

The original documents are located in Box 1, folder “American Telephone and Telegraph Subpoena, 6/76 (1)” of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

Janet:

Donna called with the following
invitation for Charlie from Marsh:

Meeting tomorrow(Sat. June 26)
in Buchen's office at 10:00 a.m.

Agenda: Moss AT&T subpoena

Vera
6/25
5:45



Janet:
Make up a file on
Mass Subcommittee
Oversight + Investigations
ATT Subpoena.

Chas.



COPY

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE
UNITED STATES OF AMERICA

To Stephen Sims

You are hereby commanded to summon Mr. Robert D. Lilley, President,
American Telephone and Telegraph Company, 195 Broadway, New York, New York 10007

Subcommittee on Oversight and Investigations (under the
to be and appear before the authority of Rules X and XI of the Rules of the House
of Representatives, 94th Congress) of the Interstate and Foreign Commerce
Committee of the House of Representatives of the United States, of which the Hon.

John B. Moss is chairman and to bring with
him the documents described in the Attachment to this subpoena (personal
appearance is not required if the described documents are made available in
the Subcommittee offices on or before 12:00 noon on June 25, 1976)

in their chamber in the city of Washington, on Monday, June 28, 1976, in Room 2323,
Rayburn House Office Building, at the hour of 10:00 a.m.

then and there to testify touching matters of inquiry committed to said Committee; and he is
not to depart without leave of said Committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives
of the United States, at the city of Washington, this
22nd day of June, 1976.

/s/ HARLEY O. STAGGERS

Chairman.

Attest:

[Signature]
Clk.



ATTACHMENT TO SUBPOENA NO. 94-2-3

1. Full and complete copies of Federal Bureau of Investigation (FBI) national security request letters, in the possession or control of American Telephone and Telegraph (AT&T) and its 24 operating companies listed below*, for access to phone lines handling either verbal or non-verbal communications.
2. Copies of any and all records in the possession or control of AT&T or its operating companies prior to 1969 when written FBI requests were not routinely requested by AT&T and its operating companies.
3. Copies of any and all applicable Bell System Practices (BSP's) describing company policy regarding national security "taps" or "provision of facilities" to law enforcement or intelligence agencies. This should include both current BSP's and any BSP's on the subject which have since been revised or discontinued.
4. Copies of internal memorandum, correspondence, board minutes, or other records relative to AT&T, and/or any AT&T operating company, practice or policy with respect to national security "taps" or "provision of facilities" to law enforcement or intelligence agencies, covering the last 10 years.

*Bell System Companies (see attached list)



BELL SYSTEM COMPANIES

American Telephone and Telegraph Company
The Bell Telephone Company of Pennsylvania
The Diamond State Telephone Company
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
Cincinnati Bell, Inc.
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
The Mountain States Telephone and Telegraph Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
The Ohio Bell Telephone Company
Pacific Northwest Bell Telephone Company
The Pacific Telephone and Telegraph Company
Bell Telephone Company of Nevada
South Central Bell Telephone Company
Southern Bell Telephone and Telegraph Company
The Southern New England Telephone Company
Southwestern Bell Telephone Company
Wisconsin Telephone Company



COPY

Subpena for _____

before the Committee on the _____

Served _____

House of Representatives

U.S. GOVERNMENT PRINTING OFFICE 24-647-6



(a) House Rule XI 2(a)(3)

"Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest."

(b) Committee Rules 3 and 4(a)

"Rule 3. Agenda for Meetings. The agenda for committee and subcommittee meetings, setting out all items of business to be considered, shall be furnished to each member of the committee by delivery to his office at least two (2) calendar days in advance of the meeting.

Rule 4. Procedure. (a) The date, time, place, and subject matter of all meetings of the committee or any of its subcommittees will be announced at least 1 week in advance of the commencement of such meetings."

As you will note, especially in Rule 3 of the Committee Rules, the requirement is that each member receive an agenda "setting out all items of business to be considered." The Chairman has advised us via the Subcommittee notice that a subpoena will possibly be considered, but he will not divulge any of the specifics in advance, not even informally. The procedure now being utilized certainly violates the spirit if not the letter of Rule 3.

