

Frank Johnson, new FBI director, has a record for toughness

Judge Johnson has changed practically every aspect of life in Alabama

By Linda Parham
MONTGOMERY, ALABAMA—A federal judge, fierce in his protection of the Constitution and "tough as hell" in running his court, can be a mighty force for social change. Judge Frank M. Johnson is just that kind of judge. In his 22 turbulent years on the federal bench here he has changed almost every aspect of Alabama life.

But can even such a rigidly self-disciplined, hardworking and eminently fair man as Johnson make ripples in the entrenched layers of bureaucracy at the Federal Bureau of Investigation? As President Carter's nominee to head the giant intelligence agency, Johnson will shortly have the chance to find out.

Johnson's controversial decisions on integration, mental hospitals and state prisons overshadow two other trademarks that bear examination. If one were to predict how Johnson will run the FBI, it would be wise to look at the judge's record in administering the U.S. Middle District Court of Alabama as

senior presiding judge, and at his history of handing down stern sentences to those convicted of criminal offenses.

Tremendous caseload and control.

His efficient administration of the court and ability to attract a high caliber of law clerks and court employees has given the Middle District an enviable record of disposing of cases. The judge oversees a court in which 1,000 new cases are expected to be filed by the end of this year.

In addition to managing this caseload the judge is involved in even the most minute details of the daily workings of Alabama's mental hospitals and prisons, not to mention the hiring practices of almost every state agency.

The term "law and order" judge has been awarded Johnson by almost all of Alabama's lawyers, including Wallace aides as well as the state Attorney General. His attitude of unrelenting reverence for the law, coupled with his known dedication to the rights of individuals, leaves the impression that Johnson, if he can exert any control at all, will permit little room at the FBI for illegal activities such as unlawful wiretapping or surveillance.

A stare that can freeze.

The measure of control that Johnson exerts over his own courtroom is legendary. The prospect of standing before Johnson, as the judge peers over his half glasses from the high bench, has frozen the blood of many local attorneys, even those accustomed to practicing before the U.S. Supreme Court.

Although the judge rarely raises his voice, he tolerates no lateness, no talking, no sloppy dress. He has even less patience with lawyers who offer shoddy arguments as a coverup for ill-prepared cases.

"I may have been the only lawyer in history who was threatened with con-

tempt because of the expression on his face," remembers John C. Godbold, now a judge on the U.S. Court of Appeals for the 5th Circuit.

But in the same breath that Montgomery lawyers talk about a Johnson stare that "can freeze your blood," they also mention his evenhandedness and fairness.

Youngest judge.

The "scallawagging carpetbagger," as Wallace referred to him, is a native Alabamian, born in a hilly North Alabama county that refused to join the rest of the state in seceding from the Union during the Civil War.

After stints in the military during World War II and as a U.S. Attorney in Birmingham, he was appointed in 1954, at the age of 35, as the nation's youngest federal judge by President Dwight D. Eisenhower, a fellow Republican.

Within a matter of weeks Johnson was embroiled in the Montgomery bus boycott led by Rev. Martin Luther King Jr. His order integrating the city's buses—as a member of the three-judge panel—served as a warning of decisions to come.

Orders in civil rights cases during the '50s and '60s brought integration to Alabama's schools, juries, transportation, parks and libraries. Later he enraged state officials by establishing minimum living standards for mental hospital patients and prison inmates.

Aloof from criticism.

For the most part Johnson has remained aloof from the criticism that has swirled around his actions. Speeches in recent months, however, have begun to stress Johnson's concept of his role and duty as a federal judge.

A judge's sole responsibility is to "ascertain what the law is and make application of that law to the facts presented

in any particular case," he said. "That is as far as his authority goes, and it should be as far as his concern goes."

He touched more lightly on charges of overstepping his authority during the press conference that followed announcement of his nomination.

"I don't mean to seem trite, but any criticism toward me as far as my judicial opinions having gone too far or having been too aggressive, I must point out, have come from the ones who lost the case. Those who won the cases think I'm a good, sound, conscientious judge. I'll stand with those."

