

SWARTHMORE COLLEGE  
Swarthmore, Pennsylvania

30 April 1971

To: Mark Breibart, Lew Cook, Bob Cross,  
Ning Robinson, Dave Smith, and Jerry Wood

From: Frederic Pryor

Concerning: Proposal for a hearing

From the evidence sent by the "Citizens' Commission to Investigate the F.B.I." and taking into account the considerations raised at the Special Committee's meeting on April 29, I would like to present a somewhat modified proposal for formal hearings.

Our mandate, as I understand it, is to investigate all aspects of the privacy situation at Swarthmore; this includes not only the issues concerning F.B.I. surveillance but also other aspects of the problem. Although we must make some type of judgment about the alleged wrongdoings of Mrs. Feiy, Mr. Peirsol, and Miss Webb, we have to make a number of other types of decisions as well. The types of hearings that I propose below have a number of different functions. Before outlining my preliminary opinions about the three staff members implicated in the surveillance problem, I would like to discuss briefly the problem of "hearsay evidence."

I. The F.B.I. Papers

A. Authenticity

Certain documents submitted by the Citizens' Commission are of doubtful authenticity: I refer especially to the handwritten notes or the scribbled notes on some of the official documents. Other documents relate to instructions to the F.B.I. from the home office and are not directly relevant to the alleged wrongdoings of the three staff members.

There are, however, a series of documents, mostly on stationery entitled "United States Government Memorandum" which appear authentic F.B.I. documents. Two types of internal evidence support this authenticity:

1. One document to the F.B.I. from William Weidner, Swarthmore Chief of Police, details a conversation with Mr. Cratsley and Mr. Stanton which Mr. Cratsley has claimed to be accurate.
2. Several documents refer to actions by Miss Webb, which, as I understand her statements to the Phoenix, she has admitted.
3. The F.B.I. confirmed that documents relating to Jacky Reuss had been stolen and several of the documents, whose accuracy was attested by Jacky Reuss, turned up.

#### B. The Hearsay Rule

According to my dictionary, the hearsay rule excludes certain out-of-court statements, oral or written, which are offered as evidence. Further, certain types of evidence that are obtained illegally are not admissible. Although these procedures may be necessary in situations where the court has life-or-death powers over an individual, these guidelines are too strict in situations where authentic documents are used to determine whether or not a person should be moved from one position in the college to another.

#### II. The Necessity for Formality

As far as I know, the College has never held a hearing in which outside evidence was introduced to influence personnel decisions. I see any hearing that we might hold as an important precedent and, therefore, believe that such a hearing should be conducted with care.

In any hearing in which wrongdoing is alleged, I believe that an adversary proceeding is the fairest method of operation. That is, I would like to hear the reasons Mrs. Feiy or her lawyer give me for rejecting the authenticity of the F.B.I. documents. And I would like to hear the strongest possible countercase. I would further like to have notes taken so that there are no possibilities for misunderstandings. Any more informal procedure is not going to protect the accused in as effective a manner.

A formal proceeding also protects the committee from any accusation of playing a kangaroo court.

Finally, a formal hearing is a concrete action that would satisfy most complaints that the administration has tried to sweep the whole surveillance issue under the rug. We can also announce that recommendations were made to President Cross who then, at an appropriate time, can announce his actions. If a record of the proceedings is made, then if any of the three accused desire that the proceedings be made public, a document can be released.

### III. The Case of Mrs. Feiy

#### A. Charges

1. In the document entitled "United States Memorandum 3/13/70", Mrs. Feiy is alleged to have given the F.B.I. the following information about Dan Bennett:
  - a. Bennett was criticized by the administration for inviting speakers uncleared by the College;
  - b. Bennett was criticized by the administration for holding unapproved open discussions about controversial issues;
  - c. Bennett is a radical;
  - d. Bennett has not made any long distance calls to specified people or places in the last month, according to her charge slips.

Clearly, only the last piece of information is based on privileged information. The other bits of information could have been gleaned in any number of ways, either legally or otherwise, and I do not feel there is much we can do about it.

2. Mrs. Feiy has listened in to at least one telephone conversation and made comments to the two people who were talking.