The questions are first, how can a member possibly make an informed and thoughtful judgement on the merits of an issue when he does not even know what is under consideration. Additionally, he is given no time to probe the merits of what is being considered and must by necessity rely upon the judgement of the Chairman and his staff. Second, the rules (Rule 7 of the Committee Rules) allow for the casting of votes by proxy. How could any member in good conscience give his proxy to another member when he is not even aware of the subject matter to be voted upon?

"Fundamental fairness" would at a very minimum seem to require that the members be given a better notice than we have been receiving.

BW:jc



JOHN E. MOSS, CALIF., CHAIRMAN

AND L. OTTINGER, N.Y.
 RT (RCH) KNUDGER, TEX.
 ENT IDBY MOFFETT, CONN.
 ANTINI, NEV.
 (BILL) STUCKEY, GA.
 S H. SCHEUER, N.Y.
 Y A. WAXMAN, CALIF.
 P R. SHARP, IND.
 EW MAGUIRE, N.J.
 EY O. STAGGERS, W. VA.
 (OFFICIO)

JAMES M. COLLINS, TEX.
 NORMAN F. LENT, N.Y.
 MATTHEW J. HINALDO, N.J.
 W. HENSON MOORE, LA.
 SAMUEL L. DEVINE, OHIO
 (EX OFFICIO)

ROOM 2023
 RAYBURN HOUSE OFFICE BUILDING
 PHONE (202) 225-4441

MICHAEL R. LEMOV
 CHIEF COUNSEL

J. THOMAS GREENE
 COUNSEL TO THE CHAIRMAN

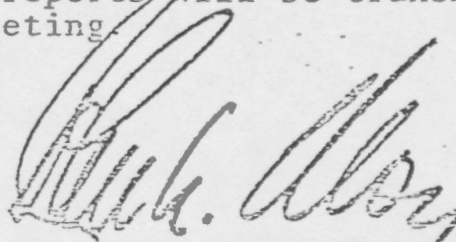
CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
 OF THE
 COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
 WASHINGTON, D.C. 20515

June 15, 1976

SUBCOMMITTEE NOTICE

To the Members of the Subcommittee on Oversight and
 Investigations:

There will be a meeting of the Subcommittee at 2:00 p.m.
 on Monday, June 21, 1976, in 2218 Rayburn House Office
 Building to consider the possible issuance of subpoenas,
 compliance with subpoenas and other requests for infor-
 mation, future hearings and investigations, and house-
 keeping matters. In addition, the Subcommittee may
 consider any reports which may be ready for Subcommittee
 consideration; copies of such reports will be transmitted
 to the Members prior to the meeting.


 JOHN E. MOSS, Chairman

lcw



JOHN E. MOSS, CALIF., CHAIRMAN

RICHARD L. OTTINGER, N.Y.
ROBERT (BOB) KRUEGER, TEX.
ANTHONY TOSY MOFFETT, CONN.
JIM SANTINI, NEV.
W. S. (BILL) STUCKEY, GA.
JAMES H. SCHEUER, N.Y.
HENRY A. WAXMAN, CALIF.
PHILIP R. SHARP, IND.
ANDREW MAGUIRE, N.J.
HARLEY G. STAGGERS, W. VA.
(EX OFFICIO)

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
WASHINGTON, D.C. 20515

Room 2323
RAYBURN HOUSE OFFICE BUILDING
PHONE (202) 225-4441

MICHAEL R. LEMOV
CHIEF COUNSEL
J. THOMAS GREENE
COUNSEL TO THE CHAIRMAN

June
~~July~~ 23, 1976

SUBCOMMITTEE NOTICE

To the Members of the Subcommittee on Oversight and
Investigations:

Pursuant to the previous Subcommittee Notice dated
June 15, 1976, scheduling a Subcommittee meeting for
the purpose of issuing a subpoena and pursuant to the
subpoena to the American Telephone and Telegraph Com-
pany duly issued at the Subcommittee meeting on Tuesday,
June 22, the Subcommittee will hold a hearing at 10:00 a.m.
on ~~Monday, June 28, 1976~~, in 2218 Rayburn House Office
Building, (as provided in the subpoena) to receive the
materials described in the subpoena from the American
Telephone and Telegraph Company.

