

FBI Found No Ban On 'Bugs' in '62 Order

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The 1962 order of Attorney General Robert F. Kennedy prohibiting "improper, illegal or unethical" tactics by the FBI was interpreted by the Bureau at that time as having no relevance to its electronic espionage techniques.

The order, dated March 13, 1962, amended the FBI's manual of rules and regulations, and spelled out for the Bureau's thousands of agents a code of professional conduct:

"Entrapment or the use of any other improper, illegal or unethical tactics in procuring information in connection with investigative activity will not be tolerated by the Bureau."

"Existing instructions of the Federal Bureau of Investigation with respect to obtaining

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the approval of the Attorney General for wiretapping are continued in force."

This generalized commandment represented the official policy of the Justice Department on wiretapping, eavesdropping and other investigative techniques from 1962 until mid-1965 when new instructions were issued.

Kennedy, according to persons familiar with the situation, interpreted his order as a flat prohibition against any type of eavesdropping ruled illegal by the courts. In his judgment, for example, it

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banned the use of "bugs" planted by trespassing.

Other Government officials, however, dispute that interpretation. They maintain that the order was little more than a Golden Rule for the FBI and that it was, in effect, nullified by longstanding eavesdropping practices which had been approved by various Attorneys General, including Kennedy.

They cite, for example, Kennedy's written approval to the FBI in 1961 of the leasing of telephone wires to transmit conversations picked up by hidden microphones.

Added Authority

Additional authority for the FBI to evade the literal meaning of the "ethical standards" rule is said to be contained in a 1954 letter to Director J. Edgar Hoover from Herbert Brownell, who was then Attorney General, and in other documents in Hoover's possession.

Neither the Brownell letter nor any other official policy statements on what is and what is not permissible in the way of electronic espionage have been made public by the Justice Department.

The FBI yesterday refused to make any comment on the 1962 order from Kennedy, which added fuel to the angry controversy between the former Attorney General and Hoover over the eavesdropping issue.

Hoover has publicly asserted that he was fully authorized by Kennedy to install illegal listening devices and that Kennedy was fully aware of the practice. Kennedy denies both assertions, insisting that he authorized no illegal practices and was never aware of them.

Text of Order

The text of his 1962 order to Hoover follows:

Order No. 263-62, amending Order No. 3343

By virtue of the authority

vested in me by Section 161 of the Revised Statutes (5US Code 22) and Section 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261) and in order to reflect the practice which has been in effect since May 21, 1940, the provision of the Manual of the Federal Bureau of Investigation prescribed by and set forth in Order No. 3343 of March 15, 1940, is amended to read:

"UNETHICAL TACTICS:
Entrapment or the use of any other improper, illegal, or unethical tactics in procuring information in connection with investigative activity will not be tolerated by the Bureau."

Existing instructions to the Federal Bureau of Investigation with respect to obtaining the approval of the Attorney General for wiretapping are continued in force.

Robert F. Kennedy, Attorney General. March 13, 1962.