

Bugging of Dowdy By FBI Revealed

By John Hanrahan and Lawrence Meyer

Washington Post Staff Writers

With the approval of Attorney General John Mitchell and the knowledge of FBI Director J. Edgar Hoover, four conversations between Rep. John Dowdy (D-Tex.) and an FBI informant were recorded by federal investigators during an inquiry into the congressman's activities, documents released by a federal judge disclosed yesterday.

Armed with a court order, FBI agents wired the informant and the informant's telephones to record the conversations. On one occasion, they escorted him to Dowdy's Capitol Hill office, where his conversations with Dowdy were taped.

The documents contrast with statements made by Deputy Attorney General Richard G. Kleindienst last week, who said that the FBI had not "used electronic surveillance" on members of Congress even in cases involving possible violation of federal law.

The documents also appeared to contrast with testimony last month by Hoover before Congress.

Last night, asked to comment on this apparent contradiction, Robert Stevenson, assistant director of public information of the Justice Department said:

"If we record a conversation and it is directed to us, we do not consider it as surveillance as such.

"But if you were to talk to your mother and we were to record it — unknown to you — that's surveillance."

Stevenson said the department considered "surveillance" to be activity conducted without the knowledge of either party to a conversation.

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Court Reveals FBI Bug

DOWDY, From A1

Kleindienst's remarks in a CBS television interview last week were made in response to charges by House Majority Leader Hale Boggs (D-La.) that the FBI had conducted extensive wiretapping and electronic surveillance of members of Congress.

On April 7, Rep. John Rooney (D-N.Y.), chairman of the Appropriations Subcommittee for state, justice, commerce, the judiciary and related agencies, released the transcript of testimony by Hoover on March 17 before his Committee. According to this transcript, Hoover said:

"As to surveillances, when our agents have a suspect who has violated a federal law under surveillance and he enters any of the buildings of the Capitol compound the agents drop him at the entrance and they never enter the building to follow him to determine where he goes or what congressman or senator he may see, notwithstanding statements to the contrary."

Dowdy's office, to which the informant was escorted by an FBI agent, is on the third floor of the Rayburn Building.

The documents made public yesterday state that former U.S. Attorney Stephen H. Sachs, of Maryland, armed with an affidavit from FBI

agent Lane Bonner, sought and gained court permission to record Dowdy's conversations for a period of almost three weeks in January, 1970.

The government also acknowledges in the documents, which were prepared in response to a motion by Dowdy's lawyers to suppress evidence that led to the congressman's indictment, that the authority to use electronic means to investigate Dowdy was approved by Mitchell, who then requested Henry E. Petersen, deputy assistant attorney general for the criminal division, to inform Hoover of the action.

The entire operation was authorized by order of Judge Roszel Thomsen of the U.S. District Court in Baltimore, who released the documents yesterday.

Kleindienst could not be reached for comment late yesterday. William H. Rehnquist, assistant attorney general in the office of legal counsel, stated:

"Nothing about the Dowdy case is contrary in any way to the statements of department officials that 'the FBI has not tapped the telephone of any member of the House or Senate now or in the past.'"

Rehnquist went on to say that the U.S. Supreme Court, in a decision earlier this

month, upheld "the right of one party to a conversation to record what he hears without the knowledge of the other."

Dowdy was indicted last year on charges of bribery, conspiracy and perjury. He faces trial May 3 in Baltimore.

The documents released yesterday were all related to defense motions to suppress evidence allegedly obtained by electronic means. The nature of the motions had not previously been disclosed. Thomsen had previously ordered the documents kept sealed until the trial.

Thomsen said that he decided to release the documents after The New York Times reported yesterday that the informant had recorded conversations with Dowdy and given the tapes to the FBI.

Thomsen also said the time was ripe to release the documents in light of the Supreme Court decision cited by Rehnquist.

The documents, including defense arguments, government arguments and affidavits, and Thomsen's opinion on them, state that:

• Nathan H. Cohen, named as a co-conspirator in the Dowdy case but not indicted, went to Dowdy's House of Representatives office on Jan. 20, 1970, and recorded a conversation there with the congress-

ged Dowdy in Office

man. Sachs said yesterday that the FBI wired up Cohen with a tape recorder and took Cohen "right to Dowdy's door."

• On Jan. 19, 1970, and Jan. 28, 1970, Cohen telephoned Dowdy at his House office. Both conversations were recorded at Cohen's end of the line.

• On Jan. 13, 1970, Cohen, sitting in Sachs' office in Baltimore, talked with Dowdy by phone. Dowdy was in Texas at the time. Sachs' secretary listened in on the conversation and took shorthand notes, which were subsequently transcribed.

The surveillance was authorized by Thomsen, the documents show, but the judge noted at the time that the government did not actually need his authorization, since Cohen had given his permission to record the conversations. Thomsen's two written orders authorized the surveillance between Jan. 13, 1970, and Feb. 1, 1970.

The orders authorized the FBI "to intercept by means of electronic devices to be placed, with the consent of Nathan Cohen, on his person, and on telephones utilized by him, conversations, telephonic or in person, between Nathan Cohen and Congressman John Dowdy."

Sachs, who said last week

that no "wiretaps" had been used in the Dowdy investigation but said nothing about tape recordings, said yesterday that the entire surveillance operation was legal and constitutional, but criticized the Justice Department's "semantics." He acknowledged that he had engaged in semantic subtleties himself.

"One of the problems of the last 10 days has been that the (Justice) department has its own glossary which it hasn't shared with the rest of the world over what it means by electronic surveillance," Sachs said.

In response to Boggs, the White House, Justice Department and the FBI all denied last week that any congressman's phone had been tapped. Kleindienst went further, stating that no congressman had ever been placed under surveillance by the FBI.

Boggs has promised to prove his assertions but has yet to make any evidence public.

In Kleindienst's interview with John Hart of CBS last week, this exchange took place:

Hart: Mr. Kleindienst, tapping of course is a narrow term in surveillance. There are, as you know, electronic surveillance, bugging and also personal surveillance by agents. Would you broaden

your denial to say that no member of Congress has ever been placed under surveillance?

Kleindienst: Well, no, if you are going to use the broad term. There have been a few specific instances where members of Congress have been accused of the commission of a specific illegal act. The FBI, naturally, would conduct a limited investigation with respect to any such illegal conduct, to determine whether or not they had violated the law.

Hart: What kind of illegal conduct?

Kleindienst: Well, there's any act by any citizen that would be in violation of a federal law. But the issue here is whether or not the FBI has used electronic surveillance or the tapping of telephones of senators and congressmen even in a case like that—and the FBI has not done so."

In releasing the documents, Thomsen said that Sachs and the government attorneys "have at all times taken the position that these papers should have been made public immediately after the court's order" denying the defense motion was signed Aug. 13, 1970. Thomsen said that Dowdy's attorneys "have asked the court to state that they still object to making the aforesaid documents public."