

How a Group of Americans Challenged Military Intelligence in West Berlin: Low-tech Surveillance, Whistleblowers and the Court Case That Resulted

The plaintiffs in this complicated case have been telling a simplified version of our story for the last 40 years. Now, as issues of surveillance are becoming more and more relevant, there's all the more reason for us to get it exactly right. This report explains what happened.

This case study was written by Ann Wertheimer, a member of Americans in Berlin for McGovern (later Concerned Americans in Berlin [CAIB] and then the Berlin Democratic Club), with many thanks to everyone who sent me their notes and told me their recollections, with special thanks to Douglas Hillmer, whose contemporaneous notes from 1973 provided the framework for this report. And once again, a big thank-you to our lawyers from the American Civil Liberties Union (ACLU) – Mark Lynch, John Shattuck, William Schaap and David Addlestone. We hope that our continuing donations to the ACLU reflect our gratitude.

The following study includes extensive endnotes. All documents cited are listed at the end of the study. All statements not supported by footnoted documentation are from my own memory of events corroborated by recent personal communications.

Ann Wertheimer, Berlin, October 2013

DATELINE WEST BERLIN 1973: CONCERNED AMERICANS IN BERLIN ET AL. VERSUS THE SECRETARY OF DEFENSE ET AL.

In 1973, exactly forty years before the recent PRISM revelations, a group of Americans living in West Berlin discovered that U.S. military intelligence had tapped their phones, opened their private letters, and infiltrated their political organization, Americans in Berlin for McGovern. This group, which after the election in 1972 became Concerned Americans in Berlin, sued the Army. In 1980 a settlement was reached. Here are the details.

1. THE YEAR 1973 IN THE UNITED STATES AND IN THE FEDERAL REPUBLIC OF GERMANY/WEST BERLIN: HIGHLIGHTS

It's 1973 and this is what our part of the world is like: Richard Nixon has been re-elected President of the United States in November of 1972 in a landslide victory over Senator George McGovern of South Dakota. Nixon starts his second term on January 20, 1973, and is to resign a year and a half later in the aftermath of the Watergate scandals, culminating in the revelation that President Nixon had indeed known about the break-ins into the office of the Democratic National Committee and had been complicit in the following cover-up.

At the beginning of 1973 the trial of the Watergate burglars begins. The Supreme Court decides *Roe v. Wade*. The United States and Vietnam sign a cease-fire agreement, and in February Nixon announces the end of the Vietnam War and the first POWs are released. Nixon signs the Endangered Species Act. The dollar is devalued and gold goes up. The trial of Daniel Ellsberg and Anthony Russo, who were charged with espionage for releasing the

so-called Pentagon Papers, is coming to an end and in May all charges are dropped against them. The last troops leave Vietnam and the remaining POWs are released.

The European Common Market is expanding. Bonn is the capital of West Germany (the Federal Republic of Germany), and West Berlin is an enclave completely surrounded by East Germany (the German Democratic Republic). The Social Democrats have enough votes to form the government of the Federal Republic in coalition with the much smaller Free Democrats, and Willy Brandt becomes the chancellor. In June, Brandt visits Israel.

2. CONCERNED AMERICANS IN BERLIN AND ARMY INTELLIGENCE

In August 1973 in the Schöneberg section of West Berlin, Karen and Doug Hillmer were sitting at their kitchen table, eating dinner and, listening to the news on AFN,¹ which was broadcasting part of a press conference being held by Sen. Lowell Weicker, a liberal Republican from Connecticut. Weicker is talking about his discovery of surveillance of McGovern supporters in West Berlin. Those supporters, Karen and Doug realized, could only be the group they belonged to, Democrats in Berlin for McGovern, most of whose members, after McGovern's loss to Richard Nixon in November 1972, had founded the group called Concerned Americans in Berlin later that November.

Sen. Weicker had sent his aide Bill Wickens to investigate Army spying in West Berlin at the beginning of June 1973.² Wickens had contact with a self-described 'citizen-soldier' and a member of the "covert intelligence gathering counter-subversion team in West Berlin" whose mission it was to target "the American political group called 'Democrats for McGovern' and who after the presidential elections called themselves 'The Concerned Americans in Berlin' (CAIB)."³

Wickens received an anonymous letter – dateline June 10, 1973, West Berlin – in which this "citizen-soldier" answered some of Wickens' questions. The soldier said that he was being ordered to do what he considered to be unconstitutional. "Frankly, I was alarmed when I discovered from my review of the files of this voluminous material that has been collected.... For my own part, I consider myself a citizen-soldier and I believe American constitutional guarantees have been violated. Again, I request to remain anonymous...."⁴

The letter is followed by a collection⁵ of attachments that document the surveillance of CAIB with instructions, in the citizen-soldier's words, to insert "Coded confidential Sources as penetration agents into these meetings to ascertain information concerning the meetings and identify members, Americans, leaders of CAIB. Compile dossiers on personalities and forward all information to higher headquarters."⁶ Sen. Weicker took all this very seriously.

