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COMMISSIONER FOR THE
STASI FILES

■

JOHANNES LEGNER

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GERMAN ISSUES ■ 28

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American Institute for Contemporary German Studies
The Johns Hopkins University



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FOREWORD

The institution treated in this, the seventh in the Institute's series "Key Institutions of German Democracy," is unique not only in its unwieldy title, "The Federal Commissioner for the Records of the Ministry for State Security of the Former German Democratic Republic" but in many regards. Repository of virtually all the huge files of the GDR's secret police, the *Stasi*, it is the only institution given to united Germany by the GDR, communist East Germany. Or, to be more accurate, by the brave citizen activists there who in 1989-1990 brought the communist regime down and thus made the decisive contribution to unification. Elected representatives of those activists in the last, freely elected, parliament of the GDR in 1990 and again in that of the united Germany, the *Bundestag*, a year later insisted that the communist past be faced coldly and completely by opening the secret police files fully. Such courage to confront history in its dreadful entirety is rare and serves to validate democracy in Germany.

The archive has provided detailed and personal information for journalists writing on communists and communism in Germany. It has given historians unique insights into how a dictatorship functions in controlling its people and how a people can succumb to arbitrary authority. It constitutes an unparalleled treasure trove for both professions and will continue to do so.

The author of this study, the journalist Johannes Legner, served as spokesman for the Commissioner from 1996 until 2000. As editor today of a daily paper in the small eastern German city of Cottbus, he is sensitive to how the archive has been used in screening eastern Germans for jobs in government, business, and academia since unification and also to the divided attitudes among eastern Germans toward the work of the Commissioner. The Institute is grateful to him for his concise study, which too is unique, we believe, in English.

Generous support for the study has come from the Dräger Foundation of Lübeck, Germany, to which the Institute herewith expresses its warmest thanks. The Institute also owes a large debt of gratitude to Professor A. James McAdams of Notre Dame University, Professor Peter E. Quint of the University of Maryland School of Law, and Dr. Bernd Schäfer of the German Historical Institute in Washington, D.C. for their expert assistance during the editorial process.

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A B O U T T H E A U T H O R

Johannes Legner studied political science at the universities of Berlin and Strasbourg. From 1979 until 1985 he was an editor at the *Tageszeitung* (Berlin), from 1986 until 1989 press spokesman for the Berlin state government, and from 1989 until 1995 senior editor at the *Sender Freies Berlin* and the television news channel *n-tv*. In 1996 he became press spokesman for the Commissioner for the *Stasi* Archive. Since 2001 he has been deputy chief editor of the *Lausitzer Rundschau*, a daily paper in Cottbus.

INTRODUCTION

The Federal Commissioner responsible for the *Stasi* records is a strange object in the German bureaucratic landscape.¹ It also has gained a political significance that makes it exceptional. Several thousand civil servants have been tasked with creating a paper legacy of a now defunct secret police. Part of that task is the establishment and maintenance of a huge archive for potential users. The resources that the Federal Republic has poured into the *Stasi*¹ files are enormous, and the legal foundations of the institution remain the subject of lively debate even more than a decade after its establishment. The “Gauck Authority”² is without equivalent, not only in Germany but in the world. A number of former communist countries have created similar institutions to handle custody, preparation, administration, and use of their communist legacy. None, however, approximates the scope and the importance of the Gauck Authority, which was established in Berlin in 1991 by federal law, the *Stasi* Records Act.

Not only is the Federal Commission institutionally unique, it is also unique in that it is an expression of a brief period in German history that exhibited at least the beginnings of revolutionary development. The Agency constitutes a political milestone in a country not known for its revolutionary tradition.

To understand this unique position, it is not enough to present the institution itself. To understand the Agency requires an understanding of the peculiarities of the communist exercise of power in the twentieth century. This in turn requires a short excursion into the workings of the communist secret police—the Ministry for State Security (MfS) or *Stasi*. The ministry’s involuntary legacy—mountains of documents—and dealing with it both caused and made possible a public debate about how to deal with that legacy.

Secondly, to understand the uniqueness of the Gauck Authority, it is necessary to take a look at the upheavals, at the revolutionary process that brought about the end of communist rule in the German Democratic Republic (GDR) in 1989.

Thirdly, the Authority can be understood only when one recalls the debates about the “Freedom of Information Act” in the United States and similarly about the verdict by the Federal Constitutional Court on data protection and the national census in Germany. The Court determined that the collection of data through organs of the state *can* be in conflict with the full enjoyment of

civil liberties and rights. In 1990, during the debate concerning the future of the *Stasi* files, the representatives of the parliament of the former GDR (the *Volkskammer*), demonstrated a surprising familiarity with the data protection debate in West Germany. Furthermore, they conferred with data protection specialists from the western sectors of Berlin. In addition, discussions in the West about the critical reappraisal (*Aufarbeitung*) of Nazi tyranny, like so many other things from the West, had resonated with citizen activists in East Germany. These brave men and women, who with their protests and grass roots movement brought about first the fall of the Berlin Wall and then the end of dictatorship, found themselves in charge as the GDR regime collapsed.

The creation of the Authority for the *Stasi* files broke new ground in the Federal Republic. For the first time, a successor state was attempting to work through the history of a dictatorship by granting comprehensive insight into the information available to those in the innermost circle of power, into the files of the secret police. Placing this instrument of power into the hands of those who had been persecuted had been contemplated in the past but never tried.

The principle was that while the files would be administered by the state, the information contained in them would be available primarily to the erstwhile victims of the dictatorship, who have until today enjoyed complete access to all parts of the files pertaining to their person.

In addition, the media and academic scholars were granted a privileged position. Journalists and researchers—but they alone—were allowed access to the files. This meant, in particular, access to the files of former members of the MfS, that is both official as well as unofficial informants, the so-called *Spitzel*. It also meant access to all files that could shed light on the methods and structure of the MfS. For many years it was not questioned that members of the press and researchers were granted access also to the files of “persons of history”—a phrase in the law encompassing for the most part prominent political figures in both east and west. This changed after a debate erupted over the question of whether access should be granted to the protocols of *Stasi* phone taps on former Chancellor Helmut Kohl. The debate ended when the Federal Administrative Court decided in Kohl’s favor, and the law was amended. The new amendment allows access to such files, but with restrictions. The comprehensive access to a state archive, in particular by members of the press, remains unprecedented in the world.

The Federal Commissioner also played a central role in organizing the transformation from communist dictatorship to democracy in the former GDR. It is for the Commissioner to decide whether to make available information that bears on the suitability of applicants for a civil service position or political office. Those who worked for the MfS are, in general, not considered suitable for such positions. At least that was what the legislators provided for. These screenings might remind some of the denazification efforts by the victorious allies in the aftermath of World War II. What is often forgotten, however, is that these earlier efforts constituted acts of an occupying power against citizens of a country with which it was formally still in a state of war.

Examination of a person's suitability for public office or the civil service is part of a state's administrative responsibility, the objects of screening being its own citizens. This particular aspect of the Federal Commissioner's duties has been controversial and continues to be rejected by many in the former GDR. This is understandable, since most of those affected are former citizens of the GDR, the number of *Stasi* members in the West being relatively small. Thus, as important as these background checks may have been for the development of a democratically oriented administration, they divided the country. The checks continually remind the eastern part of Germany that the path from dictatorship to democracy is a long and often painful journey, rather than a single act.

THE MINISTRY FOR STATE SECURITY (MFS)

The Secret Police

The Ministry of State Security was the secret police of the GDR. It was modeled after the Soviet KGB but, as with every other comparable institution within the sphere of Soviet influence, it developed certain specific characteristics, depending on the country.

Established in 1950, the MfS developed under Soviet control from a number of predecessor organizations that had been founded before the creation of the GDR. With de-Stalinization in the second half of the 1950s and the appointment of Erich Mielke to the office of Minister for State Security in 1957, the secret police slowly gained a more independent stance. Mielke, born in 1907, did not belong to the leadership of the German Communist Party (KPD) before World War II. In 1931, he participated in killing two

Berlin police officers and fled first to the Soviet Union and then participated in the civil war in Spain. He spent the years of World War II as an illegal resident in France. His ascent to power began in the immediate postwar period, after which he rose rapidly to increasingly important positions within the security apparatus of the Soviet zone, which in 1949 became the GDR.

