

F.B.I. Use of Listening Devices

Prompts Charges and Inquiries

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Special to The New York Times

SAN FRANCISCO, July 2—The Federal Bureau of Investigation's use of electronic snooping to trap Las Vegas gamblers suspected of cheating the tax collector has mushroomed into a major problem for the Department of Justice.

Some of the elements of the problem are these:

¶The district attorney in Las Vegas is beginning an investigation that could result in an attempt to prosecute F.B.I. agents for the violation of Nevada law.

¶A cloud hangs over the extortion conviction of three Las Vegas figures in a Denver Federal Court as well as future cases against notorious underworld figures.

¶Agents of the F.B.I. are defendants in a civil damage action brought by the head of a big casino hotel in Las Vegas.

¶Many of the legal moves in the various cases appear to bear on behind-the-scenes maneuvering in the fraud and conspiracy indictments last January against Robert G. Baker, former secretary to the Democrats in the United States Senate.

¶The Supreme Court has ordered the Department of Justice to explain its policies in the bugging of a hotel apartment occupied by Fred Black Jr., who was convicted of a tax violation. Black, a Washington lobbyist, was an intimate of Baker's.

No Formal Allegation

¶The responsibility for the bugging of Black's apartment and for the bugging in Las Vegas may rest with either J. Edgar Hoover, Director of the F.B.I., or Senator Robert F. Kennedy, Democrat of New York, who was then Attorney General.

There is no formal allegation that the F.B.I. tied into telephone lines and listened to telephone conversations, but the bureau's members admitted under oath in Federal Court in Denver last Tuesday and Wednesday that they had placed a microphone in the executive suite at the Desert Inn on the Las Vegas Strip and tried to pick up evidence of criminal activity.

While the agents admitted that the microphone picked up one end of any telephone conversations from that room, they insisted that they were not hooked onto the phone lines.

"It was not geared to the operation of the telephone," said Dean Elson, the special agent in charge of the Las Vegas offices of the F.B.I. "The microphone was used to listen to conversations between people in the room."

Mr. Elson was one of 11 F.B.I. employees brought into Judge Alfred A. Arraj's court by at-

torneys attacking the conviction of three Las Vegas figures on charges that they had extorted money from a disbarred Denver lawyer.

The attorneys were acting under an order of the United States Court of Appeals for the 10th Circuit that they be allowed to determine if evidence excluded in the trial would have shown the innocence of one of the men, Ruby Kolod, a 55-year-old part owner of the Desert Inn.

The excluded evidence was the records of the F.B.I. electronic surveillance at the Desert Inn. Kolod said the records would show what he had said when he called the Denver lawyer, that he had not made any threats, and would thereby discredit testimony that he had made telephone threats.

Judge Arraj found that no evidence existed that the F.B.I. had heard calls by Kolod or even that he had made calls from the executive suite. The judge sent the record back to the Court of Appeals with the observation that no showing had been made that the F.B.I. had monitored or intercepted any telephone calls.

For the F.B.I., however, the damage had been done. During the hearing, the bureau's employees had been forced to explain that they had placed microphones to try to get evidence of "skimming" by the Desert Inn's operators.

Skimming is the practice of taking off sums from the winnings of the casino before counting the money for the records on which state and Federal taxes are based.

F.B.I. witnesses testified that meetings concerning skimming took place in the executive suite of the Desert Inn. Persons identified as having passed through the suite were M. B. Dalitz, the head of the Casino Hotel; Willie Alderman, a Las Vegas figure; Jack Donnelly, a San Diego lawyer who now is the executive vice president of the Desert Inn; George Gordon, a Miami figure, and casino employees.

Alderman was convicted of extortion with Kolod, and Dalitz is under indictment in Los Angeles on charges of conspiracy to avoid Federal income taxes. The immediate question is whether they were caught through evidence obtained with the microphone hidden in the Desert Inn executive suite.

If they were, the evidence cannot be used against them.

