

Clarence Mitchell wins highest award

The President has announced that Clarence Mitchell, Jr. is a 1980 recipient of the nation's highest civilian honor, the Medal of Freedom.

The Presidential Medal of Freedom was initiated in 1945 to recognize Americans who have made an especially meritorious contribution to "(1) the security or national interests of the United States, or (2) world peace, or (3) cultural or other significant public or private endeavors." Mitchell recently retired from his long time position as director of the NAACP Washington Bureau.

The awards ceremony is scheduled to take place at the White House on June 9. Additional recipients are:

Ansel Adams, photographer; the late Rachel Carson, scientist and author; Lucia Chase, director, American Ballet Theater; The late Hubert Humphrey, Vice President, U.S. Senator, and mayor; Archbishop Iakovos, Greek Orthodox Church of North and South America.

The late President Lyndon B. Johnson; Roger Tory Peterson, ornithologist, author; Admiral Hyman Rickover, director, Division of Naval Reactors, U.S. Energy Research and Development Administration, and deputy commander for Nuclear Propulsion, Naval Systems Sea Command.

Beverly Sills, coloratura soprano, general director, NY City's Opera Company; Robert Penn Warren, writer, Pulitzer Prize winner; The late John Wayne, actor; Eudora Welty, author, Pulitzer Prize winner and Tennessee Williams, playwright.

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SCLC and supporters march to protest Klan violence.

SCLC protests Klan violence

Atlanta -- More than 500 Southern Christian Leadership Conference (SCLC) supporters marched through the streets of Wrightsville, Georgia demanding justice for Blacks in that small-middle Georgia town.

Dr. Joseph E. Lowery, president of SCLC, led the demonstrators to the Johnson County Courthouse where he challenged Wrightsville and Johnson County officials to "move out of the past and into the present so Blacks and whites together can build a better future."

The protestors marched despite the presence of fully robed Ku Klux Klansmen and self-avowed white racist J.B. Stoner of Marietta Georgia, who staged a counter-protest just a few yards away from the SCLC demonstration.

Assistant Attorney General Drew S. Days, III has announced that the Federal Bureau of Investigation has been requested to investigate two separate incidents in which Black women and children were shot by persons identified as Ku Klux Klan members.

Days, head of the Civil Rights Division, said the FBI will investigate the shootings of four Black women from a passing automobile in Chattanooga, Tennessee, and the shooting of a nine-year old girl in her mobile home in Wrightsville, Georgia.

Mr. Days reiterated his concern over the alleged resurgence of violence by persons identified with the Klan. He said the Justice Department is determined to investigate these incidents promptly and to prosecute vigorously where federal laws have been violated.

A secret federal court

By Nat Hentoff

PNS -- The reason we have a Fourth Amendment in the Bill of Rights is that the colonists had long been prey to British revenue officers breaking into their homes bearing general search warrants and then rummaging wherever they willed.

The fiery 18th-century Massachusetts lawyer, James Otis, called this Habitual rape of privacy "the worst instrument of arbitrary power, the most destructive of English liberty...that was ever found in an English law book."

And so, once there was an American constitutional law, the Fourth Amendment guaranteed "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." Warrants would only be issued "upon probable cause...particularly describing the place to be searched, and the persons or things to be seized." And, of course, the official intruder would have to show that warrant to be let in.

During the nearly two centuries that have passed, the Fourth Amendment has been considerably bent by lawless cops and lawful courts. But now, the Carter administration, in its zeal to "unleash" the CIA and other intelligence agencies, intends to further dilute what is left of the citizen's right to privacy.

Legislation now in Congress would, the American Civil Liberties Union claims, "authorize the intelligence community to go to court and get an order permitting intelligence agents to open mail or break into home of American citizens in the middle of the night to steal their papers. The warrants would not be served.

"That is, they would not have to be produced. No notice would be given. No list of items seized would be provided."

So says House Bill HR 6588, a companion measure to Senate bill S. 2284, the National Intelligence Act. Not all citizens, it should be noted, would be subjected to having their homes legally buglarized. Only those suspected of working for foreign powers. (of course, it was exactly this sort of floating "suspicion" that led the CIA to surveil hundreds of thousands of anti/Vietnam War activists in this country while the FBI also kept tabs on at least half a million dissenters on the possibility that they might be likely to overthrow the government.)

What makes this new assault on the Fourth Amendment particularly intriguing is that, if the legislation passes, agents will have to go to a special court to get these secret warrants. And, although most citizens don't know it, this Kafka like tribunal already exists and is functioning in a more restricted area of privacy invasion.

Authorized by the Foreign In-

telligence Surveillance Act of 1978, the court consists of seven Federal District judges and three Court of Appeals judges. The latter are there in case the lower seven should ever deny a government request for a secret warrant. All appointments to the court are made by Chief Justice Warren Burger whose particular passion on the High Court has been to gut the Fourth Amendment because it gets in the way of law-enforcement officials. As it surely does.