Soviet types of secret police combined a number of different functions that in non-communist states are usually divided among several institutions or not permitted by law.

The basis of such functions was the comprehensive control of all areas of life in society, especially of citizens who distanced themselves from or openly opposed those in power. Only the activities of persons within the communist party were free of secret police surveillance, though there were exceptions to this at times. The Agency archive thus also houses files compiled on various members of the Politburo, the party's top body.

In the case of the MfS, the primary resource used to investigate the population were the informants, the *Spitzel*, the unofficial collaborators (*inoffizieller Mitarbeiter* or "IM"), who by the fall of the Berlin Wall numbered about 170,000. The numbers of these informants increased dramatically in the 1970s with the partial opening of GDR society in response to the Federal Republic's *Ostpolitik*, the policy of opening closer relations with the Soviet Union and its eastern European satellites. These unofficial informants tended to have regular, full-time jobs. They were expected to be ideologically close to the communist party and were selected according to strict criteria. Through unlimited wire-tapping and mail interception, the MfS gained essential information as well as thorough access to official documents such as residency registration files. Since in East German society, as in other communist societies, the state organized broad aspects of economic and cultural life, the MfS was able to gather most of the personal data on East German citizens.

The MfS was organized and structured like a military institution; its members had corresponding ranks and were subject to military law. In September 1989 about 92,000 officers and units worked for the MfS, 15,000 of whom were organized as a military unit known as the regiment "Feliks E. Dzierzynski"—named after the founder of the Soviet Checka, the predecessor organization to the KGB—responsible for guarding state institutions. Structurally, the ministry was divided into several divisions below the secretary and his deputies, and each division was further divided into main departments, sub-departments,

and desks. Every region of the GDR (*Bezirk*) and each district (*Kreis*) had its own office. In addition, each large company or factory had an MfS office.

Apart from spying on its own citizens, the MfS also was charged with espionage and counter-espionage. Following the Soviet model, secret police and intelligence service functions were closely linked: the main Intelligence Department (HVA) was responsible for espionage and Main Department II (HA II) for counter-espionage.

Moreover, especially in criminal cases of political concern and in spectacular criminal cases, the MfS had prosecutorial rights and ran its own prisons for persons under pre-trial investigation. For example, the MfS repeatedly requested the lead in cases involving sex crimes, as those could be construed as touching upon national security issues, and in cases involving violation of currency control regulations.

The communist dictatorship viewed the MfS primarily as an instrument for exercise of power by the ruling party in keeping with rule of the state by a communist dictatorship. In general, those working for the MfS were also members of the ruling party, the Socialist Unity Party (SED). As a state institution, the MfS was formally subject to oversight by the Council of Ministers but in fact its activities on all levels were directed and controlled by the party. Once Mielke himself became a member of the Politburo, he was accountable only to the General Secretary of the party, Erich Honecker, for MfS activity. On the regional and district levels, the MfS reported directly to the first party secretary of the region or district.

The self-image of the MfS was that of a sort of communist elite. It enjoyed relatively uncontrolled access to a variety of resources, such as finances, real estate, and equipment. The *Stasi* had its own sources of income, including foreign currency, which it obtained itself. So over the years, a gigantic apparatus grew up that not only investigated and reported on all aspects of societal life in the GDR but also created a shadow empire largely removed from any control.

An illuminating example are the activities of the so-called Department of Commercial Coordination (“KoKo”), a web of companies that controlled part of the GDR’s export trade while simultaneously working for the party and for the MfS in particular. This web of firms was directed from within by covert officers of the MfS; it financed a large part of the *Stasi*’s foreign operations and helped acquire funding for its technology operations.

Apart from the “KoKo,” the *Stasi* operated other companies in, for example, the construction industry; it had its own athletic clubs (recognizable by the name “Dynamo”), research institutes, and publishing houses—entities that on the surface had nothing to do with the secret police but, in reality, were completely under its control. In addition, thousands of MfS officers formally held official positions within the state apparatus but were, in reality, *Stasi* members. These so-called “officers on special missions” (*Offiziere im besonderen Einsatz* or *Oibes*) saw to it that the flow of information from state institutions to the MfS was secure, without members of the Council of Ministers, the top state body, knowing about it.

After the disclosure of the *Stasi* structures, there began an intense debate about the historical place and about comparisons with the Gestapo or the secret police of other communist dictatorships. The differences with the Gestapo are obvious: the Gestapo had far fewer personnel, a far smaller network of spies, and never claimed to be comprehensively informed about all aspects of society. Likewise, neither the KGB nor the secret police forces in Poland, for instance, were as extensive. The *Stasi* has to be seen as a product of specific developments in postwar Germany. In its incomparable scope it reflected the division of Germany and the resultant legitimation and security problems of the GDR. Thus, an important task of the MfS was to prevent citizens from leaving the country.

MfS Records

The files involuntarily left behind by the MfS are divided into two large archives: the first is the *Stasi* archive itself, which remained mostly intact, at least with regard to domestic matters; and secondly, papers and documents which when the MfS collapsed had not yet been archived but remained as working papers of MfS officers.

The MfS archive, which accounts for about a third of the records held by the Gauck Agency, was arranged according to strict guidelines. Three types of files predominate:

1. “IM files,” which cover each and every informant and are usually divided into papers dealing with the person himself and the information brought to MfS attention of him or her (*Treffberichte* or meeting notes).

2. Files covering prosecution and surveillance operations by the *Stasi* (*operative Vorgänge* or operational records), which, besides copies of the corresponding “IM files,” also covered the results of phone taps and mail intercepts of one or more persons. The description of actions taken in these files indicates the results the *Stasi* hoped for.
3. Finally, files covering various institutions (*Objektakten*), which contain information that paints a general picture of certain aspects of GDR life.

Because of its sheer size and the long period of time during which it was collected and maintained, this archive is immensely valuable for persons researching the history of the GDR. In contrast to the official documents from state institutions or the press in the former GDR, these files present a credible and unvarnished representation of reality. The archive’s importance, however, goes beyond historical interest. It also contains, for example, hundreds of thousands of letters—either the originals or copies—which are a unique source for linguists. Access to this information remains extremely difficult, as the majority of these files have not yet been properly catalogued and archived—one of the requirements for an archive open for research and academic use.

The second major component of the archive consists of the working files of MfS officers and teams. In contrast to the material already archived by the MfS, these files are only partially organized. Without a precise understanding of the methods and structures of the *Stasi*, they are not understandable. In the best case, these files allow a researcher to reconstruct the work place of an MfS officer, his duties, and his method of gathering information. In the worst case, the file contains only several loose sheets that defy interpretation. Nevertheless, for researchers trying to understand the details of secret police work, these files provide the best available source anywhere in the world.

Besides these two components, there are files that, strictly speaking, belong to the working files but play a special role. These files contain information that the MfS made available to the party and state leadership. Most were collected by a unit directly under Mielke himself (ZAIG, the Central Information and Evaluation Group). They demonstrate the influence of the MfS on the development of the GDR and also the mutual dependency of party, state, and secret police. While they remain largely untouched, these files are a source of immense importance for the history of the GDR.

THE *STASI* RECORDS ACT

End of the GDR and the *Stasi* Files

In the summer and fall of 1989, the domestic situation of the GDR, the small, communist, “second” German state, which was already economically and politically extremely unstable, worsened as tens of thousands of GDR citizens sought desperately for ways to flee West. The question of an open border led to the downfall of Erich Honecker and the transfer of power to a new group of SED leaders, the Politburo members Egon Krenz and Günter Schabowski, as well as the Dresden district secretary Hans Modrow. On November 9, the Berlin Wall fell, followed by an opening of the entire border separating the two German states. On November 13, Modrow formed a new government, one that no longer included Erich Mielke. It was the last communist cabinet.

