

Nixon in '70 Approved 'Illegal' Spying in U.S.

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White House documents obtained by The New York Times show that President Nixon approved a domestic espionage plan in 1970, a part of which, he had been warned, was "clearly illegal."

The documents obtained by The Times appear to be copies of at least some of those removed from the White House by deposed presidential counsel John W. Dean III and turned over to the Justice Department and the Senate Watergate Committee by the presiding judge in the Watergate case.

The only specific targets of the expanded espionage activity mentioned in the documents are the Black Panthers and Weathermen.

Included in the plan were:

- Lifting of restraints against surreptitious entry—breaking and entering—to obtain information against foreign and domestic "security targets."

- Monitoring U.S. citizens' overseas telephone calls and telegrams.

- Stepped-up bugging and tapping — "electronic surveillance and penetra-

tions"—of "individuals and groups" who are security threats.

- Lifting and easing of restrictions for examining mail addressed to suspected security risks.

- Allowing recruiting of young students for surveillance on campuses and increasing "CIA coverage of American students (and others) traveling or living abroad."

The President, in his statement on May 22, said that the plan had been approved in July, 1970, but approval had been withdrawn five days later—on July 28, 1970—at the request of the late J. Edgar Hoover of the FBI.

The President in that statement did not specify exactly what the plan entailed.

The documents obtained by The Times were prepared by former White House aide Tom Charles Huston, who spearheaded the administration's domestic intelligence planning at the time.

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ton Post last night in Indianapolis, Huston, 32, a lawyer, said, "I assume what they have is what John (Dean) put in his safety deposit box."

[Huston had said in an interview in Indianapolis last Sunday that the 1970 intelligence plan that he sent to Mr. Nixon was accompanied by five supportive memorandums and a covering letter.]

The documents include a summary of a proposal to increase intelligence, that proposal having been drafted by a committee including Hoover, then-CIA director Richard Helms, Gen. Donald V. Bennett—then head of the Defense Intelligence Agency—and Adm. Noel Gaylor, then head of the National Security Agency.

They also include a memorandum from Huston to H. R. Haldeman, Mr. Nixon's then chief of staff, labeled an "Analysis and Strategy" for implementing the plan and for handling Hoover, who was the only member of the committee who opposed the measures, according to Huston.

Finally, the documents published by The Times include a "Decision Memorandum" written by Huston announcing to the intelligence agencies Mr. Nixon's approval of the recommendations, despite Hoover's objections.

At one point Huston wrote, according to The Times, "We don't want the President linked to this thing with his signature on paper . . . (because) all hell will break loose if this thing leaks out."

The documents state that the plan was drafted in response to "the problems outlined by the President"—later defined as "the serious internal security threat which exists."

The intelligence plan, according to its author, offered "an unexcelled opportunity to cope with a very serious problem in its germinal stages when we can avoid the necessity for harsh measures by acting swiftly, discreetly and decisively to deflect the threat before it reaches alarming proportions."

Except for the mention of Black Panthers and the Weathermen, the plan is un-specific about what individuals and groups would be placed under the expanded surveillance. However, the language of the plan indicates that a broad spectrum of persons would be subjected to the surveillance, including those who might fall into the following categories mentioned in the documents:

"American students (and others) traveling or living abroad"; "the revolutionary protest movement," particularly on American campuses; "individuals and groups in the United States who pose a major threat to the internal security"; foreign embassies in the United States; "violence-prone campus and student-related groups."

The most dramatic sections of the documents include Huston's warnings about the illegalities of the surreptitious entry, and his denigrations of Hoover.

In terms of the breaking and entry, the recommendation of the committee, the documents say, was that:

"Present restrictions should be modified to permit procurement of vitally needed foreign cryptographic material."

"Also, present restrictions should be modified to permit selective use of this technique against other urgent security targets."

In the rationale for the recommendation, Huston's summary says:

"Use of this technique is clearly illegal: it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion."

"The FBI, in Mr. Hoover's younger days, used to conduct such operations with great success and with no exposure. The information secured was invaluable."

"NSA (the Security Agency) has a particular interest since it is possible by this technique to secure material with which NSA can break foreign cryptographic codes. We spend millions of dollars attempting to break these codes by machine. One successful surreptitious entry can do the job successfully at no dollar cost."

"Surreptitious entry of facilities occupied by subversive elements can turn up information about identities, methods of operation, and other invaluable investigative information which is not otherwise obtainable. This technique would be particularly helpful if used against the Weathermen and Black Panthers."

"The deployment of the executive protector force [the Executive Protective Service, replacement of the White House Police, which Mr. Nixon initiated in March, 1970, to guard the White House and Washington's foreign embassies] has increased the risk of surreptitious entry of diplomatic establishments. However, it is the belief of all except Mr. Hoover that the technique can still be successfully used on a selective basis."

