

Justice Aide Defends Dowdy Bug; Mansfield Asks Hill Probe of FBI

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Deputy Attorney General Richard G. Kleindienst said yesterday that the FBI's recording of four conversations between Rep. John Dowdy (D-Tex.) and an FBI informant did not constitute "surveillance," in the Justice Department definition of the word.

Kleindienst, in a telephone interview, said that neither he nor FBI Director J. Edgar Hoover had attempted to mislead the public when they made statements recently that no member of Congress had ever been placed under surveillance by government investigators. In his definition, Kleindienst said, surveillance means that neither party to a conversation knows that it is being recorded.

But Senate Majority



RICHARD KLEINDIENST
... defining surveillance.

Leader Mike Mansfield (D-Mont.) told newsmen yesterday that he felt the FBI's role in the Dowdy case was not a proper use of its investigative powers and said he

would favor a congressional investigation of the FBI's surveillance activities.

Last week, House Majority Leader Hale Boggs (D-La.) charged that the FBI had tapped phones of members of Congress and also placed members of Congress under surveillance. The FBI, Justice Department and White House denied the charges.

On Friday, Judge Roszel C. Thomsen, of the U.S. District Court in Baltimore, released heretofore secret court documents showing that four conversations between Dowdy and an FBI informant, Nathan H. Cohen, were recorded by federal investigators with the approval of Attorney General John N. Mitchell and with the knowledge of Hoover.

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Justice Aide Defends Taping Of Dowdy's Conversations

TAPES, From A1

Carrying a court order, FBI agents in January, 1970, wired Cohen, and telephones he used to record the conversations with Dowdy. On one occasion, they escorted Cohen to Dowdy's Capitol Hill office where his conversation with Dowdy was taped.

Responding to the release of these documents, Kleindienst said yesterday that in his definition surveillance was not used on Dowdy.

In the Dowdy case, he said, informant Cohen agreed to have the conversations with Dowdy recorded. Therefore, there was no surveillance of Dowdy, in Kleindienst's view.

Dowdy is under federal indictment for bribery, conspiracy and perjury in a case in which Cohen was named as a coconspirator but not a defendant.

Kleindienst said that surveillance does not include "consensual conversations," those in which one party has agreed to have the conversations recorded.

Kleindienst was asked whether it would constitute surveillance if a reporter were to telephone congressmen "X" and if the FBI, with the reporter's consent but without the knowledge of the congressman, were to record the conversation at the reporter's end of the line.

"It would not," Kleindienst replied.

Asked about a possible inconsistency between a statement by Hoover that the FBI never pursues suspects on the Capitol grounds and the fact that FBI agents accompanied Cohen to Dowdy's door, Kleindienst said:

"The agents, in this case didn't go in there to follow any person. All they did was accompany him (Cohen) to the door."

That incident, recording of a face-to-face conversation between Cohen and Dowdy, did not constitute FBI surveillance any more than the recordings of the telephone conversations, Kleindienst said.



JOHN DOWDY
... to be tried

Cohen, he said, could have gone into Dowdy's office without a recording device, then come back out and written up a memorandum and given it to the FBI, detailing everything that was said in the conversation.

"In that case, the recording was merely a substitute for (Cohen's) memory," Kleindienst said.

Memory can often be unreliable, Kleindienst said, and the recording of the conversation insures that the person has an accurate account of the conversation.

Since this wiring of Cohen was done with Cohen's permission, this, too, constituted "consensual conversation" and was not surveillance, in Kleindienst's definition.

The U.S. Supreme Court ruled earlier this month that such consensual conversations are legal and the information obtained from admissible as evidence.

Cohen also gave his permission for the FBI to record, at his end of the line two telephone conversations he had with Dowdy, who was in his office, court records show. On another occasion, a government secretary listened in on a Cohen-Dowdy call, taking shorthand notes which were later transcribed, records show.

Kleindienst was being asked yesterday to comment

on apparent inconsistencies between what occurred in the Dowdy case and what he said in an interview with John Hart of CBS last week. In that interview, Kleindienst said that the FBI had never "used electronic surveillance or the tapping of telephones of senators and congressmen," even in investigations involving possible violations of federal law.

He also was being asked to comment on Hoover's March 17 statement to a congressional subcommittee that "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 FBI agents, is on the third floor of the Rayburn Building.

Kleindienst said he was aware of the Dowdy case when he made his statement to Hart in the CBS interview, but that "it never occurred to me that anyone would view what happened in that case as surveillance of Dowdy."

Dowdy is charged with accepting a \$25,000 bribe to intervene in a federal investigation of the now-defunct Monarch Construction Co., of Silver Spring. His codefendant, Myrvin C. Clark, has already pleaded guilty and is expected to testify against Dowdy, as is Cohen, at the congressman's trial scheduled for May 3 in Baltimore.

Meanwhile, Mansfield, who defended the FBI in an interview Friday, said yesterday that he was disturbed by the Dowdy case disclosures.

"This creates a situation where there is factual evidence of some of the charges that have been made," Mansfield told newsmen. "It is a cause for grave concern."