operations of the anti-nuclear groups either through agents provocateurs, who try to provoke groups to adopt criminal activities, or through the dissemination of derogatory information to the press, as in David Kairys' case. Again, these are only the documented abuses. Certain types of abuse, such as burglaries, are secret by their very nature, and private entities, which are not subject to the Freedom of Information Act, are particular difficult to study.

This record does not contain evidence of some sort of coordinated national movement against anti-nuclear groups. Rather, it appears that individual agencies are doing what they consider to be their function, including trading information amongst themselves. On the local level, the police in general have no position on nuclear power, but have a crowd control function and will gather intelligence toward that end. With one exception they have not attempted to disrupt anti-nuclear protest. State police are a little farther from the simple information-gathering level and a little closer to the state governments which take positions on nuclear power. Generally, they have tended more to disrupt organizations. On the federal level this tendency is even more pronounced. There are few cases in which federal agencies have collected information on nuclear power opponents, but quite a few in which they have attempted to disrupt them either by propagandizing or by disseminating derogatory information to the press. The utilities have a crowd control function, so they maintain security forces and collect information on the identities of demonstrators. At the same time, they have a vested interest in developing nuclear power and have attempted to disrupt or to discredit its critics. Finally, the free-lance agencies operate in a similar manner. Most of them simply collect information, as in the case of the U.S. Labor Party, which for a long time had a pro-nuclear policy. In addition, such agencies have attempted to disrupt anti-nuclear organizations consistently, especially by alleging to officials that the organizations were fronts for terrorist activity.

Proponents of this sort of intelligence-gathering often argue that merely collecting information does not violate the rights of the people about whom they collect information. But in many cases, what began as mere intelligence gathering ultimately disrupted an organization or attempted to discredit it. For example, in the 1977 Abalone Alliance case out in California, a local police unit infiltrated the group. One of the infiltrators advocated that the group adopt violent tactics and attempted to bring a weapon to a demonstration. When the group was arrested for trespassing he remained in the group during the preparations for the defense and gave the lawyers for the group false information harmful to the case. In 1979, a group in Pennsylvania was subjected to a highly visible local police investigation which found no criminal activity. The case was closed, but many members of the group were intimidated by the fact that they were under investigation, and three-quarters of them left the group.

The FBI, which generally has not been terribly active in this field, has also engaged in disruptive activity. There were hearings on the Silkwood case held by the Small Business Committee, in which an FBI informant requested that she be allowed to testify. Her intention, she later revealed, was to divert the Committee's attention from the safety problems at Kerr-McGee to Silkwood's character. At the hearing, she made derogatory statements about Silkwood. After a while, however, it came out that she had a relationship with the FBI and the whole thing blew up. The FBI ended by

releasing derogatory information on Silkwood, the informant, the informant's boss, the chairman of the Committee and the chief investigator.

In another case, the Energy Research and Development Administration (ERDA) in 1976 collected information on a number of states which had citizen initiatives pending on the issue of whether to proceed with nuclear power in some form or another. In California, ERDA distributed a pamphlet which the General Accounting Office (GAO) later found to be propaganda and to have been intended to influence the California referendum.

There are other well known cases. There is the case involving the Georgia Power Company, which hired private investigators to discredit its enemies between 1973 and 1977. There is David Kairys' case and there is a case involving the U.S. Labor Party which has both collected information on anti-nuclear groups and gone around the country telling police departments that anti-nuclear groups are engaged in terrorist activity.

Looking at the general picture, and comparing it to surveillance of the anti-war and civil rights protest movements of the 1960's, one notices the relative predominance of private as opposed to public surveillance activity. In the cases that we at the Center analyzed, more than forty percent of the incidents involved private groups, and not governmental groups. The reason for this is fairly simple, namely that anti-nuclear protestors are protesting corporate and not government policies. Another reason may be that in the post-Watergate period there are certain restrictions, both in the Attorney General's intelligence guidelines and in the general mood of the government which to some extent inhibit government surveillance.

This predominance of private spying and disruption raises a number of problems. As Peter Bradford mentioned yesterday, there exists the theoretical problem concerning whether or not people have civil liberties with respect to private organizations. This problem merges with the legal problems that David Kairys pointed out—that it is very hard to find a legal remedy against one private organization which has spied on or disrupted another. And finally there is another problem: in attempting to control private activity, most forms of spying are legal, with the exception of wire-tapping and break-ins which are the most intrusive. Such activities are only regulated, if at all, through internal agency guidelines or executive orders, which do not apply to private corporations.

RESPONSE

FRANK DONNER

Let me begin by assuring you that I am not paranoid. I take pills to prevent it. Second, while I am engaged in this personal revelation, let me also show my colors. I am partisan. I am opposed to nuclear power, and I identify with its opponents.

Having said those things and warned you all, let me begin by noting the fact that as nuclear protest mounts, surveillance keeps pace with it and, indeed, outruns it. Surveillance, both open and covert, of anti-nuclear groups and individuals is on the rise. The existing surveillance structures are public, private, and a combination of the two. And as you already know, a substantial amount of litigation is now pending in the courts.

