

Rules Curb FBI Probe of News Leaks

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Despite a White House offer to help stop congressional leaks of classified information, the Attorney General has established temporary rules that virtually prohibit the FBI from investigating news leaks of previously secret information.

Under these rules—which eventually may be formalized in written criminal investigation guidelines — an FBI investigation into news leaks must be requested by the Attorney General. And the Attorney General, according to a Justice Department spokesman, will do that only when there is “probable cause that a federal law has been violated.”

Since most news leaks do not involve either espionage or theft of government property, the source added, it is almost impossible to show the commission of a crime is involved.

The rules, issued by Attorney General Edward H. Levi, are the result of disclosures over the past two years of the use of the FBI and CIA to investigate news leaks. The agencies used wiretaps, physical surveillance and lie detector tests of reporters and government officials in efforts to track down the leaks.

Last Thursday, White House press secretary Ron Nessen offered all the “resources of the executive branch” to House Speaker Carl Albert to help find the person responsible for leaking the controversial House intelligence committee’s report on U.S. intelligence agencies. The offer was made after publication of excerpts from the report in a special 24-page section of *The Village Voice*, a New York City weekly.

On Friday, Albert announced that he did not plan to accept the White House offer.

The White House, itself, is sensitive to initiating news leak investigations. Its present policy, according to informed sources, is to leave the decision of when to investigate solely up to the Attorney General.

White House Counsel Philip W. Buchen and other presidential aides believe those responsible for leaking the House committee report could be prosecuted under a

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law which prohibits disclosure or publication of cryptographic or code-related information. Buchen, according to wire service reports, said just that last Saturday in Philadelphia at an impromptu press conference.

Despite those feelings, however, no request for the FBI to look into the matter has been sent to the attorney general, according to administration sources.

Although the FBI has not investigated any news leak cases in the past six months, according to a Justice Department source, during that period there have been several important news leaks of secret information from the executive branch:

— On Dec. 12, 1975, *The New York Times* published a detailed, authoritative story on U.S. covert aid to Angola attributed to “a high-ranking government official.” At that time, administration policy was to deny any involvement in Angola and criticize members of Congress who spoke out based on secret briefings.

The *Times* article, however, provided enough factual information for Congress to force a halt to all Angolan aid. The administration, one official said recently, “was exasperated” by the *Times* leak “but there was no systematic inquiry” as to where it came from. State Department officials, at the time, said the CIA was the source because, said one department aide, “it was tired of taking the blame for keeping the growing paramilitary operation secret.”

— On Dec. 6, 1975, colum-

nists Rowland Evans and Robert Novak published the contents of proposed options for the U.S. SALT II negotiations within days of their drafting and shortly after they had been sent to President Ford for his approval.

A similar SALT leak — this one of the U.S. negotiating position on the exact day it was being presented to the Soviets — on Aug. 24, 1971, had triggered a widespread investigation within the Nixon administration that included FBI questioning and CIA polygraphing of State and Defense department employees.

Last December, however, according to administration officials, there was no FBI inquiry and only informal questions raised among some officials. The 1975 leak was more critical than the 1971 leak, according to one official, because the most recent one gave the Soviets a long-term insight into the U.S. negotiating position.

— On Jan. 28, 1976, *The New York Times* published in full the text of a cablegram from United Nations Ambassador Daniel P. Moynihan as sent to Secretary of State Henry A. Kissinger and all U.S. embassies. The cable was classified “limited official use only” though it contained material of a much higher classification, including sensitive reports of conversations with foreign diplomats.

According to a State Department source, there has been no serious effort made to find who leaked the Moynihan cable “though we believe it came out of State and not the U.N. mission” in New York.