In the summary of the rationale for easing restrictions on mail "covers," the documents say that "there is no valid argument against use of legal mail covers except Mr. Hoover's concern that the civil liberties people may become upset. This risk is surely an acceptable one and hardly serious enough to justify denying ourselves a valuable and legal intelligence tool."

"Covert coverage is illegal and there are serious risks involved. However, the advantages to be derived from its use outweigh the risks. The technique is particularly valuable in identifying espionage agents and other contacts of foreign intelligence services."

In arguing for more campus intelligence sources, the summary says the FBI would not recruit sources under 21, saying that "Mr. Hoover is afraid of a young student surfacing in the press as an FBI source, although the reaction in the past to such events has been minimal. After all, everyone assumes the FBI has such sources."

"The campus is the battleground of the revolutionary protest movement. It is impossible to gather effective intelligence about the movement unless we have campus sources. The risk of exposure is minimal, and where exposure occurs the adverse publicity is moderate and short-lived. It is a price we must be willing to pay for effective coverage of the campus scene. The intelligence community, with the exception of Mr. Hoover, feels strongly that it is imperative . . . (to) increase the number of campus sources this fall in order to forestall widespread violence . . ."

In Huston's top secret explanatory memorandum to Haldeman, as printed in The Times, Huston said that the proposal had been drafted by Hoover, Helms, Bennett and Gaylor and the top officials of the military services' intelligence units through the month of June.

"I went into this exercise," Huston wrote, "fearful that the CIA would refuse to cooperate. In fact, Dick Helms was most cooperative and helpful, and the only stumbling block was Mr. Hoover. He attempted at the first meeting to divert the committee from operational problems and redirect its mandate to the preparation of another analysis of existing intelligence. I declined to acquiesce in this approach, and succeeded in getting the committee back to target."

Hoover's foot-dragging, he said, was based on the FBI director's feeling that current operations were fine, and that "no one has any business commenting on procedures he has established for the collection of intelligence by the FBI."

Hoover's objections, wrote Huston, "are generally inconsistent and frivolous—most express concern about possible embarrassment to the intelligence community (i.e. Hoover) from public disclosure of clandestine operations . . ."

"Those individuals within the FBI who have day-to-day responsibilities for domestic intelligence operations privately disagree with Mr. Hoover and believe it is imperative that changes in operating procedures be initiated at once . . ."

"Twenty years ago," Huston wrote, "he would never have raised the type of objections he has here, but he's getting old and worried about his legend," the Times' documents state.

Huston recommended that Mr. Nixon massage Hoover's ego to get him to go along with the stepped-up activities:

"Mr. Hoover should be called in privately for a stroking session at which the President explains the decision he has made, thanks Mr. Hoover for his candid advice and past cooperation, and indicates he is counting on Hoover's cooperation . . ."

"Having seen the President in action with Mr. Hoover," said Huston at another point, "I am confident that he can handle this situation in such a way that we can get what we want without putting Edgar's nose out of joint."

In concluding his assessment to Haldeman, Huston

said that he believed "we are on the threshold of an unexcelled opportunity to cope with a very serious problem in its germinal stages when we can avoid the necessity for harsh measures by acting swift, discreetly, and decisively to deflect the threat before it reaches alarming proportions."

"I might add, in conclusion, that it is my personal opinion that Mr. Hoover will not hesitate to accede to any decision which the President makes, and the President should not, therefore, be reluctant to overrule Mr. Hoover's objections. Mr. Hoover is set in his ways and can be bullheaded, but he is a loyal trooper . . . He makes life tough in this area, but not impossible—for he'll respond to direction by the President and that is all we need to set the domestic intelligence house in order."

In the "Decision Memorandum" dated July 15, 1970, in which Huston recounted Mr. Nixon's approval of the recommendations, he said, "The President has directed that each addressee submit a detailed report, due on Sept. 1, 1970, on the steps taken to implement these decisions. Further such periodic reports will be requested as circumstances merit."

"The President is aware that procedural problems may arise in the course of implementing these decisions. However, he is anxious that such problems be resolved with maximum speed and minimum misunderstanding . . ."

Huston underestimated the wrath and political ability of Hoover, who is reported to have protested so vigorously at Mr. Nixon's approval of the plan that he not only killed the plan, he got Huston fired.

Dean, after removing the documents from the White House, put them in a safety deposit box in an Alexandria bank. Dean's attorneys gave the keys to the box to Chief U.S. District Judge John J. Sirica.

At that point, the White House demanded that they be returned, saying they involved national security. Judge Sirica gave copies to the Justice Department and to the Senate Watergate committee headed by Sam J. Ervin Jr. (D-N.C.).

Sen. Ervin said recently that if all the documents in that safety deposit box were revealed, the American public would be shocked.

Huston said last night that he was not the source of the New York Times disclosure of the supportive memorandum "I know when I appeared before the Senate Armed Forces Committee, six senators had copies . . . I bet there are 50 people on Capitol Hill who have copies by now."