

NYTimes

Helms Won't Face Break-In Charge

But Justice Unit Continues Inquiry Into Testimony at Congress Hearings

By [UPI] Washington, Feb. 19 -

The Justice Department said today it would not prosecute Richard Helms for his role in a 1970 domestic burglary, but an official said that Congressional testimony of the former Director of Central Intelligence was being reviewed.

The department did not say when the decision not to prosecute was reached, but Attorney General Edward H. Levi's announcement — as is customary in such matters — came as the statute of limitations was running out on the break-in case.

Assistant Attorney General J. Stanley Pottinger, head of the department's civil rights division, said that he and other officials had carefully weighed evidence in the break-in case and had decided they had insufficient evidence to prosecute Mr. Helms for a civil rights violation.

However, Mr. Pottinger told

Continued on Page 10, Column 7

Continued From Page 1, Col. 7

a news conference, "his Congressional testimony is under review for possible perjury charges."

Mr. Helms, now Ambassador to Iran, denied before the Senate Select Committee on Intelligence that the Central Intelligence Agency had conducted domestic surveillance or supported political foes of the late President Salvador Allende Gossens of Chile.

Decision Is Defended

Mr. Pottinger defended the decision not to prosecute Mr. Helms and others involved in the burglary of a photo studio in suburban Fairfax City, Va., that was partly owned by a former C.I.A. employee.

"I had the lead responsibility in this case for the last few months," Mr. Pottinger said. "We have spared no resources, no time and no effort. I myself interviewed Mr. Helms."

Mr. Pottinger said that Federal statutes allowed some activities that could be interpreted as supporting Mr. Helms's right to investigate a former employee who has had access to sensitive material.

The studio was operated by Deborah Fitzgerald, the former C.I.A. employee, and Orlando Nunez, a former official of the Castro Government in Cuba.

Mr. Levi, in announcing the decision not to prosecute Mr. Helms and others who had roles in the break-in, said that the decision had been based on recommendations by Mr. Pottinger and Deputy Attorney General Harold R. Tyler Jr.

United States Attorney William B. Cummings of the Eastern Virginia Federal District