The future of the secret police now arose. This question dominated discussion in the months thereafter along with debate about the future of the GDR as an independent state and controversy about transition to a free market economy. The *Stasi* issue constituted an important element during the parliamentary election campaign in the GDR in the spring of 1990 and was even of great significance in negotiations later that year on the unification treaty with the government in Bonn. The demand for progressive dismantling of state security structures and increasingly the debate about the legacy of the *Stasi*—chiefly its files—were decisive for the public during this transitional period until the GDR became incorporated into the Federal Republic. Just as the *Stasi* controversy and the *Stasi* files were part of a peaceful revolution, so the resulting institution, the Gauck Authority, reflects this debate and in a way stands as a monument to it.

From the beginning in 1989 of the mass demonstrations that signaled the end of the GDR, the MfS was the primary target of the protests. Throughout the GDR, demonstrators marched past known MfS buildings, laying siege to them for hours. Many of the protestors’ demands dealt with the work of the *Stasi*; they demanded its dissolution or at least its control by independent bodies and disclosure of its activities. The Modrow government was unable to remove mistrust of the MfS among the population. While the government tried to defuse popular discontent, Mielke attempted in parliament to justify the *Stasi*’s activities. His speech only undermined efforts to make it acceptable.

The new leader of the MfS, Mielke's successor, Lieutenant Major General Schwanitz, increased mistrust by ordering further destruction of the *Stasi* files.

There were several reasons why the issue of the future of the *Stasi* files suddenly rose to prominence. First the MfS already had begun to destroy the files in the fall of 1989, which became evident to the public as a result of the clouds of smoke hanging over MfS offices and the large number of trucks transporting mountains of files to paper mills around the country. Mielke gave the first destruction order on November 6. Secondly, the newly formed opposition parties believed that only through an unconditional opening of the *Stasi* files would a new beginning as a democratic state be possible. The representatives of the opposition parties knew that they had been closely surveilled for years, and that some from within their own ranks had to have spied on them. Yet, like everyone else, they were completely taken aback when the first details about the extent of the MfS empire emerged.

Fearing a destruction of the files by the MfS, a number of civil right activists began in December 1989 to occupy various regional offices of the ministry. The first occupation occurred in Erfurt on December 4. On January 15, 1990 the central office of the MfS in Berlin was stormed. With this dramatic act, the MfS lost control over most of its files. Throughout the GDR, spontaneous citizen initiatives attempted to secure the MfS buildings and their contents. This often occurred in cooperation with the regular police (*Volkspolizei*) and, in some cases, even with assistance from MfS officers. Nevertheless, at the same time some *Stasi* officers continued to destroy files.

Interestingly, with the consent of the Berlin citizens' committee, an orderly destruction of certain files was carried out. In some instances, such citizen activists actually pressed MfS officers still on duty to destroy files. Those destroyed were ones that could give an indication of the extent of espionage conducted in the West, particularly in West Germany. All the files of the HVA, the espionage department of the MfS, were destroyed except for a few remnants. A significant part of the files of *Hauptabteilung III*, which was responsible for electronic interception, was as well. This destruction of foreign espionage files took place everywhere in the GDR, except for Leipzig. Here the citizens committee ignored all orders regarding the destruction of files by both the government and the control organ of the civil right activists, the "Roundtable," and thus managed for this particular district to save not only the domestic *Stasi* files but also those of the HVA.

The citizens committees in February 1990 also allowed the destruction of all electronic data files pertaining to individuals. In this case, however, the data were duplicated on file cards, and so the destruction of the electronic files only made quick access impossible but did not eliminate the data. Government institutions guarded the files. Further complicating the situation, the Modrow government created an agency to supervise dissolution of the now renamed MfS. This agency, like the citizens committees, enjoyed access to the files, thus there arose a duality of control, quite typical of revolutionary periods.

Dual Control

Under the dual control by the citizen committees and the new government under prime minister Lothar de Maiziere, a CDU (Christian Democrat), which came into office after the parliamentary election of March 18 1990, the files were secured. But there were as yet no clear rules for their use. Rather, members of the citizens' committees saw to it that prominent opponents of the SED got copies of their files. For example, an anonymous benefactor sent the writer Erich Loest his *Stasi* file. Journalists too benefited from "leaks" of file contents, in particular the news magazine *Der Spiegel* and various television shows. I myself was at the time employed by *Kontraste*, a political television show that regularly received copies of files from within the citizens' movement, especially about *Stasi* activities concerning procurement of hard currency.

The files were also used in the investigation of former GDR leaders, although only in a limited fashion. Above all they were used to screen those holding elective office, such as newly elected parliamentary deputies.

Politically explosive was access to the files by West German government agencies. The intelligence services tried several times to gain access to the files or at least to copies, mostly through covert action and often without knowledge of the GDR government. The de Maiziere government took the initiative to provide West German investigative authorities with a large number of files, particularly those concerning terrorist activities. Information from these files led to the arrest of several former members of the West German terrorist organization RAF (*Rote Armee Fraktion*), who, with *Stasi* aid, had gone underground in the GDR. The MfS had granted these former terrorists a sort of asylum under the condition that they no longer participate in terrorist activities.

To this day, it remains unclear how the intelligence services were able to acquire files and reports on electronic surveillance by the *Stasi*, in particular

transcripts of tapped phone conversations among West German politicians. A public scandal erupted over a four-part series in the West German weekly magazine *Quick*, which began on May 3, 1990 to print the contents of such conversations. This alerted previously uninformed politicians in Bonn to the explosive nature of the files. The article also strengthened the aversion of the Bonn government to permitting use of the files. The experience of this time significantly influenced discussions on continued use of the files in unified Germany.

At the same time, excited debates took place in the GDR, which paralleled the West German discussion about the future of the files. Proposals spanned the spectrum from completely destroying them to handing over the files to the citizens concerned. An increasing understanding of the material, quickly made it clear that the files were essential for many important purposes and it was absolutely impossible to filter out clearly those parts that dealt with a particular person.

Gradually the view prevailed that in order to work through the history and achieve rehabilitation for the victims of the *Stasi*, the MfS files had to be catalogued and put to use.

To ensure this would occur, the GDR parliament passed a law on August 24, 1990, about a month before unification, that regulated access to the files. The law provided for the establishment of institutions to oversee the use of the files: a commissioner for the files of the *Stasi* central office, and state (*Land*) commissioners for files archived in regional offices. The parliament assumed that after unification, which was only a few weeks away, the Federal Republic as a whole would put the law in effect.

Controversy

During the negotiations between East and West Germans for a framework for unification of the two German states in summer 1990 (the negotiations ended on August 31), the West German government refused to accept into unified German law the legislation of the GDR parliament concerning access to and use of the *Stasi* files. Rather, it envisioned inclusion of the files into the Federal Archive and thereby a complete halt to all use of the *Stasi* files by private persons and the press. As part of the Federal Archive, the *Stasi* files would have been subject to the same regulations as other files in the Archive. For most files, that would have meant a waiting period of at least thirty years

until the files were declassified. Furthermore, the federal government under Chancellor Helmut Kohl favored complete destruction of a large part of the *Stasi* files. It had already ordered the destruction of certain files, especially telephone intercepts of the conversations of leading politicians, which had somehow found their way into offices of West German counterintelligence. The GDR proved to be an easy negotiation partner for the federal government in Bonn. The last democratically legitimized GDR government did not expressly insist in the negotiations on the legislation that its own parliament had passed.

This heedlessness brought about a final mobilization of those whom the public had come to know as leaders of the citizens movement in the GDR. In a spectacular gesture in early September 1990 the painter Bärbel Bohley, one of these activists, occupied a few rooms in the former central office of the MfS and began a hunger strike, demanding unlimited access to the files for all victims of the *Stasi*. Media response was intense and the pressure on both governments, that of the GDR, now in its final month, and that in Bonn, grew.

