

The original documents are located in Box 121, folder “Wiretapping” of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Ron Nessen donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

ELECTRONIC SURVEILLANCE

Q: The NEW YORK TIMES says the Ford Administration will unveil legislation that would end electronic surveillance on American citizens without a court order. Is this true?

A: The President announced in February that he would be preparing legislation of this type. Since that time, the Justice Department has been preparing legislation and meeting with members of Congress on this subject.

The President expects to meet with Members of Congress in the near future (sometime this week or next week) to discuss his proposals.

Q: Can you confirm the details of the legislation as reported in the TIMES?

A: Not at present. The President is making some final decisions. I don't think we will get into explicit detail until he communicates the final decisions to the Members of Congress at the upcoming meeting.

Q. Why has the President ordered the Justice Department and Defense Department not to cooperate with ~~MS~~ Abzug's hearings of bugging of American citizens by the FBI and NSA?

A. At the President's instructions, both the Justice Department and the Defense Department are, in fact, cooperating with the hearings being conducted by Congresswoman Abzug. Because her initial subpoena was so broad as to cover all documents in the possession of these agencies for nearly a 30-year period in several major categories, there was a need to consult with the Committee and its staff in an effort to determine what it is exactly they are after.

As to information concerning the activities of these agencies involving United States' citizens, the respective agencies are cooperating ~~with~~ with the Committee, *and have offered to provide information.*

The agencies are also attempting to develop appropriate safeguard procedures for classified information concerning foreign governments.

M. D.
3/4/76

Q. You were asked yesterday if the President sent a memo to the FBI on surveillance shortly after he came into office and if you would make a copy of that memo available? Have you had a chance to check on that?

A. In December of 1974, the President sent a memorandum to Attorney General Levi which outlined procedures to be followed in cases where the use of electronic surveillance was being considered for intelligence gathering in matters of national security. This statement of authority was for the purpose of establishing clear guidelines which would have to be met before electronic surveillance devices could be used in national security cases.

The National Security Council classified the President's memo Top Secret so I cannot release it. However, I would point out that a letter sent to Senator Kennedy on June 24 from Attorney General Levi generally outlined the procedures established by the President.

Q. The Washington Star story implies that these new procedures break new ground or go beyond court decisions. Is that true?

A. No, as I said these procedures were designed to tighten up and make more precise the rules under which so-called warrantless wiretapping in national security cases can be used. Subsequent to the Zuibon decision in the Appellate Court, the Counsel's Office instructed the Attorney General not to go beyond that decision.

(FYI: Any other questions relating to this matter should be referred to the Justice Department. Also, this issue is difficult enough for lawyers to handle, let alone having a layman try to tackle it, which is further justification for sending any queries to Justice.)

- Q. You were asked yesterday if the President sent a memo to the FBI on surveillance shortly after he came into office and if you would make a copy of that memo available? Have you had a chance to check on that?
- A. In December of 1974, the President sent a memorandum to Attorney General Levi which outlined procedures to be followed in cases where the use of electronic surveillance was being considered for intelligence gathering in matters of national security. This statement of authority was for the purpose of establishing clear guidelines which would have to be met before electronic surveillance devices could be used in national security cases.

The National Security Council classified the President's memo Top Secret so I cannot release it. However, I would point out that a letter sent to Senator Kennedy on June 24 from Attorney General Levi generally outlined the procedures established by the President.

- Q. The Washington Star story implies that these new procedures break new ground or go beyond court decisions. Is that true?
- A. No, as I said these procedures were designed to tighten up and make more precise the rules under which so-called warrantless wiretapping in national security cases can be used. Subsequent to the *Zuibon* decision in the Appellate Court, the Counsel's Office instructed the Attorney General not to go beyond that decision.

(FYI: Any other questions relating to this matter should be referred to the Justice Department. Also, this issue is difficult enough for lawyers to handle, let alone having a layman try to tackle it, which is further justification for sending any queries to Justice.)

Re: NSA.

We don't comment on sensitive intelligence activities but we
can say that no telephone communication of a private U.S.
citizen is a target for any monitoring activity.

No!

PRESIDENT'S POSITION ON WARRANTLESS WIRETAPS

Q: What is the President's position regarding wiretapping for national security purposes?

A. As you may recall from one of the President's first speeches after taking office, "there will be no illegal wiretapping in this Administration." (To a joint session of Congress on August 12.)

The U.S. Court of Appeals for the District of Columbia handed down a decision last week bearing on the so-called warrantless wiretaps. It was a very lengthy opinion, running more than 100 pages. The Justice Department is studying the opinion now to determine whether or not to appeal the decision.

In the meantime, the President has been advised by the Attorney General (through the Counsel's office) that there are no taps in use that violate the decision by the court.

Furthermore, the President will not authorize any taps which would violate court rulings.

Q: Would the President support legislation requiring that all national security wiretapping be required to have a court order before it would be allowed?

A: The President is very concerned about individual privacy. But before any decision is made regarding the need for court orders for national security taps, considerable study would be necessary. Right now, the Administration is making up its mind whether to appeal the Court of Appeals decision.

and difficult. But we have set out on a path of reason, of fairness, and we will continue on it.

As guideposts on that path, I offer the following:

—To our allies of a generation in the Atlantic community and Japan, I pledge continuity in the loyal collaboration on our many mutual endeavors.