On August 3, Weicker's editorial appeared in the *Morning Record*. "In it he reveals that he has documentary evidence showing that army intelligence spied on McGovern supporters in Europe in 1972."⁷ Numerous newspaper and magazine articles of that summer in 1973 record Weicker's reaction.⁸ "Somebody has got a helluva lot of explaining to do.... Somebody ought to be watching the people who are supposed to be watching."⁹ The army's 'watching' turned out to include wiretapping,¹⁰ opening and inspection of private mail,¹¹ infiltration of private meetings and political organizations, and blacklisting.¹²

For their part, the Army at first "denied that it conducted any political intelligence gathering.... But documents turned over to the [Senate Armed Services] committee by Sen. Weicker include numerous examples of undercover agents collecting purely political material.... Among the documents are notes prepared for a briefing of Maj. Gen. Harold R. Aaron, deputy chief of staff for intelligence in Europe, describing the activities of

Concerned Americans In Berlin (CAIB), an organization originally formed to support the presidential candidacy of Democrat George S. McGovern.”¹³

In *The New Republic* of March 30, 1974, pages 13-15, an attempt is made to describe the motivation behind Military Intelligence (MI) surveillance in West Berlin and in West Germany. The Army’s “own documents suggest that it was trying to establish the existence of a conspiracy to subvert army enlisted men, linking the Methodist missionaries, the LMDC [Lawyers Military Defense Committee] lawyers, the Berlin Democrat, underground newspapers, foreign Communist parties and antiwar activists....”¹⁴ John Shattuck of the ACLU, who quotes this *New Republic* article in his testimony before the Sub-committee on Constitutional Rights,¹⁵ continues: “Whatever was the original purpose of the Army’s operation, what we already know about it indicates that in practice it has swallowed up all purpose and trampled on the rights of American civilians abroad.”¹⁶ In Shattuck’s following footnote, he reminds the Committee that the “Supreme Court has long held that American citizens do not lose their protection by the Constitution against illegal actions of their own government when they travel abroad.”¹⁷

3. AMERICANS IN BERLIN FOR MCGOVERN/CONCERNED AMERICANS IN BERLIN/THE BERLIN DEMOCRATIC CLUB: BACKGROUND

In July of 1972, the Hillmers, Al and Sandy Zagarell, Jane Hartmann and I (Ann Wertheimer) had founded Americans in Berlin for McGovern, a group dedicated to “planning a McGovern campaign among Americans in Berlin. We wrote to Washington, D.C. to make contact with campaign headquarters of the Democratic Party.”¹⁸

By August, we had received permission to distribute leaflets not only at the German-American Volksfest, but, according to the United States Mission in Berlin, “on public streets and sidewalks” anywhere in the city until election day 1972.¹⁹ At weekly meetings, the McGovern group organized a Labor Day picnic, a film night (*Salt of the Earth*), and a McGovern benefit concert where over \$600 was raised for the campaign. “In total,” according to Doug Hillmer, “we raised about \$950 and helped many people to register and vote.”²⁰

We elected officers – a treasurer, Audrey Medsger and a secretary, Diane Bridgeman – and during October, it was proposed that the McGovern group co-sponsor an anti-Vietnam War march. We “declined to do so, since such a co-sponsorship did not seem to be a fair use of the McGovern campaign name.”²¹ Some members of the group went as individuals.

At the election night party, we voted to stay together and to try to work within the Democratic Party. A new group was formed on November 20, 1972, calling itself Concerned Americans in Berlin (CAIB).²² CAIB drew up a statement of principles based on the 1972 Democratic platform.²³ Committees were established to “look into the needs and possibilities in different areas.”²⁴ We elected officers and decided to collect dues. We developed projects, especially concerning discriminatory housing and GI rights.²⁵ Doug Hillmer was elected as new Democratic National Committee (overseas) chairman.

The group planned a conference emphasizing GI rights (specifically in Berlin) and civil liberties in the United States generally. On February 24, 1973, that conference (“G.I. Rights and American Civil Liberties”) was held at the Evangelische Studenten Gemeinde (ESG) Heim. There were speakers from the ACLU and the Lawyers Military Defense Committee²⁶ and afterwards there was a general discussion and a party.

