

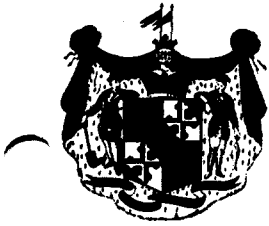
POLICE DEPARTMENT . . . CITY OF BALTIMORE

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DONALD D. POMERLEAU
Commissioner

February 5, 1976

C. JARED GLAUSER
Administrative Bureau
FRANK J. BATTAGLIA
Operations Bureau
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Services Bureau
Deputy Commissioners

The Honorable Marvin Mandel
Governor
State of Maryland
State House
Annapolis, Maryland

*Copy number two -
207*

Dear Governor Mandel:

In accordance with your request, I am submitting herewith our comments regarding the Senate Committee's report on Intelligence. There are attached hereto a number of Enclosures as follows:

- Encl. (1) Detailed response of Major Bernard F. Norton, Director, Inspectional Services Division
- Encl. (2) Detailed response of Colonel Joseph F. Carroll, Chief, Criminal Investigation Division
- Encl. (3) Observations of Counsel, The Honorable George L. Russell, Jr.
- Encl. (4) My comments regarding the recommendations of The Senate Committee
- Encl. (5) Interrelationships/cross-pollination involving dissenting groups
- Encl. (6) Editorial Cartoon, The News American, December 9, 1970

- Encl. (7) Statistical breakdown of active surveillances involving the Addendum to my report to you dated January 6, 1975
- Encl. (8) Organizational Structure, Police Department, Baltimore, Maryland
- Encl. (9) Americans for Effective Law Enforcement, Inc., Brief No. 74-6, dated December 1974, titled; Legal Aspects of Police Intelligence Gathering Activities

Please be advised I have reviewed the content of Enclosures (1) and (2) and report that I concur with the statements contained therein.

At the onset and for the most part throughout the inquiry, media coverage and statements attributed to the Committee reflected wholesale abuses by the Intelligence Section of the Inspectional Services Division, i. e., illegal wiretapping, breaking and entering, infiltration of political campaigns, improper coverage of all public meetings, maintenance of dossiers on prominent persons, acquisition of sensitive personal information and improper use of such information. These allegations were consistently denied by me throughout the past fourteen months.

At this point I wish to reiterate my previous statements made to you and the public that the Intelligence Unit of the Inspectional Services Division has never:

- 1) knowingly violated anyone's civil rights
- 2) broken and entered
- 3) conducted illegal wiretap activity

- 4) conducted illegal wiretap activity in cooperation with the C & P Telephone Company
- 5) maintained files on you, Mayor Schaefer or others named in the media, excepting those involved with members of the criminal element or aiding or abetting others planning/advocating disruption and/or violence.

Quite the contrary, during the period 1967-1973 we maintained a lawful overview involving those persons who advocated:

- 1) violence to persons and property
- 2) the cessation of commerce and industry
- 3) the cessation of government and indeed the overthrow of government
- 4) the disruption of lawful assemblies.

These persons represented a wide range of philosophies. We were dealing with Marxists, Leninists, Trotskyites, Maoists and the Che Guevara followers. While it is not against the law to be a communist or have communist sympathies in this country, it is a violation to change or attempt to change our form of government by other than constitutional means.

We were faced with Black militant groups replete with activists advocating and implementing violence to achieve goals. The Extreme Right was also quite evident in the forms of the National State's Rights Party, Fighting American Nationalists, Klu Klux Klan and the American Nazi Party.

These were traumatic times both at the local and national levels. Thousands of our citizens were demonstrating and demanding redress of legitimate grievances, i. e., social and cultural improvements, Stop the Vietnam War, Stop the Cambodian Invasion. The Extreme Left, primarily, and the Black militant activists, to a lesser degree, took advantage of and indeed ripped off ¹ those persons who were demanding achievement of lawful goals. Many extremists were members of several organizations, each of which was advocating disruption, destruction and in many instances violence.

Twenty-two of our Baltimore citizens joined a Venceremos Brigade ("We Shall Win") and travelled to Cuba at differing times to "cut sugar cane", even though travel was embargoed by our federal government. They made their way to Havana via Canada and/or Mexico City. These highly motivated persons returned with additional zeal which was reflected by their renewed and increased efforts at disruption. The cross-pollination,² see Enclosure (5), of the Extreme Left interests with other groups, collectives, communes, et cetera, led to many internal disagreements, within the movement, and indeed fragmented their efforts causing a break up of primary organizations into a number of splinter groups -- the cancer grew.

1. Enclosure (6) reflects graphically the point under discussion
2. Cross-pollination indicates the interactions and interrelationships of those having a common or near-common bond in the achievement of identical or interrelated goals.

While a number of the far Left were content to achieve their goals over an extended period of time encompassing many years, others possessed and reflected a degree of immediacy involving rebellious and revolutionary tactics including bombing and other acts of violence.

The development of informational sources within these kinds of organizations was at my direction. The resultant Intelligence efforts were conducted entirely within the law; and the overview of persons involved was maintained so that we, in law enforcement, could prevent violence to persons and property, hopefully, by prior knowledge that such acts were planned.