As a result, the two governments agreed with the protesters on the inclusion of a passage in the unification treaty, which, while it had not directly taken over GDR legislation into unified German law, nevertheless started the drafting of a new law for the unified German parliament (*Bundestag*) that took account of the principles of the GDR law.

The passage of the new law thus opened the way for the temporary establishment of an independent authority, the “Special Representative of the Federal Government,” which could secure the files and in a limited way, use them to screen civil service personnel. Joachim Gauck, a prominent deputy in the GDR parliament from the ranks of the citizens movement and former pastor in the Baltic coastal city of Rostock, was named head of this authority.

One of the outstanding personalities of East German politics, Gauck would leave his mark on the Agency, which would soon become known as the “Gauck Authority.” Born in 1940, he comes from a family of sailors. His father had been a member of the Nazi Party and served as a navy officer during World War II. In 1951 his father was accused of espionage for the West and sentenced to twenty-five years hard labor, of which he served four and a half years in a Stalinist gulag. He returned to his family in 1955. The seemingly arbitrary arrest of his father was a shock for Joachim Gauck; and his first experience with the Soviet-style secret police would have far-reaching consequences. Gauck had wanted to study German literature and language but his request for

placement at a university had been denied. Instead, since there were no restrictions placed on theological studies, he completed the course for a degree in theology and entered the ministry in Rostock in 1967. Beginning in 1971, he worked for a new settlement outside Rostock, one of the most difficult positions within the protestant church in the GDR. He became known primarily for his sermons. His rhetorical talent catapulted him into a leadership position in the citizens movement in Rostock in the fall of 1989, despite his relative lack of engagement in the opposition movement prior to that time. Gauck soon became one of the strongest supporters of German unification, arguing for nearly complete acceptance of large elements of the West German constitution. During his time in the GDR parliament (he won a seat in the March 1990 elections), he had focused on the *Stasi* and soon gained a reputation as a representative of the principles embodied in the parliament's legislation concerning dissolution of secret police structures and access to the *Stasi* files.

In late 1990 the first unified German parliament was elected, and less than a year later it passed a law transforming the "Special Representative" into the "Federal Commissioner for the Records of the Ministry for State Security of the former GDR." It gave this institution a unique position, and not only by virtue of its long name.

THE FEDERAL COMMISSIONER

Position

That the Federal Commissioner is elected by the German parliament is indicative of his/her unique position. Election by parliament is reserved for only a few institutions in Germany, such as the Federal Chancellor, Commissioner for the Armed Forces, or Commissioner for Data Protection. Ministers are merely appointed by the chancellor and can be easily removed. The Federal Commissioner holds office for a period of five years, longer than the four-year parliamentary cycle. His position is strengthened by a provision of the law that expressly assures absolute, *de facto* independence. A Federal Commissioner does not receive directives from anyone; he or she is subject only to control by the courts, and sets priorities for his work independently. He reports directly to and, in the final instance, is accountable to parliament only.

To work effectively, the Commissioner needs a staff. The federal law created an Agency that is organized according to the classic principles of ministerial bureaucracy. It is astonishing, that in the legislative process, the possibility of an alternative organizational structure was never discussed even preliminarily. One could have imagined an outcome more along the lines of a research-oriented academic institution.

The agency is administratively subordinate to the Federal Ministry of the Interior. The minister exerts substantial influence in personnel questions such as selection of the Agency's top-ranking civil servants and application of the general rules of the German civil service. He also proposes the Agency's budgetary appropriation to the parliament, which votes on the appropriation. In 2002, the Agency had a budget of EUR 103 million, while the Federal Archive's was only about 42 million, the Domestic Intelligence Agency's 126 million, and that of the Federal Criminal Office 328 million.

Security concerns were the chief rationale for including the Agency within the administrative jurisdiction of the Ministry of the Interior. The Ministry coordinates counter-espionage in the Federal Republic and is responsible for security classifications. A large part of the *Stasi* files fall under regulations governing security classifications. By fostering a close connection between the Gauck Authority and the Ministry of the Interior, the federal government hoped to maintain influence over parts of the files that relate to national security interests.

The law on the *Stasi* files regulates not only the position of the Federal Commissioner, it also determines the outlines of his work, though the law also grants him a high degree of independence. He alone evaluates the records in his safekeeping and determines priorities among the responsibilities assigned to him by the *Stasi* Records Act. The high degree of independence is reflected in the rules on oversight of the Agency. Not the Interior Minister alone but only the federal cabinet as a whole may intervene, oppose the Commissioner's decisions, and limit his discretionary authority. Such an intervention, which has not occurred so far, would require a federal cabinet vote and approval by a majority of the ministers in it. It has become clear that the Commissioner is in this way protected from daily politics and the political calculations of individual ministers. During a controversy in 2001, Otto Schily, the Minister of the Interior, did not try to push through a cabinet decision to exercise oversight and impose

his agenda. The issue went to the courts instead, beginning a process that eventually resulted in an amendment to the *Stasi* Records Act.

A council was created to advise the Federal Commissioner, with members drawn from the federal parliament (*Bundestag*) and the parliaments of the East German states plus Berlin. The council has no decision-making power but serves as a kind of forum in which questions to the files can be discussed before the party parliamentary groups address them. The two individuals who so far have served as Federal Commissioner, Joachim Gauck and his successor, Marianne Birthler, a member of the Green party, were both elected by solid majorities in the *Bundestag*.

Marianne Birthler was born in 1948 and during the last years of the GDR was a civil rights activist. She also worked for the Protestant Church in the GDR and served as a youth advisor. Like Gauck, she won a seat to the GDR parliament in March 1990 and after unification served as the first Minister of Education for the state of Brandenburg. She subsequently gained a reputation as one of the most well known East Germans in the Greens.

An overwhelming majority of the *Bundestag* voted for the *Stasi* Records Act in 1991. Even members of the Party of Democratic Socialism (PDS), successor to the communist SED, were in favor.

Structure and Personnel

Addressing the catalogue of responsibilities contained in the *Stasi* Records Act required the rapid build-up of a large agency—one that at one point would employ up to 3,400 people (still 2,540 in late 2002). The law foresaw an immediate build-up of capacities in all stipulated areas, prompt archival disclosure of the MfS documents, and a speedy evaluation of the contents of the files by the Commissioner. The first years of the Agency were thus characterized by attempts to fulfill these expectations with inadequate resources, especially a lack of personnel to cope with the flood of applications from citizens for access to their files.

The inadequate qualifications of the personnel proved to be the largest obstacle. With the exception of former *Stasi* officers, practically nobody had any idea about the structure and methods of the MfS and certainly not about its files. The new Agency hired only about a dozen former *Stasi* officers, and even this was strongly criticized, despite the fact that those hired, with the exception of two officers, had worked exclusively in the MfS archive. A colonel

and lieutenant colonel who previously had been employed by the ZAIG, which had reported directly to Mielke, were also hired. The ZAIG had served as a form of expert panel and had the best insights into the internal structure of the MfS. After a few years, these two former *Stasi* officers were used only in exceptional cases for research activities. In its early years, the Agency often failed to train knowledgeable specialists with insight into the inner workings of a secret police apparatus; such attempts failed mostly because of the short time span available for training.

Additionally, most of the Agency's senior ranks were filled with personnel from West Germany, who had at best only a fragmentary understanding of life in the GDR. The lack of this particular qualification led to serious problems, which made the entire work of the Commissioner vulnerable to attacks.

The agency of the Federal Commissioner is divided into departments. The central office; the archive (AR), which administers the files; the office of information (AU), responsible for dealing with those who want to use the files; and the office of education and research (BF), which deals with the research work of the agency and is responsible for the effort of the Federal Commissioner to disseminate knowledge about the *Stasi*.

