

THE NEW YORK TIMES, TUESDAY, MARCH 28, 1972

GRISWOLD BACKS SPYING BY ARMY

But Says Surveillance of Civilians Was Unwise

WASHINGTON, March 27 (AP)—The Justice Department conceded today in the Supreme Court that the Army had been overzealous in its surveillance of civilians, but insisted that neither the Constitution nor Federal law had been violated. "From my point of view it was poor judgment," Solicitor General Erwin N. Griswold said of the monitoring of individuals and groups by some 1,000 Army agents beginning in the summer of 1965. "It was an inappropriate use of military resources." However, the top department

lawyer continued, the surveillance has stopped, the so-called "blacklist" has been destroyed except for one copy and the data banks dismantled.

Speaking at a high court hearing, Mr. Griswold stated: "What was done—as unwise as it might have been—does not violate a statute or the Constitution and what was done was stopped."

He made the argument in urging the Court to cut off a major test of the surveillance of civilians. Standing against him were Senator Sam J. Erwin Jr., Democrat of North Carolina, and a Rutgers law professor, Frank Askin, representing four individuals and nine groups that contended they had been harassed and intimidated in their speech and associations.

Senator Erwin, chairman of a Constitutional Rights subcommittee in the Senate, disputed Mr. Griswold. The Senator said

the surveillance had violated the Constitution and three laws, most importantly one of 1878, which directed that the military "not be used for police purposes." "And that includes detective work," Senator Erwin said.

Erwin Bid Rejected

Last week the Court rejected a bid by the Senator for time to make his presentation. He has assailed Army surveillance on repeated occasion in the Senate. While the request was denied, Professor Askin yielded 10 minutes of his own half hour to Senator Erwin.

Mr. Griswold's central point was that courts should not rule on this or any other dispute until concrete evidence of injury had been alleged. He said the current case rested on the "broadest of generalities."

In reply, Professor Askin said Mr. Griswold had misrepresented the allegations. He said the individuals and groups who

filed the suit were themselves targets of Army surveillance. ffled the suit were themselves targets of Army surveillance and information about them had been collected, fed into data banks and distributed through the Army intelligence network.

As a result of their suit, the United States Court of Appeals for the District of Columbia ordered what amounted to a trial of the way the Army gathered the information.

The suit was begun in 1970 by Arlo Tatum, executive secretary of the Central Committee for Conscientious Objectors; Conrad Lynn, a New York lawyer; the Rev. Albert B. Cleage Jr., minister of the Shrine of the Black Madonna in Detroit; Benjamin N. Wyatt Jr., a California lawyer, and by nine groups.

These are: Women Strike for Peace; Chicago Area Women for Peace; the Vietnam Week Committee of the University of

Pennsylvania; the Vietnam Education Group of Knoxville, Tenn.; Veterans for Peace in Vietnam; The American Federation of State, County and Municipal Employees; the Vietnam Moratorium Committee; Clergy and Laymen Concerned About Vietnam, and the War Resisters League.

Professor Askin of Rutgers said the suit were made "of sterner stuff" than Mr. Griswold had indicated.

The professor said it charged that the purpose and effect of the surveillance was to make people fearful of protesting Government policies since what they said would be recorded by the Army.

Under the Government's theory, the professor said, the courts could not review Army surveillance until a specific individual proved he lost his freedom of speech and also lost his job or went to jail.