Self-discipline.

The self-discipline that sends Johnson to work before 8 a.m. and keeps him at the office after dark is relieved only by such diversions as working in the yard, raising Great Danes and building grandfather clocks. One of those clocks stands guard in his outer office on the second floor of Montgomery's federal courthouse.

A reserved man who opens up to only a handful of Montgomery acquaintances and family, Johnson was known to have been deeply affected by the suicide of his 27-year-old son a few years ago. Some speculate that restlessness springing from that period of depression along with a sense of concluding his work in Montgomery, spurred his decision to reconsider and accept Carter's offer of the FBI directorship.

Johnson has frequently been mentioned as a possible candidate for the U.S. Supreme Court. He was considered a leading contender to fill vacancies on the court in 1969 and 1971, but was bypassed by President Nixon in favor of G. Harrold Carswell and Clement Haynsworth, both of whom failed to receive Senate confirmation.

Linda Parham is a freelance writer in Montgomery.

Meanwhile, back at the CIA

The CIA tries to clean up its image

By Karen Wynn
A slightly stammering retired CIA biochemist unveiled an extensive CIA biochemical and behavioral modification program before a Senate subcommittee on September 21.

Dr. Sidney Gottlieb described his role in the CIA program, carried out through most of the Agency's 30 year history, to Sen. Edward Kennedy's (D-Mass.) Subcommittee on Health and Scientific Research, which is considering legislation to protect the rights of human subjects of intelligence agencies' medical research.

The program, which featured knock-out compounds, untraceable poisons, hypnosis, LSD and other psychotropic drugs, was developed at more than 80 institutions, ranging from prestigious universities to CIA front funding organizations.

There were three distinct stages to the research: first, what might be called the dark side of mainstream medical research. When medical investigators began looking into the possible chemical origins of schizophrenia, for instance, the CIA was interested in whether chemicals isolated by experimenters could be used to induce schizophrenia.

Second, was the fear that the "other side" could also isolate these materials and use them against American officials. To protect these officials, Dr. Gottlieb

said, the CIA had to recognize symptoms of biochemical or behavioral interference.

The predictable third stage was operational or offensive use of the materials by the CIA itself. By 1966 the CIA's deputy chief of station in Greece was suggesting the use of LSD to discredit left leader Andreas Papandreu on some public occasion.

The test subjects of the projects were some 20 to 50 Americans. Most were unwitting; some were confined to prisons or mental hospitals. Drug addicts at a federal facility in Lexington, Kentucky, for instance, were paid in morphine for participating in LSD tests. At least one death is attributed to the testing: the suicide of an unwitting Army employee after LSD was slipped into his drink.

Gottlieb also confirmed that there were operations abroad using the materials, but was not questioned further on the point.

Gottlieb was chief of the CIA's Technical Services Division (TSD) from 1966 to his retirement in 1973. In an earlier capacity he set up the biochemical and behavioral modification, which as TSD chief he later oversaw.

When he retired in 1973 Gottlieb destroyed the records of the drug experiments with, he says, the approval of Richard Helms, then CIA director. Colleagues of Gottlieb confirm that it would have been unlikely for him to have destroyed records without higher approval.

Helms, however, said in 1975 testimony that he had "no recollection" of

records being destroyed.

The remaining records are financial records, written in language both vague and inflated and apparently intended to justify a costly program to auditors. A \$375,000 payment to the Georgetown University hospital building fund was carried on the records as an "in-hospital safe house," although the CIA's Georgetown contact, Dr. Charles Geschickter, said that no space was ever allotted to the CIA there and that it was "all news to him." (Dr. Geschickter's foundation, the Geschickter Fund for Medical Research, funneled \$2.2 million dollars to CIA contract institutions for the research project over a 13 year span.)

The eagerness with which Admiral Stansfield Turner, current director of the CIA, is now producing boxes of old CIA files for press and Senate consumption suggests that the CIA may not be entirely unhappy about the proceedings. The almost unprecedented way in which Gottlieb has been thrown out into the cold along with the remaining records of the program he supervised (which was reviewed annually by higher authority, presumably by Director Helms himself), some observers have pointed out, permits the CIA to take a stance in which the entire episode can be written off as a product of "the bad old days."