Regional Offices

The Agency has regional offices, which reflect the regional administrative structure of the former GDR. Corresponding to the previous fifteen districts of the GDR, it maintains thirteen offices in the former district capitals; the exceptions are Cottbus, which does not have a regional office, and, Berlin, where the regional office is incorporated into the central office. The division into regional offices makes sense, in part because of the huge number of documents and files that had been archived in the regional offices of the MfS or taken there for safekeeping as the MfS dissolved. No building in Berlin would have been adequate to house the entire collection of files. Moreover, the regional structure allows for closer relations with the victims. Those seeking access to their files need to travel 100 kilometers at the most if they live on the territory of the former GDR. Each of the regional offices employs an average of 100 people.

THE ARCHIVE TODAY

The number of documents contained in the archives is staggering. The already catalogued files of the MfS alone run to a length of fifty-nine kilometers, of which twenty-three are accounted for in Berlin alone. There are an additional sixty-five kilometers of files which in 1989 were still classified as working files, as well as another sixteen kilometers of files that are badly damaged and are awaiting reconstruction.

In addition to this paper legacy, the archives also house hundreds of thousands of photos, thousands of slides, films, sound and electronic data-tapes. In Berlin alone, 5,000 card indices hold more than 17.5 million file cards; in total, the Federal Commissioner holds in the archives more than 40 million file cards. The largest of those indices is the central person index of the *Stasi*: it consists of over 5.5 million file cards, each one with a different name. Every single person deemed of interest to the MfS was included in this index.

Since the MfS preferred to keep interesting archival material from the time of the Nazi regime under its own control, the agency also at first housed several kilometers of these old Nazi files. Since then, however, they have been transferred to the Federal Archive and are being catalogued there. Little by little, these files are being made available for academic research. Some have proven of great worth for study of the Nazi era. For example, the MfS had kept thousands of patient files, which may yield insight into Nazi euthanasia programs.

The catalogued files range from classic investigative files in criminal cases, which the *Stasi* took over for political reasons, to surveillance reports on Politburo members who had fallen into disgrace.

Those files already archived by the MfS are easier to access and use, since they have been catalogued systematically and usually contain only the essential record of a *Stasi* operation. Even these files are very large, and the reports on measures taken against opposition figures in the GDR usually fill dozens of volumes with thousands of documents.

The files from the various investigative units present a detailed picture of secret police work. They often include the first investigative findings, surveillance videos or tapes of intercepted phone conversations. Their effective use by researchers, however, presupposes a good understanding of the methods and structure of the MfS.

Exploitation of the Files

The *Stasi* shrouded its archive in secrecy, and not just from outsiders. Even internally, access was strictly regulated. This ensured that no officer without valid reason had access to archived material. The only guide to the files is to be found as a rule in the card indices housing the central personal file cards. Not events but individuals were the key to the files. Little has changed in this regard. Archivists of the Federal Commissioner make the files of the old MfS archive available for access but do not themselves know what is in them. Only the specialists of the office for information are familiar with the documents and prepare the material for those obtaining access to the files. The regional archive in Schwerin is the only one that, at this point, can boast of having adequately catalogued about 15 percent of the MfS files from the 1950s. A purposeful and comprehensive analysis of how the *Stasi* worked, especially during the first three decades of the GDR, will have to await the gradual indexation of the entire archived material of the MfS.

A part of operational cases, which in 1989 were still incomplete and uncatalogued, was incorporated into the archive according to the old guidelines of the *Stasi*. Within the Agency, these files are called the “91-series” because the files are referenced with 1991 archival numbers. The files include many of the “IM (informant) files” from the last years of the *Stasi* and some of the most interesting operations against opposition figures in the GDR who played important roles in the events of 1989.

For many years, the archive’s condition will remain such that it will not be completely adequate as an aid to research. The extent of the files and their extremely differing quality mean that full exploitation of their content and the provision of good guidelines for searching them will take decades of work.

Reconstruction and Electronic Data Banks

In the final weeks before the collapse of the MfS, a great deal of material on operational cases was shredded or torn apart. In the meantime, files with several hundred thousand pages have been reconstructed. Among them are some of the most important surveillance operations conducted by the *Stasi*, especially against prominent writers living in the GDR such as Christa Wolf and Stefan Heym, who had not fully agreed with the policies of the SED.

By coincidence, the electronic data bank (known as SIRA) of the HVA, the espionage division of the MfS, could also be reconstructed; it gives a good

insight into the sources, extent, and targeting strategy of espionage operations against the West. Presumably the electronic data banks had been created as a backup to the actual files. After the fall of the SED regime, the SIRA data banks were discovered in buildings of the National People's Army, mixed in with other data banks that were being readied for further use by East German companies. Paradoxically, the data banks are probably a waste product of the transition from western to eastern computer technology organized by the MfS in 1988.

When analyzing their content, it is especially interesting to see the discrepancies between what is contained in them and the reports that were passed on to the party and state leadership and those that are still part of the archive. Even though this information covers only a fraction of the former HVA archive, the comparison nevertheless provides a vital tool for understanding how the MfS analyzed data that was then used by the political leadership for guidance in decision-making processes. Because the CIA has now returned copies of the HVA files—it remains unclear exactly how it acquired them in the first place—it has become possible to link the names of the sources with the results of their espionage work. This permits a precise picture of espionage in the West, despite the nearly complete destruction of the original HVA files.

CITIZENS' ACCESS

By virtue of the *Stasi* Records Act, every individual has the right to complete and unhindered access to all files pertaining to his or her person. The law reflects the basic demands made by the East German civil rights activists in 1989. It is this particular aspect of the Gauck Authority that continues to enjoy the greatest support of the public and is massively made use of. About 1.91 million applications for access to the files had been made as of late 2002. Since, in some instances, a single individual may have made more than one request, it is impossible to determine from the statistics collected by the Federal Commissioner the exact number of individuals seeking access. Surely it is no fewer than 1.5 million. Interestingly, the number of people seeking access has not diminished over the years; in fact, during the calendar year 2001, the average monthly number rose significantly. During the last few years, more and more young people have sought access to the files of their deceased

parents or grandparents. For about 40 to 50 percent of those seeking access, files actually exist. During the last decade, about 540,000 people were able to read their files in the reading rooms of the Federal Commissioner; in most cases, these readings resulted in the transfer to the individuals of copies, and in some instances of entire sets of copies. In nearly 300,000 cases, people requested the deciphering of the code names used by *Stasi* informants.

The files of the MfS, sometimes only a few pages long, other times virtually mountains of paper, have become part of the personal history of many German families. What the effect of this will be on the perception of historical processes remains to be seen. Partial research has indicated that in most cases individuals do not discuss the files with friends or even within their own family. Two-thirds of those who take copies of the files home with them do not show them to others, but most do not destroy the files either. For countless eastern German households, the *Stasi* files of the previous generation have become part of their own legacy.

Individual reactions to the contents of the files run the gamut of human emotion: from deep shock to relief to ridicule about the incompetence of the secret police, which, despite the arsenal of methods and resources at their disposal, often remained unable to put together an even halfway exact picture of a targeted person. Working through the material is difficult in cases where individuals were betrayed by former friends, or even by spouses or partners. On the other hand, a large number of people could read with joy and wonder that despite heavy pressure from the *Stasi*, some friends refused to betray them.

It is usually difficult for individuals who, after viewing their file, come to realize that their entire life, or at least large parts of it, played out before the eyes of the *Stasi*. This “second memory,” which often proves to be more detailed than one’s own, is often viewed as an attack on one’s identity. Who remembers with clarity what he or she wore on a particular day, what was bought in a store, how he or she said good-bye upon dropping the daughter off at school, with whom he or she discussed what on the phone, what letters were received, and when he or she turned off the lights at night? The *Stasi* knew.

Without a doubt, knowledge and understanding of the power but also of the limits of the secret police are nowhere greater than in the former GDR. This remains true, despite the fact that it is not discussed as often as it used to

be. The Gauck Agency has since acquired a new kilometer-long archive consisting of the documents covering the public's access to the *Stasi* files. This could be a valuable source for those seeking insight into how to overcome a dictatorship.