—To our friends and allies in this hemisphere, I pledge continuity in the deepening dialog to define renewed relationships of equality and justice.

—To our allies and friends in Asia, I pledge a continuity in our support for their security, independence, and economic development. In Indochina, we are determined to see the observance of the Paris agreement on Vietnam and the cease-fire and negotiated settlement in Laos. We hope to see an early compromise settlement in Cambodia.

—To the Soviet Union, I pledge continuity in our commitment to the course of the past 3 years. To our two peoples, and to all mankind, we owe a continued effort to live and, where possible, to work together in peace; for in a thermonuclear age there can be no alternative to a positive and peaceful relationship between our nations.

—To the People's Republic of China, whose legendary hospitality I enjoyed, I pledge continuity in our commitment to the principles of the Shanghai communique. The new relationship built on those principles has demonstrated that it serves serious and objective mutual interests and has become an enduring feature of the world scene.

—To the nations in the Middle East, I pledge continuity in our vigorous efforts to advance the progress which has brought hopes of peace to that region after 25 years as a hotbed of war. We shall carry out our promise to promote continuing negotiations among all parties for a complete, just, and lasting settlement.

—To all nations, I pledge continuity in seeking a common global goal: a stable international structure of trade and finance which reflects the interdependence of all peoples.

—To the entire international community—to the United Nations, to the world's nonaligned nations, and to all others—I pledge continuity in our dedication to the humane goals which throughout our history have been so much of America's contribution to mankind.

So long as the peoples of the world have confidence in our purposes and faith in our word, the age-old vision of peace on earth will grow brighter.

I pledge myself unreservedly to that goal. I say to you in words that cannot be improved upon: Let us never negotiate out of fear, but let us never fear to negotiate.

As Vice President, at the request of the President, I addressed myself to the individual rights of Americans in the area of privacy. There will be no illegal tappings, (tapings), eavesdropping, buggings, or break-ins by my Administration. There will be hot pursuit of tough laws to prevent illegal invasion of privacy in both government and private activities.

On the higher plane of public morality, there is no need for me to preach tonight. We have thousands of far better preachers and millions of sacred scriptures to guide us on the path of personal right-living and exemplary official conduct. If we can make effective and earlier use of moral and ethical wisdom of the centuries in today's complex society, we will prevent more crime and more corruption than all the policemen and

Q Ron, before you were going to add something to what you had begun to say about the review. Have they decided whether or not to appeal?

MR. NESSEN: No, I say it is a very long and complicated ruling by the appeals court. It is being reviewed by the Justice Department. And that decision has not been made yet.

Q Ron, but on that, a minute ago -- apparently meaning up until the time a decision is made as to whether to carry the thing to the Supreme Court -- you said that the Government would abide by the Court of Appeals decision.

MR. NESSEN: Correct.

Q On wiretapping, the Federal Communications Commission says that the term "wiretapping" includes the interception of oral communications through the air. That is by microwave. This, of course, is what is involved in the reports about the National Security Agency.

Does the White House accept the interpretation? — Yes
When you say you are going to abide by the Court of Appeals ruling on wiretapping, does this also include transmission by microwave through the air? — Yes
Do you accept the FCC's definition of wiretapping to include that form of interception, also? — Yes

MR. NESSEN: You better let me check that one, Jim, before I answer.

Q I just wonder why you can't get an answer to that or why you would not think that is a question that ought to be answered, Ron.

MR. NESSEN: Bob, I think it is a fairly well-established principle that matters involved in national security are not always answered publicly.

Q Right.

Q Are matters involving violations of the Communications Act of 1934 and the Safe Streets Act of 1968 answered by the White House?

MR. NESSEN: We would certainly try.

Q This is the issue in this particular case.

MR. NESSEN: I said I would check on the microwave issue.

Q It is very simple. All we are trying to find out is, is the Government monitoring people's telephone conversations?]

There are lawful electronic surveillance without warrants

MR. NESSEN: Bob, I told you that is a question I am not going to be able to answer. It involves national security and I am not going to be able to answer it.

Q You mean national security includes monitoring people's telephone calls? You are saying that is part of national security, to eavesdrop illegally on people's phone calls.]

MR. NESSEN: Bob, the question you raise involves national security and I am not going to be able to answer it.

Q Can you say any wiretaps are being done, abiding by the Court of Appeals ruling?

MR. NESSEN: Yes.

Q Any wiretaps, whether by the National Security Agency or not?

MR. NESSEN: As far as I am aware, they are.

Q We will have to check to see what you mean by wiretaps.]

MR. NESSEN: Whether they involve microwave transmission.

Q Ron, does the President have any comment on the State of Pennsylvania going on strike?

MR. NESSEN: No.

Q That is an internal matter.

Q Ron, to pursue this warrantless wiretaps issue a bit more, how was the decision made by the Government to abide by that lower court ruling? Was it the President's? The Justice Department's?

MR. NESSEN: The President, his legal counsel and the Justice Department.

Someone, I guess, might want to know the reaction to the fight at Panmunjom yesterday, I suppose it was.

There are ~~many~~ cases where electronic surveillance is conducted without court order in national security matters. A. G. Levi has recently discussed the scope of this surveillance in a letter to Senator Kennedy.

All national security electronic surveillance cases are ~~to~~ handled in compliance with ~~the~~ rulings by the Supreme Court (Keith case) and the Appellate Court (Zwerger case).