A few days later several members of the group went to E-4 David Wolter's court martial in Berlin.²⁷ In April we discussed possible participation in GI counseling. It was moved by Jay Brady that we work with Forward, a group that did some GI counseling and put out a leftist GI newspaper by that name. CAIB decided to look into a possible joint effort.²⁸

In May, a proposed statement of principles was accepted and a constitution based on the Declaration of Independence and the Bill of Rights was adopted. A petition was drawn up urging Congress to begin impeachment proceedings against President Nixon and we planned to be out collecting signatures on weekdays in front of the U-Bahn station Oskar-Helene-Heim. That petition with about 350 signatures was ultimately sent to House Speaker Carl Albert (with copies to Reps. Bella Abzug, Shirley Chisholm, Paul McClosky, and to Sen. Sam Ervin) on June 31.²⁹

In June, we started to plan another conference, this time on the Watergate scandal. That conference was held on June 23, 1973.³⁰

In July 1973, Diane Bridgeman, back in Berkeley, California, helped Douglas Hillmer to arrange an official affiliation between the Berlin group and the Democratic Club in Alameda County. After a vote to affiliate was held in both Berlin and Alameda County, a club charter agreement was then sent to the Berlin group.³¹

4. THE CASE: THE PLAINTIFFS, THEIR LAWYERS, THE DEFENDANTS

On August 5, 1973, shortly after Sen. Weicker released the story of Army surveillance of Concerned Americans in Berlin or CAIB (previously Americans in Berlin for McGovern and now the Berlin Democratic Club or BDC), members of the group were interviewed by CBS.³² We also sent out press releases expressing outrage at the revelations.³³

Sandy Zagarell, who was in the States in early September of 1973, went to ACLU headquarters in NYC and discussed a possible class action suit.³⁴ Then, over a period of several months, Diane Bridgeman in Berkeley and Doug Hillmer in Berlin arranged for the ACLU to represent us as plaintiffs against the Department of Defense.³⁵

The members of our group tried to ignore the fact that someone might be listening to our telephone conversations. It was more difficult, however, to disregard suspicions about who the infiltrator(s) might be. But because we knew that suspicion among members would be destructive to the group, we all made an effort to focus on what we thought was important, namely our organizing and our case.³⁶

On February 19, 1974, a Complaint was filed as the Berlin Democratic Club, et al. versus Schlesinger, [Secretary of Defense], et al.,³⁷ originally as a class action but the motion to certify the class was eventually denied by the court on March 17, 1976.³⁸ The first 'et al.' refers to two other organizations that were also under surveillance: the Lawyers Military Defense Committee (LMDC) in Heidelberg, a group of civilian attorneys who provided "counsel to servicemen in court martial proceeding and other military cases,"³⁹ and the Gossner Mission in Mainz, a Protestant organization two of whose resident clergymen were plaintiffs.⁴⁰ The second 'et al.' refers to Howard H. Calloway, Secretary of the Army; Creighton W. Abrams, Chief of Staff of the U.S. Army; and a host of others, including several military intelligence agents.⁴¹

Our lawyers from the ACLU kept us informed of the many delays.⁴² As time passed we had to remind ourselves that our case was still pending. We went about our lives. Some of us returned to the United States. Others made a life and a living in Berlin.

On September 23, 1974, the Army admitted that it had “misrepresented the facts in some of its earlier submissions to the Court.”⁴³ Our lawyers felt that our case had been strengthened; it would be “difficult for the Army to contend that it had its surveillance under control after misrepresenting the facts about it to a federal judge.”⁴⁴

In 1976, we won a partial victory when the “government attorneys decided that they could no longer represent the individual defendants ... because of potential conflicts of interest, and the government had to hire private attorneys to represent these defendants.”⁴⁵

5. THE SETTLEMENT AND THE PENALTY

On March 5, 1980, the ACLU lawyers wrote to each plaintiff individually to say that they had reached a proposed settlement that they could “enthusiastically recommend” to us.⁴⁶ A copy of the Joint Motion and Stipulation of Voluntary Dismissal” was enclosed and each plaintiff was asked to read it and to authorize the ACLU to enter into the agreement on his/her behalf.