The hearing will not be held in the event the materials
are produced in a timely fashion as provided in the
subpoena.


JOHN E. MOSS, Chairman



Jim Callahan tld to Kenton on Wed.

Callahan from Justice tld to Warden + said Justice
wants to call Egan, Rhodes, O'Neil + Stagg
Brooks (runner) that he agreed Bella getting this info
Return date subpoena June 25th

ATT wants ~~at~~ extension of time for compliance
Vote on Subpoena 9 - 1 (9 Davis)

H. Moore present - (Knepper absent)
Subpoena not passed through P.C. - but see Res.

P.th
Power of Subpoena to issue subpoena in ~~subpoena~~ case
of Ashland Dist vs FTC. - DC Ct of Appeals

Personal Appearance of 1 of ATT in hearing compliance
on June 28th

Moore ltr to ATT to disregard Liley + insert some
existing P - Liley not source Mar.

Mike Lemov - Moore pr. stay Mar - says w/ Allen Street
at ATT - 457-3848 - ✓ Michay Magazine SEC

Moore Code Meets again June 26

Chase ATT because ATT can't ~~not~~ challenge the subpoena
11-2-2017

Moore Subpoena - O+I -

Met Tues. June 27, at 1 p.m.

Purpose of meeting was solely for purpose of issuance of subpoena
Moore on Gov + Off - Atty Gen - by Bella could it be he would
Maguire + Moffett on Moore Subpoena -

No action to Ministry - Warden Moore named & why
were taps pre + post 1969 + Manual for handling tap requests
Gov had no knowledge - ATT called Bernie Morrell
directly talked (but Knepper) to Bernie Warden + told him what he's been



**Subcommittee on Oversight and
Investigations
of the
Committee on Interstate and
Foreign Commerce
U.S. House of Representatives**

94th Congress



**Selected Provisions of the Rules of the House
of Representatives and Other Provisions Appli-
cable to the Activities of the Subcommittee on
Oversight and Investigations**

NINETY-FOURTH CONGRESS

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

JOHN E. MOSS, CALIF., CHAIRMAN

RICHARD L. OTTINGER, N.Y.
ROBERT KRUEGER, TEX.
ANTHONY TOBY MOFFETT, CONN.
JIM SANTINI, NEV.
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JAMES H. SCHEUER, N.Y.
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SAMUEL L. DEVINE, OHIO
(EX OFFICIO)

MICHAEL R. LEMOV, CHIEF COUNSEL

SELECTED PROVISIONS OF THE RULES OF THE HOUSE OF REPRESENTATIVES AND OTHER PROVISIONS APPLICABLE TO THE ACTIVITIES OF THE SUBCOM- MITTEE ON OVERSIGHT AND INVESTIGATIONS

RULE X. ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES.

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

* * * * *

(1) Committee on Interstate and Foreign Commerce.

(1) Interstate and foreign commerce generally.

(2) Inland waterways.

(3) Interstate oil compacts and petroleum and natural gas, except on the public lands.

(4) Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.

(5) Regulation of interstate and foreign communications.

(6) Regulation of interstate transmission of power, except the installation of connections between Government waterpower projects.

(7) Securities and exchanges.

(8) Consumer affairs and consumer protection.

(9) Travel and tourism.

(10) Public health and quarantine.

(11) Health and health facilities, except health care supported by payroll deductions.

(12) Biomedical research and development.

* * * * *

GENERAL OVERSIGHT RESPONSIBILITIES

2. (a) In order to assist the House in—

(1) its analysis, appraisal, and execution of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the various standing

committees shall have oversight responsibilities as provided in paragraph (b).

(b) (1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of that committee. Each such committee having fifteen or more members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective juris-

diction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.

* * * * *

RULE XI. RULES OF PROCEDURE FOR COMMITTEES.

