

## The Seventeen Wiretaps

ALTHOUGH THE SUBJECT of electronic surveillance never came up in FBI training courses, two months after I became a special agent, I found myself listening in on a Communist cell meeting as the first announcement of the Japanese attack on Pearl Harbor came over the radio. Our technology was laughably old-fashioned in those days; agents wearing earphones took down the information they overheard by hand on long yellow pads. During the war, very few FBI agents stopped to ask for official authorization before tapping the telephone of a possible Nazi spy. With the country's future at stake, getting approval from Washington seemed like an unnecessary legal technicality. Years later, the FBI was still listening in on other people's conversations without the authorization of the attorney general, but now it was because we were afraid that his knowledge of some of our programs could prove publicly embarrassing.

Public opinion was on the side of the FBI in the 1940s, however, when our agents were discovered in the act with their earphones and yellow pads eavesdropping on Harry Bridges, the Head of the longshoreman's union on the West Coast. Bridges's men began pushing the agents around and they actually had to fight their way out of the room. The story got some play in the newspapers and then died a natural death. Today, agents caught in a similar situation would be hung sky high.

Hoover was a strong advocate of electronic surveillance until the late 1960s when the FBI's crime-fighting image was at an all-time low. Concerned about his own image, Hoover didn't want to be forced to publicly defend the FBI against charges of violating the constitutional rights of United States citizens, and he called a halt to

illegal wiretaps. But when President Nixon and his security advisor Henry Kissinger asked Hoover to tap the phones of a number of government employees who were suspected of leaking highly classified information to the press, the director quickly agreed.

I knew nothing of Hoover's meetings with Nixon and Kissinger until Alexander Haig, then a colonel working on Kissinger's staff, came to my office on 10 May 1969. I had never met Haig. Without mentioning any names, and making sure that I understood that he was merely acting as a messenger in this affair, Colonel Haig told me that he had been instructed to convey a "White House request" on "the highest authority." Security leaks, Haig explained, with honest concern in his voice, had been plaguing the Nixon administration for some time. Members of the National Security Council could read about their secret meetings in the *New York Times* forty-eight hours after the meetings took place. Newspaper stories on the most sensitive aspects of our foreign policy were almost commonplace. These leaks, Haig told me, were incredibly damaging to our bargaining position at the Paris peace talks. Indeed, they were damaging to our foreign policy as a whole, and they had to be stopped. How? By tapping the telephones of the men the White House suspected of leaking the information to the press. Haig explained that the wiretap program would be short lived—I remember him saying that the whole thing would take "a few days"—and he requested that because of the sensitivity of the operation, no written record of the program ever be made.

Haig obviously knew nothing about how taps were handled, so I told him that it would be impossible for the FBI to implement a totally secret wiretap operation with no written records. A single tap, I told Haig, would involve a minimum of two men for installation alone. The head of the office involved would know about the "secret tap," as would the people needed to monitor the information coming in. If twenty-four-hour monitoring was required, at least four people would be involved at that end. At least one typist would have to prepare the transcripts. That added up to a *minimum* of eight people who would know about the simplest single tap. No tap could be kept completely secret within the bureau, but I did tell Haig that I would

try to keep the paperwork involved to a minimum by meeting with him personally whenever there was anything to report instead of writing memos back and forth. Haig was a career army man, as familiar as I was with bureaucracy and red tape, and he accepted what I said without argument. Before he left, Haig gave me the names of four men. One of them was that of Morton Halperin, a member of the National Security Council.

As soon as Haig walked out of my office, I was on the phone to Hoover. He wasn't in the office (it was a Saturday), but Helen Gandy, his secretary, made a record of my call and of the fact that I wouldn't move on Haig's request until I'd gotten the director's approval. The next day I finally got through to Hoover and told him about Haig's request, which he approved. His justification, he told me, was national security. He also told me that Attorney General John Mitchell had already approved the taps. Later that day, I wrote a memo to the director advising that he handle the taps with extreme caution. I'd had a funny feeling about the wiretaps from the first. I sensed that this program could be dangerous and I wanted to alert Hoover to any possible danger.

Although Haig sincerely believed that the wiretap program would be short lived, it lasted for almost two years. During that time we tapped the telephones of four journalists, including Hedrick Smith and Tad Szulc of the *New York Times*, and of thirteen government employees, although not all seventeen wiretaps were operational at the same time.

