

DRAFT LETTER TO WASHINGTON UNIVERSITY

As a loyal St. Louisian, I read the ST. LOUIS POST DISPATCH regularly. I came across your letter in the February 9th issue and read it very carefully. Because your letter seems to reflect a genuine concern rather than mere visceral reaction, I think I owe you a response.

First, as Judge Sessions has already publicly stated, the CISPES investigation was not politically motivated. It was based upon credible information indicating criminal activity which required investigation. The investigation was conducted in coordination with the Department of Justice and in accordance with the Attorney General's foreign counterintelligence guidelines (promulgated during the administration of Attorney General Griffin Bell. The investigation was closed in 1985 because it failed to produce sufficient evidence to justify further investigation.

The United States has the best track record for dealing with terrorism of any nation in the world. During the past decade, the FBI dealt quietly and efficiently with numerous terrorist groups, both domestic and international. Terrorist groups are inherently political. But unlike other groups with political objectives, terrorists are willing to use violent and criminal means to advance their aims.

Organizations--whether left or right--have been investigated without any political predisposition on the part of the FBI. At the same time that the CISPES investigation was taking place, the FBI was investigating allegations of criminal misconduct by members of organizations supported by the Administration. Politics did not enter into consideration, and no document yet produced supports the conclusion that it did.

I am sure that legitimate criticisms of the overall investigation can be made. I have yet to see an investigation that could not be second-guessed and better handled the second time around. But I believe it is important for you to have some sense of the dimensions of this investigation, which were vastly overstated and distorted--in my view for political reasons.

First, CISPES was not a massive investigation. I am advised that the time spent on this investigation was the functional equivalent of five agents working full time on the case during each of the two years. To put this in context, there were over 8,500 special agents working during that period.

Second, there was no broad investigation of groups or individuals; the investigation focused on certain individuals within the CISPES organization. Because CISPES was an umbrella organization involving many individuals affiliated with other groups, some data with respect to these affiliations did appear in the internal reporting records. These organizations were not under investigation and files were not opened on them.

Third, the investigation proceeded at minimal levels of intrusion. There were no wiretaps, no searches, no special agents acting under cover. None of the sensitive techniques which would have required my knowledge or approval were employed. So far as I can determine, no improper use was made of the investigative techniques or any information derived from them.

It would be very wrong for the FBI to use investigative techniques for the purpose of embarrassing or harassing any American citizen in the exercise of his First Amendment rights. In fact, specific instructions to that effect were given from FBI Headquarters at the time the investigation was authorized. These instructions were repeated at various times throughout the investigation. I invite you to review the 1,200 pages of published documents to determine for yourself whether this is not the case.

Finally, I am proud of my own record on academic freedom during my years as a lawyer, as a Federal Judge, and as Director of the FBI. Indeed this was alluded to in the citation when I received an honorary degree from the University of Notre Dame in 1981. I have served Washington University in many capacities for 40 years, as a member of the Visiting Committee of two other law schools, and as a member of the National Advisory Board of American University. I represented the Washington University Board of Trustees in negotiating with the faculty the first written statement of policy on academic freedom and tenure.

I deeply believe what I wrote in my concurring opinion in _____, "the solution to tough problems is not found in the regression of ideas." During the Washington University Board of Trustees meeting last December, a number of supporters of divestment appeared and I urged the board to invite the group back to speak at its next meeting.

The law enforcement community often finds itself caught in the tensions between two important and deeply held values: the right for citizens to be let alone and the societal demands to keep all members of society safe and free. How that balance is struck has much to do with whether we can preserve America, in Edmund Burke's terms, as a land of "ordered liberty."