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Rights Lawyers Not Surprised By Nixon Surveillance Plans

by Susanna McBee

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Civil rights lawyers said yesterday they were not surprised by disclosures of the broad domestic spying plan that President Nixon approved in 1970.

The plan, part of which was labeled "clearly illegal" by its own author, former White House aide Tom Charles Huston, included proposals for opening sealed letters and burglarizing a large group of "security targets."

Last month the President said he approved a "1970 intelligence plan" but withdrew his approval after only five days when FBI Director J. Edgar Hoover opposed it. Mr. Nixon did not detail the plan, but memos outlining it were published yesterday in *The New York Times*.

"My capacity for surprise is exhausted," said Joseph L. Rauh Jr., general counsel to the Leadership Conference on Civil Rights.

Rauh said the administration embarked on a policy of "selective enforcement of the law" when it announced in July, 1969, that it would not follow Title VI of the 1964 Civil Rights Act, and withhold federal funds from programs where racial discrimination is practiced.

"Once you say there will be such selective enforcement of the law, then you're really saying there is no rule of law," he said.

"I don't know if the 1970 surveillance plan was actually implemented. That's not important. The important thing is that the President made a decision, if only for five days, to break the law

and approve such a clearly illegal program."

Rauh suggested that "the only way to regain confidence in the government now" is to form a "unity coalition" of Democrats and Republicans in the Cabinet.

Charles Morgan Jr., director of the Washington national office of the American Civil Liberties Union, said the 1970 plan "is what you would expect from men who gain control and then set out with a fervor and fine impartiality to attack the provisions of the Bill of Rights.

"It's a natural outgrowth of the Nixon policies. He believes in an essentially closed society and does not believe in the Bill of Rights. This administration went so far that Mr. Hoover, not generally considered a civil libertarian, wound up as a protector of the people's rights."

Morgan said Congress should investigate the role of intelligence agencies in domestic spying and pass legislation "outlawing all existing surveillance of American citizens."

Douglass Lea, director of the ACLU's study project on privacy and data collection, said he suspects the 1970 plan was implemented at least in a "piecemeal" way. He said the proposal itself is "nauseating—an incredible abuse of the instrumentalities of government."

Lea suggested that congressional units conducting oversight hearings into the nation's intelligence agencies hold them in public rather than closed sessions. He also proposed, as liberta-

rians have in the past, that the President appoint a citizens advisory group on national security matters.

"We need a tighter definition of what national security is," Lea argued. "Nixon has cheapened the currency of national security."

The Huston memos name only the Weathermen and Black Panthers as specific targets of his proposed expanded espionage activities. They also call for stepped-up surveillance of college campuses and of students traveling or living abroad.

Bo Burlingham, who was once an "above-ground rather than an underground Weatherman," as he puts it, believes that he has been a subject of the tactics recommended in the Huston plan.

Burlingham, managing editor of *Ramparts* magazine, said in a telephone interview from Berkeley, Calif., that the Justice Department "had wiretaps on me in the fall of 1970." Earlier that year he was one of 15 persons indicted in Detroit on charges of conspiring to blow up public buildings all over the country.

He said his and his wife's families had also been under government surveillance and that the disclosure of the 1970 plan "comes as no great surprise to me. It explains the burglaries of my lawyer's offices." Burlingham's attorney, Gerald B. Lefcourt, reached in New York, said his offices had been burned and burglarized several times between 1970 and 1972. He noted that this week federal Judge Damon Keith ordered the government to report on any acts of sabotage committed in the Detroit case.

Burlingham said, "It's quite a shock to live in an atmosphere of espionage. I'm outraged at the 1970 plan, but after you've been outraged for four years, you learn to live with it. That's the scariest part."

Arnold Sagalyn, who headed the Treasury's law enforcement agencies from 1961 to 1967, said he was "horrified" by the 1970 memos because they reflect "such a cavalier attitude about ignoring the law."

Sagalyn, who now runs the Security Planning Corp., a research and consulting firm dealing with crime and security problems, criticized the 1970 plan for putting agencies concerned with foreign intelligence problems in charge of domestic intelligence.

People in such agencies "lack training and sophistication" to detect real domestic security threats, he said. "They find someone criticizing social conditions or the policies of the President and they think they've found a dangerous man."

The Huston plan, he added, "set up an agency that is, in effect, lawless—not accountable to anyone. It was no different from setting up a Gestapo. It was a highly dangerous situation.

"That's why Hoover didn't want any part of it. He clearly saw the enormous threat. There's no doubt he didn't want a committee-type intelligence group moving into FBI jurisdictions, but he also had a respect for legal procedure and standards for the way his agents should operate."