

Passing the Buck on Taps

11/9/76
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Former President Richard M. Nixon said he ordered it after Attorney John N. General Mitchell assured him it was legal.

Mitchell, former White House aide John Ehrlichman and former top FBI official Cartha DeLoach admit they had a hand in it but said they considered it under the control of Henry Kissinger, then White House national security adviser.

Kissinger, now Secretary of State, said it was all the idea of FBI director J. Edgar Hoover, who is now dead. And dead men tell no tales.

This unparalleled round of high-level finger pointing has resulted from a lawsuit seeking to find out who authorized a controversial "national security" wiretapping program.

The search for the origin of the program is being pressed by Morton Halperin, a former National Security Council aide whose home telephone was

tapped for 21 months as part of the program.

He was one of 17 persons—government officials and newsmen—whose telephones were tapped in the early years of the Nixon administration, when it attempted to find and plug the alleged leaks of classified information to the press.

Halperin is suing Kissinger, Nixon, Ehrlichman, Mitchell and other former and current high-ranking government

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officials. He claims the program was illegal.

The defendants say the program was a legitimate use of the President's power to tap for national security reasons.

So far, however, several important points have been made by Halperin and his attorneys, Walter B. Slocombe and American Civil Liberties Union staff counsel John Shattuck III. These include:

—The taps never showed any leaks of classified information by Halperin, a point apparently conceded by the government. Instead, the nation's spy-seeking FBI monitors overheard Halperin's wife on 70 per cent of the calls and her conversations included chats with her husband and her attempts to get rid of a pesky cemetery lot salesman.

—The FBI handled the taps in a different manner than it handles other national security taps. FBI agents who monitored the calls were told to keep no records, and summaries of the conversations were carried by hand to the White House.

—All written documents and files concerning the taps were put in a White House safe, taken out of FBI hands by a Nixon administration official who said they were afraid Hoover would "black-mail" the President with the material.

—The taps remained on Halperin's telephone for more than a year after he left the government and after he became politically active in opposing the Nixon administration's stand on the Vietnam war.

—Although FBI officials occasionally asked to be allowed to stop what they considered useless taps that wasted the agency's manpower, the taps remained in place until shortly before Hoover went to Capitol Hill to testify in February, 1971.

Hoover was later to reduce the number of taps shortly before such testimony, so he could truthfully testify that there were few such taps in operation.

The existence of the tap program became apparent as the Nixon administration came tumbling down in the Watergate morass. Knowledge of the program contributed to the dismissal of charges against Daniel Ellsberg, the Pentagon Papers codefendant who had been overheard on the Halperin wiretap.

But the major issue in case at this point has boiled down to who started the program, how it began and the purpose of the surveillances. Halperin claims the taps were used to gather political information, and documents in the case show the tap materials were routinely directed to Nixon's

chief political aide, H.R. (Bob) Haldeman, for several months.

Nixon has said publicly that he authorized a general program of wiretapping in an attempt to stop what he viewed as serious leaks of classified information.

Kissinger said in testimony made public last week that he attended a session at the White House with Nixon, Mitchell and Hoover April 25, 1969, when Hoover suggested the tap program be started and specifically mentioned Halperin as a subject for surveillance.

There is no documentation of such a meeting, although the Nixon White House was noted for its detailed record keeping.

Mitchell said he does not remember such a four-way meeting and refers to the surveillances as the "Kissinger taps." Ehrlichman does the same.

FBI documents indicated Kissinger provided the names for the taps through his aide at the time, Gen. Alexander Haig.

Haig has testified that Kissinger gave him names to take to Hoover on May 10, 1969. Kissinger said the names were not specific requests for taps but merely a listing of persons who had access to leaked information. They were intended to "reconfirm" Hoover's earlier listing, he

said.

Hoover's records include a memo written on May 9, 1969, in which he said Kissinger called him from Key Biscayne, Fla., and asked him to "make a major effort" to find out how supposedly sensitive information had found its way into a newspaper. . . . He (Kissinger) hoped I would follow it up as far as we could take it and they will destroy whoever did this if we can find him, no matter where he is," the Hoover memo recounted.

Kissinger said he "cannot explain" FBI memos that portray his role in the wiretaps as anything but minor.

Kissinger also has conceded that he testified incorrectly in Senate hearings when he said the White House meetings, at which the taps were suggested, occurred May 9. He attributed his mistakes to "erratic . . . record keeping."

The subject of the taps showed up on a 1973 White House tape that was made



HENRY KISSINGER
...sued by Halperin



J. EDGAR HOOVER
...named by Kissinger

public. In describing the program to a White House aide, Nixon said the taps were placed because Kissinger "asked that it be done. They never helped us. Just gobs and gobs of material: gossip and bull—the tapping was a very, very unproductive thing."

Attorneys in the case indicate they will be ready for legal arguments with the filing of depositions by Nixon and Haldeman.

U.S. District John Lewis Smith Judge Jr. must decide whether a President has blanket authority to authorize national security taps without court approval and whether the tap in this case fell under that authority.

If the case goes to trial—possibly later this year, with Nixon as an expected witness—the finger-pointing that now exists on paper will be transmitted to Judge Smith's courtroom. A jury could then decide whose version of the tap program it believes is true.