Let me say further that one should not conclude that litigation is a dead end because of negative precedents. On the simplest level, a complaint containing allegations of surveillance and other abuses of privacy is a vital source of information to others, especially when the allegations of the complaint are undenied. Beyond this, it is not too optimistic to believe that in a field where the law is still changing, those victimized by intensive modes of surveillance will ultimately gain relief. The possibility is quite strong that as these networks of surveillance operations become clearer, the ground will be laid for a larger conspiracy complaint. Even if the courts fail to act, the fear of future legal challenges and, perhaps at least as important, adverse publicity will help to curb the abuses complained of. Remember something that I think anti-nuclear protesters are inclined to ignore—there is a large constituency of rate-payers who are critical of the utilities. They should be made aware of the fact that the costs of surveillance contribute to their rising rates.

Surveillance, it should be noted, is a practice which feeds on its own excesses. The ratchet-like logic of spookery begins with mild forms of monitoring such as photography or taking down license plate numbers. Frequently it justifies itself on the ground that the agent (usually a red squad member) is spying for your own good. He is allegedly there purely for crowd control purposes and not to record the identities of the participants or to seek to cow them in any way. From that mild form of monitoring, which also typically involves leaks to the press attacking particular demonstrators, we move to more intensive modes of surveillance such as infiltration, wire-tapping, and ultimately, to provocation. Provocation is inherent in the role of the infiltrator. It is not even a conscious choice. There is an inner logic to protecting an infiltrator's cover that leads him to ever more reckless initiatives in order to prove his good faith and legitimacy. And as a result many of these infiltrators are indeed very active, vociferous, and ready to propose rather aggressive tactics.

To legitimate this process of surveillance both by private and public agencies, two steps are necessary. One, the intelligence-gathering agency must stigmatize the protester as a potential terrorist or saboteur. In other words, it must find individuals in this group to attack or to stigmatize on grounds of subversion. The prevailing structures try to condemn the entire anti-nuclear movement, particularly its activist sectors as a milieu of deviance. They try to present the mere act of protesting as organized crime. Thus surveillance is self-justified because out of this milieu, come the activists and terrorists. This kind of progression is usually justified in very somber professional terms. This effort, as David Kairys has pointed out, is marked with irony. The protestors' values—protecting human life, the environment, and the well-being of our children—are not merely non-violent in a negative sense, but strongly reject violence as a means to their goals. And so, if I may put it this way, there is a horrible case of mistaken identity.

Indeed, the nuclear/anti-nuclear confrontation in our country reflects two conflicting themes in our political culture. One theme I regard as humanist, typically and symbolically concerned with the future. The other theme is technology-oriented and is that technology can cure any injury which we might inflict on ourselves. And so you have a real conflict in values and way of life.

The greatest handicap to the anti-nuclear movement in my view is the ease with which the forces of repression, those seeking to institutionalize surveillance, can invoke the horror of nuclear terrorism. As Jules Henry once remarked, "We are people programmed for fear." We have to have some fear, and the greatest fear, of course, is the fear of subversion, of conspiracy by individuals who would rob us of our cherished heritage. We translate fear. We convert fear into an inducement for consumption. We are told that without the right anti-freeze, our cars will not start in the morning. Or if you wear the wrong kind of bra, you will not get a man. We need fear, and to retail it, to disperse it, we're going to spread this idea of nuclear sabotage. This is not fear, mind you, of a nuclear mishap resulting from operational problems or accidents. Production of nuclear energy, we are told, is safe, clean, and indeed socializing and humanizing. But it is the possibility that those dreadful subversives will gain access to nuclear facilities and hold us all hostage that we have to fear. The "subversification" of peaceful anti-nuclear protest is, of course, greatly eased by the present political climate. It is also furthered by the proliferation of private detective agencies offering protection against this new menace. In many cases these agents are displaced intelligence cadres who have been selling their services by flooding potential clients with frightening sagas of sabotage and terrorism. They say to their potential clients: "I know you have a security section, you have guards, but your guards are not sufficiently experienced to penetrate these subversive elements that are bound to take over. We can apply preventive measures because we know who they are, and we can apply intelligence measures which will hold them off, identify them, and permit you to operate in peace." That is the gist of most of their literature.

In a way, we have today a three-tiered structure of surveillance, which reminds me very much of the 1920s. In the twenties there were, first, private detective agencies which sold their services to employers as a safeguard against union activity and organization. Then, there were employer associations which hired their own infiltrators and spies. Finally, there were the red squads. We see the same kind of three-tiered structure emerging today.

But this structure requires governmental activity and propaganda to authenticate this claim of "subversification," that is, this attempt to categorize the anti-nuclear movement as deviant. We have already seen the beginnings of such activity in the April 1981 hearings of Jeremiah Denton's subcommittee on terrorism and internal security. In these hearings, a witness Arnaud De Borchgrave accused the Mobilization for Survival, an anti-nuclear coalition, of fronting for the Soviet Union. He insisted that the Russians "play a covert role in promoting the anti-nuclear lobby." Expect more of this as the pressure mounts.