Nearly 700 civil servants within the Agency deal exclusively with fielding requests for access by the public, holding material for reading on the premises or sending copies of documents. Most of their workload consists of "anonymizing" those parts of the files that refer to other people. In the case of copies, this is done by blacking out and in the case of originals by attaching paper that covers the parts of the text that refer to other individuals. As a result of some bad experiences during the early years of the Agency, it is no longer permitted for two people to access files together. Married couples often found themselves facing *Stasi* documentation of facts that they had kept secret from one another. Often they were faced with the problem of trying to make a partner understand that even the secret police did not know everything and included misinformation in the file.

In instances where a reading results in high personal stress, an offer of psychological support would make sense. Unfortunately, the Agency does not have the resources to offer such services. Those working for the Agency must rely on their own experiences in such cases. They are expected to suggest other institutions and services that do offer help and counseling. This is based on the assumption that they are thoroughly familiar with the cases and are able to interpret the files better than an external counseling service.

An extreme example highlights the difficulties that can be encountered upon reading one's file. In the 1970s, a married *Stasi* officer met a young woman while on vacation. The officer, father of two young boys, decided to kill his wife, shooting and hiding her body in a remote forest. The *Stasi* investigated and soon suspected the husband. During his interrogation, he became entangled in half-truths and lies, confessing to having had contacts with a western intelligence service. Despite the obvious inconsistencies in the man's statement and the fact that there was no other evidence whatsoever suggesting his connection to a western intelligence service, he was found guilty and sentenced to death by a military tribunal with the approval of Erich Honecker, head of the state and party. The two sons, who had been placed by the *Stasi* with a foster family, grew up believing that their parents had died in an automobile accident. Shortly before the GDR collapsed, they learned of

their mother's murder; their father's fate, however, remained a mystery for them. At the Gauck Authority through access to the *Stasi* files, the two sons learned the shocking truth about their family history.

Such troubling confrontations with one's own past are surely not the norm, but they did occur on dozens of occasions during the past decade. Older individuals tend to react more strongly to the revelations, often requiring outside help to deal with their crises. Some individuals working for the Gauck Authority have complained to the author that in those instances there is little to do but let the file readers go without knowing how they will cope with what they have learned.

Nevertheless, the wish finally to know clearly what went on in all aspects of one's life remains great among eastern Germans. Those who read their files tend to lose their fear of the uncertain. It is in the nature of dictatorships to keep their subjects in ignorance of what factors determine their fate. Nevertheless, almost all victims of this arbitrary regime have an inkling of such factors. Reading the records turns this inkling into certainty. And so this process always has a liberating effect. Many who gained access to their files have described this experience. A frequent comment after a file is read: "it is all awful, but not as awful as one imagined in one's worst nightmares."

ACADEMICS' AND JOURNALISTS' ACCESS

Most controversial is access granted to the media. The controversy erupted early, already during discussion leading up to the passage of the *Stasi* Records Act. Originally, access for the media was not planned, but this decision met with massive intervention from within the journalistic profession. Particularly notable were outraged protests by Rudolf Augstein, publisher of the weekly newsmagazine *Der Spiegel*. As a result, parliamentary deputies agreed rather unwillingly to allow researchers and members of the press complete access to all files documenting the work of former *Stasi* officers and informants. Personal details pertaining to "concerned" individuals, mostly victims of the *Stasi*, as well as so-called "third persons," those whose names appear more or less by coincidence in the files, are to be protected.

Since the Agency began, the Federal Commissioner can arrange for parts of the files of "persons of history" (*Personen der Zeitgeschichte*) to be made accessible for research. This particular aspect of the *Stasi* Records Act was

common practice for quite some time, eliciting little to no response from well-known politicians, artists, and athletes. The issue rose to the forefront only when in early 1999 a debate erupted over the illegal financing of CDU election campaigns. The agency had made a number of files available to the press, including copies of intercepted phone conversations of leading CDU politicians. The agency planned to release similar files dealing specifically with former CDU party chairman and Chancellor Helmut Kohl. Kohl took the issue to court and in 2002 the Federal Administrative Court decided in his favor.³

The debate soon erupted into a full-fledged controversy among the parties. That Helmut Kohl demanded and got a court to grant him protection for himself—protection that had never been given to any prominent East Germans while Kohl had been in office—incensed many politicians among the SPD and the Greens. On the other hand, many CDU politicians were enraged that the *Stasi* files might be used to destroy the reputation of the man who had played the leading role in the unification of the country. The SPD Minister of the Interior, Otto Schily, supported Kohl's position from the beginning and never maintained that the *Stasi* Records Act granted others access to the files of the former chancellor.

After the court's decision was handed down, it became clear either that the agency had to reevaluate its collaboration with academic researchers, and the media, or that the law had to be amended. The governing SPD-Green coalition decided to change the law. The *Stasi* Records Act, as amended now, allows access to the files of "persons of history" for research and journalistic purposes, but only on the basis of a personal decision by the Commissioner. The amended law has not yet been tested in the courts.

Unusual—probably unique as a matter of fact—about the access which the *Stasi* Records Act granted journalists is that after unification in 1990, virtually all basic information about the *Stasi*'s members and informants and its organizational structures became publicly known very early on. There was not the delay of thirty or more years customary even in democratic countries for access to governments' sensitive records. The media thus gained a special role in this transition to democracy in Germany. They had at their disposal almost everything they needed to report independently and credibly about political persecution and its consequences in the GDR. It was an opportunity for journalism unprecedented in modern history.

Both the press and academic researchers frequently have taken advantage of their access to the files. Although the interest of the former has diminished, the historical value of the files for academic research has not yet been fully determined. This is in part because indexed guides to the records are still sorely lacking, making systematic research of the files more difficult in many cases. A large number of academic works have been published in the past decade, which would not have been possible without use of the files. Some of them are of great importance for our understanding of contemporary history, such as those dealing with the life of Herbert Wehner, the influential chairman of the SPD parliamentary party.

In German law in general and in the *Stasi* Records Act in particular, the terms “academic research” and “journalistic work” are broadly defined so that practically anyone with any sort of journalistic or academic interest can gain access to the files. The archives are used extensively for biographies. Autobiographies are based primarily on examination of one’s personal insight, supplemented by the examination of others in the person’s surroundings, and of officers who investigated the person in question. The life stories of the well-known writer Carola Stern or of Eva-Maria Hagen, a famous actress in the GDR, serve as examples. Nearly all biographies of the chairperson of the CDU, Angela Merkel, make reference to information contained in her *Stasi* files.

Any assistance the agency can give to researchers and journalists in researching particular individuals and events is limited, not in the least because of the lack of qualifications on the part of the Agency’s staff, a state of affairs that is criticized by journalists, authors, and academics alike. Fluctuation among the approximately 120 staff members charged with dealing with researchers has been quite high. Management personnel consists primarily of lawyers, who appear to have little patience for the work of authors or journalists. An additional factor is the competition between authors working outside the Agency and the researchers employed by the Agency itself, who regard the publications of their own as their main job. Nowhere are mistakes made during the establishment of the Agency more obvious than in assisting those who have an accepted, constitutionally secured position but whom bureaucracies view as bothersome pests. In particular there is no training of any kind for this responsibility.

PERSONNEL SCREENING

Of all the responsibilities assigned to the Agency, the most controversial, though from the beginning also the most effective, has been the screening of individuals for past collaboration with the MfS. In granting access to files to citizens who had been victims of the *Stasi* or to journalists and researchers, the Agency simply prepares the files for examination. When asked to assist in vetting individuals for civil service positions or public office, however, Agency personnel assume the role of expert witness and consequently have substantial influence over the screening decisions.

By law all public bodies, as well as a limited number of private institutions, are entitled to have their personnel checked for past collaboration with the *Stasi*. No distinction is made among former citizens of the GDR, German citizens generally, or foreigners. In general, every person in the civil service or applying for a position may theoretically be subject to an investigation, irrespective of whether he or she ever resided in the former GDR, whether or not the institution requesting the investigation is located in Bonn or Dresden, and whether or not there is any indication that the person in question ever had any contact with the *Stasi*. The same applies to all personnel of public institutions such as the influential public television stations, all elected to public office, and those in leading positions in private business. In these cases, vetting is limited to top positions. The law prescribes the same kind of screening for those applying for weapons licenses or who are candidates for decorations. Through the end of 2002, slightly more than three million people had been subject to such examinations, with a number of people having been vetted more than once.