Despite Haig's initial request for no paperwork, with so many taps in effect for so long, the logs (the tape transcripts), correspondence, and memos began to pile up. Hoover instructed me to keep this material *out* of the FBI files. This was not unusual: to my knowledge, particularly sensitive material had been kept out of the files since the 1940s. In this case, at least at first, the material was kept in Hoover's own office.

The paperwork started as soon as Hoover approved the White House request. I told the director that it was my judgment that these taps should be handled in the same manner as other wiretaps, that an individual letter should be prepared on each tap for his approval and for the approval of the attorney general. Hoover agreed, but he

warned me that when I directed agents from the Washington field office to implement the taps, they make no copies of the original transcripts and send the original logs to bureau headquarters. Hoover himself contributed to the growing mountain of paperwork when he insisted that a letter go out over his signature to Dr. Kissinger every time there was something in the logs that deserved White House attention. Haig's plea for secrecy meant little to Hoover—he wasn't about to give any information to the president without getting the credit. As the material came in, the relevant data was summarized in a letter and sent over to the White House by special courier.

I delegated the day-to-day paperwork on the taps to one of my men, for I could not and never did handle such work in my position. As I was responsible for eighty to ninety thousand criminal and security cases at the time, it would have been a physical impossibility. But I couldn't get out of it (though I tried) when Hoover asked me to go to France personally and discreetly arrange electronic surveillance on Joseph Kraft while the columnist was in Paris covering the peace talks. Although he never told me why I was chosen for the job, it must have been because I had a good personal relationship with the French security people. They certainly didn't want to tap the phone of an important visiting American, but they wouldn't say no to a request from me and they went along with it.

I had my own objections to the assignment. Kraft wrote a good column—I read it myself—and I had never heard anything about him that made me suspicious of the man. "Mr. Hoover," I said to the director when he told me about my proposed trip to France, "to my knowledge, we've never heard any detrimental information about Mr. Kraft."

"We've got to do it," Hoover explained, "because Kraft is over in Paris talking to the Viet Cong, and then he plans to go to Russia."

"All the journalists talk to the Viet Cong," I pointed out, "and a lot of them go to Russia. If we use Kraft's contacts and travel plans as a yardstick, we'll be putting surveillances on all the reporters." My objections were in vain, however, and I went over to Paris, set the thing up, and told our man in Paris to send the tapes to me in Washington for transcription and translation.

In July 1969, I sent a top-secret memo to Hoover requesting that

all the wiretaps be removed. Nothing much had come to light as a result of the taps. We overheard Daniel Ellsberg ("not further identified") and Morton Halperin talking about effects of some drugs, and we heard Mrs. Halperin boasting to an unidentified friend that her husband was so important that he had the use of Henry Kissinger's car. Alexander Haig later described Hoover's reports to Kissinger as "reflective of a sensibility we did not share." Besides, some of the men who were being tapped seemed to realize that their conversations were no longer private. Although I considered the wiretaps important, legal, and justified, I had more urgent problems to attend to and I needed the men who were assigned to work on the secret wiretaps to work on other cases instead. The taps could always be put back on if necessary after I solved my more pressing cases. Hoover called me after he read my memo, however, and disagreed. As the taps were a White House operation, Hoover told me, they would remain on until the White House requested they come off.

At first Hoover kept all the logs of the tapes in his own office and told me that I'd be in charge of the super-sensitive material from then on. At the time, I was assistant director in charge of the Domestic Intelligence Division. The case carried over to when I was promoted to number three man in the bureau. For all practical purposes I acted as Hoover's number two man because by 1970 Clyde Tolson was very ill, having suffered from strokes that left him physically disabled. Each morning as Hoover's automobile pulled up and parked inside the Justice Department Building's courtyard, two old and sick men would get out. Hoover would be the first to leave the car and he would walk as quickly as he could to the building. Behind him, shuffling along, was the pathetic figure of Clyde Tolson, no longer able to keep up with the other half of what we called the "unipersonality." Hoover himself was seventy-five and ailing. Each day he would nap for about four hours and he had a full-time medical staff that supplied him with the medicines needed to keep him going. I moved to a new office in the Department of Justice Building from my old office across the street in the Federal Triangle Building and I suggested to Hoover that the records of the wiretaps go into bureau files as I did not want to transfer the material to my new office. But Hoover ordered me to

keep the logs and records in my possession.

In December of 1970 I again suggested to Hoover that the logs go into the bureau files. Again Hoover refused. And when I called him in February of 1971 to tell him that Haig had informed me that the White House had finally called off the taps, Hoover still wanted me to keep the logs in my office. I hated being responsible for such sensitive material. It was the only time in my career with the FBI that I had been saddled with such a job, though plenty of secret material had been kept out of our files in the past, especially for Lyndon Johnson.

