

Williams Assails Justice Dept. Stand On Withholding of 'Bugging' Tapes

5-3-68

By John P. MacKenzie
Washington Post Staff Writer

The Justice Department "has begun to lose its feel for freedom" by opposing full disclosure of the fruits of illegal electronic eavesdropping, attorney Edward Bennett Williams told the Supreme Court yesterday.

Williams, counsel for two convicted extortionists who were victims of FBI "bugging," asked the Court to require Federal prosecutors to turn over all its eavesdropping records of any defendant whose home or office had been the target of microphone surveillance.

Solicitor General Erwin N. Griswold argued that the privacy rights of innocent parties overheard or mentioned in the eavesdropped records dictated the need for more limited disclosure.

Griswold said trial judges should screen the material both for "irrelevant" data and possibly information af-

fecting national security, letting the defense see only what is "arguably relevant" to the criminal's case.

But Williams said, "a Government that has begun to wince at full disclosure is a Government that has begun to lose its feel for freedom," Williams said.

He opposed the Department's motion to modify the Supreme Court's Jan. 20 order opening eavesdrop records for an attack on the extortion conviction of Felix (Milwaukee Phil) Alderisio, reputed "enforcer" for a Chicago crime syndicate and his co-defendant, Willie I. Alderman.

Williams said Federal trial judges are "not equipped or qualified" to sort out from masses of logs, transcripts and recordings the material that is relevant to the defense.

Only a defendant and his counsel can appreciate whether agents picked up in-

vestigating information or investigated leads from something they illegally overheard, Williams said. The Government has contended in nearly two dozen cases that admitted eavesdropping was not the source of evidence introduced at trial.

As for national defense needs, Williams said the Government should not "mix the morals of the Cold War with the morality of the administration of criminal justice." He said the Justice Department must weigh the consequences of full disclosure in deciding whether to prosecute.

Griswold said he could assure the Court that a full disclosure rule would force discontinuance of most prosecutions in cases related to national security. He said he questioned the need to disclose security information even in confidence to trial judges.