In return for dismissing our lawsuit, each plaintiff was to receive at least \$4500 in damages within about two months.⁴⁷ In about six months, each plaintiff would receive army documents that mention the plaintiff and that relate to the allegations in the complaints.⁴⁸ Following this “disclosure of the documents, and the completion of any controversies over deletions, the Army will destroy all documents which relate to the allegations in the complaint.”⁴⁹ The Army also obligated itself “to apply for court warrants based on probable cause of criminal activity whenever it wants to conduct electronic surveillance of United States citizens overseas.”⁵⁰

Why was the Army willing to do this? First of all, according to our ACLU lawyers, the government had already spent a great deal of money paying private attorneys and was hesitant to invest even more. “Furthermore, the current civilian administrators of the Army regard this case as a relic of the Nixon-Vietnam era and want to put it behind them.”⁵¹ (Jimmy Carter had been elected President in November of 1976.)

On April 7, 1980, our lawyers informed us that the judge approved the settlement of our case.⁵² Headlines like these began to appear in the mainstream press: “Army Agrees to Rules on Wiretaps of Americans Living Abroad”⁵³ and “Army Accepts Curbs on Intelligence Gathering Abroad.”⁵⁴

Weeks later we received payment for damages.⁵⁵ Ultimately we received the relevant documents, which I am using right now to write this report.

6. THE WHISTLEBLOWERS

In June 1973, while Sen. Weicker’s aide, Bill Wickens, was investigating Military Intelligence in West Berlin and communicating with an anonymous ‘citizen-soldier’ whistleblower, there was another soldier, Spec. 4 John Michael ‘Mike’ McDougal, who was stationed in Kaiserslautern,⁵⁶ a town in the West German state of Rhineland-Palatinate near the Palatinate Forest. One of McDougal’s jobs was “tending to ‘the burn bag.’ This is where I toss all of the excess papers from that day into the incinerator.... Anyway, I got to reading some of these papers, and I saw some things I didn’t think were right....”⁵⁷

McDougal researched the Army’s own rules and regulations and “found language that prohibited Army surveillance of civilians not associated with the military.”⁵⁸ He contacted a lawyer, Howard De Nike, of the LMDC in Heidelberg, and told him what he had

discovered. He showed him, for example, summaries of intercepted telephone conversations concerning the legal defense of a black soldier, Larry Johnson, who was objecting to NATO policy in Angola and Mozambique and felt he could no longer wear a U.S. Army uniform.⁵⁹ As Mike said later in an interview with John Sheehan of CBS, he objected to participating in illegal activities on the part of the Army and he intended to expose these wrongdoings and accept the risks involved.⁶⁰

According to Danielle Jaussaud, Mike's then-girlfriend and later his wife, it had become known that "leaks had come from the 527th Military Intelligence Battalion in Kaiserslautern, and the Army did not waste any time."⁶¹ They interrogated all of the men in the battalion, one by one, and on "July 31, the intelligence officers summoned Mike. When he refused to answer their questions, they knew they had their man."⁶²

According to Howard De Nike, "the compromised-document investigation finally did summon McDougal for questioning."⁶³ De Nike "stood up to announce Mike McDougal's exercise of his right against self-incrimination. Stymied, the Army tried to investigate Mike for possible court-martial. [Robert] Rivkin [another of Mike's lawyer's] responded by naming the officers in the 66th MI Group in Munich as necessary witnesses. The Army promptly dropped the court-martial idea."⁶⁴

Mike McDougal was the courageous whistleblower written about in the mainstream press. He discovered evidence of the army's illegal and unconstitutional surveillance of Americans in West Germany.⁶⁵ But what Mike discovered in the incinerator room was not evidence of the Army's surveillance in West Berlin. In fact, he seems to have known nothing about that at all.⁶⁶ There were, in fact, (at least) two whistleblowers: Mike McDougal in Kaiserslautern, who took a chance and revealed his identity, and the anonymous "citizen-soldier" in West Berlin, who remains anonymous to this day.

As far as I know, no one in Concerned Americans in Berlin ever had the chance to meet John Michael McDougal⁶⁷ or to tell him how much we admired what he did. Mike died in 2010. Although he didn't know about the surveillance of CAIB directly, he had witnessed similar surveillance of other plaintiffs in the lawsuit and it was his affidavit that provided supporting evidence for the complaint as a whole. Let this report be our belated thank you.

The 'citizen-soldier' who contacted Bill Wickens, the aide to Senator Weicker, remains anonymous. We wonder if it was he who contacted Weicker originally, sparking Weicker's interest in Army surveillance of American civilians in Berlin and encouraging Weicker to send Wickens to investigate. In any case, we wish we could thank him personally but, of course, respect his anonymity. We hope he is well.