1. (a) (1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

(b) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hear-

ing of a committee shall be paid from the contingent fund of the House.

* * * * *

QUORUM FOR TAKING TESTIMONY

(h) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two.

* * * * *

CALLING AND INTERROGATION OF WITNESSES

(j) (1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply the 5-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

INVESTIGATIVE HEARING PROCEDURES

(k) (1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) receive such evidence or testimony in executive session;

(B) afford such person an opportunity voluntarily to appear as a witness; and

(C) receive and dispose of requests from such persons to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

POWER TO SIT AND ACT; SUBPOENA POWER

(m) (1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2) (A) of this paragraph)—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. The chairman of the committee, or any member designated by

such chairman, may administer oaths to any witness.

(2) (A) A subpoena may be issued by a committee or subcommittee under subparagraph (1) (B) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the members of the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1) (B) may be enforced only as authorized or directed by the House.

IN THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE SUBCOMMITTEE JURISDICTION

Resolution Offered in Full Committee Session by Mr. Dingell,
and Agreed to, February 26, 1975

Resolved by the House Committee on Interstate and Foreign Commerce that the standing Subcommittees of the Committee, the Subcommittee Chairmen and the Subcommittee membership shall be as follows:

I.—Subcommittees:

(1) *Subcommittee on Communications*

Jurisdiction: Interstate and foreign communications, including all communications by satellite, broadcast, radio, common carriers, interstate communication by wire and such jurisdiction over communications and media as in the jurisdiction of the full committee.

(2) *Subcommittee on Oversight and Investigations*

Jurisdiction: Responsibility for oversight of agencies, departments and all programs within the jurisdiction of the full committee and to conduct such investigations within such jurisdiction. [Note: This subcommittee would not have legislative jurisdiction. The committee's legislative subcommittee would have parallel responsibility to conduct oversight in their assigned areas.]

(3) *Subcommittee on Energy and Power*

Jurisdiction: Energy matters within the jurisdiction of the full committee, and jurisdiction over all petroleum, natural gas, and electrical power issues.

(4) *Subcommittee on Health and the Environment*

Jurisdiction: Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including Medicaid and national health insurance; foods and drugs; drug abuse; Clean Air Act and environmental protection in general.

(5) *Subcommittee on Consumer Protection and Finance*

Jurisdiction: Jurisdiction over consumer protection in general, including toxic substances, product safety, motor vehicle safety, securities and exchanges (the SEC), the regulation of trade (the FTC), and insurance.

(6) *Subcommittee on Transportation and Commerce*

Jurisdiction: Regulation of travel and tourism, interstate and foreign commerce generally, and all matters related to inland waterways, railroads, railroad retirement, railway labor, solid waste disposal and noise pollution control.

IN THE COMMITTEE ON INTERSTATE AND FOREIGN
COMMERCE
HOUSE OF REPRESENTATIVES

Mr. Staggers offered the following resolution

Considered, amended, and agreed to

April 17, 1975

Resolution

Resolved, That in accordance with Rule XI, clause 2(m) of the Rules of the House of Representatives, the Subcommittee on Oversight and Investigations, Subcommittee on Communications, Subcommittee on Energy and Power, Subcommittee on Health and the Environment, Subcommittee on Consumer Protection and Finance, and Subcommittee on Transportation and Commerce are authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as they deem necessary, in the conduct of such subcommittees of any investigation or activity or series of investigations or activities within their jurisdiction as set forth in Rule X, clause 1(l) of said House Rules and the rules and procedures of the Committee on Interstate and Foreign Commerce. Subpoenas may be issued over the signature of the chairman of the committee, or any member designated by him, and may be served by any person designated by such chairman or member.

This delegation of subpoena power by the committee to subcommittees may be revoked at any time by majority vote of the committee after due notice and with a quorum present pursuant to the committee rules.

