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New York: Today, sun, patchy clouds, high 80. Tonight, partly cloudy and very mild, low 65. Tomorrow, thunderstorms late, high 82. Yesterday, high 88, low 67. Details, Page D7.

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ONE DOLLAR

Magistrate Rules That Government Must Reveal Monitoring

By NINA BERNSTEIN

A federal magistrate in Brooklyn yesterday insisted that government lawyers defending former Attorney General John Ashcroft and other top officials in a lawsuit brought by former immigrant detainees cannot dodge the plaintiffs' persistent and unwelcome question: Are members of the United States trial team and likely witnesses — including Mr. Ashcroft and Robert S. Mueller III, the F.B.I. director — aware of any secret government monitoring of communications between the plaintiffs and their lawyers?

"Plaintiffs' effort to learn whether their conversations with their attorneys were monitored by the government is not a mere fishing expedition based on unfounded speculation," the magistrate, Judge Steven M. Gold, wrote in an 11-page decision. The order rejected the government's request that he reconsider a similar or-

der that he made orally on March 7.

He noted that "the government's electronic surveillance of individuals suspected of links to terrorism has received widespread publicity and has even been acknowledged by the president of the United States." And he cited findings by the inspector general that on more than 40 occasions, staff members of the Metropolitan Detention Center secretly video-recorded visits between lawyers and Muslim immigrants swept up and detained there after the Sept. 11 attacks, and later deported after being cleared of links to terrorism.

Stephen E. Handler, a Justice Department lawyer, had argued that confirming or denying such monitoring in one case and not another could "tend to reveal classified information."

But Judge Gold rejected the government's main argument for silence. "Any claim that sensitive se-

case. But the government wanted to reserve the right to interview witnesses who refused to sign.

"As plaintiffs' counsel have repeatedly argued," Judge Gold said, "they seek discovery here not only to help prepare their case, but also to ensure that the defendants have not gained a tactical advantage by invading the attorney-client privilege and to attain some degree of comfort that they and their clients may communicate without the chilling specter of government eavesdropping."

Bill Goodman, the legal director of the Center for Constitutional Rights, which brought the first class-action lawsuit by the detainees, said of the decision, "This is the first crack in the granite wall that this government has been interposing on the N.S.A. wiretapping program."

A spokesman for the Justice Department could not be reached for comment last night.

Were immigrants detained after 9/11 and lawyers recorded?

crets would be revealed by the government's disclosure of whether conversations between plaintiffs and their counsel in this case were monitored is hard to fathom," he wrote.

A possible compromise negotiated over weeks of correspondence fell apart recently. The compromise would have allowed government witnesses to sign a statement affirming that one of four possibilities was true — including, at minimum, that if they were aware of electronic surveillance of lawyer-client conversations, they had not used the substance to influence the conduct of the