NOTES

¹ AFN (Armed Forces Network) and the BBC (British Broadcasting Company) were the two popular English-language radio stations in West Berlin at the time.

² *Watergate Timeline*, Lowell Weicker Oral History Project, Institute for Public History, prepared by Amelia Meyer and Rachel Pierce, June 15, 2009, archived in the Lowell

Weicker Papers and referred to in this report as *Watergate Timeline*. According to the *Timeline*, Wickens was sent to Berlin in June 1973. The *Timeline* does not explain what Weicker and Wickens already knew or suspected. (The Watergate break-in occurred on June 17, 1972.)

³ An anonymous letter to Bill Wickens, dateline West Berlin, June 10, 1973, is included in Additional Materials from the ACLU and referred to in this report as *Anonymous Letter to Bill Wickens* and *Additional Materials*, respectively.

⁴ *Anonymous letter to Bill Wickens*

⁵ Readers of these confidential enclosures, especially the plaintiffs in this case, will have their notions about the often incompetent surveillance on the part of the Army confirmed. Here are three examples:

a) Listening in on some of our largely personal telephone conversations must have defeated even the most patient eavesdropper. But even in-person observation could not guarantee that the names of the observed Americans were accurate. The special agent who contributed the Confidential Report included in *Additional Materials* wrote that “Doug Hillmers and Chris Spitzel” co-chaired a meeting. Hillmer simply had an ‘s’ added to his name, but Chris Spitzel was a “phonetic” version of Grace Quitzow. And to top it off, ‘Spitzel’ is the German word for ‘spy’!

b) Karen Hillmer mentioned at the time that the portrait photograph of George McGovern she had ordered from the campaign in Washington had come in an envelope that had been clumsily opened and taped shut. A confidential agent writes: “It is not known if the group had the official backing of the Democratic Party’s overseas branch, but it is believed that there was some contact with the official party. It is known [my underlining, AW] that Douglas Hillmer, one of the leaders of the group, received an autographed picture of Senator McGovern.”

c) A document among *Additional Materials* is a sociogram showing CAIB as related not only to the Democratic Party, which was accurate, but also to various leftwing political groups in the United States and Europe. The arrangement of this diagram shows the kind of ignorance that allowed much of this to happen. Agents thought up fictional relationships among groups that were not only strangers to CAIB but ideological enemies of each other, the West Berlin branch of the East German Communist Party (the SEW), on the one hand, and the KPD, West German Maoists, on the other.

⁶ *Anonymous letter to Bill Wickens*

⁷ *Watergate Timeline*

⁸ For an example, see the ACLU Complaint, officially, Civil Action No. 310-74 (D.D.C.) and referred to in this report as the *Complaint*, Exhibit I, “New Army Spy Report,” *Time*, Aug 13, 1973: “Weicker, a member of the Watergate panel, said the political aspects of the reported spying are clearly within the investigatory mandate of the Watergate committee which is probing the 1972 campaign. But he said the surveillance was broader than spying on McGovern supporters and his information might be more useful to the other panels.”

⁹ “New Army Spy Report,” *Time*, August 13, 1973

¹⁰ *Complaint* pp. 8-12

¹¹ *Complaint*, pp. 17-18

¹² *Complaint*, pp. 14-17

¹³ “Notes for a briefing for MG Aaron” regarding CAIB and marked Confidential, March 2, 1973, to be referred to in this report as *Notes for Aaron*, is among *Additional Materials*,

specifically among the enclosures accompanying the anonymous letter to Bill Wickens by the citizen-soldier whistleblower.

¹⁴ Testimony of John Shattuck of the ACLU before the Subcommittee on Constitutional Rights, April 9, 1974, referred to as *Shattuck Testimony* in this report, especially pp. 7-10

¹⁵ *Shattuck testimony*

¹⁶ *Shattuck testimony*

¹⁷ *Shattuck testimony*

¹⁸ Douglas Hillmer, "History of the Concerned Americans in Berlin (formerly Americans in Berlin for McGovern," written on behalf of the Berlin Democratic Club, (undated) summer 1973, containing six type-written legal-size pages, referred to as *Hillmer Chronology* in this report.

¹⁹ The group proceeded to distribute campaign literature, buttons and voter registration forms at information tables at the corner of Kurfürstendamm and Joachimsthalerstrasse, a location in the middle of downtown, as well as outside the U-Bahn station Oskar-Helene-Heim near the American military compound.

