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JUSTICES TO WEIGH ARMY SPYING ROLE

Will Decide Right of Civilians Under Surveillance

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WASHINGTON, Nov. 16 — The Supreme Court has agreed to consider if citizens can go to court to block Army intelligence agents from conducting surveillance of civilian political activities.

In a brief order the Court granted today the Justice Department's appeal of a lower court's ruling that individuals and groups that claim to have been spied upon by Army agents are entitled to a trial to determine if there has been a "chilling effect" upon free expression.

The action will bring before the Supreme Court for a hearing this winter a technical legal question that could have a crucial impact upon the capacity of civilians to protest in court when military agents engage in heavy-handed surveillance of political activities.

The suit grew out of revelations in the press and in Senate hearings last year that some 1,000 Army intelligence agents in 300 offices across the country had kept tabs on such diverse civilian activities as civil rights groups, community action organizations, church groups and Earth Day observances.

Army officials explained that the surveillance had begun after the Army had been called in to help deal with urban unrest, and officers believed it necessary to compile files of potential trouble-makers.

Army Curbs Itself

Conceding that its surveillance had gone too far, the Army ordered its agents to cut back their surveillance to matters clearly bearing on the Army's mission and to destroy many of the dossiers it had collected on civilian political activity.

This was challenged as insufficient in the suit filed by Arlo Tatum, executive director of the Central Committee for Conscientious Objectors, and 12 other individuals and groups who said they were targets of the Army's surveillance.

The suit, sponsored by the American Civil Liberties Union, asked for an injunction to stop the Army from spying upon civilian political matters and to force the Army to destroy records of its past surveillance, which were said to have been stored in computers.

The Court of Appeals for the District of Columbia ruled 2 to 1 last April 27 that there should be a trial on the plaintiff's assertions. An inquiry was ordered as to the exact nature of the Army's surveillance system and the recipients of its information; whether it exceeded needs of the Army's mission, and "chilled" free speech by civilians; and what relief might be required to safeguard the First Amendment rights of civilians.

In asking the Supreme Court to overturn that ruling, Solicitor General Erwin N. Griswold said that the constitutional requirements of a "case or controversy" were absent because Mr. Tatum and the other plaintiffs were antiwar activists who were not likely to be "chilled" by Army surveillance.

The Government also argued that the surveillance had been done by legal means and that some consisted of no more than clipping and filing newspaper articles of public demonstrations and meetings.

The A.C.L.U. asserted that the Court of Appeals had been right in holding that these were technical objections raised to frustrate a full court airing of the charges.

The immediate effect of today's action will be to put off a trial on the issue until the Justices decide if a "case or controversy" exists.