

Plan Would Let U.S. Spy on Americans Abroad

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A proposal to give U.S. intelligence agencies limited power to spy electronically on any American abroad is being drafted for National Security Council consideration.

The proposed new rule came to light in an American Civil Liberties Union letter charging that it "would even undermine the already far too permissive standards" in President Carter's January 1978 executive order to control the intelligence community.

Justice Department aides are drafting the proposed intelligence legislation for consideration by the NSC's Special Coordinating Committee.

The ACLU expressed its protest in a five-page, single-spaced letter from

Director John H. F. Shattuck to Attorney General Griffin B. Bell.

Bell and his aides declined to comment because the criticized proposal is a tentative draft that has not yet received either the approval of the NSC panel or President Carter.

Administration officials have been engaged in a prolonged exercise to write a code of behavior governing spy agencies at home and abroad.

With the Senate Intelligence Committee, they hope to complete a legislative charter spelling out what the FBI, CIA, National Security Agency and others can and cannot do. Their task is to reconcile agency demands for information with the liberties guaranteed by the Bill of Rights.

The charter draft that drew the ACLU fire would enable the agencies to bug, wiretap, break in and use other techniques to gain information

regarded as vital from Americans abroad who have committed no crime. The spy unit would first have to get an approving order from a judge.

Thus, the test to permit these "intrusive" techniques would depend on the importance of the information and not on the conduct of the citizen spied upon. In contrast, current legislation permitting electronic spying on Americans at home requires a judicial finding that the target is an "agent of a foreign power" who is engaged in activity that may involve a federal crime.

An administration official offered this justification for the proposed departure: an American abroad, acting lawfully, might interview the defense minister of a nation on the edge of war and learn something that diplomats, journalists or the normal run of spies would not pick up. The lawful

American might decline to tell U.S. officials what he knows, so they want the power to extract his story anyway.

The ACLU protested that "wholly innocent Americans . . . could be targeted." Former attorney general Ramsey Clark could have had his Paris hotel room bugged when he met Ayatollah Ruhollah Khomeini. Members of Congress abroad "could be subjected to intrusive electronic surveillance," the ACLU said. The civil libertarians said they fear that the rule could even be stretched to cover Americans at home.

A government official said that stringent standards for the information sought would be written into any proposed legislation. In addition, high officials would have to certify in writing the vital nature of the information before judicial permission was sought for the technique.