

(wiretapping)

A.C.L.U. Suit Tests F.B.I. Wiretapping Of Domestic Groups

By CHRISTOPHER LYDON
Special to The New York Times

WASHINGTON, June 26—The American Civil Liberties Union started a constitutional challenge today against the Justice Department's new doctrine that wiretapping of certain domestic groups can be justified on grounds of "national security."

Lawyers for the A.C.L.U. and the Law Center for Constitutional Rights filed suit in the United States District Court here, seeking to ban electronic surveillance of political dissenters and asking for criminal prosecution of John N. Mitchell, the Attorney General, and J. Edgar Hoover, director of the Federal Bureau of Investigation.

The suit was filed on behalf of nine antiwar and black power organizations and eight individuals who were indicted in Chicago on charges of inciting riots during the Democratic National Convention last summer. The

Continued on Page 16, Column 1

Continued From Page 1, Col. 7

Justice Department has acknowledged that conversations of several of the Chicago defendants were monitored by F.B.I. listening devices—even before Congress authorized limited, court-approved wiretapping of suspected criminals last June.

Two weeks ago, the department told the court in Chicago that the transcripts of its eavesdropping in those cases should not be disclosed.

Explaining its new doctrine, the department argued that the Congressional restrictions on electronic surveillance did not apply to investigations of groups that "use unlawful means to attack and subvert the existing structure of Government."

Such investigations, said Thomas A. Foran, the United States attorney in Chicago, come under the exemption granted to the President and the executive branch in matters involving "the defense of the nation."

The Government's filing on June 13 marked the first time that domestic political groups had been given the special "national security" label that had traditionally been used to justify counter-intelligence against foreign powers.

Melvin L. Wulf, legal director of the liberties union, described today's suit as a "class action" on behalf of all Americans who hold unpopular, controversial and dissenting political positions.

The legal complaint stressed the charge that under the Jus-



The New York Times

J. Edgar Hoover

Justice Department's new doctrine there is no court review of the standards by which political groups are related to "national security" or of subsequent wiretapping operations.

The doctrine violates both the First Amendment protection of free speech and association and the Fourth Amendment guarantee against unreasonable searches, the complaint said.

The complaint said that "by announcing a policy of unfettered executive power to determine possible danger presented to the nation by dissenting persons or groups," Mr. Mitchell and Mr. Hoover "have assumed

judicial, penal and otherwise regulatory authority over the protected activities of all dissenting Americans."

The complaint continued: "By announcing a policy of unfettered searches and seizures, the defendants have created a chill and a pall on all those who would desire to associate with those persons and groups caught within the dragnet of the announced policy in violation of the associational rights protected by the First Amendment."

In its June 13 filing, the Justice Department indicated its belief that the "national security" wiretapping exemption could be applied to a wide range of groups not necessarily connected with foreign nations or even with such international organizations as the Communist party.

Law Requires Warrant

In criminal investigations outside the "national security" category, wiretapping is permissible only after an investigator has been given a warrant, similar to a search warrant, from a Federal judge. Even then, eavesdropping can continue only 30 days without a court extension.

Before Congress passed the Omnibus Crime Control and Safe Streets Act in June, 1968, all interception and divulging of telephone conversations was illegal.

The F.B.I. has conceded that it engaged in wiretapping nonetheless, not only in matters involving "foreign intelligence," but also of the late Rev. Dr. Martin Luther King Jr. and Elijah Muhammad, the Black Muslim leader.