This is an extremely functional game plan for the CIA. There are attacks from the left, that the CIA is too efficient, from the right that it is not efficient enough, and most damaging perhaps, there is ridicule from the center. The

Washington Post entitled one of its stories on an LSD testing failure, "The Gang that Couldn't Spray Straight."

The CIA badly needs a more modern image and it knows it. The Gottlieb case shows that it is not above scapegoating individuals for its institutional failures.

Chances are that the CIA will succeed if the current hearings are an indication. When Turner announced that the \$375,000 payment to Georgetown University was "incredible"—because the CIA didn't get anything for it, Sen. Kennedy, who left the hearing shortly after to have lunch with the President, agreed.

Whether the intelligence agencies should be doing medical research at all is a question that has been unasked in the rush toward reforms that would only protect the human subjects. Even here little progress is expected.

Protocols recently drawn up by the intelligence community have already been found acceptable by the federal agency responsible for the protection of human subjects in medical research in spite of the fact that they worsen the current situation. The proposed protocols contain a "national security" override for current standards of informed consent and the need to demonstrate probable benefit to the human subject, an override that is likely to be used, as national security claims have been used in the past. The current legal and ethical constraints on the medical community are better protection.

Karen Wynn has watched the CIA since 1961.

IN THE WORLD

WEST GERMANY

Nazi past looms over terrorists and their victims

By Diana Johnstone

WITH THE WORKING CLASS DEPOLITICIZED, THE deepest conflict is the moral one between an economic ruling class with none of the liberal attitudes of other Western bourgeoisies and an intelligentsia alone with its memories of that classes Nazi past.

The fatal flaw in present day German political culture is the failure to accept conflict and disorder as healthy and necessary factors of human existence. Only the widespread delusion that a perfectly orderly society without conflicts is both desirable and attainable can explain how several hundred desperados calling themselves the Red Army Faction have been able to spread consternation throughout West Germany and have enabled the right to mount a vehement attack against the far-from-permissive government of Chancellor Helmut Schmidt for its "weakness."

Prior to their latest exploit, RAF commandos, in five years of sporadic activity, had killed a total of seven people, making them a threat to the population statistically about on a par with being struck by lightning. Then on Sept. 5 in Cologne, an RAF group kidnapped the heavily guarded president of the West German industrialists association, Hans Martin Schleyer, killing two policemen, a bodyguard and a chauffeur. This tended to show that a small, determined group could attack just about anyone. But not everyone. That this could make much of the population fear for its safety is no sign of great realism.

Except in colonial situations or flagrant tyrannies, terrorism practiced in the name of the left is usually counter-productive. In West Germany, it has proved much more damaging than elsewhere—for some of the same reasons that gave rise to that particular terrorism in the first place.

Nazi heritage.

The Nazi heritage makes West Germany a special case. For various reasons, including characteristic American confidence that democratic political institutions suffice to create a democracy, post-war "de-Nazification" was far from complete.

This is illustrated by the fact that Hans Martin Schleyer, in his youth an ardent Nazi, was picked by the country's business community as its top representative.

The son of an Offenburg judge, Schleyer joined the Hitler Youth when he was 16, in 1931. As soon as possible he joined the SS. For several years he specialized in purging universities of non-Nazis—in Heidelberg, Innsbruck and German-occupied Czechoslovakia. At his own request, he was transferred to the more lucrative job of "mobilizing" the Czechoslovak economy, which

involved ripping off businesses belonging to Jews, Czechs or non-German foreigners.

When the war ended, Schleyer's career was interrupted for three years of automatic prison, before continuing upward through Daimler-Benz to the boards of various major West German corporations, where he was appreciated by his colleagues for his tough attitude towards labor unions and his hostility to the co-management program promoted by the Social Democrats.

