

Lawyers Ordered Not to Reveal Data Released by CIA

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A federal judge here has issued an extraordinary gag order that prevents attorneys from releasing to the press certain unrestricted and declassified documents that were given to the attorneys by the Central Intelligence Agency in a civil suit.

The order, signed by U.S. District Judge June Green, was obtained by Justice Department attorneys nearly six weeks after the CIA material was turned over to American Civil Liberties Union lawyers.

The ACLU is representing numerous plaintiffs in the suit growing out of the "Chaos" program, in which the CIA and the National Security Agency agreed to monitor overseas telephone calls and cables of approximately 10,000 radical groups of individuals in the late 1960s and early 1970s.

Attorneys who have been involved in similar litigation said the order was extraordinary in that it applies to the plaintiffs in the suit as well as to attorneys, and because it was sought after the material was turned over.

They said they viewed the situation as one in which the authority of attorneys to release any materials they obtain through legal court processes in any litigation has been questioned.

The order can be circumvented at any time by merely attaching the documents to any material that the ACLU decides to file in court in the suit. It appears unlikely that the ACLU will take that approach, however, since such a filing might be seen as an act of bad faith and since the case is being viewed as a test of a judge's authority to gag lawyers and parties in a law suit.

John H.F. Shattuck II, director of the Washington office of the ACLU Fund, said that since he is a lawyer in the case he did not feel it was proper to comment in any detail on the order. He said, however, that the plaintiffs are preparing documents seeking to urge a higher court to reverse Judge Green's order.

In most cases where sensitive government documents may be involved, the agency makes a request at the time the material is turned over that the documents be withheld from the public. No such request was made in this case, and the Justice Department concedes it has no legitimate grounds to keep these documents secret.

In numerous other cases, the ACLU and other groups have released gov-

ernment documents at press conferences without facing any successful challenge by the agency involved.

As a part of the pretrial discovery in the chaos suit, the CIA turned over 55 documents concerning the program to ACLU attorneys on Dec. 30. At that time, according to ACLU attorneys, the CIA was told that the material also would be made public.

The CIA and Justice Department attorneys lodged no objection at the time, according to court records, and said merely they wanted advance notice when the material was going to be made public.

The ACLU then notified the Justice Department in a letter dated Jan. 24 that the documents would be released at a press conference on Jan. 31. A copy of a press release concerning the documents was prepared by the ACLU and attached to the letter.

Justice Department attorneys then filed a request for a protective order, saying such a manner of public release of the materials by the attorneys was improper.

The Justice Department attorneys cited general court rules and Code of Professional Responsibility rules that prohibit attorneys from making extrajudicial statements that might interfere with a fair trial. Included in the Chaos suit is a demand by the plaintiffs for a jury trial, although none has been scheduled and any trial would not occur for months or even years.

In addition, the Justice Department attorneys said the ACLU press release was a "characterization of the contents (of the documents) from which plaintiffs' counsel derive a variety of highly charged and colored conclusions."

When the documents eventually are filed in connection with a legitimate court proceeding, the Justice Department continued, "the federal defendants will have no objection to public access."

ACLU attorney Shattuck said in an affidavit filed with the court that the documents at issue "reveal aspects of Operation Chaos which have not heretofore been made public."

He said the plaintiffs had agreed that the documents should be released to the press, and said there had been no previous complaints by the government about such public release of materials.

The ACLU argued that the proposed order—which was signed last Monday by Judge Green—was "extraordinary and sweeping."