The situation between myself and the director had been getting worse and worse during this period, and when I was forced to resign from the FBI in October 1971, I felt I couldn't leave Washington without doing something about the wiretap logs. I couldn't help thinking of the way Hoover had abused sensitive material in the past—with these logs in his possession he could blackmail Nixon and Kissinger and hang onto his job forever. Even though Haig had conveyed the original requests for the wiretaps, I didn't feel I knew him well enough to turn to him. The only man in the Nixon administration who I actually knew and held high in regard was Assistant Attorney General Robert C. Mardian.

I had never heard of Mr. Mardian until I read the newspaper stories about his appointment to the job of assistant attorney general in charge of the Internal Security Division of the Department of Justice. I wasn't really interested in the stories though—to my mind, men like Mardian came and went with the wind.

At first I had no direct dealings with Mardian. I was used to getting along without the cooperation of the Internal Security Division. Mardian's predecessor was a former FBI man who had worked briefly for me, but he had great difficulty preparing and prosecuting cases.

Sometime after Mr. Mardian took over the job, my men came to tell me that an intelligent, capable man now headed the Internal Security Division. Mardian, they said, was a real fireball: a hard-worker who went after results. He was getting rid of the deadheads and replacing them with bright, talented, industrious young lawyers. My



Robert Mardian, the former assistant attorney general. *Wide World Photos*

assistant, C. D. Brennan, told me, "Mardian is a breath of fresh air, the best thing that has happened to the Internal Security Division in my memory."

One of Mardian's innovations was his idea for periodic conferences for bureau officials and their Department of Justice counterparts. These conferences helped to break down the wall that had separated the FBI and the Justice Department for so many years. At last we could discuss our mutual problems, agree on common conclusions, and work more effectively toward common objectives. In other words, it was just the kind of arrangement Hoover hated. I knew the director wouldn't be pleased when I sent him a memo advising him of the first conference. As I expected, he went into a rage and told me not to cooperate. The director couldn't actually outlaw the conferences—that would look bad in the press if the story ever came out—

but he could and did limit the materials the FBI made available to Mardian.

Conditions between Hoover and Mardian continued to worsen, and I was caught in the middle—not an unfamiliar position during my thirty years with Hoover. The director accused me of giving too much material to Mardian, and he even sent me a letter of censure about it. "Mr. Hoover," I told him in my defense, "we have an obligation to the taxpayers to cooperate with other government departments."

"Mardian is a goddamned Armenian Jew," Hoover replied, "and I won't cooperate with any such person."

Because of Hoover's attitude, I was faced with making the decision either to cut off the flow of material to Mardian, which would have seriously damaged the quality of our work, or to give him what assistance could be given quietly and under the table. I decided on the second course of action. We did manage to do some good work, but it was no record to be proud of, particularly compared to what could have been accomplished under normal working conditions.

Mardian was aware of Hoover's feelings, of course, and once during one of our conferences he remarked that Hoover had promised him "two hundred percent cooperation" when they first met after Mardian's appointment. One of my men told me Mardian didn't understand what Hoover meant by two hundred percent cooperation: "What does he mean?" Mardian had asked, bewildered.

"When Mr. Hoover promises two hundred percent cooperation," my man replied, "he really means he won't attack you publicly."

Although Mardian and I developed a good working relationship, we never had any social relationship at all. He was never at my home and I was never in his. And after we had our first political argument—we had a lot to argue about, as I was a liberal Democrat and Mardian had campaigned for Goldwater—we never discussed politics again.

But Mardian's attitude toward me changed when my break with Hoover became public knowledge. He became openly hostile, and said that neither he nor anyone else in the administration would take my side in a fight with the director. I told him that I had not asked for and did not want assistance from anybody. For thirty years I had

placed the country's needs above my personal interests. To me, Mardian was a Johnny-come-lately.

Because of Mardian's attitude, our relationship did not end on a cordial note when I left the FBI. On the other hand, there had never been an open break between us before I left, so when I felt my departure from the FBI and Washington was growing imminent, I decided to talk to Mardian about the wiretap logs. The decision to raise the question with Mardian was entirely on my own. I had never discussed it with anyone. I could have left the logs where they were, in a file in my office, but I desperately wanted to maintain their confidentiality within the Department of Justice where I assumed they would be retained. And Mardian already knew about the taps—he was the logical man to approach.

