

FBI Director Is Less Than Truthful In Blaming 'Bugging' on Superiors

J. EDGAR HOOVER'S recent attempt to fix on the dead the responsibility for the FBI's electronic surveillances over the years has been only partly successful. His claim that Robert Kennedy, while Attorney General, proposed and approved a tap on the telephone of the Rev. Dr. Martin Luther King Jr. turned out to be at best a half-truth. After considerable badgering by the FBI, Kennedy apparently—*if unwisely*—agreed to the tap, in large part to disprove the claim of the Bureau that Dr. King was somehow "subversive."

But on the larger question of "bugging," the FBI chief's statement was almost totally devoid of the truth.

"I have never authorized installation of technical electronic devices without written authority of the Attorney General," said Hoover. This statement is false regarding every Attorney General over the past 12 years.

Putting to one side the sensational aspects of the King wiretap, a few definitions are in order. When law enforcement agencies set out to listen to conversations, there are two techniques available: wiretapping and bugging.

AS THE TERM implies, wiretapping involves tapping wires which carry telephone conversations. A wire-



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tap will pick up and record all conversations which take place over a particular telephone, and nothing else.

Since 1940, under a limited executive order issued by FDR's Attorney General, Robert H. Jackson, wiretapping has been permitted, but only in national security cases, only on the recommendation of the FBI and only with the case-by-case approval of the Attorney General.

But over the years these wiretap permissions were rather few and far between (and generally involved foreign embassies and suspected spies). It was this authority which Hoover repeatedly invoked in pleading with successive Attorneys General for the right to listen to Dr. King's telephone.

The second way to listen to a conversation is by the use of a hidden microphone, known to the trade as a "bug." This is much more comprehensive. It enables

the operative to hear everything in a given place, be it a restaurant booth, a room or even a small house. Evidence so obtained is generally inadmissible in court; the practice was forbidden by executive order from 1940 to 1965—and sharply limited thereafter—but the FBI used "bugs" during all that time, and still does.

IT IS, IN FACT, "bugging" which the fuss over the past few years has been all about. When the Supreme Court made the Government come into court in 1966 and describe how it had listened to the conversations of onetime Bobby Baker confidant Fred Black, it was an FBI bug—not a wiretap—which was involved. And the Justice Department make it clear that Hoover's men had done it without the knowledge of any lawyer in the Department of Justice, including Attorney General Kennedy.

Federal courts have been dismissing convictions because of eavesdropping ever since the Black revelation, and nearly all the cases have involved FBI "bugging," not wiretapping. In Las Vegas in 1962 more than 20 FBI agents manned a massive bugging operation against a suspect named Edward Levanson, and in Milwaukee in 1963 some 23 agents were kept busy listening to the bugged conversations of three local lawyers, one of whom was a member of the Wisconsin legislature. There have been many other such cases, including the illegal and unauthorized "bugging" not wiretapping — of Dr. King.

In no case of bugging from the late '50s until 1965, and in very few thereafter, was there approval by any Attorney General. That includes the tenures of William Rogers (now Secretary of State), Robert Kennedy, Nicholas Katzenbach and

Ramsey Clark.

Hoover's statement is based apparently on an authorization he says was given him by Attorney General Herbert Brownell in the mid-'50s to use electronic eavesdropping in certain types of cases. But no Attorney General since Brownell renewed this authorization, and none was aware of the extent to which the FBI had engaged in the practice.

As Hoover ceaselessly reminds us, everyone should obey the law.

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