If information is found in the files indicating involvement with the *Stasi*, this information is passed on to the organization that requested the screening. These reports, which follow a common form, usually contain information about the kind of cooperation, its duration, whether or not the person received compensation from the *Stasi*, and recognizable motives for collaboration. When possible, information as to why the cooperation ended is included as well. The information is supported by the inclusion of selected copies of actual documents that clarify the nature of the relationship with the MfS. In the case of informants (the "IM"), the information often includes reports that the informant gave to his handler or wrote up himself. In these documents it becomes clear

whether reports by an informant contain detailed information about persons among the informant's acquaintances or colleagues at work, as well as whether the informant followed *Stasi* orders to spy on particular people.

The reports the Agency distributes to organizations that request them have grave consequences. In many thousands of cases—all of them in eastern Germany except for a few dozen—they have led to loss of a job or to withdrawal of a likely job offer. The final decision, of course, lies with the organization itself. It cannot simply base its decision on information from the Commissioner. An organization's own evaluation of the information presented by the Agency regarding collaboration between job applicant and *Stasi* has led to very different results in different organizations.

Only in recent years have the decisions become more standardized, due mostly to judicial review of employment decisions by the highest courts, in particular the Federal Supreme Court (*Bundesgerichtshof*) and the Federal Constitutional Court. The Federal Constitutional Court decided that investigation into possible *Stasi* collaboration can and must be an essential element in determining a person's qualification for the civil service or other public offices; those who served as officers or informants of the *Stasi* are at least no longer qualified for such positions. The court based its decision on rules needed to guide a democratic society in transition out of a dictatorship. A differentiation is to be made by the function. The court determined, for example, that university professors who once worked for the *Stasi* as informants could no longer serve.

Controversy surrounding the justification of such screening was touched off by the cases of two prominent East German politicians: the prime minister (*Ministerpräsident*) of the state of Brandenburg, Manfred Stolpe (SPD), and the best-known representative of the successor party to the SED, the former chairperson of the PDS parliamentary party, Gregor Gysi. In both cases, the Federal Commissioner, upon request from parliamentary committees, produced reports that named both Stolpe and Gysi as former informants of the *Stasi*. In both instances, the Agency presented numerous documents to substantiate the findings.

In the case of Manfred Stolpe, the state parliament of Brandenburg convened an investigative committee that never reached a final decision. Stolpe continued to serve as Prime Minister until 2002 and later joined the cabinet of Chancellor Gerhard Schröder. In the case of Gregor Gysi, the immunity committee of the *Bundestag* decided against him and demanded his resignation

from the parliament. Both suffered damage to their reputations, although neither had to end his political career. Stolpe remained in office and later became a federal minister in Chancellor Schröder's cabinet. Gysi, shortly after resigning, became a member of the state government in Berlin, a position he held until the summer of 2002. The Federal Commissioner survived these confrontations with little damage to his office or reputation, since both Stolpe's and Gysi's attempts to attack his reports in court failed.

In the forty-year existence of the GDR, at least half a million people cooperated with the *Stasi*. Thus screening a person for past collaboration with the *Stasi* constitutes explosive material in the relationship between eastern and western Germans. Too many prominent East Germans in politics, business, or culture, cooperated at some point in their lives with the *Stasi*, prompting a widespread suspicion in western Germany that those from the former GDR constituted a "nation of traitors." Every single leading candidate of the large parties during the first free election in the GDR in March 1990, was later accused of being a *Stasi* spy. The situation is similar for many GDR performing artists and many successful athletes and coaches of the erstwhile sports powerhouse.

While most citizens in the former GDR want clarity about the *Stasi* members in their midst and support screening for the security forces at least in political life, the vetting of athletes often is viewed skeptically. The PDS has tried to use this issue to garner political capital, often refused to purge known *Stasi* informants from its own ranks and indeed, in some instances, demonstrably hired them as staffers.

Only a handful of checks took place in West Germany, and often only after an individual had fallen under suspicion, who had moved to the West after the end of the GDR or as a West German citizen had worked as a *Stasi* spy in the West. Since espionage automatically resulted in investigation by the state attorney, employers could declare themselves not responsible.

Since decisions by the Agency are produced according to a standardized process, Agency staff are prohibited from including further considerations in their position. This inevitably results in many cases in suspicion that an individual cannot completely eradicate. For example, a young *Stasi* officer recruited a woman while she was still a seventeen-year-old boarding school student. This woman, long after the end of the GDR, applied for a high-level position. The files, as well as the behavior of the woman in question, indicate that the entire

recruitment process was less a conscious decision to work for the *Stasi* than a romantic relationship. The documents alone could not tell the story; they merely mentioned a number of unusual meeting reports about a person covering a number of years. The Agency concluded that the woman had worked with the MfS. The organization that had requested the report reacted relatively casually: while the woman did not receive the position for which she had been considered, she was not fired. There surely were a number of cases, however, in which the screening led to new injustices.

The Federal Commissioner always emphasized that, in his opinion, no other procedure was possible. Without such screenings, former *Stasi* informants might achieve top positions in various areas of public life, opening up for them possibilities to exert significant influence. After all, they would remember very well who used to work for them.

Unfortunately, in cases where the Agency could not produce a report, either due to missing files or proven non-involvement with the MfS, its inconclusive examination often served as a kind of “certificate of innocence” (*Persilschein*) for the individual’s life in the former GDR. Even people without a documented connection to the MfS could harm other individuals, merely through their work with the SED or in the state institutions of the GDR. This fact was often ignored. There has been no vetting process like that for cooperation with the *Stasi* for those who worked in various SED party functions.

In the last few years this vetting has increasingly come to be resented and rejected in the eastern part of Germany. The feeling there has come to be that such screenings represent special treatment for former GDR citizens, treatment that is unjustified and discriminatory so many years after the end of the SED dictatorship. For, after all, no citizen of the pre-1990 Federal Republic, West Germany, need fear that he or she ten years afterwards still has to bear the consequences of earlier political mistakes or misdeeds such as corruption. But East Germans who, as a result of opportunism, conviction, or simply lack of character, had become *Stasi* informants, are still disadvantaged. Former SED members in particular condemn this kind of unfair treatment. With each renewed debate about the *Stasi*’s activities, they see their own responsibility for the communist dictatorship put on trial once more.

RESEARCH WITHIN THE AGENCY

The *Stasi* Records Act included no provisions for the establishment of an academic research unit within the Agency. The fact that the Agency engages in its own scholarly research work is thanks to the first Federal Commissioner, Joachim Gauck. His decision to create an independent research department has not been without criticism. Gauck justified the hiring of about two dozen academic staff members with the argument that it was the only way to ensure unlimited access to the documents for research. He argued that he could not fulfill the Agency's responsibility to provide comprehensive information about the work of the *Stasi* and set up documentation centers without a research department within his agency.

There are a number of institutions of similar design in Germany, institutions that include an academic research component. But in the areas of political science and historical research, which are close to politics, such a dual function can lead to problems. One has to ask the question of how to organize the constitutionally guaranteed academic freedoms in a hierarchically organized governmental institution. This dilemma has become evident in numerous conflicts that have erupted over the research results of some of the in-house researchers. One suggested solution has been the creation of an advisory council, which would mediate in such conflicts and ameliorate the hierarchical structure of the Agency. In fact, most of the conflicts ended with the researchers who felt themselves impeded in their work leaving the Agency.

