

ACTION ON HELMS NOT YET DECIDED

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Justice Aides Assert They
Do Not Know if They Will

Ask for an Indictment

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Justice Department officials said today that they had made no decision yet on whether to seek an indictment against Richard Helms, the former Director of Central Intelligence, for his role in any of the agency's domestic activities.

The officials characterized as "premature" and "just wrong" published reports that Mr. Helms, now the Ambassador to Iran, could expect to be prosecuted over a burglary in Virginia, carried out by C.I.A. employees in 1971.

"This puts a lot of pressure on us to indict," aid one official, who, like the others, asked not to be named. "What happens now if we don't indict? People will think we backed down."

Justice Department sources have said previously that Mr. Helms is the target of other criminal investigations, including those into the C.I.A.'s mail-opening program and his denials to a Congressional committee of the C.I.A.'s involvement in Chilean affairs and domestic surveillance activities.

Inquiries Winding Up

The department's investigations of C.I.A. activities that have come to its attention is winding up, one official said last week.

Justice officials have repeatedly declined to predict, even privately, what recommendations they believe they will make in any of the cases, in part because the Senate intelligence committee has refused to supply the department with evidence and testimony that its investigators have gathered in the same areas.

But one highly placed Justice official did predict recently that Mr. Helms would "have to answer" to the department for some of his activities while at the C.I.A.

One Justice source said today that Mr. Helms, who served as Director of Central Intelligence from 1966 to 1972, was

first informed of his constitutional rights with respect to the Justice investigation in January of last year.

A reaffirmation of those rights was made again last week in a telephone call from department lawyers to the American Embassy in Teheran, it was reported.

The Feb. 19, 1971, break-in by C.I.A. employees at a suburban Virginia photographic studio involved a search for evidence to support the agency's suspicion that one of its employees had violated security rules. The investigation did not turn up the evidence sought.

That matter is now under investigation by the department's Civil Rights Division, and one Justice aide noted today that the five-year statutory limitation on prosecuting Mr. Helms or anyone else for involvement in the break-in would expire by the middle of next month.

No Recommendation Yet

A decision whether to prosecute Mr. Helms or not will be made before then, source said. But they emphasized that the Civil Rights Division had not yet determined whether it would recommend to Attorney General Edward H. Levi that he ask a Federal grand jury to bring an indictment.

If Mr. Helms is prosecuted, one source said, it will be for a violation of a Federal misdemeanor statute that makes it a crime for a Government official, acting "under color of law" to deprive an individual of his civil rights.

The statute provides for a maximum penalty of a \$1,000 fine and one year in prison.

The Washington Post, in addition to reporting that Mr. Helms could expect to be prosecuted, said today that he was preparing to obtain legal representation in the Justice inquiries, and that his choice of counsel was Edward Bennett Williams, the criminal lawyer.

One Government source said that he also had heard that the Ambassador was seeking to retain Mr. Williams. The lawyer did not reply to a reporter's telephone message requesting comment on the report.

The investigation into whether Mr. Helms committed perjury before the Senate Foreign Relations Committee at the 1973 confirmation hearings on his ambassadorial appointment is under the jurisdiction of the Justice Department's Criminal Division.

Sources said today that no decision had yet been made on whether to bring perjury charges against Mr. Helms. The statute of limitations in that matter has more than two years to run.