

CHARLES BARTLETT

Ample Room for Misunderstanding

As a veteran of the communications gap that exists between the attorney general and the director of the FBI, Nicholas deB. Katzenbach has furnished a plausible explanation for the puzzling dispute between Robert Kennedy and J. Edgar Hoover.

Kennedy's deep aversion to falsehood and Hoover's integrity make it almost impossible to believe that either man is misrepresenting his own knowledge of the facts in the controversy over whether Kennedy authorized the FBI's deployment of electronic eavesdrops against the criminal world.

Hoover says he did; Kennedy says he did not; and Katzenbach, Kennedy's successor, suggests there may have been a sincere misunderstanding. There was ample room for misunderstanding in the relationship that existed between Kennedy and Hoover.

Problems were inevitable from the first day that Kennedy sent for Hoover by pressing the buzzer beside his desk. The FBI chief had grown unaccustomed to being summoned.

Kennedy's immediate predecessor, William Rogers, was so wary of tangling with Hoover that he warned his other subordinates that they were strictly on their own if they took on the "old man." This diffidence raised difficulties in civil rights enforcement because Hoover declined to assign his agents to activities that would jeopardize their community relations.

Rogers' civil rights assistant, Harold Tyler, drew the FBI into some civil rights cases by creating his own investigative staff. But Kennedy, anxious to secure more full-hearted participation, met the issue head-on. This produced his first clash with Hoover. A second confrontation arose from his resolve to coordinate the government's 26 investigative agencies into a more telling war against organized crime. The FBI traditionally had conducted itself as if these other agencies did not exist and Hoover took the bit of Kennedy's coordinating mechanism with a sharp distaste.

In 1954 Atty. Gen. Herbert Brownell Jr. authorized Hoover to utilize electronic eavesdrops (which are not illegal like wiretaps unless their installation involves a trespass) without specific permission in national security cases. From this precedent the FBI seems to have derived the *modus operandi* that has caused the present controversy.

It is not clear at which point the agency expanded its use of "bugs" to spy on domestic criminals as well as foreign agents. The disclosure of the Appalachian meeting of crime bosses (by New York State police) in 1957 created pressures for police work that the FBI, its best talent deployed against communist agents, was not equipped to meet.

The domestic bugging originated, as far as one can

learn, from an urgent need to fill the intelligence vacuum caused by the lack of FBI informers in the world of organized crime. There is no record that Hoover secured new authority from Rogers for this initiative.

His insistence that he secured authority from Kennedy is based on memoranda dictated by an FBI official named Courtney Evans, whom Hoover selected as an ambassador to the attorney general. The direct dealings between Kennedy and Hoover were supplanted by Evans' efforts to play the faithful intermediary over a long period of time.

Evans' memoranda are interpreted by Hoover to convey tacit approval by Kennedy of the bugging activities but Evans insists that Kennedy was not appraised of the bureau's work in this area. The dispute rests there because Evans, now an attorney with an understandable reluctance to be caught in the middle, has gone off to Puerto Rico.

The specific issue is enfolded in the deep ambiguity over the FBI's status. If the director had acknowledged the role of subordinate, Kennedy's responsibility for the bugging would be clear. But the chain of command in the Justice Department has been distorted by Hoover's evolution as a legend has produced good public relations but poor administration.

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