Our overview of Black militant activists was conducted for the same purpose. None of us have ever denied the need for immediate adjustment of that part of our society which has denied Black citizens for the past 300 years. To a degree it is unfortunate that there were activists within that movement who advocated violence and indeed practiced violence in the forms of burning, looting and killing. These propensities for violence are carved indelibly in the history of this city and nation.

Government, and specifically its Police Department, is charged with serving and protecting society against crime, criminals and those who would violate our laws to achieve goals however well-intentioned.

Government and its police forces cannot be expected to fulfill their statutory responsibilities in a vacuum. The Chief of Police must have current, accurate and timely Intelligence information so that illegal acts can be promptly addressed as well as planned illegal activity thwarted. For a Chief to carry out statutory responsibilities effectively he had to have an effective Domestic Intelligence effort during the years in question.

It would have been an exercise in futility for a Chief Executive to function otherwise. And, frankly, any Police Chief of a large urban area who did not develop, coordinate and direct an effective Intelligence effort was deficient in fulfilling his responsibilities.

In my previous report to you in January of 1975 there was an Addendum which reflected the names of people and the organizations to which they belonged over which we maintained an overview. It is obvious that the media and the Senate Committee in their strategy to reach goals have indicated that our interests were primarily in the Black community. This of course is not factual and although I gave the Committee an appropriate racial breakdown they have not seen fit to refute inferences of the past. I am, therefore, attaching hereto as Enclosure (7) a statistical breakdown of the persons involved.

It is interesting to note that the Senate report does not mention that 52 of the 120 persons listed in Enclosure (7) were arrested by us resulting in 288 criminal charges. Our summary also reflects that 84 were White and 36 Black. This then refutes the inflammatory inference. Our problems were primarily White after 1968, not Black as the Committee and the media would lead one to believe.

Management Principles

The Committee report and the media have repeatedly referred to the fact:

"ISD differs from other divisions in the Department in that its chief officer reports directly to the Commissioner, rather than to him through another management echelon".¹

This is true, but it does not differ. Its inclusion in the report in the tenor used shows a lack of understanding of how an agency of this size (4400 persons) is managed and how lawful goals are attained. By its repetition, emotionalism and sensationalism, a cloak-and-dagger atmosphere is perpetuated and enlarged upon in the community.

Besides the personal staff which works with me in the Commissioner's Office, there are seven individuals reporting directly to me. There are three major Bureaus, each headed by a Deputy Commissioner. And,

1. Report to the Senate of Maryland, December 31, 1975, Page 23, Lines 6-8

of course, these three Deputy Commissioners are held responsible for the functioning of their subdivisions and report directly to me regarding their effectiveness.

1) The Administrative Bureau assists me in giving direction, control and administrative support to the department. This Bureau has four major Divisions, each headed by a Director. They are: 1) Fiscal, 2) Education and Training, 3) Personnel, and 4) Internal Investigation.

2) The Services Bureau is headed by a Deputy Commissioner who assists me in providing the department with logistical support. He too has four major Divisions, each headed by a Director. They are: 1) Property, 2) Communications, 3) Central Records, and 4) Laboratory.

3) The Operations Bureau is headed by a Deputy Commissioner. He too has four major Divisions, each headed by a Chief. They are: 1) Patrol, 2) Criminal Investigation, 3) Traffic, and 4) Community Services.

4) Three Divisional Directors which report directly to me are: 1) Director of Inspectional Services Division, 2) Director of Planning and Research, and 3) Director of Public Information.

5) I also have a departmental Legal Advisor who is an Assistant Attorney General, State of Maryland. This official also reports directly to me, however, his ultimate responsibility is to the Attorney General,

State of Maryland.

There are seven officials reporting directly to me (see Enclosure 8). This along with my personal staff provides me with a manageable and effective span of control. It also provides for members of the department clearly defined lines of authority which ultimately provide the required unity of command. The necessary checks and balances have been established to assure direction and control, support of the operating forces and thus; operating efficiency.

There is a cardinal rule about Intelligence. The Commander does not want it sifted through a variety of people in the chain of command. If this should happen it is not Intelligence when received.

Electronic Devices - Inspectional Services Division

Media accounts and statements attributed to the Committee repeatedly charged the Inspectional Services Division used electronic devices illegally in Domestic Intelligence. I have said publicly and in testimony that we did not use electronic devices in any manner in the Domestic Intelligence field. On this point the Committee report developed only the rankest of hearsay information from a former member of the force. This man was never assigned to the Criminal Investigation Division, yet he testified that he was aware of Vice Section personnel misusing wiretaps. The report blends that "rankest hearsay" in such a way that the media and

others are left to believe that the Inspectional Services Division did use this equipment. This is irresponsible.

You need to know, however, that the Intelligence Unit did use electronic devices for investigations of organized crime, including corrupt police officer involvement. Each time these kinds of devices were used it was by lawful Court Order issued by the appropriate State Court or by authority of the Attorney General of the United States.

Electronic Devices - Vice Section, Criminal Investigation Division

With respect to the allegation of the Committee that they have received "evidence" that members of the Vice Section conducted illegal taps, I can only reiterate my request to them... "you should refer wiretapping violations promptly to the United States Attorney for the District of Maryland or provide me with the appropriate information and I will proceed to have them indicted". They have not produced any "evidence". I have been assured by Operational officials of Vice and Detectives that no such devices were ever used illegally. They state that the law and my direction and policy in this regard have been strictly adhered to -- I believe them. I have confidence in their position and I support them.

