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Court Ruling Doesn't Affect Current Wiretaps, Levi Says

By Ronald Kessler

Washington Post Staff Writer

Warrantless wiretaps currently in use by the Justice Department in national security cases do not violate this week's Court of Appeals ruling narrowing the grounds on which such telephone taps can be installed, Attorney General Edward H. Levi said yesterday.

In a luncheon meeting with reporters, and in a letter to Sen. Edward M. Kennedy (D-Mass.), Levi said the department's present policy is in line with the holding of the court.

The government has long contended that it may conduct electronic surveillances without a court order in domestic or foreign security cases, as distinguished from criminal cases.

However, the Supreme Court three years ago said court orders are required for wiretaps in domestic security cases. The decision left open the question of court authorization in foreign security cases.

This week's ruling by the U.S. appeals court here said a warrant must be obtained before a wiretap can be installed on a domestic group which is not an agent of a foreign power or a collaborator of a foreign power.

This left open the question of whether court approval would be required to wiretap a group or individual suspected of spying on the United States or of being a foreign agent. However, the court said its reasoning could be applied to all foreign security wiretaps conducted without court order.

Commenting on the recent decision, which involved a wiretap on the New York

headquarters of the Jewish Defense League, Levi said in a letter to Kennedy, "Since I became Attorney General [in February], electronic surveillance authorized for national security and foreign intelligence purposes has not been directed at an individual or organization that is neither a nagent of a foreign power not acting in collaboration with a foreign power."

While a Justice Department spokesman said yesterday that no decision has been made on whether to appeal the court ruling, Levi told reporters, "The Department of Justice is only in the case as a lawyer for [former Attorney General John N.] Mitchell and nine FBI agents, in their official and private capacity. They may or may not wish to appeal."

Levi added, "I doubt if we would wish to argue with the holding in the case. But what do you do with an opinion of a judge that wanders all over the map and . . . suggests that the Department of Justice or someone can rewrite or reinterpret the law as passed by Congress, I don't know. But I doubt that an appeal is the way."