B. Linkage between the Two Charges

Both charges relate to the issue of privacy and, therefore, seem to fall under the purview of our committee (at least in so far as I understand the mandate of our group, although others have disputed this). Both are, I further believe, grounds for removing Mrs. Feiy from her present position; both may be, although I doubt it, grounds for firing her. Although the second charge could be a matter of concern only between the Personnel Office and Mrs. Feiy, the person raising the complaint did not choose to report the matter until the surveillance issue arose. Although Mrs. Feiy's alleged connections with the F.B.I. and her listening in on a conversation several years ago are unrelated in one sense, they contain elements of a consistent pattern of behavior by Mrs. Feiy and deserve, therefore, to be considered together. Further, separate action by the administration on the part of the second charge would prejudice the proceedings of our committee.

C. Proposal for a Hearing

Any hearing of these charges will probably be quite short, especially since it is likely that she will deny everything. We should request the F.B.I. to send a representative who undoubtedly will not show up. Mrs. Feiy's counsel will undoubtedly cross-examine the two individuals testifying on the second charge and then we will have to come to a decision on whether or not to recommend any action to Bob Cross (who, I presume, will not attend the hearings so that he will not be on both the jury and the administrative bench).

Mrs. Feiy should, of course, be informed of the charges in advance plus some indication of the evidence with regard to both charges. She should be informed that her refusal to show is equivalent to a nolo contendere plea and that, if she chooses to show up, she can be accompanied by a lawyer or other type of counsel. I think it further advisable to tell her that the maximum penalty would be her transfer to another job in the College at the same pay; this may induce her to be more cooperative (although we shouldn't hold our breaths).

#### IV. The Case of Miss Webb

##### A. Charges

1. According to the guidelines that Courtney Smith gave to members of the administration in November 1965 (which are in the F.B.I. files), Miss Webb was certainly in her rights to give the F.B.I. a list of dates about when students enrolled or quit the College.
2. According to the document entitled "United States Memorandum 11/19/70", Miss Webb gave the F.B.I. a number of items on Jacky Reuss which were within the guidelines set out by Courtney Smith. She also, however, told them that Miss Reuss had asked her for her transcript to be sent to the University of Wisconsin, which exceeded the guidelines.
3. There is also the possibility that Miss Webb sent the F.B.I. an alphabetized list of black students, although it is not clear from the documents sent by the Citizens' Commission who actually compiled the list.

##### B. Proposal for a Hearing

The guidelines set out by Courtney Smith were sufficiently loose and the actions taken by Miss Webb seem sufficiently unimportant that I see little reason ~~at~~ the present time for making any formal charges against her. Although she is outspoken enough to implicate herself on a number of other charges (e.g. giving transcripts to unauthorized individuals), I have some reluctance for trying to encourage her to hang herself.

What our hearing would concern is her ability to live with a set of future guidelines that would prevent her from giving any transcript information to the F.B.I. without a subpoena. If she feels that she could not in good faith subscribe to such guidelines, then she should be transferred to another office in the College.



Our hearings on Miss Webb, should not, therefore, be disciplinary but rather exploratory; and it should be made clear to her before that she is accused of no wrongdoing. These hearings, therefore, should be in the nature of information gathering.

## V. The Case of Mr. Peirsol

### A. Charges

1. According to the document entitled "United States Memorandum 3/13/70", Mr. Peirsol furnished the F.B.I. with information concerning how long Dan Bennett had taught here, his previous place of employment, the fact that Mrs. Bennett is unemployed, information about Bennett's two children (sic); and data about Bennett's two-toned blue VW with license plate 5V0245. The fact that some of the information is public and other is quite wrong suggests that Peirsol did not consult official files but rather relied on his own inept sleuthing.

### B. Proposal for a Hearing

Although I believe Peirsol was incredibly indiscreet and incompetent, I believe that he was within his rights as a private citizen to give out such information. (However, I could be argued out of this position.) It seems doubtful that the committee could, on the basis of this evidence, do much more than give Peirsol a reprimand.

I would like, however, a short investigatory hearing in which the committee could learn more of what Peirsol actually does, so that we might be able to draw up better guidelines for privacy. Therefore, I recommend that he be requested to attend a hearing on this matter and, further, that he be informed that no disciplinary action will be taken against him.

## V. Final Comments

I apologize for the length of this memo., but I feel that the committee should make its decisions about whether or

not to hold hearings and the form of these hearings as soon as possible. Outlining my arguments in detail in advance, will, I hope, speed up our deliberations. I look forward to your ideas at our meeting on Tuesday afternoon.