In an agency of this size and magnitude there is always the outside chance that "someone went into business for himself contrary to law, regulation and policy". If this Committee has this information they

should provide it to the department. I have no way of pursuing the matter further. Therefore, should the Senate Committee have such evidence I would be happy to receive it and assure you that upon receipt it will be transmitted forthwith to the United States Attorney for the District of Maryland. This department will then, as it has in the past, cooperate fully with that office and the FBI which is the investigating agency for violations of that type.

Personal Sensitive Data

With respect to that portion of the Senate report which indicates that on numerous occasions we "amassed personal data of a sensitive nature", I must assume they are referring to an individual's moral standards. The Inspectional Services Division did not solicit or seek out in any way information of this kind in the Domestic Intelligence effort. Such data that may have been received, even though not solicited was never reduced to writing or placed in the files.

However, ISD was involved in the organized crime area to include police corruption and I expect those files were most complete. ISD conducted full field background investigations on members of the department being considered for promotion and on those wishing assignment to the Vice Section or assignment to resident schools outside the department and State of Maryland. Misconduct and/or other deviation from

standards as developed by society would have been noted in such background inquiry. Should such activity be reflected in a report it probably would have precluded favorable response to the appropriate issue.

We had no interest in this kind of information in the Domestic Intelligence field and no efforts were expended by Intelligence or other personnel to glean such information. The mores of society today seem to say that few if any care about such idiosyncrasies. I know that as the principal Administrator of this law enforcement agency I had no professional or personal interest whatsoever.

The principal counsel to the Committee however seems to have had an interest in individual idiosyncrasies. A portion of her discussion with a former covert source of this department which took place at or about 10:30 a.m., March 3, 1975, reflects not only her interest but crudeness as well while conducting an interview. She in fact volunteered to our source that she possessed certain sensitive personal sexual information about a prominent public official. I don't feel it at all appropriate to identify the individual or quote verbatim Ms. Schulte's "volunteered information to the source", however it is a matter of written record in this agency.

Gratuitous statements such as this by the Chief Counsel to the Committee seems to contravene the attempted public image of

professionalism and responsible counsel to a Senate Investigating Committee.

Political Campaigns

The Senate report and the media have seen fit to make a specific point that we:

- 1) infiltrated political campaigns and,
- 2) infiltrated utility rate hearings, School Board meetings and other lawful assemblies.

We did not infiltrate political campaigns. We were present at a number of political meetings which were open to the public. These were meetings involving the first Mitchell/Friedel Congressional election at the time ballots were being counted and later the Mitchell/Russell Mayoral campaign meetings.

In each instance there were persons in attendance at these public meetings whose solution to all problems was violence -- violence to persons and property. Additionally, there were those in attendance who were quite capable of committing acts of violence and indeed a number of them had committed acts of violence in the past and had been convicted for same.

I am certain you will recall the potential problems which existed in the Mitchell/Friedel election. The vote was quite close and the issue was in doubt for several days. While Congressman Mitchell always

advocated peaceful resolution to problems, many of his followers publicly advocated at these meetings violence to persons and property. During those few trying days we had several hundred police officers in a standby status in the event the suggested burning came about as proffered by some of Congressman Mitchell's supporters. A number of supposedly responsible people in his audience encouraged burning.

These are the kinds of things a Chief must know about if he is to prevent violence and loss of property. Had a number of Candidate Mitchell's more outspoken supporters departed from that campaign headquarters meeting I would have saturated that congressional district with police. Fortunately, they did not do this and our sources maintained a very appropriate overview of what could have been another burning and looting affair.

The Director of the Inspectional Services Division has stated to me that we did not infiltrate public or any other meetings of Judge Joseph C. Howard and former State's Attorney Milton B. Allen. I am unaware of any reason why we would have infiltrated or attended their meetings in an official capacity as Judge Howard and Mr. Allen and their supporters advocated nothing to my knowledge other than peaceful achievement of goals. We did not have and do not now have any personal or professional interest in their philosophies, goals or views.

At this point I would like to point out the ridiculousness of the public allegations that we infiltrated political campaigns by quoting a comment attributed to The Honorable Francis B. Burch, Attorney General of the State of Maryland, from The Sun, Sunday, January 26, 1975....

"Mr. Burch said the surveillance was not politically inspired. A politician is not going to go out and get the police for this fact-gathering purpose. I'd have some unknown kid go volunteer and work in the campaign and he could get more political information than any undercover policeman".

Utility Rate Hearings - School Board Meetings...

Members of the Intelligence Unit did attend utility rate hearings, public meetings of the School Board and meetings involving the Expressway -- through our Intelligence sources it was known to us that members of the Extreme Left were planning to attend for the sole purpose of disrupting those meetings. We were not overlooking those citizens who had a bona fide interest in the issues. We were interested only in those disruptors who planned to preclude lawful redress of grievances by interested persons. Intelligence sources were present because they were acquainted with extremists and could identify them for subsequent court action.

Labor Overviews

While Major Bernard Norton has responded in part to our overview of

labor activities, i. e., Schmidt's Bakery, I wish to tell you the Inspectional Services Division did maintain an overview of strike activity involving the Police Department. Labor officials both internal and external to this department were conducting an illegal strike and were very early in violation of a Court Order which enjoined that strike. It was a legal overview endeavor by police authority so that appropriate administrative action and possible criminal action could be effectively taken once the strike was terminated.

