

DOMESTIC SURVEILLANCE: More Questions

LAWSUITS

Two Groups Planning to Sue Over Federal Eavesdropping

By ERIC LICHTBLAU

WASHINGTON, Jan. 16 — Two leading civil rights groups plan to file lawsuits Tuesday against the Bush administration over its domestic spying program to determine whether 10 defense lawyers, journalists, scholars, political activists and other Americans with ties to the Middle East.

The two lawsuits, which are being filed separately by the American Civil Liberties Union in Federal District Court in Detroit and the Center for Constitutional Rights in Federal District Court in Manhattan, are the first major court challenges to the eavesdropping program.

Both groups are seeking to have the courts order an immediate end to the program, which the groups say is illegal and unconstitutional. The Bush administration has strongly defended the legality and necessity of the surveillance program, and officials said the Justice Department would probably oppose the lawsuits on national security grounds.

Justice Department officials would not comment on any specific individuals who might have been singled out under the National Security

Agency program, and they said the department would review the lawsuits once they were filed.

Brian Roehrkasse, spokesman for the Justice Department, added Monday that "the N.S.A. surveillance activities described by the president were conducted lawfully and provide valuable tools in the war on terrorism to keep America safe and protect civil liberties."

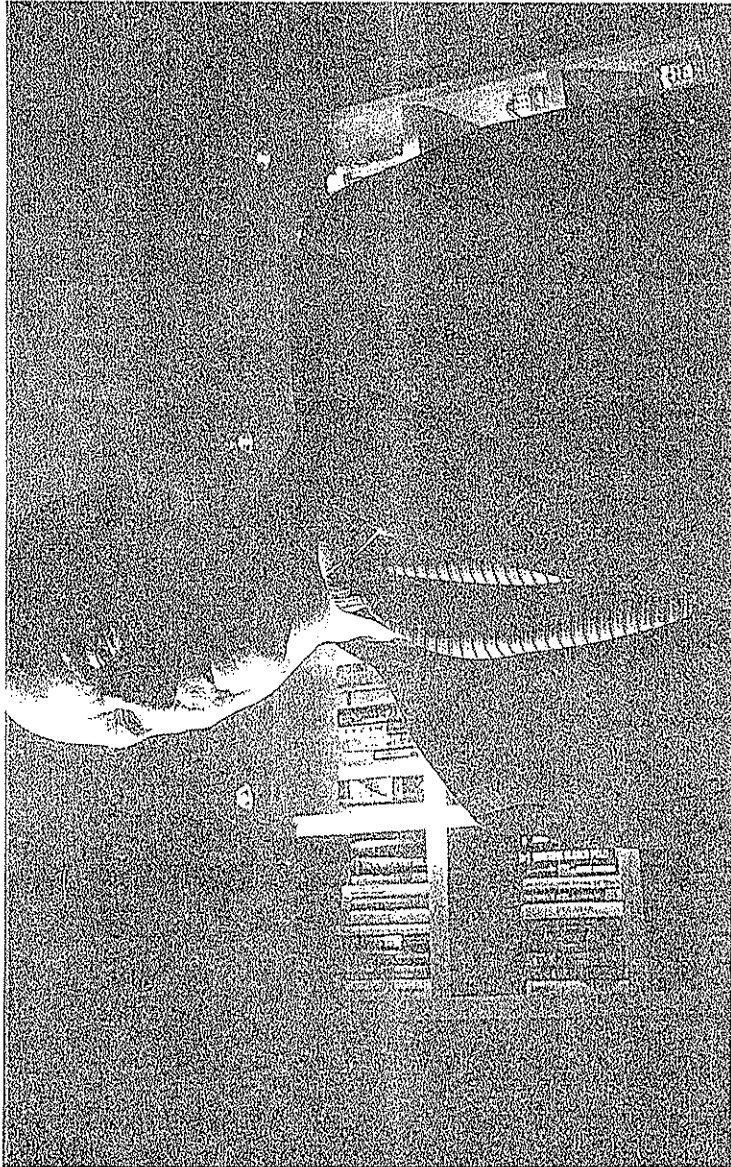
The lawsuits seek to answer one of the major questions surrounding the eavesdropping program: Has it been used solely to single out the international phone calls and e-mail messages of people with known links to Al Qaeda, as President Bush and his most senior advisers have maintained, or has it been abused in ways that civil rights advocates say could hark back to the political spying abuses of the 1960's and 70's?

"There's almost a feeling of déjà vu with this program," said James Bamford, an author and journalist who is one of five individual plaintiffs in the A.C.L.U. lawsuit who say they suspect that the program may have been used to monitor their international communications.

"It's a return to the bad old days of the N.S.A.," said Mr. Bamford, who has written two widely cited books on the intelligence agency.

Although the program's public disclosure last month has generated speculation that it may have been used to monitor journalists or politicians, no evidence has emerged to support that idea. Bush administration officials point to a secret audit by the Justice Department last year that reviewed a sampling of security agency interceptions involving Americans and that they said found no documented abuses.

The Center for Constitutional Rights plans to sue on behalf of four lawyers at the center and a legal assistant there who work on terrorism-related cases at Guantanamo Bay, Cuba, and overseas, which often involves international e-mail messages and phone calls. Similarly, the plaintiffs in the A.C.L.U. lawsuit include five Americans who work in international policy and terrorism,



Dominic Brenner for The New York Times

"It's a return to the bad old days of the N.S.A.," James Bamford, a plaintiff and an expert on the security agency, said of the eavesdropping program. The debate over the legality of Bush's eavesdropping program has been at the center of Congressional hearings expected to begin in January. Former Vice President Gore entered the fray on Monday with a speech in Washington that accused Mr. Bush of running roughshod over the Constitution.

American libertarians, Mr. Gore said, "have been placed at serious risk by the unprecedented claims of the administration to a truly breathtaking expansion of executive power." "As we begin this new year," he continued, "the executive branch our government has been carrying out eavesdropping on huge numbers of American citizens and has brazenly declared that it has the unilateral right to continue without regard to the established law enacted by Congress to prevent such abuses."

But Mr. Goodman acknowledged that in persuading a federal judge to intervene, "politically, it's a difficult case to make." He added: "We recognize that it's extremely difficult for a court to stand up to a president, particularly a president who is determined to expand his power beyond anything envisioned by the founding fathers. That takes courage."

along with the A.C.L.U. and three other groups. "We don't have any direct evidence" that the plaintiffs were monitored by the security agency, said Ann Beeson, associate legal director for the A.C.L.U. "But the plaintiffs have a well-founded belief that they may have been monitored, and there's a real chilling effect in the fear that they can no longer have confidential discussions with clients or sources without the possibility that the N.S.A. is listening."

One of the A.C.L.U. plaintiffs, Larry Diamond, a senior fellow at the Hoover Institute, said that a Stanford student studying in Egypt conducted research for him on political opposition groups, and that he worried that communications between them on sensitive political topics could be monitored. "How can we communi-



Even Siskiy/Reuters

Former Vice President Al Gore criticized the program yesterday.