²⁰ *Hillmer Chronology*

²¹ *Hillmer Chronology*

²² Nixon beat McGovern in a landslide. He received over 60% of the popular vote and McGovern won only Massachusetts and the District of Columbia in the Electoral College.

²³ CAIB (previously known as American in Berlin for McGovern) finally received official recognition from the Democratic Party by becoming an associate member group affiliated with the Alameda County Central Democratic Committee. It then changed its name to The Berlin Democratic Club. See last hand-written note of *Hillmer Chronology*.

²⁴ *Hillmer Chronology*

²⁵ *Hillmer Chronology*

²⁶ Diane Bridgeman, personal communication

²⁷ *Hillmer Chronology*; the charge against Dave Wolter was that he had assaulted an acting NCO. He was ultimately acquitted, but was found guilty of disobeying the NCO's order to 'stay in the hallway' and was reduced a pay grade.

²⁸ *Hillmer Chronology*

²⁹ *Hillmer Chronology*

³⁰ *Hillmer Chronology*

³¹ Diane Bridgeman, personal communication

³² John Sheehan interviewed Doug Hillmer, Ellen Rosenblum and Ann Wertheimer,

Hillmer Chronology

³³ *Hillmer Chronology*

³⁴ Sandy Zagarell, personal communication

³⁵ Diane Bridgeman, personal communication

³⁶ As a reminder of how low-tech organizing was at that time, we agreed that any infiltrator would also have to lick envelopes. This was the only way for us to avoid the suspicions and rumors that would have developed.

³⁷ *Complaint*

³⁸ Joint Motion and Stipulation of Voluntary Dismissal, Civil No. 74-310, referred to as *Joint Motion* in this report.

³⁹ *Complaint*, list of plaintiffs on p. 1: Berlin Democratic Club, Lawyers' Military Defense Committee, Lawyers' Military Defense Committee affiliated office), Douglas Hillmer, Karen Hillmer, Sandra Zagarell, Stephen Rosenblum, Ellen Rosenblum, Diane L. Bridgeman, Ann Wertheimer, Karen Bixler, Jay Brady, David Harris, Howard De Nike,

Robert Rivkin, Mary-Jo Van Ingen Leibowitz, Tomi Schwaetzer, Rev. David N. McCreary, James A. Stillman, Larry Johnson. The list of plaintiffs was increased by the time of the settlement. Also included Carolyn Stevens, Linda Lucas, Mark Wolter, and Margie Ann Meyfarth Holloway. The former plaintiff, Tomi Schwaetzer, who had been listed as a plaintiff but was not a U.S. citizen, was “denied standing on March 17, 1976...,” as can be read in the *Joint Motion*.

⁴⁰ *Shattuck Testimony*. Two American underground newspapers published in Heidelberg, *Forward* and *Fight Back*, had also been kept under surveillance.

⁴¹ In addition, the *Complaint* lists as defendants Michael S. Davison, Commanding General, U.S. Army, Europe; Maj. Gen. Harold R. Aaron, Deputy Chief of Staff for Intelligence, U.S. Army, Europe; Maj. Gen. Frederic E. Davison, formerly Commanding General, Eighth Infantry Division; Col. Richard Evers, Commanding Officer, 66th Military Intelligence Group, U.S. Army; Col. Gaspar V. Abene, Commanding Officer, 527th Military Intelligence Battalion, U.S. Army; David C. Wales, Excepted Service Personnel (GS-13); Frank E. Dent, Special Agent, U.S. Army Intelligence, 66th Military Intelligence Group; Lt. Col. T.P. McGrevey, Commanding Officer, U.S. Army Counterintelligence Analysis Detachment; John Doe, Richard Roe, David Poe, and other unknown U.S. military intelligence agents and employees.

⁴² On August 2, 1978, Mark Lynch (ACLU) wrote to all the plaintiffs explaining that the long period of inactivity was caused by two factors: “First, the briefing on the defendant’s appeal was delayed for an unusually long time to await developments in other cases ... on the question of whether government officials are immune from damage suits for violations of citizens’ rights. Those cases have turned out well from our point of view.... The other factor was that the trial judge...became quite ill.... That judge, however, has now been replaced.” Referred to as *Lynch Letter August 1978* in this report.

⁴³ Letter from Shattuck of ACLU to plaintiffs and attorneys, February 13, 1974, referred to as *Shattuck Letter* in this report.

⁴⁴ *Shattuck Letter*.

⁴⁵ Letter from ACLU to Ann Wertheimer dated March 5, 1980, referred to as *ACLU Letter to Wertheimer* in this report.