The record reflects effective action was taken against officials and strikers and the Inspectional Services Division played a very important and lawful role gathering supportive data for contempt of court hearings as well as the subsequent departmental hearings. That is what we the police are all about.

Abuse - Unwarranted

I strongly object to the use of the words "abuse/abuses". The Random House Dictionary of the English Language, Unabridged Edition, Copyright, 1971, defines abuse as "to use wrongly or improperly; misuse: to abuse one's rights or authority". We did not do this.

We shared our information with other law enforcement agencies, to include the federal level and a number of government officials who not only had a right to know but a need to know as well.

The word "unwarranted" has been used regarding the Intelligence effort. There probably are several persons who could evaluate whether or not the activity was warranted, however, I do not believe any of them were on the Committee or its staff. While they obviously have made a judgment in this regard they are not qualified to make that judgment on merit.

The Chief Executive of the jurisdiction and his Chief of Police seem to be the logical persons to make the decision. As the responsibility seems to rest primarily with the Executive who has been given the direct statutory responsibilities to enforce the laws, prevent crime and disorder and to arrest violators, I maintain that our Intelligence effort was required in order to fulfill assigned responsibilities and that the effort was conducted lawfully in keeping with Constitutional guarantees.

Members of the department know full well that any deviation knowingly from the rule of law and the standards and policy developed for the lawful functioning of the department will be addressed forthwith and pursued with utmost vigor. There is not now, nor has there ever been, official illegal activity.

The Senator Mitchell Contact

The report, as well as the media, focuses in on my contact with an elected official and his mother. This is what happened: two differing

intelligence reports from two covert agents unknown to each other covered a closed meeting involving a very militant, destructive group. They had among their members and followers a number of persons who have committed major crimes and who were quite capable of committing more. The Senator was advising them on how to conduct a successful demonstration and in the process was advocating violence. A man of his stature is a very impressionable individual with a group such as this. It was something more than tacit approval and was in reality a license to criminal violence.

Having a great deal of respect for his mother and father I called the mother and invited her to come in and suggested it might be well to bring her son also. They arrived and I read excerpts from the two intelligence reports to them. After doing so I told the Senator that if there was violence during the scheduled demonstration I was going to obtain a warrant for his arrest for conspiring to riot -- he had not committed any criminal offense up to this point.

No one can be certain how people will react under a given set of circumstances; however, his mother assured me she would intervene and that her son would not give that kind of advice any more. I also suggested to both of them it would seem quite proper for him to return to that group and reflect a degree of moderation in the tactics previously suggested by him.

I did not give this intimate detail to the Committee, yet they have seen fit to quote the incident for the obvious purpose of demeaning the Police Commissioner as an individual.

I looked on this as a way to achieve a goal peacefully. There were alternatives of course. The intelligence data could have been purposely overlooked. The demonstration may have been violent and I could have proceeded to have obtained a warrant. Had the demonstration become violent there would have been losses to property and possible injury to people. I made the judgment to face the issue rather than take action after the fact. Prevention seemed to be the preferable route.

The David Glenn Contact

The Committee report further attacks me as an individual in my relationship and discussions with David Glenn who was the Executive Director of the City's Human Relations Commission. On the one hand Mr. Glenn gave the appearance of being an outstanding individual -- articulate, self-confident with an excellent dignity of demeanor; while on the other hand he would meet with militant groups and give them aid and comfort by his support. Again, he was giving them license to commit violence and cause unrest while attempting to achieve social change. His vehicle was used to transport hate literature which was printed in one of our churches. His clandestine advice and counsel

to very militant groups which openly advocated violence contravened his responsible public rhetoric.

We were constantly at odds -- the issue of Civilian Review Boards, police brutality and a wide variety of other issues. I finally challenged him one day and, frankly, we didn't make very much progress. It is true that I told him that while he was one thing on the surface to the public he was still another behind the scenes and, further, that what he was doing was causing problems for the citizens of Baltimore and the department.

I went so far as to ask the appointing authority to terminate Mr. Glenn. His response was "there is no way, no way" -- and, I understood.

The Senate report goes on then in view of these two contacts to indicate a number of unkind things and tells the public in effect that all my contacts were of this caliber.....

"For example, the Commissioner would inform citizens and government officials in a sometimes boastful but always intimidating fashion that he knew everything about everybody".¹ (emphasis added)

1. Report to the Senate of Maryland, December 31, 1975, Page 40, Lines 21-24

This type of disparaging commentary was repeated throughout, i. e. :

"Unquestionably, the efforts of Commissioner Pomerleau and Mr. Russell to intimidate and frustrate the Committee in their lawful endeavors have ill-served the members of the Department they represent and the legitimate interests of the people of the State of Maryland". ¹ (emphasis added)

Intimidate is defined: to make timid; inspire with fear.

Frustrate is defined: to make worthless or of no avail; defeat; baffle; nullify.

It would appear the Committee elected to fill factual data voids with subjective conclusions.

Personal Attack

I take strong exception to the personal attack of the Committee on me particularly in regards to:

- 1) the Senator Mitchell contact
- 2) the David Glenn contact
- 3) impediment.

