

ACLU Surveillance Chronology

Supreme Court Justice: How are the courts to know if warrantless wiretaps are necessary?

Government Lawyer: "You must trust us."

The recent disclosures of CIA surveillance of Americans and FBI disruption of civil rights activities are just the tip of the iceberg. The ACLU and other organizations are trying to bring to the surface the entire mass of surveillance operations by federal and local police agencies.

The chronology below shows how the mounting evidence and exposure of surveillance activities have prompted new congressional investigations and finally the beginnings of legislative action.

The majority of the court cases in the chronology were undertaken by the ACLU. Those in which the Union was amicus are indicated by an asterisk. Those in which we had no involvement have two asterisks.

The surveillance chronology was prepared by ACLU staff counsel John Shattuck, who is responsible for most of the Union cases it describes.

1969

(May) ACLU files suit challenging political data gathering by New Jersey State Police. First anti-surveillance suit (*Anderson v. Sills*).

(July) Defendants in Chicago Seven case and various peace and civil rights groups sue to stop "domestic security" wiretapping of them by FBI (*Dellinger v. Mitchell*).

1970

(January) Christopher H. Pyle, former Captain in Army Intelligence discloses, in an article in the *Washington Monthly*, the existence of "massive" Army surveillance of civilian politics.

(February) Class action initiated in federal district court in Washington D.C. to enjoin and destroy files of Army's political surveillance operations (*Tatum v. Laird*).

(March) New Rochelle (NY) Draft Counseling Service and others sue New Rochelle police for using informants and gathering files on their activities (*Holmes v. Church*).

April District judge in *Tatum* denies plaintiffs' motion for preliminary injunction without hearing their evidence; grants defendants' motion to dismiss the case. Appeal taken by plaintiffs.

(June) Los Angeles taxpayers sue to enjoin LA Police Department from spending public funds or using city property to conduct surveillance of persons whom the police have "no information (indicating they) will commit or intend to commit a crime" (*Cannon v. Davis*).

(August) New Jersey Supreme Court orders trial on whether New Jersey State Police surveillance has chilling effect on political activity (*Anderson v. Sills*).

(December) Wiretap damage action filed by civil rights attorney Arthur Kinoy, based on admissions by Justice Department that he had been "overheard" on warrantless "national security" taps (*Kinoy v. Mitchell*).*

(December) Lawsuit against Army surveillance, based on disclosures by former MI agents in Chicago that local Army units were keeping files on Congressmen, ACLU, peace activist groups, several prominent businessmen, and Chicago black organizations (*ACLU v. Westmoreland*).

1971

(February) Detroit Federal Judge Damon Keith orders disclosures of warrantless "domestic security" wiretapping of defendants on trial for conspiring to blow up a CIA office in Detroit. (*United States v. Sinclair*).* Government immediately appeals, asserting that wiretaps were lawfully authorized to

prevent overthrow of the government (*United States v. United States District Court*).*

(March) Senate Subcommittee on Constitutional Rights conducts first congressional inquiry into government surveillance, focusing on military spying.

(March) Documents stolen from FBI office in Media, Pennsylvania, and published in the press indicate that FBI is conducting broader surveillance against political activists than had previously been suspected.

(April) U.S. court of appeals reverses district court decision in *Tatum v. Laird* and orders trial on Army surveillance. Army appeals to Supreme Court.

(April) Suit filed against Mayor (former Police Chief) Frank Rizzo of Philadelphia, charging him with character assassination of various Philadelphia citizens whose police surveillance "files" he exhibited on television (*Philadelphia Yearly Meeting v. Rizzo*).

(May) U.S. court of appeals in Cincinnati upholds Judge Keith's order compelling the Justice Department to disclose its warrantless "domestic security" taps on defendants in the *Sinclair* case. Government appeals to Supreme Court.

(May) Peace groups contest subpoenas by House and Senate Internal Security Committees for their bank records (*United States Servicemen's Fund v. Eastland*).

(June) Federal judge enjoins New Rochelle Police Department from conducting surveillance "of persons neither suspected of nor engaging in criminal activity," and orders destruction of files on plaintiffs in *Holmes v. Church*.

(July) Suit by former congressional candidate against Fall River, Massachusetts police for leaking to the press political surveillance data and photographs of candidate's wife being arrested in a peace demonstration several days before election (*Yaffe v. Powers*).

(October) Muhammad Kenyatta, the Women's International League for Peace and Freedom, the National Association of Black Students and others file class action against FBI broadly

challenging Bureau's "domestic security" surveillance operations revealed in Media documents (*Kenyatta v. Hoover*).

1972

(February) Supreme Court hears oral argument in *United States v. United States District Court*. In response to question about how courts are to know whether warrantless taps are in fact necessary to protect national security, Robert Mardian, arguing case for government, responds: "You must trust us."