⁴⁶ *ACLU Letter to Wertheimer*, p. 1

⁴⁷ *ACLU Letter to Wertheimer*, pp. 1–2

⁴⁸ *ACLU Letter to Wertheimer*, p. 2

⁴⁹ *ACLU Letter to Wertheimer*. There were some exceptions to this destruction, namely “where documents are required by law to be retained; where documents are necessary to respond to requests for information relating to electronic surveillance in future criminal cases; or where documents relate to personnel security checks conducted on plaintiffs who sought jobs where such checks were necessary.”

⁵⁰ *ACLU Letter to Wertheimer*, p. 3.

⁵¹ *ACLU Letter to Wertheimer*, pp. 5–8

⁵² Letter from Mark Lynch of ACLU dated April 7, 1980, referred to as *Lynch Letter April 1980*

⁵³ *Washington Post* on April 5, 1980

⁵⁴ *Washington Star* on April 5, 1980

⁵⁵ This minimum of \$4500 was increased if additional damages (loss of employment, for example) were claimed. Margie Meyfarth, for example, received \$6000 because she was denied employment as a Spanish instructor for the University of Maryland in Berlin. She never knew for certain if she had been denied the job because of her political associations or because she had perfected her Spanish in the Peace Corps, evidently also a mark against her.

⁵⁶ *Water Watergate on the Rhine – 1973: How an American GI Blew the Whistle on Illegal Army Wiretaps and Got Away with It*, Danielle Jaussaud, 2012, no pagination, and referred to as *Watergate on the Rhine* in this report.

⁵⁷ *Mission (Un)Essential, Book Two: Inter-theater Transfer*,” Howard De Nike, Harald Kater Publishers: Berlin and San Francisco, 2002, pages 181-210; referred to as *Mission (Un)Essential* in this report.

⁵⁸ *Watergate on the Rhine*, unpaginated

⁵⁹ *Watergate on the Rhine*, unpaginated

⁶⁰ *Mission (Un)Essential*, p. 195

⁶¹ *Watergate on the Rhine*, unpaginated

⁶² *Watergate on the Rhine*, unpaginated

⁶³ *Mission (Un)Essential*, p. 196

⁶⁴ *Mission (Un)Essential*, p. 196

⁶⁵ This part of the lawsuit is represented by the et al. in CAIB et al., namely the Lawyers Military Defense Committee in Heidelberg and the Gossner Mission in Mainz.

⁶⁶ According to Danielle Jaussaud in a personal communication: Mike knew nothing whatsoever about the Army’s surveillance of Concerned Americans in Berlin.

⁶⁷ According to Danielle Jaussaud, in a personal communication: “We got married in 1975 and came to Austin so he could finish his degree in Middle Eastern Studies. He was awarded a scholarship to study at the American University in Cairo, and we spent a happy year in Egypt. When we came back to Austin in 1977, Mike had a problem adjusting to life in the U.S. and dropped out of graduate school. We separated in 1978, he re-married in 1982 and settled in Ohio with his second wife. There, he earned a master’s degree in journalism and got a job as public relations officer for a non-profit organization. He stayed in that job the rest of his life. He had a son with his second wife but they divorced soon after. His third wife called me to inform me of his death in 2010.”

REFERENCES

1. **History of Concerned Americans in Berlin (formerly Americans in Berlin for McGovern)** by Douglas Hillmer (contemporaneous notes from July 1972 – August 1973) referred to as *Hillmer Chronology* in the endnotes
2. **Constitution of the Berlin Democratic Club** (accepting Declaration of Independence and Bill of Rights as the basis for political principles, undated, mimeographed)
3. **Watergate Timeline**, Lowell Weicker Oral History Project, Institute for Public History, prepared by Amelia Meyer and Rachel Pierce, June 15, 2009, archived at the Lowell Weicker Papers at the University of Virginia
4. **Civil Action Complaint** filed by the American Civil Liberties Union (February 1974) referred to as *Complaint* in the endnotes
5. **Civil Action Complaint Additional Materials**, referred to as *Additional Materials* in the endnotes; beginning with letter to Mr. Bill Wickens (June 10, 1973) referred to as *Anonymous*

Letter to Wickens in the endnotes, and including ‘personalities,’ copies of Forward, CAB platform, sociogram

6. Civil Action Complaint Exhibits A-O, incomplete

Exhibit A: Concerned Americans in Berlin support of Democratic Party platform, Diane Bridgeman, Chairperson of Democratic National Committee for Germany

