

FORD AIDES SEEK TO MODIFY LAWS ON SPYING METHOD

The Attorney General Would Rule on Legality of N.S.A.

Electronic Surveillance

10/15/75

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Special to The New York Times

WASHINGTON, Oct. 14—The Ford Administration has become convinced that a significant part of the National Security Agency's foreign intelligence gathering, though vital, may be of "questionable legality" and it has devised a plan by which it hopes to continue such operations while protecting the rights of Americans, according to highly placed Administration sources.

The sources said today that the bulk of the law limiting electronic eavesdropping was developed in connection with domestic criminal investigations and as one source put it, "National security needs were not given significant consideration." The result, the sources said, was that the N.S.A.'s massive electronic surveillance techniques may have been in "technical violation" of the law.

President Ford, they said, is considering an Executive order that would empower Attorney General Edward H. Levi to approve or disapprove specific electronic intrusions by the security agency. The plan is not complete, and several sources were concerned that publication of its details might endanger national security.

An Authorized Intrusion

But these details were pieced together from several interviews with Administration sources:

The security agency's advanced technology has made it possible for the agency to scan thousands of telephone calls, cables and other wire and radio communications and select those with valuable national security data.

The proposal Mr. Ford is

considering would require that when the agency records a communication it believes contains important intelligence data, the agency would notify the Attorney General and he would authorize a national security intrusion. If the Attorney General did not give his approval, the recordings would be destroyed, under the proposal.

If such approval was received, the security agency would then be able to disseminate the information to other intelligence agencies, including the Central Intelligence Agency

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and the Federal Bureau of Investigation.

The operations of the security agency, which has 20,000 employees and an estimated budget of \$1.2-billion a year, are regarded by the Administration as the "top priority" in intelligence-gathering techniques, the sources said. "If the public could know some of the things they've done over the past two years it would be justly proud," one source said.

But at the same time, these sources said, the agency's technology has "ontstripped" current law in the United States, particularly domestic criminal law, which deals mainly with wiretapping and room bugging. Moreover, several Administration lawyers contended, the domestic laws and court decisions are "vague" and "ambivalent."

Ultimately, Administration sources said, Mr. Ford may decide to ask Congress for new legislation to cover "space age" electronic surveillance techniques. The proposal to assign decision-making responsibility to the Attorney General would provide a test period to discover just what new law is needed, they said.

What has made the agency's techniques particularly diffi-

to match with current law or practice is that the agency makes an intrusion on a communication before it knows the conversation or cable contains matters of national security.

At the same time recent court decisions have been slowly limiting the Government's power to conduct warrantless national or domestic security electronic surveillance.

A recent decision in the United States Court of Appeals for the District of Columbia said that the Government should obtain a warrant before it eavesdrops on an American citizen in a national security case unless it can establish that he is an agent of a foreign government.

Agency Operates in Secrecy

A large part of recent law and legislation was formed without any real knowledge of what the super-secret National Security Agency was doing.

But under the pressure of the Congressional investigations and the Rockefeller commission investigation of intelligence agencies, what some Administration aides called "bothersome indications" of unacceptable activity began to emerge.

The indications included the following:

¶ In June, the Presidential commission on the C.I.A., headed by Vice President Rockefeller, reported that an unnamed agency of the Government had supplied 1,100 pages of materials on dissident Americans gleaned from communications between the United States and foreign countries. In August, Government sources confirmed that the agency was the N.S.A. and that a "watchlist" of names included numerous leaders of the American antiwar movement. There is no indication that any Attorney General approved these eavesdroppings or obtained a court order for them.

¶ In early September, The New York Times reported that in addition to spying on antiwar leaders, the security agency had intruded on virtually every cable or printed matter transmission that entered or left the United States. The result, sources told The Times, was that the agency intruded on communications that might have nothing to do with national security.

¶ Senator Franch Church, Democrat of Idaho, chairman of the Senate Select Committee on Intelligence, warned in a television interview that the current bugging technology

"could be turned around on the American people and no American would have any rivalry left."

When Senator Church's committee sought to hold public hearings on the security agency last week, President Ford called Mr. Church personally and asked him to permit Attorney General Levi to argue the Administration's case against investigating the agency in public. The committee voted to put off hearings for the present and study the Administration's plea.

Mr. Levi, responsible sources said, presented the committee in this closed session with the legal complications of the agency's role. According to a report in The Los Angeles Times, the committee had independently learned that some of intelligence data gathered by the agency was routinely sent to the F.B.I. and may have been used in domestic cases.

Administration sources said that their role was to preserve the agency's foreign intelligence capability while avoiding illegal or unconstitutional intrusions on Americans. However, they resist the current legal view that suggests the courts should decide what justifies a national security electronic surveillance.