(March) *Tatum v. Laird* argued in Supreme Court. Solicitor General Erwin Griswold assures Court that military surveillance of civilian activities has "ceased."

(April) Supreme Court unanimously rejects Justice Department claim that warrantless domestic security wiretaps are "lawful," and states in opinion by Nixon-appointed Justice Powell that "the price of lawful public dissent must not be a dread subjection to an unchecked surveillance power."

(June) Five men connected with Nixon campaign organization arrested in break-in of Democratic National Committee offices at Watergate.

(June) Supreme Court holds, 5-4, that plaintiffs in Army surveillance case have not demonstrated sufficient "injury" to sustain their complaint. Tie-breaking vote cast by Justice William Rehnquist, who, as Justice Department official in 1971, testified in Congress that the *Tatum* suit lacked merit.

(July) Democratic National Committee files multimillion dollar lawsuit against Nixon campaign officials for bugging and burglarizing their offices in search of "political intelligence" (*Democratic National Committee v. McCord, et al*).*

(July) ACLU and California Bankers Association obtain temporary restraining order against implementation of Bank Secrecy Act requirements that banks keep microfilms of all checks for at least five years and submit routine reports to the government of all bank transactions over \$10,000. (*Stark v. Connally*).

(September) Republican anti-war acti-

vist Kay Worden sues Nixon campaign organization for ordering telephone operators at Fontainebleau Hotel to block incoming calls to her during Republican National Convention (*Worden v. Dole*).

(September) Action for damages filed by anti-war demonstrators against Secret Service and White House advancement for assaulting them and denying them admission to Billy Graham rally in Charlotte, North Carolina at which President Nixon was a speaker in October, 1971 (*Sparrow v. Goodman*).

(September) California three-judge federal court enjoins reporting requirements of Bank Secrecy Act, but dissolves restraining order against recordkeeping requirements. All parties in *Stark v. Connally* appeal to Supreme Court.

(October) Arab-American lawyer, Abdeen Jabara, files suit against FBI for wiretapping him, inspecting his bank records, monitoring his speeches and disseminating derogatory and misleading information about him as part of a stepped-up program of surveillance against Arab-Americans. (*Jabara v. Gray*).

(October) Federal court in Seattle orders destruction of police photos of anti-war demonstrators not charged with nor under investigation for any crimes (*Taylor v. City of Longview*).

(October) New York Federal Judge Edward Weinfeld sustains anti-surveillance suit against New York City Police Department's "Red Squad" (*Handschu v. Murphy*). First decision after *Tatum* to allow anti-surveillance case to go to trial.

(November) Antiwar Vietnam Veterans at Kent State University sue campus police chief and other University officials for placing undercover agent in their organization who attempted to induce them to purchase illegal weapons and blow up campus buildings (*Kent State VVAW v. Fyke*).

1973

(January) Wisconsin federal judge denies government's motion to dismiss anti-surveillance suit brought by University of Wisconsin students against Madison police, FBI and Attorney General, charging police disruption of political activity and dissemination of derogatory reports about plaintiffs, resulting in their denial of employment (*Bach v. Mitchell*).

(January) First Watergate criminal trial. ACLU Washington Director Charles Morgan, representing victims of Nixon campaign bugging operations, obtains ruling suppressing contents of their conversations.

(April) Center on Corporate Responsibility, a public interest organization associated with Ralph Nader, sues IRS for wrongful denial of its tax exemption (*Center on Corporate Responsibility v. Shultz*).*

(May) Pentagon Papers trial of Daniel Ellsberg and Anthony Russo dismissed because of government misconduct, including burglary of Ellsberg's psychiatrist by White House Plumbers and suppression of 21-month warrantless wiretap on Morton Halperin, a former National Security Council staff assistant (*U.S. v. Ellsberg and Russo*).*

(May) Halperin and his family sue Kissinger, Haldeman, Ehrlichman, Mitchell, other Nixon Administration officials and the Chesapeake & Potomac Telephone company for wiretapping their home telephone for 21 months, including a 17-month period after

CIVIL LIBERTIES

NUMBER 307

APRIL 1975

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Civil Liberties is published January, April, September, November by the American Civil Liberties Union, 22 East 40th St., New York, N.Y. 10016.

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Second class postage paid at New York, N.Y. Subscription: by membership \$5, \$15, \$25, \$50, \$100 and up, of which \$1 is for one year of *Civil Liberties* and the local ACLU newsletter.

Signed articles in *Civil Liberties* represent the writers' views, which are not necessarily those of the ACLU.

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ACLU Chronology

(Continued from page 5)

Halperin left the National Security Council and went to work for the Brookings Institute and the Muskie presidential campaign (*Halperin v. Kissinger*).