Marsh

Assistant
Attorney General

JUN 25 1976



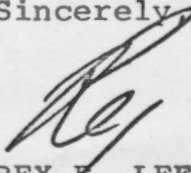
June 25, 1976

Mr. Philip W. Buchen
Mr. John O. Marsh, Jr.
Counsellors to the President

Dear Jack and Phil:

Attached is a memorandum prepared by Bob Keuch of the Criminal Division which describes in some detail the national security implications of compliance with the Moss subpoena. We will furnish you with additional materials as they become available.

Sincerely



REX E. LEE



FACT SHEET: Moss Subcommittee
Subpoena


The subpoena calls for all records in the custody or possession of AT&T which relate to non-Title III wiretaps, that is, which relate to all wiretaps conducted without a judicial warrant. The most sensitive of the classes of documents that would be producible under the subpoena are letters directed to AT&T by the Director of the Federal Bureau of Investigation as a part of the procedures followed by the Executive Branch in conducting foreign intelligence surveillances authorized by the Attorney General acting on behalf of the President. This will briefly outline those procedures and set forth the types of information that would be placed in jeopardy by the disclosure of the letters demanded by this subpoena.

When a foreign intelligence surveillance is considered necessary by the FBI, the CIA, the NSA or other appropriate government entities such as the NSC or the State Department, a recommendation is forwarded to the Attorney General, via the FBI, setting forth the basis for the surveillance, the information held by the Executive Branch which would indicate that the surveillance falls within our announced policies concerning electronic surveillance and certifying that the



surveillance is necessary for the national security.

If the Attorney General approves the surveillance, his approval is forwarded to the FBI who conducts all electronic surveillances instituted within the continental limits of the United States pursuant to Attorney General authorization and irrespective of which particular intelligence agency initiated the request. The FBI then presents a letter signed by the Director of the Federal Bureau of Investigation to AT&T. This letter, a copy of which is attached, states that the Director has been authorized by the Attorney General to conduct a specific surveillance for foreign intelligence purposes and identifies the surveillance in one of three ways. First, the surveillance may be identified by the listing of the specific telephone numbers to be surveilled; second, the surveillance may also be identified by the listing of the specific addresses that are to be covered by the surveillance; and third, such surveillance may be identified by use of technical terms referring to AT&T lines or junction points. This third method is used in a very, very small percentage of the surveillances, and, in any case, AT&T maintains public records of its line numbers which could also identify specific locations or individuals which were the subject of warrantless surveillances.



While the Subcommittee subpoena anticipates records both prior to, and subsequent to, 1969, the letter procedure just described has only been in effect since 1969 and records would not, in all probability, be available concerning pre-1969 surveillances. The post-1969 surveillances would include those domestic security warrantless surveillances that were authorized by the Attorney General and conducted prior to the Supreme Court decision which held that such domestic security surveillances were unconstitutional, U.S. v. Keith, and the records of such surveillances present no security problems and the Executive Branch would have no objection to their production to the Subcommittee. However, the remainder of the surveillances are all foreign intelligence surveillances and the disclosure of the subject of those surveillances would have extremely serious national security and foreign policy repercussions.

First, the letters would disclose the identity of each foreign Embassy, foreign Mission, or other foreign entity such as a foreign government controlled corporation which is, or has been, the subject of our intelligence interests. While it may well be that it is a well-accepted fact that as part of our intelligence and counter-intelligence



activities we conduct electronic surveillances of Embassies, etc., a public confirmation of this fact would seriously impact on our foreign relations and would provide those governments whose interests are inimical to ours with propaganda and negotiating resources that would be very harmful to our national security.

Also disclosed would be the identity of those individuals who are, or have been, the subject of such surveillances. Under the Executive Branch's clearly announced policy, we will only conduct such surveillances when we have reason to believe that an individual is an agent of a foreign power or is aiding and abetting a foreign power in clandestine activities, including espionage, sabotage, or terrorism. Identification of those individuals we have surveilled will point out not only the agents we know about, but would be counter-intelligence information to our enemies since it would indicate those agents whom we have not identified. Moreover, often the individual being surveilled as a foreign agent is a deep-cover agent whose identity could only come from a very small or select group of sources and disclosure of our knowledge of the agent's existence or



identity would seriously jeopardize extremely important agents or sources of ours.