Neither Mr. Russell nor I attempted to impede the inquiry. I supported strongly Senate Resolution No. 1 which would have requested you to appoint a Commission to investigate the allegations. I felt this quite appropriate because we cannot in a free society condone actual or

1. Report to the Senate of Maryland, December 31, 1975,
Page 63, Lines 1-4

constitutional abuses even by inference.

I felt certain that you as Governor would appoint a most objective and professional group to such a Commission. I felt it would include Judges, elected officials and other persons whose motivations and goals could not be challenged by anyone. When the Committee Chairman asked me if I supported the amendment I did not respond to him because I did not support what I perceived would be self-serving political involvement. I honestly felt that the issue was so important that it could and would be more properly addressed by professionals on a Commission. When challenged by the Committee at the hearing on October 18, 1975 regarding this, I clarified my position and indicated publicly that I felt my original conclusion was correct even though they were conducting a bona fide legislative function.

The track record of this Committee has proven my point. I wonder, Mr. Governor, how many others would like to be "investigated" in a like manner.

Appearance Before the Committee

It should be noted the report stated "Police Commissioner Pomerleau who testified for approximately one hour....."¹ before the Committee "on January 16, 1975".² (emphasis added)

Actually, I appeared before the Committee from 12:05 in the afternoon until 3:10 p. m. on January 14, 1975. I was again before the Committee on October 18, 1975 in Annapolis with testimony commencing at 10:20 a. m. until 5:15 p. m. -- the Committee left the room for approximately fifteen minutes to eat a sandwich while we remained at the table awaiting their return.

The Federal Suit

The suit which we instituted in Federal Court should not be construed as an "impediment to the inquiry". That was never the intention. It was clear that the Committee was floundering in their efforts to proceed. In that process they not only violated the constitutional rights of police officers of this department, but they were imposing irreparable harm on law enforcement generally and this department specifically by irresponsible

1. Report to the Senate of Maryland, December 31, 1975, Page 13, Lines 16-17
2. Ibid, Page 13, Line 12; The Hearing on Senate Resolution No. 1 was actually held on January 14, 1975 not January 16, 1975 as their report states.

statements of the Chairman. One example -- the Chairman stated that this department "conducted illegal wiretaps, that we conducted illegal wiretaps in cooperation with the C & P Telephone Company and that we broke and entered illegally". He did not say he had received testimony in this regard. He made his comment as a statement of fact and was on television for all to see and hear.

Comments of this type obviously play into the hands of the media and other vested interests and they are given great coverage. They are very detrimental to the effective, professional functioning of the department. I therefore authorized counsel to institute suit in Federal Court to:

- 1) ensure the constitutional rights of any member of this force appearing before the Committee and,
- 2) hopefully, to develop a higher degree of responsibility by the Chairman whenever he made public statements and,
- 3) I secretly hoped that the Federal Government could somehow, some way take over the inquiry.

The below listed statements of the Honorable R. Dorsey Watkins of the United States District Court for the District of Maryland, reflect

more specifically why I felt that way.

"The Court: Mr. Russell, I am sure you would not conduct the investigation the way it is being done, and I doubt very much if I would...." 1

"The Court: Mr. Russell, I would much prefer that and I say, gratuitously, I think that trying matters in the newspapers, if there were ultimately an indictment, might give rise to very serious questions as to whether the person indicted could get a fair trial...." 2
(emphasis added)

Oral Opinion of The Honorable R. Dorsey Watkins:

"....as to whether or not there should be further restrictions, I am not intimating that I feel there should be. In fact, I rather strongly favor the development of information, whether by surveillance or otherwise...." 3

Subsequent to the hearing before The Honorable R. Dorsey Watkins, it was interesting to note that we had achieved two of our goals. The Federal Court retained jurisdiction and, more specifically, the written media quoted the Chairman's response to a reporter's question regarding a topical matter of the investigation...."he was under orders from the Attorney General's Office not to comment on the investigation because of

1. Pomerleau v Conroy, Case No. 75-660-W, In the United States District Court, District of Maryland, July 3, 1975, Transcript of Proceedings, Page 22
2. Ibid, Page 41
3. Pomerleau v Conroy, Case No. 75-660-W, In the United States District Court, District of Maryland, July 3, 1975, Excerpt, Oral Opinion of The Honorable R. Dorsey Watkins, Page 3

a pending court suit challenging the authority of the Committee to conduct the probe". (The Evening Sun, September 10, 1975)

In summary regarding the Committee's attack on me personally, I feel it is reflected throughout the report their dislike of my personality. I regret their feeling on this point. However, it is my opinion that their dislike of me had no place in an objective study of our Intelligence work. In addition, I would caution them that there are many areas of police management that require something more than an ability to win a personality competition if established goals are to be achieved.

It is not difficult to take and maintain a firm position in the interests of something you are confident is right in principle and in fact. In my opinion the Committee resented the firm position on my part. The issues were too important -- the concerns too great -- and the responsibilities too complex for a Chief of Police to be acquiescent in each and every issue. That traditional role of a Chief is, or at least should be, a part of history.

REFLECTIONS

I have a number of reflections involving a broad range of activities. And, while I am somewhat reluctant to do what I have criticized the

Committee for doing, I feel there are some things you ought to know.