R. Burns Toolson, an agent who worked on the electronic surveillance system, testified that the conversation had given the F.B.I. leads on Sam Giancana, Chicago underworld figure; Meyer Lansky, Miami underworld figure, and John Scasish, Cleveland underworld figure.

Microphone Discovered

If charges are placed against these men, their defense would include the allegation that the F.B.I. had obtained its evidence illegally.

The disclosures of the F.B.I.'s electronic surveillance came after a telephone employe had discovered a microphone in the office of Edward Levinson, a gambling operator with experience all over the country, at the Fremont Hotel in downtown Las Vegas in April of 1963.

The telephone was discovered to have held the microphone and that a line led to the hotel switchboard, hooked on to a special telephone leased line.

The line was leased to the Henderson Novelty Company, an admitted front constructed by the F.B.I. to cover the line leasing that it used in its electronic surveillance in Las Vegas. The cables led to the F.B.I. offices at 311 Bridge Street. They carried the electronic signals produced by the microphones in the Desert Inn, the Sands Hotel, the Fremont Hotel and other Las Vegas casinos that have not been identified.

Complicated legal actions were started by Levinson. His attorneys have included Edward Bennett Williams; his business partners Black and Mr. Baker.

Mr. Baker's lawyers include Mr. Williams, who also was a defender of Kolod in the Denver trial.

Levinson sued the F.B.I. agents for \$2-million, naming the Central Telephone Company as another defendant. The testimony has been that the telephone company's employes cooperated with the F.B.I. in installing the microphones.

Meantime, a Federal Court in Washington was processing the income tax charge against Black. He was convicted, and his case has been before the Supreme Court for several months.

Solicitor General Thurgood Marshall told the Supreme Court last May 24 that he had learned that the F.B.I. had had a concealed microphone in Black's rooms. The Court ordered the Justice Department to provide details.

Neither Makes Statement

The events appear to have occurred during Robert F. Kennedy's incumbency as Attorney General. Mr. Hoover's defenders have been saying that he must have had orders from Mr. Kennedy to place the bugs. Neither he nor the former Attorney General has made any statement.

Mr. Baker's defense thus has two directions from which to assert that illegal evidence flowed into the grand jury investigation that ended with his indictment. First, it may be asserted that his business associations with Levinson had been

ferreted out by electronic eavesdropping; second, the same allegation may be made about his associations with Black.

Added trouble for the F.B.I. has come as a result of the Denver disclosures by Mr. Elson and Mr. Toolson.

The district attorney in Las Vegas, Edward G. Marshall, is a crusading moralist who is a governorship candidate in the Democratic primary.

Since the bug was found in Levinson's telephone, electronic eavesdropping has been a major issue among the gamblers. Gov. Grant Sawyer has demanded of Robert Kennedy and President Johnson that bugging by Federal investigators be stopped.

In March of 1964, District Attorney Marshall circulated a letter to all law enforcement agencies in Clark County, Nev., advising that he would prosecute anyone violating the state eavesdropping law.

He said, "I know of no immunity which is provided for anyone engaging in unlawful wiretapping activities."

He said this week that the state law might have been violated by F.B.I. agents, although they were not tapping telephone calls.

Mr. Marshall pointed out that the Nevada law prohibited the surreptitious intrusion of privacy by listening devices, whether they were mechanical or electronic, unless authorized by one of the persons engaged in the conversation.

The same law also provides for the punishment for the unauthorized connection with commercial telephone facilities, he said. He suggested that the F.B.I. use of telephone lines to carry the details of conversations from the bugged rooms was a violation of this section.

"We're recontemplating a large-scale investigation which could lead to prosecutions," Mr. Marshall said. "I have to do my duty no matter what."

The last sentence alluded to the close friendship of Mr. Marshall and Mr. Toolson. Both are members of the Church of Jesus Christ of Latter-day Saints, where they were members of the same priesthood quorum before Agent Toolson was transferred to Ogden, Utah.