Situations may also exist in which foreign powers are utilizing residences or buildings other than the official Embassy and Mission buildings to conduct business in a secure manner. The letters would disclose those locations which we have identified as being used in this manner.



DATE

ADDRESSEE

Dear Mr. _____

In connection with an investigation being conducted by the Federal Bureau of Investigation, under its lawful and established jurisdiction, it is requested that you furnish to the Federal Bureau of Investigation, at the usual commercial rates, the facilities or services set out below. This request is made upon the specific written authorization of the Attorney General of the United States as a necessary investigative technique under the powers of the President to protect the national security against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities, in connection with an investigation of organizations or individuals suspected to be agents of or acting in collaboration with a foreign power. Your cooperation in this matter will be greatly appreciated.

It is requested that private line facilities be furnished as follows:

From:

To:

You are not to disclose the existence of this request. Any such disclosure could obstruct and impede the investigation.

Very truly yours,

Clarence M. Kelley
Director

[July 1976]

Honorable John E. Moss
Chairman
Subcommittee on Oversight and Investigations
Committee on Interstate and Foreign Commerce
House of Representatives
Washington, D.C.

Dear Mr. Chairman:

I have been advised that your Subcommittee has served American Telephone and Telegraph Co. with a subpoena requesting records in their possession relating to certain electronic surveillances. A vast majority of the records demanded by the subpoena are documents utilized by the Executive Branch to request the necessary technical assistance to conduct national security surveillances and to inform AT&T that the surveillances have been specifically authorized by the Attorney General, acting on behalf of the President, for the purposes of foreign intelligence.

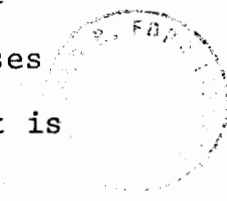
The relationship between the U.S. and AT&T in this instance is one in which the Government can achieve its objectives only through the agency of a private company. Accordingly, the documents subpoenaed came into the possession of the company only because of the company's indispensable role as an agent in effecting



Government policy, and would not have been supplied but for that indispensable role. Under these circumstances, the Government has a responsibility to inform you concerning damage to the interests of the United States that would result from AT&T's compliance with your subpoena.


The information requested in the subpoena would require the disclosure of the targets of foreign intelligence national security electronic surveillances conducted by the United States through the agency of the Bell System companies. Any identification of the foreign powers and agents who are the subjects of surveillance would do grave and irreparable damage to the diplomatic relations and foreign intelligence operations of the United States.

I believe that the Subcommittee's desire for information concerning the use of national security wiretaps can be accommodated by means other than delivering the specific materials you have requested. Indeed, the records requested are primarily form letters indicating the subject or location of surveillances. They would not provide any factual information concerning the purposes for which these surveillances were authorized. As it is



the latter rather than the former that would best serve the legislative purpose underlying your inquiry, I would like to discuss with you alternative means by which the legitimate needs of your Subcommittee could be met -- means that would be less potentially damaging to the national security.

I am confident that the Executive can satisfy the Subcommittee's needs. Toward that end, I would propose that a meeting be held at the earliest possible time. In the meantime, it would of course be necessary for you to extend the compliance date for the subpoena lest the harm occur before we have the opportunity to discuss alternative means of supplying information. In light of the imminence of the compliance date, I would appreciate a response no later than noon on Tuesday, June 29, 1976.



An intelligence agency recommending to the Attorney General the use of electronic surveillance to protect the national security against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities must submit a memorandum to the Director of the Federal Bureau of Investigation (FBI) explaining the need for, and scope of, the proposed surveillance. If the Director of the FBI approves the request, it is then forwarded to the Attorney General. As noted above, all applications must be approved personally by the Director of the FBI, regardless of whether that agency is the initiator of the application.

3. Upon receipt, the Attorney General refers all applications to me for review. I advise the Attorney General whether in my view the application satisfies the current criteria of the President and the Department of Justice for approval. The application and my views are returned to the Attorney General, who is personally responsible for acting for the President and either approving or rejecting the application.