Committee Chairman

The Committee's Chairman contributed immeasurably to the sensationalism and unwarranted attacks in the media. His statements for the most part were extremely irresponsible when he said repeatedly that ISD has violated the law in the Intelligence process. And, he has failed to back up with facts those public statements.

He has repeatedly stated publicly that we discontinued our Domestic Intelligence efforts after he and his Committee became involved in January 1975. Of course I have told the public and the Committee that we discontinued all Domestic Intelligence activity in January of 1974. Our Domestic Intelligence files were also destroyed by burning at that time, January 1974.

U. S. News & World Report, June 9, 1975, reflects:

"State Senator Edward T. Conroy... says there is evidence Baltimore police regularly spy on meetings of community organizations, school boards, political groups, utility-rate increase hearings and meetings at schools and colleges, taking the name of everyone in attendance and as much information about them as possible."

"In some cases, he says, there is evidence that reporters were followed, their telephones tapped. In fact, the Maryland State senator adds, there is evidence that a great deal of illegal telephone wiretapping went on.¹ His committee referred this evidence to a Baltimore grand jury which reported May 9 that it had found nothing to support charges of criminal activity by city police. (emphasis added)

"It is easy to see how the atmosphere developed for this kind of activity with the riots and demonstrations, says Senator Conroy. But it didn't stop when the threat ended."

While the last paragraph above indicates something more than tacit approval for illegal activity during the times of riots and demonstrations, I reiterate once again, "all this reported telephone wiretapping" did not go on even during the riots and demonstrations although the Senator appears to intimate it would have been alright at that time.

And, there were many more public statements that were ill-advised.

Members of this department and counsel for this department are intimately familiar with the fact that the Committee Chairman was involved with vested interests; organized labor, former employees of the department, members of the media as well as his fellow colleagues who proffered unsubstantiated allegations.

Again, the Senate report is absent of any substance. It is unfortunate indeed that the end product supports those with a vested interest; but even they must be disappointed.

1. Distribution of U. S. News & World Report is reported to be in excess of two million copies each week.

Committee Sources

In assessing the findings of the Committee - both actual and alleged -- as well as the recommendations derived therefrom, I feel it is important to carefully consider the sources of information utilized by the Committee and its staff as well as the manner in which this information was weighed.

One of the basic hallmarks of a free and enlightened society is the understanding and recognition that a person accused of wrongdoing has the right to face his accusers and an opportunity to explore the motives, background and reliability of the persons providing damning allegations. Without the necessity of discussing at length the legalistic reasoning and application of the hearsay rule and the right to cross-examination of witnesses which counsel may expand upon in his report, it is important to note that the Committee has publicly accused persons of criminal conduct with no forum present to weigh whatever evidence may be available other than the media. Both the Sixth Amendment to the United States Constitution and Article 21 of the Declaration of Rights of the Maryland Constitution demand that an accused be allowed to confront his accusers. As stated recently by Judge J. Dudley Digges of the Maryland Court of Appeals:

"(T)he prerogative of the defendant to have his accusers confront him is a keystone to our concept of criminal justice -- grounded on the unwavering belief that an individual should be afforded the opportunity to challenge the witnesses against him through cross-examination."

Mr. Justice Black expressed a similar view on behalf of the United States Supreme Court in stating:

"(T)here are few subjects, perhaps, upon which this Court and other courts have been more nearly unanimous than their expressions of belief that the right of confrontation and cross-examination is an essential and fundamental requirement for the kind of fair trial which is this country's constitutional goal".

Obviously the Baltimore Police Department and its Commissioner were not afforded such an opportunity. Obviously there are among the citizenry of this State, those who have, over the years, been adversely affected by actions of the Baltimore Police Department. Felons have been arrested, convicted and sentenced. Corrupt police officials have been dismissed from the department as have police officers who led the illegal and reprehensible strike against the department in July 1974. If in fact the Committee based its findings upon information provided by such individuals without testing their reliability, the precept of fundamental fairness set out by the nation's founding fathers would seem to have been violated. The department has information, from sources it believes to be reliable, that the Committee did so base its findings upon the bald allegations of individuals with motives obvious to even a casual observer.

It is my opinion that if we are to be able to make definitive findings as to the sweeping but unsupported allegations contained in the report

of the Committee, the Committee should at least provide the names of their "witnesses" so that an examination of "their evidence" and possible motives might be undertaken.

Committee's Fixed Position

Those who watched closely the events and statements of the Committee and its staff as the investigation began cannot help but conclude that the Committee began working from a predetermined position. They had judged the Baltimore Police Department guilty. The result of this predetermined position was that their statements, interviews and attitudes were lacking in objectivity. In like manner, the report is largely void of objectivity.

It is indeed unfortunate that no thought was ever given to the total community and their rights and desires in view of the problems confronted at that emotional point in our recent history.

The above statements in no way indicate that I take the position that the "end justifies the means". No way! I reiterate here that the Inspectional Services Division did not violate the law in their Intelligence effort. They were extremely effective in a most honorable and professional manner. It is only now and during early published reports of our Intelligence activity that some in our community became sensitized to

the comprehensive, knowledgeable and effective overview being maintained of this urban area's problems.

