



HEADQUARTERS OF THE CENTRAL INTELLIGENCE AGENCY AT LANGLEY, VA.

SECURITY

Snoopers Due for Review

TIME, JUNE 4, 1973

"The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect 'domestic security.'" So wrote Justice Lewis Powell, a Nixon appointee, in the 1972 Supreme Court opinion that forbade the wiretapping of domestic organizations and individuals without a court warrant. Ironically, the court issued its decree just two days after the Watergate conspirators were caught with electronic surveillance equipment in the headquarters of the Democratic National Party—a legitimate political dissent organization if there ever was one.

The twin terms "domestic security" and "national security" are so broad that they can be invoked to cover a multitude of actions—many of them in violation of the Constitution. But the agencies normally responsible for protecting the nation from both foreign and internal threats (*see box following page*) are federal bodies sanctioned by law. The Nixon Administration not only redefined national interest to include the personal and political aims of the party in power—but set up on its own a White

House security agency that was neither established by law nor responsible to the Congress. Why did the Administration feel it necessary to form the President's own extralegal security apparatus?

The experience of Lyndon Johnson's Administration undoubtedly influenced the Nixon men. Johnson resisted the temptation to use the ever more sophisticated electronic surveillance equipment for domestic intelligence. But by the late 1960s he sought desperately for a way to cope with widespread and often simultaneous urban riots. Attorney General Ramsey Clark sent a tough memo to FBI Director J. Edgar Hoover, urging him to use "maximum available resources" of his agency to investigate and predict riots. Angered at Johnson's refusal to allow wiretapping and electronic bugs against gangsters, Hoover balked. In fact, he proceeded to scrap many of the FBI's more dubious but productive techniques, such as burglarizing the homes and monitoring the mail of suspected spies and criminals. Stymied by Hoover and realizing that not even the 8,700 agents of the FBI could cope with riots, the Johnson Administration turned to the U.S. Army as a tool of massive retaliation, giving it new charters to collect intelligence on civilians in the process.

When Nixon took office, he was confronted by much the same climate of urban unrest and growing racial militancy. He also had to cope with new dangers—bomb-throwing anarchists, skyjackers and an exploding drug traffic. White House officials quickly encouraged the Army to step up its domestic intelligence operations. Within two years, the Army had 25 million "personalities" on file. One of the victims, Adlai Stevenson III, then Illinois state treasurer, was to call the operation "Kafka in khaki." The dismantling of the Army's internal counterinsurgency department was not begun until 1971, and then

J. EDGAR HOOVER



ED STREEKY

only in response to public outcry.

Nixon and his Attorney General, John Mitchell, also expanded the use of wiretaps. Johnson had bugged only some foreign missions and their agents in the name of "national security"; Mitchell, on his own authority, decided to bug political dissenters and subversives as well—a decision that was sharply rebuked by an 8-0 decision of the Supreme Court last June.

Throughout those early Nixon years, Administration officials were at loggerheads with Hoover over the function of the FBI. They wanted Hoover to concentrate much more heavily on radical political organizations and black nationalists, and less on common criminals and old left subversives. What the Administration sought would have required intense FBI coverage of campuses across the U.S. Early in 1970, the White House asked the FBI whether rioting and violence were being directed by foreign countries. The FBI simply could not answer the question. Hoover's strictures had hindered the FBI in shifting its attention from watching over familiar and predictable Communist agents and Mafia gangsters to keeping track of radical free agents and anarchists, who were structured in no national pattern.

Before giving up on the FBI, the Administration had one last fight with Hoover. In June 1970, Nixon brought together the directors of the nation's various security agencies to work out a plan for increased surveillance not only of the New Left but also of the Arab terrorists and Weatherman-style anarchists who were blowing up buildings across the country.

Specifically, the White House wanted a return to many of the more questionable FBI practices stopped by Hoover in 1966—the illegal entry and burglary of suspects' houses and a greatly expanded use of wiretaps against political subversives. From the start, Hoover tried to scuttle the committee and the Administration's objectives, both of which he saw as rebukes to his agency. When the report was finally finished, Hoover, as chairman, passed it along to Nixon, but only after he had detailed in footnotes his objections to virtually every proposal. When Nixon ignored his protests and ordered the suggestions put into effect on July 23, 1970, Hoover got on the phone to San Clemente and in strong terms told the President of his disapproval. Finally, Nixon knuckled under and ordered that the recommendations for expanded intelligence operations be disregarded.

Wrenches. In retrospect, it would have been far better for all concerned had Nixon either overruled or replaced Hoover, because the alternative he decided upon was to set up his own team of White House snoopers, answerable to only a handful of Administration officials. His subsequent problems can largely be traced to that single decision.

Dubbed the "plumbers" because of

their ostensible job of plugging up new leaks from the White House, these free agents applied their monkey wrenches to the Bill of Rights. At various times, E. Howard Hunt and G. Gordon Liddy directed Cuban provocateurs to beat up Daniel Ellsberg, organized the burglary of Ellsberg's psychiatrist's office and engineered the break-in of the Democratic Party headquarters.

Past excesses in the name of national security had been largely carried out in an atmosphere of public approval. But despite widespread sentiment for law-and-order, Nixon was working against the grain of his time—the public desire for less secrecy, more accountability. Moreover the courts were unwilling to go along with many of the Nixon schemes, particularly John Mitchell's interpretation of wiretapping. The Administration had so weak a case on wiretapping that its own Solicitor General—at the time, former Harvard Law School Dean Erwin Griswold—refused to argue it. He went so far as to tell Mitchell that his staff would not carry the appeal. It was one of the few times in history that the Solicitor General refused to argue a case before the Supreme Court, and it was a *beau geste* that cost Griswold his job. But it showed just how far out of touch the Nixon Administration was with the current interpretations of the law—and with some of its own officials.

Links. The Nixon men had a unique attitude not only toward the law but also toward the agencies usually assigned the job of maintaining national security. The Administration went to extraordinary lengths to get both the CIA and the FBI to bend to its will—to the point of setting them against each other. When the FBI failed to answer White House questions on whether riots were encouraged if not organized by foreign governments, the question was thrown to the CIA. The CIA spent months following students about Europe, Latin America, Egypt and Algeria for evidence of any foreign link, and reported back that it had found nothing substantial. Angered at having one of its pet premises pulled out from under it, the White House apparently refused to accept the CIA's conclusion. Soon after, it ordered the FBI to set up overseas intelligence outposts in 20 countries—a wasteful overlap of functions and a slap in the face for the CIA.

The Nixon White House had wanted the FBI and CIA to be both more aggressive and more malleable to presidential control. Ironically, Watergate has brought both agencies under closer congressional scrutiny. The likely result will be a curtailment of their activities and of White House control. Balancing the priorities of individual liberties and national security has always posed a problem for free nations, but the Watergate scandal suggests the scale is now out of tilt. Indeed, the entire internal and external security apparatus of the United States seems due for review.