4. If the application is approved by the Attorney General, the FBI institutes the requested surveillance. Since information intercepted is moved from the point of interception to the point of monitoring via leased telephone lines, a "leased line" or "national security request" letter (a sample of which is appended as Attachment I) is provided to the local American Telephone and Telegraph (AT&T) affiliate, identifying by phone number, address, or other numeric indication the location from which the leased line runs to the location at which the intercept is collected -- usually the local FBI field office. These letters have been used for all requests directed to AT&T for leased intercept lines since 1969; prior to that time, requests were ~~routinely~~ handled verbally between established contacts within the government and the Bell System.

5. Any dissemination of the information relating to the national defense following the word "from" in the second paragraph of the national security request letter would immediately reveal the location of the target line and, in virtually all cases, the identity of the object of the surveillance. Such disclosure would terminate various intelligence and counter-intelligence programs, would identify and endanger informants and double-agents currently supplying



information, and would reveal the technical capabilities of the United States in capturing such information. Such disclosure would close off valuable sources of information important to our national defense and national security. It would also severely hamper the conduct of our relations and affairs with foreign powers. In short, disclosure of the targets and nature of all foreign intelligence national security electronic surveillances over the past eight years would do irreparable and inestimable damage to the foreign relations and foreign intelligence systems of the United States. Similarly, disclosure of earlier records or internal Bell memoranda containing such identifying information would cause irreparable and ^{grave} ~~inestimable~~ damage to the national security.

6. Specifically, disclosure of the demanded documents would (a) disclose the identity of each foreign Embassy, foreign Mission, or other foreign entity such as a foreign government-controlled corporation which is, or has been, the subject of our intelligence interests. While it may well be that it is a well-accepted fact that as part of our intelligence and counter-intelligence activities we conduct electronic surveillances of Embassies, etc., a public confirmation of this fact would seriously impact on our foreign relations and would provide those governments whose interests are inimical to ours with propaganda and negotiating resources that would be very harmful to our national security; (b) disclose the identity of those individuals who are, or have been, the subject of such surveillances. Under the Executive Branch's clearly announced policy, we will only conduct such surveillances when we have reason to believe that an individual is an agent of a foreign power or is aiding and abetting a foreign power in clandestine activities, including espionage, sabotage, or terrorism. Identification of those individual

are inimical to our
national interest

we have surveilled will point out not only the agents we know about, but would be counter-intelligence information to ^{foreign powers whose interests are policies} ~~our enemies~~ since it would indicate those agents whom we have not identified. Moreover often the individual being surveilled as a foreign agent is a deep-cover agent whose identity could only come from a very small or select group of sources and disclosure of our knowledge of the agent's existence or identity would seriously jeopardize extremely important agents or sources of ours; and (c) disclose a knowledge of locations and, of course, conversely, disclose those "Safe" locations of which we are not aware, [which foreign powers are utilizing, other than the official Embassy and Mission buildings, to conduct business in a secure manner.]

7. In view of the considerations set forth above, and based on knowledge of our procedures and my participation in conferences with senior representatives of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the National Security Council, and with the Attorney General, it is my considered judgment that any disclosure of the subjects of our foreign intelligence electronic surveillance efforts would cause irreparable damage to the conduct of our foreign affairs and to our national security.

THE WHITE HOUSE

WASHINGTON

July 8, 1976

MEMORANDUM FOR: JACK MARSH

FROM: CHARLES LEPPERT, JR. *CLJ.*

SUBJECT: Moss Subcommittee on
Oversight & Investigations

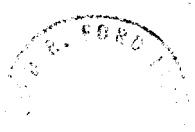
This is in response to your request for a status report on the article which appeared in the Washington Star entitled, "Ford, Tap Probers at Odds".

I have talked with Jim Milligan on the subcommittee staff in the absence of Mike Lemov. Milligan states that they have spent most of the day, July 8, negotiating with Erwin Goldbloom at Justice on the information needed by the subcommittee to conduct its investigation.