The strongly publication-oriented department is controversial for another reason: it finds itself in competition with other academic institutions with similar research interests, such as universities. The department is most often criticized for failing to provide research services for outside applicants, which should be their primary task. The researchers of the Federal Commissioner are in an advantageous position in any case. Depending on their level of security clearance, they may have access even to the classified files, which cover security concerns of the Federal Republic or its allies, and which no other researcher may see. Yet, to gain a comprehensive understanding of the MfS, these files are indispensable. In addition, in-house researchers have access to still uncatalogued material and can ask the archivists for priority treatment for certain documents.

The important results of the research arm of the Authority are published in a series of papers under the Federal Commissioner's auspices. Under the title "Anatomy of State Security," a planned thirty-two volume publication series will cover the history, structure, and methods of the most important units of the MfS. By the end of 2001, sixteen volumes had been published. In addition, the Federal Commissioner has published a number of texts to simplify the use of the files. These include a volume of the abbreviations used in them and a bibliography of the MfS. Several dozen publications dealt with specific aspects of MfS activities, with an emphasis on its conduct during the fall of 1989.

Larger texts were edited in cooperation with the Links publishing house. Some of the excellent works in this series are those of Joachim Walter about the influence of the MfS on the GDR literary scene and two books by Helmut Müller-Enbergs and Hubertus Knabe about *Stasi* espionage in the West.

Documentation Centers

Research work on the history of the secret police of the GDR has been important in the establishment of several information and documentation centers. Besides a large central institution in the government district in Berlin, such centers have been created in all five states of the former GDR. They serve as permanent exhibitions about the *Stasi*, with each center having a thematically different emphasis. The center in Mecklenburg-West Pomerania, for example, is housed in the former MfS prison in Rostock. Its location alone ensures a close link with victims of the *Stasi* who endured long sentences in such prisons.

In addition to the permanent exhibition, a number of traveling exhibits are sent to each of the centers. One of these traveled outside the Federal Republic to Budapest, to several western German cities, and to the federal parliament's foyer in Bonn in 1998.

Apart from the comprehensive web-site of the Federal Commissioner (www.bstu.de), the centers are surely the most important way of teaching a larger public about the MfS. The Federal Commissioner's web-site is especially interesting for German-speaking web surfers. It provides links to hundreds of documents contained in the *Stasi* files, which present an interesting insight into the content of the archive. The English text pages provide links to a translation of the *Stasi* Records Act as well as a brief history of the MfS.

In addition, the Federal Commissioner organizes academic conferences and other events at regular intervals in Berlin, the regional offices, and in other

places throughout Germany. At least every two years, the main archive in Berlin opens its doors to the public so that any visitor can wander through the archives and gain an idea of the extent of the documents archived there. The interest in Berlin is enormous; on a single weekend several thousand visitors avail themselves of the opportunity.

THE AGENCY ABROAD

The position of the Federal Commissioner and the Agency he leads are the first attempt by any country to make comprehensive use of the secret police legacy of a communist dictatorship. This kind of endeavor proved easiest in Germany, because the peaceful revolution of 1989 ended in the unification of the two Germanys and created one state that not only had an intact security structure of its own but also enough resources to mobilize in the transition process. It was also a state that was sensitive to the fate of victims of dictatorship as a result of having dealt with the legacy of Nazi Germany. None of the other successor states in the former Soviet bloc enjoyed such preconditions. Discussion about the past proved easiest in states where completely new structures were created; this was particularly the case in the Baltic states, which quickly built up similar institutions to confront the consequences and legacies of dictatorship.

In countries such as Poland, Hungary or the two successor states of Czechoslovakia, existing state institutions continued to operate so that for years there was hardly any confrontation with the legacy of the secret police of the communist period. Only after a look at the German model did these countries begin with hesitant attempts to allow access to their files. These records as a general rule remained with the departments of the interior, which meant that they were unavailable for independent access. One by one, the countries in question amended their statutes to create institutions similar in character to the German agency: first the Czech Republic, then Hungary, and Romania.

In recent years, there has been an exchange of experiences among these institutions. Systematic cooperation such as that which used to exist among those countries' secret police forces is lacking, not only because of a lack of resources but also of political will. The transition from communist dictatorship to democratic regimes in both Poland and Hungary were not achieved by a

revolutionary movement but rather by negotiation, which eventually paved the way for a gradual return to power of members of the former communist leadership. Part of the negotiated transition was agreement that former communist elites would not be forced to withdraw completely from their positions. The transition in the Czech Republic closely resembled the German case in its abruptness and revolutionary character, which resulted in a radical change of elites and a stigmatization of the former communist leadership. However, for various reasons, none of these countries made the same radical break with the darkest side of communism, the work of the secret police, as Germany did.

It is interesting that the most intensive interaction occurred not between the Federal Commissioner and the former communist bloc, but between the Gauck Authority and the South African Truth Commission. Joachim Gauck visited South Africa several times, as did a number of other politicians. The visits were reciprocated by South African politicians who traveled to Berlin. They share a common concern and interest: to ensure a level of justice to the victims of dictatorships who are trying to come to terms with their past. The drive for historical truth constitutes an important part of the healing process for a violence-torn society. Knowledge is liberating—knowledge about the details of oppression, knowledge about the victims’ fates, about the background to their fate, and even knowledge about what happened to their loved ones.

OUTLOOK

With the creation of the Federal Commissioner for the *Stasi* records Germany’s lawmakers ventured an experiment. Today it is generally recognized that the first twelve years have proven the correctness of the decision to take the step. Basic criticism of the Authority has come from neither parliament nor the public. The resonance it has generated outside the country suggests that Germany’s attempt to deal with the legacy of a secret police of a dictatorship was not wrong. Nevertheless, the tasks that need to be tackled in the future are of a different nature. The transition to democracy, which has its own requirements, will gradually come to an end, forcing the Federal Commissioner to reevaluate his work and mission. The screening function of the Agency will, by law, run out in a few years, and citizens’ requests for access to their files will also naturally decline in a few years.

What will remain is the immense importance of the *Stasi* archive for research and journalism. Nowhere else is the inner world of communist power better documented and thus more widely accessible to thoughtful examination. Lawmakers will again be challenged to find new rules for an archive that belongs to the cultural legacy of all mankind.

Germany, like no other European nation, must reflect on its twentieth century history, a legacy of continuing catastrophes. Within this continuum, the attempt to deal with the dictatorship of the GDR will surely play but a marginal role. Any reflection on the GDR will have to incorporate also the horrors of the Nazi dictatorship. Paradoxically, the great tragedy of the years 1933 to 1945 simplified our understanding of the communist tyranny that followed in eastern Germany. This is the context within which one can begin to understand the shape and form assumed by the Gauck Authority. Experiences gained in attempting to cope with the horrors of the Nazi dictatorship nullified in advance any conscious decision to ignore the legacy of SED rule.

Because of the existence of the Gauck Authority this particular way of dealing with the legacy of a dictatorship has proven successful, both in the West and in the East.

In ending this short study, I hope the reader will permit a personal remark. During my four-year service as press officer of the Federal Commissioner, I came to believe that the *Stasi* archive is of such immense importance that it could easily be considered part of the cultural heritage of humanity. I hope that one day it will be recognized as such. This heritage should not and does not simply include places we are proud of—not without reason does UNESCO include Auschwitz on its list of witnesses of history. Other places may be more suited for documenting the horrors of communist dictatorship, but only in Berlin has this legacy been preserved in its totality. With this documentation of horrors we gain insights into life in a dictatorship—with all the remarkable examples of those who tried not just to survive but to resist.

ENDNOTES

¹ *Stasi* is the popular abbreviation for the *Ministerium für Staatssicherheit* (Ministry for State Security) of the former German Democratic Republic (GDR). It caught on among East German dissidents in 1989 and became known almost worldwide thereafter.

² This study uses the words Authority and Agency interchangeably for the German *Behörde*.

³ The decision came from the *Bundesverwaltungsgericht* (Federal Administrative Court), the top court for individuals' complaints against actions by government agencies. Above it, but for constitutional issues only, is the *Bundesverfassungsgericht* (Federal Constitutional Court). For jurisdictional reasons, however, the Agency was not entitled to appeal to this court.

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