Committee Staff

I do not believe that counsel to the Senate Committee reflected or possessed the degree of competency that a Senate Committee could reasonably expect. Actually, the interests of society would have been better served, and should have been, had counsel to the Senate Committee been members of the Baltimore Chapter of the ACLU. I know many of them; they are experienced, competent and they have been tempered. The resulting document would have been substantive and credible.

The investigative mentality levels of Committee staff can best be measured by reviewing some of their statements in the Senate report, the media and parts of their interviews as follows:

1) Committee staff found it necessary to write in their report that they made it a customary procedure to interview individuals in their home thereby providing familiar surroundings, etc. This of course is a line from a primer course on how to conduct an interview. What they didn't say is that they imposed themselves by weight of their office on members and former members of this department who did not want to become involved with them. And, further, on occasion they

imposed their presence without benefit of an appointment with a number of their interviews taking place at 9 and 10 o'clock in the evening. In one instance there was illness in the family and their presence was not only ill-advised but not at all desirable.

2) The conduct of the interview was oftentimes very unprofessional. They included the use of profane language, racial overtones and totally inappropriate and oftentimes irrelevant comments.

3) On or about 1:55 p.m., March 13, 1975, an employee of the Baltimore Police Department received a telephone call from a female purporting herself to be Ms. Diane Schulte who said she had called Officer Bryn Joyce of the Public Information Division earlier in the day and had made arrangements with him to be in the office so that a subpoena could be served. When told Officer Joyce was not in the office she became upset, loud and very angry saying, "If he (meaning Officer Joyce) didn't contact her today (3-13-75) she would smear his name over the front page of the papers". She said she would "have a big headline saying that he refused to be processed...."

4) Staff reached the conclusion that "unfortunately, as is often the case with informants, certain of them were as untrustworthy or amoral, or as much a threat to society, as those persons against whom they were employed", ¹ -- here they reflected their very narrow interpretations.

1. Report to the Senate of Maryland, December 31, 1975,
Page 26, Lines 13-16

5) The reports states, "Intelligence-gatherers had license, oftentimes poetic, to make subjective judgments in reports concerning such things as an individual's character, beliefs, political leanings, motivations, personal habits, associates, and ambitions".¹

In reality, our sources were carefully selected with some being developed internally while others were selected members of the Intelligence Unit. Our sources were responsible. Many of our sources were closely associated and worked and played for a period of years with persons whom they were overlooking. They knew their subjects well and their evaluations and reports were not "poetic". They were factual and objective.

6) The Evening Sun, Baltimore, Maryland, Monday, May 12, 1975, reflects the comments of Ms. Schulte regarding the employment of associate counsel to the Committee:

"If I had to describe him with one word, it would be tough. He's really tough. You need that because the people we are dealing with are not cooperating. You can be fair, but you have to be tough, you have to be able to blow smoke in their faces". (emphasis added)

1. Report to the Senate of Maryland, December 31, 1975, Page 40, Lines 10-13

7) The News American, Friday, March 14, 1975, reflects that Special Counsel Ms. Schulte made sensitive calls by leaving her office in the James Office Building and using a nearby phone in fear that someone is listening in on the office line. This coupled with "the theft of a key file from her locked office" as reported in the News American, Thursday, March 13, 1975, reflects unnecessary pronouncements to the media which can only be construed as contributing, by design, to a higher degree of sensationalism.

8) The Evening Sun, Wednesday, March 5, 1975, reflects Ms. Schulte vowed....

"to find witnesses who will make clear whether politicians, clergymen.... have ever been spied upon by police anywhere.

"That may mean you'll have to wait longer than 15 days for the next hearing, but we've got to get the right people.

"If you don't have any bullets in your gun, why go out hunting?" (emphasis added)

9) The Evening Sun, Wednesday, March 5, 1975, quotes Ms. Schulte....

"I want to get someone who I'm sure won't compromise the investigation. You almost have to go out of state for someone like that". (emphasis added)

10) Between the hours of 9:45 p. m. and 11:30 p. m. on August 25, 1975, Ms. Schulte and Assistant Counsel interviewed a member of the force at his home. It was at this time that Ms. Schulte volunteered her information about you and your personal problems. Parts of a written statement submitted to the department regarding this interview are quoted below:

- a. "They said that most of the people on the Committee are farmers and couldn't care less what happens in Baltimore City."
- b. "They were concerned about the competence of members of the upper echelon and felt that they are only appointed because of political favoritism."
- c. "They stated that they know that the morale is very low in the Department."
- d. "They are really interested in having the upper echelon appointed according to the merit system and that they would prefer that only the three Deputy Commissioners be appointed." (By the Police Commissioner)
- e. They stated "that the members of the upper echelon of this Department are not concerned with the Police Department at the lowest level of execution".

This of course parrots the litany of the former police union.

The backgrounds of Committee staff were extremely limited with their direct involvement having been with the Prosecutor's Office. Their comments about sources of information can then be understood because sources in the criminal field oftentimes are as described in the report. That was not the case in the Domestic Intelligence effort of this department.

As history reveals additional data involving the "Domestic Intelligence Era", interested parties will begin to see the quality of the sources. It is apparent that neither the Committee or their staff recognized that many responsible persons of our urban area were as concerned with the welfare of our community and its citizens as were the police. It is also quite obvious that neither the Committee nor Committee staff possess any knowledge whatsoever regarding an effective Intelligence process. This should be self-evident to anyone reading the report.