The surveillance and infiltration of anti-nuclear groups is already quite extensive. Jay Peterzell's detailed study, which appears in a Center for National Security Studies publication, documents no less than sixty-six recent incidents of surveillance, including maintenance of photograph files, infiltration, and disruption. One of the instances of surveillance that I know something about is the February 1978 Sun Desert incident in Los Angeles. In that incident, the city council held a meeting to discuss a proposed nuclear plan. When a team of videocameramen and some photographers were discovered at the meeting, the council demanded to know why they were there. The cameramen explained that they had heard that a demonstration was planned, and that they had attended to obtain evidence for subsequent use in court. This admission left a lot of egg on the faces of the Los Angeles Public Disturbance Intelligence Division (PDRD). They threw the team out. But what they did not know was that one of the leaders of the audience was Cheryl Bell, a member of an anti-nuclear group and an undercover PDRD officer who was present to monitor the proceedings.

Cheryl Bell had appeared in another incident which occurred shortly before the Sun Desert incident. In a hearing involving the Diablo Canyon protestors, Cheryl reported everything that went on in the courtroom, including the judge's questions. This type of activity is common. The targeting of nuclear protest groups is the stock-in-trade of red squad groups. And, of course, some of their practices are very clumsy. I am always amused at the stories about the attempts of the New Hampshire State Police infiltrators to spy on the Clamshell Alliance. They once appeared at a demonstration in a van marked with the letters WENH, the designation of a television station in New Hampshire. As they were observing the demonstration, the real WENH crew came in and began to photograph the phony crew, which hastily retired.

According to Jay Peterzell's study, forty-seven incidents of surveillance by agents of eighteen utilities were uncovered in the three years prior to the publication of that report. One of the leading actors in the area of surveil-

lance was Georgia Power. By 1977, its internal security unit had a staff of nine investigators, an arsenal of sophisticated surveillance equipment, and a budget of \$750,000. The company's program is typically marked by over-kill. According to a former investigator, this crew targeted anyone who fitted into the antagonistic category, such as someone who, for any reason, would oppose rate increases. And they had a special dirt-gathering operation which they used to brand activists as "commies" and "queers."

These incidents are only a sampling of the scope of the surveillance of the anti-nuclear movement. Most of these information-gathering groups work with police agencies. They exchange information and they act as an operational arm of the police agencies. In many cases, detective agencies are under contract with utilities, like the Pinkertons in the 1920s. I want to single out three of these agencies that particularly entrance me. One is Research West, which is headed by Patricia Athos. Research West has enjoyed a seventeen year contractual relationship with Pacific Gas and Electric. It has also had Georgia Power as a client. Its record includes at least sixteen break-ins in order to obtain information on anti-nuclear activists.

Another rather spooky group is Operational Systems, Inc. Two Operational Systems directors are Richard Belvy, who ran the Law Enforcement Assistance Administration, and Paul Wurley, who was an important LEAA functionary. This group was retained by the NRC to produce a report called "Establishing a Tactical Intelligence Function." Finally, again like the 1920s, there are the great associations which facilitate the exchange of information, such as the Atomic Industrial Forum and the Edison Electrical Institute.

While I am here, I cannot resist mentioning the two right-wing political groups who are active in this area. One of them is LaRouche's U.S. Labor Party. The way in which the Labor Party made the anti-nuclear movement a major concern reflects the fact that there was a great need to "subversify" the movement. We live in a period which is plagued by recurrent shortages, outages, and shortfalls. We also have a terrible shortage of domestic terrorists. They are a commodity in great demand yet short supply. The U.S. Labor Party has begun to repair that. They cooperated, as you probably know, with New Hampshire State Police and fed them dossiers. They further charged the Clamshell Alliance with being nothing but a cover for terrorist activities. And now they publish a bi-weekly newsletter called *Investigative Leads*, which routinely charges sabotage by terrorists. They even alleged that the 1979 Three Mile Island nuclear accident was really the work of terrorists. Their predictions are consistently false. They have in fact charged me with terrorism, but that is neither here nor there.

The other group that fascinates me is *Information Digest*. This is run by John Rees and Louise Rees, who disseminate charges of terrorism against the anti-nuclear protest community through Birch publications. Prominent in the operations of the group is John Sealy, who once posed as the Reverend John Sealy to infiltrate the group that was protesting Georgia

Power's moves toward nuclear energy. Presently, the major target of this group is the Mobilization for Survival. In February 1981, the John Birch Society's publication *Western Goals* issued an extensive report replete with weird dossiers charging that the Mobilization for Survival was formed to bring anti-nuclear groups into a Soviet-orchestrated network.

I would like to be reassured that these examples are only a temporary over-reaction to the anti-nuclear protest movement. But if the past is a guide, and it is our only guide really, I see this as a pattern of increasing abuse. In fact, I foresee the surveillance of the anti-nuclear movement as a major way of reviving the declining intelligence structures which I have discussed.