Exhibit B: John Michael McDougal press conference statement, August 7, 1973

Exhibit C: “GI is Accused by U.S. Army in German Wiretap [sic] Case,” *International Herald Tribune*, August 6, 1973

Exhibit D: “GI’s Struggle Over Army Spying,” *Newsday*, September 1973

Exhibit E: Statement by John Michael McDougal, December 9, 1973

Exhibit F: Special Agent Frank Dent’s report on Thomas Schwaetzer, July 11 and 12, 1973

Exhibit G: “Army Wiretaps Documented,” [*Illegible*] *Examiner*, August 3, 1973; “Army Move Against Dissidents,” *New York Times*, August 7, 1973

Exhibit H: “Army Had Overseas Political File,” *Military Intelligence*, Scripps-Howard News Service, August 8, 1973

Exhibit I: “New Army Spy Report,” *Time*, August 13, 1973

Exhibit J: Special agent David Wales’s report on Gossner Mission

Exhibit K: Special [unidentified] agent’s report [partially illegible], May [partially illegible] 1973

Exhibit L: list of prohibited weapons and activities [originally stapled out of order]

Exhibit M: “Persons Barred from U.S. Installations,” Department of the Army,” January 15, 1971

Exhibit N: [blank]

Exhibit O: an article [title illegible] for the *Liberation News Service*, dateline January 9, 1974, Hahn Air Base, West Germany, written by Max Watts [né Thomas Schwaetzer] and Rita Act [Rita seems to have been an acronym for Resistance Inside the Army and Rita Act may have been a group rather than an individual, or may have been a fictional character, or, for that matter, the pseudonym of a real person] It exposes a secret data bank kept by U.S. Air Force Office of Special Investigations about GIs and civilians all over the world.

7. Counterdissidence Program (July 23, presumably 1973)

8. Letter from ACLU to Plaintiffs, co-counsel and interested observers from John Shattuck re filing of complaint, February 13, 1974

9. Statement by John Shattuck, ACLU, which is testimony before the subcommittee on Constitutional Rights on April 9, 1974, about the surveillance itself (see especially pages 6-11): infiltrating the group, opening mail, listening to telephone conversations, and ultimate blacklisting; see note 6 on page nine for what happened to John McDougal and the rescission of Eighth Army regulation 381-25.

10. Letter from ACLU about affidavits to Ann Wertheimer, Karen and Doug Hillmer, Sandy Zagarell, Margie Meyfarth, June 19, 1974

11. Statement to the Court and Motion for Enlargement of Time; Correction of defendants to statement above, dating the previous at June 7, 1974

-
12. **ACLU letter to Plaintiffs from John Shattuck**, September 23, 1974, saying that the Army admitted to misrepresenting the facts plus two newspaper articles
 13. **Affidavit of Gary Frederick Jochem**, chief of the Defensive Countersubversion Branch (October 27, 1974); and **affidavit of Thomas W. Bowan**
 14. **Letter from Mark Lynch ACLU**, April 2, 1978, announcing that he has joined the case and explaining previous delays and listing plaintiffs
 15. **Joint motion and Stipulation of Voluntary Dismissal, Berlin Democratic Club v. Harald Brown** and list of plaintiffs and damages awarded, plus **letter to Mark Lynch of ACLU**, February 27, 1980, referred to as *Joint Motion* in the endnotes
 16. **Letter from Mark Lynch to Ann Wertheimer**, March 5, 1980
 17. **Letter from Ann Wertheimer to Mark Lynch**, March 1980, answering letter of March 5 from ACLU and the *Joint Motion*, 1980)
 18. **“Army Agrees to Rules on Wiretaps of Americans Living Abroad,”** *Washington Post*, April 5, 1980; and **“Army Accepts Curbs on Intelligence Gathering Abroad,”** *Washington Star*, April 5, 1980; **“U.S. Army Curbs Wiretaps on Citizens Living Abroad,”** by Laura Kiernan (no source, undated)
 19. **Letter to Berlin Democratic Club Plaintiffs from Mark Lynch**, April 7, 1980, announcing approval of settlement and dismissal of case
 20. **Letter to plaintiffs of Berlin Democratic Club from Mark Lynch**, December 17, 1981, about documents
 21. **“Mission (Un)Essential, Book Two: Inter-theater Transfer,”** Howard De Nike, Harald Kater Publishers: Berlin and San Francisco, 2002, pages 181–210
 22. **“Watergate on the Rhine - 1973: How an American GI Blew the Whistle on Illegal Army Wiretaps and Got Away with It”** by Danielle Jaussaud, 2012, unpaginated