Analysis

Called the Foreign Intelligence Surveillance Court, this new body -- which only sees government agents and government lawyers -- currently has jurisdiction solely over government requests for electronic surveillance warrants that have to do with foreign intelligence. Like wiretaps, video recordings, pen registers (a device on your phone that tells what numbers you call), some of these counter-intelligence requests involve American surveillance from the inside of foreign embassies here; others are directed at "suspect" indigenous Americans.

As an indication of the "independence" of this court, the Washington Post reported in a small item on an inside page on March 4 that during its first nine months of work (it was late getting started), the secret court "has granted every government request to use wiretaps, bugs, and other electronic surveillance in foreign intelligence cases."

Among the ways in which this eerie tribunal differs from all others is that no notice need ever be given to someone being electronically tracked -- unless he is brought to prosecution. By contrast, under Title III of the Omnibus Crime Control and Safe Streets Act (1968), the targets of all other wiretaps and electronic surveillance -- from the Mafia to sticky-fingered Congressmen -- must be given notice, sooner or later, that the government has been watching and listening to them. If there is no prosecution, there must be notice at least when the surveillance is ended.

Under the secret court, however, any number of us may become like Joseph K. -- the pawn of mysterious, impenetrable forces.

One of the reasons the secret court is unknown to much of the populace is that the American Civil Liberties Union, which would ordinarily have blown the whistle on this ominous government encroachment on privacy, agreed to the setting up of the court. It was one of those times, alas, when the ACLU decided to be "pragmatic." It made a deal. In return for certain "safeguards" in the Foreign Intelligence Surveillance Act of 1978,

the ACLU lay low rather than mount opposition to the bill setting up the court.

According to the ACLU, the gains it achieved included the first time a warrant for electronic surveillance has ever been mandated in national security cases. Also, the bill contains a system of checks and balances. The President has to approve the overall program; the Attorney General has to sign each warrant; and there is congressional oversight over the whole murky process. Previously, says the ACLU, there were no checks and balances. The President, by invoking "national security," did what he pleased in this area.

In return, the ACLU became an accomplice in the setting up of a system of surveillance through the authorization of a court which acts in secret in conjunction only with the government. The citizen being tracked not only cannot defend himself against these surveillance orders but he is never allowed to know that he is being spied on -- unless he is prosecuted.

As for the alleged safeguards, the history of the Presidency, regardless of party, provides no probable cause to believe that any President or Attorney General even thinks about the Fourth Amendment in such cases. Congressional oversight, moreover, is bound to be illusory because how can any member of Congress on the relevant committees determine for himself whether the FBI, the CIA, or any intelligence agency is giving true information about whether someone must be wiretapped. Is each member going to send out his own investigators?

Nonetheless, the ACLU maintains that it had to accept the secret court "because we thought we had no better choice."

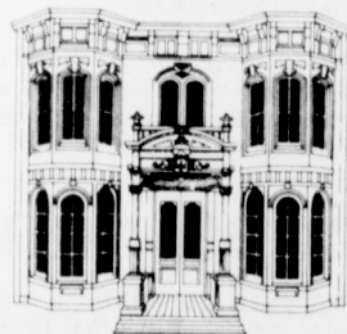
It does not appear to have much concerned the ACLU that all wiretapping and other forms of electronic surveillance -- with or without a secret court -- inherently violate the Fourth Amendment. In his prescient dissent in the first wiretap case to reach the Supreme Court, *Olmstead v. United States* (1928), Justice Louis Brandeis noted that "the right to be let alone -- the most comprehensive of rights and the right most valued by civilized men" -- would be savaged by wiretaps and by all the electronic marvels to come.

Yet the ACLU has never, so far as I know, taken the "strict constructionist" Brandeis approach on electronic surveillance. Instead, it has kept trying to make wiretapping, et. al. conform to the Fourth Amendment -- as if that were possible.

Now, the secret court may well be getting expanded powers -- to authorize warrants for dead-of-the-night break-ins. The ACLU is strongly opposing this strengthening of the hidden court, but it has no little responsibility for the fact that the court already exists to be broadened.

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If you have a problem that is not covered in this list, please call and ask whether we can help. Chances are, we can. If not, we can recommend someone else for you to call. One way or the other, we want to see you get the kind of professional legal counsel you're entitled to.

The best time to call us, or any attorney, is before you are embroiled in a legal problem. This is called preventative law and it makes a lot of sense.

Regardless, when you call us we will arrange for an initial consultation at your convenience. Cost: \$20. We probably can't solve anything in this meeting, but it is a chance for you to explain your particular problem and for us to give you some idea of what it'll take to reach a solution. If you want us to proceed, we'll give you an estimate of the fees you should plan on. In writing.