(June) Federal District Judge John Lewis Smith orders impoundment of wiretap documents in Halperin case, which had been removed from the FBI in 1971 on the instructions of President Nixon and secreted in a safe in John Ehrlichman's office so that no discovery orders to the Justice Department would have resulted in their disclosure.

(July) Robert Sherrill, Washington correspondent for the *Nation* and a listed White House "enemy," and Thomas Forcade, correspondent for the *Underground Press Syndicate*, sue White House Press Secretary Ronald Ziegler and the Secret Service for barring their admission on "security grounds" to White House press conferences (*Forcade v. Knight*).

(July) Surreptitious taping of White House conversations disclosed to Senate Watergate Committee.

(July) North Carolina federal judge sustains complaint against Secret Service and White House aides in *Sparrow v. Goodman*, enjoins future assaults on demonstrators at presidential rallies, and orders trial on damages.

(August) Jane Fonda sues FBI, CIA, IRS and Army for surveillance, harassment and disruption of her anti-war and other political activities since 1968 (*Fonda v. Gray*).

(September) Judge Sirica rejects Nixon claim of unreviewable executive privilege over White House tapes and orders their submission for judicial review in connection with grand jury investigation (*Cox v. Nixon*).

(September) Washington federal judge orders release of general directives concerning the FBI's 1967-71 counter-

intelligence programs ("COINTELPRO") against domestic radicals, pursuant to a Freedom of Information Act suit brought by NBC correspondent Carl Stern (*Stern v. Richardson*).

(November) Socialist Workers Party sues FBI for long-term program of surveillance and disruption of party's activities (*SWP v. Attorney General*).

(December) Judge Charles Richey orders IRS to grant tax exemption to Center on Corporate Responsibility on grounds of evidence that White House put pressure on IRS to deny exemptions to activist organizations identified as hostile to Nixon Administration.

1974

(January) Court of appeals in *U.S. Servicemen's Fund* case holds congressional committee subpoenas of peace organizations' bank records invalid on First Amendment grounds. House and Senate committees appeal to Supreme Court.

(January) Detroit federal court orders Justice Department to disclose fruits of "domestic security" wiretaps to defendants in Weathermen conspiracy prosecution. Prosecution dropped (*United States v. Ayres*).

(February) Fourth Army surveillance suit filed based on evidence of widespread Army wiretapping and infiltration of civilian Americans in West Germany, including ACLU-affiliated Lawyers Military Defense Committee in Heidelberg (*Berlin Democratic Club v. Schlesinger*).

(March) FBI claim of privilege from discovery in *Jabara v. Kelley* substantially overruled by district court and broad discovery of bank record surveillance, wire-tapping, informant activity and FBI recordkeeping and dissemination practices ordered.

(April) Senate Constitutional Rights Subcommittee holds hearings on legislation to prohibit Army surveillance of civilian activities.

(April) Broad documentary discovery of

White House wiretap program ordered, over Justice Department objections, in *Halperin v. Kissinger*.

(April) Documentary discovery of disruptive undercover police activities at Kent State University in *Kent State VVAW v. Fyke*.

(April) Supreme Court holds that challenge to constitutionality of Bank Secrecy Act is "premature" in absence of "proof" showing that statute gives government greater access to bank records than it already has (*California Bankers Association v. Shultz*).

(May) Three Senate Committees hold hearings on legislation to prohibit warrantless wiretapping.

(May) Edited and selected White House tapes released following series of subpoenas by Special Prosecutor and House Judiciary Committee.

(June) Judge Sirica upholds Special Prosecutor's subpoena for additional, unreleased White House tapes (*United States v. Nixon*).

(July) House Judiciary Committee votes Article of Impeachment based on President Nixon's abuse of presidential powers.

(July) Supreme Court unanimously rules that Nixon must turn over subpoenaed tapes.

(August) Nixon resigns.

(September) Following plaintiffs' submission of substantial evidence that Army surveillance of American civilians overseas is continuing, Army concedes that it may have "misrepresented" the facts in *Berlin Democratic Club v. Schlesinger*.

(October) Litigation over public ownership and access of Nixon tapes begins (*Hellman v. Sampson*).

(October) Additional Senate hearings on legislation to prohibit warrantless wiretapping.

(November) Army discloses that it wiretapped ACLU-affiliated civilian lawyer conducting court martial defenses in West Germany (*Berlin Democratic Club v. Schlesinger*).

(November) Overriding President Ford's veto, Congress passes amendments to Freedom of Information Act, broadening public access to government documents.

(December) Attorney General Saxbe discloses that thirteen "foreign intelligence" wiretaps have been installed on associates of Jabara and that his conversations have been intercepted 40 times even though he is not under criminal investigation (*Jabara v. Kelley*).

1975
(January) Washington federal judge refuses to accept secret evidence offered by Secret Service to demonstrate why two reporters could not be permitted to attend White House press conferences (*Forcade v. Knight*).