When I warned Mardian that my days with the FBI were numbered, he assured me that Hoover wouldn't force me out. "He wouldn't dare," Mardian said. I disagreed, and when I told him I suspected that Hoover would misuse the logs when I was gone, he grew concerned. "I don't have the authority to make this kind of decision," he told me, "but I'll talk to people who do." A few days later, Mardian told me that "on presidential request" and "on the authority of the attorney general" he would personally take possession of the logs and correspondence. In May 1973, I learned that after our first meeting Mardian had flown to San Clemente to discuss the future whereabouts of the logs with President Nixon. Mardian kept something else from me too: he never mentioned that the logs would not be kept in his office, as I assumed, but in the White House. In all fairness to Mardian, whose intelligence and ability I still respect, I don't think that the logs were moved to the White House to obstruct justice, but to maintain security. When I turned in my inventory before leaving the FBI for the last time, I listed the logs and told Mark Felt that I had left them in Mardian's possession.

After Mardian left the Department of Justice, I believed that the logs were still safe at the department until May 1973, when Henry Petersen, an assistant attorney general, called me and asked if the FBI had ever had a tap on Daniel Ellsberg. I told him that we hadn't, although Ellsberg could have been a "walk-in" (someone who called or was called by someone under FBI surveillance) on someone else's

tap. Then Petersen asked me if I knew where the wiretap logs were.

"They are at the Department of Justice," I told him immediately, "probably in Mardian's old office."

"No, they aren't anywhere at the Department of Justice," Petersen said.

"I turned them over to Mardian when I left the FBI." I told Petersen. "He lives in Arizona now. Do you want me to call him?" I asked.

"Yes," Petersen replied. "I wish you would." When I called, Mardian told me with no hesitation or guile that he had turned the logs over to John Ehrlichman before leaving Washington. I called Petersen and gave him that information. The logs were found in Ehrlichman's safe. It never entered my mind that the White House would try to keep the tapes from Daniel Ellsberg and his lawyers. Had I wanted to the tapes kept at the White House, I would have handed them over to Haig in the first place.

When Petersen called me to ask about the logs, I had been away from the FBI for a year and a half and Hoover had been dead for a year. William Ruckelshaus, acting director of the FBI, mistakenly believed that the logs had been destroyed. When Petersen told him that they were in John Ehrlichman's safe, he went over to the White House, got the logs, and brought them to FBI headquarters. "Unfortunately," Ruckelshaus said in a public statement to the press on 14 May 1973, "the records were not located in time to respond to Judge Byrne's inquiries about the potential taint of evidence in the Ellsberg trial."

Why did Ruckelshaus have to make a public statement on the whereabouts of the top-secret wiretap logs? The existence of the logs never would have been known to the press if it hadn't been for some of my old enemies at the FBI. They thought by leaking the story of my involvement with the logs to the press (and, of course, by painting that involvement in the worst possible light) that they could block me from consideration for the job I wanted: a special "reorganization consultant" to the FBI which would have resulted in their dismissal. When the story broke, I knew that the uneasy feeling I'd had about the wiretaps the very first time Alexander Haig came to my office was justified. Those damned tapes haunted me from the beginning. I just

knew they would cause trouble. Had my former associates known how Bob Haldeman felt about me, however, they never would have bothered to leak the story in the first place. When Nixon was looking for a successor for Hoover in May 1972, just after the director died, Haldeman said "I am totally opposed to Sullivan being director. He is far too independent and may use the FBI against us." The remark was repeated to me, but I didn't understand then what Haldeman meant. I do now.

**FIFT***John Dean*

MEETING: The President, Haldema

1973 (12:42-2:00 P.M.)

DEAN: Now the other thing, if we are say in the Gray hearings—where ical people and they are not—tha just not accurate, total (explet **WOULD DESTROY HOOVER** **MAN BILL SULLIVAN**. Also it **PRESIDENT NIXON**: Some of the FBI **DEAN**: . . . some of the FBI. And a out, and just all hell is going to b change the atmosphere of the C the atmosphere of the whole W

**A**LTHOUGH I had heard John was John Mitchell's pr never met him while I the phone one day when I was he Division to ask me to "check out" young woman he planned to date I was busy working on a hijack time—or the desire—to do what few hours later, I was being eva found anything derogatory. It w that I hadn't looked.

I first saw Dean at Tom H weren't introduced and we didn't sorry to see him leaving Washing me. On the other hand, it was a