Conduct of staff as reflected in this report and the content of their public report, is not characteristic of a professional endeavor. Completely irrelevant data, the conduct of their interviews and indeed the tenor of their report reflects not only on their limited background but ability as well. Perhaps one can now understand why I have been adamant in my position for an extended number of years in not permitting our Detectives and other investigative personnel to be accompanied by Assistant State's Attorneys while conducting investigations.

While it is true that a law degree may be helpful at some distant point in our field of endeavor, it is not a license to competency or adherence to professional standards in the initial broadening phases of an individual. A number of law enforcement agencies are intimately aware of these problems involving an attitude of some young lawyers and often their unintentional circumvention of professional standards. More often than not they have not been taught adequately on how to function outside the classroom and have been given little direction or control since leaving.

Conduct such as described herein would be serious cause for careful review and counselling of one of our investigators and could lead to termination or at least reassignment from the pure investigative function.

From the content of the information contained in the preceding pages I must presume that the Committee Chairman failed to provide either oral or written guidelines for his investigative staff in this most sensitive area. I would recommend that this be considered an early order of business for any future Legislative Investigative body.

It is apparent to even the casual observer that the staff was not sufficiently qualified to handle the task. The citizens of Baltimore and our police officers deserved something more. Obviously the responsibility was too great -- the range of experience too narrow.

CONCLUSION

In conclusion let me state that from time to time there have been other kinds of infractions by members of the force. Officials of this agency have never hesitated to proceed promptly in the proper development of cases against such members. We have not as you know hesitated to request the assistance of the FBI and the United States Attorney for the District of Maryland when it appeared federal law had been violated. Additionally, we have successfully prosecuted members of this force in State courts, while both sworn and civilian employees have received disciplinary actions for infractions to include termination in a number of cases. And, we have awarded many commendations also!!

Members of this department necessarily view the Senate report with a jaundiced eye because they know that had infractions of the type reported occurred, officials of this department would have moved forward promptly in the preparation of appropriate criminal charges. Each member of the force knows that an external catalyst is not required to commence this kind of momentum.

I have repeatedly stated that we have functioned within the bounds of existing laws and never knowingly violated anyone's civil rights. I have, therefore, attached hereto as Enclosure (9), Brief 74-6, dated December 1974, on the issues involved.

Brief 74-6 provides case law which supports the position that I have taken regarding Domestic Intelligence. Attorneys external to this department, Baltimore City and officialdom of the State of Maryland, reviewed the Intelligence process of this department in depth. That review included individual interviews with overt and covert Intelligence agents as well as supervisors and command officials. These several attorneys whom I have known personally for an extended number of years, and prior to coming to Baltimore, understand my philosophies involving police and the citizens we serve. They know full well the firm position I take against any member of the department who would function or attempt to function illegally or improperly.

At this point I would like to quote an excerpt from a letter which I received from one of the attorneys involved in the aforementioned overview:

"....the matter of the allegations of 'illegal', 'illicit', or 'improper' spying on persons not suspected of committing a crime, the overwhelming weight of case law on the subject is to the effect that the police do not need to have suspicion that certain persons are committing certain crimes before intelligence gathering techniques can be used.

"The reasoning behind such case law is that the courts have always taken the common-sense position that the police have a preventative function in their law enforcement mission. That is to say, the police have a duty to make themselves aware of potential criminal acts before they happen, so that such acts, to the extent possible, can be prevented."

"Thus, overt and covert surveillances have been sanctioned by the courts: Laird v. Tatum, 408 U. S. 1 (1972)." And, various other case law citations follow.

"Likewise, the majority of courts have approved the use of undercover agents and informants as legitimate intelligence gathering techniques: Lewis v. U. S., 385 U. S. 208 (1966); Hoffa v. U. S., 385 U. S. 293 (1966); Socialist Workers Party v. Attorney General of the United States, 95 S. Ct. 425 (1974), Marshall, J.; Handschu v. Special Services Division, supra, in which the court stated:

"The use of secret informers or undercover agents is a legitimate practice of law enforcement and justified in the public interest -- indeed, without the use of such agents many crimes would go unpunished and wrong-doers escape prosecution. It is a technique that had been frequently used to prevent serious crimes of a cataclysmic nature. The use of informers and infiltrators by itself does not give rise to any claim or violation of constitutional rights. At 769." (emphasis added)

"Other case law in these and related areas will be found in the two attached briefs from the Legal Defense Manual of the Law Enforcement Legal Defense Center of Americans for Effective Law Enforcement, Inc."

The Brief I have attached hereto as Enclosure (9) has been most helpful to us. We offered to have the attorney who prepared the Brief, along with the Brief of course, appear before the Senate Committee. Our offer was rejected -- they were not interested.

Lastly, I can only reiterate my view that if the Committee possesses any evidence as to infractions of the law committed by any member of this agency they should provide such evidence to the appropriate Prosecuting Attorney promptly. If such evidence is not available they should make a public statement to that effect. In any case, I think the Committee should provide someone with facts at an early date.

From time to time portions of written and signed statements have been reflected in my report. They are of course available for your personal review if you so desire. Hopefully, you will find this letter along with attachments responsive to your request. If after review there are any additional questions I would be most happy to respond as appropriate.

Respectfully,


D. D. Pomerleau
Commissioner

Enclosures