

# Justice Aide Says Government Has the Right to

## Put a Senator Under Surveillance

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WASHINGTON, March 17 —

An Assistant Attorney General told Senator Sam J. Ervin Jr. today that the Federal Government would be within its constitutional authority if it put him under surveillance.

The official, William H. Rehnquist, said that while such surveillance would be "inappropriate" and "a waste of the taxpayer's money," it would not violate the Senator's constitutional rights.

Mr. Rehnquist maintained that the Government has a right to gather information on citizens so long as it did not force an individual to disclose information or did not use the information in a court action.

Mr. Rehnquist was recalled before Senator Ervin's Subcommittee on Constitutional Rights to amplify his testimony last week, when he contended that the "self-discipline" of the Government was the best guarantee against abuses of information gathering.

### No Published Guidelines

The session today, perhaps the most testy in four weeks of hearings, was the last in the subcommittee's current investigation of governmental collection of information on American citizens.

Another Assistant Attorney General, Robert Mardian, who is in charge of the Internal Security Division, was questioned closely by Senator Edward M. Kennedy about guidelines to control the surveillance of citizens.

Mr. Mardian said that "we do not have specific, published documents" to regulate the surveillance activities of the Fed-

eral Bureau of Investigation, which collects the information, or the Interdivisional Information Unit in the Justice Department, which analyzes the data and stores it in a computer.

He said that memorandums written by former Attorney General Ramsey Clark and other internal memorandums provided the operating instructions for the collection of information. The F.B.I., he said, was governed by its own regulations.

Senator Kennedy told Mr. Mardian that "you haven't been terribly reassuring" in persuading the Congress or the public that the information-gathering would not be abused.

The Massachusetts Democrat said, "It appears that on behalf of the Attorney General you have washed your hands of any responsibility for surveillance."

Mr. Rehnquist, who is counsel for the Justice Department, was accused by Senator John V. Tunney of failing to investigate thoroughly some allegations by Mayor Joseph L. Alioto of San Francisco before the subcommittee last week.

Mayor Alioto, like Senator Tunney, a California Democrat, said that F.B.I. agents and other Federal officials had illegally slipped confidential information to the authors of a Look magazine article, Mr. Alioto

said then that "the Government not only has a big ear but it has a pretty big mouth as well."

Mr. Rehnquist said that his investigation had shown that only one agent had been involved and that the agent had been disciplined. He disclosed that the Bureau of Narcotics and Dangerous Drugs was continuing an inquiry into another possible illegal disclosure.

Senator Tunney said he had evidence that more agents were involved.

"I am deeply disturbed," he said, "by the fact that, on the face of it, there has been a serious breach of confidential information regulations by sev-

eral Federal agencies but that, on the face of it, there has not been any serious investigation of it."

Mr. Rehnquist said that he would furnish more details of the investigation to the subcommittee.

Even Senator Ervin, who has been consistently genial throughout the subcommittee hearings, was visibly perturbed today. He told Mr. Rehnquist, "There is not a syllable in there (the Constitution) that gives the Federal Government the right to spy on civilians."

Commenting on the Army's political surveillance of civilians from mid-1967 to mid-1970 Mr. Rehnquist said he

thought that it had not stopped people from exercising their rights to free speech and assembly under the First Amendment.

He noted that more than 250,000 persons had come to Washington in October and November, 1969, to protest against the war in Vietnam.

Earlier witnesses had testified to the "chilling effect" of such surveillance, contending that it made citizens reluctant to participate in legitimate political activity for fear of being watched.

### Contradictory Testimony

Mr. Rehnquist also maintained that the Army's surveillance operation was generally known to the public. Other wit-

nesses, however, have testified that it did not become public knowledge until January, 1970.

Mr. Rehnquist said that information gathered by the Army had not been given to the Department of Justice. But Assistant Secretary of Defense Robert F. Froehke, who appeared on March 2, cited examples of Justice Department officials telephoning the Department of the Army for specific bits of information.

In a discussion of the Justice Department's Interdivisional Information Unit, Senator Ervin said he understood that the names of 13,000 citizens were stored on the unit's computer. Mr. Mardian, who has opera-

tional control over the unit, did not dispute the figure.

The director of the F.B.I., J. Edgar Hoover, in a statement submitted to the subcommittee, said that the National Crime Information Center has almost 2.5 million active records in its computerized files.

Mr. Hoover said the center was linked to 104 law-enforcement control terminals in 50 states and Canada, but that the system "has been so designed as to pose no threat to individual privacy."

He said that the system was intended to provide a "more efficient and rapid means of handling and exchanging information."