Milligan was not aware of the article which appeared in the Washington Star, but indicated that Rep. Moss did make a statement in California to the Sacramento Bee Newspaper. I then read Milligan the Star article which he felt was substantially the same as that which appeared in the Sacramento Bee. He states Moss's position would be one in which the subcommittee wants the information it feels necessary to conduct its investigation with a sincere interest in protecting the national security and names of individuals where necessary. Moss feels that there is a congressional responsibility in this matter and that he intends to give up no congressional prerogatives.

Milligan then advised me that the June 20 date in the Star article was incorrect and should read July 20, the date on which the extension of the subpoena expires. Milligan states that negotiations with Justice thus far have not produced an agreement and that the basic problem is one in which the subcommittee is operating from a lack of information, whereas the Administration or Justice Department has all the information. He states the FBI does not want to give up names,

File



dates and telephone numbers of the taps and the subcommittee takes the position, "if they refuse to do this, how can the subcommittee determine whether it was a domestic or foreign intelligence tap". Justice is going to write up its understandings of today's discussion and negotiations and the subcommittee staff will do the same and go back to their principals to determine if there are possible areas of agreement.

Milligan did indicate that if the information is obtained under the subpoena, the subcommittee staff will have to take the time to match names and addresses with telephone numbers and it was anticipated that some agreement could be worked out where the Administration would give them such information without requiring them to go through the matching process.

Milligan says that the documents have now been placed in a vault of a Washington bank by AT&T pending the outcome of negotiations. If no agreement is reached by July 20, Milligan says Moss intends to enforce the subpoena and the materials pursuant to the subpoena will be accepted by the subcommittee in executive session.



FILED

JUL 2 1976

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES F. DAVEY, CLERK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
AMERICAN TELEPHONE & TELEGRAPH)
COMPANY: JOHN G. FOX,)
Vice-President; ALLAN SHARRETT,)
Executive Assistant,)
)
Defendants.)

73-1372

Civil Action No. _____

TEMPORARY RESTRAINING ORDER

This matter having come before the Court on the Motion of the United States for Temporary Restraining Order, and the Court having considered the Complaint, the invocation of executive privilege President Gerald R. Ford embodied in the letters dated July 22, 1976; the Affidavits of James E. Adams, Deputy Associate Director -- Assistant to the Director, Federal Bureau of Investigation, George Bush, Director of Central Intelligence, and Robert L. Keuch, Deputy Assistant Attorney General, United States Department of Justice, and the supporting Points and Authorities, and having heard counsel thereon, it is, therefore, this 22nd day of July, 1976, hereby

ORDERED

That the defendants, their officers, agents, servants, employees, and attorneys, and all those in active concert or participation with them, be and hereby are restrained for a period of ten (10) days from the date hereof from transmitting or otherwise providing to the Subcommittee on Oversight

Handwritten:
7/22/76



and Investigations of the Committee on Interstate and Foreign Commerce, United States House of Representatives, or any other person, group, or entity, any documents or materials which are or may be determined to come within the scope of the Subpoena issued to the defendants on June 22, 1976. The reason for the issuance of this Order is the protection of these materials pending a determination of the Motion for Preliminary Injunction. The Court finds that the disclosure of the material which defendants threaten to supply would be seriously detrimental to the national security and foreign relations of the United States. Such disclosure would reveal intelligence sources and methods, thereby foreclosing important avenues of vital foreign intelligence and would cause serious diplomatic embarrassment to the United States with a consequent impairment of its foreign relations interests. Such injuries are not compensable by any legal proceedings after such disclosure would take place.

IT IS FURTHER ORDERED

That plaintiff's Motion for Preliminary Injunction shall be brought for hearing before this Court at 28th day of July, 1976, at 10 a.m. or at such other time or place as may be set by the Court.

Walter G. Gorch

UNITED STATES DISTRICT JUDGE

Issued at 6 p.m., July 22nd, 1976.

United States District Court
for the District of Columbia
A TRUE COPY

JAMES E. DAVEY, CLERK,

By *James E. Davey*
Deputy Clerk