To that minority of West German intellectuals sensitive to the crimes of the Nazi past, even guilt-ridden about them, social injustice is not merely the usual inequality between rich and poor; it is also the scandal that the rich are largely the same as those who built and supported Nazism. With the working class largely passive and depoliticized, the deepest and most passionate conflict is perhaps the moral one between an economic ruling class with none of the liberal attitudes of bourgeoisies in other Western countries and an intelligentsia that is alone with its historic memories and present understanding of that class.

The self-appointed "head."

Recently, self-exiled Munster sociologist Christian Sigrist told a meeting in Milan that Andreas Baader and the other bourgeois intellectuals of the "armed party" blamed the passivity of German workers today on the fact that when they revolted in the past, they were betrayed by intellectuals, who let them be slaughtered. Therefore the RAF concluded, according to Sigrist, that the workers could be encouraged to struggle only by intellectuals who showed themselves ready to take risk in action. The RAF has tried to stress to the public that it strikes only at the top, but this has been censored.

This line of reasoning is an extreme development of the conviction, which Lenin took from the German Social Democrat Karl Kautsky, that non-working class intellectuals must provide the working class with its consciousness. The RAF is the self-appointed "head" trying to be part of the "body."

Many of the country's socially concerned intellectuals have understood more or less why Baader, Meinhof and the others embarked on that course. The RAF has been a guilt-trip for intellectuals characteristically blaming themselves for never doing anything but talk. But the mere attempt to explain, however critically, the political reasoning of the RAF has invited accusations of sym-



Hans Martin Schleyer, president of the West German industrialists association, was kidnapped on September 5 in Cologne.

pathizing with terrorism.

The anti-intellectual right, with the Axel Springer press in the forefront, by portraying the "Baader band" as blood-thirsty monsters out to destroy the best of all possible worlds out of sheer wicked perversity, has virtually goaded certain intellectual circles into sympathizing with them to some extent. That sympathy has then been used to promote witch-hunts and repression in intellectual circles, labeled "breeding grounds for terrorism."

Tanks and barbed wire.

Relentless repression of the RAF seems to have inspired a matching relentlessness. Locked in unequal combat, the state and its enemy resemble each other strangely in organizational capacity and ruthlessness. The attention lavished on the Baader band, even to having a maximum security courthouse built just for their trial, was not designed to persuade them of their insignificance. The American press has tended to go along with the official German over-reaction, assuming the danger must be equal to the defensive measures, including tanks and barbed wire, mobilized against it.

The tanks are part of the governing Social Democrats' desperate efforts to stave off right-wing criticism. But precisely by such grandiose measures, better suited to exaggerating than to solving the problem, the government makes itself look helpless and the terrorists look strong.

It is all very German. The German way of life involves an extraordinary suppression of visible disorder, resulting in an extremely neat, conformist sur-

face and a generalized suspicion that strange demons may be lurking everywhere, just out of sight.

In a speech in Berlin on Sept. 9, Axel Springer announced ominously that "once again, as in 1933, the German State appears too powerless to defend itself." The next day, his newspaper *Welt am Sonntag* published a poll according to which 78 percent thought the government had taken the threat of terrorism "too lightly."

Christian Democratic crusade.

Schmidt has fought to get opposition Christian Democratic Union (CDU) leaders to share responsibility for decisions in the Schleyer case, while they have done their best to wriggle out, so as to be able, after momentarily proclaiming solidarity, to attack his government for failure to keep order.

In a CDU meeting in Lower Saxony on Sept. 11, party theoretician Kurt Biedenkopf said: "Not only the terrorists are guilty. Those responsible for the situation we are in are the so-called liberals and left-wing intellectuals, whose only thought is to create insecurity in the population and destroy the freedom-loving instincts in our society." When Willy Brandt's name was linked with the terrorists, CDU delegates applauded vociferously.

Ernst Albrecht, prime minister of Lower Saxony, charged: "The real problem is not the terrorists but rather their sympathizers," whom he identified as writer Heinrich Böll, North German radio, university teachers and the Young Socialists. The Christian Democrats pre-

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