

Court Bars Cops' Campus Snooping

By Maitland Zane

The California Supreme Court yesterday outlawed "snooping" by undercover policemen planted on university campuses to compile intelligence dossiers on students and teachers.

The unanimous decision was written by Justice Matthew O. Tobriner, author of many important rulings in the civil rights area.

It was the first interpretation of the constitutional amendment approved by the

voters in 1972 guaranteeing the "right of privacy to all people."

The court, in effect, gave the back of its hand to Los Angeles Police Chief Edward N. Davis, saying Davis' policy of routinely stationing police in classrooms and at university meetings constituted "government snooping in the extreme."

"The crucible of new thought is the university

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classroom; the campus is the sacred ground of free discussion," the decision said.

"Once we expose the teacher or the student to possible future prosecution for the ideas he may express, we forfeit the security that nourishes change and advancement.

"The censorship of totalitarian regimes that so often condemns developments in art, science and politics is but a step removed from the inchoate surveillance of free discussion in a university; such intrusion stifles creativity and to a large degree shackles democracy."

The case came to the high court through an appeal of a trial court's dismissal of a taxpayer's suit brought by Hayden White, a history professor at UCLA.

White, through his well-known lawyer, A. L. Wirin of the American Civil Liberties Union, had sought a court order prohibiting Chief Davis from spending public funds for campus surveillance of persons not involved in illegal activities.

Yesterday, the Supreme Court reversed the judge who threw out White's suit and sent the case back to Los Angeles Superior Court for trial.

Unless police can show a "compelling" public interest, the "intrusion" of police into classrooms would be an unconstitutional interference with freedom of speech, the Tobriner decision said.

Protests were raised but no lawsuit ensued when early in 1973 it became known

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that undercover San Francisco police officers were being used as spies at San Francisco State University.

Alexander Jason, a member of the Intelligence Unit, revealed in a Marin county court in an unrelated case that he had become a reporter on a student newspaper, the Phoenix, in an effort to infiltrate the radical group called Venceremos.

Lieutenant Paul Lawler, head of the intelligence unit, said, "We curtailed that practice approximately three years ago. We are not now engaged in any academic surveillance."

Tobriner pointed out that the UCLA case was the first time a court had confronted the issue of ongoing police surveillance of a university community.

"As a practical matter, the presence in a university classroom of undercover officers taking notes to be preserved in police dossiers must inevitably inhibit the exercise of free speech both by professors and students," Justice Tobriner wrote.

"... As the United States Supreme Court has recognized time and again: 'The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.'"

Tobriner quoted the late Chief Justice Earl Warren, who wrote these words in a 1957 decision: "To impose any straitjacket upon the intellectual leaders of our colleges and universities would imperil the future of the nation. Scholarship cannot flourish in an atmosphere of suspicion and distrust."