(February) House Judiciary Committee opens hearings on government surveillance. ACLU witnesses discuss evidence in their litigation, including documents from *Dellinger v. Mitchell* showing that FBI conducted a continuous 25-year warrantless wiretap on an undisclosed domestic organization from 1942-1967.

(February) Senate constitutes a Select Committee on Intelligence to conduct broad investigation into CIA, FBI and Defense Department intelligence and surveillance practices.

(March) CIA concedes it kept files on citizens and begins to process individual requests for access under Freedom of Information Act. Former Oregon Congressman obtains his file (*Porter v. Colby*).

(March) Documents obtained through discovery in *Kenyatta v. Kelley* demonstrate broad efforts by FBI to "disrupt" civil rights activities of black activists in Mississippi in 1968-69 through carefully planned FBI "COINTELPRO" operations.

New Books, Scopes Poster, Free Button

The following recently published books are recommended to you by the staff of the American Civil Liberties Union. By ordering the books through the ACLU, rather than a bookstore, you will be helping the Union financially. The prices of the books are noted below.

Dossier: The Secret Files They Keep on You. By Aryeh Neier.

Neier, ACLU executive director, has written a powerful indictment of the way in which government and business invade our lives and violate our rights by compiling Big Brother dossiers. Dossiers record our sex lives, financial histories, childish pranks in school, medical records, arrest records, political records. They can keep us from a job, a promotion, a bank loan or an insurance policy. Neier's book exposes the danger and proposes remedies. (Price: \$8.00).

The Pulse of Freedom—American Liberties: 1920-1970s. Edited by Alan Reitman.

The Pulse of Freedom, in tracing the history of civil liberties in the past 50

years, is almost an unofficial history of the ACLU. Reitman, the Union's associate executive director, has edited the essays of five historians and written a concluding essay on directions for the future. The book includes accounts of the amnesty drive for World War I's conscientious objectors, the "anti-red" squads employed to thwart labor's free speech, the Scopes "monkey trial," the curbs on liberty during World War II, the McCarthy years, the civil rights movement and the Vietnam war protests. (Price: \$12.50.)

The Rights of Hospital Patients. By George J. Annas.

This is the tenth book in a continuing series of ACLU handbooks dealing with the rights of people. Annas, director of the Center for Law and Health Sciences at Boston University, explains everything about a hospital patient's rights, from admission to discharge. The book covers such crucial areas as: the patient's right of consent to certain medical procedures, the patient's right to refuse treatment, the patient's right of access to his medical records, and the patient's rights in matters of payment. (Price: \$1.50.)

In July it will be 50 years since Clarence Darrow faced William Jennings Bryan in the famous "Monkey Trial." Darrow, acting as an ACLU cooperating attorney, defended the right of John Scopes to teach Darwin's theory of evolution in Dayton, Tennessee. Bryan, one of the prosecutors, represented the fundamentalists who believed in a literal interpretation of the Bible and Creation. Their historic courtroom confrontation is commemorated by the ACLU with a special poster made from the photograph which appears on the cover of this issue.

Commemorative Poster

This two-color, 22 X 34 poster of Darrow and Bryan will be printed in a limited edition. It is offered to members for \$5.00. A free button, with the "No More Monkey Business" message, will be sent with each poster.

Orders must be received by May 15. Posters will be delivered by June 15th. Order one or more for yourself and friends, and help support the rights for which Darrow fought.

Court Awards Widower

The Supreme Court ruled unanimously last month that the government, under the Social Security Act, must pay "mothers" benefits to widowers for the care of infant children, not just to widows.

The Constitution, the Justices stated, "forbids the gender-based differentiation that results in the efforts of women workers, required to pay Social Security taxes, producing less protection for their families than is produced by the efforts of men."

The decision came in *Weinberger v. Wiesenfeld*, in which the ACLU was defending its district court victory on behalf of Stephen C. Wiesenfeld and his son Jason.

In the *Wiesenfeld* case, the government contended that Congress, when passing the Social Security Act in 1939, was showing special concern for women because they suffer severe job market discrimination. (The January *Civil Liberties* mistakenly referred to this argument as correct.)

Rather, it is apparent that Congress simply assumed that widowed mothers would, and should, stay home with their children, and that widowed fathers would not, and should not, do the same.

Today that assumption is no longer the law.

CLU Sues Teamsters

The ACLU of Southern California has filed a lawsuit against the International Brotherhood of Teamsters and agribusiness growers for conspiring to violate the civil rights of United Farm Workers' members and supporters. The \$150 million suit charges the Teamsters and growers with preventing the UFW from organizing farm workers and negotiating viable contracts.

Fill in this order form, make check payable to ACLU and send to: ACLU, 22 East 40 Street, New York, N.Y. 10016. Att. Literature Clerk.

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